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EXPLANATION

Mounting production problems and the ever-increasing volume of the daily issue have caused delays in the issuance of our regular monthly subject indexes.

In a continuing effort to publish finding aids to the Federal Register on a more timely basis, this monthly index is a consolidation of the table of contents entries published in the daily issues during this month.

In addition to the new monthly index format (consolidated table of contents) an Annual Subject Index is planned.

Users and subscribers are invited to send their comments and suggestions to the Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

Fred J. Emery
Director, Office of the
Federal Register

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Agriculture	Agricultural Marketing Service. Agricultural Research Service. Agricultural Stabilization and Conservation Service. Agriculture Department. Animal and Plant Health Inspection Service. Commodity Credit Corporation. Cooperative State Research Service. Farmers Home Administration. Federal Crop Insurance Corporation. Food and Nutrition Service. Rural Electrification Administration. Soil Conservation Service.
Alcohol, Tobacco, Firearms	Alcohol, Tobacco, and Firearms Bureau.
Aliens	Alien Property Office. Immigration and Naturalization Service.
Animals and Animal Products	Agricultural Research Service. Animal and Plant Health Inspection Service. Packers and Stockyards Administration.
Banking	Comptroller of the Currency. Export-Import Bank. Farm Credit Administration. Federal Deposit Insurance Corporation. Federal Financing Bank. Federal Home Loan Bank Board. Federal Open Market Committee. Federal Reserve System. National Credit Union Administration.
Business Credit and Assistance	Economic Development Administration. Small Business Administration.
Commerce and Foreign Trade	Census Bureau. Commerce Department. Domestic and International Business Administration. Foreign Trade Zones Board. National Bureau of Standards. National Oceanic and Atmospheric Administration. National Technical Information Service. Social and Economic Statistics Administration. United States Travel Service.
Commercial Practices	Consumer Product Safety Commission. Federal Trade Commission.
Commodity and Securities Exchanges	Commodity Exchange Authority. Securities and Exchange Commission.

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Format and Coverage

This list is designed so that users can determine the changes that have occurred since the revision date of the Code books they are using. If you do not have *latest edition*, see instructions on page 2. Format and coverage for this December 1974 list is as follows:

- Titles 1–16: Changes published during 1974.
- Titles 17–27: Changes published April through December 1974.
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CODE

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WHAT IT IS

The List of CFR Sections Affected is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. It should be shelved with current Code volumes. Entries indicate the nature of the changes. Certain terms used are defined in the glossary below. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The Code of Federal Regulations may be brought up to immediate date by the following steps:

1. Consult this List of CFR Sections Affected for any changes, deletions, or additions published after the revision date of the volume you are using.
2. Check the "Cumulative List of Parts Affected" appearing at the front of the latest issue of the Federal Register for changes published after the last date covered by this issue of the List of CFR Sections Affected.
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Volumes Having Revision Date:	Refer to List of Sections Affected:
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After checking List of CFR Sections Affected as indicated, follow steps 1 and 2 above.

For an explanation of the structure and numbering of the Code, see 1 CFR Part 21.

GLOSSARY

Amended—A typographical unit of the CFR was partially set forth.
Recodified—Major portions of CFR were restructured or rearranged, or both.
Redesignated—A typographical unit or larger was renumbered and transferred from one place to another place in the CFR with no change in text.
Removed—A typographical unit was removed from the CFR.
Revised—A typographical unit of the CFR was set forth in full.
Superseded—An existing CFR unit was replaced by regulations appearing under another CFR unit.
Suspended—The entire CFR unit was not in effect for the period of time indicated.
Suspended in part—A portion of the CFR unit was not in effect for the period of time indicated.
Technical amendment—General amendment that may have no substantive effect on regulations.

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Inquiries concerning this and other publications of the office and suggestions for improvements will be welcomed by the Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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213.3373 (a)(9) added; (c)(4) removed	1425
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(h) added	43812
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(a) (20) removed	10233
(e) (8) added	10419
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(g) (3) added	27445
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731.302 Revised	32540
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150.355 (c) (2) amended	809
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710.304 (c), (d)(2) and (3), (j)(5), and (m) corrected	45215
710.305 (a)(1)(ii), (2), and (3) corrected	45215
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0.735–205 (a) (8) revised 15032
20 Added 30920
41 Removed 12732
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42.250 (c) revised 28151

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200.50—200.124 (Subpart D) heading revised 34655
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200.104—200.108 Removed 34661
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200.112a Added 34661
200.113 (d) added 34661
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200.114 (d) and (e) added 34661
200.115 Amended 34661
200.116 Headings and introductory text revised; (e) added 34661
200.117 Removed 34662
200.118 (f) and (g) added 34662
200.120—200.122 Removed 34662
200.125—200.126 Added 12246
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201.4 (a) revised 32432
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201.680 (a) and (c) (4) revised 18445
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203.20 (a) revised 14698, 18094, 27320, 32026
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600.15 (a) removed; (b) redesignated as (d); new (a), (b), and (c) added 43380
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1274 Added 17187
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1.72–6 (c)(4) added 11880
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1.911 (c)(1)(B), (d), and historical note revised 38371
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0.57 Revised 37771
0.76 (d) revised 41977
0.95—0.99 (Subpart Q) Appendix revised 38009
0.147 Amended 28154
2 Effective date 31882, 35165
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11 Removed 29594
45.735–22 (c)(2)(xx) revised 36023
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97.1–97.22 (Subpart A) revised 30906
97.25 Added 30909
97.201—97.292 (Subpart C) Added 28400

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522.24 Revised 29180
(c) corrected 41841
522.35 (a) revised 29180
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522.65 (a) revised 29180
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553 Added 44142
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617 Added 43538
657 Heading revised 43539
657.2 (a)(1)(i), (2)(i), (3)(i), (4)(i), and (5), (b)(1) and (c)(1) revised 43539
657.3 Revised 43539
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671.2 (a), (b), and (c) revised 43542
672 Heading revised 43542
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700 Added 28877
701 Added 32027
720 Heading revised 43543
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1601.19b (b) and (d) revised 26023
1602.15 Filing date extended 30832
1602.22 Filing date extended 30832
1602.30 Amended 30832
1602.32 (a) amended 30832
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1910.211 (d)(59) and (60) added 41846
1910.217 Effective date corrected 44661
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11.34 Amended 39039
11.35 (a) amended 39039
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11.41 (i) amended 39039
11.42 Heading revised; (a) through (c) amended 39039
11.43 Heading revised; (b) and (c) amended 39039
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56.6 Amended 24317
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128.10—128.23 (Subpart B) Heading revised 36963
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NOTE: There are no items eligible for inclusion in the list of RULES GOING INTO EFFECT.

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Title 3—The President

EXECUTIVE ORDER 11823

Abolishing the National Commission for Industrial Peace

By virtue of the authority vested in me as President of the United States of America by the Constitution and laws of the United States, including the Federal Advisory Committee Act (5 U.S.C. App. I), and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The National Commission for Industrial Peace is hereby abolished and Executive Order No. 11710 of April 4, 1973, and Executive Order No. 11729 of July 12, 1973, are hereby revoked.

SEC. 2. The Secretary of the Treasury shall be responsible for closing the affairs of the Commission, and for the completion of any functions that remain to be performed under the Federal Advisory Committee Act with respect to the Commission and its report. In preparing the report required by section 6(b) of that Act, the Secretary shall consult with the Director of the Federal Mediation and Conciliation Service.

Gerald R. Ford

THE WHITE HOUSE,
December 12, 1974.

[FR Doc.74-29293 Filed 12-12-74;1:42 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1975 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

STATE RESERVES AND COUNTY ALLOTMENTS

Correction

In FR Doc. 74-27773 appearing at page 41354 in the issue for Wednesday, November 27, 1974, in the table for § 722.562, under "TEXAS, Ward County," the number under "*County allotment (acres)*" now reading "460.1" should read "480.5".

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Regulation 329, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation increases the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period December 6-12, 1974. The quantity that may be shipped is increased due to improved market conditions for Navel oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Navel Orange Regulation 329 (39 FR 42337). The marketing picture now indicates that there is a greater demand for Navel oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Navel oranges to fill the current market demand thereby making a greater quantity of Navel oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i) and (iii) of § 907.629 (Navel Orange Regulation 329) (39 FR 42337) are hereby amended to read as follows:

"(i) District 1: 1,581,000 cartons;

"(iii) District 3: 119,000 cartons."

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Dated: December 11, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-27977 Filed 12-13-74;8:45 am]

Title 10—Energy

CHAPTER I—ATOMIC ENERGY COMMISSION

PART 31—GENERAL LICENSES FOR BYPRODUCT MATERIAL

PART 32—SPECIFIC LICENSES TO MANUFACTURE, DISTRIBUTE, OR IMPORT CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

Revision of General License for Industrial Devices

The Atomic Energy Commission published in the FEDERAL REGISTER on February 5, 1974 (39 FR 4583) proposed amendments to its regulations pertaining to the use of byproduct material in certain gauges and similar devices. The proposed amendments, among other things, would have required the user to register with the Commission prior to receiving byproduct material for use under the general license in § 31.5 of the Commission's regulation, 10 CFR Part 31, "General Licenses for Byproduct Material." Related changes were proposed in the requirements imposed on persons specifically licensed under 10 CFR 32.51 to distribute byproduct material in devices to be used under the general license.

Interested persons were invited to submit written comments on the proposed amendments by March 18, 1974. That date was later extended to April 17, 1974, and on April 16, 1974, a public meeting on the proposed changes was held at the Atomic Energy Commission's offices in Bethesda, Maryland. After consideration of the written comments received, the record of the public meeting, and other factors involved, the Commission has adopted the proposed amendments with certain modifications. The more significant ones are described below.

(1) Under the proposed amendments, each user of the general license would have been identified to the Commission by the registration certificate which he filed prior to receipt of a device containing byproduct material. Under the amendments set out below, prior registration by the general licensee is not required. Persons receiving devices for use under 10 CFR 31.5 will be identified in quarterly reports submitted to the Commission by persons specifically licensed to distribute the devices. Persons specifically licensed under 10 CFR 32.51 also will be required to report to the appropriate Agreement State agency any transfers to general licensees regulated by the Agreement State. Implementation of similar reporting requirements by the Agreement States should result in a system whereby all transfers to persons using the general license in 10 CFR 31.5 or equivalent Agreement State regulations are reported to the responsible regulatory agency.

(2) The proposed amendments would have permitted transfer of devices between general licensees since both the transferor and the transferee would have registered with the Commission. Since prior registration by the general licensee has not been adopted, the proposed provision for transfer by the general licensee has been modified in order to achieve a workable system for identifying users under the general license. The amendments set out below permit the general

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licensee to transfer a device (a) to a specific licensee, (b) to another general licensee if the device remains installed in the same location but the person possessing the device changes as may be the case when a plant or building is sold, and (c) to another general licensee when possession of a device which remains in its shipping container is changed as in the case when a distributor ships a device to a construction site where it may be temporarily possessed by the building contractor prior to possession by the ultimate user.

(3) The proposed amendments provided that under certain conditions the general licensee may be authorized to perform tests for leakage of radioactive material. Under the amendments set out below the general licensee would only be authorized to collect the test sample for the leakage test; this sample would then be analyzed by a specific licensee.

(4) The proposed amendments would have deleted an existing specific requirement that the general licensee have the device tested periodically for proper operation of the on-off mechanism and indicator. The intent of the proposed deletion was not to eliminate all tests on on-off mechanisms and indicators but rather to consider the need and procedures for the tests on a case-by-case basis. That consideration would have been reflected in the safety instructions and precautions which the user would be required to follow and those instructions could require that the tests be performed by a specific licensee. Comments on the proposed deletion of the specific test requirement, however, indicate that such action could result in misunderstanding and non-performance of important safety testing. Accordingly, the amendments set out below retain a specific requirement for testing of the on-off mechanism and indicator.

(5) Under the proposed amendments, the general license in § 31.5 would have been restricted to commercial and industrial firms, research, education and medical institutions, and governmental agencies. The amendments set out below also extend the general license to individuals using the devices in the course of their work, occupation, or profession. An example of such an individual is a consulting engineer who owns and uses a soil density gauge in his work on highway construction projects.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to 10 CFR Parts 31 and 32 are published as a document subject to codification.

1. Section 31.5 of 10 CFR Part 31 is revised to read as follows:

§ 31.5 Certain measuring, gauging or controlling devices.[2][3]

(a) A general license is hereby issued to commercial and industrial firms and research, educational and medical institutions, individuals in the conduct of their business, and Federal, State or local government agencies to acquire, receive, possess, use or transfer, in accordance with the provisions of paragraphs (b), (c) and (d) of this section, byproduct material contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

(b) The general license in paragraph (a) of this section applies only to byproduct material contained in devices which have been manufactured or imported and labeled in accordance with the specifications contained in a specific license issued by the Commission pursuant to § 32.51 of this chapter or in accordance with the specifications contained in a specific license issued by an Agreement State which authorizes distribution of the devices to persons generally licensed by the Agreement State.

(c) Any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to the general license in paragraph (a) of this section:

(1) Shall assure that all labels affixed to the device at the time of receipt and bearing a statement that removal of the label is prohibited are maintained thereon and shall comply with all instructions and precautions provided by such labels;

(2) Shall assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at such other intervals as are specified in the label; however;

(i) devices containing only krypton need not be tested for leakage of radioactive material, and

(ii) devices containing only tritium or not more than 100 microcuries of other beta and/or gamma emitting material or 10 microcuries of alpha emitting material and devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose;

(3) Shall assure that the tests required by paragraph (c)(2) of this section and other testing, installation, servicing, and removal from installation involving the radioactive materials, its shielding or containment, are performed:

(i) in accordance with the instructions provided by the labels; or

(ii) by a person holding a specific license from the Commission or an Agreement State to perform such activities;

(4) Shall maintain records showing compliance with the requirements of paragraphs (c)(2) and (c)(3) of this section. The records shall show the results of tests. The records also shall show the dates of performance of, and the names of persons performing, testing, installation, servicing, and removal from installation concerning the radioactive material, its shielding or containment;

(5) Upon the occurrence of a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 0.005 microcurie or more removable radioactive material, shall immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding a specific license from the Commission or an Agreement State to repair such devices, or disposed of by transfer to a person authorized by a specific license to receive the byproduct material contained in the device and, within 30 days, furnish to the Director of the appropriate Atomic Energy Commission Regulatory Operations Regional Office listed in Appendix D of Part 20 of this chapter, a report containing a brief description of the event and the remedial action taken;

(6) Shall not abandon the device containing byproduct material;

(7) Shall not export the device containing byproduct material without a specific license from the Commission authorizing such export;

(8) Except as provided in paragraph (c)(9) of this section, shall transfer or dispose of the device containing byproduct material only by transfer to a specific licensee of the Commission or of an Agreement State whose specific license authorizes him to receive the device and within 30 days after transfer of a device to a specific licensee shall furnish to the Director of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545 a report containing identification of the device by manufacturer's name and model number and the name and address of the person receiving the device. No report is required if the device is transferred to the specific licensee in order to obtain a replacement device;

(9) Shall transfer the device to another general licensee only:

(i) Where the device remains in use at a particular location. In such case the transferor shall give the transferee a

[2] Persons possessing byproduct material in devices under the general license in § 31.5 before Jan. 15, 1975 may continue to possess, use or transfer that material in accordance with the requirements of § 31.5 in effect on Jan. 14, 1975.

[3] The recordkeeping and reporting requirements for § 31.5 have been cleared by GAO under B180225 (R0068). This clearance expires on November 30, 1977.

copy of this section and any safety documents identified in the label of the device and within 30 days of the transfer, report to the Director of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545, the manufacturer's name and model number of device transferred, the name and address of the transferee, and the name and/or position of an individual who may constitute a point of contact between the Commission and the transferee; or

(ii) Where the device is held in storage in the original shipping container at its intended location of use prior to initial use by a general licensee.

(10) Shall comply with the provisions of §§ 20.402 and 20.403 of this chapter for reporting radiation incidents, theft or loss of licensed material, but shall be exempt from the other requirements of Parts 19 and 20 of this chapter.

(d) The general license in paragraph (a) of this section does not authorize the manufacture or import of devices containing byproduct material.

§ 31.6 [Amended].

2. Paragraphs (a) and (d) of § 31.6 are deleted.

3. Section 32.51 is revised to read as follows:

§ 32.51 Byproduct material contained in devices for use under § 31.5; requirements for license to manufacture, import or distribute.[4]

(a) An application for a specific license to manufacture, import, or distribute devices containing byproduct material to persons generally licensed under § 31.5 of this chapter or equivalent regulations of an Agreement State will be approved if:

(1) The applicant satisfies the general requirements of § 30.33 of this chapter;

(2) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:

(i) the device can be safely operated by persons not having training in radiological protection.

(ii) under ordinary conditions of handling, storage and use of the device, the byproduct material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive in any period of one calendar quarter a dose in excess of 10 percent of the limits specified in the table in § 20.101(a) of this chapter; and

(iii) under accident conditions (such as fire and explosion) associated with handling, storage and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the dose to the appropriate organ as specified in Column IV of the table in § 32.24.

(3) Each device bears a durable, legible, clearly visible label or labels approved by the Commission which contain in a clearly identified and separate statement:

(i) instructions and precautions necessary to assure safe installation, operation, and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);

(ii) the requirement, or lack of requirement, for leak testing, or for testing any on-off mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and

(iii) the information called for in the following statement in the same or substantially similar form:

> The receipt, possession, use, and transfer of this device Model ---------[1], Serial No. ---------[1], are subject to a general license or the equivalent and the regulations of the U.S. AEC or of a State with which the AEC has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.
>
> CAUTION—RADIOACTIVE MATERIAL
>
> ----------
> (Name of manufacturer, importer, or distributor)[1]

(b) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or for both, he shall include in his application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices, and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the Commission will consider information which includes, but is not limited to:

(1) Primary containment (source capsule);

(2) Protection of primary containment;

(3) Method of sealing containment;

(4) Containment construction materials;

(5) Form of contained radioactive material;

(6) Maximum temperature withstood during prototype tests;

(7) Maximum pressure withstood during prototype tests;

(8) Maximum quantity of contained radioactive material;

(9) Radiotoxicity of contained radioactive material; and

(10) Operating experience with identical devices or similarly designed and constructed devices.

(c) In the event the applicant desires that the general licensee under § 31.5 of this chapter, or under equivalent regulations of an Agreement State, be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, he shall include in his application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities and the bases for such estimates. The submitted information shall demonstrate that performance of such activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a calendar quarter dose in excess of 10 percent of the limits specified in the table in § 20.101(a) of this chapter.

4. A new § 32.51a is added to read as follows:

§ 32.51a Same: conditions of licenses.

Each person licensed under § 32.51 shall:

(a) Furnish a copy of the general license contained in § 31.5 of this chapter to each person to whom he directly or through an intermediate person transfers byproduct material in a device for use pursuant to the general license contained in § 31.5 of this chapter.

(b) Furnish a copy of the general license contained in the Agreement State's regulation equivalent to § 31.5 of this chapter, or alternatively, furnish a copy of the general license contained in § 31.5 of this chapter, to each person to whom he directly or through an intermediate person transfers byproduct material in a device for use pursuant to the general license of an Agreement State. If a copy of the general license in § 31.5 of this chapter is furnished to such person, it shall be accompanied by a note explaining that use of the device is regulated by the Agreement State under requirements substantially the same as those in § 31.5 of this chapter.

5. Section 32.52 is revised to read as follows:

§ 32.52 Same: material transfer reports and records.

Each person licensed under § 32.51 to distribute devices to generally licensed persons shall:

(a) Report to the Director of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545, all transfers of such devices to persons for use under the general license in § 31.5 of this chapter.

[4] The recordkeeping and reporting requirements of 10 CFR Part 32 have been cleared by GAO under B180225 (R0068). This clearance expires November 30, 1977.

[1] The model, serial number, and name of the manufacturer, importer, or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

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Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Commission and the general licensee, the type and model number of device transferred, and the quantity and type of byproduct material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact, and relationship to the intended user. If no transfers have been made to persons generally licensed under § 31.5 of this chapter during the reporting period, the report shall so indicate. The report shall cover each calendar quarter and shall be filed within 30 days thereafter. The first report to be filed pursuant to this paragraph as revised and effective on January 15, 1975 shall cover the first calendar quarter in 1975. The report, if any, required for the fourth calendar quarter in 1974 shall be filed pursuant to the requirements of this paragraph in effect on January 14, 1975.

(b) Report to the responsible Agreement State agency all transfers of such devices to persons for use under a general license in an Agreement State's regulation equivalent to § 31.5 of this chapter. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the agency and the general licensee, the type and model number of device transferred, and the quantity and type of byproduct material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact, and relationship to the intended user. The report shall be submitted within 30 days after the end of each calendar quarter in which such a device is transferred to the generally licensed person. If no transfers have been made to a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement State agency upon request of the agency. The first report, if any, to be filed pursuant to this paragraph as revised and effective on January 15, 1975 shall cover the first calendar quarter in 1975.

(c) Keep records showing the name, address, and a point of contact for each general licensee to whom he directly or through an intermediate person transfers byproduct material in devices for use pursuant to the general license provided in § 31.5 of this chapter or equivalent regulations of an Agreement State. The records shall show the date of each transfer, the isotope and quantity of radioactivity in each device transferred, the identity of any intermediate person, and compliance with the report requirements of this section.

Effective date. The foregoing amendments become effective on January 15, 1975.

(Secs. 81, 161, Pub. L. 83-703, 68 Stat. 935, 948 (42 U.S.C. 2111, 2201))

Dated at Germantown, Maryland this 7th day of December 1974.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-29035 Filed 12-13-74;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER V—REGIONAL ACTION PLANNING COMMISSIONS

PART 570—REGIONAL EXCESS PROPERTY PROGRAM

Administration Procedures

By virtue of the authority contained in section 514 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3193), the Regional Action Planning Commissions hereby issue rules regulations and procedures for the administration of the regional excess property program.

In that the material contained herein is a matter relating to a program of economic assistance and because a delay in implementing these regulations would be contrary to the public interest, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable. However, in accordance with the spirit of the public policy set forth in 5 U.S.C. 553 interested persons may submit written comments or suggestions to the Special Assistant for Regional Economic Coordination, Office of the Secretary, U.S. Department of Commerce, Room 2092, Washington, D.C. 20230, by January 16, 1975.

The purpose of these regulations is to implement the provisions of section 514 so as to authorize the Federal Cochairmen of the Regional Action Planning Commissions established pursuant to the Public Works and Economic Development Act of 1965, as amended, to acquire and dispose of excess Federal property for the purpose of economic development.

These regulations only apply to those States or parts of States included within economic development regions established pursuant to Title V of the Public Works and Economic Development Act.

Therefore, a new Chapter V, "Regional Action Planning Commissions," is added to Title 13, Code of Federal Regulations, consisting of the following Part 570:

Sec.
570.1 Authority and purpose.
570.2 Definitions.
570.3 Recipients of excess property.
570.4 Acquisition and disposal of property.
570.5 Return of property.
570.6 Reporting.
570.7 Records.
570.8 Procedures.
570.9 Reimbursement by recipient.
570.10 Delegation of authority.

AUTHORITY: Pub. L. 89-136, sec. 11, 79 Stat. 1162 (42 U.S.C. 3193).

§ 570.1 Authority and purpose.

Pursuant to section 514 of the Public Works and Economic Development Act of 1965, as amended (hereafter, the Act), the Federal Cochairman of each regional commission may acquire excess property, without reimbursement, through the Administrator, GSA, and shall dispose of such property, without reimbursement, for the purpose of economic development, by lending to or vesting title in eligible recipients located wholly or partially within the economic development region of such Federal Cochairman.

§ 570.2 Definitions.

(a) The term "excess property" has the meaning given it by section 3(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(e)), except that such term does not include real property.

(b) The term "care and handling" has the meaning given it by section 3(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(h)).

§ 570.3 Recipients of excess property.

(a) The Federal Cochairman of each Regional Commission may lend or transfer title to excess property acquired in the continental United States for the purpose of supporting economic development to any of the following recipients:

(1) Any State or political subdivision thereof;

(2) Any tax-supported organization;

(3) Any Indian tribe, band, group, pueblo, or Alaskan village or Regional Corporation (as defined by the Alaska Native Land Claims Settlement Act of 1971) recognized by the Federal Government or any State, and any business owned by any tribe, band, group, pueblo, village, or Regional Corporation;

(4) Any tax-supported or nonprofit private hospital; and

(5) Any tax-supported or nonprofit private institution of higher education requiring a high school diploma, or equivalent, as a basis for admission.

(b) Such recipient may have, but need not have, received any other aid under the Act.

§ 570.4 Acquisition and disposal of property.

(a) Only property which will be immediately used by a recipient agency will be acquired by a Federal Cochairman. The request for property will bear the concurrence of the Governor of the State in which the applicant is located. The Federal Cochairman will not acquire property to be stockpiled by a recipient. In no event will real property be acquired or disposed of pursuant to this authority.

(b) The following classes of items will not be acquired or disposed of to a recipient:

(1) Subsistence items, including rations and perishable foods;

(2) Property dangerous to public health and safety;

(3) Property determined by competent authority to be classified for reasons of national security;

(4) Dangerous drugs;

(5) Passenger vehicles, except buses and ambulances;

(6) Firearms and ammunition;

(7) Aircraft;

(8) Clothing and shoes;

(9) Jewelry;

(c) The Federal Cochairman may transfer title to property to a recipient if:

(1) The property is to be used for the purpose requested for two or more years;

(2) The property will become an integral part of a project; or

(3) The property is expendable, i.e., will be consumed in the operation or development of the project or program, will be altered in use so as not to be reusable, or otherwise is intended by its nature to have a one-time use or function.

(d) Transfers of title to non-expendable property with an acquisition cost of $2500, or more, shall include a provision that the property shall in the discretion of the Federal Cochairman be returned as the Federal Cochairman directs at the expense of the recipient if, within a two year period after such transfer, the property is no longer being used for the purpose for which it was requested or if any other condition of the transfer is not met. In lieu of return of the property the Federal Cochairman in his discretion may require payment of the fair market value of the property. For good causes shown the Federal Cochairman may, with the approval of the Secretary, waive any of the conditions imposed pursuant to this section.

(e) In lending property acquired under the Act, the Federal Cochairman shall require the recipient to provide proper and adequate liability insurance for the operation and use of machinery, equipment and vehicles or any other item of property so disposed of under the Act and the recipient will be required to hold the Regional Commission, its members, officers and employees, harmless in the event of any claim arising from the injury, disease, or death to operators or users or any person as a result of the use of such property.

(f) The Federal Cochairman may dispose of property to be disassembled or "cannibalized", or approve such action, only in cases in which it is clear that the separated components have greater use value when separated from the original item than does the assembled item. The Federal Cochairman shall consider carefully the facts in each case with due regard to the Federal Government's interest in the property. Retroactive approval of a request for "cannibalization" will normally not be granted.

§ 570.5 Return of property.

Property made available to a recipient on a loan basis will be reported to the Federal Cochairman when the loan period terminates. In such cases, or if the conditions of the loan are not being met, or if the property is no longer needed by the recipient for economic development purposes, the Federal Cochairman may order the return of the property for disposition to other eligible recipients. Property not disposed of to other eligible recipients in the region shall be reported by the Federal Cochairman to GSA for disposal.

§ 570.6 Reporting.

Each Federal Cochairman shall submit to the Secretary an annual report on the property acquired and disposed of, and property acquired but not disposed of. Such report will be submitted within three months after the close of the fiscal year and shall provide data on the acquisition cost of the property and include information on the types of property acquired for each recipient. The report shall further identify that property provided through loan and by transfer of title.

§ 570.7 Records.

The Federal Cochairman will institute and maintain a record system which will permit ready identification of property acquired, its value, and its disposal.

§ 570.8 Procedures.

(a) Each Federal Cochairman is authorized to designate a member of his Federal staff to serve as regional commission property officer and to delegate to such designee authority to administer the regional excess property program within his region.

(b) Only the Federal Cochairman or the regional commission property officer will be authorized under this regulation to screen excess property for acquisition.

(c) Each Federal Cochairman will prepare a procedures handbook, to be approved by the Secretary, for the orderly acquisition, recording, and disposal of property within his region. The handbook will follow the constraints set forth in this part. Each Federal Cochairman will thereafter provide each recipient written instructions to insure the efficient and orderly conduct of the regional excess property program.

§ 570.9 Reimbursement by recipient.

(a) The recipient of any property disposed of by the Federal Cochairman pursuant to this authority shall pay to the Federal agency having custody of the property all costs of care and handling, including transportation costs, incurred in the acquisition and disposal of the property.

(b) The recipient shall also pay any other costs including costs of returning the property to the Federal Government under §§ 570.4(c)(1) or 570.5, which may be incurred with regard to property made available to it by loan or transfer of title, except that in the event property is returned to the Federal Government, the recipient shall not be responsible for costs incurred after such return.

(c) No Federal Cochairman shall be involved in the receiving or processing of any costs paid by a recipient under (a) or (b) of this section.

§ 570.10 Delegation of authority.

The authority of the Secretary of Commerce with respect to the regional excess property program established by Section 514 of the Act is delegated to the Special Assistant to the Secretary for Regional Economic Coordination.

Dated: December 6, 1974.

Approved and Issued,

FREDERICK B. DENT,
Secretary of Commerce.

[FR Doc.74-29215 Filed 12-13-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 74-GL-34]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On Page 36490 of the FEDERAL REGISTER dated October 10, 1974, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation regulations so as to alter the transition area at Fostoria, Ohio.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 30, 1975.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Des Plaines, Illinois on November 25, 1974.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

In § 71.181 (40 FR 441), the following transition area is amended to read:

FOSTORIA, OHIO

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Fostoria Metropolitan Airport (Latitude 41°11'30" N., Longitude 83°23'50" W.); within three miles each side of the 084° bearing from the airport extending from the 6.5 mile radius area to 8.5 miles east of the airport; excluding that portion that overlies the Tiffin, Ohio transition area.

[FR Doc.74-29107 Filed 12-13-74;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2548]

PART 13—PROHIBITED TRADE PRACTICES

Forever Young Inc., et al

Correction

In FR Doc. 74-28262, appearing at page 41968, in the issue of Wednesday, December 4, 1974, in the first column of page 41969, item 14, lines 11 and 12 should be

transposed, so that they read as follows: "pare patients for chemical skin-peeling, and only such a professional person can".

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER C—FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

PART 1512—REQUIREMENTS FOR BICYCLES

Bicycles and Bicycle Safety Requirements; Suspension of Effective Date

The purpose of this document is to suspend, for reasons given below, the effective date of regulations banning hazardous bicycles and establishing bicycle safety regulations (16 CFR 1500.18(a)(12) and 16 CFR Part 1512).

In the FEDERAL REGISTER of July 16, 1974 (39 FR 26100), and with an effective date of January 1, 1975, the Commission promulgated 16 CFR Part 1512, a regulation prescribing safety requirements for bicycles, and 16 CFR 1500.18(a)(12), a regulation classifying any bicycle introduced into interstate commerce after January 1, 1975, that does not meet the requirements of 16 CFR Part 1512 as a banned toy or other article intended for use by children.

Thereafter, the Commission received more than 50 written communications concerning the regulations from consumers, an importer, manufacturers of bicycles and bicycle components, a retailer, and a trade association of bicycle and component manufacturers. Seventeen of these communications express the view that the effective date of January 1, 1975, will not allow adequate time for redesign, retooling, testing, production, and shipment of complying bicycles and components.

On September 9 and 10, 1974, Commission staff met with interested parties to receive oral presentations relevant to requests for an extension of the effective date and for changes in various provisions of the regulations.

After considering the written communications and oral presentations, the Commission concludes that the original effective date should be suspended and that a new effective date should be proposed for written comment by interested parties.

Accordingly, the Commission will, in the near future, propose a new effective date for the regulations and also propose amendments concerning the footbrake crank differential, chain guards, the handle bar stem-to-fork test, and instructions and labeling.

Therefore, the effective date of 16 CFR 1500.18(a)(12) and 16 CFR Part 1512 is hereby suspended until further notice.

(Secs. 3(f)(1)(D), (g)(1)(A), (s), 9(c)(1), 74 Stat. 372, 374, 376, as amended 80 Stat. 1304–05, 86 Stat. 207–09 (15 U.S.C. 1261, 1262))

Dated: December 10, 1974.

SHELDON D. BUTTS,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc.74-29113 Filed 12-13-74;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 74-304]

PART 1—GENERAL PROVISIONS

Customs Field Organization

On August 13, 1974, notice of a proposal to change the designation of Albuquerque, New Mexico, in the El Paso, Texas, Customs district (Region VI), from a Customs station to a Customs port of entry was published in the FEDERAL REGISTER (39 FR 28996). No comments were received regarding this proposal.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 9 (38 FR 17517), the designation of Albuquerque, New Mexico, as a Customs station in the El Paso, Texas, Customs district (Region VI) is hereby revoked and Albuquerque, New Mexico, is hereby designated a Customs port of entry in the El Paso, Texas, Customs district (Region VI).

The geographical limits of the port of entry will include all of the territory within the following boundaries:

Beginning at the northwest corner of the intersection of the northern boundary of Bernalillo County with the eastern boundary of Valencia County and proceeding in a southeasterly, then easterly, direction along the boundary between Bernalillo and Valencia counties to the intersection of such boundary with Interstate No. 25, then proceeding in a southerly direction along Interstate No. 25 in Valencia County to its intersection with the northern boundary of Socorro County, then proceeding in an easterly direction along the northern boundary of Socorro County to its intersection with New Mexico State Highway No. 47, then proceeding in a northerly direction along New Mexico State Highway No. 47 in Valencia County to its intersection with the southern boundary of Bernalillo County, then proceeding in an easterly, then southerly, then easterly, direction along the southern boundary of Bernalillo County to its intersection with New Mexico State Highway No. 14, then proceeding in a northerly direction along New Mexico State Highway No. 14 in Bernalillo County to its intersection with the New Mexico State Highway No. 44, then proceeding in a northwesterly direction along New Mexico State Highway No. 44 into Sandoval County to the intersection of Highway No. 44 with New Mexico State Highway No. 528, then proceeding in a southerly direction along New Mexico State Highway No. 528 to its intersection with Idalia Road, then proceeding in a westerly direction on Idalia Road to its intersection with Chayote Road, then proceeding in a northerly direction on Chayote Road to its intersection with Progress Boulevard, then proceeding in a westerly direction on Progress Boulevard to its intersection with Encino Boulevard, then proceeding in a southeasterly direction on Encino Boulevard to the northern boundary of Bernalillo County, then proceeding west along the northern boundary of Bernalillo County to the eastern boundary of Valencia County.

To reflect these changes, the table in § 1.3(d) of the Customs Regulations (19 CFR 1.3(d)) is amended by deleting "Albuquerque N. Mex." from the column headed "Customs stations" and "El Paso." from the column headed "Ports of entry having supervision" in the El Paso, Texas, district, and the table in § 1.3(c) of the Customs Regulations (19 CFR 1.3(c)) is amended by inserting "Albuquerque, New Mexico (including the territory described in T.D. 74-304)" directly below "EL PASO, TEX. (T.D. 54407)." in the column headed "Ports of entry" in the El Paso, Texas, Customs district (Region VI).

(Sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended (19 U.S.C. 1, 2))

It is desirable to make the benefits of this designation of Albuquerque, New Mexico, as a Customs port of entry available to the public as soon as possible. Therefore, good cause is found for dispensing with the delayed effective date provision of 5 U.S.C. 553(d).

Effective date. This amendment shall be effective December 16, 1974.

Dated: December 9, 1974.

[SEAL] DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.74-29211 Filed 12-13-74;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION; DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin

The Commissioner of Food and Drugs has evaluated a new animal drug application (99-098V), filed by PS Services, Inc., Bloomington, IL 61701, proposing the safe and effective use of a tylosin premix in the manufacture of swine feed. The application is approved.

To facilitate referencing, the firm is being assigned a sponsor code number and placed in the list of firms in 21 CFR 135.501(c).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135 and 135e are amended as follows:

1. In § 135.501(c) by adding a new sponsor as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

Code No.:	Firm name and address
* * * * *	
105	PS Services, Inc., 1701 Towanda Ave., Bloomington, IL 61701.
* * * * *	

2. In § 135e.10(b) by adding an additional approval as follows:

§ 135e.10 Tylosin.

* * * * *

(b) * * *

(27) To 105: 40 grains per pound, item 4.

* * * * *

Effective date. This order shall be effective December 16, 1974.

(Sec. 512(i), 82 Stat. 347; (21 U.S.C. 360b (i))

Dated: December 9, 1974.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.74-29180 Filed 12-13-74;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 586-74]

PART 9a—CONFISCATION OF PROPERTY, INCLUDING MONEY, USED IN AN ILLEGAL GAMBLING BUSINESS

Remission or Mitigation of Forfeitures

This order makes a technical amendment to the regulations on remission or mitigation of forfeitures to reflect a change in assignment of functions to sections within the Criminal Division.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, 5 U.S.C. 301, and 18 U.S.C. 1955(d), § 9a.7 of Part 9a of Chapter I of Title 28, Code of Federal Regulations, is amended by deleting the words "Narcotics and Dangerous Drug Section" each place where they appear and inserting in their place the words "Special Litigation Section."

Dated: December 6, 1974.

WILLIAM B. SAXBE,
Attorney General.

[FR Doc.74-29208 Filed 12-13-74;8:45 am]

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 613—JEWELRY AND MISCELLANEOUS PRODUCTS MANUFACTURING INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064), as amended (29 U.S.C. 205, 206, 208), including the Fair Labor Standards Amendments of 1974 (Pub. L. 93-259; 54 Stat. 55), and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 comp., p. 1004), and by means of Administrative Order No. 634 (39 FR 30941), the Secretary of Labor appointed and convened Industry Committee No. 119-B for the Jewelry and Miscellaneous Products Manufacturing Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under sections 6 (a), (b) and (c) of the Act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 119-B are hereby published, revising §§ 613.1 and 613.2 of Part 613, Title 29, Code of Federal Regulations. The increase in future wage rates prescribed by sections 6(a), (b), (c)(2)(B) and (c)(5) of the 1974 Fair Labor Standards Amendments are set forth in this wage order. The title to Part 613 is changed to conform to the description used by the Industry Committee.

1. As amended the title to Part 613 reads as set forth above.

2. As revised, §§ 613.1 and 613.2 read as follows:

§ 613.1 Definition.

(a) The Jewelry and Miscellaneous Products Manufacturing Industry in Puerto Rico is defined as the manufacture of jewelry and jewelry products including the processing of natural or synthetic stone for jewelry or industrial use; the manufacture of artificial flowers except those made of molded plastic, party favors and similar products, straw, hair and related products; and all other manufacturing activities which are not included in definitions of other manufacturing industries in Puerto Rico for which wage orders have been issued: *Provided, however,* That the industry shall not include any activity carried on by an establishment primarily engaged in another industry in Puerto Rico for its own use.

(b) This industry includes, but is not limited to, the manufacture of jewelry and jewelry findings, rosaries, beads, buttons, buckles, and hair ornaments and accessories; the processing of stones for jewelry or industrial use; the manufacture of flowers, buds, berries, foliage, leaves, fruits, plants, stems and branches which are commonly or commercially known as artificial; the manufacture of party favors and ornaments and decorations for holidays except those made of molded plastics or metal other than metallic chenille, foil or tinsel; and the manufacture of products made wholly or chiefly of straw, raffia, sisal, maguey, palm leaves, rushes, grasses, hair bristles, feathers and similar materials.

§ 613.2 Wage rates.

Wages at rates not less than those prescribed in this section shall be paid under subsection 6(c) of the Fair Labor Standards Act of 1938 by every employer to each of his employees in each of the classifications in the jewelry and miscellaneous products manufacturing industry in Puerto Rico who in any workweek is engaged in commerce or in the production of goods for commerce or is employed in an enterprise engaged in commerce or in the production of goods for commerce as those terms are defined in section 3 of the Act.

(a) *Jewelry, novelty, decoration, straw, hair and related products sector of the industry*—(1) *Pre-1961 coverage classification.* The classifications for pre-1961 coverage apply to all activities in this sector of the industry to which section 6 of the Fair Labor Standards Act applied prior to the Fair Labor Standards Amendments of 1961.

(i) *Gem stone, industrial jewel and precious jewelry classification.* (A) The minimum rate for this classification is $2 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (section 6(c)(5)).

(B) This classification is defined as the sawing, cutting, grinding, polishing, and other processing of gem diamonds, other precious and semi-precious stones, synthetic stones used for decorative purposes, and natural or synthetic jewels for industrial use, including, but without limitation, jewel bearings, industrial diamonds, and the processing of precious and synthetic stones as components of phonograph needles and the attachment of such jewels to metal phonograph needle components, but not including the production of such metal components; and the manufacture of jewelry and other personal ornaments from precious metals with or without precious stones.

(ii) *Metal expansion watch band classification.* (A) The minimum rate for this classification is $2 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (section 6(c)(5)).

(B) This classification is defined as the fabrication or partial fabrication of metal expansion bands or expansion bracelets for watches or other uses.

(iii) *Hair ornaments and accessories classification.* (A) The minimum rate for this classification is $2 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (section 6(c)(5)).

(B) This classification is defined as the manufacture of combs, barrettes,

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bobby pins, hair clips, hair rollers, hair wavers, and other hair ornaments and accessories.

(iv) *Emblematic and military insignia classification.* (A) The minimum rate for this classification is $2 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (section 6(c)(5)).

(B) This classification is defined as the manufacture or partial manufacture of emblems and military insignia other than from precious metals.

(v) *Straw, hair and related products classification.* (A) The minimum wage rate for this classification is $1.54 an hour. Unless otherwise provided, the wage rates in this section are increased by $.15 an hour on May 1, 1975, and on May 1 of each subsequent year until the mainland rate is reached pursuant to section 6(c)(2) of the Act.

(B) This classification is defined as the manufacture of products made wholly or chiefly of straw, raffia, sisal, maguey, palm leaves, rushes, grasses, hair, bristles, feathers, and similar materials.

(vi) *Other related products and activities classification.* (A) The minimum wage rate for this classification is $1.75 an hour. Unless otherwise provided, the wage rates in this section are increased by $.15 an hour on May 1, 1975, and on May 1 of each subsequent year until the mainland rate is reached pursuant to section 6(c)(2) of the Act.

(B) This classification is defined as all products and activities not included in any other pre-1961 coverage classification in this sector of the industry, including but not limited to the manufacture or assembly of buttons and buckles, artificial flowers, decorations, party favors, rosaries and native and costume jewelry.

(2) *1961 coverage classification.* (i) The minimum rate for this classification is $2 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (section 6(c)(5)).

(ii) This classification is defined as all products and activities in this sector of the industry to which section 6 of the Act applies only by reason of the Fair Labor Standards Act Amendments of 1961.

(3) *1966 coverage classification.* (i) The minimum rate for this classification is $1.90 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(b) now apply, namely $2 an hour during the year ending December 31, 1975; $2.20 an hour during the year ending December 31, 1976; and $2.30 an hour thereafter (section 6(c)(5)).

(ii) This classification is defined as all products and activities in this sector of the industry to which section 6 of the Act applies only by reason of the Fair Labor Standards Act Amendments of 1966.

(b) *Other miscellaneous products manufacturing sector of the industry—* (1) *Pre-1966 coverage classification.* (A) The minimum rate for this classification is $2 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (section 6(c)(5)).

(B) This classification is defined as all manufacturing activities not included within the classifications of the jewelry, novelty, decoration, straw, hair and related products sector of this industry or the definitions of other manufacturing industries in Puerto Rico for which wage orders have been issued, to which section 6 of the Act applied prior to the Fair Labor Standards Act Amendments of 1966.

(ii) *1966 coverage classification.* (A) The minimum wage rate for this classification is $1.75 an hour. Unless otherwise provided, the wage rates in this section are increased by $.15 an hour on May 1, 1975, and on May 1 of each subsequent year until the mainland rate is reached pursuant to section 6(c)(2) of the Act.

(B) This classification is defined as all manufacturing activities not included within the classifications of the jewelry, novelty, decoration, straw, hair and related products sector of this industry or the definitions of other manufacturing industries in Puerto Rico for which wage orders have been issued, to which section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208)

Effective date: These amendments shall become effective December 31, 1974.

Signed at Washington, D.C., this 12th day of December, 1974.

BETTY SOUTHARD MURPHY,
Administrator,
Wage and Hour Division.

[FR Doc.74-29350 Filed 12-13-74;8:45 am]

PART 617—MILITARY HATS AND CAPS INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended (29 U.S.C. 205, 206, 208)), including the Fair Labor Standards Amendments of 1974 (Pub. L. 93-259; 54 Stat. 35), and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and by means of Administrative Order No. 635 (39 FR 37551), the Secretary of Labor appointed and convened Industry Committee No. 124-A for the Military Hats and Caps Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under sections 6(a), (b) and (c) of the Act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 124-A are hereby published. This industry, formerly included in a classification in Part 615, is now made a new Part 617 in Title 29, Code of Federal Regulations. The increases in future wage rates prescribed by sections 6(a), (b), (c)(2)(B) and (c)(5) of the 1974 Fair Labor Standards Amendments are set forth in this wage order.

The new Part 617 reads as follows:

Sec.
617.1 Definition.
617.2 Wage rates.
617.3 Notices.

AUTHORITY: Secs. 5, 6, 8, 52 Stat. 1062, 1064; 29 U.S.C. 205, 206, 208.

§ 617.2 Definition.

The military hats and caps industry in Puerto Rico is defined as the manufacture of military hats and caps.

§ 617.2 Wage rates.

Wages at rates not less than those prescribed in this section shall be paid under section 6(c) of the Fair Labor Standards Act of 1938 by every employer to each of his employees in each of the classifications in the industry who in any work week is engaged in commerce or in the production of goods for commerce or is employed in an enterprise engaged in commerce or in the production of goods for commerce as those terms are defined in section 3 of the Act.

(a) *Pre-1966 Coverage Classification:* (1) The minimum wage rate for this classification is $1.90 an hour. Pursuant to section 6(c)(2) of the Act, the wage rates in this section are increased by $.15 an hour on May 1, 1975, and on May 1 of each subsequent year until the mainland rate is reached.

(2) This classification is defined as all activities in the industry to which section 6 of the Act would have applied prior to the Fair Labor Standards Amendments of 1966.

(b) *1966 Coverage Classification:* (1) The minimum rate for this classification is $1.90 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(b) now apply, namely, $2 an hour during the year ending December 31, 1975; $2.20 an hour during the year ending December 31, 1976; and $2.30 an hour thereafter (section 6(c)(5)).

(2) This classification is defined as all activities in the industry to which section

6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

§ 617.3 Notices.

Every employer subject to the provisions of § 617.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 617.2 are working such notices of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour Division of the United States Department of Labor and shall give such other notice as the Administrator may prescribe.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064 as amended; 29 U.S.C. 205, 206, 208)

Effective date: This part shall become effective December 31, 1974.

Signed at Washington, D.C., this 12th day of December, 1974.

BETTY SOUTHARD MURPHY,
Administrator,
Wage & Hour Division.

[FR Doc.74-29363 Filed 12-13-74;8:45 am]

PART 657—TOBACCO MANUFACTURES INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended (29 U.S.C. 205, 206, 208), including the Fair Labor Standards Amendments of 1974 (Pub. L. 93-259; 54 Stat. 35), and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and by means of Administrative Order No. 634 (39 FR 30941), the Secretary of Labor appointed and convened Industry Committee No. 121 for the Tobacco Manufacturers Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under sections 6(a), (b) and (c) of the Act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 121 are hereby published, amending § 657.2 of Part 657, Title 29 Code of Federal Regulations. The increases in future wage rates prescribed by sections 6(a), (b), (c)(2)(B) and (c)(5) of the 1974 Fair Labor Standards Amendments are set forth in this wage order. The title to Part 657 is changed to conform to the description used by the Industry Committee. A minor editorial change is made in § 657.3.

1. As amended, the title to Part 657 reads as set forth above.

PART 657—TOBACCO MANUFACTURES INDUSTRY IN PUERTO RICO

2. As amended, §§ 657.2 and 657.3 read as follows:

§ 657.2 Wage rates.

* * * * *

(a) *Pre-1961 coverage classifications.*

* * *

(1) *Filler tobacco processing classification.* (i) The minimum wage for this classification is $1.29 an hour for the period ending April 30, 1975. Thereafter, on May 1, 1975, the wage rate, pursuant to section 6(c)(2) of the Act, is increased $.12 an hour to $1.41 and then, on May 1 of each subsequent year, $.15 an hour until the mainland rate is attained pursuant to section 6(c) of the Act.

* * * * *

(2) *Wrapper type tobacco processing classification.* (i) The minimum wage for this classification is $1.52 an hour for the period ending April 30, 1975. Unless otherwise provided, the wage rate is increased $.15 an hour on May 1, 1975, and on May 1 of each subsequent year until the mainland rate is attained pursuant to section 6(c)(2) of the Act.

* * * * *

(3) *Machine threshing, other operations classification.* (i) The minimum rate for this classification is $1.74 an hour for the period ending April 30, 1975. Unless otherwise provided, the wage rate is increased $.15 an hour May 1, 1975, and on May 1 of each subsequent year until the mainland rate is attained pursuant to section 6(c)(2) of the Act.

* * * * *

(4) *Cigarette classification.* (i) The minimum rate for this classification is $2.00 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (Section 6(c)(5)).

* * * * *

(5) *Other products and activities classification.* (i) The minimum rate for this classification is $1.81 an hour for the period ending April 30, 1975. Unless otherwise provided, the wage rate is increased $.15 an hour on May 1, 1975, and on May 1 of each subsequent year until the mainland rate is attained pursuant to section 6(c)(2) of the Act.

(ii) This classification is defined as the manufacture of cigars and all other products and activities in the industry except products and activities included in any other classification in this industry.

(b) *1961 coverage classification.* (1) The minimum rate for this classification is $2 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (Section 6(c)(5)).

* * * * *

(c) *1966 coverage classification.* (1) The minimum rate for this classification is $1.90 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(b) now apply, namely, $2 an hour during the year ending December 31, 1975; $2.20 an hour during the year ending December 31, 1976; and $2.30 an hour thereafter (Section 6(c)(5)).

* * * * *

§ 657.3 Notices.

Every employer subject to the provisions of § 657.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 657.2 are working such notice of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour Division of the United States Department of Labor and shall give such other notice as the Administrator may prescribe.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064 as amended; 29 U.S.C. 205, 206, 208)

Effective date. These amendments are effective December 31, 1974.

Signed at Washington, D.C., this 12th day of December, 1974.

BETTY SOUTHARD MURPHY,
Administrator,
Wage and Hour Division.

[FR Doc.74-29345 Filed 12-13-74;8:45 am]

PART 661—BANKING, INSURANCE AND FINANCE INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended (29 U.S.C. 205, 206, 208)), including the Fair Labor Standards Amendments of 1974 (Pub. L. 93-259; 54 Stat. 35), and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and by means of Administrative Order No. 635 (39 FR 37551), the Secretary of Labor appointed and convened Industry Committee No. 124-B for the Banking, Insurance and Finance Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under sections 6(a), (b) and (c) of the Act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18,

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the recommendations of Industry Committee No. 124–B are hereby published, amending paragraphs (a) and (b) of § 661.2 of Part 661, Title 29, Code of Federal Regulations. The increases in future wage rates prescribed by sections 6(a) and (b) of the 1974 Fair Labor Standards Amendments are set forth in this wage order.

1. As amended, § 661.2 reads as follows:

§ 661.2 Wage rates.

* * * * *

(a) *Pre-1966 coverage classification.* (1) The minimum rate for this classification is $2 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (section 6(c)(5)).

(2) This classification is defined as all activities in the industry to which Section 6 of the Act would have applied prior to the Fair Labor Standards Amendments of 1966.

(b) *1966 coverage classification.* (1) The minimum rate for this classification is $1.90 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(b) now apply, namely, $2 an hour during the year ending December 31, 1975; $2.20 an hour during the year ending December 31, 1976; and $2.30 an hour thereafter (section 6(c)(5)).

(2) This classification is defined as all activities in the industry to which Section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208)

Effective date. This amendment shall become effective December 31, 1974.

Signed at Washington, D.C., this 12th day of December, 1974.

BETTY SOUTHARD MURPHY,
Administrator,
Wage and Hour Division.

[FR Doc.74-29344 Filed 12-13-74;8:45 am]

PART 675—FURNITURE AND FIXTURES AND LUMBER AND WOOD PRODUCTS INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended (29 U.S.C. 205, 206, 208)), including the Fair Labor Standards Amendments of 1974 (Pub. L. 93–259; 54 Stat. 35), and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and by means of Administrative Order No. 634 (39 FR 30941), the Secretary of Labor appointed and convened Industry Committee No. 120–A for the Furniture and Fixtures and Lumber and Wood Products Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under sections 6(a), (b) and (c) of the Act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 120–A are hereby published, revising §§ 675.1 and 675.2 of Part 675, Title 29, Code of Federal Regulations. The increases in future wage rates prescribed by sections 6(a), (b), (c)(2)(B) and (c)(5) of the 1974 Fair Labor Standards Amendments are set forth in this wage order. The title to Part 675 is changed to conform to the description used by the Industry Committee. A minor editorial change is made in § 675.3.

1. As amended, the title to Part 675 reads as set forth above.

2. As revised, § 675.1, paragraphs (a) and (b) of § 675.2 and § 675.3 read as follows:

§ 675.1 Definition.

(a) The furniture and fixtures and lumber and wood products industry is defined as the manufacture of household, office, public building, and restaurant furniture, and office and store fixtures; and the manufacture of products made from lumber, wood and related materials; and logging and wood preserving: *Provided, however,* That the industry shall not include any product or activity in the metal, machinery, transportation equipment, and allied products industry; the jewelry and miscellaneous products manufacturing industry; the construction industry; or the paper, paper products, printing and publishing industry.

(b) The industry includes, without limitation, furniture, office and store fixtures, mattresses and bedsprings, boxes and containers, cooperage, window and door screens and blinds, caskets and coffins, matches sawmill products planing and plywood mill products, charcoal; trays, bowls, and other woodenware; excelsior cork bamboo rattan and willowware articles.

§ 675.2 Wage rates.

* * * * *

(a) *Pre-1966 coverage classification.* (1) The minimum wage rate for this classification is $1.80 an hour. Unless otherwise provided the wage rates in this section are increased by .15 an hour on May 1, 1975, and on May 1 of each subsequent year until the mainland rate is reached pursuant to section 6(c)(2) of the Act.

(2) This classification is defined as all activities in the industry to which section 6 of the Act would have applied prior to the Fair Labor Standards Amendments of 1966.

(b) *1966 coverage classification.* (1) The minimum rate for this classification is $1.80 an hour. Unless otherwise provided, the wage rates in this section are increased by .15 an hour on May 1, 1975, and on May 1 of each subsequent year until the mainland rate is reached pursuant to section 6(c)(2) of the Act.

§ 675.3 Notices.

Every employer subject to the provisions of § 675.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 675.2 are working such notices of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour Division of the United States Department of Labor and shall give such other notice as the Administrator may prescribe.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064 as amended; 29 U.S.C. 205, 206, 208)

Effective date. This revision is effective December 31, 1974.

Signed at Washington, D.C., this 12th day of December, 1974.

BETTY SOUTHARD MURPHY,
Administrator,
Wage and Hour Division.

[FR Doc.74-29343 Filed 12-13-74;8:45 am]

PART 677—PAPER, PAPER PRODUCTS, PRINTING AND PUBLISHING INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended (29 U.S.C. 205, 206, 208)), including the Fair Labor Standards Amendments of 1974 (Pub. L. 93–259; 54 Stat. 35), and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and by means of Administrative Order No. 635 (39 FR 37551), the Secretary of Labor appointed and convened Industry Committee No. 124–B for the Paper, Paper Products, Printing and Publishing Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under sections 6(a), (b) and (c) of the Act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 124–B are hereby published, revising paragraphs (a) and (b) of § 677.2 of Part 677, Title 29, Code of Federal Regulations. The revision has the effect of combining paragraphs (a) and (b) and changing (c) to (b), thus eliminating paragraph (c). The increases in future wage rates prescribed by sections 6(a) and (b) of the 1974 Fair Labor

Standards Amendments are set forth in this wage order.

As revised, paragraphs (a) and (b) of § 677.2 read as follows:

§ 677.2 Wage rates.

* * * * *

(a) *Pre-1966 coverage classification.* (1) The minimum rate for this classification is $2.00 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (section 6(c)(5)).

(2) This classification is defined as all activities in the industry to which section 6 of the Act would have applied prior to the Fair Labor Standards Amendments of 1966.

(b) *1966 coverage classification.* (1) The minimum rate for this classification is $1.90 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(b) now apply, namely, $2.00 an hour during the year ending December 31, 1975; $2.20 an hour during the year ending December 31, 1976; and $2.30 an hour thereafter (section 6(c)(5)).

(2) This classification is defined as all activities in the industry to which section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208)

Effective date. These amendments shall become effective December 31, 1974.

Signed at Washington, D.C., this 12th day of December 1974.

BETTY SOUTHARD MURPHY,
Administrator,
Wage and Hour Division.

[FR Doc.74-29349 Filed 12-13-74;8:45 am]

PART 678—STONE, CLAY AND GLASS PRODUCTS AND NONMETALLIC MINING INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended (29 U.S.C. 205, 206, 208), including the Fair Labor Standards Amendments of 1974 (Pub. L. 93-259; 54 Stat. 35), and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and by means of Administrative Order No. 634 (39 FR 3o941), the Secretary of Labor appointed and convened Industry Committee No. 120-B for the Stone, Clay and Glass Products and Nonmetalic Mining Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under sections 6 (a), (b) and (c) of the Act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 120-B are hereby published, revising §§ 678.1 and 678.2 of Part 678, Title 29, Code of Federal Regulations. The increases in future wage rates prescribed by sections 6(a), (b), (c)(2) and (c)(5) of the 1974 Fair Labor Standards Amendments are set forth in this wage order. The title to Part 678 is changed to conform to the description used by the Industry Committee. A minor editorial change is made in § 678.3.

1. As amended, the title to Part 678 reads as set forth above.

2. As revised, § 678.1, paragraphs (a), (b) and (c) of § 678.2 and § 678.3 read as follows:

§ 678.1 Definition.

The stone, clay and glass products and nonmetallic mining industry in Puerto Rico is defined as the manufacture from nonmetallic mineral products such as, but not limited to, structural clay products, china, pottery, tile and other ceramic products and refractories; glass and glass products (except lenses); dimension and cut stone; crushed stone; sand and gravel; hydraulic cement; abrasives, lime, concrete, gypsum, mica, plaster and asbestos; and the mining, quarrying, or other extraction and further processing of nonmetallic minerals, except chemical and fertilizer minerals and fossil fuels: *Provided, however,* That the industry shall not include any product or activity included in the jewelry and miscellaneous products manufacturing industry; the construction industry; the metal, machinery, transportation equipment and allied products industry; or the chemical, petroleum and related products industry.

§ 678.2 Wage rates.

(a) *Pre-1961 coverage classifications.* The classifications for pre-1961 coverage apply to all activities in the industry to which section 6 of the Act would have applied prior to the Fair Labor Standards Amendments of 1961.

(1) *Vitreous and semivitreous china food utensils classification.* (i) The minimum wage for this classification is $1.83 an hour. Pursuant to section 6(c)(2) of the Act, the wage rate is increased by $.15 an hour on May 1, 1975, and on May 1 of each subsequent year until the mainland rate is attained.

(ii) This classification is defined as the manufacture of vitreous and semivitreous china table and kitchen articles for use in households and hotels, restaurants and other commercial institutions for preparing, serving or storing food or drink, except that this classification does not include products in the art pottery classification.

(2) *Art pottery classification.* (i) The minimum wage for this classification is $1.37 an hour for the period ending April 30, 1975; $1.52 an hour beginning May 1, 1975. Thereafter, on May 1 of each subsequent year the wage rate is increased $.15 an hour until the mainland rate is attained pursuant to section 6(c)(2) of the Act.

(ii) This classification is defined as the manufacture of hand-decorated pottery.

(3) *Other products and activities classification.* (i) The minimum rate for this classification is $2.00 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (section 6(c)(5)).

(b) *1961 coverage classification.* (1) The minimum rate for this classification is $2.00 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (section 6(c)(5)).

(2) This classification is defined as all activities in the industry to which section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1961.

(c) *1966 coverage classification.* (1) The minimum rate for this classification is $1.90 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(b) now apply, namely $2.00 an hour during the year ending December 31, 1975; $2.20 an hour during the year ending December 31, 1976; and $2.30 an hour thereafter (section 6(c)(5)).

(2) This classification is defined as all activities in the industry to which section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

§ 678.3 Notices.

Every employer subject to the provisions of § 678.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 678.2 are working such notices of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour Division of the United States Department of Labor and shall give such other notice as the Administrator may prescribe.

(Secs. 5, 6, 8 52 Stat. 1062, 1064 as amended; 29 U.S.C. 205, 106, 108.)

Effective date. These amendments are effective December 31, 1974.

Signed at Washington, D.C., this 12th day of December, 1974.

BETTY SOUTHARD MURPHY,
Administrator,
Wage and Hour Division.

[FR Doc.74-29346 Filed 12-13-74;8:45 am]

PART 671—COMMUNICATIONS, UTILITIES AND TRANSPORTATION INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended (29 U.S.C. 205, 206, 208)), including the Fair Labor Standards Amendments of 1974 (Pub. L. 93–259; 54 Stat. 35), and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and by means of Administrative Order No. 635 (39 FR 37551), the Secretary of Labor appointed and convened Industry Committee No. 124–B for the Communications, Utilities and Transportation Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates to be paid under sections 6(a), (b) and (c) of the Act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 124–B are hereby published, revising § 671.2 of Part 671, Title 29, Code of Federal Regulations. The increases in future wage rates prescribed by sections 6(a), (b); (c)(2)(B) and (c)(5) of the 1974 Fair Labor Standards Amendments are set forth in this wage order.

As amended, § 671.2 reads as follows:

§ 671.2 Wage rates.

* * * * *

(a) *Pre-1966 coverage classifications.* The classifications for pre-1966 coverage apply to all activities in the industry to which Section 6 of Fair Labor Standards Act applied prior to the Fair Labor Standards Amendments of 1966.

(1) *Radio broadcasting classifications.* (i) The minimum wage rate for this classification is $1.95 an hour. Pursuant to section 6(c)(2) of the Act, the wage rate in this section is increased by $.15 an hour on May 1, 1975 when the mainland rate is reached. Beginning January 1, 1976, the rate is increased to $2.30 an hour (section 6(c)(5)).

(ii) This classification is defined as all activities involving the dissemination by radio to the public of aural programs.

(b) *Other activities classifications.* (1) The minimum rate for this classification is $2 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (section 6(c)(5)).

(2) This classification is defined as all activities that are not specifically included in the other pre-1966 coverage classification of the industry.

(c) *1966 Coverage Classification.* (1) The minimum rate for this classification is $1.80 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(b) now apply, namely, $2.00 an hour during the year ending December 31, 1975; $2.20 an hour during the year ending December 31, 1976; and $2.30 an hour thereafter (Section 6(c)(5)).

(2) This classification is defined as all activities in the industry to which Section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208)

Effective date: This amendment shall become effective December 31, 1974.

Signed at Washington, D.C., this 12th day of December, 1974.

BETTY SOUTHARD MURPHY,
Administrator,
Wage and Hour Division.

[FR Doc.74-29651 Filed 12-13-74;8:45 am]

PART 672—BUSINESS, PROFESSIONAL, AND MISCELLANEOUS SERVICES INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended (29 U.S.C. 205, 206, 208)), including the Fair Labor Standards Amendments of 1974 (Pub. L. 93–259; 54 Stat. 35), and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and by means of Administrative Order No. 635 (39 FR 37551), the Secretary of Labor appointed and convened Industry Committee No. 124–B for the Business, Professional and Miscellaneous Services Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under sections 6(a), (b) and (c) of the Act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 124–B are hereby published, revising §§ 672.1 and 672.2 of Part 672, Title 29, Code of Federal Regulations. The increases in future wage rates prescribed by sections 6(a), (b), (c)(2)(B) and (c)(5) of the 1974 Fair Labor Standards Amendments are set forth in this wage order. The title to Part 672 is changed to conform to the description used by the Industry Committee:

1. As amended, the title to Part 672 reads as set forth above.

2. As revised, §§ 672.1 and 672.2 read as follows:

§ 672.1 Definition.

The Business, Professional, and Miscellaneous Services Industry in Puerto Rico is defined as the activity carried on by any business or nonprofit enterprise performing real estate, professional, advertising, education, or research activities, or engaged in the furnishing of other facilities or services to industrial or commercial establishments or to the consumer; and the production of photographs and blueprints, the production and distribution of motion pictures and all activities incidental thereto; and all nonmanufacturing activities which are not included in the definitions of other industries in Puerto Rico for which wage orders have been issued: *Provided, however,* That the industry shall not include any activity carried on by an establishment primarily engaged in another industry in Puerto Rico for its own use.

§ 672.2 Wage rates.

Wages at rates not less than those prescribed in this section shall be paid under section 6(c) of the Fair Labor Standards Act of 1938 by every employer to each of his employees in each of the classifications in the industry who in any workweek is engaged in commerce or in the production of goods for commerce or is employed in an enterprise engaged in commerce or the production of goods for commerce as those terms are defined in section 3 of the Act.

(a) *Pre-1966 coverage classifications.* The clasifications for pre-1966 coverage apply to all activities in the industry to which section 6 of the Fair Labor Standards Act applied prior to the Fair Labor Standards Amendments of 1966.

(1) *Watching, protective and janitorial services classification.* (i) The minimum wage rate for this classification is $1.85 an hour. Pursuant to section 6(c)(2) of the Act, the wage rate in this section is increased by $.15 an hour on May 1, 1975, and on May 1 of each subsequent year until the mainland rate is reached.

(ii) This classification is defined as all activities of establishments providing personnel for detective, investigative, patrolling, watching or personnel protection services, including the maintenance and monitoring of mechanical protective devices; and all activities of establishments engaged in furnishing cleaning and maintenance services such as janitorial floor waxing and office cleaning.

(2) *Other activities classification.* (i) The minimum rate for this classification

is $2 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (section 6(c)(5)).

(ii) This classification is defined as all activities that are not specifically included in the other pre-1966 coverage classification of the industry.

(b) *1966 Coverage Classifications:* The classifications for 1966 coverage apply to all activities in the industry to which section 6 of the Fair Labor Standards Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

(1) *Watching, protective and janitorial services classification.* (i) The minimum wage rate for this classification is $1.85 an hour. Pursuant to section 6(c)(2) of the Act, the wage rate in this section is increased by $.15 an hour on May 1, 1975, when the mainland rate is attained. Beginning January 1, 1976, pursuant to section 6(b) of the Act, the rate is increased to $2.20 an hour, and beginning January 1, 1977, the rate increases to $2.30 an hour.

(ii) This classification is defined as all activities of establishments providing personnel for detective, investigative, patrolling, watching or personnel protection services, including the main tenance and monitoring of mechanical protective devices; and all activities of establishments engaged in furnishing cleaning and maintenance services such as janitorial, floor waxing and office cleaning.

(2) *Other activities classification.* (i) The minimum rate for this classification is $1.90 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(b) now apply, namely, $2 an hour during the year ending December 31, 1975; $2.20 an hour during the year ending December 31, 1976; and $2.30 an hour thereafter (Section 6(c)(5)).

(ii) This classification is defined as all activities that are not specifically included in the other 1966 coverage classification of the industry.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208)

Effective date: These amendments shall become effective December 31, 1974.

Signed at Washington, D.C., this 12th day of December, 1974.

BETTY SOUTHARD MURPHY,
Administrator,
Wage and Hour Division.

[FR Doc.74-29362 Filed 12-13-74;8:45 am]

PART 683—WHOLESALING AND WAREHOUSING INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended (29 U.S.C. 205, 206, 208), including the Fair Labor Standards Amendments of 1974 (Pub. L. 93-259; 54 Stat. 35), and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and by means of Administrative Order No. 635 (39 FR 37551), the Secretary of Labor appointed and convened Industry Committee No. 124-B for the Wholesaling and Warehousing Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under sections 6(a), (b) and (c) of the Act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 124-B are hereby published, amending paragraphs (a) and (b) of § 683.2 of Part 683, Title 29, Code of Federal Regulations. The increases in future wage rates prescribed by sections 6(a) and (b), of the 1974 Fair Labor Standards Amendments are set forth in this wage order.

As amended, paragraphs (a) and (b) of § 683.2 read as follows:

§ 683.2 Wage rates.

* * * * *

(a) *Pre-1966 coverage classification.* (1) The minimum rate for this classification is $2.00 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (section 6(c)(5)).

(2) This classification is defined as all activities in the industry to which Section 6 of the Act would have applied prior to the Fair Labor Standards Amendments of 1966.

(b) *1966 coverage classification.* (1) The minimum rate for this classification is $1.90 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(b) now apply, namely, $2.00 an hour during the year ending December 31, 1975; $2.20 an hour during the year ending December 31, 1976; and $2.30 an hour thereafter (section 6(c)(5)).

(2) This classification is defined as all activities in the industry to which Section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208)

Effective date. This amendment shall become effective December 31, 1974.

Signed at Washington, D.C., this 12th of December, 1974.

BETTY SOUTHARD MURPHY,
Administrator,
Wage and Hour Division.

[FR Doc.74-29347 Filed 12-13-74;8:45 am]

PART 720—RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS INDUSTRY IN PUERTO RICO

Wage Order

Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064), as amended (29 U.S.C. 205, 206, 208), including the Fair Labor Standards Amendments of 1974 (Pub. L. 93-259; 54 Stat. 35), and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and by means of Administrative Order No. 634 (39 FR 30941), the Secretary of Labor appointed and convened Industry Committee No. 119-A for the Rubber and Miscellaneous Plastics Products Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under sections 6(a), (b) and (c) of the Act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division o fthe Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 119-A are hereby published, revising §§ 720.1 and 720.2 of Part 720, Title 29, Code of Federal Regulations. The increases in future wage rates prescribed by sections 6(a), (b), (c)(1)(B) and (c)(5) of the 1974 Fair Labor Standards Amendments are set forth in this wage order. The title to Part 720 is changed to conform to the description used by the Industry Committee

1. As amended, the title to Part 720 reads as set forth above.

2. As revised, § 720.1 and paragraphs (a) and (b) of § 720.2 read as follows:

§ 720.1 Definition.

The Rubber and Miscellaneous Plastics Products Industry in Puerto Rico is defined as the manufacture from natural, synthetic, or reclaimed rubber or latex rubber, products such as, but not limited to, tires and tubes, reclaimed rubber, rubber and plastics hose and belting, industrial and mechanical rubber goods, rubberized fabrics, miscellaneous rubber specialties and sundries, recapped and retreaded tires, rubber and plastics cut stock and findings for footwear, and miscellaneous fabricated plastics products: *Provided, however,* That th industry shall not include any activity in the rubber and plastics footwear industry; the

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chemical, petroleum and related products industry; the leather, leather goods and related products industry; the gloves and mittens industry; the men's and boys' clothing and related products industry; the corsets, brassieres and allied garments industry; the women's outerwear, needlework and miscellaneous fabricated textile products industry; the textile mill products industry; and the jewelry and miscellaneous products manufacturing industry.

§ 720.2 Wage rates.

* * * * *

(a) *Pre-1966 coverage classifications.* The classifications for pre-1966 coverage apply to all activities in the industry to which Section 6 of the Fair Labor Standards Act applied prior to the Fair Labor Standards Amendments of 1966.

(1) *Rubber products classification.* (i) The minimum rate for this classification is $2.00 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(a)(1) now apply, namely, $2.10 an hour during the year ending December 31, 1975, and $2.30 an hour thereafter (section 6(c)(5)).

(ii) This classification is defined as the manufacture of all rubber products including the recapping and retreading of tires and tubes by a vulcanizing process.

(2) *Plastic dinnerware, sprayer, vaporizer, phonograph record and artificial flower classification.* (i) The minimum wage rate for this classification is $1.75 an hour. Unless otherwise provided, the wage rates in this section are increased by $.15 an hour on May 1, 1975, and on May 1 of each subsequent year until the mainland rate is reached pursuant to section 6(c)(2) of the Act.

(ii) This classification is defined as the manufacture of plastic dinnerware, sprayers, vaporizers, atomizers, phonograph records and artificial flowers of molded plastic.

(3) *Plastic pipe and fittings classification:* (i) The minimum wage rate for this classification is $1.65 an hour. Unless otherwise provided, the wage rates in this section are increased by $.15 an hour on May 1, 1975, and on May 1 of each subsequent year until the mainland rate is reached pursuant to section 6(c)(2) of the Act.

(ii) This classification is defined as the manufacture or assembly of plastic pipes and plastic pipe fittings.

(4) *Other plastics products classification.* (i) The minimum wage rate for this classification is $1.60 an hour. Unless otherwise provided, the wage rates in this section are increased by $.15 an hour on May 1, 1975, and on May 1 of each subsequent year until the mainland rate is reached pursuant to section 6(c)(2) of the Act.

(ii) This classification is defined as the manufacture of all plastics products not included in other pre-1966 coverage classifications in the industry.

(b) *1966 Coverage classifications.* These classifications for 1966 coverage apply to all activities in the industry to which Section 6 of the Fair Labor Standards Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

(1) *Rubber products classification.* (i) The minimum rate for this classification is $1.90 an hour for the period ending December 31, 1974. Since the mainland rate has been attained, the rates specified in section 6(b) now apply, namely $2.00 an hour during the year ending December 31, 1975; $2.20 an hour during the year ending December 31, 1976; and $2.30 an hour thereafter (Section 6(c)(5)).

(ii) This classification is defined as the manufacture of all rubber products, including the recapping and retreading of tires and tubes by a vulcanizing process.

(2) *Plastics products classification.* (i) The minimum wage rate for this classification is $1.75 an hour. Unless otherwise provided, the wage rates in this section are increased by $.15 an hour on May 1, 1975, and on May 1 of each subsequent year until the mainland rate is reached pursuant to section 6(c)(2) of the Act.

(ii) This classification is defined as the manufacture of all plastic products.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208)

Effective date. These amendments shall become effective December 31, 1974.

Signed at Washington, D.C., this 12th of December, 1974.

BETTY SOUTHARD MURPHY,
Administrator,
Wage and Hour Division.

[FR Doc.74-29348 Filed 12-13-74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74-81]

PART 135—LIGHTS FOR COAST GUARD VESSELS OF SPECIAL CONSTRUCTION

Correction

In FR Doc. 74-27746 appearing at page 41362 in the issue for Wednesday, November 27, 1974, as corrected on page 43057 in the issue for Tuesday, December 10, 1974, the headings should read as set forth above.

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PROCUREMENT AND CONTRACTS

Miscellaneous Amendments

On August 12, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 28900) stating that the Department of Health, Education, and Welfare is considering an amendment to 41 CFR, Chapter 3, by adding a new § 3-3.410-1, Basic Agreements, to Subpart 3-3.4, Types of Contracts, and adding a new Subpart 3-7.51, Clauses for use with basic agreements. A minor modification is also being made to Part 3-16, Procurement Forms. The amendment prescribes policies and procedures relative to the negotiation and use of basic agreements.

Interested persons were invited to submit written data, views, and comments within 30 days after publication. Written comments were received, and after consideration of the views presented, the amendment is hereby adopted, subject to the following changes:

PART 3-3—PROCUREMENT BY NEGOTIATION

§ 3-3.410-1 [Amended]

1. Paragraphs (b) (1) and (2) of § 3-3.410-1 are deleted and the following substituted in lieu thereof:

* * * * *

(b) *Applicability.* (1) Basic agreements are appropriate for use when (i) past experience and future plans indicate that a substantial number of separate contracts may be entered into with a contractor during the life of the basic agreement; (ii) peculiar recurring problems exist with a particular contractor regarding the standard general provisions or other terms and conditions of contracts and (iii) where it is beneficial for the contractor and the Government to do so.

(2) Except where particular and unique circumstances exist regarding an individual contract, a basic agreement shall be modified only by a modification of the basic agreement itself and shall not be modified or superseded by individual contracts entered into under and subject to the terms of such basic agreement. Any provision of a contract which conflicts with the terms of a basic agreement must be approved by the Office of Grants and Procurement Management (OGPM). Basic agreements may be modified at any time; however, it is generally desirable to modify them as infrequently as possible. Changes to clauses or new clauses resulting from statutes or Executive Orders should be incorporated as soon after issuance as feasible. Clauses pertaining to subjects not covered in a basic agreement but applicable to the contract or modifications to the contracts being negotiated, and clauses required by statute or Executive Order, if any, which have become effective after the last modification to the basic agreement shall be included in the contract and modifications as if no basic agreement existed. Other changes should be incorporated on an annual basis unless one of the parties specifically requests earlier consideration. As a minimum, basic agreements should be reviewed annually before the anniversary of their effective date and revised to conform with the current requirements of this section. Unless otherwise designated by OGPM, the agency negotiating the basic agreement will be responsible for negotiating all modifications thereto.

2. Paragraph (c) (3), of § 3–3.410–1 is deleted, and the following is substituted in lieu thereof:

(c) * * *

(3) Basic agreements shall be utilized only in connection with negotiated contracts.

3. The phrase "as form" in the paragraph beginning with NOW, THEREFORE, in paragraph (d) of § 3–3.410–1 is deleted.

4. That part of (e) (1) of § 3–3.410–1 reading "When an operating agency decides it is necessary to negotiate * * *" is changed to read "When an operating agency decides to negotiate * * *"

PART 3–7—CONTRACT CLAUSES

§ 3–7.5103–2 [Amended]

5. That part of § 3–7.5103–2 reading "* * * action by the Contracting Officer shall be required" is changed to read "* * * action by the Contracting Officer shall not be required."

§§ 3–7.5103–1—3–7.5103–2 [Amended]

6. That part of the table of contents of Subpart 3–7.51, Clauses for Basic Agreements reading:

3–7.5103–1 Domestic travel.
3–7.5103–2 Advance understandings.

is changed to read:

3–7.5103–1 Advance understandings.
3–7.5103–2 Domestic travel.

PART 3–16—PROCUREMENT FORMS

§ 3–16.5001 [Amended]

7. The following is added to the text of the regulation: That part of paragraph (f) reading "Your proposal must be prepared in accordance with the attached 'Contract Provisions' and 'Instructions to Offerors'" is hereby changed to read: "Your proposal must be prepared in accordance with the attached 'Contract Provisions' and 'Instructions to Offerors'." However, if you have a basic agreement with the Department, and it is applicable to the type of contract to be awarded, the resultant contract will incorporate the basic agreement by reference.

(5 U.S.C. 301; 40 U.S.C. 486(c))

Effective date: These regulations shall become effective December 16, 1974.

Dated: December 9, 1974.

THOMAS S. MCFEE,
Acting Assistant Secretary for Administration and Management.

PART 3–3—PROCUREMENT BY NEGOTIATION

1. The new §§ 3–3.410 and 3–3.410–1 reads as follows:

Sec.
3–3.410 Other types of agreements.
3–3.410–1 Basic agreement.

§ 3–3.410 Other types of agreements.

§ 3–3.410–1 Basic agreement.

(a) *Description.* A basic agreement is not a contract. It is a written instrument of understanding executed between DHEW and a contractor which sets forth the negotiated contract clauses which shall be applicable to future procurements entered into between the parties while the basic agreement is in effect. A basic agreement will apply to a particular procurement by the execution of a formal contractual document which will provide for the scope of work, price, delivery, and additional matters peculiar to the requirements of the specific procurement involved, and shall incorporate by reference or append the contract clauses agreed upon in the basic agreement as required or applicable. Basic agreements may be used with fixed-price or cost-reimbursement type contracts and need not be limited to specific types of services and supplies or categories of procurements.

(b) *Applicability.* (1) Basic agreements are appropriate for use when (i) past experience and future plans indicate that a substantial number of separate contracts may be entered into with a contractor during the life of the basic agreement; (ii) Peculiar recurring problems exist with a particular contractor regarding the standard general provisions or other terms and conditions of contracts and (iii) where it is beneficial for the contractor and the Government to do so.

(2) Except where particular and unique circumstances exist regarding an individual contract, a basic agreement shall be modified only by a modification of the basic agreement itself and shall not be modified or superseded by individual contracts entered into under and subject to the terms of such basic agreement. Any provision of a contract which conflicts with the terms of a basic agreement must be approved by the Office of Grants and Procurement Management (OGPM). Basic agreements may be modified at any time, however, it is generally desirable to modify them as infrequently as possible. Changes to clauses or new clauses resulting from statutes or Executive Orders should be incorporated as soon after issuance as feasible. Clauses pertaining to subjects not covered in a basic agreement but applicable to the contract or modifications to the contracts being negotiated, and clauses required by statute or Executive Order, if any, which have become effective after the last modification to the basic agreement shall be included in the contract and modifications as if no basic agreement existed. Other changes should be incorporated on an annual basis unless one of the parties specifically requests earlier consideration. As a minimum, basic agreements should be reviewed annually before the anniversary of their effective date and revised to conform with the current requirements of this section. Unless otherwise designated by OGPM, the agency negotiating the basic agreement will be responsible for negotiating all modifications thereto.

(3) Basic agreements shall continue in effect until terminated or superseded and shall provide for termination upon 30 days written notice by either party. Termination of a basic agreement will not affect any individual contract referencing or appending the basic agreement entered into prior to the effective date of termination.

(4) A basic agreement shall be used to cover all subsequent procurements which fall within its scope. Provisions of the basic agreement, including supplements thereto, shall be incorporated into a formal contractual document covering a particular procurement by referring therein to the number of the basic agreement and each of its supplements. When an existing contract is amended to effect new procurement, the contract modification shall incorporate the most recent basic agreement, including supplements thereto, to apply only to the work added by the contract modification.

(5) Contract modifications negotiated pursuant to the terms of an existing contract and not involving new procurement may, by mutual agreement of the parties and if determined to be in the interest of the Government, amend the existing contract to conform to a subsequently executed or supplemented basic agreement.

(6) If a clause, which properly deviates from a prescribed clause, must be replaced the replacement clause may deviate to the same extent as the original clause, if the revision is not related to the deviation, and if the deviation has not expired or been rescinded.

(7) Basic agreements may include negotiated overhead rates for cost-reimbursement type contracts. Where negotiated overhead rates are included the bases to which the rates apply and the period of applicability must also be stated. All pertinent provisions such as final rates for past periods, provisional rates for current or future periods, ceilings, and any specific items to be treated as indirect costs shall also be included as appropriate.

(8) Normally a basic agreement will continue in effect until terminated or superseded. Basic agreements for a specified term are not, however, precluded.

(c) *Limitations.* (1) Basic agreements shall neither cite appropriations to be charged nor be used alone for the purpose of obligating funds.

(2) Basic agreements shall not in any manner provide for or imply any agreement on the part of the Government to place future orders or contracts with the contractor involved, nor shall they be used in any manner to restrict competition.

(3) Basic agreements shall be utilized only in connection with negotiated contracts.

(d) *Content and format.* A basic agreement shall consist of: (a) an execution page, (b) contents page (Form HEW–656) may be used for this purpose, and (c) special provisions which are illustrated in Subpart 3–7.51. The following is illustrative of an execution page:

Basic Agreement Number
Page 1 of ____ pages

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BASIC AGREEMENT

BETWEEN THE UNITED STATES OF AMERICA, AS REPRESENTED BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, and (Name of Contractor) THIS AGREEMENT, effective (Insert Date) by and between the UNITED STATES OF AMERICA, hereinafter called the "Government," as represented by the DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, and (Name of Contractor), a corporation organized and existing under the laws of the (State/Commonwealth) of ..... with its principal office in (City), (State), hereinafter called the "Contractor":

WITNESSETH THAT

WHEREAS, the Government and the Contractor desire to enter into a single basic agreement for use only in connection with negotiated (insert type of contract and categories of effort that the basic agreement will cover) entered into on or after the effective date of this Agreement, and prior to its termination; and

WHEREAS, the parties understand that this Agreement shall not in any manner provide for or imply any agreement on the part of the Government to place future orders or contracts with the Contractor.

NOW THEREFORE, the Government and the Contractor agree that the provisions and clauses of the Special Provisions, herein set forth, and the General Provisions (specify form number of applicable general provisions) attached hereto and as modified herein, shall be incorporated in and constitute the terms and conditions applicable to all negotiated (insert type of contract and categories of effort that the basic agreement will cover) entered into on or after the effective date of this agreement, and prior to its termination.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written:

UNITED STATES OF AMERICA

Name of Contractor

Signature of Contracting Officer

By.....
Signature of Authorized Official

Typed Name

Typed Name

(e) *Procedures.* (1) Negotiation of basic agreements may be undertaken by operating agencies of DHEW in behalf of the Department. When an operating agency decides to negotiate a basic agreement with an organization, prior authorization must be requested, in writing, from the Director, Division of Procurement Policy and Regulations Development (DPPRD), OGPM. When the Director, DPPRD, gives written authorization to the agency designated to conduct negotiations on behalf of the Department, all other agencies will be notified of this designation. If another agency elects, it may attend the negotiation or furnish special terms and conditions or provisions for inclusion in the proposed basic agreement by advising the designated negotiating agency in writing within ten (10) days from the date of the authorization. After review and resolution of all requests for inclusion of special terms and conditions or provisions, the designated negotiating agency will invite those operating agencies who expressed an interest in attending the negotiations and make the necessary arrangements for the negotiation of the basic agreement.

(2) Prior to the conclusion of negotiations, the designated negotiating agency shall furnish the other operating agencies a draft copy of the proposed basic agreement, together with:

(i) A resume of all salient features of the basic agreement which will facilitate review;

(ii) Any of the operating agency's guides or procedures which are being considered for incorporation into the basic agreement by reference;

(iii) A listing of nonstandard clauses used, the genesis of such clauses, and the reasons for such clauses in the basic agreement; and

(iv) The contractor's comments, including the basis for his requesting any deviation from the DHEW Procurement Regulations and the designated negotiating agency's position with respect thereto.

(3) The other operating agencies shall have fifteen (15) days from the date of the memorandum transmitting the aforesaid information to submit comments on the draft copy of the basic agreement. After receipt, analysis and resolution of the comments of the other operating agencies, the designated negotiating agency will proceed to conclude the negotiation of the basic agreement.

(4) After conclusion of the negotiation but prior to execution of the basic agreement, a copy of the basic agreement, together with the information specified in paragraph (e)(2) above, and the comments of the other operating agencies with the designated negotiating agency's analysis thereof and the basis for the action taken will be furnished to the Director, DPPRD, OGPM, for review by DPPRD, and the Office of General Counsel. Approval by the Deputy Assistant Secretary for Grants and Procurement Management or his designee must be given prior to the execution of the basic agreement. After approval and execution of the basic agreement, the designated negotiating agency will distribute the executed document to the other operating agencies, Office of General Counsel, and the Office of Grants and Procurement Management, OASAM. The basic agreement is mandatory for use by all agencies of the Department for all procurements falling within the scope of the basic agreement.

(f) *Listing of basic agreements.* Appendix A to this chapter lists all of the approved basic agreements. The appendix will be updated on a quarterly basis.

PART 3–7—CONTRACT CLAUSES

2. As proposed, the new Subpart 3–7.51 will read as follows:

Subpart 3–7.51—Clauses for Basic Agreements

Sec.

3–7.5100 Scope of subpart.
3–7.5101 Mandatory clauses — general applicability.
3–7.5101–1 Duration of basic agreement.
3–7.5101–2 Amendment to basic agreement.
3–7.5101–3 Separate contracts.
3–7.5101–4 Work to be performed.
3–7.5101–5 Estimated cost.
3–7.5101–6 Order of precedence.
3–7.5102 Mandatory clauses—limited purpose.
3–7.5102–1 Protection of human subjects.
3–7.5102–2 Care of laboratory animals.
3–7.5102–3 Sex discrimination.
3–7.5102–4 General provisions, modifications thereto.
3–7.5103 Optional clauses.
3–7.5103–1 Advance understandings.
3–7.5103–2 Domestic travel.

§ 3–7.5100 Scope of subpart.

This subpart prescribes clauses to be used in basic agreements. The clauses set forth in § 3–7.5101 shall be included in all basic agreements and the clauses set forth in § 3–7.5102 will be mandatory whenever contracts written pursuant to the terms of a basic agreement will cover the specific subject matter or the type of institution is covered by such a provision. Optional clauses are listed as examples and are not all inclusive.

§ 3–7.5101 Mandatory clauses—general applicability.

§ 3–7.5101–1 Duration of basic agreement.

DURATION OF BASIC AGREEMENT

This Agreement shall continue in effect until terminated. The Agreement may be terminated in its entirety by either party upon thirty (30) days written notice to the other party; *Provided, However,* That no such termination shall affect any contracts theretofore entered into between the parties in which this agreement has been incorporated by reference.

§ 3–7.5101–2 Amendment of basic agreement.

AMENDMENT OF BASIC AGREEMENT

The Agreement may be amended at any time by mutual agreement of the parties. In addition, this Agreement shall be reviewed at least annually prior to the anniversary of its effective date to assure conformance with all requirements of law and pertinent regulations and shall be revised, if necessary, to conform thereto. Any amendment or revision shall be evidenced by an agreement modifying this Basic Agreement or by the issuance of a superseding Basic Agreement. No amendment, modification, or revision of this Basic Agreement shall affect any contracts theretofore entered into between the parties in which this Agreement has been incorporated by reference, except as may be expressly provided in such amendment, modification, or revision hereto; provided, however, that no such amendment shall have retroactive effect.

§ 3–7.5101–3 Separate contracts.

SEPARATE CONTRACTS

(a) The parties may from time to time enter into separate contracts, entered into under and subject to the terms of this Basic Agreement. Separate contracts shall be executed by both parties and shall set forth the scope of work to be performed, estimated cost, period of performance, and any additional terms or conditions peculiar to the requirements of the specific procurement involved. (Note: The language relative to estimated cost can be changed if cost plus-fixed-fee or fixed-price type contracts could

be awarded under the terms of the Basic Agreement.)

(b) This Agreement shall not be modified or superseded, in whole or in part, by any individual contract entered into under and subject to the terms of this Agreement.

(c) The term "contract" as used throughout this Basic Agreement shall include and apply to this Basic Agreement and to each separate contract entered into hereunder and subject to the terms hereof to the extent applicable. The term "Agreement" as used herein shall apply only to this Basic Agreement.

§ 3–7.5101–4 Work to be performed.

WORK TO BE PERFORMED

(a) Independently and not as an agent of the Government, the Contractor shall perform the work described in each separate contract. When the work under any separate contract is to be performed on other than a completion basis, a level-of-effort to be provided by the Contractor will be specified in such contract.

(b) The Contractor shall deliver to the Government such reports and such other items, at such times and in such quantities, as specified in each separate contract. The Contractor shall also make such reports to the Government as called for by the terms of this Basic Agreement in accordance with the formal instructions of the Contracting Officer.

(c) None of the research effort under any separate contract shall be subcontracted or transferred to another organization without the specific prior written approval of the Contracting Officer.

§ 3–7.5101–5 Estimated cost.

ESTIMATED COST

The estimated cost of separate contracts under this agreement shall be separately specified in each such contract. (Note: The language can be modified if fixed-price or cost-plus-fixed fee contracts are to be awarded under the terms of the basic agreement.)

§ 3–7.5101–6 Order of precedence.

ORDER OF PRECEDENCE

In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order: (a) the separate contract; (b) the Special Provisions of this Agreement; and (c) the General Provisions of this Agreement.

§ 3–7.5102 Mandatory clauses—limited purpose.

§ 3–7.5102–1 Protection of human subjects.

If the contracts to be negotiated pursuant to the terms of the Basic Agreement involve human subjects, include the following clause in the Basic Agreement.

PROTECTION OF HUMAN SUBJECTS

(a) The Contractor agrees that the rights and welfare of human subjects will be protected in accordance with procedures specified in its current Institutional Assurance on file with the Department. The Contractor further agrees to provide certification at least annually that an appropriate institutional committee has reviewed and approved the procedures which involve human subjects in accordance with the applicable Institutional Assurance accepted by the Department.

(b) The Contractor shall bear full responsibility for the proper and safe performance of all work and services involving the use of human subjects under this contract. The parties hereto agree that the Contractor retains the right to control and direct the performance of all work under this contract. No provision of this contract shall be deemed to constitute the Contractor or any subcontractor, agent or employee of the Contractor or any other person, organization, institution, or group of any kind whatsoever, as the agent or employee of the Government. The Contractor agrees that it has entered into this contract and will discharge its obligations, duties, and undertakings and the work pursuant thereto whether requiring professional judgment or otherwise as an independent contractor and without liability on the part of the Government.

§ 3–7.5102–2 Care of laboratory animals.

If the contracts to be negotiated pursuant to the terms of the Basic Agreement involve the use of animals, include the following clause:

CARE OF LABORATORY ANIMALS

(a) Before undertaking performance of any contract involving experimentation using laboratory animals, the Contractor shall register with the Secretary of Agriculture of the United States in accordance with Section 6 of the Laboratory Animal Welfare Act of 1966, Pub. L. 89–544, as amended by the Animal Welfare Act of 1970, Pub. L. 91–579 (7 U.S.C. 2131 et seq.). The Contractor shall furnish evidence of such registration to the Contracting Officer.

(b) The Contractor shall acquire animals to be used in research under this contract from dealers licensed by the Secretary of Agriculture, or from sources exempted in accordance with the Public Laws enumerated in (a) above, or from such sources as may be specified by the terms of any separate contract: *Provided, however,* That the requirement for obtaining animals from licensed dealers shall not apply to those animals excluded from the regulations cited in (c) below.

(c) In the care of any experimental warm-blooded animals used or intended for use in the performance of this contract, the Contractor shall comply with: The Public Laws enumerated in (a) above; regulations issued thereunder (Title 9, Code of Federal Regulations, Parts 1, 2, and 3, entitled "Laboratory Animal Welfare"); the principles enunciated in the "Guide for the Care and Use of Laboratory Animals" prepared by the Institute of Laboratory Animal Resources, National Academy of Sciences—National Research Council (HEW Publication (NIH) 73–23); and the terms of the pertinent contract. In the event that any conflict among the standards prescribed by the foregoing is not clearly resolved by the express terms of the pertinent contract, the higher standard shall be used.

§ 3–7.5102–3 Sex discrimination.

If the contracts to be negotiated pursuant to the terms of the Basic Agreement are to be funded with funds made available under Titles VII or VIII of the Public Health Service Act as amended by the Comprehensive Health Manpower Training and Nurse Training Acts of 1971, include the following clause:

SEX DISCRIMINATION

(a) *Contractor's assurance.* The Contractor agrees that it will comply with the provisions of its Assurance (HEW–690 (3/72)) which was executed on _____, and submitted to the Office of Civil Rights, Department of Health, Education, and Welfare as required by Public Health Service Act sections 799A and 845 and by pertinent portions of the regulations issued under section 315(b) of the Act and which states that the Contractor will not discriminate on the basis of sex in admissions to its training programs.

(b) *Alternate dispute and supplemental termination procedures clause.* Prior to termination of a contract whether for default or for convenience, based upon breach of the assurance, the Contractor shall be entitled to a hearing. The standard disputes clause is hereby made inapplicable to decisions concerning the Contractor's compliance with the assurance and this clause shall apply exclusively.

(1) If, during the performance of this contract, the Government has reason to believe that the Contractor is failing to fulfill its obligations under the assurance, the Contractor shall be notified of its non-compliance by the Director, Office of Civil Rights, or his authorized representative, who, for purposes of this notification, is hereby designated the Contracting Officer's representative, and informed that termination of its contract is being considered.

(2) Such notice shall be mailed to the Contractor by registered mail with return receipt requested and shall inform the Contractor of its non-compliance. The Contractor may, within thirty (30) days from receipt of the notification, request a hearing.

(3) The request for a hearing shall be mailed or otherwise delivered to the Director, who is hereby designated as the Contracting Officer's representative for the purpose of determining, as hereinafter provided, whether the Contractor is in breach of the assurance and for terminating the contract on that ground. The Contractor shall send the Contracting Officer a copy of that request. If the Contractor does not request a hearing within the thirty (30) days, the Director shall issue a decision of non-compliance which shall constitute the final Departmental decision. The Director shall notify the Contracting Officer of the Contractor's violation of its assurance. If the Contractor requests a hearing, it shall be afforded a prompt opportunity to be heard and to offer evidence to show that it is in compliance.

(4) The Reviewing Authority (Civil Rights), HEW, which has been delegated the authority by the Director to review decisions of cases arising under §§ 799A and 845 of the Public Health Service Act, shall designate a hearing officer who shall conduct the hearing and shall decide, after the hearing, based on the record as a whole, whether the Contractor has failed to fulfill its obligations under the assurance. The initial decision of the hearing officer, which shall include Findings of Fact and Conclusions of Law, shall be reduced to writing and an authenticated copy thereof will be issued to the Contractor by registered mail, return receipt requested. Exceptions to the initial decision of the hearing officer may be filed with the Reviewing Authority but not later than twenty (20) days after the initial decision has been received by the Contractor.

(5) In the event the Contractor does not file exceptions to the initial decision of the hearing officer, the Reviewing Authority shall either certify the initial decision as the final Departmental decision or review it. In the event the Contractor files exceptions to the initial decision, the Reviewing Authority shall review the initial decision. Upon review, whether upon its own motion or upon filing exceptions, the Reviewing Authority shall affirm, modify, or reverse the initial decision, in whole or in part, based on the record as a whole, and state the reasons therefor. This decision of the Reviewing Authority shall become the final Departmental decision.

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(6) An authenticated copy of the Reviewing Authority's final Departmental decision shall be forwarded to the Contractor and the Contracting Officer.

(7) Any final Departmental Decision shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. This clause does not preclude consideration of questions of law in connection with decisions provided for above, provided that nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board, on a question of law.

(8) If the final Departmental decision is that the Contractor has failed to fulfill its obligations under the assurance and is, therefore, in non-compliance, the contract shall be terminated by the Director, acting for the Contracting Officer. If the contract contains only a "Termination for Convenience" clause, the contract shall be terminated for the convenience of the Government. If the contract contains both "Termination for Convenience" and "Termination for Default" clauses, the Director shall terminate the contract under the "Termination for Default" clause. Any additional decisions required by the clause under which this contract is terminated shall be made by the Contracting Officer.

(9) To the extent that this clause is inconsistent with the applicable "Termination" clause, this clause shall take precedence. In all other respects, termination shall be subject to the applicable "Termination" clause.

§ 3–7.5102–4 General provisions, modifications thereto.

If modifications are to be made to the General Provisions include the following provision in the Basic Agreement:

GENERAL PROVISIONS, MODIFICATIONS THERETO

(a) *Modifications to General Provisions applicable to individual contracts.* List any additional clauses that may be applicable to some contracts negotiated pursuant to the terms of the Basic Agreement. Each separate contract must reference the applicable clause. For example, if the work under any separate contract negotiated pursuant to the terms of the Basic Agreement involves the production of motion pictures, scripts, musical compositions, sound tracks, computer programs, translations or similar materials, and such contract so specifies, the "Rights in Data" clause set forth in the General Provisions may be deleted and the alternate "Rights in Data" clause set forth in item (8) of paragraph (a) of § 3–16.5003 may be substituted therefor.

(b) *Applicable overhead and payment provision.* Specify any overhead and payment provisions which would be applicable.

(c) *Modifications applicable to all contracts hereunder.* List any modification that would be applicable to all contracts negotiated pursuant to the terms of the Basic Agreement.

§ 3–7.5103 Optional clauses.

§ 3–7.5103–1 Advance understandings.

ADVANCE UNDERSTANDINGS

(a) The parties may agree in advance regarding the approval of any item or activity under any separate contract the cost of which is not either expressly allowable or unallowable pursuant to any other clause of this Agreement or which otherwise requires the specific approval of the Contracting Officer. Each such advance understanding shall be set forth in the contract to which the understanding pertains and shall describe with particularity the items or activities covered by the understanding. Further administrative action by the Contracting Officer shall not be required with respect to any item or activity subject to an advance understanding; and such advance understanding shall not, unless otherwise provided therein, constitute a determination of the allowability of the cost involved.

(b) Unless otherwise specified in a separate contract, or modification thereto, the costs of the following items or activities shall be unallowable as direct items or cost under this contract:

(1) Acquisition, by purchase or lease, of any interest in real property.

(2) Special rearrangement or alteration of facilities.

(3) Purchase or lease of any item of general purpose office furniture or office equipment.

§ 3–7.5103–2 Domestic travel.

DOMESTIC TRAVEL

(a) Total expenditures for domestic travel under any separate contract shall not exceed (insert amount), or (insert percentage) of the amount, if any, specified in such contract as being allotted for such travel, whichever is greater, without the written approval of the Contracting Officer.

(b) The cost of travel by privately-owned automobile shall be reimbursed at the mileage rate prescribed by the Contractor's established, generally applicable travel policy in lieu of actual costs: *Provided, however,* That such reimbursement shall not exceed the otherwise allowable comparative cost of travel by common carrier.

(c) Reasonable actual costs of lodging and subsistence, or of per diem in lieu of actual costs, shall be allowable to the extent that such actual costs or per diem amounts do not exceed the amounts or per diem rates prescribed by the Contractor's established, generally applicable travel policy.

(d) Any revision to the Contractor's established, generally applicable travel policy submitted to the cognizant audit agency during the period of performance of this contract shall be effective, without formal modification to this contract, upon delivery to the procurement official of the agency who negotiated the basic agreement, of a copy of such revised policy together with evidence of submission to the cognizant audit agency.

The following is added to the text of the regulation: That part of paragraph (f) of Section 3–16.5001 reading "Your proposal must be prepared in accordance with the attached "Contract Provisions" and "Instructions to Offerors" is hereby changed to read: "Your proposal must be prepared in accordance with the attached "Contract Provisions" and "Instructions to Offerors." However, if you have a basic agreement with the Department, and it is applicable to the type of contract to be awarded, the resultant contract will incorporate the basic agreement by reference."

[FR Doc.74–29214 Filed 12–13–74;8:45 am]

CHAPTER 9—ATOMIC ENERGY COMMISSION

PART 9–3 PROCUREMENT BY NEGOTIATION

Subpart 9–3.3 Determinations, Findings, and Authorities

MISCELLANEOUS AMENDMENT

This revision to AECPR 9–3.301 is being made in order to incorporate therein material previously found in AECPR Temporary Regulation No. 4, dated March 8, 1974, dealing with Determinations, Findings and Authorities. Since the provisions of AECPR Temporary Regulation No. 4 will be incorporated into a permanent AECPR 9–3.301, this temporary regulation is hereby canceled.

Section 9–3.301 is revised as follows:

§ 9–3.301 General.

Except as otherwise provided in § 9–3.302, the determinations and findings required by FPR Subpart 1–3.3 shall be made. Except as otherwise provided in § 9–3.303, the determinations and findings required by FPR Subpart 1–3.3 may be made and executed by contracting officers, or by Directors of AEC Headquarters Divisions that have been delegated authority to select contractors.

(Sec. 161 of the Atomic Energy Act of 1954, as amended, 68 Stat. 948, (42 U.S.C. 2201); sec. 205 of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, (40 U.S.C. 486))

Effective date: This amendment is effective December 16, 1974.

Dated at Germantown, Maryland, this 9th day of December 1974.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

[FR Doc.74–29106 Filed 12–13–74;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5454]

ALASKA

Amendment of Public Land Order No. 5176

By virtue of the authority vested in the Secretary of the Interior by section 11 (a) (3) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1610(a) (3), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Subparagraphs b and c of paragraph 1 of Public Land Order No. 5176 of March 9, 1972, as amended by Public Land Order No. 5191 of March 17, 1972, Public Land Order No. 5252 of September 12, 1972, and Public Land Order No. 5393 of September 14, 1973, withdrawing, reserving, and designating lands for selection by the village corporations of Tatitlek and Eyak, respectively, is hereby amended to delete the specific designation of lands for the villages of Tatitlek and Eyak and to make all of the lands so withdrawn available to the village corporation of Tatitlek and the possible selection by the village corporation of Eyak, if it is determined to be an eligible village.

The tract described contains 563.32 acres, authority to make contracts and to grant the Department of the Air Force as the

2. The lands withdrawn by Public Land Order No. 5176, as amended, remain subject to all of the terms and conditions contained therein.

JACK O. HORTON,
Assistant Secretary of the Interior.

DECEMBER 10, 1974.

[FR Doc.74-29204 Filed 12-13-74;8:45 am]

[Public Land Order 5455]

[Fbks-012720, 012723]

ALASKA

Partial Revocation of Public Land Orders No. 1571 and No. 1851

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 1571 of December 26, 1957, as amended by Public Land Order No. 1851 of May 14, 1959, which withdrew lands for the Department of the Air Force for military purposes, is hereby revoked so far as it affects the following described lands:

(F-012720)

Two parcels of land located at Wainwright DEW Station (LIZ-3) in the Second Judicial District, State of Alaska; said parcels being more particularly described as follows:

PARCEL 1

Commencing at U.S.C.&G.S. Triangulation Station "ALOAK" thence S. 32°00'00" W., a distance of 6,650.0 feet, more or less; thence N. 69°00'00" E., a distance of 5,000.0 feet, more or less, to the true point of beginning; thence continuing N. 69°00'00" E., a distance of 3,900.0 feet, more or less; thence N. 21°-00'00" W., a distance of 1,900.0 feet, more or less; thence S. 69°00'00" W., a distance of 3,900.0 feet more or less; thence S. 21°00'00" E., a distance of 1,900.0 feet, more or less, to the point of beginning.

Containing 170.11 acres, more or less.

PARCEL 2

Commencing at U.S.C. & G.S. Triangulation Station "WAINWRIGHT"; thence S. 66°00'00" W., a distance of 1,150.0 feet, more or less; thence S. 76°00'00" E., a distance of 1,100.0 feet, more or less, to the true point of beginning; thence continuing S. 76°00'00" E., a distance of 5,050.0 feet, more or less; thence S. 24°00'00" E., a distance of 10,240.0 feet, more or less, to a point called "A" for further reference hereinbelow; thence return to said point of beginning N. 18°00'00" E., a distance of 1,200.0 feet more or less; thence N. 84°00'00" E., a distance of 7,500.0 feet, more or less; thence S. 49°30'00" E., a distance of 12,950.0 feet, more or less; thence S. 69°00'00" W., a distance of 5,280.0 feet, more or less; thence S. 21°00'00" E., a distance of 4,500.0 feet, more or less; thence S. 69°00'00" W., a distance of 5,000.0 feet, more or less, to the MHW Line of Wainwright Lagoon; thence northwesterly along said MHW Line, a distance of 4,700.0 feet, more or less, to point "A" described hereinabove.

There is excepted therefrom a 30-foot right-of-way being 15.00 feet on each side of the following described centerline:

Commencing at U.S.C.&G.S. Triangulation Station "WAINWRIGHT"; thence S. 66°00'00" W., a distance of 1,150.0 feet, more or less; thence S. 76°00'00" E., a distance of 1,100.0 feet, more or less; thence N. 18°00'00" E., a distance of 500.0 feet, more or less, to the true point of beginning; thence S. 84°00'00" E., a distance of 5,200.0 feet, more or less; thence S. 35°00'00" E., a distance of 15,300.0 feet, more or less, to the southerly boundary of Parcel 2 described above.

Right-of-way contains 14.12 acres, more or less.

Parcels 1 and 2 comprise 2,539.0 acres, more or less, excluding 14.12 acres described above.

(F-012723)

A parcel of land located at Point Lay DEW Station (LIZ-2) in the Second Judicial District, State of Alaska; said parcel being more particularly described as follows:

Commencing at U.S.C. & G.S. Triangulation Station "BETH"; thence by metes and bounds N. 59°00' E., a distance of 13,800.0 feet, more or less; thence east, a distance of 12,300.0 feet, more or less; thence north, a distance of 2,730.0 feet, more or less, to the true point of beginning; thence west a distance of 6,000.0 feet, more or less; thence north, a distance of 2,200.0 feet, more or less; thence west, a distance of 8,300.0 feet, more or less, to a point on the MHW Line of KASEGALUK LAGOON, said point being called point "A" for further reference hereinbelow; thence returning to said point of beginning, north, a distance of 5,830.0 feet, more or less; thence west, a distance of 13,770.0 feet, more or less, to a point on the MHW Line of KASEGALUK LAGOON; thence southerly along said MHW Line, a distance of 3,630.0 feet, more or less, to point "A" described hereinabove, and the terminus of this description.

Contains 1,450.0 acres, more or less.

2. The lands described in paragraph 1 are withdrawn under section 11(a)(1) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 696), for selection by the villages of Wainwright and Point Lay and the Arctic Slope Regional Corporation.

3. Prior to any conveyance of the lands described in paragraph 1, the lands shall be subject to administration by the Secretary of the Interior under the applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this order. Applications for leases under the Mineral Leasing Act, as amended, 30 U.S.C. 181-287 (1970), will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

JACK O. HORTON,
Assistant Secretary of the Interior.

DECEMBER 11, 1974.

[FR Doc.74-29240 Filed 12-12-74;10:10 am]

[Public Land Order 5456]

[AA-239]

ALASKA

Revocation of Executive Order No. 8786; Partial Revocation of Public Land Order No. 1087

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Executive Order No. 8786 of June 14, 1941, which withdrew approximately 1,930 acres of land on Amaknak Island for the use of the Department of the Navy for naval aviation purposes is hereby revoked. A portion of this island is subject to the withdrawal made by Executive Order No. 1733 of March 3, 1913, as amended by Executive Order No. 5243 of December 19, 1929, which remains in full force and effect.

2. Public Land Order No. 1087 of March 8, 1955, which reserved lands on Hog Island in Unalaska Bay and lands on Unalaska Island for use of the Department of the Navy for military purposes its partially revoked so far as it affects the following described lands:

a. All of Hog Island, in Unalaska Bay, near Unalaska Island, as shown on U.S. Coast and Geodetic Survey Chart No. 9007.

The area described aggregates 110 acres.

b. Beginning at a point identified as C & GS. triangulation Station "Ober," latitude 53°51'25.038" N., longitude 166°33'41.314" W., located on the south shore of Captains Bay, Unalaska Island, thence South, along said longitude to intersection with latitude 53°48'00" N.; East, along said latitude to intersection with longitude 166°31'35" W.; North, along said longitude to intersection with latitude 53°50'48" W.; West, along said latitude to intersection with longitude 166°32'20" W.; North, along said longitude to intersection with southwest boundary of Unalaska Townsite Reservation by Executive Order No. 8573 of October 21, 1940; Northwesterly, along south boundary of the Townsite Reservation to a point on the south shore of Captains Bay; Southwesterly, along shore of Captains Bay to point of beginning.

The tract described contains approximately 3,500 acres.

3. The village corporation of Unalaska at Dutch Harbor, has been found to be eligible for land grants under the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), and pursuant to section 12(d) of the act (85 Stat. 688, 702), has timely identified the lands described in paragraph 2 of this order for selection.

JACK O. HORTON,
Assistant Secretary of the Interior.

DECEMBER 11, 1974.

[FR Doc.74-29241 Filed 12-12-74;10:10 am]

[Public Land Order 5457]

[F-012026 (Anch.)]

ALASKA

Partial Revocation of Public Land Order No. 1771

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Public Land Order No. 1771 of December 24, 1958, which withdrew lands for the Department of the Air Force for military purposes, is hereby revoked so far as it relates to the following described lands:

UNALAKLEET AREA

Parcel 1: Beginning at a point in latitude 63°55'30" N., longitude 160°46' W., which bears N. 77°20'38" E., 2,992.17 feet from U.S.C. & G.S. Station "Traeger", thence by metes and bounds:

East 4,024.35 feet; south 6,095.72 feet; west 4,026.81 feet; north 6,095.72 feet to the point of beginning.

The tract described contains 563.32 acres.

Parcel 2: Beginning at a point which bears N. 22°51'17" W., 330 feet; and N. 73°19'00" E., 315 feet more or less from Corner No. 2 of Air Navigation Site Withdrawal No. 185; thence by metes and bounds:

West 250 feet, more or less, to a point on the line of mean high tide of Norton Sound; N. 14°00' W., 2,200 feet more or less in a meandering line along said mean high tide line; east 1,650 feet, more or less; south 2,000 feet, more or less; west 720 feet, more or less to the point of beginning; excepting therefrom the following described parcel which contains 8.41 acres:

Commencing at meander Corner No. 2 of ANS 185 proceed N. 73°15' E., 315 feet more or less to a point; thence N. 22°51'16" W., 743 feet more or less to a point; thence N. 17°22'17" W., 1716.12 feet more or less to the point of beginning of this description; thence East 660 feet to a point; thence South 660 feet to a point; thence West 453.53 feet to a point; thence N. 17°22'17" W., 691.94 feet to the point of beginning.

The tract described contains 51.00 acres.

The above described two parcels less the exception, contain a total of 614.41 acres, more or less.

2. The lands described in paragraph 1 of this order, excluding those excepted from Parcel No. 2, are withdrawn under section 11(a)(1) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 696), for selection by the Native village of Unalakleet.

3. Prior to any conveyance of the lands described in paragraph 1, the lands shall be subject to administration by the Secretary of the Interior under the applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this order. Applications for leases under the Mineral Leasing Act, as amended, 30 U.S.C. 181, 287 (1970), will be rejected until this order is modified or the lands, are appropriately classified to permit mineral leasing.

JACK O. HORTON,
Assistant Secretary of the Interior.

DECEMBER 11, 1974.

[FR Doc.74-29262 Filed 12-12-74;10:10 am]

[Public Land Order 5468]

[F-010113, 013010]

ALASKA

Partial Revocation of Public Land Orders Nos. 765, 1139, 1444

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Public Land Order No. 765 of November 13, 1951, and Public Land Order No. 1139 of April 28, 1955, which withdrew lands for the Department of the Army for military purposes, are hereby revoked as to the following lands, now described by U.S. Survey:

[illegible]

Lot 2, containing 2.34 acres.
Lot 3, containing 7.02 acres.

2. Public Land Order No. 1444 of July 12, 1957, which withdrew lands for the Department of the Air Force as the Northway TACAN Site (F-013010) is hereby revoked as to the following described lands:

Commencing at Corner No. 5 of Federal Aviation Administration existing withdrawal (U.S. Survey No. 2630), proceed S. 30°00' W., 1,569.19 feet to the true point of beginning of this description; thence proceed S. 60°00' E., 1,786.63 feet; thence S. 30°00' E., 948.74 feet; thence N. 60°00' W., 1,786.63 feet; thence N. 30°00' W., 948.74 feet to the point of beginning, containing 38.91 acres more or less.

3. The lands described in paragraphs 1 and 2 are withdrawn under section 11(a)(1) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 696), for selection by the village of Northway and the Doyon Ltd. regional corporation.

4. Prior to any conveyance of the lands described in paragraphs 1 and 2, the lands shall be subject to administration by the Secretary of the Interior under the applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this order. Applications for leases under the Mineral Leasing Act, as amended, 30 U.S.C. 181–287 (1970), will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

JACK O. HORTON,
Assistant Secretary of the Interior.

DECEMBER 11, 1974.

[FR Doc.74-29263 Filed 12-12-74;10:11 am]

(7) Scores not less than 30 points

tainer, as such, is not a factor of quality

TABLE II.—Single sampling plans and acceptance numbers

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

CANNED GRAPEFRUIT AND ORANGE FOR SALAD

Proposed Grade Standards

Notice is hereby given that the United States Department of Agriculture is considering a revision of the United States Standards for Grades of Canned Grapefruit and Orange for Salad (7 CFR 52.1251–52.1264). These grade standards are issued under the authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624) which provides for the issuance of official U.S. grades to designate different marketing levels of quality for the voluntary use by producers, buyers, and consumers. Official grading services are also provided under this act upon request and upon payment of a fee to cover cost of such services.

All persons who desire to submit written views, data, or arguments for consideration in connection with the proposed revision should file the same in duplicate, not later than December 31, 1974, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submissions made under this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27 (b)).

NOTE.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

Statement of consideration leading to the proposed revision. The Florida Canners Association representing all of the processors of canned grapefruit and orange for salad has requested the USDA to revise the current U.S. Standards for Grades of Canned Grapefruit and Orange for Salad to conform, as nearly as practicable, to the U.S. Standards for Grades of Canned Grapefruit.

The U.S. Standards for Grades of Canned Grapefruit were revised effective October 25, 1973, to overcome problems associated with mechanized segmenting and filling operations. Based upon the applicability of the revised canned grapefruit standards, and the similarity of canned grapefruit to canned grapefruit and orange for salad, the Florida Canners Association has requested the USDA to bring the current U.S. Standards for Grades of Canned Grapefruit and Orange for Salad in line with the current industry problems and operations.

Changes proposed are as follows:

(1) Elimination of drained weight as a scoring factor of quality and adoption of new acceptance criteria for these weights. This is consistent with other U.S. Standards since it is variable from container to container and is not necessarily related to quality.

(2) Lowering of the recommended minimum drained weight from 56.25 percent of the water capacity of the container to 53 percent. This is 3 percent above the FDA minimum fill of container (50 percent) for canned grapefruit and is equal to the U.S. Standards for Grades of Canned Grapefruit (53 percent).

(3) Lower the minimum percent of practically whole segments in grade A from 75 percent to 65 percent of the weight of each fruit. These changes are to compensate for unavoidable increased breakage due to mechanized segmenting and filling operations.

(4) Changes the criteria for the factor of character to relax the restriction on loose floating cells in grade A. This will conform with the current U.S. Standards for Grades of Canned Grapefruit.

(5) Provides for the addition of orange juice as a liquid packing medium.

Other changes proposed to be consistent with current practice in the U.S. standards are as follows:

(1) Provides for Brix determination on comminuted blended slurry of entire contents of container within 15 days of canning as an alternative to Brix determination on the packing media 15 days or more after canning.

(2) Realignment of score points to 25 points for each factor that is scored.

(3) Presents "Allowances for Defects" in a tabular form. This will conform with the current U.S. Standards for Grades of Canned Grapefruit.

The proposed revision is as follows:

Subpart—United States Standards for Grades of Canned Grapefruit and Orange for Salad

Sec.

52.1251 Product description.
52.1252 Grades.
52.1253 Liquid media and Brix measurements.
52.1254 Fill of container.
52.1255 Minimum drained weights.
52.1256 Sample unit size.
52.1257 Determining the grade of a sample unit.
52.1258 Determining the rating for factors which are scored.
52.1259 Wholeness.
52.1260 Color.
52.1261 Defects.
52.1262 Character.
52.1263 Determining the grade of a lot.
52.1264 Score sheet for canned grapefruit and orange for salad.

AUTHORITY: Agricultural Marketing Act of 1946; sec. 205, 60 Stat. 1090, as amended; (7 U.S.C. 1624).

Subpart—United States Standards for Grades of Canned Grapefruit and Orange for Salad

§ 52.1251 Product description.

Canned grapefruit and orange for salad, commonly known as canned citrus salad, is prepared from sound, mature grapefruit (Citrus paradisi Macfadyen) and sound, mature oranges of the orange group (Citrus sinensis). The fruit ingredients have been properly washed, segmented, and cored; and seeds and major portions of membrane have been removed. The product is packed with or without the addition of water, juice, orange juice, nutritive carbohydrate sweeteners, artificial sweeteners, or any other safe and suitable ingredients permissible under the Federal Food, Drug, and Cosmetic Act. The product is sufficiently processed by heat to assure preservation in hermetically sealed containers.

§ 52.1252 Grades.

(a) "U.S. Grade A" (or "U.S. Fancy") is the quality of canned grapefruit and orange for salad that:

(1) Has a drained weight of orange fruit that is not less than 37½ percent nor more than 60 percent of the drained weight of the product;

(2) Has an average drained weight of not less than 53 percent of the water capacity of the container, of which not less than 65 percent by weight of each fruit ingredient consists of practically whole segments;

(3) Has a good color;

(4) Is practically free from defects;

(5) Has a good character;

(6) Has a good flavor and odor; and

(7) Scores not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U.S. Grade B" (or "U.S. Choice") is the quality of canned grapefruit and orange for salad that:

(1) Has a drained weight of orange fruit that is not less than 32½ percent nor more than 60 percent of the drained weight of the product;

(2) Has an average drained weight of not less than 53 percent of the water capacity of the container, of which not less than 50 percent by weight of each fruit ingredient consists of practically whole segments;

(3) Has a reasonably good color;

(4) Is reasonably free from defects;

(5) Has a reasonably good character;

(6) Has a reasonably good flavor and odor; and

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(7) Scores not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) "U.S. Broken" is the quality of canned grapefruit and orange for salad that:

(1) Has a drained weight of orange fruit that is not less than 32½ percent nor more than 50 percent of the drained weight of the product;

(2) Has an average drained weight of not less than 53 percent of the water capacity of the container, of which less than 30 percent of the drained weight of either fruit ingredient consists of practically whole segments;

(3) Has a reasonably good color;

(4) Is reasonably free from defects;

(5) Has a reasonably good character;

(6) Has a reasonably good flavor and odor; and

(7) Scores not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

(d) "Substandard" is the quality of canned grapefruit and orange for salad that fails to meet the requirements of U.S. Grade B and U.S. Broken.

§ 52.1253 Liquid media and Brix measurements.

(a) Brix requirements for liquid media in canned grapefruit and orange for salad are not incorporated in the grades of the finished product since sirup or any other liquid medium, as such, is not a factor of quality for the purposes of these grades. It is recommended that the product, when packed in sirup, meet the following Brix measurements, as applicable, for the respective designation:

Designations:	Brix measurement
Heavy sirup	18° or more.
Light sirup	16° or more, but less than 18°.
Slightly sweetened water	12° or more, but less than 16°.

(b) These recommendations are not applicable to the canned product packed in water, orange juice, fruit juice, or with artificial sweeteners.

(c) The densities of the packing media, as listed in this section, are measured on the refractometer, expressed as percent by weight sucrose (degrees Brix) with correction for temperature to the equivalent at 20° C. (68° F.), but without correction for invert sugars or other substances. The degrees Brix of the packing media may be determined by any other method which gives equivalent results.

(d) Brix determination is made on the packing media 15 days or more after the grapefruit and orange for salad is canned or on the blended homogenized slurry of the comminuted entire contents of the container if canned for less than 15 days.

§ 52.1254 Fill of container.

(a) The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that each container be filled as full as practicable with grapefruit and orange for salad without impairment of quality and that the product and packing media occupy not less than 90 percent of the total capacity of the container.

(b) Total capacity of the container means the maximum weight of distilled water, at 20 degrees C. (68 degrees F.) which the sealed container will hold.

§ 52.1255 Minimum drained weights.

(a) *General.* The minimum drained weight requirements for the various container sizes are listed in Table I. The drained weight of the grapefruit and orange for salad is not less than 53 percent of the water capacity of the container.

(b) *Definitions.* (1) Sample average—the average of all the drained weights of the sample containers representing a lot.

(2) $\overline{X}_d$—a specified minimum sample average drained weight.

(3) LL—lower limit for individual container drained weights.

(c) *Method for determining drained weight.* The drained weight of canned grapefruit and orange for salad is determined by emptying the contents of the container upon a U.S. Standard No. 8 circular sieve of proper diameter containing 8 meshes to the inch (0.0937 inch (2.38 mm), ±3 percent square openings) so as to distribute the product evenly over the sieve. Without shifting the product, incline the sieve at an angle of approximately 17° to 20° to facilitate drainage and allow to drain for 2 minutes. The weight of drained grapefruit and orange for salad is the weight of the sieve and product less the weight of the dry sieve. A sieve 8 inches in diameter is used if the contents of the container is less than 3 pounds and a sieve 12 inches in diameter is used if the contents of the container is 3 pounds or more.

(d) *Compliance with drained weight requirements.* A lot of canned grapefruit and orange for salad is considered as meeting the minimum drained weight requirements when the following criteria are met:

(1) The sample average meets the specified minimum sample average drained weight (designated as "$\overline{X}_d$" in Table I); and

(2) The number of containers which fail to meet the minimum drained weight for individual containers (designated as "LL" in Table I) does not exceed the applicable acceptance number specified in Table II.

Table I.—Minimum drained weights

Container designation	$\overline{X}_d$	LL
	Ounces	Ounces
8Z (211×304)	4.00	4.25
No. 303 (303×406)	7.00	7.50
No. 3 cylinder (404×700)	27.00	28.50

Table II.—Single sampling plans and acceptance numbers

Sample size (number of sample containers)	3	6	13	21	29	38	48	60
Acceptance numbers	0	1	2	3	4	5	6	7

§ 52.1256 Sample unit size.

Compliance with requirements for factors of quality is based on a sample unit comprised of the entire contents of one container, irrespective of container size.

§ 52.1257 Determining the grade of a sample unit.

(a) *General.* The grade of a sample unit of canned grapefruit and orange for salad is determined by considering the factor of flavor and odor which is not scored; the ratings for the factors of wholeness, color, defects, and character which are scored; the total score; and the limiting rules which may be applicable.

(b) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given each factor are:

Factors:	Points
Wholeness	25
Color	25
Defects	25
Character	25
Total	100

(c) *Definitions.* (1) "Percentage of orange fruit" means the drained weight of the orange ingredient multiplied by 100 and divided by the drained weight of the total fruit ingredients. Compliance with this requirement shall be based on the sample average (average of all sample units representing a lot): Provided, that the weight of drained orange fruit in no single container is less than 25 percent or more than 75 percent of the drained fruit in such container. It is recommended that the number of orange units be not less than the number of grapefruit units.

(2) "Good flavor and odor" means that the product has a distinct and normal flavor and odor typical of canned grapefruit and orange for salad and is free from objectionable flavors and objectionable odors of any kind.

(3) "Reasonably good flavor and odor" means that the product may be lacking in good flavor and odor but is free from objectionable flavors and objectionable odors of any kind.

§ 52.1258 Determining the rating for the factors which are scored.

The essential variations within each factor which is scored are so described that the value may be determined for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "23 to 25 points" means 23, 24, or 25 points).

§ 52.1259 Wholeness.

(a) *General.* A "practically whole segment" means:

(1) A fruit segment that is substantially intact and retains its apparent original conformation; or

Dated: December 9, 1974

(2) A portion of a segment that is not less than 75 percent of its apparent original size.

(b) (*A*) *classification.* Sample units of canned grapefruit and orange for salad that consist of not less than 65 percent by weight of each drained fruit ingredient in practically whole segments may be given a score of 21 to 25 points.

(c) (*B*) *classification.* Sample units of canned grapefruit and orange for salad that consist of less than 65 percent but not less than 40 percent by weight of either or both of the drained fruit ingredients in practically whole segments may be given a score of 17 to 20 points. In addition the sample average (average of all sample units representing a lot) shall not be less than 40 percent by weight in practically whole segments. Sample units of canned grapefruit and orange for salad that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product. (This is a limiting rule.)

(d) (*Broken*) *Classification.* Sample units of canned grapefruit and orange for salad that individually consist of less than 40 percent by weight of either or both of the drained fruit ingredients in practically whole segments, or average (average of all sample units) less than 40 percent by weight of either or both of the drained fruit ingredients in practically whole segments may be given a score of 0 to 16 points. Sample units of canned grapefruit and orange for salad that fall into this classification shall not be graded above U.S. Broken, regardless of the total score for the product. (This is a limiting rule.)

§ 52.1260 Color.

(a) (*A*) *classification.* Canned grapefruit and orange for salad that has a good color may be given a score of 23 to 25 points. "Good color" means that:

(1) With respect to the grapefruit, a practically uniform, bright, typical color free from any noticeable tinge of amber; and

(2) With respect to the orange fruit, a practically uniform, bright, typical orange color.

(b) (*B*) *classification.* Canned grapefruit and orange for salad that has a reasonably good color may be given a score of 21 or 22 points. Canned grapefruit and orange for salad that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product. (This is a limiting rule.) "Reasonably good color" means that:

(1) With respect to the grapefruit, a fairly bright color which may be variable but is not off-color for any reason; and

(2) With respect to the orange fruit, at least a fairly bright, typical orange color which may be variable.

(c) (*SStd.*) *classification.* Canned grapefruit and orange for salad that fails to meet the requirements of paragraph (b) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product. (This is a limiting rule.)

§ 52.1261 Defects.

(a) *General.* The factor of defects refers to the degree of freedom from extraneous vegetable material, from seeds, from portions of albedo, from portions of tough membrane, from damaged units, and from other similar defects.

(1) "Extraneous vegetable material" means portions of leaves, small pieces of peel, and other similar material that is harmless.

(2) "Seed" means any seed or any portion thereof, whether or not fully developed, that measures more than $\frac{3}{16}$ inch in any dimension.

(3) "Large seed" means any seed or any portion thereof, whether or not fully developed, that measures more than $\frac{3}{8}$ inch in any dimension.

(4) "Damaged unit" means any grapefruit or orange segment or portion thereof that is damaged by lye peeling, by discoloration, or by similar injury or that is otherwise damaged to such an extent that the appearance or eating quality of the unit is materially affected.

(b) (*A*) *classification.* Canned grapefruit and orange for salad that is practically free from defects may be given a score of 23 to 25 points. "Practically free from defects" means that:

(1) All defects present, whether or not specifically defined or listed in this section, do not more than slightly affect the appearance or edibility of the product; and

(2) The defects that may be present in a sample unit and in the entire sample do not exceed the allowances specified in Table III.

(c) (*B*) *classification.* Canned grapefruit and orange for salad that is reasonably free from defects may be given a score of 21 or 22 points. Canned grapefruit and orange for salad that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product. (This is a limiting rule.) "Reasonably free from defects" means that:

(1) All defects present, whether or not specifically defined or listed in this section, may materially, but not seriously, affect the appearance or edibility of the product; and

(2) The defects that may be present in a sample unit and in the entire sample do not exceed the allowances specified in Table IV.

(d) (*SStd.*) *classification.* Canned grapefruit and orange for salad that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product. (This is a limiting rule.)

TABLE III.—*Allowances for defects in canned grapefruit and orange for salad, U.S. Grade A*

Defects	Size 2 (211×304)		No. 303 (303×406)	
	Sample unit maximum	Sample average maximum	Sample unit maximum	Sample average maximum
Extraneous vegetable material	1 piece	0.25 piece	1 piece	0.50 piece.
Seeds and large seeds	Total of 3 seeds including not more than 1 large seed.	1.6 seeds including not more than 0.4 large seed.	Total of 4 seeds including not more than 2 large seeds.	3.2 seeds including not more than 0.8 large seed.
Albedo and tough membrane	1 in²	½ in²	2 in²	1 in².
Damaged units	¼ oz		½ oz	
Total[1]	(2)	(2)	(2)	(2).

Defects	No. 3 cylinder (404×700)	
	Sample unit (maximum)	Sample average (maximum)
Extraneous vegetable material	1 piece	0.75 piece
Seeds and large seeds	Total of 10 seeds including not more than 3 large seeds.	
Albedo and tough membrane	5 in²	4 in²
Damaged units	1½ oz	
Total[1]	(2)	(2)

[1] All defects specified above and/or any other defects that may be present.
[2] Cumulative effect—does not more than slightly affect the appearance or eating quality of the product.

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TABLE IV.—*Allowances for defects in canned grapefruit and orange for salad, U.S. Grade B*

Defects	8Z (211 × 304)		No. 303 [illegible]	
	Sample unit (maximum)	Sample average (maximum)	Sample unit (maximum)	Sample average [illegible]
Extraneous vegetable material	2 pieces	0.50 piece	2 pieces	0.75 piece.
Seeds and large seeds	Total of 6 seeds including not more than 2 large seeds.	1.8 seeds including not more than 1.2 large seeds.	Total of 12 seeds including not more than 3 large seeds.	3.6 seeds including not more than 2.4 large seeds.
Albedo and tough membrane	1½ in²	⅜ in²	3 in²	2 in².
Damaged units	¾ oz		1½ oz	
Total [1]	(2)	(2)	(2)	(2)

Defects	No. 3 Cylinder (404 × 700)	
	Sample unit (maximum)	Sample average (maximum)
Extraneous vegetable material	2 pieces	1 piece
Seeds and large seeds	Total of 20 seeds including not more than 5 large seeds.	
Albedo and tough membrane	7½ in²	6 in²
Damaged units	4 oz	
Total [1]	(2)	(2)

[1] All defects specified above and/or any other defects that may be present.
[2] Cumulative effect—may materially, but not seriously, affect the appearance or eating quality of the product.

§ 52.1262 Character.

(a) *General.* The factor of character refers to the structure and condition of the cells of the grapefruit and orange and reflects the maturity of the fruits.

(b) *(A) classification.* Canned grapefruit and orange for salad that has a good character may be given a score of 23 to 25 points. "Good character" means that the grapefruit and orange segments are moderately firm and fleshy; that the segments or portions thereof have a juicy, cellular structure free from dry cells, or "ricey" cells, or fibrous cells that materially affects the appearance or eating quality of the product.

(c) *(B) classification.* Canned grapefruit and orange for salad that has a reasonably good character may be given a score of 21 or 22 points. Canned grapefruit and orange for salad that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product. (This is a limiting rule.) "Reasonably good character" means that the grapefruit and orange segments may be affected, but not seriously so, by dry cells, "ricey" cells or fibrous cells that detract from the appearance or eating quality of the product.

(d) *(SStd.) classification.* Canned grapefruit and orange for salad that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product. (This is a limiting rule.)

§ 52.1263 Determining the grade of a lot.

The grade of a lot of canned grapefruit and orange for salad covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 through 52.83).

§ 52.1264 Score sheet for canned grapefruit and orange for salad.

Size and kind of container			
Container mark or identification			
Label			
Net weight (ounces)			
Vacuum (inches)			
Drained weight (ounces)			
Brix measurements			
Syrup designation			
Count			
Grapefruit			
Orange			
Factors	**Score points**		
[illegible]	25	(A)	21–25
		(B)	[1] 17–20
		(Broken)	[1] 0–16
Color	25	(A)	23–25
		(B)	[1] 21–22
		(Broken)	[1] 21–23
		(SStd.)	[1] 0–20
Defects	25	(A)	23–25
		(B)	[1] 21–22
		(Broken)	[1] 21–25
		(SStd.)	[1] 0–20
Character	25	(A)	23–25
		(B)	[1] 21–22
		(Broken)	[1] 21–25
		(SStd.)	[1] 0–20
Total score	100		
Flavor and odor			
Good; Reasonably Good			
Grade			

[1] Indicates limiting rule.

Dated: December 9, 1974.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.74-29068 Filed 12-13-74;8:45 am]

[7 CFR Parts 1002, 1004]

[Docket Nos. A0-160-A50, A0-71-A67]

MILK IN THE MIDDLE ATLANTIC AND NEW YORK-NEW JERSEY MARKETING AREAS

Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Middle Atlantic and New York-New Jersey marketing areas, which was issued October 15, 1974 (39 FR 37926), extended to December 13, 1974 (39 FR 39885), is hereby further extended to December 30, 1974. The extention of time was requested by James A. McHale, Secretary, Pennsylvania Department of Agriculture.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on: December 10, 1974.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.74-29186 Filed 12-13-74;8:45 am]

Food and Nutrition Service

[7 CFR Part 271]

[Amdt. 35]

FOOD STAMP PROGRAM

Extension of Comment Period

A proposed amendment to the Food Stamp Regulations was published in the FEDERAL REGISTER on September 30, 1974. This proposal was to: (1) Provide restoration of certain lost benefits to food stamp recipients; (2) offset non-fraud recipient claims against refunds due to households for overcollection of cash and/or for any retroactive benefits to which that household is entitled; (3) strengthen the accounting and control over the sale of food coupons; and (4) make State agencies which have failed to cooperate with USDA liable to FNS for the bonus value of coupons issued

pursuant to court decisions which are inconsistent with federally prescribed program provisions. The comment period expired October 30, 1974.

In an effort to stimulate additional feedback on these important issues, the Department has decided to extend the comment period until January 15, 1975.

(78 Stat. 703, as amended (7 U.S.C. 2011–2026))

(Catalog of Federal Domestic Assistance Programs No. 10.551, National Archives Reference Services)

Dated: December 11, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74-29231 Filed 12-13-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74-EA-80]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration, Designation, and Revocation

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation regulations so as to alter the Camp Springs, Md. (39 FR 365), Fort Belvoir, Va. (39 FR 380) Control Zones; and Washington, D.C. Transition Area (39 FR 608); and designate a Chantilly, Va. Transition Area; and revoke the Leesburg, Va. Transition Area (39 FR 528).

The Washington, D.C. terminal area requires changes in the controlled airspace to meet control requirements. The present Washington, D.C. Transition Area includes the transition area airspace for Washington National Airport, Washington, D.C., Andrews AFB, Camp Springs, Md., Dulles International Airport, Chantilly, Va., Davison, AAF, Fort Belvoir, Va., and Manassas Municipal Airport, (Harry P. Davis Field) Manassas, Va., The Leesburg, Va. Transition Area presently provides a separate designation for Leesburg Municipal Airport (Godfrey Field).

It is proposed to incorporate the 700-foot floor transition area for these airports into two transition areas as follows: The Washington, D.C. Transition Area as amended will include the transition area requirements for Washington National Airport, Andrews AFB and Davison AAF. The designation of a Chantilly, Va. Transition Area will include the transition area requirements for Dulles International Airport, Leesburg Municipal Airport (Godfrey Field), and Manassas Municipal (Harry P. Davis Field). The present Leesburg, Va. Transition Area will be revoked since the transition area requirements will be included in the Chantilly, Va. Transition Area.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before January 15, 1975 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Washington, D.C. proposes the airspace action hereinafter set forth:

§ 71.171 [Amended]

1. Amend § 71.171 of Part 71 of the Federal Aviation regulations by deleting the description of the Camp Spring, Md. Control Zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center, 38°48'39" N., 76°52'02" W. of Andrews AFB, Camp Spring, Md.; within 2.5 miles each side of the Andrews VORTAC 360° radial, extending from the VORTAC to 7.5 miles north of the VORTAC; within 2.5 miles each side of the Andrews VORTAC 180° radial, extending from the VORTAC to 7 miles south of the VORTAC, excluding the portion within a 1-mile radius of the center 38°44'56" N., 76°55'58" W. of Hyde Field, Clinton, Md., excluding the west portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Washington, D.C. Control Zone.

2. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the Fort Belvoir, Va. Control Zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center, 38°42'55" N., 77°10'55" W., of Davison AAF, Fort Belvoir, Va.; within 1 mile each side of the Davison AAF localizer southeast course, extending from the 5-mile radius zone to the OM; within 2 miles each side of the extended centerline of Runway 32, extending from the northwest end of Runway 32 to 5 miles northwest, excluding the portion within P-73.

§ 171.181 [Amended]

3. Amend § 71.181 of Part 71 of the Federal Aviation regulations by deleting the description of the Washington, D.C. Transition Area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center 38°51'07" N., 77°02'23" W., of Washington National Airport, Washington, D.C.; within an 11-mile radius of the center of Washington National Airport, extending clockwise from a 022° bearing to a 165° bearing from the airport; within an 11.5-mile radius of the center of Washington National Airport, extending clockwise from a 210° bearing to a 270° bearing from the airport; within a 12.5-mile radius of the center of Washington National Airport, extending clockwise from a 270° bearing to a 310° bearing from the airport; within an 11.5-mile radius of the center of Washington National Airport, extending clockwise from a 310° bearing to a 022° bearing from the airport; within 4.5 miles each side of a 317° bearing from the Georgetown, D.C. RBN, extending from the RBN to 5.5 miles northwest; within an 8.5-mile radius of the center, 38°48'39" N., 76°52'02" W., of Andrews AFB, Camp Springs, Md.; within 2.5 miles each side of the Andrews VORTAC 360° radial, extending from the VORTAC to 9.5 miles north of the VORTAC; within a 5-mile radius of the center, 38°42'55" N., 77°10'55" W., of Davison AAF, Fort Belvoir, Va.; within 5 miles each side of a 180° bearing from a point 38°39'41" N., 77°06'37" W., extending from said point to 9.5 miles south; within 5 miles each side of a 081° bearing from a point 38°39'41" N., 77°06'37" W., extending from said point to 20 miles east; within 3.5 miles each side of the extended centerline of Davison AAF Runway 32, extending from the northwest end of Runway 32 to 9 miles northwest; within 6.5 miles southwest and 4.5 miles northeast of a 134° bearing and a 314° bearing from a point 38°39'41" N., 77°06'37" W., extending from 5.5 miles northwest to 11.5 miles southeast of said point; excluding the portion within P-56 and P-73.

4. Amend Section 71.181 of Part 71 of the Federal Aviation Regulations by designating a Chantilly, Va. Transition Area as follows:

CHANTILLY, VA.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, 38°56'40" N., 77°27'24" W., of Dulles International Airport, within 8 miles each side of the Armel, Va. VORTAC 292° radial, extending from the VORTAC to 20 miles west; within 5 miles west and 6.5 miles east of the Dulles International Airport Runway 19R ILS localizer course, extending from the OM to 18 miles north; within 6.5 miles east and 4.5 miles west of the Dulles International Airport Runway 19L ILS localizer course extending from 5.5 miles south of the OM to 11.5 miles north of the OM; within 5 miles each side of the Martinsburg, W. Va. VORTAC 176° radial, extending from 15 miles south of the VORTAC to 26.5 miles south of the VORTAC; within 6.5 miles west and 4.5 miles east of the Dulles International Airport Runway 1R localizer course, extending from the OM to 11.5 miles south; within an 8-mile radius of the center of Leesburg Municipal Airport (Godfrey Field), Leesburg, Va. 39°04'37" N., 77°33'26" W.; within a 6.5-mile radius of the center 38°43'30" N., 77°31'00" W., of Manassas Municipal Airport (Harry P. Davis Field), Manassas, Va. within 2 miles each side of a 330° bearing from a point 38°43'36" N., 77°31'18" W., extending from said point to 9.5 miles northwest.

5. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by revoking the Leesburg, Va. Transition Area.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), De-

DEC 16 1974 V 39 PAT 242 XUM

TABLE IV.—*Allowances for defects in canned grapefruit and orange for salad, U.S. Grade B*

Defects	8Z (211 × 994)		No. 303 (303 × 406)	
	Sample unit (maximum)	Sample average (maximum)	Sample unit (maximum)	Sample average (maximum)
Astringent vegetable material seeds and large seeds	2 pieces Total of 6 seeds including not more than 2 large seeds	0.40 piece 4.0 seeds including not more than 1.2 large seeds	2 pieces Total of 12 seeds including not more than 3 large seeds	0.75 piece 8.4 seeds including not more than 2.4 large seeds
Membrane and tough membrane	[illegible] in² ¼ oz	½ in²	3 in² 1½ oz	[illegible] in²
Total [1]	(2)	(2)	(2)	(2)

	No. 3 Cylinder (404 × 700)	
	Sample unit (maximum)	Sample average (maximum)
Astringent vegetable material seeds and large seeds	2 pieces Total of 10 seeds including not more than 5 large seeds	1 piece
Membrane and tough membrane	7½ in² 4 oz	6 in²
Total [1]	(2)	(2)

[1] All defects specified above and/or any other defects that may be present.
[2] Cumulative effect—may materially, but not seriously, affect the appearance or eating quality of the product.

§ 52.1262 Character.

(a) *General.* The factor of character refers to the structure and condition of the cells of the grapefruit and orange and reflects the maturity of the fruits.

(b) *(A) classification.* Canned grapefruit and orange for salad that has a good character may be given a score of 23 to 25 points. "Good character" means that the grapefruit and orange segments are moderately firm and fleshy; that the segments or portions thereof have a juicy, cellular structure free from dry cells, or "ricey" cells, or fibrous cells that materially affects the appearance or eating quality of the product.

(c) *(B) classification.* Canned grapefruit and orange for salad that has a reasonably good character may be given a score of 21 or 22 points. Canned grapefruit and orange for salad that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product. (This is a limiting rule.) "Reasonably good character" means that the grapefruit and orange segments may be affected, but not seriously so by dry cells, "ricey" cells or fibrous cells that detract from the appearance or eating quality of the product.

(d) *(SStd.) classification.* Canned grapefruit and orange for salad that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product. (This is a limiting rule.)

§ 52.1263 Determining the grade of a lot.

The grade of a lot of canned grapefruit and orange for salad covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 through 52.83).

§ 52.1264 Score sheet for canned grapefruit and orange for salad.

Size and kind of container			
Container mark or identification			
Label			
Net weight (ounces)			
Vacuum (inches)			
Drained weight (ounces)			
Brix measurements			
Syrup designation			
Count			
Grapefruit			
Orange			
Factors	**Score points**		
Wholeness	25	(A) (B) (Broken)	21–25 [1] 17–20 [1] 0–16
Color	25	(A) (B) (Broken) (SStd.)	23–25 [1] 21–22 [1] 21–25 [1] 0–20
Defects	25	(A) (B) (Broken) (SStd.)	23–25 [1] 21–22 [1] 21–25 [1] 0–20
Character	25	(A) (B) (Broken) (SStd.)	23–25 [1] 21–22 [1] 21–25 [1] 0–20
Total score	100		
Flavor and odor			
Good; Reasonably Good			
Grade			

[1] Indicates limiting rule.

Dated: December 9, 1974.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc 74 29068 Filed 12-13 74 8 45 am]

[7 CFR Parts 1002, 1004]

[Docket Nos. AO 160 A86, AO 71 A67]

MILK IN THE MIDDLE ATLANTIC AND NEW YORK-NEW JERSEY MARKETING AREAS

Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Middle Atlantic and New York-New Jersey marketing areas, which was issued October 15, 1974 (39 FR 37926), extended to December 13, 1974 (39 FR 39885), is hereby further extended to December 30, 1974. The extention of time was requested by James A. McHale, Secretary, Pennsylvania Department of Agriculture.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on: December 10, 1974.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.74-29188 Filed 12-13-74;8:45 am]

Food and Nutrition Service

[7 CFR Part 271]

[Amdt. 35]

FOOD STAMP PROGRAM

Extension of Comment Period

A proposed amendment to the Food Stamp Regulations was published in the FEDERAL REGISTER on September 30, 1974. This proposal was to: (1) Provide restoration of certain lost benefits to food stamp recipients; (2) offset non-fraud recipient claims against refunds due to households for overcollection of cash and/or for any retroactive benefits to which that household is entitled; (3) strengthen the accounting and control over the sale of food coupons; and (4) make State agencies which have failed to cooperate with USDA liable to FNS for the bonus value of coupons issued

pursuant to court decisions which are inconsistent with federally prescribed program provisions. The comment period expired October 30, 1974.

In an effort to stimulate additional feedback on these important issues, the Department has decided to extend the comment period until January 15, 1975.

(78 Stat. 703, as amended (7 U.S.C. 2011-2026))

(Catalog of Federal Domestic Assistance Programs No. 10.551, National Archives Reference Services)

Dated: December 11, 1974.

RICHARD L. PETTIER,
Assistant Secretary.

[FR Doc.74-29231 Filed 12-13-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74-EA-80]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration, Designation, and Revocation

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation regulations so as to alter the Camp Springs, Md. (39 FR 365), Fort Belvoir, Va. (39 FR 380) Control Zones; and Washington, D.C. Transition Area (39 FR 608); and designate a Chantilly, Va. Transition Area; and revoke the Leesburg, Va. Transition Area (39 FR 528).

The Washington, D.C. terminal area requires changes in the controlled airspace to meet control requirements. The present Washington, D.C. Transition Area includes the transition area airspace for Washington National Airport, Washington, D.C., Andrews AFB, Camp Springs, Md., Dulles International Airport, Chantilly, Va., Davison, AAF, Fort Belvoir, Va., and Manassas Municipal Airport, (Harry P. Davis Field) Manassas, Va., The Leesburg, Va. Transition Area presently provides a separate designation for Leesburg Municipal Airport (Godfrey Field).

It is proposed to incorporate the 700-foot floor transition area for these airports into two transition areas as follows: The Washington, D.C. Transition Area as amended will include the transition area requirements for Washington National Airport, Andrews AFB and Davison AAF. The designation of a Chantilly, Va. Transition Area will include the transition area requirements for Dulles International Airport, Leesburg Municipal Airport (Godfrey Field), and Manassas Municipal (Harry P. Davis Field). The present Leesburg, Va. Transition Area will be revoked since the transition area requirements will be included in the Chantilly, Va. Transition Area.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before January 15, 1975 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Washington, D.C. proposes the airspace action hereinafter set forth:

§ 71.171 [Amended]

1. Amend § 71.171 of Part 71 of the Federal Aviation regulations by deleting the description of the Camp Spring, Md. Control Zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center, 38°48'39" N., 76°52'02" W. of Andrews AFB, Camp Spring, Md.; within 2.5 miles each side of the Andrews VORTAC 360° radial, extending from the VORTAC to 7.5 miles north of the VORTAC; within 2.5 miles each side of the Andrews VORTAC 180° radial, extending from the VORTAC to 7 miles south of the VORTAC, excluding the portion within a 1-mile radius of the center 38°44'58" N., 76°55'58" W. of Hyde Field, Clinton, Md., excluding the west portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Washington, D.C. Control Zone.

2. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the Fort Belvoir, Va., Control Zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center, 38°42'55" N., 77°10'55" W., of Davison AAF, Fort Belvoir, Va.; within 1 mile each side of the Davison AAF localizer southeast course, extending from the 5-mile radius zone to the OM; within 2 miles each side of the extended centerline of Runway 32, extending from the northwest end of Runway 32 to 5 miles northwest, excluding the portion within P-73.

§ 171.181 [Amended]

3. Amend § 71.181 of Part 71 of the Federal Aviation regulations by deleting the description of the Washington, D.C. Transition Area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center 38°51'07" N., 77°03'23" W., of Washington National Airport, Washington, D.C.; within an 11-mile radius of the center of Washington National Airport, extending clockwise from a 022° bearing to a 165° bearing from the airport; within an 11.5-mile radius of the center of Washington National Airport, extending clockwise from a 210° bearing to a 270° bearing from the airport; within a 12.5-mile radius of the center of Washington National Airport, extending clockwise from a 270° bearing to a 310° bearing from the airport, within an 11.5-mile radius of the center of Washington National Airport, extending clockwise from a 310° bearing to a 022° bearing from the airport, within 4.5 miles each side of a 317° bearing from the Georgetown, D.C. RBN, extending from the RBN to 8.5 miles northwest; within an 8.5-mile radius of the center 38°58'30" N., 76°52'02" W. of Andrews AFB, Camp Springs Md. within 2.5 miles each side of the Andrews VORTAC 360° radial, extending from the VORTAC to 9.5 miles north of the VORTAC; within a 5-mile radius of the center, 38°42'55" N., 77°10'55" W., of Davison AAF, Fort Belvoir, Va.; within 5 miles each side of a 180° bearing from a point 38°39'41" N., 77°06'37" W., extending from said point to 9.5 miles south within 5 miles each side of a 061° bearing from a point 38°39'41" N., 77°06'37" W., extending from said point to 20 miles east within 3.5 miles each side of the extended centerline of Davison AAF Runway 32, extending from the northwest end of Runway 32 to 9 miles northwest; within 6.5 miles southwest and 4.5 miles northeast of a 134° bearing and a 314° bearing from a point 38°39'41" N., 77°06'37" W., extending from 5.5 miles northwest to 11.5 miles southeast of said point; excluding the portion within P-56 and P-73.

4. Amend Section 71.181 of Part 71 of the Federal Aviation Regulations by designating a Chantilly, Va. Transition Area as follows:

CHANTILLY, VA.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, 38°56'40" N., 77°27'24" W., of Dulles International Airport, within 8 miles each side of the Armel, Va. VORTAC 292° radial, extending from the VORTAC to 20 miles west; within 5 miles west and 6.5 miles east of the Dulles International Airport Runway 19R ILS localizer course, extending from the OM to 18 miles north; within 6.5 miles east and 4.5 miles west of the Dulles International Airport Runway 19L ILS localizer course extending from 5.5 miles south of the OM to 11.5 miles north of the OM; within 5 miles each side of the Martinsburg, W. Va. VORTAC 176° radial, extending from 15 miles south of the VORTAC to 28.5 miles south of the VORTAC; within 6.5 miles west and 4.5 miles east of the Dulles International Airport Runway 1R localizer course, extending from the OM to 11.5 miles south; within an 8-mile radius of the center of Leesburg Municipal Airport (Godfrey Field), Leesburg, Va. 39°04'37" N., 77°33'26" W.; within a 6.5-mile radius of the center 38°43'30" N., 77°31'00" W., of Manassas Municipal Airport (Harry P. Davis Field), Manassas, Va. within 2 miles each side of a 330° bearing from a point 38°43'36" N., 77°31'18" W., extending from said point to 9.5 miles northwest.

5. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by revoking the Leesburg, Va. Transition Area.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), De-

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partment of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on November 29, 1974.

JAMES BISPO,
Deputy Director,
Eastern Region.

[FR Doc.74-29109 Filed 12-13-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-RM-20]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation regulations so as to designate a transition area at Steamboat Springs, Colo.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colorado 80207. All communications received on or before January 9, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 E. 25th Avenue, Aurora, Colorado 80010.

Rocky Mountain Airways, an air taxi commercial operator, is regularly serving the Steamboat Springs Municipal Airport on a scheduled basis. A private-use instrument approach procedure has been developed for Rocky Mountain Airways utilizing privately-owned NDB and MLS navigational aids. Communications and weather reporting services are available. The proposed transition areas will provide controlled airspace for arrival/departure procedures, as well as holding and transition routes from Victor Airway 200 and 220. Consideration was given to terrain, chart legibility, and ease of charting in arriving at the proposed floor of 1,200' AGL northwest of the Kremmling, Colorado VORTAC.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (39 FR 440) designate a transition area for Steamboat Springs, Colorado to read:

STEAMBOAT SPRINGS, COLO.

That airspace extending upward from 700 feet above the surface within 5 miles east and 7.5 miles west of the 153° and 333° bearings from the Rocky Mountain Airways NDB (latitude 40°28'13" N., longitude 106°49'46" W.) extending from 6.5 miles northwest of the NDB to 12.5 miles southeast of the NDB; that airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at latitude 40°04'30" N., longitude 106°30'00" W.; to latitude 40°05'40" N., longitude 107°00'00" W.; to latitude 40°35'00" N., longitude 107° 00'00" W.; to latitude 40°35'00" N., longitude 106°30'00" W.; to point of beginning.

That airspace extending upward from 13,300' MSL within an area bounded by a line beginning at latitude 40°04'15" N., longitude 106°30'00" W.; to latitude 40°25'00" N., longitude 106°30'00" W.; to latitude 40°08' 00" N.; longitude 105°52'00" W.; thence along the north edge of V220 to the point of beginning.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Aurora, Colorado, on December 5, 1974.

M. M. MARTIN,
Director,
Rocky Mountain Region.

[FR Doc.74-29108 Filed 12-13-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-GL-41]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations so as to designate a transition area at Medford, Wisconsin.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before January 15, 1975 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A standard instrument approach procedure has been developed for the Taylor County Airport. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this approach procedure by designating a transition area at Medford, Wisconsin.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.181 (39 FR 440), the following transition area is added:

MEDFORD, WISCONSIN

That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of the Taylor County Airport (Latitude 45°06'02" N., Longitude 90°19'18" W.); within 3 miles each side of the 162° bearing from the airport extending from the 5.5 mile radius area to 8 miles Southeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Des Plaines, Illinois on November 25, 1974.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.74-29110 Filed 12-13-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-GL-44]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations so as to designate a transition area at Cadiz Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before January 15, 1975 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018.

A new instrument approach procedure has been developed for the Harrison County Airport. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this approach procedure by designating a transition area at Cadiz, Ohio.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.181 (39 FR 440), the following transition area is added:

CADIZ, OHIO

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Harrison County Airport (Latitude 40°14'18" N., Longitude 81°00'45" W.); within 3 miles each side of the 311° bearing from the airport, extending from the 7-mile radius area to 8 miles northwest of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Des Plaines, Illinois, on November 25, 1974.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.74-29111 Filed 12-13-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-GL-45]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations so as to designate a transition area at Antigo, Wisconsin.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before January 15, 1975 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A new standard instrument approach procedure has been developed for the Langlade County Airport. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Antigo, Wisconsin.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.181 (39 FR 440), the following transition area is added:

ANTIGO, WISCONSIN

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Langlade County Airport (Latitude 45°09'20" N., Longitude 89°06'33" W.); within 3 miles each side of the 358° bearing from the airport, extending from the 5-mile radius area to 8 miles north of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Des Plaines, Illinois on November 25, 1974.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.74-29112 Filed 12-13-74;8:45 am]

National Highway Traffic Safety Administration

[23 CFR Part 1204]

[Docket No. 74-35; Notice 2]

HIGHWAY SAFETY PROGRAM STANDARDS; BICYCLIST SAFETY

Extension of Comment Period

This notice extends the comment closing date for the advance notice of proposed rulemaking concerning Bicyclist Safety.

On October 15, 1974, the National Highway Traffic Safety Administration issued an Advance notice of proposed rulemaking relating to bicyclist safety (39 FR 36864). While the closing date for comments on the notice was December 16, 1974, petitions to extend the comment period 3 to 6 months were received from Congressman Sidney Yates of Illinois and such organizations as the American Youth Hostels and the League of American Wheelman. It was the belief of these organizations that their members would not be informed of the proposed standard in sufficient time to respond.

When it began rulemaking in this area, the agency was aware of the need for substantial information from many sources, including bicyclists themselves. For that reason, it embarked on a three-step process in establishing the final standard. The first step was the issuance of the advance notice of proposed rulemaking which raised rather than resolved the major issues in this area. The second step, anticipated for early spring, will be to issue a notice of proposed rulemaking (NPRM), based on responses received to the advance notice. An additional period for comment will follow the NPRM. It is only after reviewing comments in response to the NPRM that NHTSA will take the third step of transmitting a final rule to the Congress pursuant to the Highway Safety Act of 1973.

It is the intent of NHTSA that comments be considered from the bicycling public at each step of the standard-making process. Further, comments received after the comment closing date are not excluded from consideration, but rather are considered to the extent practicable during the drafting of the standard. The comment closing date is meant to indicate when NHTSA will begin to draft the next stage of the standard, and to guarantee the commenter that comments received before that date will be considered pursuant to the Administrative Procedures Act. The NHTSA concludes, therefore, that the public will have ample opportunity to comment on the proposed bicyclist standard at its various stages of development, and that an extension of 3 to 6 months is not necessary.

The NHTSA is also aware, however, that many bicyclists who did not learn of the advance notice when issued feel they have much to contribute to the initial stage of NHTSA's standard-making process. Further, the National Highway Safety Advisory Committee has recommended that NHTSA solicit the views of school superintendents concerning bicyclist safety. Consequently, the comment period is hereby extended to January 16, 1975.

(Sec. 101, Pub. L. 89-564, 80 Stat. 731 (23 U.S.C. 402); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on December 13, 1974.

WILLARD Y. HOWELL,
Acting Associate Administrator,
Traffic Safety Programs.

[FR Doc.74-29394 Filed 12-13-74;11:37 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 120]

[FRL 277-6]

WATER QUALITY STANDARDS; OREGON

Withdrawal of Proposed Rulemaking

The purpose of this notice is to withdraw the notice of proposed rulemaking published in the FEDERAL REGISTER (February 4, 1974 (39 FR 4486)), in which the Environmental Protection Agency proposed to amend 40 CFR Part 120 to set out water quality standards for total dissolved gas for the State of Oregon.

The February 4, 1974 notice of proposed rulemaking was issued pursuant to section 303 of the Federal Water Pollution Control Act, as amended (Pub. L. 92-500, 86 Stat. 816, 33 U.S.C. 1251 et seq., the "Act"), which provides for Federal promulgation of water quality standards where a State fails to adopt water quality standards meeting the requirements of the Act. The EPA is required to promulgate standards within 190 days of the proposal, unless by such time the State shall have adopted water quality standards which are found to be in accordance with the requirements of the Act.

The notice proposed a revision of the total dissolved gas water quality standard for the State of Oregon. Excessive total dissolved gas pressure (supersaturation) is a relatively new aspect of water quality. Gas bubble disease in

aquatic organisms can result when the uncompensated total gas pressure is greater in the water than in the air. This increase in pressure occurs at dam spillways, in thermal discharges or as a result of eutrophication. The main cause of excessive total dissolved gas pressure in the Pacific Northwest is supersaturated waters from the spillways of dams. As the water passes over the top of the spillway, air is forced into solution and supersaturation (gas pressure that results in over 100 percent saturation) can result. Modified gas pressures present a widespread potential for adversely affecting fish and aquatic invertebrates.

As the uncompensated pressure increases, fish that are acclimated to a lower pressure can suffer from gas bubble disease when they enter the area of higher pressure. Bubbles form on the external surfaces of the fish and within their bodies. Death results if the internal gas bubbles become sufficiently large to block major blood vessels. Sublethal effects reduce the health of the fish making them increasingly susceptible to other diseases. These effects can occur as gas pressures increase above 110 percent of saturation.

A water quality standard setting total dissolved gas criteria decreases in stringency as it exceeds 100 percent saturation. In considering the technical aspects of this FEDERAL REGISTER notice, therefore, one should keep in mind that an allowable increase in percent of saturation of total dissolved gas from, for example, 105 percent to 110 percent represents a less stringent criteria because the total amount of dissolved gas increases.

EPA after partially approving Oregon's water quality standards requested that Oregon change its water quality standard for total dissolved gas from 105 percent to 110 percent saturation to complete the standards. The reasoning for the proposed action was that adoption of a criterion of 105 percent was not compatible with the neighboring States of Washington and Idaho which have a standard for total dissolved gas of 110 percent. EPA also believed that 105 percent saturation for total dissolved gas was unreasonably stringent and unachievable. Oregon, however, believes that the 105 percent standard should apply and declined to adopt the proposal. EPA then proposed promulgation of the 110 percent total dissolved gas standard which was published in the FEDERAL REGISTER on February 4, 1974.

Section 510 of the Act, however, provides for the right of a State to adopt and enforce State standards that are more stringent than Federal standards. Subsequent to publication of the proposed Oregon standard, and a further review of the application of section 510 to this action, the Agency has determined that the Oregon total dissolved gas standard would not be preempted by promulgation of the less stringent Federal standard of 110 percent. For this reason, EPA has decided to withdraw the notice of proposed rulemaking, while expressing following reservations:

(1) EPA believes that the Oregon standard is unrealistic. Approval of the "fall safe" 105 percent standard is not considered necessary to protect aquatic life on the basis of available scientific information;

(2) The neighboring States of Idaho and Washington have total dissolved gas limits of 110 percent and Oregon should adopt consistent standards for interstate waters;

(3) Over the long term, it is believed that attainment of the 105 percent standard would be accomplished at substantially increased cost over attainment of 110 percent; and

(4) There is doubt as to whether 105 percent can ever be achieved, over the long term, even under the most favorable conditions.

In view of these concerns, EPA will continue to urge the State of Oregon to adopt the total dissolved gas standard of 110 percent of saturation.

In consideration of the foregoing, the notice of proposed rulemaking published in the FEDERAL REGISTER, February 4, 1974 (39 FR 4486), entitled "State of Oregon, Navigable Water Quality Standards" is hereby withdrawn.

A copy of the standards may be found at EPA Headquarters, Room 807-East Tower, 401 M Street, SW., Washington, D.C. 20460 and at Region X, EPA, 1200 6th Avenue-Park Place, Seattle, Washington 98101.

This withdrawal is issued under the authority of Section 303 of the Federal Water Pollution Control Act, as amended (Pub. L. 92-500, 86 Stat. 816, 33 U.S.C. 1251 et seq.).

Dated: December 10, 1974.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.74-29099 Filed 12-13-74;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 3]

VETERANS BENEFITS

Effective Date of Increased Benefits

The Administrator of Veterans' Affairs proposes an amendment to § 3.660(c) of Title 38, Code of Federal Regulations, to conform with provisions in title 38, United States Code.

Section 3010(n) of title 38, United States Code provides that the effective date of an award of increased benefits by reason of marriage or birth or adoption of a child shall be the date of the event if evidence of the event is received by the Veterans Administration within 1 year from such date. This provision was added by Public Law 91-584 (84 Stat. 1575). Currently § 3.660(c) of Title 38, Code of Federal Regulations, provides that the effective date of increased benefits due to a change in marital status or status of dependents will be the date of receipt of notice of such change. It is proposed to amend § 3.660(c) to provide that when an increase in rates is due to marriage, or birth or adoption of a child, which would permit payment at a higher rate, the increased rate will be effective the date of the event if evidence of the event is received within 1 year from such date.

In addition minor editorial changes are made in §§ 3.660(a), 3.662 and 3.666 to reflect these provisions apply equally to male and female beneficiaries. No substantive change affecting benefits is involved.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (27A1), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All relevant material received before January 15, 1975, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is given that the change to § 3.660(c) would be effective December 24, 1970, the date of enactment of Public Law 91-584.

1. In § 3.660, paragraph (a)(1) and (c) are revised to read as follows:

§ 3.660 Dependency, income and estate.

(a) *Reduction or discontinuance*—(1) *General.* A veteran, widow, widower or child who is receiving pension, or a parent who is receiving compensation or dependency and indemnity compensation must notify the Veterans Administration of any material change or expected change in or her income or other circumstances which would affect his or her entitlement to receive, or the rate of, the benefit being paid. Such notice must be furnished when the veteran acquires knowledge that he or she will begin to receive additional income at a rate which if continued will cause the income to exceed the income limitation or increment applicable to the rate of the benefit being paid or when his or her marital or dependency status changes. In pension claims subject to § 3.252(b) and in compensation claims subject to § 3.250(a)(2), notice must be furnished of any material increase in corpus of the estate or net worth.

* * * * *

(c) *Increases; change in status.* Where there is change in the payee's marital status or status of dependents which would permit payment at a higher rate and the change in status is by reason of the claimant's marriage or birth or adoption of a child, the effective date of the increase will be the date of the event if the

required evidence is received within 1 year of the event. Where there is a change in dependency status for any reason other than marriage, or the birth or adoption of a child, which would permit payment at a higher rate, the increased rate will be effective the date of receipt of notice constituting an informal claim if the required evidence is received within 1 year of the Veterans Administration request. The rate payable for each period will be determined, as provided in § 3.260 (f), on the basis of income for the full calendar year. (See § 3.651 as to increase due to termination of payments to another payee. Also see § 3.667 as to increase based on school attendance.)

2. Section 3.662 is revised to read as follows:

§ 3.662 Children; no widow or widower entitled.

(a) When an award of death pension to a widow or widower with a child or children has been discontinued for the reason that his or her annual income is in excess of the statutory limitation, payments to the child or children whose annual income, determined separately, does not exceed the statutory limitation will commence effective the day following the date of last payment to the widow or widower. In those cases in which an award of death pension to a widow or widower is discontinued retroactively in accordance with the provisions of § 3.660 and an additional amount in behalf of a child or children was included in the award, an adjustment will be made in the award to the widow or widower. The monthly rate payable to the widow or widower for the period from the eective date of discontinuance to the date of last payment will be the amount to which such child or children would have been entitled during that period.

(b) When payments are being made to a child or children and evidence is received showing that the annual income of the widow or widower, which was in excess of the statutory limitation, has been reduced to an amount not in excess of the statutory limitation, payments to the child or children will be discontinued effective date of last payment. For the period commencing the date from which the widow or widower is shown to be entitled to the date of last payment to the child or children, the rate for the widow or widower will be the difference between the amount paid to the child or children and the amount which would have been payable for the widow or widower and child or children. The full rate will be payable thereafter.

3. In § 3.666, the introductory text preceding paragraph (a) and the introductory text of paragraph (a) preceding paragraph (a)(1) are revised to read as follows:

§ 3.666 Penal institutions.

Where any individual to or for whom pension is being paid under a public or private law administered by the Veterans Administration is imprisoned in a Federal, State or local penal institution as the result of conviction of a felony or misdemeanor, such pension payments will be discontinued effective on the 61st day of imprisonment following conviction. The payee will be informed of his or her rights and the rights of dependents to payments while he or she is imprisoned as well as the conditions under which payments to him or to her may be resumed on his or her release from imprisonment. Payments of pension authorized under this section will continue until notice is received in the Veterans Administration that the imprisonment has terminated.

(a) *Disability pension.* Payment may be made to the wife, husband, child or children of a veteran disqualified under this section:

* * * * *

Approved: December 9, 1974.

By direction of the Administrator.

[SEAL] ODELL W. VAUGHN,
Deputy Administrator.

[FR Doc.74-29200 Filed 12-13-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1046]

[Ex Parte No MC-98]

OPERATIONS AND PRACTICES OF PASSENGER BROKERS AFFILIATED WITH MOTOR CARRIERS

Notice of Proposed Rulemaking

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 20th day of November 1974.

It appearing that for the reasons noted in Greyhound Lines, Inc., Extension—Special Operations, 120 M.C.C. 629, it is in the public interest to institute an investigation proceeding to determine whether it is necessary to adopt the regulations set forth in the appendix to this notice of proposed rulemaking or other appropriate regultaions regarding the nature of operations conducted by passenger brokers affiliated with motor comom ncarriers of passengers; and that such a proceeding is not anticipated to have any adverse effect upon the environment.

It is ordered, That a proceeding be, and it is hereby, instituted under the authority of parts I and II of the Interstate Commerce Act (49 U.S.C. 1 and 301 *et seq.*) and particularly sections 204 (a)(4) and 211(c) thereof, and sections 553 and 559 of the Administrative Procedure Act (5 U.S.C. 553 and 559) to investigate the possibility of adopting the regulations set forth in the appendix to this order or other apropriate regulations regarding the nature of operations conducted by passenger brokers affiliated with motor common carriers of passengers, and to take such other and further action as the facts and circumstances may justify or require.

It is further ordered, That all motor common carriers of passengers[1] and all passenger brokers subject to the Interstate Commerce Act, be, and they are hereby, made respondents in this proceeding.

It is further ordered, That no oral hearing be scheduled for the receiving of testimony in this proceeding unless a need therefor should later appear, but that the respondents or other interested persons may participate in this proceeding by submitting for consideration written statements of facts, views, and arguments on the subject of this notice and order.

It is further ordered, That any person intending to participate in this proceeding by submitting initial or reply statements, or otherwise, shall notify this Commission, by filing with the Secretary, Interstate Commerce Commission, Washington D.C. 20423, on or before January 25, 1975, the original and one copy of a statement of his intention to participate. Inasmuch as the Commission desires whatever possible (a) to conserve time, (b) to avoid unnecessary expense to the public, and (c) the service of pleadings by parties in proceedings of this type only upon those who intend to take an active part in the proceeding, the statement of intention to participate shall include a detailed specification of the extent of such person's interest, including (1) whether such interest extends merely to receiving Commission releases in this proceeding. (2) whether he genuinely wishes to participate by receiving or filing initial and/or reply statements, (3) if he so desires to participate as described in (2), whether he will consolidate or is capable of consolidating his interests with those of other interested parties by filing joint statements in order to limit the number of copies of pleadings that need be served, such consolidation of interests being strongly urged by the Commission, and (4) any other pertinent information which will aid in limiting the service list to be issued in this proceeding; that this Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties desiring to participate in this proceeding and upon whom copies of all statements must be filed; and that at the time of service of this service list the Commission will fix the time within which initial statements and replies must be filed.

It is further ordered, That while this proceedings does not currently appear to be a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

[1] Although all motor common carriers of passengers are made respondents herein to facilitate their participation in the proceeding if they so desire, it is not anticipated that the regulations proposed will have significant direct effects on any carriers but those affiliated with passenger brokers and which also hold authority to conduct tour services in special operations.

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initial and reply statements filed by parties participating herein shall indicate the presence or absence of any effect of the recommendations made therein, to this Commission on the quality of the human environment. Cf. Implementation—Natl. Environmental Policy Act, 1969, 340 I.C.C. 431 (1972).

And it is further ordered, That a copy of this order be posted in the Office of the Secretary, Interstate Commerce Commission, for public inspection and that a copy be delivered to the Director, Division of the Federal Register for publication in the Federal Register as notice for all interested persons. Written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Ave., Washington, D.C., during regular business hours.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

APPENDIX

It is proposed to amend part 1046 by adding the following sections:

Sec.
1046.301 Definition of affiliation between passenger broker and motor common carrier of passengers.
1046.302 Registration of affiliation.
1046.303 Prohibition of duplicative operations.
1046.304 Effectiveness of prohibition.

§ 1046.301 Definition of affiliation between passenger broker and motor common carrier of passengers.

A passenger broker shall be deemed to be "affiliated" with a motor common carrier of passengers if said broker controls, is controlled by, or is under common control with such carrier; if said broker and carrier are the same person; or if said broker and carrier hold out service to the public under a common trademark or other mutual identification.

§ 1046.302 Registration of affiliation.

(a) Every passenger broker subject to section 211 of the Interstate Commerce Act which is affiliated with any motor common carrier of passengers subject to part II of the Interstate Commerce Act shall file with the Commission, within 30 days after said broker becomes subject to the provisions of this subsection or after a change occurs in the information previously filed, the original and one copy of a registration statement, signed and verified under oath, which statement shall specify:

(1) the name, address, and license number of the said broker;

(2) the name, address, and certificate number of every motor common carrier of passengers subject to part II of the Interstate Commerce Act with which the said broker is affiliated;

(3) the exact nature of the affiliation which exists, including (in those instances where common control is involved) the names and addresses of all common officers, directors, and major stockholders, if any, and the percentage distribution of substantial or controlling interests in each broker and carrier involved, whether by ownership of stock, partnership, sole proprietorship, or otherwise; and

(4) any operating authority held by any such passenger carrier (including specification of certificate and Sub-No., and date of issuance of each certificate in which such authority is contained) which allows said carrier to transport passengers over irregular routes, in special operations, in all-expense sightseeing and pleasure tours (whether or not specifically so limited).

(b) Upon the filing of any such registration statement, the Commission will issue a Notice of Registration, reciting the information filed concerning the names, addresses, and certificate or license numbers of each carrier and broker asserted to be affiliated, indicating the general nature of the affiliation disclosed, and specifying whether or not, and the extent to which, each carrier involved holds authority to transport passengers over irregular routes, in special operations, in all-expense sightseeing and pleasure tours.

(c) Said Notice of Registration shall be served on the broker which filed the registration statement and shall be deemed to attach to, and become a part of, the license held by such broker; and copies of the said notice shall be:

(1) Served on each carrier named therein;

(2) Filed in the lead docket for each broker and carrier named therein;

(3) Placed in an appropriate file open to public inspection at the offices of the Commission;

(4) Furnished to each of the Regional Directors of the Bureau of Operations for those regions in which are located the headquarters of the brokers and carriers named therein; and

(5) Delivered to the Board, Commission, or Official (or to the Governor where there is no Board, Commission, or Official) having authority to regulate the business of transportation by motor vehicle in each State in which the named brokers and carriers operate.

(d) The filing of a registration statement under this section shall not require approval by the Commission of any affiliation disclosed therein, except as provided in section 5 of the Interstate Commerce Act and the Commission's rules and regulations thereunder, and except as provided in the regulations promulgated by the Commission concerning transfers of passenger brokers' licenses (49 CFR Part 1133); nor shall the issuance of a Notice of Registration by the Commission be construed to imply approval of any acquisition of control subject to section 5 of the Interstate Commerce Act or of any transfer or change in control of a corporation subject to Part 1133 of the Commission's rules and regulations (49 CFR Part 1133).

§ 1046.303 Prohibition of duplicative operations.

No passenger broker subject to section 211 of the Interstate Commerce Act which, during the time that this section is effective, is or has been affiliated with any motor common carrier of passengers subject to part II of the Interstate Commerce Act holding authority from this Commission to transport passengers over irregular routes, in special operations, in all-expense sightseeing and pleasure tours (whether or not specifically so limited) shall, except as provided in § 1046.304, arrange for motor carrier transportation of passengers, in tour service, for individual passengers formed into a bona fide charter group by said broker and using the charter service of any interstate motor common carrier of passengers (in the manner described in *Tauck Tours, Inc., Extension—New York, N.Y.*, 54 M.C.C. 291, 300–303 (1952)), beginning and ending at, and extending to, points all or substantially all of which are within the territory in which such an affiliated passenger carrier may conduct such irregular-route special operations, in all-expense sightseeing and pleasure tours. This prohibition shall not be construed to limit:

(a) The location at which such broker may lawfully conduct brokerage operations;

(b) The arranging for passenger transportation (1) of individual passengers in special operations conducted by authorized motor passenger carriers, (2) of preformed groups of passengers in special or charter operations conducted by authorized motor carriers, or (3) of individuals or groups of passengers in regular-route operations; or

(c) The arranging for passenger transportation extending substantially beyond the territorial scope of the said special operations authorities held by all such passenger carriers affiliated with said broker.

§ 1046.304 Effectiveness of prohibition.

(a) A Notice of Registration issued pursuant to § 1046.302 above shall remain effective, notwithstanding the issuance of a subsequent notice reflecting a change or termination in the affiliation or other circumstances involved, for the purpose of defining the scope of prohibited duplicative operations under § 1046.303 above, unless and until such time as the Commission shall approve the removal (in whole or pertinent part) of the limitation prohibiting duplicative operations in the manner provided in paragraph (b) of this section.

(b) The prohibition against duplicative operations, insofar as it may have arisen from an affiliation which no longer exists or from operating authority no longer held by the affiliated motor carrier, may be removed as to a particular broker's license only upon approval by the Commission pursuant to a petition filed by the said broker and proof that the resumption of the prohibited operations (or pertinent part thereof) will be consistent with the public interest and the national transportation policy. Such determination and approval shall be made upon a record involving the participation of any interested parties after publication of a notice of the petition in the FEDERAL REGISTER.

(49 U.S.C. 1 and 301 (5 U.S.C. 553, 559))

[FR Doc.74-29218 Filed 12-13-74;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Office of the Secretary

WELT WORK SHOES FROM ROMANIA

Antidumping; Withholding of Appraisement Notice

Information was received on February 5, 1974, that welt work shoes from Romania were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of March 15, 1974 on page 10002. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (section 203 of the Act; 19 U.S.C. 162) of welt work shoes from Romania is less, or is likely to be less, than the constructed value (section 206 of the Act; 19 U.S.C. 165).

STATEMENT OF REASONS

The information currently before the U.S. Customs Service tends to indicate that the probable basis of comparison for fair value purposes will be between purchase price and constructed value.

Purchase price will probably be based on c.i.f. and c&f prices, packed, with deductions for ocean freight, inland freight and insurance, where applicable.

Since the merchandise under consideration was produced in a state-controlled-economy country, constructed value will probably be based on the price at which such or similar merchandise is sold for export to the United States by a non-state-controlled-economy country. The country chosen for this purpose will probably be the Republic of Korea.

The price for export to the United States by the Republic of Korea will probably be based on the f.o.b. price with deductions for inland freight, handling and clearance, with adjustments for differences in packing and differences in merchandise.

Using the above criteria, there are reasonable grounds to believe or suspect that purchase price will be lower than the constructed value.

Customs officers are being directed to withhold appraisement of welt work shoes from Romania in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs Regulations (19 CFR 153.32(b), 153.37), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, D.C. 20229, in time to be received by his office on or before December 27, 1974. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office on or before January 15, 1975.

This notice, which is published pursuant to § 153.34(b), Customs Regulations (19 CFR 153.34(b)), shall become effective December 16, 1974. It shall cease to be effective at the expiration of 6 months from the date of this publication, unless previously revoked.

[SEAL] DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

DECEMBER 13, 1974.

[FR Doc.74-29089 Filed 12-13-74;10:23 am]

DEPARTMENT OF DEFENSE

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is given that the Chief of Naval Operations Executive Panel Advisory Committee will hold a closed meeting on January 16 and 17, 1975, at the Pentagon, Washington, D.C. The sessions will commence at 9 a.m. and terminate at 5:30 p.m.

The agenda will consist of matters which are classified in the interest of national security, including intelligence systems and applications, weapons and ship design, and long-range Navy plans and policy. The Secretary of the Navy has determined in writing that the meeting of the Chief of Naval Operations Executive Panel Advisory Committee should be closed to the public because it will be concerned with matters listed in section 552(b) of title 5, U.S.C.

Dated: December 10, 1974.

H. B. ROBERTSON, Jr.,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

[FR Doc.74-29115 Filed 12-13-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NATIONAL ADVISORY BOARD COUNCIL

Committee Meeting

Notice is hereby given that an ad hoc committee of members of the National Advisory Board Council will meet at the State Office of the Bureau of Land Management, Colorado State Bank Building, 1600 Broadway, Denver, Colorado, January 3, 1975, beginning at 8:30 a.m. The purpose of the meeting will be to consider a time, place, and agenda items for a spring meeting of the full Council.

The committee meeting will be open to the public. Time will be made available for a limited number of brief statements by members of the public. Those wishing to make an oral statement should inform the Public Affairs Officer, Bureau of Land Management, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, by close of business January 2, 1975. Any interested person may file a written statement with the committee for its consideration. Such statement may be submitted at the meeting or mailed to the Director (230), Bureau of Land Management, Washington, D.C. 20240. Further information concerning the meeting may be obtained from the Public Affairs Officer, Bureau of Land Management, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. His phone is (303) 837-4481.

GEORGE L. TURCOTT,
Associate Director.

DECEMBER 9, 1974.

[FR Doc.74-29109 Filed 12-13-74;8:45 am]

Bureau of Reclamation

[INT DES 74-107]

WESTERN GASIFICATION CO.

Coal Gasification Project; Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental

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statement on a proposed coal gasification project which will ultimately produce 1 billion cubic feet of synthetic natural gas each day. Written comments may be submitted to the Regional Director (address below) on or before January 30, 1975.

Copies are available for inspection at the following locations:

Office of Communications, Room 7220, Department of the Interior, Washington, D.C. 20240. Telephone (202) 343-9247.

Office of Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240. Telephone (202) 343-[illegible].

Division of Engineering Support, Technical Services and Publications Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225. Telephone (303) 234-3006.

Office of the Regional Director, Bureau of Reclamaion, Federal Building, 125 South State Street, Salt Lake City, Utah 84111. Telephone (801) 524-5592.

Project Construction Engineer, P.O. Box 28, 1006 Municipal Drive, Farmington, New Mexico 87401. Telephone (505) 325-1794.

Single copies of the draft statements may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: December 11, 1974.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.74-29114 Filed 12-13-74;8:45 am]

Office of the Secretary

OUTER CONTINENTAL SHELF

Geological and Geophysical Exploration

1. Pursuant to the authority contained in Section 11 of the Outer Continental Shelf Lands Act, 43 U.S.C. § 1340, 67 Stat. 469, notice is hereby given that no geological or geophysical explorations shall be conducted on any part of the Outer Continental Shelf of the United States unless (a) such explorations are conducted by a person or persons as defined in section 2(d) of said Act, 43 U.S.C. 1331 (d), and (b), a permit therefor is first obtained by such person or persons from the appropriate Area Oil and Gas Supervisor of the United States Geological Survey.

2. All such permits issued after the date of this notice shall include the following provisions:

(1) If upon approval of this application conditions are added by the Supervisor and set forth upon or attached to the approved application which is returned to the applicant, the applicant will, upon commencement of operations covered by the permit, be deemed to have agreed to such conditions and they will become conditions of the permit.

(2) Exploration operations shall be conducted in compliance with the terms and conditions of this permit, applicable OCS orders and other orders of the Supervisor, the regulations in 30 CFR Part 251 from and after such time as they are adopted and as modified thereafter except that if any provision of such regulations is in conflict with the express terms of this permit, the terms of this permit shall control, and other applicable regulations, and with applicable laws.

(3) Upon request of the Supervisor, the data acquired under this permit and the processed information derived therefrom after it has been processed for the permittee's own use or for delivery to any third party shall be submitted to the Supervisor within 30 days after request. Processed information is data in analog or digital format, the form of which has, in order to facilitate interpretation, been changed through processing operations including, but not limited to, the application of corrections for known perturbing causes, the rearrangement of the data, filtration to remove erroneous signals and interference, and the combination and transformation of data elements. The intent of this provision is to obtain for the United States without cost the information which the permittee processes for his own use or supplies to third parties. It is not intended to require the permittee to supply interpreted, as distinguished from processed, information.

The United States will not disclose for ten years or for such longer period as may be established by regulations promulgated by the Secretary of the Interior in the future (1) all trade secrets and commercial or financial information which are privileged or confidential and which are received by the Department of the Interior pursuant to this permit and (2) all geological and geophysical information and data, including maps, concerning wells, received by the Department of the Interior pursuant to this permit.

(4) If the exploration is to be conducted in a leased area, necessary precautions will be taken to avoid interference with operations on the lease and damage of existing structures and facilities. The lessee (or operator) of the leased area will be notified by letter prior to entering or commencing operations and a copy of the letter sent to the official approving this application.

3. The Area Oil and Gas Supervisor may add to any future permit for geological and geophysical exploration on the Outer Continental Shelf such other terms and provisions, not inconsistent herewith, as he may deem appropriate.

4. Any permit issued on or after November 1, 1974, which contains a provision requiring disclosure of geological and geophysical data and processed information upon request of the Department shall be amended by the substitution of the provisions set forth in paragraph 2 of this notice for the provision requiring disclosure, if the person holding the permit shall on or before December 31, 1974, request the appropriate Area Oil and Gas Supervisor in writing to make the amendment.

5. All prior notices and orders issued under the authority of the Secretary of the Interior, including, without limitation, those notices enumerated below; are hereby amended and modified to the extent necessary to conform to the terms of this notice:

Notice dated March 7, 1964 of the Secretary of the Interior.
Notice dated July 28, 1961 of the Secretary of the Interior
Notice of September 6, 1960 of the Acting Secretary of the Interior
Notice dated August 5, 1960 of the Acting Secretary of the Interior
Notice dated March 27, 1956 of the Secretary of the Interior
Notice dated March 31, 1955 of the Secretary of the Interior
Notice dated March 23, 1954 of the Secretary of the Interior
Notice dated September 17, 1963 of the Acting Secretary of the Interior

6. Nothing in this notice shall apply to geological and geophysical explorations on the Outer Continental Shelf of the United States conducted by any agency of the United States.

Dated: December 11, 1974.

JOHN C. WHITAKER,
Secretary of the Interior.

[FR Doc.74-29190 Filed 12-13-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

FRESH PEACHES GROWN IN GEORGIA

Order Directing That a Referendum Be Conducted; Designation of Referendum Agents and Determination of Representative Period

Pursuant to the applicable provisions of Marketing Agreement No. 99, as amended, and Order No. 918, as amended (7 CFR Part 918), and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601-674), it is hereby directed that a referendum be conducted among the growers who, during the period January 1, 1974, through October 31, 1974 (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged, in Georgia, in the production of peaches for market to determine whether such growers favor the termination of the said amended marketing agreement and order. William C. Knope and John R. Toth of the Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, P.O. Box 9, Lakeland, Florida 33802, are designated as the referendum agents to conduct said referendum severally or jointly.

The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR 900.400 et seq.).

Copies of the text of the aforesaid marketing order may be examined in the office of the referendum agents or of the Director, Fruit and Vegetable Division,

Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Ballots to be cast in the referendum may be obtained from the referendum agents and any appointee hereunder.

Dated: December 11, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74-29187 Filed 12-13-74;8:45 am]

Soil Conservation Service

EAST FRANKLIN WATERSHED PROJECT, LOUISIANA

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental impact statement (EIS) for the East Franklin Watershed Project, Catahoula, Franklin, and Richland Parishes, Louisiana, USDA-SCS-EIS-WS-(ADM)-75-2-(D)-LA.

The EIS concerns a plan for watershed protection, flood prevention, and drainage. The planned works of improvement include conservation land treatment supplemented by channel work. The channel work will include clearing and debris removal on 15 miles of existing channels, 6 miles of new channel construction, and 165 miles of enlargement by excavation to provide improved water management in a flatland watershed that is 74 percent agricultural crop land and grassland. Of the 186 miles of work proposed on existing streams or channels, 160 miles will involve those with only ephemeral flow, and 17 miles with intermittent flow. The balance involves existing ponded or flowing water or completely new channels where none existed before.

A limited supply of the draft EIS is available at the following location to fill single copy requests:

Soil Conservation Service, USDA
3737 Government Street
Alexandria, Louisiana 71301

Copies of the draft EIS have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Alton Mangum, State Conservationist, Soil Conservation Service, Post Office Box 1630, Alexandria, Louisiana 71301.

Comments must be received on or before February 11, 1975 in order to be considered in the preparation of the final environmental impact statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

Dated: December 6, 1974.

J. W. HAAS,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR. Doc.74-29193 Filed 12-13-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

LITTLE COMPANY OF MARY HOSPITAL AND CASE WESTERN RESERVE UNIVERSITY ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before January 6, 1975.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00222-99-90000. Applicant: Little Company of Mary Hospital, 4101 Torrance Boulevard, Torrance, California 90503. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in the course Applied Technology of CAT to train registered Radiologic Technologists to perform the CAT examination and to have practical in-depth knowledge of the operation of the different components of the equipment. In addition the article will be used in a program on the Clinical Application of CAT to provide interested physicians with first hand experience in the use of the CAT. Application received by Commissioner of Customs: November 20, 1974.

Docket number: 75-00223-65-46040. Applicant: Case Western Reserve University, Dept. of Metallurgy & Molecular Science, Cleveland, Ohio 44106. Article: Electron Microscope, Model Elmiskop 102. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used in the following research projects in the Department of Metallurgy and Materials Science:

1. Electron Irradiation Damage—Studies of the defect clusters induced by radiation damage, such as dislocation loops, voids, transformation products, etc. in various metals, alloys and ceramic oxides.

2. Dislocation-Solute Atom Interactions in Alloys—Studies of dislocation and precipitate substructure in refractory metals as related to mechanical properties.

3. Dispersion-Hardened Alloys—Analysis of the distribution of particles, dislocations and grain boundaries.

4. Structure of Martensites—Analysis of the structure resulting from transformations.

5. Strengthening Mechanisms in Ceramic Oxides—Studies of dislocations, precipitate structures and ordering reactions in spinel, sapphire, garnets and other oxides.

6. Processing Studies in Non-oxide Ceramics—Studies of the configurations of grain boundaries, stacking faults, etc. as a function of processing variables in silicon nitride.

7. Electron Microscopy of Opaque Minerals—Studies of the structure and identification of phases in minerals—particularly hematite, ilmenite and magnetite.

The article will also be used to teach undergraduates and graduate students the use, theory, and applications of electron microscopy to metallurgy and materials science.

Application received by Commissioner of Customs: November 20, 1974.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director, Special Import Programs Division.

[FR Doc.74-29189 Filed 12-13-74;8:45 am]

UNIVERSITY OF NEBRASKA MEDICAL CENTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00392-33-46040. Applicant: University of Nebraska Medical Center, 42nd and Dewey Avenue, Omaha, NE 68105. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for

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studies of human and lower animal cells and tissues, in both normal and pathological states. Included are investigations of:

(1) The alteration of fine structure of Sertoli and Leydig cells in animal and human testis after vasectomy.

(2) The ultrastructure of connective tissue cells involved in collagen formation during wound healing.

(3) The ultrastructural manifestations of hormone synthesis in the pituitary gland.

The article will also be used to teach graduate students, medical students, and medical residents the use of electron microscopy in courses *Fundamentals of Electron Microscopy* and *Selected Problems in Electron Microscopy*. In addition the article will be used by graduate students in research for the courses *Masters Thesis* and *Doctoral Dissertation*.

Comments: No comments have been received with respect to this application.

Decision: Application Denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Numbers 73-00493-33-46040 and 74-00124-33-46040 which were denied without prejudice to resubmission on July 27, 1973 and January 3, 1974, respectively, for information deficiencies. In the reply to Question 8 in the present submission the applicant alleged that the foreign article provided the following pertinent characteristics:

1. Ease of column alignment.

2. Magnifications of from 200–200,000 diameters, and

3. Guaranteed resolution of 5 Angstroms.

At the time the foreign article was ordered two domestically manufactured electron microscopes were available, the Model ETEM–101, a relatively simple, low resolution instrument manufactured by Elektros Incorporated, and the Model EMU–4C supplied by the Adam David Company.

The Department of Health, Education, and Welfare (HEW) reviewed this application and found the Model EMU–4C to be the most closely comparable domestic instrument, because the ETEM–101 might be considered to have inadequate resolution and magnification for some of the intended ultrastructural studies.

HEW advises in its memorandum dated June 14, 1974 that the Model EMU–4C provides equal guaranteed resolution, equal magnification range and equivalence with respect to other features. HEW also advises that the alleged superior ease of alignment, or basic simplicity, for the foreign article is neither established or pertinent within the meaning of § 701.2(n) of the regulations.

Accordingly, HEW recommends that the research and teaching purposes intended by the applicant do not establish a pertinent characteristic for the article that justifies duty-free entry. Therefore, we find that the Model EMU–4C is of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Acting Director, Special Import Programs Division.

[FR Doc.74-29160 Filed 12-13-74;8:45 am]

INDUSTRY SECTOR ADVISORY COMMITTEES FOR MULTILATERAL TRADE NEGOTIATIONS

Notice of Meetings

A meeting of each of the 26 Industry Sector Advisory Committees for Multilateral Trade Negotiations will be held at the U.S. Department of Commerce, 14th and E Streets, N.W., Washington, D.C., beginning at 10:00 a.m., on the following days:

	ISAC
Thursday, Jan. 16, 1975...	1 Food and kindred products.
	2 Textiles and apparel.
	3 Lumber and wood products.
	9 Leather and products.
	21 Photographic equipment and supplies.
	26 Miscellaneous manufacturers, toys, musical instruments, furniture, etc.
Tuesday, Jan. 21, 1975...	4 Paper and products.
	5 Industrial chemicals.
	6 Drugs, soaps, cleaners, and toilet preparations.
	7 Paints, gums, wood chemicals, and miscellaneous chemical products.
	20 Scientific and controlling instruments.
Thursday, Jan. 23, 1975...	8 Rubber and plastics materials.
	10 Stone, clay, and glass products.
	16 Office and computing equipment.
	17 Machine tools, other metalworking equipment, and other nonelectrical machinery.
	22 Communication equipment and non-consumer electronic equipment.
Tuesday, Jan. 28, 1975...	11 Ferrous metals and products.
	14 Other fabricated metal products.
	15 Construction, mining, agricultural, and oil field machinery and equipment.
	19 Consumer electronic products and household appliances.
	23 Railroad equipment and miscellaneous transportation equipment.
Thursday, Jan. 30, 1975...	12 Nonferrous metals and products.
	13 Hand tools, cutlery, and tableware.
	18 Electrical machinery, power boilers, nuclear reactors, and engines and turbines.
	24 Aerospace equipment.
	25 Automotive equipment.

The Committees have been established to provide the Secretary of Commerce and the Special Representative for Trade Negotiations with detailed views and information regarding trade barriers affecting individual products in each respective Committee's sector of U.S. industry for use during the multilateral trade negotiations to be undertaken by the United States.

Agenda items for all meetings are as follows:

I. *General Session* (Department of Commerce Auditorium 10:00 a.m.—12:00 p.m.).

A. Introduction.

B. Summary of Final TRA Provisions and GATT MTN Status/Outlook.

Presentation Followed by Discussion Period for ISAC Members.

C. Outline of ISAC Functions and Work Program.

D. Legal and Operational Considerations.

E. Discussion Period for ISAC Members re General ISACs' Topics/Concerns.

F. Recess.

II. *Individual Afternoon Sessions* (1:30–3:30 p.m., Rooms to be Announced on Day of Meeting).

A. Introduction and Discussion of Individual ISAC Topics.

B. Election of ISAC Chairman and Vice Chairman.

C. Discussion re Possible Steering Group, Election of Members, If Necessary.

D. Summary of Immediate ISAC Work/Scheduling.

E. Final Discussion Period.

F. Adjournment.

The meetings will be open to public attendance, and a limited number of seats will be available. Any member of the public who wishes to file a written statement with any of the Committees may do so before or after the meeting.

In order to facilitate preparations, persons who wish to attend any of these meetings are requested to contact Ms. Clare Soponis, Room 3026, U.S. Department of Commerce, Washington, D.C. 20230, telephone (AC 202) 967-3268, by

close of business 5 days prior to the specific meeting date concerned. Any questions regarding the meetings should also be directed to Ms. Soponis.

LAWRENCE A. FOX,
Deputy Assistant Secretary for International Economic Policy and Research.

DECEMBER 9, 1974.

[FR Doc.74-29167 Filed 12-13-74;8:45 am]

Maritime Administration

CONTAINER AND UNITIZED CARGO SHIPS

Reconstruction To Increase Container Capacity; Computation of Foreign Cost

Notice is hereby given of the intent of the Maritime Subsidy Board to compute the estimated foreign cost for the reconstruction of four (4) single screw container and unitized cargo ships to increase their refrigerated cargo carrying capacity by installation of a 144 foot midbody, modification and strengthening of the main deck and related structure and provision and installment of additional auxiliary machinery and other equipment required for the added cargo carrying capacity, pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended.

Any person, firm or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on January 8, 1975 with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th & E Streets, NW., Washington, D.C. 20230.

Dated: December 11, 1974.

By Order of the Maritime Subsidy Board Maritime Administration.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.74-29233 Filed 12-13-74;8:45 am]

[Department Organization Order 30-2B; Amdt. 1]

NATIONAL BUREAU OF STANDARDS

Functions and Organization

This order, effective November 29, 1974, amends the material appearing at 38 FR 27427 of October 3, 1973.

Department Organization Order 30-2B, dated September 11, 1973, is hereby amended as follows:

1. SEC. 12.

Institute for Applied Technology. a. Paragraph .06 The *Product Evaluation Technology Division* is deleted. Subsequent paragraphs .07 through .11 are renumbered .06 through .10, respectively.

b. The present paragraph .09, The *Measurement Engineering Division*, is deleted, and a new renumbered paragraph .06 is inserted to read as follows:

.06 The *Center for Consumer Product Technology* shall, in cooperation with the appropriate organizations outside NBS, coordinate and conduct research and the design of measurement and test methods to evaluate the safety, energy efficiency, and other performance characteristics of consumer products and law enforcement equipment.

a. The *Director* shall report to the Director, Institute for Applied Technology and shall direct the development, execution, and evaluation of the programs of the Center. The Deputy Director shall assist in the direction of the Center and perform the functions of the Director in his absence.

b. The *organizational units* of the Center for Consumer Product Technology shall be:

Office of Consumer Product Safety
Law Enforcement Standards Laboratory
Product Engineering Division
Product Systems Analysis Division.

c. In subparagraph .11b., the *organizational units* of the Center for Building Technology, item 5, Structures, Materials, and Life Safety Division is amended to read, "Structures, Materials, and Safety Division."

2. The organization chart attached to this amendment supersedes the chart attached to Department Organization Order 30-2B of September 11, 1973. A copy of the organization chart is attached to the original of this document on file in the Office of the Federal Register.

RICHARD W. ROBERTS,
Director,
National Bureau of Standards.
BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

Approved:

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.74-29113 Filed 12-13-74;8:45 am]

[Department Organization Order 25-5B; Amdt. 2]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Functions and Organization

This order, effective November 14, 1974, further amends the material appearing at 39 FR 17786 of May 20, 1974; and 39 FR 26766 of July 23, 1974.

Department Organization Order 25-5B dated April 25, 1974 is hereby further amended as follows:

1. SEC. 3.

Office of the Administrator. a. Paragraph .02 is revised to read as follows:

.02 The *Deputy Administrator* assists the Administrator in formulating policies and in managing NOAA.

b. The following new paragraph .05 is added:

.05 The *Naval Deputy to the Administrator* shall insure necessary coordination and joint planning with the Navy on oceanographic programs of mutual organizational interest.

2. SEC. 7. Assistant Administrator for Administration. a. The first sentence of paragraph .02 *Office of Management and Computer Systems* is revised by inserting the phrase "coordinate the Federal planning program for environmental telecommunications systems;" after the phrase ending with the words "telecommunications requirements and systems;".

b. Paragraph .06, the *Northwest Administrative Service Office*, is revised by inserting the word "finance," after the words "personnel administration,".

3. SEC. 15. Environmental Data Service. The following new paragraph .07 is added:

.07 The *Center for Climatic and Environmental Assessment* shall assess the impact of climate and weather changes and other natural phenomena on national and international socioeconomic events through development of assessment programs, statistical models and new applications of historical data bases; track and verify global climatic changes and weather pattern fluctuations; and determine the probable relationships between climatic patterns and man-made accidents.

4. The organization chart attached as Exhibit 1 to this amendment supersedes the organization chart dated July 1, 1974. A copy of the organization chart is attached to the original of this document on file in the Office of the Federal Register.

Effective on November 14, 1974.

ROBERT M. WHITE,
Administrator, National Oceanic and Atmospheric Administration.

Approved:

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.74-29162 Filed 12-13-74;8:45 am]

[Department Organization Order 20-6; Amdt. 1]

OFFICE OF INVESTIGATIONS AND SECURITY

Functions and Organization

This order, effective November 15, 1974, amends the material appearing at 38 FR 34134 of December 11, 1973.

Department Organization Order 20-6, dated November 26, 1973, is hereby amended as follows:

SEC. 3

a. Paragraphs .02 through .07 are hereby renumbered as .03 through .08.

b. A new paragraph .02 is added to read as follows:

.02 *Safeguards Review.* The Office shall independently initiate and conduct a program to review the effectiveness of the clearance procedures and documentary safeguards established for contractors with, and applicants, recipients and beneficiaries of financial assistance provided by, the Department. The program includes such matters as the scope and veracity of certifications and representations submitted by those persons, agency procedures relating thereto, and selective investigations as may be necessary.

a. The results of such reviews and investigations, including evidence or allegations regarding possible unlawful or improper activity, shall be reported to the Secretary through the Assistant Secretary for Administration and the Under Secretary.

b. This responsibility is intended to be supplementary to, and not in substitution for or in duplication of, present assignments

of responsibility to other Departmental organizations for project administration, compliance monitoring, audit, and related activities.

Effective: November 15, 1974.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc.74-29161 Filed 12-13-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

VENEREAL DISEASE CONTROL ADVISORY COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act (Public Law 92-463), the Director, Center for Disease Control, announces the meeting date and other required information for the following National Advisory body which is scheduled to assemble during the month of January 1975.

Committee name	Date/time/place	Type of meeting and/or contact person
Venereal Disease Control Advisory Committee.	Jan. 13, 1975, 9 a.m., El Tesoro Downtown Motor Hotel, 139 Lexington St., San Antonio, Tex. 78205.	Open—contact Mr. Joe H. Miller, Building B, room 320, Center for Disease Control, Atlanta, Ga. 30333, code 404-633-3311, extension 2367.

Purpose: The Committee is charged with advising on means and methods of implementing venereal disease control programs, reviewing current and proposed program operations and suggesting new areas of control emphasis.

Agenda: Items will include discussion of Committee recommendations from the August 7, 1974, Committee meeting; program progress; and evaluation methods for venereal disease information materials.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: December 6, 1974.

WILLIAM C. WATSON, Jr.,
Director, Center for Disease Control.

[FR Doc.74-29194 Filed 12-13-74;8:45 am]

Office of Education

TEACHER CORPS PROJECTS

Proposed Criteria for Selection of Applications

Pursuant to the authority contained in Part B-1 of the Education Professions Development Act of 1965, as amended (79 Stat. 1255-1258 as amended, 20 U.S.C. 1101-1107a), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to issue the criteria set forth below as the basis on which applications submitted for Teacher Corps projects for Fiscal Year 1975 will be judged.

Because of the recent amendments to the Teacher Corps legislation made by section 835 of the Education Amendments of 1974, Pub. L. 93-380, projects are now authorized which, in addition to providing support for broadening programs of teacher preparation, also provide support for demonstration projects for retraining of experienced teachers and teacher aides, so as to strengthen the educational opportunities available to children in school attendance areas having concentrations of low-income families. Assistance under this program will be subject to Part 100a of Title 45 of the Code of Federal Regulations.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed criteria to the Teacher Corps, U.S. Office of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202. Comments received in response to this notice will be available for public inspection Mondays through Fridays between 8:30 a.m. and 4:30 p.m. at the Teacher Corps office, Room 4031 of Federal Office Building Number Six, 400 Maryland Avenue, SW, Washington, D.C.

All comments, suggestions, or objections to be considered must be received not later than January 15, 1975 unless such 30th day is a Saturday, Sunday, or Federal holiday, in which case such material must be received by the next following business day.

(Catalog of Federal Domestic Assistance Program No. 13.489 Teacher Corps—Operations and Training)

Dated: November 13, 1974.

T. H. BELL,
U.S. Commissioner of Education.

Approved: December 10, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare

I. CRITERIA FOR THE SELECTION OF TEACHER CORPS PROJECT APPLICATIONS

In addition to the criteria set forth in 45 CFR 100a.26(b), the following criteria will also be used as a basis for approving applications for Teacher Corps projects and in determining the amount of the award under approved applications:

(A) *Instructional program.* The extent to which it is shown that the proposed instructional program (i) provides training options including training designed to enable Teacher Corps interns, teacher aides, and experienced teachers to provide individualized instruction for pupils in classrooms at the local school level, (ii) provides adequate means for identifying and evaluating teacher interns', teacher aides' and experienced teachers' competencies and (iii) makes provision for the training necessary to prepare them to serve in schools in areas having concentrations of low income families (as determined in accordance with section 103 of Title I of the Elementary and Secondary Education Act of 1965 as amended), including training necessary to identify children with learning and behavioral problems, diagnose their special needs, and prescribe learning activities to meet such needs of these children in the regular classrooms of such schools. (See paragraph F.)

(20 U.S.C. 1101, 1103)

(B) *Community based education.* The extent to which the application (i) delineates specific opportunities for consultation with and involvement of parents of children to be served by the proposed project for mutual, deliberate, collaborative decision making in the planning, development, implementation, and evaluation of such project; (ii) includes evidence that such participation has been encouraged and has in fact occurred in the development of the application; (iii) provides for developing the capabilities of such parents, residents in the community, and secondary education and college students to serve as part-time tutors or full-time instructional assistants in the project (including, where appropriate, provision for university courses) and (iv) sets forth policies and procedures for adequate dissemination of program plans and evaluation to such parents and the public.

(20 U.S.C. 1101, 1103, 1231d)

(C) *Institutional adoption.* The extent to which the proposed project is designed in such a manner as to facilitate adaptation or adoption of successful elements of the project by the applicant institution or agency into its overall instructional program.

(20 U.S.C. 1101, 1103)

(D) *Needs analysis.* Whether the application specifies that the retraining of experienced teachers and teacher aides, along with the training of teacher interns, will be based on an analysis of the critical nature of the need for special skills and/or personnel to meet the special learning needs of children from low income families, including improving opportunities for children with learning and behavioral problems.

(20 U.S.C. 1101, 1103)

(E) *Multi-cultural consideration.* The extent to which the application indicates special provisions for meeting the diverse cultures represented by the proposed project's target populations, both in terms of the training program for experienced teachers, teacher interns, teacher aides, and community volunteers, and of the specific needs of the communities and students to be served by the Teacher Corps project. In proposals for programs in areas where the target population has limited cultural diversity, there must be an indication of the extent to which teacher interns, experienced teachers and teacher aides are prepared to understand and to use multicultural concepts in their work with children.

(20 U.S.C. 1101, 1103)

(F) *Diagnostic-prescriptive teaching.* The extent to which the application indicates special provisions for training in the techniques of diagnostic-prescriptive teaching, including skills in the identification of special learning problems, skills in diagnosing particular learning needs, and skills in prescribing programs to meet such needs. The application must show how these skills can be applied by participants to improve educational opportunities for all children to be served by the project, but especially for improving the educational opportunities in the regular classroom for children with learning and behavioral problems. Development of diagnostic-prescriptive teaching skills must be an ongoing, sequentially organized part of the program design, regardless of the major teaching area, subject, or grade levels with which the Teacher Corps application is concerned.

(20 U.S.C. 1101, 1103)

(G) *School-staff focus.* The extent to which the proposed retraining of experienced teachers and teacher aides will be available to the entire educational staff of each individual school involved in the project.

(20 U.S.C. 1101)

(H) *Field based instruction.* The extent to which instruction for experienced teachers, teacher aides, teacher interns, or community volunteers will be delivered at or near their teaching stations, in those instances when instruction will be enhanced by the close proximity to such teaching stations, rather than on the campus of the participating college or university.

(20 U.S.C. 1101, 1103)

(I) *Collaborative decision-making.* The extent to which the application indicates wide participation in collaborative decision-making by a school-community council for each participating school. Activities of the council must be planned so as to assure active and continuing involvement by, and responsiveness to the needs and desires of, as many as possible of the following groups or institutions: (i) The respective Teacher Corps role groups (including teacher interns, team leaders, project management staff, and coordinators); (ii) communit(ies), institution(s) of higher education, and local education agenc(ies) involved in the project; (iii) professional associations of teachers and/or other educators; (iv) the state education department (teacher education certification offices); (v) officials of other federally supported education projects; (vi) representatives of social service (public and private) agencies assigned responsibilities within the communities served by the Teacher Corps project; (vii) parent, community, social, welfare, or educational organizations; and (viii) other organizations which may impinge upon the success of the project or the Teacher Corps role groups described in (i) above.

(20 U.S.C. 1101, 1103)

(J) *Teaching teams.* The extent to which the application sets forth a teaching team organization which will be able to operate effectively in carrying out the purposes of the project. (A teaching team is defined as not less than 4 nor more than 10 teacher interns led by an experienced teacher. Each project must contain 1 or 2 teams, but shall not exceed a maximum of 10 teacher interns for that project.)

(20 U.S.C. 1103)

(K) *Special characteristics.* Within the context of the proposed strategy, the extent to which the application indicates special characteristics of the project which will make it adaptable to the specific conditions of the sites and communities served by the project (such as population density, housing patterns, etc.).

(20 U.S.C. 1101, 1103)

(L) *Equitable geographical distribution.* The extent to which approval of the project will further the equitable geographical distribution of projects, including proportional representation among urban and rural areas.

(20 U.S.C. 1101, 1103)

(M) *Management and evaluation plans.* The extent to which the application sets forth specific plans for program organization, management, and evaluation of both process and outcome. Specific data collection procedures must be described, based on the careful specification of program goals, performance criteria, and regular program review, so as to assure a record of the project's demonstration aspects and its achievements in terms of Teacher Corps purposes.

(20 U.S.C. 1101, 1103)

II. Demonstration Requirements

Each application for a Teacher Corps project must combine (1) the meeting of local educational needs and concerns with (2) a demonstration project for the training of teacher interns and the retraining of experienced teachers and teacher aides. The demonstration project must adopt one of the following broadly defined strategies:

(A) *The Training complex.* A training complex is an organization designed to provide preservice and inservice education for potential and practicing educational personnel at a site located within or near the schools where Teacher Corps interns are serving and where retraining of experienced teachers and teacher aides is being initiated. Applications may show wide diversity in the features of a training complex, but it is essential that the application describe plans for (i) the direct involvement of training personnel from the institution of higher education involved in the Teacher Corps project, Teacher Corps interns, experienced teachers, teacher aides, and community volunteers in decision-making; (ii) the assuring that instructional experiences for teacher interns, experienced teachers and teacher aides will be administered through the training complex, and (iii) a wide use of community and local educational agency resources for the development and delivery of both training and retraining.

(20 U.S.C. 1101, 1103)

(B) *Competency-based teacher education.* Competency-based teacher education is marked by the specification of objectives for learning based on observation of teacher skills and behaviors which positively influence children's learning. Instructional programs for experienced teachers, teacher interns, teacher aides, and community volunteers are delivered through sequential programs based on various levels of professional activities and competencies. Applications must describe how the proposed project will (i) demonstrate objective-based programs of training and retraining for educational staff which are designed to improve learning opportunities for low-income children through careful analyses of training and retraining needs; (ii) develop systematic management processes so that persons in training or retraining can evaluate their own learning needs and achievements; (iii) provide alternative modes of instruction based on the achievement of pre-determined competencies for teachers or other educational personnel in relation to the improvement of pupil learning; and (iv) direct the use of university and other program resources towards meeting the needs of teacher interns, experienced teachers, teacher aides, and community volunteers within the school districts served by the project.

(20 U.S.C. 1101, 1103)

(C) *Training for implementing alternative school designs.* School districts which have planned a major organizational or structural educational innovation may choose to demonstrate, through a Teacher Corps project, a program of training teacher interns and retraining experienced teachers and teacher aides which helps meet the special needs for implementing such an innovation. Applications must (i) contain assurances that the school district is already committed to this innovation and that the institution of higher education involved in the Teacher Corps project will be able to demonstrate appropriate training and retraining activities; (ii) contain evidence that other aspects of the innovation have been planned and provided for separately from those supported under the Teacher Corps program and described in the application (which is limited to training and retraining activities); (iii) indicate directions for the improvement of training of Teacher Corps interns and retraining of experienced teachers and teacher aides through relating these activities to institutional change; and (iv) demonstrate a viable strategy for improving the education of low income children by improving both the skills of educational personnel and the conditions under which education takes place.

(20 U.S.C. 1101, 1103)

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(D) *Interdisciplinary training approaches.* This strategy provides for training of teacher interns and the retraining of experienced teachers and teacher aides through the demonstration of programs which emerge from the participation in teacher education by representatives from various academic disciplines (such as the liberal and fine arts, physical and natural sciences, social sciences, and humanities), and which are aimed at increasing the educational opportunities of low income children by reorganizing the base of knowledge and experience which the educational staff can use as a basis for planning and managing learning activities. Applications must emphasize: (i) The collaborative planning by representatives of diverse disciplines for developing programs of training and retraining geared specifically to populations of learners from low income families; (ii) the relationship of multidisciplinary training and retraining programs to the specific cultural and life styles of the pupils to be served so as to reinforce extant community values; (iii) the development of professional educational staffs which are flexible in their organization and use of knowledge in relation to growth and development of Children as members of specific cultural and social groups; and (iv) the improvement of interrelationships among educational agencies and institutions (such as universities and local school districts) and other community institutions.

(20 U.S.C. 1101, 1103)

(E) *Training for the systematic adaption of research findings.* There is presently available, in immediately usable form, a substantial body of results from research concerning learning and educational processes. Such research results can be incorporated into the design of programs for the training of teacher interns and the retraining of experienced teachers and teacher aides. This research can be drawn upon to identify training objectives, select approaches to training and evaluation, create instructional materials and activities or adapt existing materials to new situations, and organize training or retraining programs. This research evidence represents a vast potential resource which, as yet, has not been organized into systemic or overall program demonstrations. Applications selecting this strategy must emphasize (i) the systemic organization of validated research findings into demonstration programs of teacher intern training and the retaining of experienced teachers and teacher aides; (ii) the utilization of data based solutions to persistent educational problems addressed by the application; (iii) the relating of research activities and findings to the everyday life and activities of practicing educational personnel; and (iv) the broadscale, public demonstration of programs based on research findings and involving collaboration among school districts and educational groups.

(20 U.S.C. 1101, 1103)

[FR Doc.74-29212 Filed 12-13-74;8:45 am]

TEACHER CORPS PROJECTS

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Part B-1 of the Education Professions Development Act of 1965, as amended (20 U.S.C. 1101-1107a), applications are being accepted from institutions of higher education and local education agencies for Teacher Corps project grants.

Applications must be received by the U.S. Office of Education Application Control Center on or before January 20, 1975.

A. *Application sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.489. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail roms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Teacher Corps, Office of Education, Room 4031, 400 Maryland Avenue, SW, Washington, D.C. 20202.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a), published in the FEDERAL REGISTER on November 6, 1973 at 38 FR 30654 and amended on May 31, 1974 at 39 FR 19211, and the proposed Funding Criteria for Teacher Corps projects published in this issue of the FEDERAL REGISTER.

(Catalog of Federal Domestic Assistance Number 13.489; Teacher Corps—Operations and Training)

Dated: December 9, 1974.

DUANE J. MATTHEIS,
Acting U.S. Commissioner of Education.

[FR Doc.74-29213 Filed 12-13-74;8:45 am]

Office of Education

ADVISORY COUNCIL ON FINANCIAL AID TO STUDENTS

Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the Advisory Council on Financial Aid to Students will be held on January 23 and 24, 1975, at 9 a.m.-4:30 p.m., in Room 4173 (Commissioners Conference Room), Federal Office Building #6, 400 Maryland Avenue SW., Washington, D.C. 20202.

The Advisory Council on Financial Aid to Students is established under Pub. L. 92-318, section 499(a). The Committee is established to advise the Commissioner on matters of general policy relating to Financial Aid to Students.

The meeting of the Committee shall be open to the public. The proposed agenda includes:

1. The role of work in financing student costs of Postsecondary Education.
2. Which grant programs should be encouraged.
3. How should the total package of student aid—loans, grants, work—fit together?
4. What is the most cost effective way to finance student loans?

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of Warren T. Troutman located in Room 4525, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C. 20202.

Signed at Washington, D.C., on December 11, 1974.

WARREN T. TROUTMAN,
Delegate.

[FR Doc.74-29191 Filed 12-13-74;8:45 am]

ADVISORY COUNCIL ON FINANCIAL AID TO STUDENTS

Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the Advisory Council on Financial Aid to Students will be held on February 27 and 28, 1975, at 9 a.m.-4:30 p.m., in Room 3000 (Large Conference Area), Federal Office Building #6, 400 Maryland Avenue, SW, Washington, D.C. 20202.

The Advisory Council on Financial Aid to Students is established under Pub. L. 92-318, section 499(a). The Committee is established to advise the Commissioner on matters of general policy relating to Financial Aid to Students.

The meeting of the Committee shall be open to the public. The proposed agenda includes:

1. The role of work in financing student costs of Postsecondary Education.
2. Which grant programs should be encouraged.
3. How should the total package of student aid—loans, grants, work—fit together?
4. What is the most cost effective way to finance student loans?

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of Warren T. Troutman located in Room 4525, Regional Office Building #3, 7th and D Streets, SW, Washington, D.C. 20202.

Signed at Washington, D.C., on December 11, 1974.

WARREN T. TROUTMAN,
Delegate.

[FR Doc.74-29192 Filed 12-13-74;8:45 am]

National Institutes of Health

AD HOC REVIEW COMMITTEE FOR FREDERICK CANCER RESEARCH CENTER

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Ad Hoc Review Committee for Frederick Cancer Research Center Basic Research Program, National Cancer Institute, January 8, 1975, National Institutes of Health, Building 31-B, Conference Room 5.

This meeting will be open to the public on January 8, 1975 from 9 a.m. to 12:30 p.m., to discuss the proposed basic research program to be established at the Frederick Cancer Research Center. Attendance by the public will be limited to space available. In accordance with the provisions set forth in section 552 (b) (4) and 552(b) (6), Title 5, U.S. Code and section 10(d) of P.L. 92-463, the meeting will be closed to the public on January 8, 1975 from 1:30 p.m. to adjournment for the review, discussion and evaluation of this contract proposal. This proposal contains information of a proprietary or confidential nature, including technical information; financial data such as salaries; and, personal information concerning individuals associated with the proposal.

Mrs. Marjorie Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish a summary of the meeting and rosters of committee members.

Dr. William W. Payne, Executive Secretary, Building 560, Room 21-32, NCI Frederick Cancer Research Center, Fort Detrick, Frederick, Maryland 21701 (301/663-7305) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health)

Dated: December 9 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74-29146 Filed 12-13-74;8:45 am]

ANIMAL RESOURCES ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Animal Resources Advisory Committee, Division of Research Resources, February 3-4, 1975, National Institutes of Health, Building 31, Conference Room 2.

This meeting will be open to the public on February 3 from 9 a.m. to 10:30 a.m., during which time there will be a brief staff presentation on the current status of the Animal Resources Program. The Committee will select future meeting dates. In accordance with the provisions set forth in sections 552(b) (4) and 552(b) (6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 10:30 a.m. to 5 p.m. on February 3 and from 9 a.m. to 5 p.m. on February 4 for the review, discussion, and evaluation of individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, Building 31, Room 5B39, Bethesda, Maryland 20014, 301/496-5545, will provide summaries of the meeting and rosters of Committee members. Dr. John E. Holman, Executive Secretary, Animal Resources Advisory Committee, Building 31, Room 5B35, Bethesda, Maryland 20014, 301/496-5507, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.306, National Institutes of Health)

Dated: December 9, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74-29156 Filed 12-13-74;8:45 am]

ARTIFICIAL KIDNEY-CHRONIC UREMIA ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Artificial Kidney-Chronic Uremia Advisory Committee, National Institute of Arthritis, Metabolism, and Digestive Diseases, February 26-27, 1975, Building 31, Conference Room 2, National Institutes of Health.

This meeting will be open to the public on February 26 from 9 a.m. to 10 a.m. to discuss administrative reports. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b) (4) and 552(b) (6), Title 5, U.S. Code and section 10(d) of P.L. 92-463, the meeting will be closed to the public on February 26, 1975, from 10 a.m. to 5 p.m. and on February 27, 1975, from 9 a.m. to adjournment for the review, discussion and evaluation of individual contract proposals. The proposals contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.

The Information Officer, NIAMDD, NIH, Mr. Victor Wartofsky, Building 31, Room 9A04, Bethesda, Maryland 20014 (301) 496-3583 will provide summaries of the meeting, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13-828, National Institutes of Health)

Dated: December 9, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74-29158 Filed 12-13-74;8:45 am]

CANCER CONTROL INTERVENTION PROGRAMS REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control Intervention Programs Review Committee, National Cancer Institute, January 23-24, 1975, Holiday Inn, Bethesda, Maryland.

The meeting will be open to the public on January 23, 1975, from 9 a.m. to 11 a.m., for an orientation to the organizational structure and program activities of the Division of Cancer Control and Rehabilitation. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b) (4) and 552(b) (6), Title 5, U.S. Code and section 10(d) of P.L. 92-463, the meeting will be closed to the public on January 23, 1975, from 11 a.m. to 5 p.m. and on January 24 from 9 a.m. until adjournment for the review, discussion and evaluation of individual contract proposals. The proposals contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of meetings and rosters of committee members.

Dr. Veronica L. Conley, Executive Secretary, Blair Building, Room 7A01, National Institutes of Health, Bethesda, Maryland 20014 (301/427-7943) will furnish substantive program information.

Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health.

Dated: December 9, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74-29151 Filed 12-13-74;8:45 am]

CANCER CONTROL SUPPORTIVE SERVICE REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control Supportive Services Review Committee, National Cancer Institute, January 16-17, 1975, National Institutes of Health, Building 31, Conference Room 9.

This meeting will be open to the public on January 16, 1975, from 9 a.m. to 11 a.m., for an orientation to the organizational structure and program activities of the Division of Cancer Control and Rehabilitation. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of P.L. 92-463, the meeting will be closed to the public on January 16, 1975, from 11 a.m. to 5 p.m. and on January 17 from 9 a.m. until adjournment for the review, discussion and evaluation of individual contract proposals. The proposals contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of meetings and rosters of committee members.

Dr. Veronica L. Conley, Executive Secretary, Blair Building, Room 7A01, National Institutes of Health, Bethesda, Maryland 20014 (301/427-7943) will furnish substantive program information.

Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health.

Dated: December 9, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74-29152 Filed 12-13-74;8:45 am]

CANCER SPECIAL PROGRAM ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Special Program Advisory Committee, National Cancer Institute, February 6-7, 1975, National Institutes of Health, Building 31, Conference Room 4.

This meeting will be open to the public on February 6, 1975, from 9 a.m. to 10 a.m. to discuss procedures to be followed in review of applications, assignment of applications to the Cancer Special Program Advisory Committee and to the Cancer Research Center Review Committee. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 6, 1975, from 10 a.m. to 5 p.m., and on February 7, 1975, from 9 a.m. to adjournment, for the review, discussion and evaluation, of individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concering individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014, (301/496-5708) will furnish summaries of the meetings and rosters of committee members.

K. C. Potter, D.D.S., Executive Secretary, Westwood Building, Room 805, National Institutes of Health, Bethesda, Maryland 20014, (301/496-7565) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.813, National Institutes of Health.)

Dated: December 9, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74-29155 Filed 12-13-74;8:45 am]

CLINICAL CANCER EDUCATION COMMITTEE

Meeting

Pursuant to Pub L. 92-463, notice is hereby given of the meeting of the Clinical Cancer Education Committee, National Cancer Institute, February 6 and 7, 1975, National Institutes of Health, Building 31, C-Wing, Conference Room 6.

This meeting will be open to the public on February 6, 1975, from 8:30 a.m. to 10:30 a.m., for welcome and introductions, remarks by the Director or Associate Director, National Cancer Institute, program orientation, announcements and future meeting dates. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 6, 1975 from 10:30 a.m. to 5:00 p.m. and February 7, 1975 from 8:30 a.m. to adjournment for the review, discussion, evaluation and recommendations pertaining to individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs ,and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications in the field of cancer education.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014, (301/496-5708) will furnish summaries of meetings and rosters of committee members.

Dr. Margaret H. Edwards, Executive Secretary, Westwood Building, Room 10A07, National Institutes of Health, Bethesda, Maryland 20014, (301/496-7761) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.814, National Institutes of Health)

Dated: December 9, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74-29157 Filed 12-13-74;8:45 am]

CLINICAL TRIALS REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Trials Review Committee, National Heart and Lung Institute, January 28-29, 1975, National Institutes of Health, Building 31, Conference Room 8.

This meeting will be open to the public from 8:30 a.m. to 9:30 a.m. on January 28, 1975, to discuss the minutes of the September 23, 1974 meeting and subsequent Council actions on the Committee recommendations, an administrative report, and an interim report. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 28, 1975 from 9:30 a.m. to adjournment, for the review, discussion and evaluation, of an individual grant application and individual contract proposals. The application/proposals contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the application/proposals.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart and Lung Institute, Building 31, Room 5A21, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Samuel M. Schwartz, Associate Director for Review, Division of Extramural Affairs, NHLI, Westwood Building, Room 655A, phone (301) 496-7351 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: December 9, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74-29149 Filed 12-13-74;8:45 am]

COMMITTEE ON CYTOLOGY AUTOMATION

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Committee on Cytology Automation, National Cancer Institute, January 23, 1975 and January 24, 1975, National Institutes of Health, Landow Building, Conference Room C–418.

This meeting will be open to the public on January 23, 1975 from 9 a.m. to 5 p.m., for the presentation of current progress in the area of Cytology Automation by contractors, and on January 24, 1975 from 9 a.m. to 10 a.m., to discuss Cytology Automation Contract Program, other new projects, and Contractors' Progress. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on January 24, 1975 from 10 a.m. to 5 p.m. for the review, discussion and evaluation, of individual contract proposals. The proposals contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of meetings and rosters of committee members.

Dr. Bill Bunnag, Executive Secretary, NCI, Building 10, Room 1A21, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5282) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health.)

Dated: December 9, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74–29163 Filed 12–13–74;8:45 am]

NATIONAL CANCER ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the National Cancer Advisory Board subcommittee meeting on environmental carcinogenesis, National Cancer Institute, January 20–21, 1975, 9:30 a.m. to adjournment, National Institutes of Health, Building 31, Conference Room 8. The entire meeting will be open to the public from 9:30 a.m. to adjournment on January 20 and from 9:30 a.m. to adjournment on January 21 for a discussion of the adequacy of currently used test methods for assessment of carcinogenicity, discussion of methods and potential for implementing proposals of the National Cancer Advisory Board for coordination of experimental findings of carcinogenicity with epidemiologic studies and a discussion of methods for identifying potential problems in environmental carcinogenesis. Attendance by the public will be limited to space available.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the open meeting and roster of committee members.

Dr. Gary Flamm, Executive Secretary, Building 31, Room 11A05, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5946) will provide substantive program information.

Dated: December 9, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74–29147 Filed 12–13–74;8:45 am]

PHARMACOLOGY-TOXICOLOGY PROGRAM COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pharmacology-Toxicology Program Committee, National Institute of General Medical Sciences, January 23–24, 1975, National Institutes of Health, Building 31C, Conference Room 6.

This meeting will be open to the public on January 23 from 9 a.m. to 10:30 a.m. for opening remarks and discussion of objectives and accomplishments of the program and revision of program guidelines. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on January 23 from 10:30 a.m. to 5 p.m. and on January 24 from 9 a.m. to 5 p.m. for the review, discussion and evaluation of grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. Paul Deming, Research Reports Officer, NIGMS, Building 31, Room 4A46, Bethesda, Maryland 20014, Telephone: 301 496–5676, will provide a summary of the meeting and a roster of committee members.

Dr. Raymond Bahor, Executive Secretary, Pharmacology-Toxicology Program Committee, Westwood Building, Room 9A03, Bethesda, Maryland 20016, Telephone: 301 496–7707, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13–859 National Institute of General Medical Sciences, National Institutes of Health.)

Dated: December 9, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institute of Health.

[FR Doc.74–29150 Filed 12–13–74;8:45 am]

PRESIDENT'S CANCER PANEL

Meeting; Change in Time

Notice is hereby given of a change in the meeting time of the President's Cancer Panel, National Cancer Institute, which was published in the FEDERAL REGISTER on Friday, November 22, 1974, Vol. 39, No. 227, pages 40967–40968.

This meeting was to have been an all open meeting but has been changed to include a closed portion on January 6, 1975, from 1:30 p.m. to adjournment for the review and discussion of the proposed fiscal year 1976 budget in accordance with the provisions set forth in section 552(b)(5) of Title 5 U.S. Code and 10(d) of Pub. L. 92–463.

The meeting will be open to the public from 9:30 a.m. to 12 noon.

Dated: December 9, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
NIH.

[FR Doc.74–29145 Filed 12–13–74;8:45 am]

SICKLE CELL DISEASE ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart and Lung Institute, January 23 and 24, 1975, National Institutes of Health, Building 31, Conference Room 3, A Wing. The entire meeting will be open to the public from 8:30 a.m. to 5 p.m. on January 23 and 24, 1975, to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLI, Building 31, Room 5A21, (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Mr. Howard F. Manly, Executive Secretary, Sickle Cell Disease Advisory Committee, NHLI, Building 31, Room 5AO3, (301) 496–6931, will furnish substantive program information.

Date: December 9, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74–29148 Filed 12–13–74;8:45 am]

VISION RESEARCH PROGRAM COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Vision Research Program Committee, National Eye Institute on January 17, 1975, at the National Institutes of Health in Bethesda, Maryland in Building 31, conference room 2.

This meeting will be open to the public from 9 a.m. to 12 Noon on January 17, for reports on activities of the Vision Research Program Planning Committee of the National Advisory Eye

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Council, and the status of proposed vitrectomy studies. There will also be discussion on guidelines for the Academic Investigator Award and individual and institutional awards under the National Research Service Award Act of 1974. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 17 from 1:30 p.m. to adjournment, for the review, discussion, and evaluation of individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. Julian Morris, Information Officer, National Eye Institute, National Institutes of Health, Bethesda, Maryland 20014, Building 31, room 6A27, telephone (301) 496-5248, will furnish summaries of the meeting and rosters of committee members.

Substantive program information may also be obtained from Dr. Wilford L. Nusser, Chief, Scientific Programs Branch, Extramural and Collaborative Programs, National Eye Institute, National Institutes of Health, Bethesda, Maryland 20014, Building 31, room 6A52, telephone (301) 496-5301.

(Catalog of Federal Domestic Assistance Program No. 13.331, National Institutes of Health.)

Dated December 9, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74-29154 Filed 12-13-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 74 271]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

Correction

In FR Doc. 74-27749 appearing at page 41395 in the issue for Wednesday, November 27, 1974, the agency heading should read as set forth above.

Federal Railroad Administration

[FRA Waiver Petition No. RSFC-74-6]

NORFOLK AND WESTERN RAILWAY CO.

Cancellation of Public Hearing

Notice is hereby given of the cancellation of the hearing scheduled for 10 a.m. on December 19, 1974, in Room 10330, Nassif Building, Washington, D.C. Notice of this hearing was published in the October 22, 1974 issue of the FEDERAL REGISTER (39 FR 37526).

Since the request for public hearing has been withdrawn, the hearing will not be rescheduled.

Issued in Washington, D.C., on December 12, 1974.

DONALD W. BENNETT,
Chief Counsel.

[FR Doc.74-29403 Filed 12-13-74;11:58 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25771, etc.; Order No. 74-12-26]

DELTA AIR LINES, INC. ET AL.

Order Instituting Investigation Regarding Certificates of Public Convenience and Necessity and Exemptions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of December, 1974.

In the matter of applications of Delta Air Lines, Inc., Docket No. 25771, 25785; Eastern Air Lines, Inc., 25760, 25775; National Airlines, Inc., 25715, 25767; Northwest Airlines, Inc., 25745, 25752; Southern Airways, Inc., 25746, 25747; United Air Lines, Inc., 25721, 25722; for amendment of certificates of public convenience and necessity, and for exemptions pursuant to section 416(b) of the Federal Aviation Act; the Fort Myers-Atlanta Case, Docket No. 27237.

Six carriers have filed applications for amendments to their respective certificates to permit them to offer new or improved authority to Fort Myers, Florida. Although the authority requested differs from carrier to carrier, depending on the nature of the existing authority of each, the focus of the applications is on the Fort Myers-Atlanta market in which each carrier seeks to provide first single-plane service.

National Airlines, currently the only carrier certificated to serve Fort Myers, provides the city with direct and connecting services to points in the East, South and West, including single-plane service to Baltimore, Boston, Miami, New York, Tampa and Washington, D.C. Although the carrier is also certificated at Atlanta, it has no effective authority in the Fort Myers-Atlanta market,[1] and requests that the Board authorize it to provide such service over a new Atlanta-Fort Myers segment. Delta Air Lines, Eastern Air Lines, Northwest Airlines, Southern Airways and United Air Lines each serve Atlanta and a number of points in Florida.[2] With the exception of Southern, which has applied for a new Fort Myers-Atlanta segment, each carrier desires to add Fort Myers to existing route segments. Delta would add Fort Myers as a coterminal point with Orlando on its route 24 and as an intermediate point on routes 27 and 54. Eastern proposes to add Fort Myers to routes 6 and 10 as an intermediate point between Sarasota, on the one hand, and Orlando and Fort Lauderdale, on the other. Northwest desires to add Fort Myers to segment 5 of route 3 as an intermediate point between Tampa and the coterminal points Fort Lauderdale and Miami. Finally, United seeks to add Fort Myers to segment 4 of route 51 as an intermediate point between Tampa and West Palm Beach.

On June 21, 1974, the Fort Myers parties filed a motion, pursuant to § 399.60, for expedited hearing on the issue of the need for first single-plane service between Fort Myers and Atlanta. In support of their motion, the Fort Myers parties emphasize that the requested hearing would entail only the consideration of new service since no carrier is presently authorized to operate single-plane service between Fort Myers and Atlanta, and that the award of such authority could result in Fort Myers' first direct service to the mid-continent region including such cities as Chicago, Detroit, Denver, Minneapolis, Milwaukee, Cleveland, Pittsburgh, St. Louis and Kansas City. Secondly, the Fort Myers parties assert that the city is a proven generator of traffic since the O&D survey shows that its traffic has doubled every three years over the past decade, with a substantial volume of traffic (estimated by the city at 300 daily passengers) moving between Fort Myers and the mid-continent region of the country. The city asserts that this preexisting traffic pool insures a profitable operation from the outset. Lastly, Fort Myers notes that the needs of the Fort Myers-Atlanta market have not been examined for over ten years and that because of the limited nature of the authority sought by Fort Myers, only a minimum amount of Board resources would be required for a hearing.

Answers in support of the Fort Myers motion were filed by Delta, Eastern, Northwest, Southern and United. An answer in opposition was filed by Florida Airlines asserting that Fort Myers has ample service available to Tampa where the Fort Myers' passenger can connect with single-plane services to a number of cities throughout the country; that Tampa is a preferable point for connecting purposes since Atlanta is congested; and that certification of a Fort Myers-Atlanta service will result in substantial diversion from Florida Airlines' services and seriously impair its ability to offer the number of flights it presently operates between Fort Myers and Tampa, thus, in effect, downgrading the quality of Fort Myers connecting service at Tampa.

In addition to their applications for certificate amendments, each carrier has filed an application for exemption authority which would permit the operation

[1] Atlanta is a terminal point on segment 2 of route 39, and Fort Myers is an intermediate point on route 31. The only common junction point between segment 2 of route 39 and route 31 is San Francisco, California. Consequently, any single-plane service operated by National between Atlanta and Fort Myers would have to be operated via San Francisco.

[2] Delta serves Jacksonville, Orlando, Tampa, West Palm Beach, Fort Lauderdale and Miami; Eastern serves Tallahassee, Jacksonville, Daytona Beach, Gainesville, Tampa, Sarasota, Orlando, Melbourne, West Palm Beach, Fort Lauderdale and Miami; Northwest serves Tampa, Fort Lauderdale and Miami; Southern serves Jacksonville, Tallahassee, Orlando, and Miami-Fort Lauderdale; and United serves Jacksonville, Tampa, West Palm Beach, Fort Lauderdale and Miami.

of Fort Myers-Atlanta service pending the completion of certificate proceedings.[3] In support of these applications the carriers stress Fort Myers need for first single-carrier, single-plane service to points in the mid-continent region and allege that such operations will be economic and will provide valuable service for the traveling public. Each carrier has filed an answer in opposition to the exemption applications of the others (except that Southern did not oppose Delta's exemption request) arguing primarily the comparative merits of its own case, and each carrier has replied to the answers. In addition, the Fort Myers parties have filed answers in support of the exemption applications, and Allegheny County, Pennsylvania, has filed an answer supporting United's exemption application as well as United's application to amend its certificate.

Upon consideration of the foregoing and other pertinent matters, we have determined to institute an investigation for the single purpose of considering the need for first single-plane service between Fort Myers and Atlanta.

Under § 399.60(b) of its policy statements, the Board has declined to afford priority treatment to route applications which contemplate the introduction of competitive service which might have a net deleterious effect on the overall health of the air transportation system.[4] At the same time, the Board is equally sensitive to the need of the traveling public for efficient, expeditious service in markets which can economically support improved service and in which there exists serious service deficiencies. The Fort Myers-Atlanta market appears to present an unusual situation, considering the relatively developed state of the air transportation system, where there currently is no single-plane or even single-carrier service authorized but there is a demonstrated traffic base which can support economic operations from the very outset, with a minimal competitive impact on the certificated system. Thus, the proceeding instituted herein involves considerations similar to those concerned in the Detroit-Nashville Nonstop Investigation, Order 74-9-90, September 25, 1974, in which we recently found that first direct air service between Nashville and Detroit should be certificated. On the other hand, this proceeding is clearly distinguishable from other recent decisions[5] in which we determined not to authorize new or additional competitive service in markets where it appeared that diversion from existing carriers and/or the added consumption of scarce fuel would outweigh any anticipated benefit to the traveling public. In view of these circumstances and the potential significant public benefits which could result from the authorization of first single-plane service in the Fort Myers-Atlanta market, we believe that a consideration of the needs of this market should be given a priority status on our hearing docket.[6]

Further, to focus this proceeding on those Fort Myers markets in which no carrier is currently authorized to provide single-plane service and to guard against any potential competitive impact on National's Fort Myers-East Coast services, we will specifically place in issue the possible imposition of restrictions (1) which would prohibit the operation of new single-plane services between Fort Myers, on the one hand, and Norfolk, Newport News, Washington, D.C., Baltimore, Philadelphia, New York/Newark, Providence, and Boston, on the other hand, and (2) which would prevent a new Fort Myers' carrier from publishing local or joint point-to-point fares in the above markets.[7]

To the extent they conform to the scope of the proceeding instituted herein, we are consolidating for hearing the applications of Delta (Docket 25771), Eastern (Docket 25760), National (Docket 25715), Northwest (Docket 25745), Southern (Docket 25746) and United (Docket 25721).

Finally, we have decided to deny the various exemption applications. In our view, the arguments advanced by the carriers in support of their applications for exemption fall short of establishing that an exemption should be granted, particularly in circumstances where there are competing applicants for the same authority. Even if all of the assertions of the carriers are accepted as true, they amount to no more than strong support for the grant of each carrier's respective certificate application; they do not persuade us of the desirability for the grant of an exemption pending disposition of those applications. In the circumstances, we are unable to find that enforcement of the Act would not be in the public interest.

Accordingly, *It is ordered*, That:

1. The motion of the Fort Myers parties, be and it hereby is granted;

2. A proceeding to be known as The Fort Myers-Atlanta Case, Docket 27237, be and it hereby is instituted and shall be set down for hearing before an Administrative Law Judge of the Board at a time and place hereafter designated;

3. The proceeding instituted by paragraph 2 above, shall include consideration of the following issues:

(a) Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in nonstop air transportation between Fort Myers, Florida, and Atlanta, Georgia?

(b) If the answer to (a) is in the affirmative, which air carrier(s) should be authorized to engage in such service?

(c) What conditions, if any, should be placed on the operations of such carrier(s), including but not limited to:

(1) A restriction against the operation of new single-plane service between Fort Myers, on the one hand, and Norfolk, Newport News, Washington, D.C., Baltimore, Philadelphia, New York, Newark, Providence and Boston, on the other hand, and

(2) A restriction prohibiting any new Fort Myers carrier from publishing local or joint point-to-point fares between Fort Myers and the points listed in (1) above?

4. Authority awarded in this proceeding shall be in the form of a separate segment and shall be granted without eligibility for subsidy;

5. Insofar as they conform to the scope of the proceeding set forth in paragraph 3 above, the applications of Delta Air Lines in Docket 25771, Eastern Air Lines in Docket 25760, National Airlines in Docket 25715, Northwest Airlines in Docket 25745, Southern Airways in Docket 25746, and United Air Lines in Docket 25721, be and they hereby are consolidated with the proceeding instituted by paragraph 2 above; to the extent not consolidated, the foregoing applications be and they hereby are dismissed without prejudice;

6. The applications of Delta Air Lines in Docket 25785, Eastern Air Lines in Docket 25775, National Airlines in Docket 25767, Northwest Airlines in Docket 25752, Southern Airways in Docket 25747, and United Air Lines in Docket 25722, be and they hereby are denied; and

7. Applications, motions to consolidate and petitions for reconsideration of this order shall be filed no later than twenty (20) days after the date of service of this order, and answers thereto shall be filed no later than ten (10) days thereafter.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[8]

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-29230 Filed 12-13-74;8:45 am]

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[3] Delta, National, and Southern have applied for exemption authority to serve only the Fort Myers-Atlanta market. The exemption applications of Eastern, Northwest and United parallel their requests for certificate authority.

[4] See, *e.g.*, Orders 73-7-73, July 16, 1973, and 73-8-24, August 3, 1973.

[5] Additional Service to San Diego Case (San Diego-Denver), Order 74-5-17, May 3, 1974, and Remanded Atlanta-Detroit/Cleveland/Cincinnati Investigation, Order 74-5-16, May 3, 1974.

[6] Nothing raised by Florida Airlines would lead us to a contrary result. However, the question before us now is simply whether to set the pending Fort Myers-Atlanta applications for hearing, and our conclusions herein are not intended to be a comment on the substantive merit of Florida Airlines' contentions.

[7] Without the ability to publish local or joint point-to-point fares, carriers would be required to charge fares based on the maximum fare formulas set forth in Phases 6 and 9 of the Domestic Passenger-Fare Investigation, Docket 21866.

[8] Minetti and West, members, statement concurring in the result filed as part of the original document.

[Dockets Nos. 27061 and 27062; Order No. 74-12-39]

EASTERN AIR LINES, INC.

Order Regarding Suspension/Deletion of Service

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 11th day of December, 1974.

Application of Eastern Air Lines, Inc., for continuation of temporary suspension of service at Mayaguez, P.R.—Docket 27062.

Application of Eastern Air Lines, Inc., for amendment of its certificate of public convenience and necessity for route 59 so as to delete Mayaguez, P.R.—Docket 27061.

By order 74-3-57, March 12, 1974, the board authorized Eastern to suspend service temporarily at Mayaguez, P.R., until December 31, 1974, and dismissed Eastern's application in docket 25877 for deletion of Mayaguez.[1]

On September 27, 1974 Eastern Air Lines filed an application for continuation of the temporary suspension of service at Mayaguez, to be in effect until 90 days after final decision on its concurrently filed application in docket 27061 for deletion of Mayaguez from its certificate for route 59.[2]

In support of its requests, Eastern states that continuation of its suspension at Mayaguez pending decision on its deletion application is clearly in the public interest because (a) conditions persist at the Mayaguez airport making it unsuitable for turbojet aircraft operations, (b) even a minimum pattern of service with such aircraft would be uneconomic, (c) the resumption of flight operations in the interim would result in needless expenditures and substantial losses, and (d) no inconvenience to the traveling public will result since there is ample alternative air service provided by Prinair between Mayaguez and San Juan.[3]

The Commonwealth of Puerto Rico has filed an answer to Eastern's requests. The Commonwealth contends that there are no valid grounds for Eastern's suspension or deletion at Mayaguez, and that it objects to the suspension if the carrier's deletion application in docket 27061 is not promptly set for expedited hearing.

The Commonwealth argues that Mayaguez is a large city, with a population of over 100,000; that the point generates over 200,000 O&D passengers per year; that the Mayaguez airport is fully capable of handling any amount of operations Eastern would be likely to schedule at Mayaguez, with any aircraft type the carrier would be likely to use, since the runway lengthening which was in progress in 1973 has been completed and the control tower is now in operation; that the fuel situation is not so critical as to require the complete elimination of certificated service from Mayaguez; and that the point is sufficiently isolated so as to require air transportation from its own facility.

Eastern filed a reply to the Commonwealth's answer, contending that expedited hearing procedures on its deletion application are unwarranted.

Upon consideration of the pleadings and all relevant facts, we have determined to set Eastern's application in docket 27061 for the deletion of Mayaguez, P.R., for hearing. The proceeding instituted herein shall receive priority consideration in being set for hearing. We do not mean to imply, however, that any procedures apart from those normally utilized in Board proceedings shall be followed here.[4]

We have also determined to grant Eastern's request for continued suspension authority at Mayaguez pending final board decision in the deletion case. We believe that the public interest would best be served by permitting Eastern to continue its present suspension of service at Mayaguez, pending an investigation into the future air service needs of the point in a formal proceeding. We are not persuaded that the carrier should be required to institute service in the interim, especially in view of the fact that Eastern has never served Mayaguez and that substantial start-up costs would be required which might prove ultimately needless, depending upon the outcome of the hearing. A continuation of Eastern's suspension will not deprive the traveling public and shippers of any service which they now enjoy, and there is ample air taxi service available between Mayaguez and San Juan.[5]

Finally, Board action in this proceeding may possibly have adverse impact upon the environment, to the extent that one eventual result could be the reinstitution of certificated service at Mayaguez. We will direct the Director, Bureau of Operating Rights, to determine prior to the hearing whether such action would constitute a "major Federal Action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), and to prepare an NEPA environmental impact statement, if required.

The Bureau's draft environmental impact statement, or a statement with reasons that no impact statement is required ("environmental negative declaration"), will be circulated to the parties, other environmentally concerned Federal agencies, and other interested persons for their consideration and comment. The Bureau will thereafter prepare a final environmental impact statement, or a final negative declaration, dealing with the comments received, if any. The draft and final impact statements or negative declarations shall be placed in the record of the proceeding. A hearing may be held on the environmental impact statements, if any, if requested by any party and deemed necessary by the Administrative Law Judge assigned to the proceeding.

The Director is hereby authorized to make such requests for data and other material of the parties, and others, as he deems necessary for the Bureau's analysis. The parties, under direction of the Administrative Law Judge assigned to the proceeding, shall comply fully with such requests and any procedural dates established in connection therewith.

Accordingly, *It is ordered, That:*

1. The application of Eastern Air Lines, Inc., in docket 27061 for deletion of Mayaguez, P.R., from its certificate of public convenience and necessity for route 59 be and it hereby is set for hearing at a time and place to be hereafter designated;

2. The hearing shall consider the following issues: (1) Whether the public convenience and necessity require that Eastern's certificate be altered, amended, or modified so as to suspend or delete Mayaguez, P.R.; (2) as an alternative to amending Eastern's certificate, whether the public interest requires continued temporary suspension of service by Eastern, with or without conditions; and (3) the environmental impact of final Board action in the event that Eastern should be required to institute service as a result of this proceeding;

3. Eastern Air Lines, Inc., be and it hereby is authorized to suspend service temporarily at Mayaguez, P.R., until 90 days after final decision on its application in docket 27061 for deletion of Mayaguez from its certificate, and

4. This order shall be served on Eastern Air Lines, Inc.; Air Line Pilots Association, International; Mayor, City of Mayaguez; Governor, Commonwealth of Puerto Rico, and the Puerto Rico Department of Health; Airport Manager, Mayaguez Airport; the Postmaster General; the Department of Commerce; Department of Health, Education, and Welfare; Department of Transportation; the Environmental Protection Agency; the Council on Environmental Quality; and the National Aeronautics and Space Administration.

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[1] By order 73-10-96, Oct. 26, 1973 the Board set for hearing Eastern's application in docket 25877 for deletion of Mayaguez from its certificate. Subsequently, in light of the fuel crisis which the carrier believed would make assessment of the service needs of Mayaguez unduly difficult, Eastern determined to withdraw its deletion application and to request suspension of service until Dec. 31, 1974, which the Board permitted by order 74-3-57. The carrier advised the Board that depending on circumstances prevailing when that authority expired, it anticipated the refiling of an application for deletion and a request for renewal of suspension authority.

[2] Eastern has invoked the automatic extension provisions of sec. 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c).

[3] Eastern also indicates that since its resumption of service to Ponce, Mayaguez travelers have convenient one-carrier service to the mainland, and that the carrier plans to inaugurate direct service between Ponce and New York in the spring of 1975.

[4] We do not interpret the Commonwealth's answer (requesting "that the Board promptly set down the deletion case for expedited hearing") to request the use of extraordinary procedures or timing in the conduct of the case. In any event, we believe that the several controverted issues of fact emerging from the pleadings dictate an orderly processing of the case, and that the present availability of ample air taxi services at Mayaguez renders the shortcutting of established procedures unnecessary.

[5] Prinair presently provides 29 daily nonstop round trips in the Mayaguez-San Juan market (O&D, Oct. 16, 1974).

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-29228 Filed 12-13-74;8:45 am]

[Docket 25875; Order No. 74-12-40]

MINIMUM CHARTER RATE LEVEL

Order Regarding Statement of General Policy

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of December, 1974.

On November 11, 1974, the Department of Justice (Justice) filed a document described as a motion for stay and petition for reconsideration of the Board's Statement of General Policy, Minimum Charter Rate Levels, Regulation PS-57, adopted and effective October 18, 1974 (Statement). That Statement sets forth guidelines which the Board stated it will consider in evaluating tariffs for North Atlantic charters pursuant to section 1002(j) of the Federal Aviation Act (Act).[1] Since the Board's rules do not provide for petitions for reconsideration of final rules and statements of policy, Justice's request will be considered as a petition for rulemaking. Rule 38(d) of the rules of practice.

Justice alleges that the Board was incorrect in concluding that the statement of guidelines does not constitute ratemaking; that the provisions of section 1002(j)(5) of the Act may permit the Board to review and disapprove rates that do not meet "incremental" costs but that does not mean the Board can suspend rates merely upon a showing they are below fully allocated industry costs; and that the guidelines impose "great" economic pressures on carriers to file tariffs in accordance with the Statement which will deny the U.S. Government and the general public charter travel at "compensatory, competitively set rates." Justice implies the Board's action in issuing PS-57 violates Moss v. CAB, 430 F. 2d 891 (D.C. Circuit 1970). Answers supporting Justice's filing have been filed by Capitol International Airways, Inc., and Airline Charter Tour Association.

The Board, upon careful review of the matters raised, concludes that the relief sought should be denied. Justice's argument makes more of the Policy Statement than its plain language suggests. The guideline rate levels, adopted after full rulemaking procedures, affording ample opportunity for the comments of all interested persons, are clearly what they purport to be—specific guidelines for the purpose of evaluating existing and proposed charter rates. Stated differently, by establishing guidelines, the Board has merely made it known that it does not intend to review rates which are filed above that level. Conversely, rates filed below that level will be scrutinized both against industry data and that provided in the particular carrier's justification. It is, of course, patent that the Board has authority to suspend and investigate any North Atlantic charter rate it deems unreasonable under the usual statutory and evidentiary criteria, whether Policy Statement guidelines exist or not.

No rights of any person are affected by the promulgation of the Policy Statement and, as its terms indicate, the guideline rates are not in any sense "legally prescribed" so as to require the procedural steps incidental to Board "prescribed" rates for domestic air transportation service. The provisions of section 1002(j) clearly do not grant the Board prescription power over the reasonableness of rates in foreign air transportation, and the Board has not sought to exercise such power in promulgating the Statement.

Insofar as Justice questions the propriety of the Board's adoption of guideline rates based on charter industry average costs in the North Atlantic market, the Board has historically based its rate judgments on industry average costs for each ratemaking entity, and such decisions have been judicially sanctioned. The concept of rate regulation based on incremental or "out of pocket" costs ignores the carriers' need to charge prices sufficient to cover system and ratemaking entity costs.[2] Finally, it should be noted that the Policy Statement does not suggest that every tariff rate below the guideline minimum will be suspended.

Justice's final point that the Policy Statement will have the effect of forcing carriers to file higher level rate tariffs conforming to the guideline rates again overlooks the Statement's provisions that contemplate lower rates if adequately justified. In any event, the premise for the Board's action in adopting guidelines for a temporary one year period is the historical pattern of carrier losses in North Atlantic charter service—losses so severe as to seriously weaken the carriers' continued ability to provide the charter service which the Board has purposely fostered in recent years in order to provide the public with low-cost transportation.

In the interests of developing charter service, the Board has historically limited its intervention in the rate regulation area so the public could be served at prices settled in the competitive marketplace. With the very sharp recent increases in operating costs, due in part to fuel and other inflationary cost forces, this approach is no longer viable and a more detailed regulatory environment appears warranted, at least for a temporary period. Concerns that charter services be operated profitably have been expressed internationally as demonstrated by the action of major European aeronautical authorities in considering establishment of minimum charter rates. The Board could not and has not gone that far. But clearly present circumstances warrant more careful attention to charter rate levels, and that is what the Board has sought to achieve in its adoption of the Policy Statement.

Accordingly, *It is ordered, That:*

1. The motion for stay filed by the Department of Justice on November 11, 1974, is denied.

2. The petition filed by the Department of Justice on November 11, 1974, is dismissed.

This order will be published in the Federal Register.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-29229 Filed 12-13-74;8:45 am]

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[1] The minimum rates are based on season of the year and aircraft type and range between 3.1¢ and 4.1¢ per seat-mile for aircraft with less than 230 seats and between 2.4¢ and 3.4¢ per seat-mile for aircraft with more than 229 seats.

[2] Domestic Passenger-Fare Investigation, Phase 7—Fare Level, Orders 71-4-59 and 71-4-60, decided April 9, 1971, p. 70ff; General Passenger-Fare Investigation, 32 CAB 291 (1960).

COMMISSION ON CIVIL RIGHTS

ARIZONA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Arizona State Advisory on January 9, 1975, in Phoenix, Arizona.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mountain States Regional Office of the Commission, Room 216, 1726 Champa Street, Denver, Colorado 80202.

The purpose of this meeting is for Press conference to release SAC report on Adult Corrections in Arizona.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 9, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-29176 Filed 12-13-74;8:45 am]

ARIZONA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Arizona State Advisory Committee (SAC) to this Commission will convene at 7 p.m., January 8, 1975, at the Hunter Inn, 124 S. 24th Street (Sonora Room), Phoenix, Arizona 85034.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mountain States Regional Office of the Commission, Room 216, 1726 Champa Street, Denver, Colorado 80202.

The purpose of this meeting is a planning session—Mexican-American Education Study follow-up January 8 press conference: to release Adult Corrections

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in Arizona other SAC activities/projects.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 9, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-29178 Filed 12-13-74;8:45 am]

CALIFORNIA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California State Advisory Committee (SAC) to this Commission will convene at 10:30 a.m. on January 11, 1975, at the International Hotel, 6225 West Century Boulevard, Room 548, Los Angeles, California 90045.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Western Regional Office of the Commission, Room 1015, 312 North Spring Street, Los Angeles, California 90012.

The purpose of this meeting shall be to discuss current political and social concerns surrounding the Immigration and Naturalization Service (INS) and resident aliens.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 9, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-29168 Filed 12-13-74;8:45 am]

CALIFORNIA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. on January 24, 1975, at the Hilton Inn, San Francisco International Airport, Room: Bay Shore #6, San Francisco, California 94128.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Western Regional Office of the Commission, Room 1015; 312 North Spring Street, Los Angeles, California 90012.

The purpose of this meeting shall be to discuss the preliminary open meeting to be held in Salinas, California as well as potential and tentative witnesses for open meeting.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 9, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-29169 Filed 12-13-74;8:45 am]

HAWAII STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Hawaii State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. on January 24, 1975, at the Ala Moana Hotel, 410 Atkinson Drive, Board Room, Honolulu, Hawaii 96814.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Western Regional Office of the Commission, Room 1015, 312 North Spring Street, Los Angeles, California 90012.

The purpose of this meeting is to meet with the new Advisory Committee members.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 10, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-29170 Filed 12-13-74;8:45 am]

INDIANA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Indiana State Advisory Committee (SAC) to this Commission will convene at 10 a.m. on January 8, 1975, at the Inter Religious Commission on Human Equality, 1100 W. 42nd.

Persons wishing to attend this meeting should contact the Committee Chairman or the Midwestern Regional Office of the Commission, Room 1428, 219 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting shall be a Sub-Committee follow-up planning on Migrant Project.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 9, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Office.

[FR Doc.74-29170 Filed 12-13-74;8:45 am]

INDIANA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Indiana State Advisory Committee (SAC) to this Commission will convene at 12 noon on January 8, 1975, at 1364 Neil Evans Drive, Ohio 44313.

Person wishing to attend this meeting should contact the Committee Chairman or the Midwestern Regional Office of the Commission, Room 1428, 219 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting shall be that the Education Sub-Committee will review materials gathered and determine scope of education project and what other information is necessary.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 9, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Office.

[FR Doc.74-29171 Filed 12-13-74;8:45 am]

MONTANA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado State Advisory Committee (SAC) to this Commission will convene at 2:30 p.m. on January 11, 1975, at 202 Second St., North, YWCA—Great Falls, Montana.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mountain States Regional Office of the Commission, Room 316, 1726 Champa Street, Denver, Colorado 80202.

The purpose of this meeting is for Media Conference.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 9, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-29174 Filed 12-13-74;8:45 am]

WASHINGTON STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Washington State Advisory Committee (SAC) to this Commission will convene at 1 p.m. on January 11, 1975, at the Olympic Hotel, Fourth and Seneca Streets, Room 151, Seattle, Washington 98111.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Western Regional Office of the Commission, Room 1015, 312 North Spring Street, Los Angeles, California 90012.

The purpose of this meeting is to brief new State Advisory Committee members and to plan program for calendar year 1975.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 10, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-29172 Filed 12-13-74;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF THE PHILIPPINES

DECEMBER 11, 1974.

On September 21, 1967, the United States Government concluded a comprehensive bilateral cotton textile agreement with the Government of the Republic of the Philippines concerning exports of cotton textiles and cotton textile products from the Philippines to the United States. On December 26, 1967, the two Governments exchanged notes amending the bilateral agreement. On November 17, 1970, the two Governments exchanged notes further amending and extending the bilateral agreement. By exchange of notes dated September 27 and October 9, 1973, the two Governments again extended the bilateral agreement, as previously amended. Among the provisions of the agreement, as amended and extended, are those establishing specific limits on Categories 9, 22, 26, 32, 39, 42; 43, 45, 46, 50, 51, 60, 61, and part of 63 for the agreement year beginning January 1, 1975.

Accordingly, there is published below a letter of December 11, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in the above categories, produced or manufactured in the Philippines, which may be entered or withdrawn from warehouse for consumption in the United States for the period beginning January 1, 1975 and extending through December 31, 1975, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as amended and extended, but are designed to assist only in the implementation of certain of its provisions.

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS
Department of the Treasury,
Washington, D.C. 20229

DECEMBER 11, 1974.

DEAR MR. COMMISSIONER: Pursuant to the Bilateral Cotton Textile Agreement of September 21, 1967, as amended and extended, between the Governments of the United States and the Republic of the Philippines, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective January 1, 1975 and for the twelve-month period extending through December 31, 1975, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 9, 22, 26, 32, 39, 42, 43, 45, 46, 50, 51, 60, 61, and part of 63 produced or manufactured in the Philippines, in excess of the following levels of restraint:

Category	*12-month level of restraint*
9	1,758,876 square yards.
22	2,110,651 square yards.
26	1,758,876 square yards (of which not more than 422,130 square yards may be in duck fabric).[1]
32	4,221,301 dozens.
39	386,952 dozen pairs.
42	42,212 dozens.
43	84,427 dozens.
45	42,212 dozens.
46	14,071 dozens.
50	14,071 dozens.
51	14,071 dozens.
60	11,961 dozens.
61	2,181,006 dozens.
Part of 63 (T.S.U.S.A. Nos. 380.3980 and 382.3380 only)	167,861 pounds.

[1] Only T.S.U.S.A. Nos:
320. -- 01 through 04, 06, 08
321. -- 01 through 04, 06, 08
322. -- 01 through 04, 06, 08
326. -- 01 through 04, 06, 08
327. -- 01 through 04, 06, 08
328. -- 01 through 04, 06, 08

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories, produced or manufactured in the Philippines, which have been exported to the United States from the Philippines prior to January 1, 1975, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods for the twelve-month period beginning January 1, 1974 and extending through December 31, 1974. In the event that the levels of restraint for the twelve-month period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of September 21, 1967, as amended and extended, between the Governments of the United States and the Republic of the Philippines which provide, in part, that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 25, 1974 (39 F.R. 2939).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government o fthe Republic of the Philippines and with respect to the imports of cotton textiles and cotton textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc. 74-29197 Filed 12-13-74;8:45 am]

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE SOCIALIST REPUBLIC OF ROMANIA

DECEMBER 11, 1974.

On December 31, 1970, the United States Government concluded a comprehensive bilateral cotton textile agreement with the Government of the Socialist Republic of Romania concerning exports of cotton textiles and cotton textile products from Romania to the United States over a five-year period beginning on January 1, 1971 and extending through December 31, 1975. Among the provisions of the agreement are those establishing an aggregate limit for the 64 categories, and within the aggregate limit, specific limits on Categories 19, 26, 47, 49, 55, 60, and 63 for the fifth agreement year beginning January 1, 1975.

Accordingly, there is published below a letter of December 11, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textile products in the above categories, produced or manufactured in Romania, which may be entered or withdrawn from warehouse for consumption in the United States for the period beginning January 1, 1975, and extending through December 31, 1975, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Commissioner of Customs
Department of the Treasury
Washington, D.C. 20229

DECEMBER 11, 1974.

DEAR MR. COMMISSIONER: Pursuant to the Bilateral Cotton Textile Agreement of December 31, 1970, between the Governments of the United States and the Socialist Republic of Romania, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective January 1, 1975 and for the twelve-month period extending through December 31, 1975, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 19, 26, 47, 49, 55, 60, and 63, produced or manufactured in Romania, in excess of the following twelve-month levels of restraint:

Category	*12-month level of restraint*
19	1,337,057 square yards.
26	2,674,114 square yards (of which not more than 607,754 square yards may be in duck fabric [1]).
47	49,308 dozen.
49	26,180 dozen.
55	16,683 dozen.
60	23,393 dozen.
63	422,785 pounds.

[1] The T.S.U.S.A. Nos. for duck fabric are:
320...01 through 04, 06, 08
321...01 through 04, 06, 08
322...01 through 04, 06, 08
326...01 through 04, 06, 08
327...01 through 04, 06, 08
328...01 through 04, 06, 08

In carrying out this directive, entries of cotton textile products in Categories 19, 26, 47, 49, 55, 60, and 63, produced or manufactured in Romania, which have been exported to the United States from Romania prior to January 1, 1975, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods for the twelve-month period beginning January 1, 1974, and extending through December 31, 1974, have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of December 31, 1970, between the Governments of the United States and the Socialist Republic of Romania which provide, in part, that within the aggregate limit, limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 25, 1974 (39 F.R. 3430).

In carrying out the above directions, entry into the United States for consumption shall be contrued to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of cotton textiles and cotton textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such action., fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74-29198 Filed 12-13-74;8:45 am]

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA

DECEMBER 11, 1974.

On December 31, 1970, the United States Government concluded a comprehensive bilateral agreement with the Government of the Socialist Federal Republic of Yugoslavia concerning exports of cotton textiles and cotton textile products from Yugoslavia to the United States over a five-year period beginning January 1, 1971 and extending through December 31, 1975. Among the provisions of the agreement are those establishing an aggregate limit, and within the aggregate limit, specific limits on Categories 9, 18/19, 22, 26, 48 and 49, for the agreement year beginning January 1, 1975.

There is published below a letter of December 11, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in the above categories, produced or manufactured in Yugoslavia, which may be entered or withdrawn from warehouse for consumption in the United States for the twelve-month period beginning on January 1, 1975, and extending through December 31, 1975, be limited to certain designated levels. This letter and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement but are designed to assist only in the implementation of certain of its provisions.

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DECEMBER 11, 1974.

DEAR MR. COMMISSIONER: Pursuant to the Bilateral Cotton Textile Agreement of December 31, 1970 between the Governments of the United States and the Socialist Federal Republic of Yugoslavia, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective January 1, 1975, and for the twelve-month period extending through December 31, 1975, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textiles and cotton textile products in Categories 9, 18/19, 22, 26 (duck fabric), 26 (other than duck fabric), 48, and 49, produced or manufactured in Yugoslavia, in excess of the following twelve-month levels of restraint:

Category	*12-month level of restraint*
9	square yards... 12,155,063
18/19	do.... 607,754
22	do.... 4,863,025
26 (duck fabric) [1]	do.... 2,431,013
26 (other than duck fabric)	do.... 2,247,717
48	dozen... 17,017
49	do.... 56,973

[1] The T.S.U.S.A. Nos. for duck fabric are:
320...01 through 04, 06, 08
321...01 through 04, 06, 08
322...01 through 04, 06, 08
326...01 through 04, 06, 08
327...01 through 04, 06, 08
328...01 through 04, 06, 08

In carrying out this directive, entries of cotton textiles and cotton textile products in Categories 9, 18/19, 22, 26 (duck fabric), 26 (other than duck fabric), 48, and 49, produced or manufactured in Yugoslavia and which have been exported to the United States from Yugoslavia prior to January 1, 1975, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period January 1, 1974, through December 31, 1974. In the event that the levels of restraint established for such goods for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of December 31, 1970, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia which provide in part that within the aggregate and applicable group limits, limits on specific categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 25, 1974 (39 F.R. 3430).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Federal Republic of Yugoslavia and with respect to imports of cotton textiles and cotton textile products from Yugoslavia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of

5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely yours,

ELMO PASSMORE,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74-29196 Filed 12-13-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 295-6]

AMERICAN CYANAMID CO.

Filing of Petition Regarding Pesticide Chemical

Correction

In FR Doc. 26730, appearing at page 40325 in the issue of Friday, November 15, 1974, the following changes should be made:

1. The last word in the 12th line of the first paragraph should read "amino".

2. The second word in the third line of the second paragraph should read "compounds".

[FRL 295-7]

CHEMAGRO DIVISION OF MOBAY CHEMICAL CORP.

Notice of Filing of Petition Regarding Pesticide Chemical

Correction

In FR Doc. 26733, appearing on page 40326 in the issue for Friday, November 15, 1974, the signature now reading "Martin H. Ragoff", should read "Martin H. Rogoff".

[OPP-32000/153; FRL 306-7]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, SW, Washington, D.C. 20460.

On or before February 14, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW, Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after February 14, 1975.

APPLICATIONS RECEIVED

EPA File Symbol 4169-A. Aborn Chemical Industries, Inc., 168 "A" St., South Boston MA 02210. ARK SAN 200. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.01%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.01%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 8590-ULO. Agway, Inc., Fertilizer-Chemical Div., Box 1333, Syracuse NY 13201. AGWAY DODINE 2D. Active Ingredients: Dodine (n-dodecylguanidine acetate) 2.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1839-REE. Aidex Corp., 1624 N. 17th St., Omaha NE 68102. AIDEX CHLORDANE 25 GRANULAR. Active Ingredients: Technical Chlordane 25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 12016-I. Anderson-Stolz Corp., 1727-33 Walnut St., Kansas City MO 64108. SOL-VET 421 SP NO2. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio)ethylene dichloride] 6.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 12016-O. Anderson-Stolz Corp. SOL-VET 426 XM. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 12016-RN. Anderson-Stolz Corp. SOL-VET 426 M. Active Ingredients: Disodium cyanodithioimidocarbonate 3.66%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 12466-L. Aqua Laboratories, Inc., 36 High St., Amesbury MA 01913. AQUACIDE-400. Active Ingredients: Disodium cyanodithioimidocarbonate 4.90%; Potassium N-methyldithiocarbamate 6.76%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 10336-RE. Aquaphase Laboratories, Inc., 1425 E. Michigan St., Adrian MI 49221. S-TEC 11. Active Ingredients: Disodium cyanodithioimidocarbonate 3.66%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 10336XRR. Aquaphase Laboratories, Inc., 1425 E. Michigan St., Adrian MI 49221. S-TEC 11A. Active Ingredients: Disodium cyanodithioimidocarbonate 14.7%; Potassium N-methyldithiocarbamate 20.3%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 35378-E. Aqua/Process Chemicals, 2408 Yorktown #178, Houston TX 77027. S-71. Active Ingredients: Disodium cyanodithioimidocarbonate 14.7%; Potassium N-methyldithiocarbamate 20.3%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 35378-G. Aqua/Process Chemicals, 2408 Yorktown #178, Houston TX 77027. S-70. Active Ingredients: Poly-[oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 12463-U. Aquatherm, Inc., 2233 W. Second St., Santa Ana CA 92703. MICROBIOCIDE 208. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 960-ROI. Balcom Chemicals, Inc., PO Box 667, Greeley CO 80631. CLEAN CROP MANEB 8% POTATO SEED TREATER. Active Ingredients: Maneb (Manganous ethylene bisdithiocarbamate) 8.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 960-ROO. Balcom Chemicals, Inc., PO Box 667, Greeley CO 80631. CLEAN CROP CAPTAN 5% POTATO SEED TREATER. Active Ingredients: Captan (N-trichloromethylthio-4-cyclohexene-1, 2-dicarboximide) 5.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1191-GGI. Carolina Chemicals, Inc., PO Box 118, West Columbia SC 29169. PEACH SPRAY CONTAINING GUTHION NUZINC AND WETTABLE SULPHUR 5/8-3-6. Active Ingredients: O,O-Dimethyl S-[4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate 2.35%; Zinc Oxysulphate 22.56%; Sulphur 40.60%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1191-GGO. Carolina Chemicals, Inc., PO Box 118, West Columbia SC 29169. PEACH SPRAY CONTAINING GUTHION AND WETTABLE SULPHUR 5/8-6. Active Ingredients: O,O-Dimethyl S-[4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate 3.03%; Sulphur 52.42%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5719-AR. Chacon Chemical Corp., 5245 Chakemco St., South Gate CA 90280. CHACON NEMATODE CONTROL. Active Ingredients: 1,2-Dibromo-3-Chloropropane 19.10%; Other Halogenated C3 Compounds 1.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34224-A. Chemrite Corp., 12600 S. Daphne Ave., Hawthorne CA 90250. CHEMRITE CR-173 DEDRITE. Active Ingredients: Pyrethrins 0.050%; Piperonyl butoxide, technical 0.100%; N-octyl bicycloheptane dicarboximide 0.166%; O, O-dimethyl O-2,4,5-trichlorophenyl phosphorothioate 1.000%; Petroleum distillate 98.192%. Method of Support: Application proceeds under 2(c) of interim policy.

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EPA File Symbol 34224-L. Chemrite Corp., 12600 S. Daphne Ave., Hawthorne CA 90250. CHEMRITE CR-174 VAPORITE. Active Ingredients: Pyrethrins 0.30%; Piperonyl butoxide, technical 0.60%; N-octyl bicycloheptene dicarboximide 1.00%; Petroleum distillate 98.10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 192-45. Dixol Industries, 1460 W. 228th St., Torrance CA 90501. TENDER LEAF HOUSE PLANT SPRAY. Active Ingredients: Petroleum Hydrocarbons 0.65%; Nicotine, as alkaloid 0.07%; Triethanolamine 0.043%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11525-RA. Peterson/Puritan, Inc., Hegeler Lane, Danville IL 61832. P/P RESIDUAL HOUSE & GARDEN INSECTICIDE. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate 0.350%; Related compounds 0.048%; Aromatic petroleum hydrocarbons 0.464%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11525-EI. Peterson/Puritan, Inc. P/P WASP & HORNET SPRAY NO. 2. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 26.375%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11525-ET. Peterson/Puritan, Inc. P/P OUTDOOR FOGGER WITH REPELLENT. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; 2-Hydroxyethyl n-octyl sulfide 0.950%; Related Compounds 0.050%; Aromatic Petroleum Solvent 0.332%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3743-GUL. Southern Agricultural Chemicals, Inc., PO Drawer 527, Kingstree SC 29556. BIG 'D' GRANULES. Active Ingredients: 0,0-Diethyl-0-(p-(methylsulfinyl)phenyl) phosphorothioate 10.0%; 0,0-Diethyl S-(2-(ethylthio)ethyl) phosphorodithioate 5.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 35222-R. Southern Chemicals, Inc., 204 N. Elm Ave., PO 1480, Sanford FL 32771. SOUTHERN'S M-E 44 AN AGRICULTURAL INSECTICIDE EMSULSIFIABLE LIQUID. Active Ingredients: Parathion (0,0-Diethyl 0-p-Nitrophenyl Phosphorothioate) 39.1%; 0,0-Dimethyl 0-p-Nitrophenyl Phosphorothioate 39.1%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6720-EUR. Southern Mill Creek Products Co., Inc., PO Box 1096, Tampa FL 33601. SMCP HEPTACHLOR LAWN SPRAY INSECTICIDE. Active Ingredients: Heptachlor (Heptachlorotetrahydro-4,7-methanoindene) 23.3% Related Compounds 8.2%; Xylene Range Aromatic Solvent 62.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5978-I. Syncro-Mist Controls, Inc., PO Box 402, Lewiston NY 14092. B;V.T. KLOBBER. Active Ingredients: Pyrethrins 0.9%; Piperonyl butoxide, technical 9.0%; Petroleum distillate 9.9%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 148-RROO. Thompson-Hayward Chemical Co., PO Box 2383, Kansas City KS 66110. CASORO W-85. Active Ingredients: Dichlobenil (2,6-dichlorobenzonitrile) 85.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 2935-151. Wilbur-Ellis Co., PO Box 1286, Fresno CA 93715. RED-TOP CHLORDANE 8 SPRAY. Active Ingredients: Technical Chlordane 74%; Petroleum Hydrocarbons 16%. Method of Support: Application proceeds under 2(c) of interim policy.

REPUBLISHED ITEM

The following item represents a change in the list of Applications Received published in the FEDERAL REGISTER of November 11, 1974 (39 FR 39768).

EPA File Symbol 1839-TE. Onyx Chemical Co., Div. of Millmaster Onyx Corp., 190 Warren St., Jersey City NJ 07302. BTC-40 CONCENTRATED GERMICIDE. Originally published as 1839-TG.

Dated: December 6, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-29095 Filed 12-13-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 731]

COMMON CARRIER SERVICES INFORMATION[1]

Domestic Public Radio Services Applications Accepted for Filing[2]

DECEMBER 9, 1974.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's Rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave and Local Television Transmission Services (Part 21 of the Rules).

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to §§ 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING
DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20827-CD-TC-(2)-75, J & S Communication Company. Consent to Transfer of Control from J & S Communication Company, Transferor, to Withers Broadcasting Company, Transferee. Stations: KUC843, Cape Girardeau, Missouri, and KRS635, St. Louis, Missouri.

20828-CD-AL-(2)-75, L. J. Galentin, d/b/a Contact of New Mexico. Consent to Assignment of License from L. J. Galentin d/b/a Contact of New Mexico, Assignor, to Contact Communications, Inc., Assignee. Stations: KLB668, Cabollo Mountain, South of Truth or Consequences, New Mexico; KUC840, Comanche Peak, El Paso, Texas.

20829-CD-AL-(2)-75, L. J. Galentin, d/b/a Contact of Texas. Consent to Assignment of License from L. J. Galentin, d/b/a Contact of Texas, Assignor, to Contact Communications, Inc., Assignee. Stations: KKD284, KRS639, Comanche Peak, El Paso, Texas.

20830-CD-TC-75, Byrnes Message Bureau, Inc. Consent to Transfer of Control from Byrnes Message Bureau, Inc., Transferor, to Jeanne H. Byrnes, Transferee. Station: KEJ884, Poughkeepsie, New York.

20831-CD-P-75, Chawilla, Incorporated (KWH313). C.P. to relocate facilities operating on 152.12 MHz located 3.2 miles SW. of Palatka, Florida.

20832-CD-P-75, Radio Dispatch Co. (new). C.P. for a new one-way station to operate on 158.70 MHz to be located 2.2 miles NW. of Manahawkin, New Jersey.

20833-CD-P-75, Radio Telephone Service, Inc. (new). C.P. for a new one-way station to operate on 158.70 MHz to be located 0.5 mi. NE of Rays Branch, Kentucky.

20834-CD-P-75, Comex, Inc. (KCC797). C.P. to add antenna location #4 to operate on 152.12 MHz to be located at Lagrange & Grandview Avenue, Manchester, New Hampshire.

20835-CD-P-75, Peoples Telephone Company, Inc. (new). C.P. for new one-way station to operate on 158.10 MHz to be located near Alabama Highway #68, 2 miles NW. of Leesburg, Alabama.

20836-CD-P-75, Amelia Telephone Corporation (new). C.P. for new one way station to operate on 152.84 MHz. to be located at Intersection of Routes 661 & 630, 2.5 miles Northeast of Amelia, Virginia.

20837-CD-P-75, Telanswer Radiophone Service (KQA739). C.P. to replace transmitter operating on 454.10 MHz. located at 1310 State Street, Boise, Idaho.

20838-CD-P-75, North Shore Communications, Inc. (KSV956). C.P. to add location #3 operating on 152.24 MHz. to be located at Nobscott Hill, 5 miles North of Framingham, Massachusetts.

20839-CD-P-75, Walnut Hill Telephone Company (KLB682). C.P. to reinstate expired license operating on 152.72 MHz. located at Corner of Fort and 7th Street, Lewisville, Arkansas.

20840–CD–P–75, Redi-Call Corporation (new). C.P. for a new station to operate on 152.06 MHz. to be located at County Road 412, 2.5 mi. SW. of Millsboro, Delaware.

20841–CD–P–75, Redi-Call Corporation (new). C.P. for a new one-way station to operate on 58.70 MHz. to be located at County Road 412, 2.5 miles SW. of Millsboro, Delaware.

20842–CD–P–75, Digital Paging Systems of Toledo, Inc. (KUO559). C.P. to relocate facilities operating on 152.24 MHz. located at Hillcrest Hotel, Madison & Sixteenth Streets, Toledo, Ohio.

20843–CD–P–(6)–75, Chalfont Communications (KMD995). C.P. to change antenna system, replace transmitter, and change frequency to 75.50, 75.58, 75.66 MHz., Repeater at Loc. #1: 5 mi. NE. from Palm Springs, Edom Hill, California; Relocate facilities, change antenna system, replace transmitter, and change frequency to 72.28, 72.36, & 72.46 MHz., Control, at Loc. #2: 73–680 Highway 111, Palm Desert, California.

20844–CD–P–(4)–75, All City Telephone Answering Service, Inc. (KSC373). C.P. for additional facilities to operate on 43.22 & 43.58 at Loc. #1: 606 West Wisconsin Avenue, Milwaukee, Wisconsin; and same facilities listed above at Loc. #2: 20695 W. National Avenue, New Berlin, Wisconsin.

20845–CD–P–75, George E. Kitchen, d/b/a Total Communications (KLF562). C.P. to relocate facilities, change antenna system, and replace transmitter operating on 152.09 MHz. located at 5607 Capital Avenue SW., Battle Creek, Michigan.

20846–CD–P–75, Mobilfone Service, Inc. (KKA402). C.P. to relocate facilities, change antenna system, and replace transmitter operating on 454.25 MHz. at Loc. #4: 1.3 miles SSW. of Jct. U.S. Highway 271 and State Highway 9, South Fort Smith, Arkansas.

20847–CD–P–(2)–75, Samuel W. Waldenberg (new). C.P. for a new station to operate on 152.18 MHz. and repeater facilities to operate on 459.100 MHz. to be located at Blacktail Mtn., 12 mi. S. of Kalispell, Montana.

20848–CD–P–75, The Swaynee Telephone Company, Inc. (new). C.P. for a new station to operate on 454.625 MHz. to be located at 103 W. Mark Street, Swaynee, Indiana.

20849–CD–AL–75, Air Call of Kingston. Consent to Assignment of License from Air Call of Kingston, Assignor, to Mrs. Loretta J. Davis, Representative of Estate of Harry E. Coale d/b/a Air Call of Kingston, Assignee. Station: KEJ887, Kingston, New York.

20850–CD–P–75, Samuel W. Waldenberg (new). C.P. for new control facilities to operate on 454.100 MHz. to be located at 425 La Salle Road, Kalispell, Montana.

Major amendment

20606–CD–P–75 (new), Asotin Telephone Company, Asotin, Washington: Change base frequency to 158.10 MHz. All other particulars are to remain as reported on PN #726, dated November 11, 1974.

CORRECTIONS

Public Notice dated December 2, 1974, should show Report No. 730 instead of Report No. 729. All other particulars to remain the same.

20752–CD–P–(2)–75, South Central Bell Tel. Co. (KIG267). Correct PN #729 dated 11/25/74 to read: CP for additional facilities to operate on 152.72 & 152.78 MHz, and change antenna system located at 100 N. Franklin Street, Mobile, Alabama.

20753–CD–P–(2)–75, Hawaiian Telephone Co. (KUA216). Correct PN #729 dated 11/25/74 to read: CP to replace transmitter and change antenna system operating on 152.51, 152.63, 152.69, & 152.81 MHz at Loc. #1: 2.9 miles NE. of Honolulu, Mt. Tantalus, Hawaii, and change antenna system operating on 152.51, 152.63, 152.69, & 152.81 MHz at Loc. #3: Puu Papaa Ridge, 2 miles NW. of Kaulua, Puu Papaa, Hawaii.

20742–CD–MP–75, William R. Miears, d/b/a Southwestern Communications Service (KUC855). Entry on PN #728 dated 11/18/74 should have been an amendment to application 20276–CD–P–75 on PN #717 dated 9/3/74.

RURAL RADIO

61207–CR–AL–75, L. J. Galentin, d/b/a Contact of New Mexico. Consent to Assignment of License from L. J. Galentin d/b/a Contact of New Mexico, Assignor, to Contact Communications, Inc., Assignee. Station: KSW21, Temporary fixed.

61208–CR–AL–75, L. J. Galentin, d/b/a Contact of Texas. Consent to Assignment of License from L. J. Galentin d/b/a Contact of Texas, Assignor, to Contact Communications, Inc., Assignee. Station: KSW24, Temp-fixed.

POINT-TO-POINT MICROWAVE SERVICE:

1682–CF–P/ML–75, American Telephone and Telegraph Company (KSA43), 1.2 Miles of Mishawaka, Indiana. Lat. 41°38'00" N., Long. 86°11'52" W. C.P. to add 3830H MHz toward Jones, Michigan, on azimuth 45 degrees/57 minutes.

1683–CF–P/ML–75, Same (KQD78). 1.5 Miles North of Jones, Michigan. Lat. 41°55'18" N., Long. 85°47'52" W. C.P. to add 3850V MHz toward Kalamazoo, Michigan, on azimuth 60 degrees/42 minutes.

1684–CF–P/ML–75, Same (KQD79), 2.5 Miles NW. of Kalamazoo, Michigan. Lat. 42°-20'40" N., Long. 85°37'41" W. C.P. to add 3810H MHz toward Cutlerville (KQD81), Michigan, on azimuth 357 degrees/43 minutes.

1685–CF–P/ML–75, Michigan Bell Telephone Company (WAS429), Cutlerville, 3.8 Miles SE. of Byron Center, Michigan. Lat. 42°-47'48" N., Long. 85°39'14" W. C.P. for a new station on 6390.0V MHz toward Allendale (WGVC–TV), Michigan, on azimuth 314 degrees/11 minutes.

1686–CF–P/ML–75, Southwestern Bell Telephone Company (KYJ66), Houston, Texas. Lat. 29°44'55" N., Long. 95°41'56" W. C.P. to add 5960.2V MHz toward League City (Apollo RS), Texas, on azimuth 133 degrees/08 minutes.

1687–CF–P/ML–75, Same (WPG66), League City (Apollo RS), Texas. Lat. 29°33'46" N., Long. 95°06'20" W. C.P. (A) to add 6390.0V MHz toward Liverpool, Texas, on azimuth 187 degrees/26 minutes, and (b) to add 6390.0H MHz toward Houston, Texas, on azimuth 313 degrees/15 minutes.

1688–CF–P/ML–75, Same (WCZ52), 6.2 Miles ESE. of Liverpool, Texas. Lat. 29°15'36" N., Long. 95°11'02" W. C.P. (a) to add 5960.2H MHz toward League City (Apollo RS), Texas, on azimuth 7 degrees/24 minutes, and (b) to add 5960.2V MHz toward Freeport, Texas, on azimuth 206 degrees/40 minutes.

1689–CF–P/ML–75, Same (WPG67), 1021 West Broad Street, Freeport, Texas. Lat. 28°-57'08" N., Long. 95°21'34" W. C.P. (a) to add 6390.0H MHz toward Liverpool, Texas, on azimuth 26 degrees/35 minutes, and (b) to add 11035V MHz toward Freeport (Dow Chemical Company), Texas on azimuth 329 degrees/13 minutes.

1690–CF–P/ML–75, Same (WAS480), Dow Chemical Company, Freeport, Texas. Lat. 28°59'10" N., Long. 95°22'56" W. C.P. for a new on 11565.5H MHz toward Freeport (WPG67), Texas, on azimuth 149 degrees/12 minutes.

1373–CF–P–75, Yankee Microwave Microwave Corporation, Inc. (KYZ85), Mt. Washington, New Hampshire. Lat 44°16'13" N., Long. 71°18'13" W. C.P. (a) to change the polarity of 5960.0V MHz to 5960.0H MHz toward Moose Hill, Maine, and (b) to add 6078.6H MHz and 6212.0H MHz toward Moose Hill, Maine, on azimuth 75 degrees/21 minutes.

1374–CF–P–75, Yankee Microwave Corporation, Inc. (KYZ86), Moose Hill, Maine. Lat. 44°29'00" N., Long. 70°07'50" W. C.P. (a) to change polarity of 6019.3H MHz to 6019.-3V MHz toward Blinn Hill, Maine, and (b) to add 6108.3V MHz and 6167.6V MHz toward Blinn Hill, Maine, on azimuth 137 degrees/54 minutes.

1375–CF–P–75, Same (WQQ54), Blinn Hill, Maine. Lat. 44°07'23" N., Long. 69°40'58" W. C.P. to (a) to add 6271.4V MHz, via power split, toward Topsham (Mt. Ararat), Maine, on azimuth 227 degrees/42 minutes, and (b) to add 6212.0V MHz and 6330.7V MHz toward Topsham (Mt. Ararat), Maine, on azimuth 227 degrees/42 minutes. (NOTE: a Waiver of 21.701(i) is requested by Yankee Microwave).

1691–CF–P–75, Tower Communication Systems Corporation (KQA33), 1.25 Miles South of Portsmouth, Ohio. Lat. 38°42'59" N., Long. 82°59'54" W. C.P. to add 10895H MHz, via power split, toward Portsmouth, Ohio, on azimuth 36 degrees/10 minutes.

1692–CF–P–75, West Texas Microwave Company (KTQ60), 2.0 Miles East of Sweetwater, Texas. Lat. 32°29'08" N., Long. 100°-21'58" W. C.P. to add 11425H MHz toward Colorado City, Texas, on azimuth 260 degrees/3 minutes.

1693–CF–P–75, Eastern Microwave, Inc. (KEM59), Sentinel Heights, New York. Lat. 42°56'40" N., Long. 76°07'08" W. C.P. to add 6049.0V MHz, via power split, toward North Syracuse, New York, on azimuth 356 degrees/48 minutes.

1694–CF–P–75, Eastern Microwave, Inc. (KYZ74), 1.55 Miles WSW. of Highland Lakes, New Jersey. Lat. 41°10'01" N., Long. 74°30'12" W. C.P. to add 6241.7V MHz, via power split, toward new point of communication at Sussex, New Jersey, Lat. 41°15'40" N., Long. 74°40'41" W., on azimuth 305 degrees/34 minutes.

1695–CF–P–75, MidKansas, Inc. (KZA43), 0.6 Mile East of Lyons, Kansas. Lat. 38°20'48" N., Long. 98°10'23" W. C.P. to add 6212.2H MHz, via power split, toward Hutchinson, Kansas, on azimuth 150 degrees/17 minutes.

1722–CF–P–75, Southwestern Bell Telephone Company (KYJ47), 715 Louisiana Street, Little Rock, Arkansas. Lat. 34°44'30" N., Long. 92°16'20" W. C.P. to add 6256.5V MHz towards Belfast, Arkansas, on azimuth 204°13'.

1723–CF–P–75, Same (KYJ50), 720 Beech Street, Pine Bluff, Arkansas. Lat. 34°13'19" N., Long. 92°00'35" W. C.P. to add 5974.8V and 6152.8V MHz towards Kearney, Arkansas, on azimuth 324°28'.

1724–CF–P–75, Same (WOI35), Kearney, 2 miles SSE. of Redfield, Arkansas. Lat. 34°24'55" N., Long. 92°10'35" W. C.P. to add 6226.9H and 6404.8H MHz toward Pine Bluff, Arkansas, on azimuth 144°23'; 6226.9V and 6404.8V MHz towards Belfast, Arkansas, on azimuth 277°33'.

1725–CF–P–75, Same (WOE26), 2.5 miles NE. of Belfast, Arkansas. Lat. 34°26'26" N., Long. 92°26'03" W. C.P. to add 6004.5H MHz towards Little Rock, Arkansas, on azimuth 24°03'; 5794.8H and 6152.8H MHz towards Kearney, Arkansas, on azimuth 97°25'.

1730–CF–P–75, The Mountain States Telephone and Telegraph Company (KPR60), Cooper Mountain, 15 miles SE. of Thermopolis, Wyoming. Lat. 43°26'50" N., Long. 108°01'56" W. C.P. to add 6160.2V MHz towards Worland, Wyoming, on azimuth 05°27'; change polarity from V to H on 11405 and 11645 MHz towards Worland, Wyoming, on azimuth 185°30'.

1731–CF–P–75, Same (KPR62), 130 South 9th Street, Worland, Wyoming. Lat. 44°-00'58" N., Long. 107°57'25" W. C.P. to add 6367.7V MHz and change polarity from V to H on 10955 MHz towards Cooper Mountain, Wyoming, on azimuth 185°30'.

1732–CF–P–75, Same (KKR39), Little Creek Mountain, 7.8 Miles SE. of Hurricane, Utah, Lat. 37°05'47" N., Long. 113°11'11" W. C.P. to add 2162.0V MHz towards a new point of communication at Springdale, Utah, via passive reflector.

1733–CF–P–75, Same (new), Main Street, Springdale, Utah. Lat. 37°11'18" N., Long. 112°59'59" W. C.P. for a new station on 2112.0V MHz towards Little Creek, Utah, via passive reflector.

1734–CF–P–75, American Telephone and Telegraph Company (KIK64), 321 W. Chestnut Street, Louisville, Kentucky. Lat. 38°14'58" N., Long. 85°45'39" W. C.P. to add 4030V MHz towards Lanesville, Indiana, on azimuth 250°13'.

1735–CF–P–75, Same (KIM60), 0.7 mile NW. of Payneville, Kentucky. Lat. 38°00'06" N., Long. 86°19'19" W. C.P. to add 3810V MHz towards Madrid, Kentucky, on azimuth 179°26'; 3890V MHz towards Lanesville, Indiana, on azimuth 58°58'.

1736–CF–P–75, Same (KIM69), 1.8 miles NE. of Madrid, Kentucky. Lat. 37°37'37" N., Long. 86°19'20" W. C.P. to add 3950V MHz towards Payneville, Kentucky, on azimuth 359°26'; 3950V MHz towards Brownsville, Kentucky, on azimuth 176°34'.

1737–CF–P–75, American Telephone and Telegraph Company (KIM71), 3.5 miles NNW. of Brownsville, Kentucky. Lat. 37°-13'09" N., Long. 86°18'16" W. C.P. to add 3810V MHz towards Madrid, Kentucky, on azimuth 356°34'; 3810H MHz towards Game, Kentucky, on azimuth 145°23'.

1738–CF–P–75, Same (KIM72), 0.6 mile North of Game, Kentucky. Lat. 36°56'47" N., Long. 86°04'12" W. C.P. to add 3850H MHz towards Brownsville, Kentucky, on azimuth 325°31'; 3950 MHz towards Flippen, Kentucky, on azimuth 138°06'.

1739–CF–P–75, Same (KIM78), 4 miles East of Flippen, Kentucky. Lat. 36°43'06" N., Long. 85°46'36" W. C.P. to add 3810H MHz towards Game, Kentucky, on azimuth 318°-15'; 3810H MHz towards Gainesboro, Tennessee, on azimuth 159°52'.

1740–CF–P–75, Same (KIM86), 3.6 miles SSE. of Gainesboro, Tennessee. Lat. 36°18'42" N., Long. 85°37'55" W. C.P. to add 3850H MHz towards Flippen, Kentucky, on azimuth 339°32', 3950H MHz towards Smithville, Tennessee, on azimuth 360°12'.

1741–CF–P–75, Same (KIM90), 3.4 miles NE. of Smithville, Tennessee. Lat 35°59'04" N., Long. 85°46'48" W. C.P. to add 3810H MHz towards Gainesboro, Tennessee, on azimuth 20°06'; 3810V MHz towards Spencer, Tennessee, on azimuth 141°21'.

1742–CF–P–75, Same (KIM91), 7.2 miles South of Spencer, Tennessee. Lat. 35°39'35" N. Long. 85°27'44" W. C.P. to add 3850V MHz towards Smithville, Tennessee, on azimuth 321°32', 3950H MHz towards Coalmont, Tennessee, on azimuth 212°47'.

1743–CF–P–75, Same (KIN30), 1 mile WNW. of Coalmont, Tennessee, Lat. 35°21'00" N., Long. 85°42'20" W. C.P. to add 3810H MHz towards Orme, Tennessee, on azimuth 109°48'.

1744–CF–P–75, Same (KIN33), 3 miles North of Orme, Tennessee. Lat. 35°01'57" N., Long. 85°46'20" W. C.P. to add 3850V MHz towards Coalmont, Tennessee, on azimuth 09°46'; 3850V MHz towards Rosalie, Alabama, on azimuth 163°31'.

1745–CF–P–75, Same (KIN28), 1.3 miles WSW. of Rosalie, Alabama. Lat. 34°41'19" N., Long. 85°47'52" W. C.P. to add 3810V MHz towards Orme, Tennessee, on azimuth 03°30'; 3810V MHz towards Collbran, Alabama, on azimuth 176°44'.

1746–CF–P–75, Same (KIN34), 1.6 miles South of Collbran, Alabama. Lat. 34°20'56" N., Long. 85°46'28" W. C.P. to add 3850V MHz towards Rosalie, Alabama, on azimuth 356°45'; 3850V MHz towards Haney, Georgia, on azimuth 131°56'.

1747–CF–P–75, Same (KIN39), 6 miles ENE. of Buchanan, Georgia, on Lat. 33°49'59" N., Long. 85°07'01" W. C.P. to add 3950V MHz towards Haney, Georgia, on azimuth 314°38; 3950H MHz towards Villa Rica, Georgia, on azimuth 116°31'.

1748–CF–P–75, Same (KIN35), 1 mile SSE. of Haney, Georgia., Lat. 34°04'31" N., Long. 85°24'33" W. C.P. to add 3810V MHz towards Collbran, Alabama, on azimuth 312°08'; 3810V MHz towards Buchanan, Georgia, on azimuth 134°46'.

1749–CF–P–75, American Telephone and Telegraph Company (KTT28), 1.8 miles East of Villa Rica, Georgia. Lat. 33°43'43" N., Long. 84°58'09" W. C.P. to add 3810H MHz towards Buchanan, Georgia, on azimuth 296°29'; 3810H MHz towards Mableton, Georgia, on azimuth 66°43'.

1750–CF–P–75, Same (KRS98), 2.2 miles NE. of Jersey, Georgia. Lat. 33°43'51" N., Long. 83°46'00" W. C.P. to add 3970H MHz and 4050H MHz towards Tucker, Georgia, on azimuth 286°08'; 3970H MHz and 4050H MHz towards Monticello, Georgia, on azimuth 179°54'.

1751–CF–P–75, Same (KSJ47), 3.8 miles SE. of Lanesville, Indiana. Lat. 38°12'01" N., Long. 85°36'01" W. C.P. to add 4090V MHz towards Payneville, Kentucky, on azimuth 237°12'; 3890V MHz towards Louisville, Kentucky, on azimuth 79°07'.

1752–CF–P–75, Same (WGI23), 8 miles North of Mableton, Georgia. Lat. 33°51'54" N., Long. 84°35'37" W. C.P. to add 3850H MHz towards Villa Rica, Georgia, on azimuth 240°33'; 3950H MHz towards Smyrna, Georgia, on azimuth 33°36'.

1753–CF–P–75, Same (WGI24), 3.3 miles E. of Smyrna, Georgia. Lat. 33°52'47" N., Long. 84°27'25" W. C.P. to add 3810H MHz towards Mableton, Georgia, on azimuth 262°-41'; 3970H and 4050H MHz towards Tucker, Georgia, on azimuth 102°05'.

1754–CF–P–75, Same (WGI25), 2 miles SE. of Tucker, Georgia. Lat. 33°49'54" N., Long. 84°11'23" W. C.P. to add 4010H and 4090H MHz towards Smyrna, Georgia, on azimuth 282°14'; change azimuth on 4010H and 4090H MHz towards Jersey, Georgia, to 105°49'.

1755–CF–P–75, Same (WGI26), 5 miles NW. of Monticello, Georgia, Lat. 33°20'16" N., Long. 83°45'59" W. C.P. to add 4010H and 4090H MHz towards Jersey, Georgia, on azimuth 359°53'.

1756–CF–P–75, General Telephone Company of the Northwest, Inc. (KPV29), Jct. U.S. 101, County Road 2, Gold Beach, Oregon. Lat. 42°25'24" N., Long. 124°24'42" W. C.P. to change power and replace transmitter on 6115.7H MHz towards Soldiers Camp Mountain, Oregon, via passive reflector.

1757–CF–P–75, Same (KPV30), Cross County Road From School, Agness, Oregon. Lat. 42°39'18" N., Long. 124°03'58" W. C.P. to replace transmitter and change power on 6412.2H MHz towards Soldiers Camp Mtn., Oregon, via passive reflector.

1758–CF–P–75, Northwestern Telephone Systems, Inc. (KPM60), 60 West Grant Street, Lebanon, Oregon. Lat. 44°32'18.1" N., Long. 122°54'26.5" W. C.P. to replace transmitter and change power on 6415V MHz towards Cedar Butte, Oregon, on azimuth 162°37'.

1760–CF–P–75, Same (KPM61), 10th and L Streets, Sweet Home, Oregon. Lat. 44°23'-49.1" N., Long. 122°43'52.9" W. C.P. to replace transmitter and change power on 6355V MHz towards Cedar Butte, via passive reflector.

1761–CF–P–75, Northwestern Telephone Systems, Inc. (KPM62), Cedar Butte, near Sodaville, Oregon. Lat. 44°26'27.6" N., Long. 122°51'42" W. C.P. to replace transmitter and change power on 6295V and 6235V MHz towards Lebanon, via passive reflector.

1762–CF–P–75, American Telephone and Telegraph Company (KIN43), 325 Gardenia Street, Palm Beach, Florida. Lat. 26°42'34" N., Long. 80°03'11" W. C.P. to add 4070V MHz towards Boynton Beach, Florida, on azimuth 159°00'.

1763–CF–P–75, Same (KJJ68), 3.5 miles NW. of Ojus, Florida. Lat. 25°56'19" N., Long. 80°11'39" W. C.P. to add 3790V MHz towards Margate, Florida, on azimuth 324°10'.

1764–CF–P–75, Same (KJJ69), 4 miles WSW. of Boynton Beach, Florida. Lat. 26°30'45" N., Long. 80°07'27" W. C.P. to add 3790V MHz towards West Palm Beach, Florida, on azimuth 17°38'; 4030V MHz towards Margate, Florida, on azimuth 194°17'.

1765–CF–P–75, Same (KJJ70), 0.5 mile NE. of Hammondville, Florida. Lat. 26°14'56" N., Long. 80°11'55" W. C.P. to add 3930V MHz towards Boynton Beach, Florida, on azimuth 14°15'; 4070V MHz towards Ojus, Florida, on azimuth 179°10'.

1766–CF–MP–75, Western Tele-Communications, Inc. (WOI61), San Francisco, California. Mod. of C.P. to relocate facilities to Lat. 37°46'26" N., Long. 122°24'58" W. for frequency 6063.8H MHz on azimuth 20°43' toward Mt. Vaca.

1680–CF–MP–75, Same (WOI75), Scappoose, Oregon. Mod. of C.P. to change frequency 6271.4H to 10703V MHz and add frequency 10675V MHz on azimuth 135°19' toward Portland TOC, Oreg.

1681–CF–MP–75, Same (WOI76), Portland TOC, Oregon. Mod. of C.P. to change frequency 11445V to 11365V and add 11605V MHz on azimuth 315°34' toward Scappoose.

Major amendments

Informative: Western Tele-Communications, Inc., hereby amends a portion of its authorized San Francisco to Seattle specialized common carrier message system. These changes include the relocation of the San Francisco, Bird Valley, Maxwell and Weed, California stations.

5069–C1–P–75, Western Tele-Communications, Inc. (new), Bird Valley. C.P. to relocate facilities to Lat. 39°49'41" N., Long. 121°59'13" W. for frequency 6123.1H MHz on azimuth 163°12' towards Mt. Vaca and frequency 6123.1H MHz on azimuth 343°24' towards Maxwell.

5070–C1–P–75, Same (new), Maxwell. C.P. to relocate facilities to Lat. 39°20'55" N., Long. 122°11'32" W. on frequency 6315.9V MHz on azimuth 192°12' toward Bird Valley and frequency 6315.9H MHz on azimuth 352°37' towards St. John Mtn.

5071-C1-MP-73, Same (WOI66), St. John Mtn., California. Mod. of C.P. to change azimuth towards Maxwell to 102°18' on frequency 6123.1H MHz.

5075-C1-MP-73, Same (WOI68), Weed, California. Mod. of C.P. to relocate facilities to Lat. 41°22'41" N., Long. 122°23'25" W. for frequency 6093.5V MHz on azimuth 138°04' towards Hatchet Mtn., and frequency 6123.1V MHz on azimuth 01°01' towards Little Chinquapin Mtn.

[FR Doc.74-29206 Filed 12-13-74;8:45 am]

[Docket Nos. 20232, 20233; File Nos. 33-A-L-94, 108-A-RL-94]

CLOVERLEAF AVIATION, INC., AND GUNNELL AVIATION, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

1. Gunnell Aviation, Inc. (hereinafter called Gunnell) has filed an application for renewal of its license for aeronautical advisory station WAJ 7[1] at the Santa Monica Airport, Santa Monica, California, and Cloverleaf Aviation, Inc. (hereinafter called Cloverleaf) has filed an application for new aeronautical advisory facilities at the same airport. Section 87.251(a) of the Commission's rules provides that only one aeronautical advisory station may be authorized to operate at a landing area and, therefore, the above-captioned applications are mutually exclusive. Accordingly, it is necessary to designate the applications for a comparative hearing in order to determine which application should be granted. Except for the issues specified herein, each applicant is otherwise qualified.

2. By letter, dated August 30, 1974, Cloverleaf has, in effect, alleged that Gunnell has not provided aeronautical advisory service in conformity with the scope of service for such stations as set forth in Section 87.257.

3. In view of the foregoing, *it is ordered*, That, pursuant to the provisions of § 309(e) of the Communications Act of 1934, as amended, and § 0.331(b)(21) of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order on the following issues:

(a) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators;

(b) To determine the manner in which Gunnel has operated aeronautical advisory station WAJ 7 and whether its operation was consistent with the Commission's rules, § 87.257; and

(c) To determine in light of the evidence adduced on the foregoing issues which, if either, of the applications should be granted.

4. *It is further ordered*, That the burden of proof and the burden of proceeding with the introduction of evidence on issue (b) is on Gunnell and on all other issues, the burdens are on each applicant with respect to its application except issue (c) which is conclusory.

5. *It is further ordered*, That to avail themselves of an opportunity to be heard, Gunnell and Cloverleaf, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Adopted: November 22, 1974.

Released: December 10, 1974.

[SEAL] CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.74-29210 Filed 12-13-74;8:45 am]

[Docket Nos. 20262, 20263; File Nos. 6970-C2-P-(2)-70, 1915-C2-P-70; FCC 74-1291]

HOUSTON RADIOPHONE SERVICE AND SOUTHWESTERN BELL TELEPHONE CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

1. The Commission has before it for consideration the above-captioned applications to establish new air-ground radiotelephone service facilities to operate on 454.675, 454.825 and 454.950 MHz in the Domestic Public Land Mobile Radio Service (DPLMRS) near Houston, Texas.

2. It appears from the application of Roy M. Teel (d/b/a Houston Radiophone Service) (hereinafter "Radiophone") that he is an individual proprietor whose address is P.O. Box 4910, Tulsa, Oklahoma, 74104. Southwestern Bell, on the other hand, is a corporation with regional offices, located at 3100 Main Street, Room 1110, Houston, Texas, 77002. Southwestern is a Bell System operating company whose stock is owned entirely by the American Telephone and Telegraph Company.

3. The applications are mutually exclusive, because the grant of both to operate on the same radio channel and in the same locality would result in mutually harmful electrical interference. Since both applicants appear to be legally, financially, and otherwise qualified to construct and operate the proposed facilities, the applications must be designated for comparative hearing to determine which applicant is better qualified to operate the proposed facilities in the public interest. Ashbacker Radio Corp. v. FCC, 326 U.S. 327 (1945).

4. In view of the foregoing, *it is ordered*, That pursuant to § 309(d) and (e) of the Communications Act of 1934, as amended (47 U.S.C. 309(d) and (e)) that the captioned applications of Roy M. Teel, d/b/a Houston Radiophone Service, and Southwestern Bell Telephone Company are designated for hearing in a consolidated proceeding upon the following issues:

1. To determine on a comparative basis the nature and extent of services proposed by each applicant.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the above-captioned applicants would better serve the public interest, convenience and necessity.

5. *It is further ordered*, That the hearing shall be held at the Commission offices in Washington, D.C., at a time and place, and before an Administrative Law Judge, to be specified in a subsequent order.

6. *It is further ordered*, That applicants may avail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the Commission's rules within twenty (20) days of the release date hereof, a written notice stating an intention to appear on the date set for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

Adopted: November 27, 1974.

Released: December 6, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-29209 Filed 12-13-74;8:45 am]

[FCC 74-1335; Docket No. 20281]

INTERGOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

Preparation for Meeting of Governments on Establishment of International Maritime Satellite System; Notice of Inquiry

1. An intergovernmental conference will be held in London, England from April 23 to May 9, 1975, to decide on the principle of establishing an International Maritime Satellite System. The Intergovernmental Maritime Consultative Organization (IMCO) is the convenor of the conference of governments which will consider, *inter alia*, the Report of a Panel of Experts on Maritime Satellites[1] in arriving at a determination of whether to establish an International Maritime Satellite System and,

[1] Gunnell's radio station license, WAJ 7, expired April 16, 1974, and application for renewal was not received by the Commission until September 10, 1974. Accordingly, a timely renewal was not filed, and the application for renewal is essentially a new application seeking reinstatement of its previously held authorization.

[1] Many members of the industry who have participated in the work of the Panel of Experts have copies of this extensive Report. Copies of the Report are available for inspection at the Commission's Office of Public Information and a limited number of copies are available upon request for those who expect to file comments in this proceeding.

if so, the arrangements to be made for its organization and operation.

2. The Panel of Experts, comprised of representatives of the maritime nations, has met six times over the past 2 years and has considered the operational, technical, economic and organizational factors attendant to establishment of an international maritime satellite system. At the final meeting of the Panel of Experts, held in London during September, 1974, the United States reserved endorsement of the Panel's final Report on the basis that sufficient analysis of all possible alternative institutional arrangements, as well as of the closely related economic and technical factors has not been made.[1]

3. It is anticipated that the United States will participate in the forthcoming conference and pursuant to its statutory duties and responsibilities the Commission intends to submit recommendations to the Department of State concerning the position the United States should take at the conference. At the present time, no determination has been made to establish an international maritime satellite system nor, of course, has any decision been made as to whether the U.S. will participate in any system that is established. However, it is anticipated that a private U.S. communications entity authorized by the Commission will be the U.S. participant in any such system that the U.S. may join, and further, the Commission has certain responsibilities for assuring a regulatory framework for the provision of adequate maritime communications. Accordingly, the Commission wishes to have available for timely consideration the views of carriers, users, and others interested in maritime satellite communications on the matters discussed in the paragraphs below. It is anticipated that there will be a Further Notice of Inquiry at an appropriate time to solicit additional comments on other aspects of the international maritime satellite communications program.

4. The Panel's Report looks toward the establishment of a new international organization to be responsible for the provision of maritime satellite communications. What specific, practical alternatives to a new international organization might be considered? Even if a new international organization is formed, are there interim measures that might be taken to speed the introduction of maritime satellite communication service (e.g., what role might the MARISAT system play?)[2]

5. If it is determined that a new international organization is to be established, a determination will, of course, have to be made as to whether the United States will join. That determination will in turn depend on the precise organization that is proposed to be established, its structure, powers, membership requirements, voting procedures, financial arrangements, operating principles, procurement practices and a number of other provisions. In this regard, your attention is called to Appendix I to Section VII of the Report of the Panel of Experts, which is a "Draft Convention" on the International Organization for a Maritime Satellite System (INMARSAT)." Comments are requested on this draft Convention which will be considered at the Conference, with particular attention called to those sections for which alternative texts are set forth.

6. As indicated above, if the U.S. does join any new organization, it is anticipated that a U.S. private communication entity authorized by the Commission will be the U.S. participant. It is our expectation that the participant in the organization will be a single U.S. entity, regardless of the number of communications entities that may be authorized by the Commission to provide maritime communication service to the public using the satellite system. Should the participating entity be one of the existing carriers now authorized to provide maritime service? A new and separate entity (corporation) owned by such carriers? How should ownership in a consortium or new corporation be apportioned? Should the participating entity operate solely or partially as a "carriers' carrier"?

7. The Commission also wishes to obtain as concrete an indication as possible concerning the willingness of existing maritime carriers to invest in an international system. Recognizing that there are many uncertainties and contingencies, what are the factors that would determine whether and to what degree you would be willing to invest?

8. The questions raised in paragraphs 4–7 are not intended to limit the scope of comments submitted by interested parties. Comments may be submitted on any part of the Report or on any other aspect of the entire matter which interested parties believe will be helpful to the Commission in formulating its recommendations concerning the forthcoming Conference.

9. In view of the necessity for formulating a U.S. position well in advance of the forthcoming Conference, it is necessary that comments in response to this Notice be filed as soon as possible, but in no event later than January 6, 1975. Comments should be filed pursuant to Section 1.419(b) of the Commission's Rules and Regulations which requires, among other things, an original and 14 copies of all filings. All relevant and timely comments will be considered by the Commission. The Commission may also take into account other pertinent information before it in addition to specific comments elicited by the Notice in this proceeding.

Adopted: December 4, 1974.

Released: December 5, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-26905 Filed 12-13-74;8:45 am]

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[1] Final Report of the Panel of Experts to the Maritime Safety Committee, p. 2, paragraph 7.

[2] MARISAT is the maritime mobile satellite communication system under development by COMSAT General Corp., ITT World Communications Inc., RCA Global Communications, Inc. and Western Union International, Inc. Atlantic and Pacific Ocean service is scheduled to begin in mid-1975. Approximately 80 percent of the satellite capacity will initially be used by the U.S. Navy, with the remainder available for commercial maritime service.

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Notice of Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," Radio Technical Commission for Marine Services (RTCM) meetings scheduled for the future are as follows:

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

To comply with the advance meeting notice requirements of Pub. L. 92-463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the listed meeting should report to the room number given in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Special Committee No. 68
"Marine Radiotelephone Operator Education"
Notice of 3rd Meeting
Friday, January 10, 1975—9:30 a.m.
Sutherland Room (Room No. 437)
Coliseum, Second Mezzanine
Columbus Circle
New York City

AGENDA

1. Call to order; Chairman's report.
2. Adoption of Agenda.
3. Acceptance of Summary Records.
4. Reports on Work Assignments.
5. Approval of submitted papers.
6. Discussion of problem areas.
7. Solicitation of Work Assignments.
8. Other business.
9. Establishment of next meeting date.

A. Newell Garden, Chairman, SC-68
Raytheon Company
141 Spring Street
Lexington, Massachusetts 02173
Phone: (617) 862-6600 (Ext. 414)

Since its establishment in 1947, the RTCM has acted as a coordinator for maritime telecommunications. Problems are studied by RTCM Special Committees, and the final reports are approved by the RTCM Executive Committee.

Agendas, working papers, and other appropriate documentation for this committee meeting will be available at the meeting. Those desiring more specific information may contact either the Committee Chairman or the RTCM Secretariat.

All RTCM meetings are open to the public. For this particular meeting, however, entrance to the meeting building (New York Coliseum) is limited to those with satisfactory identification. For attendees of this meeting, the SC-68 agenda printed on green paper as distributed from the RTCM Secretariat will be accepted as identification. To

avoid delay in entering the Coliseum, please be certain to bring your agenda. If you do not regularly receive the standard green-paper agenda, please make written request to the RTCM Secretariat, allowing adequate transit time through the U.S. Postal Service. Requests for agendas should be addressed to:

RTCM Secretariat
c/o Federal Communications Commission
Washington, D.C. 20554

[FR Doc.74-29206 Filed 12-13-74;8:45 am]

[FCC 74-1393]

SURVEY OF POLITICAL BROADCASTING AND CABLECASTING

Discontinuance

DECEMBER 6, 1974.

The Commission announced that it is discontinuing the biennial Survey of Political Broadcasting/Cablecasting. Effective immediately, broadcast licensees and cable television systems will no longer be required to submit political broadcasting/cablecasting reports to the Federal Communications Commission on Form 322. The Commission has taken this action because the Federal Election Campaign Act of 1971 and the Federal Election Campaign Act Amendment of 1974 assign the task of collecting information on campaign spending for Federal office to other branches of the Federal Government.

The Federal Election Commission which will begin operation on January 1, 1975, may seek similar information about political broadcasting or may request the aid of the FCC in gathering such information. Broadcasters that had some political broadcasting in 1974 and cable television system that originated some political broadcasting in 1974 are asked to retain the relevant records until September 30, 1975.

Action by the Commission December 3, 1974. Commissioners Wiley (Chairman), Lee, Reid, Washburn and Robinson.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-29207 Filed 12-13-74;8:45 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01015....	A/S Rederiet Odfjell: *Bow Ek.*
01077....	H. M. Wrangell & Co. A/S: *Hoegh Prom.*
01113....	A/S J. Ludwig Mowinckels Rederi: *Grena.*
01482....	Aden Shipping Company Limited: *Vinetra.*
01974....	Fearnley & Eger: *Fernbay.*
02196....	Peninsular & Oriental Steam Navigation Company: *Strathaeolian, Strathnaver, Strathtay, Strathnaim, Strathnevis, Strathtrotl, Strathtrum.*
02335....	Central Gulf Lines, Inc.: *Green Harbour, Green Island.*
02367....	Canadian Pacific (Bermuda) Ltd.: *Fort Steele.*
02385....	Kristiansands Tankrederi A/S, A/S Kristiansands Tankrederi II, A/S Kristiansands Tankrederi III, Aksjeselskapet Avant, Aksjeselskapet Skjoldheim: *Polbritannia.*
02522....	Sugar Line Limited: *Sugar Trader.*
02551....	Ellerman Lines Ltd.: *City of Valetta.*
02911....	Sig. Bergesen D.Y. & Co.: *Berge Neptunus.*
03484....	Sanko Kisen K.K.: *World Canada.*
03614....	A/S Kristian Jebsens Rederi: *Birkaas.*
03690....	The Harbor Tug & Barge Company: *Deck Barge 412.*
03720....	Global Marine Inc.: *Glomar Coral Sea.*
04090....	Port Arthur Towing Company: *Patco 500, Patco 501, Patco 502, Patco 503, Patco 504, Patco 505, Patco 506, Patco 507.*
04218....	Zidell Inc. Zidell Dismantling Inc. and Zidell Explorations, Inc.: *Peter W.*
04383....	Gulf of Georgia Towing Co., Ltd.: *Linden, Pulpwood II.*
04601....	American Tunaboat Association: *Evelyn Da Rosa.*
04767....	Texaco Inc.: *Cote Blanche Bay.*
04899....	Panocean Shipping & Terminals Limited: *Fast Enterprise.*
05046....	Magnolia Marine Transport Co.: *MM-20, MM-21, MM-22, MM-23, M-24, M-25.*
05500....	Petroleos Mexicanos: *Mariano Moc*
05500....	Petroleos Mexicanos: *Mariano Moctezuma, Independencia, Reforma.*
05670....	Vasco Madrilena de Navegacion S.A.: *Valle de Lajua.*
06130....	Northern Shipping Co.: *Ekaterina Belashova.*
06300....	Delaware River & Bay Authority: *New Jersey.*
06305....	E. T. Barber dba Noches Shell Co., Inc.: *PS 11.*
06478....	Korea Marine Industry Development Corporation: *No. 31 Soopung.*
06704....	Yuugen Kaisha Marukyo Boshi Suisan: *Marukyoboshibmaru No. 18.*
06903....	Sun Shipbuilding & Dry Dock Co.: *Puerto Rico Yard Hull No. 678.*
06906....	Directia Navigatiei Maritime Navrom: *Oltenia, Arges, Prahova, Resita, Bucegi, Lupeni, Carpati, Dunarea, Oltul, Muresures, Hunedoara, Bumbesti, Anina, Cugir, Vulcan, Rovinari, Uricani, Petrosani, Sinaia, Predeal, Dobrogea, Bucuresti, Vrancea, Salaj, Neamt, Dolj, Gorj, Calimanesti, Bihor, Rodnatal, Satu Mare, Targu Jiu, Slatina, Slobozia, Calarasi, Arnota, Mimnicu Vilcea, Oderhei.*
06934....	Chevron Navigation Corp.: *Chevron Freeport.*
07262....	Pacific Union Lines Ltd.: *Hong Kong Success.*
07290....	Hollywood Terminals, Inc.: *W143, W144, Ellis 2121, Ellis 2133, Hollywood 2002.*
07668....	Marine Leasing Corp.: *Steel Floating Drydock.*
07688....	Delphin Maritime Corporation: *Athenais, Aspis, Nabelita.*
08084....	Asia Africa Shipping Co. Ltd.: *Uniafrica.*
08045....	Nagan (Panama) S.A.: *Athol.*
08064....	Santa Fe-Pomeroy Marine Services Co.: *Pima, Towhee.*
08071....	Anglo Nordic Bulkships (Management) Limited: *Nordic Regent.*
08085....	Sonata Compania de Navegacion S.A.: *Hubert.*
08317....	South East Asia Shipping Company Private Limited: *Jay Vijay.*
08387....	Sure Hope Towing Co., Inc.: *MMS-103, MMS-104, HTCO-29, MMS-106.*
08436....	International Shipping and Trading Corp.: *Pine Queen.*
08555....	Universal Towing Company-D, J. Marine Service Inc.: *Dredge Flat, B-26 Rigging Flat, McClellan.*
08617....	Fairmont Enterprises Limited: *Septa.*
08652....	Scorpion Shipping Inc.: *Sea Royal.*
08658....	Il Woo Marine Co. Ltd.: *Ocean Blue.*
09162....	Birdsall Shipping S.A.: *Tropic Gale.*
09470....	Societa D'Armamento per L'Esercizio: *Montese.*
09480....	North Pacific Navigation Corporation: *Ulrica.*
09505....	Sung Yang Fisheries Co. Ltd.: *No. 1 Sung Yang, No. 2 Sung Yang.*
09516....	Filadelfos Cia de Navegacaon S.A.: *Filadelfos.*
09523....	Brownarrow Shipping Inc.: *Asia Beauty.*
09532....	Anangel Wisdom Compania Naviera S.A. Panama: *Anangel Wisdom.*
09533....	Leo Star Shipping S.A.: *Leo Star.*
09534....	Leo Soling Shipping S.A.: *Leo Soling.*
09535....	Panama Overseas Transport S/A: *Golden Hill.*
09536....	Doros Shipping Company: *Doros.*
09537....	Achaios Shipping Company: *Achaios.*
09538....	Interessentskapet Banya: *Banya.*
09542....	Purly Shipping Co. Ltd.: *Stella.*
09544....	B.I.P. Shipping Co. S.A.: *Seibun Maru No. 3.*
09545....	Maytide Line Co., Ltd.: *Tropical Mariner, Southern Mariner.*
09546....	Roverts Shipping Company Limited: *Ana Patricia.*
09547....	J.A.R. Barge Lines: *MRBL-88, MRT-110, MRBL-24.*
09550....	Macanda Shipping Company Limited: *Ruby.*
09551....	Martimaris Cuarto Maritime Corp.: *Eurochemis.*
09552....	Marine Sales Limited: *Panky.*
09555....	Pesquera Granada S.A.: *Granada.*
09556....	Association M. V. "E.R. Wallonia": *E. R. Wallonia.*
09557....	Rederiet Junior VI: *Junior Lone.*
09558....	Oriental Tanker Services Inc.: *Energy Production.*
09559....	Auxiliar de Transportes Maritimos S.A.: *Guardo, Manjoya.*
09560....	Demeter Shipping Company Limited: *Dona Angela.*
09561....	Ben Line Ship Management Ltd.: *Greg Hunter, Vienna.*
09564....	Clare Island Shipping Company Ltd.: *Seaboulina Faith.*
09565....	Cement Carriers Ltd.: *Atlantico I.*
09566....	Houshin Kaiun K.K.: *Houmei Maru.*

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Certificate No.	Owner/operator and vessels
09567	Dong Soo Ltd.: *Dong Won No. 16, Dong Soo No. 110.*
09571	Immingham Shipping Company Limited: *Barry.*
09572	Argostoli Shipping Company Limited: *Arcos.*
09573	Operation and Transport Corporation Limited: *Apollo.*
09574	Meridian Line, S.A.: *Tara Sea.*
09576	Branco Shipping Co., Ltd.: *Atlantic Empress.*
09579	St. Lawrence Shipping Company Limited: *Tamy.*
09580	Tianna Shipping Co., Ltd.; *Inguss.*
09581	Eastgate Shipping Company Limited: *Armadora.*
09583	Central Island Navigation Corporation: *Carina I.*
09586	Orinoco Shipping Co., Ltd.: *Atlantic Emperor.*
09587	East Amazon Shipping Co., Ltd.: *Eugenie Livanos.*
09588	Parana Shipping Co., Ltd.: *Arietta Livanos.*
09589	Il Woo Fisheries Co., Ltd.: *Il Woo No. 3, Il Woo No. 7.*
09590	Likmar Maritime Company Limited: *Irenes Pride.*
09591	Finance and Investment Company Limited: *Althea.*
09592	Diamond Navigation S.A.: *Diamond Peace.*
09593	Yellowstar Shipping & Trading Corp.: *Yellowstar 1.*
09595	Ming Ren Navigation Co. Ltd. S.A.: *Mingren Investment.*
09596	Okura Gyogyo K.K.: *Tokiwa Maru No. 58.*
09597	Federacion Nacional de Cafeteros de Colombia: *Mitu, Guainia.*
09598	Greek Atlantic Cod Fishing Company: *Saronis.*
09599	Kaiser Corporation Ltd.: *Bredal.*
09602	Partrederiet Bravo V: *Kirsten Bravo.*
09603	Partrederiet Bravo IV: *Louise Bravo.*
09604	Partrederiet Bravo III: *Henriette Bravo.*
09605	Partrederiet Bech XI: *Leila Bech.*
09606	Partrederiet Bech X: *Ulla Bech.*
09608	Fukuichi Gyogyo Kabushiki Kaisha: *Fukuichi Maru.*
09609	Micmar Motorship Corporation: *Mister Michael.*
09610	Seaward Carriers Corporation Ltd.: *Forestal I.*
09611	Bruce Bay Shipping Company Limited: *Bruce Bay.*
09615	Second United Shipping Corporation: *Northern Lion.*
09617	Transworld No. 5 Tanker Services Inc.: *Cys Brilliance.*
09618	Ernest C. Schindler: *T–104, B–15, B–16, L.C.T. No. 54, L.C.T. No. 55.*
09619	Sea Commerce Corporation: *Mediterranean Sprinter.*
09620	Atlantic Coast Chemical Company: *Marmot.*
09622	Man Cheung Yuen Services Limited: *Everray.*
09623	Sea Goblin, Inc.: *Sea Goblin.*
09624	Luna Navigation Co. Ltd.: *Bona Friendship.*
09625	Scheepvaartagentuur Orionbel N.V.: *Sarandi.*
09626	Cia Celta Maritima, S.A.: *Irus.*
09627	Haris Tankers Corporation: *Pe[illegible].*
09629	Taichee Shipping Inc.: *Taichee.*
09632	Trans-Asiatic Oil Ltd., S.A.: *Riva I, Eugenia II, Viac, Margaret Simone.*
09639	Associated Petroleum Carriers Inc.: *Energy Mobility.*

Certificate No.	Owner/operator and vessels
09640	Rasheed Shipping Corporation: *Al Rasheed.*
09643	Rederiaktiebolaget Tamatora: *Margaret Onstad.*
09644	Marinestinto Armadora S.A.: *Mia.*

Dated: December 11, 1974.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-29217 Filed 12-13-74;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/Operator and vessels
01002	Skibsaktieselskapte Arnstein: *Harald Stange.*
01010	Dampskibsaktieselskabet Produce (the Steamship Company Produce Ltd.): *Produce.*
01107	N.V. Stoomvaart-Maatschappij "Oostzee" (Curacao): *Farmsum.*
01221	Skibs A/S Nordhav, Skibs A/S Sydhav, Skibs A/S Osthav: *Westhav.*
01223	Buries Markes Limited: *La Colina.*
01499	Standard Oil Company, of British Columbia Ltd.: *B.C. Standard.*
01560	Det Nordenfjeldske Dampskibsselskab, Trondheim Norway: *Nordi Jarl.*
01750	Astro Marino Navegacion S.A. Panama: *Aristoklis.*
01855	John Hagemaes: *Westbulk.*
01904	Waterman Steamship Corporation: *La Salle, Jeff Davis, Mobilian.*
01905	Aktiebolaget Transmarin: *Irene.*
02167	Sartori & Berger: *Cap Serrat.*
02198	Peninsular & Oriental Steam Navigation Company: *Nurmahal, Nurjehan, Trebartha, Kohinur, Jumna, Trefusis.*
02199	Atlantic Richfield Co.: *Atlantic Heritage.*
02330	Oriental Shipping Corp.: *World Supreme.*
02345	The Armenistis Shipping Corp.: *Agiot Victores.*
02346	The Salamis Shipping Corp.: *Ioannis N. Pateras.*
02428	The Kinsman Marine Transit Company: *James D. Ferris.*
02475	Houston Barge Line, Inc.: *GTC 2503, GTC 2504.*
02501	Standard Oil Co. of California: *F. S. Bryant.*
02522	Sugar Line Limited: *Crystal Sapphire.*
02589	Astro Protector Compania Naviera S.A.: *Capetan Elias.*
02736	Reichhold Chemicals, Inc.: *Reichhold 1001, Reichhold 1002.*
02960	Taiyo Kaiun Kabushiki Kaisha: *Taikyu Maru.*
03066	Aremar C.I.F.S.A.: *Aremar.*
03092	Zui Kong Steamship Company Ltd. Taipei: *I Yung.*
03104	Thai Hwa Navigation Corp.: *Pacific Alliance.*

Certificate No.	Owner/operator and vessels
03214	Salenrederierna Aktiebolag: *Sea Swallow.*
03301	Prudential Lines, Inc.: *Santa Rosa, Santa Paula.*
03415	Chiyoda Kisen K.K.: *Sagami Maru.*
03466	Nihonkai Kisen Kabushiki Kaisha: *Daioh Maru.*
03496	OSG International, Inc., Liberia: *Mersey Ore.*
03510	Tokyo Senpaku K.K.: *Surabaya Maru.*
03544	Hernese Shipping Company A/S: *Nordic Regent.*
03558	Reidar Rods Rederi A/S: *Columbia.*
03675	Presoes Compania Naviera S.A.: *Myson.*
04004	Koninklijke Java-China-Paketvaart-Lijnen N.V.: *Asian Explorer.*
04398	Hapag-Lloyd: *Marburg.*
04413	Leif Hoegh & Co. A/S: *Hoegh Merit, Hoegh Merchant, Hoegh Mallard, Hoegh Musketeer.*
04533	Mr. Choemon Kikuchi: *Nittomaru No. 5.*
04518	Tokusui Kabushiki Kaisha: *Kakimaru No. 2.*
04564	Yamashita-Shinnihon Kisen Kaisha: *Energy Mobility.*
04625	American Commercial Lines Inc.: *Chem 403, Chem 407, Chem 406, Chem 307, Chem 501.*
04914	Platte Transport Inc.: *Platte.*
04971	Chemical Tanker I/S: *Stainless Carrier.*
05061	Achilles Halcoussis Esq.: *Agis Asteriadis.*
05329	Gem Shipping Co., S.A.: *Fontevivo.*
05442	Michalinos & Company, Ltd.: *Riverdore.*
05597	Cunningham Navigation Co., Ltd.: *Caribbean Tamanaco.*
05875	Casey Line Inc.: *Bay Belle.*
06114	Masahei Yamamoto: *Seishu Maru No. 28.*
06155	Elmini Look Inc.: *American Main.*
06399	Tokumaru Kaiun K.K.: *Daitoku Maru No. 28, Daitoku Maru No. 3.*
06486	Marlineas Progresivas S.A. Panama: *Eleftheria.*
06611	Partenreederei MS "Ursula Jacob": *Ursula Jacob.*
07374	Ocean Tramping Company Limited: *Shengli.*
07507	Jun Navigation Inc., S.A.: *Buntai.*
07524	Partrederiet Merc Groenlandia: *Merc Groenlandia.*
07525	Partrederiet Merc Europa: *Merc Europa.*
07681	Lidoriki Maritime Corporation Panama: *Elias.*
07682	Sembawang Shipping Company Limited: *Silverland.*
07696	Patrederiet of 29.4.70.: *Merc Asia.*
07698	Partrederiet Merc Australia: *Merc Australia.*
07699	Partrederiet Merc America: *Merc America.*
07700	Partrederiet Merc Africa: *Merc Africa.*
07718	Tokyo Teion Senpaku K.K.: *Ecuador Maru.*
08232	Etablissement Pour Culture et Aris Vadus: *Patignies.*
08288	Sumando Shipping Corporation (Liberia): *Sumando.*
08424	Saipan Shipping Company, Inc.: *Normar.*
08499	Central Soya Company, Inc.: *CC 207.*
08513	Montania Shipping Corporation: *Montania.*

Certificate No.	Owner/operator and vessels
08820....	Bánnai Navigation S.A.: *Aris Mariner.*
08892....	Overseas Shipping Private (Hong Kong) Ltd.: *HWA GEK.*
08910....	Partnerschaft M/T "Multitank Westfalia": *Multitank Westfalia.*
08946....	G. Avranides Maritime Enterprises S.A. Panama: *Maritonia.*
09022....	Stemil Inc. & Channel Terminal Corp. D/B/A Intercontinental Terminals Co. & Stemil Inc.: *LRL 706.*
09065....	Wilsons (N.Z.) Portland Cement Ltd.: *Cement King.*
09125....	Arne Teigens Rederi A/S: *Rytter.*
09266....	Interoceangas Tankers Management S.A.: *Zenas.*
09417....	Negros Navigation Company, Inc.: *Dona Montserrat.*

Dated: December 11, 1974.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-29216 Filed 12-13-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-6810]

BOSTON EDISON CO.

Extension of Procedural Dates

DECEMBER 6, 1974.

On December 4, 1974, Boston Edison Co. filed a motion to extend the procedural dates fixed by order issued June 21, 1974, as most recently modified by notice issued November 18, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company Rebuttal, January 7, 1975.

Hearing, January 14, 1975 (10 a.m. e.s.t.).

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-28116 Filed 12-13-74;8:45 am]

[Docket No. E-9049]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Order Accepting for Filing and Suspending in Part Proposed Rate Increase Denying Waiver of Notice Requirements and Establishing Procedures

DECEMBER 5, 1974.

On September 27, 1974, as completed on November 5, 1974, Central Vermont Public Service Corp. (Central Vermont) tendered for filing its proposed Rate R-3, consisting of a partial requirements Rate R-3P and a full requirements Rate R-3F. Central Vermont has asked for a waiver of the Commission's notice requirements and an effective date of October 31, 1974.

The affected partial requirements wholesale customers are four municipalities (Hyde Park, Johnson, Lyndonville, and Ludlow, Vermont), one cooperative (Vermont Electric Cooperative, Inc.), and three investor-owned utility customers (Allied Power and Light Co., Rochester Electric Light and Power Company, Inc., and Vermont Marble Co.). The sole full requirements customer is Central Vermont's wholly owned New Hampshire subsidiary, Connecticut Valley Electric Company, Inc.

Central Vermont stated that the proposed Rate R-3 would produce an increase in wholesale revenues over the currently effective Rate R-2 of $1,946,618 on the 1974 test year basis, an increase of approximately 66 percent. Central Vermont further stated that the proposed Rate R-3 filing involved three significant rate design changes: (1) The proposed rate is designed to track as closely as possible the customers, demand, and energy component of the cost of service; (2) the demand ratchet in the partial requirements rate is increased from 50 percent to 90 percent; and (3) a fuel clause is introduced.

Notice of the filing was issued on October 9, 1974, with protests or petitions to intervene due on or before October 18, 1974. By virtue of a deficiency letter issued by the Secretary in this docket, additional information was filed by Central Vermont on October 30, 1974 (noticed November 6, 1974) and on November 5, 1974 (noticed November 18, 1974). Accordingly, the date for filing protests and/or petitions to intervene has been extended to November 26, 1974.

On October 16, 1974, the Vermont Public Service Board (VPSB) petitioned for intervention and requested a five month suspension on the basis that the proposed rates may grant undue preference or advantage to some customers and subject others to undue prejudice or disadvantage. VPSB indicated that under Vermont law the purchased power cost cannot be flowed through by wholesale customers without compliance with rate making statutes that may require prolonged investigations, thus placing a significant burden upon those customers.

Senators George D. Aiken (on October 21, 1974) and Robert T. Stafford (on October 22, 1974) each protested that the proposed rate increase would place an undue economic hardship on Vermont customers, and requested a five month suspension.

A timely joint petition to intervene was also filed by the four municipals, Allied Power & Light Co., Rochester Electric Light & Power Co., and the Vermont Marble Co., on October 18, 1974. The petitioners requested a five month suspension, citing the large amount of the proposed increase for the twelve months ending October, 1974, which ranges from 216 percent for Lyndonville, to 24 percent for the Vermont Marble Co. Petitioners further stated that the proposed tariff provides for a disproportionate increase to the wholesale customers, an excessive return on equity (14.5 percent), and an improper ratchet provision (90 percent).

The Vermont Electric Cooperative (Coop) filed a timely petition to intervene on October 18, 1974, requesting a five month suspension. Coop noted that an increase in Central Vermont's rates effective July 1, 1973, raised its rate by 65.2 percent and that the instant filing would add on another 144 percent, resulting in an increase of over 200 percent within 16 months. Coop also pointed out that, as a partial requirements customer, it only demands intermediate or peaking power from Central Vermont. The demand charge for this capacity, Coop stated, is improper.

Central Vermont, by answer filed October 23, 1974, requested a suspension of no more than one day, and alleged that the aforementioned pleadings were of no substance, citing present rates that yield an overall negative return of 1.9 percent. In rebuttal to VPSB's argument, Central Vermont stated that it (VPSB) has the ability to authorize an immediate pass through of rate increases to wholesale customers. Central Vermont further stated that, as to Coop, the increase would affect only 32 percent of the kw and 22 percent of the kwh delivered to Coop. In reference to the questions of the design of the proposed rate, Central Vermont stated that the partial requirements rate is available to cover all types of partial requirements service and is offered as a supplement to a wholesale customers' purchase of power from any other source, regardless of the status of the purchaser—base load, peaking or cycling.

Accompanying Central Vermont's supplemental data filings of October 30, 1974 and November 5, 1974 were petitions for waiver of the Commission's notice requirements and requests that the originaly proposed effective date of October 1974 be utilized. In support of this request, Central Vermont alleged that its September 27, 1974, filing was in substantial compliance with the Commission's regulations, and that none of its customers would be adversely affected thereby. Protests to this request were filed by Coop and VPSB on November 19, 1974, both stating that good cause had not been shown for such a waiver.

Our review of the instant filing and the issues raised therein shows that the full requirements Rate R-3F is just and reasonable and will therefore be accepted. The partial requirements Rate R-3P, however, has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we shall suspend the proposed R-3P rate increase for thirty days and establish hearing procedures to determine the justness and reasonableness of Central Vermont's proposed rates. Furthermore, we find that good cause does not in fact exist to warrant a waiver of section 205(d) of the Commission's regulations, and we will reject Central Vermont's petition for such waiver.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed rates and charges

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contained in Central Vermont's revised tariff sheets and that said tariff sheets be suspended as hereinafter ordered.

(2) Good cause exists to suspend Central Vermont's proposed partial requirements Rate R–3P change for thirty days to become effective on January 6, 1975.

(3) Good cause exists to accept Central Vermont's proposed full requirements Rate R–3F.

(4) The participation in this proceeding of the above-named intervenors may be in the public interest.

(5) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(6) Good cause does not exist to justify a waiver of the thirty day notice requirements.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, particularly sections 205 and 206 thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held on April 15, 1975, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the lawfulness of the revised tariff sheets proposed herein.

(B) Pending hearing and a final decision thereon, Central Vermont's proposed tariff sheet designated as partial requirements Rate R–3P is hereby suspended for thirty days and the use thereof deferred until January 6, 1975.

(C) On or before March 4, 1975, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of any or all the intervenors shall be served on or before March 18, 1975. Any rebuttal evidence by the Company shall be served on or before April 1, 1975.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Deelgation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(E) Central Vermont's full requirements Rate R–3F, tendered as part of its filing in this docket, is hereby accepted for filing and permitted to become effective December 6, 1974.

(F) Central Vermont's petition for waiver of the thirty day notice requirements of section 205(d) of the Commission's regulations is hereby denied.

(G) Nothing contained herein should be construed as limiting the rights of the parties to this proceeding regarding the convening of conferences of offers of settlement pursuant to § 1.8 of the Commission's rules of practice and procedure.

(H) The above-named petitioners to intervene are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in their petitions to intervene.

(I) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74–29120 Filed 12–13–74;8:45 am]

[Docket No. RP72–122; PGA 75–1–A; PGA 75–2]

COLORADO INTERSTATE GAS CO.

Order Granting Interventions

DECEMBER 6, 1974.

On October 10, 1974 Colorado Interstate Gas Co. (CIG) tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1 pursuant to ordering paragraph (D) of the Commission's Order, issued on September 26, 1974, in the docket designated as RP72–122, PGA 75–1–A. On October 23, 1974 CIG tendered for filing further changes in its FPC Gas Tariff, Second Revised Volume No. 1, designated as RP72–122, PGA 72–2.

CIG's filing of October 10, 1974 was noticed on October 24, 1974, with all protests or petitions to intervene due on or before November 11, 1974. The filing of October 23, 1974 was noticed on November 5, 1974, with all protests or petitions to intervene due on or before November 13, 1974.

Timely petitions to intervene in both dockets were filed by the Public Utilities Commission of the State of Colorado and the City and County of Denver, on November 11, 1974. Having reviewed the above petitions to intervene, we believe that the petitioners have sufficient interest in the proceedings to warrant intervention.

The Commission finds:

It is desirable and in the public interest to allow the above-named petitioners to intervene.

The Commission orders:

(A) The above-named petitioners are hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74–29135 Filed 12–13–74;8:45 am]

[Docket No. E–9132]

CONNECTICUT LIGHT AND POWER CO.

Transmission Agreement

DECEMBER 5, 1974.

Take notice that on November 27, 1974 The Connecticut Light and Power Co. (CL&P) tendered for filing a proposed initial rate schedule pertaining to a Transmission Agreement between The Connecticut Light and Power Co. and The United Illuminating Co. (UI) dated as of November 1, 1973.

CL&P states that the Transmission Agreement provides for the joint use of specified CL&P transmission facilities. CL&P is providing for the use of UI certain transmission facilities for transmitting energy on one of CL&P's 115 kV lines between Trumbull Junction and the Norwalk Substation in Norwalk, Connecticut to two tap points on such line, namely, the Hawthorne tap and the Old Town tap. CL&P has previously provided similar services to UI's Old Town tap under F.P.C. Rate Schedule No. 18 (the Old Town Substation Transmission Agreement between CL&P and UI dated as of January 1, 1961, as amended). Although the Transmission Agreement filed herewith supersedes F.P.C. Rate Schedule No. 18, it is filed as an initial rate schedule under § 35.12 of the Commission's regulations because of the additional new services being provided by CL&P to UI's Hawthorne tap.

CL&P states that although service commenced November 14, 1973, the parties did not reach final agreement on the details of the rate schedule filed until recently. This delay in development of the detailed language of the rate schedule prevented the filing of such rate schedule until this date. CL&P therefore requests that, in order to permit CL&P to receive payment in accordance with the Agreement between the parties for service rendered after November 14, 1973, the Commission, pursuant to § 35.11 of its regulations, waive the customary notice period and permit the rate filed to take effect as of November 14, 1973.

CL&P states that the charges provided for in the rate schedule were arrived at through negotiations.

CL&P states that a copy of this rate schedule has been mailed or delivered to UI, New Haven, Connecticut.

CL&P further states that the filing is in accordance with Part 35 of the Commission's regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 20, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the

Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29134 Filed 12-13-74;8:45 am]

[Docket No. E-9070]

CONSUMERS POWER CO.

Filing of Amendment to Interconnection Agreement

DECEMBER 6, 1974.

Take notice that on October 18, 1974, Consumers Power Co. (Applicant) tendered for filing with the Federal Power Commission an amendment (denoted Supplemental Agreement No. 1) to an existing Interconnection Agreement between Applicant and Northern Michigan Electric Cooperative, Inc., Wolverine Electric Cooperative, Inc., the City of Grand Haven, Michigan, and the City of Traverse City, Michigan. The Interconnection Agreement is denoted Consumers Power Company Rate Schedule FPC No. 34, and became effective on November 1, 1973.

Supplemental Agreement No. 1 provides for the establishment of a temporary second interconnection point between the electric systems of Applicant and the other parties, and is dated November 27, 1973. Construction of the facilities needed to effect the interconnection was completed on March 8, 1974.

Supplemental Agreement No. 1 does not affect the rates charged for electric power and energy interchanged under the terms of the Interconnection Agreement. It does provide, however, for a capital carrying charge to be paid to Consumers Power Co. by Wolverine Electric Cooperative, Inc., to allow recovery of the capital cost of certain metering equipment provided by Consumers Power Co.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. The application is on file with the Commission and is available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29131 Filed 12-13-74;8:45 am]

[Docket No. CP70-138]

EL PASO NATURAL GAS CO. AND NORTHWEST PIPELINE CORP.

Order Granting Withdrawal of Application and Terminating Proceedings

DECEMBER 5, 1974.

On November 13, 1974, Northwest Pipeline Corp. (Northwest), in Docket No. CP70-138, filed a notice of withdrawal of the petition filed in this proceeding on March 27, 1973, as supplemented on August 16, 1973, and requested further that the proceeding be terminated.

On March 27, 1973, El Paso Natural Gas Co. (El Paso), in Docket No. CP70-138, filed a petition to amend our order of May 12, 1970, in the same docket (43 FPC 723). By the aforementioned order, as amended by order issued on February 4, 1973, we had authorized El Paso under section 3 of the Natural Gas Act to import increased quantities of natural gas from Canada purchased from Westcoast Transmission Co., Limited (Westcoast), El Paso and Westcoast amended the purchase gas contract dated October 10, 1969, herein referred to as the Fourth Service Agreement, by the Third Amending Agreement (TAA) dated March 1, 1973, and Letter Agreements dated August 14, 1973, and August 28, 1973, to become effective upon requisite regulatory approval.

By orders issued in Northwest Pipeline Corporation et al., Docket Nos. CP73-331, et al.,[1] we issued to Northwest the requisite certificate authority to acquire and operate the Northwest Division System properties required to be divested by El Paso. Northwest also was issued the related import authority and Presidential Permit necessary to continue importation of natural gas which became effective February 1, 1974. On January 7, 1974, Northwest filed a motion requesting that it be substituted as a party applicant which was granted on March 22, 1974, in El Paso Natural Gas Company, Docket Nos. G-8234, et al.

On November 6, 1973, Northwest served notice on Westcoast, pursuant to Article V of the Third Amending Agreement to the Fourth Service Agreement and pursuant to Article V(b) of the Appendix A to that Third Amending Agreement, of its intent to cancel the Third Amending Agreement and Appendix A thereto, effective November 16, 1974, inasmuch as the necessary regulatory authorizations had not been received by Northwest, on or before September 1, 1973. Pursuant to § 1.11(d) of the Commission's rules of practice and procedure, the Commission hereby notices the withdrawal of the application and grants the request to terminate any further proceedings in this matter.

The Commission orders:

The application dated March 27, 1973, as supplemented on August 16, 1973, has been withdrawn and the request to terminate the proceeding in the aforementioned docket is granted.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29136 Filed 12-13-74;8:45 am]

[1] September 21, 1973, November 21, 1973, and January 22, 1974.

[Docket No. ID-1826]

GEORGE V. PATTERSON

Supplemental Application

DECEMBER 5, 1974.

Take notice that on November 19, 1974, George V. Patterson (Applicant) filed a supplemental application with the Federal Power Commission. Pursuant to section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following position:

Vice President & Director, Ohio Electric Company, Public Utility.

Ohio Electric Co., whose principal office is located at 301 Cleveland Avenue, SW., Canton, Ohio 44702, owns and operates the General James M. Gavin Plant at Gallipolis, Ohio which, when completed, will have two 1300 megawatt generating units. All of Ohio Electric Co.'s available electrical energy is sold to Ohio Power Co., of which it is a wholly owned subsidiary.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29122 Filed 12-13-74;8:45 am]

[Docket No. ID-1828]

JOHN TILLINGHAST

Supplemental Application

DECEMBER 6, 1974.

Take notice that on November 19, 1974, John Tillinghast (Applicant) filed a supplemental application with the Federal Power Commission. Pursuant to section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following position:

Vice President & Director, Ohio Electric Company, Public Utility.

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Ohio Electric Co., whose principal office is located at 301 Cleveland Avenue, SW., Canton, Ohio 44702, owns and operates the General James M. Gavin Plant at Gallipolis, Ohio which, when completed, will have two 1300 megawatt generating units. All of Ohio Electric Co.'s available electrical energy is sold to Ohio Power Co. of which it is a wholly owned subsidiary.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29130 Filed 12-13-74;8:45 am]

[Docket No. E-9135]

MISSISSIPPI POWER CO.

Tariff Change

DECEMBER 5, 1974.

Take notice that Mississippi Power Co. on November 29, 1974, tendered for filing proposed changes in its FPC Electric Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by $3,380,418 based on the 12-month period ending December 31, 1975. Other than increasing the rates and charges, the Fuel Cost Adjustment clause is revised and Environamental Protection Cost Adjustment and Income Tax Adjustment clauses are added. The Co. proposes an effective date of January 1, 1975.

The Co. estimates its rate of return on its properties devoted to serving the Cooperative Electric Power Associations to be 4.96 percent from revenues which it would receive under its existing tariff during the year ending December 31, 1975. The Co. states that such return is less than the Co.'s embedded cost of debt, and is inadequate to attract capital required by the Co. to pay for necessary expansions of its electric plant.

The Company states that posting of the filing has been accomplished with the public utility's jurisdictional customers and Mississippi Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 20, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29129 Filed 12-13-74;8:45 am]

[Docket No. E-9140]

NEW ENGLAND POWER CO.

Tariff Change

DECEMBER 5, 1974.

Take notice that New England Power Co. (NEPCO), on November 29, 1974, tendered for filing proposed changes in its FPC Electric Tariff, Original Volume Number 1, and requests that these changes be made effective on January 1, 1975.

NEPCO asserts that its new Rate R-9, which increases the Demand Charge from •$3.18/KW/Mo. to $7.69/KW/Mo., decreases the Energy Charge from 9.8 mills per kilowatt-hour to 2.1 mills per kilowatt-hour and decreases the credit for High Tension Delivery from 30¢/KW/Mo. to 15¢/KW/Mo., will increase revenues from its primary service for resale customers by $25,297,000 based on the 12 month test period ended December 31, 1975. In addition, the General Terms and Conditions (Schedule I) and Terms and Conditions governing specified types of service (Schedule III) also have been amended to increase various notice provisions from two to seven years, increase the interest accruing on unpaid bills from 7 percent per annum to 1½ percent per month, and decrease from sixty to thirty days the time allowed for payment of bills.

NEPCO states that since December, 1973 it has been unable to issue long term debt or preferred stock due to inadequate earnings. NEPCO further states that immediate implementation of the R-9 rate is vital if it is to resume normal financing needed to meet increased operating expenses and be in a position to continue to fulfill its public utility responsibilites.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 23, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. The above filing is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29121 Filed 12-13-74;8:45 am]

[Docket No. E-8888]

OHIO ELECTRIC CO.

Extension of Time

DECEMBER 6, 1974.

On November 25, 1974, Ohio Electric Co. filed a motion to extend the date for filing direct testimony fixed by order issued September 16, 1974, as modified by notice issued November 1, 1974, in the above-designated matter. The motion states that there is no objection to the change.

Upon consideration, notice is hereby given that the date for filing direct testimony in the above matter was extended to and including December 13, 1974.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29117 Filed 12-13-74;8:45 am]

[Docket Nos. CI75-343, CI75-344, CI75-345]

O. B. MOBLEY

Applications for Certificates of Public Convenience

DECEMBER 6, 1974.

Take notice that on November 25, 1974, O. B. Mobley (Applicant), P.O. Box 1091, Shreveport, Louisiana 71163, filed in Docket Nos. CI75-343, CI75-344 and CI75-345 applications pursuant to section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing the sales for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Co. (United) from the Elm Grove Field Bossier Parish, Louisiana, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Applicant states that he commenced the sales of natural gas from each of three wells, subjects of the applications in above captioned dockets, on November 13, 1974, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue each of said sales for a period of one year from the end of the emergency periods within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 270). Applicant proposes to sell to United approximately 135,000 Mcf of gas per month from three wells all located in the Elm Grove Field [1] at 80

[1] Applicant proposes in Docket No. CI75-343 to sell to United approximately 60,000 Mcf of gas per month from the Elm Grove Plantation No. 1-A Well, in Docket No. CI75-344 to sell to United approximately 15,000 Mcf of gas per month from the H. L. Tompkins No. 1 Well, and in Docket No. CI75-345 to sell to United approximately 60,000 Mcf of gas per month from the Grigsby No. 1 Well.

cents per Mcf at 15.025 psia plus 100 percent of all taxes attributable to such gas.

Applicant indicates that he is currently engaged in an extensive and expensive development program in the Elm Grove Field which he intends to complete prior to making any commitment of his gas reserves other than on an emergency basis or for sale under limited-term certificates with pregranted abandonment.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 30, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, hearings will be held without further notice before the Commission on these applications if no petitions to intervene are filed within the time required herein, if the Commission on its own review of the matters finds that grants of the certificates are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearings are required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearings.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29134 Filed 12-13-74;8:45 am]

[Docket No. E-9095]

PACIFIC POWER & LIGHT CO.

Application

DECEMBER 5, 1974.

Take notice that on November 25, 1974, Pacific Power & Light Co. (Applicant), a Maine corporation, qualified to transact business in the States of Oregon, Wyoming, Washington, California, Montana and Idaho, with its principal business office at Portland, Oregon, filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of not exceeding 3,500,000 shares of Common Stock of the par value of $3.25 per share (Additional Common Stock), and exempting the sale and issuance thereof from the competitive bidding requirements of § 34.1a of the Commission's regulations.

If such exemption is granted, Applicant proposes to sell the Additional Common Stock to one or more underwriters upon terms and conditions, including the underwriting compensation, to be arrived at subject to Commission approval. If the application for exemption is denied, Applicant proposes to sell the Additional Common Stock at competitive bidding in accordance with the applicable requirements of § 34.1a of the Commission's regulations.

Proceeds (estimated at $56,000,000 from the issuance and sale of shares of the Additional Common Stock will be used to repay short-term notes prior to or as they mature.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29119 Filed 12-13-74;8:45 am]

[Docket No. E-9141]

PUBLIC SERVICE COMPANY OF OKLAHOMA

Filing of Revised Fuel Clause

DECEMBER 5, 1974.

Take notice that on November 29, 1974, the Public Service Company of Oklahoma (PSCO) tendered for filing a revised fuel adjustment clause pursuant to § 35.14 of the Commission's regulations as amended by Order No. 517, issued November 13, 1974. The revised fuel clause would replace the current fuel clause provision contained in Rate Schedule FPC No. 162. PSCO requests that the requirement of the submission of full cost of service data be waived as provided in Ordering Paragraph A(9)(b) of Order No. 517, since PSCO's existing fuel clause is being modified to conform to the Commission's regulations as amended by Order No. 517. PSCO requests an effective date of January 1, 1975, in relation to the rates established in January of 1975 for all sales under Rate Schedule FPC No. 162 for and after the month of February, 1975.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 23, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29128 Filed 12-13-74;8:45 am]

[Docket No. ID-1240]

ROBERT O. WHITMAN

Supplemental Application

DECEMBER 5, 1974.

Take notice that on November 19, 1974, Robert O. Whitman (Applicant) filed a supplemental application with the Federal Power Commission. Pursuant to section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following position:

Treasurer & Director, Ohio Electric Co., Public Utility.

Ohio Electric Co., whose principal office is located at 301 Cleveland Avenue, SW., Canton, Ohio 44702, owns and operates the General James M. Gavin Plant at Gallipolis, Ohio which when completed, will have two 1300 megawatt generating units. All of Ohio Electric Company's available electrical energy is sold to Ohio Power Co., of which it is a wholly owned subsidiary.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1974, file with the Federal Power Commission, Washington, D.C., 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29123 Filed 12-13-74;8:45 am]

[Project No. 120]

SOUTHERN CALIFORNIA EDISON CO.

Application for Amendment to Application for New License (Major)

NOVEMBER 25, 1974.

Public notice is hereby given that application was filed on October 9, 1974,

under the Federal Power Act (16 USC 791a–825r) by Southern California Edison Co., Applicant (correspondence to: Mr. Robert P. O'Brien, Vice President, Southern California Edison Co., P.O. Box 351, Los Angeles, California, 90053; and Mr. John R. Bury, Assistant General Counsel, Southern California Edison Co., P.O. Box 800, Rosemead, California, 91770), for amendment to the application for new major license for its constructed Big Creek No. 3 Project No. 120. The project is located on the San Joaquin River in Fresno, Madera, Tulare, Kern and Los Angeles Counties in the vicinity of Madera, Fresno, Visalia, Bakersfield and Los Angeles, California and affects lands of the United States, among them lands within Sierra, Sequoia and Angeles National Forests and Indian tribal lands.

The Big Creek No. 3 Project presently consists of: (1) Dam No. 6: a 495-foot long 155-foot maximum height dam with a 308-foot long concrete spillway structure with crest elevation at 2,230 feet (U.S.G.S.); (2) Dam No. 6 Reservoir with gross storage capacity of 1,065 acre-feet and with a surface area of 23.2 acres at 2,230 feet (U.S.G.S.) elevation; (3) a 21-foot wide and 21-foot high 28,191-foot long unlined diversion tunnel to (4) four 1,386-foot long steel penstocks to (5) Big Creek Powerhouse No. 3 containing 6 generating units, three of 25,000 kw, one of 31,500 kw capacity, and two of 600 kw capacity operating under a gross head of 827 feet; (6) two transformer banks, one containing three 23,000 kva 12,100/230,000 V. single-phase units; the other, four 25,000 kva 13,100/230,000 V. single-phase units, one of which is a spare; (7) Vincent Transmission Line, which is a three-phase, 220 kv, 225-mile long line from Big Creek Powerhouse No. 3 to Gould Substation; and (8) all other facilities and interests appurtenant to operation of the project.

The proposed amendment would include a fifth generating unit with approximately 35,000 kw capacity at the Big Creek Powerhouse No. 3 site. The present tunnel capacity of approximately 2,600 cfs would be increased to approximately 3,350 cfs by lining the tunnel invert, and a fifth penstock would be installed parallel to the existing penstocks. The intake structure at Dam No. 6 forebay will be modified to permit additional water to be diverted into the tunnel with no modification to the existing dam.

The additions to the present Big Creek No. 3 Project would consist of: (1) Tunnel No. 3 invert lined to increase its capacity from 2,600 cfs to 3,350 cfs; (2) a fifth penstock constructed of welded steel pipe varying in diameter from 84 to 72 inches and consisting of 50-foot sections connected by couplings, and equipped with an 84-inch butterfly valve at the manifold at the head of the penstock and a 66-by-57-inch butterfly control valve at the lower end of the penstock; (3) a 40-by-60-foot open deck construction powerhouse addition to the east end of the existing powerhouse; (4) Unit No. 5 consisting of a 36,800 kva, 35,000 kw, 3-phase 60 Hz generator direct-connected to a 47,000 hp, 450 rpm turbine which would operate at a maximum static head of 827 feet; and (5) a 40,000 kva, 13,800/230,000 V., 3-phase, 60 Hz transformer connected to the existing Transformer Bank Number Two.

Applicant estimates that the cost of the proposed addition will be about $11,570,000.

The capacity and energy provided by the proposed additions are needed to meet the growing requirements of Applicant's customers in the Applicant's service area in central and southern California. Because of increasing fuel prices and limited fuel supplies, the proposed addition would provide an efficient and economical method of meeting these needs.

Any person desiring to be heard or to make protest with reference to said application should on or before January 17, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–29118 Filed 12–13–74;8:45 am]

[Rate Schedule Nos. 295, etc.]

SUN OIL CO., ET AL.

Rate Change Filings

DECEMBER 6, 1974.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable area new gas or national ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 639, issued December 12, 1972, and followed in Opinion No. 699, issued June 21, 1974.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filing should on or before December 20, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

MARY B. KIDD,
Acting Secretary.

APPENDIX

Filing date	Producer	Rate Schedule No.	Buyer	Area
Nov. 18, 1974	Sun Oil Co., Southland Center, P.O. Box 2880, Dallas, Tex. 75221.	295	Michigan Wisconsin Pipe Line Co.	Hugoton Amarillo.
Nov. 20, 1974	Clinton Oil Co., P.O. Box 1201, Wichita, Kans. 67201.	62	Tennessee Gas Pipeline Co.	Texas Gulf Coast.
Do.	do.	16	do.	Do.
Nov. 21, 1974	do.	46	do.	South Louisiana.
Do.	do.	106	do.	Texas Gulf Coast.
Nov. 25, 1974	Marathon Oil Co., Findlay, Ohio 45840.	67	Natural Gas Pipeline Co. of America.	Do.
Do.	do.	68	do.	Do.

[FR Doc.74–29132 Filed 12–13–74;8:45 am]

[Docket No. E–9134]

TOLEDO EDISON CO., ET AL.

Notice of Cancellation of Power Agreement

DECEMBER 5, 1974.

Take notice that on November 22, 1974, Toledo Edison Co., Cleveland Electric Illuminating Co., Duquesne Light Co., Ohio Edison Co. and Pennsylvania Power Co. (Companies) filed an agreement to cancel a Power Agreement among said companies. The rate schedule cancelled by this agreement has been designated as follows:

The Toledo Edison Co., F.P.C. No. 38.
Ohio Edison Co., F.P.C. No. 97.

The Companies state that there are no affected purchasers to serve other than those named above.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 16, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74–29137 Filed 12–13–74;8:45 am]

[Docket No. E-9145]

UTAH POWER AND LIGHT CO.

Filing of Tariff Change

DECEMBER 5, 1974.

Take notice that on November 29, 1974 Utah Power and Light Co. (Utah) tendered for filing the following revisions to its FPC Electric Tariff, Original Volume No. 1, Resale Service Rates:

(1) Thirteenth Revised Sheet No. 1, Utah Power and Light Co. FPC Electric Tariff, Original Volume No. 1, Resale Service Rates, which when effective will cancel and supersede Twelfth Revised Sheet No. 1, Utah Power and Light Co. FPC Electric Tariff, Original Volume No. 1, Resale Service Rates.

(2) Second Revised Sheet No. 4, Utah Power and Light Co. FPC Electric Tariff, Original Volume No. 1, Resale Service Rates, which when effective will cancel and supersede First Revised Sheet No. 4, Utah Power and Light Co. FPC Electric Tariff, Original Volume No. 1, Resale Service Rates.

(3) Second Revised Sheet No. 5, Utah Power and Light Co. FPC Electric Tariff, Original Volume No. 1, Resale Service Rates, which when effective will cancel and supersede First Revised Sheet No. 5, Utah Power and Light Co. FPC Electric Tariff, Original Volume No. 1, Resale Service Rates.

(4) First Revised Sheet No. 5A, Utah Power and Light Co. FPC Electric Tariff, Original Volume No. 1, Resale Service Rates, which when effective will cancel and supersede Original Sheet No. 5A, Utah Power and Light Co. FPC Electric Tariff, Original Volume No. 1, Resale Service Rates.

Utah alleges that the increased rates are necessary to offset steeply rising costs in all categories, particularly in the cost of fuel, labor, materials, and capital. Utah further alleges that the proposed rates are designed to recoup only fuel cost increases already encountered, adding that the proposed fuel clause is expected to recover future fuel increases.

Utah states that copies of the filing have been served upon its FPC tariff customers as well as the regulatory commissions of the states of Utah, Idaho, and Wyoming.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 20, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29126 Filed 12-13-74;8:45 am]

[Docket No. E-9147]

VIRGINIA ELECTRIC AND POWER CO.

Proposed Changes in Rates and Charges and Filing of Initial Rate Schedule and Contract Supplement for Excess Facilities Service

DECEMBER 5, 1974.

Take notice that Virginia Electric and Power Co. (Vepco), on December 2, 1974, tendered for filing proposed changes in its electric resale rate schedules applicable to REA Cooperatives and its FPC Electric Service Tariff, Original Volumes Nos. 1 and 2, which applies to Resale Municipalities and Private Utilities. Also, on the same date, Vepco tendered for filing (1) an initial rate schedule for REA Cooperatives providing for Excess Facilities Service, (2) a revision of Article 15, Excess Facilities, in its FPC Electric Tariff, Original Volume No. 1 and (3) a contract supplement for Prince William Electric Cooperative to provide service to that Cooperative under the terms of the proposed Excess Facilities Schedule. Based on the test period (calendar year 1975) conditions, Vepco estimates that the proposed change in resale rates will increase annual revenues from Cooperatives by $12.6 million, or 30.02 percent, and from Municipal customers by $8.1 million, or 27.23 percent. The proposed effective date for the increased rates is January 1, 1975.

Vepco states that the resale rate increases are needed to compensate the Company for substantially increased costs of labor, material, fuel and especially capital.

The proposed Excess Facilities Schedule for Cooperatives and the revision of Article 15 applicable to Municipals specifies two separate monthly charges: (1) A monthly charge of 1.79 percent of the estimated installed cost of excess distribution (rates below 69 KV) facilities and (2) a monthly charge of 1.60 percent of the estimated installed cost of excess transmission (rates at or above 69 KV) facilities. The contract supplement for Prince William Electric Cooperative provides for relay service under the proposed Excess Facilities Schedule for Cooperatives. Vepco also requests that these rate schedules be effective January 1, 1975.

Copies of the filing were served upon representatives of all of Vepco's jurisdictional customers, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said applicant should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 23, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29125 Filed 12-13-74;8:45 am]

[Docket No. E-9143]

WEST TEXAS UTILITIES CO.

Changes in Rates and Charges

DECEMBER 5, 1974.

Take notice that West Texas Utilities Co. (West Texas) on November 29, 1974, tendered for filing proposed changes to supersede its FPC Rate Schedule No. 11, the rate schedule applicable for service to Gate City Electric Cooperative, Inc. (Gate City). The proposed changes would increase revenues from jurisdictional sales and service by $14,413 annually, based on the 12-month period ending June 30, 1974.

West Texas states that this rate adjustment was necessitated by the inflation experienced in all aspects of the Company's business in the last few years, the increased cost of borrowed money, and added environmental costs built into all new plant construction. West Texas states further that this filing follows the company's first rate increase in its fifty year history.

According to West Texas, the proposed rate schedule has been furnished to Gate City at Post Office Box 69, Childress, Texas 79200.

West Texas has requested an effective date of January 1, 1975, for the proposed rate schedule.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 17, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29127 Filed 12-13-74;8:45 am]

[Project No. 2522]

WISCONSIN PUBLIC SERVICE CORP.

Application for Amendment of License

DECEMBER 6, 1974.

Public notice is hereby given that application has been filed on May 1, 1972 under the Federal Power Act (16 U.S.C. 791a-825r) by the Wisconsin Public Service Corporation, P.O. Box 700, Green Bay, Wisconsin 54305 (correspondence

to: C. A. McKenna, Secretary, Wisconsin Public Service Corp., 1029 North Marshall Street, Milwaukee, Wisconsin 53201) for Amendment of License (Exhibits J, K and R) for constructed Project No. 2522, known as the Johnson Falls Hydroelectric Project, located on the Peshtigo River, in the town of Stephenson, vicinity of Crivitz, Marinette County, Wisconsin. The Project affects interstate commerce.

The applicant seeks approval of revised Exhibits J, K and R (text and map). The steepness of the shoreline has prevented the normal development and utilization of project lands and waters for recreational purposes. In cooperation with the Wisconsin Department of Natural Resources, a "Fly Fishing Only" strip would be developed south of the plant.

The revised exhibits reflect the following additional changes:

(1) "Undeveloped" boat landing site and two public fishing areas have been redesignated "Public Hunting Area", (2) adjustment to the alignment of the access road to the project; and (3) deletion of reference to public hunting areas on non-project lands (now a part of Licensed Project No. 2546—Sandstone Rapids).

Any person desiring to be heard or to make protest with reference to said application should on or before January 20, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29133 Filed 12-13-74;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 9, 1974. (See 44 U.S.C. 3512 (c) and (d).) The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

FEDERAL ENERGY ADMINISTRATION

Request for clearance of monthly FEA Form P103-M-0 entitled Old Oil Entitlements Program, Entitlements Transaction Report. This new report is to be filed by approximately 211 refiners and importers eligible to receive old oil entitlements. Respondent burden is estimated to be 6 man-hours per monthly report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.74-29227 Filed 12-13-74;8:45 am]

NATIONAL ENDOWMENT FOR THE HUMANITIES

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Meetings

DECEMBER 11, 1974.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that meetings of the Fellowships Panel will be held at Washington, D.C. on December 23, 1974. The short notice for this panel meeting is due to the fact that we have learned that a meeting of the American Philosophical Association is scheduled for the week of December 23, and we plan to make our meeting coincide with that of the A.P.A.

The purpose of the meetings is to evaluate prospective seminar directors for the program of Professions Seminars to be supported by the National Endowment for the Humanities in 1975.

Because the panels will discuss sensitive, personal data regarding persons nominated as seminar directors, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C., 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.74-29234 Filed 12-13-74;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Meetings

DECEMBER 10, 1974.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that meetings of the Fellowships Panel will be held at Washington, D.C. on January 6, 8, and 10, 1975.

The purpose of the meetings is to evaluate prospective seminar directors for the program of Professions Seminars to be supported by the National Endowment for the Humanities in 1975.

Because the panels will discuss sensitive, personal data regarding persons nominated as seminar directors, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.74-29235 Filed 12-13-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

ADVISORY COMMITTEE ON GNP DATA IMPROVEMENT

Notice of Public Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Advisory Committee on GNP Data Improvement to be held in Room 10103, New Executive Office Building, 726 Jackson Place, NW, Washington, D.C. on Thursday, January 2, 1975 at 9:45 a.m.

The purpose of the meeting is to review progress and to discuss improvements of annual and quarterly estimates of inventories.

The meeting will be open to public observation and participation. Anyone wishing to participate should contact the GNP Data Improvement Project, Statistical Policy Division, Room 10222, New Executive Office Building, Washington, D.C. 20503, telephone (202) 395-3793.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.74-29165 Filed 12-13-74;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 12/11/74 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency

sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (X) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

AGENCY FOR INTERNATIONAL DEVELOPMENT

Contract Participant's Biographical Data, AID1380–2B, on occasion, contractors, Lowry, B. L., 395–3772.

VETERANS ADMINISTRATION

Survey of Employment Following Training in Vocational Courses, A, B, C, annually, students, State agencies, Strasser, A., 395–3880.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

National Center for Education Statistics: NCES/SSA, Nonpublic School Match Project, OE 2377–1, 2377–2, 2377–3, 2377–4, single-time, nonpublic schools, Planchon, P., 395–3898.

DEPARTMENT OF JUSTICE

Departmental and Other Subgrant Data for LEAA Management Information System, LEAA4310/1, on occasion, State criminal justice planning agencies, Caywood, D. P., 395–3443.

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Management and Budget: Survey of Small Business Reporting to Federal, State and Local Governments, nonp, single-time, small businessmen, Lowry, B. L., 395–3772.

EXTENSIONS

SMITHSONIAN INSTITUTION

Museum Questionnaire; Visitor Questionnaire, SI 2976, on occasion, museum visitors, Evinger, S. K., 395–3648.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–29324 Filed 12–13–74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

AMERICAN STOCK EXCHANGE, INC., AND CHICAGO BOARD OPTIONS EXCHANGE, INC.

Proposed Participant Exchange Agreement for a Common Clearing Corporation

Notice is hereby given that the American Stock Exchange, Inc. (Amex) and the Chicago Board Options Exchange, Inc. (CBOE) have each filed pursuant to Rule 9b–1 under the Securities Exchange Act of 1934 (17 CFR 240.9b–1) a proposed participant exchange agreement in the Options Clearing Corp. (OCC).

Agreement among the Amex, the CBOE, and other options exchanges which may become stockholders in the OCC provides, among other things, that OCC will have the obligation to register options under the Securities Act of 1933 and under state "blue sky" laws and to bear the cost of such registrations. The agreement provides also that (i) subject to specified conditions, the exchanges will select the underlying securities to be the subject of options trading and (ii) the exchanges will maintain public reference files containing financial information and price information concerning underlying securities. In addition, the agreement provides that OCC will accept all matched options transactions for which it has received premiums due and, upon such acceptance, OCC will assume the obligations set forth in the OCC by-laws and rules.

The proposed participant exchange agreement will become effective upon the 30th day after this notice appears in the FEDERAL REGISTER, or upon such earlier date as the Commission may allow unless the Commission shall disapprove the changes in whole or in part as being inconsistent with the public interest or the protection of investors.

All interested persons are invited to submit their views and comments on the proposed participant exchange agreement either before or after it has become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 10–54. All amendments that have been made to the Amex's plans have been placed in their respective option files under file number S7–505. The proposed agreement is, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW., Washington, D.C.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 6, 1974.

[FR Doc.74–29144 Filed 12–13–74;8:45 am]

[File No. 500–1]

BIO-MEDICAL SCIENCES, INC.

Suspension of Trading

DECEMBER 9, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Bio-Medical Sciences, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 10, 1974 through December 19, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–29138 Filed 12–13–74;8:45 am]

[File No. 500–1]

CONTINENTAL VENDING MACHINE CORP.

Suspension of Trading

DECEMBER 10, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 11, 1974 through December 20, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–29139 Filed 12–13–74;8:45 am]

[Rel. No. 18609; 70–5584]

EASTERN UTILITIES ASSOCIATES, ET AL.

Proposed Issue and Sale of Notes by Holding Company and Subsidiary Companies to Banks; Loans and Open Account Advances by Holding Company to Subsidiary Companies; Loans Between Subsidiary Companies

DECEMBER 6, 1974.

In the matter of Eastern Utilities Associates, P.O. Box 2333, Boston, Massachusetts, 02107; Blackstone Valley Electric Co., P.O. Box 1111, Lincoln, Rhode Island, 02865; Brockton Edison Co., 36 Main Street, Brockton, Massachusetts, 02403; Fall River Electric Light Co., 85 North Main Street, Fall River, Massachusetts, 02722; Montaup Electric Co., P.O. Box 391, Fall River, Massachusetts, 02722.

Notice is hereby given that Eastern Utilities Associates ("EUA"), a registered holding company, and its four electric utility subsidiary companies, Blackstone Valley Electric Company ("Blackstone"), Brockton Edison Company ("Brockton"), Fall River Electric Light Company ("Fall River") and Montaup Electric Company ("Montaup") have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 12(b), 12(c), and 12(f) of the Act and Rule 45(a) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

During the period ending December 30, 1975, EUA, Blackstone, Brockton, Fall River, and Montaup propose to issue and sell short-term, unsecured promissory notes to banks, and in the cases of Blackstone, Brockton, and Fall River to also receive short-term loans from EUA and open-account advances from Brockton, in the maximum aggregate amounts to be outstanding at any one time as shown below:

XUM
DEC 1974
XUM

Company	From banks	Inter-company	Aggregate banks and inter-company
EUA	$70,700,000	----------	$70,700,000
Blackstone	3,400,000	$27,250,000	30,650,000
Brockton	7,575,000	38,650,000	46,225,000
Fall River	5,650,000	2,300,000	7,950,000
Montaup	54,400,000	7,700,000	62,100,000

The notes to banks will be dated as of the date of issuance, will mature no later than December 30, 1975, and will be prepayable in whole or in part without penalty. It is represented that some of the lending banks will require compensating balances and that others will not. With respect to notes for which compensating balances are required, the notes will bear interest at not in excess of the prime or base rate charged by the lending bank on the date of issuance plus ¼ of 1 percent multiplied by 107 percent. Assuming a 15 percent compensating balance and a prime or base rate of 10 percent per annum, the maximum effective interest cost on such notes would be 12.96 percent per annum. Notes as to which no compensating balances are required will bear interest not in excess of the bank's prime or base rate plus ¼ of 1 percent together with an assumed compensating balance requirement of 20 percent. The effective interest rate applicable to such notes would be 12.81 percent, assuming a prime or base rate of 10 percent.

The advances by EUA to Blackstone and Brockton will be subordinated to the rights of the preferred stockholders of Blackstone and Brockton, respectively, to receive dividends and liquidation payments if, and so long as, (a) preferred stock dividends are in arrears (or in the event of liquidation, the liquidation rights of preferred stockholders have not been satisfied) and (b) the sum of the advances from EUA, the notes payable to banks and all other securities representing unsecured debt, maturing in less than 10 years, exceeds 10 percent of the company's secured debt, capital stocks, premium, and surplus. The advances by EUA and the advance by Brockton to Montaup will bear interest payable on April 1, 1975, July 1, 1975, October 1, 1975 and December 30, 1975, at the prime or base rate in effect at The First National Bank of Boston or The Chase Manhattan Bank, N.A. ("Chase") (depending on the source of the funds being advanced) on those respective dates. To the extent advances have been made hereunder from the proceeds of issuance by EUA of its five-year unsecured promissory notes to Chase (Holding Company Act Release No. 17085), such advances shall bear interest payable at the rate incurred by EUA on the five-year note. Since Blackstone, Brockton, and Fall River are to maintain a 15 percent compensating balance with Chase with regard to EUA's borrowings under said note, the effective interest cost for the open account advances from the note proceeds would be 12.941 percent per annum, assuming a prime or base rate of 10 percent.

It is stated that the proceeds from the proposed notes and advances will be used to meet cash requirements for construction, to provide funds for investment in subsidiaries and for compensating balances with lending banks through December 30, 1975, and to pay outstanding short-term loans. On December 31, 1974, Blackstone, Brockton, Fall River and Montaup expect to have outstanding short-term loans of $30,000,000 (including $26,600,000 advance from EUA to Blackstone), $14,875,000 (including $7,300,000 advance from EUA to Brockton), $7,850,000 (including $2,300,000 advance from EUA to Fall River) and $39,250,000 (including $6,350,000 loan from EUA), respectively. On December 31, 1974, EUA expects to have outstanding short-term loans of $44,800,000.

Blackstone, Brockton, Fall River or Montaup may prepay its notes to banks, in whole or in part, by the use of an advance or loan from EUA, or may repay an advance or loan from EUA with the proceeds of notes issued to banks. If the interest rate on a note issued to a bank for the purpose of obtaining funds to repay an advance or loan from EUA shall exceed the rate on the advance or loan being repaid, EUA shall reimburse or credit Blackstone, Brockton, Fall River or Montaup, as the case may be, for the added interest required for the term of the note so issued.

In the event of any permanent financing by any of the borrowing companies (with the exception of permanent financing by EUA the proceeds of which are applied to the payment or prepayment of its five-year note), the net cash proceeds therefrom will be applied to the reduction or payment of its short-term note indebtedness or advances from EUA then outstanding, and the maximum amount of short-term note indebtedness and advances to be outstanding at any one time, as proposed herein, will within not more than two months thereafter be reduced by the amount of the net cash proceeds of such permanent financing.

The declaration states that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are to be supplied by amendment.

Notice is further given that any interested person may, not later than December 30, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29140 Filed 12-13-74;8:45 am]

[File No. 500-1]

OSTERLOH & DURHAM INSURANCE BROKERS OF NORTH AMERICA, INC.

Suspension of Trading

DECEMBER 10, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Osterloh & Durham Insurance Brokers of North America, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 9:30 a.m. (e.s.t.) on December 10, 1974 through midnight (e.s.t.) on December 19, 1974.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29141 Filed 12-13-74;8:45 am]

[Rel. No. 9610; 811-1700]

SUMMIT CAPITAL FUND, INC.

Filing of Application for an Order Declaring That Company Has Ceased To Be an Investment Company

DECEMBER 6, 1974.

Notice is hereby given that Summit Capital Fund, Inc., 1010 Fidelity Union Tower, Dallas, Texas, 75201 ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end management investment company, has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement

of the representations contained therein, which are summarized below.

Applicant, a Delaware corporation, registered under the Act by filing its Notification of Registration on Form N–8A under the Act on June 17, 1968. Applicant and Selected Special Shares, Inc. ("Special"), also a registered open-end investment company under the Act, entered into an agreement and Plan of Reorganization (the "Agreement") providing for the acquisition of substantially all of the net assets of applicant by Special and the liquidation and subsequent dissolution of applicant. On August 21, 1974, the shareholders of applicant approved the agreement by a majority vote of the outstanding voting securities and the transactions contemplated by the agreement were subsequently consumated on September 19, 1974. Pursuant to the agreement, Special acquired substantially all the assets of applicant in exchange for shares of Special which have been distributed to applicant's shareholders. Applicant presently has no assets other than cash in the amount of approximately $10,000, which has been retained to pay all remaining obligations and expenses of liquidation and dissolution.

Applicant states that it shs no shareholders and is not engaged in any investment company activities. It is asserted that, subject to final settlement of its affairs pursuant to Delaware law, applicant will dissolve and terminate its existence.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company, has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 31, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may reqeust that he be notified if the Commission shall order a hearing thereon. Any such communication–should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy o fsuch request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shal be filed contemporaneously with the rerules and regulations promulgated under quest. As provided by Rule 0–5 of the the Act, an order disposing of the application will be issued as of course following December 31, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–29142 Filed 12–13–74;8:45 am]

TARIFF COMMISSION

[337–L–79]

OVERLAPPING DIGITAL MOVEMENTS

Notice of Complaint Received

The United States Tariff Commission hereby gives notice of the receipt on November 14, 1974, of a complaint under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), filed by General Time Corporation, Mesa, Arizona, alleging unfair acts in the importation and sale of overlapping digital movements and clocks and clock radios incorporating such movements by reason of their being embraced within the claims of U.S. Letters Patent No. 3,200,396. The complainant names Sankyo-Seiki (America), Inc., of 149 Fifth Avenue, New York, New York 10010 and 1300 South Athens Way, Los Angeles, California 90061, as importing and offering for sale the subject products.

In accordance with the provisions of § 203.3 of its rules of practice and procedure (19 CFR 203.3), the Commission has initiated a preliminary inquiry into the issues raised in the complaint for the purpose of determining whether there is good and sufficient reason for a full investigation, and, if so, whether the Commission should recommend to the President the issuance of a temporary exclusion from entry under section 337(f) of the Tariff Act.

A copy of the complaint is available for public inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, NW, Washington, D.C. 20436, and at the New York Office of the Tariff Commission located at 6 World Trade Center.

Information submitted by interested persons which is pertinent to the aforementioned preliminary inquiry will be considered by the Commission if it is received not later than January 27, 1975. Extensions of time for submitting information will not be granted unless good and sufficient cause is shown thereon. Such information should be sent to the Secretary, United States Tariff Commission, 8th and E Streets, NW, Washington, D.C. 20436. A signed original and nineteen (19) true copies of each document must be filed.

By order of the Commission.

Issued: December 11, 1974.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74–29202 Filed 12–13–74;8:45 am]

VETERANS ADMINISTRATION

NEW CLINICAL SUPPORT FACILITY FOR SEISMIC CORRECTIONS FOR VARIOUS BUILDINGS

Availability of Draft Environmental Impact Statement

Notice is hereby given that a document entitled "Draft Environmental Impact Statement for a New Clinical Support Facility and Seismic Corrections for tration Hospital, Boise, Idaho," dated Various Buildings, Veterans Adminis- October 1974, has been prepared as required by the National Environmental Policy Act of 1969.

The new seismically designed Clinical Support Famility will have three floors and will provide approximately 35,000 net square fet of space. This new facility will provide space for Surgical Suite, Radiology, Pharmacy, Outpatient, Dental, Laboratory and other clinical activities.

The seismic corrections of various buildings will rehabilitate seven eixsting buildings which were found, through an engineering study, to be non-conforming with the "Zone 2 Structural Design Standards of the Earthquake Regulations of the 1970 Uniform Building Code as modified." This corrective work will vary from building to building but will include the strengthening of foundations, floors, frames, roofs and will stabilize interior partitions.

This study also determined the most feasible methods in which this work could be accomplished and retain existing architectural features as requested by the Idaho Historical Society.

This draft statement discusses the environmental impact of the New Clinical Support Facility and Seismic Corrections for Various Buildings. The document is being placed for public examination in the Veterans Administration office in Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office:

Mr. Arthur W. Farmer, Assistant Chief Medical Director for Administration (13), Room 600, Veterans Administration, 810 Vermont Avenue, NW, Washington, D.C. 20420.

Single copies of the draft statement may be obtained on request to the above office.

Dated: December 9, 1974.

[SEAL] R. L. ROUDEBUSH,
Administrator.

[FR Doc.74–29201 Filed 12–13–74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 694]

ASSIGNMENT OF HEARINGS

DECEMBER 11, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include

cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 32882 Sub 67, Mitchell Bros. Truck Line, MC 95876 Sub 140, Anderson Trucking Service, Inc., MC 107496 Sub 20, Harry L. Young and Sons, Inc., MC 108119 Sub 40, E. L. Murphy Trucking Co., MC 113855 Sub 258, International Transport, Inc., MC 123407 Sub 134, Sawyer Transport, Inc., MC 123681 Sub 24, Widing Transportation, Inc., MC 125433 Sub 26, F-B Truck Line Company and MC 127742 Sub 3, Houston Truck Lines, Inc., now assigned January 20, 1975, at San Francisco, Calif., will be held in Room 503, U.S. Customs House, 555 Battery St. MC-F-12249, Briggs Transportation Co.—Purchase—Burlington Chicago Cartage Inc., now assigned January 14, 1975, at Chicago, Ill. will be held at the LaSalle Hotel, 10 North LaSalle St.

MC 115601 Sub 23 Brooks Armored Car Service Inc., now being assigned January 27, 1975 (1 day), in Room 3240 William J. Greene, Jr., Federal Bldg., 600 Arch St., Philadelphia, Pa.

MC-12234, Century Express Ltd.—Purchase—Lansdale Transportation Co., Inc., now being assigned January 29, 1975 (3 days), in Room 3240 William J. Greene, Jr. Federal Bldg., 600 Arch St., Philadelphia, Pa.

MC-C-8448, Main Line Hauling Co., Inc.—Purchase—Investigation and Revocation of Certificates, now assigned January 14, 1975 at St. Louis, Mo. will be held in Courtroom No. 2, 5th Floor, U.S. Courthouse, 1114 Market St.

MC 119738 Sub 3, Haggard Hauling, Inc., now assigned January 15, 1975 at St. Louis, Mo. will be held in Courtroom No. 2, 5th Floor, U.S. Courthouse, 114 Market St.

MC 41406 Sub 38, Artim Transportation System, Inc., now assigned January 16, 1975 at St. Louis, Mo. will be held in Courtroom No. 2, 5th Floor, U.S. Courthouse, 1114 Market St.

MC-F-12149, Glennon Transports Inc.—Purchase—J. W. Transfer Inc., now assigned January 20, 1975, at St. Louis, Mo. will be held in Courtroom No. 2, 5th Floor, 1114 Market St.

MC-C-8450, Peninsular Meat Co., Inc., C. W. Mitchell, C. W. Mitchell, Inc., and Benefield Brothers, Inc.—Investigation of Operations and Practices, now being assigned February 4, 1975 (2 days) at Jacksonville, Fla., in a hearing room to be later designated.

MC 106644 Sub 177, Superior Trucking Company, Inc., now being assigned February 6, 1975 (2 days) at Jacksonville, Fla., in a hearing room to be later designated.

MC-F-12246, Ryder Truck Lines, Inc.—Purchase (Portion)—Alterman Transport Lines, Inc., now being assigned February 10, 1975 (1 week) at Jacksonville, Fla., in a hearing room to be later designated.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29225 Filed 12-13-74;8:45 am]

[5th Rev. SO No. 1043; Modification 1; Amdt. 1]

THE CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Car Service Exemption

It appearing, That the movement of sugar beets from stations on the lines of the Chicago, Rock Island and Pacific Railroad Company (RI) in the state of Colorado is diminishing; that the RI is now able to furnish sufficient system cars from its own fleet to transport the remaining portion of the beet crop; that The Denver and Rio Grande Western Railroad Company (DRGW) has regular shipments of coal from stations on its lines to destinations east of the Missouri River, including Omaha, Nebraska, and Kansas City, Kansas; that use of these cars to transport such shipments of coal will result in their return to owners with a minimum of empty car mileage and loss of utilization.

It is ordered, That, pursuant to the authority vested in me by section (b) of Fifth Revised Service Order No. 1043, the RI be, and it is hereby authorized to deliver empty to the DRGW upon receipt of orders from that line, and the DRGW is authorized to accept and use for loading with coal to destinations east of the Missouri River, including Omaha, Nebraska, and Kansas City, Kansas, any or all of the hoppers which it was authorized to use for the transportation of sugar beets under the provisions of this exemption; and,

It is further ordered, That, when empty such cars shall be returned to the owner empty in the manner prescribed by Car Service Rules 1 or 2.

Effective 12:01 a.m., December 3, 1974.
Expires 11:59 p.m., December 31, 1974.

Issued at Washington, D.C., December 3, 1974.

[SEAL] R. D. PFAHLER,
Director, Bureau of Operations.

[FR Doc.74-29223 Filed 12-13-74;8:45 am]

[Rev. S.O. No. 1171; Modification 1; Amdt. 1]

THE CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Car Service Exemption

It appearing, That the movement of sugar beets from stations on the lines of the Chicago, Rock Island and Pacific Railroad Company (RI) in the State of Colorado is diminishing; that the RI is now able to furnish sufficient system cars from its own fleet to transport the remaining portion of the beet crop; that The Denver and Rio Grande Western Railroad Company (DRGW) has regular shipments of coal from stations on its lines to destinations east of the Missouri River, including Omaha, Nebraska and Kansas City, Kansas; that use of these cars to transport such shipments of coal will result in their return to owners with a minimum of empty car mileage and loss of utilization.

It is ordered, That, pursuant to the authority vested in me by Section (b) of Revised Service Order No. 1171, the RI be, and it is hereby authorized to deliver empty to the DRGW upon receipt of orders from that line, and the DRGW is authorized to accept and use for loading with coal to destinations east of the Missouri River, including Omaha, Nebraska, and Kansas City, Kansas, any or all of the hoppers which it was authorized to use for the transportation of sugar beets under the provisions of this exemption; and,

It is further ordered, That, when empty such cars shall be returned to the owner empty in the manner prescribed by Car Service Rules 1 or 2.

Effective 12:01 a.m., December 3, 1974.
Expires 11:59 p.m., December 31, 1974.

Issued at Washington, D.C., December 3, 1974.

[SEAL] R. D. PFAHLER,
Director, Bureau of Operations.

[FR Doc.74-29224 Filed 12-13-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 11, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before December 31, 1974.

FSA No. 42915—*Grain and Grain Products Within the Western District.* Filed by North Pacific Coast Freight Bureau, Agent, (No. 74-1), for and on behalf of carriers parties to schedule listed below. Rates on barley and oats, feed grade, in carloads, as described in the application, from points in Montana, to Bend and Prineville, Oregon.

Grounds for relief—Carrier competition.

Tariff—Supplement 34 to North Pacific Coast Freight Bureau, Agent, tariff 13-H, ICC 1199. Rates are published to become effective on January 13, 1975.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29219 Filed 12-13-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 11, 1974.

An application, as summarized below, has been filed requesting relief from the

requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before December 31, 1974.

FSA No. 42914—*Joint Water-Rail Container Rates—American President Lines, Ltd.* Filed by American President Lines, Ltd., (No. 15), for and on behalf of itself and carriers parties to its tariffs I.C.C. Nos. 2, 3, 4, 5, 6, and 7. Rates on general commodities, between ports in Hong Kong, Indonesia, Japan, Korea, Malaysia, The Philippines, Singapore, Taiwan, Thailand, and Vietnam, on the one hand, and rail terminals located at Freeport, Texas, and Providence, Rhode Island, on the other.

Grounds for relief—Water competition.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29220 Filed 12-13-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 11, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before December 31, 1974.

AGGREGATE-OF-INTERMEDIATES

FSA No. 42913—*Class and Commodity Rates Between Points in Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B-501), for and on behalf of carriers parties to Uniform Classification Committee, Agent, tariff I.C.C. 7. Rates on liquid caustic soda, in tank-carloads, as described in the application, from Port Neches, Texas, to Benbrook, Texas.

Grounds for relief—Maintenance of depressed rates published to meet intrastate competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 59 to Southwestern Freight Bureau, Agent, tariff 87-J, ICC 1159 (TLFB Series). Rates are published to become effective January 13, 1975.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29221 Filed 12-13-74;8:45 am]

[No. MC-C-8806]

INTERCORPORATE PARENT-SUBSIDIARY TRANSPORTATION

Petition for Declaratory Order

DECEMBER 11, 1974.

At the request of Rex Eames, representative for several motor carriers, the time for filing representations in the above-entitled proceeding has been extended from December 12, 1974 to January 13, 1975.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29222 Filed 12-13-74;8:45 am]

TEXAS EASTERN TRANSMISSION CORP., LITTLE BIG INCH DIVISION

Tentative Valuation

Notice is hereby given that a tentative valuation for the year 1972, Valuation Docket No. 1408, is under consideration for a common carrier by pipeline, the Texas Eastern Transmission Corporation, Little Big Inch Division, P.O. Box 2521, Houston, Texas 77001.

On or before January 10, 1974, persons other than those specifically designated in Section 19a(h) of the Interstate Commerce Act having an interest in the valuation of the carrier named above may, pursuant to rule 72 of the Commission's general rules of practice (49 CFR 1100.72), file an original and three copies of a petition for leave to intervene and, if granted, thus to come within the category of "additional parties as the Commission may prescribe" under section 19a(h) of the Act, thereby enabling the party to file a protest. It is also required that a copy of the petition to intervene be served at the address shown above upon the carrier and that an appropriate certificate of service be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition; they are entitled to file protest as a matter of right under the statute.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-29054 Filed 12-13-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

DECEMBER 11, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065 (a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before December 26, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 29572 (Sub-No. E1), filed June 4, 1974. Applicant: McCLAIN MOVING COMPANY, Highway 73, Palmyra, N.J. Applicant's representative: George D. McClain, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Maryland, on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate the gateway of points in Philadelphia County, Pa.

No. MC 37203 (Sub-No. E2), filed May 31, 1974. Applicant: MILLSTEAD VAN LINES, INC., P.O. Drawer 878, Bartlesville, Okla. 74003. Applicant's representative: Thomas F. Sedberry, Suite 1102 Perry-Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in Arkansas, on the one hand, and, on the other, points in Kansas on and west of U.S. Highway 75 (points in Oklahoma within 150 miles of Shawnee, Okla.)*; (2) between Miller, Lafayette, Little River, Howard, Hempstead, Sevier, Pike, Polk, Montgomery, Scott, Sebastian, Logan, Crawford, Franklin, Johnson, Washington, Madison, Benton, and Carroll Counties, Arkansas, on the one hand, and, on the other, points in Pennsylvania, New Jersey, New York, Massachusetts, Rhode Island, Maine, and Michigan (points in Oklahoma within 150 miles of Shawnee, Okla., and Mclean County, Ill.)*; and (3) between points in Oklahoma, on the one hand, and, on the other, points in Michigan, Pennsylvania, New York, New Jersey, Massachusetts, Rhode Island, and Maine (Coffeyville, Kans., and points within 25 miles thereof).* The purpose of this filing is to eliminate the gateways marked by asterisks above.

No. MC 37203 (Sub-No. E3), filed May 31, 1974. Applicant: MILLSTEAD VAN LINES, INC., P.O. Drawer 878, Bartlesville, Okla. 74003. Applicant's representative: Thomas F. Sedberry, Suite 1102, Perry-Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in Montana, on the one hand, and, on the other, points in Texas on and east of U.S. Highway 283 from the Texas-Oklahoma border to its intersection with U.S. Highway 67, thence along U.S. Highway 67 to its intersection with U.S. Highway 277, thence along U.S. Highway 277 to Del Rio, Tex., on

the United States-Mexico border, (2) between points in Wyoming, on the one hand, and, on the other, points in Missouri on and south of a line beginning at the Kansas-Missouri State line, thence along U.S. Highway 160 to Springfield, Missouri, thence along U.S. Highway 60 to its intersection with Missouri Highway 34, thence along Missouri Highway 34 to Jackson, Mo., thence along U.S. Highway 61 to Cape Girardeau, Missouri, on the Missouri-Illinois border, (3) between points in Montana, on the one hand, and, on the other, points in Missouri on and south of a line beginning at the Missouri-Kansas State line on U.S. Highway 66 to Joplin, thence along Interstate Highway 44-U.S. Highway 66 to St. Louis, Missouri, on the Missouri-Illinois border, and (4) between points in Kansas, on the one hand, and, on the other, points in Texas. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 37203 (Sub-No. E4), filed May 31, 1974. Applicant: MILLSTEAD VAN LINES, INC., P.O. Drawer 878, Bartlesville, Okla. 74003. Applicant's representative: Thomas F. Sedberry, Suite 1102 Perry-Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in Kansas on and south of a line beginning at the Kansas-Colorado State line on Kansas Highway 96 to its intersection with U.S. Highway 183, thence along U.S. Highway 183 to its intersection with U.S. Highway 50, thence along U.S. Highway 50 to its intersection with U.S. Highway 77, thence along U.S. Highway 77 to the Kansas-Oklahoma State line, on the one hand, and, on the other, points in Illinois, Indiana, and Kentucky (Coffeyville, Kans., and points within 25 miles thereof, and Shawnee, Okla., and points in that part of Oklahoma, Arkansas, Kansas, and Texas within 150 miles of Shawnee)*, (2) between points in Kansas on and south of a line beginning at the Kansas-Colorado State line on Kansas Highway 96 to its intersection with U.S. Highway 183, thence along U.S. Highway 183 to its intersection with U.S. Highway 50, thence along U.S. Highway 50 to its intersection with U.S. Highway 77, thence along U.S. Highway 77 to the Kansas-Oklahoma State line, on the one hand, and, on the other, points in Michigan, Ohio, West Virginia, Pennsylvania, New York, New Jersey, Rhode Island, Massachusetts, and Maine (Coffeyville, Kans., and points within 25 miles thereof, McLean County, Ill., and Shawnee, Okla., and points in that part of Oklahoma, Arkansas, Kansas, and Texas within 150 miles of Shawnee)*, (3) between points in Kentucky, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Oklahoma State line on U.S. Highway 75 to Dallas, Tex., thence along Interstate Highway 45 to Houston, Tex., thence along Interstate Highway 10-U.S. Highway 81 to San Antonio, Tex., thence along Interstate Highway 35-U.S. Highway 81 to Laredo, on the U.S.-Mexico International Boundary line (points in Oklahoma)*, (4) between points in Colorado, on the one hand, and, on the other, points in Texas on and east of a line beginning at the Texas-Oklahoma State line on U.S. Highway 283 to its intersection with U.S. Highway 87, thence along U.S. Highway 87 to Brady, Tex., thence along U.S. Highway 377 to Junction, Tex., thence along U.S. Highway 83 to the United States-Mexico International Boundary line (points in Oklahoma)*, and (5) between points in Ohio, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Oklahoma State line on U.S. Highway 75 to Dallas, Tex., thence along Interstate Highway 35-U.S. Highway 81 to Laredo, Tex., on the United States-Mexico International Boundary line (points in Oklahoma and McLean County, Ill.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 37203 (Sub-No. E5), filed May 31, 1974. Applicant: MILLSTEAD VAN LINES, INC., P.O. Drawer 878, Bartlesville, Okla. 74003. Applicant's representative: Thomas F. Sedberry, Suite 1102 Perry-Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in Texas, on the one hand, and, on the other, points in Pennsylvania, New Jersey, New York, Maine, Massachusetts, and Rhode Island (points in Oklahoma and McLean County, Ill.)*, (2) between points in Nebraska and Iowa, on the one hand, and, on the other, points in Texas on and east of a line beginning at the Texas-Oklahoma State line on U.S. Highway 283 to its intersection with U.S. Highway 180, thence along U.S. Highway 180 to its intersection with Oklahoma Highway 208, thence along Oklahoma Highway 208 to its intersection with Oklahoma Highway 163, thence along Oklahoma Highway 163 to its intersection with U.S. Highway 90, thence along U.S. Highway 90 to Del Rio on the U.S.-Mexico International Boundary line (points in Oklahoma)*, (3) between points in Texas, on the one hand, and, on the other, points in Michigan (points in Oklahoma, and McLean County, Ill.)*, (4) between points in Texas, on the one hand, and, on the other, points in Illinois and Indiana (points in Oklahoma)*, and (5) between points in Texas on and west of a line beginning at the Texas-Oklahoma State line on Interstate Highway 35 to Fort Worth, Tex., thence along Interstate Highway 35-U.S. Highway 81 to Laredo, Tex., on the one hand, and, on the other, points in Arkansas on and north of Interstate Highway 40 (points in Oklahoma)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 83539 (Sub-No. E16) (Correction), filed June 2, 1974, published in the FEDERAL REGISTER December 3, 1974. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated iron and steel products* and *iron and steel pipe*, from Corpus Christi, Galveston, and Houston, Tex., to points in Arizona. The purpose of this filing is to eliminate the gateway of points in New Mexico. The purpose of this correction is to reflect the correct docket number—previously published as MC 62539.

No. MC 83745 (Sub-No. E2), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and such commodities* generally requiring rigging, special equipment, or specialized handling (except articles requiring special vehicular equipment for over-the-road movement), between points in Butler County, Pa., within 25 miles of Pittsburgh, Pa., and points in Ohio on and west of a line beginning at the Ohio-Michigan State line extending south along Interstate Highway 75 to junction Ohio Highway 68, thence along Ohio Highway 68 to junction Ohio Highway 31, thence along Ohio Highway 31 to junction Ohio Highway 736, thence along Ohio Highway 736 to junction Ohio Highway 161, thence along Ohio Highway 161 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Ohio Highway 60, thence along Ohio Highway 60 to the Ohio-West Virginia State line. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83835 (Sub-No. E16), filed May 14, 1974. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: William A. Cunningham (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Contractors' machinery and equipment and supplies* moving in connection therewith (except commodities in bulk), (1) between points in Wisconsin, on the one hand, and, on the other, points in Indiana, Ohio, and Pennsylvania, (2) between points in that part of Michigan on and west of U.S. Highway 41, on the one hand, and, on the other, points in Indiana, Ohio, and Pennsylvania, (3) between points in Michigan, on the one hand, and, on the other, points in Indiana on and west of U.S. Highway 41, restricted against the transportation of iron and steel and iron and steel articles, but not mining and contractors' machinery and equipment, originating at points in Indiana which are within the Chicago, Ill., Commercial Zone, as defined by the Commission. The

purpose of this filing is to eliminate the gateways of points in Illinois.

No. MC 95084 (Sub-No. E14) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER December 2, 1974. Applicant: HOVE TRUCK LINE, Stanhope, Iowa 50246. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Portable elevators and fertilizer spreaders*, knocked down, and *parts* thereof, from Bloomington, Ill., to points in Colorado, North Dakota, South Dakota, Wyoming, points in Kansas on and west of a line from the Kansas-Nebraska State line along U.S. Highway 83 to the junction of Kansas Highway 25, thence along Kansas Highway 25 to the Kansas-Oklahoma State line, points in Minnesota on and west of a line from the Iowa-Minnesota State line along Interstate Highway 35 to Minneapolis, thence along U.S. Highway 169 to the United States-Canadian International Boundary line, and points in Nebraska on and west of Nebraska Highway 15 from the Nebraska-Kansas State line to the junction of U.S. Highway 30 and on and north of U.S. Highway 30. The purpose of this filing is to eliminate the gateway of Fort Dodge, Iowa, and points within 1 mile thereof. The purpose of this correction is to correct the "E" number, previously published as E16.

No. MC 95540 (Sub-No. E755), filed November 14, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables, frozen fruits, and frozen berries*, from those points in Arkansas, on and west of a line beginning at the Oklahoma-Arkansas State line and extending along U.S. Highway 64 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with U.S. Highway 62, thence along U.S. Highway 62 to the Arkansas-Missouri State line to those points in Delaware on and north of a line beginning at the Delaware-Maryland State line, and extending along Delaware Highway 300 to its junction with Delaware Highway 44, thence along Delaware Highway 44 to its junction with Delaware Highway 8, thence along Delaware Highway 8 to the Delaware Bay. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E756), filed November 14, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables, frozen fruits, and frozen berries*, from points in Arkansas to points in New Hampshire, Vermont, Massachusetts, Connecticut, Maine, and Rhode Island. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E757), filed November 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Newburgh, N.Y., to those points in Montana on and south of a line beginning at the Wyoming-Montana State line, and extending along U.S. Highway 89 to its intersection with Interstate Highway 90, thence along Interstate Highway 90 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its intersection with U.S. Highway 12 to its intersection with U.S. Highway 93, thence along U.S. Highway 93 to the U.S.-Canada International Boundary line. The purpose of this filing is to eliminate the gateway of Dyersburg, Tenn.

No. MC 95540 (Sub-No. E758), filed November 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Newburgh, N.Y., to those points in Wyoming on and north of a line beginning at the Nebraska-Wyoming State line, thence along Interstate Highway 80 to its intersection with U.S. Highway 287 to the Idaho-Wyoming State line. The purpose of this filing is to eliminate the gateway of Dyersburg, Tenn.

No. MC 95540 (Sub-No. E759), filed November 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Newburgh, N.Y., to those points in Kansas on and south of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 54 to its junction with Interstate Highway 35, thence along Interstate Highway 35 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with U.S. Highway 183, thence along U.S. Highway 183 to its junction with Interstate Highway 70, thence along Interstate Highway 70 to the Kansas-Colorado State line. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC 95540 (Sub-No. E760), filed November 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, and meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Newburgh, N.Y., to points in Louisiana. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC 95540 (Sub-No. E761), filed November 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Newburgh, N.Y., to points in Kentucky and Louisiana. The purpose of this filing is to eliminate the gateway of Milton, Pa.

No. MC 95540 (Sub-No. E762), filed November 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Newburgh, N.Y., to points in New Mexico, Arizona, and California. The purpose of this filing is to eliminate the gateways of points in Georgia.

No. MC 95540 (Sub-No. E763), filed November 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and fresh dressed poultry*, from Newburgh, N.Y., to points in California, Arizona, and New Mexico. The purpose of this filing is to eliminate the gateways of points in Georgia.

No. MC 95540 (Sub-No. E764), filed November 24, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen baked stuffed potatoes*, from the facilities of Penobscot Frozen Foods at Belfast, Maine, to points in Arkansas, New Mexico, Arizona, and California. The purpose of this filing is to eliminate the gateways of points in New York.

No. MC 95540 (Sub-No. E765), filed November 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and frozen potato products*, from Crookston, Duluth, Minneapolis, Albert Lea, and Mankato, Minn.,

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Fargo, N. Dak., and Sioux City, Iowa, to points in Maine, Vermont, and New Hampshire. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E766), filed November 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats*, from the facilities of Armour and Company at or near Worthington and Mankato, Minn., to points in Maine, Vermont, and New Hampshire. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E767), filed November 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Armour and Co., at or near Worthington, Minn., to points in Maine, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E768), filed November 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Newburgh, N.Y., to points in Arkansas, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateway of Richmond, Va.

No. MC 95540 (Sub-No. E769), filed November 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Newburgh, N.Y., to points in Arkansas and Oklahoma. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC 95540 (Sub-No. E770), filed November 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from York, Nebraska, and the facilities of Platte Valley Packing Co. near Cozad, Nebr., to points in Maine, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E771), filed November 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Lexington, Nebr., to points in Maine, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E772), filed November 17, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from Newburgh, N.Y., to points in Colorado, Nevada, Idaho, Oregon, Washington, and Utah. The purpose of this filing is to eliminate the gateway of Dyersburg, Tenn.

No. MC 95540 (Sub-No. E773), filed November 17, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 from Orangeburg, S.C., to points in Connecticut, Rhode Island, Massachusetts, Maine, Vermont, and New Hampshire. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E774), filed November 17, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk, in tank vehicles), as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Armour and Company near Sterling, Ill., to points in Maine, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E775), filed November 16, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from Gainesville, Ga., and Florence, Ala., to points in Connecticut, Massachusetts, Maine, New Hampshire, Vermont, Rhode Island, New York City, and Nassau and Westchester Counties, N.Y. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E776), filed November 17, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Emporia, Kans., to points in Maine, New Hampshire, Vermont, and Virginia. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E777), filed November 17, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Lacrosse, Marshfield, and Whitehall, Wis., to points in Delaware, Maine, New Hampshire, Vermont, and Rhode Island. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E778), filed November 18, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, and frozen vegetables* (except in bulk), from points in North Carolina and Tennessee to points in Maine, Connecticut, Massachusetts,

Rhode Island, Vermont, and New Hampshire. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E779), filed November 18, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, and frozen vegetables*, from points in Florida, to points in Maine, New Hampshire, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E780), filed November 18, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk in tank vehicles), from the facilities of or used by American Beef Packers, Inc., in Pottawattamie County, Iowa, to points in Maine, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E782), filed November 17, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen potato products and frozen corned beef hash* (except in bulk), from Columbus, Hastings, Omaha, and York, Nebr., to points in Maine, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E783), filed November 17, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, meats, meat products, and meat by-products* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Sylvester and Tifton, Ga., to points in Maine, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E784), filed November 18, 1973. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionary products*, from Newburgh, N. Y., to points in Washington, Oregon, Utah, Idaho, Montana, Colorado, and Nevada. The purpose of this filing is to eliminate the gateway of Reading, Pa.

No. MC 95540 (Sub-No. E785), filed November 18, 1974. Applicant: WALKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared foodstuffs*, from Bridgeton, N. J., to those points in Wyoming on and south of a line beginning at the Wyoming-Colorado State line and extending along Interstate Highway 25 to its junction with U.S. Highway 20, thence along U.S. Highway 20 to its junction with Wyoming Highway 120, thence along Wyoming Highway 120 to the Wyoming-Montana State line. The purpose of this filing is to eliminate the gateways of Newburgh, N. Y., and Union City, Tenn.

No. MC 95540 (Sub-No. E786), filed November 18, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products*, other than frozen, in vehicles equipped with mechanical refrigeration, from Newburgh, N.Y., to points in Arkansas and Texas and those points in Oklahoma on and south of a line beginning at the Kansas-Oklahoma State line and extending along Interstate Highway 35, and extending along Interstate Highway 35 to its junction with Oklahoma Highway 119, thence along Oklahoma Highway 119 to its junction with U. S. Highway 170 to its junction with U. S. Highway 60, thence along U. S. Highway 60 to its junction with Oklahoma Highway 18 to its junction with Oklahoma Highway 20, thence along Oklahoma Highway 20 to its junction with Oklahoma Highway 99 to its junction with U. S. Highway 64, thence along U. S. Highway 64 to the Muskogee Turnpike, thence along the Muskogee Turnpike to its junction with Oklahoma Highway 51, thence along Oklahoma Highway 51 to its junction with U.S. Highway 62, thence along U. S. Highway 62 to the Oklahoma-Arkansas State line. The purpose of this filing is to eliminate the gateway of Doraville, Ga.

No. MC 95540 (Sub-No. E787), filed November 18, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes, frozen potato products, frozen onions, and frozen carrots*, from Corinna, Easton, Portland, Presque Isle, and Washburn, Maine, to points in Louisiana, Texas, New Mexico, Arizona, and California. The purpose of this filing is to eliminate the gateway of Albany, N.Y.

No. MC 95540 (Sub-No. E788), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, and frozen vegetables*, from those points in North Carolina on and east of a line beginning at the Virginia-North Carolina State line and extending along Interstate Highway 85 to its intersection with U.S. Highway 70, thence along U.S. Highway 70 to its intersection with U.S. Highway 117, thence along U.S. Highway 117 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Washington, Pa.

No. MC 107515 (Sub-No. E154) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER November 18, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Bruce E. Mitchell, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats* and *dairy products* as described in the Appendix to the report in *Modification of Permits-Packing House Products*, 48 M.C.C. 626, from Quincy, Fla., and points in that part of Florida on and east of U.S. Highway 319, to points in that part of Alabama on and north of U.S. Highway 80. The purpose of this filing is to eliminate the gateway of any point that is within 5 miles of Montezuma, Ga., and within the commercial zone of Montezuma (except Montezuma). The purpose of this correction is to reflect the correct "E" number—previously published as E134.

No. MC 107515 (Sub-No. E155) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER November 18, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats, and such commodities as are classified as dairy products*, in the Appendix to the report in *Modification of Permits-Packing House Products*, 48 M.C.C. 628, in vehicles equipped with mechanical refrigeration; (2) from points in Florida to points in that part of Virginia on and west of a line beginning at the Virginia-North Carolina State line, thence along U.S. Highway 258 to Newport News, thence along U.S. Highway 17 to junction Virginia Highway 171, thence along Virginia Highway 171 to the Chesapeake Bay. The purpose of this filing is to eliminate the gateways of (1) any point that is both within 5 miles of Macon, Ga., and within the commercial zone of Macon

(except Macon), and (2) the plant sites of Family Foods, Inc., or Ambrosia Chocolate Co., Division of W. R. Grace and Company at Charlotte, N.C. The purpose of this partial correction is to clarify the destination routes. The remainder of this letter-notice remains as previously published.

No. MC 107515 (Sub-No. E496), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from points in that part of Ohio on and north of a line beginning at Cleveland on Lake Erie, thence along Interstate Highway 90 to the Ohio-Pennsylvania State line, to points in Texas, Louisiana, that part of Oklahoma on and east of a line beginning at the Arkansas-Oklahoma State line, thence along Oklahoma Highway 4 to junction U.S. Highway 259, thence along U.S. Highway 259 to junction Oklahoma Highway 1, thence along Oklahoma Highway 1 to junction U.S. Highway 270, thence along U.S. Highway 270 to junction Indian Nation Turnpike, thence along Indian Nation Turnpike to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Alternate U.S. Highway 75, thence along Alternate U.S. Highway 75 to junction Oklahoma Highway 97, thence along Oklahoma Highway 97 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Oklahoma Highway 99, thence along Oklahoma Highway 99 to the Oklahoma-Kansas State line, points in that part of Arkansas on and south of a line beginning at the Arkansas-Louisiana State line, thence along U.S. Highway 65 to junction Arkansas Highway 4.

Thence along Arkansas Highway 4 to the Arkansas-Oklahoma State line, points in that part of Mississippi on and south of a line beginning at the Mississippi-Louisiana State line, thence along Interstate Highway 20 to junction U.S. Highway 49, thence along U.S. Highway 49 to junction U.S. Highway 98, thence along U.S. Highway 98 to the Mississippi-Alabama State line, points in that part of Alabama on and south of a line beginning at the Alabama-Mississippi, thence along U.S. Highway 98 to junction Interstate Highway 10,, thence along Interstate Highway 10 to the Alabama-Florida State line, points in that part of Florida on and south of a line beginning at the Florida-Alabama State line thence along U.S. Highway 98 to junction Alternate U.S. Highway 27, thence along Alternate Highway 27 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction Florida Highway 484, thence along Florida Highway 484 to junction U.S. Highway 441, thence along U.S. Highway 441 to junction Florida Highway 46, thence along Florida Highway 46 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction Florida Highway 528, thence along Florida Highway 528 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of (1) Detroit, Mich., and (2) Columbus, Ohio.

No. MC 107515 (Sub-No. E497), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Bananas, cocoanuts, and pineapples*, from West Palm Beach, Port of Palm Beach, Port of Everglades, and Tampa, Fla., to points in Minnesota, Ohio, and that part of Missouri on and north of a line beginning at the Illinois-Missouri State line, thence along Missouri Highway 74 to junction Missouri Highway 25, thence along Missouri Highway 25 to junction Missouri Highway 91, thence along Missouri Highway 91 to junction Missouri Highway 21, thence along Missouri Highway 21 to junction Missouri Highway 106, thence along Missouri Highway 106 to junction Missouri Highway 17, thence along Missouri Highway 17 to junction Missouri Highway 38, thence along Missouri Highway 38 to junction Missouri Highway 65, thence along Missouri Highway 65 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Missouri-Oklahoma State line. The purpose of this filing to to eliminate the gateway of the plant site of Food Specialties of Kentucky, in Jefferson County, Ky.

No. MC 111545 (Sub-No. E64), filed May 29, 1974, Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, (1) between points in Tennessee, on the one hand, and, on the other, points in that part of Illinois on, west, and north of a line beginning at the Illinois-Missouri State line, thence along U.S. Highway 24 to Quincy, thence along Illinois Highway 96 to junction Illinois Highway 61, thence along Illinois Highway 61 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction Illinois Highway 41 to Galesburg, thence along U.S. Highway 34 to junction Illinois Highway 88, thence along Illinois Highway 88 to Sterling, thence along Illinois Highway 2 to the Illinois-Wisconsin State line (points in Iowa);* (2) between points in that part of Tennessee within 175 miles of Chattanooga, Tenn., and on and south of a line beginning at the Tennessee-Georgia State line, thence along U.S. Highway 11 to Tennessee Highway 30, thence along Tennessee Highway 30 to junction Tennessee Highway 39, thence along Tennessee Highway 39 to Englewood, thence along U.S. Highway 411 to Maryville, thence along U.S. Highway 129 to Knoxville, thence along U.S. Highway 11E to Johnson City, thence along U.S. Highway 321 to the Tennessee-North Carolina State line, on the one hand, and, on the other, points in that part of Illinois on, north, and west of a line beginning at the Illinois-Missouri State line, thence along Illinois Highway 140 to junction U.S. Highway 40, thence along U.S. Highway 40 to Effingham, thence along U.S. Highway 45 to Champaign, thence along U.S. 150 to Bloomington, thence along U.S. Highway 51 to the Illinois-Wisconsin State line (points in that part of North Carolina, that part of South Carolina, or that part of Georgia within 175 miles of Chattanooga, Tenn.).* The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 111545 (Sub-No. E339), filed June 4, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe* (except pipe as described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459, and pipe originating at or destined to pipeline rights-of-way), from points in that part of Alabama within 175 miles of Chattanooga, Tenn., and on and east of a line beginning at the Alabama-Tennessee State line thence along U.S. Highway 231 to Arab, thence along Alabama Highway 69 to Cullman, thence along U.S. Highway 31 to Birmingham, thence along U.S. Highway 11 to the Alabama-Mississippi State line, to points in Arizona, Nevada, Oregon, and Washington, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment, where such transportation is performed on ordinary vehicular equipment, and special equipment is provided for loading and unloading is performed by the consignor or consignee, or both. The purpose of this filing is to eliminate the gateways of (1) points in that part of Alabama within 50 miles of Cartersville, Ga., and within 175 miles of Chattanooga, Tenn.; (2) points in Oklahoma; and (3) the plant site and warehouse facilities of Western Foundary Company at or near Tyler, Tex.

No. MC 111545 (Sub-No. E466), filed May 30, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heat exchangers or equalizers* for air, gas or liquids, (2) *machinery and equipment* for heating, cooling, conditioning, humidifying, dehumidifying,

and moving of air, gas, or liquids, and (3) *parts, attachments, and accessories* for use in the installation and operation of (1) and (2) above, from points in Connecticut, Delaware, Maine, Maryland, Vermont, Massachusetts, New Hampshire, New Jersey, Rhode Island, and the District of Columbia, to points in Louisiana, restricted in (1), (2), and (3) above to the transportation of commodities which, because of size or weight, requires the use of special equipment. The purpose of this filing is to eliminate the gateways of (1) points in that part of North Carolina, South Carolina, or Georgia within 175 miles of Chattanooga, Tenn.; and (2) the plant and warehouse facilities of the Trane Company at Clarksville, Tenn.

No. MC 111545 (Sub-No. E610), filed June 3, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, (1) between Newport News, Hampton, Norfolk, Virginia Beach, Portsmouth, and Chesapeake, Va., on the one hand, and, on the other, points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia; and (2) between Newport News, Hampton, Norfolk, Virginia Beach, Portsmouth, and Chesapeake, Va., on the one hand, and, on the other, points in that part of Maryland on and north of a line beginning at the Maryland-District of Columbia State line, thence along U.S. Highway 50 to junction U.S. Highway 301, thence along U.S. Highway 301 to junction Maryland Highway 300, thence along Maryland Highway 300 to the Maryland-Delaware State line, and that part of Delaware on and north of a line beginning at the Delaware-Maryland State line, thence along Delaware Highway 300 to junction Delaware Highway 44, thence along Delaware Highway 44 to Pearson, thence along Delaware Highway 8 to Deep Water Point. The purpose of this filing is to eliminate the gateway of points in North Carolina.

No. MC 111545 (Sub-No. E615), filed June 3, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections, (1) from points in Florida, Georgia, and South Carolina to points in New Jersey and New York; and (2) from points in Mississippi to points in New Jersey and that part of New York on and east of a line beginning at Sea Breeze, thence along New York Highway 18 to Rochester, thence along Interstate Highway 490 to junction Interstate Highway 90, thence along Interstate Highway 90 to West Junius, thence along New York Highway 14 to the New York-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of the plant site of Continental Homes, Inc., at or near Rocky Mount or Boones Mill, Va.

No. MC 111545 (Sub-No. E616), filed June 3, 1974. Applicant. HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections, from points in that part of Florida on and south of a line beginning at Jacksonville Beach, thence along U.S. Highway 90 to Lake City, thence along Florida Highway 247 to Branford, thence along U.S. Highway 129 to Chiefland, thence along Florida Highway 345 to junction Florida Highway 24, thence along Florida Highway 24 to Cedar Key, to points in that part of Ohio on and east of a line beginning at the Ohio-Kentucky State line, thence along Ohio Highway 73 to Belfast, thence along Ohio Highway 785 to Sugar Tree Ridge, thence along Ohio Highway 136 to junction U.S. Highway 62, thence along U.S. Highway 62 to Washington Court House, thence along U.S. Highway 35 to Dayton, thence along U.S. Highway 25 to Lima, thence along U.S. Highway 30S to junction U.S. Highway 30 to Delphos, thence along Ohio Highway 66 to Defiance, thence along Ohio Highway 15 to the Ohio-Michigan State line. The purpose of this filing is to eliminate the gateway of the plant site of Continental Homes, Inc., at or near Rocky Mount, Va.

No. MC 111545 (Sub-No. E622), filed June 3, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities* (except knitting machines), the transportation of which, because of size or weight, requires the use of special equipment, (1) from points in Rhode Island and Vermont to points in New Mexico; and (2) from points in that part of Pennsylvania on, south, and east of a line beginning at the Pennsylvania-Maryland State line, thence along U.S. Highway 219 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 220, thence along U.S. Highway 220 to Williamsport, thence along U.S. Highway 15 to Trout Run, thence along Pennsylvania Highway 14 to the Pennsylvania-New York State line, to points in New Mexico; ((1) points in that part of Georgia, that part of North Carolina, or that part of South Carolina within 175 miles of Chattanooga, Tenn.; (2) points in that part of Georgia or that part of South Carolina within 50 miles of Atlanta, Cartersville, or Marietta, Ga., or Columbia, S.C., and within 175 miles of Chattanooga, Tenn.; and (3) points in Oklahoma);* (3) from points in North Carolina to points in New Mexico; ((1) points in that part of North Carolina or that part of South Carolina within 175 miles of Chattanooga, Tenn.; (2) points in that part of Georgia or that part of South Carolina within 50 miles of Atlanta, Cartersville, or Marietta, Ga., or Columbia, S.C., and within 175 miles of Chattanooga, Tenn.; and (3) points in Oklahoma);* (4) from points in Virginia and that part of West Virginia on, south, and east of a line beginning at the West Virginia-Kentucky State line, thence along U.S. Highway 119 to Weston, thence along U.S. Highway 33 to Elkins, thence along U.S. Highway 219 to the West Virginia-Maryland State line, to points in that part of New Mexico; ((1) points in North Carolina within 175 miles of Chattanooga, Tenn.; (2) points in that part of Georgia or that part of South Carolina within 50 miles of Atlanta, Cartersville, or Marietta, Ga., or Columbia, S.C., and within 175 miles of Chattanooga, Tenn.; and (3) points in Oklahoma);* (5) from points in South Carolina to points in New Mexico (points in Oklahoma).* The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 111545 (Sub-No. E623), filed June 3, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, between points in Kentucky, on the one hand, and, on the other, points in that part of Wisconsin on and west of a line beginning at the Wisconsin-Iowa State line, thence along U.S. Highway 151 to junction Wisconsin Highway 23, thence along Wisconsin Highway 23 to Wisconsin Dells, thence along Wisconsin Highway 13 to Wisconsin Rapids, thence along Wisconsin Highway 54 to Plover, thence along U.S. Highway 51 to the Wisconsin-Michigan State line. The purpose of this filing is to eliminate the gateway of points in Iowa.

No. MC 111545 (Sub-No. E625), filed June 3, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Georgia and that part of Alabama on and north of U.S. Highway 78, to points in that part of Virginia on, east, and south of a line beginning at the Virginia-North Carolina State line, thence along U.S. Highway 220 to junction U.S. Highway 11, thence along U.S. Highway 11 to the Virginia-West Virginia State line. The purpose of this filing is to eliminate the gateway of the plant site of Broadmore Homes of North Carolina, Inc., near Reidsville, N.C.

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Born (Same as above). Authority sought Applicant's representative: Robert E.

No. MC 111545 (Sub-No. E628), filed May 19, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, between points in the Lower Peninsula of Michigan, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateways of points in Iowa and Illinois.

No. MC 111545 (Sub-No. E636), filed May 19, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, between points in Maryland, on the one hand, and, on the other, points in that part of Tennessee within 175 miles of Chattanooga, Tenn., and on, south, and west of a line beginning at the Tennessee-Kentucky State line, thence along Alternate U.S. Highway 41 to Nashville, thence along U.S. Highway 70 to Lebanon, thence along U.S. Highway 70N to Crossville, thence along U.S. Highway 70 to Knoxville, thence along U.S. Highway 11E to Morristown, thence along U.S. Highway 25E to junction U.S. Highway 25, thence along U.S. Highway 25 to the Tennessee-North Carolina State line. The purpose of this filing is to eliminate the gateway of points in North Carolina or Georgia.

No. MC 111545 (Sub-No. E637), filed May 19, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, (1) from points in the Lower Peninsula of Michigan, to points in Colorado; and (2) from points in Kentucky and that part of Tennessee on, north, and east of a line beginning at the Tennessee-Missouri State line, thence along Tennessee Highway 20 to Jackson, thence along U.S. Highway 45 to the Tennessee-Mississippi State line, to points in that part of Colorado on, north, and west of a line beginning at the Colorado-Kansas State line, thence along U.S. Highway 24 to Colorado Springs, thence along U.S. Highway 85 to Pueblo, thence along U.S. Highway 50 to junction U.S. Highway 285, thence along U.S. Highway 285 to the Colorado-New Mexico State line. The purpose of this filing is to eliminate the gateways of points in Iowa and Missouri.

No. MC 111545 (Sub-No. E638), filed May 19, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* (except knitting machines), the transportation of which, because of size or weight, requires the use of special equipment, from points in Rhode Island to points in that part of Arkansas on and west of a line beginning at the Arkansas-Oklahoma State line, thence along Arkansas Highway 16 to Lurton, thence along Arkansas Highway 7 to the Arkansas-Louisiana State line. The purpose of this filing is to eliminate the gateways of (1) points in that part of Georgia within 50 miles of Atlanta, Cartersville, or Marietta, Ga.; and (2) points in Oklahoma.

No. MC 11545 (Sub-No. E642), filed June 2, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such incinerators and refuse-treatment equipment, and parts, attachments, and accessories*, for incinerators and refuse-treatment equipment, as are machinery and machine tools, the transportation of which, because of size or weight requires the use of special equipment, (1) from points in Connecticut to points in Arizona, California, New Mexico, and Oregon, (2) from points in Delaware and the District of Columbia to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington, (3) from points in Maine to points in Arizona, California, Nevada, New Mexico, and Oregon, (4) from points in Maryland to points in Arizona, California, New Mexico, and that part of Oregon on, south, and west of a line beginning at the Oregon-Idaho State line, thence along Interstate Highway 80N to Portland, thence along Interstate Highway 5 to the Oregon-Washington State line, (5) from points in Massachusetts, New Hampshire, New Jersey, and Vermont to points in Arizona, California, and New Mexico, and (6) from points in Rhode Island to points in Arizona, California, Nevada, New Mexico, Oregon, and Utah. The purpose of this filing is to eliminate the gateways of (1) the site of the Bell Bomer Plant near Marietta, Ga.; and (2) Springfield, Mo.

No. MC 111545 (Sub-No. E643), filed May 19, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, requires the use of special equipment, between points in Kansas within 300 miles of Ames, Iowa, on the one hand, and, on the other, points in that part of Indiana on and north of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 136 to Indianapolis, thence along U.S. Highway 40 to the Indiana-Ohio State line. The purpose of this filing is to eliminate the gateway of points in Iowa.

No. MC 112822 (Sub-No. E207) (Correction), filed June 5, 1974, published in the FEDERAL REGISTER November 18, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products*, in vehicles equipped with mechanical refrigeration, from points in Oklahoma east and north of a line beginning at the Oklahoma-Kansas State line and extending along U.S. Highway 81 to junction Interstate Highway 40, thence along Interstate Highway 40 to the Oklahoma-Arkansas State line to points in California in and north of Santa Cruz, Santa Clara, Merced, Madera and Mono Counties. The purpose of this filing is to eliminate the gateway of Logan, Utah. The purpose of this correction is to indicate the destination.

No. MC 112822 (Sub-No. E216) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER November 18, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in California on and north of a line beginning at San Francisco and extending along Interstate Highway 80 to the California-Nevada State line to points in Louisiana. The purpose of this filing is to eliminate the gateway of points in Idaho. The purpose of this correction is to indicate the destination.

No. MC 114211 (Sub-No. E160), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Dallas, Tex. 75222. Applicant's representative: Kenneth R. Nelson (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm tractors* (except commodities which because of size or weight require the use of special equipment, and commodities described in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459), from points in that part of Iowa on, south, and east of a line beginning at the Minnesota-Iowa State line, thence along Iowa Highway 4 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Iowa-Nebraska State line, to points in that part of California on and south of a line beginning at the Pacific Ocean, thence along

California Highway 1 to junction California Highway 152, thence along California Highway 152 to junction California Highway 99, thence along California Highway 99 to junction California Highway 58, thence along California Highway 58 to junction Interstate Highway 15, thence along Interstate Highway 15 to the California-Nevada State line, that part of Nevada on and south of a line beginning at the Nevada-California State line, thence along Interstate Highway 15 to junction U.S. Highway 93, thence along U.S. Highway 93 to the Nevada-Arizona State line, that part of Arizona on and south of a line beginning at the Nevada-Arizona State line, thence along U.S. Highway 93 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Interstate Highway 40.

Thence along Interstate Highway 40 to the Arizona-New Mexico State line, that part of New Mexico on and south of a line beginning at the New Mexico-Arizona State line, thence along Interstate Highway 40 to junction U.S. Highway 285, thence along U.S. Highway 285 to junction U.S. Highway 60, thence along U.S. Highway 60 to the New Mexico-Texas State line, that part of Oklahoma on and south of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 66 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction Oklahoma Highway 51, thence along Oklahoma Highway 51 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Oklahoma Highway 3, thence along Oklahoma Highway 3 to junction U.S. Highway 70, thence along U.S. Highway 70 to the Oklahoma-Arkansas State line, that part of Arkansas on and south of a line beginning at the Oklahoma-Arkansas State line, thence along U.S. Highway 70 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Arkansas-Louisiana State line, and that part of Louisiana on and south of a line beginning at the Arkansas-Louisiana State line, thence along U.S. Highway 71 to junction U.S. Highway 171, thence along U.S. Highway 171 to junction Louisiana Highway 10, thence along Louisiana Highway 10 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction Louisiana Highway 82, thence along Louisiana Highway 82 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateways of points in Kansas, and Claremore, Okla.

No. MC 114211 (Sub-No. E161), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Dallas, Tex. 75222. Applicant's representative: Kenneth R. Nelson (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Tractors*, and (2) *Road making machinery, and contractors' equipment and supplies* which are designed for use in conjunction with tractors, from points in that part of South Dakota on and east of a line beginning at the North Dakota-South Dakota State line, thence along South Dakota Highway 25 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction South Dakota Highway 38, thence along South Dakota Highway 38 to junction South Dakota Highway 37, thence along South Dakota Highway 37 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 81, thence along U.S. Highway 81 to the South Dakota-Nebraska State line, to points in Washington, that part of California on, north, and west of a line beginning at Point Arena, thence along California Highway 253 to junction California Highway 101, thence along California Highway 101 to junction California Highway 20, thence along California Highway 20 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction U.S. Highway 97, thence along U.S. Highway 97 to the California-Oregon State line, that part of Oregon on, north, and west of a line beginning at the California-Oregon State line.

* * * * *

Thence along U.S. Highway 97 to junction Oregon Highway 140, thence along Oregon Highway 140 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Oregon Highway 82, thence along Oregon Highway 82 to junction Oregon Highway 3, thence along Oregon Highway 3 to the Oregon-Washington State line, that part of Idaho on and north of U.S. Highway 12, that part of Montana on and north of a line beginning at the Idaho-Montana State line, thence along U.S. Highway 12 to junction Montana Highway 200, thence along Montana Highway 200 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 2, thence along U.S. Highway 2 to the Montana-North Dakota State line, that part of North Dakota on, north, and west of a line beginning at the Montana-North Dakota State line, thence along U.S. Highway 2 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction U.S. Highway 5, thence along U.S. Highway 5 to junction North Dakota Highway 42, thence along North Dakota Highway 42 to the International Boundary line between the United States and Canada. The purpose of this filing is to eliminate the gateway of points in that part of Minnesota located in the Fargo, N. Dak., Commercial Zone.

No. MC 114211 (Sub-No. E162), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Dallas, Tex. 75222. Applicant's representative: Kenneth R. Nelson (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tractors, road making machinery, and contractors' equipment and supplies*, from Waverly, Iowa, to points in Washington, Oregon, Idaho, Montana, Utah, California, Nevada, Arizona, North Dakota, that part of Wyoming on and west of a line beginning at the South Dakota-Wyoming State line, thence along U.S. Highway 16 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction Wyoming Highway 220, thence along Wyoming Highway 220 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Wyoming Highway 430, thence along Wyoming Highway 430 to the Wyoming-Colorado State line, and that part of New Mexico on, south, and west of a line beginning at the Colorado-New Mexico State line, thence along New Mexico Highway 3 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction U.S. Highway 285, thence along U.S. Highway 285 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction New Mexico Highway 18, thence along New Mexico Highway 18 to junction U.S. Highway 62, thence along U.S. Highway 62 to the Texas-New Mexico State line. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E164), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Dallas, Tex. 75222. Applicant's representative: Kenneth R. Nelson (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Tractors*, and (2) *Road making machinery, and contractors' equipment and supplies*, designed for use in conjunction with tractors, from points in that part of Minnesota on and north of a line beginning at the South Dakota-Minnesota State line, thence along U.S. Highway 12 to junction Interstate Highway 94, thence along Interstate Highway 94 to the Minnesota-Wisconsin State line, to points in Washington, Oregon, Idaho, that part of Montana on and west of a line beginning at the International Boundary line between the United States and Canada, thence along Interstate Highway 15 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 310, thence along U.S. Highway 310 to the Wyoming-Montana State line, and that part of Wyoming on and west of a line beginning at the Montana-Wyoming State line, thence along Wyoming Highway 120 to junction Wyoming Highway 789, thence along Wyoming Highway 789 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Wyoming Highway 789, thence along Wyoming Highway 789 to the Wyoming-Colorado State line. The purpose of this filing is to eliminate the gateways of points in that part of Minnestota located in the Fargo, N. Dak. Commercial Zone.

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No. MC 114211 (Sub-No. E170), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Dallas, Tex. 75222. Applicant's representative: Kenneth R. Nelson (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, from points in that part of Iowa on and east of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 71 to junction Iowa Highway 4, thence along Iowa Highway 4 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 212, thence along Iowa Highway 212 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Iowa-Illinois State line, to points in that part of Colorado on and west of Interstate Highway 75. The purpose of this filing is to eliminate the gateways of Ft. Dodge, Iowa, and Beatrice, Nebr.

No. MC 126372 (Sub-No. E1), filed June 4, 1974. Applicant: SUREFINE TRANSPORTATION CO., 1925 East Vernon Ave., Los Angeles, Cal. 90058. Applicant's representative: Arthur J. Piken, Suite 1515, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (I) *New furniture*, uncrated, as described in appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and *New store and office fixtures* uncrated, as described in the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from points in California to points in Arkansas, Kansas, and Oklahoma (points in New Mexico)*; (II) *Such new kitchen equipment*, uncrated as described in appendix IV to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, as is new furniture or new commercial or institutional fixtures, uncrated, from San Diego, Calif., and points in Los Angeles and Orange Counties, Calif., to points in Arkansas, Kansas, and Oklahoma (points in New Mexico)*; (III) *New furniture*, uncreated as described in appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and *new store and office fixtures*, uncrated as described in appendix III to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, (1) from points in that part of Idaho on and south of U.S. Highway 30 to points in that part of Oklahoma on and east of a line beginning at the Oklahoma-Kansas State line, thence along Oklahoma Highway 34 to junction Interstate Highway 40, thence along Interstate Highway 40 to Sayre, thence along U.S. Highway 283 to the Oklahoma-Texas State line.

(2) From points in Idaho to points in that part of the New Mexico south of a line beginning at Biklabito, thence along New Mexico Highway 504 to Farmington, thence along New Mexico Highway 17 to Bloomfield, thence along New Mexico Highway 64 to Cuba, thence along New Mexico Highway 126 to junction New Mexico Highway 4, thence along New Mexico Highway 4 to Pojeague, thence along U.S. Highway 285 to junction Interstate Highway 25, thence along Interstate Highway 25 to Las Vegas, thence along New Mexico Highway 104 to Tucumcari, thence along U.S. Highway 66 to the New Mexico-Texas State line; (3) from points in that part of Idaho on and north of a line beginning at the Idaho-Oregon State line, thence along Interstate Highway 80N to junction Interstate Highway 15W, thence along Interstate Highway 15W to Pocotello, thence along Interstate Highway 15 to Idaho Falls, thence along U.S. Highway 26 to the Idaho-Wyoming State line, to points in Arkansas; and (4) from Boise, Idaho, to points in that part of Kansas north of a line beginning at the Kansas-Oklahoma State line, thence along U.S. Highway 54 to Minneola, thence along U.S. Highway 283 to Dodge City, thence along U.S. Highway 50 to Newton, thence along Interstate Highway 35W to Sedgwick, thence along Kansas Highway 196 to Eldorado, thence along U.S. Highway 54 to the Kansas-Missouri State line (points in Arizona and New Mexico)*; (5) from points in Idaho to points in Texas (points in Arizona)*.

(IV) (1) *New furniture*, (2) *new institutional fixtures*, uncrated, and (3) *new commercial fixtures*, uncrated, when moving in mixed loads and on the same bill of lading with the commodities in (1) and (2) above, (1) from points in that part of Utah west of a line beginning at the Utah-Idaho State line, thence along U.S. Highway 91 to Brigham City, thence along Interstate Highway 15 to Provo, thence along U.S. Highway 89 to the Utah-Arizona State line, to points in Arkansas; (2) from points in that part of Utah north and west of a line beginning at the Utah-Nevada State line, thence along the Box Elder-Tooele County line and the Weber-Davis County line, to junction Interstate 15, thence along Interstate 15 to Provo, thence along U.S. Highway 91 to Levan, thence along Utah Highway 28 to Gunnison, thence along U.S. Highway 89 to Utah-Arizona State line, to points in that part of Kansas south of a line beginning at the Kansas-Oklahoma State line, thence along U.S. Highway 54 to Liberal, thence along U.S. Highway 83 to Garden City, thence along U.S. Highway 156 to Larned, thence along U.S. Highway 56 to junction U.S. Highway 156, thence along U.S. Highway 156 to junction Interstate Highway 70, thence along Interstate Highway 70 to Kansas City; and (3) from points in that part of Utah west of a line beginning at the Utah-Idaho State line, thence along U.S. Highway 19 to Brigham City, thence along Interstate Highway 15 to Santaquin, thence along U.S. Highway 91 to Levan, thence along Utah Highway 28 to Gunnison, thence along U.S. Highway 89 to the Utah-Arizona State line, to points in Oklahoma (points in New Mexico)*.

(V) *New furniture*, uncrated, as described in appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and *new store and office fixtures*, uncrated, as described in appendix III to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, (1) from points in that part of Arizona south of Interstate Highway 40, to points in Arkansas and Kansas; (2) from points in that part of Arizona east of a line beginning at Nogales, thence along U.S. Highway 89 to Tucson, thence along Interstate Highway 10 to Phoenix, thence along U.S. Highway 60 to the Arizona-New Mexico Stateline, north of a line beginning at Nogales, thence along Arizona Highway 82 to junction Arizona Highway 90, thence along Arizona Highway 90 to junction U.S. Highway 80, thence along U.S. Highway 80 to Douglas, and west of U.S. Highway 666, to points in Idaho and Montana; (3) from points in that part of Arizona south of Interstate Highway 40 to points in Colorado and Oklahoma; and (4) from points in that part of Arizona south of Interstate Highway 40, to points in that part of Montana east of a line beginning at the Wyoming-Montana State line, thence along U.S. Highway 87 to Sheridan, thence along Interstate Highway 25 to Casper, thence along Wyoming Highway 220 to Muddy Gap, thence along U.S. Highway 287 to Rawlins, thence along Interstate Highway 80 to the Wyoming-Nebraska State line (points in New Mexico)*; (VI) *New furniture*, uncrated, as described in appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and *new store and office fixtures*, uncrated, as described in appendix III to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from points in Washington, Oregon, and Idaho, to points in New Mexico and Texas (points in Arizona or California)*.

(VIII). *New furniture*, uncrated, as described in appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and *new store and office fixtures*, uncrated as described in appendix III to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, (1) from points in that part of Washington on and west of a line beginning at Seattle, thence along Interstate Highway 5 to Vancouver, to points in that part of Colorado on, south, and east of a line beginning at the Colorado-Nebraska State line, thence along U.S. Highway 34 to Brush, thence along Colorado Highway 71 to Lost Chance, thence along U.S. Highway 36 to Denver, thence along Interstate Highway 25 to the Colorado-New Mexico State line; (2) from points in that part of Oregon on and west of a line beginning at Astoria, thence along U.S. Highway

30 to Portland, thence along U.S. Highway 26 to junction U.S. Highway 97, thence along U.S. Highway 97 to the Oregon-California State line, to points in Colorado and New Mexico; (3) from points in that part of Oregon west of a line beginning at Astoria, thence along U.S. Highway 30 to Portland, thence along Interstate 80N to junction U.S. Highway 197, thence along U.S. Highway 197 to junction U.S. Highway 97, thence along U.S. Highway 97 to Bend, thence along U.S. Highway 20 to Riley.

Thence along U.S. Highway 295 to New Pine Creek, to points in Texas; (4) from points in that part of Oregon west of Interstate Highway 5, to Laramie and Cheyenne, Wyo.; (5) from Klamath Falls, Oreg., to Lander, Rock Springs, Casper, Cheyenne, and Laramie, Wyo.; (6) from Portland, Oreg., to Cheyenne and Laramie, Wyo.; (7) from Grants Pass, Oreg., to Lander, Rock Springs, Casper, Cheyenne, and Laramie, Wyo.; and (8) from Eugene, Oreg., to Lander, Rock Springs, Casper, Cheyenne, and Laramie, Wyo. (points in California)*; (9) from points in that part of Oregon on and west of a line beginning at Astoria, thence along U.S. Highway 30 to Portland, thence along U.S. Highway 26, to junction U.S. Highway 97, thence along U.S. Highway 97 to Bend, thence along U.S. Highway 20 to Riley, thence along U.S. Highway 395 to New Pine Creek, to points in Oklahoma and that part of Kansas south of a line beginning at the Kansas-Colorado State line, thence along Kansas Highway 96 to junction U.S. Highway 156, thence along U.S. Highway 156 to junction U.S. Highway 40, thence along U.S. Highway 40 to Junction City, thence along Kansas Highway 18 to Manhattan, thence along U.S. Highway 24 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction U.S. Highway 59, thence along U.S. Highway 59 to Atchison; and (10) from points in that part of Oregon west of a line beginning at Astoria, thence along U.S. Highway 30 to Portland, thence along Interstate Highway 80N to junction U.S. Highway 197, thence along U.S. Highway 197 to junction U.S. Highway 97, thence along U.S. Highway 97 to Bend, thence along U.S. Highway 20 to Riley, thence along U.S. Highway 395 to New Pine Creek, to points in Arkansas (points in California and New Mexico)*; (11) from points in Washington to points in Texas, Oklahoma, and Arkansas; (12) from points in that part of Washington west of a line beginning at the International Boundary line between the United States and Canada, thence along Washington Highway 31 to Newport, thence along U.S. Highway 2 to Spokane, thence along Interstate Highway 90 to Vantage.

Thence along Washington Highway 243 to junction Washington Highway 24, thence along Washington Highway 24 to junction Washington Highway 241, thence along Washington Highway 241 to Roosevelt; and (12) from points in that part of Washington west of a line beginning at Blaine, thence along Interstate Highway 5 to Everett, thence along U.S. Highway 2 to Monroe, thence along U.S. Highway 522 to Bothell, thence along Washington Highway 202 to Fall City, thence along Washington Highway 203 to North Bend, thence along Interstate Highway 90 to junction Washington Highway 18, thence along Washington Highway 18 to junction Interstate Highway 5, thence along Interstate Highway 5 to Vancouver, to points in that part of Kansas south of a line beginning at the Kansas-Colorado State line, thence along U.S. Highway 40 to Oakley, thence along Interstate Highway 70 to Junction City, thence along Kansas Highway 18 to Manhattan, thence along U.S. Highway 24 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction U.S. Highway 59, thence along U.S. Highway 59 to Atchison (points in Arizona and New Mexico)*. (VIII). *New furniture*, uncrated, as described in appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from points in that part of Montana west of a line beginning at Sweetgrass, thence along Interstate Highway 15 to Helena, thence along U.S. Highway 287 to junction U.S. Highway 10, thence along U.S. Highway 10 to Bozeman, thence along U.S. Highway 191 to the Montana-Wyoming State line, to points in that part of Texas south of U.S. Highway 82 (points in Arizona)*.

(IX). *New furniture*, uncrated, as described in appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and *new store and office fixtures*, uncrated, as described in appendix III to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, (1) from points in that part of Montana west of a line beginning at Sweetgrass, thence along Interstate Highway 15 to Helena, thence along U.S. Highway 287 to junction U.S. Highway 10, thence along U.S. Highway 10 to Bozeman, thence along U.S. Highway 191 to the Montana-Wyoming State line, to points in that part of New Mexico on, south, and west of a line beginning at Biklabito, thence along New Mexico Highway 504 to Shiprock, thence along U.S. Highway 550 to Farmington, thence along U.S. Highway 64 to Bloomfield, thence along New Mexico Highway 44 to Cuba, thence along New Mexico Highway 126 to junction New Mexico Highway 4, thence along New Mexico Highway 4 to Poloague, thence along U.S. Highway 285 to Santa Fe, thence along U.S. Highway 85 to Las Vegas, thence along U.S. Highway 84 to junction Interstate Highway 40, thence along Interstate Highway 40 to the New Mexico-Texas State line (points in Arizona)*; (2) from Butte, Mont., to points in Oklahoma and that part of Arkansas south of a line beginning at Ft. Smith, thence along Interstate Highway 40 to Little Rock, thence along U.S. Highway 70 to junction U.S. Highway 49, thence along U.S. Highway 49 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction Interstate Highway 40, thence along Interstate Highway 40 to West Memphis; and (3) from points in that part of Montana west of a line beginning at Sweetgrass, thence along Interstate Highway 15 to Helena, thence along U.S. Highway 287 to junction U.S. Highway 10, thence along U.S. Highway 10 to Bozeman, thence along U.S. Highway 191 to the Montana-Idaho State line, to points in that part of Arkansas south of U.S. Highway 82 (points in Arizona and New Mexico)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29226 Filed 12-13-74;8:45 am]

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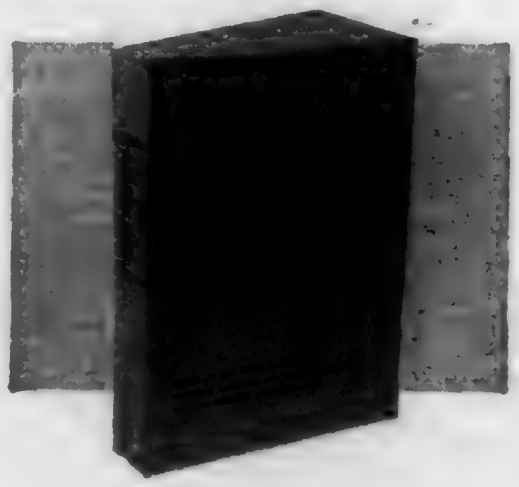
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TUESDAY, DECEMBER 17, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 243

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 669, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period December 8–14, 1974. The quantity that may be shipped is increased due to improved market conditions for California-Arizona lemons. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of lemons available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Lemon Regulation 668 (39 FR 42673). The marketing picture now indicates that there is a greater demand for lemons than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of lemons to fill the current market demand thereby making a greater quantity of lemons available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* Paragraph (b) (1) of § 910.969 (Lemon Regulation 669 (39 FR 42673)) is hereby amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period December 8, 1974, through December 14, 1974, is hereby fixed at 210,000 cartons."

(Secs. 1–16, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 12, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-29297 Filed 12-16-74;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Area Quarantined

This amendment quarantines a portion of Seward County in Kansas because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the area quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies is hereby amended as follows:

In § 73.1a, paragraph (d) relating to the State of Kansas is amended to read:

§ 73.1a Notice of quarantine.

* * * * *

(d) Notice is hereby given that cattle in certain portions of the State of Kansas are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following area in such State is hereby quarantined because of said disease:

* * * * *

(3) That portion of Seward County comprised of sec. 16, T. 32 S., R. 33 W.

(Sec. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 2 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

Effective date. The foregoing amendment shall become effective December 12, 1974.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it and other public procedure with respect is found upon good cause that notice to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 12th day of December 1974.

J. K. ATWELL,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-29300 Filed 12-16-74;8:45 am]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 1—DIVESTMENT SECURITIES REGULATION

Securities Eligible for Underwriting and Unlimited Holding

The following new sections are added to 12 CFR Part 1:

Sec.
1.574 Parking Authority of the City of Pasadena.
1.575 Camarillo Library Authority.
1.576 Maine Municipal Bond Bank.
1.577 General Services Administration Fourth Public Buildings Trust.
1.578 Board of Regents, University of Iowa, Hospital Revenue Bonds.
1.579 City of Long Beach-Los Angeles County Civic Center Authority.
1.580 Alhambra Library Building Corporation (California).
1.581 Hospital Authority of Fulton County (Georgia).
1.582 New York State Housing Finance Agency, Urban Rental Project.
1.583 New York Job Development Authority.

1.384 New Haven, Connecticut, Parking Revenue Bonds.
1.385 Farmers Home Insured Note Trust.
1.386 Connecticut Housing Finance Authority, Housing Mortgage Finance Program Bonds.
1.387 New Jersey Sports and Exposition Authority.
1.388 New York State Thruway Authority, Emergency Highway Bonds.
1.389 Louisiana Stadium and Exposition District.
1.390 New Jersey Health Care Facilities Financing Authority.
1.391 Water and Sewer Improvement Bonds, Series 1974, Northwest Houston Water Supply Corporation.
1.392 Parking Authority of the City of Hawthorne (California).
1.393 Parking Authority of the City of Fullerton (California).
1.394 Parking Authority of the City of Long Beach (California).
1.395 Los Angeles County-City of Compton Civic Center Authority, City Hall Facilities Revenue Bonds.
1.396 Virginia Housing Development Authority.

AUTHORITY: Sections 1.374–1.396 issued under R.S. 324 et seq., as amended, paragraph Seventh of R.S. 5136, as amended; (12 U.S.C. 1 et seq.), 24(7), unless otherwise noted.

§ 1.374 Parking Authority of the City of Pasadena.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $1,650,000 Revenue Bonds of the Parking Authority of the City of Pasadena for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Parking Authority of the City of Pasadena is a public body corporate and politic created by the laws of California but authorized to function only upon a finding of need. The Board of Directors of the City has made the appropriate finding and, in accordance with the law, has declared itself to be the Parking Authority. Under the law, a parking authority is authorized to issue revenue bonds to finance public parking facilities and may issue such bonds without obtaining the approval of the electors of the city where the bonds are issued to finance a project which is to be leased to the city and where the principal of and interest on the bonds are to be payable from rentals paid by the city under such lease.

(2) The Authority is issuing these bonds to finance the acquisition of a six level, 549 space parking structure and a leasehold interest in the site on which it is erected. The structure and the leasehold interest in the site, located in the central business district of the City will be leased by the Authority to the City.

(3) Under the lease rental agreement the city unconditionally promises to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds as well as other necessary expenses. The City, which possesses general powers of taxation will thus commit its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $1,650,000 1973 Revenue Bonds of the Parking Authority of the City of Pasadena are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Acting Comptroller's letter dated June 6, 1973).

§ 1.375 Camarillo Library Authority.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $885,000 Camarillo Library Authority, 1973 Revenue Bonds, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Camarillo Library Authority is a public entity created under the laws of California by an agreement between City of Camarillo and the County of Ventura. Under this agreement, the Authority is authorized to acquire a site and to acquire, construct, maintain, operate and lease public buildings for library purposes and related facilities to be leased to and operated by the County, and to issue bonds to finance such projects. The Authority is issuing these bonds for that purpose.

(2) The County, as required by its agreement with the City, has unconditionally promised in the lease rental agreement to pay annual rentals to the Authority in an amount sufficient to meet the annual interest and principal payments on these bonds as well as other necessary expenses. The County which possess general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $885,000 Camarillo Library Authority, 1973 Revenue Bonds, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Acting Comptroller's letter dated June 18, 1973).

§ 1.376 Maine Municipal Bond Bank.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the approximately $10,300,000 Maine Municipal Bond Bank 1973 Series A Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Maine Municipal Bond Bank is a public body corporate and politic established in 1972 by an act of the Legislature of the State of Maine as an instrumentality exercising public and essential governmental functions. The principal function of the Bank is to lend money to governmental units of the State through the purchase of their municipal bonds (includes both general obligation and assessment bonds) and to issue its own bonds to provide funds for such purposes.

(2) These bonds will be secured by a portfolio of the municipal bonds purchased. They will also be secured by a debt service reserve fund which will be established in an amount not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds. In order to assure the maintenance of the required debt service reserve in the reserve fund, the Act provides for the annual appropriation and payment from State funds for deposit in the reserve fund of such sum as is certified to be necessary to restore the fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the Bank. The State, which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the approximately $10,300,000 Maine Municipal Bond Bank 1973 Series A Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated July 9, 1973.)

§ 1.377 General Services Administration Fourth Public Building Trust.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of General Services Administration Fourth Public Buildings Trust, Series H and I (1973) Participation Certificates for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Administrator of General Services is offering these Participation Certificates as a part of a program authorized by the Public Buildings Amendments of 1972 to finance the construction of a number of public buildings projects and their purchase by the United States after periods of years following completion. The Participation Certificates evidence undivided interests in the unconditional obligation of the United States under a trust indenture to pay the purchase price of the projects covered thereby. This obligation includes a requirement to pay the principal of and premiums, if any, and interest on the Participation Certificates.

(2) In an opinion of October 6, 1972 addressed to the Acting Administrator, General Services Administration, the Attorney General of the United States ruled that the obligation of the United States to pay the purchase price and the Participation Certificates evidencing undivided interests in such obligation constitute an absolute and unconditional general obligation of the United States for which the full faith and credit of the United States are pledged.

(c) *Ruling.* It is our conclusion that the General Services Administration Fourth Public Buildings Trust, Series H and I (1973) Participation Certificates are obligations of the United States and are eligible for purchase, dealing in,

underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24. (Comptroller's letter dated July 18, 1973 and January 9, 1974).

§ 1.378 Board of Regents, University of Iowa, Hospital Revenue Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $10,000,000 State Board of Regents, State University of Iowa, Hospital Revenue Bonds Series 1973, for purchase, dealing in, underwriting and holding by national banks subject to the ten per cent limitation of paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The University includes colleges of Medicine, Dentistry, Nursing and Pharmacy which have been the nucleus for the development of a large university-based Medical Center.

(2) The State Board of Regents, the governing body of the University of Iowa and a number of other institutions of higher learning in the State of Iowa, is authorized under the laws of Iowa to issue revenue bonds to finance the construction of buildings and facilities for the University Hospitals at the University of Iowa. The bonds are to be payable solely from and are to be secured by a pledge of a sufficient portion of the non-appropriated revenues of the Hospitals.

(3) The Board is issuing these bonds to finance the construction of a major central tower project at the University Hospitals which will allow for the integral expansion of many departments, clinics and in-patient facilities on a level by level basis.

(c) *Ruling.* It is our conclusion that the $10,000,000 State Board Regents, State University of Iowa, Hospital Revenue Bonds Series 1973, are issued by an agency of the State of Iowa for university purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for purchase, dealing in, underwriting and holding by national banks within the ten per cent limitation with respect to aggregate holdings of obligations issued by the Iowa State Board of Regents. (Comptroller's letter dated July 25, 1973.)

§ 1.379 City of Long Beach-Los Angeles County Civic Center Authority.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $38,000,000 City of Long Beach-Los Angeles County Civic Center Authority, Long Beach County Civic Center Revenue Bonds for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The City of Long Beach-Los Angeles County Civic Center Authority is a public entity created under the laws of California of an agreement between the City of Long Beach and the County of Los Angeles. Under this agreement, the Authority is authorized to acquire, construct and lease public buildings, and to issue bonds to finance such projects. The Authority is issuing these bonds for the purpose of financing (i) the construction of a new 14-story city hall building and a 2-story main library complex, and (ii) the acquisition of underground parking facilities which will be leased to the City.

(2) The City, as required by its agreement with the County, has unconditionally promised in the lease rental agreement to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The City, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $36,000,000 City of Long Beach-Los Angeles County Civic Center Authority, Long Beach Civic Center Revenue Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated July 30, 1973).

§ 1.380 Alhambra Library Building Corporation (California).

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $1,250,000 Alhambra Library Building Corporation Leasehold Mortgage Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Alhambra Library Building Corporation, a California nonprofit corporation acting for the City of Alhambra, was created to construct or provide for the construction on land leased to it by the City of municipal buildings and related facilities to be leased to and operated by the City. The Corporation is issuing these bonds to finance the construction of a library and related facilities.

(2) The City has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The City, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $1,250,000 Alhambra Library Building Corporation Leasehold Mortgage Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated August 7, 1973).

§ 1.381 Hospital Authority of Fulton County (Georgia).

(a) Request. The Comptroller of the Currency has been requested to rule on the eligibility of the $9,000,000 The Hospital Authority of Fulton County Revenue Anticipation Certificates, Series 1973, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Hospital Authority of Fulton County is a public body corporate and politic and an instrumentality of the State of Georgia created by the Hospital Authorities Law of Georgia and activated in accordance with the law by a resolution of the Board of Commissioners of Fulton County. The Authority is authorized to acquire, construct, reconstruct, improve, alter, and operate hospital projects and to issue revenue anticipation certificates or other evidences of indebtedness to provide funds to carry out its duties.

(2) The Authority financed the acquisition and construction of Northside Hospital through the issuance and sale of $3,000,000 of its Revenue Anticipation Certificates, Series 1966. It is issuing its 1973 series certificates to finance the acquisition and construction of an additional 4-story building to the Northside Hospital facilities. The certificates of both series are secured by a pledge of the gross revenues of the project as added to. The Authority is required to deposit monthly from such gross revenues into a sinking fund amounts sufficient to pay the principal of and the interest on the certificates as they become due and payable.

(3) The Authority and Fulton County have entered into a contract which provides that if the Authority should default in making the required sinking fund payments, continuing for 60 days, or default in making any payment when due of principal and interest on the certificates, continuing for 30 days, the County will immediately provide to the Authority sufficient funds to make whatever payments are necessary to cure such default and thereafter will make all required sinking fund payments until all of the certificates and the interest thereon have been fully paid or provision has been duly made therefor.

(4) The County possesses the general powers of property taxation and its assumption of the obligation to pay the amounts required by the contract is within its powers under the Constitution and laws of Georgia and constitutes a pledge, of its full faith and credit.

(c) *Ruling.* It is our conclusion that the $9,000,000 Hospital Authority of Fulton County Revenue Anticipation Certificates, Series 1973 are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated September 20, 1973).

§ 1.382 New York State Housing Finance Agency, Urban Rental Project.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $163,000,000 New York State Housing Finance Agency Urban Rental Project Bonds, 1973 Series A and B, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

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(b) *Opinion.* (1) The State of New York has required, with respect to Urban Renewal Project Bonds of the New York State Housing Finance Agency, the maintenance of a reserve fund sufficient to meet the next succeeding year's annual requirements for bond principal and interest payments and has provided for the annual apportionment and payment from State funds for deposit to the reserve fund of such sum as is certified to be necessary to restore the fund to the required level. The State, which possesses general powers of taxation, has thus committed its faith and credit in support of these bonds.

(c) *Ruling.* It is our conclusion that the $163,000,000 New York State Housing Finance Agency Urban Rental Project Bonds, 1973 Series A and B are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated November 8, 1973.)

§ 1.383 New York Job Development Authority.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $5,000,000 New York Job Development Authority, Pollution Control Bonds, Series 1 to 5, inclusive, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The New York Job Development Authority is a body corporate and politic and a public benefit corporation created in 1962 by the New York Job Development Authority Act of the New York State Legislature. The Authority is authorized to assist local development corporations in financing the cost of acquisition, construction, replacement or rehabilitation and installation of pollution control facilities. The Authority is also authorized to issue its pollution control bonds to provide funds for such purposes.

(2) These bonds will be secured by a pollution control capital reserve fund which will be established and maintained in an amount not less than the maximum amount of principal and interest maturing and coming due in any succeeding year on all outstanding pollution control bonds of the Authority. In order to secure the maintenance of this fund, the Act provides for the annual apportionment and payment from State funds for deposit to the fund of such sum as is certified to be necessary to restore the fund to the required level. The State, which possesses general powers of taxation, has thus committed its faith and credit in support of these bonds.

(c) *Ruling.* It is our conclusion that the $5,000,000 New York Job Development Authority, Pollution Control Bonds Series 1 to 5, inclusive, are obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated November 12, 1973).

§ 1.384 New Haven, Connecticut, Parking Revenue Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $5,215,000 City of New Haven, Connecticut, Parking Revenue Bonds, Series 1973, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The City of New Haven is authorized by a Special Act of the General Assembly of Connecticut to issue revenue bonds to finance parking facilities and to covenant with bondholders to make annual appropriations which shall be pledged to the payment of the principal and interest on the bonds.

(2) The City is issuing these bonds to finance the acquisition, construction and equipment of a 750-car parking garage on the land to be leased from the Hospital of San Rafael. The completed facility will be leased to the Hospital which will be obligated to pay rent in an amount sufficient to pay all of the interest, principal and redemption, premium, if any, on these bonds and to pay other necessary expenses.

(3) The Board of Aldermen of the City of New Haven, by resolution, have provided for the creation and maintenance of a reserve sufficient to meet the maximum amount of principal and interest maturing and coming due in any succeeding year on all outstanding bonds issued under the resolution and have covenanted to appropriate in each year from the general funds of the City an amount sufficient to satisfy any deficiency in such reserve. The City, which possesses general powers of taxation, has, as authorized by state law, thus committed its faith and credit in support of these bonds.

(c) *Ruling.* It is our conclusion that the $5,215,000 City of New Haven, Connecticut, Parking Revenue Bonds, Series 1973, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated November 12, 1973).

§ 1.385 Farmers Home Insured Note Trust.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of Certificates of Beneficial Ownership in the Farmers Home Insured Note Trust for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Farmers Home Administration, an agency of the Department of Agriculture, proposes to offer approximately $300,000,000 of these certificates with a maturity of five years and approximately $200,000,000 with a maturity of fifteen years, each with an agreed rate of interest. The Administration has agreed to supplement the interest payments on the Notes (which evidence loans made to farmers and other rural residence) sufficiently to permit the Trustee to pay interest on the Certificates at the agreed rate and has agreed to repurchase the Notes from the Trust on the maturity date of the Certificates at a price equal to the aggregate principal amount of the outstanding Certificates.

(2) In an opinion of December 29, 1969, addressed to the Secretary of Agriculture, the Attorney General of the United States ruled with respect to a similar offering that agreements to insure payments of principal and interest to investors, to repurchase insured notes from such investors on a specified date and to make proposed supplementary payments would be valid and would constitute general obligations of the United States backed by its full faith and credit. In a letter of November 7, 1973 addressed to the Secretary of Agriculture, the Attorney General expressed the view with respect to this offering that the marketing of the notes through the issuance of certificates of beneficial ownership in the trust consisting in no way altered the full faith and credit behind the notes and that such guaranty would extend to the beneficial owner.

(c) *Ruling.* It is our conclusion that Certificates of Beneficial Ownership in the Farmers Home Insured Note Trust are obligations of the United States and eligible for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24 (Comptroller's letter dated November 26, 1973).

§ 1.386 Connecticut Housing Finance Authority, Housing Mortgage Finance Program Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the Housing Mortgage Finance Program Bonds of the Connecticut Housing Finance Authority for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Connecticut Housing Finance Authority is a body politic and corporate constituting a public instrumentality and political subdivision of the State of Connecticut created in 1969 by an Act of the General Assembly of the State. The principal purpose of the Authority is to make mortgage loans to finance the construction, rehabilitation, purchase or leasing of housing for low and moderate income families and persons in the State. The Authority is authorized to borrow money for such projects through the issuance of its bonds, notes and other obligations and is issuing these bonds for that purpose.

(2) The Act requires the Authority to establish and maintain a capital reserve fund sufficient to meet the maximum payments required in the succeeding calendar year for principal and interest on its outstanding bonds, and provides that on or before December 1 of each

year there is deemed to be appropriated from the State general fund such sums as shall be certified by the chairman of the Authority as necessary to restore said fund to an amount equal to the required minimum capital reserve and such amounts shall be allotted and paid to the Authority. The State of Connecticut which possesses general powers of taxation has thus committed its faith and credit in support of these bonds.

(c) *Ruling.* It is our conclusion that the Housing Mortgage Finance Program Bonds of the Connecticut Housing Finance Authority are general obligations of a State under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letters dated December 10, 1973, May 28, 1974 and October 23, 1974).

§ 1.387 New Jersey Sports and Exposition Authority.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $295,000,000 New Jersey Sports and Exposition Authority, Sports Complex Bonds, 1974 Series, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The New Jersey Sports and Exposition Authority is a public body corporate and politic, an instrumentality of the State exercising public and essential governmental functions, created in 1971 by an act of the New Jersey State Legislature. The Authority is authorized to develop, construct, and operate a sports complex in the Hackensack Meadowland. It is also authorized to issue its bonds to finance the construction of the project. It is issuing these bonds for that purpose.

(2) The sports complex will be built on a 588 acre site and will include a racetrack for thoroughbred and harness racing which will accommodate 35,000 spectators, a 76,500 seat stadium to be leased by the New York Football Giants Inc. and related facilities.

(3) These bonds will be secured by a debt service reserve fund which will be established and maintained in an amount not less than the maximum annual debt service, including principal, interest and sinking fund requirements, for any succeeding year on all outstanding bonds of the Authority. In order to secure the maintenance of this fund, the Act provides that there "shall be appropriated and paid" for deposit to the fund of such sum as is annually certified to be necessary to restore the fund to the required level. The State, which possesses general powers of taxation, has thus committed its faith and credit in support of these bonds.

(c) *Ruling.* It is our conclusion that the $295,000,000 New Jersey Sports and Exposition Authority, Sports Complex Bonds, 1974 Series are obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated December 19, 1973).

§ 1.388 New York State Thruway Authority, Emergency Highway Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $100,000,000 New York State Thruway Authority Emergency Highway Reconditioning and Preservation Bonds, Series A, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The State of New York has provided for, with respect to Emergency Highway Reconditioning and Preservation Bonds of the New York State Thruway Authority, the establishment and maintenance of a reserve fund sufficient to meet the next succeeding year's annual requirements for bond principal and interest payments and for the annual apportionment and payment from State funds for deposit to the reserve fund of such sum as is certified to be necessary to restore the fund to the required level. The State, which possesses general powers of taxation, has thus committed its faith and credit in support of these bonds.

(c) *Ruling.* It is our conclusion that the $100,000,000 New York State Thruway Authority Emergency Highway Reconditioning and Preservation Bonds Series A are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated March 11, 1974.)

§ 1.389 Louisiana Stadium and Exposition District.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the approximately $139,000,000 Louisiana Stadium and Exposition District, Hotel Occupancy Tax and Stadium Lease-Rental, Revenue Bonds, Series 1974, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The District, created by an amendment to the Constitution of the State of Louisiana, is constructing a multi-purpose stadium and related facilities which it has leased to the State. It now has outstanding $128,185,000 in bonds issued to finance the project. It is issuing these bonds to provide funds ($8,250,000) for the completion of the project and also to provide funds to refund the outstanding bonds. The issuance of these bonds has been approved by the Legislature of Louisiana in a special referendum.

(2) The State of Louisiana, in its lease-rental agreement with the District, has unconditionally promised to pay annual rentals to the District in an amount which together with other funds available for the purpose, will be sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The other funds which may be available include the proceeds of a hotel occupancy tax which the District is authorized to levy and collect and the net revenues resulting from the operation of the facilities.

(3) The Supreme Court of Louisiana has held that the constitutional amendment grants the State the right and authority to lease the project and provide for the payment of the consideration therefor through the appropriation of funds or otherwise; and that obligations of the State under any such lease constitute a charge against the revenues of the State; and that for these reasons, the authorization for such leasing comprehends all the commitments which are components of a transaction involving the full faith and credit of the State.

(c) *Ruling.* It is our conclusion that the approximately $139,000,000 Louisiana Stadium and Exposition District, Hotel Occupancy Tax and Stadium Lease-Rental, Revenue Bonds, Series 1974, are general obligations of a State under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated March 21, 1974.)

§ 1.390 New Jersey Health Care Facilities Financing Authority.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of approximately $145,000,000 New Jersey Health Care Facilities Financing Authority Revenue Bonds, College of Medicine and Dentistry Issue, Series A, for purchase, dealing in, underwriting and holding by national banks subject to the ten percent limitation of paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) New Jersey Health Care Facilities Financing Authority is a public body corporate and politic and a political subdivision of the State established as an instrumentality exercising public and essential government functions by the New Jersey Health Care Facilities Financing Authority Law. The Authority is authorized by law to issue bonds to finance the construction of hospital facilities.

(2) The Authority is issuing these bonds to finance the cost of constructing (i) a 486-bed teaching hospital on the Newark campus of the New Jersey Medical School, (ii) a new 325-bed teaching hospital on the Piscataway campus of the Rutgers Medical School and (iii) an addition to the Raritan Valley Hospital which presently operates as a teaching hospital for the Rutgers Medical School. These facilities will be used by the New Jersey and Rutgers Medical Schools in the traditional manner of teaching hospitals, including medical, surgical and psychiatric care and treatment of patients, medical research and the teaching and training of medical students, nurses, interns, residents and fellows. Both Rutgers Medical School and New Jersey Medical School are units of the College of Medicine and Dentistry which is established in the State of New Jersey

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Department of Higher Education pursuant to the New Jersey Medical and Dental Education Act of 1970.

(3) The Authority will have a leasehold interest in the sites on which the facilities are built and will lease the completed facilities to the College for annual rentals sufficient to meet annual interest and principal payments on the bonds as well as other necessary expenses.

(c) *Ruling.* It is our conclusion that the New Jersey Health Care Facilities Financing Authority Revenue Bonds, College of Medicine and Dentistry Issue, Series A, are issued by an agency of the State of New Jersey for university purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for purchase, dealing in, underwriting and holding by national banks within the ten percent limitation with respect to aggregate holdings of obligations issued by the New Jersey Health Care Facility Authority. (Comptroller's letter dated April 17, 1974.)

§ 1.391 Water and Sewer Improvement Bonds, Series 1974, Northwest Houston Water Supply Corporation.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $10,800,000 Water and Sewer Improvement Bonds, Series 1974, of Northwest Houston Water Supply Corporation for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Northwest Houston Water Supply Corporation was organized at the request and for the benefit of the City of Houston as a nonprofit water supply corporation under a provision of Texas law which authorizes the formation of such a corporation for the exclusive purpose of furnishing a water supply or sewer service or both to cities and others. The Corporation is authorized to issue bonds to finance the acquisition of water and sewer projects. A city is authorized by law to enter into a contract for the purchase of water and sewer systems from such a corporation and to agree to make periodic payments to the corporation in amounts which together with other income of the corporation will be sufficient to pay the principal of and interest on the bonds of the corporation. The law also authorizes a city to provide for the levying of a tax to make such payments.

(2) The Corporation has entered into a contract with the City of Houston under which the Corporation will finance and construct a water and sewer system for Section 4 of a suburban area immediately adjacent to the City and the City will annex section 4 of the area and purchase the system. The Corporation is issuing these bonds to finance the cost of the project. The Corporation has issued $2,200,000, Series 1967 bonds, $5,500,000, Series 1970 bonds and $8,000,000, Series 1971 bonds to finance the construction of water and sewer systems for sections 1, 2 and 3 of the same general area under substantially the same circumstances.

(3) In the purchase contract, the City has unconditionally promised to make periodic payments to the Corporation in amounts which will be sufficient to pay the principal of and interest on these bonds. The contract also provides that the periodic payments shall be payable from a continuing, direct annual ad valorem tax on all taxable property in the City sufficient to make such payments in each year and the City has by ordinance levied such a tax. The City which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion, in accordance with our rulings of December 7, 1967 (§ 1.203), May 7, 1970 (§ 1.260), and April 5, 1971 (§ 1.302) relating to the Series 1967, 1970 and 1971 bonds, that the $10,800,000 Water and Sewer Improvement Bonds, Series 1974, of the Northwest Houston Water Supply Corporation are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated July 10, 1974).

§ 1.392 Parking Authority of the City of Hawthorne (California).

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $16,530,000 Lease Revenue Bonds, Series B, of the Parking Authority of the City of Hawthorne for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Parking Authority of the City of Hawthorne is a public body corporate and politic created by the laws of California but authorized to function only upon a finding of need. The City Council has made the appropriate finding and, in accordance with the law, has declared itself to be the Parking Authority. Under the law, a parking authority is authorized to issue revenue bonds to finance public parking facilities and may issue such bonds without obtaining the approval of the electors of the city where the bonds are issued to finance a project which is to be leased to the city and where the principal of and interest on the bonds are to be payable from rentals paid by the city under such lease.

(2) The Authority is issuing these bonds to finance the construction of a three-level parking structure and other parking facilities providing a total of 3993 parking spaces for the Hawthorne Plaza regional shopping center. The completed facility will be leased by the Authority to the city.

(3) Under the lease rental agreement the City unconditionally promises to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds as well as other necessary expense. The City, which possesses general powers of taxation will thus commit its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $16,530,000 Lease Revenue Bonds, Series B, of the Parking Authority of the City of Hawthorne are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated September 23, 1974.)

§ 1.393 Parking Authority of the City of Fullerton (California).

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $837,000 Lease Revenue Bonds, Series of 1974, of the Parking Authority of the City of Fullerton for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Parking Authority of the City of Fullerton is a public body corporate and politic created by the laws of California but authorized to function only upon a finding of need. The City Council has made the appropriate finding and, in accordance with the law, has declared itself to be the Parking Authority. Under the law, a parking authority is authorized to issue revenue bonds to finance public parking facilities and may issue such bonds without obtaining the approval of the electors of the city where the bonds are issued to finance a project which is to be leased to the city and where the principal of and interest on the bonds are to be payable from rentals paid by the city under such lease.

(2) The Authority is issuing these bonds to finance the acquisition of the site for, and the construction of, a 189 space parking facility adjacent to a Junior College and several secondary schools. The completed facility will be leased by the Authority to the city.

(3) Under the lease rental agreement the City unconditionally promises to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds as well as other necessary expense. The City, which possesses general powers of taxation will thus commit its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $837,000 Lease Revenue Bonds, Series of 1974, of the Parking Authority of the City of Fullerton are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated September 26, 1974.)

§ 1.394 Parking Authority of the City of Long Beach (California).

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $11,500,000 1974 Lease Revenue Bonds of the Parking Authority of the City of Long Beach for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Parking Authority of the City of Long Beach is a public body corporate and politic created by the laws of California but authorized to function only upon a finding of need. The City Council has made the appropriate finding and, in accordance with the law, has declared itself to be the Parking Authority. Under the law, a parking authority is authorized to issue revenue bonds to finance public parking facilities and may issue such bonds without obtaining the approval of the electors of the city where the bonds are issued to finance a project which is to be leased to the city and where the principal of and interest on the bonds are to be payable from rentals paid by the city under such lease.

(2) The Authority is issuing these bonds to finance the construction of a three-level, 802 space, reinforced concrete parking structure as part of the City's Pacific Terrace Center project. The completed facility will be leased by the Authority to the city.

(3) Under the lease rental agreement the City unconditionally promises to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds as well as other necessary expense. The City, which possesses general powers of taxation will thus commit its faith and credit in support of the bonds.

(c) It is our conclusion that the $11,500,000 1974 Lease Revenue Bonds, of the Parking Authority of the City of Long Beach are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated September 26, 1974).

§ 1.395 Los Angeles County-City of Compton Civic Center Authority, City Hall Facilities Revenue Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $7,250,000 Los Angeles County-City of Compton Civic Center Authority, City Hall Facilities Revenue Bonds, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Los Angeles County-City of Compton Civic Center Authority is a public entity created under the laws of California by an agreement between the City of Compton and the County of Los Angeles. Under this agreement, the Authority is authorized to construct, maintain and lease a Civic Center Complex, and to issue bonds to finance such projects. The Authority is issuing these bonds to finance new city hall facilities which will be leased to the City.

(2) The City has unconditionally promised in the lease rental agreement to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The City, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $7,250,000 Los Angeles County-City of Compton Civic Center Authority City Hall Facilities Revenue Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated October 7, 1974).

§ 1.396 Virginia Housing Development Authority.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $59,320,000 Virginia Housing Development Authority Single Family Mortgage Bonds, 1974 Series A for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Virginia Housing Development Authority is a political subdivision and a public instrumentality of the Commonwealth of Virginia, with politic and corporate powers, created by the Virginia Housing Development Authority Act to make or purchase mortgage loans for the construction of housing for low or moderate income families and persons who would otherwise be unable to obtain adequate dwellings which they could afford. The Authority is authorized to borrow money for such projects through the issuance of its bonds or notes.

(2) The Authority is issuing these bonds to finance the making and purchasing of mortgage loans on single family residential units for families of low and moderate income.

(c) *Ruling.* It is our conclusion that the $59,320,000 Virginia Housing Development Authority Single Family Mortgage Bonds, 1974 Series A, are issued by an agency of the Commonwealth of Virginia for housing purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for purchase, dealing in, underwriting and holding by national banks within the 10% limitation with respect to aggregate holding of obligations issued by the Virginia Housing Development Authority. (Comptroller's letter dated November 8, 1974).

Dated: December 12, 1974.

[SEAL] JAMES E. SMITH,
Comptroller of the Currency.

[FR Doc.74-28356 Filed 12-16-74;8:45 am]

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Q]

PART 217—INTEREST ON DEPOSITS

Maximum Rates of Interest; Payment of Time Deposits Before Maturity

The Board of Governors has amended its Regulation Q to establish a new category of consumer time deposit, to be called an "Investment Certificate", on which member banks are permitted to pay interest at an annual rate of 7½ percent. Member banks may only offer this new time deposit on deposits of $1,000 or more and with a maturity of 6 years or more.

Under existing Board regulations, member banks may issue time certificates of deposit in negotiable or nonnegotiable form. The Board's amendment to Regulation Q also provides that Investment Certificates issued by member banks in negotiable form cannot be paid prior to maturity. Investment Certificates issued in nonnegotiable form will be subject to the Board's existing early-withdrawal rules. Although customers obtaining negotiable Investment Certificates will be unable to receive payment of the principal amount of the deposit from the issuing bank prior to the agreed upon maturity date, such certificates would be eligible as collateral for loans at an interest rate of not less than 2 percent in excess of the rate of interest on the Investment Certificate.

In addition, member banks may arrange for the sale or purchase of an Investment Certificate on behalf of its holder and a person wishing to acquire that certificate. A member bank issuing Investment Certificates will not be permitted, however, to repurchase those time deposit certificates for its own account.

To insure that depositors entering into negotiable Investment Certificate agreements receive adequate notice that such time deposits cannot be paid prior to the agreed maturity under any circumstances, the disclosure and advertising requirements of Regulation Q have also been amended to require an express statement of that limitation. In addition, each negotiable Investment Certificate will be required to contain a statement on its face that the time deposit cannot be paid prior to maturity.

The Board's action was taken pursuant to its authority under section 19 of the Federal Reserve Act (12 U.S.C. 371b) to prescribe rules governing the payment and advertisement of interest on deposits and § 217.3 of Regulation Q (12 CFR 217.3). This action follows consultation with the Treasury Department, the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board, and is intended to permit member banks to offer longer term time deposits at more competitive rates of interest. Similar action to permit nonmember commercial banks, mutual savings banks and Federal savings and loan associations to offer longer term deposit instruments at increased rates of interest is being taken by the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board. As a result of these actions, effective December 23, 1974, the interest rate ceiling on governmental unit time deposits will increase to 7¾ per cent per annum.

The effective date was deferred for less than the 30 day period referred to in Title 5, United States Code, section 553

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(d), because the Board found that the public interest compelled it to make the action effective no later than the date adopted. See § 262.2(e) of the Board's rules of procedure (12 CFR 262.2(e)).

Effective December 23, 1974, the Board's Regulation Q (12 CFR Part 217) is amended to read as follows:

1. In § 217.7 paragraph (b) is revised and (d) is added to read as follows:

§ 217.7 Maximum rates of interest payable by member banks on time and savings deposits.

Pursuant to the provisions of section 19 of the Federal Reserve Act and § 217.3 hereof, the Board of Governors of the Federal Reserve System hereby prescribes the following maximum rates [1] of interest per annum payable by a member bank of the Federal Reserve System on time and savings deposits:

* * * * *

(b) *Time deposits of less than $100,000.* (1) Except as provided in paragraphs (a) and (d) and subparagraphs (2) and (3) of this paragraph, no member bank shall pay interest on any time deposit at a rate in excess of the applicable rate under the following schedule:

Maturity:	*Maximum percent*
30 d or more but less than 90 d	5
90 d or more but less than 1 yr	5½
1 yr or more but less than 30 mo	6
30 mo or more	6½

(2) Member banks may pay interest on any time deposit of $1,000 or more, with a maturity of four years or more, at a rate not to exceed 7¼ percent.

(3) Investment Certificates—Member banks may pay interest on any time deposit of $1,000 or more, with a maturity of six years or more, at a rate not to exceed 7½ percent.

* * * * *

(d) *Governmental unit time deposits of less than $100,000.* * * *

2. Section 217.4 (d) and (e) are amended as follows:

§ 217.4 Payment of time deposits before maturity.

* * * * *

(d) *Penalty for early withdrawals.* * * * *Provided further,* That Investment Certificates issued in negotiable form by a member bank pursuant to subparagraph (3) of § 217.7(b) may not be paid before maturity. This provision does not prevent a member bank from arranging the sale or purchase of such a certificate on behalf of the holder or prospective purchaser of a certificate issued under that subpart. A member bank may not, however, repurchase such certificates for its own account.

(e) *Disclosure of early withdrawal penalty.* * * * Written statements made with respect to negotiable Investment Certificates issued by a member bank pursuant to subparagraph (3) of § 217.7 (b) shall state clearly that no payment before maturity will be permitted under any circumstances. Such statements shall be expresly called to the attention of the customer. In addition, every negotiable Investment Certificate shall state conspicuously on its face that, "This time deposit cannot be paid prior to maturity."

* * * * *

3. Section 217.6(e) is amended as follows:

§ 217.6 Advertising of interest on deposits.

* * * * *

(e) *Penalty for early withdrawals.* * * * Any advertisement, announcement or solicitation relating to interest paid by a member bank on negotiable Investment Certificates issued pursuant to subparagraph (3) of § 217.7(b) shall include clear and conspicuous notice that Federal law and regulation prohibit the payment of such certificate prior to maturity.

* * * * *

By order of the Board of Governors, December 6, 1974.

[SEAL] THEODORE E. ALLISON, *Secretary of the Board.*

[FR Doc.74-29275 Filed 12-16-74;8:45 am]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 74-1241]

PART 528—NONDISCRIMINATION REQUIREMENTS

PART 531—GUIDELINES RELATING TO NONDISCRIMINATION IN LENDING

Sex Discrimination and Consideration of Married Persons' Income

DECEMBER 5, 1974.

The following summary of the amendments adopted by this resolution is provided for the reader's convenience and is subject to the full provisions of this resolution, including the provisions in the preamble thereof and in the amended regulations set forth below.

I. *Regulations prior to present amendments—none.* The Guidelines Relating to Nondiscrimination in Lending state that although sex discrimination does not violate any express statutory provision, it impedes achievement of the objectives of Federal law and may be unconstitutional. The Guidelines also state that automatically discounting a wife's income is not favored.

II. *Amended regulation.* The amendments add the word "sex" to the regulations prohibiting discrimination on the basis of race, color, religion, or national origin in connection with a home financing loan, and require member institutions to consider without prejudice the combined income of both husband and wife in the extension of mortgage credit to a married couple, or either member thereof. The Guidelines are amended by deleting the statements that sex discrimination is not expressly prohibited by law.

III. *Reason for changing the regulations.* Implementation of section 808 of the Housing and Community Development Act of 1974.

Amended regulations. The Housing and Community Development Act of 1974, 88 Stat. 633, effective August 22, 1974, amends the fair housing title of the Civil Rights Act of 1968 by adding the word "sex" after the word "religion" in those sections of the title which prohibit discrimination on the basis of race, color, religion, or national origin in the sale, rental, or financing of housing. In addition, the Housing and Community Development Act of 1974 amends the National Housing Act to prohibit discrimination on the basis of sex in connection with a "federally related mortgage loan" which is defined to include a loan secured by residential real estate designed principally for occupancy by one to four families made by a lender regulated by the Board. Since the Board's Nondiscrimination Requirements were adopted to further the purposes of the 1968 Civil Rights Act, among other statutes, and because the National Housing Act, as amended, prohibits discrimination on the basis of sex in connection with a home loan made by a Federal Home Loan Bank member institution, the Board considers it desirable to amend its Nondiscrimination Requirements to effect these changes made by the Housing and Community Development Act.

In addition, the Board considers it desirable to amend its Nondiscrimination Requirements to implement section 527 of the National Housing Act, as enacted by the Housing and Community Development Act, by redesignating § 528.2 (a)–(d) as § 528.(a) (1)–(4) and by adding a new paragraph (b) thereto. Section 527 of the National Housing Act requires every lender making Federally related mortgage loans to consider without prejudice the combined income of both husband and wife for the purpose of extending mortgage credit in the form of a Federally related mortgage loan to a married couple, or either member thereof. The amended regulations require every member of the Federal Home Loan Bank System to comply with this provision when making a loan secured by residential real property.

Amended guidelines. Further, the Federal Home Loan Bank Board considers it desirable to amend Part 531 of the rules and regulations for the Federal Home Loan Bank System by redesignating § 531.3(c) (1), (2), (3, (4), and (5) as § 531.3(c) (2), (3), (5), (6), and (7), respectively, and by adding new subparagraphs (4) to § 531.3(c). The purpose of the new subparagraphs is to provide the Board's interpretation of the statutory and regulatory prohibition against discrimination on the basis of sex in home lending and the requirement

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[1] The limitations on rates of interest payable by member banks of the Federal Reserve System on time and savings deposits, as prescribed herein, are not applicable to any deposit which is payable only at an office of a member bank located outside the States of the United States and the District of Columbia.

[2] The highest permissible rate is currently 7.75 percent per annum (12 CFR 329.7 and 12 CFR 526.3).

that lenders consider without prejudice the combined income of husband and wife when extending mortgage credit to a married couple. Thus, the proposed Guidelines explain that if a lending institution refuses to lend to members of one sex, or requires higher standards of credit worthiness from members of one sex, or places different requirements on the loans made to members of one sex in connection with a home financing loan, the lending institution would be discriminating on the basis of sex.

With regard to considering the combined incomes of a husband and wife, the amended Guidelines contain the Board's interpretation of the phrase "without prejudice" used in section 527 of the National Housing Act. On the basis of its derivation, it is interpreted to mean "without prejudgment". Section 531.8(c) requires that loan applicants be evaluated for their credit worthiness without reference to presumed characteristics of a group. In addition, the Guidelines, as amended, require that the member institutions' underwriting criteria reasonably evaluate the credit worthiness of married applicants based on a realistic appraisal of the past, present and expected continuance of both incomes when the couple applies for a loan together. The Board intends to interpret the requirement that member institutions consider the combined income of husband and wife in extending mortgage credit to a married couple, "or either member thereof" as a requirement that both incomes be considered by member institutions when one member of the couple applies for the loan only in a State where only the husband is authorized to act for the couple.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 528 by adding the word "sex" after the word "religion" in §§ 528.2, 528.3, and 528.5 to read as set forth below, by redesignating § 528.2 (a)–(d) as § 528.3(a) (1)–(4), and by adding a new paragraph (b) as set forth below and amends Part 531 by redesignating § 531.8(c) (1), (2), (3), (4), and (5) as § 531.8(c) (2), (3), (5), (6), and (7), respectively, and by adding new subparagraphs (1) and (4) as set forth below,

Technical Amendments. The Board at this time also makes certain technical and conforming amendments. A technical amendment to § 528.1 clarifies the application of the definition of "dwelling" to mobile home sites. Section 802(b) of the Civil Rights Act of 1968 defines "dwelling" to include such sites. Section 528.1 is patterned after section 802(b) but inadvertently omitted a phrase in the latter section.

Also, a technical amendment would be made to the Guidelines to substitute the phrase "genuine business need" for the phrase a "sound business purpose" in the statement which now provides that a lending standard which has a discriminatory effect is proper only if its use achieves a "sound business purpose". This change conforms the language of the Guidelines to the standards formulated by the Supreme Court in "Griggs v. Duke Power Company," 401 U.S. 424.

Another technical change provides that complaints of alleged violations of the Nondiscrimination Regulations could be referred to the Board's Office of Housing and Urban Affairs as well as to the Assistant Secretary for Equal Opportunity at HUD. In addition, the Equal Housing Lender Poster is revised to state that a copy of a complaint sent to HUD may also be sent to the Board's Office of Housing and Urban Affairs. This amendment will not become effective for two months to allow member institutions time to have new posters printed.

Since affording notice and public procedure on the nontechnical amendments would delay them from becoming effective for a period of time and since it is in the public interest that the Board implement the provisions of the Housing and Community Development of 1974 Act without such delay, and since the technical amendments impose no new requirements on member institutions, the Board hereby finds that notice and public procedure thereon are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and the Board hereby amends §§ 528.1(b), 528.2, 528.3, 528.5, 528.8, and 531.8 to read as set forth below, effective immediately, except for the amendment to section 528.5, which shall become effective 60 days after the date of the adoption of this resolution.

In § 528.1 paragraph (b) is revised to read as follows:

§ 528.1 Definitions.

* * * * *

(b) **Dwelling.** The term "dwelling" means any building, structure, or portion thereof, including a mobile home, which is occupied as, or designed or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

2. Section 528.2 is revised to read as follows:

§ 528.2 Nondiscrimination in lending and other services.

(a) No member institution shall deny a loan or other service rendered by the member institution for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or discriminate in the fixing of the amount, interest rate, duration, application procedures, collection or enforcement procedures, or other terms or conditions of such loan or other service because of the race, color, religion, sex, or national origin of.

(1) An applicant for any such loan or any other service rendered by the member institution;

(2) Any person associated with such applicant in connection with such loan or other service or the purposes of such loan or other service;

(3) The present or prospective owners, lessees, tenants, or occupant of the dwelling or dwellings in relation to which such loan or other service is to be made or given; or

(4) The present or prospective owners, lessees, tenants, or occupant of other dwellings in the vicinity of the dwelling or dwellings in relation to which such loan or other service is to be made or given.

(b) A member institution shall consider without prejudice the combined income of both husband and wife for the purpose of extending mortgage credit to a married couple or either member thereof.

3. Section 528.3 is revised to read as follows:

§ 528.3 Nondiscrimination in applications.

No member institution shall refuse or decline to allow, receive, or consider any application, request, or inquiry with respect to a loan or other service rendered by the member for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or discriminate in the imposition of conditions upon, or in the processing of, any such application, request, or inquiry, or make statements which discourage any such application, request, or inquiry because of the race, color, religion, sex, or national origin of any prospective borrower or other person who

(a) Makes application for any such loan or other service;

(b) Requests forms or papers to be used to make application for any such loan or other service; or

(c) Inquires about the availability of such loan or other service.

4. In § 528.5, paragraph (b) is revised to read as follows:

§ 528.5 Equal Housing Lender Poster.

* * * * *

(b) The text of the Equal Housing Lender Poster shall be as follows (except that the legend "Equal Opportunity Lender" may be substituted for the legend "Equal Housing Lender"):

EQUAL HOUSING LENDER

WE DO BUSINESS IN ACCORDANCE WITH THE FEDERAL "FAIR HOUSING LAW"

IT IS ILLEGAL, because of race, color, religion, sex, or national origin, to:

Deny a loan for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling or

Discriminate in fixing of the amount, interest rate, duration, application procedures or other terms or conditions of such a loan.

If you believe you have been discriminated against, you may discuss the matter with

the management of this institution or send a complaint to:

Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410, or call your local HUD or FEA office.

You may also send a copy of the complaint to the Office of Housing and Urban Affairs, Federal Home Loan Bank Board, Washington, D.C. 20552.

5. Section 528.8 is revised to read as follows:

§ 528.8 Complaints.

Complaints regarding discrimination in lending by a member institution should be referred to the Office of Housing and Urban Affairs, Federal Home Loan Bank Board, Washington, D.C. 20552, or to the Assistant Secretary for Equal Opportunity, U.S. Department of Housing and Urban Development, Washington, D.C. 20410. Complaints regarding discrimination in employment by a member institution should be referred to the Equal Employment Opportunity Commission, Washington, D.C. 20506.

6. Section 531.8 is revised to read as follows:

§ 531.8 Guidelines relating to Nondiscrimination in Lending.

(a) *General.* Fair housing and equal opportunity in home financing is a policy of the United States established by Federal statutes and Presidential orders and proclamations. In furtherance of the Federal civil rights laws and the economical home financing purposes of the statutes administered by the Board, the Board has adopted, in Parts 528 and 529 of this subchapter, nondiscrimination regulations which, among other things prohibit discrimination based on race, color, religion, sex, or national origin in fixing the amount, interest rate, duration, application procedures, collection or enforcement procedures, or other terms or conditions of housing related loans. This section provides supplementary guidelines to aid member institutions in developing and implementing non-discriminatory lending policies. Each member institution should re-examine its underwriting standards from time to time in order to insure equal opportunity.

(b) *Loan underwriting standards.* The basic purpose of the Board's nondiscrimination regulations is to require that every applicant be given an equal opportunity to obtain a loan. Each loan applicant's credit worthiness should be evaluated on an individual basis without reference to presumed characteristics of a group. The use of lending standards which have no economic basis and which are discriminatory in effect is a violation of law even in the absence of an actual intent to discriminate. However, a standard which has a discriminatory effect is not necessarily improper if its use achieves a genuine business need which cannot be achieved by means which are not discriminatory in effect or less discriminatory in effect.

(c) *Discriminatory practices*—(1) *Discrimination on the basis of sex.* The Civil Rights Act of 1968 and the National Housing Act prohibit discrimination in home lending on the basis of sex. Refusing to lend to, requiring higher standards of credit worthiness of, or imposing different requirements on, members of one sex would be discriminatory practices based on sex. For example, requiring single women with steady employment, or other income, and who are otherwise credit worthy, to obtain a cosigner or guarantor in order to obtain mortgage credit if the member institution does not require multiple signatures on mortgage loans to a single man in the same income and credit situation would be a discriminatory practice based on sex.

(2) *Discrimination based on age or marital status.* The Board's nondiscrimination regulations do not, at present, address discrimination on the basis of age or marital status (except as provided for in § 528.2(b)) because the regulations are limited to the scope of the Civil Rights Act of 1968 and the National Housing Act. However, such discrimination is contrary to the principle of, and may in fact violate, Constitutional provisions which guarantee equal protection of the law for all persons. In addition, such practices impede the achievement of the objectives of Federal laws intended to promote sound, economical home financing, fair housing opportunity, and a decent home for every American. Discrimination on the basis of marital status may additionally result in racial or ethnic discrimination since a larger proportion of minority group families rely on the wife's income to afford housing and other necessities. The type of practices considered by this paragraph includes loan underwriting decisions which differentiate loan applicants on the basis of assumptions regarding comparative differences in credit worthiness between older and younger persons, or among married, single, widowed, or divorced individuals without actual consideration being given to the applicants' credit histories and present and reasonably foreseeable economic prospects.

(3) *Discrimination on the basis of language.* Requiring fluency in the English language as a prerequisite for obtaining a loan may be a discriminatory practice based on national origin.

(4) *Income of husbands and wives.* A practice of normally discounting all or part of a wife's income is a violation of section 527 of the National Housing Act. As with other income, the determination as to whether a wife's income qualifies as effective for credit purposes should depend upon a reasonable evaluation of her past, present, and reasonably foreseeable economic circumstances. The Board disapproves of the practice of requiring, as a condition for counting a wife's income, information relating to birth control practices of the couple or information relating to their ability to have children.

(5) *Supplementary income.* Lending standards which consider as effective only the non-overtime income of the primary wage-earner may result in discrimination because they do not take account of variations in employment patterns among individuals and families. The Board favors loan underwriting which reasonably evaluates the credit worthiness of each applicant based on a realistic appraisal of his or her own past, present, and foreseeable economic circumstances. The determination as to whether primary income or additional income qualifies as effective for credit purposes should depend upon whether such income may reasonably be expected to continue through the early period of the mortgage risk. Automatically discounting other income from bonuses, overtime, or part-time employment, will cause some applicants to be denied financing without a realistic analysis of their credit worthiness. Since statistics show that minority group members and low- and moderate-income families rely more often on such supplemental income, the practice may be racially discriminatory in effect, as well as artificially restrictive of opportunities for home financing.

(6) *Age, income level, or racial composition of neighborhood.* Refusal to lend in a particular area solely because of the age of the homes or the income level in a neighborhood may be discriminatory in effect since minority group persons are more likely to purchase used housing and to live in low-income neighborhoods. The racial composition of the neighborhood where the loan is to be made is always an improper underwriting consideration.

(7) *Borrowers' prior history.* Unstable or irresponsible behavior, especially toward credit obligations, is a proper consideration in making lending decisions. However, the application of a rigid and arbitrary rule may be a discriminatory lending practice. An isolated experience in the distant past should not be a ground for denial of a loan if subsequent experience and present circumstances indicate stability. A policy favoring applicants who have previously owned homes may perpetuate prior discrimination. Job or residential changes may indicate upward mobility. Emphasis should be upon a realistic assessment of the credit worthiness of each applicant without resorting to unreasonable standards.

(Sec. 806, 82 Stat. 633; title VIII, 82 Stat. 81, as amended (42 U.S.C. 3601–3619); sec. 17, 47 Stat 736, as amended (12 U.S.C. 1437); secs. 402, 403, 407, 537, 48 Stat. 1256, 1257, 1260, 1265, as amended (12 U.S.C. 1725, 1726, 1730); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[FR Doc.74-29421 Filed 12-16-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 74-WE-40-AD, Amdt. 39-2049]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed L-1011-385-1 Series Airplanes

Cracks have been found in the housing of the Fire Pull Handle Module Switch Assembly, Part Number 1520324 or 1580810, installed on Lockheed L-1011-385-1 Series airplanes that result in failure to actuate all of the internal switches when the handle is moved to the pulled position. If this condition exists, the use of backup shutdown procedures would be required to deactivate the various systems normally deactivated by the fire pull handle operation.

Since this condition can exist or develop in other airplanes of the same type, an airworthiness directive is being issued to require an operational test of all four fire pull handle switch assemblies; replacement or repair of any switch found operationally defective; and submission of a report by configuration of any control unit housings found cracked.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

LOCKHEED-CALIFORNIA. Applies to all L-1011-385-1 Series Airplanes certificated in all categories, incorporating Engine Shutoff Control Panel Assemblies, P/N 1520324 or P/N 1580810

Compliance as indicated, unless already accomplished.

To provide protection in the event of an unknown incipient failure condition in the housing of the fire pull handle assembly, P/N 1520324 or P/N 1580810, accomplish the following:

(1) Within 150 flight hours after the effective date of this AD, conduct a functional test in accordance with Part 2A thru 2C of Lockheed Service Bulletin 093-26-010, dated November 21, 1974, or later FAA approved revisions. Switch assemblies found functionally satisfactory may be returned to service.

(a) Replace any fire pull handle switch assembly found defective with a serviceable switch assembly or, prior to installation of spare assemblies, inspect to verify condition of airworthiness.

(b) Repair or modify defective switch assemblies in accordance with Part 2E of Lockheed Service Bulletin 093-26-010, dated November 21, 1974, or later FAA approved revision.

(c) Re-identify repaired or modified switch assemblies in accordance with paragraph 2E of Lockheed Service Bulletin 093-26-010, dated November 21, 1974, or later FAA approved revision.

(2) No later than 600 flight hours after the effective date of this AD:

(a) Determine the Engine Shutoff Control Panel assembly, P/N 1520324 or P/N 1580810, configuration for all engines and the APU in accordance with Paragraph 2F of Lockheed Service Bulletin 093-26-010, dated November 21, 1974, or later FAA approved revision.

(b) Reassemble or repair, and return the Engine Shutoff Control Panel assembly to service in accordance with part 2F, Steps (8) or (9) of Lockheed Service Bulletin 093-26-010, dated November 21, 1974, or later FAA approved revision.

(3) Re-identify repaired or modified control panel assemblies in accordance with part 2E of Lockheed Service Bulletin 093-26-010, dated November 21, 1974, or later FAA approved revision.

(4) Submit a report of all instances of cracked or failed housings identifying the configuration in accordance with Part 2F, Step (7) of Lockheed Service Bulletin 093-26-010 dated November 21, 1974, or later FAA-approved revision, to the Chief, Aircraft Engineering Division, FAA Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. (Reporting approved by the Bureau of Budget under BOB No. 04-R-0174).

(5) Equivalent inspections, repairs and modifications may be approved by the Chief, Aircraft Engineering Division, FAA Western Region, upon submission of adequate substantiating data.

This amendment becomes effective December 23, 1974.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, (49 U.S.C. 1354(a), 1421, 1423); sec. 6 (c), Department of Transportation Act, (49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on December 6, 1974.

ROBERT O. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.74-29239 Filed 12-16-74;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5542, 34-11110, AS-164]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

Financial Statements; Disclosure Provisions for Defense and Other Long-Term Contract Activities

A. INTRODUCTION

The Securities and Exchange Commission has long been concerned about the quality of disclosures made by registrants engaged in defense and other long-term contract activities because these activities involve inventories and receivables with unique risk and liquidity characteristics. After initially urging corporate managers to review their disclosure policies with respect to such contracting activities,[1] the Commission published for comment proposed amendments to Rules 5-02.3 and 5-02.6 of Regulation S-X[2] (17 CFR 210.5-02-3 and 5-02-6).

[1] Securities Act Release No. 5263, Securities Exhange Act Release No. 9650, June 22, 1972 (37 FR 21464).

[2] Securities Act Release No. 5492, Securities Exchange Act Release No. 10775, May 6, 1974 (39 FR 18300).

As noted in its release proposing these amendments, the Commission believes that it is necessary and appropriate to expand these rules to require disclosure of greater detail in certain critical areas of long-term contract activity, particularly with respect to the nature of costs accumulated in inventories, the effect of cost accumulation policies on cost of sales, and the effect of revenue recognition practices on receivables and inventories.

The proposed amendments elicited numerous letters of comment which have been duly considered by the Commission in the formulation of the amendments specifically adopted in this release. The following discussion outlines the Commission's responses to certain of these comments as reflected in the adopted rules on receivables and inventories.

COMMENTS ON DISCLOSURE OF RECEIVABLES—RULE 5-02.3

Paragraph (b). Several commentators pointed out that the proposed amendment could be broadly construed to require additional disclosure for receivables other than those arising from long-term contract activities. At the present time the Commission intends only to improve disclosures related to long-term contract activities. Consequently, the amendment to this paragraph has been deleted and the proposed disclosure of collection expectations has been incorporated in the amendments addressed specifically to receivables arising from such activities.

Paragraph (e). Some commentators suggested that the retainage disclosure should be limited to amounts not expected to be collected within one year. Due to the unique liquidity characteristics of retainage, the Commission believes that any material amount of retainage should be disclosed no matter when such amount is expected to be collected. However, the Commission also believes that the significant uncertainties which often affect the determination of a mutually satisfactory contract completion may cause the estimates of amounts to be collected within specific years to become progressively less reliable. Consequently, the amendment as adopted requires the isolation of only the aggregate amount of retainage expected to be collected after one year. However, registrants are encouraged to provide estimated collections by year if their experience or other factors enable them to do so with reasonable accuracy.

Several commentators suggested that the amendment should be modified to provide for amounts retained by contractors pursuant to the provisions of subcontracts. The Commission believes that this is unnecessary because Rule 5-02.25 (17 CFR 210.5-02-25) can be interpreted to require separate disclosure of significant amounts of retentions payable to subcontractors.

Paragraph (f). Numerous commentators pointed out that a literal interpretation of the proposed amendment would call for disclosures regarding all accrued receivables rather than just those related to long-term contracts and might also result in a duplication of disclosures

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made under paragraph (g). The Commission recognizes the validity of these comments and the amendment has been modified accordingly.

The amendment as adopted also calls for disclosure of the amounts of receivables not billed or billable that are expected to be collected after one year. The Commission believes that disclosure of the timing of expected collections provides investors with meaningful liquidity and risk information.

It should be noted that the amendment is not directed at items which are "unbilled" at the balance sheet date merely because the necessary paperwork has not been processed in accordance with the normal operation of a billing system. Such items would generally be considered "billable" for purposes of this rule.

Paragraph (g). Many commentators argued that the proposed amendment was too broad since it would require the disclosure of amounts which could be determined with reasonable certainty under express contractual escalation or change order clauses and which would be virtually assured of realization. The Commission has concluded that amounts due under routine change orders and escalation features commonly found in the terms of contracts are typically not subject to such uncertainty that separate disclosure is required. On the other hand, it believes that disclosure is necessary when amounts are recorded which are not reasonably determinable under the specific terms of existing contracts. Accordingly, the text of this rule has been amended to require disclosure where the amounts included in receivables, whether billed or unbilled, are either claims or other similar items subject to uncertainty concerning their determination or ultimate realization.

Several commentators questioned the meaning of the term "components" as used in the requirement for footnote disclosure of the principal items comprising the aggregate of claims and other similar items subject to uncertainties. In response, the Commission has used the terms "nature and status" to more accurately reflect its intentions and has expanded the attached Exhibit to provide examples of disclosure envisioned by these terms.

COMMENTS ON DISCLOSURE OF INVENTORIES—RULE 5-02.6

Paragraph (b). In response to numerous comments, this amendment has been modified in several significant ways. First, in recognition of the recently adopted Statement of Financial Accounting Standards No. 2, the Commission has deleted the requirements for disclosure of the amounts of research and development costs incurred during the period or remaining in inventory. Compliance with that Statement will obviate the need for the disclosure of these amounts. However, the amendment still contemplates a description of such costs being carried in inventory in compliance with the new Statement.

Second, the Commission recognizes that some registrants may find it impracticable to determine the actual amount of general and administrative costs remaining in inventory at the balance sheet dates. However, the Commission believes that registrants can provide reasonable estimates of such remaining costs determined, for example, on the assumption that costs related to a particular contract or program have been removed from inventory on a basis proportional to the totals of the various cost elements expected to be charged to cost of sales for that contract or program. The assumptions used to develop these estimates should be described in a note to the financial statements.

Third, the Commission expects that the description of the cost elements included in inventory will approximately disclose the existence of items not typically included in inventoried costs in a usual manufacturing operation. Described items may include, for example, retained costs representing the excess of manufacturing or production costs over the amounts charged to costs of sales for delivered or in-process units, initial tooling and other deferred start-up costs, general and administrative costs, or research and development under contractual arrangements. In general, the Commission believes that the accounting treatment of such costs is sufficiently unique to warrant the disclosure of their existence and, to the extent noted below, their magnitude.

Paragraph (c). This paragraph contains the last sentence of Rule 5-02.6(b) as it existed prior to the amendments adopted in this release. However, the requirements of this paragraph may be amended by the proposal published in Securities Act Release No. 5427 (38 FR 28948). Comments on that proposal are still being considered.

Paragraph (d). Numerous commentators pointed out that the proposed definition would include supply or service contracts expected to be in process for more than one year even though such contracts may not involve the unique risk and liquidity characteristics associated with long-term manufacturing and construction contracts or programs. The Commission believes that the proposed definition was susceptible to an overly broad interpretation. Consequently, the Commission has modified the definition to deal explicitly with all contracts or programs accounted for on either a percentage of completion or a completed contract basis provided that any such contract or program has associated with it material amounts of inventories or unbilled receivables and has been or is expected to be performed over a period of more than twelve months.

Paragraph (d)(i). Many commentators argued that the amounts reported under this proposed amendment would not be mutually exclusive from the amounts reported under paragraph (iii). To eliminate this problem, the Commission has modified proposed paragraphs (i) and (iii) and now deals with these matters in one subparagraph which requires disclosure of (1) the aggregate amount of (a) manufacturing or production costs which have been carried forward under a "learning curve" concept and (b) any related costs which have been deferred for allocation to future production, and (2) the portion of such aggregate amount which would not be absorbed in cost of sales based on existing firm orders. The amendment also calls for the isolation of the cost elements included in the costs carried forward if it is practicable for the registrant to provide this detail. The Commission believes that these disclosures will provide investors with meaningful information concerning the nature of costs accumulated in inventories.

Paragraph (d)(ii). Many of the comments noted above under proposed Rule 5-02.3(g) were also directed to this amendment. The Commission has modified this subparagraph to reflect those comments. This amendment recognizes that certain registrants classify amounts representing claims or other similar items subject to uncertainties as inventories rather than as receivables reportable under Rule 5-02.3(g). Regardless of where such amounts are classified, the Commission believes that material amounts must be disclosed together with an appropriate description of the nature and status of the principal items comprising such amounts. In this connection, the Commission has expanded the accompanying Exhibit to provide helpful examples of the type of disclosure envisioned by this rule.

Paragraph (d)(v). Numerous commentators expressed the view that the concept of "title" is fraught with substantial difficulties of legal interpretation and that in any event it would be unduly burdensome to attempt such an analysis of the items included in inventories. The Commission accepts these comments and accordingly has deleted this proposal.

The subject rules, as amended herein, apply to disclosure in financial statements filed with the Commission. Registrants and their independent public accountants must make the determination as to what information regarding such matters is required to constitute satisfactory financial statement disclosure under generally accepted accounting principles.

B. COMMISSION ACTION

The Commission hereby amends §§ 210.5-02 and 210.5-02-6 of 17 CFR Ch. II. In § 210.5-02, new paragraphs 3(e), (f) and (g) are added; paragraphs 6(a), (b) and (c) are revised and new paragraphs 6(d) and (d)(i), (ii) and (iii) are added, as given below.

§ 210.5-02 Balance sheets.

• • • • •

3. *Accounts and notes receivable.* (a) through (d) • • •

(e) If receivables include amounts representing balances billed but not paid by customers under retainage provisions in contracts, state the amount thereof either in the balance sheet or in a note to the financial statements. In addition, state the amounts, if any, expected to be collected after one year. If practicable, state by years

when the amounts are expected to be collected.

(f) If receivables include amounts (other than amounts reportable under paragraph (g) below) representing the recognized sales value of performance under long-term contracts (see § 210.5-02-6(d)) and such amounts had not been billed and were not billable to customers at the date of the balance sheet, state separately in the balance sheet or in a note to the financial statements the amount thereof and include a general description of the prerequisites for billing. In addition, state the amount, if any, expected to be collected after one year.

(g) If receivables include amounts under long-term contracts (see § 210.5-02-6 (d)), whether billed or unbilled, representing claims or other similar items subject to uncertainty concerning their determination or ultimate realization, state separately in the balance sheet or in a note to the financial statements the amount thereof and include a description of the nature and status of the principal items comprising such amount. In addition, state the amount, if any, expected to be collected after one year.

* * * * *

6. *Inventories.* (a) State separately here, or in a note referred to herein, if practicable, the major classes of inventory such as (1) finished goods; (2) inventoried costs relating to long-term contracts or programs (see (d) below and § 210.3-11); (3) work in process (see § 210.3-11); (4) raw materials; and (5) supplies.

(b) The basis of determining the amounts shall be stated.

If "cost" is used to determine any portion of the inventory amounts, describe the method of determining cost. This description shall include the nature of the cost elements included in inventory.

If "market" is used to determine any portion of the inventory amounts, describe the method of determining "market" if other than current replacement cost.

The method by which amounts are removed from inventory (e.g., "average cost," "first-in, first-out," "last-in, first-out," "estimated average cost per unit") shall be described. If the estimated average cost per unit is used as a basis to determine amounts removed from inventory under a total program or similar basis of accounting, the principal assumptions (including, where meaningful, the aggregate number of units expected to be delivered under the program, the number of units delivered to date and the number of units on order) shall be disclosed.

If any general and administrative costs are charged to inventory, state in a note to the financial statements the aggregate amount of the general and administrative costs incurred in each period and the actual or estimated amount remaining in inventory at the date of each balance sheet.

(c) If the LIFO inventory method is used, the excess of replacement or current cost over stated LIFO value shall, if material, be stated parenthetically or in a note to the financial statements.

NOTE: Paragraph (c) as proposed in Securities Act Release No. 5427 (38 FR 28948) would modify this requirement. Comments on that proposal continue under consideration.

(d) For purposes of §§ 210.5-02.3 and 210.5-02-6, long-term contracts or programs include (1) all contracts or programs for which gross profits are recognized on a percentage-of-completion method of accounting or any variant thereof (e.g., delivered unit, cost to cost, physical completion) and (2) any contracts or programs accounted for on a completed contract basis of accounting where, in either case, the contracts or programs have associated with them material amounts of inventories or unbilled receivables and where such contracts or programs have been or are expected to be performed over a period of more than twelve months. Contracts or programs of shorter duration may also be included, if deemed appropriate.

For all long-term contracts or programs, the following information, if applicable, shall be stated in a note to the financial statements:

(i) The aggregate amount of manufacturing or production costs and any related deferred costs (e.g., initial tooling costs) which exceeds the aggregate estimated cost of all in-process and delivered units on the basis of the estimated average cost of all units expected to be produced under long-term contracts and programs not yet complete, as well as that portion of such amount which would not be absorbed in cost of sales based on existing firm orders at the latest balance sheet date. In addition, if practicable, disclose the amount of deferred costs by type of cost (e.g., initial tooling, deferred production, etc.).

(ii) The aggregate amount representing claims or other similar items subject to uncertainty concerning their determination or ultimate realization, including a description of the nature and status of the principal items comprising such aggregate amount.

(iii) The amount of progress payments netted against inventory at the date of the balance sheet.

* * * * *

The amendments to Regulation S-X have been adopted pursuant to authority conferred on the Commission by the Securities Act of 1933, particularly sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j and 77s) thereof and the Securities Exchange Act of 1934, particularly sections 12, 13, 15(d) and 23(a) (15 U.S.C. 78*l*, 78m, 78o(d) and 78(w) thereof.

The above amendments to Regulation S-X shall be applicable to financial statements for periods ending on or after December 20, 1974. Such disclosure is recommended but not required for financial statements for periods ending on or after to December 20, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 21, 1974.

C. EXHIBIT

The following hypothetical example is furnished to illustrate the character and detail of the disclosures which might be furnished in response to Rules 5-02.3 and 5-02.6 of Regulation S-X (17 CFR 210.5-02-3 and 5-02-6) as amended by the accompanying release. The illustration is provided to assist in understanding and evaluating the amendments.

XYZ Company and subsidiaries consolidated balance sheets
[In thousands]

Assets	Dec. 31— 1974	1973
CURRENT ASSETS		
Cash	$438	$627
Accounts receivable:		
Trade and other receivables, net of allowance for uncollectible accounts of $38,000 in 1974 and $36,000 in 1973	2,846	2,306
Long-term contracts and programs (notes 1 and 2)	18,986	19,026
Total accounts receivable	21,831	21,432
Inventories and costs relating to long-term contracts and programs in process, net of progress payments (notes 1 and 3)	6,273	6,257
Prepaid expenses	46	27
Total current assets	28,508	28,343

NOTE 1—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Revenue recognition. Sales of commercial products under long-term contracts and programs are recognized in the accounts as deliveries are made. The estimated sales value of performance under Government fixed-price and fixed-price incentive contracts in process is recognized under the percentage-of-completion method of accounting whereunder the estimated sales value is determined on the basis of physical completion to date (the total contract amount multiplied by percent of performance to date less sales value recognized in previous periods) and costs (including general and administrative, except as described below) are expensed as incurred. Sales under cost-reimbursement contracts are recorded as costs are incurred and include estimated earned fees in the proportion that costs incurred to date bear to total estimated costs. The fees under certain Government contracts may be increased or decreased in accordance with cost or performance incentive provisions which measure actual performance against established targets or other criteria. Such incentive fee awards or penalties are included in sales at the time the amounts can be determined reasonably.

Inventories. Inventories, other than inventoried costs relating to long-term contracts and programs, are stated at the lower of cost (principally first-in, first-out) on market. Inventoried costs relating to long-term contracts and programs are stated at the actual production cost, including factory overhead, initial tooling and other related non-recurring costs, incurred to date reduced by amounts identified with revenue recognized on units delivered or progress completed. General and administrative costs applicable to cost-plus Government contracts are also included in inventories. Inventoried costs relating to long-term contracts and programs are reduced by charging any amounts in excess of estimated realizable value to cost of sales. The costs attributed to units delivered under long-term commercial contracts and programs are based on the estimated average cost of all units expected to be produced and are determined under the learning curve concept which anticipates a predictable decrease in unit costs as tasks and production techniques become more efficient through repetition.

In accordance with industry practice, inventories include amounts relating to contracts and programs having production cycles longer than one year and a portion thereof will not be realized within one year.

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NOTE 2—ACCOUNTS RECEIVABLE

The following tabulation shows the component elements of accounts receivable from long-term contracts and programs:

[In thousands]

	Dec. 31—	
	1974	1973
U.S. Government:		
Amounts billed	$7,126	$6,532
Recoverable costs and accrued profit on progress completed—not billed	4,178	3,791
Unrecovered costs and estimated profits subject to future negotiation—not billed	1,468	1,725
Total	12,777	12,038
Commercial customers:		
Amounts billed	1,987	3,462
Recoverable costs and accrued profit on units delivered—not billed	1,298	984
Retainage, due upon completion of contracts	2,441	2,279
Unrecovered costs and estimated profits subject to future negotiation—not billed	537	803
Total	18,985	19,086

The balances billed but not paid by customers pursuant to retainage provisions in construction contracts will be due upon completion of the contracts and acceptance by the owner. Based on the Company's experience with similar contracts in recent years, the retention balances at December 31, 1974 are expected to be collected as follows: $270,000 in 1975, $845,000 in 1976 and the balance in 1977.

Recoverable costs and accrued profit not billed comprise principally amounts of revenue recognized on contracts for which billings had not been presented to the contract owners because the amounts were not billable at balance sheet date. It is anticipated such unbilled amounts receivable from the U.S. Government at December 31, 1974 will be billed over the next 60 days as units are delivered. The unbilled accounts receivable applicable to commercial customers are billable upon completion of performance tests which are expected to be completed in September 1975.

Unrecovered costs and estimated profits subject to future negotiation, the principal amount of which is expected to be billed and collected within one year, consist of the following elements:

[In thousands]

	Dec. 31—	
	1974	1973
U.S. Government contracts:		
Excess of estimated or proposed over provisional price	$190	$187
Amounts claimed for incremental costs arising from customer occasioned contract delays	1,278	1,578
Total	1,468	1,765
Commercial contracts: Unrecovered costs and estimated profit relating to work not specified in excess contract provisions	537	803
Total	2,005	2,568

NOTE 3—INVENTORIES

Inventories and inventoried costs relating to long-term contracts and programs are classified as follows:

[In thousands]

	Dec. 31—	
	1974	1973
Finished goods	$1,167	$1,439
Inventoried costs relating to long-term contracts and programs, net of amounts attributed to revenues recognized to date	2,543	2,526
Work in process	739	947
Raw materials	418	853
Supplies	113	71
Total	7,417	7,474
Deduct progress payments related to long-term contracts and programs	1,139	1,237
Total	6,278	6,237

The following tabulation shows the cost elements included in inventoried costs related to long-term contracts:

[In thousands]

	Dec. 31—	
	1974	1973
Production costs of goods currently in process	$1,134	$960
Excess of production cost of delivered units over the estimated average cost of all units expected to be produced	647	1,033
Unrecovered costs subject to future negotiation	280	310
General and administrative costs	260	270
Initial tooling and other nonrecurring costs	131	265
Total	2,552	2,638

The inventoried costs relating to long-term contracts and programs includes unrecovered costs of $280,000 and $310,000 at December 31, 1974 and 1973, respectively, which are subject to future determination through negotiation or other procedures not complete at balance sheet dates. Of such amounts, $260,000 and $280,000 are in respect to contracts under which all goods have been delivered at December 31, 1974 and 1973, respectively. The unrecovered amount at December 31, 1973 consisted of three items, one of which was settled during 1974. The amount remaining at December 31, 1974 is represented principally by a claim asserted against a customer for amounts incurred as a result of faulty materials furnished by the customer which in turn caused delays in performance under the contract. In the opinion of management these costs will be recovered by contract modification or litigation. It is expected that the negotiations which are being conducted currently with the customer will be successfully concluded during the next twelve months. If this expectation is not realized, the matter will be referred to the Armed Services Board of Contract Appeals, with the consequence that settlement could be delayed for an indeterminate period.

The actual per unit production cost of the NX-4C aircraft produced during the most recent fiscal year was less than the estimated average per unit cost of all units expected to be produced under the program. Prior to 1974, the Company's NX-4C commercial aircraft program was in the early high cost period. During the initial years of the program, the cost of units produced exceeded the sales price of the delivered units and the estimated average unit cost of all units to be produced under the program. At December 31, 1974, inventories included costs of $647,000 representing the excess of costs incurred over estimated average costs per aircraft for the 117 aircraft delivered through the year end. The estimated average unit cost is predicated on the assumption that 250 planes will be produced and that production costs (principally labor and materials) will decrease as the project matures and efficiencies associated with increased volume, improved production techniques and the performance of repetitive tasks (the learning curve concept) are realized.

NOTE: The amount by which the production costs of the equivalent finished units in process at the date of the latest balance sheet exceeds the cost of such units on the basis of the estimated average unit cost of all units expected to be produced under the program should be stated. Since, as stated above, the actual per unit production cost is currently less than the estimated average per unit cost of all units expected to be produced under the program, no such excess is assumed in this example.

Recovery of the deferred production, initial tooling and related non-recurring costs is dependent on the number of aircraft ultimately sold and actual selling prices and production costs associated with future transactions. Sales significantly under estimates or costs significantly over estimates could result in the realization of substantial losses on the program in future years. Realization of approximately $421,000 of the gross commercial aircraft inventories at December 31, 1974 is dependent on receipt of future firm orders.

Based on studies made by and on behalf of the Company, management believes there exists for this aircraft a market for over 250 units, including deliveries to date, with production and deliveries continuing at a normal rate to at least 1980. At December 31, 1974, 117 aircraft had been delivered under the program, and the backlog included 64 firm unfilled orders and options for 43 units.

The aggregate amounts of general and administrative costs incurred during 1974 and 1973 were $2,251,000 and $2,238,000, respectively. As stated in Note 1, the Company allocates general and administrative costs to certain types of Government contracts. The amounts of general and administrative costs remaining in inventories at December 31, 1974 and 1973 are estimated at $260,000 and $270,000, respectively. Such estimates assume that costs have been removed from inventories on a basis proportional to the amounts of each cost element expected to be charged to cost of sales.

• • • • • •

[FR Doc.74-29143 Filed 12-16-74;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

SUBCHAPTER C—DRUGS

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

Chlortetracycline

The Commissioner of Food and Drugs has evaluated a new animal drug application (93-372V) filed by the American Cyanamid Co., Princeton, NJ 08540, proposing safe and effective use of chlortetracycline in duck feed. The application is approved.

To assure that edible products of ducks are safe for consumption, the regulations are amended to provide for safe tolerances of chlortetracycline residues in such products.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), in accordance with § 3.517 of the Code of Federal Regulations (21 CFR 3.517), and under authority delegated to the Commissioner (21 CFR 2.120), Parts 121 and 135g are amended as follows:

1. In Part 121, § 121.208(d) is amended by adding a new item to table 3 to read as follows:

§ 121.208 Chlortetracycline.

• • • • • •

(d) • • •

TABLE 3.—*Chlortetracycline in feed for other animals*

Principal ingredient	Quantity	Limitations	Indications for use
•	•	•	•
1. Chlortetracycline.	200 to 400 g/ton	For ducks; feed in complete ration to provide from 8 to 25 mg per pound of body weight per day depending upon age and severity of disease for not more than 21 d; as the calcium complex of chlortetracycline equivalent to chlortetracycline hydrochloride.	For the control and treatment of fowl cholera in ducks caused by *Pasteurella multocida* susceptible to chlortetracycline.

• • • • •

2. In Part 135g, § 135g.8 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 135g.8 Chlortetracycline.

• • • • •

(a) In edible tissues and in eggs of chickens, turkeys, and ducks:

• • • • •

Effective date. This order shall be effective December 17, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360(b)(i))

Dated: December 9, 1974.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.74-29183 Filed 12-16-74;8:45 am]

PART 135—NEW ANIMAL DRUGS

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Sponsors of Approved Applications; Triethanolamine Polypeptide Oleate-Condensate

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (12-817V) filed by the Purdue Frederick Co., Norwalk, CN 06856, proposing revised labeling for the safe and effective use of triethanolamine polypeptide oleate-condensate for the removal of earwax in cats and dogs. The supplemental application is approved.

The firm's address has changed from that currently listed in 21 CFR 135.501(c), and the regulation is being amended to reflect this change.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135 and 135a are amended as follows:

1. In § 135.501(c) of Part 135 by revising code No. 083 to read as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

• • • • •

(c) • • •

Code No.:	Firm name and address
•	•
083	The Purdue Frederick Co., 50 Washington St., Norwalk, Conn. 06856.
•	•

2. In § 135a.44 of Part 135a by revising paragraph (c)(2) to read as follows:

§ 135a.44 Triethanolamine polypeptide oleate-condensate otic solution.

• • • • •

(c) • • •

(2) Tilt the animal's head to the side and fill the external auditory canal with the drug. Allow the drug to remain in contact for 15 to 30 minutes; then gently flush the ear with warm water. Repeat if needed.

• • • • •

Effective date. This order will be effective December 17, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: December 9, 1974.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.74-29184 Filed 12-16-74;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Oxytetracycline Hydrochloride

The Commissioner of Food and Drugs has evaluated new animal drug application (94-114V) filed by Pfizer, Inc., New York, NY 10017, proposing safe and effective uses of oxytetracycline hydrochloride injection for the treatment of beef cattle and nonlactating dairy cattle. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended in § 135b.65 by adding a new paragraph (e) to read as follows:

§ 135b.65 Oxytetracycline hydrochloride injection.

• • • • • •

(e)(1) *Specifications.* The drug contains 100 milligrams of oxytetracycline base as oxytetracycline hydrochloride in each milliliter of sterile solution.

(2) *Sponsor.* See code No. 030 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) For beef cattle and nonlactating dairy cattle in the treatment of pneumonia and shipping fever complex associated with *Pasteurella spp.* and *Hemophilus spp.*; foot-rot and diptheria caused by *Spherophorus necrophorus;* bacterial enteritis (scours) caused by *Escherichia coli;* wooden tongue caused by *Actinobacillus lignieresi;* leptospirosis caused by *Leptospira pomona;* and wound infections and acute metritis caused by strains of *Staphylococci* and *Streptococci* sensitive to oxytetracycline. If the labeling of the drug bears the statement "Federal law restricts this drug to use by or on the order of a licensed veterinarian", it may include additional uses in beef cattle and nonlactating dairy cattle for the treatment of anaplasmosis caused by *Anaplasma marginale* and anthrax caused by *Bacillus anthracis.*

(ii) Administer by intramuscular injection at a dosage level of 3 to 5 milligrams of oxytetracycline per pound of body weight per day. In the treatment of anaplasmosis, foot-rot, and advanced cases of other indicated diseases, 5 milligrams per pound of body weight per day is recommended.

(iii) Treatment of all diseases should be instituted early and should continue for 24 to 48 hours beyond remission of disease symptoms, but not to exceed a total of 4 consecutive days. If no improvement is noted within 24 to 48 hours, diagnosis and therapy should be reevaluated.

(iv) When injecting intramuscularly in adult cattle, do not inject more than 10 milliliters at any one site. The volume administered per injection site should be reduced according to age and body size so that 1 to 2 milliliters are injected in smaller animals such as small calves.

(v) Treatment must be discontinued at least 15 days prior to slaughter. Exceeding the highest recommended dose of 5 milligrams per pound of body weight, administering at recommended levels for more than 4 consecutive days, and/or exceeding 10 milliliters intramuscularly per injection site may result in antibiotic residues beyond the withdrawal time.

(vi) Not for use in lactating dairy animals.

Effective date. This order shall be effective December 17, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: December 9, 1974.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.74-29213 Filed 12-16-74;8:45 am]

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

Virginiamycin

The Commissioner of Food and Drugs has evaluated new animal drug applications (91-467V and 91-513V) filed by Smith Kline and French Laboratories, Philadelphia, PA 19101, proposing safe and effective use of virginiamycin premixes for the manufacture of swine feeds. The applications are approved.

The order also provides for the establishment of corresponding safe tolerances for negligible residues of virginiamycin in the edible tissues of swine.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. In Part 135e by adding the following new section:

§ 135e.69 Virginiamycin.

(a) *Specifications.* Virginiamycin is the antibiotic substance produced by the growth of *Streptomyces virginiae* or the same antibiotic substance produced by any other means.

(b) *Approvals.* Premix levels of 2.2 percent virginiamycin activity (10 grams per pound) and 50 percent virginiamycin activity (227 grams per pound) granted to code No. 034 in § 135.501(c) of this chapter.

(c) *Assay limits.* Finished feed must contain not less than 70 percent nor more than 130 percent of the labeled amount of the drug.

(d) *Related tolerances.* See § 135g.69 of this chapter.

(e) *Special considerations.* (1) Not for use in breeding swine over 120 pounds.

(2) Dilute premix with at least 10 pounds of a feed ingredient prior to final mixing in 1 ton of complete feed.

(e) *Conditions of use.* It is used as follows:

Virginiamycin in complete swine feeds

Grams per ton	Animal weight	Indications for use
200 (for 2 weeks).	Over 120 lb...	Treatment of active dysentery in nonbreeding swine.
100 (for 2 weeks).	Up to 120 lb...	Treatment and control of swine dysentery.
50 (thereafter):		
25	do	Aid in control of swine dysentery. For use in animals or on premises with a history of swine dysentery but where symptoms have not yet occurred.
10	Weaning to 120 lb.	Increased rate of weight gain and improved feed efficiency (starter and grower feeds only).

2. In Part 135g by adding a new section as follows:

§ 135g.69 Virginiamycin.

A tolerance of 0.1 part per million is established for negligible residues of virginiamycin in the edible tissues of swine.

Effective date. This order shall be effective December 17, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: December 9, 1974.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.74-29181 Filed 12-16-74;8:45 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

COMPONENTS OF PAPER AND PAPERBOARD IN CONTACT WITH AQUEOUS AND FATTY FOODS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 4B2994) filed by the Dow Chemical Co., 2030 Dow Center, Midland, MI 48640, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for safe use of styrene-butadiene copolymers with 2-hydroxyethyl acrylate and acrylic acid containing not more than 15 weight percent acrylic acid and no more than 20 weight percent of a combination of 2-hydroxyethyl acrylate and acrylic acid as components of paper and paperboard intended to contact food.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2526(b)(2) is amended in the table by alphabetically inserting in the list of substances a new item as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(b) * * *

(2) * * *

List of substances	*Limitations*
* * *	* *
Styrene-butadiene copolymers with 2-hydroxyethyl acrylate and acrylic acid containing not more than 15 weight percent acrylic acid and no more than 20 weight percent of a combination of 2-hydroxyethyl acrylate and acrylic acid.	----------
* * *	* *

Any person who will be adversely affected by the foregoing order may at any time on or before January 16, 1975 file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective December 17, 1974.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: December 10, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-29266 Filed 12-16-74;8:45 am]

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin

The Commissioner of Food and Drugs has evaluated a new animal drug application (96-838V) filed by Fasco Mills, Box 70, Route 34 East, Mendota IL 61342, proposing safe and effective use of a tylosin premix in the manufacture of swine feed. The application is approved.

To facilitate referencing, the firm is being assigned a sponsor code number and placed in the list of firms in § 135.501(c) (21 CFR 135.501(c)).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. In Part 135 by adding to § 135.501(c) a new sponsor as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

Code No.:	*Firm name and address*
* * *	* * *
126	Fasco Mills Co., Box 70, Route 34 East, Mendota, Ill. 61342.

2. In Part 135e by adding to § 135e.10 a new paragraph (b)(23) to read as follows:

§ 135e.10 Tylosin.

* * * * *

(b) * * *

(23) To 126: 0.8 gram per lb., item 4.

* * * * *

Effective date. This order shall be effective December 17, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: December 11, 1974.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.74-29258 Filed 12-16-74;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Oxytetracycline Hydrochloride

The Commissioner of Food and Drugs has evaluated a new animal drug application (83-578V) filed by John D. Copanos & Co., Inc., Baltimore, MD 21225, proposing safe and effective use of oxytetracycline hydrochloride injection for the treatment of beef cattle, beef calves, nonlactating dairy cattle, and dairy calves. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended in § 135b.65 by adding a new paragraph (f) to read as follows:

§ 135b.65 Oxytetracycline hydrochloride injection.

* * * * *

(f) (1) *Specifications.* The drug contains 50 milligrams of oxytetracycline hydrochloride in each milliliter of sterile solution.

(2) *Sponsor.* See code No. 054 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) Use in beef cattle, beef calves, nonlactating dairy cattle, and dairy calves for the treatment of pneumonia and shipping fever complex associated with *Pasteurella spp.* and *Hemophilus spp;* foot-rot and diphtheria caused by *Spherophorus necrophorus;* bacterial enteritis (scours) caused by *Escherichia coli;* wooden tongue caused by *Actinobacillus lignieresi;* leptospirosis caused by *Leptospira pomona;* wound infections, acute metritis, and traumatic injury caused by staphylococcal and streptococcal organisms.

(ii) Administer by intramuscular injection at 3 to 5 milligrams of oxytetracycline per pound of body weight per day. In the treatment of leptospirosis, severe foot-rot, and severe forms of the indicated diseases, administer 5 milligrams per pound of body weight per day.

(iii) Treatment should continue for 24 to 48 hours beyond remission of disease symptoms, but not to exceed a total of 4 consecutive days. Treat at the first clinical signs of disease. If no improvement is noted within 48 hours, consult a veterinarian for diagnosis and therapy.

(iv) In adult livestock, do not inject more than 10 milliliters at any one site. Reduce the volume administered per injection site according to age and body size. In calves weighing 100 pounds or less, inject only 2 milliliters per site.

(v) Discontinue treatment at least 22 days prior to slaughter. Exceeding the recommended dosage level or duration of treatment may result in antibiotic residues beyond the withdrawal time.

(vi) Not for use in lactating dairy animals.

Effective date. This order shall be effective December 17, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: December 9, 1974.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.74-29259 Filed 12-16-74;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Sulfadimethoxine

The Commissioner of Food and Drugs has evaluated supplemental new animal drug applications (31-205V; 46-285V) filed by Hoffmann-La Roche, Inc., Nutley, NJ 07110, proposing safe and effective use of sulfadimethoxine as a solution or a soluble powder in the drinking water or as a drench for dairy calves, dairy heifers, and beef cattle. The supplemental applications are approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b (i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135c.13 is amended by revising paragraph (b) and by revising the title of, and adding a new item 3 to, table 1 of paragraph (e) to read as follows:

§ 135c.13 Sulfadimethoxine.

* * * * *

(b) *Sponsors.* Firms identified by code numbers in § 135.501(c) of this chapter have been granted approvals for specific conditions of use as indicated in the tables in paragraph (e) of this section as follows:

(1) To 020: approval for use as in table 1, items 1, 2, and 3; table 2, item 1.

(2) To 069: approval for use as in table 2, item 2.

(3) To 066: approval for use as in table 2, item 3.

(4) To 074: approval for use as in table 2, item 2, for dogs only.

* * * * *

(e) *Conditions of use.* It is used as follows:

TABLE 1.—*In drinking water or drench*

Principal ingredient	Grams per gallon	Limitations	Indications for use
*	*	*	*
3. Sulfadimethoxine.	1.88 to 2.50 (0.05) to 0.063 percent).	For dairy calves, dairy heifers, and beef cattle only; administer 2.5 g/100 lb of body weight for 1st day, then 1.25 g/100 lb of body weight per day for next 4 consecutive days; in drinking water or drench; available as a sulfadimethoxine soluble powder or a 12.5 percent sulfadimethoxine sodium solution (2.75 g sulfadimethoxine per fluid ounce); if no improvement within 2 to 3 d, reevaluate diagnosis; do not treat beyond 5 d; withdraw 7 d before slaughter.	Treatment of shipping fever complex, bacterial pneumonia, calf diphtheria, and foot rot.

* * * * * * *

Effective date. This order shall be effective December 17, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: December 11, 1974.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.74-29534 Filed 12-16-74;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Haloxon Boluses

The Commissioner of Food and Drugs has evaluated a new animal drug application (92-483V) filed by Cooper U.S.A., Inc., Research Triangle Park, NC 27709, proposing the safe and effective use of haloxon boluses as an anthelmintic in the treatment of cattle. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended by adding a new section as follows:

§ 135c.129 Haloxon boluses, veterinary.

(a) *Chemical name.* 3-Chloro-7-hydroxy - 4-methylcoumarin bis(2-chloroethyl) phosphate.

(b) *Specifications.* Each bolus contains 10.1 grams of haloxon.

(c) *Sponsor.* See code No. 010 in § 135.501(c) of this chapter.

(d) *Related tolerances.* Sections 135g.69 of this chapter.

(e) *Conditions of use.* (1) Haloxon bolus is an anthelmintic used in cattle for the control of gastrointestinal round worms of the genera *Haemonchus, Ostertagia, Trichostrongylus* and *Cooperia.*

(2) It is administered as follows:

Weight of animal (pounds)	Dose (bolus(s))
200 to 300	½
300 to 600	1
600 to 900	1½
850 to 1,200	2
Over 1,200	3

(3) For most effective results, re-treat animals in 3 to 4 weeks. If reinfection is likely to occur, additional re-treatments may be necessary.

(4) Do not use any drug, pesticide or other chemical having cholinesterase inhibiting activity either simultaneously or within a few days before or after treatment with haloxon.

(5) Do not treat animals within one week of slaughter.

(6) Do not treat dairy animals of breeding age or older.

Effective date. This order shall be effective December 17, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: December 11, 1974.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.74-29257 Filed 12-16-74;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

PART 146a—CERTIFIED PENICILLIN AND PENICILLIN-CONTAINING DRUGS FOR VETERINARY USE

Potassium Phenoxymethyl Penicillin Tablets

The Commissioner of Food and Drugs has evaluated new animal drug applications filed by Elanco Products Co., Indianapolis, IN 46206 (65-282V) and Abbott Laboratories, North Chicago, IL 60064 (65-275V) proposing safe and effective use of potassium phenoxymethyl penicillin tablets for the treatment of dogs and cats. The applications are approved.

The regulation for the certification requirements for the drug is amended to provided that it be dispensed on a prescription basis.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135c and 146a are amended as follows:

1. By adding a new § 135c.133 to read as follows:

§ 135c.133 Potassium phenoxymethyl penicillin tablets.

(a) *Specifications.* Each tablet contains potassium phenoxymethyl penicillin and conforms to the certification requirements of § 146a.27 of this chapter.

(b) *Sponsors.* To code No. 014 in § 135.501(c) of this chapter, approval for tablets containing 125, 250, or 500 milligrams of the drug; to 068, approval for tablets containing 125 or 250 milligrams of the drug.

(c) *Conditions of use.* (1) The drug is administered to dogs and cats for the treatment of respiratory, urogenital, skin and soft tissue infections and septicemia caused by pathogens susceptible to potassium phenoxymethyl penicillin.

(2) It is administered orally at a dosage of 10–15 milligrams per pound of body weight every 6 to 8 hours.

(3) It should be administered 1 to 2 hours prior to feeding for maximum absorption.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

2. By deleting from the introductory text of § 146a.27(b) the final period and adding new text as follows:

§ 146a.27 Penicillin tablets, veterinary.

* * * * *

(b) * * * in all cases except those in which the veterinary prescription statement is required by regulations under Part 135c of this chapter. In those cases, the veterinary prescription statement shall comply with the requirements prescribed by § 1.106(c) of this chapter.

* * * * *

Effective date. This order shall be effective December 17, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: December 11, 1974.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.74-29260 Filed 12-16-74;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

PART 146a—CERTIFIED PENICILLIN AND PENICILLIN-CONTAINING DRUGS FOR VETERINARY USE

Potassium Phenoxymethyl Penicillin for Oral Solution

The Commissioner of Food and Drugs has evaluated new animal drug applications filed by Elanco Products Co., Indianapolis, IN 46206 (65-283V) and Abbott Laboratories, North Chicago, IL 60064 (65-276V) proposing safe and effective use of potassium phenoxymethyl penicillin for oral solution in the treatment of dogs and cats. The applications are approved.

The regulation for the certification requirements for the drug is amended to provide that it be dispensed on a prescription basis.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135c and 146a are amended as follows:

1. By adding a new § 135c.131 to read as follows:

§ 135c.131 Potassium phenoxymethyl penicillin for oral solution.

(a) *Specifications.* The drug consists of soluble granules which conform to the certification requirements of § 146a.104 of this chapter.

(b) *Sponsors.* To code No. 014 in § 135.501(c) of this chapter, approval for soluble granules which when dissolved in water produce a solution of 125 or 250 milligrams of potassium phenoxymethyl penicillin per 5 milliliters; to 068, approval for 125 milligrams per 5 milliliters.

(c) *Conditions of use.* (1) The drug is administered to dogs and cats orally for the treatment of respiratory, urogenital, skin and soft tissue infections and septicemia caused by pathogens susceptible to potassium phenoxymethyl penicillin.

(2) It is administered at a dosage of 10 to 15 milligrams per pound of body weight every 6 to 8 hours.

(3) It should be administered 1 to 2 hours prior to feeding for maximum absorption.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

2. By revising § 146a.104(b) to read as follows:

§ 146a.104 Phenoxymethyl penicillin for oral suspension veterinary; potassium phenoxymethyl penicillin for oral solution, veterinary.

* * * * *

(b) When phenoxymethyl penicillin for oral suspension and potassium phenoxymethyl penicillin for oral solution are packaged for dispensing and intended solely for veterinary use, their label and labeling shall comply with all the requirements prescribed by §§ 135c.131 and 148.3 of this chapter.

Effective date. This order shall be effective December 17, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: December 11, 1974.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.74-29252 Filed 12-16-74;8:45 am]

PART 135c—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Monensin Sodium, Zinc Bacitracin

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (47-933V) filed by Elanco Products Co., Indianapolis, IN 46206, proposing safe and effective use of monensin, 90 to 110 grams per ton, with zinc bacitracin in broiler chicken feeds. This supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347, 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135c.50(f) is amended by revising items 6 and 7 in the table to read as follows:

§ 135c.50 Monensin; monensin sodium.

* * * * *

(f) * * *

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
•	•	•	•	•	•
7. Monensin	90-110	Bacitracin	10	For broiler chickens; do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hr before slaughter; as zinc bacitracin provided by code No. 009 in § 135.501(c) of this chapter; as monensin sodium.	For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati, E. maxima.*
7. Monensin	90-110	....do	10-30	....do	For improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati, E. maxima.*
•	•	•	•	•	•

Effective date. This order shall be effective December 17, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: December 11, 1974.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.74-29285 Filed 12-16-74;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Postal Service Manual Amendment

Chapter I of the Postal Service Manual, which has been incorporated by reference in the FEDERAL REGISTER (see 39 CFR 111.1), has been amended by the issuance of Post Office Services (Domestic) Transmittal Letter 32, Issue 91, dated November 17, 1974.

In accordance with 39 CFR 111.3 notice of this change is hereby published in the FEDERAL REGISTER as an amendment to that section and the text of the change is filed with the Director, Office of the Federal Register. Subscribers to the Manual will receive this amendment automatically from the Government Printing Office. (For other availability of Chapter I of the Postal Service Manual, see 39 CFR 111.2.)

Description of this amendment to the Postal Service Manual follows:

In Part 146—Prepayment of Postage Due: § 146.12 is revised to provide that mail deposited without any postage prepaid (except as stated in § 146.11) be returned to the sender without attempt at delivery. If no return address is shown, such mail will be sent to the dead letter office to be disposed of in accordance with § 159.4.

In consideration of the foregoing, 39 CFR 111.3 is amended by adding the following:

§ 111.3 Amendments to Chapter I of the Postal Service Manual.

• • • • •

Amendments to Postal Service Manual

Transmittal letter	Date	Federal Register publication
Letter 32, issue 91	Nov. 17, 1974	39 F.R. —.

This amendment of Postal Service regulations was the subject of a rule-making proceeding and was put into effect on November 17, 1974. The text of the regulation adopted appears at 39 FR 40597.

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 407, 408, 3001-3011, 3201-18, 3403-05, 3601, 3621 and 50 U.S.C. App. 454)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.74-29321 Filed 12-16-74;8:45 am]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 306-1]

PART 414—ORGANIC CHEMICALS MANUFACTURING POINT SOURCE CATEGORY

Manufacturing Process; Applicability

On April 25, 1974, notice was published in the FEDERAL REGISTER (39 FR 14676-14683) of the adoption by the Environmental Protection Agency of effluent guidelines and standards for the organic chemicals manufacturing point source category. These regulations were modified slightly on June 12, 1974 (39 FR 20567).

The purpose of this notice is to announce the editorial amendment to § 414.20 to clarify that formaldehyde manufacturing process wastewater refers to the wastewater before ion exchange purification and that formaldehyde means the commercial 37 percent solution.

§ 414.20 [Amended]

1. Section 414.20 is changed so that the first paragraph reads as follows:

The provisions of this subpart are applicable to discharges of process wastewater resulting from the manufacture of the products listed below. The manufacturing process does not include ion exchange purification of a product.

• • • • •

2. Under the heading "B1 products" in § 414.20 the word "Formaldehyde" is changed to "Formaldehyde (37 percent solution)."

These editorial amendments are entirely administrative in nature. Therefore the public rulemaking process is waived and this amendment will become effective December 17, 1974.

Dated: December 9, 1974.

JOHN QUARLES,
Acting Administrator.

[FR Doc.74-29345 Filed 12-16-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-1—GENERAL

PART 14-3—PROCUREMENT BY NEGOTIATION

Responsibility and Authority; Circumstances Permitting Negotiation

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, Parts 14-1 and 14-3 of Chapter 14 of Title 41 of the Code of Federal Regulations are hereby amended.

The principal changes in Subpart 14-1.4 consist of the deletion of § 14-1.451 and the transfer of pertinent portions thereof to §§ 14-1.402 through 14-1.404-3. A new § 14-1.400 has been added to describe the scope of the subpart. Departmental Manual references have been added concerning delegations of authority. Repetitious instructions already stated in 41 CFR 1-1.4 have been deleted. The amendments to Subpart 14-3.1 and 14-3.4 are editorial changes.

Subpart 14-3.2 has been amended (1) to delete § 14-3.201(a) which is no longer applicable; (2) to provide in § 14-3.203 that transportation charges to destination will be included when determining the full purchase price; (3) to provide revised references in §§ 14-3.211, 14-3.212 and 14-3.213; and (4) to revise § 14-3.214 to permit contracting officers to make the determinations that bid prices after advertising are unreasonable.

Subpart 14-3.3 is revised to add a new § 14-3.303(b) which provides instructions for making certain determinations and findings.

It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the amendments herein provide administrative instructions and implement existing regulations. Therefore, the public rulemaking process is waived in this particular instance and these changes will become effective immediately.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

DECEMBER 10, 1974.

1. The Table of Contents of Subpart 14-1.4 of 41 CFR, Chapter 14 (Interior

Procurement Regulations) is deleted and the following is substituted therefor:

Subpart 14–1.4—Procurement Responsibility and Authority

Sec.
14–1.400 Scope of subpart.
14–1.401 Responsibility of the head of the procuring activity.
14–1.402 Authority of contracting officers.
14–1.404 Selection, designation, and termination of designation of contracting officers.
14–1.404–1 Selection.
14–1.404–2 Designation.
14–1.404–3 Termination of designation.
14–1.450 Contracting officer's representatives.
14–1.450–1 Designation.
14–1.450–2 Limitations of authority.
14–1.450–3 Termination of designation.
14–1.450–4 Documentation and acknowledgment.

AUTHORITY: 5 U.S.C. 301.

2. Subpart 14–1.4 of 41 CFR, Chapter 14 (Interior Procurement Regulations) is deleted in its entirety and the following is substituted therefor:

Subpart 14–1.4—Procurement Responsibility and Authority

§ 14–1.400 Scope of subpart.

This subpart provides references to delegations of authority contained in the Departmental Manual; establishes general criteria regarding redelegation of authority; and prescribes the requirements for the selection, designation, and termination of designation of contracting officer's representatives.

§ 14–1.41 Responsibility of the head of the procuring activity.

Except as may otherwise be specifically prescribed elsewhere, the head of each procuring activity (see § 14–1.206 of this chapter) has full responsibility for the procurement of personal property and nonpersonal services (including construction), and all related matters, under the cognizance of his activity.

§ 14–1.402 Authority of contracting officers.

(a) The authority of the Secretary with respect to all matters relating to procurement of personal property and nonpersonal services (including construction) has been delegated to Secretarial officers and to the heads of bureaus and other Departmental officers by 210 DM 1 and 205 DM 11, respectively, of the Departmental Manual, subject to the limitations prescribed therein.

(b) Redelegation of authority to other contracting officer positions will be subject to the applicable limitations of 205 DM 11 and 210 DM 1 of the Departmental Manual and this chapter (Part 14 of this chapter).

(c) In determining the extent to which authority should be redelegated, the following factors should be considered: Volume of procurement program; presence of, or capability of obtaining, adequately trained personnel; availability of existing officers where the functions, if transferred, could be better exercised; consolidation of smaller procurement programs and offices with larger program operations and offices on a geographical basis; and the overall strengthening of the procurement process by the selection of qualified personnel.

§ 14–1.404 Selection, designation, and termination of designation of contracting officers.

Contracting officers shall be selected, designated as such, and their designation terminated as provided in § 1–1.404 of this title and this § 14–1.404.

§ 14–1.404–1 Selection.

In addition to the requirements in § 1–1.404–1 of this title, the following actions are to be taken before a person is selected as a contracting officer:

(a) Any position description which includes contracting officer functions shall contain a clear statement of the contracting officer duties, responsibilities and functions.

(b) An affirmative showing must be made that the person selected as a contracting officer does in fact meet the requirements of the position and has a demonstrated capacity to perform those duties, responsibilities, and functions.

§ 14–1.404–2 Designation.

(a) It is the Department's policy to delegate and redelegate authority to positions rather than to individuals. (Also see § 14–1.402 of this chapter.)

(b) Persons appointed to designated contracting officer positions, or anyone designated to act for them in their absence, must exercise their duties and responsibilities in respect thereto in conformity with the authority given.

§ 14–1.404–3 Termination of designation.

The procurement authority, delegated or redelegated, may be terminated by the delegator for any reason. Failure to comply with all applicable requirements, statutes, regulations, executive orders, and limitations on the scope of authority to be exercised may warrant termination of the delegation of authority or the designation of contracting officer.

§ 14–1.450 Contracting officer's representatives.

§ 14–1.450–1 Designation.

(a) A contracting officer may designate a person to act as his authorized representative to administer a contract subject to the limitations of § 14–1.450–2 of this chapter.

(b) The contracting officer shall ensure that the person designated to act as his authorized representative possesses the necessary qualifications and experience.

(c) Generally, a contracting officer's representative shall be designated by name and position title, but when it is not feasible to make the designation in that manner the title only may be used.

(d) Each designation of a contracting officer's representative shall be in writing and shall clearly define the scope and limitations of the authority of the representative. Changes in the scope and limitations of authority may be accomplished either by issuance of a new designation or by an amendment to the existing designation. When the same representative is to act for the contracting officer on more than one contract, a separate designation for each contract or a general designation may be issued.

(e) A designation of a contracting officer's representative shall remain in effect throughout the life of the contract concerned unless revoked sooner by the contracting officer.

§ 14–1.450–2 Limitations of authority.

A contracting officer's representative may act for the contracting officer in administering a contract but shall not be empowered to award, agree to, or execute any contract or modification thereto, or in any way to obligate the payment of money by the Government, to make a final decision on any matter which would be subject to appeal under the disputes clause of the contract, or terminate for any cause the contractor's right to proceed.

§ 14–1.450–3 Termination of designations.

Every termination of designation of contracting officer's representative shall be made in writing and may not operate retroactively.

§ 14–1.450–4 Documentation and acknowledgment.

Two copies of each designation or revision thereof or termination of designation shall be furnished to the contractor by the contracting officer. The contractor shall be required to acknowledge receipt thereof on one copy and return it to the contracting officer for retention.

3. Subparts 14–3.1 through 14–3.4 of 41 CFR, Chapter 14 (Interior Procurement Regulations) are deleted in their entirety and the following are substituted therefor:

Subpart 14–3.1—Use of Negotiation

§ 14–3.103 Dissemination of procurement information.

(a) In connection with negotiated contracts, only the names of successful offerors and the prices at which the awards were made shall ordinarily be publicly disclosed. Information to an unsuccessful offeror concerning the merits or quality of a competitor's products shall be limited solely to the statement, if applicable, that adequate inspection or testing has shown that the successful offeror's products have met the requirements of the contract or purchase order. This shall not be construed as prohibiting purchasing officers from informing a supplier concerning the results of tests on the supplier's own products, or prohibiting purchasing officers in connection with their individual duties and responsibilities as members of technical committees from making necessary contracts with testing laboratories.

(b) The requirements of § 14–2.407–1 of this chapter relative to advance notices required prior to making contract award shall apply to negotiated contracts.

Subpart 14–3.2—Circumstances Permitting Negotiation

Sec.
14–3.201 National emergency.
14–3.203 Purchases not in excess of $10,000.
14–3.211 Experimental, developmental, or research work.
14–3.212 Purchases not to be publicly disclosed.
14–3.213 Technical equipment requiring standardization and interchangeability of parts.
14–3.214 Negotiation after advertising.

AUTHORITY: 5 U.S.C. 301.

Subpart 14–3.2—Circumstances Permitting Negotiation

§ 14–3.201 National emergency.

(a) *Determination.* It is determined by the Secretary that contracts or purchases negotiated under § 1–3.201(b) of this title during the national emergency which exists by reason of Presidential Proclamation No. 2914 of December 16, 1950 (3 CFR) are in the public interest.

§ 14–3.203 Purchases not in excess of $10,000

When determining whether the amount involved in any one transaction does not exceed $10,000, the full purchase price including transportation charges to destination is controlling. Any prompt payment discount or trade-in value of any article to be offered in exchange is not to be deducted when making this determination.

§ 14–3.211 Experimental, developmental, or research work.

Limitation: The heads of bureaus and offices shall make the determinations and findings for contracts not exceeding $25,000 required by § 1–3.211 of this title and may not redelegate these responsibilities. (Also see § 1–3.303 of this title and § 14–3.303 of this chapter.)

§ 14–3.212 Purchases not to be publicly disclosed.

Limitations: The determinations and findings to support purchases and contracts under § 1–3.212 of this title shall be made by the Secretary. (Also see § 1–3.212 of this title and § 14–3.303 of this chapter.)

§ 14–3.213 Technical equipment requiring standardization and interchangeability of parts.

Limitations: The determinations and findings to support purchases and contracts required under § 1–3.213 of this title shall be made by the Secretary. (Also see § 1–3.303 of this title and § 14–3.303 of this chapter.)

§ 14–3.214 Negotiation after advertising.

(a) The heads of bureaus and offices and contracting officers may make the determinations and findings under § 1–3.214 of this title that bid prices after advertising therefor are not reasonable (either as to all or some part of the requirement).

(b) The head of the bureau or office or his delegate shall make the determinations and findings required under § 1–3.214 of this title that bid prices after advertising therefor have not been independently arrived at in open competition. The receipt of two or more identical low bids may be considered as sufficient evidence to support such a determination: *Provided, however,* That this shall not preclude determination of a successful bidder in accordance with § 1–2.407–6 of this title if it is in the best interests of the Government to do so.

Subpart 14–3.3—Determinations, Findings, and Authorities

§ 14–3.303 Determinations and findings by the head of the agency.

(a) The heads of bureaus and offices shall make the determinations and findings required by § 1–3.211 of this title and § 14–3.211 of this chapter when the contract will not require the expenditure of more than $25,000.

(b) Determinations and findings by the head of the agency under §§ 1–3.211 through 1–3.213 (also see §§ 14–3.211 through 14–3.213 of this chapter) and § 1–6.1004 of this title will be made by the Assistant Secretary—Management. Requests for such determinations and findings will be submitted to the Director of Management Services for review and coordination.

Subpart 14–3.4—Types of Contracts

§ 14–3.408 Letter contract.

(a) *Limitations of use.* A letter contract shall not be used unless it is found that no other type of contract is suitable. In the event a bureau or office considers that a letter contract should be employed, the matter shall be submitted to the Assistant Secretary–Management (through the appropriate Assistant Secretary) for review and approval in advance of actual use.

(b) *Limitation of effectiveness.* A letter contract shall be superseded by a definitive contract not more than 90 days from the date of its execution unless prior approval is obtained from the Assistant Secretary–Management to extend the duration of the letter contract beyond 90 days.

(c) *Limitation of liability.* The maximum liability of the Government stated in a letter contract shall not exceed 50 percent of the total estimated cost of the procurement, except in cases where the cost of specialized equipment or materials (such as mechanical or electrical) to be acquired by the contractor as a part of the contract exceeds 50 percent of the total estimated cost thereof. The cost of the specialized equipment and material shall be the limitation in those cases where it exceeds the 50 percent limitation.

[FR Doc.74–29284 Filed 12–16–74;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Reserved Beds in Long-Term Care Facilities

Interim regulations relating to payment for reserved beds in long-term care facilities under Medicaid (Title XIX, Social Security Act) were published on June 19, 1974 (39 FR 21135). The regulation specified the conditions under which Federal financial participation will be available in State payments to reserve a bed in a long-term care facility for recipients undergoing hospitalization or on therapeutic home visits.

Comments were received from 11 State agencies or commissions, 2 national organizations, 1 State ombudsman project, 1 university, 4 long-term care facilities and 1 State facility association. The major comments and the Department's responses are summarized below.

1. Many respondents objected to the provision limiting payment to those days when it is likely that the bed would otherwise be required for occupancy by some other patient, contending that this rule is very difficult to apply and may result in controversy.

To help the single State agency in applying the rule, the provision has been clarified to indicate that analysis of current facility occupancy patterns in the locality is required which supports the likelihood that a reserved bed would otherwise be needed for some other patient.

2. Several comments stated that home visits could be therapeutic even when deinstitutionalization of the recipient is not indicated.

Accordingly, paragraph (d)(2)(i)(c) is revised to provide that Federal financial participation is available for reserved beds when the patient's plan of care provides for such home visits.

3. Some comments indicated that the specified time limits for Federal financial participation (FFP) in therapeutic home visits and hospitalization for acute conditions are too short.

No change was deemed necessary in this provision. The limit of 15 days for periods of hospitalization is deemed adequate, since studies show that such period covers the average length of stay for persons 65 years of age or older. The limit of 3 days for therapeutic visits was deemed adequate because such period covers a normal short home visit, typically a weekend.

4. A suggestion was made to clarify whether the limitations on therapeutic home visits and hospitalization for acute conditions are intended to be one-time allowances over some time period.

Paragraph (d)(2)(ii) is amended to clarify that the limitation of Federal matching for therapeutic home visits and periods of hospitalization for acute conditions applies to each home visit and

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each period of hospitalization. An additional amendment provides that Federal financial participation is available for up to six home visits per patient during any 12-month period, limited to two visits in any calendar quarter. Home visits in the case of patients in institutions for the mentally retarded or persons with related conditions are excluded from the limitations in accordance with the encouragement for home visits stated in 45 CFR 249.13(a)(1)(xi)(E).

5. A suggestion was made that the time limits would interfere with State-approved therapeutic or rehabilitative programs such as summer camps. Accordingly, paragraph (d)(2)(ii) is further amended to provide that States may request special limits for their rehabilitative programs.

6. In the interim regulation, the term "home visits" was not defined. Accordingly paragraph (d)(2)(i) is revised to define home visits to include visits with relatives and friends and leaves to participate in State-approved rehabilitative programs.

7. Several comments stated that the effect of the interim regulations was to reduce unreasonably the number of home visits by patients. In order to assess the impact of the regulation, a requirement has been added to paragraph (d)(2)(ii) that States must obtain data, for submission to the Regional Commissioner as requested, as to the percentage of long-term care recipients under the program who make home visits.

Section 250.30 of Part 250, Chapter II, Title 45, Code of Federal Regulations is amended by revising paragraphs (b) and (d) to read as follows:

§ 250.30 Reasonable charges.

* * * * *

(b) *Upper limits.* The upper limits for payments for care and services under a medical assistance plan are as follows: The State agency may pay less than the upper limits. These upper limits do not apply to payments made under the State plan for deductibles and coinsurance imposed under title XVIII of the Social Security Act. Such payments may be made up to the reasonable charge under title XVIII. A State which pays for reserved beds in long term care facilities pursuant to paragraph (d) of this section may set payment rates for such reserved beds in an amount less than the rate paid for care in the facility if it is determined by the State that a differential exists between the cost of reserving a bed and the cost of providing care.

* * * * *

(d) *Federal financial participation.*—(1) *General* Federal financial participation is available for payments within the upper limits described in paragraph (b) of this section, in accordance with the provisions of the State plan.

(2) *Payments during recipient's absence from long term care facility.* (i) Federal financial participation is available in vendor payments which are necessary to reserve a bed in a long term care facility (skilled nursing facility, intermediate care facility, tuberculosis or mental hospital, or chronic care part of a general hospital facility) for a recipient during a temporary absence in a hospital for an acute condition or for therapeutically indicated home visits (defined to include visits with relatives and friends, and leaves to participate in State-approved therapeutic or rehabilitative programs).

(a) The following conditions will be met in any instance in which a bed is reserved;

(1) The State plan provides for such payments:

(2) Payment is made only for those days during which there is a likelihood that the reserved bed would otherwise be required for occupancy by some other patient. Determinations as to whether there is a likelihood that a bed is otherwise required for occupancy shall be based on analysis of current facility occupancy patterns in the locality and other pertinent data; and

(b) The following conditions will be met when a bed is reserved in a long term care facility because of the recipient's hospitalization for an acute condition:

(1) The single State agency has approved the recipient's hospitalization for an acute condition prior to each period of hospitalization during which a bed in another facility has been reserved. In case of an emergency admission such authorization will be obtained as soon as possible after admission.

(2) The single State agency has approved the bed reservation for the recipient prior to each period of hospitalization. In case of an emergency admission such authorization will be obtained as soon as possible after admission.

(3) The patient intends to return to the same facility after hospitalization.

(4) The hospital provides a discharge plan for the recipient.

(c) In the case of therapeutic home visits, the patient's plan of care provides for such visits.

(ii) Federal financial participation in the cost of reserving a bed for purposes of paragraph (d)(2) of this section is available for (a) periods of hospitalization for acute conditions not to exceed 15 days per any single hospital stay and for (b) therapeutically indicated home visits not to exceed 3 days per visit nor six such visits per patient during any 12-month period, limited to two visits in any calendar quarter. The limitations do not apply in the case of patients in institutions for the mentally retarded or persons with related conditions (see § 249.13(a)(1)(xi)(E) of this chapter). Where the limitations for therapeutic visits interfere with a State approved therapeutic or rehabilitative program, the State agency may submit a request for special limits to the Regional Commissioner. In addition, the State shall obtain, and submit to the Regional Commissioner as requested, data on long-term care recipients who make home visits.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

Effective date. The regulation in this section shall be effective on November 25, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: November 25, 1974.

JOHN A. SVAHN,
Acting Administrator, Social and Rehabilitation Service.

Approved: December 11, 1974.

CASPAR W. WEINBERGER,
Secretary.

[FR Doc.74-29270 Filed 12-16-74;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[2nd Rev. S.O. 1112, Amdt. 1]

PART 1033—CAR SERVICE

Railroad Operating Regulations for Freight Car Movement

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 10th day of December 1974.

Upon further consideration of Second Revised Service Order No. 1112 (39 FR 22269) and good cause appearing therefor:

It is ordered, That: § 1033.1112 *Second Revise Service Order No. 1112* (Railroad operating regulations for freight car movement) be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 15, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 15, 1974.

(Secs. 1, 12, 15, 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, 17(2)). Interprets or applies secs. 1(10-17), 15(4), 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10-17), 15(4), 17(2)))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

(SEAL) JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29261 Filed 12-16-74;8:45 am]

[S.O. 1129, Amdt. 6]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 10th day of December 1974.

Upon further consideration of Service Order No. 1129 (38 FR 8062, 9668, 18026, 33399, and 39 FR 8161 and 19218), and good cause appearing therefor:

It is ordered, That: § 1033.1129 *Service Order No. 1129* (Chicago, Rock Island and Pacific Railroad Company authorized to operate over tracks of Burlington Northern Inc.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 15, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, 17(2)). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10–17), 15(4), 17(2)))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74–29339 Filed 12–16–74;8:45 am]

[Corrected Rev. S.O. 1193, Amdt. 1]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 10th of December 1974.

Upon further consideration of Corrected Revised Service Order No. 1193 (39 FR 27804, 37393 and 37638), and good cause appearing therefor:

It is ordered, That: § *1033.1139 Corrected Revised Service Order No. 1193* (Distribution of boxcars) be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 15, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 15, 1974.

(Secs. 1, 12, 15, 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, 17(2)). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10–17), 15(4), and 17(2)))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74–29342 Filed 12–16–74;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 993]

DRIED PRUNES PRODUCED IN CALIFORNIA

Proposed Modification of Salable and Reserve Percentages for 1974–75 Crop Year

Notice is hereby given of a proposal to modify the salable and reserve percentages for the 1974–75 crop year. Salable and reserve percentages of 82 percent and 18 percent, respectively, were established (39 FR 32733) for that crop year pursuant to § 993.54 of the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Prune Administrative Committee recommended modification of these percentages to 90 percent and 10 percent, respectively.

The percentages currently effective were established on the basis of early season estimates that the 1974 California prune crop would be 155,000 tons, although it was recognized when those percentages were established that this production could be less because of adverse weather conditions during July 1974. As of November 1, 1974, the Department's Crop Reporting Board estimated the 1974 production at 133,000 tons.

On November 21, 1974, the Committee met pursuant to § 993.41 to consider whether or not to modify its 1974–75 marketing policy. Paragraph (a) of that section provides that if it becomes advisable to modify the policy for a crop year, because of changed demand, supply, or other conditions, the Committee shall formulate a new policy and shall submit a report thereon to the Secretary. At that meeting, the Committee reviewed several proposals and then recommended modification of the salable and reserve percentages to 90 percent and 10 percent, respectively.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, no later than January 3, 1975. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The following estimates were included in the Committee's report:

Item	Natural condition	Prepared
	Tons	Tons
1. Domestic trade demand		107,000
2. Export trade demand		37,000
3. Desirable carryout—July 31, 1975		30,000
4. Total trade requirements	160,000	174,000
5. Carryout July 31, 1974	24,165	
6. Trade demand for 1974 crop (Item 4 minus Item 5)	135,797	
7. 1974 production	133,000	
8. Less undersized	5,583	
9. Marketable content, new crop	127,414	
10. Apparent reserve	12,497	
	Percent	Percent
11. Salable percentage (Item 6 divided by Item 9)	90	
12. Reserve percentage (100 percent minus Item 11)	10	

The proposal is to modify the salable and reserve percentages in § 993.210 (7 CFR 993.210; 39 FR 32733). As modified, paragraph (a) reads as follows:

§ 993.210 Salable and reserve percentages for prunes and handler reserve obligation for the 1974–75 crop year.

(a) *Percentages.* The salable and reserve percentages for the 1974–75 crop year shall be 90 percent and 10 percent, respectively.

* * * * *

Dated: December 11, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-29883 Filed 12-16-74;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 283]

SUBSIDIZED VESSELS AND OPERATORS

Conservative Dividend Policy

On July 6, 1973 notice was published in the FEDERAL REGISTER (38 FR 18022) that the Maritime Subsidy Board had adopted a new Part 283 to Title 46, Chapter II, of the Code of Federal Regulations establishing a conservative dividend policy for each vessel operator receiving operating-differential subsidy.

Operators of vessels receiving operating-differential subsidy are required to maintain the financial ability to make adequate and timely reinvestment in the merchant marine. 46 CFR Part 283 requires such operators to adopt a dividend policy consistent with this obligation.

Part 283 of Title 46 of the Code of Federal Regulations is hereby proposed to be amended. The purpose of the proposed amendment is to require that financing lease transactions be taken into account in establishing an operator's dividend policy under 46 CFR Part 283. The financing lease transaction, an increasingly common method of asset acquisition, distorts an operator's accounting statement in the determination of funds available for distribution to stockholders, inasmuch as the liability involved with a lease hire arrangement is normally not reflected in an operator's balance sheet. Under a purchase arrangement the balance sheet of the operator would disclose the cost of the vessel and any mortgage liability assumed in acquiring the vessel. This proposed amendment to 46 CFR Part 283 requires an operator who bareboat charters or leases its vessel to capitalize its long-term charter hire payment obligations. For purposes of dividend policy, this requirement will put operators who acquire vessels by means of a long-term lease on a par with operators who acquire vessels by purchase.

While rulemaking procedures relating to the administration of public grants, such as operating-differential subsidy, are exempt from the notice requirements of 5 U.S.C. 553, this amendment to 46 CFR Part 283 is nevertheless published in proposed form. Comments by interested parties are solicited and will be considered before final adoption of the proposed amendment. Comments should be submitted in three copies to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, on or before January 14, 1975.

Accordingly, Part 283, Title 46 Code of Federal Regulations, is proposed to be amended as follows:

§ 283.3 [Amended]

1. By deleting the word "and" from § 283.3(b)(1)(v).

2. By renumbering § 283.3(b)(1)(vi) as § 283(b)(1)(vii) and by adding a new § 283.3(b)(1)(vi) to read as follows:

* * * * *

(b) *Operator's obligation with respect to construction and acquisition of vessels and retirement of indebtedness.* * * *

(1) Funds available shall mean the sum of: * * *

(vi) The present (discounted) value of noncapitalized financing leases, but excluding any profit realized as the result of sale and leaseback financing. A financing lease means any lease which, during the noncancellable lease period, either (A) covers 75 percent or more of the economic life of the property or (B) has terms which assure the lessor of a full recovery of the fair market value (which would

normally be represented by his investment) of the property at the inception of the lease plus a reasonable return on the use of the assets invested subject only to limited risk in the realization of the residual interest in the property and the credit risks generally associated with secured loans. Present value shall be computed by discounting net lease payments by the interest rate contained in the lease agreement, or if no interest rate is contained in such agreement, by the interest rate generally in use in the financing of purchases of similar properties at the time of inception of the lease. Net lease payments mean gross lease payments less actual or estimated amounts attributable to items of expense such as taxes, insurance, maintenance and other operating expenses. If the actual amount of such items of expense are unavailable and cannot be estimated with reasonable accuracy, gross lease payments may be substituted for net lease payments in the computation of present value; and

• • • • •

3. By deleting the word "and" from § 283.3(b)(2)(ii).

4. By renumbering § 283(b)(2)(iii) as § 283(b)(2)(iv) and by adding a new § 283.3(b)(2)(iii) to read as follows:

• • • • •

(b) *Operator's obligation with respect to construction and acquisition of vessels and retirement of indebtedness.* • • •

(2) Funds required shall mean the sum of: • • •

(iii) The present value of noncapitalized financing leases excluding that portion of the present value of any such lease payable within one year; and

5. By amending § 283.3(c)(1) to read as follows:

• • • • •

(c) *Operator's obligation to maintain adequate working capital.* • • •

(1) *Working capital defined.* Working capital shall consist of total current assets (accounts 100–199, as defined in Part 282 of this chapter) less accrued deposits to any fund established pursuant to the Act minus total current liabilities (accounts 400–496, as defined in Part 282 of this chapter), plus that portion of any noncapitalized financing lease payable within one year.

• • • • •

§ 283.6 [Amended]

6. By renumbering § 283.6(b)(i), (ii), (iii), and (iv) as §§ 283.6(b)(1), (2), (3), and (4) respectively and by amending § 283.6(b)(1) to read as follows:

(b) Annual reports. • • •

(1) Surplus available for distribution to stockholders, in the format set forth in Schedule A. Any profit realized as the result of sale and leaseback financing shall be included as an Itemized Restriction;

• • • • •

(Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840) as amended by Pub. L. 91-469 (84 Stat. 1036), Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).)

Dated December 10, 1974.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 74-29337 Filed 12-16-74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Parts 1905, 1952, 1954]

FEDERAL AND STATE VARIANCES FROM IDENTICAL STANDARDS

Notice of Proposed Rulemaking

1. *Background.* Notice is hereby given that the proposed rule on the above subject published in the FEDERAL REGISTER on April 3, 1974 (39 FR 12141) has been revised and clarified in response to diverse public comments as set out below. The proposed rule would be issued under authority of sections 6, 8(g)(2), and 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) (29 U.S.C. 655, 657(g)(2), and 667). It would provide for mutual recognition for compliance purposes of Federal and State granted variances under certain conditions in States with plans approved under section 18(c) of the Act (29 USC 667(c)).

Under the rule as initially proposed, where a State standard is identical to a Federal standard, an employer could apply for a temporary or permanent variance to either the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary) or to the State agency vested with the variance-granting authority under the plan. Such application would have to be accompanied by a certification that it had not been previously filed with either authority, or denied, modified, or revoked in any proceeding dealing with the same place of employment in the State. Compliance with any variance granted upon such application, or any order, interim order, modification, or extension granted in connection with it would be prospectively recognized by both Federal and State authorities: *Provided*, The required certification was part of the basis for the variance action. Federal recognition of State-granted variances, however, would be subject to evaluations of the State plan's effectiveness under 29 CFR Part 1954, "Procedures for the Evaluation and Monitoring of Approved State Plans".

The intent of the proposal is to minimize duplication of procedures and opportunity for conflicting interpretations of compliance obligations with regard to securing variances from occupational safety and health standards under the Federal-State occupational safety and health program. At present, 26 States are operating under approved State plans for the promulgation and enforcement of occupational safety and health standards. For at least three years after plan approval, however, Federal enforcement authority with respect to Federal standards exists side-by-side with the State standards and enforcement. Under § 1954.3 of this chapter, guidelines are provided under which this Federal enforcement authority will be withheld to to prevent duplication and conserve resources where a State plan has achieved substantial operating capacity. After final plan approval under section 18(e) of the Act, the discretionary Federal enforcement of Federal standards is removed from the State. Under section 18(f) of the Act, however, the Federal standards and enforcement provisions remain as the measure against which State standards and enforcement are evaluated for continued plan approval.

The vast majority of States with approved plans are adopting standards identical to the comparable Federal standards. All approved State plans must make provision for variances from State standards on the same basis and procedural requirements as under the Federal program. It is clear from the legislative history of the Act that Congress intended the States to have variance-granting authority under their plans. (Leg. Hist. p. 506; 29 CFR 1902.4(b)(2)(iv)). Thus, where Federal authority exists side-by-side with the State authority, employers have the right and obligation to seek variances from State standards under State procedures and, where still subject to Federal enforcement, from the Federal standards under Federal procedures.

Under these circumstances, an employer doing business in more than one State, at least one of which is a State with an approved plan, must seek variances from the Federal standards under Federal procedures wherever they apply, and under each State's procedures from the State standards wherever there is an approved State plan. This situation improves after final approval of a State plan when only State standards and procedures apply in the State. With respect to employers doing business in more than one State, at least one of which is a State with an approved plan, however, the Federal procedures must still be used for employment where there is no State plan and the individual State procedures for employment wherever an approved plan exists.

It is apparent, therefore, that unless principles of comity and estoppel are appropriately applied between Federal and State variance-granting authority considerable duplication and confusion about employer and employee compliance rights and obligations will exist. Such principles must be applied, however, within the requirements of both State and Federal law, and the respective rights and obligations under both jurisdictions. Under the Act, full State authority under State occupational safety and health programs, subject to continuous Federal monitoring, is contemplated. In addition, such principles

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should be applied, both affirmatively and negatively, so as to foreclose using either the Federal or State procedures as an appeal from a determination under either.

In recognition that State authority prevails with regard to State standards under State law, both before final approval and after, justification for the election of the Federal variance procedures over the State exists only where an employer seeking a variance in a State with an approved plan must use them with regard to an identical Federal standard in a State without an approved plan at the same time, or where he is seeking a variance from identical standards for employment in more than one State with an approved plan. Requirement of the recognition of compliance with the outcome of such Federal variance procedures as compliance with the identical State standard, both during the concurrent jurisdiction period and after, with the outcome of such proceedings controlling both compliance obligations and subsequent variance applications dealing with the same employment under State law is based on the ongoing Federal responsibility to interpret effectiveness. However, where an employer has applied for a variance from an identical State standard under State law, he should be foreclosed from using the Federal procedures as an appeal from State determinations. Under the proposal, the employer must certify, under both Federal and State procedures, that he has not previously filed for the variance with regard to the same employment or place of employment on the same set of facts with the other authority, and the variance determination would be dependent upon such affirmative certification. State variance procedures would be required to reflect, as appropriate, changes in the Federal variance procedures as a Federal program change under 29 CFR Part 1953.

2. *Public comments.* Contemporaneously with its submission for public comment, the proposal was submitted to the Advisory Commission on Intergovernmental Relations. Comments were received from the Steel Plate Fabricators Association, Inc., the Caterpillar Tractor Co., the American Petroleum Institute, the Southern Furniture Manufacturers Association, the Chrysler Corporation, the Health Research Group, and the States of California, Colorado, Michigan, New York, and Oregon.

The comments, generally favorable from industry, ranged from challenging the Assistant Secretary's authority, under the doctrine of separation of powers, to place a mandatory requirement on States with approved plans to recognize Federal variance actions (Colorado) to recommending that the Assistant Secretary provide for exclusive Federal variance authority with respect to identical standards on the theory that interpretation of Federal standards could not be delegated (Health Research Group). Three commenting States (California, New York, and Michigan) were generally in favor of the proposal. One State (Oregon) advised that recognition of variances granted other than under its procedures would be an unconstitutional delegation of rulemaking authority, and another (California) reserved the right to determine whether or not a legislative amendment would be required to honor the proposal.

Concern was expressed that under the proposal as drafted undue weight would be given to variance precedents involving places of employment other than those covered in a particular application (New York, Michigan, California, Health Research Group). It was argued that the proposal would have the effect of increasing, rather than decreasing, the forums in which an employer could seek a Federal variance (Health Research Group), leaving the interpretation of Federal standards entirely at the mercy of employers.

Clarifications were sought to the definition of "identical standard" (Michigan, New York, Steel Plate Fabricators Association, Inc., Caterpillar Tractor Co.); to the intent of the proposal to apply only to multi-state employers (New York, Health Research Group); State authority to cite for noncompliance with Federal variances (Michigan); the effect of an employer's certification when a change of circumstances has occurred, or a similar application has been denied in other States (Michigan); and the relationship between a Federal variance and the existence of Federal enforcement activity in a State (Michigan).

It was recommended that the proposal be broadened to apply where State standards are "at least as effective as", with a requirement that a variance from the more restrictive standard be sought from the State (Steel Plate Fabricators Association, Caterpillar Tractor Co.); that the proposal include previously-granted Federal variances (Steel Plate Fabricators Association); that employees be given the right to remove applications to States to the Assistant Secretary; that all applications for a variance from the same standard by the same employer for similar work conditions be required to be consolidated; that employees be given the right to Federal review of all State variance decisions (Health Research Group); and that the States concerned be given an opportunity to participate in the Federal variance proceeding (California, Michigan).

3. *Discussion of comments.* These objections and recommendations must be considered in the context of the impact of the provisions of the Act on Federal and State authority. It is clear that the right to seek variances from standards, both temporary and permanent, is a right accorded employers under section 6 of the Act, provided affected employees are given the right to participate in any such proceeding. It is only after a variance has been granted that employees have the right to petition the same administrative authority for its modification or revocation under the State or Federal proceeding concerned. It is also clear that under an approved plan, States have comparable authority to grant variances from State standards with that of the Assistant Secretary from the Federal. (Leg. Hist. p. 506; 29 CFR 1902.4(b)(2)(iv)). Federal judicial removal provisions would not be available to remove the subject matter of a State administrative proceeding to a Federal administrative body.

Federal recognition of compliance with State standards and variances meeting the requirements of § 1954.3 of this chapter are within the discretion provided under section 18(e) of the Act. Federal recognition of the finality of State variance determinations from identical State standards on the same set of facts upon application of a multi-state employer, subject to the requirements of 29 CFR Part 1954, would preclude the Federal procedures being used as an appeal from negative State determinations. The comments suggested that an employer could avoid the Federal procedures where more liberal State decisions on State standards are thought to be available. It is pointed out that this possibility exists absent this proposal, particularly where a State has received final approval of its plan and Federal authority to enforce Federal standards no longer exists in the State. Evidence of such laxity would of course go to the question of a given State's program effectiveness, its continuing approval and final approval under section 18(e) of the Act. It must be pointed out that a variance decision can only apply to the employer and employment or place of employmnt covered by the variance application. If the decision were to constitute a binding precedent in situations not covered in the application, important employee rights guaranteed under the Act and all approved State plans would be foreclosed.

It appears that State recognition of compliance with variance actions taken with respect to multi-state employers on Federal standards identical to a State standard under procedures affording the same terms and conditions as the State, with an additional provision for State input in the decision, would be within the administrative discretion of State authorities. Recognition of the finality of such proceedings on the same set of facts would appear to be in the nature of a recognition of an adjudication, rather than a delegation of rulemaking. "U.S. v. Utah Construction Co.," 384 U.S. 394, p. 422; "Hoffman La Roche, Inc. v. Kleindienst," 478 F. 2d 1 (1973) p. 13. Appropriate State provisions may be devised to overcome any State inhibitions on applying this principle of comity.

Accordingly, the regulation as proposed has been amended to clarify its intent and to deal with the comments in the following respects: Providing that Federal variance actions will be deemed authoritative interpretations of employers' compliance obligations with regard to identical State standards; election of procedures would be available only for multi-state employers operating in more than one State, at least one of which is a State with an approved plan,

with regard to standards, or portions thereof, identical in substance and requirements to the comparable Federal standard, or portion thereof; opportunity for State comment on the proposed variance action before the Assistant Secretary; and an added requirement that employers identify any outstanding citations for noncompliance with the State standard. These last two requirements, plus an amendment to 29 CFR 1905.5, are to provide coordination of Federal variance activity with State compliance and abatement procedures. Again, State procedures must reflect a like identification of Federal citations.

Clarifying language has also been added to the proposed 29 CFR 1952.9 to preclude consideration on the same set of facts by either Federal or State authorities once an application has been filed with either authority and to specifically preserve Federal and State citation authority where noncompliance with a standard or variance action is found. Also, eligible employers with outstanding Federal variances may amend their applications to bring them under the proposal. During the period of the Assistant Secretary's discretionary enforcement authority under section 18(e) of the Act, Federal compliance actions will not be taken against an employer in compliance with approved State standards, or variances therefrom where the employer has not filed for the variance with the Assistant Secretary and it was granted in accordance with State plan requirements.

A conforming amendment is also provided in a separate notice published in this same FEDERAL REGISTER proposing an amendment to § 50-204.1a of Title 41 of the Code of Federal Regulations to clarify the relationship of State variance authority under an approved plan with regard to standards under the Walsh-Healey Public Contracts Act, which have been incorporated in the Federal occupational safety and health standards.

4. *Public participation.* Interested persons are hereby given until January 20, 1975, to submit to the Associate Assistant Secretary for Regional Programs, Room 840, 1726 M Street, NW., Washington, D.C. 20210, written comments, suggestions, or objections regarding the amended proposal for a new § 1952.9 of this chapter, and conforming amendments to 29 CFR Part 1954 and Part 1905, as set out below. Comments received will be available for public inspection or copying during normal business hours at the above address. The proposed rules may be revised prior to final publication to reflect suggestions made by comments.

In consideration of the foregoing, it is proposed to amend Chapter XVII of Title 29, Code of Federal Regulations, as follows:

PART 1905—RULES OF PRACTICE FOR VARIANCES, LIMITATIONS, VARIATIONS, TOLERANCES, AND EXEMPTIONS UNDER THE WILLIAMS-STEIGER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

§ 1905.5 [Amended]

1. Section 1905.5 would be amended as follows:

The words "or appropriate State review authority" are inserted after the words "Occupational Safety and Health Review Commission" and before the words "until the completion of such proceeding."

2. Section 1905.10(b)(11) would be added to read as follows:

§ 1905.10 Variances and other relief under section 6(b)(6)(A).

* * * * * * *

(b) * * *

(11) Where the requested variance would be applicable to employment or places of employment in more than one State, including at least one State with a State plan approved under section 18 of the Act, and involves a standard, or portion thereof, identical in requirements and substance to a State standard effective under such plan:

(i) A side-by-side comparison of the Federal standard, or portion thereof, involved with the State standard, or portion thereof, identical in substance and requirements;

(ii) A certification that the employer or employers have not filed for such variance on the same facts with any State authority having jurisdiction under an approved plan over any employment or place of employment covered in the application; and

(iii) A statement as to whether, with an identification of, any citations for violations of the State standard, or portion thereof, involved have been issued to the employer or employers by any of the State authorities enforcing the standard under a plan, and are pending.

* * * * * * *

3. Section 1905.11(b)(8) would be added to read as follows:

§ 1905.11 Variances and other relief under section 6(d).

* * * * * * *

(b) * * *

(8) Where the requested variance would be applicable to employment or places of employment in more than one State, including at least one State with a State plan approved under section 18 of the Act, and involves a standard, or portion thereof, identical in requirements and substance to a State standard effective under such plan:

(i) A side-by-side comparison of the Federal standard, or portion thereof, involved with the State standard, or portion thereof, involved have been issued requirements;

(ii) A certification that the employer or employers have not filed for such variance on the same facts with any State authority having jurisdiction under an approved plan over any employment or place of employment covered in the application; and

(iii) A statement as to whether, with an identification of, any citations for violations of the State standard, or portion thereof, involved have been issued to the employer or employers by any of the State authorities enforcing the standard under a plan, and are pending.

4. Section 1905.13(c) would be added to read as follows:

* * * * * * *

§ 1905.13 Modification, revocation, and renewal of rules or orders.

* * * * * * *

(c) *Multi-state variances.* Where a Federal variance has been granted with multi-state applicability, including applicability in a State operating under a State plan approved under section 18 of the Act, from a standard, or portion thereof, identical in substance and requirements to a State standard, or portion thereof, without filing the information required in §§ 1905.10(b)(11) or 1905.11(b)(8), such variance shall likewise be deemed an authoritative interpretation of the employer or employers' compliance obligations with regard to the State standard, or portion thereof, upon filing the information required under §§ 1905.10(b)(11) or 1905.11(b)(8), provided no objections of substance are found to be interposed by the State authority under § 1905.14.

5. Section 1905.14(b)(3) would be added to read as follows:

§ 1905.14 Action on applications.

* * * * * * *

(b) * * *

(3) Where the requested variance, or any proposed modification or extension thereof, involves a Federal standard, or any portion thereof, identical in substance and requirements to a State standard, or any portion thereof, as provided in §§ 1905.10(b)(11) and 1905.11(b)(8), the Assistant Secretary will promptly furnish a copy of the application to the appropriate State authority and provide an opportunity for comment on the application by such authority, which shall be taken into consideration in determining the merits of the proposed action.

(4) A copy of each final decision of the Assistant Secretary with respect to an application filed under §§1905.10, 1905.11, or 1905.13 shall be furnished the State authorities having jurisdiction over the employment or place of employment covered in the application.

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

1. A new § 1952.9 in Subpart A of Part 1952 would be added to read as follows:

§ 1952.9 Variances affecting multi-state employers.

(a) Where a State standard is identical in requirements and substance to a Federal standard addressed to the same

hazard, an employer or group of employers seeking a temporary or permanent variance from such standard, or portion thereof, to be applicable to employment or places of employment in more than one State, including at least one State with an approved plan, may elect to apply to the Assistant Secretary for such variance under the provisions of Part 1905 of this chapter, as amended.

(b) Actions taken by the Assistant Secretary with respect to such application for a variance, such as granting, denying, or issuing any modification or extension thereof, will be deemed prospectively an authoritative interpretation of the employer or employers' compliance obligations with regard to the State standard, or portion thereof, identical in substance and requirements to the Federal standard, or portion thereof, affected by the action in the employment or places of employment covered by the application.

(c) Nothing herein shall affect the option of an employer or employers seeking a temporary or permanent variance with applicability to employment or places of employment in more than one State to apply for such variance either to the Assistant Secretary or the individual State agencies involved. However, the filing with, as well as granting, denial, modification, or revocation of a variance request by, either authority (Federal or State) shall preclude any further substantive consideration of such application on the same facts for the same employment or place of employment by the other authority.

(d) Nothing herein shall affect either Federal or State authority and obligations to cite for noncompliance with standards in employment or places of employment where no variance or modification or extension thereof, granted under State or Federal law applies, or to cite for noncompliance with such Federal or State variance.

PART 1954—PROCEDURES FOR THE EVALUATION AND MONITORING OF APPROVED STATE PLANS

1. Section 1954.3 is amended by adding a new paragraph (d)(1)(i) and as adopted reads as follows:

§ 1954.3 Exercise of Federal discretionary authority.

* * * * *

(d) (1) * * *

(i) Subject to pertinent findings of effectiveness under this part, Federal enforcement proceedings will not be initiated where an employer is in compliance with a State standard which has been found to be at least as effective as the comparable Federal standard, or with any temporary or permanent variance granted to such employer with regard to the employment or place of employment from such State standard, or any order or interim order in connection therewith, or any modification or extension thereof. *Provided*, Such variance action was taken under the terms and procedures required under § 1902.4(b)(2)(iv) of this chapter, and the employer has certified that he has not filed for such variance on the same set of facts with the Assistant Secretary.

* * * * *

(Secs. 6, 8, 18, 84 Stat. 1593, 1598, 1608 (29 U.S.C. 655, 657, 667))

Signed at Washington, D.C. this 6th day of December 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-29291 Filed 12-16-74;8:45 am]

Office of the Secretary

[41 CFR Part 50-204]

VARIANCES UNDER APPROVED STATE PLANS

Proposed Safety and Health Standards

It is hereby proposed to amend § 50-204.1a of Subpart A of Part 50-204 of Title 41 of the Code of Federal Regulations to provide that variance actions taken under State provisions from State occupational safety and health standards, found to be at least as effective as the comparable Federal standards contained in Part 50-204 which are incorporated in Part 1910 of Title 29 of the Code of Federal Regulations, will be deemed variance actions from the standard under both the Walsh-Healey Public Contracts Act (41 U.S.C. 35) and the Occupational Safety and Health Act of 1970 (29 U.S.C. 651). The reasons for this proposal are set out more fully in the preamble to the proposed amendments to Title 29 of the Code of Federal Regulations, Parts 1905, 1952, and 1954. The effect of the proposed amendment would be to clarify that Federal supply contractors would secure variances from standards applying to employment in a State with an occupational safety and health plan approved under section 18 of the Occupational Safety and Health Act of 1970 in the same manner as any other employer.

Interested persons are hereby given until January 20, 1975, to submit to the Associate Assistant Secretary for Regional Programs, Room 840, 1726 M Street, NW., Washington, D.C. 20210, written comments, suggestions, or objections regarding the proposed amendment to § 50-204.1a of this chapter, as set out below. Comments received will be available for public inspection or copying during normal business hours at the above address. The proposed rule may be revised prior to final publication to reflect suggestions made by comments.

In accordance with the above, Chapter 50 of Title 41, Code of Federal Regulations, is proposed to be amended by adding at the end of paragraph (b) of § 50-204.1a the following:

§ 50-204.1a Variances.

* * * * *

(b) * * *. In accordance with the requirements of § 1954.3(d)(1)(i) of Title 29, Code of Federal Regulations, variance actions taken under State provisions under a State occupational safety and health plan approved under section 18 of the Occupational Safety and Health Act of 1970 with regard to State standards found to be at least as effective as the comparable Federal standards contained in this Part and incorporated in Part 1910 of Title 29, Code of Federal Regulations, shall be deemed a variance action from the standard under both the Walsh-Healey Public Contracts Act and the Occupational Safety and Health Act of 1970.

(Secs. 1, 4, 49 Stat. 2036, 2038, as amended (41 U.S.C. 35, 38) Secs. 4, 6, 8, 18, 84 Stat. 1592, 1593, 1598, 1608 (29 U.S.C. 653, 655, 657, 667))

Signed at Washington, D.C., this 6th day of December 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-29292 Filed 12-16-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

[49 CFR Part 171]

[Docket No. HM-22; Notice No. 74-13]

TRANSPORTATION OF HAZARDOUS MATERIALS

Matter Incorporated by Reference

The Hazardous Materials Regulations Board of the Department of Transportation is considering amending § 171.7(d)(1) of the Hazardous Materials Regulations to update sections VIII (Division I) and IX of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

In order to maintain requirements of cargo tank specification MC 331 and portable tank specification DOT 51 current with the latest revisions in Title 49 CFR, the Compressed Gas Association, Inc., has petitioned the Board to effect this change.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 171 as follows:

In § 171.7, paragraph (d)(1) would be revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(1) ASME Code means sections VIII (Division I) and IX of the 1974 edition of the "American Society of Mechanical Engineers Boiler and Pressure Vessel Code," and addenda thereto through June 30, 1974.

* * * * *

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590. Communications received on or before March 4,

1975 will be considered before final action is taken on this proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, room 6215 Trans Point Building, Second and V Streets, SW., Washington, D.C., both before and after the closing date for comments.

(Transportation of Explosives Act (18 U.S.C. 831–835), sec. 6, Department of Transportation Act, (49 U.S.C. 1655); Title VI and sec. 902(h), Federal Aviation Act of 1958, (49 U.S.C. 1421–1430, 1472(h), 1655(c)))

Issued in Washington, D.C., on December 10, 1974.

W. J. BURNS,
Director, Office of Hazardous Materials.

[FR Doc.74-29286 Filed 12-16-74;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 74-10; Notice 8]

AIR BRAKE SYSTEMS

Postponement of Effective Dates

This notice proposes and requests comments on the postponing of the effective dates of Standard No. 121, *Air Brake Systems*, in light of the current economic situation.

Standard No. 121, 49 CFR 571.121, was originally proposed on June 25, 1970, 35 FR 10368, and June 26, 1970, 35 FR 10456, and issued in substantially its present form on February 25, 1971, 36 FR 3817. Several amendments have been made since that time: On February 24, 1972, 37 FR 3905; June 24, 1972, 37 FR 12495; January 3, 1974, 38 FR 804; May 17, 1974, 39 FR 17550; June 10, 1974, 39 FR 20360; and November 12, 1974, 39 FR 39880. As the rule presently stands, it will become effective on January 1, 1975, for trailers, and on March 1, 1975, for trucks and buses.

This agency has noted the worsening national economic situation, as evidenced by rising unemployment rates and declining levels of industrial production. The problems of the automotive and related industries have been especially noticeable, with major "ripple effect" consequences for the rest of the economy. At this time, the NHTSA has not drawn any conclusions as to the effect the imminently effective air brake standard will have on the national economy. This agency considers it in the public interest, however, to review the desirability of having the standard come into effect at this time, in light of the magnitude of the costs of complying with it. The NHTSA has previously concluded, of course, that the public benefits of the resulting improvements in braking capability would outweigh those costs. The purpose of this proposal is to elicit further information on the economic impact of Standard No. 121, both on individual companies and on the nation as a whole, specifically in light of the present economic situation.

In addition to comments on the general economic effect of the air brake standard, the NHTSA requests comments from companies that are directly affected by the standard, as equipment suppliers or vehicle manufacturers, distributors, dealers, or users. Questions of special interest are: What has been and what will be the effect on your company of Standard No. 121, assuming that it goes into effect as currently issued? What would be the effect on your company if the standard's effectiveness were postponed 3 months, 6 months, 1 year, or indefinitely? What action would your company take if the standard were postponed as above? Comments are particularly requested on the effect of these postponements on your organization with respect to sales, prices, employment, and outside procurement.

A decision on any postponement of the air brake standard's effectiveness will be made in light of the comments received in response to this notice. It is hereby proposed, as a set of rulemaking alternatives, that the effective dates of Standard No. 121, Air Brake Systems, 49 CFR 571.121, presently January 1, 1975, for trailers and March 1, 1975, for trucks and buses, with later effective dates for more specialized categories, be postponed for 3 months, 6 months, 1 year, or indefinitely.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: December 26, 1974.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on December 16, 1974.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.74-29483 Filed 12-16-74;10:17 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 306-6]

WYOMING

Approval and Promulgation of Implementation Plans

Revisions to the Legal Authority, Control Strategy, Public Availability of Emission Data, Review of New Sources, Compliance Schedule, and Source Surveillance portions of Wyoming's Implementation Plan.

On May 31, 1972 (37 FR 10842) pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved with specific exceptions, the Wyoming Plan for implementation of the national ambient air quality standards. On October 23, 1973 (38 FR 29296) and on July 3, 1974 (39 FR 24504) the Administrator approved supplemental information and plan revisions submitted by Wyoming.

On August 7, 1974, Wyoming submitted further revisions to its Implementation Plan. These revisions would amend the legal authority, control strategy, public availability of emission data, review of new sources, compliance schedule, and source surveillance portions of Wyoming's plan.

The Administrator has determined that the legal authority revisions satisfy the requirements of 36 FR 22393. Additionally, the Administrator has determined that the "Wyoming Environmental Quality Act, 1973" satisfies the requirements of 40 CFR 51.10(e) and 51.19 (a). The public is invited to submit written comments on whether the "Wyoming Environmental Quality Act, 1973" should be approved as satisfying the requirements as set forth above.

Wyoming also submitted the "Wyoming Air Quality Standards and Regulations, 1974" as an update to the regulatory portion of its plan. The regulations set forth a less stringent particulate matter control strategy applicable to beet pulp driers and a less stringent nitrogen dioxide control strategy applicable to new and existing oil fired fuel burning equipment. These proposed control strategies are only slightly less stringent than the currently effective control strategy and the emissions allowed under the proposed control strategies are consistent with the ambient air quality attainment dates set forth at 40 CFR 52.2628. Additionally, the regulations also set forth a nitrogen dioxide control strategy applicable to solid fossil fuel fired fuel burning equipment. This control strategy is consistent with the Standards of Performance set forth at 40 CFR 60.44(c).

Further, the "Wyoming Air Quality Standards and Regulations, 1974" set forth new source review requirements. The Wyoming new source review regulations satisfy the requirements of 40 CFR 51.18 for direct sources but not for indirect sources. Therefore, the

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regulations adopted by the Administrator on February 25, 1974 (39 FR 7270) and amended on July 9, 1974 (39 FR 25292) applicable to indirect sources will remain in effect. The public is invited to submit written comments on whether the "Wyoming Air Quality Standards and Regulations, 1974" should be approved.

Wyoming also submitted revisions to the compliance schedule portion of the state implementation plan. Sixteen variances were submitted, and of these, fifteen satisfy the requirements of 40 CFR Part 51 and are consistent with the approved control strategy. However, the variance issued to FMC's Coking Plant located at Kemmerer, Wyoming allows continued violation of approved particulate matter regulations without explicit requirements to achieve final compliance with the regulations. It does not, therefore, meet the requirements of 40 CFR 51.15. For this reason it is proposed that the FMC variance be disapproved.

Each proposed compliance schedule revision establishes a new date by which an individual air pollution source must comply with an emission limitation specified by the implementation plan. This date is indicated in the table below, under the heading, "Final Compliance Date." In some cases, the schedule includes incremental steps towards compliance. While the table below does not list those interim dates, the actual compliance schedule does.

Approval of any compliance schedule is solely on the basis that compliance is being required by the specified "Final Compliance Date," regardless of the method of control which is referenced by the schedule.

The proposed Wyoming revisions are available for public inspection at the office of the State Agency and at the offices of the Environmental Protection Agency listed below. Additionally, an evaluation of the compliance schedule and control strategy revisions is available at the offices of the Environmental Protection Agency listed below. In each case, the record of the appropriate public hearing has been reviewed and considered in the evaluation.

Wyoming Department of Environmental Quality
State Office Building
Cheyenne, Wyoming 82001

Environmental Protection Agency, Region VIII
Office of Public Affairs, Suite 900
1860 Lincoln Street
Denver, Colorado 80203

Environmental Protection Agency, Room 320
401 M Street SW
Washington, D.C. 20460

Interested persons are encouraged to submit written comments on any of the proposed revisions. Such comments will be accepted for consideration until January, 16, 1975. Comments should be addressed to John A. Green, Regional Administrator, Environmental Protection Agency, Suite 900, 1860 Lincoln Street, Denver, Colorado 80203. All comments will be available for public inspection during business hours at the Denver office noted above.

(Sec. 110, Clean Air Act (42 U.S.C. 1857c-5); 39 FR 15605)

Dated: December 2, 1974.

JOHN A. GREEN,
Regional Administrator,
Region VIII.

It is proposed to amend Part 52, Chapter I, Title 40, Code of Federal Regulations as follows:

Subpart ZZ—Wyoming

1. In § 52.2620, paragraph (d) is revised to read as follows:

§ 52.2620 Identification of Plan.

* * * * *

(d) Plan revisions were submitted on:
(1) February 9, March 1, April 18 and May 29, 1973; and
(2) August 7, 1974.

Wyoming

Source	Location	Regulations involved	Date of adoption	Effective date	Final compliance date
Pacific Power & Light	Glenrock	14 (b), (e), (h)	Feb. 28, 1973	Immediately	Sept. 1, 1976
Montana-Dakota Utilities	Sheridan	14 (b), (e), (h)	do	do	Dec. 31, 1976
Utah Power & Light	Kemmerer	14 (b), (e), (h)	do	do	Nov. 30, 1976
Black Hills Power & Light	Wyodak	14 (b), (e), (h)	do	do	May 15, 1977
Do	Osage	14 (b), (e), (h)	do	do	Do.
American Oil	Casper	14 (b), (e), (h)	Jan. 26, 1973	do	Jan. 31, 1974
Basins Engineering	Wheatland	14 (b), (e), (g), (g)	June 6, 1974	do	Apr. 5, 1974
Stauffer Chemical Co.	Green River	14 (b), (e), (f), (g)	do	do	Oct. 31, 1973
Do	Leefe	14 (b), (e), (f), (g)	Feb. 28, 1973	do	Dec. 31, 1975
Harold Division of National Lead	Osage	14 (b), (e), (f), (g)	Jan. 26, 1973	do	Do.
Do	Colony	14 (b), (e), (f), (g)	June 6, 1973	do	Mar. 1, 1974
Holly Sugar	Torrington	14 (b), (e), (f), (g)	do	do	Dec. 15, 1974
Do	Worland	14 (b), (e), (f), (g)	do	do	Do.
Reeves Concrete	Gillette	14 (b), (e), (f), (g)	Jan. 26, 1973	do	Dec. 1, 1973
Do	Sheridan	14 (b), (e), (f), (g)	do	do	Do.
Do	Buffalo	14 (b), (e), (f), (g)	do	do	Do.
American Colloid	Lovell	14 (b), (e), (f), (g)	June 6, 1974	do	Apr. 30, 1974
Star Valley Swiss Cheese	Thayne	14 (b), (e), (h)	Jan. 26, 1973	do	Dec. 31, 1973
Sheridan Commercial	Sheridan	14 (b), (e), (f), (g)	do	do	Do.
Federal Bentonite	Upton	14 (b), (e), (f), (g)	June 6, 1973	do	June 30, 1974
Do	Lovell	14 (b), (e), (f), (g)	do	do	Do.
Wyo-Ben Products	Greybull	14 (b), (e), (f), (g)	Jan. 26, 1973	do	Jan. 30, 1974
Do	Lovell	14 (b), (e), (f), (g)	June 6, 1974	do	Do.
FMC	Kemmerer	14 (e), (f), (g), (i)	Jan. 26, 1973	do	Oct. 1, 1973
Do	Green River	14 (b), (e), (f), (g)	June 6, 1974	do	Oct. 31, 1974
Gunn-Quealy Coal	Rock Springs	14 (b), (e), (f), (g)	do	do	Mar. 31, 1974
Allied Chemical	Green River	14 (b), (e), (f), (g)	do	do	Sept. 1, 1974
FMC Corp	Colony	14 (b), (e), (f), (g)	do	do	Oct. 31, 1974
Wyodak Resources Develop.	Gillette	14 (b), (e), (f), (g)	do	do	Feb. 28, 1974
Church & Dwight	Green River	14 (b), (e), (f), (g)	do	do	Nov. 1, 1973
Town of Byron	Byron	13	Jan. 26, 1973	do	July 1, 1974
Town of Chugwater	Chugwater	13	do	do	Do.
Town of Cowley	Cowley	13	do	do	Do.
Town of Lovell	Lovell	13	May 24, 1973	do	Do.
Big Horn County	Big Horn County.	13	Jan. 26, 1973	do	Do.

(b) The compliance schedule for the source identified below is disapproved as not meeting the requirements of § 51.15 of this chapter. All regulations cited are found in the "Wyoming Air Quality Standards and Regulations, 1974."

Source	Location	Regulations involved	Date of adoption
FMC	Kemmerer	14 (e), (f), (g), (i).	June 6, 1974

§§ 52.2623, 52.2624 and 52.2626 [Revoked]

2. Sections 52.2623, 52.2624 and 52.2626 are revoked.

§ 52.2625 [Amended]

3. In § 52.2625, paragraphs (a) and (b) are deleted and paragraphs (c) and (d) are redesignated (a) and (b), respectively.

4. In § 52.2627, paragraph (a) is revised and a new paragraph (b) is added. As amended, § 52.2627 reads as follows:

§ 52.2627 Compliance schedules.

(a) The compliance schedules for the sources identified below are approved as meeting the requirements of § 51.15 of this chapter. All regulations cited are found in the "Wyoming Air Quality Standards and Regulations, 1974."

§§ 52.2625–52.2629 [Redesignated]

5. Sections 52.2625, 52.2627, 52.2628 and 52.2629 are redesignated as §§ 52.2623, 52.2624, 52.2626 and 52.2625, respectively.

[FR Doc.74-30100 Filed 12-16-74;8:45 am]

[40 CFR Part 52]

[FRL 307-1]

PUERTO RICO

Approval of Compliance Schedules

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act (42 U.S.C. 1857c-5(a)) and 40 CFR 51, the Administrator of the Environmental Protection Agency (EPA) approved the implementation plan submitted by the Commonwealth of Puerto Rico for attainment and maintenance of national ambient air quality standards. On August 26, 1974 (39 FR 30833) the Administrator approved certain revisions to the implementation plan in the form of forty-seven compliance schedules applicable to sources located in the Commonwealth.

On September 10, 1973, December 6, 1973, February 7, 1974, June 11, 1974 and September 6, 1974 further proposed revisions to the approved implementation plan were submitted by the Commonwealth of Puerto Rico in the form of fifty-three compliance schedules covering additional sources located in the Commonwealth. Six of the fifty-three schedules were among the schedules approved on August 26, 1974. Set forth below are proposed regulations for approval of twenty-seven of the remaining compliance schedules.

These compliance schedules were adopted by Puerto Rico after notice and public hearings in conformity with the requirements of 40 CFR 51.4 and 51.6, as certified by supporting documents submitted by the Puerto Rico Environmental Quality Board. The Regional Administrator determined that a number of these schedules could not be approved as originally submitted by the Commonwealth, and requested that additional information be supplied relating to the technical validity of the abatement methods chosen, to the procedures employed in the adoption of these schedules by the Commonwealth, and to the enforceability of their terms. This information was received by EPA on February 1, February 12, March 13, March 15, March 20, June 11 and September 6, 1974. The Regional Administrator thereupon found these schedules to be approvable as consistent with the requirements of the Clean Air Act, 40 CFR Part 51, and Puerto Rico's approved control strategies. The Regional Administrator therefore proposes to approve these schedules in the form of the regulations set out below.

The date indicated for final compliance in many of these schedules will have passed by the time of their final approval. This fact is attributable to delays occasioned by the necessity of ministering to infirmities existing at the time of their initial submission. The Regional Administrator believes approval of these schedules to be nonetheless desirable in order to make the incremental and final compliance dates contained therein federally enforceable. This is considered appropriate inasmuch as each schedule reflects the consensus of EPA and the Puerto Rico Environmental Quality Board as to the abatement actions to be taken, and the date by which compliance should be achieved. Failure to approve these schedules would limit EPA to enforcement of the state implementation plan, the provisions of which were immediately effective as of the date of the plan's promulgation.

Each of these schedules will, when approved, establish a new date by which the source involved must comply with the applicable emission limitation provisions of the federally-approved state implementation plan. This date is indicated in the table below, under the heading "Final Compliance Date." Although not indicated in the table below, many of the schedules proposed to be approved contain interim dates for the achievement of various increments of progress which will become federally enforceable upon the final approval of the schedules. In no case do the final compliance dates fall beyond the April 30, 1975 date established in Puerto Rico's implementation plan for attainment of primary ambient air quality standards, nor is relaxation of any emission limitation or standard involved. Achievement of ambient air quality standards by the attainment date will therefore not be jeopardized by approval of these schedules.

Set forth in the table below is a column headed "Effective Date." This refers to the effective date of the schedules proposed to be approved for federal enforcement purposes. A notation of "Immediately" indicates that the schedule would be federally enforceable when final approval of the schedule is granted by EPA.

Copies of the compliance schedules proposed to be approved are available for public inspection at the offices of the Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007, the Puerto Rico Environmental Quality Board, 1550 Ponce de Leon Avenue, Santurce, Puerto Rico 00910, and the Division of Stationary Source Enforcement, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. In addition, personnel in the Regional Office are available to discuss the schedules with members of the public. Interested persons may participate in this rule making by submitting written comments in triplicate to Thomas F. Harrison, Esq., Chief, General Enforcement Branch, Enforcement and Regional Counsel Division, in care of the Region II Office at the above address. All comments postmarked on or before January 16, 1975, will be considered. All comments received, as well as copies of the Puerto Rico implementation plan, will be available for inspection during normal business hours at the Regional Office.

(42 U.S.C. 1857c-5(a))

Dated: December 3, 1974.

G. M. HANSLER,
Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart BBB—Puerto Rico

1. Section 52.2720 is amended by revising paragraph (c) as follows:

§ 52.2720 Identification of plan.

* * * * *

(c) Supplemental information was submitted by the Commonwealth of Puerto Rico Environmental Quality Board on:

(1) April 5, April 9, April 17, May 30, June 18, and September 10, 1973, and on February 1 and February 12, 1974.

(2) December 6, 1973, and on February 7, March 13, March 15, March 20, June 11 and September 6, 1974.

2. Section 52.2724 is amended by adding thereto, at paragraph (a), a list of compliance schedules as follows:

§ 52.2724 Compliance schedules.

* * * * *

(a) * * *

Source	Location	Regulations involved	Date of adoption	Effective date	Final compliance date
*	*	*	*	*	*
Union Carbide Grafito, Inc.	Yabucoa	5.1; 5.2	Feb. 22, 1974	Immediately	June 30, 1974
Hormigonera Mayaguezana	San Sebastian	5.1; 5.2	Aug. 8, 1973	do	Sept. 30, 1973
Do	Yapeo	5.1; 5.2	do	do	Do.
Do	San German	5.1; 5.2	do	do	Do.
Do	Cabo Rojo	5.1; 5.2	do	do	Do.
Do	Mayagues	5.1; 5.2	do	do	Do.
Do	Anasco	5.1; 5.2	do	do	Do.
San Juan Cement Co., Inc.	Dorado	5.1; 5.2; 5.5	Feb. 22, 1974	do	Do.
Rexach Concrete Corp.	Bayamon	5.1; 5.2	do	do	June 1, 1973
Puerto Rico Chemical Corp.	Arecibo	7.1	Jan. 23, 1974	do	June 1, 1974
Rexach Asphalt Corp.	Rio Piedras	5.1; 5.2; 5.5	May 20, 1974	do	Nov. 15, 1974
Sabari Estates, Inc.	Pinos	5.1; 5.2; 5.5	Feb. 22, 1974	do	Feb. 28, 1974
Ramos Hermanos, Inc.	Bayamon	5.1; 5.2; 5.5	do	do	Sept. 30, 1973
Terrazos Ponceños	Ponce	5.1; 5.5; 5.2	Sept. 21, 1973	do	June 6, 1973
Ponce Ready-Mix, Inc.	do	5.1; 5.2	Feb. 22, 1974	do	Aug. 30, 1973
Ready Mix Concrete, Inc.	Carolina	5.1; 5.2; 5.5	do	do	Sept. 15, 1973
Illumination Products, Inc.	Hato Rey	5.5; 7.4; 8	May 20, 1974	do	Jan. 31, 1974
Coop. Cafeteros de Ponce	Ponce	5.1; 5.2; 5.5	Feb. 22, 1974	do	May 31, 1974
Conrado Forestier, Inc.	Mayagues	5.1; 5.2; 5.5	Aug. 8, 1973	do	Aug. 31, 1973
Best Contracting Corp.	Rio Piedras	5.1; 5.2; 5.5	Feb. 22, 1974	do	Mar. 22, 1973
Cantera Ferrer, Inc.	Bayamon	5.1; 5.2; 5.5	do	do	Sept. 25, 1973
Tito Castro Ready Mix	Santa Isabel	5.1; 5.2	July 26, 1973	do	Aug. 22, 1973
Ponce Concrete	Ponce	5.5; 5.2; 5.1	Feb. 22, 1974	do	Nov. 10, 1973
Abbot Chemical	Catano	8	Sept. 4, 1974	do	Apr. 30, 1975
Cafe Crema Garrido	Caguas	5.5.8; 8	Aug. 27, 1974	do	Mar. 31, 1975
Asfalto Mayaguezano, Ins.	Mayaques	5.1; 5.2	Sept. 21, 1973	do	Sept. 30, 1973
Hormigonera Mayaguezana	Aguadilla	5.1; 5.2	Aug. 8, 1973	do	Do.

[FR Doc.74-29101 Filed 12-16-74;8:45 am]

[40 CFR Part 52]

[FRL 207-5]

VIRGINIA

Proposed Revision; Correction

On November 21, 1974 (39 FR 40871), the Administrator announced receipt and provided a 30 day comment period on proposed revisions to the Commonwealth of Virginia's Implementation Plan. The revisions consisted of outlining the procedures for the control and abatement of air pollution within the Commonwealth of Virginia, including procedures for application and review of indirect sources by the Commonwealth.

This notice is to announce an addition to the original FEDERAL REGISTER notice. Besides the proposed revision, the

analysis on which the review procedures are based is also available for public inspection and comment.

Because of this addition, comments regarding this proposal will be accepted up to January 16, 1974.

Copies of the proposed revision and the accompanying analysis are available for public inspection during normal business hours at the Offices of EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania, 19106; at the Office of the Virginia Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Virginia, 23219; and at the Freedom of Information Center, EPA, 401 M Street, SW., Washington, D.C. 20460. All comments should be addressed to the Director, Air and Hazardous Materials Division, Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania, 19106.

Dated: December 6, 1974.

DANIEL J. SNYDER III,
Regional Administrator.

[FR Doc.74-29246 Filed 12-16-74;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF DEFENSE

Department of the Army

ARMY SCIENTIFIC ADVISORY PANEL

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of committee: Army Scientific Advisory Panel.
Date: January 13-14, 1975.
Place: Vicksburg, Mississippi.
Time: 0755-1615 hours, January 13, 1975; 0755-1115 hours, January 14, 1975.
Agenda: Attached.

Any additional information concerning the meeting may be obtained from Dr. Marvin E. Lasser, Chief Scientist, Department of the Army, Executive Director, Army Scientific Advisory Panel, Washington, D.C. (202) 695-7487.

MARVIN E. LASSER,
Executive Director.

ASAP WINTER MEETING AGENDA—WATERWAYS EXPERIMENT STATION, VICKSBURG, MS JANUARY 13-14, 1975

MONDAY, JANUARY 13

0755-0810—Enroute Holiday Inn to WES by Bus.
0810-0815—Assembly.
0815-0820—Welcoming Remarks—COL. Hilt, Director.
0820-0835—Introduction—LTG Gribble, COE.
0835-0855—Military Construction—MG Rehh.
0855-0915—Facilities Engineering—BG Wray.
0915-0935—Civil Works—MG Morris.
0935-0955—Break.
0955-1045—The 1973 Mississippi Flood—MG Kelsch.
1045-1135—WES Orientation—COL Hilt, Director.
1135-1235—Lunch—WES Cafeteria.
1235-1345—Tour of WES—WES Staff.
1345-1505—Break.
1505-1515—Introduction to Corps of Engineers Laboratories—Mr. Taylor.
1515-1530—Coastal Engineering Research Center—(CERC)—Mr. Saville.
1530-1545—Cold Regions Research and Engineering Laboratory—(CRREL)—COL Crosby.
1545-1600—Construction Engineering Research Laboratory—(CERL)—Dr. Shaffer.
1600-1615—Engineer Topographic Laboratories—(ETL)—LTC Devereaux.
1615-1620—Board Bus for Holiday Inn.
1620-1635—Enroute WES to Holiday Inn by Bus.
1635-1745—Rest Stop at Holiday Inn.
1745-1800—Enroute Holiday Inn to City Waterfront by Bus.
1800-2100—Aboard the Mississippi for Dinner.
2100-2115—Enroute City Waterfront to Holiday Inn by Bus.

TUESDAY, JANUARY 14

0755-0810—Enroute Holiday Inn to WES by bus.
0810-0815—Assembly for Business Meeting.
0815-0820—Remarks—Panel Chairman, Mr. O'Neill.
0820-0835—Oral Report by Chairman of the Ad Hoc Group on Battlefield Effects, Dr. Gustavson, and Question Period.
0835-0850—Oral Report by Chairman of the Ad Hoc Group on Logistics R&D, Dean Fecham, and Question Period.
0850-0905—Oral Report by Chairman of the Ad Hoc Group on Environmental Quality Research, Dr. Beaudet, and Question Period.
0905-0920—Oral Report by Chairman of the Ad Hoc Group on Review of Instrumentation Capability at White Sands Missile Range, Dr. Reese, and Question Period.
0920-0935—Oral Report by Chairman of the Ad Hoc Group on Predicting Soldier Success, Dean Clark, and Question Period.
0935-0955—Break.
0955-1105—Feedback on Army Actions on Ad Hoc Group Reports on:
Review of Instrumentation capability at White Sands Missile Range—LTC Humphrey.
Product Improvement—LTC Holland.
Tactical Data System Software Development—LTC Salisbury.
Equipping the Individual Soldier—LTC Graham.
Non-Cooperative IFF—LTC Crawford.
Predicting Soldier Success—Mr. Emberton.
1105-1115—Administrative Announcements and Adjournment—Panel Chairman, Mr. O'Neill.

[FR Doc.74-30268 Filed 12-16-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

EASTERN BAND OF CHEROKEE INDIANS

Plan for the Use and Distribution of Judgment Funds Awarded Before Indian Claims Commission

DECEMBER 9, 1974.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use and distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated by the Act of October 31, 1972 (86 Stat. 1498), in satisfaction of an award granted to the Eastern Band of Cherokee Indians in Indian Claims Commission Dockets 282-A through L. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated July 8, 1974, and was received by the House of Representatives on July 10, 1974, and by the Senate on July 23, 1974. Neither House of Congress having adopted a resolution disapproving it, the plan became effective on October 10, 1974, as provided by section 5 of the 1973 act, supra.

The plan reads as follows:

The funds appropriated by the Act of October 31, 1972 (86 Stat. 1498), in satisfaction of a compromise award granted to the Eastern Band of Cherokee Indians in Dockets 282-A through L before the Indian Claims Commission, including all interest accrued, less attorney fees and litigation expenses, shall be used and distributed as herein provided:

The Secretary of the Interior (hereinafter 'Secretary') shall make a per capita distribution of one-hundred (100) percent of the judgment fund principal, and its accrued interest, in a sum as equal as possible to each member of the Eastern Band of Cherokee Indians, and to any person found by the Secretary to be eligible for membership in the tribe, who was born on or prior to and is living on the approval date of this plan. For purposes of distributing these funds membership in the Eastern Band of Cherokee Indians includes all individuals named on the roll of the Eastern Band of Cherokee Indians of North Carolina prepared and approved pursuant to the Act of June 4, 1924 (43 Stat. 376), and the Act of March 4, 1931 (46 Stat. 1518), and revised in accordance with the Act of August 21, 1957 (71 Stat. 374). Procedures for updating the tribal membership roll shall be implemented through the publication of rules and regulations in the FEDERAL REGISTER.

The Secretary, in arranging for the per capita payment to be made, shall withhold sufficient shares for individuals whose entitlement to tribal membership may be in question. These shares shall be held at interest in a separate individual Indian money account pending determination of enrollment appeals. Should any unclaimed or undeliverable per capita shares revert to the Eastern Band of Cherokee Indians pursuant to the Act of September 22, 1961 (75 Stat. 584), funds representing such shares shall be made available for general tribal purposes.

The portion per capita belonging to minors, legal incompetents, and deceased persons will continue to be invested and administered as individual Indian money until a suitable trust is developed and approved by the Secretary, or disposed of in accordance with Departmental regulations governing estates (43 CFR 4.200-4.297),

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whichever is applicable. The shares of competent living adults shall be paid directly to them.

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.74-29282 Filed 12-16-74;8:45 am]

Bureau of Land Management

GRAND JUNCTION DISTRICT ADVISORY BOARD

Notice of Meeting

DECEMBER 10, 1974.

Notice is hereby given that the Grand Junction District Advisory Board will meet December 19, 1974, begining at 9:00 a.m., in Room 322, Wayne Aspinall Federal Building, Grand Junction, Colorado.

The purpose of the meeting is to hear protests on adverse recommendations made during their regular meeting on November 14, 1974, consideration of applications received since the regular meeting, changes in class of livestock, FY '74 project work and restructuring of the Advisory Boards.

The meeting will be open to the public. Those members of the public wishing to make an oral statement should advise the Co-Chairman prior to the meeting to aid in scheduling the time available. Any interested person may file a written statement for consideration by the Board by sending it to the Co-Chairman, Grand Junction District Manager, P.O. Box 1509, Grand Junction, Colorado 81501.

DALE R. ANDRUS,
State Director.

[FR Doc.74-29322 Filed 12-16-74;8:45 am]

[Tentative Sale #45]

SOUTHEASTERN BERING SEA OUTER CONTINENTAL SHELF

Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Pursuant to the authority prescribed in 43 CFR 3301.3 (1973), nominations are hereby requested for areas in the Southeastern Bering Sea Outer Continental Shelf (OCS) for possible oil and gas leasing under the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343 (1970)). Nominations will be considered for any or all of the following mapped areas:

OCS OFFICIAL PROTRACTION DIAGRAMS

1. NO 2-6	3. NN 3-1
2. NO 3-7	4. NN 2-2

These four protraction diagrams are new diagrams, the publication and availability of which are hereby announced. These diagrams may be purchased for $2.00 each from the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510. The street address is 800 A Street, Anchorage, Alaska. All nominations must be described in accordance with the Outer Continental Shelf Official Protraction Diagrams prepared by the Bureau of Land Management, Department of the Interior and referred to above. Only whole blocks or properly described subdivisions thereof, not less than one quarter of a block, may be nominated.

In addition to requesting nominations of tracts for possible oil and gas leasing within the specified areas, this notice also requests particular geological, environmental, biological, archaeological, socioeconomic or other information which might bear upon potential leasing and development within this general area—that is, if information indicates that particular tracts should not be offered for lease, this information should be supplied. Information on these subjects will be used in the preliminary selection of tracts leading to a final selection by the Director pursuant to 43 CFR 3301.4. This information is requested from Federal, State and local governments; industry; universities; research institutes; environmental organizations; and members of the general public. Comments may be submitted on blocks or subdivisions thereof, as required for nominations, or on all areas or portions thereof as described above. They should be directed to specific factual matters which bear upon the Department's decision whether to make a preliminary selection of particular tracts within these areas for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347 (1970)) and possible leasing. Comments relating to general matters which would be applicable to oil and gas operations in any part of the OCS are not sought at this time.

Nominations and comments must be submitted not later than January 20, 1975, in envelopes labeled "Nominations of Tracts for Leasing on the Outer Continental Shelf — Southeastern Bering Sea" or "Comments on Leasing on the Outer Continental Shelf—Southeastern Bering Sea," as appropriate. They must be submitted to the Director, Attention 720, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240. Copies must be sent to the Area Oil and Gas Supervisor, Geological Survey, P.O. Box 259, Anchorage, Alaska 99510, and to the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management at his address cited above.

This call for nominations and comments does not in any way commit the Department to leasing in the Southeastern Bering Sea. It is an information gathering component of the Department's leasing procedure.

Final selection of tracts for competitive bidding will be made only after compliance with established Departmental procedures and all requirements of the National Environmental Policy Act of 1969. Notice of any tracts finally selected for competitive bidding will be published in the FEDERAL REGISTER stating the conditions and terms for leasing and the place, date and hour at which bids will be received and opened.

CURT BEAKLUND,
Director, Bureau of Land Management.

Approved: December 13, 1974.

JOHN C. WHITAKER,
Acting Secretary of the Interior.

[FR Doc.74-29376 Filed 12-16-74;8:45 am]

Office of Hearings and Appeals

[Docket No. M 75-60]

BIG FOUR COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Big Four Coal Company has filed a petition to modify the application of 30 CFR 75.1405 to its Mine No. 1, Duff, Tennessee.

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

In support of its petition, Petitioner states:

(1) Petitioner has attempted to find automatic couplers and cars equipped with automatic couplers, but has been unsuccessful.

(2) As an alternative to the installation of automatic couplers, Petitioner proposes to install link-and-pin couplers on its mine cars. These couplers will enable Petitioner's miners to couple and uncouple cars without the necessity of the miners physically positioning themselves between the ends of the cars.

The petition is supported by a schematic diagram detailing the alternate method.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 16, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

DECEMBER 9, 1974.

[FR Doc.74-29281 Filed 12-16-74;8:45 am]

[Docket No. M 75-4]

NORTH AMERICAN COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), The North American Coal Corporation has filed a petition to modify the application of 30 CFR 75.1405 to its Powhatan No. 3 Mine located in Mead Township, Belmont County, Ohio.

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

In support of its petition, Petitioner states: The haulage system at the subject mine incorporates both track and belt haulage systems. Mine cars at this mine are five-ton cars supplied by American Car Foundry and Watt Car. Supply cars are of similar construction but are modified to haul supplies by cutting the sides and/or ends away. Mine cars are loaded at automatic loading stations and pulled by locomotives in trips of up to 39 cars to the River Bottom dump where the coal is transported up the slope by belt to the cleaning plant.

Supply cars are loaded outside at the Jacobsburg Portal and dropped into the mine via a 886' slope with a 18½° pitch. Supplies are then pulled on rail by locomotive to areas of the mine as needed.

The alternate coupling method requested in this petition will provide greater protection for the miners than the automatic couplers required by 30 CFR 75.1405 by eliminating the accidental uncoupling of cars which frequently occurs when the track or mine bottom is uneven. The alternate method will also eliminate the hazard of the cars uncoupling as they are dropped down the slope into the mine. It will also obviate need for persons to go between the cars to align the automatic couplers when they are out of alignment. It is a matter of record there have been numerous accidents and some fatalities directly attributable to automatic couplers since this standard was written into the Act in 1969.

Petitioner's alternate system consists essentially of a lever attached to the coupling pin which is encased in a slotted cylinder allowing the pin to drop into the coupling link and automatically lock. Where necessary a specially designed hook will be used to remotely align the link.

A training and re-training program will be initiated in which all personnel will be properly trained in the operation of this coupling device and a record kept of this training.

This alternate method of coupling is similar to the system approved by the Board of Mine Operations Appeals for the Blueboy Mine of the Hawley Fuel Corporation of Landgraff, W. Va., whose operations Petitioner recently had occasion to visit.

The petition is supported by two schematic diagrams detailing Petitioner's alternate method.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 16, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

DECEMBER 9, 1974.

[FR Doc.74-29279 Filed 12-16-74;8:45 am]

[Docket No. M 74-84]

UNITED STATES FUEL CO.

Amendment to Petition[1] for Modification of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), United States Fuel Company has filed a second amended petition to modify the application of 30 CFR 75.1405 to its King Mine located at Hiawatha, Utah.

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

In support of its second amendment to the petition, Petitioner states:

• • • petitioner is agreeable upon the approval of this petition to supplement its proposed system with the following devices and means • • •:

(1) Each mine supply car will be provided with a lever system permanently mounted on the front end of the car. The lever system will enable a worker to lift the pin from the car bumper sufficiently to disengage the link which couples that car with the front end of the adjacent car. The lever will then be latched by a cam-stop welded on the end of the mine car so that the pin is maintained in an "up" position until there is occasion to use the lever again to drop the pin for coupling. The lever will extend towards the side of the car and will be of such length as to obviate the worker placing himself between the two mine cars.

(2) Workers who have occasion to couple mine cars will be furnished a positioning tool which will be used to position the link on the rear end of a mine car so that the pin from the front of the adjacent mine car may be dropped into position by use of the aforesaid lever. This positioning tool will also be of such length as to obviate any necessity for any worker to position himself between cars which are being coupled.

The coupling-uncoupling lever and the positioning tool have been designed and these designs have been evaluated by M.E.S.A. representatives and U.M.W.A. officers of Local 6363.

(3) All workers will be trained and instructed in the proper operation and use of the coupling lever and positioning tool and their proper use will be mandatory requirements for coupling and uncoupling of all mine cars at this mine. More specifically in this regard:

(a) All employees at this mine will, by February 1, 1975, be instructed regarding the function and use of the coupling lever and link aligner.

(b) Thereafter, any new employee hired at this mine will be given instruction on the function and use of the coupling lever and hand link aligners as part of his orientation before he commences actual work.

(c) This instruction of employees will again be repeated at six-month intervals. The first of such reinstruction shall be given during the first three work days in June, 1975, the next during the first three work days in December, 1975, etc. Employees absent from work during these periods will be reinstructed within the first five work days after they return to work.

(d) The Company will maintain a record of the names and dates when each mine employee received this instruction and reinstruction.

The aforesaid alternate system for coupling and uncoupling mine cars will at all times guarantee to the miners in this mine no less than the same measure of protection sought to be accomplished by a requirement for automatic couplers.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 16, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 6432 Federal Building, Salt Lake City, Utah 84138. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

DECEMBER 9, 1974.

[FR Doc.74-29280 Filed 12-16-74;8:45 am]

Office of the Secretary

EVAN W. JAMES

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place

[1] Petitioner's original petition appeared in FEDERAL REGISTER, Vol. 39, No. 82—Friday, April 26, 1974, at 14784.

Petitioner's first amendment to the original petition appeared in FEDERAL REGISTER, Vol. 39, No. 133—Wednesday, July 10, 1974, at 25372.

in my financial interests during the past six months:

(1) No change.
(2) Purchased additional shares of Crown Zellerbach, Lord Abbott Fund, Potomac Electric Company, Wisconsin Electric Power Company and Wisconsin Public Service Corporation Common Stock.
(3) No change.
(4) No change.

This statement is made as of October 29, 1974.

Dated: October 29, 1974.

EVAN W. JAMES.

[FR Doc.74-29283 Filed 12-16-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN STANDARDS

Nebraska Grain Inspection Point

Notice is hereby given pursuant to § 26.99 of the regulations (7 CFR 26.99) under the U.S. Grain Standards Act (7 U.S.C. 71 et seq.) that on October 23, 1974, there was published in the FEDERAL REGISTER (39 FR 37657) a notice announcing a request by the Hastings Grain Inspection, Inc., Hastings, Nebraska, that its assignment of inspection points be amended to add Kearney, Nebraska, as a designated inspection point. Interested persons were given until November 22, 1974, to submit written views and comments with respect to the proposed amendment fo assignment.

No comments were received with respect to the October 23, 1974, notice in the FEDERAL REGISTER. After due consideration of market needs and circumstances and other material available to the Department, the assignment of Hastings Grain Inspection, Inc., Hastings, Nebraska, is amended to add Kearney, Nebraska, as a designated inspection point.

(Sec. 7, 39 Stat. 482, as amended 82 Stat. 764; 7 U.S.C. 79(f); 37 FR 28464 and 28476)

Effective date. This notice shall become effective December 17, 1974.

Done in Washington, D.C. on December 11, 1974.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.74-29231 Filed 12-16-74;8:45 am]

Forest Service

JUNIPER HUGHES & PATS ISLANDS UNIT PLAN

Availability of Final Environmental Statement

Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Juniper-Hughes and Pats Islands Unit Plan, Ocala National Forest, USDA-FS-R8-FES (ADM.)-74-37.

This environmental statement concerns the proposed 10-year plan for the Juniper-Hughes and Pats Islands Unit on the Lake George Ranger District, Ocala National Forest. The Unit contains approximately 20,000 acres of National Forest land in Marion and Lake Counties, Florida.

Management direction includes timber management and stand improvement, recreation and wildlife management, environmental protection and management of support services (transportation, utilities, fire control, safety, law enforcement, etc.)

This final environmental statement was filed with CEQ December 6, 1974. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Rm. 3230
12th St. & Independence Ave., SW
Washington, D.C. 20250

USDA, Forest Service
1720 Peachtree Rd., NW, Rm. 804
Atlanta, Georgia 30309

USDA, Forest Service
District Ranger
Lake Georgia Ranger District
Ocala, Florida 32670

A limited number of single copies are available upon request to Forest Supervisor B. Frank Finison, National Forests in Florida, 214 South Bronough St., Tallahassee, Florida 32302.

Dated: December 6, 1974.

DAVID F. JOLLY,
Regional Environmental Coordinator.

[FR Doc.74-29244 Filed 12-16-74;8:45 am]

Packers and Stockyards Administration

DOTHAN LIVESTOCK AUCTION, INC.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. et seq.), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility No., name, location of stockyard, and date of posting

ALABAMA

AL-159 Dothan Livestock Auction, Inc., Dothan, October 17, 1974.
AL-157 Casey Stock Yard, Inc., Montgomery, October 21, 1974.

KENTUCKY

KY-159 Washington County Livestock Center, Inc., Springfield, November 29, 1974.

MINNESOTA

MN-165 Wisconsin Feeder Pig Marketing Cooperative, Perham, September 9, 1974.

MISSISSIPPI

MS-155 Mid-Miss. Livestock Co., Canton November 24, 1974.

MISSOURI

MO-238 Southwest Feeder Pig Market, Inc., Nixa, November 25, 1974.

TEXAS

TX-307 Bode's Livestock Commission Company, Milano, November 12, 1974.

WEST VIRGINIA

WV-118 United Livestock Sales Company, Parkersburg, October 21, 1974.

Done at Washington, D.C., this 9th day of December 1974.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.74-29186 Filed 12-16-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

FLORIDA STATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 74-00461-33-46040. Applicant: Florida State University, Department of Biological Sciences, Tallahassee, Florida 32306. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article is intended for the following research projects:

(1) The study of synaptogenesis in the developing nervous system of cephalopods.

(2) High resolution autoradiography for the study of the neurogenetic patterns in the olfactory system of frog and rat.

(3) Ultrastructural studies on the degenerative-regenerative patterns in the olfactory system of frog and rat.

(4) The comparative ultrastructural make up of the vertebrate olfactory mucosa.

(5) Interreceptor contracts in the olfactory mucosa of mammals.

(6) Study of sensory structures in Schistosome cicarine.

(7) Ultrastructural studies of degenerative patterns in the thalamic nuclei of cat.

(8) Morphology and ultrastructure of Bacillariophytes.

(9) Ultrastructural studies of axon membranes in different functional conditions.

(10) Chemical and electrical synapti contacts in the taste buds of rat.

(11) Fine structure of the capitular filaments of the coenocytic green alga *Penicillus capitatus;* Fine structural aspects of the development of juvenile plants in Penicillus capitatus; and Fine structure of the fungus-alga association in *Cladophora Fuligmosa*. The article will also be used in the following teaching programs:

(1) Bio 339—Submicroscopic anatomy of vertebrates organs and tissues.

(2) Bio 406—Neurobiology.

(3) Bio 608—Advanced Neurology.

Comments: No comments have been received with respect to this application.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Number 74-00126-33-46040 which was denied without prejudice to resubmission on February 4, 1974 for informational deficiencies.

In reply to Question 8 the applicant alleged that compatibility in the article for a eucentric goniometer stage (with 360° rotation and ±60° eucentric tilting plus heating and cooling capabilities) is pertinent to his purposes.

The Department of Health, Education, and Welfare (HEW) reviewed this application and compared the alleged pertinent feature with that of the most closely comparable domestic instrument, the Model EMU-4C currently supplied by the Adam David Company.

HEW advises in its memorandum dated July 26, 1974, that the uses for the foreign article by the applicant indicate some needs for a tilt stage, a feature available with the EMU-4C, but do not establish a consistent requirement for the eucentric goniometer. Moreover, HEW advises that such a goniometer was not ordered with the article, and, therefore, cannot be considered in the determination of scientific equivalency according to §§ 701.2(d) and 701.6(a)(3) of the regulations. Finally, HEW notes that a Philips EM 300 equipped with a goniometer is currently in the same facility as the article and can fill any occasional need for a special stage or camera.

HEW concludes that the EMU-4C is scientifically equivalent to the foreign article because the description of research and teaching provided by the applicant does not establish a pertinent characteristic for the article that upholds duty-free treatment. For these reasons, we find that the Model EMU-4C is of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director, Special Import Programs Division.

[FR Doc.74-29261 Filed 12-16-74;8:45 am]

INDIANA STATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 71-00444-33-46040. Applicant: Indiana State University, Evansville Campus, Highway 62, Evansville, Ind. 47712. Article: Electron Microscope, Model HU-125E and Accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for research projects concerning the ultrastructure of mastigont structures of *Trichomonas suis* and analysis of subunit structure of the fibrillar envelope of the costa of *Trichomonas suis*. The courses in which the electron microscope will be used are General Biology I and II, Genetics, General Physiology, Histology and Microtechnique, and Special Problems.

Comments: Comments have been received from one domestic manufacturer, Forgflo Corporation (Forgflo), which alleges, inter alia, that its Model Paragon is "of equivalent scientific value to the instrument for which duty-free entry has been requested for the purposes stated in the application for which the instrument is intended to be used."

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used was being manufactured in the United States at the time the applicant ordered the foreign article (December 10, 1969).

Reasons: (1) The foreign article provides a guaranteed accelerating voltage of 125 kilovolts (kv). At the time the article was ordered comparable electron microscopes were produced in the United States by only one manufacturer, Forgflo Corporation (Forgflo). Forgflo comments that the Model Paragon electron microscope exceeds this capability of the foreign article. However, the Paragon was not announced until September, 1970; and Forgflo's Model EMU-4C was not announced until May 1970. At the time the foreign article was ordered, the most closely comparable domestic instrument available was the Forgflo Model EMU-4B which was formerly manufactured by the Radio Corporation of America (RCA). The Model EMU-4B had a guaranteed maximum accelerating voltage of 100 kv. Higher accelerating voltages provide proportionally greater penetration of the electron beam thereby permitting thicker specimens to be examined under the electron microscope. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated July 9, 1971 that 125 kv accelerating voltage is pertinent to the applicant's studies on fibrillar components of a Trichomonas that will require examination of relatively thick sections. (2) The foreign article has a guaranteed limiting resolution, i.e., resolving power of 3.5 Angstroms. The Model EMU-4B had a guaranteed resolving power of 5 Angstroms. Resolving power bears an inverse relationship to its numerical rating in Angstrom units, i.e., the lower the rating, the better the resolving power. HEW advises in the above memorandum that the "best resolution available" is pertinent to the applicant's study of the subunit structure of the fibrillar envelope of the Trichomonas.

For the foregoing reasons, we find that the Model EMU-4B electron microscope was not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director, Special Import Programs Division.

[FR Doc.74-29263 Filed 12-16-74;8:45 am]

UNIVERSITY OF TEXAS, EL PASO

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 74-00184-33-46040. Applicant: The University of Texas at El Paso, Biological Sciences Department, El Paso, Texas 79968. Article: Electron Microscope, Model EM 10. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to examine a wide variety of biological materials including bacteriophages, bacteria, algae, fungi, xerophytic and mesophytic plant tissues, invertebrate and vertebrate tissues. Experiments to be conducted include:

A. Morphological studies of negative stained preparations of recently isolated new bacteriophages.

B. Ultrastructural studies of new species of chemo-synthetic bacteria compared to established species.

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C. Morphological studies of new species of diatoms.

D. A comparison of ultra-thin sections of fungi prepared for the detection of malate synthetase with freeze-etch preparations of microbodies in the same tissue.

E. Detection of synaptonemal complexes and division apparati in ultra-thin sections of fungi.

F. High resolution EM studies of the possible role of the Golgier complex in fungal wall formation.

G. Comparison of chloroplasts from xerophytic plants with chloroplasts from mesophytic plants.

H. Morphologic characteristics of new trematode species.

I. Combined autoradiography — EM studies of thin sections of mouse uterus and intestine to determine correlations between the structure of the parcoplasmic reticulum and caveolae intracelluiares treated with epinephrine, acetylcholine and oxytocin.

J. Combined autoradiography — EM studies of embryonic mouse tissues at various prepartum ages under in vivo conditions.

K. Fine-structural studies of changes in microtubules and microfilaments during secretion of acetylcholine in mouse neurons.

Comments: Comments dated December 18, 1974 have been received from the Adam David Company which allege, inter alia, that its EMU–4C with additions is equivalent to the foreign article.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (September 13, 1973).

Reasons: The foreign article has a specified resolving capability of 3.5 Angstroms point-to-point. The most closely comparable domestic instrument available at the time the article was ordered was the Model EMU–4C electron microscope, formerly manufactured by the Forgflo Corporation and currently supplied by the Adam David Company, with a specified resolving capability of 5 Angstroms.

We are advised by the Department of Health, Education, and Welfare in its memorandum dated August 7, 1974 that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU–4C was not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director, Special Import Programs Division.

[FR Doc.74-28293 Filed 12-13-74;8:45 am]

National Oceanic and Atmospheric Administration

SEA-ARAMA MARINEWORLD

Issuance of Permit for Marine Mammals

On September 17, 1974, notice was published in the FEDERAL REGISTER (39 FR 33387) that an application had been filed with the National Marine Fisheries Service by Sea-Arama Marineworld, Seawall Boulevard at 91st Street, P.O. Box 3068, Galveston, Texas 77550, for a public display permit to take two (2) false killer whales (*Pseudorca crassidens*) or two (2) short-finned pilot whales (*Globicephala macrorhyncha c.f. scammoni*) or one (1) killer whale (*Orcinus orca*) for the purpose of public display.

Notice is hereby given that, on December 5, 1974 and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit to Sea-Arama Marineworld for two Cetacea, either false killer whales or short-finned pilot whales.

Sea-Arama Marineworld was denied a permit to take one (1) killer whale (*Orcinus orca*) on the basis that holding a single individual marine mammal of a species such as killer whales would not be conducive to the good health and well-being of that animal. The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235; the Office of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702; and the Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 5, 1974.

JACK W. GEHRINGER,
Acting Director, National Marine Fisheries Service.

[FR Doc.74-28305 Filed 12-16-74;8:45 am]

SOUTHWEST FISHERIES CENTER

Issuance of Permit for Marine Mammals

On August 23, 1974, notice was published in the FEDERAL REGISTER (39 FR 30533), that an application had been filed by the Southwest Fisheries Center, National Marine Fisheries Service, La Jolla, California 92037, for a permit to conduct the following activities:

1. Take, tag and release up to 750 each year of the following:

a. Spotted dolphin (*Stenella attenuata*);
b. Spinner dolphin (*Stenella longirostris*);
c. Striped dolphin (*Stenella caeruleoalba*);
d. Common dolphin (*Delphinus delphis*);
e. Bottlenosed dolphin (*Tursiops truncatus*);
f. Fraser's dolphin (*Lagenodelphis hosei*);
g. Rough-toothed dolphin (*Steno bredanensis*);
h. Pygmy killer whale (*Feresa attenuata*); and
i. Melon-head whale (*Peponocephala electra*).

2. Collect and/or import an unspecified number of biological specimens and carcasses of animals of the above mentioned species which are killed incidental to commercial tuna fishing operations;

3. Collect an unspecified number of stranded animals of the above mentioned species which are found dead on the beaches of the State of California.

Notice is hereby given that, on December 11, 1974, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit to the Southwest Fisheries Center, National Marine Fisheries Service, subject to certain conditions set forth therein.

The Permit authorizes the requested taking and importing of incidentally killed animals, the requested taking of dead stranded animals, and the tagging, annually, of the following animals:

1. Spotted dolphin—750;
2. Spinner dolphin—750;
3. Striped dolphin—50;
4. Common dolphin—250;
5. Bottlenosed dolphin—100;
6. Fraser's dolphin—50;
7. Rough-toothed dolphin—50;
8. Pygmy killer whale—50;
9. Melon-head whale—50.

The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and the Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 11, 1974.

JACK W. GEHRINGER,
Acting Director, National Marine Fisheries Service.

[FR Doc.74-28304 Filed 12-16-74;8:45 am]

Office of the Secretary

CTAB PANEL ON PROJECT INDEPENDENCE BLUEPRINT

Meeting

The Panel on Project Independence Blueprint was formed under the U.S. Department of Commerce Technical Advisory Board (CTAB) to provide the Secretary an assessment of the feasibility of the actions and policies resulting from the Project Independence Blueprint. This notice provides the schedule for the following meetings.

Date	Time	Purpose	Meeting place
Jan. 21, 1975	8:30 a.m. to 5 p.m.	To review the draft final report of the projects energy study.	Suite 210, 1522 K St. NW., Washington, D.C.
Jan. 22, 1975	do	do	Do.
Jan. 24, 1975	do	do	Do.

A limited number of seats will be available to the press and to the public. Written statements or inquiries may be filed with the Chairman before or after any of these meetings.

Persons desiring further information on the Panel or on individual meetings should contact Mr. Frank Castellon, Suite 210, 1522 K Street, NW., Washington, D.C. 20005.

Dated: December 12, 1974.

BETSY ANCKER-JOHNSON,
Assistant Secretary of Commerce for Science and Technology.

[FR Doc.74-29329 Filed 12-16-74;8:45 am]

CTAB PANEL ON PROJECT INDEPENDENCE BLUEPRINT

Meetings

The Panel on Project Independence Blueprint was formed under the U.S. Department of Commerce Technical Advisory Board (CTAB) to provide the Secretary an assessment of the feasibility of the actions and policies resulting from the Project Independence Blueprint. This notice provides the schedule for the following meetings.

Date	Time	Purpose	Meeting place
Jan. 20, 1975	8:30 a.m. to 5 p.m.	Subcommittee on Flue Gas Desulfurization.	Room 3708, Main Commerce Bldg., Washington, D.C.
Jan. 21, 1975	do	do	Do.
Jan. 22, 1975	do	do	Do.
Jan. 23, 1975	do	do	Do.

A limited number of seats will be available to the press and to the public. Written statements or inquiries may be filed with the Chairman before or after any of these meetings.

Persons desiring further information on the Panel or on individual meetings should contact Dr. Bruce B. Robinson, Room 3877, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

Dated: December 12, 1974.

BETSY ANCKER-JOHNSON,
Assistant Secretary of Commerce for Science and Technology.

[FR Doc.74-29328 Filed 12-16-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Notice of Meetings

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the Food and Drug Administration announces the following public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a)(1) and (2) of the act:

Committee name	Date, time, place	Type of meeting and contact person
1. Panel on Review of Viral Vaccines and Rickettsial Vaccines.	January 6 and 7, 9 a.m., Room 121, Bldg. 29, National Institutes of Health, 8600 Rockville Pike, Bethesda, Md.	Open January 6, 9 a.m. to 10 a.m., closed January 6 after 10 a.m., closed January 7. Jack Gertzog (HFB-5), 8800 Rockville Pike, Bethesda, Md. 20014, 301-496-1676.

Purpose. Advises the Commissioner of Food and Drugs on the safety and effectiveness of viral vaccines and rickettsial vaccines and combinations thereof; reviews and evaluates available data concerning the safety, effectiveness, and adequacy of labeling of currently marketed biological products consisting of live, attenuated virus, inactivated virus, or killed inactivated rickettsial microorganisms, used either singly or in combination, to prevent a variety of specific infectious diseases in man caused by viral or rickettsial microorganisms.

Agenda. Open session: Previous minutes, communications received, and comments and presentations by interested persons. Closed session: Continued review of products in this category.

Committee name	Date, time, place	Type of meeting and contact person
2. Panel on Review of Vitamin, Mineral and Hematinic Drug Products.	January 6 and 7, 9 a.m., Room 1409, FB-6, 200 C St. SW., Washington, D.C.	Closed January 6, 9 a.m. to 1:30 p.m., open January 6, 1:30 p.m. to 3 p.m., closed January 6 after 3 p.m., closed January 7. Thomas DeCillis (HFD-100), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4060.

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Purpose. Reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed nonprescription vitamin, mineral, and hematinic drug products, and the adequacy of their labeling.

Agenda. Closed session: Continuing review of over-the-counter vitamin, mineral, and hematinic drug products under investigation. Open session: Comments and presentations by interested persons; "The Impact of Some Specific Drugs on Vitamins" by Daphne Roe, M.D.; and "Metabolism and Requirements of Some Trace Minerals in Man" by Harold Sandstead, M.D.

Committee name	Date, time, place	Type of meeting and contact person
3. Panel on Review of Skin Test Antigens.	January 10 and 11, 9 a.m., Room 121, Bldg. 29, National Institutes of Health, 8900 Rockville Pike, Bethesda, Md.	Open January 10, 9 a.m. to 10 a.m., closed January 10 after 10 a.m., closed January 11. Clay Slak (HFB-5), 8900 Rockville Pike, Bethesda, Md. 20014, 301-496-2982.

Purpose. Reviews and evaluates available data concerning the safety, effectiveness, and adequacy of labeling of currently marketed biological products which are used in diagnostic substances for dermal tests.

Agenda. Open session: Presentation of previous minutes, communications received, and comments and presentations by interested persons. Closed session: Continuing review of skin test antigens under investigation.

Committee name	Date, time, place	Type of meeting and contact person
4. Panel on Review of Antimicrobial Agents.	January 10, 11, and 12, 9 a.m., Conference Room D, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open January 10, 9 a.m. to 10 a.m., closed January 10, after 10 a.m., closed January 11 and 12. Armond M. Welch, (HFD-109) 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available information concerning the safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing antimicrobial agents.

Agenda. Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter antimicrobial agent drug products under investigation.

Committee name	Date, time, place	Type of meeting and contact person
5. Joint meeting of the Panel on Review of Miscellaneous External Drug Products and the Panel on Review of Miscellaneous Internal Drug Products.	January 13, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—Michael D. Kennedy or Armond Welch, (HFD-109) 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available data concerning the safety and effectiveness of active ingredients of currently marketed nonprescription miscellaneous external and internal drug products.

Agenda. Orientation briefings and comments and presentations by interested persons.

Committee name	Date, time, place	Type of meeting and contact person
6. FDA/NIDA Drug Abuse Research Advisory Committee.	January 13 and 14, 1 p.m., Conference Room 878, Rockwall Bldg., 11400 Rockville Pike, Rockville, Md.	Open January 13, closed January 14. John A. Scigliano, Ph.D. (HFD-120), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3694.

Purpose. Advises FDA on action to be taken on Notices of Claimed Investigational New Drugs for substances with abuse potential; advises NIDA on supplies of substances for clinical studies, quantities of substances for animal and in vitro studies beyond the maximum amount available by NIDA staff action, and requests for any amount of substances that involve protocols containing unique problems.

Agenda. Open session: Review of minutes of August 8 and 9, 1974 meeting; marijuana-human use guidelines; scientific review of IND applications; recording of proceedings of advisory committee meeting, "Conflict of Interest" and administrative procedures for consultants. Closed session: Review of clinical research protocols, synthesis of delta-9-THC.

Committee name	Date, time, place	Type of meeting and contact person
7. Panel on Review of Bacterial Vaccines and Toxoids.	January 13 and 14, 9 a.m., Room 121, Bldg. 29, National Institutes of Health, 8900 Rockville Pike, Bethesda, Md.	Open January 13, 9 a.m. to 10 a.m., closed January 13 after 10 a.m., closed January 14. Jack Gertzog (HFB-5), 8900 Rockville Pike, Bethesda, Md. 20014, 301-496-1670.

Purpose. Advises the Commissioner of Food and Drugs on the safety and effectiveness of bacterial vaccines and toxoids with standards of potency.

Agenda. Open session: Previous minutes, communications received, and comments and presentations by interested persons. Closed session: Continuing review of bacterial vaccines and toxoids under investigation.

Committee name	Date, time, place	Type of meeting and contact person
8. Panel on Review of Dentifrices and Dental Care Agents.	January 15 and 16, 9 a.m., Conference Room H, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open January 15, 9 a.m. to 10 a.m., closed January 15 after 10 a.m., closed January 16. Michael D. Kennedy (HFD-109), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available information concerning the safety and effectiveness of active ingredients of currently marketed nonprescription drug products for human use containing dentifrices and dental care agents.

Agenda. Open session. Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter dentifrices and dental care agent drug products under investigation.

Committee name	Date, time, place	Type of meeting and contact person
9. Oncologic Drugs Advisory Committee.	January 16 and 17, 9 a.m., Conference Room L, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open January 16, 9 a.m. to 10 a.m., closed January 16 after 10 a.m., closed January 17. Cyrus H. Maxwell, M.D. (HFD-150), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4290.

Purpose. Reviews and evaluates all available data concerning the safety and effectiveness of presently marketed new prescription drug products proposed for marketing for the treatment of cancer.

Agenda. Open session: Discussion of cancer chemotherapy guidelines; combination chemotherapy with drugs from various manufacturers and investigational drugs supplied by the National Cancer Institute; approval of new drug applications; and discussion of immunology-immunotherapy. Closed session: Discussion of IND 3946, IND 4756, IND 8228, and IND 10578.

Committee name	Date, time, place	Type of meeting and contact person
10. Panel on Review of General and Plastic Surgery Devices.	January 17, 9:20 a.m., Room 1409, FB-8, 200 C St. SW., Washington, D.C.	Open 9:20 a.m. to 10:20 a.m., closed after 10:20 a.m., Mark F. Parrish, Ph.D. (HFK-400), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3550.

Purpose. Reviews and evaluates available data concerning the safety, effectiveness, and reliability of general and plastic surgery devices currently in use.

Agenda. Open session: Mr. Peter Hutt, Chief Counsel for Food and Drug Administration, Department of Health, Education, and Welfare, will address the panel. Comments and presentations by interested persons. Closed session: Review and finalization of the list of surgical diagnostic devices contained in the general device list; review of previous meeting classification results; and complete classification of surgical diagnostic devices.

Committee name	Date, time, place	Type of meeting and contact person
11. Panel on Review of Allergenic Extracts.	January 17-18, 9 a.m., Room 121, Bldg. 29, National Institutes of Health, 8900 Rockville Pike, Bethesda, Md.	Open January 17, 9 a.m. to 10 a.m., closed January 17 after 10 a.m., closed January 18. Clay Sisk (HFB-5), 8800 Rockville Pike, Bethesda, Md. 20014, 301-496-2263.

Purpose. Reviews and evaluates available data concerning the safety, effectiveness, and adequacy of labeling of currently marketed biological products or materials, either singly or in combination, that are administered to man for the diagnosis, prevention, or treatment of allergies and allergic diseases.

Agenda. Open session: Previous minutes, communications received, and comments and presentations by interested persons. Closed session: Continuing review of allergenic extracts under investigation.

Committee name	Date, time, place	Type of meeting and contact person
12. Panel on Review of Gastroenterological and Urological Devices.	January 20, 9:20 a.m., Room 8321, FB-8, 200 C St. SW., Washington, D.C.	Open 9:20 a.m. to 10:20 a.m., closed after 10:20 a.m., Thomas L. Anderson, M.D. (HFK-400), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3550.

Purpose. Reviews and evaluates available data concerning the safety, effectiveness, and reliability of gastroenterological and urological devices currently in use.

Agenda. Open session: Interested parties are encouraged to present information pertinent to the classification of devices. Submission of data is also invited on the tentative classification findings, which may be obtained from Thomas L. Anderson, M.D., Executive Secretary, Division of Classification and Diagnostic Products, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852 (301-443-3550). Those desiring to make formal presentations should notify Dr. Anderson by January 6, 1975 and indicate the approximate time required to make their comments.

General discussion of renal dialysis. Closed session: Classification for renal dialysis devices and review of preliminary classification results for final report.

Committee name	Date, time, place	Type of meeting and contact person
13. Panel on Review of General Hospital and Personal Use Devices.	January 20 and 21, 9:30 a.m., Room 1409, FB-6, 200 C St. SW., Washington, D.C.	Open January 20, 9:30 a.m. to 10:30 a.m., closed January 20 after 10:30 a.m., closed January 21. William C. Dierksheide, Ph.D. (HFK-400), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-2376.

Purpose. Reviews and evaluates available data concerning the safety, effectiveness, and reliability of general hospital and personal use devices currently in use.

Agenda. Open session: Interested parties are encouraged to present information pertinent to the classification of devices. Submission of data is also invited on the tentative classification findings, which may be obtained from Dr. William C. Dierksheide, Executive Secretary, Division of Classification and Scientific Evaluation (HFK-400), Bureau of Medical Devices and Diagnostic Products, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852 (301-443-2376). Those desiring to make formal presentations should notify Dr. Dierksheide by January 10, 1975 and indicate the approximate time required to make their comments. Closed session: Revision of device list.

Committee name	Date, time, place	Type of meeting and contact person
14. Panel on Review of Topical Analgesics.	January 21 and 22, 9 a.m., Conference Room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open January 21, 9 a.m. to 10 a.m., closed January 21, after 10 a.m., closed January 22. Lee Geismar (HFD-100), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed nonprescription drug products for human use containing topical analgesics.

Agenda. Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter topical analgesics under investigation.

Committee name	Date, time, place	Type of meeting and contact person
15. Dental Drug Products Advisory Committee.	January 22, 9 a.m., Conference Room I, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—Clarence C. Gilkes, D.D.S. (HFD-160) 5600 Fishers Lane, Rockville, Md. 20852 301-443-3660.

Purpose. Reviews and evaluates all available data concerning the safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for use in the practice of dentistry.

Agenda. Development of guidelines for clinical studies of dental drug products.

Committee name	Date, time, place	Type of meeting and contact person
16. Panel on Review of Contraceptives and Other Vaginal Drug Products.	January 23 and 24, 9 a.m., Conference Room E, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—Armond Welsh, (HFD-100), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed nonprescription drug products containing contraceptives or other vaginal drug products.

Agenda. Comments and presentations by interested persons. January 23, 1975: Review of pharmacology, teratology and toxicology of drugs. January 24, 1975: Development of standards and guidelines for the safety and efficacy of vaginal contraceptives and douches.

Committee name	Date, time, place	Type of meeting and contact person
17. Panel on Review of Bacterial Vaccines and Bacterial Antigens.	January 24 and 25, 9 a.m., Room 121, Bldg. 29, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md.	Open January 24, 9 a.m. to 10 a.m., closed January 24, after 10 a.m., closed January 25. Jack Cortese (HFB-6), 9000 Rockville Pike, Bethesda, Md. 20014, 301-496-1676.

Purpose. Advises the Commissioner of Food and Drugs on the safety and effectiveness of bacterial vaccines and bacterial antigens with no U.S. standards of potency.

Agenda. Open session: Previous minutes, communications received, and comments and presentations by interested persons. Closed session: Continuing review of bacterial vaccines and bacterial antigens under investigation.

Committee name	Date, time, place	Type of meeting and contact person
18. Panel on Review of Sedative, Tranquilizer, and Sleep Aid Drugs.	January 27 and 28, 9 a.m., Conference Rm. C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open January 27, 9 a.m. to 10 a.m., closed January 27, after 10 a.m., closed January 28. Michael Kennedy (HFD-109), 5600 Fishers Lane, Rockville, Md. [illegible], 301-[illegible].

Purpose. Reviews and evaluates available information concerning safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing sedative, tranquilizer, and sleep aid drugs.

Agenda. Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter drug products under investigation.

Committee name	Date, time, place	Type of meeting and contact person
19. Panel on Review of Antiperspirant Drug Products.	January 30 and 31, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open January 30, 9 a.m. to 10 a.m., closed January 30, after 10 a.m., closed January 31. Lee Geismar (HFD-109), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available data concerning the safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing antiperspirant drug products.

Agenda. Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter antiperspirant drug products under investigation.

Committee name	Date, time, place	Type of meeting and contact person
20. Panel on Review of Neurology Devices.	January 31 and February 1, 9:20 a.m., Room 1813, FB-6, 200 C St. SW., Washington, D.C.	Open January 31, 9:20 a.m., to 10:20 a.m., closed January 31, after 10:20 a.m., closed February 1. James R. Veale (HFK-300), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3650.

Purpose. Reviews and evaluates available data concerning safety, effectiveness, and reliability of neurology devices currently in use.

Agenda. Open session: Interested parties are encouraged to present information pertinent to the classification of neurological devices. Those desiring to make formal presentations should notify James R. Veale (see address above) by January 17, 1975 and indicate the approximate time required to make their comments. Discussion of medical device classification with emphasis on scientific review and standards. Closed session: Revision of tentative device list and classification of selected devices from the revised list.

Committee name	Date, time, place	Type of meeting and contact person
21. Panel on Review of Internal Analgesic Including Antirheumatic Drugs.	January 31, February 1, and February 2, 9 a.m., Conference Room 1, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open January 31, 9 a.m. to 10 a.m., closed January 31, after 10 a.m., closed February 1 and February 2. Lee Geismar (HFD-109), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-[illegible].

Purpose. Reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed nonprescription drug products for human use containing internal analgesic agents.

Agenda. Open session: Comments and presentations by interested persons. Closed session: Continuing review of nonprescription internal analgesic drug products under investigation.

Agenda items are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Most Food and Drug Administration advisory committees are created to advise the Commissioner of Food and Drugs on pending regulatory matters. Recommendations made by the committees on these matters are intended to result in action under the Federal Food, Drug, and Cosmetic Act, and these committees thus necessarily participate with the Commissioner in exercising his law enforcement responsibilities.

The Freedom of Information Act recognized that the premature disclosure of regulatory plans, or indeed internal discussions of alternative regulatory approaches to a specific problem, could have adverse effects upon both public and private interests. Congress recognized that such plans, even when finalized, may not be made fully available in advance of the effective date without damage to such interests, and therefore provided for this type of discussion to remain confidential. Thus, law enforcement activities have long been recognized as a legitimate subject for confidential consideration.

These committees often must consider trade secrets and other confidential information submitted by particular manufacturers which the Food and Drug Administration by law may not disclose, and which Congress has included within the exemptions from the Freedom of Information Act. Such information includes safety and effectiveness information, product formulation, and manufacturing methods and procedures, all of which are of substantial competitive importance.

In addition, to operate most effectively, the evaluation of specific drug or device products requires that members of committees considering such regulatory matters be free to engage in full and frank discussion. Members of committees have frequently agreed to serve and to provide their most candid advice on the understanding that the discussion would be private in nature. Many experts would be unwilling to engage in candid public discussion advocating regulatory action against a specific product. If the committees were not to engage in the deliberative portions of their work on a confidential basis, the consequent loss of frank and full discussion among committee members would severely hamper the value of these committees.

The Food and Drug Administration is relying heavily on the use of outside experts to assist in regulatory decisions. The Agency's regulatory actions uniquely affect the health and safety of every citizen, and it is imperative that the best advice be made available to it on a continuing basis in order that it may most effectively carry out its mission.

A determination to close part of an advisory committee meeting does not mean that the public should not have ready access to these advisory committees considering regulatory issues. A determination to close the meeting is subject to the following conditions: First, any interested person may submit written data or information to any committee, for its consideration. This information will be accepted and will be considered by the committee. Second, a portion of every committee meeting will

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be open to the public, so that interested persons may present any relevant information or views orally to the committee. The period for open discussion will be designated in any announcement of a committee meeting. Third, only the deliberative portion of a committee meeting, and the portion dealing with trade secret and confidential information, will be closed to the public. The portion of any meeting during which nonconfidential information is made available to the committee will be open for public participation. Fourth, after the committee makes its recommendations and the Commissioner either accepts or rejects them, the public and the individuals affected by the regulatory decision involved will have an opportunity to express their views on the decision. If the decision results in promulgation of a regulation, for example, the proposed regulation will be published for public comment. Closing a committee meeting for deliberations on regulatory matters will therefore in no way preclude public access to the committee itself or full public comment with respect to the decisions made based upon the committee's recommendation.

The Commissioner has been delegated the authority under section 10(d) of the Federal Advisory Committee Act to issue a determination in writing, containing the reasons therefor, that any advisory committee meeting is concerned with matters listed in 5 U.S.C. 552(b), which contains the exemptions from the public disclosure requirements of the Freedom of Information Act. Pursuant to this authority, the Commissioner hereby determines, for the reasons set out above, that the portions of the advisory committee meetings designated in this notice as closed to the public involve discussion of existing documents falling within one of the exemptions set forth in 5 U.S.C. 552(b), or matters that, if in writing, would fall within 5 U.S.C. 552(b), and that it is essential to close such portions of such meetings to protect the free exchange of internal views and to avoid undue interference with Agency and committee operations. This determination shall apply only to the designated portions of such meetings which relate to trade secrets and confidential information or to committee deliberations.

Dated: December 10, 1974.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.74-29185 Filed 12-16-74;8:45 am]

PRESCRIPTION BIOLOGICAL PRODUCTS

Status of Advertising

Biological products, which include vaccines, blood, and blood products, are licensed by the Bureau of Biologics, Food and Drug Administration, prior to shipment in interstate commerce pursuant to the authority of section 351 of the Public Health Service Act (42 U.S.C. 262). That section requires that a license will be issued only after the product is demonstrated to be safe, pure, and potent.

Biological products are also subject to regulation pursuant to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.), inasmuch as they fall clearly within the statutory definition of the term "drug" (21 U.S.C. 321(g)(1)). In August 1972, the Commissioner of Food and Drugs announced his intention to implement a review of all licensed biological products for safety, effectiveness, and proper labeling, based upon the authority of both the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act. That review, which is utilizing advisory panels of experts, is proceeding according to schedule.

It has recently come to the Commissioner's attention that there is some uncertainty within the biological products industry as to whether biological products are subject to the drug advertising regulations (21 CFR 1.105) for prescription drugs promulgated pursuant to section 502(n) of the Federal Food, Drug, and Cosmetic Act. To clear up any confusion in this regard, the Commissioner advises that advertising for prescription biological products is subject to precisely the same regulatory requirements as advertising for any other prescription drug products. There is no exemption for biological products either in section 502(n) of the Federal Food, Drug, and Cosmetic Act or in 21 CFR 1.105. Thus, prescription biological products, which comprise nearly all of the biological products currently on the market, must comply fully with the requirements of 21 CFR 1.105 with respect to their advertising.

It is suggested that manufacturers of prescription biological products review all advertising for their products to assure their compliance with these requirements.

Dated: December 10, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-29251 Filed 12-16-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket FRA General Docket No. H-74-2]

TRAIN AIR BRAKE

Approved Test Program

Notice is hereby given that on December 10, 1974 the Railroad Safety Board of the Federal Railroad Administration approved a test program of limited duration, as set forth below, to determine the feasibility of increasing the maximum allowable brake pipe leakage prescribed in 49 CFR 232.12(b)(1) and 232.13(d)(1) under certain restrictive conditions. The test program is confined to trains which are operated during below freezing weather conditions. The test will permit the operation of freight trains of the selected carriers with brake pipe leakage in excess of 5 pounds per minute but not to exceed 8 pounds per minute when those freight trains are hauled by locomotives with pressure maintaining type automatic brake valves controlling train air brake operation and when the brake pipe pressure gradient (difference between pressures at the head and rear end) does not exceed 15 pounds.

In reaching its decision to approve this test program the Railroad Safety Board has considered the views of representatives for the Brotherhood of Locomotive Engineers, the Brotherhood of Railway Carmen, the Congress of Railway Unions and the United Transportation Union presented at the public hearing held on November 20, 1974. Although all of these representatives voiced concern over the wisdom of initiating this test program the Railroad Safety Board believes that advances in the pertinent technology warrants this test program. The union representatives also made several recommendations for modifications of the test program in the event it was approved. Among the recommended modifications which the Railroad Safety Board has adopted are a prohibition against the issuance of misleading operating instructions and the addition of a provision whereby the individual crew members of the designated test trains could provide supplementary information concerning the operation of those trains.

APPROVED TEST PROGRAM

PARTICIPATING CARRIERS

Southern Railway System
Union Pacific Railroad
Soo Line Railroad Company
Illinois Central Gulf Railroad
Chicago, Milwaukee, St. Paul and Pacific

TEST PERIOD

January 1, 1975 to April 1, 1975.

TRAINS

This test will be limited to freight trains which are hauled by locomotives with pressure maintaining type automatic brake valves controlling train air brake operation. "Run-through" and "unit run-through" trains operated in accordance with 49 CFR 232.19 and trains interchanged with nonparticipating carriers are excluded from operation under this test.

DESIGNATION OF TEST TRAINS

(1) Participating carriers are precluded from issuing any instructions or information which provides or appears to provide blanket relief from the existing requirements relative to brake pipe leakage.

(2) Participating carriers will make reasonable efforts to bring all trains into compliance with the present requirement that brake pipe leakage not exceed 5 pounds per minute.

(3) Only when the defects causing brake pipe leakage have been corrected to the best of personnel capability and the mandatory brake test procedures, set forth below, have been complied with may a train be identified and operated as a "test train" under this program.

MANDATORY BRAKE TEST PROCEDURES

(1) The air brake system on a freight train prior to making train air brake system tests must be charged to within 15 pounds of the setting of the brake pipe pressure regulating valve on the locomotive, but in no case to less

than 60 pounds, as indicated by an accurate gauge at rear end of train;

(2) Pressure maintaining feature must be cut out and not functioning during brake pipe leakage tests;

(3) Leakage in excess of 5 pounds per minute, and not exceeding 8 pounds per minute, is permissible if, in the opinion of qualified personnel, the excess leakage is caused by below freezing weather, does not result from equipment defects, and does not constitute a hazard.

(4) Participating carriers will establish measures to assure that trains operating under this test program which progress into worsening weather conditions will not exceed the eight (8) pounds-per-minute brake pipe leakage or be unable to charge the brake pipe to within the fifteen (15) pounds gradient in pressures between the locomotive and the rear of the train.

REPORTING OF TEST RESULTS

For each 30 day period, a written report summarizing each freight train operation with brake pipe leakage of 5 to 8 pounds per minute must be prepared and sent to Associate Administrator for Safety, RA-60, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590. Each report must be received within 15 days following the end of the 30 day period and must contain the following:

(1) Date and time;

(2) Location, also state whether initial terminal or other;

(3) Temperature and weather;

(4) Type of train (general merchandise, high priority freight, unit, etc.);

(5) A description of train consist including number of locomotive units and cars and tonnage;

(6) Brake pipe leakage;

(7) Statement of time spent working train in attempt to minimize leakage, including description of repairs or other work done;

(8) Narrative description of any significant circumstances other than those tabulated above, including any unusual delays or occurrences enroute which might be connected with train handling, and an estimate of penalty, such as additional delay or extent of train consist reduction, which would have resulted if the leakage has been reduced to 5 pounds per minute.

(9) Any additional statements which the engine and train crews voluntarily submit concerning the over the road train performance.

This notice is issued under the authority of section 202, 84 Stat. 971 (45 U.S.C. 431); and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C., on December 11, 1974.

DONALD W. BENNETT,
Chief Counsel.

[FR Doc.74-29290 Filed 12-16-74;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. PR-Misc. Notice]

MANAGEMENT OF COMMERCIAL HIGH-LEVEL AND TRANSURANIUM-CONTAMINATED RADIOACTIVE WASTES

Environmental Impact Statement

By notice published in the FEDERAL REGISTER on November 26, 1974 (39 FR 41292), the Commission announced that a supplemental public hearing concerning its draft environmental study entitled "Management of Commercial High-Level and Transuranium-Contaminated Radioactive Wastes," would be held in Salt Lake City, Utah on December 12, 1974. Motions seeking a continuance of this hearing and requesting that the hearing be changed from a legislative to an adjudicative format—with rights to subpoena and cross-examine witnesses—were mailed to the Commission by the State of Texas on December 4, 1974. We deal first with the motion seeking a continuance.

Texas is mistaken in contending that §§ 2.703, 2.705 and 2.711 of the Commission's regulations required not less than twenty days, after public notice of the hearing, within which interested persons could indicate a desire to be "full participants." The foregoing sections are limited to "adjudications initiated by the issuance of an order to show cause, an order pursuant to § 2.205(e), a notice of hearing, or a notice of proposed action issued pursuant to § 2.105." None of the foregoing categories of actions includes the instant hearing, which, of course, is being held pursuant to 10 CFR Part 11. Apparently, Texas has overlooked 10 CFR 11.33 which requires the Commission to give at least fifteen days notice of a public hearing on a draft environmental impact statement—a requirement which was met here.

We conclude that the notice in question was more than adequate. Issuance of the draft environmental statement which is the subject of this hearing was announced on September 12, 1974 (39 FR 32929). Moreover, the instant hearing is a supplemental hearing called "to afford further opportunity for public participation in the assessment of environmental impacts * * *." 39 FR 41292. The first hearing, in which Texas participated, was held at the Commission's headquarters in Germantown, Maryland on November 12, 1974. In reality, therefore, Texas has had three months to prepare for the December 12 hearing. In view of our ruling, infra, denying Texas' request for an adjudicatory hearing, we need not decide whether more time should be afforded the State to prepare for such a hearing.

The notices for both the November 12 and December 12, 1974 hearings concerning the subject impact statement stated that the hearings "will be legislative rather than adjudicatory in nature. Formal discovery, subpoena of witnesses, cross-examination of witnesses and similar formal procedures appropriate to a trial-type hearing will not be provided" (39 FR pp. 32929 and 41292-93). Nothing in NEPA, the Atomic Energy Act, the Administrative Procedure Act or the Commission's regulations requires an adjudicatory type of hearing concerning a draft environmental statement. Indeed, the Commission's provision for a hearing goes beyond any NEPA requirement since that Act does not require hearings on impact statements. "Jicarilla Apache Tribe v. Morton," 471 F. 2d 1275 (9th Cir. 1973).

Although the Commission shares the State's concern that "the best possible record [be] developed," it does not agree that an adjudicatory hearing is required to achieve this goal. In any event, under existing regulations, there will be an opportunity for further hearings in connection with subsequent construction of any actual facilities.

The State's motions are denied.

It is so ordered.

Dated at Washington, D.C., this 11th day of December 1974.

By the Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-29238 Filed 12-16-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26664]

AIR PANAMA INTERNACIONAL, S.A.

Foreign Air Carrier Permit Renewal Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in this proceeding is assigned to be held on January 7, 1975, at 10:00 a.m. (local time), in Room 503, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., December 11, 1974.

[SEAL] ALEXANDER N. ARGERAKIS,
Administrative Law Judge.

[FR Doc.74-29326 Filed 12-16-74;8:45 am]

[Docket No. 25655 et al.]

HOWARD J. MAYS REVOCATION/ MUNZ NORTHERN

Certification Proceeding Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing will be held in the above-entitled matter on January 9, 1975, at 10:00 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., December 10, 1974.

[SEAL] HENRY WHITEHOUSE,
Administrative Law Judge.

[FR Doc.74-29327 Filed 12-16-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 306-8; OPP-32000/164]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D)

of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the Federal Register a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB–31, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before February 18, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH–569), Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after February 18, 1975.

APPLICATIONS RECEIVED

EPA File Symbol 5185–EIN. Bio-Lab, Inc., PO Box 1489, Decatur GA 30031. BIO-GUARD 822 ALGICIDE. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 19.23%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5185–EIR. Bio-Lab, Inc. BIO-GUARD 285 ALGICIDE. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 50.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5185–ETO. Bio-Lab, Inc. BIO-GUARD DCM ALGICIDE. Active Ingredients: Alkyl (C14 90%, C12 5%, C16 5%) dimethyl dichlorobenzyl ammonium chloride 19.23%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7478–RI. Chem-Pak Co., PO Box 430757, So. Miami FL 33143. ROACH-X PROFESSIONAL TYPE RESIDUAL INSECT KILLER. Active Ingredients: Pyrethrins 0.13%; Piperonyl Butoxide, Technical 1.04%; 0,0-diethyl 0-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate 0.50%; Chlordane-Technical 0.50%; Petroleum Distillate 97.83%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7056–TI. Chem Spray Aerosols, Inc., PO Box 38073, Houston TX 77088. CHEM SPRAY VAYGON WASP SPRAY. Active Ingredients: o-Isopropoxyphenyl methylcarbamate 0.5%; 2,2-dichlorovinyl dimethyl phosphate 0.46%; Related compounds 0.04%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7056–TO. Chem Spray Aerosols, Inc. CHEM SPRAY RONNEL-DDVP WASP SPRAY. Active Ingredients: Ronnel-(o,o-Dimethyl o-(2,4,5-Trichlorophenyl) Phosphorothioate) 2.00%; Dichlorvos (2,2-dichlorovinyl dimethyl phosphate) 0.47%; Related compounds 0.03%; Petroleum distillate 97.50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7056–TT. Chem Spray Aerosols, Inc. CHEM SPRAY RONNEL-DDVP WASP SPRAY FORMULA II. Active Ingredients: Ronnel (o,o-Dimethyl o-(2,4,5-trichlorophenyl) Phosphorothioate) 2.00%; Dichlorvos (2,2-dichlorovinyl) dimethyl Phosphate) 0.47%; Related compounds 0.03%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 1918–12. The Drackett Products Co., 5020 Spring Grove Ave., Cincinnati OH 45232. VANISH LIQUID DISINFECTANT TOILET BOWL CLEANER. Active Ingredients: Hydrogen Chloride 9.25%; n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chloride 0.30%; n-Alkyl (50% C12, 30% C14, 17% C16, 3% C18) dimethyl ethylbenzyl ammonium chloride 0.20%; 1-(2-Hydroxyethyl)-2-heptadecenyl imidazolinium chloride 1.60%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 168–UOI. Wasatch Chemical Div., Entrada Industries, Inc., Salt Lake City UT 84106. WASCO CAPTAN 5 DUST. Active Ingredients: Captan (N-trichloromethylthio - 4-cyclohexene-1,2-dicarboximide) 5.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4021–RGL. Good-Life Chemicals, Inc., PO Box 667, Effingham IL 62401. GOOD-LIFE BORDEAUX MIX. Active Ingredients: Copper 12.75%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34967–R. Matcote Co., Inc., PO Box 10762, Houston TX 77018. MATCOTE ANTI-FOUL 5-400 W. Active Ingredients: Tributyltin Fluoride 12.6%; Tributyltin Oxide 2.9%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10148–EN. Nationwide Chemical Co., Inc., 56 W. 1st St., Brooklyn NY 11211. NATIONWIDE VEGETATION KILLER. Active Ingredients: Petroleum Solvent 98.10%; Bromacil (5-bromo-3-sec-butyl-6-methyluracil 0.72%; Pentachlorophenol 0.90%; Other chlorophenols 0.10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1202–GNT. PureGro Co., 1062 W. Sixth St., Los Angeles CA 90017. LEAF LIFE ZN CU 19–19. Active Ingredients: Zinc 19.0%; Copper 19.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8656–G. St. Aubrey, Div. of S in 1 Pet Prods, Inc., 100 Emjay Blvd., Brentwood NY 11717. PERFECT COAT FLEA AND TICK SHAMPOO. Active Ingredients: Pyrethrins 0.050%; Technical Piperonyl Butoxide 0.100%; N-Octyl Bicycloheptene Dicarboximide 0.167%; Petroleum Distillates 0.243%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 476–2156. Stauffer Chemical Co., 1200 S. 47th St., Richmond CA 94804. SUTAN + 6.7E. Active Ingredients: S-ethyl diisobutylthiocarbamate 85.1%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 148–97. Thompson-Hayward Chemical Co., PO Box 2383, Kansas City KS 66110. WEEVIL KILL. Active Ingredients: Carbon Tetrachloride 63.6%; Ethylene Dichloride 29.2%; Ethylene Dibromide 7.2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 148–636. Thompson-Hayward Chemical Co. TOXAPHENE E-8. Active Ingredients: Toxaphene 72%; Petroleum Distillate 20%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 148–1093. Thompson-Hayward Chemical Co. THIODAN MISCIBLE INSECTICIDE. Active Ingredients: Endosulfan (Hexachlorohexahydromethano-2,4,-3-benzodioxanthiepin oxide) 24.0%; Xylene base aromatic petroleum solvent 69.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4140–R. National Chemsearch, Div. of USAchem, Inc., 2780 Carl Rd., Irving TX 75062. NATIONAL CHEMSEARCH CF-750 RESIDUAL INSECTICIDE SPRAY. Active Ingredients: Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 0.50%; 2,2-dichlorovinyl dimethyl phosphate 0.46%; Related Compounds 0.04%; Aromatic Petroleum Derivative Solvent 10.00%; Deodorized Kerosene 64.68%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 52–EUN. West Agro-Chemical, Inc., a subsidiary of West Chemical Products, Inc., 42–16 West St., New York NY 11101. GLADISH CLEANER/SANITIZER. Active Ingredients: Butoxy polypropoxy polyethoxy ethanol-iodine complex 12.47%; Polyethoxy polypropoxy polyethoxy ethanol-iodine complex 0.37%. Method of Support: Application proceeds under 2(c) of interim policy.

Dated: December 6, 1974.

JOHN B. RITCH, JR.,
Director, Registration Division.

[FR Doc.74-28096 Filed 12-16-74;8:45 am]

FEDERAL MARITIME COMMISSION

[Independent ocean freight forwarder License No. 1491]

AERO-NAUTICS FORWARDERS, INC.

Reinstatement of License

By Federal Maritime Commission Order dated October 10, 1974, Aero-Nautics Forwarders, Inc.'s Independent ocean freight forwarder license No. 1491 was revoked effective September 4, 1974, for failure to maintain a valid surety bond on file with the Commission. The Order of revocation was published in the FEDERAL REGISTER (39 FR 37425) on October 21, 1974.

On November 25, 1974, an appropriate surety bond was filed on behalf of Aero-Nautics Forwarders, Inc. and compliance pursuant to section 44, Shipping Act, 1916, and § 510.9 of General Order 4 has therefore been achieved.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(a) (dated September 15, 1973; Independent ocean freight forwarder license No. 1491 shall be reissued to Aero-Nautics Forwarders, Inc., effective November 25, 1974. A copy of this Notice of Reinstatement shall be published in the FEDERAL REGISTER and served upon Aero-Nautics Forwarders, Inc.

WM. JARREL SMITH, Jr.,
Deputy Managing Director.

[FR Doc.74-29335 Filed 12-16-74;8:45 am]

PACIFIC WESTBOUND CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW, Room 10126; or may inspect the agreement at the field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 7, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act of detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

D. D. Day, Jr., Chairman
Pacific Westbound Conference
635 Sacramento Street
San Francisco, California 94111

Agreement No. 57-101, entered into by the member lines of the Pacific Westbound Conference, modifies the Appendix to the approved conference agreement by adding a new article thereto which authorizes the member lines to employ a collection agency or any similar organization at destination ports for the purpose of collecting delinquent bills which are due the Conference.

Dated: December 12, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-29333 Filed 12-16-74;8:45 am]

STATES STEAMSHIP CO. ET AL.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 7, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. J. W. Dickover
Vice President and General Manager
320 California Street
San Francisco, California

Agreement No. T-3031, between States Steamship Company (States) and Knutser Line (Bakke Steamship Corporation, General Agents) (Knutsen), is a terminal service agreement whereby States will perform terminal services for Knutsen at Pier 80, Port of San Francisco, California, for vessels owned, operated, or controlled for cargo purposes. States will assess Knutsen all service charges according to a schedule of rates filed with the Commission. All other charges assessed against the vessel or cargo will be billed to Knutsen in accordance with San Francisco Board of Harbor Commissioners Tariff No. 3C.

Dated: December 12, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-29336 Filed 12-16-74;8:45 am]

[Independent ocean freight forwarder license No. 977]

WALTER L. TOOZE IV AND TOOZE & ASSOCIATES

Order of Revocation

On November 25, 1974, Walter L. Tooze IV, and Tooze & Associates, 4610 SE. Belmont Street, Portland, Oregon 97215 voluntarily surrendered his Independent Ocean Freight Forwarder Licence No. 977 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04(f) (dated September 15, 1973);

It is ordered, That Independent Ocean Freight Forwarder License No. 977 be and is hereby revoked effective November 25, 1974, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Walter L. Tooze IV, d/b/a Tooze & Associates.

WM. JARREL SMITH, Jr.,
Deputy Managing Director.

[FR Doc.74-29334 Filed 12-16-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-8101]

APPALACHIAN POWER CO.

Order Accepting for Filing and Suspending, Subject to Refund, Unsigned Service Agreement, Consolidating Proceedings, Providing for Hearing, Establishing Procedure, and Granting Intervention

DECEMBER 6, 1974.

On November 8, 1974, Appalachian Power Company (APCO) tendered for filing an unsigned service agreement between APCO and Virginia Polytechnic Institute and State University (VPI). APCO intended its filing to supersede and cancel its FPC Rate Schedule No. 48 under which VPI has been served. By its terms the contract was scheduled to expire on October 28, 1974 and APCO gave notice to VPI on September 21, 1973 of termination. The parties have been unable to satisfactorily negotiate a new contract to replace Rate Schedule No. 48 and APCO proposes service to VPI under the unsigned agreement until completion of the negotiation for a new service agreement. The tendered unsigned service agreement proposes the same rate which is at issue in the proceeding in Docket No. E-7775. APCO requests waiver of the requirements of § 35.13 of the Commission's regulations insofar as that section requirec the filing of cost of service data on the ground that the tendered service agreement is supported by cost-of-service data submitted in Docket No. E-7775. APCO further requests the Commission to waive the 30-day notice requirement and permit the proposed rates to go into effect as of October 29, 1974.

APCO's filing was noticed by the Secretary on November 15, 1974. The notice provided that all comments, protests, or petitions to intervene be filed on or before November 29, 1974.

On November 29, 1974, VPI filed a petition to intervene, protest, and motion to reject APCO's November 8, 1974 filing. VPI contended the filing should be rejected on the grounds that (a) the proposed rate increase is identical to the rate increase in Docket No. E–7775 which was not found to be just and reasonable;[1] (b) the draft contract submitted by APCO is patently unreasonable; and (c) suspension of the filing is not the proper remedy.

Upon review of the instant filing, we note that there are two separate issues involved in this proceeding, that of the rate increase itself and that of contractual provisions in the unsigned service agreement.

With respect to the rate increase, we find the most appropriate disposition to be that of consolidating the issue with the pending proceeding in Docket No. E–7775; APCO has the opportunity, pursuant to the Presiding Judge's Initial Decision, to present new evidence on rate base and cost-of-service to justify its request for an increase in its wholesale rates. If APCO fails to tender additional evidence or fails to justify the requested increase with the submittal of additional evidence, the disposition of the present proceeding would be directly affected. On the other hand, to require APCO to file cost-of-service data in the present proceeding would, to a certain extent, force APCO to unnecessarily duplicate the filing of data with the Commission. We conclude therefore that the most expeditious way of resolving the rate increase issue in the instant filing is to consolidate the rate issue with the pending proceeding in Docket No. E–7775 and that its disposition be subject to our final order in Docket No. E–7775.

With respect to the contractual provisions in APCO's filing, VPI, in its protest, objected to the language of section 5 of the agreement on the grounds that the provision would permit APCO to unilaterally revise rates and, without VPI's consent, change any terms and conditions contained in the contract. VPI further objects to section 5's requirement that VPI waive its rights to regulatory and judicial relief. VPI additionally objects to other provisions in the contract on the grounds that they make the contract too restrictive and unjust. VPI specifically points out that the contract (1) makes no provision for new points of delivery; (2) sets a ceiling on contract capacity of 22,800 kw; (3) allows APCO to move or remove its two 30,000 kVa transformers at its sole discretion; (4) sets too short a period (15 days) for payment of bills; (5) contains no provisions for "good faith" disputes over billing accuracy; (6) grants APCO authority to suspend service if VPI violates any terms of the service agreement or if VPI fails to pay bills; (7) contains a force majeure clause which includes as an uncontrollable force "any act of the Company to interrupt service to any customer whenever in the sole judgment of the Company such interruption is indicated in order to prevent or limit any instability or disturbance on the electric system of the Company or any electric system interconnected with the Company • • •" and (8) contains an indemnity clause which exempts APCO from joint liability by providing that it be held responsible for injury only in the event that it was occasioned by the sole negligence of APCO.

Upon review of the tendered unsigned service agreement, we find that VPI's allegation of unreasonableness and unjustness may be meritorious. We, therefore, will set for separate hearing the issue of the lawfulness and reasonableness of the terms and conditions of the proposed service agreement.

VPI's third basis for requesting the filing of APCO be rejected is that suspension of the filing is not a proper remedy since the rate increase has not been found to be just and reasonable. As already indicated, the proceeding in Docket No. E–7775 has not been completed and we have not made a final determination of the justness and reasonableness of the rate increase therein requested. We conclude therefore for the reasons discussed herein, that it is necessary and proper to suspend for one day the effectiveness of APCO's present filing, to make its effectiveness after suspension subject to refund, to consolidate the rate issue with the proceeding in Docket No. E–7775 and to set for separate hearing the issue of the lawfulness and reasonableness of the terms and conditions of the proposed service agreement. Accordingly, we shall grant APCO's request for waiver of the requirements of § 35.13 of the Commission's Regulations insofar as that Section requires the filing of cost of service data in this proceeding. We shall deny APCO's request for waiver of the 30-day notice period and not permit its tendered filing to go into effect on October 29, 1974.

The Commission finds. (1) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission accept for filing and suspend for one day the effectiveness of Appalachian Power Company's November 8, 1974 filing in Docket No. E–9101 and further to consolidate the requested rate increase by APCO in Docket No. E–9101 with the pending proceedings in Docket No. E–7775 and further to enter upon a separate hearing concerning the justness and reasonableness of the contract terms and conditions of the unsigned service agreement tendered by APCO in Docket No. E–9101 as hereinafter provided.

(2) It is desirable and in the public interest to allow Virginia Polytechnic Institute and State University to intervene in the instant proceeding.

(3) Good cause exists to grant waiver of § 35.13 of the Commission's regulations insofar as it would require APCO to file cost-of-service data.

(4) Good cause does not exist to grant APCO's request for waiver of the 30-day notice period in § 35.3 of the Commission's regulations.

The Commission orders. (A) Appalachian Power Company's November 8, 1974 filing in Docket No. E–9101 is accepted for filing and suspended for one day, subject to refund, and permitted to become effective December 9, 1974.

(B) The request for a rate increase in Appalachian Power Company's November 8, 1974 filing in Docket No. E–9101 is hereby consolidated with the proceedings pending in Docket No. E–7775 and subject to a final determination of that case.

(C) Appalachian Power Company, if it files additional evidence on cost-of-service and rate base in Docket No. E–7775, shall include in that additional evidence cost-of-service data with respect to VPI.

(D) The terms and conditions contained in the unsigned service agreement in Appalachian Power Company's November 8, 1974 filing in Docket No. E–9101 shall be set for hearing to determine their justness and reasonableness.

(E) Pursuant to the authority of the Federal Power Act and the Commission's rules and regulations (18 CFR Ch. I), in order to determine the justness and reasonableness of the terms and conditions of the service agreement tendered by Appalachian Power Company, a hearing shall be held commencing on April 29, 1975, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(F) On or before March 4, 1975, APCO shall file its prepared testimony and exhibits. The Commission staff shall file its prepared testimony and exhibits on or before March 18, 1975. Any intervenor evidence shall be filed on or before April 1, 1975. APCO shall file its rebuttal evidence on or before April 15, 1975.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See delegation of authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(H) VPI's petition to intervene is granted; VPI's motion to reject APCO's November 8, 1974 filing is denied.

(I) APCO's request for waiver of the requirements of § 35.13 insofar as that section requires filing of cost-of-service data is granted.

[1] On November 13, 1974, Administrative Law Judge Fribourg issued the initial decision in Docket No. E–7775. The Judge concluded that the record did not support the rate increase because a properly reflective test period for cost-of-service was not used. He therefore denied the requested relief "unless within ninety days from the date hereof APCO shall present new evidence embodying a rate base and cost of service properly related to each other and to an appropriate period." (mimeo at 8).

(J) APCO's request for waiver of the 30-day notice requirement of § 35.3 is denied.

(K) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

(SEAL) MARY B. KIDD, *Acting Secretary.*

[FR Doc. 74-29218 Filed 12-16-74;8:45 am]

[Project No. 2210]

APPALACHIAN POWER CO.

Application for Change in Land Rights

DECEMBER 6, 1974.

Public notice is hereby given that application was filed July 17, 1974, under the Federal Power Act (16 U.S.C. 791a–825r) by the Appalachian Power Company (Correspondence to: Mr. John W. Vaughan, Executive Vice President, Appalachian Power Company, 40 Franklin Road, Roanoke, Va. 24009 and Mr. A. Joseph Dowd, Assistant Secretary, Appalachian Power Company, P.O. Box 18, Bowling Green Station, New York, New York 10004) for change in land rights for constructed Project No. 2210, known as the Smith Mountain Project, located on the Roanoke River, a navigable waterway of the United States, in Bedford, Franklin, Campbell, Pittsylvania, and Roanoke Counties, Virginia.

Appalachian Power Company is seeking Commission authorization to grant an easement to Southside Electric Cooperative of Crewe, Virginia for the construction of an electric service cable across lands of the Smith Mountain Project No. 2210 to an island (located about 5 miles upstream from Smith Mountain Dam) owned by Pfura Graphics Corporation of New Jersey. The cable will be laid in a trench on land and in the reservoir to a point where the water depth reaches 12 feet. From that point it will be placed on the reservoir bottom for a distance of about 3200 feet. The easement will be located within Bedford County.

Any person desiring to be heard or to make protest with reference to said application should on or before January 13, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD, *Acting Secretary.*

[FR Doc.74-29605 Filed 12-6-74;8:45 am]

[Docket No. CI75-320]

ATLANTIC RICHFIELD CO.

Application

DECEMBER 10, 1974.

Take notice that on November 20, 1974, Atlantic Richfield Company (Applicant), PO Box 2819, Dallas 75221, filed in Docket No. CI75-320 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the sale of natural gas in interstate commerce to Northern Utilities Company (NUC) and Kansas Nebraska Natural Gas Company, Inc. (Kansas Nebraska), from the Riverton Dome Field, Fremont County, Wyoming, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon the sale of natural gas to NUC and Kansas Nebraska from reserves in the Riverton Dome Field, which sale was authorized in Docket No. G-3894 and is presently made pursuant to the terms of a 1958 gas sales contract comprising Applicant's FPC Gas Rate Schedule No. 50. Applicant states that under the terms of the 1958 agreement with NUC and Kansas Nebraska such contract "shall continue in full force and effect until 42.5 Billion Cubic feet of gas is delivered and sold * * * (at which time) * * * this contract shall be cancelled in its entirety". Applicant alleges that this volume will be attained on or about January 15, 1975, after which there will be no more reserves available under its Rate Schedule No. 50 and asserts that its certificated gas supply will then in effect be depleted. Applicant requests permission and approval to abandon the sale of gas to NUC and requests that its FPC Gas Rate Schedule No. 50 be terminated effective the day delivery of the 42.5 Bcf of gas is completed. The application indicates that the currently effective rate for gas sold to NUC and Kansas Nebraska is 18.0717 cents per Mcf and that it has received no response to its inquiry of NUC or Kansas Nebraska as to the latter's concurrence or lack thereof with respect to the instant proposal.

Applicant states that all remaining reserves underlying the producing property, in excess of 42.5 Bcf currently covered by its FPC Gas Rate Schedule No. 50, have been dedicated to Montana-Dakota Utilities Co. under a contract dated July 30, 1962, comprising Applicant's FPC Gas Rate Schedule No. 277. Applicant states further that it would make said sale under authorization in Docket No. CI65-576.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-29297 Filed 12-16-74;8:45 am]

[Docket No. E-9129]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Application

DECEMBER 4, 1974.

Take notice that on November 25, 1974, Central Illinois Public Service Company (Applicant), filed an application with the Commission pursuant to section 204 of the Federal Power Act seeking authority to issue short-term unsecured promissory notes to commercial banks and to commercial paper dealers in an aggregate principal amount not exceeding $80,000,000 outstanding at any one time. All notes are to mature on or before December 31, 1976.

Applicant is incorporated under the laws of the State of Illinois, with its principal business office at Springfield, Illinois and is engaged in the generation, purchasing, transmitting, distributing and selling of electric energy in portions of Central and Southern Illinois. Applicant also purchases, distributes and sells natural gas in various parts of the territory served.

Notes issued to commercial banks will be dated the date each such borrowing is made; will mature on a date not more than twelve months from the date thereof, but in any event not later than December 31, 1976. The notes will bear interest at a rate that will not exceed either (a) the prime rate of interest prevailing at such bank on the date each such borrowing is made or (b) the applicable prime rate or rates of interest prevailing at such bank during the term of the note.

Notes issued in the form of commercial paper will have varying maturities of

not more than nine months from its date of issue, but in any event not later than December 31, 1976. The commercial paper may be issued and sold in varying amounts or denominations of not less than $50,000 each and will be issued and sold at a discount which will not exceed the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturity.

The aggregate principal amount of commercial paper that may be outstanding and unpaid at any time shall not exceed an amount equal to 25 percent of the operating revenues of the Applicant for any period of twelve consecutive calendar months ending during the fifteen (15) consecutive calendar months next preceding the date of issue of such commercial paper.

The net proceeds from the sale of the notes will be added to the corporate treasury and used principally to finance, temporarily, a part of the Applicant's construction expenditures for the remainder of 1974 and for the years 1975 and 1976.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29294 Filed 12-16-74;8:45 am]

[Docket No. RP72-142; PGA 75-3]

CITIES SERVICE GAS CO.

Proposed Changes in FPC Gas Tariff

DECEMBER 10, 1974.

Take notice that Cities Service Gas Company (Cities) on December 3, 1974, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. Cities states that pursuant to the Purchased Gas Cost Rate Adjustment provision contained in Article 21 of its FPC Gas Tariff, it proposes to increase its rates effective January 22, 1975, to reflect increased purchase gas costs. Cities states that such increased rates are reflected on Substitute Ninth Revised Sheet PGA-1, included in Appendix A, which is included with its filing and reflect a 4.62¢ per Mcf increase in rates.

If the Commission for any reason does not accept the 4.62¢ per Mcf increase, Cities, in the alternative, tendered for filing the Substitute Ninth Revised Sheet PGA-1 included in Appendix B reflecting a 4.28¢ per Mcf increase in rates.

Cities states that copies of this filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket Nos. RP72-142 and RP74-4.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 27, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29304 Filed 12-16-74;8:45 am]

[Docket No. RP75-35]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC., AND TENNESSEE GAS PIPELINE CO.

Complaint

DECEMBER 10, 1974.

Take notice that on November 19, 1974, Consolidated Edison Company of New York, Inc. (Complainant), 4 Irving Place, New York, New York 10003, filed in Docket No. RP75-35 a complaint against Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Defendant), P.O. Box 2511, Houston, Texas 77001, alleging injury as a result of Defendant's discriminatory implementation of its curtailment plan for sales of natural gas made pursuant to authorizations issued under the Natural Gas Act and requesting that the Commission direct the Defendant to return certain volumes of gas by which Complainant asserts it was over-curtailed, all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

The complaint asserts that Defendant advanced a seasonal curtailment plan approach in Docket No. RP74-24, stating that such an approach was sound and reasonable in the interests of giving its customers the maximum amount of flexibility yet allowing Defendant to retain sufficient control to curtail over specific periods of time to operate its system better and retain more control over customer takes than if curtailment were on an annual basis. Complainant states that Defendant notified it of the curtailment period and the levels of curtailment which would be imposed on it. Based on reliance on such notification and various business considerations, Complainant states it elected to absorb the full 28.29 percent curtailment imposed at the earliest possible time and, accordingly accepted full curtailment prior to August 15, 1974. Complainant alleges that other customers of Defendant have either (1) followed the same approach as that taken by Complainant, (2) deferred the impact of the curtailment, or (3) took the curtailment at an average daily level. The complaint further states that subsequent to Complainant's full absorption of its share of curtailment, Defendant changed its curtailment period, imposed greater curtailments on Complainant and failed to give Complainant credit for the curtailments it had absorbed in reliance upon Defendant's announced plan.[1]

Complainant argues that Defendant, having adopted a plan of curtailment in its tariff, has the duty to apply that curtailment equitably and should not be allowed arbitrarily "to change the rules in the middle of the game." Complainant asserts that those distributors who had not fully absorbed their shares of curtailment prior to imposition of the change by Defendant of its curtailment period have been additionally curtailed but only to a proportionate degree over and above the previously imposed level while Complainant has been in effect the victim of a discriminatory "double dip." Complainant protests whereas it previously absorbed the full 28.29 percent curtailment originally imposed, it is now subject to the imposition of an additional 28.29 percent curtailment plus a 17 percent curtailment for the remainder of the season.

Complainant further states that, having offered its customers "the maximum amount of flexibility that is reasonably possible" and having induced its customers to take advantage of this flexibility, Defendant should not be allowed to take advantage of those customers by changing the curtailment period. Complainant admits that in order for Defendant to remedy such wrongs imposed upon Complainant it will be necessary that Defendant adjust the volumes of gas previously taken from Complainant to make them available now and that in doing so it may be necessary to curtail other of Defendant's customers. Complainant states, however, that this would simply redress earlier wrongs which resulted in those customers' obtaining more gas than they were entitled to. Complainant requests that the Commission enter an order directing the Defendant to return those volumes of gas by which it was over-curtailed.

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[1] On September 23, 1974, Complainant states it was notified that because of the occurrence of Hurricane Carmen it was necessary that Defendant change its level of curtailment. Complainant states further that it recognized that a force majeure situation had occurred and that a change in level of curtailment might well have been required but that it expected that additional curtailment would be applied equitably, having in mind the curtailment already absorbed, and that to the extent additional curtailment would be necessary it would be supplementary to that already absorbed by Complainant.

Complainant states that it is not herein contesting the merits of the curtailment plan presently a part of Defendant's FPC Gas Tariff.

Any person desiring to be heard or to make and protest with reference to said complaint should on or before December 27, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29302 Filed 12-16-74;8:45 am]

[Docket No. RP72-157; PGA75-3]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FPC Gas Tariff

DECEMBER 6, 1974.

Take notice that Consolidated Gas Supply Corporation (Consolidated), on November 22, 1974, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA clause for rates to be effective January 1, 1975. The proposed rate increase would generate $19.9 million annually in additional jurisdictional revenues.

Consolidated states that the PGA filing was triggered by rate increases filed by Tennessee Gas Pipeline Company (Tennessee) and Texas Eastern Transmission Corporation (Texas Eastern) both to be effective January 1, 1975. Tennessee filed two sets of tariff sheets for the same effective date, one of which, designated as Second Substitute Sixth Revised Sheet Nos. 12A and 12B, includes small producer increases above the level established by Opinion No. 699 while the other, designated as Substitute Sixth Revised Sheet Nos. 12A and 12B, does not Consolidated has reflected in its filing the Second Substitute Sixth Revised Sheet Nos. 12A and 12B rates of Tennessee. Texas Eastern has also filed two sets of tariff sheets, one of which, designated as Fifth Revised Sheet Nos. 14, 14A, 14B, 14C and 14D, includes the effect of United Gas Pipe Line Corporation's increases arising out of Opinion No. 699 and the other, designated as Alternate Fifth Revised Sheet Nos. 14, 14A, 14B, 14C and 14D, does not. Consolidated has reflected in its filing the Alternate tariff sheet rates of Texas Eastern. Additionally, Consolidated has reflected the reduced rates of Transcontinental Gas Pipe Line Corporation effective October 1, 1974, not previously reflected in any PGA filing and has eliminated the Research and Development Adjustment which became effective November 1, 1974. These Research and Development costs are reflected in the base rates filed in Docket No. RP74-90 which will become effective December 1, 1974.

Consolidated is requesting a waiver of the 45-day notice requirement contained in its PGA clause since it did not receive the supplier's revised rates in sufficient time to make a timely filing and further asks for a waiver of any other of the Commission's Rules and Regulations in order to permit the proposed rates to go into effect on January 1, 1975.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 23, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29303 Filed 12-16-74;8:45 am]

[Docket No. E-9048]

CONSUMERS POWER CO.

Interconnection Agreement

DECEMBER 6, 1974.

Take notice that Consumers Power Company, on October 3, 1974, tendered for filing an Interconnection Agreement between Consumers Power Company and the City of Holland, Michigan, cancelling and superseding a Contract for Electric Service between the same two parties dated November 15, 1967 (designated Consumers Power Company Rate Schedule FPC No. 15). The proposed Agreement prescribes the reserve responsibility of each party, the classes of power and energy to be exchanged by the parties, and the terms, conditions, and rates governing such exchanges.

A copy of the filing was served on the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. The application is on file with the Commission and is available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29308 Filed 12-16-74;8:45 am]

[Docket Nos. E-7543, E-8170, E-9091]

GEORGIA POWER CO.

Tariff Change

DECEMBER 6, 1974.

Georgia Power Company (Georgia Power) on November 20, 1974, tendered for filing Revised Sheets Nos. 3, 3-A, 3-B, 3-C, 3-D, 3-E, 3-F, 3-G, 3-H, 3-L, 3-N, and 3-O of the subject tariff. These revisions cover changes effective in the fourth quarter of 1974, consisting of eighteen (18) new wholesale delivery points and three (3) conversions of existing wholesale delivery points to the WR-7 rate, and one (1) previously omitted conversion of existing wholesale delivery point to the WR-7 rate.

The above changes reflect the fact that Georgia Power has established eighteen (18) new delivery points for existing customers, where service will be rendered at the WR-7 rate currently on file with the Commission and that pursuant to the terms of this present tariff, three (3) delivery points have been converted to the WR-7 rate, and one (1) delivery point previously omitted have been converted to the WR-7 rate. On October 31, 1974, Georgia Power filed new rate schedule WR-8, and this has been assigned Docket E-9091. As of this date the Commission has noticed the new filing, but has not ordered hearings or set procedural dates. Included in the filing are twenty-two (22) supplemental sheets giving data on the delivery points involved in the above changes.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 20, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29311 Filed 12-16-74;8:45 am]

[Docket Nos. RP74-32, RP74-33]

EL PASO NATURAL GAS CO. AND NORTHWEST PIPELINE CORP.

Further Extension of Time

DECEMBER 4, 1974.

On November 25, 1974, El Paso Natural Gas Company filed a motion to extend the date for filing briefs on exceptions and briefs opposing exceptions to the initial Decision of the Presiding Administrative Law Judge issued August 28, 1974, as most recently extended by notice issued October 30, 1974, in the above-designated matter. The motion states that all parties have been contacted and have no objections.

Upon consideration, notice is hereby given that the date for filing briefs on exceptions is extended to December 30, 1974 and the date for filing briefs opposing exceptions is extended to January 20, 1975.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29317 Filed 12-16-74;8:45 am]

[Docket No. RM74-18]

INTEREST RATES SUBJECT TO REFUND

Order Denying Applications for Rehearing and Clarifying Prior Order

DECEMBER 11, 1974.

On April 23, 1974, we issued a notice of proposed rulemaking in which we stated that we were considering amending §§ 35.18(a), 154.102(c) and 154.67(c) of our regulations under the Federal Power Act and the Natural Gas Act to provide for a change in the interest rate on amounts subject to refund. Comments on this proposal were received from some fifty-one parties, and on October 10, 1974, we issued Order No. 513 by which we amended our regulations to provide for a 9 percent refund interest rate (up from the previously effective 7 percent rate) which would be applied prospectively to new rate filings made on or after the date of issuance of the order.

On November 11, 1974, the American Public Power Association, et al. (APPA) [1] and Northern Illinois Gas Company (N. Ill.) filed applications for rehearing of Order No. 513. In addition, the APPA pleading requests clarification of Order No. 513 to the extent of determining whether the 9 percent rate would be applied to a defective filing tendered prior to the issuance of the order but not cured until after such.

As grounds for rehearing, the APPA application asserts three contentions which essentially raise two primary issues. The first two of the three APPA allegations deal with the selection of 9 percent as the refund interest rate and specifically assert that selection of the 9 percent rate is arbitrary and unsupported by Order No. 513 and that the prime rate should be the minimum refund interest rate. In support of these allegations, APPA argues that: (1) The Commission has historically set the refund interest rate in excess of the prime rate; (2) amounts subject to refund represent a source of short-term capital for utilities, and thus the refund interest rate should approximate the cost of short-term borrowings which generally exceeds the prime rate; and (3) Order No. 513 gives no indication of the basis for the precise rate selected. APPA then advises us to "bear in mind that the purpose of the Natural Gas Act and the Federal Power Act is to protect consumers from excessive rates and charges, keeping rates as low as possible." [2]

We find no merit in the assertion of APPA that the prime rate should be the minimum refund interest rate. As stated in Order No. 513 (at page 6):

> Setting an appropriate interest rate on amounts subject to refund involves more than merely attempting to parallel it with interest rates on short-term borrowings or with interest rates on passbook savings accounts. The fund itself is unique, and while interest on the fund serves to compensate the consumer for the use of his money, it should not be so low as to unjustly enrich filing companies and should not be so high as to penalize the company for seeking a rate increase. Thus, the interest rate cannot be keyed to any single financial criterion but must reflect a variety of money market rates.

In addition, we note (as again we did in Order No. 513) that since the previous 7 percent refund interest rate was established [3] the prime rate has fluctuated nearly seven percentage points; and since we believe that a fixed—as opposed to a fluctuating—refund interest rate is desirable,[4] it would be self-defeating to key the refund interest rate to a point as volatile as the prime rate has proven itself to be. In regard to the lack of support in Order No. 513 for the selection of 9 percent as the refund interest rate, we state again (as we did in that order at page 6) that "there is no specific formula for making a determination such as this * * *" and we direct APPA to the necessary evidentiary content of rulemaking orders as defined by the Court of Appeals for the District of Columbia Circuit:

> What is required here is not specified and detailed findings and conclusions of the kind customarily associated with formal proceedings, but merely a concise general statement of the basis and purpose of the rule(s). We expect that such a concise general statement of * * * basis and purpose will enable a reviewing court "to see what major issues of policy were ventilated by the informal proceedings and why the agency reacted to them as it did." [5]

We are of the opinion that Order No. 513 more than adequately complies with these judicial requirements, and accordingly we believe that no useful purpose would be served by a continued discussion of the factors which influenced our decision to establish the refund interest rate at 9 percent. We further note that in regard to APPA's interpretation of the purpose of our statutory authority, we view our delegated statutory authority as requiring the establishment of the lowest reasonable rate consistent with the maintenance of a continuing and adequate supply of natural gas and electric power.

APPA's third contention is that the failure to apply Order No. 513 to filings pending before the Commission when Order No. 513 was issued is arbitrary and without basis or justification. In this same regard, the single contention of N. Ill. is that the 9 percent refund interest rate should be applied to all amounts collected subject to refund under any rate becoming effective after the issuance of Order No. 513 and no valid reason has been given for not doing so. Our decision to apply the 9 percent rate solely to amounts collected subject to refund in rate filings made on or after the date of issuance of our order was within our authority, and neither APPA nor N. Ill. has presented us with any reasons constituting good cause to modify that decision. APPA's final contention is that certain Commission actions in allowing rate relief (i.e. optional pricing for independent producers, higher nationwide producer rates, etc.), coupled with the fact of regulatory delays, demand that we adopt adequate refund interest policies. We believe that the 9 percent interest rate which we established in Order No. 513 is currently an appropriate rate, and further, we stated that we will reassess the refund interest rate periodically. Such actions, in our opinion, comprise an adequate refund interest policy.

Finally, APPA requests clarification as to whether application of the new interest rate on refunds to new filings contemplates the date on which a defective filing is tendered or the date on which such a filing is cured. When a deficient filing is tendered, it is not assigned a filing date until that deficiency is cured. Therefore, unless we waive the filing requirements of our Regulations and designate the original date of tender as the filing date, the date upon which the deficiency is cured is the filing date for the purposes of determining whether the 9 percent refund interest rate shall apply.

The Commission finds. The assignments of error and grounds for rehearing set forth in the petitions for rehearing

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[1] The American Public Power Association, The American Public Gas Association; the Indiana Municipal Electric Association, The Indiana Statewide Rural Cooperative, Inc., The Ohio Municipal Electric Association and the Vermont Electric Cooperative.

[2] Application for Rehearing of APPA, filed November 11, 1974, p. 7.

[3] By Order No. 442, issued December 3, 1971, in Docket No. R-419, 46 FPC 1287.

[4] See Order No. 513, issued October 10, 1974, p. 7, and Order No. 442, 46 FPC 1287, 1288.

[5] "Public Service Commission of the State of New York v. Federal Power Commission," 467 F.2d 361, 366-367 (D.C. Cir. 1972).

filed by APPA and N. Ill. on November 11, 1974, present no facts or legal principles which would warrant any change in or modification of Order No. 513.

The Commission orders. The applications for rehearing filed by APPA and N. Ill. in this proceeding on November 11, 1974, are denied.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29819 Filed 12-16-74;8:45 am]

[Docket No. E-8315]

IOWA PUBLIC SERVICE CO.

Order Approving Rate Settlement

DECEMBER 11, 1974.

On May 29, 1974, Iowa Public Service Company (IPS) tendered for filing a proposed rate increase to IPS First Revised Sheet No. 1, FPC Electric Tariff, Original Volume No. 1 for electric service to Lincoln Light and Power Company, Farmers Cooperative Light and Power Company, and ten municipals.[1] The proposed new rate would have resulted in an estimated increase of $293,209 for the period ending June 30, 1975, and a realized rate of return of 8.29 percent. On June 28, 1974, the Commission, inter alia, suspended the proposed increase for the maximum statutory period (until November 28, 1974) for all but two of IPS's customers, rejected the increase as to the Towns of Denver and Hudson, and permitted all customers to intervene. Based on an Application for Reconsideration or Rehearing of Commission's Order, filed by IPS on July 17, 1974, the Commission ordered, on August 9, 1974, that the proposed new rate be accepted as to the Towns of Denver and Hudson.

On September 10, 1974, IPS and its customers participated in settlement discussions which resulted in IPS's filing of a Settlement Agreement for Commission approval on September 23, 1974. This filing was noticed on October 8, 1974, with comments or protests due on or before October 18, 1974. The Commission Staff filed comments in support of the Agreement on October 18, 1974. No other comments were received.

The Settlement provides for a revised Cost of Service Study attached hereto and identified as Appendix A below. Based on that Cost of Service Study, the parties have agreed that the increase to the wholesale customers should be $200,560 instead of the originally proposed increase of $293,209. The wholesale rates are also set forth in Appendix B below. The rate of return upon which the settlement is based is 6.81 percent. IPS proposes to effectuate settlement rates as per this Agreement on November 28, 1974.

We note that the proposed settlement contains a declining block rate structure, whereby the average charge per kWh to a customer declines as purchases of electricity increase. Based upon the record in this proceeding, we shall not modify the rate structure proposed by the parties in this proceeding. However, in future rate proceedings involving Iowa Public Service Company, as well as other electric utilities subject to our rate jurisdiction, we intend to review the rate structures proposed therein to determine whether they are consistent with our stated goals of promoting energy conservation and encouraging a more efficient allocation and use of this nation's scarce energy resources.[2]

Upon our review of the record in this proceeding, including the settlement agreement itself, the filings, documents and pleadings submitted by the parties, we conclude that the settlement agreement represents a reasonable resolution of the issues in this proceeding and will be in the public interest and, accordingly, the settlement should be approved.

The Commission finds. The settlement agreement in this proceeding, as filed by IPS on September 23, 1974, is reasonable and proper and in the public interest in carrying out the provisions of the Federal Power Act.

The Commission orders. (A) The Settlement Agreement as filed by Iowa Public Service Company in Docket No. E-8315 is hereby incorporated by reference, approved and made effective as of November 28, 1974.

(B) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by this Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, or any party or person affected by this order, in any proceeding now pending or hereinafter instituted by or against IPS or any person or party.

(C) Within 15 days of the date of issuance of this order, IPS shall file revised tariff sheets consistent with the provisions of the settlement agreement.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

APPENDIX A.—*Iowa Public Service Co. comparison of allocated cost of service, 18 sales for resale customers—test year 1973*

	Existing rates	Adjustments	Proposed rates
Operating income:			
Operating Revenues: Sale of Electric Energy	$685,859	$200,560	$886,419
Operating expenses:			
Operating expense	426,153		426,153
Depreciation expense	134,030		134,030
Total operating expenses	570,183		570,183
Net operating revenue before income tax	115,676	200,560	316,236
Federal and State income tax	8,189	104,301	112,588
Net sales for resale income	107,451	96,109	203,650
Rate base:			
Average plant in service (with common allocated)	4,330,231		4,330,231
Average reserve for depreciation (with common allocated)	(1,185,805)		(1,185,805)
Materials and supplies	141,079		141,079
Accumulated deferred income tax	(302,592)		(302,592)
Total sales for resale rate base	2,991,913		2,991,913
Rate of return (percent)	3.59		5.31

APPENDIX B.—*Iowa Public Service Co. analysis of proposed settlement by rate block for test year 1973*

	Kilowatt-hour	Rate	Revenue
		Cents	
Present rates:			
First block	29,782,500	1.4	$416,975
Second block	11,393,221	1.3	148,113
Balance	6,169,343	1.0	61,093
Subtotal	47,325,064		626,481
Fuel clause			59,378
Rounding adjustment			(7)
Total	47,325,064		685,852
Settlement rates:			
First block	29,782,500	1.9	565,868
Second block	11,393,221	1.7	193,685
Balance	6,169,343	1.1	67,903
Subtotal	47,325,064		827,456
Fuel clause			59,378
Rounding adjustment			(3)
Total	47,325,064		886,413
Revenue—settlement rates			886,412
Revenue—present rates			685,852
Settlement increase			200,560

[FR Doc.74-29908 Filed 12-16-74;8:45 am]

[1] Iowa Cities of Anthon, Arlington, Auburn, Denver, Dunkerton, Fonda, Hudson, Livermore, Pocahontas, and Sergeant Bluffs.

[2] See: Order No. 496, issued November 29, 1973; notice of proposed rulemaking, Revision to Regulations Under Federal Power Act to Provide For Filing of Rate Design Information, issued April 26, 1974, in Docket No. RM74-20.

[Docket Nos. RP73-102, RP75-14 (PGA 75-1)]

MICHIGAN WISCONSIN PIPE LINE CO.

Filing Response to Commission Order

DECEMBER 6, 1974.

Take notice that on November 15, 1974, Michigan Wisconsin Pipe Line Company (Mich-Wis) filed a letter to the Secretary of this Commission as a response to the Commission's order of October 31, 1974 at these dockets. Within its letter Mich-Wis alleges the following:

(a) All large producers, whose production Michigan Wisconsin had included in its September 13, 1974 PGA filing at the new Uniform National Rate, have filed with the Commission an application to charge that higher rate.

(b) All large producers, whose production Michigan Wisconsin had included in its filing at the October 1, 1974 Southern Louisiana Area Rate for new gas, prescribed by Opinion No. 598, have filed with four exceptions. Hassie Hunt Trust (Rate Schedule 41), Hunt Petroleum Corporation (Rate Shedule 5), Hunt Oil Company (Rate Schedule 66) and Hunt Industries (Rate Schedule 8) have not yet, to Michigan Wisconsin's knowledge, filed for the 1.00¢ escalation. The increase in cost applicable to those four producers which was reflected in the rate filing totals $50,222.

(c) Many large producers whose production was not included in Michigan Wisconsin's September 13, 1974 filing at the new Uniform National Rate have, however, filed for that higher rate with an indicated cost increase to Michigan Wisconsin of some $7,800,000.

(d) On October 29, 1974, Michigan Wisconsin supplemented its September 13, 1974 filing with documents substantiating its increased cost of Canadian gas.

Mich-Wis further states that its cost of gas commencing November 1, 1974 will be no less than that included in the rates set forth in Seventh Revised Sheet No. 27F and, therefore, submits that no substitute tariff sheet is required to be filed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 23, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29312 Filed 12-16-74;8:45 am]

[Docket No. RP75-37-1]

MIDWESTERN GAS TRANSMISSION CO. AND HUISINGA GRAIN CO., INC.

Interim Emergency Relief

DECEMBER 6, 1974.

On November 29, 1974, Huisinga Grain Company, Inc. (Huisinga) of Casey, Illinois and the City of Casey, Illinois (Casey), Huisinga supplier, filed in Docket No. RP75-37-1, telegrams requesting relief from the curtailment imposed by Casey's supplier, Midwestern Gas Transmission Company (Midwestern). Huisinga and Casey stated therein that gas service to Huisinga had been curtailed and that continuation of such service was required for grain drying. The Secretary, by telegram of November 29, in response to the allegations contained in the aforementioned telegrams, advised Midwestern that the relief requested might be unilaterally granted under the applicable provision of Midwestern's curtailment plan. The Secretary also indicated therein, that if Midwestern refused to so act, Casey could then file, with supporting affidavits from Huisinga, for extraordinary relief pursuant to the provisions of § 2.78 of the Commission's rules and regulations. On December 3, Casey, on behalf of Huisinga, renewed its request stating, inter alia, that the gas is required for the drying of corn and beans, that crops worth approximately two million dollars are still in the fields unharvested, and if not dried could be a total loss. Furthermore, Huisinga maintains that the use of alternate fuel, in this case propane, is impractical in that it would involve an additional estimated cost of $50,000 dollars, and would require ten weeks for the delivery of the necessary equipment. Accordingly, Casey requests the Commission direct Midwestern to deliver to it, for the account of Huisinga, 1,400 Mcf per day for 20 operating days.

Midwestern's response to Casey's and Huisinga's petition was received on December 4, 1974. Midwestern stated therein that it had refused to unilaterally grant Casey and the requested relief, that its entire gas supply has been allocated for the current season, and that the utilization of temporary equipment would permit the immediate substitution of propane for the 20 day period. Midwestern also indicated that Casey attached the grain drying operation subsequent to the development of the end use data that was utilized as the basis for the allocations under the curtailment plan, and therefore no volumes of gas were allocated for this service.

We shall grant a portion of the relief requested in the instant petition because of the threatened loss of sizeable quantities of needed grain and because there appears to be no other recourse at this time. We do not however, do so without reservation. It appears to this Commission that Huisinga's grain drying operation was recently attached by Casey, that Midwestern was not informed of this situation, and that Casey continued to serve this requirement from the entitlement intended for Priority 1 and 2 service only. Since curtailment on the Midwestern system began on November 1, 1974, as a direct result of curtailments on the Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., system, it is conceivable that Casey was unaware of the impending curtailment. Nevertheless, it is our firm view that both Casey and Huisinga should have been aware of the nationwide fuel shortage and should have planned for such a contingency, regardless of the cost. This is especially true in light of Huisinga's failure to install alternate fuel facilities, when an alternate fuel, propane, is available. Since it appears that it may be possible to install temporary facilities, utilizing propane, within 10 days, we shall direct and authorize Midwestern to deliver to Casey, for the account of Huisinga 1400 Mcf for 10 days, subject to possible payback. If relief is required in excess of that provided above, Casey will be required to file a petition for extraordinary relief pursuant to and consistent with the provisions promulgated by Order No. 467-C. Furthermore, it should be noted that the Commission shall not, in the future, be disposed toward granting petitions for extraordinary relief where the facts as alleged are similar to those contained in the instant filing.

Casey's November 29, telegram also seems to indicate that it would require an additional 16,000 Mcf for the November 1, 1974 through March 31, 1975, curtailment period. If this is so, the proper procedure for Casey to follow would be to file a petition for extraordinary relief pursuant to the provisions and conformance to the requirements of Order No. 467-C.

The Commission finds. That Midwestern should be authorized and directed to deliver to the City of Casey, Illinois, for the account of Huisinga Grain Company, Inc., 1,400 Mcf for 10 operating days.

The Commission orders. That Midwestern is hereby authorized and directed subject to possible payback to deliver to the City of Casey, Illinois, for the account of Huisinga Grain Company, Inc., 1,400 Mcf for 10 operating days.

By the Commission.

(SEAL)

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29310 Filed 12-16-74;8:45 am]

[Docket No. E-9017]

MISSOURI UTILITIES CO.

Letter Agreement

DECEMBER 10, 1974.

Take notice that on September 11, 1974, Missouri Utilities Company (Applicant) filed with the Federal Power Commission a Letter Agreement between itself and the City of Kennett, Missouri (City) for emergency delivery of power.

The application states that the emergency arose because City was unable to obtain adequate natural gas supplies to fuel their generating stations and City's allocation of No. 2 fuel oil is inadequate to meet generating requirements. Delivery of power to City began on September 3, 1974 on an emergency basis, and Applicant requests retroactive acceptance of said Agreement, effective September 3, 1974.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1974, file with the Federal Power

Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29316 Filed 12-16-74;8:45 am]

[Docket No. RP74-100, PGA75-3]

NATIONAL FUEL GAS SUPPLY CORP.

Filing of Revised Tariff Sheet

DECEMBER 10, 1974.

Take notice that on November 27, 1974, National Fuel Gas Supply Corporation (National Fuel) tendered for filing First Interim Revised Sheet No. 4 to its FPC Gas Tariff, Original Volume No. 1. National Fuel states that this tariff sheet, filed pursuant to section 17 (PGA) of the General Terms and Conditions of its tariff, reflects an annual increase of $1,688,245 over the revenues that would be generated from the rates set forth in National Fuel's Revised Sheet No. 4. National Fuel further states that these increased costs result from increases filed by certain of its suppliers.

The proposed effective date of this filing is December 1, 1974, and accordingly, National Fuel requests waiver of the 45 day notice requirement of § 17.5 of the General Terms and Conditions of its tariff and waiver of any Commission Rules and Regulations which might bar a December 1, 1974 effective date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 23, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29315 Filed 12-16-74;8:45 am]

[Docket No. E-9136]

NEW ENGLAND POWER CO.

Tariff Change

DECEMBER 6, 1974.

Take notice that New England Power Company (NEPCO) on November 26, 1974, tendered for filing proposed changes in its FPC Electric Tariff, Original Volume No. 1, and its Service Agreement for Primary Service for Resale with The Narragansett Electric Company (Narragansett). The proposed changes would increase the fixed credits allowed Narragansett on its purchased power billing by NEPCO in the amount of $1,646,700 annually based on the 12 month period ending December 31, 1975.

NEPCO states that it reviews annually, conjunctively with its affiliate Narragansett, that part of Narragansett's system which is used by it in providing all-requirements service to Narragansett, and upon a substantial change in circumstance, refiles with the Commission the revised generation and transmission credits. The company claims that the instant revision is primarily due to a substantial increase in the necessary rate of return occasioned by Narragansett's refinancing of low cost senior securities and increased depreciation expense.

Copies of the filing were served upon Narragansett and the Rhode Island Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 23, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc. 74-29307 Filed 12-16-74;8:45 am]

[Docket No. E-8137, Docket No. E-8217]

NEW ENGLAND POWER SERVICE CO. AND BOSTON EDISON CO.

Extension of Procedural Dates

DECEMBER 6, 1974.

On November 29, 1974, Boston Edison Company and New England Power Company filed a motion to extend the procedural dates fixed by order issued June 17, 1974, as most recently modified by notice issued November 14, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company Rebuttal, December 30, 1974.
Hearing, January 6, 1975 (10 a.m. e.s.t.).

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29299 Filed 12-16-74;8:45 am]

[Docket No. RP74-93; PGA 75-3]

NORTH PENN GAS CO.

Tariff Sheets for Filing Subject to Condition and Denying Motions To Reject

DECEMBER 6, 1974.

On May 15, 1974, North Penn Gas Company (North Penn) filed a proposed rate increase to recover, among other things, through a tracking clause the increased costs associated with the alleged imposition of a Pennsylvania Gross Receipts Tax on its interstate sales applicable to the years 1972 and 1973. By order issued June 28, 1974, the Commission suspended the proposed increase for five months until December 1, 1974, and denied North Penn's request for tracking of the gross receipts tax without prejudice to its inclusion in the base tariff rate through the filing of an appropriate surcharge. On July 29, 1974, North Penn made such a filing which was accepted by letter order on August 28, 1974.

On November 8, 1974, North Penn filed substitute tariff sheets to be effective December 1, 1974, which give effect, among other things, to a ruling by the Pennsylvania Board of Finance and Revenue granting North Penn's petition for review and reversing the Pennsylvania Department of Revenue's ruling that had imposed such tax for the year 1972. However, North Penn's November 8, 1974, filing retains the impact of the gross receipts tax as it would apply if assessed for the year 1973 and adds to its rate the impact of such tax as it would apply if assessed for the year 1974.

Also, included in the above filing was a PGA rate increase of 4.722¢ per Mcf or $741,277 per year which tracks a PGA increase of Consolidated Gas Supply Corporation (Consolidated), effective November 1, 1974, a general rate increase of Consolidated which is to become effective December 1, 1974, subject to refund, and the PGA increase of Transcontinental Gas Pipe Line Corporation, effective October 1, 1974. North Penn requested waiver of any of the Commission's regulations as may be required to permit Second Substitute Twelfth Revised Sheet No. PGA-1 to become effective on December 1, 1974.

Notice of the filing was issued on November 19, 1974, with protests or petitions to intervene due on or before November 26, 1974. On November 20, 1974, Corning Natural Gas Corporation (Corning) filed a protest and motion to reject; on November 25, 1974, New York State

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Electric and Gas Corporation (NYSEG) filed a protest; and on November 26, 1974, the Public Service Commission of the State of New York (New York) filed a protest and motion to reject and/or suspend the proposed rate filing.

Corning alleges that North Penn has successfully challenged the assessment of the gross receipts tax before the Board of Finance and Revenue of the Commonwealth of Pennsylvania. As a result of this decision, Corning argues that it is highly improbable that the Pennsylvania Gross Receipts Tax will ever be imposed upon North Penn's interstate sales of gas to Corning, and accordingly, Corning requests that North Penn's filing of November 8, 1974, be rejected and that North Penn be directed to file revised tariff sheets which totally exclude the gross receipts tax surcharge.

NYSEG avers that the gross receipts tax is a contingent liability, since North Penn is not paying the tax, and to permit North Penn to flow this cost through to its customeps would remover any incentive for North Penn to continue to challenge the imposition of the tax. Accordingly, NYSEG protests the inclusion of the gross receipts tax in North Penn's base tariff rate until after a hearing is held concerning the reasonableness of said tax.

New York argues the inclusion of the impact of the tax for the period from January 1, 1973, through November 30, 1974, and the inclusion of the prospective impact for the period commencing on December 1, 1974, is improper because there is no claim that North Penn has in fact paid or intends to pay the tax. As a result, New York requests that the part of North Penn's filing of November 8, 1974, that purports to include the gross receipts tax surcharge be rejected or alternatively, that said costs be suspended for the full statutory period, beginning on December 8, 1974, which is the end of the minimum statutory notice period.

On December 2, 1974, North Penn filed its answer to the above protests and motions to reject. North Penn argues that it is erroneous to assume that there will be no gross receipts tax assessment for 1973 and subsequent years, since the Pennsylvania Department of Revenue may still make such an assessment for 1973, and North Penn will not file its gross receipts tax for 1974 until April 15, 1975.

In light of the ruling of the Pennsylvania Board of Finance and Revenue relieving North Penn of any liability for the gross receipts tax on its interstate sales for the year 1972, and in view of the fact that North Penn has not been assessed, as of this date, any tax associated with the gross receipts for its 1973 and 1974 interstate sales, we believe the public interest is best served by the elimination from North Penn's rates, effective December 1, 1974, of any costs associated with such tax as may be included in North Penn's November 8, 1974, filing, and accordingly, we shall so order. This action shall be without prejudice to North Penn's filing to recover an amount associated with an actual assessment of the gross receipts tax, when and if such an assessment is made, and without prejudice to any action that may be taken by the Commission upon review of such filing and the comments received in response thereto.

Furthermore, we note that North Penn has included the PGA adjustment of 4.722¢ per Mcf as part of its base tariff rate instead of including the increase in a separate PGA adjustment clause pursuant to Section 154.38 of the Commission's regulations. Moreover, the PGA increase does not include the most recent substitute rates of Consolidated's general rate increase filing, since these rates were not available at the time of North Penn's filing. Accordingly, we shall require North Penn to include in its revised tariff sheets a separate PGA adjustment clause that reflects the cost of the revised Consolidated filing of December 1, 1974.

The Commission finds. (1) North Penn's proposed Second Substitute Twelfth Revised Sheet No. PGA–1 should be accepted for filing subject to the conditions hereinafter ordered.

(2) Good cause exists to grant waiver of § 154.51 of the Commission's regulations.

The Commission orders. (A) North Penn's proposed Second Substitute Twelfth Revised Sheet No. PGA–1 is hereby accepted for filing upon condition that North Penn, within twenty days of the issuance of this order, file revised tariff sheets that reflect the deletion of the gross receipts tax surcharge from the base tariff rate, the inclusion of the PGA increase in a separate PGA clause, and the use of the most recent substitute rates of Consolidated, filed on December 1, 1974.

(B) North Penn's requested waiver of § 154.51 of the Commission's regulations is hereby granted to permit an effective date of December 1, 1974, for the above filing subject to the conditions herein prescribed.

(C) Corning's and NYSEG's motions to reject North Penn's filing of November 8, 1974, are hereby denied.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29320 Filed 12-16-74;8:45 am]

[Docket Nos. RP71-107, Phase II, RP72-127, RP74-9, PGA 75-1]

NORTHERN NATURAL GAS CO.

Tariff Revision Filing

DECEMBER 6, 1974.

Take notice that on November 1, 1974 Northern Natural Gas Company (Northern) tendered for filing Second Revised Sheet No. 502 to Rate Schedule X-34 to become part of its F.P.C. Gas Tariff, Original Volume No. 2.

This sheet is being filed pursuant to the provisions of Article X of the contract which provides that the rate shall be adjusted concurrently with and in an amount equal to the amount by which the commodity rates in Northern's F.P.C. Gas Tariff, Third Revised Volume No. 1 are adjusted by operation of Northern's Gas Purchase Adjustment Clause.

In accordance with the provision of the Purchased Gas Adjustment Clause of Volume No. 1 of its Tariff, Northern has filed a rate adjustment on October 25, 1974 to become effective December 27, 1974, in an amount of 4.55¢ per Mcf. Therefore, Second Revised Sheet No. 502 reflects a rate for volumes delivered to El Paso of 30.06¢ which has been increased 4.55¢ over the rate of 25.51¢ as shown on First Revised Sheet No. 502. This increase in rates reflects the increase in Northern's average estimated cost of purchased gas for the year 1975. December 27, 1974 is the proposed effective date of this tariff sheet.

Northern has also enclosed for filing Substitute Second Revised Sheet No. 502. Northern advises that this tariff sheet provides for an additional PGA increase of one and fifty-six hundredths cents (1.56¢) per Mcf above the 4.55¢ or a total of 6.11¢ per Mcf which was also submitted for filing on October 25, 1974. This additional increase in rates reflects the increase in Northern's average estimated cost of purchased gas for the year 1975 resulting from the application of the proposed nationwide rates for purchased gas as provided in Table II of the Federal Power Commission's "Notice Issuing Staff Rate Recommendation and Prescribing Procedures" issued September 12, 1974, in "Nationwide Rulemaking to Establish Just and Reasonable Rates for Natural Gas Produced from Wells Commenced Before January 1, 1973," Docket No. R–478.

Northern also states that should the Commission issue an Order establishing nationwide rates in Docket No. R–478 by December 27, 1974, they proposed that Substitute Second Revised Sheet No. 502 be effectuated on December 27, 1974 and that Second Revised Sheet No. 502 be withdrawn. If, however, the Commission has not established nationwide rates so as to allow effectuation by December 27, 1974 of Substitute Second Revised Sheet No. 502, they propose the effectuation of Second Revised Sheet No. 502 on December 27, and that Substitute Second Revised Sheet No. 502 be suspended for one day and made effective December 28, 1974, subject to refund.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 19, 1974. Protests will be

considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29309 Filed 12-16-74;8:45 am]

[Docket No. RP75-36]

ORANGE AND ROCKLAND UTILITIES, INC., AND TENNESSEE GAS PIPELINE CO.

Complaint

DECEMBER 10, 1974.

Take notice that on November 19, 1974, Orange and Rockland Utilities, Inc. (Complainant), 75 West Route 59, Spring Valley, New York 10977, filed in Docket No. RP75-36 a complaint against Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Defendant), PO Box 2511, Houston, Texas 77001, alleging violation of section 4(b) of the Natural Gas Act as a result of Defendant's discriminatory and preferential implementation of its curtailment plan for sales of natural gas made pursuant to authorizations issued under the Natural Gas Act and requesting that the Commission order the Defendant to deliver certain volumes of gas by which Complainant asserts it was over-curtailed, all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

The complaint asserts that Defendant notified Complainant on December 27, 1973, that deliveries would be curtailed within three curtailment periods during 1974 with total deliveries for each period limited to a "curtailment period quantity entitlement" (CPQE) determined by Defendant. Complainant alleges that after notification as to its CPQE for the April 1–October 31 period (curtailment of 2,389,160 Mcf or 19.52 percent of the contract volume limitation for that period) Complainant accelerated curtailment of the specified volume with the result that curtailment was completed prior to September 23, 1974. The complaint states that on September 20, 1974, after alleged losses of production and storage injection during the period of Hurricane Carmen, Defendant imposed a new curtailment for the period September 23, 1974, through October 31, 1974, with Complainant's entitlement set at 1,655,809 Mcf during said period. Complainant asserts that the computation of this new quantity entitlement was premised on the assumption that during the period April 1 through September 22 each customer took a pro rata portion of its CPQE for the full curtailment period (April 1–October 31). The complainant alleges that Defendant's customers did not take pro rata portions but rather implemented their respective original curtailments at varying rates. Complainant asserts it and other customers who also accelerated their curtailment were entitled to receive a volume of gas during the 39-day period greater than the quantity entitlement computed by Defendant.

The complaint states that as a result of its accelerated curtailment and Defendant's failure to take into account actual volumes delivered Complainant has suffered a permanent loss of 452,666 Mcf of gas (the difference between actual accelerated volumes taken and the volume Complainant could have taken during the period of April 1 to September 23 if Complainant had maintained a uniform rate of curtailment). The complaint alleges that such a result is unduly discriminatory to Complainant and preferential to other of Defendant's customers who had not completed their curtailments as of September 23, 1974. Complainant argues that customers who by September 23 had curtailed on a less than pro rata basis have received a windfall. Complainant alleges that Defendant's failure to take into account actual volumes it delivered to Complainant during the period of April 1–September 22, when imposing new curtailment limitations on its customers, constitutes a violation of section 4(b) of the Natural Gas Act. Complainant requests an order by the Commission directing Defendant to deliver to Complainant 452,664 Mcf of gas, in addition to the amount determined to be due under Defendant's current CPQE.

Any person desiring to be heard or to make any protest with reference to said complaint should on or before December 30, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29301 Filed 12-16-74;8:45 am]

[Project No. 637]

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASHINGTON

Order Approving Change in Land Rights

DECEMBER 6, 1974.

On August 27, 1973, Public Utility District No. 1 of Chelan County, Washington, Licensee for Project No. 637, filed an application for Commission approval to convey in fee approximately 4.0 acres of land located within the project boundary to the Washington State Highway Department. The Chelan Project No. 637 is located on the Chelan River in Chelan County, Washington.

Notice of the referenced application was issued on January 3, 1974, with February 25, 1974, being the last date to file protests or petitions to intervene. None were received.

The Washington State Highway Department desires to purchase the aforementioned 4.0 acres, which are located about 1000 feet upstream of the project dam and are contiguous to and within the project reservoir, to construct a proposed highway and bridge across the Chelan River.

According to the Licensee, the proposed use of the land will not be inconsistent with any officially recognized local or regional land use plan. A copy of the proposed instrument of conveyance which accompanied the application states that the Washington State Highway Department acknowledges the rights of the Licensee, its successors and assigns, to use the land for purposes as contemplated by the license as now or hereafter amended.

The proposed instrument of conveyance further states that the use of the land by the Washington State Highway Department will not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use, in accordance with paragraph (C) of the Commission Order No. 313 issued December 27, 1965, (34 FPC 1546, 1549–1550).

We further determine that as a condition for approval of the application the Licensee must submit a revised Exhibit K for Project No. 637, depicting the location of the bridge.

Based on our review of the application, we conclude that our approval of the conveyance of the project lands is not a major Federal action having a significant impact on the quality of the human environment; therefore, there is no need for preparation of an environmental impact statement. Further, in this connection we note that the Washington State Highway Department, which has convened hearings, has prepared draft and final environmental impact statements regarding the proposal. The final Environmental Impact Statement, which was issued October 24, 1972, was concurred in by the Federal Highway Administration.

The conveyance of the above referenced acreage to the Washington State Highway Department will be in the public interest in that the 4.0 acres of project land will be used by the Washington State Highway Department to construct a highway and bridge across Lake Chelan, thereby facilitating traffic flow. Also as a consequence of this conveyance, the Washington State Highway Department has agreed to aid in future recreational development by increasing public access with the construction of a public walkway across the new highway right-of-way on both sides of the river.

The Commission finds. (1) It is appropriate and consistent with the public

interest that Licensee's application for change in land rights should be approved, thereby permitting Licensee to convey approximately 4.0 acres of project land to the Washington State Highway Department.

(2) Approval of this application for a change in land rights is not a major Federal action which would significantly affect the quality of the human environment; consequently no environmental impact statement is required.

The Commission orders. (A) The application for a change in land rights is hereby approved, thereby permitting the Licensee for Chelan Project No. 637 to convey approximately 4.0 acres of project land to the Washington State Highway Department: Provided, Licensee file a revised Exhibit K showing the location of the new bridge within 6 months after construction of the bridge is completed; and Provided further that the instrument of conveyance contains a covenant in accordance with paragraph (C) of Commission Order No. 313, issued December 27, 1965, (34 FPC 1546, 1549–1550).

(B) Applicant shall file with the Commission for its records a copy of the executed instrument within 60 days of its execution.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29306 Filed 12-16-74;8:45 am]

[Docket Nos. E-8850, E-8993, E-8994]

PUGET SOUND POWER AND LIGHT CO.

Extension of Procedural Dates

DECEMBER 6, 1974.

On December 2, 1974, Staff Counsel filed a motion to extend the procedural dates fixed by order issued November 15, 1974 in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company's Supplemental Testimony, January 24, 1975.
Service of Staff's Testimony, February 25, 1975.
Service of Intervenor's Testimony, March 11, 1975.
Service of Company Rebuttal, March 25, 1975.
Hearing, April 1, 1975 (10 a.m. e.d.t.).

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29300 Filed 12-16-74;8:45 am]

[Docket No. CP-74-304]

SECRETARY OF THE ARMY AND CITIES SERVICE GAS CO.

Extension of Procedural Dates

DECEMBER 9, 1974.

On November 22, 1974, Cities Service Gas Company filed a motion to extend the procedural dates fixed by order issued September 4, 1974, as most recently modified by notice issued November 1, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Testimony and Exhibits of Applicant and Respondent, December 20, 1974.
Hearing, January 20, 1975 (10 a.m., e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29298 Filed 12-16-74;8:45 am]

[Docket No. CP75-163]

SOUTHERN NATURAL GAS CO.

Application

DECEMBER 10, 1974.

Take notice that on November 29, 1974, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP75-163 an application pursuant to section 7(c) of the National Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate, at an estimated cost of $2,448,475 to be financed from bank loans which will be repaid from cash on hand, facilities in St. Mary Parish, Louisiana, which will allow it to receive gas produced in South Marsh Island Blocks 268, 269 and 281, offshore Louisiana. Applicant states that Trunkline Gas Company (Trunkline) has agreed to transport up to 140,000 Mcf of gas per day from the South Marsh Island blocks to a point near Applicant's Shadyside Compressor station in St. Mary Parish.

In order to receive the subject gas Applicant proposes to construct approximately 1½ miles of 18-inch pipeline extending from the point of interconnection with Trunkline's 30-inch pipeline in St. Mary Parish to Shadyside, 3,600 horsepower of compression at Shadyside, which will be installed as needed as volumes of gas build up through delivery from the South Marsh Island blocks, and receiving facilities. According to Applicant, Trunkline's transportation of the subject gas is the subject of Trunkline's application in Docket No. CP75-149.

Applicant states that it has a real and urgent need for the reserves of natural gas which will eventually flow through the proposed facilities and that the facilities proposed in the instant docket will not result in expansion of Applicant's sales or service.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 6, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29296 Filed 12-16-74;8:45 am]

[Docket No. E-9133]

SOUTHERN SERVICES, INC.

Filing of Amendment to Interconnection Agreement

DECEMBER 10, 1974.

Take notice that on November 27, 1974, Southern Services, Inc. (Southern), on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company tendered for filing an amendment to their interchange agreement, which amendment, according to Southern, provides for the continuing exchange of power and equitable participation in the benefits arising from integrated operation. According to Southern, copies of the agreement were mailed to Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company. Southern requests that the proposed contract charges be made effective January 1, 1975.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before December 26, 1974. Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29314 Filed 12-16-74;8:45 am]

[Docket No. CP75-165]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

DECEMBER 10, 1974.

Take notice that on December 4, 1974, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP75-165 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for South Jersey Gas Company (South Jersey), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that to augment in part natural gas deliveries which are currently being curtailed by Applicant, South Jersey, an existing customer of Applicant, has entered into arrangements with Chattanooga Gas Company (Chattanooga) and Piedmont Natural Gas Company (Piedmont), an existing customer of Applicant, whereunder South Jersey will purchase liquefied natural gas (LNG) from Chattanooga [1] and transport the LNG by truck to Piedmont, where the LNG will be vaporized and delivered by displacement into Applicant's system for transportation. The transportation by Applicant would occur between authorized points of delivery to Piedmont and authorized points of delivery to South Jersey.

Applicant states that South Jersey will purchase from Chattanooga a vaporous gas equivalent of between 200,000 and 330,000 Mcf from December 1, 1974, to April 1, 1975. Daily volumes to be vaporized by Piedmont and transported by Applicant are estimated to be between 3,000 and 4,000 Mcf. Applicant requests authorization to transport the gas between December 1, 1974, and April 1, 1975. Applicant states that it will retain 5 percent of the transportation volumes as compensation of compressor fuel and line loss and that it will charge South Jersey 11 cents per Mcf delivered to South Jersey.[2]

[1] The application states that the sale to Chattanooga to South Jersey will be made under authorization granted in Docket No. CP 75-139.

[2] The application states that 11 cents per Mcf represents one-half of Applicant's normal charge of 22 cents per Mcf for interruptible transportation from Gulf Coast gas supply areas into Rate Zone 3 where South Jersey is located. The distance for the proposed transportation service is said to be approximately one-half of said distance.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29285 Filed 12-16-74;8:45 am]

FEDERAL RESERVE SYSTEM

ALLIED BANCSHARES, INC.

Approved Acquisition of Bank

Allied Bancshares, Inc., Houston, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Kirbyville State Bank of Kirbyville, Kirbyville, Texas ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of the successor organization is treated herein as the proposed acquisition of Bank.

Notice of the receipt of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act by publication in the FEDERAL REGISTER (39 FR 38941). The time for filing comments and views has expired, and the Federal Reserve Bank of Dallas, acting pursuant to delegated authority for the Board, has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the tenth largest banking organization in Texas, presently controls nine subsidiary banks with aggregate deposits of $621.7 million, or 1.61 percent of the total commercial bank deposits in Texas.[3] Approval of the present acquisition would not produce a significant increase in the concentration of banking resources in Texas.

Bank is situated in the Jasper County banking market, which is located about 50 miles north of Beaumont in southeast Texas, and which is approximated by Jasper County. Bank, the third largest of four banks in the market, holds deposits of $7.1 million, representing 18.0 percent of market deposits. The proposed acquisition of Bank represents Applicant's initial entry into the market. Applicant's closest existing banking subsidiary lies 73 miles to the southeast, and its nearest proposed banking subsidiary is 42 miles away. The distances involved effectively negate the probability of existing competition between Bank and any of the Applicant's subsidiaries. The prospect of the development of such competition is greatly lessened by the distances involved and Texas' prohibitive branching laws. Applicant's entry into the market by means of a proposed new bank is considered highly unlikely; Jasper County, with a ratio of population to banking office and a figure for per capita deposits which are significantly far below the statewide averages, is considered unattractive to de novo entry. Also, the barriers to entry would not become greater, for other banks of comparable size remain available as alternative potential points of entry. Accordingly, on the basis of the record, the Federal Reserve Bank of Dallas concludes that consummation of the proposed transaction would not have significantly adverse effects on competition.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, and Bank are regarded as generally satisfactory and consistent with approval, especially in light of Applicant's proposed program for augmentation of the capital structure of certain of its subsidiary banks. Although there is no evidence in the record that

[3] All banking data are as of December 31, 1973, and reflect bank holding company formations and acquisitions approved through November 15, 1974. On December 6, 1974, the Federal Reserve Bank of Dallas, acting pursuant to delegated authority for the Board, has approved Applicant's proposed acquisitions of American Bank and Trust Company, Houston, Texas (deposits of $42.8 million), and Security Bank, Spring, Texas (deposits of $14.2 million).

the banking needs of the community are not presently being met, affiliation with Applicant will provide Bank with increased financial resources and banking expertise to permit Bank to expand and improve the banking services offered and will give Bank greater access to new sources of capital. Accordingly, considerations relating to the convenience and needs of the community to be served are regarded as consistent with approval of the application. It is therefore the judgment of the Federal Reserve Bank of Dallas that the proposed acquisition is in the public interest and should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order, or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Federal Reserve Bank of Dallas, acting pursuant to delegated authority for the Board of Governors, effective December 6, 1974.

[SEAL] ROBERT H. BOYKIN,
Secretary.

[FR Doc.74-29271 Filed 12-16-74;8:45 am]

ALLIED BANCSHARES, INC.

Approved Acquisition of Banks

Allied Bancshares, Inc., Houston, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successors by merger to American Bank and Trust Company, Houston, Texas ("American Bank"), and Security Bank, Spring, Texas ("Security Bank"). The banks into which American Bank and Security Bank are to be merged have no significance except as means to facilitate the acquisitions of the voting shares of American Bank and Security Bank. Accordingly, the proposed acquisitions of the successor organizations are treated herein as the proposed acquisitions of American Bank and Security Bank.

Notices of the receipt of the applications, affording opportunity for interested persons to submit comments and views, have been given in accordance with section 3(b) of the Act by publication in the FEDERAL REGISTER (39 FR 38941). The time for filing comments and views has expired, and the Federal Reserve Bank of Dallas, acting pursuant to delegated authority for the Board, has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the tenth largest banking organization in Texas, presently controls nine subsidiary banks with aggregate deposits of $621.7 million, or 1.61 percent of the total commercial bank deposits in Texas.[1] Approval of the present acquisitions would not produce a significant increase in the concentration of banking resources in Texas.

American Bank and Security Bank are situated within the Houston banking market, which is approximated by the Houston SMSA, which is comprised of Harris County and five adjacent counties. American Bank, the 28th largest of 169 banks in the market, has deposits of $42.8 million, representing 0.5 percent of market deposits. Security Bank has deposits of $14.2 million, representing a 0.2 percent share of market deposits, and is the 79th largest bank in the market. With one exception, the distances separating American Bank and Security Bank from each other and from Applicant's banking subsidiary are in excess of 15 miles, the exception being the separation of American Bank from Applicant's lead bank by 3 miles. Although Applicant is the fourth largest banking organization operating in the Houston market, with six banking subsidiaries controlling deposits of $495.3 million, or 5.3 percent of total market deposits, it is much smaller than the three largest banking organizations in the market, which respectively control 20.0, 17.0, and 10.4 percent of total market deposits. Consummation of the proposed transactions would have only a negligible impact upon existing competition among American Bank, Security Bank, Applicant's subsidiaries, and other banks in the market, in light of the relatively small increase of Applicant's share of market deposits to 6.0 percent and the resultant continuation of the disparity of size between Applicant and the three larger banking organizations in the market. The prospect of competition developing between any one of Applicant's subsidiaries and either American Bank or Security Bank is greatly lessened by the large number of competitors in the market and Texas' prohibitive branching laws. Neither bank is of sufficient size to enable it to be considered as a potential lead bank of a holding company. Furthermore, barriers to entry into the market would not be increased, for numerous other medium-sized banks remain as attractive potential entry points. Accordingly, on the basis of the record, the Federal Reserve Bank of Dallas concludes that consummation of the proposed acquisitions would not have significant adverse effects on competition.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, American Bank and Security Bank are regarded as generally satisfactory and consistent with approval in view of the additions of equity capital in the amounts of $200,000 to American Bank and $300,000 to Security Bank, Applicant's purchase of $400,000 of existing debentures of Security Bank, and Applicant's commitment to maintain adequate capital in each of its existing and proposed subsidiaries. Although there is no evidence in the record that the banking needs of the communities involved are not adequately being served, affiliation with Applicant should enable American Bank and Security Bank to expand and improve the banking services offered and to enjoy greater access to sources of new capital. Accordingly, considerations of the convenience and needs of the communities to be served are regarded as consistent with approval. It is the judgment of the Federal Reserve Bank of Dallas that the proposed acquisitions are in the public interest and that the applications should be approved.

On the basis of the record as summarized above, the Federal Reserve Bank of Dallas approves the applications, provided that the transactions shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Federal Reserve Bank of Dallas, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective December 6, 1974.

[SEAL] ROBERT H. BOYKIN,
Secretary.

[FR Doc.74-29272 Filed 12-16-74;8:45 am]

[1] All banking data are as of December 31, 1973, and reflect bank holding company formations and acquisitions approved through November 15, 1974.

BROWNSVILLE COMMERCE BANK

Approved Application for Merger of Banks

Brownsville Commerce Bank, Brownsville, Texas, a proposed State member bank of the Federal Reserve System, has applied for the Board's approval, pursuant to the Bank Merger Act (12 U.S.C. 1842(c)), of the merger of that bank with Pan American Bank, Brownsville, Texas, under the name of Pan American Bank.

As required by the Act, notice of the proposed merger, in form approved by the Board, has been published, and the Board has requested reports on competitive factors from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered the application in light of the factors set forth in the Act.

On the basis of the record, the application is approved for the reasons summarized in the Board's Order of this date relating to the application of Texas Commerce Bancshares, Inc., Houston, Texas, to acquire the successor by merger to Pan American Bank, Brownsville, Texas, provided that said merger shall not be made (a) before the thirtieth calendar day following the date of this Order, or (b) later than three months after the date of this Order, unless such period is extended for good

cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[1] effective December 6, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-29276 Filed 12-16-74;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive of September 10, 1974

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on September 10, 1974.[1]

The information reviewed at this meeting suggests that real output of goods and services is changing little in the current quarter, following the first-half decline, and that price and wage increases are continuing large. In August industrial production, according to preliminary indications, remained near the level of recent months, while the unemployment rate edged up to 5.4 per cent. Wholesale prices of farm products rose further, on average, and announcements of increases for industrial commodities continued numerous.

In recent weeks the dollar has continued to appreciate against leading foreign currencies. U.S. bank lending to foreign borrowers diminished in July and apparently also in August, while inflows from abroad increased. The foreign trade deficit, which had narrowed in June, widened in July.

In August growth of the narrowly defined money stock was above the low pace of July but well below the 6 per cent annual rate of the first half of the year. Net inflows of time deposits other than money market CD's continued at about the July rate, but the performance of passbook savings at banks—and of total deposits at nonbank thrift institutions—remained weak. Although growth in business loans remained relatively strong in August, growth in total bank credit was moderate, and banks reduced their reliance on large-denomination CD's and nondeposit funds. Interest rates on most short-term market instruments have changed little on balance since mid-August, while rates on most types of longer-term securities have risen further. On September 4 the Federal Reserve announced the removal of the 3 per cent marginal reserve requirement on longer-term large-denomination CD's.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to resisting inflationary pressures, supporting a resumption of real economic growth, and achieving equilibrium in the country's balance of payments.

To implement this policy, while taking account of developments in domestic and international financial markets, the Committee seeks to achieve bank reserve and money market conditions consistent with moderate growth in monetary aggregates over the months ahead.

By order of the Federal Open Market Committee, December 9, 1974.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.74-29273 Filed 12-16-74;8:45 am]

[1] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, Holland, Wallich and Coldwell. Absent and not voting: Chairman Burns.

[1] The Record of Policy Actions of the Committee for the meeting of September 10, 1974, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FEDERAL OPEN MARKET COMMITTEE

Special Authorization Relating to Foreign Currency Operations

In accordance with § 271.5 of its rules regarding availability of information, notice is given that on September 25, 1974 the Committee approved the following special authorization:

The Federal Reserve Bank of New York is authorized and directed, under the provisions of 270.4(c) of the Regulation relating to Open Market Operations of Federal Reserve Banks, to engage in such open market transactions in foreign currencies, including transactions for the System Open Market Account, as may be necessary to carry out the arrangements that have been made by the Federal Reserve Bank of New York, with the concurrence of the Board of Governors of the Federal Reserve System, for the disposition of assets and liabilities of the Franklin National Bank.

By order of the Federal Open Market Committee, December 9, 1974.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.74-29273 Filed 12-16-74;8:45 am]

FIRST CITY BANCORPORATION OF TEXAS, INC.

Acquisition of First City Life Insurance Co.

First City Bancorporation of Texas, Inc., Houston, Texas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of First City Life Insurance Company, Houston, Texas. Notice of the application was published on:

Date	Newspaper	City and State
Oct. 30, 1974	Corpus Christi Caller	Corpus Christi, Tex.
Do.	The Corpus Christi Times	Do.
Do.	Dallas Times Herald	Dallas, Tex.
Do.	El Paso Times	El Paso, Tex.
Nov. 5, 1974	The Houston Post	Houston, Tex.
Do.	The Midland Reporter-Telegram	Midland County, Tex.
Do.	The Orange Leader	Orange County, Tex.
Do.	The Paris News	Paris, Tex.
Do.	San Angelo Standard-Times	San Angelo, Tex.

Applicant states that the proposed subsidiary would engage de novo in the activity of acting as an underwriter for credit life insurance and credit accident and health insurance which is directly related to extensions of credit by banks in the holding company system. Mortgage redemption and mortgage cancellation insurance will not be underwritten. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 7, 1975.

Board of Governors of the Federal Reserve System, December 6, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-29270 Filed 12-16-74;8:45 am]

FIRST UNITED BANCORPORATION, INC.

Acquisition of Bank

First United Bancorporation, Inc., Fort Worth, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire an additional 15,861 voting shares of University Bank, Fort Worth, Texas ("Bank"). The proposed acquisition is to be effected through the conversion of debentures of Bank, currently held by Applicant, into voting shares of Bank. Applicant currently controls approximately 37 percent of Bank's voting shares. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 9, 1975.

Board of Governors of the Federal Reserve System, December 9, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-29277 Filed 12-16-74;8:45 am]

SECURITY BANKSHARES, INC.

Approved Acquisition of Bank

Security Bankshares, Inc., Waco, Texas, a bank holding company within

the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)), to acquire 100 percent, less directors' qualifying shares, of City State Bank in Wellington, Wellington, Texas.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views, and the Federal Reserve Bank of Dallas, acting pursuant to delegated authority for the Board, has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is at present a one-bank holding company ranking 968th largest of 1109 banking organizations in Texas; Applicant through its single subsidiary bank controls aggregate deposits of approximately $3.3 million, representing 0.009 percent of total commercial bank deposits in Texas.[1] Approval of this application would increase Applicant's share of statewide deposits by less than 0.1 of 1 percent and would have no appreciable effect upon the concentration of banking resources in the State.

Bank is the smaller of the two banks in the Collingsworth banking market (approximated by Collingsworth County), located 96 miles southeast of Amarillo in the Texas Panhandle, and holds approximately $4.9 million in deposits, or about 24.5 percent of total commercial bank deposits in the market. Applicant's present single subsidiary is not in the Collingsworth banking market and is located 31 miles east of Bank; there is no substantial existing competition between Bank and Applicant's present subsidiary due to such geographic separation. In view of the distances involved and Texas' prohibitive branching laws, it is unlikely that any such competition will develop. Barriers to entry into the market would be no higher after the acquisition than now exist, even though the market is unattractive to de novo entry, as indicated by a county population which is declining and by a ratio of population to banking offices which is far below the statewide average. Bank's relatively small size precludes its being considered as the potential lead bank of a holding company structure. Also, the principal shareholders of Applicant are the present majority shareholders of Bank, and disaffiliation is considered unlikely. The transaction therefore involves a formalization of the control of Bank. The Federal Reserve Bank of Dallas therefore concludes that consummation of the proposed acquisition would not have a significant adverse effect on existing or potential competition.

The financial and managerial resources and future prospects of Applicant, its subsidiary, and Bank are regarded as generally satisfactory in light of Applicant's recent infusion of $150,000 of equity funds with its present subsidiary and Applicant's proposed addition of $150,000 of equity funds to the capital structure of Bank. Applicant's acquisition of Bank would improve Bank's access to capital markets as a member of a bank holding company and would facilitate the continuation of Bank's existing loan participation with Applicant's present subsidiary bank. Considerations relating to the convenience and needs of the community to be served are consistent with approval. It is the judgment of the Federal Reserve Bank of Dallas that the proposed acquisition is in the public interest and should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Federal Reserve Bank of Dallas, acting pursuant to delegated authority for the Board of Governors, effective December 5, 1974.

[SEAL] ROBERT H. BOYKIN,
Secretary.

[FR Doc.74-29270 Filed 12-16-74;8:45 am]

TEXAS COMMERCE BANCSHARES, INC.

Approved Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Pan American Bank, Brownsville, Texas ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the third largest banking organization in Texas, controls 23 banking subsidiaries with aggregate deposits of approximately $2.3 billion, representing about 5.9 percent of the total deposits in commercial banks in the State.[1] Acquisition of Bank (deposits of $57.3 million) would increase Applicant's share of deposits in the State by less than .2 of one percent.

Bank, the third largest of nine banks in the Brownsville Market,[2] holds approximately 18 percent of the total commercial bank deposits in the market. Applicant has no subsidiary in the market and its nearest subsidiary bank is approximately 160 miles north of Brownsville. Thus, it appears that no existing competition would be eliminated as a result of consummation of the proposal. Moreover, due primarily to the distances involved and the restrictive State branching laws, it does not appear that any significant competition would develop between Bank and any of Applicant's banking subsidiaries. In addition, two new banks have opened in the Brownsville banking market since December 31, 1973, and two more banks were recently chartered for this market, reducing the population per banking office ratio and making the market only moderately attractive to de novo entry. Ease of entry into the Brownsville market, however, would not be significantly diminished by consummation of the subject proposal as six independent banks would remain as potential entry vehicles for other bank holding companies. Also, Bank is not large enough to be considered a potential lead bank of a holding company structure. Accordingly, on the basis of the facts of record, the Board concludes that consummation of the proposed acquisition would not have a significant adverse effect on existing or potential competition.

Considerations relating to the financial and managerial resources and future prospects of Applicant, its subsidiaries and Bank are regarded as generally satisfactory and consistent with approval of the application, particularly in view of Applicant's plans to increase the capital of Bank. Applicant's acquisition of Bank would give Bank access to Applicant's wide range of banking expertise, particularly in the areas of international banking, leasing, real estate financing, and trust services. These considerations relating to the convenience and needs of the community to be served lend weight toward approval. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

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[1] All deposit figures are as of December 31, 1973, and reflect holding company formations and acquisitions approved by the Board through November 1, 1974.

[1] All banking data are as of December 31, 1973 and reflect holding company formations and acquisitions approved through September 12, 1974.

[2] The relevant banking market is approximated by the Brownsville-Harlingen-San Benito SMSA (Standard Metropolitan Statistical Area).

By order of the Board of Governors,[1] effective December 6, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-29369 Filed 12-16-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

SCIENCE ADVISORY STAFFS

Notice of Meeting

In order to improve channels of communication with members of scientific and professional societies, the Science Advisory Staffs hold informal discussions from time to time with various representatives of these societies to discuss issues of mutual interest. While these ad hoc informal discussions with the Science Advisory Staffs are not considered to be meetings of "advisory committees" as that term is defined in section 3 of the Federal Advisory Committee Act (Pub. L. 92-436, these sessions are believed to be of sufficient importance and interest to the general public to have them opened for public attendance and observation.

A meeting of representatives of various scientific and professional societies with the Science Advisory Staffs is scheduled to be held on Tuesday, December 17, 1974, at the National Science Foundation, Room 543, 1800 G Street, NW., Washington, D.C. 20550. The meeting will begin at 9 o'clock a.m. and will conclude at or about 4 o'clock p.m. The subject matters for discussions include: Science Information Policy in the following areas:

1. Journals and abstract services.
2. Data handling, storage and retrieval.
3. Applicable communications technology.
4. National coordination considerations.

Members of the public are invited to observe this meeting. Space will be available on a first-come basis. Public participation is limited to questions or statements submitted to the Chairman in writing or to such oral presentations as the Chairman may permit within available time. Persons wishing to attend such meeting are requested to either write or phone Mr. Richard L. Stone, Science and Technology Policy Office, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550, telephone 202-632-4250.

Dated: December 5, 1974.

RUSSELL C. DREW,
Director, Science and Technology Policy Office.

[FR Doc.74-29323 Filed 12-16-74;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[Docket No. SA-446]

TRANS WORLD AIRLINES

Accident Investigation Hearing

In the matter of investigation of accident involving Trans World Airlines, Boeing 727-231, of United States Registry N54328 at Berryville, Virginia, December 1, 1974.

Notice is hereby given that an Accident Investigation Hearing on the above matter will be held commencing at 9:30 a.m., e.s.t., on January 27, 1975, in the Capitol View Ballroom of the Quality Inn-Pentagon City, 300 Army Navy Drive, Arlington, Virginia.

Dated this 12th day of December 1974.

[SEAL] RUDOLF KAPUSTIN,
Hearing Officer.

[FR Doc.74-29408 Filed 12-16-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 12/12/74 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received: The name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (X) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

OFFICE OF EDUCATION

One-time survey on expenditures under Ves-68 Part B Funds, OE-386, Single-time, State Departments of Education, Human Resources Division, 395-3532.

MANPOWER ADMINISTRATION

Analysis of Selected DOL projects for migrants and other seasonal farmworkers, MT-1064, Single-time, Non-profit agencies Assisting Farm Workers, Human Resources Division, 395-3532.

ENVIRONMENTAL PROTECTION AGENCY

Identification of marginal non-transportation related petroleum facilities, None, Single-time, Owners/Operators of Non-Transportation Related Pet. Fac., Weiner, M. 395-4814.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Health Services Administration, Maternity & Infant Care Project, Statistical Summary of Patients Served, HSM-543, Quarterly, Federally Funded Program of Projects, Human Resources Division, 395-3532.

DEPARTMENT OF LABOR

Manpower Administration, Participant Interview, Wave I, CETA Section 303 Participants, MT-1063, Single-Time, Ceta Section 303 Program Participants, Human Resources Division, 395-3532.

REVISIONS

ENVIRONMENTAL PROTECTION AGENCY

Survey of Coordinators of Water Workshops, Phase II, Single-Time, Natural Resources Division, 395-3527.

EXTENSIONS

COAST GUARD

Satisfaction of Mortgage (of Vessel), 1363, On Occasion, Evinger, S.K., 395-3648.

COAST GUARD

United States Marshals Bill of Sale of Vessel, 1356, On Occasion, Evinger, S.K., 395-3648.

HEALTH SERVICES ADMINISTRATION

Children Who Received Physicians Services Under the Crippled Childrens Program & Instructions in * * * Health Grants Manual, HSM-382-1, Annually, State Health Agencies, Human Resources Division, 395-3532.

EXTENSIONS

COAST GUARD

Mortgage of Vessel, 1348, on occasion, Evinger, S. K., 395-3648.

HEALTH SERVICES ADMINISTRATION

Maternal and Child Health Services provided or paid for by State or local official Public Health Agencies, HSM-374, Annually, State Health Agencies, Human Resources Division, 395-3532.

HEALTH SERVICES ADMINISTRATION

Children and Youth Projects Quarterly Summary Report, CB-259-H, Quarterly, Federally Funded Program of Projects, Human Resources Division, 395-3532.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration, Application for Continuation Support, PHS-2499-2, On Occasion, Organizations Engaged in Training, Lowry, R. L., 395-3772.

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Order 14, Coding Sheet/Table Q, OFCC-14, On Occasion, Compliance Officers, Evinger, S. K., 395-3648.

DEPARTMENT OF TRANSPORTATION

Coast Guard, Bill of Sale of Registered Vessel, 1340, On Occasion, Evinger, S. K., 395-3648.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-29427 Filed 12-16-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24SF-3062]

ALL AMERICAN BURGER, INC.

Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

NOVEMBER 21, 1974.

I. The All American Burger, Inc. ("All American") 11546 North Western Avenue, Los Angeles, California 90027, incorporated in California on August 23, 1968, filed with the Commission on August 7, 1972, a Notification on Form 1-A and Offering Circular relating to an offering of 80,000 shares of $.10 par value common stock at $3.00 per share. The aggregate offering price was $240,000. The filing was made for the purpose of obtaining an exemption from the registration

[1] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, Holland, Wallich and Coldwell. Absent and not voting: Chairman Burns.

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provisions of the Securities Act of 1933, pursuant to section 3(b) thereof and Regulation A thereunder. Daniel Reeves & Co., a registered broker-dealer, having its principal place of business at 9090 Wilshire Boulevard, Los Angeles, California 90024, was named as underwriter of the offering. The offering commenced on October 31, 1972, and ended on December 29, 1972, with all 60,000 shares sold.

II. The Commission on the basis of information provided by its staff, has reason to believe that:

A. The Notification and Offering Circular of All American contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading particularly with respect to:

1. The failure to disclose the existence of a written agreement with All American's franchisee which served as an inducement for the payment of the balance due on the sale of the franchise;

2. The failure to disclose that the payment of the full franchise fee occasioned by this agreement was contingent upon the successful completion of the offering;

3. The failure to disclose that the payment occasioned by this agreement with All American's franchisee was placed in an escrow account from which it could not be released until the franchisee gave his consent;

4. The Statement of Operations for the period ended June 30, 1972, which by including a $50,000 franchise sale overstated All American's operating results for that period by $35,150. As a result, All American showed an operations profit of $14,663 instead of what ought to have been a loss of $20,487; and

5. The Balance Sheet for the period ended June 30, 1972, which by not treating the $50,000 franchise sale as a current liability, gave All American the appearance of having a positive current ratio instead of a negative current ratio.

B. The terms and conditions of Regulation A have not been met in that:

1. The offering circular failed to disclose an agreement between the issuer and its franchisee relating to payment for the balance due on the franchise sale; and that the payment was contingent upon successful completion of the offering;

2. The financial statements were not prepared in accordance with generally accepted accounting principles as required by Item 11 of Schedule I as discussed in part II herein.

C. The offering was made in violation of section 17 of the Securities Act of 1933.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of All American under Regulation A be temporarily suspended,

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be and hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within thirty days of the entry thereof;

Notice is hereby given that any person having interest in the matter may file with the Secretary of the Commission a written request for a hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-29359 Filed 12-16-74;8:45 am]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Delaying Amendment to Proposed Amendments to Option Plan

Notice is hereby given that the Chicago Board Options Exchange, Inc. (CBOE) has filed an amendment delaying the effectiveness of certain of its proposed new rules and rules amendments and deletions to its Option Plan filed pursuant to Rule 9b-1 (17 CFR 240.9b-1) under the Securities Exchange Act of 1934. CBOE's amendment delays the effectiveness of these proposed amendments until the Commission may allow their effectiveness or shall disapprove the changes in whole or in part as being inconsistent with the public interest or the protection of investors. The proposed changes were originally published at 39 FR 40203 on November 14, 1974.

The proposed CBOE rules changes are necessary because of the proposed changes in the By-Laws and rules of the Chicago Board Options Exchange Clearing Corporation.

The changes are as follows:

Amendments to Rules 1.1(d), 1.1(m), 4.9, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 4.20, 5.2, 5.3, 5.5, 5.6, 5.7, 6.40, 6.50, 6.51(d), 9.7(c), 9.17, 10.2, 11.1, 12.3(a)(5), 12.3(g), 12.3(c), 12.4, 13.4 15.2 and 15.3;

New Rules 6.55, 6.56, 6.57, 6.58 and 6.59;

Deletions of Rules 11.4, 12.4 and 12.5.

All interested persons are invited to submit their views and comments on the proposed new rules and rules amendments and deletions to CBOE's plan either before or after they have become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capital Street, Washington, D.C. 20549. Reference should be made to file number 10-94. The proposed new rules and rules amendments and deletions are, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW., Washington, D.C.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

DECEMBER 10, 1974.

[FR Doc.74-29359 Filed 12-16-74;8:45 am]

[70-5596]

GEORGIA POWER CO.

Proposal by Subsidiary Utility Company To Deliver Letter of Indemnity to Another Subsidiary Utility Company in Same Holding Company System

Notice is hereby given that Georgia Power Company ("Georgia"), 270 Peachtree Street, NW., Atlanta, Georgia 30303, an electric utility subsidiary company of The Southern Company, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 12(b) thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Georgia and Alabama Power Company ("Alabama"), which is also an electric utility subsidiary company of The Southern Company, each own 50 percent of the outstanding stock of Southern Electric Generating Company ("SEGCO"). To assist SEGCO in financing pollution control facilities at its Ernest C. Gaston Steam Plant through the issuance of pollution control revenue bonds by The Industrial Development Board of the Town of Wilsonville, Alabama ("Board"), Alabama has proposed to guarantee certain payments to be made by SEGCO to the Board. The guaranty and the agreement between SEGCO and the Board are the subject of a separate filing with the Commission (Holding Company Act Release No. 18323).

Georgia now proposes to deliver a letter to Alabama pursuant to which it will agree to indemnify Alabama, on a pro rata basis based on Georgia's equity ownership of SEGCO, for any payments made by Alabama to the Board under the guaranty agreement. The letter of indemnity provides that Georgia's commitment thereunder will terminate at any time Georgia ceases to own an interest in SEGCO.

The fees, expenses and commissions incurred in connection with the proposed transaction will be in the aggregate amount of $3,500. The Georgia Public Service Commission has jurisdiction over the delivery by Georgia of its letter of indemnity. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than January 3, 1975, request in writing that a hearing

be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules under the Act as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29357 Filed 12-16-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 17, Rev. 1]

ASSISTANT ADMINISTRATOR FOR MANAGEMENT ASSISTANCE

Delegation of Authority

Pub. L. 93-386 (August 23, 1974) repeals Title IV of the Economic Opportunity Act of 1964 and amends the Small Business Act to include those provisions of the EO Act which provide technical or management assistance with special attention to small business located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals. Delegation of Authority No. 17 (39 FR 29445) is accordingly revised as follows:

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, there is hereby delegated to the Assistant Administrator for Management Assistance the following authority:

A. *Technical or Management Assistance (406 Program).* 1. To execute grants, agreements, and contracts to provide financial assistance to public or private organizations to pay all or part of the costs of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under subsections 7(i) and (j) of the Small Business Act, as amended, with special attention to small business located in urban or rural areas of high concentration of unemployed or low-income individuals or owned by low-income individuals.

Such financial assistance may be provided for projects including without limitation:

a. Planning and research, including feasibility studies and market research;

b. The identification and development of new business opportunities;

c. The furnishing of centralized services with regard to public services and Government programs, including programs authorized under subsection 7(i) of the Small Business Act, as amended;

d. The establishment and strengthening of business service agencies, including trade associations and cooperatives;

e. The encouragement of the placement of subcontracts by major businesses with small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals, including the provision of incentives and assistance to such major businesses so that they will aid in the training and upgrading of potential subcontractors or other small business concerns; and

f. The furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

II. The authority delegated herein may be redelegated to Central Office officials.

III. All authority delegated herein may be exercised by any Small Business Administration employee designated as Acting Assistant Administrator for Management Assistance.

Effective date: August 23, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-29289 Filed 12-16-74;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON ECONOMIC GROWTH

Notice of Meeting

The BRAC Committee on Economic Growth will meet at 2:00 p.m., January 8, 1975, at the General Accounting Office Building, 441 G Street, NW., Room 2106, Washington, D.C. The agenda for the meeting is as follows:

A Progress Report on Economic Growth Projections.

It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on (Area Code 202) 961-2559.

Signed at Washington, D.C., this 9th day of December 1974.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.74-29288 Filed 12-16-74;8:45 am]

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON CONSUMER AND WHOLESALE PRICES

Notice of Meeting

The BRAC Committee on Consumer and Wholesale Prices will meet at 9:30 a.m., January 8, 1975, at the General Accounting Office Building, 441 G Street, NW., Room 2106, Washington, D.C. The agenda for the meeting is as follows:

1. Overview of the FY 1975 Industrial Price Program (Wholesale Prices).
2. Developments in the Consumer Price Index Revision Program.
3. Discussion of the Continuing Consumer Expenditure Survey Planning During FY 1975.

It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on (Area Code 202) 961-2559.

Signed at Washington, D.C., this 9th day of December 1974.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.74-29286 Filed 12-16-74;8:45 am]

Office of the Secretary

ADAMSTON DIVISION AND HARDING DIVISION, FOURCO GLASS CO.

Worker Request for Certification of Eligibility To Apply for Adjustment Assistance; Investigation

A petition requesting certification of eligibility to apply for adjustment assistance has been filed on December 4, 1974, with the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, by the United Glass and Ceramic Workers of North America, AFL-CIO, and the Window Glass Cutters League of America, AFL-CIO, on behalf of workers and former workers of the Adamston Division, Clarksburg, West Virginia and the Harding Division, Fort Smith, Arkansas of the Fourco Glass Company, Clarksburg, West Virginia. The request for certification is made under Proclamation 3967 (Adjustment of Duties on Certain Sheet Glass) of February 27, 1970. In that Proclamation the President, among other things, acted to provide under section 302(a)(3) with respect to the sheet glass industry that its workers may request the Secretary of Labor for certifications of eligibility to apply for adjustment assistance, under Chapter 3, Title III, of the Trade Expansion Act of 1962.

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The Act, section 302(b)(2), provides that the Secretary of Labor shall certify as eligible to apply for adjustment assistance under Chapter 3 any group of workers in an industry with respect to which the President has acted under section 302(a)(3), upon a showing by such group of workers to the satisfaction of the Secretary of Labor that the increased imports (which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused or threatened to cause unemployment or underemployment of a significant number or proportion of workers of such workers' firm or subdivision thereof.

In view of the petition and the responsibilities of the Secretary of Labor, the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.11. The investigation relates, as above indicated, to the determination of whether any of the group of workers covered by the request should be certified as eligible to apply for adjustment assistance, including the determinations of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart C of 29 CFR Part 90.

Interested persons should submit written data, views or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. 20210, on or before December 19, 1974.

Signed at Washington, D.C., this 5th day of December 1974.

GLORIA G. VERNON,
Director, Office of Foreign Economic Policy.

[FR Doc.74-29286 Filed 12-16-74;8:45 am]

WEISS-LAWRENCE, INC., DOVER, NEW HAMPSHIRE

Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of November 8, 1974, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-246) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of former workers of Weiss-Lawrence, Inc., Dover, New Hampshire. In this report the Commission found that articles like or directly competitive with footwear for women, misses and children produced by Weiss-Lawrence, Inc., are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

Upon receipt of the Tariff Commission's affirmative finding, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation.

Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 FR 18342; 37 FR 2472; 39 FR 40626; 29 CFR Part 90). In the recommendation she noted that concession generated imports like or directly competitive with women's and misses' footwear produced by Weiss-Lawrence, Inc. increased substantially. In 1973 and 1974 company sales, which consisted mainly of women's and misses' footwear, declined sharply as customers increasingly shifted their purchases to foreign producers. Company attempts to obtain new accounts were unsuccessful in major part because imports were capturing greater shares of the women's and misses' footwear market. The company ceased production in August 1974 when profitable operations were no longer possible. Significant unemployment or underemployment at Weiss-Lawrence, Inc. caused in major part by increased imports began in June 1973. Eight workers of the company are still engaged in employment related to the women's and misses' footwear business but they will be laid off in the near future unless company plans to resume production materialize. As long as these workers are performing duties at the company related to the women's and misses' footwear business, their employment is threatened by import competition. After due consideration, I make the following certification:

All hourly, piecework and salaried workers of Weiss-Lawrence, Inc., Dover, New Hampshire, engaged in the production of women's, misses' or children's footwear, who became unemployed or underemployed after June 2, 1973 and before November 23, 1974 are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962, except that the following identified employees of Weiss-Lawrence, Inc. shall be eligible to apply for adjustment assistance even if they become unemployed or underemployed on or after November 23, 1974.

NAME AND LAST KNOWN ADDRESS

Joseph Gaudreau, 13 Rogers St., Dover, New Hampshire 03820.
Leroy Tripp, RFD Silver St., Farmington, New Hampshire 03835.
Robert Burnham, 49 Rochester St., Berwick, Maine 03901.
Ellen Inscoe, 17 Oak Hill Drive, Dover, New Hampshire 03820.
George Inscoe, 17 Oak Hill Drive, Dover, New Hampshire 03820.
Frances Krzystyniak, 10 Patton St., Rochester, New Hampshire 03867.
Emma Seruton, 194 Sixth St., Dover, New Hampshire 03820.
Karen Cote, Butler Ave., Berwick, Maine 03901.

Signed at Washington, D.C., this 10th day of December 1974.

JOEL SEGALL,
Deputy Under Secretary, International Affairs.

[FR Doc.74-29287 Filed 12-16-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 659]

ASSIGNMENT OF HEARINGS

DECEMBER 12, 1974.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 126276 Sub 96, Fast Motor Service, Inc., now assigned January 14, 1975, at Columbus, Ohio, will be held in Room 285, Federal Office Building, 85 Marconi Boulevard.

MC-F-12090, Cedar Rapids Steel Transportation, Inc.—Purchase—The Kindness Trucking Company and MC 114273 Sub 158, Cedar Rapids Steel Transportation, Inc., now assigned January 15, 1975, at Columbus, Ohio, will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC-F-12199, General Highway Express, Inc.—Purchase—Boothlebenger Transfer Co., F. D. #1497, General Highway Express, Inc.—Securities and MC 97351 Sub 29, General Highway Express, Inc., now assigned January 20, 1975, at Columbus, Ohio, will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC-F-12243, Wilson Freight Company—Purchase—M. W. Haley Trucking Co. and MC 13123 Sub 74, Wilson Freight Company, now being assigned February 25, 1975, at Columbus, Ohio, in a room to be later designated.

MC 127834 Sub 102, Cherokee Hauling & Rigging, Inc., now assigned January 21, 1975, at Columbus, Ohio, will be held in Room 235, Federal Office Bldg., 85 Marconi Blvd.

MC 41406 Sub 40, Artim Transportation System, Inc., now assigned January 23, 1975, at Columbus, Ohio, will be held in Room 235, Federal Office Bldg., 85 Marconi Blvd.

MC-F-12165, Long Transportation Company — Purchase — Medina-Cleveland Freight Line, Inc., and MC 24379 Sub 29, Long Transportation Company, now assigned January 27, 1975, at Columbus, Ohio, will be held in Room 235, Federal Office Bldg., 85 Marconi Blvd.

MC 113678 Sub 535, Curtis, Inc., now assigned January 28, 1975, at Philadelphia, Pa., will be held in Room 3240, William J. Greene, Jr., Federal Building, 600 Arch Street.

MC 126276, John Vitrak, Dan Vitrak's Motor Express, now assigned January 30, 1975, at Philadelphia, Pa., will be held in Room 3240, William J. Greene, Jr., Federal Building, 600 Arch Street.

No. 28294, Northville Dock Pipe Line Corp. and Consolidated Petroleum Terminal, Inc.—Petition for Declaratory Order of Investigation and No. 30052, Northville Dock Pipe Line Corp., Northville Industries Corp., Consolidated Petroleum Terminal, Inc., and Texas Resources Inc.—Investigation of Operations, now assigned for Pre-hearing conference December 12, 1974, and February 7, 1975, at Washington, D.C., is reassigned for Pre-hearing Conference on January 17, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 107403 Sub 892, Matlack, Inc., and MC 110077 Sub 353, Robertson Tank Lines, Inc., now assigned January 28, 1975, at Dallas, Tex., will be held in Room 5A15-17, Federal Bldg., 1100 Commerce Street.

MC 52460 Sub 144, Eilex Transportation, Inc., now assigned January 30, 1975, at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce St.

MC-C-8413, William H. Ott, Dba Texas Hot Shot Co.—Investigation and Revocation of Certificates—now assigned February 3, 1975, at Dallas, Tex., will be held in Room 5A15-17, Federal Bldg., 1100 Commerce St.

MC 106942 Sub 7, C. G. Todd Trucking Company, A Corporation, and MC 139632 Sub 3, Royal's Motor Service, Inc., now assigned January 14, 1975, at Dallas, Texas, will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 2229 Sub 182, Red Ball Motor Freight, Inc., now assigned January 16, 1975, at Dallas, Texas, will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 25518 Sub 21, McAlister Trucking Company, now assigned January 20, 1975, at Dallas, Texas, will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 120861 Sub 3, Blaschke Trucking Company, now assigned January 22, 1975, at Dallas, Texas, will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-28254 Filed 12-16-74;8:45 am]

[AB 26 (Sub-No. 5)]

GEORGIA NORTHERN RAILWAY CO.

Abandonment of Operations Between Albany and Cordele, in Dougherty, Lee, Worth and Crisp Counties, Georgia

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in newspapers of general circulation in Crisp, Dougherty and Worth Counties, Ga., within 15 days of the date of service of this order, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the Federal Register.

Dated at Washington, D.C., this 2nd day of December, 1974.

By the Commission, Commissioner Tuggle.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[AB 26 (Sub-No. 5)]

GEORGIA NORTHERN RAILWAY COMPANY ABANDONMENT OF OPERATIONS BETWEEN ALBANY AND CORDELE, IN DOUGHERTY, LEE, WORTH AND CRISP COUNTIES, GEORGIA

The Interstate Commerce Commission hereby gives notice that by order dated December 2, 1974, it has been determined that the proposed abandonment of operations by the Georgia Northern Railway Company of its line between Albany in Dougherty County and Cordele in Crisp County, a distance of approximately 33 miles, all in Dougherty, Lee, Worth, and Crisp Counties, Ga., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was considered, among other things, that the environmental effects of the proposed abandonment of operations are not considered significant because (1) no traffic has moved in the past 10 years over the Albany-Warwick segment which is about two-thirds of the line, (2) the amount of traffic has been low handled over the remaining segment between Warwick and Cordele and (3) there are adequate Federal, State and local highways serving the affected area. In addition, any resultant diversion from rail to motor carrier service will not have significant adverse impacts in the area involved.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available for public inspection upon request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-3965.

Interested parties may comment on this matter by the submission of representations to the Interstate Commerce Commission, Washington, D.C. 20423, on or before January 2, 1975.

[FR Doc.74-28343 Filed 12-16-74;8:45 am]

[Notice 369]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

DECEMBER 17, 1974.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted), filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before January 6, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75197. By order of December 5, 1974, the Motor Carrier Board on reconsideration approved the transfer to East Kentucky Theatre Service, Inc., Pikeville, Ky., of the operating rights in Certificates Nos. MC-111166 and MC-111166 (Sub-No. 4) issued November 21, 1957, and October 30, 1956, to Truly Francis, doing business as East Kentucky Theatre Service, Garrett, Ky., authorizing the transportation of newspapers, motion picture films, theatrical posters, displays, and advertising material; and parts for motion picture projectors, over irregular routes, between Cincinnati, Ohio, on the one hand, and, on the other, named points in Kentucky, and over regular routes between certain points in Ohio and Kentucky. Ollie L. Merchant, Suite 202, 140 South Fifth Street, Louisville, Ky. 40202, attorney for applicants.

No. MC-FC-75519. By order entered 12.5.74, the Motor Carrier Board approved the transfer to Willard Wassel, Scranton, Pa., of that portion of the operating rights set forth in Certificate No. MC-67402, issued May 1, 1963, to Thomas Gerrity, Scranton, Pa., authorizing the transportation of household goods, as defined by the Commission, between Scranton, Pa., on the one hand, and, on the other, points in New Jersey, and points in the New York, N.Y., Commercial Zone, as defined by the Commission; and between Scranton and Clarks Summit, Pa., on the one hand, and, on the other, points in New York. Kenneth R. Davis, 999 Union St., Taylor, Pa. 18517, practitioner for applicants.

No. MC-FC-75531. By order entered 12.5.74, the Motor Carrier Board approved the transfer to Eddy Transfer Company, Inc., Port Chester, N.Y., of that portion of the operating rights set forth in Certificate No. MC-94901, issued March 16, 1960, to Eddy Moving & Storage Co., Inc., Port Chester, N.Y., authorizing the transportation of household goods as defined by the Commission, between points in Westchester County, N.Y., and those in Connecticut within ten miles of Port Chester, N.Y., on the one hand, and, on the other, points in New York, Connecticut, Massachusetts, Rhode Island, and New Jersey. William P. Jackson, Jr., 919 Eighteenth St., NW., Washington, D.C. 20006, attorney for applicants.

No. MC-FC-75530. By order of December 5, 1974, the Motor Carrier Board approved the transfer to Michael E. Schnitker, doing business as Schnitker Truck

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Lines, Arenzville, Ill., of the operating rights in Permit No. MC–138478 (Sub-No. 2), issued January 2, 1974, to Grace Schnitker and Michael E. Schnitker, doing business as Schnitker Truck Lines, Arenzville, Ill., authorizing the transportation of various commodities from Beardstown, Ill., to points in Indiana, Iowa, Kentucky, and Missouri. O. H. Weaver, Jr., 217 South 13th St., Griffin, Ga., 30223, attorney for applicants.

No. MC–FC–75540. By order entered 12.5.74, the Motor Carrier Board approved the transfer to Sheets Transfer & Storage Co., Inc., Mount Airy, N.C., of the operating rights set forth in Certificate No. MC–104684, issued June 20, 1972, to Okey Clayton Sheets and Jerry Wayne Sheets, a partnership, doing business as Sheets Transfer and Storage, Mount Airy, N.C., authorizing the transportation of household goods, as defined by the Commission, between Mount Airy, N.C., and points within 10 miles thereof, on the one hand, and, on the other, points in Virginia and South Carolina. Jerry Wayne Sheets, 261 Hickory St., Mount Airy, N.C. 27030, representative for applicants.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74–29340 Filed 12–16–74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

DECEMBER 12, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* Rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before December 27, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 29572 (Sub-No. E1), filed June 4, 1974. Applicant: McCLAIN MOVING COMPANY, Highway 73, Palmyra, N.J. 08065. Applicant's representative: George D. McClain, Jr. (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Maryland, on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate the gateway of points in Philadelphia County, Pa.

No. MC 43038 (Sub-No. E1), filed June 4, 1974. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, Mich. 48174. Applicant's representative: Paul H. Jones (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Automobiles*, in secondary movements, in truckaway service, from points in California, Colorado, Idaho, Nevada, New Mexico, Utah, Washington, and Wyoming to points in Wayne County, Mich. (Colorado Springs or Denver, Colo.) *. (2) *New and used automobiles*, and *new and used trucks* (except repossessed automobiles and trucks), in secondary movements, in truckaway service, between points in Kansas, on the one hand, and, on the other, points in California, Idaho, Iowa, Nevada, Utah, Wayngton, Arizona and New Mexico (points in Colorado) *. (3) *Automobiles, jeeps, chassis*, and *cabs and parts and accessories* moving in connection with shipments thereof, in truckaway service from Chicago Heights and Joliet, Ill., to points in Oregon (points in Utah) *. Restriction: The authority granted in (3) above is restricted to shipments originating at points in Wayne County, Mich. (4) *New trucks* from Ames, Dewitt, and Clinton, Iowa, to points in Arizona, Nevada, New Mexico, Utah, and California (points in Colorado) *. The purpose of this filing is to eliminate the gateways marked with asterisks above.

No. MC 110525 (Sub-No. E1262), filed June 4, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) *Coal tar and coal tar products*, from points in Pennsylvania to points in Connecticut and Rhode Island (Kearny, N.J.) *; (B) *Dry coal tar chemicals*, (1) from points in Pennsylvania to points in Maine (except points in Aroostook County), and (2) from points in that part of Pennsylvania on and west of a line beginning at the New York-Pennsylvania State line, thence along Interstate Highway 81 to junction Interstate Highway 81E, thence along Interstate Highway 81E to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line, to points in New Hampshire (Kearny, N.J., and Springfield, Mass.) *; (C) *Liquid chemicals*, (1) (except bituminous products and materials), from points in North Carolina to points in Pennsylvania (Hopewell, Va., or Morgantown, W. Va.) *, and (2) (except such oils and greases as may be included in the term "chemicals"), from Painesville, Ohio, to points in Wisconsin (Ft. Wayne, Ind.) *; (D) *Coal tar products*, (1) from points in Connecticut to points in Indiana and Kentucky (Newark, N.J., and Pittsburgh, Pa.) *, (2) from points in Delaware and Maryland to points in the Lower Peninsula of Michigan (points in Allegheny County, Pa.) *, (3) from points in Indiana and Kentucky to points in New Jersey (Pittsburgh, Pa.) *, (4) from points in the Lower Peninsula of Michigan to points in New Jersey (Pittsburgh, Pa.) *, and (5) from points in the Lower Peninsula of Michigan to points in Massachusetts and Rhode Island (Pittsburgh, Pa., and Ft. Lee, N.J.) *; and (E) *Coal tar products* as described in Appendix XIV to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, (1) from points in Connecticut and Massachusetts to points in Wisconsin (Newark, N.J., and Pittsburgh, Pa.) *, and (2) from the District of Columbia and points in Delaware, Maryland, and New York, to points in Wisconsin (Pittsburgh, Pa.) *; restricted, in each instance, to the transportation of traffic in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113843 (Sub-No. E74) (Correction), filed May 3, 1974, published in the FEDERAL REGISTER, June 20, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as defined by the Commission, from Cattaraugus, Chautauqua, and Erie Counties, N.Y., to Camden, Newark, and Jersey City, N.J., Baltimore, Md., and Philadelphia and Middletown, Pa. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y. The purpose of this correction is to clarify the destination points in Pennsylvania.

No. MC 113843 (Sub-No. E749) (Correction), filed May 19, 1974, published in the FEDERAL REGISTER, September 18, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and edible meat by-products*, as defined by the Commission (except in bulk, in tank vehicles), from Sandusky, Ohio, to points in New Hampshire. The purpose of this filing is to eliminate the gateway of Rochester, N.Y. The purpose of this correction is to correct the origin point.

No. MC 114211 (Sub-No. E108), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Ia. 50704. Applicant's representative: Kenneth R. Nelson (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tractors, road making machinery, and contractors'*

equipment and supplies, between points in Illinois, on the one hand, and, on the other, points in Minnesota. The purpose of this filing is to eliminate the gateway of points in Iowa.

No. MC 114211 (Sub-No. E164), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Ia. 50704. Applicant's representative: Kenneth R. Nelson (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tractors, road making machinery, and contractors' equipment and supplies*, between points in Illinois, on the one hand, and, on the other, points in South Dakota. The purpose of this filing is to eliminate the gateway of points in Iowa.

No. MC 114211 (Sub-No. E165), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Dallas, Tex. 75222. Applicant's representative: Kenneth R. Nelson (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Farm tractors, and equipment* designed for use in conjunction with farm tractors, and (2) *attachments and parts* therefore, from points in that part of Minnesota on, south, and west of a line beginning at the Iowa-Minnesota State line, thence along Minnesota Highway 5 to junction Minnesota Highway 7, thence along Minnesota Highway 7 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-South Dakota State line, to points in Washington, Oregon, Idaho, that part of California on and north of a line beginning at the Nevada-California State line, thence along U.S. Highway 95 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction California Highway 247, thence along California Highway 247 to junction California Highway 18, thence along California Highway 18 to junction U.S. Highway 395, thence along U.S. Highway 395 to San Diego, that part of Nevada on and west of a line beginning at the Idaho-Nevada State line, thence along U.S. Highway 93 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Nevada Highway 8A, thence along Nevada Highway 8A to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Nevada Highway 23, thence along Nevada Highway 23 to junction Nevada Highway 89, thence along Nevada Highway 89 to junction U.S. Highway 95, thence along U.S. Highway 95 to the Nevada-Arizona State line, and that part of Montana on, west, and north of a line beginning at the Montana-North Dakota State line, thence along Interstate Highway 94 to junction U.S. Highway 212, thence along U.S. Highway 212 to the Montana-Wyoming State line. The purpose of this filing is to eliminate the gateway of Fargo, N. Dak.

No. MC 114211 (Sub-No. E166), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Dallas, Tex. 75222. Applicant's representative: Kenneth R. Nelson (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tractors, stationary engines, and attachments and parts therefore*, when moving incidental to and in the same vehicle with tractors and stationary engines (not including tractors with vehicle beds, bed frames, of fifth wheels, not any of the above-specified commodities which, because of their size or weight, require the use of special equipment); from points in that part of Illinois on and south of a line beginning at the Iowa-Illinois State line, thence along U.S. Highway 20 to junction Interstate Highway 90, thence along Interstate Highway 90 to the Illinois-Michigan State line, to points in that part of Wisconsin on and west of a line beginning at the Minnesota-Wisconsin State line, thence along U.S. Highway 2 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction Wisconsin Highway 40, thence along Wisconsin Highway 40 to junction Interstate Highway 53, thence along Interstate Highway 53 to junction U.S. Highway 16, thence along U.S. Highway 16 to the Wisconsin-Minnesota State line. The purpose of this filing is to eliminate the gateway of Dubuque, Iowa.

No. MC 114211 (Sub-No. E167), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Dallas, Tex. 75222. Applicant's representative: Kenneth R. Nelson (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, agricultural implements, and parts therefore* (except commodities which, because of size or weight, require the use of special equipment, and those described in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459), from Ft. Dodge, Iowa, to points in Louisiana, that part of Arkansas on, south, and west of a line beginning at the Oklahoma-Arkansas State line, thence along Interstate Highway 40 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 82, thence along U.S. Highway 82 to the Mississippi-Arkansas State line, that part of Mississippi on and south of a line beginning at the Arkansas-Mississippi State line, thence along U.S. Highway 82 to junction Mississippi Highway 430, thence along Mississippi Highway 430 to junction Mississippi Highway 12, thence along Mississippi Highway 12 to junction Mississippi Highway 14, thence along Mississippi Highway 14 to junction Mississippi Highway 19, thence along Mississippi Highway 19 to the Mississippi-Alabama State line, that part of Alabama on, west, and south of a line beginning at the Mississippi-Alabama State line, thence along Alabama Highway 10 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Interstate Highway 10.

Thence along Interstate Highway 10 to the Alabama-Florida State line, that part of Florida on and south of a line beginning at the Alabama-Florida State line, thence along Interstate Highway 10 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Florida Highway 40, thence along Florida Highway 40 to junction Interstate Highway 95, thence along Interstate Highway 95, thence along Interstate Highway 95 to junction U.S. Highway 92, thence along U.S. Highway 92 to Daytona Beach, that part of New Mexico on and south of U.S. Highway 66, that part of Arizona on and south of a line beginning at the New Mexico-Arizona State line, thence along U.S. Highway 66 to junction U.S. Highway 93, thence along U.S. Highway 93 to the Arizona-Nevada State line, that part of Nevada on and south of a line beginning at the California-Nevada State line, thence along Interstate Highway 15 to junction U.S. Highway 93, thence along U.S. Highway 93 to the Arizona-Nevada State line, and that part of California on, west, and south of a line beginning at the Nevada-California State line, thence along Interstate Highway 15 to junction California Highway 58, thence along California Highway 58 to junction California Highway 99, thence along California Highway 99 to junction California Highway 120, thence along California Highway 120 to junction Interstate Highway 580, thence along Interstate Highway 580 to junction California Highway 92, thence along California Highway 92 to San Mateo. The purpose of this filing is to eliminate the gateways of points in Kansas, and Claremore, Okla.

No. MC 114211 (Sub-No. E168), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Dallas, Tex. 75222. Applicant's representative: Kenneth R. Nelson (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Grading, paving, and finishing machinery, equipment, parts, accessories, and attachments*, from points in that part of California on and north of a line beginning at San Francisco, thence along Interstate Highway 80 to junction Interstate Highway 580, thence along Interstate Highway 580 to junction California Highway 120, thence along California Highway 120 to junction California Highway 108, thence along California Highway 108 to junction U.S. Highway 395, thence along U.S. Highway 395 to the Nevada-California State line, that part of Utah on and north of a line beginning at the Nevada-Utah State line, thence along U.S. Highway 50 to junction Utah Highway 132, thence along Utah Highway 132 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction U.S. Highway 6/50, thence along U.S. Highway 6/50 to junction Utah Highway 33, thence along Utah Highway 33 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Utah-Colorado State line, and points in that part of Nevada on and north of a line beginning at the

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California-Nevada State line, thence along U.S. Highway 395 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Nevada-Utah State line, to points in that part of Florida on and south of a line beginning at the Atlantic Ocean, thence along U.S. Highway 90 to junction Florida Highway 3, thence along Florida Highway 3 to junction U.S. Highway 98, thence along U.S. Highway 98 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateways of Canton, S. Dak., and Claremore, Okla.

No. MC 114211 (Sub-No. E171), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Dallas, Tex. 75222. Applicant's representative: Kenneth R. Nelson (Same as above) Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm machinery* (except commodities the transportation of which, because of size or weight, requires the use of special equipment or special handling, in those described in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459), between points in that part of Iowa on and south of Interstate Highway 80, on the one hand, and, on the other, points in that part of Nebraska on, south, and west of a line beginning at the Iowa-Nebraska State line, thence along U.S. Highway 30 to junction U.S. Highway 275, thence along U.S. Highway 275 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 83, thence along U.S. Highway 83 to the Iowa-South Dakota State line. The purpose of this filing is to eliminate the gateway of Nebraska City, Nebr., and points within 50 miles thereof.

No. MC 114211 (Sub-No. E172), filed June 4, 1974. Applicant. WARREN TRANSPORT, INC., P.O. Box 420, Dallas, Tex. 75222. Applicant's representative: Kenneth R. Nelson (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof* (except commodities the transportation of which, because of size or weight, requires the use of special equipment or special handling, and those described in *Mercer Extension—Oil Field Comodities*, 74 M.C.C. 459), between points in that part of Iowa on, south, and east of a line beginning at the Nebraska-Iowa State line, thence along Iowa Highway 175 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S Highway 20 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction Iowa Highway 24, thence along Iowa Highway 24 to junction U.S. Highway 52, thence along U.S. Highway 52 to the Iowa-Minnesota State line, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateways of Council Bluffs, Iowa, and Omaha, Nebr.

No. MC 114211 (Sub-No. E173), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Dallas, Tex. 75222. Applicant's representative: Kenneth R. Nelson (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof* (except commodities the transportation of which, because of size or weight, requires the use of special equipment or special handling, and those described in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459), between points in that part of Iowa on, south, and east of a line beginning at the Nebraska-Iowa State line, thence along Interstate Highway 80 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction U.S. Highway 218, thence along U.S. Highway 218 to the Iowa-Minnesota State line, on the one hand, and, on the other, points in that part of Nebraska on and west of a line beginning at the Nebraska-Kansas State line, thence along U.S. Highway 77 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 275, thence along U.S. Highway 275 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 83, thence along U.S. Highway 83 to the Nebraska-South Dakota State line. The purpose of this filing is to eliminate the gateways of Council Bluffs, Iowa, and Omaha, Nebr.

No. MC 114211 (Sub-No. E174), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Dallas, Tex. 75222. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and implements*, other than hand, as described in Section (1) (b) of Appendix XII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and *parts therefore* when their transportation is incidental to the transportation of the machinery and implements, from points in that part of Minnesota on and south of a line beginning at the Minnesota-South Dakota State line, thence along U.S. Highway 12 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Minnesota-Iowa State line, to points in that part of Texas on and south of a line beginning at the Okahoma-Texas State line, thence along U.S. Highway 83 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 62/70, thence along U.S. Highway 62/70 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Texas-New Mexico State line, and that part of New Mexico on and south of a line beginning at the Arizona-New Mexico State line, thence along Interstate Highway 40 to junction New Mexico Highway 41; thence along New Mexico Highway 41 to junction U.S. Highway 60, thence along U.S. Highway 60 to the New Mexico-Texas State line. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 114211 (Sub-No. E186), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, and such road making machinery and contractors' equipment and supplies*, as are designed for use in conjunction with tractors, from points in that part of South Dakota on and north of a line beginning at the Minnesota-South Dakota State line, thence along U.S. Highway 14 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction South Dakota Highway 47, thence along South Dakota Highway 47 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction South Dakota Highway 87, thence along South Dakota Highway 87 to the South Dakota-Nebraska State line, to points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New Jersey, that part of New York on and east of a line beginning at the Pennsylvania-New York State line, thence along New York Highway 79 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 49, thence along New York Highway 49 to junction New York Highway 3, thence along New York Highway 3 to junction New York Highway 104, thence along New York Highway 104 to Oswego, that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, thence along U.S. Highway 15 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction Pennsylvania Highway 92, thence along Pennsylvania Highway 92 to the Pennsylvania-New York State line, that part of Maryland on and east of a line beginning at the Virginia-Maryland State line, thence along U.S. Highway 211 to junction Interstate Highway 708, thence along Interstate Highway 708 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Maryland-Pennsylvania State line, that part of Virginia on and east of a line beginning at the North Carolina-Virginia State line, thence along U.S. Highway 21 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction U.S. Highway 211, thence along U.S. Highway 211 to the Virginia-Maryland State line, that part of North Carolina on and east of a line beginning at the North Carolina-South Carolina State line, thence along U.S. Highway 21 to junction North Carolina Highway 115, thence along North Carolina Highway 115 to junction North Carolina 18, thence along North Carolina Highway 18 to junction U.S.

Highway 21, thence along U.S. Highway 21 to the North Carolina-Virginia State line, and that part of South Carolina on and east of U.S. Highway 21. The purpose of this filing is to eliminate the gateway of points in that part of Minnesota located in the Fargo, N. Dak., commercial zone.

No. MC 114211 (Sub-No. E187), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grading, paving, and finishing machinery, equipment, parts, accessories, and attachments* between points in that part of North Dakota on and east of a line beginning at the International Boundary line between the United States and Canada, thence along North Dakota Highway 20 to junction North Dakota Highway 5, thence along North Dakota Highway 5 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction North Dakota Highway 30, thence along North Dakota Highway 30 to junction North Dakota Highway 13, thence along North Dakota Highway 13 to junction North Dakota Highway 56, thence along North Dakota Highway 56 to junction North Dakota Highway 11, thence along North Dakota Highway 11 to junction North Dakota Highway 3, thence along North Dakota Highway 3 to the North Dakota-South Dakota State line, on the one hand, and, on the other, points in that part of Iowa on and south of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 71 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction Iowa Highway 4, thence along Iowa Highway 4 to junction Iowa Highway 3, thence along Iowa Highway 3 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction U.S. Highway 20, thence along U.S Highway 20 to junction U.S. Highway 30.

Thence along U.S. Highway 30 to junction Iowa Highway 17, thence along Iowa Highway 17 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 212, thence along Iowa Highway 212 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Iowa-Illinois State line, that part of Illinois on and south of a line beginning at the Iowa-Illinois State line, thence along Interstate Highway 80 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Illinois Highway 17, thence along Illinois Highway 17 to junction Illinois Highway 114, thence along Illinois Highway 114 to the Illinois-Indiana State line, that part of Nebraska on and east of a line beginning at the South Dakota-Nebraska State line, thence along U.S. Highway 81 to junction Nebraska Highway 92, thence along Nebraska Highway 92 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Nebraska Highway 14, thence along Nebraska Highway 14 to the Nebraska-Kansas State line, and that part of Kansas on and east of a line beginning at the Nebraska-Kansas State line, thence along Kansas Highway 8 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 156, thence along U.S. Highway 156 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Canton, S. Dak.

No. MC 114211 (Sub-No. E199), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof* (except commodities the transportation of which, because of size or weight, requires the use of special equipment or special handling, and those described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459), from points in that part of Nebraska on and east of a line beginning at the South Dakota-Nebraska State line line, thence along Nebraska Highway 137 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 6/34, thence along U.S. Highway 6/34 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Nebraska Highway 14, thence along Nebraska Highway 14 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Nebraska-Kansas State line, to points in that part of Texas on, south, and east of a line beginning at the Texas-New Mexico State line, thence along Interstate Highway 10 to junction U.S. Highway 290, thence along U.S. Highway 290 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Texas Highway 16, thence along Texas Highway 16 to junction U.S. Highway 281, thence along U.S. Highway 281 to the Texas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Beatrice, Nebr.

No. MC 114211 (Sub-No. E200), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof* (except commodities the transportation of which, because of size or weight, require the use of special equipment or special handling, and those described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459), between points in that part of Nebraska on and west of a line beginning at the Iowa-Nebraska State line, thence along Nebraska Highway 2 to junction U.S. Highway 73/75, thence along U.S. Highway 73/75 to the Nebraska-Kansas State line, on the one hand, and, on the other, points in that part of Missouri on and south of a line beginning at the Kansas-Missouri State line, thence along Missouri Highway 126 to junction U.S. Highway 160, thence along U.S. Highway 160 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Interstate Highway 57, thence along Interstate Highway 57 to the Missouri-Kentucky State line, restricted against the transportation of traffic to oilfield locations. The purpose of this filing is to eliminate the gateway of Beatrice, Nebr.

No. MC 114211 (Sub-No. E201), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof* (except commodities the transportation of which, because of size or weight, require the use of speical equipment or special handling, and those described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459), from points in that part of Nebraska on and west of a line beginning at the Nebraska-South Dakota State line, thence along U.S. Highway 81 to junction Nebraska Highway 12, thence along Nebraska Highway 12 to junction Nebraska Highway 15, thence along Nebraska Highway 15 to junction Nebraska Highway 92, thence along Nebraska Highway 92 to junction Nebraska Highway 79, thence along Nebraska Highway 79 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Nebraska-Kansas State line, to points in Missouri, restricted against the transportation of traffic to oilfield locations. The purpose of this filing is to eliminate the gateway of Beatrice, Nebr.

No. MC 114211 (Sub-No. E202), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof* (except commodities the transportation of which, because of size or weight, requires the use of special equipment or special handling, and those described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459), from points in that part of Nebraska on and south of a line beginning at the Wyoming-Nebraska State line, thence along U.S. Highway 26 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 6, thence

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along U.S. Highway 6 to junction Nebraska Highway 103, thence along Nebraska Highway 103 to Junction Nebraska Highway 4, thence along Nebraska Highway 4 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Nebraska-Kansas State line, to points in Illinois, Indiana, and Ohio, restricted against the transportation of traffic to oilfield locations. The purpose of this filing is to eliminate the gateway of Beatrice, Nebr.

No. MC 114211 (Sub-No. E203), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof* (except commodities the transportation of which, because of size or weight, requires the use of special equipment or special handling and those described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459), from points in that part of Nebraska on and west of a line beginning at the Iowa-Nebraska State line, thence along Nebraska Highway 2 to junction U.S. Highway 73/75, thence along U.S. Highway 75 to the Nebraska-Kansas State line, to points in that part of Indiana on and south of U.S. Highway 40, that part of Illinois on and south of a line beginning at the Illinois-Missouri State line, thence along Illinois Highway 140 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Indiana-Illinois State line, and that part of Ohio on and south of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 40 to junction Interstate Highway 270, thence along Interstate Highway 270 to junction Ohio Highway 3, thence along Ohio Highway 3 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 62, thence along U.S. Highway 62 to the Ohio-Pennsylvania State line, restricted against the transportation of traffic moving to oilfield locations. The purpose of this filing is to eliminate the gateway of Beatrice, Nebr.

No. MC 114211 (Sub-No. E204), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled farm machinery, farm equipment* designed for use with self-propelled farm machinery, *and parts thereof*, from Portals, N. Dak., to points in New York. The purpose of this filing is to eliminate the gateway of the plant site of the Stinar Corporation located at Minneapolis, Minn.

No. MC 114211 (Sub-No. E210), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof* (except commodities the transportation of which because of size or weight, requires the use of special equipment and those described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459), from points in Oklahoma to points in Maryland, Delaware, New Jersey, the Upper Peninsula of Michigan, and that part of Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line, thence along Wisconsin Highway 77 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to Green Bay. The purpose of this filing is to eliminate the gateway of Claremore, Okla.

No. MC 114211 (Sub-No. E213), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe* (except pipe used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products, and by-products), and *fittings and accessories therefore*, when moving with such pipe, from points in that part of Iowa on and west of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 65 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa Highway 215, thence along Iowa Highway 215 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 330, thence along Iowa Highway 330 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Iowa-Missouri State line, to points in Florida, restricted against the transportation of commodities which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E214), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except commodities which, because of size or weight, require the use of special equipment, and those described in *Mercer Extension—Oilfield Commodities, 74 M.C.C. 459*), from points in Oklahoma to points in Maryland, New Jersey, Delaware, and that part of Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line, thence along Wisconsin Highway 77 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to Green Bay. The purpose of this filing is to eliminate the gateway of Claremore, Okla.

No. MC 114211 (Sub-No. E215), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except commodities which, because of size or weight, require the use of special equipment, and those described in *Mercer Extension—Oilfield Commodities, 74 M.C.C. 459*), from points in Oklahoma to points in Maryland, New Jersey, Delaware, and that part of Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line, thence along Wisconsin Highway 77 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to Green Bay. The purpose of this filing is to eliminate the gateway of Claremore, Okla.

No. MC 114211 (Sub-No. E213), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe* (except pipe used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products, and by-products), and *fittings and accessories therefore*, when moving with such pipe, from points in that part of Iowa on and west of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 65 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa Highway 215, thence along Iowa Highway 215 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 330, thence along Iowa Highway 330 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Iowa-Missouri State line, to points in Florida, restricted against the transportation of commodities which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E214), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except commodities which, because of size or weight, require the use of special equipment, and those described in *Mercer Extension—Oilfield Commodities, 74 M.C.C. 459*), from points in Oklahoma to points in Maryland, New Jersey, Delaware, and that part of Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line, thence along Wisconsin Highway 77 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to Green Bay. The purpose of this filing is to eliminate the gateway of Claremore, Okla.

No. MC 114211 (Sub-No. E215), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except commodities which, because of size or weight, require the use of special equipment, and those described in *Mercer Extension—Oilfield Commodities, 74 M.C.C. 459*), from points in Oklahoma to points in Maryland, New Jersey, Delaware, and that part of Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line, thence along Wisconsin Highway 77 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to Green Bay. The purpose of this filing is to eliminate the gateway of Claremore, Okla.

No. MC 114211 (Sub-No. E213), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except commodities which, because of size or weight, require the use of special equipment, and those described in *Mercer Extension—Oilfield Commodities, 74 M.C.C. 459*), from points in Oklahoma to points in Maryland, New Jersey, Delaware, and that part of Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line, thence along Wisconsin Highway 77 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to Green Bay. The purpose of this filing is to eliminate the gateway of Claremore, Okla.

No. MC 114211 (Sub-No. E213), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except commodities which, because of size or weight, require the use of special equipment, and those described in *Mercer Extension—Oilfield Commodities, 74 M.C.C. 459*), from points in Oklahoma to points in Maryland, New Jersey, Delaware, and that part of Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line, thence along Wisconsin Highway 77 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to Green Bay. The purpose of this filing is to eliminate the gateway of Claremore, Okla.

No. MC 114211 (Sub-No. E213), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except commodities which, because of size or weight, require the use of special equipment, and those described in *Mercer Extension—Oilfield Commodities, 74 M.C.C. 459*), from points in Oklahoma to points in Maryland, New Jersey, Delaware, and that part of Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line, thence along Wisconsin Highway 77 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to Green Bay. The purpose of this filing is to eliminate the gateway of Claremore, Okla.

Colorado Highway 131, thence along Colorado Highway 131 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Colorado-Utah State line. The purpose of this filing is to eliminate the gateway of Claremore, Okla.

No. MC 114211 (Sub-No. E216), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled road building machinery, and road building equipment* designed for use in conjunction with self-propelled road building machinery, from points in that part of Texas on and east of U.S. Highway 281, to points in that part of North Dakota on, north, and east of a line beginning at the Minnesota-North Dakota State line, thence along U.S. Highway 10 to junction North Dakota Highway 1, thence along North Dakota Highway 1 to junction North Dakota Highway 9, thence along North Dakota Highway 9 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction North Dakota Highway 15, thence along North Dakota Highway 15 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction North Dakota Highway 256, thence along North Dakota Highway 256 to the International Boundary line between the United States and Canada, and that part of Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line, thence along Interstate Highway 90 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Wisconsin Highway 173, thence along Wisconsin Highway 173 to junction Wisconsin Highway 54, thence along Wisconsin Highway 54 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Wisconsin Highway 54, thence along Wisconsin Highway 54 to Green Bay. The purpose of this filing is to eliminate the gateways of points in Kansas, and Minneapolis, Minn.

No. MC 114211 (Sub-No. E217), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm tractors and parts thereof*, from points in that part of South Dakota on, south, and east of a line beginning at the Minnesota-South Dakota State line, thence along U.S. Highway 14 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction South Dakota Highway 53, thence along South Dakota Highway 53 to junction South Dakota Highway 44, thence along South Dakota Highway 44 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction South Dakota Highway 47, thence along South Dakota Highway 47 to the South Dakota-Nebraska State line, to points in that part of Wisconsin on and south of a line beginning at the Iowa-Wisconsin State line, thence along U.S. Highway 151 to junction U.S. Highway 18, thence along U.S. Highway 18 to Lake Michigan. The purpose of this filing is to eliminate the gateway of Fort Dodge, Iowa.

No. MC 114211 (Sub-No. E223), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled sweepers, and hod buggies*, from points in that part of Minnesota on and east of a line beginning at the International Boundary line between the United States and Canada, thence along U.S. Highway 71 to junction Minnesota Highway 6, thence along Minnesota Highway 6 to junction Minnesota Highway 210, thence along Minnesota Highway 210 to junction Minnesota Highway 18, thence along Minnesota Highway 18 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-Wisconsin State line, to points in Virginia, Maryland, Delaware, New Jersey, Pennsylvania, Connecticut, Massachusetts, Rhode Island, and New York. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E226), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural shredders, agricultural sprayers, scalpers, row crop shields, and corn cribs*, knocked down, and *attachments and parts* for said shredders, sprayers, scalpers, and corn cribs, when moving incidental to and in the same vehicle with said commodities, from points in that part of Missouri on and west of a line beginning at the Iowa-Missouri State line, thence along Interstate Highway 29 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Missouri-Kansas State line, to points in New York, that part of Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line, thence along U.S. Highway 12 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to junction Wisconsin Highway 52, thence along Wisconsin Highway 52 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to the Wisconsin-Michigan State line, that part of Pennsylvania on, north, and east of a line beginning at the Ohio-Pennsylvania State line, thence along U.S. Highway 30 to junction U.S. Highway 140, thence along U.S. Highway 140 to the Pennsylvania-Maryland State line, that part of Ohio on and north of a line beginning at the Indiana-Ohio State line, thence along U.S. Highway 30 to junction Ohio Highway 18, thence along Ohio Highway 18 to junction Interstate Highway 77, thence along Interstate Highway 77 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Pennsylvania State line, and that part of Indiana on and north of U.S. Highway 20, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of Oelwein, Iowa.

No. MC 114211 (Sub-No. E227), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural shredders, agriculture sprayers, scalpers, row crop shields, corn cribs*, knocked down, and *attachments and parts* for said shredders, sprayers, scalpers, and corn cribs, when moving incidentally to and in the same vehicle with said commodities, from points in that part of Missouri on, south, and west of a line beginning at the Kansas-Missouri State line, thence along U.S. Highway 36 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Missouri-Arkansas State line, to points in that part of Michigan on and north of a line beginning at the Wisconsin-Michigan State line, thence along U.S. Highway 8 to junction U.S. Highway 2, thence along U.S. Highway 2 to Lake Michigan, that part of Minnesota on and east of a line beginning at the International Boundary line between the United States and Canada, thence along U.S. Highway 71 to junction Minnesota Highway 6, thence along Minnesota Highway 6 to junction Minnesota Highway 1, thence along Minnesota Highway 1 to junction Minnesota Highway 38, thence along Minnesota Highway 38 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction Minnesota Highway 33, thence along Minnesota Highway 33 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction Minnesota Highway 95, thence along Minnesota Highway 95 to junction U.S. Highway 8, thence along U.S. Highway 8 to the Minnesota-Wisconsin State line, and that part of Wisconsin on and north of a line beginning at the Wisconsin-Minnesota State line, thence along U.S. Highway 8 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Wisconsin Highway 52, thence along Wisconsin Highway 52 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to junction U.S. Highway 141, thence along U.S. Highway 141 to the Michigan-Wisconsin State line, restricted to the transportation of commodities

which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of Ocheyedan, Iowa.

No. MC 114211 (Sub-No. [illegible]), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Agricultural shredders, agricultural sprayers, scalpers, row crop shields, corn cribs,* knocked down, *and attachments and parts* for said shredders, sprayers, scalpers, and corn cribs, when moving incidentally to and in the same vehicle with said commodities, from points in that part of Missouri on and east of U.S. Highway 63 to points in North Dakota, that part of Minnesota on and north of U.S. Highway 52, that part of South Dakota on and north of a line beginning at the Wyoming-South Dakota State line, thence along U.S. Highway 18 to junction South Dakota Highway 79, thence along South Dakota Highway 79 to junction South Dakota Highway 34, thence along South Dakota Highway 34 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction U.S. 281, thence along U.S. Highway 281 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 12, thence along U.S. Highway 12 to the South Dakota-Minnesota State line, and that part of Wisconsin on, north, and west of a line beginning at the Wisconsin-Minnesota State line, thence along U.S. Highway 12 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction U.S. Highway 8, thence along U.S. Highway 8 to junction Wisconsin Highway 13, thence along Wisconsin Highway 13 to junction Wisconsin Highway 71, thence along Wisconsin Highway 71 to the Wisconsin-Michigan State line, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of Ocheyedan, Iowa.

No. MC 114211 (Sub-No. [illegible]), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Agricultural shredders, agricultural sprayers, scalpers, row crop shields, corn cribs,* knocked down, *and attachments and parts* for said shredders, sprayers, scalpers, and corn cribs, when moving incidentally to and in the same vehicle with said commodities, from points in that part of Missouri on and east of U.S. Highway 63 to points in North Dakota, that part of Minnesota on and north of U.S. Highway 52, that part of South Dakota on and north of a line beginning at the Wyoming-South Dakota State line, thence along U.S. Highway 18 to junction South Dakota Highway 79, thence along South Dakota Highway 79 to junction South Dakota Highway 34, thence along South Dakota Highway 34 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction U.S. 281, thence along U.S. Highway 281 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 12, thence along U.S. Highway 12 to the South Dakota-Minnesota State line, and that part of Wisconsin on, north, and west of a line beginning at the Wisconsin-Minnesota State line, thence along U.S. Highway 12 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction U.S. Highway 8, thence along U.S. Highway 8 to junction Wisconsin Highway 13, thence along Wisconsin Highway 13 to junction Wisconsin Highway 71, thence along Wisconsin Highway 71 to the Wisconsin-Michigan State line, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of Ocheyedan, Iowa.

No. MC 114211 (Sub-No. [illegible]), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Agricultural shredders, agricultural sprayers, scalpers, row crop shields, corn cribs,* knocked down, *and attachments and parts* for said shredders, sprayers, scalpers, and corn cribs, when moving incidentally to and in the same vehicle with said commodities, from points in that part of Missouri on, north, and west of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 63 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Missouri-Kansas State line, to points in the Upper Peninsula of Michigan, that part of New York on and east of a line beginning at Oswego, thence along New York Highway 57 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Interstate Highway 81, thence along Interstate Highway 81 to the New York-Pennsylvania State line (except points in Queens, Kings, Nassau, and Suffolk Counties), points in that part of Pennsylvania on and east of a line beginning at the Pennsylvania-New York State line, thence along Interstate Highway 81 to junction Interstate Highway 380, thence along Interstate Highway 380 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line, and that part of Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line, thence along Interstate Highway 94 to junction Wisconsin Highway 13, thence along Wisconsin Highway 33 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Wisconsin Highway 23, thence along Wisconsin Highway 23 to Lake Michigan, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of Ocheyedan, Iowa.

No. MC 114211 (Sub-No. [illegible]), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Agricultural shredders, agricultural sprayers, scalpers, row crop shields,* corn cribs, knocked down, *and attachments and parts for* said shredders, sprayers, scalpers, and corn cribs, when moving incidentally to and in the same vehicle with said commodities, from Ocheyedan, Iowa, to points in Arizona, that part of Louisiana on and west of a line beginning at the Arkansas-Louisiana State line, thence along Louisiana Highway 15 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 165, thence along U.S. Highway 165 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 190, thence along U.S. Highway 190 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction Louisiana Highway 42, thence along Louisiana Highway 42 to junction Louisiana Highway 328, thence along Louisiana Highway 328 to the Gulf of Mexico, that part of Nevada on and west of a line beginning at the Arizona-Nevada State line, thence along Interstate Highway 15 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction Nevada Highway 3 to the Nevada-California State line, that part of California on, south, and west of a line beginning at the California-Nevada State line, thence along California Highway 3 to junction California Highway 202, thence along California Highway 202 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction California Highway 178, thence along California Highway 178 to junction California Highway 129, thence along California Highway 129 to junction California Highway 99, thence along California Highway 99 to junction California Highway 4, thence along California Highway 4 to San Francisco, and that part of Arkansas on and west of a line beginning at the Arkansas-Missouri State line, thence along Arkansas Highway 69 to junction Arkansas Highway 63, thence along Arkansas Highway 63 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Arkansas Highway 16, thence along Arkansas Highway 16 to junction Arkansas Highway 23, thence along Arkansas Highway 23 to junction Arkansas Highway 7, thence along Arkansas Highway 7 to the Arkansas-Louisiana State line, restricted against the transportation of commodities which, because of size or weight, require the use of special equipment, and those commodities described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459. The purpose of this filing is to eliminate the gateways of points in Kansas, and Clarence, Okla.

No. MC 114211 (Sub-No. [illegible]), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tractors, road making machinery, and contractors' equipment and supplies*, between points in Minnesota, on the one hand, and, on the other, points in Missouri, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of points in Iowa.

No. MC 114211 (Sub-No. [illegible]), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, from points in that part of Nebraska on and east of a line beginning at the Iowa-Nebraska State line, thence along Interstate Highway 80 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Nebraska-Kansas State line, to points in that part of North Dakota on and west of a line beginning at the Montana-North Dakota State line, thence along Interstate Highway 94 to junction North Dakota Highway 22, thence along North Dakota Highway 22 to junction North Dakota Highway 23, thence along North Dakota Highway 23 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S.

Highway 281, thence along U.S. Highway 281 to junction North Dakota Highway 5, thence along North Dakota Highway 5 to junction Interstate Highway 29, thence along Interstate Highway 29 to the International Boundary line between the United States and Canada, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of Ft. Dodge, Iowa.

No. MC 114211 (Sub-No. E233), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, from points in that part of Nebraska on, north, and west of a line beginning at the Iowa-Nebraska State line, thence along Nebraska Highway 92 to junction U.S. Highway 275, thence along U.S. Highway 275 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 83, thence along U.S. Highway 83 to the Nebraska-Kansas State line, to points in Indiana, restricted to the transportation of commodities which, because of size and weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of Fort Dodge, Iowa.

No. MC 114211 (Sub-No. E234), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm tractors*, from points in Nebraska to points in Wisconsin. The purpose of this filing is to eliminate the gateway of Ft. Dodge, Iowa.

No. MC 114211 (Sub-No. E235), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm tractors*, from points in Kansas to points in Wisconsin. The purpose of this filing is to eliminate the gateway of Ft. Dodge, Iowa.

No. MC 114211 (Sub-No. E236), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe, and fittings and accessories therefore*, when moving with such pipe, from points in Iowa to points in that part of Texas on and west of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 281 to junction Texas Highway 16, thence along Texas Highway 16 to junction U.S. Highway 87, thence along U.S. Highway 87 to Port Lavaca, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E237), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *—Road building equipment*, between points in Minnesota, on the one hand, and, on the other, points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateway of points in Kansas.

No. MC 114211 (Sub-No. E238), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, agricultural implements, and parts therefore* (except commodities which, because of size or weight, require the use of special equipment, and those described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459), from the plant site and storage facilities of J. I. Case Company, Inc., located at Burlington and Bettendorf, Iowa, to points in Arizona, that part of California on, west, and south of a line beginning at the Nevada-California State line, thence along U.S. Highway 6 to junction California Highway 120, thence along California Highway 120 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction California Highway 37, thence alon. California Highway 37 to junction U.S. Highway 101, thence along California Highway 101 to Berkeley, and that part of Nevada on, west, and south of a line beginning at the Nevada-Arizona State line, thence along Interstate Highway 15 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Nevada-California State line. The purpose of this filing is to eliminate the gateway of Claremore, Okla.

No. MC 114211 (Sub-No. E239), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and implements*, other than hand, and *parts thereof* when transported with such agricultural machinery and implements, as described in Sections B and C of Appendix XII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except commodities requiring the use of special equipment), from Corpus Christi, Tex., to points in that part of Oklahoma on, north, and east of a line beginning at the Kansas-Oklahoma State line, thence along U.S. Highway 183 to junction Oklahoma Highway 15, thence along Oklahoma Highway 15 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Kansas-Missouri State line. The purpose of this filing is to eliminate the gateway of points in Kansas.

No. MC 114211 (Sub-No. E240), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and implements*, other than hand, and *parts thereof* when transported with such agricultural machinery and implements, as described in Sections B and C of Appendix XII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except commodities requiring the use of special equipment), from Corpus Christi, Tex., to points in that part of Montana on and north of a line beginning at the Wyoming-Montana State line, thence along U.S. Highway 212 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Montana-Idaho State line, that part of Idaho on and north of U.S. Highway 12, and that part of Washington on and north of a line beginning at the Idaho-Washington State line, thence along U.S. Highway 12 to junction Washington Highway 261, thence along Washington Highway 261 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Interstate 82, thence along Interstate Highway 82 to junction U.S. Highway 12, thence along U.S. Highway 12 to Grays Harbor. The purpose of this filing is to eliminate the gateways of points in Kansas, and Claremore, Okla.

No. MC 114211 (Sub-No. E241), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and implements*, other than hand, and *parts thereof* when transported with such agricultural machinery and implements, as described in Sections B and C of Appendix XII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except commodities requiring the use of special equipment), from Corpus Christi, Tex., to points in New Jersey. The purpose of this filing is to eliminate the gateways of points in Kansas, and Claremore, Okla.

No. MC 114211 (Sub-No. E242), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except commodities which because of size or weight require the use of special equipment and those described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459), from Newton, Iowa, to points in that part of California on and south of a line beginning at the Nevada-California State line, thence along California Highway 127 to junction California Highway 190, thence along California Highway 190 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction California Highway 178, thence along California Highway 178 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 50, thence along U.S. Highway 50 to San Francisco, Calif., that part of Nevada on and south of a line beginning at the Arizona-Nevada State line, thence along U.S. Highway 93 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction Nevada Highway 29, thence along Nevada Highway 29 to the California-Nevada State line, that part of Arizona on and south of a line beginning at the New Mexico-Arizona State line, thence along U.S. Highway 66 to junction U.S. Highway 91, thence along U.S. Highway 93 to the Arizona-Nevada State line, that part of New Mexico on and south of a line beginning at the Colorado-New Mexico State line, thence along U.S. Highway 550 to junction New Mexico Highway 44, thence along New Mexico Highway 44 to junction New Mexico Highway 57, thence along New Mexico Highway 57 to junction U.S. Highway 66, thence along U.S. Highway 66 to the Arizona-New Mexico State line. The purpose of this filing is to eliminate the gateways of points in Kansas, and Claremore, Okla.

No. MC 114211 (Sub-No. E243), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except commodities which because of size or weight require the use of special equipment, and those described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459), from Newton, Iowa, to points in Louisiana, that part of Florida on and south of a line beginning at the Gulf of Mexico, thence along Florida Highway 688, to junction Interstate Highway 75, thence along Interstate Highway 4 to junction Florida Highway 50, thence along Florida Highway 50 to the Atlantic Ocean, and that part of Alabama on and south of Interstate Highway 10. The purpose of this filing is to eliminate the gateways of points in Kansas, and Claremore, Okla.

No. MC 114211 (Sub-No. E244), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such material handling equipment, winches, compaction and road making equipment, rollers, and mobile cranes*, as are self-propelled vehicles (except motor vehicles as defined in Section 203(a)(13) of the Interstate Commerce Act and commodities moving in driveaway service), or equipment designed for use in conjunction with self-propelled vehicles (except tank semi-trailers), and (2) *Parts, attachments, and accessories* of the commodities described in (1) above, from the plant sites of Hyster Company located at Danville, Kewanee, and Peoria, to points in Washington, Oregon, Montana, Idaho, North Dakota, Nevada, that part of California on and north of a line beginning at the California-Nevada State line, thence along Interstate Highway 15 to junction California Highway 91, thence along California Highway 91 to junction California Highway 55, thence along California Highway 55 to the Pacific Ocean, that part of Utah on and west of a line beginning at the Utah-Idaho State line, thence along U.S. Highway 91 to junction U.S. Highway 89/91, thence along U.S. Highway 89/91 to junction Interstate Highway 15, thence along Interstate Highway 15 to the Utah-Arizona State line, and that part of Wyoming on and north of a line beginning at the Nebraska-Wyoming State line, thence along U.S. Highway 30 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Wyoming-Idaho State line. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E245), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, between points in that part of Iowa on and east of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 169 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Iowa Highway 5, thence along Iowa Highway 5 to the Iowa-Missouri State line, on the one hand, and, on the other, to points in that part of Kansas on and west of a line beginning at the Nebraska-Kansas State line, thence along U.S. Highway 183 to junction Kansas Highway 1, thence along Kansas Highway 1 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateways of Des Moines, Iowa, and Beatrice, Nebr.

No. MC 114211 (Sub-No. E246), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such agricultural machinery and agricultural implements* as are self-propelled vehicles (except motor vehicles as defined in Section 203(a)(13) of the Interstate Commerce Act and commodities moving in driveaway service), or equipment designed for use in conjunction with self-propelled vehicles (except tank semi-trailers), and *parts thereof*, from Fort Dodge, Iowa, to points in that part of Nevada on, north, and west of a line beginning at the California-Nevada State line, thence along U.S. Highway 93 to junction Nevada Highway 34, thence along Nevada Highway 34 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Nevada Highway 46, thence along Nevada Highway 46 to junction Nevada Highway 51, thence along Nevada Highway 51 to the Nevada-Idaho State line, that part of Idaho on, north, and west of a line beginning at the Nevada-Idaho State line, thence along Idaho Highway 51 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Idaho Highway 21, thence along Idaho Highway 21 to junction U.S. Highway 93, thence along U.S. Highway 93 to junction Idaho Highway 28, thence along Idaho Highway 28 to junction Idaho Highway 324, thence along Idaho Highway 324 to the Idaho-Montana State line, that part of Montana on, north, and west of a line beginning at the Montana-South Dakota State line, thence along U.S. Highway 12 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Montana Highway 41, thence along Montana Highway 41 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction Montana Highway 324,

Thence along Montana Highway 324 to the Montana-Idaho State line, that part of Michigan on and north of a line beginning at Traverse City, thence along Michigan Highway 32 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Michigan Highway 55, thence along Michigan Highway 55 to Tawas City, that part of New York on, north, and east of New York Highway 14, that of Florida on and south of a line beginning at the Atlantic Ocean, thence along Florida Highway 207 to junction Florida Highway 20, thence along Florida Highway 20 to junction Florida Highway 24, thence along Florida Highway 24 to Cedar Key, that part of South Carolina on and east of a line beginning at the North Carolina-South Carolina State line, thence along

U.S. Highway 21 to junction Interstate Highway 26, thence along Interstate Highway 26 to Charleston, and that part of North Carolina on and east of a line beginning at the North Carolina-Kentucky State line, thence along U.S. Highway 52 to junction North Carolina Highway 268, thence along North Carolina Highway 268 to junction North Carolina Highway 18, thence along North Carolina Highway 18 to junction U.S. Highway 21, thence along U.S. Highway 21 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E247), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled farm vehicles, and farm machinery* designed for use in conjunction with self-propelled farm vehicles, and *parts thereof*, from Pembina, N. Dak., to points in New York. The purpose of this filing is to eliminate the gateway of the plant site of the Stinar Corporation located at Minneapolis, Minn.

No. MC 114211 (Sub-No. E248), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled farm vehicles, and farm machinery* designed for use in conjunction with self-propelled farm vehicles, and *parts thereof*, from Noyes, Minn., to points in New York. The purpose of this filing is to eliminate the gateway of the plant site of the Stinar Corporation located at Minneapolis, Minn.

No. MC 114211 (Sub-No. E250), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except commodities which because of size or weight require the use of special equipment, and those described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459), from points in that part of Oklahoma on and west of U.S. Highway 77 to points in that part of Georgia on, north, and east of a line beginning at the Alabama-Georgia State line, thence along U.S. Highway 280 to junction U.S. Highway 55, thence along U.S. Highway 55 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Georgia-Florida State line, that part of Alabama on, east, and north of a line beginning at the Georgia-Alabama State line, thence along U.S. Highway 280 to junction U.S. Highway 431, thence along U.S. Highway 431 to the Alabama-Tennessee State line, that part of Tennessee on and east of a line beginning at the Alabama-Tennessee State line, thence along Interstate Highway 65 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Tennessee Highway 20, thence along Tennessee Highway 20 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Tennessee Highway 78, thence along Tennessee Highway 78 to the Tennessee-Kentucky State line, and that part of Florida on and east of a line beginning at Perry, thence along U.S. Highway 221 to junction Florida Highway 14, thence along Florida Highway 14 to junction Florida Highway 145, thence along Florida Highway 145 to the Georgia-Florida State line. The purpose of this filing is to eliminate the gateway of Claremore, Okla.

No. MC 114211 (Sub-No. E252), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such tractors, roadmaking machinery, and contractors' equipment and supplies* as are self-propelled vehicles (except motor vehicles as defined in Section 203(a)(15) of the Interstate Commerce Act and Commodities moving in driveaway service), or equipment designed for use in conjunction with self-propelled vehicles (except tank semi-trailers of parts and attachments therefore), from points in that part of South Dakota on, south, and east of a line beginning at the Minnesota-South Dakota State line, thence along U.S. Highway 14 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction South Dakota Highway 47, thence along South Dakota Highway 47 to the South Dakota-Nebraska State line (except points in that part of South Dakota on and east of a line beginning at Yankton, thence along U.S. Highway 81 to junction U.S. Highway 18, thence along U.S. Highway 18 to the South Dakota-Minnesota State line), to points in that part of Wisconsin on, south, and east of a line beginning at the Minnesota-Wisconsin State line, thence along U.S. Highway 53 to junction Interstate Highway 94, thence along Interstate Highway 94 to Milwaukee. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E253), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe, and fittings and accessories therefore*, when moving with such pipe, *from* points in Iowa, to points in that part of Kansas on and west of U.S. Highway 283, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E254), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe, and fittings and accessories therefore*, when moving with such pipe, from points in that part of Iowa on and west of a line beginning at the Minnesota-Iowa State line, thence along Iowa Highway 4 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Idaho-Nebraska State line to points in Arkansas, restricted to the transportation of traffic which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E255), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe and fittings and accessories therefore*, when moving with such pipe from points in that part of Iowa on and west of a line beginning at the Minnesota-Iowa State line, thence along Iowa Highway 71 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 25, thence along Iowa Highway 25 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Iowa-Missouri State line, to the District of Columbia, and points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, New York, Florida, that part of Maryland on and east of U.S. Highway 220, that part of North Carolina on and east of a line beginning at the South Carolina-North Carolina State line, thence along North Carolina Highway 601 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 158, thence along U.S. Highway 158 to junction U.S. Highway 29, thence along U.S. Highway 29 to the North Carolina-Virginia State line, that part of Virginia on and east of a line beginning at the North Carolina-Virginia State line, thence along Virginia

Highway 29 to junction Virginia Highway 56, thence along Virginia Highway 56 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction Virginia Highway 42, thence along Virginia Highway 42 to junction Virginia Highway 259, thence along Virginia Highway 259 to the Virginia-Maryland State line, that part of South Carolina on and south of a line beginning at the Georgia-South Carolina State line, thence along U.S. Highway 78 to junction South Carolina Highway 4, thence along South Carolina Highway 4 to junction U.S. Highway 601, thence along U.S. Highway 601 to the South Carolina-North Carolina State line, that part of Georgia on and south of a line beginning at the Alabama-Georgia State line, thence along Georgia Highway 62 to junction Georgia Highway 257, thence along Georgia Highway 257 to junction U.S. Highway 280, thence along U.S. Highway 280 to junction Georgia Highway 221, thence along U.S. Highway 211 to junction U.S. Highway 1, thence along U.S. Highway 1 to the Georgia-South Carolina State line, that part of Alabama on and south of a line beginning at the Mississippi-Alabama State line, thence along U.S. Highway 84 to junction Alabama 52, thence along Alabama Highway 52 to the Alabama-Georgia State line, that part of Mississippi on and south of Mississippi Highway 84, that part of Louisiana on and south of a line beginning at the Louisiana-Texas State line, thence along Interstate Highway 20 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Mississippi-Louisiana State line, that part of Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line, thence along Pennsylvania Highway 220 to junction Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction Pennsylvania Highway 422, thence along Pennsylvania Highway 422 to junction Pennsylvania Highway 8, thence along Pennsylvania Highway 8 to junction Pennsylvania Highway 322, thence along Pennsylvania Highway 322 to junction Pennsylvania Highway 19, thence along Pennsylvania Highway 19 to Erie, and points in that part of West Virginia on and east of a line beginning at the Maryland-West Virginia State line, thence along U.S. Highway 220 to junction West Virginia Highway 55, thence along West Virginia Highway 55 to junction West Virginia 259, thence along West Virginia Highway 259 to the West Virginia-Virginia State line, restricted to the transportation of traffic which, because of size or weight, requires the use of special equipment. The purpose of this filing is to eliminate the gateway of Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E256), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe and fittings and accessories therefore*, when moving with such pipe, from points in that part of Iowa on and west of a line beginning at the Iowa-Nebraska State line, thence along Iowa Highway 2 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 183, thence along Iowa Highway 183 to junction Iowa Highway 37/175, thence along Iowa Highway 37/175 to the Iowa-Nebraska State line, to points in that part of Michigan on and east of a line beginning at the Wisconsin-Michigan State line, thence along U.S. Highway 45 to junction Michigan Highway 26, thence along Michigan Highway 26 to junction U.S. Highway 41, thence along U.S. Highway 41 to Fort Watkins, restricted to the transportation of traffic which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E257), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe and fittings and accessories therefore*, when moving with such pipe, from points in that part of Iowa on and south of a line beginning at the Iowa-Illinois State line, thence along Interstate Highway 80 to junction Interstate Highway 29, thence along Interstate Highway 29 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Iowa-Nebraska State line to points in North Dakota, restricted to the transportation of traffic which, because of size or weight, requires the use of special equipment. The purpose of this filing is to eliminate the gateway of Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E258), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled rollers*, from points in that part of Minnesota on and east of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 14 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Interstate Highway 94, thence along Interstate Highway 94 to the Minnesota-Wisconsin State line, to points in Massachusetts, Connecticut, Rhode Island, that part of New York on and east of a line beginning at the Pennsylvania-New York State line, thence along New York Highway 14 to junction New York Highway 13, thence along New York Highway 13 to junction New York Highway 11, thence along New York Highway 11 to junction New York Highway 57, thence along New York Highway 57 to Lake Ontario, and that part of Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 220 to junction Pennsylvania Highway 147, thence along Pennsylvania Highway 147 to junction U.S. Highway 22/322, thence along U.S. Highway 22/322 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E260), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, roadmaking machinery, and contractors' equipment and supplies*, from points in that part of Minnesota on and east of a line beginning at the Minnesota-Wisconsin State line, thence along U.S. Highway 14 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Interstate Highway 94, thence along Interstate Highway 94 to the Minnesota-Wisconsin State line, to points in Washington, Oregon,, California, Idaho, Nevada, Arizona, Utah, Montana, Wyoming, Colorado, New Mexico, Texas, North Dakota, Louisiana, Oklahoma, Florida, Vermont, New Hampshire, Maine, that part of South Dakota on and west of a line beginning at the Nebraska-South Dakota State line, thence along U.S. Highway 183 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction South Dakota Highway 47, thence along South Dakota Highway 47 to junction South Dakota Highway 34, thence along South Dakota Highway 34 to junction South Dakota Highway 37, thence along South Dakota Highway 37 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction U.S. Highway 81, thence along U.S. Highway 81 to the South Dakota-North Dakota State line, that part of Nebraska on and west of a line beginning at the Nebraska-Kansas State line, thence along U.S. Highway 77 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Nebraska Highway 14, thence along Nebraska Highway 14 to junction U.S. Highway 275, thence along U.S. Highway 275 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 183, thence along U.S. Highway 183 to the Nebraska-South Dakota State line, that part of Kansas on and east of a line beginning at the Missouri-Kansas State line, thence along U.S. Highway 54 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 77, thence along U.S. Highway 77 to the

Kansas-Nebraska State line, to points in that part of Missouri on and west of a line beginning at the Kansas-Missouri State line, thence along U.S. Highway 54 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Alternate Highway 71, thence along U.S. Alternate Highway 71 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Missouri Highway 37, thence along Missouri Highway 37 to the Missouri-Arkansas State line, that part of Arkansas on and west of a line beginning at the Arkansas-Missouri State line, thence along U.S. Highway 62 to junction Arkansas Highway 23, thence along Arkansas Highway 23 to junction Arkansas Highway 16, thence along Arkansas Highway 16 to junction Arkansas Highway 21, thence along Arkansas Highway 21 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Arkansas Highway 7, thence along Arkansas Highway 7 to junction Arkansas Highway 10, thence along Arkansas Highway 10 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 82, thence along U.S. Highway 82 to the Arkansas-Mississippi State line, that part of Mississippi on and south of U.S. Highway 82, that part of Alabama on and south of a line beginning at the Mississippi-Alabama State line, thence along U.S. Highway 82 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 78, thence along U.S. Highway 78 to the Alabama-Georgia State line, that part of Georgia on and south of Georgia Highway 8, that part of North Carolina on and east of a line beginning at the Virginia-North Carolina State line, thence along U.S. Highway 220 to junction Interstate Highway 85, thence along Interstate Highway 85 to junction In-Interstate Highway 85 to junction Interstate Highway 77 to the North Carolina-South Carolina State line, and that part of South Carolina on and east of a line beginning at the South Carolina-Georgia State line, thence along South Carolina Highway 72 to junction U.S. Highway 12/72, thence along U.S. Highway 12/72 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 29/70, thence along U.S. Highway 29/70 to junction U.S. Highway 220, thence along U.S. Highway 220 to the North Carolina-South Carolina State line, restricted to the transportation of self-propelled vehicles (except motor vehicles as defined in Section 203 (a) (13) of the Interstate Commerce Act and commodities moving in driveaway service), equipment designed for use in conjunction with self-propelled vehicles (except tank semi-trailers), and parts and attachments for these commodities. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E262), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm tractors and parts thereof* (except commodities which because of size or weight, require the use of special equipment), between port of entry on the International Boundary line between the United States and Mexico located at Laredo, Tex., on the one hand, and, on the other, points in North Dakota, Minnesota, Iowa, and that part of Illinois on and north of a line beginning at the Missouri-Illinois State line, thence along U.S. Highway 54 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa, and points within 6 miles thereof.

No. MC 114211 (Sub-No. E261), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Cast iron pressure pipe, and fittings and accessories therefore*, when moving with such pipe, from points in that part of Indiana on and north of U.S. Highway 40, and that part of Michigan on, west, and south of a line beginning at the Indiana-Michigan State line, thence along U.S. Highway 127 to junction Interstate Highway 96, thence along Interstate Highway 96 to Muskegon, to points in Montana, Wyoming, Colorado, that part of North Dakota on and west of a line beginning at the South Dakota-North Dakota State line, thence along U.S. Highway 83 to junction North Dakota Highway 256, thence along North Dakota Highway 256 to the International Boundary line between the United States and Canada, that part of South Dakota on and south of a line beginning at the Minnesota-South Dakota State line, thence along U.S. Highway 212 to junction South Dakota Highway 20, thence along South Dakota Highway 20 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction South Dakota Highway 10, thence along South Dakota Highway 10 to junction U.S. Highway 83, thence along U.S. Highway 83 to the South Dakota-North Dakota State line, that part of Nebraska on, north, and west of a line beginning at the Nebraska-Iowa State line, thence along Interstate Highway 80 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Nebraska-Kansas State line, that part of Kansas on, north, and west of a line beginning at the Nebraska-Kansas State line, thence along U.S. Highway 81 to junction Kansas Highway 9, thence along Kansas Highway 9 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction Kansas Highway 23, thence along Kansas Highway 23 to junction U.S. Highway 156, thence along U.S. Highway 156 to junction U.S. Highway 83, thence along U.S. Highway 83 to the Kansas-Oklahoma State line, that part of Oklahoma on and west of U.S. Highway 54, that part of Texas on and north of U.S. Highway 62/180, and that part of New Mexico on, north, and west of a line beginning at the Texas-New Mexico State line, thence along New Mexico Highway 18 to junction New Mexico Highway 86, thence along New Mexico Highway 86 to junction New Mexico Highway 252, thence along New Mexico Highway 252 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction New Mexico Highway 20, thence along New Mexico Highway 20 to junction U.S. Highway 285, thence along U.S. Highway 285 to junction U.S. Highway 62/180, thence along U.S. Highway 62/180 to the New Mexico-Texas State line. The purpose of this filing is to eliminate the gateway of the plant site of the Griffin Pipe Co., located at Council Bluffs, Iowa.

No. MC 128273 (Sub-No. E1) (correction), filed May 2, 1974, published in the FEDERAL REGISTER May 15, 1974. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, (a) from Savannah, Ga., and the facilities of Union Camp Corp., in Autauga County, Ga., to Chicago, Ill.; (b) from Lock Haven, Pa., to Mobile, Ala.; (c) from Franklin, Va., to points in that part of Tennessee on and west of U.S. Highways 45 and 45E; (d) from Memphis, Tenn., to points in Indiana, Illinois, Michigan, Wisconsin, Minnesota, Pennsylvania, New York, New Jersey, Delaware, Massachusetts, Connecticut, Rhode Island, New Hampshire, Vermont, Maine, and West Virginia, restricted to the transportation of traffic originating at the facilities of Kimberly-Clark Corporation at Memphis, Tenn.; and (e) from Mobile, Ala., and Moss Point, Miss., to points in Michigan, Minnesota, and Wisconsin; and (2) *Paper*, from points in Talladega County, to points in Michigan, Minnesota, and Wisconsin. The purpose of this filing is to eliminate the gateway of Wickliffe, Ky. The purpose of this correction is to continue route description.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.292355 Filed 12-16-74;8:45 am]

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PART II

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

■

FOOD STAMP PROGRAM

Administrative Costs of State Agencies

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—FOOD STAMP PROGRAM

[Amdt. 47]

ADMINISTRATIVE COSTS OF STATE AGENCIES

Pursuant to the authority contained in the Food Stamp Act of 1964, as amended (78 Stat. 703, as amended; 7 U.S.C. 2011–2026), regulations governing the operation of the Food Stamp Program are hereby amended.

The Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201–4244) was passed for the purpose in part of: (a) achieving the fullest cooperation and coordination of activities among levels of governments; (b) Improving the administration of grants-in-aid to the States; and (c) Establishing coordinated intergovernmental policy and administration of Federal assistance programs.

To this end there has been a continuing effort within the Federal Government to simplify and standardize the multitude of varying and oftentime conflicting requirements in the same subject area on the recipients of Federal assistance. Inherent in this standardization is the concept of decentralizing and the placing of greater reliance on State and local governments.

Legislatively imposed constraints previously prohibited standardization of program administrative practices in Food Stamp Program administration in the manner envisioned by the Intergovernmental Cooperation Act. However, enactment of Pub. L. 93–347 amended section 15(b) of the Food Stamp Act to read as follows:

(b) The Secretary is authorized to pay to each State agency an amount equal to 50 per centum of all administrative costs, including, but not limited to, the cost of (1) The certification of households; (2) The acceptance, storage, and protection of coupons after their delivery to receiving points within the States; (3) The issuance of such coupons to eligible households; (4) The outreach and fair hearing requirements of section 10 of this Act; and (5) The control and accounting of coupons: *Provided*, That each State shall, from time to time at the request of the Secretary, report to the Secretary on the effectiveness of its administration of the program and no such payment shall be made to any State unless the Secretary is satisfied pursuant to regulations which he shall issue that an adequate number of qualified personnel are employed by the State in the program to administer the program efficiently and effectively.

While the Food Stamp Program is not a grant-in-aid program, it falls within the definition of "grant" in Federal Management Circular 74–7 (formerly OMB Circular No. A–102) insofar as it relates to payments to the States for administrative cost, by virtue of the fact that State agencies enter with the Food and Nutrition Service into contractual arrangements; i.e., plans of operation for the administration of the Food Stamp Program. The definition of "grant" in FM Circular 74–7 reads:

The term "grant" • • • means money, or property provided in lieu of money, paid or furnished by the Federal Government to a State or local government under programs that provide financial assistance through grant or contractual arrangements • • •

Not all provisions are directly applicable to Food Stamp Program administration. In those instances, the circular has been adapted to the unique requirements of the Food Stamp Program.

Substantial portions of this Part 275 are derived from FM and from FM Circular 74–7, which are binding in most aspects upon the Department of Agriculture and other Federal agencies making grants to or contracting with State and local governments. This amendment also establishes (§ 275.16 and Appendix A) principles for determining allowable costs under payments to States by the Food and Nutrition Service for costs of administering Food Stamp Programs. Implementation of this Part 275 requires conforming amendments to the existing regulations governing operation of the Food Stamp Program.

Section 275.10, Monitoring and Reporting of Program Performance, provides that specific requirements on reporting and conditions for continued funding will be published at a later date for proposed rulemaking. During this interim period State agencies may receive funds under Pub. L. 93–347 upon compliance with the provisions of this subchapter for program costs incurred on and after October 1, 1974. The intent of allowing State agencies to receive such funds prior to final publication is to permit State agencies a reasonable period of time to identify program weaknesses and to utilize the additional funding to take any necessary corrective action to improve program administration prior to the implementation of regulations which could result in suspension or cancellation of funding.

Despite standardization, however, there are areas in which there must be exceptions, such as:

(1) Payments to State agencies for the in-kind value of services performed by volunteers or contributed by third persons. The value of in-kind contributions of goods or services by third parties shall not be considered as eligible for payments by FNS to State agencies as a part of their costs for program administration.

(2) The provisions of FM Circular 74–7 deal with loan guarantees in connection with grants. Such provisions are not applicable to Food Stamp Program administration.

(3) Costs of insurance covering the risk of loss of, or damage to, Federal Government property would not ordinarily be a cost of program administration; however, since States are held strictly accountable for all losses of coupons, such costs of insurance for the loss or theft of food coupons shall be an allowable cost of program administration.

(4) Indemnification—that is, securing the State agency against liabilities to third persons and other losses not compensated by insurance or otherwise—is not allowable under the provisions of FM Circular 74–4 unless expressly provided for in an agreement between States and Federal agencies. In the case of FNS, FNS shall not be obligated to indemnify the State nor shall such a provision be incorporated in any State Plan of Operations or related agreement.

(5) While pertinent circulars provide for various methods of payments, in the interest of uniformity and because of the limited number of FNS assistance programs, all payments will be made through the "letter-of-credit" system as set out in § 275.11.

Relation to FM Circular 74–7. Sections 275.2 through 275.15, inclusive, are adapted from FM Circular 74–7, which, as adapted for the purpose of this Part 275, will be considered binding on USDA as it is to other Federal agencies which do make grants to State and local governments. The circular was one of the major results of the Federal Assistance Review

(FAR) program, a three-year effort ordered by the President on March 27, 1969, to simplify, standardize, decentralize, and otherwise modernize the Federal grant machinery. Inherent in the FAR program and in the development of the standards in FM Circular 74–7 was the concept of placing greater reliance on State and local governments.

FM Circular 74–7 consists of a basic document, setting forth the circular's purpose, background, certain definitions, coverage, etc., and a series of attachments, each of which covers a more or less discrete area of grant administration. The circular's attachements are as follows:

Attachment:	*Subject*
A	Cash Depositories.
B	Bonding and Insurance.
C	Retention and Custodial Requirements for Records.
D	Waiver of "Single" State Agency Requirements.
E	Program Income.
F	Matching Share.
G	Standards for Grantee Financial Management Systems.
H	Financial Reporting Requirements.
I	Monitoring and Reporting of Program Performance.
J	Grant Payment Requirements.
K	Budget Revision Procedures.
L	Grant Closeout Procedures.
M	Standard Forms for Applying for Federal Assistance.
N	Property Management Standards.
O	Procurement Standards.

Section 275.1 of Part 275 provides general requirements applicable to Part 275 as a whole, and is roughly equivalent in function to the basic FM Circular 74–7 document.

Cost principles. The cost principles prescribed by § 275.16, set forth in full in the text of Appendix A have been in use by DHEW in management of federally funded programs for several years but until recently have been published by DHEW only in staff manual and brochure formats.

Appendix A covers payments to State agencies and is taken essentially from FM Circular 74–4, "Principles for determining costs applicable to grants and contracts with State and local governments." Appendix A also includes the principles of OMB Circular A–90, "Cooperating with State and local governments to coordinate and improve infor-

mation systems." These Circulars are binding on all Federal agencies, except that the language has been adapted to deal with payments to State agencies of portions of the costs of Food Stamp Program administration rather than "grants."

Those exceptions to the provisions of FM Circular 74–4 which appear here are necessary to enable Food Stamp Program administration to be adapted to the relevant circulars, as is explained above.

It is the policy of the Department that 30 days' notice is given for comments on amendments to the regulations. However, in view of the immediate need for placing this amendment into effect, it is hereby determined to be contrary to the public interest to give notice of proposed rulemaking with respect to this amendment. Therefore, while this amendment shall become effective December 17, 1974, it provides for funding of program costs incurred on or after October 1, 1974, upon compliance with the provisions of this Part.

Because the Department feels that the public should have an opportunity to comment on these regulations, comments are solicited until January 16, 1975. Written comments, suggestions or objections should be submitted to P. Royal Shipp, Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. Amendments to or revisions in this amendment will be made if, after due consideration of comments, suggestions or objections received, it is determined that such revisions or amendments are necessary.

Interested persons are reminded that, as explained above, much of Part 275 is derived from FM Circular 74–4 and FM Circular 74–7 from which USDA cannot unilaterally deviate.

Consequently, the Department's discretion to act on any comments which take issue with provisions mandated by the circulars may be limited to referral of such comments to those Federal officials who are in a position to change the circulars.

Chapter II of Title 7 of the Code of Federal Regulations is amended as follows:

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

1. The heading and text of § 271.2 is revised to read as follows:

§ 271.2 Payments for certain State agency administrative costs.

(a) FNS is authorized to pay to each State agency an amount equal to 50 percentum of administrative costs incurred pursuant to § 270.3(b) of this subchapter on or after October 1, 1974.

(b) In any case, where an administrative cost of a State agency is paid with funds which have been contributed by another Federal agency or by an agency from other federally furnished funds, FNS will pay up to 50 percentum of the administrative cost, but in no case will the total of the FNS payment and the other federally contributed or furnished funds total more than 100 percent. Unless authorized by Federal legislation, outlays charged to other Federal grants or to Federal contracts may not be considered as State agency costs.

(c) Submission of claims for payments of such costs shall be in accordance with Part 275 of this subchapter.

2. Section 271.10(d) is revoked as follows:

§ 271.10 Eligibility and certification of supplemental security income recipients.

* * * * *

(d) [Removed]

* * * * *

PART 275—PAYMENT OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

3. A new Part 275 is added to read as follows:

Sec.

275.1 General.
275.2 Cash Depositories.
275.3 Bonding and Insurance.
275.4 Retention and custodial requirements for records.
275.5 Single State Agency requirements.
275.6 Program Fund related income.
275.7 Payments to State Agencies.
275.8 Standards for State Agency and Subagency financial management systems.
275.9 Financial reporting requirements.
275.10 Monitoring and reporting of program performance.
275.11 Payment requirements.
275.12 Budget and budget revision procedures.
275.13 Suspension or cancellation of payments and program closeout.
275.14 Property.
275.15 Procurement standards.
275.16 Cost Principles.

Appendix A—Principles for Determining Costs Applicable to Administration of the Food Stamp Program by State Agencies

AUTHORITY: 78 Stat. 703, as amended; 7 U.S.C. 201–2026); unless otherwise noted.

§ 275.1 General.

(a) *Purpose.* This section establishes: (1) Uniform requirements for the administration of Food Stamp Program funds to State agencies, and

(2) Principles for determining costs applicable to activities assisted by the Food Stamp Program funds provided to State agencies.

(b) *Scope.* This section sets forth: (1) General rules and regulations pertaining to this part (definitions, purpose and scope, and applicability); and (2) procedures for control of deviations from this part.

(c) *Definitions.* As used in this section, the words and terms shall have the meanings set forth below, unless a different definition is prescribed for a particular portion of this section.

"Food Stamp Program funds" means money, or property provided in lieu of money, paid or furnished by USDA to an eligible State agency as costs of administering the Food Stamp Program. The term includes such financial assistance when provided by contract, but does not include any Federal procurements subject to the procurement regulations in 41 CFR, nor does it include technical assistance or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, except as provided by this part, or direct appropriations. The term does not include food coupons or the value of food coupons or the funds representing purchase requirements paid by households.

"State agency" means the organization or person to which program funds are given and which is accountable to the Federal Government for the use of the funds provided. The term does not include any secondary recipients such as subagencies, contractors, etc., who may receive funds from a State agency pursuant to the administration of the Food Stamp Program.

"FNS" means the Food and Nutrition Service.

"USDA" means the U.S. Department of Agriculture.

"Local government" means a local unit of government including specifically a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity, or any agency or instrumentality of a local government exclusive of institutions of higher education and hospitals.

"OGPM" means the Office of Grants and Procurement Management, which is an organizational component within the Office of the Secretary of Health, Education, and Welfare.

"GSA" means the General Services Administration. For purposes of this part it means Office of Federal Management Policy within the General Services Administration.

"State" means any one of the 50 States of the United States, the District of Columbia, Puerto Rico, Guam and the Virgin Islands of the United States.

"Subagency" means the organization or person to which a State agency makes any payment for acquisition of goods, materials or services for use in administering the Food Stamp Program and which is accountable to the State agency for the use of the funds provided.

"Terms and Conditions" means all legal requirements imposed by the Federal Government whether under statute, regulations, contracts, agreements, or otherwise.

(d) *Applicability of this part.* (1) Sections 275.5 through 275.8 inclusive are applicable to State agencies. Except to the extent inconsistent with an applicable Federal statute or regular §§ 275.2 through 275.15 are applicable to all payments made to State agencies. Upon compliance with the provisions of this part, payments will be made for program costs incurred on or after October 1, 1974.

(2) Section 275.16. The applicability of this section is set forth therein.

(e) *Deviations.* (1) A deviation shall be considered to be either of the following,

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except when specifically mandated by Federal legislation:

(i) Use of any policy, procedure, form, standard, or condition which is inconsistent with an applicable provision of this part, or

(ii) Failure to use when applicable any policy, procedure, form, standard, or program fund condition which is required by this part.

(2) In the interest of maintaining uniformity to the greatest extent feasible, deviations shall be kept to a minimum. A deviation, whether proposed by a State agency or FNS, may be authorized only when necessary to meet program objectives, to conserve program funds, or when it is otherwise essential to the public interest.

(3) Deviations from §§ 275.2 through 275.15 inclusive may be made in regard to Food Stamp Program funds to a State or local government, only when authorized by both:

(i) The Administrator of FNS or other officials if designated in or pursuant to formal deviation control procedures established by FNS, and

(ii) GSA.

(4) Deviations from § 275.16 and Appendix A to this part may be made only as follows:

(i) In individual cases (i.e., where only a single program fund is involved) deviations may be authorized by the Administrator of FNS or by other officials if designated in or pursuant to formal deviation control procedures established by the agency.

(ii) Deviations in classes of cases may be made only when authorized as provided in paragraph (e)(3) of this section.

§ 275.2 Cash depositories.

(a) *Physical segregation and eligibility.* FNS will not:

(1) Require physical segregation of cash depositories for program funds which are provided to a State agency.

(2) Establish any eligibility requirements for cash depositories in which program funds are deposited by a State agency or subagency.

(b) *Minority-owned banks.* Consistent with the national goal of expanding opportunities for minority business enterprise, State agencies are encouraged to use minority-owned banks.

§ 275.3 Bonding and Insurance.

(a) *General.* In administering FNS program funds, State agencies shall observe their regular requirements and practices with respect to bonding and insurance. FNS will not impose additional bonding and insurance requirements, including fidelity bonds.

(b) *Loan guarantees.* FNS shall make no guarantees of any loan or payment of money borrowed by a State agency for purposes of administration of the Food Stamp Programs, nor shall any State agency make any assurances to any lendor or contractor that FNS will furnish funds for such purposes.

§ 275.4 Retention and Custodial Requirements for Records.

(a) *Length of retention period.* FNS will not impose record retention requirements over and above those established by the State agency except that financial records, supporting documents, statistical records, and all other records pertinent to FNS program funds, or to negotiated contracts exceeding $2,500, thereunder, shall be retained for a period of three years, with the following qualifications:

(1) If audit by or on behalf of the Federal Government has begun but is not completed at the end of the three-year period, or if audit findings have not been resolved at the end of the three-year period, the records shall be retained until resolution of the audit findings. In no case, however, will FNS require retention of records relating to any program funds with respect to which actions by the United States to recover for diversion of money paid under the program funds are barred by the statute of limitations in 28 U.S.C. 2415(b).

(2) In order to avoid duplicate recordkeeping, FNS may make special arrangements with a State agency to retain any records which are continuously needed for joint use. FNS will request transfer of records to its custody from a State agency when it determines that the records possess long-term retention value. When the records are transferred to or maintained by FNS, the three-year retention requirement is not applicable to the State agency.

(b) *Starting date of retention period.*—(1) *General.* The retention period for each year's records starts from the date of submission to FNS of the State agency's first quarterly expenditure report for that year. For nonconstruction activities, the term "expenditure report" means: The "Financial Status Report" (or other report equivalent thereto).

(2) *Records for nonexpendable property.* For nonexpendable personal property whose acquisition cost was borne in whole or in part by FNS program funds, property records required by § 275.14(f) shall be retained for three years after final disposition of the property. For purposes of this paragraph, payment by the State agency to the United States for the Federal share of the fair market value of such property, in accordance with § 275.14 of this part, shall be deemed in final disposition of such property.

(3) *Records for indirect cost rate proposals, etc.*—(i) *Applicability.* This paragraph applies to records supporting indirect cost rate proposals, cost allocation plans of State and local governments pursuant to Appendix A to this part, and any similar accounting computations of the rate at which a particular group of costs is chargeable to FNS program funds. Examples of the latter are computer usage chargeback rate computations and composite fringe benefit rate computations.

(ii) *If submitted to the Federal Government.* If the proposal, plan, or other computation is required to be submitted to the Federal Government to form the basis for negotiation of the rate, then the three-year retention period for its supporting records starts from the date of such submission.

(iii) *If not submitted to the Federal Government.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government for negotiation purposes, then the three-year retention period for its supporting records starts from the end of the State agency's fiscal year (or other accounting period covered by the proposal, plan or other computation).

(c) *Substitution of Microfilm.* State agencies may be authorized by FNS to substitute microfilm or other adequate copies in lieu of original records.

(d) *Access to records.* (1) USDA, FNS, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the State agency which any of them determine are pertinent to administration of specific FNS program funds for the purpose of making audit, examination, excerpts and transcripts.

(2) In the case of a payment (or negotiated contract exceeding $2,500) using FNS program funds the State agency, USDA, FNS, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the subagency or contractor which the State agency, USDA, FNS or the Comptroller General of the United States or any of their duly authorized representatives, determine are pertinent to administration of the specific FNS program funds, for the purpose of making audit, examination, excerpts, and transcripts.

(e) *Restrictions on public access.* Unless otherwise required by law, FNS will not place restrictions on State agencies which will limit public access to the State agency's records or to the records of their subagencies or contractors, except when the records must remain confidential for any of the following reasons:

(1) To prevent a clearly unwarranted invasion of personal privacy.

(2) To comply with an Executive Order or statute which specifically requires the records to be kept secret.

(3) To protect commercial or financial information obtained from a person or firm on a privileged or confidential basis.

(4) To protect information which could be improperly exploited for personal gain.

(5) To comply with the provisions of this subchapter regarding disclosure of information.

§ 275.5 Single State Agency requirement.

When a State wishes to deviate from the single State agency requirement, it shall request approval from FNS.

§ 275.6 Program Fund-Related Income.

(a) *Scope.* This section sets forth standards for State agencies' accounting for program income related to projects financed in whole or in part by FNS program funds.

(b) *Meaning of program income.* As used in this section, the term "program income" shall have the meaning set forth for that term in § 275.9(b).

(c) *Interest income.* (1) As used in paragraph (c)(2) of this section and in accordance with section 102 of the Intergovernmental Cooperation Act of 1968, the term "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State.

(2) In accordance with section 203 of the Intergovernmental Cooperation Act of 1968, States shall not be held accountable for interest earned on program funds, pending their disbursement for program purposes.

(d) *Sale of personal property.* Proceeds from the sale of tangible personal property whose acquisition cost was borne in whole or in part by FNS program funds shall be handled in accordance with § 275.14.

(e) *Royalties*—(1) *Applicability*—(i) *Copyrights.* This section applies to royalties received by State agencies from copyrights on publications or other works developed under FNS program funds.

(ii) *Patents.* This section also applies to royalties received by State agencies from patents on inventions conceived or first actually reduced to use in the course of or under any FNS program fund.

(2) *During the program fund period.* If the State agency receives royalties during the operation of the Food Stamp Program, they may be handled in one of two ways:

(i) Such royalties shall be used by the State agency for any purposes which further the objectives of the Food Stamp Act, or

(ii) Such royalties shall be deducted from total projects costs for the purpose of determining the net costs on which the FNS share of costs shall be based. When a State receives income from patents the State agency shall elect either of the alternatives specified in this paragraph if the terms and conditions of the Statewide cost allocation plan or the State's indirect cost rate proposal do not specify which is to be followed. If the funds were received by a subagency, disposition of royalties received during the period covered by the funding shall be governed by agreements as provided in paragraphs (e)(3)(i)(a) and (e)(3)(ii) of this section.

(3) *After the program fund period*—(i) *Copyrights.* (A) Disposition of copyright royalties received after the termination or completion of the program fund period should ordinarily be governed by specific agreements between FNS and the State agency. Such agreements may be negotiated on a case-by-case basis, or may be in the form of a standard rule or policy of FNS agreed to by the State agency as one of the conditions of receipt of program funds.

(B) If a State is given program funds and no other agreement between the FNS and State agency is applicable, the Federal share of copyright royalties in excess of $200 received annually shall be paid by the State agency to FNS. In such cases, the FNS share of the royalties shall be computed on the same ratio basis as the percentage of FNS participation in the cost of the project or program. This percentage of participation shall be determined in accordance with § 275.14(k)(1).

(ii) *Patents.* Disposition of patent royalties received after the termination or completion of the program fund period shall be governed by agreements between USDA and the State agency.

(f) *Other program income.* (1) This paragraph applies to all program income earned during the operation of the Food Stamp Program except royalties and proceeds from the sale of real property or tangible personal property.

(2) All such income earned during the operation of the Food Stamp Program shall be retained by the State agency. The terms and conditions of the Statewide cost allocation plan or State's indirect cost rate proposal shall provide either:

(i) That such income shall be used by the State agency for any purposes which further the objectives of the Food Stamp Act.

(ii) That such income shall be deducted from total project costs for the purpose of determining the net costs on which the FNS share of costs shall be based.

(3) The State agency shall elect either of the alternatives specified in paragraph (f)(2) of this section if the terms and conditions of the Statewide cost allocation plan or State's indirect cost rate proposal do not specify which is to be followed.

(g) *Earmarked Revenues of State Agencies.* State agencies shall record the receipt and expenditure of revenues such as taxes, special assessments, levies, fines, etc., as a part of program fund transactions when such revenues are specifically earmarked for program fund projects in accordance with the terms and conditions of the Statewide cost allocation plan or the State's indirect cost rate proposal.

§ 275.7 Payments to State agencies.

(a) *Purpose and scope.* This section sets forth standards for the allowability of and for evaluation of the costs of activities and property which may be considered as State agency costs of administration of the Food Stamp Program.

(b) *Definitions.* "State agency costs" means the State agency cash outlay from funds available to it for program administration. Unless authorized by Federal legislation, outlays charged to other Federal grants or to Federal contracts may not be considered as State agency costs.

"Funds available to the State agency" may include contributions from third parties, including Federal agencies.

"In-Kind contributions" means the value of noncash contributions provided by the State agency or other agency of the State. In-kind contributions may consist of charges for real property and nonexpendable personal property, and the value of goods and services directly benefiting and specifically identifiable to Food Stamp Program administration. Unless otherwise authorized by Federal legislation, charges for property purchased wholly with Federal funds, and charges based on the Federal share of the value of property purchased partly with Federal funds may not be considered as the State agency in-kind contributions. Such charges may be considered as in-kind contributions to the State after exclusion of amounts previously funded.

(d) *Allowable charges.* (1) Charges incurred by the State agency as project costs. Not all charges require cash outlays during the program fund period by the State agency; examples are depreciation and use allowances for buildings and equipment.

(2) Project costs which are financed with contributions are acceptable if: (i) The contributions are transferred to the State agency and are under its administrative control, (ii) Are contributed on an unrestricted basis (except that funds contributed to support a specific activity may be acceptable provided that the contributing organization is not the sponsor or operator of the activity being funded).

(3) Project costs financed with contributions are not acceptable where such contributions are: (i) Funds which revert to the contributor's facility or use (ii) Funds which are earmarked for a particular individual or for members of a particular organization.

(4) In-Kind contributions by the State agency or other agency of the State for program purposes shall be accepted as part of the State agency's administrative costs when such contributions:

(i) Are identifiable from the State agency's records; and

(ii) Are not included as contributions for any other federally assisted program, or any Federal contract, and

(iii) Are necessary and reasonable for proper and efficient accomplishment of Food Stamp Program objectives, and

(iv) Are types of costs which are allowable under the applicable cost principles specified in § 275.16 and Appendix A to this part, and

(v) Are in conformance with other applicable provisions of this section.

(d) *In-Kind Contributions from Third Parties.* Neither the value of services rendered by volunteers nor the value of in-kind contributions by third parties shall be allowable.

§ 275.8 Standards for State Agency or Subagency or Contractor financial management systems.

(a) *Scope.* This section prescribes standards for financial management sys-

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tems for administration of Food Stamp Program funds by the State agency and its subagencies or contractors. Neither the USDA nor FNS will impose additional standards. However, suggestions and assistance may be provided in establishing or improving financial management systems when needed or requested.

(b) *Standards.* Financial management systems for FNS funds in the State agency or with its subagencies or contractors shall provide for:

(1) Accurate, current and complete disclosure of the financial results of each program activity in accordance with the Federal reporting requirements and for each subagency or contractor in accordance with the State agency's requirements. Except when specifically required by law, FNS will not require financial reporting on the accrual basis from organizations whose records are not maintained on that basis. However, when accrual reporting is required by law, organizations whose records are not maintained on that basis, will not be required to convert their accounting system to the accrual basis, they may develop the accrual information through an analysis of the documentation on hand or on the basis of best estimates.

(2) Records which identify adequately the source and application of funds for FNS or State agency supported activities. These records shall contain information pertaining to activities of the State agency or its subagencies or contractors and authorizations, obligations, unobligated balances, assets, liabilities, outlays and income.

(3) Effective control over and accountability for all FNS or State agency funds and personal property acquired with FNS or State agency funds. State agencies and subagencies or contractors shall adequately safeguard all such property and shall assure that it is used solely for authorized purposes.

(4) Comparison of actual with budgeted amounts for the State agency or its subagencies or contractors and the relationships of financial information to disbursement by the State agency. Including the production of unit cost data.

(5) Procedures to minimize the time elapsing between the transfer of funds from the United States Treasury and the disbursement by the State agency. In the letter-of-credit system, the State agency shall make drawdowns from the United States Treasury through a United States Treasury Regional Disbursing Office as nearly as possible to the time of making the disbursements.

(6) Procedures for determining the allowability and allocability of costs in accordance with the applicable provisions prescribed by § 275.16 and Appendix A to this part.

(7) Accounting records which are supported by source documentation.

(8) Audits to be made by the State or at its direction to determine, at a minimum, the fiscal integrity of State agency or subagency or contractor financial transactions and reports, and the compliance with the terms and conditions of these regulations. The State agency or its subagency or contractors will schedule such audits with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size and complexity of the activity.

(9) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(c) *Subagencies or contractors.* The standards in § 275.8(b), as they apply to subagencies or contractors shall be included in the terms and conditions of contracts awarded under FNS funding.

§ 275.9 Financial Reporting Requirements.

(a) *Scope.* This section prescribes requirements for State agencies to report financial information to FNS, and specifies standard forms incident thereto.

(b) *Definitions.* As used in this section and in the forms identified by the section:

"Accrued expenditures" are the charges incurred by the State agency during a given period requiring the provision of funds for: Goods and other tangible property received; services performed by employees, contractors, subagencies, and other payees; and amounts becoming owed under functions for which no current services or performance are required.

"Accrued income" is the earnings during a given period which is a source of funds resulting from services performed by the State agency, goods and other tangible property delivered to the purchasers, and amounts becoming owed to the State agency for which no current services or performance are required by the State agency.

"Disbursements" are payments in cash or by check.

"Federal funds authorized" represents the total amount of the Federal funds authorized for obligations and establishes the ceiling for obligation of Federal funds. This amount may include any authorized carryover of unobligated funds from prior fiscal years.

"In-Kind contributions" represent the value of noncash contributions provided by the State agency. In-kind contributions may consists of charges for real property and nonexpendable personal property, and value of goods and services directly benefiting and specifically identifiable to the Federal payment supported activity. Unless otherwise authorized by Federal legislation, charges for property purchased wholly with Federal funds, and charges based on the Federal share of the value of property purchased partly with Federal funds may not be considered as the State agency's in-kind contributions.

"Obligations" are the amounts of orders placed, contracts and program funds provided, services received, and similar transactions during a given period which will require payment during the same or a future period.

"Outlays" represent charges made to the State agency. Outlays may be reported on a cash or accrued expenditure basis.

"Program income" represents earnings by the State agency realized from the activities supported by FNS. Such earnings exclude interest income and may include, but will not be limited to, income from service fees, sale of commodities, usage or rental fees, sale of assets purchased with Federal program funds, and royalties on patents and copyrights. Program income may be reported on a cash or accrued income basis.

"Unobligated balance" is the portion of the funds authorized by FNS which has not been obligated by the State agency and is determined by deducting the cumulative obligations from the funds authorized.

"Unpaid obligation" represents the amount of obligations incurred by the State agency which have not been paid.

(c) *Authorized forms and instructions.*—(1) Only those forms specified by this part, and such supplementary or other forms as may from time to time be authorized by GSA or FNS, may be used, for obtaining financial information from State agencies for the Food Stamp Program.

(2) All applicable standard instructions promulgated by GSA for use in connection with the form specified in this part, shall be followed. FNS may prescribe substitute supplementary instructions only with the approval of GSA.

(3) State agencies shall submit the original and two copies of forms required pursuant to this section. However, FNS may waive the requirement for the second copy, or both copies, when not needed.

(4) The forms (with their instructions) specified in this part shall be available to the State agencies and to the public upon request to the appropriate Regional Office of FNS as set out in § 270.5 of this subchapter.

(d) *Financial status report.*—(1) *Form.* State agencies shall use the standard Financial Status Report (Form AD-526) to report the status of funds for the Food Stamp Program.

(2) *Accounting basis.* Each State agency shall report outlays and program income on the same accounting basis, i.e., cash or accrued expenditure (accrual), which is used in maintaining its accounting records. The basis used by a State agency must be consistent for all programs it administers and for which it is claiming against the Federal Government.

(3) *Frequency.* The report (Form AD-526) shall be required quarterly.

(4) *Due date.* Quarterly reports shall be due 30 days after the end of each quarter. Final reports shall be due 90 days after the completion or termination of financial support. Justified requests from individual State agencies for extension of reporting due dates will be approved whenever feasible.

(e) *Report of Federal cash transactions.*—(1) *Form.* When funds are advanced to State agencies through letters of credit, each State agency shall submit the Report of Federal Cash Transactions

(Form AD-427). This report will be used by FNS to monitor cash advanced to State agencies and to obtain disbursement or outlay information for the program from the State agency. The format of the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment, provided that the information to be submitted is not changed.

(2) *Forecasts of Federal cash requirements.* Forecasts of Federal cash requirements may be required in the "Remarks" section of the report.

(3) *Cash in hands of subagencies.* When deemed necessary and feasible by the responsible Federal finance officer, State agencies may be required to report in the "Remarks" section of the report the amount of cash advances in excess of three days' requirements in the hands of subagencies, and to provide short narrative explanations of actions taken by the State agency to reduce the excess balances.

(4) *Frequency and due date.* State agencies shall submit the Report of Federal Cash Transactions (Form AD-427) no later than 15 working days following the end of each month.

(5) *Waiver.* FNS may waive the requirement for submission of the Report of Federal Cash Transactions when a State agency's monthly advances do not exceed $10,000: *Provided,* That such advances are monitored through other forms authorized pursuant to this part, or the State agency's accounting controls are adequate to minimize excessive Federal advances.

§ 275.10 Monitoring and reporting program performance.

Specific requirements for State agency reporting on the effectiveness of program administration and the conditions under which FNS will continue to make funds available to State agencies will be published in this section after compliance with proposed rulemaking procedures. In the interim, State agencies may receive payments upon compliance with the other provisions of this subchapter. This procedure is intended to permit State agencies a reasonable period of time to utilize the additional funding available to them to take such actions as may be necessary to improve program administration prior to implementation of regulations which could result in suspension or cancellation of funding.

§ 275.11 Payment requirements.

(a) *Scope.* This section sets forth FNS methods of making payments to State agencies. These methods will minimize the time elapsing between the disbursement by the State agency and the transfer of funds from the United States Treasury to the State agency, whether such disbursement occurs prior to or subsequent to the transfer of funds.

(b) *Definition.* "Letter of credit" (Treasury Form BA-7577-test) is an instrument certified by an authorized official of FNS which authorizes a State agency to draw funds when needed from the United States Treasury through a United States Treasury Regional Disbursing Office, in accordance with the provisions of Treasury Circular 1075.

(c) *General.* Effective July 1, 1975, the United States Treasury Regional Disbursing Office Letter of Credit will be the method of payment to all State agencies. Until the letter of credit is established in each State, State agencies will continue to be paid in accordance with current procedures—that is by claims for reimbursement of State agency costs or by request for advance of funds at the rates provided by this subchapter.

(d) *Conditions for payment.* Letters of credit will be used to pay State agencies when all of the following conditions exist:

(1) There is or will be a continuing relationship between the State agency and FNS for at least a 12-month period and the total amount of advances to be received from FNS is $120,000 or more, an exception to Treasury Circular 1075, and

(2) The State agency has established or demonstrated to FNS the willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds from the Treasury and their disbursement by the State agency, and

(3) The State agency's financial management system meets the standards for fund control and accountability prescribed in § 275.8.

(4) A State agency has requested payment in accordance with the terms of the letter of credit through proper execution and submission to the appropriate United States Treasury Regional Disbursing Office and submission of a copy to FNS of Request for Payment on Letter of Credit and Status of Funds Report (Treasury Form GFO-7578-test).

(e) *Withholding of payments.* Unless otherwise required by law, payments for proper charges incurred by State agencies will not be withheld unless: (1) Payments to State agencies are suspended or cancelled pursuant to § 275.13; or (2) The State agency is indebted to the United States and collection of the indebtedness will not impair the accomplishment of the objectives of any program sponsored by the United States; or (3) The State agency fails to comply with the performance and performance reporting requirements of § 275.10. When a payment is suspended or cancelled, payment adjustments will be made in accordance with § 275.13. When an indebtedness is to be collected, FNS will provide reasonable notice to the State agency, and will require appropriate accounting adjustments to recorded cash balances for which the State agency is accountable to the Federal Government, in order to liquidate the indebtedness.

§ 275.12 Budget and Budget Revision Procedures.

(a) *Scope.* This section prescribes criteria and procedures to be followed by State agencies in reporting deviations from Food Stamp Program budgets and requesting approvals for budget revisions which would require change in the letter of credit.

(b) *Definition.* The term "program budget" as used in this section means a State agency's best estimate of those amounts to be expended in Food Stamp Program administration during a Federal fiscal year.

(c) *Requirement.* The program budgets shall be submitted to FNS 45 days prior to the expiration of the current fiscal year. The program budget must be submitted in sufficient detail to identify the amount which the State will commit to the various operations of the Food Stamp Program.

(d) *Program funds.* (1) For program funds, State agencies shall request prior approvals promptly from FNS for budget revisions whenever:

(i) The revision indicates the need for additional Federal funding.

(ii) The program budget is over $100,000, and the cumulative amount of transfers among program functions exceeds or is expected to exceed $10,000, or five percent of the program budget, whichever is greater. The same criteria apply to the cumulative amount of transfers among functions and activities when budgeted separately for a budget of a subagency, except that FNS shall permit no transfer which would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended.

(iii) The program budget is $100,000, or less, and the cumulative amount of transfers among program functions exceeds or is expected to exceed five percent of the program budget. The same criteria apply to the cumulative amount of transfers among functions and activities when budgeted separately for program funds provided to a subagency, except that FNS shall permit no transfer which would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended.

(iv) The revisions involve the transfer of amounts budgeted for indirect costs to absorb increases in direct costs.

(v) The revisions pertain to the addition of items requiring prior approval by FNS in accordance with the provisions of the applicable cost principles specified in this part.

(2) No other changes to the program fund budget require approval from FNS. Examples of changes which do not require Federal approval are: The use of State agency funds in furtherance of program objectives over and above the State agency minimum share included in the approved program budget; and the transfer of amounts budgeted for direct costs to absorb authorized increases in indirect costs.

(3) The requirements of paragraphs (d)(1)(ii) and 1(iii) of this section may be waived by FNS: *Provided,* however, That

(i) No different limitation or approval requirement for cumulative transfers may be imposed, and

(ii) FNS shall in no case permit a transfer which would cause any Federal appropriation, or part, thereof, to be

used for purposes other than those intended.

(e) *Authorized funds exceeding State Agency needs.* When it becomes apparent that the funds authorized by the letter of credit will exceed the needs of the State agency, FNS will make appropriate adjustments in the letter of credit.

(f) *Method of requesting approvals.* When requesting approval for budget revisions, State agencies shall use the budget format which was used in the previous submission. However, State agencies may request by letter the approvals required by paragraph (d)(1)(v) in the section entitled "Program Funds."

(g) *Notification of approval or disapproval.*—Within 30 days from the date of receipt of the request for budget revisions, FNS shall review the request and notify the State agency whether or not the budget revisions have been approved. If the revision is still under consideration at the end of 30 days, FNS shall inform the State agency in writing as to when the State agency may expect the decision.

§ 275.13 Suspension or cancellation of payments and program closeout.

(a) *Definitions.* "Suspension" means an action by FNS which temporarily suspends a payment or payments to a State agency pending corrective action by the State agency or pending a decision by FNS to cancel the payment or payments or to terminate the program.

"Cancellation" means a decision to cancel a payment or payments, in whole or in part, to a State agency.

"Termination" means a direction to a State agency to discontinue issuing coupons in a project area or areas where FNS has determined that the State agency has substantially failed to comply with the provisions of this subchapter, or when the State agency and FNS have agreed to discontinue the program in a project area or areas.

"Program Closeout" means the process by which FNS determines that all applicable administrative actions and all necessary financial accounting processes have been completed by the State agency and FNS in order to accomplish termination of the Food Stamp Program in the affected project area or areas.

(b) *Suspension.* When a State agency has materially failed to comply with the terms and conditions of this subchapter, FNS may, after reasonable notice to the State agency suspend program funds for all or any functions required for administration of the Food Stamp Program. Appropriate adjustments to the payments under the suspended functions will be made, either by withholding the payments or by not allowing the State agency credit for disbursements which it may make in liquidation of unauthorized obligations it incurs during the period of suspension. Suspensions shall remain in effect until the State agency has taken corrective action to the satisfaction of FNS, or gives assurances to FNS that corrective action will be taken, or until FNS cancellation of payment.

(c) *Cancellation.* (1) Cancellation for cause. FNS may cancel a payment or payments, in whole or in part, at any time whenever it is determined that the State agency has materially failed to comply with the provisions of this subchapter. FNS shall promptly notify the State agency in writing of the cancellation and the reasons for the cancellation, together with the effective date. Payments made to State agencies or recoveries by FNS after cancellation for cause shall be in accordance with the legal rights and obligations of the parties.

(2) Cancellation on other grounds. Except as provided in paragraph (c)(1) of this section, payments may be cancelled, in whole or in part, only as follows:

(i) By FNS with the consent of the State agency, in which case the two parties shall agree upon the cancellation conditions, including the effective date, and in the case of cancellation of part of a payment, the portion to be cancelled or,

(ii) By the State agency upon written notification to FNS, setting forth the reasons for such cancellation, the effective date, and in the case of cancellation of a part of the payment, the portion to be cancelled.

(iii) When payments are cancelled pursuant to subdivision (i) of this subparagraph, the State agency shall not incur new obligations for the charges which were to be paid with the proceeds of the payments after the effective date of the cancellation. The State agency shall cancel as many outstanding obligations as possible. FNS shall allow, as charges for costs of administration of the Food Stamp Program, noncancellable obligations properly incurred by the State agency prior to cancellation.

(d) *Program closeout.* (1) When termination of a project area or areas has been agreed upon or directed by FNS, the following closeout procedures shall be observed:

(i) Upon request, FNS shall make, or arrange for prompt payment to the State agency for allowable costs not covered by previous payments.

(ii) The State agency shall immediately refund to FNS any unencumbered balance of cash paid to the State agency for the administration of the program in the affected project area or areas.

(iii) The State agency shall submit to FNS within 90 days after the date of termination of the program, all required financial, performance and other reports. FNS may grant extensions when requested by the State agency.

(iv) FNS shall adjust the amount authorized by the letter of credit in order to effect payment of any amounts due the State agency, and if appropriate, shall bill the State agency for any amounts due FNS. The amounts of such billings shall be promptly remitted to FNS.

(v) In the event a final audit has not been performed prior to the closeout of the program, FNS shall retain the right to recover an appropriate amount after fully considering the recommendation on questionable matters resulting from the final audit.

(2) The provisions of § 275.14 shall be observed for any property acquired with program funds or received from the Federal Government in connection with the program and which was in use in the affected project area or areas.

(e) *Retroactive adjustment.* In the event that FNS finds that a State agency has failed to comply substantially with the provisions of this subchapter, retroactive adjustments may be made to accomplish the purposes of suspension, cancellation, or termination.

§ 275.14 Property.

(a) *Scope.* This section prescribes policies and procedures governing title, use, and disposition of real and tangible personal property whose acquisition costs were borne, in whole or in part, as a direct charge to FNS funds, and ownership rights of intangible personal property developed, wholly or in part, with FNS funds.

(b) *General.* State agencies may follow their own property management policies and procedures, provided they observe the requirements of this section. With respect to property covered by this section, FNS may not impose on State agencies any requirements (including property reporting requirements) not authorized by this section unless specifically required by Federal law.

(c) *Definitions.* "Acquisition cost" of nonexpendable personal property acquired by purchase means the net invoice price of the property including any attachments, accessories or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Ancillary charges such as taxes, duty, protection in-transit insurance, freight or installation shall be included in or excluded from acquisition cost in accordance with the State agency's regular accounting practices.

"Expendable personal property" means all tangible personal property other than nonexpendable property.

"Nonexpendable personal property" means tangible personal property having a useful life of more than one year and an acquisition cost of more than $300 per unit. A State agency may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined herein.

"Personal property" means property of any kind except real property. It may be tangible (having physical existence) or intangible (having no physical existence) such as patents, inventions and copyrights.

"Real property" means land, land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

(d) *Nonexpendable personal property.*—(1) *Title.* Title to nonexpendable personal property whose acquisition cost is borne, in whole or in part, by FNS shall vest in the State agency upon acquisition, and shall be subject to the restrictions on

use and disposition set forth in paragraphs (d) (2) and (3) of this section.

(2) *Use.* (i) The State agency shall use the property in the program as long as there is a need for such property to accomplish the purpose of the program.

(ii) When there is no longer a need for the property to accomplish the purpose of the program, the State agency shall use the property where needed in administration of other programs in the following order of priority:

(A) Other federally funded programs of FNS.

(B) Other federally funded programs of USDA.

(C) Other federally funded programs of other Federal agencies.

(iii) When the State agency no longer has need for such property in any of its federally financed activities, the property may be used for the State agency's own official activities in accordance with the following standards:

(A) If the property had an acquisition cost of less than $500 per unit and has been used four years or more, the State agency may use the property without reimbursement to FNS or sell the property and retain the proceeds.

(B) For all such property not covered under paragraph (d) (2) (iii) (A) of this section, the State agency may retain the property for its own use: *Provided*, That a fair compensation is made to FNS for the FNS share of the property. The amount of such compensation shall be computed by applying the percentage of FNS participation in the cost of the property to the current fair market value of the property.

(3) *Disposition.* If the State agency has no need for the property, disposition of the property shall be made as follows:

(i) If the property had an acquisition cost of $1,000 or less per unit except for property covered under paragraph (d) (2) (iii) (A) of this section the State agency shall sell the property and reimburse FNS in accordance with paragraph (b) (2) (ii) (C) of this section.

(ii) If the property had an acquisition cost of over $1,000 per unit, the State agency shall request disposition instructions from FNS. The FNS shall issue instructions to the State agency within 120 days following the receipt of such request and the following procedures shall govern:

(A) If the State agency is instructed to ship the property elsewhere, the State agency shall be reimbursed with an amount which is computed by applying the percentage of the State agency's participation in the cost of the property to the current fair market value of the property, plus any shipping or interim storage costs incurred.

(B) If the State agency is instructed to otherwise dispose of the property, the State agency shall be reimbursed by FNS for the costs incurred in such disposition.

(C) If disposition or other instructions are not issued within the 120-day period specified in paragraph (d) (3) (ii) of this section, the State agency shall sell the property and reimburse FNS with an amount which is computed by applying the percentage of FNS participation in the cost of the property to the sales proceeds. The State agency may, however, deduct and retain from such amount $100 or 10 percent of the total sales proceeds, whichever is greater, for the State agency selling and handling expenses.

(e) *Transfer of Title to certain property.* (1) Where FNS determines that an item of nonexpendable personal property with an acquisition cost of $1,000 or more which is to be wholly borne by FNS is unique, difficult or costly to replace, FNS may reserve the right to require the State agency to transfer title to the property to the Federal Government or to a third party named by FNS.

(2) Such reservation shall be subject to the following:

(i) The right to require transfer of title may be reserved only by means of an express special condition under which funds were authorized for acquisition of the property, or, if approval for the acquisition of the property is given after the funds are awarded, by means of a written stipulation at the time such approval is given.

(ii) The property must be sufficiently described to enable the State agency to determine exactly what property is involved.

(3) FNS may not exercise the right until the State agency no longer needs the property in the activity for which it was acquired. Such need shall be assumed to end with termination of the activity in which the property was used unless the State agency continues to use the property in other program-related activities after the termination date and demonstrates to FNS a continued need for such use in the program.

(4) In order to exercise the right, the Federal Government must issue disposition instructions to the State agency not later than 120 days after the State agency no longer needs the property in the activity for which it was acquired. If instructions are not issued within that time, FNS' right shall lapse, and the State agency shall act in accordance with the applicable standards in paragraph (d) (2) and (d) (3) (ii) of this section.

(5) The State agency shall be entitled to reimbursement for any shipping and interim storage costs it incurs pursuant to the Federal Government's disposition instructions.

(f) *Property Management Standards.* State agencies' property management standards for nonexpendable personal property covered by § 276.14(d) shall include the following procedural requirements:

(1) Property records shall be maintained accurately and provide for:

(i) A description of the property.

(ii) Manufacturer's serial number or other identification number.

(iii) Acquisition date and cost.

(iv) Source of the property.

(v) Percentage of FNS funds used in the acquisition of the property.

(vi) Location, use and condition of the property; and

(vii) Ultimate disposition data including sales price or the method used to determine current fair market value if the State agency reimburses FNS for its share.

(2) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization and continued need for the property.

(3) A control system shall be in effect to insure adequate safeguards to prevent loss, damage or theft to the property. Any loss, damage or theft of nonexpendable personal property shall be investigated and properly documented.

(4) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(5) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

(g) *Expendable personal property.* (1) Consumable materials and supplies. The cost principles prescribed by § 276.16 and Appendix A of this part provide, in effect, that the cost of consumable supplies or materials is allowable only to the extent that the supplies or materials are reasonably necessary to carry out the program. Amounts in excess of need are therefore not allowable costs.

(2) Other expendable personal property. In many cases, items of expendable personal property (other than consumable supplies or materials) whose acquisition cost was borne, in whole or in part, by FNS have a useful life longer than the period of need on the program for which they were required. The State agency may at its option either retain or sell such items when no longer needed for any federally sponsored activity (including activities sponsored by other Federal agencies). However, compensation to FNS shall be required if the aggregate fair market value of all such items acquired under the same FNS funding exceeds $500 when no longer needed for any federally sponsored activity. The amount of compensation shall be computed by applying the percentage of FNS participation in the cost of the property to the current fair market value of items retained, and to the sale proceeds of items sold.

(h) *Waiver of accountability.* (1) Where authorized under Federal Law (*e.g.*, (42 U.S.C. 1892) Pub. L. 85-934) title to tangible personal property whose acquisition cost is borne, in whole or in part, by program funds shall vest in the State agency without regard to any other requirements of this part and without further obligation to the Federal Government, except as provided in paragraph (h) (2) of this section.

(2) When title to an item of property having an acquisition cost of $1,000 or more is vested in the State agency pursuant to paragraph (d) of this section, FNS shall have the right to require the State agency to transfer title to the item of property to the Federal Government or to a third party named by FNS. The

right may be exercised at any time, but no later than 12 months after FNS has received the final Financial Status Report (or other final financial report serving an essentially equivalent function) from the State agency after completion or termination of the activity for which the property was acquired. If the right is exercised, the State agency shall be entitled to reimbursement for the costs incurred in transferring the property.

(i) *Patents and inventions.* If any program activity produces patents, patent rights, processes or inventions in the course of work aided by FNS, such fact shall be promptly and fully reported to FNS. FNS shall determine whether protection on such invention or discovery shall be sought and how the rights in the invention or discovery—including rights under any patent issued thereon—shall be disposed of and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971), and Statement of Government Patent Policy as printed in 36 CFR 16123.

(j) *Copyrights.* When a program activity results in a book or other copyrightable material, the author or State agency is free to copyright the work, but FNS reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use the work for government purposes.

(k) *Determining percentage of participation.* (1) Various provisions in this part require a determination of the percentage of FNS participation in the cost of the property in order to compute the amount of compensation for the value, or proceeds from sale of property. In determining the applicable percentage, there shall first be deducted from the allowable costs incurred during the appropriate period any royalties or other income (not including interest income or proceeds from sale of property) earned by the program activity during such period.

(2) The deduction of income required by paragraph (k) of this section is independent of, and is not intended to control, the disposition of such income pursuant to § 275.6.

§ 275.15 Procurement standards.

(a) *Scope.* This section provides standards for use by State agencies in establishing procedures for the procurement of supplies, equipment, construction and other services whose cost is borne in whole or in part as a direct charge to FNS. These standards are furnished to insure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal laws and Executive Orders. No additional procurement standards will be imposed by FNS upon State agencies unless specifically required by Federal laws or Executive Orders.

(b) *General.* (1) State agencies may use their own procurement policies provided that procurements whose cost is borne, in whole or in part, as a direct charge to FNS adhere to the standards set forth in this part.

(2) The standards contained in this part do not relieve the State agency of the responsibilities arising under its contracts. The State agency is the responsible authority for the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of the program. This includes, but is not limited to, disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction.

(c) *Code of conduct.* The State agency shall maintain a code or standard of conduct which shall govern the performance of its officers, employees or agents in contracting with and expending FNS funds. The State agency's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. To the extent permissible under State or local law, rules or regulations, such standards shall provide for appropriate penalties, sanctions or other disciplinary actions to be applied for violations of such standards either by the State agency's officers, employees or agents or by contractors or their agents.

(d) *Free competition.* All procurement transactions of the State agency regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. The State agency should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

(e) *Procedural requirements.* The State agency shall establish procurement procedures which provide for, as a minimum, the following:

(1) Proposed procurement actions shall be reviewed by appropriate State agency officials to avoid purchasing unnecessary or duplicate items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical and practical procurements.

(2) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient features of a procurement, and when so used, the specific features of the named brand which must be met by offerors should be clearly specified.

(3) Positive efforts shall be made by the State agencies to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed with FNS funds.

(4) The type of procuring instruments used (i.e., fixed-price contracts, cost reimbursable contracts, purchase orders, incentive contracts, etc.) shall be appropriate for the particular procurement and for promoting the purposes of the program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(5) Formal advertising, with adequate purchase description, sealed bids and public openings shall be the required method of procurement unless negotiation pursuant to paragraph (f) of this section is necessary to accomplish sound procurement. However, procurements of $2,500 or less need not be so advertised unless otherwise required by State or local laws, rules or regulations. When formal advertising is employed by the State agency:

(i) The awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the State agency, price and other factors considered. Factors such as discounts, transportation costs, and taxes may be considered in determining the lowest bid.

(ii) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the State agency.

(iii) Any or all bids may be rejected when it is in the State agency's interest to do so, and such rejections are in accordance with applicable State or local law, rules and regulations.

(f) *Negotiated procurements by State agencies.* (1) Procurements may be negotiated by State agencies if it is not practicable or feasible to use formal advertising. Generally, procurements may be negotiated if one or more of the following conditions prevail:

(i) The public exigency will not permit the delay incident to advertising;

(ii) The material or service to be procured is available from only one person or firm; all contemplated sole source procurements where the aggregate expenditure is expected to exceed $5,000 shall be referred to FNS for prior approval;

(iii) The aggregate amount involved does not exceed $2,500;

(iv) The contract is for personal or professional services, or for any services to be rendered by a university, college or other educational institution;

(v) No acceptable bids have been received after formal advertising;

(vi) The purchase is for highly perishable materials, for materials or services where the prices are established by law, for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, for experimental, developmental or research work, and for technical or specialized supplies requiring substantial initial investment for manufacture;

(vii) Negotiation is otherwise authorized by applicable Federal, State or local law, rules or regulations.

(2) Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

(g) *Contractor responsibility.* Contracts shall be made by State agencies only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, and accessibility of other necessary resources.

(h) *Records for negotiated procurements by State Agencies.* The procurement records or files of State agencies for negotiated purchases in amounts in excess of $2,500 shall include the following pertinent information: justification for the use of negotiation in lieu of advertising, contractor selection and the basis for the cost or price negotiated. Justification for the use of negotiation in lieu of advertising may be provided on a class basis or on an individual contract basis.

(i) *Contract Administration System.* A system for contract administration shall be maintained by the State agency to assure contractor compliance with terms, conditions and specifications of the contract or order and to assure adequate and timely follow up of all purchases.

(j) *Contract provisions.*—(1) *General.* (i) The State agency shall establish procedures to define a sound and complete agreement in all contracts which it awards when the contract costs are to be borne as a direct charge, in whole or in part, to FNS.

(ii) In awarding such contracts, the State agency must comply with the applicable requirements of paragraphs (j) (2) and (3) of this section.

(2) *Provisions.* (i) Contracts shall contain contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

(ii) All contracts awarded by State agencies in excess of $2,500 shall contain suitable provisions for termination by the State agency including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall set forth the conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of, circumstances beyond the control of the contractor.

(iii) In all contracts for construction or facility improvement awarded in excess of $100,000, the bonding requirements set forth in § 275.3 shall be observed.

(iv) All negotiated contracts (except those of $2,500 or less) shall include provisions giving access to, and requiring retention of, the contractor's records in accordance with § 275.4.

(3) *Compliance provisions.* (i) Provisions for compliance with Executive Order 11246, entitled, "Equal Employment Opportunity" as supplemented in Department of Labor regulations (41 CFR Part 60) shall be included in all contracts to which they are applicable.

(ii) All contracts in excess of $2,000 for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as implemented in Department of Labor regulations (29 CFR Part 3). The State agency shall report all suspected or reported violations to FNS.

(iii) All construction contracts awarded by State agencies in excess of $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a–7) as supplemented by Department of Labor regulations (29 CFR Part 5). The State agency shall report all suspected or reported violations to FNS.

(iv) All construction contracts exceeding $2,000 awarded by State agencies and all other contracts awarded by them which exceed $2,500 and which involve the employment of mechanics and laborers, shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as implemented by Department of Labor regulations (29 CFR Part 5).

(v) All research or development contracts shall contain a notice to the effect that rights to inventions conceived or first actually reduced to practice in the course of or under the agreement shall be governed by "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971), and Statement of Government Patent Policy as printed in 36 CFR 16889. The State agency shall assure that the performer of the research or development work either is given all necessary information regarding these matters, or is advised as to the source of such information. This subdivision shall also apply to nonresearch and nondevelopment contracts in fields of science or technology in which there has been little significant experience, outside of work funded by the Federal Government.

(vi) Contracts in excess of $100,000 shall contain a provision which requires the contractor to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857b. et seq.). Suspected violations shall be reported by the State agency in writing to the Regional Office of the United States Environmental Protection Agency, with a copy to FNS.

§ 275.16 Cost Principles.

The cost principles set out in Appendix A shall apply.

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date: This amendment shall become effective December 17, 1974.

(Catalog of Federal Domestic Assistance Programs No. 10.551, National Archives Reference Services)

DECEMBER 12, 1974.

CLAYTON YEUTTER,
Acting Secretary.

Appendix A—Principles for Determining Costs Applicable to Administration of the Food Stamp Program by State Agencies

This appendix sets forth the procedures implementing uniform requirements for the negotiations and approval of indirect cost rate proposals with State agencies, in accordance with the provisions of Federal Management Circular 74–4. This material is adapted substantially from the circular; changes have been made only where necessary in order to conform with legislative constraints. Extraneous material has been deleted.

A. *Purpose and scope.*—(1) *Objectives.* This attachment sets forth principles for determining the allowable costs of Food Stamp Programs administered by State agencies under FNS approved State Plans of Operation. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal and State or local participation in the financing of the program. They are designed to provide that all federally assisted programs bear their fair share of costs recognized under these principles, except where restricted or prohibited by law. No provision for profit or other increment above cost is intended.

(2) *Policy guides.* The application of these principles is based on the fundamental premises that:

(a) State agencies are responsible for the efficient and effective administration of the Food Stamp Program through the application of sound management practices.

(b) The State agency assumes the responsibility for seeing that Food Stamp Program funds have been expended and accounted for in consistence with underlying agreements and program objectives.

(c) Each State agency, in recognition of its own unique combination of staff facilities and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration.

(3) *Application.* These principles will be applied by FNS in determining costs incurred by State agencies receiving FNS payments for administering the Food Stamp Program including costs in cost reimbursement type contracts (including subcontracts).

B. *Definitions.*—(1) *Approval of authorization of FNS* means documentation evidencing consent prior to incurring specific costs.

(2) *Cost allocation plan* means the documentation identifying accumulating, and distributing allowable costs of program administration together with the allocation methods used.

(3) *Cost,* as used herein, means cost as determined on a cash, accrual, or other basis acceptable to FNS as a discharge of the State agency's accountability for FNS funds.

(4) *Cost objective* means a pool, center, or area established for the accumulation of cost. Such areas include organizational units, functions, objects or items of expense, as well as ultimate cost objectives including specific costs, projects, contracts, and other activities.

(5) *Federal agency* means FNS and also any department, agency, commission, or instrumentality in the executive branch of the Federal Government which makes grants

to or contracts with State or local governments.

(6) *Payments for administrative costs* means payments to State agencies pursuant to any agreement whereby FNS provides funds or aid in kind to carry out programs, services, or activities in connection with administration of the Food Stamp Program. The principles and policies stated in this attachment as applicable to program payments in general also apply to any State agency obligations under a cost reimbursement type of agreement performed by a subagency, including contracts and subcontracts.

(7) *Food Stamp Program administration* means those activities and operations of the State agency which are necessary to carry out the purposes of the Food Stamp Act, including any portion of the program financed by the State agency.

(8) *State agency* means the department or agency of the State which is responsible for administration of the Food Stamp Program.

(9) *Local unit* means any political subdivision of government below the State level.

(10) *Other agencies of the State* means departments or agencies of the State or local unit which provide goods, facilities, and services to a State agency.

(11) *Subagencies* means the organization or person to which a State agency makes any payment for acquisition of goods, materials or services for use in administering the Food Stamp Program and which is accountable to the State agency for the use of the funds provided.

(12) *Services*, as used herein, means goods and facilities, as well as services.

(13) *Supporting services* means auxiliary functions necessary to sustain the direct effort involved in administering the Food Stamp Program or an activity providing service to the program. These services may be centralized in the State agency or in some other agency, and include procurement, payroll, personnel functions, maintenance and operation of space, data processing, accounting, budgeting, auditing, mail and messenger service, and the like.

C *Basic guidelines.*—(1) *Factors affecting allowability of costs.* To be allowable under the Food Stamp Program, costs must meet the following general criteria:

(a) Be necessary and reasonable for proper and efficient administration of the program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State or local governments.

(b) Be authorized or not prohibited under State or local laws or regulations.

(c) Conform to any limitations or exclusions set forth in these principles, Federal laws, or other governing limitations as to types or amounts of cost items.

(d) Be consistent with policies, regulations, and procedures that apply uniformaly to both federally assisted and other activities of the unit of government of which the State agency is a part.

(e) Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.

(f) Not be allocable to or included as a cost of any other federally financed program in either the current or a prior period.

(g) Be the net of all applicable credits.

(2) *Allocable costs.* (a) A cost is allocable to a particular cost objective to the extent of benefits received by such objective.

(b) Any cost allocable to a particular program or cost objective under the principles provided for in this attachment may not be shifted to other Federal programs to overcome fund deficiencies, avoid restrictions imposed by law or grant agreements, or for other reasons.

(c) Where an allocation of joint cost will ultimately result in charges to the program, an allocation plan will be required as prescribed in section I.

(3) *Applicable credits.* (a) Applicable credits refer to those receipts or reduction of expenditure-type transactions which offset or reduce expense items allocable to programs as direct or indirect costs. Examples of such transactions are: Purchase discounts; rebates or allowances; recoveries or indemnities on losses; sale of publications, equipment, and scrap; income from personal or incidental services; and adjustments of overpayments or erroneous charges.

(b) Applicable credits may also arise when Federal funds are received or are available from sources other than FNS to finance operations or capital items of the State agency. This includes costs arising from the use or depreciation of items donated or financed by the Federal Government to fulfill matching requirements under another program. These types of credits should likewise be used to reduce related expenditures in determining the rates or amounts applicable to a given program.

D. *Composition of cost.*—(1) *Total cost.* The total cost of a program is comprised of the allowable direct cost incident to its performance, plus its allocable portion of allowable indirect costs, less applicable credits.

(2) *Classification of costs.* There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to a program or other ultimate cost objective. However, it is essential that each item of cost be treated consistently either as a direct or an indirect cost. Specific guides for determining direct and indirect costs allocable under Federal programs are provided in the sections which follow.

E. *Direct costs.*—(1) *General.* Direct costs are those that can be identified specifically with a particular cost objective. These costs may be charged directly to the Food Stamp Program, contracts, or to other programs against which costs are finally lodged. Direct costs may also be charged to cost objectives used for the accumulation of costs pending distribution in due course to programs and other ultimate cost objectives.

(2) *Application.* Typical direct costs chargeable to the Food Stamp Program are:

(a) Compensation of employees for the time and effort devoted specifically to the administration of the program.

(b) Cost of materials acquired, consumed, or expended specifically for the purpose of the program.

(c) Equipment and other approved capital expenditures.

(d) Other items of expense incurred specifically for efficiently and effectively administering the Food Stamp Program.

(e) Services furnished specifically for the program by other agencies, provided such charges are consistent with criteria outlined in Section G of these principles.

F. *Indirect costs.*—(1) *General.* Indirect costs are those (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the State agency, as well as those incurred by other departments in supplying goods, services, and facilities, to the State agency. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect cost within a State agency or in other agencies providing services to a State agency. Indirect cost pools should be distributed to benefiting cost objectives on bases which will produce an equitable result in consideration of relative benefits derived.

(2) *State agency indirect costs.* All State agency indirect costs, including the various levels of supervision, are eligible for allocation to the program provided they meet the conditions set forth in this attachment. In lieu of determining the actual amount of State agency indirect cost allocable to the program, the following methods may be used:

(a) *Predetermined fixed rates for indirect costs.* A predetermined fixed rate for computing indirect costs applicable to program administration may be negotiated annually in situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties to reach an informed judgment (1) as to the probable level of indirect costs in the State agency during the period to be covered by the negotiated rate, and (2) that the amount allowable under the predetermined rate would not exceed actual indirect cost.

(b) *Negotiated lump sum for overhead.* A negotiated fixed amount in lieu of indirect costs may be appropriate under circumstances where the benefits derived from a State agency's indirect services cannot be readily determined as in the case of a small self-contained or isolated activity. When this method is used, a determination should be made that the amount negotiated will be approximately the same as the actual indirect cost that may be incurred. Such amounts negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses of the State agency before allocation to remaining activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

(3) *Limitation on indirect costs.* (a) Some Federal programs may be subject to laws that limit the amount of indirect cost that may be allowed. Agencies that sponsor programs of this type will establish procedures which will assure that the amount actually allowed for indirect costs under each such program does not exceed the maximum allowable under the statutory limitation or the amount otherwise allowable under this attachment, whichever is the smaller.

(b) When the amount allowable under a statutory limitation is less than the amount otherwise allocable as indirect costs under this attachment, the amount not recoverable as indirect costs under a program may not be shifted to another federally sponsored program or contract.

G. *Cost incurred by other agencies of the State.*—(1) *General.* The cost of service provided by other agencies may only include allowable direct costs of the service plus a pro rata share of allowable supporting costs (section B. 13) and supervision directly required in performing the service, but not supervision of a general nature such as that provided by the head of a department and his staff assistants not directly involved in operations. However, supervision by the head of a department or agency whose sole function is providing the service furnished would be an eligible cost. Supporting costs include those furnished by other units of the supplying department or by other agencies.

(2) *Alternative methods of determining indirect cost.* In lieu of determining actual indirect cost related to a particular service furnished by other agencies of the State, either of the following alternative methods may be used provided only one method is used for a specific service during the fiscal year involved.

(a) *Standard indirect rate.* An amount equal to ten percent of direct labor cost in providing the service performed by other agencies of the State (excluding overtime, shift, or holiday premiums and fringe benefits) may be allowed in lieu of actual allowable indirect cost for that service.

(b) *Predetermined fixed rate.* A predetermined fixed rate for indirect cost of the unit or activity providing service may be negotiated as set forth in section F(2)(a).

H. *Cost incurred by State agency for others.*—(1) *General.* The principles provided in section G will also be used in determining the cost of services provided by the State agency to another agency.

I. *Cost allocation plan.*—(1) *General.* A plan for allocation of costs will be required to support the distribution of any joint costs related to the program. All costs included in the plan will be supported by formal accounting records which will substantiate the propriety of eventual charges.

(2) *Requirements.* The allocation plan of the State agency should cover all joint costs of the department as well as costs to be allocated under plans of other agencies or organizational units which are to be included in the costs of federally sponsored programs. The cost allocation plans of all the agencies rendering services to the State agency, to the extent feasible, should be presented in a single document. The allocation plan should contain, but not necessarily be limited to, the following:

(a) The nature and extent of services provided and their relevance to the federally sponsored programs.

(b) The items of expense to be included.

(c) The methods to be used in distributing cost.

(3) *Instructions for preparation of cost allocation plans.* The Department of Health, Education and Welfare, in consultation with the other Federal agencies concerned, will be responsible for developing and issuing the instructions for use by States in preparation of cost allocation plans. This responsibility applies to both central support services at the State and local government level and indirect cost proposals of individual State agencies.

(4) *Negotiation and approval of indirect cost proposals for States.* (a) The Department of Health, Education and Welfare, in collaboration with the other Federal agencies concerned, will be responsible for negotiation, approval, and audit of cost allocation plans, which will be submitted to it by the States. These plans will cover central support service costs of the State.

(b) At the State agency level in any State, a single Federal agency will have responsibility similar to that set forth in (a), above, for the negotiation, approval, and audit of the indirect cost proposal. Cognizant Federal agencies have been designated for this purpose. In the case of the Food Stamp Program this is HEW's Social and Rehabilitation Service. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education and Welfare in collaboration with the other interested agencies, and submitted to the General Services Administration for final approval. A current list of agency assignments will be maintained by the Department of Health, Education and Welfare.

(c) Questions concerning the cost allocation plans approved under (a) and (b), above, should be directed to the agency responsible for such approvals.

(5) *Negotiation and approval of indirect cost proposals for State agencies.* (a) Cost allocation plans will be retained at the State agency level for audit by SRS or USDA except in those areas where either agency requests that cost allocations plans be submitted to it for negotiation and approval.

(b) A list of cognizant Federal agencies assigned responsibility for negotiation, approval and audit of central support service cost allocation plans at the local government level is being developed. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education and Welfare in collaboration with the other interested agencies, and submitted to the General Services Administration for final approval. A current list of agency assignments will be maintained by the Department of Health, Education and Welfare.

(c) At the State agency level, the Federal agency with the predominant interest in the work of the State agency will be responsible for necessary negotiations, approval and audit of the indirect cost proposal.

(6) *Resolution of problems.* To the extent that problems are encountered among the Federal agencies in connection with (4) and (5) above, the General Services Administration will lend assistance as required.

STANDARDS FOR SELECTED ITEMS OF COST

A. *Allowable Costs.*—Standards for allowability of costs are established by Federal Management Circular 74–4. These standards will apply regardless of whether a particular item of cost is treated as direct or indirect. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable, rather determination of allowability in each case should be based on the treatment of standards provided for similar or related items of cost. The allowability of the selected items of cost is subject to the general policies and principles as stated in Attachment A to Circular 74–4.

(1) *Accounting.* The cost of establishing and maintaining accounting and other information systems required for the management of Federal programs is allowable. This includes cost incurred by central agencies for these purposes. The cost of maintaining central accounting records required for overall State or local government purposes, such as appropriation and fund accounts by the Treasurer, Comptroller, or similar officials, is considered to be a general expense of government and is not allowable.

(2) *Advertising.* Advertising media includes newspaper, magazines, radio and television programs, direct mail, trade papers, and the like. The advertising costs allowable are those which are solely for:

(i) Recruitment of personnel required for the program.

(ii) Solicitation of bids for the procurement of goods and services required.

(iii) Disposal of scrap or surplus materials acquired in the performance of the agreement.

(iv) Other purposes specifically provided for in the administration of the Food Stamp Program.

(3) *Advisory Councils.* Costs incurred by State advisory councils or committees established pursuant to Federal requirements to carry out programs are allowable. The cost of like organizations is allowable when used in improving the efficiency and effectiveness of the program.

(4) *Audit Service.* The cost of audits necessary for the administration and management of functions related to the program is allowable.

(5) *Bonding.* Costs of premiums on bonds covering employees who handle Federal program funds or food coupons are allowable. The amount of allowable coverage shall be limited to the anticipated maximum amount of USDA funds or food coupons handled at one time by that employee.

(6) *Budgeting.* Costs incurred for the development, preparation, presentation, and execution of budgets are allowable. Costs for services of a central budget office are generally not allowable since these are costs of general government. However, where employees of the central budget office actively participate in the State agency's budget process, the cost of identifiable services is allowable.

(7) *Building lease management.* The administrative cost for lease management which includes review of lease proposals, maintenance of a list of available property for lease, and related activities is allowable.

(8) *Central stores.* The cost of maintaining and operating a central stores organization for supplies, equipment, and materials used either directly or indirectly for the Food Stamp Program is allowable.

(9) *Communications.* Communication costs incurred for telephone calls or service, telegraph, teletype service, wide area telephone service (WATS), centrex, telpak (tie lines), postage, messenger service and similar expenses are allowable.

(10) *Compensation for personal services.*—(i) *General.* Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance in the administration of the program including but not necessarily limited to wages, salaries, and supplementary compensation and benefits (section A (13) below). The costs of such compensation are allowable to the extent that total compensation for individual employees: (a) is reasonable for the services rendered, (b) follows an appointment made in accordance with State or local government laws and rules and which meets Federal merit system or other requirements, where applicable; and (c) is determined and supported as provided in (ii) below. Compensation for employees engaged in federally assisted activities will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the State or local government. In cases where the kinds of employees required for the federally assisted activities are not found in the other activities of the State or local government, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acecptable basis for evaluating reasonableness.

(ii) *Payroll and distribution of time.* Amounts charged to the program for personal services, regardless of whether treated as direct or indirect costs, will be based on payrolls documented and approved in accordance with generally accepted practice of the State or local agency. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees chargeable to more than one program or other cost objective will be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort.

(11) *Depreciation and use allowances.* (i) State agencies may be compensated for the use of buildings, capital improvements, and equipment through use allowances or depreciation. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

(ii) The computation of depreciation or use allowances will be based on acquisition cost. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used in the computation. The computation will exclude the cost or any portion of the cost of buildings and equipment donated or borne directly or indirectly by the Federal Government

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through charges to Federal programs or otherwise, irrespective of where title was originally vested or where it presently resides. In addition, the computation will also exclude the cost of land. Depreciation or a use allowance on life or excess facilities is not allowable, except when specifically authorized by FNS.

(iii) Where the depreciation method is followed, adequate property records must be maintained, and any generally accepted method of computing depreciation may be used. However, the method of computing depreciation must be consistently applied for any specific asset or class of assets for all affected federally sponsored programs and must result in equitable charges considering the extent of the use of the assets for the benefit of such programs.

(iv) In lieu of depreciation, a use allowance for buildings and improvements may be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment (excluding items properly capitalized as building cost) will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost of usable equipment.

(v) No depreciation or use charge may be allowed on any assets that would be considered as fully depreciated, provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

(12) *Disbursing service.* The cost of disbursing program funds by the State Treasurer or other designated officer is allowable. Disbursing services cover the processing of checks or warrants, from preparation to redemption, including the necessary records of accountability and reconciliation of such records with related cash accounts.

(13) *Employee fringe benefits.* Costs identified under (i) and (ii) below are allowable to the extent that total compensation for employees is reasonable as defined in section A(10) above.

(i) Employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, court leave, military leave, and the like, if they are: (a) provided pursuant to an approved leave system, and (b) the cost thereof is equitably allocated to all related activities, including federally assisted programs.

(ii) Employee benefits in the form of employers' contribution or expenses for social security, employees' life and health insurance plans, unemployment insurance coverage, workmen's compensation insurance, pension plans, severance pay, and the like, provided such benefits are granted under approved plans and are distributed equitably to programs and to other activities.

(14) *Employee morale, health and welfare costs.* The costs of health or first-aid clinics and/or infirmaries, recreational facilities, employees' counseling services, employee information publications, and any related expenses incurred in accordance with general State or local policy, are allowable. Income generated from any of these activities will be offset against expenses.

(15) *Exhibits.* Costs of exhibits relating specifically to the Food Stamp Program are allowable.

(16) *Legal expenses.* The cost of legal expenses required in the administration of the program is allowable. Legal services furnished by the chief legal officer of a State or local government of his staff solely for the purpose of discharging his general responsibilities as legal officer are unallowable. Legal expenses for the prosecution of claims against the Federal Government are unallowable.

(17) *Maintenance and repair.* Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable.

(18) *Materials and supplies.* The cost of materials and supplies necessary to carry out the program is allowable. Purchases made specifically for the program should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the State agency. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges are a proper part of material cost.

(19) *Memberships, subscriptions and professional activities.*—(i) *Memberships.* The cost of membership in civic, business, technical and professional organizations is allowable, *Provided:* (a) The benefit from the membership is related to the program, (b) the expenditure is for agency membership, (c) the cost of the membership is reasonably related to the value of the services or benefits received, and (d) the expenditure is not for membership in an organization which devotes a substantial part of its activities to influencing legislation.

(ii) *Reference material.* The cost of books, and subscriptions to civic, business, professional, and technical periodicals is allowable when related to the program.

(iii) *Meetings and conferences.* Costs are allowable when the primary purpose of the meeting is the dissemination of technical information relating to the program and they are consistent with regular practices followed for other activities of the State agency.

(20) *Motor pools.* The costs of a service organization which provides automobiles to user State agencies at a mileage or fixed rate and/or provides vehicle maintenance, inspection and repair services are allowable.

(21) *Payroll preparation.* The cost of preparing payrolls and maintaining necessary related wage records is allowable.

(22) *Personnel administration.* Costs for the recruitment, examination, certification, classification, training, establishment of pay standards, and related activities for the program are allowable.

(23) *Printing and reproduction.* Cost for printing and reproduction services necessary for program administration, including but not limited to forms, reports, manuals, and information literature, are allowable. Publication costs of reports or other media relating to program accomplishments or results are allowable.

(24) *Procurement service.* The cost of procurement service, including solicitation of bids, preparation and award of contracts, and all phases of contract administration in providing goods, facilities and services for the program is allowable.

(25) *Taxes.* In general, taxes or payments in lieu of taxes which the State agency is legally required to pay are allowable.

(26) *Training and education.* The cost of in-service training, customarily provided for employee development which directly or indirectly benefits the program is allowable. Out-of-service training involving extended periods of time is allowable only when specifically authorized by FNS.

(27) *Transportation.* Costs incurred for freight, cartage, express, postage and other transportation costs relating either to goods purchased, delivered, or moved from one location to another are allowable.

(28) *Travel.* Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business incident to the program. Such costs may be charged on an actual basis, or a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in nonfederally sponsored activities. The difference in cost between first-class air accommodations and less-than-first-class air accommodations is unallowable except when less-than-first class air accommodations are not reasonably available.

B. *Costs allowable with approval of FNS.*—(1) *Automatic data processing.* The cost of data processing services for Food Stamp Program administration is allowable. This cost may include rental of equipment or depreciation on State agency owned equipment. The acquisition of equipment, whether by outright purchase, rental-purchase agreement or other method of purchase, is allowable only upon specific prior approval of FNS as provided under the selected item for capital expenditures. The conditions for Federal financial participation in the acquisition of Automatic Data Processing equipment and services are contained in this Section in accordance with OMB Circular No. A-90.

(i) *Definitions.* (a) "Acceptance documents" means written evidence of satisfactory completion of an approved phase of work or contract, and acceptance thereof by the State agency.

(b) "Advance planning document" or "APD" means a written plan of action to acquire the proposed ADP services, system or equipment containing a statement of needs and objectives; a preliminary cost/benefits analysis; a personnel resource statement indicating availability of qualified and adequate staff, including a project director to accomplish the project objectives; a detailed description of the nature and scope of the activities to be undertaken and the methods to be used; a proposed schedule; and a proposed budget.

(c) "Automatic data processing" or "ADP" means data processing performed by a system of electronic or electrical machines so interconnected and interacting as to minimize the need for human assistance or intervention.

(d) "Automatic data processing equipment" or "ADP equipment" means:

(i) Electronic digital computers, regardless of size, capacity or price;

(ii) All peripheral or auxiliary equipment used in support of electronic computers whether selected and acquired with the computer or separately;

(iii) Data transmission or communications equipment that is selected and acquired solely or primarily for use with a configuration of ADP equipment which includes an electronic computer; and

(iv) Punch Card Accounting Machines (PCAM) whether used in conjunction with or independent of an electronic computer.

(e) "Automatic data processing services" or "ADP services" means:

(i) Services to operate ADP equipment, either by private sources, or by employees of the State agency, or by State or local organizations other than the State agency; and/or

(ii) Services provided by private sources or by employees of the State agency or by State and local organizations other than the State agency to perform such tasks as feasi-

bility studies, system studies, system design efforts, development of system specifications, system analysis, programming and system implementation.

(f) "Data processing" means the preparation of source media containing data or basic elements of information, and the use of such source media according to precise rules of procedures to accomplish such operations as classifying, sorting, calculating, summarizing, recording and transmitting.

(g) "Feasibility study" means a preliminary study to determine whether it is sufficiently probable that effective and efficient use of ADP equipment or systems can be made to warrant the substantial investment of staff, time, and money.

(h) "Request for proposal" or "RFP" means the document used for public solicitations of competitive proposals from qualified sources as outlined in 7 CFR 275.15.

(i) "Service agreement" means a document signed by the State or local agency and a second State or local organization providing ADP services to the State or local agency which:

(i) Identifies those ADP services to be provided by the provider agency;

(ii) Includes, preferably as an amendable attachment, a schedule of charges for each identified ADP service, and a certification that these charges apply equally to all users;

(iii) Includes a description of the method(s) of accounting for the services rendered under the agreement and computing service charges;

(iv) Includes assurances that services provided shall be timely and satisfactorily; and

(v) Requires the provider agency to obtain prior State agency approval and to follow competitive procurement procedures equivalent to those contained in 7 CFR 275.15 for the acquisition of any ADP services in support of or in addition to the service agreement.

(j) "Software" means a set of computer programs, procedures, and associated documentation by which ADP equipment is used and operated.

(k) "System design" means the putting together of a new or more efficient ADP system which avoids the deficiencies and discrepancies in the old system.

(l) "System specifications" means information about the new ADP system—such as workload descriptions, input data, information to be maintained and processed, data processing techniques, and output data—which is required to determine the ADP equipment and software necessary to implement the system design.

(m) "System study" means the examination of existing information flow and operational procedures within an organization to determine how to provide more timely, accurate, and meaningful information for management decision-making and to develop new or improved ADP systems to service, control and coordinate the activities of the organization to improve operational efficiency. The study essentially consists of three basic phases: data gathering or investigation of the present system and new information requirements; analysis of the data gathered in the investigation; and synthesis, or refitting of the parts and relationships uncovered through the analysis into an efficient system.

(ii) *Specific conditions for obtaining Federal financial participation.*—(a) *FNS Prior Approval.* Prior approval by FNS is required for the costs of ADP equipment or ADP services in support of the Food Stamp Program for which Federal financial participation is being requested. The only exception to this prior approval requirement is when the acquisition of ADP equipment or ADP services do not exceed a combined total of $2,500 in Federal and State funds in any calendar quarter. Requests for approvals must be forwarded through the State agency prior to submittal to FNS. Approval by FNS will be based on a review of the studies conducted by or for the agency that will justify the acquisition of the proposed ADP equipment or ADP services. Written approval of the Advance Planning Document must be obtained from FNS by the State agency prior to entering into contractual agreements or making any other commitment for acquisition of ADP equipment or ADP services.

(b) *Approval by the State Agency.* Approval by the State agency is required for all documents specified in this regulation prior to submittal for FNS approval. In addition, State agency approval is also required for those acquisitions of ADP equipment and ADP services exempt from FNS approval because of the $2,500 quarterly limitation.

(c) *Competitive Procurement.* Acquisition of ADP equipment and purchase of ADP services shall be based on competitive procurement procedures specified in 7 CFR 275.15 when Federal grant funds are involved. State agency officials responsible for such procurement will ensure that formal advertising is the method of procurement unless the conditions for negotiation in 7 CFR 275.15(f) are met. Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable. This competitive procurement policy shall be applicable except for ADP services provided by the agency itself, or by another State or local agency.

(d) *Submittal of Documents.* Submittal, prior to claiming Federal financial participation is required of: (i) the advance planning document;

(ii) the service agreement (when data processing services are to be provided by a State central data processing facility or by another State or local agency);

(iii) the request for proposal, prior to its issuance when service or equipment proposals are being solicited from commercial sources; and

(iv) the contract, prior to signature of the contracting officer when services or equipment are to be acquired commercially.

(v) Voluntary submittal, or when requested by FNS, will be made of:

(a) the feasibility study,

(b) the system study,

(c) the system design,

(d) the system specifications,

(e) the acceptance document.

(e) *Methods for charging costs.* Methods and procedures for properly charging the costs of all systems whether acquired from public or private sources shall be in accordance with this regulation and applicable FNS instructions.

(f) *Access.* Access to the system by FNS in all of its aspects, including design, development, and operation, including work performed by any source, and including cost records of contractors and subcontractors, shall be made available by the State at intervals as are deemed necessary by FNS to determine whether the conditions for approval are being met and to determine the efficiency, economy and effectiveness of the system. Failure to provide full access by appropriate State and Federal representatives to all parts of the system shall result in termination of Federal financial participation in the costs of the system and its operation.

(g) *Ownership rights.*—(i) *Software.* The State will have all ownership rights in software or modifications thereof and associated documentation designed, developed or installed with Federal financial participation except that FNS reserves a royalty-free, nonexclusive license to reproduce, publish, or otherwise use, and to authorize others to do so, such software, modification and documentation. Proprietary software which is provided at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership provisions of this section.

(ii) *Automatic data processing equipment.* The policies and procedures governing title, use and disposition of property purchased with Federal financial participation, which are covered in 7 CFR 275.14 are applicable to automatic data processing equipment.

(h) *Use of ADP systems.* ADP systems designed, developed or installed with Federal financial participation shall be used for a period of time consistent with the Advance Planning Document as approved, or which FNS shall determine is sufficient to justify the Federal funds invested.

(i) *Basis for continued Federal financial participation.* Periodic on-site surveys and reviews of State and local agency ADP methods and practices may be conducted by or for FNS to determine the adequacy of such methods and practices and to assure that ADP equipment and services are utilized for the purposes for which Federal funds were authorized. Such surveys may include:

(ii) *Pre-installation readiness.* A pre-installation survey including an on-site evaluation of the physical site and the agency's readiness to use efficiently and effectively ADP services, equipment or system when installed and operational.

(iii) *Post-installation.* A review conducted after installation of ADP equipment or systems to assure that the objectives for which Federal financial participation was approved is being accomplished.

(iv) *Utilization.* A continuing review of ADP facilities to determine whether or not the ADP equipment or services are being efficiently and effectively utilized in support of the Food Stamp Program. Should FNS determine from such surveys or reviews or otherwise that the State agency has improperly used grant funds, or has failed to comply with the conditions of the grant as approved, termination of Federal financial participation may be invoked. Such termination would be limited to the costs of the data processing services or equipment in question as specified in the written ontification of termination by FNS.

(j) *Application of this section.* The conditions of the section apply for initial and continuing authority to claim Federal funds for automatic data processing services and equipment, notwithstanding the existence of an approved cost allocation plan and indirect cost proposal.

(2) *Building space and related facilities.* The cost of space in privately or publicly owned buildings used for the benefit of the program is allowable subject to the conditions stated below. The total cost of space, whether in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality. The cost of space procured for program usage may not be charged to the program for periods of nonoccupancy, without authorization of FNS.

(i) *Rental cost.* The rental cost of space in a privately owned building is allowable.

(ii) *Maintenance and operation.* The cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs and alterations and the like, are allowable to the extent they are not otherwise included in rental or other charges for space.

(iii) *Rearrangements and alterations.* Cost incurred for rearrangement and alteration of facilities required specifically for the program or those that materially increase the value or useful life of the facili-

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ties (Section B(3)) are allowable when specifically approved by FNS.

(iv) *Depreciation and use allowances on publicly owned buildings.* These costs are allowable as provided in Section A.11.

(v) *Occupancy of space under rental-purchase or a lease with option-to-purchase agreement.* The cost of space procured under such arrangements is allowable when specifically approved by FNS.

(3) *Capital expenditures.* The cost of facilities, equipment, other capital assets, and repairs which materially increase the value or useful life of capital assets, or of nonexpendable personal property having a useful life of more than one year and an acquisition cost of more than $300 per unit, is allowable when such procurement is specifically approved by FNS. No such approval shall be granted when the State may be reasonably compensated for such costs through application of the depreciation and use procedures authorized by this attachment, unless it shall be demonstrated by the State that approval of such costs will result in a determinable savings to FNS. When assets acquired with Federal funds are (i) sold, (ii) no longer available for use in a federally sponsored program, or (iii) used for purposes not authorized by FNS, the Federal agency's equity in the asset will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new items, only the net cost of the newly acquired assets is allowable.

(4) *Insurance and Indemnifications.* (i) Costs of insurance required, or approved and maintained pursuant to the agreement, is allowable.

(ii) Costs of other insurance in connection with the general conduct of activities is allowable subject to the following limitations:

(a) Types and extent and cost of coverage will be in accordance with general State or local government policy and sound business practice.

(b) Costs of insurance or contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except that costs of insurance against the loss or theft of food coupons or ATP cards may be allowed.

(iii) Contributions to a reserve for a self-insurance program approved by the SRS negotiating office are allowable to the extent that the type of coverage, the extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

(iv) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage and disappearance of small hand tools which occur in the ordinary course of operations, are allowable.

(v) Indemnification includes securing the State against liabilities to third persons and other losses not compensated by insurance or otherwise. FNS shall not be obligated to indemnify any State.

(5) *Management studies.* The cost of management studies to improve the effectiveness and efficiency of program management for the Food Stamp Program is allowable except that the cost of studies performed by agencies other than the State agency or outside consultants is allowable only when authorized by FNS.

(6) *Procurement costs.* Costs incurred prior to the effective date of approval of the amended indirect cost proposal or the revised Statewide cost allocation plan, whether or not they would have been allowable thereunder if incurred after such date, are allowable only when subsequently provided for in the plan or approved indirect cost proposal.

(7) *Professional services.* Cost of professional services rendered by individuals or organizations not a part of the State agency is allowable only if prior authorization is obtained from FNS.

(8) *Proposal costs.* Costs of preparing indirect cost proposals or amendments for allocating, distributing, and implementing provisions for payment of portions of the costs of administering the Food Stamp Program by the State agency are allowable.

(9) *Cost incurred by Agencies other than the State.* The cost of services provided by other agencies (including municipal governments) may only include allowable direct costs plus a prorata share of allowable supporting costs and supervision directly required in performing the service. Allowable supporting costs are those services which may be centralized and includes such functions as procurement, payroll, personnel services, maintenance and operation of space, data processing, accounting, budgeting, auditing, mail and messenger service and the like. Supervision costs will not include supervision of a general nature such as that provided by the head of a department and his staff assistants not directly involved in the operation of the program.

In lieu of determining actual indirect cost related to a particular service performed by another agency either of the following alternative methods may be used provided only one method is used during the fiscal year involved and is specifically provided for in the indirect cost proposal.

(i) Standard indirect rate equal to ten percent of direct labor cost in providing the service (excluding overtime, shift or holiday premiums, and fringe benefits) may be allowed in lieu of actual allowable cost.

(ii) A predetermined fixed rate for indirect cost of the unit or activity providing service may be negotiated.

C. *Unallocable Costs.* The following costs shall not be allowable:

(1) *Bad Debts.* Any losses arising from uncollectible accounts or other claims, and related costs, are unallowable.

(2) *Contingencies.* Contributions to a contingency reserve or any similar provision for unforeseen events are unallowable.

(3) *Contributions and Donations.* Unallowable.

(4) *Entertainment.* Cost whose purpose is for amusement, social activities, and incidental costs relating thereto, such as meals, beverages, lodgings, rentals, transportation, and gratuities are unallowable.

(5) *Fines and Penalties.* Costs resulting from violations of or failure to comply with Federal, State and local laws and regulations are unallowable.

(6) *Governor's Expenses.* The salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision are considered a cost of general State or local government and are unallowable. However, the cost of department heads who serve fully as operating officials of programs may be recognized.

(7) *Interest and other Financial Costs.* Interest on borrowings, bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith, are unallowable.

(8) *Legislative Expenses.* Salaries and other expenses of the State legislature or similar local governmental bodies are unallowable.

(9) *Underrecovery of Cost Under Agreements.* Any excess of cost over Federal contribution under one agreement is unallowable under another agreement.

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Weekly List of Public Laws

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 342..... Pub. Law 93–515
D.C., educational personnel, interstate agreement on qualifications, etc.
(Dec. 7, 1974; 88 Stat. 1612)

H.R. 15580..... Pub. Law 93–517
Departments of Labor, and Health, Education, and Welfare Appropriation Act, 1975
(Dec. 7, 1974; 88 Stat. 1634)

H.R. 17503..... Pub. Law 93–516
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(Dec. 7, 1974; 88 Stat. 1617)

H.J. Res. 444..... Pub. Law 93–522
To authorize the continued use of certain lands within the Sequoia National Park by an hydroelectric project
(Dec. 14, 1974; 88 Stat. 1660)

S. 1561..... Pub. Law 93–521
Mansfield Lake, Indiana, name change to "Cecil M. Harden Lake"
(Dec. 14, 1974; 88 Stat. 1659)

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(Dec. 13, 1974; 88 Stat. 1659)

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(Dec. 6, 1974; 88 Stat. 1611)

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(Dec. 6, 1974; 88 Stat. 1610)

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—ANIMAL BREEDS

PART 151—RECOGNITION OF BREEDS AND BOOKS OF RECORD OF PURE-BRED ANIMALS

Recognized Breeds and Books of Record; Correction

In FR Doc. 74-26675 (39 FR 40165), appearing in the FEDERAL REGISTER of Thursday, November 14, 1974, the effective date statement was inadvertently omitted. Accordingly, the effective date statement is added after the statutory authorities to read:

Effective date. This amendment shall become effective November 14, 1974.

The amendment was in the nature of a relief of restrictions in that it provides for the duty-free entry of certain pure-bred animals.

Done at Washington, D.C., this 12th day of December 1974.

R. P. JONES,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-29404 Filed 12-17-74;8:45 am]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 23—STATEMENTS OF BUSINESS INTERESTS OF DIRECTORS AND PRINCIPAL OFFICERS OF NATIONAL BANKS

Statement of Business Interests

Correction

In FR Doc. 74-27976, appearing at page 41735 in the issue for Monday, December 2, 1974, in § 23.1(a), in the ninth line, the date "January 31, 1975", should be changed to read "March 1, 1975."

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 74-1245]

PART 545—OPERATIONS

Branch Office Applications

December 5, 1974.

The following summary of the amendment adopted by this resolution is provided for the reader's convenience and is subject to the full explanation in the following preamble and to the specific provisions of the regulation.

I. *Regulations prior to present amendment.* If a Federal association has had two branch office applications disapproved to serve any substantial part of the same savings service area within a 12 month period, 12 months must elapse before the association may reapply.

II. *Amended regulations.* Permit a Federal association that has had two branch applications disapproved within the preceding 12 months to refile either of the disapproved applications in cases where any other savings and loan association, savings bank or similar institution has filed for any substantial part of the same savings service area.

III. *Reason for changing the regulations.* To prohibit inequities from arising where a savings service area's economic profile changes after a Federal association has had two applications denied to such an extent that another thrift institution files an application for a branch office there.

The Federal Home Loan Bank Board, by Resolution No. 74-930, dated September 13, 1974, proposed an amendment to § 545.14 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.14) in order to permit a Federal savings and loan association that has had two branch applications denied within the preceding twelve months to refile in cases where another thrift institution has filed for any substantial part of the same savings service area. By a companion resolution (Resolution No. 74-931; dated September 13, 1974), the Board also proposed a similar amendment to Part 582 of the regulations for District of Columbia Savings and Loan Associations and Branch Offices (12 CFR Part 582).

Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on September 23, 1974 (39 FR 34060-34061), with an invitation for interested persons to submit written comments by October 9, 1974. On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board considers it desirable to adopt the proposed amendment, as set forth below.

Prior to the present amendment, § 545.14(b)(1)(ii) required that before a Federal association could have a branch application considered 12 months must have elapsed since the date of disapproval by the Board of an application to serve any substantial part of the same savings service area. However, this requirement was applicable only if such Federal association had filed two applications to serve any substantial part of such savings service area within the 12 months preceding such date of disapproval and both such applications were disapproved by the Board. The amendment allows such a Federal association which would otherwise be prohibited from filing an application 12 months to do so if another savings and loan association, savings bank, or similar institution has filed an application to establish a branch in any substantial part of the same savings service area. An additional result of the amendment is a clarification of the present language in § 545.14(b)(1)(ii).

Accordingly, the Federal Home Loan Bank Board hereby amends Part 545 by revising § 545.14(b)(1)(ii) thereto to read as set forth below, effective January 20, 1975.

§ 545.14 Branch office.

* * * * *

(b) *Eligibility.* (1) Except as provided in paragraph (b)(2) of this section, a Federal association shall be eligible to have an application for permission to establish a branch office (including an application for a limited facility branch office) considered and processed only if at the date on which such application is filed with the Board:

* * * * *

(ii) Two such applications, whereby such association proposes to serve any substantial part of the same savings service area (as determined by the Supervisory Agent) have not been disapproved by the Board during the 24 months preceding such date unless at least 12 months have elapsed since the most recent disapproval. However, if two such applications by such association have been disapproved during the 24 months preceding such date, either of such disapproved applications will be considered and processed upon refiling if any other savings and loan association, savings bank, or similar institution files such an application whereby it proposes to serve any substantial part of the same savings service area (as determined by the Supervisory Agent) within 12 months since the most recent disapproval.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[FR Doc.74-29455 Filed 12-17-74;9:45 am]

[No. 74-1389]

PART 545—OPERATIONS

Stock Bonus, Pension or Profit Sharing Plans

DECEMBER 12, 1974.

The following summary of the amendment adopted by this resolution is provided for the reader's convenience and is subject to the full provisions of this resolution, including the provisions in the preamble thereof and in the amended regulation set forth below.

I. *Regulations prior to present amendment.* Certain Federal associations are authorized to act as trustees of certain trusts that form part of a stock bonus, pension or profit sharing plan which qualifies or qualified for specific tax treatment under section 401(d) of the Internal Revenue Code of 1954 (relating to trusts and plans benefiting owner-employees).

II. *Amended regulations.* Authorize certain Federal associations to also act as trustee of certain trusts that form part of a stock bonus, pension or profit sharing plan which qualifies or qualified for specific tax treatment under section 408(a) of the Internal Revenue Code of 1954 (relating to individual retirement accounts).

III. *Reason for changing the regulations.* Implement section 4(d) of the Emergency Home Purchase Assistance Act of 1974 (Pub. L. 93-449).

Section 4(d) of the Emergency Home Purchase Assistance Act of 1974 amended the first sentence of the pertinent paragraph of section 5(c) of the Home Owners' Loan Act of 1933, as amended, (12 U.S.C. 1464(c)) by adding the phrase "or section 408(a)" after the phrase "section 401(d)". This portion of section 5(c), as so amended, reads as follows:

> Any such association is authorized to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, if funds of such trust are invested only in savings accounts or deposits in such association or in obligations or securities issued by such association.

Section 408(a) of the Internal Revenue Code of 1954 is a new section, relating to individual retirement accounts, which was added to the Code by section 2002(b) of the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406) and which applies to taxable years beginning after December 31, 1974.

The Federal Home Loan Bank Board considers it desirable to amend § 545.17-1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.17-1) for the purpose of implementing section 4(d) of the Emergency Home Purchase Assistance Act of 1974 relating to certain bonus, pension, or profit-sharing which qualify for specific tax treament under section 408(d) of the Internal Revenue Code of 1954. Accordingly, the Board hereby amends this § 545.17-1 to read as set forth below. Since this amendment relieves restriction, the Board hereby finds that notice and public procedure are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and the Board hereby provides that the amendment shall become effective January 1, 1975.

§ 545.17-1 Stock bonus, pension, or profit-sharing plan.

A Federal association which has a charter in the form of Charter K (rev.) or Charter N may act as trustee, and may receive reasonable compensation for so acting, of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, if the funds of such trust are invested only in savings accounts or deposits in such association or in obligations or securities issued by such association. All funds held in such fiduciary capacity by any such association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this section.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071).

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[FR Doc.74-29487 Filed 12-17-74;8:45 am]

SUBCHAPTER E—DISTRICT OF COLUMBIA SAVINGS AND LOAN ASSOCIATIONS AND BRANCH OFFICES

[No. 74-1346]

PART 582—OFFICES

Branch Office Applications

DECEMBER 5, 1974.

The following summary of the amendment adopted by this resolution is provided for the reader's convenience and is subject to the full explanation in the following preamble and to the specific provisions of the regulation.

I. *Regulations prior to present amendment.* If a District of Columbia association has had two branch office applications disapproved to serve any substantial part of the same savings service area within a 12 month period, 12 months must elapse before the association may reapply.

II. *Amended regulations.* Permit a District of Columbia association that has had two branch applications disapproved within the preceding 12 months to refile either of the disapproved applications in cases where any other savings and loan association, savings bank or similar institution has filed for any substantial part of the same savings service area.

III. *Reason for changing the regulations.* To prohibit inequities from arising where a savings service area's economic profile changes after a District of Columbia association has had two applications denied to such an extent that another thrift institution files an application for a branch office there.

The Federal Home Loan Bank Board, by Resolution No. 74-931, dated September 13, 1974, proposed an amendment to § 582.1 of the regulations for the District of Columbia Savings and Loan Associations and Branch Offices (12 CFR 582.1) in order to permit a savings and loan association that has had two branch applications denied within the preceding 12 months to refile in cases where another thrift institution has filed for any substantial part of the same savings service area. By a companion resolution (Resolution No. 74-930; dated September 13, 1974), the Board also proposed a similar amendment to Part 545 of the rules and regulations for the Federal Savings and Loan System.

Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on September 23, 1974 (39 FR 34080-34081), with an invitation for interested persons to submit written comments by October 9, 1974. On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board considers it desirable to adopt the proposed amendment, as set forth below.

Prior to the present amendment, § 582.1(b)(ii) required that before an association could have a branch application considered 12 months must have elasped since the date of disapproval by the Board of an application to serve any substantial part of the same savings service area. However, this requirement was applicable only if such association had filed two applications to serve any substantial part of such savings service area within the 12 months preceding such date of disapproval and both such applications were disapproved by the Board. The amendment allows such an association which would otherwise be prohibited from filing an application for 12 months to do so if another savings and loan association, savings bank, or similar institution has filed an application to establish a branch in any substantial part of the same savings service area. An additional result of the amendment is a clarification of the present language in § 582.1(b)(ii).

Accordingly, the Federal Home Loan Bank Board hereby amends Part 582 by revising § 582.1(b)(1)(ii) thereto to read as set forth below, effective January 20, 1975.

§ 582.1 Branch offices.

* * * * *

(b) *Eligibility.* (1) Except as provided in paragraph (b)(2) of this section, an association shall be eligible to have an application for permission to establish a branch office (including an application for a limited facility branch office) considered and processed only if, at the date on which such application is filed with the Board:

* * * * *

(ii) Two such applications, whereby such association proposes to serve any substantial part of the same savings service area (as determined by the Supervisory Agent) have not been disapproved by the Board during the 24 months preceding such date unless at least 12 months have elapsed since the most recent disapproval. However, if two such applications by such association have been disapproved during the 24 months preceding such date, either of such disapproved applications will be considered and processed upon refiling if any other savings and loan association, savings bank, or similar institution files such an application whereby it proposes to serve any substantial part of the same savings service area (as determined by the Supervisory Agent) within 12 months since the most recent disapproval.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; Sec. 5, 48 Stat. 132, as added by Sec. 913, 64 Stat. 1815; 12 U.S.C. 1464, 1466a. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071).

By the Federal Home Loan Bank Board.

[SEAL] GREENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[FR Doc.74-29436 Filed 12-17-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-EA-60; Amdt. 39-2050]

PART 39—AIRWORTHINESS DIRECTIVE

Bendix

On Page 38668 of the FEDERAL REGISTER for November 1, 1974, the Federal Aviation Administration published a proposed rule so as to issue an airworthiness directive applicable to Bendix Scintilla S-20, S-200, S-1200 series magnetos.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697], § 39.13 of the Federal Aviation Regulations is amended hereby and the airworthiness directive adopted as published.

This amendment is effective December 24, 1974.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1421 and 1423) and sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)])

Issued in Jamaica, N.Y., on December 10, 1974.

JAMES BISPO,
Deputy Director.

BENDIX ELECTRICAL COMPONENTS DIVISION: Applies to certain Bendix (Scintilla) S-20, S-200 and S-1200 Series Magnetos listed on Bendix Service Bulletin No. 566B.

a. Red nameplate magneto models listed in the Equipment Affected section, excepting those with change designations as shown in Table No. 1 or later.

b. Blue nameplate (Bendix remanufactured) magneto models listed in the Equipment Affected section excepting those having serial number 249001 or higher.

c. Black nameplate magnetos bearing a part number listed in the Equipment Affected section.

Compliance required as indicated unless already accomplished. Within 200 hours in service or 90 days after the effective date of this AD, whichever occurs first, insure that the affected magnetos incorporate a solid steel drive shaft bushing by complying with all provisions, except the compliance paragraph, of Bendix Electrical Components Division Service Bulletin No. 566B or subsequent FAA approved revision or an equipment procedure approved by the Chief, Engineering & Manufacturing Branch, FAA, Eastern Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Bendix Electrical Components Division, Sidney, New York 13838. These documents may also be examined at FAA Eastern Region, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430, and at FAA headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C. and at the Eastern Region.

As permitted by FAR's 21.197 and 21.199, aircraft may be flown to a base where maintenance required by this Airworthiness Directive can be accomplished.

[FR Doc.74-29380 Filed 12-17-74;8:45 am]

[Docket No. 74-WE-60-AD; Amdt. 39-2051]

PART 39—AIRWORTHINESS DIRECTIVES

Rockwell-International Sabreliner Models NA265-40, NA265-60, NA265-70 (CT-39E and CT-39G) Series Airplanes

Pursuant to the authority delegated to me by the Administrator (31 FR 13697), an airworthiness directive was adopted on November 26, 1974, and made effective immediately as to all known United States operators of Rockwell-International Sabreliner Models NA265-40, NA265-60, NA265-70 (CT-39E and CT-39G) Series Airplanes. The directive requires adoption of an inspection procedure, removal of potentially defective pressure switches, interim corrective action and installation of cockpit placard until an improved pressure switch is installed.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of Rockwell-International Sabreliner Models NA265-40, NA265-60, NA265-70 (CT-39E and CT-39G) series airplanes by individual air mail letters dated November 27, 1974. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

ROCKWELL-INTERNATIONAL. Applies to NA265-40, NA265-60, NA265-70 (CT-39E, CT-39G) series airplanes certificated in all categories.

Compliance required as indicated.

To preclude inflight engine shutdown due to loss of oil quantity because of an unknown incipient failure condition in the engine oil low pressure switch, (Hydra-electric, P/N 12252), accomplish the following:

(1) Within ten flight hours after receipt of this AD, unless already accomplished, inspect each engine installation to determine if Hydra-electric P/N 12252, is installed. If found installed remove Hydra-electric P/N 12252 and;

(a) Replace with Hydra-electric P/N 12252-1, or,

(b) Install Aero Instruments Co. P/N 1B2522-230, or Century Electronics and Instrument Inc. P/N 1B2522-230; or

(c) Install O-ring NAS 617-4 and plug MS 9015-04 or an 814-4L. Safety wire with proper lockwire. Disconnect the electric connector cap, and stow in accordance with good maintenance practice. See (d)(ii) and (e) below for placard installation.

(d) If both engine oil low pressure switches are removed and plugged;

(i) The amber "OIL PRESS LOW" caution light must be modified by either removing the light cover and replacing with a blank cover or installing an "INOPERATIVE" placard over the light cover, and,

(ii) Install, in front of and in full view of the crew, a placard which reads: "ENGINE LOW OIL PRESSURE WARNING SYSTEM INOPERATIVE. MONITOR OIL PRESSURE GAGES."

(e) If one engine oil low pressure switch is removed and plugged, install in front of and in full view of the crew, a placard which reads:

(LEFT OR RIGHT) ENGINE LOW OIL PRESSURE WARNING SYSTEM INOPERATIVE. MONITOR (LEFT OR RIGHT) OIL PRESSURE GAGE."

NOTE. Sabre Gram, dated November 15, 1974, covers this subject.

(2) Within sixtey days after receipt of this AD, install new engine oil low pressure switch, Hydra-electric P/N 12252-1 or Aero Instruments Co. or Century Electronics and Instrument Inc. P/N 1B2522-230, in those positions where Hydra-electric P/N 12252 was removed, and plugs have been installed. Reconnect the electrical connector and accomplish functional check before return to service.

(3) Remove placecards and reactivate "OIL PRESS LOW" caution light when (2), above, has been accomplished.

(4) Airplanes may be flown to a base for the performance of the inspections and installations required by paragraph one of this AD, per FAR's 21.197 and 21.199.

(5) Return P/N 12252 switches removed from service to Rockwell-International, Aviation Service Division, Lambert Field, St. Louis, Mo. 63145.

(6) Equivalent inspections and installations may be approved by the Chief, Aircraft Engineering Division, FAA Western Region, upon submission of adequate substantiating data.

This amendment is effective December 24, 1974, for all persons except those to whom it was made effective immediately by airmail letter dated November 27, 1974.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421

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and 1423) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in Los Angeles, California, on December 9, 1974.

ROBT. O. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.74-29370 Filed 12-17-74;8:45 am]

[Docket No. 74-EA-76; Amdt. 39-2054]

PART 39—AIRWORTHINESS DIRECTIVE

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend AD 72-22-5 applicable to PA-24 type aircraft.

It is intended that aircraft which install the alteration proposed by the manufacturer may return to operating the aircraft at its designed speed of VNE 227 mph (CAS).

Since this amendment presents an option under the requirements of the AD, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] § 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending AD 72-22-5 as follows:

Insert the following as paragraph 3, and change the present paragraph 3 to paragraph 4:

3. For PA-24-250 and PA-24-260 type airplanes, a Vne of 227 mph (CAS) may be used upon altering the stabilator in accordance with Piper Service Kit No. 760747, or an approved equivalent, and by altering the rudder as in paragraph 2(b) above.

(Piper Service Bulletin No. 607, dated June 19, 1974, refers to this subject.)

This amendment is effective December 26, 1974.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 [49 U.S.C. 1354(a), 1421 and 1423], and sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]).

Issued in Jamaica, N.Y., on December 11, 1974.

JAMES BISPO,
Deputy Director,
Eastern Region.

[FR Doc.74-29381 Filed 12-17-74;8:45 am]

[Docket No. 74-EA-84; Amdt. 39-2053]

PART 39—AIRWORTHINESS DIRECTIVE

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA-31 and PA-31P type airplanes.

There have been reports of pilots inadvertently shutting off the rocker-type magneto switch located on the overhead panel. Since this deficiency exists in other similar type aircraft, an airworthiness directive is being issued so as to require the installation of a safety guard over the switch.

In view of the foregoing and because the deficiency is one which affects air safety, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

PIPER AIRCRAFT—applies to Magneto Switch Guard Installation on Piper PA-31 and PA-31-300 S/N 31-2 to 31-7300969 incl; PA-31-350 S/N 31-5001 to 31-7305001 incl; and PA-31P S/N 31P-1 to 31P-7300161 incl.

To prevent inadvertently or accidentally shutting down an engine, perform the following:

1. Within the next 100 hours time in service, after the effective date of this Airworthiness Directive, install a protective guard over the magneto switches in accordance with Piper Service Letter No. 675, dated September 17, 1973.

2. Equivalent installations must be approved by the Chief, Engineering and Manufacturing Branch, Eastern Region, Jamaica, New York.

3. Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the compliance time specified in this A.D.

This amendment is effective December 26, 1974.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 [49 U.S.C. 1354(a), 1421 and 1423], and sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)])

Issued in Jamaica, N.Y., on December 11, 1974.

JAMES BISPO,
Deputy Director,
Eastern Region.

[FR Doc.74-29382 Filed 12-17-74;8:45 am]

[Docket No. 73-WA-6]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Terminal Control Area at Philadelphia, Pennsylvania

On May 2, 1974, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (39 FR 15307) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a Group II Terminal Control Area (TCA) for Philadelphia, Pa.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. The only comment received reflected concurrence with the proposed establishment of the TCA.

In consideration of the foregoing and for reasons stated in Docket No. 9880 (35 FR 7782), Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 27, 1975, by adding the following to § 71.401(b) Group II Terminal Control Areas.

Philadelphia, Pa., Terminal Control Area
Primary Airport

Philadelphia International Airport (Lat. 39°52'25'' N., Long. 75°14'58'' W.)

Boundaries.

Area A.

That airspace extending upward from the surface to and including 7,000 feet MSL within a 6-mile radius of the Philadelphia International Airport, excluding that airspace within and underlying Areas B and C.

Area B.

That airspace extending upward from 360 feet MSL, to and including 7,000 feet MSL, beginning at the east tip of Tinicum Island, along the south shore of Tinicum Island to its westernmost point, thence direct to the outlet of Darby Creek at the north shore of the Delaware River, thence along the north shore of the river to Chester Creek, thence eastward direct to Thompson Point, thence eastward along the south shore of the Delaware River to Bramell Point, thence direct to the point of beginning.

Area C.

That airspace extending upward from 600 feet MSL, to and including 7,000 feet MSL, beginning at Bramell Point, along the south shore of the Delaware River to Thompson Point, thence direct to the outlet of Chester Creek at the Delaware River, thence southwestward along the north shore of the Delaware River, to the 6-mile arc of the Philadelphia International Airport, thence counterclockwise along the 6-mile arc to Kings Highway (Route 551), thence northward direct to Bramell Point.

Area D.

That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within an 11-mile radius of the Philadelphia International Airport, excluding Areas A, B, and C.

Area E.

That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 15-mile radius of Philadelphia International Airport, excluding that airspace southeast of a line extending from Lat. 39°32'50''N., Long. 75°10'30''W., to Lat. 40°00'09''N., Long. 74°50'45''W., and Areas A, B, C, and D.

Area F.

That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius of Philadelphia International Airport, excluding that airspace southeast of a line extending through Lat 39°32'50''N., Long. 75°10'30''W., and Lat. 40°00'00''N., Long. 74°50'45''W., and Areas A, B, C, D, and E.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on December 12, 1974.

EDWARD J. MALO,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.74-29377 Filed 12-17-74;8:45 am]

[Docket No. 74-SO-80]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On March 11, 1974, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (39 FR 9456), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Homerville, Ga., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 27, 1975, as hereinafter set forth.

In § 71.181 (40 FR 441), the following transition area is added:

HOMERVILLE, GA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Homerville Airport (latitude 31°-03'00" N., longitude 82°46'30" W.); within 2 miles each side of the 310 bearing from the Homerville RBN (latitude 31°03'17" N., longitude 82°48'16" W.), extending from the 6.5-mile radius area to 8.5 miles northwest of the RBN.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in East Point, Ga., on December 6, 1974.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.74-28378 Filed 12-17-74;8:45 am]

Title 17—Commodities and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-11284]

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Rescission of EDP Attachments

The Securities and Exchange Commission today announced the rescission of the EDP attachment heretofore required to be filed in certain instances with reports on Forms 10-Q (17 CFR 249.310) and 10-K (17 CFR 249.308a) under the Securities Exchange Act of 1934 ("Exchange Act"), and the withdrawal of a proposed amendment to Form 10-K under the Act.

RESCISSION OF EDP ATTACHMENTS

In Securities Exchange Act Release Nos. 9443 (January 10, 1972) (37 FR 601) and 9502 (February 22, 1972) (37 FR 4331), the Commission adopted amendments to Forms 10-Q and 10-K to elicit information concerning recent transactions by the issuer in unregistered securities. The information included transactions in securities, debt as well as equity, issued in reliance upon the exemption from registration provided by section 4(2) of the Securities Act of 1933. For statistical purposes, the Commission also then adopted an EDP attachment to be filed in certain situations as Exhibit I to Form 10-K and 10-Q.

The EDP attachment was intended as a current compilation of information generally reflected in the report of which it was an exhibit, and it has been utilized by the Commission to gather information for various purposes. At this time, the Commission has determined that the functional justification for the preparation and filing of the EDP attachment no longer warrants its use, and accordingly the Commission has rescinded the requirement that the EDP attachment be filed as Exhibit I to Form 10-K and Form 10-Q.

WITHDRAWAL OF PROPOSED AMENDMENT TO FORM 10-K

In Securities Exchange Act Release No. 9576 (April 20, 1972), (37 FR 9045) the Commission announced a proposal to amend Form 10-K by adding a new Item 16. The proposed amendment would have required identification of the information contained in the annual report to security holders. In view of the Commission's recent action to improve the dissemination of annual reports to security holders, (Securities Exchange Act Release No. 11079 (October 31, 1974) (39 FR 40766)), the Commission hereby withdraws the proposed amendment to Form 10-K.

The Commission has found that the rescission of the EDP attachment relieves a restriction and that publication for comment is not required under the Administrative Procedure Act. The foregoing action is taken pursuant to the Securities Exchange Act of 1934, particularly sections 13, 15(d) and 23(a) thereof, and shall become effective December 16, 1974; however, after the date of this release, no objection will be raised by the staff of the Commission if an EDP attachment required to be filed prior to such effective date is not filed.

(Secs. 13, 15(d), 23(a), 48 Stat. 894, 895, 901; secs. 3, 8, 49 Stat. 1377, 1379; secs. 4, 6, 78 Stat. 569, 570; (15 U.S.C. 78m, 78o(d), 78w(a)))

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 6, 1974

[FR Doc.74-28445 Filed 12-17-74;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. 4, further amended]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950-.....)

Child's Insurance Benefits

On July 8, 1974, there was published in the FEDERAL REGISTER (39 FR 24915) a Notice of Proposed Rule Making with proposed amendments to Subparts D, E, H, and L of Regulations No. 4. The proposed amendments incorporate therein the sections of Public Law 92-603, enacted October 30, 1972, and Public Law 93-66, enacted July 9, 1973, affecting eligi 93-66, enacted July 9, 1973, affecting eligibility requirements for child's benefits. The substance of these provisions is as follows:

(a) Section 108 (P.L. 92-603) (1) Permits an individual who is under a disability which began before age 22 (rather than before age 18) to qualify for child's benefits; and

(2) Permits reentitlement of an individual to child's benefits whose entitlement to such benefits ended because he was not disabled and who later became disabled after age 18 and before age 22; and

(3) Permits reentitlement of an individual to child's benefits whose entitlement to such benefits ended because he ceased to be under a disability, provided that he again becomes disabled before the end of the 84th month following the month in which his most recent entitlement to childhood disability benefits ended due to cessation of his disability; and

(4) Provides that no payment may be made to an individual entitled to childhood disability benefits who has attained age 55 and who meets the definition of disability on the basis of "statutory blindness" for any month in which that individual engages in substantial gainful activity.

(b) Section 109 (P.L. 92-603) provides that where a student child is in full-time attendance and has not completed the requirements for or received an undergraduate degree in the month in which he attains age 22, his entitlement will not end until the month after the month in which the quarter or semester ends. If the school does not operate on a quarter or semester system, the student's entitlement will continue through the month in which the course of study ends or until the third month after the month in which he attains age 22, whichever occurs first.

(c) Section 111 (P.L. 92-603) sets out the dependency requirements for a child adopted by an individual after the individual became entitled to old-age or disability insurance benefits.

(d) Section 112 (P.L. 92-603) provides for the continued entitlement of a child who has been adopted and for reentitlement of a child whose benefits were terminated due to adoption.

(e) Section 113 (P.L. 92-603) sets out the conditions and requirements for entitlement of a child on the account of a grandparent, stepgrandparent, or the spouse of a grandparent or stepgrandparent.

(f) Section 115 (P.L. 92-603) provides for the waiver of the duration-of-relationship requirement for qualifying as a "widow," "widower," "mother," or "stepchild" of the insured individual where the surviving spouse (in the case of the "widow," "widower," or "mother") or the stepchild's parent (in the case of the

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"stepchild") had previously been married to the insured individual, such marriage had ended in divorce, and the duration-of-relationship requirements would have been satisfied at the time of the divorce if the previous marriage had ended in the death of the insured individual rather than in divorce.

(g) Section 145 (P.L. 92-603) modifies the provisions for waiving the duration-of-relationship requirements for a "widow," "widower," "mother," or "stepchild" where the insured individual's death was accidental or occurred in the line of duty while serving on active duty as a member of a uniformed service.

(h) Section 240 (P.L. 92-66) provides for an alternative support period for an adopted child where the child is adopted by an insured individual after insured individual's entitlement to retirement or disability benefits and the child is the grandchild of the insured individual or his spouse.

Interested persons were given the opportunity to submit, within 30 days, data, views or arguments with regard to the proposed changes.

The time period permitted for comment has passed and no comments have been received. Accordingly, the proposed amendments are hereby adopted without change as set forth below.

(Secs. 202, 205, and 1102 of the Social Security Act, as amended; 49 Stat. 622, as amended, 53 Stat. 1360, as amended, 49 Stat. 647, as amended; (42 U.S.C. 402, 405, and 1302))

Effective date. The amendments shall be effective December 16, 1974.

(Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security—Disability Insurance; 13.803, Social Security—Retirement Insurance; 13.805, Social Security—Survivors Insurance.)

Dated: December 5, 1974.

J. B. Cardwell,
Commissioner of Social Security.

Approved: December 12, 1974.

Caspar W. Weinberger,
Secretary of Health, Education, and Welfare.

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 404.320 is revised to read as follows:

§ 404.320 Child's insurance benefits; conditions of entitlement.

(a) *Entitlement.* A child is entitled to a child's insurance benefit if he:

(1) Is the child (as defined in § 404.1109) of:

(i) An individual entitled to old-age insurance benefits or disability insurance benefits; or

(ii) An individual who was fully insured (see §§ 404.108–404.113) or currently insured (see § 404.114) at the time of death; and

(2) Has filed application for, except as provided in § 404.353(d), the child's insurance benefits; and

(3) Is unmarried at the time such application is filed; and

(4) At the time such application is filed:

(i) Has not attained age 18, or

(ii) Has not attained the age of 22 (except as provided in paragraph (c)(4) of this section) and is a full-time student (as defined in paragraph (c)(1) of this section), or

(iii) Is under a disability which began before attainment of age 22, and

(5) Was dependent (see §§ 404.324–404.327a) at a time specified in § 404.323, upon the individual on whose earnings child's insurance benefits are claimed.

(b) *Reentitlement.* A child whose entitlement to benefits terminated with the month before the month in which he attained age 18 or later, may thereafter, provided he has not been married since his last entitlement (see § 404.321(b)(2)), again become entitled to such benefits upon filing application for such reentitlement beginning with:

(1) The first month after such termination in which he is a full-time student and has not attained the age of 22 (except as provided in paragraph (c)(4) of this section); or

(2) The first month after such termination in which he is under a disability if he became disabled prior to attainment of age 18; or

(3) The first month after such termination in which he is under a disability but no earlier than January 1973, if he became disabled prior to attainment of age 22, except that if he was not entitled to a monthly benefit under section 202 of the Act for December 1972, the application for reentitlement must be filed after September 1973; or

(4) The first month after such termination in which he is under a disability but no earlier than January 1973 if he became disabled before the close of the 84th month following the month in which his most recent entitlement to child's benefits terminated because his disability ceased, except that if he was not entitled to a monthly benefit under section 203 of the Act for December 1972, the application for reentitlement must be filed after September 1973; or

(5) November 1972 if such termination was due to the child's adoption, provided that the application for reentitlement is filed after October 30, 1972.

(c) *Definitions of terms*—(1) *Full-time student.* The term "full-time student" means a student who is in full-time attendance (as defined in subparagraph (2) of this paragraph) at an educational institution (as defined in subparagraph (5) of this paragraph), except that no student shall be considered a full-time student if he is paid by his employer while attending an educational institution at his employer's request or pursuant to a requirement of his employer.

(2) *Full-time attendance.* Ordinarily, a student is in "full-time attendance" at an educational institution if he is enrolled in a noncorrespondence course and is carrying a subject load which is considered full time for day students under the institution's standards and practices. However, a student will not be considered in "full-time attendance" (i) if he is enrolled in a junior college, college, or university in a course of study of less than 13 school weeks' duration; or, (ii) if he is enrolled in any other educational institution and either the course of study is less than 13 school weeks' duration or his scheduled attendance is at the rate of less than 20 hours a week. A student whose full-time attendance begins or ends in a month is in full-time attendance for that month except that a student will not be considered in full-time attendance in the month in which he graduates if he completed his course of study and ceased carrying a full-time subject load in a month before the month immediately preceding the month of graduation.

(3) *Deemed full-time student during period of nonattendance.* An individual will be deemed a full-time student during any period of nonattendance (including part-time attendance) at an educational institution if the period is 4 consecutive calendar months or less, and the individual:

(i) Establishes that he intends to be in full-time attendance at an educational institution in the month immediately following such period, or

(ii) Is in full-time attendance at an educational institution in the month immediately following such period.

However, an individual will not be deemed a full-time student during any period of nonattendance if the nonattendance is due to expulsion or suspension, notwithstanding such individual intends to, or does in fact, resume full-time attendance within 4 calendar months after the beginning of such period of nonattendance.

(4) *Attainment of age 22 while in full-time attendance.* A full-time student (as defined in subparagraph (1) of this paragraph) who, in the month in which he attains age 22, has not completed the requirements for, or received, a degree from a four-year college or university will be deemed, beginning January 1973, to attain age 22 on the first day of the month following the month in which ends the quarter or semester for which he was enrolled full-time in the month in which he attains age 22. If such college or university or other educational institution (as defined in subparagraph (5) of this paragraph) does not operate on a quarter or semester system, a full-time student will be deemed to attain age 23 on either the first day of the month following the completion of the course in which he was enrolled full-time in the month in which he attained age 22, or if earlier, the first day of the third month following the month in which he attained age 22.

(5) *Educational institution.* An educational institution, as used in this paragraph (c), is a school (including a technical, trade, or vocational school), junior college, college, or university which meets any of the conditions described in

the following subdivisions (i), (ii), and (iii) of this subparagraph (5):

(i) It is operated or directly supported by the United States or by any State or local government or political subdivision thereof; or

(ii) It is approved by a State or accredited by a State-recognized or nationally recognized accrediting agency or body. A nationally recognized accrediting agency or body is an agency or body that has been determined to be such by the U.S. Commissioner of Education. A State-recognized accrediting agency or body is an agency or body designated or recognized by a State as proper authority for accrediting schools, colleges, or universities as meeting educational standards. Approval by a State includes approval of a school, college, or university as an educational institution, or of one or more of the school's, college's, or university's courses, by a State agency or subdivision of the State. This approval may be indirect, as, for example, if attendance at the school satisfies the State's compulsory education laws, or if the school has a tax exemption as a school, or if the school receives financial aid, loans, or scholarship allowances; or

(iii) In the case of a nonaccredited school, college, or university, its credits are accepted, on transfer, by not less than three institutions which have been accredited by a State-recognized or nationally recognized accrediting agency or body, for credit on the same basis as if transferred from an institution so accredited. Acceptance of credits on transfer includes, in addition to acceptance of laterally transferred credits between similar educational institutions, acceptance of credits completed in an institution at a lower grade level for entrance into an institution at a higher grade level.

2. In § 404.321, paragraph (a)(6) is revised, new paragraphs (a)(7) and (a)(8) are added, and paragraph (b) is revised to read as follows:

§ 404.321 Child's insurance benefits; duration of entitlement.

(a) A child is entitled to a child's insurance benefit for each month beginning with the first month in which all of the conditions of entitlement described in § 404.320 (a) or (b) are met. However, no entitlement to child's benefits may be established for any month:

* * * * *

(6) Before January 1973, if the child's entitlement is based on his disability which began after attainment of age 18 and before attainment of age 22, or if the child's reentitlement is based on his disability which began before the close of the 84th month following the month in which his most recent entitlement to child's benefits terminated because his disability ceased.

(7) Before January 1973, if the child's entitlement is based on his status as a grandchild or stepgrandchild (as defined in § 404.1109(c)).

(8) Before the month of the child's birth.

(b) The last month for which a child is entitled to a child's insurance benefit is the month before the month in which any one of the following events first occurs:

(1) The child dies;

(2) The child marries (except as provided in paragraph (d) of this section);

(3) The child attains age 18, and

(i) Is not under a disability at that time, and

(ii) Is not a full-time student (as defined in § 404.320(c)) during any part of the month in which he attains age 18;

(4) If the child's entitlement is based on his status as a full-time student, the earlier of:

(i) The first month during no part of which he is a full-time student, or

(ii) The month in which he attains age 22, or a later month under the circumstances described in § 404.320(c)(4);

(5) If the child's entitlement is based on his disability, the third month following the month in which he ceases to be under a disability, unless he is a full-time student during any part of such third month and has not attained age 22 in or before such month. (See subparagraph (4) of this paragraph);

(6) The insured individual on whose earnings the child's entitlement to benefits is based ceases to be entitled to disability insurance benefits for reasons other than death or attainment of age 65.

* * * * *

Section 404.323 is revised to read as follows:

§ 404.323 Child's insurance benefits; time at which child must be dependent upon insured individual.

(a) *Months after September 1972 (or months after December 1967 based on an application filed after September 30, 1972, and before May 1, 1973).* For months after September 1972, the dependency requirements must be met:

(1) If the insured individual is living, at the time the application is filed, subject to the limitations in subparagraph (4) of this paragraph; or

(2) If the insured individual is deceased, at the time of such insured individual's death; or

(3) Subject to the limitations in subparagraph (4) of this paragraph, if the insured individual had established a period of disability which continued until he became entitled to disability or old-age insurance benefits (or, if he died, such period of disability continued until his death), at the beginning of such period of disability, or at the time he became entitled to such benefits.

(4) If the child of an insured individual was adopted after the insured individual became entitled to old-age or disability insurance benefits, the dependency of such child may not be established at the times specified in subparagraph (1) or (3) of this paragraph unless such child:

(i) Is the natural child or stepchild of such insured individual (including a natural child or stepchild who was legally adopted by such insured individual), or

(ii) (A) Was legally adopted by such insured individual in an adoption decreed by a court of competent jurisdiction within the United States, and

(B) Had not attained the age of 18 before he began living with such insured individual; and

(C) Was living with such insured individual in the United States and receiving at least one-half of his support from such insured individual:

(1) If the insured individual is an individual entitled to old-age insurance benefits (other than an individual refered to in subdivision (2) of this subparagraph (4)(ii)(C)), for the year immediately before the month in which such individual became entitled to old-age insurance benefits, or if such insured individual had a period of disability which continued until he became entitled to old-age insurance benefits, the month in which such period of disability began; or

(2) If the insured individual is an individual entitled to disability insurance benefits, or an individual entitled to old-age insurance benefits who was entitled to disability benefits for the month preceding the first month for which he was entitled to old-age insurance benefits, for the year immediately before the month in which began the period of disability of such individual which still exists at the time of the adoption (or, if such child was adopted by such individual after such individual attained age 65, the period of disability of such individual which existed in the month preceding the month in which he attained age 65), or the month in which such individual became entitled to disability insurance benefits; or

(3) Effective for months after July 1973 based on an application filed on or after July 1973, for the year immediately before the month in which the child's application is filed if the child is the grandchild (as defined in § 404.1109(c) but not including a stepgrandchild) of the individual upon whose wages and self-employment income his application is based or the grandchild (as defined in § 404.1109(c)) of that individual's spouse.

(4) If the child was born during the applicable 1-year period described in subdivision (1), (2), or (3) of this subparagraph (4)(ii)(C), such child shall be deemed to meet the requirements of subdivision (1), (2), or (3), of this subparagraph (4)(ii)(C) if, as of the close of such period, such child has lived with such insured individual in the United States and received at least one-half of his support from such individual for "substantially all" (as defined in subdivision (5) of this paragraph (a)(4)(ii)(C)) of the period which begins on the date of birth of such child.

(5) For purposes of § 404.327a(b) and subparagraph (4)(ii)(C)(4) of this

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paragraph, the requirement that a child must have been living with an individual and receiving at least one-half support from such individual for "substantially all" of the period beginning with the date of birth of such child will be met if the period during which the child did not live with such individual or receive one-half support from such individual did not exceed the lesser of 3 months or one-half of the period beginning with the date of birth of such child, provided the child is living with such individual and receiving one-half support for such individual as of the close of such period.

(b) *Months after August 1958 and before October 1972.* For months after August 1958 and before October 1972, the dependency requirement must be met:

(1) If the parent is living, at the time the application for child's insurance benefits is filed, subject to the limitations in subparagraphs (4), (5), and (6) of this paragraph; or

(2) If the parent is deceased, at the time of the parent's death; or

(3) Subject to the limitation in subparagraph (5) of this paragraph, if the parent had a period of disability which continued until he became entitled to disability or old-age insurance benefits (or, if he had died, until the month of his death), at the beginning of such period of disability, or at the time he became entitled to such benefits.

(4) With respect to applications for child's insurance benefits filed before July 30, 1965, if the parent is entitled to disability insurance benefits, dependency of the child may not be established at the time specified in subparagraph (1) of this paragraph unless such child:

(i) Is the natural child or stepchild of such parent (including a natural child or stepchild who was legally adopted by such parent); or

(ii) Was legally adopted by such parent before the end of the 24-month period beginning with the month after the month in which the parent most recently became entitled to disability insurance benefits, and (A) proceedings for such adoption had been instituted by the parent in or before the month in which such parent's period of disability began, and such period of disability still existed at the time of such adoption, or (B) such adopted child was living with such parent in the month in which such period of disability began.

(5) Effective with applications for child's insurance benefits filed on or after July 30, 1965, but before October 1, 1972, if the parent is entitled to disability insurance benefits, or is entitled to old-age insurance benefits and was entitled to disability insurance benefits for the month preceding the first month for which he was entitled to old-age insurance benefits, and the child had been adopted by such parent after he became entitled to the disability insurance benefits, such child shall be deemed not to meet the dependency requirements at the times specified in subparagraphs (1) and (3) of this paragraph unless such child:

(i) Is the natural child or stepchild of such parent (including a natural child or stepchild who was legally adopted by such parent), or

(ii) Was legally adopted by such parent before the end of the 24-month period beginning with the month after the month in which such parent most recently became entitled to disability insurance benefits: *Provided*, (A) The proceedings for the adoption of the child had been instituted by such parent in or before the month in which such parent's period of disability began, and such period of disability still existed at the time of adoption (or, if such child was adopted by the parent after he attained age 65, such period of disability existed in the month before the month in which he attained age 65), or (B) such adopted child was living with such parent in the month in which the period of disability began; or

(iii) For benefits for months after January 1968, but only on the basis of an application for child's insurance benefits filed after January 2, 1968 and before October 1, 1972, was legally adopted by such parent at any time after he became entitled to disability insurance benefits, and provided that such adoption: (A) took place under the supervision of a public or private child-placement agency as defined in paragraph (d) of this section, and (B) was decreed by a court of competent jurisdiction within the United States and immediately preceding the date of the adoption such parent had continuously resided for not less than 1 year in the United States, and (C) took place at a time prior to such child's attainment of age 18.

(6) Effective with applications for child's insurance benefits filed on or after July 30, 1965, but before October 1, 1972, if the parent is entitled to old-age insurance benefits but is not a parent included under subparagraph (5) of this paragraph and the child had been adopted by such parent after he became entitled to the old-age insurance benefits, such child shall be deemed not to meet the requirements of subparagraph (1) of this paragraph unless such child:

(i) Is the natural child or stepchild of such parent (including a natural child or stepchild who was legally adopted by such parent), or

(ii) Was legally adopted by such parent before the end of the 24-month period beginning with the month after the month in which such parent became entitled to old-age insurance benefits (however, this time limit does not apply if the child was adopted before August 1966): *Provided*, (A) Such child had been receiving at least one-half of his support from such parent for the year before such parent filed his application for old-age insurance benefits, or if such parent had a period of disability which continued until he became entitled to old-age insurance benefits, for the year before such period of disability began, and (B) either the proceedings for the adoption of the child had been instituted by such parent in or before the month in which the parent filed his application for old-age insurance benefits, or such adopted child was living with such parent in the month he filed his application for old-age insurance benefits.

(c) *Months before September 1958.* For benefits for months before September 1958, the points in time at which the dependency requirement might be met were the time of filing of the application for child's insurance benefits, or, if the parent was deceased, the time of such parent's death.

(d) *Adoption under the supervision of a public or private child-placement agency.*—(1) *Public child-placement agency.* For the purposes of paragraph (b)(5)(iii) of this section, the term "public child-placement agency" means any governmental agency authorized by a State (including the District of Columbia and the Commonwealth of Puerto Rico), or local governmental agency or component of either to place children in a private home for adoption. The term does not include a court; it also does not include a court investigator, juvenile officer, probation officer, or other governmental official or agency appointed solely for the purpose of conducting an investigation for the court in an adoption proceeding unless such governmental official or agency has the authority to place children in private homes for adoption.

(2) *Private child-placement agency.* For the purposes of paragraph (b)(5)(iii) of this section, the term "private child-placement agency" means any individual, corporation, organization, or institution licensed or approved by a State or local governmental agency or component of either to place children in a private home for adoption. The term does not include any other individual, corporation, organization, or institution undertaking an investigation or appointed by a court in an adoption proceeding unless such individual or entity is authorized to place children in a private home for adoption.

(3) *Supervision by a child-placement agency.* For purposes of paragraph (b)(5)(iii) of this section, the term "supervision of a public or private child-placement agency" means that such agency as defined in subparagraphs (1) and (2) of this paragraph, prior to the final decree of adoption, was significantly involved in the adoption by making an investigation to determine the suitability of the adopting parent and the eligibility of the child for adoption, or by issuing a report of such suitability and eligibility, or by making recommendations based on such suitability and eligibility, to the court having jurisdiction of the adoption proceedings. This requirement is not met if such investigation, report, or recommendation by such an agency was not made, whether because it was waived, or because it is not required under applicable State law, or for other reason.

4. Section 404.324 is revised to read as follows:

§ 404.324 Child's insurance benefits; determining dependency upon insured individual; in general.

The test used in determining whether a child is dependent at one of the applicable times indicated in § 404.323, depends on the relationship between the child and the insured individual, i.e., whether the insured individual (or the insured individual's spouse in the case of a grandchild or stepgrandchild) is the child's father or mother, adopting father or adopting mother, stepfather or stepmother, or grandparent or stepgrandparent. The tests are described in § 404.325–404.327a.

5. Following § 404.327, a new § 404.327a is added to read as follows:

§ 404.327a Child's insurance benefits; dependency upon grandparent or stepgrandparent or spouse of grandparent or stepgrandparent.

(a) *Support period defined.* A child who is the grandchild or stepgrandchild of an individual or the grandchild or stepgrandchild of an individual's spouse (as defined in § 404.1109(c)) shall be deemed not to be dependent on such individual at the time determined under the provisions of § 404.323(a) unless:

(1) Such child was living with such individual in the United States and receiving at least one-half of his support from such individual for the year immediately preceding the month in which such individual became entitled to old-age insurance benefits or disability insurance benefits or died, or if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits or disability insurance benefits or died, for the year immediately before the month in which such period of disability began, and

(2) The period during which such child was living with such individual began before the child attained age 18.

(b) *Exception to support period.* In the case of a child who was born in the 1 year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements prescribed in paragraph (a) of this section for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for "substantially all" (as defined in § 404.323(a)(5)) of the period which begins on the date of such child's birth.

6. Section 404.467 is revised to read as follows:

§ 404.467 Nonpayment of benefits; individual entitled to disability insurance benefits or childhood disability benefits based on statutory blindness is engaging in substantial gainful activity.

(a) *Disability insurance benefits.* An individual who has attained age 55 and who meets the definition of disability for disability insurance benefits purposes based on "statutory blindness," as defined in § 404.1501, may be entitled to disability insurance benefits for months in which he is engaged in certain types of substantial gainful activity. No payment, however, may be made to the individual or to beneficiaries entitled to benefits on his earnings record for any month in which such individual engages in any type of substantial gainful activity.

(b) *Childhood disability benefits.* An individual who has attained age 55 and who meets the definition of disability prescribed in § 404.1501(a)(1)(ii) for childhood disability benefits on the basis of statutory blindness may be entitled to childhood disability benefits for months in which he engages in certain types of substantial gainful activity. However, no payment may be made to such individual for any month after December 1972 in which such individual engages in substantial gainful activity.

7. Section 404.705 is revised to read as follows:

§ 404.705 Presumption of death.

(a) *General.* Whenever it is necessary to determine the death of an individual in order to determine the right of another to a monthly benefit or a lump-sum death payment under section 202 of the Social Security Act, and such individual has been unexplainedly absent from his residence and unheard of for a period of 7 years, the Administration, upon satisfactory establishment of such facts and in the absence of any evidence to the contrary, will presume that such individual has died.

(b) *Grandchild claims.* For purposes of § 404.1109(c)(1)(ii), the evidence required by § 404.704 or paragraph (a) of this section will be sufficient to determine that the grandchild's (or stepgrandchild's) parent is deceased provided the identity of the parent can be established. The identity of the parent will be established, absent information to the contrary, based on a statement of parentage by the grandchild's known parent, or by the applicant if the known parent is deceased, incompetent, or unavailable. However, where there is a question concerning the identity of the parent, additional evidence of parentage is required. If the identity of the grandchild's parent is unknown, the Social Security Administration will presume that such individual was deceased at the appropriate time as prescribed by § 404.1109(c)(1)(ii)(A) or (B).

8. In § 404.1109 paragraph (c) is revised and a new paragraph (d) is added to read as follows:

§ 404.1109 Definition of child.

The term "child" means a claimant who:

* * * * *

(c) Is the grandchild or stepgrandchild of the individual upon whose wages and self-employment income his application is based or the grandchild or stepgrandchild of that individual's spouse. For purposes of this paragraph a child is the grandchild or stepgrandchild of such individual or his spouse if:

(1) (i) The child is related to an individual as the individual's biological child, legally adopted child or stepchild by reason of a valid marriage between the child's biological or legally adopting parent and the individual, and this individual in turn, is a child (as defined in paragraphs (a), (b), or (d) of this section) of the individual upon whose wages and self-employment income the grandchild's application is based or who is a child (as defined in paragraphs (a), (b), or (d) of this section) of such individual's spouse (providing the spouse is assumed to be the insured individual); and

(ii) The child's natural mother and father or, if the child has been adopted, the child's adoptive mother and father are either deceased (see § 404.705(b) when the identity or whereabouts of one or both parents is in question) or disabled (as defined in § 404.1501):

(A) In the month in which the individual upon whose wages and self-employment income the grandchild's application is based became entitled to old-age insurance benefits or disability insurance benefits, or died; or

(B) In the month in which such individual's period of disability began, if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits or disability insurance benefits or died; or

(2) The grandchild or stepgrandchild of the individual or his spouse meets the requirement of paragraph (c)(1)(i) of this section and the child was legally adopted by the surviving spouse of the individual upon whose wages and self-employment income the grandchild's application is based in an adoption decreed by a court of competent jurisdiction within the United States and the child's natural or adopting parent or stepparent was not living in the household of such individual and making regular contributions to the child's support at the time such individual died; or

(d) Is neither the stepchild, legally adopted child, grandchild, or stepgrandchild of the individual upon whose wages and self-employment income his application is based or the grandchild or stepgrandchild of such individual's spouse but has the status of a child of such individual under applicable State law as described in § 404.1101 (a) and (b)(1), or is deemed to have the status of a child of such individual pursuant to § 404.1101 (c) or (d).

9. In § 404.1113, paragraph (a) is revised and a new paragraph (c) is added to read as follows:

§ 404.1113 "Living with" and "living in such individual's household."

(a) *Defined.* "Living with" as used in sections 202(d)(3), 202(d)(4), 202(d)(8), 202(d)(9), and 216(h)(3) of the Act as amended and "living in such individual's household" as used in section 216(e) of the Act mean the parent and child are sharing the same residence and

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that the parent is exercising or has the right to exercise parental control and authority over the child. As used in this section, the term "parent" includes a natural parent, legally adopting parent, stepparent, the foster parent as to whom the child-claimant has the status of "child" under a theory of "equitable adoption," and the grandparent or stepgrandparent.

• • • • •

(c) *Time when "living with" and "living in such individual's household" had to exist.* For purposes of sections 202(d)(3) and 202(d)(4) of the Act the determination as to whether the child was "living with" his parent shall be based on the facts and circumstances at the times prescribed in § 404.323(a). For purposes of section 216(h)(3) of the Act, the determination shall be based on the facts and circumstances at the times prescribed in § 404.1101(d). For purposes of section 216(e) of the Act the determination as to whether the child was "living in such individual's household" shall be based on the facts and circumstances at the time such individual died. For purposes of sections 202(d)(8) and 202(d)(9) of the Act, the determination as to whether the child was "living with" his parent (including his grandparent or stepgrandparent) shall be based on the facts and circumstances for the year immediately preceding the month prescribed in §§ 404.323(a)(4)(ii)(C) and 404.327a respectively, but only if "living with" began before the child attained age 18. If section 202(d)(8) or 202(d)(9) of the Act applies, the child must have been "living with" his parent in each month of the year except if the child were born during the applicable year, in which case the child must have been "living with" his parent for substantially all of the year prescribed in §§ 404.323(a)(4)(ii)(C) and 404.327a respectively.

10. In § 404.1114, paragraphs (a) and (c) are revised to read as follows:

§ 404.1114 Waiver of 9-month requirement for widow, stepchild, or widower.

(a) *General.* Except as provided in paragraph (c) of this section, the requirement in § 404.1104(e) or § 404.1107(e) that the surviving spouse of an individual have been married to such individual for a period of not less than 9 months immediately prior to the day on which such individual died in order to qualify as such individual's widow or widower, and the requirement in § 404.1109(b) that the stepchild of a deceased individual have been such stepchild for not less than 9 months immediately preceding the day on which such individual died in order to qualify as such individual's child, shall be deemed to be satisfied, where such individual dies within the applicable 9-month period if:

(1) His or her death is accidental (as defined in paragraph (b) of this section), or

(2) His or her death occurs in line of duty while he or she is a member of a uniformed service serving on active duty (as defined in § 404.1013(f)(2) and (3)), or

(3) The surviving spouse had been previously married to the individual for at least 9 months or the surviving stepchild had been the stepchild of such individual for at least 9 months during a previous marriage of such stepchild's parent to the individual; and (i) the previous marriage between the individual and the surviving spouse (or the stepchild's parent) ended in divorce, and (ii) the surviving spouse (or the stepchild's parent) had been remarried to the individual at the time of his death.

• • • • •

(c) *Applicability.* (1) The provisions of this section apply with respect to monthly benefits under title II of the Act for months after December 1972, except that such provisions shall not apply if the Social Security Administration determines that at the time of the marriage involved, the individual involved could not have reasonably been expected to live for 9 months.

(2) The provisions of paragraph (a)(1) and (2) of this section shall also apply for months after January 1968 and before January 1973 if, in the case of the surviving spouse, he or she was married to the individual for a period of not less than 3 months prior to the day on which such individual died or, in the case of the stepchild, he or she had been such stepchild for not less than 3 months immediately preceding the day on which the individual died. In either case, the provisions shall not apply if the Secretary determines that at the time of the marriage involved, the individual could not have reasonably been expected to live for 9 months.

(Secs. 205, 209, 210, 229, and 1102 of the Social Security Act, as amended, 53 Stat. 1368, as amended, 49 Stat. 625, as amended, 64 Stat. 502, as amended, 81 Stat. 838, as amended, 49 Stat. 647, as amended; (42 U.S.C. 405, 409, 410, 429, and 1302)

(Catalog of Federal Domestic Assistance Program No. 13.803, Social Security—Retirement Insurance)

Dated: December 5, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: December 12, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

[FR Doc.74-29431 Filed 12-17-74;8:45 am]

[Reg. No. 4]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Waiver of Overpayments and Student Reentitlement Situations

On August 5, 1974, there were published in the FEDERAL REGISTER (39 FR 28163), a Notice of Proposed Rule Making and a proposed amendment to Subpart F of Regulations No. 4 of the Social Security Administration providing in substance that where an individual incurs an overpayment because one or more beneficiaries on the same social security record were properly terminated and subsequently reentitled pursuant to a new provision of law (as where students were reentitled by the enactment of section 109(a) of Public Law 92-603 on October 30, 1972), such individual would be considered to be "without fault" for purposes of waiver.

Interested parties were given 30 days within which to submit their data, views, and comments. No comments were received. Accordingly, the amendment is adopted without change, and is set forth below.

Subpart F, Regulations No. 4, of the Social Security Administration, as amended (20 CFR Part 404), is further amended as set forth below.

Section 404.510a is amended to read as follows:

§ 404.510a When an individual is "without fault" in an entitlement overpayment.

A benefit payment under title II or title XVIII of the Act to or on behalf of an individual who fails to meet one or more requirements for entitlement to such payment or a benefit payment exceeding the amount to which he is entitled, constitutes an entitlement overpayment. Where an individual or other person on behalf of an individual accepts such overpayment because of reliance on erroneous information from an official source within the Social Security Administration (or other governmental agency which the individual had reasonable cause to believe was connected with the administration of benefits under title II or title XVIII of the Act) with respect to the interpretation of a pertinent provision of the Social Security Act or regulations pertaining thereto, or where an individual or other person on behalf of an individual is overpaid as a result of the adjustment upward (under the family maximum provision in section 203 of the Act) of the benefits of such individual at the time of the proper termination of one or more beneficiaries on the same social security record and the subsequent reduction of the benefits of such individual caused by the reentitlement of the terminated beneficiary(ies) pursuant to a change in a provision of the law, such individual, in accepting such overpayment, will be deemed to be "without fault." For purposes of this section "governmental agency" includes intermediaries and carriers under contract pursuant to sections 1816 and 1842 of the Act.

[FR Doc.74-29430 Filed 12-17-74;8:45 am]

[Reg. 4, further amended]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Nonpayments; Increases and Amount of Disability Insurance Benefit Reduction

On June 27, 1973, there was published in the FEDERAL REGISTER (38 FR 16911) a

Notice of Proposed Rule Making with a proposed amendment to Subpart E of Regulations No. 4 to reflect a change in the law with respect to a reduction in the amount of a disability insurance benefit.

The Social Security Act provides that under certain conditions a disability insurance benefit to which an individual is entitled is reduced if he is also entitled to a workmen's compensation benefit for the same month. The amount of the reduction is the amount by which the total of the beneficiary's social security benefits exceeds the higher of (1) 80 percent of his average current earnings, or (2) the total of all social security benefits payable on his earnings record. The proposed amendment to the regulations reflects a change in the formula for figuring a beneficiary's average current earnings, provided by section 119 of the Social Security Amendments of 1972 (P.L. 92-603). Prior to the 1972 amendments to the Social Security Act the individual's average current earnings meant (1) the higher of the average monthly wage upon which his disability insurance benefit was based, or (2) his average monthly earnings for the 5 consecutive calendar years after 1950 for which his earnings were highest. The 1972 amendments provide a third alternative. For benefits for months after December 1972 "average current earnings" means the highest of three alternative amounts—the two applicable to benefits for months prior to January 1973 and, in addition, the average monthly earnings determined on the basis of one-twelfth of the individual's earnings for the calendar year of highest earnings during a period consisting of the year his disability began and the preceding 5 years.

Interested persons were given the opportunity to submit, within 30 days, data, views, or arguments with regard to the proposed amendment. The 30-day period has passed and no comments were received. Accordingly, the amendment as proposed is hereby adopted.

(Secs. 205, 224, and 1102, 53 Stat. 1368, as amended, 79 Stat. 406, as amended, 49 Stat. 647, as amended (42 U.S.C. 405, 424, and 1302))

Effective date. This amendment shall be effective December 18, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.802, Social Security—Disability Insurance)

Dated: December 5, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: December 12, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below.

Section 404.408 is amended by revising paragraph (c)(3) through subdivision (ii)(a) to read as follows:

§ 404.408 Reduction of benefits based on disability on account of receipt of workmen's compensation.

* * * * *

(c) *Amount of reduction.* * * *

(3) *Average current earnings defined*—(i) *In general*—(a) *For benefits for months prior to January 1973.* An individual's "average current earnings" for purposes of this section means the larger of:

(*1*) The average monthly wage used for purposes of computing the individual's disability insurance benefit under section 223 of the Act, or

(2) One-sixtieth of the total of such individual's wages and earnings from self-employment without the limitations under section 209(a) and 211(b)(1) of the Act for the 5 consecutive calendar years after 1950 for which such wages and earnings from self-employment were highest. The extent by which such individual's wages and earnings from self-employment exceed the limitations under sections 209(a) and 211(b)(1) of the Act for any calendar year after 1950 is computed in accordance with the provisions of subdivision (ii) of this subparagraph. Any amount so computed which is not a multiple of $1 is reduced to the next lower multiple of $1.

(*b*) *For benefits for months after December 1972.* An individual's "average current earnings" for purposes of this section means the largest of:

(*1*) The amount arrived at under paragraph (c)(3)(i)(*a*)(*1*) of this section, or

(2) The amount arrived at under paragraph (c)(3)(i)(*a*)(*2*) of this section, or

(3) One-twelfth of the total of such individual's wages and earnings from self-employment, without the limitations under sections 209(a) and 211(b)(1) of the Act, for the calendar year in which he had the highest such wages and earnings from self-employment during the period consisting of the calendar year in which he became disabled and the 5 years immediately preceding that year. The extent by which such individual's wages and earnings from self-employment exceed the limitations under sections 209(a) and 211(b)(1) of the Act is computed in accordance with the provisions of subdivision (ii) of this subparagraph. Any amount so computed which is not a multiple of $1 is reduced to the next lower multiple of $1.

(ii) *Method of determining calendar year earnings in excess of the limitations under sections 209(a) and 211(b)(1) of the Act*—(*a*) *In general.* For the purposes of paragraph (c)(3)(i)(*a*)(2) and (i)(*b*)(2) and (3) of this section the extent by which the wages or earnings from self-employment of an individual exceed the maximum amount of earnings credible under sections 209(a) and 211(b)(1) of the Act in any calendar year after 1950 will ordinarily be estimated on the basis of the earnings information available in the records of the Administration. (See Subpart I of this Part.) If an individual adduces satisfactory evidence of his actual earnings in any year, the extent, if any, by which his earnings exceed the limitations under sections 209(a) and 211(b)(1) of the Act shall be determined by the use of such evidence instead of by the use of estimates.

* * * * *

[FR Doc.74-29429 Filed 12-17-74;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

Delegations of Authority Relating to Certification of Insulin and Antibiotics; Correction

In FR Doc. 74-27980 appearing at page 41706 in the issue of Monday, December 2, 1974, the following correction is made on page 41707: In § 2.121(f), the phrase "pursuant to section 507(a)" is changed to read "pursuant to sections 507(a) and 512(n)."

Dated: December 10, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-29401 Filed 12-7-74;8:45 am]

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart H—Delegations of Authority

REVISION OF DELEGATIONS OF AUTHORITY RELATING TO APPROVAL OF NEW-DRUG APPLICATIONS FOR DRUGS FOR HUMAN USE

The Commissioner of Food and Drugs is amending "Part 2—Administrative Functions, Practices, and Procedures" (21 CFR Part 2) to provide for revised delegations relating to authority to approve new-drug applications and new-drug application supplements for drugs for human use. The reorganization of the Bureau of Drugs, notice of which was published in the FEDERAL REGISTER of September 24, 1974 (39 FR 34316), abolished the Office of Scientific Evaluation making the revision of the delegation of authority necessary.

Further redelegation of the authority redelegated hereby is not authorized. Authority redelegated hereby to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting" or unless not legally permissible.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 2

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is amended in § 2.121 by revising paragraph (k) to read as follows:

§ 2.121 Redelegations of authority from the Commissioner to other officers of the Administration.

* * * * *

(k) *Delegations regarding approval of new-drug applications and new-drug application supplements for drugs for human use.* (1) The Director, Deputy Director, and Associate Director for New Drug Evaluation of the Bureau of Drugs are authorized to perform all the functions of the Commissioner of Food and Drugs with regard to the approval of new-drug applications and new-drug application supplements which are for drugs for human use and have been submitted pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act.

(2 The Directors of the Divisions of: Anti-Infective Drug Products; Cardio-Renal Drug Products; Surgical-Dental Drug Products; Metabolism and Endocrine Drug Products; Neuropharmacological Drug Products; Oncology and Radiopharmaceutical Drug Products; and Drug Advertising of the Bureau of Drugs are authorized to perform all the functions of the Commissioner with regard to the approval of new-drug application supplements which are for drugs for human use and have been submitted pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act.

* * * * *

Effective date. This order shall be effective on December 18, 1974.

(Sec. 701(a), 52 Stat. 1055; (21 U.S.C. 371(a))

Dated: December 10, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-29402 Filed 12-17-74;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

SUBCHAPTER C—DRUGS

MONENSIN

The Commissioner of Food and Drugs has evaluated supplemental new animal drug applications (38-878V, 41-500V), filed by Elanco Products Co., a Division of Eli Lilly & Co., Indianapolis, IN 46206, proposing certain technical changes in the drug's generic name, specifications, and concentration in complete feed. After due and careful consideration, the supplemental applications are approved. Accordingly, the regulations are being amended to delete certain references to the term "monensin sodium" and refer to the drug as "monensin," to delete or combine similar items, to delete reference to "monensic acid activity," and to incorporate certain technical changes.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b (i)) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 121—FOOD ADDITIVES

§ 121.262 [Amended]

1. In § 121.262 *3-Nitor-4-hydroxyphenylarsonic acid*, paragraph (c), table 1, by deleting item 1.14, by deleting from items 1.18 and 1.23 the word "sodium" in the third column headed "Combined with," the phrase "(as monensic acid activity)" in the fourth column headed "Grams per ton," and by inserting after the text in the fifth column headed "Limitations" the phrase "as monensin or monensin sodium" for item 1.18 and "as monensin sodium" for item 1.23.

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. In § 135e.50 by revising the specifications; revising, combining, and renumbering the approvals; and by revising, combining, and renumbering the conditions of use. As revised § 135e.50 reads as follows:

§ 135e.50 Monensin.

(a) *Specifications.* Monensin is the substance produced by the fermentation of *Streptomyces cinnamonensis* or the same substance produced by any other means. It is present as monensin or the sodium salt. A minimum of 90 percent of monensin activity is derived from monensin A.

(b) *Approvals.* Approvals for premixes containing the specified levels of monensin activity granted to firms identified by sponsor code numbers in § 135.501(c) of this chapter for the conditions of use indicated in paragraph (f) of this section are as follows:

(1) To 014: 44 or 45 grams per lb., item 1.

(2) To 014: 110 grams per lb., items 1, 3, 4, 5, 6, and 7.

(3) To 014: 44 grams per lb. with 18 grams per lb. of 3-nitro-4-hydroxyphenylarsonic acid, 110 grams per lb. with 45 grams per lb. of 3-nitro-4-hydroxyphenylarsonic acid, item 2.

(4) To 606: 303.5 grams per ton, as monensin sodium, with .0138 percent 3-nitro-4-hydroxyphenylarsonic acid, item 2.

(5) To 110: 14.67 grams per lb., as monensin sodium, item 1.

(6) To 110: 11.736 grams per lb., as monensin sodium, with 1.062 percent 3-nitro-4-hydroxyphenylarsonic acid, 22 grams per lb., as monensin sodium, with 1.98 percent 3-nitro-4-hydroxyphenylarsonic acid, item 2.

(c) *Assay limits.* Finished feed not less than 75 percent nor more than 125 percent of labeled amount of monensin activity.

(d) *Special considerations.* Finished feed containing monensin shall bear an expiration date of 30 days after its date of manufacture.

(e) *Related tolerances.* See § 135g.68 of this chapter.

(f) *Conditions of use.* It is used as follows:

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1. Monensin	90-110			For broiler chickens; do not feed to laying chickens; feed continuously as the sole ration; withdraw 72 hr before slaughter; as monensin or monensin sodium.	As an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mitis*, and *E. maxima*.
2. Monensin	90-110	3-Nitro-4-hydroxy-phenyl-arsonic acid	45.4	For broiler chickens; do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 d before slaughter; as sole source of organic arsenic; as monensin or monensin sodium.	Growth promotion and feed efficiency, improving pigmentation; as an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mitis*, and *E. maxima*.
3. Monensin	90-110	Lincomycin	2	For floor raised broiler chickens; do not feed to laying chickens; to be fed as a sole ration; withdraw 72 hr before slaughter; as monensin sodium.	For increase in rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mitis*, and *E. maxima*.
4. Monensin	90-110	Lincomycin and 3-nitro-4-hydroxy-phenyl-arsonic acid	2 15-45	For floor-raised broiler chickens; do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 d before slaughter; as sole source of organic arsenic; as 3-nitro-4-hydroxyphenyl-arsonic acid provided by code No. 051, § 135.501(c) of this chapter; as monensin sodium provided by code No. 014, § 135.501(c) of this chapter; as lincomycin provided by code No. 057, § 135.501(c) of this chapter; as a combination provided by code No. 057, § 135.501(c) of this chapter.	For increased rate of weight gain; as an aid the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mitis*, and *E. maxima*.
5. Monensin	90-110	Bacitracin methylene disalicylate	5-20	For broiler chickens; do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hr before slaughter; as bacitracin methylene disalicylate provided by code No. 028 in § 135.501(c) of this chapter; as monensin sodium.	For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mitis*, and *E. maxima*.

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
6. Monensin	110	....do	10	For broiler chickens; do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hr before slaughter; as zinc bacitracin provided by code No. 009 in § 135.501(c) of this chapter; as monensin sodium.	For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mitati*, and *E. maxima*.
7. Monensin	110	....do	10-20	....do	For improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mitati*, and *E. maxima*.

[1] 0.005 percent.

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

§ 135g.68 [Amended]

3. In § 135g.68 *Monensin* by deleting the phrase "calculated as monensic acid."

Effective date. This order shall be effective December 18, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i).)

Dated: December 9, 1974.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.74-29179 Filed 12-17-74;8:45 am]

[FRL 308-4]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

BENOMYL

A petition (FAP 5H5062) was filed (39 FR 34706) by E. I. du Pont de Nemours & Co., Wilmington DE 19898, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348), proposing establishment of a food additive tolerance for combined residues of the fungicide benomyl (methyl 1-(butylcarbamoyl) -2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in concentrated tomato products at 50 parts per million, resulting from application of the fungicide to the growing raw agricultural commodity tomatoes. (For a related document, see this issue of the FEDERAL REGISTER, page 43723.)

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 FR 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under section 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348).

Having evaluated the data submitted in the petition and other relevant material, it is concluded that the tolerance should be established.

Therefore, pursuant to provisions of the Federal Food, Drug and Cosmetic Act (sec. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805), § 121.1254 is revised to read as follows:

§ 121.1254 Benomyl.

Tolerances of 50 parts per million are established for combined residues of the fungicide benomyl (methyl 1-(butylcarbamoyl) - 2 - benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in raisins and concentrated tomato products when present therein as a result of application of the fungicide to growing grapes and tomatoes.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets SW., Waterside Mall, Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective December 18, 1974.

(Sec. 409(c)(1), (4), 72 Stat. 1786; 21 U.S.C. 348(c)(1), (4))

Dated: December 11, 1974.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-29302 Filed 12-17-74;8:45 am]

PART 135—NEW ANIMAL DRUGS

Tylosin

Correction

In FR Doc. 74-28140 appearing on page 41840 in the issue of Tuesday, December 3, 1974 the amendment to § 135.501 should read as set forth below:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

* * * * * * *

(c) * * *

Code No.	*Firm name and address*
* * * * *	
151	Simonsen Mill-Rendering Plant, Inc. Quimby, IA 51049
* * * * *	

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Amprolium

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (33-165V) filed by Merck & Co., Inc., Rahway, NJ 07065, proposing safe and effective use of 20 percent amprolium soluble powder in addition to use of 9.6 percent solution, in drinking water and as a drench, to aid in the treatment and/or prevention of coccidiosis in calves. The supplemental application is approved.

Section 135c.3(d) is amended to denote the use of 20 percent amprolium soluble powder for poultry, to include its use for calves and for preparation of the finished product as administered to calves, and to denote the medication used to prepare drinking water for poultry.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), and under authority delegated to the Commissioner (21 CFR 2.120), § 135c.3(d) is amended by revising tables 1 and 2 to read as follows:

§ 135c.3 Amprolium.

* * * * * * *

(d) * * *

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TABLE 1.—*In drinking water*

Amount	Limitations	Indications for use
1. Amprolium.. 20% soluble powder.	For chickens and turkeys; administer at the 0.012% level in drinking water as soon as coccidiosis is diagnosed and continue for from 3 to 5 days (in severe outbreaks, give amprolium at the 0.024% level); continue with 0.006% amprolium-medicated water for an additional 1 to 2 weeks; no other source of drinking water should be available to the birds during this time; no auto source of amprolium.	Treatment of coccidiosis.
2. Amprolium.. 9.6% solution or 20% soluble powder.	For calves; add 16 fluid ounces of the 9.6% solution to each 100 gallons of drinking water; or 4 oz of the soluble powder to each 50 gal. of drinking water; at the usual rate of water consumption, this will provide an intake of approximately 10 milligrams per kilogram (2.2 lb) of body weight; offer this solution as the only source of water for 5 days; for a satisfactory diagnosis, a microscopic examination of the feces should be done by a veterinarian or diagnostic laboratory before treatment; when treating outbreaks, the drug should be administered promptly after diagnosis is determined; withdraw 24 hours before slaughter.	As an aid in the treatment of coccidiosis caused by *Eimeria bovis* and *E. zuernii*.
3. Amprolium.....do.....	For calves; add 8 fluid ounces of the 9.6% solution or 4 oz of the 20% soluble powder to each 100 gallons of drinking water; at the usual rate of water consumption, this will provide an intake of approximately 5 milligrams per kilogram (2.2 lb) of body weight; offer this solution as the only source of water for 21 days during periods of exposure or when experience indicates that coccidiosis is likely to be a hazard; withdraw 24 hours before slaughter.	As an aid in the prevention of coccidiosis caused by *Eimeria bovis* and *E. zuernii*.

TABLE 2.—*As a drench*

Amount	Limitations	Indications for use
1. Amprolium.. 9.6% solution or 20% soluble powder.	For calves; add 3 fluid ounces of the 9.6% solution to 1 pint of water or 3 oz of the 20% soluble powder to each qt of water and with a dose syringe administer 1 fluid ounce of this solution for each 100 pounds of body weight; this will provide a dose of approximately 10 milligrams per kilogram (2.2 lb) of body weight; administer daily for 5 days; for a satisfactory diagnosis, a microscopic examination of the feces should be done by a veterinarian or diagnostic laboratory before treatment; when treating outbreaks, the drug should be administered promptly after diagnosis is determined; withdraw 24 hours before slaughter.	As an aid in the treatment of coccidiosis caused by *Eimeria bovis* and *E. zuernii*.
2. Amprolium.....do.....	For calves; add 1¼ fluid ounces of the 9.6% solution to 1 pint of water or 1¼ oz of the 20% soluble powder to each qt of water and with a dose syringe administer 1 fluid ounce of this solution for each 100 pounds of body weight; this will provide a dose of approximately 5 milligrams per kilogram (2.2 lb) of body weight; administer daily for 21 days during periods of exposure or when experience indicates that coccidiosis is likely to be a hazard; withdraw 24 hours before slaughter.	As an aid in the prevention of coccidiosis caused by *Eimeria bovis* and *E. zuernii*.

Effective date. This order shall be effective December 18, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i).)

Dated: December 11, 1974.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.74-30259 Filed 12-17-74;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities; Correction

On December 7, 1971, in 36 FR 23215, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included New Castle County, Delaware, as an eligible community and included map No. H 10 003 0000 07 which indicates that Section Four of Fairfield Subdivision in the City of Newark, Delaware, approved January 13, 1969, and recorded in the Recorder of Deeds Office in New Castle County, Delaware, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after a further technical review of the above map in the light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective June 6, 1970 map No. H 10 003 0000 07 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (secs. 408–410, Public Law 91–152, December 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: November 20, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-30410 Filed 12-17-74;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities; Correction

On February 20, 1973, in 38 FR 4668, the Federal Insurance Administrator published a list of communities eligible for flood insurance and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the Village of Palatine, Illinois, as an eligible community and included map No. H 17 031 6650 02 which indicates that lot No. 217 of Willow Wood Subdivision, a part of section No. 14, Township 42 North, Range 10 East of the Third Principal Meridian in Cook County, Illinois (present address: 710 North Stark Drive, Palatine, Illinois) according to the plate thereof registered in the Office of the Registrar of Titles of Cook County, Illinois, on July 30, 1962, as Document Number 2046942, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after a further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective February 16, 1973, map No. H 17 031 6650 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (secs. 408–410, Public Law 91–152, December 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: November 22, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-30411 Filed 12-17-74;8:45 am]

Title 32—National Defense

CHAPTER XVI—SELECTIVE SERVICE SYSTEM

PART 1690—DETERMINATION OF AVAILABILITY OF MEMBERS OF THE STANDBY RESERVE OF THE ARMED FORCES FOR ORDER TO ACTIVE DUTY

Miscellaneous Amendments

Pursuant to section 672(a) of Title 10 U.S.C. and to implement that section, the Director of Selective Service has determined to amend Part 1690 of Selective Service regulations.

The amendment of § 1690.2 eliminates instructions to reservists that may appropriately be issued by the Armed Forces.

The revision of § 1690.4 eliminates reference to an obsolete form and administrative detail.

The revocation of §§ 1690.5, 1690.6, 1690.7, 1690.17, and 1690.20 eliminates administrative details.

The amendment of § 1690.12 eliminates the authority to determine by a telephone poll of local board members a reservist's availability and instructions to reservists that may appropriately be issued by the Armed Forces.

The revision of § 1690.12 clarifies the definition of Category IV–R reservists.

The amendment of § 1690.13 modifies the conditions under which a local board may reconsider and redetermine its determination of a reservist's availability.

The revision of § 1690.15 modifies the conditions under which a local board may reconsider and redetermine a determination by the Director of Selective Service of a reservists availability.

Section 1690.16 is amended to eliminate administrative detail.

These amendments are effective December 18, 1974.

The amendments follow:

§ 1690.2 [Amended]

1. Paragraphs (b), (c) and (d) of § 1690.2 *Local Board which has jurisdiction* are revoked.

2. Section 1690.4 is revised as follows:

§ 1690.4 Minutes of meetings of local board.

Each local board shall keep a record of each meeting of the board held for the purpose of determining the availability of a reservist for order to active duty. This record shall be filed by the local board as minutes of its meetings.

§ 1690.5 [Revoked]

3. Section 1690.5 *Standby reserve folder (SSS Form 90)* is revoked.

§ 1690.6 [Revoked]

4. Section 1690.6 *Standby reserve questionnaire (SSS Form 89)* is revoked.

§ 1690.7 [Revoked]

5. Section 1690.7 *Assignment of standby reserve number* is revoked.

6. Section 1690.8 is revised as follows:

§ 1690.8 Duty of local board to determine reservist's availability promptly.

Notwithstanding any previous determinations of availability, local boards shall determine the reservist's availability promptly by holding a special local board meeting if necessary. In determining the availability of a reservist for order to active duty and his category consideration shall be given to (a) the information furnished to the local board by the reservist, (b) such other written information as may be contained in his file, and (c) current instructions issued by the Director of the Selective Service.

7. Section 1690.12 is revised to read as follows:

§ 1690.12 Category IV–R: Reservist found not available for order to active duty who is not eligible for another category.

In Category IV–R shall be placed any reservist who is found to be not immediately available for order to active duty under such criteria as the Director of Selective Service may determine and who is not eligible for either Category II–R or Category III–R.

8. Paragraph (b) of § 1690.13 is revised as follows:

§ 1690.13 Reconsideration and redetermination by local board of reservist's availability and category.

* * * * *

(b) The local board may reconsider and redetermine a reservist's category upon his written request when, subsequent to an initial determination, circumstances beyond his control have changed the basis upon which his availability for order to active duty had been determined provided (1) the request is received within 10 days after the notice of his category was mailed to the reservist, and (2) the request is accompanied by written information presenting facts not considered in the initial determination, which, if true, would justify a change in the reservist's category.

9. Section 1690.15 is revised as follows:

§ 1690.15 Determination of availability and category by Director of Selective Service.

Notwithstanding any other provision of this part, the Director of Selective Service may at any time determine whether any reservist is available or not available for order to active duty and place the reservist in any category he may deem appropriate. Such action under this section by the Director of Selective Service shall be final unless it was taken prior to a determination of a local board and the Director of Selective Service requests the local board to reconsider and redetermine the reservist's category.

10. Section 1690.16 is amended to read as follows:

§ 1690.16 Notification of availability.

As soon as practicable after the local board has determined or redetermined the reservist's availability and category, or after the local board receives notice of the determination of a reservist's case by the Director of Selective Service, the local board shall inform the reservist and the armed force of which a reservist is a member as to the determination of his availability.

§ 1690.17 [Revoked]

11. § 1690.17 *Notifying armed force of availability of* reservist is revoked.

§ 1690.20 [Revoked]

12. § 1690.20 *Identification of records of reservists* is revoked.

BYRON V. PEPITONE,
Director.

DECEMBER 12, 1974.

[FR Doc.74-29061 Filed 12-17-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 209-6]

PART 120—WATER QUALITY STANDARDS

Colorado River System; Salinity Control Policy and Standards Procedures

The purpose of this notice is to amend 40 CFR Part 120 to set forth a salinity control policy and procedures and requirements for establishing water quality standards for salinity and a plan of implementation for salinity control in the Colorado River System which lies within the States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming pursuant to section 303 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1313). A notice proposing such policy and standards procedures was issued on June 10, 1974 (39 FR 20703, 39 FR 24517).

High salinity (total dissolved solids) is recognized as a significant water quality problem causing adverse impacts on water uses. Salinity concentrations are affected by two basic processes: (a) Salt loading—the addition of mineral salts from various natural and man-made sources, and (b) salt concentrating—the loss of water from the system through stream depletion.

Studies to date have demonstrated that the high salinity of stream systems can be alleviated. Although further study may be required to determine the economic and technical feasibility of controlling specific sources, sufficient information is available to develop a salinity control program.

Salinity standards for the Colorado River System would be useful in the formulation of an effective salinity control program. In developing these standards, the seven States must cooperate with one another and the Federal Government to support and implement the conclusions and recommendations adopted April 27, 1972, by the reconvened 7th Session of the Conference in the Matter of Pollution of the Interstate Waters of the Colorado River and its Tributaries.

Public hearings on the proposed regulation were held in Las Vegas, Nevada, on August 19, 1974, and in Denver, Colorado, on August 21, 1974. Public comments were provided at the hearings and also by letter during the review period. A summary of major comments and Environmental Protection Agency response follows:

(1) The Colorado River Basin Salinity Control Forum stated that it did not object to the proposed regulation, and believed that it satisfied the requirements of section 303(b)(2) of P.L. 92–500 until October 18, 1975. The Forum reported that the seven Colorado River Basin States were actively working on the development of water quality standards and a plan of implementation for salinity control.

(2) The Colorado River Water Conservation District inquired as to whether

the definition of the Colorado River Basin contained in Article II(f) of the Colorado River Compact of 1922 would be followed in the development of salinity standards and the salinity control plan.

The requirement for establishing water quality standards and an implementation plan apply to the Colorado River System as defined in Part 120.5(a) of this regulation. This definition is consistent with the definition of the Colorado River System contained in Article II(a) of the Compact. The regulation states that the salinity problem shall be treated as a basinwide problem. Articles II(f) and II(g) define the Basin to include the System plus areas outside the drainage area which are served by the Colorado River System. The Environmental Protection Agency (EPA) will require that the standards and implementation plan consider the impacts of basinwide uses, e.g., transmountain diversions, on salinity effects in the System, but the establishment of standards and implementation plans pursuant to this regulation will not be required for streams located outside the System.

The District also questioned the feasibility of relying on irrigation improvement programs as a means of alleviating the salinity problem.

EPA believes that adequate information is available to initiate controls for irrigated agriculture, yet at the same time acknowledges that additional work is needed to demonstrate the efficacy of certain control measures. Projects presently being supported by EPA and others should demonstrate the adequacy of various control measures including management and non-structural techniques. These measures will be considered during the development of the implementation plan.

(3) The Environmental Defense Fund (EDF) testified that it believed that EPA was not complying with the requirements of the Federal Water Pollution Control Act, as amended, chiefly because of EPA's late response to the timetable delineated in the Act for establishing standards, and also because numerical standards still have not been set for the Colorado River System. EDF called upon EPA to withdraw the proposed regulation and promptly promulgate numerical limits for salinity.

EPA believes that a move to promulgate numerical standards at this time could cause even further delays in controlling salinity due to the problems involved with obtaining interstate cooperation and public acceptance of such a promulgation.

(4) The Sierra Club raised a number of objections to the proposed regulation, principally because, in its opinion, it permits further development of the waters of the Colorado River without requiring that adequate salinity controls be on line prior to development. Specific suggestions are:

(a) Section 120.5(c)(2). Shorten the deadline for submission of the standards and implementation plan to May 30, 1975.

EPA believes that this would not allow adequate time due to the complexities of the problem, the interstate coordination needed and the time requirements for public hearings. The October 18, 1975, date is consistent with the requirements of the Federal Water Pollution Control Act, as amended, for the three year review and revision of standards. The schedule set forth by the Colorado River Basin Salinity Control Forum calls for development of draft standards and an implementation plan by February 1975 in order to allow time for public participation prior to promulgation.

(b) Section 120.5(c)(2). Delete "as expeditiously as practicable."

The date of July 1, 1983, remains the goal for accomplishment of implementation plans as stated in § 120.5(c)(2)(iii). It is the purpose of this language to accelerate progress by the States toward this goal where possible.

(c) Section 120.5(c)(2)(ii). Delete "while the basin States continue to develop their compact apportioned waters."

In recognition of the provisions of the Colorado River Compact of 1922 and until such time that the relationship between the Compact and the Federal Water Pollution Control Act, as amended, is clarified, EPA believes that development may proceed provided that measures are taken to offset the salinity increases resulting from further development.

(d) Section 120.5(c)(2)(iv). Add language to describe conditions under which temporary increases above the 1972 levels will be allowed.

EPA believes that this matter should be addressed in further detail in the formulation, review and acceptance of the implementation plan, not in the regulation.

(e) Add a new subsection on financing of control measures.

EPA believes that this, too, is an issue that should be handled as part of the implementation plan.

(f) Add a new subsection delineating requirements for evaluating control plans and restricting consideration of controls for the Blue Spring on the Little Colorado River.

EPA believes these issues should also be addressed as part of the implementation plan. It should be noted that nothing in this regulation removes the requirement for assessing environmental impacts and preparing environmental impact statements for control measures.

(g) Add a new section requiring public hearings.

EPA's public participation regulations appear at 40 CFR 105 and apply to all actions to be taken by the States and Federal Government pursuant to the Act. States have provided for public participation throughout the initial water quality standards review process. We expect the States to do so in this situation and see no need to set forth additional requirements.

(h) Add a new section stating that the implementation plan will be published in the FEDERAL REGISTER.

EPA expects there will be substantial public participation at the State and local level prior to adoption of the plan. The salinity standards are expected to be published in the FEDERAL REGISTER, but the size and complexity of the plan may militate against its publication. At the very least, the plan will be available for review at appropriate EPA and State offices. Notice of its availability will be published in the FEDERAL REGISTER, and 60 days will be allowed for public review and comment.

(i) Add a new subsection stating that EPA will promulgate standards if the States fail to do so as prescribed in this regulation.

Section 303 of the Federal Water Pollution Control Act provides for promulgation by EPA where the States fail to adopt standards requested by the Administrator, or where the Administrator determines Federal promulgation is necessary to carry out the purposes of the Act. EPA's responsibility to promulgate standards if the States fail to do so is thus expressed in the statute itself; the Agency does not believe that recitation of the statutory duty in this particular rulemaking is necessary.

(5) The American Farm Bureau Federation, California Farm Bureau Federation, Nevada Farm Bureau Federation, and the New Mexico Farm and Livestock Bureau believe that standards should not be set until further evaluation of the problems and opportunities for control are completed.

EPA believes that adequate information is available for setting standards and formulating controls, and while it recognizes that additional work is needed on specific aspects of solutions, it believes that further delay without any action is not appropriate.

Records of the hearings and comments received by letter during the review period are available for public inspection at the regional offices of the Environmental Protection Agency at 1860 Lincoln Street in Denver, Colorado, at 100 California Street in San Francisco, California, at 1600 Patterson Street in Dallas, Texas, and at the Environmental Protection Agency Freedom of Information Center at 401 M Street SW in Washington, D.C.

This regulation sets forth a policy of maintaining salinity concentrations in the lower main stem of the Colorado River at or below 1972 average levels and requires the Colorado River System States to promulgate water quality standards and a plan for meeting the standards. The first step will be the establishment of procedures within 30 days of the effective date of these regulations which will lead to adoption on or before October 18, 1975, of water quality standards for salinity including numeric criteria and an implementation plan for salinity control.

Except as provided in this regulation, the interstate and intrastate standards previously adopted by the States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming and approved by the Environmental Protection

Agency are the effective water quality standards under section 303 of the Act for interstate and intrastate waters within those States. Where the regulations set forth below are inconsistent with the referenced state standards, these regulations will supersede such standards to the extent of the inconsistency.

In consideration of the foregoing, 40 CFR Part 120 is amended as follows:

1. Section 120.5 is added to read as set forth below:

§ 120.5 Colorado River System Salinity Standards and Implementation Plan.

(a) "Colorado River System" means that portion of the Colorado River and its tributaries within the United States of America.

(b) It shall be the policy that the flow weighted average annual salinity in the lower main stem of the Colorado River System be maintained at or below the average value found during 1972. To carry out this policy, water quality standards for salinity and a plan of implementation for salinity control shall be developed and implemented in accordance with the principles of paragraph (c) below.

(c) The States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming are required to adopt and submit for approval to the Environmental Protection Agency on or before October 18, 1975:

(1) Adopted water quality standards for salinity including numeric criteria consistent with the policy stated above for appropriate points in the Colorado River System; and,

(2) A plan to achieve compliance with these standards as expeditiously as practicable providing that:

(i) The plan shall identify State and Federal regulatory authorities and programs necessary to achieve compliance with the plan.

(ii) The salinity problem shall be treated as a basinwide problem that needs to be solved in order to maintain lower main stem salinity at or below 1972 levels while the basin States continue to develop their compact apportioned waters.

(iii) The goal of the plan shall be to achieve compliance with the adopted standards by July 1, 1983. The date of compliance with the adopted standards shall take into account the necessity for Federal salinity control actions set forth in the plan. Abatement measures within the control of the States shall be implemented as soon as practicable.

(iv) Salinity levels in the lower main stem may temporarily increase above the 1972 levels if control measures to offset the increases are included in the control plan. However, compliance with 1972 levels shall be a primary consideration.

(v) The feasibility of establishing an interstate institution for salinity management shall be evaluated.

(d) The States are required to submit to the respective Environmental Protection Agency Regional Administrator established procedures for achieving (c) (1) and (c) (2) above within 30 days of the effective date of these regulations and to submit progress reports quarterly thereafter. EPA will on a quarterly basis determine the progress being made in the development of salinity standards and the implementation plan.

§ 120.10 [Amended]

§ 120.10 is amended by adding to the paragraphs entitled "Arizona", "California", "Colorado", "Nevada", "New Mexico", "Utah", and "Wyoming" a salinity control policy and procedures and requirements for establishing water quality standards for salinity control in the Colorado River System.

(Sec. 303, Pub. L. 92-500, 86 Stat. 816 (33 U.S.C. 1313))

Effective date: December 18, 1974.

Dated: December 11, 1974.

JOHN QUARLES,
Acting Administrator.

[FR Doc.74-29384 Filed 12-17-74;8:45 am]

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 306-5]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Benomyl

A petition (PP 4F1452) was filed (39 FR 7484) by E. I. du Pont de Nemours & Co., Wilmington DE 19898, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance for combined residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) and its metabolites containing the benzimidasole moiety (calculated as benomyl) in or on the raw agricultural commodity tomatoes at 5 parts per million. (For a related document, see this issue of the FEDERAL REGISTER, page 43719.)

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

(1) The fungicide is useful for the purpose for which the tolerance is being established.

(2) The established tolerances for residues in milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep are adequate to cover residues resulting from the proposed and existing uses, and § 180.6(a)(2) applies.

(3) There is no reasonable expectation of residues in eggs and poultry resulting from the proposed use, and § 180.6(a)(3) applies.

(4) The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; (21 U.S.C. 346a(d)(2))), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18605), § 180.294 is amended by revising the paragraph "5 parts per million * * *" to read as follows:

§ 180.294 Benomyl; tolerances for residues.

* * * * *

5 parts per million in or on strawberries and tomatoes.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before January 17, 1975 file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets SW., Waterside Mall, Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on December 18, 1974.

(Sec. 408(d)(2), 68 Stat. 512; (21 U.S.C. 346a(d)(2)))

Dated: December 11, 1974.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-29387 Filed 12-17-74;8:45 am]

[FRL 306-6]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Carboxin

A petition (PP 4F1499) was filed (39 FR 20842) by Uniroyal Chemical, Bethany, CT 06525, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for combined negligible residues of the fungicide carboxin (5,6-dihydro-2-methly-1,4-oxathiin-3-carboxanilide) and its metabolite 5,6-dihydro-3-carboxanilide-2-methyl-1,4-oxathiin-4-oxide (calculated as carboxin) in or on the raw agricultural commodities peanuts and peanut hay at 0.2 part per million. Subsequently, the petitioner amended the petition by adding peanut hulls to the list of commodities.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The fungicide is useful for the purpose for which the tolerances are being established.

2. The established tolerances for residues in eggs, meat, milk, and poultry

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are adequate to cover residues resulting from the proposed use, and § 180.6(a)(2) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 402(d)(2), 68 Stat. 512; (21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805), § 180.301 is amended by revising the paragraph "0.2 part per million (negligible residue) * * *" to read as follows:

§ 180.301 Carboxin; tolerances for residues.

* * * * *

0.2 part per million (negligible residue) in or on cottonseed, peanuts, peanut hay, and peanut hulls.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before January 17, 1975, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularly the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on December 18, 1974.

(Sec. 408(d)(2), 68 Stat. 512; (21 U.S.C. 346a(d)(2))

Dated: December 11, 1974.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-29328 Filed 12-17-74;8:45 am]

[FRL 308-7]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Isobutyric Acid; Exemption From Tolerance

In response to a request by W. R. Grace & Co., Columbia, MD 21044, a notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of September 3, 1974 (39 FR 31919), proposing that residues of isobutyric acid resulting from the postharvest application of the fungicides ammonium isobutyrate and/or isobutyric acid as set forth in § 180.320 be exempted from the requirement of a tolerance and the restriction that limits application to grains and grasses intended for use as animal feed be deleted. No requests for referral to an advisory committee were received. One comment was received from Eastman Chemical Products, Inc., Kingsport, TN 37662, suggesting that the exemption be extended to allow for residues of isobutyric acid in or on alfalfa, Bermuda grass, brome grass, sorghum grain, and timothy from postharvest application of either ammonium isobutyrate or isobutyric acid.

Based on consideration given this comment and other information, it is concluded that the proposal should be adopted with an extension of the exemption to allow for residues of isobutyric acid in or on all the raw agricultural commodities set forth in § 180.320 resulting from postharvest application of either ammonium isobutyrate or isobutyric acid.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805), Part 180 is amended as follows:

§ 180.320 [Deleted]

1. Section 180.320 *Isobutyric acid; tolerances for residues* is deleted from Subpart C.

2. The following new section is established in Subpart D:

§ 180.1030 Isobutyric acid; exemption from the requirement of a tolerance.

The fungicide isobutyric acid is exempted from the requirement of a tolerance for residues resulting from postharvest application of isobutyric acid or the fungicide ammonium isobutyrate in or on the following raw agricultural commodities: alfalfa; Bermuda grass; brome grass; clover; corn; fescue; grass of barley, oats, sorghum, and wheat; lespedeza; orchard grass; and timothy.

Any person who will be adversely affected by the foregoing order may at any time on or before January 17, 1975 file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW, Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on December 18, 1974.

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e))

Dated: December 11, 1974.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-29330 Filed 12-17-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

PART 5A-76—EXHIBITS

Miscellaneous Exhibits

This change to the General Services Administration procurement regulations (GSPR) updates and amplifies procedures related to miscellaneous exhibits.

Section 5A-76.307 is revised to reflect current paying offices' addresses to be entered on purchase orders.

Section 5A-76.321 is amended to clarify the guide for determination of billed office and consignee codes from incoming requisition data.

NOTE.—Copies of the exhibits illustrated in Part 5A-76 are filed with the original document.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. These regulations are effective on the date shown below.

Dated: November 22, 1974.

M. J. TIERNAN,
Commissioner,
Federal Supply Service.

[FR Doc.74-29363 Filed 12-17-74;8:45 am]

Title 45—Public Welfare

CHAPTER XII—ACTION

PART 1218—VISTA VOLUNTEERS—HEARING OPPORTUNITY

Adoption of Proposed Regulations

On September 19, 1974, there was published in the Federal Register (39 FR 33711) a notice of a proposed amendment to Chapter XII, Title 45. The proposed regulations establish a procedure for VISTA volunteers to express views in connection with terms and conditions of their service.

Interested persons were given 30 days in which to submit comments.

One written comment has been received and given due consideration. As a result of such comment the following change will be made:

Section 1218.4(d) is amended to read *Response to volunteer's views by appropriate ACTION officials in a prescribed period of time.* This change will make it clear that each proposed plan must set a definite time in which ACTION officials will respond to volunteers' views.

Accordingly, with this change and additions, the proposed amendments are adopted as set forth below and become effective December 18, 1974.

Sec.
1218.1 Introduction.
1218.2 Applicability.
1218.3 Policy.
1218.4 Standards for Regional Plans.
1218.5 Procedures for Approval of Plan.
1218.6 Freedom to Present Views.

AUTHORITY: Sections 104(d), 402(14) and 420 of Pub. L. 93-113, 87 Stat. 398, 407 and 414.

§ 1218.1 Introduction.

Section 104(d) of the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, 87 Stat. 398 requires that the Director of ACTION establish a procedure, including notice and an opportunity to be heard, for VISTA volunteers to present views in connection with the terms and conditions of their service.

§ 1218.2 Applicability.

This part applies to all volunteers enrolled under Part A of Title I of the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, 87 Stat. 396.

§ 1218.3 Policy.

It is ACTION's policy to encourage the free exchange of views between volunteers and staff members with respect to the terms and conditions of the volunteers' service. Ordinarily these exchanges occur in the day-to-day contact between volunteers and staff. However, there are occasions when it is desirable to provide volunteers with an opportunity to present their views with respect to the terms and conditions of their service in a more formal way. The differences between ACTION regions require that the means selected in each region to accomplish this result be appropriate to its particular needs. This regulation provides standards within which regions must establish a procedure to enable volunteers to present their views to be heard with respect to the terms and conditions of their service on a regular basis by appropriate ACTION officials and receive a timely response to their concerns.

§ 1218.4 Standards for regional plan.

Each ACTION Domestic Regional Director shall recommend, after consultation with representative volunteers, sponsors, and other interested persons, the specific procedures to be established for VISTA volunteers to present their views concerning the terms and conditions of their service. Each proposed plan must incorporate the following features:

(a) A free and open opportunity for volunteers to communicate their views to appropriate ACTION regional office officials.

(b) An opportunity for all volunteers to be heard with respect to their views in connection with the terms and conditions of their service by a responsible ACTION regional office official, either personally, or through democratically selected representatives, on a regular basis. The plan must provide such an opportunity to the volunteer at least twice in each year, and provide for notice to volunteers of the time and place of the meeting at which they may be heard.

(c) Appropriate provisions with respect to volunteers' or volunteers' representatives travel expense and per diem which enable the volunteers or their representatives to attend and present their views to the regional office officials at scheduled meetings.

(d) Response to volunteer's views by appropriate ACTION officials in a prescribed period of time.

(e) Summmary reports by each Regional Director to the Deputy Associate Director for VISTA and ACTION Education Programs of problems and concerns expressed by volunteers concerning terms and conditions of their service and action taken in response to such problems and concerns.

(f) An opportunity for any volunteer who feels that his/her concerns have not been properly addressed to communicate the same to the Regional Director. Such communication shall be included in the Regional Director's report to the Deputy Associate Director and shall be reviewed by him.

§ 1218.5 Procedures for approval of plan.

Each Regional Director shall submit the plan for his region to the Deputy Associate Director, VISTA and ACTION Education Programs for approval.

Approval by the Deputy Associate Director for VISTA and ACTION Education Programs of the proposed regional plan shall be based upon: (1) the adequacy of the procedures to provide for systematic and open communication of volunteers' views regarding terms and conditions of their service; and (2) the adequacy of the procedures to provide for effective and efficient resolution of volunteers' problems or concerns regarding terms and conditions of their service.

§ 1218.6 Freedom to present views.

The expression by a volunteer of his views with respect to the terms and conditions of his service shall not be construed as reflecting on a volunteer's standing, performance or desirability as a volunteer. ACTION intends that its programs be conducted in an atmosphere in which volunteers can speak freely, and frankly discuss problems. Nor shall a volunteer who represents such views be subjected to restraint, interference, coercion, discrimination or reprisal because of presentation of his views.

Issued at Washington, D.C. on December 12, 1974.

JOHN L. GANLEY,
Deputy Director, ACTION.

[FR Doc.74-29414 Filed 12-17-74;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—OTHER REGULATIONS RELATING TO TRANSPORTATION

[Ex Parte No. 55 (Sub-No. 10)]

PART 1100—GENERAL RULES OF PRACTICE

Shipper Certification Requirements

At a General Session of the Interstate Commerce Commission, Held at its office in Washington, D.C., on the 20th day of November 1974.

Notice of proposed rulemaking was published in the FEDERAL REGISTER on December 28, 1973, (38 FR 35495) setting forth a proposal to amend the regulations of the Interstate Commerce Commission with respect to Rule 247 in its General Rules of Practice in 49 CFR Part 1100.

Interested parties were invited to submit comments and suggestions for consideration pertaining to the proposed rulemaking by February 1, 1974, with statements in reply by February 15, 1974. Upon consideration of the comments received, the Commission has adopted amended Rule 247.

Since the decision in the Schaffer case in 1967 (106 MCC 100), as modified by subsequent decisions, the Commission has required applicants in motor carrier application cases to submit shipper certification of support pursuant to requirements set forth therein. A summary of these requirements appears as part of the application form. These requirements are now incorporated in the Commission's General Rules of Practice as substituted Section 1100.247, subparagraph (b) (1), as herein set forth.

The Commission has for some time been concerned with the extent to which applicants have evaded the purpose and proposal underlying the rules of the Schaffer case by the late submission and addition of shipper witnesses. In innumerable instances, this process of adding witnesses has continued even as late as the closing days of oral hearings. The Commission is of the view that the public interest and public convenience and necessity for a proposed operation should be the material and principal basis for the filing of an application and that the applicant should know at that time the need and support of shippers and the service. While some additional shipper support may reasonably be ascertained after the filing of an application, it is unfair to the Commission and to other parties to permit the process of adding witnesses to continue indefinitely. Substituted Rule 247(b) (1) limits the addition of shipper witnesses no later than thirty days prior to the date assigned for commencement of the hearing. This is accomplished by the insertion of a sentence in Section 247(b) (1) as amended and as shown below.

Additionally, by a notice issued November 4, 1971, (36 FR 21388, November 6, 1971), the Commission announced that restrictive amendments to operating authority applications would not be entertained following publication in the FEDERAL REGISTER of notice that the proceeding had been assigned for oral hearing. The purpose of this policy is to control the practice of certain applicants of filing applications for wide authority their subsequently submitting numerous amendments as necessary to eliminate opposing parties interest. The Commission is of the view that this process accentuates the ability of the applicant to negotiate with other carriers since the burden is upon the applicant to demonstrate the needs of the public for service. The policy of continuing these negotiations has continued through the course of oral hearings to the detriment and unnecessary expense of the public and other parties to the case, Accordingly, Rule 247

(c)(2) is amended herein to make the formally announced policy a part of the Commission's General Rules of Practice and in so doing to provide that restrictive amendments may not be submitted later than thirty days after the service date of a notice that the case has been assigned for oral hearing or not later than (1) thirty days after the service date, or (2) the date of a prehearing conference assigned to consider such amendments.

It appearing, That the Commission, on the date hereof, has made and filed its report in this proceeding setting forth its conclusions and findings and its reasons therefor, which report is hereby referred to and made a part hereof,

It is ordered, That petitions filed by National Tank Truck Carriers, Inc., and Contract Carrier Conference, seeking permission to file statements herein, be, and they are hereby, granted;

It is further ordered, That Subchapter B of Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, amended as follows:

§ 1100.247 [Amended]

(1) Section 1100.247, paragraph (a)(2) is amended by inserting at the beginning thereof the following words "Except as otherwise provided herein,"

(2) Section 1100.247, paragraph (b)(1) in its present form be, and it is hereby, deleted and replaced by the following paragraph:

(b) *Applications.*—(1) *Form and content.* An application filed with the Commission under these special rules shall be prepared in accord with and contain the information called for in the form of application prescribed by the Commission or in instructions which may have been issued by the Commission with respect to the filing of such an application. An application for a certificate, permit, or license as defined in subparagraph (a)(1) must be accompanied by certifications of support on the prescribed form for each individual, corporation or partnership known to the applicant upon whose support applicant intends to rely. Except for good cause shown, no application will be accepted for filing unless it is accompanied by certifications as herein required. Upon request by any party, the applicant shall furnish such party with copies of all certifications filed with the application. If, subsequent to the filing of an application, additional witnesses become known to the applicant, applicant shall file a certification for each such witness with the Commission and shall concurrently serve copies thereof upon all parties of record. The total number of witnesses subject to this rule whose testimony is offered in support of the application may not exceed twice the number for whom certifications were filed with the application, whether the case is designated for oral hearing or for modified procedure. In cases designated for oral hearing, certifications of additional witnesses as provided above must be filed and served not later than 30 days prior to the date assigned for commencement of hearing: *Provided*, That, the presiding officer may authorize additional certifications for witnesses to be presented at a continued hearing to be filed and served not later than 30 days prior to the date of the continued hearing. No testimony will be received from witnesses for whom such certifications have not been timely received. *Provided*, however, that the provisions of this paragraph limiting the total number of witnesses and requiring certifications for subsequently discovered witnesses shall not be applicable to applications to transport passengers, and that certifications for subsequently discovered witnesses shall not be required in cases handled under modified procedure except when reassigned for oral hearing.

(3) Section 1100.247, subparagraph (c)(2) is amended by deleting the second sentence thereof and substituting in its place the following:

Restrictive amendments acceptable to the Commission may be submitted at any time: *Provided*, That, except as hereinafter provided, in cases assigned for oral hearing amendments must be received by the Commission not later than (1) 30 days after the service date of a notice that the case has been assigned for oral hearing, or (2) the date of a prehearing conference assigned to consider such amendments. Restrictive amendments submitted after such date may be considered by the Commission or presiding officer only if exceptional reason is shown why the amendment could not have been timely filed. Prehearing conferences assigned for the consideration of amendments shall be subject to the provisions of subparagraph (d)(6) of this rule respecting appearances at hearings.

It is further ordered, That this order shall become effective on January 20, 1975, and shall remain in effect until modified or revoked in whole or in part by further order of the Commission;

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register. (49 U.S.C. 301, 302, 304, and 308, 5 U.S.C. 553 and 559.)

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-28466 Filed 12-17-74;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 28—PUBLIC ACCESS, USE AND RECREATION

Bombay Hook National Wildlife Refuge, Delaware

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

§ 28.28 Special regulations; public access, use and recreation; for individual wildlife refuge areas.

DELAWARE

BOMBAY HOOK NATIONAL WILDLIFE REFUGE

Travel by motor vehicle, bicycle, or on foot, is permitted from sunrise to sunset on designated routes unless prohibited by posting, for the purpose of nature study, photography, hiking, and sight-seeing. Pets are permitted if on a leash not over 10 feet in length.

The refuge area, comprising 15,111 acres, is delineated on maps available at refuge headquarters or from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
Regional Director,
U.S. Fish and Wildlife Service.

DECEMBER 11, 1974.

[FR Doc.74-28465 Filed 12-17-74;8:45 am]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Prime Hook National Wildlife Refuge, Delaware

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

§ 28.28 Special regulations, public access, use and recreation; for individual wildlife refuge areas.

DELAWARE

PRIME HOOK NATIONAL WILDLIFE REFUGE

Travel by motor vehicle, bicycle, or on foot, is permitted from sunrise to sunset on designated routes unless prohibited by posting, for the purpose of nature study, photography, hiking, and sight-seeing. Pets are permitted if on a leash not exceeding 10 feet in length.

The refuge area, comprising 8,403 acres, is delineated on maps available at refuge headquarters, or from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

Provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
Regional Director,
U.S. Fish and Wildlife Service.

DECEMBER 11, 1974.

[FR Doc.74-28464 Filed 12-17-74;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 1]

CUSTOMS FIELD ORGANIZATION

Notice of Proposed Change in Customs Region III

In order to provide better Customs Service in the Philadelphia, Pennsylvania, Customs district, it is proposed to establish a Customs port of entry at Wilkes-Barre/Scranton, Pennsylvania.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 9 (38 FR 17517), Wilkes-Barre/Scranton, Pennsylvania, is hereby proposed as a port of entry in the Philadelphia, Pennsylvania, Customs district (Region III).

The geographical limits of the proposed port of entry will include all of the area within the counties of Lackawanna, Luzerne, and Monroe.

Data, views, or arguments with respect to the foregoing proposal may be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229. To ensure consideration, communications must be received not later than January 17, 1975.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

[SEAL] DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

DECEMBER 6, 1974.

[FR Doc.74-20406 Filed 12-17-74;8:45 am]

[19 CFR Part 1]

CUSTOMS FIELD ORGANIZATION

Notice of Proposed Change in Customs Region V

In order to provide better Customs service in the New Orleans, Louisiana, Customs district, it is proposed to establish a Customs port of entry at Knoxville, Tennessee.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 9 (38 FR 17517), Knoxville, Tennessee, is hereby proposed as a port of entry in the New Orleans, Louisiana, Customs district (Region V).

The geographical limits of the proposed port of entry will include all that area which is within the counties of Knox, Anderson, and Blount.

Data, views, or arguments with respect to the foregoing proposal my be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229. To insure consideration, communications must be received not later than January 17, 1975.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

[SEAL] DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

DECEMBER 6, 1974.

[FR Doc.74-29407 Filed 12-17-74;8:45 am]

[19 CFR Part 1]

CUSTOMS FIELD ORGANIZATION

Notice of Proposed Change in Customs Region IX

In order to provide better Customs service in the Chicago, Illinois, Customs district, it is proposed to establish a Customs port of entry at Des Moines, Iowa.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 9 (38 FR 17517), Des Moines, Iowa, is hereby proposed as a port entry in the Chicago, Illinois, Customs district (Region IX).

The geographical limits of the proposed port of entry will include that area in Polk County, Iowa, which is within the townships of Jefferson, Crocker, Douglas, Franklin, Webster, Saylor, Delaware, Clay, Walnut, Des Moines, Lee, Fourmile, Bloomfield, and Allen, and that area in Warren County, Iowa, which is within the townships of Linn, Greenfield, Allen, Richland, Jefferson, Lincoln, Palmyra, Union, and Washington (including the city of Indianola).

Data, views, or arguments with respect to the foregoing proposal may be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229. To insure consideration, communications must be received not later than January 17, 1975.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

[SEAL] DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

DECEMBER 6, 1974.

[FR Doc.74-29406 Filed 12-17-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 221]

UINTAH INDIAN IRRIGATION PROJECT, UTAH

Basic Water Charges

Pursuant to the authority vested in the Secretary of the Interior for issuance of irrigation operation and maintenance orders fixing per acre assessments against lands included in Indian Irrigation Projects, delegated to the Commissioner of Indian Affairs by 230 DM 1 and redelegated to the Area Directors by 10 BIAM 3.1, notice is hereby given that it is proposed to modify § 221.77 *Basic water charges*, of Title 25, Code of Federal Regulations, dealing with irrigation operation and maintenance assessments against lands of the Uintah Indian Irrigation Project, Utah, by increasing the annual basic assessment rate for the calendar year 1975 and subsequent years, unless changed by further order, from $4 to $5.49 per acre per annum, where not otherwise established by contract.

The revised section will read as follows:

§ 221.77 Basic water charges.

Pursuant to the provisions of the Acts of June 21, 1906 (34 Stat. 375), and March 7, 1928 (45 Stat. 210, 25 U.S.C. 387), the reimbursable costs expended in the operation and maintenance of the Uintah Indian Irrigation Project, Utah, are apportioned on a per-acre basis

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against the irrigable lands of all units of the project, and for the calendar year 1975 and each succeeding year unless changed by further order, there shall be collected for each acre of irrigable land to which water can be delivered from the constructed works, a uniform basic charge of $5.40 per acre per annum, where not otherwise established by contract.

It is the policy of the Department of the Interior whenever practicable to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed revision to John Artichoker, Area Director, Phoenix Area Office, Post Office Box 7007, Phoenix, Arizona 85011, on or before January 17, 1975.

JOHN ARTICHOKER,
Area Director.

[FR Doc.74-26307 Filed 12-17-74;8:45 am]

Fish and Wildlife Service

[50 CFR Part 28]

DUNGENESS NATIONAL WILDLIFE REFUGE, WASHINGTON

Proposed Curtailment of Horseback Riding

It has been determined that a curtailment of horseback riding on Dungeness National Wildlife Refuge is necessary to protect the health and safety of the general public. In the past, horseback riding has been permitted year-round on Dungeness Spit and the trail leading to the Spit from Clallam County Parks Dungeness Recreation Area. To minimize conflict with the general public, horseback riding on the trail has been discouraged, but not specifically prohibited.

Increased use by both the horseback riders and the general public has led to an increased hazard to public health and safety. Incidents involving horseback riders and foot traffic have been observed by refuge personnel and have been reported by the public. The potential for conflicts is greatest on the trail and in the first linear mile of the Spit during the warmer portions of the year.

An evaluation of public use on the refuge has led to a recommendation that horses be permitted on the trail at all times and that horses be prohibited on the Spit during the principal public use season. Horses would be permitted on the Spit during the cooler months. Horse access to the Spit at this time could be gained along the shoreline bordering the Strait of Juan De Fuca or across adjoining private lands on the refuge's eastern boundary. These regulations should remain in effect until periodic reassessments indicate a need for further amendments.

Therefore, the Regional Director, Region 1, Portland, Oregon, proposes the following regulations under 50 CFR 28.28.

§ 28.28 Special regulations; public access, use and recreation, for individual wildlife refuge areas.

1. Horses are prohibited on all portions of Dungeness National Wildlife Refuge between April 15 and October 15 each year. Horses are permitted only on Dungeness Spit and adjoining beaches below the bluff from October 16 through April 14. Horses are prohibited at all times on all other portions of the refuge including the main trail leading from the Clallam County Parks Dungeness Recreation Area and the trail extending from Anderson Road to the base of Dungeness Spit.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed regulations to the Regional Director, Fish and Wildlife Service, P.O. Box 3737, Portland, Oregon 97208 on or before January 30, 1975.

LYNN A. GREENWALT,
Director, U.S. Fish and Wildlife Service.

DECEMBER 13, 1974.

[FR Doc.74-29393 Filed 12-17-74;8:45 am]

National Park Service

[36 CFR Part 7]

CAPE HATTERAS NATIONAL SEASHORE, NORTH CAROLINA

Proposed Fishing Regulations

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended, 16 U.S.C. 3), the Act of August 17, 1937 (50 Stat. 669; 16 U.S.C. 459) and 245 DM-1 (34 FRI 3879, as amended), it is proposed to amend paragraph (c) to § 7.58 of Title 36 of the Code of Federal Regulations as set forth below.

Section 3 of the Act of August 17, 1937 (50 Stat. 669; 16 U.S.C. 459a-1) provides that the legal residents of the villages specified in section 1 shall have the right to earn a livelihood by fishing. Section 3 further provides, however, that the Secretary of the Interior shall protect the area for recreational use, with recreational fishing specifically referenced in other sections of this act. The purpose of this proposed amendment is to establish restrictions on the commercial fishing use of designated portions of the seashore beaches to balance the commercial and recreational use of the fishery resource. This proposed action has become necessary to provide for greater public safety and enhance recreational use of the seashore.

This notice specifies a period of the year when certain commercial fishing practices will be restricted on a small portion of the seashore beach. This action follows review of the testimony presented at public meetings of June 25, 1974, at Manteo, North Carolina, and June 26, 1974, and July 22, 1974, at Washington, D.C., and receipt of written comments by both sport-fishing and commercial fishing interests. In large part this testimony was to the effect that designating a specified portion of the seashore beaches for the enhancement of recreational sport-fishing use could eliminate confrontations between these competing user groups, and provide for a balanced use of the resource.

This proposed regulation would apply to the area from Beach Access Ramp No. 22, located approximately ¾ miles north of Cape Hatteras Lighthouse, southward and westward to Beach Access Ramp No. 30, approximately one mile west of Cape Point (Cape Hatteras) and near the west end of Cape Point Campground. Hauling of nets on to beaches by commercial fishermen would be prohibited in this posted zone Saturdays and Sundays effective 15 days after publication of final notice of rule making through April 30, 1975, and from October 1 through April 30 in subsequent years. During the remainder of the year (May 1 through September 30) and at all other locations commercial and sport-fishermen will have equal opportunity to operate under existing regulations on seashore beaches.

It is the policy of the Department of the Interior whenever practicable to afford the public an opportunity to participate in the rulemaking process. However, the full 30 day comment period cannot be followed in this notice of proposed rulemaking because the fishing season is already underway at the seashore. As discussed above, this matter has been under discussion for a substantial period of time with almost all members of the interested public. Furthermore, to delay immediate implementation of this rule could lead to serious confrontations between commercial and sport-fishing groups and unnecessarily endanger the public safety. Such a result is contrary to the public interest. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to the Superintendent, Cape Hatteras National Seashore, P.O. Box 457, Manteo, North Carolina 27954, on or before January 2, 1975.

Paragraph (c) of § 7.58 as proposed would be amended by the addition of subparagraph (6) as follows:

§ 7.58 Cape Hatteras National Seashore.

* * * * *

(c) * * *

(6) *Sport-fishing Zone.* A zone is established for the protection and enhancement of recreational sport-fishing commencing at Beach Access Ramp No. 22 and continuing south and west along the ocean shore, including Cape Point (Cape Hatteras), to Beach Access Ramp No. 30. Within this zone commercial fishing, as specified in the Act of August 17, 1937 (50 Stat. 669), is permitted, except between the hours of 12:01 am on Saturday to 11:59 pm on Sunday from

October 1 through April 30, commercial fishermen are not permitted to haul their nets on the beach within the Zone.

* * * * *

RUSSELL E. DICKENSON,
Deputy Director.

[FR Doc.74-29513 Filed 12-17-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 192]

STATE STUDENT INCENTIVE GRANT PROGRAM

Notice of Proposed Rulemaking

Pursuant to the authority contained in sections 415A–415D of Subpart 3 of Part A of Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. 1070c through 1070–3), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, is proposing to issue the following amendments to the regulations governing the operation of the State Student Incentive Grant Program.

The purpose of the State Student Incentive Grant Program is to make incentive grants available to the States which will assist them in providing awards to eligible students with substantial financial need, thus enabling such students to attend or continue to attend institutions of higher education. The law provides funds separately for initial and continuation awards to such students. The proposed amendments to the regulations deal primarily with the allotment of funds among the States for continuation grants (§ 192.3(e)) and the criteria that will be used in determining a State approved level of funding for continuation grants (§ 192.6).

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulations to the State Student Incentive Grant Program Unit, Bureau of Postsecondary Education, U.S. Office of Education, Seventh and D Streets, SW., Room 4525, Washington, D.C. 20202. All relevant material must be received on or before January 16, 1975. Comments received in response to this notice will be available for public inspection at the above office Mondays through Fridays between 8:30 a.m. and 4:30 p.m.

Dated: November 12, 1974.

T. H. BELL,
Commissioner of Education.

Approved: December 12, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance No. 13.548; State Student Incentive Grant Program)

Part 192 of Chapter I of Title 45 of the Code of Federal Regulations is amended as follows:

1. In § 192.2, the definition of "clock hour" is amended to read as follows:

§ 192.2 Definitions.

* * * * *

"Clock hour" means a period of time which is the equivalent of a 50 to 60 minute class, lecture, or recitation, or a 50 to 60 minute period of faculty-supervised laboratory, shop training, or internship.

* * * * *

2. In § 192.3 is amended by adding paragraphs (e) and (f) to read as follows:

§ 192.3 Allotment and reallotment.

* * * * *

(e) *Allotment of funds for continuation awards.* The Commissioner will allot the sums appropriated for each fiscal year for continuation grants pursuant to § 415A(b)(2) of the Act among the States in such manner that each State will receive the same percentage of its request for continuation grant funds for that fiscal year.

(f) The Commissioner may require each State receiving an allotment of funds for continuation awards under this part to submit a report prior to June 1 of each year projecting the portion, if any, of such allotment that will not be needed to make continuation awards. Such unused funds may be redistributed among the other States in proportion to the original allotments to such States for continuation awards, provided that no State receives more than its request.

3. In § 192.4 is amended by adding the words "for initial grants" between the words "it" and "under" in the introductory clause of paragraph (a) as set forth below and is further amended by adding paragraph (b) to read as follows:

§ 192.4 State program requirements.

(a) A State may receive funds allotted to it for initial grants under § 192.3 for any fiscal year only if such funds will be expended pursuant to a State program which:

* * * * *

(b) A State may receive the funds allotted to it for continuation grants under § 192.3 for any fiscal year only if such funds will be expended pursuant to a State program which satisfies the requirements set forth in subparagraphs (1) through (4) and (6) through (8) of paragraph (a) of this section.

5. In § 192.5, paragraph (b), is amended by deleting the word "and" after the semicolon in subparagraph (3); changing the period in subparagraph (4) to a semicolon; and adding subparagraphs (5) through (9) to read as follows:

§ 192.5 State applications.

* * * * *

(b) * * *

(5) The amount of funds requested for continuation awards;

(6) The amount of funds the State received for initial and continuation awards for the current academic year;

(7) The number of students who have previously received initial and continuation awards under this part who will be eligible to receive continuation awards during the next academic year;

(8) The average initial award and the average continuation award made under this part for the current academic year; and

(9) If available, the projected attrition rate for students receiving assistance under this part for the current academic year.

6. Section 192.9 is amended by adding the word "initial" between the words "of" and "awards". As amended this section reads as follows:

§ 192.9 Maintenance of effort.

The amount of funds expended by the State for the non-Federal portion of initial awards made under this part for each fiscal year shall represent an additional expenditure for that year by that State over the amounts, if any, expended by such State for grants to all students attending institutions of higher education during the second fiscal year preceding the fiscal year in which such State initially received funds under this part.

[FR Doc.74-29433 Filed 12-17-74;8:45 am]

Social Security Administration

[20 CFR Part 404]

[Reg. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Elective Social Security Coverage for Vow-of-Poverty Members of Religious Orders

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments reflect the provisions of section 123 of P.L. 92–603, enacted October 30, 1972 (86 Stat. 1354), regarding elective social security coverage for members of religious orders who have taken a vow of poverty. Under prior law, the services performed by a member of a religious order who is subject to a vow of poverty which were in the exercise of the duties required by the order were excluded from coverage under social security. Under section 123 such service will be covered under social security if the order (or an autonomous subdivision of the order) irrevocably elects coverage for its members subject to a vow of poverty, and if the order also makes an irrevocable election (or makes irrevocable a previous election) to cover its lay employees. The election may be made retroactive for a maximum of 20 calendar quarters preceding the quarter in which the certificate of election is filed.

The "wages" of these members of religious orders for social security purposes include the fair market value of any board, lodging, clothing, and other

perquisites furnished to the member, except that the amount included as such individual's remuneration shall not be less than $100 a month. The proposed regulations provide that where the fair market value of any board, lodging, clothing, and other perquisites furnished to all members of an electing religious order or subdivision (or to all in a group of members) does not vary significantly, such order or subdivision may treat all of its members (or all in such group of members) as having a uniform wage.

A member of a religious order (i.e., an individual whose "wages" are subject to tax) is defined as any individual who is subject to a vow of poverty as a member of such order, who performs tasks usually required (and to the extent usually required) of an active member of such order, and who is not considered retired because of old age or total disability. The proposed regulations provide that, in determining whether it is reasonable to consider an individual to be retired because of old age, consideration is first to be given to the nature of the services rendered by the individual to his religious order, the amount of time the individual devotes to the performance of services for his religious order, and the nature and extent of the services rendered by the individual before he "retired," as compared with the services performed thereafter. Where consideration of these factors does not establish whether an individual is or is not reasonably considered retired, all other factors are c nsidered.

Under the proposed rules, an electing religious order or subdivision which determines that a member has retired must submit with its employment tax return a summary of the facts upon which the determination has been made.

The proposed regulations also provide that a religious order or an autonomous subdivision of such an order desiring to make an election of coverage shall file a certificate of election on Form SS–16, Certification of Election of Coverage. However, a document other than Form SS–16 may, under certain circumstances, constitute a certificate of election.

Consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before January 17, 1975. The regulation will be effective upon final publication in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed regulations are to be issued under the authority of section 205, 210, and 1102 of the Social Security Act, as amended, and section 123 of the Social Security Amendments of 1972 (P.L. 92–603), 53 Stat. 1368, as amended, 64 Stat. 494, as amended, 49 Stat. 647, as amended, 86 Stat. 1354; 42 U.S.C. 405, 410, and 1302.

(Catalog of Federal Domestic Assistance Program No. 13.803, Social Security—Retirement Insurance)

Dated: November 22, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: December 12, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Subpart H, Regulations No. 4 of the Social Security Administration, as amended (20 CFR Part 404), is further amended as follows:

1. Section 404.1015 is amended by revising paragraph (a) to read as follows:

§ 404.1015 Ministers of churches and members of religious orders.

(a) *In general.* Services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, or by a member of a religious order not subject to a vow of poverty in the exercise of his duties required by such order, are excluded from employment, but are included under the self-employment provisions of the Act. However, services performed by a member of a religious order who has taken a vow of poverty which are in the exercise of duties required by such order (whether performed for the order or for another employer) are included in employment if an election of coverage under section 3121(r) of the Internal Revenue Code of 1954 is in effect with respect to such order or with respect to an autonomous subdivision thereof to which such member belongs. For provisions relating to the election available to certain ministers and members of religious orders not subject to a vow of poverty with respect to the extension of the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act to certain services performed by them, see §§ 404.1070(e), 404.1080, and 404.1086. See also section 1402(e) of the Internal Revenue Code of 1954 (26 U.S.C. 1402 (e)).

2. Section 404.1015a is added to read as follows:

§ 404.1015a Election of coverage by religious orders.

(a) *In general.* A religious order whose members are required to take a vow of poverty, or any autonomous subdivision of such an order, may elect to have the Federal old-age, survivors, and disability insurance system established by title II of the Social Security Act extended to services performed by its members which are in the exercise of duties required by such order or subdivision. See § 404.1026 (e) for provisions relating to the computation of the amount of remuneration of such members. For purposes of this section, a subdivision of a religious order is autonomous if it directs and governs its members, if it is responsible for its members' care and maintenance, if it is responsible for members' support and maintenance in retirement, and if the members live under the authority of a religious superior who is elected by them or appointed by higher authority.

(b) *Definition of member.* (1) *In general.* For purposes of this section, a member of a religious order means any individual who is subject to a vow of poverty as a member of such order and who performs tasks usually required (and to the extent usually required) of an active member of such order and who is not considered retired because of old age or total disability.

(2) *Retirement because of old age.* (i) *In general.* For purposes of this paragraph, an individual is considered retired because of old age if the order to which he belongs has an established retirement program, (e.g., all members are retired at age 70, or all members are retired when they become incapacitated by advanced age), and the member meets the criteria established by such retirement program. If an order does not have an established retirement program, an individual is considered retired because of old age if (A) in view of all the services performed by the individual and the surrounding circumstances it is reasonable to consider him to be retired, and (B) his retirement occurred by reason of old age. Even though an individual performs some services in the exercise of duties required by the religious order, the first test (the retirement test) is met where it is reasonable to consider the individual to be retired.

(ii) *Factors to be considered.* In determining whether it is reasonable to consider an individual to be retired, consideration is first to be given to all of the following factors:

(A) *Nature of services.* Consideration is given to the nature of the services performed by the individual in the exercise of duties required by his religious order. The more highly skilled and valuable such services are, the more likely the individual rendering such services is not reasonably considered retired. Also, whether such services are of a type performed principally by retired members of the individual's religious order may be significant.

(B) *Amount of time.* Consideration is also given to the amount of time the individual devotes to the performance of services in the exercise of duties required by his religious order. This time includes all the time spent by him in any activity in connection with services which might appropriately be performed in the exercise of duties required of active members by the order. Normally, an individual who, solely by reason of his advanced age, performs services of less than 45 hours per month shall be considered retired. In no event shall an individual who, solely by reason of his advanced age,

performs services of less than 15 hours per month not be considered retired.

(C) *Comparison of services rendered before and after retirement.* In addition, consideration is given to the nature and extent of the services rendered by the individual before he "retired," as compared with the services performed thereafter. A large reduction in the importance or amount of services performed by the individual in the exercise of duties required by his religious order tends to show that the individual is retired; absence of such reduction tends to show that the individual is not retired. Normally, an individually who reduces by at least 75 percent the amount of services performed shall be considered retired.

Where consideration of the factors described in paragraph (b)(2)(ii) of this section does not establish whether an individual is or is not reasonably considered retired, all other factors are considered.

(3) *Retirement because of total disability.* For purposes of this paragraph, an individual is considered retired because of total disability (i) if he is unable, by reason of a medically determinable physical or mental impairment, to perform the tasks usually required of an active member of his order to the extent necessary to maintain his status as an active member, and (ii) if such impairment is reasonably expected to prevent his resumption of the performance of such tasks to such extent. A physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. Statements of the individual, including his own description of his impairment (symptoms), are alone insufficient to establish the presence of a physical or mental impairment.

(4) *Evidentiary requirements with respect to retirement.* There shall be attached to the return of taxes paid pursuant to an election under section 3121(r) of the Internal Revenue Code of 1954 a summary of the facts upon which any determination has been made, by the religious order or autonomous subdivision, that one or more of its members retired during the period covered by such return. Each summary shall contain the name and social security number of each such retired member as well as the date of his retirement. Such order or subdivision shall maintain records of the details relating to each such "retirement" sufficient to show whether or not such member or members has in fact retired.

(c) *Certificates of election.* (1) *In general.* A religious order or an autonomous subdivision of such an order desiring to make an election of coverage pursuant to section 3121(r) of the Internal Revenue Code of 1954 and this section shall file Form SS–16, *Certificate of Election of Coverage Under the Federal Insurance Contributions Act*, with the Internal Revenue Service in accordance with the instructions applicable thereto. However, in the case of an election made before August 9, 1973, a document other than form SS–16 shall constitute a certificate of election if it purports to be a binding election of coverage and if it is filed with an appropriate official of the Internal Revenue Service. Such a document shall be given the effect it would have if it were a certificate of election containing the provisions required by paragraph (c)(2) of this section. However, it should subsequently be supplemented by a form SS–16.

(2) *Provisions of certificates.* Each certificate of election shall provide that:

(i) Such election of coverage by such order or subdivision shall be irrevocable,

(ii) Such election shall apply to all current and future members of such order, or in the case of a subdivision thereof to all current and future members of such order who belong to such subdivision.

(iii) All services performed by a member of such order or subdivision in the exercise of duties required by such order or subdivision shall be deemed to have been performed by such member as an employee of such order or subdivision, and

(iv) The wages of each member, upon which such order or subdivision shall pay the taxes imposed on employees and employers by sections 3101 and 3111 of the Internal Revenue Code of 1954, will be determined as provided in § 404.1026(e).

(d) *Effective date of election.* (1) *In general.* Services which are performed by members of orders as defined in §§ 404.1015a(b)(1) are covered during any period either retroactive or prospective for which an order has elected coverage provided the member is not considered retired because of old age or total disability. Except as provided in paragraph (e) of this section, a certificate of election of coverage filed by a religious order or its subdivision, pursuant to section 3121(r) of the Internal Revenue Code of 1954 and this section, shall be in effect, for purposes of section 3121(b)(8)(A) of the Internal Revenue Code of 1954 and for purposes of section 210(a)(8)(A) of the Act, for the period beginning with whichever of the following may be designated by the electing religious order or subdivision:

(i) The first day of the calendar quarter in which the certificate is filed,

(ii) The first day of the calendar quarter immediately following the quarter in which the certificate is filed, or

(iii) The first day of any calendar quarter preceding the calendar quarter in which the certificate is filed, except that such date may not be earlier than the first day of the 20th calendar quarter preceding the quarter in which such certificate is filed.

(2) *Retroactive elections.* Whenever a date is designated as provided in paragraph (d)(1)(iii) of this section, the election shall apply to services performed before the quarter in which the certificate is filed only if the member performing such services was a member at the time such services were performed and is living on the first day of the quarter in which such certificate is filed. Thus, the election applies to an individual who is no longer a member of a religious order on the first day of such quarter if he performed services as a member at any time on or after the date so designated and is living on the first day of the quarter in which such certificate is filed.

(e) *Coordination with coverage of lay employees.* If at the time the certificate of election of coverage is filed by a religious order or autonomous subdivision, a certificate of waiver of exemption under section 3121(k) of the Internal Revenue Code of 1954 (extending coverage to any lay employees) is not in effect, the certificate of election shall not become effective unless the order or subdivision files a Form SS–15, *Certificate Waiving Exemption from Taxes Under the Federal Insurance Contributions Act*, and a Form SS–15a, *List to Accompany Certificate on Form SS–15 Waiving Exemption from Taxes Under the Federal Insurance Contributions Act*, to accompany the certificate on Form SS–15, as provided by section 3121(k) of the Internal Revenue Code of 1954. The preceding sentence applies even though an order or subdivision has no lay employees at the time it files a certificate of election of coverage. The effective date of the certificate of waiver of exemption must be no later than the date on which the certificate of election becomes effective, and it must be specified on the certificate of waiver of exemption that such certificate is irrevocable. The certificate of waiver of exemption required under this paragraph shall be filed notwithstanding the provisions of section 3121(k)(3) of the Internal Revenue Code of 1954 (relating to no renewal of the waiver of exemption) which otherwise would prohibit the filing of a waiver of exemption if an earlier waiver of exemption had previously been terminated. If at the time the certificate of election of coverage is filed a certificate of waiver of exemption is in effect with respect to the electing religious order or autonomous subdivision, the filing of the certificate of election shall constitute an amendment of the certificate of waiver of exemption and make the latter certificate irrevocable.

3. Section 404.1016 is amended by revising paragraph (a) to read as follows:

§ 404.1016 Religious, charitable, educational, or certain other organizations exempt from income tax.

(a) *In general.* Services performed by an employee in the employ of a religious, charitable, educational, or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from income tax under section 501(a) of the Internal Revenue Code of 1954 (section 101 (6) of the Internal Revenue Code of 1939) are excepted from employment. However, this exception does not apply to services performed during the period for which a Form SS–15, *Certificate Waiving Exemption From Taxes Under the Federal Insurance Contributions Act*, or Form SS–15b, *Certificate for Retroactive Coverage*, filed pursuant to section

3121(k) or section 3121(r) of the Internal Revenue Code of 1954 or section 1426(l) of the Internal Revenue Code of 1939, is in effect if such services are performed by an employee (1) whose signature appears on form SS–15b or on the Form SS–15a, *List to Accompany Certificate on Form SS–15 Waiving Exemption from Taxes Under the Federal Insurance Contributions Act*, or Form SS–15a Supplement, *Amendment to List on Form SS–15a*, filed by such organization under section 3121(k) of the Internal Revenue Code of 1954 (section 1426(l) of the Internal Revenue Code of 1939); (2) who became an employee of such organization after the calendar quarter in which the form SS–15 was filed; or (3) who became a member of a group of employees as described in section 3121(k)(1)(E) of the Internal Revenue Code of 1954 after the calendar quarter in which the form SS–15 was filed with respect to such group. (See § 404.1015(b) and (d) relating to services performed by a minister of a church in the exercise of his ministry or by a member of a religious order not subject to a vow of poverty in the exercise of duties required by such order; § 404.1015a relating to services performed by a member of a religious order or subdivision thereof whose members are required to take a vow of poverty; § 404.1018 relating to services performed in the employ of an organization otherwise exempt from income tax under section 501(a) of the Internal Revenue Code of 1954 (section 101 of the Internal Revenue Code of 1939); § 404.1019 relating to services performed in the employ of a school, college, or university by certain students; and § 404.1022 relating to services performed by certain student nurses and hospital interns. See 26 CFR § 31.3121(k)–1 relating to waiver of exemption from taxes with respect to certain services under section 3121(k) of the Internal Revenue Code of 1954 and 26 CFR § 31.3121(r)–1 relating to services with respect to which a certificate is in effect under section 3121(r) of the Internal Revenue Code of 1954.)

* * * * *

4. Section 404.1026 is amended by adding paragraph (e) to read as follows:

§ 404.1026 Wages.

* * * * *

(e) *Remuneration for service performed by certain members of religious orders.* In any case where an individual is a member of a religious order as defined in § 404.1015a(b) and performing service in the exercise of duties required by such order, and an election of coverage under section 3121(r) of the Internal Revenue Code of 1954 is in effect with respect to such order or the autonomous subdivision thereof to which such member belongs, the term "wages" shall, subject to the provisions of section 3121(a)(1) of the Internal Revenue Code of 1954 (relating to definition of wages), include as such individual's remuneration for such service the fair market value of any board, lodging, clothing, and other perquisites furnished to such member by such order or subdivision or by any other person or organization pursuant to an agreement (whether written or oral) with such order or subdivision. Such other perquisites shall include any cash either paid by such order or subdivision or paid by another employer and not required by such order or subdivision to be remitted to it. For purposes of this section, perquisites shall be considered to be furnished over the period during which the member receives the benefit of them. In no case shall the amount included as such individual's remuneration under this paragraph be less than $100 a month. All relevant facts and elements of value shall be considered in every case. Where the fair market value of any board, lodging, clothing, and other perquisites furnished to all members of an electing religious order or autonomous subdivision (or to all in a group of members) does not vary significantly, such order or subdivision may treat all of its members (or all in such group of members) as having a uniform wage.

[FR Doc.74–29432 Filed 12–17–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGD 74–189]

BEVERLY AND SALEM HARBORS, MASSACHUSETTS

Proposal To Establish Two Special Anchorage Areas

The Coast Guard is considering amending the anchorage regulations by establishing two additional special anchorage areas, one located in Beverly and Mackerel Coves, north side of Beverly Harbor and the second located in Collins Cove north of Salem Neck, Mass. The existing special anchorage areas in this locality are presently overcrowded and the establishment of the two proposed special anchorage areas would relieve this situation and enhance safety. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114. Each person submitting comments should include his name and address, identify the notice (CGD 74–189), and give any reasons for any recommended change in the proposal. Copies of all submissions received will be available for examination by interested persons at the office of the Commander, First Coast Guard District.

The Commander, First Coast Guard District will forward any comments received before January 20, 1975, and his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters who will evaluate all communications received and take final action on this proposal. The proposed regulation may be changed in the light of comments received.

In consideration of the foregoing, it is proposed to amend Title 33 of the Code of Federal Regulations by adding new paragraphs (d) and (e) to § 110.25 to read as follows:

§ 110.25 Beverly and Salem Harbors, Mass.

* * * * *

(d) *Beverly and Mackerel Coves, north side of Beverly Harbor.* The water area enclosed by a line commencing at the southernmost point of Curtis Point in Beverly; thence bearing 238°, 1,400 yards to latitude 42°32'29.4" N., longitude 70°51'34" W.; thence 284°, 1,475 yards to the western shoreline of Mackerel Cove; thence north northeasterly to the point of beginning.

(e) *Collins Cove, Salem, Mass.* The water area enclosed by a line beginning at Monument Bar Beacon; thence 242°, 580 yards to latitude 42°32'14.5" N., longitude 70°52'46.3" W.; thence 284°, 220 yards to latitude 42°32'16" N., longitude 70°52'55" W.; thence 231°, 525 yards to a point on the shoreline; thence following the shoreline and the western boundary of the special anchorage area as described in 33 CFR 110.25(a) to the point of beginning.

(Sec. 1, 30 Stat. 98, as amended, sec. 6(g)(1)(B), 80 Stat. 937; 33 USC 180, 49 USC 1655(g)(1)(B), 49 CFR 1.46(c)(2), 33 CFR 1.05–1(c)(1))

Dated: December 9, 1974.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.74–29426 Filed 12–17–74;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74–SW–49]

FEDERAL AIRWAY

Proposed Revocation

The Federal Aviation Administration (FAA) is considering an amendment to 14 CFR Part 71 of the Federal Aviation Regulations that would revoke VOR Federal Airway V-79 which extends from Hobbs, N. Mex., to Lubbock, Tex.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or after January 17, 1975 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the

Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would delete all of V-79 as it is presently designated. The 1974 Peak Day Traffic Count and previous random samplings revealed no IFR request for the use of this route. Since it is not required for air traffic-control, its continued designation as an airway can no longer be justified.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C. on December 12, 1974.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-29383 Filed 12-17-74;8:45 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 170]

FEES FOR FACILITIES AND MATERIALS LICENSES

Proposed Revision of License Fee Schedules; Extension of Comment Period

This notice extends the period for comments to the notice, published November 11, 1974 (39 FR 39734), proposing amendments to the Atomic Energy Commission's regulations to revise the Commission's schedule of fees for facilities and materials licenses.

Several requests for an extension of time have been received, and after consideration of the various factors involved, the Commission has decided to grant an extension of time for submitting comments, and the comment period is hereby extended to January 10, 1975.

Dated at Washington, D.C. this 12th day of December 1974.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-29395 Filed 12-17-74;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Agency for International Development

RESEARCH ADVISORY COMMITTEE

Determination on Renewal

The RAC performs necessary and important advisory functions in connection with the formulation of AID research policy, the appraisal of central research projects and in evaluating and providing necessary advice concerning the progress and future potential of all centrally-funded research activities. There continues to be a need for such advisory functions.

Accordingly, I hereby determine, pursuant to the provisions of section 14(a)(1)(a) of the Federal Advisory Committee Act (Pub. L. 92-463) and paragraph 7 of OMB Circular A-63 (Revised) that renewal of the Research Advisory Committee for a two-year period beginning December 24, 1974, is in the public interest.

Dated: November 14, 1974.

DANIEL PARKER,
Administrator.

[FR Doc.74-29362 Filed 12-17-74;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON "SPECIFICATIONS AND STANDARDS IMPROVEMENT"

Advisory Committee Meeting

Pursuant to the provisions of Public Law 92-463, effective January 5, 1973, notice is hereby given that the Defense Science Board Task Force on "Specifications and Standards Improvement" will meet in open session on 16-17 January 1975 in Room 1E801, the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The primary responsibility of the Task Force is to provide an evaluation of current DoD Specifications and Standards and the related DoD organization, system and procedures to serve as a basis for DoD policy decisions to reduce costs in systems/equipment design and acquisition.

At this meeting, the Task Force will review the current activity of the Electronics and Materials Panel of the Defense Materiel Specifications and Standards Board; discuss and critique the Standardization Organization of the DoD; review the process for updating and maintaining specifications and standards current; review previous reports dealing with the subject; and discuss and review other pertinent and related subjects as may come before the group.

Due to limited time and space availability, it is requested that persons interested in attending the DSB Task Force meeting provide written notice to the address listed below by January 10, 1975. Notices should include information with respect to interest and degree of participation.

Mr. Lester Fox, Director
Defense Materiel Specifications
and Standards Office
Cameron Station
Alexandria, Virginia 22314

Telephone inquiries may also be made to Mr. Fox at (202) 274-7061.

Dated: December 13, 1974.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc.74-29438 Filed 12-17-74;8:45 am]

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 586-74]

FREEDOM OF INFORMATION

Preliminary Guidance

Under date of December 11, 1974, the Justice Department has issued a memorandum to heads of all Federal departments and agencies providing preliminary guidance on application of the 1974 Freedom of Information Act Amendments, Pub. L. 93-502. These amendments will become effective February 19, 1975. Since the Memorandum is of special interest to the public, I am directing its publication in the FEDERAL REGISTER.

Dated: December 13, 1974.

WILLIAM B. SAXBE,
Attorney General.

MEMORANDUM TO HEADS OF ALL FEDERAL DEPARTMENTS AND AGENCIES

Re: *Preliminary Guidance* concerning the 1974 Freedom of Information Act Amendmtnts, P.L. 93-502, enacted November 21, 1974.

INTRODUCTION

DECEMBER 11, 1974.

By action of the Senate on November 21st in overriding the President's veto of the enrolled bill H.R. 12471, several important amendments have been made to the Freedom of Information Act, 5 U.S.C. 552. Most of these will have some effect upon your agency.

The new amendments (hereinafter the "1974 Amendments") will become effective on February 19, 1975. It is essential that every agency take certain actions as soon as possible, as discussed below, in order to be in compliance with the 1974 Amendments when they became effective.

OUTLINE OF DISCUSSION

(1) Time limits for agency determinations.
(2) Index publication.
(3) Uniform agency fees.
(4) Procedures on requests for classified records.
(5) Requirements for annual report.
(6) Assignment of responsibility.
(7) Substantive changes.
(8) Miscellaneous matters.
(9) Further actions.

ATTACHMENTS

A. Freedom of Information Act prior to 1974 Amendments.[1]

B. 1974 Amendments to the Act (P.L. 93-502).

C. Freedom of Information Act as now amended.

D. Summary of Principal Changes made by 1974 Amendments.

DISCUSSION

The discussion below is in the nature of advice and assistance rather than a directive. While it is intended to apply generally to all federal agencies (except to the extent an agency may be subject to unique provisions of law, e.g., 39 U.S.C. 410, 412),[2] some recommendations may not fit the circumstances of a particular agency.

1. *Time limits for agency determinations.* Agencies must amend their regulations to conform to the provisions in the 1974 amendments which prescribe administrative time limits for processing requests for access to their records. Basically, these provisions call for an initial determination to be made on any such request within 10 working days (usually two weeks) after its receipt. In case of an appeal from an initial denial, a determination on the appeal is to

[1] Appendices A, B, and C filed as part of the original document. Copies of Public Law 93-502 may be obtained through the Superintendant of Documents, Government Printing Office.

[2] These provisions modify the application of the Freedom of Information Act to records of the Postal Service.

be made by the agency within 20 working days (four weeks) after receipt of the appeal. After any agency determination to comply in whole or part with a request for records, whether made initially or on appeal, the records shall be made available "promptly."

These time limit provisions apply to requests and to appeals that are received by agencies on or after Wednesday, February 19, 1975. Agency regulations under the Act should be revised to reflect these provisions and the revisions should be published in the FEDERAL REGISTER and distributed to all concerned agency personnel before that date. The discussion which follows is chiefly concerned with the impact of the time limits on requests which, for one reason or another, an agency finds difficult to process properly within such periods.

It is important to note that these time limits run from the date of "receipt." The experience of the Justice Department with voluntarily adopted time limits for acting on requests and appeals for our own records has indicated that much time can be lost in mail rooms and elsewhere in routing requests and appeals to those who must act upon them. Such delays can be sharply reduced by explicit and well-conceived instructions to requesters on how to address their requests and their appeals. It is strongly recommended that such instructions be set forth in agency regulations, as well as in any other pertinent agency information and guidance materials that may be prepared. While failure to comply with such reasonable regulations will not necessarily disqualify a request from entitlement to processing under the Act, it will probably defer the date of "receipt" from which the time limitations are computed, to take account of the amount of time reasonably required to forward the request to the specified office or employee.[3] Such regulations designed to facilitate processing must not, of course, be used to protract or delay it.

Agencies should also consider the adoption of devices and the designing of procedures to speed processing of requests. It might be desirable, for example, to specify in agency regulations and guidance that FOIA requests be clearly identified by the requester as such on the envelope and in the letter. Similarly, agency personnel should be required to mark FOIA requests and appeals conspicuously so that they may be given expeditious treatment. Of course, the new time limits also mean that an efficient system of date-stamping for incoming matter is essential.

The 1974 amendments contain two provisions for extension of the foregoing time limits. One authorizes administrative extensions by giving requesters written notices with prescribed contents in three types of "unusual circumstances" which are specified in the amendments. It is clear that such extensions cannot exceed ten working days in the aggregate, so that only one ten-day extension can be invoked by the agency, either at the initial or the appellate stage. Neither the language of the statute, however, nor the legislative history specifically precludes the taking of more than one extension where the circumstances justify, so long as the ten-day maximum is not exceeded with respect to the entire request. Logic favors the latter interpretation, since the same circumstances which make a particular request difficult to process at the initial stage frequently complicate the appeal as well. Accordingly, we interpret the statute to permit more than one extension, either divided between the initial and appeal stages or within a single stage, so long as the total extended time does not exceed ten working days with respect to a particular request.

Agencies should carefully consider whether they should make some provisions in their regulations concerning (a) who controls the use of the 10-day extension and (b) its allocation to the initial stage, the appeal stage, or partly to one and partly to the other. Such provisions, of course, would only operate in the unusual circumstances specified in the statute. Subject to this condition it would appear permissible for agency regulations to provide for distribution of the ten days on a case-by-case basis, or by restricting any extension at the initial stage to five days absent special showing (so as to reserve five days for the appeal stage), or in some other manner. Agencies should also be prepared to instruct their staffs on the form, contents, and timeliness of extension notices in the light of the statutory requirements.

The second provision for time extension in the 1974 Amendments authorizes a court to allow an agency "additional time to complete its review of the records" if the government can show exceptional circumstances and that the agency is exercising due diligence in responding to the request. In cases where an agency believes that this provision would probably lead to a judicial extension of its time if the agency were to be sued immediately, the agency may in the interest of avoiding unnecessary litigation and exploring fully the scope of a possible administrative grant of access, wish to suggest to the requester the possibility of agreeing with the agency upon a specific extension of time. In preparing its regulations on time limits, an agency should consider (a) who within the agency should give attention to the considerations discussed in this paragraph, and (b) the extent to which communications or agreements with requesters under this paragraph should be recorded for such bearing as they may have on possible litigation.

The legal consequence provided in the 1974 Amendments for an agency's disregard of the prescribed administrative time limits (i.e., the 10 and 20 day limits and any up-to-10 days extension effected by notice to the requester) is that the requester may sue at once, without resort to further administrative remedies. The Act as amended expressly provides that the requester "shall be deemed to have exhausted his administrative remedies" in case the agency fails to comply with applicable time limits. This means that if the 10-day time limit for initial determinations (together with any permissible extension of this limit as discussed above) is not complied with, the agency may have lost the 20 days or more that would otherwise have been available to it in the event of a timely-issued denial and an appeal. Thus, every effort should be made to issue an initial determination—even one with qualifications or conditions [4]—within the required time. Where it is necessary to find and examine the records before the legality or appropriateness of their release can be assessed, and where, after diligent effort, this has not been achieved within the required period, the requester may be advised in substance that the agency has determined at the present time to deny the request because the records have not yet been found and/or examined; that this determination will be reconsidered as soon as the search and/or examination is complete, which should be within — days; but that the requester may, if he wishes, immediately file an administrative appeal.

In the event an agency fails to issue a timely determination and is sued, it should nevertheless continue to process the request. To the extent that the request is granted, the suit may become moot; to the extent the request is denied, the government will be able to prepare a defense on the merits.

If an initial denial in whole or part is issued by an agency after suit has been filed, and the requester administratively appeals, the agency should, unless otherwise instructed by its counsel or by the court, proceed to process the appeal. Moreover, agencies may wish to consider making provisions for the initiation of an appeal upon their own motions in such circumstances; otherwise, failing an appeal by the requester, the agency may be committed in litigation to a position it does not genuinely support. If suit is filed while an appeal is pending, whether or not the suit is premature, the agency should normally continue to process the appeal.

The time limit provisions of the 1974 amendments appear to presuppose that agencies will have a basically two-step, rather than a single-step, procedure in their regulations, i.e., that they will provide for an initial determination whether to grant or deny access, followed by an administrative appeal. While there is nothing in the 1974 amendments which expressly forbids an initial determination that is administratively final, it seems clear that the vast majority of agencies will continue to use some form of two-step procedure, not only because

[3] Where such delay has occurred, it would be desirable to provide for acknowledgment of effective receipt. Such acknowledgment should also be provided where delay is caused in the mails, or by any other means of which the requester is likely unaware.

[4] The qualifications or conditions cannot be so extensive as to render the response meaningless because such a response would not constitute the required "determination".

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it permits the correction of errors and avoidance of unnecessary litigation but also because, under the 1974 amendments, it makes available an additional 20 days for agency consideration of the request. Agencies contemplating changes in their regulations from a single-step to a two-step procedure, or changes to a different form of two-step procedure, should note that the 1974 amendments contemplate an administrative "appeal". This means that the agency official charged with acting on appeals must be different from the official responsible for initial denials.

Some agency regulations now prescribe a period of time, such as 30 days, within which a requester must file an appeal, ordinarily running from the requester's receipt of the denial letter. The 1974 amendments contemplate that an initial determination to furnish records will be dispatched within the time limits discussed above, and that the records will be furnished either at the same time or "promptly" thereafter. At the time of the initial determination there may be some uncertainty on the part of the requester, or even on the part of the agency, as to the precise extent of the materials being made available and being denied. Accordingly, if an agency's regulations as revised contain a time limit for the filing of an appeal,[5] it is suggested that the period run from receipt of the initial determination (in cases of denials of an entire request), and from receipt of any records being made available pursuant to the initial determination (in cases of partial denials). Such a provision would relate only to the end, not to the beginning, of the period for the requester to file an appeal; it would in no way interfere with the right to file an appeal immediately after any initial determination involving any degree of denial. Such a provision should promote fairness, help reduce premature and unnecessary appeals, and minimize technical questions about the timeliness of appeals.

2. *Index publications.* Under subsection (a)(2) of the Act prior to the 1974 amendments, each agency has been required to "maintain and make available for public inspection and copying a current index providing identifying information for the public" as to the agency's so-called (a)(2) materials, i.e., certain final opinions and orders, statements of policy and interpretation, and administrative staff manuals and instructions. Under the 1974 amendments, this index will be required to be published promptly at quarterly or more frequent intervals and distributed, unless the agency determines by order published in the FEDERAL REGISTER that such publication would be unnecessary and impractical, in which case copies of the index shall be provided on request at duplication cost. Therefore, on or before February 19, 1975, or "promptly" thereafter, each agency must publish the required index, or must adopt and publish in the FEDERAL REGISTER an order containing the determination referred to above. As indicated in the Conference Report (Senate Report 93-1200 of October 1, 1974 at p. 7) commercial publication may satisfy the publication requirement if the agency makes the publication readily available for public use.

If an agency already publishes or plans to publish indexes to some of its (a)(2) materials in compliance with the above publication requirement, but determines that it is unnecessary and impractical to publish its indexes of the remainder, there is apparently no objection under the 1974 amendments to using a combination of publication and the statutory alternative just described.

Recent court decisions have left some confusion as to what constitutes (a)(2) materials.[6] If an agency reasonably maintains that certain types of records are not covered, it may of course properly decline to publish them. In case of doubt, it may accompany its publication of the index or its FEDERAL REGISTER statement with the disclaimer that its action is being taken for the convenience of possible users of the materials, and does not constitute a determination that all of them are within subsection (a)(2) of the Act. As to what constitutes an acceptable index, consult the prior Justice Department guidance.[7]

3. *Uniform agency fees for search and duplication.* The 1974 Amendments make significant changes in the law pertaining to the fees which an agency may charge for services performed for requesters under the Act. Each agency must "promulgate regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees applicable to all constituent units of such agency." This means that agencies should, in accordance with 5 U.S.C. 553, publish in the FEDERAL REGISTER a notice of proposed rule making before January 13, 1975, containing a proposed uniform schedule of fees to become effective on February 19th, 1975; and then, after consideration of public comment, publish the regulations themselves as they will become effective on February 19th.

Since by reason of these procedural requirements, the fees schedule regulations involve more "lead time" than the other regulation changes which the 1974 amendments make necessary, it may be desirable to handle them separately, under an accelerated timetable. Of course provisions assigning functions and prescribing procedures for administration of the fee schedule need not be contained in the schedule itself, and may be reserved for inclusion in the other Freedom of Information regulations.

In providing for the administration of fee schedules, agencies may wish to consider whether and when they will furnish estimates of fees, and the circumstances in which they will request payment of estimated or incurred fees before the work is done or the materials transmitted. Since requesters will be financially liable for fees after the requested services have been performed, there is a need for some device to protect members of the public from unwittingly incurring obligations which far exceed their expectations. It is of course not possible simply to advise requesters of substantial costs and await their permission to proceed, since this process would consume much of the 10-day reply period. The problem might be met by including a provision in the agency's regulations to the effect that, unless the request specifically states that whatever cost is involved will be acceptable, or acceptable up to a specified limit that covers anticipated costs, a request that is expected to involve assessed fees in excess of $_____ will not be deemed to have been received until the requester is advised (promptly on physical receipt of the request) of the anticipated cost and agrees to bear it. There is some question whether such a provision can be effective to toll the statutory time period, but in light of the need to protect the public against large unanticipated expenses, and in light also of the fact that the requester can avoid all delay by specifying in his request that all costs (or costs to a specified limit) will be accepted, our view is that such provisions are likely to be sustained.

A separate problem is the need in some cases for adequate assurance that the requester will pay the fees where they are substantial. Of course, if a substantial public good is accomplishd by the request, the agency may under the 1974 amendments simply waive the fees. But where that provision is not to be applied, means to assure payment should be considered. This might be achieved by a requirement in the regulation that when the anticipated fees exceed $ _____, a deposit for a certain proportion of the amount must be made within ____ days of the agency's advising the requester.

The kinds of services for which fees may be charged under the 1974 amendments are limited to search and duplication. Agencies may thus no longer seek reimbursement (a) for time spent in examining the requested records for the purpose of determining whether an exemption can and should be asserted, (b) for time spent in deleting exempt matter being withheld from records to be furnished, or (c) for time spent in monitoring a requester's inspection of agency records made available to him in this manner.

Search services are services of agency personnel—clerical or, if necessary, of a higher salary level—used in trying to find the records sought by the requester. They

[5] The establishment of an explicit time limit is not mandatory. In its absence, a "reasonable time" would presumably be allowed. Such a disposition, however, increases uncertainty and hence litigation.

[6] See, e.g., *Grumman Aircraft Engineering Corp. v. Renegotiation Board*, 482 F. 2d 710 (D.C. Cir. 1973), cert granted upon the government's petition and now pending; *Tax Analysts and Advocates v. IRS*, 362 F. Supp. 1298 (D.D.C. 1973), affirmed ____ F. 2d ____ (1974). See also Attorney General's Memorandum on the Public Information Section of the Administrative Procedure Act, June 1967, at pp. 20–22.

[7] Attorney General's Memorandum, *supra*, at pp. 20–22.

include time spent in examining records for the purpose of finding records which are within the scope of the request. They also include services to transport personnel to places of record storage, or records to the location of personnel for the purpose of search, if they can be shown to be reasonably necessary. The legislative history of the 1974 amendments indicate that, when computerized record systems are involved, "the term 'search' would • • • not be limited to standard record-finding, and in these situations charges would be permitted for services involving the use of computers needed to locate and extract the requested information." Senate Report No. 93-854, May 16, 1974, p. 12.

Search fees are assessable even when no records responsive to the request, or no records not exempt from disclosure, are found. It is recommended, however, that requesters be charged for unsuccessful or unproductive searches only where they have been given fair notice that this may occur. Such notice should be plainly set forth in an agency's regulations. Of course, where the cost of search is small its unproductiveness is persuasive ground for waiver.

Duplication includes costs associated with the paper and other supplies used to prepare duplicates made to comply with the request and the services of personnel used in such preparation.

Where an agency undertakes, either voluntarily or under some other statute, to perform for a requester services which are clearly not required under the Freedom of Information Act—e.g., the formal certification of records as true copies, attestation under the seal of the agency, creation of a new list, tabulation or compilation of information, translation of existing records into another language—the question of fees should be resolved in the light of the federal user charge statute, 31 U.S.C. 483a, and any other applicable law. If for reasons of convenience an agency elects to include charges for such services in the fee schedule required to be promulgated by the 1974 Amendments, it should make clear the authority other than the Freedom of Information Act upon which such charges rest.

The amount of fees is ordinarily to be expressed as a rate per unit of service. The 1974 amendments contain three general criteria: (a) The fees must provide for recovery of only the "direct costs" of search and duplication services, (b) they must be "reasonable standard" charges, and (c) they must be waived or reduced where the agency determines such action would be in the public interest because furnishing the information "can be considered as primarily benefiting the general public". The reference to "direct costs" should be taken to mean that no agency overhead expense should be allocated to the services used in conducting a search. This would exclude such items as utilities, training expenses and management costs (except for management personnel directly involved in performing or supervising the particular search). If, for example, air freight or air express is used to transfer records at field offices to the office processing the request in order that the search can be completed and a determination made within applicable time limits, the air haul charge, but probably not the cost of ordering such transportation and processing payment, may be considered to be direct costs.

The requirement for "reasonable standard" charges should be taken to mean that the actual rates to be charged must be stated in dollars and cents or otherwise definitively indicated—as, for example, by reference to publicly filed tariffs. It precludes special rates based upon negotiation,* upon increases in federal personnel pay rates not reflected in an amended schedule, or upon other factors not incorporated in the schedule. There is, however, no requirement that the schedule contain only a single rate for personnel time. Legislative reference to the "direct costs" of search indicates that where there are sharp differences in the salaries of the personnel needed to conduct various types of searches which the agency may conduct, the schedule may set forth separate scales—e.g., one for clerical time and one for supervisory or professional time. The applicable rates may be determined after considering the pay scales, converted to hourly rates, of the numbers and grades of the personnel who would be assigned to perform the required services. Recognizing that some mix of personnel may be involved, it would seem that reasonable approximations of costs will satisfy the legislative requirement for "reasonable" standard charges.

The remaining legislative factor in the amount of fees is the provision concerning waiver or reduction, noted above. Either the fee schedule or the other agency regulations under the Act as amended should clearly assign the function of determining, both in connection with initial actions and at the appeal stage, whether such waivers or reductions should be made and the amount of any such reduction.

4. *Procedures on requests for classified records.* Passing for the purposes of this memorandum any constitutional questions, requests for documents that raise questions under exemption 1, as amended, may often require more detailed administrative processing at both the initial and appeal stages than was required under the decision in Environmental Protection Agency v. Mink, 410 U.S. 73 (1973). Such processing will nonetheless be subject to the new statutory time limits. The scope of the problem which this presents is not entirely clear at this time. All agencies which generate or hold substantial amounts of classified documents should immediately begin considering a range of procedures for accommodating to the statutory changes. The Department of Justice solicits the views of affected agencies in this regard and anticipates issuing more detailed guidance for the processing of requests for classified documents under the 1974 Amendments prior to their effective date.

5. *Requirements for annual report.* The 1974 amendments require each agency to file with the Congress a detailed annual report on March 1 of each year, covering administration of the Freedom of Information Act during the prior calendar year. With respect to the report due on March 1, 1975, some of the information called for in the amendments will not be available, since the amendments were not in effect during calendar 1974. Agencies should make as complete a report as possible on the basis of the information at hand. It is not our view that the Congress intended agencies to conduct interviews or detailed historical research to develop information not recorded at the time. Agencies should begin at once to develop procedures for compiling the information which the annual reports must contain, and these should be in place no later than January 1, 1975 so that the report for calendar 1975 will be complete. We recommend that these procedures be designed to accumulate, in addition to the other information required, data on the costs of administering the Act.

6. *Assignment of responsibility to grant and deny.* Agency regulations should leave no uncertainty as to who has the responsibility for acting upon requests under the Act. Responsibility means the duty and the authority to act; an assignment of either the duty or the authority normally carrier with it the other, except as regulations may otherwise provide. When an agency employee or official receives a request which exceeds his authority to grant or deny, the requester should be referred to the official or unit which has authority under the agency's regulations.*

The employee or official who denies a request is referred to in several places in the 1974 Amendments. Any notification of denial of a request for records must "set forth the names and titles or positions of each person responsible for the denial of such request." Section 552 (a)(6)(C). The required annual report must include "the names and titles or positions of each person responsible for the denial of records requested, • • • and the number of instances of participation for each." Section 552(d)(3). The so called sanctions provision states that when a court makes a written finding as to possible arbitrary or capricious withholding by agency personnel, the Civil Service Commission shall promptly initiate a proceeding to determine

*This does not preclude a negotiated settlement of a dispute over the fees for a particular request.

*As a matter of courtesy, if a request is misdirected the agency employee receiving it should himself route it to the proper official under the agency's regulations. The requester should be informed of this action and advised that the time of receipt for processing purposes will be deemed to run from the receipt by the proper official.

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"whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding." Section 552(a)(4)(F).

The common element in these provisions is the characterization of an agency employee or official as the person "responsible" or "primarily responsible" for a denial. It is therefore incumbent upon an agency to fix such responsibility clearly in its regulations by confining authority to deny, both on initial determinations and on appeals, to specified officials or employees. In view of the time limits discussed above, it would appear impracticable to specify such officials or employees by name, thereby preventing action during their absence; specifications by organizational title should be so drawn as to include both regular incumbents and persons acting in their stead.

It is not necessary that the head of the agency be the official designated to determine all appeals. The reference to an "appeal to the head of the agency" in the provision concerning time limits for initial determinations must be read in conjunction with the three provisions concerning "responsible" officials referred to above, particularly the last two sentences of the sanctions provision.[*] Coupled with the impracticability of running all appeals through Cabinet officers in certain departments, these provisions indicate that the head of an agency may, by regulation, delegate to another high official the function of acting on his behalf with respect to appeals.

Care should be taken to provide safeguards against confusion between the person who is authorized to deny access and the individuals or committees which assist him by providing information, furnishing legal or policy advice, recommending action, or implementing the decision. Care should also be taken to avoid the situation in which the official or employee whose signature appears on a notification of denial as ostensibly the responsible person is in fact acting on the orders of his superior. In such a case, the notification should identify the superior as the responsible person, with the subordinate signing "by direction" or with other appropriate indication of his role.

7. *Substantive changes.* The 1974 amendments include three provisions whose nature is "substantive", in the sense that they affect what records are subject to compulsory disclosure under the Act, rather than how requests for records shall be processed or litigated. These are a revision of the 1st exemption (pertaining to documents classified under an Executive Order for reasons of defense or foreign policy), a revision of the 7th exemption (investigatory law enforcement records), and a provision on the availability of "reasonably segregable" portions of records from which exempt matter has been deleted.

While these three substantive changes, like the rest of the 1974 amendments, do not become effective until February 19, 1975, it would be parsimonious and ultimately unwise to act before that time as if they were not in prospect. Each agency should take these changes into account to the best of its ability even before they become effective, particularly in its processing of requests and appeals and in assisting in the conduct of litigation. The application of these revisions will be the subject of a subsequent Justice Department memorandum.

8. *Miscellaneous matters.* The 1974 amendments replace the requirement that a request be for "identifiable records" with the requirement that it be one which "reasonably describes such records". Section 552(a)(3)(A). Agency regulations which contain provisions that parallel the old "identifiable records" language should be revised accordingly. A broad categorical request may or may not meet the "reasonably describes" standard; an agency receiving such a request may communicate with the requester to clarify it.

The 1974 amendments require that any adverse initial determination set forth the reasons therefor and a notice of the requester's appeal rights, and that any adverse determination on appeal give notice of the requester's rights of judicial review. Section 552(a)(6)(A). Agency regulations should be amended to reflect these new requirements.

In the event of suit under the Act, the government's time to answer is reduced from the 60 days generally available to the government in civil actions to 30 days "unless the court otherwise directs for good cause shown". Section 552(a)(4)(C). Upon termination of a suit under the Act in which the requester has "substantially prevailed", the court may assess "reasonable attorneys fees and other litigation costs reasonably incurred". Section 552(a)(4)(E). While neither of these changes necessarily calls for a revision of agency regulations, each can have an impact on agency operations: If a judicial extension of the 30-day time period is to be sought, the agency is likely to be called upon to provide information as to the facts and circumstances believed to constitute "good cause"; and if attorney's fees are assessed, they will be normally charged to the agency whose withholding of records was at issue. Needless to say, the attorney's fee provision increases substantially the likelihood that an agency will be sued when it issues a denial having weak or doubtful justification.

Each agency should carefully examine the text of the 1974 amendments to see if there are impacts upon its own regulations or operations which may not apply to other agencies and which are not discussed herein. It should also be noted that the amendments include a redefinition of "agency" for purposes of the Act, set forth in the new section 552(e), which extends the Act's coverage to some entities not considered agencies for purposes of other provisions of the Administrative Procedure Act.

As a general policy in cases where difficult problems are encountered as to such matters as the scope of the request, the time to process it, or the fees involved, agencies are encouraged to consider telephoning the requester to seek an informal accommodation, which should ordinarily be promptly confirmed in writing.

9. *Further action.* The administrative and reporting requirements of the new amendments, together with the relatively brief time limits imposed, demand the closest internal coordination of agency efforts, both in designing compliance with the 1974 revisions and in administering the Act after they become effective. To achieve this, agencies should consider establishing, perhaps on a temporary or ad hoc basis, an internal board or committee which would include talent at appropriate levels in the areas of law, public information, program operations, records management, budget and training.

The Justice Department will distribute before the effective date of the 1974 amendments an interpretive and advisory "Analysis", primarily addressed to the three "substantive" provisions referred to in item 7 above, but perhaps containing further guidance on procedural questions such as those discussed herein. Until that is issued, it would be appreciated if requests from agencies for advice and assistance concerning the Act be kept to a minimum. However, comments on this preliminary guidance memorandum are solicited, with a view to making desirable additions and changes.

ATTACHMENT D—SUMMARY OF PRINCIPAL CHANGES IN FREEDOM OF INFORMATION ACT MADE BY 1974 AMENDMENTS

Changes	*Place in Amended Act*
1. Publication or alternative requirement concerning indexes of (a)(2) materials.	552(a)(2).
2. Administrative time limits and extensions, and contents of denial letters.	552(a)(6).
3. Uniform agency fees for search and duplication.	552(a)(4)(A).
4. Disciplinary proceedings for arbitrary or capricious denials.	552(a)(4)(F).
5. In camera inspection by court of requested documents.	552(a)(4)(B).
6. Shortened time to answer complaint in court.	552(a)(4)(C).
7. Attorney fees award for requesters who prevail.	552(a)(4)(E).
8. Revision of exemption 1 for defense and foreign policy records classified under Executive Order.	552(b)(1).
9. Revision of exemption 7 for investigatory law enforcement records.	552(b)(7).
10. Availability of "reasonably segregable portion" of record.	552(b) (at end of subsection).
11. Annual reports to Congress.	552(d).

[*] "The [Civil Service] Commission, after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Commission recommends." Section 552(a)(4)(F).

(In addition, the 1974 Amendments make a number of other changes in the Act which, for the purposes of most agencies, are believed to be generally less significant.)

[FR Doc.74-29415 Filed 12-17-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

BETTLES FIELD, ALASKA

Eligibility of Unlisted Village

This decision is published in exercise of authority delegated by the Secretary of the Interior to the Director, Juneau Area Office, Bureau of Indian Affairs, by § 2651.2(a) (6), (8), (9), and (10) of Subchapter B of Chapter II of Title 43 of the Code of Federal Regulations published on page 14223 of the May 30, 1973 issue of the FEDERAL REGISTER.

The Alaska Native Claims Settlement Act of December 18, 1971 (Pub. L. 92-203, 92nd Congress; 85 Stat. 688-716), provides for the settlement of certain land claims of Alaska Natives and for other purposes.

Accordingly, the Director, Juneau Area Office, Bureau of Indian Affairs, pursuant to the authority delegated him in the regulations in 43 CFR Part 2650, authorizing him to make final decisions on behalf of the Secretary of the Interior on the eligibility of Native villages for benefits under the Alaska Native Claims Settlement Act, subject to appeal to the Ad Hoc Board, published on February 21, 1974, his final decision determining the eligibility of the unlisted Native village of Bettles Field, said decision appearing in 39 FR 6625(1974).

The decision was appealed by the Alaska Wildlife Federation & Sportsmen's Council; Philip R. Holdsworth; and the Sierra Club, Alaska Chapter, (appellants herein). The appellants brought forth, to the Ad Hoc Board, a withdrawal of protest. The Board therefore dismissed the appeals and thereby notified the Director that his final decision certifying the unlisted village of Bettles Field as eligible for benefits under the Alaska Native Claims Settlement Act shall become final upon the personal approval by the Secretary of the Interior.

The Ad Hoc Board, also known as the Alaska Native Claims Appeal Board, on July 1, 1974 determined the unlisted Native village of Bettles Field, pursuant to section 11(b)(3) of said Act, 43 U.S.C. 1610(b)(3), is now eligible to receive land benefits under sections 14 (a) and (b) of the Act, 43 U.S.C. 1613 (a) and (b).

In accordance with the Ad Hoc Board's decision, approved on July 9, 1974 by the Secretary of the Interior, Rogers C. B. Morton, and by telegram dated September 16, 1974 from Assistant Secretary of the Interior, Royston C. Hughes, authorized the Director, Juneau Area Office, Bureau of Indian Affairs to certify the unlisted Native village of Bettles Field as eligible for benefits under the Alaska Native Claims Settlement Act, said Director hereby certifies the Native village of Bettles Field is eligible for benefits under said Act, said decision being not further appealable, therefore issues to the unlisted Native village of Bettles Field a certification of eligibility.

CLARENCE ANTIOQUIA,
Director.

DECEMBER 9, 1974.

[FR Doc.74-29368 Filed 12-17-74;8:45 am]

CHENEGA, ALASKA

Eligibility of Unlisted Village

This decision is published in exercise of authority delegated by the Secretary of the Interior to the Director, Juneau Area Office, Bureau of Indian Affairs, by § 2651.2(a) (6), (8), (9), and (10) of Subchapter B of Chapter II of Title 43 of the Code of Federal Regulations published on page 14223 of the May 30, 1973 issue of the FEDERAL REGISTER.

The Alaska Native Claims Settlement Act of December 18, 1971 (Pub. L. 92-203, 92d Congress; 85 Stat. 688-716), provides for the settlement of certain land claims of Alaska Natives and for other purposes.

Accordingly, the Director, Juneau Area Office, Bureau of Indian Affairs, pursuant to the authority delegated him in the regulations in 43 CFR Part 2650, authorizing him to make final decisions on behalf of the Secretary of the Interior on the eligibility of Native villages for benefits under the Alaska Native Claims Settlement Act, subject to appeal to the Ad Hoc Board, published on February 26, 1974, his final decision determining the eligibility of the unlisted Native village of Chenega, said decision appearing in 39 FR 7468 (1974).

The decision was appealed by the Alaska Wildlife Federation and Sportsmen's Council, Inc.; Philip R. Holdsworth; the Sierra Club, Alaska Chapter; and the U.S. Forest Service, Department of Agriculture. The Ad Hoc Board directed that a hearing be and was conducted on July 18, 1974, at Cordova, Alaska by an Administrative Law Judge.

The Ad Hoc Board, also known as the Alaska Native Claims Appeal Board, on September 10, 1974 determined the unlisted Native village of Chenega, pursuant to section 11(b)(3) of said Act, 43 U.S.C. sec. 1610(b)(3), is eligible to receive land benefits under section 14(a) 43 U.S.C. 1613 (a) and (b), of the Act.

The Ad Hoc Board thereby notified the Director that his final decision certifying the unlisted Native village of Chenega as eligible for benefits under the Alaska Native Claims Settlement Act shall become final upon the personal approval by the Secretary of the Interior.

In accordance with the Ad Hoc Board's decision, approval on September 24, 1974, by the Secretary of the Interior, Rogers C. B. Morton and by telegram dated September 16, 1974, from Assistant Secretary of the Interior, Royston C. Hughes, authorized the Director, Juneau Area Office, Bureau of Indian Affairs, to certify the unlisted Native village of Chenega as eligible for benefits under the Alaska Native Claims Settlement Act, said Director, hereby certifies the unlisted Native village of Chenega is eligible for benefits under the Alaska Native Claims Settlement Act, said decision being not further appealable, therefore issues to the unlisted Native village of Chenega a certification of eligibility.

CLARENCE ANTIOQUIA,
Director.

DECEMBER 9, 1974.

[FR Doc.74-29369 Filed 12-17-74;8:45 am]

COLVILLE INDIAN RESERVATION, WASHINGTON

Ordinance Governing the Sale, Distribution and Taxation of Tobacco Products

DECEMBER 10, 1974.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Notice is hereby given that the Colville Business Council of the Confederated Tribes of the Colville Reservation, Washington, duly enacted the Colville Tobacco Ordinance (Ordinance No. 74-565) on August 23, 1974. The Ordinance was enacted under authority contained in Article V, section 1(a) of the Constitution of the Confederated Tribes of the Colville Reservation which was ratified by the Colville Indians on February 26, 1938, and approved by the Commissioner of Indian Affairs on April 19, 1938. The Colville Tobacco Ordinance (Ordinance No. 74-565) was approved by the Area Director, Portland Area Office, Bureau of Indian Affairs, on October 22, 1974, under authority redelegated to him in 10 BIAM 3. The Colville Tobacco Ordinance (Ordinance No. 74-565) reads as follows:

Whereas, the Colville Business Council is the duly constituted governing body of the Confederated Tribes of the Colville Indian Reservation, and,

Whereas, under the Constitution and By-Laws of the Tribes, the Colville Business Council is charged with the duty of protecting the health, security and general welfare of the Colville Confederated Tribes, and

Whereas, by virtue of their status as Indian tribes, the Colville Confederated Tribes are authorized by federal law to possess unstamped cigarettes and other tobacco products on the Colville Indian Reservation and to regulate their sale and distribution, and

Whereas, the Colville Business Council deems it essential to the health, security, and general welfare of the Colville Confederated Tribes to enact a comprehensive tobacco ordinance regulating sale and distribution of cigarettes and other tobacco products and levying an excise tax upon their distribution on the Colville Indian Reservation, and

Whereas, the Colville Business Council has heretofore adopted Resolution 1973-375, but now wishes to clarify some sections of that ordinance and to expand the remedies available for violation of the ordinance, and to increase the number of cartons of cigarettes which may be sold to non-Indians,

Now, therefore, the Colville Business Council does hereby promulgate and enact the following amended tobacco ordinance to supersede any previous tobacco ordinance heretofore enacted.

AN ORDINANCE

GOVERNING SALE, DISTRIBUTION AND TAXATION OF TOBACCO PRODUCTS WITHIN THE COLVILLE INDIAN RESERVATION

SECTION 1. *Title.* This ordinance shall be known as the Colville Tobacco Ordinance.

SEC. 2. *Definitions.* As used in this ordinance, the following words and phrases shall each have the designated meaning unless a different meaning is expressly provided or the context is clearly indicated:

(a) "Tribes" shall mean the Confederated Tribes of the Colville Indian Reservation.

(b) "Council" shall mean the Colville Business Council.

(c) "Cigarettes" shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

(d) "Tobacco Products" shall mean cigarettes, cigars, smoking tobacco, snuff, chewing tobacco, and other kinds of forms of tobacco prepared in such manner as to be suitable for chewing or smoking.

(e) "Taxable Event" shall mean the sale, use, consumption, handling, possession, or distribution of each tobacco product.

(f) "Retail Selling Price" shall mean the ordinary, customary, or usual price paid by the consumer for each tobacco product, less the tax levied by this ordinance.

(g) "Wholesale Distribution Price" shall mean the price paid for each tobacco product by the Tribes together with all freight charges and other expenses incurred by the Tribes in their receipt and distribution.

(h) "Tobacco Outlet" shall mean a licensed tribal retail sales business selling tobacco products on trust land within the Colville Indian Reservation.

(i) "Operator" shall mean an enrolled member of the Colville Confederated Tribes licensed by the Tribes to manage a tobacco outlet.

SEC. 3. *Establishment of tobacco outlets.* The Council shall establish one or more tobacco outlets within the Colville Indian Reservation as the Council in its sole discretion deems necessary to provide adequate service to consumers of cigarettes and tobacco products.

SEC. 4. *Nature of outlet.* Each tobacco outlet established hereunder shall be a tribal tobacco outlet and shall be managed for the Tribes by an operator pursuant to a license granted by the Council hereunder, and shall also be managed pursuant to a Federal Indian Trader's License as provided in Section 7 hereof.

SEC. 5. *Application for tobacco outlet license.* Any enrolled member of the Colville Confederated Tribes may apply upon an application form provided by the Council for a tobacco outlet license. The application shall state the name and address of the applicant and shall be signed by the applicant under oath.

SEC. 6. *Tobacco outlet license.* Upon approval of an application, the Council shall issue the applicant a tobacco outlet license for a five-year period which shall entitle the operator to establish and maintain one tobacco outlet on the Colville Indian Reservation. The license shall be renewable in such manner as the Council shall prescribe and shall be nontransferable.

SEC. 7. *Trader's license.* No tobacco outlet license shall be issued to an operator until he has obtained a Federal Indian Trader's License from the Superintendent of the Colville Indian Agency. Revocation of the Federal Indian Trader's License shall be grounds for revocation of the operator's tobacco outlet license.

SEC. 8. *Excise tax imposed.* There is being levied and there shall be collected as hereinafter provided, a tax upon the sale, use, consumption, handling, possession or distribution of all cigarettes in the amount of three cents per package. The Council may levy an additional tax upon the distribution of cigarettes and other tobacco products as it deems desirable. The excise tax levied hereunder shall be a tax upon distribution of cigarettes and other tobacco products by the Tribes only and shall not constitute an assessment or license fee upon enrolled members of the Tribes doing business within the reservation or obtaining special rights or privileges.

The excise tax levied hereunder shall be first a tax upon distribution of cigarettes and other tobacco products by the Tribes pursuant to section 10 of this ordinance; provided, however, that failure to pay the tax at the time of such distribution shall not prevent tax liability from arising by reason of another taxable event. The excise tax levied hereunder shall be added to the retail price of tobacco products sold to the ultimate consumer.

SEC. 9. *Purchase by Tribes.* All tobacco products purchased by the Tribes pursuant hereto shall be purchased with federally-restricted tribal funds.

SEC. 10. *Wholesale distribution.* Wholesale distribution of tobacco products by the Tribes to a tobacco outlet shall be upon a cash basis for the wholesale distribution price which shall have added to it the excise tax levied in section 8 hereof.

SEC. 11. *Tobacco products Federally restricted Tribal property.* The entire stock of tobacco products distributed hereunder shall remain federally-restricted tribal property owned and possessed by the Tribes until sale to the ultimate consumer. Payment by the operator of the wholesale distribution price plus the excise tax as provided in section 10 hereof shall entitle the operator to custody of distributed tobacco products for sale to the ultimate consumer, at the operator's sole risk in the event of any loss whatsoever.

SEC. 12. *Remuneration to operator.* As remuneration for managing a tobacco outlet, an operator shall be entitled to the gross revenue derived from sale of tobacco products distributed hereunder in excess of the wholesale distribution price and the excise tax levied hereunder.

SEC. 13. *Restricted sales to non-Indians.* An operator may not sell more than three cartons of cigarettes per sale to a non-Indian. The Council may restrict sales of other tobacco products to non-Indians as it deems necessary.

SEC. 14. *Restricted sales to minors.* An operator may not sell any tobacco products to any person under the age of 18 years.

SEC. 15. *Other business by operator.* An operator may conduct another business simultaneously with managing a tobacco outlet for the Tribes. The other business may be conducted on the same premises and the operator shall not be required to maintain separate books of account for the other business.

SEC. 16. *Tribal immunity—liability-credit.* An operator shall not attempt or be authorized to waive the sovereign immunity of the Tribes from suit, nor shall such operator attempt or be authorized to create any liability on behalf of the Tribes or to utilize tribal credit.

SEC. 17. *Operating without license.* No person shall operate a tobacco outlet on the Colville Indian Reservation without having in effect a valid tobacco outlet license issued pursuant hereto.

SEC. 18. *Purchases.* An operator shall purchase all tobacco products sold in his tobacco outlet from the Tribes.

SEC. 19. *Liability insurance.* An operator shall maintain liability insurance upon his premises in the sum of $100,000.

SEC. 20. *Revocation of tobacco outlet license.* Failure of an operator to abide by the requirements of this ordinance and any additional requirement imposed by the Council will constitute grounds for revocation of the operator's tobacco outlet license as well as enforcement of the remedies provided in section 21 below.

SEC. 21. *Violation—remedies.* Upon application by the Chairman of the Council, the Tribal Judge shall issue an order directing the Tribal Law Enforcement Officer to seize all tobacco products from wherever purchased and by whomever owned from any tobacco outlet being operated in violation of this ordinance. Within three days of such seizure, after adequate notice to the operator of such outlet, a hearing shall be held in Tribal Court at which time the operator of such outlet shall be given an opportunity to present evidence in defense of his activities. If the Tribal Court shall determine by a preponderance of the evidence that such tobacco outlet was being operated in violation of this ordinance, the Judge shall impose a fine of not less than $50 nor more than $250 in addition to the forfeiture of tobacco products described above.

SEC. 22. *Recovery of taxes owed.* The Tribes shall have a cause of action in Tribal Court to recover any taxes owed and not paid to the Tribes in accordance with this or any previous ordinance.

SEC. 23. *Separability.* If any provision of this ordinance or its application to any person or circumstances is held invalid, the remainder of this ordinance, or the application of the provision to other persons or circumstances is not affected.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.74-29366 Filed 12-17-74;8:45 am]

KING ISLAND, ALASKA

Eligibility of Unlisted Village

This decision is published in exercise of authority delegated by the Secretary of the Interior to the Director, Juneau Area Office, Bureau of Indian Affairs, by § 2651.2(a) (6), (8), (9), and (10) of Subchapter B of Chapter II of Title 43 of the Code of Federal Regulations published on page 14223 of the May 30, 1973 issue of the FEDERAL REGISTER.

The Alaska Native Claims Settlement Act of December 18, 1971 (Pub. L. 92-203, 92nd Congress; 85 Stat. 688-716), provides for the settlement of certain land claims of Alaska Natives and for other purposes.

Accordingly, the Director, Juneau Area Office, Bureau of Indian Affairs, pursuant to the authority delegated him in the regulations in 43 CFR Part 2650, authorizing him to make final decisions on behalf of the Secretary of the Interior on the eligibility of Native villages for benefits under the Alaska Native Claims Settlement Act, subject to appeal to the Ad Hoc Board, published on February 21, 1974, his final decision determining the eligibility of the unlisted Native village of King Island, said decision appearing in 39 FR 6626 (1974).

The decision was appealed by the Alaska Wildlife Federation & Sportsmen's Council; Philip R. Holdsworth; and the Sierra Club, Alaska Chapter (appellants herein). The appellants brought forth, to the Ad Hoc Board, a withdrawal of protest. The Board therefore dismissed the appeals and thereby notified the Director that his final decision certifying the unlisted village of King Island as eligible for benefits under the Alaska Native Claims Settlement Act shall become final upon the personal approval by the Secretary of the Interior.

The Ad Hoc Board, also known as the Alaska Native Claims Appeal Board, on July 1, 1974 determined the unlisted Native village of King Island, pursuant to section 11(b)(3) of said Act, 43 U.S.C. 1610(b)(3), is now eligible to receive land benefits under sections 14 (a) and (b) of the Act, 43 U.S.C. 1613 (a) and (b).

In accordance with the Ad Hoc Board's decision, approved on July 9, 1974 by the Secretary of the Interior, Rogers C. B. Morton, and by telegram dated September 16, 1974, from Assistant Secretary of the Interior, Royston C. Hughes, authorized the Director, Juneau Area Office, Bureau of Indian Affairs to certify the unlisted Native village of King Island as eligible for benefits under the Alaska Native Claims Settlement Act, said Director, hereby certifies the Native village of King Island is eligible for benefits under said Act, said decision being not further appealable, therefore issues to the unlisted Native village of King Island a certification of eligibility.

CLARENCE ANTIOQUIA,
Director.

DECEMBER 9, 1974.

[FR Doc.74-29370 Filed 12-17-74;8:45 am]

PAULOFF HARBOR (SANAK), ALASKA

Ineligibility of Listed Village

This decision is published in exercise of authority delegated by the Secretary of the Interior to the Director, Juneau Area Office, Bureau of Indian Affairs, by § 2651.2(a) (1), (8), (9), and (10) of Subchapter B of the Chapter II of Title 43 of the Code of Federal Regulations published on page 14223 of the May 30, 1973, issue of the FEDERAL REGISTER.

The Alaska Native Claims Settlement Act of December 18, 1971 (Pub. L. 92-203, 92nd Congress; 85 Stat. 688-716), provides for the settlement of certain land claims of Alaska Natives and for other purposes.

Accordingly, the Director, Juneau Area Office, Bureau of Indian Affairs, pursuant to the authority delegated him in the regulations in 43 CFR Part 2650, authorizing him to make final decisions on behalf of the Secretary of the Interior on the eligibility of Native villages for benefits under the Alaska Native Claims Settlement Act, subject to appeal to the Ad Hoc Board, published on March 7, 1974, his final decision determining the eligibility of the listed Native village of Pauloff Harbor (Sanak), said decision appearing in 39 FR 8943 & 8944 (1974).

The decision was appealed by the Alaska Wildlife Federation & Sportsmen's Council, Inc.; Philip R. Holdsworth; the Sierra Club, Alaska Chapter; and the Bureau of Sports Fisheries & Wildlife.

The Ad Hoc Board, also known as the Alaska Native Claims Appeal Board, directed that a de novo hearing be and was conducted on May 15, 1974, at Anchorage, Alaska by an Administrative Law Judge.

The Ad Hoc Board then determined that the Native village of Pauloff Harbor (Sanak), listed in section 11(b)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1610(b)(1), is hereby certified not eligible for benefits under section 14 (a) and (b), 43 U.S.C. 1613 (a) and (b), of the Act.

The Ad Hoc Board thereby notified the Director, Juneau Area Office, Bureau of Indian Affairs, that his final decision certifying the listed village of Pauloff Harbor (Sanak) as eligible shall become ineligible for benefits under the Alaska Native Claims Settlement Act which shall become final upon the personal approval of the Secretary of the Interior.

In accordance with the Ad Hoc Board's decision, approved on June 14, 1974 by the Secretary of the Interior, Rogers C. B. Morton and by telegram dated September 16, 1974 from Assistant Secretary of the Interior, Royston C. Hughes, authorized the Director, Juneau Area Office, Bureau of Indian Affairs, to certify the listed Native village of Pauloff Harbor (Sanak) as not eligible for benefits under the Alaska Native Claims Settlement Act, said Director, hereby certifies the listed Native village of Pauloff Harbor (Sanak) is not eligible for benefits under said Act, said decision being not further appealable, therefore issues to the listed Native village of Pauloff Harbor (Sanak) a certification of ineligibility.

CLARENCE ANTIOQUIA,
Director.

DECEMBER 9, 1974.

[FR Doc.74-29371 Filed 12-17-74;8:45 am]

SALAMATOFF, ALASKA

Ineligibility of Listed Village

This decision is published in exercise of authority delegated by the Secretary of the Interior to the Director, Juneau Area Office, Bureau of Indian Affairs, by § 2651.2(a) (1), (8), (9), and (10) of Subchapter B of the Chapter II of Title 43 of the Code of Federal Regulations published on page 14223 of the May 30, 1973, issue of the FEDERAL REGISTER.

The Alaska Native Claims Settlement Act of December 18, 1971 (Pub. L. 92-203, 92nd Congress; 85 Stat. 688-716), provides for the settlement of certain land claims of Alaska Natives and for other purposes.

Accordingly, the Director, Juneau Area Office, Bureau of Indian Affairs, pursuant to the authority delegated him in the regulations in 43 CFR Part 2650, authorizing him to make final decisions on behalf of the Secretary of the Interior on the eligibility of Native villages for benefits under the Alaska Native Claims Settlement Act, subject to appeal to the Ad Hoc Board, published on December 12, 1973, his final decision determining the eligibility of the listed Native village of Salamatoff, said decision appearing in 38 FR 34212 (1973).

The decision was appealed by the Bureau of Sport Fisheries & Wildlife. The Ad Hoc Board, also known as the Alaska Native Claims Appeal Board, directed that a de novo hearing be and was conducted on May 13, 1974, at Kenai, Alaska by an Administrative Law Judge.

The Ad Hoc Board, on June 10, 1974, determined that the listed Native village of Salamatoff, pursuant to section 11(b)(1), 43 U.S.C. 1610(b)(1) of the Act is not eligible to receive land benefits under sections 14 (a) and (b), 43 U.S.C. 1613 (a) and (b), of the Act.

The Ad Hoc Board thereby notified the Director that his final decision certifying the listed village of Salmatoff as eligible shall become ineligible for benefits under the Alaska Native Claims Settlement Act which shall become final upon the personal approval of the Secretary of the Interior.

In accordance with the Ad Hoc Board's decision, approved on June 14, 1974, by the Secretary of the Interior, Rogers C. B. Morton and by telegram dated September 16, 1974, from Assistant Secretary of the Interior, Royston C. Hughes, authorized the Director, Juneau Area Office Bureau of Indian Affairs, to certify the listed Native village of Salamatoff as not eligible for benefits under the Alaska Native Claims Settlement Act, said Director, hereby certifies the listed Native village of Salamatoff is not eligible for benefits under said Act, said decision is not further appealable, therefore issues to the listed Native village of Salamatoff a Certification of Ineligibility.

CLARENCE ANTIOQUIA,
Director.

DECEMBER 9, 1974.

[FR Doc.74-29372 Filed 12-17-74;8:45 am]

UYAK, ALASKA

Ineligibility of Listed Village

This decision is published in exercise of authority delegated by the Secretary of the Interior to the Director, Juneau Area Office, Bureau of Indian Affairs, by § 2651.2(a) (1), (8), (9), and (10) of Subchapter B of the Chapter II of Title 43 of the Code of Federal Regulations published on page 14223 of the May 30, 1973, issue of the FEDERAL REGISTER.

The Alaska Native Claims Settlement Act of December 18, 1971 (Pub. L. 92-203, 92d Congress; 85 Stat. 688-716), provides for the settlement of certain land claims of Alaska Natives and for other purposes.

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Accordingly, the Director, Juneau Area Office, Bureau of Indian Affairs, pursuant to the authority delegated him in the regulations in 43 CFR Part 2650, authorizing him to make final decisions on behalf of the Secretary of the Interior on the eligibility of Native villages for benefits under the Alaska Native Claims Settlement Act, subject to appeal to the Ad Hoc Board, published on December 12, 1973, his final decision determining the eligibility of the listed Native village of Uyak, said decision appearing in 38 FR 34213 (1973).

The decision was appealed by the Bureau of Sport Fisheries & Wildlife. The Ad Hoc Board, also known as the Alaska Native Claims Appeal Board, directed that a de novo hearing be and was held on May 16, 1974, at Kodiak, Alaska by an Administrative Law Judge.

The Ad Hoc Board, on June 9, 1974, determined that the listed Native village of Uyak, pursuant to section 11(b)(1), 43 U.S.C. 1610(b)(1) of the Act is not eligible to receive land benefits under sections 14 (a) and (b), 43 U.S.C. 1613 (a) and (b), of the Act.

The Ad Hoc Board thereby notified the Director that his final decision certifying the listed village of Uyak as eligible shall become ineligible for benefits under the Alaska Native Claims Settlement Act which shall become final upon the personal approval of the Secretary of the Interior.

In accordance with the Ad Hoc Board's decision, approved on June 14, 1974, by the Secretary of the Interior, Rogers C. B. Morton, and by telegram dated September 18, 1974, from Assistant Secretary of the Interior, Royston C. Hughes, authorized the Director, Juneau Area Office, Bureau of Indian Affairs, to certify the listed Native village of Uyak as not eligible for benefits under the Alaska Native Claims Settlement Act, said Director, hereby certifies the listed Native village of Uyak is not eligible for benefits under the Alaska Native Claims Settlement Act, said decision is not further appealable, therefore issues to the listed Native village of Uyak a Certification of Ineligibility.

CLARENCE ANTIOQUIA,
Director.

DECEMBER 9, 1974.

[FR Doc.74-29373 Filed 12-17-74;8:45 am]

Office of the Assistant Secretary

OIL SHALE ENVIRONMENTAL ADVISORY PANEL

Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Oil Shale Environmental Advisory Panel will be held on January 9 and 10, 1975, at the Denver Foothills Ramada Inn, 11595 West 6th Avenue, Lakewood, Colorado. The meeting will begin at 9:00 AM on Thursday, January 9, in the Merlin Room and conclude at 12:00 Noon on Friday, January 10.

The Panel was established to assist the Department of the Interior in the performance of functions in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program. The purpose of the meeting is to review progress of the prototype program since the Panel's October 1974 meeting; the coordination of already adopted guidelines; to receive reports from Departmental officials; and for technical briefings on Interior Department research programs on water resources of the Piceance Basin, Colorado, oil-shale geology, and oil-shale extraction.

The meeting is open to the public. It is expected that space will permit at least 100 persons to attend the session in addition to the panel members. Interested persons may make brief presentations to the Panel or file written statements. Requests should be made to Mr. William L. Rogers, Chairman, Office of the Secretary, Department of the Interior, Room 688, Building 67, Denver Federal Center, Denver, Colorado 80225.

Further information concerning this meeting may be obtained from Mr. Henry O. Ash, Office of the Oil Shale Environmental Advisory Panel, Room 820-A, Building 67, Denver Federal Center, Denver, Colorado 80225, Telephone No. (303) 234-3275. Minutes of the meeting will be available for public inspection 30 days after the meeting at the Panel Office.

Dated: December 11, 1974.

JACK O. HORTON,
Assistant Secretary of the Interior for Land and Water Resources.

[FR Doc.74-29374 Filed 12-17-74;8:45 am]

National Park Service

[INT FES 74-64]

Availability of Final Environmental Statement

PROPOSED KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK, ALASKA AND WASHINGTON

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the master plan for the proposed Klondike Gold Rush National Historical Park, Alaska and Washington.

The statement considers the establishment, management, and use of the proposed Park.

Copies are available from, or for inspection at, the following locations:

Pacific Northwest Region
National Park Service
Fourth and Pike Building
Seattle, Washington 98101

Alaska State Office
National Park Service
Suite 200
334 West Fifth Avenue
Anchorage, Alaska 99501

Juneau Office
National Park Service
Room 602, Federal Building
Juneau, Alaska 99801

Dated: December 12, 1974.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.74-29491 Filed 12-17-74;8:45 am]

DEPARTMENT OF COMMERCE

National Bureau of Standards

FEDERAL INFORMATION PROCESSING STANDARDS COORDINATING AND ADVISORY COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. III, 1973), notice is hereby given that the Federal Information Processing Standards Coordinating and Advisory Committee (FIPSCAC) will hold a meeting from 9:00 a.m. to 12:00 noon on Wednesday, January 29, 1975, in Room B-255, Building 225, of the National Bureau of Standards in Gaithersburg, Maryland.

The purpose of the meeting is to review the actions of the Federal Information Processing Standards (FIPS) Task Groups and to consider other matters relating to Federal information processing standards.

The public will be permitted to attend, to file written statements, and, to the extent that time permits, to present oral statements. Persons planning to attend should notify Joseph O. Harrison, Jr., Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (Phone 301-921-3551).

Dated: December 12, 1974.

RICHARD W. ROBERTS,
Director.

[FR Doc.74-29417 Filed 12-17-74;8:45 am]

FEDERAL INFORMATION PROCESSING STANDARDS TASK GROUP 13 WORKLOAD DEFINITION AND BENCHMARKING

Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. III, 1973), notice is hereby given that the Federal Information Processing Standards Task Group 13 (FIPS TG-13), "Workload Definition and Benchmarking," will hold a meeting from 10:00 a.m. to 4:00 p.m. on Wednesday, January 22, 1975, in Room B-255, Building 225, of the National Bureau of Standards at Gaithersburg, Maryland.

The purpose of this meeting is to review the progress of four workgroups which are addressing the areas of Problem Definition, Benchmark Program Transferability, Preliminary Benchmarking Guidelines, and Workload Definition.

The public will be permitted to attend, to file written statements, and, to the extent that time permits, to present oral statements. Persons planning to attend should notify the Executive Secretary, Mr. John F. Wood, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234 (Phone—301–921–3485).

Dated: December 12, 1974.

RICHARD W. ROBERTS,
Director.

[FR Doc.74-29416 Filed 12-17-74;8:45 am]

National Oceanic and Atmospheric Administration

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Notice of Open Meeting

DECEMBER 13, 1974.

The National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting Monday and Tuesday, January 20 and 21, 1975. Both sessions will be open to the public and will be held in Room 6802 of the U.S. Department of Commerce Building, 15th and Constitution Avenue, NW., Washington, D.C., beginning at 9 a.m.

The Committee, consisting of 25 non-Federal members appointed by the President from State and local governments, industry, science, and other appropriate areas, was established by Congress by Public Law 92–125, on August 16, 1971. Its duties are to: (1) undertake a continuing review of the progress of the marine and atmospheric science and service programs of the United States, (2) submit a comprehensive annual report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities on or before June 30 of each year, and (3) advise the Secretary of Commerce with respect to the carrying out of the purposes of the National Oceanic and Atmospheric Administration.

The agenda will consist of briefings and discussion organized around the following topics:

Monday, January 20. Jurisdictional and regulatory issues in the management of offshore resources.

9:00 a.m. to noon. case studies by industry representatives.

1:30 to 5:00 p.m. views of representatives of State and Federal governments.

Tuesday, January 21. 9:00 a.m. to 1:00 p.m. progress reports from NACOA ad hoc working groups on such topics as coastal zone management, the future of the International Decade of Ocean Exploration, and military/civil weather services.

The public is welcome and will be admitted to the limit of the seating available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussion. Written statements may be submitted at any time.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Department of Commerce Building, Room 5225, Washington, D.C. 20230. Telephone: (202) 967–3143.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc.74-29476 Filed 12-17-74;8:45 am]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the licensing policy of each Agency-sponsor.

Copies of patents are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161, at the prices cited. Requests for copies of patent applications must include the PAT-APPL-number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent Office. Claims and other technical data can usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. Atomic Energy Commission, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 474,549: Improved Thermal Battery; filed 30 May 1974, PC $3.25/MF $1.25.

Patent 3,801,358: Refuse and Sewage Polymer Impregnated Concrete; filed 22 May 1972, patented 2 April 1974; not available NTIS.

Patent 3,801,484: Fixation of Nitrogen to Form Nitrates; filed 13 October 1972, patented 2 April 1974; not available NTIS.

Patent 3,801,700: Preparation of (238) Pu (16)02; filed 28 March 1972, patented 2 April 1974; not available NTIS.

Patent 3,803,295: Method for Removing Iodine from Nitric Acid; filed 21 December 1972, patented 9 April 1974; not available NTIS.

Patent 3,804,940: Method of Separating Thorium from Yttrium and Lanthanide Rare Earths; filed 29 October 1972, patented 16 April 1974; not available NTIS.

Patent 3,806,248: Continuous Flow Condensation Nuclei Counter; filed 21 February 1973, patented 23 April 1974; not available NTIS.

Patent 3,806,097: Production of Fluorine-18 Labeled 5-Fluorouracil; filed 28 November 1972, patented 30 April 1974; not available NTIS.

Patent 3,809,731: Method of Fabricating a Nuclear Reactor Fuel Element; filed 31 March 1961, patented 7 May 1974; not available NTIS.

Patent 3,810,962: Method of Making a Carbide-Graphite Composite Nuclear Fuel; filed 25 August 1972, patented 14 May 1974; not available NTIS.

Patent 3,811,426: Method and Apparatus for the In-Vessel Radiation Treatment of Blood; filed 21 May 1973, patented 21 May 1974; not available NTIS.

Patent 3,814,355: Destructible Parachute; filed 1 August 1973, patented 4 June 1974; not available NTIS.

Patent 3,815,858: Gate Valve; filed 6 June 1973, patented 11 June 1974; not available NTIS.

Patent 3,820,038: Method and Apparatus for Producing Isolated Laser Pulses Having a Fast Rise Time; filed 9 February 1973, patented 25 June 1974; not available NTIS.

Patent 3,820,144: Electromechanical Shutter; filed 1 October 1973, patented 25 June 1974; not available NTIS.

Patent 3,820,435: Confinement System for High Explosive Events; filed 11 May 1972, patented 28 June 1974; not available NTIS.

Patent 3,821,356: Production of High Purity Halides; filed 8 March 1973, patented 28 June 1974; not available NTIS.

U.S. Department of Air Force, AF/JACP, Washington, D.C. 20314.

Patent application: 478,551: Aircraft/Spacecraft Ground Accelerator; filed 12 June 1974; PC $3.25/MF $2.25.

Patent application: 478,553: Liquid Cooled Runway; filed 12 June 1974; PC $3.25/MF $3.25.

Patent application: 478,810: Fragment Suppression Configuration; filed 12 June 1974; PC $3.25/MF $2.25.

Patent 3,794,473: Rare Earth beta-Ketoenolate Anti-Knock Additives in Gasoline; filed 20 September 1972, patented 26 February 1974; not available NTIS.

Patent 3,798,648: High Resolution Airborne Signal Processing System; filed 27 June 1972, patented 19 March 1974; not available NTIS.

Patent 3,803,394: Centroid Tracker; filed 14 February 1973, patented 9 April 1974; not available NTIS.

Patent 3,807,169: Integral Precombustor/Ramburner Assembly; filed 13 June 1973, patented 30 April 1974; not available NTIS.

Patent 3,807,216: Temperature Cycling Device; filed 15 September 1972, patented 30 April 1974; not available NTIS.

Patent 3,815,026: Radar Altimeters for Automatic Landing Systems; filed 15 November 1971, patented 4 June 1974; not available NTIS.

Patent 3,815,135: Direction Finding Interferometer for a Linear FM Signal; filed 26 October 1972, patented 4 June 1974; not available NTIS.

Patent 3,816,586: Method of Fabricating Boron Suboxide Articles; filed 21 March 1972, patented 11 June 1974; not available NTIS.

Patent 3,817,945: Curing System for Carboxy Terminated Polybutadiene Propellants; filed 4 March 1970, patented 18 June 1974; not available NTIS.

Patent 3,818,219: Non-Destructive Testing of Metal Structures by Measuring Exo-Electron Emission; filed 18 April 1972, patented 18 June 1974; not available NTIS.

Patent 3,822,792: Air Flotation Cargo Handling System; filed 26 November 1972, patented 9 July 1974; not available NTIS.

Patent 3,823,600: Pneumatic Linear Accelerator; filed 9 April 1973, patented 16 July 1974; not available NTIS.

Patent 3,823,666: Duplex Combustible Cartridge Case; filed 19 October 1972, patented 16 July 1974; not available NTIS.

U.S. Environmental Protection Agency, Room W513, 401 M Street SW., Washington, D.C. 20460.

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Patent 3,664,940: Suspension Dewatering Method; filed 6 October 1969, patented 23 May 1972; not available NTIS.

Patent 3,701,486: Snagging Device for Inverted Grinder; filed 1 September 1970, patented 31 October 1972; not available NTIS.

Patent 3,803,920: Sample Dilution Device-Disc Diluter; filed 15 November 1972; patented 16 April 1974; not available NTIS.

U.S. Department of Health, Education, and Welfare, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Maryland 20014.

Patent application 509,966: Nuclease-Resistant Hydrophilic Complex of Polyribotinosinic-Polyribocytidylic Acid; filed 27 September 1974; PC $3.25/MF $2.25.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

Patent 3,767,781: Self-Destructing Pesticidal Formulations and Methods for Their Use; filed 22 December 1970, patented 23 October 1973; not available NTIS.

Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Virginia 22217.

Patent 3,729,425: Porous Chemiluminescent Material and Method of Manufacture; filed 29 April 1969, patented 24 April 1973; not available NTIS.

Patent 3,727,870: Drag Reduction Method; filed 20 January 1970, patented 17 April 1973; not available NTIS.

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Patent 3,728,170: Plastic-Bonded Explosive Compositions and the Preparation Thereof; filed 6 September 1962, patented 17 April 1973; not available NTIS.

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Patent 3,728,525: Magnetic Navigation System; filed 19 October 1971, patented 17 April 1973; not available NTIS.

Patent 3,728,696: Inverse Logarithmic Function Generator; filed 28 December 1971, patented 17 April 1973; not available NTIS.

Patent 3,728,717: Digital to Time Interval Converter; filed 27 December 1971, patented 17 April 1973; not available NTIS.

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Patent 3,744,015: Automatic Electronic Filter System; filed 14 April 1972, patented 3 July 1973; not available NTIS.

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Patent 3,745,474: High Speed Logarithmic Video Amplifier; filed 20 December 1971, patented 10 July 1973; not available NTIS.

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Patent 3,753,656: Gas Chromatograph; filed 7 April 1971, patented 21 August 1973; not available NTIS.

Patent 3,754,121: Solid State Instrument System for Digital Counting and Continuously Indicating Count Results; filed 28 July 1972, patented 21 August 1973; not available NTIS.

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Patent 3,754,596: Cooling System for Multiple Electrical Equipments; filed 3 December 1971, patented 28 August 1973; not available NTIS.

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Patent 3,771,150: Three Dimensional Optical Information Storage System; filed 20 April 1971, patented 6 November 1973; not available NTIS.

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Patent 3,774,159: Apparatus and Method for Determining the Profile of an Underwater Target; filed 24 November 1972, patented 20 November 1973; not available NTIS.

Patent 3,774,165: Apparatus for Processing the Flow of Digital Data; filed 2 August 1972, patented 20 November 1973; not available NTIS.

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Patent 3,775,199: Nitrogen Generator; filed 13 October 1972, patented 27 November 1973; not available NTIS.

Patent 3,775,268: Use of Lead in a Nonorganic-Containing Copper Pyrophosphate Bath; filed 30 December 1971, patented 27 November 1973; not available NTIS.

Patent 3,775,558: Digital Phase Discriminators and Video Gate Generators; filed 13 December 1971, patented 27 November 1973; not available NTIS.

Patent 3,775,735: Apparatus for Scanning an Underwater Area; filed 1 May 1972, patented 27 November 1973; not available NTIS.

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Patent 3,775,976: Lox Heat Sink System for Underwater Thermal Propulsion System; Filed 26 May 1972, patented 4 December 1973; not available NTIS.

Patent 3,776,058: Multi-Axis Hand Controller; filed 17 May 1972, patented 4 December 1973; not available NTIS.

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Patent 3,830,335: Noise Suppressor; patented 20 August 1974; not available NTIS.

Patent 3,830,673: Preparing Oxidizer Coated Metal Fuel Particles; Patented 20 August 1974; not available NTIS.

Patent 3,831,117: Capacitance Multiplier and Filter Synthesizing Network; patented 20 August 1974; not available NTIS.

Patent 3,832,764: Tool for Use in Lifting Pin Supported Objects; patented 3 September 1974; not available NTIS.

Patent 3,832,781: Measuring Probe Position Recorder; patented 3 September 1974; not available NTIS.

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

NATIONAL ADVISORY BODIES

Notice of Meetings

The Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, announces the meeting dates and other required information for the following national advisory bodies scheduled to assemble the month of January 1975:

Committee name	Date, time, place	Type of meeting and/or contact person
Continuing Education Training Review Committee.	Jan. 2 and 3, 9 a.m., Executive Room, Shoreham Hotel, Washington, D.C.	Open—Jan. 2, 9 to 10 a.m., closed—otherwise contact Jeanette Chamberlain, 301-443-4795, Parklawn Bldg., room 9C-22, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to training activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 10 a.m., January 2, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463.

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Committee name	Date, time, place	Type of meeting and/or contact person
Epidemiologic Studies Review Committee.	Jan. 6 and 7, 9 a.m., Conference Room G101, Sheraton Park Hotel, Washington, D.C.	Open—Jan. 6, 9—10 a.m., closed—otherwise contact Dr. Shirley Reff-Margolis, 301-443-3774, Parklawn Bldg., Room 10C-00, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research and training activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 10 a.m., January 6, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463.

Committee name	Date, time, place	Type of meeting and/or contact person
Mental Health Services Research Review Committee.	Jan. 6 to 8, 9 a.m., La Posada Motel, Santa Fe, N. Mex.	Open—Jan. 6, 9 to 10 a.m., closed—otherwise contact James T. Cumiskey, 301-443-3626, Parklawn Bldg., room 11-105, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 10 a.m., January 6, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463.

Committee name	Date, time, place	Type of meeting and/or contact person
Alcohol Research Review Committee.	Jan. 7 to 9, 9 a.m., Embassy Row Hotels, Washington, D.C.	Open—Jan. 7, 9 to 10 a.m., closed—otherwise contact J. O. Twegarden, 301-443-4228, Parklawn Bldg., room 6C-05, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to research activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda. From 9 to 10 a.m., January 7, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463.

Committee name	Date, time, place	Type of meeting and/or contact person
Juvenile Problems Research Review Committee.	Jan. 9 and 10, 8:45 a.m., Farragut Room, Washington Hilton Hotel, Washington, D.C.	Open—Jan. 9, 8:45 to 9:20 a.m., closed—otherwise contact Diana Souder, 301–443–3566, Parklawn Bldg., room 10–99, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 8:45 to 9:30 a.m., January 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463.

Committee name	Date, time, place	Type of meeting and/or contact person
Metropolitan Mental Health Problems Review Committee.	Jan. 9 and 10, 9 a.m., Ramsay Room, Ramada Inn of Alexandria, Alexandria, Va.	Open—Jan. 9, 9 to 10:30 a.m., closed—otherwise contact Joan Schulman, 301–443–3873, Parklawn Bldg., room 15–99, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research, fellowships, and training activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 10:30 a.m., January 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463.

Committee name	Date, time, place	Type of meeting and/or contact person
Minority Mental Health Programs Review Committee.	Jan. 9 and 10, 9 a.m., Statler-Hilton Hotel, Washington, D.C.	Open—Jan. 9, 9 to 10:30 a.m., closed—otherwise contact Edna Hardy Hill, 301–443–3724, Parklawn Bldg., room 7–103, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research and training activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 10:30 a.m., January 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463.

Committee name	Date, time, place	Type of meeting and/or contact person
Preclinical Psychopharmacology Research Review Committee.	Jan. 9 and 10, 9 a.m., Conference Room C, Parklawn Bldg., Rockville, Md.	Open—Jan. 9, 9 to 9:30 a.m., closed—otherwise contact Marion M. Miller, 301–443–3454, Parklawn Bldg., Room 9–97, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 9:30 a.m., January 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463.

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Committee name	Date, time, place	Type of meeting and/or contact person
Clinical Projects Research Review Committee.	Jan. 9 to 11, 9 a.m., Monroe-West, Washington Hilton, Washington, D.C.	Open—Jan. 9, 9 to 10 a.m., closed—otherwise contact Julian J. Lasky, 301-443-4707, Parklawn Bldg., room 10C-208, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 9:30 a.m., January 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463.

Committee name	Date, time, place	Type of meeting and/or contact person
Experimental Psychology Research Review Committee.	Jan. 9 to 11, 9 a.m., Circle Room, Dupont Plaza Hotel, Washington, D.C.	Open—Jan. 9, 9 to 9:30 a.m., closed—otherwise contact John Hammack, 301-443-3596, Parklawn Bldg., room 10-95, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 9:30 a.m., January 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463.

Committee name	Date, time, place	Type of meeting and/or contact person
Social Sciences Research Review Committee.	Jan. 9 to 11, 9 a.m., Woodley Room, Sheraton Park Hotel, Washington, D.C.	Open—Jan. 9, 9 to 9:30 a.m., closed—otherwise contact Joyce B. Lazar, 301-443-3606, Parklawn Bldg., room 10-95, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 9:30 a.m., January 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463.

Committee name	Date, time, place	Type of meeting and/or contact person
Neuropsychology Research Review Committee.	Jan. 9 to 11, 9 a.m., New Jersey Room, Holiday Inn, Bethesda, Md.	Open—Jan. 9, 9 to 10 a.m., closed—otherwise contact Leonard Lash, 301-443-3942, Parklawn Bldg., room 10C-03, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 10 a.m., January 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463.

Committee name	Date, time, place	Type of meeting and/or contact person
Personality and Cognition Research Review Committee.	Jan. 10 to 12, 9 a.m., Holiday Inn, Bethesda, Md.	Open—Jan. 10, 9 to 10 a.m., closed—otherwise contact Niles Bernick, 301-443-3942, Parklawn Bldg., room 10C-03, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute

of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 10 a.m., January 10, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463.

Committee name	Date, time, place	Type of meeting and/or contact person
Crime and Delinquency Review Committee.	Jan. 15 to 17, 9 a.m., Dupont Plaza Hotel, Washington, D.C.	Open—Jan. 15, 9 to 10 a.m., closed—otherwise Contact Carol Beall, 301-443-3728, Parklawn Bldg., room 12C-16, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research and training activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 10 a.m., January 15, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463.

Committee name	Date, time, place	Type of meeting and/or contact person
Experimental and Special Training Review Committee.	Jan. 15-17, 9 a.m., Conference Room J, Parklawn Bldg., Rockville, Md.	Open—Jan. 15, 9 to 9:20 a.m., closed—otherwise contact Dr. Ralph Simon, 301-443-3908, Parklawn Bldg., room 8C-02, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to training activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 9:30 a.m., January 15, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463.

Committee name	Date, time, place	Type of meeting and/or contact person
Drug Abuse Research Review Committee.	Jan. 15 to 17, 9 a.m., Conference Rooms 845 and 873, Rockwall Bldg., Rockville, Md.	Open—Jan. 15, 9 to 9:20 a.m., closed—otherwise contact Ellen Simon Stover, 301-443-6747, Rockwall Bldg., room 513, 11400 Rockville Pike, Rockville, Md., 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to research activities.

Agenda. From 9 to 9:30 a.m., January 15, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463.

Committee name	Date, time, place	Type of meeting and/or contact person
Clinical Psychopharmacology Research Review Committee.	Jan. 16 and 17, 9 a.m., Wellington Hotel, Parliament Room, Washington, D.C.	Open—Jan. 16, 9 to 10 a.m., closed—otherwise contact Solomon Goldberg, Ph. D., 301-443-3524, Parklawn Bldg., room 9-105, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 10 a.m., January 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463.

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Committee name	Date, time, place	Type of meeting and/or contact person
Social Problems Research Review Committee.	Jan. 15-16, 9 a.m., Washington Hilton Hotel, Jackson Room, Washington, D.C.	Open—Jan. 16, 9 to 9:30 a.m., closed—otherwise contact Dr. Herbert H. Cohen, 301-443-4383, Parklawn Bldg., room 9C-14, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 9:30 a.m., January 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463.

Committee name	Date, time, place	Type of meeting and/or contact person
Mental Health Small Grant Committee.	Jan. 16 to 18, 1 p.m., The Sheraton-Park Hotel, Congressional Board Room, Washington, D.C.	Open—Jan. 16, 4 to 5 p.m., closed—otherwise contact Stephanie B. Stolz, 301-443-4337, Parklawn Bldg., room 10C-14, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 4 to 5 p.m., January 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 552(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463.

Committee name	Date, time, place	Type of meeting and/or contact person
Clinical Program-Projects Research Review Committee.	Jan. 17 and 18, 9 a.m., Pennsylvania Room, Holiday Inn, [illegible]	Open—Jan. 17, 9 to 10 a.m., closed—otherwise contact Julian J. Lasky, 301-443-4707, Parklawn Bldg., room 10C-[illegible], 5600 Fishers Lane, [illegible], 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 10 a.m., January 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(4) and 562(b)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463.

Committee name	Date, time, place	Type of meeting and/or contact person
Alcohol Training Review Committee.	Jan. 23 to 25, 9 a.m., Conference Room D, Parklawn Bldg., Rockville, Md.	Open—Jan. 23, 9 to 10 a.m., closed—otherwise contact Dr. Melvin Davidoff, 301-443-1096, Parklawn Bldg., room 16C-20, 5600 Fishers Lane, Rockville, Md. 20852.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda. From 9 to 10 a.m., January 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463.

Substantive information may be obtained from the contact persons listed above.

The Information Officers who will furnish summaries of the meetings and rosters of the Committee members are located in the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852. The NIAAA Information Officer is Mr. Harry C. Bell, Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 6C-15, Telephone No. 443-3306. The NIDA Information Officer is Mr. James C. Helsing, Program Information Officer for Drug Abuse,

National Institute on Drug Abuse, Room 15C-12, Telephone No. 443-3783. The NIMH Information Officer is Mr. Edwin Long, Deputy Director, Division of Scientific and Technical Information, National Institute of Mental Health, Room 15-105, Telephone No. 443-3600.

Dated: December 11, 1974.

CAROLYN T. EVANS,
Committee Management Officer,
Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.74-29178 Filed 12-17-74;8:45 am]

Office of Education

STATE STUDENT INCENTIVE GRANT PROGRAM

State Applications; Closing Date for Receipt

Notice is hereby given that pursuant to the authority contained in section 415C of the Higher Education Act, as amended (20 U.S.C. 1070c-2), applications are being accepted from the 50 States, the District of Columbia, and outlying areas for initial and/or continuing grants under the State Student Incentive Grant Program (Title IV-A, HEA, 20 U.S.C. 1070c—1070c-3).

Applications must be received by the U.S. Office of Education, State Student Incentive Grant Program, on or before the dates indicated in paragraphs A through C, below, as appropriate:

A. For those 41 States and Territories (see list below) which are already active participants in the State Student Incentive Grant Program by reason of having received initial grants for Fiscal Year 1974, applications for Fiscal Year 1975 funds must be received on or before February 3, 1975:

California	North Dakota
Colorado	Ohio
Connecticut	Oklahoma
Delaware	Oregon
Florida	Pennsylvania
Georgia	Rhode Island
Idaho	South Carolina
Illinois	South Dakota
Indiana	Tennessee
Iowa	Texas
Kansas	Utah
Kentucky	Vermont
Maine	Virginia
Maryland	Washington
Massachusetts	West Virginia
Michigan	Wisconsin
Minnesota	American Samoa
Missouri	Puerto Rico
Nebraska	Trust Territory
New Jersey	Virgin Islands
New York	

B. For those 9 jurisdictions (see list below) for which Fiscal Year 1974 funds have been reserved contingent upon appropriations of State matching funds, applications for Fiscal Year 1975 funds must be received on or before April 15, 1975:

Arkansas	New Hampshire
District of Columbia	New Mexico
Mississippi	North Carolina
Montana	Wyoming
Nevada	

C. For those 6 jurisdictions (see list below) which did not receive Fiscal Year 1974 funds and thus have not previously participated in this program, applications for initial grants from Fiscal Year 1975 funds must be received on or before April 15, 1975:

Alabama	Hawaii
Alaska	Louisiana
Arizona	Guam

D. *Applications sent by mail.* An application sent by mail should be addressed as follows: Dr. Richard L. McVity, Director, State Student Incentive Grant Program (SSIGP), Bureau of Postsecondary Education, U.S. Office of Education, Regional Office Building #3, Room 4525, Washington, D.C. 20202. An application sent by mail will be considered to be received on time by the State Student Incentive Grant Program if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or, if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

E. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education, State Student Incentive Grant Program, Room 4525, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

F. *Program information and forms.* Information and application forms may be obtained from the State Student Incentive Grant Program, Bureau of Postsecondary Education, Office of Education, Room 4525, 7th and D Streets, SW, Washington, D.C. 20202.

G. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulation (45 CFR Parts 100a and 100b) published in the FEDERAL REGISTER on November 6, 1973 at page 30654 and State Student Incentive Grant Program Regulations (45 CFR 192) published in the FEDERAL REGISTER on May 31, 1974 at page 19213 and the amendments published in this issue of the FEDERAL REGISTER.

(20 U.S.C. 1070c-1070c-3)

Dated: November 14, 1974.

T. H. BELL,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance Number 13.548; State Student Incentive Grant Program)

[FR Doc.74-29434 Filed 12-17-74;8:45 am]

BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Applications for Determination of Basic Grant Eligibility; Closing Date for Receipt

Pursuant to the authority contained in § 411 (b) (1) of Title IV, Part A, Subpart 1 of the Higher Education Act of 1965 as amended (20 U.S.C. 1070a(b)(1)), notice is hereby given that the United States Commissioner of Education has established a final cutoff date for the receipt of applications for the determination of expected family contributions (student eligibility index) under the Basic Educational Opportunity Grant Program. Under this program the calculation of an expected family contribution is a prerequisite to receiving a Basic Educational Opportunity Grant.

In order to be eligible to receive a Basic Educational Opportunity Grant for the academic year ending June 30, 1975 applications for determining expected family contributions for the academic year 1974-75 must be received by the Office of Education at the following address, BEOG, P.O. Box 2264, Washington, D.C. 20013 on or before March 15, 1975. Information and application forms may be obtained at institutions of higher education, high schools, or from the Office of Education at the following address, BEOG, P.O. Box 84, Washington, D.C. 20044.

Pursuant to §§ 190.15 and 190.16 of the Basic Educational Opportunity Grant Program Regulations (45 CFR 190.15, 16, 39 FR 39412, 39416, November 6, 1974), applicants may request a recomputation of their expected family contributions (student eligibility index) because of (1) clerical or arithmetic error (190.15), or (2) extraordinary circumstances affecting the expected family contribution determination (190.16). Request for such recomputations must be received by the Office of Education no later than five weeks after the processing date indicated on the latest Student Eligibility Report received. Requests for recomputation because of clerical or arithmetic error shall be submitted to the Office of Education at the following address: BEOG, P.O. Box 1842, Washington, D.C. 20013. Requests for recomputation based on extraordinary circumstances shall be submitted to the Office of Education at the following address: BEOG, P.O. Box 2264, Washington, D.C. 20013.

An application sent by mail will be considered received on time if the application was sent by registered or certified

mail not later than the fifth calendar day prior to the closing date (or if such fifth day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service.

It should be noted that in order to receive a Basic Grant for an academic year a student must apply for such a grant by submitting his Student Eligibility Report to the institution in which he is enrolled no later than May 31, 1975; except that if a student begins his enrollment after May 1, 1975, he must submit his Student Eligibility Report to the institution in which he is enrolled in no later than June 30, 1975. (45 CFR 190.76, 39 FR 41801, December 2, 1974).

((20 U.S.C. 1070a); 45 CFR 190.15–16, 76)

Dated: December 11, 1974.

T. H. BELL,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance No. 13.539, Basic Educational Opportunity Grant Program)

[FR Doc.74-29424 Filed 12-17-74;8:45 am]

EARLY EDUCATION FOR HANDICAPPED CHILDREN

Notice of Extension of Closing Date for Receipt of Applications

Notice is hereby given that the U.S. Commissioner of Education has extended the December 19, 1974 closing date for receipt of application for support of new and continuation early education projects under section 623 of the Education of the Handicapped Act (20 U.S.C. 1414), previously published in the FEDERAL REGISTER at 39 FR 38406 on October 31, 1974, to January 6th, 1975.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.444. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education).

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* Information and applications may be obtained from the Program Development Branch, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Ave., SW., Washington, D.C. 20202. (20 U.S.C 1414)

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) published in the FEDERAL REGISTER on November 6, 1973, at 38 FR 30654 and the regulations governing the Early Education for Handicapped Children Program published in the FEDERAL REGISTER on May 25, 1973 at 38 FR 13744–13745 (45 CFR Part 121, Subpart C–3). A notice of proposed rulemaking which would revise these regulations was published in the FEDERAL REGISTER on October 11, 1973 at 38 FR 28234–28237, proposed 45 CFR Part 121d. When republished in final form, the proposed regulations will supersede 45 CFR Part 121, Subpart C.

(Catalog of Federal Domestic Assistance, No. 13.444 Early Education for Handicapped Children)

Dated: December 11, 1974.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.74-29425 Filed 12-17-74;8:45 am]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Notice of Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which was established to review the policies, programs, and activities of the Department of Health, Education, and Welfare relative to women and to make recommendations to the Secretary on how to better the services of HEW's programs to meet these special needs of women, will meet on Thursday and Friday, January 23–24, 1975 from 9 a.m. to 5 p.m. in Room 1137, HEW North Building, 330 Independence Ave., S.W., Washington, D.C. The agenda includes the consideration of a new operational process for the Committee to work with the DHEW and the development of its work priority areas for 1975.

Interested persons wishing to address the Committee, should contact the Acting Executive Secretary by COB Monday, January 20th. Phone: 202–245–8454. Written statements received by January 20th will be duplicated and distributed to the members. Members of the public are invited to attend the meeting.

SANDRA S. KRAMER,
Acting Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

DECEMBER 12, 1974.

[FR Doc.74-29426 Filed 12-17-74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. 74–127]

ROYAL PALM BEACH COLONY

Notice of Hearing

Notice is hereby given that:

1. Royal Palm Beach Colony, Inc., Herbert L. Kaplan, President its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90–448) (15 U.S.C. 1701 et seq), received a Notice of proceedings and opportunity for hearing issued October 11, 1974, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR §§ 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Royal Palm Beach Colony Subdivision, located in Palm Beach County, Florida, contain untrue statements of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an answer received November 1, 1974, in response to the Notice of proceedings and opportunity for hearing.

3. In said answer the Respondent requested a hearing on the allegations contained in the Notice of proceedings and opportunity for hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge Lewis F. Parker, in room 9260, Department of HUD, 451 7th Street, SW., Washington, D.C. on December 20, 1974, at 10 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington D.C., 20410 on or before December 13, 1974.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: December 13, 1974.

LEWIS F. PARKER,
Administrative Law Judge.

[FR Doc.74-29409 Filed 12-17-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of Secretary

[Docket No. 74-37; Notice 6]

PUERTO RICO

Implementation of Interim Agreement

By notice of November 25, 1974, (39 FR 41196) I approved an interim agreement between the Commonwealth of Puerto Rico, the Federal Highway Administration, and the National Highway Traffic Safety Administration in the matter of highway safety sanctions proceedings instituted by notice of October 21, 1974 (39 FR 37411).

In accordance with the terms of the agreement I hereby direct (1) that upon apportionment of the highway safety funds for Fiscal Year 1976 the apportionment to Puerto Rico will be suspended pending the outcome of any subsequent proceedings in this matter, and (2) that upon apportionment of the Federal-aid highway construction funds for Fiscal Year 1976 the condition be inserted with respect to Puerto Rico that Puerto Rico's apportionment may be reduced upon an adverse determination in this matter.

(Sec. 101, Pub. L. 89-564, 80 Stat. 731, 23 U.S.C. 402; and 23 CFR 1206.9)

Issued on December 12, 1974.

CLAUDE S. BRINEGAR,
Secretary,
Department of Transportation.

[FR Doc.74-29478 Filed 12-17-74;8:45 am]

ATOMIC ENERGY COMMISSION

AD HOC ISOTOPES SUBCOMMITTEE GENERAL ADVISORY COMMITTEE

Notice of Meeting

DECEMBER 11, 1974.

In accordance with the purposes of section 26 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2036), the Isotopes Subcommittee of the General Advisory Committee will hold a meeting beginning at 9 a.m. at the Stanford Research Institute in Menlo Park, California, on January 3, 1975, for the purpose of discussing the laser isotopes separation program.

The meeting will be held in executive session and will include discussion of the laser isotopes separation (LIS) programs of both the Oak Ridge National Laboratory and the Department of Defense, in addition to considering the role of the AEC Division of Physical Research in LIS and the question of satisfying construction needs.

The meeting will not be open to the public under the authority of section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act). I have determined that it is necessary to close the meeting to discuss certain information that is classified and falls within exemptions (1) and (3) of 5 U.S.C. 552(b); information that is commercially privileged and falls within exemption (4) of 5 U.S.C. 552(b); and to exchange opinions and formulate recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the meeting will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close the meeting to protect such classified or privileged information and to protect the free interchange of internal views and avoid undue interference with Commission and Subcommittee operation.

JOE B. LA GROVE,
Acting Advisory Committee Management Officer.

[FR Doc.74-29237 Filed 12-16-74;8:45 am]

[Docket 40-8022]

UTAH INTERNATIONAL INC.

Shirley Basin Uranium Mill, Availability of Final Environmental Statement for the

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulations in 10 CFR Part 51, notice is hereby given that the final environmental statement prepared by the Commission's Directorate of Licensing, related to Utah International's Shirley Basin Uranium Mill currently operating under an interim license in Carbon County, Wyoming, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and in the local Public Document Room established at the Carbon County Public Library, Rawlings, Wyoming. The final environmental statement is also being made available at the Wyoming State Clearinghouse, State Planning Coordinator, Office of the Governor, Capital Building, Cheyenne, Wyoming 82001.

The notice of availability of the draft environmental statement for the Shirley Basin Uranium Mill and requests for comments from interested persons was published in the FEDERAL REGISTER on June 6, 1974 (39 FR 20096). The comments received from Federal, State, local and interested members of the public have been included as appendices to the final environmental statement.

Single copies of the final environmental statement may be obtained by writing the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Acting Deputy Director for Fuels and Materials, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 10th day of December, 1974.

For the Atomic Energy Commission.

RICHARD E. CHITWOOD,
Chief, Technical Support Branch,
Directorate of Licensing.

[FR Doc.74-29104 Filed 12-17-74;8:45 am]

[Docket No. 50-255]

CONSUMERS POWER CO.

Receipt of Application of Facility Operating License

Notice is hereby given that the Atomic Energy Commission (the Commission) has received an application for a full-term facility operating license from the Consumers Power Company (the licensee) to possess, use, and operate the Palisades Plant (the facility), located in Covert Township on the licensee's site in Van Buren County, Michigan, at an increased power level of up to 2,638 megawatts thermal. The currently authorized full-power level is up to 2,200 megawatts thermal.

The licensee has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, a special environmental report which discusses environmental considerations related to the proposed operation of the facility.

The Commission will consider the licensee's special environmental report in accordance with the provisions of 10 CFR Part 51.

The Commission will consider the issuance of a full-term facility operating license to the Consumers Power Company which would authorize the licensee to possess, use, and operate the Palisades Plant in accordance with the provisions of the license and the technical specifications appended thereto upon: (1) The completion of a favorable safety evaluation on the application by the Commission's Directorate of Licensing; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51; (3) the receipt of a report on the licensee's application by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for a full-term facility operating license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I. Construction of the facility was authorized by Construction Permit No. CPPR-25, issued by the Commission on March 13, 1967. The facility is presently being operated in accordance with Provisional Operating License No. DPR-20, as amended.

The full-term facility operating license will not be issued until the Commission has made the findings, reflecting its review of the application under the Act, which will be set forth in the proposed license and has concluded that the

issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. The licensee has satisfied its obligation concerning indemnification as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

On or before January 17, 1975, the licensee may file a request for a hearing with respect to issuance of the full-term facility operating license and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR § 2.714. As required in 10 CFR § 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner, including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by January 17, 1975. A copy of the petition and/or request should also be sent to the Chief Hearing Counsel Office of the General Counsel, Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545 and to Judd L. Bacon, Senior Attorney, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201 and R. Rex Renfrow, III, Esquire, Isham, Lincoln & Beale, One First Natoinal Plaza, Chicago, Illinois 60670, attorneys for the licensee.

A petition for leave to intervene which is not timely will not be granted unless the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition determines that the petitioner has made a substantial showing of good cause for failure to file on time and after considering this factors specified in 10 CFR, §§ 2.714(a) (1)–(4) and 7.14(d).

For further details with respect to the matters under consideration, see the licensee's application dated January 22, 1974, which also contains the licensee's special environmental report (section 7), which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan. The Commission's Final Environmental Statement issued June 1972 is available for public inspection at the above locations, and as they become available, the following documents may be inspected at the above locations: (1) The safety evaluation report prepared by the Directorate of Licensing; (2) the Commission's consideration of the licensee's special environmental report pursuant to 10 CFR Part 51; and (3) the report of the Advisory Committee on Reactor Safeguards on the application for a full-term facility operating license.

Copies of the Commission's Final Environmental Statement issued June 1972 and copies of items (1) through (3), when available, may be obtained upon request addressed to the United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 11th day of December 1974.

For the Atomic Energy Commission.

ROBERT A. PURPLE, *Chief,*
Operating Reactors Branch #1,
Directorate of Licensing.

[FR Doc.74-29397 Filed 12-17-74;8:45 am]

[Docket Nos. 50-327 and 50-328]

TENNESSEE VALLEY AUTHORITY (SEQUOYAH NUCLEAR PLANT, UNITS 1 AND 2)

Assignment of Members of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for these proceedings:

Richard S. Salzman, Chairman
Michael C. Farrar, Member
Dr. W. Reed Johnson, Member

Dated: December 11, 1974.

MARGARET E. DU FLO,
Secretary to the
Appeal Board.

[FR Doc.74-29400 Filed 12-17-74;8:45 am]

[Docket Nos. 50-338L; 50-339L]

VIRGINIA ELECTRIC AND POWER CO.

Order Rescheduling Prehearing Conference

Before the Atomic Safety and Licensing Board; In the matter of Virginia Electric and Power Company; (North Anna Power Station, Units 1 and 2).

By joint Motion dated December 10, 1974, the parties have requested the Board to postpone until after January 15, 1975, the prehearing conference now scheduled for December 17, 1974. The parties through counsel for Regulatory Staff state that they have agreed to a joint statement of issues and will proceed with informal discovery thereon.

For good cause shown, the Board grants the Motion and hereby cancels the prehearing conference for December 17, 1974. It will be rescheduled at a later date.

It is so ordered.

Dated at Bethesda, Maryland, this 12th day of December 1974.

ATOMIC SAFETY AND LICENSING BOARD,

JOHN B. FARMAKIDES,
Chairman.

[FR Doc.74-29396 Filed 12-17-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 27212; Order 74-12-45]

AIR-SIAM AIR COMPANY LTD.

Statement of Tentative Findings and Conclusions and Order To Show Cause

DECEMBER 12, 1974.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 12th day of December, 1974.

In Order E-25071, approved by the President on April 27, 1967 (46 C.A.B. 433) the Board granted to VaranAIR-SIAM Air Company Limited, an airline of Thailand, a permit authorizing the carrier to engage in foreign air transportation with respect to persons, property, and mail between a point or points in Thailand; the intermediate points Hong Kong; Tokyo, Japan; and Honolulu, Hawaii; and the terminal point Los Angeles, California. The permit was reissued to the carrier in its present name by Order 70-6-74 dated June 11, 1970.

On November 29, 1974, Air-Siam Air Company Limited (Air-Siam) filed an application requesting the Board to amend its foreign air carrier permit so as to add Fukuoka, Japan, as an additional intermediate point on a temporary basis. Fukuoka is located on Kyushu Island approximately 550 miles southwest of Tokyo which is on Honshu Island.

In support of its request, Air-Siam states that: the bilateral agreement between the United States and Thailand provides authority for the designation of Fukuoka as an intermediate point on Air-Siam's route; that Air-Siam operates three round trips per week with B-747 aircraft between Bangkok and Honolulu via Hong Kong and Tokyo, and

plans the addition of two weekly round-trip flights with DC–10 aircraft between Bangkok and Los Angeles via Hong Kong, Tokyo and Honolulu; that the Japanese authorities will not permit both of the two additional DC–10 flights to land at Tokyo due to airport congestion; and that negotiations between Thailand and Japanese authorities, now in the process of being finalized, will provide for the operation of one additional weekly round-trip flight through Fukuoka, Japan, until a new airport at Narita, serving Tokyo, has become operational.

The Board has tentatively determined that the foreign air carrier permit of Air-Siam should be amended to add Fukuoka, Japan, as an additional intermediate point on the carrier's route for a period of two years. The carrier has been authorized by the Board to serve Tokyo, Japan, and is now serving the point. Its request to serve Fukuoka stems solely from the Japanese Government's prohibition of an additional DC–10 flight as a result of congestion at Tokyo. The authority to serve the point would be for a temporary period. The application is supported by the Government of Thailand. The Department of State, in transmitting the application to the Board, states that, insofar as scheduled air services are concerned, the authority being sought is consistent with the rights granted to the Government of Thailand under the bilateral agreement and that the applicant was designated by the Thai Government in 1966 to exercise these rights. No U.S. carrier operates scheduled service to Fukuoka.

Accordingly, upon consideration of the application, and all the relevant facts, the Board tentatively finds and concludes that it is in the public interest, subject to the approval of the President under section 801 of the Federal Aviation Act, to amend the foreign air carrier permit of Air-Siam so as to authorize the carrier for a period of two years to serve Fukuoka, Japan, as an additional intermediate point on its route between Thailand and the United States. The Board also tentatively finds that Air-Siam is fit, willing, and able properly to perform the foreign air transportation proposed to be authorized herein and to conform to the provisions of the Act and the rules, regulations and requirements of the Board thereunder.

Accordingly, *It is ordered*, That:

1. All interested persons be and they hereby are directed to show cause why the Board should not make final the tentative findings and conclusions herein and, subject to approval by the President pursuant to section 801 of the Federal Aviation Act of 1958, issue an amended foreign air carrier permit to Air-Siam Air Company Limited in the form attached hereto.[1]

2. Any interested person having objections to the tentative findings and conclusions set forth herein or to the issuance of the proposed foreign air carrier permit shall file such objections within 15 days after the date of adoption of this order, and file with the Board and serve on the persons specified in paragraph 5 below, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to and stating the specific grounds of any such objections supported by statistical data and other materials and evidence relied upon to support the stated objections;[2]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board: *Provided*, That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are not factual issues presented that warrant the holding of an evidentiary hearing;

4. In the event no objections are filed, all further procedural steps shall be deemed waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

5. This order shall be served upon Air Siam Air Company Limited; Northwest Airlines, Inc.; Pan American World Airways, Inc.; Trans World Airlines, Inc.; The Flying Tiger Line Inc.; the Departments of State and Transportation; and the Ambassador of Thailand.

6. This order will be published in the FEDERAL REGISTER and will be transmitted to the President.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

Air-Siam Air Company Limited is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to persons, property, and mail, as follows:

Between a point or points in Thailand; the intermediate points Hong Kong; Fukuoka and Tokyo, Japan; and Honolulu, Hawaii; and the terminal point Los Angeles, California.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

The authority of the holder to serve the intermediate point Fukuoka, Japan, shall terminate two years after the effective date of this permit.

The holder shall not commence scheduled service between any of the points authorized herein, except pursuant to an initial tariff setting forth rates, fares and charges no lower than rates, fares or charges that are then in effect for any U.S. air carrier engaged in the same scheduled foreign air transportation.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Thailand for Thai international air service.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Thailand shall be parties.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E–23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in C.A.B. Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on _____ Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the route hereby authorized from the routes which may be operated by airlines designated by

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[1] We have included in the proposed permit the liability insurance condition normally imposed by the Board. The proposed permit also contains the rate condition which the Board currently includes in permits of foreign air carriers, for dealing with "initial tariffs" as to which Board suspension power is more limited under the recent amendments to the Federal Aviation Act authorizing the Board generally to suspend fares in foreign air transportation (P.L. 92–259, March 22, 1972.) In addition, we have modified the standard termination clause in the proposed permit to clarify that an amendment to the bilateral agreement eliminating only part of a carrier's route or routes will automatically terminate the carrier's authority to that extent. See, Jugoslovenski Aerotransport (JAT), Order 74–9–33. By Order to Show Cause, Order 74–3–71, March 18, 1974, Docket 26509, the Board proposed certain major revisions to Part 212 of its Regulations. Air Siam was made a party to that proceeding and the revised permit proposed to be issued herein will be subject to any revisions to Part 212 ultimately adopted in Docket 26509.

[2] Since provision is made for the filing of objections to this order, petitions for reconsideration of the order will not be entertained.

the Government of Thailand (or in the event of the elimination of any part of a route or routes hereby authorized, the authority granted shall terminate to the extent of such elimination), or (3) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Thailand in lieu of the holder hereof, or (3) upon the termination or expiration of the air Trnsport Agreement between the United States and Thailand, effective February 26, 1947, as amended by an exchange of notes, effective March 3, 1970: *Provided, however*, That clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and Thailand are or shall become parties.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the

[SEAL] ———— ————,

Secretary.

Issuance of this permit to the holder approved by the President of the United States on ———— in ————.

[FR Doc.74-29442 Filed 12-17-74;8:45 am]

[Docket 25513; Agreement C.A.B. 24663, R-1 through R-3; Agreement C.A.B. 24666, R-1 and R-2; Order 74-12-40]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreements Adopted by Traffic Conference 1 Relating to Increased Fuel Costs; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of December, 1974.

Orders 74-9-81, September 23, 1974 and 74-9-97, September 27, 1974, established procedural dates for the receipt of carrier justification, comments and/or objections pertaining to an agreement of the members of the International Air Transport Association (IATA) to increase various Western Hemisphere fares as a consequence of escalation in fuel costs. The increase in one-way U.S.-Mexico fares would be six percent of the applicable one-way normal economy fare, and twice that amount in all round-trip fares.[2] U.S.-Caribbean fares would be increased by four percent.[3] U.S.-Central/South America (long-haul) one-way and round-trip first-class fares would be increased by seven percent; all other one-way fares would be increased by a dollar amount equal to eight percent of the applicable specified one-way economy fare from Miami, and round trip fares would be increased by twice the amount applicable to one-way fares.

Statements of justification have been received from American Airlines, Inc. (American); Eastern Air Lines, Inc. (Eastern); Braniff Airways, Inc. (Braniff); Pan American World Airways, Inc. (Pan American) and Western Air Lines, Inc. (Western). The carriers generally assert that past fuel-related fare increases have simply not kept pace with the continuing, drastic escalation in fuel costs, and that accordingly a further adjustment in fares is necessary. The carriers have also submitted financial forecasts for the year ending September 30, 1975 and, except for Braniff's Central/South America operations, none anticipates excess earnings under either present or proposed fares. The submissions are summarized in greater detail in Appendix A.[3]

The Board has carefully reviewed the carriers' justifications, and finds them deficient in certain respects. In some cases, their forecasts appear to include anticipatory cost increases. In others, the forecast is not supported by historical background data, thereby making it difficult to ascertain the degree to which forecast operating costs are based on actual increases in unit costs as opposed to fluctuations in operational levels. Moreover, a comparison of the historical data which have been supplied with Form 41 reports for Latin American Division service discloses discrepancies which cannot be resolved with the information now available to the Board. For this reason, we are directing the carriers to submit additional data, as specified in Appendix C, relating to U.S.-Mexico, U.S.-Caribbean, U.S.-Puerto Rico/Virgin Islands and U.S.-Central/South America operations, respectively.

Pending receipt and analysis of this additional information, the Board has concluded to approve the proposed increase in most U.S.-Mexico fares for the reasons stated below. Action on the remaining agreements (Caribbean, long-haul and U.S. west coast-Mexico) will be deferred. Because U.S.-Mexico revenues and traffic are reported to the Board in Form 41 Statistical Market Reports, it is possible to evaluate the carriers' submissions against historical data, and this comparison shows them to be in line with recent experience. No such comparison is possible for the Caribbean and long-haul routes, and the Board does not have sufficient information from the justifications to act on those agreements.

With respect to the U.S.-Mexico fares, the justifications indicate that, on a composite basis, the carriers will experience a fuel cost increase of $15,033,000 during the forecast period, based on present costs as compared with prices in effect at September 30, 1973. Revenue recovery (including the proposed increase) is estimated at a total of $11,966,000, for a shortfall of $3,067,000. However, neither Eastern nor Pan American include the revenue flowing from the April 1, 1974 general fare increase on most U.S.-Mexico routes. Eastern contends that this exclusion is warranted since the April 1 increase was not exclusively related to escalation in fuel costs. In the Board's opinion, a portion of this revenue is a proper consideration in evaluating the instant proposal. Except for Eastern, the U.S. carriers serving Mexico included fuel as well as other cost increases in their forecasts supporting the April 1 fare increase (in some cases using anticipatory as well as experienced costs), stating that that fare increase was intended to cover escalation in all costs. We have reexamined the justifications for the April 1 fare increase, and estimated that $2,460,000 of the resultant revenue improvement is properly attributable to higher fuel costs. On this basis, total recovery from the previous fare increases plus that proposed here would amount to $14,004,000, for a shortfall of $1,029,000 from that needed to cover experienced fuel cost increases.[4] (See Appendix B). With the exception of Western, none of the U.S. carriers serving Mexico is presently realizing earnings above the 12 percent standard, and all of the carriers' return positions will be eroded by increases in fuel cost already experienced which, as explained above, will not be fully covered by the higher fares.

The Board cannot, however, conclude that the proposed increase is warranted with respect to U.S. west coast-Mexico fares. Western, the only U.S. carrier serving those markets, is currently realizing a 19.79 percent return on investment in Mexico, and appears quite capable of absorbing fuel cost increases to date. Western's own forecast, which predicts a decline in ROI to about 10 percent, reflects Western's anticipated traffic and capacity levels as well as escalations in unit costs, and it is uncertain to what degree the forecast is influenced by each of these two elements. For this reason action will be deferred pending receipt of data in the format prescribed herein.

Finally, the Board cannot approve the proposed restoration of individual return travel on U.S.-Mexico GIT fares. The Board has not favored liberalizing conditions on promotional fares, and approved a previous IATA agreement which required the tour group to travel together for the entire itinerary.[5] We recognize that the Government of Mexico disapproved this portion of the relevant agreement and prefers maintenance of the individual return facility.

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[1] The agreement also proposes to amend the U.S.-Mexico GIT fares to permit individual travel by tour group members from destination to point of origin during the period October 15, 1974 to January 9, 1975, and ties the effectiveness of this amendment and the proposed fare increase to government approval of both.

[2] The increase would not apply to travel between Baltimore / Boston / Hartford / New York/Philadelphia/Providence / Washington, D.C.-Bermuda/Bahamas and between New York-Port-au-Prince. Florida-Bahamas fares would be increased six percent, and the dollar increase for Miami-Jamaica/Venezuela fares would apply to Los Angeles/San Francisco-Jamaica/Venezuela fares.

[3] Appendices A, B, and C, filed as part of the original document.

[4] Braniff's revenue estimates reflect several fuel-related cargo rate increases since it does not separate fuel cost by type of service. Likewise, Western's forecast fuel consumption apparently includes allocation to cargo service, and, accordingly, the revenue recovery for Western includes an estimate of the revenue from the increased cargo rates.

[5] Order 74-4-144, April 26, 1974, dealing with the overall U.S.-Mexico fare structure.

In the Board's opinion, it would be preferable to replace all U.S.-Mexico GIT fares with individual inclusive tour (IIT) fares, as had already been done in the New York, Philadelphia, and Detroit markets. We expect the carriers to address this issue in connection with their consideration of the fare structure to apply after March 31, 1975. Accordingly, the resolution permitting individual returns will be disapproved.

While the Board will, upon receipt of the required data, process the fuel-related fare increases presently on file, we believe that the apparent leveling off in the price of fuel indicates there is no need for the carriers to continue to resort to this technique. We note that agreements establishing fares and rates in major IATA conference areas are shortly due to expire and suggest that fuel costs be taken into account along with all other costs in the carriers' negotiations to reestablish international fares and rates.

Pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a), and 412 thereof, the Board makes the following findings:

(1) It is not found that the following resolutions are adverse to the public interest or in violation of the Act to the extent they would establish fares other than between Los Angeles, San Francisco, San Diego, Portland, and Seattle, on the one hand, and Mexico City and Acapulco, on the other hand:

Agreement C.A.B.	*IATA Resolution*
24663:	
R-1	100(Mail 962)001b.
R-2	100(Mail 962)005v.

(2) It is found that the following resolution is adverse to the public interest and in violation of the Act:

Agreement C.A.B.	*IATA Resolution*
24663:	
R-3	100 (Mail 962)084ee (Insofar as it applies in air transportation as defined by the Act).

Accordingly, *it is ordered*, That:

1. Those portions of Agreement C.A.B. 24663, R-1 and R-2, set forth in finding paragraph (1) above, be and hereby are approved;

2. Action be and hereby is deferred with respect to Agreement C.A.B. 24666, R-1 and R-2, and with respect to Agreement C.A.B. 24663, R-1 through R-3, to the extent it would establish fares between Los Angeles, San Francisco, San Diego, Portland, and Seattle, on the one hand, and Mexico City and Acapulco on the other hand, pending receipt of the data specified in Appendix C, separately by market area, from the U.S. carrier members of the International Air Transport Association operating U.S.-Mexico, U.S.-Caribbean, U.S.-Puerto Rico/Virgin Islands and U.S.-Central/South America services, respectively, and from Western Air Lines, Inc. in the case of Mexico. The carriers are hereby directed to submit the required data within 30 days of the date of service of this order;

3. That portion of Agreement 24663, R-3, specified in finding paragraph (2) above be and hereby is disapproved;

4. Agreement C.A.B. 24663, R-3, be and hereby is approved insofar as it does not directly affect air transportation as defined by the Act;

5. The direct air carriers and foreign air carriers are hereby authorized to file tariffs reflecting the provisions of those portions of Agreement C.A.B. 24663, R-1 and R-2, set forth in finding paragraph 1 above on not less than one day's notice for effectiveness not earlier than December 16, 1974. The authority granted in this paragraph expires with January 16, 1975; and

6. Tariffs reflecting the provisions of Agreement C.A.B. 24663, R-1 and R-2, shall be marked to expire not later than March 31, 1975.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-29443 Filed 12-17-74;8:45 am]

[Docket 27166]

PAN AMERICAN WORLD AIRWAYS, INC.

Enforcement Proceeding, Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on January 20, 1975, at 10:00 a.m. (local time) in Room 1031, North Universal Building, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Henry Whitehouse.

Dated at Washington, D.C., December 13, 1974.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.74-29444 Filed 12-17-74;8:45 am]

[Docket 23080-2]

PRIORITY AND NONPRIORITY DOMESTIC SERVICE MAIL RATES INVESTIGATION

Reassignment of Proceeding

This proceeding is hereby reassigned from Administrative Law Judge Harry H. Schneider to Administrative Law Judge Thomas P. Sheehan. Future communications should be addressed to Judge Sheehan.

Dated at Washington, D.C., December 12, 1974.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.74-29440 Filed 12-17-74;8:45 am]

[Docket 26310]

ACCEPTANCE AND CARRIAGE OF LIVE ANIMALS IN DOMESTIC AIR FREIGHT TRANSPORTATION

Reassignment of Proceeding

This proceeding is hereby reassigned from Administrative Law Judge Louis W. Sornson to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., December 12, 1974.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.74-29439 Filed 12-17-74;8:45 am]

[Docket 27181]

SERVICE TO STOCKTON CASE

Postponement

Notice is hereby given that all procedural dates in the above-entitled proceeding are postponed indefinitely.

Dated at Washington, D.C., December 12, 1974.

[SEAL] GREER M. MURPHY,
Administrative Law Judge.

[FR Doc.74-29441 Filed 12-17-74;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF DEFENSE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Director, Mutual and Balanced Force Reductions Task Force, Immediate Office, GASD (International Security Affairs), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74-29459 Filed 12-17-74;8:45 am]

DEPARTMENT OF THE TREASURY

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Treasury to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74-29458 Filed 12-17-74;8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[OPP-32000/155; FRL 307-2]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before February 18, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after February 18, 1975.

APPLICATIONS RECEIVED

EPA File Symbol 6233-RA. Amador Chemical Corp., 1640 N. Broadway St., Stockton CA 95205. AMADOR WESTO-RINSE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 241-EUL. American Cyanamid Co., Agricultural Div., PO Box 400, Princeton, NJ 08540. PROWL TECHNICAL HERBICIDE. Active Ingredients: [N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] 90.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 9601-I. Chardon Laboratories, Inc., 599 Stimmel Rd., PO Box 1004, Columbus OH 43216. SLIMEX-R. Active Ingredients: Disodium cyanodithioimidocarbonate 4.90%; Potassium N-methyldithiocarbamate 6.76%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 11738-L. Chemical Water Treating Engineers, Inc., PO Box 9806, Dallas TX 75214. KEMCIDE-4. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 4715-GGO. Colorado International Corp., 5321 Dahlia St., Commerce City CO 80022. GREENHOUSE FOGGING SPRAY. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 3.000%; Related compounds 0.409%; Aromatic Petroleum Hydrocarbons 91.471%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2968-I. Culligan USA, One Culligan Pkwy., Northbrook IL 60062. CHEMICAL TREATMENT M-35. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 10810-L. Dacar Chemical Co., Inc., 1007 McCartney St., Pittsburgh PA 15220. DACARCIDE E-18. Active Ingredients: Disodium cyanodithioimidocarbonate 1.47%; Potassium N-methyldithiocarbamate 2.03%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 10810-U. Dacar Chemical Co., Inc., 1007 McCartney St., Pittsburgh PA 15220. DACARCIDE E-6. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34694-U. Dearborn Aqua-Serv of Wilson, N.C., Inc., PO Box 3897, Wilson NC 27893. TOWERCIDE 705. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 10163-TN. The Dunn Co., Agricultural Chemicals, PO Box 458, 340 E. Main St., Calipatria CA 92233. PROKIL MALATHION B.T. 4-1.5 DUST. Active Ingredients: Malathion: O,O-dimethyl dithiophosphate of diethyl mercaptosuccinate 4.00%; A pure culture containing ½ billion viable spores of the micro-organism Bacillus thuringiensis Berliner per gram of product. Each milligram of dust contains 320 international units of activity 0.05%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7048-RN. Edmar Chemical Co., 7800 Bessemer Ave., Cleveland, OH 44127. BIO-MAGIC RINSE G 100 LIQUID FABRIC SOFTENER-BACTERIOSTAT. Active Ingredients: 2,4,4'-Trichloro-2'-Hydroxydiphenyl ether 2.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10654-G. Environmental Control Systems, Inc., 400 Washington Ave., Baltimore MD 21204. S-F CONCENTRATE. Active Ingredients: n-Alkyl (C14 60%, C16 30%, C12 5%, C18 5%) dimethyl benzylammonium chlorides 6.25%; n-Alkyl (C12 68%, C14 32%) dimethyl ethyl benzylammonium chlorides 6.25%; Tetrasodium ethylenediamine tetraacetate 5.50%; Essential oils 0.50%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 11528-T. Farris Chemical Co., Inc., PO Box 10126, Knoxville, TN 37919. RAF-70. Active Ingredients: Disodium cyanodithioimidocarbonate 4.90%; Potassium N - methyldithiocarbamate 6.76%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 1386-124. F C X, Inc., PO Box 2419, Raleigh NC 27602. F C X 5% MALATHION DUST. Active Ingredients: Malathion (0,0-dimethyl dithiophosphate of diethyl mercaptosuccinate) 5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1763-E. Fields Point Mfg. Corp., Chem. Div., PO Box 2096 Edgewood Sta., Providence RI 02905. SODIUM HYPOCHLORITE 15%. Active Ingredients: Sodium Hypochlorite 15%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7053-EN. Fremont Industries, Inc., Valley Indus. Pk., PO Box 67, Shakopee MN 55379. FREMONT 9930 MICROBIOCIDE. Active Ingredients: Poly-[oxy - ethylene(dimethyliminio)ethylene (dimethyliminio) - ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 7053-RI. Fremont Industries, Inc. FREMONT 9927 MICROBIOCIDE. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 7053-RT. Fremont Industries, Inc. FREMONT 9929 MICROBIOCIDE. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 7053-RO. Fremont Industries, Inc. FREMONT 9928 MICROBIOCIDE. Active Ingredients: Disodium cyanodithioimidocarbonate 4.90%; Potassium N-methyldithiocarbamate 6.76%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 8640-EN. Garratt-Callahan Co., One Eleven Rolling Rd., Millbrae CA 94030. GARRATT-CALLAHAN FORMULA 38-A. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 31964-T. Gesco Sales Div., Gulf Eng. Co., Inc., 4700 Tchoupitoulas St., New Orleans LA 70115. GESSCOCIDE 11. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 31964-A. Gesco Sales Div., Gulf Eng. Co., Inc., 4700 Tchoupitoulas St., New Orleans LA 70115. GESSCOCIDE 12. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 2693-RNU. International Paint Co., Inc., Elmwood & Morris Aves., Union NJ 07083. INTERLUX ANTIFOULING "62T" BOTTOM PAINT RED. Active Ingredients: Cuprous Oxide 30.7%; Tri-n-Butyltin Oxide 2.3%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2693-RNG. International Paint Co., Inc., Elmwood & Morris Aves., Union NJ 07083. INTERLUX ANTIFOULING "62C" BOTTOM PAINT RED. Active Ingredients: Cuprous Oxide 38.0%. Method of Support: Application proceeds under 2 (c) of interim policy.

EPA File Symbol 33370-E. Morton Herman Co., Inc., 207 W. University Dr., Arlington Hgts. IL 60004. CHLORINE DISINFECTANT GERMICIDE-DEODORIZER. Active Ingredients: Sodium Hypochlorite 5.25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8001-L. Novelties Unlimited, Inc., 4 N 270 Randall Rd., St. Charles IL 60174. DOG & CAT RETARD WICKS. Active Ingredients: Oil of Lemongrass 1.320%; Allyl Isothiocyanate 0.003%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 12123-U. Sherwood Chemicals, Ltd., PO Box 25, Westville NJ 08093. SHERWOOD FORMULA P READY-TO-USE RODENTICIDE. Active Ingredients: 2-Pivalyl-1, 3-Indandione 0.025%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6720-EUE. Southern Mill Creek Products, Inc., PO Box 1096, Tampa FL 33601. SMCP DIAZINON 25E INSECTICIDE. Active Ingredients: O,O-diethyl O-(2 Isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 25.0%; Aromatic Petroleum derivative solvent 56%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 8850-4. Thuron Industries, Inc., 12200 Denton Dr., Dallas TX 75234. PET'M SHAMPOO KILLS FLEAS, TICKS, & LICE. Active Ingredients: Pyrethrins 0.050%; Piperonyl Butoxide Technical 0.500%; 5-Isopropyl-o-Cresol 0.100%; 6-Acetoxy-2,4-dimethyl-m-Dioxane 0.100%; Isooctyl Phenoxy Polyethoxy Ethanol 5.000%; Sodium Lauryl Sulfate 5.906%; Triethanolamine Lauryl Sulfate 1.969%; Cocoanut Monoethanolamide 2.625%. Method of Support: Application proceeds under 2(c) of interim policy.

Dated: December 6, 1974.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.74-29097 Filed 12-17-74;8:45 am]

[FRL 308-8]

AREAWIDE WASTE TREATMENT MANAGEMENT PLANNING APPROVALS

Area and Agency Designations

Pursuant to section 208 of the Federal Water Pollution Control Act Amendments of 1972, notice is hereby given of approvals of designation of areawide waste treatment management planning areas and agencies for the period November 2, 1974 thru December 2, 1974.

The following area and agency designations have been approved by the Environmental Protection Agency:

Portland, Oregon (Columbia Regional Association of Governments, 6400 S.W. Canyon Court, Portland, Oregon 97221).

Salem, Oregon (Mid-Willamette Valley Council of Governments, 556 Liberty Street S.E., Salem, Oregon 97301).

Eugene-Springfield, Oregon (Lane Council of Governments, 135 Sixth Avenue East, Eugene, Oregon 97401).

Dated: December 12, 1974.

JAMES L. AGEE,
Assistant Administrator,
Water and Hazardous Materials.

[FR Doc.74-29391 Filed 12-17-74;8:45 am]

[FRL 308-2]

HAWAII

Program for Control of Discharges of Pollutants to Navigable Waters

Notice is given hereby that the U.S. Environmental Protection Agency has granted the State of Hawaii's request for approval of its program for controlling discharges of pollutants to navigable waters in accordance with the National Pollutant Discharge Elimination System (NPDES), pursuant to section 402(b) of the Federal Water Pollution Control Act, as amended (P.L. 92-500, 86 Stat. 816; 33 U.S.C. 1251; the Act).

Section 402 of the Act establishes a permitting system, known as the National Pollutant Discharge Elimination System, under which the Administrator of the U.S. Environmental Protection Agency (EPA) may issue permits for the discharge of any pollutant, upon condition that the discharge meets the applicable requirements of the Act. Section 402(b) provides that any State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit such program to the Administrator. If the Administrator determines that the State has adequate authority to carry out the requirements of the Act, he shall approve the submitted program and suspend the issuance of permits as to those navigable waters subject to such program, except with respect to agencies and instrumentalities of the Federal Government. Guidelines specifying procedural and other elements for State NPDES programs appear at 40 CFR Part 124 (as amended by 38 F.R. 18000, July 5, 1973, and 38 F.R. 19894, July 24, 1973).

On August 30, 1974, Hawaii submitted a program for carrying out the NPDES. On October 10, 1974, EPA conducted a public hearing on the proposed approval in Honolulu, Hawaii. After a thorough review of the Hawaii program, the accompanying legal certification, and all comments submitted by the public during and following the public hearing, the Administrator determined that the State's authority was adequate to carry out the requirements of the Act, and so informed Governor John A. Burns in a letter dated November 28, 1974.

As of November 29, 1974, the Hawaii NPDES permit program is being administered by the Hawaii State Department of Health, P.O. Box 3378, Honolulu, Hawaii 96801 (telephone (808) 548-2211). Dr. Walter B. Quisenberry is Director of the Department of Health. The Hawaii program is being administered in accordance with Hawaii statutes and regulations and a Memorandum of Agreement between Hawaii and the EPA Region IX office, 100 California Street, San Francisco, California 94111 (telephone (415) 556-2320). All pertinent documents are available for inspection at the Hawaii State agency and EPA Regional office at the addresses given above and EPA Headquarters in Room 3201, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Dated: December 12, 1974.

ALAN G. KIRK II,
Assistant Administrator,
Enforcement and General Counsel.

[FR Doc.74-29385 Filed 12-17-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 20254, 20255, File Nos. 11-A-RL-104, 73-A-L-104]

LOWE AVIATION CO., INC. AND ARNOLD AVIATION CORP.

Order Designating Applications for Consolidated Hearing on Stated Issues

By the Chief, Safety and Special Radio Services Bureau: 1. Lowe Aviation Company, Inc. (hereinafter called Lowe) has filed an application for renewal of its license for aeronautical advisory station WIQ8 at the Lewis B. Wilson Airport, Macon, Georgia, and Arnold Aviation Corporation (hereinafter called Arnold) has filed an application for new aeronautical advisory facilities at the same airport. Section 87.251(a) of the Commission's rules provides that only one aeronautical advisory station may be authorized to operate at a landing area and, therefore, the above-captioned applications are mutually exclusive. Accordingly, it is necessary to designate the applications for a comparative hearing in order to determine which application should be granted. Except for the issues specified herein, each applicant is otherwise qualified.

2. By letter, dated September 25, 1974, Arnold has alleged that the present licensee (Lowe) has violated § 87.257(b) of the rules by not providing impartial information to incoming aircraft concerning available ground services.

3. In view of the foregoing, *it is ordered*, That, pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, and § 0.331(b)(21) of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following issues:

(a) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed base operators;

(b) To determine whether Lowe has operated aeronautical advisory station WIQ8 in violation of § 87.257(b) by not providing impartial information concerning available ground services; and

(c) To determine in light of the evidence adduced on the foregoing issues which, if either, of the applications should be granted.

4. *It is further ordered*, That the burden of proof and the burden of proceeding with the introduction of evidence on issue (b) is on Arnold, and on all other issues, the burdens are on each applicant with respect to its application except issue (c) which is conclusory.

5. *It is further ordered*, That to avail themselves of an opportunity to be heard, Lowe and Arnold, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this Order file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Adopted: December 2, 1974.

Released: December 11, 1974.

[SEAL]

CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.74-29420 Filed 12-17-74;8:45 am]

[Docket Nos. 20055, 20056, 20057, 20059; File Nos. BPH-8066, BPH-8267, BPH-8351, BPH-8352; FCC 74R-437]

PRAIRIELAND BROADCASTERS, ET AL

FM Broadcast Stations, Applications for Construction Permits

In re applications of Stephen P. Bellinger, Joel W. Townsend, Ben H. Townsend and Reynold Fischmann, d/b as Prairieland Broadcasters, Decatur, Illinois; WBIZ, Inc., Decatur, Illinois; Superior Media, Inc., Decatur, Illinois; L.E.G., Inc. and John G. Cheeks, d/b as Soy Communications Company, A Joint Venture, Decatur, Illinois, for construction permits.

1. This proceeding, involving the above-captioned mutually exclusive applications for authorization to construct a new FM broadcast station in Decatur, Illinois, was designated for hearing by Order of the Chief of the Broadcast Bureau, acting pursuant to delegated authority, 39 FR 19804, published June 4, 1974. Now before the Review Board is a motion to enlarge issues, filed July 30, 1974, by Prairieland Broadcasters (Prairieland) requesting the addition of financial, trafficking, legal disability, violation of law, misrepresentation, lack of candor, and § 1.514 issues against Superior Media, Inc. (Superior).[1]

FINANCIAL ISSUE

2. Prairieland first questions whether Superior possesses the requisite financial ability to construct and operate its proposed FM facility in light of the allegedly incomplete balance sheets filed by two of Superior's stockholders, William L. Burdick and Clyde Copeland.[2] Prairieland contends that Burdick failed to list any personal liabilities on his balance sheet and that he did not reflect the assets and liabilities of Burdick Plumbing and Heating Co., of which he is President and 90 percent owner. Prairieland adds that Copeland's statement lists, as his only asset, $15,000 in "cash on hand or in banks" and $414 in accounts payable as his only liability. While conceding that the statement may, in fact, correctly reflect Copeland's financial status, Prairieland argues that further detail is necessary. Prairieland also alleges that Superior's $6,000 estimate for legal fees is inadequate for a four-party proceeding. According to Prairieland, Superior cannot rely on its surplus of $7,000 because its cash on hand was reduced by approximately $2,000 between the time the original application was filed and the filing of the amendment on September 5, 1973, and the interest rate on its bank loans (specified as 1 percent above a 10 percent prime rate) was underestimated. In addition, Prairieland asserts that Superior failed to provide for any contingencies. The Broadcast Bureau urges that the requested financial issue is without merit, observing that Burdick and Copeland have clearly listed any amounts owed as liabilities in their financial statements and that Burdick is not required to list corporate assets and liabilities in his personal statement. In its opposition, Superior includes affidavits from Burdick and Copeland reaffirming their ability to meet their commitments. Superior also indicates that it is amending its application to show an increase in its bank loans from $110,000 to a total of $125,000.[3] In reply, Prairieland argues that Superior has still not provided a fixed estimate of its legal expenses. Prairieland also questions a proposed loan of $10,000, included in Superior's recent amendment, to Milburn H. Stuckwish, Superior's Vice-President, from his brother, Donald Stuckwish.

3. The Review Board will deny the requested financial issue. First, Prairieland's allegations regarding the balance sheets of Burdick and Copeland are highly speculative and fail to set forth any basis for challenging the figures included therein.[4] Similarly, Prairieland has not provided the supporting documentation required by Rule 1.229(c) to support its claim that Superior's allowance for legal costs is inadequate. See WVOC, Inc., 32 FCC 2d 765, 23 RR 2d 371 (1971), and cases cited therein. In any event, as a result of Superior's amendment, filed September 13, 1974 and granted by the Presiding Judge on October 1, 1974, Superior now apparently has a total of $22,000 in available funds (a $15,000 increase in its bank loans plus its already existing $7,000 surplus)[5] beyond projected operating costs. Although Donald Stuckwish's balance sheet does raise questions regarding his ability to loan the applicant $10,000, a cushion of $12,000 would still be available even discounting the availability of the $10,000 loan, and thus there appear to be sufficient funds to meet any unexpected contingencies including increased legal expenses.

TRAFFICKING ISSUE

4. In support of its requested trafficking issue, Prairieland alleges that Milburn Stuckwish, the Vice-President, director and 18.75 percent shareholder of Superior has engaged in a pattern of

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[1] Other related pleadings before the Board for consideration are: (a) request for late acceptance, filed July 30, 1974, by Prairieland; (b) opposition, filed September 13, 1974, by Superior; (c) partial opposition, filed September 13, 1974, by the Broadcast Bureau; and (d) reply, filed October 2, 1974, by Prairieland.

[2] The motion to enlarge issues was filed July 30, 1974, approximately six weeks late. (The designation Order in this case was published June 4, 1974, and the 15-day period for filing motions to enlarge expired June 19, 1974.) Although Prairieland has not pleaded sufficient good cause to warrant its acceptance, we are of the view that significant public interest questions have been raised, and therefore the motion will be considered on its merits. *See* The Edgefield-Saluda Radio Co. (WJES), 5 FCC 2d 148, 8 RR 2d 611 (1966).

[3] In an amendment to its application, filed September 5, 1973, Superior estimated its first-year operating costs to be $175,694 with $182,000 in available funds, consisting of cash on hand or in banks, totalling $2,900; new capital totalling $69,700; and loans from banks totalling $110,000. New capital is to be contributed by Superior's six stockholders pursuant to stock subscription agreements. Superior points out that it would have a surplus of $7,000 in available funds.

[4] The petition for leave to amend, filed September 13, 1974, was granted by the Administrative Law Judge on October 1, 1974 (FCC 74M-1268).

[5] *Warwick Broadcasting Corp.* 15 FCC 2d 1015, 15 RR 2d 331 (1969), cited by petitioner, is inopposite. In that case, each of the balance sheets submitted contained a statement that it did not include liabilities secured by unlisted assets, and the Board determined that without details as to the nature and value of the unlisted assets and liabilities, it could not conclude that the principals would be able to meet their respective commitments.

[6] Prairieland's allegation that Superior's surplus of $7,000 had been reduced by a decline in the cash on hand is erroneous. While the cash on hand dropped from $4,339.94 in the original application to $2,900 in the amendment, filed September 5, 1973, Superior showed an increase in its bank loan commitment from $100,000 to $110,000 in a letter from the Millikin National Bank of Decatur, dated August 17, 1973.

acquiring and selling broadcast properties in violation of the Commission's prohibition against trafficking in broadcast licenses. Specifically, Prairieland contends that Stuckwish has acquired FM permits or licenses in order to greatly enhance the market value of his existing AM facilities. A review of the broadcast activities of Stuckwish, as described in Prairieland's petition, will facilitate an understanding of the Board's disposition.

5. In 1962, WTIM(AM), Taylorville, Illinois, was purchased by Community Broadcasters, Inc. (Community), of which Stuckwish was a principal officer, director and stockholder, for $115,000, $15,000 of which was in consideration for a covenant-not-to-compete. It was represented at the time of the assignment, states Prairieland, that Milburn Stuckwish would supervise administrative duties at the station, would temporarily assist in supervising the Program Department, and would serve as manager. It was further represented that Stuckwish and another principal, John Uis, would reside in Taylorville if the application were granted (BAL-4642). When WTIM filed its license renewal on September 3, 1964, Community stated that they proposed no change in the present staff operating WTIM and represented that Stuckwish, as General Manager, and Uis, as Commercial and Promotion Manager, had integrated themselves into the community. On April 27, 1966, within 18 months after WTIM's license renewal was granted, an application was filed requesting Commission approval to the assignment of license of radio Station WCSJ(AM), Morris, Illinois, to Grundy County Broadcasters, Inc. (Grundy County), of which Stuckwish was and is President and 75.08 percent owner. According to the assignment agreement, three employees of WTIM were committed to leave Taylorville in order to devote full time to WCSJ, and Stuckwish proposed to devote a minimum of 50 percent of his time to the new acquisition. The acquisition was consummated on June 30, 1966 and the consideration paid by Grundy County for the assets of WCSJ(AM) was $105,000.

6. On September 27, 1967 (approximately 15 months after WCSJ was assigned to Grundy County), Community filed for a construction permit for a new FM station to be operated in conjunction with WTIM(AM) at Taylorville. The application was granted February 7, 1968. On October 28, 1968, before construction was completed, Community requested approval of the assignment of WTIM(AM) and the FM construction permit to Public Service Broadcasters (PSB) for $270,000.[1] The application was granted on or about December 19, 1968. Stuckwish indicated at the time that he desired to devote his full time to WCSJ which was ". . . in need of 100% management participation for a while" (BAL-6514). Subsequently, according to Prairieland, Grundy County proceeded to acquire WRMI(FM), Morris, Illinois. The application approving the assignment was granted August 23, 1971. Prairieland further notes that in April, 1973, Stuckwish filed for the FM construction permit in Decatur, Illinois, which is the subject of the instant proceeding, and proposed to serve as its general manager. Referring to a "letter of intent" executed on June 19, 1974, for the assignment of licenses of WCSJ (AM) and WRMI(FM), Morris, Illinois, Prairieland points out that Grundy County is now proposing to sell both of the Morris stations.

7. In addition to the above alleged pattern of acquisition and sale, Prairieland also bases its request for a trafficking issue on the fact that Decatur is located less than 30 miles from Taylorville, and Superior's Decatur proposal will place a 1 mV/m contour over Taylorville. Citing Edina Corp., 4 FCC 2d 36, 7 RR 2d 767 (1966), aff'd sub nom. Norseman Broadcasting Corp. v. FCC, 12 RR 2d 2007 (1968); and Harriman Broadcasting Co. (WXXL), 9 FCC 2d 731, 10 RR 2d 981 (1967), aff'd 399 F. 2d 569 (D.C. Cir. 1968), cert. denied, 393 U.S. 962 (1968), Prairieland argues that a trafficking issue is warranted where a licensee has sold a station at a substantial profit and later makes application for a facility in the same market. The Broadcast Bureau supports addition of an issue absent a satisfactory explanation by Superior.

8. Superior responds, in its opposition, that the $250,000 received for WTIM (AM) was less than two times station gross revenues which is a customary industry valuation standard and that the $20,000 received for WTIM(FM) was actually less than total equipment costs. According to Superior, the proposed total sales price of $250,000[2] for the Morris, Illinois, stations represents no substantial profit for Grundy County because the stations were purchased for $180,000 and $15,000 in improvements were made. In support of its contention that changed circumstances led to the assignment of the Taylorville licenses and proposed assignment of the Morris licenses, Superior attaches the affidavit of Milburn H. Stuckwish, dated September 6, 1974. Stuckwish avers that when he joined WCSJ in Morris, he proposed to divide his time between Morris and Taylorville, and that the decision to assign the Taylorville stations was made after his principal associate at Taylorville decided to go into the educational field. He further alleges that additional personnel problems at the Morris stations, in combination with declining sales revenues, led to their proposed assignment. Prairieland replies that Stuckwish represented in the Taylorville assignment application that he wished to devote full time and attention to WCSJ in Morris but, according to an affidavit from Prairieland's principal, Stephen P. Bellinger, submitted with the reply, from January, 1971 through November, 1971, Stuckwish worked as a full time accountant and on December 21, 1971, he undertook responsibilities as a broker of broadcast stations under an agreement with Chapman Company, Inc.

9. "Trafficking in broadcast operations occurs when a licensee (or its principals) acquires and/or operates a station for the primary purpose of selling or otherwise disposing of it for profit rather than for the primary purpose of serving the public interest. . . ." Harriman Broadcasting Co. (WXXL), *supra*, 9 FCC 2d at 733, 10 RR 2d at 983. The Board has pointed out on numerous occasions that intention, time and price are all important elements in determining whether there has been a trafficking violation. See *e.g.*, Phil D. Jackson, 33 FCC 2d 928, 23 RR 2d 1923 (1972). Ordinarily, the requisite intent is determined by considering all relevant circumstances, past and present. Romac Baton Rouge Corp., 7 FCC 2d 564, 9 RR 2d 1029 (1967). In the Board's view, the undisputed allegations set forth above suggest a course of conduct which warrants further examination in an evidentiary hearing. Within a period of approximately twelve years, Milburn Stuckwish purchased an AM station in Taylorville, Illinois, and, subsequently, an AM station at some distance away in Morris, Illinois. Shortly thereafter, Stuckwish purchased an FM facility in Taylorville, then sold the Taylorville AM–FM combination, purchased an FM facility in Morris, and then applied for the proposed FM facility in Decatur which would serve Taylorville—the community of his first AM–FM operation. Now Stuckwish intends to sell the Morris AM–FM combination. The sale of his first two facilities resulted in a substantial profit and the sale of the second AM–FM combination will apparently bring a modest profit. In addition to the fact that these transactions occurred within a relatively short period of time and for a profit, Stuckwish's reasons for the above transactions appear suspect, particularly in light of his intention to now devote time to the operation of the facility proposed at Decatur which will serve the community he originally left.[3] In view of this pattern of acquisition and sale, or

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[1] The data submitted by Prairieland was allegedly obtained from Commission files. The substantial accuracy of the data has not been challenged by Superior with the exception of Prairieland's assertion that Community Broadcasters, Inc. (Community) never completed construction of WTIM(FM), Taylorville, Illinois. Superior attaches the affidavit of Milburn Stuckwish, dated September 6, 1974, which states that Community completed construction in late November, 1968, the Commission granted Program Test Authorization on December 3, 1968, and operation of the station commenced December 11, 1968. Prairieland acknowledges these facts in its reply pleading.

[2] In the motion to enlarge, Prairieland made no mention of the proposed sales price for the Morris, Illinois, stations.

[3] We are constrained to reject the supporting hearsay affidavit (relating to Stuckwish's other activities) from Prairieland's principal submitted with its reply pleading.

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proposed sale, the Board will add a trafficking issue in order that these allegations may be more fully explored."

LEGAL DISABILITY ISSUES

10. Petitioner next requests issues inquiring into the legal ability of Superior to operate its proposed station. In support, Prairieland refers to a covenant contained in Community's agreement to sell WTIM(AM) and FM to PSB, according to which the officers of Community (including Stuckwish) "... agree that they will not own or participate in the ownership of any other radio station in Christian County, Illinois for a period of ten years from and after the Closing Date." According to Prairieland, the assignment was consummated on or about January 3, 1969, and consequently, the covenant is not due to expire until January, 1979. Prairieland alleges that Superior's proposed station would be in direct competition with WTIM for audience and advertising revenues because its 1 mV/m and its 3.16 mV/m contours would encompass Taylorville. Even should the current licensee of WTIM decide not to seek enforcement of the covenant, Prairieland asserts that a cross-interest issue is warranted because the present licensee of WTIM(AM) and FM is still financially obligated to the former owners of the station, including Stuckwish,[11] and Stuckwish is an employee of Chapman Company, Inc. which acted as broker for the WTIM sale. In its partial opposition, the Broadcast Bureau asserts that the mere existence of the covenant is a factor that might inhibit full and effective competition and that substantial questions are raised warranting a cross-interest issue.

11. In opposition, Superior maintains that the covenant refers only to stations in Christian County and, therefore, does not apply to its proposed Decatur station (which is in Macon County). Superior supports this assertion by submitting a letter, dated August 19, 1974, from Donald G. Jones, President of PSB, to Milburn Stuckwish, stating that the covenant pertains to Christian County, Illinois, and does not limit or prevent Stuckwish's participation in the ownership and operation of a station in Decatur, Illinois. In response to Prairieland's other allegations, Superior argues that the payments by PSB will be completed in 1976, and, therefore, before his present proposal would become operational should he receive a grant. Stuckwish also states, in his affidavit of September 6, 1974, that he has never been an employee of Chapman Company, Inc., but, rather, that his association with Chapman has been on a minimal, part-time basis and that, therefore, no conflict exists. In reply, Prairieland reiterates its contention that appropriate issues are required.

12. The requested legal disability issue based on the covenant-not-to-compete will be denied. The covenant specifically refers to participation or ownership of a radio station in Christian County, Illinois (where Taylorville is situated), whereas Superior's studio and transmitter are to be located in Macon County (where Decatur is situated). Moreover, and of particular significance, the President of PSB, in his letter to Milburn Stuckwish, states that he has no objection to Superior's proposed FM facility. Since the beneficiary of the covenant has explicitly denied that any breach would occur as a result of the proposed operation, we see no reason for any further inquiry into this matter. We do agree, however, with the Bureau, that the addition of a cross-interest issue is warranted. According to the engineering map, submitted as Exh. E, p. 17 of Superior's application, Superior's proposed station lies midway between Decatur and Taylorville. The map reveals that the city-grade contour (3.16 mV/m) of the proposed Decatur station encompasses Taylorville and the WTIM(AM) and FM site. As noted *supra*, Stuckwish will remain a creditor of PSB until payments are completed in February 1976. The Commission's cross-interest policy, emanating from the overlap prohibitions (Section 73.240 of the Rules, in the case of FM stations) of the multiple ownership rules, applies when an applicant has a "meaningful relationship" with a station in the same service and there is a 1 mV/m overlap between the stations. Lexington County Broadcasters, Inc., 42 FCC 2d 581, 28 RR 2d 353 (1973). Since there is a 1 mV/m overlap between the Taylorville station and the proposed Decatur station and Stuckwish is a creditor of WTIM,[12] it is clear that the public interest considerations underlying the cross-interest policy are applicable and, therefore, warrant further exploration in an evidentiary hearing. Cf. KFRM, Inc., 5 FCC 2d 348, 8 RR 2d 903 (1966). Whether Stuckwish's alleged association with Chapman Company, Inc. is sufficient to preclude his participation in the instant proposal may also be explored under the cross-interest issue added herein.

"VIOLATION OF LAW" ISSUE

13. Prairieland bases its request for a "violation of law" issue on the fact that since May, 1971, Robert Beadles, an Assistant Secretary, director and 18.75 percent shareholder of Superior, has owned a franchise (with a book value of $7,000) of Koscot Interplanetary, Inc., a corporation organized by Mr. Glenn Turner. Citing various magazine articles, Prairieland asserts that legal action has been taken against Turner in 42 states and that in several states he has been indicted on various counts including conspiracy to cheat and defraud by false pretense. It is Prairieland's contention that Beadles' association with such a scheme is sufficient, in itself, to raise questions as to Beadles' and, thus, Superior's qualifications to be a licensee. The Board agrees with Superior and the Broadcast Bureau that the issue should be denied. First, petitioner has not supported its allegations with the requisite specificity. Rather, Prairieland relies on magazine articles which are clearly hearsay and, therefore, insufficient to support addition of an issue. See LeFlore Broadcasting Company, FCC 74R-361, released October 2, 1974; Jimmie H. Howell, 46 FCC 2d 50, 57-8, 29 RR 2d 1317, 1326-7 (1974). Second, the Board has frequently emphasized its position of declining to interfere in questions of alleged state law violations where there has been no challenge in the state courts and the determination is more appropriately a matter of state resolution. See Intercast, Inc., 43 FCC 2d 658, 28 RR 2d 367 (1973). In the instant case, no suit alleging misconduct has been filed against Beadles and no facts have been presented showing that Beadles has violated any law.[13] Thus, the requested issue is unwarranted.

MISREPRESENTATION, LACK OF CANDOR AND 1.514 ISSUES

14. Prairieland next alleges that Robert Beadles did not disclose his Koscot distributorship in Superior's application or in the license renewal application of Grundy County (of which he is an officer and 24.92 percent stockholder) for WCSJ and WRMI(FM), Morris, Illinois. In addition, Prairieland avers that Beadles failed to disclose that he was sued in May, 1972 for back rent on a building he leased for Koscot and that a judgment was entered against him and two other persons in October, 1972. These omissions, argues petitioner, raise questions of misrepresentation and lack of candor. Similar issues are required against Stuckwish, urges Prairieland, because Superior failed to disclose the covenant-not-to-compete and because Stuckwish did not reveal that he is a broker of communications media. Prairieland also contends that Superior failed to indicate

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[10] There is no indication that Superior has concealed any facts from the Commission concerning its proposed site, as alleged in Prairieland's petition; Superior's application, Exhibit E, p. 17, shows the proximity of the proposed Decatur site to Taylorville. Accordingly, petitioner's request for a good faith issue and an issue as to whether Superior has misled the Commission will be denied.

[11] Reference is made by Prairieland to Paragraph 3(d) of the Sales Agreement requiring delivery by the buyer, at closing, of a promissory note for $150,000, payable (with interest) in 84 monthly installments. Since the closing took place in January, 1969, Prairieland notes that the final payment (if not prepaid or extended) would be due in February, 1976.

[12] Furthermore, the Broadcast Bureau points out that the sales agreement between Community and PSB is secured by a mortgage on the assets conveyed to the assignee.

[13] "While the Commission is not precluded, in appropriate circumstances, from considering a violation of law by an applicant, even where, as here, no suit alleging illegal conduct has been filed, the Commission must be in possession of facts showing that the applicant has violated the law." Sumiton Broadcasting Company, Inc., 15 FCC 2d 410, 412, 14 RR 2d 970, 973 (1968), citing Report on Uniform Policy as to Violation by Applicants of Laws of United States, 1 RR (Part 3) 91:405, 499 (1951).

Stuckwish's connection with an application for Centralia, Illinois, denied by the Commission on December 1, 1947,[14] and that his partner in that application, F. M. Lindsay, Jr., is now President of the licensee of WSOY and WSOY(FM) in Decatur which petitioner suggests may be the basis for a cross-interest issue and, therefore, should have been revealed. The Bureau contends, in its opposition, that a § 1.514 issue may be warranted concerning Stuckwish's failure to report the covenant and his employment as a media broker, absent a satisfactory response from Superior.

15. Superior opposes addition of the requested issues, arguing that the Koscot franchise was listed on Beadles' balance sheet submitted with Superior's application and, in any event, Beadles' participation in Koscot was minimal.[15] Furthermore, Superior states that it has listed the Koscot franchise in its amendment, filed September 13, 1974, and that it has also corrected, in its amendment, the inadvertent failure to include Stuckwish's connection with the Centralia, Illinois application, denied in 1947. With respect to the lawsuit, Superior states that the judgment against Beadles was satisfied immediately upon issuance. With regard to the Taylorville covenant, presents no legal disability, has been on Superior maintains that the covenant record with the Commission for five years and does not relate to any question in the application form. As to his alleged activities as media broker and/or his alleged association with Chapman Company, Inc., Stuckwish states that he is not an employee, owner or principal in Chapman Company, Inc.[16] Finally, Superior notes that there has been no attempt to conceal Stuckwish's relationship with Lindsay, as evidenced by Exhibit 2 to its application, which reveals that Stuckwish worked for the licensee of WSOY and WSOY(FM) until 1962.

16. The Board does not believe that any of the above omissions require addition of misrepresentation or § 1.514 issues. Although Beadles' failure to list his Koscot franchise in the appropriate place in Superior's application may amount to a technical violation of Section 1.514, the violation appears to have been unintentional, and the franchise was listed elsewhere, thereby indicating a lack of intent to deceive the Commission. See Payne of Virginia, Inc., 45 FCC 2d 170, 29 RR 2d 495 (1974). Therefore, no issue is warranted. The same is true of Superior's failure to disclose the covenant-not-to-compete. There is no reason to believe that Superior intended to conceal this matter since it had been previously reported to the Commission and the applicant's belief that the terms of the covenant were not relevant have been confirmed by a letter from the beneficiary of the covenant. Similarly, Superior's failure to indicate Stuckwish's association with the application for Centralia, Illinois, does not warrant inquiry since there appears to have been no motive for this inadvertent and insignificant omission. We have consistently denied requests for issues predicated on violations of the reporting requirements of the Commission's rules and regulations where the violations have been unintentional and not so numerous as to indicate a pattern of non-disclosure, and the information not reported is of questionable significance. See *Post-Newsweek Stations, Florida, Inc.* (*WPLG–TV*), FCC 74R–365, __ FCC 2d __, released October 2, 1974, and cases cited therein. With respect to Superior's failure to report the judgment against Beadles (an 18.75 percent shareholder in Superior) for nonpayment of rent, the Board is of the view that such a judgment "[does] not sufficiently put in question the character of the applicant to warrant addition of a specific issue", Tri-Cities Broadcasting Company, FCC 65R–74, 4 RR 2d 642, 646 (1965), particularly when there is not showing of misconduct related to matters entrusted to the Commission. Regarding the allegations concerning Stuckwish's activities as a media broker, Prairieland offers nothing to rebut Stuckwish's statement denying that he is an employee of Chapman Company, Inc. The Board has no evidence that Stuckwish's activities as a media broker are anything other than minimal and part-time as he states in his affidavit of September 6, 1974. In any event, the significance of Stuckwish's activities can be explored under the cross-interest issue added herein. Finally, we note that Prairieland's request for an inquiry into Stuckwish's relationship with Lindsay is groundless. In his affidavit of September 6, 1974, Stuckwish states that he has had no business relationship with Lindsay since 1962.[17] Moreover, Stuckwish's association with WSOY and WSOY(FM) from 1937 to 1962 is set forth in Exhibit 2 to Superior's application. Thus, the requested issue will be denied.

17. Accordingly, it is ordered, That the request for late acceptance, filed July 30, 1974, by Prairieland Broadcasters, is granted; and

18. It is further ordered, That the motion to enlarge issues, filed July 30, 1974, by Prairieland Broadcasters, is granted to the extent indicated herein, and is denied in all other respects; and

19. It is further ordered, That the issues in this proceeding are enlarged to include the following issues:

(a) To determine whether the interests of Milburn H. Stuckwish, as a creditor of WTIM(AM) and FM, Taylorville, Illinois, as a media broker involved in the WTIM sale, and as Vice-President, director and shareholder in Superior Media, Inc., provide a potential for the impairment of open, arms length competition between broadcast stations serving substantially the same area, contrary to the principles underlying the Commission's cross-interest policy and, if so, the effect thereof on the basic and/or comparative qualifications of Superior Media, Inc. to be a Commission licensee.

(b) To determine whether Milburn H. Stuckwish has engaged in trafficking in broadcast licenses; and, if so, to determine the effect of such misconduct on the basic and/or comparative qualifications of Superior Media, Inc. to be a broadcast licensee.

21. It is further ordered, That the burden of proceeding with the introduction of the evidence and the burden of proof under issue (a) added herein shall be on Superior Media, Inc.; and that the burden of proceeding with the introduction of the evidence under issue (b) added herein shall be on Prairieland Broadcasters, and the burden of proof shall be on Superior Media, Inc.

Adopted: December 2, 1974.

Released: December 11, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74–29418 Filed 12–17–74;8:45 am]

[FCC 74R 439; Docket Nos. 19866, 19867, 19868; File Nos. BPH–8105, BPH–8111, BPH–8234]

WILLIAM F. WALLACE, ET AL

FM Broadcast Stations, Applications for Construction Permits

In re Applications of William F. Wallance and Anne K. Wallace, Joint Tenants, Santa Paula, California; Clark Ortone, Inc., Fillmore, California; Class A Broadcasters, Inc., Fillmore, California; for construction permits.

1. The above-captioned mutually exclusive applications for new FM broadcast stations were designated for consolidated hearing by Commission Order,

[14] FCC Form 301, Section II, p. 5, Question 19(c) requires the applicant or any party to the application to report any interest in or connection with "any application which has been denied" by the Commission.

[15] In support, Superior attaches the affidavit of Robert D. Beadles, dated September 6, 1974, and a copy of Beadles' claim of $4,300 against Koscot under Chapter XI of the Bankruptcy Act. Mr. Beadles states that his active participation in Koscot ended in early 1971, and he never regarded the franchise as a business and, therefore, did not list it as a business interest in the application. He notes that his "inadvertent failure" to list the franchise is being corrected by Superior's amendment.

[16] Table II of FCC Form 301 asks for the *principal* occupation and businesses in which each party named is engaged at the present time or has been engaged at any time during the past five years, and, in addition, any other business or financial enterprise in which such party has now or within the past 5 years has had either a 25 percent or greater interest or any official relationship. (Emphasis supplied.)

[17] Prairieland's assertion that the Commission's cross-interest policy is applicable to the relationship of Stuckwish and Lindsay is incorrect because Stuckwish is no longer associated with Lindsay. See Rosemor Broadcasting Co., Inc., 45 FCC 2d 920, 29 RR 2d 1113 (1974).

FCC 73-1198, 38 FR 32971, published November 29, 1973.[1] Presently before the Review Board is a petition for reconsideration or in the alternative for enlargement of issues, filed September 6, 1974, by William F. Wallace and Anne K. Wallace, Joint Tenants (Wallace).[2] The petition seeks reconsideration by the Review Board of its Memorandum Opinion and Order (Jerry Lawrence, 48 FCC 2d 373, 31 RR 2d 59, released August 13, 1974) to the extent that it denied the request of Class A Broadcasters, Inc. (Class A) to add a site availability issue against Clark Ortone, Inc. (Ortone).[3] Alternatively, should the Board decline to reconsider this matter, Wallace requests that the issues be enlarged to include site availability and misrepresentation issues against Ortone.

2. Petitioner contends that the Board, in denying the Class A request for a site availability issue, held, in effect, that because Ortone had not in fact conceded that its proposed site was not presently available, the hearsay affidavit of Class A's president, which was submitted with the petition, was insufficient to support the request.[4] Wallace states, however, that while Class A's petition to enlarge issues was before the Board, the affidavits of both the former and present owners of the site specified by Ortone[5] were before the Administrative Law Judge in connection with a petition for leave to amend filed by Ortone.[6] Wallace does concede, however, that the Board had not been requested to take official notice of the affidavits. Petitioner now requests the Board to take official notice of these affidavits and has attached them to its instant petition. Wallace submits that in Belo Broadcasting Corp., 44 FCC 2d 707, 29 RR 2d 323 (1974), the Board reconsidered its denial of a request for a site availability issue and added the issue, concluding that clarification of prior sworn statements controverted the basis for originally denying the request. Wallace argues that the Board should do likewise here. If the Board does not reconsider its earlier ruling, Wallace requests, in the alternative, that the issues be enlarged to include site availability and misrepresentation issues against Ortone. Petitioner argues that the affidavits of the present and former owners of the site proposed by Ortone, as well as the hearsay affidavit of Class A's president, clearly indicate that the site has not only been unavailable for at least a year and a half, but that Ortone has made no inquiry concerning the availability of that property for a proposed transmitter site. Wallace contends that the affidavit of Richard Quine, the owner of the site until December 31, 1973, establishes that no inquiry was made as to the availability of his property for a transmitter site until approximately December of 1973, when he was contacted once. Since the Ortone application was filed in 1972, argues Wallace, Ortone never contacted Quine before specifying Quine's property as a proposed transmitter site.[7]

3. Both Ortone and the Broadcast Bureau oppose Wallace's instant petition. Attached to Ortone's opposition is an affidavit of Clark Ortone, president of the applicant, describing a meeting with Julius Goldman, the present owner of the proposed transmitter site. Ortone contends that Goldman's statement in the presence of a real estate broker, Marjorie Dimmick, serves to indicate that the site is, in fact, available on reasonable terms. It is the Bureau's position that both the Quine and Goldman affidavits are very narrowly framed in terms of authorizing use of the land "as a transmitter site". The possibility is left open, contends the bureau, that a representative of Ortone contacted Quine or Goldman about lease of the land without specifying its proposed use and was told it was available. The bureau concludes that Wallace has not presented specific allegations of fact sufficient to support the requested issues as required by § 1.229(c) of the rules.

4. In reply to Ortone, Wallace contends that, since Clark Ortone's affidavit only concerns an alleged assurance of the present availability of the Ortone proposed site, it constitutes an admission that Ortone made no inquiry as to the availability of its proposed site prior to the filing of its application. Wallace also alleges that since Clark Ortone's affidavit is hearsay and no reasons for failing to submit the affidavit of Goldman were submitted, it cannot be accepted. Moreover, argues Wallace, it would appear that Ortone attempted to mislead the board into concluding, through the device of not specifying the meeting date between Clark Ortone and Julius Goldman, that it had some assurance that its proposed site would be available at the time the application was filed. Wallace also contends that the position taken by the bureau is not only highly speculative, but is legally in error. A general inquiry as to the availability of property without specifying the use intended, alleges Wallace, is insufficient to support a finding of reasonable assurance of the availability of a proposed site.

5. The review board will not reconsider its earlier Memorandum Opinion and Order; the Commission's Rules state explicitly that petitions for reconsideration of interlocutory actions of the Board will not be entertained. See §§ 1.102(b)(2), 1.106(a)(1) and 1.291(c)(3) of the rules. See also Broadcasters 7, Inc., 33 FCC 2d 277, 23 RR 2d 566 (1972).[8] However, the Wallace pleading will be considered as a petition to enlarge issues.[9]

6. The board will add both requested issues. In the Goldman affidavit, attached to Wallace's petition, it is stated that, as of June 25, 1974, the present owner of Ortone's proposed site had not

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[1] The mutually exclusive application of Jerry Lawrence was subsequently dismissed with prejudice by the Presiding Judge by Order, FCC 74M-1059, released August 26, 1974.

[2] Also before the Review Board for consideration are the following related pleadings: (a) opposition, filed September 25, 1974, by the Broadcast Bureau; (b) opposition, filed September 26, 1974, by Ortone; (c) reply, filed October 1, 1974, by Wallace; (d) request to file an additional pleading, filed October 11, 1974, by Wallace; (e) supplement to Wallace's reply to oppositions, filed October 11, 1974; and (f) comments on supplement, filed October 22, 1974, by the Broadcast Bureau. Supplemental pleadings are not authorized by the Commission's Rules, and the showing made by Wallace in its request does not warrant a departure from the Rules. Wallace's request to file an additional pleading will, therefore, be denied and the supplemental pleadings dismissed. See Filing of Supplemental Pleadings Before the Review Board, 40 FCC 2d 1026 (1972). See also Rosemor Broadcasting Co., Inc., 48 FCC 2d 1182, 30 RR 2d 360 (1974); and Rosemor Broadcasting Co., Inc., 45 FCC 2d 920, 29 RR 2d 1113 (1974).

[3] The request was made in a petition to enlarge issues, filed December 14, 1973, by Class A. A site suitability issue was added against Ortone, however, and that action is not being challenged.

[4] In our earlier memorandum opinion and order we stated the following: Class A alleges that Ortone's proposed transmitter-studio site will be unavailable to it. The site, Class A contends, is in an undeveloped hilltop area which is without water, power, or telephone facilities, and is inaccessible other than on foot. Furthermore, Class A asserts, the owner of the property, Richard Quine, told Class A's president, John J. Davis, that no one from Ortone had contacted him concerning lease of the land and that the property is in escrow and could not be leased at the present time in any case. Although Ortone states in its opposition that its recently tendered amendment specifies a new site, the Board must consider the originally proposed site to be the one of record because the Judge has not yet acted on Ortone's petition for leave to amend. See Edward G. Atsinger III, 28 FCC 2d 493, 499-500, 22 RR 2d 236, 244 (1971), and cases cited therein. We will not add an issue as to the availability of that site, however, because Class A offers no explanation for its failure to submit an affidavit from the owner of the property in support of its allegations. See Salem Broadcasting Co., Inc., 29 FCC 2d 170, 177, 25 RR 2d 755, 765 (1972). Nor does Ortone concede that the presently proposed site is now unavailable. 48 FCC 2d at 376-377, 31 RR 2d at 65.

[5] Ortone's proposed site was owned by Richard Quine from 1941 to December 31, 1973, and since that time has been owned by Julius Goldman.

[6] Although Ortone sought to amend its application to change its proposed site, that amendment was denied by the Presiding Judge by Memorandum Opinion and Order, FCC 74M-954, released August 7, 1974.

[7] The Ortone application was filed with the Commission on October 18, 1972.

[8] As previously indicated, petitioner relies on Belo Broadcasting Corp., supra, in support of its request for reconsideration. In that case, however, the Board reconsidered its earlier Memorandum Opinion and Order because it had misconstrued an affidavit of a person with personal knowledge of the facts. In this proceeding, however, no such misinterpretation had taken place. The request for a site availability issue had been denied because its only support had been a hearsay affidavit, not because there was any confusion over the significance of that affidavit. See note 4, supra.

[9] Although the Wallace petition is clearly untimely, as Wallace concedes, and good cause for the delay has not been shown, it raises serious public interest questions and will be considered on its merits. The Edgefield-Saluda Radio Co. (WJES), 5 FCC 2d 148, 8 RR 2d 611 (1966).

authorized anyone, other than his own business,[10] to place a transmitter on any property he owns. The affidavit of Clark Ortone does not dispute this, but states that during a meeting with Goldman to discuss the possibility of locating a transmitter on the latter's property, Goldman stated that "he could foresee 'no problem' " in Ortone locating on his property. Although an applicant need not have a binding agreement or absolute assurance of the availability of a proposed site, an applicant must show that it has obtained reasonable assurance that its proposed site is available. See Marvin C. Hanz, 21 FCC 2d 420, 18 RR 2d 310 (1970). Some indication by the property owner that he is favorably disposed toward making an arrangement is necessary. A mere possibility that the site will be available will not suffice. El Camino Broadcasting Corp., 12 FCC 2d 25, 12 RR 2d 720 (1968). In its opposition, Ortone has failed to show any likelihood of a lease agreement being reached between Goldman and itself. Thus, the board is of the opinion that a substantial question has been raised regarding the availability of the proposed site.

7. A misrepresentation issue will also be added. The specification of a site is an implied representation that an applicant has obtained reasonable assurance that the site will be available. A failure to inquire as to the availability of the site until after the application is filed is inconsistent with such a representation and, therefore, warrants a character qualifications issue. See Lake Erie Broadcasting Co., 31 FCC 2d 45, 22 RR 2d 647 (1971); Marbro Broadcasting Co., Inc., 4 FCC 2d 290, 3 RR 2d 51 (1966); and Geoffrey A. Lapping, 27 FR 6440, 23 RR 919 (1962). Richard Quine owned the site proposed by Ortone at the time the Ortone application was filed in October of 1972. However, according to the pleadings, it was not until December of 1973, that Quine was contacted as to the possible use of his property as an FM transmitter site. Therefore, an issue will be added.

8. *Accordingly, it is ordered*, That the request to file an additional pleading, filed October 11, 1974, by William F. Wallace and Anne K. Wallace, Joint Tenants, is denied; and that the supplement to Wallace's reply to oppositions, filed October 11, 1974, and the Broadcast Bureau's comments on supplement to Wallaces' reply, filed October 23, 1974, are dismissed; and

9. *It is further ordered*, That the petition for reconsideration or in the alternative for enlargement of issues, filed September 6, 1974, by William F. Wallace and Anne K. Wallace, Joint Tenants, is granted to the extent indicated herein, and is denied in all other respects; and

10. *It is further ordered*, That the issues in this proceeding are enlarged by the addition of the following issues: 1. To determine whether Clark Ortone, Inc. has reasonable assurance of the availability of its proposed transmitter site.

2. To determine whether Clark Ortone, Inc. made a willful misrepresentation to the Commission by proposing a site without having made adequate inquiries as to its availability, and, if so, the effect upon that applicant's basic and/or comparative qualifications to be a station licensee.

11. *It is further ordered*, That the burden of proceeding with the introduction of evidence under Issue 1 shall be on Clark Ortone, Inc., that the burden of proceeding with the introduction of evidence under Issue 2 shall be on William F. Wallace and Anne K. Wallace, joint tenants, and the burden of proof under both issues shall be on Clark Ortone, Inc.

Adopted: December 5, 1974.

Released: December 12, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-29419 Filed 12-17-74;8:45 am]

[10] A transmitter owned and operated by this business, which is known as Julius Goldman's Egg City, is used for the purpose of paging company personnel.

FEDERAL DEPOSIT INSURANCE CORPORATION

INSURED STATE NONMEMBER BANKS

Policy Statement on Gold

On December 31, 1974, Public Law 93-373, which removes the restrictions on a person "purchasing, holding, selling, or otherwise dealing with gold," becomes effective. The word "person" in the Act has been construed to include banks. Thus, to the extent authorized by state law, State nonmember banks will be permitted to deal in gold.

Trading in any commodity, including gold, is a highly speculative activity. The past experience of individuals and companies in the commodities markets indicates that, at minimum, commodities trading is a very risky activity for the novice. In the case of gold, moreover, the more than forty year old prohibition against U.S. citizens holding and trading in gold has meant that few persons have even a nominal degree of expertise in such activity. The Corporation therefore believes that insured State nonmember banks should consider confining their trading in gold to purchases and sales on a consignment or agency basis. Irrespective of the manner in which an insured nonmember bank intends to deal in gold, the Corporation should be notified of such intention.[1]

Insured nonmember banks which are considering dealing in gold for their own accounts should carefully evaluate the experience and ability of their present staffs in this regard before proceeding. Further, such banks should bear in mind that gold ownership exposes them to possible loss due to adverse fluctuations in market value. In order to minimize such exposure, banks may find it necessary to conduct limited trading in gold futures for hedging purposes. Banks considering holding inventories of their own gold are reminded that gold bears no yield or interest and that any such inventory should be reflected as "other assets" and should be periodically adjusted to current market value.

Even the sale of gold by a bank to its customers on a consignment basis, while not subjecting the bank to possible losses due to fluctuations in the price of gold, entails certain other risks of which insured State nonmember banks should be aware. These problems can also arise with respect to sales of a bank's own gold. First, banks may bear the risk of any loss with respect to gold which they hold, even when it is held on consignment. Banks considering holding gold should therefore evaluate the adequacy of their present security arrangements. Second, gold purchase or consignment agreements entered into by a bank may not provide it with the right to re-sell to the dealer any gold which the bank's customers ask the bank to repurchase. Thus a bank might be forced to refrain from repurchasing gold which it had previously sold to its customers. Third, banks should attempt to minimize the possibility of receiving, and ultimately selling, bogus gold by entering into agreements only with responsible, reputable dealers. In this connection, insured nonmember banks should be especially wary of proposals which purport to offer gold to them at or below the current market price. They should pay particular attention to the degree of fineness (purity) of the gold so offered. The inadvertent sale of gold which does not conform to a bank's representations may well expose the bank to unfavorable publicity or legal action. Fourth, banks engaging to repurchase gold from their customers should consider retaining possession of the gold pursuant to a sale/safekeeping agreement. Unless the gold has constantly remained in the possession or control of the bank, it may be necessary for the bank to acquire or utilize facilities for weighing and assaying gold it plans to repurchase.

Many insured nonmember banks, including banks which do not choose to offer gold for sale to their customers, may find themselves engaged in safekeeping arrangements for gold owned by their customers. Here too, banks contemplat-

[1] Insured nonmember banks intending to trade in gold should submit written notice of such intent to the appropriate Regional Office of the Corporation at least 10 business days prior to the initiation of such trading. Such notice should include all information the bank deems relevant to its proposed activity including whether the bank will be trading for its own account or solely on an agency or consignment basis, the projected amount and purpose of any such trading, the experience of those individuals who will be engaged in the trading, insurance arrangements which will be in effect and, where applicable, the relation of the bank's capital and earnings to the projected amount of gold that the bank will acquire for its own account.

ing providing such services should evaluate the adequacy of their security arrangements. Where the size or amount of the gold received cannot feasibly be held in normal safe deposit facilities, banks should take care to segregate such gold in their vaults and to issue receipts to their customers therefor. Such receipts, whether issued in connection with a sale/safekeeping transaction or otherwise, should be issued in non-negotiable form and should refer to a specifically identifiable amount of gold. Each receipt and any advertisement of gold safekeeping services should also state clearly and conspicuously that the gold held pursuant to the safekeeping arrangement is not a deposit insured by FDIC.

It is the opinion of the Secretary of the Treasury that Public Law 93-373 did not repeal or alter the so-called Gold Clause Resolution of 1933 (31 U.S.C. 463). The Resolution prohibits any contractual provision which purports to give the obligee the option of requiring payment of the obligation in money or a specified amount of gold. Deposit contracts which purport to give the bank's customer such an option are therefore rendered legally unenforceable by the terms of the Gold Clause Resolution. Contracts specifically payable only in gold may be similarly unenforceable where the parties to the contract view the gold as a medium of discharging a debt, such as a deposit liability, rather than as a commodity to be traded. Needless to say, sound banking practice dictates that insured nonmember banks not enter into legally unenforceable deposit contracts. Conversely, while contracts entered into by a bank treating gold as a commodity, rather than a currency, such as futures contracts, may be valid obligations of the bank, they do not give rise to "deposits" insured by FDIC.

Insured nonmember banks should exercise care so that the aggregate amount of gold held as collateral for loans does not become unduly large. Adequate margin requirements on such loans (such as valuing the gold at 50 percent of the current market price) should be maintained and banks should revalue gold held as collateral at least monthly. Banks considering making loans for the purpose of enabling the borrower to purchase gold should bear in mind that such loans, unless made for industrial or commercial purposes, are speculative and nonproductive. As in the cases of the sale and safekeeping of gold, banks should consider the adequacy of their facilities for authenticating and protecting gold held as collateral for loans.

In sum, the Corporation believes that insured nonmember banks should move cautiously in regard to dealing in gold. Those banks offering gold for sale should consider possible adverse customer reaction if the price of gold drops and endeavor to warn their customers of the highly speculative nature of such an investment. Banks should also check their security systems for compliance with the Corporation's Part 326 and any subsequent revisions thereof.

Similar policy statements are being issued by the other Federal bank regulatory agencies with respect to banks under their jurisdictions.

Effective date. The policy enunciated in the preceding statement shall be effective on the date of its publication.

By order of the Board of Directors, December 9, 1974.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] ALAN R. MILLER,
Executive Secretary.

[FR Doc.74-29457 Filed 12-17-74;8:45 am]

FEDERAL MARITIME COMMISSION

PACIFIC/STRAITS CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before January 7, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed for Approval by:

H. R. Rollins, Secretary
Pacific/Straits Conference
215 Sacramento Street
San Francisco, California 94111

Agreement No. 5680-16, among the member lines of the Pacific/Straits Conference, modifies the basic agreement by (1) deleting and/or adding new language in Article 8(c) relative to the admission of common carrier members and, (2) amending Article 8(f) to provide for a deposit requirement of $1,-$500.00 as an admission fee in place of the present deposit requirement of $500.00.

By order of the Federal Maritime Commission.

Dated: December 13, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-29460 Filed 12-17-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 12/13/74 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Economic Research Service: Survey of Pesticide Situation 1974 and Outlook 1975, single-time, business firms, Lowry, R. L., 395-3772.

DEPARTMENT OF COMMERCE

Bureau of the Census: National Longitudinal Study, Address Maintenance Survey, Address Correction Forms, PMS-18, PMS-19, single-time, national sample of scientists and engineers, Gonsalez, M., 395-3793.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration: Breast Cancer and Other Malignancies Following Multiple Fluoroscopies, FDA 1125, single-time, individuals, Hall, George, 395-4697.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary: Self Assessment/Validation Form For Headstart Grantees, OS-55-74, annually, Head Start grantees, Caywood, D. L., 395-3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health: Lipid Research Clinics Family Study, NIH-HL-16, single-time, sample of LRC prevalence subjects and family members, Hall, George, 395-4697.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration:
Program Content of Statewide Travel Including Data Collection for Multi-Modal Demand, single-time, households, Strasser, A. 395–3880.

Traffic Engineering Service for Small Political Jurisdiction (State and small city and county), single-time, Government agencies, Strasser, A., 395–3880.

REVISIONS

SOCIAL SECURITY ADMINISTRATION

Request to Establish Eligibility in the Health Insurance for the Aged Program to Provide Outpatient Physical Therapy Services, SSA–1856, on Occasion, providers of outpatient physical therapy, Caywood, D.P., 395–3443.

Home Health Agency Request to Establish Eligibility in the Health Insurance for the Aged and Disabled Program, SSA–1515, on Occasion, home health agencies requesting eligibility, Caywood, D.P., 395–3443.

REVISIONS

Request for Approval as Supplier of Portable X-ray Services Under Medicare Program; Pre-Survey Questionnaire for Suppliers, SSA–1880, on occasion, suppliers or portable X-ray services, Caywood, D.P., 395–3443.

DEPARTMENT OF COMMERCE

Bureau of the Census:
Pulp, Paper and Board Production—Monthly Report, M26A, monthly, paper and paperboard mills, Peterson, M.O., 395–5031.

National Prisoner Statistics—Summary of Sentenced Population Movement, NPS 1, annually, State correctional agencies and institutions, Hall, George, 395–4697.

National Prisoner Statistics—Admission and Release Report, NPS–2, NPS–3, quarterly, State correctional agencies and institutions, Evinger, S.K., 395–3648.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social security administration: Medicare/Medicaid Skilled Nursing Facility Survey Report, SSA–1569, annually, skilled nursing facilities participating in medicare program, Caywood, D. P., 395–3443.

FEDERAL RESERVE SYSTEM

Federal Reserve System: Survey of Time and Savings Deposits, FR 396, quarterly, sample of commercial banks, Hulett, D. T., 395–4750.

EXTENSIONS

DEPARTMENT OF TRANSPORTATION

Coast Guard: Application of Owner for and Notice of Award of Official Number and Signal Letters (for vessels), CG–1320, on occasion, vessel owners or agents, Lowry, R. L., 395–3772.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–30660 Filed 12–17–74;8:45 am]

NATIONAL SCIENCE FOUNDATION

STATEMENT OF ORGANIZATION

Information for Guidance of the Public

A. *Creation and authority.* The National Science Foundation (NSF) is an independent agency of the U.S. Government, established by the National Science Foundation Act of 1950 (64 Stat. 149; 42 U.S.C. 1861–1875), as amended, and was given additional authority by the National Defense Education Act of 1958 (72 Stat. 1601; 42 U.S.C. 1876–1879). More recently, Reorganization Plan No. 1 of 1973, effective July 1, 1973, transferred to the Director of NSF the functions of the Office of Science and Technology which was abolished by the reorganization plan. The Foundation consists of the National Science Board of 24 members, and a Director, each appointed by the President with the advice and consent of the Senate. Other senior officials include a Deputy Director and five Assistant Directors.

The general functions of the National Science Foundation are to:

1. Initiate and support basic scientific research and programs to strengthen scientific research potential and programs at all levels; and to appraise the impact of research upon industrial development an the general welfare.

2. Award scholarships and graduate fellowships in the sciences.

3. Foster the interchange of scientific information among scientists in the United States and foreign countries.

4. Foster and support the development and use of computer and other scientific methods and technologies, primarily for research and education in the sciences.

5. Evaluate the status and needs of the various sciences and take into consideration the results of this evaluation in correlating its research and educational programs with other Federal and non-Federal programs.

6. Maintain a current register of scientific and technical personnel, and in other ways provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and technical resources in the United States.

7. Determine the total amount of Federal money received by universities, and appropriate nonprofit organizations for the conduct of scientific research, including both basic and applied but excluding development, and report annually thereon to the President and the Congress.

8. Initiate and support specific scientific activities in connection with matters relating to international cooperation, national security, and the effects of scientific applications upon society.

9. Initiate and support scientific research, including applied research, at academic and other nonprofit institutions and, at the direction of the President, support special applied research at other organizations.

10. Recommend and encourage the pursuit of national policies for the promotion of basic research and education in the sciences.

B. *Organization.* The Foundation is organized along functional and disciplinary lines corresponding to program support of science, engineering and science education.

National Science Board. The National Science Board consists of twenty-four members appointed by the President, by and with the advice and consent of the Senate, and of the Director ex officio. The Board exercises the authority granted it by the NSF Act, including establishing policies for carrying out the purposes of the Act.

Director. The Director of the National Science Foundation is appointed by the President, by and with the advice and consent of the Senate. The Director is the Chief Executive Officer of the Foundation. He serves as ex officio member of the National Science Board and as Chairman of its Executive Committee. The Director is responsible for the execution of the Foundation's programs in accordance with the NSF Act, and the powers and duties delegated to him by the Board; and for recommending policy considerations to the Board. By appointment of the President, the Director also serves as Science Adviser and as Chairman of the Federal Council for Science and Technology. The Director is assisted by a Deputy Director who is appointed by the President, by and with the advice and consent of the Senate.

C. *Activities of the Foundation.* The Activities of the Foundation are carried out by a number of Foundation components reporting to the Director through their respective senior officers:

Director, Science and Technology Policy Office. Responsible for providing cetral staff support to the Director in his role of Science Adviser and as Chairman of the Federal Council for Science and Technology (FCST). Responsible for matters of national civilian science technology policy, developing policy options for solution of national civilian problems, appraising effectiveness of Federal and National R&D efforts, interacting with the total science community on matters of science policy, and providing advice and assistance in furthering U.S. international science and technology objectives.

Director, Office of Energy R&D Policy. Responsible for providing the Director, in support of his role as Science Adviser to the President, an independent source of advice and analysis of energy research and development and other energy-related programs for use by the Executive Office of the President. Also responsible for assembling and mobilizing the wide range of information and advice in energy-related matters, and furnishing the Director with a capability to respond effectively to requests for policy analysis of energy issues.

Director, Office of National R&D Assessment. Responsible for providing an assessment capability, consonant with the expressed needs of Congress and the Executive Office of the President, to better understand R&D and innovation processes, the impact of science and technology on the various elements of the economy and on society, and the effects of Government policies and practices on technological innovation.

General Counsel. The General Counsel advises the Director and the National Science Board with respect to the substantive aspects of legislation and renders counsel and advice on policy and legal aspects of all phases of the Foundation's operations.

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Director, Office of Government and Public Programs. The Office of Government and Public Programs is responsible for representing the Foundation, the Director, and his key associates in relationships with the Congress, State and local governments, various academic groups and professional societies, institutions and other NSF clientele, the communications media and the public. The Office is also responsible for administering a program to increase the public's understanding of science. This office is also responsible for coordinating NSF-related activities in preparation for America's Bicentennial celebration. This activity would focus upon the national and international role of science and technology, particularly as related to the future of the United States. The Office of Government and Public Programs carries out the above responsibilities through four major elements: the Congressional Liaison Office, the Public Understanding of Science Office, the Public Affairs Office, and the Publications Resource Office.

Director, Office of Planning and Resources Management. Responsible for the development, coordination and direction of programs, policies and systems in support of Foundation mission operations and the implementation of legislative and Executive requirements. This responsibility encompasses program planning, programming, and budgeting activities; the development of long-range planning estimates; and includes cognizance for functions associated with the appropriation and authorization process, and program evaluation and review.

Director, Equal Employment Opportunity Office. Provides agency-wide focus for equal employment activities in all areas of Foundation operations. Responsible for the administration of the NSF Equal Employment Opportunity Program, including the function of Coordinator for the Federal Women's Program and Opportunities for Spanish Speaking People.

Assistant Director for Research. The Assistant Director for Research is appointed by the President, by and with the advice and consent of the Senate. He serves as a principal advisor to the Director in the development of long-range plans, annual programs and on research policy as established under statutory and National Science Board authority and is responsible for developing and carrying out a program to accomplish the Foundation's research mission. One office and seven Divisions report to the Assistant Director for Research. Each Division is headed by a Division Director and is generally subdivided on a disciplinary and/or functional basis into Sections, and/or Programs.

Office of Energy-Related General Research. Responsible for coordinating the energy-related research sponsored by all Research Directorate Divisions. In addition, the Office serves as the focal point within the Directorate for coordinating program activities with other NSF directorates and Federal agencies.

Division of Biological and Medical Sciences. Responsible for supporting research in cellular biology, ecology and systematic biology, molecular biology, physiological processes, psychobiology and neurobiology. The Division is also responsible for providing support for specialized research facilities and equipment, for research workshops, symposia, and conferences, and for travel to international scientific meetings abroad.

Division of Engineering. Responsible for supporting research in Engineering Chemistry and Energetics, Mechanics (including civil and aeronautical engineering), Electrical Sciences and Analysis, and special areas such as bioengineering. The Division also provides support for specialized research equipment, and through its Research Initiation Grants provides support for young engineering faculty. In addition to its unstructured research programs, the Division supports a number of organized research programs on such topics as advanced automation, chemical process dynamics, optical communications, the planning and design of tall buildings, and wind engineering. The Division also provides support for travel to international scientific meetings abroad.

Division of Environmental Sciences. Responsible for supporting research in the atmospheric sciences, earth sciences, and oceanography; and for maintaining liaison with other Federal agencies and with the sector of the scientific community concerned with these fields. The Division also provides support for dissertation research; for travel to international scientific meetings abroad; and for specialized facilities and research equipment.

Division of Mathematical and Physical Sciences. Responsible for supporting research in the fields of Astronomy, Chemistry, Mathematical Sciences, and Physics. In addition, support is provided for university physics research facilities, chemistry research instruments, research facilities for astronomy and for travel to international scientific meetings abroad.

Division of Social Sciences. Responsible for supporting scientific research in the social sciences. The Division is also responsible for providing support for doctoral dissertation research and for travel to international scientific meetings abroad, as appropriate.

Division of Materials Research. Responsible for the support of research designed to extend and deepen our understanding of solids and liquids and to help discover ways to apply that understanding. Included is research in solid state physics, physical metallurgy, physical chemistry, ceramics, mechanics, and other areas of science and engineering necessary to improve basic understanding of materials and their engineering properties. This also includes research on the preparation, characterization, and understanding the properties of all classes of materials. The Division also provides support for travel to international scientific meetings abroad.

Division of Computer Research. Responsible for supporting research in computer science and engineering, advanced computer-based research techniques, and the impact of the computer on organizations and the individual. The Division also provides support for travel to international scientific meetings abroad.

Assistant Director for Education. The Assistant Director for Education is appointed by the President, by and with the advice and consent of the Senate. He serves as a principal advisor to the Director in the development of long-range plans, annual programs and on all science education policy as established under statutory and National Science Board authority. The Assistant Director for Education is responsible for the development, coordination, and direction of programs having three major objectives: improvement of education for professional careers in science and technology-based fields; the development of programs for the improvement of scientific literacy; and the development of programs for increasing the efficiency and effectiveness of educational processes. He is also responsible for institutional grants for science. One Office and three Divisions, three of which are organized by levels of education, report to the Assistant Director for Education. Each Division is headed by a Division Director and is further subdivided into Programs on a functional basis.

Office of Experimental Projects and Programs. Responsible for research and experimentation to discover new methods by which education in the sciences at all levels can be improved; responsible for the testing and evaluation of these new methods for the improvement of education in the sciences to determine their success and utility as Foundation program activities; and development and implementation of highly experimental activities to reform science instruction.

Division of Pre-College Education in Science. Responsible for developing and implementing means to improve science instruction from kindergarten through the twelfth grade; responsible for raising the level of the Nation's science literacy and for increasing the effectiveness and efficiency of the instructional process at the pre-college level.

Division of Higher Education in the Sciences. Responsible for developing and implementing means to improve science instruction at the post-secondary level, including post-secondary technician training and continuing education programs for career scientists and engineers; responsible for raising the level of the Nation's science literacy and for increasing the effectiveness and efficiency of the instructional process at the post-secondary level. This Division is also responsible for administering the institutional grants for science and the fellowship programs.

Division of Science Resources Studies. Responsible for the development of data and analyses dealing with the magnitude and utilization of the nation's resources for science and technology. Studies provide information on scientific and technical manpower, science education, scientific institutions, the funding of

research and development (R&D), the nature and interrelationship of different types of R&D activities, the economic impact of R&D, and related topics. Information is developed through sponsorship or conduct of recurring or periodic surveys and studies as well as through ad hoc studies carried out in response to special needs on the part of the Foundation or other Federal agencies or groups.

Assistant Director for National and International Programs. The Assistant Director for National and International Programs is appointed by the President, by and with the advice and consent of the Senate. He is responsible for the overall conduct of activities which involve management of large-scale scientific activities, and national programs and facilities, science information, and international programs. Additionally, he serves as a principal advisor to the Director in the development of long-range plans, annual programs, and national science policy for national and international programs. Seven Offices report to the Assistant Director for National and International Programs. Each Office is headed by an Office Head and is generally subdivided on a functional basis into Sections and/or Programs.

Office of Polar Programs. Responsible for developing and implementing an integrated U.S. program for Antarctica and for carrying out the Foundation's "lead agency" role in the extension of arctic research. The office promotes international scientific cooperation in the polar regions and maintains a clearinghouse of information on polar matters.

Office of International Programs. Administers the Foundation's Executive Agency responsibilities for bilateral research and exchange of scientists programs; supports effective U.S. scientific representation in international organizations; and has a coordination and oversight role concerning Foundation programs with international aspects, providing necessary guidance.

Office of National Centers and Facilities Operations. Responsible for the planning, coordination, and management of the Foundation's support of the National Research Centers: the National Center for Atmospheric Research, Boulder, Colorado; the National Astronomy and Ionosphere Center, Arecibo, Puerto Rico; the National Radio Astronomy Observatory, Green Bank, West Virginia; the Kitt Peak National Observatory, Tuscon, Arizona; and the Cerro Tololo Inter-American Observatory, Santiago, Chile. Coordinates and administers the Ocean Sediment Coring Program, under which the Deep Sea Drilling Project is managed. The office also facilitates national and international arrangements for the U.S. scientific effort related to total solar Eclipses and the Foundation's responsibilities on the part of the scientific community for radio frequency management.

Office of Science Information Service. Responsible for discharging the Foundation's mission to foster the interchange of scientific and technical information. The programs of this office are organized with focus on five priorities: research, economics of information transfer, user requirements, information systems, and national and international conditions.

Office for the International Decade of Ocean Exploration. Implements fulfillment of the Foundation's commitment as "lead agency" for the International Decade of Ocean Exploration (IDOE). This is accomplished by developing the U.S. contribution to the IDOE through research supported on major aspects of human interaction with the oceans through the Environmental Quality, Environmental Forecasting, Seabed Assessment, and Living Resources Programs. The Office, through coordination within interagencyy and international mechanisms, ensures that the U.S. IDOE effort is identified with and is closely coupled to the Intergovernmental Oceanographic Commission's Long-Term and Expanded Program on Oceanic Exploration and Research.

Office for Oceanographic Facilities and Support. Responsible for planning, implementing, coordinating, and managing the support of operations, maintenance, and construction of ships and shore-based academic oceanographic facilities. The Office supports the University National Oceanographic Laboratory System and through it develops coordinated utilization and planning of oceanographic facilities operated by academic institutions.

Office for Climate Dynamics. Responsible for integrating a variety of climate research efforts and for developing from these efforts a balanced approach to the basic and applied problems of climate dynamics. Also responsible for providing support for research and coordinating the Foundation's efforts in international programs aimed at increasing understanding of the general circulation of the atmosphere and the physical basis of climate, including the Global Atmospheric Research Program (GARP).

Assistant Director for Research Applications. The Assistant Director for Research Applications is responsible for the Foundation's coordinated basic and applied research efforts focused on the solution of selected National problems. He is responsible for managing the research effort to respond to specific problems of national concern relating to energy, environmental and productivity for the assessment of new problem areas and the impact of technology on society and the environment; for experimenting in the development of incentives to innovation; and for strengthening the ability of State and local governments to utilize science and technology in meeting their problems. Additionally, he serves as principal advisor to the Director in the development of long-range plans, annual programs and national science policy for Research Applications. Three Divisions and six Offices report to the Assistant Director for Research Applications. This Directorate also operates a Western Projects Office responsible for improving the formulation and management of projects conducted under the Foundation's Research Applied to National Needs Program in the western United States.

Division of Advanced Productivity Research and Technology. Responsible for the support of research to provide technology and information necessary to increase performance and output in the public and private sectors and to identify the impacts of public policies on public and private sector productivity. The objectives of this research are to develop, test and assess alternative management techniques, organizational structures and technologies necessary to improve productivity in the public and private sectors.

Division of Advanced Environmental Research and Technology. Responsible for the support of research to provide greater understanding of how the Nation can most effectively manage and protect our environment, both natural and manmade. The objective of this research is to define the environmental problems caused by man and nature and evaluate the policy and management alternatives necessary to mitigate these problems. This research will enhance efforts to prevent environmental degradation by developing the appropriate technology for the maintenance and growth of resources and ecosystems while allowing an intelligent accommodation of man's activities.

Division of Advanced Energy Research and Technology. Responsible for the advanced research and technology programs in Solar Energy, Geothermal Energy, Energy Conversion, and storage, Energy Resources, Advanced Automotive Propulsion and Energy and Fuel Transportation. The objectives of this support program are to identify and investigate neglected or under-utilized technologies that have the potential for significant impact on the energy situation, and to contribute to the Nation's capability to produce, transport or store energy more efficiently, at less cost, or with minimal detriment to the environment.

Office of Intergovernmental Science and Research Utilization. Responsible for assisting State and local levels of government to develop organizational concepts and procedures, and planning and decision-making processes which will enhance the application of science and technology to governmental problems. Also, this Office serves as a scientific liaison between State and local governments and the Federal government. It is responsible for eliciting requirements from potential users of Research Applied to National Needs (RANN) research results and for assisting in the communication of those results to the users in both the public and private sectors.

Office of Exploratory Research and Problem Assessment. Responsible for the support of exploratory research projects to assess which national problems are amenable to solutions through the application of science and engineering capabilities. Also, this Office provides a continuous assessment of problems of society

and the environment through a series of systems-oriented studies, including all major NSF technology assessment functions.

Office of Programs and Resources. Responsible for aiding the Assistant Director in the management of personnel and financial resources, including planning, scheduling, budgeting, programming, analysis and reporting. Responsible for the development of management systems and procedures unique to the needs of the Research Applications Directorate. Also provides administrative services support for activities of the Directorate.

Office of Systems Integration and Analysis. Responsible for carrying out the overall systems integration and analysis functions which are essential for effective interdisciplinary research in the Research Applications Directorate program. Additionally this Office is responsible for the management of the Energy System Program.

Office of Public Technology Projects. Responsible for the management of major projects as they evolve from basic and applied research programs to the proof-of-concept experiment stage.

Office of Experimental R&D Incentives. Responsible for an experimental program to determine how the Federal Government can best provide incentives to improve and accelerate the application of results of new science and technology into the private and public service sectors of the economy; and to encourage increased investment in research and development from non-Federal sources.

Assistant Director for Administrative Operations. The Assistant Director for Administrative serves as the principal advisor to the Director on all administrative and general management activities of the National Science Foundation. This responsibility encompasses grants and contracts administration; analysis and audit activities; personnel management and employee-oriented programs; general administrative and logistic support functions; financial management systems and activities; and data management activities, including the development and implementation of a modern computer-based Management Information System for the entire Foundation. The organization consists of eight Offices: Health Service; Grants and Contracts Office; Audit Office; Management Analysis Office; Administrative Services Office; Financial Management Office; Personnel Office; and the Management Information Office.

Information for Guidance of the Public

Inquiries and transaction of business. All inquiries, submittals or requests should be addressed to the National Science Foundation, Washington, D.C. 20550. A member of the public may call at the Foundation offices at 1800 G Street, NW., Washington, D.C., during normal business hours, which are 8:30 a.m. to 5 p.m., Monday through Friday. The statement of organization, set forth above, indicates the Offices with whom members of the public should deal on a particular matter. If an individual is not sure of which office to contact on a particular matter, he should forward his communication to the Foundation's mailing address, or he may, in person, visit the National Science Foundation, Public Affairs Office, Room 531, 1800 G Street, NW.

General method of functioning, procedures, forms, descriptions of programs. The Foundation accomplishes its mission primarily through the award of grants to universities, colleges, other nonprofit organizations, and to individuals as well as some profit-making organizations. In instances where NSF has a specially assigned mission, or where services are being procured, or for reasons of effecting management control, contracts are used rather than grants. The Foundation's general course and method of operations is to provide financial support for basic and applied research and education in the sciences in response to requests, applications and proposals submitted by the person or organization desiring support. In general, grants in support of scientific research or science education, and fellowship awards are made on a merit basis after a review process involving both the Foundation staff and qualified outside commentators acting individually or in review panels drawn from the scientific, educational, and industrial community and the public sector.

Pertinent NSF publications. The Foundation publishes a variety of booklets and other materials describing the programs of the Foundation and covering its procedures and the methods by which its functions are channeled. All publications and forms may be obtained by writing to or calling at the Foundation as indicated above. The following are key publications of the Foundation:

NSF Annual report. An annual presentation to the President for submission to the Congress highlighting the activities of the Foundation for the fiscal year. Accomplishments in each of the four basic program areas of research project support activities, national and international programs, research applications, and scientific education are reflected in a series of brief synopses illustrating and explaining recent undertakings and results which have been brought about through NSF grants. Other data relating to the Foundation staff, organization changes and appointments, financial report, patents, publications, research center contractors, and advisory committees and panels and their membership are also contained in the appendix.

Publications of the National Science Foundation. Provides a listing of issued NSF publications available to the public (annual reports, descriptive brochures and program announcements), with prices where copy costs apply.

Guide to Programs. Contains summary information about assistance support programs of the National Science Foundation and is intended as a source of general guidance to individuals interested in participating in these programs. Program listings describe the principal characteristics and basic purpose of each activity, eligibility requirements, closing dates (where applicable), and the address from which more detailed information, brochures, or application forms may be obtained.

Grants for Scientific Research. Provides basic guidelines and instructions directed specifically to the interests of investigators applying to the Foundation's program of scientific research project support and other closely related programs, such as the support of foreign travel, conferences, symposia and specialized research equipment and facilities. The contents indicate who may apply, when, where and what materials must be submitted. Additional information outlines the more detailed areas of how application data must be presented; and other various scientific areas for which NSF support funds may be granted and applied. Also provides information on the evaluation process concerning the merit review of proposals for support.

Guidelines for preparation of unsolicited proposals to research applied to National needs. Provides specific guidance and criteria in preparing unsolicited proposals for funding consideration by the Research Applications Directorate. These guidelines provide instructions in synthesizing a submission in accordance with the requirements of the Directorate and for use in evaluating the proposal's potential and relevance to National needs.

NSF Grant administration manual. A compendium of basic NSF grant administration policies and procedures which are generally applicable to most types of NSF grants, to most categories of recipients. Included are fiscal regulations regarding the use and expenditure reporting of NSF granted funds, and other specific administrative procedures and policies.

Science indicators, 1972. The Fifth Annual Report of the National Science Board, presents the first results of a newly initiated effort to develop indicators of the state of the science enterprise in the United States. These indicators contribute to the measurement and monitoring of U.S. Science—to identify its strengths and difficulties, and to chart its changing course. The indicators in this report deal principally with resources devoted to research and development, coupled with selected measures of the outputs produced from these resources. The indicators range from measures of basic research activity and industrial R&D, through indices of scientific and engineering personnel and institutional capabilities, to the U.S. balance of trade in high technology products and the general public's attitudes toward science and technology.

Individual program announcements. Detailed program publications are issued by individual program areas of the Foundation, announcing and describing award programs and containing critical

dates and application procedures for competitions. Examples: Program Solicitation—Research Applied to National Needs; Guide for Preparation of Proposals—Instructional Improvement Implementation; Guide to the Preparation of Proposals—International Decade of Ocean Exploration.

Important notices. Important notices are the primary means of general communication by the Director, NSF, with organizations receiving or eligible for NSF support. These notices convey important announcements of NSF policies and procedures or deal with other subjects determined to be of interest to the academic community and to other selected audiences.

NSF organization and functions manual. Describes in chart and narrative form the approved organizational structure of the Foundation and the functions and responsibilities of each major component.

Internal directives. The Foundation also maintains a system of internal issuances for communication within the agency on matters of policy, procedures, and general information. These internal directives are issued to establish organizations, define missions set objectives, assign responsibilities, delegate or limit authorities, establish program guidelines and delineate basic requirements affecting activities of the Foundation.

Staff memoranda. These are issuances reserved for use by the Director and the Deputy Director, for communication with the staff on subjects of their choice.

Circulars. A series of issuances to communicate agency policies, regulations, and procedures of a continuing nature.

Manuals. Developed to implement detailed information on operating procedures, requirements and criteria.

Bulletins. Issuances to communicate urgent information concerning changes to policy or procedure prior to their incorporation into a circular or manual, and to communicate information that is pertinent generally for a period of less than one year.

Availability of information. Persons desiring to obtain a Foundation record, statement of policy, or similar document which is legally available to the public should write to or call at the Foundation as described above. Records or documents will be made available for inspection or copying according to the terms of the current Foundation rules on this subject, (and upon payment of charges as prescribed therein), which may be obtained by writing to or calling at the Foundation as described above. The Foundation's substantive rules are published in Titles 41 and 45 of the Code of Federal Regulations.

SOURCES OF INFORMATION

Grants. Individuals or organizations who plan to submit grant proposals should refer to the NSF Guide to Programs and appropriate program brochures and announcements which may be obtained by writing to or calling at the Foundation.

Contracts. The Foundation publicizes contracting and subcontracting opportunities in the Commerce Business Daily and other appropriate publications. Organizations seeking to undertake contract work for the Foundation may contact the Contracts Branch, Grants and Contracts Office, Room 630. Phone (202) 632-5872.

Committee minutes. Summary minutes of open meetings of Foundation advisory groups may be obtained from the Management Analysis Office, 1800 G Street, NW., Washington, D.C. 20550.

Reading room. Persons who wish to inspect or copy records should contact the NSF Public Affairs Office, Room 531. Phone (202) 632-5728.

Employment. Inquiries may be directed to the National Science Foundation, Personnel Office, Room 212, 1800 G Street, NW., Washington, D.C. 20550. Junior colleges interested in the recruitment program for secretaries should contact the Personnel Office at the address indicated.

Dated: December 12, 1974.

ELDON D. TAYLOR,
Assistant Director for Administrative Operations, National Science Foundation.

[FR Doc.74-29477 Filed 12-17-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[34-11131; File No. 4-173]

CENTRAL MARKET SYSTEM

Request for Comments

At the request of its Advisory Committee on the Implementation of a Central Market System (the "Committee"), the Securities and Exchange Commission today published for public comment the Committee's "Preliminary Statement of Characteristics and Principles of the Central Market System."

The Commission wishes to note that the views expressed in this preliminary statement are those of the Committee and that the Commission is simply making available its facilities to assist the Committee in soliciting public comment.

Dated: December 11, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

ADVISORY COMMITTEE ON THE IMPLEMENTATION OF A CENTRAL MARKET SYSTEM TO THE SECURITIES AND EXCHANGE COMMISSION

PRELIMINARY STATEMENT OF CHARACTERISTICS AND PRINCIPLES OF THE CENTRAL MARKET SYSTEM

I. Introduction. As the first step in carrying out its charge to recommend approaches for ". . . implementing proposals for a Central Market System and insuring that such a system will meet the future needs of this country's capital markets, consistent with the public interest and the protection of investors",[1] the Advisory Committee on the Implementation of a Central Market System to the Securities and Exchange Commission ("the Committee") is developing its views on the objectives, characteristics and critical operating principles of the Central Market System. To allow interested parties an opportunity to comment on this work, the Committee is publishing at this time its preliminary views on the overall objectives and characteristics of the System and the rules under which certain participants, primarily specialists and other market-makers, would be required to operate. Additional rules concerning the operation of brokers and agents are currently under consideration.

In reviewing this material, three points should be kept in mind. First, in designing the Central Market System, the Committee assumes that the identity and role of the participants in the capital markets of the future generally will be similar to what they have been in the past. However, some existing trends suggest this may not be true. For example, public participation in the markets has steadily eroded over the past several years and there appears to have been a greater concentration of holdings under the management of a relatively small number of institutions. Too great a concentration of investment decision centers may ultimately be both incompatible with an auction market and not in the public interest. This statement does not deal with this concern; however, the Committee expects to address itself to this as well as other issues of possible major economic impact on the future of the Central Market System.

Second, the Committee has as not yet addressed itself in depth to either the governance or the cost of implementation of the Central Market System, but intends to do so. The Committee is fully aware of the difficult economic environment in which the securities industry is presently operating, as well as the uncertainties as to its future, and will bear these in mind in reaching its final conclusions.

Third, in its initial discussions the Committee has focused on development of a plan for an ultimate system without being hampered by the pragmatic considerations of technology and hardware. In recognition of these considerations, the Committee will also suggest a phased program for implementing the Central Market System, reflecting the constraints of cost and technology.

The members of the Committee wish to emphasize that they are not in unanimous agreement on many of the views expressed in this statement and that they have not reached final conclusions on most of these matters. The Committee welcomes comments on its proposals and requests that written comments be submitted prior to February 1, 1975 to Andrew P. Steffan, Executive Secretary of the Advisory Committee on the Implementation of a Central Market System, Securities and Exchange Commission, Washington, D.C. 20549. Since the Committee wishes to consider these comments during its meetings on January 9th and 10th (Washington, D.C.) and February 6th and 7th (Los Angeles), comments should be supplied as soon as possible. Copies of all comments will be made available for examination at the Commission's Office of Public Reference, File No. 4-173.

Although the Committee does not plan to hold hearings, it will consider the possibility of providing time for oral presentations by those persons who have submitted written comments. Those interested in making oral presentations should notify the Executive Secretary.

II. The objectives and basic characteristics of the Central Market System. Our capital markets play an essential role in the national economy by allocating one of our most precious resources—investment capital. To insure efficient allocation and continuing

[1] Preamble to the Charter of the Advisory Committee on the Implementation of a Central Market System to the Securities and Exchange Commission.

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availability of increasing quantities of investment capital, it is important that the markets value each security in a manner which reflects an accurate appraisal of overall supply and demand, affected as little as possible by temporary fluctuations therein. By linking together and facilitating effective competition among all market centers, the central market system should improve this valuation process.

Auction market principles must be preserved if the central market system is to achieve its objectives, since an auction market provides maximum interactive competition among buyers and sellers and the most effective and economic manner in which buyers and sellers can meet. This will be accomplished partly by building the system on the mechanisms developed by the various stock exchanges to provide the present auction markets. These mechanisms are operated through specialist-dealers and agent-brokers, the functions of which must be maintained to assure the effectiveness of the central market system. However, certain over-the-counter dealers have also played a role in the markets for listed securities, and the system will provide adequate opportunity and incentive for these dealers to participate.

The Central Market System shall be based on the following characteristics and principles:

(1) The best bid and offer, with size, of each specialist and other qualified market-maker shall be available to all members of the system at all times.

(2) There shall be maximum opportunity to improve on and displace the best bid and offer at all times.

(3) There shall be an opportunity for public customers to meet through brokers at the best execution price without a dealer necessarily participating in the process.

(4) Transactions for retail/individual customers shall be handled on an equitable basis with those for institutions.

(5) All orders at a given price shall be executed on a time sequence basis, subject to public order preference.

(6) All transactions in qualified listed securities shall pass through the Central Market System.

(7) All qualified broker-dealers shall be permitted to become members of the system and have economic access to all specialists and other qualified market-makers.

(8) All member broker-dealers shall have an affirmative obligation to execute orders at the best possible price.

(9) All participants shall be subject to equitable regulation and prescribed capital requirements.

III. Operating principles affecting specialists and other market-makers. The Central Market System will provide for the registration of specialists and other market-makers.

Specialists will be registered with an exchange to deal in specific securities allocated by the exchange, while market-makers will be registered with the Central Market System and may deal in any security in accordance with CMS regulations.

There will be no more than one specialist in a given security at each exchange location. It is expected that there will be competition among specialists and other market-makers dealing in the same securities.

Specific obligations of specialists and other market-makers are set forth below.

A. Net capital. All exchange specialists and over-the-counter market-makers shall be required to maintain minimum net capital of $100,000 at all times.

Net capital shall be defined broadly as the excess of assets over liabilities, subject to certain adjustments. These adjustments shall include:

(1) The elimination of fixed assets and assets not readily convertible into cash;

(2) The deduction (haircuts) of:

(a) 15% of the market value of the greater of the long or short positions in common stocks; and

(b) 30% of the amount by which the aggregate market value of the lesser of the long or short positions exceeds 25% of the market value of the greater of the long or short positions; and

(3) An undue concentration charge equal to 15% of the amount by which each long or short position exceeds 10% of net capital before haircuts.

NOTE: The Committee proposes that all the provisions of the "Alternative Net Capital Requirements" contained in proposed S.E.C. Rule 15c3-1 (Securities Exchange Act Release No. 11024, November 11, 1974, 39 FR 41540) apply to specialists and other market-makers in the Central Market System. This section simply highlights some of the more important provisions for specialists and other market-makers.

B. Market continuity. All specialists and other market-makers entering quotations in the Central Market System shall be required to make bona-fide two-sided markets, firm for one unit of trading; and in the event that they entered a bid or ask quotation in the system showing a size larger than one unit, they must make it good for the amount shown. However markets could be changed without a transaction being effected. Specialists and other market-makers must make a reasonable market (to be defined) in those stocks which they enter into the system for a period of one year; and if they drop out without cause, they would not be permitted to enter a quotation in that stock for a period of six months.

C. Public preference. All public orders entered as limit orders into the system shall take precedence over bids and offers by specialists or other market-makers, who shall not effect transactions for their own accounts before existing limit orders at the same or better prices are serviced. Priority for public limit orders at the same price shall be determined by the time of entry. In the event of a transaction at a price away from the market, all public limit orders at intervening prices shall be executed at the same price as the transaction.

Public orders are defined as those entered by any individuals or institutions, except broker-dealers, who must enter orders in the Central Market System through a member of the system.

Nothing in the above shall prevent anyone, including a specialist or other market-maker, from displacing the best bid or offer at any time.

D. Treatment of limit orders. Each specialist may maintain his own book of limit orders. When a transaction in the market results in execution of a limit order, the specialist will receive the floor brokerage associated with that limit order. All specialists' books shall be linked electronically and all transactions in the system shall clear all books.

Other market-makers shall be permitted to enter limit orders in the System only through specialists. Any member of the System may choose to hold limit orders instead of entering them through a specialist, but these orders will not be automatically executed when a transaction clears the books.

Each specialist shall have the right to inquire as to price and size of orders on all specialists' books and any member of the System wishing to effect a transaction at a price away from the market shall have the right to inquire of any specialist as to how much of the order would be lost to the books.

E. Limitations on trading. Specialists shall be prohibited from accepting orders for the purchase or sale of any stock in which they are registered as specialists directly (1) from the company issuing such stock; (2) from any officer, director or 10 percent stockholders of that company; (3) from any pension or profit-sharing fund; (4) from any institution, such as a bank, trust company, insurance company, or investment company. Other market-makers shall be permitted to deal for their own accounts with any customer.

Specialists and other market-makers are permitted to trade between and among each other, subject to the auction process.

F. Allocation of securities to dealers. Any exchange approving a security for listing shall allocate or assign to a specialist the responsibility to maintain a continuous, fair and orderly market in that security.

Other market-makers shall not be assigned responsibility for dealing in any security.

G. Affirmative obligations. All specialists and other market-makers will be subject to rules designed to insure they are maintaining continuous, fair and orderly markets. Rules to implement this principle will be developed subsequently.

[FR Doc.74-29452 Filed 12-17-74;8:45 am]

[File No. 500-1]

BBI, INC.

Suspension of Trading

DECEMBER 4, 1974.

The common stock of BBI, Inc., being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securites Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from December 5, 1974 through December 14, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-29450 Filed 12-17-74;8:45 am]

[Rel. No. 18709; 70-5501]

CONSOLIDATED NATURAL GAS CO. ET AL.

Post-Effective Amendment Regarding Proposed Intrasystem Financing

DECEMBER 11, 1974.

In the matter of Consolidated Natural Gas Company, 30 Rockefeller Plaza, New York, New York 10020; CNG Development Co., Ltd.; CNG Producing Co.; Consolidated Natural Gas Service Co., Inc.; Consolidated System LNG Co.; Consolidated Gas Supply Corp.; The East Ohio Gas Co.; The Peoples Natural Gas Co.; The River Gas Co.; West Ohio Gas Co.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and its above-named subsidiary companies have filed with this Commission a second post-effective amendment to the application-declaration in this proceeding pursuant to sections 6(a), 7, 9(a), 10, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the application-declaration, as now amended, which is summarized below, for a complete statement of the proposed transactions.

By orders in this proceeding dated June 20, 1974, and October 24, 1974 (HCAR Nos. 18466 and 18627), the Commission authorized Consolidated and its subsidiaries to engage in various security transactions in connection with the system's financing program for 1974. Increased financing is now proposed as described below.

CNG Producing Company ("Producing Company") now proposes to issue and sell, and Consolidated proposes to acquire at the par value thereof, an additional 30,750 shares of Producing Company's common stock, $100 par value. The proceeds will be used by Producing Company to reimburse Consolidated for $3,075,000 of advances made to enable Producing Company to pay its obligation resulting from its participation in group bids on leases offered by the U.S. Department of the Interior on acreage in the Gulf of Mexico. In order to accommodate the transactions in this proceeding and to have additional authorized shares available for future financing transactions, Producing Company proposes to amend its certificate of incorporation, which presently authorizes 150,000 shares of common stock, $100 par value, to provide for an authorization of 1,250,000 shares of such stock.

Consolidated also proposes to make open account advances up to an aggregate of $2,000,000 to Producing Company from time to time until May 31, 1975, to provide funds for working capital through said date. Such advances will be repaid on or before December 31, 1975, and will bear interest at substantially the same effective rate as the related commercial paper or bank borrowings of Consolidated.

CNG Development Company Ltd. ("Development Company") proposes to issue and sell, and Consolidated proposes to acquire at $100 par value (Canadian), such number of shares (not exceeding 7,000) of Development Company stock as shall, together with the 3,000 shares previously authorized in this proceeding, equal $1,000,000 (U.S.) on the date of issuance. The proceeds will be used to repay an advance by Consolidated to Development Company of $1,000,000 (U.S.) to enable it to meet unanticipated obligations in its Canadian operations.

It is also stated that because Development Company presently has limited cash flow, it will need funds for working capital requirements through May 31, 1975, and that, therefore, Consolidated proposes to make open account advances, without interest, from time to time through May 31, 1975, up to an aggregate of $2,000,000 (U.S.). Such advances will be repaid on or before December 31, 1975.

In its order of June 20, 1974, the Commission authorized Consolidated System LNG Company ("LNG Company") to sell 165,000 shares of its common stock, $100 par value, and $15,180,000 of long-term notes and Consolidated to acquire such shares and notes during 1974. It now appears that LNG Company will not require all of such financing during 1974 but will require part of it during the early months of 1975. Therefore, it is now proposed that the authorization contained in said order of June 20, 1974, be extended from December 31, 1974, to May 31, 1975. Additionally, in order to finance further capital expenditures of LNG Company through May 31, 1975, the following transactions are also proposed: (a) the issuance and sale by LNG Company of a maximum of 140,000 shares of its common stock, $100 par value, and the purchase thereof by Consolidated and (b) open account advances by Consolidated to LNG Company of amounts aggregating not more than $12,000,000, such open account advances to bear interest at the prime commercial rate of interest at The Chase Manhattan Bank, N.A., in effect from time to time, until such time as they are converted to long-term debt. Such conversion will be the subject of a future filing. Finally, LNG Company proposes to amend its Certificate of Incorporation to provide for 750,000 shares of authorized stock to accommodate the additional financing sought herein and to have additional authorized shares available for future transactions.

The Rule 24 certificates of notification with respect to the proposed transactions are to be filed on a quarterly basis. No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Expenses to be incurred in connection with the proposed transactions are estimated not to exceed $750 and are to be paid by Consolidated.

Notice is further given that any interested person may, not later than January 2, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulation promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-29454 Filed 12-17-74;8:45 am]

[Rel. No. 9513; 811-44]

THE DOMINICK FUND, INC.

Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

DECEMBER 11, 1974.

Notice is hereby given that The Dominick Fund, Inc., 55 Water Street, New York, New York 10041 ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as a diversified, closed-end, management investment company, filed an application on November 29, 1974, pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was incorporated in 1929 under the laws of the State of Delaware as National Bond and Share Corporation and registered under the Act in 1941. Applicant assumed its present name in 1959.

The application states that at a Special Meeting of Stockholders of Applicant held on October 3, 1974, a resolution was adopted approving (1) an agreement and plan of reorganization, dated July 20, 1974 ("Agreement"), which provided, among other things, for the acquisition of substantially all the assets of Applicant by Putnam Investors Fund, Inc. ("Putnam Investors"), an open-end, diversified, management investment company registered under the Act, in exchange for common stock of Putnam Investors, and (2) the subsequent dissolution of Applicant.

On October 7, 1974, the exchange contemplated by the Agreement was consummated and the common stock of Putnam Investors issued in connection therewith has been distributed to Applicant's stockholders. Pursuant to the Agreement, Applicant retained assets estimated by it to be sufficient to pay its liabilities and costs of liquidation. Any such assets still in Applicant's possession been paid will be acquired, not later

after all such liabilities and costs have than December 31, 1975, by Putnam Investors in exchange for additional common stock of Putnam Investors. Any such common stock will be distributed to Applicant's former stockholders.

Applicant represents that it is not engaged in any investment company activity nor does it propose to engage in any investment company activity. The Certificate of Dissolution of Applicant was filed in the office of the Secretary of State of the State of Delaware on November 6, 1974.

Section 3(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 6, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29446 Filed 12-17-74;8:45 am]

[File No. 500-1]

GREATER WASHINGTON INVESTORS, INC.

Suspension of Trading

DECEMBER 6, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Greater Washington Investors, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 7, 1974 through December 16, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29448 Filed 12-17-74;8:45 am]

[Rel. No. 18708; 70-5507]

THE HARTFORD ELECTRIC LIGHT CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds

DECEMBER 12, 1974.

Notice is hereby given that The Hartford Electric Light Company, 176 Cumberland Avenue, Wethersfield, Connecticut 06109 ("HELCO"), an electric and gas utility subsidiary of Northeast Utilities ("Northeast"), a registered holding company, has filed an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a more complete statement of the proposed transaction.

HELCO proposes to issue and sell for the best price obtainable, at competitive bidding, up to $25,000,000 principal amount of its % First Mortgage Bonds, 1975 Series "Bonds"). HELCO will fix the principal amount of the Bonds to be issued by amendment filed with the Commission prior to the application-declaration becoming effective. HELCO will designate, by telegraphic or written notice (not less than 72 hours prior to the time designated for the presentation of bids) to the representatives of the bidding groups the maturity of the Bonds, which maturity shall be a date of not less than five nor more than thirty years from the first day of January, 1975. The interest rate (which shall be a multiple of ⅛ of 1%) and the price, exclusive of accrued interest, to be paid to HELCO (which shall not be less than 99% nor more than 102.75% of the principal amount thereof) will be determined by the competitive bidding. HELCO will publicly invite written proposals for the purchase of the Bonds at least six days prior to entering into any contract or agreement for their sale.

The Bonds will be issued under the First Mortgage Indenture and Deed of Trust dated as of January 1, 1958, between HELCO and The First National Bank of Boston, Successor Trustee, as heretofore supplemented and amended by various indentures supplemental thereto, and as to be further supplemented by a Fourteenth Supplemental Mortgage Indenture to be dated as of January 1, 1975, setting out the terms of the Bonds. The terms shall include a provision that no Bond shall be redeemed at the applicable general redemption price prior to January 1, 1980, if such redemption is for the purpose of or in anticipation of refunding such Bond through the use, directly or indirectly, of funds borrowed by HELCO at an effective interest cost to HELCO of less than the effective interest cost to HELCO of the Bonds.

The net proceeds from the issue and sale of the Bonds will be used to repay a portion of HELCO's short-term borrowings estimated to total $61,000,000 at the time of such sale. Such short-term borrowings, together with a capital contribution of $5,000,000 which Northeast made to HELCO in April, 1974, and the proceeds of the sale by HELCO in April, 1974 of $30,000,000 of First Mortgage Bonds, 1974 Series, and 300,000 shares of Preferred Stock, 1974 Series, were applied to finance HELCO's construction program.

HELCO's 1974-1975 construction program is expected to total about $135,500,000 ($70,600,000 in 1974 and $64,900,000 in 1975). HELCO estimates that it will require an additional $39,000,000 of funds from external sources to complete its 1975 construction program. It expects to obtain such funds temporarily through short-term borrowings. Additional long-term financing (first mortgage bonds or preferred stock, or both) will be undertaken by HELCO in 1975, although the nature, amount and timing of such financing has not been determined. In addition, Northeast may make a capital contribution to HELCO in 1975.

A statement of the fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Connecticut Public Utilities Commission must approve the proposed transaction, but that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than January 6, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be

granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-29453 Filed 12-17-74;8:45 am]

[File No. 500-1]

I-T-E IMPERIAL CORP.

Suspension of Trading

DECEMBER 4, 1974.

The common stock of I-T-E Imperial Corp. being traded on the New York and Pacific Stock Exchanges and the preferred 4.6% cumulative being traded on the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of I-T-E Imperial Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above-mentioned exchanges and otherwise than on a national securities exchange is suspended, for the period from December 5, 1974 through December 14, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-29451 Filed 12-17-74;8:45 am]

[File No. 500-1]

NICOA CORP.

Suspension of Trading

DECEMBER 4, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Nicoa Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 5, 1974 through December 14, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-29449 Filed 12-17-74;8:45 am]

[Rel. No. 18711; 70-5590]

OHIO EDISON CO.

Proposed Amendment of Articles of Incorporation, Issue of First Mortgage Bonds; Order Authorizing Solicitation of Shareholders' Proxies

DECEMBER 11, 1974.

Notice is hereby given that Ohio Edison Company (47 North Main Street, Akron, Ohio 44308) ("Ohio Edison"), a registered holding company and an electric public utility company, has filed an application-declaration, and an amendment thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(a), 7, and 12(e) of the Act and Rules 42, 50, 62 and 65 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

Ohio Edison proposes a series of transactions involving the proposed issuance and sale of a new series of preferred stock, the issuance of first mortgage bonds for sinking fund purposes and a proposed amendment to Ohio Edison's Articles of Incorporation ("charter"). As initial steps, Ohio Edison proposes the issuance of first mortgage bonds for sinking fund purposes and to amend the FOURTH Article of its charter to grant Ohio Edison's Board of Directors the authority to fix and establish a sinking fund for new series of Ohio Edison preferred stock.

The charter amendment would permit the Board of Directors to fix the purchase and/or redemption price of shares of a new series of preferred stock to be subject to a sinking fund. Sinking fund obligations would not be met under the charter provision if there is an arrearage on preferred dividends of any series, subject to the requirements of the Act.

The proposed amendment of the charter will be submitted for consideration and vote at a special meeting of shareholders expected to be held on or about January 13, 1975. Ohio Edison proposes to solicit, or engage a proxy solicitation firm to solicit, proxies from the holders of its outstanding preferred and common stock in connection with the vote to be taken at that special meeting.

Ohio Edison also proposes to issue on or about May 1, 1975, and November 1, 1975, a total of $10,906,000 principal amount of its First Mortgage Bonds, 3¼% Series of 1955 due 1985 ("bonds"). The bonds will be issued under the indenture of Ohio Edison to Bankers Trust Company, as Trustee, as amended and supplemented. The bonds are to be of the series provided for by the Twelfth Supplemental Indenture dated as of May 1, 1955, and will be identical with those authorized by the Commission on August 12, 1974 (Holding Company Act Release No. 18530).

Ohio Edison proposes to use the bonds solely to obtain the inclusion in its general funds of the sinking fund payments on deposit and required to be made during 1975. It is proposed that the bonds will be issued on the basis of unfunded property additions.

Fees and expenses to be incurred in connection with the proposed (1) amendment of the Articles of Incorporation are estimated at $63,575, including legal fees of $5,000; (2) bond issuance are estimated at $1,600. It is stated that the Public Utilities Commission of Ohio has jurisdiction over the proposed issue and sale of the bonds, and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than January 10, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulation promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the application-declaration, as amended, insofar as it proposes the solicitation of proxies from Ohio Edison's common and preferred stockholders, should be granted and permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the application-declaration regarding the proposed solicitation of proxies from Ohio Edison's common and preferred stockholders be, and it hereby is, granted and permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and

conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29455 Filed 12-17-74;8:45 am]

[Rel. No. 18710; 70-5591]

PENNSYLVANIA POWER CO.

Proposed Amendment of Articles of Incorporation; Order Authorizing Solicitation of Proxies

DECEMBER 11, 1974.

Notice is hereby given that Pennsylvania Power Company (1 East Washington Street, New Castle, Pennsylvania 16103) ("Pennsylvania"), an electric utility subsidiary company of Ohio Edison Company, a registered holding company, has filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 12(c) and 12(e) of the Act and Rules 42, 50, 62 and 65 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Pennsylvania proposes a series of transactions involving the proposed issuance and sale of a new series of preferred stock and a proposed amendment to Pennsylvania's Agreement of Merger and Consolidation ("charter"). As an initial step, Pennsylvania proposes to amend Article IV of its charter to grant Pennsylvania's Board of Directors the authority to fix and establish a sinking fund for new series of Pennsylvania preferred stock. The charter amendment would permit the Board of Directors, subject to the requirements of the Act, to fix the purchase and/or redemption price of shares of a series to be subject to a sinking fund. Sinking fund obligations would not be met under the charter provision if there is an arrearage on preferred dividends of any series.

Pennsylvania proposes to submit the proposed amendment for consideration and vote at a special meeting of stockholders expected to be held on or about January 13, 1975. In connection with the proposed meeting, Pennsylvania proposes to solicit proxies, or to engage a proxy solicitation firm to solicit proxies, from the holders of its outstanding preferred stock. Ratification of the proposed amendment requires the affirmative favorable vote of at least 66⅔% of Pennsylvania's outstanding 339,049 shares of preferred stock. Ratification also requires the favorable vote of Pennsylvania's common stock, all of which is owned by Ohio Edison Company. Ohio Edison Company has advised Pennsylvania that it intends to vote all Pennsylvania's common shares in favor of the proposed amendment.

Fees and expenses to be incurred in connection with the proposed amendment to the charter are estimated at $13,900, including attorney's fees of $5,000. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed charter amendment.

Notice is further given that any interested person may, not later than January 10, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issue of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the application-declaration, insofar as it proposes the solicitation of proxies from Pennsylvania's preferred stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is Ordered, That the application-declaration regarding the proposed solicitation of proxies from Pennsylvania's preferred stockholders be, and it hereby is, granted and permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29456 Filed 12-17-74;8:45 am]

[File No. 500-1]

ZENITH DEVELOPMENT CORP.

Suspension of Trading

DECEMBER 6, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Zenith Development Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 8, 1974 through December 17, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29447 Filed 12-17-74;8:45 am]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Committee Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, effective January 5, 1973, notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, January 9, 1975
Thursday, January 16, 1975
Thursday, January 23, 1975
Thursday, January 30, 1975

The meetings will convene at 10 a.m. and will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street, NW., Washington, D.C.

The committee's primary responsibility is to study the prevailing rate system and from time to time advise the Civil Service Commission thereon.

At these scheduled meetings, the committee will consider proposed plans for implementation of Public Law 92-392, which law establishes pay systems for Federal prevailing rate employees.

The meetings will be closed to the public on the basis of a determination under section 10(d) of the Federal Advisory Committee Act (Public Law 92-463) and 5 U.S.C., section 552(b)(2), that the closing is necessary in order to provide the members with the opportunity to advance proposals and counter-proposals in meaningful debate on issues related solely to the Federal Wage System with the view toward ultimately formulating advisory policy recommendations for the consideration of the Civil Service Commission.

However, members of the public who wish to do so, are invited to submit material in writing to the Chairman concerning matters felt to be deserving of the committee's attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Federal Prevailing Rate Advisory Committee, Room 5451, 1900 E Street, NW., Washington, D.C. 20415.

Dated: December 13, 1974.

DAVID T. ROADLEY,
Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc.74-29460 Filed 12-17-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

Office of Hearings

[Notice No. 656]

ASSIGNMENT OF HEARINGS

DECEMBER 13, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after December 16, 1974.

MC 59367 Sub 89, Decker Truck Line, Inc., now being assigned February 19, 1975 (3 days), at Milwaukee, Wis., in a hearing room to be later designated.

MC-F-12257, International Carriers, Inc.—Purchase—Motor Dispatch, Inc., now being assigned February 24, 1975 (1 week), at Chicago, Ill., in a hearing room to be later designated.

I&S M 28009, Increased Fares, Between New York, N.Y., and New Jersey, now assigned January 13, 1975, at New York, N.Y., will be held in Court Room A238, Court of Claims, 26 Federal Plaza.

FF-C-54, Rea Express, Inc. V. Shulman Air Freight, Inc., now assigned January 16, 1975, at New York, N.Y., will be held in Court Room A238, Court of Claims, 26 Federal Plaza.

MC 123407 Sub 176, Sawyer Transport, Inc., now being assigned March 4, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 135185 Sub 19, Columbine Carriers, Inc., now being assigned March 5, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 135898 Sub 3, William Mirer, D.b.a. Mirer's Trucking Co., now being assigned March 11, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 123406 Sub 308, Diamond Transportation System, Inc., now being assigned March 12, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 119493 Sub 110, Monkem Co., Inc., now assigned January 16, 1975, at Chicago, Ill., is postponed indefinitely.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29474 Filed 12-17-74;8:45 am]

FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

DECEMBER 13, 1974.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's Rules of Practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 55348, filed November 26, 1974. Applicant: MERRILL E. WOLKINS, doing business as CALIFORNIA MAIL DELIVERY SERVICE, 980 Brannon Street, San Francisco, Calif. 94107. Applicant's representative: Raymond A. Greene, Jr., 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General Commodities*, except as hereinafter provided: Part I.: (1) Between all points and places in the San Francisco Territory as described in Part II; (2) Between all points and places on or within 10 lateral miles of the following routes: (a) Interstate Highway 80 between San Francisco and Sacramento, inclusive; (b) State Highway 4 between its junction with Interstate Highway 80 near Pinole, and Stockton, inclusive; (c) Interstate Highway 580 between its intersection with State Highway 17 and its intersection with Interstate Highway 5, inclusive; (d) Interstate Highway 5 between its intersection with State Highway 4 at Stockton and its intersection with State Highway 198, inclusive; (e) State Highway 120 between its intersection with Interstate Highway 5 and its intersection with State Highway 99, inclusive; (f) State Highway 198 between its intersection with Interstate Highway 5 and its intersection with State Highway 99 near Visalia, inclusive; (g) State Highway 99 between Sacramento and Tulare, inclusive; (h) State Highway 152 between its intersection with Interstate Highway 5 and its intersection with State Highway 99, inclusive.

(i) State Highway 33 between its intersection with State Highway 152 at the Dos Palos Wye and its intersection with Interstate Highway 5, via Firebaugh, inclusive; (j) State Highway 180 between its intersection with State Highway 33 and its intersection with State Highway 99, inclusive; and (k) State Highway 140 between its intersection with Interstate Highway 5 and State Highway 99, inclusive; (l) U.S. Highway 101 between its intersection with Tully Road at San Jose and Salinas; (m) State Highway 17 between its intersection with Los Gatos-San Jose Road at Los Gatos and its intersection with State Highway 1 at Santa Cruz, inclusive; (n) State Highway 1 between its intersection with State Highway 17 at Santa Cruz and its intersection with State Highway 68 at Monterey, inclusive; (o) State Highway 156 West from its intersection with State Highway 1 at Castroville to its intersection with U.S. Highway 101, inclusive; (p) State Highway 68 between its intersection with State Highway 1 at Monterey and its intersection with U.S. Highway 101 at Salinas, inclusive; (q) State Highway 152 between its intersection with U.S. Highway 101 at Gilroy and its intersection with State Highway 1 at Watsonville, inclusive. In performing the service herein authorized, applicant may make use of any and all streets, roads, highways, and bridges necessary or convenient for the performance of said service.

Part II: San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs, northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive; Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to Berkeley-Oakland boundary line.

Northerly along said boundary line to the campus boundary of the University

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of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue, northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Except that pursuant to the authority herein granted carrier shall not transport any shipments of: (1) Used household goods, personal effects and office, store, and institution furniture, fixtures and equipment not padded in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff 4-B; (2) Automobiles, trucks, and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.

(3) Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine, or wethers; (4) Liquids, compressed gases, commodities in semi-plastic form, and compodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles; (5) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (6) Commodities when transported in motor vehicles equipped from mechanical mixing in transit; (7) Cement; (8) Logs; (9) Commodities of unusual or extraordinary value; (10) Commodities in vehicles not exceeding a licensed weight of five thousand pounds; (11) Commodities requiring mechanical refrigeration equipment; and (12) Shipments in excess of five hundred pounds. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. 31849 (Sub-No. 1), filed November 27, 1974. Applicant: HAROLD L. MANNING, doing business as MANNING FREIGHT LINES, 200 E. Garvin Street, Pauls Valley, Okla. 73075. Applicant's representative: Glen Ham, P.O. Box 198, Pauls Valley, Okla. 73075. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities*, from Marietta via U.S. No. 77 to Thackerville, thence to Bomer, thence to Marietta; From Sulphur via State Highway No. 7 to Scullin, thence to Mill Creek, thence to Troy, thence to Davis, thence via State Highway No. 12 and U.S. No. 70 to Mannsville thence via U.S. No. 70 to Mannsville, thence to Dickson, serving the off-route point of Durwood; That all of above points be unitized with applicant's present authority which is as follows, to wit: Order No. 103111, Certificate No. MC 31849 dated February 12, 1974, "for the transportation of general commodities from Oklahoma City to Paoli via U.S. No. 77 to Marietta, thence to Ardmore, thence over U.S. No. 70 to Dickson, thence over State Highway No. 177 to Sulphur, thence over State Highway No. 7 to Davis, thence over U.S. No. 77 returning to Oklahoma City, serving the points of Oklahoma City, Paoli, Pauls Valley, Wynnewood, Davis, Springer, Ardmore, Overbrook, Marietta, Dickson, Baum, Nebo, Drake, and Sulphur, Okla." That applicant be granted the additional points of Wayne, Lexington, and Purcell on U.S. No. 77 and that these points be unitised with applicant's present authority set forth above. Intrastate, interstate and foreign commerce authority sought.

HEARING: January 20, 1975, at the Jim Thorpe Office Building, Oklahoma City, Okla. Request for procedural information should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Okla. 73105, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON, *Acting Secretary.*

[FR Doc.74-29470 Filed 12-17-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY-ELIMINATION OF GATEWAY LETTER NOTICES

DECEMBER 13, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065 (a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before December 30, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 37203 (Sub-No. E3), filed May 31, 1974. Applicant: MILLSTEAD VAN LINES, INC., P.O. Drawer 878, Bartlesville, Okla. 74003. Applicant's representative: Thomas F. Sedberry, Suite 1102, Perry-Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in Montana, on the one hand, and, on the other, points in Texas on and east of U.S. Highway 283 from the Texas-Oklahoma border to its intersection with U.S. Highway 67, thence along U.S. Highway 67 to its intersection with U.S. Highway 277, thence along U.S. Highway 277 to Del Rio, Tex., on the United States-Mexico border; (2) between points in Wyoming, on the one hand, and, on the other, points in Missouri on and south of a line beginning at the Kansas-Missouri, thence along U.S. Highway 160 to Springfield, Missouri, thence along U.S. Highway 60 to its intersection with Missouri Highway 34, thence along Missouri Highway 34 to Jackson, Mo., thence along U.S. Highway 61 to Cape Girardeau, Mo., on the Missouri-Illinois border; (3) between points in Montana, on the one hand, and, on the other, points in Missouri on and south of a line beginning at the Missouri-Kansas line on U.S. Highway 66 to Joplin, thence along Interstate Highway 44-U.S. Highway 66 to St. Louis, Mo., on the Missouri-Illinois border; and (4) between points in Kansas, on the one hand, and, on the other, points in Texas. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 37203 (Sub-No. E4), filed May 31, 1974. Applicant: MILLSTEAD VAN LINES, INC., P.O. Drawer 878, Bartlesville, Okla. 74003. Applicant's representative: Thomas F. Sedberry, Suite 1102, Perry-Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in Kansas on and south of a line beginning at the Kansas-Colorado line on Colorado Highway 96, to its intersection with U.S. Highway 183, thence along U.S. Highway 183 to its intersection with U.S. Highway 50, thence along U.S. Highway 50 to its intersection with U.S. Highway 77, thence along U.S. Highway 77 to the Kansas-Oklahoma line, on the one hand, and, on the other, points in Illinois, Indiana, and Kentucky (Coffeyville, Kans., and points within 25 miles thereof, and Shawnee, Okla., and points in that part of Oklahoma, Arkansas, Kansas, and Texas within 150 miles of Shawnee)*; (2) between points in Kansas on and south of a line beginning at the Kansas-Colorado line on Colorado Highway 96, to its intersection with U.S. Highway 183, thence along U.S. Highway 183 to its intersection with U.S. Highway 50, thence

along U.S. Highway 56 to its intersection with U.S. Highway 77, thence along U.S. Highway 77 to the Kansas-Oklahoma line, on the one hand, and, on the other, points in Michigan, Ohio, West Virginia, Pennsylvania, New York, New Jersey, Rhode Island, Massachusetts, and Maine (Coffeyville, Kans., and points within 25 miles thereof, McLean County, Illinois, and Shawnee, Okla., and points in that part of Oklahoma, Arkansas, Kansas, and Texas within 150 miles of Shawnee)*; (3) between points in Kentucky, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Oklahoma border on U.S. Highway 75 to Dallas, Tex., thence along Interstate Highway 45 to Houston, Tex., thence along Interstate Highway 10-U.S. Highway 81 to San Antonio, Tex., thence along Interstate Highway 35-U.S. Highway 81 to Laredo, on the U.S.-Mexico border (points in Oklahoma)*; (4) between points in Colorado, on the one hand, and, on the other, points in Texas on and east of a line beginning at the Texas-Oklahoma border on U.S. Highway 283 to its intersection with U.S. Highway 87, thence along U.S. Highway 87 to Brady, Tex., thence along U.S. Highway 377 to Junction, Tex., thence along U.S. Highway 83 to the United States-Mexico border (points in Oklahoma)*; and (5) between points in Ohio, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Oklahoma border on U.S. Highway 75 to Dallas, Tex., thence along Interstate Highway 35-U.S. Highway 81 to Laredo, Tex., on the U.S.-Mexico border (points in Oklahoma, and McLean County, Ill.)*. The purpose of this filing is to eliminate the gateways marked with asterisks above.

No. MC 51146 (Sub-No. E14), filed November 2, 1974. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wisconsin 54306. Applicant's representative: Neil A. Du Jardin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products* (except commodities in bulk), from Plymouth, N.C., to points in North Dakota, South Dakota, Nebraska, Kansas, Missouri (except points south and east of a line beginning at the intersection of the Missouri-Arkansas State line and Missouri Highway 17, thence along Missouri Highway 17 to its intersection with U.S. Highway 60, thence along U.S. Highway 60 to its intersection with Missouri Highway 34, thence east along Missouri Highway 34 to Cape Girardeau, Mo.), Oklahoma (except point south and east of a line beginning at the intersection of the Oklahoma-Texas State line and U.S. Highway 69 thence along U.S. Highway 69 to its intersection with Interstate Highway 40, thence along Interstate 40 to the Arkansas-Oklahoma State line), and points in Texas (except points east of U.S. Highway 377). Restriction: Shipments of pulpboard and fibreboard will be limited to movements in mixed loads with the other commodities described above.

(2) *Disposable paper diapers* (except commodities in bulk), from Cheboygan, Mich., to Memphis, Tenn., and points in Arkansas, Louisiana, Mississippi, Alabama, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, Vermont, New York (except points west of a line beginning at Oswego, N.Y., thence along New York Highway 57 to Syracuse, thence along U.S. Highway 11 to the New York-Pennsylvania State line), Missouri (except points north and east of a line beginning at St. Joseph, Mo., thence along U.S. Highway 36 to its intersection with U.S. Highway 65, thence along U.S. Highway 65 to its intersection with U.S. Highway 40, thence along U.S. Highway 40 to the Missouri-Illinois State line) and the District of Columbia. (3) *Paper and Paper products* (except commodities in bulk), from the plants and storage facilities of Menasha Corporation at or near Neenah and Menasha, Wisc., to points in Maine, New Hampshire, Vermont, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Maryland, Delaware, Virginia, North Carolina, South Carolina, Alabama, and points in Mississippi on and east of U.S. Highway 11, and the District of Columbia. (4) *Paper and paper products* (except commodities in bulk), from the plant and warehouse sites of the Personal Products Co. and Cel Fibre, Inc., at or near Wilmington, Ill., to points in South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, Maine, and the District of Columbia. Paper and paper products (except commodities in bulk), from the plant site of the West Virginia Pulp and Paper Co. located at or near Wickliff, Ky., to points in Vermont, New Hampshire, and Maine.

(6) *Paper and paper products* (except commodities in bulk), from the plant and warehouse sites of Hoerner Waldorf Corporation at Columbus, Ind., to points in Maine, New Hampshire, Vermont, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Maryland, Delaware, North Dakota, The District of Columbia, Virginia, (except points west of U.S. Highway 52), North Carolina (except points west of a line beginning at the intersection of the Virginia-North Carolina State line and U.S. Highway 52 along U.S. Highway 52 to Winston Salem, N.C., thence U.S. Highway 311 to its intersection with U.S. Highway 220, thence along U.S. Highway 220 to Rockingham, N.C., thence along U.S. Highway 1 to the North Carolina-South Carolina State line), South Dakota (except points south and east of a line beginning at the intersection of the South Dakota-Nebraska State line and U.S. Highway 183, thence along U.S. Highway 183 to its intersection with Interstate Highway 90, thence along Interstate Highway 90 to the South Dakota-Minnesota State line), Nebraska (except points south and east of a line beginning at the intersection of the Nebraska-Kansas State line and U.S. Highway 183, thence along U.S. Highway 183 to Ansley, thence along Nebraska Highway 92 to its intersection with U.S. Highway 83, thence along U.S. Highway 83 to the Nebraska-South Dakota State line), and Texas (except points north and east of a line beginning at the intersection of the Oklahoma-Texas State line and U.S. Highway 287, thence and east along U.S. Highway 287 to Childress, Texas, thence along U.S. Highway 83 to Eden, thence along U.S. Highway 87 to the Gulf of Mexico). (7) *Paper and paper products* (except commodities in bulk), from the plant site of the United States Envelope Co. located at Williamsburg, Pa.; Springfield, Mass., and Enfield and Rockville, Conn., to Memphis, Tenn., and points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Missouri, Arkansas, Louisiana, Mississippi, and Alabama (except points east of a line beginning at the intersection of the Georgia-Alabama State line and U.S. Highway 11, thence along U.S. Highway 11 to its intersection with U.S. Highway 231, thence along U.S. Highway 231 to the Alabama-Florida State line).

(8) *Paper and paper products* (except commodities in bulk), from the plant site of Laminated and Coated Products Div. of St. Regis Paper Co. at Troy, Ohio, to points in Arizona, Nevada (except points north of a line beginning at the intersection of the California-Nevada State line and U.S. Highway 6, thence along U.S. Highway 6 to its intersection with Nevada Highway 25, thence along Nevada Highway 25 to the Nevada-Utah State line), and California (except points north and east of a line beginning at the origin of California Highway 299 on the Pacific Ocean then along California Highway 299 to its intersection with Interstate Highway 5, thence along Interstate Highway 5 to its intersection with California Highway 20, thence along California Highway 20, to its intersection with Interstate Highway 80, thence along Interstate 80 to the California-Nevada State line). (9) *Paper and paper products* (except commodities in bulk), from the plant or warehouse sites of Menasha Corporation at Air Lake Industrial Park, or near Lakeville, Minn., to points in Maine, New Hampshire, Vermont, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Alabama (except points west of a line beginning at the intersection of the Tennessee-Alabama State line and Interstate Highway 65, thence along Interstate Highway 65 to Birmingham, thence along U.S. Highway 11 to its intersection with Alabama Highway 5, thence along Alabama Highway 5 to its intersection with U.S. Highway 43, thence along U.S. Highway 43 to Mobile), and the District of Columbia. Restriction: The operating authority granted above is restricted to the transportation of traffic originating at the plant and warehouse sites of Menasha Corporation at Air Lake Industrial Park at or near Lakeville, Minn.

(10) *Paper and paper products* (except commodities in bulk), from the plant sites and warehouse facilities of Howard Paper Mills, Inc., at Dayton and

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Urbana, Ohio; The Maxwell Paper Corporation at Franklin, Ohio, and the plant sites and warehouse facilities of Kimberley-Clark Corp. and Bergstrom Paper Co. at or near Dayton, Ohio, to Baltimore, Md., St. Louis, Mo., Memphis, Tenn., New York, N.Y., and points in Nassau and Suffolk Counties N.Y., and points in Alabama, South Carolina, North Carolina, New Jersey, and Connecticut. Restriction: The operations granted herein are restricted to the transportation of shipments originating at the named plant sites and warehouse facilities at Franklin, Dayton, and Urbana, Ohio. (11) *Paper and paper products* (except commodities in bulk), from the plant site of U.S. Envelope Co. at Worcester, Mass., and the plant site of Kimberly-Clark Corp. at New Milford, Conn., to Memphis, Tenn., and points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Arkansas, Louisiana, Mississippi, and Alabama (except points south and east of a line beginning at the intersection of the Georgia-Alabama State line and U.S. Highway 78, thence along U.S. Highway 78 to its intersection with Alternate U.S. Highway 231, thence along Alternate U.S. Highway 231 to Sylacauga, thence along U.S. Highway 231 to Montgomery, thence along U.S. Highway 331 to the Alabama-Florida State line.) (12) *Paper and paper products* (except commodities in bulk), from the plant and warehouse sites of St. Regis Paper Co. at Marshall, Mich., to points in South Carolina, Arkansas, Oklahoma, and Texas. Restriction: The operations authorized above are restricted to the transportation of shipments originating at the above named plant and warehouse sites.

(13) *Paper and paper products* (except commodities in bulk), from Plattsburgh and Lyons Falls, N.Y., to Memphis, Tenn., and points in North Dakota, South Dakota, Nebraska, Kansas, Missouri, Oklahoma, Arkansas, Texas, Louisiana, Mississippi, and Alabama. (14) *Paper and paper products* (except commodities in bulk), from the facilities of the Nekoosa Edwards Paper Co., Inc., at or near Potsdam, N.Y., to Memphis, Tenn., and points in Oklahoma, Texas, Arkansas, Louisiana, Mississippi, Alabama, and points in North Carolina on and west of a line beginning at the intersection of the Tennessee-North Carolina State line and U.S. Highway 25 thence along U.S. Highway 25 to the North Carolina-South Carolina State line and U.S. Highway 176, thence along U.S. Highway 176 to its intersection with South Carolina Highway 12, thence along South Carolina Highway 121 to its intersection with U.S. Highway 25 near Trenton, S.C., thence along U.S. Highway 25 to the Georgia-South Carolina State line. (15) *Fibreboard and pulpboard products* (except commodities in bulk), from Elk Grove Village, Ill., Aurora and Chicago Heights, Ill., to points in New York, Massachusetts, New Hampshire, Vermont, Maine, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, District of Columbia, Virginia, North Carolina, South Carolina, and points in Alabama on, south, and east of a line beginning at the intersection of the Georgia-Alabama State line and Alabama Highway 21, thence along Alabama Highway 21 to its intersection with Alabama Highway 22 thence along Alabama Highway 22 to Selma, Alabama, thence along Alabama Highway 41 to the Alabama-Florida State line. Restriction: The authority granted above is restricted to shipments originating at the plant and warehouse sites of Georgia Pacific Corporation. (16) *Paper and paper products* (except commodities in bulk), from Glen Falls, N.Y., to Memphis, Tenn., and points in North Dakota, South Dakota, Nebraska, Kansas, Missouri, Oklahoma, Texas, Arkansas, Louisiana, Mississippi, and Alabama. Restriction: The operations authorized above are restricted to the transportation of shipments originating at the plant site of Finch Pruen & Co., Inc., at Glen Falls, N.Y.

(17) *Paper and paper products* (except commodities in bulk), from points in Minnesota to points in New York, Vermont, New Hampshire, Maine, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, District of Columbia, Virginia, North Carolina, South Carolina, and points in Alabama on, south, and east of a line beginning at the intersection of the Georgia-Alabama State line and U.S. Highway 78 thence along U.S. Highway 78 to its intersection with U.S. Highway 231, thence along U.S. Highway 231 to Montgomery, thence along U.S. Highway 331 to the Florida-Alabama State line. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and wastepaper. (18) *Paper and paper products* (except commodities in bulk), from points in Minnesota on, east, and north of a line beginning at International Falls, Minn., thence along U.S. Highway 71 to Bemidji, thence along U.S. Highway 2 to its intersection with Minnesota Highway 371, thence along Minnesota Highway 371 to Little Falls, thence along U.S. Highway 10 to Anoka, thence south along U.S. Highway 52 to Minneapolis, thence along U.S. Highway 12 to the Minnesota-Wisconsin State line, to those points in Alabama East of a line beginning at the intersection of the Tennessee-Alabama State line and Interstate Highway 65, thence along Interstate Highway 65 to its intersection with Alabama Highway 69, thence along Alabama Highway 69 to Tuscaloosa, thence along U.S. Highway 43 to Mobile, Ala. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and wastepaper. (19) *Paper and paper products* (except commodities in bulk), from points in Iowa to points in Maine, New Hampshire, Vermont, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, Virginia, North Carolina and South Carolina, and the District of Columbia.

(20) *Paper and paper products* (except commodities in bulk), from points in Wisconsin to points in New York, Vermont, New Hampshire, Maine, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, and the District of Columbia. (21) *Paper and paper products* (except commodities in bulk), from points in Wisconsin on and east of U.S. Highway 51, to points in Alabama on, south, and east of a line beginning at the intersection of the Alabama-Georgia State line and U.S. Highway 11, thence along U.S. Highway 11 to Birmingham, thence along Interstate Highway 65 to its intersection with Alabama Highway 22, thence along Alabama Highway 22 to Selma, thence along Alabama Highway 41 to the Alabama-Florida State line. (22) *Paper and paper products* (except commodities in bulk), from points in Wisconsin on and east of U.S. Highway 41, to points in Alabama on, south, and east of a line beginning at the intersection of the Alabama-Tennessee State line and Interstate Highway 65, thence along Interstate 65 to its intersection with Alabama Highway 69, thence along Alabama Highway 69 to Tuscaloosa, thence along U.S. Highway 43 to its intersection with Alabama County Truck Highway 96 thence along Alabama County Truck Highway 96 to the Mississippi-Alabama State line and points in Mississippi on and south of a line beginning at the intersection of the Louisiana-Mississippi State line and Mississippi Highway 26, thence along Mississippi Highway 26 to Lucedale, thence along U.S. Highway 98 to the Mississippi-Alabama State line, and points in Louisiana on and west of a line beginning at the intersection of the Mississippi-Louisiana State line and Louisiana Highway 21, thence along Louisiana Highway 21 to its intersection with Louisiana Highway 22, thence along Louisiana Highway 22 to its intersection with U.S. Highway 51, thence along U.S. Highway 51 to its intersection with U.S. Highway 61, thence along U.S. Highway 61 to New Orleans, thence along U.S. Highway 90 to Houma, thence along Louisiana Highway 315 to its termination on the Gulf of Mexico.

(23) *Paper and paper products* (except commodities in bulk), from Muskegon, Mich., to Memphis, Tenn., and points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, the District of Columbia, Virginia, North Carolina, South Carolina, Alabama, Mississippi, Louisiana, Texas, and points in Kansas on, south, and west of a line beginning at the intersection of the Colorado-Kansas State line and U.S. Highway 50, thence along U.S. Highway 50 to Dodge City, thence along U.S. Highway 283 to the Oklahoma-Kansas State line, points in Oklahoma on, south, and west of a line beginning at the intersection of the Oklahoma-Kansas State line and U.S. Highway 177, thence along U.S. Highway 177 to its intersection with U.S. Highway 64, thence along U.S. Highway 64 to the Arkansas-Oklahoma State line, points in Arkansas on and south of

a line beginning at the intersection of the Oklahoma-Arkansas State line and Arkansas Highway 10, thence along Arkansas Highway 10 to Little Rock, thence along U.S. Highway 70 to the Arkansas-Tennessee State line, and points in New York on and east of a line beginning at Oswego, thence along New York Highway 57 to Syracuse, thence along U.S. Highway 11 to the New York-Pennsylvania State line. (24) *Paper and paper products* (except commodities in bulk), from Plainwell, Otsego, and Kalamazoo, Mich., to Memphis, Tenn., and points in Oklahoma, Texas, Louisiana, Arkansas, Mississippi, Alabama, South Carolina, North Carolina, Virginia, Maryland, Delaware, the District of Columbia, New Jersey, Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, Vermont, and points in New York on and east of a line beginning at Clayton, thence along New York Highway 12 to Watertown, thence along U.S. Highway 11 to the Pennsylvania-New York State line, and points in Kansas on, south, and west of a line beginning at the intersection of the Colorado-Kansas State line and Kansas Highway 96, thence along Kansas Highway 96 to its intersection with U.S. Highway 283, thence along U.S. Highway 283 to its intersection with U.S. Highway 54, thence along U.S. Highway 54 to the Kansas-Missouri State line. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(25) *Paper and paper products* (except commodities in bulk), from Battle Creek, Mich., to Memphis, Tenn., and points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, District of Columbia, Virginia, North Carolina, South Carolina, Alabama, Mississippi, Arkansas, Louisiana, Texas, Oklahoma, and points in Kansas on and south of U.S. Highway 24, and points in New York on and east of a line beginning at the intersection of the International Boundary between Canada and the United States in New York and U.S. Highway 9, thence along U.S. Highway 9 to Poughkeepsie, thence along U.S. Highway 44 to its intersection with U.S. Highway 209, thence along U.S. Highway 209 to Port Jervis, N.Y. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper. (26) *Paper and paper products* (except commodities in bulk), from Detroit, Mich., to Memphis, Tenn., and points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Missouri, Arkansas, Louisiana, Mississippi, Alabama, South Carolina, North Carolina, and points in Virginia on and south of a line beginning at the intersection of the West Virginia-Virginia State line and U.S. Highway 250, thence along U.S. Highway 250 to Richmond, thence along U.S. Highway 360 to its termination on the Chesapeake Bay, and points in Maine on and north of a line beginning at the intersection of the New Hampshire-Maine State line and Maine Highway 26, thence southeast along Maine Highway 26 to Portland, Me. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(27) *Paper and paper products* (except commodities in bulk), from points in the Lower Peninsula of Michigan on and north of a line beginning at Ludington, thence along U.S. Highway 10 to Bay City, Mich., to Memphis, Tenn., and points in Texas, Louisiana, Mississippi, Alabama, South Carolina, North Carolina, Virginia, Delaware, District of Columbia, Maine, points in Vermont north and east of a line beginning at the intersection of the International Boundary between Canada and United States and Vermont Highway 100, thence along Vermont Highway 100 to its intersection with Vermont Highway 12, thence along Vermont Highway 12 to Montpelier, thence along U.S. Highway 2 to the Vermont-New Hampshire State line, points in New Hampshire north and east of a line beginning at the intersection of the Vermont-New Hampshire State line and New Hampshire Highway 25, thence along New Hampshire Highway 25 to Plymouth, thence south along U.S. Highway 3 to the New Hampshire-Massachusetts State line, points in Maryland south and east of Interstate Highway 95, points in Arkansas on and south of a line beginning at Ft. Smith, along Arkansas Highway 10 to Little Rock, thence along U.S. Highway 70 to the Arkansas-Tennessee State line, points in Oklahoma south and west of a line beginning at the intersection of the Kansas-Oklahoma State line and U.S. Highway 177 thence along U.S. Highway 177 to its intersection with U.S. Highway 64, thence along U.S. Highway 64 to the Arkansas-Oklahoma State line, and points in Kansas on, south, and west of a line beginning at the intersection of the Colorado-Kansas State line and U.S. Highway 50, thence along U.S. Highway 50 to Dodge City, thence along U.S. Highway 283 to the Kansas-Oklahoma State line.

(28) *Paper and paper products* (except commodities in bulk), from Alpena, Mich., to Memphis, Tenn., and points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, District of Columbia, Virginia, North Carolina, South Carolina, Alabama, Mississippi, Louisiana, Arkansas, Oklahoma, Texas, Missouri, Kansas, points in Nebraska on and south of a line beginning at the intersection of the Wyoming-Nebraska State line and U.S. Highway 26, thence along U.S. Highway 26 to its intersection with U.S. Highway 30, thence along U.S. Highway 30 to its intersection with U.S. Highway 34, thence along U.S. Highway 34 to the Nebraska-Iowa State line, and points in New York on and east of a line beginning at the intersection of the International Boundary between Canada and the United States and U.S. Highway 9, thence along U.S. Highway 9 to its intersection with New York Highway 7, thence along New York Highway 7 to its intersection with New York Highway 30, thence along New York Highway 30 to the New York-Pennsylvania State line. (29) *Paper and paper products* (except commodities in bulk), from Port Huron, Mich., to Memphis, Tenn., and points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Missouri, Arkansas, Louisiana, Mississippi, Alabama, South Carolina, North Carolina, Maine, and points in Virginia on and south of a line beginning at the intersection of the West Virginia-Virginia State line, and U.S. Highway 33, thence along U.S. Highway 33 to Richmond, thence along U.S. Highway 360 to its termination on the Chesapeake Bay. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(30) *Paper and paper products* (except commodities in bulk), from points in the Upper Peninsula of Michigan, to points in Alabama, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, Vermont, points in New York on and east of a line beginning at Oswego, thence along New York Highway 104 to its intersection with New York Highway 34, thence along New York Highway 34 to the New York-Pennsylvania State line, points in Mississippi on, south, and east of a line beginning at Natchez, thence along U.S. Highway 84 to Laurel, thence along U.S. Highway 11 to the Mississippi-Alabama State line, and the District of Columbia. (31) *Paper and paper products* (except commodities in bulk), from points in Indiana on, north, and west of a line beginning at the intersection of the Illinois-Indiana State line and U.S. Highway 24, thence along U.S. Highway 24 to Logansport, thence along Indiana Highway 25 to its intersection with U.S. Highway 31, thence along U.S. Highway 31 to the Michigan-Indiana State line, to points in Maine New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, points in New York on and east of a line beginning at Rochester, thence along U.S. Highway 15 to its junction with New York Highway 21, thence along New York Highway 21 to the Pennsylvania-New York State line, points in Texas on, south, and west of a line beginning at El Paso, thence along U.S. Highway 80 to Van Horn, thence along U.S. Highway 90 to Uvalde, thence along U.S. Highway 83 to its intersection with Texas Highway 44, thence along Texas Highway 44 to Corpus Christi, and the District of Columbia. Restriction: The authority granted herein is restricted against the transportation of pulpboard, pulpboard products and waste paper.

(32) *Paper and paper products* (except commodities in bulk), from points in Indiana on, north, and east of a line beginning at the intersection of the Michigan-Indiana State line and U.S. Highway 31, thence along U.S. Highway

31 to its intersection with Indiana Highway 25, thence along Indiana Highway 25 to Logansport, thence along U.S. Highway 24 to the Indiana-Ohio State line, to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, and points in New York on and east of a line beginning at the intersection of the International Boundary between the United States and Canada and New York Highway 56, thence along New York Highway 56 to its intersection with New York Highway 3, thence along New York Highway 3 to Tupper Lake, thence along New York Highway 30 to the Pennsylvania-New York State line, points in Alabama on and south of a line beginning at the intersection of the Mississippi-Alabama State line and U.S. Highway 11, thence along U.S. Highway 11 to Tuscaloosa, thence along U.S. Highway 82 to its intersection with Alabama Highway 25, thence along Alabama Highway 25 to its intersection with Alabama Highway 76, thence along Alabama Highway 76 to its intersection with Alabama Highway 21, thence along Alabama Highway 21 to its intersection with U.S. Highway 78, thence along U.S. Highway 78 to the Alabama-Georgia State line, points in Mississippi on, south, and east of a line beginning at Natchez, Miss., thence along U.S. Highway 84 to U.S. Highway 11, thence along U.S. Highway 11 to the Mississippi-Alabama State line, points in Louisiana, on and south of a line beginning at the intersection of the Texas-Louisiana State line and U.S. Highway 80, thence along U.S. Highway 80 to Shreveport, thence along U.S. Highway 71 to its intersection with U.S. Highway 84, thence along U.S. Highway 84 to the Mississippi-Louisiana State line, and points in Texas south and west of a line beginning at the intersection of the Texas-Oklahoma State line and U.S. Highway 287, thence along U.S. Highway 287 to Ft. Worth, thence along U.S. Highway 80 to the Louisiana-Texas State line and the District of Columbia.

(33) *Paper and paper products* (except commodities in bulk), from points in Indiana on and within an area bordered on the east by the Ohio-Indiana State line and bordered on the north by U.S. Highway 24, and bordered on the west by a line beginning at Logansport, Ind., thence along Indiana Highway 29 to its intersection with U.S. Highway 421, thence along U.S. Highway 421 to Indianapolis, and bordered on the south by U.S. Highway 40, to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, District of Columbia, Virginia, North Carolina, South Carolina, New York (except points west of U.S. Highway 219), points in Louisiana on, south, east of a line beginning at Cameron, thence along Louisiana Highway 82 to Abbeville, thence along U.S. Highway 167 to Opelousas, thence along U.S. Highway 190 to its intersection with U.S. Highway 90, thence along U.S. Highway 90 to the Louisiana-Mississippi State line, and points in Texas on, south, and west of a line beginning at the intersection of the Texas-Oklahoma State line and U.S. Highway 287, thence along U.S. Highway 287 to Childress; thence along U.S. Highway 83 to Abilene, thence along Texas Highway 36 to its intersection with Interstate Highway 10, thence along Interstate Highway 10 to the Texas-Louisiana State line. Restriction: The authority granted herein is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(34) *Paper and paper products* (except commodities in bulk), from Sodus, Mich., to points in Maine, New Hampshire, Vermont, Rhode Island, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, District of Columbia, Virginia, North Carolina, South Carolina, Alabama, Louisiana, Texas, New York (except points west of New York Highway 19), Mississippi (except points north and west of a line beginning at Greenville, thence along U.S. Highway 82 to Columbus, thence along U.S. Highway 45 to the Mississippi-Tennessee State line), Arkansas (except points north and east of a line beginning at the intersection of the Oklahoma-Arkansas State line and U.S. Highway 270, thence along U.S. Highway 270 to Hot Springs, thence along U.S. Highway 70 to Little Rock, thence along U.S. Highway 65 to its intersection with U.S. Highway 82, thence along U.S. Highway 82 to the Mississippi-Arkansas State line), and points in Oklahoma (except points north and east of a line beginning at the intersection of Kansas-Oklahoma State line and U.S. Highway 83, thence along U.S. Highway 83 to its intersection with U.S. Highway 270, thence along U.S. Highway 270 to Seminole, thence along Oklahoma Highway 3 to Broken Bow, thence along U.S. Highway 70 to the Oklahoma-Arkansas State line). Restriction: The authority granted herein is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(35) *Paper and paper products* (except commodities in bulk), from Ypsilanti, Mich., to Memphis, Tenn., and points in North Carolina, South Carolina, Alabama, Mississippi, Louisiana, Arkansas, Missouri, Kansas, Oklahoma, Texas, North Dakota, South Dakota (except points east and south of a line beginning at the intersection of the South Dakota-Nebraska State line and U.S. Highway 281, thence along U.S. Highway 281 to its intersection with U.S. Highway 81, thence along U.S. Highway 81 to its intersection with U.S. Highway 12, thence along U.S. Highway 12 to the South Dakota-Minnesota State line), Nebraska (except points north and east of a line beginning at the intersection of the South Dakota-Nebraska State line and U.S. Highway 281, thence along U.S. Highway 281 to its intersection with Nebraska Highway 2, thence along Nebraska Highway 2 to the Missouri-Nebraska State line), Virginia (except points north of a line beginning at the intersection of the West Virginia-Virginia State line and U.S. Highway 33, thence along U.S. Highway 33 to Richmond, thence along U.S. Highway 360 to its termination on the Chesapeake Bay), and Maine (except points south and west of Maine Highway 26). Restriction: The authority granted herein is restricted against the transportation of pulpboard, pulpboard products, and waste paper. (36) *Paper and paper products*, (except commodities in bulk), from points in Illinois on, north and west of Illinois Highway 2, to points in South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia, Restriction: The authority granted herein is restricted against the transportation of pulpboard, pulpboard products, and waste paper. (37) *Paper and paper products* (except commodities in bulk), from points in Escambia County, Florida, to points in New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and New Jersey (except points south and west of a line beginning at Camden, then along U.S. Highway 30 to its intersection with New Jersey Highway 50, thence along New Jersey Highway 50 to its junction with U.S. Highway 9, thence along U.S. Highway 9 to Cape May) Restriction: The authority granted herein is restricted to transportation of traffic originating at Escambia Co., Florida, and further restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(38) *Paper and paper products* (except commodities in bulk), from points in the Lower Peninsula of Michigan to points in South Carolina, North Carolina, points in Virginia on and south of a line beginning at the intersection of the Virginia-West Virginia State line and U.S. Highway 250, thence along U.S. Highway 250 to Richmond, thence along U.S. Highway 360 to its termination on the Chesapeake Bay, points in Alabama on and south of a line beginning at the intersection of the Alabama-Mississippi State line and U.S. Highway 82, thence along U.S. Highway 82 to Tuscaloosa, thence along U.S. Highway 11 to the Alabama-Georgia State line, points in Mississippi on and south of U.S. Highway 80, points in Louisiana on and south of U.S. Highway 80, points in Texas on, south, and west of a line beginning at the intersection of New Mexico-Texas State line and U.S. Highway 66, thence along U.S. Highway 66 to Amarillo, thence along U.S. Highway 287 to its intersection with U.S. Highway 283, thence along U.S. Highway 283 to its intersection with U.S. Highway 84, thence along U.S. Highway 84 to the Louisiana-Texas State line. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper from points on and south of Michigan Highway 21. (39) *Paper and paper products* (except commodities in bulk), from points in the Lower Peninsula of Michigan north of Michigan Highway 21, to Memphis, Tenn., and points in Maine, North Carolina, South

Carolina, Alabama, Mississippi, Arkansas, Louisiana, Texas, Oklahoma, points in Virginia on and south of a line beginning at the intersection of the West Virginia-Virginia State line and U.S. Highway 33, thence along U.S. Highway 33 to Richmond, thence along U.S. Highway 360 to its termination on the Chesapeake Bay, points in Kansas on, south, and west of a line beginning at the intersection of the Colorado-Kansas State line and Kansas Highway 96, thence along Kansas Highway 96 to Great Bend, thence along U.S. Highway 281 to Pratt, thence along U.S. Highway 54 to Wichita, thence along U.S. Highway 81 to the Kansas-Oklahoma State line.

(40) *Paper and paper products* (except commodities in bulk), from points in the Lower Peninsula of Michigan on and west of U.S. Highway 27, to points in Maine, New Hampshire, Rhode Island, Delaware, Maryland, Virginia, North Carolina, South Carolina, Connecticut, Massachusetts (except points west of U.S. Highway 7), Vermont (except points west of U.S. Highway 7), New York (except points north and west of a line beginning at Hillburn, thence along Interstate Highway 87 to its intersection with U.S. Highway 44, thence along U.S. Highway 44 to the New York-Connecticut State line), New Jersey (except points north and west of a line beginning at the intersection of the Pennsylvania-New Jersey State line and Interstate Highway 78, thence along Interstate Highway 78 to its intersection with U.S. Highway 202, thence along U.S. Highway 202 to the New York-New Jersey State line), Alabama (except points north and west of a line beginning at the intersection of the Alabama-Mississippi State line and U.S. Highway 82, thence along U.S. Highway 82 to Tuscaloosa, thence along U.S. Highway 11 to the Alabama-Georgia State line), Mississippi (except points north of U.S. Highway 80), Louisiana (except points north of U.S. Highway 80), Texas (except points north and east of a line beginning at the intersection of the New Mexico-Texas State line and U.S. Highway 66, thence along U.S. Highway 566 to Amarillo, thence along U.S. Highway 287 to its intersection with U.S. Highway 83, thence along U.S. Highway 83 to its intersection with U.S. Highway 84 thence along U.S. Highway 84 to the Texas-Louisiana State line), and the District of Columbia. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products and waste paper from points in Michigan on and south of Michigan Highway 21.

(41) *Paper and paper products* (except commodities in bulk), from points in the Lower Peninsula of Michigan on and east of U.S. Highway 27, to Memphis, Tenn., and points in Texas, Oklahoma, Arkansas, Louisiana, Mississippi, Alabama, North Carolina, South Carolina, Virginia (except points north of a line beginning at the intersection of the West Virginia-Virginia State line and U.S. Highway 250, thence along U.S. Highway 250 to Richmond, thence along U.S. Highway 360 to its termination on the Chesapeake Bay), Kansas (except points north of U.S. Highway 24), and Missouri (except points north and east of a line beginning at Kansas City, Mo., thence along U.S. Highway 71 to its junction with Missouri Highway 7, thence along Missouri Highway 7 to its intersection with U.S. Highway 66, thence along U.S. Highway 66 to Rolla, thence along Michigan Highway 72 to its intersection with Missouri Highway 51, thence along Missouri Highway 51 to the Missouri-Illinois State line). Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper from points in Michigan on and south of Michigan Highway 21. (42) *Paper and paper products* (except commodities in bulk), from Niles, Mich., to Memphis, Tenn., and points in Texas, Louisiana, Mississippi, Alabama, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, Vermont, New York (except points west of New York Highway 19), Arkansas (except points north of a line beginning at Fort Smith, thence along U.S. Highway 71 to its junction with Arkansas Highway 10, thence along Arkansas Highway 10 to Little Rock, thence along U.S. Highway 70 to the Arkansas-Tennessee State line), Oklahoma (except points north and east of a line beginning at the intersection of the Kansas-Oklahoma State line and U.S. Highway 77, thence along U.S. Highway 77 to Ponca City, thence along U.S. Highway 177 to its intersection with U.S. Highway 64, thence along U.S. Highway 64 to the Arkansas-Oklahoma State line), and points in Kansas (except points north and east of a line beginning at the intersection of the Colorado-Kansas State line along U.S. Highway 283 to the Oklahoma-Kansas State line) the District of Columbia. Restriction: The authority granted herein is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(43) *Paper and paper products*, (except commodities in bulk), from Watervliet, Mich., to points in Texas, Louisiana, Alabama, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, Vermont, New York (except points west of New York Highway 19), Mississippi (except points north and west of a line beginning at Greenville, thence along U.S. Highway 82 to its intersection with U.S. Highway 61, thence along U.S. Highway 61 to its intersection with Mississippi Highway 6, thence along Mississippi Highway 6 to Tupelo, thence north along U.S. Highway 45 to the Mississippi-Tennessee State line), Arkansas (except points north and east of a line beginning at the intersection of the Oklahoma-Arkansas State line and U.S. Highway 270, thence along U.S. Highway 70 to Little Rock, thence along U.S. Highway 65 to the Arkansas-Louisiana State line), Oklahoma (except points north and east of U.S. Highway 270), and the District of Columbia. Restriction: The authority granted herein is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(44) *Paper and paper products* (except commodities in bulk), from points in Illinois (except Chicago, Illinois and points in its Commercial Zone, as defined by the Commission, points in that part of the St. Louis-East St. Louis Commercial Zone within Illinois and points in Illinois on and south of U.S. Highway 460) to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, New York (except points west of a line beginning at Westfield, thence along New York Highway 17 to Jamestown, thence along U.S. Highway 62 to the New York-Pennsylvania State line), Virginia (except points south and west of a line beginning at the intersection of the West Virginia-Virginia State line and U.S. Highway 250, thence along U.S. Highway 250 to Richmond, thence along U.S. Highway 301 to the Virginia-North Carolina State line), North Carolina (except points west of a line beginning at the intersection of the Virginia-North Carolina State line and U.S. Highway 301, thence along U.S. Highway 301 to Rocky Mount, thence along North Carolina Highway 43 to its junction with U.S. Highway 17, thencé along U.S. Highway 17 to its intersection with U.S. Highway 70, thence along U.S. Highway 70 to Morehead City, and the District of Columbia. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper. (45) *Paper and paper products* (except commodities in bulk), from points in Illinois on and north of a line beginning at the intersection of the Iowa-Illinois State line and U.S. Highway 34, thence along U.S. Highway 34 to its junction with Illinois Highway 116, thence along Illinois Highway 116 to Peoria, thence along U.S. Highway 24 to the Illinois-Indiana State line (except points in Chicago, Ill., and its Commercial Zone, as defined by the Commission), to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, points in New York (except points west of a line beginning at Buffalo, thence along U.S. Highway 62 to the New York-Pennsylvania State line), and the District of Columbia. Restriction: The authority granted herein is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(46) *Paper and paper products* (except commodities in bulk), from points in Illinois on and within an area bordered on the east by the Indiana-Illinois State line, on the north by U.S. Highway 24, on the west by a line beginning at Peoria, thence along Illinois Highway 29 to Springfield, thence along U.S. Highway 66 to Litchfield, and on the south by a line beginning at Litchfield, thence along Illinois Highway 16 to Paris, thence along U.S. Highway 150 to the Indiana-Illinois State line, to points in

Maine, Vermont, New Hampshire, New York, Connecticut, Rhode Island, Massachusetts, New Jersey, Delaware, Maryland, Virginia (except points west of U.S. Highway 21), North Carolina (except points west of U.S. Highway 21), points in South Carolina (except points west and south of a line beginning at the intersection of the North Carolina-South Carolina State line U.S. Highway 21, thence south along U.S. Highway 21 to Columbia, thence along U.S. Highway 176 to Charleston, and the District of Columbia. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper. (47) *Paper and paper products* (except commodities in bulk), from points in Illinois on and within an area bordered on the north by Illinois Highway 116 on the east and south by a line beginning at Peoria, thence along Illinois Highway 29 to Springfield, thence along U.S. Highway 66 to the Illinois-Missouri State line, and on the west by the Illinois State line (except points in the St. Louis-East St. Louis Commercial Zone which lie in Illinois), to points in New York, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, Maryland, Delaware, Virginia (except points west of U.S. Highway 21), points in North Carolina (except points west of U.S. Highway 21), points in South Carolina (except points west of U.S. Highway 521), and the District of Columbia. Restriction: The authority granted herein is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(48) *Paper and paper products* (except commodities in bulk), from points in Illinois on and within an area bordered on the east by the Illinois-Indiana State line, on the southwest by U.S. Highway 460, and on the northwest by a line beginning at St. Louis, thence along U.S. Highway 66 to Litchfield, thence along Illinois Highway 16 to Paris, thence along U.S. Highway 50 to the Illinois-Indiana State line (except points in the St. Louis-East St. Louis Commercial Zone, as defined by the Commission, which lie in Illinois, and except points in U.S. Highway 460), to points in New York, Vermont, New Hampshire, Maine, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, Virginia (except points west of a line beginning at the intersection of the West Virginia-Virginia State line and U.S. Highway 33, thence along U.S. Highway 33 to its intersection with U.S. Highway 15, thence along U.S. Highway 15 to the Virginia-North Carolina State line), and the District of Columbia. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper. (49) *Paper and paper products* (except commodities in bulk), from Chicago, Ill., to points in South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, Vermont, New York (except points west of a line beginning at Buffalo, thence along U.S. Highway 62 to the New York-Pennsylvania State line), Alabama (except points west of a line beginning at the intersection of the Georgia-Alabama State line and U.S. Highway 11, thence along U.S. Highway 11 to Birmingham, thence along U.S. Highway 31 to Montgomery, thence along Interstate Highway 65 to Mobile), and the District of Columbia. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(50) *Paper and paper products* (except commodities in bulk), from points in Indiana (except Evansville), to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, New York (except points west of a line beginning at Clayton, thence along New York Highway 12 to Watertown, thence along U.S. Highway 11 to the New York-Pennsylvania State line), Virginia (except points west of a line beginning at the intersection of the West Virginia-Virginia State line and U.S. Highway 522, thence along U.S. Highway 522 to its intersection with U.S. Highway 33, thence along U.S. Highway 33 to Richmond, thence along U.S. Highway 301 to its junction with Virginia Highway 35, thence along Virginia Highway 35 to the North Carolina-Virginia State line), and the District of Columbia. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper. (51) *Paper and paper products* (except commodities in bulk), from points in Indiana on and within an area bordered on the west by the Indiana-Illinois State line, on the north by U.S. Highway 24, on the east by a line beginning at Logansport, thence along Indiana Highway 29 to its junction with U.S. Highway 421, thence along U.S. Highway 421 to Indianapolis, and on the south by U.S. Highway 40, to points in New York, Maine, Vermont, Massachusetts, New Hampshire, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, Virginia (except points southwest of a line beginning at the intersection of the Kentucky-Virginia State line, thence along U.S. Highway 23 to Norton, thence along alternate U.S. Highway 58 to its junction with U.S. Highway 58, thence along U.S. Highway 58 to Briston), North Carolina (except points west of a line beginning at the intersection of the Virginia-North Carolina State line and U.S. Highway 21, thence along U.S. Highway 21 to its intersection with North Carolina Highway 18, thence along North Carolina Highway 18 to its intersection with U.S. Highway 64, thence along U.S. Highway 64 to its intersection with U.S. Highway 221, thence along U.S. Highway 221 to the North Carolina-South Carolina State line), South Carolina (except points west of a line beginning at the intersection of the North Carolina-South Carolina State line and U.S. Highway 221, thence along U.S. Highway 221 to its intersection with Interstate Highway 85, thence along Interstate Highway 85 to the Georgia-South Carolina State line), and the District of Columbia. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(52) *Paper and paper products* (except commodities in bulk), from points in Kentucky (except Florence and points in the Cincinnati, Ohio Commercial Zone, as defined by the Commission, which are in Kentucky), to points in New York on and north of a line beginning at Otsego, thence along New York Highway 57 to Syracuse, thence along New York Highway 5 to Schenectady, thence along New York Highway 7 to the New York-Vermont State line), points in Vermont on and north of U.S. Highway 4, points in New Hampshire on and north of a line beginning at the intersection of the New Hampshire-Vermont State line and U.S. Highway 4, thence along U.S. Highway 4 to Concord, thence along U.S. Highway 3 to Meredith, thence along New Hampshire Highway 25 to the New Hampshire-Maine State line, and points in Maine on and north of a line beginning at the intersection of the Maine New Hampshire State line and U.S. Highway 302, thence along U.S. Highway 302 to its intersection with Maine Highway 11, thence along Maine Highway 11 to Lewiston, thence along Maine Highway 196 to Brunswick, and thence along Maine Highway 123 to the Atlantic Ocean. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper. (53) *Paper and paper products* (except commodities in bulk), from points in Kentucky on and west of U.S. Highway 41, to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Points in Virginia on and north of U.S. Highway 50, points in Maryland on and north of U.S. Highway 50, and the District of Coulmbia. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(54) *Paper and paper products* (except commodities in bulk), from points in Kentucky on and within an area bordered on the north by the Indiana-Kentucky State line, on the west by U.S. Highway 45, on the south by the Tennessee-Indiana State line, and on the east by Interstate Highway 65, to points in New York, Maine, Vermont, New Hampshire, Connecticut, Massachusetts, Rhode Island, New Jersey, points in Virginia on and north of U.S. Highway 50, points in Maryland on and north of U.S. Highway 50, points in North Dakota on, north, and east of a line beginning at the intersection of the Montana-North Dakota State line and U.S. Highway 2, thence along U.S. Highway 2 to its intersection with U.S. Highway 281, thence along U.S.

Highway 281 to the International Boundary between Canada and the United States, and the District of Columbia. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper. (55) *Paper and paper products* (except commodities in bulk), from points in Kentucky on and within an area bordered on the south by U.S. Highway 60, on the east by U.S. Highway 25, and on the northwest by the Kentucky-Indiana State line (except Florence, Kentucky, and points within the Cincinnati Commercial Zone, as defined by the Commission, which lie within Kentucky), to points in New York, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, those points in Virginia on and north of U.S. Highway 50, those points in Maryland north and east of a line beginning at the intersection of the Pennsylvania-Maryland State line and U.S. Highway 220, thence along U.S. Highway 220 to Cumberland, thence following the Maryland State line east and south to its intersection with U.S. Highway 50, thence along U.S. Highway 50 to the Atlantic Ocean, points in North Dakota, South Dakota, points in Nebraska on, north, and west of a line beginning at the intersection of the Colorado-Nebraska State line and U.S. Highway 30, thence along U.S. Highway 30 to Columbus, thence along U.S. Highway 81 to its intersection with U.S. Highway 20, thence along U.S. Highway 20 to the Iowa-Nebraska State line, points in Texas on and west of a line beginning at the intersection of the New Mexico-Texas State line and U.S. Highway 285, thence along U.S. Highway 285 to Pecos, thence along Texas Highway 17 to the intersection with Texas Highway 118, thence along Texas Highway 118 to Boquillas, and the District of Columbia. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(56) *Paper and paper products* (except commodities in bulk), from points in Kentucky on and within an area bordered on the west by Interstate Highway 65, on the north by U.S. Highway 60, on the east by U.S. Highway 25, and on the south by the Tennessee-Kentucky State line, to points in North Dakota, Maine, New Hampshire, Vermont, South Dakota (except points south and east of a line beginning at the intersection of the Nebraska-South Dakota State line and U.S. Highway 83, thence along U.S. Highway 83 to its intersection with U.S. Highway 16, thence along U.S. Highway 16 to its intersection with U.S. Highway 77, thence along U.S. Highway 77 to the South Dakota-Minnesota State line), New York (except points south of a line beginning at Narrowsburg, thence along New York Highway 52 to its intersection with U.S. Highway 209, thence along U.S. Highway 209 to its junction with U.S. Highway 44, thence along U.S. Highway 44 to the Connecticut-Massachusetts State line), and Massachusetts (except points south and east of a line beginning at the intersection of the Connecticut-Massachusetts State line and U.S. Highway 7, thence along U.S. Highway 7 to its junction with U.S. Highway 20, thence along U.S. Highway 20 to Springfield, thence along U.S. Highway 5 to its intersection with U.S. Highway 202, thence along U.S. Highway 202 to its intersection with Massachusetts Highway 9, thence along Massachusetts Highway 9 to Boston. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(57) *Paper and paper products* (except commodities in bulk), from Nicholasville, Ky., to points in North Dakota, South Dakota, Nebraska, New York, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, points in Virginia on and north of U.S. Highway 50, points in Maryland on, north, and east of a line beginning at the intersection of the Pennsylvania-Maryland State line and U.S. Highway 20, thence along U.S. Highway 20 to Cumberland, thence along the Maryland-Pennsylvania State line to its intersection with U.S. Highway 50, thence along U.S. Highway 50 to its termination on the Atlantic Ocean, points in Kansas on, north, and west of a line beginning at the intersection of the Missouri-Kansas State line and U.S. Highway 36, thence along U.S. Highway 36 to its intersection with Kansas Highway 99, thence along Kansas Highway 99 to its intersection with Interstate Highway 35, thence along Interstate Highway 35 to its intersection with U.S. Highway 77, thence along U.S. Highway 77 to the Kansas-Oklahoma State line, points in Oklahoma on and west of a line beginning at the intersection of the Kansas-Oklahoma State line and U.S. Highway 77, thence along U.S. Highway 77 to Oklahoma City, thence along U.S. Highway 277 to the Oklahoma-Texas State line, points in Texas on and west of a line beginning at the intersection of the Oklahoma-Texas State line and U.S. Highway 277, thence along U.S. Highway 277 to Abilene, Texas, thence along U.S. Highway 80 to its intersection with Texas Highway 163, thence along Texas Highway 163 to its intersection with U.S. Highway 90, thence along U.S. Highway 90 to DelRio, thence southwest along unnumbered highway to the Rio Grande and the District of Columbia. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(58) *Paper and paper products* (except commodities in bulk), from points in Kentucky on and within an area bordered on the west by U.S. Highway 25, on the southwest by U.S. Highway 68, and on the northeast by the Ohio-Kentucky State line (except points in the Cincinnati, Ohio, Commercial Zone, as defined by the Commission, which are in Kentucky), to points in North Dakota, South Dakota, Nebraska, Maine, New Hampshire, Vermont, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, those points in Maryland on and north of a line beginning at the intersection of the Maryland-Pennsylvania State line and U.S. Highway 11, thence along U.S. Highway 11 to Hagerstown, thence along U.S. Highway 40 to Baltimore, thence along Maryland Highway 2 to Annapolis, thence along U.S. Highway 50 to its termination on the Atlantic Ocean, points in Kansas on and west of a line beginning at Atchison, thence along Kansas Highway 4 to Topeka, thence along Interstate Highway 35 to its intersection with U.S. Highway 77, thence along U.S. Highway 77 to the Kansas-Oklahoma State line, those points in Oklahoma on and west of a line beginning at the intersection of the Kansas-Oklahoma State line and U.S. 77, thence along U.S. Highway 77 to its intersection with Oklahoma Highway 19, thence along Oklahoma Highway 19 to its intersection with U.S. Highway 277, thence along U.S. Highway 277 to the Oklahoma-Texas State line, and points in Texas on and west of a line beginning at the intersection of the Texas-Oklahoma State line and U.S. Highway 277 thence along U.S. Highway 277 to Eagle Pass, Texas. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(59) *Paper and paper products* (except commodities in bulk), from points in Kentucky on and east of a line beginning at Maysville, thence along U.S. Highway 68 to Lexington, thence along U.S. Highway 25 to the Kentucky-Tennessee State line, to points in North Dakota, South Dakota, Nebraska, points in Maine, on, north, and east of a line beginning at the intersection of the New Hampshire-Maine State line and Maine Highway 2, thence along Maine Highway 2 to its intersection with Maine Highway 26, thence along Maine Highway 26 to Portland, points in Kansas on and west of a line beginning at the intersection of the Missouri-Kansas State line and U.S. Highway 36, thence along U.S. Highway 36 to its intersection with Kansas Highway 99, and along Kansas Highway 99 to Emporia, thence along U.S. Highway 50 to its intersection with U.S. Highway 81, thence along U.S. Highway 81 to the Kansas-Oklahoma State line, points in Oklahoma on and west of a line beginning at the intersection of the Kansas Oklahoma State line and U.S. Highway 81, thence along U.S. Highway 81 to Enid, thence along U.S. Highway 60 to its intersection with U.S. Highway 183, thence along U.S. Highway 183 to its intersection with U.S. Highway 62, thence along U.S. Highway 62 to the Texas-Oklahoma State line, and points in Texas on and north of a line beginning at the intersection of the Texas-Oklahoma State line and U.S. Highway 62, thence along U.S. Highway 62 to Lubbock, thence along U.S. Highway 84 to the New Mexico-Texas State line, and points in El Paso and Hudspeth Counties, Tex. Restriction: The authority granted

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above is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(60) *Paper and paper products* (except commodities in bulk), from points in Indiana on and within an area bordered on the north by U.S. Highway 40, on the west by U.S. Highway 31, on the south by U.S. Highway 50, and on the east by the Indiana-Ohio State line, to points in Maine, New Hampshire, Vermont, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, points in Virginia on and east of a line beginning at the intersection of the Virginia-West Virginia State line and U.S. Highway 250, thence along U.S. Highway 250 to its intersection with U.S. Highway 11, thence along U.S. Highway 11 to its intersection with U.S. Highway 220, thence along U.S. Highway 220 to the Virginia-North Carolina State line, points in North Carolina on and east of a line beginning at the intersection of the Virginia-North Carolina State line and U.S. Highway 220 to Greensboro, thence along U.S. Highway 421 to Wilmington, points in Texas on and west of a line beginning at the intersection of the Oklahoma-Texas State line and U.S. Highway 287, thence along U.S. Highway 287 to its intersection with U.S. Highway 83, thence along U.S. Highway 83 to its intersection with U.S. Highway 87, thence along U.S. Highway 87 to its termination on the Gulf of Mexico, and the District of Columbia. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper. (61) *Paper and paper products* (except commodities in bulk), from points in Indiana on and within an area bordered on the north by U.S. Highway 40, on the east by U.S. Highway 31, on the south by the Kentucky-Indiana State line, and on the west by the Indiana-Illinois State line (except Evansville), to points in New York, Vermont, New Hampshire, Maine, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland (except points east of Interstate Highway 81), points in Virginia on and east of a line beginning at the intersection of the Virginia-District of Columbia State line and U.S. Highway 1, thence along U.S. Highway 1 to Richmond, thence along U.S. Highway 60 to Hampton, thence along U.S. Highway 17 to the Virginia-North Carolina State line, and the District of Columbia. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper.

(62) Paper and paper products (except commodities in bulk), from points in Indiana on and within an area bordered on the north by U.S. Highway 50, on the west by U.S. Highway 31, and on the southeast by the Indiana-Kentucky State line, to points in New York, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland (except points west of Interstate Highway 81), points in Virginia on and east of a line beginning at the intersection of the Virginia-District of Columbia State line and U.S. Highway 1, thence along U.S. Highway 1 to Richmond, thence along U.S. Highway 60 to Hampton, thence along U.S. Highway 17 to the Virginia-North Carolina State line, and the District of Columbia. Restriction: The authority granted above is restricted against the transportation of pulpboard, pulpboard products, and waste paper. (63) *Paper and paper products* (except commodities in bulk), from points in Tennessee on and west of a line beginning at the intersection of the Kentucky-Tennessee State line and U.S. Highway 641, thence along U.S. Highway 641 to Paris, thence along U.S. Highway 79 to its intersection with Tennessee Highway 22, thence along Tennessee Highway 22 to the Tennessee-Mississippi State line (except Memphis, Tenn.), to points in Maine, New Hampshire, Vermont, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland (except points south of U.S. Highway 50), Virginia (except points south of U.S. Highway 50), and the District of Columbia. Restriction: The authority granted above is restricted to against the transportation of cardboard cartons.

(64) *Paper and paper products* (except commodities in bulk), from points in Tennessee on and within an area bordered on the west by a line beginning at the intersection of the Kentucky-Tennessee State line and U.S. Highway 641, thence along U.S. Highway 641 to Paris, thence along U.S. Highway 79 to its intersection with Tennessee Highway 22, thence along Tennessee Highway 22 to the Tennessee-Mississippi State line, bordered on the north by the Kentucky State line, on the east by U.S. Highway 41, and on the south by the Tennessee-Georgia State line, to points in New York, New Hampshire, Vermont, Maine, Connecticut, Massachusetts, Rhode Island, and points in New Jersey on and north of a line beginning at the intersection of the Pennsylvania-New Jersey State line and New Jersey Highway 57, thence along New Jersey Highway 57 to its junction with New Jersey Highway 24, thence along New Jersey Highway 24 to Newark, thence along U.S. Highway 1 to the Hudson River. Restriction: The authority granted above is restricted against the transportation of Cardboard cartons. (65) *Paper and paper products* (except commodities in bulk), from points in Tennessee on and within an area bordered on the north by the Tennessee-Kentucky State line, on the southwest by U.S. Highway 41, and on the east by U.S. Highway 127, to points in New York, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, North Dakota, those points in New Jersey on and north of a line beginning at the intersection of the Pennsylvania-New Jersey State line and New Jersey Highway 57, thence along New Jersey Highway 57 to its junction with New Jersey Highway 24, thence along New Jersey Highway 24 to Newark, thence along U.S. Highway 1 to the Hudson River, and points in South Dakota on, north, and west of a line beginning at the intersection of the Wyoming-South Dakota State line and U.S. Highway 212, thence along U.S. Highway 212 to its intersection with South Dakota Highway 47, thence along South Dakota Highway 47 to its intersection with U.S. Highway 12, thence along U.S. Highway 12 to Aberdeen, thence along U.S. Highway 281 to the North Dakota-South Dakota State line. Restriction: The authority granted above is restricted against the transportation of cardboard cartons.

(66) *Paper and paper products* (except commodities in bulk), from points in Tennessee on and within an area bordered on the west by U.S. Highway 127, on the north by the Kentucky-Tennessee State line, on the east by a line beginning at the intersection of the Kentucky-Tennessee State line and U.S. Highway 25E, thence along U.S. Highway 25E to its intersection with Tennessee Highway 33, thence along Tennessee Highway 33 to Knoxville, thence south along U.S. Highway 29 to the Tennessee-North Carolina State line, and on the south by the Tennessee-Georgia State line, to points in North Dakota, South Dakota, Maine, Vermont, New Hampshire (except points east and south of a line beginning at the intersection of the New Hampshire-Massachusetts State line and New Hampshire Highway 10, thence along New Hampshire Highway 10 to Keene, thence along New Hampshire Highway 9 to its intersection with New Hampshire Highway 114, thence along New Hampshire Highway 114 to Manchester, thence along New Hampshire Highway 101 to the Atlantic Ocean), New York (except points south and east of a line beginning at the intersection of the Pennsylvania-New York State line and New York Highway 79, thence along New York Highway 79 to its intersection with New York Highway 7, thence along New York Highway 7 to the New York-Vermont State line), and Nebraska (except points south and east of a line beginning at the intersection of the Wyoming-Nebraska State line and U.S. Highway 30, thence along U.S. Highway 30 to North Platte, thence along Nebraska Highway 70 to its junction with Nebraska Highway 92, thence along Nebraska Highway 92 to its intersection with U.S. Highway 81, thence along U.S. Highway 81 to its intersection with U.S. Highway 20, thence along U.S. Highway 20 to the Nebraska-Iowa State line). Restriction: The authority granted above is restricted against the transportation of cardboard cartons.

(67) *Paper and paper products* (except commodities in bulk), from points in Tennessee on and east of a line beginning at the intersection of the Kentucky-Tennessee State line and U.S. Highway 25E, thence along U.S. Highway 25E to its intersection with Tennessee Highway 33, thence along Tennessee Highway 33 to Knoxville, thence along U.S. Highway 129 to the Tennessee-North Carolina State line, to points in North Dakota, South Dakota, Nebraska (except

points south and east of a line beginning at the intersection of the Kansas-Nebraska State line and U.S. Highway 77, thence along U.S. Highway 77 to its intersection with Nebraska Highway 2, thence along Nebraska Highway 2 to the Nebraska-Iowa State line), and points in Kansas north and west of a line beginning at the intersection of the Colorado-Kansas State line and U.S. Highway 24, thence along U.S. Highway 24 to its intersection with U.S. Highway 81, thence along U.S. Highway 81 to the Kansas-Nebraska State line. Restriction: The authority granted above is restricted against the transportation of cardboard cartons.

(68) *Paper and paper products* (except commodities in bulk), from Kingsport, Tenn., to points in North Dakota, South Dakota, Nebraska, Kansas (except points south and east of a line beginning at the intersection of the Oklahoma-Kansas State line and U.S. Highway 75, thence along U.S. Highway 75 to its intersection with U.S. Highway 160, thence along U.S. Highway 160 to the Kansas-Missouri State line), Missouri (except points south and east of a line beginning at the intersection of the Kansas-Missouri State line and U.S. Highway 160, thence along U.S. Highway 160 to its intersection with Missouri Highway 39, thence along Missouri Highway 39 to its intersection with Missouri Highway 32, thence along Missouri Highway 32 to Lebanon, thence along Missouri Highway 5 to its intersection with U.S. Highway 54, thence along U.S. Highway 54 to Louisiana, Mo.), points in Oklahoma on, north, and west of a line beginning at the intersection of the Oklahoma-Texas State line and Oklahoma Highway 33, thence along Oklahoma 33 to its intersection with U.S. Highway 77, thence along U.S. Highway 77 to the Oklahoma-Kansas State line, those points in Texas on and north of a line beginning at the intersection of the New Mexico-Texas State line and U.S. Highway 60, thence along U.S. Highway 60 to Amarillo, thence along U.S. Highway 66 to the Texas-Oklahoma State line, points in El Paso and Hudspeth Counties, Texas. Restriction: The authority granted above is restricted against the transportation of cardboard cartons.

(69) *Paper and paper products* (except commodities in bulk), from Tullahoma, Tenn., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, North Dakota, South Dakota (except points south and east of a line beginning at the intersection of the Nebraska-North Dakota State line and South Dakota Highway 47, thence along South Dakota Highway 47 to its intersection with U.S. Highway 16, thence along U.S. Highway 16 to the Minnesota-South Dakota State line), points in Nebraska on, north, and west of a line beginning at the intersection of the Wyoming-Nebraska State line and U.S. Highway 26 thence along U.S. Highway 26 to its intersection with U.S. Highway 385, thence along U.S. Highway 385 to the Nebraska-South Dakota State line, and points in New York. Restriction: The authority granted above is restricted against the transportation of cardboard cartons. (70) *Paper and paper products* (except commodities in bulk), from Nashville, Tenn., to points in North Dakota, Maine, New Hampshire, Vermont, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, points in Virginia on and north of U.S. Highway 50, points in Maryland on and north of U.S. Highway 50, points in South Dakota on, north, and west of a line beginning at the intersection of the South Dakota-Nebraska State line and U.S. Highway 385, thence along U.S. Highway 385 to its intersection with U.S. Highway 16, thence along U.S. Highway 16 to Chamberlain, thence along South Dakota Highway 47 to Highmore, thence along U.S. Highway 14 to the South Dakota-Minnesota State line, and the District of Columbia. Restriction: The authority granted above is restricted against the transportation of cardboard cartons. The purpose of this filing is to eliminate the gateways of the plant site of Laminated and Coated Products Division of St. Regis Paper Co., at Troy, Ohio in 1–7, 9–36, 38–48, and 50–70 above. Lexington, Ky., and the plantsite of Laminated and Coated Products Division of St. Regis Paper Co., at Troy, Ohio in 37. Points in Little River County, Ark., in 8. Chicago Heights, Ill., and the plant site of Laminated and Coated Products Division of St. Regis Paper Co., at Troy, Ohio in 49.

No. MC 52709 (Sub-No. E1), filed June 4, 1974. Applicant: BEKINS VAN LINES, INC., P.O. Box 109, LaGrange, Ill. 60525. Applicant's representative: Robert McClure (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Household goods*, as defined by the Commission, between points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, Wyoming, Nebraska (except points within 50 miles of Sioux City, Iowa), Iowa (except points within 50 miles of Omaha, Nebr.), the District of Columbia, Washington, Utah, Idaho, and Montana, on the one hand, and, on the other, points in Maine; (2) *Household goods* as defined by the Commission, between points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, Wyoming, Nebraska (except points within 50 miles of Sioux City, Iowa), Iowa (except points within 50 miles of Omaha, Nebr.), the District of Columbia, Washington, Utah, Idaho, and Montana, on the one hand, and, on the other, points in New Hampshire; (3) *Household goods*, as defined by the Commission, between points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Wyoming, Nebraska (except points within 50 miles of Sioux City, Iowa), Iowa (except points within 50 miles of Omaha, Nebr.), the District of Columbia, Washington, Utah, Idaho, and Montana, on the one hand, and, on the other, points in Vermont; (4) *Household goods*, as defined by the Commission, between points in Nebraska within 50 miles of Sioux City, Iowa, on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming (points in Colorado)*; and (5) *Household goods*, as defined by the Commission, between points in Maine, on the one hand, and, on the other, points in New York (except points north of a line from Sachets Harbor along New York Highway 3 to Tupper Lake, thence along New York Highway 30 to the junction of New York Highway 28, thence along New York Highway 28 to the junction of U.S. Highway 4, thence along U.S. Highway 4 to the New York-Vermont State line (points in Essex County, Mass.)*. The purpose of this filing is to eliminate the gateways of points in Essex County, Mass., in 1, 2, 3, and 5 above, and points in Colorado in 4 above.

No. MC 83539 (Sub-No. E1), (Correction), filed May 31, 1974, published in the FEDERAL REGISTER November 25, 1974. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Kenneth Week (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size or weight, require the use of special equipment, from points in Delaware to points in Indiana. The purpose of this filing is to eliminate the gateways of Philadelphia and Braddock, Pa. The purpose of this correction is to correct a typographical error.

No. MC 83745 (Sub-No. E5), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and such commodities* generally requiring rigging, special equipment, or specialized handling (except articles requiring special vehicular equipment for over-the-road movements), between points in Fayette

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County, Pa., within 25 miles of Pittsburgh, Pa., west of Pennsylvania Highway 51, on the one hand, and, on the other, points in Ohio on, north, and west of a line beginning at the Ohio-West Virginia State line extending along Ohio Highway 30 to junction Ohio Highway 3, thence along Ohio Highway 3 to junction Ohio Highway 13, thence along Ohio Highway 13 to junction U.S. Highway 33 to the Ohio-West Virginia State line, points in West Virginia on and west of Interstate Highway 77, and Baltimore, Md. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 88368 (Sub-No. E55), filed August 9, 1974. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Ave., Grandview, Mo. 64030. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission: (1) from points in Georgia to points in Illinois (Birmingham, Ala., and points within 100 miles thereof, and points in Mississippi and Missouri)*, and points in Michigan (points in Harlan County, Ky., Florence, Sheffield, and Tuscumbia, Ala., points in Missouri and Mississippi, and Bloomington, Ill., and points within 25 miles thereof)*; (2) from points in Georgia in and north of Muscogee, Chattahoochee, Stewart, Randolph, Terrell, Dougherty, Worth, Tift, Berrien, Atkinson, Ware, and Charlton Counties to points in Texas on, north, and west of a line from the Texas-New Mexico State line along U.S. Highway 80 to Midland, thence along Texas Highway 349 to Lamesa, thence along U.S. Highway 87 to Lubbock, thence along U.S. Highway 82 to Guthrie, thence along U.S. Highway 83 to Paducah, thence along Texas Highway 104 to Quanah, thence along Texas Highway 283 to the Texas-Oklahoma State line (Florence, Sheffield, and Tuscumbia, Ala., points in Mississippi and Missouri, and Waurika or Altus, Okla.)*; (3) from points in Georgia in and north of Carroll, Coweta, Spaulding, Pike, Upson, Crawford, Peach, Houston, Pulaski, Dodge, Telfair, Jeff Davis, Bacon, Appling, Wayne, and Glynn Counties to points in Texas on, north, and west of a line from the Texas-New Mexico State line along U.S. Highway 80 to Dallas, thence along U.S. Highway 75 to the Texas-Oklahoma State line (Florence, Sheffield, and Tuscumbia, Ala., points in Mississippi, points in Missouri, and Broken Bow or Altus, Okla.)*.

(4) From points in Georgia to points in Texas on, north, and west of a line from the Texas-New Mexico State line along U.S. Highway 80 to Dallas, thence along U.S. Highway 75 to the Texas-Oklahoma State line and points in Cherokee County, Tex. (points in Alabama within 100 miles of Birmingham, points in Arkansas, Terral, or Waurika, Okla., Shreveport, La., and points in Cherokee County, Tex.)*; (5) from points in Georgia in and north of Carroll, Coweta, Fayette, Spalding, Lamar, Crawford, Peach, Houston, Dooly, Crisp, Turner, Irwin, Coffee, Ware, and Charlton Counties to points in Cherokee County, Tex. (Florence, Sheffield, and Tuscumbia, Ala., and Shreveport, La.)*; (6) from points in Haralson, Spalding, Cobb, Fulton, Dekalb, Rockdale, Newton, Morgan, Greene, Taliaferro, McDuffie, and Columbia Counties, Ga., to points in Box Elder, Rich, Cache, Morgan, Davis, and Salt Lake Counties, Utah (Florence, Sheffield, and Tuscumbia, Ala., points in Mississippi, Newton, Kans., and points within 15 miles thereof, points in Colorado and Monida, Mont.)*; (7) from points in Georgia to points in and west of Henry, Carroll, Madison, and Hardiman Counties, Tenn. (Florence, Sheffield, or Tuscumbia, Ala.)*; (8) from points in Georgia in and south of Harris, Talbot, Crawford, Bibb, Wilkinson, Johnson, Emanual, Bullock, and Effingham Counties to points in Tennessee in and west of Giles, Marsh, Bedford, Rutherford, Wilson, and Sumner Counties (Florence, Sheffield, or Tuscumbia, Ala.)*. The purpose of this filing is to eliminate the gateways marked with asterisks above.

No. MC 95540 (Sub-No. E789), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the facilities of ITT Gwaltney Company at Smithfield, Va., to points in California, Arizona, New Mexico, Oklahoma, and to those points in Texas on and west of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 59 to its junction with U.S. Highway 77, thence along U.S. Highway 77 to its junction with Interstate Highway 37, thence along Interstate Highway 37 to the Texas-Arkansas State line, and to those points in Arkansas on and west of a line beginning at the Arkansas-Missouri State line and extending along Interstate Highway 55 to its junction with Arkansas Highway 18, thence along Arkansas Highway 18 to its junction with Arkansas Highway 1, thence along Arkansas Highway 1 to its junction with U.S. Highway 70, thence along U.S. Highway 70 to its junction with U.S. Highway 49, thence along U.S. Highway 49 to its junction with U.S. Highway 79, thence along U.S. Highway 79 to its junction with U.S. Highway 167, thence along U.S. Highway 167 to the Arkansas-Louisiana State line. The purpose of this filing is to eliminate the gateway of Washington, Pa.

No. MC 95540 (Sub-No. E790), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the facilities of ITT Gwaltney Co., at Smithfield, Va., to points in Maine, Vermont, and New Hampshire. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E792), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Potato flakes, in mixed loads with frozen potatoes, frozen potato products, frozen onions, or frozen carrots*, from Presque Isle, Maine, to points in Arkansas, New Mexico, Arizona, and California, restricted to the transportation of shipments destined to points in the above-described destination States. The purpose of this filing is to eliminate the gateway of Albany, N.Y.

No. MC 95540 (Sub-No. E794), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, and frozen vegetables*, from points in Maryland and Delaware to points in California, Arizona, New Mexico, Arkansas, Louisiana, Texas, and Oklahoma, restricted to the transportation of shipments destined to points in the above-described destination States. The purpose of this filing is to eliminate the gateway of Washington, Pa.

No. MC 95540 (Sub-No. E795), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen food*, from Rocky Mount, N.C., to points in California, Arizona, New Mexico, and those points in Oklahoma on and north of a line beginning at the Oklahoma-Missouri State line and extending along Interstate Highway 44 to its junction with U.S. Highway 69, thence along U.S. Highway 69 to its junction with Interstate Highway 40, thence along Interstate Highway 40 to its junction with Oklahoma Highway 99, thence along Oklahoma Highway 9 to its its junction with Oklahoma Highway 9,

thence along Oklahoma Highway 9 to its junction with U.S. Highway 177, thence along U.S. Highway 177 to its junction with U.S. Highway 70, thence along U.S. Highway 70 to its junction with U.S. Highway 77, thence along U.S. Highway 77 to the Oklahoma-Texas State line, and to those points in Texas on and northwest of a line beginning at the Texas-Oklahoma State line and extending along Texas Highway 79 to its junction with U.S. Highway 180, thence along U.S. Highway 180 to its junction with Texas Highway 360, thence along Texas Highway 360 to its junction with Interstate Highway 20, thence along Interstate Highway 20 to its junction with Texas Highway 16, thence along Texas Highway 16 to its junction with U.S. Highway 290, thence along U.S. Highway 290 to its junction with U.S. Highway 67, thence along U.S. Highway 67 to the U.S.-Mexico International Boundary line. The purpose of this filing is to eliminate the gateway of Washington, Pa.

No. MC 95540 (Sub-No. E796), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636 Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from those points in New York on and northwest of a line beginning at the New York-Massachusetts State line and extending along New York Highway 2 to its junction with U.S. Highway 4, thence along U.S. Highway 4 to its junction with Interstate Highway 787, thence along Interstate Highway 787 to its junction with U.S. Highway 20, thence along U.S. Highway 20 to its junction with New York Highway 7, thence along New York Highway 7 to its junction with U.S. Highway 11, thence along U.S. Highway 11 to the New York-Pennsylvania State line, to those points in Mississippi on and west of a line beginning at the Mississippi-Louisiana State line and extending along U.S. Highway 82 to its junction with U.S. Highway 61, thence along U.S. Highway 61 to the Mississippi-Louisiana State line. The purpose of this filing is to eliminate the gateway of Russellville, Ark.

No. MC 95540 (Sub-No. E797), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned goods* in vehicles equipped with mechanical refrigeration, from Newburgh, N.Y., to points in Arkansas, Louisiana, and Texas. The purpose of this filing is to eliminate the gateways of points in Pike and Spaulding Counties, Ga.

No. MC 95540 (Sub No. E798), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen potato products*, from Caribou, Maine, to points in California, Arizona, and New Mexico. The purpose of this filing is to eliminate the gateways of points in New York.

No. MC 95540 (Sub No. E799), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen potatoes, frozen potato products, frozen onions, and frozen carrots*, from Corinna, Easton, Portland, Presque Isle, and Washburn, Maine to points in Arkansas. The purpose of this filing is to eliminate the gateway of Washington, Pa.

No. MC 95540 (Sub-No. E800), filed November 25, 1974. Applicant: WATKINS, MOTORS LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses, and dairy products*, as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Orangeburg, S.C., to those points in California on and north of a line beginning at the Pacific Ocean and extending along California Highway 22 to its junction with California Highway 55, thence along California Highway 55 to its junction with California Highway 91, thence along California Highway 91 to its junction with Interstate Highway 15, thence along Interstate Highway 15 to the California-Nevada State line. The purpose of this filing is to eliminate the gateways of points in Pennsylvania.

No. MC 95540 (Sub-No. E801), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen prepared foods* (except in bulk), from the facilities of the Quaker Oats Company at Jackson, Tenn., to points in Rhode Island. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E813), filed November 29, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk, in tank vehicles), from Charlotte and Concord, N.C., to points in Louisiana, Texas, and those points in Mississippi on and north of U.S. Highway 80. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC 95540 (Sub-No. E814), filed November 29, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Frozen foods, from Charlotte, and Concord, N.C., to points in Alabama, Arkansas, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, Wisconsin, and to those points in Indiana on and west of a line beginning at the Indiana-Kentucky State line and extending along U.S. Highway 231 to junction with Indiana Highway 45, thence along Indiana Highway 45 to its junction with Indiana Highway 37, thence along Indiana Highway 37 to its junction with Interstate Highway 465, thence along Interstate Highway 465 to its junction with U.S. Highway 31, thence along U.S. Highway 31 to the Indiana-Michigan State line, and to those points in Michigan on and west of a line beginning at the Michigan-Indiana State line, and extending along U.S. Highway 131 to its junction with U.S. Highway 31, thence along U.S. Highway 31 north to the junction with Interstate Highway 75, thence along Interstate Highway 75 to the U.S.-Canada International Boundary line, and to those points in Kentucky on and west of a line beginning at the Kentucky-Tennessee State line, and extending along U.S. Highway 31E to its junction with Kentucky Highway 90 to its junction with Interstate Highway 65, thence along Interstate Highway 65 to its junction with U.S. Highway 31W, thence along U.S. Highway 31W to its junction with Kentucky Highway 1638, thence along Kentucky Highway 1638 to the Indiana-Kentucky State line. The purpose of this filing is to eliminate the gateway of Gainesville, Ga.

No. MC 95540 (Sub-No. E815), filed November 29, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Charlotte and Concord, N.C., to points in Arizona, California, and New Mexico. The purpose of this filing is to eliminate the gateways of points in Georgia.

No. MC 95540 (Sub-No. E816), filed November 29, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61

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M.C.C. 209 and 766 (except hides and commodities in bulk), from Eau Claire, Wis., to points in Maine, Vermont, Rhode Island, New Jersey, and those points in Delaware on and north of New Jersey Highway 8. The purpose of this filing is to eliminate the gateway of Newburgh, N.Y.

No. MC 95540 (Sub-No. E317), filed December 5, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome P. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Confectionery*, from Bryan, Ohio, to those points in California on and south of a line beginning at the California-Arizona State line and extending along U.S. Highway 66 to its junction with California Highway 58, thence along California Highway 58 to its junction with California Highway 99, thence along California Highway 99 to its junction with California Highway 152, thence along California Highway 152 to its junction with California Highway 1, thence along California Highway 1 to the Pacific Ocean. The purpose of this filing is to eliminate the gateway of Chattanooga, Tenn.

No. MC 95540 (Sub-No. E318), filed December 5, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome P. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen potato products*, from Caribou, Maine, to those points in Missouri on and south of a line beginning at the Missouri-Kansas State line and extending along U.S. Highway 50 to its junction with U.S. Highway 63, thence along U.S. Highway 63 to its junction with Missouri Highway 68, thence along Missouri Highway 68 to its junction with Missouri Highway 5, thence along Missouri Highway 5 to its junction with U.S. Highway 67, thence along U.S. Highway 67 to its junction with Missouri Highway 32, thence along Missouri Highway 32 to the Missouri-Illinois State line. The purpose of this filing is to eliminate the gateway of Gainesville, Ga.

No. MC 106647 (Sub-No. E4), filed May 24, 1974. Applicant: CLARK TRANSPORT CO., INC., 13101 S. Torrence Ave., Chicago, Ill. 60633. Applicant's representative: Edward E. Coit (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks, cabs, and chassis*, new, used, unfinished, and wrecked, in secondary movements, in truckaway and driveaway service, between points in Illinois, Indiana, Maryland, Ohio, Pennsylvania, the District of Columbia, and Warren Township, Macomb County, Mich., on the one hand, and, on the other, Omaha, Nebr., Detroit, Mich., and points in that part of Minnesota south of a line beginning at the Minnesota State line at the junction of the North Dakota-South Dakota State lines, thence along a line extending in an easterly direction through Pine City to the Minnesota-Wisconsin State line. The purpose of this filing is to eliminate the gateway of Toledo, Ohio, or points in Iowa.

No. MC 111545 (Sub-No. E646), (Correction), filed May 30, 1974, published in the FEDERAL REGISTER November 14, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections, the transportation of which, because of size or weight, requires the use of special equipment (except commodities to be used in, or in connection with, main or trunk pipelines), from points in that part of Utah on and south of a line beginning at the Utah-Colorado State line, thence along U.S. Highway 666 to Monticello, thence along U.S. Highway 163 to Crescent Junction, thence along U.S. Highway 6 to junction Interstate Highway 70, thence along Interstate Highway 70 to Salina, thence along Utah Highway 26 to Delta, thence along U.S. Highway 6 to the Utah-Nevada State line, to points in that part of the Lower Peninsula of Michigan on, north, and east of a line beginning at the Michigan-Indiana State line, thence along Michigan Highway 66 to junction Interstate Highway 96, thence along Interstate Highway 96 to junction Michigan Highway 46, thence along Michigan Highway 46 to Muskegon. The purpose of this filing is to eliminate the gateways of points in that part of Missouri within 100 miles of Kansas City, Kans., and the plant site of Continental Homes, Inc., at or near Malden, Mo. The purpose of this correction is to correct the "E" number, previously published as E506.

No. MC 113843 (Sub-No. E70) (Correction), filed May 6, 1974, published in the FEDERAL REGISTER August 1, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Cortland, N.Y., to Sioux City, Iowa. The purpose of this filing is to eliminate the gateway of Newark, N.J. The purpose of this correction is to correct a typographical error.

No. MC 113843 (Sub-No. E483) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER September 12, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*; (1) from New York, N.Y., and points in Passaic, Sussex, Warren, Essex, Bergen, Hudson, Somerset, Morris, and Union Counties, N.J., to points in that part of Tennessee on and west of U.S. Highway 51; (2) from points in Middlesex County, N.J., to Dyersburg, Tenn.; (3) from Bradford and Susquehanna Counties, Pa., to points in that part of Tennessee on and west of a line beginning at the Kentucky-Tennessee State line and extending along Tennessee Highway 51 to junction Tennessee Highway 52, thence along Tennessee Highway 52 to junction Tennessee Highway 53, thence along Tennessee Highway 53 to junction Tennessee Highway 135, thence along Tennessee Highway 135 to Cookeville, thence along Tennessee Highway 42 to junction U.S. Highway 70S, thence along U.S. Highway 70S to McMinnville, thence along Tennessee Highway 55 to Tullahoma, thence along Tennessee Highway 130 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Tennessee Highway 97, thence along Tennessee Highway 97 to the Tennessee-Alabama State line; (4) from points in Lackawanna County, Pa., to points in that part of Tennessee on and west of Interstate Highway 65; (5) from Pittston and Wilkes-Barre, Pa., to Jackson, Dyersburg, and Memphis, Tenn., (6) from points in Somerset County, N.J., to Dyersburg and Memphis, Tenn.; (7) from points in Pike County, Pa., to points in that part of Tennessee on and west of Interstate Highway 65; and (8) from points in Monroe County, Pa., to Dyersburg, Jackson, and Memphis, Tenn. The purpose of this filing is to eliminate the gateways of Elmira, N.Y., and Detroit, Mich. (via Canada). The purpose of this correction is to correct a typographical error.

No. MC 113908 (Sub-No. E139), filed September 17, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65803. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Distilled spirits used as vinegar stock*, from Bailey, Belding, and Fremont, Mich., to Lakeland, Fla., restricted against the transportation of vinegar, cider, and cider stock, from Bailey, Mich., to points in Ohio and Kentucky. The purpose of this filing is to eliminate the gateway of Bardstown, Ky.

No. MC 115603 (Sub-No. E1), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94630, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and*

supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except the stringing or picking up of pipe in connection with main or trunk pipelines); (2) *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipe line rights-of-way; and (3) *Earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Oklahoma, on the one hand, and, on the other, points in North Dakota on and west of a line beginning at the United States-Canada International Boundary line and extending along North Dakota Highway 30 to Lehr, N. Dak., thence along unnumbered highway to Ashley, N. Dak., and thence along North Dakota Highway 3 to the North Dakota-South Dakota State line. The purpose of this filing is to eliminate the gateway of points in Texas.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-28476 Filed 12-17-74;8:45 am]

[Notice No. 101]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

DECEMBER 13, 1974.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications *as filed* by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 114552 (Sub-No. 67) (Republication) filed August 24, 1972, and published in the FEDERAL REGISTER issue of September 21, 1972, and republished this issue. Applicant: SENN TRUCKING COMPANY, a Corporation, P.O. Box 333, Newberry, S.C. 29108. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, S.C. 29201. An Order of the Commission, Review Board Number 4, dated July 18, 1973, and served July 30, 1973, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of (a) *plastic pipe* from Williamsport, Md., to points in Connecticut, Illinois, Indiana, Kentucky, Maine, Massachusetts, Michigan, Mississippi, New Hampshire, Rhode Island, and Tennessee (except points in Tennessee within 150 miles of Wythe County, Va.); and (b) *vinyl siding* from Williamsport, Md., to points in Alabama, Connecticut, Florida, Illinois, Indiana, Kentucky, Maine, Massachusetts, Michigan, Mississippi, Rhode Island, Vermont, points in Minnesota on and east of a line extending along the Mississippi River from the Minnesota-Iowa border to the junction of the Mississippi River with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada, and points in Tennessee (except points in Tennessee within 150 miles of Wythe County, Va.); that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate a modification in the commodity and territorial descriptions. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief on this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

APPLICATIONS UNDER SECTIONS 5(a) AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under Sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 66746 (Sub-No. 18), filed October 25, 1974. Applicant: JOHN L. KERR AND G. O. KERR, JR., PARTNERS, doing business as SHIPPERS EXPRESS, P.O. Box 8308, Jackson, Miss. 39204. Applicant's representative: Dan McCullen, P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Jackson, Miss. and the Mississippi-Louisiana State Boundary line: From Jackson, Miss. over U.S. Highway 51 and also Interstate Highway 55 to the Mississippi-Louisiana State Boundary line, and return over the same route, serving all intermediate points, restricted such that the authority requested in this proceeding if granted shall not be severable by sale or otherwise from the underlying irregular-route authority presently held by applicants and upon approval of the requested authority the certificates now held by applicants shall be amended by placing a restriction thereon, providing that applicants shall not, pursuant to the irregular-route authority contained in such certificate, transport shipments moving between any points authorized herein, as well as points in their respective commercial zones which are to be served by applicants in regular-route operations.

NOTE.—Applicant states that it presently holds irregular-route authority duplicating the authority sought herein. Applicant further states the purpose of the instant application is to convert its irregular-route authority to regular-route authority. This proceeding is directly related to MC-F-12354 which was published in the FEDERAL REGISTER issue of November 13, 1974. If a hearing is deemed necessary, the applicant requests it be held at Jackson, Miss.

No. MC 98742 (Sub-No. 13), filed December 4, 1974. Applicant: THE ROCKET FREIGHT LINES COMPANY, 2921 Dawson Road, Tulsa, Okla. 74110. Applicant's representative: I. R. Chenoweth, Suite 1012 Mayo Bldg., 420 South Main Street, Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) Between Okla.; (5) Between the junction of Oklahoma-Kansas State line

north of Quapaw, Okla., over U.S. Highway 66, serving the termini and all intermediate points; (3) Between the Oklahoma-Kansas State line north of Quapaw, Okla., and Tulsa, Okla.; over Highway 66, serving the termini and all intermediate points; (3) Between the junction of U.S. Highway 66 and U.S. Highway 69, west of Vinita, Okla., and Muskogee, Okla., over U.S. Highway 69, serving the termini and all intermediate points and off-route points of Tullahassee, Porter, Redbird, and Coweta, Okla.; (4) Between Muskogee, Okla., and the Oklahoma-Texas State Line south of Colbert, Okla., over U.S. Highway 69 serving the points of Muskogee, McAlester, Atoka, Durant, and Colbert, Okla., (5) Between the junction of Oklahoma U.S. Highway 60, thence over U.S. Highway 60 to Ponca City, Okla., thence over U.S. Highway 77 to the Oklahoma-Kansas Border north of Newkirk, Okla., thence over U.S. Highway 77 to its junction with U.S. Highway 60, thence over U.S. Highway 60 to its junction with Oklahoma Highway 18, thence over Oklahoma Highway 18 to the Oklahoma-Kansas Border north of Grainola, Okla., and return over the same route serving the termini and all intermediate points, and the off-route points of Autwine, Kildare, Chilocco, Uncas, Apperson, Burbank, Webb City, Lyman, and Foraker; (9) Between Tulsa, Okla., and Muskogee, Okla.: From Tulsa over U.S. Highway 64 to its junction with Oklahoma Highway 162 (U.S. Highway 62) thence over Oklahoma Highway 162 to Taft, Okla., thence over Oklahoma Highway 162 to its junction with U.S. Highway 64, thence over U.S. Highway 64 to Muskogee, Okla., and return over the same route, serving all intermediate points, except Bixby, Okla., and including the off-route points of Jamesville and Yahola, Okla.

(10) Between Oklahoma City, Okla. and Miami, Okla.; From Oklahoma City, over Interstate Highway 44 to Miami, Okla., and return over the same route, serving no intermediate points, as an alternate route for operating convenience only; (11) Between Oklahoma City, Okla., and Muskogee, Okla.: From Oklahoma City, Okla., over Interstate Highway 40 to Checotah, thence over U.S. Highway 69 to Muskogee, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only; (12 Between Tulsa, Okla., and McAlester, Okla.: From Tulsa over U.S. Highway 75 to Indian Nation Turnpike to McAlester, serving no intermediate points an an alternate route for operating convenience only; (13) Between Blackwell, Okla., and Tulsa, Okla.: From Blackwell over Oklahoma Highway 11 to its junction with Interstate Highway 35, thence over Interstate Highway to its junction with U.S. Highway 64 west of Perry, thence over U.S. Highway 64 to Tulsa, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only; (14) Between Ponca City, Okla., and Tulsa, Okla.; From Ponca City over U.S. Highway 177 to its junction with U.S. Highway 64, thence over U.S. Highway 64 to Tulsa and return over the same route serving no intermediate points, as an alternate route for operating convenience only; and (15) Between junction U.S. Highway 60 and Oklahoma Highway 20 and junction Oklahoma Highway 11 and Oklahoma Highway 20: From junction U.S. Highway 60 and Oklahoma Highway 20, thence over Oklahoma Highway 20 to junction Oklahoma Highway 11 serving no intermediate points, as an alternate route for operating convenience only.

NOTE.—This application is to convert intrastate registered authority to certificated authority. Present registered authority in MC-98742 Sub-No. 9, within the state of Oklahoma. This is a matter directly related to the Section 5 proceeding in MC-F-12382 published in the Federal Register of December 18, 1974. If a hearing is deemed necessary, the applicant requests it be held at either Tulsa or Oklahoma City, Okla.

No. MC 121393 (Sub-No. 5) (Correction), filed October 18, 1974, published in the FEDERAL REGISTER issue of November 27, 1974, and republished as corrected this issue. Applicant: HEMPSTEAD DELIVERY CO., INC., 407 West 35th Street, New York, N.Y. 10001. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wearing apparel*, as described in Appendix X in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, and *accessories and dry goods*, between New York, N.Y., on the one hand, and, on the other, points in Nassau and Suffolk Counties, N.Y.; and (3) *wearing apparel and accessories*, between points in Bergen, Essex, Hudson, Middlesex, Passaic, and Union Counties, N.J., on the one hand, and, on the other, points in Nassau and Suffolk Counties, N.Y.

NOTE.—The purpose of this republication is to change MC-F-12344 to MC-F-12345. Applicant seeks to purchase portion of the authority held by Empire Carriers Corporation. This is a matter directly related to the Section 5 proceeding in MC-F-12345 published in the FEDERAL REGISTER issue of October 31, 1974. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC-F-11748. (Amendment) (COASTAL INDUSTRIES INC.—CONTROL—P.B. MUTRIE MOTOR TRANSPORTATION, INC.), published in the December 26, 1972, issue of the FEDERAL REGISTER on page 28675. By amendment filed November 25, 1974, the subject application would be amended so as to provide for merger of P. B. Mutrie Motor Transportation, Inc. (Mutrie), into Coastal Tank Lines, Inc. (Coastal).

No. MC-F-12372. Authority sought for control by JAMES S. PEDLER, JR., EDWARD T. PEDLER, J. F. POETZINGER, FRANK B. REID, C. O. BELL, AND R. A. VANDEVERE, individuals presently in control of CASCADE INDUSTRIES (Cascade), a non carrier holding company, to acquire control of CHAMPION INVESTMENTS, INC., (Champion). Cascade owns all of the stock of Champion; Champion owns directly or indirectly the stock of several motor common carriers: (1) Champion owns all of the stock of Paceway, Inc. (Paceway), a non carrier holding company, which, in turn, owns all the stock of Glosson Motor Lines, Inc., (Glosson). Glosson, in turn, has a wholly owned motor carrier subsidiary, State Motor Lines, Ind. (State); (2) Champion owns all the stock of R.T.C., Inc., a non carrier holding company. R.T.C., Inc., owns all the stock of Renner Motor Lines, Inc.; and (3) Champion owns all the stock of P. B. Mutrie Motor Transportation, Inc. (Mutrie).

NOTE.—(a) In No. MC-F-11748, authority is sought for control by Coastal Industries, Inc., of the operating rights and property of P. B. Mutrie Transportation, Inc., Coastal controls Coastan Tank Lines, Inc., a motor common carrier, and in No. MC-F-12108, authority sought for merger by Glosson Motor Lines, Inc., of the operating rights and property of State Motor Lines, Inc. Applicants' attorney: Homer S. Carpenter, 618 Perpetual Bldg., 1111 E Street, NW., Washington, DC 20004. (Glosson), is authorized to transport general commodities and certain specified commodities as a common carrier over irregular routes, from, to, and between points in the States of North Carolina, Maryland, Virginia, New York, New Jersey, Pennsylvania, Georgia, Maine, South Carolina, Connecticut, Rhode Island, New Hampshire, Vermont, Massachusetts, Delaware, Florida, Alabama, Tennessee, Kentucky, Ohio, Arkansas, Louisiana, Mississippi, Texas, Oklahoma, West Virginia, and the District of Columbia, with certain restrictions, as more specifically described in Docket No. MC-41255 and Sub-numbers thereunder. (Renner) is authorized to transport general commodities and certain specified commodities, as a common carrier over irregular routes, from, to, and between points in the States of Ohio, West Virginia, Pennsylvania, Maryland, New York, Delaware and the District of Columbia, with certain restrictions, as more specifically described in Docket No. MC-10955 and Sub-numbers thereunder.

(Mutrie) is authorized to transport general commodities, and numerous other specified commodities, as a common carrier, over regular and irregular routes, from, to, and between specified points in the States of Massachusetts, Rhode Island, New York, New Hampshire, Connecticut, Maine, New Jersey, Vermont, Pennsylvania, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, Ohio, West Virginia, California, District of Columbia, South Carolina, North Carolina, Wisconsin, Virginia, Georgia, Alabama, Tennessee, Minnesota, Missouri, Arkansas, Florida, Louisiana, Nebraska, Mississippi, and Texas, with certain restrictions, as more specifically described in Docket No. MC-31600 and Sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carriers involved. The foregoing summaries is believed to be sufficient for purposes of public notice regarding the nature and extent of the carriers operating rights, without stating, in full, the entirety, thereof.

NOTE.—Motion to dismiss for lack of jurisdiction is filed concurrently herewith by applicant.

No. MC-F-12376. Authority sought for control by GRAVES TRUCK LINE, INC.,

2130 So. Ohio, Salina, KS 67401, of CAPITOL TRUCK LINES, INC., 300 W. First St., Topeka, KS 66603, and for acquisition by WILLIAM H. GRAVES AND JOHN A. GRAVES, both of Salina, KS 67401, and LOWELL P. GRAVES, 92 Shawnee Ave., Kansas City, KS, of control of CAPITOL TRUCK LINES, INC., through the acquisition by GRAVES TRUCK LINE, INC. Applicants' attorneys: John E. Jandera, 641 Harrison St., Topeka, KS 66603, and Frank W. Taylor, Jr., Suite 812, 1221 Baltimore Ave., Kansas City, MO 64105. Operating rights sought to be controlled: *General commodities* with exceptions, as a *common carrier* over regular routes radiating between Kansas City to St. Joseph, Mo., and Pittsburgh, Independence, and Topeka, Kans., serving various intermediate and off-route points, GRAVES TRUCK LINE, INC., is authorized to operate as a *common carrier* in Arkansas, Colorado, Iowa, Kansas, Missouri, Nebraska, New Mexico, Texas, and Oklahoma. Application has been filed for temporary authority under section 210 a(b).

MC-F-12377. Authority sought for purchase by CENTRAL TRANSPORT, INCORPORATED, P.O. Box 5044, Uwharrie Road, High Point, N.C. 27262, of a portion of the operating rights of PIEDMONT PETROLEUM PRODUCTS INC., P.O. Box 1383, 1204 Gallop Avenue, Chesapeake, VA. 23320, and for acquisition by A. L. HONBARRIER, also of High Point, N.C. 27262, address, of control of such rights through the purchase. Applicants' attorney: E. Stephen Heisley, 666 11th Street NW., Washington, D.C., 20001. Operating rights sought to be transferred: *Chemicals*, in bulk, as a *common carrier*, over irregular routes, from Grasselli and Passaic, New Jersey, and Philadelphia, Pa., to Norfolk, Virginia, with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a *common carrier* in all states in the United States except Alaska and Hawaii. Application has been filed for temporary authority under section 210a (b). Under the proposed transaction vendee proposes to tack at Norfolk, Va., and then at any point in North Carolina or South Carolina to serve any point which Central could serve in MC 11642 and subs thereto, including any pending applications, especially Subs 97 and 98. After the authority sought herein is authorized and the transaction consummated, vendee herein intends to file an application to eliminate any existing gateways.

No. MC-F-12378. Authority sought for purchase by JAMES H. HARTMAN & SON, INC., P.O. Box 55, Pocomoke City, MD 21851, of a portion of the operating rights and property of PIEDMONT PETROLEUM PRODUCTS, INCORPORATED, 1204 Gallop Ave., Chesapeake, VA 23324, and for acquisition by D. PAGE ELMORE, Painter, VA 23420, of control of such rights and property through the purchase. Applicants' attorney: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. Operating rights sought to be transferred: *Lumber*, as a *common carrier*, over irregular routes, from Norfolk, Va., and points within 15 miles thereof, to Washington, D.C., and New York, N.Y., points in Virginia, Maryland, Delaware, those in that part of Pennsylvania on and east of U.S. Highway 11, those in that part of New Jersey on and within 15 miles west of U.S. Highway 1, and those in that part of New Jersey east of U.S. Highway 1; *oysters*, from Norfolk, Va., to Boston, Mass.; fish and scallops, from Rockland and Portland, Me., Boston and Gloucester, Mass., New York, N.Y., Cape May, Wildwood, and Beach Haven, N.J., to Norfolk, Va.; *seafood*, from Portsmouth and Norfolk, Va., to Washington, D.C., Baltimore, Md., Wilmington, Del., Philadelphia, Pa., and New York, N.Y.; *agricultural commodities*, from Elizabeth City, N.C., and points in Norfolk, Princess Anne, and Nansemond Counties, Va., to New York, N.Y., Newark, N.J., Philadelphia and Scranton, Pa., Baltimore, Md., and Washington, D.C.; *oils, grease, and empty oil containers*, from Marcus Hook, Pa., to Norfolk, Va.; *electric storage batteries*, from New Brunswick, N.J., to Norfolk, Va.

Malt beverages, from Trenton, N.J., and Wilmington, Del., to Norfolk, Va., from Philadelphia, Reading and DuBois, Pa., and Orange and Newark, N.J., to Norfolk, Va., from New York, N.Y., and Newark, N.J., to Newport News, Va., from New York, N.Y., Pottsville, Pa., and Baltimore, Md., to Portsmouth and Norfolk, Va., from Norfolk, Va., to Charles Town and Martinsburg, W. Va., and points in Maryland and the District of Columbia; and return with *empty malt beverage containers, creosoted or otherwise chemically preserved poles, piling, lumber*, and *cross and switch ties, from* Norfolk, Va., and points within 25 miles of Norfolk, to points in Delaware, Maryland, New Jersey, North Carolina, Pennsylvania, and the District of Columbia, from Norfolk, Va., and points within 25 miles thereof, to points in Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; *poles, piling, lumber*, and *ties, creosoted or otherwise chemically preserved*, from Norfolk, Va., and points within 25 miles thereof, to points in Connecticut, New York, and West Virginia; *prefabricated metal buildings*, complete or in sections, from Virginia Beach, Va., to points in Delaware, Maryland, New Jersey, and North Carolina; *composition board* and *particleboard*, from Chesapeake, Va., to Washington, D.C., New York, N.Y., points in Virginia, Maryland, and Delaware, and certain specified points in New Jersey. Vendee is authorized to operate as a *common carrier* in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Washington, and West Virginia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-12379. Authority sought for purchase by COURIER-NEWSOM EXPRESS, INC., P.O. Box 270, Columbus, IN 47201, of the operating rights and property of BERGLUND TRUCKING, INC., 124 S. Wisconsin Ave., Addison, IL 60101, and for acquisition by PAUL ROBERT NEWSOM, also of Columbus, IN 47201, of control of such rights and property through the purchase. Applicants' attorneys: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603, and Harold Bell, 33 N. LaSalle St., Chicago, IL 60602. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC 96705 (Sub-No. 1), covering the transportation of specified commodities, as a common carrier in interstate commerce, within the State of Illinois. Vendee is authorized to operate as a *common carrier* in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, Tennessee, West Virginia, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 69801 (Sub-No. 39), is a matter directly related.

Under the proposed transaction vendee proposes to tack at common points in the Chicago Commercial Zone as well as common points in McHenry and DeKalb Counties, Ill. After the authority sought herein is authorized and transaction consummated, vendee herein intends to file an application to eliminate any existing gateways.

No. MC-F-12380. Authority sought for purchase by BELGER CARTAGE SERVICE, INC., 2100 Walnut St., Kansas City, MO 64108, of a portion of the operating rights and property of GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, OK 73106, and for acquisition by JOHN BELGER and LARRY BELGER, also of Kansas City, MO 64108, of control of such rights and property through the purchase. Applicants' attorney, and representative: Dick L. Shaw, 2100 Walnut St., Kansas City, MO 64108, and Frank W. Taylor, Jr., 1221 Baltimore Ave., Kansas City, MO 64105. Operating rights sought to be transferred: *Machinery, tools* and *mine* supplies, as a *common carrier*, over irregular routes, between points in Oklahoma and Arkansas within 75 miles of Fort Smith, Ark., including Fort Smith, Ark. Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12381. Authority sought for purchase by ARROW TRUCKING CO., P.O. Box 7280, Tulsa, OK 74105, of a portion of the operating rights of D & H TRUCKING, INC., P.O. Box 3158, Tulsa, OK 74107, and for acquisition by J. W. PIELSTICKER, and T. N. WORD, III, both of Tulsa, OK 74105, of control of such rights through the purchase. Applicants' attorney: J. G. Dail, Jr., 1111 E

St. NW., Washington, D.C. 20004. Operating rights sought to be transferred: *Machinery, equipment, materials, and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe line, including the stringing and picking up thereof, except the stringing and picking up of main or trunk pipe lines, and *machinery, equipment, materials, and supplies* used in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, as a common carrier over irregular routes, between points in Kansas, on the one hand, and, on the other, points in Colorado, Illinois, Missouri, Nebraska, New Mexico, and Wyoming. Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b). Under the proposed transaction vendee proposes to tack its authority at points in Kansas to operate between points in Texas, Oklahoma, Arkansas, Louisiana, and Mississippi, on the one hand, and, on the other, points in New Mexico, Colorado, Wyoming, Nebraska, Missouri, and Illinois. After the authority sought herein is authorized and the transaction consummated, vendee herein intends to file an application to eliminate any existing gateways.

MC-F-12382. Authority sought for purchase by ROCKET FREIGHT LINES COMPANY, 2921 Dawson Road, Tulsa, OK 74110, of the operating rights and property of BEE LINES FREIGHT, INC., 449 South State Street, Tahlequah, OK 74464, and for acquisition by A. W. Jenkins, also of Tulsa, OK 74110, of control of such rights through the purchase. Applicants' attorney: I. E. Chenoweth, Suite 1012, Mayo Building, 420 South Main Street, Tulsa, OK 74103. Operating rights sought to be transferred: *General commodities*, with exceptions, as a *common carrier*, over regular routes, between Fort Smith, Ark., and Hulber, Okla., serving the intermediate points of Westville, Stilwell, Titanic, and Tahlequah, Okla., and intermediate points located on U.S. Highways 59 and 62, between Tahlequah, Okla., and Muskogee, Okla., serving all intermediate points. Vendee is authorized to operate as a *common carrier* in Oklahoma. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 98742 (Sub-No. 13), is a matter directly related.

No. MC-F-12383. Authority sought for purchase by GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 1665, Grand Island, NE 68801, of a portion of the operating rights of J. E. LAMMERT TRANSFER, INC., P.O. Box 488, Grand Island, NE 68801, and for acquisition by JAMES D. PIRNIE, also of Grand Island, NE 68801, of control of such rights through the purchase. Applicants' attorney: Gailyn L. Larsen, 521 So. 14th St., P.O. Box 81849, Lincoln NE 68501. Operating rights sought to be transferred: *Malt beverages*, as a *common carrier* over irregular routes, from St. Paul and Minneapolis, Minn., to Grand Island and North Platte, Nebr., and return with *empty malt beverage containers*, *malt beverages*, in containers, from St. Paul, Minn., and Peoria, Ill., to McCook, Nebr., and return with *empty malt beverage containers*. Vendee is authorized to operate as a *common carrier* in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, Pennsylvania, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

No. MC-F-12384. Authority sought for purchase by WISCONSIN-PACIFIC EXPRESS, INC., P.O. Box 190, Weyauwega, WI 54983, of a portion of the operating rights of KUJAK BROS. TRANSFER, INC., P.O. Box 677, Winona, MN 55987, and for acquisition by BERNIE KRUSE, also of Weyauwega, WI 54983, of control of such rights through the purchase. Applicants' attorney: Nancy J. Johnson, 4506 Regent St., Suite 100, Madison, WI 53705. Operating rights sought to be transferred: *General commodities*, excepting among others, Classes A and B explosives, household goods, as a *common carrier*, over irregular routes, from South St. Paul, St. Paul, and Minneapolis, Minn., to points in the Towns of Arcadia, Etterick, and Preston, Trempealeau County, and those in the Towns of Glencoe and Montana, Buffalo County, Wis., from Winona, Minn., to points in the Towns of Buffalo, Cross, and Glencoe, Buffalo County, and the Town of Trempealeau, Trempealeau County, Wis., from Winona, Minn., and points in Minnesota within 35 miles of Winona, to Trempealeau, Wis., and points in the Towns of Dodge, Arcadia, and Gale, in Trempealeau County, Wis. Vendee is authorized to operate as a common carrier in Minnesota and Wisconsin. Application has not been filed for temporary authority under section 210a(b). Under the proposed transaction vendee proposes to tack at St. Paul, South St. Paul, and Minneapolis, Minn. After the authority sought herein is authorized and the transaction consummated, vendee herein intends to file an application to eliminate any existing gateways.

PROPOSED NOTICE

Burlington Northern Inc., a common carrier by rail, with headquarters at St. Paul, Minnesota, hereby gives notice that on November 7, 1974, it filed an application with the Interstate Commerce Commission pursuant to Section 5(2) of the Interstate Commerce Act for an order authorizing trackage rights over forty-one (41) miles of Union Pacific Railroad Company trackage between Hastings and Kearney, Nebraska. This application has been assigned Finance Docket No. 27785. The line of Union Pacific Railroad Company over which Burlington Northern, Inc. seeks trackage rights is located east of Lincoln, Nebraska, in the south-central portion of the State of Nebraska. Applicant Burlington Northern Inc.'s attorney is Richard M. Gleason, Burlington Northern Inc., 176 East Fifth Street, St. Paul, Minnesota 55101. In the opinion of the Applicant, the proposal is not a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 C.F.R. 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation—Nat'l Environmental Policy Act of 1969*, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (b)(1)–(5), 340 I.C.C. 431, 461. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission on or before January 17, 1975.

BURLINGTON NORTHERN, INC.

NOTICE OF PROPOSED ACQUISITION OF TRACKAGE

Notice is hereby given that the Missouri Pacific Railroad Company has filed an application with the Interstate Commerce seeking authority to acquire and operate certain segments of trackage located in Leavenworth County, Kansas, which segments are now owned in whole or in part by the Union Pacific Railroad Company and are involved in or related to that company's abandonment application docketed as AB-33 (Sub-No. 8). The application of the Missouri Pacific Railroad Company has been assigned Finance Docket No. 27787.

(i) The name and address of applicant are as follows: Missouri Pacific Railroad Company, 210 North 13th Street, St. Louis, Missouri 63103.

The name and address of applicant's attorney are as follows: Mr. R. H. Stahlheber, General Attorney-Commerce, Missouri Pacific Railroad Company, 210 North 13th Street, St. Louis, Missouri 63103.

(ii) The segments of exclusively owned Union Pacific Railroad Company trackage to be acquired and operated are:

(1) The segment of branch line between mileposts 4.03 and 4.29 at Cochrane, Kansas; and

(2) Approximately 7,095 feet of side track, approximately 6,735 feet of which are at Leavenworth, Kansas, and approximately 360 feet of which are at Alfa (Cochrane), Kansas.

The segments as to which the Missouri Pacific Railroad Company seeks to acquire the Union Pacific Railroad Company's interests in trackage now jointly owned are as follows:

(1) Between Union Pacific mileposts 0.00 and 0.07 and between mileposts 0.10 and 4.03 at Leavenworth, Kansas;

(2) Approximately 4,372 feet of yard tracks at Leavenworth; and

(3) Approximately 6,406 feet of siding at Alfa (Cochrane), Kansas.

The acquisition of Union Pacific Railroad Company's interest in the jointly owned line between Leavenworth and Cochrane, Kansas, will enable the Missouri Pacific Railroad Company to continue its present main line operations between Kansas City, Missouri, and Omaha, Nebraska. Acquisition of the other segments by the Missouri Pacific Railroad Company will enable it to continue rail service to Union Pacific Railroad Company industries which would otherwise be left without service as a result of that company's proposed abandonment.

Applicant states that the authority sought and the requested Commission action will have no significant effect on the quality of human environment. In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation-Nat'l Environmental Policy Act of 1969*, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include in Ex Parte No. 55 (Sub-No. 4), supra, Part (b)(1)–(5), 340 I.C.C. 431, 461.

The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission on or before January 17, 1975.

MISSOURI PACIFIC RAILROAD COMPANY.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29468 Filed 12-17-74;8:45 am]

[Notice No. 41]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

DECEMBER 13, 1974.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 C.F.R. 1042.4(c)(11) and notice thereof to all interested persons is hereby given as provided in such rules (49 C.F.R. 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 C.F.R. 1042.4(c)(12) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Deviation No. 138), ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, Ohio 44309, filed November 26, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Hartford, Conn., over Connecticut Highway 15 to junction Connecticut Highway 195, thence over Connecticut Highway 195 to junction U.S. Alternate Highway 44, thence over U.S. Alternate Highway 44 to junction U.S. Highway 44 thence over U.S. Highway 44 to junction Connecticut Highway 101, thence over Connecticut Highway 101 to junction Connecticut Highway 12, (2) From Providence, R.I., over U.S. Highway 44 to Putnam, Conn., (3) From Worcester, Mass., over Massachusetts Highway 12 to Massachusetts-Connecticut State line, thence over Connecticut Highway 12 to Putnam, Conn., and (4) From Southbridge, Mass., over Massachusetts Highway 169 to the Massachusetts-Connecticut State line, thence over Connecticut Highway 169 to junction Connecticut Highway 171, thence over Connecticut Highway 171 to Putnam, Conn., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Hartford, Conn., over U.S. Highway 5 to New Haven, Conn., thence over U.S. Highway 1 to junction Connecticut Highway 32, thence over Connecticut Highway 32 to junction Connecticut Highway 12, thence over Connecticut Highway 12 to junction Connecticut Highway 101, (2) From Providence, R.I., over Rhode Island Highway 3 to Westerly, R.I., thence over U.S. Highway 1 to Groton, Conn., thence over Connecticut Highway 32 to junction Connecticut Highway 12, thence over Connecticut Highway 12 to Putnam, Conn., (2) From Worcester, Mass., over U.S. Highway 20 to Springfield, Mass., thence over U.S. Highway 5 via Hartford, Conn., to New Haven, Conn., thence over U.S. Highway 1 to junction Connecticut Highway 32, thence over Connecticut Highway 32 to junction Connecticut Highway 12, thence over Connecticut Highway 12 to Putnam, Conn., and (4) From Southbridge, Mass., over Massachusetts Highway 131 to U.S. Highway 20, thence over the routes described in (3) above and return over the same routes.

No. MC 89723 (Deviation No. 31), MISSOURI PACIFIC TRUCK LINES, INC., 210 North 13th Street, St. Louis, Mo. 63103, filed December 5, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Kansas Highway 9 and Kansas Highway 15 over Kansas Highway 15 to junction Interstate Highway 70, thence over Interstate Highway 70 to junction U.S. Highway 81 near Salina, Kans., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From junction Kansas Highway 9 and Kansas Highway 15 over Kansas Highway 9 to Concordia, Kans., thence over U.S. Highway 81 to junction Interstate Highway 70 and return over the same route.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29469 Filed 12-17-74;8:45 am]

[Notice No. 205]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

DECEMBER 16, 1974.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before January 7, 1975. Pursuant to Section 17 (8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75263. By order of December 9, 1974 Division 3, acting as an Appellate Division, approved the transfer to Seco Trucking Co., a corporation, Mason City, Iowa, of the operating rights in Certificates No. MC 127622 and MC 127622 (Sub-No. 1) issued February 18, 1966 and July 25, 1969 respectively to Clyde Love, doing business as Clyde Love

Distributing Company, Joplin, Mo., authorizing the transportation of malt beverages from St. Louis, Mo. to Coffeyville and Frontenac, Kan., Thomas F. Kilroy, P.O. Box 624, Springfield, Va., 22150 Attorney for applicants.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29471 Filed 12-17-74;8:45 am]

[Notice No. 204]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

DECEMBER 18, 1974.

Synopses of orders entered by Division 3 of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 C.F.R. Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's General Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before January 17, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

Finance Docket No. 27604. By order entered 12.6.74 the Motor Carrier Board approved the transfer to ABC Trans-National Transport, Inc., New York, N.Y., of that portion of the operating rights set forth in Fifth Amended Permit and Order No. FF-68, issued August 6, 1965, to National Carloading Corporation, New York, N.Y., authorizing operations in interstate commerce as a freight forwarder of general commodities, except household goods, between points in the United States; and from, to, or between points in Alaska and Hawaii, and points in numerous specified states. H. Neil Garson, 1400 North Uhle St., Arlington, Va. 22201, attorney for applicants.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29472 Filed 12-17-74;8:45 am]

[Notice No. 166]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 12, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 76065 (Sub-No. 26TA), filed December 4, 1974. Applicant: EHRLICH-NEWMARK TRUCKING CO., INC., 505-509 West 37th Street, New York, N.Y. 10018. Applicant's representative: Martin Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, on hangers and in containers, and materials, supplies, and equipment used in the manufacture of wearing apparel, except commodities in bulk, between New York, N.Y., and points in New Jersey, on the one hand, and, on the other, Dublin, Elkton, Fairfield, Independence, and Staunton, Va., for 180 days. Supporting shipper(s): Jane Colby, 113 4th Avenue, New York, N.Y., Rockingham Sleepwear, Elkton, Va. 27117, Dublin Garment Co., Inc., Dublin, Va., Loritil, Ind., 152 Madison Avenue, New York, N.Y. 10016. Grayson Garment Co., Inc. Independence, Va. 24348. Send protest to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission 26 Federal Plaza, New York, N.Y. 10007.

No. MC 111401 (Sub-No. 438TA), filed December 4, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic plastics*, dry, in bulk, in tank vehicles, from the plantsite of Georgia-Pacific Corporation at or near Plaquemine, La., to points in Arkansas, Arizona, California, Colorado, Delaware, Florida, Iowa, Kentucky, Massachusetts, Mississippi, Missouri, North Carolina, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, and Tennessee, for 180 days. Supporting shipper: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old P.O. Bldg., 215 NW Third, Oklahoma City, Okla. 73102.

No. MC 111729 (Sub-No. 482TA), filed December 5, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods, commodities in bulk, explosives, articles of unusual value, and commodities which because of their size and weight require special equipment), restricted against the transportation of packages or articles weighing in excess of 150 pounds from one consignor to one consignee on any one day, (a) Between Spokane, Wash., on the one hand, and, on the other, points in Kootenai and Shoshone Counties, Idaho; and (b) Between Portland, Oreg., on the one hand, and, on the other, points in Clark, Cowlitz, and Lewis Counties, Wash., for 180 days.

NOTE.—Transportation to be performed in courier type service, with pickups and deliveries to be effected within a specified period on a timely basis. Supporting shippers: There are 37 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 111729 (Sub-No. 483TA), filed December 5, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Human blood samples, urine samples, and diagnostic reports related thereto*, between Fairfield, Conn., on the one hand, and, on the other, points in Norfolk and Suffolk Counties, Mass., and points in Rhode Island; and (2) *Automotive parts*, restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any one day, from Elmsford, N.Y., to points in Connecticut, New Jersey, and New York, for 90 days. Supporting shippers: Reference Diagnostics, Inc., 1700 Post Road, Fairfield, Conn. 06430, and American Motors Sales Corp., 444 Saw Mill River Road, Elmsford, N.Y. Send protests to: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 111729 (Sub-No. 484TA), filed December 5, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records,*

audit and accounting media, Between Kalamazoo, Mich., on the one hand, and, on the other, Keokuk, Idaho, and points in Illinois, Indiana, Ohio, and Pennsylvania, for 180 days. Supporting shipper(s): Parallex Corporation, 10528 Shaver Road, Kalamazoo, Mich. 49002. Send protests to: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112934 (Sub-No. 7TA), filed December 5, 1974. Applicant: AUTOBUSES INTERNACIONALES S. de R. L., 208 Palo Verde, Meadow Vista, N. Mex. 88063. Applicant's representative: Edwin E. Piper, Jr., 1115 Simms Building, Albuquerque, N. Mex. 87101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* between the boundary of the United States at or El Paso, Tex., and Mattox Ranch, N. Mex., from the boundary of the United States at or near El Paso, Tex., and the Ports of Entry thereon, over the Stantion St., Santa Fe, and any other Downtown Bridges through El Paso, Tex., over unspecified city streets, to junction with U.S. Highway 62–180, thence over U.S. Highway 62–180 to junction with Texas Farm Road 1437, thence over Texas Farm Road 1437 through Dell City, Tex., to the New Mexico-Texas border and thence over unnumbered road to Mattox Ranch, N. Mex., and return over the same route, serving all intermediate points, for 180 days. Restriction: Restricted to transportation in foreign commerce with no interstate transportation except that interstate movements originating at or destined to Anapra, Meadow Vista, and Mattox Ranch, N. Mex., and Dell City, Tex., shall be authorized.

NOTE.—Applicant does request to tack the above authority with items (1) and (2) at the common point of El Paso, Tex., sought in a separate application for permanent and temporary authority Sub No. 5TA and Sub No. 6. Supporting shippers: There are approximately 23 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: John H. Kirkemo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue, SW, Albuquerque, N. Mex. 87101.

No. MC 116519 (Sub-No. 26TA), filed December 4, 1974. Applicant: FREDERICK TRANSPORT LIMITED, R.R. 6, Chatham, Ontario, Canada. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vibratory rollers and compactors and parts and attachments* for vibratory rollers and compactors moving in mixed loads therewith, from Minneapolis, Minn., to ports of entry on the International Boundary line between the United States and Canada located at or near Detroit and Port Huron, Mich., for 180 days. Restriction: The transportation authorized herein is restricted to traffic moving in foreign commerce. Supporting shipper: Blackwood Hodge, Douglas J. Carrier, Purchasing Agent, 10 Suntract Road, Weston, Ontario, Canada. Send protests to: Melvin F. Kirsch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell Avenue, Detroit, Mich. 48226.

No. MC 119792 (Sub-No. 48TA), filed December 6, 1974. Applicant: CHICAGO SOUTHERN TRANSPORTATION COMPANY, 3215 South Hamilton Avenue, Chicago, Ill. 60608. Applicant's representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potatoes and frozen potato products*, from the plantsite and storage facilities of J. R. Simplot Company, Inc., at Crookston and Minneapolis, Minn., to points in Kentucky, Tennessee, Alaska, Mississippi, Louisiana, North Carolina, South Carolina, Georgia, Virginia, and Florida, for 180 days. Supporting shipper: Bill R. Daniels, General Manager, J. R. Simplot Company, Inc., P.O. Box 618, Crookston, Minn. 57716. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 125950 (Sub-No. 8TA), filed December 9, 1974. Applicant: C.B.S. TRANSPORTATION, INC., 1207 Columbus Circle, Wilmington, N.C. 28401. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit and vegetable containers*, from the plantsite of the Talley-Corbett Box Company at Adel, Ga., and Springfield, N.C., to points in Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, and New York, for 180 days. Supporting shipper: Talley-Corbett Box Company, Inc., P.O. Box 89, Adel, Ga. 31620. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 128383 (Sub-No. 63TA), filed December 6, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Rd., Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Class A and B explosives, and motor vehicles requiring the use of special equipment), in vehicles equipped with roller bed floors, Between Oneida County Airport, Oneida County, N.Y., on the one hand, and, on the other, points in Pennsylvania, restricted to the transportation of traffic having a prior or subsequent movement by air, for 180 days. Supporting shipper(s): Shulman Air Freight, Inc., 20 Olney Ave., Cherry Hill, N.J. Send protests to: Peter R. Guman, District Supervisor, Federal Building, Room 3238, 600 Arch St., Philadelphia, Pa. 19106.

No. MC 128763 (Sub-No. 7TA), filed December 4, 1974. Applicant: K. H. TRANSPORT, INC., 4796 Linthicum Road, Dayton, Md. 21036. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laminated plastic sheets, plastic moldings, and adhesives* used in the application thereof, from the plant site and warehouse facilities of Exxon Chemical Company, U.S.A., Odenton, Md., to Birmingham, Montgomery, and Scottsboro, Ala.; Fort Smith and Little Rock, Ark., Phoenix and Tucson, Ariz., Denver and Pueblo, Colo., Jacksonville, Miami, and Orlando, Fla., Atlanta and Valdosta, Ga., Long Beach, Hemet, San Diego, and San Francisco, Calif., Aurora and Chicago, Ill., Batesville, Connersville, Elkhart, Evansville, Indianapolis, and Marion, Ind., Kansas City and Wichita, Kans., Lexington and Louisville, Ky., Baton Rouge, New Orleans, and Shreveport, La., Battle Creek, Detroit, and Grand Rapids, Mich., Jackson and St. Louis, Mo., Jackson, Kilmichael, and Kosciusko, Miss., Albuquerque and Carlsbad, N. Mex., Charlotte and High Point, N.C., Oklahoma City and Tulsa, Okla., Columbia and Hampton, S.C., Chattanooga, Knoxville, Memphis, and Nashville, Tenn., Dallas, El Paso, and Houston, Tex., Salt Lake City, Utah, Casper and Laramie, Wyo., Seattle and Spokane, Wash., and Portland, Oreg., serving the above Commercial Zones thereof, under a contract with Exxon Chemical Company, U.S.A., Odenton, Md., for 180 days. Supporting shipper; Thomas J. Nunn, Traffic Manager, Exxon Chemical Company, U.S.A., Odenton, Md. 21113. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 133559 (Sub-No. 1TA), filed December 5, 1974. Applicant: CHARLOTTE TRUCK SERVICE, INC., 4109 Thrift Road, Charlotte, N.C. 28206. Applicant's representative: Ward Whitney Dunlap, Route 2, Box 144, Gastonia, N.C. 28052. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled trucks, tractors, and trailers* (other than those designed to be drawn by passenger vehicles), from points in Illinois, Indiana, Ohio, West Virginia, Kentucky, Tennessee, to points in Mecklenburg County, N.C., and *replacement vehicles* for the above named vehicles, from points in Mecklenburg County, to points in the above named origin states, for 180 days. Supporting shipper: Akers Motor Lines, Inc.—Control/Central Motor Lines, Inc., P.O. Box 10303, Charlotte, N.C. 28237. Send protests to: District Supervisor Terrell Price, Interstate Commerce Commission, Bureau of Operations, 800 Briar Creek Road—Room CC516, Mart Office Building, Charlotte, N.C. 28205.

No. MC 134063 (Sub-No. 8TA), filed December 4, 1974. Applicant: MIDWEST TRANSPORTATION COMPANY, a Corporation, 2802 Avenue "B", Council Bluffs, Iowa 51501. Applicant's representative: Frank R. Chellino (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, cheese, butter, and powdered milk* (except in bulk, in tank vehicles), from Arlington, Iowa, to Philadelphia and Doylestown, Pa., Secaucus, N.J., and New York, N.Y., for 180 days. Supporting shipper: Associated Milk Producers, P.O. Box 61, Mason City, Iowa 50401. Send protests to: District Supervisor Carroll Russell, Interstate Commerce Commission, Bureau of Operations, Suite 620 Union Pacific Plaza, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 138761 (Sub-No 12TA), filed November 27, 1974. Applicant: E. K. MOTOR SERVICE, INC., 2005 N. Broadway, Joliet, Ill. 60435. Applicant's representative: Tom B. Kretsinger, Suite 910 Fairfax Building, 101 West 11th Street, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and brick related masonry construction materials* (except commodities in bulk), (1) from Chattanooga, Johnson City, Kingsport, and Knoxville, Tenn., to points in Illinois, Indiana, Kentucky, and Wisconsin; (2) from Coral Ridge, Ky., to points in Illinois, Indiana, and Wisconsin; and (3) from Mooresville, Ind., to points in Illinois, Kentucky, and Wisconsin, restricted to traffic originating at the plantsites and production and storage facilities of General Shale Products Corporation at or near the above named origin points, for 180 days. Supporting shipper: Archie T. Moore, Traffic Manager, General Shale Products Corp., P.O. Box 3547, C.R.S., Johnson City, Tenn. 37601. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 138741 (Sub-No. 13TA), filed December 5, 1974. Applicant: E. K. MOTOR SERVICE, INC., 2005 N. Broadway, Joliet, Ill., 60435. Applicant's representative: Tom B. Kretsinger, Suite 910 Fairfax Building, 101 West Eleventh Street, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel billets and ingots*, from Centerville, Iowa, to Peoria, Ill., Sharon, Pa., Kokomo, Ind., Canton, Cleveland, Massillon, Warren, and Youngstown, Ohio, for 180 days. Supporting shipper: Robert L. Lockridge, V. P. & Director of Marketing, Iowa Steel & Wire Co., Centerville, Iowa 52544. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 139193 (Sub-No. 25 TA), filed December 2, 1974. Applicant: ROBERTS & OAKE, INC., 208 South LaSalle Street, Chicago, Ill. 60604. Applicant's representative: Jacob P. Billig, 1126 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Amarillo, Tex., to points in the United States (except Alaska and Hawaii); and (2) *Such commodities as are used by meat packers in the conduct of their business*, from points in the United States (except Alaska and Hawaii), to Amarillo, Tex., restricted to traffic transported under contracts with John Morrell & Co., for 180 days. Supporting shipper: J. G. Lonzurro, Corporate Director, Physical Distribution, John Morrell & Co., 208 South LaSalle Street, Chicago, Ill. 60604. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 140414 (Sub-No. 1TA), filed December 3, 1974. Applicant: GEORGE H. RATCHFORD, Route 1, Box 10, Wadley, Ga. 30477. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree Street NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural lime*, in bulk, from Blount, Jefferson, and Knox Counties, Tenn., to points in Jefferson County, Ga., on and south of Georgia Highway 24, for 180 days. Supporting shipper(s): Louisville Fertilizer & Gin Co., P.O. Box 182, Louisville, Ga. 30434. Farmers Mutual Exchange of Wadley, Inc., P.O. Box 647 Wadley, Ga. 30477. Bryant's Inc., Barlow, Ga. 30413. Send protests to: William L. Scroggs, District Supervisor, 1252 West Peachtree Street NW., Room 546, Atlanta, Ga. 30309.

No. MC 140434 (Sub-No. 1TA), filed December 2, 1974. Applicant: A-1 TRANSFER SERVICE, 121 West College, P.O. Box 61, Jackson, Tenn. 38301. Applicant's representative: Edward G. Grogan, Suite 2020, First National Bank Bldg., Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* as dealt in by home product distributors, for residence delivery only, from Jackson, Tenn., to points in Tennessee, west of the Tennessee River, for residence delivery only, and *returned, refused, or damaged shipments* on return, for 180 days. Supporting shipper: Amway Corporation, 300 Villa Nova Drive, Atlanta, Ga. 30139. Send protests to: District Supervisor Floyd A. Johnson, Interstate Commerce Commission, Bureau of Operations, 435 Federal Office Building, 167 North Main Street, Memphis, Tenn. 38103.

No. MC 140435 (Sub-No. 1TA), filed December 3, 1974. Applicant: DENNIS CHUTZ AND WAYNE CHUTZ, doing business as D & W TRUCKING COMPANY, P.O. Box 116, Slippery Rock, Pa. 16057. Applicant's representative: Donald E. Cross, 918-16th Street NW., Suite 700, Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Coal, in dump vehicles, from points in Cambria, Somerset, Indiana, Venango, and Clearfield Counties, Pa., to the plant sites of Cleveland Electric Illuminating Company in Ashtabula County, Ohio, for 180 days. Supporting shipper: Pengrove Coal Company, P.O. Box 116, Slippery Rock, Pa. 16057. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 140445TA, filed December 5, 1974. Applicant: RIGHT-O-WAY, INC., P.O. Box 15067, Santa Ana, Calif. 92705. Applicant's representative: Robert Ferrero (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aircraft parts and components thereof*, packaged or unpackaged, between Burbank, Calif., and Gainesville, Tex., for the account of Weber Aircraft, Burbank, Calif., for 180 days. Supporting shipper: Weber Aircraft, 3230 Ontario St., Burbank, Calif. Send protests to: District Supervisor Philip Yallowitz, Interstate Commerce Commission, Bureau of Operations, 300 North Los Angeles Street, Room 7708, Los Angeles, Calif. 90012.

No. MC 140446TA, filed December 5, 1974. Applicant: TRIPP MOTOR SERVICE, INC., 3120 South St. Louis Avenue, Chicago, Ill. 60623. Applicant's representative: Dominic Airrio (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed automobile bodies*, including *component parts and accessories thereof*, as well as *junk automobiles* in truckaway or towaway service, between the warehouse and plantsite facilities of United Industries, located at Gary, Ind., or other points in the Chicago, Ill., Commercial Zone as defined by the Interstate Commerce Commission, and points in Illinois, Kentucky, Minnesota, Tennessee, and Wisconsin, for 180 days. Supporting shipper: O. Scott Reed, Supt. of Operations, United Industries, 6301 West Chicago Avenue, Gary, Ind. 46406. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, Room 1086, Chicago, Ill. 60604.

No. MC 140447TA, filed December 6, 1974. Applicant: BOYCE HOWARD, doing business as BOYCE HOWARD TRUCKING, P.O. Box 165, Newport, Ark. 72112. Applicant's representative: Thomas J. Preston, P.O Box 71, Redfield, Ark. 72132. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel borings or turnings*, in bulk, in open top dump trailers, from Pocahontas, Ark., to Sheffield, Ala., for 180 days. Supporting shipper: Donnie Bryant Machine & Tool Company, P.O. Box 2011, Batesville, Ark. 72501. Send protests to: District Supervisor William H. Land, Jr., Interstate

Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 140448TA, filed December 6, 1974. Applicant: KENDALL R. STEWART AND KENNETH W. STEWART, doing business as K & K STEWART TRUCKING COMPANY, Kentucky Highway 15, P.O. Box 126, Clay City, Ky. 40312. Applicant's representative: R. H. Kinker, 711 McClure Building, P.O. Box 464, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, from points in Breathitt, Clay, Floyd, Jackson, Johnson, Knox, Laurel, Lee, Magoffin, Owsley, Perry, Rockcastle, Wolfe, and Whitley Counties, Ky., to Cincinnati, Columbus, Dayton, Fairborn, Hamilton, Middletown, and Springfield, Ohio, and their respective commercial zones, for 180 days. Supporting shipper: Homer Hart, President, Landmark Coal Company, P.O. Box 615, Corbin, Ky. 40701, and William Cress, Vice President, Breathitt Coal Company, Box 620, Jackson, Ky. 41339. Send protests to: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 Bakhaus Building, 1500 West Main Street, Lexington, Ky. 40505.

No. MC 140451TA, filed December 4, 1974. Applicant: RICHARD T. MEREDITH, 2710 S. W. Troy, Portland, Oreg. 97219. Applicant's representative: Richard T. Meredith (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, pickup trucks, and motor homes*, from points in the United States, to points in Oregon, for 180 days. Supporting shipper: Ford Motor Credit Co., P.O. Box 13070, 4309 N.E. Tillamook Street, Portland, Oreg. 97213. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oreg. 97204.

MOTOR CARRIERS OF PASSENGERS

No. MC 140385 (Sub-No. 1TA), filed December 5, 1974. Applicant: WEST COAST COACH LINES LIMITED, 1211 Wharf Street, Victoria, British Columbia, Canada. Applicant's representative: Michael B. Crutcher, 2000 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations (restricted to origin/destination operations from Vancouver Island, in the Province of British Columbia), beginning and ending at Port Angeles and Blaine, Wash., near the International Boundary line between the United States and Canada, and extending to points in Washington, Oregon, Nevada, and California, under a continuing contract or contracts with T. I. Travellers nternational Tours Limited, for 180 days Supporting shipper: T. I. Travellers International Tours Limited, 1211 Wharf Street, Victoria, British Columbia, Canada. Send protests to: I. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 858 Federal Building, 915 Second Ave., Seattle, Wash. 98174.

No. MC 140444TA, filed December 5, 1974. Applicant: HIGHLAND TOURS, INC., 2002 Clemson Road, Jacksonville, Fla. 32217. Applicant's representative: Sol H. Proctor, 1107 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in military charter service, between Jacksonville, Fla., on the one hand, and, on the other, points in Georgia, Alabama, Tennessee, South Carolina, and North Carolina, for 180 days. Supporting shipper: Department of Defense, Areatranso, E. A. Tanner, Building 13, Comseabasedaswwingslant, NAS, Jacksonville, Fla. 32212. Send protests to: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

By The Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29467 Filed 12-17-74;8:45 am]

[No. 35694]

UTAH INTRASTATE FREIGHT RATES AND CHARGES

Order

Upon consideration of the record in the above-entitled proceeding, including the joint petition filed July 29, 1974, by eight common carriers by railroad operating within the State of Utah, for reconsideration of the decision and order of the Commission, Review Board Number 4, decided July 1, 1974; and

It appearing, That, pursuant to a petition filed August 29, 1973, the Commission, by order of September 27, 1973, instituted an investigation under sections 13 and 15a of the Interstate Commerce Act, to determine, *inter alia*, whether the rates and charges of carriers by railroad operating in the State of Utah cause or will cause, by reason of the failure of such rates and charges to include the 3 percent interim increase authorized by the Commission in Ex Parte No. 295, *Increased Freight Rates and Charges, 1973*, any undue or unreasonable advantage, preference or prejudice as between persons or locations in intrastate commerce, on the one hand, and those in interstate or foreign commerce, on the other, or any unjust discrimination against or undue burden on interstate or foreign commerce; and

It further appearing, That no protestants appeared in opposition to the relief sought by the petitioning railroads; but that prior to the filing of the petitioners' opening statement, the 3 percent interim increase was superseded generally by a 3 percent permanent increase; and that said opening statement concerned the lawfulness of Utah intrastate freight rates and charges, to the extent that they do not include the final 3 percent increase authorize in *Increased Freight Rates and Charges, 1973*, 344 I.C.C. 589; and

It further appearing, That an Administrative Law Judge issued an initial decision on March 19, 1974, discontinuing the proceeding for mootness due to the expiration of the interim increase, and that his decision was affirmed by decision and order of Review Board Number 4, decided on July 1, 1974; and

It further appearing, That, because the final increase authorized in the Ex Parte No. 295 proceeding was in the same amount as the previously effective interim increase, the issues involved in determining whether Utah intrastate freight rates and charges violate section 13(4) of the Interstate Commerce Act, to the extent that they do not include the permanent 3 percent increase, are essentially identical to those raised by the order instituting this proceeding; however, in view of the specific language in said order limiting the Commission in this proceeding to consideration of the said interim increase, parties wishing to participate in the investigation as it concerns the final increase have not yet been afforded the opportunity to do so, see *Louisiana Intrastate Freight Rates and Charges—1972*, 346 I.C.C. 482, 486;

And it further appearing, That section 13(4) of the Interstate Commerce Act vests this Commission with the requisite authority to decide the aforementioned issues as they relate to said permanent 3 percent increase;

Wherefore, and good cause appearing therefor:

It is ordered, That the petition for reconsideration be, and it is hereby, granted to the extent that it requests reversal of the decision and order of July 1, 1974, and in all other respects be, and it is hereby, denied.

It is further ordered, That said decision and order, which has been stayed pursuant to section 17(8) of the Interstate Commerce Act, be, and it is hereby vacated and set aside; and that the evidence submitted by petitioners, as it relates to the permanent 3 percent increase authorized in *Increased Freight Rates and Charges, 1973, supra*, be, and it is hereby, accepted as the petitioners' opening statement of facts and argument in this proceeding.

It is further ordered, That all persons not parties of record who wish actively to participate in this proceeding and to file and receive copies of pleadings shall so notify the Office of Proceedings, Interstate Commerce Commission, in writing on or before January 17, 1974.

And it is further ordered, That a copy of this order be served upon each of the said petitioners; that the State of Utah be notified of the current status of this proceeding by sending copies of this order by certified mail to the Governor of Utah and to the Public Service Commission of Utah, Provo, Utah; and that further notice be given to the public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Division 2, acting as an Appellate Division.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29473 Filed 12-17-74;8:45 am]

OFFICE OF THE FEDERAL REGISTER

AVAILABILITY OF FEDERAL REGISTER DOCUMENT DRAFTING HANDBOOK

Opportunity to Order

The revised Federal Register Document Drafting Handbook, which will replace the June, 1973 interim edition, is in the final production stage. The projected date for delivery is February 15, 1975.

So that we may determine the quantity to be printed, agencies should place their orders by phone to 202-523-5240, or complete the order blank below and return it no later than January 15, 1975. Mail the form to the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

FRED J. EMERY,
Director, Office of the Federal Register.

[FR Doc.74-29375 Filed 12-17-74;8:45 am]

THE FEDERAL REGISTER DOCUMENT DRAFTING HANDBOOK

QUANTITY .....

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federal register

WEDNESDAY, DECEMBER 18, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 244

PART II

ENVIRONMENTAL PROTECTION AGENCY

■

OCCUPATIONAL NOISE EXPOSURE REGULATION

Request for Review and Report

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 303-2]

PROPOSED OSHA OCCUPATIONAL NOISE EXPOSURE REGULATION

Request for Review and Report

I. SUMMARY

On October 24, 1974, the Occupational Safety and Health Administration (OSHA) of the Department of Labor, published proposed requirements and procedures respecting occupational noise exposures, 39 FR 37773. The Administrator of the Environmental Protection Agency (EPA) believes that the proposed regulation does not protect the public health and welfare to the extent required and feasible. Accordingly, under the authority of section 4(c)(2) of the Noise Control Act of 1972, Pub. L. 92-574 section 4(c)(2), 86 Stat. 1236, 42 USC 4903 (c)(2), the Administrator of EPA hereby requests that the Secretary of Labor review the proposed occupational noise exposure regulation and report to the Administrator of EPA on the advisability of revising such regulation to provide the required protection of the public health and welfare. Such report shall be forwarded to the Administrator of EPA 90 days from the date of this notice, and, as required by section 4(c)(2) of the Noise Control Act, shall be published in the FEDERAL REGISTER, accompanied by a detailed statement of the findings and conclusions of the Secretary of Labor respecting the revision of the regulation.

As presently proposed, the allowable level for an eight-hour workday exposure, 90 dBA, is too high. The Administrator believes that the eight-hour level should be set at 85 dBA, to become effective within three years, with a commitment to reduce to lower levels at a later date when such a reduction is shown to be feasible. Further, the OSHA formula for exposure of other than eight hours in length (the time-intensity tradeoff), allows an increase of 5 dB for each halving of exposure time. The Administrator recommends a 3-dB time-intensity tradeoff as necessary for protection of public health and welfare.

The development of an acceptable occupational noise exposure standard requires the resolution of three major issues: First, the requirements of public health and welfare; next, whether the technology exists to implement the standard necessary to protect health and welfare; and third, whether the costs of implementing such a standard are justified by the need.

EPA believes that there is sufficient information available to address each of these issues. OSHA states, however, that the 90-dBA standard should remain in effect "until further empirical data and information on the health risk, feasibility, and economic impact indicate the practicability and necessity of an 85-dBA requirement" (39 FR 37773). The current standard should not be extended on this basis.

EPA has provided OSHA with sufficient data to support the necessity for reducing the standard to 85 dBA, or lower. EPA has recently published a large amount of information on the effects of noise,[1-6] culminating in a document entitled, *Information on Levels of Environmental Noise Requisite to Protect the Public Health and Welfare with an Adequate Margin of Safety*[6] (March, 1974), that was required by the Noise Control Act of 1972. This document was subjected to an exhaustive review both by the scientific community and by other Federal agencies. The specified levels and the methodology used to identify them have been endorsed by a subcommittee of the Committee on Hearing, Bioacoustics and Biomechanics (CHAPA), of the National Academy of Sciences—National Research Council. EPA does not believe the health justification for a lower occupational noise level requires further study. EPA's criteria support a level of 75 dBA for an ultimate health goal;[6] EPA believes that reduction to 85 dBA is an important step toward this goal.

The National Institute of Occupational Safety and Health (NIOSH), under the authority of sections 20(a)(3) and 22(c)(2) of the Occupational Safety and Health Act, Pub. L. 91-596, 42 USC 669(a)(3), 671(c)(2) (1970), developed and provided criteria to OSHA for a recommended standard, Occupational Exposure to Noise.[7] These criteria clearly stated the need for reducing the eight-hour exposure level to 85 dBA and the accompanying data and background material support that conclusion.[7]

In the preamble to the proposed standard, OSHA states that NIOSH "reluctantly concurs" with the 90-dBA level at the present time. The entire text of this NIOSH statement is as follows:

> Currently NIOSH reluctantly concurs with the generally acceptable 90 dBA occupational exposure level for an 8-hour day. The need for reducing this 8-hour exposure level to 85 dBA, as supported by the material contained in this document is also recognized. It is recommended that the 85-dBA, 8-hour exposure level be applicable to all newly designed occupational exposure environments after 6 months from the effective date of this standard. However, due to the unavailability of sufficient data relating to the technological feasibility of meeting the 85-dBA level, NIOSH is unable to recommended a specific time period after which the 85 dBA, 8 hour occupational exposure level might become effective for all occupational noise environments. (*Occupational Exposure to Noise*, p. II-8.)

This inability to comment on technological feasibility is not surprising in view of the fact that NIOSH's responsibility, as articulated in section 20(a)(3) of the Occupational Safety and Health Act, is to evaluate and recommend safe levels of exposure without regard to economics or technological feasibility.

As to technological feasibility, the Department of Labor contracted for an independent study on the feasibility of implementing both 90- and 85-dBA standards, and the results of that study were published on January 1, 1974.[8] The study concluded that compliance with an 85-dBA standard can be achieved using currently existing technology and that the noise control industry is capable of responding adequately to the increase in demand.[8] This study also explored the relative costs to industry of complying with the current 90-dBA level and an 85-dBA level over three- and five-year compliance periods. EPA believes that the resulting cost estimates are inflated and do not reflect the various economic alternatives to the industry-wide, threshold limit approach to the setting of standards.

EPA, charged, under section 4(c)(1) of the Noise Control Act, with the role of coordinating Federal noise control efforts, has worked with OSHA staff members during the development of the proposed regulation. An EPA representative served as non-voting liaison member to OSHA's Standards Advisory Committee on Noise. OSHA's proposed standard and draft Environmental Impact Statement were reviewed extensively by EPA staff,[9] resulting in suggestions for substantial changes and improvements to the standard and EIS.

The most significant recommendations involved reduction to 85 dBA within a 3-year period and adoption of the 3-dB time-intensity tradeoff. EPA also recommended a more conservative standard for impulse noise so that the maximum level would be decreased by 10 dB for each ten fold increase in the number of impulses. Another recommendation was that the definition of significant threshold shift be improved so that shifts of more than 10 dB at any test frequency would be considered significant. All of EPA's suggested improvements, with the exception of the impulse standard, have been rejected without adequate explanation.

EPA has also made several suggestions aimed at ameliorating the cost impact of a more protective standard. These suggestions include the alternatives of industry-by-industry standards, incremental reductions over time, a stringent standard with variance provisions, and lower levels for new plants. These, too, have been rejected without explanation. None of these recommendations are discussed in the preamble to OSHA's proposal. For these reasons, EPA is resorting to the procedures of section 4(c)(2) of the Noise Control Act in asking for a review of the proposed standard. The Act requires that the Department of Labor complete the requested review and report its findings and conclusions to the Administrator.

II. HEALTH AND WELFARE EFFECTS

A. NOISE EXPOSURE LEVEL

OSHA's Proposed Time-Weighted Level: 90 dBA
EPA's Recommendation: Within Three years: 85 dBA
Later Date: 85 dBA

Supporting information. EPA has reviewed OSHA's proposed standard for occupational exposure to noise and in view of the best available data, has determined that the 90-dBA time weighted

level for an 8-hour day does not adequately protect public health and welfare. EPA has identified a level of approximately 20 decibels below OSHA's proposed 90 dBA as the safe level for protection against hearing loss, i.e., a yearly equivalent sound level of 70 dBA averaged over a 24-hour period (Leq(24) 70).[5] The 70 dBA level would be compatible with an 8-hour exposure level of 75 dBA, so long as the exposure level over the remaining 16 hours is sufficiently low to result in a negligible contribution to the 24-hour average, i.e., no greater than an equivalent sound level of 60 dBA. EPA's criterion for the identified level is that it should produce no more than a 5-dB hearing loss at the 4000-Hz frequency over a period of 40 years in virtually the entire population. Although the identified safe level is not a standard, it provides a basis for judgment in the setting of standards. In that sense, it should be considered a long-range public health goal.

The data on which EPA's criteria and recommended levels are based have been drawn from three significant bodies of data, those of Baughn,[6] Passchier-Vermeer,[10] and Robinson.[11] EPA's conclusions are drawn from the averaged data of more than 10,000 subjects from the 12 studies reported by the above researchers. EPA believes these data represent the best available evidence on the effects of noise on hearing. As will be shown below, regardless of the criteria used to predict the effects of noise on the hearing of exposed workers, 8-hour noise levels of 90 dBA represent an unacceptable health hazard.

1. *Noise induced permanent threshold shift (NIPTS).* EPA believes that OSHA's analysis, based upon hearing risk for the averaged frequencies of 500 Hz, 1000 Hz and 2000 Hz, is inadequate, because it fails to account for hearing loss in the critical frequencies above 2000 Hz, which are the soonest and most severely affected by exposure to noise. To account for these factors, EPA has analyzed hearing loss in terms of noise induced permanent threshold shift (NIPTS),[4, 5, 6] and has examined hearing loss at individual frequencies and various combinations of frequencies,[4] giving special emphasis to the changes in response to higher frequencies. It should be borne in mind that for each 10 dB of hearing loss, sound energy will have to be increased by a factor of 10 in order for a particular sound to be heard.

The most important use of the hearing mechanism in today's society is for hearing and understanding speech. The kind of hearing loss that results from noise exposure impairs this ability to communicate. This impairment is usually a gradual occurrence. Individuals who have begun to suffer such a loss will often notice that ordinary speech is just as loud, but not as distinct as previously. This phenomenon occurs with reduction of high frequency hearing since a considerable portion of the sound energy of consonants lies in the high frequency range. Unfortunately for hearing-impaired individuals, the energy in consonants is smaller in magnitude as well as higher in frequency than it is for vowels, and it is consonants much more than vowels that give intelligibility to English speech.[12, 13] As noise-induced hearing loss increases, speech communication becomes progressively more difficult for the hearing-impaired listener.

OSHA's analysis is based upon studies which have shown that in order to understand undistorted speech in quiet conditions (sound-proofed rooms), 500 Hz, 1000 Hz and 2000 Hz are the most important audiometric frequencies.[14, 15] However, undistorted speech in quiet surroundings is not characteristic of the typical conditions in which speech must be understood. NIOSH[7] cites modern research as showing that "* * * everyday communication is placed under a wide variety of environmental stresses. Estimates of the amount of time that speech is distorted range from a conservative figure of 50 percent.[16] up to about 100 percent." [17] It is obvious that everyday communication does not usually take place in sound-proofed booths.

It has been demonstrated that in order to understand speech in less than optimal conditions good hearing in the frequencies above 2000 Hz is very important. As far back as 1947, French and Steinburg [18] showed in a classic study that the frequencies above 1900 Hz are as important as those below 1900 Hz for determining the intelligibility of speech. There have been numerous other significant studies on the understanding of speech under various conditions of noise and distortion which are typical of environmental situations,[19-26] which point to the importance of preserving hearing above 2000 Hz. While these studies do not minimize the importance of good hearing in the mid-frequencies, they emphasize the previously underrated need for perception of frequencies in the range of 3000 Hz and 4000 Hz. Thus, while examining the effects of noise on hearing it is important to assess the effects on perception of the high frequencies as well as the mid-frequency range.

Figures 1 and 2 show the effects of noise on human response to various audiometric frequencies as a function of exposure level. Figure 1 shows the median NIPTS for ten years as a function of exposure level, according to Passchier-Vermeer.[4, 10] Figure 2 shows these effects for an exposure of forty years.[11] It can be seen that while damage to hearing at the 4000-Hz frequency occurs mostly during the first 10 years, other critical frequencies, such as 2000 Hz and 3000 Hz continue to be affected as exposure is prolonged. It is also noteworthy that the important 2000 Hz frequency is considerably more affected by an exposure level of 90 dBA than by a level of 85 dBA.

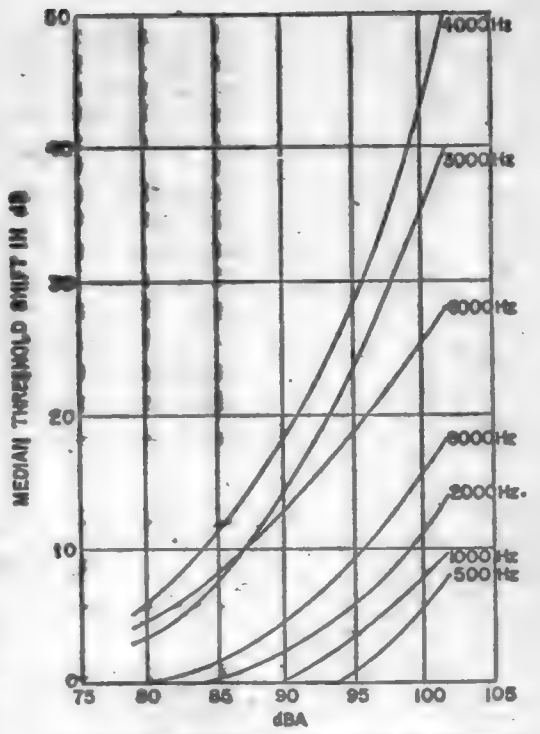


Figure 1. Median Noise-Induced Permanent Threshold Shift in dB as a Function of Exposure Level 8 hours a day for a period of 10 years.[10]

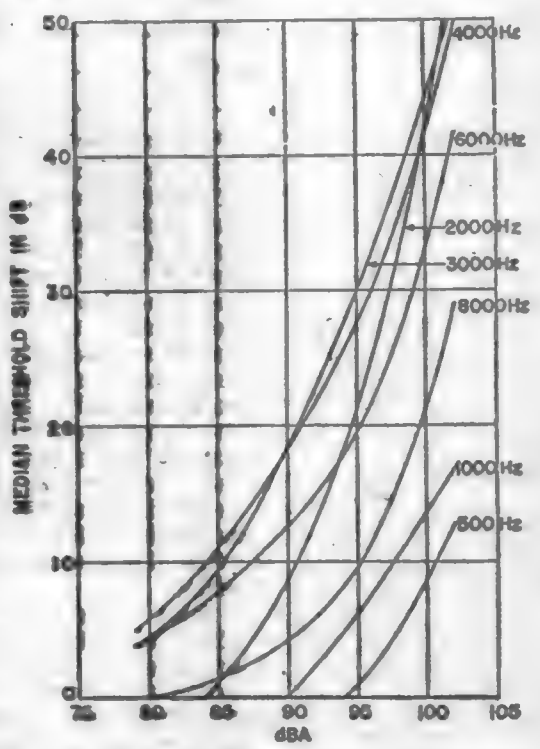


Figure 2. Median Noise-Induced Permanent Threshold Shift in dB as a Function of Noise Exposure Level 8 hours per day for a Period of 40 Years.[11]

Since there appears to be considerable variation in individual susceptibility to NIPTS, it is important to examine the effects of noise on the more affected portion of the population by looking at the higher percentiles. Using data from Passchier-Vermeer [4, 10] and Robinson [4, 11] EPA calculated amounts of NIPTS incurred

See footnotes at end of document.

after numbers of years for various percentiles. Baughn's data were not included in the calculations since discrete NIPTS values for 1000 Hz, 2000 Hz and 3000 Hz were not readily available. Shown in Table 1 are NIPTS for the 50th and 90th percentiles for the frequencies 1000 Hz, 2000 Hz, 3000 Hz and 4000 Hz after 10 and 40 years of exposure as a function of exposure level. Note that at an exposure level of 80 dBA the median NIPTS is less than a decibel for the mid-frequencies, and only reaches 5 dB in the high frequencies after 40 years of exposure. Although more hearing loss is incurred by the 10 percent most susceptible (the 90th percentile), losses due to 80 dBA can still be considered slight. An exposure level of 85 dBA produces nearly twice as much NIPTS as the 80 dBA level and likewise the NIPTS for most frequencies doubles between 85 dBA and 90 dBA for both groups. Although the increase of NIPTS at 4000 Hz appears to level off somewhat between 85 dBA and 90 dBA, there is significant increase in NIPTS at 2000 Hz. This value more than doubles between the exposure levels of 85 dBA and 90 dBA.

TABLE I.—*Noise-induced permanent threshold shift (NIPTS) in decibels as a function of noise exposure level for the 50th and 90th percentiles*

[In decibels]

Exposure level	Years	Audiometric frequency			
		1000 Hz	2000 Hz	3000 Hz	4000 Hz
		(a) 50th percentile			
80 dBA	10	0.2	0.5	2.0	4.2
	40	0.55	1.1	4.0	5.0
85 dBA	10	0.4	1.1	3.0	8.0
	40	0.9	2.5	8.7	10.4
90 dBA	10	0.8	2.0	10.7	12.4
	40	1.7	5.2	16.0	17.3
		(b) 90th percentile			
80 dBA	10	0.4	1.3	4.4	10.2
	40	1.3	2.75	7.8	13.4
85 dBA	10	1.1	3.7	8.8	14.7
	40	2.8	6.7	13.4	15.2
90 dBA	10	2.1	7.8	17.6	21.2
	40	4.2	14.2	26.8	26.8

[1] Averaged data of Passchier-Vermeer [9] and Robinson.[11]

It is important to remember that values of NIPTS are not synonomous with hearing threshold levels. As age increases, hearing loss from the natural aging process or "presbycusis" will contribute to the total amount of hearing loss. Since presbycusis and NIPTS are generally considered additive,[8, 10] it is helpful to consider the summed contribution of noise and aging for the average, and for the more affected elements of the population. These figures will more realistically reflect the effect of noise on an exposed population. Table II shows the amounts of NIPTS described in Table I after the presbycusis values have been added.

Here it can be seen that the combined effect of noise and aging will produce considerably more hearing loss than would occur from noise exposure alone. In particular, exposure to a level of 90 dBA, when seen in combination with the aging process, results in substantial losses for average workers while affecting the 90th percentile even more severely.

See footnotes at end of document.

In order to judge the magnitude of this effect, these exposure levels and the resulting NIPTS can be related to numbers of noise exposed workers. OSHA's contractor, Bolt, Beranek and Newman (BBN), has estimated the percentage of production workers currently exposed to various levels of noise, and the percentage that would be exposed to those levels if maximum compliance with the present 90-dBA standard or a future 85 dBA standard were achieved, Impact of Noise Control at the Workplace," 1974, pp. 13 & 26. (See Tables III and IV in text.) BBN defines maximum compliance as that which would be achieved with the full use of presently available technology. BBN estimates that unless new technology is developed approximately 8 percent of the workforce would continue to be exposed to noise levels above the required limit, whether that limit is 90 dBA or 85 dBA. According to BBN approximately 14 million workers are currently employed in American production industries. The number of noise exposed workers based on this figure have been entered in Tables III and IV.

TABLE II.—*Hearing threshold level in decibels [1] as a function of noise exposure and presbycusis*

[In decibels]

Exposure level	Age	Audiometric frequency			
		1000 Hz	2000 Hz	3000 Hz	4000 Hz
		(a) 50th percentile			
Nonnoise exposed	20	1.0	0.8	1.8	3.8
	60	6.8	11.8	18.0	24.0
80 dBA	20	1.2	1.8	4.8	7.6
	60	7.9	12.4	22.8	29.8
85 dBA	20	1.8	1.9	7.4	11.8
	60	8.6	13.8	26.7	34.4
90 dBA	20	2.6	3.8	12.5	16.7
	60	10.2	19.5	34.0	41.2
		(b) 90th percentile			
Nonnoise exposed	20	3.8	7.6	13.6	16.1
	60	14.6	18.1	29.8	36.8
80 dBA	20	9.4	8.9	18.2	26.8
	60	15.9	20.9	37.6	50.2
85 dBA	20	9.9	11.3	21.9	30.8
	60	16.9	24.8	43.2	56.0
90 dBA	20	10.9	15.4	31.1	37.8
	60	18.8	33.0	54.6	63.4

[1] Averaged Data of Passchier-Vermeer [10] and Robinson.[11] Presbycusis data previously subtracted by these authors have been added back.

[2] Re audiometric zero (ANSI S 3.6, 1969).

TABLE III.—*Estimates of shift in distribution of worker exposure due to maximum compliance to 90 dBA (according to Bell, Bennett, and Newman, 1974)*

Exposure level (dBA)	Production workers currently exposed		Those exposed after maximum compliance to 90 dBA	
	Percent production workforce	Approximate number of workers	Percent production workforce	Approximate number of workers
80 to 84	20	4,200,000	20	4,200,000
85 to 89	40	8,400,000	32	6,680,000
90 to 94	15	3,100,000	4	560,000
95 to 99	7	980,000	2	280,000
100 to 104	4	560,000	1	140,000
105 to 109	2	280,000	1	140,000
110 to 114	2	280,000	0	
More than 115	1	140,000	0	

TABLE IV.—*Shift in distribution of worker exposure due to maximum compliance to 85 dBA (according to Bell, Bennett, and Newman, 1974)*

Exposure level (dBA)	Production workers currently exposed		Those exposed after maximum compliance to 85 dBA	
	Percent production workforce	Approximate number of workers	Percent production workforce	Approximate number of workers
80 to 84	20	4,200,000	92	12,880,000
85 to 89	40	8,400,000	4	560,000
90 to 94	15	3,100,000	2	280,000
95 to 99	7	980,000	1	140,000
100 to 104	4	560,000	1	140,000
105 to 109	2	280,000	0	
110 to 114	2	280,000	0	
More than 115	1	140,000	0	

It can be seen that requiring compliance at either the 90 dBA or the 85 dBA level would be beneficial. However, the difference between compliance at 90 dBA and at 85 dBA as can be seen by comparing Table III and IV is particularly dramatic. Should compliance at 85 dBA be achieved, the numbers of noise exposed workers in the 85–89 dBA group would be reduced from 8,680,000 to only 560,000. Thus, approximately 8,120,000 workers would be prevented from suffering the amount of NIPTS resulting from exposures of 85 dBA to 90 dBA shown in Table I. In addition, the numbers of workers exposed to the more damaging noise levels between 90 dBA and 110 dBA would be reduced from approximately 1,120,000 to 560,000. Although some amounts of hearing loss would still occur as a result of an 85 dBA exposure level, EPA believes that the demonstrated differences between NIPTS resulting from exposure to 85 dBA as opposed to 90 dBA are so significant as to warrant reduction to the 85 dBA level. This significance becomes more profound when one considers that the hearing of 8 million workers is involved.

2. *Hearing risk.* Since the effects of occupational noise on hearing are often stated in terms of damage risk or hearing risk figures, it would be useful to examine percentages of the population at risk for various exposure levels. The word "risk" for these purposes is defined as the percentage of noise exposed population with a given amount of hearing impairment after subtractions have been made for the percentage of people who would "normally" incur such losses from other causes in the absence of noise. Criteria published by the International Organization for Standardization (ISO),[9] EPA,[1] and NIOSH,[7] are fairly similar. These criteria shown in Table V, are based on 8-hour exposures, 5 days per week for up to 40 years. They show percentages of people who will have hearing losses that exceed 25 dB[8] at the average audiometric frequencies of 500 Hz, 1000 Hz and 2000 Hz. It can be seen that substantial portions of the exposed population will incur such a hearing impairment at 90 dBA, approximately half as many will incur these impairments at 85 dBA, and the risk is quite small at 80 dBA.

TABLE V.—*Percentage of the population at risk (exceeding 25 dB hearing loss) as a result of various noise exposure levels*

Item	Noise exposure level (dBA)	Risk (percent)
a. Averaged frequencies 500 Hz, 1000 Hz, and 2000 Hz:		
ISO	90	21
	85	10
	80	0
EPA	90	22.8
	85	11
	80	5
NIOSH	90	20
	85	15
	80	8
b. Hearing risk for 4000 Hz:		
BAUGHN	90	52
	85	30
	80	6

These risk figures, however, do not take into account hearing losses above the 2000 Hz frequency. As mentioned earlier, human response to the high frequencies is more vulnerable to the adverse effects of noise, and is important to the understanding of speech in lifelike conditions. In order to compare the risk values for the mid-frequencies with those for a higher frequency, risk figures for 4000 Hz are shown. These figures were taken from Baughn's data,[6] whose risk figures for the averaged mid-frequencies were used in the calculations of EPA's and ISO's risk values. The same 25-dB hearing loss criterion is used. It can be seen that the risk is considerably greater when 4000 Hz is examined, and the differences between exposure levels are even more noticeable. While only 6 percent of the exposed population will exceed the 25 dB loss criterion at 80 dBA, 52 percent of the population will exceed it from exposure to 90 dBA. This is clearly an unacceptable risk.

Although the concept of risk appears to be a fairly straightforward way of examining the effects of noise on hearing, there are a number of reasons why EPA is reluctant to use it as the only measure. First, risk figures say nothing about the shape of the distribution. Individuals could cluster around the area of 26 dB loss or they could be scattered widely up to 50 or 60 dB. Also risk figures say nothing about hearing losses that approach, but do not exceed the criterion in question (in this case 25 dB). In other

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words, risk figures may provide information on people whose hearing goes from fair to bad, but not on those whose hearing goes from excellent to fair as a result of noise exposure. In addition, the percentage of risk will vary according to certain parameters such as the age and years of exposure of the exposed population and the presence and degree of otologic screening.[7] For these reasons, EPA believes that NIPTS, the actual amount of threshold shift due to noise exposure after correction for presbycusis, is a more appropriate descripter of the effects of noise on hearing. While these values may appear to be less dramatic, they are less susceptible to bias and in the long run, more meaningful.

3. *Other health factors not considered.* There are certain adverse effects of noise that apparently have not even been discussed in the formulation of the standard. These are the non-auditory physiological effects of noise, and the effects on communication and job performance. While some of these effects are difficult to quantify, they should be taken into consideration as a noise exposure standard is developed, and where appropriate, they should encourage a more conservative approach to the setting of exposure limits. This is especially important in view of the fact that the proposed standard does not afford full protection against hearing loss. The Preamble states that "OSHA recognizes that comparatively more workers will be at lower risk at 85 dBA than at 90 dBA," but there is no consideration of long-range goals.

There is ample evidence that cardiovascular, endocrine and neurological changes do occur as a result of noise exposure.[1, 2, 3-6] Whether or not these changes are harmful when experienced over a lifetime is still a subject of question for American researchers. Various European and Soviet studies, as well as some American studies, have indicated that high noise levels can produce significant non-auditory physiological effects in humans.[3-6] With specific reference to industrial noise, NIOSH [1] states that:

> The fact that those who work in high noise levels show greater medical difficulties than those who work under quieter conditions is not conclusive evidence that noise is the crucial causal factor. In each case, it is possible that the differences in the specified health parameters may be explained by other factors such as age, other environmental contaminants, workload and job habits.

However, the fact that such evidence does occur, even though it is not as conclusive as the auditory evidence, is reason to approach the standard-setting process with extra caution.

NIOSH concludes the discussion by saying that the "* * * noise limits designed to provide hearing protection should also reduce the possibility of any extra-auditory health disturbance."[1] Here it should be remembered that NIOSH referred to the 85 rather than the 90 dBA level. Such a statement can be still more safely made with reference to EPA's identified levels of 70–75 dBA.

While the possibility of protection against extra-auditory effects may be true for moderate levels of noise, this protection is less likely to occur with long-term exposures to 90 dBA for 8 hours, 95 dBA for 4 hours, or 100 dBA for 2 hours.

Speech and signal interference creates a similar situation. Varying amounts of communication can occur at levels above 85 dBA if talker and listener move close together and very loud voice or shouting is used. However, speech communication is almost impossible above 100 dBA[8] and the audibility of warning shouts and signals becomes increasingly problematical at such high background levels. These hazards should be acknowledged and kept in mind when setting 8-hour exposure limits, and especially when making decisions about a time-intensity tradeoff. Even with an 8-hour exposure limit of 90 dBA, adoption of a more stringent time-intensity tradeoff than the present 5 dB rule would eliminate exposure to continuous noise at levels above 105 dBA. The chances of masking warning shouts or signals, as well as the probability of auditory damage would be reduced accordingly.

The effects of noise on job performance are more difficult to quantify than the effects on speech and signal interference. Continuous noise levels above 90 dBA appear to have potentially detrimental effects on performance, depending on the type of task and the individual's physiological and motivational state.[3] Intermittent levels of less than 90 dBA can be detrimental depending upon the above-mentioned variables, especially if the noise is unexpected, uncontrollable and has predominantly high frequency components.[3] Although these effects have not been studied extensively in the industrial situation, they should provide added incentive for adopting a conservative approach to the setting of standards designed to protect against other adverse effects.

B. TIME-INTENSITY TRADEOFF

OSHA's Proposal: 5-dB Rule
EPA's Recommendation: 3-dB or "Equal Energy" Rule

The question of the allowable increase in exposure levels with decrease of exposure time (time intensity tradeoff) is an issue that is as important as the 8-hour exposure level for the conservation of hearing. EPA believes that OSHA's allowable increase of 5 dB for every halving of exposure duration does not adequately protect public health and welfare. It is based on an over-simplification of the beneficial effects of intermittency. First, the criteria upon which it is based allow excessive amounts of threshold shift in the exposed population. In addition, the criteria require evenly spaced quiet intervals of specific duration in which to recover from temporary threshold shift (TTS). Such precise temporal distributions are not characteristic of the industrial environment. The typical sound levels during intermittencies in most industrial conditions are not sufficiently low to permit adequate recovery from TTS. It is generally agreed that persistent TTSs will eventually result in comparable permanent threshold shifts.[4, 6]

It is true that interrupted noise in some instances causes less damage to the hearing mechanism than an equivalent amount of continuous noise.[9, 10] For this reason, EPA increased by 5 dB the level of environmental noise identified as required to protect against hearing loss.[3] (This correction is distinct from a time-intensity tradeoff.) During the periods of interruption, the ear is able to achieve some amount of recovery from TTS. However, the amount of recovery achieved is highly dependent upon the duration and level of the noise, the amount of time between exposures and the sound level during the quiet period. While long periods of relative quiet are characteristic of most environmental noise, they are not common to industrial noise.

The 5 dB rule is theoretically based on damage-risk criteria developed by Working Group #46 of the Committee on Hearing, Bioacoustics and Biomechanics of the National Academy of Science—National Research Council (CHABA).[6] These criteria, derived from data on TTS, specify tolerable levels and durations of noise for 1-octave and 1/2-octave bands for a range of approximately 85 dB to 135 dB. They allow higher levels of noise as the durations become shorter and recovery periods become longer. Adherence to the CHABA criteria should produce TTS after 2 minutes or NIPTS after 40 years of exposure no greater than the losses displayed in Table VI. EPA believes that these are excessive amounts of allowable threshold shift from noise exposure. Moreover, research has indicated that observed amounts of TTS can be considerably higher than those predicted by the CHABA criteria.[6]

TABLE VI.—*Estimated NIPTS according to damage-risk criteria proposed by CHABA working group No. 46*

Test frequency (hertz)	Median (decibel)	90th percentile (decibel)
1000	10	30
2000	15	41
3000	20	60

The CHABA criteria were later simplified to apply to the industrial situation by consolidating the ⅓- and 1-octave band long- and shortburst intermittent contours into one scheme combining dBA level, total on-time and number of exposure cycles.[7] A time-intensity tradeoff was selected that seemed to characterize a situation with 5 to 7 interruptions per day, namely, a 5 dB tradeoff. The validity of even the simplified method rests on the requirements that the exposure cycles are evenly distributed and the 5 to 7 interruptions are long enough to permit the necessary amount of recovery from TTS. However, as adopted by OSHA, these requirements have disappeared. Thus, an individual can be subjected to a 95 dBA exposure level distributed in any

See footnotes at end of document.

temporal pattern throughout the day, or even continuously, so long as a four-hour dose is not exceeded. The CHABA criteria, even in the simplified form, would permit only 30 minutes of uninterrupted exposure to 95 dBA. A yet more serious misinterpretation occurs by allowing a solid 15 minutes of exposure to 115 dBA. At this level, the CHABA criteria permit only about 3½ minutes of uninterrupted exposure.

In addition to the regularity and duration of the interruptions, the noise level of the quiet period contributes to the amount of recovery that can take place. Significantly greater amounts of TTS were found for equivalent exposures to 103 dBA when the sound level during the quiet intervals was 77 dBA than when it was 40 dBA.[46] Significant differences also appeared between quiet intervals of 67 dBA and 57 dBA.[47] This kind of evidence has prompted EPA to identify a level of 60 dBA as a quiet requirement in order to permit complete recovery from 8-hour work-day exposures no higher than 75 dBA.[8] NIOSH has identified a level of 65 dBA as meeting the requirements of a true "off-level."[7] Both figures are considerably more conservative than the 84 dBA level implicit in the proposed standard since levels below 85 dBA are not included in the calculation of the daily dose. It has been suggested that sufficiently low sound levels can heighten the effectiveness of interruptions and facilitate recovery that otherwise would not occur.[48] This hypothesis could very well explain the advantages attributed to intermittency in the laboratory and in occupations such as forestry and some kinds of mining where the background noise level is fairly low. Obviously, there is quite a differences between a remote mountain top and a typical production factory.

It is generally agreed that the noise in production industries is fairly continuous or steady-state in nature and that it is not intermittent, i.e., interrupted by periods of subjective silence[9] or by noise levels below 55 dBA[8] to 65 dBA[7] depending on the definition of intermittency. OSHA's draft Environmental Impact Statement[49] maintains that "most industrial operations emit steady-state sounds." For this type of noise there is widespread agreement that the "equal energy" rule holds true, that is that equal amounts of sound energy will cause equal amounts of hearing loss regardless of how the energy is distributed in time. This rule allows a 3 dB increase in exposure level with each halving of exposure duration, rather than the 5 dB increase permitted by OSHA. The concept of equal energy is incorporated into the ISO Recommendation R1999 "Assessment of Occupational Noise Exposure for Hearing Conservation Purposes,"[50] it is written into most European standards for occupational noise,[51-73] and it is used in modified form in the U.S. Army[74] and U.S. Air Force[75] standards. Actually, the Army has adopted a standard that identifies any level above 85 dBA as potentially hazardous, regardless of duration (i.e., a more conservative approach than the 3 dB tradeoff). The Air Force, although it previously used the equal energy rule,[76] has adopted a 4 dB tradeoff,[77] presumably as a compromise between the equal energy rule and the present OSHA method. The equal energy rule is incorporated into the methodology by which EPA has identified safe levels of environmental noise.[8] According to the EPA/AMRL criteria[3] the equal energy rule "is probably the best available method of predicting the effect of noise on hearing in the case of continuous noise of which the level fluctuates slowly (seconds to hours) during the workday," and its application to these noise conditions is advocated by most contemporary researchers.[57 59-61] Experimental support has been given to its application to intermittent noise[57 62 63] and there is a growing tendency to apply the rule to impulsive noise as well[64-66] (see Appendices C and G of EPA's "Noise Levels Document"). The English Code of Practice[67] extends the equal energy rule from completely steady-state noise to short-duration impulses as high as 150 dB. There is no doubt that the equal energy rule is simpler, and it is more practical to use since OSHA's 5 dB time-intensity tradeoff imposes limits of 115 dBA on continuous noise and 140 dB on impulsive noise.

An additional point that may have very serious implications for noise control is the fact that noise exposure can produce structural damage to the ear that is not demonstrated by behavioral audiometry.[47] A scheme such as the CHABA method, which is based on the growth and recovery of TTS, neglects the possibility that anatomical damage may occur even though it is not detected by ordinary methods. Thus, damage risk criteria that appear to be safe as measured by TTS and subsequent recovery may fail to protect individuals from physiological damage that might become apparent after years of exposure.

For the above reasons, a 5-dB time-intensity tradeoff is not appropriate to the industrial environment. Employing it would not protect public health and welfare to the extent required. It would allow excessive amounts of NIPTS, particularly in the more susceptible members of the exposed population (see Table VI), even if the CHABA-recommended intermittency patterns were adhered to. As the rule is currently interpreted, 4 hours of continuous noise at 95 dBA, and likewise 2 hours of continuous noise at 100 dBA and 15 minutes at 115 dBA are allowable, with the resulting amounts of hearing loss potentially much greater than those predicted by the CHABA criteria. These points are among the many reasons to severely restrict exposure to noise levels as high as 110 dBA and 115 dBA, and to apply the more conservative equal energy rule to industrial noise exposures.

III. Feasibility, Technology and Cost

To fill the gap in data, which was pointed to in the NIOSH criteria document, the Department of Labor commissioned Bolt, Beranek, and Newman to study the cost and technology of quieting industry to levels of 90 dBA and 85 dBA. As that study showed, the same technology that is available today to achieve a level of exposure to 90 dBA for 92 percent of the workforce can also be applied to achieve a level of 85 dBA for the same number of workers, and that technology can be adequately supplied by the noise control industry. The cost of achieving the 85 dBA level is, of course, greater. However, EPA believes that many of BBN's estimates ($13.5 billion for 90 dBA, $18.1 billion more for 85 dBA) are too high. BBN's report (because of the short time given for it) includes cost data based wholly or in part on extrapolations from individual plants to whole industries, and from smaller industries to very large industries, which could also produce questionable figures. An example is the use of relative gross annual value of production to compare lumber finishing operations with saw mills, where the control requirements are not directly similar. In addition, it appears that estimates were not based on least cost methodology.[78] The final cost estimates do not take into account the combined use of administrative and engineering controls as allowed by the proposed standard, nor do they include the possibility of using in-house labor to achieve noise reduction.

Also, the estimates of economic impact do not consider as an offsetting savings the beneficial effect of new, quieter machinery on capital and labor productivity. Furthermore, alternatives such as those indicated in Part IV of this document can also favorably alter the cost impact. For these kinds of reasons, EPA suggested that a more thorough study of costs and benefits should be performed.

Even assuming, however, that these figures are correct, EPA believes that, in view of the need to reduce the standard ultimately to 75 dBA in order to protect the population adequately, requiring compliance with an 85 dBA standard within three years is a reasonable first step. The added protection is commensurate with even the BBN calculations of added cost. As shown in Tables III and IV, 8,120,000 more workers are protected at 85 dBA than at 90 dBA.

IV. Suggested Alternatives

EPA recognizes that, in the final analysis, it is OSHA that must perform the balancing of the cost, technology and health and welfare considerations. We believe, however, that for the reasons discussed above, the standards proposed and the justification given by OSHA fall short of protecting the health and welfare of workers to the extent required or to the extent that these values could feasibly be protected. Accordingly, EPA is asking that OSHA address in detail the specific points discussed above. If after doing so, the Secretary determines that an 85-dBA standard (and 3 dB time-intensity tradeoff) applicable to all industries after three years is not justified, the following regulatory alternatives should be considered. Because each of

See footnotes at end of document.

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these approaches has been previously suggested to OSHA, and all have been rejected without explanation, the Administrator requests that the detailed response to this notice include a detailed discussion of the Secretary's findings as to whether any one or a combination of these approaches could feasibly be employed to more adequately protect the public health and welfare.

In considering alternatives, EPA would urge OSHA not to abandon its position that the use of hearing protectors and audiometric monitoring are merely supplementary measures. EPA approves of OSHA's inclusion of hearing conservation measures as an integral part of an occupational noise control program. EPA concurs with the approach traditionally held by OSHA that ear protective devices should be used as interim measures until such time as engineering or administrative controls can reduce noise exposure to safe levels. However, since ear protective devices are often improperly used or not used, EPA does not view such devices as a viable alternative to noise reduction at the source or the use of administrative controls. Moreover, there exist with the use of such devices, as with many other personal protective items, possible risks of increased safety hazards.

EPA believes that audiometric monitoring can be a valuable diagnostic tool, but it will not detect "any changes in hearing," and consequently prevent significant threshold shift as OSHA has stated in its preamble. Normal variability among subjects, audiometers and technicians will reduce the probability of detecting hearing losses before they become significant. Moreover, OSHA's definition of significant threshold shift would conceivably allow threshold shifts of up to 35 dB at a single frequency before the worker is appraised of his hearing loss. Even at that point, there are no remedial steps specified except for retraining in the use of ear protection. For these reasons, EPA concurs with OSHA that hearing protection devices and audiometric testing alone cannot be considered as an alternative method of achieving noise reduction.

1. *Industry-by-industry standards.* Bolt, Beranek and Newman pointed out in its feasibility study that a small portion of the American production industries is presently unable to comply with a 90-dBA 8-hour exposure standard with existing noise control technology.[7] In addition, some industries will experience the economic impact of compliance much more severely than others. Presumably for these reasons OSHA has chosen to issue extended compliance intervals for certain industries. Such an agreement is currently in effect with the American Can Company and EPA understands that agreements with other large companies are being negotiated. In addition, a multitude of abatement extensions are currently being granted on the local level. By granting different extensions to different industries OSHA has shown that industry-by-industry standards are administratively feasible, and in a sense, are being practiced. Setting a more stringent goal for all industries and then allowing different compliance schedules for different industries would be one method of approaching the problem. This method could have the advantage of immediate reductions to noise levels well below 90 dBA wherever such reductions are feasible. Reductions in some cases to levels as low as 75 dBA, would preclude even small amounts of threshold shift in most of the exposed population, and would greatly reduce the potential hazard of non-auditory effects.

2. *Incremental reductions.* This alternative is a variation of the plan mentioned above, where all industries would be required to comply with a certain exposure level within, for example, 5 years, and another level in another 5 years and so on until a truly safe level is achieved. It would be less complicated to administer than the industry-by-industry plan, but would not provide such immediate protection for workers employed in industries where abatement to low noise levels is readily achievable. In earlier drafts of OSHA's noise standard (Working Drafts I and II), reduction to 85 dBA in 5 years was specified. That provision has since been deleted. EPA strongly recommends that either the 5-year, or better, the 2-year provision be reinserted with serious consideration given to reducing to 80 dBA after another subsequent period.

3. *Stringent standard with variance provisions.* This alternative involves setting more stringent industry-wide standards, and allowing temporary variances for individual companies that are economically or technologically unable to comply. The agreement with the American Can Company has set clear precedent for the use of variances, even though the word "variance" has not been attributed to the agreement. The concept should be considered not only in terms of the present 90-dBA standard, but with respect to levels of 85 dBA and eventually to 80 dBA. It should, naturally, be viewed in terms of longer compliance periods for the lower levels, and for the companies that would experience the greatest economic and technical difficulties.

4. *Lower levels for new plants.* NIOSH has recommended that new plants be designed to meet an 85-dBA standard. This should be technologically feasible for nearly all industries, and the economic burden would be smaller than it would be for reducing exposures in existing plants. Requiring more stringent standards for new plants would stimulate the development of cost effective noise abatement technology and it would ease the burden of noise abatement requirements in the future.

Dated: December 5, 1974.

RUSSELL TRAIN,
Administrator,
Environmental Protection Agency.

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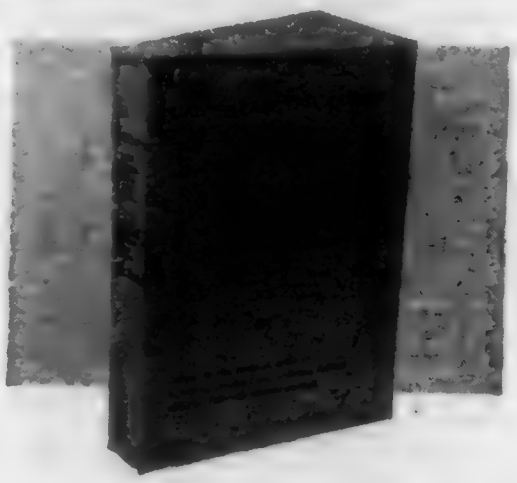
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Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 331]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period December 20–26, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.631 Navel Orange Regulation 331.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges remains active. Prices f.o.b. averaged $3.69 per carton on a reported sales volume of 1,306 carlots last week, compared with an average f.o.b. price of $3.62 per carton and sales of 1,041 carlots a week earlier. Track and rolling supplies at 791 cars were up 212 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 17, 1974.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period December 20, 1974, through December 26, 1974, are hereby fixed as follows:

(i) District 1: 630,000 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: 70,000 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 18, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-30796 Filed 12-18-74;11:55 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce

Part 213 is amended to show that § 213.3114(d)(3) having expired by its own terms is revoked.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74-30857 Filed 12-18-74; 8:45 am]

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

Section 213.3182 is amended to show that one position of Special Assistant to the Deputy Chairman for the Humanities, one position of Deputy Director, Division of Research Grants, and one position of Program Officer, Public Programs Division, are excepted under Schedule A until June 30, 1976. It is further amended to show that the Schedule A authority for one position of Special Assistant to the Chairman is revoked.

Effective on December 19, 1974, § 213.3182(b) is amended to read as set out below.

§ 213.3182 National Foundation on the Arts and the Humanities.

* * * * *

(b) [Revoked] * * *

(12) Until June 30, 1976, two Program Officers, Division of Public Programs.

* * * * *

(19) Until June 30, 1976, two Special Assistants to the Deputy Chairman.

* * * * *

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(24) Until June 30, 1976, one Program Officer/Deputy Director, Division of Research Grants.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74-29585 Filed 12-18-74;8:45 am]

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

Section 213.3382 is amended to show that one position of Congressional Liaison Officer, National Endowment for the Arts, is excepted under Schedule C.

Effective on December 19, 1974, § 213.3382(h) is added as set out below.

§ 213.3382 National Foundation on the Arts and the Humanities.

* * * * *

(h) One Congressional Liaison Officer, National Endowment for the Arts.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74-29584 Filed 12-18-74;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Energy Administration

Section 213.3388 is amended to show that one position of Special Assistant to the Assistant Administrator for Conservation and Environment is excepted under Schedule C.

Effective on December 19, 1974, § 213.3388(g)(2) is added as set out below.

§ 213.3388 Federal Energy Administration.

* * * * *

(g) *Office of the Assistant Administrator for Conservation and Environment.*

* * *

(2) One Special Assistant to the Assistant Administrator.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74-29586 Filed 12-18-74;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Allocation of Non-bonded Aviation Fuels to International Air Carriers

On August 8, 1974, the Federal Energy Administration issued a notice of proposed rulemaking and public hearing (39 FR 28863, August 9, 1974) to amend Subpart H of Part 211, the Mandatory Petroleum Allocation Regulations, proposing certain changes in supplier/purchaser relationships and allocation levels for aviation fuels. The proposed changes would also have altered the method of allocating non-bonded fuel to international air carriers. On August 21, 1974, FEA issued a notice which extended the comment period, rescheduled the public hearing and provided a further explanation of the proposed regulations (39 FR 30506, August 23, 1974).

Final regulations based on the August 8 notice were issued October 20, 1974 (39 FR 37968, October 24, 1974). In light of comments and testimony received in response to the notice of proposed rulemaking, however, FEA concluded that the method of allocating nonbonded fuel to international air carriers specified in § 211.146(c) should be retained, but that a further notice of proposed rulemaking should be issued with respect thereto because § 211.146(c) is difficult to apply in practice and in some cases produces unintended results.

A further notice of proposed rulemaking was therefore issued November 20, 1974 (39 FR 41183, November 25, 1974), proposing to modify § 211.146(c) in order to insure domestic and international air carriers access to non-bonded aviation fuel on an equitable basis. The further notice set forth a rather complex method of determining allocation of non-bonded fuel to international air carriers which involved a series of calculations which basically treated international air carriers' purchases of bonded fuel as if those purchases were subject to a supplier's allocation fraction.

Because of the complexity of the proposal, FEA also invited comments from interested parties on ways of improving the existing § 211.146(c) or on alternative methods of allocation. An alternative method was suggested by FEA whereby an international air carrier would still certify whenever it was unable to purchase sufficient bonded fuel at a price at or below its base period supplier's lawful price for non-bonded fuel, nominate an amount of non-bonded fuel which it would purchase, and subsequently certify to FEA that its total purchases of bonded and non-bonded fuel for that period did not exceed its base period use.

Comments on the proposed regulation were invited through December 6, 1974. Twenty-four comments were received. Those submitting comments included suppliers, domestic and international air carriers and trade associations. Opposition to the proposed rule was based on its complexity and corresponding susceptibility to error.

Several comments suggested a modification to the method of allocating non-bonded fuel to international air carriers which is simpler than the proposed rule and which the FEA believes is preferable to the present § 211.146(c). The modified method would substantially accomplish the goal of affording domestic and international air carriers access to non-bonded aviation fuels on an equitable basis. This approach has therefore been incorporated into a new § 211.146(c), which is hereby adopted, along with other conforming changes.

Under the new regulation, the definitions of "adjusted allocable supply" and "bonded fuel factor" have been deleted from § 211.142. Section 211.146(c)(1) has been revised to provide that international air carriers shall certify to their base period suppliers for a period corresponding to a base period rather than for each month that they are unable to obtain sufficient bonded fuel at prices which do not exceed their base period supplier's lawful prices for non-bonded fuel. Revised § 211.146(c)(2) provides that a base period supplier of bonded fuel must notify international air carriers upon request whether and in what amounts it will supply bonded fuel at its lawful price for its non-bonded fuel at a station for an entire period corresponding to a base period, rather than for a month.

Certifications are required by § 211.146(c)(3) to be filed with suppliers at least fifteen days prior to the beginning of the period corresponding to a base period to which the certification applies, except that for the period beginning January 1, 1975, certifications are to be filed by December 20, 1974. In its certification to a base period supplier an international air carrier must specify the volumes of bonded aviation fuels which can be obtained for the period from all sources and the volumes of bonded fuel which can be obtained from that supplier; the carrier's base period use for that period; the amount of the carrier's base period volume which was supplied by that supplier; whether the carrier can utilize naphtha-base jet fuel; and the amount of bonded fuel which the supplier is to subtract from that portion of the carrier's base period use supplied by the supplier in determining the amount of non-bonded fuel to supply the international air carrier. This latter amount will include the amount of bonded fuel which the international air carrier will obtain from the base period supplier, and should also include purchases of bonded fuel to be obtained from non-base period suppliers. An international air carrier which files certifications with more than one base period supplier may apportion its bonded fuel purchases from non-base period suppliers among its base period suppliers.

Revised § 211.146(c)(4)(i) provides that in calculating its allocation fraction for a period corresponding to a base period, a supplier which has received certifications from international air carriers must add to its allocable supply (the numerator of the fraction) an amount which represents amounts of bonded fuel which it will supply to international air carriers which have made certifications to the supplier and the additional amounts of bonded fuel which such carriers have advised the supplier to subtract from that portion of their base period uses supplied by that supplier. The supplier shall include in its supply obligation (the denominator of the fraction)

the portion of the international air carrier's base period use to be supplied by that supplier.

The resulting allocation fraction will be multiplied times each purchaser's allocation requirement, as defined in § 211.10(b)(2)(iii). With respect to an international air carrier, the supplier will supply an amount of non-bonded fuel determined by multiplying the international air carrier's allocation requirement times the supplier's allocation fraction less the amount of bonded fuel which it will supply the carrier during the period and other amounts of bonded fuel which the carrier has advised the supplier to subtract from its base period use supplied by the supplier. In certain situations, the amount of non-bonded fuel to be supplied an international air carrier could be a negative figure. In such cases, § 211.146(c)(4)(ii) specifies that the supplier shall allocate no non-bonded fuel to that carrier, and that the supplier should then recalculate its allocation fraction after excluding the carrier's allocation requirements from its supply obligation and any amounts of bonded fuel included in its allocable supply for that carrier.

Section 211.146(c)(4)(iii) specifies that an international air carrier may not accept an amount of non-bonded aviation fuel, except for surplus non-bonded fuel as provided by § 211.10(g), for a period corresponding to a base period, which when added to the bonded fuel available to it from all sources for that period would exceed the carrier's allocation requirement. In addition, under § 211.146(c)(4)(iv), a carrier which purchases more bonded fuel than it has certified was available to it during a period must file an amended certification reporting that fact, and the supplier is required to reduce the amount of non-bonded aviation fuel which would be allocated to the carrier in the current or a subsequent period.

The November 20 further notice of proposed rulemaking also stated that FEA was considering a requirement that international air carriers establish their base period use with FEA for each period corresponding to a base period, and that international air carriers certify to FEA at the end of each period corresponding to a base period that they had not lifted more non-bonded aviation fuel than is permitted by FEA's regulations. Accordingly, § 211.146(c)(6) provides that within twenty days after the end of each period corresponding to a base period, an international air carrier which files a certification under § 211.146(c) is required to certify to FEA in accordance with forms and instructions issued by FEA certain information, including the amount of surplus product purchased during the period pursuant to § 211.10(g), and the amounts of bonded and non-bonded fuels (other than § 211.10(g) purchases) obtained during the period. The carrier must also certify that its purchases of fuel other than surplus fuel did not exceed one hundred percent of its base period use for that period.

With respect to the requirement that international air carriers establish their base period use with FEA, a one time only report will be required of international air carriers pursuant to § 211.146(c)(7), which provides that no international air carrier will be allocated non-bonded fuel under § 211.146(c) for any period corresponding to a base period beginning after March 31, 1975 unless it has provided the information to FEA specified in § 211.146(c)(7).

(Emergency Petroleum Allocation Act of 1974, Pub. L. 93-159; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, (39 FR 23185)).

In consideration of the foregoing, Part 211 of Chapter II, Title 10, Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., December 13, 1974.

ROBERT E. MONTGOMERY, Jr.,
General Counsel,
Federal Energy Administration.

1. Section 211.141 is amended in paragraph (b) to read as follows:

§ 211.141 Scope.

* * * * *

(b) Bonded aviation fuels are excluded from allocation. Allocation of non-bonded fuels to international air carriers is provided for in § 211.146.

* * * * *

§ 211.142 [Amended]

2. Section 211.142 is amended by deleting the definitions of "Adjusted allocable supply" and "Bonded fuel factor."

3. Section 211.146 is revised in paragraph (c) to read as follows:

§ 211.146 Method of allocation.

* * * * *

(c)(1) For periods corresponding to a base period commencing after December 31, 1974, international air carriers which have traditionally used bonded aviation fuel for international flights shall be allocated non-bonded aviation fuels, including naphtha-base jet fuel, by their base period suppliers as provided by this paragraph. Upon certification by an international air carrier to its base period suppliers that the carrier is unable to purchase or obtain sufficient bonded aviation fuel for a period corresponding to a base period at prices which do not exceed the lawful price of its base period suppliers of bonded fuel for similar volumes of non-bonded aviation fuel at the desired location, the base period suppliers shall provide non-bonded aviation fuel, including naphtha-base jet fuel, to that carrier. Unless the international air carrier certifies that it cannot utilize naphtha-base jet fuel, the base period suppliers may to the extent of the carrier's capability to use such fuel allocate non-bonded naphtha-base jet fuel prior to allocating other non-bonded aviation fuels to the international air carrier. International air carriers which do not have base period suppliers or whose base period suppliers are unable to supply them currently with non-bonded aviation fuel shall apply to FEA for assignment of suppliers of non-bonded aviation fuels.

(2) For each period corresponding to a base period, each base period supplier of bonded fuel shall notify international air carriers, upon request, whether the supplier will provide bonded fuel at the supplier's lawful price for its non-bonded fuel at a station and in what amounts.

(3) An international air carrier which files a certification with a supplier under this paragraph shall provide such certification to its supplier at least fifteen (15) days prior to the beginning of the period corresponding to a base period to which the certification applies except that for the period corresponding to a base period beginning January 1, 1975, an international air carrier shall provide such certification by December 20, 1974. The certification shall specify:

(i) The volumes of bonded aviation fuel which can be obtained for the period from all sources;

(ii) The volumes of bonded aviation fuel which can be obtained from that supplier;

(iii) The international air carrier's base period use for that period;

(iv) The amount of the international air carrier's base period use to be supplied by that supplier;

(v) Whether and to what extent the international air carrier can use naphtha-base jet fuel; and

(vi) The amount of bonded fuel which the supplier is to subtract from that portion of the carrier's base period use to be supplied by the supplier in addition to the volume of bonded aviation fuel to be supplied by the supplier in determining the amount of non-bonded fuel the supplier is to supply to the carrier.

(4) Suppliers of non-bonded aviation fuel shall allocate supplies of non-bonded aviation fuel as follows:

(i) A supplier shall calculate its allocation fraction in accordance with § 211.10(b), except that for the purpose of calculating its fraction it shall add to its allocable supply an amount equal to the amounts of bonded fuel which the supplier will supply to an international air carrier which has made a certification pursuant to this paragraph and any other amounts of bonded fuel which a carrier has advised the supplier to subtract from that portion of the carrier's base period use to be supplied by the supplier in order that the carrier will comply with paragraph (c)(4)(iii) and (iv) of this section.

(ii) A supplier shall allocate its aviation fuel in accordance with § 211.10(c), except that with respect to an international air carrier, a supplier shall supply an amount equal to the portion the carrier's allocation requirement supplied by that supplier multiplied times the supplier's allocation fraction, minus an amount equal to the amounts of bonded fuel which the supplier will supply to the international air carrier and any other amounts of bonded fuel which the carrier advises the supplier to subtract from

that portion of the carrier's base period use to be supplied by the supplier in order that the carrier will comply with paragraph (c)(4)(iii) and (iv) of this section and which were included in allocable supply pursuant to paragraph (c)(4)(i) of this section. In the event that the amount to be supplied to an international air carrier as calculated under this subdivision (ii) is a negative amount, the supplier shall supply no non-bonded fuel to the international air carrier, but shall recalculate its allocation fraction in the manner specified in this clause excluding from its supply obligation that carrier's allocation requirement and from its allocable supply any amounts of bonded fuel included pursuant to paragraph (c)(4)(i) of this section for that carrier.

(iii) No international air carrier shall accept an amount of non-bonded aviation fuel except for non-bonded fuel purchased pursuant to § 211.10(g) for a period which corresponds to a base period which when added to the bonded aviation fuel available to that international air carrier from all sources for that period would exceed the volume of aviation fuel the international air carrier would receive if the carrier were to use only non-bonded aviation fuels to meet its base period use for that period. An international air carrier shall take into account purchases of bonded fuel from non-base period suppliers and report such purchases to its base period suppliers in order that the base period suppliers may allocate non-bonded fuel pursuant to this paragraph. The carrier may apportion the amounts of bonded fuel so reported among its base period suppliers in any amounts provided that the sum of all the amounts apportioned equals the total purchases of bonded fuel from non-base period suppliers.

(iv) If an international air carrier purchases or otherwise obtains a quantity of bonded aviation fuel for a period which corresponds to a base period regardless of price in addition to the amount of bonded fuel which it certifies is available to it for that period under this paragraph, the carrier shall immediately report such quantity to its supplier by filing an amended certification and its supplier shall reduce by such quantity the amount of non-bonded aviation fuel which would otherwise be allocated to that carrier in the current or a subsequent period which corresponds to a base period.

(5) None of the provisions of this paragraph shall affect existing contracts for the purchase of bonded aviation fuels.

(6) Within twenty (20) days after the end of each period corresponding to a base period, each international air carrier which files a certification under this paragraph shall certify to FEA in accordance with forms and instructions issued by FEA that it fully complied with paragraph (c)(6)(iii) and (iv) of this section for that period and provide such other information as is required including the following information:

(i) The amount of surplus aviation fuel purchased during the period by the carrier pursuant to § 211.10(g);

(ii) The amount of bonded fuel purchased during the period by the carrier;

(iii) The amount of non-bonded fuel purchased during the period by the carrier other than amounts purchased pursuant to § 211.10(g); and

(iv) A copy of any certification made by the carrier pursuant to paragraph (c)(3) of this section for that period.

(7) For each period corresponding to a base period beginning after March 31, 1975, no international air carrier shall accept non-bonded aviation fuel under this paragraph unless it has provided FEA with the following information by supplier for each period corresponding to a base period:

(i) The carrier's base period volume of bonded fuel;

(ii) The carrier's base period volume of non-bonded fuel;

(iii) The amounts of any adjustments to the carrier's base period use; and

(iv) The carrier's base period use.

• • • • •

[FR Doc.74-29499 Filed 12-16-74;12:10 pm]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Special Rule No. 3 for Subpart C

On November 29, 1974, FEA issued the final rule for the allocation of old oil (39 FR 42246; December 4, 1974). Subsequent to the issuance of the rule, FEA has concluded that, in light of the special needs of many small refiners, an amendment is necessary to assist those small refiners that will be required to purchase entitlements under the program to adjust on a graduated basis to their entitlement purchase obligations. Accordingly, FEA is hereby adopting Special Rule No. 3 for Subpart C of Part 211 to be effective immediately.

The Emergency Petroleum Allocation Act requires FEA to give special consideration in promulgating a mandatory allocation program to the impact of such program on small and independent refiners. The final rule for the allocation of old oil published on December 4, 1974 will provide significant benefits to such refiners, since as a general rule they are disproportionately dependent on crude oil which is exempt from price controls. FEA's concern that the competitive viability of small refiners be maintained is also reflected in the bias included in the final rule. While FEA believes that the small refiner bias will be adequate to preserve the competitive viability of the vast majority of those refiners over the long run, FEA recognizes that immediate imposition of the full entitlement purchase requirements of the program might have a severe short-term economic impact on certain small refiners which have been running a higher percentage of old oil in their refineries than the national average.

In particular, many small refiners have recently had lower run levels than the industry average; phasing in the entitlement purchase requirements of the program as to small refiners will afford these refiners an interim period during which to bring their run levels back to more normal levels. FEA also realizes that serious cash flow problems will be posed for some small refiners that are required to purchase entitlements; this Special Rule will assist small refiners in arranging any necessary financing and in structuring their marketing operations with regard to compliance with the program. In addition, FEA expects that, at the outset of the program, changes may take place in the product prices of various refiners, depending on the impact of the program on each of them; delaying the impact of the program as to small refiners will permit these refiners to adjust their product prices so as to most effectively pass through their increased crude oil costs under the program. In so providing, FEA is aware that most small refiners will have more difficulty in passing through these increased costs, due to their limited product slate.

Therefore, for all small refiners that would otherwise be required to purchase entitlements under the program, the Special Rule provides specified relief from such requirements for the first 30,000 barrels per day of their daily average volume of crude oil runs to stills. This Special Rule applies to the months of November and December 1974, and January 1975. For small refiners having run levels under 30,000 barrels per day, no purchases of entitlements are required for November 1974. For December 1974 and January 1975, such small refiners will be required to purchase one-third (⅓) and two-thirds (⅔), respectively, of the entitlements they would otherwise be required to purchase under § 211.67(b). For small refiners with run levels in excess of 30,000 barrels per day, this Special Rule is applicable only to that number of entitlements which bears the same proportion to the total number of entitlements required to be purchased that 30,000 barrels per day bears to the average daily volume of crude oil runs to stills of that small refiner. For February 1975, and subsequent months, small refiners will be required to purchase the full number of entitlements in accordance with the final rule issued on December 4, 1974.

FEA also considers that, in a certain number of cases, some form of exception relief will be warranted for small refiners. FEA's Office of Exceptions and Appeals is already implementing an expedited exceptions process for the program. This Special Rule will further ensure that FEA has sufficient time to evaluate and process any exception requests from small refiners required to purchase entitlements prior to the point in time at which the program is fully effective as to such refiners.

This Special Rule is effective immediately because delay of its effectiveness

will result in small refiners being subject to the full impact of the entitlement purchase requirements before a rulemaking procedure could be completed and because this rule is not likely to have a substantial impact on the national economy or large numbers of individuals or businesses.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., December 16, 1974.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

The Appendix to Subpart C of Part 211 is amended by the addition of a Special Rule No. 3 to read as follows:

SPECIAL RULE NO. 3

1. *Scope.* This Special Rule provides for a reduction in the entitlement purchase requirements of § 211.67(b) for specified volumes of old oil included in the adjusted crude oil receipts of small refiners for the months of November and December 1974, and January 1975.

2. *Reduction in entitlement purchase requirements for small refiners.* (a) Each small refiner with a volume of crude oil runs to stills of less than 30,000 barrels per day in the month concerned, that would otherwise be required to purchase entitlements under § 211.67(b): (i) shall not be required to purchase any entitlements for the month of November 1974; (ii) shall not be required to purchase in excess of one-third (⅓) of the number of entitlements otherwise required to be purchased by that small refiner under § 211.67(b) for the month of December 1974; and (iii) shall not be required to purchase in excess of two-thirds (⅔) of the number of entitlements otherwise required to be purchased by that small refiner under § 211.67(b) for the month of January 1975.

(b) Each small refiner with a volume of crude oil runs to stills in excess of 30,000 barrels per day in the month concerned, that is required to purchase entitlements under § 211.67(b): (i) shall not be required to purchase a number of entitlements for the month of November 1974, which is in the same proportion to the total number of entitlements otherwise required to be purchased by that small refiner under § 211.67 (b) that 30,000 barrels per day is to the daily average volume of that small refiner's crude oil runs to stills for that month; (ii) shall not be required to purchase in excess of one-third (⅓) of that proportion (as calculated in (i) above) of the total number of entitlements otherwise required to be purchased under § 211.67(b) for the month of December 1974; and (iii) shall not be required to purchase in excess of two-thirds (⅔) of that proportion (as calculated in (i) above) of the total number of entitlements otherwise required to be purchased under § 211.67(b) for the month of January 1975.

3. *Adjustment to number of entitlements issuable to refiners and eligible firms.* The total number of entitlements exempted from the purchase requirements of § 211.67(b) pursuant to paragraph 2 of this special rule shall be deducted, on a pro-rata basis, from the number of entitlements otherwise issuable to and available for sale by each refiner and each eligible firm which has entitlements available for sale in the month concerned.

4. *Provisions of Subpart C.* The provisions of subpart C of part 211 shall remain in full force and effect except as expressly modified by the provisions of this special rule.

[FR Doc.74-29590 Filed 12-16-74;8:51 pm]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. G]

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS OR DEALERS

Extensions of Credit in Certain Stock Option and Stock Purchase Plans

This interpretation explains that certain stock option and employee stock purchase plans that contain freedom of cancellation provisions involve extensions of credit when the optionee/purchaser receives the right to obtain the stock at a fixed price and defers payment therefor.

207.109. Questions have been raised as to whether certain stock option and stock purchase plans involve extensions of credit subject to Regulation G when the participant is free to cancel his participation at any time prior to full payment, but in the event of cancellation the participant remains liable for damages. It thus appears that the participant has the opportunity to gain and bears the risk of loss from the time the transaction is executed and payment is deferred. In some cases brought to the Board's attention damages are related to the market price of the stock, but in others, there may be no such relationship. In either of these circumstances, it is the Board's view that such plans involve extensions of credit. Accordingly, where the security being purchased is a margin security and the credit is secured, directly or indirectly, by any margin security, the creditor must register and the credit must conform with either the regular margin requirements of § 207.1(c) or the special "plan-lender" provisions set forth in § 207.4(a) of the regulation, whichever is applicable. This assumes, of course, that the amount of credit extended is such that the creditor is subject to the registration requirements of § 207.1(a) of the regulation.

By order of the Board of Governors, December 2, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-29520 Filed 12-18-74;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 2]

PART 101—ADMINISTRATION

Due to extensive reorganization within the Small Business Administration, Part 101—Administration is revised in its entirety to read as set forth below. This revision also includes new provisions for investigations under the Small Business Act (§101.8) and public participation in rulemaking (§ 101.9).

Effective Date: Upon publication in the Federal Register.

Dated December 10, 1974.

THOMAS S. KLEPPE,
Administrator.

Sec.

101.1 Purpose, function, general organization.
101.2 Organization and functions of the Central Office—Administrator.
101.2-1 General Counsel.
101.2-2 Associate Administrator for Operations.
101.2-3 Associate Administrator for Finance and Investment.
101.2-4 Associate Administrator for Procurement Assistance.
101.2-5 Assistant Administrator for Management Assistance.
101.2-6 Assistant Administrator for Administration.
101.2-7 Assistant Administrator for Congressional and Public Affairs.
101.2-8 Assistant Administrator for Advocacy, Planning, and Research.
101.2-9 Associate Administrator for Minority Small Business.
101.3 Organization and Functions of the Field Offices.
101.4 SBA Forms for Public Use.
101.5 Seal.
101.6 Litigation.
101.7 Employment of Fee Counsel.
101.8 Investigations: Small Business Act.
101.8-1 Application of the Rules of this Part.
101.8-2 Scope of Rules.
101.8-3 Authority of Officer Conducting Investigation.
101.8-4 Non-Public Formal Investigation Proceedings.
101.8-5 Right to Copy of Data or Transcript of Testimony.
101.8-6 Counsel for Witnesses in Investigations.
101.8-7 Suspension or Disbarment of Counsel.
101.8-8 Information Obtained in Investigations.
101.8-9 Service of Subpoena.
101.8-10 Witness Fees.
101.9 Public Participation in Rulemaking.

AUTHORITY: Sections 4 and 5, Public Law 85-536, 72 Stat. 384 and 385 (15 U.S.C. 633 and 634, as amended); Section 308, Public Law 85-699, 72 Stat. 694 (15 U.S.C. 687, as amended); 5(b)(11) Public Law 93-386 (Aug. 23, 1974); and 5 U.S.C. 552.

§ 101.1 Purpose, function, general organization.

(a) *Purpose.* To aid, counsel, assist, and protect the interests of small business concerns and to help victims of disaster.

(b) *Functions.*—(1) *Procurement assistance.* To insure that a fair proportion of the total Government purchases and contracts or subcontracts for property and services for the Government be placed with small business enterprises by, among other things, certifying as to

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the competency of small business concerns to perform such contracts, or subletting contracts to small business concerns on which the Agency is prime contractor; to insure that a fair proportion of the total sales of Government property be made to small business enterprises; and to assure that small businesses obtain the benefit of Government sponsored research and development.

(2) *Management and technical assistance.* To improve the management skills of owners, potential owners, and managers of small business concerns with direct action programs and through established channels of business relations; to provide technical and product assistance to small business concerns; and to inventory productive facilities of small business concerns.

(3) *Financial assistance.* To make loans to small business concerns and to victims of floods or other catastrophes, including loans to small business concerns suffering economic injury as a result of displacement by Federal construction, inability to process products for human consumption because of undetermined disease, and need to make changes in facilities or methods of operation because of various Federal laws imposing safety and health requirements; to make direct or bank participation loans on the basis of certifications made by the Secretary of Commerce to assist firms, large and small, to adjust to changed economic conditions resulting from increased competition from imported articles; and to make loans to State and local development companies for purpose of assisting small business concerns.

(4) *Guaranteeing leases and bonds.* To guarantee the payment of rentals under leases entered into by business concerns, and also to guarantee sureties of small businesses against portions of losses resulting from the breach of bid, payment, or performance bonds.

(5) *Small business investment companies.* To provide venture capital in the form of equity financing and long-term loan funds to small business concerns and provide advisory services to such concerns through small business concerns and provide advisory services to such concerns through small business investment companies; to license small business investment companies, regulate the operations of such companies, and purchase or guarantee the purchase of debentures from small business investment companies to supplement their capital requirements for the financing of small business concerns.

(6) *Advocacy of small business interests.* To protect the interests of small businesses as they may be adversely affected by activities of other Federal agencies.

(7) *Further functional description.* The more detailed program functions of the Agency are set forth in other sections of this part and other parts of this chapter.

(c) *General organization.* (1) Management of the Small Business Administration is vested in an Administrator appointed by the President with the advice and consent of the Senate. The Administrator is authorized to appoint three associate administrators under the Small Business Act and one associate administrator under the Small Business Investment Act. The Administrator is authorized to appoint a Deputy Administrator who shall be Acting Administrator of the Administration during the absence or disability of the Administrator or in the event of a vacancy in the Office of the Administrator. The Administrator is authorized, subject to the Civil Service and Classification Laws, to select, employ, appoint, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary to carry out the provisions of the Small Business Act and the Small Business Investment Act.

(2) The headquarters of the Small Business Administration is located at 1441 L Street NW., Washington, DC 20416.

(d) *Applicable law.* (1) Loans made by SBA are authorized and executed pursuant to Federal programs adopted by Congress to achieve national purposes of the U.S. Government.

(2) Instruments evidencing a loan, obligation of security interest in real or personal property payable to or held by the Administration or the Administrator, such as promissory notes, bonds, guaranty agreements, mortgages, deeds of trust, and other evidences of debt or security shall be construed and enforced in accordance with applicable Federal law.

(3) In order to implement and facilitate these Federal loan programs, the application of local procedures, especially for recordation and notification purposes, may be utilized to the fullest extent feasible and practicable. However, the use of local procedures shall not be deemed or construed to be any waiver by SBA of any Federal immunity from any local control, penalty, or liability.

(4) Any person, corporation, or organization that applies for and receives any benefit or assistance from SBA, or that offers any assurance or security upon which SBA relies for the granting of such benefit or assistance, shall not be entitled to claim or assert any local immunity to defeat the obligation such party incurred in obtaining or assuring such Federal benefit or assistance.

§ 101.2 Organization and functions of the Central Office-Administrator.

All offices heading §§ 101.2 through 101.2–8 are located in Washington, D.C., and their heads report directly to the Administrator. The Administrator is responsible to the President and Congress for exercising direction, authority, and control over the Small Business Administration. He determines and approves all policies covering the Agency's programs to aid, counsel, assist, and protect the interests of the Nation's small business concerns. He delegates responsibility and authority, except the authority to approve or disapprove: Pool loans; Applied research programs; and Defense production pools, as set forth in sections 7(a)(6), 9(d), and 11 of the Small Business Act, to the Deputy Administrator, associate administrators, and other Central Office officials reporting directly to him. He consults with Federal, state, and local agencies in behalf of small business interests in the national economy. He reports to the President and Congress on Agency program accomplishments and problems. He maintains as a responsibility of his office the activities related to equal employment opportunity within SBA, advisory councils, and formal review of size appeals cases. He periodically evaluates the performance, accomplishments, short-range, and long-range planning goals of the Central Office officials reporting directly to him.

(a) *National Advisory Council—Small Business Administration.* The National Advisory Council of the Small Business Administration is composed of representatives from each of the District Advisory Councils and Members-at-Large from each of the Agency regions. These representatives are persons actively engaged in small business or finance, or in services or professions related to small business including the fields of labor, law, accounting, insurance, education, real estate, and the news media. These members particularly qualified by their knowledge of and interest in small business are able to contribute substantially to the Agency and the small business community. All members are selected by the Administrator and serve at his pleasure without compensation. The council meets with and advises the Administrator on the development, execution, and evaluation of present or proposed SBA programs. All functions are purely advisory and all determinations of actions to be taken are made solely by the responsible SBA officials.

(b) *Office of Equal Employment Opportunity and Compliance.* The Director, Office of Equal Employment Opportunity and Compliance (EEOC), serves as a special assistant to the Administrator and as his principal advisor on Agency civil rights policies. The Office of EEOC develops and recommends policies concerning the equal employment opportunity and compliance (EEOC) program and develops plans, operating procedures, and standards to effectively strengthen and improve the Agency's civil rights, equal employment opportunity, and compliance programs and activities. Develops program goals and objectives within the framework of approved policies and reviews and evaluates program effectiveness. Serves as principal liaison with other Federal agencies and non-Federal organizations concerned with civil rights and also serves as the Agency's equal employment officer; civil rights coordinator; and compliance officer. Directs, coordinates, and administers compliance programs and activities executed by Central Office staff and provides advice, assistance, and support to the Administrator in relation to the EEOC program.

§ 101.2–1 General Counsel.

Develops plans, procedures, and standards for providing legal services in support of SBA program operations, includ-

ing execution of loan closing and litigation activities by Agency counsel. Develops and recommends policies governing, the Agency legal functions and activities and develops program goals and objectives within the framework of approved policies. Reviews and evaluates legal program effectiveness including onsite visits to evaluate field office performance and analyzes and interprets legislation, regulations, and orders relating to the operation of the Small Business Administration. Advises the Administrator, Deputy Administrator, Associate and Assistant Administrators and other key officials on the legal aspects of the development and execution of policies and programs. Negotiates with Federal agencies as to the legal aspects of matters pertaining to the responsibilities of SBA and drafts resultant agreements. Develops legal theories incorporated in requests to the Comptroller General or to other Federal agencies for decisions in matters of interest to small business. Provides legal counsel, advice, and assistance to Agency officials in connection with the financial, investment, administrative, technical, procurement and management assistance, and minority enterprise programs, and in the formation of defense production and research and development pools. Within approved policies, gives direct legal advice and assistance to the field offices and exercises technical supervisory responsibility with respect to legal functions in the field offices. Also, advises with respect to eligibility of applicants for assistance from SBA and advises with respect to servicing and liquidation of loans. He assists and participates with the Department of Justice in litigation arising from delinquent loans, criminal matters, and other SBA program activities and prosecutes administrative proceedings pursuant to the Small Business Investment Act. He reviews legislative proposals affecting small business and develops recommendations for the Office of Management and Budget and congressional committees; prepares legislative proposals relating to SBA; and develops reports for congressional hearings or the Office of the President. Serves as legal adviser to the Size Appeals Board. He maintains liaison with governmental and other agencies having activities related to the legal functions of the Agency.

(a) *Office of Finance.* Develops plans, procedures, and standards for the provision of all legal services and assistance relating to the Agency's financial assistance, including wisaster assistance, economic development, and small business investment company programs; including the closing and disbursing of SBA and HUD loans; closing of EDA approved loans, when authorized, but excluding liquidation and litigative matters. Develops and recommends policies concerning the legal finance program. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Provides legal counsel, assistance, services, and support to the Associate Administrator for Operations and the Associate Administrator for Finance and Investment and other Central Office officials in connection with the financial assistance, lease guarantee, and surety bond, economic development, and SBIC programs, exclusive of liquidation and litigative matters. Within approved policies, gives direct legal advice and assistance to the field offices within these program areas. Interprets applicable acts, regulations, and policies from a legal standpoint, including advice as to eligibility and compliance with statutory and regulatory requirements. Analyzes and comments on proposed legislation, policies, programs, and procedures relating to the financial assistance, disaster assistance, lease guarantee, surety bond, economic development, and SBIC programs, exclusive of liquidation and litigative matters. Maintains liaison with governmental and other agencies having activities related to the legal functions of this office.

(b) *Office of Interagency Affairs.* Develops policies concerning the legal aspects of the SBA advocacy program. Represents SBA at hearings and court proceedings involving the Agency's advocacy program. Develops plans, procedures, and standards for the provision of legal advice, assistance, services, and support relating to:

(1) Procurement and management assistance; sections 8(a) and 406 contracts and grants.

(2) Size standards; size appeals.

(3) Small business defense production; research and development pools.

(4) Adminstrative functions, including fiscal, personnel, property management; contracts for the procurement of supplies and services.

(5) Ad hoc committee matters; equal employment opportunity; advisory council; planning, research and analysis; congressional and public affairs; minority enterprise; franchising.

(6) Implementation of the requirements of the Civil Rights Act of 1964.

(7) Employee organization-management program; negotiation of agreements.

Develops program goals and objectives in conformance with approved policy. Reviews and evaluates program effectiveness. Provides legal counsel to small business concerns in their dealings with Federal procurement officials. Interprets applicable acts, regulations, and policies from a legal standpoint, including determinations as to eligibility and compliance with statutory and regulatory requirements. Interprets the Administrative Procedure Act, except with respect to the Small Business Investment Act. Provides legal counsel, assistance, services, and support to Central Office officials relating to the above-listed programs. Within approved policies, gives direct legal advice and assistance to the field offices on program matters. Maintains liaison with the Federal Trade Commission and the Antitrust Division of the Department of Justice.

(c) *Office of Litigation.* Develops plans, procedures, and standards for the conduct of litigation activities of the Small Business Administration. Develops and recommends policies concerning the litigation program. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates litigation program effectiveness. Advises the Administrator and key program officials with respect to all legal action necessary in litigative matters pending in the Agency, and provides legal services, as required. Acts as liaison with the Department of Justice in all civil litigation and criminal matters. Prepares cases for submission to the Department of Justice, with recommendations for litigation or prosecution; obtains and evaluates evidence; assists in the trial of cases whenever necessary or requested; and recommends review or appeal of adverse decisions. Conducts legal research, prepares pleadings, and conducts litigation and other legal proceedings with respect to revocation of SBIC licenses, subpoena enforcement, injunctions and receivers, removal or suspension of directors and officers of licensees, and violations of SBIC regulations. Conducts all administrative hearings required to enforce compliance with the provisions of the SBI Act, policies and regulations, including preparation of necessary pleadings. Advises the Administrator, Associate Administrator for Operations, and the Associate Administrator for Finance and Investment, and other Central Office officials on problems involving subpoenas served upon SBA employees disclosure of information. Reviews and evaluates matters pertaining to security checks referred by the Security and Investigations Division. Advises and assists the Office of Audits and Investigations in all matters involving possible criminal activities by borrowers and others. Prepares and conducts any Agency disbarment proceedings which may be instituted as the result of improper activity by representatives of borrowers and SBIC's. Conducts final legal review of all Boards of Survey Reports and recommendations on claims under the Federal Tort Claims Act in the denial or allowance of claims in unlimited amounts. Provides advice, assistance, and support to the Associate Administrator for Operations in connection with field litigation activities. Within approved policies, gives direct advice and assistance to field offices on litigation program matters. Serves as member of the Central Office Claims Review Committee.

§ 101.2–2 Associate Administrator for Operations.

Plans, directs, and administers all regional and direct office operations, including disaster operations. Serves as the focal point of contact between the Central Office and the regional directors. Receives and evaluates input from the field on aspects of SBA's programs and policies as they affect SBA's performance in the regions and districts, and coordinates with Central Office program and staff personnel to effect such revisions as may be appropriate. Plans, arranges, and par-

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ticipates in periodic high-level conferences between key Central and field office officials on matters involving program or policy issues. Reviews and evaluates regional and district office operations in management and program areas. Initiates corrective actions when required. Formulates a system of goals, policies, procedures, and regulations for regional management that reflects and implements the basic objectives and goals of the Agency. Has final responsibility for setting goals and objectives. Reviews the priorities, objectives, and program targets established by program staff offices. Recommends the ordering of integrated priorities, consistent with national goals. Defines lines of authority and responsibility of regional directors and coordinates their efforts for attainment of predetermined objectives. Provides advice and guidance to field staff in implementing Agency goals and objectives and in problem solutions in specific operational areas. Analyzes reports involving field visits by Central Office technicians and ensures that corrective action is taken on any problems outlined therein. Reviews and analyzes regional reports and data from the Management Information Summary to provide Agency top management with an overview of progress or lack thereof toward goal attainment and directs that corrective action is taken in case of the latter. Develops and implements a system of periodic onsite reviews of regional and district office operations. This will involve the selection of staff members of appropriate program and staff functions to comprise an Agency team to accomplish a total management analysis of activity and to take or recommend corrective actions. Participates in the development of a Management Information System as related to field office operations. Formulates and gathers data for input into the Agency's measurement of production in all program elements, and to provide regional management with key indicators of strengths and weaknesses. Develops and maintains basic data in profile form of all regional and district offices for use by Central Office staff. Areas to be included are:

(a) Personnel resources allotted and use thereof.

(b) Management reviews and problems encountered.

(c) Annual program targets and accomplishments, and

(d) Operating budget data.

Participates in the development, review, and correction of systems to assure adequate management information and control at both Central and field office levels. Participates in the development and implementation of a continuing program of field management development and training. Develops adequate controls over field activities and evaluates and appraises regional management to ascertain whether plans and objectives are being achieved. Plans, directs and administers the Agency's disaster operations through contingency planning, administration during the disaster, and disaster maintenance. Recommends physical and product disaster declarations to the Administrator. Maintains liaison with other government agencies and individual Congressmen and committee staff members relating to the disaster program. Serves as a member of the Size Appeals Board.

(a) *Disaster Operations Staff.* Plans, directs, and administers the Agency's disaster operations program for all disasters. Directs the execution of disaster operations through contingency planning, and assures that regional offices effectively carry out disaster loan activities. Analyses reports of product disaster information and physical disaster damage from field office and other sources and recommends disaster declarations to the Administrator through the AA/O. Maintains necessary liaison and coordination with Federal, state, and local governments, as well as with private organizations and SBA Central Office officials, maintains, and disseminates up-to-date handbooks, guides, flow charts, and standard operating procedures to reflect past knowledge and experience, and assure increased efficiency of new disaster offices when open. Maintains a roster of SBA personnel in a constant state of readiness to move to the site of a disaster to establish required disaster offices. Monitors and provides advice, guidance, and assistance to regional and district offices in connection with all disaster operations, including the establishment and operation of disaster offices.

§ 101.2–3 Associate Administrator for Finance and Investment.

Develops plans, operating procedures, and standards to effectively strengthen and improve the Agency's finance and investment programs designed to meet the existing and potential needs of the small business community. Develops and recommends policies concerning the financial assistance programs, including related activities of liquidation and disposal. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Promotes the financial assistance program nationwide, enlisting support and participation by private sector financial and investment institutions, States, counties, and municipalities, to broaden the range of assistance to small business concerns. Plans, directs, and administers the small business investment company program, including licensing, lending, and regulations to effectively strengthen and improve the Agency's programs of venture capital assistance to small businesses. Promotes nationwide the investment program to maximize the direct involvement of private business and financial institutions in the provision of equity and long-term financing of small business concerns. Provides technical advice, assistance, and support to the Associate Administrator for Operations relating to finance and investment program matters. Directs and administers the Small Business Investment Company examination program and the Portfolio Review program. Represents the Administrator in negotiations with other Government agencies whose activities relate to his program area. Serves as a member of the Size Appeals Board.

(a) *Office of Financing.* Plans, develops, and executes new loan programs. Reviews proposed and new financial legislation. Makes final determinations of loan eligibility on complex cases submitted by regional directors. Maintains liaison with other Federal, state, and local agencies whose activities relate to the financing programs of SBA. Develops and recommends policies, criteria, guidelines, and standards for all SBA lending except 501, 502, and SBIC as well as the financial aspects of the Certificate of Competency Program (COC) and 8(a) business plans. Serves as a member of the COC Review Committee which takes or recommends final action on requests for compromise settlements of obligations due SBA, and as an alternate member of the Size Appeals Board. Approves or declines business and disaster loans, and conducts review of selected disaster loans. In cooperation with the Associate Administrator for Finance and Investment, evaluates lending programs and takes corrective action. Makes final visits as necessary. Provides technical advice, assistance, and support to the Associate Administrator for Finance and Investment relating to his program area. Develops goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Provides assistance in developing and conducting training programs for field financing personnel.

(b) *Office of Portfolio Management.* Develops and recommends Agencywide policy for the administration of the Agency's portfolio of loans, lease guarantees, the financial aspects of Certificates of Competency and 8(a) contracts, including loan servicing, and loan liquidation and disposal activities. Develops plans, operating procedures, standards, goals, and objectives for (1) the servicing and/or liquidation of these accounts, including nonjudicial foreclosure but exclusive of litigative matters; (2) the liquidation of rehabilitation loans for HUD and Economic Development Administration loans for the Department of Commerce; and (3) the liquidation of Small Business Investment Companies and loans to small business acquired and retained as a result of Small Business Investment Company liquidation. Reviews and evaluates program effectiveness. Maintains liaison, participates, and provides technical advice with and to all other Government agencies and departments within SBA on matters relating to portfolio management activities. Serves as chairman, Central Office Claims Review, and as vice-chairman of the Small Business Investment Company Liquidation Determination Board. Coordinates with the Comptroller of the Currency to provide field offices with National Bank Examiner reports on SBA-guaranteed loans serviced by National banks.

(c) *Office of Community Development.* Develops and recommends to Associate Administrator for Finance and Invest-

ment Agency policy concerning the community development programs of the Small Business Administration, including State and local Development Company programs, Lease Guarantees, and Surety Bond Guarantees. Develops plans, operating procedures, and standards to effectively strengthen and improve the Agency's programs involving community development counseling, the processing of state development company and local development company loans, processing of applications for lease guarantee and surety bond guarantee. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Maintains liaison with state and local development companies and other governmental and nongovernmental agencies having programs relating to these activities. Maintains continuing liaison with the insurance industry, and particularly with the surety bond underwriters and associations of agencies or brokers, for the purpose of keeping them informed as to policy and procedures in both the lease guarantee and surety bond guarantee programs. Also works closely with these groups in order to promote the programs in a way to meet the needs of the maximum number of small business concerns. Provides advice, assistance, and support to the Associate Administrator for Finance and Investment relating to the community development programs of SBA, including the making and/or reviewing of legislative recommendations relative to all community development matters. Develops criteria for management of investment portfolio of lease guarantee revolving fund.

(d) *Deputy Associate Administrator for Investment (Investment division).* Plans, directs, coordinates, and administers the Agency's program for licensing Small Business Investment Companies to operate under the provisions of the Small Business Investment Act, as amended. Develops and recommends policies and established procedures governing the investment program. Recommends changes in legislation and regulations governing the program and program activities. Takes final action on all transactions contemplated by the Small Business Investment Act or the SBA regulations. This includes the issuance of licenses to small business investment companies (SBIC's); the purchase of debentures from Small Business Investment Companies and 301(d) licensees or guarantees thereof; and conversion of existing direct loan notes to debentures; the repurchase of subordinated debentures and direct loan notes from the holders; and the purchase of preferred stock from 301(d) licensees. Determines actions required to protect SBA's credit position in connection with such transactions; also, defines courses of action to be followed in cases of noncompliance with the act or regulations. When indicated, requests investigations and appropriate legal action. Takes final action on all requests and applications submitted by licensees for prior SBA approval of transactions requiring such approval under the regulations; i.e., changes in control, changes in capital structure, mergers, dissolutions, and surrenders of licenses; approval of officers, directors, and 10 percent or more stockholders in connection with actions involving change of control. Also determines that surviving company meets the prescribed licensing standards. Provides counseling with respect to an interpretation of established policies and regulations; also provides information relating to licensed Small Business Investment Companies. Develops and implements a system of accounts for the Small Business Investment Companies and approves investment companies' selections of independent public accountants. Promotes and stimulates the involvement of key business enterprises in the investment program. Coordinates with SBA and other Government agency officials in directing these efforts toward those businesses owned, or to be owned, by the socially or economically disadvantaged. Serves as liaison for the Associate Administrator with other organizational segments of SBA, other Government agencies, financial and industrial organizations, trade associations, and similar groups in relation to program activities.

(e) *Office of Investment Management and Evaluation.* Develops and recommends policies and regulations to improve the operations of Small Business Investment Companies for the benefit of small Business. Conducts research studies, with emphasis on the growth, stabilization and financing of the Small Business Investment Company industry. Also participates with the Office of the Assistant Administrator for Advocacy, Planning, and Research in connection with economic studies involving the investment program. Prepares investment program goals and missions and develops the planning, programming and budgeting data reflecting short-range and long-range objectives of the investment program. Develops and establishes procedures and instructions to Small Business Investment Companies for reporting program evaluation data on portfolio small business concerns. Analyzes financial and economic statistical data furnished by licensees and small business concerns on financial reports, portfolio financing reports, program evaluation reports, and sample survey questionnaires, and provides information on the effectiveness of the Small Business Investment Company industry to management. Provides technical information to the program coordinators in the field relative to the formation and licensing of Small Business Investment Companies. Coordinates with other offices of the Agency in the preparation of all technical information and material released to the public on the investment program. Provides Small Business Investment Companies, and other interested groups with new technical information on the industry and publishes the Guide to the Regulations and Policy and Procedural Releases. Services as technical liaison with the Securities and Exchange Commission on all matters relating to the investment program and the Federal Securities Laws. Provides aggregate debt management support for outstanding direct and guaranteed loans and debentures of SBIC's and coordinates and expedites the periodic public sale of SBA guaranteed SBIC debentures for SBIC's including intra-agency and inter-agency liaison where required and liaison with potential purchasers. Participates in the implementation of periodic SBA guaranty fundings for SBIC's by providing detailed analysis on the method and timing of funding as related to bond market conditions. Prepares SBIC information required for Congressional hearings and other matters relating to Congressional inquiries. Designs, develops, and implements ongoing sample surveys of the small business portfolio concerns of SBIC's. Provides technical liaison with the Reports Management Division and the Data Management Division on computer applications for SBIC and small business concern statistics and reports.

(f) *Office of Small Business Investment Company Operations.* Provides licensing and operational assistance and service to the Small Business Investment Companies. Plans, administers, and coordinates the program for licensing Small Business Investment Companies to operate under the provisions of the Small Business Investment Act of 1958, as amended. Recommends action on license applications filed under the act and regulations, including the review of security information reports. Implements procedures for the licensing, funding, and regulating of Small Business Investment Companies. Provides counseling with respect to and interpretation of the act and established regulations; answers specific official inquiries and provides information relating to licensed Small Business Investment Companies. Reviews and recommends the action to be taken for the approval of officers, directors, and 10 percent or more stockholders in connection with actions involving change of control of a licensee. Also determines that surviving company meets the prescribed licensing standards. Conducts the analysis of all financial statements, examination and investigation reports covering the operations and practices of the individual Small Business Investment Companies. Evaluates the financial stability, reliability of the companies, and compliance with the act and regulations. Recommends to the Deputy Associate Administrator actions to assure compliance. Recommends the levels of reserves for losses in connection with outstanding loans and debentures of operating licensees. Recommends appropriate action on all requests and applications submitted by Small Business Investment Companies for prior SBA approval of transactions requiring such approval under the regulations, including applications for funding. As required, provides testimony as an expert witness in administrative proceedings or court proceedings involving Small Business Investment Companies.

(g) *Office of 301(d) Operations.* Provides licensing and operational assistance and service to section 301(d) licensees. Plans, administers, and coordinates the program for licensing to oper-

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ate under the provisions of the Small Business Investment Act of 1958, as amended. Recommends action on proposals and license applications filed under the act and regulations, including the review of security information reports. Implements procedures for the licensing, funding, and regulating of section 301(d) licensees. Provides counseling with respect to and interpretation of the act and established regulations; answers specific official inquiries and provides information relating to licensed section 301(d) licensees. Reviews and recommends the action to be taken for the approval of officers, directors, and 10 percent or more stockholders in connection with actions involving changes of control of a licensee. Also, determines that surviving company meets the prescribed licensing standards. Conducts the analysis of all financial statements, examination and investigation reports covering the operations and practices of the individual section 301(d) licensees. Evaluates the financial stability, reliability of the companies, and compliance with the act and regulations. Recommends to the Deputy Associate Administrator actions to assure compliance. Recommends the levels of reserves for losses in connection with outstanding loans and debentures of operating licensees. Recommends appropriate action on all requests and applications submitted by section 301(d) licensees for prior SBA approval of transactions requiring such approval under the regulations, including applications for funding. As required, provides testimony as an expert witness in administrative proceedings or court proceedings involving section 301(d) licensees.

(h) *Office of Small Business Investment Company Examinations.* Plans, directs, and executes Agencywide annual examination program relating to Small Business Investment Companies licensed under the Small Business Investment Act. Develops and recommends policies and establishes standards and procedures governing the examination program, and develops program goals and objectives within the framework of approved policies. Schedules and maintains control over all examinations conducted on a nationwide basis. Issues reports to Agency officials on the results of on-site examinations which contain the actual or potential violations of the Small Business Investment Act and regulations. Develops and reports facts and evidence to support corrective actions, administrative proceedings, recommendations for legal action, and makes recommendations for investigations when considered appropriate. Maintains liaison with SEC, FDIC, Comptroller of the Currency, GAO, Home Loan Bank Board, and other agencies where matters are of mutual interest or in matters affecting the examination program.

(i) *Office of program development.* Assists the Associate Administrator for Finance and Investment in all outreach activity in connection with the promotion and development of Agency financial assistance and investment activity. Coordinates the efforts of the financial institutions, community liaisons, and Small Business Investment Company promotional functions. Directs the promotion and development nationwide of Agency policy governing participation by private sector financial and investment institutions in the SBA programs of financial assistance and investment. Maintains continuing liaison and personal contact with top representatives of banking, insurance, institutional investor, and other financial institutions and associations to promote their participation in guaranty and participation financial assistance programs of the Agency, to include the development of a secondary market in the SBA guaranteed portions of SBA loans. Represents the Associate Administrator for Finance and Investment at meetings or conventions of banking, insurance, investment, or other groups constituting sources of direct or indirect funding or financial participation in loans for small business. Coordinates conference activities in connection with community development workshops, lease guarantee, and surety bond seminars. Works with field offices in preparation of agenda, conference notes, and related material. Plans and recommends education and training programs to encourage community leadership. Works with participating colleges and other educational institutions in developing new techniques and advances concepts in community planning. Develops methods which can be used by community planning groups to take maximum advantage of human and natural resources as a means of stimulating rural economies and curtailing outmigration. Maintains liaison with USDA, Departments of Commerce, Housing and Urban Development, Interior, and other Government agencies. Serves as Agency representative on the Interagency Economic Adjustment Committee, CSTE Task Force, Model City WIC Review, and other capacities as designated. Counsels with interested groups or individuals concerning the possible formation and licensing of Small Business Investment Companies and to promote the growth and development of the programs. Serves as liaison with other Government agencies, financial and industrial organizations, trade associations, and similar groups to keep such organizations informed of the investment programs. Coordinates with the Office of Public Information in the preparation of all promotional material released to the public on the investment program and preparation of the Small Business Investment Company Digest. Develops, fosters, and stimulates interest and participation nationwide in SBA programs involving the banking-investment industry and state and local governments. Promotes with state, county, and municipal officials plans for the use of public sources of funds in SBA loan programs. In cooperation with financing and legal staff, works with public officials to establish enabling policies and legislation. Negotiates basic agreements with financial institutions at the national level. Develops plans and operating procedures to effectively strengthen and support the efforts of field bank relations officers and other field financing personnel participating in this program to meet the expanding needs of the small business community. Coordinates activities in which field bank relations officers may be helpful in developing sources of funds for community development projects. Supervises preparation of Bank Newsletter. Prepares articles and speeches for the Associate Administrator for Finance and Investment. Conducts followup with private sector financial community officials in generating direct and indirect sources of funding for SBA financial assistance programs. Serves as secretary and processes applications to the Lending Institution Certification Committee, which determines the eligibility of nonbank lending institutions. Reviews publications and other materials revealing current trends in economic development, and disseminates excerpted material to Central Office program personnel.

(j) *Office of Portfolio Review.* Plans, directs, and executes a system of program assistance for Central Office management to provide quality control and uniformity in the application of Financial Assistance policies and the procedures that reflect the basic objectives and goals of the Agency. Develops procedures for detailed loan analysis to determine the quality of credit judgments exercised by field offices under their delegation of authority, and establishes standards to control quality in the performance of the loan analysis. Makes an indepth analysis of selected Financial Assistance loans, particularly those which reflect a high proportion of Agency investment or risk, i.e., very large loans, past due and delinquent loans, deferments, loans purchased or in liquidation, and charged off accounts. Pinpoints deficiencies in policy application, Financial Assistance procedures, credit or eligibility criteria, and standards. Where appropriate, causes immediate corrective action to be taken by the appropriate regional or district director concerning specific deviations from stated Agency policy. Submits a report of findings and recommendations to the Associate Administrator for Finance and Investment for transmittal to the appropriate reginal or district director for corrective action indicated, and to Office of Financial Assistance program directors for use in improvement of the Financial Assistance program. At the direction of the Associate Administrator for Finance and Investment, performs specific reviews of particular problems in a Financial Assistance function, as requested by the program director. The results of these special reviews will be used by Central Office program personnel to establish new or modified policies and procedures, to isolate and correct communication problems, or to identify areas requiring further extensive analysis. Participates with the Associate Administrator for Finance and Investment in periodic conferences with the Associate Administrator for Operations, as ap-

propriate. When not actively engaged in field or field related assignments, assists Financial Assistance program directors in performance of their normal program work.

§ 101.2–4 Associate Administrator for Procurement Assistance.

Develops plans, operating procedures, and standards to effectively strengthen and improve the Agency's procurement assistance programs to meet the existing and potential needs of the small business community. Develops and recommends policies pertaining to the procurement assistance mission of the agency. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Promotes nationwide the Agency's procurement assistance programs to increase the participation of small business concerns in Government procurement awards and sales of timber and excess property. Promotes nationwide the Agency's procurement assistance programs to increase the participation of small business concerns in Government procurement awards and sales of timber and excess property. Promotes nationwide the Agency's 8(a) procurement program to increase the participation and support of industrial concerns, professional and trade associations, local governments, and community groups in developing entrepreneurship opportunities for disadvantage groups, including minorities, in manufacturing, construction, and service related industries. Provides technical advice, assistance, and support to the AA/O relating to procurement assistance matters. Represents the Administrator in negotiations with other Federal agencies whose activities relate to Procurement Assistance program area. Serves as a member of the Size Appeals Board. Operates as Small Business conduit for technology advancement.

(a) *Government Liaison Staff.* Represents the Small Business Administration with the Department of Defense and civilian agencies within the Executive Branch on procurement assistance matters. Recommends and participates in the development and preparation of interagency agreements and related policies and regulations applicable to small business procurement programs. Participates with these agencies in the development, modification, or changes in policies and procedures to assure overall consistency with SBA policies and procedures. Develops and coordinates with the Department of Defense, General Services Administration, and other Government agencies programs, policies, goals, regulations, and procedures to ensure that a fair portion of the total Government contracts, including research and development and stockpile surpluses, is placed with small business concerns. Provides for and coordinates SBA participation at procurement conferences sponsored by other Federal agencies or on behalf of congressional or local sponsors. On receipt at headquarters level of specific complaints by small business, arranges and participates in hearings with policy officials of cognizant Federal agencies to present the position of the complainants and seek amendatory action. Evaluates overall small business procurement programs of Federal agencies (departmental level) and makes recommendations designed to increase awards to small business concerns and facilitate their participation in related procurement. Advise AA/O and other SBA Central Office officials with respect to positions to be taken by SBA in dealing with Government procurement agencies.

(b) *Office of Procurement Assistance.* Develops and recommends policies concerning the procurement assistance and technical assistance programs. Develops plans, operating procedures, and standards to effectively strengthen and improve the Agency's prime contract services, industrial support services, subcontracting assistance, technical assistance, and research and development assistance programs to meet the needs of the small business community. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Represents SBA at the staff level of the Secretary or Administrator of the Department of Defense and other Federal agencies regarding matters involving procurement assistance activities pertaining to specific technical matters. Recommends and participates in the development and preparation of interagency agreements and related policies and regulations. Develops and coordinates, in conjunction with the Assistant Administrator for Advocacy, Planning, and Research, procedures for making economic studies to be utilized in strengthening the SBA procurement assistance programs. Provides technical advice, assistance, and support to AA/O relating to procurement assistance pro-

(c) *Office of Business Development.* Develops and recommends policies and procedures for utilization of the Agency's authority under Section 8(a) of the Small Business Act. Develops plans, operating procedures, goals and standards for execution of an effective and efficient program to implement Section 8(a) of the Small Business Act. Evaluates the Agency's efforts in meeting 8(a) program objectives. Promotes the Agency's program to encourage the involvement of industrial concerns, professional and trade associations, State and local governments, and community groups in supporting and providing assistance to small business firms being developed pursuant to Section 8(a) of the Small Business Act, and to enlist their participation in providing technical, management, financial, and procurement support to the individual entrepreneur. Maintains effective liaison and coordination with other SBA organizational components and other Federal agencies in the development of plans, policies, and procedures for providing assistance to Section 8(a) supported firms under SBA and other agencies' programs. Provides advice, counsel, assistance and support to other Agency organizations with respect to the activities of the Office of Business Development. Provides technical advice, assistance, guidance, and support to the AA/0 relating to the business development program.

§ 101.2–5 Assistant Administrator for Management Assistance.

Develops and recommends policies concerning the management assistance and foreign trade programs. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Develops plans, operating procedures, and standards to effectively strengthen and improve the Agency's management information and training, management counseling, and management contracts programs to meet existing and potential needs of the small business community. Develops plans, operating procedures, standards, goals, and objectives for providing management assistance through volunteer or contract activity, including marketing analyses, feasibility and/or engineering studies to applicant-borrowers, COC, and 8(a) recipients. Develops and recommends policies concerning Agency use of volunteer management assistance groups, such as SCORE (Service Corps of Retired Executives) and ACE (Active Corps of Executives) and maintains active liaison on behalf of SBA with such groups. Develops and recommends policies and procedures for the administration and use of management consultant contracts entered into under Section 406 of the Economic Opportunity Act of 1969, as amended. Administers the SCORE, ACE, and other volunteer program activities on an Agency-wide basis, with accent on recruitment and expansion of these programs in connection with borrower-related management assistance. Coordinates with ACTION in areas of mutual interest with respect to SCORE and ACE volunteer support activity. Develops and recommends policies and procedures which emphasize the effectiveness of management assistance to borrowers. Develops and recommends policies and procedures for the administration of the Small Business Institute Program. Develops and implements policies to carry out the Agency's Foreign Trade program. Provides technical advice, assistance, guidance, and support to the AA/0 and other Central Office officials with respect to the management assistance programs. Maintains liaison with other SBA organizational components and other Federal agencies on matters relating to the management assistance program.

(a) *Office of Management Information and Training.* Develops and recommends Agency policy concerning the management information and training program. Develops plans, operating procedures, and standards to effectively strengthen and improve the Agency's management information and training program for small businessmen. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Develops new methods and techniques for

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small business management training. Develops and promulgates small business management publications. Also, develops training materials for use in courses, conferences, and clinics conducted for small businessmen, and workshops for prospective small businessmen. Plans and develops prototype educational programs and courses. Administers and operates the SBA Film Distribution Center. Develops plans, operating procedures, and other actions to implement the Foreign Trade program. Maintains liaison with the Department of Commerce to assure effectiveness in mutually supporting programs, with particular emphasis on export trade. Provides advice, assistance, and support to the AA/0 and other Central Office officials relating to the management information and training program. Maintains liaison with other Federal agencies and Professional or trade associations whose activities are program related.

(b) *Office of Program Evaluation and Field Coordination.* Develops guidelines for the evaluation of the management assistance program and prepares schedules for onsite review visits. Conducts surveys of field-office management assistance activities and programs through both onsite visits and reviews of reports and other program documentation. Assesses the effectiveness of current management assistance policies, procedures, and activities. Identifies problems and proposes corrective action to the Assistant Administrator for Management Assistance. Works with field managers and management assistance personnel in solving problems onsite where this is possible. When requested by the AA/MA, conducts visits to field offices in order to emphasize the program and motivate field management assistance personnel. Provides advice, assistance, and support to the AA/0 and other Central Office officials relating to the program evaluation and field coordination program.

(c) *Office of Management Counseling Services.* Develops plans, operating procedures, and standards to effectively strengthen and improve the Agency's management counseling program for small businessmen. Maintains liaison with other Federal agencies and non-Federal organizations whose activities are program related. Develops program goals and objectives in conformity with approved policies. Reviews and evaluated program effectiveness. Evaluates management assistance programs provided by franchisors for franchisees. Provides advice, assistance, and support to the AA/0 and other Central Office officials relating to the management counseling program. Develops and recommends policies concerning Agency use of volunteer management assistance groups, such as SCORE and ACE. Develops and recommends policies concerning Agency use of national professional associations such as the National Association of Accountants. Develops and recommends policies concerning the management contracts program of SBA. Develops plans, systems, operating procedures, and standards to effectively strengthen and improve the Agency's management contracts program, involving the negotiation and management of Equal Opportunity Act, Section 406 contracts. Evaluates and makes recommendations on proposals for these contracts, grants, or agreements. Develop and recommends policies and procedures for the SBA Small Business Institute (SBI) program. Maintains contact with the American Assembly of Collegiate Schools of Business and with business school leaders concerning further development and mutual support regarding the SBI program. Develops procedures for selection of schools to participate in the program. Maintains faculty Project Directors Manual in coordination with academic representatives. Continually reviews and updates methods and procedures for effective implementation of the SBI program. Develops specific goals, within approved policy, for each of the borrower services activities managed by the Agency, i.e., SCORE, ACE, manage-consulting contracting, market analysis, and engineering feasibility studies. Serves as the Agency liaison with other Federal activities having responsibility for volunteer management services to the business public, including such agencies as ACTION, the Veterans Administration, and the Department of Defense. Develops and recommends policies and procedures for innovative methods of providing counseling services to small businesses. In cooperation with representatives of the Office of Portfolio Management and other offices of AA/P&I, develops and recommends plans, procedures, and methods to improve the effectiveness of management assistance provided to SBA borrowers.

§ 101.2–6 Assistant Administrator for Administration.

Develops plans, systems, procedures, and standards for effective implementation of budget and finance, personnel, and management systems programs, including emergency preparedness activities. Administers the Agency's investigatory, security, examinations and review, internal and external audits, management studies, and personnel management program review activities Agencywide. Coordinates and maintains control over all formal and informal interagency committees, councils, task forces, or other coordinating groups in which SBA participates. Develops goals and objectives for Agency administrative and management activities. Reviews and evaluates their effectiveness. Represents the Administrator in negotiations with other government agencies on matters relating to office programs and activities.

(a) *Office of Audits and Investigations.* Develops plans, systems, procedures, and standards for effective implementation of internal audits, external audits, security and investigations. Directs, coordinates, and administers the investigatory, security, and audit activities Agencywide. Develops and recommends policies concerning these programs and activities, and develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Represents the Administrator in negotiations with the FBI and General Accounting Office and other agencies on matters relating to division programs and activities. Provides for the development of adequate controls over the administration of these programs as carried out by the Central and regional offices. Submits to appropriate officials, reports and recommendations covering deficiencies disclosed by audits, inspections and investigations. Analyzes reports of corrective action taken on reported deficiencies. Recommends to the Administrator any matters which require further action by the officials concerned or by the Administrator.

(b) *Office of Personnel.* Develops and recommends policies concerning the personnel programs and related activities. Develops plans, procedures, and standards to effectively strengthen and improve the Agency's personnel program, including position classification, recruitment, selection, placement, promotion, separation, pay and wage administration, labor-management relations, performance evaluation and incentives, grievances and appeals, conduct and discipline, training and career development, personnel records management, employee services, and safety. Plans, directs, coordinates, and executes Agency-wide personnel management program reviews. Provides technical advice, assistance, and support to the Associate Administrator for Operations and other Central Office officials relating to the personnel program. Reviews and processes all field personnel actions requiring Central Office approval. Maintains liaison with the Civil Service Commission in matters relating to the development, interpretation, and application of personnel regulations and procedures. Develops, plans, and establishes standards to provide for effective analysis and improvement of the Agency organization. Maintains an organizational plan which describes the structure and functions of the organizational units and the location and geographical responsibilities of the field offices, etc. Directs the conduct of organizational studies as requested by the Administrator or other top management officials of SBA, or on a continuing basis as necessitated by changes in staffing requirements and/or shifts in program emphasis or direction. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Coordinates and administers the Central Office fund drives.

(c) *Office of Budget and Finance.* Develops plans, operating procedures, and standards to effectively strengthen and improve all budget, accounting, and fiscal activities of the Agency. Develops and recommends policies concerning the budget and finance programs. Directs the development and administration of systems for the accountability of all funds, property, and other assets for which the

Agency is responsible. Directs the establishment and implementation of procedure and control systems involving the collection, deposit, and disbursement of funds, including the preparation of financial information and data, and certain statistical data covering the operational programs of the Agency. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Represents the Administrator in negotiations with the Office of Management and Budget, congressional appropriation committees, General Accounting Office, Treasury Department, and other agencies on budgetary, accounting, and fiscal matters. Participates with the Office of Management Services in the development of systems for the accountability of all funds, property, and other assets for which SBA is responsible, including the collection, deposit, and disbursement of funds for the Agency.

(d) *Office of Management Services.* Develops plans, policies, and procedures for the effective operation of the Office of Management Services and the subordinate Reports Management Division, Administrative Services Division, Data Management Division, and Systems Division. Develops all Small Business Administration accounting systems. Designs, prescribes, and installs all SBA accounting systems, including the development of systems procedures. Conducts surveys and systems analysis of current and new program and recommends adoption and use of advanced technological methods. Develops, modifies, and assists the Accounting Operations Division to install all systems of accounting. Analyzes Agency manual systems to determine the need for automation. Develops computer systems to provide increased cost/benefit return in satisfying management information needs. Conducts feasibility studies to determine the practicability of automating new systems or changing existing automated systems. Develops instructions to computer programmers for new systems and documentation in computer language acceptable to the computer. Develops test data and systems verification to determine adequacy of computer programs. Prepares operation instructions for the successful automation of the new computer systems. Develops work measurement and manpower reporting systems for the Agency through techniques developed by the Industrial Engineers on the staff. Directs the conduct of Agencywide procedural and manpower utilization surveys and studies. Develops systems for Agencywide manpower requirements. Conducts reviews to identify operating problems, management effectiveness, and manpower management. Recommends policies and procedures to correct deficiencies identified in reviews, thereby improving utilization of manpower in all program areas. Responsible for reporting Management by Objectives status to the Office of Management and Budget (OMB). Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Provides for the development of adequate controls over the administration of these programs as carried out by the Central and field offices. Represents the Administrator in negotiations with the General Services Administration, OMB, and other agencies on matters relating to Office of Management Services programs and activities.

§ 101.2–7 Assistant Administrator for Congressional and Public Affairs.

Develops and recommends plans, procedures, and standards to effectively strengthen and improve the public affairs, public information, and congressional relations programs of the Small Business Administration. Develops and recommends policies concerning the congressional and public affairs programs. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Provides advice, assistance, and support to the Administrator, the Associate Administrator for Operations, and other Central Office officials relating to the congressional and public affairs programs, and the administration of the advisory councils program. Develops and prepares statements, briefings, and speeches for the Administrator and other key SBA officials. Develops and coordinates an orientation program for visitors to the Central Office. Develops Agency guidelines for making information and/or records available for public use in conformance with the Freedom of Information Act; and acts as coordinator for the Agency regarding the cost and availability of information and/or records requested by the public.

(a) *Office of Congressional Relations.* Serves as liaison with Members of Congress, congressional committees, commissions, organizations, and agencies in relation to program matters. Processes and coordinates with concerned SBA offices regarding oral inquiries and responses to Members of Congress or congressional committees and the Executive Office of the President. Obtains, assembles, prepares, and coordinates information and data requested by Members of Congress or Congressional committees on the SBA programs, exclusive of material for presentation by the Administrator before congressional committees and statements of Agency position on legislative proposals. Keeps the Administrator and key officials of the Agency informed of the activities of congressional committees as they relate to the programs and activities of SBA. Interprets for Members of Congress the Agency's policies, programs, practices, and objectives. Works with other Federal agencies on matters of mutual interest.

(b) *Office of Public Affairs.* Develops plans, procedures, and standards to effectively strengthen and improve the public affairs program. Coordinates field office implementation of these plans through the Associate Administrator for Operations. Develops and recommends policies concerning the public affairs program. Develops program goals and objectives in conformance with approved policies. Reviews and evaluates program effectiveness. Prepares statements, briefings, and speeches for the Administrator and other key SBA officials. Plans, organizes, and conducts Administrator's news conferences with representatives of newspapers, wire services, trade and business publications, and radio and television networks. Provides advice, assistance, and support to the Associate Administrator for Operations relating to field public information and public relations activities, including the provision of public informational material to advance the programs and policies of the Agency. Plans, develops, and operates an orientation program for visitors to the Central Office.

(d) *Office of Public Information.* Disseminates to news media, radio and television stations information as to the work of the Agency to keep the public fully informed as to the activities, plans, policies, and regulations that affect individuals and the small business community. Establishes and maintains liaison with high-level, national representatives of newspapers, wire service, business press, trade associations, chambers of commerce and similar groups. Promotes their involvement in informing the public as to Agency policies, programs, and objectives. Prepares and issues news releases, statements, pamphlets, and other informational materials for public dissemination. Provides material for insertion in publications of other Government agencies. Responsible for final design and editing of Agency general publications (except Management Aids). Edits reports, statements, studies, or other informational materials as requested from operating offices. Plans and directs the development of SBA program and informational films, other than management training films. Distributes these films through the PMA film library nationwide to further the understanding of SBA's policies, programs, and objectives. Plans and directs photographic activities in conjunction with presentation of SBA programs for news stories, articles, pamphlets, and conferences. Responsible for artwork in all publications (except Management Aids) and exhibits. Prepares public statements and special reports, as required. Coordinates SBA participation in public meetings. Plans, organizes, and directs preparation of the Agency's Annual Report to the President and the Congress. Develops Agency guidelines for making information and/or records available for public use in conformance with the Freedom of Information Act; and acts as coordinator for the Agency regarding the cost and availability of information and/or records requested by the public.

§ 101.2–8 Assistant Administrator for Advocacy, Planning, and Research.

Conducts economic planning studies and evaluations of the economic environment and relates to the needs and problems of the small business community. As the economic advisor of the

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Agency, reviews and comments to the Administrator upon all proposed legislation affecting the Agency or other Federal agency programs having an impact on small business. Initiates and participates in interagency studies dealing with the critical aspects of the economy and public policy affecting small business. Coordinates the development of Agency policy plans, programs, goals and objectives. As the principal planning officer of the Agency, develops and directs the preparation of Agency program memorandums as required by the Office of Management and Budget and coordinates with program offices in the developing and maintaining of the SBA Five-Year Plan. Develops policies, plans, systems, and procedures to effectively strengthen and improve the planning and program evaluation functions of the Agency. Conducts economic, cost benefit, program analysis and special studies of agency activities to provide the Administrator and program managers with alternative courses of action and policy. Develops and recommends policy concerning the advisory councils program. Develops plans and procedures for the establishment and operation of the National, District, and Community Advisory Councils. Provides advice, assistance, and support to the Associate Administrator for Operations in relation to the field advisory councils program. Program managers retain responsibility for program related liaison with other agencies, interagency agreements, development of program policy, including coordination with other agency program policy, and overall program interrelationships, to include program evaluation. Plans, organizes, and participates in the annual meeting of the National Advisory Council for the Small Business Administration. Participates in meetings of the district advisory councils. In cooperation with the Associate Administrator for Operations, reviews and coordinates agendas of meetings and proposed resolutions of the councils, and notifies the councils chairmen of the Agency's position on the resolutions received. Reviews and consolidates resolutions adopted by the district advisory councils for presentation to and consideration at the annual meeting of the National Advisory Council. Directs the development of and recommends new and changed size standards for all SBA programs. Is responsible for the determination and interpretation of the SBA size standards and serves as a member of the Size Appeals Board. Initiates studies and develops procedures to provide an historical and current statistical description of the small business sector to provide, in a timely manner, data for policy and program formulation. Provides in-house research capability and identifies and formulates economic and industry research projects to be pursued under contract, and monitors such contracts approved by the Administrator. Conducts studies, in cooperation with program offices, involving across-the-board investigations of SBA programs to measure their effectiveness in terms of costs, benefits, and other considerations. Serves as the central analytical staff to review and evaluate, in conjunction with appropriate program offices, major program evaluation studies submitted to the Administrator. Develops and initiates studies of socio-economic and legislative changes which affect the competitive position of small business.

(a) *Office of the Chief Counsel for Advocacy.* Serves as the Agency's focal point for the development, modification, and ongoing review of its policy, positions, and courses of action, under the direction of the Assistant Administrator for Advocacy, Planning, and Research (AA/APR). Reviews all pending policy changes from any source in order to set actual priorities for consideration by the Agency. Assists and works with the office of General Counsel in the preparation of legislation and testimony on behalf of the Agency and the small business community, and in the preparation of Agency submissions in rulemakings and formal proceedings of other Federal agencies. Constantly solicits from Agency key personnel their views on Agency policy. Assists the AA/APR when needed, to prepare material required for the Office of Management and Budget, the Congress, and for other Federal and State governmental organizations. Initiates, coordinates, and develops the Agency's position as the principal Government's advocate of small business. Promotes, counsels, and champions the position of and for small business and the Agency with all Federal agencies and State governments. Develops an ongoing relationship with same in order to facilitate and develop new programs and policies, or modify existing programs and policies. However, Central Office program officials continue to maintain liaison with other Federal agencies, etc. on program matters. Participates in interagency studies dealing with critical aspects of the economy and public policy affecting the small business community. Plans and develops, through appropriate channels, the Agency's position in this regard. Along with the Office of General Counsel, keeps abreast of policy developments and regulations of other governmental departments and pending congressional action which materially affects the competitive position, the survival, and the best interests of small business. Recommends Agency's position in this regard. Initiates, develops, and maintains liaison with trade and professional organizations so that the Agency is made fully aware of the problems and positions of its small business members. Maintains an up-to-date catalog of all services and programs providing benefits to small businesses, not only from the Small Business Administration, but from all other Federal agencies and departments as well. Develops and recommends policy concerning the Advisory Council program of the Agency. Implements approved Agency policy in this regard. Recommends and establishes single purposed councils to provide the Agency with advice and counsel on current issues or problems of small business. Develops plans and procedures for the establishment and operation of the National, Regional, District, Community, and Specialized Advisory Councils. Develops plans and procedures, including effective liaison with small business trade and professional associations, as well as those associations serving small business. Provides advice, assistance, and support to the Associate Administrator for Operations in relation to the field Advisory Councils. When appropriate, works through AA/O in the utilization of field personnel in this regard. Plans, organizes, and participates in the meetings of National Advisory Councils. Participates with and assists through the AA/O, field personnel in the meetings of Regional, District, and Community Advisory Councils. Coordinates all resolutions for appropriate actions and replies adopted by all Advisory Councils. When appropriate, presents to National Councils for their consideration. Keeps Central Office Officials informed of the activities of the Councils as they relate to their functional areas of responsibility. Assists and works with AA/F&I or his designee, in the planning, organizing, and participating in the meetings of the National Small Business Investment Company Advisory Council. Prepares the summaries of these meetings. Processes and recommends the appointment of persons to serve on the Advisory Councils. Processes reimbursement of travel claims for all members of all Agency Advisory Councils. With the assistance of and through the AA/CPA, publishes a periodic newsletter concerning Agency programs, policies, positions, and activities of all Advisory Councils. This publication shall also go to professional and trade associations mentioned above. Participates whenever appropriate in the meetings of professional and trade associations mentioned above. Develops and maintains effective liaison with economic committees or commissions of Veterans organizations. Program managers retain responsibility for program related liaison with other agencies, interagency agreements, development of program policy, including coordination with other agency programs, and overall program interrelationships, to include program evaluation.

(b) *Office of the Chief Economist.* Directs research to develop statistical and economic information about small business in the American economy. Devises a system which will provide for the retention, maintenance, and dissemination of this information. Develops and initiates studies of socio-economic and legislative changes which affect the competitive position of small business. Generates information to aid in the formulation of an economic position on these matters for policy purpose. Recommends and monitors research contracts to be performed outside the Agency. Conducts economic analyses and policy recommendations relating to finance and taxation, monetary and fiscal policy, and is-

sues of interest to the small business community. Conducts special studies on the impact of energy and environmental policies and programs upon the competitive status of small business. Analyzes the impact of material shortages and price escalations on the small business sector. Develops and implements a comprehensive planning and program evaluation system. Reviews the Agency's objectives and makes determinations of the effectiveness of the Agency's total output in the accomplishing of these objectives. Determines and coordinates revisions to the system to meet the changing needs of management. Directs and coordinates the preparation of the "Annual Report on the State of Small Business" which is presented yearly to the President and members of Congress. This report contains a detailed profile of the small business community, its current and future needs, and the Agency's proposals for corrective action and new programs. Directs the development of and recommends new and changed size standards for all SBA programs. Has responsibility for the determination and interpretation of the SBA size standards. Coordinates the development of the SBA Five-Year Plan. This document is submitted to the Office of Management and Budget and provides the basis for the annual OMB Spring Review.

§ 101.2–9 Associate Administrator for Minority Small Business.

Formulates policy relating to the Agency's programs which provide assistance to minority small business concerns and reviews the execution of such programs in light of such policy. Develops plans, policies, operating procedures, and standards to effectively strengthen and improve the Agency's minority small business program, including the provision of centralized services in the disadvantaged areas. Develops program goals and objectives within the framework of approved policies. Reviews and evaluates program effectiveness. Provides direction and emphasis in the coordination of all Agency programs to achieve the objectives of the Minority Small Business effort. Chairs the ad hoc Minority Small Business advisory group established for this coordinative purpose. Evaluates the performance of the field offices to insure compliance with Minority Small Business program policies and procedures. Represents the Administrator at interagency meetings convened by the Secretary of Commerce for the purpose of coordinating programs and activities that affect or contribute to the growth of minority business enterprise. Serves in this capacity, in cooperation with the Associate Administrator for Procurement Assistance and the Assistant Administrator for Management Assistance, at other interagency meetings, and in negotiations with Federal agencies whose activities relate to the Minority Small Business and business development programs. Provides information and assistance and otherwise participates with the Secretary of Commerce, when requested, in the development of national program objectives for minority business enterprise. Confers with top representatives of industry, trade associations, local governments, and community action groups to enlist their substantial participation and involvement in the SBA Minority Small Business program. Promotes their cooperation in the development of minority enterprises and entrepreneurships in the disadvantaged areas. Negotiates basic agreements with industries for establishment of local outlets and franchises and for the provision of management and technical assistance and other types of support. Coordinates with and invites participation by the Associate Administrator for Procurement Assistance in meetings and conferences that include representatives of manufacturing and construction industries. Works with the Associate Administrator for Procurement Assistance in the development of policies and procedures governing the combined Minority Small Business-Procurement Assistance effort to involve minorities in the manufacturing construction, and related service industries.

(a) *Office of Program Planning and Control.* Coordinates Agency approach to Minority Small Business. Fosters use of innovative and imaginative concepts to assure that resources allocated to Minority Small Business are working effectively and efficiently. Evaluates effect of current programs on Minority Small Business, and recommends changes if appropriate. Assists in setting Minority Small Business goals. Keeps the Performance Management System working, and makes appropriate recommendations based on Performance Management System analysis. Conducts, as appropriate, experimental projects in collaboration with program offices to test innovative programs. Works with the Associate Administrator for Finance and Investment, the Associate Administrator for Procurement Assistance, the Assistant Administrator for management Assistance, and the Assistant Administractor for Advocacy, Planning, and Research in the Central Office to insure that they consider Minority Small Business views in their program areas. Establishes and maintains a free flow of information in both directions.

(b) *Office of Government and Industry Relations.* Seeks and stimulates private sector support for Minority Small Business through Fortune's 500, banks, trade associations, and other private entities in minority business development. Works closely wth OMBE, HUD, FAA, DOT, HEW, DOD, and other Federal agencies that have programs relating to and/or affecting Minority Small Business. Plans and develops special impact projects, such as shopping centers, Local Development Companies, airport opportunities, construction projects, etc., that would promote and develop minority participation, management, and ownership. Continues to expand and improve the Minority Vendors program in order to insure maximum private sector corporate support and the fullest possible benefit to minority enterprises. Works with the Office of Public Information to insure maximum coverage of Minority Small Business success stories and program announcements, etc.

(c) *Office of Program Assistance.* Monitors performance of Minority Enterprise Representatives and field offices to identify problem areas deserving special recognition. Provides guidance and orientation to Minority Enterprise Representatives and other field personnel involved in minority business development. Assists in problem solving, and keeps field offices and Minority Enterprise Representatives apprised of development in Minority Small Business program areas. Reviews declines and problem cases to determine merits of case and see that all possible avenues of assistance have been explored. When necessary, acts as advocate for minority firms with and outside the Agency. Monitors SBA's 406 Grantees and Call Contractors to insure the most effective and efficient use of 406 funds for minority businesses. Replies to all Congressional, White House, and other inquiries relating to individual case matters. Guides and assists minority and other organizations interested in minority business development. Participates in relevant conferences, workshops, seminars, meetings, training programs, etc. Works with the Offices of Budget and Finance, Personnel, Equal Employment Opportunity and Compliance, and the Associate Administrator for Operations on matters of mutual concern.

§ 101.3 Organization and functions of the field offices.

(a) *Regional office.* An SBA office, headed by a regional director, it is the principal field office of the Agency, responsible and responsive to the Central Office. The city locations and geographical boundaries of each of the 10 regional offices were designated by the President in a statement on May 2, 1969. Such office exercises full authority and supervisory responsibility for: (1) The execution of all field activities within the region; (2) supervision of all district offices within the region.

(b) *District office.* An SBA office headed by a district director, located in a city designated by the Administrator within a defined, limited, and contiguous geographical area within the region. Such office is responsible and responsive to the regional office for the region in which it is located. Except for restrictions based on delegations of authority, the district office has full authority and supervisory responsibility for: (1) The execution of all field activities within the district boundaries; (2) supervision of all branch offices and post-of-duty stations located within the district boundaries; and (3) providing subordinate branch offices and post-of-duty stations with the technical capability necessary to execute assigned programs.

(c) *Branch office.* An SBA office headed by a branch manager, located in a city designated by the Administrator within a defined, limited, contiguous

geographic area within a district. Such office is directly responsible and responsive to the district office within whose boundaries it is located. It executes one or more elements of the business or disaster loan programs and has limited authority for program execution.

(d) *Post-of-duty station.* An SBA office headed by an officer-in-charge, located in a city designated by the Administrator within a district. Such office is directly responsible and responsive to the district office within whose boundaries it is located. It performs tasks required to promote and support the business and disaster loan programs and procurement and management assistance activities. It has no authority for program execution.

§ 101.3–1 Listing of field offices.

(a) *Region I.* Regional Office, 150 Causeway Street, Boston, MA 02114. Having jurisdiction over the following district offices and post-of-duty station:

(1) 150 Causeway Street, Boston, MA 02114. Serving Massachusetts.

(2) 328 Appleton Street, Holyoke, MA 01040. Serving counties of Berkshire, Franklin, Hampden, and Hampshire.

(3) 40 Western Avenue, Augusta, ME 04330. Serving Maine.

(4) 55 Pleasant Street, Concord, NH 03301. Serving New Hampshire.

(5) 450 Main Street, Hartford, CT 06103. Serving Connecticut.

(6) 87 State Street, Montpelier, VT 05602. Serving Vermont.

(7) 57 Eddy Street, Providence, RI 02903. Serving Rhode Island.

(b) *Region II.* Regional Office, 26 Federal Plaza, New York, NY 10007. Having jurisdiction over the following district and branch offices and post-of-duty stations:

(1) 26 Federal Plaza, New York, NY 10007. Serving the New York counties of Bronx, Columbia, Delaware, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, and Westchester.

(2) 970 Broad Street, Newark, NJ 07102. Serving New Jersey.

(3) Hunter Plaza, Fayette and Salina Streets, Syracuse, NY 13202. Serving the New York counties of Allegany, Albany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Erie, Essex, Franklin, Fulton, Genesee, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Tioga, Tompkins, Warren, Washington, Wayne, Wyoming, and Yates.

(4) 111 West Huron Street, Buffalo, NY 14202. Serving the New York counties of Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, and Wyoming.

(5) 1051 South Maine Street, Elmira, NY 14904. Serving the New York counties of Broome, Chemung, Schuyler, Steuben, Tioga, and Tompkins.

(6) 99 Washington Avenue, Albany, NY 12210. Serving the New York counties of Albany, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, and Washington.

(7) 55 St. Paul Street, Rochester, NY 14604. Serving the New York counties of Livingston, Monroe, Ontario, Seneca, Wayne, and Yates.

(8) 255 Ponce de Leon Avenue, Hato Rey, PR 00919. Serving the Commonwealth of Puerto Rico and the U.S. Virgin Islands.

(c) *Region III.* Regional Office, 1 Decker Square, East Lobby, Bala Cynwyd, PA 19004. Having jurisdiction over the following district and branch offices:

(1) 1 Decker Square, East Lobby, Bala Cynwyd, PA 19004. Serving the Pennsylvania counties of Adams, Berks, Bradford, Bucks, Carbon, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York.

(2) Miller Furniture Building, 7–11 Market Square, Harrisburg, PA 17108. Serving the Pennsylvania counties of Adams, Clinton, Cumberland, Dauphin, Juniata, Lancaster, Lebanon, Lycoming, Mifflin, Montour, Northumberland, Potter, Snyder, Union, Tioga, and York.

(3) 24 South Main Street, Wilkes-Barre, PA 18703. Serving the Pennsylvania counties of Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, and Wyoming.

(4) 844 King Street, Wilmington, Dela. 19801. Serving Delaware.

(5) 7800 York Road, Towson, MD 21204. Serving Maryland except the counties of Montgomery and Prince Georges.

(6) 109 North Third Street, Clarksburg, WV 26301. Serving West Virginia.

(7) Charleston National Bank, Charleston, WV 25301. Serving the West Virginia counties of Boone, Braxton, Cabell, Calhoun, Clay, Fayette, Gilmer, Greenbrier, Jackson, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Roane, Summers, Wayne, Webster, Wirt, and Wyoming.

(8) 1000 Liberty Avenue, Pittsburgh, PA 15222. Serving the Pennsylvania counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Franklin, Fulton, Greene, Huntington, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, and Westmoreland.

(9) 400 North Eighth Street, Richmond, VA 23240. Serving Virginia except the counties of Arlington, Fairfax, and Loudoun.

(10) 1030 Fifteenth Street, NW., Washington, DC 20416. Serving the District of Columbia and the Maryland counties of Montgomery and Prince Georges and the Virginia counties of Arlington, Fairfax, and Loudoun.

(d) *Region IV.* Regional Office, 1401 Peachtree Street, NE., Atlanta, GA 30309. Having jurisdiction over the following district and branch offices and post-of-duty stations.

(1) 1401 Peachtree Street, NE., Atlanta, GA 30309. Serving Georgia.

(2) 908 South 20th Street, Birmingham, AL 35205. Serving Alabama.

(3) 222 South Church Street, Charlotte, NC 28202. Serving North Carolina.

(4) 215 South Evans Street, Greenville, NC 27834. Serving the North Carolina counties of Beaufort, Bertie, Brunswick, Camden, Carteret, Currituck, Chowan, Columbus, Craven, Dare, Duplin, Edgecombe, Gates, Greene, Halifax, Hertford, Hyde, Jones, Lenoir, Martin, Nash, New Hanover, Onslow, Pamlico, Perquimans, Pasquotank, Pitt, Pender, Tyrrell, Washington, Wayne, Wilson, and Northampton.

(5) 1801 Assembly Street, Columbia, SC 29201. Serving South Carolina.

(6) Petroleum Building, Suite 690, Pascagoula and Amite Streets, Jackson, Miss. 39205. Serving Mississippi.

(7) 111 Fred Haise Boulevard, Biloxi, Miss. 39530. Serving the Mississippi counties of Forrest, George, Greene, Hancock, Harrison, Jackson, Lamar, Marion, Pearl River, Perry, and Stone.

(8) 400 West Bay Street, Jacksonville, FL 32202. Serving the Florida counties of Alachua, Baker, Bay, Bradford, Calhoun, Citrus, Clay, Columbia, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lafayette, Lake, Leon, Levy, Liberty, Madison, Marion, Nassau, Okaloosa, Orange, Putnam, Santa Rosa, St. Johns, Seminole, Sumter, Suwannee, Taylor, Union, Volusia, Wakulla, Walton, and Washington.

(9) 600 Federal Place, Louisville, KY 40202. Serving Kentucky.

(10) 2222 Ponce de Leon Blvd., Coral Gables, FL 33134. Serving the Florida counties of Brevard, Broward, Charlotte, Collier, Dade, De Soto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lee, Manatee, Martin, Monroe, Okeechobee, Osceola, Palm Beach, Pasco, Pinellas, Polk, St. Lucie, Sarasota, and Florida.

(11) 1802 North Trask Street, Tampa, FL 33607. Serving the Florida counties of Hillsborough, Pinellas, Polk, and Pasco. (Circuit rider to Manatee and Hendry.)

(12) 404 James Robertson Parkway, Nashville, TN 37219. Serving Tennessee.

(13) 502 Gay Street, Knoxville, TN 37902. Serving the Tennessee counties of Anderson, Bledsoe, Blount, Bradley, Campbell, Carter, Claiborne, Cocke, Cumberland, Fentress, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Louden, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sevier, Sullivan, Unicoi, Union, and Washington.

(14) 167 North Main Street, Memphis, TN 38103. Serving the Tennessee counties of Fayette, Hardeman, Haywood, Lauderdale, Shelby, and Tipton.

(e) *Region V.* Regional Office, 219 South Dearborn Street, Chicago, IL 60604. Having jurisdiction over the following district and branch offices and post-of-duty stations:

(1) 219 South Dearborn Street, Chicago, IL 60604. Serving Illinois.

(2) 502 East Monroe Street, Springfield, IL 62701. Serving the Illinois counties of Adams, Alexander, Bond, Brown, Calhoun, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, De Witt, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Fulton, Gallatin, Greene, Hamilton, Hancock, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Logan, McDonough, Macon, Massac, Menard, Montgomery, Morgan, Moultrie, Perry, Piatt, Pike, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Union, Vermilion, Wabash, Washington, Wayne, White, and Williamson.

(3) 1240 East Ninth Street, Cleveland, OH 44199. Serving the Ohio counties of Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Huron, Jefferson, Lake, Lorain, Lucas, Mahoning, Medina, Ottawa, Portage, Sandusky, Stark, Summit, Trumbull, Tuscarawas, Wayne, and Wood.

(4) 34 North High Street, Columbus, OH 43215. Serving the Ohio counties of Adams, Allen, Ashland, Athens, Auglaize, Belmont, Brown, Butler, Champaign, Clark, Clermont, Clinton, Coshocton, Crawford, Darke, Defiance, Delaware, Fairfield, Fayette, Franklin, Fulton, Gallia, Greene, Guernsey, Hamilton, Hancock, Hardin, Henry, Highland, Hocking, Holmes, Jackson, Knox, Lawrence, Licking, Logan, Madison, Marion, Meigs, Mercer, Miami, Monroe, Montgomery, Morgan, Morrow, Muskingum, Noble, Paulding, Perry, Pickaway, Pike, Preble, Putnam, Richland, Ross, Scioto, Seneca, Shelby, Union, Van Wert, Vinton, Warren, Washington, Williams, and Wyandot.

(5) 550 Main Street, Cincinnati, OH 45202. Serving the Ohio counties of Adams, Brown, Butler, Clermont, Clinton, Hamilton, Highland, Montgomery, Preble, and Warren.

(6) 1249 Washington Boulevard, Detroit, MI 48226. Serving Michigan.

(7) 201 McClellan Street, Marquette, MI 49855. Serving the Upper Peninsula of Michigan.

(8) 36 South Pennsylvania Street, Indianapolis, IN 46204. Serving Indiana.

(9) 122 West Washington Avenue, Madison, WI 53703. Serving the Wisconsin counties of Adams, Ashland, Barron, Bayfield, Brown, Buffalo, Burnett, Calumet, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Door, Douglas, Dunn, Eau Claire, Florence, Fond du Lac, Forest, Grant, Green, Green Lake, Iowa, Iron, Jackson, Jefferson, Juneau, Kenosha, Kewaunee, La Crosse, Lafayette, Langlade, Lincoln, Manitowoc, Marathon, Marinette, Marquette, Menominee, Milwaukee, Monroe, Oconto, Oneida, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Price, Racine, Richland, Rock, Rusk, St. Croix, Sauk, Sawyer, Shawano, Sheboygan, Taylor, Trempealeau, Vernon, Vilas, Walworth, Washburn, Washington, Waukesha, Waushara, Winnebago, and Wood.

(10) 735 West Wisconsin Avenue, Milwaukee, WI 53223. Serving the Wisconsin counties of Dodge, Fond du Lac, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha.

(11) 500 South Barstow Street, Eau Claire, WI 54701. Serving the Wisconsin counties of Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Florence, Forest, Iron, Lincoln, Oneida, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Trempealeau, Vilas, and Washburn.

(12) 12 South Sixth Street, Minneapolis, MN 55402. Serving Minnesota.

(f) *Region VI.* Regional Office, 1720 Regal Row, Dallas, TX 75235. Having jurisdiction over the following district and branch offices and post-of-duty station.

(1) 1100 Commerce Street, Dallas, TX 75202. Serving the Texas counties of Anderson, Archer, Baylor, Bell, Bosque, Brown, Callahan, Clay, Coleman, Collin, Comanche, Cooke, Coryell, Dallas, Delta, Denton, Eastland, Ellis, Erath, Falls, Fannin, Freestone, Grayson, Hamilton, Hendrickson, Hill, Hood, Hopkins, Hunt, Jack, Johnson, Kaufman, Lamar, Limestone, Mclennan, Mills, Montague, Navarro, Palo Pinto, Parker, Rains, Rockwall, Shackleford, Somervell, Stephens, Tarrant, Throckmorton, Van Zandt, Wichita, Wilbarger, Wise, and Young.

(2) 5000 Marble Avenue, N.E., Albuquerque, NM 87110. Serving New Mexico.

(3) 808 Travis Street, Houston, TX 77002. Serving the Texas counties of Angelina, Austin, Brazoria, Brazos, Burlson, Chambers, Colorado, Fort Bend, Galveston, Grimes, Hardin, Harris, Houston, Jasper, Jefferson, Leon, Liberty, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Trinity, Tyler, Waller, Walker, Washington, and Wharton.

(4) 611 Gaines Street, Little Rock, AR 72201. Serving Arkansas except Columbia, Lafayette, and Miller counties.

(5) 1205 Texas Avenue, Lubbock, TX 79408. Serving the Texas counties of Andrews, Armstrong, Bailey, Borden, Briscoe, Carson, Castro, Childress, Cochran, Coke, Collingsworth, Cottle, Crane, Crosby, Dallam, Dawson, Deaf Smith, Dickens, Donley, Ector, Fisher, Floyd, Foard, Gaines, Garza, Glasscock, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hockley, Howard, Hutchinson, Jones, Kent, King, Knox, Lamb, Lipscomb, Lubbock, Lynn, Martin, Midland, Mitchell, Moore, Motley, Nolan, Ochiltree, Oldham, Parmer, Potter, Randall, Reagan, Roberts, Runnels, Scurry, Sherman, Sterling, Stonewall, Swisher, Taylor, Terry, Upton, Ward, Wheeler, Winkler, and Yoakum.

(6) 219 East Jackson Street, Lower Rio Grande Valley, TX 78550. Serving the Texas counties of Aransas, Brooks, Cameron, Duval, Hildalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, Nueces, San Patricio, Starr, Willacy, and Zapata.

(7) 3105 Leopard Street, Corpus Christi, TX 78408. Serving the Texas counties of Aransas, Brooks, Kleberg, Nueces, and San Patricio.

(8) 505 East Travis Street, Marshall, TX 75670. Serving the Arkansas counties of Columbia, Lafayette, and Miller; the Texas counties of Bowie, Camp, Cass, Cherokee, Franklin, Gregg, Harrison, Marion, Morris, Nacogdoches, Panola, Red River, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, and Wood; and the Louisiana parishes of Bienville, Bossier, Caddo, Claiborne, De Soto, Red River, and Webster.

(9) 1001 Howard Avenue, New Orleans, LA 70113. Serving Louisiana, except Bienville, Bossier, Caddo, Claiborne, De Soto, Red River, and Webster Parishes.

(10) 50 Penn Place, Oklahoma City, OK 73118. Serving Oklahoma.

(11) 301 Broadway, San Antonio, TX 78205. Serving the Texas counties of Atascosa, Bandera, Bastrop, Bee, Bexar, Blanco, Brewster, Burnet, Caldwell, Calhoun, Comal, Concho, Crockett, Culberson, De Witt, Dimmit, Edwards, El Paso, Fayette, Frio, Gillespie, Goliad, Gonzales, Guadalupe, Hays, Hudspeth, Irion, Jackson, Jeff Davis, Karnes, Kendall, Kerr, Kimble, Kinney, Lampasas, La Salle, Lavaca, Lee, Live Oak, Llano, Loving, Mason, Maverick, McCulloch, McMullen, Medina, Menard, Pecos, Presidio, Real, Reeves, Refugio, San Saba, Schleicher, Sutton, Terrell, Tom Green, Travis, Uvalde, Val Verde, Victoria, Webb, Williamson, Wilson, and Zavala.

(12) 109 North Oregon Street, El Paso, TX 79901. Serving the Texas counties of Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, and Terrell.

(g) *Region VII.* Regional Office, 911 Walnut Street, Kansas City, MO 64106. Having jurisdiction over the following district offices.

(1) 911 Walnut Street, Kansas City, MO 64106. Serving the Kansas counties of Allen, Anderson, Atchison, Bourbon, Brown, Cherokee, Coffey, Crawford, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Labette, Leavenworth, Linn, Marshall, Miami, Montgomery, Nemeha, Neosho, Osage, Pottawatomie, Shawnee, Wilson, Woodson, and Wyandotte; and the Missouri counties of Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Boone, Buchanan, Caldwell, Camden, Carroll, Cass, Cedar, Chariton, Christian, Clay, Clinton, Cole, Cooper, Dade, Dallas, Daviess, De Kalb, Douglas, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Howard, Howell, Jackson, Jasper, Johnson, Laclede, Lafayette, Lawrence, Linn, Livingston, Macon, McDonald, Mercer, Miller, Moniteau, Morgan, Newton, Nodaway, Ozark, Pettis, Platte, Polk, Pulaski, Putnam, Randolph, Ray, St. Clair, Saline, Schuyler, Stone, Sullivan, Taney, Texas, Vernon, Webster, Worth, and Wright.

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(2) 210 Walnut Street, Des Moines, IA 50309. Serving Iowa.

(3) 215 North 17th Street, Omaha, NE 68102. Serving Nebraska.

(4) 210 North 12th Street, St. Louis, MO 63101. Serving the Missouri counties of Audrain, Bollinger, Butler, Callaway, Cape Girardeau, Carter, Clark, Crawford, Dent, Dunklin, Franklin, Gasconade, Iron, Jefferson, Knox, Lewis, Lincoln, Madison, Maries, Marion, Mississippi, Monroe, Montgomery, New Madrid, Oregon, Osage, Pemiscot, Perry, Phelps, Pike, Ralls, Reynolds, Ripley, St. Charles, St. Francois, Ste. Genevieve, St. Louis, St. Louis City, Scotland, Scott, Shannon, Shelby, Stoddard, Warren, Washington, and Wayne.

(5) 120 South Market Street, Wichita, KS 67202. Serving the Kansas counties of Barber, Barton, Butler, Chase, Chautauqua, Cheyenne, Clark, Clay, Cloud, Comanche, Cowley, Decatur, Dickonson, Edwards, Elk, Ellis, Ellsworth, Finney, Ford, Geary, Gove, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Harvey, Haskell, Hodgeman, Jewell, Kearney, Kingman, Kiowa, Lane, Lincoln, Logan, Lyon, McPherson, Marion, Meade, Mitchell, Morris, Morton, Ness, Norton, Osborne, Ottawa, Pawnee, Phillips, Pratt, Rawlins, Reno, Republic, Rice, Riley, Rooks, Rush, Russell, Saline, Scott, Sedgwick, Seward, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Trego, Wabaunsee, Wallace, Washington, and Wichita.

(h) *Region VIII.* Regional Office, 721 19th Street, Denver, CO 80202. Having jurisdiction over the following district offices:

(1) 721 19th Street, Denver, CO 80202. Serving Colorado.

(2) 100 East B Street, Casper, WY 82601. Serving Wyoming.

(3) 653 Second Avenue North, Fargo, ND 58102. Serving North Dakota.

(4) 618 Helena Avenue, Helena, Montana 59601. Serving Montana.

(5) 125 South State Street, Salt Lake City, UT 84138. Serving Utah.

(6) National Bank Building, Eighth and Main Avenue, Sioux Falls, SD 57102. Serving South Dakota.

(7) 515 9th Street, Rapid City, SD 57701. Serving the South Dakota counties of Butte, Custer, Fall River, Lawrence, Meads, Pennington, and Shannon.

(i) *Region IX.* Regional Office, 450 Golden Gate Avenue, San Francisco, CA 94102. Having jurisdiction over the following district and branch offices and post-of-duty stations:

(1) 450 Golden Gate Avenue, San Francisco, CA 94102. Serving California except the counties of Imperial, Inyo, Kern (E. Pt.), Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Diego, San Luis Obispo, and Ventura.

(2) 1130 O Street, Fresno, CA 93721. Serving the California counties of Fresno, Kern (W. Pt.), Kings, Madera, Merced, and Tulare.

(3) 1149 Bethel Street, Honolulu, HI 96813. Serving Hawaii and American Samoa.

(4) Ada Plaza Center Building, Agana, Guam 96910. Serving Guam and the Trust Territory of the Pacific Islands.

(5) 849 South Broadway, Los Angeles, CA 90014. Serving the California counties of Kern (E. Pt.), Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Luis Obispo, and Ventura.

(6) 300 Las Vegas Boulevard South, Las Vegas, NV 89101. Serving Nevada and the California county of Inyo.

(7) 112 North Central Avenue, Phoenix, AZ 85004. Serving Arizona.

(8) 110 West C Street, San Diego, CA 92101. Serving the California counties of Imperial and San Diego.

(j) *Region X.* Regional Office, 710 Second Avenue, Seattle, WA 98104. Having jurisdiction over the following district and branch offices.

(1) 710 Second Avenue, Seattle, WA 98104. Serving the Washington counties of Chelan, Clallam, Douglas, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Okanogan, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom, and Yakima.

(2) 1016 West Sixth Avenue, Anchorage, AK 99501. Serving the Alaska election districts of Ketchikan-Prince of Wales, Wrangell-Petersburg, Sitka, Juneau, Yakutat, Cordova-Valdez, Palmer, Anchorage, Seward, Kenai, Kodiak, Aleutian Islands, Bristol Bay, Bethel, Nome, and Wade Hampton.

(3) 503 Third Avenue, Fairbanks, AK 99701. Serving the Alaska election districts of Barrow-Kobuk, Fairbanks-Yukon, and Yukon-Kuskokwim.

(4) 216 North Eighth Street, Boise, ID 83701. Serving Idaho, except the counties of Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone; and the Oregon counties of Baker, Grant, Harney, Malheur, Union, and Wallowa.

(5) 921 Southwest Washington Street, Portland, OR 97205. Serving Oregon except the counties of Baker, Grant, Harney, Malheur, Union, and Wallowa; and the Washington counties of Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum.

(6) Court House Building, Room 651, Spokane, WA 99210. Serving the Washington counties of Adams, Asotin, Benton, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman; and the Idaho counties of Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone.

§ 101.4 SBA forms for public use.

SBA forms used by the public when applying for or obtaining SBA assistance or when providing services for SBA are available in all field offices. See § 101.3–1.

§ 101.5 Seal.



The Administrator and the Assistant Administrator for Administration, and each Regional and District Director, and Branch Manager are authorized to certify and authenticate as true, originals and copies of any books, records, papers, or other documents on file within the Small Business Administration; to certify and authenticate as true, originals, and copies of extracts from such material; to certify the nonexistence of records on file; and to cause the Seal of the Small Business Administration to be affixed to all such certifications for all purposes, including the purposes authorized by 28 USC 1733. This authority applies to any books, records, papers, or other documents on file within their respective jurisdictions.

§ 101.6 Litigation.

Service of process in any suit instituted against SBA may be accomplished in accordance with the provisions of Rule 4 of the Federal Rules of Civil Procedure or in accordance with the provisions of section 2410 of Title 28, United States Code. All litigation instituted by or against SBA will be prosecuted or defended by the Attorney General through the United States Attorney for the Federal District in which the matter arises.

§ 101.7 Employment of fee counsel.

(a) *Business loans.* SBA employs attorneys on a full-time basis in most of its field offices and these employees usually perform all the legal services requested on behalf of SBA in the making of business loans. The loan applicant or borrower usually employs his own attorney to represent his interests, and this attorney is selected and paid by the applicant or borrower, except that the reasonableness of the fee is reviewed by SBA. On occasions, such as where the volume of activity has not been sufficient to require a full-time employee, or the area is too remote to economically use the services of a full-time employee, SBA has hired fee counsel to represent it in business loans.

(b) *Disaster loans.* In disaster loans, as defined in Part 123 of this chapter, SBA may contract for the services of fee counsel because the disaster presents an emergency and a volume of activity that cannot be promptly and economically

serviced by the available full-time or temporary employees.

(c) *Compensation.* All work performed at the request of, and for, SBA is performed in compliance with its regulations and instructions, and is compensated for at an hourly rate determined by SBA and established in the contract between SBA and the fee counsel. The contract may be terminated upon written notice by either party.

(d) *Duties.* The fee counsel acts under the general supervision of the General Counsel through field counsel, and takes such action as is legally requisite and necessary for the making of loans under the provisions of the Small Business Act. In the event that fee counsel acts contrary to, or fails to act in accordance with SBA's Regulations and instructions, the loan may be reassigned either to another fee counsel or to a full-time employee. In the performance of functions as an attorney for SBA the highest standards of professional conduct are requisite and proper. All matters of confidence proper to the attorney-client relationship are respected by fee counsel.

§ 101.8 Investigations: Small Business Act.

§ 101.8–1 Application of the rules of this part.

The rules of this part apply only to investigations conducted under the Small Business Act (15 U.S.C. 631 *et seq.*). They do not apply to adjudicative or rule-making proceedings or investigations under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*).

§ 101.8–2 Scope of rules.

Where, from complaints received from members of the public, examination of filings and reports made with the Agency, communications from Federal or State agencies, or otherwise, it appears that there may be a violation of the Small Business Act, as amended, or the rules and regulations thereunder, or of any order issued under the Act, or where it appears that there is a likelihood that a violation has been or is about to be committed, the Administrator or the Assistant Administrator for Administration or the Director of the Office of Audits and Investigations may order a formal investigation if it is deemed necessary.

§ 101.8–3 Authority of officer conducting investigation.

The person or persons designated by the Order of Formal Investigation shall have all the authority to conduct the inquiry as set forth in Section 5(b)(11) of the Act, 15 U.S.C. 634(b)(11), including the authority to administer oaths and affirmations, subpoena witnesses, compel their attendance to take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry.

§ 101.8–4 Non-public formal investigation proceedings.

Unless otherwise ordered by the Administration, all formal investigative proceedings shall be non-public and the reports thereon are for the use of the Administration only.

§ 101.8–5 Right to copy of data or transcript of testimony.

Transcripts, if any, of formal investigative proceedings shall be recorded by the official reporter, or by any other person or means designated by the officer conducting the investigation. A person who has submitted data or evidence in such investigations shall be entitled to retain or procure a copy of his data or a transcript of his testimony on payment of the prescribed fees; provided, however, in the case of non-public investigations such person shall file a written request stating the reason for desiring to procure such copy or transcript. The Administration may in non-public investigatory proceeding for good cause deny such request. In the latter event, such person, upon proper identification, shall have the right to inspect the official transcript of his testimony.

§ 101.8–6 Counsel for witnesses in investigations.

Any person compelled to appear in person at an investigation designated in § 101.8–2 may be accompanied, represented and advised by counsel, but such counsel may not represent any other witness or any person being investigated, unless permitted in the discretion of the officer conducting the investigation or the Administration upon being satisfied that there is no conflict of interest in such representation and that the presence of identical counsel for other witnesses or persons being investigated would not tend to hinder the course of the investigation.

§ 101.8–7 Suspension or disbarment of counsel.

The Administrator for good cause shown may, in accordance with the procedures set forth in Part 104 of this chapter, reprimand, suspend or disbar counsel from practice before the Administration because of contemptuous course, dilatory tactics or other improper conduct in the court of an investigation.

§ 101.8–8 Information obtained in investigations.

Information or documents obtained by the Administration in the course of any investigation shall, unless made a matter of public record, be deemed confidential. Officers and employees are hereby prohibited from making such confidential information or documents or any other non-public records of the Administration available to anyone other than an officer or employee of the Administration, unless the Administration authorizes the disclosure of such information or the production of such documents as not being contrary to the public interest. Any officer or employee who is served with a subpoena requiring the disclosure of such information or the production of such documents shall appear in court and, unless the authorisation described in the preceding sentence shall have been given, shall respectfully decline to disclose the information or produce the documents called for, basing his refusal upon this section. Any officer or employee who is served with a subpoena shall promptly advise the Assistant Administrator for Congressional and Public Affairs and the Office of General Counsel of the service of such subpoena, the nature of the information or documents sought, and any circumstances which may bear upon the desirability of making available such information or documents.

§ 101.8–9 Service of subpoena.

(a) Service of subpoenas issued in an investigative proceeding may be effected as follows:

(1) *By registered mail.* A copy of the subpoena shall be addressed to the person, partnership, corporation, or unincorporated association to be served at his or its residence or principal office or place of business, registered, and mailed; or

(2) *By delivery to any individual.* A copy of the subpoena may be delivered to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation or unincorporated association to be served; or

(3) *By delivery to an address.* A copy of the subpoena may be left at the principal office or place of business of the person, partnership, corporation or unincorporated association, or it may be left at the residence of the person or a member of the partnership or of an officer or director of the corporation or unincorporated association to be served.

(b) *Proof of service.* (1) When service is by registered mail, it is complete upon delivery of the document by the Post Office.

(2) The return Post Office receipt for a document registered and mailed, or the verified return of certificate by the person serving the document by personal delivery, setting forth the manner of said service, shall be proof of the service of the document.

§ 101.8–10 Witness fees.

Witnesses in an investigative proceeding shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

§ 101.9 Public participation in rule-making.

SBA is governed as a matter of policy by the public participation provisions of the Administrative Procedure Act, 5 U.S.C. section 553, notwithstanding the exemptions given by such section 553 for matters relating to agency management or personnel, or to public property, loans, grants, benefits, or contracts. Where, as provided by 5 U.S.C. section 553, it is determined that such public

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participation procedures would be impracticable, unnecessary, or contrary to the public interest, a specific finding to this effect shall be published with the rules or regulations in question. Such exceptions from public participation procedures are not to be favored and will be used sparingly, as for example, in emergencies and in instances where public participation would be useless or wasteful because proposed regulations, or amendments thereto, cover minor technical matters. In connection with any notice of proposed rulemaking, written material or suggestions submitted will be available for public inspection during regular business hours at the office indicated in such notice.

[FR Doc.74-29541 Filed 12-18-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 11412; Amdt. No. 36-3]

PART 36—NOISE STANDARDS—AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

Acoustical Change Approvals

The purpose of this amendment is to tighten the conditions under which an applicant for an acoustical change approval must show that issuance of type certificate changes authorizing modification of certain turbojet or transport category airplanes will not increase the takeoff or sideline noise levels of those airplanes. The primary basis of this amendment is section 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431) as amended by the Noise Control Act of 1972.

This amendment is based on three proposals contained in Notice 71-26, published in the FEDERAL REGISTER (36 FR 18584) on September 17, 1971. That Notice contained other proposals that are still under consideration by the FAA and that may result in additional rule making. Interested persons have been afforded an opportunity to comment on the matters contained in this amendment, and all relevant comments have been considered.

Pursuant to 49 U.S.C. 1431(b)(1), the Federal Aviation Administration has consulted with the Secretary of Transportation, prior to the adoption of this amendment. Pursuant to that provision, section 309 of the Clean Air Act, as amended (42 U.S.C. 1857 h-7), and § 1500.9(b) of the guidelines of the Council on Environmental Quality entitled "Preparation of Environmental Impact Statements" (40 CFR Part 1500), published in the FEDERAL REGISTER on August 1, 1973, the FAA has consulted with the Administrator of the Environmental Protection Agency, and has submitted this amendment to that agency for review and comment, prior to adoption of this amendment.

I. NOTICE 71-26.

Among its proposals, Notice 71-26, as stated above, proposed three changes affecting the acoustical change requirements in order to ensure that valid comparative tests of modified and unmodified aircraft are conducted. This amendment addresses these three proposals with respect to type design changes of airplanes that do not comply with the noise levels prescribed in Appendix C of Part 36, that is, airplanes covered by § 36.1(c)(2) of that Part.

First, the Notice proposed to prohibit any reduction in power or thrust during the takeoff and sideline noise tests conducted before and after the type design change. Second, the Notice proposed to require that the takeoff and sideline noise levels be determined using the quietest airworthiness approved configuration available at the highest approved takeoff weight. As the Notice stated, these two amendments were proposed "since, by manipulating the schedules of power or thrust reduction and the takeoff configuration, an unrepresentative comparison may result under which the changed aircraft may actually be capable of generating more noise, under the same conditions, than before the type design change."

Finally, the Notice proposed to amend the airspeed requirement by eliminating V_2+10 knots as a minimum takeoff airspeed (that may be exceeded without limit) and requiring instead a speed of V_2+10 knots with a flight test tolerance of ±3 knots. This proposal, like the two discussed above, was intended to ensure a valid comparative test by prohibiting the modified airplane from overflying the measurement points at an airspeed markedly different from that of the unmodified airplane (since flyover time can affect recorded noise levels).

II. COMMENTS RECEIVED

The following public comments in response to Notice 71-26 were relevant to the matters addressed in this amendment (that is, the airspeed, thrust, and configuration conditions to be used in acoustical change demonstrations for airplanes that do not meet Appendix C of Part 36):

A. *Test airspeed.* 1. One comment objected to the proposal concerning test airspeed stating that Part 36 requires all procedures used to show compliance with that Part to be consistsent with the airworthiness regulations constituting the type certification basis of the airplane. This comment suggested that, rather than a speed of $V_2+10\pm3$ knots, the test speed should be the lowest airspeed at which airworthiness compliance is shown. A related comment stated that, under the airworthiness requirements of Part 25, the all-engine takeoff speed can exceed V_2+10+3 knots at 35 feet under certain test conditions. This comment stated that the proposed airspeed limit would require the airplane to decelerate at 35 feet, which would not represent safe operational practice. In response to this comment, and in order to ensure that the test airspeed is consistent with airspeeds demonstrated under the airworthiness regulations constituting the type certification basis of the airplane, this amendment provides that the acoustic day reference speed must be the minimum approved value of V_2, plus 10 knots, "or the all-engines-operating speed at 35 feet (for turbine engine powered airplanes) or 50 feet (for reciprocating engine powered airplanes), whichever speed is greater as determined under the regulations constituting the type certification basis of the airplane." In addition, since the unqualified reference to the speed V_2, as proposed in the notice, would have permitted a range of speeds to be selected (since acoustic day reference V_2 values would, therefore, be permitted to vary for the same airplane) which could result in invalid noise comparisons, the language discussed above ensures that a single value (i.e., minimum approved value) of V_2 is used for the purpose of determining the acoustic day reference speed. Under this amendment, the criteria for selecting the acoustic day reference speed must also be followed in selecting test day speeds, except that a test tolerance of ±3 knots is allowed. These amendments are intended to improve the ability of the acoustical change demonstration to ensure that speed differences between the two tests do not mask real increases in noise on the part of the altered aircraft.

2. One comment stated that any tolerance more restrictive than ±10 knots is overly restrictive for flight test purposes, and will result in repeated tests and unnecessary omission of data. However, another commentator agreed that a test tolerance of ±3 knots is acceptable. The FAA believes that a test tolerance of more than ±3 knots may permit unnecessary correction errors to be introduced and is not needed in order to conduct a satisfactory flight test program.

3. One comment stated that, for some aircraft, the best noise performance is obtained with climb speeds greater than V_2+10+3 knots. This comment suggested that a speed of V_2+10+X be used, with X being the same for the tests conducted before and after the type design change. The FAA agrees that a speed greater than the proposed test speed may in fact be optimum with respect to obtaining low noise levels in a test environment. However, for the purpose of establishing whether or not takeoff or sideline noise has escalated as a result of a type design change, it is sufficient to use a well defined airspeed such as the one discussed above. It is not necessary to add the further complication of determining which specific value of X would in fact be optimum acoustically.

B. *Prohibition of thrust reduction.* 1. One comment stated that prohibiting reduction in power or thrust would deter development of acoustic devices that are most effective at reduced power. This comment stated that such a rule would unfairly treat derivative aircraft having such devices and would thus reduce the incentive to improve the acoustical performance of such aircraft. For the purpose of acoustical change testing, the FAA, after several years of experience in

administering § 36.1(c)(2), believes that the objective of eliminating the potential for significant noise escalation (that results from permitting cutback in power and thrust as a means of showing compliance with that section) in the current regulation outweighs the hypothetical benefits to be derived from the development of such devices.

2. It was argued that, if the change in type design permits proper flight characteristics with a reduction in power or thrust, such reduction should be permitted. As stated above, the objective of § 36.1(c)(2) is to prevent the issuance of type certificate change approvals that permit an increase in the noise levels generated by the airplane. Demonstrations of takeoff and sideline noise levels at reduced thrust do not ensure that the noise levels associated with takeoff thrust will not be increased in operation as a result of the type design change. Requiring full takeoff power or thrust before and after the type design change will help to prevent such escalation. It is thus not pertinent to the objectives of § 36.1(c)(2) that there may be reduced thrust values at which the modified (derivative) airplane may be as quiet as the unmodified airplane. The FAA does agree, however, that any reduction in power or thrust that is required by the operating limitations of the airplane during takeoff or climbout should be permitted during the noise test. This amendment thus modifies the proposed language by only prohibiting reductions in power or thrust "below the highest airworthiness approved power or thrust."

3. One comment stated that prohibiting reduction in power or thrust is contrary to the fundamental purpose of Part 36, which is to encourage power cutback. With respect to the goal of § 36.1(c)(2), the fundamental objective has never been to encourage power cutback as a test procedure, but rather to stop the issuance of type certificate change approvals that permit noise levels, already higher than those in Appendix C of Part 36, to be increased further in actual operation. Unless full-power takeoff and sideline noise demonstrations are made, this objective can be compromised as discussed above.

4. One commentator stated that it is inconsistent to allow thrust reduction for the purpose of showing compliance with Appendix C, while prohibiting thrust reduction under § 36.1(c)(2) for the purpose of showing that one airplane is as quiet as another. The FAA agrees that, so far as use of power or thrust is concerned, a different takeoff and sideline noise test concept is intended under § 36.1(c)(2) than under those portions of Part 36 that require compliance with the noise limits of Appendix C of that Part. The reason for this intended difference is that no real potential for noise escalation has yet been observed in the administration of those provisions of Part 36 that are tied to specific noise levels, whereas such a potential clearly exists under § 36.1(c)(2), where the only reference noise level is that of an airplane type design that may itself have been modified using levels of power or thrust different from those of its "parent" aircraft. This potential for repeated modifications using dissimilar power or thrust, and the fact that aircraft covered by § 36.1(c)(2) are already incapable of complying with the noise limits specified in Appendix C, dictate that more restrictive test conditions, designed to positively prevent even further takeoff or sideline noise escalation, be applied to those aircraft than are necessary for aircraft whose modification is tied to the noise levels of Appendix C.

5. It was stated that prohibiting reduction of power or thrust under § 36.1(c)(2) will seriously curtail the industry practice of developing growth versions of aircraft. The specific claim was made that such an effect would not be economically reasonable and would violate the FAA's duty, under section 611 of the Federal Aviation Act of 1958, to consider whether any proposed standard or regulation is economically reasonable. The FAA disagrees. The effect of § 36.1(c)(2), as amended by this action, is simply to require a type certificate change applicant to either develop means of "freezing" the noise level of the aircraft, or to accept the economic value of the airplane as it is. No effect on the current economic viability of an aircraft is imposed by this amendment. Considering the high noise levels generated by aircraft covered by § 36.1(c)(2), a requirement that desired economic growth be accomplished without acoustical degradation is believed to be reasonable and fair for aircraft that already exceed the noise limits of Appendix C of Part 36.

6. One comment stated that the FAA has issued an Advisory Circular (AC 91-39, January 18, 1974) which refers to a reduction in power or thrust at a height of 1,500 feet above field elevation. It was argued that the FAA should, therefore, permit such a cutback under § 36.1(c)(2). The FAA disagrees. The terms of AC 91-39, while intended to encourage the reduction of the total takeoff noise impact of aircraft operations, were not intended, and are not detailed enough, to ensure that design changes incorporated into a given aircraft do not increase the noise generated by that aircraft. Requiring full takeoff power, before and after the type design change, will, on the other hand, help to minimize the probability that a modified aircraft will be noisier than it was before modification under a range of takeoff procedures (including those in AC 91-39).

7. It was stated that prohibiting reduction in power or thrust is inconsistent with achieving takeoff noise reduction over communities. This comment is partially correct with respect to takeoff procedures used in actual operation. However, the purpose of the certification procedures in § 36.1(c)(2) is not to determine how quiet an aircraft can be in operation, but is rather to ensure that, if the aircraft already exceeds Appendix C noise levels, its capability of generating noise is not increased further when a type certificate change approval is issued. For this purpose, the aircraft must be tested at full takeoff power.

8. One comment stated that requiring comparative noise testing at takeoff power could involve the retesting of airplanes that may have previously been tested with reduced thrust, since noise data would not be available for those airplanes at takeoff power. It is recognized that this amendment may have this effect. However, insofar as previously acquired noise data was obtained through the use of procedures that may permit noise to escalate, the FAA believes that such data should not continue to be used and that the cost of obtaining new data is justified by the public interest in preventing escalation of the noise levels of aircraft that already exceed the limits specified in Appendix C.

C. The quietest configuration. Comments were received stating that the proposed requirement that takeoff and sideline noise demonstrations under § 36.1(c)(2) be conducted using "the quietest airworthiness approved configuration" is unclear. It was suggested that the regulation refer instead to "the quietest comparable airworthiness approved configuration of that airplane model" (prior to the change in type design). The FAA believes that adoption of the commentor's proposed language could cause unnecessary penalties by requiring comparison of the modified aircraft with one having the same model designation but that is quieter. Such a result would be more restrictive than intended by the regulation, which is only intended to require that the modified airplane not be noisier than it was prior to the type design change. The rule as proposed by FAA requires comparison only with the quietest configuration of the type design of the particular aircraft for which a type certificate change is being issued.

D. *Other comments.* 1. One comment stated that the proposal to apply the new requirement to all applications received after the publication date of Notice 71-26 would make it impossible for manufacturers to fix designs, start production, and make final commitment until the certification requirements are finally established. The FAA agrees that, unless sufficient reasons exist, type certification regulations should apply only to applications received after the effective dates of such regulations. However, as stated in the Notice, the FAA believes that sufficient reason exists in this case, since the effectiveness of the proposals in the notice could be compromised, possibly for long periods of time, unless the amendment is applied to all applications made after the notice was published in the FEDERAL REGISTER. As also stated in the notice, however, this amendment is not retroactive to any type design change approvals issued before its effective date.

2. It was stated that changing the manner in which acoustical changes are evaluated would constitute an infringement on the pre-existing rights of type

certificate holders. Nothing in this amendment affects the ability of type certificate holders to exercise the rights granted therein. However, such rights do not include the right to obtain further FAA type certificate change approvals, the effect of which would be to authorize escalation of the noise of aircraft that already exceed Appendix C noise limits.

3. It was urged that the provisions of §§ 36.101 and 36.103 concerning the approval of equivalent procedures should be retained. With respect to compliance with Appendices A and B of Part 36, this amendment does not alter the provisions for approval of equivalent procedures for measuring and evaluating aircraft noise under those appendices during acoustical change demonstrations. It is not, however, intended that the equivalency provisions applicable to the measurement and evaluation of noise under §§ 36.101 and 36.103 be extended to include the flight test procedures of § 36.1 (c) (2) (i) through (iii). Those procedures are thus stated to be "in addition to the applicable provisions of Appendices A and B of this Part" and are essential aspects of a valid comparative noise test for aircraft that are not limited by the noise levels specified in Appendix C.

Finally, in order to prevent a conflict between the new provisions of § 36.1(c) (2) and those in the general takeoff test conditions prescribed in § C36.7 of Appendix C of Part 36, paragraph (a) of the latter section is amended to specifically except the provisions of § 36.1(c) (2).

(Sections 313(a), 601, 603, and 611, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, and 1431 as amended by Noise Control Act of 1972 (P.L. 92-574)); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Title I, National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); Executive Order 11514, March 5, 1970)

In consideration of the foregoing, Part 36 of the Federal Aviation Regulations is amended, effective January 20, 1975, as follows:

1. Section 36.1(c) (2) is amended to read as follows:

§ 36.1 Applicability.

• • • • • •

(c) • • •

(2) The noise levels created by the airplane prior to the change in type design, measured and evaluated as prescribed in Appendices A and B of this part, for airplanes that cannot achieve the noise limits prescribed in Appendix C of this part prior to the change in type design. For airplanes covered by this subparagraph for which application for acoustical change approval is received by the FAA after September 17, 1971, the following must be complied with, in addition to the applicable provisions of Appendices A and B of this part, in determining the takeoff and sideline noise levels of the airplane:

(i) There may be no reduction in power or thrust, below the highest airworthiness approved power or thrust, during the tests conducted before and after the change in type design.

(ii) For the noise levels measured and evaluated before and after the change in type design, the test day speeds and the acoustic day reference speed must be the minimum approved value of V_2+10 knots, or the all-engines-operating speed at 35 feet (for turbine engine powered airplanes) or 50 feet (for reciprocating engine powered airplanes), whichever speed is greater as determined under the regulations constituting the type certification basis of the airplane. The tests must be conducted at the test day speeds ±3 knots. Noise values measured at the test day speeds must be corrected to the acoustic day reference speed.

(iii) During the tests conducted before the change in type design, the quietest airworthiness approved configuration available for the highest approved takeoff weight must be used.

2. Section C36.7(a) of Appendix C of Part 36 is amended by inserting the words "Except as provided in § 36.1(c) (2)" before the words "this section applies • • •."

Issued in Washington, D.C., on December 12, 1974.

ALEXANDER P. BUTTERFIELD,
Administrator.

[FR Doc.74-29480 Filed 12-18-74;8:45 am]

[Docket No. 74-SO-116; Amdt. 39-2047]

PART 39—AIRWORTHINESS DIRECTIVES

Piper PA-28-180 Airplanes

There has been an instance where an incorrect placard was installed on a Piper PA-28-180 airplane which could result in improper operation. Since this condition could exist in other airplanes of the same design, an airworthiness directive is being issued to require inspection for the correct placard and replacement if necessary on Piper PA-28-180 airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697) § 39.13 of Part 39 of the Federal Aviation regulations is amended by adding the following new airworthiness directive:

PIPER. Applies to Model PA-28-180 airplanes serial numbers 28-7305001 through 28-7505079 certificated in all categories.

Compliance required as indicated.

To detect an incorrect placard accomplish the following:

a. Before further flight, unless already accomplished, check the Airplane Operating Limitations Placard to insure that it indicates that spins are not approved for normal and utility category operation. If placard correctly indicates that spins are not approved, no further action is necessary.

b. If the incorrect placard is installed, cut out appropriate temporary Operating Limitations Placard from Piper Service Bulletin No. 436 or an FAA approved equivalent and attach over existing placard before further flight.

c. If a temporary placard is necessary, install permanent placard Piper Part No. 76206-00 (m.p.h.) or 76296-00 (knots) or an FAA approved equivalent within 100 hours time in service from the effective date of this AD.

The action required by paragraphs (a) and (b) may be performed by the pilot.

NOTE.—For the requirements regarding the listing of compliance and method of compliance with this AD in the airplane permanent maintenance record, see FAR 91.173.

This amendment becomes effective December 21, 1974.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in East Point, Georgia on December 9, 1974.

P. M. SWATEK,
Director, Southern Region.

[FR Doc.74-29481 Filed 12-18-74;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

SANITIZING SOLUTIONS; CORRECTION

In FR Doc. 64-11578 appearing at page 15266 in the issue of Friday, November 13, 1964, the substance "diethylene glycol monoethyl ether" was inadvertently listed as a required ingredient rather than an optional ingredient of the stanitizing solution identified in § 121.2547(b) (4).

Section 121.2547(b) (4) is corrected by listing diethylene glycol monoethyl ether as an optional ingredient. As corrected, § 121.2547(b) (4) reads as follows:

§ 121.2547 Sanitizing solutions.

• • • • • •

(b) • • •

(4) An aqueous solution containing iodine, butoxy monoether of mixed (ethylene-propylene) polyalkylene glycol having a cloudpoint of 90° C–100° C in 0.5 percent aqueous solution and an average molecular weight of 3,300 and ethylene glycol monobutyl ether. Additionally, the aqueous solution may contain diethylene glycol monoethyl ether as an optional ingredient.

• • • • • •

Dated: December 12, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-29480 Filed 12-18-74;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 449—ANTIFUNGAL ANTIBIOTICS

Revised Minimum Potency Limit for Nystatin

A notice was published in the FEDERAL REGISTER of August 30, 1972 (37 FR

17561), proposing to raise the minimum potency limit for nystatin from 2,000 units to 3,800 units per milligram. The notice afforded interested persons an opportunity to submit written comments on the proposal within a 60-day period. Comments were received from two manufacturers of nystatin, as follows:

1. One manufacturer objected to the 3,800-unit limit as too low in light of today's advancements in manufacturing and processing the drug. The firm proposed a limit of 4,500 units per milligram instead.

2. The second manufacturer, who requested a delay in establishing a new potency limit for nystatin, stated that there is a significant difference between the potencies obtained by them and those obtained by the Food and Drug Administration and that these differences should be resolved before a new minimum potency is established. This firm felt that a problem might result from the nystatin standard used in the assays, and requested that a decision on the minimum potency be delayed until the new nystatin standard, then under consideration, was established.

At the completion of a collaborative study, the new standard was established in August 1973.

After receipt of the comments, the Food and Drug Administration reviewed the certification records for both firms for fiscal year 1973 and 2 previous years. A compilation of that data showed that nearly all batches submitted for testing had a potency value of at least 4,400 units of nystatin per milligram.

Both firms were informed by letter that, based on a reevaluation of available data and experience with the new standard, a minimum potency of 4,400 units was being considered instead of the originally proposed limit of 3,800 units. Comments from both firms are on display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

The firm that had proposed a 4,500-unit limit agreed to the 4,400-unit limit.

The second firm stated that, although the product produced at one of two locations would meet the 4,400-unit recommended limit, occasional batches produced at its other facility would be rejected under the new specification. This firm also stated that because of the possible future shortage of petroleum-based products, substitution of solvents might be necessary and might result in a product of lower potency.

The Commissioner of Food and Drugs finds that it would not be in the best interest of the public to allow material of lower potency on the market simply because of the possible rejection of occasional batches; and if alternate procedures were employed to produce this drug, these procedures would have to have prior approval by the Food and Drug Administration. If they resulted in a product of lower potency, revision of the potency limit would be considered at that time.

After considering all the comments and evaluating laboratory data as well as certification experience based on the new standard, the Commissioner concludes that the minimum potency for nystatin should be raised to 4,400 units per milligram and that the antibiotic drug regulations should be amended as set forth below. (The antibiotic drug regulations were reorganized and republished in the FEDERAL REGISTER of May 30, 1974 (39 FR 18922).)

Therefore, under provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), § 449.50 (formerly § 148k.1) *Nystatin* is amended in paragraph (a) (1) (i) by changing the figure "2,000" to read "4,400."

Effective date. This order shall become effective January 20, 1975.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357))

Dated: December 13, 1974.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.74-29488 Filed 12-18-74;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 426]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the fourth column of the table is followed by o designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Alabama	Perry	Marion, city of	Dec. 13, 1974. Emergency			
Colorado	La Plata	Unincorporated areas	do			
Florida	Pasco	New Port Richey, city of	do	Jan. 16, 1974		
Do	St. Johns	Hastings, town of	Sept. 28, 1970. Emergency Dec. 31, 1971. Suspension Dec. 6, 1974. Reinstated	July 19, 1974		
Illinois	Will	Beecher, village of	Dec. 13, 1974. Emergency	Apr. 12, 1974		
Do	McHenry	Lake in The Hills, village of	do	do		
Kansas	Harvey	Sedgwick, city of	do	June 7, 1974		
Louisiana	St. Landry	Opelousas, city of	do	June 14, 1974		
Mississippi	Rankin	Brandon, city of	do	June 7, 1974		
Do	Webster	Eupora, town of	do	do		
Pennsylvania	Chester	Londonderry, township of	do	Oct. 18, 1974		
Do	Beaver	Beaver Falls, city of	do	Feb. 22, 1974		
Do	Clinton	East Keating, township of	do	do		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: December 9, 1974.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.74-29412 Filed 12-18-74;8:45 am]

[Docket No. FI 427]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the fourth column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Flood map repository	Local map repository
Alabama	Calhoun	Anniston, city of	Dec. 10, 1974, Emergency	Dec. 17, 1973		
Do.	Marion	Hamilton, city of	do.	May 31, 1974		
Illinois	Cook	Country Club Hills, city of	do.	Apr. 5, 1974		
Do.	Fulton	Liverpool, village of	do.	Dec. 28, 1973		
Do.	Iroquois	Watseka, city of	do.	Mar. 8, 1974		
Indiana	Lake	Hammond, city of	do.	Mar. 15, 1974		
Kansas	Wyandotte	Kansas City, city of	do.			
Massachusetts	Norfolk	Wrentham, town of	do.	July 19, 1974		
Mississippi	Tallahatchie	Charleston, city of	do.	June 7, 1974		
Missouri	Wright	Mansfield, city of	do.	Apr. 5, 1974		
Nebraska	Cheyenne	Sidney, city of	do.	Feb. 1, 1974		
New Jersey	Burlington	Edgewater Park, township of	do.	Sept. 13, 1974		
Do.	Sussex	Hopatcong, borough of	do.	June 28, 1974		
Do.	Somerset	Raritan, borough of	do.	May 3, 1974		
New Mexico	Dona Ana	Hatch, village of	do.	Aug. 14, 1974		
Do.	Lea	Lovington, city of	do.	June 21, 1974		
New York	Fulton	Gloversville, city of	do.	do.		
Do.	Nassau	Hewlett Neck, village of	do.	June 28, 1974		
Pennsylvania	Washington	Canonsburg, borough of	do.	Feb. 1, 1974		
Do.	Clarion	East Brady, borough of	do.	Nov. 22, 1974		
Do.	Butler	Evans City, borough of	do.	June 28, 1974		
Do.	Lehigh	Hanover, township of	do.	do.		
Do.	Westmoreland	Latrobe, borough of	do.	July 26, 1974		
Do.	Butler	Middlesex, township of	do.	do.		
Do.	Allegheny	Moon, township of	do.	Sept. 6, 1974		
Do.	Lackawanna	Moscow, borough of	do.	Jan. 15, 1974		
Do.	Washington	North Strabane, township of	do.	do.		
Do.	Berks	Pike, township of	do.	do.		
Texas	Bell	Killeen, city of	do.	Nov. 1, 1974		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: December 9, 1974.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.74-29413 Filed 12-18-74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19555; FCC 74-1042]

PART 1—PRACTICE AND PROCEDURE

Implementation of the National Environmental Policy Act of 1969; Termination of Proceeding

1. A notice of proposed rulemaking in this proceeding was released on August 1, 1972 (FCC 72-663, 36 FCC 2d 108, 37 FR 15711, August 4, 1972). The purpose of the proposed rules was to implement the National Environmental Policy Act (NEPA)[1] and particularly Section 102(2)(c) of that Act. Section 102(2)(c) requires all agencies of the Federal Government to consult with and obtain the comments of expert Federal agencies before taking any major action significantly affecting the quality of the human environment and, following such consultation, to prepare a detailed environmental impact statement. Copies of the statement and of the comments of appropriate Federal, State and local agencies are to be made available to the Council on Environmental Quality (CEQ) and to the public under the Public Information Act and are to "accompany the proposal through the existing agency review processes."

2. The proposed rules required applicants for authority to construct communications facilities to submit with the application either a preliminary environmental report, if the construction would not have significant environmental effect, or a detailed report if it would (§§ 1.1315 and 1.1317). Where it appeared that construction would involve a significant environmental problem and that comment would be helpful in assessing environmental effect, the applicant was required, prior to filing, to notify and request comment from persons and organizations which could provide such comment (§ 1.1311). Under § 1.1315(a), applicants for authority to engage in construction of a very minor nature were excused from the reporting requirement. In the case of construction involving expenditures of less than $100,000, applicants were permitted to substitute for the preliminary environmental report a statement that the project would not have significant environmental effect, provided the application was one for which the Commission gave public notice of filing (§ 1.1313). Section 1.1321 dealt with the Commission's consideration of environmental reports and specified procedures for eliciting agency and public comment on such reports. Section 1.1323 specified procedures for consideration of comments received and for Commission preparation of a detailed environmental statement. Section 1.1325 dealt with consideration of the statement during the hearing and decision-making process.

3. Comments and reply comments on the proposed rules were requested by September 29 and October 30, 1972, respectively. At the request of the American Radio Relay League, the time for filing comments was extended to October 31 and the time for filing reply comments was extended to December 8, 1972. Comments and/or reply comments were filed by the following interests:

[1] Public Law 91-190, January 1, 1970, 42 U.S.C. 4321-4347. Section references herein are to sections of the public law. A copy of the law is attached as Appendix 1 to this Report, and filed as part of the original document.

BROADCAST INTERESTS

National Association of Broadcasters (NAB)
National Association of Educational Broadcasters (NAEB)
Channel 6, Inc., Payette Broadcasting Corporation, and Springfield Television, Incorporated, jointly (Channel 6)
Christian Broadcasting Network (Christian Network)
Evening News Association, RKO General, Inc., Time-Life Broadcast, Inc., and Universal Communications Corporation jointly (Evening News)
Storer Broadcasting Company (Storer)

CABLE TELEVISION INTERESTS

Buckeye Cablevision, Inc., Colony Communications, The Jerrold Corporation, and Sammons Communications, jointly (Buckeye)
New Channels Corporation (New Channels)

COMMON CARRIER INTERESTS

American Telephone and Telegraph Company (AT&T)
Data Transmission Company (Datran)
GTE Service Corporation (GTE)
MCI Carriers (MCI)
United Telecommunications, Inc. (United)
Western Tele-Communications, Inc. (Western)
The Western Union Telegraph Company (Western Union)

SAFETY AND SPECIAL INTERESTS

Aeronautical Radio, Inc. (ARINC)
Aerospace and Flight Test Radio Coordinating Council (AFTRCC)
The Central Committee on Communications Facilities of the American Petroleum Institute (API)
The American Radio Relay League (ARRL)
The Associated Public-Safety Communications Officers, Inc. (APCO)
The Land Mobile Section of the Communications and Industrial Electronics Division of the Electronics Industries Association (EIA)
Motorola, Inc. (Motorola)
The Special Industrial Radio Service Association, Inc. (SIRSA)
Utilities Telecommunications Council (UTC)

OTHER INTERESTS

Association of Federal Communications Consulting Engineers (AFCCE)
National Association of Regulatory Utility Commissioners (NARUC)
The Network Project
Dr. Richard A. Tell (informal comments)

4. In carrying out its consultative responsibilities under NEPA and in accordance with Executive Order 11514, CEQ has issued Guidelines, which essentially constitute an interpretation and amplification of section 102(2)(c) and advice to agencies on its implementation.[3] Although the Guidelines are variously referred to as rules or a directive and are phrased in mandatory terms, they are, in our judgment, merely advisory in nature, as some participants in this proceeding maintain, and do not have the force and effect of law. As guidance provided by the expert agency pursuant to a statutory mandate, however, they are entitled to respect and should not be varied from unless an agency, after consultation with the Council, is convinced that their application in a particular factual and procedural setting is not sensible or is unreasonably disruptive or unworkable. See Greene County Planning Board v. F.P.C. 455 F.2d 412, 421 (2nd Cir. 1972). We have carefully studied the Guidelines and the comments and have drawn on them heavily in drafting final rules to implement the Act.

5. Taken as a whole, the comments question the viability of the proposed rules. They raise a number of questions concerning the overall approach and details of the rules and contain many constructive suggestions. In many respects, these suggestions are close in substance to the guidance offered by CEQ. Perhaps the two most important points made are (1) that the Commission should make a greater effort to identify those of its actions which are major within the meaning of NEPA and should require the submission of environmental data only for such action; and (2) that the Commission should assume responsibility for conclusions regarding the environmental effect of its actions and not ask the applicant to do so.

6. In a similar vein, § 1500.6(c) of the Guidelines provides that, "The words 'major' and 'significantly' are intended to imply thresholds of importance and impact that must be met before a statement is required," and that each agency is responsible for identifying those of its actions which pass these thresholds. Section 1500.7(c) reads as follows:

(c) Where an agency relies on an applicant to submit initial environmental information, the agency should assist the applicant by outlining the types of information required. In all cases, the agency should make its own evaluation of the environmental issues and take responsibility for the scope and content of draft and final environmental statements.

Section 1500.8(c) goes on to say that for actions which normally require statements and for those which require statements in certain circumstances, the agency should identify the typically associated environmental consequences and specify what information needs to be gathered, how and when it is to be assembled and analyzed, and the bases on which decisions to prepare impact statements will be made.

7. We are in agreement with these points made in the comments and the Guidelines and have, accordingly, substantially modified the proposed rules. The "notice by the applicant" provision (proposed § 1.1311) and provisions of proposed §§ 1.1315 and 1.1317 calling for conclusions on the part of the applicant have been deleted, and adjustments have been made in other sections. These changes reflect our acceptance of responsibility for assessing the environmental significance of our actions and, in the case of environmentally significant actions, for invoking and implementing the environmental impact statement process. To require the applicant to make judgments and to give notice which must subsequently be made and given by the Commission is a pointless and wasteful process. If he concludes that the action is significant and the Commission disagrees, his efforts to comply with such a requirement have been totally wasted. If he concludes that the action is not significant and the Commission disagrees, the proceeding is delayed while he complies with the requirement, and the notice and report-statement process is engaged in both by the applicant and the Commission, with consequent annoyance and burden to those asked to comment. If the applicant and the Commission agree that the action is significant, the notice and report-statement process is also duplicated.

8. The proposed $100,000 threshold provision (§ 1.1313) has also been deleted. This is based on our conclusion, following consideration of the comments, that a dollar figure cannot be used in a meaningful way to distinguish between major and minor communications facilities. Most of those who discussed this provision urged an increase in the dollar amount or the elimination of land and electronic equipment from the cost computations. We were principally impressed, however, by comments filed by the Association of Federal Communications Consulting Engineers, which took the position that the cost of an antenna structure had little relationship to its environmental significance. The Association stated that the cost of a 400 foot self-supporting structure may exceed $100,000, whereas a guyed tower over 1,000 feet tall or ten 200 foot towers can cost less than $100,000. The magnitude of the structures referred to makes it evident that the specific $100,000 figure is not an appropriate threshold; and disparities in the environmental effect of structures which can be constructed for a given dollar value demonstrate that a dollar threshold provision is not realistic. We will instead endeavor herein to distinguish between major and minor facilities on the basis of their physical characteristics and probable environmental significance. At first blush, it might seem that deletion of the $100,000 provision materially, and perhaps unnecessarily, increases the burden on applicants. However, the provision as proposed could be taken advantage of only if the applicant could perceive no significant environmental effect and if construction of the facilities had not been the subject of local objection. In such a case, the environmental information required by the final rules consists of little more than a description of the facilities to be constructed, a description of the area in which the facilities are to be located, and a statement as to the considerations which led to selection of that area for the site. See § 1.1311(a). This is information the applicant should not find it difficult to furnish, and is the minimum information required by the Commission to make the environmental determination for which we are accepting responsibility.

9. In summary, the final rules identify types of facilities which are considered to be major on the basis of their probable environmental significance (see § 1.1305) and require that information relating to such facilities be submitted

[3] 38 FR 20550, August 1, 1973, 40 CFR Part 1500. A copy of the Guidelines is attached hereto as Appendix 2, filed as part of the original document.

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to the Commission with applications for construction permits (see § 1.1311). On the basis of available information, including information submitted by the applicant, the processing staff will assess the environmental consequences of a grant (see § 1.1313). If the environmental consequences are considered significant, the staff will, to the extent it is useful and appropriate, discuss matters of environmental concern with the applicant, concerned individuals, and experts, in and out of Government, in an effort to identify alternatives which are not, or which are less, objectionable. The applicant may in the process withdraw his application or amend it to eliminate or reduce its environmental significance. If these efforts fail to resolve the matter, the staff will prepare a draft environmental impact statement and will take the measures necessary to obtain comment from appropriate agencies and the public (see § 1.1315). Upon consideration of the comments, the staff will prepare, and the Commission will consider, a final environmental impact statement (see § 1.1317). Section 1.1319 concerns consideration of the final statement in a hearing proceeding. The final rules are set out as Appendix 4 hereto.

Major Actions

10. With regard to actions considered major under NEPA and Section 1500.6(c) of the Guidelines,[5] we think there is no class of action taken by the Commission which will always or even usually require the preparation of an environmental impact statement. There are three principal classes of action which will require the preparation of statements in certain instances: legislative proposals, rule making and actions authorizing "major" construction.[6] It is possible that other Commission actions will require preparation of a statement in unusual circumstances, but we are unable to forecast what those actions or circumstances may be, and their identification must be left to a case-to-case determination. Legislation and rule making are discussed in paragraph 12, infra. In the case of major construction, information needed by the Commission should be submitted with the application and will be analyzed when the application processing staff reaches the application for processing. The classes of construction considered major, information to be submitted with the application, typical environmental consequences of such construction, and the bases for preparation of an impact statement are discussed in paragraphs 13–38.

11. The Network Project, referring to the social importance of a diversity in sources of information, advances the argument that actions involving "the growth * * * of large media conglomerates" warrant preparation of an environmental impact statement. Diversity of control over the news media is clearly an affirmative social value. We think, however, that invocation of the environmental statute must be related in some meaningful way to the effect of an action on the physical environment. We fully understand that the societal consequences of environmental change warrant consideration in making environmental determinations. But actions which have no discernible impact on the physical environment cannot be held to require preparation of an impact statement, no matter what social, economic or moral issues may otherwise be presented. We can find no relationship between the ownership structure of broadcast facilities and the physical environment, and consequently reject the position advanced by the Network Project. An action made subject to the environmental impact statement process should have some reasonably proximate and predictable effect on the physical environment.

12. *Legislation and rulemaking.* In advance of specific legislation or rule making, it is difficult to be more definite than to say that an impact statement will be prepared when the enactment of legislation (or its defeat) or the adoption of a rule (or its rejection) appears to carry with it significant environmental consequences. We do not expect to propose environmentally significant legislation but are nevertheless aware of our responsibilities should we propose such legislation or, as is more likely, should we be asked to comment on environmentally significant legislation proposed by others. In one rule making area, frequency allocation proceedings, it is possible to be somewhat more definite. The preparation of a statement would be appropriate in proceedings which involve the availability of frequencies for use in a way which can significantly affect the physical environment. Examples would include communications facilities designed to warn of power outages, of an oil spillage, or of forest fires. A statement will be prepared before a rule having a significant adverse effect on facilities devoted to such uses is adopted and before a rule having a significant beneficial effect on them is rejected. We do not consider that it would serve the interest of the public or of the environment to prepare a statement prior to action which has a beneficial effect, since preparation of the statement would delay the benefit. We stress, in addition, that the use of the radio spectrum for environmentally beneficial purposes must, realistically, be dealt with in frequency allocation rule making proceedings rather than in particular application proceedings.

13. *Major actions authorizing construction.* NEPA applies to major Federal actions having a significant effect on the quality of the human environment. Considerable thought has been given to the question of whether it is possible to determine in advance, by rule, that a particular class of Commission action authorizing construction is either major or minor within the meaning of the act, to list those classes of action which are major, and to consider environmental significance only in the case of major action. It would appear, however, that such an effort cannot be usefully attempted. With the possible exception of extreme cases, where the conclusion would in any event be obvious, the importance of an action within the meaning of NEPA cannot be separated from its environmental significance[5] and, in the case of construction, significance cannot be considered apart from the location of the construction being authorized. We do think, however, that advance judgments can be made as to the likelihood that actions within a class will have significant environmental effect and that this factor can properly be considered in determining whether routine environmental processing of applications is called for. We have followed this course. From the continuum of Commission actions authorizing construction (over 500,000 annually), we have singled out as "major" those which, on a relative basis, we think are more likely than others to have significant environmental effect. Environmental information will be required with applications requesting the Commission to take such actions, and the Commission will make an environmental judgment before taking the action. In the case of other ("minor") actions, the Commission will not engage in routine environmental processing but reserves the right to address such significant environmental questions as appear and will do so on motion of any interested person. Factors we have considered in selecting major classes of actions include the size of the facilities to be authorized, their geographic extent, their typical location and the activity

[5] The reader may find it helpful at this point to refer back to para. 8, supra.

[6] The Guidelines are in part directed to internally generated programs (e.g., flood control) in which an agency plans, designs and possibly constructs facilities (e.g., dams) which impact the environment. In some respects, they seem better adapted to this type of activity than to the activities of a regulatory agency, whose normal function is to approve or disapprove proposals submitted to it by others under procedures providing fully for participation by interested persons or agencies. In Commission practice, legislative proposals, rule making and enforcement proceedings may be generated internally. Legislation and rule making initiated by the Commission can be environmentally significant, but Commission initiated enforcement proceedings are not.

[5] In our inquiry into this question, we have located only one case, *Davis v. Morton*, 336 F. Supp. 1256 (D.N.M. 1971), which was decided, even in part, on the ground that the action of a Federal agency, although having environmental significance, was not "major", and that case was reversed on appeal, 4 ERC 1735 (10th Cir. 1973). In a second case, the court determined that the action was not major but, in doing so, looked to the particular facts and circumstances and went on to conclude independently that the project was not significant. *Julis v. City of Cedar Rapids, Iowa*, 349 F. Supp. 93 (N.D. Ia. 1972).

involved in constructing them." Another permissible factor, we think, but one we found it unnecessary to consider, is the number of applications for which routine environmental processing would be useful and productive, it being apparent that processing in every instance would be neither possible nor productive, so diluting staff attention as to produce no useful results.

14. On the basis of these criteria, we consider that the following classes of facilities are "major":

(a) Underground cable or wave guide routes, and aerial transmission lines, for long distance tele-communication.[7] (This category does not include the installation of additional cable over existing routes. Nor does it include the laying of submarine cable.)

(b) Private and common carrier microwave relay antenna towers or supporting structures exceeding 100 feet in height, excluding pole mounted microwave antennas. (This category does not include the mounting of a microwave antenna on an existing tower or building.)

(c) Standard (AM), FM, television and international broadcast antenna towers or supporting structures which exceed 300 feet in height, and all AM broadcast directional arrays without regard to height. (This category does not include the mounting of an FM or television antenna on an existing tower or building.)

(d) Other antenna towers or supporting structures including pole mounted microwave antennas, which exceed 300 feet in height and are not located in areas devoted to heavy industry or to agriculture. (This category does not include the mounting of small antennas on an existing tower or building.)

(e) Satellite earth stations having an antenna of 30 feet or more in diameter.

(f) Communications facilities to be located in the following areas:

(1) Facilities which are to be located in an officially designated wilderness area or in an area whose designation as a wilderness area is pending consideration;

(2) Facilities which are to be located in an officially designated wildlife preserve or in an area whose designation as a wildlife preserve is pending consideration;

(3) Facilities which will affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology or culture, which are listed in the National Register of Historic Places or are eligible for listing (see 36 CFR 800.2 (d) and (f) and 800.10);

(4) Facilities to be located in areas which are recognized either nationally or locally for their special scenic or recreational value.

(g) Facilities whose construction will involve extensive changes in surface features (e.g., wetland fill, deforestation or water diversion).

These categories do not include a modification of existing facilities involving no change in the site, and no substantial change in the height, of those facilities, construction of antenna structures to be located in an antenna farm, construction of temporary antenna structures which will have no lasting effects of environmental significance, or replacement of an existing structure with a structure of the same kind on the same site. Classes of facilities not listed in (a)–(g) above are considered minor. The bases for the classification of facilities as major or minor are discussed below.

15. *Cable routes.* In developing a new underground cable route, a swath is cleared and trenched, the cable is buried, and the swath is restored. Thereafter, it must be maintained in a condition permitting access by maintenance vehicles. Repeater facilities, which may be housed in a small structure or buried, are usually required approximately every one to four miles. Access roads and a source of electrical power must be provided for such facilities.

16. Underground cable routes are considered "major" because they involve considerable construction activity over long distances, potentially affecting all types of terrain and land uses, because they are national in scope and can therefore pose difficulties for local, State and regional land use authorities, and because they involve the clearance and continuing maintenance of a swath through the territory covered which can permanently scar the landscape. Although there may be other relevant considerations, such as construction activity, our main concern is with the appearance of the swath.

17. The installation of new cable over existing cable routes is excluded from this category because it involves no new scarring of the landscape and because use of existing routes is environmentally preferable to construction of a new route.[8] Action on an application for a submarine cable landing license is also considered a minor action. Although laying transoceanic cable obviously involves considerable activity over vast distances, the environmental consequences for the ocean, the ocean floor, and the land are negligible. In shallow water, the cable is trenched and immediately covered; in deep water, it is simply laid on the ocean floor. In the landing area, it is trenched for a short distance between the water's edge and a modest building housing facilities.

18. It is evident that the route between at least two major terminals must be considered as a whole. To the extent practicable, the route should be planned to utilize farm land and fields which have already been cleared, where there would be no significant visual impact, and to avoid wooded, hilly terrain, where the visual impact would be the greatest. Where the swath will leave a visible scar on the landscape, the route should be planned to avoid areas of special scenic beauty, historical or archeological significance, park land, recreation areas, and other areas of high use by man. Areas in which construction and maintenance activity would have an unduly disruptive effect on wildlife should also be avoided. When sensitive areas must be traversed, special design features can and should be used to minimize the visual impact. To the extent feasible, for example, cable should be routed through less visible, low lying areas and should be screened by natural vegetation from areas of extensive use. Where serious aesthetic or other environmental problems are unavoidable, consideration should be given to the alternative of microwave relay stations over all or part of the route.

19. In applications for authority to construct cable facilities, we want the applicant to describe the terrain to be traversed and its uses, to discuss environmental and other considerations which led to selection of the particular route, to discuss the nature and extent of any unavoidable adverse effects along the route selected, to discuss efforts made to minimize such effects, and (where adverse effects are present) to explain whether alternative routes were considered, why they were rejected, and why the alternative of cable was decided on. In deciding whether to prepare an environmental impact statement, the Commission will look to the terrain and its uses. Where the cable route is unobtrusive or where the area has no special environmental significance and design features have been utilized to minimize environmental impact, no statement will be prepared. Where the route adversely affects an environmentally sensitive area or where it seriously impacts a mar-

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[6] The electric power consumed by communications facilities may also prove to be a relevant consideration. However, energy conservation officials have not at this date taken steps to curtail new uses of electricity, and since new projects are unlikely to be undertaken without assurance of adequate energy to operate and heat the facilities, this step may prove to be unnecessary. In the absence of guidance from energy conservation officials, we would not deny a permit because of the electric power usage the facilities entail.

To put this matter in perspective, the largest consumer of power among VHF television stations serving Washington, D.C. consumes from 250,000 to 350,000 kilowatt hours of electricity per month. This would be sufficient to power perhaps 1000 homes if the occupants of those homes were doing their utmost to limit their use of electric power. It would be far less in the summer months for air conditioned homes. By comparison the headquarters building for the FCC, with 306,477 square feet of office space, last year used between 385,000 and 450,000 kw/hours per month. The bulk of the power used by a VHF television station is for lighting, air conditioning and other common uses of electricity and not for the transmitter. Moreover, far greater power is used by television and radio receivers than is used to run the stations. Thus, energy conservation measures, if imposed, would have far greater impact if they were directed to the hours of operation of stations rather than to the number of stations operating.

[7] By and large, current authorizations are for underground cable routes only.

[8] If the installation of new cable does involve additional scarring, as by widening the swath, an environmental statement should be submitted.

ginally valuable area, a statement will be prepared.

20. *Microwave relay antenna towers.* Microwave relay antenna towers are part of a microwave relay system. Most stations are constructed at approximately 25 mile intervals along a route. As a line of sight beam path must be provided between adjacent stations, they are usually located on high ground, if available, and can be several hundred feet in height. They can be relatively bulky. Many are located in remote areas. Very little land is required, and construction is limited to erecting the tower, a small building to house equipment, and (if not already in place) an access road and a power line.

21. The microwave tower and the system with which it is associated are considered major because the tower is usually a relatively substantial structure in both height and bulk and because the system may extend over long distances, potentially affecting many types of terrain and land uses. A lower cutoff is specified for microwave than for other towers because the tower and the antennas mounted on it tend to be bulkier and more obtrusive than other towers of the same height. Here again, although there may be other relevant considerations, our principal concern is with the visual impact of the tower and service facilities on environmentally significant land use areas.

22. Towers of less than 100 feet in height have been excluded from this category because of their height, of course, but also because of their lesser bulk. Pole mounted microwave antennas are dealt with as "other antenna towers", *infra*, para. 30, because of their lesser bulk.

23. As is the current practice, microwave relay stations connecting at least two major terminals must be considered together. Environmentally sound construction techniques should of course be utilized and can be set out in a code (see Note 13, *infra*), but the effects of construction proper normally have little or no environmental significance. The principal, and probably the only, significant environmental effect is the visual impact of the completed facilities. To the extent possible, the route should be planned to avoid areas in which a tall man-made structure would intrude objectionably. The same considerations should govern the selection of particular sites. Generally speaking, for example, advantage should be taken of natural features such as hills and woodland to shield the tower from view.[9]

24. In applications for authority to construct microwave facilities, we want the applicant to discuss environmental and other considerations which led to selection of a particular route, to note the height and any special design features of the tower at each relay point, to describe the site of each station and discuss the reasons for its selection, to point out any special features of a site which distinguish it from the surrounding countryside or which would be helpful in assessing its environmental value, to discuss the nature and extent of any unavoidable adverse effects, to discuss efforts made to minimize such effects, and (where adverse effects are present) to explain whether alternative routes or sites were considered and (if so) why they were rejected. In deciding whether to prepare an environmental impact statement, the Commission will consider whether any of the sites selected has special environmental significance and (if so) whether and the extent to which the microwave station will intrude objectionably on the site. If the station were located on farmland in an area where more or less homogeneous farmland stretched for mile after mile, for example, it is unlikely that a statement would be necessary. If, on the other hand, a tower in the same farming area was so located as to visually impact a lake used for recreation or resort purposes or a historic battlefield, a statement probably would be necessary.

25. *Broadcast antenna towers.* Broadcast antenna structures are ordinarily at least 150 feet high and can be as high as 2000 feet or higher. The quality of service rendered depends, *inter alia*, on the height and location of the antenna. The location of the tower must be consistent with zoning and air safety requirements. Radio frequency interference caused and received is also a factor, as are the cost and availability of land. TV and FM antenna structures must be higher than surrounding buildings or natural formations and must provide line of sight communication with the service area. They should be located near to the service area, preferably at its center.[10] Standard (AM) antenna structures must be located where there is room for a ground system with a minimum radius of approximately 50 to 140 meters (equalling the height of the structure), depending on frequency. If possible, they should be located in areas where ground conductivity is favorable; marshy areas are preferred. Reradiating structures within the vicinity of the proposed site must be avoided. Topographical features, such as a series of hills between the antenna and the service area, are also of concern. See 47 CFR 73.188, 73.189, 73.315, 73.316, and 73.685.

26. Construction activity proper is usually not extensive. A self-supporting structure normally requires little land. The base area and the bulk of components, however, increase with height. The guyed tower requires a land area whose radius at least equals the height of the tower. An AM directional array consists of a cluster of towers (as many as 20, usually 3–8) and may extend over substantial acreage. Installation of the ground system associated with an AM antenna requires clearance of trees within the area.

27. The likelihood that broadcast antenna towers will have significant environmental effect depends on their height and bulk and the land area required for their construction. Those for which we think routine environmental processing is warranted, and which are therefore classified as major facilities, are single towers which exceed 300 feet in height (whether self-supporting or guyed) and AM directional arrays. Towers of lesser height are also less bulky or occupy a smaller land area and are considered minor. Under favorable conditions, in addition, FM and TV antennas, which are only a few feet in length, can be mounted on a tall building or an existing antenna tower. Doing so obviously has no significant aesthetic effect and is environmentally preferable to the construction of a new tower, provided there is compliance with radiation safety standards (see Appendix 3). New FM and TV antenna towers can also be located in an "antenna farm" (i.e., an area in which similar towers have already been clustered) and, when so located, are unlikely to alter the character of that area. For these reasons, authorizations involving use of existing structures or location of a new tower in an antenna farm are considered minor actions.

28. Depending on the nature and location of the site, construction activity could have some significant effect. Here again, however, the principal factor of environmental significance is the visual impact of the completed structure, which depends on its physical characteristics and its location. A tall tower can of course be seen from a considerable distance. At most locations in a built-up area, however, nearby buildings and trees are likely to block it from view. From a distance, moreover, the visual impact is very slight. People are more likely, we think, to regard a tower as a landmark, to be pointed out to visitors, than as an objectionable structure. There could be exceptions, as where the tower shares the horizon with, or blocks the view of, a locally treasured and otherwise dominant church spire. By and large, however, we think that visual impact at a distance will not have significant effect. The visual impact of an antenna structure on the immediate site is more likely to be significant. Here, local zoning and planning authorities have an important role. Their approval as well as the Commission's is required; their disapproval of a site on the basis of land use considerations is conclusive. The roles of land use authorities and the Commission are discussed *infra*, at paragraphs 39–41. Generally speaking, it can be assumed that broadcast antenna structures are environmentally compatible with industrial or farming uses, with most commercial uses, or with undeveloped areas lacking

[9] It should be understood that all generalizations of this kind are subject to exceptions. Thus, in a given case, it may be preferable to locate an antenna tower on the brow of a hill overlooking a scenic valley rather than in the valley. The view of the valley is thereby preserved, and the higher location may mean that smaller structure will suffice.

[10] Some structures are located on remote mountain sites at some distance from the community served. As a rule, however, they are located in developed areas.

special scenic value. Residential areas, city parkland and sites proximate to monuments or to historically or architecturally valuable buildings should ordinarily be avoided.

29. In applications involving the authorization of "major" broadcast facilities, we want the applicant to discuss environmental and other considerations which led to the selection of a particular site, to describe the surrounding area and its uses to describe any environmentally noteworthy buildings or features of the immediate area, to discuss the nature and extent of any unavoidable adverse effects, to discuss efforts made to minimize such effects, and (where adverse effects are present) to explain whether alternative sites were considered and (if so) why they were rejected. (The height and design features of the tower are of course relevant, but this information is routinely submitted as part of the application form and need not be duplicated in the narrative environmental statement.) In deciding whether to prepare an environmental statement, the Commission considers whether the site has any special environmental significance and (if so) whether and the extent to which it would be adversely affected by the antenna structure.

30. *Other antenna towers.* This category applies to all antenna towers other than broadcast and microwave relay antenna towers, and specifically includes pole mounted microwave antennas. It applies, for example, to television broadcast translator stations and to base stations associated with land or maritime mobile operations, but is not limited thereto. Most such towers are guyed and are similar in physical characteristics to guyed broadcast antenna towers of the same height. Towers of substantial height are almost always asociated with industrial, commercial, agricultural or local government activities and are therefore located in areas devoted to and/or zoned for those uses. Subject to the approval of appropriate Federal, State and local land use authorities, however, such towers may be constructed in any use area, including areas which are environmentally significant.

31. The likelihood that such towers will have a significant environmental effect depends on their height and location. Those for which we think routine environmental processing is warranted, and which are therefore classified as major facilities, are towers which are in excess of 300 feet in height and are not located in areas devoted to "heavy industry" or to agriculture. By the term, "heavy industry," we mean an area of intensive industrial use, normally containing large structures, covering substantial acreage, and isolated from less intense, and particularly residential, land use areas. Examples would include the following: steel mills, oil refineries, aluminum plants, chemical plants, power plants, oil fields, copper mines, freight yards, a heavy truck terminal, a major warehouse complex, etc. Dozens of other examples could be cited. What we mean to include is any area in which the environmental effect of a tall antenna tower would be virtually nil by comparison with the effect of the industrial facilities with which it is associated. In the case of agricultural activities, we would normally expect antenna towers to be located on large farms and ranches, near a house or outbuilding and at a considerable distance from highways or other areas of general use. By comparison with a silo or windmill, for example, the tower should be most inconspicuous.

32. We do not think we can make a blanket preliminary judgment concerning the probable aesthetic effect of tall antenna towers in areas devoted to uses other than heavy industry or agriculture. Our main concern here would be with residential areas and with scenic, recreational, historic and other comparable areas of special environmental significance. There is probably little basis for concern in areas of light industrial or commercial use, but we are not quite prepared to make the same blanket judgment for such use that we have made for heavy industry. Commercial areas, and particularly urban commercial areas, often have historic, architectural or life style characteristics which warrant protection. Theatres, art galleries, museums, libraries and other cultural facilities, as well as monuments and public parks, are frequently interspersed among commercial uses. Urban commercial areas, in addition, tend to merge into and impact adjacent areas of residential use. State and local government facilities, such as police stations and fire houses, are often located in, or adjacent to, predominantly residential areas. Radio facilities are found in coastal areas, for the benefit of boatmen, or in forests in connection with fire watch activities, and so forth, ad infinitum. Except as noted above, we do not think we can generalize about the compatibility of a given tower with a given area. What we are doing, and consider it reasonable to do, is to draw a line based on the height of the structure and to concentrate routine processing on the larger structures, for which the probability of significant effect is greater. The information to be submitted routinely with applications involving "major" antenna towers is essentially the same as that to be submitted with broadcast station applications, as discussed above at paragraph 29, and will be considered by the Commission in the same way in determining whether to prepare an environmental impact statement.

33. *Satellite Earth Stations.* For the most part, satellite earth stations currently being authorized consist of a circular parabolic dish or dishes with diameters of from 30 to 100 feet, a maximum height above ground level about the same as the diameter, and a small building to house equipment and operating personnel. They are now being located some 25–30 miles outside of the city served, and are connected with communications facilities in the city by a one or two hop microwave relay system or by cable. Where possible, they are located in areas protected from terrestrial interference, such as an abandoned quarry or a horseshoe valley open to the south. In the future, it is anticipated that smaller dish antennas will be located on the top of tall buildings in the city served.[34]

34. The authorization of earth stations is included as a major action because the facilities are substantial in size by comparison with most other communications facilities authorized by the Commission and because microwave relay antenna towers or cable facilities are an adjunct to the station.

35. Although the visual impact of the facilities is a factor, because they are relatively substantial, it seems to us unlikely that the impact would be adverse. Even assuming that the intrinsic aesthetic effect of a parabolic dish antenna would be adverse, its location in remote areas or on roof tops should minimize that effect. Experience to date, moreover, indicates that the location of an earth station at a given site tends to enhance aesthetic values at that site. The abandoned quarry which constituted a safety hazard, for example, would be fenced, terraced and otherwise restored. Moreover, satellite communication can serve as an alternative to cable or microwave facilities and should have less effect on the environment than those facilities.

36. In applications for authority to construct satellite earth stations, the applicant should furnish with his application a description of the facilities, the site and its uses, should point out any environmentally valuable features or uses of the site which would be intruded on by the facilities, should specify the environmental and other considerations which led to selection of the site, should specify measures taken to minimize any adverse environmental effects, if they are present, and (if there are adverse effects) should discuss any alternative sites considered and the reasons for their rejection. In deciding whether to prepare an environmental impact statement, the Commission will look to the site and its uses and the compatibility of the facilities therewith.

Environmental Consequences

37. In the above discussion of major actions authorizing the construction of communications facilities, we have stressed the visual or aesthetic impact of such facilities as their primary environmental effect. In most cases, indeed, if aesthetics were not a factor, we doubt very much that routine environmental input and processing would be justified. The construction of most antenna towers involves a minor amount of activity over a short period by comparison with projects for which impact statements have ordinarily been prepared by other agencies, and the operation of communications facilities appears to have little or no effect on the environment. They do not, for example, contribute in any dis-

[34] The authorization of earth stations having an antenna less than 30 feet in diameter is not considered a major action. Several of such smaller stations have been authorized in the amateur radio service.

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tinctive or significant way to air or water pollution. They do not use hazardous substances, and, except as noted in the margin, do not produce them.[23] In short, as some of those submitting comments suggest, communications is a clean industry.

38. Our emphasis on the aesthetic consequences of communications facilities as the primary consideration, however, should not be read as meaning that other environmental consequences perceived by the applicant can properly be ignored; they should be dealt with in the narrative statement submitted with an application to construct major facilities. Such consequences may follow from construction activity per se or from operation and maintenance of the facilities. Construction can, for example, involve a substantial change in surface features—e.g., wetland fill—and can imput environmentally sensitive areas—e.g., a wildlife preserve. The statement should clearly indicate both the extent of construction activity and the characteristics of the site on which it is to be undertaken.[24] In a sensitive area, the recurring presence of maintenance vehicles can be a factor warranting consideration, as can be the noise associated with the operation of stand-by generators. In the case of antenna towers exceeding 500 feet in height, the impact of the structure on migratory birds is a matter of concern. Location of such structures along favored migration routes should be avoided if possible and, if not, should be discussed in the statement.[25] We offer these specifics simply as examples of possible environmental effects and obviously not as a compendium of all such effects, which would have in any event to be incomplete. For general insight into the variety of possible environmental consequences, we would suggest referring to Appendix II of the CEQ Guidelines, 38 FR 20557. In addition, it is well to keep in mind the basic questions which should be answered in the narrative statement, which are whether the impacted area is environmentally significant, whether the facilities or their construction, intrude objectionably on the area, whether measures have been taken to minimize any adverse effects, and whether less objectionable alternatives have been given fair consideration.

THE ROLE OF LOCAL, STATE AND FEDERAL LAND USE AUTHORITIES

39. Traditionally, in authorizing the construction of communications facilities, the Commission's concern with the physical plant has been limited to its communications efficiency. Other considerations relating to the physical facilities or to their construction have been the concern of local building, zoning and planning agencies and State and Federal land use authorities. Where they have jurisdiction, their approval as well as the Commission's is required. If comprehensive land use legislation is enacted by the Congress, moreover, State and regional controls will be extended to areas not currently regulated at the local level. (See, e.g., S. 268, 93d Cong., 1st Sess., introduced by Senator Jackson on January 9, 1973.) Local, State and regional land use authorities and Federal agencies responsible for the management of Government land are obviously better situated than the Commission—by location, experience, and awareness of local values—to deal with land use questions. Commission interference with common land use determinations traditionally made at the local level would under most circumstances place a considerable strain on our concept of the Federal system. Where local land use authorities have authorized the use of a site for communications facilities, we think that the Commission's role under NEPA should be narrowly construed. In such circumstances, we will proceed with caution and with due respect for the role and the qualifications of local authorities. Deference will be accorded to their rulings and their views, particularly in matters of aesthetics and when the record demonstrates that environmental issues have been given full and fair consideration. This is not to say, however, that we can defer entirely to State and local determinations. Although State and local authorities often take environmental factors into consideration, they do not function under NEPA, and their rulings do sometimes go to matters in which the Federal Government has a legitimate interest. Thus, their approval of a project cannot be accepted as conclusive and does not absolve the Commission of its statutory responsibilities. Their prior consideration of the project and objections thereto, on the other hand, should materially facilitate Commission efforts to reach the correct decision.

40. In the light of these considerations, it seems to us reasonable and highly desirable to suggest that persons objecting to the construction of communications facilities on environmental grounds voice their objections first to responsible local, State or Federal land use officials (if any), so that the Commission may have the benefit of their views and of their insight into the matters at issue. If an objection is filed first with the Commission, it will not be dismissed, but the person filing it may be requested to present his objection to appropriate land use officials; in that event action on the application will be deferred for a period which is reasonable under prevailing circumstances, pending the outcome of his efforts in this respect and Commission consideration thereof. The well-meaning individual who is sincerely concerned about the environmental consequences of a

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[23] Radio facilities do, of course, emit nonionizing electromagnetic radiation (radio waves), the medium for transmission of communications by radio. Exposure to sufficiently high concentrations of such radiation can cause biological damage. Power densities of a magnitude warranting concern occur within the major lobes of the radiation pattern of high powered radio facilities within limited distances from the antenna and, with lower probability, may also occur in an area immediately surrounding the antenna but outside the major lobes of the radiation pattern. Commission policy is to require licensees to observe applicable exposure safety standards. If, for any reason, it is not possible to limit exposure to prescribed levels, existing licensees should notify the Commission to this effect while new applicants should prepare and submit an environmental impact statement dealing with the matter. Applicable safety standards and a more extended discussion are contained in Appendix 3.

[24] Since we are dealing with the repeated construction of similar facilities, we think it may be useful to develop a series of environmentally oriented construction codes. Such codes could cover the routing, siting and construction of communications facilities and would state principles and techniques designed to minimize their environmental effect. AT&T has developed a code covering cable routes and microwave stations. Bureau of Land Management Regulations Relating to the construction of power transmission lines also provide some specific guidance. See 43 CFR 2851.2–1. Other communications and construction companies, trade or professional associations, etc. concerned with the construction of like facilities at various locations may have developed similar codes, may find it advantageous to do so, or may choose to adopt the telephone company code, a copy of which is being placed in the docket file for this proceeding. Such codes could be submitted to the Commission for consideration under NEPA procedures. The approval of environmentally satisfactory codes under those procedures, followed by a statement of compliance for individual projects, should reduce in detail the information to be submitted with applications for authority to construct particular facilities.

[25] Towers less than 500 feet in height constitute a much smaller hazard than taller towers. We would expect an applicant for authority to construct a tall tower to seek out, consider and report such information concerning local migratory patterns as is available. Maps of the flyways of some species, particularly waterfowl, cranes and other larger birds, can be obtained from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Washington, D.C. However, the usefulness of such maps in siting an antenna structure is limited. For the most part, sufficiently detailed information concerning local migratory patterns particularly for small birds, can be obtained only from ornithologists located at State universities or at other institutions within the area, if at all. The hazard is principally to the smaller song birds, some species of which characteristically fly at night and at lower altitudes than other species. The detection of nocturnal flight patterns involves the use of techniques (notably specially equipped aircraft and/or radar systems) which are not available to the casual bird watcher. (See Bellrose, Frank C., "The Distribution of Nocturnal Migrants in the Air Space," The Auk, Vol. 88, p. 397, April 1971.) The availability of information concerning such patterns varies a great deal from one area to another, depending on the intensity of scientific investigation within the area.

We would also expect the applicant to avail himself of such techniques as may be devised to minimize the hazard of tall towers to migratory birds. Evidence exists, for example, that birds are attracted to, rather than warned by, the usual tower lighting; and we would expect the applicant to utilize a modified lighting system, should one be approved by the FAA which had been demonstrated to be a lesser hazard. It is possible, but by no means certain, that the increasing use of strobe lights will lessen this problem.

Commission action will presumably welcome this opportunity to present his case at the local level. However, the procedure is voluntary and, if a person declines to follow it, the Commission may itself refer the matter to the appropriate land use officials. This procedure will be followed only if a possibly significant environmental concern has been raised, if it appears that the views of land use officials would be helpful in resolving it, and if time permits.

41. Our relationship with other Federal agencies which have a role in the authorization of communications facilities differs from the relationship between the Commission and State and local authorities. First, the roles of other Federal agencies are not limited to land use controls; and, secondly, since they also function under NEPA, the question is presented as to whether the Commission or another agency should assume responsibility for compliance with the statute. A number of the comments urge that responsibility for preparation of the environmental impact statement be clearly established and that there be no repetitive NEPA processing. APCO urges that joint review of environmental concerns be ruled out. Section 1500.7(b) of the Guidelines states that a single statement should be prepared, either jointly or by designation of a "lead agency" to prepare the statement. It further provides that, where a lead agency prepares the statement, other agencies should provide assistance and the statement should reflect the views of all. Factors in selection of the lead agency include the time sequence of their involvement, the magnitude of their involvement, and their relative expertise with respect to environmental effects of the project. There are several situations in which other agencies routinely have a role in the authorization of communications facilities:

(a) The Department of Health, Education, and Welfare makes funds available for the construction and improvement of educational broadcast facilities. Normally an applicant would apply simultaneously to HEW for funding and to the FCC for a construction permit.[32] Since the applicant must demonstrate to the FCC that he is financially qualified, an HEW grant would normally precede action by the FCC. As between HEW and the FCC, however, it appears that the Commission is in a better position to deal with environmental considerations. The electromagnetic characteristics of the station are its concern, and it is better equipped to judge the feasibility of alternative locations and facilities. Thus, if an environmental statement for such a station is prepared, the FCC will prepare it.[33]

(b) Where communications facilities are established on land under the jurisdiction of the Forest Service or the Bureau of Land Management, the issuance of a construction permit by the Commission is conditioned on the prior issuance of a land use permit by the appropriate agency. See 47 CFR 1.70. The land agency has infinitely greater knowledge concerning the land, its uses and prospective uses than does the Commission and, we assume, would simply deny the permit if the communications facilities would have a significant adverse effect on the land or its use. There may, however, be close cases in which import (or even vital) communications facilities significantly impact the land. In such cases, the land agency is better able to assess the environmental significance of the project, and the Commission should be better able to judge the importance of the communications facilities and the availability of feasible alternatives. In such circumstances, we would think that the land agency is better equipped to prepare an environmental statement; but, if the land agency prefers, we will decide, on the facts it presents, whether a statement should be prepared and, if so, prepare the statement. The land agency's grant of a use permit is persuasive evidence that the facilities to be constructed will not significantly affect the environment or, at least, that the land agency does not believe they will. However, the grant of a permit does not, as some of the comments maintain, excuse the Commission from considering the question of environmental effect under NEPA standards and procedures, if the land agency has not done so.

(c) In considering the authorization of antenna structures, the Commission seeks the views of the Federal Aviation Administration when there is a possibility that the structure may constitute a menace to air navigation. See 47 CFR 1.61 and Part 17. The existing procedures should suffice for air safety purposes. If the facilities have significant environmental effect for other reasons, the Commission will assume responsibility for preparation of an environmental statement.

Other Matters

42. Proposed § 1.1303 provided, among other things, that environmental considerations would be applied to applications involving the abandonment or razing of a structure. The deletion of that provision is based on the provisions of section 303(q) of the Communications Act, 47 U.S.C. 303(q), which imposes specific duties on the owner of an antenna tower which ceases to be licensed by the Commission. The owner is required (1) to maintain painting and illumination until the tower is dismantled, and (2) to dismantle and remove the tower, on order of the Commission, if the Administrator of the Federal Aviation Administration determines that it constitutes a menace to air navigation. It would thus appear that the Congress may have intended to limit the Commission's authority over abandoned towers to that prescribed by this provision. We are reluctant to burden these general rules with a provision for which the authority is doubtful. We will, however, address the question in a case involving particular facilities, should it appear that abandonment will have significant environmental effect.

43. Proposed § 1.1303 also covered applications for modification of existing facilities. (A minor exception was specified in proposed § 1.1315(a)(7).). Upon further consideration, we think that where communications facilities are in place, it is most unlikely that modification not involving a site change or a substantial increase in antenna tower height will have a significant effect on the environment. Section 1.1305(b)(2) of the final rules accordingly provides that actions authorizing the modification of facilities which do not involve a site change or a substantial increase in tower height are minor actions. As a general rule of thumb, height increases on the order of 20 feet or 10% (whichever is greater) are not considered substantial. Somewhat greater increases in height would be considered insubstantial if the increase saved construction of a new tower. Also, of course, the modification of existing facilities is not considered major if the facilities, as modified, are not major (if the height of a modified broadcast tower, for example, is less than 300 feet). The note following § 1.1305(a), and (b)(2), are designed to maximize use of existing structures. The other types of applications listed in proposed § 1.1315(a) which continue relevant have been carried forward into the final rules without major change. Section 1.1305(c) of the final rules provides protection in any circumstances in which construction listed as minor might prove to be major and significant.

44. Section 1.1311(c) of the final rules clarifies application of the rules to facilities licensed in the Safety and Special Radio Services. This provision requires the submission of environmental data and the completion of NEPA procedures *before construction is commenced*. It replaces precatory statements in paragraph 4 of the Notice of Proposed Rule Making, to the effect that it would be unwise for the applicant not to consider environmental consequences prior to commencing construction. The change reflects the Commission's acceptance of responsibility for making the environmental determination and our belief that it would be neither wise nor responsible to permit construction to go forward before that determination is made. This requirement of prior approval on environmental grounds should not, however, be looked upon as a requirement of prior approval under section 319 of the Communications Act or of prior approval of construction on other than environmental grounds.

45. Sections 1.1313 and 1.1315 of the final rules cover the consideration of environmental information submitted with major applications and carry the impact statement process up to the point of the final impact statement. These sections are roughly comparable to proposed Section 1.1323 but differ in important respects from the proposal. First, of course,

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[32] The improvement of facilities may relate to matters beyond the Commission's jurisdiction, such as the purchase of stereo tape equipment, in which event, of course, no application is filed with the FCC.

[33] Similarly, telephone cooperatives are sometimes dependent on financing by the Rural Electrification Administration. The Commission would prepare any necessary impact statement for facilities to be constructed by such cooperatives.

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the final rules concern the consideration of information submitted by applicants rather than a conclusory report and reflect the Commission's assumption of responsibility for preparation of a draft statement. The second important difference is that environmental processing under the final rules is separated from the notice and petition to deny procedure prescribed by Section 309 of the Communications Act and similar procedures followed in the case of applications filed under Section 214 of the Act. The issuance of a notice of acceptance for filing (and parallel AM broadcast procedures), which triggers the petition to deny process, is a routine action involving no substantive consideration of the merits of the application. Consideration of environmental significance must wait to the point when the professional staff reaches the application for processing. Legal, financial, engineering and environmental matters will then be given consideration. If the staff determines that a grant would have significant environmental effect and informal measures fail to eliminate the environmental problem, the environmental impact statement process is initiated. Section 1.1313(b)(2) provides, *inter alia*, for early notice of the decision to prepare a statement, as suggested by Section 1500.5(e) of the Guidelines. The notice will offer a copy of the statement to any person who requests a copy before the statement is duplicated for distribution to agencies. Section 1.1313(c) provides for waiver of the construction permit requirement, and for temporary authorizations, where it appears that construction can proceed without significant environmental effect.

46. Some of the comments take the position that the Commission need not become involved in environmental regulation, that communications is a clean industry which does not present the country with significant environmental problems, or that existing procedures are entirely adequate to deal with any problems which may be presented. Such positions are, at best, difficult to understand. NEPA does, after all, apply to "all agencies of the Federal Government," and though we agree that the environmental effect of the communications industry is minor by comparison with many others, it seems to us clear, as has been indicated above, that there are major actions taken by the Commission which can have significant environmental effect. In the case of such actions, NEPA clearly requires consultation with expert agencies, the preparation of an impact statement, and consideration of that statement at all levels of the decision-making process, and these requirements clearly go beyond those of the Communications Act.

47. The Network Project takes the position that all persons who file applications should actively seek out public assistance in determining whether the construction they propose to undertake involves a significant environmental problem warranting submission of an environmental report, and that the public should have a role in the Commission's review of the applicant's determination. Since a determination by the applicant is not being required and will of course not be reviewed, this specific position is no longer pertinent. Nor will the Commission delegate its responsibility for making the determination to any private group submitting affidavits from two "expert witnesses" stating that the proposed facilities have "the potential of adversely affecting the human environment," as the Network Project suggests. We nevertheless understand the thrust of the Network Project's position, which is that the public should have a role in making the environmental judgment. The Commission gives public notice of the filing of applications considered major within the meaning of NEPA, and the public is thereby afforded an opportunity to comment on any aspect of those applications. When the Commission determines whether to prepare an environmental impact statement, environmentally oriented comments will be considered; and when the Commission decides to prepare such a statement, the procedures recommended by CEQ will be followed. In these circumstances, we think the role of all interested members of the public is assured.

48. Section 1500.2(b) of the Guidelines states that the draft environmental statement should be prepared and circulated for comment in time to accompany a proposed action through agency review processes for such action. Section 1500.7(a) states that the draft statement should be circulated prior to the first significant point of decision. The Guidelines do not precisely identify the point at which a final statement must be prepared, but NEPA provides that the final statement—i.e., one prepared following consultation with expert agencies—must be available during the decision-making process. It would appear that some preliminary procedures may be followed, and some actions which do not predispose the outcome may be taken, during the period in which comments on the draft statement are being submitted and a final statement is being prepared. In application proceedings, however, the first significant action taken is to grant the application or designate it for hearing; and as this action may terminate the proceeding, the final statement should be prepared before it is taken. In rule making proceedings, on the other hand, it would appear that the draft statement should be prepared and considered before issuing a notice of proposed rule making, that it should be circulated when the notice is issued, and that the final statement should be completed before rules are adopted.

49. Final § 1.1315(a) describes the content of the draft statement, noting in particular that the purpose of the statement is to assess *environmental* consequences and not to balance them against other considerations or to make a public interest determination, these matters being left to the decision-making process, during which the statement will be considered.

50. In response to a number of the comments and § 1500.3(a) of the Guidelines, providing that agency procedures should designate the officials who are responsible for the preparation of impact statements, § 1.1315(b) provides, for application proceedings, that the draft statement is prepared by the staff of the Bureau which is responsible for processing the application and submitting a recommendation to the commission. (The final statement is also prepared by the appropriate processing staff.) In rule making proceedings, the statements will be prepared by staff personnel responsible for the preparation of proposed and final rules. Section 1500.8(c) of the Guidelines states that agencies should attempt to have relevant disciplines represented on their staffs and that, where this is not feasible, should make appropriate use of relevant Federal, State and local agencies or the professional services of universities and outside consultants. Initially at least, the Commission will follow the second route, relying on existing staff personnel to make environmental judgments and to prepare impact statements. Where input is required from scientific and social disciplines not represented on the Commission's staff, it will be sought from outside the Commission. If it develops that input is repeatedly required from particular disciplines, consideration will be given to the employment of personnel with the appropriate training and background.

51. Section 1.1315(c) provides for publication of notice that the draft statement has been prepared and that a limited number of copies are available on request. This limited number is in addition to those distributed automatically to persons who requested a copy at the time early notice was given that a statement would be prepared. These procedures are in lieu of provisions for maintenance of copies at FCC field offices (Guidelines, § 1500.11(d) and *new* requirements for maintenance of papers by applicants for inspection locally (proposed § 1.1321(1)).

52. The remainder of Section 1.1315 provides for circulation of the statement to expert agencies, comment by any person or agency within 45 days (consistent with the Guidelines), reply comment within 21 days, a limitation of comments at this stage to environmental issues, and the availability of all relevant papers for inspection. Two copies of comments and reply comments are for use of the Commission. The remaining copies required will be furnished to CEQ in accordance with the Guidelines.

53. Sections 1.1317 and 1.1319 provide for preparation, distribution and consideration of the final environmental impact statement. It should be noted that § 1.1317(a) allows for the possibility that the comments may show that the effect of the facilities will not in fact be significant. Section 1.1317(c) provides that the Commission will either adopt or reject conclusions set out in the final statement concerning the environmental consequences of the action or their significance and, if all or part of the statement is rejected and the application is des-

ignated for hearing on an issue relating to the rejected statement or part, that a supplementary final statement will be prepared and circulated to interested persons and agencies before the hearing is commenced.

54. Several of the comments urge that standing to participate as a party on environmental issues be limited or that participation by an intervenor on such an issue be circumscribed. Under section 309(e) of the Communications Act, intervention is governed by the "party in interest" standard—an intervenor must be able to show that he will be aggrieved or adversely affected. There is a considerable body of case law construing this standard. When the question of standing is raised in a particular case, it will be decided on the basis of the party in interest standard and cases construing it. No purpose would be served in the present context by further elaboration on the law of standing or by attempting to delineate the scope of participation by an intervenor in a particular case.

55. Authority for the rules set out as Appendix 4 hereto is set out in Sections 4(i) and (j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and (j) and 303(r), and in the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4347.

56. Accordingly, IT IS ORDERED That Part 1 of the Rules and Regulations is amended by adding a new Subpart I, as set forth in Appendix 4 hereto, applicable to applications filed on or after January 20, 1975, and that this proceeding is hereby TERMINATED.

57. Reporting requirements in 47 CFR 1.1311 have been approved by U.S. General Accounting Office under approval number 180227–(ROO 86).

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Adopted: September 26, 1974.

Released: December 16, 1974.

FEDERAL COMMUNICATIONS COMMISSION,*

[SEAL] VINCENT J. MULLINS,
Secretary.

APPENDIX 3

1. It is known that non-ionizing electromagnetic radiation (radio waves), at frequencies above 10 MHz, at sufficiently high power densities, can cause heating and damage to living tissue. This heating effect is used to man's advantage in diathermy equipment (where power is limited and exposure is controlled), in microwave ovens (where shielding is utilized to prevent exposure), and in diverse other ways. The scientific and medical communities are not satisfied that data developed in this area to date provide an adequate understanding of the biological effects of such radiation or, consequently, a sufficient basis for formulating definitive exposure safety standards. Further research is in progress under a multiagency Government program. However, based on present knowledge, various exposure safety guidelines have been formulated, and the Occupational Safety and Health Administration (OSHA) has promulgated a standard under which employers are required to maintain working conditions in which employees will not be exposed to power densities greater than 10 milliwatts per square centimeter of body area averaged over a six minute period. 29 CFR 1910.97.

2. In the case of radio communications facilities, the area of protection under this standard can be calculated and expressed in distance from the antenna within the major lobes of the radiation pattern, with results varying as follows with effective radiated power above isotropic (EIRP):

EIRP:	*Hazard area—distance in feet from antenna within radiation pattern*
10 kw	20
100 kw	60
300 kw	100
1 Mw	180
5 Mw	420

See OCE Report No. 7104. Distance figures are approximate. With the exception of satellite earth stations, the Commission does not authorize power in excess of 5 Mw. The following formula is used in calculating hazardous radiation distances where the maximum permissible exposure level is 10 mM/cm²:

$$d = \frac{\sqrt{EIRP}}{5.4024}$$

Where

d = Distance in feet and EIRP is in watts.

To put these figures in perspective, it should be appreciated that high power is utilized to transmit usable signals over substantial distances. To aid in this purpose, the antenna is normally mounted on a tall structure and is oriented generally toward the horizon, not toward the base of the antenna tower. The point at which the signal reaches the ground depends on the above factors (i.e., antenna height and orientation) and on the shape of the major lobes of the radiation pattern. Thus, for example, the antenna for an omnidirectional television station produces a donut-shaped pattern, with a low signal area at ground level within varying distances from the tower; the antenna for a microwave relay station, on the other hand, produces a narrow beam aimed at a receiving antenna on the horizon, at a distance of about 25 miles, and touches ground at or beyond the receiving tower; and the satellite earth station antenna produces an even more highly concentrated beam which is aimed at the satellite. For radiation levels to exceed maximum permissible exposure levels under the OSHA standard at ground level, the distance from the antenna to the nearest ground point within the major lobes of the radiation pattern would have to be less than the distance set out in the table above (e.g., less than 100 feet when EIRP is 300 kw and less than 420 feet when EIRP is 5 Mw). While it is theoretically possible that a combination of circumstances could produce areas of exposure in excess of those permissible under the OSHA standard at ground level, it is most unlikely. Measurements at a sampling of Commission licensed stations indicate that power densities present at ground level immediately below the antenna are well below (e.g., by a factor of 10,000) the maximum permissible level under the OSHA standard (10mW/cm2). To the extent that a hazard may exist, we would expect it to be associated with circumstances such as the following: With tall buildings proximate to the antenna (i.e., within the distances set out in the above table) and within the major lobes of the radiation pattern; with the rooftops of buildings on which antennas for high power stations are located if the antenna are not sufficiently elevated above roof level; and with maintenance personnel working on an antenna tower while the station is operating (not a usual practice).

3. The Commission's role in this area is to assist in current Government efforts to develop a dependable understanding of biological effects and realistic exposure levels, primarily by furnishing measurement data for existing Commission-licensed communications facilities, and to see that the OSHA standard and such other applicable official standards as may be established by the responsible Government agencies are met by Commission licensees. In the case of satellite earth stations, for example, a very powerful signal is generated (EIRP within the highly concentrated beam can be as high as 1000 Mw). If the antenna is not significantly elevated, exposure to hazardous power densities is possible at ground level at the antenna site, even though the beam is directed skyward. The Commission has accordingly required applicants for earth stations to identify any hazardous area and to take such measures as are necessary (e.g., warning signs, fencing and shielding) to protect against exposure. 38 FCC 2d 665, at paras. 94–95. Similar requirements will be imposed in any other situation which we discover, or is called to our attention, in which protective measures are needed. In this connection, we recommend that licensees of high power facilities operating on frequencies above 10 MHz review conditions at the antenna site for compliance with the OSHA standard, calculate to determine the possibility of exposure to power densities in excess of 10 mw/cm², either on or off the site, measure actual power densities at any such location, and take such appropriate remedial measures as may be necessary in areas subject to their control. The Commission may wish to survey stations to obtain information useful in determining environmental radiation levels. However, that possibility is not within the scope of this proceeding. Radiation levels are a consideration under NEPA procedures only in situations where measures cannot practicably be taken to preclude exposure to power densities which exceed maximum permissible levels prescribed by applicable official safety standards.

APPENDIX 4

Part 1, Chapter I of Title 47 of the Code of Federal Regulations is amended by adding a new Subpart I to read as follows:

Subpart I—Procedures Implementing the National Environmental Policy Act of 1969

Sec.

1.1301 Basis and purpose.
1.1303 Scope.
1.1305 Major actions.
1.1311 Environmental information to be submitted with applications for authority to construct major communications facilities.
1.1313 Commission consideration of environmental information.
1.1315 The draft environmental impact statement; comments.
1.1317 The final environmental impact statement.
1.1319 Consideration of the final environmental impact statement during the hearing and decision-making process.

* Commissioners Wiley, Chairman; Reid, and Robinson concurring in the result.

XUM V 39 N 245 DEC 19 74 XUM

Subpart I—Procedures Implementing the National Environmental Policy Act of 1969

§ 1.1301 Basis and purpose.

The provisions of this subpart implement the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4347.

§ 1.1303 Scope.

The provisions of this subpart apply to all major Commission actions authorizing the construction of communications facilities (see §§ 1.1305 and 1.1311(c)). The Commission will, in addition, invoke and implement the environmental impact statement process before taking a position on legislative or rule making matters which would have a significant effect on the quality of the human environment.

§ 1.1305 Major actions.

(a) Except as provided in paragraph (b) of this section, Commission actions authorizing construction of the following classes of communications facilities are major actions within the meaning of the National Environmental Policy Act:

(1) Underground cable or wave guide routes, and aerial transmission lines, for long distance tele-communication.

(2) Private and common carrier microwave relay antenna towers or supporting structures exceeding 100 feet in height, excluding pole mounted microwave antennas.

(3) Standard (AM), FM television and international broadcast antenna towers or supporting structures which exceed 300 feet in height, and all AM directional arrays without regard to height.

(4) Other antenna towers or supporting structures, including pole mounted microwave antennas, which exceed 300 feet in height and are not located in areas devoted to heavy industry or to agriculture.

(5) Satellite earth stations having an antenna of 30 feet or more in diameter.

(6) Communications facilities to be located in the following areas:

(i) Facilities which are to be located in an officially designated wilderness area or in an area whose designation as a wilderness area is pending consideration;

(ii) Facilities which are to be located in an officially designated wildlife preserve or in an area whose designation as a wildlife preserve is pending consideration;

(iii) Facilities which will affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology or culture, which are listed in the National Register of Historic Places or are eligible for listing (see 36 CFR 800.2 (d) and (f) and 800.10); and

(iv) Facilities to be located in areas which are recognized either nationally or locally for their special scenic or recreational value.

(7) Facilities whose construction will involve extensive change in surface features (e.g., wetland fill, deforestation or water diversion).

NOTE: The provisions of this paragraph do not encompass the installation of additional cable over existing underground cable routes or the mounting of microwave, FM, television or other antennas comparable thereto in size on an existing building or antenna tower. The use of existing routes, buildings and towers is an environmentally desirable alternative to the construction of new routes or towers and is encouraged.

(b) In the circumstances recited in this paragraph, Commission actions authorizing construction of the classes of communications facilities listed in paragraph (a) of this section are minor actions within the meaning of the National Environmental Policy Act:

(1) The construction of an antenna tower or supporting structure in an established "antenna farm" (i.e., an area in which similar antenna towers are clustered, whether or not such area has been officially designated as an antenna farm).

(2) The modification of existing or authorized facilities, provided such modification does not involve a site change or a substantial increase in tower height.

(3) The construction of an antenna structure which is to remain in place for a temporary period (as for the conduct of experimental or developmental operations, for the duration of emergency conditions, or for maintenance of service pending repair of a permanent structure) and then be removed, providing there will be no lasting effects of environmental significance.

(4) The replacement of an existing structure with a structure of the same kind on the same site.

(c) Commission action authorizing the construction of communication facilities not listed in paragraph (a) of this section are minor actions within the meaning of the National Environmental Policy Act: *Provided, however,* That the Commission, on its own motion or on motion of any interested person, may determine that the environmental consequences of a particular action are such as to warrant preparation of an environmental impact statement.

§ 1.1311 Environmental information to be submitted with applications for authority to construct major communications facilities.

(a) Except as provided in paragraphs (d) and (e) of this section, a narrative statement containing the following information shall be submitted with each application for authorization of the construction of major communications facilities (as defined in § 1.1305):

(1) For underground cable facilities, a description of the route between at least two major terminals, and a discussion of environmental and other considerations which led to selection of that route.

(2) For antenna towers and satellite earth stations, a description of the facilities (including height and special design features, access roads and power lines), a description of the site, the surrounding area and its uses, and a discussion of environmental and other considerations which led to its selection.

(3) A statement as to the zoning classification of the site (if any) and concerning communication with or proceedings before zoning, planning environmental, or other local, State or Federal authorities on matters relating to environmental effect.

(4) A statement as to whether construction of the facilities has been a source of controversy on environmental grounds in the local community.

(5) A discussion of the nature and extent of any unavoidable adverse environmental effects perceived by the applicant and (where adverse effects are present) a discussion of any efforts made to minimize such effects and of any alternative routes, sites or facilities which have been or might reasonably be considered.

NOTE: To the extent that such information is submitted in another part of the application, it need not be duplicated in the statement, but adequate cross-reference to such information shall be supplied.

(b) The information submitted should be factual (not argumentative or conclusory) and should be sufficiently comprehensive and detailed to convey an understanding of the environmental consequences and to serve as a basis for a judgment concerning their significance. If the applicant perceives unavoidable environmental consequences, it may be appropriate to attach a statement by an expert in the relevant discipline(s) detailing the extent and precise nature of such consequences and measures which can be taken to minimize them. The statement should deal specifically with any feature of the site or route which has special environmental significance—e.g., wilderness areas, wildlife preserves, natural flyways for birds, and sites of scenic, cultural, historic, architectural, archeological, or recreational value. In the case of historically significant sites, the statement should specify the effect of the facilities on any district, site, building, structure or object listed in the National Register of Historic Places, 39 F.R. 6402, February 19, 1974. It should also detail any substantial change in the character of the land utilized—e.g., deforestation, water diversion, wetland fill, or other extensive change of surface features. In the case of wilderness areas, wildlife preserves, or other like areas, the statement should discuss the effect of any continuing pattern of human intrusion into the area (as for operation or maintenance of the facilities or site habitation). To the extent that the principles and techniques governing construction, siting and routing of the facilities are consistent with an environmental code filed with and approved by the Commission, a reference to that code will suffice in lieu of a detailed discussion.

NOTE: The National Register is updated and re-published in the FEDERAL REGISTER each year in February. Addenda are published on the first Tuesday of each month.

(c) In the case of facilities licensed in the Safety and Special Radio Services, the information required by paragraph

(a) of this section shall be submitted and ruled on by the Commission, and the environmental impact statement process (if invoked) shall be completed, before construction of the facilities is commenced. Except as regards environmental effect, however, a construction permit for such facilities is not required.

(d) A narrative statement need not be submitted to the Commission if another agency of the Federal Government has assumed responsibility for determining whether construction of the facilities in question will have a significant effect on the quality of the human environment and, if it will, for invoking the environmental impact statement process. The issuance of a permit for the use of Federal land is an important consideration favoring the conclusion that an authorization will not have significant environmental effect or that the effect is not of sufficient significance to warrant denial of a permit, but it is conclusive only if the agency issuing the land use permit followed procedures prescribed by the National Environmental Policy Act.

(e) A narrative statement need not be submitted to the Commission if the facilities are to be utilized exclusively in rendering services to the United States Government and the existence or purpose of such facilities is classified security information. (In such cases, it would appear that the environmental determination should be made by the Government agency for which the services are to be rendered under procedures compatible with the national security and on the basis of information which that agency alone may have.)

§ 1.1313 Commission consideration of environmental information.

(a) No major Commission action (as defined in § 1.1305) granting an application (or authorizing construction on the basis of a narrative statement, pursuant to § 1.1311(c)) will be taken by the Commission earlier than 30 days following the Commission's issuance of a public notice stating that the application, the narrative statement, or a substantial amendment thereof has been accepted for filing. In the case of an application to which Section 309(b) of the Communications Act applies, objections based on environmental considerations may be filed as petitions to deny (see Section 309(d) of the Communications Act and §§ 1.580, 1.962, and 21.27 of this chapter). Informal objections to any major Commission action (as defined in § 1.1305) which are based on environmental considerations may be filed at any time prior to the action. Any person who wishes to raise a question concerning the effect of a grant on the quality of the environment should file either a petition to deny or an informal objection within the period prescribed. A subsequent opportunity to comment on a draft environmental impact statement will be afforded only if the application processing staff determines, on the basis of available information, that a grant would have a significant effect on the quality of the environment.

(b) When the application is reached for processing, the processing staff will review the statement required by § 1.1311 and any other available information bearing on the question of environmental effect and will determine whether a grant of the application will have a significant effect on the quality of the human environment. In connection with this review, the staff may require the applicant to furnish additional information bearing on the effect of a grant.

(1) If it is determined that grant of an application will not have significant environmental effect, the application will thereafter be processed without further consideration of environmental effect.

(2) If it is determined that a grant will or may have significant environmental effect, the staff may, before deciding to prepare a draft environmental impact statement, discuss matters of environmental concern with the applicant, concerned individuals and experts, in an effort to identify measures which could be taken to minimize adverse effect and alternatives which are not, or are less, objectionable. (The Advisory Council on Historic Preservation has adopted formal procedures for such consultation. See 39 FR 3366, January 25, 1974, 36 CFR Pt. 800.) The staff may direct that technical studies be made or that expert opinion be obtained concerning the effect of a grant and the environmental, communications and cost effects of measures or alternatives which could reduce, minimize or eliminate an environmental problem. The staff may also request that a person objecting to grant of an application on environmental grounds raise his objections with appropriate local, State or Federal land use authorities (if their views have not previously been sought) and, if he declines, may itself request the views of such authorities. The applicant may amend his application to reduce, minimize or eliminate such a problem. If such measures as are taken fail to eliminate the environmental problem, the staff will prepare a draft environmental impact statement. When a decision to prepare a statement is made, a public notice to that effect will be published in the Federal Register. The public notice will indicate the nature and location of the facilities and will advise interested persons that they may obtain a copy of the statement by submitting a written request to the Commission prior to the date on which the statement is duplicated for circulation to agencies.

(c) If it appears that grant of an application will not have significant environmental effect or that construction can proceed in part without such effect, and if all statutory requirements pertaining to such action are met, the Commission may waive the requirement for a construction permit, or may grant a temporary authorization, prior to final action on the application.

§ 1.1315 The draft environmental impact statement; comments.

(a) The draft environmental impact statement will describe the facilities, the area affected and its uses. It will enumerate the environmental consequences and, to the extent possible, will evaluate their magnitude and significance. It will relate views expressed by persons opposing grant of the application on environmental grounds. It will describe alternatives considered by the applicant, advocated by persons opposing grant of the application or developed by the Commission, explain the basis for rejection of any alternative not considered feasible, and discuss the relative advantages and disadvantages of feasible alternatives. It will discuss measures which will or could be taken to minimize adverse effects and will indicate whether the applicant proposes to take such measures. It will deal specifically with any feature of the impacted area which has special environmental significance. Except as may be appropriate in assessing the feasibility of alternatives, it will not discuss non-environmental considerations, or draw conclusions as to whether a grant will serve the public interest. Such matters will be considered by the Commission in acting on the application after the final environmental impact statement has been prepared. The summary sheet set out as Appendix I to the CEQ Guidelines will accompany each draft statement.

(b) The draft statement will be prepared by the application processing staff before any action is taken on the application and before any recommendation regarding action is made to the Commission. The statement will not be adopted by the Commission.

(c) When a draft statement is prepared, the Commission will publish in the FEDERAL REGISTER a public notice containing the following information:

(1) The nature and location of the facilities.

(2) A brief statement regarding the nature of any environmental problem dealt with in the draft environmental impact statement.

(3) A statement that the draft statement is available for inspection at the Commission and that a limited number of copies will be made available upon request.

(4) A statement that comments on the draft statement may be filed within 45 days after publication of the notice. (The date of publication will be specified in the notice.)

(d) Before notice of the draft statement is published in the FEDERAL REGISTER, copies will be mailed, with a request for comment, to Federal and Federal-State agencies having jurisdiction by law or special expertise with respect to the environmental effects of the facilities. (See Appendix II to the CEQ Guidelines.) Five copies of the statement will be mailed to the Council on Environmental Quality. Copies of the statement will be mailed to the applicant and to individuals, groups and State and local agencies known to have an interest in the environmental consequences of a grant.

(e) Any person or agency may comment on the environmental impact of the facilities described in the environmental impact statement within 45 days after public notice of the statement is

published in the Federal Register. Comments shall be served on the applicant by the person who files them. An original and 6 copies of comments shall be submitted to the Commission. Five (5) additional copies shall be forwarded by the person commenting to the Council on Environmental Quality. If a person submitting comments is specially qualified in any way to comment on the environmental impact of the facilities, a statement of his qualifications shall be set out in the comments. Comments submitted by an agency shall, in addition, specify the identity of the person(s) who prepared them.

(f) The applicant may file reply comments within 21 days after the time for filing comments has expired. Reply comments shall be served by the applicant on persons or agencies which filed comments. An original and six copies of reply comments shall be submitted to the Commission.

(g) Comments and reply comments shall be accompanied by a certificate of service. See § 1.47.

(h) The preparation of a draft environmental impact statement and request for comments shall not open the application to attack on other grounds.

(i) The application, the draft environmental impact statement, and all related papers, including agency comments, shall be routinely available for public inspection.

§ 1.1317 The final environmental impact statement.

(a) Upon consideration of the comments and reply comments, the application processing staff will prepare a final environmental impact statement. The final statement will contain a discussion of matters discussed in the draft statement (see § 1.1315(a)), taking into consideration all matters of substance raised in the comments and reply comments. If the comments show that the effect of the facilities will in fact not be significant, the final statement will state that conclusion. The summary sheet set out as Appendix I of the CEQ Guidelines will accompany each final statement.

(b) Copies of the final statement will be distributed to the applicant and to persons and agencies which submitted substantive comment on the draft statement. If practicable, copies of the comments and reply comments will be attached to and distributed with the final statement. Persons who submitted comments may be requested to furnish additional copies for this purpose. Five copies of the final statement and all comments will be submitted to the Council on Environmental Quality.

(c) The Commission will consider the final environmental impact statement in determining whether to grant the application or to designate it for hearing on an environmental issue. It may adopt or reject conclusions set out in the final statement relating to environmental consequences of the action or their significance. If the Commission adopts the final statement, it will be made a part of the opinion issued by the Commission in granting the application or designating it for hearing. If the Commission rejects all or part of the final statement and grants the application, the reasons for rejection of the statement will be stated in the opinion, and the statement will be associated with that opinion. If the Commission rejects all or part of the final statement and designates the application for hearing on an issue relating to the rejected statement or part, a supplementary final statement reflecting the Commission's determination will be prepared, circulated to interested persons and agencies and associated with the designation order before the hearing is commenced.

§ 1.1319 Consideration of the final environmental impact statement during the hearing and decision-making process.

(a) If the application is designated for hearing on an environmental issue, the final (or supplementary final) environmental impact statement will be associated with the designation order and will be considered in delineating the scope of the environmental issue.

(b) Copies of comments from Federal, State and local agencies will be associated with the record of the hearing proceeding, shall be admissible in evidence for the limited purpose of showing the views of those agencies, and may be used in cross-examining witnesses on the environmental issue.

(c) Agencies and individuals who comment on environmental effect may be invited to participate as parties to the proceeding and, if not named as parties, may petition to intervene. Agencies which comment may be asked by Commission counsel or others to furnish expert witnesses to testify on matters of environmental impact. Subpoenas for the appearance of such agency experts will be issued, if necessary, when their testimony is required to lay a foundation for the admission of agency comments in evidence to show the truth of facts and the validity of conclusions contained therein.

(d) The burden of proceeding with the introduction of evidence on the environmental issue, as well as the burden of proof on that issue, shall be upon the applicant, except as otherwise provided in the designation order.

[FR Doc.74-29610 Filed 12-18-74;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Arapaho National Wildlife Refuge, Colorado

The following special regulation is issued and is effective on December 19, 1974.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

COLORADO

ARAPAHO NATIONAL WILDLIFE REFUGE

Sport fishing on the Arapaho National Wildlife Refuge, Colorado, is permitted from January 1 through May 31 and August 1 through December 31, 1975, inclusive, on the area designated by signs as open to fishing. This open area is delineated on maps available at refuge headquarters, Walden, Colorado 80480, and from the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 2215, Salt Lake City, Utah 84111. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1975.

V. CARROL DONNER,
Refuge Manager, Arapaho National Wildlife Refuge, Walden, Colorado.

DECEMBER 12, 1974.

[FR Doc.74-29636 Filed 12-18-74;8:45 am]

PART 33—SPORT FISHING

De Soto National Wildlife Refuge, Iowa and Nebraska

The following special regulation is effective on December 19, 1974.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

IOWA AND NEBRASKA

DE SOTO NATIONAL WILDLIFE REFUGE

Sport fishing on the De Soto National Wildlife Refuge, Iowa and Nebraska, is permitted on the lake area within the refuge. This open area, comprising 850 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Sport fishing is subject to the following conditions:

(1) All fishermen shall conform with the regulations of the State in which they are properly licensed, either Iowa or Nebraska, subject to more restrictive regulations that may be included herein.

(2) Open Season: Daylight hours January 4, 1975 through February 28, 1975, providing ice conditions are safe enough to permit this activity, and 6 a.m. to 9 p.m., April 15, 1975, through September 30, 1975.

(3) Trot lines and float lines are not permitted.

(4) Archery fishing is permitted during the period May 1, 1975, through June 15, 1975. Only the following fishes can be taken with bow and arrow: Bigmouth Buffalofish (Ictiobus cyprinellus), Smallmouth Buffalofish (Ictiobus bubalus), Carp (Cyprinus carpio), Longnose Gar (Lepisosteus osseus) and Shortnose Gar (Lepisosteus platostomus).

(5) Digging or seining for bait is not permitted.

(6) No more than two lines with two hooks on each line may be used for fishing.

(7) Motor or wind driven conveyances are not permited on the lake

during the period January 4, to February 28.

(8) The use of boats, with or without motors, is permitted during the period April 15 to September 15.

(9) During the period September 15 to September 30, only boats without motors or motors up to 20 H.P. are permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through September 30, 1975.

JAMES E. FRATES,
Refuge Manager, DeSoto National Wildlife Refuge, Missouri Valley, Iowa.

DECEMBER 2, 1974.

[FR Doc.74-29585 Filed 12-18-74;8:45 am]

PART 33—SPORT FISHING

Swan Lake National Wildlife Refuge, Missouri

The following special regulation is issued and is effective on December 19, 1974.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

MISSOURI

SWAN LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Swan Lake National Wildlife Refuge, Sumner, Missouri, is permitted on the areas designated by signs as open to fishing. The open areas, comprising 10,800 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Denver Federal Center, P.O. Box 25486, Denver, Colorado 80225. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from March 1 through September 30, 1975 inclusive, during daylight hours only.

(2) Boats without motors may be used on Swan Lake, Silver Lake, and that portion of South Lake immediately adjacent to No. 5 Levee.

(3) Travel is permitted on all roads except those posted with "Road Closed" signs.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through September 30, 1975.

DECEMBER 2, 1974.

ALFRED O. MANKE,
Refuge Manager, Swan Lake National Wildlife Refuge, Sumner, Missouri 64681.

[FR Doc.74-29594 Filed 12-18-74;8:45 am]

PART 33—SPORT FISHING

Valentine National Wildlife Refuge, Nebraska

The following special regulation is issued and is effective on December 19, 1974 .

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

NEBRASKA

VALENTINE NATIONAL WILDLIFE REFUGE

Sport fishing on the Valentine National Wildlife Refuge, Nebraska, is permitted only on the areas designated by signs as open to fishing. These open areas comprising 3,107 acres of water on the refuge, are delineated on maps available at the refuge headquarters and from the Office of the Area Manager, U.S. Fish & Wildlife Service, P.O. Box 250, Pierre, South Dakota 57501.

Sport fishing shall be in accordance with all applicable State regulations subject to the following special regulations:

(1) The open season for sport fishing on the refuge during daylight hours only, will be from January 1, 1975 through December 31, 1975.

(2) Hook and line, bow and arrow, and hand spear fishing only are permitted.

(3) Boats with or without electric-type outboard motors are permitted on lakes open to sport fishing in accordance with State boating regulations. Internal combustion type motors are prohibited.

(4) The use or possession of live minnows or fish for bait or the possession of any seine or net for capturing live minnows is prohibited. Dead minnows or parts thereof may be used as bait.

The provisions of this special regulation supplement the regulations which govern sport fishing and wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1975.

ROBERT M. ELLIS,
Refuge Manager, Fort Niobrara—Valentine Complex, Valentine, Nebraska.

DECEMBER 9, 1974.

[FR Doc.74-29594 Filed 12-19-74;8:45 am]

PART 33—SPORT FISHING

Pathfinder National Wildlife Refuge, Wyoming

The following special regulation is issued and is effective on December 19, 1974.

33.5 Special regulations; sport fishing for individual wildlife refuge areas.

WYOMING

PATHFINDER NATIONAL WILDLIFE REFUGE

Sport fishing on all areas of the Pathfinder National Wildlife Refuge, Wyoming, is permitted from January 1 through December 31, 1975, inclusive. These areas, comprising 16,807 acres, are delineated on maps available at refuge headquarters, Walden, Colorado 80480, and from the Area Manager, U.S. Fish and Wildlife Service, Federal Building, Room 2215, Salt Lake City, Utah 84111. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1975.

V. CARROL DONNER,
Refuge Manager, Pathfinder National Wildlife Refuge, Walden, Colorado.

DECEMBER 12, 1974.

[FR Doc.74-29637 Filed 12-18-74;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 959]

ONIONS GROWN IN SOUTH TEXAS

Expenses and Rate of Assessment

Consideration is being given to authorizing the South Texas Onion Committee to spend not more than $94,311 for its operations during the fiscal period ending July 31, 1975, and to collect two cents ($0.02) per 50-pound container of onions, or equivalent quantity, handled by first handlers under the program.

The committee is the administrative agency established under Marketing Agreement No. 143 and Order No. 959, both as amended, regulating the handling of onions grown in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same, in duplicate, with the Hearing Clerk, Room 112–A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than January 6, 1975. All written submissions made pursuant to this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposals are as follows:

§ 959.215 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1975, by the South Texas Onion Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $94,311.

(b) The rate of assessment to be paid by each handler in accordance with the Marketing Agreement and this part shall be two cents ($0.02) per 50-pound container of onions, or equivalent quantity, handled by him as the first handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period ending July 31, 1975, may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

Dated: December 16, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-29605 Filed 12-18-74;8:45 am]

[7 CFR Part 981]

ALMONDS GROWN IN CALIFORNIA

Proposed Termination of a Certain Provision

Notice is hereby given of a proposal to terminate § 981.482 of Subpart—Administrative Rules and Regulations (7 CFR 981.441–981.482; 39 FR 23239; 39258) of the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was unanimously recommended by the Almond Control Board.

Section 981.482 of the administrative rules and regulations requires each handler desiring credit for paid media advertising to submit a statement of assessments due with his redetermination report of December 31, March 31 and June 30. Recapitulation of his claims already approved by the Control Board must accompany this statement. With his June 30 report (due by July 15 of the following crop year), the handler must submit the balance of any assessments due.

However, since § 981.441 permits each handler to file claims for advertising credit until July 15—the same date which is the deadline for submission of the June 30 report—there is not enough time for the handler to determine his assessments due because the Control Board staff must first: (a) Consider the claims; (b) approve or disapprove them; and (c) notify the handler of the status of his claims.

Moreover, no useful purpose is served by requiring the handle to recapitulate and submit information already in the possession of the Control Board.

Therefore, the proposal is to terminate § 981.482 of the administrative rules and regulations (Subpart—Administrative Rules and Regulations).

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same in quadruplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, to be received not later than January 3, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during official hours of business (7 CFR 1.27(b)).

Dated: December 13, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division.

[FR Doc.74-29496 Filed 12-18-74;8:45 am]

Food and Nutrition Service

[7 CFR Part 271]

[Amdt. 46]

FOOD STAMP PROGRAM

Notice of Proposed Rulemaking

Pursuant to the authority contained in the Food Stamp Act of 1964, as amended (78 Stat. 703, as amended; 7 U.S.C. 2011–2026) notice is hereby given that the Food and Nutrition Service, Department of Agriculture, proposes to amend the regulations governing the Food Stamp Program to provide generally that State agencies may not designate any concerns that have been authorized to redeem coupons as coupon issuance agents. The considerations behind this regulation are that such a dual designation would give a competitive advantage to those firms performing both issuance and redemption functions, and that there is no guarantee against diversion of food coupons for private gain when both functions are handled by the same concern.

Interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to P. Royal Shipp, Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, not later than January 20, 1975. All comments, suggestions, or objections received by this date will be considered before the final regulations are issued.

All written comments, suggestions, or objections will be open to public inspection pursuant to 7 CFR 1.27(b) at the Office of the Director, Food Stamp Division, during regular business hours (8:30 a.m. to 5 p.m.) at 500 12th Street SW., Washington, D.C., Room 650.

The proposed amendment is as follows:

Section 271.6(d) of Part 271 of Chapter II, Title 7 of the Code of Federal Regulations is revised to read:

§ 271.6 Methods of distributing, issuing, and accounting for coupons and receipts.

• • • • •

(d) The State agency or the State issuing agency shall arrange for the issuance of coupons to eligible households and for the collection of sums required

from eligible households for the purchase requirement. The State agency or State issuing agency shall not contract the issuance of coupons to any firm, or agent thereof, authorized to redeem coupons, unless the State agency, in concurrence with FNS, determines that such an arrangement would best achieve the purposes of the program. The coupon allotment to be issued to any household shall be in the amount determined in accordance with § 271.5.

(78 Stat. 703, as amended; 7 U.S.C. 2011–2026)

(Catalog of Federal Domestic Assistance Programs No. 10.551, National Archives Reference Services)

Dated: December 16, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74-29596 Filed 12-18-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 121, 146, 146a, 146b, 146c, 146e]

INFECTION IN CHICKENS

Nomenclature Change; Withdrawal of Proposal and Termination of Rule Making Proceedings

A proposal was published in the FEDERAL REGISTER of January 1, 1964 (29 FR 15) proposing that the regulations be amended with respect to nomenclature regarding *Mycoplasma gallisepticum* infections in chickens. It was proposed that the term "chronic respiratory disease" should refer to infection caused by the primary infective agent *Mycoplasma gallisepticum* and respiratory infections commonly associated with this disease should be called "complicated chronic respiratory disease." This proposal was based upon conclusions reached by qualified university and governmental personnel meeting under the auspices of the Animal Disease and Parasite Research Division of the Agricultural Research Service, United States Department of Agriculture.

Following publication of the proposal, the Commissioner of Food and Drugs received comments, including comments from participants in the above-cited meeting, objecting to the proposed changes. Because of the differences of opinion expressed regarding the proposed revised nomenclature, the Commissioner has concluded that the changes contemplated in the proposal should not be made.

Accordingly, the subject proposal is withdrawn and the rule making proceedings in this matter are terminated.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 409, 507, 59 Stat. 463 as amended, 72 Stat. 1785 as amended; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 1.120).

Dated: December 12, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-29492 Filed 12-18-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 74-NW-25-AD]

AIRWORTHINESS DIRECTIVES

Boeing Model 747-100 and -200 Series Airplanes

There have been eight reported cases of operation with either partial extension or no extension of the leading edge flaps on the 747 airplane, six of which were during the takeoff phase of flight. The latest case resulted in a low altitude stall of the airplane and impact.

In the first reported instance, it was found that a circuit breaker had been de-activated causing half the leading edge flaps to remain retracted. This condition was not noticed nor corrected by the flight crew during the entire preflight procedure, including the challenge and response exercise of the pre-flight check list. Investigation revealed that the flight engineer had indications of only half the leading edge flaps extended; and the pilot and copilot had an indication of improper leading edge flap extension on their panel.

In the second instance, the crew reported a disagreement between the pilots' and the flight engineer's annunciator panels. The pilot reported he had a green light and the flight engineer reported he had no leading edge flap light indication. It was found that both A and B section circuit breakers had been deactivated prior to flight. Subsequent engineering investigation could find no system malfunction.

In the third instance, the crew detected a pre-stall buffeting on takeoff, but gained additional airspeed and made a successful takeoff. In flight, both A and B section circuit breakers were found de-activated. In this case it was determined that the crew overlooked the absence of the green flap extended lights.

In the fourth instance, the crew detected absence of green leading edge flap annunciator lights prior to takeoff. The alternate electrical drive system was therefore used to extend the leading edge flaps. After takeoff, the four engine pylon bleed air valves were found in a closed position. The effect of closed engine bleed valves is discussed below.

In three instances, involving the same airline, takeoffs were made with no leading edge flaps extended because the alternate flap drive system switches had been set to the up position and the arming switch had been set to the arm position. This condition results in a lock of the pneumatic motors such that no leading edge flap extension is possible by means of the pneumatic system. However, successful takeoffs were executed.

Preliminary investigation conducted following the latest reported instance indicates that the four engine pylon bleed air valve switches were found in the closed position. This condition is displayed to the flight engineer by means of four amber caution lights on his panel. When these valves are closed, no bleed air is available to the pneumatic leading edge flap drive motors and consequently, no leading edge flap extension is possible except by the use of the alternate electrical system, or by use of the APU.

In spite of existing visual warning means available to the flight crew, at least six takeoffs have been made involving failure to extend all leading edge flaps. The FAA has already taken regulatory action by means of an amendment to the operations specifications of U.S. certificated carriers. This amendment requires that flight crew members assure that the leading edge flap control circuit breakers are closed, that alternate flap drive and arming switches are in the off position, that the green light is illuminated on the pilot's panel and eight green lights are illuminated on the flight engineer's panel, and that prior to takeoff, all engine bleed air valve switches are double checked to be in the open position.

Additionally, an Operations Information Alert has been issued which recommends that prior to leaving ramp, the takeoff flaps be extended and that confirmation of full extension of all wing leading edge devices be received from a qualified ground observer.

Herein, an AD is being proposed to require the installation of an additional warning system or systems to warn the flight crew if the leading edge flaps are not fully extended during takeoff.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Northwest Region, Attention: Regional Counsel, Airworthiness: Rules Docket, FAA Building, King County International Airport, Seattle, Washington 98108. All communication received on or before February 11, 1975 will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), it is proposed that § 39.13 of the Federal Aviation regulations be amended by adding the following new airworthiness directive:

BOEING: Applies to all Model 747 Series Airplanes, certificated in all categories

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Compliance required as indicated unless already accomplished. To assure the flight crew positive warning when the leading edge flaps are not fully extended for takeoff, accomplish the following:

Within three (3) months calendar time after the effective date of this AD, install, in accordance with data approved by the Chief, Engineering and Manufacturing Branch, FAA, Northwest Region, an additional warning system or systems, including a leading edge flap logic input to the takeoff aural warning system and a logic which will cause warning lights to flash on the pilots' and flight engineer's panels, which will give the flight crew positive warning when any of the leading edge flap drive motors have not driven to the fully extended position when the trailing edge flaps are extended to a takeoff setting.

This amendment is proposed under the authority of section 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354 (a), 1421, and 1423) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Washington on December 11, 1974.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.74-29482 Filed 12-18-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 76]

[Docket No. 20272; FCC 74-1310]

CABLE TELEVISION

Notice of Proposed Rulemaking and Inquiry

In the matter of amendment of Part 76 of the Commission's Rules and Regulations Relative to an Inquiry on the Need for Additional Rules in the Area of Duplicative and Excessive Over-Regulation of Cable Television.

1. On February 2, 1972, the Commission adopted the Cable Television Report and Order (FCC 72-108, 36 FCC 2d 143 (1972)), reconsidered in part in FCC 72-530, 36 FCC 2d 326 (1972). In that report, we adopted a comprehensive set of new rules for most aspects of cable television operation.

2. One segment of that report dealt with the appropriate division of regulatory jurisdiction between the Federal and State-Local levels of government. Three alternative approaches were considered:

(a) Federal licensing of all cable television systems.

(b) Maintenance of the current Federal regulatory program enforced by Section 312(b) proceedings.

(c) Federal regulation of some aspects of cable operations, with local regulation of others under Federal prescription of standards for local jurisdictions.

3. The alternatives were put forward because, as the Commission observed:

"• • • actions have been taken in the cable field without any overall plan as to the Federal-Local relationship." This has resulted in a patchwork of disparate approaches affecting the development of cable television. While the Commission was pursuing a program to promote national cable policy, State and Local governments were formulating policies to reflect local needs and desires. In many respects, this dual approach worked well. To a growing extent, however, the rapid expansion of the cable television industry has led to overlapping and sometimes incompatible regulations. This resulted in confusion, and we faced an obvious need to clarify the respective Federal, State, and Local regulatory roles.

4. After a thorough examination of the alternatives, the Commission decided to attempt a unique experiment in creative federalism, combining aspects of both federal and non-federal jurisdiction. We stated:

• • • local governments are inescapably involved in the process because cable makes use of the streets and ways and because local authorities are able to bring a special expertness to such matters, for example, as how best to parcel large urban areas into cable districts. Local authorities are also in better position to follow up on service complaints. Under the circumstances, a deliberately structured dualism is indicated; the industry seems uniquely suited to this kind of creative federalism.

5. Federal rules of general applicability were adopted regarding the franchising process, access, etc., but the basic decision as to the franchisee was left in the hands of local officials. Considerable latitude was given to those officials to formulate processes for granting the franchise, criteria for judging applicants, parameters for determining qualifications, etc.

6. At the same time, recognizing that we were embarking on an as yet uncharted course of regulatory dualism, we formally established an advisory committee composed of representatives of Federal, State, and local governments, the cable industry, and public interest groups. This Federal/State-Local Advisory Committee, or FSLAC as it came to be called, was formed to aid the Commission as it attempted to define an appropriate allocation of responsibilities in cable regulation.

7. The Committee spent over 16 months studying the various problems inherent in our experiment with regulatory dualism. The result of that study, the FSLAC Final Report, was submitted to the Commission in September 1973.[1] That report has been thoroughly reviewed by this Commission, including a special meeting held between the FSLAC Steering Committee and the full Commission in public session on December 11, 1973. The report was separated into two principal parts—the first dealing with specific regulatory issues and the second with the overall problem of duplicative regulation.

8. In April 1974, we responded to Part I of the FSLAC report with the issuance of the Clarification of Rules and Notice of Proposed Rule Making, FCC 74-384, 46 FCC 2d 175 (1974). In that document, we attempted to deal with the individual issues highlighted by the FSLAC report. In many instances, a simple clarification or reiteration of the existing rules was sufficient. In other areas, the suggestions of the Committee resulted in the initiation of new rulemaking proceedings. These proceedings are now in various stages of resolution.

9. Part II of the FSLAC report, dealing with the desirability of non-duplicative regulation of cable television, is the subject of this document. As we explained in the Clarification:

• • • Our rules attempted to blend diverse needs into a cohesive, cooperative program between federal and local authorities. This effort appears to have been basically successful.

One significant new development, however, has become a complicating factor. State governments have begun asserting a regulatory role in cable television, thus adding a third-tier to the regulatory scheme. When we adopted our rules, we envisioned a system whereby federal rules and guidelines would be complemented by one other regulatory authority—the so-called "local" level of government. We did not specify cities or municipalities because we recognized that in some states the state government would serve as the "local" authority rather than some smaller political subdivision. Indeed, this was the case in 1972, since several states had already asserted state jurisdiction over cable franchising (e.g., Connecticut, Nevada, Rhode Island, and Vermont). However, at that time there were no states asserting an additional regulatory function while leaving other regulatory and franchising matters to localities. It is this latter development that concerns us. A major portion of the FSLAC report deals with this "three-tier" problem (see Part II, FSLAC Final Report). In our December meeting with the FSLAC Steering Committee, this was also a prime topic of discussion. We intend, in the near future, to deal with this question specifically. (Para. 41, 42).

The time has now come for us to deal directly with this troublesome issue.

10. The preface to Part II of the FSLAC Report succinctly states the problem we face:

Part II • • • deals with the legal and political considerations involved in regulatory allocation. The Steering Committee reached unanimous agreement that nonduplicative regulation is a desirable objective. There was considerable disagreement on how or whether that could be accomplished. This disagreement resulted in a majority and minority position being drafted.

11. The main thrust of the two positions is best stated in their own summaries. The majority position states:

A substantial majority of the Committee believes that under the Communications Act of 1934 the Federal Communications Commission has the overriding responsibility and authority to regulate such aspects of cable television as are appropriate to realization of national communications goals.

In discharging this responsibility the FCC has already established exclusive jurisdiction over many aspects of cable. In a number of other areas, in recognition of legitimate local interests in cable, the Commission has not asserted exclusive jurisdiction. Instead while enunciating a general policy of "federal-local

[1] The Final Report of the Steering Committee of the FCC Cable Television Advisory Committee on Federal/State-Local Regulatory Relationships is available for $8.75 from the National Technical Information Service at 5285 Port Royal Road, Springfield, Virginia 22151, Order No. PB 223-147.

dualism," it has evidenced considerable respect for local option and has created a non-directive and admittedly experimental environment in which it hoped an appropriate local partner would emerge.

The majority believes that the FCC must now reconsider this approach. After 18 months of experience, it appears that the FCC's non-directive posture is promoting a regulatory free-for-all rather than the natural and unstructured dualism which the Commission sought. The majority is concerned that the multi-level scramble for control of cable is producing policies and regulations which duplicate, and thereby burden, or directly conflict with the federal objectives. At the very least contending with and attempting to reconcile these problems is dissipating resources which could and should be dedicated to achieving national communications objectives. It is the majority's opinion that what might otherwise be procedural and administrative matters of primarily local concern become appropriate matters for federal direction when they threaten to undermine or detract from accomplishment of such national objectives.

The majority believes its recommendations proceed directly and logically from the Committee's unanimously adopted position "that non-duplicative regulation of cable television is a desirable objective." While many member of the majority initially felt that only total federal preemption with delegation of limited functions to specific local government units could relieve the jurisdictional problems, this approach was questioned by some on Constitutional grounds. Without conceding the merits of these objections, the majority found it could reach a consensus on a less assertive and more easily implemented approach to avoiding regulatory duplication and conflict.

We believe that such duplication can be eliminated if the Commission will forcefully assert its totally pervasive jurisdiction and simultaneously indicate its willingness to defer to lesser jurisdictions the regulation of various local matters provided such local regulation does not imperil its overall objectives. It should clearly enunciate that one such objective is the avoidance of duplication, and that as a result it is committed to a policy of regulatory "dualism."

Exercising appropriate constitutional constraint, the Commission would not direct the action of State or local governments, but would simply make the public interest judgment that federal objectives are best served if in effect only one non-federal jurisdiction is party to the overall regulatory scheme.[14] The Commission would defer definition of its "local partner" for determination by appropriate legislative bodies in each State. So that no momentum is lost, it is recommended that the Commission continue to license cable systems in all States, giving those States which presently maintain two non-federal regulatory tiers a reasonable time to revise their regulatory schemes.

It is the belief of the majority that this experiment in dynamic federalism will make a major contribution to realization of national communications goals by providing a clear and stable regulatory environment for cable's long-term development.

There are eight points to the Committee's arguments in support of its conclusions and recommendations. We present here a brief outline of how this argument is organized. We believe that:

1. The FCC has a responsibility to regulate cable in such a way as to promote realization of national communications objectives and that commensurate with this responsibility, the FCC has clear, overriding, preemptive authority to regulate all aspects of cable as may be appropriate to integrating cable into the national communications scheme;

2. Previous failure to exercise the breath of such legal authority does not imply its absence, but probably reflects:

(a) an inability to anticipate that the Commission's flexible approach would induce duplicative multiple-level local regulation;

(b) a concern for the administrative and regulatory burden that might be created at the FCC by a totally preemptive regulatory plan; and

(c) a recognition of legitimate local interests in many elements of cable's development.

3. The Committee's review of developments since February 1972, suggests to the majority that the Commission must now reconsider its flexible jurisdictional plan, since an increasing incidence of regulatory overlap and conflict in matters left for local determination now threatens to impair and undermine accomplishment of national communications objectives;

4. In developing more structured allocations, the Committee produced, under an "ideal world" assumption, a strong consensus for a "federal-most local level of government dualism," with the States playing a legislative and judicial, rather than regulatory, role;

5. The most logical and direct way of implementing this consensus, i.e., preemption and redelegation of specific functions to the most local levels of government," was questioned by some members on constitutional grounds;

6. In deference to these strongly held political and constitutional precepts, the majority endorses and recommends an alternative and less constitutionally questionable way of establishing regulatory stability. Specifically, the majority recommends that the FCC should declare that:

(a) it is totally preempting regulation of cable and simultaneously announcing its intention not to occupy certain defined areas of jurisdiction subject to the condition that local regulation is consistent with (b) below;

(b) it is in the national communications interest that duplicative or conflicting regulation of cable be avoided and that its overall regulation will embrace only programs which involve one non-federal regulatory jurisdiction or its equivalent; (Subject to modification consistent with footnote, supra.).

(c) the allocation of non-federal authority will be subject to determination under appropriate laws on a State-by-State basis, subject only to compliance with the policy established in (b) above;

(d) in any cases where, after a reasonable period, such local determinations are not made or are made in such a way as to conflict with national policy enunciated in (b) above, the FCC will exercise exclusive jurisdiction;

7. Constitutional and policy arguments raised by a minority of the Committee against the foregoing position lack merit, in that:

(a) There is an overriding federal interest in non-federal procedures when duplications and conflicts in those procedures threaten to frustrate the attainment of national objectives;

(b) The majority's compromise recommendation involves no impingement of any constitutionally protected rights, but merely conditions certification of cable systems' authority to operate in interstate commerce on the absence of burdensome non-federal conflicting or duplicative regulation;

(c) There is precedent for the FCC involving itself in the local aspects of CATV (e.g., franchising standards);

(d) There is precedent for granting CATV Certificates subject to conditions which require changes in local authorizations by local governments (e.g., Sapulpa, Oklahoma);

8. Acceptance of views contrary to the majority's leaves the FCC with only two alternatives, both of which the majority adjudged unacceptable:

(a) total federal preemption which would foreclose legitimate local interests; and,

(b) a "do-nothing" maintenance of the status quo, which is unacceptable in light of what the majority feels is a potential threat to attainment of national communications goals posed by developing regulatory duplication and conflict.

[14] It should be noted that there is a presumption throughout this report that divided (multilevel) local jurisdiction is inherently duplicative. The record of such divided jurisdiction available to the Committee to date supports this presumption. However, some of the signatories to this position believe that in certain carefully designed cases, two non-federal jurisdictions could operate without duplication or conflict. The remaining signatories, while somewhat skeptical about such hypotheses, are prepared to withhold judgment until specific future plans are proposed. Accordingly, the program recommended here makes allowance for approval of individual programs for split local jurisdiction on showings to the FCC that a specific plan for split local jurisdiction is non-duplicative, i.e., has achieved the equivalent of two-tiered federal/local regulation. This qualification on means of achieving regulatory dualism should be borne in mind throughout this report.

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12. The minority position was summarized as follows:

A clear preponderance of opinion on the Steering Committee favors local regulation of those incidents of cable communications that are not regulated exclusively at the federal level. State regulation of such incidents is also considered acceptable by a majority; but some on the Committee would condition their acceptance on the proviso that such State regulation totally supplant local regulation. The sole question at issue in Part II, therefore, is whether those States that do interest themselves in cable regulation may or should be required by the FCC to act in an either-or manner: either staying out entirely, or entirely displacing local governments. The proper answer, on both legal and policy grounds, should be: No. Cities and States may differ on allocations of authority as between themselves, but they are competent to resolve those differences by themselves and they unite in resisting inappropriate federal dictation.

First, the problem itself is scarcely worthy of federal concern. "Three-tier" or cooperative regulation has been enacted into law in only four States, and only two of these (New York and Massachusetts) have commissions in operation.[2] There is simply no hard evidence on which to base a claim of impairment of national communications objectives; and the industry-recommended bill (S. 2015)—which calls for three-tier regulation—is impressive evidence the other way.[3]

Furthermore, the "national communications objectives" at issue are themselves not well-defined or -established. Are they simply to wire all economically viable areas as rapidly as possible? Or may they leave room for thought, such as Massachusetts is giving, to the development of policies that will promote extension of service to all interested residents? No justification has been offered for setting aside the creative resources of our federal system to benefit any one school of thought regarding supposed efficiencies. At the least, the Commission should defer any extension of its own jurisdiction for this purpose pending development of Congressional policy and of concrete facts documenting the supposed "impairment." Cf. CATV and TV Repeater Services, 26 FCC 403 (1959).

Second, the proposed federal remedies would introduce more problems than they would resolve. They would create an artificial inducement for States to involve themselves in cable regulation, and (quite possibly) to do so on a straight public-utility basis. Specifically, one of the proposals would establish a date certain (suggested as March 31, 1977) as a political "High Noon" for States and localities to eliminate one or the other from all regulatory responsibilities, thereby severely politicizing the jurisdictional debate. The alternative proposal—that the Commission claim authority to approve or disapprove cooperative State-local regulatory plans—is more sophisticated but remains insensitive to the creative diversity of our federal system. The rich variety of existing State laws regarding allocations of authority for regulatory and police-power purposes (distinguishing between classes of cities, qualifying certain counties as "home rule" entities and withholding all regulatory power from others, dealing differently with townships and villages, etc. etc.) strongly suggests the futility of seeking any one "right" or federally approved jurisdictional framework. Both proposals would in fact depend upon the legislative (and sometimes constitutional) alignment of regulatory jurisdiction within each of the 50 States in a manner judged acceptable to the Commission—in default of which, in any State, the whole burden of franchising, with competitive hearings and all the rest, would have to be picked up and borne by the Commission. And both proposals would, because of their legal infirmities, invite extensive litigation with resultant serious setbacks to cable development.

Those legal infirmities can be briefly summarized. Both proposals are built on the premise that the Commission has legal authority under the Communications Act as presently written to exercise plenary regulatory jurisdiction—a premise which at the least is not solidly founded. See T.V. Pix, Inc. v. Taylor, 396 U.S. 556 (1970), affirming 304 F. Supp. 459 (D. Nev. 1968); United States v. Midwest Video Corp. 405 U.S. 1015 (1972). More seriously still, even if the substantive law to be applied were entirely federal in origin, there simply is no federal power, arising from the Commerce Clause or otherwise, to limit or control the intra-State allocation of regulatory jurisdiction. See Reynolds v. Sims, 377 U.S. 533, 575 (1964); Hunter v. City of Pittsburgh, 207 U.S. 161 (1907); Testa v. Katt, 330 U.S. 386, 394 (1947); Advisory Commission on Intergovernmental Relations, Urban America and the Federal System, Ch. 5 (1969). Finally, the certificate of compliance does not provide a procedural means of avoiding these difficulties, because "unconstitutional conditions" are no less unconstitutional for being conditions. Sherbert v. Verner, 347 U.S. 398, 404–06 & n. 6 (1963); Note, Unconstitutional Conditions, 73 Harv. L. Rev. 1595 (1960).

The absence of federal power in the premises does not mean that such problems as may arise from State-local cooperative regulation are going to be left unattended. Undue delays and duplications of effort do not commend themselves to State or local governments any more than they do to the industry. But the public welfare is not necessarily or everywhere synonymous with industry welfare. Effective protection of consumer interests is the spur beneath the development, at levels closest to the consumer, of effective schemes of State-local regulation—as it should be the chief concern of this Committee and of the FCC. Efforts in any event have been and are under way to perfect workable allocations of authority for incorporation in State-local regulatory schemes; illustrations are outlined in Section IV of this paper. The Commission may properly encourage such developments, and it should certainly be cognizant of them. But it should be wary of invitations to extend its own reach beyond its grasp, which would only complicate and retard development of cable communications in this country.

13. Both positions are fully explored in the FSLAC Report and the Commission is appreciative of the effort that went into the preparation of the respective briefs. What is of most significance to us, however, is their similarities, not their differences. It cannot be overemphasized that the Committee reached unanimous agreement that non-duplicative regulation is a desirable objective. It is interesting to note that a wholly separate expert committee, the President's Cabinet Committee on Cable Communications, submitted a report to the President in January 1974 that reached essentially the same conclusion. The Cabinet Committee report stated:

> • • • the Committee has concluded—as has virtually every other body that has grapped with this issue—that there must be a carefully structured dualism of government oversight.

14. The Office of Telecommunications Policy, in proposing draft legislation to implement the cabinet committee report, stated in a widely distributed public draft submitted to this Commission (among many others) for comment that:

This bill would provide that wherever non-Federal cable regulation must be consistent with Federally imposed standards, such regulation may be imposed, executed, and enforced by only one non-Federal level of government in order to avoid duplication and inconsistency of regulation. Since the local levels of government, which have traditionally exercised the licensing function, have the greatest interest in cable system construction and operations, it would be logical for them to continue to exercise this important function. However, because such a determination is most appropriately left to the States, the bill does not address the allocation of non-Federal regulatory authority, and this decision remains within the States' discretion.

15. It would appear that the Office of Telecommunications Policy proposal is very similar to the majority position of the FSLAC Report, the major distinction being that their draft proposes a strict "two-tier" approach where the FSLAC majority allows more flexibility for State-Local interaction stressing any appropriate non-duplicative regulatory scheme. We think that particular attention should be paid to the footnote in the majority position summary. It seems to

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[2] The Commission notes that subsequent to the submission of this report, two more states adopted "three-tier" approaches and several others are considering same.

[3] The Commission notes that the industry representatives on the Committee specifically denied that S. 2015 was an "industry bill" or that they considered it in any way an ideal solution to the problem.

offer a potential for "cooperative" regulation (as espoused by the minority position) that would still accomplish non-duplicative regulation.

16. Efforts at cooperative regulation between Federal agencies and State and local officials are being developed in several areas. We note, for instance, the provisions of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C., Secs. 1673, 1674) and the Federal Railroad Safety Act of 1970 (45 U.S.C. Secs. 434, 436) which define the Federal-State relationship in these areas of public concern. In both instances, the Federal government reimburses a percentage of the regulatory costs incurred by the State. Such a cost sharing proposal has not been advanced in the area of cable television and federal budgetary constraints appear to preclude such an approach at this time. This, of course, highlights the economic realities of regulation. That is, in order to do an adequate job, the assumption of regulatory responsibility, particularly the establishment of new regulatory agencies, is expensive. As an example, the current annual budget of the New York State Commission on Cable Television is approximately one million dollars. Some other states have contemplated adopting, in essence the same regulatory program that New York State has but with only one-third the budget. It is questionable whether efficient regulation could result. Even the simple addition of a new department to an existing State agency requires significant expenditures. We urge all parties to investigate the true costs of proposed additional regulatory entities and the expected benefits in relation to those costs before going forward.

17. With the exception of the signatories to the FSLAC minority position on Part II, most studies of this subject have concluded that a problem regarding duplicative regulation does exist and is growing. While there were only two operating "third-tier" bodies when the FSLAC Report was submitted, that number has now doubled. New state legislation is being proposed in several other states that would also create a duplicative tier of regulation. Contrary to the minority view, we do think this is cause for concern.

18. The problems we have encountered since adopting our regulatory dualism approach, however, are not limited only to duplicative regulations and delay. The opposite is also a problem, that is, absence of regulation. In many cases coming before us we are presented with a situation in which there is apparently no non-federal authority capable of issuing and enforcing a franchise. This is particularly true in unincorporated county areas. This problem arises either because of the absence of any clear state law on the subject or because of confusion regarding the applicability of existing law. We cannot stress enough the imperative need for clarifying State legislation in this area. We are very reluctant to grant certificates of compliance in the absence of local authorizations. We have been forced to do so, however, because no local authority was apparently legally empowered to act, yet the public sought service. In each such case, our certificate grant is subject to any subsequent local assumption of authority. We have further made all certificates of this nature temporary, that is, they all expire on March 31, 1977. Hopefully, every state in which uncertainty still exists as to franchising authority will, by that date, have adopted clarifying legislation. We urge the states involved to do this regardless of any potential rulings resulting from this rulemaking proceeding. At the moment, the lack of any local authority appears to be a more pressing problem from our view than the opposite pole of excessive regulation.

19. Some local authorities seem to have construed our rules, such as the franchise fee limitation in Section 76.31(b), as granting them authority to impose such fees or grant franchises in the first instance. This is not the case. Our rules only apply to those governmental entities that already have legal authority to grant a franchise or impose fees, etc.; they do not in any way vest franchising authority in a political jurisdiction not already possessing same under applicable State or local laws. This is yet another reason why clarifying state legislation in the area of cable television is important.

20. The purpose of the rulemaking we are announcing today is to determine what, if any, federal regulations might be necessary to assure that there is both clear and non-duplicative regulation at the local or state level. We have already determined that duplicative regulation is, by definition, not in the public interest and further that a strict requirement of "two-tier" regulation may not offer enough flexibility for creative regulatory programs that could conceivably encompass more than two-tiers while still being non-duplicative. Our experience to date indicates that many non-federal authorities are also now gaining an appreciation of this problem. The question presented, therefore, is how to assure, by rule, legislation, or any other means, that duplicative and excessive regulation is avoided. In the first instance, of course, this is accomplished by a thorough understanding of the problem. Hopefully, this rulemaking will aid in that educational effort.[1]

21. It is clear to us that cable television is in danger of becoming smothered in regulatory paper work. For this reason, we have already embarked on a program of investigating all of our own requirements to see where we could ease this burden. To add yet another layer of regulation would appear to be counterproductive—particularly if that layer simply duplicates what is already being done. As an example, this Commission requires that franchises be awarded only following a public proceeding. We also have a certification procedure to assure that our rules have been complied with. Most states have specific public proceeding requirements before franchises can be granted—these are enforceable in state courts. For the State then to add a certification procedure regarding the franchise grant would appear to be duplicative. It would seem to be far simpler and less costly, both for the State and for the cable operator, to adopt state regulations that would be enforced in court upon an allegation of violation instead of via a non-selective, time consuming, and expensive certification process. We make the presumption, in our certification procedures, that local franchising authorities operate within our rules and within the confines of state laws. To date, this presumption appears to have been valid and we would suggest that state governments might adopt it.

22. The problem of multiple tiers of regulation is exacerbated even further when the laws adopted by the States creating the third-tier lack clarity as to the specific jurisdiction of the two state levels of regulation. Serious delays have been encountered, for example, where a State reviewing body is established without clear statements or guidelines as to exactly what it is reviewing. In one State the review function now includes a thorough study of the economic viability of the individual applicants but the reviewing body has not issued any guidelines as to what the criteria for review consist of. This has resulted in protracted discussions and delays between the local and State officials. Questions have now been raised as to whether local officials can appeal State decisions to this Commission. A more precise structuring of regulatory roles eliminating overlapping or unclear regulatory authority could probably have avoided this problem.

23. While there are now only four states that have adopted so-called "three-tier" approaches to regulating cable, we are aware that other states are contemplating some form of State regulation. We strongly recommend, regardless of the outcome of this rulemaking, that any new state legislation adopted be tested against the concept of non-duplicative regulation and inflationary impact. This is not to say, however, that the States have no role in cable regulation. Indeed there are many areas where it would appear that the states could provide very valuable input. Interconnection agreements, joint powers agreements, educational resource allocations, technical planning and enforcement, pole and duct agreements, and advisory assistance are but a few. There is much yet to be done not only in establishing appropriate regulation of cable television, but also cohesive statewide communications plans that encompass cable

[1] Some might argue that the mere announcement that we are considering action to prevent excessive regulation will prompt hasty action by some jurisdictions. We do not think this is the case. However, it should be made clear that should we adopt regulations on this subject, we contemplate that they would deal with any pre-existing duplicative formats.

television, state educational broadcasting, if any, telephony, etc.

24. One obvious way States have attempted to deal with the duplication problem in cable regulation is to preempt local officials and place cable regulation solely at the State level—generally in the same agency that regulates public utilities. Examples of this form of regulation may be found in Vermont, Connecticut, Nevada, Alaska, Hawaii, and Rhode Island. New Jersey has a separate cable television arm of its Board of Public Utilities but localities still make the initial franchise grant. Delaware leaves franchising to incorporated cities but the Public Utilities Commission grants the franchise in all unincorporated areas. This Commission has continually stated that we do not consider cable to be a classic public utility at this juncture. Some fear that placing cable under the jurisdiction of a State utility regulator would inevitably lead in this direction.[5]

New York and Minnesota, apparently responding to this fear, have opted for a complete three-tier approach much like New Jersey in that a complete certification procedure is required at the State level; however, a separate agency has been established outside the Public Utilities Commission. In Massachusetts, a separate agency has also been created but there is no certification procedure. The agency has the power to promulgate rules and step in on appeal or on its own motion in instances where conflicts arise, but no directly duplicative procedures have been established.

25. This Commission has attempted to work with each of these State agencies to foster to the degree possible harmonious regulatory approaches. We have also maintained continuing contacts with the Informal Conference of State Cable Agencies (CSCA) representing all of these states. We intend to continue working with these various groups to find ways to best regulate cable television while at the same time seeking to eliminate any perceived excessive regulation. A key question posed by this inquiry is how this can best be accomplished.

26. The problems we have encountered to date, however, do not lie solely in the area of duplication of certification procedures. Lengthy additional reporting forms, non-uniform systems of accounting, technical standards, and in some instances rules inconsistent with our own are also of serious concern. The obvious difficulties, particularly for multiple system operators, of maintaining, for instance, separate books with different accounting standards for different states has prompted us to work with both the industry and the state agencies to see whether some agreement can be reached on a uniform system of accounts to be voluntarily adopted by the individual states. Any state contemplating statewide regulations for cable television should become aware of these efforts before going forward. We will offer any assistance we can in this process.

27. Our interest here is in determining to what extent possible and via what mechanisms the Commission can insure that additional regulation of cable television is non-duplicative. We have determined that excessively duplicative regulation does endanger the accomplishment of federal objectives and presents the possibility of obstruction of interstate commerce. We are considering the adoption of any appropriate action or regulation that would prevent such an obstruction while at the same time maintain the rightful prerogatives of the States (and localities as entities of the State) to adopt necessary regulations. Such regulations could, for instance, take the form of rules limiting specific duplication of tasks such as certification, nonconforming reporting forms, systems of accounts, etc. Alternatively, a program of cooperative review and approval of diverse non-federal regulatory structures could suffice similar to the ones already in place under the Natural Gas Pipeline Safety Act of 1968 and the Federal Railroad Safety Act of 1970. "Joint Board" proposals such as we already have with the State Regulatory Commissions in the area of common carrier matters will also be considered.

28. If it is determined that our existing jurisdiction limits our ability to deal with this problem, we will immediately proceed to draft and propose to Congress appropriate additional legislation or amendments to the Communications Act to allow us to adequately resolve the inherent difficulties in duplicative regulation of cable television. All parties are invited to specifically address the issue of proposed legislation as well as the basic questions outlined below. We can foresee that due to the complexities of the issues raised in this document, it may be necessary to issue further notices of proposed rulemaking attacking the problem on a segmented basis. However, if it is determined that, following this rulemaking proceeding, we can take immediate steps to cure the problem of excessive and burdensome over regulation of cable television, we will not hesitate to do so. It is already abundantly clear to us that some action, be it voluntary or mandatory, is necessary.

29. In view of the foregoing, the Commission invites all interested parties to submit comments on or related to the following questions:

1. Is it necessary for this Commission to take any formal action now regarding duplicative and burdensome regulatory schemes being developed in some non-federal jurisdictions? Are there specific areas of regulatory overlap that could be dealt with individually to ease the problem?

2. Under what authority could the Commission regulate the type or nature of non-federal regulatory programs? If legislation is needed to clarify that authority, what should the legislation contain?

3. Should the Commission adopt rules that would permit, at most, two levels of regulatory authority over cable television in any given area? If so, what should those rules be?

4. Should the Commission adopt rules that would require non-duplicative regulation of cable television? If so, what should those rules be?

5. If the Commission does not adopt specific rules in this area, what can or should the Commission do to prevent duplicative and burdensome regulatory requirements being imposed on cable television operations?

30. Authority for the rule making and inquiry proposed herein is contained in sections 4(i), 303, and 403 of the Communications Act of 1934, as amended. All interested parties are invited to file written comments on or before February 17, 1975, and reply comments on or before March 17, 1975. In reaching a decision on this matter, the Commission may take into account any other relevant information before it, in addition to the comments invited by this Notice.

31. In accordance with provisions of Section 1.419 of the Commission's Rules and Regulations, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission Public Reference Room at its Headquarters in Washington, D.C.

Adopted: December 3, 1974.

Released: December 18, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[6]

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-29512 Filed 12-18-74;8:45 am]

[5] It should be noted that the OTP Legislative draft proposal would prohibit, by definition, a State public utility Commission from regulating cable television. Further, while designating cable as a public utility for the legal purpose of including it in easement agreements, etc. might be beneficial, this does not mean that it should automatically be regulated as such.

[6] Statement of Chairman Wiley, in which Commissioners Reid and Robinson join, is filed as part of the original document. Commissioners Hooks and Ovello absent.

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1204, 1260, 1261]

[Ex Parte No. 306; Valuation Docket No. 1428 (1971 Report) and (1972 Report)]

WILLIAMS BROTHERS PIPELINE CO.

Valuation of Common Carrier Pipelines

At a general session of the Interstate Commerce Commission, held at its Office in Washington, D.C., on the 9th day of December, 1974.

It appearing, that by order of August 28, 1974, the Commission instituted a rulemaking proceeding under part I of the Interstate Commerce Act (49 U.S.C.

sec. 1), including section 19a thereof, relating to valuation of common-carrier property, and pursuant to sections 553 and 554 of the Administrative Procedure Act (5 U.S.C. secs. 553 and 554), for the purpose of determining whether any modification is required in the rules and regulations contained in part 1204 of Title 49 of the Code of Federal Regulations, entitled "Pipeline Companies, List of Instructions and Accounts," in part 1260 of said Title 49, entitled "Reporting of Data for Initial Pipeline Valuations," and in part 1261 of said Title 49, entitled "Regulations Governing the Reporting of Property Changes; Pipeline Carriers," or any modification in the methodology of valuation stated in *Ajax Pipe Line Corporation*, 50 Val. Rep. 1.

It further appearing, that Valuation Docket No. 1423 (1971 Report) and (1972 Report) were consolidated with the rulemaking proceeding Ex Parte No. 308 and that motions filed by Williams Brothers Pipe Line Company to reject protests in Valuation Docket No. 1423 were denied by order of August 26, 1974;

It further appearing, that American Petrofina Company of Texas, et al. has filed a petition for leave to intervene in Valuation Docket No. 1423 (1973 Report) in order, among other things, to review the methodology employed by the Commission in the valuation process;

It further appearing, that consideration of pipeline valuation methodologies is the proper subject of, and will be considered in, Ex Parte No. 308, and further good cause existing therefor:

It is ordered, That the Interstate Commerce Commission's Notice of Proposed Rulemaking in Ex Parte No. 308 be modified insofar as it consolidated the rulemaking and valuation proceedings. Valuation Docket No. 1423 is hereby severed from Ex Parte No. 308;

It is further ordered, That American Petrofina's petition for leave to intervene in Valuation Docket 1423 (1973 Report) be, and it is hereby granted.

It is further ordered, That Reports 1971, 1972, 1973, of Valuation Docket No. 1423 be, and they are, hereby consolidated among themselves for hearing separate from Ex Parte No. 308, with exceptions, if any, going to Division 2;

It is further ordered, That Valuation Docket No. 1423 (Reports 1971, 72, 73) be governed by the rules and regulations published by the Commission in 49 CFR part 1204 entitled "Pipeline Companies, List of Instructions and Accounts"; in part 1260 entitled "Reporting of Data for Initial Pipeline Valuations"; part 1261 entitled "Regulations Governing the Reporting of Property Changes; Pipeline Carriers", or any statement of the methodology of valuation described in *Ajax Pipe Line Corporation*, 50 Val. Rep. 1.

It is further ordered, That notice of this supplement to the notice of proposed rulemaking and order be given to the general public, including interested persons, by mailing a copy of this order to the Governor and the regulatory agency of every State, by depositing a copy with the Secretary of the Interstate Commerce Commission, and by delivering a copy to the FEDERAL REGISTER for publication therein; and a copy will be mailed to each respondent.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29605 Filed 12-18-74;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 269]

ADVISORY COMMITTEE ON DISTILLED SPIRITS PLANT SUPERVISION

Notice of Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776, 5 U.S.C. App. I, Supp. II) the Bureau of Alcohol, Tobacco and Firearms announces the establishment of the following advisory committee:

Title. Advisory Committee on Distilled Spirits Plant Supervision.

Purpose. The Committee will provide informed advice and make recommendations to the Director, Bureau of Alcohol, Tobacco and Firearms, as to practical methods to achieve an orderly transition from the present "joint custody" concept of supervision of distilled spirits plants to a plan of more flexible supervision of such operations. Specifically, the committee is to consider the means of implementing the planned elimination or relaxation of the following statutory requirements at distilled spirits plants:

1. Affixture of Government locks and seals;
2. Assignment of Government officers;
3. Joint Custody with respect to storage rooms, or buildings in which distilled spirits are stored; and
4. Exercise of General Government supervision.

Statement of Public Interest. The "joint custody" concept of supervision in distilled spirits operations is a long-established one, and the termination of its use as a revenue protection method will create various problems for both Government and industry. It is in the public interest that the impact of this change be minimized in order to best protect federal revenue, and insure stability in the industry. This function cannot be effectively performed by the Bureau of Alcohol, Tobacco and Firearms or the Treasury Department without the services of this committee and there exists no other advisory committee or group able to provide the required assistance.

To insure balance, membership on the Committee will seek to represent all segments of the distilled spirits industry, including the grain beverage, the brandy, and the industrial producers. In addition, the Committee representation will provide relevant expertise from the academic community, as well as including knowledgeable Government officials.

Authority for this Committee will expire two years from the date the Committee's charter is approved by signature of the Assistant Secretary of the Treasury for Administration unless the Director formally determines that continuance is in the public interest.

Dated: December 12, 1974.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.74-28642 Filed 12-18-74;8:45 am]

Office of the Secretary

[Department Circular Public Debt Series No. 16-74]

TREASURY NOTES OF SERIES K-1976

Dated and Bearing Interest From December 31, 1974

DECEMBER 16, 1974.

I. INVITATION FOR TENDERS

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders on a yield basis for $2,000,000,000, or thereabouts, of notes of the United States, designated Treasury Notes of Series K-1976. The interest rate for the notes will be determined as set forth in section III, paragraph 3, hereof. Additional amounts of the notes may be issued by the Secretary of the Treasury to Government accounts and Federal Reserve Banks for themselves and as agents of foreign and international monetary authorities at the average price of accepted tenders. Tenders will be received up to 1:30 p.m., Eastern Standard time, Monday, December 23, 1974, under competitive and noncompetitive bidding, as set forth in section III hereof. The 5⅞ percent Treasury Notes of Series F-1974, maturing December 31, 1974, will be accepted at par in payment, in whole or in part, to the extent tenders are allotted by the Treasury.

II. DESCRIPTION OF NOTES

1. The notes will be dated December 31, 1974, and will bear interest from that date, payable semiannually on June 30, 1975, December 31, 1975, June 30, 1976, and December 31, 1976. They will mature December 31, 1976, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000 and $1,000,000. Book-entry notes will be available to eligible bidders in multiples of those amounts. Interchanges of notes of different denominations and of coupon and registered notes, and the transfer of registered notes will be permitted.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. TENDERS AND ALLOTMENTS

1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Standard time, Monday, December 23, 1974. Each tender must state the face amount of notes bid for, which must be $5,000 or a multiple thereof, and the yield desired, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a yield. In the case of competitive tenders, the yield must be expressed in terms of an annual yield, with two decimals, e.g., 7.75. Noncompetitive tenders from any one bidder may not exceed $500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, federally insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment (in cash or 5⅞ percent Treasury notes of Series F-1974 which will be accepted at par) of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which

public announcement will be made by the Department of the Treasury of the amount and yield range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established at the nearest ⅛ of one percent necessary to make the average accepted price 100.00 or less. That will be the rate of interest that will be paid on all of the notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept more or less than the $2,000,000,000 offered to the public, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $500,000 or less without stated yield from any one bidder will be accepted in full at the average price (in three decimals) of accepted competitive tenders.

4. All bidders are required to agree not to purchase or sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after 1:30 p.m., Eastern Standard time, Monday, December 23, 1974.

5. Commercial banks in submitting tenders will be required to certify that they have no beneficial interest in any of the tenders they enter for the account of their customers, and that their customers have no beneficial interest in the banks' tenders for their own accounts.

IV. Payment for and Delivery of Notes

1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before December 31, 1974, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. Payment must be in cash, 5⅞ percent Treasury Notes of Series F–1974 (interest coupons dated December 31, 1974, should be detached), in other funds immediately available to the Treasury by December 31, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it, which must be received at such Bank or at the Treasury no later than: (1) Friday, December 27, 1974, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District in the case of the Treasury, or (2) Tuesday, December 24, 1974, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. When payment is made with notes, a cash adjustment will be made to or required of the bidder for any difference between the face amount of notes submitted and the amount payable on the notes allotted.

2. Delivery of notes in bearer form will be made on or about January 6, 1975. Purchasers of bearer notes may elect to receive interim certificates on December 31, 1974, which will be exchangeable for the notes when available at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

V. Assignment of Registered Notes

1. Registered notes tendered as deposits and in payment for notes allotted hereunder are not required to be assigned if the notes are to be registered in the same names and forms as appear in the registrations or assignments of the notes surrendered. Specific instructions for the issuance and delivery of the notes, signed by the owner or his authorized representative, must accompany the notes presented. Otherwise, the notes should be assigned by the registered payees or assignees thereof in accordance with the general regulations governing United States securities, as hereinafter set forth. Notes to be registered in names and forms different from those in the inscriptions or assignments of the notes presented should be assigned to "The Secretary of the Treasury for Treasury Notes of Series K–1976 in the name of (name and taxpayer identifying number)." If notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon Treasury Notes of Series K–1976 to be delivered to _____." Notes tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The notes must be delivered at the expense and risk of the holder.

VI. General Provisions

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

Stephen S. Gardner,
Acting Secretary of the Treasury.

[FR Doc.74–29609 Filed 12–18–74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA OUTER CONTINENTAL SHELF OFFICE

Change of Address

December 12, 1974.

Notice is hereby given that the Bureau of Land Management's Alaska Outer Continental Shelf Office has moved to a new location.

Effective November 18, 1974, the new street address is:

800 "A" Street
Anchorage, Alaska 99501

The mailing address will remain:

P.O. Box 1159
Anchorage, Alaska 99510

The telephone number will remain:

907–279–4573

George L. Turcott,
Associate Director,
Bureau of Land Management.

[FR Doc.74–29593 Filed 12–18–74;8:45 am]

[No. A 8800]

ARIZONA

Proposed Withdrawal and Reservation of Lands

The Forest Service, United States Department of Agriculture has filed an application, Serial Number A 8800, for the withdrawal of lands under the Act of July 9, 1962 (76 Stat. 140; 43 U.S.C. 315g–1).

Subject to valid existing rights the following described lands, acquired in an exchange made pursuant to section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), as amended, would be added to and made a part of the Sitgreaves National Forest and would be subject to all laws and regulations applicable to national forest lands:

Gila and Salt River Meridian, Arizona

T. 13 N., R. 13 E.,
Sec. 7, lots 2 to 8, incl., and lots 11 and 12.

The area described aggregates approximately 341.13 acres in Coconino County.

On or before January 20, 1975, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal, may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 3022 Federal Building, Phoenix, Arizona 85025.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

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The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

Dated: December 13, 1974.

JOE T. FALLINI,
State Director.

[FR Doc.74-28533 Filed 12-18-74;8:45 am]

GEOTHERMAL LEASE SALE

Competitive Bid

Bid Submission Procedures. Notice is hereby given that pursuant to section 4 of the Geothermal Steam Act of 1970 (84 Stat. 1566, 30 U.S.C. 1001–1025) and the regulations issued thereunder (43 CFR Part 3200) sealed bids will be received for the leasing of geothermal resources in lands described below situated in the vicinity of Clifton, Graham County, Arizona. Sealed bids must be mailed to the Arizona State Office, Bureau of Land Management, 3022 Federal Building, 230 North First Avenue, Phoenix, Arizona 85025, or delivered in person to Room 3204, Federal Building, at the same address, prior to 10 a.m., m.s.t. January 28, 1975. Bids received after 10 a.m. on January 28, 1975, will be returned unopened. Bids may not be modified or withdrawn unless written modification or withdrawal is received prior to the time set for opening of bids. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3220.

FORM OF BID

Any bid submitted shall be in a sealed envelope endorsed "Sealed Bid for Geothermal Lease Sale—Clifton, Arizona, Area, not to be opened until 10 a.m. January 28, 1975". Bids are to be submitted on Form 3200–4 "Competitive Geothermal Resources Lease Bid." Bid forms are available through the Arizona State Office, Bureau of Land Management at the address above. Bidders must submit with each bid one-half of the bonus amount bid in cash, or by cashier's check, bank draft, certified check, or money order, payable to the Bureau of Land Management. Proof of qualifications as required by 43 CFR Part 3202 must also be filed with the bid. All bidders are warned against violation of the provision of Title 18 U.S.C. section 1860 prohibiting unlawful combination or intimidation of bidders.

BID OPENING

Bids will be opened on January 28, 1975, at 10 a.m., m.s.t., in Room 3204, Federal Building, at the above address. The opening of bids is for the sole purpose of publicly announcing and recording bids received. No bid will be accepted or rejected at that time. Any cash, checks, drafts, or money orders submitted with the bids may be deposited in an unearned escrow account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

ACCEPTANCE OR REJECTION OF BIDS

No bid will be accepted and no lease will be awarded to any bidder unless the bidder has complied with all requirements of this notice, his bid is the highest valid cash bonus bid for the tract, and the amount of the bonus bid has been determined to be adequate by the United States. The Government reserves the right to reject any and all bids. If the highest responsible qualified bidder fails to execute the lease or otherwise comply with the applicable regulations as set forth herein, his deposit will be forfeited (43 CFR 3220.6(e)). Before any lease will be issued to a successful bidder, the balance of the bonus bid, plus the first year rental, shall be remitted and a proposed plan of operation as required by 43 CFR 3210.2–1(d) shall be furnished. Where the lessee has not previously furnished a $150,000 full nationwide bond covering geothermal leases, the lessee must furnish either a $50,000 statewide bond applicable to the State of Arizona, or a $10,000 lease compliance bond conditioned upon compliance with the terms of the lease. Lessee shall also complete and file Forms 1140–7, Equal Opportunity Affirmative Action Program Representation, and 1140–8 Equal Opportunity Compliance Report Certification.

RENTAL RATE

Royalties payable to the United States will be at the rate of: (a) 10 percent of the amount or value of steam or any other form of heat or energy derived from production; (b) 5 percent of the value of any by-product derived from production under the lease, except that as to any by-product which is a mineral named in section 1 of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181), the rate of royalty for such mineral shall be the same as that provided in that Act and (c) 5 percent of the value of commercially demineralized water sold or utilized by the leasee, except that no payment of royalty will be required on such water used in plant operation for cooling or in the generation of electric energy or otherwise. Annual rental for the first through the fifth lease year will be at the rate of $2.00 per acre or fraction thereof, for the sixth lease year and for each lease year thereafter prior to production, the rental will be the amount of the rental for the preceding year, plus an additional $1.00 per acre.

LEASE TERMS

Any lease issued as a result of this sale will be on Form 3200–21 (May 1974) as modified by the stipulations as set forth below. Copies of the lease form are available from the Arizona State Office, Bureau of Land Management at the above address. The stipulations to be contained in each lease are:

SPECIAL STIPULATIONS AND CONDITIONS

In addition to lease terms and requirements contained in the lease form, the lessee shall comply with the following special conditions and stipulations unless they are modified by mutual agreement of the lessee, the Supervisor and the authorized officer.

1. Any occupancy or disturbance to the land surface on the SW¼SE¼ and S½SE¼-SE¼ of Sec. 19, and the N½NE¼, the SE¼NE¼ and the NE¼SE¼ of Sec. 30 which are within the City limits of Clifton, Arizona will not be initiated without prior approval of the authorized officer.

2. The lessee shall provide a complete inventory and evaluation of archaeological and historical values on lands to be disturbed or occupied. This will be prepared by a competent archaeologist, acceptable to the authorized officer, in advance of any surface disturbance.

3. Any public land survey markers accidentally damaged or obliterated by the lessee or his operator must be re-established in accordance with instructions of the responsible agency at the expense of the lessee.

4. Natural drainage systems shall not be blocked. No cuts or fills shall be made in or near drainages which will result in siltation or the accumulation of debris.

5. The lessee shall make every possible effort to prevent, control or suppress any fire on national resource lands within the lease area. Reports of uncontrolled fire must be immediately sent to the BLM District Office, Safford, Arizona. Fire suppression costs relating fires caused by the lessee's operations will be borne by lessee.

6. If considered necessary by either the Supervisor or the Authorized Officer, the Supervisor may require temporary fencing of areas to alleviate hazards to humans, livestock or wildlife or to allow seedlings on rehabilitated areas to become established.

7. Existing surface waters in pipelines, storage tanks, ponds, reservoirs or streams are not available for use in any activities under this lease except as may be specifically permitted by the authorized officer.

8. If considered necessary by either the Supervisor or the Authorized Officer, the Supervisor may, in his discretion, apply standards from local, county, and state zoning ordinances, building codes and environmental protection regulations to lessee's operations under this lease.

TRACT DESCRIPTION

The lands offered for bid comprise a single leasing tract and are described as follows:

TOWNSHIP 4 SOUTH, RANGE 30 EAST, GSR MERIDIAN, ARIZONA

Sec. 19: SW¼SE¼, S½SE¼SE¼
Sec. 29: SW¼
Sec. 29: W½, W½SE¼
Sec. 30: N½NE¼, SE¼NE¼, NE¼SE¼
Total 285 acres.

GLENDON E. COLLINS,
Acting State Director.

[FR Doc.74-28532 Filed 12-18-74;8:45 am]

[NM 22750]

NEW MEXICO

Application

DECEMBER 11, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 7 W.,
Sec. 6, SE¼NW¼, and NE¼SW¼.

This pipeline will convey natural gas across .203 miles of national resource lands in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-29530 Filed 12-18-74;8:45 am]

[NM 23653]

NEW MEXICO

Application

DECEMBER 10, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Company of America has applied for one 8-inch and one 10-inch natural gas pipeline and a dehydration site and two meter sites rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 27 E.,
Sec. 17, SW¼NE¼, N½SE¼, SE¼SE¼;
Sec. 21, W½NW¼, SE¼SW¼, SW¼SE¼;
Sec. 27, SW¼SW¼;
Sec. 28, NW¼NE¼, S½NE¼, E½SE¼;
Sec. 34, N½NW¼, SE¼NW¼, NE¼SW¼ and W½SE¼.
T. 19 S., R. 27 E.,
Sec. 3, Lots 1, 2, SE¼NE¼ and NE¼SE¼.
T. 21 S., R. 27 E.,
Sec. 1, Lots 4, 5, 11, 12, NE¼SW¼, W½SE¼;
Sec. 2, Lot 1;
Sec. 12, N½NE¼ and SE¼NE¼.
T. 19 S., R. 28 E.,
Sec. 31, W½NE¼, SE¼NE¼ and E½SE¼.
T. 20 S., R. 28 E.,
Sec. 5, Lot 4, S½NW¼, E½SW¼, SW¼SE¼;
Sec. 8, W½NE¼, SE¼NE¼;
Sec. 9, SW¼SW¼;
Sec. 21, N½NE¼, SE¼NE¼, NE¼SE¼;
Sec. 22, W½SW¼;
Sec. 27, N½NW¼, SE¼NW¼, NE¼SW¼, W½SE¼;
Sec. 34, N½NE¼, SE¼NE¼;
Sec. 35, SW¼NW¼, W½SW¼ and SE¼SW¼.
T. 21 S., R. 28 E.,
Sec. 7, Lots 2, 3, 4;
Sec. 18, SW¼NE¼, W½SE¼, SE¼SE¼;
Sec. 19, NE¼NE¼;
Sec. 25, NW¼SW¼, E½SW¼, S½SE¼;
Sec. 26, N½S½;
Sec. 27, N½S½;
Sec. 28, S½N½, NE¼SE¼;
Sec. 29, W½NE¼ and SE¼NE¼.
T. 21 S., R. 29 E.,
Sec. 28, S½SW¼;
Sec. 29, S½S½;
Sec. 30, Lot 4, SE¼SW¼, S½SE¼;
Sec. 33, N½NE¼, NE¼NW¼;
Sec. 34, N½NW¼.

These pipelines will convey natural gas across 22.321 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-29528 Filed 12-18-74;8:45 am]

[NM 24001]

NEW MEXICO

Application

DECEMBER 10, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 28 E.,
Sec. 11, NE¼SW¼.

These pipelines will convey natural gas across .077 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-29529 Filed 12-18-74;8:45 am]

[NM 24004]

NEW MEXICO

Notice of Application

DECEMBER 12, 1974.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 10 W.,
Sec. 8, Lot 5.

This pipeline will convey natural gas across .073 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-29531 Filed 12-18-74;8:45 am]

[No. 48648]

WYOMING

Application

DECEMBER 10, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Kansas-Nebraska Natural Gas Company, Inc. has applied for a right-of-way for a natural gas compressor station on the following land:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 35 N., R. 85 W.,
sec. 14, SW¼NW¼, NW¼SW¼.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should send their name and address to the District Manager, Bureau of Land Management, P.O. Box 2834, Casper, Wyoming 82601.

PHILIP C. HAMILTON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-29591 Filed 12-18-74;8:45 am]

[Wyoming 48666]

WYOMING

Notice of Application

DECEMBER 13, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Chandler & Associates, Inc. has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 56 N., R. 74 W.,
Sec. 2, SW¼NW¼, N½SW¼, SW¼SE¼;
Sec. 3, lots 1 and 2.

The pipeline will convey natural gas across 1.17 miles of national resource lands in Campbell County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should send their name and address to the District Manager, Bureau of Land Management, P.O. Box 2834, Casper, WY 82601.

PHILIP C. HAMILTON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-29592 Filed 12-18-74;8:45 am]

Geological Survey

GULF OF MEXICO AREA

Notice of Amended Effective Date for Revised OCS Order No. 2

Notice is hereby given that the effective date of Revised OCS Order No. 2 for the Gulf of Mexico Area has been amended from December 1, 1974 to January 1, 1975. The purpose of this action is to provide time for operators to meet the Order's revised requirements and to allow the Geological Survey's Gulf of Mexico Area offices to update inspection forms and procedures.

HENRY W. COULTER,
Acting Director.

[FR Doc.74-29538 Filed 12-18-74;8:45 am]

Office of the Secretary

[INT FES 74-65]

PROPOSED CHASE LAKE WILDERNESS AREA

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the Department of the Interior has prepared a Final Environmental Statement for the Proposed Chase Lake Wilderness Area, Stutsman County, North Dakota.

The proposal recommends that approximately 4,155 acres of the Chase Lake National Wildlife Refuge in Stutsman County, North Dakota be designated as wilderness within the National Wilderness Preservation System.

Copies of the Final Statement are available for inspection at the following locations:

Regional Director
10597 West Sixth Avenue
Lakewood, Colorado 80215

Refuge Manager
Rural Route 1
Edmunds, North Dakota 58434

U.S. Fish and Wildlife Service
Office of Environmental Coordination
Department of the Interior
Room 2252
18th and C Streets, N.W.
Washington, D.C. 20240

Single copies may be obtained by writing the Chief, Office of Environmental Coordination, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Dated: December 13, 1974.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.74-29539 Filed 12-18-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A107]

INDIANA

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in 20 counties in Indiana. The Secretary has found that this need exists as a result of natural disasters shown on the attached chart which also lists the 20 counties.

Therefore, the Secretary has designated these areas as eligible for Emergency Loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Otis R. Bowen that such designation be made.

Applications for Emergency loans must be received by this Department no later than February 6, 1975, for physical losses and September 9, 1975, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D. C., this 13th day of December 1974.

FRANK W. NAYLOR, JR.,
Acting Administrator,
Farmers Home Administration.

Indiana—20 counties—1974

County	Excessive rainfall	Drought	Frost	Hailstorms
Jackford	May 15 to June 15	July 4 to July 30	Sept. 28	
Daviess	May 1 to June 20 [1]	July 1 to Aug. 15	Sept. 25	
DeKalb	Apr. 1 to May 31	July 1 to Aug. 12	Oct. 4	
Elkhart	May 1 to May 30	July 1 to Sept. 15	Sept. 22	
Fulton	June 1 to June 15	July 1 to Aug. 31	Sept. 30 Oct. 3	
Kosciusko	May 1 to June 10	June 15 to Aug. 30	Sept. 22	
LaGrange	May 1 to May 30	July 1 to Sept. 15	Sept. 30	
Martin	May 10 to June 12	June 12 to July 28	Sept. 15	July 20.
Montgomery	May 7 to June 15	June 16 to Aug. 15	Sept. 22 Oct. 3	
Noble	June 1 to June 15	June 25 to Sept. 3	Sept. 22	
Pike	May 1 to June 20 [1]	July 1 to Aug. 31	Sept. 25	
Putnam	May 7 to June 22	June 16 to Aug. 14	Sept. 22 Oct. 1	
St. Joseph	May 1 to May 31	July 1 to Aug. 31	May 6, 9 Sept. 22 Oct. 1	June 14.
Steuben	Apr. 1 to May 31	July 1 to Aug. 31	Sept. 28	
Sullivan	May 7 to June 20	June 22 to Aug. 8	Oct. 1	Aug. 8.
Switzerland	Apr. 8 to May 25 Aug. 20 to Oct. 1	June 20 to Aug. 30	Sept. 22, 30 Oct. 2	
Vanderburgh [2]	Apr. 1 to June 24 [1]	June 24 to Aug. 1	Mar. 24 Oct. 3	
Vigo	May 7 to June 22 [1]	June 1 to Aug. 2	Apr. 24, 28 May 7 Oct. 1	Aug. 12. [3]
Wabash	May 7 to June 6	June 21 to Aug. 14	Sept. 29	
Whitley	Apr. 1 to May 31 [1]	June 25 to Aug. 9	Sept. 28	Aug. 13.

[1] Flooding.
[2] This county near joining of Ohio and Wabash Rivers. Some flooding preceded the April 1 date.
[3] Windstorms.

[FR Doc.74-29402 Filed 12-18-74;8:46 am]

[Notice of Designation Number A109]

SOUTH DAKOTA

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in eight counties in South Dakota. The Secretary has found that this need exists as a result of natural disasters shown on the attached chart which also lists the eight counties.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Richard F. Kneip that such designation be made.

Applications for Emergency loans must be received by this Department no later than February 6, 1975, for physical losses and September 9, 1975, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 12th day of December 1974.

FRANK W. NAYLOR, JR.,
Acting Administrator,
Farmers Home Administration.

South Dakota—8 counties—1974

County	Drought	Frost
Beadle	June 1 to Oct. 15	
Custer	June 1 to Oct. 28	
Davison	June 1 to Oct. 20	
Fall River	Apr. 10 to July 5	
Jones	Dec. 1, 1973 to Aug. 6	
McPherson	June 1 to Oct. 11	
Meade	May 1 to Aug. 14	
Perkins	June 1 to Oct. 28	

[FR Doc.74-29461 Filed 12-18-74;8:45 am]

Federal Crop Insurance Corporation

[Notice No. 92]

GRAPES—NEW YORK AND PENNSYLVANIA

Extension of the Closing Date for Filing of Applications for the 1975 Crop Year

The time for filing applications for grape crop insurance for the 1975 crop

year in all counties in New York and Pennsylvania where such insurance is otherwise authorized, which was extended to the close of business on December 14, 1974, pursuant to Notice No. 86 published in the FEDERAL REGISTER on September 23, 1974, (39 FR 34085) is hereby further extended to the close of business on December 31, 1974. All other conditions remain the same as set forth in said Notice No. 86.

[SEAL] M. R. PETERSON,
Manager,
Federal Crop Insurance Corporation.

[FR Doc.74-29497 Filed 12-18-74;8:45 am]

Forest Service

CULLASAJA RIVER & WHITEWATER RIVER UNIT PLANS

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Cullasaja River and Whitewater River Unit Plans, Nantahala National Forest, USDA-FS-R8-FES (ADM.)—75-3.

This environmental statement concerns the proposed 10-year plan for the Cullasaja River and Whitewater River Units of the Highland and Wayah Ranger Districts, Nantahala National Forest, located in Transylvania, Jackson and Macon Counties, North Carolina. These units contain 30,600 acres of National Forest land.

Management decisions will affect major forest resources as wildlife, water quality, soils, vegetative cover, aesthetics, roads, trails and recreation.

This final environmental statement was filed with CEQ December 10, 1974. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Rm. 3230
12th St. & Independence Ave., SW
Washington, DC 20250

USDA, Forest Service
District Ranger
Highland Ranger District
Highlands, NC 28741

USDA, Forest Service
1720 Peachtree Rd., NW, Rm. 804
Atlanta, GA 30309

USDA, Forest Service
District Ranger
Wayah Ranger District
Franklin, NC 28734

A limited number of single copies are available upon request to Forest Supervisor Robert Cermak, National Forests in North Carolina, 50 S. French Broad Ave., Asheville, NC 28802.

Dated: December 10, 1974.

DAVID F. JOLLY,
Regional Environmental Coordinator.

[FR Doc.74-29515 Filed 12-18-74;8:45 am]

GRAND MESA-UNCOMPAHGRE NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Timber Management Plan Revisions for the Grand Mesa-Uncompahgre National Forest. The Forest Service report number is USDA-FS-R2-DES(Adm) FY-75-03.

The environmental statement concerns a proposal to revise the 1961 (Rev.) Timber Management Plan for the Grand Mesa-Uncompahgre National Forest in west central Colorado. Such Plans are required to regulate the flow of timber products from National Forest lands.

This draft environmental statement was transmitted to CEQ on December 13, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
So. Agriculture Bldg., Room 3230
12th St. & Independence Ave., SW
Washington, D.C. 20250

USDA, Forest Service
11177 West 8th Avenue
P.O. Box 25127
Denver, Colorado 80225

USDA, Forest Service
Grand Mesa-Uncompahgre National Forest
11th and Main Street
P.O. Box 138
Delta, Colorado 81416

A limited number of single copies are available upon request to W. J. Lucas, Regional Forester, USDA Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colorado 80225.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to W. J. Lucas, Regional Forester, USDA Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colorado 80225. Comments must be received by February 11, 1975, in order to be considered in the preparation of the final environmental statement.

Dated: December 13, 1974.

CLAYTON B. PIERCE,
Director, Multiple Use and Environmental Quality Coordination.

[FR Doc.74-29517 Filed 12-18-74;8:45 am]

HORSESHOE MEADOWS, INYO NATIONAL FOREST

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Horseshoe Meadows Land Use Plan, Inyo National Forest, California, USDA-FS-FES (Adm)-74-66.

The environmental statement concerns a proposed land use plan which will provide year-round recreational facilities of moderate scale near Horseshoe Meadows, within Cottonwood Basin, Inyo National Forest, Inyo County, California. The plan calls for a 100-unit overnight campground, 25 back-country camp units, an interpretive program, Pacific Crest trailhead facilities, a pack station with overnight facilities, limited development for cross-country skiing, and a road extension of about one mile. Parking will be provided for and limited to 150 cars.

This final environmental statement was transmitted to the Council on Environmental Quality (CEQ) on December 13, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th Street and Independence Ave., SW
Washington, D.C.

Regional Forester's Office
630 Sansome Street, Room 529
San Francisco, California

Forest Supervisor's Office
Inyo National Forest
2957 Birch Street
Bishop, California

Forest Service
District Ranger
Lone Pine, California

A limited number of single copies are available, upon request, from Forest Supervisor Everett Towle, Inyo National Forest, 2957 Birch Street, Bishop, California 93514.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Dated: December 13, 1974.

T. W. KOSKELLA,
Deputy Regional Forester.

[FR Doc.74-29518 Filed 12-18-74;8:45 am]

NORTH & WEST FORKS FRENCH BROAD AND DAVIDSON RIVER UNIT PLANS

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the North and West Forks French Broad and Davidson

River Unit Plans, Pisgah National Forest, USDA–FS–R8–FES (ADM.)—74–7.

This environmental statement concerns the proposed 10-year plan for the North and West Forks French Broad and Davidson River Units on the Pisgah Ranger District, Pisgah National Forest. The units contain 61,363 acres of National Forest land, located in Transylvania County, North Carolina.

Management decisions will affect major forest resources such as wildlife, water quality, soils, vegetative cover, aesthetics, roads, trails and recreation.

This final environmental statement was filed with CEQ December 10, 1974. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Rm. 3230
12th St. & Independence Ave., SW
Washington, DC 20250

USDA, Forest Service
1720 Peachtree Rd., NW, Rm. 804
Atlanta, GA 30309

USDA, Forest Service
District Ranger
Pisgah Ranger District
Pisgah Forest, NC

A limited number of single copies are available upon request to Forest Supervisor Robert Cermak, National Forests in North Carolina, 50 S. French Broad Ave., Asheville, NC 28802.

Dated: December 10, 1974.

DAVID F. JOLLY,
Regional Environmental Coordinator.

[FR Doc.74–29516 Filed 12–18–74;8:45 am]

ROLLING PRAIRIE PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Rolling Prairie Planning Unit, Forest Service Report Number USDA–FS–DES (Adm) R1–75–5.

The environmental statement concerns a proposed action for the implementation of a Multiple Use Plan for the Rolling Prairie Planning Unit, Little Missouri River National Grasslands, Custer National Forest. The Planning Unit is located in McKenzie, Golden Valley, Billings, and Slope Counties of North Dakota and contains 882,080 acres of which 377,954 acres are administered by the U.S. Forest Service.

This draft environmental statement was filed with CEQ on December 12, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service
South Agriculture Bldg., Room 3231
12th St. & Independence Ave., SW
Washington, DC 20250

USDA Forest Service, Northern Region
Federal Building
Missoula, MT 59801

USDA Forest Service, Custer National Forest
2602 1st Ave. North
Billings, MT 59103

USDA Forest Service
Medora Ranger District
1409 W. Villard
Dickinson, ND 58601

USDA Forest Service
McKenzie Ranger District
Highway 85 South
Watford City, ND 58854

A limited number of single copies are available upon request to Forest Supervisor D. C. MacIntyre, Custer National Forest, P.O. Box 2556, Billings, MT 59103.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor D. C. MacIntyre, Custer National Forest, P.O. Box 2556, Billings, MT 59103. Comments must be received by February 12, 1975 in order to be considered in the preparation of the final environmental statement.

Dated: December 12, 1974.

KEITH M. THOMPSON,
Acting Regional Forester, Northern Region, Forest Service.

[FR Doc.74–29514 Filed 12–18–74;8:45 am]

Packers and Stockyards Administration

[P. & S. Docket No. 5040]

DIXIE STOCK YARD, INC.

Order Extending Period of Suspension of Modifications of Rates and Charges

On November 15, 1974, an order was issued instituting the following proceeding under Title III of the Packers and Stockyards Act, 1921, as amended, 42 Stat. 159, as amended (7 U.S.C. 181 et seq.):

Dixie Stock Yard, Inc.
Meridian, Mississippi
(39 FR 40965, 40966)

Such order, among other things, suspended and deferred the operation and use by the respondent of modifications of its current schedule of rates and charges to become effective November 18, 1974, for a period of thirty days beyond the time such modifications would otherwise go into effect.

Notice is hereby given that, since the hearing in this proceeding could not be concluded within such period of suspension, an order has been issued in the above proceeding suspending and deferring the operation and use of such modifications of the current schedule of rates and charges for a further period of thirty days beyond the date when such modifications would have otherwise become effective.

Done at Washington, D.C. on December 16, 1974.

MARVIN L. MCLAIN,
Administrator, Packers and Stockyards Administration.

[FR Doc.74–29587 Filed 12–18–74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

FERROUS SCRAP SHIPMENTS

Fourth Quarter 1974 Foreign Policy Allocations

On November 4, 1974, the Department of Commerce announced that 100,000 short tons of ferrous scrap had been assigned, following consultations with the Department of State and the National Security Council, to certain countries to fill special needs that are in consonance with U.S. foreign policy objectives. The deadline for receiving applications for licenses to export this scrap was December 6, 1974. Tonnages for which valid applications were not received prior to the deadline are reassigned as follows:

[In short tons]

Country	Allocation	Exporter limit	Type "A"[1]
Brazil	5,000	5,000	5,000
Chile	3,300	3,300	3,000
Dominican Republic	300	300	300
Egypt	6,000	6,000	2,000
Israel	6,000	6,000	2,000
Korea	6,400	6,400	1,500
Pakistan	5,000	5,000	3,150
Philippines	2,000	2,000	1,200

[1] The column designated Type "A" indicates the maximum tonnage of ferrous scrap, out of the total foreign policy allocation for a particular country, that may be licensed from the Type "A" scrap grades, which include No. 1 and No. 2 heavy melting steel scrap, No. 1 bundles, and ire scrap.

Any exporter who obtains an order dated after December 12, 1974 and before January 1, 1975 for export of ferrous scrap to a country that has received an additional allocation hereunder, may submit an application for an export license whether or not he has a past history of exporting scrap to the country involved. The application must be clearly marked "Foreign Policy Allocation." No exporter may apply for licenses for any one country for more than the amount shown in the column designated "Exporter Limit". If applications are received from an exporter for export to a country of a quantity that exceeds that country's "Exporter Limit" or Type "A" maximum tonnage, the applicant will be contacted to determine which of his applications should be reduced in quantity or returned without action. Applications received by the Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 after 12 noon e.s.t. Tuesday, December 31, 1974, will not be considered.

Licenses will be issued after December 31, 1974. In the event that applications for licenses are received for quantities in excess of the total quantity allocated to a particular country or its Type "A" maximum, the Department of Commerce will request advice and guidance from such country as to the consignee(s) that should receive preference. Such advice will be considered along with other factors, such as the type and location of the scrap involved, etc., in deciding which applications to license.

In addition to the requirements set forth above, the applications must conform to the requirements for submission set forth in § 377.4 of the Export Administration Regulations. Applications must be submitted on Forms DIB–622P or FC–419 and DIB–623P or FC–420.[1] Such applications must be accompanied by: (1) a photocopy or certified copy of the order (if the order is not from the ultimate consignee, a copy of the contract between the purchaser or other parties involved and the ultimate consignee must also be submitted in support of the application), and (2) where import permits are required by the country of destination, a statement from the ultimate consignee (or other foreign party to the transaction), or other documentation, which indicates to the satisfaction of the Office of Export Administration that the permit has been obtained.

Applications for which the required accompanying documentation is not received by the Office of Export Administration by 12 noon e.s.t. December 31, 1974 will not be considered. In order for an application to be acceptable, the ferrous scrap must be described in sufficient detail so that the "Type" it belongs in may be ascertained and verified.

Licenses will expire 90 days from the date of issuance. The shipping tolerance for exports shall be 5 percent of the unshipped quantity. Any cancellation of an order automatically revokes the license that was issued against it.

Effective date of action: December 31, 1974.

RAUER H. MEYER,
Director,
Office of Export Administration.

[FR Doc.74-29422 Filed 12-18-74;8:45 am]

National Oceanic and Atmospheric Administration

METEOROLOGICAL SATELLITE IMAGERY SIGNAL

Availability

Notice is hereby given that, pursuant to the authority contained in 15 U.S.C. 1152 and 31 U.S.C. 483a, the National Oceanic and Atmospheric Administration, United States Department of Commerce, is making available to the public the Synchronous Meteorological Satellite (SMS) imagery signal at the Satellite Field Services Stations (SFSS) of the National Oceanic and Atmospheric Administration's National Environmental Satellite Service. These SFSS stations, located at Miami, Florida; Washington, D.C.; Kansas City, Missouri; and San Francisco, California, are now capable of providing meteorological satellite imagery signals of their geographical regional areas to interested private and Government users.

Upon installation of appropriate telephone communications and terminal recording devices by the interested user, a connection at one of the SFSSs indicated above can now be obtained for a one-time charge and a minimal annual recurring service charge.

For additional detailed information, parties interested in obtaining a license for subscription to this service should forward a written request to:

NOAA, National Environmental Satellite Service
Field Services Division, S122, WWB
Washington, D.C. 20233
Attn: GOES–Tap

Licenses will be granted in order of receipt of applications.

M. P. SNIDERO,
Acting Assistant Administrator for Administration, National Oceanic and Atomspheric Administration.

[FR Doc.74-29519 Filed 12-18-74;8:45 am]

Office of the Secretary

ADVISORY COMMITTEES

Notice of Review and Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I, the provisions of Office of Management and Budget Circular No. A–63 as amended by Transmittal Memoranda Nos. 1 and 2, and the provisions of OMB Bulletin 75–2, a review was conducted as to the essentiality of all Department of Commerce advisory committees which were in existence when the Act went into effect on January 5, 1973. Of 34 committees subject to this review, and after consultation with OMB, it has been determined that continuation and rechartering of 30 of the committees is in the public interest in accordance with duties imposed on the Department by law. The remaining 4 will be terminated.

Each of the 30 committees, the names of which are listed below, will be rechartered for two years effective January 5, 1975, without change in basic purpose. Copies of the present charters of these committees have been on file with appropriate committees of the Congress, and have been available for public inspection at the Library of Congress, since January 1973.

Copies of the new charters will be similarly filed in early January 1975. In addition, and at the same time, copies will be available for public inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 7043, Main Commerce Building, 14th Street and Constitution Avenue NW, Washington, D.C.

Any inquiries or comments regarding this notice may be directed to Mr. Robert T. Jordan, Management Services Head, Room 5026, Main Commerce Building.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

DECEMBER 12, 1974.

COMMITTEES TO BE RENEWED

Advisory Board to the U.S. Merchant Marine Academy
Advisory Council for Minority Enterprise
Census Advisory Committee on Agriculture Statistics
Census Advisory Committee of the American Economic Association
Census Advisory Committee of the American Marketing Association
Census Advisory Committee of the American Statistical Association
Census Advisory Committee on Population Statistics
Census Advisory Committee on Privacy and Confidentiality
Census Advisory Committee on Small Areas
Census Advisory Committee on State and Local Government Statistics
Center for Building Technology Advisory Committee
Commerce Technical Advisory Board
Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee
Computer Systems Technical Advisory Committee
Economic Advisory Board
Exporters' Textile Advisory Committee
Federal Information Processing Standards (FIPS) Coordinating and Advisory Committee
FIPS Task Group 13—Workload Definition and Benchmarks
Importers' Textile Advisory Committee
Industry Advisory Committee on Metal Scrap Problems
Management-Labor Textile Advisory Committee
Marine Fisheries Advisory Committee
National Bureau of Standards Visiting Committee
National Public Advisory Committee on Regional Economic Development
Numerically Controlled Machine Tool Technical Advisory Committee
Public Advisory Committee for Trademark Affairs
Sea Grant Advisory Panel
Semiconductor Manufacturing and Test Equipment Technical Advisory Committee
Semiconductor Technical Advisory Committee
Travel Advisory Board

[FR Doc.74-29543 Filed 12-18-74;8:45 am]

Social and Economic Statistics Administration

ANNUAL SURVEYS IN MANUFACTURING AREA

Determination

In conformity with Title 13, United States Code, sections 181, 224, and 225 and due notice having been published on November 8, 1974 (39 FR 39589), I have determined that annual data to be derived from the surveys listed below are

[1] Forms are available from any of the Commerce Department's Domestic and International Business Administration District Offices or from the Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry. The data derived from these surveys, most of which have been conducted for many years, are not publicly available from nongovernmental or other government sources.

Report forms in most instances furnishing data on shipments and/or production and in some instances on stocks, unfilled orders, orders booked, consumption, etc., will be required for all or a sample of establishments engaged in the production of the items covered by the following list of surveys.

The surveys have been arranged under major group headings shown in the Standard Industrial Classification Manual (1972 edition) promulgated by the Office of Management and Budget for the use of Federal statistical agencies.

MAJOR GROUP 22—TEXTILE MILL PRODUCTS

Broadwoven goods finished.
Narrow fabrics.
Yarn production.

MAJOR GROUP 23—APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS AND SIMILAR MATERIALS

Gloves and mittens.
Apparel.
Brassieres, corsets, and allied garments.
Sheets, pillowcases, and towels.

MAJOR GROUP 24—LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE

Hardwood plywood.
Softwood plywood.
Lumber.

MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS

Pulp, and detailed grades of paper and board.

MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS

Sulfuric acid.
Industrial gases.
Inorganic chemicals.
Pharmaceutical preparations, except biologicals.

MAJOR GROUP 29—PETROLEUM REFINING AND RELATED INDUSTRIES

Asphalt and tar roofing and siding products.

MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS

Rubber.
Plastics products.

MAJOR GROUP 31—LEATHER AND LEATHER PRODUCTS

Shoes and slippers (by method of construction).

MAJOR GROUP 32—STONE, CLAY, AND GLASS

Consumer, scientific, technical, and industrial glassware.
Fibrous glass.

MAJOR GROUP 33—PRIMARY METAL INDUSTRIES

Steel mill products.
Insulated wire and cable.
Magnesium mill products.

MAJOR GROUP 34—FABRICATED METAL PRODUCTS EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT

Commercial steel forgings.
Steel power boilers.
Heating and cooking equipment.

MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL

Internal combustion engines.
Tractors.
Farm machines and equipment.
Mining machinery and equipment.
Air-conditioning and refrigeration equipment.
Office, computing, and accounting machines.
Pumps and compressors.
Selected air pollution control equipment.
Construction machinery.

MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES

Radios, television, and phonographs.
Motors and generators.
Wiring devices and supplies.
Switchgear, switchboard apparatus, relays, and industrial controls.
Selected electronic and associated products.
Electric housewares and fans.
Electric lighting fixtures.
Major household appliances.

MAJOR GROUP 37—TRANSPORTATION EQUIPMENT

Aircraft propellers.

MAJOR GROUP 38—PROFESSIONAL, SCIENTIFIC, AND CONTROLLING INSTRUMENTS; PHOTOGRAPHIC AND OPTICAL GOODS; WATCHES AND CLOCKS

Selected instruments and related products.
Atomic energy products and services.

The following list of surveys represents annual supplements of monthly and quarterly surveys and will cover the same establishments canvassed in the monthly or quarterly survey. There will be no duplication of reporting, however, since the type of data collected on the annual supplement will be different from that collected on the more frequent survey.

MAJOR GROUP 32—STONE, CLAY, AND GLASS

Glass containers.
Refractories.

MAJOR GROUP 34—FABRICATED METAL PRODUCTS EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT

Closures for containers.
Steel shipping barrels, drums and pails.

The following list of surveys represents annual counterparts of monthly and quarterly surveys and will cover only those establishments which are not canvassed or do not report in the more frequent survey. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly and quarterly reports.

MAJOR GROUP 20—FOOD AND KINDRED PRODUCTS

Flour milling products.
Margarine Manufacturers' packaging operations.

MAJOR GROUP 22—TEXTILE MILL PRODUCTS

Man-made fiber, silk, woolen, and worsted fabrics.
Finishing plant report—broadwoven fabrics.
Piece goods inventories and orders.
Broadwoven goods (cotton, wool, silk, and synthetic).
Consumption of wool and other fibers, and production of tops and noils.
Rugs, carpets and carpeting.
Knit cloth.

MAJOR GROUP 25—FURNITURE AND FIXTURES

Mattresses and bedsprings.

MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS

Converted flexible packaging products.

MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS

Phosphatic fertilizer materials.
Paint, varnish, and lacquer.

MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS

Thermoplastics pipe, tube, and fittings.

MAJOR GROUP 32—STONE, CLAY, AND GLASS

Flat Glass.
Glass containers.
Refractories.
Clay construction products.

MAJOR GROUP 33—PRIMARY METAL INDUSTRIES

Nonferrous castings.
Iron and steel foundries.
Steel mill shapes and forms (Consumers and Producers Report).
Copper-base mill products.

MAJOR GROUP 34—FABRICATED METAL PRODUCTS, EXCEPT ORDNANCE, MACHINERY AND TRANSPORTATION EQUIPMENT

Plumbing fixtures.
Metal cans.

MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL

Construction machinery.

MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES

Electric lamps.
Fluorescent lamp ballasts.

MAJOR GROUP 37—TRANSPORTATION EQUIPMENT

Aircraft engines.
Complete aircraft.
Backlog of orders for aircraft, space vehicles, missiles, engines and selected parts.
Truck trailers.

The Annual Survey of Manufactures will be conducted and will call for general statistical data such as employment, payroll, man-hours, capital expenditures, cost of materials consumed, gross book value of fixed assets, rental payments, supplemental labor costs, etc., in addition to information on value of products shipped and quantity data for selected classes of products and quantity and cost of selected fuels used. This survey, while conducted on a sample basis, will cover all manufacturing industries including data on plants under construction but not in operation.

A survey of research and development costs will be conducted also. The data to be obtained will be limited to total research and development costs of work performed by the company, total cost of research and development work performed for the Federal Government, and, for comparative purposes, total net sales and receipts, and total employment of the company.

In addition, a survey on shipments to, or receipts for work done for, Federal Government agencies and their contractors and suppliers is planned. It is designed to provide information on the impact of Federal procurement on selected industries and on the economy of States, standard metropolitan statistical areas, and geographic regions.

The Annual Survey of Oil and Gas will canvass the industry which provides most of the field command in the United States, as well as a substantial portion

of the raw material requirement of many industries. The survey will collect information on exploration, development, production costs, revenues, expenditures and assets in the crude petroleum and natural gas industry.

The Annual Survey on Pollution Abatement Expenditures is designed to collect from the manufacturing area total expenditures made by industry to abate pollutant emissions. The survey covers current and capital expenditures made by industry to reduce pollution in its air, water, or solid forms.

The report forms will be furnished to firms included in these surveys and additional copies are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed the annual surveys be conducted for the purpose of collecting the data hereinabove described.

Dated: December 16, 1974.

VINCENT P. BARABBA,
Director,
Bureau of the Census.

[FR Doc.74-29588 Filed 12-18-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Filing of Annual Reports

Notice is hereby given that pursuant to section 13 of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the annual reports required by section 10(d) of the act for Food and Drug Administration advisory committees have been filed with the Library of Congress.

Copies are available for public inspection at: (1) the Library of Congress; (2) on weekdays between 9 a.m. and 4:30 p.m., at the Department of Health, Education, and Welfare Library, Rm. 1436, 300 Independence Ave. SW., Washington, DC; and (3) the Public Records and Document Center, Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852 during working hours, Monday through Friday.

Dated: December 13, 1974.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.74-29487 Filed 12-18-74;8:45 am]

SAFETY OF CERTAIN FOOD INGREDIENTS

Opportunity for Public Hearing

In the FEDERAL REGISTER of July 26, 1973 (38 FR 20063), the Commissioner of Food and Drugs issued a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (hereinafter referred to as the Select Committee), with respect to the safety of ingredients used in food on a determination that they are generally recognized as safe (GRAS) or subject to a prior sanction.

The first of such opportunities for public hearings was announced in the FEDERAL REGISTER of September 23, 1974 (39 FR 34218). The Commissioner now gives notice that the Select Committee is prepared to conduct a public hearing with respect to the following additional categories of food ingredients:

Mustard
Sorbose
Licorice-related products
Caprylic acid

This public hearing will provide an opportunity, before the Select Committee reaches its final conclusions, for any interested person to present scientific data, information, and views relevant to the safety of these substances in addition to those previously submitted in writing pursuant to the notices previously published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20051 and 20053), and April 17 1974 (39 FR 13796 and 13798).

The Select Committee has reviewed all of the available data and information on the above categories of food ingredients and has reached one of the four following tentative conclusions on the status of each:

1. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.

2. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard.

3. While no evidence in the available information demonstrates a hazard to the public when it is used at levels that are now current and in the manner now practiced, uncertainties exist requiring that additional studies be conducted.

4. The evidence is insufficient to determine that the adverse effects reported are not deleterious to the public health when it is used at levels that are now current and in the manner now practiced.

The following table lists each ingredient, the Select Committee's tentative conclusion (keyed to the four types of conclusions listed above), and the available information on which the Select Committee reached its conclusion.

Substance	Select committee tentative conclusion	Scientific literature review		Animal study report		Other information
		Order No.	Cost	Order No.	Cost	
Mustard:						
Brown mustard	1					Correspondence with R.T. French Co.
Yellow mustard	1					
Allyl isothiocyanate (oil of mustard).	1	PB-221-215	$4.15	PB-223-612/AS.	$3.12	
p-Hydroxybensyl isothiocyanate (oil of mustard).	1	PB-223-545/AS.	3.00			
Sorbose	1	PB-223-852 AS.	2.75			None.
Licorice-related products:						
Licorice	2					Thesis of Ms. Gordon.
Glycyrrhiza	2					
Ammoniated glycyrrhizin	2	PB-221-220	3.75	PB-221-743	4.30	
Caprylic acid	1	PB-221-229	4.50			None.

Reports given in the table may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22151. The above titles may also be purchased in microfiche form. Microfiche document prices are $1.45 each for those with order numbers having an FDABF prefix or AS suffix, and $0.95 each for all others.

In addition to the information contained in the Scientific Literature Review, the Select Committee supplemented, where appropriate, the scientific information developed in the reviews with additional materials, as discussed in the previous hearing opportunity notice published in the FEDERAL REGISTER of September 23, 1974 (39 FR 34218).

The Select Committee's tentative reports on mustard, sorbose, licorice-related substances and caprylic acid, along with any referenced information not in the Scientific Literature Reviews, are available for review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852 and also at the Public Information Office, Food and Drug Administration, Rm. 3807, 200 C Street SW., Washington, DC 20204.

In order to schedule the public hearing, it is necessary that the Select Committee be informed of the number of persons who wish to take advantage of this opportunity for hearing, and the length of time requested for presentation of their views. Accordingly, any interested person who wishes to appear at the public hearing to make an oral presentation shall so inform the Select Committee in writing, addressed to: The Select Committee on GRAS Substances, Life Sciences Research Office, Federation of

American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014. A copy of each such request shall be sent to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, and all such requests shall be placed on public display in that office. Any such request shall be postmarked on or before January 20, 1975, shall state the substance(s) on which an opportunity to present oral views is requested, and shall state a length of time requested for the presentation. As soon as possible thereafter, a notice will be published in the FEDERAL REGISTER announcing the date, time, place, and scheduled presentations for any public hearing that may be requested.

The purpose of the public hearing is to receive data, information, and views not previously available to the Select Committee with respect to the substances listed above. Information already contained in the Scientific Literature Reviews and in the tentative Select Committee report shall not be duplicated, although views on the interpretation of this material may be presented.

Depending upon the number of requests for opportunity to make oral presentations, the Select Committee may reduce the time requested for any presentation. Individuals and organizations with common interests are urged to consolidate their presentations in view of the limitations of time. Any interested person may, in lieu of an oral presentation, submit written views, which shall be considered by the Select Committee. Three copies of such written views shall be addressed to the Select Committee at the above address, and shall be postmarked not later than 10 days prior to the scheduled date of the hearing. A copy of any written views shall be sent to the Hearing Clerk, Food and Drug Administration, and shall be placed on public display in that office.

A public hearing will be presided over by a member of the Select Committee. A hearing will be transcribed by a reporting service, and a transcript of each hearing may be purchased directly from the reporting service and will also be placed on public display in the office of the Hearing Clerk, Food and Drug Administration.

Dated: December 12, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-29493 Filed 12-18-74;8:45 am]

Office of Education

THE NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Notice of Closed Meeting

Notice is hereby given, pursuant to section 10 of the Federal Advisory Committee Act Pub. L. 92-463 and section 9.d. of Office of Management and Budget Circular A-63 that a closed meeting of the Executive Committee of the National Advisory Council on Extension and Continuing Education will be held on January 9, 1975, in the Council's office, Suite 710, 1325 G St., NW, Washington, D.C.

The National Advisory Council on Extension and Continuing Education is authorized under section 109(a) of the Higher Education Act, under Pub. L. 89-329, as amended (20 USC 1009). The Council is directed to advise the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Title I of the Higher Education Act, and to report annually to the President and to the Secretary of Health, Education, and Welfare on the administration and effectiveness of all federally supported extension and continuing education programs, including community service programs.

This meeting of the Executive Committee of the Council will not be open to the public. The purpose of the meeting will be to interview applicants for the position of Executive Director to the Council. At this meeting matters will be discussed and documents will be produced (for example recommendations and references) which if released to the public would amount to a clearly unwarranted invasion of personal privacy. Such documents need not be released to the public under exemption 6 of the exemptions from mandatory disclosure under the Freedom of Information Act, section 552(b)(6) of Title 5 USC. This meeting may, therefore, be closed to the public under section 10(d) of the Federal Advisory Committee Act. Records of Council proceedings are available for public inspection at the Council's office located at the address given above.

RICHARD F. MCCARTHY,
Association Director.

DECEMBER 12, 1974.

[FR Doc.74-29577 Filed 12-18-74;8:45 am]

Office of the Secretary

OFFICE FOR CIVIL RIGHTS

Statement of Organization, Functions, and Delegation of Authority

The Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare has been amended to reflect certain changes in the Statement of the Office for Civil Rights (39 FR 34088) 9/23/74, as follows:

Section 1D.10, the Statement of Organization is amended to include an Office of New Programs.

Section 1D.20, the Statement of Functions is amended to include the functional statement for the new Office of New Programs.

The revised sections read as follows:

Sec. 1D.10 *Organization.* The Office for Civil Rights is under the supervision of the Director, Office for Civil Rights, who reports directly to the Secretary. He also serves as Special Assistant to the Secretary for Civil Rights. The Office for Civil Rights consists of:

Office of the Director:
- Director
- Deputy Director
- Office of Policy Communications
- Office of Public Affairs
- Office of Governmental Relations
- Office of New Programs

Assistant Director (Planning and Program Development)
Assistant Director (Administration and Management)
Contract Compliance Division
Elementary and Secondary Education Division
Higher Education Division
Health and Social Services Division
Director, Office for Civil Rights (Regions I-X)

The statement for the Office of New Programs in Sec. 1D.20 Functions will be inserted after the statement for the Office of Governmental Relations.

The added statement reads as follows:

(6) The Office of New Programs (1D2004) is responsible for the development of policies and formulation of compliance or other programs, including regulations, guidelines or rules or orders of general applicability, for newly-enacted statutes, newly-issued executive orders, redelegations of Departmental program authorities or orders for which the Office for Civil Rights has responsibility, such as Section 504 of the Rehabilitation Act of 1973. In furtherance of these responsibilities, the Office: (1) prepares designs of enforcement strategies for the new programs including development of remedies and sanctions; (2) analyzes needed data items and design of formats or surveys; (3) develops and operates pilot tests for the new programs; (4) handles complaints on an interim basis for new programs; (5) formulates recommendations for the Director as to the manner in which the Office for Civil Rights should implement the new programs; and (6) coordinates with the Assistant Director (Planning and Program Coordination) in accomplishing a smooth transition of program responsibilities to the operating divisions.

Whenever the Department of Health, Education, and Welfare is designated as lead agency for a new program and the Office for Civil Rights is assigned the responsibility for carrying out lead agency responsibilities, this Office is responsible for coordinating the approach of the other federal agencies and departments to the new program, including providing technical assistance to these agencies and participating in the formulation of and evaluation of their new program.

The Office is also responsible for (1) commenting on legislative proposals and proposed regulations of federal departments and agencies which affect statutes and executive orders which the Office for Civil Rights administers or which create new enforcement responsibilities, and (2) preparing proposals for new

legislation or amendments to existing legislation for the Office for Civil Rights.

Dated: December 12, 1974.

THOMAS S. MCFEE,
Acting Assistant Secretary for Administration and Management.

[FR Doc. 74-29081 Filed 12-18-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 74-203]

NATIONAL BOATING SAFETY ADVISORY COUNCIL

Open Meeting

This is to give notice in accordance with section 10(a) of the Federal Advisory Committee Act (P.L. 92-463; 5 U.S.C. App. 1) of October 6, 1972, that the National Boating Safety Advisory Council (the Council) will conduct an open meeting on Wednesday and Thursday, 8-9 January 1975 at the Americana Hotel, 52nd Street and 7th Avenue, New York City, New York. The meeting is scheduled to begin at 9 a.m. each day.

The agenda for this Tenth meeting of the National Boating Safety Advisory Council is as follows:

1. Review of action taken at the Ninth meeting of the Council.
2. Status report by the Visual Distress Signal Subcommittee.
3. Report on the status of the previously contemplated regulations governing a means for secondary propulsion and dewatering devices for recreational boats.
4. Presentation on the effects of hypothermia.
5. Progress report by the Level Flotation Subcommittee.
6. Presentation on the problems related to white water rafting in the western United States.
7. Discussion on the possibility of requiring a persons capacity (in terms of number of persons) to be displayed on motor-hull boats less than 20 feet in length.
8. Progress report on previously suggested changes to the navigational light requirements.
9. Status of changing label wording requirements for certain Personal Flotation devices.
10. Vote on need for technical regulations for race boats.
11. Observation and discussion of a Half-Model boat at the preview of the New York Boat Show.
12. Chairman's session.
13. Suggestions for date, place and thrust of next meeting.

The National Boating Safety Advisory Council was established in 1971 pursuant to section 39 of the Federal Boat Safety Act of 1971 (P.L. 92-75, 46 U.S.C. 1451 et seq.). The Coast Guard is required to consult with the Council in determining the need for, and in prescribing, regulations and standards for boats and associated equipment. In addition, the Coast Guard is required to consult with the Council on any other major boating safety matters related to the Act.

Any member of the public who wishes to do so may file a written statement with the Council before or after the meeting, or may present an oral statement with advance notice to the Chairman.

Interested persons may seek additional information or the summary minutes of the meeting by writing to:

Captain David E. Bels, USCG
U.S. Coast Guard (G-BB/TRPT)
Washington, D.C. 20590

or by calling (202) 426-4176.

Dated: December 13, 1974.

A. F. FUCARO,
Acting Chief,
Office of Boating Safety.

[FR Doc.74-29079 Filed 12-18-74;8:45 am]

[CGD 74-204]

NATIONAL BOATING SAFETY ADVISORY COUNCIL FLOTATION SUB-COMMITTEE

Open Meeting

This is to give notice in accordance with section 10(a) of the Federal Advisory Committee Act (P.L. 92-463; 5 U.S.C. App. 1) of October 6, 1972, that the Flotation Sub-committee of the National Boating Safety Advisory Council will conduct an open meeting on Wednesday, 8 January 1975 at the Americana Hotel, 52nd Street and 7th Avenue, New York City, New York. The meeting is scheduled to begin at 8:30 a.m.

The purpose of the meeting is to review the need for regulations that would require level flotation on recreational boats.

The sub-committee, authorized by the Federal Boat Safety Act of 1971 (P.L. 92-75; 46 U.S.C. 1451 et seq.), was established to review proposed standards for level flotation on recreational boats and to make technical recommendations to the Council.

Interested persons may seek additional information by writing: Executive Director, National Boating Safety Advisory Council, United States Coast Guard (GBR/TRPT) Washington, D.C. 20590 or by calling: (202) 426-4176.

Dated: December 6, 1974.

JOHN F. THOMPSON,
Chief, Office of Boating Safety.

[FR Doc.74-29078 Filed 12-18-74;8:45 am]

ATOMIC ENERGY COMMISSION

BARNWELL NUCLEAR PLANT

Interim Amount of Financial Protection and Interim Indemnity Fee

In December 1970 pursuant to its authority under section 104b of the Atomic Energy Act of 1954 (the Act), as amended, the Atomic Energy Commission issued a construction permit to Allied-General Nuclear Services (AGNS) for the construction of a production facility for the reprocessing of irradiated fuel elements. AGNS is constructing and proposes to operate the Barnwell Nuclear Fuel Plant (BNFP) in Barnwell, South Carolina.

Section 170 of the Act requires (1) each license issued under section 104 to have as a condition of the license a requirement that the licensee have and maintain financial protection of such type and in such amounts as the Commission shall require to cover public liability claims, (2) the licensee to execute and maintain an indemnification agreement with the Commission and (3) the Commission to collect a fee from each licensee with whom an indemnification agreement is executed.

Subsection 170h of the Act provides that the amount of financial protection required of such licensees shall be equal to the maximum amount of nuclear liability insurance available from private sources except that the Commission may establish a lesser amount on the basis of written criteria, taking into consideration such factors as (1) the cost and terms of private insurance; (2) the type, size, and location of the licensed activity and other factors pertaining to the hazard; and (3) the nature and purpose of the licensed activity.

The indemnity fee is set by subsection 170f of the Act at $30 per thousand kilowatts of thermal energy capacity for facilities licensed under section 103. However, for facilities licensed under section 104, and for construction permits issued under section 185, the Commission is authorized to reduce this fee. The Commission is directed to establish written criteria for determination of the fee, taking into consideration such factors as (1) the type, size, and location of the facility involved, and other factors pertaining to the hazard, and (2) the nature and purpose of the facility. The Commission's regulations in 10 CFR Part 140 prescribe criteria for determining the amounts of financial protection and indemnity fees with specific reference to reactors. No similar criteria have been adopted for other types of facilities, such as reprocessing plants. The Commission has previously established financial protection requirements for two fuel reprocessing facilities, the Nuclear Fuel Services, Inc., Reprocessing Plant and the General Electric Company's Midwest Fuel Recovery Plant. Financial protection requirements for both facilities were set by the Commission at $5 million for the preoperational storage of fuel and $20 million for Plant operations, with an annual indemnity fee of $500 for storage only of fuel and $4,000 for plant operations.

These financial protection requirements were established on an interim basis since there was not sufficient experience or data available to prescribe financial protection requirements for reprocessing plants as a class. In arriving at the interim amounts, the Commission took into account, in addition to the specific statutory criteria, the following considerations: (a) amount of liability insurance carried by fabricators of cold fuel; (b) liability insurance limits carried by firms engaged in hazardous operations in nonnuclear industries, i.e., chemicals and petroleum, and (c) the maximum amount of nuclear liability insurance available (at that time, $85 million).

The Commission recognizes that there is an ongoing licensing proceeding with respect to the Barnwell Nuclear Fuel

Plant pending before an Atomic Safety and Licensing Board. No license will be issued except in accordance with the applicable Commission regulations. The proposed rule that follows would merely provide the basis for financial protection requirements in the event that a license should be issued.

As a production facility, the Barnwell plant cannot be licensed to receive fuel assemblies unless Allied-General Nuclear Services provides financial protection to protect against public liability claims arising out of or resulting from a nuclear incident. Pending establishment in a general rule making proceeding of financial protection and indemnity fee requirements for reprocessing facilities as a class, notice is hereby given that the Commission is considering establishing interim financial protection requirements of $5 million for fuel storage with an indemnity fee of $500 at the Barnwell plant. Rule making regulations on permanent levels of financial protection to be required for all reprocessing plants should be accomplished by the time the construction of the plant is completed. All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed interim amount of financial protection and indemnity fee for fuel storage for the Barnwell plant should send them to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Docketing and Service Section by January 20, 1975. Copies of comments on the proposed rule may be examined at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

(Sec. 161, Pub. Law 83-703, 68 Stat. 948 (42 USC 2201); Sec. 4, Pub. Law 85-256, 71 Stat. 576 (42 USC 2210))

Dated at Washington, D.C. this 13th day of December 1974.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-29484 Filed 12-18-74;8:45 am]

[Dockets Nos. STN 50-454, STN 50-455]

COMMONWEALTH EDISON CO.

Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Atomic Energy Commission's (Commission) regulations, the Commission has authorized the Commonwealth Edison Company to conduct certain site activities in connection with the Byron Station, Units 1 and 2 prior to a decision regarding the issuance of a construction permit.

The activities that are authorized are within the scope of those authorized by 10 CFR 50.10(e)(1), and specifically include the following:

1. Excavations and associated activities such as de-watering for structures and equipment, and placement of mud mats for: (a) two containment buildings; (b) turbine room; (c) service building; (d) auxiliary building; (e) fuel building; (f) solid radwaste storage building; (g) installation of portions of condenser circulating water piping, not including any class I piping; and (h) switchyard and on-site transmission lines.

2. Construction of the following service requirements: (a) rail spur from adjacent Chicago and Northwestern line into site; (b) temporary construction track; (c) fencing; (d) perimeter lighting system; (e) road construction, permanent and temporary; (f) temporary construction power and lighting system; (g) sanitary system in conjunction with sewage treatment plant; (h) wells for potable and construction water requirements; (i) fire protection system; and (j) temporary parking lots.

3. Construction of support facilities with necessary utilities: (a) three metal warehouses (50' x 200' each); (b) metal construction office (50' x 200'); (c) metal contractor's office; (d) metal contractor's shop facilities; (e) main gate guardhouse; (f) temporary construction toilet; (g) temporary fire pump house; and (h) concrete batch plant.

This authorization is subject to the following conditions for the protection of the environment:

1. During the construction, CECo shall take the necessary mitigating actions, including those commitments summarized in section 4.5 of the AEC staff's Final Environmental Statement, to avoid unnecessary adverse environmental impacts from construction activities.

2. CECo shall follow the pre-operational monitoring program, including modifications recommended by the staff, described in Section 6.1 of the Final Environmental Statement.

3. Before engaging in a construction activity which may result in a significant adverse environmental impact that was not evaluated or that is significantly greater than that evaluated in the Final Environmental Statement, CECo shall provide written notification to the Director of Licensing.

4. A control program shall be established by CECo to provide for a periodic review of all construction activities to assure that those activities conform to the environmental conditions set forth herein.

5. If unexpected harmful effects or evidence of irreversible damage are detected during facility construction, CECo shall provide to the staff an acceptable analysis of the problem and a plan of action to eliminate or significantly reduce the harmful effects or damage.

6. CECo shall comply with the applicable portions of the standards published by the United States Environmental Protection Agency on October 8, 1974 (39 FR 36176 et seq.).

7. CECo shall comply with the applicable portions of the Illinois Environmental Protection Act and the Water Pollution Regulations of the Illinois Pollution Control Board.

This authorization is subject to the additional condition that it will terminate upon a denial by the Director of Regulation of a Construction Permit for the Byron Station, Units 1 and 2.

Any activities undertaken pursuant to this authorization are entirely at the risk of the Commonwealth Edison Company and the grant of the authorization has no bearing on the issuance of a construction permit with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto.

A Partial Initial Decision on matters relating to the National Environmental Policy Act and site suitability was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on December 6, 1974. A copy of (1) the Partial Initial Decision; (2) the applicant's Preliminary Safety Analysis Report and amendments thereto; (3) the applicant's Environmental Report, and amendments thereto; (4) the staff's Final Environmental Statement dated July 1974; and (5) the Commission's letter of authorization dated December 13, 1974, are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and in the Byron Public Library, Third and Washington Streets, Byron, Illinois.

Dated at Bethesda, Maryland, this 13th day of DECEMBER 1974.

For the Atomic Energy Commission.

F. J. MIRAGLIA,
Acting Chief, Environmental Projects Branch 3, Directorate of Licensing.

[FR Doc.74-29485 Filed 12-18-74;8:45 am]

[Docket No. 50-512]

GENERAL ELECTRIC CO.

Issuance of Facility Export License

Please take notice that no request for a hearing or a petition for leave to intervene having been filed following publication of notice of proposed action in the FEDERAL REGISTER on August 29, 1974 (39 FR 31544) and the Atomic Energy Commission having found that:

(a) The application filed by General Electric Company, DOCKET NO. 50-512, complies with the requirements of the ACT, and the Commission's regulations set forth in Title 10, Chapter I, Code of Federal Regulations, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations,

the Commission has issued License No. XR-102 to General Electric Company, authorizing the export of a boiling water reactor with a thermal power level of 1931 megawatts to the Commission Federal De Electricidad, Rodano 14, Mexico.

The export of this reactor to Mexico is within the purview of the present Agreement for Cooperation Between the Government of the United States of America, the Government of Mexico and the International Atomic Energy Agency.

Dated at Bethesda, Maryland this fifth day of DECEMBER 1974.

For the Atomic Energy Commission.

HOWARD J. LARSON,
Acting Deputy Director for Fuels and Materials, Directorate of Licensing.

[FR Doc.74-29486 Filed 12-18-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24911; Order 74-11-146]

FLYING TIGER LINE INC., AND TRANSMERIDIAN AIR CARGO LIMITED, ET AL.

Order Denying Petition for Reconsideration and Deferring Action; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 27th day of November, 1974.

Footnote 7 of errata on Order 74-11-146 (39 FR 41894, December 3, 1974) should read as follows: "7 See Order 74-3-48 and Order 74-7-97."

Dated: December 11, 1974.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.74-29562 Filed 12-18-74;8:45 am]

[Docket No. 25280, etc.; Order 74-12-51]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Denying Motion To Stay

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of December 1974.

In the matter of Dockets 25280; 25513; 26494; Agreement C.A.B. 24008 R-15; Agreement C.A.B. 24024 R-5, Agreement C.A.B. 24233 R-6, Agreement C.A.B. 24265 R-5, Agreement C.A.B. 24713.

By a motion filed December 11, 1974, Japan Air Lines Company, Ltd., (JAL) requests the Board to stay the effectiveness of Order 74-11-153 (November 29, 1974). That order, *inter alia*, revoked Board approval of various resolutions of the International Air Transport Association (IATA) establishing a three percent currency-related surcharge on U.S.-originating North/Central Pacific fares and rates on the grounds that the U.S. dollar has closely approached its pre-devaluation parity vis-a-vis the yen, and there is therefore no justification for continuing the surcharge. The carriers were directed to revise their tariffs to comply with the Board's action for effect not later than December 16, 1974.

JAL, in support of its motion, contends that the Board's order does not comply with section 1002(j)(2) of the Federal Aviation Act of 1958 (the Act) which provides that with respect to any existing tariff of an air carrier or foreign air carrier stating rates, fares, or charges for foreign air transportation, the Board may enter into a hearing concerning the lawfulness of such rate, fare, or charge, provided that the Board gives reasonable notice of said hearing and provides further that the Board may suspend such tariff upon reasonable notice delivered to the carrier setting forth in writing the reasons for said suspension. It is further contended that, not only has the Board failed to comply with section 1002(j)(2), the contested order was not submitted to the President as required by section 801(b) of the Act; that the order denies JAL and the other affected carriers due process of law in that it affords the carriers less than the 20-day period for petitions for reconsideration allowed by § 302.37 of the Board's rules of practice in economic proceedings; and that the order lacks the specificity necessary to place all carriers on equal competitive grounds because it does not state clearly whether tariffs are to be filed on the normal 30 days' notice or whether permission is granted for filings to be effective in less than 30 days.

Upon due consideration of the motion, the order in question, and all other relevant factors, the Board has concluded deny JAL's motion for stay. Order 74-11-153 is not, as JAL apparently contends, an order of suspension pursuant to section 1002(j)(2). The IATA agreements establishing the North/Central Pacific surcharge on U.S.-originating transportation were filed and approved by the Board under section 412(b) of the Act, which provides that the Board "shall by order disapprove any such contract or agreement, *whether or not previously approved by it* (emphasis added), that it finds to be adverse to the public interest, or in violation of this Act * * *" It is clear that the Board's statutory authority enables it to review on its own motion, without notice, any previously approved carrier agreement and, if the agreement is found to be adverse to the public interest or in violation of the Act, to disapprove it.

The Board concluded that the three percent surcharge on U.S. dollar fares was no longer warranted and that, accordingly, the relevant IATA resolutions should not continue to have the sanction of Board approval. It was not our intention to invoke section 1002(j)(2) of the Act with respect to tariffs on file with the Board, but merely to withdraw approval of an agreement which provides for fares now found unlawful. Accordingly, we are herein amending order 74-11-153 to delete ordering paragraph 3.

Finally, we are unable to agree that JAL has been denied due process. The carriers are free to submit petitions for reconsideration of any Board order within the stipulated 20-day period; pending analysis of the petitions, however, the Board believes the carriers should not continue charging fares which the Board, in accord with its regulatory responsibilities, has found to be adverse to the public interest and in violation of the Act.[1]

Accordingly, it is ordered, That:

1. Order 74-11-153 (pg. 4 mimeo) be and hereby is amended by deletion of ordering paragraph 3; and

2. The motion of Japan Air Lines Company, Ltd. to stay the effectiveness of Order 74-11-153 be and hereby is denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.74-29563 Filed 12-18-74;8:45 am]

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[1] We will expect the carriers to file appropriate revised tariffs promptly and will grant Special Tariff Permissions for filings on less than 30 days' notice.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN MAN-MADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF KOREA

Entry or Withdrawal From Warehouse for Consumption

DECEMBER 18, 1974.

On October 4, 1974, there was published in the FEDERAL REGISTER (39 FR 35840) a letter of September 26, 1974, from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, implementing those provisions of the Bilateral Wool and Man-Made Fiber Textile Agreement of January 4, 1972, as amended, between the Governments of the United States and the Republic of Korea, which establish export limitations, among other categories, on man-made fiber textile Category 200 for the agreement year which began on October 1, 1974.

There is published below a letter of December 18, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that, effective on December 20, 1974, the level of charges made against Category 200 be reduced by 1,099,943 pounds for the twelve-month period which began on October 1, 1974. This figure represents amounts shipped during the previous agreement year but improperly charged to the current-year level.

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229

DECEMBER 18, 1974.

DEAR MR. COMMISSIONER: To facilitate implementation of the Bilateral Wool and Man-Made Fiber Textile Agreement of January 4, 1972, as amended, between the Governments of the United States and the Republic of Korea, it would be appreciated if, effective on December 20, 1974, you would reduce the charges made against the level of restraint established for Category 200 by 1,099,943 pounds for the year which began on October 1, 1974.

Thank you for your assistance with the textile program.

This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.74-29759 Filed 12-18-74;10:21 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 387-2; OPP-30000/15A]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the Federal Register a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before February 18, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the Federal Register of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until after February 18, 1975. If no claims are received on or before February 18, 1975, the 2(c) application will be processed according to normal procedure. However, if claims are received on or before February 18, 1975, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after February 18, 1975.

APPLICATIONS RECEIVED

EPA File Symbol 1706-ET. Amplon Corp. 4-36 47th Ave., Long Island City NY 11101. AMPICIDE-9. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N - methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 106-28. Brulin & Co., Inc., 2920 Martindale Ave., PO Box 270-E, Indianapolis IN 46206. BRULIN 2,4-D LIQUID WEED KILLER-20%. Active Ingredients: Dimethylamine Salt of 2,4-D Dichlorophenoxyacetic acid (2,4-D Acid Equivalent 20%) 24.7%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 352-247. E. I. DuPont de Nemours & Co., 7056 Dupont Bldg., Wilmington DE 19898. "KARMEX" PLUS "SINBAR" TANK MIXTURE—APPLES & PEACHES. Active Ingredients: Diuron [3-(3,4-dichlorophenyl) - 1,1 - dimethylurea] 80%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1706-RUR. Nalco Chemical Co., 6216 W. 66th Place, Chicago IL 60638. NALCO 4WC317 MICROORGANISM CONTROL CHEMICAL. Active Ingredients: n-alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chloride 2.0%; n-alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chloride 2.0%; N-(2-cyanoethyl) N'-alkyl (C6 to C18) amino-1,2-diamine propane 15.0%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 2193-U. Red Spot Paint & Varnish Co., Inc., 110 Main St., Evansville IN 47701. RED SPOT CREOSOTE OIL. Active Ingredients: Creosote Oil 97%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 148-211. Thompson-Hayward Chemical Co., 5200 Speaker Rd., PO Box 2383, Kansas City KS 66110. DED-WEED LV-33 BRUSH KIL LOW VOLATILE ESTERS. Active Ingredients: 2,4-dichlorophenoxyacetic acid isooctyl ester 33.5%; 2,4,5-trichlorophenoxyacetic acid isooctyl ester 31.9%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 575-208. Velsicol Chemical Corp., 341 E. Ohio St., Chicago IL 60611. VELSICOL WEEDMASTER HERBICIDE. Active Ingredients: Dimethylamine salt of dicamba (3,6-dichloro-o-anisic acid) 12.27%; Dimethylamine salts of related acids 1.53%; Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 37.17%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 52-EUR. West Chemical Products, Inc., 42-16 West St., Long Island City NY 11101. TERAMINE MR DISINFECTANT-SANITIZER-DEODORIZER. Active Ingredients: n-Alkyl (40% C12, 50% C14, 10% C16) dimethyl benzyl ammonium chlorides 10.00%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 52-EUR. West Chemical Products, Inc., 42-16 West St., Long Island City NY 11101. NORINQUA CLEANER-DEODORANT- DISINFECTANT- SANITIZER - FUNGICIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.6%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.6% Sodium Carbonate 3.0%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 11656-GA. Western Farm Service, Inc., 2401 Crow Canyon, San Ramon CA 94583. CHLORDANE TERRACLOR ZINEB 10-10-10 GRANULAR. Active Ingredients: Chlordane Tech 10.0%; Pentachloronitrobenzene 10.0%; Zinc ethylene bisdithiocarbamate 10.0%. Method of Support: Application proceeds under 2(c) of interim policy.

REPUBLISHED ITEMS

The following items represent corrections in the list of Applications Received published in the FEDERAL REGISTER of November 29, 1974 (39 FR 41576).

EPA Reg. No. 2935-333. Wilbur-Ellis Co., PO Box 1286, Fresno CA 93715. RED-TOP METHYL PARATHION 5 SPRAY. Active Ingredients: O,O-Dimethyl O-p-nitrophenol thiophosphate 54.5%; Xylene 40.5% Originally published as O,O-Dimethyl O-p-nitrophenol thiophosphate 4.5%.

EPA Reg. No. 2935-32. Wilbur-Ellis Co. RED-TOP PARATHION 2% SPRAY POWDER. Originally published as EPA Reg. No. 2935-190.

Dated: December 6, 1974.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.74-29006 Filed 12-26-74;8:45 am]

[FRL 300-1]

ROCKAWAY TOWNSQUARE SHOPPING CENTER

Approval and Promulgation of Implementation Plan; Opportunity for Public Comment on Indirect Source Application

On October 29, 1974, the EPA, Region II office received from the firm of Copaken, White and Blitt an application for a permit to construct the proposed Rockaway Townsquare Shopping Center in Rockaway Township, Morris County, New Jersey. Shopping Centers are defined in the July 9, 1974 FEDERAL REGISTER (39 FR 25292) as indirect sources of air pollution since they attract mobile source activity and, as such, must obtain a permit from EPA before construction can begin.

The Rockaway Townsquare Shopping Center is proposed as a regional center which would occupy a 208 acre site. The shopping center would serve approximately 20,000 people per day and provide parking for 6,950 cars. Construction is expected to begin in January 1975, and be completed by the summer of 1976. The tract on which the center is to be constructed is bordered by Interstate 80 on the north, Mt. Hope Avenue on the east and Mt. Pleasant Avenue on the south. New Jersey State Route 15 lies approximately one-half mile to the west of the project's western property line.

A preliminary review of the air quality impact of the proposed project was performed by the Region II office of EPA using the EPA document entitled: "Guidelines for the Review of the Impact of Indirect Sources on Ambient Air Quality." This document presents a conservative screening technique to identify situations in which a potential carbon monoxide problem may exist. The review performed indicated that the 8-hour national standard for carbon monoxide of 9 ppm would be marginally violated at one intersection. The maximum 8-hour carbon monoxide concentration is predicted to be 10 ppm in 1976 at the

intersection of the northeast corner of the shopping center and Mt. Hope Avenue. No violations of the maximum 1-hour standard for carbon monoxide of 35 ppm are predicted to result in 1976.

Since the EPA guideline document presents a conservative method for predicting carbon monoxide concentrations and the identified problem was marginal, the Regional Administrator, Region II has made a preliminary determination to approve the application for construction of the shopping center pending the outcome of a more intensive, sophisticated review. This review will consist of a dispersion model analysis of all intersections and areas within the parking lot to predict the maximum 8 and 1-hour carbon monoxide concentrations in 1976. If this review shows that there would continue to be violation of the national standards for CO, by construction as proposed, reasonable conditions on approval related to the air quality aspects of the proposed shopping center may be imposed to prevent the predicted violations from occurring.

Although regulations ordinarily require notice of receipt of an application and of the opportunity for public comment to be given within 30 days, the Regional Administrator has extended such preliminary time period by an additional 30 days. This notice is issued to advise the public that comments may be submitted on whether the application should be approved, approved with conditions, or disapproved. An advertisement as to this opportunity for public comment is being prepared for publication in the Daily Advance, a local newspaper in Dover, New Jersey simultaneously with this FEDERAL REGISTER notice. Only comments received on or before the end of the 30-day comment period will be considered. The Regional Administrator's final decision to approve, approve with conditions or disapprove the application for construction of the shopping center will be based on whether the requirements of the EPA regulations in 40 CFR Part 52 are met.

Copies of the indirect source application, the "Guidelines" referred to above, Region II's preliminary air quality impact review and a document entitled: "Traffic Impact Assessment-Rockaway Townsquare", are available for public inspection during normal business hours at the Environmental Programs Division, Air Branch, EPA Region II, 26 Federal Plaza, New York, N.Y. 10007, Room 907 and Rockaway Township Planning Board, 19 Mount Hope Road, Rockaway, New Jersey 07886. Additional copies are available for public inspection at the Freedom of Information Center, EPA, 401 M Street, SW., Washington, D.C. 20460. All comments should be addressed to the Regional Administrator, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, N.Y. 10007. Such comments, and the subsequent EPA review, will also be made available for public inspection at the same locations.

(Sec. 110(c), 301(a), Clean Air Act (42 U.S.C. 1857 et seq.))

Dated: December 10, 1974.

GERALD M. HANSLER, P. E.,
Regional Administrator,
Environmental Protection Agency.

[FR Doc.74-29479 Filed 12-18-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP74-239]

ALASKAN ARCTIC GAS PIPELINE CO.

Supplement to Application

DECEMBER 11, 1974.

Take notice that on November 15, 1974, Alaskan Arctic Gas Pipeline Company (Applicant), Suite 230, 1730 Pennsylvania Avenue, NW., Washington, D.C. 20006, filed in Docket No. CP74-239 a supplements to its application filed in said docket pursuant to section 7(c) of the Natural Gas Act by submitting Exhibit P, its proposed tariff, in compliance with § 157.14(a)(18)(i) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.14(a)(18)(i)), all as more fully set forth in the supplement which is on file with the Commission and open to public inspection.

By its application in the subject docket filed March 21, 1974,[1] Applicant seeks a certificate of public convenience and necessity authorizing the construction and operation of facilities to transport as a contract carrier natural gas in interstate commerce from the Prudhoe Bay area on the North Slope of Alaska, eastward for approximately 195 miles to a point of interconnection at the Canadian border with the proposed facilities of the Canadian Arctic Gas Pipeline Limited for the account of various contract shippers. Applicant did not accompany said application with certain required exhibits, including Exhibit P. Applicant now submits as Exhibit P its proposed tariff which contains a cost-of-service form of rate schedule for firm transportation service.

Applicant states that it shall transport gas only pursuant to written service agreements acceptable to it in light of its commitments and other factors deemed pertinent and shall, to the extent possible, provide the same contract for each shipper. Applicant further states that its tariff generally contemplates that Applicant will transport gas owned by shippers, rather than purchase and sell the gas. According to the provisions of the proposed tariff:

Each shipper may tender any amount up to its contractual maximum daily quantity (MDQ), and Applicant is obligated to accept all of such tendered gas within the separate contractual quantities for each delivery point. Deliveries by a shipper in excess of its MDQ, which excess Applicant may refuse to receive, are subject to an overrun transportation charge pursuant to Applicant's proposed Rate Schedule OT-1. Applicant will redeliver thermally equivalent volumes to each shipper or to other persons designated to receive deliveries on behalf of each shipper reduced by each shipper's share of gas necessary to run Applicant's compressors, for Applicant's line pack and for other uses and losses associated with gas transportation. In return for the transportation of its gas, each shipper must pay its allocable share of Applicant's cost-of-service.[2] Pursuant to Applicant's proposed Rate Schedule T-1, each shipper will pay the proportion that its contract Mcf-miles bears to the total contract Mcf-miles of all shippers (so that all shippers together must pay 100 percent of Applicant's cost-of-service). The return component (rate of return x rate base) of Applicant's cost-of-service will be computed monthly. Working capital, a component of the rate base, will include 150 per cent of monthly gas operating and maintenance expenses, plus prepayments, materials and supplies, uncollected service costs and required deposits. Amounts actually billed each month to the shippers will be based on advanced estimates, with adjustments to later charges for the difference between estimates and actual cost to each shipper. If Applicant takes less than 80 per cent of gas tendered (within the MDQ) by a shipper, that shipper shall be entitled to a reduction equal to the proportion that the volume tendered-but-not-received bears to that shipper's MDQ multiplied by the rate of return on common equity, plus applicable taxes.

Applicant states that the proposed tariff, based on the concept of a cost-of-service charge, is designed to furnish security for prospective investors. Applicant also states that it will not build or contribute to the cost of building any lateral delivery line, but Applicant may construct or contribute to the construction of lateral supply lines.

Any person desiring to be heard or to make any protest with reference to said supplement should on or before January 6, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Any person who

[1] The application was noticed in the FEDERAL REGISTER on April 15, 1974 (39 FR 13590).

[2] Applicant states that it has not yet determined the rate of return on common equity that it will propose, but that it will do so at a later time.

has heretofore filed a protest or petition to intervene need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29544 Filed 12-18-74;8:45 am]

[Docket No. RP74-97]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

DECEMBER 11, 1974.

Take notice that Algonquin Gas Transmission Company (Algonquin Gas), on November 21, 1974, tendered for filing First Revised Sheet No. 10 to its FPC Gas Tariff, First Revised Volume No. 1.

This sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in section 22 of the General Terms and Conditions of its FPC Gas Tariff, Original Volume No. 1. The rate change is being filed to reflect higher purchased gas costs to be paid by Algonquin Gas to its supplier, Texas Eastern Transmission Corporation (Texas Eastern), on December 1, 1974. Algonquin Gas requests that the Commission waive the requisite notice and grant special permission to permit such First Revised Sheet No. 10 to become effective on December 1, 1974, which will synchronize Algonquin Gas' rates with those of Texas Eastern.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29545 Filed 12-18-74;8:45 am]

[Docket No. E-9146]

BLACK HILLS POWER & LIGHT CO.

Application

DECEMBER 12, 1974.

Take notice that on November 25, 1974, Black Hills Power and Light Company (Applicant), filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act seeking authorization to negotiate with at least three underwriters regarding the proposed issuance and sale of $5 million principal amount of cumulative preferred stock, by negotiated underwriting.

Applicant seeks permission to negotiate with underwriters regarding the terms upon which the securities might be issued, in order to determine whether application for exemption from the competitive bidding requirements of § 34.1a (a) (b) and (c) of the Commission's Regulations under the Federal Power Act should be made. Applicant represents that it has not engaged in any negotiations for the sale or underwriting of securities.

Applicant is incorporated under the laws of the State of South Dakota, with its principal business office at Rapid City, South Dakota. Applicant is engaged in the generation, transmission, distribution and sale of electric energy in the States of South Dakota, Wyoming and Montana.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 6, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29546 Filed 12-18-74;8:45 am]

[Docket No. E-8996]

CAROLINA POWER & LIGHT CO.

Extension of Procedural Dates; Correction

NOVEMBER 27, 1974.

In the Notice of Extension of Procedural Dates issued November 22, 1974 and Published in the FEDERAL REGISTER on December 3, 1974 39 FR 41904, the extensions granted were applicable to Phase I of the above designated matter. The Phase II procedural dates remain as fixed in the order of August 26, 1974.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29547 Filed 12-18-74;8:45 am]

[Docket Nos. E-7021, E-8038]

CENTRAL MAINE POWER CO.

Acceptance of Answer to Brief Opposing Exception

DECEMBER 11, 1974.

On November 15, 1974, New England Power Company filed a motion requesting the Commission to allow the filing of their answer to the brief opposing exception of Central Maine Power Company, dated October 24, 1974.

Notice is hereby given that the above answer has been accepted for consideration.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29548 Filed 12-18-74;8:45 am]

[Docket No. E-9158]

CONNECTICUT LIGHT & POWER CO.

Exchange Agreement

DECEMBER 11, 1974.

Take notice that on December 5, 1974 The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to an exchange between CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) (the NU Companies) and Boston Edison Company (Edison) dated as of November 1, 1974.

CL&P states that the Exchange Agreement provides for an exchange between the NU Companies and Edison of a specified amount of pumped storage capacity from the NU Companies' Pumped Storage Hydroelectric Project (Project) at Northfield Mountain in Northfield and Erving, Massachusetts, for an equal amount of gas turbine capacity in Edison's gas turbine generating units situated at West Medway, Massachusetts (Units), during the Term of the Exchange Agreement.

CL&P further states that the parties to the Exchange Agreement reached agreement on the principles to be applied to this exchange prior to November 4, 1974. However, the development of the detailed language of the rate schedule prevented the filing of such rate schedule until this date. In order to permit the NU Companies and Edison to achieve mutual benefits of this Exchange Agreement, it is hereby requested that the Commission, pursuant to § 35.11 of its regulations, waive the thirty-day notice period and permit the rate schedule filed herewith to become effective on November 4, 1974.

CL&P also states that the charges provided for in the rate schedule were arrived at through negotiations. Certificates of Concurrence were filed with the rate schedule.

CL&P states that a copy of this rate schedule has been mailed or delivered to HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and Edison, Boston, Massachusetts.

CL&P further states that the filing is in accordance with Part 35 of the Commission's regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests

should be filed on or before December 27, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29550 Filed 12-18-74;8:45 am]

[Docket No. E-9154]

CONNECTICUT LIGHT AND POWER CO.

Transmission Agreement

DECEMBER 11, 1974.

Take notice that on December 5, 1974 the Connecticut Light and Power Company (CL&P) tendered for filing a proposed initial rate schedule pertaining to a Transmission Agreement between The Connecticut Light and Power Company and The United Illuminating Company (UI) dated as of June 15, 1974.

CL&P states that the filing is in accordance with Part 35 of the Commission's Regulations.

CL&P also states that the Transmission Agreement provides for the joint use of specified CL&P transmission facilities.

CL&P states that although the parties had agreed in principle to the joint use of the specified transmission facilities and the support thereof starting December 1, 1972, they did not reach agreement on the details of the rate schedule filed herewith until recently. This delay in development of the detailed language of the rate schedule prevented the filing of such rate schedule until this date. CL&P therefore requests that, in order to permit CL&P to receive payment in accordance with the agreement between the parties for service rendered after December 1, 1972, the Commission, pursuant to Section 35.11 of its regulations, waive the customary notice period and permit the rate filed to take effect as of December 1, 1972.

CL&P states that the charges provided for in the rate schedule were arrived at through negotiations.

A Certificate of Concurrence signed by the United Illuminating Company accompanied the filing.

CL&P states that a copy of this rate schedule has been mailed or delivered to UI, New Haven, Connecticut.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 27, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29549 Filed 12-18-74;8:45 am]

[Docket No. CP75-158]

CONSOLIDATED GAS SUPPLY CORP.

Application

DECEMBER 11, 1974.

Take notice that on November 27, 1974, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP75-158 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline facilities and for an order permitting and approving the abandonment of certain pipeline facilities all in the state of West Virginia, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes, from 1975 through 1978, the following projects:

1975 PROJECTS

1. Construction and operation of approximately 20.0 miles of 18-inch Line No. TL-418, from Burnt House Junction in Ritchie County to Maxwell Junction in Doddridge County.

2. Abandonment of 18.9 miles of 12-inch Line No. H-57 from Fleming Junction in Ritchie County to connection with Line No. TL-362 in Doddridge County.

3. Abandonment of 5.9 miles of 10-inch Line No. H-66 from Burnt House Junction to Fleming Junction, all in Ritchie County.

4. Abandonment of 5.8 miles of 12-inch Line No. E-154 from Burnt House Junction to Fleming Junction, all in Ritchie County.

1976 PROJECTS

1. Construction and operation of approximately 24.4 miles of 24-inch Line No. TL-418 from Maxwell Junction in Doddridge County to Hastings in Wetzel County.

2. Abandonment of 4.9 miles of 12-inch Line No. H-57 from connection with TL-362 in Doddridge County to Doak Junction in Tyler County.

3. Abandonment of 20.5 miles of 12-inch Line No. H-117 from Doak Junction in Tyler County to Hastings in Wetzel County.

4. Abandonment of 3.0 miles of 12-inch Line No. TL-362 from Maxwell Junction to connection with Line No. H-57, all in Doddridge County.

5. Abandonment of 23.5 miles of 20-inch Line No. H-45 from Maxwell Junction in Doddridge County to Hastings in Wetzel County.

1977 PROJECTS

1. Construction and operation of approximately 14.1 miles of 16-inch Line No. TL-419 from Burnt House Junction in Ritchie County to Jones Station in Gilmer County.

2. Construction and operation of approximately 11.4 miles of 12-inch Line No. TL-422 from Burnt House Junction in Ritchie County to Cabot Station in Calhoun County.

3. Construction and operation of approximately 8.9 miles of 10-inch Line No. TL-423 from Burnt House Junction to Craig Station, all in Ritchie County.

4. Construction and operation of a 1320 H.P. Burnt House Compressor Station.

5. Abandonment of 12.1 miles of 12-inch Line No. H-107 from Cabot Station in Calhoun County to Burnt House Junction in Ritchie County.

6. Abandonment of 7.5 miles of 10-inch Line No. H-66 from Craig Station to Burnt House Junction, all in Ritchie County.

7. Abandonment of 1.1 miles of 10-inch Line No. H-139 from Payne Station to Heckert Junction, all in Gilmer County.

8. Abandonment of the 1,910 H.P. Payne Station in Gilmer County.

9. Abandonment of 35.9 miles of 16- and 20-inch Line No. H-138 from Jones Station in Gilmer County to Stutler Junction in Harrison County.

10. Abandonment of 3.1 miles of 16- and 20-inch Line No. H-45 from Fink Junction in Lewis County to Maxwell Station in Doddridge County.

11. Abandonment of 1.1 miles of 16-inch Line No. H-150 from Stutler Junction to New Stutler Junction, all in Harrison County.

12. Abandonment of 4.8 miles of 10-inch Line No. TL-207 from Fink Junction to Douglas Junction, all in Lewis County.

1978 PROJECTS

1. Construction and operation of approximately 1.8 miles of 8-inch Line No. TL-424 from Maxwell Junction to Collins Station, all in Doddridge County.

2. Construction and operation of approximately 4.1 miles of 6-inch Line No. TL-424 from Collins Station to Smithburg Station, all in Doddridge County.

3. Construction and operation of approximately 5.7 miles of 8-inch Line No. TL-425 from Davis Station to Law Station all in Harrison County.

4. Construction and operation of approximately 1.6 miles of 6-inch Line No. TL-426 from Weston Station to Kennedy Station, all in Lewis County.

5. Construction and operation of approximately 7.1 miles of 10-inch Line No. TL-427 from Camden Station to Kennedy Station, all in Lewis County.

6. Construction and operation of approximately 4.6 miles of 12-inch Line No. TL-427 from Kennedy Station in Lewis County to Law Station in Harrison County.

7. Construction and operation of approximately 4.6 miles of 8-inch Line No. TL-428 from Sardis Station to existing Wilsonburg Station, all in Harrison County.

8. Construction and operation of approximately 8.1 miles of 8-inch Line No. TL-428 from Wilsonburg Station to Line No. TL-413, all in Harrison County.

9. Relocation of one 440 H.P. compressor engine from Maxwell Station to Smithburg Station, both in Doddridge County.

10. Abandonment of approximately 7.2 miles of 16- and 20-inch Line No. H-45 from Maxwell Station to Maxwell Junction, all in Doddridge County.

11. Abandonment of approximately 4.1 miles of 8-inch Line No. H-15 from Smithburg Station to Collins Junction, all in Doddridge County.

12. Abandonment of approximately 0.8 mile of 6-inch Line No. H-140 from Maxwell Station to Line No. H-45, all in Doddridge County.

13. Abandonment of the 440 H.P. Maxwell Station in Doddridge County.

14. Abandonment of approximately 2.8 miles of 10-inch Line No. TL-238 from Camden Station to Douglas Junction in Lewis County.

15. Abandonment of approximately 5.7 miles of 10-inch Line No. TL–221 from Kennedy Station to Douglas Junction, all in Lewis County.

16. Abandonment of approximately 4.0 miles of 12- and 16-inch Line No. TL–215 from Kennedy Station in Lewis County to Law Junction in Harrison County.

17. Abandonment of approximately 3.4 miles of 8- and 10-inch Line No. TL–226 from Kennedy Station to connection with Line No. H–32, all in Lewis County.

18. Abandonment of approximately 9.5 miles of 8-, 12-, and 16-inch Line No. H–32 from Weston Station in Lewis County to Law Junction in Harrison County.

19. Abandonment of approximately 3.3 miles of 10-inch Line No. H–96 from Davis Station in Harrison County to Wymer Junction in Lewis County.

20. Abandonment of approximately 3.5 miles of 10-inch Line No. TL–354 from Sardis Station to Morrison Junction, all in Harrison County.

21. Abandonment of approximately 4.8 miles of 16-inch Line No. H–141 from Morrison Junction to Springer Junction, all in Harrison County.

22. Abandonment of approximately 4.7 miles of 16-inch Line No. H–150 from Springer Junction to New Stutler Junction, all in Harrison County.

Applicant estimates the cost of the proposed facilities at $18,812,292, to be financed from funds on hand and funds to be obtained from Applicant's parent, Consolidated Natural Gas Company. No additional sales or services are proposed in this application.

Applicant states that construction proposed herein will result in the replacement of approximately 200 miles of aged and deteriorated pipeline with approximately 119 miles of new, wrapped, coated and cathodically protected pipeline. Applicant further states that, with the exception of Line No. TL–362, which is 3.0 miles in length, all of the pipelines which are proposed to be abandoned were originally constructed between 1904 and 1925, and that, although Line No. TL–362 was constructed in 1963, the abandonment of this section of pipeline is necessitated by the abandonment of Maxwell Station. Applicant estimates that approximately 4,500 Mcf of gas per day are being lost from the pipeline system which is proposed herein to be replaced.

Applicant alleges that the relocation of the Maxwell Station horsepower and the abandonment of Payne Station are required because it will be necessary to relocate many pipelines.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 6, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–29561 Filed 12–18–74;8:45 am]

[Docket No. CP75–160]

EL PASO NATURAL GAS CO.

Notice of Application

DECEMBER 11, 1974.

Take notice that on November 27, 1974, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP75–160 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain compressor facilities located in Howard and Scurry Counties, Texas, all as set forth in the application which is on file with the Commission and open to public inspection.

The application states that by Commission orders issued June 19, 1952, in Docket No. G–1631 (11 FPC 1071) and March 26, 1958, in Docket No. G–1197 (19 FPC 393) Applicant was authorized, inter alia, to construct and operate the Vealmoor Compressor Station in Howard County, Texas, consisting of three 440 horsepower and one 800 horsepower gas engine-driven reciprocating compressor units with appurtenances, for the transportation of available volumes of residue gas from the Vealmoor area. The application further states that due to the continuing decline in available supplies of residue gas in the Vealmoor area, Applicant's interstate system no longer requires the use of the total compressor horsepower now comprising such facility for the purpose initially installed.

In addition, the application states that by various Commission orders Applicant was authorized, inter alia, to construct and operate the Snyder Compressor Station in Scurry County, Texas, consisting of five 660 horsepower and one 2,000 horsepower gas engine-driven reciprocating compressor units with appurtenances, for the transportation of gas from sources in the Snyder area in Scurry County, Texas, to Applicant's interstate system. The application states further that due to the reductions in the amount of residue gas supplies from sources in the Snyder area, Applicant's system operations no longer require the use of the total compressor horsepower facilities installed at said location.

Applicant, accordingly, proposes to abandon and store in place, until installation at some other location on Applicant's interstate system is required, or until such facilities are sold on the used compressor market, one 440 horsepower compressor unit authorized by the order issued June 19, 1952, in Docket No. G–1631, from the Vealmoor Compressor Station, and the 2,000 horsepower compressor unit authorized by order issued March 23, 1971, in Docket No. CP71–72 (45 FPC 477), at the Snyder Compressor Station, together with appurtenant facilities. The total cost of abandonment of the facilities is estimated by Applicant to be $4,050 including filing fees.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–29562 Filed 12–18–74;8:45 am]

[Docket No. RI75-46]

EXXON CORP.

Notice of Postponement of Hearing

DECEMBER 11, 1974.

On December 3, 1974, Exxon Corporation filed a motion to extend the hearing date fixed by order issued November 4, 1974 in the above-designated matter. On December 6, 1974, Staff Counsel filed an answer. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the Hearing date in the above matter is postponed until January 7, 1975 at 10 a.m. [e.s.t.]

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29553 Filed 12-18-74;8:45 am]

[Docket No. CP75-58]

IOWA POWER & LIGHT CO. AND NORTHERN NATURAL GAS CO.

Notice of Extension of Procedural Dates

DECEMBER 12, 1974.

On December 6, 1974, Northern Natural Gas Company filed a motion to extend the procedural dates fixed by order issued December 2, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Applicant's and Respondent's Testimony, January 9, 1975.
Hearing, January 29, 1975 (10 a.m. e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29556 Filed 12-18-74;8:45 am]

[Docket No. E-9150 and E-9137]

IOWA PUBLIC SERVICE CO.

Notice of Application

DECEMBER 11, 1974.

Take notice that on November 18, 1974 and November 25, 1974, Iowa Public Service Company (Applicant), filed applications with the Federal Power Commission, pursuant to section 204 of the Federal Power Act seeking authorization to negotiate with at least three underwriters, in each transaction, regarding the proposed issuance and sale of (1) not more than 700,000 shares of Common Stock; (2) $20 million principal amount of First Mortgage Bonds; and (3) 100,000 shares of Cumulative Preferred Stock, by negotiated underwriting.

Applicant seeks permission to negotiate with underwriters regarding the terms upon which the securities might be issued in order to determine whether application for exemption from the competitive bidding requirements of § 34.1a (a) (b) and (c) of the Commission's regulations under the Federal Power Act should be made. Applicant represents that it has not engaged in any negotiations for the sale or underwriting of securities.

Applicant is incorporated under the laws of the State of Iowa, with its principal business office at Sioux City, Iowa, and is engaged in the electric utility business within that State.

Any person desiring to be heard or to make any protest with reference to the application should on or before December 31, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29555 Filed 12-18-74;8:45 am]

[Docket No. E-8365]

KANSAS CITY POWER AND LIGHT CO.

Extension of Procedural Dates

DECEMBER 12, 1974.

On December 5, 1974, Staff Counsel filed a motion to extend the procedural dates fixed by order issued November 1, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company, Staff, Intervenors Testimony, December 24, 1974.
Hearing, January 16, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29557 Filed 12-18-74;8:45 am]

[Docket No. CP75-164]

LONE STAR GAS CO.

Notice of Application

DECEMBER 11, 1974.

Take notice that on December 2, 1974, Lone Star Gas Company (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP75-164 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval of the Commission to abandon the operation of certain facilities for the transportation of natural gas in interstate commerce located in Collin County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks permission and approval to abandon approximately 0.01 mile of its 2-inch Line F-5 pipeline system located in Collin County and to transfer the use of said portion of Line F-5 from transmission to distribution pipeline. Applicant explains that the equipment and facilities used to serve the customers currently on Line F-5 are in a condition that will not tolerate the high pressures required on Applicant's transmission lines, but that the line may still effectively be used at lower distribution pressures to serve residential customers in the area. In addition, Applicant proposes to abandon and scrap, at an estimated cost of $300, the existing measuring station which is located at the terminus of Line F-5. Applicant claims that said measuring station is obsolete.

Applicant states that the proposed abandonment of the Line F-5 facilities from interstate operations will not result in abandonment or reduction of natural gas service to any of Applicant's customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 8, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29560 Filed 12-18-74;8:45 am]

[Docket No. E-9615]

LOUISIANA POWER & LIGHT CO.

Postponement of Hearing

DECEMBER 12, 1974.

On December 6, 1974, Louisiana Power and Light Company filed a motion to extend the hearing date fixed by order issued April 12, 1974, as most recently modified by notice issued October 24, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the hearing date in the above matter is postponed until January 14, 1975, at 10 a.m. (e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.29559 Filed 12-18-74;8:45 am]

[Docket No. RP75-20]

MISSISSIPPI RIVER TRANSMISSION CORP.

Order Granting Interventions

DECEMBER 11, 1974.

On October 1, 1974, Mississippi River Transmission Corporation (MRT) tendered for filing proposed changes in its FPC Gas Tariff [1] to provide for a rate increase of approximately $14,166,924 over the rates effective October 1, 1974.

Letters of protest, comments or petitions to intervene were due on or before October 18, 1974. The following parties filed untimely interventions:

Illinois Power Company
Illinois Commerce Commission

The participation of the above-named Company and State Commission may be in the public interest and therefore, their untimely interventions shall be granted.

The Commission finds. The participation of the above named parties may be in the public interest.

The Commission orders. (A) The above named parties are permitted to intervene in this proceeding subject to the rules and regulations of the Commission and the procedures set forth in the Commission Order of October 31, 1974; *Provided, however,* That participation of said intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions to intervene, and *Provided, further,* The admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered in this proceeding.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29560 Filed 12-18-74;8:46 am]

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[1] The below listed revised tariff sheets to Mississippi's FPC Gas Tariff, First Revised Volume No. 1 were filed on October 1, 1974: ------ Revised Sheet No. 3A, Twelfth Revised Sheet No. 5; Tenth Revised Sheet No. 6; Third Revised Sheet No. 27E.

[Docket Nos. RP73-110 and RP71-128 (PGA 75-4B)]

NATURAL GAS PIPE LINE COMPANY OF AMERICA

Notice of Rate Filing

DECEMBER 11, 1974.

Take notice that on December 5, 1974, Natural Gas Pipe Line Company of America (Natural) tendered for filing changes to its FPC Gas Tariff, Third Revised Volume No. 3:

Revised 5th Substitute 16th Revised Sheet No. 5.	*Effective* Nov. 1, 1974.
2d 5th Substitute 16th Revised Sheet No. 5.	Nov. 18, 1974.

Natural states that its December 5, 1974, filing is to be substituted for its December 2, 1974, filing. Natural states that its December 2, 1974, filing was pursuant to a Commission directive which: (1) Required the rates which were effective November 1, 1974, to be revised to reflect the elimination of the effect of an advance payment unit adjustment being withdrawn by Natural and to record the PGA increases from Great Lakes and United Gas [1] (2) Required the rates to be effective November 18, 1974 to reflect the PGA increase by Colorado Interstate.[2] Furthermore, Natural states that one tariff sheet of its December 2, 1974, filing, to become effective November 2, 1974, was revised to track the rate effect of United Gas' Petition For Special Relief through the establishment of a temporary National Rate Surcharge.[3]

Natural states that its December 5, 1974, filing is necessitated by the fact of a Commission denial of United Gas Petition For Special Relief. Therefore, Natural states that its December 5, 1974, filing eliminates Second Revised Fifth Substitute Revised Sheet No. 5 contained in its December 2, 1974 filing and also eliminates the effect of the proposed National Rate Surcharge on its rates to become effective November 18, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29562 Filed 12-18-74;8:45 am]

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[1] Revised Fifth Substitute Sixteenth Revised Sheet No. 5.

[2] Third Revised Fifth Substitute Sixteenth Revised Sheet No. 5.

[3] Second Revised Fifth Substitute Sixteenth Revised Sheet No. 5.

[Docket No. CP75-161]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

DECEMBER 11, 1974.

Take notice that on November 27, 1974, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP75-161 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the Commission's regulations thereunder (18 CFR 157.7(b)), for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1975, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers in the general area of its existing system, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various producing areas generally co-extensive with said system.

The application states that the total costs of all facilities for which authorization is sought herein will not exceed $7,000,000, with no single onshore project to exceed a cost of $1,000,000, and with no single offshore project to exceed a cost of $1,750,000. Applicant states that the proposed facilities will be financed from funds on hand.

Applicant notes that the Commission has issued a Notice of Proposed Rulemaking in Docket No. RM75-2, [1] wherein it is proposed to amend the aforesaid Section 157.7(b). Applicant, therefore, requests, should the Commission issue an order in Docket No. RM75-2 increasing the maximum cost limitations for budget-type facilities, authorization for a total expenditure not to exceed $10,000,000, with the cost of onshore and offshore gas purchase facilities for a single project not to exceed $1,500,000 and $2,500,000, respectively.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 2, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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[1] 39 FR 29238

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-29561 Filed 12-18-74;8:45 am]

[Docket No. CP74-71]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Petition To Amend

DECEMBER 11, 1974.

Take notice that on December 2, 1974, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP74-71 a petition to amend the order issued in said docket on December 3, 1973 (50 FPC —), pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the Commission's regulations thereunder (18 CFR 157.7(b)), by authorizing the construction and operation of onshore gas purchase facilities through waiver of the cost limitation prescribed by § 157.7(b)(1)(ii) of the Commission's regulations (18 CFR 157.7(b)(1)(ii)), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order of December 3, 1973, Petitioner was authorized to construct during the calendar year 1974 onshore natural gas purchase facilities with no single project to exceed a cost of $1,000,000 and to operate said facilities. Section 157.7(b)(1)(ii) of the Regulations under the Natural Gas Act limits to $1,000,000 the cost of any single onshore gas purchase facility which Petitioner may construct under that section. Petitioner now requests a waiver of this limit so that it may include the construction of transportation facilities from its Maud Field reserves located in Bowie County, Texas, under the authorization in Docket No. CP74-71.

Petitioners states that during the period January 1974 through May 1974 it constructed facilities to transport production from the Maud Field to a point of connection with Petitioner's existing transmission system located in Miller County, Arkansas, at an actual cost of $1,218,000, which exceeded Petitioner's original estimate by $368,000 and also exceeds the authorization granted by the December 3, 1974, order. Petitioner further states that the major portion of this increase is attributable to the installation cost, which was $307,500 higher than Petitioner's original estimate primarily because of the increase in the cost of labor, the extended period required for construction, the delay in placing all facilities in service, and the inclement weather conditions that prevailed in the construction area during the period January to March 1974. Petitioner contends that it could not have reasonably foreseen this cost overrun prior to the completion of substantially all of the construction and installation of said facilities, which consist of 21 miles of 8-inch pipeline, and a 6-inch measuring facility.

Petitioner asserts that the gas purchased in the Maud Field and transported by means of the facilities described in the petition to amend is required and will be used by Petitioner to augment its total gas supply and to assure maintenance of adequate service to its customers. Petitioner, therefore, requests the Commission to increase the authorized cost ceiling for any single onshore project in the December 3, 1974, order to $1,300,000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 7, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-29563 Filed 12-18-74;8:45 am]

[Docket No. E-9151]

NIAGARA MOHAWK POWER CORP.

Notice of Tariff Change

DECEMBER 11, 1974.

Take notice that Niagara Mohawk Power Corporation and New York State Electric & Gas Corporation, on December 4, 1974, tendered for filing proposed changes in Niagara Mohawk Power Corporation's Rate Schedule FPC No. 45 and New York State Electric & Gas Corporation's Rate Schedule FPC No. 36. The proposed filing is submitted as Supplement No. 4 to both companies.

Supplement No. 3 between the Power Authority of the State of New York, Niagara Mohawk Power Corporation and New York State Electric & Gas Corporation stated that the transmission fee would increase from $4.375 per Kw per year to $4.80 per Kw per year when the contract demand exceeded 100,000 Kw. On September 1, 1974, the Power Authority of the State of New York commenced deliveries of 130,000 Kw of power under the agreement thereby necessitating the filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before December 27, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-29564 Filed 12-18-74;8:45 am]

[Docket No. RP73-8 PGA 75-4]

NORTH PENN GAS CO.

Proposed Changes in FPC Gas Tariff

DECEMBER 11, 1974.

Take notice that North Penn Gas Company (North Penn) on December 2, 1974, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA clause for rates to be effective January 1, 1975. North Penn states that the proposed rate increase would generate $739,999.01 annually in additional jurisdictional revenues based on the twelve-month period ending October 31, 1974.

North Penn states that this PGA filing was triggered by a rate increase filed by Tennessee Gas Pipeline Company (Tennessee) and Consolidated Gas Supply Corporation (Consolidated), both to be effective January 1, 1975. Tennessee filed two sets of tariff sheets for the same effective date, one of which, designated as Second Substitute Sixth Revised Sheet Nos. 12A and 12B, includes small producer increases above the level established by Opinion No. 699 while the other, designated as Substitute Sixth Revised Sheet Nos. 12A and 12B, does not. North Penn has reflected in its filing the Second Substitute Sixth Revised Sheet Nos. 12A and 12B rates of Tennessee. Additionally, North Penn has included the change in rates from Consolidated, filed November 5, 1974, to become effective December 1, 1974, and designated as Second Substitute Original Sheet No. 7A. This change in rates from Consolidated was to correct rates filed October 16, 1974 to become effective December 1, 1974, in Docket No. RP74-90.

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Sheet No. 5; Tenth Revised Sheet No. 6; Third Revised Sheet No. 27K.

teenth Revised Sheet No. 5.

[39 FR 29038

North Penn is requesting a waiver of the 45-day notice requirement contained in its PGA clause since it did not receive the suppliers' revised rates in sufficient time to make a timely filing. Further, North Penn asks for a waiver of any other of the Commission's rules and regulations in order to permit the proposed rates to go into effect on January 1, 1975.

Copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissioners.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 23, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29566 Filed 12-18-74;8:45 am]

[Docket No. CP74-236]

NORTHERN NATURAL GAS CO.

Order Granting Interventions, Setting Date for the Filing of Evidence and Hearing Date; Correction

NOVEMBER 14, 1974.

In the Order Granting Interventions, Setting Date for The Filing of Evidence and Hearing Date issued September 23, 1974 and Published in the FEDERAL REGISTER on September 27, 1974 39 FR 34709, Page 34710, Paragraph 4, listed intervenor Iowa Electric Gas and Electric Company is an erroneous combination of two separate intervenors, and should be changed to:

Iowa Electric Light and Power Company
Iowa-Illinois Gas and Electric Company

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29565 Filed 12-18-74;8:45 am]

[Docket No. E-9148]

NORTHERN STATES POWER CO.

Filing of Proposed Rate Increase

DECEMBER 11, 1974.

Take notice that Northern States Power Company, Minneapolis, Minnesota, (NSP) on December 2, 1974, tendered for filing Third Revised Schedule A to NSP's contracts with the following sixteen total requirements wholesale customers:

	FPC Rate Schedule No.
City of Anoka	338
City of Arlington	276
Village of Brownton	224
Village of Buffalo	269
City of Chaska	323
City of Granite Falls	256
Home Light & Power Co.	226
Village of Kasota	318
Village of Kasson	279
City of Lake City	261
Village of North St. Paul	271
City of St. Peter	225
City of Shakopee	263
Town of Valley Springs	266
City of Wasson	280
City of Winthrop	264

The rate schedule is proposed to be effective for deliveries of power and energy on and after January 1, 1975, but NSP requests, in accordance with a settlement agreement in Docket No. E-8252 that the proposed increase be suspended by the Commission so as to allow the increase to become effective for deliveries of power and energy on and after June 1, 1975.

NSP states that the proposed rate schedule will increase revenues from the total requirements sales by $2,219,600, based on sales for the 1975 test year. The proposed increase is needed, NSP states, so that the revenues will more nearly recover NSP's costs in rendering the service.

NSP states that it has mailed a copy of the proposed rate schedule and comparative billing data to each of NSP's customers affected by the proposed change and to the Minnesota Public Service Commission as required by § 35.2 of the Commission's regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 24, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29567 Filed 12-18-74;8:45 am]

[Docket Nos. CP62-59, CP74-124]

PACIFIC GAS TRANSMISSION CO.

Petition To Amend; Correction

NOVEMBER 19, 1974.

In the Notice of Petition to amend issued November 7, 1974 and published in the FEDERAL REGISTER on November 14, 1974 39 FR 40198, Page 40198, line 9: Delete period and add "as defined under priorities 4 and 5 in Commission Order No. 467 (49 FPC 85)."

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29568 Filed 12-18-74;8:45 am]

[Docket No. E-9068]

PHILADELPHIA ELECTRIC CO.

Application; Correction

NOVEMBER 27, 1974.

In the Notice of Application issued November 8, 1974, and published in the FEDERAL REGISTER on November 15, 1974, 39 FR 40332, page 40332, paragraph 3, the name of the Company should read: "Philadelphia Electric Power Company" rather than "Pennsylvania Electric Power Company".

Page 40332, paragraph 4, line 1, should read: "Philadelphia Electric Power Company". Line 3 should read: "Philadelphia Electric Company". Line 9 should read: "Philadelphia Electric Power Company".

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29569 Filed 12-18-74;8:45 am]

[Docket No. CI75-340]

SKYLINE OIL CO., ET AL.

Notice of Application

DECEMBER 11, 1974.

Take notice that on November 22, 1974, Skyline Oil Company, 413 Atlas Building, Salt Lake City, Utah 84101, Joseph Oil Corp. and Joseph S. Gruss, 55 Broad Street, New York, New York 10004, (collectively Applicants) filed in Docket No. CI75-340 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas in interstate commerce to Columbia Gas Transmission Corporation (Columbia) from the Sweet Lake Land and Oil Co. Well Nos. 1 and 2, Chalkley Field, Cameron Parish, Louisiana, and delivery of said gas at Columbia's existing measuring station No. 503 in Cameron Parish, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application indicates that Applicants have commenced a sale of natural gas to Columbia on November 18, 1974, from the Chalkley Field within the contemplation of § 157.29 of the Commission's regulations under the Natural Gas Act (18 CFR 157.29) and propose to continue said sale for one year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicants propose to sell to Columbia all gas produced from the subject wells, estimated at approximately 2,500 Mcf of gas per day, at a rate of $1.00 per million Btu at 15.025 psia. Said rate is subject to the condition that if Columbia is not able upon good faith effort to include any portion of the contract price in its cost-of-service, the portion which was not includable shall be refunded by Applicant and the contract price reduced accordingly.

Any person desiring to be heard or to make any protest with reference to said application should on or before January

2, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29570 Filed 12-18-74;8:45 am]

[Docket No. E-8961]

SUPERIOR WATER LIGHT AND POWER CO.

Extension of Procedural Dates

DECEMBER 12, 1974.

On December 9, 1974, Staff Counsel filed a motion to extend the procedural dates fixed by order issued August 30, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, February 18, 1975.
Service of Intervenor's Testimony, March 4, 1975.
Service of Company Rebuttal, March 18, 1975.
Hearing, April 8, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29571 Filed 12-18-74;8:45 am]

[Docket No. CP75-159]

TENNESSEE GAS PIPELINE CO.

Notice of Application

DECEMBER 11, 1974.

Take notice that on November 27, 1974, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP75-159 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the Commission's regulations thereunder (18 CFR 157.7(b)), for a certificate of public convenience and necessity authorizing the construction during the calendar year 1975 and the operation of gas-purchase facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers in the general area of its existing system, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

The stated purpose of the budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various producing areas generally coextensive with said system.

The application states that the total cost of all facilities for which authorization is sought herein will not exceed $7,000,000, with no single onshore or offshore project to exceed costs of $1,000,000 and $1,750,000, respectively. Applicant states that initial financing will be from general funds and/or borrowings under Applicant's revolving credit agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29572 Filed 12-18-74;8:45 am]

[Docket No. RP74-91-6]

TENNESSEE GAS PIPELINE CO.

Order Granting Withdrawal of Petition for Extraordinary Relief and Vacating Prior Order

DECEMBER 11, 1974.

On September 19, 1974, Mississippi Valley Gas Company (Mississippi Valley), filed in Docket No. RP74-91-6 a petition for extraordinary relief pursuant to § 1.7 of the Commission's rules of practice and procedure and 2.78 of the Commission's rules and regulations requesting: (1) that the Commission authorize Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee) to restructure its 1974 allocation of natural gas or in the alternative, (1) that the Commission order that no penalty be imposed on Mississippi Valley for volumes of gas taken in excess of its April–October, 1974 curtailment period quantity entitlement (CPQE) of 2,796 Mcf as long as the overrun does not exceed the 2,080 Mcf that Mississippi Valley was entitled to but did not take during the January–March, 1974 curtailment period; and (2) that the Commission waive any and all requirements which would delay the immediate grant of the relief requested. By order of October 25, 1974, the Commission, inter alia, ordered a formal hearing be held on the issues raised by Mississippi Valley's petition, and authorized Tennessee to deliver to Mississippi Valley the requested volumes of natural gas subject to payback if determined to be required at the aforementioned hearing.

On November 13, 1974, Mississippi Valley filed a motion requesting the Commission to: (1) allow it to withdraw its petition for extraordinary relief; (2) vacate the order granting temporary relief; and (3) dismiss the proceeding. Mississippi Valley states that due to warmer than normal weather during October, 1974, and delay of the cotton ginning season due to wet fields, it required delivery of only 2,723 Mcf, while its CPQE for that period was 2,769 Mcf. Mississippi Valley states that its petition for extraordinary relief is now unnecessary and therefore requests the Commission grant the relief set forth above. We shall grant Mississippi Valley's request and allow it to withdraw its petition of September 19, 1974; we shall also vacate our order of October 25, 1974, which inter alia, ordered a formal hearing be held on the issues raised by Mississippi Valley's petition.

The Commission finds. That Mississippi Valley's request to withdraw its petition for extraordinary relief filed in the instant docket on September 19, 1974 should be granted; and that the order issued in this docket on October 25, 1974, should be vacated.

DEC 19 1974 V 39 N 245 XUM

The Commission orders: That Mississippi Valley's request to withdraw its petition for extraordinary relief filed in the instant docket on September 19, 1974, is hereby granted; and that the order issued in this docket on October 25, 1974 is hereby vacated.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29573 Filed 12-18-74;8:45 am]

[Docket No. RP74-39-14, et al.]

TEXAS EASTERN TRANSMISSION CORP., ET AL.

Order Granting Extraordinary Relief Pendente Lite, Permitting Intervention, Providing for Hearing and Establishing Procedures; Correction

NOVEMBER 21, 1974.

In the Order Granting Extraordinary Relief *Pendente Lite*, Permitting Intervention, Providing for Hearing and Establishing Procedures, issued November 19, 1974 and published in the FEDERAL REGISTER on November 27, 1974 39 FR 41412: Page 41412 change the figure in the table under Paragraph I which gives the amount of daily relief requested for Bound Brook Corporation from: "261.2" to "361.2."

Page 41414 Ordering paragraph (A), Subparagraph (4): change "January 15, 1974" to "January 15, 1975." Page 10 Ordering Paragraph (A), last subparagraph: insert words "extraordinary relief" after the word "that" in the fourth line.

MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29574 Filed 12-18-74;8:45 am]

[Docket No. RP74-52]

TRANSWESTERN PIPELINE CO.

Notice of Extension of Procedural Dates

DECEMBER 10, 1974.

On December 9, 1974, Transwestern Pipeline Company filed a motion to extend the procedural dates fixed by order issued November 18, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company Rebuttal, January 14, 1975.
Hearing, January 28, 1975 (10 a.m. e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29575 Filed 12-18-74;8:45 am]

[Docket No. E-8619]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Further Extension of Procedural Dates

DECEMBER 10, 1974.

On December 4, 1974, Staff Counsel filed a motion to extend the procedural dates fixed by order issued April 19, 1974, as most recently modified by notice issued, September 16, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon Consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, December 23, 1974.
Service of Intervenor's Testimony, January 7, 1975.
Service of Company Rebuttal, January 28, 1975.
Hearing, February 18, 1975 (10 a.m. e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29576 Filed 12-18-74;8:45 am]

FEDERAL RESERVE SYSTEM

CANTON BANCORPORATION, INC.

Order Denying Formation of Bank Holding Co.

Canton Bancorporation, Inc., Canton, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 85 percent of the voting shares of Bank of Canton, Canton, Oklahoma ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a nonoperating corporation organized for the purpose of becoming a bank holding company through the acquisition of shares of Bank. The purpose of the proposed transaction is to effect a transfer of ownership of Bank from individuals to a corporation owned by the same individuals with no significant change in Bank's management or operations. With total deposits of $5.3 million on December 31, 1973, Bank was the smallest of five banks in Blaine County, which approximates the relevant banking market. Bank holds about 13 per cent of the total deposits in banks in Blaine County and less than .1 of 1 per cent of the total deposits in the State. Since the proposal is essentially a reorganization, consummation thereof would not eliminate any existing competition, nor would it appear to have any adverse effects on other banks or on the development of competition in the relevant market. Therefore, competitive considerations are consistent with approval of the application.

Under the Bank Holding Company Act, the Board is required to take into consideration the financial and managerial resources and future prospects of the proposed holding company and the bank to be acquired. In the exercise of that responsibility, the Board finds that considerations relating to the financial resources of Applicant warrant denial of the application.

Applicant has no operating history. Applicant's revenues would be limited to its 85 percent interest in cash dividends declared by Bank. The Applicant expects to service the $388,000 debt it will incur as part of this transaction through dividends from Bank. On the basis of the record, the Board is unable to conclude that the Applicant's projected earnings are reasonable or attainable. Furthermore, even if Applicant's projections are realized, the projected earnings for Bank do not, in the Board's view, provide Applicant with the necessary financial flexibility to meet its annual debt servicing requirements as well as any unexpected problems that might arise at Bank. In addition, the high level of dividend payout from Bank necessary for Applicant to service its debt could inhibit growth in Bank's capital at a rate compatible with its projected asset growth, thus impairing Bank's financial condition and its ability to continue as a viable banking organization in meeting the banking needs of the community it serves. Accordingly, on the basis of the record, the Board concludes that the considerations relating to the financial aspects of Applicant's proposal weigh against approval of the application.

Applicant does not propose, as part of this application, to make any changes or additions in the services presently offered by Bank. Thus, the considerations relating to the convenience and needs of the community to be served do not lend any significant weight in favor of approval of the application. Moreover, in view of the proposed debt-retirement plan, consummation of the proposal could diminish Bank's ability to continue to serve the area as a banking alternative.

On the basis of all the facts in the record, it is the Board's judgment that the financial considerations involved in the proposed transaction present adverse factors weighing against approval of the application. Accordingly, the Board concludes that consummation of the proposal would not be in the public interest, and that the application should be, and is hereby, denied.

By order of the Board of Governors,[1] effective December 11, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-29521 Filed 12-18-74;8:45 am]

MERCANTILE BANCORPORATION INC.

Acquisition of Bank

Mercantile Bancorporation Inc., St. Louis, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire at least 90 percent of the voting shares of State

[1] Voting for this action: Governors Sheehan, Bucher, Holland, Wallich, and Coldwell. Absent and not voting: Chairman Burns and Governor Mitchell.

Bank of Willow Springs, Willow Springs, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 10, 1975.

Board of Governors of the Federal Reserve System, December 11, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-29523 Filed 12-18-74;8:45 am]

PEOPLES BANCORPORATION

Order Denying Formation of Bank Holding Co.

Peoples Bancorporation, Hampton, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 86.5 percent of the voting shares of Peoples Savings Bank, Elma, Iowa ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a non-operating company with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank (deposits of $5.7 million).[1] Bank is the only bank in Elma (population of approximately 600), an agriculturally oriented community located in northeastern Iowa. Bank is the third largest of five banks in the Howard County banking market and holds approximately 17 percent of the total commercial bank deposits therein. Upon acquisition of Bank, Applicant would control the 453rd largest bank in Iowa, holding .06 of one percent of total deposits in commercial banks in the State. Since the purpose of the proposed transaction is to effect a transfer of the ownership of Bank from individuals to a corporation owned by the same individuals, consummation of the proposal herein would not eliminate existing or potential competition, nor have an adverse effect on other area banks.

The principals of Applicant are also principals in A. M. Sayler, Incorporated, Hampton, Iowa, a registered one-bank holding company which owns 59.3 percent of First National Bank of Hampton, Hampton, Iowa ("Hampton Bank"). Hampton Bank (deposits of $16.6 million) is the largest of five banks in the Franklin County banking market, a separate banking market located approximately 50 miles southwest of Bank. It appears that there is no significant competition between Hampton Bank and Bank. Accordingly, on the basis of the facts of record, the Board concludes that competitive considerations are consistent with approval of the application.

The Board has indicated on previous occasions that it believes that a holding company should provide a source of strength to its subsidiary bank(s), and that it will examine closely the condition of the Applicant in each case with this view in mind. The proposal herein involves an acquisition debt of $407,300 which Applicant proposes to service over an eleven-year period through a dividend payout from Bank averaging over 50 percent of Bank's net income. Moreover, Applicant proposes to borrow an additional $51,000 during the next five years in order to meet the principal and interest payments during that period. In the Board's view, this high level of debt and the dividend payout required from Bank to service the debt could place an undue strain on Bank's capital position. In this regard, the projected asset and deposit growth and earnings of Bank during the debt retirement period do not appear to provide Applicant with the necessary financial flexibility to meet its annual debt serving requirements while maintaining adequate capital at Bank. On the basis of the foregoing and other facts of record, the Board is unable to conclude that it would be in the public interest to permit the formation of a one-bank holding company with an initial debt structure which could result in impairing Bank's financial condition. Accordingly, the Board concludes that the financial aspects of Applicant's proposal weigh against approval of the application.

Applicant has proposed some changes which could benefit the community, including increased real estate lending and the increased use of loan participations enabling Bank to extend larger loans to its customers. However, the introduction of these expanded services is not dependent upon formation of Applicant as a bank holding company and, in any event, does not outweigh the aforementioned adverse considerations relating to the banking factors.

On the basis of all of the circumstances concerning this application, the Board concludes that the financial considerations involved in this proposal present adverse circumstances bearing upon the financial condition and prospects of both Applicant and Bank. Such adverse factors are not outweighed by any procompetitive effects or by benefits which would result in serving the convenience and needs of the community. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest and that the application should be denied.

On the basis of the record, the application is denied for the reasons summarized above.

By order of the Board of Governors,[2] effective December 9, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-29522 Filed 12-18-74;8:45 am]

VICTORIA BANKSHARES, INC.

Acquisition of Bank

Victoria Bankshares, Inc., Victoria, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to the Jackson County State Bank, Edna, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 13, 1975.

Board of Governors of the Federal Reserve System, December 12, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-29525 Filed 12-18-74;8:45 am]

WACHOVIA CORP.

Order Approving Retention of Southeastern Financial Corp.

The Wachovia Corporation, Winston-Salem, North Carolina, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to retain all of the outstanding shares of Southeastern Financial Corporation, Charlotte, North Carolina ("Southeastern"), a company that engages in the activities of purchasing of accounts receivable, principally on a nonrecourse basis ("factoring"), and of making secured and unsecured advances and loans to commercial customers, such loans being secured by accounts receivable, inventory, equipment, and/or real estate ("commercial financing"). Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1)). The shares of Southeastern are presently held by American Credit Corporation,

[1] All banking data are as of December 31, 1973.

[2] Voting for this action: Chairman Burns and Governors Sheehan, Bucher, Holland and Coldwell. Absent and not voting: Governors Mitchell and Wallich.

Charlotte, North Carolina ("ACC"), a wholly-owned subsidiary of Applicant.[1]

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (38 FR 9187). The time for filing comments and views has expired, and those received have been considered in light of the standards of section 4(c)(8) of the Act.

Applicant, the largest banking organization in North Carolina, controls one bank, Wachovia Bank and Trust Company, N.A. ("Bank"), with total deposits of $2.5 billion, representing 21 per cent of total deposits in commercial banks in North Carolina.[2] Applicant's nonbanking subsidiaries include ACC, a mortgage company, a data processing company, an insurance agency, a courier corporation, a title insurance agency, and a real estate development company. Certain of these nonbanking subsidiaries must be divested, under section 4(a)(2) of the Act, by December 31, 1980, unless the Board, prior to that date, approves Applicant's retention of those subsidiaries.

Southeastern is engaged in both factoring and commercial financing and conducts business from its sole office in Charlotte, North Carolina. Its customers, that is, business entities that either borrow from it or sell accounts receivable to it, are principally located throughout the southeastern United States. During 1973, it had a factoring volume of $628 million, representing approximately 3.8 per cent of total commercial factored accounts held by all factoring firms in the United States. It is estimated that Southeastern is thereby the ninth largest such firm.

The United States Department of Justice ("Justice") has urged that the Board deny this application on grounds that Applicant's original acquisition of ACC eliminated what Justice deems a probability that Applicant would have entered factoring either de novo or by foothold entry. Justice relies on the facts that Southeastern is the second largest factor in North Carolina and that Applicant is the largest commercial banking organization in the southeastern United States. Applicant's bank is the largest commercial bank in North Carolina and numerous users or potential users of factoring services are among its customers. More than 65 per cent of Southeastern's clients and factoring volume are from North Carolina, and no other State accounts for more than 7 per cent of Southeastern's factoring business.[3] As factoring requires business contacts and factoring firms prefer to deal with local factors, Justice argues that the State of North Carolina approximates the relevant geographic market in which to adjudge the competitive effects of the instant acquisition and retention.

Applicant contends that the nation as a whole constitutes the relevant geographic market in that the receivables purchased by Southeastern are owed by debtors located throughout the country. However, the competitive choice whether to deal with Southeastern is made by sellers of accounts receivable, not by account debtors. More than 97 per cent of Southeastern's clients were located in the southeastern United States in 1970,[4] and those clients represented more than 98 percent of Southeastern's factoring volume. The southeastern United States is the area where Southeastern operates, and to which its factoring clients can practicably turn for factoring alternatives. It is the area in which the effect on competition of the acquisition in 1970, and the retention, of Southeastern will be direct and immediate. Accordingly, it is the relevant geographic market in which to adjudge the competitive effects of the affiliation of Applicant and Southeastern.[5] However, while the southeastern United States constitutes the relevant market, the bulk of the Board's analysis has focused on that area in which adverse competitive effects, if any, would be most likely to occur, the State of North Carolina.

The factoring business in North Carolina is concentrated, the four largest firms in 1971 accounting for more than 66 percent of factoring volume and the eight largest firms accounting for more than 85 per cent of such volume. Of the 28 factoring firms in the State in 1971, Southeastern ranked second and accounted for slightly more than 18 per cent of total factoring volume.

Justice asserts that Applicant has both the incentive and the capacity to enter factoring in North Carolina; that textile and furniture manufacturers, prime users of factoring services, constitute substantial components of the North Carolina economy; that growth of the North Carolina textile and furniture manufacturing industries has contributed to growth of factoring volume; and that the other major banking organizations in North Carolina are affiliated with factors. Further, in a proxy statement to shareholders of Bank in 1968, in seeking shareholder approval for the plan of reorganization in which Applicant was formed, Bank's management expressly stated that "factoring accounts receivable" was among the services that "[i]t is contemplated that Wachovia Corporation will ultimately offer" either de novo or by acquisition. Applicant does not contend that it lacked an incentive to enter factoring de novo or by foothold entry, and the Board concludes that Applicant had such an incentive in 1970 and, but for its ownership of Southeastern, would have such incentive today.

However, Applicant asserts that whatever its incentive, it did not and does not have the capacity to enter factoring in North Carolina de novo or by foothold acquisition. However, its simple assertion is not dispositive of the issue. Justice contends that Applicant's substantial North Carolina contacts enable it to enter factoring de novo or by foothold acquisition. Internal memoranda of Southeastern, written in 1969 and 1970, suggest an expectation that competing factors would affiliate with banks.

Applicant's position is premised on the assertions that it lacks the expertise necessary to service factored customers and to collect accounts receivable throughout

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[1] As originally filed, the instant application proposed retention of all of the shares of American Credit Corporation, Charlotte, North Carolina, parent of Southeastern. American Credit Corporation, through various subsidiaries, makes personal loans, purchases retail installment sales contracts, underwrites and sells insurance, leases personal property, and provides certain data processing services, as well as engaging in factoring and commercial financing activities through Southeastern. On April 25, 1974, that application was amended to incorporate Applicant's undertaking upon approval of this application to divest no later than December 31, 1978, all of the shares of American Credit Corporation, except for retention of all of the shares of American Credit Corporation's subsidiary, Southeastern.

Applicant had also filed a separate application to retain shares of Southeastern Fire Insurance Company and South State Insurance Company, both wholly-owned subsidiaries of American Credit Corporation. Southeastern Fire Insurance Company and South State Insurance Company each underwrites credit fire and casualty insurance, an activity that the Board has not determined to be closely related to banking or managing or controlling banks. Prior to the Board's consideration of whether there existed a reasonable basis for Applicant's opinion that such activity is closely related to banking or managing or controlling banks, that application was withdrawn.

[2] Banking data are as of December 31, 1973.

[3] Data is for year 1970.

[4] The southeastern United States as used herein includes, and is limited to, the States of North Carolina, Virginia, South Carolina, Tennessee, Georgia, Mississippi, Florida, Alabama, and Kentucky.

[5] In prior cases involving the acquisition of factors by bank holding companies, the Board has recognized the existence of factoring markets less than national in scope. E.g., see Order of September 4, 1974, approving application of The Main Corporation, Chicago, Illinois, to acquire Health Management Services Corporation, 39 FR 33261 (September 16, 1974); Order of September 11, 1973, approving application of Philadelphia National Corporation, Philadelphia, Pennsylvania, to retain Congress Factors Corporation, 38 FR 26156 (September 18, 1973); Order of September 8, 1972, approving application of Bank of Virginia Company, Richmond, Virginia, to retain Rusch Factors, Inc., 58 Federal Reserve Bulletin 935 (1972), 37 FR 18960 (September 16, 1972). Applicant cites the Board's Order of January 27, 1972, approving the acquisition of Ambassador Factors Corporation ("Ambassador") by Industrial National Corporation, 58 Federal Reserve Bulletin 171 (1972), as support for its contention that factoring firms compete in a national market. However, in that case, the Board spoke not of a national market, but of Ambassador's rank among "the 26 factors that compete in national markets", that is, its rank among all factors that compete in the various markets in the nation. A determination as to relevant geographic market was not made in that case as such a finding was not essential to an assessment of the competitive effects of the affiliation, that assessment having been based upon the Board's finding that Industrial National Corporation was not capable of de novo entry into factoring, in any area.

the United States. It purports not to possess the credit files on, or personnel who are able to assess the credit of, account debtors dispersed throughout the country. Applicant asserts that when Bank deems it necessary to resort to the active collection of accounts receivable to protect its interest as a creditor, it contracts with a factor to take over the receivables. Bank, according to Applicant, will not make a loan collateralled solely or chiefly by accounts receivable except in participation with a factor that would administer the accounts receivable.

The Board has in the past expressed its view that de novo entry into factoring is difficult but it has not characterized such entry as impossible. In earlier cases, the Board was not presented with proposed acquisitions of factors by bank holding companies that possessed the combination of resources, proximity to prime users of factoring services, and competitive incentives to enter factoring[6] that Applicant has. In recent years, several bank holding companies with fewer resources, less proximity to users of factoring services, and less competitive incentive to do so, have entered factoring de novo or announced plans to do so.[7] It appears that, but for its acquisition of Southeastern in 1970 and its continued retention of Southeastern, it is likely that Applicant would have entered factoring in North Carolina de novo or through another acquisition.

Applicant also argues that the acquisition constituted a foothold acquisition.[8] Southeastern is the second largest competitor in North Carolina with a share of more than 18 percent of that State's factoring volume. Its market share is overstated in that North Carolina serves as a surrogate in this case for a broader area, the southeastern United States, which is the relevant geographic market. Nonetheless, it appears that whatever market power Southeastern possesses is substantial and exceeds that traditionally held by firms the acquisitions of which are deemed to be foothold acquisitions. On the basis of the record, it is uncertain whether there existed firms which could be considered both foothold acquisitions and available for acquisition by Applicant. However, section 4(c)(8) requires the Board to consider "possible" adverse effects, and Applicant, upon whom the burden of proof in this matter falls, having failed to attempt to demonstrate that such foothold acquisitions were, or are, not possible, must be considered to have had the ability to have entered North Carolina factoring by foothold acquisition, as well as de novo, as discussed above.

The question then arises whether such entry by Applicant would have significantly increased competition, so that elimination of such entry could be deemed to have had, or to have, the effect of decreasing competition that may otherwise have developed. There were 28 competitors in the market in 1970. The instant application suggests that there are 32 competitors in the market today,[9] and accordingly, it does not appear that the acquisition of Southeastern by Applicant substantially raised barriers to entry into the market. In any event, as might be expected, the substantial presence of textile and furniture manufacturers, prime users of factoring services, in North Carolina, has drawn most of the nation's largest factoring firms into that market, and each of the eight factors that is larger than Southeastern currently competes in that market. Thus, de novo entry by Applicant into this market in 1970 would have increased the number of competitors from 28 to 29. Its de novo entry today would increase the number of competitors from 32 to 33. The competitive significance of such increases in the number of competitors appears slight, particularly in view of the presence of 12 of the nation's 15 largest factoring firms in the market. The market shares of these large firms is not in the record, but the shares of the majority of them may be estimated as not exceeding 6 per cent.[10] If each of those competitors with their sizable resources, expertise and national reputations, has not increased its market share beyond 6 per cent, it does not appear reasonably probable that Applicant's de novo entry without the benefit of such expertise and reputation would have any significant beneficial impact upon competition in the market. To the contrary, it appears likely that such entry would not have significantly affected competition in the market.

With respect to the separate product line of commercial financing, approximately 34 per cent of the receivables held by Southeastern derive from making loans and advances to its factoring customers and others and discounting installment notes secured by interests in commercial equipment. At year-end 1971, more than 85 per cent of the commercial financing receivables held by Southeastern derived from firms located in the southeastern United States and that area constitutes a reasonable approximation of the relevant geographic area in which to adjudge the effects that the acquisition in 1970, and the retention, of Southeastern would have upon competition in commercial financing.

It does not appear that Applicant and Southeastern were in significant competition with one another in the area of commercial financing in 1970. Interest rates on commercial financing loans available from factors are 4 to 7 per cent above those on commercial loans made by commercial banks. Firms finding it necessary to borrow from commercial finance companies usually do so after they have exhausted credit lines from, or have been denied credit by, commercial banks. Whereas loans by Southeastern generally are secured, 95 per cent of Bank's commercial loans are unsecured, Southeastern relying primarily on collateral to avoid undue risk, banks relying primarily upon a borrower's creditworthiness to avoid undue risk. Accordingly, it does not appear that the acquisition or retention of shares of Southeastern would eliminate significant existing competition in commercial financing. Furthermore, in view of the large number of existing competitors, the Board concludes that the acquisition and retention of Southeastern by Applicant did not and would not eliminate any significant probable future or potential competition in commercial financing in the southeastern United States.

Justice has also asserted that the affiliation of Applicant with Southeastern would entrench the positions of both through channeling of deposits to Bank and through voluntary tie-ins of Southeastern's services with extensions of credit by Bank. Justice has not alleged any specific case of such channeling or tie-in, nor does the record contain evidence supporting that assertion. More than three times as many of Southeastern's clients bank with direct actual competitors of Bank than do with Bank. Furthermore, Applicant has taken internal management measures to avoid these adverse effects, and, such practices, if they arose, would be subject to prosecution by Justice under section 106 of the 1970 Amendments to the Act.

Finally, Justice contends that splitting Southeastern from the rest of ACC will weaken ACC's ability to compete in personal, consumer, and sales finance, and leasing markets and thus indirectly decrease competition within the meaning of section 4(c)(8). In this regard, Justice notes that Southeastern constitutes 20 per cent of of the assets of ACC and accounts for approximately 20 per cent of its income. Justice argues that ACC would thus lose a substantial portion of its asset and income base, as well as some of its diversification and thereby, according to Justice, its ability to attract capital at favorable rates would be impeded.

ACC's diversification has contributed to its ability to raise funds through the

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[6] Two of Applicant's major competitors, NCNB Corporation and First Union National Corporation, the second and third largest banking organizations in North Carolina respectively, acquired small factors in 1970 and 1969 respectively.

[7] These include First Pennsylvania Corporation, Midlantic Banks, Inc., Heritage Bancorporation, Flagship Bankshares, Hartford National Corp., and Shawmut Association, the latter in a joint venture with Milberg Factors.

[8] In July, 1970, Southeastern held outstanding receivables of $26.4 million and had an annual factoring volume of $291 million.

[9] The record actually identifies 39 competitors, besides Southeastern, presently in the market. However, five of these apparently are "captive" factors each serving only one user of factoring services, and another two are different offices of factors already included within the market. The record does not identify the firms included among the 28 competitors in 1970.

[10] If Southeastern's market share is 18 per cent and it has the second largest market share, if the four largest market shares total 66 percent, and if the eight largest market shares total 85 percent, then, even, if the 12 large national firms in the market hold the 12 largest market shares eight of the 12 must have market shares below 6 per cent.

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[illegible] of commercial paper and some of that diversification will be lost upon its divestiture of Southeastern. However, Southeastern is highly leveraged, and it appears that the removal of debt, attributable to Southeastern, from ACC would significantly improve the capital position of ACC. ADC would remain well-diversified and would rank as the 16th largest independent finance company in the nation. The Board concludes that the separation of ACC and Southeastern would not, on balance, weaken ACC's ability to raise capital or significantly increase the cost of that capital and that such separation would not significantly impair the ability of ACC to compete.

There is no evidence in the record to indicate that the proposed retention might lead to an undue concentration of resources, conflicts of interests, unsound banking practices, or other adverse effects on the public interest.

Since Applicant's acquisition of Southeastern in July, 1970, Southeastern has steadily reduced its average monthly factoring charge. Those reductions may reflect responses to competitive pressures or cost savings attributable to economies associated with servicing large wholesale accounts. Since the acquisition, Southeastern's outstanding factored receivables increased from $36.4 million to $94.4 million. Its factoring volume increased from approximately $393 million in 1970 to $628 million in 1973. Further, Southeastern has expanded into wholesale factoring since its acquisition by Applicant. This rapid expansion has not been funded by Applicant, but rather has been funded by ACC, due to requirements of a court-imposed "hold-separate" order. However, direct affiliation of Southeastern and Applicant, with the removal of ACC as an intermediate funding vehicle, may be expected to result in lowered costs of funds for Southeastern as Applicant is less leveraged than is ACC. Applicant will not have to incur dealer fees to place commercial paper or long-term debt to fund Southeastern. Southeastern's reduced cost of funds should be reflected in further reduced factoring and commercial rates and also in a greater amount of business credit extended by Southeastern. This should indirectly benefit the high-risk borrowers who comprise Southeastern's indirect clientele and who, in periods of credit stringency, may be among the first to lose their sources of credit.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[1] effective December 11, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-29226 Filed 12-18-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

[FPMR Temporary Reg. F-314]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in intrastate rate proceedings.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Georgia Public Service Commission involving the application of the Georgia Power Company for interim increases in its intrastate rates as of December 16, 1974.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
Administrator of General Services.

DECEMBER 12, 1974.

[FR Doc.74-29236 Filed 12-18-74;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

FEDERAL GRAPHICS EVALUATION ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Federal Graphics Evaluation Advisory Panel to the National Council on the Arts will be held on January 16 from 9 a.m.–5:30 p.m. and on January 17 from 9 a.m.–5:30 p.m. in the 10th floor conference room of the Shoreham Building, 806 15th Street, NW., Washington, D.C.

A portion of this meeting will be open to the public on January 16 from 9 a.m.–11 a.m. and on January 17 from 9 a.m.–11 a.m. on a space available basis. Accommodations are limited. During the open session there will be a discussion on the graphic material from the Department of Interior.

The remaining sessions of this meeting on January 16 and 17 are for the purpose of Panel review, discussion, evaluation, and recommendation on graphics under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4) and (5), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6110.

EDWARD M. WOLFE,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.74-29240 Filed 12-18-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

Public Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of a panel of the Business Advisory Council on Federal Reports to be held in Room 2004, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C., on Thursday, January 9, 1975, at 9:30 a.m.

The purpose of the meeting is to advise the Statistical Policy Division of the Office of Management and Budget concerning problems associated with proposed revisions of the renegotiation Board's regulations to require that renegotiation filings be in conformance with Cost Accounting Standards promulgated by the Cost Accounting Standards Board. The meeting will be open to public observation and participation.

Further information regarding the meeting may be obtained from the Statistical Policy Division, Office of Management and Budget, Room 10201, New Executive Office Building, Washington, D.C. 20503, Telephone (202) 395-3443.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.74-29404 Filed 12-18-74;8:45 am]

[1] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, Holland, Wallich and Coldwell. Absent and not voting: Chairman Burns.

SECURITIES AND EXCHANGE COMMISSION

AMERICAN STOCK EXCHANGE, INC. AND CHICAGO BOARD OPTIONS EXCHANGE, INC.

Delaying Amendment to Proposed Rules for a Common Clearing Corporation

Notice is hereby given that the American Stock Exchange, Inc. (Amex) and the Chicago Board Options Exchange, Inc. (CBOE) have filed an amendment delaying the effectiveness of the proposed charter, by-laws and rules of the Option Clearing Corporation (OCC) filed pursuant to Rule 9b-1 (17 CFR 240.9b-1) under the Securities Exchange Act of 1934. The proposed changes were originally published at 39 FR 39615 on November 8, 1974.

The OCC was originally organized and has been operating as a wholly owned subsidiary of the CBOE under the name Chicago Board Options Exchange Clearing Corporation (CBOECC). With the proposed option trading plans of the Amex reaching their final stages, the CBOECC was reorganized to be the issuer of the options which may be purchased or sold in transactions on any participating exchanges (Amex and CBOE) with each exchange having an ownership and voting interest in the operation of the OCC. Provisions of the OCC also provide for any other exchange which has been qualified under the rules of the SEC for option trading to become a participating exchange.

All interested persons are invited to submit their views and comments on the proposed OCC charter, by-laws and rules either before or after they have become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 10-54. All amendments that have been made to the Amex's plans have been placed in their respective option files under file number S7-505. The proposed rules are, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW., Washington, D.C.

Dated: December 11, 1974.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29500 Filed 12-18-74;8:45 am]

[File No. 500-1]

BBI, INC.

Suspension of Trading

DECEMBER 13, 1974.

The common stock of BBI, Inc., being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from December 15, 1974 through December 24, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29504 Filed 12-18-74;8:45 am]

[File No. 500-1]

CANADIAN JAVELIN, LTD

Suspension of Trading

DECEMBER 13, 1974.

The common stock of Canadian Javelin, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from December 14, 1974 through December 23, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29505 Filed 12-18-74;8:45 am]

[File No. 500-1]

IBERIA INTERNATIONAL BRANDS, INC.

Suspension of Trading

DECEMBER 12, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Iberia International Brands, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 12 noon (EST) on December 12, 1974 through midnight (EST) on December 21, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29501 Filed 12-18-74;8:45 am]

[File No. 500-1]

NICOA CORP.

Suspension of Trading

DECEMBER 13, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Nicoa Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 15, 1974 through December 24, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29506 Filed 12-18-74;8:45 am]

[File No. 500-1]

OKURAYA/DAVOS INTERNATIONAL INC.

Suspension of Trading

DECEMBER 12, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Okuraya/Davos International Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 12 noon (e.s.t.) on December 12, 1974 through midnight (e.s.t.) on December 21, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29502 Filed 12-18-74;8:45 am]

[File No. 500-1]

ROYAL PROPERTIES INC.

Suspension of Trading

DECEMBER 13, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Royal Properties Incorporated being traded otherwise than on a national securities exchange is required in

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the public interest and for the protection of investors.

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 14, 1974 through December 23, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-29506 Filed 12-18-74;8:45 am]

[File No. 500-1]

SOSSIN SYSTEM, INC.

Suspension of Trading

DECEMBER 12, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Sossin System, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 12 noon (e.s.t.) on December 12, 1974 through midnight (e.s.t.) on December 21, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-29503 Filed 12-18-74;8:45 am]

[File No. 500-1]

WESTERN RESEARCH AND DEVELOPMENT, INC.

Suspension of Trading

DECEMBER 12, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Western Research and Development, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 11 A.M. (e.s.t.) on December 12, 1974 through midnight (e.s.t) on December 21, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-29500 Filed 12-18-74;8:45 am]

[File No. 500-1]

WINNER INDUSTRIES, INC.

Suspension of Trading

DECEMBER 13, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Winner Industries, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 14, 1974 through December 23, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-29507 Filed 12-18-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Rule 19, Ex Parte 241, Exemption 91]

AKRON, CANTON & YOUNGSTOWN RAILROAD CO.

Exemption Under Mandatory Service Rules

It appearing, that The Akron, Canton & Youngstown Railroad Company owns numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on its line; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 393, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, and bearing reporting marks assigned to The Akron, Canton & Youngstown Railroad Company, shall be exempted from the provisions of Car Service Rules 1, 2(a), and 2(b).

Effective December 11, 1974.

Expires January 15, 1975.

Issued at Washington, D.C., December 11, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.74-29500 Filed 12-18-74;8:45 am]

[Notice 667]

ASSIGNMENT OF HEARINGS

DECEMBER 16, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 114004 Sub 127, Chandler Trailer Convoy, Inc., Extension—Buildings, now assigned January 20, 1975, is postponed to a date to be hereafter fixed.

MC 139769, Falcon Charter Service, now assigned January 13, 1975, at San Francisco, Calif., will be held in Room 13025, 450 Golden Gate Ave.

MC 73165 Sub 345, Eagle Motor Lines, Inc., now being assigned January 20, 1975 (1 day) at Memphis, Tenn., in a hearing room to be later designated.

MC 921 Sub 26, Dean Truck Lines, Inc., now being assigned January 21, 1975 (2 days), at Memphis, Tenn., in a hearing room to be later designated.

MC-C-8456, Agricultural Services Association, Inc.—Investigation of Operations and Practices, now being assigned January 23, 1975 (2 days), at Memphis, Tenn., in a hearing room to be later designated.

MC-F-12150, Motor Cargo—Purchase—Wholesale Services, Inc., DBA R & R Transportation Company, and MC 114818 Sub 15, Motor Cargo, now assigned January 20, 1975, at Reno, Nev., will be held at the Holiday Inn Hotel, 1000 East Sixth St.

I & S No. 8928, Waterborne Shipments, North Atlantic Ports, now assigned January 20, 1975, at Washington, D.C., is postponed to March 24, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 135944, Rodgers Express, Inc., now assigned January 28, 1975, at St. Louis, Mo., will be held in Courtroom No. 2, 5th Floor, U.S. Courthouse, 1114 Market St.

MC 110563 Sub 140, Coldway Food Express, Inc., now assigned January 30, 1975, at St. Louis, Mo., will be held in Courtroom No. 2, 5th Floor, U.S. Courthouse, 1114 Market St.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-29502 Filed 12-18-74;8:45 am]

[2nd Rev. S.O. 1112, Exception 7, Amdt. 1]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO. ET AL.

Notice of Expiration

DECEMBER 12, 1974.

To: Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Missouri Pacific Railroad Company, Southern Railway Company.

Pursuant to the authority vested in me by section (a)(1)(viii) of Second Revised Service Order No. 1112, the provisions of Exception No. 7 effective September 14, 1974, are hereby amended to expire March 31, 1975.

Effective December 14, 1974.

Issued at Washington, D.C., December 12, 1974.

[SEAL] R. D. PFAHLER, *Chairman, Railroad Service Board.*

[FR Doc.74-29600 Filed 12-18-74;8:45 am]

[Rule 19; Ex Parte No. 241, Rev. Exemption 88, Amdt. 1]

EXEMPTION UNDER MANDATORY CAR SERVICE RULES

Upon further consideration of Revised Exemption No. 88, issued November 25, 1974.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Revised Exemption No. 88 to the Mandatory Car Service Rules, ordered in Ex Parte No. 241, be, and it is hereby amended to expire January 15, 1975.

This amendment shall become effective December 15, 1974.

Issued at Washington, D.C., December 9, 1974.

INTERSTATE COMMERCE COMMISSION,

[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.74-29603 Filed 12-18-74;8:45 am]

[Rule 19; Ex Parte No. 241, Exemption 85, Amdt. 1]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO.

Exemption Under Mandatory Car Service Rules

To: Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Missouri Pacific Railroad Company, Southern Railway Company.

Upon further consideration of Exemption No. 85 issued September 11, 1974.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 85 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire March 31, 1975.

This amendment shall become effective December 14, 1974.

Issued at Washington, D.C., December 6, 1974.

INTERSTATE COMMERCE COMMISSION,

[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.74-29602 Filed 12-18-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 16, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before January 3, 1975. FSA No. 42916—*Petroleum—Southwest to Official Territory, also Returned Shipments*. Filed by Southwestern Freight Bureau, Agent, (No. B-500), for and on behalf of carriers parties to schedule listed below. Rates on petroleum, petroleum products and related articles, in tank-carloads, as described in the application, from points in southwestern territory, including Kansas and Missouri, to points in official territory; also, returned shipments in the reverse direction.

Grounds for relief—Rate relationship.

Tariff—Supplement 36 to Southwestern Freight Bureau, Agent, tariff SW/E-133-K, ICC 5106. Rates are published to become effective on January 18, 1975.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-29604 Filed 12-18-74;8:45 am]

[Rev. S.O. 994, I.C.C. Order 136]

READING CO.

Rerouting or Diversion of Traffic

In the opinion of R. D. Pfahler, Agent, the Reading Company (Andrew L. Lewis, Jr., and Joseph L. Castle, Trustees) (RDG) is unable to transport traffic to and from Carney's Point, New Jersey, and Gibbstown, New Jersey, because of inoperative bridge float at Carney's Point.

It is ordered, That:

(a) The RDG, being unable to transport traffic to and from Carney's Point, New Jersey, and Gibbstown, New Jersey, because of an inoperative bridge float, is hereby authorized to reroute or divert such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 12:01 a.m., December 11, 1974.

(g) *Expiration date.* This order shall expire at 11:59 p.m., May 31, 1975.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 10, 1974.

INTERSTATE COMMERCE COMMISSION,

[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.74-29601 Filed 12-18-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

DECEMBER 16, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* Rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before December 30, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 83745 (Sub-No. E7), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery and such commodities*, generally requiring rigging, special equipment, or specialized handling except articles requiring special vehicular equipment for over-the-road movements, between Clarksburg, Pa., on the one hand, and, on the other, points

in Maryland. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E8), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery and such commodities*, generally requiring rigging, special equipment, or specialized handling, except articles requiring special vehicular equipment for over-the-road movements, between points in Armstrong County, Pa., within 25 miles of Pittsburgh, Pa., on the one hand, and, on the other, points in Maryland, Ohio, and West Virginia. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E9), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery and such commodities*, generally requiring rigging, special equipment, or specialized handling except articles requiring special vehicular equipment for over-the-road movements, between points in Indiana County, Pa., within 25 miles of Pittsburgh, Pa., on the one hand, and, on the other, points in Ohio and West Virginia. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E10), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery and such commodities*, generally requiring rigging, special equipment, or specialized handling except articles requiring special vehicular equipment for over-the-road movements, between points in Beaver, Butler, and Lawrence Counties, Pa., within 25 miles of Pittsburgh, Pa., on the one hand, and, on the other, points in West Virginia and Maryland. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E12), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery and such commodities*, generally requiring rigging, special equipment, or specialized handling except articles requiring special vehicular equipment for over-the-road movements, between points in Fayette County, Pa., within 25 miles of Pittsburgh, Pa., south and west of a line beginning at the Fayette-Washington County line, extending along Pennsylvania Highway 201 to junction Pennsylvania Highway 819, thence along Pennsylvania Highway 819 to the Fayette-Westmoreland County line, on the one hand, and, on the other, Baltimore, Md. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83835 (Sub-No. E40), filed May 14, 1974. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: William A. Cunningham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe* (except oilfield pipe), (1) which because of size or weight, require the use of special equipment (except pipe used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas, and petroleum and their products and by-products (2) which is earth drilling machinery and equipment, (3) which is incidental to, used in, or in connection with (a) the transmission, installation, removal, repair, operation, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (4) which is used in, or in conection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; (a) from points in Texas, to points in Iowa, Michigan, Minnesota, and Wisconsin; (b) from points in Illinois, to points in California.

(c) From points in Colorado, Kansas, and Nebraska, to points in Mississippi; (d) from points in Kansas and Nebraska to points in Georgia and South Carolina; (e) from points in Colorado, Kansas, and Nebraska to points in Florida; (f) from points in Nebraska to points in Alabama; (g) from points in Arkansas, Illinois, and Missouri to points in Arizona; (h) from points in Arkansas and Louisiana to points in California, Idaho, Nevada, Oregon, and Washington; (i) from points in New Mexico, Oklahoma, and Texas to points in New York, Ohio, and Pennsylvania; (j) from points in New Mexico and Oklahoma to points in Indiana, Kentucky, Michigan, and Wisconsin; (k) from points in Colorado and New Mexico to points in Alabama, Tennessee, and Virginia; (l) from points in Colorado, New Mexico, and Oklahoma, to points in Georgia, North Carolina, South Carolina, and Virginia; (m) from points in Colorado, New Mexico, Oklahoma, and Texas, to points in Connecticut, Delaware, Maryland, Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island, and Vermont; (n) from points in Louisiana to points in that part of Arizona on and north of a line beginning at the New Mexico-Arizona State line, thence along U.S. Highway 70 to its junction with U.S. Highway 60, thence along U.S. Highway 60 to its junction with U.S. Highway 80, thence along U.S. Highway 80 to its junction with U.S. Highway 95, thence along U.S. Highway 95 to the U.S.-Mexico International Boundary line, and points in that part of Iowa on and west of a line beginning at the Missouri-Iowa State line, thence along U.S. Highway 63 to its junction with Iowa Highway 149, thence along Iowa Highway 149 to its junction with U.S. Highway 6, thence along U.S. Highway 6 to its junction with Iowa Highway 149, thence along Iowa Highway 149 to its junction with U.S. Highway 151, thence along U.S. Highway 151 to its junction with Iowa Highway 13, thence along Iowa Highway 13 to its junction with U.S. Highway 52, thence along U.S. Highway 52 to the Minnesota-Iowa State line; (o) from points in Missouri to points in that part of California on and south and west of a line beginning at the California-Iowa State line, thence along Interstate Highway 5 to its junction with California Highway 89, thence along California Highway 89 to its junction with California Highway 44, thence along California Highway 44 to its junction with U.S. Highway 395, thence along U.S. Highway 395 to the California-Nevada State line, and in that part of Nevada on and south of a line beginning at the Utah-Nevada State line, thence along U.S. Highway 50 to its junction with Interstate Highway 80, thence along Interstate Highway 80 to the California-Nevada State line.

(p) From points in Kansas to points in that part of Alabama on and south of a line beginning at the Alabama-Mississippi State line, thence along U.S. Highway 78 to its junction with U.S. Highway 278, thence along U.S. Highway 278 to the Alabama-Georgia State line; (q) from points in New Mexico, to points in that part of Florida on and east of a line beginning at the Georgia-Florida State line, thence along U.S. Highway 319 to its junction with Florida Highway 369, thence along Florida Highway 369 to the Gulf of Mexico; (r) from points in Texas, to points in that part of North Carolina on and east of a line beginning at the North Carolina-South Carolina State line, thence along U.S. Highway 52 to its junction with U.S. Highway 311, thence along U.S. Highway 311 to its junction with U.S. Highway 220, thence along U.S. Highway 220 to the North Carolina-Virginia State line; (s) from points in Oklahoma, to points in that part of Florida on and east of a line beginning at the Florida-Georgia State line, thence along U.S. Highway 319 to its

junction with Florida Highway 363, thence along Florida Highway 363 to the Gulf of Mexico; (t) from points in that part of Kansas on and south of a line beginning at the Kansas-Missouri State line, thence along Kansas Highway 57 to its junction with U.S. Highway 160, thence along U.S. Highway 160 to its junction with Kansas Highway 37, thence along Kansas Highway 37 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with Kansas Highway 14, thence along Kansas Highway 14 to its junction with U.S. Highway 56, thence along U.S. Highway 56 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with U.S. Highway 183, thence along U.S. Highway 183 to its junction with Interstate Highway 70, thence along Interstate Highway 70 to its junction with Kansas Highway 184, thence along Kansas Highway 184 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with Kansas Highway 27, thence along Kansas Highway 27 to the Kansas-Nebraska State line, to points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island, and Vermont.

(u) From points in that part of Colorado on and south of a line beginning at the Colorado-Kansas State line, thence along U.S. Highway 24 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with Colorado Highway 125, thence along Colorado Highway 125 to the Colorado-Wyoming State line, to points in Pennsylvania; (v) from points in that part of Kansas on and south and west of a line beginning at the Kansas-Missouri State line, thence along U.S. Highway 24 to its junction with U.S. Highway 77, thence along U.S. Highway 77 to the Kansas-Nebraska State line, to points in North Carolina; (w) from points in that part of Kansas on and south of a line beginning at the Kansas-Missouri State line, thence along Kansas Highway 57 to its junction with U.S. Highway 160, thence along U.S. Highway 160 to its junction with Kansas Highway 37, thence along Kansas Highway 37 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with Kansas Highway 14, thence along Kansas Highway 14 to its junction with U.S. Highway 56, thence along U.S. Highway 56 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with U.S. Highway 183, thence along Kansas Highway 183 to its junction with Interstate Highway 70, thence along Interstate Highway 70 to the Kansas-Colorado State line, to points in Maryland; (x) from points in that part of Oklahoma on and east of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 69 to its junction with Oklahoma Highway 3, thence along Oklahoma Highway 3 to its junction with Oklahoma Highway 13, thence along Oklahoma Highway 13 to its junction with Oklahoma Highway 39, thence along Oklahoma Highway 39 to its junction with Interstate Highway 35, thence along Interstate Highway 35 to the Oklahoma-Kansas State line, to points in California.

(y) From points in that part of Oklahoma on and east of a line beginning at the Oklahoma-Kansas State line, thence along U.S. Highway 177 to its junction with Oklahoma Highway 9, thence along Oklahoma Highway 9 to its junction with U.S. Highway 170, thence along U.S. Highway 170 to its junction with U.S. Highway 75, thence along U.S. Highway 75 to its junction with Oklahoma Highway 3, thence along Oklahoma Highway 3 to its junction with Oklahoma Highway 7, thence along Oklahoma Highway 7 to the Oklahoma-Arkansas State line, to points in Arizona; (z) from points in that part of Texas on and north of a line beginning at the Texas-Arkansas State line, thence along U.S. Highway 67 to its junction with U.S. Highway 90, thence along U.S. Highway 90 to its junction with U.S. Highway 67, thence along U.S. Highway 67 to the U.S.-Mexico International Boundary line, to points in Georgia; (a1) from points in that part of Texas on and north of a line beginning at the Texas-New Mexico State line, thence along Interstate Highway 10 to its junction with Interstate Highway 20, thence along Interstate Highway 20 to the Texas-Louisiana State line, to points in Virginia; (b1) from points in Texas on and west of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 75 to its junction with Interstate Highway 45, thence along Interstate Highway 45 to the Gulf of Mexico, to points in Indiana; (c1) from points in that part of Texas on and south of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 259 to its junction with U.S. Highway 69, thence along U.S. Highway 69 to its junction with Texas Highway 63, thence along Texas Highway 63 to its junction with U.S. Highway 190, thence along U.S. Highway 190 to the Texas-Louisiana State line, to points in West Virginia; (d1) from points in that part of Texas on and north of a line beginning at the Texas-New Mexico State line, thence along Interstate Highway 10 to its junction with Interstate Highway 20, thence along Interstate Highway 20 to its junction with Texas Highway 121, thence along Texas Highway 121 to its junction with U.S. Highway 75, thence along U.S. Highway 75 to the Texas-Oklahoma State line, to points in South Carolina.

(e1) From points in that part of Colorado on and west of a line beginning at the Colorado-Wyoming State line, thence along Colorado Highway 71 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to the Colorado-Kansas State line, and in that part of Texas on and west of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 271 to its junction with Texas Highway 19, thence along Texas Highway 19 to its junction with Texas Highway 59, thence along Texas Highway 59 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its junction with U.S. Highway 77, thence along Texas Highway 488 to its junction with U.S. Highway 75, thence along U.S. Highway 75 to its junction with U.S. Highway 190, thence along U.S. Highway 190 to its junction with Texas Highway 21, thence along Texas Highway 21 to its junction with U.S. Highway 77, thence along U.S. Highway 77 to its junction with U.S. Highway 87, thence along U.S. Highway 87 to its junction with Texas Highway 316, thence along Texas Highway 316 to the Gulf of Mexico, to points in Kentucky; (f1) from points in that part of Oklahoma on and east of a line beginning at the Oklahoma-Missouri State line, thence along Interstate Highway 44 to its junction with U.S. Highway 277, thence along U.S. Highway 277 to its junction with U.S. Highway 81, thence along U.S. Highway 81 to the Oklahoma-Texas State line, and points in that part of Texas on and east of a line beginning at the U.S.-Mexico International Boundary line, thence along U.S. Highway 83 to its junction with Texas Highway 42, thence along Texas Highway 42 to its junction with U.S. Highway 377, thence along U.S. Highway 377 to its junction with U.S. Highway 77, thence along U.S. Highway 77 to the Texas-Oklahoma State line, to points in Washington.

(g1) From points in that part of Colorado on and south of a line beginning at the Colorado-Kansas State line, thence along U.S. Highway 24 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with Colorado Highway 13, thence along Colorado Highway 13 to the Colorado-Wyoming State line, and in that part of Kansas on and south of a line beginning at the Kansas-Missouri State line, thence along Kansas Highway 57 to its junction with U.S. Highway 160, thence along U.S. Highway 160 to its junction with Kansas Highway 37, thence along Kansas Highway 37 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with Kansas Highway 14, thence along Kansas Highway 14 to its junction with U.S. Highway 56, thence along U.S. Highway 56 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to the Kansas-Colorado State line, to points in New York; (h1) from points in that part of Illinois

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on and south of a line beginning at the Lake Michigan, thence along U.S. Highway 66 to its junction with U.S. Highway 136, thence along U.S. Highway 136 to its junction with U.S. Highway 24, thence along U.S. Highway 24 to the Missouri-Illinois State line, points in that part of Oklahoma on and east of Interstate Highway 35, and points in Texas on and east of a line beginning at the Gulf of Mexico, thence along Texas Highway 44 to its junction with U.S. Highway 77, thence along U.S. Highway 77 to its junction with Interstate Highway 35W, thence along Interstate Highway 35W to its junction with Texas Highway 121, thence along Texas Highway 121 to its junction with Interstate Highway 35E, thence along Interstate Highway 35E to its junction with U.S. Highway 75, thence along U.S. Highway 75 to the Texas-Oklahoma State line, to points in Nevada.

(i1) From points in that part of Oklahoma on and east of a line beginning at the Oklahoma-Texas State line, thence along the H. E. Bailey Turnpike to its junction with U.S. Highway 81, thence along U.S. Highway 81 to the Oklahoma-Kansas State line, and in that part of Texas on and east of a line beginning at the Gulf of Mexico, thence along U.S. Highway 75 to its junction with Texas Highway 6, thence along Texas Highway 6 to its junction with Interstate Highway 35W, thence along Interstate Highway 35W to the Oklahoma-Texas State line, to points in Oregon; (j1) from points in that part of Oklahoma on and east of a line beginning at the Oklahoma-Texas State line, thence along the H. E. Bailey Turnpike to its junction with Interstate Highway 44, thence along Interstate Highway 44 to its junction with U.S. Highway 75, thence along U.S. Highway 75 to the Kansas-Oklahoma State line, and in that part of Texas on and east of a line beginning at the U.S.-Mexico International Boundary line, thence along U.S. Highway 281 to its junction with U.S. Highway 81, thence along U.S. Highway 81 to its junction with Interstate Highway 35W, thence along Interstate Highway 35W to the Oklahoma-Texas State line, to points in Idaho.

(k1) From points in that part of Kansas on and west of a line beginning at the Kansas-Oklahoma State line, thence along U.S. Highway 77 to its junction with U.S. Highway 160, thence along U.S. Highway 160 to its junction with U.S. Highway 81, thence along U.S. Highway 81 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with U.S. Highway 281, thence along U.S. Highway 281 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with U.S. Highway 183, thence along U.S. Highway 183 to the Kansas-Nebraska State line, and in that part of Nebraska on and west of a line beginning at the Kansas-Nebraska State line, thence along U.S. Highway 83 to its junction with Nebraska Highway 97, thence along Nebraska Highway 97 to its junction with Nebraska Highway 2, thence along Nebraska Highway 2 to its junction with Nebraska Highway 250, thence along Nebraska Highway 250 to its junction with U.S. Highway 20, thence along U.S. Highway 20 to its junction with U.S. Highway 385, thence along Nebraska Highway 385 to the South Dakota-Nebraska State line, and in that part of Oklahoma on and west of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 69 to its junction with U.S. Highway 266, thence along U.S. Highway 266 to its junction with U.S. Highway 64, thence along U.S. Highway 64 to its junction with Oklahoma Highway 82, thence along Oklahoma Highway 82 to its junction with Oklahoma Highway 10, thence along Oklahoma Highway 10 to its junction with Oklahoma Highway 20, thence along Oklahoma Highway 20 to the Oklahoma-Arkansas State line, and in that part of Texas on, west, and north of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 271 to its junction with U.S. Highway 82, thence along U.S. Highway 82 to its junction with Texas Highway 121, thence along Texas Highway 121 to its junction with U.S. Highway 75, thence along U.S. Highway 75 to its junction with U.S. Highway 67, thence along U.S. Highway 67 to its junction with Texas Highway 174, thence along Texas Highway 174 to its junction with Texas Highway 22, thence along Texas Highway 22 to its junction with U.S. Highway 281, thence along U.S. Highway 281 to its junction with Texas Highway 186, thence along Texas Highway 186 to its junction with Texas Highway 497, thence along Texas Highway 497 to the Gulf of Mexico, to points in Tennessee.

(l1) From points in that part of Arkansas on and west of a line beginning at the Arkansas-Texas State line, thence along U.S. Highway 71 to its junction with Arkansas Highway 59, thence along Arkansas Highway 59 to its junction with Arkansas Highway 33, thence along Arkansas Highway 33 to the Arkansas-Oklahoma State line, and in that part of New Mexico on and south of a line beginning at the New Mexico-Arizona State line, thence along Interstate Highway 40 to its junction with U.S. Highway 64, thence along U.S. Highway 64 to the New Mexico-Texas State line, and in that part of Oklahoma on and south of a line beginning at the Oklahoma-Arkansas State line, thence along Oklahoma Highway 33 to its junction with U.S. Highway 66, thence along U.S. Highway 66 to the Oklahoma-Texas State line, to points in Iowa; (m1) from points in that part of Oklahoma on, north, and west of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 77 to its junction with Oklahoma Highway 7, thence along Oklahoma Highway 7 to its junction with Oklahoma Highway 12, thence along Oklahoma Highway 12 to its junction with Oklahoma Highway 1, thence along Oklahoma Highway 1 to its junction with U.S. Highway 270, thence along U.S. Highway 270 to its junction with U.S. Highway 69, thence along U.S. Highway 69 to its junction with U.S. Highway 266, thence along U.S. Highway 266 to its junction with U.S. Highway 59, thence along U.S. Highway 59 to its junction with U.S. Highway 62, thence along U.S. Highway 62 to the Oklahoma-Arkansas State line, and in that part of Texas on and north of a line beginning at the Texas-New Mexico State line, thence along Interstate Highway 10 to its junction with Interstate Highway 20, thence along Interstate Highway 20 to its junction with U.S. Highway 285, thence along U.S. Highway 285 to its junction with Texas Highway 302, thence along Texas Highway 302 to its junction with Texas Highway 181, thence along Texas Highway 181 to its junction with U.S. Highway 62, thence along U.S. Highway 62 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with U.S. Highway 62, thence along U.S. Highway 62 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its junction with U.S. Highway 283, thence along U.S. Highway 283 to the Texas-Oklahoma State line, to points in Alabama.

(n1) From points in New Mexico on and west of a line beginning at the New Mexico-Arizona State line, thence along Interstate Highway 40 to its junction with U.S. Highway 84, thence along U.S. Highway 84 to the New Mexico-Texas State line, and in that part of Oklahoma on and south of a line beginning at the Oklahoma-Arkansas State line, thence along Oklahoma Highway 20 to its junction with Oklahoma Highway 82, thence along Oklahoma Highway 82 to its junction with U.S. Highway 66, thence along U.S. Highway 66 to its junction with Oklahoma Highway 33, thence along Oklahoma Highway 33 to its junction with U.S. Highway 183, thence along U.S. Highway 183 to its junction with U.S. Highway 66, thence along U.S. Highway 66 to the Oklahoma-Texas State line, to points in Minnesota; (o1) from points in that part of New Mexico on and north of a line beginning at the New Mexico-Texas State line, thence along U.S. Highway 84 to its junction with U.S. Highway 70, thence along U.S. Highway 70 to its junction with Interstate Highway 25, thence along Interstate Highway 25 to its junction with Interstate Highway 10, thence along Interstate Highway 10 to the New Mexico-Texas State line, and in that part of Oklahoma on and north of a line beginning at the Oklahoma-Texas State line, thence U.S. Highway 66 to its junction with Interstate Highway 40, thence along Interstate Highway 40 to its junction with U.S. Highway 69, thence along U.S. Highway 69 to its junction with U.S. Highway 266, thence along U.S. Highway 266 to its junction with Oklahoma Highway 100, thence along Oklahoma Highway 100 to its junction with Oklahoma Highway 82, thence along Oklahoma Highway 82 to its junction with Oklahoma Highway 10, thence along Oklahoma Highway 10 to its junction with Oklahoma Highway 20,

thence along Oklahoma Highway 20 to the Oklahoma-Arkansas State line, and in that part of Texas on and north of U.S. Highway 66, to points in Mississippi; (p1) from points in that part of Louisiana on and west of a line beginning at the Louisiana-Arkansas State line, thence along U.S. Highway 171 to its junction with Louisiana Highway 27, thence along Louisiana Highway 27 to the Gulf of Mexico, to points in that part of Indiana on and north of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 136 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Ohio State line.

(q1) From points in that part of Louisiana on and west of a line beginning at the Louisiana-Arkansas State line, thence along U.S. Highway 79 to its junction with Louisiana Highway 7, thence along Louisiana Highway 7 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with Louisiana Highway 6, thence along Louisiana Highway 6 to its junction with U.S. Highway 171, thence along U.S. Highway 171 to its junction with Louisiana Highway 27, thence along Louisiana Highway 27 to the Gulf of Mexico, to points in that part of Pennsylvania on and west of U.S. Highway 219; (r1) from points in that part of Louisiana on and west of a line beginning at the Louisiana-Arkansas State line, thence along Louisiana Highway 3 to its junction with Louisiana Highway 1, thence along Louisiana Highway 1 to its junction with Louisiana Highway 175, thence along Louisiana Highway 175 to its junction with U.S. Highway 171, thence along U.S. Highway 171 to its junction with Louisiana Highway 27, thence along Louisiana Highway 27 to the Gulf of Mexico, to points in that part of Ohio on and north of a line beginning at the Ohio-Indiana State line, thence along Ohio Highway 49 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with Ohio Highway 29, thence along Ohio Highway 29 to its junction with U.S. Highway 33, thence along U.S. Highway 33 to its junction with U.S. Highway 22, thence along U.S. Highway 22 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to the Ohio-West Virginia State line; (s1) from points in that part of Texas on and east of a line beginning at the Gulf of Mexico, thence along U.S. Highway 75 to its junction with Texas Highway 6, thence along Texas Highway 6 to its junction with Interstate Highway 35W, thence along Interstate Highway 35W to the Texas-Oklahoma State line, to points in that part of California on and west of a line beginning at the Pacific Ocean, thence along California Highway 74 to its junction with U.S. Highway 395, thence along U.S. Highway 395 to its junction with California Highway 168, thence along California Highway 168 to the California-Nevada State line.

(t1) From points in that part of Texas on and west of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 75 to its junction with U.S. Highway 82, thence along U.S. Highway 82 to its junction with Texas Highway 79, thence along Texas Highway 79 to its junction with U.S. Highway 283, thence along U.S. Highway 283 to its junction with Texas Highway 351, thence along Texas Highway 351 to its junction with U.S. Highway 80, thence along U.S. Highway 80 to its junction with Texas Highway 302, thence along Texas Highway 302 to its junction with U.S. Highway 285, thence along U.S. Highway 285 to its junction with Texas Highway 652, thence along Texas Highway 652 to its junction with Texas Highway 1108, thence along Texas Highway 1108 to its junction with U.S. Highway 62, thence along U.S. Highway 62 to the U.S.-Mexico International Boundary line, to points in that part of Mississippi on and north of a line beginning at the Mississippi-Arkansas State line, thence along Mississippi Highway 322 to its junction with Mississippi Highway 6, thence along Mississippi Highway 6 to its junction with U.S. Highway 78, thence along U.S. Highway 78 to the Alabama-Mississippi State line; (u1) from points in that part of Texas on and north of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 75 to its junction with U.S. Highway 82, thence along U.S. Highway 82 to its junction with U.S. Highway 277, thence along U.S. Highway 277 to its junction with U.S. Highway 180, thence along U.S. Highway 180 to its junction with Texas Highway 350, thence along Texas Highway 350 to its junction with U.S. Highway 80, thence along U.S. Highway 80 to the Texas-New Mexico State line, to points in that part of Florida on and east of a line beginning at the Gulf of Mexico, thence along Florida Highway 369 to its junction with U.S. Highway 319, thence along U.S. Highway 319 to the Florida-Georgia State line; (v1) from points in that part of Texas on and east of a line beginning at the Gulf of Mexico, thence along Interstate Highway 45 to its junction with U.S. Highway 75, thence along U.S. Highway 75 to the Texas-Oklahoma State line, to points in that part of Indiana on and north of a line beginning at the Indiana-Illinois State line, thence along Interstate Highway 70 to its junction with Indiana Highway 46, thence along Indiana Highway 46 to its junction with Indiana Highway 7, thence along Indiana Highway 7 to the Indiana-Kentucky State line.

(w1) From points in that part of Texas on and east of a line beginning at the Gulf of Mexico, thence along Interstate Highway 45 to its junction with Texas Highway 94, thence along Texas Highway 94 to its junction with Texas Highway 19, thence along Texas Highway 19 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its junction with Texas Highway 19, thence along Texas Highway 19 to its junction with U.S. Highway 171, thence along U.S. Highway 171 to the Texas-Oklahoma State line, to points in that part of Arizona on and west of a line beginning at the Arizona-Utah State line, thence along U.S. Highway 89 to its junction with U.S. Highway 89 Alternate, thence along U.S. Highway 89 Alternate to its junction with Arizona Highway 71, thence along Arizona Highway 71 to its junction with U.S. Highway 60, thence along U.S. Highway 60 to its junction with U.S. Highway 95, thence along U.S. Highway 95 to the Arizona-California State line; (x1) from points in that part of Missouri on and west of a line beginning at the Missouri-Iowa State line, thence along U.S. Highway 65 to its junction with Missouri Highway 23, thence along Missouri Highway 23 to its junction with Interstate Highway 40, thence along Interstate Highway 40 to its junction with Missouri Highway 13, thence along Missouri Highway 13 to its junction with Missouri Highway 82, thence along Missouri Highway 82 to its junction with Missouri Highway 97, thence along Missouri Highway 97 to its junction with Missouri Highway 37, thence along Missouri Highway 37 to its junction with U.S. Highway 66, thence along U.S. Highway 66 to its junction with U.S. Highway 71 Alternate, thence along U.S. Highway 71 Alternate to its junction with U.S. Highway 71, thence along U.S. Highway 71 to the Missouri-Arkansas State line, to points in that part of Mississippi on and south of U.S. Highway 84; (y1) from points in that part of New Mexico on and south of a line beginning at the New Mexico-Texas State line, thence along U.S. Highway 84 to its junction with U.S. Highway 70, thence along U.S. Highway 70 to its junction with Interstate Highway 25, thence along Interstate Highway 25 to its junction with Interstate Highway 10, thence along Interstate Highway 10 to the New Mexico-Texas State line, to points in that part of Mississippi on and north of a line beginning at the Mississippi-Alabama State line, thence along U.S. Highway 82 to its junction with U.S. Highway 49E, thence along U.S. Highway 49E to its junction with Mississippi Highway 322, thence along Mississippi Highway 322 to its junction with Mississippi Highway 1, thence along Mississippi Highway 1 to its junction with US. Highway 49, thence along U.S. Highway 49 to the Mississippi-Arkansas State line.

(z1) From points in that part of Colorado on, north, and east of a line beginning at the Colorado-Kansas State line, thence along U.S. Highway 24 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with U.S. Highway 85, thence along U.S. Highway 85 to its junction with Interstate Highway 25, thence along Interstate Highway 25 to the Colorado-Wyoming State line, to points in that part of Pennsylvania on and south of a line beginning at the Pennsylvania-Maryland State line, thence along U.S. Highway 219 to its junction with U.S. Highway 22, thence along U.S. Highway 22 to its junction with U.S. Highway 522, thence along U.S. Highway 522 to its junction with U.S. Highway 11, thence along U.S. Highway 11 to its junction with U.S.

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Highway 6, thence along U.S. Highway 6 to its junction with Pennsylvania Highway 652, thence along Pennsylvania Highway 652 to the Pennsylvania-New York State line; (a2) from points in that part of Colorado on and north of a line beginning at the Colorado-Kansas State line, thence along U.S. Highway 24 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with Colorado Highway 13, thence along Colorado Highway 13 to the Colorado-Wyoming State line, to points in that part of New York on and east of a line beginning at the New York-Pennsylvania State line, thence along New York Highway 6217 to its junction with New York Highway 242, thence along New York Highway 242 to its junction with U.S. Highway 219, thence along U.S. Highway 219 to its junction with New York Highway 39, thence along New York Highway 39 to its junction with U.S. Highway 20 Alternate, thence along U.S. Highway 20 Alternate to its junction with U.S. Highway 20, thence along U.S. Highway 20 to its junction with New York Highway 14, thence along New York Highway 14 to the Lake Ontario.

(b2) From points in that part of Colorado on and south of a line beginning at the Kansas-Colorado State line, thence along U.S. Highway 50 to its junction with U.S. Highway 85, thence along U.S. Highway 85 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with Colorado Highway 789, thence along Colorado Highway 789 to the Wyoming-Colorado State line, to points in that part of Ohio on and south and east of a line beginning at the Indiana-Ohio State line, thence along U.S. Highway 40 to its junction with U.S. Highway 68, thence along U.S. Highway 68 to its junction with Ohio Highway 67, thence along Ohio Highway 67 to its junction with Ohio Highway 18, thence along Ohio Highway 18 to its junction with Ohio Highway 4, thence along Ohio Highway 4 to Lake Erie; (c2) from points in that part of Colorado on and south of a line beginning at the Colorado-Kansas State line, thence along U.S. Highway 50 to its junction with Interstate Highway 25, thence along Interstate Highway 25 to its junction with U.S. Highway 24, thence along U.S. Highway 24 to its junction with Colorado Highway 9, thence along Colorado Highway 9 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with Colorado Highway 13, thence along Colorado Highway 13 to the Colorado-Wyoming State line, to points in that part of Indiana on and south of U.S. Highway 40; (d2) from points in that part of Wyoming on and west of a line beginning at the Wyoming-Montana State line, thence along Wyoming Highway 120 to its junction with Wyoming Highway 789, thence along Wyoming Highway 789 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its junction with Wyoming Highway 71, thence along Wyoming Highway 71 to the Wyoming-Colorado State line, to points in that part of Indiana on and south of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 50 to its junction with Indiana Highway 60, thence along Indiana Highway 60 to its junction with Indiana Highway 56, thence along Indiana Highway 56 to the Indiana-Kentucky State line.

(e2) From points in that part of Illinois on and west of a line beginning at the Lake Michigan, thence along U.S. Highway 66 to its junction with U.S. Highway 136, thence along U.S. Highway 136 to its junction with U.S. Highway 24, thence along U.S. Highway 24 to the Missouri-Illinois State line, to points in that part of Nevada on and south of U.S. Highway 50; (f2) from points in Arkansas on and south of a line beginning at the Arkansas-Oklahoma State line, thence along U.S. Highway 64 to its junction with U.S. Highway 65, thence along U.S. Highway 65 to its junction with U.S. Highway 82, thence along U.S. Highway 82 to the Arkansas-Mississippi State line, to points in that part of Iowa on and west of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 69 to its junction with Interstate Highway 35, thence along Interstate Highway 35 to its junction with U.S. Highway 18, thence along U.S. Highway 18 to its junction with U.S. Highway 65, thence along U.S. Highway 65 to the Iowa-Minnesota State line; (g2) from points in that part of Kansas on and south of a line beginning at the Kansas-Oklahoma State line, thence along Interstate Highway 35 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with Kansas Highway 14, thence along Kansas Highway 14 to its junction with U.S. Highway 56, thence along U.S. Highway 56 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with U.S. Highway 183, thence along U.S. Highway 183 to its junction with Interstate Highway 70, thence along Interstate Highway 70 to the Kansas-Colorado State line, to points in that part of West Virginia on and east of a line beginning at the West Virginia-Virginia State line, thence along U.S. Highway 50 Alternate to its junction with West Virginia Highway 16, thence along West Virginia Highway 16 to its junction with U.S. Highway 21, thence along U.S. Highway 21 to its junction with Interstate Highway 77, thence along Interstate Highway 77 to the West Virginia-Ohio State line.

(h2) From points in that part of Kansas on and south of a line beginning at the Kansas-Missouri State line, thence along U.S. Highway 50 to its junction with U.S. Highway 154, thence along U.S. Highway 154 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with Kansas Highway 47, thence along Kansas Highway 47 to its junction with Kansas Highway 57, thence along Kansas Highway 57 to its junction with U.S. Highway 69, thence along U.S. Highway 69 to its junction with U.S. Highway 160, thence along U.S. Highway 160 to the Kansas-Colorado State line, to points in that part of Pennsylvania on and south and east of a line beginning at the Pennsylvania-Ohio State line, thence along U.S. Highway 62 to its junction with U.S. Highway 6, thence along U.S. Highway 6 to its junction with U.S. Highway 62, thence along U.S. Highway 62 to the Pennsylvania-New York State line; (i2) from points in that part of Kansas on and west of a line beginning at the Kansas-Oklahoma State line, thence along Interstate Highway 35 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with U.S. Highway 281, thence along U.S. Highway 281 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with U.S. Highway 183, thence along U.S. Highway 183 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with Interstate Highway 70, thence along Interstate Highway 70 to its junction with Kansas Highway 184, thence along Kansas Highway 184 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with Kansas Highway 27, thence along Kansas Highway 27 to the Kansas-Nebraska State line, to points in that part of Kentucky on and south of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 41 Alternate to its junction with U.S. Highway 62, thence along U.S. Highway 62 to its junction with U.S. Highway 68, thence along U.S. Highway 68 to the Kentucky-Ohio State line.

(j2) From points in that part of Kansas on and south and west of a line beginning at the Kansas-Colorado State line, thence along U.S. Highway 50 to its junction with U.S. Highway 154, thence along U.S. Highway 154 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with U.S. Highway 281, thence along U.S. Highway 281 to the Kansas-Oklahoma State line, to points in that part of Indiana on and south of U.S. Highway 40; (k2) from points in that part of Kansas on and south of a line beginning at the Kansas-Missouri State line, thence along Kansas Highway 57 to its junction with U.S. Highway 160, thence along U.S. Highway 160 to its junction with Kansas Highway 37, thence along Kansas Highway 37 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with Kansas Highway 14, thence along Kansas Highway 14 to its junction with U.S. Highway 56, thence along U.S. Highway 56 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with

U.S. Highway 183, thence along U.S. Highway 183 to its junction with Interstate Highway 70, thence along Interstate Highway 70 to its junction with Kansas Highway 184, thence along Kansas Highway 184 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with Kansas Highway 27, thence along Kansas Highway 27 to the Kansas-Nebraska State line, to points in that part of Virginia on and east of Interstate Highway 81. The purpose of this filing is to eliminate the gateway of Wagoner, Okla.

No. MC 83835 (Sub-No. E36), filed May 14, 1974. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: William A. Cunningham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe* (except oilfield pipe), which is incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operation at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells or which is used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way, (a) from points in Kentucky, Ohio, Pennsylvania, and West Virginia, to points in Arizona, California, New Mexico, Nevada, and Oklahoma; (b) from points in Kentucky and West Virginia, to points in Idaho, Oregon, and Washington; (c) from points in Iowa, Michigan, and Minnesota to points in Arizona and Texas; (d) from points in Indiana, to points in Arizona, California, New Mexico, and Oklahoma; (e) from points in Ohio and Pennsylvania, to points in Texas; (f) from points in Michigan, to points in New Mexico and Oklahoma; (g) from points in Minnesota, to points in Florida; (h) from points in West Virginia, to points in Colorado; (i) from points in Pennsylvania, to points in Utah; (j) from points in the state of Pennsylvania, to points in that part of Colorado on and south of a line beginning at the Colorado-Kansas State line, thence along U.S. Highway 24 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with Colorado Highway 125, thence along Colorado Highway 125 to the Colorado-Wyoming State line.

(k) From points in Indiana to points in that part of Nevada on and west and south of a line beginning at the Utah-Nevada State line, thence along U.S. Highway 50 to its junction with Nevada Highway 8A, thence along Nevada Highway 8A to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with U.S. Highway 95, thence along U.S. Highway 95 to the Oregon-Nevada State line, and in that part of Texas on and west of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 75 to its junction with Interstate Highway 45, thence along Interstate Highway 45 to the Gulf of Mexico; (l) from points in that part of Indiana on and south of U.S. Highway 24, and in that part of Ohio on and south of a line beginning at the Indiana-Ohio State line, thence along U.S. Highway 36 to its junction with Ohio Highway 4, thence along Ohio Highway 4 to its junction with U.S. Highway 30S, thence along U.S. Highway 30S to its junction with U.S. Highway 30, thence along U.S. Highway 30 to its junction with Ohio Highway 585, thence along Ohio Highway 585 to its junction with Interstate Highway 76, thence along Interstate Highway 76 to its junction with Interstate Highway 80, thence along Interstate Highway 80 to its junction with U.S. Highway 422, thence along U.S. Highway 422 to the Pennsylvania-Ohio State line, to points in Utah; (m) from points in Kentucky to points in that part of Colorado on and west of a line beginning at the Colorado-Wyoming State line, thence along Colorado Highway 71 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to the Colorado-Kansas State line, and that part of Texas on and west of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 271 to its junction with Texas Highway 19, thence along Texas Highway 19 to its junction with Texas Highway 59, thence along Texas Highway 59 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its junction with Texas Highway 433, thence along Texas Highway 433 to its junction with U.S. Highway 75, thence along U.S. Highway 75 to its junction with U.S. Highway 190, thence along U.S. Highway 190 to its junction with Texas Highway 21, thence along Texas Highway 21 to its junction with U.S. Highway 77, thence along U.S. Highway 77 to its junction with U.S. Highway 87, thence along U.S. Highway 87 to its junction with Texas Highway 316, thence along Texas Highway 316 to the Gulf of Mexico.

(n) From points in West Virginia to points in that part of Texas on and south and west of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 259 to its junction with U.S. Highway 69, thence along U.S. Highway 69 to its junction with Texas Highway 63, thence along Texas Highway 63 to its junction with U.S. Highway 190, thence along U.S. Highway 190 to the Texas-Louisiana State line, and in that part of Wyoming on and west of a line beginning at the Colorado-Wyoming State line, thence along U.S. Highway 287 to its junction with Wyoming Highway 487, thence along Wyoming Highway 487 to its junction with Wyoming Highway 220, thence along Wyoming Highway 220 to its junction with U.S. Highway 87, thence along U.S. Highway 87 to the Montana-Wyoming State line; (o) from points in Michigan (except the Upper Peninsula), to points in California; (p) from points in Iowa, to points in that part of Arkansas on and west of a line beginning at the Arkansas-Texas State line, thence along U.S. Highway 71 to its junction with Arkansas Highway 59, thence along Arkansas Highway 59 to its junction with Arkansas Highway 33, thence along Arkansas Highway 33 to the Arkansas-Oklahoma State line, and in that part of California on and south of a line beginning at the California-Nevada State line, thence along Interstate Highway 15 to its junction with California Highway 58, thence along California Highway 58 to its junction with California Highway 99, thence along California Highway 99 to its junction with California Highway 180, thence along California Highway 180 to its junction with California Highway 68, thence along California Highway 68 to the Pacific Ocean, and points in that part of Nevada on and south of a line beginning at the Arizona-Nevada State line, thence along U.S. Highway 91 to its junction with Interstate Highway 15, thence along Interstate Highway 15 to the California-Nevada State line, and points in that part of New Mexico on and south of a line beginning at the New Mexico-Texas State line, thence along U.S. Highway 60 to its junction with U.S. Highway 285, thence along U.S. Highway 285 to its junction with Interstate Highway 40, thence along Interstate Highway 40 to the New Mexico-Arizona State line, and points in that part of Oklahoma on and south of a line beginning at the Oklahoma-Arkansas State line, thence along Oklahoma Highway 33 to its junction with U.S. Highway 66, thence along U.S. Highway 66 to the Oklahoma-Texas State line.

(q) From points in Kentucky and West Virginia, to points in Utah; (r) from points in that part of Iowa on and west of a line beginning at the Missouri-Iowa State line, thence along U.S. Highway 63 to its junction with Iowa Highway 149, thence along Iowa Highway 149 to its junction with U.S. Highway 6, thence along U.S. Highway 6 to its junction with Iowa Highway 149, thence along Iowa Highway 149 to its junction with U.S. Highway 151, thence along U.S. Highway 151 to its junction with Iowa Highway 13, thence along Iowa Highway 13 to its junction with U.S. Highway 52, thence along U.S. Highway 52 to the Minnesota-Iowa State line, to points in Louisiana; (s) from points in Minnesota, to points in that part of New Mexico on and south of a line beginning at the New Mexico-Texas State line, thence along U.S. Highway 60 to its junction with U.S. Highway 64, thence along U.S. Highway 64 to its junction with U.S. Highway 66, thence along U.S. Highway 66 to the New Mexico-Arizona State line, and in that part of Oklahoma on and south of a line beginning at the Oklahoma-Arkansas

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State line, thence along Oklahoma Highway 20 to its junction with Oklahoma Highway 82, thence along Oklahoma Highway 82 to its junction with U.S. Highway 66, thence along U.S. Highway 66 to the Oklahoma-Texas State line; (t) from points in that part of Minnesota on and west of a line beginning at the South Dakota-Minnesota State line, thence along U.S. Highway 16 to its junction with Minnesota Highway 23, thence along Minnesota Highway 23 to its junction with U.S. Highway 59, thence along U.S. Highway 59 to its junction with Minnesota Highway 79, thence along Minnesota Highway 79 to its junction with Minnesota Highway 78, thence along Minnesota Highway 78 to its junction with U.S. Highway 10, thence along U.S. Highway 10 to its junction with U.S. Highway 59, thence along U.S. Highway 59 to its junction with Minnesota Highway 1, thence along Minnesota Highway 1 to its junction with Minnesota Highway 219, thence along Minnesota Highway 219 to its junction with Minnesota Highway 89, thence along Minnesota Highway 89 to its junction with Minnesota Highway 11, thence along Minnesota Highway 11 to its intersection with the Warroad River, thence along the Warroad River to Lake of the Woods, to points in Alabama.

(u) From points in that part of Indiana on and south of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 50 to its junction with Indiana Highway 60, thence along Indiana Highway 60 to its junction with Indiana Highway 56, thence along Indiana Highway 56 to the Indiana-Kentucky State line, to points in that part of Wyoming on and west of a line beginning at the Wyoming-Colorado State line, thence along Wyoming Highway 71 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its junction with Wyoming Highway 769, thence along Wyoming Highway 769 to its junction with Wyoming Highway 120, thence along Wyoming Highway 120 to the Wyoming-Montana State line; (v) from points in that part of Indiana on and north of a line beginning at the Indiana-Illinois State line, thence along Interstate Highway 70 to its junction with Indiana Highway 46, thence along Indiana Highway 46 to its junction with Indiana Highway 7, thence along Indiana Highway 7 to the Illinois-Kentucky State line, to points in that part of Texas on and east of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 75 to its junction with Interstate Highway 45, thence along Interstate Highway 45 to the Gulf of Mexico; (w) from points in that part of Indiana on and south of U.S. Highway 40, to points in that part of Colorado on and south of a line beginning at the Colorado-Kansas State line, thence along U.S. Highway 50 to its intersection with Interstate Highway 25, thence along Interstate Highway 25 to its junction with U.S. Highway 24, thence along U.S. Highway 24 to its junction with Colorado Highway 9, thence along Colorado Highway 9 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with Colorado Highway 13, thence along Colorado Highway 13 to the Colorado-Wyoming State line; (x) from points in that part of Indiana on and north of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 136 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Ohio State line, to points in Louisiana on and west of a line beginning at the Louisiana-Arkansas State line, thence along U.S. Highway 171 to its junction with Louisiana Highway 27, thence along Louisiana Highway 27 to the Gulf of Mexico.

(y) From points in Indiana on and south of U.S. Highway 40, to points in Kansas on and south and west of a line beginning at the Kansas-Colorado State line, thence along U.S. Highway 50 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with U.S. Highway 281, thence along U.S. Highway 281 to the Kansas-Oklahoma State line; (z) from points in that part of Iowa on and west of U.S. Highway 169, to points in that part of Mississippi on and west of a line beginning at the Mississippi-Tennessee State line, thence along Interstate Highway 55 to its junction with Mississippi Highway 35, thence along Mississippi Highway 35 to its junction with Mississippi Highway 19, thence along Mississippi Highway 19 to the Mississippi-Alabama State line; (aa) from points in that part of Iowa on and west of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 69 to its junction with Interstate Highway 35, thence along Interstate Highway 35 to its junction with U.S. Highway 18, thence along U.S. Highway 18 to its junction with U.S. Highway 65, thence along U.S. Highway 65 to the Iowa-Minnesota State line, to points in that part of Arkansas on and south of a line beginning at the Arkansas-Oklahoma State line, thence along U.S. Highway 64 to its junction with U.S. Highway 65, thence along U.S. Highway 65 to its junction with U.S. Highway 82, thence along U.S. Highway 82 to the Arkansas-Mississippi State line.

(bb) From points in that part of Kentucky on and south of a line beginning at the Illinois-Kentucky State line, thence along U.S. Highway 45 to its junction with U.S. Highway 62, thence along U.S. Highway 62 to its junction with U.S. Highway 60, thence along U.S. Highway 60 to its junction with Mountain Parkway Toll Road, thence along the Mountain Parkway Toll Road to its junction with Kentucky Highway 114, thence along Kentucky Highway 114 to its junction with Kentucky Highway 80, thence along Kentucky Highway 80 to the Virginia-Kentucky State line, to points in that part of Montana on and west of a line beginning at the Montana-Wyoming State line, thence along U.S. Highway 87 to its junction with U.S. Highway 212, thence along U.S. Highway 212 to its junction with U.S. Highway 87, thence along U.S. Highway 87 to its junction with U.S. Highway 12, thence along U.S. Highway 12 to its junction with U.S. Highway 89, thence along U.S. Highway 89 to its junction with U.S. Highway 91, thence along U.S. Highway 91 to the U.S.-Canada International Boundary line; (cc) from points in that part of Kentucky on and south of Interstate Highway 64, to points in that part of Wyoming on and north of a line beginning at the Wyoming-Utah State line, thence along Interstate Highway 80 to its junction with Wyoming Highway 13, thence along Wyoming Highway 13 to its junction with U.S. Highway 30, thence along U.S. Highway 30 to its junction with Wyoming Highway 34, thence along Wyoming Highway 34 to its junction with Interstate Highway 25, thence along Interstate Highway 25 to its junction with U.S. Highway 26, thence along U.S. Highway 26 to the Wyoming-Nebraska State line.

(dd) From points in that part of Kentucky on and east and south of a line beginning at the Kentucky-Tennessee State line, thence along Alternate U.S. Highway 41 to its junction with U.S. Highway 62, thence along U.S. Highway 62 to its junction with U.S. Highway 68, thence along U.S. Highway 68 to the Kentucky-Ohio State line, to points in that part of Kansas on and west of a line beginning at the Kansas-Oklahoma State line, thence along Interstate Highway 35 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with U.S. Highway 281, thence along U.S. Highway 281 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with U.S. Highway 187, thence along U.S. Highway 187 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with Interstate Highway 70, thence along Interstate Highway 70 to its junction with Kansas Highway 184, thence along Kansas Highway 184 to its junction with Kansas Highway 27, thence along Kansas Highway 27 to the Kansas-Nebraska State line; (ee) from points in that part of Minnesota on and west of a line beginning at the Minnesota-North Dakota State line, thence along U.S. Highway 16 to its junction with Minnesota Highway 23, thence along Minnesota Highway 23 to its junction with Minnesota Highway 19, thence along Minnesota Highway 19 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with Minnesota Highway 23, thence along Minnesota Highway 23 to its junction with U.S. Highway 10, thence along U.S. Highway 10 to its junction with Minnesota Highway 371, thence along Minnesota Highway 371 to its junction with Minnesota Highway 210, thence along Minnesota Highway 210 to its junction with Minnesota Highway 6, thence along Minnesota Highway 6 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to the U.S.-Canada International Boundary line, to points in Alabama on and south of a line beginning at the Alabama-Mississippi State line, thence along U.S. Highway 82 to its junction with U.S. Highway 80, thence along U.S.

Highway 80 to the Alabama-Georgia State line.

(ff) From points in that part of Minnesota on and east of a line beginning at the Minnesota-South Dakota State line, thence along U.S. Highway 16 to its junction with Minnesota Highway 23, thence along Minnesota Highway 23 to its junction with Minnesota Highway 19, thence along Minnesota Highway 19 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to the U.S.-Canada International Boundary line, to points in that part of California on and south of a line beginning at the California-Nevada State line, thence along Interstate Highway 40 to its junction with California Highway 58, thence along California Highway 58 to its junction with California Highway 99, thence along California Highway 99 to its junction with California Highway 152, thence along California Highway 152 to its junction with California Highway 1, thence along California Highway 1 to its junction with California Highway 17, thence along California Highway 17 to the Pacific Ocean; (gg) from points in Minnesota on and west of a line beginning at the Iowa-Minnesota State line, thence along U.S. Highway 71 to its junction with Minnesota Highway 72, thence along Minnesota Highway 72 to its junction with Minnesota Highway 11, thence along Minnesota Highway 11 to the U.S.-Canada International Boundary line, to points in that part of Georgia on and south of a line beginning at the Alabama-Georgia State line, thence along Georgia Highway 26 to its junction with Georgia Highway 23, thence along Georgia Highway 23 to its junction with Georgia Highway 21, thence along Georgia Highway 21 to its junction with U.S. Highway 301, thence along U.S. Highway 301 to the South Carolina-Georgia State line.

(hh) From points in Minnesota on and west of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 65 to its junction with U.S. Highway 61, thence along U.S. Highway 61 to its junction with U.S. Highway 53, thence along U.S. Highway 53 to the U.S.-Canada International Boundary line, to points in that part of Mississippi on and south and west of a line beginning at the Mississippi-Alabama State line, thence along U.S. Highway 80 to its junction with U.S. Highway 49, thence along U.S. Highway 49 to its junction with U.S. Highway 49E, thence along U.S. Highway 49E to its junction with Mississippi Highway 322, thence along Mississippi Highway 322 to the Mississippi-Louisiana State line; (ii) from points in that part of Ohio on and south and east of a line beginning at the Indiana-Ohio State line, thence along U.S. Highway 40 to its junction with U.S. Highway 68, thence along U.S. Highway 68 to its junction with Ohio Highway 67, thence along Ohio Highway 67 to its junction with Ohio Highway 18, thence along Ohio Highway 18 to its junction with Ohio Highway 4, thence along Ohio Highway 4 to Lake Erie, to points in that part of Colorado on and south of a line beginning at the Colorado-Kansas State line, thence along U.S. Highway 50 to its junction with U.S. Highway 85, thence along U.S. Highway 85 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with Colorado Highway 789, thence along Colorado Highway 789 to the Colorado-Wyoming State line.

(jj) From points in that part of Ohio on and north of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 36 to its junction with Ohio Highway 29, thence along Ohio Highway 29 to its junction with U.S. Highway 33, thence along U.S. Highway 33 to its junction with U.S. Highway 22, thence along U.S. Highway 22 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to the Ohio-West Virginia State line, to points in that part of Louisiana on and west of a line beginning at the Arkansas-Louisiana State line, thence along Louisiana Highway 3 to its junction with Louisiana Highway 175, thence along Louisiana Highway 175 to its junction with U.S. Highway 171, thence along U.S. Highway 171 to its junction with Louisiana Highway 14, thence along Louisiana Highway 14 to its junction with Louisiana Highway 27, thence along Louisiana Highway 27 to the Gulf of Mexico; (kk) from points in that part of Pennsylvania on and west of U.S. Highway 219, to points in that part of Louisiana on and west of a line beginning at the Louisiana-Arkansas State line, thence along U.S. Highway 79 to its junction with Louisiana Highway 7, thence along Louisiana Highway 7 to its junction with Louisiana Highway 6, thence along Louisiana Highway 6 to its junction with U.S. Highway 171, thence along U.S. Highway 171 to its junction with Louisiana Highway 27, thence along Louisiana Highway 27 to the Gulf of Mexico; (ll) from points in that part of Pennsylvania on and west of a line beginning at the Pennsylvania-West Virginia State line, thence along U.S. Highway 219 to its junction with U.S. Highway 22, thence along U.S. Highway 22 to its junction with U.S. Highway 522, thence along U.S. Highway 522 to its junction with U.S. Highway 11, thence along U.S. Highway 11 to its junction with U.S. Highway 6, thence along U.S. Highway 6 to its junction with Pennsylvania Highway 652, thence along Pennsylvania Highway 652 to the Pennsylvania-New York State line, to points in that part of Colorado on and north and east of a line beginning at the Colorado-Kansas State line, thence along U.S. Highway 24 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with U.S. Highway 85, thence along U.S. Highway 85 to its junction with Interstate Highway 25, thence along Interstate Highway 25 to the Colorado-Wyoming State line;

(mm) From points in that part of Pennsylvania on and south and east of a line beginning at the Pennsylvania-Ohio State line, thence along U.S. Highway 62 to its junction with U.S. Highway 6, thence along U.S. Highway 6 to its junction with U.S. Highway 62, thence along U.S. Highway 62 to the Pennsylvania-New York State line, to points in that part of Kansas on and south of a line beginning at the Kansas-Missouri State line, thence along U.S. Highway 160 to its junction with U.S. Highway 69, thence along U.S. Highway 69 to its junction with Kansas Highway 57, thence along Kansas Highway 57 to its junction with Kansas Highway 47, thence along Kansas Highway 47 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with U.S. Highway 154, thence along U.S. Highway 154 to its junction with U.S. Highway 50, thence along U.S. Highway 50 to the Kansas-Colorado State line; (nn) from points in that part of West Virginia on and east of a line beginning at the West Virginia-Virginia State line, thence along Interstate Highway 77 to its junction with U.S. Highway 21, thence along U.S. Highway 21 to its junction with West Virginia Highway 16, thence along West Virginia Highway 16 to its junction with U.S. Highway 50, thence along U.S. Highway 50 to the West Virginia-Ohio State line, to points in that part of Kansas on and south of a line beginning at the Kansas-Oklahoma State line, thence along Interstate Highway 35 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with Kansas Highway 14, thence along Kansas Highway 14 to its junction with U.S. Highway 56, thence along U.S. Highway 56 to its junction with Kansas Highway 96, thence along Kansas Highway 96 to its junction with U.S. Highway 183, thence along U.S. Highway 183 to its junction with Interstate Highway 70, thence along Interstate Highway 70 to the Kansas-Colorado State line. The purpose of this filing is to eliminate the gateway of Wagoner, Okla.

No. MC 95540 (Sub-No. E802), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, and frozen vegetables,* from those points in North Carolina on and east of a line beginning at the North Carolina-Virginia State line and extending along North Carolina Highway 18 to its junction with North Carolina Highway 115, thence along North Carolina Highway 115 to its junction with Interstate Highway 77, thence along Interstate Highway 77 to the North Carolina-South Carolina State line, to those points in Arizona on and north of a line beginning at the Arizona-California State line and extending along U.S. Highway 80 to its junction with Arizona Highway 84, thence along Arizona Highway 84 to its junction with U.S. Highway 80, thence along U.S. Highway

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80 to its junction with Arizona Highway 77, thence along U.S. Highway 60 to the Arizona-New Mexico State line. The purpose of this filing is to eliminate the gateway of Washington, Pa.

No. MC 106398 (Sub-No. E75), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, complete, knocked down, or in sections, including component parts, materials, supplies, and fixtures*, from points in New Jersey, to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, South Carolina, Tennessee, West Virginia, Wisconsin, and that part of North Carolina on and west of a line beginning at the Atlantic Ocean, thence along North Carolina Highway 117 to junction U.S. Highway 301, thence along U.S. Highway 301 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of Hanover, Pa.

No. MC 106398 (Sub-No. E78), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, complete, knocked down, or in sections, from points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Pennsylvania, South Carolina, Tennessee, West Virginia, Wisconsin, and that part of North Carolina on and west of a line beginning at the Atlantic Ocean, thence along North Carolina Highway 117 to junction U.S. Highway 301, thence along U.S. Highway 301 to the North Carolina-Virginia State line, to points in New Jersey. The purpose of this filing is to eliminate the gateway of Hanover, Pa.

No. MC 106398 (Sub-No. E79), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Prefabricated houses and buildings, and sections, panels, parts and accessories thereof*, from points in Wisconsin, Michigan, Pennsylvania, Virginia, West Virginia, Ohio, Indiana, and that part of Illinois north of U.S. Highway 50, to points in New Mexico. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 106398 (Sub-No. E81), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, complete, knocked down, or in sections and component parts; materials, supplies and fixtures*, from points in Wisconsin, Illinois, Michigan, Indiana, Ohio, Pennsylvania, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Louisiana, to points in Nebraska. The purpose of this filing is to eliminate the gateway of Des Moines or Clarinda, Iowa.

No. MC 107515 (Sub-No. E202) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER November 25, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk, in tank vehicles), from points in that part of Florida on and east of a line beginning at the Georgia-Florida State line, thence along U.S. Highway 41 to junction U.S. Highway 129, thence along U.S. Highway 129 to junction Florida Highway 339, thence along Florida Highway 339 to junction Florida Highway 24, thence along Florida Highway 24 to the Gulf of Mexico, to points in Alabama, Mississippi, and Louisiana. The purpose of this filing is to eliminate the gateway of Tifton, Ga. The purpose of this correction is to clarify the origin territory.

No. MC 107515 (Sub-No. E263), (Correction), filed May 29, 1974, published in the FEDERAL REGISTER November 21, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Cook, DuPage, Lake, and Will Counties, Ill., and Lake County, Ind., to Memphis, Tenn., and points in Clark, Floyd, Harrison, Perry, and Spencer Counties, Ind., Mississippi, Louisiana, that part of West Virginia on and south of a line beginning at the Kentucky-West Virginia State line, thence along Interstate Highway 64 to Charleston, thence along U.S. Highway 60 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction West Virginia Highway 41, thence along West Virginia Highway 41 to junction West Virginia Highway 15, thence along West Virginia Highway 15 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction U.S. Highway 250, thence along U.S. Highway 250 to junction West Virginia Highway 28, thence along West Virginia Highway 28 to junction U.S. Highway 33, thence along U.S. Highway 33 to the Virginia-West Virginia State line, and that part of Virginia on and south of a line beginning at the Virginia-West Virginia State line, thence along U.S. Highway 33 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction Virginia Highway 29, thence along Virginia Highway 29 to junction Virginia Highway 7, thence along Virginia Highway 7 to the Potomac River. The purpose of this filing is to eliminate the gateway of the plant site of Food Specialties of Kentucky, Division of Oscar Ewing, Inc., in Jefferson County, Ky. The purpose of this correction is to include a destination State which was omitted in the previous publication.

No. MC 107515 (Sub-No. E265) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER November 25, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 76 (except commodities in bulk, in tank vehicles, and hides), from points in Cook, Du Page, Lake, and Will Counties, Ill., and Lake County, Ind., to points in that part of Arkansas on and south of a line beginning at the Arkansas-Tennessee State line, thence along Interstate Highway 40 to junction Interstate Highway 30, thence along Interstate Highway 30 to junction U.S. Highway 70, thence along U.S. Highway 70 to the Arkansas-Oklahoma State line, that part of Oklahoma on and south of U.S. Highway 70, and that part of Texas on and south of U.S. Highway 70. The purpose of this filing is to eliminate the gateway of Adairsville, Ky. The purpose of this correction is to include territorial descriptions which were omitted in the previous publication.

No. MC 107515 (Sub-No. E326) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER November 25, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen edible meats, edible meat products, and frozen by-products* (except commodities in bulk), from points in that part of Iowa on and west of a line beginning at the Iowa-Missouri State line, thence along Iowa Highway 139 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Iowa Highway 141, thence along Iowa Highway 141 to

the Iowa-South Dakota State line, to points in that part of Tennessee on and east of a line beginning at the Tennessee-Georgia State line, thence along U.S. Highway 27 to the Tennessee-Kentucky State line. The purpose of this filing is to eliminate the gateway of Rossville, N.C. The purpose of this correction is to include territorial descriptions which were omitted.

No. MC 107515 (Sub-No. E396) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER December 2, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared dough*, when moving in refrigerated vehicles, from Atlanta, Ga., to points in that part of West Virginia on and east of Interstate Highway 77, and that part of Ohio on and east of a line beginning at the Ohio-West Virginia State line, thence along Interstate Highway 77 to junction Ohio Highway 21, thence along Ohio Highway 21 to Lake Erie. The purpose of this filing is to eliminate the gateway of Greensboro, N.C. The purpose of this correction is to clarify the commodity description.

No. MC 107515 (Sub-No. E397) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER December 2, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk, in tank vehicles), from points in that part of Georgia on and south of a line beginning at the Alabama-Georgia State line, thence along Georgia Highway 62 to junction U.S. Highway 80, thence along U.S. Highway 80 to Savannah Beach, to points in Texas. The purpose of this filing is to eliminate the gateway of Tifton, Ga. The purpose of this correction is to include the destination points.

No. MC 107515 (Sub-No. E398) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER December 2, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in that part of Georgia on and north of a line beginning at the Alabama-Georgia State line, thence along Georgia Highway 18 to junction Georgia Highway 74, thence along Georgia Highway 74 to Macon, thence along U.S. Highway 80 to the Atlantic Ocean, to points in Texas. The purpose of this filing is to eliminate the gateway of Florence, Ala. The purpose of this correction is to include the destination points.

No. MC 107515 (Sub-No. E414) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER November 25, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats*, from points within 5 miles of Albany, Ga. (except Albany), to points in Missouri, Iowa, Minnesota, Wisconsin, Illinois, Indiana, and Michigan. The purpose of this filing is to eliminate the gateway of the plant site of Odom's Sausage Co., at Madison, Tenn. The purpose of this correction is to correct the origin territory.

No. MC 107515 (Sub-No. E415) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER November 25, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats*, from points within 10 miles of Atlanta, Ga. (except Atlanta), to points in Missouri, Iowa, Minnesota, Wisconsin, Illinois, Indiana, and Michigan. The purpose of this filing is to eliminate the gateway of the plant site of Odom's Sausage Co., at Madison, Tenn. The purpose of this correction is to correct the origin territory.

No. MC 107515 (Sub-No. E416) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER November 25, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Atlanta, Ga. 33050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats*, from points that are (a) within 5 miles of Macon, Ga. (except Macon), and (b) within 5 miles of Griffin, Ga. (except Griffin), to points in Minnesota, Iowa, Missouri, Wisconsin, Illinois, Michigan, and Indiana. The purpose of this filing is to eliminate the gateway of the plant site of Odom's Sausage Co., at Madison, Tenn. The purpose of this correction is to correct the origin territory.

No. MC 111545 (Sub-No. E519) (Correction), filed June 2, 1974, published in the FEDERAL REGISTER November 19, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts*, and *supplies* moving in connection therewith, (1) between points in that part of Alabama within 175 miles of Chattanooga, Tenn., and on and north of a line beginning at the Alabama-Mississippi State line, thence along U.S. Highway 82 to Tuscaloosa, thence along U.S. Highway 11 to Birmingham, thence along U.S. Highway 280 to the Georgia-Alabama State line, on the one hand, and, on the other, points in that part of Texas on, west, and south of a line beginning at the Texas-Arkansas State line, thence along U.S. Highway 59 to Houston, thence along U.S. Highway 75 to Galveston; (2) between points in that part of Alabama within 175 miles of Chattanooga, Tenn., and on and north of U.S. Highway 78, on the one hand, and, on the other, points in Texas; and (3) between points in that part of Alabama within 175 miles of Chattanooga, Tenn., on and north of a line beginning at the Alabama-Georgia State line, thence along U.S. Highway 80 to Montgomery, thence along U.S. Highway 82 to the Alabama-Mississippi State line, on the one hand, and, on the other, points in that part of Texas on, south, and west of a line beginning at the Texas-Arkansas State line, thence along U.S. Highway 59 to Lufkin.

Thence along Texas Highway 94 to Trinity, thence along Texas Highway 19 to Huntsville, along Texas Highway 30 to Bryan, thence along Texas Highway 21 to junction U.S. Highway 290, thence along U.S. Highway 290 to Austin, thence along U.S. Highway 183 to Cuero, thence along U.S. Highway 87 to Port Lavaca, restricted in (1), (2), and (3) above to the transportation of commodities which are transported on trailers, and restricted in (1), (2), and (3) above against the transportation of machinery, equipment, material, and supplies used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment, and supplies used in or in connection with the construction, operation, repair, servicing, and picking up thereof. The purpose of this filing is to eliminate the gateway of points in that part of Mississippi within 175 miles of Chattanooga, Tenn. The purpose of this correction is to clarify the destination points.

No. MC 111545 (Sub-No. E520) (Correction), filed June 2, 1974, published in the FEDERAL REGISTER November 20, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery*,

tools, parts, and supplies moving in connection therewith; (1) from points in Iowa, to points in Mercer, Monroe, Wyoming, Summers, McDowell, Pocahontas, and Greenbrier Counties, W. Va.; and (2) from points in that part of Missouri on and north of a line beginning at the Minnesota-Kansas State line, thence along U.S. Highway 54 to Nevada, thence along U.S. Highway 71 to junction Missouri Highway 52, thence along Missouri Highway 52 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Missouri-Illinois State line, to points in Mercer, Monroe, Wyoming, Summers, McDowell, Pocahontas, and Greenbrier Counties, W. Va., restricted in (1) and (2) above to the transportation of machinery and contractors' equipment and commodities which are transported on trailers. The purpose of this filing is to eliminate the gateways of Peoria or Decatur, Ill., and points in that part of Iowa within 380 miles of Ames, Iowa. The purpose of this correction is to clarify the territorial description.

No. MC 111545 (Sub-No. E537)' (Correction), filed May 30, 1974, published in the FEDERAL REGISTER November 18, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Valves, hydrants, indicator posts, floor stands, fittings, sleeves, and covers*, the transportation of which, because of size or weight, requires the use of special equipment (except agricultural machinery and implements, other than hand, as defined by the Commission), (1) from points in Florida to points in Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming; (2) from points in Florida to points in that part of California north and west of a line beginning at the California-Arizona State line, thence along U.S. Highway 95 to junction California Highway 78, thence along California Highway 78 to junction California Highway 111, thence along California Highway 111 to Calexico; and (3) from points in that part of Florida on and east of a line beginning at the Florida-Georgia State line, thence along U.S. Highway 319 to Wakulla, thence along Florida Highway 363 to St. Marks, to points in Arizona and Colorado. The purpose of this filing is to eliminate the gateways of points in that part of Georgia within 175 miles of Chattanooga, Tenn., and Anniston, Ala. The purpose of this correction is to include destination states which were omitted in the previous publication.

No. MC 111956 (Sub-No. E9) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER November 14, 1974. Applicant: SUWAK TRUCKING COMPANY, 1105–15 Fayette Street, Washington, Pa. 15301. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper cartons, paper sheets, cullet, and tin plate*, from points in that part of West Virginia on and south of West Virginia Highway 50, to points in Allegheny and Westmoreland Counties, Pa., and *rejected or refused shipments of paper cartons, paper sheets, cullet, and tin plate*, from points in Allegheny and Westmoreland Counties, Pa., to points in that part of West Virginia on and south of West Virginia Highway 50. The purpose of this filing is to eliminate the gateway of Connellsville, Pa. The purpose of this correction is to include rejected and refused shipments on return.

No. MC 111956 (Sub-No. E14) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER November 14, 1974. Applicant: SUWAK TRUCKING COMPANY, 1105–15 Fayette Street, Washington, Pa. 15301. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Corrugated fibreboard boxes and parts thereof*, between points in that part of Ohio on and south of U.S. Highway 40, on the one hand, and, on the other, points in that part of New York on and south of U.S. Highway 6, and in New Jersey and Delaware. The purpose of this filing is to eliminate the gateway of Connellsville-McKees Rocks, Pa. The purpose of this correction is to include points in New Jersey and Delaware.

No. MC 112822 (Sub-No. E177), (Correction), filed June 3, 1974, published in the FEDERAL REGISTER November 13, 1974. Applicant: BRAY LINES, INC., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, from Oklahoma City, Okla., to points in Alabama on, north, and east of a line extending from the Alabama-Tennessee State line along U.S. Highway 43 to Grove Hill, thence along U.S. Highway 84 to Alabama Highway 41, thence along Alabama Highway 41 to the Alabama-Florida State line, and ponts in Tennessee east of Tennessee Highway 22. The purpose of this filing is to eliminate the gateway of Coffeyville, Kans. The purpose of this correction is to correct the origin points.

No. MC 114211 (Sub-No. E107), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment*, between points in Colorado, on the one hand, and, on the other, points in that part of Oklahoma on and east of Oklahoma Highway 136, and that part of Texas on and east of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 62 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction Texas Highway 16, thence along Texas Highway 16 to junction Texas Highway 285, thence along Texas Highway 285 to junction U.S. Highway 281, thence along U.S. Highway 281 to the International Boundary line between the United States and Mexico. The purpose of this filing is to eliminate the points in Kansas.

No. MC 114211 (Sub-No. E110), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment*, between points in that part of Texas on and west of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 271 to junction Texas Highway 19, thence along Texas Highway 19 to junction Texas Highway 31, thence along Texas Highway 31 to junction Interstate Highway 45, thence along Interstate Highway 45 to junction Texas Highway 14, thence along Texas Highway 14 to junction Texas Highway 6, thence along Texas Highway 6 to junction Texas Highway 21, thence along Texas Highway 21 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Gulf of Mexico, on the one hand, and, on the other, points in South Dakota, Minnesota, Nebraska, Iowa, and Illinois. The purpose of this filing is to eliminate the gateway of points in Kansas.

No. MC 114211 (Sub-No. E112), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, road making machinery, and contractors' equipment and supplies*, from points in that part of Nebraska on and north of Interstate Highway 80 to points in that part of North Carolina on and east of a line beginning at the Virginia-North Carolina State line, thence along U.S. Highway 17 to junction U.S. Highway 70, thence along U.S. Highway 70 to Atlanta, and that part of Wisconsin on and north of U.S. Highway 10, restricted to the transportation of self-propelled vehicles (except motor vehicles as defined in Section 203(a)(13) of the Interstate Commerce Act and commodities moving in driveaway service), equipment designed for use in conjunction

with self-propelled vehicles (except tank semi-trailers), and parts and attachments for self-propelled vehicles and equipment designed for use in conjunction therewith. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E113), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grading, paving, and finishing machinery, equipment, parts, accessories, and attachments*, between points in that part of Nebraska on, north, and west of a line beginning at the Wyoming-Nebraska State line, thence along Interstate Highway 80 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 281, thence along U.S. Highway 281 to the Nebraska-South Dakota State line, on the one hand, and, on the other, points in Ohio, New York, Vermont, New Hampshire, Maine, Massachusetts, Connecticut, Rhode Island, Pennsylvania, New Jersey, Delaware, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, that part of Michigan on, north, and east of a line beginning at Muskegon, thence along Interstate Highway 96 to junction U.S. Highway 131, thence along U.S. Highway 131 to the Michigan-Indiana State line, that part of Illinois on, north, and east of a line beginning at the Wisconsin-Illinois State line, thence along Illinois Highway 26 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Illinois Highway 173, thence along Illinois Highway 173 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction Illinois Highway 120, thence along Illinois Highway 120 to Waukegan, Ill., that part of Wisconsin on, north, and west of a line beginning at the Iowa-Wisconsin State line.

Thence along U.S. Highway 18 to junction Wisconsin Highway 39, thence along Wisconsin Highway 39 to junction Wisconsin Highway 23, thence along Wisconsin Highway 23 to junction Wisconsin Highway 81, thence along Wisconsin Highway 81 to junction Wisconsin Highway 69, thence along Wisconsin Highway 69 to the Wisconsin-Illinois State line, that part of Indiana on and east of a line beginning at the Michigan-Indiana State line, thence along Indiana Highway 19 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction Indiana Highway 15, thence along Indiana Highway 15 to junction Indiana Highway 35, thence along Indiana Highway 35 to junction Indiana Highway 28, thence along Indiana Highway 28 to the Indiana-Ohio State line, that part of Kentucky on and east of Interstate Highway 75, that part of Tennessee on and east of a line beginning at the Kentucky-Tennessee State line, thence along Interstate Highway 75 to junction U.S. Highway 129, thence along U.S. Highway 129 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Interstate Highway 75, thence along Interstate Highway 75 to the Georgia-Tennessee State line, and that part of Alabama on and south of a line beginning at the Alabama-Georgia State line, thence along Alabama Highway 48 to junction Alabama Highway 9, thence along Alabama Highway 9 to junction U.S. Highway 80, thence along U.S. Highway 80 to Interstate Highway 65, thence along Interstate Highway 65 to junction Alabama Highway 21, thence along Alabama Highway 21 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Interstate Highway 10, thence along Interstate Highway 10 to the Alabama-Mississippi State line. The purpose of this filing is to eliminate the gateway of Canton, S. Dak.

No. MC 114211 (Sub-No. E114), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and implements, other than hand*, as described in Section 1(b) of Appendix XII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and *parts therefore*, when their transportation is incidental to the transportation of machinery and implements, from points in that part of Iowa on and east of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 65 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 137, thence along Iowa Highway 137 to junction Iowa Highway 5, thence along Iowa Highway 5 to the Iowa-Missouri State line, to points in that part of Kansas on and west of a line beginning at the Nebraska-Kansas State line, thence along U.S. Highway 183 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateways of Ottumwa, Iowa, and Beatrice, Nebr.

No. MC 114211 (Sub-No. E115), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, agricultural implements, and parts therefore* (except commodities which, because of size or weight, require the use of special equipment, and those described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459), from Tulsa, Okla., to the District of Columbia, Las Cruces, Lordsburg, and Deming, N. Mex., El Paso, Dallas, Ft. Worth, Houston, Galveston, Abilene, Sweetwater, Big Springs, Midland, and Odessa, Tex., and points in California, Arizona, Nebraska, Iowa, Wisconsin, North Carolina, Virginia, Maryland, and New Jersey. The purpose of this filing is to eliminate the gateway of Claremore, Okla.

No. MC 114211 (Sub-No. E117), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, between points in that part of South Dakota on and south of a line beginning at the Minnesota-South Dakota State line, thence along U.S. Highway 12 to junction South Dakota Highway 25, thence along South Dakota Highway 25 to junction South Dakota 20, thence along South Dakota Highway 20 to junction South Dakota Highway 45, thence along South Dakota Highway 45 to junction U.S. Highway 212, thence along U.S. Highway 212 to the South Dakota-Wyoming State line, on the one hand, and, on the other, points in that part of Minnesota on and north of a line beginning at the South Dakota-Minnesota State line, thence along U.S. Highway 12 to junction Interstate Highway 94, thence along Interstate Highway 94 to the Minnesota-Wisconsin State line. The purpose of this filing is to eliminate the gateways of Nassau, Minn., and points within 25 miles thereof.

No. MC 114211 (Sub-No. E119), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, road making machinery, and contractors' equipment and supplies*, from points in that part of Nebraska on and north of U.S. Highway 20, to points in North Carolina, South Carolina, that part of Georgia on and east of a line beginning at the North Carolina-Georgia State line, thence along Georgia Highway 11 to junction U.S. Highway 129, thence along U.S. Highway 129 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction U.S. Highway 280, thence along U.S. Highway 280 to junction Georgia Highway 257, thence along Georgia Highway 257 to junction Georgia Highway 62, thence along Georgia Highway 62 to the Georgia-Alabama State line, that part of Alabama on, south, and east of a line beginning at the Georgia-Alabama State line, thence along Alabama Highway 62 to junction U.S. Highway 431, thence

along U.S. Highway 431 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Alabama-Florida State line, that part of Florida on and east of U.S. Highway 231, and to that part of Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line, thence along Wisconsin Highway 54 to junction Wisconsin Highway 35, thence along Wisconsin Highway 35 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction Interstate Highway 94, thence along Interstate Highway 94 to Milwaukee, restricted to the transportation of self-propelled vehicles (except motor vehicles as defined in Section 203(a)(13) of the Interstate Commerce Act and commodities moving in driveaway service), equipment designed for use in conjunction with self-propelled vehicles (except tank semi-trailers), and parts and attachments for self-propelled vehicles, and equipment designed to be used in conjunction therewith. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E120), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, road making machinery, and contractors' equipment and supplies*, from points in Kansas to points in the Upper Peninsula of Michigan, and that part of Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line, thence along Wisconsin Highway 35 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Wisconsin Highway 73, thence along Wisconsin Highway 73 to junction Wisconsin Highway 54, thence along Wisconsin Highway 54 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 41, thence along U.S. Highway 41 to Green Bay, restricted to the transportation of self-propelled vehicles (except motor vehicles as defined in Section 203(a)(13) of the Interstate Commerce Act and commodities moving in driveaway service), equipment designed for use in conjunction with self-propelled vehicles (except tank semi-trailers), and parts and attachments for self-propelled vehicles, and equipment designed for use in conjunction therewith. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E121), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, road making machinery, and contractors' equipment and supplies*, from points in Nebraska to points in Maine, Vermont, New Hampshire, the Upper Peninsula of Michigan, and that part of New York on and east of a line beginning at the International Boundary line between the United States and Canada, thence along New York Highway 30 to junction New York Highway 28, thence along New York Highway 28 to junction Interstate Highway 27, thence along Interstate Highway 27 to junction New York Highway 7, thence along New York Highway 7 to the New York-Vermont State line, restricted to the transportation of self-propelled vehicles (except motor vehicles as defined in Section 203(a)(13) of the Interstate Commerce Act and commodities moving in driveaway service), equipment designed for use in conjunction with self-propelled vehicles (except tank semi-trailers), and parts and attachments for self-propelled vehicles, and equipment designed for use in conjunction therewith. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E124), filed May 24, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except commodities which because of size or weight require the use of special equipment, and those described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459), from points in that part of Nebraska on and east of U.S. Highway 77 to points in Arizona and that part of California on, south, and west of a line beginning at the Arizona-California State line, thence along U.S. Highway 66 to junction California Highway 58, thence along California Highway 58 to junction California Highway 41, thence along California Highway 41 to the Pacific Ocean. The purpose of this filing is to eliminate the gateways of points in Kansas, and Claremore, Okla.

No. MC 114457 (Sub-No. E151), filed November 22, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Ave., St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such paper and paper articles* as are paper mill products and supplies (except commodities in bulk), from the facilities of Hudson Pulp & Paper Company at Pine Bluff, Ark., to Chicago, Ill., restricted to the transportation of shipments originating at the above-described facilities. The purpose of this filing is to eliminate the gateway of Hammond, Ind.

No. MC 114457 (Sub-No. E152), filed November 22, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such newsprint, printing paper, and groundwood paper*, in rolls, as are paper mill products and supplies (except commodities in bulk), from Minneapolis, Minn., to Hamilton, Ohio, and Hammond, Ind., restricted to the transportation of traffic having a prior movement by rail or water. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 115331 (Sub-No. E7) (Correction), filed May 6, 1974, published in the FEDERAL REGISTER November 25, 1974. Applicant: TRUCK TRANSPORT INCORPORATED, 230 St. Clair Ave., East St. Louis, Ill. 62201. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and limestone products* (except dolomite), in bulk, from Chicago, Ill., to points in South Dakota, Nebraska, Kansas, Louisiana, Oklahoma, Colorado, Texas, Wyoming, Arkansas, points in Montana south of U.S. Highway 2 and on and west of Montana Highway 232. The purpose of this filing is to eliminate the gateways of Davenport, Iowa, Hannibal, Kansas City, and Ste. Genevieve, Mo. The purpose of this correction is to clarify the territorial description.

No. MC 115331 (Sub-No. E15) (Correction), filed May 6, 1974, published in the FEDERAL REGISTER November 21, 1974. Applicant: TRUCK TRANSPORT, INC., 230 St. Clair Ave., East St. Louis, Ill. 62201. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (3) *Lime* (except lime used for agricultural purposes), in bulk, from Gibsonburg, Ohio, to points in Oklahoma, Louisiana, Arizona, New Mexico, and Texas (except Houston and points within 50 miles thereof) (Limedale, Ark.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this partial correction is to correct the origin point in (3) above. The remainder of this letter-notice remains as previously published.

No. MC 115331 (Sub-No. E16) (Correction), filed May 6, 1974, published in the FEDERAL REGISTER November 25, 1974. Applicant: TRUCK TRANSPORT, INC., 230 St. Clair Ave., East St. Louis, Ill. 62201. Applicant's representative: E. Stephen Heisley, 666 11th St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime* (except lime used for agricultural purposes), in bulk, from Hannibal, Mo., and Marblehead and Quincy, Ill., to points in Florida, points in Alabama and Mississippi on and south of U.S. Highway 78, and points in Georgia on and south of Interstate Highway 20. The purpose of this filing is to eliminate the gateways of Limedale, Ark., and Roberta, Ala. The purpose of this correction is to clarify the origin points.

No MC 115603 (Sub-No. 82), filed May 20, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main or trunk pipe lines, (2) *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-ways; and (3) *Earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe* incidental to, used in or in connection with (2) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in North Dakota on and west of a line beginning at the United States-Canadian International Boundary line and extending along North Dakota Highway 30 thru York, and Medina to Lehr, thence along unnumbered highway to Ashley, and thence along North Dakota Highway 3 to the North Dakota-South Dakota State line, on the one hand, and, on the other, points in Morton, Stevens, Seward, and Meade Counties, Kansas, between points in Kansas on and south of a line beginning at the Colorado-Kansas State line and extending east along U.S. Highway 160 to its junction with U.S. Highway 83, thence east on Kansas Highway 144 to its junction with U.S. Highway 56, thence along U.S. Highway 56 to Dodge City, thence southeast on U.S. Highway 154 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with U.S. Highway 281, thence south along U.S. Highway 281 to its junction with U.S. Highway 160, thence east along U.S. Highway 160 to its junction with Kansas State Highway 49, thence south along Kansas State Highway 49 to its junction with U.S. Highway 166, thence east along U.S. Highway 166 to its junction with U.S. Highway 77 at Arkansas City, thence south along U.S. Highway 77 to the Kansas-Oklahoma State line, on the one hand, and, on the other, points in North Dakota on, north, and west of a line beginning at the Montana-North Dakota State line and extending east along U.S. Interstate Highway 2 to its junction with North Dakota State Highway 8 to Stanley, thence north on North Dakota State Highway 8 to the United States-Canadian International Boundary line. The purpose of this filing is to eliminate the gateway of points in Texas.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-29607 Filed 12-18-74;8:45 am]

[Notice No. 167]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 13, 1974.

The following are notices of filing of application; except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 921 (Sub-No. 27TA), filed December 4, 1974. Applicant: DEAN TRUCK LINE, INC., P.O. Drawer 631 (Fulton Drive), Corinth, Miss. 38834. Applicant's representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined in 17 M.C.C. 467, livestock, commodities in bulk, and articles which because of size or weight require special equipment), (1) between Tupelo, Miss., and the Alabama-Mississippi State line near Tremont, Miss.: From Tupelo over U.S. Highway 78 to Alabama State line and return over the same route, serving all intermediate points and their commercial zones, and the off-route points of Mantachie and Marietta, Miss., and their commercial zones, in connection with applicant's existing regular route between Corinth and Tupelo, Miss., over U.S. Highway 45 and the applied for route herein; (2) between Belmont, Miss., and the junction of Mississippi Highway 25 and U.S. Highway 78 at or near Fulton, Miss.: From Belmont over Mississippi Highway 25 to the intersection of Mississippi Highway 25 and U.S. Highway 78 as an alternate route for operating convenience only; and (3) between Red Bay, Ala., and Tremont, Miss.: From Red Bay, Ala., over Mississippi Highway 23 to Tremont, Miss., and return over the same route, as an alternate route for operating convenience only, for 180 days.

NOTE.—Applicant intends to tack the authority here applied for with all regular route authority held by it under Docket MC 921 and would interline primarily at Tupelo, Miss., Memphis, Tenn., and terminal points. Supporting shippers: There are approximately 37 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Floyd A. Johnson, Interstate Commerce Commission, Bureau of Operations, 435 Federal Office Building, 167 North Main Street, Memphis, Tenn. 38103.

No. MC 106644 (Sub No. 199TA), filed December 3, 1974. Applicant: SUPERIOR TRUCKING COMPANY, 2770 Peyton Road NW., Atlanta, Ga. 30318. Applicant's representative: W. Randall Tye, Attorney at Law, 1400 Candler Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Switch gears, circuit breakers, bus barsystems, and rectifiers*, which because of size or weight require special equipment, from Camden, New Jersey, and Philadelphia, Pennsylvania, to points in the United States, including Alaska but excluding Hawaii, restricted to the transportation of traffic originating at the plant sites, storage facilities, and shipping facilities of the General Electric Company at Camden, New Jersey, and Philadelphia, Pennsylvania. Supporting shipper: General Electric Company, 6901 Elmwood Avenue, Philadelphia, Pennsylvania 19142. Send protests to: District Supervisor, William L. Scroggs, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 107403 (Sub No. 925TA), filed December 9, 1974. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier, by* motor vehicle, over irregular routes, transporting: *Synthetic plastics*, dry, in bulk, from the plantsite of Georgia Pacific Corporation at or near Plaquemine, La., to points in Arkansas, Arizona, California, Colorado,

Delaware, Florida, Iowa, Kentucky, Massachusetts, Mississippi, Missouri, North Carolina, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, and Texas, for 180 days. Supporting shipper: Georgia Pacific Corporation, P.O. Box 629, Plaquemine, La. 70764 (G. K. Hendrix, Traffic Analyst). Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 107496 (Sub-No. 976TA), filed December 2, 1974. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from points in Missouri (except Birds Point and points within four miles, Kansas City, LaGrange, Malden, Palmyra, Selma and points within five miles, South River, Sugar Creek, and Clark County, Mo.), to points in Illinois, for 180 days. Supporting shipper: Texas Gas Industrial, P.O. Box 37, Barnhart, Mo. 63012. Send protests to: Herbert W. Allen, District Supervisor Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 977TA), filed December 5, 1974. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible tallow, animal feeding fats, and feed supplements*, in bulk, from points in Sarpy County, Nebr., to points in Iowa, Kansas, Minnesota, Missouri, and South Dakota, for 180 days. Supporting shipper: National By-Products, P.O. Box 7187, Omaha, Nebr. 68107. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 108207 (Sub-No. 411TA), filed December 9, 1974. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and commodities* dealt in by retail gift shops or retail curio shops, when moving in mixed loads with cheese, from Monroe, Wis., to points in Missouri, Arizona, and California, for 180 days. Supporting shipper: Swiss Colony Stores, Inc., 1112 7th Avenue, Monroe, Wis. 53566. Send protests to: District Supervisor Gerald T. Holland, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 109649 (Sub-No. 21TA), filed December 10, 1974. Applicant: L. P. TRANSPORTATION, INC., Cross & Main Streets, Chester, N.Y. 10918. Applicant's representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied natural gases*, in bulk, (1) from Chattanooga, Tenn., to Charlotte, N.C., and West Conshohocken, Pa.; and (2) from Roanoke, Va., to West Conshohocken, Pa., for 180 days. Supporting shipper: South Jersey Gas Co., William C. Bingham, Route 54, Folsom, N.J. 08037. Send protests to: Robert A. Radler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 New Federal Building, Albany, N.Y. 12207.

No. MC 114097 (Sub-No. 5TA), filed December 9, 1974. Applicant: NIEDFELDT TRUCKING SERVICE, INC., 821 South Front Street, La Crosse, Wis. 54601. Applicant's representative: Fred C. Niedfeldt (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty metal beverage containers*, from the plant site of the Continental Can Co., La Crosse, Wis., and the G. Heileman Brewing Co., Inc., warehouse, La Crosse, Wis., to the G. Heileman Brewing Co., Inc., Cincinnati, Ohio, Newport, Ky., and Evansville, Ind., for 180 days. Supporting shipper: G. Heileman Brewing Co., Inc., 926 South 3rd Street, La Crosse, Wis. 54601. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 116300 (Sub-No. 16TA), filed December 6, 1974. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, Miss. 39635. Applicant's representative: Harold D. Miller, Jr., 700 Petroleum Building, P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips, sawdust, wood shavings, and other scrap waste lumber materials*, (1) from the facilities of American Box Company, Division of Altamil Corp. at or near Fernwood, Miss., to Elizabeth, DeRidder, and Bastrop, La., and Mobile, Ala.; and (2) from the facilities of Great Southern Wirebound Box Company at or near Magnolia, Miss., to Elizabeth, DeRidder, Bastrop, and New Orleans, La.; and Mobile, Ala., for 180 days. Supporting shippers: American Box Company, Division of Altamil Corp., P.O. Box 248, Fernwood, Miss. 39635, and Great Southern Wirebound Box Co., P.O. Box 229, Magnolia, Miss. 39652. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 117068 (Sub-No. 35TA), filed December 5, 1974. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Highway 63, Rochester, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer spreaders, lift trucks, front-end loaders, and solid waste compactors* (restricted against the transportation of self-propelled vehicles each weighing 15,000 lbs. or more) on flat-bed trailers and with winch-equipped tractors from the plants and other facilities of TCI, Inc., located at Benson, Minn., and Yankton, South Dakota, to points in Alabama, Arizona, California, Delaware, Florida, Georgia, Indiana, Louisiana, Maine, Maryland, New York, Michigan, Mississippi, New Jersey, North Carolina, Pennsylvania, Texas, Virginia, Utah, and Washington, for 180 days. Supporting shipper: TCI, Inc., W. Hwy. 12, Benson, Minnesota 56215. Send protests to: District Supervisor, A. N. Spath, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 119493 (Sub-No. 132TA), filed December 9, 1974. Applicant: MONKEM COMPANY, INC., West 20th Street Road, P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: J. J. Knotts, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* (unfrozen), from Princeville and Hoopeston, Ill., to points in the United States in and East of Wisconsin, Iowa, Missouri, Kansas, Oklahoma, and Texas, for 180 days. Supporting shipper: Joan of Ark Company, 2231 W. Altorfer Drive, Peoria, Ill. 61614. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 119619 (Sub-No. 78TA), filed December 5, 1974. Applicant: DISTRIBUTORS SERVICE CO., 2000 West 43rd Street, Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities of Equity Meats Corp., Ohio Division, Grant Road and Interstate Highway 75, North Baltimore, Ohio, to Jamestown, Rochester, Buffalo, and Mount Morris, N.Y.; Pittsburgh, Carnegie, and Erie, Pa.; and Linden, Mich.; and (2) *Meats*, fresh and frozen, and *materials and supplies* used in the manufacture, preparation, processing, selling, and distribution of the commodities shown in (1) above, from the destination

points named in (1) above, to the plant-sites and storage facilities of Equity Meats Corp., Ohio Division, Grant Road and Interstate Highway 75, North Baltimore, Ohio, for 180 days. Supporting shipper: James Temprano, Director of Transportation, Equity Meats Corp., Ohio Division, Interstate 75 and Grant Road, North Baltimore, Ohio 45872. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 124328 (Sub-No. 68TA), filed December 4, 1974. Applicant: BRINK'S INCORPORATED, 234 E. 24th Street, Chicago, Ill. 60616. Applicant's representative: Chandler L. van Orman, 704 Southern Building, 15th & H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silver bullion*, from Laredo, Tex., to Newark, N.J., and New York, N.Y., for 180 days. Supporting shipper: American Smelting & Refining Company, Charles W. Kane, Traffic Manager, 120 Broadway, New York, N.Y. 10005. Send protests to: District Supervisor Richard K. Shullaw, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 210 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 127811 (Sub-No. 1TA), filed December 6, 1974. Applicant: BRYNWOOD TRANSFER, INC., 175 8th Avenue SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Precast pre-stressed concrete products*, which because of unusual size or weight require special handling and the use of special equipment, and (2) *related parts and equipment* when transported in the same vehicle at the same time with the commodities described in (1) above, from Osseo, Minnesota, to Chippewa Falls, Wisconsin, for 180 days. Supporting shipper: Bladhome Bros., Pre-Stressed, Division of Bladhome Bros. Culvert Co., Box H, Osseo, Minnesota 55369. Send protests to: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, Room 414, Federal Building & U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minnesota 55401.

No. MC 127811 (Sub-No. 2TA), filed December 6, 1974. Applicant: BRYNWOOD TRANSFER, INC., 175 8th Avenue SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *bulk storage tanks and smokestacks*, which because of unusual size or weight require special handling and the use of special equipment, and (2) related parts and equipment when transported in the same vehicles at the same time with the commodities described in (1) above, from the plant site of Arrow Tank and Engineering Company located at Cambridge, Minn., to points in Iowa, North Dakota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan, for 180 days. Supporting shipper(s): Arrow Tank and Engineering Co., 8950 Evergreen Blvd., Minneapolis, Minn. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 414, Federal Building & U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 128078 (Sub-No. 4TA), filed December 6, 1974. Applicant: MICHAEL VALIHORA, 3050 West Fort Street, Detroit, Mich. 48216. Applicant's representative: James P. Tryand, 111 S. Main Street, Ann Arbor, Mich. 48108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, (1) between points in Canada via ports of entry on the United States-Canada International Boundary in the state of Minnesota, Michigan, New York, Vermont, New Hampshire, and Maine, on the one hand, and, on the other, points in Connecticut, Illinois, Indiana, Iowa, Kentucky, Maryland, Maine, Massachusetts, Michigan (Lower Peninsula), Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Vermont, Virginia, West Virginia, and Wisconsin.

NOTE.—This request duplicating areas presently authorized seeks use of all ports of entry in the named states; present authority is limited to movement via port of entry at or near Detroit and Port Huron, Mich., and Buffalo and Niagara Falls, N.Y., (2) between points in Canada via ports of entry on the United States-Canada International Boundary in the states of Minnesota, Michigan, New York, Vermont, New Hampshire, and Maine, on the one hand, and, on the other, points in Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kansas, Louisiana, Michigan (Upper Peninsula), Mississippi, Nebraska, North Carolina, North Dakota, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, and Texas, for 180 days. Supporting shippers: There are approximately 17 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Melvin F. Kirsch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell Avenue, Detroit, Mich. 48226.

No. MC 129613 (Sub-No. 16TA), filed December 9, 1974. Applicant: ARTHUR H. FULTON, P.O. Box 86, Stephens City, Va. 22655. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Veneers*, (1) between Rocky Mount, Va., on the one hand, and, on the other, points in Indiana, Illinois, Ohio, Kentucky, Tennessee, Maryland, West Virginia, Pennsylvania, North Carolina, South Carolina, New York, New Jersey, and Arkansas; and (2) between Martinsburg, W. Va., on the one hand, and, on the other, points in Illinois, Ohio, Tennessee, New Jersey, and New York, for 180 days. Supporting shipper: Erath Veneer Corporation, P.O. Box 1015, High Point, N.C. 27261. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 317, 12th & Constitution Avenue NW., Washington, D.C. 20423.

No. MC 135518 (Sub-No. 2TA), filed December 4, 1974. Applicant: EVERETT TRUCKING, INC., P.O. Box 56, Mount Vernon, Wash. 98273. Applicant's representative: George Kargianis, 2120 Pacific Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* requiring mechanical refrigerated equipment, from Los Angeles, San Francisco, and Bakersfield, Calif., and their commercial zones, to points in Washington, Oregon, Alaska, and their commercial zones, for 180 days. Supporting shippers: There are approximately 15 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 858 Federal Building, 915 Second Avenue, Seattle, Wash. 98174.

No. MC 136089 (Sub-No. 3TA) filed December 5, 1974. Applicant: WILLIAM W. WILLIAMS, 507 Cline Avenue, Port Orchard, Wash. 98366. Applicant's representative: George Kargianis, Attorney, 2120 Pacific Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Finished plastic products*, including, but not limited to, plastic containers, from Akron, Ohio, to points in Washington, Oregon, California, Colorado, Montana, New Mexico, Nevada, North Dakota, South Dakota, Idaho, Texas, Arizona, Wyoming, and Utah, for 180 days. Supporting shipper: Cardinal Plastic 815 E. Tallmadge Avenue, Akron, Ohio 44310. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission 858 Federal Building 915 Second Avenue, Seattle, Wash. 98174.

No. MC 136602 (Sub-No. 5TA), filed December 5, 1974. Applicant: ARIZONA WESTERN TRANSPORT, INC., P.O. Box F (Guadalupe Road), Chandler, Ariz. 85224. Applicant's representative: A. Michael Bernstein, 1327 United Bank Building, 3550 N. Central Avenue, Phoenix, Ariz. 85012. Authority sought to

in the application, and describing in de-

NOTE.—Common control was approved in

vehicle, over irregular routes, transport-

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operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, in bulk, from Phoenix, Buckeye, Tolleson and 5 miles thereof, Chandler and 5 miles thereof, and Chui-Chu (approximately 50 miles south of Chandler), Ariz., to points in Imperial, San Diego, and Riverside Counties, Calif., for 180 days. Supporting shippers: (1) Western Farm Services, 1310 W. Watkins Road, Phoenix, Ariz.; (2) Farmer's Agdustries Inc., 83rd Avenue & Southern Pacific Railroad, Tolleson, Ariz.; (3) Papago Chemicals Inc., 701 N. Commanche Drive, Chandler, Ariz.; and (4) Chevron Chemical Company, 200 Bush St., Room 1212, San Francisco, Calif. 94014. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427 Federal Building, 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 138134 (Sub-No. 4TA), filed December 2, 1974. Applicant: DONALD HOLLAND TRUCKING, INC., 1300 Main Street, Keokuk, Iowa 52632. Applicant's representative: Kenneth R. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Calcium carbide* in steel containers of not less than 2½ tons capacity, from Keokuk, Iowa, to Ferndale, Mich., for 180 days. Supporting shipper: Midwest Carbide Corp., P.O. Box 607, Keokuk, Iowa 52632. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 138299 (Sub-No. 4TA), filed December 6, 1974. Applicant: TRAILS TRUCKING, INC., 719 Union Street, Montebello Calif. 90640. Applicant's representative: William J. Monheim, P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mineral wool and mineral wool products*, insulating material, insulated air duct, and products utilized in the installation of the described commodities from La Mirada and Union City, Calif., to points in Arizona, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming, for 180 days. Supporting shipper(s): Certain-Teed Products Corporation, P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: District Supervisor Philip Yallowitz, Interstate Commerce Commission, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 138563 (Sub-No. 2TA), filed December 9, 1974. Applicant: J.M.J. PROJECTS, INC., 2108 West 50th, Shawnee Mission, Kans. 66205. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Used and junk batteries, residues, residuum acids, slimes, sludge, sweepings, washings, and scrap*, from Leavenworth, Kans., to Granite City, Ill., and (2) *Lead ingots, antimonial, and litharge*, from Granite City, Ill., to Leavenworth, Kans., under contract with Gould, Inc., for 180 days. Supporting shipper: Gould, Inc., Automotive Batteries Division, P.O. Box 1140, St. Paul, Minn. 55165. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 139545 (Sub-No. 3TA), filed December 5, 1974. Applicant: HENRY C. KOCOT, HENRY J. KOCOT, and ANTHONY J. KOCOT, doing business as H. C. KOCOT & SONS, Whately Road, South Deerfield, Mass. 01373. Applicant's representative: David M. Marshall, 135 State Street, Springfield, Mass. 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, complete or in sections, and *supplies, materials, and equipment* used in the manufacture and installation of prefabricated buildings, between South Deerfield, Mass., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Connecticut, Rhode Island, Pennsylvania, and points in New York on, East, and South of New York Highway 30, for 180 days. Supporting shipper: Edgeco, Inc., doing business as Habitat Homes and American Barn Corp., 123 Elm Street, South Deerfield, Mass. 01373. Send protests to: District Supervisor Joseph W. Balin, Interstate Commerce Commission, Bureau of Operations, 338 Federal Building & U.S. Courthouse, 436 Dwight Street, Springfield, Mass. 01103.

No. MC 140176 (Sub-No. 2TA), filed December 5, 1974. Applicant: RILEY WAYNE POWELL, doing business as POWELL TRUCKING COMPANY, Route 2, Sumrall, Miss. 39482. Applicant's representative: Fred W. Johnson, Jr., 717 Deposit Guaranty Bank Bldg., P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Poles and piling*, treated and untreated, from the plantsite of Davis Lumber Company, Hattiesburg, Miss., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Missouri, Nebraska, New York, North Carolina, Oklahoma, Ohio, South Carolina, Tennessee, Texas, and West Virginia, for 180 days. Supporting shipper: Davis Lumber Company, P.O. Box 1591, Hattiesburg, Miss. 39402. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 140441 (Sub-No. 1TA), filed December 4, 1974. Applicant: LAMAR M. LEIBY, R.D. #2, New Ringgold, Pa., 17960. Applicant's representative: S. Berne Smith, 100 Pine Street, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, from the plantsites of Refractory Sand Company, Inc., in the township of East Penn, Carbon County, and West Penn, Schuylkill County, Pa., to the plantsite of Harbison Walker Refractories, Division of Dresser Industries, Inc., at or near North East, Cecil County, Md., for 180 days. Supporting shipper: Refractory Sand Company, Inc., West Main Street, Ringtown, Pa. 17967. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 140456 TA, filed December 9, 1974. Applicant: MERRIMACK TRANSPORT INC., 8tar Industrial Court, Merrimack, N.H. 03054. Applicant's representative: Francis P. Barrett, 60 Adams Street, Milton, Mass. 02187. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty beverage containers, lids, covers, and ends*, from Lawrence, Mass., to Merrimack, N.H., for 180 days. Supporting shipper: Crown Cork and Seal Company, Inc., P.O. Box 6208, Philadelphia, Pa. 19136. Send protests to: Ross J. Seymour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 424 Federal Building, 55 Pleasant Street, Concord, N.H. 03301.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-29606 Filed 12-18-74;8:45 am]

[Notice No. 100]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

DECEMBER 13, 1974.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before January 20, 1975. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and on or before January 20, 1975, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

APPLICATION SET FOR HEARING

No. MC 95876 (Sub-No. 165), filed December 12, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 54402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Construction, mining, excavating machinery, and equipment;* (2) *self-propelled vehicles* when transported on trailers; (3) *attachments and accessories* for the commodities described in (1) and (2) above; (4) *parts* for the commodities described in (1), (2), and (3) above; and (5) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities described in (1), (2), (3), and (4) above, between points in Bannock County, Idaho, on the one hand, and, on the other, points in the United States including Alaska (but excluding Hawaii, Washington, Oregon, California, Nevada, Utah, Arizona, Colorado, New Mexico, Oklahoma, and Texas).

NOTE.—Common control was approved in MC-F-10497.

HEARING: January 16, 1975 (2 days), at Salt Lake City, Utah, at 9:30 am Local Time, in a hearing room to be later designated.

No. MC 263 (Sub-No. 219), filed November 22, 1974. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garnett Way, Pocatello, Idaho 83201. Applicant's representative: Wayne S. Green (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Maple Grove, Minn. as an off-route point in connection with carrier's authorized regular-route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 730 (Sub-No. 375), filed November 21, 1974. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 1417 Clay Street, P.O. Box 958, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Palm oil and derivatives and coconut oil and derivatives*, in bulk, in tank vehicles, from Portland, Oreg., to points in the United States, including Alaska but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg., or San Francisco, Calif.

No. MC 2202 (Sub-No. 473), filed November 22, 1974. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William Slaubaugh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of The Firestone Tire and Rubber Company located near Nashville (Rutherford County), Tenn., as an off-route point in connection with applicant's present regular route operation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Akron, Ohio, or Washington, D.C.

No. MC 3854 (Sub. No. 27), filed November 21, 1974. Applicant: BURTON LINES, INC., P.O. Box 11306, East Durham Station, Durham, N.C. 27703. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. & 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tobacco, unmanufactured, leaf, scrap, cuttings, including stems, unground and reconstructed tobacco and materials and supplies* used or useful in the processing, packaging, storing, handling, and marketing of tobacco, between Ancram, N.Y., Spotswood, N.J., Louisville and Lexington, Ky., Petersburg and Richmond, Va., Wilson and Winston-Salem, N.C., and Macon, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 5888 (Sub-No. 38), filed Nov. 18, 1974. Applicant: MID-AMERICAN LINES, INC., 127 West 10th Street, Kansas City, Mo. 64105. Applicant's representative: Louis A. Hoger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical distribution transformers*, and parts thereof, between the plantsites and warehouses of RTE Corporation, at or near Pewaukee and Waukesha, Wis., on the one hand, and, on the other, points in Iowa, Kansas, and Missouri, restricted to traffic originating at or destined to, the facilities of RTE Corporation, at or near Pewaukee, or Waukesha, Wis.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Milwaukee or Madison, Wis., or Kansas City, Mo.

No. MC 5888 (Sub-No. 39), filed Nov. 18, 1974. Applicant: MID-AMERICAN LINES, INC., 127 West Tenth Street, 11th Floor, Kansas City, Mo. 64105. Applicant's representative: Louis A. Hoger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading): Serving the plantsites and storage facilities of the Donaldson Company, Inc., at or near Chillicothe, Mo., as intermediate or off-route points in connection with applicant's regular route operations to or from Kansas City, or St. Joseph, Mo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Kansas City, Mo.

No. MC 7640 (Sub-No. 48), filed November 25, 1974. Applicant: BARNES TRUCK LINE, INC., 506 Mayo Street, Wilson, N.C. 27893. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating board*, including fibre board, made of vegetable, wood and/or mineral fibre, mineral or mineral and wood fibres and *accessories and supplies* used in the installation thereof, from Jamesburg, N.J., to points in Georgia, North Carolina, South Carolina, and Virginia.

the same route, serving all intermediate

No. MC 56553 (Sub-No. 29), filed

Centerville, Iowa, Joliet, and Blue Island,

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NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 19045 (Sub-No. 51), filed November 15, 1974. Applicant: BEHNKEN TRUCK SERVICE, INC., Route No. 13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flue dust*, in bulk, in dump vehicles, from the plantsite and storage facilities of Laclede Steel Company at Alton, Ill., to Frit Industries, Inc., at Humboldt, Iowa.

NOTE. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 26068 (Sub-No. 11), filed Nov. 18, 1974. Applicant: NORTH & SOUTH LINES, INCORPORATED, 2710 South Main Street, Harrisonburg, Va. 22801. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh fruit, and vegetable juices and frozen foods*, from Winchester, Va., and Ranson, W. Va., to points in the United States in and east of Minnesota, Iowa, Nebraska, Colorado, Oklahoma, and Texas.

NOTE. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 29079 (Sub-No. 78), filed November 12, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., 1210 S. Union, P.O. Box 935, Kokomo, Ind. 46901. Applicant's representative: Ben W. Cotten, 704 Southern Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automobile parts and accessories, material, equipment, and supplies*, from the plant site and facility of American Motors Corp. at or near South Charleston, W. Va., to points in Illinois, Indiana, Michigan (Lower Peninsula), those in New York on and west of U.S. Highway 62, Ohio, Pennsylvania, on and west of U.S. Highway 219, and the plant site and warehouse facilities of American Motors Corp. at or near Kenosha, Wis. and in Racine County, Wis.; and (2) *material, equipment, and supplies*, from the destination territory in (1) above, to the plant site and facilities of American Motors Corp. at or near South Charleston, W. Va.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C., or Indianapolis, Ind.

No. MC 29079 (Sub-No. 79), filed November 19, 1974. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., 1210 South Union, P.O. Box 935, Kokomo, Ind. 46901. Applicant's representative: Ben Cotten, 704 Southern Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and iron and steel articles*, from the plantsite and warehouses of Midwestern Joists, Inc., at or near Washington, Mo., to points in Illinois, Indiana, Kentucky, the Southern Peninsula of Michigan, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin on and south of Wisconsin Highway 60; and (2) *materials, equipment, and supplies* used in the manufacture, production and distribution of iron and iron and steel articles, from the destination points named in (1) above, to the plantsite of Midwestern Joists, Inc. at or near Washington, Mo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., Indianapolis, Ind., or Washington, D.C.

No. MC 29130 (Sub-No. 105), filed November 8, 1974. Applicant: THE ROCK ISLAND MOTOR TRANSIT COMPANY, 2744 SE. Market Street, P.O. Box 1355, Des Moines, Iowa 50305. Applicant's representative: Mr. James E. Sykes, La Salle Street Station, 139 West Van Buren Street, Chicago, Ill. 60605. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Serving Lake Mills, Iowa, as an intermediate point in connection with carrier's authorized regular route operations over U.S. Highway 69 between Albert Lea, Minn., and Ames, Iowa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Mason City or Des Moines, Iowa.

No. MC 29886 (Sub-No. 219), filed November 22, 1974. Applicant: DALLAS AND MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieromi (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, from the plantsite and warehouse facilities of FMC Corporation, Crane and Excavator Division, located at Lexington, Ky., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Cincinnati, Ohio.

No. MC 31389 (Sub-No. 192), filed November 25, 1974. Applicant: McLEAN TRUCKING COMPANY, 617 Waughtown Street, Winston-Salem, N.C. 27107. Applicant's representative: David F. Eshelman, P.O. Box 213, Winston-Salem, N.C. 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the plantsite of The Firestone Tire and Rubber Company, located at Rutherford County, Tenn., near Nashville, Tenn., in conjunction with applicant's regular route operations to and from Nashville, Tenn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Akron, Ohio, or Washington, D.C.

No. MC 32775 (Sub-No. 18), filed November 12, 1974. Applicant: HERMANN FORWARDING COMPANY, a Corporation, P.O. Box 1, North Brunswick, N.J. 08902. Applicant's representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Bristol, Kent and Providence Counties, R.I., as off-route points in connection with applicant's regular route operations being acquired in MC F 12112.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Providence, R.I.

No. MC 46054 (Sub-No. 78) (Correction), filed October 11, 1974, published in the FEDERAL REGISTER issue of November 14, 1974, and republished as corrected, this issue. Applicant: BROWN EXPRESS, INC., 428 South Main Avenue, San Antonio, Tex. 78285. Applicant's representative: Phillip Robinson, P.O. Box 2207, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), (1) Between Mission, Tex. and LaGloria, Tex.: From Mission over Texas Highway 107 to Junction Farm Road 681, thence over Farm Road 681 to junction Farm Road 1017, thence over Farm Road 1017 to LaGloria, and return over the same route, serving all intermediate points; (2) Between Linn, Tex. and Puerto Rico, Tex.: From Linn over Farm Road 1017 to Puerto Rico, and return over the same route, serving all intermediate points; (3) Between junction U.S. Highway 281 and Farm Road 490 and junction Farm Road 490 and Farm Road 755: From junction U.S. Highway 281 and Farm Road 490 over Farm Road 490 to junction Farm Road 755, and return over the same route, serving all intermediate points; (4) Between McCook, Tex. and junction Farm Road 2059 and Farm Road 681: From McCook over Farm Road 2059 to junction Farm Road 681, and return over

the same route, serving all intermediate points; (5) Between LaReforma, Tex. and El Centro, Tex.: From LaReforma over unnumbered county road to El Centro, and return over the same route, serving all intermediate points; (6) Between junction Farm Road 1017 and Farm Road 2294 and junction Farm Road 2294 and Farm Road 755: From junction Farm Road 1017 and Farm Road 2294 over Farm Road 2294 to junction Farm Road 755, and return over the same route, serving all intermediate points; and (7) Between junction Farm Road 2294 and Farm Road 2844 and junction Farm Road 2844 and Farm Road 490: From junction Farm Road 2294 and Farm Road 2844 over Farm Road 2844 to junction Farm Road 490, and return over the same route, serving all intermediate points.

NOTE.—The purpose of this republication is to correct route (6) erroneously published in the original notice. Common control was approved in MC F 4807. If a hearing is deemed necessary, the applicant requests it be held at either Houston or Austin, Tex.

No. MC 52752 (Sub-No. 23), filed November 21, 1974. Applicant: WESTERN TRANSPORTATION COMPANY, 1300 West 35th Street, Chicago, Ill. 60609. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, and except dangerous explosives, household goods, as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk and those requiring special equipment), serving Knoxville, Iowa, as an off-route point in connection with carrier's presently authorized regular route authority.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa.

No. MC 52824 (Sub-No. 4), filed November 19, 1974. Applicant: HILL'S TRUCK LINE, INC., Adrian, Mo. 64720. Applicant's representative: Elvin S. Douglas, Jr., 113 South Lexington, Box 280, Harrisonville, Mo. 64701. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment): (1) Between Lamar, Mo. and Golden City, Mo.: From Lamar over U.S. Highway 160 to Golden, and return over the same route, serving no intermediate points; and (2) Between Lamar, Mo. and Jasper, Mo.: From Lamar over U.S. Highway 71 to Jasper, and return over the same route, serving no intermediate points, and serving Lockwood, Mo., as an off-route point.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Springfield, or Joplin, Mo.

No. MC 56553 (Sub-No. 29), filed November 20, 1974. Applicant: PULASKI HIGHWAY EXPRESS, INC., 640 Hamilton Avenue, P.O. Box 1081, Nashville, Tenn. 37203. Applicant's representative: Charles M. Locke (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), serving the plantsite and warehouse facilities of The Firestone Tire & Rubber Co. in Rutherford County, Tenn., as an off-route point in connection with carrier's regular route operations to and from Nashville, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Washington, D.C.

No. MC 59117 (Sub-No. 46), filed November 18, 1974. Applicant: ELLIOTT TRUCK LINE, INC., 101 E. Excelior Street, P.O. Box 1, Vinita, Okla. 74301. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Acid*, in bulk, in tank vehicles, from Pryor, Okla., to points in Arkansas, Kansas, Missouri, and Texas; and (2) *Liquid polyester*, in bulk, from Pryor, Okla., to points in Texas, Louisiana, Tennessee, Mississippi, Missouri, Kansas, Illinois, and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Kansas City, Mo.

No. MC 59150 (Sub-No. 89), filed November 18, 1974, Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the plantsite and warehouse facilities of International Paper Company, in Putnam County, Ga., to points in Alabama, Florida, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla., Atlanta, Ga., or Washington, D.C.

No. MC 61231 (Sub-No. 80) (Correction), filed October 23, 1974, published in the FEDERAL REGISTER issue of November 21, 1974, and republished as corrected this issue. Applicant: ACE LINES, INC., 4143 East 43d Street, Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles and building and construction materials*, from Albuquerque, N. Mex., Centerville, Iowa, Joliet, and Blue Island, Ill., Denver, Colo., Columbus and Toledo, Ohio, Detroit, Grand Rapids, and Lansing, Mich., Newton, Kans., and Kokomo and Fort Wayne, Ind., to points in Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming; and (2) *materials and supplies* used in the manufacture and distribution of iron and steel articles and building and construction materials, from points in Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming, to Albuquerque, N. Mex., Centerville, Iowa, Joliet and Blue Island, Ill., Denver, Colo., Columbus and Toledo, Ohio, Detroit, Grand Rapids, and Lansing, Mich., Newton, Kans., and Kokomo and Fort Wayne, Ind., restricted against the transportation of commodities in bulk and further restricted to shipments originating at, or destined to the plantsites of Continental Steel Corporation.

NOTE.—The purpose of this republication are (A) to indicate the correct origin point of Columbus, Ohio, in lieu of Columbia, Ohio, in (1) above, and (B) to indicate applicant seeks to restrict service to traffic originating and destined to said plantsites in lieu of restricting service against such traffic. If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind.

No. MC 61231 (Sub-No. 82), filed November 25, 1974. Applicant: ACE LINES, INC., 4143 East 43d Street, Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Welded wire fabric and nails*, from Duluth, Minn., to points in Illinois, Iowa, Michigan, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn.

No. MC 63837 (Sub-No. 4), filed November 15, 1974. Applicant: DIGGINS AND ROSE, INC., Sagamore Park Road, Hudson, N.H. 03051. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, Mass. 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *High speed printers*, (1) from Boston Mass., to Chelmsford, Mass., and Hudson, N.H., restricted to traffic having a prior movement by water or rail; and (2) from Chelmsford, Mass., to Hudson, N.H.

NOTE.—It is applicant's position that it holds the authority requested herein in MC 63837, applicant has therefore concurrently filed a petition to dismiss the instant application. If a hearing is deemed necessary, the

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applicant requests it be held at Concord, N.H., or Boston, Mass.

No. MC 67450 (Sub-No. 51), filed November 18, 1974. Applicant: PETER-LIN CARTAGE CO., a Corporation, 9651 South Ewing Avenue, Chicago, Ill. 60617. Applicant's representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybeans, products of soybeans, and materials, supplies, and ingredients*, used in the processing thereof, in bulk, between the plant and warehouse facilities of Krause Milling Company, located at or near Logansport, Ind. on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 69116 (Sub-No. 170), filed November 18, 1974. Applicant: SPECTOR FREIGHT SYSTEM, INC., 205 West Wacker Drive, Chicago, Ill. 60606. Applicant's representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, Ill 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), serving the plant and warehouse facilities of The Firestone Tire and Rubber Company located near Nashville (Davidson-Rutherford Counties), Tenn. as an off-route point in connection with carrier's authorized regular route operations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn.

No. MC 69322 (Sub-No. 5), filed November 4, 1974. Applicant: DOBSON CARTAGE & STORAGE COMPANY, a Corporation, 1006 East Indiana Street, Bay City, Mich. 48706. Applicant's representative: James E. Dobson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods:* (1) Between points in Marquette County, Mich, on the one hand, and, on the other, points in the Upper Peninsula of Michigan; and (2) between points in Marquette County, Mich., restricted to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and containerization or unpacking, uncrating, and decontainerization of such shipments.

NOTE.—Applicant holds motor contract carrier authority in MC 127458 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich., or Chicago, Ill.

No. MC 69397 (Sub-No. 14), filed November 18, 1974. Applicant: JAMES H. HARTMAN & SON, INC., U.S. Route 13, P.O. Box 85, Pocomoke City, Md. 21851. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 11th St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass tanks, and accessories thereof*, from the plantsite of the Justin Atlantic Corp., at or near Georgetown, Del., to points in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 71459 (Sub-No. 46), filed November 19, 1974. Applicant: O.N.C. FREIGHT SYSTEMS, a Corporation, 2800 West Bayshore Road, Palo Alto, Calif. 94303. Applicant's representative: Roland Rice, 1111 E Street NW., Suite 618, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plant site and construction facilities of the Nuclear Power Plant; and points within 5 miles thereof, approximately 8 miles east of Sedro Woolley, Wash., as an off-route point in conjunction with its regular-route operations.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either San Francisco, Calif., or Seattle, Wash.

No. MC 72285 (Sub-No. 10), filed November 20, 1974. Applicant: MOTOR TRANSPORT COMPANY, a Corporation, 4101 W. Blue Mound Road, Milwaukee, Wis. 53208. Applicant's representative: Rolfe E. Hanson, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper mill machine parts*, between the plantsite of Beloit Corporation located at or near Rockton, Ill., on the one hand, and, on the other, points in Outagamie, Brown, Wood, and Portage Counties, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee or Madison, Wis.

No. MC 74321 (Sub-No. 109), filed November 7, 1974. Applicant: B. F. WALKER, INC., P.O. Box 17-B, Denver, Colo. 80217. Applicant's representative: Richard P. Kissinger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Terminal Island, Calif., to points in Arizona, Colorado, New Mexico, Idaho, Utah, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif. or Denver, Colo.

No. MC 75816 (Sub-No. 4), filed November 14, 1974. Applicant: STONY'S TRUCKING CO., a Corporation, 11550 Youngstown-Akron Road, North Jackson, Ohio 44451. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel buildings, building sections, parts, materials, parts, and accessories*, from Van Wert, Ohio, to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 78687 (Sub-No. 40), filed November 18, 1974. Applicant: LOTT MOTOR LINES, INC., 118 Monell Street, Penn Yan, N.Y. 14527. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Clearfield, Jefferson, Indiana, Cambria, Clarion and Armstrong Counties, Pa., to points in New York.

NOTE.—Applicant holds contract carrier authority in No. MC 2505, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 82841 (Sub-No. 147), filed November 7, 1974. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, Nebr. 68127. Applicant's representative: Donald L. Stern, 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from points in Madison and Stanton Counties, Nebr., to points in Arizona, California, Idaho, Illinois, Indiana, Montana, Nevada, New Mexico, Oregon, Utah, and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 101219 (Sub-No. 57), filed November 6, 1974. Applicant: MERIT DRESS DELIVERY, INC., 524 West 36th Street, New York, N.Y. 10018. Applicant's representative: Herman B. J. Weckstein, One Woodbridge Center, Woodbridge, N.J. 07095. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel (except commodities in bulk), between Colebrook, N.H., points in the New York, N.Y., Commercial Zone, and Fall River, Mass.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 103191 (Sub-No. 48), filed November 22, 1974. Applicant: THE GEO. A. RHEMAN CO., INC., 2019 Elgin Street, P.O. Box 2095, Station A, Charleston, S.C. 29403. Applicant's representative: Harris G. Andrews, P.O. Box 4255, Greenville, S.C. 29608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles (except chemicals and petrochemicals), from Tampa, Fla., to points in South Carolina.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 105045 (Sub-No. 56), filed November 25, 1974. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brake presses and shears and parts thereof*, from Topeka, Kans., to points in Alabama, Florida, Georgia, Mississippi, Oklahoma, North Carolina, South Carolina, Texas, and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 105813 (Sub-No. 200), filed Nov. 13, 1974. Applicant: BELFORD TRUCKING CO., INC., 3500 NW. 79th Avenue, Miami, Fla. 33148. Applicant's representative: Arnold L. Burke, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), from points in Massachusetts and New York, to points in Florida and Georgia, restricted to products originating at the plantsite and storage facilities of Howard Johnson Company, and destined to the above named points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 106398 (Sub-No. 722), filed November 25, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main Street, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Delaware County, Okla., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Okla.

No. MC 106644 (Sub-No. 198), filed November 20, 1974. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Payton Road NW., Atlanta, Ga. 30318. Applicant's representative: W. Randall Tye, 1500 Candler Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor graders, road making, construction, and earth moving machinery and equipment*, between Owensboro, Ky., on the one hand, and, on the other, Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 107012 (Sub-No. 213), filed November 18, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway and Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Michael L. Harvey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet*, (1) from Lewisville, Ark., to points in North Carolina, South Dakota, Iowa, Kansas, Texas, Colorado, New Mexico, Kentucky, Georgia, Florida, and Alabama; and (2) from Little Falls, N.J., to points in North Carolina, Virginia, Florida, Georgia, Alabama, and Pennsylvania.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 107445 (Sub-No. 8), filed November 22, 1974. Applicant: UNDERWOOD MACHINERY TRANSPORT, INC., 940 W. Troy Avenue, Indianapolis, Ind. 46225. Applicant's representative: K. Clay Smith, P.O. Box 33051, Indianapolis, Ind. 46203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between the plant site and warehouses of Roll Coater Company at or near Kingsbury, Ind., on the one hand, and, on the other, points in Indiana, Illinois, Michigan, Ohio, Kentucky, Missouri, and Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 107515 (Sub-No. 965), filed November 18, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, Post Office Box 18584, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals* (except in bulk), from Memphis and Arlington, Tenn., to points in Colorado, South Dakota, North Dakota, Idaho, Montana, Oregon, and Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., Memphis, Tenn., or Atlanta, Ga.

No. MC 108303 (Sub-No. 84), filed November 20, 1974. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Avenue, Hinsdale, Ill. 60521. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail department stores and mail order houses, and, in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, between Atlanta, Ga., Boston, Mass., Chicago, Ill., Columbus, Ohio, Dallas, Tex., Greensboro, N.C., Jacksonville, Fla., Kansas City, Mo., Memphis, Tenn., Minneapolis-St. Paul, Minn., Philadelphia, Pa., North Bergen, N.J., and St. Louis, Mo., under a continuing contract or contracts with Sears, Roebuck and Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 108676 (Sub-No. 73), filed November 21, 1974. Applicant: A. J. METLER HAULING AND RIGGING, INC., 117 Chicamauga Avenue, Knoxville, Tenn. 37917. Applicant's representative: William T. McManus (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and related *machinery, tools, parts and supplies* moving in connection therewith, from the plantsite and facilities of FMC Corporation, Crane and Excavator Division at Lexington, Ky., to points in Alabama, Florida, Georgia, Mississippi, Louisiana, Virginia, North Carolina, South Carolina, Arkansas, Texas, and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Lexington, Ky. or Knoxville, Tenn.

No. MC 108869 (Sub-No. 17), filed October 17, 1974. Applicant: WEBER TRUCK AND WAREHOUSE, a Corporation, 5035 Gifford Avenue, Vernon, Calif. 90058. Applicant's representative: Donald Murchison, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated cooling or freezing equipment, or parts thereof*, other than household, between Los Angeles, Calif., on the one hand, and, on the other, points in Kern, Los Angeles (except the Los Harbor Commercial Zone 3 M.C.C. 254), Orange, Riverside, San Bernardino, San Diego, and Ventura Counties, Calif., subject to prior or subsequent movement in interstate commerce, under a continuing contract with Hussman-Los Angeles and Clark Equipment Company (R. W. Lester-Tyler Refrigeration Division).

NOTE.—Applicant holds common carrier authority in MC 41665 and Sub 2, therefore

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dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 109020 (Sub-No. 18), filed November 7, 1974. Applicant: MANNING MOTOR EXPRESS, INC., P.O. Box 685, Glasgow, Ky. 42141. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, Classes A and B explosives, commodities in bulk, and articles requiring special equipment), (1) Between Edmonton and Columbia, Ky.: From Edmonton, Ky. over Kentucky Highway 80 to Columbia, Ky., serving all intermediate points; and (2) Between Columbia and Hodgenville, Ky.: From Columbia, Ky., over Kentucky Highway 61 to Hodgenville, Ky., serving no intermediate points, and serving Hodgenville, Ky. for purposes of joinder only.

NOTE.—Applicant contends that it holds authority to serve Columbia, Ky. to and from a Louisville, Ky. gateway pursuant to the Commission's Superhighway Deviation Rules in 49 CFR 1042. Applicant therefore, has filed currently a motion to dismiss the instant application as to the point of Columbia, Ky. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Louisville, Ky.

No. MC 109324 (Sub-No. 29), filed November 19, 1974. Applicant: GARRISON MOTOR FREIGHT, INC., P.O. Box 969, Harrison, Ark. 72601. Applicant's representative: Louis Tarlowski, 914 Pyramid Life Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, in tank vehicles, and those requiring special equipment): (1) Between Yellville, Ark., and the plantsite of Holiday Manufacturing Company, Inc.: From Yellville, Ark., over Arkansas State Highway 14, to its junction with Arkansas State Highway 235, thence over Arkansas State Highway 235, to the plantsite, and return over the same route, serving all intermediate points.

(2) Between Mountain Home, and Henderson, Ark.: From Mountain Home, Ark. over U.S. Highway 62, to Henderson Ark., and return over the same route, serving all intermediate points. (3) Between Mountain Home, Ark., and the plantsite of Travenol Laboratories, Inc., located at the junction of U.S. Highway 62 and 167, at or near Ash Flat, Ark.: From Mountain Home, Ark., over U.S. Highway 62, to the plantsite, and return over the same route, serving no intermediate points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Ark., or Memphis, Tenn.

No. MC 109533 (Sub-No. 67) (Correction), filed October 21, 1974, published in the FEDERAL REGISTER issue of November 27, 1974, and republished as corrected this issue. Applicant: OVERNITE TRANSPORTATION COMPANY, a Corporation, 1100 Commerce Road, Richmond, Va. 23224. Applicant's representative: E. T. Lipfert, Suite 1100, 1660 L Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Jacksonville, Fla. and Houston, Tex., serving all intermediate points and the off-route points of Gonzales, Fla., Port Arthur and Fort Neches, Tex., Lemoyne, Ala., Calvert, Ala. and the plant site of Dow Badische Company at or near Calvert, Ala.: From Jacksonville over Interstate Highway 10 and also Interstate Highway 90 to New Orleans, La., thence over U.S. Highway 61 to Baton Rouge, La., thence over U.S. Highway 190 to Opelousas, La., thence over U.S. Highway 167 to Lafayette, La., thence over Interstate Highway 10 and also Interstate Highway 90 to Houston, and return over the same route; (2) Between junction Interstate Highway 12 and Interstate Highway 10 at or near Pearl River, La. and junction Interstate Highway 12 and Interstate Highway 10 at or near Baton Rouge, La., serving all intermediate points: From junction Interstate Highway 12 and Interstate Highway 10 at or near Pearl River, La. over Interstate Highway 12 to junction Interstate Highway 10 at or near Baton Rouge, La. and return over the same route; (3) Between junction U.S. Highway 190 and U.S. Highway 90 near Slidell, La. and Baton Rouge, La., serving all intermediate points: From junction U.S. Highway 190 and U.S. Highway 90 near Slidell, La. over U.S. Highway 190 to Baton Rouge, La. and return over the same route; (4) Between New Orleans, La. and Lafayette, La., serving all intermediate points: From New Orleans, La. over Interstate Highway 10 to Lafayette, La., and return over the same route; (5) Between LaGrange, Ga. and Mobile, Ala., serving no intermediate points, but serving Pensacola and Gonzales, Fla. as off-route points: From LaGrange over Georgia Highway 219 to junction Interstate Highway 85, thence over Interstate Highway 85 to junction Interstate Highway 65, thence over Interstate Highway 65 to junction Alabama Highway 59, thence over Alabama Highway 59 to junction U.S. Highway 31, thence over U.S. Highway 31 to Mobile, Ala., and return over the same route; and (6) Between Macon, Ga. and Tallahassee, Fla., serving no intermediate points: From Macon over Interstate Highway 75 to junction U.S. Highway 319 at or near Tifton, Ga., thence over U.S. Highway 319 to Tallahassee, and return over the same route.

NOTE.—The purposes of this republication are (A) to indicate in (1) that applicant seeks authority over Interstate Highway 90 in addition to Interstate Highway 10; and (B) in (4) indicate Lafayette, La. as the correct terminal point in lieu of Baton Rouge, La. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga., or New Orleans, La.

No. MC 109818 (Sub-No. 19), filed November 18, 1974. Applicant: WENGER TRUCK LINE, INC., P.O. Box 36, Beaver, Iowa 50031. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed vehicles and scrap metal*, from points in Iowa and Nebraska, to points in Illinois, Indiana and Beloit, Wis.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa or Omaha, Nebr.

No. MC 109847 (Sub-No. 20), filed November 15, 1974. Applicant: BOSS-LINCO LINES, INC., Suite 450, One West Genesee Street, Buffalo, N.Y. 14240. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives, commodities in bulk, commodities which because of their size or weight require special equipment and household goods as defined by the Commission), Between Binghamton, N.Y., and New Haven, Conn., as an alternate route for operating convenience only, serving no intermediate points: From Binghamton, N.Y. over New York Highway 17 to the junction of New York Highway 17 and 17K at or near Bloomingburg, N.Y., thence over New York Highway 17K to the junction of Interstate Highway 84 to Connecticut Highway 34 near Newton, Conn., thence over Connecticut Highway 34 to New Haven, Conn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Buffalo, N.Y.

No. MC 110166 (Sub-No. 21), filed November 18, 1974. Applicant: TENNESSEE CAROLINA TRANSPORTATION, INC., 40 Nance Lane, P.O. Box 7308, Nashville, Tenn. 37210. Applicant's representative: J. C. Hutcheson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouse of the Firestone Tire and Rubber Co., located in Rutherford County, Tenn., as an off-route point in connection with applicant's existing authority to serve Nashville, Tenn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn.

No. MC 110563 (Sub-No. 148), filed November 4, 1974. Applicant: COLDWAY FOOD EXPRESS, INC., Box 747, Sidney,

Ohio 45365. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products and meat by-products and articles distributed by meat packing houses*, as defined by the Commission in sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides in commodities in bulk), from the plantsites and storage facilities of Equity Meats Corp., Ohio Division, at or near North Baltimore, Ohio, to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; and (2) *meats, fresh and frozen, and materials and supplies* used in the manufacturing, preparation, selling and distribution of the commodities described in (1) above, from points in the United States (except Alaska and Hawaii), to the plantsites and warehouse facilities of Equity Meats Corp., Ohio Division, at or near North Baltimore, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Columbus, Ohio or Washington, D.C.

No. MC 110683 (Sub-No. 101), filed November 5, 1974. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box No. 1000, Staunton, Va. 24401. Applicant's representative: Francis W. McInerny, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (A) Between Racine, Wis. and junction Wisconsin Highway 20, U.S. Highway 41 and Interstate Highway 94: From Racine, Wis. over Wisconsin Highway 20 to junction U.S. Highway 41 and Interstate Highway 94, and return over the same route, serving no intermediate points and serving the junction of Wisconsin Highway 20, U.S. Highway 41 and Interstate Highway 94 for the purpose of joinder only; (B) Between Kenosha, Wis. over and the junction of Wisconsin Highway 158 and U.S. Highway 41 and Interstate Highway 94: From Kenosha, Wis. over Wisconsin Highway 158 to junction U.S. Highway 41 and Interstate Highway 94, and return over the same route, serving no intermediate points, and serving Wisconsin Highway 158 and U.S. Highway 41 and Interstate Highway 94 for the purpose of joinder only; or in the alternative; (C) serve Racine and Kenosha, Wis. as off-route points in connection with carriers regular-route authority between Chicago, Ill. and Milwaukee, Wis.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C. or Milwaukee, Wis.

No. MC 110686 (Sub-No. 48), filed November 15, 1974. Applicant: McCORMICK DRAY LINE, INC., Avis, Pa. 17721. Applicant's representative: David A. Sutherland, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Patterns, molds and iron and steel castings and forgings*, from points in Wisconsin, to Dayton, Ohio and Muncy, Pa.; and (2) *patterns, molds and scrap attrition plates*, from Muncy, Pa., to Dayton, Ohio and points in Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 112801 (Sub-No. 167), filed November 21, 1974. Applicant: TRANSPORT SERVICE CO., a Corporation, 2 Salt Creek Lane, Hinsdale, Ill. 60521. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Products of soybeans, and materials, supplies and ingredients* used in the processing thereof, in bulk, in tank or hopper vehicles, between the plant/or warehouse facilities of Krause Milling Company at or near Logansport, Ind., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 112822 (Sub-No. 357), filed November 15, 1974. Applicant: BRAY LINES INCORPORATED, 1401 N. Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: William W. Frick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the plantsite of Anderson Clayton Foods at Jacksonville, Ill., to points in California, Oregon, Washington, Idaho, Utah, and Montana.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas or Fort Worth, Tex.

No. MC 113083 (Sub-No. 4), filed November 22, 1974. Applicant: JOHN F. MAHR, doing business as, MAHR BROS. TRANSPORTATION CO., a Corporation, Route 83, Box 328, Rockville, Conn. 06086. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic articles* (except in bulk), from Royersford, Pa., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia, and the District of Columbia, under a continuing contract with Sheets & Seal, Incorporated, doing business as, French Creek Products of Royerford, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Providence, R.I.

No. MC 113388 (Sub-No. 107), filed November 19, 1974. Applicant: LESTER C. NEWTON TRUCKING CO., a Corporation, P.O. Box 618, Seaford, Del. 19973. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from Downingtown, Pa., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and New York (except that portion of New York south and east of a line beginning at the Connecticut-New York State Boundary line and extending along U.S. Highway 44 to intersection U.S. Highway 209, thence along U.S. Highway 209 to the New York-New Jersey State Boundary line, with service from Downingtown, Pa. restricted to partial pickup of shipments with traffic originating at Salisbury, Md.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113495 (Sub-No. 67), filed November 15, 1974. Applicant: GREGORY HEAVY HAULERS, INC., 51 Oldham Street, P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Structural steel*, (2) *commodities* which because of size or weight require the use of special equipment, and *related machinery parts and related contractors' materials and supplies* when their transportation is incidental to the transportation of commodities which by reason of size or weight require special equipment, and *commodities* which do not require the use of special equipment when moving on the same shipment or on the same bill of lading as commodities which by reason of size or weight require special equipment, and (3) *self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts and supplies* moving in connection therewith, restricted to commodities which are transported on trailers, between points in North Carolina and Virginia, on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, North Carolina, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin.

NOTE.—Applicant presently holds duplicating authority in MC-113495 and Subs 3, 6, 8, 10, 11, 14, 15, 16, 23, 27, 30, 31, 33, 34, 38, 39, 41, 42, 44, 47, 53, 54, and 55. No duplicating authority is sought. The purpose of this

application is (1) to obtain a uniform commodity description, (2) round out the territory in which operations are presently being conducted, and (3) perform a direct service into and out of Virginia and North Carolina. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., Chicago, Ill., or Washington, D.C.

No. MC 113624 (Sub-No. 66), filed November 21, 1974. Applicant: WARD TRANSPORT, INC., P.O. Box 735, Pueblo, Colo. 81001. Applicant's representative: Marion F. Jones, 1600 Lincoln Center, 1600 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Spent sulphuric acid*, in bulk, from Amarillo and El Paso, Tex., to Greeley, Colo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex. or Amarillo, Tex.

No. MC 113658 (Sub-No. 9), filed November 4, 1974. Applicant: SCOTT TRUCK LINE, INC., P.O. Box 16346, Denver, Colo. 80216. Applicant's representative: Robert W. Armstrong, 5280 Newport Street, Commerce City, Colo. 80022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Denver, Fort Morgan, Sterling, and Greeley, Colo., to points in Connecticut, Illinois, Indiana, Delaware, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, West Virginia, Wisconsin and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 113861 (Sub-No. 61), filed November 22, 1974. Applicant: WOOTEN TRANSPORTS, INC., 153 Gaston Avenue, Memphis, Tenn. 38106. Applicant's representative: James N. Clay, III, 2700 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt and asphalt products*, in bulk, in tank vehicles, from Memphis, Tenn., to points in Kentucky.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Memphis, Tenn.

No. MC 115841 (Sub-No. 483), filed November 13, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 107 Vulcan Road, Vulcan Life Bldg., Suite 200, Homewood, Ala. 35209. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Citric acid*, in bags, drums and containers, from the plant site of Pfizer, Inc., located at or near Southport, N.C., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 115924 (Sub-No. 26), filed November 21, 1974. Applicant: SUGAR TRANSPORT, INC., P.O. Box 4063, Savannah (Port Wentworth), Ga. 31407. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar*, in bulk, in tank vehicles, from Port Wentworth, Ga., to Canton and Mansfield, Ohio, under a continuing contract or contracts with Savannah Foods & Industries, Inc.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 116763 (Sub-No. 299), filed November 15, 1974. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned foodstuffs*, from Biloxi, Miss., to points in Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Texas, Wisconsin, and the District of Columbia; and (2) *animal and poultry feed*, from Biloxi, Miss., to points in Illinois, Iowa, Kentucky, Missouri, North Carolina, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Orleans, La.

No. MC 117344 (Sub-No. 240), filed November 18, 1974. Applicant: THE MAXWELL CO., a Corporation, 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except anhydrous ammonia, aqua ammonia, and liquid fertilizer), in bulk, from the plantsite of Monsanto Company, at or near Muscatine, Iowa, to points in the United States (except Alaska, Hawaii, and points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. or Columbus, Ohio.

No. MC 118370 (Sub-No. 2), filed November 18, 1974. Applicant: BANANA TRANSPORT, INC., 12712 North Oregon Avenue, Tampa, Fla. 33612. Applicant's representative: Robert L. Baker, Suite 618, Hamilton Bank Bldg. Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Mobile, Ala., to points in Alabama, Georgia, Illinois, Indiana, Iowa, Missouri, Kentucky, Michigan, Ohio, Tennessee, Florida, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Miami, Fla. or Washington, D.C.

No. MC 118603 (Sub-No. 9), filed October 16, 1974. Applicant: ATLANTIC TRUCK LINES, INC., 45 Gilpin Avenue, Cardinal Industrial Park, Hauppauge, N.Y. 11787. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing materials*, from Clark, N.J., Philadelphia, Pa., Charleston, S.C., Birmingham, Ala., and Shreveport, La., to points in Florida south and east of the Suwannee River; (2) *returned shipments* of the commodities specified above, from points in Florida south and east of the Suwannee River, to their respective origin points; (3) *floor coverings*, from New York, N.Y., South Plainfield, N.J., Chicago, Ill., and Jackson, Miss., to points in Florida south and east of the Suwannee River; (4) *returned shipments* of floor coverings, from points in Florida south and east of the Suwannee River to New York, N.Y., South Plainfield, N.J., Chicago, Ill., and Jackson, Miss.; (5) *building materials and related hand tools and working supplies*, from the plantsite of Bieler National Industries, Inc., and Revere Aluminum Building Products, Inc., located at or near Hauppauge, Suffolk County, N.Y., Franklin Park, Ill., Atlanta, Ga., and Detroit, Mich., to points in the United States (except Alaska and Hawaii); and (6) *returned shipments* of the commodities specified above, and *materials and related products* for use in the manufacture, fabrication, distribution and sales of the commodities described above, from points in the United States (except Alaska and Hawaii), to the plantsite of Bieler National Industries, Inc. and Revere Aluminum Building Products, Inc., at Hauppauge, Suffolk County, N.Y., Franklin Park, Ill., Atlanta, Ga., and Detroit, Mich., restricted in (5) and (6) against commodities in bulk, and further restricted in parts (1) through (6) to a transportation service to be performed under a continuing contract or contracts with Bieler National Industries, Inc., of Hauppauge, Suffolk County, N.Y. and Revere Aluminum Building Products, Inc., of Hauppauge, Suffolk County, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y. or Washington, D.C.

No. MC 119619 (Sub-No. 75), filed November 7, 1974. Applicant: DISTRIBUTORS SERVICE CO., a Corporation, 2000 West 43rd Street, Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk),

in vehicles equipped with mechanical refrigeration, from Milwaukee, Wis. and its Commercial Zone, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 120981 (Sub-No. 20), filed November 18, 1974. Applicant: BESTWAY EXPRESS, INC., 905 Visco Drive, Nashville, Tenn. 37210. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of the Firestone Tire & Rubber Company, Rutherford County, Tenn., as an off-route point in connection with the applicant's authorized regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 123048 (Sub-No. 317), filed Nov. 25, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, Wis. 53406. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bus bodies (SKD), and press brake parts*, from Marshall, Tex., to points in St. Joseph County, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123157 (Sub-No. 20), filed November 22, 1974. Applicant: CEMENT TRANSPORTERS, INC., Rillito, Ariz. 85246. Applicant's representative: A. Michael Bernstein, 1327 United Bank Bldg., Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in sack, from the plantsite of Paul Lime Plant, near Douglas, Ariz., to points in New Mexico.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Tucson or Phoenix, Ariz.

No. MC 123407 (Sub-No. 212), filed November 22, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, poles, and posts*, from points in Missouri to points in Iowa, Illinois, Wisconsin, Ohio, Michigan, Indiana, Minnesota, Kansas, Pennsylvania, North Dakota, South Dakota, Colorado, Nebraska, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo. or Chicago, Ill.

No. MC 123681 (Sub-No. 31), filed November 25, 1974. Applicant: WIDING TRANSPORTATION, INC., P.O. Box 03159, Portland, Oreg. 97203. Applicant's representative: David C. White, 2400 SW. Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, between points in Whitman County, Wash., on the one hand, and, on the other, points in Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg.

No. MC 123872 (Sub-No. 39), filed November 13, 1974. Applicant: W & L MOTOR LINES, INC., State Road 1148, P.O. Drawer 2607, Hickory, N.C. 28601. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture and furniture parts*, from points in North Carolina, to points in Arizona and Nevada; and (2) *damaged and rejected new furniture* on return.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Hickory or Charlotte, N.C.

No. MC 124078 (Sub-No. 626), filed November 18, 1974. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, between the plant site of the Southern California Chemical Company at or near Union, Ill., on the one hand, and, on the other, points in Indiana, Iowa, Michigan, Minnesota, Missouri, New York, Ohio, and Wisconsin.

NOTE.—Applicant holds contract carrier authority in No. MC 113832 Sub-No. 68, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124111 (Sub-No. 50), filed November 22, 1974. Applicant: OHIO EASTERN EXPRESS, INC., P.O. Box 2297, 300 West Perkins Avenue, Sandusky, Ohio 44870. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, from the plantsite and warehouse facilities of Awrey Bakeries, Inc., located at Livonia, Mich., to points in Ohio, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, and Florida.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Orleans, La.

No. MC 124221 (Sub-No. 49), filed November 20, 1974. Applicant: HOWARD BAER, P.O. Box 27, Morton, Ill. 61550. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses*, and, in connection therewith, *equipment, materials, and supplies used in the conduct of such business* (not including commodities in bulk), between Cincinnati, Ohio, on the one hand, and, on the other, points in Indiana, Illinois, Kentucky, Michigan, West Virginia, Atlanta, Ga., and its commercial zone, the Kansas City, Missouri-Kansas, commercial zone; Little Rock, Ark., and its commercial zone; Memphis and Nashville, Tenn., and its commercial zone; Pittsburgh, Pa. and commercial zone; Salem, Va. and its commercial zone; and St. Louis, Mo., and its commercial zone, restricted to movements originating at and/or destined to a facility of The Kroger Co. and further restricted to a transportation to be performed under a continuing contract or contracts with The Kroger Co. and all operations will be conducted in vehicles equipped with mechanical refrigeration.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Cincinnati, Ohio, Indianapolis, Ind., or Washington, D.C.

No. MC 124333 (Sub-No. 22), filed November 15, 1974. Applicant: BAKER PETROLEUM TRANSPORTATION CO., INC. Pyles Lane, New Castle, Del. 19720. Applicant's representative: Samuel W. Earnshaw, 833 Washington Blvd., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, in tank vehicles, from Marcus Hook, Pa., and Seaford, Del., to points in Delaware, Maryland, and Virginia located on the Delmarva Peninsula, under a continuing contract or contracts with Emulasta Products of Delmarva, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 124796 (Sub-No. 137), filed November 18, 1974. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, wood chips, vermiculite, lighter fluid, and fireplace logs*, sawdust, and wax impregnated (except commodities in bulk), from Bell, Mo., to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, restricted to a transportation service to be

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performed under a continuing contract, or contracts, with The Clorox Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 124796 (Sub-No. 138), filed November 18, 1974. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: Richard A. Peterson, P.O. Box 81849, 521 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aerosol products*, from Berkeley, R.I., and Danville, Ill., to Union City, Calif., Memphis, Tenn., Gloucester City, N.J., Detroit, Mich., Columbus, Ohio, and Louisville, Ky., under a continuing contract or contracts with Morton-Norwich Products, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 124796 (Sub-No. 139), filed November 18, 1974. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cooking oil*, (except in bulk), from Danville and Niles, Ill., to the plantsites and facilities of The Clorox Company, at or near Atlanta, Ga.; Boston, Mass.; Jersey City, N.J.; Charlotte, N.C.; Cleveland, Ohio; Frederick, Md.; Houston, Tex.; Kansas City, Mo.; and Tampa, Fla., restricted to a transportation service to be performed under a continuing contract, or contracts, with The Clorox Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 125777 (Sub-No. 147), filed November 14, 1974. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are usually transported in dump vehicles, from points in Alabama, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Virginia, Washington, and Wisconsin, to points in the United States (except Alaska and Hawaii), restricted to traffic having a prior or subsequent movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 125777 (Sub-No. 148), filed November 25, 1974. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coke*, in bulk, in dump vehicles, from points in Arkansas, Illinois, Indiana (except Terre Haute and Indianapolis), Iowa, Kansas, Kentucky (except Ashland), Michigan (except Detroit), Minnesota (except St. Paul), Missouri (except St. Louis), Nebraska, New York (except Buffalo), Ohio (except Ironton and Painesville), Oklahoma, Pennsylvania (except Erie and Philadelphia), Tennessee, Texas, West Virginia, and Wisconsin (except Milwaukee), to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, West Virginia and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 126305 (Sub-No. 67), filed Nov. 19, 1974. Applicant: BYOD BROTHERS TRANSPORTATION CO., INC., Rural Delivery 1, Clayton, Ala. 36016. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: (1) *Spheres, highway marking strip glass, ballotini, and glass*, crushed, ground, and powered, from the facilities of Potters Industries, Inc., at Apex, N.C., to points in Kentucky, Arkansas, Virginia, Tennessee, North Carolina, South Carolina, Georgia, and Louisiana; and (2) *materials and supplies*, used in the manufacture and sale of glass spheres, and *glass spheres* (except in bulk, in tank vehicles), from Louisiana, Georgia, South Carolina, North Carolina, Tennessee, Virginia, Arkansas, and Kentucky, to the facilities of Potters Industries, Inc., at Apex, N.C.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 126525 (Sub-No. 30), filed November 22, 1974. Applicant: KATUIN BROS. INC., 102 Terminal Street, Dubuque, Iowa 52001. Applicant's representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, Iowa 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from Rock Island, Ill., to points in Iowa.

NOTE.—Applicant holds contract carrier authority in MC 129185 Sub 2, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago or Peoria, Ill.

No. MC 127187 (Sub-No. 12), filed November 11, 1974. Applicant: FLOYD DUENOW, 1728 Industrial Park Blvd., Fergus Falls, Minn. 56537. Applicant's representative: Charles E. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed, and animal and poultry feed ingredients* (except liquid commodities in bulk, in tank vehicles), from East Grand Forks, Crookston, Moorhead, and Renville, Minn., to points in Montana, restricted to traffic originating at the above named origins and destined to the above named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak., or Minneapolis, Minn.

No. MC 128021 (Sub-No. 15), filed Nov. 15, 1974. Applicant: DIVERSIFED PRODUCTS TRUCKING CORPORATION, 309 Williamson Avenue, Opelika, Ala. 36801. Applicant's representative: Robert S. Richard, 57 Adams Avenue, Montgomery, Ala. 36103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Weights and counterweights*, from the plantsite of Diversified Products Corporation, at Opelika, Ala., to points in the United States (except Alaska and Hawaii), under contract with Diversified Products Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Opelika or Montgomery, Ala.

No. MC 128383 (Sub-No. 61), filed November 19, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, and motor vehicles requiring the use of special equipment), between John F. Kennedy International Airport at or near New York, N.Y., Eau Claire Municipal Airport at or near Eau Claire, Wis., Austin Straubel Airfield at or near Green Bay, Wis., La Crosse Municipal Airport at or near La Crosse, Wis., General Mitchell Field at or near Milwaukee, Wis., Madison Municipal Airport (Traux Field) at or near Madison, Wis., Wausau Municipal Airport at or near Wausau, Wis., Rock County Airport at or near Janesville, Wis., St. Louis International Airport

(Lambert Field) at or near St. Louis, Mo., Memphis International Airport at or near Memphis, Tenn., Chicago-O'Hare International Airport at or near Chicago, Ill., Detroit Metropolitan Airport at or near Detroit, Mich., Standiford Field at or near Louisville, Ky., Greater Cincinnati Airport at or near Cincinnati, Ohio, Weir Cook Airport at or near Indianapolis, Ind., and Minneapolis-St. Paul International Airport at or near St. Paul, Minn., restricted to shipments having a prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128383 (Sub-No. 62), filed November 27, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Avenue, Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, and motor vehicles, requiring the use of special equipment), having a prior or subsequent movement by air, between Oneida County Airport, Oneida County, N.Y., on the one hand, and, on the other, points in Pennsylvania, New York, New Jersey, Maryland, the District of Columbia, Delaware, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 129706 (Sub-No. 1), filed November 25, 1974. Applicant: APPLE LINES, INC., 212 SW. Second, Madison, S. Dak. 57042. Applicant's representative: Robert A. Appelwick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flattened car bodies, scrap iron, and solid waste*, from points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota, to points in Illinois, Indiana, Minnesota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 133106 (Sub-No. 47), filed November 22, 1974. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Frederick J. Cosman, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is manufactured or distributed by Warner Lambert Company, and related advertising material*, from the plantsites and storage facilities utilized by Warner Lambert Company, located at Long Island City, N.Y., Lititz and Philadelphia, Pa., and South Brunswick and North Bergen, N.J., to Morrow, Ga., under contract with Warner-Lambert Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y., or Kansas City, Mo.

No. MC 133291 (Sub-No. 3), filed November 14, 1974. Applicant: JAMES H. FUNCH, doing business as JAMES FUNCH TRUCKING, 2750 North Polk Avenue, Fresno, Calif. 93705. Applicant's representative: William H. Kessler, 638 Divisadero Street, Fresno, Calif. 93721. Authority sought to operate as a *contract carrier, by motor* vehicle, over irregular routes, transporting: *Shingles, shakes, and ridge*, from points in Clallam and Skagit County, Wash., to points in Shasta, Tehama, Sutter, Yuba, Sacramento, Yolo, San Joaquin, Alameda, Contra Costa, San Francisco, San Mateo, Santa Clara, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, Kern, Santa Cruz, Monterey, San Benito, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, San Bernardino, Riverside, San Diego, and Imperial Counties, Calif., and points in Maricopa and Pima Counties, Ariz., under a continuing contract or contracts with Consolidated Cedar Corporation and its affiliates.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fresno, San Francisco, Calif., or Seattle, Wash.

No. MC 133878 (Sub-No. 2), filed November 18, 1974. Applicant: A. E. TRUCKS, INC., Weston, Pa. 18256. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery and machine parts, and filters*, which because of size or weight require the use of special equipment or handling, from the plantsite of Dorr-Oliver, Inc., located at Fogelsville, Pa., to points in the New York, N.Y. Commercial Zone, as defined by the Commission, points in that part on New York on, south, and east on New York Highway 30, points in those parts of New Jersey, Delaware, and Pennsylvania on and east of U.S. Highway 15, that part of Maryland on and east of U.S. Highway 11 (Intermediate Highway 81), and the District of Columbia; (2) *water treatment and sewage disposal plants, refuse systems, and filtering systems, and all component parts* of the above items (except commodities in bulk), from the plantsite of Dorr-Oliver Inc., located Fogelsville, Pa., to points in Delaware, Connecticut, Indiana, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; and (3) *materials, supplies, or equipment* used in connection with or incidental to the manufacture of commodities named in (2) above (except commodities in bulk), from points in the destination states named above to the plantsite of Dorr-Oliver, Inc., located at Fogelsville, Pa., restricted to the transportation of traffic originating at or destined to the plantsite and destination points in (1), (2), and (3) above, and (2) and (3) further restricted against the transportation of clay products originating at or destined to points in Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Harrisburg, Pa.

No. MC 134142 (Sub-No. 6), filed November 18, 1974. Applicant: BROWN REFRIGERATED EXPRESS, INC., 21st and Sidney, P.O. Box 603, Ft. Scott, Kans. 66701. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 F.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Lee's Summit, Mo., to points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with R. B. Rice Company, Inc.

NOTE.—Applicant holds common carrier authority in MC 139587 and Sub No. 1 thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 134323 (Sub-No. 65), filed October 30, 1974. Applicant: JAY LINES, INC., 720 North Grand, Amarillo, Tex. 79105. Applicant's representative: Gailyn Larsen, 521 South 14th Street, Lincoln Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by retail department stores, and equipment, materials, and supplies used in the conduct of such business* (except commodities in bulk), from the facilities of J. C. Penney Company, Inc. located at or near Ridgefield, N.J., to points in Houston and Dallas, Tex., Kansas City and St. Louis, Mo., Denver, Colo., and Memphis, Tenn., under a continuing contract with J. C. Penney Company, Inc.

NOTE.—Applicant has pending contract carrier authority in MC 125070 Sub 4 and 5, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Lincoln, Nebr., or New York, N.Y.

No. MC 134717 (Sub-No. 2), filed November 20, 1974. Applicant: DONALD R. MARSHALL, Route 1, Greer, S.C. 29651. Applicant's representative: Mitchell King, Jr., P.O. Box 1628, Greenville, S.C. 29602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ground clay*, in containers, from the plantsites of Waverly Mineral Products Co., at or near Meigs, Ga., to points in Delaware, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia; and (2) from the plantsites of Waverly Mineral Products Co., at or near Pinewood, S.C.,

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to points in Delaware, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia, under continuing contract with Waverly Mineral Products Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 134734 (Sub-No. 19), filed November 22, 1974. Applicant: NATIONAL TRANSPORTATION, INC., 14031 "L" Street, Omaha, Nebr. 68137. Applicant's representative: Lanny N. Fauss, Box 37096, Omaha, Nebr. 68137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Markham, Wash., to points in Arizona, California, and Nevada, under a continuing contract or contracts with Ocean Spray Cranberries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Seattle or Portland, Wash.

No. MC 134783 (Sub-No. 27), filed November 25, 1974. Applicant: DIRECT SERVICE, INC., P.O. Box 786, Plainview, Tex. 79072. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Bldg., Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, beauty aids, hair grooming and conditioning aids, cosmetics soap, shaving cream, shampoo, washing compounds, drugs, medicines, store display racks, store displays, and advertising materials*, (1) from the plantsites and storage facilities of Noxell Corporation, at or near Cockeysville, Md. and Holyoke, Mass., to points in and west of Louisiana, Arkansas, Missouri, Iowa and Minnesota, and points in Georgia, Tennessee, Illinois and Indiana; and (2) between the plantsites and storage facilities of Noxell Corporation at or near Cockeysville, Md. and Holyoke, Mass.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Baltimore, Md.

No. MC 134790 (Sub-No. 4), filed November 22, 1974. Applicant: DANIEL C. HAFFNER, and doing business as HAFFNER TRUCKING SERVICE, RR #1, Farmington, Iowa 52626. Applicant's representative: Larry D. Knox, 9th Floor, Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, knocked down or in sections, and *component parts, materials, supplies and fixtures and accessories* used in the erection and construction of buildings, from the facilities of Mitchell Engineering Company located at or near Mt. Pleasant, Iowa, to points in Nebraska, Wyoming, Montana, Idaho, Utah, Nevada, Arizona, Oregon, Washington, New Mexico, Texas, California, Oklahoma, Arkansas, Louisiana, Missouri, Kansas, South Dakota, North Dakota, Minnesota, and Colorado.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Des Moines, Iowa or Omaha, Nebr.

No. MC 134806 (Sub No. 31), filed November 20, 1974. Applicant: B-D-R TRANSPORT, INC., P.O. Box 813, Brattleboro, Vt. 05301. Applicant's representative: Francis J. Ortman, 1100 17th Street, NW., Suite 613, Washington, DC. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tanned leather*, from Sheboygan, Wis., to Wilton, Maine, under contract with G. H. Bass & Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 134806 (Sub-No. 32), filed November 20, 1974. Applicant: B-D-R TRANSPORT, INC., P.O. Box 813, Brattleboro, Vt. 05301. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paints* (except in bulk), *supplies and machinery* for tanning leather, from points in Wisconsin and Illinois, to points in San Francisco, Alameda, Napa, Solano, San Mateo, and Santa Cruz Counties, Calif., under contract with West Coast Tanners Production Club.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 135616 (Sub No. 4), filed Nov. 25, 1974. Applicant: PERRYSBURG TRUCKING CO., INC., 24982 Thompson Road, Perrysburg, Ohio 43551. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St., NW., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vericle, over irregular routes, transporting: *Glass, and materials, equipment and supplies*, used or useful in the manufacture, production and sale of glass (except commodities in bulk), between Upper Sandusky, Ohio, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract with Guardian Industries Corp., at Carleton, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Toledo, Ohio, or Detroit, Mich.

No. MC 135725 (Sub No. 15), filed November 25, 1974. Applicant: FRY TRUCKING, INC., 507 W. 5th Street, Wilton, Iowa 52778. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed ingredients, minerals, ground ores, fertilizer ingredients, and pigments*, from Springfield, Ill., to points in the United States (except Alaska and Hawaii) and (2) *materials, equipment, and supplies* used in the manufacture, processing, sale and distribution of the commodities named in (1) above, from points in the United States (except Alaska and Hawaii), to Springfield, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago or Springfield, Ill.

No. MC 136211 (Sub-No. 27), filed November 13, 1974. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, Calif. 93030. Applicant's representative: T. M. Brown, 600 Leininger Building, Oklahoma City, Okla 73112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, furnishings, and appliances*, between Nashville, Tenn., on the one hand, and, on the other, points in that part of Kentucky on and within a line beginning at the junction of the Kentucky-Tennessee State Boundary line and Kentucky Highway 139, thence along Kentucky Highway 139 to junction U.S. Highway 62, thence along U.S. Highway 62 junction U.S. Highway 31-E, thence along U.S. Highway 31-E to the Kentucky-Tennessee State Boundary line, thence along the Kentucky-Tennessee State Boundary line to point of beginning, under a continuing contract or contracts with Morris Furniture Stores.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Nashville, Tenn., or Washington, D.C.

No. MC 136222 (Sub-No. 2), filed November 12, 1974. Applicant: MOVERS PORT SERVICE, INCORPORATED, 7035 Convoy Court, San Diego, Calif. 92138. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, in containers, between points in Los Angeles, Orange, Riverside, Imperial, Kern, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura Counties, Calif.; Cochise, Maricopa, Pima, Pinal, and Yuma Counties, Ariz.; and Hidalgo County, N. Mex., restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized, and further restricted to the performance of packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at San Diego, Calif.

No. MC 136232 (Sub-No. 5), filed November 20, 1974. Applicant: FRALEY'S INCORPORATED, Route 1, Big Stone Gap, Va. 24219. Applicant's representative: Harry J. Jordan, 1000 16th St. NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Mine roof support bolts*, from Duffield, Va., to points in Kentucky (except those in Harlan and Clay Counties, Ky.), and points in West Virginia (except those in Fayette, Logan, McDowell, Nicholas, Raleigh, Summers, and Wyoming Counties, W.

Va.), under contract with Virginia Birmingham Bolt, Inc., restricted to a transportation service to be performed under a continuing contract, or contracts with Virginia Birmingham Bolt, Inc.; and (b) *mining equipment and supplies*, from Andover (Appalachia), Va., to points in Virginia and Kentucky, restricted to a transportation service to be performed under a continuing contract, or contracts with Central Supply Company of Virginia, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Richmond, Va.

No. MC 136343 (Sub-No. 37), filed November 15, 1974. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Spheres, highway marking strip glass, and ballotine, and glass*, crushed, ground and powdered, from the facilities of Potters Industries, Inc., at Pottsdam, N.Y., to points in Connecticut, Rhode Island, Maine, New Hampshire, Vermont, Ohio, Pennsylvania, New York, New Jersey, and Massachusetts; and (2) *materials and supplies*, used in the manufacture and sale of glass spheres, and *glass spheres* (except in bulk, in tank vehicles), from points in Massachusetts, New Jersey, New York, Pennsylvania, Ohio, Vermont, New Hampshire, Maine, Rhode Island, and Connecticut, to the facilities of Potters Industries, Inc., at Pottsdam, N.Y.

NOTE.—Applicant holds contract carrier authority in MC 96098 Sub 46, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 136757 (Sub-No. 3), filed November 21, 1974. Applicant: INTERSTATE ROAD RUNNER INCORPORATED, 74–16 Grand Avenue, Maspeth, N.Y. 11378. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel tubing, electrical fittings, electrical conduit, microphone stands, pipe and fittings, lamp and lighting fixtures, parts and accessories, and furniture parts and furniture accessories, bicycles and parts and accessories therefor*, and (2) *materials, equipment and supplies* used in the manufacture and distribution, and sale of the commodities in (1) above (except commodities in bulk), between Martins Ferry, Ohio, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to service to be performed under a continuing contract or contracts with Berger Industries, Inc., of Maspeth, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 136757 (Sub-No. 4), filed November 21, 1974. Applicant: INTERSTATE ROAD RUNNER, INCORPORATED, 74–16 Grand Avenue, Maspeth, N.Y. 11378. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *Steel tubing, electrical fittings, electrical conduit, microphone stands, pipe and fittings, lamp and lighting fixture, parts and accessories, and furniture parts and furniture accessories, bicycles and parts and accessories* therefor, and (2) *materials, equipment and supplies* used in the manufacture and distribution, and sale of the commodities in (1) above (except commodities in bulk), between Atlanta, Ga., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Berger Industries, Inc., of Maspeth, N.Y.

NOTE.—Applicant states that it can already perform the same identical service on the same commodities to and from the facilities of Berger Industries, Inc., at Maspeth, N.Y., Metuchen, N.J., and Chicago, Ill., and here merely seeks to add the two new facilities of the contracting shipper. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 136762 (Sub-No. 3), filed Nov. 20, 1974. Applicant: OSBORNE HIGHWAY EXPRESS, 127 University Avenue, Berkeley, Calif. 94710. Applicant's representative: Martin J. Rosen, 140 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood particle board*, from the plantsite of Fiberboard Corporation, located at Rocklin, Calif., to points in California, Washington, Oregon, Wyoming, Idaho, New Mexico, Utah, Montana, Nevada, Arizona, and Colorado.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 138104 (Sub-No. 18), filed November 18, 1974. Applicant: MOORE TRANSPORTATION CO., INC., 3509 North Grove Street, Fort Worth, Tex. 76106. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), *trailer converter dollies, containers, and refuse bodies*, in initial truckaway service, from the plantsites of Fruehauf Corporation, at or near Omaha, Nebr.; Memphis, Tenn.; Port Madison, Iowa; and Charlotte, N.C., to points in the United States including Alaska, but excluding Hawaii; and (2) *trailers, and trailer chassis* (except those designed to be drawn by passenger automobiles), *trailer converter dollies, containers, and refuse bodies*, in secondary truckaway service, between the plants, agencies, dealerships, and branches of Hobbs Trailer Company, and Fruehauf Corporation, located at points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Detroit, Mich. or Washington, D.C.

No. MC 138336 (Sub-No. 2), filed November 18, 1974. Applicant: CROSSLIN-GRADER CORPORATION, 1022 Sixth Avenue North, Nashville, Tenn. 37208. Applicant's representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Building, Memphis, Tenn. 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household articles, household supplies, and nutritional and dietary foods*, dealt in by The Drackett Products Company, from Urbana, Ohio, and Franklin, Ky., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming, under contract with The Drackett Products Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio, or Louisville, Ky.

No. MC 138719 (Sub-No. 5), filed November 25, 1974. Applicant: PATTEN TRUCKING COMPANY, INC., 145 Princeton Road, Brookline, Mass. 02167. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wooden fencing*, from points on the International Boundary line between the United States and Canada, in Clinton County, N.Y., and points in Clinton County, N.Y., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, North Carolina, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, under a continuing contract or contracts with Northern Mill and Lumber Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa.

No. MC 139196 (Sub-No. 5), filed November 14, 1974. Applicant: RAY WAGNER & SON TRUCKING CO., INC., Box 117, Owen, Wis. 54460. Applicant's representative: F. H. Kroeger, 1745 University Avenue, St. Paul, Minn. 55104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mink feed* (except mink feed in liquid, in tank vehicles), from the plantsite and warehouse facilities of Heger Company, at Minneapolis, Minn., to points in McHenry County, Ill., those in the upper peninsula of Michigan, Minnesota, those points in Nebraska on and east of U.S. Highway 83, South Dakota, and Wisconsin (except points in Ashland,

XUM

Brown, Door, Florence, Forest, Iron, Kewaunee, Lincoln, Marathon, Marinette, Oconto, Oneida, Outagamie, Price, Shawano, Taylor, and Vilas Counties).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either St. Paul or Minneapolis, Minn.

No. MC 139425 (Sub-No. 1), filed October 29, 1974. Applicant: HAROLD E. RICH, 14608 Benfield Avenue, Norwalk, Calif. 90650. Applicant's representative: Harold E. Rich (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods* (fresh and frozen), *bakery racks, advertising material, and bakery goods ingredients*, (1) from points in the Los Angeles, Calif., Commercial and Harbor Zone as defined by the Commission, to Akron, Columbus, and Euclid, Ohio, Albany, Buffalo, and New York, N.Y., Birmingham and Mobile, Ala.; Bismarck and Minot, N. Dak., Boise, Idaho, Boston, Mass., Brentwood, Md., Charleston and Columbia, S.C., Chicago, Ill., Dallas, San Antonio, and Houston, Tex., Denver, Colo., Detroit, Mich., Eugene and Portland, Oreg., Forest Park, Ga., Kansas City and St. Louis, Mo., Las Vegas, Nev., Little Rock, Ark., Louisville, Ky., Memphis and Nashville, Tenn., Miami, Panama, and Tampa, Fla., Milwaukee, Wis., New Orleans, La., Norfolk, Va., Oklahoma City and Tulsa, Okla., Omaha, Nebr., Philadelphia, Pa., Salt Lake City, Utah, Seattle, Wash., Tucson, Ariz., Waterbury, Conn., and Wichita, Kans.; and (2) from Boston, Mass., Cedar Rapids, Iowa, Chicago, Ill., Houston, Tex., Milwaukee, Wis., New York, N.Y., Norfolk, Va., Omaha, Nebr., Philadelphia and Scranton, Pa., and Seattle, Wash., to points in the Los Angeles, Calif., Commercial and Harbor Zone as defined by the Commission, under a continuing contract or contracts with Pogens Family Bakery, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 139495 (Sub-No. 16), filed November 15, 1974. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream*, from the plantsite and storage facilities of Thomas J. Lipton, Inc., located at or near Chicago, Ill., to points in Minnesota, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklabert Alan Dubin, 1819 H Street NW., homa, Kansas, Nebraska, South Dakota, North Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon, Nevada, and California.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139566 (Sub-No. 4), filed November 18, 1974. Applicant: FEDERAL ARMORED EXPRESS, INC., P.O. Box 333, Baltimore, Md. 21203. Applicant's representative: Timothy M. Biddle, 1100 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Special nuclear materials*, between Lynchburg, Va., and points in Pike County, Ohio, under a continuing contract or contracts with Edlow International Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Baltimore, Md.

No. MC 139771 (Sub-No. 2), filed October 17, 1974. Applicant: GAFCO, INC., 1040 West 45th Street, Norfolk, Va. 23508. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic and malt beverages*, in containers, and *tobacco products*, from the facilities of C. H. Peters & Co., Inc., at Norfolk, Va., to the port of entry on the International Boundary line between the United States and Canada at or near Noyes, Minn., under a continuing contract or contracts with C. H. Peters & Co., Inc., restricted to traffic having an immediately subsequent movement in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 139884 (Sub-No. 3), filed November 25, 1974. Applicant: KLIMA, INC., 10650 S.W. Wilsonville Road, Wilsonville, Oreg. 97070. Applicant's representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, Oreg. 97210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy, chewing gum, and bakery goods*, from points in Massachusetts, Pennsylvania, New Jersey, Iowa, and Illinois, to Portland, Oreg., and Seattle, Wash., under contract with Northwest Brokerage Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 139947 (Sub-No. 1), filed November 25, 1974. Applicant: BUFFALO TRUCKING, INC., 411 East Frye Road, P.O. Box 640, Chandler, Ariz. 85224. Applicant's representative: Gene Tackett (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, roofing products, and commodities*, used in the construction and application of roofing or roofs, from Barstow, Camarillo, Corona, Long Beach, Los Angeles, Oakland, Riverside, San Francisco, San Leandro, Santa Clara, South Gate, and Wilmington, Calif., to points in Arizona, under contract with Southwest Roofing Supply, and A & H Supply Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Phoenix or Tucson, Ariz.

No. MC 140063 (Sub-No. 2), filed November 19, 1974. Applicant: CORA H. MABE, BOBBY L. MABE, AND ERNIE M. MABE, a Partnership, doing business as MABE TRUCKING COMPANY, P.O. Box 121, Saltville, Va. 24370. Applicant's representative: Ernie M. Mabe (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips and lumber, and lumber products*, from Saltville, Va., to points in North Carolina, Tennessee, Kentucky, and West Virginia, under a continuing contract or contracts with McWhorter Lumber Company, Inc.

NOTE.—If a hearing is deemed necessary, applicant does not specify a location.

No. MC 140071 (Sub-No. 3), filed November 21, 1974. Applicant: MID-AMERICA CARTAGE, INC., 814 Busse Highway, Park Ridge, Ill. 60068. Applicant's representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting, padding, and related floor covering materials*, between Chicago, Ill., on the one hand, and, on the other, points in Illinois.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 140194 (Sub-No. 2), filed November 21, 1974. Applicant: CHARLES F. KEPPLER, P.O. Box 367, Clay City, Ill. 62824. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from points in Clay and Richland Counties, Ill., to Terre Haute, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 140309 (Sub-No. 1), filed November 13, 1974. Applicant: A-1 MOVERS TRANSFER & STORAGE, INC., Route 3, Box 66, Mineral Wells, Tex. 76067. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between Mineral Wells, Tex., on the one hand, and, on the other, points in Palo Pinto, Erath, Hood, Parker, and Somervell Counties, Tex., restricted to the transportation of traffic having prior or subsequent movement in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Fort Worth or Dallas, Tex.

No. MC 140382, filed November 7, 1974. Applicant: BRAUN TRUCKING, INC., North Fourth Street, Leoti, Kans. 67861. Applicant's representative: Joseph F. Nigro, 400 Denver Hilton Office Building, 1515 Cleveland Place, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients* (except feed ingredients in liquid form; soy bean meal; cotton seed meal; alfalfa meal; dehydrated and sun cured, whether in bag, bulk, or pelleted), (1) between points in Dodge and Saunders Counties, Nebr., on the one hand, and, on the other, points in Wichita and Sedgwick Counties, Kans.; (2) between points in Dodge and Saunders Counties, Nebr., and Wichita and Sedgwick Counties, Kans., on the one hand, and, on the other, points in Crowley, Otero, Bent, and Prowers, Rio Grande, Alamosa, Costilla, Conejos, and Saguache Counties, Colo.; (3) between Phoenix and Casa Grande, Ariz., and Lubbock, Tex., on the one hand, and, on the other, points in Crowley, Otero, Bent, Prowers, Rio Grande, Alamosa, Costilla, Conejos, and Saguache Counties, Colo.; and (4) between points in Crowley, Otero, Bent, and Prowers Counties, Colo., on the one hand, and, on the other, points in Potter, Randall, and Smith Counties, Tex., Cimarron, Tex., and points in Beaver County, Okla., and Union and Curry Counties, N. Mex., under a continuing contract or contracts with Vern Braun Harvesting Company and Randall Allmendinger, doing business as Allmendinger Commodities.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Denver, Colo., or Wichita, Kans.

No. MC 140399 (Sub-No. 1), filed November 25, 1974. Applicant: ALBERT RELL PECK, doing business as PECK'S, Burna, Ky. 42028. Applicant's representative: Richard H. Peek, Box 8, Smithland, Ky. 42081. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Limestone and limestone products*, from Smithland, Ky., to Massac, Pope, and Hardin Counties, Ill., Mississippi, Stoddard, Scott, and New Madrid Counties, Mo., and Lake, Obion, Dyer, Weakley, Gibson, Henry, and Carroll Counties, Tenn., and (2) *coal and coke*, from Dawson Springs, Ky., to Humphreys and Shelby Counties, Tenn., and Herculaneum, Mo., under contracts with Three Rivers Rock Co. and Chemical Coke Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 140410, filed November 7, 1974. Applicant: CHARLES ARNETT, a Proprietorship, doing business as GRAIN & PRODUCE, R.R. 2, P.O. Box 367, Corsicana, Tex. 75110. Applicant's representative: Jack H. Blanshan, 39 South LaSalle Street, Room 330, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulations under Section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Mobile, Ala., to points in Illinois, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin, restricted to the transportation of traffic having an immediate prior movement by water.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Miami, Fla., or Washington, D.C.

No. MC 140421, filed November 15, 1974. Applicant: ACTION MOTOR EXPRESS, INC., 8303 Old Gentilly Road, P.O. Box 29102, New Orleans, La. 70189. Applicant's representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, La. 70130. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cans and can ends*, from Harvey and New Orleans, La., to Alexandria City, Aliceville, Birmingham, and Mobile, Ala.; Jacksonville, Ark.; Contomnment and Pensacola, Fla.; Hattiesburg, Jackson, Morehead, Pascagoula, and Yazoo City, Miss.; and Orange, Port Arthur, Waco, Beaumont, Brownsville, Freeport, Longview, Owentown, and Tyler, Tex.; (2) *pulpboard and corrugated boxes*, knocked down or flat, from Harahan, La., to Alexandria City, Aliceville, Birmingham, and Mobile, Ala.; Jacksonville, Ark.; Contomnment and Pensacola, Fla.; Hattiesburg, Jackson, Pascagoula, and Yazoo City, Miss.; and Beaumont, Brownsville, Freeport, Longview, Orange, Owentown, Port Arthur, Tyler, and Waco, Tex.; (3) *pulpboard, roll paper, and paper bags*, from Hodge, La., to Alexandria City, Aliceville, Birmingham, and Mobile, Ala.; Jacksonville, Ark.; Contomnment and Pensacola, Fla.; Hattiesburg, Jackson, Pascagoula, and Yazoo City, Miss.; and Beaumont, Brownsville, Freeport, Longview, Orange, Owentown, Port Arthur, Tyler, and Waco, Tex.; and (4) *soft drinks*, in cans and bottles, from Gretna and New Orleans, La., to Aliceville, Alexandria City, Mobile, Robertsdale, Tuscaloosa, and Montgomery, Ala.; Panama City, Fla.; Jackson, Ocean Springs, and Pascagoula, Miss.; and Beaumont, Brenham, Corpus Christi, Fort Worth, Houston, and Texarkana, Tex., under a continuing contract or contracts with Louisiana Coca-Cola Bottling Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Orleans, La.

No. MC 140422, filed November 15, 1974. Applicant: GENE R. THEODORI AND JERRY M. SMIELL, a Partnership, doing business as THEODORI TRUCKING, Box 45, Waltersburg, Pa. 15488. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery*, between points in Fayette County, Pa., on the one hand, and, on the other, points in West Virginia, New Jersey, New York, Maryland, Ohio, and Indiana; and (2) *coal*, in bulk, in dump vehicles, from points in Monongalia, Preston, and Marion Counties, W. Va., to points in Fayette, Greene, and Washington Counties, Pa., restricted to a transportation service under a continuing contract or contracts with Betty Louise Coal Company, Inc., and L. B. Smith, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa.

APPLICATION(S) OF PASSENGERS

No. MC 124568 (Sub-No. 4), filed October 31, 1974. Applicant: BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, a Crown Corporation, doing business as: PACIFIC STAGE LINES and ROYAL BLUE LINE MOTOR TOURS, 150 Dunsmuir Street, Vancouver, British Columbia, Canada V6B 1W9. Applicant's representative: S. G. Boucher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, (a) in round trip special operations; and (b) in one-way and round trip charter operations between Ports of entry on the International Boundary line between the United States and Canada including Alaska, and Ports of entry which are termini of ferry services operating between the United States and Canada including Alaska, on the one hand, and, on the other, points in the United States, including Alaska (except California, Idaho, Nevada, Oregon, Washington, and Hawaii), restricted to traffic originating in British Columbia, Canada.

NOTE.—Applicant states it intends to tack the requested authority at points along the California, Idaho, Nevada, Oregon, and Washington State Boundary lines and the International Boundary line between the United States and Canada located at the Yukon Territory to extend its service to all points in the United States (except Hawaii). If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 140254 (Correction), filed September 24, 1974, published in the FEDERAL REGISTER issue of October 24, 1974, and republished as corrected this issue. Applicant: APPOMATTOX TOURS, INC., doing business as APPOMATTOX TOURS, RFD #1, Box 49, Dinwiddie, Va. 23841. Applicant's representative: James B. Porter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers in round-trip special and charter operations, beginning and ending at points in Dinwiddie and Prince George Counties (including Petersburg, Colonial Heights, and Hopewell), Va., and extending to points in North Carolina, South Carolina, Georgia, Florida, Tennessee, Kentucky, West Virginia, Ohio, Pennsylvania, New York, Maryland, Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine, and the District of Columbia.

NOTE.—The purpose of this correction is to restrictively amend applicant's territorial description. If a hearing is deemed necessary,

the applicant requests it be held at Petersburg, Va.

[illegible] APPLICATION(S)

No. MC 130279, filed November 7, 1974. Applicant: FOUR WINDS TRAVEL, INC., 175 Fifth Avenue, New York, N.Y. 10010. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, N.J. 07102. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at New York, N.Y., to sell or offer to sell, transportation by motor vehicle of *passengers and their baggage*, (1) between Flagstaff, Phoenix, and Tucson, Ariz., Los Angeles, Sacramento, and San Francisco, Calif., Denver and Grand Junction, Colo., Browning, East Glacier, Glacier Park, Great Falls, Livingston, and West Glacier, Mont., Albuquerque and Lamy, New Mex., Las Vegas and Reno, Nev., Portland, Oreg., Ogden, Salt Lake City, and Thompson, Utah, Spokane, and Seattle, Wash., Cheyenne, Jackson, and Rock Springs, Wyo., on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Texas, Utah, Washington, and Wyoming; (2) between Mobile, Ala., and New Orleans, La., Meridian, Miss., El Paso, Houston, and San Antonio, Tex., on the one hand, and, on the other, points in Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, New Mexico, South Carolina, Tennessee, and Texas; (3) between Bar Harbor and Portland, Maine, Boston, Mass., and the District of Columbia, on the one hand, and, on the other, points in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia; and (4) between points in the International Boundary line between the United States and Canada in Maine, Montana, Vermont, and Washington, on the one hand, and, on the other, points in Maine, Montana, Vermont, and Washington; and (5) between points on the International Boundary line between the United States and the Republic of Mexico, on the one hand, and, on the other, points in Arizona, restricted in (1) through (5) above, to the transportation of passengers of passengers having a prior and/or subsequent transportation by air, water, or land facilities, other than motor carriers, which facilities have been arranged by the broker as part of a tour or trip, in interstate or foreign commerce.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Newark, N.J.

No. MC 130280, filed November 19, 1974. Applicant: THEDA I. REDA AND DAVID R. REDA, a Partnership, doing business as THEDA REDA TRAVEL SERVICE, 811 Third Avenue, New Brighton, Pa. 15066. Applicant's representative: John A. Pillar, 1122 Frick Bldg., Pittsburgh, Pa. 15219. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at New Brighton, Pa., to sell or offer to sell the transportation of *Passengers and their baggage*, in special and charter operations, in round-trip and one way group tours, by motor, air, and rail carriers, between points in Beaver County, Pa., on the one hand, and, on the other, points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa.

FREIGHT FORWARDER APPLICATION(S)

No. FF-460, filed October 4, 1974. Applicant: CAST NORTH AMERICA LIMITED, doing business as CAST, One Westmount Square, Montreal, Quebec, Canada H3Z2R9. Applicant's representative: Klaus Glussing (same address as applicant). Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facilities of common carriers by railroad, motor vehicle, water, and express, transporting: *General commodities*, in containers (except household goods as defined by the Commission, unaccompanied baggage, and used motor vehicles), between points in Illinois, Indiana, Michigan, Minnesota, Ohio, Tennessee, West Virginia, and Wisconsin, on the one hand, and, on the other, Montreal, Quebec, Canada (insofar as such transportation takes place within the United States), through points on the International Boundary line between the United States and Canada located in Michigan, Minnesota, New York, and Vermont, restricted to import/export traffic having a prior or subsequent movement by water in applicant's direct water service.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

WATER CARRIER APPLICATION(S)

No. W-1283, filed November 18, 1974. Applicant: AMERICAN CRUISE LINES, INC., Steamboat Landing, Haddam, Conn. 06438. Applicant's representative: J. Raymond Clark, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to engage in operation, in interstate or foreign commerce, as a *common carrier* by water in the transportation of *Passengers*, by self-propelled vessel, in one way and round trip scheduled excursion cruises, between Eastport and Boothbay, Maine, Boston, Mass., Haddam, Conn., New York, N.Y., Annapolis and Baltimore, Md., Norfolk and Hampton, Va., Charleston, S.C., Jacksonville, St. Augustine, Daytona Beach, and Ft. Lauderdale, Fla., and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Hartford or Middletown, Conn.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON, *Acting Secretary*.

[FR Doc.74-29465 Filed 12-18-74;8:45 am]

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THURSDAY, DECEMBER 19, 1974

WASHINGTON, D.C.

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PART II



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Child Development

■

CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAM

V 39 N 245 DEC 19 1974 XUM

Title 45—Public Welfare

SUBTITLE B—OFFICE OF CHILD DEVELOPMENT, OFFICE OF HUMAN DEVELOPMENT, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 1340—CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAM

In the FEDERAL REGISTER of August 28, 1974 (39 FR 31507), a notice of proposed rulemaking was published, in which the policies, procedures, and requirements necessary for implementation of the Child Abuse Prevention and Treatment Act (Public Law 93–247) were set forth. The notice provided for the filing of comments, suggestions, or objections on or before September 27, 1974. Approximately 60 comments were received from 35 agencies, organizations and individuals. The principal comments and the Department's conclusions are as follows:

A. An objection was made to exempting a parent or guardian from being considered negligent where he does not provide specified medical treatment for a child solely because the parent or guardian is legitimately practicing his religious beliefs. A further question was raised whether this exemption would prohibit courts from ordering such treatment. Finally, a comment sought the same type of exception where poverty was the sole reason for the neglect of the parent or guardian.

The Department, having considered these recommendations, concludes that the exception for medical reasons should remain, as a legitimate exception and as an exception required by the legislative intent of the Congress. Such grounds do not apply to an exception on the grounds of poverty. Courts remain free to make such determinations on the grounds of poverty, however, on a case-by-case basis, under State and local law. Finally, in order to clarify the court's continued authority to grant an exception on the grounds of religion, an amendment has been added to § 1340.1–2(b)(1).

B. Suggestions were made to alter the scope of the regulations. Such comments included: (i) extending "child" to include persons mentally retarded, (ii) extending "persons responsible" to include persons such as day care and day school personnel, and (iii) extending States eligible for State grants to include jurisdictions beyond the 50 States (such as the Commonwealth of Puerto Rico and the District of Columbia). Other additions were suggested as to the eligibility of (i) various Indian groups for State, research and demonstration grants, (ii) colleges and universities for research and demonstration grants, (iii) varying ethnic groups for innovative demonstration grants, and (iv) potential applicants without discrimination on the basis of sex. Finally, a comment asked that the female as well as the male gender be used in the regulations.

The Department, having considered these suggestions, concludes that no extension of the scope of the regulations is permitted by or necessary under the Act as to age, responsible persons, or eligible applicants for any grants. All public agencies or non-profit private agencies are eligible for research and demonstration grants. Because of their unique position in relationship to States, however, the Indian tribal governments have been explicitly included as potential parties to purchase agreements with States that receive State grants. This amendment has been added to § 1340.3–2(b).

In regard to differentiation on the basis of sex, the policy of the Department prohibits such discrimination in awarding grants. As a clarification, however, of the scope of words of the male gender, a new paragraph (j) has been added to § 1340.1–2.

C. A suggestion was made that the training of professionals and paraprofessionals, which was included in Public Law 93–247, be added to the regulation. The Department agrees and therefore has amended § 1340.2–3 accordingly.

D. Several comments, questions and objections were raised in reference to the impact of the regulation on the program under Title IV–A and IV–B of the Social Security Act, particularly in regard to the "single State agency," the State agency administering or supervising the administration of the State plan under Title IV–A and IV–B of the Social Security Act. One set of recommendations suggested requiring that all research, demonstration and State applications be cleared by or submitted by such agency. Other comments questioned whether this regulation goes beyond the requirements of the Act in regard to (i) which, if any, requirements the single State agency must meet, (ii) whether the detailed requirements may appear in Part 220 of 45 CFR, (iii) whether Title IV–A and IV–B money may be used for State grants under P.L. 93–247, and (iv) whether the date of the effect of the regulations impacting on the Title IV–A and IV–B program is reasonable or should appear as it does, in § 1340.3–4(c).

These recommendations have been considered by the Department, with the conclusion that the requirements imposed with regard to the Title IV–A and IV–B program are legal and in fact are required by § 4(b)(3) of P.L. 93–247, and should not be altered in scope, date of effect, or placement in the regulations. The procedures and requirements for § 4(b)(1) *State grants* are legal and are imposed on the *State, not on an agency*. P.L. 93–247 specified no procedures for approving or selecting State or research and demonstration grants, and it is the policy of the Department that neither the Governor, acting on behalf of the State in designating an applicant for a State grant, nor the Department in selecting recipients of demonstration grants, should have preselections made for them. Finally, the funds for State grants under P.L. 93–247 will, of course, be dispersed under that authority, rather than under the Social Security Act.

E. Questions were raised about the meaning and scope of the requirement that the State require and receive reports of known or suspected instances of child abuse and neglect. Such questions included whether neglect need be reported, and what authority or authorities must be able to receive reports.

These questions have been considered by the Department, with the following conclusions. The language requiring reports of child neglect as well as abuse is sufficiently clear. However, in order to eliminate possible confusion, language has been added to § 1340.3–3(d)(2), enabling the State to receive reports through "one or more duly constituted authorities" capable of receiving such reports at any hour. There need not be one authority that receives all such reports. And, in fact, a second duly constituted authority must receive reports for the acts or omissions of child abuse and neglect committed by a duly constituted authority.

F. Recommendations were made as to the requirement of conducting a "prompt investigation," upon receipt of a report of a known or suspected instance of child abuse and neglect. It was suggested that "prompt" be given a flexible meaning and that certain emergency services be included as suggested "immediate steps," that might be taken upon a finding of an incident of child abuse or neglect.

The Department has considered these comments. It has concluded that no further language is necessary to permit the "flexible" approach suggested. An amendment, however, has been made to § 1340.3–3(d)(3)(ii) to include the other suggested immediate steps.

G. Questions were raised as to the meanings of "effectively" and "throughout the State," in regard to procedures, staff, etc., the State must have in operation as one of the requirements for State grant eligibility.

Having considered these comments, the Department concludes that no changes in the regulation are necessary. The term "effectively" requires the four operational procedures specified; other required procedures will be adjudged on a flexible case-by-case basis, in keeping with the intent of Congress. The term "throughout the State" does require that services be provided everywhere, although they may be supplied from a central rather than a local office.

H. A number of comments addressed the procedure required and the exceptions suggested for preserving the confidentiality of child abuse and neglect records. In particular, the requirement that the State have a law or laws as the means of preserving confidentiality was questioned. Some conflicting suggestions were made as to the persons who might be excepted by the State from confidentiality requirements: Parents, the child, legislators, and researchers were among the exceptions that should *not* be followed according to one suggestion. Another comment suggested that not only should parents and guardians be excepted and allowed to see the records, but that all other persons be required to state why they wish to see the record and gain the permission of the allegedly abusing parent or guardian.

The suggestions have been considered. The Department has concluded that a

State law(s) is an allowable procedure (no procedure is stated in the law) and in keeping with the importance of confidentiality provides a stronger, more effective safeguard to the rights of children, their parents, or guardians than other methods of protection. On the other hand, to require that all persons seeking access to the records gain the permission of an allegedly abusing or neglecting parent or guardian would drastically hamper the reporting process and the use of information in the record. Finally, all of the exceptions to the confidentiality law are suggested, not required; but they all have a substantial, rational basis and would be beneficial.

I. Requests were made for clarification of some terms in regard to State grants. Among these were: (i) Does the maintenance of effort section apply to (and only to) *State* support of child abuse and neglect program; and (ii) what is the meaning of the term "preferential treatment," to be accorded by States to parental organizations combatting child abuse and neglect?

These comments have been considered by the Department, with conclusions as follows: (i) It is the *State* support that must be maintained at the same level as in Federal Fiscal Year 1973, and an amendment to such an effect has been added to § 1340.3–3(d)(8); and (ii) preferential treatment will be judged on a case-by-case basis on the basis of State plans, procedures, and rulings.

Effective date. This part shall become effective December 19, 1974; *Provided, however,* That with respect to the requirements imposed upon the single State agency in regard to new or continued eligibility for Federal financial assistance for programs or projects related to child abuse and neglect assisted under Part A or B of Title IV of the Social Security Act, the effective date shall be July 1, 1975, or the close of the next legislative session, whichever is later.

Dated: December 13, 1974.

CASPAR W. WEINBERGER,
Secretary.

Subtitle B of 45 CFR Chapter XIII is amended by adding Part 1340 as follows:

Subpart A—General Provisions

Sec.
1340.1–1 Purpose of the program.
1340.1–2 Definitions.
1340.1–3 General administrative requirements.
1340.1–4 Application for a grant.
1340.1–5 Awards.
1340.1–6 Conflict of interest.
1340.1–7 Non-allowable costs.
1340.1–8 Grant appeals.
1340.1–9 Civil rights.
1340.1–10 Non-discrimination of handicapped.
1340.1–11 Project duration.
1340.1–12 Program and project plan amendments.
1340.1–13 Protection of human subjects.
1340.1–14 Publications and copyright policy.
1340.1–15 Reports.

Subpart B—Demonstrations, Technical Assistance, and Other Activities

Sec.
1340.2–1 Demonstrations.
1340.2–2 Technical assistance.
1340.2–3 Training materials and Training.
1340.2–4 Research.
1340.2–5 Confidential information.

Subpart C—Child Abuse and Neglect Grants to States Under the Act and Under Title IV of the Social Security Act

1340.3–1 Purpose and eligible applicants.
1340.3–2 Establishment of compliance.
1340.3–3 Qualification for assistance.
1340.3–4 Approval of compliance statements and plan amendments.
1340.3–5 Approval of applications, plan amendments, and funds.
1340.3–6 Funds available.
1340.3–7 Allocation of funds available.
1340.3–8 Reallocation of funds available.

AUTHORITY: Sec. 3, 88 Stat. 5 (Sec. 3, Pub. L. 93–247); Sec. 4(d), 88 Stat. 7 (Sec. 4(d), Pub. L. 93–247).

Subpart A—General

§ 1340.1–1 Purpose of the program.

(a) The basic purpose of this program is to assist States and localities, and nonprofit private organizations in carrying out their responsibilities for the protection of children and for the amelioration of their environment, particularly as an integral part of a family unit whose adult member(s) need help in coping with emotional or environmental stresses.

(b) The main thrust of this program effort is to assist State, local, and voluntary agencies and organizations to strengthen their capacities to develop programs that will:

(1) Prevent child abuse and neglect;

(2) Identify abused and neglected children; and

(3) Provide necessary ameliorative services to them and their families.

(c) In order to achieve this purpose, the National Center on Child Abuse and Neglect will:

(1) Develop, gather, analyze, and disseminate information on child abuse and neglect research, public and private programs, training materials, and the national incidence of child abuse and neglect;

(2) Provide technical assistance to public agencies and nonprofit private organizations to assist them in their activities relating to the prevention, identification, and treatment of child abuse and neglect;

(3) Conduct research in order to develop new techniques in identifying, preventing, and treating child abuse and neglect; and

(4) Make grants and enter into contracts for demonstrations and program models designed to develop and establish improved training programs, more effective service delivery vehicles, and for other innovative programs and projects showing promise of successfully preventing or treating child abuse and neglect.

(d) In seeking to directly assist and encourage States to improve their capacity to identify, prevent, and treat child abuse and neglect, the Secretary will:

(1) Provide Federal financial assistance under the Act to States meeting the requirements therefore; such assistance is designed to enable States to develop, strengthen, and carry out activities related to child abuse and neglect and

(2) Require the single State agencies to meet specified requirements in order to receive assistance for activities related to child abuse and neglect assisted under Part A or B of Title IV of the Social Security Act.

§ 1340.1–2 Definitions.

For purposes of this part—

(a) "Act" means the Child Abuse Prevention and Treatment Act, 88 Stat. 4 (Pub. L. 93–247), unless otherwise specified.

(b) "Child abuse and neglect" means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare.

(1) "Harm or threatened harm to a child's health or welfare" can occur through: Non-accidental physical or mental injury; sexual abuse, as defined by State law; or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter. *Provided,* However, that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone shall not be considered a negligent parent or guardian; *However,* such an exception shall not preclude a court from ordering that medical services be provided to the child, where his health requires it.

(2) "Child" means a person under the age of eighteen.

(3) "A person responsible for a child's health or welfare" includes the child's parent, guardian, or other person responsible for the child's health or welfare, whether in the same home as the child, a relative's home, a foster care home, or a residential institution.

(c) "Director" means the Director of the Office of Child Development.

(d) (1) "Facility" means a building or portion thereof used to house programs or services designed to treat or prevent child abuse and neglect such as attention homes; emergency shelters; nurseries or treatment rooms or wards; central reporting registers; hot line services; diagnostic treatment and training centers; hospital emergency rooms and neighborhood health centers; and other services or programs established to deal with the prevention and treatment of child abuse and neglect.

(2) "Repair or minor remodeling or alteration of an existing facility" means the physical modification of the facility, the cost of which must be reasonable in relation to the total proposed cost of the program or project and is consistent with the provisions of Chapter I–44 of the Grants Administration Manual of the Department of Health, Education, and Welfare.

(e) "Non-profit private organization" means a corporation or association, the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

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(f) "Project period" means the total period of time for which a project is approved for support with Federal funds.

(g) "Secretary" means the Secretary of the Department of Health, Education, and Welfare.

(h) "State" means one of the fifty States.

(i) "The single State agency" means the State agency administering or supervising the administration of the State plan under title IV–A and IV–B of the Social Security Act.

(j) As used in this part, words importing the masculine gender may be applied to female persons or organizations.

§ 1340.1–3 General administrative requirements.

(a) The provisions of Part 74 of this title shall apply to all grants made under this part to units of State and local government, as defined in Part 74 of this title, and the following subparts of Part 74 shall apply to grants to nonprofit private organizations:

Subpart:	*Subject*
A	General.
B	Cash depositories.
C	Bonding and insurance.
D	Retention and custodial requirements for records.
F	Grant-related income.
K	Grant payment requirements.
L	Budget revision procedures.
M	Grant closeout, suspension, and termination.
O	Property.
Q	Cost principles.

(b) Any contract under this part shall be entered into in accordance with and shall conform to all applicable laws, regulations, and other published Departmental policy.

§ 1340.1–4 Application for a grant.

(a) An application for a grant under this part shall be submitted by such time and in such form and manner as the Director may prescribe. The application shall contain a budget and narrative plan of the manner in which the applicant intends to conduct the project and carry out the applicable requirements of this part.

(b) The application must be signed by an individual authorized to act for the applicant and to assume for the applicant the obligations imposed by the statute, the applicable regulations of this part, and any additional conditions of the grant.

§ 1340.1–5 Awards.

All grant awards and contract awards for programs or projects under the Act shall be in writing and shall constitute the encumbrance of the Federal funds awarded. An award shall specify the project period.

§ 1340.1–6 Conflict of interest.

Employees or individuals participating in a program or project under the Act shall not use their positions for a purpose that is, or gives the appearance of being motivated by a desire for private gain for themselves, or others, particularly those with whom they have family, business or other ties.

§ 1340.1–7 Non-allowable costs.

(a) Federal financial assistance is not available under the Act for the construction of facilities.

(b) No Federal financial assistance may be furnished under the Act for the cost of activities for which payment is made under another part of this chapter or under other authority for the same purpose.

§ 1340.1–8 Grant appeals.

When a post-award dispute arises in the administration of grants under the Act following certain determinations adverse to a grantee, the grantee may apply for a review of such determination in accordance with the provisions of Subtitle A, Part 16, of this title.

§ 1340.1–9 Civil rights.

Attention is called to the requirements of title VI of the Civil Rights Act of 1964 (78 Stat. 252 (42 U.S.C. 2000d et seq.)) and in particular section 601 of such act, which provides that no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such title VI, which applies to grants and contracts made under this part, has been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80).

§ 1340.1–10 Non-discrimination of handicapped.

No otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any program, project, or activity assisted under the Act. No otherwise qualified individual shall be denied employment in any program, project, or activity assisted under this part solely because of a physical or mental disability (Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794)).

§ 1340.1–11 Project duration.

Programs and projects may be approved for a period not to exceed five years. Program and project budgets must be submitted and will be reviewed and approved annually.

§ 1340.1–12 Program and project plan amendments.

(a) The grantee shall submit an amendment describing any material change in the plan of his program or project proposed to be made during the project period. Proposed program or project plan amendments shall be submitted in writing for appropriate review prior to consideration by the Director.

(b) Proposed program and project plan amendments may be initiated by the Director if, on the basis of reports, it appears that Federal funds are being used for purposes beyond the scope of the approved project application.

§ 1340.1–13 Protection of human subjects.

The provisions of Part 46 of Subtitle A of this part, the Protection of Human Subjects, shall apply to all grants and contracts assisted under the Act supporting research, development, and related activities in which human subjects at risk, as defined in 45 CFR Subtitle A, § 46.3(b), are involved.

§ 1340.1–14 Publications and copyright policy.

(a) The results of any activity supported under this part may be published without prior review by the Department: *Provided*, That such publication's preface shall acknowledge the Federal assistance received and stating that interpretations of data do not necessarily represent interpretations of the Department and *Provided, further*, that 35 copies of such publication are furnished to the Department.

(b) Where a project activity leads to the publication of a book or other copyrighted material, the author is free to copyright the work, but the Department reserves royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyrightable or copyrighted material resulting from the grant-supported activity. Any such publication shall contain a notice of such license.

§ 1340.1–15 Reports.

Reports shall be made to the Director in such form and containing such information as the Director may find necessary to enable the Director to perform his functions under this part.

Subpart B—Demonstrations, Technical Assistance, and Other Activities

§ 1340.2–1 Demonstrations.

(a) *Eligible applicants or contractors.* The Director will make grants to or enter into contracts with public agencies or nonprofit private organizations (or combinations thereof) for demonstration programs and projects.

(b) *Nature of demonstration programs and projects.* (1) Such demonstrations may include, but are not limited to pilot or experimental efforts to provide additional and more effective ways of preventing, identifying or treating child abuse and neglect than are currently available; testing the feasibility of providing child abuse and neglect services in new settings or under new conditions; innovative programs and methods of providing preventive and treatment services in urban and in rural areas; methods of coordinating most effectively the variety of disciplines and agencies involved in child abuse and neglect; the establishment and maintenance of facilities, such as central registers, satellite centers, attention homes, emergency shelters, hospital emergency rooms, neighborhood health centers, and "hot lines"; provision of consultation by teams to small communities; programs

for the prevention and treatment of child abuse related to drug abuse; and, parent self-help projects and programs.

(2) All such demonstrations shall be evaluated, either as a part of the program or project or through a separate contractual effort. All demonstration programs should include provisions for continuing the program within the agency or organization or under other auspices upon the termination of funding under the Act. These provisions should be reasonable and firm commitments rather than hopeful expectations.

(c) *Manner of solicitations.* (1) Grant applications will be solicited through Program Announcements specifying the project goals and objectives for which applications are being solicited, the criteria by which they will be judged, the amount of funds available for such grants, and the deadline for receipt of applications.

(2) Contracts will be awarded in accordance with the procurement regulations of the Department of Health, Education, and Welfare (41 CFR Subtitle A, Part 3).

(d) *Per centum of appropriation.* Not less than 50 per centum of the funds appropriated under the Act for any fiscal year shall be used for carrying out the provisions of subsection 4(a) of the Act.

(e) *Special criterion for selection—equitable distribution.* (1) The formula prescribed in § 1340.3–7, which includes for each State a minimum amount and an additional amount based on the number of children under the age of eighteen, is designed to achieve equitable distribution of assistance among the States.

(2) In the selection of applications submitted under this subpart which are judged to be of approximately equal merit, the Director will take into account the extent to which the selection of one applicant as against the other may achieve equitable distribution of assistance among geographic areas of the Nation and among rural and urban areas.

§ 1340.2–2 Technical assistance.

Technical assistance authorized in subsection 2(b)(4) of the Act will be furnished by the National Center on Child Abuse and Neglect, directly or by contract, to public agencies and nonprofit private organizations to assist them in planning, improving, developing and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect.

§ 1340.2–3 Training materials and Training.

The National Center on Child Abuse and Neglect, directly or through contracts, will develop, compile and publish training materials and conduct training for personnel who are engaged or intend to engage in the prevention, identification, and treatment of child abuse and neglect.

§ 1340.2–4 Research.

The National Center on Child Abuse and Neglect will conduct research into the causes of child abuse and neglect and into the prevention, identification, and treatment thereof. Such research will include a complete and full study and investigation of the national incidence of child abuse and neglect, including a determination of the extent to which incidents of child abuse and neglect are increasing in number or severity.

§ 1340.2–5 Confidential information.

(a) All information including lists of names, addresses, photographs and records of evaluation, obtained as to personal facts about individuals served by any demonstration, research, training or technical assistance project or program assisted under the Act shall be held to be confidential and may not be disclosed except as provided in paragraph (b).

(b) The use of such information and records shall be limited to purposes directly connected with the administration of the program or project, including evaluations thereof conducted under contract from the Department of Health, Education, and Welfare, and such information may not be disclosed, directly or indirectly, other than for such a purpose thereof or pursuant to the requirements of § 1340.3–3(d)(5), unless the written consent of the agency providing the information and the individual to whom the information applies or his representative has been obtained. No report or other documentation of a program or project to be disclosed outside the program or project may contain information that might serve to identify any person without his written consent or that of his representative.

Subpart C—Child Abuse and Neglect Grants to States Under the Act and Under Title IV of the Social Security Act

§ 1340.3–1 Purpose and eligible applicants.

(a) States that qualify under § 1340.3–2, may receive grants to initiate or continue the support of programs or projects of the State or one of its political subdivisions which can be expected to assist the State in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs. The Act also requires that the single State agency comply with certain requirements in order to begin or continue the receipt of funds for programs or projects related to child abuse and neglect assisted under Part A or B of Title IV of the Social Security Act.

(b) This subpart describes the process States must follow to establish their compliance and to apply for funds provided under section 4(b)(1) of the Act (Pub. L. 93–247). The process the single State agency must follow to establish compliance under the Act (and under the Social Security Act) is described in 45 CFR Part 220.

§ 1340.3–2 Establishment of compliance.

(a)(1) In order to be eligible for Federal financial assistance for programs or projects related to child abuse and neglect assisted under section 4(b)(1) of this Act, a State shall provide, in such form and with such documentation as the Secretary may require, a statement that the State meets the requirements of the Act and of this part, signed by the Governor. All legal opinions shall be certified by the Attorney General of the State.

(2) In order to be eligible for Federal financial assistance for programs or projects related to child abuse and neglect assisted under Part A or B of Title IV of the Social Security Act, the single State agency shall provide, in such form and with such documentation as the Secretary may require, a statement that it meets the requirements of the Act (Pub. L. 93–247) and the Social Security Act, in accordance with regulations published in 45 CFR Part 220.

(3) For programs or projects funded under section 4(b)(1) of the Act, the requirements are set forth in § 1340.3–3 (d)(1)–(10). For programs or projects funded under Part A or B of Title IV of the Social Security Act, the requirements are set forth in 45 CFR 220.

(b) Whichever State office, agency, or organization is designated by the Governor, may apply for financial assistance under section 4(b)(1) for the payment of reasonable and necessary expenses in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs. Such State office, agency, or organization need not be limited in its mandate or activities to child abuse and neglect. Such State office, agency, or organization designated by the Governor may enter into purchase agreements with other offices, agencies, or organizations (including Indian Tribal governments) to conduct activities under the grant. The application for such funds shall include a description of the activities presently conducted by the State and its political subdivisions in relation to preventing and treating child abuse and neglect, the activities to be assisted under the grant, a statement of how the proposed activities are expected to develop, strengthen or carry out child abuse prevention and treatment programs, together with a budget in the form and detail and in accordance with the procedures prescribed by the Secretary, and such additional information in such form and with such documentation as the Secretary may require.

§ 1340.3–3 Qualification for assistance.

(a) The Act enumerates ten elements of a comprehensive system to prevent and treat child abuse and neglect which a State must have in order to qualify for assistance under section 4(b)(1). The enactment of identical laws and procedures in the States is not necessary. Rather, as its purpose, the Act seeks to insure that all States receiving assistance under this subsection (in meeting the ten requirements) must provide what may be grouped into four fundamental child protective capabilities: (1) Detection through third party reporting of children in danger, including mandatory and permissive reporting of suspected child abuse and neglect; (2) child protective services to provide non-criminal

investigations for the verification of reports, to provide immediate protection of children through such means as protective custody, and to provide rehabilitative and ameliorative services; (3) juvenile or family court action to remove a child or to impose treatment services; and (4) law enforcement investigations and criminal court prosecution, when appropriate.

(b) Similarly, it is not necessary for States to adopt language for the definition of "child abuse and neglect" identical to that used in the Act. A State definition which is the same in substance as the one set forth in this part will be sufficient. In addition, nothing in this part is intended to prevent a State from further elaborating on the definition or from providing additional grounds to consider a child abused or neglected. This part takes this approach in recognition of the need to allow and encourage flexibility and innovation in light of the diverse local conditions found from State to State and community to community.

(c) Finally, in order to facilitate compliance, this part makes a distinction between requirements that can be satisfied by a specific State law and those that can be satisfied by a legally authorized and legally binding administrative procedure, if certified by the State's Attorney General.

(d) In order for a State to qualify for assistance under section 4(b)(1) of the Act, the State shall satisfy each of the following ten requirements:

(1) The State must have in effect a child abuse and neglect law which includes provisions for immunity for all persons reporting, whether mandated by law or not, instances of known or reasonably suspected child abuse and neglect, from civil or criminal prosecution under any State or local law, arising out of such reporting. In the absence of a specific statutory provision in an existing child abuse and neglect reporting law, this requirement may be satisfied, but only until July 1, 1975, or the close of the next session of the State legislature, whichever is later, by a legal opinion of the State's Attorney General holding that such immunity exists under State law.

(2)(i) The State must provide for the reporting of known or suspected instances of child abuse and neglect. This requirement shall be deemed satisfied if a State requires specified persons by law, and has a law or administrative procedure which requires, allows, or encourages all other citizens, to report known or suspected instances of child abuse and neglect to one or more properly constituted authorities with the power and responsibility to perform an investigation and take necessary ameliorative and protective steps as required in paragraph (3). A properly constituted authority may include the police, the juvenile court or any agency thereof, or a legally mandated, public or private child protective agency; *Provided*, However, that a properly constituted authority must be an agency other than the agency, institution or facility involved in the acts or omissions, if the report of child abuse and neglect involves the acts or omissions of a public or private agency or other institution or facility.

(ii) In the absence of a specific statute, the requirements of this subsection may be satisfied by an opinion of the State Attorney General holding that the State administrative procedures in this regard are legally binding.

(3)(i) A State must provide that upon the receipt of a report of known or suspected instance of child abuse or neglect an appropriate investigation by a properly constituted authority shall be initiated promptly to substantiate the accuracy of the report. Such investigation may include contact with central registers, field investigations and interviews, home visits, consultation with other agencies, medical examinations, and psychological and social evaluations.

(ii) The State must provide further that, upon a finding of abuse or neglect, immediate steps, as required by law and/or administrative procedure, shall be taken to protect the health and welfare of the abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect. Such steps may include multidisciplinary teams, instruction in education for parenthood, protective and preventive social counselling, foster care, emergency caretaker service, emergency homemaker service, emergency shelter care, emergency medical service, and, if appropriate, criminal court or juvenile court action, in order to protect the child and help strengthen the family, help the parents in their child rearing responsibilities, and if necessary, remove the child from a dangerous situation.

(4) The State must demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such administrative procedures, such personnel trained in child abuse and neglect prevention and treatment, such training procedures, such institutional and other facilities (public and private), and such related multidisciplinary programs and services as may be necessary or appropriate to assure that the State has operational procedures and capabilities sufficient to deal effectively with child abuse and neglect cases in the State. Such operational procedures and capabilities shall include: provision for receipt, investigation and verification of reports; provision for the determination of treatment or ameliorative social service and medical needs; provision of such services; and, when necessary, resort to criminal or juvenile court.

(5) The State must provide for methods to preserve the confidentiality of all records concerning reports of child abuse and neglect in order to protect the rights of the child, his parents or guardians. This section shall be satisfied only if a State has a law which makes such records confidential and which makes any person who permits or encourages the unauthorized dissemination of their contents guilty of a crime. Such law may allow access to such records but only to the following agencies and persons: (i) A legally mandated, public or private child protective agency investigating a report of known or suspected child abuse or neglect or treating a child or family which is the subject of a report or record; (ii) a police or other law enforcement agency investigating a report of known or suspected child abuse or neglect; (iii) a physician who has before him a child whom he reasonably suspects may be abused or neglected; (iv) a person legally authorized to place a child in protective custody when such person has before him a child whom he reasonably suspects may be abused or neglected and such person requires the information in the report or record in order to determine whether to place the child in protective custody; (v) an agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record, or a parent, guardian, or other person who is responsible for the child's welfare; (vi) any person named in the report or record who is alleged to be abused or neglected; if the person named in the report or record is a minor or is otherwise incompetent, his guardian ad litem; (vii) a parent, guardian, or other person responsible for the welfare of a child named in a report or record, with protection for the identity of reporters and other appropriate persons; (viii) a court, upon its finding that access to such records may be necessary for determination of an issue before such court, but such access shall be limited to in camera inspection, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it; (ix) a grand jury upon its determination that access to such records is necessary in the conduct of its official business; (x) any appropriate State or local official responsible for the child protective service or legislation carrying out his official functions; (xi) any person engaged in a bona fide research purpose, provided, however, that no information identifying the subjects of the report shall be made available to the researcher unless it is absolutely essential to the research purpose and the appropriate State official gives prior approval. Nothing in these regulations is intended to affect a State's laws or procedures concerning the confidentiality of its criminal court and its criminal justice system.

(6) The State must provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and all appropriate State agencies providing human services in relation to preventing, identifying and treating child abuse and neglect. Such cooperation may include joint consultation and services, joint planning, joint case management, joint public education and information service, utilization of each other's facilities, and joint staff and other training.

(7) The State must provide that in every case involving an abused or ne-

glected child which results in a judicial proceeding, a guardian ad litem shall be appointed to represent the child in such proceedings. The requirement of this clause may be satisfied by a State law or by a legal opinion of the State's Attorney General holding that such appointments can be made, and by a statement from the Governor that such appointments are made, in all cases. Such guardian ad litem need not be an attorney; however, such representative may be an attorney charged with the presentation in a judicial proceeding of the evidence alleged to amount to the abuse and neglect, so long as his legal responsibility includes representing the rights, interests, welfare, and well-being of the child; where such appointments are made, the legal opinion of the State Attorney General must specify that such attorney has said legal responsibility.

(8) The State must provide that the aggregate of State support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during Federal fiscal year 1973, and set forth policies and procedures designed to assure that Federal funds made available under this Act for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects.

(9) The State must provide for dissemination of information to the general public with respect to the problem of child abuse and neglect and the facilities and the prevention and treatment methods available to combat instances of child abuse and neglect; and

(10) To the extent feasible, the State must insure that parental organizations combating child abuse and neglect, as recognized by the State, receive preferential treatment.

§ 1340.3–4 Approval of compliance statements and plan amendments.

(a) The Secretary shall approve a compliance statement submitted under this subpart if he finds that it meets the requirements of this subpart and of the Act.

(b) If a State does not appear to meet the requirements of this subpart, the State will be provided reasonable opportunity to qualify before final action on the application or continued extension of funds is taken by the Secretary.

(c) The requirement that a single State agency must comply with section 4(b)(3) of the Act and 45 CFR Part 220 in order to continue receiving funds for programs or projects related to child abuse and neglect assisted under Part A or B of Title IV of the Social Security Act shall take effect on July 1, 1975, or the close of the State's next legislative session, whichever is later.

§ 1340.3–5 Approval of applications, plan amendments, and funds.

(a) The Secretary shall approve an application for funds under section 4(b)(1) of the Act if he finds: (1) That the State applying for such funds qualifies for such funds under section 4(b)(2) of the Act, (2) that the funds are intended to be used to develop, strengthen, or carry out child abuse or neglect prevention or treatment programs, (3) that the State is otherwise in compliance with these regulations, and (4) that the funds requested are within the State's allocation as determined pursuant to § 1340.3–7.

(b) The Secretary shall approve the initial or continued use of funds for the single State agency's programs or projects related to child abuse and neglect assisted under Part A or B of Title IV of the Social Security Act if he finds that the single State agency qualifies for such funds under the Act (Pub. L. 93–247) and under the Social Security Act, in accordance with the regulations published in 45 CFR Part 220.

§ 1340.3–6 Funds available.

Not less than 5 per centum and not more than 20 per centum of the sums appropriated under the Act shall be used by the Secretary for making grants to the States under subsection 4(b)(1) of the Act.

§ 1340.3–7 Allocation of funds available.

(a) Funds available for grants to States for a fiscal year under section 4(b)(1) of the Act shall be allocated among the States on the basis of the following criteria:

(1) An amount of $20,000, or such other amount as the Secretary may determine, for a fiscal year, plus,

(2) An additional amount bearing the same ratio to the total amount made available for this purpose (after providing for the minimum amounts in paragraph (1) as the number of children under the age of eighteen in each State bears to the total number of children under eighteen in all the States. The number of children under the age of eighteen to be used in this allocation shall be the number as determined by official estimates furnished to the Secretary by the Department of Commerce by October 1 of the fiscal year for which Federal grant funds are appropriated.

(b) The Director will announce the allocations available to the States under section 4(b)(1) of the Act and this subpart.

§ 1340.3–8 Reallocation of funds available.

If a State has not qualified for assistance under section 4(b)(1) of the Act prior to the date designated by the Secretary in each fiscal year, the amount previously allocated to that State under § 1340.3–7 shall be used by the National Center on Child Abuse and Neglect for such purposes under the Act as the Secretary shall determine.

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PART III

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Low Rent Public Housing

■

HOUSING ASSISTANCE PAYMENTS PROGRAM

Fair Market Rents and Contract Rents; Automatic Annual Adjustment Factors

V 39 I 245 DEC 19 1974 XUM

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Low Rent Public Housing

[24 CFR Part 1280]

[Docket No. R-74-811]

HOUSING ASSISTANCE PAYMENTS PROGRAM

Fair Market Rents and Contract Rents Automatic Annual Adjustment Factors

The Department of Housing and Urban Development (HUD) hereby amends Title 24 CFR, Chapter VIII by adding a new Part 1280 which sets forth (1) the HUD-determined "Fair Market Rents" for the section 8 Housing Assistance Payments Program, and (2) the Automatic Annual Adjustment Factors (Adjustment Factors) to be used for the automatic annual adjustment of rents specified in Housing Assistance Payments Contracts for the section 8 New Construction and Substantial Rehabilitation Programs.

Part 1280 includes (1) a Subpart A which sets forth the purpose and applicability, categories, geographic areas and manner of publication for the Fair Market Rents; (2) a Schedule A of Fair Market Rents for the Section 8 New Construction Program, 24 CFR Part 1273, Substantial Rehabilitation Program, 24 CFR Part 1277, and the State Housing Finance and Development Agencies Program, 24 CFR Part 1278; (3) a Schedule B of Fair Market Rents for the section 8 Existing Housing Program 24 CFR Part 1275, and the State Housing Finance and Development Agencies Program, 24 CFR Part 1278 (to be published at a later date); (4) a Subpart B which sets forth the purpose and applicability and manner of publication of the Adjustment Factors; and (5) a Schedule C of Adjustment Factors (to be published at a later date).

The definitions of and policies pertaining to Fair Market Rents will be set forth in the final regulations for the Section 8 Housing Assistance Payments Programs (New Construction, Substantial Rehabilitation, Existing Housing, and State Housing Finance and Development Agencies), to be effective January 1, 1975. The definition of and policies pertaining to Adjustment Factors will also be set forth in these final regulations.

Interested parties are invited to submit written comments, suggestions and objections regarding the proposed amendment by January 6, 1975, addressed to the Office of Assistant Secretary for Housing Production and Mortgage Credit/FHA Commissioner, Room 6156, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. All relevant material will be considered before adoption of the final regulations. A copy of each communication will be available for public inspection during regular business hours at the above address.

Since the regulations to which these Fair Market Rents pertain will be effective January 1, 1975, the Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner has determined it to be reasonable and in the public interest to allow for a 15-day comment period.

It is, therefore, proposed that 24 CFR, Part 1280 be added to read as follows:

Subpart A—Fair Market Rents

Sec.

1280.101 Fair Market Rents for New Construction and Substantial Rehabilitation.
1280.102 Fair Market Rents for Existing Housing [Reserved].
1280.103 Manner of Publication.

SCHEDULE A—FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION (INCLUDING STATE AGENCIES PROGRAM)

SCHEDULE B—FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING STATE AGENCIES PROGRAM) [RESERVED]

Subpart B—Contract Rent Automatic Annual Adjustment Factors

1280.201 Purpose of Applicability.
1280.202 Manner of Publication.

SCHEDULE C—CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION (INCLUDING STATE AGENCIES PROGRAM) [RESERVED]

AUTHORITY: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); section 5(b) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f).

Subpart A—Fair Market Rents

§ 1280.101 Fair Market Rents for New Construction and Substantial Rehabilitation.

(a) *Purpose and Applicability.* Schedule A of this Part sets forth Fair Market Rents, as determined by HUD, for the Section 8 Housing Assistance Payments Program—New Construction, 24 CFR Part 1273, Substantial Rehabilitation, 24 CFR, Part 1277, and State Housing Finance and Development Agencies ("State Agencies"), 24 CFR, Part 1278. (See 24 CFR 1272.102(g), 1276.102(G), and 24 CFR 1278.202(g), respectively, for the definition of "Fair Market Rent".)

(b) *Categories.* (1) These Fair Market Rents are established by unit size (number of bedrooms) and basic structure type (e.g., detached, semi-detached/row houses, walk-up apartments, elevator apartments; mobile homes; housing designed for the elderly or handicapped is a separate type for this purpose).

(2) Fair Market Rents for mobile homes will be established on an area by area basis upon application to any HUD field office demonstrating that there is a need therefor in the geographic area under the jurisdiction of that HUD field office.

(c) *Geographic areas.* The respective geographic market areas to which these Fair Market Rents apply are as specified in Schedule A.

§ 1280.102 Fair Market Rents for Existing Housing [Reserved].

§ 1280.103 Manner of Publication.

Schedule A and Schedule B Fair Market Rents will be published in the FEDERAL REGISTER at least annually. Interim revisions may be published as market conditions dictate.

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Section 8 Housing Assistance Payments Program

Schedule A - Fair Market Rents for New Construction and Substantial Rehabilitation (Including State Agencies Programs)

Effective Date _____. These Fair Market Rents include projection for construction time through Dec. 31, 1976.

NOTE: The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size unit, not to exceed 2-Bedroom, multiplied by 1.05 and rounded to the next higher whole dollar, (2) congregate housing dwelling units are the same as for non-congregate units, and (3) single-room occupancy dwelling units are those for 0 - Bedroom units of the same type.

AREA OFFICE HARTFORD, CONNECTICUT REGION 1 BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
HARTFORD	DETACHED	-	-	379	488	456
	SEMI-DETACHED/ROW	-	319	378	415	467
	WALKUP	270	318	366	411	443
	ELEVATOR	283	338	379	-	-
DANBURY	DETACHED	-	-	388	430	488
	SEMI-DETACHED/ROW	-	333	376	421	488
	WALKUP	278	321	371	417	458
	ELEVATOR	289	331	385	-	-
NEW MILFORD	DETACHED	-	-	366	408	447
	SEMI-DETACHED/ROW	-	299	357	396	438
	WALKUP	257	296	383	392	424
	ELEVATOR	270	308	366	-	-
NEW HAVEN	DETACHED	-	-	371	426	496
	SEMI-DETACHED/ROW	-	319	370	415	457
	WALKUP	272	315	366	411	453
	ELEVATOR	283	320	370	-	-
BRIDGEPORT	DETACHED	-	-	381	430	462
	SEMI-DETACHED/ROW	-	325	376	421	453
	WALKUP	276	331	371	417	458
	ELEVATOR	289	334	381	-	-

AREA OFFICE HARTFORD, CONNECTICUT REGION 1 BOSTON (cont'd)

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WEST HARTFORD	DETACHED	-	-	372	417	458
	SEMI-DETACHED/ROW	-	312	364	408	441
	WALKUP	264	308	360	403	427
	ELEVATOR	276	321	373	-	-
STAMFORD	DETACHED	-	-	353	398	430
	SEMI-DETACHED/ROW	-	293	344	389	422
	WALKUP	244	288	340	385	417
	ELEVATOR	257	302	353	-	-
STAMFORD	DETACHED	-	-	392	437	469
	SEMI-DETACHED/ROW	-	332	382	428	460
	WALKUP	303	328	379	424	456
	ELEVATOR	296	340	392	-	-
MIDDLEFIELD	DETACHED	-	-	392	437	469
	SEMI-DETACHED/ROW	-	332	382	428	460
	WALKUP	283	328	379	424	456
	ELEVATOR	296	340	392	-	-
NORWICH	DETACHED	-	-	373	417	450
	SEMI-DETACHED/ROW	-	312	364	408	441
	WALKUP	264	308	360	405	437
	ELEVATOR	276	321	373	-	-

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Section 8 Housing Assistance Payments Program

Schedule A - Fair Market Rents for New Construction and Substantial Rehabilitation (Including State Agencies Programs)

Effective Date _____. These Fair Market Rents include projection for construction time through Dec. 31, 1976.

NOTE: The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size unit, not to exceed 2-Bedroom, multiplied by 1.05 and rounded to the next higher whole dollar, (2) congregate housing dwelling units are the same as for non-congregate units, and (3) single-room occupancy dwelling units are those for 0 - Bedroom units of the same type.

AREA OFFICE BOSTON, MASS. REGION 1 BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BOSTON	DETACHED	-	-	-	-	-
	SEMI-DETACHED/ROW	-	330	406	515	566
	WALKUP	307	378	385	465	486
	ELEVATOR	312	338	448	-	-
CAPE COD	DETACHED	-	-	388	422	464
	SEMI-DETACHED/ROW	-	-	334	446	490
	WALKUP	252	288	338	363	399
	ELEVATOR	283	327	377	-	-
FITCHBURG	DETACHED	-	-	-	-	-
	SEMI-DETACHED/ROW	-	288	377	406	435
	WALKUP	240	276	327	377	432
	ELEVATOR	-	-	-	-	-
SPRINGFIELD	DETACHED	-	-	-	-	-
	SEMI-DETACHED/ROW	-	273	348	399	438
	WALKUP	198	269	319	377	446
	ELEVATOR	-	-	-	-	-

AREA OFFICE BOSTON, MASSACHUSETTS REGION 1 BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WORCESTER	DETACHED	-	-	-	-	-
	SEMI-DETACHED/ROW	-	287	357	472	522
	WALKUP	269	290	336	468	519
	ELEVATOR	-	-	-	-	-
FALL RIVER	DETACHED	-	-	-	-	-
	SEMI-DETACHED/ROW	-	295	385	484	438
	WALKUP	262	276	330	395	438
	ELEVATOR	-	305	385	-	-
LOWELL	DETACHED	-	-	388	388	617
	SEMI-DETACHED/ROW	-	337	434	478	513
	WALKUP	276	312	377	464	501
	ELEVATOR	283	348	431	-	-
SALEM	DETACHED	-	-	-	-	-
	SEMI-DETACHED/ROW	-	312	370	443	538
	WALKUP	247	305	336	443	513
	ELEVATOR	-	-	-	-	-

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Section 8 Housing Assistance Payments Program

Schedule A - Fair Market Rents for New Construction and Substantial Rehabilitation (Including States Agencies Programs)

Effective Date _____. These Fair Market Rents include projection for construction time through Dec. 31, 1976.

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AREA OFFICE _____ REGION _____

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
PROVIDENCE, R.I.	DETACHED	-	-	-	-	-
	SEMI-DETACHED/ROW	-	373	319	371	397
	WALKUP	193	260	313	364	390
	ELEVATOR	195	288	364	435	-
NEWPORT, R.I.	DETACHED	-	-	302	351	361
	SEMI-DETACHED/ROW	-	289	278	322	346
	WALKUP	164	227	259	298	315
	ELEVATOR	194	246	286	-	-
WESTERLY, R.I.	DETACHED	-	-	400	456	468
	SEMI-DETACHED/ROW	-	259	304	357	469
	WALKUP	265	260	327	370	386
	ELEVATOR	231	290	334	-	-
PAWTUCKET, R.I.	DETACHED	-	-	-	-	-
	SEMI-DETACHED/ROW	-	241	286	338	364
	WALKUP	269	338	380	338	398
	ELEVATOR	195	260	338	423	-
WOONSOCKET, R.I.	DETACHED	-	-	313	346	380
	SEMI-DETACHED/ROW	-	227	264	313	339
	WALKUP	168	214	264	289	313
	ELEVATOR	-	-	-	-	-

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Section 8 Housing Assistance Payments Program

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AREA OFFICE MANCHESTER, NEW HAMPSHIRE REGION 1 BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
AUGUSTA, ME.	DETACHED	-	311	362	430	492
	SEMI-DETACHED/ROW	230	293	333	401	460
	WALKUP	213	266	306	360	410
	ELEVATOR	298	331	446	-	-
BANGOR, ME.	DETACHED	-	311	362	430	492
	SEMI-DETACHED/ROW	230	293	333	401	460
	WALKUP	213	266	306	360	410
	ELEVATOR	298	331	446	-	-
BIDDEFORD, ME.	DETACHED	-	311	362	430	492
	SEMI-DETACHED/ROW	230	293	333	401	460
	WALKUP	213	266	306	360	410
	ELEVATOR	298	331	446	-	-
CALAIS, ME.	DETACHED	-	287	323	383	443
	SEMI-DETACHED/ROW	229	273	313	370	431
	WALKUP	200	246	286	337	390
	ELEVATOR	277	322	414	-	-

AREA OFFICE _____ REGION 1 BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LEWISTON, ME.	DETACHED	-	311	362	430	492
	SEMI-DETACHED/ROW	230	293	333	401	460
	WALKUP	213	266	306	360	410
	ELEVATOR	298	331	446	-	-
PORTLAND, ME.	DETACHED	-	311	362	430	492
	SEMI-DETACHED/ROW	230	293	333	401	460
	WALKUP	213	266	306	360	410
	ELEVATOR	298	331	446	-	-
WATERVILLE, ME.	DETACHED	-	311	362	430	492
	SEMI-DETACHED/ROW	230	293	333	401	460
	WALKUP	213	266	306	360	410
	ELEVATOR	298	331	446	-	-

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Section 8 Housing Assistance Payments Program

Schedule A - Fair Market Rents for New Construction and Substantial Rehabilitation (Including State Agencies Program)

Effective Date _____. These Fair Market Rents include projection for construction time through Dec. 31, 1976.

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AREA OFFICE MANCHESTER, NEW HAMPSHIRE REGION I [illegible]

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
CONCORD, N.H.	[illegible]	-	[illegible]	313	369	444	
	SEMI-DETACHED/[illegible]	225	[illegible]	[illegible]	[illegible]	[illegible]	
	WALKUP	[illegible]	[illegible]	275	330	385	
	ELEVATOR						
DOVER, N.H.	DETACHED	-	289	313	369	444	
	SEMI-DETACHED/[illegible]	225	282	[illegible]	343	411	
	WALKUP	[illegible]	[illegible]	275	330	385	
	ELEVATOR	260	[illegible]	341	-	-	
KEENE, N.H.	DETACHED	-	[illegible]	313	369	[illegible]	
	SEMI-DETACHED/[illegible]	225	282	[illegible]	[illegible]	[illegible]	
	WALKUP	[illegible]	[illegible]	275	330	385	
	ELEVATOR	[illegible]	[illegible]	385	-	-	
MANCHESTER, N.H.	DETACHED	-	289	313	369	444	
	SEMI-DETACHED/[illegible]	225	282	[illegible]	341	411	
	WALKUP	[illegible]	256	275	330	385	
	ELEVATOR	[illegible]	[illegible]	[illegible]	-	-	
NASHUA, N.H.	DETACHED	-	289	313	369	444	
	SEMI-[illegible]	[illegible]	[illegible]	300	[illegible]	[illegible]	
	WALKUP	[illegible]	256	[illegible]	330	[illegible]	
	ELEVATOR	[illegible]	[illegible]	[illegible]	-	-	
[illegible], N.H.	DETACHED	-	[illegible]	313	369	[illegible]	
	SEMI-[illegible]	225	[illegible]	[illegible]	343	[illegible]	
	[illegible]	[illegible]	256	[illegible]	330	385	
	ELEVATOR	260	304	385	-	-	

AREA OFFICE MANCHESTER, NEW HAMPSHIRE REGION I BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
BENNINGTON, VT	DETACHED	-	287	329	363	439	
	SEMI-DETACHED/ROW	243	278	316	359	428	
	WALKUP	239	250	286	339	389	
	ELEVATOR	291	[illegible]	383	-	-	
[illegible], VT.	DETACHED	-	287	[illegible]	[illegible]	[illegible]	
	SEMI-DETACHED/ROW	243	278	316	359	428	
	[illegible]	[illegible]	[illegible]	286	339	389	
	ELEVATOR	[illegible]	[illegible]	[illegible]	-	-	
[illegible], VT.	[illegible]	-	287	329	363	439	
	SEMI-[illegible]/ROW	243	278	316	359	428	
	WALKUP	239	250	286	[illegible]	389	
	ELEVATOR	[illegible]	[illegible]	[illegible]	-	-	
MONTPELIER, VT.	[illegible]	-	287	329	363	439	
	SEMI-DETACHED/ROW	[illegible]	[illegible]	316	[illegible]	428	
	WALKUP	239	250	[illegible]	[illegible]	389	
	ELEVATOR	291	[illegible]	[illegible]	-	-	
RUTLAND, VT.	DETACHED	-	287	[illegible]	363	439	
	SEMI-DETACHED/ROW	243	278	316	[illegible]	428	
	WALKUP	[illegible]	250	286	[illegible]	389	
	ELEVATOR	291	[illegible]	383	-	-	

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AREA OFFICE CAMDEN, NEW JERSEY REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
CAMDEN	[illegible]	-	-	[illegible]	432	[illegible]	
	SEMI-[illegible]/[illegible]	-	306	348	[illegible]	414	
	WALKUP	218	230	[illegible]	330	390	
	[illegible]	[illegible]	[illegible]	341	-	-	
ATLANTIC CITY	[illegible]	-	-	368	421	[illegible]	
	[illegible]/[illegible]	-	[illegible]	[illegible]	390	[illegible]	
	[illegible]	[illegible]	241	[illegible]	330	390	
	ELEVATOR	[illegible]	327	[illegible]	-	-	
[illegible]	DETACHED	-	-	382	[illegible]	460	
	SEMI-[illegible]/[illegible]	-	306	[illegible]	387	[illegible]	
	WALKUP	216	[illegible]	309	[illegible]	400	
	ELEVATOR	252	[illegible]	347	-	-	
[illegible]	DETACHED	-	-	382	[illegible]	460	
	SEMI-[illegible]/[illegible]	-	[illegible]	340	386	[illegible]	
	[illegible]	218	[illegible]	[illegible]	330	390	
	ELEVATOR	[illegible]	[illegible]	[illegible]	-	-	
[illegible]	[illegible]	-	-	[illegible]	[illegible]	[illegible]	
	[illegible] [illegible]/[illegible]	-	317	361	[illegible]	[illegible]	
	[illegible]	239	290	330	380	[illegible]	
	ELEVATOR	286	336	[illegible]	-	-	
VINELAND	DETACHED	-	-	350	401	[illegible]	
	[illegible] [illegible]/[illegible]	-	[illegible]	[illegible]	370	[illegible]	
	WALKUP	206	236	272	326	376	
	ELEVATOR	232	261	[illegible]	-	-	

AREA OFFICE NEWARK, NEW JERSEY REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
NEWARK	DETACHED	-	-	441	498	563	
	SEMI-DETACHED/ROW	—	312	[illegible]	437	[illegible]	
	WALKUP	273	292	370	418	457	
	ELEVATOR	335	[illegible]	451	-	-	
[illegible]	[illegible]	-	-	420	[illegible]	390	
	[illegible]/[illegible]	-	310	385	436	494	
	WALKUP	256	290	361	[illegible]	445	
	ELEVATOR	[illegible]	[illegible]	[illegible]	-	-	
NORTH BERGEN	DETACHED	-	-	483	[illegible]	[illegible]	
	SEMI-DETACHED/ROW	-	340	[illegible]	501	[illegible]	
	[illegible]	281	[illegible]	[illegible]	467	[illegible]	
	ELEVATOR	[illegible]	[illegible]	495	-	-	
FREEHOLD	[illegible]	-	-	[illegible]	[illegible]	[illegible]	
	SEMI-DETACHED/ROW	-	306	[illegible]	[illegible]	[illegible]	
	[illegible]	[illegible]	286	[illegible]	423	[illegible]	
	[illegible]	[illegible]	[illegible]	[illegible]	-	-	

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AREA OFFICE _____ REGION _____

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
		-	-	431	536	687
		383	387	380	476	559
		371	381	359	448	532
		333	385	441	547	-
		-	-	353	395	448
		-	391	470	563	635
		338	373	448	550	589
		297	430	510	633	-
		-	-	420	491	573
		-	333	377	455	513
		341	389	458	438	548
		319	366	446	521	-
		-	-	475	563	650
		-	340	425	500	579
		376	431	496	671	802
		338	418	521	-	-
		-	-	350	434	496
		-	257	319	386	447
		333	384	298	361	414
		288	311	388	A.	-
		-	-	329	413	474
		-	256	318	389	443
		317	388	276	345	391
		226	230	300	-	-

AREA OFFICE NEW YORK CITY, NEW YORK REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4
		-	-	325	338	396
		-	178	340	396	351
		133	167	289	327	389
		196	299	367	-	-
		-	-	327	338	396
		-	189	346	398	384
		133	168	338	379	331
		196	219	389	-	-
		-	-	363	386	439
		-	229	329	388	465
		214	234	363	331	389
		288	385	431	438	-
		-	-	367	407	478
		-	257	318	384	448
		199	241	388	348	384
		239	313	377	-	-
		-	-	333	367	431
		-	235	302	388	384
		196	231	343	387	389
		111	31	311	-	-
		-	-	328	404	467
		-	333	388	388	467
		288	318	388	346	388
		111	38	348	-	-

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AREA OFFICE NEW YORK CITY, NEW YORK REGION II

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4
		-	-	340	383	423
		-	331	380	339	433
		333	333	386	338	381
		373	384	387	-	-
		-	-	371	440	511
		-	337	385	338	431
		338	333	387	384	393
		253	351	346	-	-
		-	-	337	388	488
		-	386	381	388	436
		339	338	383	363	448
		333	397	363	-	-
		-	-	337	418	386
		-	339	468	381	386
		388	371	388	315	385
		386	338	388	795	-
		-	-	478	383	338
		-	330	438	386	388
		338	316	396	471	346
		368	388	481	388	-
		-	-	428	481	338
		-	318	377	338	338
		243	388	388	418	388
		219	388	448	-	-

AREA OFFICE BUFFALO, NEW YORK REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4
		-	-	362	428	467
		-	307	387	440	483
		348	382	389	387	489
		338	373	427	-	-
		-	-	385	446	488
		307	330	384	423	473
		338	389	388	388	437
		347	384	423	-	-
		-	-	367	428	484
		-	327	381	433	473
		337	373	388	388	466
		348	388	438	-	-
		-	-	388	437	388
		338	347	388	428	478
		348	388	348	433	446
		388	383	428	-	-

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 OR MORE
SAN JUAN	[illegible]	-	-	347	394	477
	[illegible]	-	273	386	453	499
	WALKUP	303	243	[illegible]	[illegible]	364
	ELEVATOR	[illegible]	266	325	[illegible]	465
[illegible]	DETACHED	-	-	271	346	431
	[illegible]	-	232	[illegible]	330	396
	[illegible]	160	[illegible]	230	[illegible]	[illegible]
	ELEVATOR	[illegible]	[illegible]	[illegible]	414	465
MAYAGUEZ	DETACHED	-	-	[illegible]	331	[illegible]
	[illegible]	-	223	250	306	372
	WALKUP	152	180	218	265	316
	ELEVATOR	225	246	334	382	[illegible]
[illegible]	[illegible]	-	-	271	[illegible]	[illegible]
	[illegible]	-	223	250	[illegible]	372
	WALKUP	[illegible]	189	218	265	316
	ELEVATOR	-	-	-	-	-

AREA OFFICE SAN JUAN, PUERTO RICO REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 OR MORE
ST. THOMAS, V.I.	DETACHED	-	-	520	668	[illegible]
	[illegible]	-	[illegible]	506	[illegible]	[illegible]
	WALKUP	[illegible]	[illegible]	[illegible]	436	496
	ELEVATOR	-	-	-	-	-
ST. CROIX, V. I.	[illegible]	-	-	[illegible]	[illegible]	514
	[illegible]	-	[illegible]	436	[illegible]	[illegible]
	WALKUP	[illegible]	269	[illegible]	[illegible]	397
	ELEVATOR	-	-	-	-	-
CHARLOTTE AMALIE, V.I.	DETACHED	-	-	[illegible]	668	726
	[illegible]	-	[illegible]	506	575	983
	WALKUP	[illegible]	300	397	436	496
	ELEVATOR	-	-	-	-	-

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INSURING OFFICE WILMINGTON, DELAWARE REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 OR MORE
WILMINGTON	DETACHED	-	-	366	413	461
	[illegible]	-	-	353	399	445
	WALKUP	[illegible]	[illegible]	280	334	-
	ELEVATOR	[illegible]	276	408	550	-
[illegible]	DETACHED	-	-	351	399	446
	[illegible]	-	-	330	384	430
	WALKUP	[illegible]	[illegible]	273	326	-
	ELEVATOR	[illegible]	264	408	550	-

AREA OFFICE WASHINGTON, D. C. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 OR MORE
WASHINGTON, D.C.	DETACHED	-	-	-	484	576
	[illegible]	-	-	380	447	518
	WALKUP	184	283	348	430	437
	ELEVATOR	244	308	374	-	-

	VALLEY	240	280	320	430	480
	ELEVATOR	220	260	300	-	-

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[illegible] OFFICE [illegible] REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	or more
[illegible]	[illegible]	-	-	360	436	575	
	SEMI-DETACHED/ROW	-	268	299	364	488	
	VALLEY	253	290	355	358	432	
	ELEVATOR	230	262	303	-	-	
[illegible]	DETACHED	-	-	350	384	540	
	SEMI-DETACHED/ROW	-	235	294	346	484	
	VALLEY	280	227	276	326	448	
	ELEVATOR	[illegible]	[illegible]	[illegible]	-	-	
[illegible]	DETACHED	-	-	360	335	446	
	SEMI-DETACHED/ROW	-	260	288	380	436	
	VALLEY	207	227	266	306	390	
	ELEVATOR	220	267	285	-	-	
[illegible]	DETACHED	-	-	380	360	478	
	SEMI-DETACHED/ROW	-	267	306	360	426	
	VALLEY	213	260	288	326	413	
	ELEVATOR	227	253	288	-	-	

ARA OFFICE [illegible] REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	or more
[illegible]	DETACHED	-	-	377	430	553	
	SEMI-DETACHED/ROW	-	264	306	373	506	
	VALLEY	230	264	290	353	483	
	ELEVATOR	225	260	301	-	-	
[illegible]	DETACHED	-	-	300	360	470	
	SEMI-DETACHED/ROW	-	247	306	344	438	
	VALLEY	213	240	280	306	413	
	ELEVATOR	227	253	288	-	-	
CUMBERLAND	DETACHED	-	-	300	331	442	
	SEMI-DETACHED/ROW	-	240	280	330	446	
	VALLEY	207	227	267	306	390	
	ELEVATOR	220	247	286	-	-	
FREDERICK	DETACHED	-	-	300	300	470	
	SEMI-DETACHED/ROW	-	253	293	353	433	
	VALLEY	213	247	280	340	390	
	ELEVATOR	227	253	314	-	-	

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[illegible] OFFICE [illegible] REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	or more
PHILADELPHIA	DETACHED	-	-	323	433	473	
	SEMI-DETACHED/ROW	-	-	350	419	450	
	VALLEY	280	336	365	440	430	
	ELEVATOR	232	250	333	419	-	
ALLENTOWN	DETACHED	-	-	337	406	446	
	SEMI-DETACHED/ROW	-	-	304	380	430	
	VALLEY	179	236	276	331	400	
	ELEVATOR	-	265	324	402	-	
BELLEFONTE	DETACHED	-	-	306	439	480	
	SEMI-DETACHED/ROW	-	-	370	423	463	
	VALLEY	146	215	311	390	430	
	ELEVATOR	190	236	310	397	-	
HARRISBURG	DETACHED	-	-	305	363	383	
	SEMI-DETACHED/ROW	-	-	301	330	374	
	VALLEY	196	210	251	302	364	
	ELEVATOR	186	231	277	-	-	
LANCASTER	DETACHED	-	-	323	394	443	
	SEMI-DETACHED/ROW	-	-	350	370	419	
	VALLEY	181	200	277	344	380	
	ELEVATOR	211	243	297	-	-	
YORK	DETACHED	-	-	290	394	415	
	SEMI-DETACHED/ROW	-	-	263	337	394	
	VALLEY	196	219	299	360	384	
	[illegible]	-	206	274	321	-	

ARA OFFICE PHILADELPHIA REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	or more
POTTSTOWN	[illegible]	-	-	310	366	394	
	SEMI-DETACHED/ROW	-	-	307	351	390	
	VALLEY	150	214	290	356	377	
	ELEVATOR	220	270	331	402	-	
READING	DETACHED	-	-	312	360	396	
	SEMI-DETACHED/ROW	-	-	299	350	390	
	VALLEY	150	217	335	380	378	
	ELEVATOR	231	232	323	402	-	
SCRANTON	DETACHED	-	-	318	400	468	
	SEMI-DETACHED/ROW	-	-	309	386	436	
	VALLEY	213	231	307	384	433	
	ELEVATOR	239	277	402	-	-	
WILKES-BARRE	DETACHED	-	-	299	446	433	
	SEMI-DETACHED/ROW	-	-	303	363	433	
	VALLEY	180	225	289	333	446	
	ELEVATOR	-	264	324	406	-	
YORK COUNTY	DETACHED	-	-	344	373	396	
	SEMI-DETACHED/ROW	-	-	308	357	377	
	VALLEY	136	160	309	337	359	
	ELEVATOR	-	-	-	-	-	

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AREA OFFICE PITTSBURGH, PA. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	[illegible]	-	-	274	335	382
	[illegible]	-	223	262	320	367
	[illegible]	171	[illegible]	249	296	328
	[illegible]	191	231	328	-	-
[illegible]	DETACHED	-	-	[illegible]	304	430
	SEMI-DETACHED/ROW	-	[illegible]	294	370	[illegible]
	WALKUP	[illegible]	228	267	370	[illegible]
	ELEVATOR	226	261	[illegible]	-	-
[illegible]	DETACHED	-	-	277	[illegible]	384
	SEMI-DETACHED/ROW	-	230	[illegible]	322	[illegible]
	WALKUP	[illegible]	[illegible]	262	305	342
	ELEVATOR	234	[illegible]	366	-	-
[illegible]	DETACHED	-	-	276	335	382
	SEMI-DETACHED/ROW	-	223	262	320	[illegible]
	WALKUP	171	[illegible]	249	[illegible]	328
	ELEVATOR	191	231	328	-	-
[illegible]	DETACHED	-	-	305	[illegible]	[illegible]
	SEMI-DETACHED/ROW	-	249	292	323	365
	WALKUP	195	[illegible]	259	299	[illegible]
	ELEVATOR	[illegible]	244	354	-	-
JOHNSTOWN	DETACHED	-	-	[illegible]	[illegible]	387
	SEMI-DETACHED/ROW	-	208	238	323	372
	WALKUP	[illegible]	195	[illegible]	283	323
	ELEVATOR	214	[illegible]	354	-	-

AREA OFFICE [illegible] REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
CHARLESTON, W VA	DETACHED	-	-	[illegible]	[illegible]	428
	SEMI-DETACHED/ROW	-	[illegible]	[illegible]	[illegible]	413
	WALKUP	[illegible]	[illegible]	[illegible]	279	310
	ELEVATOR	233	271	[illegible]	-	-
BECKLEY, W. VA.	DETACHED	-	-	265	318	347
	SEMI-DETACHED/ROW	-	184	252	[illegible]	332
	WALKUP	171	184	220	[illegible]	278
	ELEVATOR	207	[illegible]	297	-	-
BLUEFIELD, W. VA.	DETACHED	-	-	265	318	347
	SEMI-DETACHED/ROW	-	184	252	302	332
	WALKUP	171	194	[illegible]	[illegible]	270
	ELEVATOR	[illegible]	[illegible]	297	-	-
[illegible], W VA	DETACHED	-	-	265	318	347
	SEMI-DETACHED/ROW	-	194	252	302	333
	WALKUP	137	[illegible]	[illegible]	287	315
	ELEVATOR	[illegible]	[illegible]	297	-	-
FAIRMONT, W VA	DETACHED	-	-	[illegible]	371	297
	SEMI-DETACHED/ROW	-	189	221	255	281
	WALKUP	150	182	215	241	267
	ELEVATOR	[illegible]	241	293	-	-
WHEELING, W. VA.	DETACHED	-	-	236	[illegible]	320
	SEMI-DETACHED/ROW	-	198	[illegible]	280	318
	WALKUP	160	[illegible]	217	272	[illegible]
	ELEVATOR	206	[illegible]	295	-	-

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AREA OFFICE PITTSBURGH [illegible] REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible], W VA	[illegible]	-	-	[illegible]	[illegible]	403
	SEMI-DETACHED/ROW	-	230	292	346	[illegible]
	WALKUP	173	211	258	304	336
	ELEVATOR	231	271	336	-	-
FAIRMONT, W VA	DETACHED	-	-	293	347	386
	SEMI-DETACHED/ROW	-	226	[illegible]	[illegible]	371
	WALKUP	[illegible]	[illegible]	[illegible]	[illegible]	330
	ELEVATOR	[illegible]	[illegible]	312	-	-
POINT PLEASANT, W. VA.	DETACHED	-	-	[illegible]	[illegible]	296
	SEMI-DETACHED/ROW	-	187	220	255	279
	WALKUP	158	181	213	239	265
	ELEVATOR	200	230	291	-	-

AREA OFFICE [illegible] REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
RICHMOND	DETACHED	-	-	280	334	373
	SEMI-DETACHED/ROW	-	243	275	318	355
	WALKUP	185	221	250	302	280
	ELEVATOR	198	232	268	-	-
NORFOLK	DETACHED	-	-	[illegible]	330	351
	SEMI-DETACHED/ROW	-	237	257	305	342
	WALKUP	179	234	253	290	325
	ELEVATOR	197	226	244	-	-
PORTSMOUTH	DETACHED	-	-	270	330	350
	SEMI-DETACHED/ROW	-	237	257	305	341
	WALKUP	179	234	[illegible]	[illegible]	325
	ELEVATOR	197	226	244	-	-
CHESAPEAKE	DETACHED	-	-	270	330	[illegible]
	SEMI-DETACHED/ROW	-	237	257	305	348
	WALKUP	179	234	253	290	325
	ELEVATOR	197	226	244	-	-
SUFFOLK	DETACHED	-	-	270	330	350
	SEMI-DETACHED/ROW	-	237	257	305	342
	WALKUP	179	234	253	290	325
	ELEVATOR	197	226	244	-	-

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AREA OFFICE RICHMOND REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
DANVILLE	DETACHED	-	-	279	306	363
	SEMI-DETACHED/ROW	-	[illegible]	265	311	348
	WALKUP	[illegible]	[illegible]	240	306	335
	ELEVATOR	170	206	253	-	-
NEWPORT NEWS	DETACHED	-	-	[illegible]	348	381
	SEMI-DETACHED/ROW	-	220	273	[illegible]	364
	WALKUP	[illegible]	[illegible]	249	[illegible]	367
	ELEVATOR	[illegible]	[illegible]	[illegible]	-	-
FREDERICKSBURG	DETACHED	-	-	[illegible]	330	370
	SEMI-DETACHED/ROW	-	[illegible]	267	312	[illegible]
	WALKUP	161	190	242	297	[illegible]
	ELEVATOR	170	200	253	-	-
[illegible]	[illegible]	-	-	250	305	330
	[illegible]	-	212	260	272	304
	WALKUP	155	190	223	250	299
	ELEVATOR	171	202	236	-	-

AREA OFFICE RICHMOND REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	[illegible]	-	-	[illegible]	[illegible]	[illegible]
	SEMI-DETACHED/ROW	-	212	264	272	314
	WALKUP	133	163	223	259	299
	ELEVATOR	171	202	234	-	-
NORFOLK	DETACHED	-	-	260	253	304
	SEMI-DETACHED/ROW	-	136	198	241	288
	WALKUP	81	125	188	230	273
	ELEVATOR	[illegible]	[illegible]	[illegible]	-	-
PORTSMOUTH	DETACHED	-	-	267	346	382
	SEMI-DETACHED/ROW	-	230	270	321	364
	WALKUP	183	208	246	313	349
	ELEVATOR	203	218	261	-	-

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AREA OFFICE BIRMINGHAM, [illegible] REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	[illegible]	-	-	320	399	412
	[illegible]	-	[illegible]	277	344	377
	[illegible]	134	[illegible]	289	233	330
	[illegible]	263	304	370	-	-
[illegible]	[illegible]	-	-	297	354	394
	[illegible]	-	226	285	339	336
	[illegible]	154	161	195	233	[illegible]
	[illegible]	234	286	355	-	-
[illegible]	[illegible]	-	-	303	327	402
	[illegible]	-	[illegible]	269	344	377
	[illegible]	135	132	187	244	270
	[illegible]	240	[illegible]	333	-	-
LOUISVILLE	DETACHED	-	-	298	363	391
	[illegible]	-	213	248	307	333
	[illegible]	172	201	233	304	334
	[illegible]	263	299	[illegible]	-	-

AREA OFFICE BIRMINGHAM, ALABAMA REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MOBILE	DETACHED	-	-	300	363	395
	SEMI-DETACHED/ROW	-	222	266	320	360
	WALKUP	127	158	192	204	257
	ELEVATOR	203	204	263	-	-
MONTGOMERY	DETACHED	-	-	311	366	399
	SEMI-DETACHED/ROW	-	223	280	338	363
	WALKUP	127	160	194	246	259
	ELEVATOR	260	260	260	-	-
[illegible]	[illegible]	-	-	[illegible]	[illegible]	[illegible]
	[illegible]	-	[illegible]	232	[illegible]	334
	[illegible]	130	177	230	[illegible]	313
	[illegible]	240	256	341	-	-

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AREA OFFICE JACKSONVILLE, FLORIDA REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
JACKSONVILLE	DETACHED	-	-	283	339	387
	SEMI-DETACHED/ROW	-	313	353	369	394
	WALKUP	194	287	297	313	388
	ELEVATOR	219	250	330	-	-
FORT WALTON BEACH	DETACHED	-	-	371	386	443
	SEMI-DETACHED/ROW	-	386	408	417	481
	WALKUP	197	198	247	299	315
	ELEVATOR	284	259	318	-	-
GAINESVILLE	DETACHED	-	-	284	336	384
	SEMI-DETACHED/ROW	-	311	380	336	381
	WALKUP	178	266	236	338	385
	ELEVATOR	211	287	327	-	-
PANAMA CITY	DETACHED	-	-	270	334	340
	SEMI-DETACHED/ROW	-	288	288	304	319
	WALKUP	183	187	244	298	312
	ELEVATOR	283	247	313	-	-
PENSACOLA	DETACHED	-	-	271	335	343
	SEMI-DETACHED/ROW	-	284	288	297	301
	WALKUP	167	198	247	288	313
	ELEVATOR	284	248	338	-	-
TALLAHASSEE	DETACHED	-	-	278	333	381
	SEMI-DETACHED/ROW	-	288	288	314	339
	WALKUP	191	263	298	288	883
	ELEVATOR	288	255	325	-	-

HOUSING OFFICE CORAL GABLES, FLORIDA REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MIAMI	DETACHED	-	-	397	429	518
	SEMI-DETACHED/ROW	-	286	383	430	496
	WALKUP	193	288	306	363	383
	ELEVATOR	287	244	334	-	-
FORT LAUDERDALE	DETACHED	-	-	360	430	504
	SEMI-DETACHED/ROW	-	267	341	434	472
	WALKUP	193	216	273	337	378
	ELEVATOR	230	255	333	-	-
FORT MYERS	DETACHED	-	-	296	346	397
	SEMI-DETACHED/ROW	-	233	286	333	385
	WALKUP	216	230	267	308	373
	ELEVATOR	217	236	273	-	-
KEY WEST	DETACHED	-	-	363	423	534
	SEMI-DETACHED/ROW	-	273	346	421	486
	WALKUP	183	226	307	358	378
	ELEVATOR	195	227	296	-	-
WEST PALM BEACH	DETACHED	-	-	346	399	530
	SEMI-DETACHED/ROW	-	261	341	434	472
	WALKUP	190	211	281	337	378
	ELEVATOR	226	246	338	-	-

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HOUSING OFFICE TAMPA, FLORIDA REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
DADE	DETACHED	-	-	344	318	335
	SEMI-DETACHED/ROW	-	195	236	307	329
	WALKUP	171	198	215	286	324
	ELEVATOR	176	199	227	-	-
OCOEE	DETACHED	-	-	340	384	388
	SEMI-DETACHED/ROW	-	199	233	360	393
	WALKUP	141	155	198	230	239
	ELEVATOR	152	176	211	-	-
DAYTONA BEACH	DETACHED	-	-	232	322	340
	SEMI-DETACHED/ROW	-	205	240	286	336
	WALKUP	170	196	227	284	322
	ELEVATOR	176	199	234	-	-
FORT PIERCE	DETACHED	-	-	232	322	340
	SEMI-DETACHED/ROW	-	205	240	286	334
	WALKUP	170	196	227	284	322
	ELEVATOR	176	199	234	-	-

HOUSING OFFICE MIAMI, FLORIDA REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LAKELAND	DETACHED	-	-	240	312	339
	SEMI-DETACHED/ROW	-	196	231	295	318
	WALKUP	168	185	218	278	295
	ELEVATOR	173	196	231	-	-
ORLANDO	DETACHED	-	-	244	311	337
	SEMI-DETACHED/ROW	-	196	231	295	322
	WALKUP	168	191	215	295	312
	ELEVATOR	172	194	233	-	-
SARASOTA	DETACHED	-	-	238	289	312
	SEMI-DETACHED/ROW	-	192	233	276	299
	WALKUP	156	180	210	268	289
	ELEVATOR	173	193	234	-	-
ST. PETERSBURG	DETACHED	-	-	239	325	342
	SEMI-DETACHED/ROW	-	188	232	299	323
	WALKUP	160	186	214	286	303
	ELEVATOR	170	192	221	-	-

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AREA OFFICE _____ REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
[illegible]	[illegible]	-	-	260	330	367	
	SEMI-DETACHED/ROW	-	190	234	283	304	
	WALKUP	176	186	211	248	288	
	ELEVATOR	199	236	298	-	-	
ALBANY	DETACHED	-	-	261	317	346	
	SEMI-DETACHED/ROW	-	190	230	286	323	
	WALKUP	160	193	284	273	296	
	ELEVATOR	186	236	298	-	-	
ANNISTON	DETACHED	-	-	261	261	362	
	SEMI-DETACHED/ROW	-	190	241	286	333	
	WALKUP	160	180	221	289	320	
	ELEVATOR	186	211	273	-	-	
ATHENS	DETACHED	-	-	237	303	330	
	SEMI-DETACHED/ROW	-	169	208	263	307	
	WALKUP	167	180	207	233	261	
	ELEVATOR	168	213	273	-	-	
COLUMBUS	DETACHED	-	-	261	298	348	
	SEMI-DETACHED/ROW	-	196	230	269	283	
	WALKUP	160	188	226	287	304	
	ELEVATOR	186	173	273	-	-	
MACON	DETACHED	-	-	240	286	329	
	SEMI-DETACHED/ROW	-	198	226	240	286	
	WALKUP	150	171	207	240	260	
	[illegible]	198	230	286	-	-	

AREA OFFICE _____ REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
[illegible]	DETACHED	-	-	237	295	333	
	SEMI-DETACHED/ROW		183	209	237	263	
	WALKUP	167	189	183	231	237	
	ELEVATOR	180	213	273	-	-	
[illegible]	DETACHED	-	-	237	311	335	
	SEMI-DETACHED/ROW	-	173	209	243	286	
	WALKUP	138	187	203	230	273	
	ELEVATOR	161	213	273	-	-	
[illegible]	DETACHED	-	-	261	290	330	
	SEMI-DETACHED/ROW	-	168	210	260	288	
	WALKUP	134	170	206	250	286	
	ELEVATOR	180	200	263	-	-	

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AREA OFFICE LOUISVILLE, KENTUCKY REGION [illegible]

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
[illegible]	[illegible]	-	-	261	340	361	
	SEMI-DETACHED/ROW	-	213	269	330	379	
	WALKUP	184	211	263	304	323	
	ELEVATOR	195	229	273	-	-	
ASHLAND	DETACHED	-	-	276	333	396	
	SEMI-DETACHED/ROW	-	221	264	319	361	
	WALKUP	191	213	250	313	363	
	ELEVATOR	200	221	270	-	-	
BOWLING GREEN	DETACHED	-	-	277	346	387	
	SEMI-DETACHED/ROW	-	213	264	313	375	
	WALKUP	181	200	246	307	340	
	ELEVATOR	191	221	270	-	-	
COVALLI	DETACHED	-	-	276	331	387	
	SEMI-DETACHED/ROW	-	213	264	319	361	
	WALKUP	184	200	238	313	280	
	ELEVATOR	197	221	270	-	-	
COVINGTON	DETACHED	-	-	260	343	390	
	SEMI-DETACHED/ROW	-	227	270	327	380	
	WALKUP	196	221	260	303	364	
	ELEVATOR	200	227	276	-	-	
FRANKFORT	DETACHED	-	-	276	338	361	
	SEMI-DETACHED/ROW	-	214	264	323	373	
	WALKUP	181	200	236	290	364	
	ELEVATOR	197	221	270	-	-	

AREA OFFICE LOUISVILLE, KENTUCKY REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
[illegible]	DETACHED	-	-	277	319	381	
	SEMI-DETACHED/ROW	-	213	264	313	373	
	WALKUP	184	200	246	289	340	
	ELEVATOR	191	221	270	-	-	
LEXINGTON	DETACHED	-	-	287	344	387	
	SEMI-DETACHED/ROW	-	213	290	288	364	
	WALKUP	180	211	288	338	364	
	ELEVATOR	197	221	270	-	-	
HENDERSON	DETACHED	-	-	276	332	387	
	SEMI-DETACHED/ROW	-	213	264	290	361	
	WALKUP	183	200	238	313	340	
	ELEVATOR	187	221	270	-	-	
[illegible]	DETACHED	-	-	276	319	361	
	SEMI-DETACHED/ROW	-	213	238	313	373	
	WALKUP	184	200	246	287	269	
	ELEVATOR	184	221	270	-	-	
[illegible]	DETACHED	-	-	260	343	388	
	SEMI-DETACHED/ROW	-	227	290	327	380	
	WALKUP	196	221	263	303	360	
	ELEVATOR	200	227	276	-	-	
[illegible]	DETACHED	-	-	266	336	379	
	SEMI-DETACHED/ROW	-	214	290	313	361	
	WALKUP	184	200	263	286	340	
	ELEVATOR	199	230	276	-	-	

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AREA OFFICE LOUISVILLE, KENTUCKY REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	[illegible]	-	-	276	332	383
	SEMI-DETACHED/ROW	-	215	254	325	367
	WALKUP	151	209	236	319	368
	ELEVATOR	209	221	270	-	-

AREA OFFICE JACKSON, MISSISSIPPI REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
JACKSON	DETACHED	-	-	284	309	329
	SEMI-DETACHED/ROW	-	176	230	286	302
	WALKUP	131	170	227	277	299
	ELEVATOR	202	232	290	-	-
[illegible]	DETACHED	-	-	290	313	334
	SEMI-DETACHED/ROW	-	183	246	296	309
	WALKUP	138	176	239	282	296
	ELEVATOR	208	236	296	-	-
[illegible]	DETACHED	-	-	284	299	308
	SEMI-DETACHED/ROW	-	176	233	290	302
	WALKUP	131	170	227	277	299
	ELEVATOR	202	232	290	-	-
GREENVILLE	DETACHED	-	-	277	302	321
	SEMI-DETACHED/ROW	-	170	227	284	296
	WALKUP	143	166	221	271	284
	ELEVATOR	193	246	284	-	-
GREENSBORO	DETACHED	-	-	277	302	321
	SEMI-DETACHED/ROW	-	170	227	284	296
	WALKUP	143	166	221	271	284
	ELEVATOR	193	246	284	-	-
[illegible]	DETACHED	-	-	290	315	335
	SEMI-DETACHED/ROW	-	183	246	296	309
	WALKUP	138	176	239	282	296
	ELEVATOR	208	238	296	-	-

AREA OFFICE [illegible] REGION [illegible]

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	[illegible]	-	-	284	309	329
	SEMI-DETACHED/ROW	-	176	230	286	302
	WALKUP	131	170	227	277	299
	ELEVATOR	202	232	290	-	-
[illegible]	DETACHED	-	-	277	302	321
	SEMI-DETACHED/ROW	-	170	227	284	296
	WALKUP	143	166	221	271	284
	ELEVATOR	193	246	284	-	-
[illegible]	DETACHED	-	-	277	302	321
	SEMI-DETACHED/ROW	-	170	227	284	296
	WALKUP	143	166	221	271	284
	ELEVATOR	193	246	284	-	-

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AREA OFFICE GREENSBORO, NORTH CAROLINA REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	DETACHED	-	-	284	313	335
	SEMI-DETACHED/ROW	130	174	230	276	332
	WALKUP	131	166	214	270	298
	ELEVATOR	181	215	278	-	-
ASHEVILLE	DETACHED	-	-	266	320	343
	SEMI-DETACHED/ROW	134	179	234	300	324
	WALKUP	133	173	220	286	317
	ELEVATOR	181	211	267	-	-
[illegible]	DETACHED	-	-	230	313	336
	SEMI-DETACHED/ROW	130	168	207	267	336
	WALKUP	131	168	201	261	314
	ELEVATOR	186	211	279	-	-
DURHAM	DETACHED	-	-	287	311	333
	SEMI-DETACHED/ROW	146	167	216	287	332
	WALKUP	142	161	207	261	330
	ELEVATOR	183	216	237	-	-
[illegible]	DETACHED	-	-	231	296	323
	SEMI-DETACHED/ROW	130	166	213	264	311
	WALKUP	122	162	206	254	290
	ELEVATOR	176	209	231	-	-
RALEIGH	DETACHED	-	-	226	307	333
	SEMI-DETACHED/ROW	127	163	202	272	291
	WALKUP	121	158	215	266	330
	ELEVATOR	183	234	277	-	-

AREA OFFICE GREENSBORO, NORTH CAROLINA REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WILMINGTON	DETACHED	-	-	234	307	329
	SEMI-DETACHED/ROW	133	168	218	277	311
	WALKUP	126	163	212	271	299
	ELEVATOR	182	216	277	-	-
WINSTON-SALEM	DETACHED	-	-	231	312	336
	SEMI-DETACHED/ROW	128	157	214	276	302
	WALKUP	126	151	207	270	297
	ELEVATOR	183	216	277	-	-
FAYETTEVILLE	DETACHED	-	-	230	312	336
	SEMI-DETACHED/ROW	142	163	218	294	309
	WALKUP	132	161	213	268	296
	ELEVATOR	183	215	278	-	-

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NOTE: The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size unit, not to exceed 2-bedroom, multiplied by 1.05 and rounded to the next higher whole dollar, (2) congregate housing dwelling units are the same as for non-congregate units, and (3) single-room occupancy dwelling units are those for 0 - Bedroom units of the same type.

AAFA OFFICE COLUMBIA, SOUTH CAROLINA REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
CHESTER	DETACHED	-	-	260	312	336
	SEMI-DETACHED/ROW	100	207	230	265	312
	WALKUP	100	200	230	291	312
	ELEVATOR	226	264	287	-	-
AIKEN	DETACHED	-	-	231	290	310
	SEMI-DETACHED/ROW	139	171	230	260	298
	WALKUP	130	171	260	260	293
	ELEVATOR	196	214	273	-	-
ANDERSON	DETACHED	-	-	231	290	310
	SEMI-DETACHED/ROW	130	171	260	284	290
	WALKUP	130	171	260	260	290
	ELEVATOR	196	214	273	-	-
GREENWOOD	DETACHED	-	-	287	305	334
	SEMI-DETACHED/ROW	163	177	236	273	290
	WALKUP	163	177	236	273	290
	ELEVATOR	203	230	281	-	-
CHARLESTON	DETACHED	-	-	263	290	350
	SEMI-DETACHED/ROW	190	200	233	260	293
	WALKUP	190	200	233	260	293
	ELEVATOR	226	264	287	-	-
FLORENCE	DETACHED	-	-	287	305	334
	SEMI-DETACHED/ROW	163	177	236	273	290
	WALKUP	168	177	236	273	290
	ELEVATOR	203	230	281	-	-

AAFA OFFICE COLUMBIA, SOUTH CAROLINA REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
GREENVILLE	DETACHED	-	-	237	299	330
	SEMI-DETACHED/ROW	100	200	230	260	290
	WALKUP	163	198	288	299	298
	ELEVATOR	230	268	301	-	-
SPARTANBURG	DETACHED	-	-	231	290	310
	SEMI-DETACHED/ROW	130	171	260	260	290
	WALKUP	130	171	230	260	293
	ELEVATOR	196	214	273	-	-
MYRTLE BEACH	DETACHED	-	-	263	290	310
	SEMI-DETACHED/ROW	190	200	230	260	290
	WALKUP	190	200	233	260	293
	ELEVATOR	226	264	287	-	-
NORTH AUGUSTA	DETACHED	-	-	231	290	310
	SEMI-DETACHED/ROW	130	171	230	260	290
	WALKUP	130	171	260	260	290
	ELEVATOR	196	214	273	-	-
CHARLESTON	DETACHED	-	-	231	290	310
	SEMI-DETACHED/ROW	130	171	230	260	293
	WALKUP	130	171	260	260	290
	ELEVATOR	196	214	273	-	-
ROCKHILL	DETACHED	-	-	231	290	310
	SEMI-DETACHED/ROW	130	171	230	260	293
	WALKUP	130	171	260	260	293
	ELEVATOR	196	214	273	-	-

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AAFA OFFICE COLUMBIA, SOUTH CAROLINA REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	DETACHED	-	-	237	299	330
	SEMI-DETACHED/ROW	104	146	200	260	293
	WALKUP	104	146	236	260	290
	ELEVATOR	230	230	260	-	-

AAFA OFFICE KNOXVILLE, TENNESSEE REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	DETACHED	-	-	300	300	300
	SEMI-DETACHED/ROW	-	227	273	333	380
	WALKUP	107	213	300	339	346
	ELEVATOR	227	260	313	-	-
CHATTANOOGA	DETACHED	-	-	366	366	406
	SEMI-DETACHED/ROW	-	253	300	340	386
	WALKUP	193	220	266	286	333
	ELEVATOR	227	260	313	-	-
JOHNSON CITY	DETACHED	-	-	300	300	303
	SEMI-DETACHED/ROW	-	220	266	286	333
	WALKUP	100	207	233	313	340
	ELEVATOR	227	260	313	-	-
KINGSPORT	DETACHED	-	-	293	333	393
	SEMI-DETACHED/ROW	-	220	266	286	333
	WALKUP	100	207	233	313	340
	ELEVATOR	227	260	313	-	-
OAKRIDGE	DETACHED	-	-	300	300	300
	SEMI-DETACHED/ROW	-	227	273	333	380
	WALKUP	107	213	300	300	346
	ELEVATOR	227	260	313	-	-

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HOUSING OFFICE _____ REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	DETACHED	-	-	358	399	537
	SEMI-DETACHED/ROW	-	191	339	386	506
	WALKUP	133	179	213	275	382
	ELEVATOR	187	286	298	-	-
CLARKSVILLE	DETACHED	-	-	362	399	537
	SEMI-DETACHED/ROW	-	191	337	386	516
	WALKUP	130	179	213	274	388
	ELEVATOR	187	286	298	-	-
COLUMBIA	DETACHED	-	-	336	396	534
	SEMI-DETACHED/ROW	-	191	337	386	516
	WALKUP	140	179	209	260	388
	ELEVATOR	161	283	298	-	-

HOUSING OFFICE MEMPHIS, TENNESSEE REGION IV ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MEMPHIS	DETACHED	-	-	384	346	480
	SEMI-DETACHED/ROW	-	216	332	305	332
	WALKUP	134	202	236	353	398
	ELEVATOR	209	240	285	-	-
JACKSON	DETACHED	-	-	385	349	483
	SEMI-DETACHED/ROW	-	211	235	305	334
	WALKUP	171	200	238	287	388
	ELEVATOR	212	241	289	-	-
UNION CITY	DETACHED	-	-	389	352	487
	SEMI-DETACHED/ROW	-	222	237	312	338
	WALKUP	178	206	240	279	382
	ELEVATOR	213	241	291	-	-

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AREA OFFICE CHICAGO, ILLINOIS REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	DETACHED	-	-	390	466	598
	SEMI-DETACHED/ROW	-	222	353	433	466
	WALKUP	289	302	336	406	642
	ELEVATOR	336	393	480	-	-
[illegible]	DETACHED	-	-	353	315	363
	SEMI-DETACHED/ROW	-	220	353	333	363
	WALKUP	289	302	363	315	463
	ELEVATOR	289	302	382	-	-
[illegible]	DETACHED	-	-	338	366	423
	SEMI-DETACHED/ROW	-	207	334	351	398
	WALKUP	196	236	297	317	-
	ELEVATOR	289	270	297	-	-
ROCK ISLAND	DETACHED	-	-	363	315	363
	SEMI-DETACHED/ROW	-	220	353	333	363
	WALKUP	289	235	363	315	363
	ELEVATOR	289	302	382	-	-
[illegible]	DETACHED	-	-	257	395	538
	SEMI-DETACHED/ROW	-	212	344	277	317
	WALKUP	160	333	223	270	-
	ELEVATOR	176	198	273	-	-

AREA OFFICE DETROIT, MICHIGAN REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
DETROIT	ELEVATOR	-	-	384	332	393
	SEMI-DETACHED/ROW	-	244	292	328	369
	WALKUP	283	238	286	316	357
	ELEVATOR	289	304	381	-	-
ANN ARBOR	DETACHED	-	-	384	332	393
	SEMI-DETACHED/ROW	-	244	292	328	369
	WALKUP	283	238	286	316	357
	ELEVATOR	289	304	381	-	-
FLINT	DETACHED	-	-	290	346	387
	SEMI-DETACHED/ROW	-	238	286	322	363
	WALKUP	197	233	280	310	352
	ELEVATOR	283	298	373	-	-
SAGINAW	DETACHED	-	-	290	346	387
	SEMI-DETACHED/ROW	-	238	286	322	363
	WALKUP	197	233	280	310	352
	ELEVATOR	283	298	373	-	-
YPSILANTI	DETACHED	-	-	384	332	393
	SEMI-DETACHED/ROW	-	244	292	328	369
	WALKUP	283	238	286	316	357
	ELEVATOR	289	304	381	-	-

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HUD/FMR OFFICE SPRINGFIELD, ILLINOIS REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SPRINGFIELD	DETACHED	-	-	260	299	338
	SEMI-DETACHED/ROW	-	180	216	280	300
	WALKUP	134	160	217	276	297
	ELEVATOR	210	226	266	-	-
DECATUR	DETACHED	-	-	277	330	367
	SEMI-DETACHED/ROW	-	206	237	280	346
	WALKUP	122	156	237	268	322
	ELEVATOR	[illegible]	[illegible]	[illegible]	-	-
CARBONDALE	DETACHED	-	-	239	305	373
	SEMI-DETACHED/ROW	-	180	240	299	300
	WALKUP	147	170	244	320	360
	ELEVATOR	225	231	318	-	-
CHAMPAIGN	DETACHED	-	-	227	271	294
	SEMI-DETACHED/ROW	-	193	215	270	280
	WALKUP	141	164	211	256	295
	ELEVATOR	206	220	290	-	-
DANVILLE	DETACHED	-	-	234	330	363
	SEMI-DETACHED/ROW	-	166	240	330	330
	WALKUP	146	173	243	300	345
	ELEVATOR	222	240	316	-	-
EAST ST. LOUIS	DETACHED	-	-	214	275	286
	SEMI-DETACHED/ROW	-	163	200	260	290
	WALKUP	148	176	193	231	287
	ELEVATOR	230	279	266	-	-

HUD/FMR OFFICE SPRINGFIELD, ILLINOIS REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LA SALLE	DETACHED	-	-	284	313	378
	SEMI-DETACHED/ROW	-	170	218	284	298
	WALKUP	133	163	213	283	363
	ELEVATOR	203	207	299	-	-
PEORIA	DETACHED	-	-	260	300	336
	SEMI-DETACHED/ROW	-	166	264	336	331
	WALKUP	140	170	233	286	280
	ELEVATOR	232	261	329	-	-
QUINCY	DETACHED	-	-	207	287	360
	SEMI-DETACHED/ROW	-	166	236	313	300
	WALKUP	-	170	220	286	300
	ELEVATOR	210	253	290	-	-

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HUD/FMR OFFICE [illegible] REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
TERRE HAUTE	DETACHED	-	-	269	330	359
	SEMI-DETACHED/ROW	-	222	268	336	360
	WALKUP	196	222	265	304	-
	ELEVATOR	181	230	337	-	-
BLOOMINGTON	DETACHED	-	-	340	387	448
	SEMI-DETACHED/ROW	-	168	240	306	359
	WALKUP	130	166	245	286	-
	ELEVATOR	[illegible]	[illegible]	346	-	-
EVANSVILLE	DETACHED	-	-	346	436	505
	SEMI-DETACHED/ROW	-	201	260	330	380
	WALKUP	173	201	266	304	-
	ELEVATOR	199	250	310	-	-
FORT WAYNE	DETACHED	-	-	271	435	512
	SEMI-DETACHED/ROW	-	204	267	331	360
	WALKUP	181	204	250	330	-
	ELEVATOR	193	213	272	-	-
GARY	DETACHED	-	-	419	361	693
	SEMI-DETACHED/ROW	221	248	331	413	444
	WALKUP	153	220	266	318	-
	ELEVATOR	[illegible]	[illegible]	166	-	-

HUD/FMR OFFICE INDIANAPOLIS, INDIANA REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ANDERSON	DETACHED	-	-	419	504	620
	SEMI-DETACHED/ROW	-	246	301	413	444
	WALKUP	200	230	286	333	-
	ELEVATOR	286	301	406	-	-
LAFAYETTE	DETACHED	-	-	289	406	473
	SEMI-DETACHED/ROW	-	201	238	314	337
	WALKUP	161	201	286	311	-
	ELEVATOR	206	230	306	-	-
SOUTH BEND	DETACHED	-	-	304	423	499
	SEMI-DETACHED/ROW	-	219	264	330	386
	WALKUP	173	219	230	300	-
	ELEVATOR	[illegible]	[illegible]	306	-	-
TERRE HAUTE	DETACHED	-	-	346	417	484
	SEMI-DETACHED/ROW	-	189	249	318	340
	WALKUP	160	189	240	318	-
	ELEVATOR	210	230	305	-	-
JEFFERSONVILLE-NEW ALBANY	DETACHED	-	-	304	337	413
	SEMI-DETACHED/ROW	-	174	260	274	306
	WALKUP	156	174	260	260	-
	ELEVATOR	206	240	272	-	-

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AREA OFFICE _____ REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
GRAND RAPIDS	DETACHED	-	-	268	300	334
	SEMI-DETACHED/ROW	-	203	230	286	330
	WALKUP	157	190	230	276	-
	ELEVATOR	188	223	260	-	-
BATTLE CREEK	DETACHED	-	-	263	314	362
	SEMI-DETACHED/ROW	-	217	240	283	330
	WALKUP	150	212	234	274	-
	ELEVATOR	197	241	278	-	-
[illegible]	DETACHED	-	-	252	314	354
	SEMI-DETACHED/ROW	-	217	240	286	330
	WALKUP	160	206	234	274	-
	ELEVATOR	191	246	284	-	-
JACKSON	DETACHED	-	-	263	330	374
	SEMI-DETACHED/ROW	-	217	246	297	344
	WALKUP	188	212	246	286	-
	ELEVATOR	203	242	284	-	-
KALAMAZOO	DETACHED	-	-	252	297	333
	SEMI-DETACHED/ROW	-	171	217	263	301
	WALKUP	160	172	217	263	-
	ELEVATOR	171	238	284	-	-

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LANSING	DETACHED	-	-	284	360	388
	SEMI-DETACHED/ROW	-	212	288	332	396
	WALKUP	172	200	268	314	-
	ELEVATOR	188	263	296	-	-
[illegible]	DETACHED	-	-	252	288	338
	SEMI-DETACHED/ROW	-	177	229	276	314
	WALKUP	132	166	200	276	-
	ELEVATOR	148	172	223	-	-
MUSKEGON	DETACHED	-	-	263	307	354
	SEMI-DETACHED/ROW	-	193	234	293	337
	WALKUP	133	186	218	286	-
	ELEVATOR	186	233	280		
TRAVERSE CITY	DETACHED	-	-	314	366	394
	SEMI-DETACHED/ROW	-	217	288	332	360
	WALKUP	223	286	252	300	-
	ELEVATOR	288	248	280	-	-

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AREA OFFICE MSA - ST. PAUL, MINNESOTA REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MINNEAPOLIS	DETACHED	-	-	340	438	471
	SEMI-DETACHED/ROW	-	290	344	397	438
	WALKUP	236	246	280	396	-
	ELEVATOR	225	258	318	-	-
DULUTH	DETACHED	-	-	324	388	442
	SEMI-DETACHED/ROW	-	238	317	338	372
	WALKUP	193	215	272	302	-
	ELEVATOR	236	275	287	-	-
RAMSEY	DETACHED	-	-	293	344	388
	SEMI-DETACHED/ROW	-	226	288	333	333
	WALKUP	161	193	248	286	-
	ELEVATOR	232	253	286	-	-
ROCHESTER	DETACHED	-	-	288	376	426
	SEMI-DETACHED/ROW	-	288	287	373	385
	WALKUP	198	211	255	321	-
	ELEVATOR	242	274	288	-	-

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ST. CLOUD	DETACHED	-	-	315	406	438
	SEMI-DETACHED/ROW	-	217	309	388	411
	WALKUP	186	213	263	334	-
	ELEVATOR	251	286	336	-	-
ST. PAUL	DETACHED	-	-	340	438	471
	SEMI-DETACHED/ROW	-	290	344	397	438
	WALKUP	236	246	280	396	-
	ELEVATOR	225	290	318	-	-
WORTHINGTON	DETACHED	-	-	288	352	388
	SEMI-DETACHED/ROW	-	240	288	331	333
	WALKUP	188	225	262	283	-
	ELEVATOR	263	276	337	-	-

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Schedule A - Fair Market Rents for New Construction and Substantial Rehabilitation (including State Agencies Programs)

Effective Date _____. These Fair Market Rents include projection for construction time through Dec. 31, 1976.

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HOUSING OFFICE CLEVELAND, OHIO REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	DETACHED	-	-	330	364	385
	SEMI-DETACHED/ROW	-	236	285	309	363
	WALKUP	213	230	277	313	-
	ELEVATOR	231	236	299	-	-
AKRON, OHIO	DETACHED	-	-	334	340	360
	SEMI-DETACHED/ROW	-	238	276	311	334
	WALKUP	199	204	261	290	-
	ELEVATOR	223	240	292	-	-
[illegible]	DETACHED	-	-	289	323	398
	SEMI-DETACHED/ROW	-	204	258	275	313
	WALKUP	168	195	250	281	-
	ELEVATOR	198	233	284	-	-
[illegible]	DETACHED	-	-	312	340	386
	SEMI-DETACHED/ROW	-	238	287	310	344
	WALKUP	193	218	236	288	-
	ELEVATOR	209	233	283	-	-

HOUSING OFFICE CLEVELAND, OHIO REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	DETACHED	-	-	310	340	380
	SEMI-DETACHED/ROW	-	233	266	291	331
	WALKUP	175	201	251	283	-
	ELEVATOR	196	232	279	-	-
[illegible]	DETACHED	-	-	291	333	391
	SEMI-DETACHED/ROW	-	240	276	314	337
	WALKUP	181	217	253	290	-
	ELEVATOR	217	263	291	-	-
YOUNGSTOWN, OHIO	DETACHED	2	-	319	330	370
	SEMI-DETACHED/ROW	-	227	272	296	340
	WALKUP	169	192	249	282	-
	ELEVATOR	210	241	296	-	-

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AAA OFFICE COLUMBUS, OHIO REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
COLUMBUS	DETACHED	-	-	301	333	381
	SEMI-DETACHED/ROW	-	237	271	298	339
	WALKUP	158	227	271	313	370
	ELEVATOR	201	277	330	-	-
[illegible]	DETACHED	-	-	313	348	378
	SEMI-DETACHED/ROW	-	233	273	331	363
	WALKUP	186	227	298	313	366
	ELEVATOR	184	277	330	-	-
LIMA	DETACHED	-	-	313	366	378
	SEMI-DETACHED/ROW	-	233	273	331	358
	WALKUP	158	208	298	313	366
	ELEVATOR	201	277	330	-	-
[illegible]	DETACHED	-	-	360	333	363
	SEMI-DETACHED/ROW	-	239	296	299	323
	WALKUP	175	195	221	263	340
	ELEVATOR	196	229	263	-	-
[illegible]	DETACHED	-	-	303	323	363
	SEMI-DETACHED/ROW	-	229	256	306	339
	WALKUP	180	208	298	308	388
	ELEVATOR	195	229	263	-	-
[illegible]	DETACHED	-	-	313	366	378
	SEMI-DETACHED/ROW	-	233	273	331	363
	WALKUP	158	227	298	313	367
	ELEVATOR	196	277	330	-	-

AAA OFFICE COLUMBUS, OHIO REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
NEWARK	DETACHED	-	-	313	340	378
	SEMI-DETACHED/ROW	-	233	273	331	363
	WALKUP	158	227	298	313	367
	ELEVATOR	196	277	330	-	-
SPRINGFIELD	DETACHED	-	-	313	340	378
	SEMI-DETACHED/ROW	-	233	273	331	363
	WALKUP	158	227	298	313	367
	ELEVATOR	196	277	330	-	-
TROY	DETACHED	-	-	313	340	378
	SEMI-DETACHED/ROW	-	233	273	331	363
	WALKUP	158	227	298	313	367
	ELEVATOR	196	277	330	-	-
ZANESVILLE	DETACHED	-	-	313	340	378
	SEMI-DETACHED/ROW	-	233	273	331	363
	WALKUP	158	227	298	313	367
	ELEVATOR	196	277	330	-	-

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AREA OFFICE MILWAUKEE, WISCONSIN REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 OR MORE
[illegible]	DETACHED	-	-	322	378	445
	SEMI-DETACHED/ROW	-	[illegible]	315	367	434
	WALKUP	193	240	[illegible]	[illegible]	-
	ELEVATOR	230	283	311	-	-
[illegible]	DETACHED	-	-	[illegible]	340	426
	SEMI-DETACHED/ROW	-	246	290	331	414
	WALKUP	173	210	236	287	-
	ELEVATOR	221	[illegible]	319	-	-
[illegible]	DETACHED	-	-	290	340	400
	SEMI-DETACHED/ROW	-	[illegible]	[illegible]	329	386
	WALKUP	179	213	250	[illegible]	-
	ELEVATOR	[illegible]	[illegible]	[illegible]	-	-
MADISON	DETACHED	-	-	321	375	443
	SEMI-DETACHED/ROW	-	250	270	314	371
	WALKUP	189	[illegible]	275	[illegible]	-
	ELEVATOR	229	[illegible]	331	-	-

AREA OFFICE MILWAUKEE, WISCONSIN REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 OR MORE
KENOSHA	DETACHED	-	-	309	363	426
	SEMI-DETACHED/ROW	-	252	301	352	413
	WALKUP	178	215	256	302	-
	ELEVATOR	213	246	301	-	-
RACINE	DETACHED	-	-	[illegible]	[illegible]	412
	SEMI-DETACHED/ROW	-	[illegible]	304	329	[illegible]
	WALKUP	178	218	264	307	-
	ELEVATOR	[illegible]	261	[illegible]	-	-
WAUSAU	DETACHED	-	-	290	332	417
	SEMI-DETACHED/ROW	-	241	291	341	[illegible]
	WALKUP	170	[illegible]	248	289	-
	ELEVATOR	[illegible]	230	284	-	-

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AREA OFFICE NEW ORLEANS, LOUISIANA REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 OR MORE
[illegible]	DETACHED	-	-	235	303	385
	SEMI-DETACHED/ROW	-	194	249	289	345
	WALKUP	157	179	229	287	349
	ELEVATOR	249	290	307	-	-
ALEXANDRIA	DETACHED	-	-	230	273	326
	SEMI-DETACHED/ROW	-	176	216	256	307
	WALKUP	123	155	196	231	269
	ELEVATOR	224	261	327	-	-
NEW ORLEANS	DETACHED	-	-	220	270	327
	SEMI-DETACHED/ROW	-	174	217	259	309
	WALKUP	134	164	197	233	268
	ELEVATOR	230	276	301	-	-
LAKE CHARLES	DETACHED	-	-	245	293	354
	SEMI-DETACHED/ROW	-	169	226	279	334
	WALKUP	134	169	213	250	289
	ELEVATOR	[illegible]	290	379	-	-
LAFAYETTE	DETACHED	-	-	236	283	341
	SEMI-DETACHED/ROW	-	183	225	268	324
	WALKUP	130	162	208	242	280
	ELEVATOR	248	287	365	-	-
BATON ROUGE	DETACHED	-	-	264	342	393
	SEMI-DETACHED/ROW	-	196	196	330	378
	WALKUP	132	165	177	299	261
	ELEVATOR	220	265	330	-	-

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LENDING OFFICE ALBUQUERQUE REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
[illegible]	[illegible]	-	-	261	313	378	
	[illegible]	-	289	253	302	358	
	[illegible]	161	202	220	270	313	
	[illegible]	205	260	283	-	-	
[illegible]	[illegible]	-	-	276	327	[illegible]	
	[illegible]	-	235	281	313	375	
	[illegible]	160	210	230	281	325	
	ELEVATOR	193	226	283	-	-	
[illegible]	[illegible]	-	-	276	327	[illegible]	
	[illegible]	-	235	284	316	376	
	[illegible]	173	211	230	286	327	
	ELEVATOR	[illegible]	230	288	-	-	
CARLSBAD	[illegible]	-	-	281	334	403	
	[illegible]	-	241	260	320	382	
	[illegible]	171	216	246	291	333	
	ELEVATOR	[illegible]	228	289	-	-	
[illegible]	[illegible]	-	-	276	327	[illegible]	
	[illegible]	-	230	264	316	376	
	[illegible]	173	213	230	286	327	
	[illegible]	[illegible]	225	283	-	-	
[illegible]	DETACHED	-	-	282	344	413	
	[illegible]	-	267	275	327	393	
	[illegible]	177	220	240	298	[illegible]	
	[illegible]	[illegible]	234	296	-	-	

LENDING OFFICE ALBUQUERQUE REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
GALLUP	DETACHED	-	-	276	327	[illegible]	
	[illegible]	-	254	283	327	[illegible]	
	WALKUP	182	226	258	[illegible]	[illegible]	
	ELEVATOR	208	241	[illegible]	-	-	
HOBBS	[illegible]	-	-	276	327	[illegible]	
	[illegible]	-	235	[illegible]	316	[illegible]	
	[illegible]	179	211	[illegible]	286	327	
	ELEVATOR	194	225	283	-	-	
LAS CRUCES	DETACHED	-	-	276	327	[illegible]	
	[illegible]	-	235	264	316	376	
	[illegible]	173	211	230	286	327	
	ELEVATOR	194	225	283	-	-	
[illegible]	DETACHED	-	-	[illegible]	362	413	
	[illegible]	-	[illegible]	276	[illegible]	394	
	[illegible]	177	220	240	294	340	
	ELEVATOR	[illegible]	234	[illegible]	-	-	
[illegible]	DETACHED	-	-	295	349	433	
	[illegible]	-	254	[illegible]	337	404	
	[illegible]	[illegible]	226	255	[illegible]	[illegible]	
	ELEVATOR	[illegible]	260	304	-	-	
ROSWELL	[illegible]	-	-	[illegible]	362	413	
	[illegible]	-	[illegible]	[illegible]	330	[illegible]	
	[illegible]	177	220	240	[illegible]	[illegible]	
	ELEVATOR	[illegible]	234	296	-	-	

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[illegible] OFFICE ALBUQUERQUE REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
[illegible]	[illegible]	-	-	276	338	[illegible]	
	[illegible]	-	234	288	313	373	
	[illegible]	168	208	233	288	334	
	ELEVATOR	191	223	281	-	-	
[illegible]	DETACHED	-	-	296	352	434	
	[illegible]	-	254	283	337	400	
	[illegible]	181	236	265	308	351	
	ELEVATOR	206	249	304	-	-	
[illegible]	[illegible]	-	-	301	358	432	
	[illegible]	-	258	289	345	411	
	[illegible]	185	230	258	308	356	
	ELEVATOR	236	273	344	-	-	
ARTESIA	DETACHED	-	-	260	319	384	
	[illegible]	-	226	280	305	366	
	[illegible]	164	205	250	275	318	
	ELEVATOR	230	260	289	-	-	
JUDES	DETACHED	-	-	276	338	398	
	[illegible]	-	237	266	316	377	
	[illegible]	168	213	238	282	327	
	ELEVATOR	216	249	318	-	-	
LAGUNA	DETACHED	-	-	301	334	403	
	[illegible]	-	241	260	301	383	
	[illegible]	173	216	243	288	333	
	[illegible]	216	265	323	-	-	

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
SANTA FE	DETACHED	-	-	[illegible]	342	413	
	[illegible]	-	240	276	330	394	
	WALKUP	177	220	249	294	340	
	ELEVATOR	200	234	296	-	-	
SILVER CITY	[illegible]	-	-	292	348	420	
	[illegible]	-	253	280	334	399	
	WALKUP	160	234	253	298	347	
	ELEVATOR	205	238	300	-	-	
TRUTH OR CONSEQUENCES	DETACHED	-	-	276	325	390	
	[illegible]	-	234	268	312	373	
	WALKUP	168	208	238	280	330	
	ELEVATOR	191	202	281	-	-	
FARMINGTON	DETACHED	-	-	296	352	434	
	[illegible]	-	254	283	337	400	
	[illegible]	181	236	265	308	351	
	[illegible]	208	241	304	-	-	
TEXAS AMARILLO	DETACHED	-	-	296	352	434	
	[illegible]	-	254	283	337	400	
	[illegible]	163	206	254	303	351	
	ELEVATOR	206	240	304	-	-	
TEXAS	DETACHED	-	-	296	353	427	
	[illegible]	-	286	287	340	400	
	[illegible]	180	209	254	303	353	
	[illegible]	209	243	306	-	-	

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AREA OFFICE ALBUQUERQUE REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ROSWELL	DETACHED	-	-	288	344	[illegible]
	[illegible]	-	240	276	330	394
	WALKUP	177	[illegible]	[illegible]	295	341
	ELEVATOR	225	261	[illegible]	-	-
PECOS	DETACHED	-	-	294	349	[illegible]
	SEMI-DETACHED/ROW	-	252	281	335	[illegible]
	WALKUP	180	234	[illegible]	299	348
	ELEVATOR	228	[illegible]	337	-	-
FARMINGTON	DETACHED	-	-	288	346	413
	[illegible]	-	260	276	[illegible]	[illegible]
	WALKUP	177	221	240	[illegible]	341
	ELEVATOR	225	261	331	-	-

AREA OFFICE LITTLE ROCK REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
FAYETTEVILLE	DETACHED	-	-	[illegible]	288	[illegible]
	[illegible]	-	[illegible]	234	279	[illegible]
	WALKUP	143	166	209	249	[illegible]
	[illegible]	[illegible]	[illegible]	317	-	-
[illegible]	DETACHED	-	-	256	300	[illegible]
	[illegible]	-	195	241	286	344
	WALKUP	154	[illegible]	215	254	[illegible]
	[illegible]	232	268	[illegible]	-	-
TEXARKANA (ARK. & TEXAS)	DETACHED	-	-	290	296	[illegible]
	SEMI-DETACHED/ROW	-	[illegible]	238	282	[illegible]
	WALKUP	146	169	215	254	296
	ELEVATOR	[illegible]	283	321	-	-
FORT SMITH	DETACHED	-	-	261	284	344
	[illegible]	-	188	234	276	[illegible]
	WALKUP	130	182	205	242	288
	ELEVATOR	[illegible]	[illegible]	[illegible]	-	-
JONESBORO	DETACHED	-	-	298	305	[illegible]
	[illegible]	-	202	250	295	354
	WALKUP	140	171	218	258	298
	[illegible]	224	261	[illegible]	-	-

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AREA OFFICE [illegible] REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	DETACHED	-	-	230	331	382
	[illegible]	170	[illegible]	210	316	363
	WALKUP	145	[illegible]	190	284	317
	ELEVATOR	246	280	312	-	-
KIM	DETACHED	-	-	208	330	370
	[illegible]	[illegible]	180	216	308	352
	WALKUP	[illegible]	[illegible]	181	277	308
	ELEVATOR	[illegible]	[illegible]	266	-	-
[illegible]	DETACHED	-	-	233	264	310
	[illegible]	[illegible]	200	222	251	286
	WALKUP	147	176	201	226	257
	ELEVATOR	[illegible]	275	315	-	-
[illegible]	DETACHED	-	-	281	341	390
	[illegible]	102	[illegible]	267	325	370
	WALKUP	155	185	242	293	325
	ELEVATOR	261	[illegible]	378	-	-
GUYMON	DETACHED	-	-	238	302	351
	[illegible]	151	180	220	287	335
	WALKUP	128	150	206	258	291
	ELEVATOR	216	249	320	-	-
[illegible]	DETACHED	-	-	227	287	333
	[illegible]	186	[illegible]	217	273	317
	WALKUP	131	160	197	246	276
	ELEVATOR	216	243	300	-	-

AREA OFFICE [illegible] REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	[illegible]	-	-	219	256	302
	[illegible]	[illegible]	[illegible]	200	244	287
	[illegible]	134	[illegible]	188	219	250
	[illegible]	221	[illegible]	288	-	-
[illegible]	DETACHED	-	-	245	303	[illegible]
	[illegible]	177	203	233	290	[illegible]
	WALKUP	[illegible]	180	210	288	291
	ELEVATOR	249	[illegible]	322	-	-
WOODWARD	DETACHED	-	-	262	303	[illegible]
	[illegible]	133	161	230	289	335
	WALKUP	[illegible]	143	208	260	293
	ELEVATOR	[illegible]	[illegible]	326	-	-

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HOUSING OFFICE TULSA [redacted] REGION [redacted]

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 OR MORE
TULSA	[redacted]	-	-	[redacted]	264	300
	[redacted]	-	131	191	252	[redacted]
	[redacted]	91	116	172	[redacted]	255
	ELEVATOR	147	176	[redacted]	-	-
[redacted]	[redacted]	-	-	223	277	321
	[redacted]	-	164	263	[redacted]	306
	[redacted]	120	[redacted]	192	230	[redacted]
	ELEVATOR	196	220	292	-	-
MC ALESTER	[redacted]	-	-	151	206	248
	[redacted]	-	123	146	[redacted]	236
	[redacted]	[redacted]	105	130	176	206
	ELEVATOR	[redacted]	141	[redacted]	-	-
MUSKOGEE	DETACHED	-	-	202	209	224
	[redacted]	-	139	174	[redacted]	268
	[redacted]	93	122	[redacted]	[redacted]	232
	ELEVATOR	[redacted]	[redacted]	238	-	-

AREA OFFICE DALLAS REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 OR MORE
[redacted]	DETACHED	-	192	238	296	357
	[redacted]	138	170	228	269	302
	[redacted]	124	194	260	253	299
	ELEVATOR	278	304	363	-	-
[redacted]	DETACHED	-	194	262	296	347
	[redacted]	166	172	214	264	306
	[redacted]	123	147	183	220	267
	ELEVATOR	267	278	313	-	-
TYLER	[redacted]	-	198	243	280	347
	[redacted]	-	169	214	264	306
	[redacted]	120	200	200	243	286
	ELEVATOR	236	276	321	-	-
WACO	DETACHED	-	200	247	295	306
	[redacted]	146	178	228	261	314
	[redacted]	128	151	188	235	274
	ELEVATOR	253	286	301	-	-
MARSHALL	[redacted]	-	163	229	276	330
	SEMI-DETACHED/ROW	-	141	200	243	290
	[redacted]	114	143	188	235	252
	ELEVATOR	223	260	333	-	-

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HOUSING OFFICE FORT WORTH REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 OR MORE
FORT WORTH	DETACHED	-	-	216	250	342
	[redacted]	145	168	206	280	325
	[redacted]	125	167	197	203	286
	ELEVATOR	231	254	324	-	-
ABILENE	[redacted]	-	-	227	280	333
	[redacted]	138	160	206	274	318
	[redacted]	110	151	197	267	277
	ELEVATOR	220	250	314	-	-
SAN ANGELO	DETACHED	-	-	196	243	299
	[redacted]	126	148	184	250	305
	[redacted]	100	130	168	236	249
	ELEVATOR	162	227	290	-	-
[redacted]	DETACHED	-	-	240	291	344
	[redacted]	146	183	220	277	329
	[redacted]	126	163	209	259	287
	ELEVATOR	234	286	350	-	-

HOUSING OFFICE HOUSTON REGION VI - DALLAS

[redacted]	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 OR MORE
HOUSTON	DETACHED	-	-	230	[redacted]	345
	[redacted]	-	187	220	271	329
	[redacted]	130	168	208	264	286
	ELEVATOR	267	286	363	-	-
BEAUMONT	[redacted]	-	-	251	296	350
	[redacted]	-	193	238	294	341
	[redacted]	137	171	216	255	296
	ELEVATOR	298	298	379	-	-
[redacted]	DETACHED	-	-	265	316	370
	[redacted]	-	184	228	272	326
	[redacted]	130	164	207	246	283
	ELEVATOR	246	286	361	-	-
EL CAMPO	DETACHED	-	-	270	320	384
	[redacted]	-	198	236	280	335
	[redacted]	134	168	212	253	301
	ELEVATOR	253	303	372	-	-
LUFKIN	DETACHED	-	-	232	278	335
	[redacted]	-	162	202	264	318
	[redacted]	127	160	200	238	277
	ELEVATOR	260	270	363	-	-
TEXAS CITY	DETACHED	-	-	246	290	355
	[redacted]	-	193	235	280	337
	[redacted]	133	160	214	253	289
	ELEVATOR	256	296	394	-	-

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HOUSING OFFICE LUBBOCK REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
LUBBOCK	DETACHED	-	-	267	308	371	
	SEMI-DETACHED/ROW	-	170	222	277	335	
	WALKUP	127	159	201	250	301	
	ELEVATOR	161	213	269	-	-	
ABERNATHY	DETACHED	-	-	267	308	371	
	SEMI-DETACHED/ROW	-	170	222	277	335	
	WALKUP	127	159	201	250	301	
	ELEVATION	161	213	269	-	-	
EL PASO	DETACHED	-	-	267	308	371	
	SEMI-DETACHED/ROW	-	170	222	277	335	
	WALKUP	127	159	201	250	301	
	ELEVATOR	161	213	269	-	-	
HILLSBORO	DETACHED	-	-	267	308	371	
	SEMI-DETACHED/ROW	-	170	222	277	335	
	WALKUP	127	159	201	250	301	
	ELEVATOR	161	213	269	-	-	
TEMPLE	DETACHED	-	-	267	308	371	
	SEMI-DETACHED/ROW	-	170	222	277	335	
	WALKUP	127	159	201	250	301	
	ELEVATOR	161	213	269	-	-	

AREA OFFICE SAN ANTONIO REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
SAN ANTONIO	DETACHED	-	-	223	286	333	
	SEMI-DETACHED/ROW	-	177	221	272	327	
	WALKUP	138	166	209	274	300	
	ELEVATOR	264	278	347	-	-	
DEL RIO	DETACHED	-	-	221	276	333	
	SEMI-DETACHED/ROW	-	170	210	263	299	
	WALKUP	138	159	202	249	273	
	ELEVATOR	235	299	319	-	-	
EAGLE PASS	DETACHED	-	-	241	319	399	
	SEMI-DETACHED/ROW	-	186	229	304	289	
	WALKUP	149	165	207	273	299	
	ELEVATOR	237	271	347	-	-	
HARLINGEN	DETACHED	-	-	260	348	394	
	SEMI-DETACHED/ROW	-	181	237	316	358	
	WALKUP	119	168	204	271	297	
	ELEVATOR	218	282	343	-	-	
JUNCTION	DETACHED	-	-	240	318	377	
	SEMI-DETACHED/ROW	-	186	229	303	330	
	WALKUP	138	165	207	273	296	
	ELEVATOR	237	271	345	-	-	

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AREA OFFICE SAN ANTONIO REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
CORPUS CHRISTI	DETACHED	-	-	241	330	387	
	SEMI-DETACHED/ROW	-	186	229	305	330	
	WALKUP	149	165	207	273	296	
	ELEVATOR	237	294	347	-	-	
VICTORIA	DETACHED	-	-	230	309	349	
	SEMI-DETACHED/ROW	-	174	226	294	333	
	WALKUP	133	181	197	265	299	
	ELEVATOR	230	256	329	-	-	
MCALLEN	DETACHED	-	-	241	320	387	
	SEMI-DETACHED/ROW	-	186	229	305	339	
	WALKUP	149	165	207	273	296	
	ELEVATOR	237	294	347	-	-	

AREA OFFICE ST. LOUIS, MO. REGION VII - KANSAS CITY, MO.

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
ST. LOUIS	DETACHED	-	-	288	363	438	
	SEMI-DETACHED/ROW	-	252	312	373	447	
	WALKUP	183	219	289	363	398	
	ELEVATOR	229	259	332	-	-	
CAPE GIRARDEAU	DETACHED	-	-	241	284	355	
	SEMI-DETACHED/ROW	-	193	239	285	341	
	WALKUP	163	180	227	270	314	
	ELEVATOR	208	242	305	-	-	
COLUMBIA	DETACHED	-	-	278	332	400	
	SEMI-DETACHED/ROW	-	215	267	319	380	
	WALKUP	163	233	259	307	358	
	ELEVATOR	224	260	330	-	-	
KIRKSVILLE	DETACHED	-	-	224	340	408	
	SEMI-DETACHED/ROW	-	208	253	302	362	
	WALKUP	154	193	243	288	336	
	ELEVATOR	215	250	314	-	-	
SEDALIA	DETACHED	-	-	248	288	347	
	SEMI-DETACHED/ROW	-	194	238	285	342	
	WALKUP	143	178	225	267	312	
	ELEVATOR	234	236	298	-	-	

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HOUSING OFFICE DES MOINES, IOWA REGION VII - KANSAS CITY

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
DES MOINES	DETACHED	-	-	318	379	458
	SEMI-DETACHED/ROW	-	246	304	362	435
	WALKUP	183	230	289	343	387
	ELEVATOR	246	293	370	-	-
DAVENPORT	[illegible]	-	-	311	371	431
	[illegible]	-	242	292	348	416
	WALKUP	187	224	284	335	388
	ELEVATOR	249	299	[illegible]	-	-
CEDAR RAPIDS	DETACHED	-	-	302	359	431
	[illegible]	-	229	287	342	410
	WALKUP	171	212	274	327	388
	ELEVATOR	231	[illegible]	[illegible]	-	-
[illegible]	DETACHED	-	-	311	359	432
	[illegible]	-	232	287	343	412
	WALKUP	173	216	274	326	376
	ELEVATOR	229	276	340	-	-
DAVENPORT	DETACHED	-	-	311	371	431
	[illegible]	-	242	292	348	416
	WALKUP	187	224	284	335	388
	ELEVATOR	249	299	380	-	-
DUBUQUE	[illegible]	-	-	317	377	440
	[illegible]	-	247	330	388	425
	WALKUP	183	220	289	336	411
	ELEVATOR	248	298	377	-	-

HOUSING OFFICE DES MOINES, IOWA REGION VII - KANSAS CITY

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	DETACHED	-	-	315	370	430
	[illegible]	-	247	300	358	424
	WALKUP	180	223	283	345	402
	ELEVATOR	240	288	378	-	-
SIOUX CITY	DETACHED	-	-	296	351	422
	SEMI-DETACHED/ROW	-	[illegible]	282	335	402
	WALKUP	[illegible]	220	270	332	[illegible]
	ELEVATOR	253	304	385	-	-
WATERLOO	DETACHED	-	-	294	365	425
	SEMI-DETACHED/ROW	-	233	288	351	440
	WALKUP	160	194	242	330	346
	ELEVATOR	248	298	377	-	-

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[illegible] KANSAS CITY, KS. REGION VII - KANSAS CITY, MO.

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	DETACHED	-	-	270	330	360
	SEMI-DETACHED/ROW	-	232	264	312	342
	WALKUP	170	216	258	300	324
	ELEVATOR	192	228	304	-	-
[illegible] MO.	DETACHED	-	-	266	300	324
	[illegible]	-	198	240	282	[illegible]
	[illegible]	167	179	221	260	269
	ELEVATOR	180	254	306	-	-
[illegible]	[illegible]	-	-	270	312	348
	[illegible]	-	216	252	300	330
	[illegible]	170	198	240	288	318
	ELEVATOR	182	247	300	-	-
SEDALIA, MO.	[illegible]	-	-	264	306	[illegible]
	[illegible]	-	204	246	282	[illegible]
	[illegible]	152	180	222	270	286
	[illegible]	160	247	[illegible]	-	-
[illegible] MO.	DETACHED	-	-	264	306	[illegible]
	[illegible]	-	204	246	282	318
	[illegible]	138	188	216	270	294
	ELEVATOR	160	239	256	-	-

HOUSING OFFICE TOPEKA, KS. REGION VII -KANSAS CITY, MO.

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 OR MORE
TOPEKA	DETACHED	-	-	310	383	402
	SEMI-DETACHED/ROW		262	306	366	396
	[illegible]	172	208	246	335	376
	ELEVATOR	196	267	327		
GARDEN CITY	[illegible]	-	-	318	362	378
	[illegible]	-	228	288	348	365
	WALKUP	185	[illegible]	[illegible]	311	331
	ELEVATOR	196	267	327	-	-
PITTSBURG	DETACHED	-	-	296	336	363
	[illegible]	-	233	276	327	362
	[illegible]	186	215	266	322	389
	[illegible]	190	258	320	-	-
SALINA	[illegible]	-	-	298	336	385
	[illegible]	-	240	290	327	350
	[illegible]	196	210	265	324	347
	ELEVATOR	196	267	327	-	-
WICHITA	DETACHED	-	-	[illegible]	361	366
	[illegible]	-	[illegible]	[illegible]	338	375
	[illegible]	167	[illegible]	[illegible]	332	359
	ELEVATOR	196	267	327	-	-

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AREA OFFICE [illegible] REGION VII - KANSAS CITY, MO.

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	DETACHED	-	-	243	292	319
	SEMI-DETACHED/ROW	-	170	236	286	314
	WALKUP	135	162	205	250	292
	ELEVATOR	170	196	243	-	-
GRAND ISLAND	DETACHED	-	-	244	291	332
	SEMI-DETACHED/ROW	-	176	233	279	320
	WALKUP	130	168	214	269	295
	ELEVATOR	199	220	270	-	-
[illegible]	DETACHED	-	-	276	329	367
	SEMI-DETACHED/ROW	-	182	247	300	[illegible]
	WALKUP	141	176	223	282	311
	ELEVATOR	181	206	[illegible]	-	-
NORFOLK	DETACHED	-	-	257	308	337
	SEMI-DETACHED/ROW	-	191	252	307	335
	WALKUP	131	160	181	234	265
	ELEVATOR	180	210	230	-	-

AREA OFFICE OMAHA, NEB. REGION VII - KANSAS CITY, MO.

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
NORTH PLATTE	DETACHED	-	-	271	323	360
	SEMI-DETACHED/ROW	-	198	253	306	337
	WALKUP	130	168	243	285	296
	ELEVATOR	191	212	262	-	-
O'NEILL	DETACHED	-	-	271	323	360
	SEMI-DETACHED/ROW	-	198	253	306	337
	WALKUP	130	168	243	285	296
	ELEVATOR	191	212	262	-	-
NORTH PLATTE	DETACHED	-	-	271	323	360
	SEMI-DETACHED/ROW	-	198	253	306	337
	WALKUP	130	168	243	285	296
	ELEVATOR	191	212	262	-	-

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HOUSING OFFICE DENVER, COLORADO REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
DENVER	DETACHED	-	-	252	318	370
	SEMI-DETACHED/ROW	160	191	232	288	347
	WALKUP	162	184	229	283	329
	ELEVATOR	162	191	246	288	-
COLORADO SPRINGS	DETACHED	-	-	226	268	308
	SEMI-DETACHED/ROW	145	161	182	219	246
	WALKUP	130	155	181	214	241
	ELEVATOR	145	161	187	219	-
[illegible]	DETACHED	-	-	228	276	291
	SEMI-DETACHED/ROW	154	171	200	240	257
	WALKUP	143	161	196	228	265
	ELEVATOR	148	160	200	248	-
GRAND JUNCTION	DETACHED	-	-	255	310	371
	SEMI-DETACHED/ROW	146	166	232	270	296
	WALKUP	163	180	226	273	299
	ELEVATOR	160	[illegible]	[illegible]	[illegible]	-
[illegible]	DETACHED	-	-	237	289	305
	SEMI-DETACHED/ROW	156	173	196	248	272
	WALKUP	150	166	203	243	260
	ELEVATOR	156	168	196	248	-
PUEBLO	DETACHED	-	-	213	269	277
	SEMI-DETACHED/ROW	158	173	203	238	260
	WALKUP	153	166	200	235	263
	ELEVATOR	156	170	200	238	-

HOUSING OFFICE BILLINGS, MONTANA REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
HELENA	DETACHED	-	-	288	333	365
	SEMI-DETACHED/ROW	-	210	262	326	358
	WALKUP	166	211	273	320	352
	ELEVATOR	179	226	288	-	-
ANACONDA	DETACHED	-	-	256	299	339
	SEMI-DETACHED/ROW	-	214	290	296	333
	WALKUP	179	200	244	290	317
	ELEVATOR	299	295	341	-	-
BILLINGS	DETACHED	-	-	254	310	340
	SEMI-DETACHED/ROW	-	200	248	304	334
	WALKUP	157	194	242	290	320
	ELEVATOR	169	206	254	-	-
[illegible]	DETACHED	-	-	287	336	361
	SEMI-DETACHED/ROW	-	244	281	330	360
	WALKUP	193	230	273	323	354
	ELEVATOR	207	264	281	-	-
BUTTE	DETACHED	-	-	256	300	330
	SEMI-DETACHED/ROW	-	214	250	296	330
	WALKUP	179	200	244	290	317
	ELEVATOR	190	226	262	-	-
BILLINGS	DETACHED	-	-	232	280	300
	SEMI-DETACHED/ROW	-	161	196	276	296
	WALKUP	139	183	230	268	290
	ELEVATOR	-	-	-	-	-

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HOUSING OFFICE HELENA, MONTANA — REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
[illegible]	[illegible]	-	-	[illegible]	[illegible]	317	
	[illegible]	-	165	232	281	311	
	WALKUP	[illegible]	[illegible]	226	275	[illegible]	
	[illegible]	-	-	-	-	-	
[illegible]	[illegible]	-	-	[illegible]	287	317	
	[illegible]	-	165	220	281	311	
	[illegible]	136	159	[illegible]	275	[illegible]	
	ELEVATOR	-	-	-	-	-	
[illegible]	[illegible]	-	-	248	[illegible]	339	
	[illegible]	-	188	[illegible]	303	333	
	[illegible]	165	[illegible]	234	297	[illegible]	
	ELEVATOR	176	194	[illegible]	-	-	
[illegible]	[illegible]	-	-	228	275	304	
	[illegible]	-	[illegible]	222	269	298	
	WALKUP	137	[illegible]	217	263	[illegible]	
	ELEVATOR	[illegible]	187	234	-	-	
[illegible]	[illegible]	-	-	273	[illegible]	362	
	[illegible]	-	197	[illegible]	[illegible]	336	
	[illegible]	[illegible]	191	[illegible]	318	[illegible]	
	ELEVATOR	170	[illegible]	273	-	-	
[illegible]	[illegible]	-	-	254	330	[illegible]	
	[illegible]	-	[illegible]	[illegible]	[illegible]	[illegible]	
	[illegible]	157	[illegible]	262	[illegible]	[illegible]	
	ELEVATOR	-	-	-	-	-	

[illegible], MONTANA, MD-[illegible] — REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
LIBBY	DETACHED	-	-	235	292	337	
	[illegible]	-	165	229	285	316	
	WALKUP	127	150	222	288	331	
	ELEVATOR	-	-	-	-	-	
MILES CITY	DETACHED	-	-	226	287	317	
	SEMI-DETACHED/ROW	-	155	220	281	311	
	WALKUP	136	159	234	275	305	
	ELEVATOR	167	171	239	-	-	
MISSOULA	[illegible]	-	-	248	309	339	
	SEMI-DETACHED/ROW	-	194	262	303	333	
	WALKUP	157	188	236	297	327	
	ELEVATOR	169	200	248	-	-	
SUPERIOR	DETACHED	-	-	230	274	304	
	SEMI-DETACHED/ROW	-	155	214	268	298	
	WALKUP	119	140	200	262	292	
	ELEVATOR	-	-	-	-	-	
[illegible]	DETACHED	-	-	232	281	311	
	[illegible]	-	189	226	275	305	
	WALKUP	146	183	250	268	299	
	ELEVATOR	-	-	-	-	-	
HARLEM	DETACHED	-	-	232	281	311	
	[illegible]	-	188	226	275	305	
	WALKUP	146	183	220	268	299	
	ELEVATOR	-	-	-	-	-	

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HOUSING OFFICE MILES, MONTANA — REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
MILE POINT	DETACHED	-	-	232	288	311	
	[illegible]	-	189	226	275	305	
	WALKUP	146	183	220	268	299	
	ELEVATOR	-	-	-	-	-	
LODGE GRASS	DETACHED	-	-	232	288	311	
	[illegible]	-	188	226	275	305	
	WALKUP	146	183	220	268	299	
	ELEVATOR	-	-	-	-	-	

[illegible] — REGION VIII - DENVER

[illegible]	[illegible]	NUMBER OF BEDROOMS					
		0	1	2	3	4	OR MORE
[illegible]	[illegible]	-	-	259	285	[illegible]	
	[illegible]	-	226	230	[illegible]	275	
	[illegible]	[illegible]	181	[illegible]	260	286	
	ELEVATOR	175	227	259	-	-	
[illegible]	DETACHED	-	-	[illegible]	259	[illegible]	
	[illegible]	-	[illegible]	[illegible]	227	[illegible]	
	[illegible]	163	[illegible]	[illegible]	[illegible]	253	
	ELEVATOR	-	-	-	-	-	
VERNAL	DETACHED	-	-	270	317	356	
	[illegible]	-	220	263	311	350	
	WALKUP	136	[illegible]	214	254	286	
	ELEVATOR	-	-	-	-	-	

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HOUSING OFFICE [illegible] REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 OR MORE
[illegible]	[illegible]	-	-	293	353	358
	SEMI-DETACHED/ROW	-	347	373	390	393
	WALKUP	308	334	360	386	413
	ELEVATOR	315	341	367	393	-
[illegible]	DETACHED	-	-	306	353	358
	SEMI-DETACHED/ROW	-	347	373	390	393
	WALKUP	308	334	360	386	413
	ELEVATOR	-	-	-	-	-
BLACK HILLS	DETACHED	-	-	293	350	351
	SEMI-DETACHED/ROW	-	295	299	306	309
	WALKUP	311	330	364	395	395
	ELEVATOR	317	340	376	393	-
MITCHELL	DETACHED	-	-	306	306	305
	SEMI-DETACHED/ROW	-	303	373	395	312
	WALKUP	306	330	296	302	309
	ELEVATOR	-	-	-	-	-
PIERRE	DETACHED	-	-	303	339	351
	SEMI-DETACHED/ROW	-	330	360	396	338
	WALKUP	309	337	365	394	302
	ELEVATOR	-	-	-	-	-
RAPID CITY	DETACHED	-	-	303	339	301
	SEMI-DETACHED/ROW	-	334	360	396	338
	WALKUP	311	337	360	397	305
	ELEVATOR	317	344	376	393	-

HOUSING OFFICE [illegible] REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 OR MORE
[illegible]	DETACHED	-	-	293	349	381
	SEMI-DETACHED/ROW	-	339	360	396	358
	WALKUP	308	337	363	394	362
	ELEVATOR	-	-	-	-	-
[illegible]	DETACHED	-	-	293	349	351
	SEMI-DETACHED/ROW	-	290	360	396	358
	WALKUP	308	337	363	394	362
	ELEVATOR	-	-	-	-	-
ISABEL	DETACHED	-	-	293	349	351
	SEMI-DETACHED/ROW	-	330	360	396	338
	WALKUP	308	337	363	394	362
	ELEVATOR	-	-	-	-	-

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HOUSING OFFICE CASPER, WYOMING REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 OR MORE
CASPER	DETACHED	-	-	293	339	349
	SEMI-DETACHED/ROW	-	180	334	360	380
	WALKUP	330	170	339	359	376
	ELEVATOR	370	385	362	-	-
CHEYENNE	DETACHED	-	-	270	380	397
	SEMI-DETACHED/ROW	-	385	367	370	393
	WALKUP	373	395	341	365	380
	ELEVATOR	396	339	365	-	-
DUBOIS	DETACHED	-	-	270	380	351
	SEMI-DETACHED/ROW	-	170	334	365	380
	WALKUP	380	373	339	359	382
	ELEVATOR	373	396	360	-	-
GILLETTE	DETACHED	-	-	380	380	380
	SEMI-DETACHED/ROW	-	380	333	395	314
	WALKUP	337	373	367	380	351
	ELEVATOR	381	339	370	-	-
JACKSON	DETACHED	-	-	380	357	395
	SEMI-DETACHED/ROW	-	381	357	376	385
	WALKUP	373	394	341	370	390
	ELEVATOR	396	339	364	-	-
LARAMIE	DETACHED	-	-	380	390	360
	SEMI-DETACHED/ROW	-	396	339	376	399
	WALKUP	387	390	354	370	353
	ELEVATOR	399	353	343	-	-

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AREA OFFICE PHOENIX _____ REGION IX SAN [illegible]

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	[illegible]	-	-	234	274	329
	[illegible]	-	214	239	295	337
	[illegible]	176	191	237	276	[illegible]
	ELEVATOR	-	-	-	-	-
[illegible]	[illegible]	-	-	-	-	-
	[illegible]	-	169	204	244	[illegible]
	[illegible]	-	-	-	-	-
	ELEVATOR	-	-	-	-	-
[illegible]	[illegible]	-	-	-	-	-
	[illegible]	-	[illegible]	232	284	323
	[illegible]	-	193	217	262	[illegible]
	ELEVATOR	-	-	-	-	-
[illegible]	DETACHED	-	-	230	273	[illegible]
	SEMI-DETACHED/ROW	-	-	-	-	-
	[illegible]	-	190	232	269	300
	[illegible]	-	-	-	-	-
[illegible]	[illegible]	-	-	223	265	[illegible]
	[illegible]	-	-	219	257	[illegible]
	[illegible]	-	-	-	-	-
	ELEVATOR	-	-	-	-	-

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LOS ANGELES	[illegible]	-	-	402	483	522
	SEMI-DETACHED/ROW	-	301	376	451	488
	WALKUP	169	225	286	338	365
	ELEVATOR	260	342	410	-	-
BAKERSFIELD	DETACHED	-	-	321	402	442
	SEMI-DETACHED/ROW	-	-	301	376	413
	WALKUP	-	205	273	342	376
	ELEVATOR	-	-	-	-	-
LANCASTER	DETACHED	-	-	361	442	483
	SEMI-DETACHED/ROW	-	263	330	413	451
	WALKUP	-	239	300	376	410
	ELEVATOR	-	-	-	-	-
OXNARD	DETACHED	-	-	361	442	483
	SEMI-DETACHED/ROW	-	263	330	413	451
	WALKUP	161	197	253	310	339
	ELEVATOR	-	-	-	-	-
SAN BERNARDINO	DETACHED	-	-	276	330	395
	SEMI-DETACHED/ROW	-	202	250	309	369
	WALKUP	167	198	246	293	330
	ELEVATOR	327	358	450	-	-
SANTA BARBARA	DETACHED	-	-	361	402	442
	SEMI-DETACHED/ROW	-	263	330	376	413
	WALKUP	-	239	300	376	410
	ELEVATOR	-	-	-	-	-

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AREA OFFICE LOS ANGELES _____ REGION IX SAN [illegible]

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
Santa MARIA	DETACHED	-	-	288	321	361
	SEMI-DETACHED/ROW	-	187	263	301	338
	WALKUP	-	171	239	273	300
	ELEVATOR	-	-	-	-	-
[illegible]	[illegible]	-	-	361	442	483
	[illegible]	-	263	330	413	451
	WALKUP	141	197	253	300	330
	ELEVATOR	-	-	-	-	-
[illegible]	[illegible]	-	-	309	366	643.
	[illegible]	-	249	290	343	413
	[illegible]	180	226	267	316	365
	ELEVATOR	293	340	486	-	-
[illegible]	DETACHED	-	-	297	330	610
	SEMI-DETACHED/ROW	-	226	262	311	343
	WALKUP	200	207	238	305	331
	[illegible]	209	258	297	-	-
EL [illegible]	DETACHED	-	-	263	329	363
	[illegible]	-	199	249	294	323
	[illegible]	181	194	229	275	303
	[illegible]	209	220	252	-	-

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SACRAMENTO	DETACHED	-	-	273	323	354
	SEMI-DETACHED/ROW	-	230	261	311	342
	WALKUP	180	217	248	298	329
	ELEVATOR	255	292	323	-	-
CHICO	DETACHED	-	-	[illegible]	311	342
	[illegible]	-	217	[illegible]	[illegible]	[illegible]
	WALKUP	[illegible]	[illegible]	[illegible]	286	317
	ELEVATOR	-	-	-	-	-
DAVIS	DETACHED	-	-	273	323	354
	SEMI-DETACHED/ROW	-	230	261	311	342
	WALKUP	180	217	248	298	329
	ELEVATOR	-	-	-	-	-
[illegible]	DETACHED	-	-	[illegible]	311	[illegible]
	SEMI-DETACHED/ROW	-	217	248	[illegible]	329
	WALKUP	[illegible]	[illegible]	[illegible]	[illegible]	317
	ELEVATOR	-	-	-	-	-
REDDING	DETACHED	-	-	261	311	342
	SEMI-DETACHED/ROW	-	217	248	298	329
	WALKUP	[illegible]	205	236	[illegible]	[illegible]
	ELEVATOR	-	-	-	-	-
STOCKTON	DETACHED	-	-	273	323	354
	SEMI-DETACHED/ROW	-	230	261	311	342
	WALKUP	180	217	248	298	329
	ELEVATOR	255	292	323	-	-

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INSURING OFFICE SACRAMENTO [illegible] REGION IX SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
YUBA	[illegible]	-	-	261	311	342
	[illegible]	-	217	248	298	329
	WALKUP	168	205	236	286	317
	ELEVATOR	-	-	-	-	-

INSURING OFFICE RENO, NEVADA REGION IX SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	DETACHED	-	-	373	419	459
	[illegible]	-	293	346	392	439
	[illegible]	200	260	319	386	412
	ELEVATOR	259	319	438	-	-
LAS VEGAS	DETACHED	-	-	333	439	459
	[illegible]	-	273	299	419	452
	[illegible]	220	266	293	333	386
	[illegible]	-	-	-	-	-

AREA OFFICE SAN FRANCISCO REGION IX SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SAN FRANCISCO	DETACHED	-	-	446	536	[illegible]
	[illegible]	-	274	351	452	[illegible]
	[illegible]	244	268	308	369	446
	[illegible]	[illegible]	345	387	-	-
[illegible]	DETACHED	-	-	347	381	318
	[illegible]	-	197	[illegible]	279	307
	WALKUP	178	198	230	279	301
	[illegible]	219	269	301	-	-
MODESTO	DETACHED	-	-	247	296	312
	[illegible]	-	197	230	279	307
	WALKUP	174	192	225	277	301
	ELEVATOR	219	269	301	-	-
[illegible]	[illegible]	-	-	321	359	[illegible]
	[illegible]	-	-	-	-	-
	[illegible]	214	232	261	330	382
	ELEVATOR	[illegible]	[illegible]	[illegible]	-	-
SAN RAFAEL	DETACHED	-	-	336	423	518
	[illegible]	-	281	318	403	449
	WALKUP	220	[illegible]	280	343	417
	ELEVATOR	261	324	365	-	-

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INSURING OFFICE HONOLULU, HAWAII REGION IX - San Francisco

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	[illegible]	-	-	536	571	[illegible]
	[illegible]	-	-	-	-	-
	[illegible]	352	399	469	428	468
	ELEVATOR	298	339	387	-	-
[illegible]	DETACHED	-	-	-	436	493
	[illegible]	-	-	-	-	-
	[illegible]	-	306	363	419	474
	ELEVATOR	-	-	-	-	-
[illegible]	DETACHED	-	-	312	368	425
	[illegible]	-	-	-	-	-
	WALKUP	264	298	272	306	340
	[illegible]	-	-	-	-	-
[illegible]	[illegible]	-	-	363	399	[illegible]
	[illegible]	-	-	-	-	-
	[illegible]	190	232	262	298	333
	ELEVATOR	-	-	-	-	-

[illegible] REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
RENO	DETACHED	-	-	295	402	442
	SEMI-DETACHED/ROW	-	-	-	-	-
	WALKUP	187	230	295	329	383
	ELEVATOR	-	-	-	-	-
MAUI	DETACHED	-	-	431	486	523
	[illegible]	-	-	-	-	-
	WALKUP	215	277	308	344	381
	[illegible]	-	-	-	-	-
TRUST TERRITORY	DETACHED	-	-	445	470	530
	[illegible]	-	-	-	-	-
	WALKUP	-	-	-	-	-
	ELEVATOR	-	-	-	-	-

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AREA OFFICE SEATTLE REGION X SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	or more
SEATTLE		-	-	272	311	[illegible]	
	[illegible]/ROW	-	227	[illegible]	[illegible]	337	
	WALKUP	175	214	[illegible]	285	324	
	ELEVATOR	240	[illegible]	195	-	-	
[illegible]	DETACHED	-	-	[illegible]	280	[illegible]	
	[illegible]/ROW	-	[illegible]	240	294	329	
	WALKUP	[illegible]	[illegible]	244	[illegible]	317	
	[illegible]	[illegible]	[illegible]	278	-	-	
[illegible]	[illegible]	-	-	246	291	330	
	[illegible]/ROW	-	[illegible]	227	272	311	
	WALKUP	[illegible]	[illegible]	214	259	[illegible]	
	ELEVATOR	201	227	[illegible]	-	-	
ABERDEEN	[illegible]	-	-	253	[illegible]	337	
	SEMI-DETACHED/ROW	-	201	240	285	324	
	WALKUP	155	181	227	272	311	
	ELEVATOR	-	-	-	-	-	

AREA OFFICE SEATTLE REGION [illegible]

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	or more
BELLINGHAM	[illegible]	-	-	253	298	337	
	[illegible]/ROW	-	207	[illegible]	279	317	
	WALKUP	168	[illegible]	227	259	299	
	ELEVATOR	-	-	-	-	-	
[illegible]	[illegible]	-	-	[illegible]	[illegible]	337	
	[illegible]/ROW	-	[illegible]	[illegible]	279	317	
	WALKUP	[illegible]	[illegible]	[illegible]	[illegible]	299	
	ELEVATOR	-	-	-	-	-	
YAKIMA	[illegible]	-	-	253	298	337	
	[illegible]/ROW	-	214	[illegible]	285	324	
	WALKUP	162	[illegible]	220	272	311	
	ELEVATOR	-	-	-	-	-	

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Section 8 Housing Assistance Payments Program

Schedule A - Fair Market Rents for New Construction and Substantial Rehabilitation (Including State Agencies Program)

Effective Date _____. These Fair Market Rents include projection for construction time through Dec. 31, 1976.

NOTE: The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size unit, not to exceed 2-Bedroom, multiplied by 1.05 and rounded to the next higher whole dollar, (2) congregate housing dwelling units are the same as for non-congregate units, and (3) single-room occupancy dwelling units are those for 0 - Bedroom units of the same type.

AREA OFFICE Seattle (ALASKA) REGION X SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	or more
[illegible]	DETACHED	-	-	460	[illegible]	564	
	[illegible]	-	395	460	479	[illegible]	
	[illegible]	285	324	369	421	466	
	ELEVATOR	363	427	479	-	-	
[illegible]	DETACHED	-	-	486	531	[illegible]	
	[illegible]	-	415	466	525	570	
	[illegible]	363	395	447	[illegible]	557	
	[illegible]	-	-	-	-	-	
[illegible]	DETACHED	-	-	479	525	[illegible]	
	[illegible]	-	[illegible]	453	499	544	
	[illegible]	[illegible]	370	415	[illegible]	512	
	ELEVATOR	395	473	525	-	-	
[illegible]	[illegible]	-	-	369	445	[illegible]	
	[illegible]	-	305	350	395	440	
	WALKUP	246	285	330	376	421	
	[illegible]	-	-	-	-	-	

INSURING OFFICE SPOKANE REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS					
		0	1	2	3	4	or more
SPOKANE, WA.	[illegible]	-	-	297	329	361	
	[illegible]	-	251	[illegible]	316	[illegible]	
	[illegible]	168	200	239	[illegible]	[illegible]	
	ELEVATOR	187	239	290	-	-	
CHENEY , WA.	DETACHED	-	-	271	[illegible]	340	
	[illegible]	-	213	251	297	329	
	[illegible]	[illegible]	[illegible]	232	277	[illegible]	
	[illegible]	-	-	-	-	-	
KENNEWICK, WA.	DETACHED	-	-	[illegible]	335	[illegible]	
	[illegible]	-	250	290	322	355	
	WALKUP	174	[illegible]	245	[illegible]	322	
	ELEVATOR	-	-	-	-	-	
[illegible], WA	[illegible]	-	-	277	322	355	
	[illegible]	-	219	[illegible]	303	335	
	[illegible]	174	206	245	290	322	
	[illegible]	-	-	-	-	-	
[illegible] IDA.	[illegible]	-	-	271	[illegible]	[illegible]	
	SEMI-DETACHED/ROW	-	213	251	297	329	
	WALKUP	161	193	232	277	309	
	[illegible]	-	-	-	-	-	
LEWISTON, IDA.	DETACHED	-	-	[illegible]	322	355	
	[illegible]	-	239	271	[illegible]	342	
	[illegible]	160	[illegible]	232	[illegible]	316	
	ELEVATOR	-	-	-	-	-	

[illegible]
Section 8 Housing Assistance Payments Program

Schedule A - Fair Market Rents for New Construction and Substantial Rehabilitation (Including SCHEs Agencies Program)

Effective Date _____. These Fair Market Rents include projection for construction time through Dec. 31, 1976.

NOTE: The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size unit, not to exceed 2-Bedroom, multiplied by 1.05 and rounded to the next higher whole dollar, (2) congregate housing dwelling units are the same as for non-congregate units, and (3) single-room occupancy dwelling units are those for 0 - Bedroom units of the same type.

AREA OFFICE PORTLAND, ORE. REGION X SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ONTARIO	[illegible]	[illegible]	-	280	318	356
	[illegible]	-	[illegible]	261	305	348
	[illegible]	171	[illegible]	248	299	337
	[illegible]	-	-	-	-	-
[illegible]	[illegible]	-	-	[illegible]	[illegible]	[illegible]
	[illegible]	-	[illegible]	240	[illegible]	312
	[illegible]	172	[illegible]	235	267	299
	[illegible]	[illegible]	206	337	-	-
[illegible]	DETACHED	-	-	[illegible]	286	324
	SEMI-DETACHED/ROW	-	[illegible]	242	[illegible]	[illegible]
	[illegible]	166	197	229	260	293
	[illegible]	199	242	281		
[illegible]	[illegible]	-	-	254	286	[illegible]
	[illegible]	-	[illegible]	[illegible]	274	[illegible]
	WALKUP	166	197	229	[illegible]	293
	[illegible]	-	-	-	-	-
[illegible]	[illegible]	-	-	[illegible]	[illegible]	[illegible]
	[illegible]	-	209	[illegible]	[illegible]	[illegible]
	[illegible]	[illegible]	191	[illegible]	[illegible]	[illegible]
	ELEVATOR	223	274	324	-	-
[illegible]	[illegible]	-	-	[illegible]	[illegible]	324
	SEMI-DETACHED/ROW	-	216	[illegible]	280	312
	WALKUP	172	204	235	267	[illegible]
	ELEVATOR	-	-	-	-	-

AREA OFFICE PORTLAND, ORE. REGION X SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
[illegible]	[illegible]	-	-	[illegible]	280	318
	[illegible]	-	197	235	[illegible]	305
	[illegible]	193	[illegible]	223	261	[illegible]
	ELEVATOR	-	-	-	-	-
BOISE, IDA.	[illegible]	-	-	[illegible]	345	384
	[illegible]	-	235	273	310	[illegible]
	WALKUP	176	215	[illegible]	306	345
	ELEVATOR	[illegible]	273	325	-	-
[illegible] IDA.	[illegible]	-	-	273	312	[illegible]
	[illegible]	-	215	254	299	[illegible]
	WALKUP	156	[illegible]	234	286	[illegible]
	[illegible]	-	-	-	-	-
MC CALL, [illegible]	DETACHED	-	-	[illegible]	365	384
	[illegible]	-	234	273	[illegible]	350
	WALKUP	176	[illegible]	254	306	345
	[illegible]	-	-	-	-	-
POCATELLO, [illegible]	DETACHED	-	-	324	365	[illegible]
	[illegible]	-	[illegible]	[illegible]	[illegible]	378
	[illegible]	[illegible]	230	270	324	[illegible]
	ELEVATOR	194	238	282	-	-
TWIN FALLS, [illegible]	[illegible]	-	-	293	332	371
	[illegible]	-	[illegible]	273	[illegible]	358
	[illegible]	176	215	254	306	345
	ELEVATOR	-	-	-	-	-

SCHEDULE B—FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING STATE AGENCIES PROGRAM)

[SCHEDULE B FAIR MARKET RENTS WILL BE PUBLISHED AT A LATER DATE]

Subpart B—Contract Rent Automatic Annual Adjustment Factors

§ 1280.201 Purpose and Applicability.

Schedule C of this Part sets forth the Automatic Annual Adjustment Factors as determined by HUD for the Section 8 Housing Assistance Payments Program—New Construction, Substantial Rehabilitation, and State Agencies (see 24 CFR 1273.103(h)(2), 1277.103(h)(2), and 1278.203(e)(2), respectively).

§ 1280.202 Manner of Publication.

Schedule C Adjustment Factors will be published in the FEDERAL REGISTER at least annually. Interim revisions may be published as market conditions dictate.

SCHEDULE C—CONTRACT RENT AUTOMATIC ANNUAL RENT ADJUSTMENT FACTORS

[SCHEDULE C ADJUSTMENT FACTORS WILL BE PUBLISHED AT A LATER DATE]

Issued at Washington, D.C., December 12, 1974.

DAVID M. DEWILDE,
Acting Assistant Secretary for Housing Production and Mortgage Credit/FHA Commissioner.

[FR Doc.74-29464 Filed 12-18-74;8:45 am]

THURSDAY, DECEMBER 19, 1974
WASHINGTON, D.C.

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federal register

THURSDAY, DECEMBER 19, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 245



PART IV

FEDERAL ENERGY ADMINISTRATION

■

NATIONAL UTILITY RESIDUAL FUEL OIL ALLOCATION

January 1975 Supplier Percentage Notice

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FEDERAL ENERGY ADMINISTRATION

NATIONAL UTILITY RESIDUAL FUEL OIL ALLOCATION

Supplier Percentage Notice for January, 1975

Pursuant to the provisions of 10 CFR 211.163(b)(3), 211.165 and 211.166(d)(2), the Federal Energy Administration (FEA) hereby provides notice of the volumes of residual fuel oil allocated to each utility for January, 1975, and the percentage of such volumes required to be supplied by each supplier for delivery in January. This information is set forth in the Appendix to this notice. Adjustments of certain supplier base period percentages have been made at the request of affected utilities, pursuant to the criteria of 10 CFR 205.25 and are reflected in the Appendix.

The utility allocations were determined after review of the impact of available fuel supplies between utility and non-utility uses of residual fuel oil. In calculating the allocation level for each utility the FEA considered all of the factors enumerated in 10 CFR 211.-163(b)(3) and also the following other factors:

1. The data contained in the Federal Power Commission (FPC) Forms 23 and 23A submitted by utilities;
2. Reduced utility coal reserves;
3. Natural gas curtailments;
4. FEA's prediction that the supply level of residual fuel oil is expected to generally equate to the total demand.

The amounts shown in the Appendix are the quantities of residual fuel oil to be delivered to the utilities listed during the month of January, 1975. Some utilities will not receive any allocation for this month. This is due to the fact that these utilities burn other fuels primarily and use residual fuel oil only for standby purposes.

The Appendix provides the names of the suppliers obligated to supply each utility and each supplier's percentage and volume of each month's allocation to a utility. The first column of the Appendix lists each utility with its suppliers. The second column sets forth the recommended FEA burn level for January. The third and fourth columns provide each supplier's respective percentage and volume share of a utility's allocated volume of residual fuel oil. The fifth column provides the total volume of residual fuel oil for each utility from all suppliers. Following the name of certain suppliers, an additional supplier is shown in parentheses. The supplier in parentheses is presumed, on the basis of the best information available, to be the supplier of the utility's supplier. This information is provided for the convenience of such suppliers and the FEA requests that any additions or corrections in this regard be forwarded to FEA Electrical Utilities Reports, Code 47, Washington, D.C. 20461.

FEA will consider special circumstances such as unexpected outages which may cause fuel consumption to exceed FEA burn levels in any month. Adjustments have been made in the allocation levels of certain utilities to reflect necessary corrections in the delivery levels authorized in previous months. It is contemplated that corrections or adjustments to delivery levels for certain utilities may be required during the month of January to avoid undue hardship. Such corrections or adjustments may be made pursuant to Subparts B and C of 10 CFR Part 205.

FEA expects the utilities to consume supplies at or below FEA burn levels, which are based on the utilities' proposed burn levels less adjustments for projected growth exceeding historic averages.

The utility residual fuel oil allocation program is based in part on the data derived from utilities' filings of FPC Forms 23 and 23A. Thus, the timely submission of these forms will be a necessary prerequisite to receiving future allocation notices.

Reports should be addressed to FEA Electrical Utilities Reports, Code 47, Washington, D.C. 20461.

Issued in Washington, D.C., December 16, 1974.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

RESIDUAL FUEL OIL ALLOCATIONS TO UTILITIES FOR THE MONTH OF JANUARY 1975

	RECOMMENDED FEO BURN	PCT	BY SUPPLIER (BARRELS)	PAGE 1 TOTAL (BARRELS)
1. NORTHEAST POWER COORDINATING COUNCIL AREA (NPCC)				
CONNECTICUT				
NORTHEAST UTILITIES	2,147,000			2,147,000
AMERADA HESS CORP		68.0	1,459,960	
TAD JONES CO (GULF)		21.0	450,870	
WYATT INC (EXXON)		10.0	214,700	
H N HARTWELL&SON INC		1.0	21,470	
UNITED ILLUMINATING CO	741,150			741,150
TEXACO		87.0	644,801	
WYATT INC (EXXON)		13.0	96,350	
MAINE				
BANGOR HYDRO ELEC. CO.	29,010			29,010
SPRAGUE		100.0	29,010	
CENTRAL MAINE POWER CO.	322,410			322,410
TEXACO		100.0	322,410	
MAINE PUBLIC SERVICE CO.	19,500			19,500
DEAD RIV.O.(SPRAGUE)		100.0	19,500	
MASSACHUSETTS				
BOSTON EDISON CO.	1,285,995			1,285,995
WHITE FUEL (TEXACO)		46.0	591,558	
EXXON		42.0	540,118	
SPRAGUE		12.0	154,319	
BRAINTREE ELEC. LT. DEPT.	17,691			17,691
CM SMITH(GULD,EAGLE)		100.0	17,691	
E.UTIL.ASSOC.(MONTAUP&BLACKS	338,000			338,000
TEXACO		100.0	338,000	
FITCHBURG GAS & EL.	21,901			21,901
NORTHEAST PETROLEUM		100.0	21,901	
HOLYOKE GAS AND ELECTRIC	25,404			25,404
WYATT INC (EXXON)		100.0	25,404	
NEW ENG. ELEC	1,263,481			1,263,481
ASIATIC PETRO CORP		60.0	758,089	
GULD,EAGLE		39.9	504,129	
PRULEASE		.1	1,263	

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NEW ENG. G & E	674,000			674,000
NEW ENGLAND PETRO		84.8	571,552	
WHITE FUEL(TEXACO)		15.2	102,448	
PEABODY ELECTRIC LT DEPT	1,465			1,465
PICKERING(NEPCO)		100.0	1,465	
TAUNTON MUN. LT.	104,844			104,844
QUINCY OIL CO (EXXON		100.0	104,844	
NEW HAMPSHIRE				
PUB SER OF N.H.	465,000			465,000
SPRAGUE		26.3	122,295	
CONOCO		73.7	342,705	
NEW YORK				
CENTRAL HUDSON GAS & ELEC CO	1,330,886			1,330,886
AMERADA HESS CORP		100.0	1,330,886	
CONSOL EDISON OF NY	4,015,078			4,015,078
NEW ENGLAND PETRO		45.5	1,826,860	
EXXON		20.8	835,156	
AMERADA HESS CORP		22.3	895,362	
TEXACO		11.4	457,719	
FREEPORT, VILLAGE OF	22,500			22,500
BURNS BROS O.(NEPCO)		100.0	22,500	
LONG ISLAND LIGHT CO.	1,797,000			1,797,000
NEW ENGLAND PETRO		100.0	1,797,000	
NIAGARA MOHAWK POWER CO.	449,048			449,048
NEW ENGLAND PETRO		100.0	449,048	
ORANGE & ROCKLAND UTILITIES	1,125,137			1,125,137
NEW ENGLAND PETRO		31.6	355,543	
HOWARD FUEL CORP		68.4	769,594	

ROCHESTER GAS & ELECTRIC	147,764			147,764
ALLIED O		29.7	43,886	
MONUCO OIL COMPANY		70.3	103,878	
RHODE ISLAND				
NEWPORT ELECTRIC CORP	9,030			9,030
CK SMITH		100.0	9,030	

2. MID-ATLANTIC AREA COORDINATION AGREEMENT (MAAC)

DELAWARE				
DELMARVA PWR & LT	563,000			563,000
STEUART PETROLEUM CO		22.0	123,860	
TEXACO		5.0	28,150	
GULF		8.0	45,040	
CONOCO		65.0	365,950	
DOVER, CITY OF	34,819			34,819
TEXACO		100.0	34,819	
DISTRICT OF COLUMBIA				
POTOMAC ELEC. PWR.	1,368,000			1,368,000
ASIATIC PETRO CORP		79.0	1,080,720	
STEUART PETROLEUM CO		21.0	287,280	
MARYLAND				
BALTIMORE GAS & ELECTRIC	999,082			999,082
AMERADA HESS CORP		52.7	526,516	
EXXON		47.3	472,566	
NEW JERSEY				
ATLANTIC CITY ELECTRIC COMPA	381,054			381,054
AMERADA HESS CORP		60.0	228,632	
CONOCO		40.0	152,422	
GPU INTEGRATED SYSTEM	441,186			441,186
AMERADA HESS CORP		94.0	414,715	
SWANN OIL INC		5.0	22,059	
SHIPLEY-HUMBLE		1.0	4,412	

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PUBLIC SERVICE ELECTRIC	1,666,000			1,666,000
AMERADA HESS CORP		78.0	1,299,480	
EXXON		22.0	366,520	
VINELAND,CITY OF ELEC.	41,859			41,859
SWANN OIL INC		100.0	41,859	
PENNSYLVANIA				
PENNSYLVANIA PWR & LT	0			0
PHILADELPHIA ELECTRIC CO.	1,224,400			1,224,400
ARCO		28.5	348,954	
AMERADA HESS CORP		21.5	263,246	
GULF		9.0	110,196	
NEW ENGLAND PETRO		2.1	25,712	
TEXACO		24.0	293,856	
CONOCO		14.9	182,436	

5. SOUTHEASTERN ELECTRIC RELIABILITY COUNCIL (SERC)

FLORIDA				
FLORIDA KEYS ELEC COOP	0			0
FLORIDA P & L	1,437,000			1,437,000
EXXON		15.0	215,550	
BELCHER OIL(EXXON)		85.0	1,221,450	
FLORIDA POWER CORPORATION	1,575,374			1,575,374
EXXON		60.0	945,224	
AMERADA HESS CORP		40.0	630,150	
FORT PIERCE, CITY OF	50,000			50,000
NEW ENGLAND PETRO		100.0	50,000	
GAINESVILLE, CITY OF	82,339			82,339
EASTERN SEABOARD		100.0	82,339	
GULF POWER CO.	26,928			26,928
BAKER SERVICE(EXXON)		100.0	26,928	
JACKSONVILLE ELEC. AUTH.	615,255			615,255
VEN FUEL INC		82.6	508,201	
AMERADA HESS CORP		8.7	53,527	
NEW ENGLAND PETRO		8.7	53,527	

KEY WEST UTILITIES	52,510			52,510
STD.OIL-KY		100.0	52,510	
LAKE WORTH UTIL AUTHORITY	10,374			10,374
BELCHER OIL(EXXON)		100.0	10,374	
LAKELAND LIGHT & WTR DEPT	132,000			132,000
BELCHER(STD.OIL-KY)		100.0	132,000	
NEW SMYRNA BEACH	0			0
ORLANDO UTILITIES COMM.	426,686			426,686
NEW ENGLAND PETRO		100.0	426,686	
SEBRING UTILITIES COMM.	965			965
UNION OIL OF CA		100.0	965	
TALLAHASSEE, CITY OF	119,833			119,833
UNION OIL OF CA		100.0	119,833	
TAMPA ELECTRIC CO.	24,385			24,385
WESTERN (STD.OIL-KY)		100.0	24,385	
VERO BEACH MUNICIPAL POWER	28,904			28,904
BELCHER OIL(EXXON)		100.0	28,904	
GEORGIA				
GEORGIA POWER COMPANY	90,654			90,654
NEW ENGLAND PETRO		100.0	90,654	
SAVANNAH ELECTRIC & POWER CO	205,469			205,469
COLONIAL OIL(EXXON)		100.0	205,469	
MISSISSIPPI				
MISSISSIPPI POWER CO.	67,580			67,580
ERGON(ITHIL TRADING)		45.0	30,411	
BAKER SERVICE(EXXON)		55.0	37,169	

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SOUTH MISSISSIPPI ELEC	49,189			49,189
SOUTHLAND OIL		83.0	40,827	
AMERADA HESS CORP		17.0	8,362	
NORTH CAROLINA				
CAROLINA POWER & LT.	203,719			203,719
EXXON		100.0	203,719	
SOUTH CAROLINA				
S.CAROLINA ELEC & GAS CO	459,643			459,643
EXXON		100.0	459,643	
S.CAROLINA PUB SERV AUTH	0			0
VIRGINIA				
VIRGINIA ELECTRIC POWER	1,557,000			1,557,000
EXXON		56.0	871,920	
AMERADA HESS CORP		19.7	306,729	
AMOCO		24.3	378,351	

4. SOUTHWEST POWER POOL COORDINATION COUNCIL (SPP)

ARKANSAS				
ARKANSAS ELEC COOP	166,434			166,434
LOGICON INC (SHELL)		80.0	133,147	
E L BRIDE(TEXACO)		20.0	33,287	
JONESBORO WATER AND LIGHT PL	0			0
COLORADO				
CITY. S.COLO PWR DIV.	0			0
KANSAS				
CENTRAL KANSAS PWR	7,435			7,435
GR.PLS(CRA-FARMLAND)		100.0	7,435	

CHANUTE,CITY OF	5,699			5,699
MID AMER.REFINING		100.0	5,699	
CLAY CENTER LT&WTR	1,000			1,000
CARTER WTR		100.0	1,000	
COFFEYVILLE LT & PWR	4,921			4,921
CRA-FARMLAND		100.0	4,921	
CI&U, WESTERN PWR DIV	72,904			72,904
AMOCO		73.0	53,220	
NORTH AMER PETRO		23.0	16,768	
CARTER WTR		4.0	2,916	
KANSAS GAS & ELEC	362,292			362,292
FRONTIER PRODUCTION		15.3	55,431	
ASPH&PETRO INDUST		84.7	306,861	
KANSAS POWER & LIGHT	140,000			140,000
PHILLIPS PETROLEUM		46.1	64,540	
GR.PLS		38.4	53,760	
NTL COOP REFINERY		15.5	21,700	
LARNED WTR & ELEC	771			771
CARTER WTR		100.0	771	
MCPHERSON BD OF PUB UTIL	8,370			8,370
NTL COOP REFINERY		100.0	8,370	
OTTAWA WTR & LI	0			0
LOUISIANA				
CENTRAL LOUISIANA ELECTRIC C	0			0
JONESBORO POWER & LIGHT	0			0
MIDDLE SOUTH SERVICES	1,778,498			1,778,498
MURPHY OIL CORP		30.0	533,549	
TAUBER OIL CO		20.5	364,592	
SHELL		21.3	378,820	
EXXON		12.9	229,426	
GULF		9.5	168,957	
ERGON INC (EXXON)		3.8	67,585	
L L ARTLE(OKC REF.)		1.7	30,234	
KLESE OIL(SUN OIL)		.3	5,335	

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SOUTHWESTERN ELECTRIC POWER	37,000			37,000
FALCO		100.0	37,000	
MISSISSIPPI				
CLARKSDALE WTR & LT	4,937			4,937
SOUTHLAND OIL		100.0	4,937	
YAZOO CITY PUB SERV	6,428			6,428
SOUTHLAND OIL(HOWELL)		100.0	6,428	
MISSOURI				
EMPIRE DIST ELEC	12,000			12,000
E L BRIDE		100.0	12,000	
ST JOSEPH LT & PWR	16,500			16,500
E L BRIDE		100.0	16,500	
OKLAHOMA				
BLACKWELL GTR & LT	1,400			1,400
SHEPHERD(MIDSTATES)		100.0	1,400	
OKLAHOMA GAS & ELEC	0			0
WESTERN FARMERS ELEC COOP	39,633			39,633
MCPHERSON BROS		100.0	39,633	
TEXAS				
GULF STATES UTILITIES	495,491			495,491
COASTAL STATES MKTG		37.5	185,809	
TENNECO		16.1	79,774	
LAJET		4.0	19,820	
EXXON		20.1	99,594	
SOUTH HAMPTON CO		22.3	110,494	

5. ELECTRIC RELIABILITY COUNCIL OF TEXAS (ERCOT)

AUSTIN CITY ELEC DEPT	35,714			35,714
TESORO		100.0	35,714	

BRAZOS ELEC COOP	0			0
BRYAN, CITY OF	11,200			11,200
PETROLEUM I&T(3 RIVE		100.0	11,200	
DALLAS POWER &LT.	25,000			25,000
WINSTON REF CO		18.2	4,550	
KERR MCGEE OIL CO		18.9	4,725	
J&W REFINING		47.2	11,800	
BEL OIL&REFINING		15.6	3,900	
GARLAND,CITY OF	59,259			59,259
PRIDE REFINERY INC		74.7	44,266	
DELTA REFINING CO		25.3	14,993	
HOUSTON LIGHT & PWR	0			0
LOWER COLORADO RIVER AUTH	0			0
MEDINA ELEC COOP	150			150
TESORO		100.0	150	
SAN ANTONIO PUB SERV	325,401			325,401
TESORO		100.0	325,401	
TEXAS ELEC SERV	0			0
TEXAS PWR & LT	25,973			25,973
LA GLORIA OIL&GAS CO		31.1	8,078	
J&W REFINING		49.0	12,727	
KERR MCGEE		19.9	5,169	
WEST TEXAS UTIL	236,200			236,200
PRIDE REFINING INC		100.0	236,200	

6. MID-AMERICA INTERPOOL NETWORK (MAIN)

ILLINOIS

COMMONWEALTH EDISON CO.	340,000			340,000
ALLIED O.		98.0	333,200	
CLARK OIL&REF.CORP		2.0	6,800	

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ILLINOIS POWER CO	42,549			42,549
ALLIED O.		100.0	42,549	
MISSOURI				
UNION ELECTRIC	25,000			25,000
APEX OIL CO		100.0	25,000	
WISCONSIN				
SUPERIOR WTR & LT	13,334			13,334
MURPHY OIL CORP		100.0	13,334	
WISCONSIN ELEC PWR	16,667			16,667
INDUST FUEL&ASPHALT		100.0	16,667	

/. MID-CONTINENT AREA RELIABILITY COORDINATION AGREEMENT (MARCA)

IOWA				
ATLANTIC MUNICIPAL UTILITIES	4,166			4,166
MCMILLAN OIL CO		100.0	4,166	
INTERSTATE POWER	54,658			54,658
NORTHWESTERN REF		100.0	54,658	
LAMONI MUNIC	0			0
MINNESOTA				
AUSTIN UTILITIES	5,991			5,991
NORTHWESTERN REF		48.3	2,894	
GUSTAFSON OIL CO		33.0	1,977	
W H BARBER		18.7	1,120	
FAIRMONT WTR & LT	0			0
MARSHALL MUNICIPAL UTIL	2,792			2,792
E L BRIDE		100.0	2,792	
MINNESOTA PWR & LT	30,500			30,500
MURPHY OIL		100.0	30,500	

NORTHERN STATES PWR	0			0
OWATONNA MUN UTIL	20,864			20,864
NORTHWESTERN REF		60.0	12,518	
GUSTAFSON OIL CO		40.0	8,346	
WORTHINGTON, CITY OF	7,247			7,247
ALLIED O.		100.0	7,247	
NEBRASKA				
CENTRAL NEBRASKA PUBLIC	65,016			65,016
FARMLAND INDUSTRIES		100.0	65,016	
FAIRBURY LT & WTR	4,615			4,615
CARTER WTR(TEXACO)		100.0	4,615	
GRAND ISLAND ELEC	39,332			39,332
E L PRIDE		100.0	39,332	
HASTINGS UTILITIES DEPT	5,181			5,181
CARTER WTR		100.0	5,181	
LINCOLN ELECTRIC SYSTEM	3,229			3,229
E.L. BRIDE CO		100.0	3,229	
NEBRASKA PUBLIC POWER DISTRI	24,664			24,664
PANHANDLE COOP ASSOC		100.0	24,664	
OMAHA PUB PWR DIST	7,117			7,117
MILDER OIL CO		100.0	7,117	
WISCONSIN				
LAKE SUPERIOR DIST PWR	32,945			32,945
DOME PETROLEUM		100.0	32,945	

B. EAST CENTRAL AREA RELIABILITY COORDINATION AGREEMENT (ECAR)

MICHIGAN				
CLINTON LT & WTR	730			730
CRYSTAL REFINING CO		100.0	730	

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CONSUMERS POWER	569.221			569.221
CONSUMERS PWR-CRUDE		54.0	307.379	
LAKESIDE REFINING CO		14.0	79.691	
OSCEOLA REFINING CO		8.0	45.538	
TOTAL LEONARD INC		4.0	22.769	
MURPHY MI.DIV.AMOCO		6.0	34.153	
ENTERPRISE OIL CO		6.0	34.153	
HURON OIL(STANDARD)		3.0	17.077	
INDUST FUEL&ASPHALT		2.0	11.384	
KUPP OIL COMPANY		2.0	11.384	
GLADIEUX REF		1.0	5.692	
DETROIT EDISON CO.	687.224			687.224
SUN OIL LTD		70.0	481.057	
CANADIAN FUEL MKTRS		9.9	68.035	
ENTERPRISE OIL CO		4.8	32.987	
PETRO PRODUCTS		5.4	37.110	
MARATHON OIL		9.9	68.035	
GRAND HAVEN BD PUB	722			722
OSCEOLA REF		100.0	722	
HILLSDALE BD OF PUB WORKS	7.724			7.724
LEWIS(GLADIEUX REF)		100.0	7.724	
OHIO				
CLEVELAND ELEC ILLUMIN	204.860			204.860
ALLIED O.(ASHLAND)		100.0	204.860	
TOLEDO EDISON	0			0
PENNSYLVANIA				
ALLEGHENY POWER SERVICE	40.000			40.000
ALLIED O.(NEPCO)		100.0	40.000	

9. WESTERN SYSTEMS COORDINATING COUNCIL (WSCC)

ARIZONA				
ARIZONA PUBLIC SERVICE CO.	232.220			232.220
UNION OIL OF CAL		63.0	146.299	
PACIFIC SOUTHWEST		16.5	38.316	
SAN JUAQUIN REF		16.5	38.316	
BASIN FUELS		4.0	9.289	

SALT RIVER PROJECT	3,983			3,983
ILSORO		12.4	494	
DOUGLAS OIL CO		2.8	112	
GUSTAFSON OIL CO		.9	36	
MACMILLAN		17.0	677	
POWERINE OIL CO		18.1	721	
LITTLE AMERICA		19.7	785	
SAN JOAQUIN REF		29.1	1,159	
TUCSON GAS & ELEC	186,120			186,120
GOLDEN GATE PETRO		22.0	40,946	
NAVAJO REFINING		5.0	9,306	
TOSCO		43.0	80,032	
UNION OIL OF CA		25.0	46,530	
HOLLAND OIL(TOSCO)		5.0	9,306	
CALIFORNIA				
BURBANK CITY PUBLIC SER.	89,900			89,900
CARSON(GOLD.EAGLE)		100.0	89,900	
GLENDALE PUBLIC SERVICES	93,702			93,702
POWERINE OIL CO		100.0	93,702	
IMPERIAL IRRIGATION DISTR	68,700			68,700
CRESCENT REF&D(GULF)		100.0	68,700	
LOS ANGELES DEPT OF WATER &	1,605,000			1,605,000
ARCO		59.8	959,790	
EDGINGTON OIL CO		20.9	335,445	
PETROBAY		7.6	121,980	
NEWHALL REFINING CO		5.0	80,250	
SAN JOAQUIN REF		3.5	56,175	
POWERINE OIL CO		3.2	51,360	
PACIFIC GAS & ELECTRIC CO	3,030,599			3,030,599
ARCO		59.8	1,812,298	
UNION OIL OF CA		4.0	121,224	
PHILLIPS PETROLEUM		20.1	609,150	
PERTA OIL		16.1	487,926	

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PASADENA POWER CO.	104,208			104,208
GOLD,EAGLE		100.0	104,208	
SAN DIEGO GAS & ELECTRIC CO.	1,010,000			1,010,000
UNION OIL OF CA		29.8	300,980	
MINI		16.2	163,620	
EDGINGTON OIL CO		21.3	215,130	
TESORO		32.7	330,270	
SOUTHERN CALIF EDISON	4,998,000			4,998,000
STD.OIL-CAL		50.1	2,503,998	
TEXACO		9.7	484,806	
ARCO		7.8	389,844	
EXXON		20.4	1,019,592	
PACIFIC RESOURCES		6.8	339,864	
MACMILLAN R.F.OIL		3.0	149,940	
CONOCO		2.2	109,956	
COLORADO				
COLORADO SPRINGS LT & PWR	0			0
LAMAR LT & PWR	0			0
PUB SERV COLORADO	148,055			148,055
PLATEAU INC		20.1	29,759	
REF.CORP		43.5	64,404	
CONOCO		36.4	53,892	
MONTANA				
MONTANA POWER	0			0
NEVADA				
NEVADA POWER COMPANY	98,210			98,210
GUSTAFSON OIL CO		54.0	53,033	
HUSKY OIL COMPANY		46.0	45,177	
SIERRA PACIFIC POWER	128,531			128,531
GOLDEN GATE PETRO		100.0	128,531	

NEW MEXICO				
PLAINS ELEC GEN & TRANSM	3,333			3,333
PLATEAU INC		97.8	3,260	
CARIBOU 4 CORNERS		2.2	73	
PUB SERV NEW MEXICO	73,871			73,871
PLATEAU INC		39.8	29,401	
SHELL		26.4	19,502	
THRIFTWAY		5.4	3,989	
NAVAJO REFINING		24.1	17,803	
STD.OIL-TEXAS		4.3	3,176	
OREGON				
PACIFIC POWER & LIGHT CO	0			0
TEXAS				
COMMUNITY PUB SERV	24,781			24,781
STD.OIL-TEXAS		100.0	24,781	
EL PASO ELECTRIC	82,770			82,770
SOUTHERN UNION		74.5	61,664	
TESORO		25.5	21,106	
UTAH				
UTAH POWER &LIGHT CO.	0			0
WASHINGTON				
PUGET SOUND POWER &LIGHT CO.	137,622			137,622
ROSSO INC		1.0	1,376	
PACIFIC NORTHERN		16.0	22,020	
HOME OIL CO		2.0	2,752	
SOUTH CENTER OIL		16.5	22,708	
LILYBLAD		8.5	11,698	
CASCADE		8.0	11,010	
OLDS OLYMPIC		4.0	5,505	
SHELL		44.0	60,554	

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SEATTLE DEPT OF LI	18,046			18,046
SHELL		100.0	18,046	
TACOMA DEPT OF PUBLIC UTILIT	0			0

10. ASCC

ALASKA

CORDOVA, TOWN OF	0			0

HAWAII

HAWAIIAN ELECTRIC COMPANY	666,003			666,003
STD.OIL-CA		100.0	666,003	
HILO ELEC LT	31,299			31,299
STD.OIL-CA		100.0	31,299	
KAUAI ELECTRIC	14,045			14,045
STD.OIL--CA		100.0	14,045	
MAUI ELECTRIC	33,262			33,262
STD.OIL-CA		100.0	33,262	

11. NOT OTHERWISE CLASSIFIED

UNK

GUAM PWR AUTH	92,511			92,511
U.S.NAVY		100.0	92,511	
PUERTO RICO WATER RESOURCES	1,566,211			1,566,211
COMMONWEALTH OIL		50.0	783,106	
PUERTO RICO SUN OIL		30.0	469,863	
CARIBBEAN GULF REF		20.0	313,242	
ST.CROIX, V.I. WTR PWR	53,339			53,339
AMERADA HESS CORP		100.0	53,339	
ST THOMAS, V.I. WTR PWR	39,542			39,542
AMERADA HESS CORP		100.0	39,542	

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Volume 39 ■ Number 246

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[illegible] No. and date

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

Crop Insurance; Appendix; Counties Designated for Pea (Canning and Freezing)

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties are hereby added to the list of counties published December 2, 1974, (39 FR 41722), which were designated for pea (canning and freezing) crop insurance for the 1975 crop year.

WISCONSIN

Manitowoc	Sauk	Walworth
Rock	Sheboygan	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516))

[SEAL] M. R. PETERSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.74-29731 Filed 12-19-74;8:45 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

Counties Designated for Dry Bean Crop Insurance; Appendix

The appendix designating counties for dry bean crop insurance for the 1975 crop year which was published in the FEDERAL REGISTER on December 2, 1974, (39 FR 41721), is hereby amended by adding light and dark, kidney, cranberry, turtle and pintos to the classes of beans on which insurance is offered in the following counties:

MICHIGAN

Bay	Sanilac
Gratiot	Shiawassee
Huron	Tuscola
Saginaw	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516))

[SEAL] M. R. PETERSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.74-29732 Filed 12-19-74;8:45 am]

CHAPTER VI—SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

PART 650—COMPLIANCE WITH NEPA

Subpart B—Related Environmental Concerns

On September 3, 1974, the Soil Conservation Service (SCS) published in the FEDERAL REGISTER (39 FR 31909) for comment, proposed 7 CFR Part 650, Compliance with NEPA, Subpart B—Related Environmental Concerns.

Comments received have been incorporated into the final Subpart B where appropriate. Written comments received are available for public inspection in Room 5125, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

SCS herewith publishes final 7 CFR Part 650, Subpart B—Related Environmental Concerns, which are to be effective on December 20, 1974. Section 650.20 is reserved for archeological and historical data and historical sites to be published at a later date.

Dated: December 11, 1974.

KENNETH E. GRANT,
Administrator, Soil Conservation Service.

Subpart B—Related Environmental Concerns

Sec.
650.20 [Reserved]
650.21 Working relations with the U.S. Environmental Protection Agency (EPA) and related state environmental agencies.
650.22 Rare, threatened, and endangered species of plants and animals.
650.23 Natural areas.
650.24 Scenic beauty (visual resource).

AUTHORITY: Pub. L. 86-523, 74 Stat. 220 as amended, Pub. L. 93-291, 88 Stat. 174 (16 U.S.C. 469); Pub. L. 89-665, 80 Stat. 915 (16 U.S.C. 470); Pub. L. 93-205, 87 Stat. 884 (16 U.S.C. 1531 et seq.); Secretary of Agriculture Memorandum 1695, May 28, 1970.

Subpart B—Related Environmental Concerns

§ 650.20 [Reserved]

§ 650.21 Working relations with the U.S. Environmental Protection Agency (EPA) and related state environmental agencies.

(a) *Background.* The authorities and missions of SCS, EPA, and state environmental agencies make it imperative that an effective cooperative and coordinative working relationship be developed and maintained in areas of mutual concern. These common areas include air quality, water quality, pesticides, waste recycling and disposal, environmental considerations in land use, Environmental Impact Statements (EIS's) and environmental considerations in the conservation and development of natural resources.

(b) *Policy.* SCS will work closely with EPA in accordance with the provisions of the EPA–USDA Memorandum of Understanding July 31, 1974, at all administrative levels and with related state agencies to meet statutory requirements and to achieve harmonious implementation of all actions of mutual concern directed to improving or maintaining the quality of the environment.

(c) *Responsibility.*—(1) *SCS national office.* The Deputy Administrator for Field Services is responsible for overall coordination with EPA at the national office level. The Deputy Administrator for Water Resources is responsible for contacts with EPA in relation to activities of the Water Resources Council on water and related land resource planning and for coordinating work with EPA on EIS development.

(2) *Technical service center.* The TSC director is responsible for contacts and coordination with EPA regional offices within the group of states served by the TSC.

(3) *SCS state office.* The state conservationist is responsible for contacts and coordination with regional representatives of EPA and state environmental agencies in matters of mutual concern within his state.

(d) *Coordination and implementation.* (1) The SCS national office will:

(i) Within the framework of USDA agreements and guidelines, develop agreements for undertaking specific activities or projects of national significance and mutual advantage.

(ii) Assist EPA as requested in developing EPA policy, guidelines, and standards.

(iii) Consider EPA needs in soil survey and land, inventory, and monitoring activities.

(iv) Maintain needed liaison and develop mutual guidelines with EPA on water resources work and in coordinating EIS's.

(v) Advise EPA regarding soils, plant materials, and soil and water conservation techniques.

(vi) Establish procedures for periodic review of SCS national standards for treatment systems and practices for agricultural pollution abatement, including wind and water erosion and sediment control, transport of pesticides, organic matter and fertilizers, and burning of residues or clearing debris.

(2) The TSC director will:

(i) Within the framework of SCS memorandums and guidelines coordinate with the EPA regional administrator(s) the development of needed agreements for undertaking specific activities or projects of multistate significance and mutual advantage.

(3) The state conservationist will:

(i) Obtain early input of EPA and interested state and local environmental agencies in the planning process for projects or measures within the state impacting on the environment.

(ii) Coordinate preparation of SCS practice standards and procedures for

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agricultural pollution abatement within the state with EPA and related state agencies.

(iii) Encourage the development of a coordinated review and approval process within the state with EPA and appropriate state and local agencies including conservation districts for actions of mutual concern.

(iv) Attempt to resolve all EPA areas of concern on SCS assisted project-type actions within the state before a final EIS is prepared.

§ 650.22 Rare, threatened, and endangered species of plants and animals.

(a) *Background.* (1) A variety of plant and animal species of the United States are so reduced in numbers that they are threatened with extinction. The disappearance of any of these would be a biological, cultural, and in some instances an economic loss. Their existence contributes to scientific knowledge and understanding, and their presence adds interest and variety to life.

(2) The principal hazard to threatened and endangered species is the destruction or deterioration of their habitats by human activities such as industrialization, urbanization, agriculture, lumbering, recreation, and transportation. These activities of man will continue but the necessity of recognizing their adverse impacts and selecting alternatives that minimize or eliminate such impacts on threatened and endangered species is imperative.

(3) The Endangered Species Act of 1973 (Pub. L. 93–205, 87 Stat. 884 (16 U.S.C. 1531 et seq.)) provides a means whereby the ecosystems upon which endangered and threatened species depend may be maintained and a program for the conservation of such species. The Act also provides that, in addition to the Department of the Interior, "All other federal departments and agencies shall, in consultation with and with the assistance of the Secretary (of Interior), utilize their authorities for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected states, to be critical." The Act also:

(i) Defines endangered species as any species in danger of extinction throughout all or a significant portion of its range and threatened species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act uses the category "threatened." The term "rare" is not used.

(ii) Further defines species as including any subspecies of fish or wildlife or plants and any other group of fish and wildlife of the same species or smaller taxa in common spatial arrangements that interbreed when mature.

(iii) Provides for the Secretary of the Interior to enter into cooperative agreements with states for the purpose of implementing state programs for the conservation of endangered and threatened fish and wildlife. This assistance may include financial grants.

(iv) Provides national lists of endangered and threatened animal and plant species to be maintained by the Secretary of the Interior and published in the FEDERAL REGISTER. When resident fish and wildlife are added to the list, the affected states are to be consulted by the Secretary. The Secretary of the Smithsonian Institution is preparing a list of endangered or threatened plant species.

(b) *Policy.* The Act gives SCS additional direction for participation in the conservation and protection of endangered and threatened species. As the principal federal agency concerned with land use planning of privately owned rural land and with professional conservation employees headquartered in almost every county, SCS is uniquely capable of playing a vital role. Additional training will be provided as needed to meet SCS responsibilities. SCS will assist in the conservation of threatened and endangered species and consistent with legal requirements avoid or prevent activities detrimental to such species. SCS concern for these species will not be limited to those listed by the Secretary of the Interior and published in the FEDERAL REGISTER, but will include species designated by state agencies as rare, threatened, endangered, etc.

(c) *Responsibility.*—(1) *SCS national office.* The Administrator will arrange for consultation and coordination of SCS national office activities with the U.S. Fish and Wildlife Service, other federal agencies, and national organizations.

(2) *Technical service center.* The TSC director will, within the group of states served by the TSC arrange for consultation and coordination with regional representatives of the U.S. Fish and Wildlife Service, other federal agencies, and national and regional organizations.

(3) *SCS state office.* The state conservationist will arrange for consultation and coordination with the state fish and game or conservation agency, other state agencies, state organizations and foundations, conservation districts, and state representatives of federal agencies and national organizations.

(d) *Coordination and implementation.* (1) The SCS national office will:

(i) Within the framework of national legislation, USDA agreements, and SCS objectives, develop SCS policies and directives for guiding agency efforts that will protect threatened and endangered species and for avoiding actions that jeopardize the continued existence of such species and their critical habitats.

(ii) Maintain needed liaison and develop mutual understanding with the U.S. Fish and Wildlife Service and other concerned federal agencies.

(iii) Establish procedures for periodic review of SCS participation in the national effort to conserve these species.

(2) The TSC director will: (i) Within the framework of SCS policies and guidelines, arrange for needed liaison and understanding with regional counterparts of other federal agencies within the group of states served by the TSC and keep state conservationists informed of developments within such states.

(ii) Provide guidance and assistance to state conservationists in carrying out SCS policies and guidelines.

(3) The state conservationist will develop procedures to establish working relationships with other concerned federal agencies, state fish and wildlife or conservation agencies, conservation districts, concerned scientists in state university systems and natural history museums, and other informed persons and organizations to offer assistance in:

(i) Preparing or maintaining lists of the state's threatened and endangered species.

(ii) Determining the geographic occurrence of endangered and threatened species, the nature of their habitat, and that portion of the habitat that is critical to the survival, maintenance, or increase of these species.

(iii) Discussing the kinds of measures important to preserve their habitat.

(iv) A monitoring program that would obtain advanced warning of actions or conditions that could further endanger these species, thereby enabling SCS and others to take appropriate protective action.

(v) Assisting recovery teams, as appropriate, in preparing species recovery plans of those endangered and threatened species included in Federal lists.

(4) The state conservationist will also:

(i) Keep SCS area and field offices informed of species listed as being threatened or endangered, geographic area in which they are found, and information such as their numbers, preferred habitat, and critical factors.

(ii) Review the status of threatened and endangered species each December and send a report of the review to the Administrator.

(5) SCS district conservationists within the geographic range of threatened and endangered species will examine conservation district programs and SCS operations to evaluate their effects on these species, and recommend to district officials and the state conservationist any action needed for their protection.

(6) SCS field employees within the geographic range of threatened and endangered species will be continually alert to conditions, actions, or trends that may adversely affect the welfare of these species and report adverse situations to the state conservationist.

§ 650.23 Natural areas.

(a) *Background.* (1) Natural areas are defined as land or water units where natural conditions are maintained insofar as possible. Natural conditions usually result from allowing ordinary physical and biological processes to operate with a minimum of human intervention. Manipulations may be required on natural areas to maintain or restore features that the areas were established to protect.

(2) Natural areas may be designated areas of federal, nonfederal government, or privately controlled land. Designation may be formal as provided for under federal regulations for areas of federal

land to be administered as natural areas or by foundations or conservation organizations specifically created to acquire and maintain natural areas. Designation may be informal in the case of private landowners who designate a specific area as a natural area and manage it accordingly. Several professional societies concerned with renewable natural resources encourage establishment of natural areas withdrawn from economic uses and recognition of natural areas maintained and managed in economic enterprises.

(3) Natural areas are established and maintained for a variety of purposes including:

(i) *Furthering science and education.* Natural areas provide sites for research and outdoor classrooms for study of plant and animal communities in environments with particular ecological conditions.

(ii) *Monitoring the surrounding environment.* Natural areas serve as gauges against which to evaluate changes in land use, vegetation, animal life, air quality, or other environmental values.

(iii) *Providing recreation attractions.* Natural areas are valued by many people for their scenic, wild, and undisturbed character but must be protected, as needed, to prevent disturbance or alteration of the resources.

(iv) *Preserving unique values.* Natural areas may be established to protect scenic, biologic, geologic, or paleontologic features.

(v) *Serving as a genetic base for native plants and animals.* Natural areas may be established to preserve examples of land and water ecosystems with their full range of genetic diversity of native plants and animals including threatened and endangered species.

(b) *Policy.* SCS will recognize natural areas, if so dedicated, as a land use, and will support the designation of appropriate natural areas.

(c) *Responsibility.*—(1) *SCS national office.* The Administrator will designate a member of the national office staff to act as SCS representative on the Federal Committee for Ecological Preserves and to provide appropriate liaison with other federal agencies and nonfederal groups concerned with natural areas.

(2) *Technical service center.* The TSC director will designate a TSC plant sciences discipline leader to provide leadership, appropriate liaison, and assistance on natural areas to SCS state offices.

(3) *SCS state office.* The state conservationist will designate an appropriate SCS representative to work with other agencies and groups, and will coordinate assistance on natural areas needed by area and field offices.

(d) *Coordination and implementation.* (1) SCS technical assistance will be furnished to representatives of administering agencies, foundations, groups, and individuals when requested through conservation districts. Conservation district officers will be encouraged to recognize appropriate natural areas concepts and programs and to participate in them.

(2) SCS employees will report to state conservationists abuses and potential or actual damages to natural areas that may be found in the course of ordinary business.

(3) SCS will cooperate with professional societies, groups, and individuals in locating areas suitable for and needed as natural areas.

(4) SCS employees providing technical assistance to land users must inform them about the impact their decisions may have on adjacent or nearby natural areas. Land users will be encouraged to consult with concerned agencies, societies, and individuals to arrive at mutually satisfactory land use and treatment.

(5) Recommended classification systems for characterizing areas designated as ecological preserves or as natural areas are contained in the following publications:

Soil Taxonomy, a Basic System of Soil Classification for Making and Interpreting Soil Surveys, USDA–SCS Agricultural Handbook 436.

Forest Cover Types of North America Exclusive of Mexico, Report of the Committee on Forest Cover Types, Society of American Foresters, 1964.

Potential Natural Vegetation of Conterminous United States, A. W. Kuchler, American Geographical Society Special Publication 36, 1964.

Wetlands classification described by the U.S. Fish and Wildlife Service in its Circular [illegible].

SCS will, to the extent feasible, use these classification systems when providing technical assistance on public and private natural areas and ecological preserves.

(6) The SCS published National List of Scientific Plant Names will be used when scientific names or name symbols are needed for automatic data processing.

§ 650.24 Scenic beauty (visual resource).

(a) *Background.* Contributions to scenic beauty are a normal product of SCS work. Strip-cropping, field borders, field windbreaks, and ponds are examples. Emphasis is given to those soil and water conservation measures that contribute to a productive and efficient agriculture and increase the attractiveness of rural America and are in line with goals and objectives of conservation districts. This is best accomplished by considering the landscape visual resource when providing planning assistance to individual landowners, groups, units of government, and watershed and resource conservation development project sponsors. SCS responsibilities in recreation also offer opportunities to develop the scenic beauty of the rural landscape. Department of Agriculture Secretary's Memorandum 1695, May 28, 1970, "Protecting and Improving The Quality of the Environment," includes scenic beauty as an objective of the Department's programs.

(b) *Policy.* SCS will: (1) Provide technical assistance with full consideration of alternative management and development systems that preserve scenic beauty or improve the visual resource; (2) emphasize the application of conservation practices having scenic beauty or visual resource values particularly in waste management systems; field borders, field windbreaks wetland management, access roads, critical area treatment; design and management of ponds, stream margins odd areas, and farmsteads; siting or positioning of structures and buildings to be in harmony with the landscape while reducing the potential for erosion; using native and other adaptable plants for conservation which enhance scenic beauty and create variety while linking beauty with utility; (3) promote personal pride in landowners in the installation, maintenance, and appearance of conservation practices and their properties; (4) select suitable areas for waste products and use of screens to hide "eyesore" areas, and (5) encourage conservation districts to include practices which promote scenic beauty in their annual and long-range programs.

(c) *Responsibility.* The Soil Conservation Service will provide technical assistance through conservation districts to landowners, operators, communities, and state and local governments in developing programs relating to scenic beauty.

(1) *SCS national office.* The Administrator will:

(i) Assign appropriate SCS national office leadership to insure that enhancement of scenic beauty is included in national information, policy, guidelines, standards, guides to specifications for conservation practices without impairing basic soil and water conservation functions.

(ii) Emphasize in plant material center management and in plant materials functions that locating and evaluating plants for forage, erosion control, and recreation or wildlife uses be carried out with full attention to visual resource value.

(2) *SCS state office.* The state conservationist will:

(i) Assign appropriate staff member(s) to provide leadership in carrying out scenic beauty policy and procedure within the state.

(ii) Develop and keep current a landscape management plan to improve and maintain the appearance of all real properties under SCS control, and provide appropriate assistance to owners and managers of properties leased or rented by SCS.

(iii) Give emphasis to preserving scenic beauty and contributing to the visual resource in the SCS information program whenever opportunities exist.

(d) *Coordination and implementation.* (1) The governing body of each conservation district will be encouraged to revise or update its district program to appropriately provide for beautification of the countryside through applicable land use changes and effective soil and water conservation treatment.

(2) In providing assistance to watershed and resource conservation and development project sponsors and other resource planning groups for soil, water, and related resources, emphasis will be given to measures that preserve natural beauty or contribute to the quality of the visual resource.

(3) Local organizations and groups interested in scenic beauty will be contacted and consulted for cooperation in and coordination with SCS and conservation district efforts.

[FR Doc.74–29614 Filed 12–19–74;8:45 am]

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CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER F—ENVIRONMENTAL PROTECTION

PART 799—PREPARATION OF ENVIRONMENTAL STATEMENTS—GUIDELINES

On June 11, 1974, the Agricultural Stabilization and Conservation Service (ASCS) published in the FEDERAL REGISTER (Vol. 39 No. 113) for comment, proposed guidelines for Preparation of Environmental Statements in compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321), in accordance with the guidelines of the Council on Environmental Quality (CEQ) appearing as 40 CFR Part 1500, published in the FEDERAL REGISTER August 1, 1973, (38 FR 20549) and the guidelines of the Department of Agriculture appearing May 29, 1974 (39 FR 18678).

Written comments received on the proposed ASCS guidelines were given full consideration in developing the final guidelines. ASCS also consulted with CEQ, Office of Environmental Quality Activities of USDA, and other agencies in finalizing these guidelines. The text of all comments are on file and available for public inspection in Room 4702, South Building, U.S. Department of Agriculture, Washington, D.C.

The more substantive comments received and their considerations are as follows:

(1) Section 799.4(a)(2). *Identifying major actions significantly affecting the environment.* Comment suggests that the requirement to prepare an EIS where the environmental impact of projects are individually limited but cumulatively significant appears to be contradicted under (b)(2)(i–iv).

We concur that the listing of actions normally excluded from the preparation of an EIS as provided in (b)(2) (ii), (iii), and (iv) appears to conflict somewhat with the provisions in (a)(2). Paragraph (a)(2) is intended to be applicable where several individual farms are participating in a project effort to solve a conservation or pollution problem and there will not be a major impact on the project this year, but if other farms are added to the project in future years the cumulative effect may be a significant impact on the environment. This section has been rewritten to clarify.

(2) Section 799.4(b)(2). *Actions normally excluded from the preparation of an EIS.* Comment notes that individual farm projects are exempt from EIS process and suggests that they are likely to have a cumulatively significant environmental effect.

It is not feasible to require an EIS on each individual farmer's participation in a program. In addition, participation is often dispersed within an area, therefore not creating significant impact within a given area. As noted above where a number of farms join together in a project effort, which may be on a watershed basis, a statement may be required. To avoid the conflict discussed in item (1) above, (b)(2) (ii), (iii) and (iv) have been deleted.

(3) Section 799.5(c)(2). *Preparation of Environmental Statements.* Comment noted the environment includes both the natural environment and the social and economic environment and questioned whether Congress intended, by the enactment of NEPA, that economic factors were to be considered environmental factors for the purpose of the environmental impact analysis and stated that economic environment should be deleted in the final guidelines.

Since the passage of NEPA and the development of the EIS process, Congress in various actions has indicated that the economic is one of the factors to be considered as an environmental impact. In addition, this provision is the same as that provided in the USDA guidelines issued by the Secretary of Agriculture on May 22, 1974 and published in the FEDERAL REGISTER on May 29, 1974. The suggestion to delete was not accepted.

(4) Section 799.6(d)(2). *Consultation, review and public involvement.* Comment notes that the regulation provides that "the agency *may* utilize timely and effective procedures such as direct verbal contact, public meetings, printed materials, news media, *public notices,* and hearings as appropriate." (Italics added by commenter). Suggests that something more than the catalogue of possibilities is needed. This provision has been reworded to be more direct.

(5) Section 799.6(d)(2). *Consultation, review and public involvement.* Comment suggested that for informing the public the use of public notices in newspapers serving the area upon which the environmental impact is being assessed.

We concur in requiring the use of the public notice where a public hearing is to be held. Paragraph (d)(3) has been rewritten to clarify. The catalogue of actions to be carried out to inform the public has been expanded to include radio, a very useful media for informing the public of public meetings relating to agricultural/environmental concerns.

(6) Section 799.6(d)(3). *Consultation, review and public involvement.* Comment suggested more definite guidelines on announcing availability of environmental statement. This portion of the regulations has been rewritten to expand the guidelines.

(7) Section 799.6(f). *Consultation, review and public involvement.* Comment suggested that the listing of those to receive environmental statements should include newspapers.

This recommendation has not been adopted. News releases will be furnished to newspapers on the availability of an EIS.

(8) Suggestion that ASCS familiarize State and local personnel with the NEPA regulations.

The agency has been carrying out a NEPA awareness program with personnel including those at State and local level. It is our plan to expand the environmental awareness program among agency professional employees and committeemen.

These final regulations will be issued to State and county offices as published in the FEDERAL REGISTER. They will also be placed in the operating procedures issued to State and county offices as published in the FEDERAL REGISTER. They will also be placed in the operating procedures issued to State and county offices.

(9) The agency in reviewing the proposed guidelines has found a need to clarify the filing of an EIS on legislation. Section 799.4 has therefore been expanded.

The ASCS hereby publishes its final guidelines by issuing a new Subchapter F and a new Part 799 as set out below, to be effective January 15, 1975.

Issued in Washington, D.C. on December 13, 1974.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

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AUTHORITY: Pub. L. 91–190, 83 Stat. 852 (42 U.S.C. 4321); E.O. 11514, 35 FR 4247; 38 FR 20549.

§ 799.1 Purpose and Authority.

(a) Section 102(2)(C) of the National Environmental Policy Act (Pub. L. 91–190) requires the submission of an environmental statement with "every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment". The act and Executive Order 11514 mandate that Federal agencies, to the fullest extent possible, direct their policies, plans and programs to protect and enhance environmental quality. Agencies are required to view their actions in a manner calculated to encourage productive and enjoyable harmony between man and his environment, to promote efforts preventing or eliminating damage to the environment and biosphere and stimulating the health and welfare of man, and to enrich the understanding of the ecological systems and natural resources important to the Nation.

(b) The Council on Environmental Quality (CEQ) issued Guidelines for Preparation of Environmental Impact Statements in the FEDERAL REGISTER on

August 1, 1973. The USDA guidelines for filing environmental statements (EIS) were published in the FEDERAL REGISTER on May 29, 1974 (39 FR 18678).

(c) These guidelines provide for the implementation of section 102(2)(C) of the National Environmental Policy Act (NEPA) in administering programs of the Agricultural Stabilization and Conservation Service.

§ 799.2 Policy.

(a) *ASCS mission.* The mission of the Agricultural Stabilization and Conservation Service is to provide services both to the farmers and consumers through the administration of domestic agricultural programs as provided by law. These programs are designed to:

(1) Encourage a level of agricultural production which will assure ample supplies of food and fiber for American consumers and for an adequate response to improved export sales opportunities;

(2) Provide farmers with production freedom so that they may use their resources in the way they feel will earn them the most income from the marketplace;

(3) Protect farm income—through guaranteed prices with deficiency payments which would be triggered by depressed market prices, through commodity loans to producers to help assure orderly crop marketing, and through payments to eligible farmers compensating for crop production losses suffered due to natural disasters; and

(4) Assist farmers in their long-term role as conservationists in protecting basic natural resources and improving the quality of the environment.

In carrying out this mission under the authority of the Agriculture and Consumer Protection Act of 1973, which continues the market-oriented approach to farm programs established by the Agricultural Act of 1970, ASCS has the added responsibility of helping farmers gain a better understanding of modern marketing methods to enable them to utilize the marketplace as a source of income.

(b) *General.* ASCS administers various commodity and related land use programs through State, county, and community committees established in accordance with provisions of section 8(b) of the Soil Conservation and Domestic Allotment Act of 1935, as amended. The programs are based upon specific legislative authorities; provisions for national programs within these authorities are developed by the Washington staffs in specified program divisions under the supervision of the agency Administrator. A number of the programs administered by ASCS provide direct and/or indirect financial assistance to individual landowners and operators. In some instances, the assistance may be to a combination of such producers or an organization composed of landowners and operators. The environmental assessment and EIS process shall be carried out in harmony with the intent of the various programs and of those to whom assistance is to be provided to the extent feasible.

(c) *Assessing environmental quality and impacts of proposed actions.* (1) In accordance with national policy and directives, and as early as possible and in all cases prior to the agency decision concerning recommendations for or favorable reports on proposals for legislation and other major actions (administrative actions) significantly affecting the quality of the human environment, ASCS will assess in detail the potential environmental impact in order to avoid or minimize adverse effects wherever possible and to restore or enhance environmental quality to the fullest extent practicable. Alternative actions that will avoid or minimize adverse impacts should be explored. The long- and short-range implications of the proposed actions to man, his physical and social surroundings and to nature should be evaluated. ASCS may, in preparing the EIS, consult with other appropriate Federal, State and local agencies and the public.

(2) Assessments of the environmental impacts of the proposed action should be undertaken as early as possible and should be considered along with the economic, technical and other related studies of the proposed action or program provisions. A draft EIS should be prepared on administrative actions where provided for in these guidelines and accompany the proposal through the agency review process. The draft statement is to be submitted to CEQ and circulated for comments as outlined in § 799.5(e).

§ 799.3 Implementing in ASCS.

(a) *Responsible official.* The administrator of ASCS, or his designee, is the responsible Federal official for carrying out the purpose of NEPA for all ASCS programs. County committees, State committees, and directors of Washington Divisions, within their respective areas of responsibility, through the ASCS member of the USDA Environmental Quality Executive Committee (EQEC), shall assist the Administrator in assessing compliance with the policies and purposes of NEPA generally, and, in particular, in determining whether the quality of the human environment will be significantly affected in implementing agency programs and whether an environmental statement is or is not needed.

(b) *Offices responsible for preparing environmental statements.* (1) *Washington divisions.* Legislative proposals and favorable legislative reports, and multi State and national programs or major revisions of national programs.

(2) *State committees.* Major actions on a State or area basis within a State.

(3) *County committees.* Major actions within a county. The environmental statement will be forwarded through the appropriate agency channels to the ASCS member of EQEC for review and submission to the Administrator.

§ 799.4 Identifying major actions significantly affecting the environment.

(a)(1) The identification of major actions significantly affecting the quality of the environment is to be carried out against the background of ASCS' own program responsibility.

(2) In considering what constitutes a major action significantly affecting the environment, the responsible official should bear in mind that the effect of many Federal decisions about a project or complex of projects can be individually limited but cumulatively considerable. This can occur when over a period of years a small project, consisting of a number of producers joining together to solve a conservation problem, is expanded putting into the overall project individually minor but collectively major resources. In such cases, an EIS should be prepared if it is reasonable to anticipate a cumulatively significant impact on the environment from such project. In all cases where the proposed environmental impact of which is likely to be highly controversial a statement shall be prepared. Broad public reaction will generally be necessary for deeming that a controversy exists.

(b) *ASCS actions covered or excluded.* (1) *Actions which normally require an EIS.* Environmental statements will normally be prepared on all national commodity programs for which a set-aside or diverted acreage program is in effect and all conservation programs. The programs in this category include:

(i) Wheat, feed grains, cotton or any other commodity program for which a set-aside or diverted acreage program is in effect.

(ii) Rural Environmental Conservation Program.

(iii) Emergency Conservation Program.

(iv) Water Bank Program.

(v) Other conservation type programs.

(2) *Actions normally excluded from the preparation of an EIS.* The following or similar types of actions will not generally be considered as major federal actions significantly affecting the human environment and are excluded from the EIS process and negative determination.

(i) Individual farm participation in ASCS programs.

(ii) Rehabilitation of farmlands as a result of a natural disaster or other work of improvement which is covered by a program statement such as the Emergency Conservation Measures Program.

(3) *Other major ASCS actions which may require an EIS.* Major actions (programs or projects) which do not fall under the criteria established by paragraph (b)(1) or (2) of this section will require a decision by the responsible Federal official whether to prepare an EIS based on individual considerations. The decision made is to be based on an appropriate environmental assessment of environmental factors and significant effects, including beneficial and adverse effects. Significant adverse effects may be those which degrade the environment, curtail the use of the environment, or serve only short-term needs. Assessment is to cover secondary effects such as socio-economic impacts as well as direct effects.

(i) Identifying major actions which may or may not significantly affect the

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environment. At least the following environmental factors are to be assessed by the committee as appropriate to determine whether an EIS is needed:

Upland wildlife habitat.
Bottom land wildlife habitat.
Wildlife migration routes.
Bottom land hardwoods.
Stream fisheries including potential not presently productive.
Wetlands.
Endangered animals and plants.
Natural streams.
Man-altered streams.
Archeological and historical resources.
Water quantity.
Air quality.
Appearance of the landscape.

(ii) The degree of public interest, potential controversy, urban or rural setting, and economic and social impacts should also be assessed. Factors are to be quantified and qualified to the extent practicable as to the total amount in the area, the amount affected by the proposed actions, and the percent of the total resources in the area which will be affected. No single or multiple effect of factors can give the absolute answer. The data, once assembled will provide an indication of the probable impact and aid in making a judgment as to whether an EIS is needed.

(4) *Negative determination.* On major ASCS actions which under paragraph (b)(1) of this section would normally require an EIS, but where an assessment indicates no significant impact on the environment and no major controversy, the decision office should document the basis for the negative determination. This may include the State or county committee minutes where that level is the decision office. Information assembled in assessing the environmental impacts should be retained in appropriate files. A list of actions on which EIS's will not be prepared will be maintained and available for public inspection.

(5) *Statement on continuing programs.* Where a final EIS has been issued on a program, a new EIS will not be required in the next program year unless significant changes are made in the operations of the program. If significant changes are made, a new draft statement shall be prepared and circulated as provided in § 799.5.

(i) Significant changes in operations may include, but are not limited to, important changes in the conduct of the program, scope of the program is significantly expanded, the program changed as a result of controversial impacts on the environment, etc. The CEQ should be advised of the decision that a new EIS is not required.

(6) *Legislative actions.* A draft EIS will be prepared for legislative proposals or favorable reports on legislation where a national program is being developed or a major change in a program is being considered and the carrying out of the program could significantly affect the quality of the human environment.

(i) The EIS when required shall, to the extent feasible, accompany the legislative proposal or report to OMB. The proposal or report should make reference to the EIS.

(ii) Upon transmittal of the legislative proposal or report to Congress, the draft EIS will be forwarded to CEQ and the Congress. Copies of the EIS will be distributed as provided in § 799.5. Comments received on the legislative EIS will be forwarded to the appropriate Congressional Committees, through the ASCS Member of the EQEC. If deemed appropriate, the agency may respond to specific comments, and such response forwarded with the comments to the Congressional committees. Since legislation undergoes changes in Congress, a final legislative EIS need not be prepared.

§ 799.5 Preparation of environmental statements.

(a) *Types of statements.* An EIS is prepared in two stages. A draft EIS is the first formal statement for filing with CEQ and for review and comment by Federal and State agencies and the public as outlined in Appendix 4 of this part. A final EIS reflects the results of the draft review process. It is also filed with CEQ and each Federal and State agency, organization, group or individual who furnished substantive comments on the draft EIS or who requests a copy.

(b) *EIS development.* (1) The draft EIS is to be prepared early in the decisionmaking process in conjunction with other technical and economic studies. It should be circulated for public review before the significant program or project provisions are announced. The draft EIS must fulfill and satisfy to the fullest extent possible, at the time the draft is prepared, the requirements established for the final EIS by section 102(2)(C) of NEPA. Comments received during preliminary consultations on the draft EIS and the final EIS will be carefully evaluated and considered in the decisionmaking process.

(2) Applicants or consultants on certain type projects may be requested to furnish analyses and information in connection with the project. This material may be used in the preparation of the EIS.

(3) A systematic, interdisciplinary approach integrating the natural, economic, social science, and environmental design arts should be used in the preparation of the EIS. Alternative actions that will reduce adverse impacts or enhance positive effects will be thoroughly explored. Long- and short-range implications to man, to his physical and social surroundings and to nature will be examined.

(4) The EIS's will be documents complete enough to stand on their own, yet they should be succinct and understandable as possible. Highly technical and specialized analyses and data should, if needed, be appended to the body of the statement. Attention should be given to the substance of the information conveyed rather than to the particular form, length or detail of the EIS.

(c) *Content of environmental statements.* The following points must be addressed in the EIS: (See Appendix 3 of this part for outline.)

(1) *Description.* The proposed action or alternative should be clearly described by including enough information and technical data to give readers a clear understanding of the nature of the proposed action or program. Where relevant, maps, photographs, and other materials may be used. Give the relevant background information on the project or program including its purpose, the origin of the proposal, the social, economic or environmental objective. The description should include, as appropriate, population and growth assumption used to justify the project or program or to determine secondary population and growth impacts resulting from the proposed action and its alternatives. The sources of data used should be identified (i.e., OBERS projection). The relationship of the proposal to land use plans, policies and controls for the affected area must be described. Where conflicts exist, the proposed resolution of these conflicts or the reasons why they can't be resolved must be thoroughly addressed. If appropriate, describe the present environment, location, size, landownership, and status, physiography, ecosystems, climate, and other special features. The interrelationships of this proposed action with other projects and possible cumulative effects shall be presented.

(2) *Environmental impacts.* This requires an analysis of both the anticipated favorable and adverse impacts of the proposed action as it affects both the national and international environment. The environment in this case includes both the natural environment and the social and economic environment. Discuss both primary and secondary effects.

(i) Identify, analyze, and discuss the full range of social, physical, and biological factors which change as a result of direct or indirect effects of the proposed program or project. Examples of areas of environmental impact are: air quality, weather modification, water quality, fish and wildlife, noise, radiation, hazardous substances, energy supply, land use, soil, plants, outdoor recreation, historic, architectural and archeological preservation, impacts on low-income populations, and employment. Refer to CEQ Guidelines, Appendix II.

(ii) Both primary and secondary consequences should be considered in the analysis. The implications, if any, of the proposed program or project on population distribution or concentration should be objectively estimated and an assessment made of the probable effects of such changes in population patterns upon the resource bases, including land use and public services of the area in question as well as economic impacts on employment, unemployment, changes in local culture, social and other economic factors.

(iii) The distinction between primary and secondary impacts is important for insuring consideration of all alternatives. One way to describe the distinction is

that project inputs generally cause primary impacts and projects outputs generally cause secondary impacts. Primary impacts are generally easier to analyze and measure, while secondary impacts may require analyses by a number of agencies because they generally are not within any single agency area of responsibility or expertise. Secondary impact may, in fact, be more important or more damaging than primary impacts.

(iv) Summarize any environmental effects which are considered as favorable. This listing should contain only sufficient detail to identify the items.

(v) Discuss any planned measures to minimize and mitigate any probable adverse environmental impacts of the proposed action.

(3) *Summary of probable adverse environmental effects which cannot be avoided.* Identify and discuss the nature and extent of probable adverse effects and explain why they cannot be avoided. Such adverse effects may include water, air, sound, or visual pollution; undesirable land use patterns; damage to life systems; threats to health; or urban congestion consequences adverse to the environmental goals set out in section 101 (b) of NEPA.

(4) *Relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.* This in essence requires the agency to assess the action for cumulative and long-term effects from the perspective that each generation is trustee of the environment for succeeding generations. Discuss the extent of trade-offs between short- and long-term impacts.

(5) *Irreversible and irretrievable commitment of resources.* This requires the agency to identify the extent to which the action curtails the range of potential beneficial uses of the environment.

(6) *Alternatives to the proposed action.* The intent of this section is to assure that the responsible officer has identified the objective(s) and formulated the alternatives to achieve the objectives based upon a rigorous exploration and objective evaluation. The range of alternative means to reach the objectives of the proposed action may include alternatives as to location, design, scale, sequence, and timing. All reasonable alternatives and their environmental impacts should be discussed. The alternatives should be described, and an analysis presented, including costs and impacts on the environment. The viable alternatives should not be foreclosed prematurely in the agency review and decision process. Creativity is required in recognizing and developing alternatives. Examples of categories of alternatives that must be considered in connection with specific actions are as follows:

(i) The alternative of taking no action.

(ii) Alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts.

(iii) Alternatives related to different designs or details of the proposed program or project which would present different environmental impacts. In each case, the analysis of alternatives should be sufficiently detailed and rigorous to permit independent and comparative evaluation of the benefits, costs, and environmental risks of the proposed action and each alternative.

(7) *Other Federal policies and considerations.* There should be included an indication of what other interests and considerations of Federal policy are thought to offset the adverse environmental effects.

(8) *Consultation with appropriate Federal agencies and review by States and the public.* (i) In the draft environmental statement, list the agencies, groups, and individuals consulted in the preliminary consultation phases. Also, list the agencies and groups to whom the draft environmental statement will be sent.

(ii) In the final environmental statement, this section will include a discussion of comments on the draft environmental statement. Comments received from Federal, State and local agencies, leading national organizations and substantive comments received from individuals which influence decisionmaking are to be attached.

(d) *Cover page and summary sheet for environmental statements.* The EIS will include a cover page and a summary sheet constructed as shown in Appendix 1 and 2 of this Part.

(e) *Distribution of environmental statements.*

(1) The EIS is to be forwarded to the CEQ and then made available to other Federal agencies, State Clearinghouses, known interested organizations or groups, and the public. Statements issued by this agency will be forwarded to CEQ by the Administrator or his designee, where required under the USDA Guidelines, through the USDA Coordinator of Environmental Quality Activities. Preparing offices will submit the prepared EIS to the ASCS member of EQEC for review, assigning report number, and preparation of transmittal memorandum before submission to the Administrator for approval.

(2) Five (5) copies of the draft EIS and five (5) copies of the final EIS will be supplied to CEQ. The EIS's will be circulated for review and comment as required by the CEQ Guidelines, as summarized in Appendix 4 of this part.

(3) EIS prepared on legislation is to accompany the legislative proposal or report. The proposal or report should make reference to the EIS. The Office of Management and Finance will forward the copies to CEQ. Following clearance of the legislative proposal or report by OMB the EIS will be made available to the Congress and the public.

§ 799.6 Consultation, review and public involvement.

(a) *Consultation.* (1) Prior to the development of draft environmental statements, preparing office shall consult with interested parties, including appropriate Federal, State and local agencies. Comments and views of such interested parties may be considered in developing the draft environmental statement. Appendix II, CEQ Guidelines, should be reviewed for agencies which are to be consulted.

(2) In addition, the NEPA process is to the extent possible to meet the consulting and coordinating requirements of the Fish and Wildlife Coordination Act or the wildlife requirement of the Watershed Protection and Flood Prevention Act, National Historic Preservation Act and section 4(f) of the Department of Transportation Act, 49 U.S.C. 1653(f).

(b) *Circulation for review and comment, Federal, State and local agencies and time limit.* (1) The draft EIS shall be circulated for review and comment by Federal, State and local agencies having jurisdiction by law or special expertise with respect to environmental impacts and shall be made available for comment by the public.

(2) A time limit of not less than sixty (60) days from the date of transmittal to CEQ will be observed to receive comments by reviewers. To the maximum extent practicable no administrative action is to be taken for 30 days after the final statement has been furnished to CEQ and made available to all who commented on the draft statement or who requests a copy. The EIS's will be circulated for review and comment as outlined in Appendix 4 of this part.

(c) *Expedited procedures.* Where emergency circumstances make it necessary to take action with significant environmental impact without observing the provisions of paragraphs (a) and (b) of this section, the agency will work through the Office of the Coordinator of Environmental Quality Activities in consulting with the CEQ about alternative arrangements.

(d) *Public Information and involvement.* (1) The agency will use appropriate procedures to insure the fullest practicable provision of timely public information, understanding and involvement in plans and programs with environmental impact in order to obtain views and information on alternative courses of action as required in Executive Order No. 11514.

(2) It is an objective of the USDA to involve the public in developing its policies and in formulating and implementing its programs. To assist in accomplishing these objectives, the agency will utilize timely and effective procedures such as public meetings, news media, radio, public notices, hearings, and printed materials in mail outs, as needed for the particular type program or project.

(3) When public hearings are held relating to environmental concern, the draft environmental statement should be available at least fifteen (15) days in advance of the hearing and a public notice placed in the local newspapers serving the area upon which the environmental impact is being assessed. The public notice is to be placed on three different days at least fifteen (15) days prior to the public hearing. The notice shall contain information on the project or program proposal, the date, time, and

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location of the hearing, and where information on the environmental considerations, including the proposed draft environmental statement, may be obtained.

(4) In determining whether a recorded public hearing is needed the officials responsible for the program or activity should consider (i) the magnitude of the proposal in terms of potential environmental impact, (ii) the degree of controversy or opposing views, (iii) complexity of issues and (iv) the degree of public review of the proposal already achieved.

(e) *List of statements.* The ASCS member of EQEC will maintain a list of the environmental statements under preparation by this agency. The list will be furnished to CEQ on a quarterly basis as required in the CEQ Guidelines and will be available for public inspection. A listing of those major actions for which it has been decided an EIS is not required will be maintained.

(f) *Availability of EIS's.* Draft and final EIS's will be made available to the public as required in the CEQ guidelines as summarized in Appendix 4 of this part. A notice will be placed in the FEDERAL REGISTER to advise the public of the proposed program or activity, the availability of the draft or final EIS and where a copy may be obtained. A press release will be prepared and issued to newspaper and radio media, the extent of issuance depending upon scope of the program or project. This action will be coordinated by the ASCS Member of EQEC.

§ 799.7 Lead Agency.

In certain instances, several USDA agencies may have program responsibilities relative to a major Federal action with significant environmental impact. If ASCS is designated as the lead agency, the ASCS Member of EQEC will coordinate the input of all concerned agencies in development of the EIS. In actions involving several departments the role of ASCS will be determined in consultation with the USDA Office of the Coordinator of Environmental Quality Activities and the CEQ.

§ 799.8 Review of EIS prepared by another agency.

ASCS will review and comment on EIS's initiated by other agencies as requested by the Office of the Coordinator. This review and development of comments will be coordinated by the ASCS Member of EQEC.

§ 799.9 CEQ requests.

In order to assist the CEQ in fulfilling its responsibilities under NEPA and Executive Order 11514, ASCS will give careful consideration to requests by CEQ for reports, and other information and actions dealing with issues arising in connection with the implementation of NEPA. This involvement will be coordinated by the ASCS Member of EQEC.

APPENDIX 1

COVER PAGE FORMAT

The cover page should not include the description title shown on the left margin, but only that information within the box, which is given as an example:

Title [1]	DRAFT (OR FINAL) ENVIRONMENTAL STATEMENT Rural Environmental Conservation Program
Report No.[2]	USDA–ASCS–ES (Adm.) 74–1–D
Responsible official.[3]	Kenneth E. Frick, Administrator, Agricultural Stabilization and Conservation Service
Performing organization.[4]	Agricultural Stabilization and Conservation Service, State and County Offices
Date prepared	January ___, 1974
Sponsoring agency	Prepared by _____
Name and address [5]	U.S. Department of Agriculture, Agricultural Stabilization and Conservation Service, Washington, D.C. 20250

[1] Name of program or project on which EIS is prepared.

[2] Indicates the following: USDA–ASCS–Environmental Statement, Administrative type statement (Leg. for legislative statement), program year 1974, sequential number 1 within that year, draft or "F" for final statement. The sequential number will be assigned by the Washington office.

[3] Name and title of responsible official.

[4] For State or county statement show appropriate title.

[5] Address of responsible official.

APPENDIX 2

FORMAT—SUMMARY SHEET

USDA Environmental Statement

(Statement Title)

Prepared in Accordance with
Section 102(2)(C) of Public Law 91–190

SUMMARY SHEET

I ( ) Draft ( ) Final

II Agricultural Stabilization and Conservation Service (ASCS) (Name, address and telephone number of individual who can be contacted for additional information about the proposed action or the statement.)

III ( ) Administrative ( ) Legislative

IV Brief description of action:

(This should indicate what States (and counties) are particularly affected and other Federal actions in the area, if any, are discussed in the statement.)

V Summary of Environmental Impacts:

VI Summary of Alternatives Considered:

VII Comments:

For draft statements, list all Federal, State, and local agencies and other sources from which comments have been requested.

For final statements, list all Federal, State, and local agencies and other sources from which written comments have been received.

VIII Date Statement Made Available to CEQ and the Public:

Draft statement on _____[1]

Final statement on _____[1]

[1] Leave date blank for completion when delivered to CEQ. Enter final statement only when appropriate.

APPENDIX B

OUTLINE OF ENVIRONMENTAL STATEMENT CONTENT

USDA (ASCS) Environmental Statement

(Statement Title)

Type of Statement: Draft ( ) Final ( )

Type of Action: Administrative ( ) Legislative ( )

I *Description:*[1]

II *Environmental Impacts:*[1]

III *Summary of Probable Adverse Environmental Effects Which Cannot be Avoided:*[1]

IV *Relationship Between Local Short-Term Uses of Man's Environment and the Maintenance and Enhancement of Long-Term Productivity:*

V *Any Irreversible and Irretrievable Commitments of Resources:*[1]

VI *Alternatives to the Proposed Action:*[1]

VII *Other Interests and Considerations of Federal Policy Thought to Offset the Adverse Environmental Effects of the Proposed Action:*[1]

VIII *Consultation with Appropriate Federal Agencies and Review by States and the Public:*[1]

[1] See § 799.5(c) for discussion of the content of each section of the statement.

APPENDIX C

CIRCULATION OF ENVIRONMENTAL STATEMENTS

After sign-off by the responsible ASCS official, and where required, the USDA Coordinator of Environmental Quality Activities, the draft and final EIS's will be forwarded for review and comment as follows:

Draft environmental statements:

Federal and State agencies, interested organizations, public:	*Copies*
Council on Environmental Quality	5
Environmental Protection Agency	5
Department of the Interior	5
Department of Commerce	5
Department of Health, Education, and Welfare	5
Other Federal agencies having special expertise or jurisdiction by law on areas of environmental impact (each)	1
State clearinghouses (OMB Circular A-95, attachment D) (for national programs having national scope circulate to all States, otherwise only to States where the program or project EIS is applicable).	
Organizations, groups, individuals with expertise or known special interest in the program or project and its environmental impacts (each)	1
Public upon request (each)	1

Final Environmental Statement.—To the Federal and State agencies, organizations and groups listed above for the draft statement and to any other public body, private organization or individual who made substantive comments on the draft statement.

Statements on Legislation.—Following clearance by OMB of the related legislative proposal or report, the EIS will be circulated as provided above and made available to the Congress.

[FR Doc.74-29709 Filed 12-19-74;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 671]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period December 22–28, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.971 Lemon Regulation 671.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and orders, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons has been very active thus far this week. Overall supply is in line with demand and most auctions have a good balance between lemon supplies and demand. Average f.o.b. price was $4.27 per carton the week ended December 14, 1974, compared to $4.49 per carton the previous week. Track and rolling supplies at 143 cars were down 11 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 17, 1974.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period December 22, 1974, through December 28, 1974, is hereby fixed at 175,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 20, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-29905 Filed 12-19-74;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK) DEPARTMENT OF AGRICULTURE

[Milk Order No. 63]

PART 1063—MILK IN THE QUAD CITIES-DUBUQUE MARKETING AREA

Order Suspending a Certain Provision

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Quad Cities-Dubuque marketing area.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 41987) concerning a proposed suspension of a certain provision of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, none in opposition thereto, it is hereby found and determined that for the months of December 1974 and January 1975 the following provision of the order does not tend to effectuate the declared policy of the Act:

Section 1063.13(b)(2)—"In any of the months of September through January, milk diverted from the farm of a producer on days in excess of the number of days that milk was delivered to a pool plant from such farm during the month shall not be producer milk."

Statement of Consideration

This suspension will permit unlimited diversions of producer milk under the Quad Cities-Dubuque order during December 1974 and January 1975.

Two cooperatives representing a substantial majority of producers filed views and arguments in support of this action.

Reserve milk supplies in this market are customarily diverted from pool distributing plants to nonpool manufacturing plants. The reserve milk supplies during December 1974 and January 1975 are expected to exceed the quantity of milk that could be diverted to nonpool manufacturing plants under the present diversion limitations and still maintain producer status for all such milk. To maintain producer status for all their member milk, during these two months, it will be necessary for cooperative associations to move much of the reserve milk supply from farms to pool distributing plants and then reship to nonpool manufacturing plants, unless this action is taken.

This suspension will permit the economical movement of milk directly from farms to manufacturing plants while maintaining producer status for all dairy farmers regularly associated with the market.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the most efficient method of handling the market's reserve milk supplies is by direct movement from producers' farms to nonpool manufacturing plants. This suspension allows such economical movement of milk while the dairy farmers involved retain producer status.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective December 20, 1974.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for December 1974 and January 1975.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Effective date. December 20, 1974.

Signed at Washington, D.C., on: December 16, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74-29703 Filed 12-19-74;8:45 am]

[Milk Order No. 65; Docket No. AO-86-A32]

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Nebraska-Western Iowa marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Nebraska-Western Iowa marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. In § 1065.7, the introductory text and paragraph (a) are revised as follows:

§ 1065.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which there is:

(1) Route disposition (except filled milk) in the marketing area during the month equal to not less than 15 percent of the Grade A milk received at such plant from dairy farmers, supply plants (exclusive of plants qualifying as pool plants pursuant to this paragraph), and handlers described in § 1065.9(c); and

(2) Total route disposition (except filled milk) during the month or the immediately preceding month equal to not less than 35 percent of the Grade A milk received at the plant during such month from the sources specified in paragraph (a) (1) of this section.

* * * * *

§ 1065.73 [Amended]

2. In § 1065.73, *Payments to producers and to cooperative associations*, the term "advance payment" in paragraph (b) (2) is changed to "partial payment."

3. In § 1065.73, a new paragraph (d–1) is added to read as follows:

* * * * *

(d–1) To a cooperative association for fluid milk products received from a pool plant operated by the cooperative association as follows:

(1) On or before the 26th day of the month, for fluid milk products received during the first 15 days of the month not less than the value at the Class III price for the preceding month, adjusted by the butterfat differential pursuant to § 1065.74 for the preceding month; and

(2) On or before the 14th day after the end of each month for fluid milk products received during the month not less than the value at the class prices pursuant to § 1065.50, adjusted for the location of the transferee plant and by the butterfat differential pursuant to § 1065.74, less payment made pursuant to paragraph (d–1) (1) of this section;

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Effective date: February 1, 1975.

Signed at Washington, D.C., on: December 16, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74–29701 Filed 12–19–74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 74–SO–97]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On October 24, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 37779), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Savannah, Tenn., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 27, 1975, as hereinafter set forth.

In § 71.181 (40 FR 441), the Savannah, Tenn., transition area is amended. "* * * longitude 88°13'00" W. * * *" is deleted and "* * * longitude 88°13'00" W.); within 3 miles each side of the 197° bearing from Savannah RBN (latitude 35°10'13" N., longitude 88°12'50" W.), extending from the 7-mile radius area to 8.5 miles south of the RBN * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in East Point, Ga., on December 10, 1974.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.74–29629 Filed 12–19–74;8:45 am]

[Airspace Docket No. 74–SW–45]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Mt. Pleasant, Tex., transition area.

On October 30, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 38238) stating the Federal Aviation Administration proposed to designate a transition area at Mt. Pleasant, Tex.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 27, 1975, as hereinafter set forth.

In § 71.181 (40 FR 441), the following transition area is added:

MT. PLEASANT, TEXAS

That airspace extending from 700 feet above the surface within a 5-mile radius of Mt. Pleasant Municipal Airport (latitude 33°07'45.4" N., longitude 94°58'31.8" W.) and within 2.5 miles each side of the Quitman, Tex., VORTAC 052° radial extending from the 5-mile radius area to a point 11 miles southwest of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Fort Worth, Tex., on December 10, 1974.

ALBERT H. THURBURN,
Acting Director,
Southwest Region.

[FR Doc.74–29632 Filed 12–19–74;8:45 am]

[Airspace Docket No. 74–SO–102]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Control Zone and Transition Area

On November 4, 1974, a Notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 38910), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Oak Grove, N.C., temporary control zone and transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 22, 1975, as hereinafter set forth.

In § 71.171 (40 FR 354), the following control zone is added:

OAK GROVE, NORTH CAROLINA

Within a 5-mile radius of Oak Grove HOLF (Navy), N.C. (Lat. 35°01'15" N., Long. 77°15'12" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.181 (40 FR 441), the following transition area is added:

OAK GROVE, NORTH CAROLINA

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Oak Grove HOLF (Navy), N.C. (Lat. 35°01'15" N., Long. 77°15'12" W.), excluding the portion within New Bern, N.C., transition area. This transition area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in East Point, Ga., on December 11, 1974.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.74–29628 Filed 12–19–74;8:45 am]

[Docket No. 14196; Amdt. No. 947]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260–3, 8260–4, or 8260–5 and made a part of the public rule making dockets of the FAA

in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue, SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amending by originating, amending, or canceling the following VOR-VOR/DME SIAPs, *effective January 30, 1975:*

Beloit, Wisc.—Beloit Arpt., VOR-A, Orig.
Dubuque, Iowa—Dubuque Municipal Arpt., VOR Rwy 36, Orig.
Plymouth, Ind.—Plymouth Municipal Arpt., VOR Rwy 10, Amdt. 5.
Plymouth, Ind.—Plymouth Municipal Arpt., VOR Rwy 28, Amdt. 4.
Sacramento, Calif.—Sacramento Metropolitan Arpt., VOR/DME-B, Orig.
Sacramento, Calif.—Sacramento Metropolitan Arpt., VOR/DME Rwy 34, Amdt. 6, canceled.
Selma, Ala.—Selfield Arpt., VOR-A, Orig.
Selma, Ala.—Selfield Arpt., VOR-A Orig., canceled.
South St. Paul, Minn.—South St. Paul Municipal-Richard E. Fleming Field, VOR-A, Amdt. 7.
South St. Paul, Minn.—South St. Paul Municipal-Richard E. Fleming Field, VOR-B, Amdt. 7.
Sparta, Mich.—Sparta Arpt., VOR-A, Orig.
Westminster, Md.—Clearview Airpark, VOR-A, Orig.

• • • *effective December 5, 1974:*

Anniston, Ala.—Anniston-Calhoun Co. Arpt., VOR-A, Amdt. 4, canceled.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective January 30, 1975.

Dubuque, Iowa—Dubuque Municipal Arpt., LOC/DME (BC) Rwy 13, Orig.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective January 30, 1975:

Sidney, Mont.—Sidney-Richland Municipal, Arpt., NDB RWY 1, Orig.
Sidney, Mont.—Sidney-Richland Municipal, Arpt., NDB Rwy 1, Amdt. 2, canceled.
Sidney, Mont.—Sidney-Richland Municipal, Arpt., NDB Rwy 19, Amdt. 1.
Sidney, Mont.—Sidney-Richland Municipal, Arpt., NDB Rwy 28, Orig., canceled.
Wolf Point, Mont.—Wolf Point Int'l. Arpt., NDB-A, Amdt. 1.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, *effective January 30, 1975:*

Dubuque, Iowa—Dubuque Municipal Arpt., ILS Rwy 31, Amdt. 5.
Helena, Mont.—Helena Arpt., ILS Rwy 26, Amdt. 5.

Correction:

In Docket Nr. 14127, Amendment 943, to Part 97 of the Federal Aviation Regulations, published in the FEDERAL REGISTER dated November 21, 1974, on page 40848, under § 97.29 effective January 2, 1975—Change effective date of Fairbanks, Alaska—Fairbanks Int'l. Arpt., ILS/DME Rwy 1L, Orig., to February 27, 1975.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958 (49 U.S.C. 1438, 1354, 1421, 1510); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1)))

Issued in Washington, D.C., on December 12, 1974.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 74-29627 Filed 12-19-74;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 363—CHINA TRADE ACT CORPORATIONS

Editorial Revisions

Part 363 of Chapter III of Title 15 of the Code of Federal Regulations implements the responsibilities of the Secretary of Commerce under the China Trade Act, 1922, as amended, and section 941 of the Internal Revenue Code. This part has been rewritten to eliminate obsolete wording and reflect nonsubstantive changes in position titles, nomenclature, and form designations. The relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are omitted as unnecessary because the changes are procedural and editorial in nature. Accordingly, Part 363 of Chapter III of Title 15 of the Code of Federal Regulations is revised to read as follows:

Sec.
363.1 Purpose.
363.2 Definitions.
363.3 Application for certificate of incorporation.
363.4 Holding shares of stock in other corporations prohibited.
363.5 Accredited agent.
363.6 Certificates of property value.
363.7 Issuance of certificate of incorporation.
363.8 Certificate of amendment to articles of incorporation.
363.9 Certificate of authorization for extension.
363.10 Certificate of authorization for voluntary dissolution.
363.11 Fees.
363.12 Stockholders' meeting.
363.13 Bylaws.
363.14 Special dividend.
363.15 Annual report.
363.16 Appeal from decision of Registrar.
363.17 Forms.
363.18 Inspection of records.

AUTHORITY: Sec. 17 of the China Trade Act, 1922 (15 U.S.C. 157 (42 Stat. 854)); and sec. 941 of the Internal Revenue Code of 1954, (26 U.S.C. 941).

§ 363.1 Purpose.

The regulations in this part implement the responsibilities of the Secretary of Commerce under the China Trade Act, 1922, as amended (15 U.S.C. 141 et seq.), and section 941 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 941), concerning District of Columbia corporations organized to engage in business within China. The statutory authority and responsibilities of the Secretary of Commerce relating to China Trade Act corporations have been delegated to the Deputy Assistant Secretary for International Commerce of the Department of Commerce, with power of redelegation.

§ 363.2 Definitions.

For the purposes of the regulations in this part and the forms issued to implement it, unless the context otherwise indicates:

(a) "Act" means the China Trade Act, 1922, as amended, 15 U.S.C. 141 et seq. (42 Stat. 849).

(b) "China Trade Act corporation" and "corporation" mean a District of Columbia corporation organized under the provisions of the Act.

(c) "China" means China including Manchuria, Tibet, Mongolia, and any territory leased by China to any foreign government; the Crown Colony of Hong Kong; and the Province of Macao.[1]

(d) "Deputy Assistant Secretary" means the Deputy Assistant Secretary for International Commerce of the Department of Commerce, or such official as may be designated by him to act in his behalf.

(e) "Registrar" means the individual designated Registrar or Acting Registrar,

[1] Under section 941 of the Internal Revenue Code of 1954, the special deduction allowed in computing the taxable income of a China Trade Act corporation is based on income derived from sources within Formosa (Taiwan) and Hong Kong.

authorized by the Deputy Assistant Secretary to perform the duties of the Registrar as authorized by the Act, the regulations of this part, and the directions of the Deputy Assistant Secretary.

(f) "Person" includes individual, partnership, corporation, and association.

(g) "Applicants" means incorporators of a District of Columbia corporation who apply for certification of incorporation under the provisions of the Act.

§ 363.3 Application for certificate of incorporation.

Applicants desiring to qualify a District of Columbia corporation for certification under the Act shall file an application, in duplicate, in accordance with the provisions of the Act and this part on Form DIB–491P (see § 363.17 for titles of forms, where obtained, and place of filing). The application shall be accompanied by the corporation's articles of incorporation, in quintuplicate, which articles shall:

(a) State the names, addresses, and nationalities of the incorporators;

(b) State the particular business in which the corporation is to engage and clearly indicate how the corporation will aid in developing markets in China for goods produced in the United States;

(c) State the name and address of the corporation's accredited agent, any successor of whom may be later appointed as provided by § 363.5(b) without amendment to the articles of incorporation;

(d) If more than one class of stock is contemplated, provide a method for the apportionment of any "special dividend" between or among such classes; and

(e) Otherwise conform to the requirements of subsection 144(b) of title 15, U.S.C.

§ 363.4 Holding shares of stock in other corporations prohibited.

No China Trade Act corporation shall purchase or acquire, either directly or indirectly, for investment purposes, shares of stock of any corporation engaged in any activity prohibited by subsection 144(c) of title 15, U.S.C.

§ 363.5 Accredited agent.

(a) In accordance with section 160 of title 15, U.S.C., every China Trade Act corporation shall maintain in the District of Columbia a person, who shall be domiciled within the District of Columbia, as its accredited agent. Power of attorney appointing the agent shall be filed in duplicate with the Registrar at the time of filing the application for certificate of incorporation. Before issuance of the certificate of incorporation a letter of consent to act shall be filed by the agent with the Registrar, in duplicate.

(b) No corporation shall remove, or accept the resignation of, its accredited agent until a successor has been appointed by the corporation, and a power of attorney appointing the successor agent and the written consent of such successor have been filed in duplicate.

(c) In the event of the death of the agent, or his inability to serve, the corporation shall, within 30 days after notice thereof, appoint a successor in the same manner as set forth in paragraph (b) of this section.

§ 363.6 Certificates of property value.

(a) No share of stock of a China Trade Act corporation shall be held paid in real or personal property unless:

(1) A certificate describing the property and stating the value at which it is to be received has been filed by the corporation in duplicate on Form DIB–492P (see § 363.17);

(2) The fee prescribed by § 363.11 has been paid; and

(3) The Deputy Assistant Secretary has found and certified to the corporation that the value at which the property is to be received is not more than the fair market value of the property.

(b) There shall be filed with each certificate of property value a statement in duplicate by the owner of any property to be received by the corporation in payment for its stock, showing the date he purchased the property, the price paid therefor, and the amount, if any, of any lien, mortgage, or other encumbrance against the property at the time it is placed in the custody of the directors as provided for by sections 144, 147 and 148 of title 15, U.S.C.

(c) There shall be filed, with the corporation's certificate of property value, a certificate of property value, in duplicate, on Form DIB–493P (see § 363.17), of two disinterested persons acceptable to the Deputy Assistant Secretary.

§ 363.7 Issuance of certificate of incorporation.

(a) Upon the filing of an application and payment of the fee prescribed by § 363.11, the Deputy Assistant Secretary shall issue a certificate of incorporation on Form DIB–494 (see § 363.17) if he finds that:

(1) The application and articles of incorporation and statements therein conform to the requirements of the Act and the regulations of this part;

(2) The incorporation is authorized by the act; and

(3) The corporation will aid in developing markets in China for goods produced in the United States.

(b) A copy of the articles of incorporation shall be made a part of the certificate of incorporation. The original certificate shall be retained by the Registrar as official records. A copy of the certificate, certified by the Deputy Assistant Secretary, shall be transmitted to the corporation.

(c) In accordance with subsection 144(d) of title 15, U.S.C., no certificate of incorporation shall be delivered to a China Trade Act corporation and no incorporation shall be complete until the applicants have filed a statement, under oath, and in duplicate, with the Registrar that at least 25 per centum of the corporation's authorized capital stock has been paid in in cash, or in real or personal property as provided for by section 148 of title 15, U.S.C.

§ 363.8 Certificate of amendment to articles of incorporation.

(a) No amendment to the articles of incorporation shall take effect until:

(1) The corporation files a certificate on Form DIB–495P (see § 363.17) stating the action taken;

(2) The fee prescribed by § 363.11 has been paid; and

(3) The amendment is found and certified to by the Deputy Assistant Secretary to conform to the requirements of the Act.

(b) The certificate of amendment to articles of incorporation shall be signed by the president or other authorized officer, and attested by the secretary of the corporation, and filed in quintuplicate with the Registrar.

(c) When a certificate of amendment to articles of incorporation is for the purpose of increasing the capital stock of the corporation, an authorized officer thereof shall file with the certificate, in duplicate, a certified statement that an amount equal to 25 per centum of the increased capital stock has been subscribed to in good faith.

(d) No certificate authorizing the increase of capital stock shall be delivered to a China Trade Act corporation until it has filed a statement, under oath, and in duplicate, with the Registrar that at least 25 per centum of the increased capital stock has been paid in in cash, or in real or personal property as provided for by section 148 of title 15, U.S.C.

§ 363.9 Certificate of authorization for extension.

(a) No authorization for extension of the period of duration of a China Trade Act corporation shall take effect until:

(1) The corporation files a certificate on Form DIB–496P (see § 363.17) stating the action taken; and

(2) The authorization for extension is found and certified to by the Deputy Assistant Secretary to conform to the requirements of the Act.

(b) The certificate of authorization for extension shall be signed by the president or other authorized officer and attested by the secretary of the corporation and filed, in quintuplicate, with the Registrar.

§ 363.10 Certificate of authorization for voluntary dissolution.

(a) No authorization for voluntary dissolution of a China Trade Act corporation shall take effect until:

(1) The corporation files a certificate on Form DIB–497P (see § 363.17) stating the action taken; and

(2) The authorization for dissolution is found and certified to by the Deputy Assistant Secretary to conform to the requirements of the Act.

(b) The certificate of authorization for voluntary dissolution shall be signed by the president or other authorized officer and attested by the secretary of the corporation and filed, in quintuplicate, with the Registrar.

§ 363.11 Fees.

The following fees are prescribed and shall be payable in the form of a draft payable to the Treasurer of the United States of America, upon the filing by the corporation of any of the following documents:

Application for certificate of incorporation	US$100
Certificate of amendment to articles of incorporation	25
Certificate of property value (minimum) (fee based on value of property and nature of investigation made)	25

§ 363.12 Stockholders' meeting.

Except as otherwise provided in § 363.15, concerning meetings wherein the annual report is adopted, within 30 days of each stockholders' meeting, the following documents, signed by an authorized officer of the corporation, shall be filed with the Registrar:

(a) Two copies of the minutes of the meeting, which shall set forth in detail the action taken or business transacted. The minutes shall also show that notice of call (unless waived) was delivered or mailed to each stockholder of record and the date thereof. In lieu of filing two copies of the notice, it may be incorporated, verbatim, in the minutes.

(b) Notice of call of a stockholders' meeting may be waived by the stockholders filing with a proper officer of the corporation waivers of the notice in writing, signed by each stockholder of record. When notice is so waived the secretary or other authorized officer of the corporation shall either:

(1) Sign and file a statement, in duplicate, that waivers of notice of the particular meeting have been signed by each stockholder and filed with him; or

(2) Sign and file a copy of each waiver filed by each stockholder with the corporation.

(c) When any share of stock is voted by proxy, the secretary or other authorized officer of the corporation shall either:

(1) Sign and file a statement in duplicate, showing the total number of shares voted by proxy at the meeting, the name and address of each stockholder represented by proxy, the name and address of each proxy voting at the meeting, the number of shares voted by each proxy, and that the proxies so voted were authorized by an instrument in writing signed and filed by each stockholder represented by proxy; or

(2) Sign and file a copy of each proxy filed with the corporation.

(d) Two copies of a list of current officers and directors of the corporation, stating the name, residence, and nationality of each. This document need not be filed if the information required is incorporated in the minutes.

(e) Statement, in duplicate, that all shares of stock voted at the meeting were fully paid. This statement need not be filed if the information required is incorporated in the minutes.

§ 363.13 Bylaws.

In accordance with section 150 of title 15, U.S.C., a China Trade Act corporation shall, within 30 days of their adoption by the stockholders, submit to the Registrar two certified copies of its bylaws and any amendments thereto.

§ 363.14 Special dividend.

(a) Section 941 of the Internal Revenue Code of 1954, as amended, allows a special deduction in computing the taxable income of a China Trade Act corporation, based on the amount of taxable income derived from sources within Formosa and Hong Kong. Rules pertaining to the tax treatment of China Trade Act corporations are published in 26 CFR Part 1, § 1.941 to § 1.943–1.

(b) The special deduction is not allowed unless the Deputy Assistant Secretary certifies to the Commissioner of Internal Revenue:

(1) The amount which, during the year ending on the date fixed by law for filing the return, including the period of any extension of time granted for filing the return, the corporation has distributed as a special dividend to or for the benefit of such persons as on the last day of the taxable year were resident in Formosa, Hong Kong, the United States, or possessions of the United States, or were individual citizens of the United States, and owned shares of stock of the corporation;

(2) That such special dividend was in addition to all other amounts, payable or to be payable to such persons or for their benefit, by reason of their interest in the corporation; and

(3) That such distribution has been made to or for the benefit of such persons in proportion to the par value of the shares of stock of the corporation owned by each. However, if the corporation has more than one class of stock, the certificate shall state that the articles of incorporation provide a method for the apportionment of the special dividend among such persons, and that the amount certified has been distributed in accordance with the method so provided.

(c) A China Trade Act corporation desiring to obtain the special deduction referred to in paragraph (a) of this section shall file, after the close of the taxable year, a certificate of distribution of special dividend on Form DIB–499P (see § 363.17).

(d) The certificate of distribution of special dividend shall be signed by the president, or other authorized officer, and attested by the secretary of the corporation, and filed in duplicate with the Registrar.

(e) Dividends declared by a China Trade Act corporation shall be derived wholly from the surplus profits of its business, as required in section 153 of title 15, U.S.C.

§ 363.15 Annual report.

(a) The fiscal year of a China Trade Act corporation shall end December 31, and on or before March 15 of each succeeding year the corporation shall file with the Registrar a report of its business for the fiscal year showing the financial condition of the corporation at the close of the year. An extension of time in which to file the annual report may, in the discretion of the Registrar, be obtained upon written request received by the Registrar prior to March 15. Any corporation engaged in business for a period of less than one year, or any corporation which is in process of dissolution or liquidation, shall file an annual report for such period as it is operated as a China Trade Act corporation.

(b) The annual report shall be adopted at a meeting of the stockholders or directors, in accordance with the articles of incorporation or the bylaws of the corporation, and filed in duplicate on Form DIB–499P (see § 363.17) by the secretary of the corporation. The following documents shall be attached to Form DIB–499P and made a part of the annual report:

(1) Minutes of meeting, in duplicate, which shall show, in addition to other business transacted, the adoption of an audited balance sheet and statement of profit and loss for the fiscal year. In lieu of filing, in duplicate, notice of call, the notice may be incorporated in the minutes as provided for by § 363.12(a). When notice of call of meeting is waived or any votes are voted by proxy at the meeting, documentation of such shall be provided as prescribed by § 363.12(b) and (c).

(2) Two copies of balance sheet and two copies of statement of profit and loss for the fiscal year, audited and certified by an accredited public accountant.

(3) Whenever the articles of incorporation or bylaws of the corporation provide for the adoption of the annual report by the stockholders, there shall be filed, in duplicate, a statement by an authorized officer of the corporation showing that all shares of stock voted were fully paid. This statement need not be filed if the information required is incorporated in the minutes as provided for by § 363.12(e).

(4) Statement, in duplicate, setting forth the names, addresses, and nationalities of all stockholders of the corporation on the last day of the fiscal year, including number of shares and classes of stock held by each. This statement need not be filed if the information required is incorporated in the minutes.

(5) Statement, in duplicate, setting forth the names, residences, and nationalities of directors and officers elected for the current year. This statement need not be filed if the information required is incorporated in the minutes. However, when directors and officers are elected subsequent to the adoption of the annual report, or when there is a change of directors and officers, the corporation shall file a statement, in duplicate, with the Registrar immediately upon such election or change of directors and officers. The statement shall be signed by the secretary or other authorized officer of the corporation.

(6) Certificate of distribution of special dividend, in duplicate, provided such dividend is declared.

§ 363.16 Appeal from decision of Registrar.

(a) Any decision or action of the Registrar may be appealed to the Deputy Assistant Secretary within six months, except that the time for filing an appeal may be extended at the discretion of the Deputy Assistant Secretary.

(b) The person presenting an appeal shall submit to the Deputy Assistant Secretary a written statement setting forth, in full, the alleged facts upon which the appeal is based, simultaneously submitting a copy to the Registrar.

(c) The Deputy Assistant Secretary may request additional information from the person presenting the appeal or from the Registrar, or both. Information provided to the Deputy Assistant Secretary by the person presenting the appeal must also be provided to the Registrar, and vice versa.

(d) The Deputy Assistant Secretary, as soon as practicable, shall render a decision based on the record to the person presenting the appeal and to the Registrar.

§ 363.17 Forms.

(a) For the convenience and guidance of interested persons, the following printed forms are available for use in connection with submissions under this part in connection with China Trade Act corporations:

Form DIB–491P	Application for Certificate of Incorporation Under the China Trade Act.
Form DIB–492P	Certificate of Property Value.
Form DIB–493P	Certificate of Property Value by Disinterested Persons.
Form DIB–494	Certificate of Incorporation.
Form DIB–495P	Certificate of Amendment to Articles of Incorporation.
Form DIB–496P	Certificate of Authorization for Extension.
Form DIB–496P	Certificate of Authorization for Voluntary Dissolution.
Form DIB–498P	Certificate of Distribution of Special Dividend.
Form DIB–499P	China Trade Act Corporation Annual Report.

(b) Copies of blank forms, and instructions for their preparation and filing, may be obtained upon request from the Registrar, China Trade Act, U.S. Department of Commerce, Washington, D.C. 20230. Applications, certificates, related material, and inquiries concerning China Trade Act corporations should be submitted to the Registrar at the address given in this paragraph.

§ 363.18 Inspection of records.

Applications for a certificate of incorporation, certificates, certified copies, and reports received or issued by the Registrar and Deputy Assistant Secretary under the China Trade Act shall be available for public inspection as provided for by section 152 of Title 15, U.S.C. Rules concerning public access to information are published in Part 4, Subtitle A, of this title.

Dated: December 11, 1974.

CHARLES W. HOSTLER,
Deputy Assistant Secretary for International Commerce.

[FR Doc.74-29616 Filed 12-19-74;8:45 am]

Title 18—Conservation of Water and Power Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. R-432 (A)]

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

Monthly Report of Cost and Quality of Fuels for Electric Plants

DECEMBER 13, 1974.

On September 12, 1974 the Commission amended § 141.61 of the Commission's rules and regulations under the Federal Power Act by Order No. 512. Order No. 512 enacted a revised Form 423 providing for increased reporting of fossil-fuel deliveries to electric power generating plants. Under the amending Order No. 512, utilities must now file Form 423 for all fossil-fueled plants of 25 megawatts or greater generating capacity. The 25 megawatts may consist of steam generation only, gas turbine and internal combustion engine generation only, or all three types of generation at the same plant.

On November 18, 1974, Ohio Edison Company filed with the Commission a motion for an order staying the required report with respect to coal in accordance with Instruction (6) on the revised Form 423, as adopted in Attachment A to the Commission's Order No. 512, issued September 12, 1974. Ohio Edison supports their motion with the contention that the language—"For coal, show name of mine and county from which coal originated;"—constitutes an amendment to Form 423, as proposed by the Commission's Notice of Proposed Rulemaking, Docket No. R-432(A), issued July 19, 1973 Ohio Edison further states that "[t]his amendment is on a subject not addressed in the Commission's notice of proposed rulemaking of July 19, 1973, its Notices of staff conference on October 10 and October 23, 1973, or its Order No. 512."

In the notice of proposed rulemaking, Docket No. R-432(A), issued July 19, 1973, the attached proposed revision to Form 423 contained the following instructions:

* * * * *

(5) Show state and Bureau of Mines coal producing district and if available the name and county of the mine shall be shown in a footnote.

(6) For oil show supplier and refinery or port of entry; for gas show pipeline (supplier) or distributor, producing area by state, and port of entry if LNG.

The revised Form 423, as enacted by our Order No. 512, reads in relevant part as follows:

* * * * *

(5) Show state and Bureau of Mines coal producing district.

(6) For coal, show name of mine and county from which coal originated; for oil, show supplier and refinery or port of entry; for gas, show pipeline (supplier) or distributor, producing area by state or port of entry.

It is clear from a comparison of the relevant provisions of the proposed and enacted Form 423 that the substance of the first clause of Instruction (6) of revised Form 423 was previously noticed as part of Instruction (5) of the proposed revision to Form 423. Ohio Edison, having been provided with opportunity to comment on Instruction (5) as it appeared in the notice of proposed rulemaking of July 19, 1973, cannot now complain that the incorporation of part of Instruction (5) in the ultimately enacted Instruction (6) of revised Form 423 constitutes an amendment on "a subject not addressed" by the Commission.

It will be useful to here point out that Instruction (6) of revised Form 423, as issued, has been amended by Erratum Notice, dated November 29, 1974, to include the phrase, "if available," in order that the revised Form 423 more accurately convey the Commission's intent, as expressed in the revisd Form 423. Nevertheless, we find the objections of Ohio Edison, as stated in their motion, without substance.

The Commission finds:

(1) The notice and opportunity to participate in the proceeding in Docket No. R-432(A) through the submission in writing of data, views, comments and suggestions have been consistent and in accordance with the procedural requirements prescribed in 5 U.S.C. 553.

(2) Revised Form 423 is necessary and appropriate in the administration of the Federal Power Act.

(3) The objections raised by Ohio Edison Company in their motion to stay reporting under Instruction (6) of revised Form 423 is without substance and the granting of such motion would not be in the public interest.

The Commission orders:

(1) The Motion to Stay Reporting with Respect to Coal in Accordance with Instruction (6) on New Form 423, filed by Ohio Edison Company, be hereby denied.

(2) Reporting on the Revised Form 423 shall proceed according to the schedule outlined in Order No. 512, issued September 12, 1974.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29674 Filed 12-19-74;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7336]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Bonds and Other Evidences of Indebtedness

The Income Tax Regulations (26 CFR Part 1) currently require that holders of face-amount certificates issued after December 31, 1974, include the original

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issue discount in income ratably over the term of the certificate in accordance with section 1232(a)(3) of the Internal Revenue Code of 1954. The following amendments to the regulations make these ratable inclusion rules apply only to face-amount certificates issued after June 30, 1975.

Based on the foregoing, the Income Tax Regulations (26 CFR Part 1) are amended as set forth below:

PARAGRAPH 1. Paragraph (c)(3) of § 1.1232–1 is amended to read as follows:

§ 1.1232–1 Bonds and other evidences of indebtedness; scope of section.

* * * * *

(c) * * *

(3) *Certificates issued after June 30, 1975.* In the case of a face-amount certificate issued after June 30, 1975 (other than such a certificate issued pursuant to a written commitment which was binding on such date and at all times thereafter), the provisions of section 1232(a)(3) (relating to the ratable inclusion of original issue discount in gross income) shall apply. See § 1.1232–3A(f). For treatment of any increase in basis under section 1232(a)(3)(A) as consideration paid for purposes of computing the investment in the contract under section 72, see § 1.72–6(c)(4).

* * * * *

PAR. 2. Paragraph (f)(1) of § 1.1232–3A is amended to read as follows:

§ 1.1232–3A Inclusion as interest of original issue discount on certain obligations issued after May 27, 1969.

* * * * *

(f) *Application of section 1232(a)(3) to face-amount certificates*—(1) *In general.* Under paragraph (c)(3) of § 1.1232–1, the provisions of section 1232(a)(3) and this section apply in the case of a face-amount certificate issued after June 30, 1975 (other than such a certificate issued pursuant to a written commitment which was binding on such date and at all times thereafter).

* * * * *

Because this Treasury decision only postpones the date on which section 1232(a)(3) of the Internal Revenue Code of 1954 applies to face-amount certificates, it is found unnecessary to issue the Treasury decision with notice and public procedure thereon under section 553(b) of title 5 of the United States Code, or subject to the effective date limitation of subsection (d) of such section.

(Section 7805, Internal Revenue Code of 1954 (68A Stat. 917 (26 U.S.C. 7805)))

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 16, 1974.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.74-29344 Filed 12-19-74; 8:45 am]

[T.D. 7335]

PART 11—TEMPORARY INCOME TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Regulations Relating to Election With Respect to Bonds and Other Evidences of Indebtedness When Valuing Assets of Retirement Plans

This document contains temporary regulations under the Employee Retirement Income Security Act of 1974 (26 CFR Part 11) in order to provide rules for an election with respect to bonds and other evidences of indebtedness for purposes of valuing assets of certain retirement plans.

Section 412(c)(2)(A) of the Internal Revenue Code of 1954 provides that the value of a retirement plan's assets is to be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value.

Section 412(c)(2)(B) of the Code and section 302(c)(2)(B) of the Act provide that an alternative method of valuing plan assets with respect to bonds or other evidences of indebtedness may be used at the election of the plan administrator. If this election is made, the value of such debt instruments may be determined on an amortized basis running from initial cost at purchase to par value at maturity or the earliest call date. The Code provides that this election is to be made in such manner and at such time as provided by regulations, and that the election, once made, may be revoked only with the consent of the Secretary of the Treasury or his delegate.

The temporary regulations provide, in general, that an election may be made by filing a statement that such evidences of indebtedness have been valued under the alternative method. This statement is filed as a part of the annual return of the plan required under section 6058 of the Code.

The election, once made, will affect all evidences of indebtedness not in default as to principal or interest and which are plan assets for the plan year for which the election is made and all evidences of indebtedness subsequently acquired by the plan unless consent to revoke the election is obtained.

In order to prescribe temporary regulations relating to an election with respect to valuation of bonds or other evidences of indebtedness pursuant to section 412(c)(2)(B) of the Internal Revenue Code of 1954, as added by section 1013 of the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406, 88 Stat. 914), and section 302(c)(2)(B) of the Act (88 Stat. 871) the following temporary regulations are hereby prescribed:

§ 11.412(c)-11 Election with respect to bonds.

(a) *In general.* Section 412(c)(2)(B) provides that, at the election of the administrator of a plan which includes a trust qualified under section 401(a) or of a plan which satisfies the requirements of section 403(a) or section 405(a), the value of a bond or other evidence of indebtedness which is held by the plan and which is not in default as to principal or interest may be determined on an amortized basis running from initial cost at purchase to the amount payable at maturity (or, in the case of a bond which is callable prior to maturity, the earliest call date). So long as this election is in effect, the value of any such evidence of indebtedness shall, for purposes of section 412, be determined on such an amortized basis rather than on a method taking into account fair market value as described in section 412(c)(2)(A).

(b) *Manner of making election.* The election to value evidences of indebtedness in accordance with paragraph (a) of this section shall be made by a statement to that effect attached to and filed as a part of the annual return of the plan required under section 6058 of the Code.

(c) *Effect of election.* The election provided by section 412(c)(2)(B), once made, will affect the valuation of all evidences of indebtedness, not in default as to principal or interest, which are held by the plan for the plan year for which the election is made and any evidences of indebtedness which are subsequently acquired by the plan. The value of any evidence of indebtedness which is in default as of the valuation date for the plan year must be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value in accordance with section 412(c)(2)(A) and must continue to be so valued until the indebtedness is no longer in default.

(d) *Consent to revoke required*—(1) *In general.* An election made in accordance with paragraph (a) of this section may be revoked only if consent to revoke the election is obtained from the Secretary or his delegate.

(2) *Manner of obtaining permission for revocation.* [Reserved].

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

agreement and upon the American

(This Treasury decision is issued under the authority contained in section 412(c)(2)(B) and 7805 of the Internal Revenue Code of 1954, 68A Stat. 917; 88 Stat. 829, 916; 26 U.S.C. 412(c)(2)(B), 7805))

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 16, 1974.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.74-29745 Filed 12-19-74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74-177]

PART 135—LIGHTS FOR COAST GUARD VESSELS OF SPECIAL CONSTRUCTION

Correction

In FR Doc. 74-27746 appearing at page 41362 in the issue for Wednesday, November 27, 1974, as corrected on page 43057 in the issue for Tuesday, December 10, 1974, the headings should read as set forth above.

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1204]

PART 1033—CAR SERVICE

Chicago, Milwaukee, St. Paul and Pacific Railroad Co.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 13th day of December 1974.

It appearing, that because of unserviceable track conditions the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) is unable to operate over its line between Fairmont, Minnesota and Welcome, Minnesota, a distance of approximately 7.1 miles; that MILW service between these two points can be continued through the use of Chicago and North Western Transportation Company (CNW) between milepost No. 185 at Fairmont, Minnesota, and milepost No. 192 at Welcome, Minnesota, a distance of 7.1 miles all within Martin County, Minnesota; that the CNW has consented to the use of their tracks by the MILW; that the MILW has filed concurrent applications with the Commission for abandonment of this portion of its line in AB-7, Sub No. 19 and for permanent authority to operate over that portion of the line of the CNW in Finance Docket No. 27754; that continued operation by the MILW in this area is necessary and in the interest of the public and commerce of the people, pending disposition of the aforementioned application. Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1204 *Service Order No. 1204*, (Chicago, Milwaukee, St. Paul and Pacific Railroad Co. authorized to operate over tracks of Chicago and North Western Transportation Co.)

(a) The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) be, and it is hereby, authorized to operate over tracks of the Chicago and North Western Transportation Company (CNW) between milepost No. 185 at Fairmont, Minnesota, and milepost No. 192 at Welcome, Minnesota, a distance of 7.1 miles, all within Martin County, Minnesota.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) Nothing herein shall be considered as pre-judgement of the applications of the MILW in AB-7, Sub No. 19 seeking authority for abandonment of a portion of their line, nor Finance Docket No. 27754 seeking permanent authority to operate over that portion of the CNW.

(d) *Effective date.* This order shall become effective at 12:01 a.m., December 16, 1974.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1975, unless otherwise modified, changed or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, and 17(2)). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10-17)), 15(4), and 17(2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29735 Filed 12-19-74;8:45 am]

[S.O. No. 1139; Amdt. 4]

PART 1033—CAR SERVICE

The Atchison, Topeka and Santa Fe Railway Co.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 11th day of December 1974.

Upon further consideration of Service Order No. 1139 (38 FR 14944, 27354, and 39 FR 1046 and 24373), and good cause appearing therefor:

It is ordered, That: § 1033.1139 *Service Order No. 1139*, (The Atchison, Topeka and Santa Fe Railway Co. authorized to operate over tracks of Union Pacific Railroad Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, and 17(2)). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10-17), 15(4), and 17(2)))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29737 Filed 12-19-74;8:45 am]

[S.O. No. 1148; Amdt. 3]

PART 1033—CAR SERVICE

Graham County Railroad Co.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 13th day of December 1974.

Upon further consideration of Service Order No. 1148 (38 FR 22482, 34664; and 39 FR 24016), and good cause appearing therefor:

It is ordered, That: § 1033.1148 *Service Order No. 1148*, (Graham County Railroad Co. authorized to operate over trackage in Graham County, North Carolina) be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, and 17(2)). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10-17), 15(4), and 17(2)))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that

section 507 of the Federal Food, Drugs,

agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29736 Filed 12-19-74;8:45 am]

[Revised S.O. No. 995; Amdt. 5]

PART 1033—CAR SERVICE

Appointment of Embargo Agents

At a Session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 11th day of December 1974.

Upon further consideration of Revised Service Order No. 995 (35 FR 7016; 36 FR 23726; 37 FR 28301; and 38 FR 35002), and good cause appearing therefor:

It is ordered, That: § 1033.995 Revised Service Order 995, Amdt. 5 (Appointment of Embargo Agents) be, and it is hereby amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, and 17(2)) Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10-17), 15(4), and 17(2)))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29738 Filed 12-19-74;8:45 am]

[Revised S.O. No. 1002; Amdt. 5]

PART 1033—CAR SERVICE

Car Distribution Directions—Appointment of Agents

At a Session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 11th day of December 1974.

Upon further consideration of Revised Service Order No. 1002 (35 FR 7016; 36 FR 23803; 37 FR 28301; and 38 FR 35002), as amended, and good cause appearing therefor:

It is ordered, That: § 1033.1002 Revised Service Order 1002, Amdt. 5 (Car distribution directions—Appointment of Agents) be, and it is hereby amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, and 17(2)). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10-17), 15(4), and 17(2)))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29739 Filed 12-19-74;8:45 am]

[Revised S. O. No. 994; Amdt. 5]

PART 1034—ROUTING OF TRAFFIC

Rerouting of Traffic—Appointment of Agents

At a Session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 11th day of December 1974.

Upon further consideration of Revised Service Order No. 994 (35 FR 7017; 36 FR 23726; 37 FR 28301; and 38 FR 35002), and good cause appearing therefor:

It is ordered, That: § 1034.994 Revised Service Order 994, Amdt. 5 rerouting of traffic—Appointment of agents be, and it is hereby amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, and 17(2)). Interprets or applies Secs. 1(10-17), 15(4), and 17(2). 40 Stat. 101, as amended, 54 Stat. 911;. (49 U.S.C. 1(10-17), 15(4), and 17(2)))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-29740 Filed 12-19-74;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Phenylbutazone

The Commissioner of Food and Drugs has evaluated a new animal drug application (48-391V) filed by D-M Pharmaceuticals Inc., Rockville, MD 20850, proposing the safe and effective use of phenylbutazone injection for the treatment of horses. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135b.47 is amended by revising paragraph (b)(2) to insert the sponsor code number "088", to read as follows:

§ 135b.47 Phenylbutazone injection, veterinary.

* * * * * *

(b) * * *

(2) Approval for use of the 200 milligrams per milliliter drug in horses: See sponsor code Nos. 054, 059, 087, 088, 092, and 099 in § 135.501(c) of this chapter.

* * * * * *

Effective date. This order shall be effective December 20, 1974.

(Sec. 512(i), 82 Stat. 347; (21 U.S.C. 360b(i)))

Dated: December 12, 1974.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.74-29655 Filed 12-19-74;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

CEPHACETRILE SODIUM

Miscellaneous Amendments

The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under

§ 442.19 Cephacetrile sodium.

(ii) Samples required: 12 packages,

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section 507 of the Federal Food, Drugs, and Cosmetic Act, as amended, with respect to approval of the antibiotic drug cephacetrile sodium.

The Commissioner concludes that data supplied by the manufacturer concerning the subject antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended to provide for the certification of this drug.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows to provide for certification of the antibiotic drug cephacetrile sodium:

PART 430—ANTIBIOTIC DRUGS: GENERAL

1. Part 430 is amended:

a. In § 430.5 by adding new paragraphs (a)(54) and (b)(54), as follows:

§ 430.5 Definitions of master and working standards.

(a) • • •

(54) *Cephacetrile.* The term "cephacetrile master standard" means a specific lot of cephacetrile that is designated by the Commissioner as the standard of comparison in determining the potency of the cephacetrile working standard.

(b) • • •

(54) *Cephacetrile.* The term "cephacetrile working standard" means a specific lot of a homogeneous preparation of cephacetrile.

b. In § 430.6 by adding a new paragraph (b)(57), as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

• • • • •

(b) • • •

(57) *Cephacetrile.* The term "microgram" applied to cephacetrile means the cephacetrile activity (potency) contained in 1.13 micrograms of the cephacetrile master standard.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended:

a. In § 436.33(b) by alphabetically inserting a new item in the table, as follows:

§ 436.33 Safety test.

• • • • •

(b) • • •

Antibiotic drug	Dilluent (diluent number as listed in § 436.32)	Test dose: Concentration in units or milligrams of activity per milliliter	Test dose: Volume in milliliters to be administered to each mouse	Route of administration as described in paragraph (c) of this section
•	•	•	•	•
Cephacetrile sodium.		3	60	0.5 Intravenous.
•	•	•	•	•

b. In § 436.105(a) and (b) by alphabetically inserting a new item in the respective tables, as follows:

§ 436.105 Microbiological agar diffusion assay.

• • • • • • •

(a) • • •

Antibiotic	Media to be used (as listed by medium number in § 436.102(b)): Base layer	Media to be used (as listed by medium number in § 436.102(b)): Seed layer	Milliliters of media to be used in the base and seed layers: Base layer	Milliliters of media to be used in the base and seed layers: Seed layer	Test organism	Suggested volume of standardized inoculum to be added to each 100 milliliters of seed agar	Incubation temperature for the plates
						Milliliters	*Degrees C.*
•	•	•	•	•	•	•	•
Cephacetrile...	2	1	21	4	A	0.5	32-36
•	•	•	•	•	•	•	•

(b) • • •

Antibiotic	Working standard stock solutions: Drying conditions (method number listed in § 436.209)	Initial solvent	Diluent (solution number as listed § 436.101(a))	Final concentration units or milligrams per milliliter (milligrams)	Storage time under refrigeration	Standard response line concentrations: Diluent	Final concentrations, units or micrograms of antibiotic activity per milliliter
•	•	•	•	•	•	•	•
Cephacetrile...	Not dried		1	1	1 week.....	1	6.4,8.0, 10.0, 12.5, 15.6 μg.
•	•	•	•	•	•	•	•

c. In § 436.205 (b) and (c) by alphabetically inserting a new item in the respective tables, as follows:

§ 436.205 Hydroxylamine colorimetric assay.

• • • • •

(b) • • •

Antibiotic	Diluent (solution number as listed in § 436.101(a))	Final concentration in milligrams per milliliter of standard solution
•	•	•
Cephacetrile...	Distilled water....	2.0
•	•	•

(c) • • •

Antibiotic	Diluent (solution number as listed in § 436.101(a))	Final concentration in milligrams per milliliter of sample
•	•	•
Cephacetrile sodium.	Distilled water.	2.0
•	•	•

d. In § 436.213(c) by alphabetically inserting a new item in the table, as follows:

§ 436.213 Nonaqueous titrations.

• • • • •

(c) • • •

Antibiotic	Weight in milligrams of sample	Solvent
• •	•	• •
Cephacetrile sodium-base titration.	50	50 milliliters glacial acetic acid.
• •	•	• •

• • • • • •

e. By adding to Subpart F a new section, as follows:

§ 436.313 Thin layer chromatographic identity test for cephacetrile sodium.

Using the sample solution prepared as described in the section for the antibiotic drug to be tested, proceed as described in paragraphs (a), (b), (c), (d), and (e) of this section.

(a) *Equipment*—(1) *Chromatography tank.* A rectangular tank, approximately 23 centimeters long, 23 centimeters high, and 9 centimeters wide, equipped with a glass solvent trough in the bottom and a tight-fitting cover for the top. Line the inside walls of the tank with chromatographic paper (Whatman 3MM, or equivalent).

(2) *Plates.* Use a 20x20 centimeter thin layer chromatography plate coated with silica gel G or equivalent to a thickness of 250 microns.

(b) *Developing solvent.* Mix ethyl acetate, pyridine, *n*-butanol, acetic acid, and water in volumetric proportions of 42: 21: 21: 6: 10, respectively.

(c) *Spray solution.* Immediately before use, mix 100 milliliters of a 1-percent ferric chloride solution in 1 percent hydrochloric acid with 100 milliliters of a 1-percent potassium ferricyanide solution and 75 milliliters of methanol.

(d) *Preparation of working standard solution.* Prepare a solution containing approximately 2.5 milligrams per milliliter of cephacetrile working standard in distilled water.

(e) *Procedure.* Pour developing solvent into the bottom of the chromatography tank. Cover and seal the tank. Allow it to equilibrate for 1 hour. Prepare a plate as follows: On a line 2 centimeters from the base of the silica gel plate, and at intervals of 2 centimeters, spot 10 microliters each of the standard solution and the sample solution. After all spots are thoroughly dry, place the silica gel plate directly into the glass trough. Cover and seal the tank. Allow the solvent front to travel about 15 centimeters from the starting line. Remove the plate from the tank and heat it for 1 hour at 60° C. in a circulating air oven. Remove the plate from the oven and allow it to cool at room temperature. Apply the spray solution and allow it to air dry. After approximately 15 minutes, the compound appears as a blue spot on a yellow-green background at an R_f of about 0.4. The test is satisfactory if the sample compares qualitatively with the standard.

PART 442—CEPHA ANTIBIOTIC DRUGS

3. In Part 442 by adding to Subparts A and C two new sections as follows:

§ 442.19 Cephacetrile sodium.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cephacetrile sodium is the sodium salt of 7-(2-cyanoacetamido-3-(hydroxymethyl) -8- oxo-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylate acetate (ester). It is so purified and dried that:

(i) Its potency is not less than 800 micrograms and not more than 940 micrograms of cephacetrile per milligram.

(ii) It passes the safety test.

(iii) Its moisture content is not more than 1.5 percent.

(iv) Its pH in an aqueous solution containing 100 milligrams per milliliter is not less than 3.8 and not more than 5.8.

(v) Its cephacetrile content is not less than 80 and not more than 94 percent.

(vi) It gives a positive identity test for cephacetrile.

(vii) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, moisture, pH, cephacetrile content, identity, and crystallinity.

(ii) Samples required: 12 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive:

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 1 percent potassium phosphate buffer, pH. 6.0 (solution 1), to give a stock solution containing 1.0 milligram per milliliter (estimated). Further dilute an aliquot of the stock solution with solution 1 to the reference concentration of 10 micrograms of cephacetrile per milliliter (estimated).

(ii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 436.205 of this chapter.

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 100 milligrams per milliliter.

(5) *Cephacetrile content.* Proceed as directed in § 436.213 of this chapter, using the titration procedures described in paragraph (e) (2) of that section. Calculate the percent cephacetrile content as follows:

$$\text{Percent cephacetrile content} = \frac{(A-B)\ (\text{normality of perchloric acid reagent})\ (389.3)\ (100)}{(\text{Weight of sample in milligrams})}$$

Where:

A = Milliliters of perchloric acid reagent used in titrating the samples;
B = Milliliters of perchloric acid reagent used in titrating the blank.

(6) *Identity.* Proceed as directed in § 436.313 of this chapter, preparing the sample as follows: Prepare a solution containing about 2.5 milligrams per milliliter of cephacetrile in distilled water.

(7) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

§ 442.219 Cephacetrile sodium for injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cephacetrile sodium for injection is a dry mixture of cephacetrile sodium and mannitol. Its potency is satisfactory if it contains not less than 90 percent and not more than 115 percent of the number of milligrams of cephacetrile that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. Its moisture content is not more than 1.5 percent. When reconstituted as directed in the labeling, its pH is not less than 3.8 and not more than 5.8. It passes the identity test. The cephacetrile sodium used conforms to the standards prescribed by § 442.19(a) (1) of this part.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) The results of tests and assays on:

(*a*) The cephacetrile sodium used in making the batch for potency, moisture, pH, cephacetrile content, identity, and crystallinity.

(*b*) The batch for potency, sterility, pyrogens, safety, moisture, and pH.

(ii) Samples required:

(*a*) The cephacetrile sodium used in making the batch: 12 packages, each containing approximately 500 milligrams.

(*b*) The batch:

(1) For all tests except sterility: A minimum of 15 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive:

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Reconstitute the vials as directed in the labeling. Using a suitable hypodermic needle and syringe, remove all of the withdrawable contents and dilute the sample thus obtained with

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sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 1 to the reference concentration of 10 micrograms of cephacetrile per milliliter (estimated).

(ii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 436.205 of this chapter, preparing the sample for assay as follows: Reconstitute the sample as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents and dilute the sample thus obtained with distilled water to the prescribed concentration.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (a)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 80 milligrams of cephacetrile per milliliter.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter.

(5) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(6) *pH.* Proceed as directed in § 436.202 of this chapter, using the solution obtained when the product is reconstituted as directed in the labeling.

(7) *Identity.* Proceed as directed in § 436.313 of this chapter, preparing the sample as follows: Reconstitute the sample as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents and dilute the sample thus obtained with distilled water to a concentration of 2.5 milligrams per milliliter.

Since the conditions prerequisite to providing for certification of subject antibiotic drug have been complied with and since the matter is noncontroversial in nature, notice and public procedures and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective December 20, 1974.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360(i))

Dated: December 11, 1974.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.74-29490 Filed 12-19-74; 8:45 am]

Title 32—National Defense

CHAPTER XVI—SELECTIVE SERVICE SYSTEM

MISCELLANEOUS AMENDMENTS TO CHAPTER

Whereas, on November 1, 1974, the Director of Selective Service published a notice of proposed Amendments of Selective Service Regulations 39 FR 38670 on November 1, 1974; and

Whereas such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. sections 451 et seq.) in that more than thirty days have elapsed subsequent to such publication during which period comments from the public have been received and considered; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision. The proposed amendments are being made effective without change.

The revision of §§ 1602.1 and 1602.16 would correct the citation of the Military Selective Service Act. The deletion of §§ 1602.4 and 1602.6 would eliminate the definition of words unused in the regulations.

The revision of § 1603.3 reflects the revision of § 1604.31. The revision of § 1604.31 would establish a medical specialty advisor to the State Director for each of the medical specialties for which the Secretary of Defense places a call for the induction of men into the Armed Forces. Such advisor would furnish advice regarding the deferment of registrants in his respective medical specialty at the request of the State Director.

Section 1622.2 is revised to eliminate the listing of the various classes established in Part 1623.

Section 1622.14 is amended to provide that registrants who had been separated from the Armed Forces by reason of conscientious objection to participation in both combatant and noncombatant training and service in the Armed Forces would be classified in Class 1–O.

Section 1623.15(a) is revised to eliminate the reference to a provision of the Military Selective Service Act that has expired.

Section 1622.17 is added to establish Class 1–A–OM: Medical, dental, or allied specialist available for noncombatant military service instead of identifying such personnel in Class 1–A–O in accord with the present section 1622.11(b). Section 1624.1(b), Part 1661, and § 1680.11 are modified to reflect this change.

Section 1622.19 is added to establish Class 1–OM: Medical, dental, or allied specialist available for alternate service instead of identifying such personnel in Class 1–O in accord with the present § 1622.14(b). Section 1624.1(b), Part 1661, and § 1680.9 are modified to reflect this change.

The revision of § 1622.26(a) restricts Class 2–M to registrants pursuing their first professional degree in the medical, dental, or allied specialist category.

Section 1622.40 is revised to remove duplicative provisions, archaic date reference, and the distinction in result of discharges for the convenience of the Government and other discharges from the Armed Forces.

Section 1622.42 is revised to give specific recognition to the treaty provisions respecting dual nationals for purposes of classification into Class 4–C. The proposed revision would also exempt from classification in Class 4–C an alien registrant who had left the country while under an order for induction or alternate service. Section 1625.14 is also modified to reflect this change.

Section 1622.47 is added to establish Class 4–PM: Medical specialist registrant not qualified for military service and § 1622.44 is modified to reflect this change. Medical specialists are evaluated under different criteria than regular registrants, and being disqualified as a regular registrant does not disqualify the registrant from service as a medical specialist. To remove confusion, we should have separate disqualified classes for these two groups, just as we have separate available classes for the two groups. The last paragraph of each of §§ 1622.44 and 1622.47 will permit local boards to classify registrants into Class 4–P if they are incarcerated. This has been a problem in the past, as there was no way to find the registrant disqualified for service without sending them to the Armed Forces Examining and Entrance Stations which for obvious reasons could not be done.

The revision of § 1622.46 provides for a minimum of six months of satisfactory alternate service in order to qualify for Class 4–W.

Section 1623.2 is revised to reflect the creation of Class 1–A–OM, Class 1–OM, and Class 4–PM; to place Class 2–M below Class 1–H and Class 4–P; and to place Class 4–G above Class 1–H. These changes will facilitate the maintaining of an inventory of medical specialist students and medical specialists and conserve, in time of peace, the time of local boards in classifying registrants entitled to classification in Class 4–G: Registrant exempted from service during peace.

The revocation of § 1623.7 reflects that one card serves both purposes of evidencing registration and classification.

Section 1631.6(b) is amended to authorize the ordering prior to January 1 of a registrant to report for induction after January 1 when he has been identified as a member of one of the categories eligible for induction after January 1. "Unsatisfactory reservists" would not be inducted under the revised regulation.

Section 1632.1 is amended to add paragraph (e) to contain the material formerly in § 1622.42(a) dealing with the computation of time of residence of an alien in the United States.

The revision of § 1632.12 would eliminate references to specific forms used by the United States Army Recruiting Command and the warning that a reservist who ceases to serve satisfactorily may be inducted.

The revocation of §§ 1632.15, 1632.20, and 1632.21 would eliminate administrative details not appropriate for regulations. Section 163.20 is revoked because its subject matter is dealt with in §§ 1622.12, 1622.44, and 1625.2(a). Section 1632.31 is revoked because it is inconsistent with the provisions of § 1632.12 which would govern.

Section 1641.1 is amended to require a registrant to notify his local board of his entry into medical or other medical specialist school.

The revision of § 1641.6 would eliminate the requirements a registrant have certain documents in his personal possession except when he is on active duty and that he surrender such documents

when he is inducted or enters upon active duty in the Armed Forces.

The revocation of § 1641.7 would eliminate the requirement that a registrant obtain documents that he would no longer be required to have in his personal possession.

Part 1643, *Parole*, is revoked because it is misleading in view of the fact that there is no authority to induct parolees at the present time.

Section 1680.5 is revised to clarify the definition of the year of prime vulnerability of medical and allied specialists, particularly for aliens.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and Executive Order 11623 of October 12, 1971, the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m. e.s.t. on January 31, 1975, as follows:

PART 1602—DEFINITIONS

1. Section 1602.1 is revised to read as follows:

§ 1602.1 Definitions to govern.

The definitions contained in section 16 of the Military Selective Service Act, and the definitions contained in this part shall govern in the interpretation of the regulations in this chapter.

2. Sections 1602.4 and 1602.6 are revoked as follows:

§ 1602.4 [Revoked]
§ 1602.6 [Revoked]

3. Section 1602.10 is revised to read as follows:

§ 1602.10 Selective service law.

The term 'selective service law' includes the Military Selective Service Act, and all rules and regulations issued thereunder.

PART 1603—SELECTIVE SERVICE PERSONNEL IN GENERAL

4. Section 1603.3 is revised to read as follows:

§ 1603.3 Uncompensated services.

The services of registrars (except as the Director of Selective Service may otherwise provide), members of local boards, members of appeal boards, medical speciality advisors to the State Directors of Selective Service, advisors to registrants, and all other persons volunteering their services to assist in the administration of the selective service law shall be uncompensated, and no such person serving without compensation shall accept remuneration from any source for services rendered in connection with selective matters.

PART 1604—SELECTIVE SERVICE OFFICERS

5. Section 1604.31 is revised to read as follows:

§ 1604.31 Medical specialty advisors to the State Directors of Selective Service.

The Director of Selective Service may appoint, upon the recommendation of the State Director of Selective Service, as a Medical Specialty Advisor to such State Director of Selective Service a licensed practitioner in the field of each of the medical specialities for which the Secretary of Defense places a call for the induction of men into the Armed Forces. It shall be the duty of each advisor to furnish advice regarding the deferment of registrants in his respective medical specialty at the request of the State Director of Selective Service.

PART 1622—CLASSIFICATION RULES AND PRINCIPLES

6. In § 1622.2, the introductory text is amended to read as follows:

§ 1622.2 Classes.

Each registrant shall be classified in one of the classes established in this Part.

* * * * *

7. Section 1622.11 is revised to read as follows:

§ 1622.11 Class 1–A–O: Conscientious objector available for noncombatant military service only.

In Class 1–A–O shall be placed every registrant who would have been classified in Class 1–A but for the fact that he has been found, by reason of religious, ethical, or moral belief, to be conscientiously opposed to participation in combatant training and service in the Armed Forces.

8. Section 1622.14 is revised to read as follows:

§ 1622.14 Class 1–O: Conscientious objector available for alternate service.

In Class 1–O shall be placed every registrant:

(a) Who has been found, by reason of religious, ethical, or moral belief to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the armed forces; or

(b) Who has been separated from the armed forces (including their reserve components) by reason of conscientious objection to participation in both combatant and noncombatant training and service in the armed forces.

9. Paragraph (a) of § 1622.15 is revised to read as follows:

§ 1622.15 Class 1–AM: Medical, dental and allied specialists.

(a) In Class 1–AM shall be placed every registrant who is or becomes a doctor of medicine, dentist, a doctor of optometry, a doctor of osteopathy, a doctor of podiatry, a veterinarian, or a registered nurse.

* * * * *

Section 1622.17 is added to read as follows:

§ 1622.17 Class 1–A–OM: Medical, dental, or allied specialist available for noncombatant military service.

(a) In Class 1–A–OM shall be placed every registrant who would have been classified in Class 1–AM but for the fact that he has been found, by reason of religious, ethical, or moral belief, to be conscientiously opposed to participation in combatant training and service in the Armed Forces.

(b) A registrant classified in Class 1–A–OM shall be identified as follows: Class 1–A–OMM for doctor of medicine; Class 1–A–OMD for dentist; Class 1–A–OME for doctor of optometry; Class 1–A–OMO for doctor of osteopathy; Class 1–A–OMP for doctor of podiatry; Class 1–A–OMV for veterinarian; and Class 1–A–OMN for registered nurse.

11. Section 1622.19 is added to read as follows:

§ 1622.19 Class 1XOM: Medical, dental, or allied specialist available for alternate service.

(a) In Class 1–OM shall be placed every registrant who would have been classified in Class 1–AM but for the fact that (1) he has been found, by reason of religious, ethical, or moral belief, to be conscientiously opposed to participation in both combatant and noncombatant training and service in the Armed Forces; or (2) has been separated from the Armed Forces (including their reserve components) by reason of conscientious objection to participation in both combatant and noncombatant training and service in the Armed Forces.

(b) A registrant classified in Class 1–OM shall be identified as follows: Class 1–OMM for doctor of medicine; Class 1–OMD for dentist; Class 1–OME for doctor of optometry; Class 1–OMO for doctor of osteopathy; Class 1–OMP for doctor of podiatry; Class 1–OMV for veterinarian; and Class 1–OMN for registered nurse.

12. Paragraph (a) of § 1622.26 is revised to read as follows:

§ 1622.26 Class 2–M: Registrant deferred because of study preparing for a specified medical specialty.

(a) In Class 2–M shall be placed any registrant other than a registrant who is in a medical, dental or allied specialist category, who is satisfactorily pursuing a full-time course of study leading to a professional degree in medicine, dentistry, optometry, osteopathy, podiatry, veterinary medicine, or licensure as a registered nurse.

* * * * *

13. Paragraph (a) of § 1622.40 is revised to read as follows:

§ 1622.40 Class 4–A: Registrant who has completed military service.

(a) In Class 4–A shall be placed any registrant other than a registrant eligible for classification in Class 1–C or Class 1–D who is within any of the following categories:

(1) A registrant who was discharged after having served honorably on active duty for a period of not less than 6 months in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard.

(2) A registrant who has served on active duty for a period of not less than twenty-four months as a commissioned

officer in the National Oceanic and Atmospheric Administration or in the Public Health Service, provided that such period of active duty in the Public Health Service as a commissioned Reserve officer commencing after June 30, 1967, shall have been performed by the registrant while assigned to staff any of the various offices and bureaus of the Public Health Service including the National Institutes of Health, or while assigned to the Coast Guard, or the Bureau of Prisons of the Department of Justice, or the National Oceanic and Atmospheric Administration or the Environmental Protection Agency.

(3) A registrant who while an alien has served on active duty for a period of not less than 12 months in the armed forces of a nation determined by the Department of State to be a nation with which the United States is associated in mutual defense activities and which grants exemption from training and service in its armed forces to citizens of the United States who have served on active duty in the Armed Forces of the United States for a period of not less than 12 months: *Provided*, That all information which is submitted to the local board concerning the registrant's service in the armed forces of a foreign nation shall be written in the English language.

(4) A registrant who has completed six years of satisfactory service as a member of one or more of the Armed Forces including the Reserve components thereof.

14. The heading and paragraphs (a) and (c) of § 1622.42 is revised to read as follows:

§ 1622.42 Class 4–C: Aliens or dual nationals.

(a) In Class 4–C shall be placed any registrant who establishes that he is a national of the United States and of a country with which the United States has a treaty or agreement that provides that such person is exempt from liability for military service in the United States.

* * * * *

(c) In Class 4–C shall be placed any registrant who is an alien and who has departed from the United States prior to being issued an order to report for induction or alternate service that has not been canceled. If any registrant who is classified in Class 4–C pursuant to this paragraph returns to the United States his classification shall be reopened and he shall be classified anew.

* * * * *

15. Section 1622.44 is revised to read as follows:

§ 1622.44 Class 4–F: Registrant not qualified for military service.

(a) In Class 4–F shall be placed any registrant, other than a registrant who is a medical, dental, or allied specialist, who is found by an Armed Forces Examining and Entrance Station, under applicable physical, mental or administrative standards, to be not qualified for service in the Armed Forces; except that no such registrant whose further examination or re-examination is determined by AFEES to be justified shall be placed in Class 4–F until such further examination has been accomplished and such registrant continues to be found not qualified for military service.

(b) In Class 4–F shall be placed any registrant other than a registrant who is a medical, dental, or allied specialist, who is confined in a prison, mental institution, or recognized drug rehabilitation center.

16. Section 1622.46 is revised to read as follows:

§ 1622.46 Class 4–W: Registrant who has completed alternate service in lieu of induction.

In Class 4–W shall be placed any registrant who subsequent to being ordered by the local board to perform alternate service in lieu of induction has been released from such service by the local board after satisfactorily performing the work for a period of 24 months, or has been granted an early release by the Director or State Director of Selective Service after completing at least 6 months of satisfactory service as prescribed in § 1660.10 of this Chapter.

17. Section 1622.47 is added to read as follows:

§ 1622.47 Class 4–FM: Medical specialist registrant not qualified for military service.

(a) In Class 4–FM shall be placed any registrant who is found by an Armed Forces Examining and Entrance Station, under standards applicable to medical, dental, and allied specialists, to be not qualified for service in the Armed Forces; except that no such registrant whose further examination or re-examination is determined by AFEES to be justified shall be placed in Class 4–FM until such further examination has been accomplished and such registrant continues to be found not qualified for military service.

(b) In Class 4–FM shall be placed any registrant in the medical, dental, and allied specialist categories who has applied for an appointment as a Reserve officer in one of the Armed Forces in any of such categories and has been rejected for such appointment on the sole ground of a physical disqualification.

(c) In Class 4–FM shall be placed any registrant in a medical, dental, or allied specialist category, who is confined in a prison, mental institution, or recognized drug rehabilitation center.

PART 1623—CLASSIFICATION PROCEDURE

18. Section 1623.2 is revised to read as follows:

§ 1623.2 Consideration of classes.

Every registrant shall be placed in Class 1–A under the provisions of § 1622.10 of this chapter, except that when grounds are established to place a registrant in any one of the classes listed in the following table, the registrant shall be classified in the lowest class for which he is determined to be eligible, with Class 1–AM considered the highest class and Class 1–C considered the lowest class, according to the following table:

Class 1–AM: Registrant in any of the specified medical, dental, and allied specialist categories.
Class 1–A–O: Conscientious objector available for noncombatant military service only.
Class 1–A–OM: Medical, dental, or allied specialist available for noncombatant military service.
Class 1–O: Conscientious objector available for alternate service.
Class 1–OM: Medical, dental, or allied specialist available for alternate service.
Class 2–AM: Medical, dental, or allied specialist deferred because of community essentiality.
Class 2–S: Registrant deferred because of activity in study.
Class 2–D: Registrant deferred because of study preparing for the ministry.
Class 3–A: Registrant deferred because of dependency of others.
Class 4–B: Officials deferred by law.
Class 4–C: Aliens or dual nationals.
Class 4–D: Minister of religion.
Class 4–G: Registrant exempted from service during peace.
Class 1–H: Registrant not currently subject to processing for induction.
Class 4–F: Registrant not qualified for military service.
Class 2–M: Registrant deferred because of study preparing for a specified medical specialty.
Class 4–FM: Medical specialist registrant not qualified for military service.
Class 4–W: Conscientious objector who has completed alternate service in lieu of induction.
Class 4–A: Registrant who has completed military service.
Class 1–D: Member of Reserve component or student taking military training.
Class 1–W: Conscientious objector performing alternate service in lieu of induction.
Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.

19. Section 1623.7 is revoked.

§ 1623.7 [Revoked]

PART 1624—PERSONAL APPEARANCE BEFORE LOCAL BOARD

20. Paragraph (b) of § 1624.1 is revised to read as follows:

§ 1624.1 Opportunity for personal appearance.

* * * * *

(b) Registrant who has filed a claim for classification in Class 1–A–O, Class 1–O, Class 1–A–OM, Class 1–OM, or Class 3–A, upon his written request, shall be afforded an opportunity to appear in person before the local board before his classification is determined by the local board. Should such registrant appear in person before the local board in advance of his classification being determined, the provisions of § 1624.4 shall apply, and he shall not be afforded an opportunity to appear concerning such classification after such determination.

PART 1625—REOPENING AND CONSIDERING ANEW REGISTRANT'S CLASSIFICATION

21. Section 1625.14 is revised to read as follows:

follows:

every registrant who would have been twenty-four months as a commissioned

§ 1625.14 Cancellation of order to report for induction or for alternate service by reopening of classification.

The reopening of the classification of a registrant by the local board shall cancel any order to report for induction or alternate service which may have been issued to him.

PART 1631—ALLOCATION OF INDUCTIONS

22. Paragraph (b) of § 1631.6 is amended to read as follows:

§ 1631.6 Action by local board upon receipt of allocation.

* * * * *

(b) Registrants shall be selected and ordered to report for induction in the following categories and in the order indicated: *Provided*, That a registrant who has been identified, in accord with procedures prescribed by the Director of Selective Service, as one who will become a member of one of the following categories on the next January 1, may, prior to January 1, be selected and ordered to report for induction on a date after January 1 as a member of such category:

(1) Volunteers who have not attained the age of 26 years in the sequence in which they have volunteered for induction.

(2) Nonvolunteers in the Extended Priority Selection Group who have not attained the age of 26 years in the order in which their random sequence number had been reached.

(3) Nonvolunteers in the First Priority Selection Group for the current calendar year in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(4) Nonvolunteers who have not attained the age of 26 years in each of the lower priority selection groups, in turn, within the group in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(5) Nonvolunteers who have attained the age of 19 years during the calendar year but who have not attained the age of 20 years, in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(6) Nonvolunteers who have attained the age of 26 years and each year thereafter in turn, most recent year first, within the year group in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1: *Provided*; That the random sequence number established on December 1, 1969, will apply to any registrant born prior to January 1, 1944.

(7) Nonvolunteers who have attained the age of 18 years and 6 months and who have not attained the age of 19 years in the order of the random sequence number established by random selection procedures prescribed in accordance with § 1631.1 for registrants who during the current calendar year have attained the age of 19 years but who have not attained the age of 20 years.

PART 1632—DELIVERY AND INDUCTION

23. Paragraph (e) of § 1632.1 is added to read as follows:

§ 1632.1 Order to report for induction.

* * * * *

(e) No local board shall issue an order to report for induction or alternate service to a registrant who is an alien unless he shall have resided in the United States for one year. When such a registrant has been within the United States for two or more periods (including periods before his registration) and the total of such periods equals one year, he shall be deemed to have resided in the United States for one year. In computing the length of such periods, any portion of one day shall be counted as a day.

24. Section 1632.12 is revised to read as follows:

§ 1632.12 Enlistment of registrants ordered for induction.

Whenever a local board receives official notification that one of its registrants to whom an induction order has been issued has been enlisted or appointed in the Armed Forces of the United States, including the Reserve components thereof, and the date of enlistment or appointment is at least 10 days prior to his scheduled reporting date for induction it shall reopen his classification and classify him anew.

25. Sections 1632.15, 1632.20, 1632.21, 1632.30 and 1632.31 are revoked.

§§ 1632.15, 1632.21, 1632.30, 1632.31 [Revoked]

PART 1641—DUTY OF REGISTRANTS

26. Section 1641.1 is revised to read as follows:

§ 1641.1 Reporting by registrants of their current status.

(a) It shall be the duty of every registrant, so long as his file is actively maintained by his local board, to keep his local board currently informed in writing of the address where mail will reach him.

(b) It shall be the duty of every registrant until his liability for training and service has terminated, to inform his local board in writing of his entrance into a professional course of study leading to a professional degree in a medical, dental or allied specialist category, together with his current address, and to inform his local board in writing of the receipt of any such professional degree, together with his current address.

(c) It shall be the duty of every registrant to submit to his local board information concerning his status within ten days after the date on which the local board mails him a request therefor, or within such longer period as may be fixed by the local board.

27. Section 1641.6 is revised to read as follows:

§ 1641.6 Effect of failure to have unaltered documents in personal possession.

The failure of any person to have his registration certificate (SSS Form 2) or status card (SSS Form 7) in his personal possession shall be prima facie evidence of his not having registered.

§ 1641.7 [Revoked]

28. Section 1641.7 is revoked.

PART 1643—[REVOKED]

29. Part 1643 is revealed.

PART 1661—CLASSIFICATION OF CONSCIENTIOUS OBJECTORS

30. Section 1661.1 (a) and (b)(4) is revised as follows:

§ 1661.1 Purpose; definitions.

(a) The provisions of this part govern the consideration of a claim by a registrant for classification in Class 1–A–O (§ 1622.11 of this chapter), Class 1–A–OM (§ 1622.17 of this chapter), Class 1–O (§ 1622.14 of this chapter), or Class 1–OM (§ 1622.19 of this chapter).

(b) * * *

(4) Prima Facie Claim. A nonfrivolous claim, which, if true, would be sufficient on its face to warrant granting classification in Class 1–A–O, Class 1–A–OM, Class 1–O, or Class 1–OM.

31. Section 1661.2 is revised to read as follows:

§ 1661.2 The claim of conscientious objection.

A claim to classification in Class 1–A–O, Class 1–A–OM, Class 1–O, or Class 1–OM may be made by the registrant in writing, such document shall be placed in his File Folder.

32. The headings of §§ 1661.3, 1661.4 and 1661.5 are revised to read as follows:

§ 1661.3 Basis for Classification in Class 1–A–O or Class 1–A–OM.

§ 1661.4 Basis for Classification in Class 1–O or Class 1–OM.

§ 1661.5 Exclusion from Class 1–A–O, Class 1–A–OM, Class 1–O, and Class 1–OM.

33. Paragraph (a) of § 1661.6 is revised to read as follows:

§ 1661.6 Analysis of religious training and belief.

(a) A registrant claiming conscientious objection is not required to be a member of a "peace church" or any other church, religious organization, or religious sect to qualify for a 1–A–O, 1–A–OM, 1–O, or 1–OM classification; nor is it necessary that he be affiliated with any particular group opposed to participation in war in any form.

* * * * *

34. Paragraph (i) of § 1661.9 is amended to read as follows:

§ 1661.9 Considerations relevant to granting or denying a prima facie claim for classification as a conscientious objector.

* * * * *

(i) The registrant may submit letters of reference and other supporting statements of friends, relatives and acquaint-

ances to corroborate the sincerity of his claim, although such supplemental documentation is not essential to approval of this claim. A finding of insincerity based on these letters or supporting statements must be carefully explained in the board's decision, specific mention being made of the particular material relied upon for denial of classification in Class 1–A–O, Class 1–A–OM, Class 1–O, or Class 1–OM.

34. Section 1661.10 is revised to read as follows:

§ 1661.10 Types of decisions.

(a) The following are the types of decisions which may be made by the local and appeal board when a prima facie claim of conscientious objection has been stated.

(1) Decision to grant a claim for classification in Class 1–A–O, Class 1–A–OM, Class 1–O, or Class 1–OM, as requested, based on a determination that the truth or sincerity of the registrant's prima facie claim is not refuted by any information contained in the registrant's file or obtained during his personal appearance.

(2) Decision to deny a claim for classification in Class 1–A–O, Class 1–A–OM, Class 1–O or Class 1–OM, finding on the basis of all information before the board, that the claim fails to meet the tests specified in §§ 1661.3 and 1661.4. If supported by evidence in the file the board may find that the facts presented by the registrant in support of his claim are untrue.

(3) Decision to grant classification in Class 1–A–O or Class 1–A–OM to a registrant even though he requested reclassification in Class 1–O or Class 1–OM. It should be noted that the registrant who requests classification in Class 1–O or Class 1–OM should be classified in Class 1–A–O or Class 1–A–OM only when the information presented demonstrates clearly that the registrant is opposed only to bearing arms and that he does not object to noncombatant service.

PART 1680—MEDICAL, DENTAL, OR ALLIED SPECIALIST CATEGORIES (CLASS 1–AM)

§ 1680.5 [Amended]

35. Paragraph (b) of § 1680.5 is amended by revoking the text that follows the first sentence of subparagraph (6).

36. Paragraph (c) of § 1680.5 is added to read as follows:

* * * * *

(c) As used in paragraph (b) of this section, the year of prime vulnerability for an alien who enters the United States after he has completed the professional training described in § 1622.15(c) of this chapter will begin when he completes one year of residence in the United States: *Provided*, That the year of prime vulnerability for an alien who has resided in the United States in a nonpermanent resident status will begin when he completes one year of residence in the United States, or when he registers for Selective Service, whichever is later. The year of prime vulnerability for all other persons will begin upon attainment of the first appropriate professional degree or diploma, or upon completion of one year of internship or equivalent training, whichever is later. The one year of internship or equivalent training must follow immediately upon the attainment of the appropriate professional degree.

37. Section 1680.9 is revised to read as follows:

§ 1680.9 Alternate service.

A registrant in Class 1–OM will be ordered to alternate service in lieu of induction in accord with Part 1660 of this chapter at the time that he would be called for induction if he were in Class 1–AM.

38. Section 1680.11 is revised to read as follows:

§ 1680.11 Noncombatant military service.

A registrant classified in Class 1–A–OM will be ordered for induction at the time that he would be ordered for induction if he were in Class 1–AM.

BYRON V. PEPITONE,
Director.

DECEMBER 16, 1974.

[FR Doc.74–29640 Filed 12–19–74;8:45 am]

MISCELLANEOUS AMENDMENTS TO CHAPTER

Whereas, on November 1, 1974, the Director of Selective Service published a Notice of Proposed Amendments of Selective Service Regulations 39 FR 38674 of November 1, 1972; and

Whereas more than thirty days have elapsed subsequent to such publication during which period comments from the public have been received and considered. The proposed amendments are being made effective without change.

Section 1604.25 is amended to provide for the disqualification of an appeal board member instead of the appeal board in certain cases. Section 1604.26 is amended to add a sentence to provide that an appeal board may continue to function so long as a quorum of the prescribed membership is present at each official meeting.

Section 1604.55 is amended to provide for the disqualification of a local board member instead of the local board in certain cases. Section 1604.56 is amended to add a sentence to provide that a local board may continue to function so long as a quorum of the prescribed membership is present at each official meeting.

Section 1608.6 is revoked because it is obsolete in its references to a medical advisor. Sections 1608.12(d) and 1608.13 (b) is amended to delete obsolete references to the Office of Public Information. Section 1608.12(f)(1) is revised to delete an obsolete citation. Section 1608.17 is revised to reflect the new procedures for processing demands of courts or other authorities for information protected by regulations in view of the closing of the Regional Counsel offices.

Section 1613.4 is revised to reflect the use of a new form in registrant processing. The issuance of a replacement card would be conditional upon a representation that the card last issued to the registrant had been lost, stolen or destroyed.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and § 1604.1 of Selective Service Regulations (32 CFR 1604.1), the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m. e.s.t on January 31, 1975, as follows:

PART 1604—SELECTIVE SERVICE OFFICERS

1. Section 1604.25 *Disqualification* is revised to read as follows:

§ 1604.25 Disqualification.

(a) No member of an appeal board shall act on the case of a registrant who is the member's first cousin or closer relation, either by blood, marriage, or adoption, or who is the member's employer, employee, or fellow employee, or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or is a fellow member or employee of the appeal board.

(b) A member of an appeal board may disqualify himself in any matter in which he would be restricted for any reason in making an impartial decision.

(c) Whenever a quorum of the appeal board cannot act on the case of a registrant, and there is no panel of the appeal board to which the case may be transferred, the appeal board shall transmit such case to the State Director of Selective Service for transfer to another appeal board.

2. Section 1604.26 *Organization and meeting* is revised to read as follows:

§ 1604.26 Organization and meeting.

Each appeal board or panel shall elect a chairman and a secretary. A majority of the members of an appeal board or panel when present at any meeting shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question. Every member present, unless disqualified, shall vote on every question or classification. In case of a tie vote on a question or classification, the board shall postpone action until it can be decided by a majority vote. If any member is absent so long as to hamper the work of the board, the chairman, a member or employee of the board or panel concerned shall recommend to the State Director of Selective Service that such member be removed and a new member appointed. If, through death, resignation, or other cause, the membership of a appeal board or panel thereof, falls below the prescribed number of members, the board or panel shall continue to function, provided a quorum of the prescribed membership is present at each official meeting.

3. Section 1604.55 *Disqualification* is revised to read as follows:

§ 1604.55 Disqualification.

(a) No member of a local board shall act on the case of a registrant who is the member's first cousin or closer relation, either by blood, marriage, or adoption, or who is the member's employer, employee, or fellow employee, or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or is a fellow member or employee of the local board.

(b) A member of the local board may disqualify himself in any matter in which he would be restricted, for any reason, in making an impartial decision.

(c) Whenever a quorum of a local board cannot act on the case of a registrant, the local board shall transmit such case to the State Director of Selective Service for transfer to another local board.

4. Section 1604.56 *Organization and meeting* is revised to read as follows:

§ 1604.56 Organization and meeting.

Each local board shall elect a chairman and a secretary. A majority of the membership of the local board shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question or classification. Every member present, unless disqualified, shall vote on every question or classification. In case of a tie vote on any question or classification, the board shall postpone action on the question or classification until it can be decided by a majority vote. If any member is absent so long as to hamper the work of the local board, the chairman, a member, or employee of the local board shall recommend to the State Director of Selective Service that such member be removed and a new member appointed. If through death, resignation or other cause, the membership of a local board falls below the prescribed number of members it shall continue to function provided a quorum of the prescribed membership is present at each official meeting.

PART 1608—PUBLIC INFORMATION

§ 1608.6 [Revoked]

5. Section 1608.6 *Disclosure or furnishing of information relating to physical or mental condition of registrants* is revoked.

6. Paragraphs (d) and (f)(1) of § 1608.12 *Available information* are revised to read as follows:

§ 1608.12 Available information.

• • • • •

(d) The Registrants Processing Manual may be inspected at the office of any local board, the office of the State Director of Selective Service for any State or at the National Headquarters, Selective Service System.

• • • • •

(f) • • •

(1) The names, positions, titles, grades, salaries, and duty station of employees of the Selective Service System are public information.

• • • • •

7. Paragraph (b) of § 1608.13 *Places where information may be obtained* is revised to read as follows:

§ 1608.13 Places where information may be obtained.

(b) Requests for information concerning the national administration of the Military Selective Service Act shall be addressed to the National Headquarters, Selective Service System, 1724 F Street NW., Washington, D.C. 20435.

8. Section 1608.17 is revised to read as follows:

§ 1608.17 Demands of courts or other authorities for records or information protected by these regulations.

No officer or employee of the Selective Service System will comply with a request, demand or order of a court or other authority to produce information the disclosure of which is prohibited or restricted by the provisions of this part without the prior approval of the Director of Selective Service.

PART 1613—REGISTRATION PROCEDURES

9. Section 1613.4 is revised to read as follows:

§ 1613.4 Issuing replacement Status Card.

A replacement Status Card (SSS Form 7) will be issued to a registrant by the local board with which he is registered upon its receipt of his written request therefor, and statement that the Status Card last issued to him has been lost, stolen or destroyed.

DECEMBER 16, 1974.

BYRON V. PEPITONE,
Director.

[FR Doc.74-29041 Filed 12-18-74;8:45 am]

PART 1660—ALTERNATE SERVICE

Miscellaneous Amendments

Whereas, on November 1, 1974, the Director of Selective Service published a notice of proposed amendments of Selective Service Regulations, 39 Federal Register 38678 of November 1, 1974; and

Whereas more than thirty days have elapsed subsequent to such publication during which period comments from the public have been received and considered. The proposed amendments are being made effective without change.

Section 1660.9(c) is amended to eliminate the requirement that a registrant traveling to his alternate service assignment request travel, meal and lodging before they will be provided. Sections 1660.9(b), (c), (d), and (f) are revised to remove the detailed instructions to the State Director in conducting an investigation when a registrant performing alternate service leaves his job. The State Director would be given clear authority to report a registrant for prosecution or to reassign him to a job. Hardship, medical or other bona fide reasons are prescribed as the criteria for approving a registrant's request for reassignment.

Sections 1660.10 and 1660.11 are revised to make clear the registrant's entitlement to classification in Class 4-W and a certificate of release if he is released after six months of satisfactory service.

Now therefore by virtue of the authority vested in me by section 6(j) of the Military Selective Service Act, as amended (50 App. U.S.C. section 451 et seq.), the Selective Service regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m. e.s.t. on January 31, 1975, as follows:

1. Paragraphs (b) through (f) of § 1660.9 Administration of alternate service are amended to read as follows:

§ 1660.9 *Administration of alternate service.*

• • • • •

(b) Whenever the State Director has reason to believe that a registrant was refused employment, or the registrant refused or constructively refused employment or was relieved for cause or left his job without authority he will determine whether the registrant was at fault. If he determines that the registrant was at fault, he may report the registrant for prosecution or he may request the registrant's local board to order the registrant to an appropriate job by issuing an Amendment to Order to Report for Alternate Service (SSS Form 153A). Time not spent on an approved job will not be creditable toward completion of his alternate service obligation.

(c) If the State Director finds no failure of the registrant to perform satisfactorily, he will request the registrant's local board to order the registrant to an appropriate job by issuing an Amendment to Order to Report for Alternate Service (SSS Form 153A). If the registrant complies with the order, the intervening time between jobs will not constitute a break in the required period of alternate service.

(d) The State Director may reassign a working registrant at any time he determines (1) that the job to which the registrant is assigned ceases to be acceptable as alternate service as defined in Section 1660.6, or (2) that there is a hardship, medical, or other bona fide basis for such reassignment. To reassign the registrant, the State Director shall request the registrant's local board to issue an Amendment to Order to Report for Alternate Service (SSS Form 153A). Prior to the issuance of an Amendment to Order to Report for Alternate Service (SSS Form 153A) in accord with this paragraph, the registrant is required to continue in the alternate service to which he had been ordered most recently.

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for Selective Service, whichever is later. Regional Counsel offices. official meeting.

(e) The Director of Selective Service or the State Director of Selective Service will issue travel orders, tickets or transportation requests and meal and lodging requests to the registrant for his travel (1) from the office of his local board or local board nearest the place of his residence at the time he is selected for alternate service to the place of performance of the alternate service to which he is ordered within the United States, (2) for his return travel from such place to the office of the local board from which he traveled to the place of performing alternate service upon his satisfactorily completing his period of work or his travel to any other place upon his satisfactorily completing his period of alternate service whenever the cost of such transportation would not exceed the cost of travel to the local board from which he traveled, and (3) for his travel from one place of employment to another when his employment is transferred under the provisions of paragraph (c) or (d) of this section.

(f) No action shall be required of a registrant by an Amendment to Order to Report for Alternate Service (SSS Form 153A) without his consent within 10 days after the issuance of such form.

Section 1660.10 is amended to read as follows:

§ 1660.10 Release from alternate service.

The State Director of the State in which a registrant is working or the Director may release a registrant prior to his completion of 24 months of service upon a determination of hardship, medical, or other bona fide basis for such early release. If the registrant is working outside the State in which he is registered, the decision should be made in consultation with the State Director of the State in which the registrant is registered.

Section 1660.11 is amended to read as follows:

§ 1660.11 Completion of alternate service.

When a registrant's local board is informed by the State Director that the registrant has been released from alternate service after six months or more of satisfactory service, the local board shall classify the registrant in Class 4–W and issue a Certificate of Release from Alternate Service (SSS Form 154).

Dated: December 16, 1974.

BYRON V. PEPITONE,
Director.

[FR Doc.74-29642 Filed 12-19-74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[RM-2393; FCC 74-1334]

PART 1—PRACTICE AND PROCEDURE

Memorandum Opinion and Order

In the matter of amendment of Part 1, Subpart C (Rulemaking Proceedings), rules of practice and procedure.

1. The Commission has before it a petition for rulemaking filed on June 7, 1974 by the Joint Re-Regulation Committee of the Federal Communications Bar Association and the Communications Committee, American Bar Association. The Joint Committee proposes that procedures for amendment of the FM Table of Assignments be changed in several respects. Public notice of the filing of the petition was given on June 18, 1974. The time for filing statements supporting or opposing the petition expired on July 18, 1974. No statements were filed.

BACKGROUND

2. Before discussing the proposed changes, it is appropriate to set out some general information concerning the FM Table of Assignments and current procedures for amendment of the rules and regulations.

3. *FM Table of Assignments.* The portion of the radio spectrum allocated to FM broadcasting (88–108 MHz) has been divided into 100 channels, each 200 kHz in width. Eighty of these channels (numbered 221–300) are available for use by commercial FM broadcast stations and have been assigned to communities throughout the United States under principles designed to maximize their availability for productive use and to preclude radio frequency interference.[1] In California, for example, Channel 232 has been assigned to eight communities and 17 channels have been assigned to Los Angeles. More than 3400 channel assignments have been made to some 2278 separate communities. The FM Table of Assignments (FM Table) is a list, arranged by State and community, of the commercial FM channel assignments to each community. It is set out in § 73.202 of the Commission's rules (47 CFR 73.202).

4. Applications for authority to construct an FM station must be consistent with the FM Table of Assignments.[2] Thus, an individual who is interested in establishing an FM station in a community which is not listed in the Table or on a channel which is not assigned to the community in question must first petition for and obtain an amendment of the Table, to conform it to his purpose, after which he or any other interested party may apply for a construction permit. Because the Table is a Commission rule, general procedures for amendment of the rules (47 CFR 1.401–1.427) govern action on such petitions. The Joint Committee is seeking amendment of these general procedures insofar as they apply to petitions for amendment of the FM Table.

5. *Rule making procedures.* Sections 1.401–1.407 apply to petitions for rule making. Under these procedures, when a petition is filed, it is reviewed by an appropriate member of the professional staff to determine whether it should be accepted as a petition for rule making. In most cases, this decision is very easily made, requiring only a few minutes of staff time. In the case of petitions to amend the FM Table, the process is somewhat more complex. Petitioner is required, for example, to make an engineering study, and the adequacy of that study is reviewed before the petition is accepted. If the study is inadequate in any respect, petitioner is required to correct the deficiency before the petition is accepted. The staff time required for this evaluation varies with the complexity of the petition, but it is not substantial, and the effort involved is by no means equivalent to what is required to decide whether a notice of proposed rule making should issue.

6. If the petition is accepted, it is assigned a file number (e.g., RM–1234). On Friday of each week, the Commission issues a public notice of petitions for rule making accepted during the week. The notice briefly describes each petition and invites any interested person to file a statement supporting or opposing it. Statements may be filed within 30 days after the notice is issued and must be served on petitioner. Replies to such statements may be filed within 15 days after the statement is filed and must be served on the person who filed the statement to which the reply is directed. The Commission may act on the petition at any time after it is filed, without awaiting the expiration of the periods for filing statements or replies, and might well do so if the proposal obviously had, or obviously lacked, merit. In almost all cases, however, action is deferred until after these periods have expired, either because comment on them is considered useful or (as is almost always the case) the staff cannot reach them for action within a lesser period. If statements and replies are submitted, they are considered before action is taken. In acting on petitions to amend the FM Table of Assignments (a substantive rule), the Commission would either deny the petition or issue a notice of proposed rule making.

7. The notice of proposed rule making initiates a rule making proceeding governed by procedures set out in §§ 1.411–1.427 of the rules. Where the notice derives from a petition for rulemaking, it announces, in effect, that the Commission is considering adoption of petitioner's proposal or some modification thereof. The notice outlines what is now the Commission's proposal and requests comments and reply comments within a reasonable period specified therein; it is published in the FEDERAL REGISTER. Comments and reply comments are available for inspection or copying at the Commission's Public Reference Room; however, there is no requirement that they be served on other persons participating in the proceeding. After considering the comments and reply comments and any other relevant information, the Commission

[1] Non-commercial FM broadcast stations are licensed primarily on channels 201–220, which have not, in most areas, been assigned to particular communities.

[2] Minor deviations are permitted by § 73.209 (b) of the rules.

issues a decision acting on the proposal and stating the reasons for the action taken.

PROPOSED CHANGES

8. The Joint Committee suggests the following changes in the procedures governing rule making proceedings, insofar as they apply to changes in the FM Table of Assignments:

(1) In the case of petitions to amend the FM Table, the Commission should dispense with the public notice that the petition has been filed and statements supporting or opposing the petition and should proceed directly to the issuance of a notice of proposed rule making or, if the amendment lacks merit, to denial of the petition.

(2) The Commission should specifically allow or should require, by rule, that a draft notice of proposed rule making be submitted with petitions for amendment of the FM Table. (FCBA recommends that the Commission permit the submission of a draft notice; the ABA recommends that the submission of such a draft be required.)

(3) If the proposed amendment of the Table would involve a change in the channel assigned to any existing licensee or permittee, petitioner should be required to serve a copy of the petition on that licensee or permittee.

(4) Copies of all comments filed in response to the notice of proposed rule making should be served upon the parties whose petition initiated the notice.

(5) Copies of reply comments should be served upon parties who filed comments to which the reply comments relate.

(6) Parties should be permitted to submit counter proposals in comments in response to the notice of proposed rule making only and should not be permitted to advance them for the first time in reply comments.

DISCUSSION

9. The primary objective of the Joint Committee is to expedite action on petitions to amend the FM Table of Assignments. In the Committee's view, dispensing with the two-tier procedure, in which the Commission solicits the views of interested persons successively in a public notice of the petition's filing and in a notice of proposed rule making, would contribute to that objective. Submission of a draft notice of proposed rule making would contribute to the same objective if it were utilized and if the time a staff member devoted to its preparation were thus saved.

10. We share the interest of the Joint Committee in reducing backlogs and expediting action on petitions to amend the Table. We do not agree, however, that the two-tier procedure is the cause of delay or that dispensing with it would contribute to the Committee's objective. The real cause of delay is the existence of a backlog and the unavailability of sufficient staff personnel to eliminate it. Staff members occupied with processing petitions filed at an earlier date cannot turn their attention immediately to the merits of new petitions as they are filed. They can, and now do, undertake a brief preliminary review of new petitions to assure that they are not patently defective and to afford petitioner an opportunity to correct the deficiency at an early date if they are. The public notice apprises petitioner that his petition has reached the proper hands and that it appears to be in order. This preliminary review could not be replaced during the same time frame with the more thorough study required to determine whether a notice of proposed rule making should be issued. Dispensing with the procedure would instead mean that the petition would be held for an appreciable period, without action of any kind, until the study leading to issuance of a rule making notice or denial could be completed. The staff now rarely reaches a petition for processing on the merits until after the periods for filing statements and replies responsive to the public notice have expired and, if it should, need not delay processing pending expiration of those periods.[1] The public notice has the merit of providing early notice of the filing of the petition to interested persons, including any of whom the petitioner and the Commission may not be aware. If no statements are submitted, no time is lost. If statements and replies are submitted, they can be helpful in identifying interested persons and issues which may warrant consideration in the proceeding, and it should be helpful to all concerned for such matters to surface at any early stage of the proceeding. Thus, in our judgment, the public notice procedure does not delay action on petitions to amend the Table, can produce benefits, and should be retained. However, it should be noted that we have responded affirmatively to the thrust of the FCBA–ABA petition—as a request for expedited action—by adding a subsection (d) to § 1.405 making it clear that "the Commission may act on a petition for rule making at any time after it is filed." (See note 3 below.)

11. Although we have some general reservations about parties to a proceeding submitting draft documents for adoption by the Commission, they do not apply with any force to the submission of draft notices of proposed rule making for amendment of the FM Table of Assignments. Such notices are usually brief and utilize more or less standardized language and, in many instances, the submission of a draft notice could save staff time and thereby contribute to reducing the backlog. If the draft cannot be used, no harm has been done. The submission of such drafts is not barred by present procedures, of course, but it may well be constructive to encourage their submission by amending the rules to call attention to the possibility.

12. Several of the Joint Committee's recommendations concern the service of the petition for rulemaking, comments and reply comments. The Committee recommends, first, that copies of the petition be served on existing FM licensees or permittees if the proposed amendment involves a change in the channels assigned to them. The Commission has heretofore given notice of the petition to such licensees and permittees. However, the procedure recommended by the Committee is superior to present practice, in that it provides earlier notice and relieves the Commission's staff of this task. We are therefore amending the rules to require the petitioner to make service of petitions to amend the FM Table on affected licensees and permittees and to attach a certificate of service to the petition. The staff will review the certificate as a check to assure that service has been made on all affected licensees or permittees.

13. The Committee further recommends that copies of comments be served on the petitioner for rule making and that copies of reply comments be served on parties who filed comments to which the reply comments relate. We think that this proposal also has merit in proceedings for amendment of the FM Table, in which the number of participants is relatively small and participants are often cast in very real adversary roles. In such circumstances, the requirement of service is not unduly burdensome and will not discourage participation. The rules are amended herein to require service as proposed in the petition.

14. The Joint Committee recommends, finally, that counter proposals should be submitted in comments only and should not be advanced for the first time in reply comments. We agree with this recommendation. The following standard language is now included in every notice for amendment of the FM Table:

> Any counterproposals will be considered only if advanced in initial comments, so that interested parties may comment in reply comments. A counterproposal will not be considered if advanced in reply comments.

We agree that such a provision should be included in the rules but will continue to include it in the text of each rulemaking notice proposing an amendment of the FM Table of Assignments.

15. Petitions for amendment of the FM Table are submitted in greater frequency than petitions for amendment of the Television Table of Assignments (47 CFR 73.606). However, the changes recommended by the Joint Committee and the foregoing discussion are just as appropriate for the TV as for the FM Table, and the procedural changes adopted herein will apply equally to proceedings for amending both Tables.

16. In view of the foregoing, *It is ordered*, That the rules of practice and procedure are amended as set forth in

[1] Section 1.405 of the rules provides that statements and replies may be filed "prior to Commission action on the petition but not later than" 30 days after Public Notice is given, or 15 days after the filing of the statement, as the case may be. Thus, if the Commission acts prior to expiration of the 30 or 15 day periods, the periods are reduced accordingly and no later statements or replies may be filed. We think that this provision can be more clearly stated and are amending § 1.405 to do so.

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the attached Appendix. The amended procedures shall apply to proceedings in which the petition for rule making is filed on or after December 20, 1974 (§ 1.401 & § 1.405). To the extent that the amended procedures apply to proceedings following issuance of a notice of proposed rule making, they shall apply to proceedings in which the notice is issued on or after December 20, 1974 (§ 1.420). The petition for rule making filed by the Joint Re-Regulation Committee is granted to the extent indicated herein and is in other respects denied.

17. Authority for these amendments is contained in sections 4(i) and (j) and 303(r) of the Communications Act of 1934, as amended, 47 USC 154(i) and (j) and 303(r), and in 5 USC 553. Because the amendments involve a matter of procedure, the prior notice and effective date provisions of 5 USC 553 are inapplicable.

(Secs. 4, 303, 48 Stat., as amended; 1068, 1082; (47 U.S.C. 154, 303))

Adopted: December 4, 1974.

Released: December 11, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
Secretary.

APPENDIX

In Part 1 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 1.401(d) is added, to read as follows:

§ 1.401 Petitions for rule making.

* * * * *

(d) Petitions for amendment of the FM Table of Assignments (§ 73.202 of this chapter) or the Television Table of Assignments (§ 73.606) shall be served by petitioner on any Commission licensee or permittee whose channel assignment would be changed by grant of the petition. The petition shall be accompanied by a certificate of service on such licensees or permittees. A draft Notice of Proposed Rule Making may be submitted with a petition for amendment of the FM or Television Table of Assignments.

2. Section 1.405(d) is added, to read as follows:

§ 1.405 Responses to petition; replies.

* * * * *

(d) The Commission may act on a petition for rule making at an time after it is filed. Statements in support of or in opposition to a petition for rule making, and replies thereto, shall not be filed after Commission action, and the periods provided in this section for filing such pleadings are subject to this requirement.

3. Section 1.420 is added, to read as follows:

§ 1.420 Additional procedures in proceedings for amendment of the FM or Television Table of Assignments.

(a) Comments filed in proceedings for amendment of the FM Table of Assignments (§ 73.202 of this chapter) or the Television Table of Assignments (§ 73.606) which are initiated on a petition for rulemaking shall be served on petitioner by the person who files the comments.

(b) Reply comments filed in proceedings for amendment of the FM or Television Table of Assignments shall be served on the person(s) who filed the comments to which the reply is directed.

(c) Such comments and reply comments shall be accompanied by a certificate of service.

(d) Counterproposals shall be advanced in initial comments only and will not be considered if they are advanced in reply comments.

[FR Doc.74-29686 Filed 12-19-74;8:45 am]

[FCC 74-1379; Docket No. 19551; RM-1821 etc.]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations, Table of Assignments

1. The Commission here considers and disposes of the remaining portions of this proceeding to amend the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) involving 16 cities in Georgia, Alabama, and Mississippi. The basic proposal is bottomed on the petition of the Broadcast Good Music Committee (hereinafter referred to variously as "Good Music", "Music!", or "BGMC") to assign Channel 300 at Atlanta, Georgia, as a seventh FM channel assignment (RM-1864). Good Music had proposed alternatives, but we rejected as inadequate its plan to substitute a Class A channel at Macon, Georgia, for Channel 300, since a construction permit already had been granted (now licensed as Station WCRY-FM). Thus, the Notice proposed for consideration BGMC's plan requiring channel changes at Hawkinsville, Macon, and Ocilla, Georgia; Birmingham and Gadsden, Alabama; and Macon, New Albany, Oxford, and Clarksdale, Mississippi. This presently involves changes at seven cities, six of which are occupied by operations stations;[1] this is referred to hereinafter as the "Atlanta" or "principal" proposal. The other nine cities involve a direct counterproposal and two subsidiary groups of counterproposals. The direct counterproposal is to assign Channel 300 to Monroe, Georgia, population 8,071,[2] in lieu of Atlanta (RM-2077); that proposal is identical in all other respects to the principal proposal.[3] As already noted, with the exception of Macon, Mississippi, all the assignments affected by the Atlanta and Monroe proposals are occupied thus *inter alia* raising questions about reimbursement should it be deemed that the public interest, convenience, and necessity would be served by the proposal to assign Channel 300 to either Atlanta or Monroe. See footnote 6, infra.

2. One of the subsidiary groups involves petitions to add FM channels variously at Tuscaloosa, Alabama (a third), and a second channel at both Columbus and Starkville, Mississippi. The Notice noted the conflict between the proposal of Ben P. Yarber to assign Channel 221A to Starkville (RM-1923) with the Atlanta proposal as concerns the proposed substitution of Channel 221A for 280A at Macon, Mississippi. The petitions of James Eatherton (RM-2029) and Tri-Cities Broadcasting Company (RM-2038) to assign Channel 280A to Columbus and Tuscaloosa, respectively, were filed later and considered part of this group because they are timely as counterproposals under the standard cut-off in FM rule making proceedings; they conflict with the principal proposal's proposed assignment to Birmingham, the current assignment to Macon, Mississippi, and with each other; and the Columbus proposal also conflicts with the 280A proposal for Starkville.

3. The other subsidiary group involves FM channel assignments to communities in mid-Alabama which are considered as counterproposals because of Tri-Cities' alternative proposal to assign Channel 224A instead of 280A at Tuscaloosa. Included are proposals to assign Channel 224A at Haleyville as a first channel assignment (RM-2004); and Jasper, Alabama as a second assignment (RM-2037); and Radio South's counterproposals that Channel 292A, occupied by Station WRCK-FM, be reassigned from Sheffield, Alabama, to Haleyville, and

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[1] Statement of Chairman Wiley filed with original document.

[1] The First Report and Order severed and disposed of the Clarksdale proposal which conflicted with the petition of Radio Helena, Incorporated, licensee of Station KCRI-FM, Helena, Arkansas, to change its channel assignment to solve a second harmonic interference to a television station problem (38 F.C.C. 2d 878 (1972)). And the Second Report and Order disposed of the Ocilla, Georgia, proposal and related counterproposals in southeast Georgia, adopted September 19, 1974 (FCC 74-1006), 48 F.C.C. 2d (1974), petitions for reconsideration pending.

[2] Unless otherwise indicated, all population data are from the 1970 Census.

[3] In order to assign Channel 300 to either Atlanta or Monroe, it is necessary to change the channel assignment at Macon, Georgia (substitute Channel 279 for 300), which in turn requires change of channels at Hawkinsville, Georgia (substitute Channel 237A for 280A), and Gadsden, Alabama (substitute Channel 229 for 279); the change at Gadsden in turn requires the substitution of Channel 279 for 229 at Birmingham, Alabama, which then requires channel changes at Macon, Mississippi (BGMC proposed substitution of Channel 221A for 280A, although 261A is available), and New Albany, Mississippi (Channel 248 for 278); and the latter requires that at Oxford, Mississippi, substitution of Channel 278 for 248. On November 1, 1974, the Commission received from BGMC a document, entitled "Amendment to RM 1864 of Broadcast Good Music! Committee", which among other things would amend the foregoing plan. The "amendment" constitutes a counterproposal which may not be considered in connection with this proceeding, since untimely. The standard "cut-off" for considering a counterproposal is the date for filing comments, which in this docket was October 31, 1972.

224A be substituted there[4], and that as for Tuscaloosa, Channel 269A be assigned to Northport, a city with slightly less than 10,000 population, which is an apparent suburb of Tuscaloosa without any aural broadcast service of its own. Comments were filed by the various petitioners, Ring Broadcasting Company (Ring); Middle Georgia Broadcasting Co., Inc.; WDJC Radio, Inc.; Leroy E. Kirkpatrick; and New Albany Broadcasting Co. With the exception of Ring, the licensee of a daytime-only AM Station WRWG at Atlanta which supports the Atlanta proposal, those other than the petitioners are the licensees of the stations affected by principal proposal opposing the proposed change(s) or commenting on rights to reimbursement.

4. The basic issue here is whether Channel 300 should be assigned to Atlanta, Georgia. The Broadcast Good Music Committee (short title for The Citizens Committee to Preserve the Present Programming of the "Voice of the Arts on WGKA–AM and FM") petitioned to deny the assignment and transfer of the WGKA stations because of a proposed change of programming from the classical music format of these stations coincident to a change of ownership. See generally Citizens Committee v. FCC, 436 F. 2d (D.C. Cir. 1970). Because unsatisfied with the expedient adopted—that a noncommercial educational FM station program classical music and WGKA–AM adopt a contemporary music format—Music! filed the petition bottoming the principal proposal. Good Music is not the usual petitioner in an FM rule making proceeding seeking the assignment of a channel to a community in order that the petitioner might apply for the channel when assigned but rather as an advocate for an additional FM channel assignment for Atlanta in order that some broadcaster interested in a full time classical music format would apply if a channel were assigned to Atlanta. In this respect, the Notice rejected the notion that program format is a determinative factor in making an FM channel assignment.[5] The Notice also rejected BGMC's population per assignment argument as not fair or meaningful in making FM channel assignments except where the communities are of comparable size. The Notice asked for comments as to specific issues:

(a) Atlanta's need for Channel 300;

(b) the impact of such an assignment on existing assignments;

(c) that a preclusion study be furnished; and

(d) questions as to reimbursement.[6]

5. Good Music says that it is "superfluous" for it to comment on the need of Atlanta for another channel which it says is evident. Instead, Good Music refers to its efforts in the WGKA change of format proceeding "occasioned by the insufficiency of North Georgia broadcast services and the programming variety they offer." Even though the Notice pointed out that programming is not an appropriate basis for making FM channel assignments, Good Music says that the effect on existing stations "will be nil, other than in creating an additional broadcast service, for which the need is clear."[7] BGMC did not furnish a preclusion study. Rather its comments are mainly directed at the various counterproposals. As to Monroe, BGMC contends that that city receives a plethora of service from the eight "Atlanta" FM stations as well as those at Athens, Gainesville, and Macon. BGMC would resolve the subsidiary proceedings by making assignments of Class A stations on Class C channels not usable as Class C's because of mileage separation requirements.[8] Ring is the only broadcaster which has expressed an interest in this proceeding. As to the issues raised by the Notice, Ring only comments about reimbursement. Despite what the Notice said about programming format as being of slight relevance, Ring's main discussion is the need of the Atlanta market for a fulltime station with Station WRNG's format.

6. The proposal to assign Channel 300 to Atlanta, Georgia, with the concomitant channel changes at seven other communities must be considered in the light of the principles underlying and utilized in establishing the FM Table of Assignments. Because of the inadequacies of the system which had been followed in the AM service under which an applicant was granted a particular frequency on a case-to-case consideration of service area gain as opposed to interference to existing stations (absent questions as to mutually exclusive applications or qualification), we adopted, as we already had for television, an overall pre-engineered plan for the assignment of FM channels bottomed on the authority of section 307(b) of the Communications Act of 1934, as amended. to provide a fair, efficient, and equitable distribution of radio service among the several States and communities. There is no need here to either catalog the technical criteria or priorities which are set out in various decisions in Docket No. 14185 (40 F.C.C. 660 through 821) and in particular the Third Report, Memorandum Opinion and Order promulgating the Table of Assignments (40 F.C.C. 747 (1963)). Suffice it to say that the Table of Assignments was designed to achieve maximum and optimum use of each FM channel and to make provision for future needs which were not then ripe for expression.

7. As particularly relevant, adopted were population criteria under which we attempted to assign from 6 to 10 channels to a city with a population of 250,000 to 1,000,000.[9] See Para. 4 of the further notice of proposed rulemaking in Docket No. 14185 (FCC 62–867), which was incorporated by reference in the Third Report, Memorandum Opinion and Order, 40 F.C.C. 747, 758 (1963). Atlanta (population 487,455, 1960 Census) was assigned six channels for the existing stations there (petitions for two other channels were denied; see 40 F.C.C. at 788–9).[10] Significantly, as concerns the population guidelines and certain other respects (for example, power and height), we decided that existing stations were to be left undisturbed. See second further notice of proposed rulemaking in Docket No. 14185, 40 F.C.C. 728 at 732 (1962). However, some stations were ordered to make channel changes to eliminate short spacings of

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[4] Since Station WRCK–FM occupies Channel 292A, it would be entitled to reimbursement if this counterproposal is adopted. See Order to Show Cause, adopted September 6, 1974 (Mimeo No. 28270).

[5] "[W]e do not believe that we should base the exercise of our authority under Section 307(b) on programming preferences. It is not that this matter is without any significance, but rather that it cannot be substituted for an evaluation of the comparative needs of communities for service. Whatever the significance of the court's decision dealing with the WGKA controversy and the new owner's plan to terminate the existing classical music programming service, it cannot be read to require action here when it is totally unclear who would occupy the channel or what programming the successful applicant would offer. This is a far different situation than the one before the court which involved the termination of an existing program service. If a channel were to be asigned, Music! or any other possible party would be free to raise this matter as having possible decisional significance in a comparison between the applicants. We indicate no view on any such request and only hold that this question does not have any place in this context." (Para. 6, Notice of Proposed Rule Making in Docket No. 19551, adopted July 19, 1972 (FCC 72–639; 37 Fed. Reg. 15320, 15321).)

[6] It is well settled Commission policy that where a change in the FM Table of Assignments requires an operating station to change the channel of its operation it is entitled to be reimbursed for actual cost of change. See, e.g., Cocoa Beach, 1 F.C.C. 2d 643, 645 (1965); Wenatchee, 2 F.C.C. 2d 828, 830 (1966); Kenton and Bellefontaine, 3 F.C.C. 593, 603–605 (1966); Gretna and Danville, 5 F.C.C. 2d 333, 341 (1966); Circleville, 5 F.C.C. 2d 159 (1967); Lake City, 47 F.C.C. 2d 1067, 1076 (1974); see also Supplement to the Third Report, Memorandum Opinion and Order in Docket 14185, 40 F.C.C. 807 (1963).

[7] It went on to say:

[N]o matter what type of programming * * *, it surely will not duplicate existing formats, thus increasing the diversity in scope of Atlanta radio service while fulfilling common community purposes.

[8] Thus BGMC says that Columbus could be assigned either Channel 235 or 236, Tuscaloosa 264, Haleyville or Russellville 241, and Jasper 289. Russellville, population 7,814, was mentioned because it is located in the preclusion area for a Channel 224A assignment to Jasper; see Policy to Govern Request for Additional FM Assignments, 8 F.C.C. 2d 79 (1967).

[9] In this respect, BGMC alleged that Atlanta is the principal metropolitan area in the southeastern part of the United States. Atlanta, population 496,973, is the central city of the Atlanta Standard Metropolitan Statistical Area (SMSA) which, as redesignated in 1973, has a population of 1,597,816.

[10] 23 other cities of the 45 in this population grouping also were assigned only channels for existing stations. Seven other cities were also assigned six channels; nine were assigned less; seven were assigned seven; five were assigned eight; nine were assigned nine; and the remaining eight 10 or more.

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existing stations (40 F.C.C. at 760–1); three were involuntary and ten were voluntary (see 40 F.C.C. at 760; see also Supplement to Third Report, Memorandum Opinion and Order, 40 F.C.C. 807).

8. To assign another channel to Atlanta would require us to deviate from the tenets laid down in Docket No. 14185 and scrupulously adhered to since then. While it might be argued that under the population criteria, Atlanta with a 1970 population of 496,973, is entitled to another channel, this contention cannot be sustained. It has a fair share of FM channels considering our actions in Docket No. 14185 and since then. Population is more of a guideline rather than an immutable standard, and it is subservient to more paramount considerations. See, e.g., Colorado Springs, 44 F.C.C. 2d 1047, 1054 (1974); Pensacola, 44 F.C.C. 2d 1056, 1061 (1974); Yakima, 42 F.C.C. 2d 548–550 (1973); Fresno, 38 F.C.C. 2d 525, 526 (1973); and compare San Antonio, 7 F.C.C. 2d 836, 842–3 (1967).[11] It is noteworthy that we have deleted a channel from a city in this population category in order to make an assignment elsewhere.[12] Indeed, we immediately

We concur that the listing of actions realized that "literal fulfillment of the [population] criteria * * * [is] beyond the realm of reason" (40 F.C.C. at 754).

9. In order to assign Channel 300 to Atlanta, it is necessary to change the assignments of seven other communities: Hawkinsville and Macon, Georgia; Birmingham and Gadsden, Georgia; and Macon, New Albany, and Oxford, Mississippi, each of which except Macon, Mississippi, is occupied by an operating station. This would be an unprecedented reshuffling of the FM stations of the sort which the Commission avoided in establishing the FM Table of Assignments. No sound reason has been advanced why such an action should be taken, and we must refrain in the absence of an overwhelming public interest consideration. Indeed, if anything, the public interest strongly militates against the changes of channel assignments of six operating stations scattered over a wide geographical area to make a single channel assignment to a city which has a sufficient amount of FM service and an abundance of aural service generally. In the circumstance, we conclude that the public interest, convenience, and necessity is better served by denying the petition of Broadcast Good Music Committee to assign Channel 300 to Atlanta, Georgia.

10. We turn now to the proposal of Community Broadcasting Company, Inc. (Community), licensee of daytime-only AM Station WKUN there, which alternatively proposes the assignment of Channel 300 to Monroe, Georgia (instead of Atlanta). Since this differs from the Atlanta proposal only as to the city to which it is proposed to assign Channel 300, the same rationale for denying the principal proposal is equally applicable. However, we believe that it may be instructive to point out how the proposal is inadequate in other respects.

11. The gist of Community's proposal is that Monroe as the focal point of an eight county agricultural area[13] with a total population of 180,625 (2,252 square miles) is in need of a fulltime broadcast station to meet that area's needs and in particular which AM Station WKUN cannot. Monroe, population 8,071, is located in Walton County, population 23,404. Monroe is about 45 miles east of Atlanta, and, in fact, it is part of the Atlanta SMSA. In apparent anticipation of objections that a city the size of Monroe does not warrant assignment of a Class C FM channel, Community alleges that Channel 300 is the only FM channel available for assignment there and an FM station at Monroe would provide second and third FM service to substantial areas and populations.[14] Significantly, Monroe is part of the Atlanta SMSA, and, more importantly, it receives a plethora of aural broadcast service from the eight Class C FM stations licensed to Atlanta, Marietta, and Smyrna, and many AM stations in the Atlanta market, aside from AM Stations WKUN (daytime-only) and WMRE (Class IV) licensed to Monroe and possibly stations at Athens and Gainesville. As pointed out in the Notice in this proceeding, programming is not of principal significance in making an FM channel assignment (see Para. 4 and fn. 5, above). Nor is Community's assertion that Monroe is entitled to a first FM channel assignment rather than Atlanta a seventh one persuasive. Community's argument is an oversimplification of one of the priorities followed in establishing the FM Table of Assignments; specifically, in the further notice of proposed rulemaking, adopted July 25, 1962 (FCC 62–857), we said:

> Insofar as possible, to provide each community with at least one FM broadcast station, especially where the community has only a daytime-only or a local (Class IV) AM station, and especially where the community is outside an urbanized area.

12. As already noted, Monroe has two AM stations, it is in the Atlanta SMSA, and it is well served by the Atlanta market aural broadcast stations as well as from Athens and Gainesville. In such circumstance, the first channel priority is not even relevant. But, even if it were, it is not compelling for, as we said in the Third Report, Memorandum Opinion and Order in Docket No. 14185, a priority is not deemed a firm promise to be kept but only one of internally inconsistent goals forming the basis for action by judicious balancing (40 F.C.C. 747, 753 (1963)). Indeed, as noted above with respect to the population criteria (Para. 8), we promptly recognized the inadequacy of a mechanistic attempt to turn desirable goals into absolute requirements (40 F.C.C. at 754). Thus, for example, because of the recognized impossibility of making FM channel assignments to every community, we generally made FM channel assignments to those among the less populated ones with a population of 10,000 or more; and since then we have maintained a policy of assigning channels to communities with lesser population only if there is an expressed demand and a channel is readily available. Also, if we assign Channel 300 to Monroe, the successful applicant would be liable for substantial sums for reimbursing the six stations which would have to make channel changes in order that Channel 300 could be assigned to Monroe in accordance with mileage separations. In this respect, Community merely stated that it would participate with other beneficiaries proposing new facilities in this proceeding. Without elaborating, it is rather evident that if Channel 300 were assigned to Monroe, there is a serious question whether the successful applicant for it could afford the financial burden; see and compare San Antonio, 7 F.C.C. 2d 836, 843 (1967)), where the Commission rejected a proposal to assign Channel 298 to Kenedy-Karnes instead of San Antonio in part because of the failure to show that Kenedy-Karnes could afford the facilities of a Class C channel.

13. We now turn to the other proposals. We first discuss the Mississippi-Alabama group. This includes petitions for additional channels at Starkville, Tuscaloosa, and Columbus (RM's–1923, 2029, and 2038). RM–1923 is based on the petition of Ben P. Yarber, licensee of daytime-

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[11] In San Antonio, Pensacola, Fresno, and Yakima, additional channels were assigned either comporting with or exceeding the population criteria, inasmuch as there were no questions of channel availability. In Colorado Springs, there was no channel available without depriving another city of one of its channels in which circumstance we denied the petition (see and compare the denial of the petition of Esquire, Inc., for a channel at Atlanta considered in Docket No. 14185; 40 F.C.C. at 788). In San Antonio, a channel was added by changes of assignments at four other communities (none were occupied); Pensacola was one of several interrelated proposals; and no other assignment changes were involved in Fresno and Yakima.

[12] See Cincinnati, 40 F.C.C. 972, 977–8 (1965); New Orleans, Docket No. 16535, Paras. 4–5 (FCC 66–846); Omaha, Docket No. 17095, Paras. 14–16 (FCC 67–456); and St. Louis, 4 F.C.C. 2d 401 (1966).

[13] Walton, Barrow, Oconee, Morgan, Jasper, Newton, Rockdale, and Gwinnett Counties.

[14] The latter at best is a dubious consideration. Under the Roanoke Rapids doctrine (9 F.C.C. 2d 672 (1967)), at times we have assigned a Class C channel to a community which normally merits only a Class A channel if this would result in service to substantial unserved (no FM service) and underserved (only one other FM signal) areas. (This doctrine was recently revised in Anamosa and Iowa City, 46 F.C.C. 2d 520, 525–6 (1974).) Clearly meaningless is Community's contention that the reassignment of Channel 300 from Macon, Georgia, would make possible the assignment of Channel 299 or 300 in a large area in southeastern Georgia. If this were germane, we note that assignment of Channel 300 to Atlanta would provide a larger area for such use of 299 or 300.

only AM Station WKOR there, seeking to assign Channel 221A as a second FM assignment to Starkville, Mississippi, population 11,369, the seat of Oktibbeha County, population 28,752. Because already filed, this proposal was included in the Notice because of the conflict with the BGMC proposal to substitute Channel 221A for 280A at Macon, Mississippi (population 3,617), seat of Noxubee County, population 14,292. As required by the Policy to Govern Requests for Additional FM Assignments, 8 F.C.C. 2d 79 (1967), Yarber was requested to furnish information as to possible preclusion and impact on educational FM stations in the vicinity. The Notice also noted that Channel 280A could be assigned to Starkville without conflict if the principal proposal were adopted (and in particular the deletion of Channel 280A at Macon, Mississippi), which Yarber since has counterproposed. The latter conflicts with the counterproposal in RM-2039 and which in turn conflicts with RM-2038 respectively proposing the assignment of Channel 280A to Tuscaloosa, Alabama, and Columbus, Mississippi, which conflicted with the principal proposal as concerns the substitution of Channel 279 at Birmingham, Alabama, and the existing Channel 280A assignment at Macon, Mississippi.

14. In RM-2039, Tri-Cities Broadcasting Company (Tri-Cities), licensee of daytime-only AM Station WTUG there, proposed Channel 280A as a third FM channel assignment to Tuscaloosa, Alabama. RM-2038 is based on the petition of James Eatherton, licensee of daytime-only AM Station WACR there, to assign Channel 280A as a second FM channel assignment at Columbus, Mississippi.[25] Tuscaloosa, population 65,773, is the seat of Tuscaloosa County (population 116,029), which constitutes the Tuscaloosa SMSA. Columbus, population 25,795, is the seat of Lowndes County, population 49,799.

15. The last group to be considered here stems from the counterproposal of Tri-Cities to assign Channel 224A at Tuscaloosa. This conflicts with the petition of Radio South Inc., licensee of AM Station WARF, Jasper, Alabama, to assign that channel as a second FM assignment to that community (RM-2037), which in turn conflicts with the petition of Helton & Norris (H & N) to assign the same channel as a first FM assignment to Haleyville, population 4,196, located in Winston County, population 6,654 (RM-2004). In order to resolve the conflict between Jasper and Haleyville 224A proposal, Radio South proposed that Channel 292A be assigned to Haleyville and Channel 224A be substituted for it at Sheffield.[26] It also suggested that as an "alternative" to assigning Channel 224A to Tuscaloosa Channel 269A be assigned to Northport, population 9,435, which is located across the Black Warrior River from Tuscaloosa. The following table sets forth pertinent information as to the population of, the county in which located, and the aural broadcast outlets available for each of the cities for which there is a counterproposal.

City	Population	County	Population	Aural broadcast service
Haleyville, Ala.	4,196	Winston	36,654	WJBB (class IV).
Jasper,[1] Ala.	10,798	Walker	54,246	WWWB (daytime-only), WARF (class IV), and WWWB-FM.
Northport, Ala.	9,435	Tuscaloosa	116,029	None.
Tuscaloosa,[1] Ala.	65,773	do	116,029	WTUG (daytime-only), WACT (daytime-only), WTBC (class IV), WJRD, WNPT, WUOA (FM), WATC-FM and WUAL (noncommercial FM).
Columbus,[1] Miss.	25,795	Lowndes	49,799	WACR (daytime-only), WCBI, WMBC (class IV) and WJWF (FM).
Starkville,[1] Miss.	11,369	Oktibbeha	28,752	WKOR (daytime-only), WSSO (class IV), and WSMU (FM).

[1] County seat.

16. As noted above, the Mississippi-Alabama (Tuscaloosa, Alabama, and Columbus, Starkville, and Macon, Mississippi) group became intertwined with the Atlanta proposal because of conflict as concerns proposed channel assignments at Birmingham, Alabama, and Macon, Mississippi. The conflict with Birmingham now becomes moot by virtue of our denying the Atlanta proposal and the Monroe alternate. Disposition of this group depends on resolution of conflicting proposals for the use of Channel 280A at Tuscaloosa, Columbus, and Starkville which variously conflict with each other and common to all is the need to delete that channel's assignment at Macon, Mississippi. As already noted, Yarber's petition to assign Channel 221A to Starkville (RM-1923) conflicted with the Atlanta proposal as concerns the proposed substitution of Channel 221A for 280A at Macon, Mississippi.[27] As concerns disposition of these proposals, no problem is posed by the Macon channel assignment; as Tri-Cities has shown, Channel 261A may be substituted there if that action is deemed appropriate (se para. 23 below).

17. Common to both the mid-Alabama and Mississippi-Alabama groups is Tri-Cities' alternative proposal to assign either Channel 224A or 280A to Tuscaloosa as a third FM channel assignment. Tri-Cities, licensee of daytime-only AM Station WTUG there, postulates its proposal to assign a third FM channel assignment to Tuscaloosa on the following: Tuscaloosa is the cultural, economic, social, commercial focal point and principal city of the Tuscaloosa SMSA.[28] We are told that Tuscaloosa is isolated from other population areas: 39 miles from Bessemer, the nearest community with 25,000 population, and 50 miles away is Birmingham the nearest community with a population of 100,000 or more. Tri-Cities urges that the assignment of a third FM facility to Tuscaloosa would enable it to serve the needs of Station WTUG's audience on a full time basis and to operate it on a competitive parity with other aural broadcast stations in Tuscaloosa.[29] Tri-Cities claims an audience of 27,972 in Tuscaloosa County (17,345 in the city and the remaining 10,627 in the county). Its pleadings also refer to an extensive potential Black audience for an FM station as proposed in Hale, Pickens, and Greene Counties.[30]

18. As discussed at some length in the notice and paragraph 4 above, programming format is not a principal consideration in making FM channel assignments.[31] On the other hand, under the population criteria, the extent that it is not outweighed by more important considerations, Tuscaloosa is a city "entitled" to a third FM channel; see Para. 7 above. Absent some overriding factor that disposes of Tri-Cities' proposal in the first instance (and its linchpin effect), we must consider each of the groups separately. Radio South has suggested that it is more imperative that Northport have a first FM channel assignment before Tuscaloosa have a third one, but assignment of

[25] Eatherton's reply comments filed November 20, 1972, will not be considered because they are untimely. Those filed November 6, 1972, will be considered as a matter of expediency. In this respect, Eatherton's pleadings were not signed by him or authorized legal counsel but rather by a "radio engineering consultant". As we recently held in Lake City, pleadings of this nature do not conform to § 1.52 of the Commission's rules and regulations. 37 F.C.C. 2d 1057, 1059-1060 (1972).

[26] This would require Station WBCK-FM to change channel assignments and to be reimbursed for such change. See Order to Show Cause, adopted September 10, 1974, (Mimeo No. 28270), and fn. 6 above.

[27] The Notice raised questions as to the impact of the assignment of Channel 221A on educational FM channels in the area, and it further suggested the possibility of the use of Channel 280A at Starkville, which Yarber has counterproposed.

[28] The population of Tuscaloosa is 65,773; that of Tuscaloosa County (the SMSA) is 116,029.

[29] WTUG is an "independent Negro" station (Standard Rate and Data Service).

[30] This apparently is based on 50 uV/m service to a rural area (§ 73.315(b) of the Commission's rules and regulations). In terms of protected 1 mV/m contour service, an FM station at Tuscaloosa does not serve all of Tuscaloosa County.

[31] The proposals of James Eatherton and Ben P. Yarber for additional channels at Columbus and Starkville are posited on the same sort of argument. As in Tri-Cities, each is the licensee of a daytime-only AM station with a format directed at the Black populace seeking a full time broadcast outlet for such programming.

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Channel 224A to Tuscaloosa and 269A to Northport, respectively, both may be possible.[22] In the circumstances, we consider the merits of the respective groups.

19. We first consider the Mississippi-Alabama group. Here, as already noted, all the proposals are for additional channel assignments—a third assignment to Tuscaloosa and a second to both Starkville and Columbus. (See Para. 13 above.) Eatherton proposed Channel 280A to Columbus on the premise of the need of that community for a second FM station to meet the needs of the Black audience and his economic disadvantage in competing with the other stations there which are AM Station WCBI, and the WMBC AM–FM combination (the AM is a daytime only). As Eatherton alleges, Channel 280A is the only channel that might be assigned to Columbus. In his petition, Eatherton indicated an intent to allow programming by students of Mississippi State College for Women, located at Columbus.

20. In support of its claim that Channel 280A should be assigned to Tuscaloosa, rather than Columbus (that is, Tri-Cities claim is more mertitorious than Eatherton's on a comparative basis), Tri-Cities makes the following assertions: the population of Columbus is only 39.2 percent of Tuscaloosa; and the population of Lowndes County is only 42.8 percent of Tuscaloosa County. Since both express an intent to provide first fulltime night time service to the Black population, Tri-Cities makes a similar comparison of the population of the respective cities and counties and additionally that at Tuscaloosa the channel would meet the programming needs of the Black population of Hale, Pickens, and Greene Counties. Finally, Tri-Cities asserts that a station at Tuscaloosa would serve a population of 106,131 within the 1 mV/m contour as compared to 56,364 on a Columbus station. As we said with respect to Good Music's population per number of channel assignments argument in support of the principal proposal, a comparison of the sort Tri-Cities makes is not meaningful or fair. Such an argument stretched to its logical extreme would inevitably mean that, in a contest between a large city in an urbanized area and a small city in a rural area, one with the most audience potential would prevail irrespective of the availability of other aural broadcast services. Indeed, this is the sort of mechanistic legerdemain which the Third Report, Memorandum Opinion and Order in Docket No. 14185 establishing the FM Table of Assignments rejected (see Para. 12, supra).

21. As already noted, the arguments of both parties as to the need of expanded programming is not relevant.[23] Certainly, Eatherton's argument as to competitive parity is not relevant to this type of proceeding, although this and programming presumably would be of some relevance at the application stage, should we make the assignment. As between Columbus and Tuscaloosa, on the basis of comparative need, we find that the public interest, convenience, and necessity is better served by the assignment of Channel 280A to Columbus. We have not considered the competing proposal for Starkville, inasmuch as there is another channel available for that community, if in fact an additional channel assignment should be made there.

22. At Starkville, Yarber, the licensee of a daytime-only AM station there, is seeking parity with another AM–FM combination with a daytime-only AM station and a fulltime AM station. Yarber based his proposal on the needs of Starkville and Station WACR's listening audience for fulltime programming of the same sort, which, as we have already said, is not an appropriate consideration for making an FM channel assignment. Yarber also said that Station WSMO–FM at Starkville only programs from 7 a.m. to 11 p.m. Yarber, as required by the Policy to Govern Requests for Additional FM Assignments, 8 F.C.C. 2d 79 (1967), made a preclusion study, but he did not indicate the impact on educational FM as requested by the Notice. In the latter respect, a staff study shows that the assignment of Channel 221A would not have impact on potential educational channels on Channels 218–220.

23. In order to assign Channel 280A to Columbus, it is necessary to delete that channel from Macon, Mississippi. As part of the Atlanta proposal, which also requires deletion of Channel 280A at Macon, the substitution of Channel 221A at Macon had been proposed. The latter, however, conflicts with the action taken here to assign Channel 221A to Starkville. However, Tri-Cities in connection with its proposal to assign Channel 280A to Tuscaloosa, which also would have required deletion of Channel 280A at Macon, has shown that Channel 261A may be assigned there in accordance with all mileage separations. We do not, however, propose to substitute Channel 261A for 280A at Macon at this time. Macon is not the size community to which an FM channel assignment is made in the absence of demand (that is, someone evidencing a willingness to apply for and operate a station), especially when Channel 261A might also be used at Aliceville, Alabama, a community of comparable population (Aliceville's population is 2,851). See and compare the action taken in the Second Report and Order in this docket as concerns substitution of a channel at Blackshear, Georgia (FCC 74–1006), 48 F.C.C. 2d (1974), reconsideration pending.

24. We now consider the mid-Alabama proposals. As already noted, these concern conflict for Channel 224A as a first assignment to Haleyville, a second channel assignment to Jasper, and a third assignment to Tuscaloosa, Alabama. Helton & Norris Enterprises, Inc. (H & N) in support of their petition to assign Channel 224A to Haleyville cited information as to the population growth of the city and Winston County in the decade between 1960 and 1970. It is contended that there is particular need for an FM channel to serve Haleyville and Winston County, since AM Station WJBB at Haleyville is the only broadcast station in the county and operates at diminished power after sunset. Information was also given as to continuing growth, industry, and sociological factors; we need not repeat this information here. The arguments of Tri-Cities in support of the proposal to assign Channel 224A to Tuscaloosa have been set forth in some detail above (Para. 17). Radio South's proposal to assign Channel 224A to Jasper was filed as a counterproposal to the H & N's petition and in fact is a second attempt to have that channel assigned to Jasper; see Jasper, 30 F.C.C. 2d 186, 192 (1971).

25. In brief, Radio South urges that, as the county seat (population 10,798) and largest community in Walker County (population 56,246), Jasper is an important retail, educational, and recreational center of sufficient population, economic stability, and socio-economic importance which merits the assignment of a second FM channel. It is asserted that Jasper is the only community in the county with aural broadcast stations and 70% of the county's population reside in a 10-mile radius of the Jasper city limits. Because of the conflict, that is, the Haleyville proposal with that for Jasper and the latter with that for Tuscaloosa, Radio South counterproposed the assignment of Channel 292A to Haleyville and the substitution of Channel 224A at Sheffield for 292A, which is occupied by Station WRCK–FM, and as an alternate for the 224A proposal of Tri-Cities that Channel 269A be assigned to Northport, which is located just north of Tuscaloosa which is without an aural service of its own. In the latter respect, Radio South indicates that it is ready, willing and able to proceed to promptly apply for the channel if assigned to Northport and to promptly build a station if its application is granted. H & N does not oppose Radio South's counterproposal, and indeed, has indicated willingness to contribute to the reimburse-

[22] Because of mileage separation requirements to Station WHHY–FM, Channel 270, Montgomery, Alabama, the transmitter site of a station on Channel 269A at Northport has to be at least several miles north of Northport's reference point. It has been suggested that from such a point a station on Channel 269A could not provide all of Northport with principal community coverage. The information and data available is not sufficient to determine whether this is so, and an appropriate Notice of Proposed Rule Making will be adopted. For the purposes of discussion here, we assume that Radio South is ready, willing, and able to proceed to apply for a channel if assigned to Northport and to promptly build if its application is granted. In sum, we assume that, assertions of Tri-Cities to the contrary, Radio South's proposal for a Northport channel was not intended to confuse the issue about assigning Channel 224A to Tuscaloosa so that Channel 224A would be assigned to Jasper.

[23] In this respect, Tri-Cities contention of service to Hale, Greene, and Pickens Counties is highly dubious (see fn. 20). Indeed, it is even questionable whether a station on a Class A channel at Tuscaloosa can be said to fully serve Tuscaloosa County.

ment of Station WRCK-FM." Tri-Cities has no objection to the assignment of a channel to Haleyville but it strongly questions whether Jasper merits another assignment. In the latter respect, Tri-Cities relies on the earlier denial of the Channel 224A assignment to Jasper while Radio South seeks to explain that on the basis of the facts. Tri-Cities also attacks Radio South's "alternative" to assign Channel 269A at Northport as being no solution whatsoever; this it says has no preclusionary effect on the assignment of Channel 224A at Tuscaloosa. It also calls attention to the fact that Channel 269A would be short-spaced to Station WHHY-FM, Montgomery, Alabama.

26. In resolving this portion of the proceeding, there is no question that Haleyville (as opposed to Monroe, Georgia) merits a first channel assignment. In this respect, if Channel 224A is assigned to Jasper, then Channel 292A may be assigned to Haleyville by reassigning that channel from Sheffield where Channel 224A may be assigned in compliance with the mileage separation to Jasper. As already noted, this requires that Station WRCK-FM change its channel assignment. Station WRCK-FM has agreed to this provided that it will be reimbursed for reasonable expenses, and Radio South and H & N have agreed to participate in such reimbursement. Thus, our action here depends on whether we find that on balance the public interest, convenience, and necessity would be better served by assigning a second FM channel to Jasper or a third FM channel to Tuscaloosa, or, as proposed by Radio South in its counterproposal, assigning a second channel to Jasper and alternatively assigning a channel to Northport, Alabama.

27. Radio South and Tri-Cities interpret our action in denying the assignment of Channel 224A to Jasper in 1971 differently. We there said that Jasper is not a large city, that it has not grown since 1960, and that an FM station as well as two AM stations (one fulltime) are there. In the circumstances, we decided that assignment of Channel 224A should not be made at that time particularly in view of the doubts about the site of a station on Channel 224A which we had also then assigned to Arab, Alabama (30 F.C.C. 2d at 192). In the latter respect, presently in hearing are two applications (BPH-7961 and BPH-8224, Docket Nos. 19849 and 19851), one of which proposes a site which would compel a station on Channel 224A at Jasper to be sited so that a community grade signal could not be placed over Jasper. It is also significant that Jasper in addition to having its own FM station receives an abundance of aural broadcast signals from Birmingham including its six FM stations (37 miles away).[25] Jasper is the type of community to which we might assign a second FM channel if readily available. As has been shown, this is not so. Conceivably this aspect of the proceeding could be held in abeyance pending the outcome of the comparative hearing for Channel 224A at Arab, or conversely the hearing could be stayed to await the outcome of the rule making, that is, if we assigned Channel 224A to Jasper, the application(s) could be amended. Neither alternative comports with the prompt and orderly dispatch of Commission business; indeed, the net effect would be to delay the construction of a station at Arab. In contrast, Tuscaloosa, a much bigger community, has available to it only the aural broadcast services from the radio stations located there. In these circumstances, it would appear that as between Tuscaloosa and Jasper the most fair, efficient, and equitable assignment is at Tuscaloosa considering size and service.

28. There remains for discussion Radio South's proposal to assign Channel 269A to Northport. This proposal appears to have merit; Northport has no aural broadcasting of its own, and Radio South is ready, willing, and able to proceed. While this might be considered a counterproposal, it is not really germane to where Channel 224A should be assigned.[26] In any event, because of changed circumstances,[27] there is a need for further engineering data; also, Radio South did not adduce aural information (e.g., the socio-political nature) about Northport in seeking the assignment of an FM channel to a community (see section 1.401(c) of the Commission's Rules and Regulations). In the circumstances, the Northport proposal will be dealt with separately in a notice of proposed rulemaking in another proceeding.

29. In view of the foregoing and pursuant to authority found in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is ordered, That effective January 27, 1975, the FM Table of Assignments (§73.202(b) of the Commission's rules and regulations), is amended with respect to the following cities as follows:

City:	Channel No.
Haleyville, Ala.	224A
Tuscaloosa, Ala.	224A, 269, 288A
Columbus, Miss.	276A, 280A
Starkville, Miss.	221A, 292A

* * * * *

30. *It is further ordered*, That the petition of Broadcast Good Music! Committee to assign Channel 300 to Atlanta, Georgia, and make concomitant changes elsewhere (RM-1954) is denied.

31. *It is further ordered*, That the petition of Community Broadcasting Company to assign Channel 300 (RM-2077) to Monroe, Georgia, is denied.

32. *It is further ordered*, That the petition of Radio South, Inc. to assign Channel 224A (RM-2037) to Jasper, Alabama, is denied.

33. *It is further ordered*, That the assignment of Channel 269A Macon, Mississippi, is deleted.

Secs. 4, 303, 307, 48 Stat., as amended; 1066, 1082, 1083 (47 U.S.C. 154, 303, 307)

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-29099 Filed 12-19-74;8:45 am]

[FCC 74-1365; Docket No. 19845 RM-2121]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, FM Broadcast Stations

1. The Commission has before it a notice of proposed rulemaking adopted February 25, 1974, 39 FR 9553, inviting comments on a petition filed by Frank A. Franco and Anthony B. Battaglieri (Franco, et al.) which requested the Commission to assign FM Channel 221A to Naples, Florida. Franco, et al. filed its comments in support of the proposal. In addition, Anthony B. Battaglieri filed a letter addressed to the Chief, Broadcast Bureau. On June 27, 1974, one month after the due date for filing reply comments, Naples Image, Inc., licensee of WALJ(FM), Naples, Florida, filed comments in opposition to the proposed assignment.[1] The proposed assignment may be made without making other changes in the Table and would meet the spacing requirements of the Commission's rules.

2. Naples (population 12,042) [2] is the seat of Collier County (population 38,040), is located some 150 miles south of Tampa on the west coast of Florida. Existing broadcast facilities consist of one full-time AM station (WNOG), 1270 kHz, 500 w, DA-N, U) and two FM stations (WALJ(FM), Channel 228A and WCVU(FM), Channel 233, owned by the licensee of the AM facility).

3. Franco, et al., in their comments, incorporated the data contained in the petition for rulemaking, and reaffirmed its intention to apply for the channel if it is assigned, and to promptly construct if their application is granted. They also state that the compelling social and economic reasons for making the assignment have not changed since the filing of the petition.

4. Because Naples Image, Inc., in its comments, opposes the proposed assignment on economic grounds, we are repeating herein the population and economic data contained in the petition. Franco et al., in their petition stated that

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[25] Jasper is in the Birmingham SMSA which consists of Jefferson, Shelby, St. Clair, and Walker Counties (population 760,230).

[26] If a channel is assigned to Tuscaloosa, one may apply for its use at Northport under the provisions of Section 73.203(b) of the Commission's Rules and Regulations. See Melbourne and Satellite Beach, 47 F.C.C. 2d 717 (1974).

[27] Station WHHY, Channel 270, Montgomery, Alabama, has been granted a construction permit authorizing change in power, height, and transmitter site.

[28] See footnotes 4 and 6, above.

[1] By Order released December 2, 1974, the Commission consented to the assignment of the license of Station WALJ(FM) from Naple Image, Inc. to Collier Broadcasting Company (BALH-2060). For reasons set forth hereafter, we are considering the pleading on the merits.

[2] All population figures cited are from the 1970 U.S. Census, unless otherwise specified.

the increase in population for Naples from 1960 to 1970 was 158.7 percent (194.5 percent for Naples Census Division) and 141.5 percent for Collier County. The Florida Department of Commerce has projected a 1975 population for Collier County of 49,400—more than 11,000 greater than 1970—and a projected 1980 population of 90,200. It is stated that: "[U]nited Telephone expects the 1975 population to reach 71,650, and projects a 1980 population of 168,000." However, the preceding statement does not refer to any specific area. It is stated that virtually all the population lies near Naples, as shown by the total population of 27,143, consisting of Naples, North Naples, Naples Park, Immokalee and Everglades. The Naples census division contains 26,896, or approximately 71 percent of the population in the county. The interior portion of Collier County is principally composed of the Big Cypress Swamp.

5. 1970 Census figures indicate median income for males sixteen years and older to be $8,016 with females earning $4,130. The family median income was $13,733 as compared to Miami ($7,304), Tallahassee ($9,078) and Orlando ($7,945). Unemployment in Naples is comparatively low—1.4 percent for males 16 years old and over and 2.3 percent for females in that age bracket, with a combined average of 1.7 percent. Collier County shows unemployment at 2.4 percent for males 16 years old and over with 2.8 percent being the figure for women. In comparison, Miami has combined unemployment of 4.3 percent; Panama City 3.3 percent; and Tallahassee 3.4 percent.

6. In 1965, building permits were issued for construction value of $8,062,696; for 1966—$10,981,380, 1967—$14,394,361; 1968—$23,031,515; 1969—$27,942,537; 1970—$37,363,521; in 1971, it rose to $50,038,625. Wholesale sales increased from $2,690,000 in 1948 to $26,351,000 in 1967; and retail sales increased from $3,008,000 in 1951 to $76,588,000 in 1969.

7. Naples has a separate identity from the large population belt on the East Coast of Florida. A publication entitled General History—Naples and Collier County, Florida, prepared by the Naples Chamber of Commerce was submitted as an attachment to the petition setting forth much significant historic and economic data concerning the area. Naples, in addition to being the county seat, is the principal community as well as the financial, cultural and business center of the community. There are two national banks, two state banks and a savings and loan association with 1970 total deposits of $164,606,305 as opposed to $22,111,578 in 1960. A daily newspaper, the Naples Daily News is published there. Naples also has a 191 bed hospital with a medical staff of 43. There are 20 different church congregations located in Naples, and all major national civic and social organizations are represented. There are 3,000 rental units available in Naples for tourists.

8. The letter comment filed by Battaglieri pointed out that he and Dr. Franco are successfully operating Station WRFY-FM in Reading, Pennsylvania; that he plans to move to Naples; that he had visited the station and concluded that the management of Station WALJ(FM) operated the station in an unexperienced manner; and that the area can support another radio station, provided it is operated by an "FM-experienced" management.

9. Naples Image states, in its comments, that it was financially unable to pay counsel and that it has since learned that it can file comments directly. Based on its assertion of hardship, we will waive the filing date for filing comments, accept the comments and consider them on the merits. Naples Image opposes the assignment on the grounds that Naples cannot support its two existing FM stations. WALJ(FM), which began operation in 1971, contends that there are inadequate advertising revenues available in the Naples area to support the two existing FM stations, much less a third FM station. They also submitted, under oath, a financial statement of operations for the years 1972 and 1973 showing losses of $50,373 and $86,476. It is then claimed by WALJ(FM) that Palmer Broadcasting Company, the licensee of the existing AM and the other existing FM station, in a statement in the August 6, 1973, issue of Broadcasting, "admitted that WCVU (then WNFM) was only selling $5,000 a month or $60,000 a year worth of advertising without telling what it cost to operate the station and whether there was a loss or gain."

10. Naples Image also points out that a new FM station has just moved into Bonita Springs, approximately 15 miles north of Naples; that a new UHF television station is about to begin operations, and a new AM station, that will place a signal into Naples, is about to begin operations in Marco Island, approximately 17 miles south of Naples. They also state that Naples and Collier County have recently adopted several no-growth ordinances.

11. Allocations of FM channel assignments are made on the basis of public interest considerations. All that Naples Image has submitted in support of its conclusion that the Naples market cannot support a third FM assignment are an accounting statement of its own financial condition and a reference in Broadcasting Magazine attributed to the other FM operation in Naples concerning the amount of that station's gross revenues. It submits no specific data concerning the effect, if any, that the operation of a third FM station would have on the programming and operations of the two existing FM stations in Naples. We believe that any such economic issue would be more appropriately considered in connection with an application for a construction permit for use of the channel.

12. As we stated in the Notice, the proposed assignment of Channel 221A to Naples would foreclose future assignments on Channels 218, 219, 220, and 221A. Although the preclusion on Channel 221A would encompass a relatively large area, there are only a few communities located therein, and Immokalee (population 3,764) is the only community that could use an FM channel. However, it is to be noted that Immokalee had Channel 240A assigned to it but the channel was moved to Bonita Springs, Florida (15 miles north of Naples) on a petition of the licensee of the station (FCC 71-1138, 32 F.C.C. 2d 307). Immokalee still has a fulltime Class IV AM station. As to the preclusion on the three educational channels, the nearest community with a higher educational facility is Fort Myers, Florida (37 miles north of Naples) which has a junior college (Edison Jr. College, students—1,516, 1967-68). The nearest Channel 6 television station is located at Miami, Florida (WCIX-TV), some 90 miles from Naples and 120 miles from Fort Myers, and does not provide a Grade B service to these communities. Thus there is no need to reserve the use of Channels 218, 219 or 220 for educational use. The channels below Channel 218 could be used if a need for educational FM stations should arise. We find that the assignment of Channel 221A to Naples, would be an efficient use of the frequency and, based on the foregoing, that it is in the public interest to make the channel assignment even though it exceeds the quota set forth in the FM assignment policy guidelines.

13. In view of the foregoing, and pursuant to the authority contained in sections 4(i), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, *It is ordered*, That, effective January 27, 1975, the FM Table of Assignments, § 73.202(b) of the rules, is amended to read as follows for the city listed below:

City:	Channel No.
Naples, Fla	221A, 228A, 233

14. *It is further ordered*, That the filing date for comments is waived, and the late-filed comments of Naples Image, Inc., are accepted.

15. *It is further ordered*, That this proceeding is terminated.

Secs. 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307)

Adopted: December 10, 1974.

Released: December 18, 1974.

FEDERAL COMMUNICATIONS COMMISSION.

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.74-29690 Filed 12-19-74;8:45 am]

[Docket No. 18302; FCC 74-1354]

RADIO SERVICES

Miscellaneous Amendments

In the Matter of Inquiry as to automatic vehicle locator systems in the Land Mobile Radio Services involving Parts 2, 89, 91, and 93 of the Commission's rules.

1. The Commission has under consideration a Petition for Reconsideration submitted in the above-entitled matter by the Boeing Company. Petitioner requests partial reconsideration of the Re-

port and Order in this proceeding which provided interim rules for the licensing and operation of automatic vehicle monitoring radio systems (AVM).[1] This Order was adopted on July 31, 1974, and published in the FEDERAL REGISTER on August 12, 1974 (39 FR 28881).

2. Boeing's request concerns the channel loading requirements adopted for AVM systems that operate on land-mobile frequencies below 512 MHz.[2] These requirements were imposed to assure that frequencies used for AVM, and therefore not generally usable for other purposes, are employed efficiently in terms of the number of vehicles that should be accommodated for digital-data type of radio communication operations. The new rule provisions states:

> For transmission between vehicles and base stations, each frequency in a single-frequency mode of operation will provide location data for at least 200 vehicles, or both frequencies in a two-frequency mode of operation will provide location data for at least 400 vehicles • • •

The rule further states that when these standards are not met, frequency assignments for AVM will be on a secondary, non-interference basis to radiotelephony operations, and additional frequencies will not be authorized.

3. The Boeing system is being developed in the 450–470 MHz band where propagational characteristics are favorable to the "dead reckoning" AVM method it utilizes.[3] In this band, frequencies are assigned in pairs and AVM licensees are consequently required to meet the 400-vehicle loading standard for two-frequency operation. However, this represents about twice the number of vehicles that the Boeing system is capable of locating on paired frequencies if it is to maintain its accuracy goals for AVM.[4] For this reason, Boeing asks in effect that we modify the rule to permit users of its system to meet only the single-frequency channel loading requirement when paired frequency operations is the normal assignment method.

4. The Commission believes that the factors involved in Boeing's request warrant reconsideration and we are granting its petition. Comments supporting Boeing's petition were submitted by the Police Departments of Lansing, Michigan, St. Louis, Missouri, and Wichita, Kansas, and by the Associated Public Safety Communications Officers, Inc. (APCO). These parties argue that modification of the AVM loading standards would permit effective development of Boeing's "dead reckoning" AVM technique and is, therefore, consistent with the Commission's finding that the interim rules should accommodate each of the different AVM methods. APCO summarizes this view:

> At this early stage in the development of AVM technology, we support the request that the channel loading standard be modified to assure further technological development and the maximum reasonable feasibility in system configuration and operation. This rule change, we submit, will further the Commission's stated objective of fostering progress in AVM technology without frustrating its equally important objective of assuring efficient spectrum utilization.

5. The Commission agrees that Boeing's requested rule modification has merit. It appears reasonable and potentially productive to apply the single-frequency loading requirement of approximately 200 vehicles to paired-frequency assignments in the 450–512 MHz band. A similar policy for channel loading standards already applies to voice operations on paired frequencies in many parts of this band. At the same time, the change of the loading requirements could double the number of 450–512 MHz band frequency pairs being used for AVM operations with a concomitant reduction of available frequencies in this band for other important radio communication requirements. In addition, the Boeing technique uses only one base station frequency in a system to "interrogate" vehicles, regardless of the number of mobile station frequencies involved. For example, under the requested loading requirement for a Boeing system involving about 600 vehicles, a licensee could be assigned three pairs of UHF frequencies. However, the system would use only one of the base station frequencies, together with the three mobile station frequencies. The two remaining base station frequencies would not be used. Apart from the obvious waste of the base station frequencies, this does not accord with the Commission's UHF allocation, use, and two-frequency separation plan which is based on frequency pairing.

6. Boeing recognized these problems and noted that it expected that only comparatively small AVM systems involving a few hundred vehicles would be designed for this region of the spectrum. However, until this is borne out, there is need for measures to help assure against excessive use of UHF frequencies for AVM to the detriment of other potential licensees. Thus, while we will not impose specific limitations at this time in the interim provisions on the number of UHF frequencies that will be assigned for dedicated AVM operations in a given area, we will require showing in appropriate cases that valid alternatives to assignment of new UHF frequencies for AVM do not exist. In these respects, we will expect licensees to use presently assigned frequencies to a maximum extent by such tactics as trading off voice operations for AVM. We want to emphasize that we expect that future large scale AVM systems, such as Boeing's, will develop on frequencies we have allocated for this purpose in the 900–930 MHz region.[5] Radio equipment is being developed for operation in this band and we see no important difficulty in terms of propagational limitations to successful AVM uses at this range.

7. In consideration of the foregoing, the rule modifications of the channel loading requirement for operation of AVM systems in the 450–512 MHz band requested by the Boeing Company is determined to serve the public interest and will be adopted.

8. Accordingly, pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, *it is ordered*, That Parts 89, 91, and 93 of the Commission's rules are amended, as shown below, effective January 27, 1975. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Adopted: December 10, 1974.

Released: December 18, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Parts 89, 91, and 93 of the Commission's rules are amended as follows:

PART 89—PUBLIC SAFETY RADIO SERVICES

1. Paragraph (c)(3)(i) of § 89.120 is amended to read as follows:

§ 89.120 **Interim provisions for operation of automatic vehicle monitoring systems.**

• • • • • •

(c) • • •

(3) • • •

(i) For transmission between vehicles and base stations, each frequency in a single-frequency mode of operation will provide location data for approximately 200 vehicles, or both frequencies in a two-frequency mode of operation will provide location data for approximately 400 vehicles, except that for frequencies in the 450–512 MHz band that are assigned in pairs in accordance with the allocation plan for the band, the requirement is that location data be provided for approximately 200 vehicles for

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[1] AVM systems employ two-way non-voice radio communications to automatically determine and make known at a central point the location of a licensee's vehicles. A secondary feature of many of these systems permits supplemental data and instruction transmissions between vehicles and base stations relating to a licensee's activities.

[2] Below 512 MHz, land mobile frequencies available in the 25–50 MHz, 150–170 MHz and 450–512 MHz bands may be assigned for AVM operations. In the 900 MHz band, segments in the frequency bands 902–912 MHz and 918–928 MHz are allocated specifically for AVM systems. (See Section 2.106 of the Rules.)

[3] The three major AVM techniques being developed are the "proximity sensing," "multilateration," and "dead reckoning" methods. The Report and Order discusses distinctions between these techinques and lists current references for further study of the different approaches.

[4] Boeing's technique provides location data for each of 194 vehicles in a single or paired-frequency system with claimed accuracy, on a two-second update rate, of fifty feet.

[5] See note [3], *supra*.

each frequency pair; and a showing is made that 50 percent of the vehicles will be in operation within the system by the end of the second year of the initial license term, and 70 percent will be in operation within the system by the end of the initial license term; except that if these vehicle loading standards will not be met, frequencies will be assigned only on a secondary non-interference basis to any authorized radiotelephony operation;

PART 91—INDUSTRIAL RADIO SERVICES

2. Paragraph (c)(3)(i) of § 91.120 is amended to read as follows:

§ 91.120 Interim provisions for operation of automatic vehicle monitoring systems.

* * * * *

(c) * * *

(3) * * *

(i) For transmission between vehicles and base stations, each frequency in a single-frequency mode of operation will provide location data for approximately 200 vehicles, or both frequencies in a two-frequency mode of operation will provide location data for approximately 400 vehicles, except that for frequencies in the 450–512 MHz band that are assigned in pairs in accordance with the allocation plan for the band, the requirement is that location data be provided for approximately 200 vehicles for each frequency pair; and a showing is made that 50 percent of the vehicles will be in operation within the system by the end of the second year of the initial license term, and 70 percent will be in operation within the system by the end of the initial license term; except that if these vehicle loading standards will not be met, frequencies will be assigned only on a secondary non-interference basis to any authorized radiotelephony operation;

PART 93—LAND TRANSPORTATION RADIO SERVICES

3. Paragraph (c)(3)(i) of § 93.120 is amended to read as follows:

§ 93.120 Interim provisions for operation of automatic vehicle monitoring systems.

* * * * *

(c) * * *

(3) * * *

(i) For transmission between vehicles and base stations, each frequency in a single-frequency mode of operation will provide location data for approximately 200 vehicles, or both frequencies in a two-frequency mode of operation will provide location data for approximately 400 vehicles, except that for frequencies in the 450–512 MHz band that are assigned in pairs in accordance with the allocation plan for the band, the requirement is that location data be provided for approximately 200 vehicles for each frequency pair; and a showing is made that 50 percent of the vehicles will be in operation within the system by the end of the second year of the initial license term, and 70 percent will be in operation within the system by the end of the initial license term; except that if these vehicle loading standards will not be met, frequencies will be assigned only on a secondary non-interference basis to any authorized radiotelephony operation;

* * * * *

[FR Doc.74-29087 Filed 12-19-74;8:45 am]

Title 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

SUBCHAPTER E—DISCLOSURE STATEMENT

PART 351—BASIC REQUIREMENTS

CFR Correction

Certain provisions of Title 4—Accounts, Chapter III—Cost Accounting Standards Board, Subchapter E—Disclosure Statement, Part 351—Basic Requirements, were inadvertently omitted from the 1974 revision of the Code of Federal Regulations. The sections involved were: §§ 351.41, 351.50 and 351.70 which were promulgated on October 4, 1973. (38 FR 27507). These sections, which have been in effect since that date, will be included in the 1975 revision of the Code of Federal Regulations.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.74-29008 Filed 12-19-74;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

Emergency Amendment to Procedural Regulations

The Federal Energy Administration hereby amends, effective immediately, §§ 205.26 and 205.36, of Chapter II, Title 10, Code of Federal Regulations, with respect to the duration of certain adjustment and assignment orders issued under Subparts B and C, respectively, of Part 205 of FEA's regulations, or under Subpart B of Part 205 as in effect prior to the revision of Part 205 issued August 29, 1974 (39 FR 32261, September 5, 1974).

These amendments provide in § 205.26(d) and § 205.36(a) that any order issued pursuant to Subparts B or C of Part 205, unless otherwise specified, shall be effective for the duration of the Mandatory Petroleum Allocation Program, according to the terms of the order. Section 205.26(e) and § 205.36(e) provide that notwithstanding § 205.26(d) and § 205.36(a), any order issued pursuant to Subparts B or C of Part 205 prior to December 31, 1974 which specifies a termination date of December 31, 1974 shall be effective for the duration of the allocation program.

The purpose of these amendments is to clarify that orders adjusting a purchaser's base period use or assigning a supplier for periods corresponding to base periods, unless clearly intended as interim or temporary orders, should remain effective beyond the end of 1974. While most adjustment and assignment orders specify no termination date or by their terms are effective for the duration of the Mandatory Petroleum Allocation Program, a number of orders, generally those issued early in the program, which were the type of order intended to be in effect for the duration of the program, were inadvertently made effective only until December 31, 1974. These orders should remain in effect notwithstanding the stated termination date. Orders which have termination dates other than December 31, 1974 shall terminate in accordance with their terms.

The FEA recognizes that in some cases the parties may be adversely affected by the extension of orders under these amendments. Therefore § 205.26(f) and § 205.36(f) provide that any effect of § 205.26(e) and § 205.36(e), respectively, on the orders in question shall be deemed to be an FEA order which may be appealed by filing an appeal in accordance with the provisions of Subpart H of Part 205.

Section 7(i)(1)(B) of the Federal Energy Administration Act of 1974 (Pub. L. 93–275) (FEAA) provides for waiver of the requirements of that section as to time of notice and opportunity to comment prior to promulgation of regulations where strict compliance with such requirements is found to cause serious harm or injury to the public health, safety, or welfare. Since it would be administratively impossible for FEA to inform all parties affected by the unintended termination of orders and to receive and process all applications for extension of such orders and since the orders in question provide the basis for supply arrangements with respect to many allocated products and different uses, including priority uses, the FEA has concluded that strict compliance with requirements of section 7(i)(1)(B) of the FEAA would cause serious harm and injury to the public health, safety and welfare. Accordingly, these requirements must be waived and these amendments are made effective immediately, prior to opportunity to comment thereon.

The review provisions of section 7(c)(2) of the FEAA are hereby waived for a period of fourteen days, as provided for in that section, upon a finding that there is an emergency situation which requires immediate action. FEA is submitting the text of this emergency amendment concurrently with its issuance to the Administrator of the Environmental Protection Agency for his review.

Because these amendments are being issued on an emergency basis, an opportunity for oral presentation of views will not be possible prior to its promulgation. A public hearing on the amendment, however, will be held beginning at 9:30 a.m. on January 21, 1975, at the Federal Building, Room 3000, 12th and Pennsylvania Avenue, NW., Washing-

ton, D.C., to receive comments from interested persons. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.s.t., January 13, 1975. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through January 15, 1975. Each person selected to be heard will be so notified by the FEA before 5:30 p.m., e.s.t., January 15, 1975, and must submit 100 copies of his or her statement to Executive Communications, FEA, Room 3315, Federal Building, Washington, D.C. 20461, before 9 a.m., e.s.t., January 21, 1975.

The FEA reserves the right to select governing the conduct of the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearing will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the hearing, to Executive Communications, FEA, before 4:30 p.m., e.s.t., January 17, 1975. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer The FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the FEA and made available for inspection at the Administrator's Reception Area of the FEA, Room 3400, Federal Building, 12th and Pennsylvania Avenue N.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may buy a copy of the transcript from the reporter.

Interested persons are invited to submit data, views, or arguments with respect to the emergency amendment to Executive Communications, Federal Energy Administration, Box BQ, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to Executive Communications, FEA, with the designation "Emergency Amendment to Procedural Regulations." Fifteen copies should be submitted. All comments received by January 17, 1975, and all relevant information, will be considered by the Federal Energy Administration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790 (39 FR 23185))

In consideration of the foregoing, Part 205 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., December 18, 1974.

ROBERT E. MONTGOMERY, JR.,
General Counsel,
Federal Energy Administration.

1. Section 205.26 is amended by adding paragraphs (d), (e) and (f) to read as follows:

§ 205.26 Decision and order.

* * * * *

(d) Any order issued pursuant to this subpart, unless otherwise specified, shall be effective for the duration of the Mandatory Petroleum Allocation Program, according to its terms.

(e) Notwithstanding paragraph (d) of this section, any order issued pursuant to this subpart prior to December 31, 1974, which order specifies a termination date of December 31, 1974, shall be effective for the duration of the Mandatory Petroleum Allocation Program.

(f) Any effect of paragraph (e) of this section upon any order issued pursuant to this subpart prior to December 31, 1974 shall be deemed to be an FEA order issued under this subpart, which may be appealed by filing an appeal with the FEA Office of Exceptions and Appeals or the appropriate Regional Office in accordance with the provisions of Subpart H of this part.

2. Section 205.36 is amended by adding paragraphs (e) and (f) and by revising paragraph (a) to read as follows:

§ 205.36 Decision and order.

(a) Upon consideration of the application and other relevant inforamtion received or obtained during the proceedcation and other relevant information ing, the FEA shall issue an appropriate order. The order shall state the periods corresponding to base periods to which it applies, and shall be effective for the duration of the Mandatory Petroleum Allocation Program, according to its terms, unless a duration for a lesser period is specified therein.

* * * * *

(e) Notwithstanding paragraph (a) of this section, any order issued pursuant to this subpart prior to December 31, 1974, other than a temporary assignment order under § 205.39, which order specifies a termination date of December 31, 1974, shall be deemed effective for the duration of the Mandatory Petroleum Allocation Program.

(f) Any effect of paragraph (e) of this section upon any order issued pursuant to this subpart prior to December 31, 1974 shall be deemed to be an FEA order issued under this subpart, which may be appealed by filing an appeal with the FEA Office of Exceptions and Appeals or the appropriate Regional Office in accordance with the provisions of Subpart H of this part.

[FR Doc.74-29885 Filed 12-19-74;10:27 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

TAXATION AS SELF-EMPLOYMENT INCOME OF FEES RECEIVED BY CERTAIN OFFICERS OF STATES AND POLITICAL SUBDIVISIONS

Notice of Supplementary Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, considerations will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC: LR: T, Washington, D.C. 20224, by January 19, 1975.

Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, a person submitting written comments should not include therein material that he considers to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by January 19, 1975. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) in order to conform such regulations to the provisions of section 122(b) of the Social Security Amendments of 1967 (81 Stat. 843).

Section 122(b) provided that, effective with respect to fees received after 1967, the performance of the functions of a public office of a State or its political subdivision which are compensated solely on a fee basis and which are not covered by social security under an agreement entered into by the State and the Secretary of Health, Education, and Welfare pursuant to provisions of the Social Security Act are subject to self-employment tax.

A notice of proposed rule making designed to conform the regulations to changes made by this section was published in the FEDERAL REGISTER for July 3, 1973 (38 FR 17727). A provision contained in that notice which required that fee-basis public officials be "employees" as that term is defined in the Federal Insurance Contributions Act has been revised in the proposed regulations. This revision reflects congressional intent to cover certain public officers who are employees within the meaning of section 218 of the Social Security Act but are not employees under the common law definition, such as magistrates and justices of the peace.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 1402(c) of the Internal Revenue Code of 1954 to section 122(b) of the Social Security Amendments of 1967 (81 Stat. 843), § 1.1402(c)-2 would be amended by revising paragraphs (a) (2) and (b) to read as follows:

§ 1.1402(c)-2 Public office.

(a) • • •

(2) *Fee basis public officials*—(i) *In general.* If an individual receives fees after 1967 for the performance of the functions of a public office of a State or a political subdivision thereof for which he is compensated solely on a fee basis, and if the service performed in such office is eligible for (but is not made the subject of) an agreement between the State and the Secretary of Health, Education, and Welfare pursuant to section 218 of the Social Security Act to extend social security coverage thereto, the service for which such fees are received constitutes a trade or business within the meaning of section 1402(c) and § 1.1402(c)-1. If an individual performs service for a State or a political subdivision thereof in any period in more than one position, each position is treated separately for purposes of the preceding sentence. See also paragraph (f) of § 1.1402(c)-3 relating to the performance of service by an individual as an employee of a State or a political subdivision thereof in a position compensated solely on a fee basis.

(ii) *Election with respect to fees received in 1968.* (A) Any individual who in 1968 receives fees for service performed by him with respect to the functions of a public office of a State or a political subdivision thereof in any period in which the functions are performed in a position compensated solely on a fee basis may elect, if the performance of the service for which such fees are received constitutes a trade or business pursuant to the provisions of subdivision (i) of this subparagraph, to have such performance of service treated as excluded from the term "trade or business" for the purpose of the tax on self-employment income, pursuant to the provisions of section 122(c)(2) of the Social Security Amendments of 1967 (as quoted in § 1.1402(c)). Such election shall not be limited to service to which the fees received in 1968 are attributable but must also be applicable to service (if any) in subsequent years which, except for the election, would constitute a trade or business pursuant to the provisions of subdivision (i) of this subparagraph. An election made pursuant to the provisions of this subparagraph is irrevocable.

(B) The election referred to in subdivision (ii)(A) of this subparagraph shall be made by filing a certificate of election of exemption (Form 4415) on or before the due date of the income tax return (see section 6072), including any extension thereof (see section 6081), for the taxable year of the individual making the election which begins in 1968. The certificate of election of exemption shall be filed with an internal revenue office in accordance with the instructions on the certificate.

(b) *Meaning of public office.* The term "public office" includes any elective or appointive office of the United States or any possession thereof, of the District of Columbia, of a State or its political subdivisions, or of a wholly-owned instrumentality of any one or more of the foregoing. For example, the President, the Vice President, a governor, a mayor, the Secretary of State, a member of Congress, a State representative, a county commissioner, a judge, a justice of the peace, a county or city attorney, a marshal, a sheriff, a constable, a registrar of deeds, or a notary public performs the functions of a public office. (However, the service of a notary public could not be made the subject of a section 218 agreement under the Social Security Act because notaries are not "employees" within the meaning of that section. Ac-

cordingly, such service does not constitute a trade or business.)

[FR Doc.74-29749 Filed 12-19-74;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[21 CFR Parts 1304, 1308]

CONCENTRATE OF POPPY STRAW

Addition to Schedule II and Authorizing its Importation

A long-time national policy has been established against the importation of finished narcotic drugs; permitting only the importation of such quantities of crude opium deemed to be necessary to provide for the medical, scientific or other legitimate requirements of the United States for any salt, compound, derivative, or preparation of opium poppy. This policy was first established by the Congress in enactment of the Narcotic Drugs Import and Export Act of May 26, 1922, and was affirmed by the Congress by enactment of the Controlled Substances Import and Export Act of October 27, 1970 (Pub. L. 91-513, Title III; 21 U.S.C. 951 et seq.).

The Congress also provided in the Controlled Substances Import Act of 1970, that the Attorney General (now delegated to the Administrator of the Drug Enforcement Administration) may permit the importation of such quantities of narcotic drugs as he finds necessary to provide for the medicinal, scientific, or other legitimate needs of the United States during an emergency in which domestic supplies of such narcotic drugs are found to be inadequate.

During the past four years, the International Narcotic Control Board has been reporting that some countries (including the United States) have been encountering difficulties in obtaining sufficient opium for medical purposes. The matter was discussed fully at the third special session of the United Nations Commission on Narcotic Drugs at Geneva, February 18-March 1, 1974, where there was general agreement that there is a growing demand for opium poppy derivatives which has not been met by the production of crude opium. Also, in a report (B-173123) issued July 23, 1974, the Comptroller General of the United State indicated that the demand for codeine is increasing in the United States, and that a critical situation could develop without additional sources of supply.

Opium production in 1973 was not sufficient to cover the needs of the drug manufacturers, and it was necessary for the manufacturers to use up their inventories beyond an acceptable level in order to meet immediate and estimated future needs for codeine. The International Narcotic Control Board predicted that by 1974, opium resources and opium requirements would be in balance. Unfortunately, India's production in 1974, which was estimated at 1,139 metric tons in November 1973, was actually only 894 metric tons. The resulting deficit and reduction of opium available to United States manufacturers has been largely covered by the equivalent of approximately 238 metric tons of opium authorized to be released from the national strategic materials stockpile. Estimates of opium production in 1975 are not encouraging. India continues to be the only country that produces opium for exportation, and because opium is an agricultural product vulnerable to climatic hazards such as prolonged rains delaying the planting season, very severe winters, and drought during growing seasons, it would not be in the best interest of the United States to continue to rely exclusively on the importation of crude opium for its medical requirements.

Recent reports from the International Narcotic Control Board have been encouraging in regard to the anticipated supply of poppy straw, which will be available from 1975 onwards. The poppy straw process is designed to extract morphine and other opium poppy alkaloids directly from the poppy straw. This process produces a concentrated liquid form or dried gum or a powder containing opium poppy alkaloids, which is described as "concentrate of poppy straw." The poppy straw process will do much to relieve the imbalance of the world's supply and demand for codeine, but only to the extent that there is sufficient industrial capacity to handle it. Several United States pharmaceutical manufacturers have the capacity to manufacture codeine from concentrate of poppy straw, and can help to expand the capacity to utilize increased harvesting of poppy straw.

In order to remedy the shortage of raw materials, the United States Government has taken and will continue to take various steps, which will be spread over a period of time and coordinated to close the gap between the supply and demand for opium poppy derivatives without tilting the balance in the opposite direction. The first step was the release of stockpiled opium. The second measure is to supplement the imbalance with quantities of raw material other than crude opium, and at the same time maintain control equal to the system now applicable to crude opium. The most appropriate equivalent of crude opium is concentrate of poppy straw, that is, the crude extract of poppy straw in either liquid, solid or powder form, which contains the phenanthrine alkaloids of the opium poppy. Accordingly, in pursuance of his authority under section 1002 of the Controlled Substances Import and Export Act (21 U.S.C. 952) and § 1312.13 of the Code of Federal Regulations (21 CFR 1312.13), the Administrator has determined that beginning January 1, 1975, and until further notice, concentrate of poppy straw may be imported on the basis that an emergency exists in which raw materials for the production of opium poppy alkaloids are inadequate.

Concentrate of poppy straw is included in schedule I of the Single Convention on Narcotic Drugs, and is subject to the full regime of control applicable to substances in that schedule. Therefore, under the provisions of section 201(d) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(d)), the Attorney General is authorized to control concentrate of poppy straw in the schedule of the Act deemed most appropriate to carry out the obligations of the United States. The Drug Enforcement Administration has determined that concentrate of poppy straw should be controlled in schedule II of the Act.

The Drug Enforcement Administration desires that concentrate of poppy straw be subjected to the same controls as opium. Accordingly, special reporting requirements similar to § 1304.33 will be imposed on manufacturers who import concentrate of poppy straw.

Therefore, under the authority vested in the Attorney General by sections 201 (d), 301, and 1002 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator hereby proposes that Parts 1304 and 1308 of Title 21 of the Code of Federal Regulations be amended as follows

1. A new § 1304.42 is added as follows:

§ 1304.42 Reports from manufacturers importing concentrate of poppy straw.

(a) Every manufacturer importing concentrate of poppy straw shall submit in addition to Form 333, Form DEA 247 (c) accounting for the importation and for all manufacturing operations performed between importation and the production in bulk of finished marketable products, standardized in accordance with the U.S. Pharmacopeia, National Formulary, or other recognized medical standards. Subsequent manufacture from such products, including bottling or packaging operations, shall be accounted for in the returns on DEA Form 333 (1304.38) and its supplements. DEA Form 247(c) shall be submitted quarterly to the Regulatory Investigations Section, Drug Enforcement Administration, Department of Justice, Washington, D.C. 20537, on or before the 15th day of the month immediately following the period for which it is submitted.

(b) The report of manufacture from concentrate of poppy straw shall consist of summaries with supporting detail sheets accounting for original manufacture from concentrate of poppy straw, production from morphine for further manufacture, and also accounting for stocks of concentrate of poppy straw, morphine for further manufacture and other crude alkaloids.

(c) The detail sheets (DEA 247(c)) supporting the summary of original manufacture from concentrate poppy straw shall show separately the amount of concentrated poppy straw imported, the concentrated poppy straw used for the extraction of alkaloids, subsequent manufacture from those alkaloids, and the inventory of concentrated poppy straw at the close of the reporting period.

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XUM

(d) Upon importation of concentrate of poppy straw, samples will be selected and assays made by the importing manufacturer in a manner and according to a method previously approved by DEA. Where final assay data is not determined at the time of rendering report, the report shall be made on the basis of the best data available, subject to adjustment, and the necessary adjusting entries shall be made on the next report.

(e) Upon withdrawal of concentrate of poppy straw from customs custody, the importing manufacturer shall assign to each container an identification mark or number by which the concentrate of poppy straw will be associated with the lot assay and identified in reports.

(f) Where factory procedure is such that partial withdrawals of concentrate of poppy straw are made from individual containers, there shall be attached to each container a stock record card on which shall be kept a complete record of all withdrawals therefrom.

(g) Concentrate of poppy straw derivatives which are produced for exclusive use in further manufacturing purposes shall be reported produced when they come into existence in that form in which they are to be so used. Alkaloids or derivatives produced exclusively for distribution shall be reported as produced when manufacture has actually been completed and the finished marketable product ready for packaging and distribution. Such products shall be regarded as ready for packaging and distribution as soon as all processing other than mere packaging has been completed. Products manufactured partly for distribution and partly for use in further manufacture will be reported produced as soon as manufacture is complete and they are ready either for use in further manufacture or for packaging for distribution.

(h) Subject to § 1303.24(c) of this chapter, no accumulations of morphine or other narcotic controlled substances in their pure or near-pure states shall be permitted to remain inactively in process for an unreasonable time in light of efficient industrial practices. All such products nearing completion of their respective processes and approaching a condition of purity shall be carefully protected, promptly completed, and immediately transferred to finished stocks, and reported as produced.

(i) In making conversions of concentrate of poppy straw alkaloids and their salts to anhydrous morphine the quantity of the particular alkaloid or salt in avoirdupois ounces shall be multiplied by a conversion factor arrived at by ascertaining the ratio, carried to the fourth decimal place, between the respective molecular weight of such alkaloid or salt and the molecular weight of anhydrous morphine (285.16), such weights being computed to the third decimal place from the chemical formulae of the substances and the atomic weights of elements, as adopted by the International Committee on Chemical Elements and published in the latest edition of the U.S. Pharmacopoeia.

2. Section 1308.12 is amended by adding a new (b)(5) as follows:

§ 1308.12 Schedule II.

* * * * *

(b) * * *

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy)..... 9670.

* * * * *

All interested persons are invited to submit their comments and objections, in writing, regarding this proposal. Comments and objections should be submitted in quintriplicate to the Office of Chief Counsel, Drug Enforcement Administration, Department of Justice, Room 1203, 1405 I Street, Washington, D.C. 20537, and must be received on or before January 22, 1974.

Dated: December 17, 1974.

JOHN R. BARTELS, Jr.,
Administrator,
Drug Enforcement Administration.

[FR Doc.74-29645 Filed 12-19-74;10:00 pm]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 74-WE-81-AD]

McDONNELL DOUGLAS MODEL DC-10-10, DC-10-10F, DC-10-30, AND DC-10-30F AIRPLANES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to McDonnell Douglas Model DC-10-10, DC-10-10F, DC-10-30, and DC-10-30F airplanes. There have been failures of fan blades on General Electric CF6 engines that could result in a severing of some wing engine nose cowl bolts causing loss of the cowl due to engine unbalance. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require modifications of the engine nose cowl attachments per McDonnell Douglas DC-10 Service Bulletin 71-53, dated September 25, 1974, or an equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rules Docket, P.O. Box 92007 World Way Postal Center, Los Angeles, California 90009. All communications received on or before February 5, 1975, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

McDONNELL DOUGLAS: Applies to Model DC-10-10, DC-10-10F, DC-10-30, and DC-10-30F airplanes certificated in all categories.

Compliance required within the next 4000 flight-hours after the effective date of this A.D., unless already accomplished.

To minimize the possibility of losing wing engine nose cowl due to severed nose cowl attach bolts and engine unbalance loads, modify the wing engine nose cowls per McDonnell Douglas DC-10 Service Bulletin 71-53, "Powerplant—Cowling—Modify Engine Nose Cowl Attachments," dated September 25, 1974, or later FAA-approved revisions, or an equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

Issued in Los Angeles, California on December 11, 1974.

ROBERT O. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.74-29633 Filed 12-19-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-CE-27]

TRANSITION AREAS

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to revoke and redesignate controlled airspace within the State of Kansas except west of Longitude 99°04'00" W., north of V216, V4-108 and V132 east, and in accomplishing this end to amend the Colby, Kansas, Phillipsburg, Kansas, and Hugo, Colorado, transition areas to eliminate reference to airspace within the State of Kansas.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before January 20, 1975, will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration

officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

There are 26 separate 1,200-foot transition areas designated within the State of Kansas east of Longitude 99°04'00" west, south of V216, V4–108 and V132. To simplify airspace descriptions, provide continuity in the floor of controlled airspace, to improve aeronautical chart legibility, to make it easier for both the pilot and air traffic control to provide more control services, it is proposed to extend controlled airspace extending upward from 1,200 feet above the surface to the State of Kansas except that area west of Longitude 99°04'00" west, north of V216, V4–108 and V132.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (39 FR 440), the following transition areas are amended by deleting references to that airspace extending upward from 1200 feet above the surface.

KANSAS

Anthony	Larned
Chanute	Lawrence
Colby	Liberal
Dodge City	Manhattan
Emporia	Oswego
Fort Scott	Parsons
Garden City	Phillipsburg
Goodland	Pittsburg
Great Bend	Pratt
Hays	Russell
Hutchinson	Salina
Independence	Topeka
Kansas City	Wichita

In § 71.181 (39 FR 440), the following 1200' transition areas would be amended to now read as follows:

COLBY, KANS.

That airspace extending upward from 700 feet above the surface within a 5½ mile radius of Colby Municipal Airport (latitude 39°25'30" N., longitude 101°03'45" W.); and within 3 miles each side of the 017° bearing from Colby Municipal Airport, extending from the 5½ mile radius area to 8 miles north of the airport and that airspace extending upward from 1200' above the surface within 4½ miles east and 9½ miles west of the 017° and 197° bearings to/from the Colby Municipal Airport extending from one mile south to 18½ miles north of the airport.

GOODLAND, KANS.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Renner Field-Goodland Municipal Airport (latitude 39°22'10" N., longitude 101°41'55" W.); and within 5 miles each side of the Goodland VORTAC 163° radial, extending from the 7-mile radius area to 12 miles south of the VORTAC; and that airspace extending upward from 1,200' above the surface within 5 miles each side of the Goodland VORTAC 343° radial extending from the north edge of V4 and V132 to 12 miles north of the VORTAC.

PHILLIPSBURG, KANS.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Phillipsburg Municipal Airport (latitude 39°44'15" N., longitude 99°19'00" W.); and within 3 miles each side of the 142° bearing from Phillipsburg Municipal Airport, extending from the 7-mile radius area to 10½ miles southeast of the airport; and that airspace extending upward from 1,200' above the surface within 4½ miles northeast and 9½ miles southwest of the 142° bearing from the Phillipsburg Municipal Airport extending from the airport to the north edge of V216.

HUGO, COLORADO

That airspace south of Hugo, Colo., VOR extending upward from 8,500 feet MSL, bounded on the north by V–108S, on the northeast by V–263, on the south by V–210, and on the west by V–19E and that airspace east of Hugo, extending upward from 9,500 feet MSL, bounded on the north by V–4, on the east by V–17, on the southeast by V–216, on the southwest by V–263, and on the northwest by V–169, excluding the airspace within Federal airways, the Pueblo and Colorado Springs, Colo., transition areas and that portion within the state of Kansas.

In § 71.181 (39 FR 440), the following transition area is added:

KANSAS

That airspace extending upward from 1,200' above the surface within the state of Kansas excluding that portion west of Longitude 99°04'00" W., North of V216, V4–108, V132 East.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, 49 (U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri, on December 2, 1974.

A. L. COULTER,
Director, Central Region.

[FR Doc.74–29630 Filed 12–19–74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74–CE–26]

TRANSITION AREAS

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to revoke and redesignate controlled airspace within the State of Missouri and alter the Marion, Illinois, and Blytheville, Arkansas, transition area designations to eliminate reference to airspace within the State of Missouri.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before January 20, 1975, will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

There are 30 separate 1,200-foot transition areas presently designated within the State of Missouri, including portions of the Marion, Illinois, and Blytheville, Arkansas, 1,200-foot transition areas which reference airspace within the State of Missouri. To simplify airspace descriptions, provide continuity in the floor of controlled airspace, to improve aeronautical chart legibility, to make it easier for both the pilot and air traffic control to provide more control services, it is proposed to extend controlled airspace extending upward from 1,200 feet above the surface to cover the entire State of Missouri.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (39 FR 400), the following transition areas are amended by deleting references to that airspace extending upward from 1,200 feet above the surface.

MISSOURI

Cape Girardeau	Moberly
Columbia	Neosho
Dexter	Nevada
Farmington	Perryville
Festus	Point Lookout
Fort Leonard Wood	Poplar Bluff
Higginsville	Readsville
Joplin	St. Joseph
Kaiser	St. Louis
Kansas City	Sedalia
Kirksville	Sikeston
Lebanon	Springfield
Malden	Trenton
Mexico	Vichy

MARION, ILLINOIS

That portion lying in the state of Missouri.

BLYTHEVILLE, ARKANSAS

That portion lying in the state of Missouri.

In § 71.181 (39 FR 440), the following transition area is added:

MISSOURI

That airspace extending upward from 1,200 feet above the surface within the boundary of the state of Missouri.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the De-

partment of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri, on December 2, 1974.

A. L. COULTER,
Director, Central Region.

[FR Doc.74-29631 Filed 12-19-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-RM-19]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the transition area at Livingston, Mont.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station P.O. Box 7213, Denver, Colorado 80207. All communications received on or before January 17, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 E. 25th Avenue, Aurora, Colorado 80010.

The standard instrument approach procedure at Livingston, Mont. has been revised to delete the transition arcs to the final approach course and to change the missed approach course. An alteration of the airspace to be protected for the IFR procedure is required as a result of this revision.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (39 FR 440) amend the description of the Livingston, Mont. transition area to read as follows:

LIVINGSTON, MONT.

That airspace extending upward from 700 feet above the surface within 9.5 miles west and 4.5 miles east of the Livingston VORTAC 340° radial extending from the VORTAC to 18.5 miles north of the VORTAC and within 2.5 miles each side of the Livingston 085° radial, extending from a 5-mile radius circle centered on Mission Field Airport, Livingston, Mont. (latitude 45°41'45" N., longitude 110°26'40" W.) to 9 miles east of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 6 miles south and 9.5 miles north of the Livingston VORTAC 085° and 265° radials, extending from 7 miles west to 21 miles east of the VORTAC.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Aurora, Colorado, on December 13, 1974.

M. M. MARTIN,
Director,
Rocky Mountain Region.

[FR Doc.74-29634 Filed 12-19-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-SW-51]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a transition area at Batesville, Ark.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, PO Box 1689, Fort Worth, Texas 76101. All communications received on or before January 20, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (39 FR 440), the following transition area is added:

BATESVILLE, ARK.

That airspace extending upward from 700 feet above the surface within a 15-statute-mile radius of Batesville Regional Airport, Batesville, Ark. (latitude 35°42'00" N., longitude 91°38'00" W.); and within 3.5 miles each side of 255°T (250°M) bearing from the Batesville NDB (latitude 35°42'13" N., longitude 91°45'08" W.), extending from the 15-mile radius area to 11.5 statute miles west of the NDB; excluding that portion which overlies the Heber Springs, Ark., transition area.

The proposed transition area will provide controlled airspace for aircraft executing a new instrument approach procedure for the Batesville Regional Airport, Batesville, Ark.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, TX., on December 12, 1974.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.74-29635 Filed 12-19-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-SW-44]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at La Pryor, Tex.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, PO Box 1689, Fort Worth, Texas. 76101. All communications received on or before January 20, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (39 FR 440) the following transition area is added:

LA PRYOR, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of La Paloma Ranch Airport (latitude 28°-53'30" N., longitude 99°51'00" W.) and within 3.5 miles each side of the 353° bearing from the La Pryor, Tex., NDB (latitude 28°-55'47" N., longitude 99°51'16" W.) extending from the 5-mile radius area to 11.5 miles northwest of the La Pryor, Tex., NDB.

The proposed transition area will provide controlled airspace for aircraft executing the proposed NDB Rwy 17 instrument approach procedure.

Final action on this proposal will be made consistent with the depiction of La Paloma Ranch Airport on appropriate sectional charts scheduled June 19, 1975.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on December 10, 1974.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.74-29636 Filed 12-19-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-SO-115]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Craig AFB Aux. #1 (Vaiden), Ala., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, PO Box 20636, Atlanta, Ga. 30320. All communications received on or before January 20, 1975, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Craig AFB Aux. #1 (Vaiden) transition area would be designated as:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Craig AFB Aux. #1 (Vaiden), Ala. (latitude 33°30'36" N. longitude 87°23'06" W.); within 2.5 miles each side of the extended centerline of Runway 16, extending from the threshold to 10.5 miles north of the threshold.

The proposed designation is required to provide controlled airspace protection for IFR operations (military) at Craig AFB Aux. #1 (Vaiden) Airport. A prescribed instrument approach procedure to this airport, utilizing U.S. Air Force radar, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on December 10, 1974.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.74-29637 Filed 12-19-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-EA-82]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Philadelphia, Pa. Control Zone (39 FR 416) and Transition Area (39 FR 565).

The geographic position of the Philadelphia International Airport, Philadelphia, Pa., has been revised and requires a revision in the description of the Philadelphia, Pa. Control Zone and Transition Area.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Deparment of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before January 20, 1975, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Philadelphia, Pennsylvania, proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the Philadelphia, Pa. Control Zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center, 39°52'22" N., 75°14'58" W., of Philadelphia International Airport, Philadelphia, Pa.; within a 6-mile radius of the center of the airport extending clockwise from a 266° bearing to a 016° bearing from the airport; within 2.5 miles each side of the Philadelphia International Airport Runway 27R ILS localizer course, extending from the localizer to 6.5 miles east; within 2 miles each side of the Philadelphia International Airport Runway 9R ILS localizer course, extending from the 5-mile radius zone to 2 miles east of the OM; within 2.5 miles each side of the New Castle, Del. VORTAC 055° radial, extending from the 5-mile radius zone to 18.5 miles northeast of the VORTAC.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the Philadelphia, Pa. Transition Area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 39°52'23" N., 75°14'58" W. of Philadelphia International Airport, Philadelphia, Pa.; within a 9-mile radius of the center of the airport, extending clockwise from a 136° bearing to a 256° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 256° bearing from the airport to a 058° bearing from the airport; within 6.5 miles south and 4.5 miles north of the Philadelphia International Airport Runway 9R ILS localizer course, extending from 5.5 miles east to 11.5 miles west of the OM; within 4.5 miles each side of the Modena, Pa. VORTAC 097° radial, extending from 24 miles east to 33 miles east of the VORTAC; within a 5.5-mile radius of the center, 39°47'50" N., 75°20'35" W. of Bridgeport Airport, Bridgeport, New Jersey; within 2 miles each side of the Woodstown, N.J. VORTAC 350° radial, extending from the 5.5-mile radius area to the Woodstown, N.J. VORTAC.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348], and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Jamaica, N.Y., on December 5, 1974.

ROBERT H. STANTON,
Director.

[FR Doc.74-29638 Filed 12-19-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20292; Rm-2188 etc.]

TABLE OF ASSIGNMENTS, FM BROADCAST STATIONS

Notice of Proposed Rule Making

1. Notice of proposed rulemaking is hereby given of proposed amendment of § 73.202(b) of the rules, the FM Table of Assignments, with regard to the abovementioned communities.

2. Three petitions seeking assignment of two channels have been filed. The three communities for which these assignments are sought are clustered around the contiguous borders of Missouri, Illinois and Kentucky. Joe W. Hebel petitions for assignment of Channel 252A to Paducah, Kentucky. James S. Fritch, Curtis E. Miller and Roy E. Delancy seek that channel for Vienna, Illinois. KBOA, Inc., licensee of AM Station KREI, Farmington, Missouri, petitions for assignment of Class C Channel 253 to Farmington. The petitions for Channel 252A are mutually exclusive

and assignment of Channel 253 to Farmington would preclude an assignment of Channel 252A to Vienna, but not to Paducah.

3. Paducah, Kentucky (pop. 34,627),[2] is situated just outside of the southern border of Illinois and is the seat of McCracken County (pop. 58,251). Hebel avers that Paducah is the largest city within a 100 mile radius and that its stores, cultural facilities and government offices, therefore serve persons in a wide area. Paducah is presently served locally by three full-time AM stations and two Class C FM stations that Hebel contends duplicate their sister AM stations most or all of the time. Hebel asserts that Paducah is in need of an independent FM station and that the city has the necessary economic activity to support an additional assignment to the area.

4. Hebel's petition indicates that his proposed assignment would result in adjacent and co-channel preclusions in Fredericktown (pop. 3,799) and Greenville, Missouri (pop. 327), and in Harrisburg (pop. 9,535) and Metropolis, Illinois (pop. 6,940). A staff study has shown that Mound City (pop. 1,171), Mounds (pop. 1,718), and Vienna (pop. 1,325), all in Illinois, would also be within the preclusion area of this proposed assignment. Hebel has shown that Channel 237A is available for assignment to Fredericktown. However, subsequent to submission of his petition, substitution of Channel 238 for Channel 297 at Poplar Bluff, Missouri, foreclosed the availability of Channel 237A to Fredericktown. Hebel has shown that Channel 257A is available for assignment to Greenville, that Harrisburg had a Class B assignment, and that the proposed assignment could, if adopted, be licensed to Metropolis under the 10-mile rule (section 73.203(b) of the Rules). In his response to this Notice, the petitioner should indicate what channels, if any, are available for assignment to Fredericktown, Mound City, Mounds, and Vienna.

5. Vienna (pop. 1,325), the seat of Johnson County (pop. 7,550), and its largest city is located in southern Illinois, 28 miles northwest of Paducah. The petitioners for the Vienna assignment aver that Vienna serves as a trade center for its county and for parts of contiguous Pope and Massac Counties, that it provides complete city services to the area and that it is developing into an important recreational area with numerous state parks and recreation lakes nearby including the Shawnee National Forest.

6. There is no local aural service anywhere in Johnson County. The petitioners for the Vienna assignment aver that there is a particular need for providing timely weather information to the farmers and the general public which is not available at the present time from any source. In particular, they state that the prompt reporting of unusual school closings or disasters affecting the area would be of vital importance to the public. As between Paducah and Vienna the Commission is faced with the question of whether to assign a channel to a larger community that is already served by five full-time aural services or to a smaller community that has none. Ordinarily, the Commission will not, on its own motion, make an assignment to a community with a population of less than 10,000. However, the Commission will do so when such anassignment would be in the public interest and when a petitioner for such an assignment indicates that he will, apply for the channel if its assigned, and if authorized, build a station promptly. In considering the aforementioned proposals for FM assignments, the Commission will weigh what appears to be adequate full-time aural service to Paducah [3] against our priority of providing "Insofar as possible, * * * each community with at least one FM broadcast station, especially where the community has only a daytime-only or local (Class IV) AM station, and especially, where the community is outside of an urbanized area." [4] The petitioners may direct comments to this point.

7. Farmington (pop. 6,590), the seat of St. Francois County (pop. 36,818), is located in southeastern Missouri, 67 miles northwest of Vienna and 112 miles northwest of Paducah. KBOA, Inc., the petitioner for assignment of Class C Channel 253 to Farmington is the licensee of daytime-only standard broadcast Station KREI. The only other aural service originating in the county is transmitted by Station KFMO, Flat River, a full-time Class IV station which provides no nighttime service interference free to Farmington. KBOA avers that the towns around Farmington are sparsely populated and that Farmington with its population of 7,031 is the largest city in a 40 mile area. The petitioner's engineering analysis shows that the proposed assignment would result in very limited preclusion on Channels 252A, 253, and 254, and that these areas do not include any sizeable community without an FM station or assignment. KBOA has indicated that Farmington has a mayor-city council form of government and that it is served by one daily and one weekly newspaper. The petitioner has described in great detail the social, governmental and economic activities of communities that would be served by its proposed Class C assignment.[5] KBOA contends that its

8. Farmington is not the type of community that would ordinarily be assigned a Class C channel. However, the proposal would bring a first FM service to 1,555 square miles with a population of 13,913. Commission has made such assignments where it has been shown that a high power station is necessary to cover a large sparsely populated area, where a Class A channel would not provide adequate service due to hills or valleys, or where a Class A channel was not available for assignment. KBOA avers that to the south and southwest of Farmington the terrain becomes hilly and then, as one moves further out, very rough with granite type mountains in the Iron County area. However, it should be noted that these terrain factors do not appear to affect reception within Farmington itself. KBOA avers that the towns around Farmington are sparsely populated and that a Class C channel would allow full-time service to the people in this area. Standing alone KBOA would make a good case for assignment of a Class C channel to Farmington. But when, as here, making such an assignment would preclude granting an assignment to an underserved area for which someone has expressed an intent to apply and if authorized, to build a station promptly, the Class C assignment can be made only if the petitioner for that assignment can show that the assignment should be made even though this preclusion will result. This is especially true when a Class A channel is available for assignment to the area.[6] KBOA has indicated that Channel 224A could be assigned to Farmington.[7] A Class A channel, we are told, would provide a first FM service to 167.5 square miles with a population of 5,136. KBOA should indicate whether it would apply for a construction permit for Channel 224A if assigned to Farmington and if authorized (and it intends to apply) that it would promptly begin construction. Failure to do so may leave Farmington without an assignment (in keeping with our policy of not making assignments to communities with populations under 10,000 unless such an intent is expressed) if the Vienna proposal is adopted. Further, in order to build a full record on which to make an informed decision, supportive information should be submitted for all petitioners as to areas and populations which will receive a first and second aural service from the proposed assignments including AM nighttime service as well as FM service.[8] KBOA should submit a showing as to the preclusions, if any, that would result from assignment of Channel 224A to Farmington and whether any channels are available for assignment to these precluded communities.

9. It is the Commission's opinion that the aforementioned proposals merit fur-

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[2] All population figures are from the 1970 U.S. Census.

[3] See *Anamosa and Iowa City, Iowa*, 46 F.C.C. 2d 520 (1974).

[4] *Id.* ¶ 14.

[5] This and other information was supplied in response to a request by the Commission for additional information including a comparison of service that would be provided by Class C and Class A assignments.

[6] See Note 4.

[7] KBOA has expressed concern over the fact that the small area available for location of a transmitter site is the same area toward which the FAA "missed approach" instrument procedure for the Farmington airport is turned. This will have no bearing on this rule making unless KBOA shows that this precludes location of a transmitter in that area.

[8] See *Roanoke Rapids and Goldsboro, N.C.*, 9 F.C.C. 2d 672 (1967), and *Anamosa and Iowa City, Iowa*, 46 F.C.C. 2d 520 (1974).

ther exploration in a rule making proceeding. Therefore, pursuant to authority contained in sections 4(i), 303, 307(b) and 5(d)(1) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules and Regulations, It is proposed to amend § 73.202 (b) of the Commission's rules and regulations, the FM Table of Assignments, as follows:

§ 73.202 Table of assignments.

* * * * *

City	Channel No. Present	Proposed
Farmington, Mo		253
Paducah, Ky	227, 245	227, 245, 253A
or alternatively:		
Vienna, Ill		253A
or alternatively:		
Vienna, Ill		253A
Farmington, Mo		234A
or alternatively:		
Paducah, Ky	227, 245	227, 245, 253A
Farmington, Mo		234A

* * * * *

10. *Showings required.* Comments are invited on the proposals discussed and set forth above. Proponents of proposed assignments are expected to file comments even if they only resubmit or incorporate by reference their former pleadings. Proponents should also state or restate their present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

11. *Cut-off procedure.* The following procedures will govern the consideration of filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposals in this Notice, they will be considered as comments in this proceeding, and Public Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

12. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before January 24, 1975, and reply comments on or before February 13, 1975. All submissions by parties to this proceeding or persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

13. In accordance with the provisions of § 1.419 of the rules and regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, and other documents shall be furnished the Commission. These will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-29693 Filed 12-19-74;8:45 am]

Continued on p. 44069

[47 CFR Part 83]

[FCC 74-1350; DOCKET NO. 20273]

VHF; SAFETY ON THE GREAT LAKES

Notice of Proposed Rule Making

In the Matter of Amendment of Part 83 of the rules to implement the mandatory VHF requirements of the Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973.

1. In this proceeding, the Commission proposes to amend Part 83 of the rules to establish very high frequency (VHF) as the mandatory safety system on the Great Lakes in accordance with the Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973 (GLA). This GLA, upon entry into force on May 6, 1975, will terminate the Agreement with Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1952.

2. The new GLA has different criteria for its applicability than the 1952 GLA. The new and old provisions are set forth below to facilitate comparison.

1973 GLA	*1952 GLA*
a. Every vessel over 65 feet in length measured from end to end over the deck exclusive of sheer);	a. Every vessel of 500 gross tons or over:
b. Every vessel engaged in towing another vessel or floating object, except:	b. Every vessel under 500 gross tons engaged in towing another vessel of 500 gross tons or over or engaged in towing any other floating object having a dimension in any direction of 150 feet or more, unless the vessel so towed complies with the requirements of this Agreement;
(i) where the maximum length of the towing vessel, measured from end to end over the deck exclusive of sheer, is less than twenty-six (26) feet and the length or breadth of the tow, exclusive of the towing line is less than sixty-five (65) feet;	
(ii) where the vessel towed complies with the requirements of this Agreement and the Technical Regulations annexed thereto:	
(iii) where the towing vessel and tow are located within a booming ground; or	
(iv) where the tow has been undertaken in an emergency and neither the towing vessel nor the tow can comply with this Agreement and the Technical Regulations annexed thereto.	
c. Every passenger vessel over 65 feet in length (measured from end to end over the deck exclusive of sheer);	c. Any vessel carrying more than six passengers for hire
d. This Agreement is not applicable to vessels in the following specific categories:	d. This Agreement is not applicable to vessels in the following specific categories:
(i) ships of war and troop ships;	(i) ships of war and troop ships; and
(ii) vessels in tow;	(ii) vessels owned and operated by any government and not engaged in trade.
(iii) vessels not propelled by mechanical [illegible];	
(iv) vessels owned and operated by any government and not engaged in trade;	
(v) any vessel towing another vessel in or out of a single port when such towage is not in excess of 20 miles outside such port;	(d) requirement for survey and certification of the radiotelephone installation is prescribed.
(vi) any vessel towing another vessel engaged in the movement of material between a port and a dumping ground authorized by either Contracting Government when such dumping ground is not more than 30 miles outside such port;	
(vii) any vessel navigated in connection with river or harbor improvement work or any marine construction when such navigation is within an area whose radius from the site of such river or harbor improvement work or marine construction is not greater than 30 miles.	

3. The general substance of the rule amendments set forth in the Appendix applicable to ship stations using radiotelephony in the band 156–158 MHz on the Great Lakes is as follows:

(a) On May 6, 1975, VHF becomes the mandatory radiotelephone system on the Great Lakes and MF will be discontinued as the mandatory requirement;

(b) technical specifications for the VHF radiotelephone installation are prescribed;

(c) required frequencies and operating procedures are prescribed; and

4. The new GLA enters into force on May 6, 1975. There will be an interim period from the commencement of the navigation season until May 6, 1975, where MF will be the mandatory system on the Great Lakes. It is proposed that vessels subject to the 1952 GLA may (a) continue to use the MF installation until May 6, 1975, or (b) during this interim period, request the Commission to accept a VHF installation found to be in compliance with the rules adopted in this proceeding. The Commission will make provision for the survey and certification of vessels not subject to the 1952 GLA, but which will become subject to the 1973 GLA on May 6, 1975. These surveys and certifications will be conducted in such a manner as to impose the minimum delays on vessel operations subject to the number of Commission engineers available for these surveys.

5. The new GLA states that there shall be on board at least one operator whose qualifications for radiotelephone opera-

tion for safety purposes on the Great Lakes have been certified by each of the Contracting Governments for citizens of its own country on vessels of that country or for vessels of other countries as possessing the following qualifications:

(a) General knowledge of practical radiotelephone operating procedure;

(b) Ability to send correctly and receive correctly by radiotelephone using the English language; and

(c) Knowledge of the International Radio Regulations and specifically of that part of those Regulations relating to the safety of life.

In order to assure that the treaty obligations are fulfilled, we are proposing a requirement that the required operator have a radiotelephone third-class operator permit or higher.

6. The proposed amendments, as set forth below, are issued pursuant to the authority contained in the Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973, and in sections 4(i) and 303 (c), (e), and (r) of the Communications Act of 1934, as amended.

7. Pursuant to procedures set forth in § 1.415 of the Commission's rules, interested parties may file comments on or before January 27, 1975, and reply comments on or before February 7, 1975. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it in addition to the specific comments invited by this notice. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its headquarters in Washington, D.C.

8. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: December 10, 1974.

Released: December 19, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Part 83 of Chapter 1, Title 47, Code of Federal Regulations, is amended as follows:

1. Section 83.157(a) is amended to reflect the operator requirement of the Great Lakes Radio Agreement as follows:

§ 83.157 Certified persons required by Great Lakes Radio Agreement.

(a) For the purpose of complying with Article VII, paragraph 1 of the Great Lakes Radio Agreement, there shall be on board each United States vessel when underway and subject to the Great Lakes Radio Agreement, as an officer or member of the crew, at least one person whose qualifications for radiotelephone operation have been certified. Such certified person shall hold a radiotelephone third-class operator permit or higher class of authorization.

* * * * *

2. Section 83.206 is amended to require the watch on the VHF distress, safety and calling frequency as follows:

§ 83.206 Watch required by the Great Lakes Radio Agreement.

Each ship of the United States which is equipped with a radiotelephone installation for compliance with the Great Lakes Radio Agreement shall, when underway and subject to said Agreement, keep a continuous and effective watch on 156.8 MHz whenever such installation is not being used for authorized traffic. Such watch shall be maintained by at least one officer or member of the crew designated to do so. The person designated by the master may simultaneously perform other duties relating to the operation or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch.

3. Sections 83.368(a) & (c) are amended to specify Eastern Standard Time and modify log entries for vessels subject to the Great Lakes Agreement.

§ 3.368 Radiotelephone station log.

(a) A station log shall be maintained during the hours of service of ship stations using radiotelephony, in which the entries required by this section shall be made. Pages of the log shall be numbered in sequence and each page shall include the name of the vessel and the radio call sign of the station. All entries which show transmitter operation shall be made and signed by the licensed operator (or other person in accordance with §83.155). Watch entries, and signatures of each person keeping the required watch, shall be so related that they constitute a certification by each such person as to when he began and ended each period of his watch during the voyage. The date and time of each occurrence or incident required to be entered in the log shall be shown opposite the entry, and the time shall be counted from 0000 to 2400 beginning at midnight. Stations on board vessels engaged on international voyages, other than on the Great Lakes or inland waters, shall use Greenwich mean time (GMT); stations on board vessels navigated on the Great Lakes and subject to the Great Lakes Agreement shall use Eastern Standard Time (e.s.t.); other stations may use GMT or local standard time. The appropriate symbol, GMT, e.s.t., c.s.t., p.s.t., etc., shall be entered at the head of the column in which time is entered.

* * * * *

(c) The log of ship stations subject to the Great Lakes Agreement shall include these entries specified by subparagraphs (1), (5), (6), (7), (9), and (10) of paragraph (b) of this section, and in addition shall include the name and radio license number of each operator actually on board and designated by the master to operate the radiotelephone installation.

* * * * *

4. Subpart U is deleted in its entirety, and new Subpart U is added as follows:

Subpart U—Radiotelephone Installations Provided for Compliance with the Great Lakes Radio Agreement

§ 83.536 Applicability to vessels.

The Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973, applies to vessels of all countries when navigated on the Great Lakes. The Great Lakes Agreement defines the Great Lakes as "all waters of Lakes Ontario, Erie, Huron (including Georgian Bay), Michigan, Superior, their connecting and tributary waters and the River St. Lawrence as far east as the lower exit of St. Lambert Lock at Montreal in the Province of Quebec, Canada." A vessel to which the Great Lakes Agreement applies and which falls into the specific categories of paragraphs (a), (b) or (c) and not excepted by paragraphs (d) or (e) shall comply with this Subpart while navigated on the Great Lakes:

(a) Every vessel 65 feet or over in length (measured from end to end over the deck, exclusive of sheer);

(b) Every vessel engaged in towing another vessel or floating object, except:

(1) where the maximum length of the towing vessel, measured from end to end over the deck exclusive of sheer, is less than twenty-six (26) feet and the length or breadth of the tow, exclusive of the towing line, is less than sixty-five (65) feet;

(2) where the vessel towed complies with this subpart;

(3) where the towing vessel and tow are located within a booming ground; or

(4) where the tow has been undertaken in an emergency and neither the towing vessel nor the tow can comply with this subpart.

(c) Any vessel carrying more than six passengers for hire;

(d) The requirements of the Great Lakes Agreement shall not apply to:

(1) ships of war and troop ships;

(2) vessels owned and operated by any government and not engaged in trade.

(e) The Commission may, if it considers that the conditions of the voyage or voyages affecting safety (including but not necessarily limited to the regularity frequency and nature of the voyages, or other circumstances) are such as to render full application of the Great Lakes Agreement unreasonable or unnecessary, may exempt partially, conditionally or completely any individual vessel for one or more voyages or for any period of time not exceeding one year.

§ 83.537 Survey and Certification.

Each vessel of the United States subject to the Great Lakes Agreement shall have a periodic survey of the required

radiotelephone installation not less than once every thirteen months. This survey shall be made while the vessel is in active service or within not more than one month before the date on which it is placed in service. A Great Lakes Agreement Radiotelephony Certificate will be issued to vessels found, as a result of the periodic survey, to be in compliance with the Agreement. Such certificate shall be prominently posted at the principal operating position of the required radiotelephone installation.

§ 83.539 Radiotelephone installation.

(a) Each vessel of the United States while subject to the requirements of the Great Lakes Radio Agreement shall be fitted with a radiotelephone in effective operating condition meeting the provisions of this subpart in addition to the provisions of such other rules in this part, governing ship stations using telephony, as are applicable.

(b) The term "radiotelephone installation," for the purposes of the Great Lakes Radio Agreement, means a ship radio station (including the source of power necessary to energize the apparatus) capable of being used for the effective transmission and reception of speech for the purpose of quickly establishing and effectively carrying on communications relating to distress, safety and navigation on the frequencies 156.8 MHz, 156.7 MHz, 156.6 MHz and 156.3 MHz and such other frequencies required for their service, each of these frequencies readily available for use at all times. Nothing contained in this paragraph shall be construed to require or prohibit the availability of other frequencies by the use of this same "radiotelephone installation" for communication authorized by this part on other frequencies.

(c) Every radiotelephone station shall include one or more transmitters, one or more receivers, one or more sources of electrical energy; and associated antennas and control equipment. The radiotelephone station, exclusive of the antennas and source of electrical energy, shall be located as high as practicable on the vessel, preferably on the bridge, and suitably protected from the harmful effects of water, temperature, electrical and mechanical noise.

§ 83.541 Principal operating position.

(a) The principal operating position of the radiotelephone installation shall be on the bridge, convenient to the conning position.

(b) Where the radiotelephone station is located elsewhere than on the bridge, provision shall be made for complete operational control of the equipment at that location and at the bridge operating position. However, provision shall be made to take immediate and complete control of the equipment at the bridge operating position.

§ 83.542 Radiotelephone transmitter.

(a) The transmitter shall be capable of effective transmission of F3 emission on 156.8 MHz, 156.3 MHz, 156.6 MHz, 156.7 MHz, and such other frequencies as are required for their service.

(b) The transmitter shall be of a type which has been demonstrated in the process of type acceptance as being capable of delivering a carrier power of at least 15 watts, but not more than 25 watts, on each of the frequencies 156.8 MHz, 156.3 MHz, 156.6 MHz and 156.7 MHz into 50 ohms effective resistance, when operated with an applied primary supply voltage of 13.6 volts DC.[1] In addition, for transmitters type accepted after January 1, 1975, which are intended to be usable for the purposes of this subpart and which are designed to operate from a nominal power supply voltage of 12 volts DC, the application for type acceptance shall include a showing of compliance with the power output of paragraph (c)(4) of this Section.

(c) When an individual demonstration of the capability of the transmitter is deemed necessary in the judgment of the Commission, the requirements and procedures for determining compliance with the output power requirements prescribed in this paragraph, with the radiotelephone installation normally installed on board ship, shall also be met, as follows:

(1) Measurements of primary supply voltage and transmitter output power shall be made with the equipment drawing energy only from the ship's battery, in accordance with the following procedures.

(2) The primary supply voltage, measured at the power input terminals to the transmitter, terminated in a matching artificial load, shall be measured at the end of 10 minutes of continuous, uninterrupted operation of the transmitter at its full power output.

(3) The primary supply voltage, measured in accordance with the procedures of this paragraph, shall not be less than 11.5 volts.

(4) The transmitter output power, measured in accordance with the procedures of this paragraph, shall be not less than 15 watts.

§ 83.543 Radiotelephone receiver.

(a) The receiver used for maintaining the listening watch required by § 83.206 shall be capable of effective reception of F3 emission on the frequencies 156.8 MHz, 156.3 MHz, 156.6 MHz and 156.7 MHz.

(b) The receiver shall have a sensitivity of at least two microvolts across 50 ohm or equivalent input terminals, for a 20 decibel signal-to-noise ratio.

§ 83.544 Main source of energy.

(a) A main source of energy of sufficient capacity to energize the radiotelephone installation properly and immediately shall be available at all times while the vessel is subject to the requirements of the Great Lakes Radio Agreement.

(b) Means shall be provided for adequately charging any storage batteries used as a main source of energy, or any part thereof. There shall be provided a device which during charging of the batteries, will give a continuous indication of the rate and polarity of the charging current.

§ 83.545 Auxiliary source of energy.

(a) An auxiliary source of energy shall be provided, independent of the vessel's normal electrical system and capable of properly energizing the radiotelephone installation and illuminating the operating controls at the principal operating position prescribed in § 83.547, for at least four continuous hours under normal operating conditions. When meeting this four-hour requirement, such auxiliary source of energy shall be located on the bridge level or at least one deck above the vessel's main deck.

(b) In lieu of the independent source of energy specified in (a) above, the vessel may be provided with an auxiliary radiotelephone installation having a power source independent of the vessel's normal electrical system. Any such installation must comply with §§ 83.539, 83.542, 83.543, 83.547, 83.548 and 83.549, as well as the general technical standards contained in this part. Additionally, the power supply for any such auxiliary radiotelephone shall be regarded as an "auxiliary source of energy" for the purposes of paragraphs (c), (d) and (e) of this Section.

(c) Means shall be provided for adequately charging any storage batteries used as an auxiliary source of energy, or any part thereof, for the required radiotelephone installation. There shall be provided a device which, during charging of the batteries, will give a continuous indication of the rate and polarity of the charging current.

(d) Use of the auxiliary source of energy, when required by paragraph (a) of this Section, shall be available within one minute after the need for its use.

(e) The shipowner, operating company, or station licensee, when directed by the Commission, shall prove by demonstration as prescribed in subparagraphs (1), (2), (3) and (4) of this paragraph or by such other means as may be deemed necessary, that the auxiliary source of energy is capable of meeting the requirements of paragraph (a) of this Section, as follows:

(1) When the auxiliary source of energy consists of or includes a storage battery, proof of the ability of such battery to operate continuously and effectively over the required period of time is authorized to be established by a discharge test over the required period of time, when supplying power at the voltage required for normal and effective operation to an electric load as prescribed by subparagraph (3) of this paragraph.

(2) When the auxiliary source of energy consists of or includes an engine-driven generator, proof of the adequacy of the engine fuel supply to operate the unit continuously and effectively over the required period of time may be established by using as a basis the fuel consumption during a continuous period of one hour when supplying power, at the voltage required for normal and effective operation, to an electrical load as

[1] Sets operating from other values of primary supply voltage, such as 26.4 VDC, 36.0 VDC, or 117 VAC shall meet this requirement for operation at their respective primary supply voltage, in lieu of 13.6 VDC.

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prescribed by subparagraph (3) of this paragraph.

(3) For the purposes of determining the electrical load to be supplied, the following formula shall be used:

(i) One-half the current consumption of the radiotelephone while transmitting at its rated power output, less one-half the current consumption while not transmitting; plus

(ii) Current consumption of the required receiver; plus

(iii) Current consumption of the source of illumination provided for the operating controls prescribed by § 83.547; plus

(iv) The sum of the current consumption of all other loads to which the auxiliary source of energy may supply power in time of emergency or distress.

(4) At the conclusion of the test specified in subparagraphs (1) and (2) of this paragraph, no part of the auxiliary source of energy shall have excessive temperature rise, nor shall the specific gravity or voltage of any storage battery be below the 90 percent discharge point as determined from information (such as voltage curves or specific gravity tables) supplied by the manufacturer of the type of battery involved.

§ 83.546 Antenna system.

The antenna provided shall be effective, vertically polarized and located as high as practicable on the masts or superstructure of the vessel. The transmission line shall be effective and, to the extent practicable, shall impose a minimum loss.

§ 83.547 Illumination of operating controls.

(a) The radiotelephone may have dial lights which clearly illuminate the operating controls at the principal operating position.

(b) In lieu of (a) above, a light from an electric source of energy may be provided and permanently arranged to illuminate the operating controls of the radiotelephone at the principal operating position. If an auxiliary source of energy is required to be provided on board the vessel, arrangements shall be provided to permit the use of such source of energy for such illumination within one minute after the need arises for its use.

§ 83.548 Test of radiotelephone installation.

At least once during each calendar day in which a vessel of the United States is navigated while subject to the Great Lakes Radio Agreement, a test communication on a required frequency to demonstrate that the radiotelephone installation is in proper operating condition shall be made by a certified person who is required in accordance with § 83.157, unless the normal daily use of the equipment demonstrates that this installation is in proper operating condition for that purpose. Should the equipment be found at any time by a person other than the master not to be in operating condition, the master shall be promptly notified. A record shall be made in the radio station log showing the operating condition of the equipment as determined either by daily normal communication or the daily test communication referred to in this Section, and showing that, if an improper operating condition was found, the master was properly notified thereof.

§ 83.549 Failure of radiotelephone installation while enroute.

If, when a United States vessel is subject to the Great Lakes Radio Agreement, the vessel's radiotelephone installation required by the GLA ceases to be in effective operating condition, the master shall forthwith exercise due diligence to restore the radiotelephone station to effective operating condition at the earliest practicable moment, and, in any event, the radiotelephone installation shall be restored at the first scheduled port of entry where repair facilities are available. In addition to the foregoing, the master shall, within 12 hours after the time of arrival of the vessel at the destination, send to the Secretary, Federal Communications Commission, Washington, D.C. 20554, an explanation of the full particulars of the matter in writing, including the date the master became aware of the deficiency in the radiotelephone installation and the nature of such deficiency, a description of the steps taken to correct such deficiency, and in the case of a vessel whose destination is on the Great Lakes, a statement that the radiotelephone installation has been, or will be, placed in effective operating condition before the ship leaves that port.

§ 83.550 Antenna radio frequency indicator.

The radiotelephone station shall be equipped with a device which will provide visual indication whenever radio frequency energy is being radiated from the antenna.

[FR Doc.74-29092 Filed 12-19-74;8:45 am]

[47 CFR Part 97]

[Docket No. 20282; FCC 74-1336]

AMATEUR RADIO SERVICE

Proposed Privileges and Requirements for Operator Classes

In the matter of amendment of Part 97 of the Commission's rules concerning operator classes, privileges and requirements in the Amateur Radio Service; RM-1016, RM-1363, RM-1454, RM-1456, RM-1516, RM-1521, RM-1526, RM-1535, RM-1568, RM-1572, RM-1602, RM-1615, RM-1629, RM-1633, RM-1656, RM-1724, RM-1793, RM-1805, RM-1841, RM-1920, RM-1947, RM-1976, RM-1991, RM-2030, RM-2043, RM-2053, RM-2149, RM-2150, RM-2162, RM-2166, RM-2216, RM-2219, RM-2256, RM-2284, RM-2449.

1. The Commission has before it the above listed petitions (also listed in more detail in Appendix I) for rulemaking. Principally, petitioners are seeking amendment to the rules for the Amateur Radio Service regarding operator classes, requirements, and [1] privileges. Some desire additional privileges for only one specific operator license class, or desire lower requirements for one specific class. Others want more extensive amendments, such as the deletion, or addition, of an entire license class. Some would establish a new "Hobby" operator license class, having no telegraphy skill requirement. Of these, RM-1841, RM-1991, and RM-2053 would have this operator class in the Citizens Radio Service. Since operation of a radio station as a hobby or diversion, i.e., an activity in and of itself,[1] is prohibited in the Citizens Radio Service, we consider such operation to be one more suitable to the Amateur Radio Service. Thus, these three petitions are included in this proceeding. RM-1633, RM-1656, RM-1793, and RM-1841 are also included in Docket 19759, but will be considered herein to the extent applicable. Additionally, petitions RM-1947 and RM-2256 contain proposals otherwise pertaining to operator privileges and are included herein for that reason.

2. RM-1629 relates to the possibility for conducting operator examinations at places other than regular Commission examination points by persons other than Commission employees. Since the entire matter of amateur radio operator examinations will be under consideration in this proceeding, it is also incorporated.

3. The type of amendments requested by the petitioners cover a broad scope of thoughts and ideas. In summary, the salient requests are:

a. Authorize some, or all, Novice Class privileges to the Technician Class.

b. Permit a person to hold both a Novice Class license and a Technician Class license.

c. Authorize some privileges in the 144–148 MHz frequency band to the Novice Class.

d. Authorize all of the 144–148 MHz frequency band to the Technician Class.

e. Authorize some privileges in the 28–29.7 MHz frequency band to the Technician Class.

f. Reallocate the frequency subbands among the various license classes.

g. Establish new frequency subbands for incentive purposes in the 1800–2000 kHz band.

h. Authorize Amateur Extra Class operator privileges to Advanced Class operators.

i. Limit transmitter power privileges for General Class operators to 250 watts on the 3.5 MHz, 7.0 MHz and 14.0 MHz frequency bands.

j. Limit transmitter power privileges for all operator classes to 300 watts on amateur frequency bands below 30 MHz.

k. Specify maximum transmitter power in terms of output.

l. Establish a new Hobby Class license, or a new VHF Telephony Class license having no telegraphy requirements or privileges.

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[1] See § 95.83(a)(1).

6. The privileges associated with each

believe there are the means available

been valuable beyond estimation. Partici-

as are required for their service.

m. Establish a new Beginner Class and a new Code Class of operator licenses.

n. Combine the Novice Class license and the Technician Class license into a new VHF Telephony Class.

o. Establish a new Intermediate Class license and a new Communicator Class license.

p. Establish a new Advanced Technician or First Class Technician Class license.

q. Discontinue the Conditional Class and Technician Class operator license.

r. Issue the Amateur Extra Class operator license for life.

s. Reduce Element 1(B) telegraphy requirement from 13 words per minute to 10 words per minute.

Obviously, we cannot accommodate all of these requests because some are in conflict with others. We do not believe it is desirable to deal with these petitions on a piecemeal basis, since many are interrelated. Accordingly, we conclude the time is propitious for a review of our entire amateur licensing structure. To this end, we have reviewed the petitions carefully, together with the existing system of operator privileges and requirements, against the fundamental basis and purpose of the Amateur Radio Service. The following represents our best forecast of the direction we should move in this matter.

4. We recognize the desire by some amateurs, and would be amateurs, as expressed in RM-1633, RM-1793, and RM-1976, for a class of amateur operator license having requirements that do not include a knowledge of telegraphy. Although every amateur radio operator license has traditionally required the applicant to demonstrate some level of proficiency in International Morse Code, goals within the basis and purpose of the Service could be met, at least in part, without this requirement. Moreover, as several of the petitioners point out, the International Radio Regulations do allow the Commission to waive the requirement for an amateur to "* * * have proved that he is able to send correctly by hand and to receive correctly by ear, texts in Morse code signals * * *"[1] in the case of stations only operated above 144MHz. A survey and analysis[2] conducted in 1971 indicated that there may be as many non-licensees interested in amateur radio activities, if not more, than there are persons already licensed in the Amateur Radio Service. The most often mentioned reason for not obtaining an amateur license is the telegraphy requirements. We are aware of the need for, and the use of, telegraphy in amateur radio communications is much less on amateur frequency bands above 50 MHz than it is on the amateur frequency bands in the High Frequency (3–30 MHz) and Medium Frequency (.3–3 MHz) range, where spectrum conservation, tolerance to interference, and other factors, make telegraphy an important mode of amateur radio-communication. We believe, under carefully established provisions, a new "telephony-only" type of operator license, limited to frequencies above 144 MHz, could and should be incorporated into the Amateur Radio Service.

5. The present operator license structure is shown in Figure 1. For all intents and purposes there are ten classes of operator licenses available in five ascending levels of operator privileges. Qualification for an operator license is established by means of the various examination elements shown in Figure 1. These may be administered either by a Commission examiner or by a volunteer examiner through the mail examination system. The Amateur Extra (C) Class, the Advanced (C) Class, and the Conditional (P) Class licenses are issued to physically disabled applicants qualifying on the basis of a mail examination administered by a volunteer. The Conditional Class license is issued to applicants qualifying on the basis of a mail examination administered by a volunteer, because of distance or other unusual difficulty in appearing at a regular examination point. The Technician (C) Class and Novice Class licenses are issued to applicants qualifying on the basis of a mail examination administered by a volunteer, the normal procedure for these license classes. Except for the Novice Class license and the Conditional Class license, the absence of the designator (C) or (P) following the operator class on the license means the licensee has qualified before a Commission examiner, and is not subject to re-examination. Any licensee qualifying on the basis of mail examination may be required by the Commission to appear before a Commission designated examiner for re-examination. Periodically, a sample number of licensees who have obtained their licenses on the basis of a mail examination are selected at random and asked to appear in order to verify the validity of the mail examination system. Those who do not appear, and those who do not pass the re-examination, are subject to license cancellation.

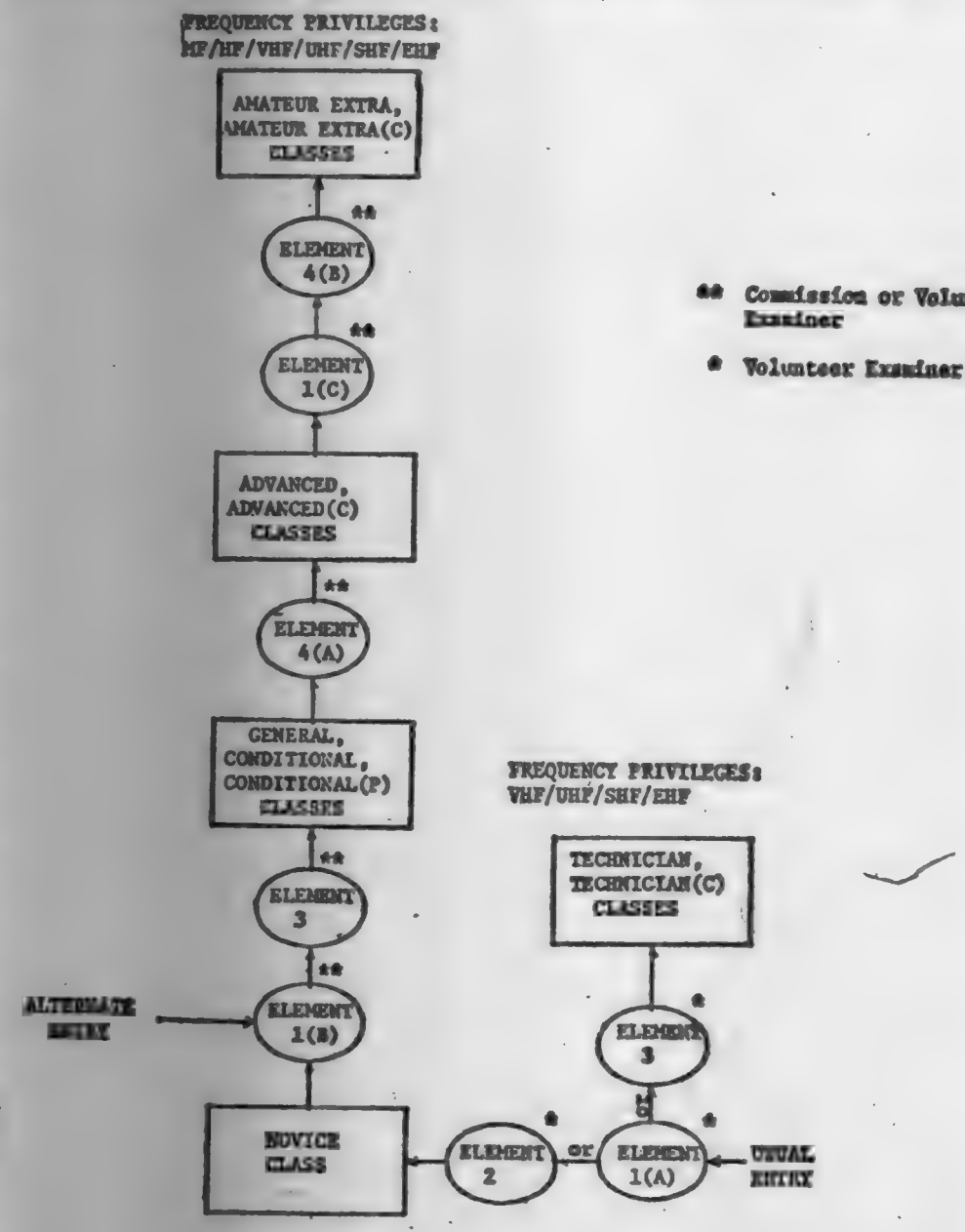


FIGURE 1. PRESENT STRUCTURE OF OPERATOR LICENSE CLASSES, EXAMINATION ELEMENTS AND FREQUENCY PRIVILEGES.

[1] Radio Regulation Annexed to the International Telecommunication Convention (Geneva, 1959) Article 41, section S(1).

[2] A Survey and Analysis of the Citizens Radio Service. P.B.—204 595

license would be offered, Series A and the Communications Act of 1934 does

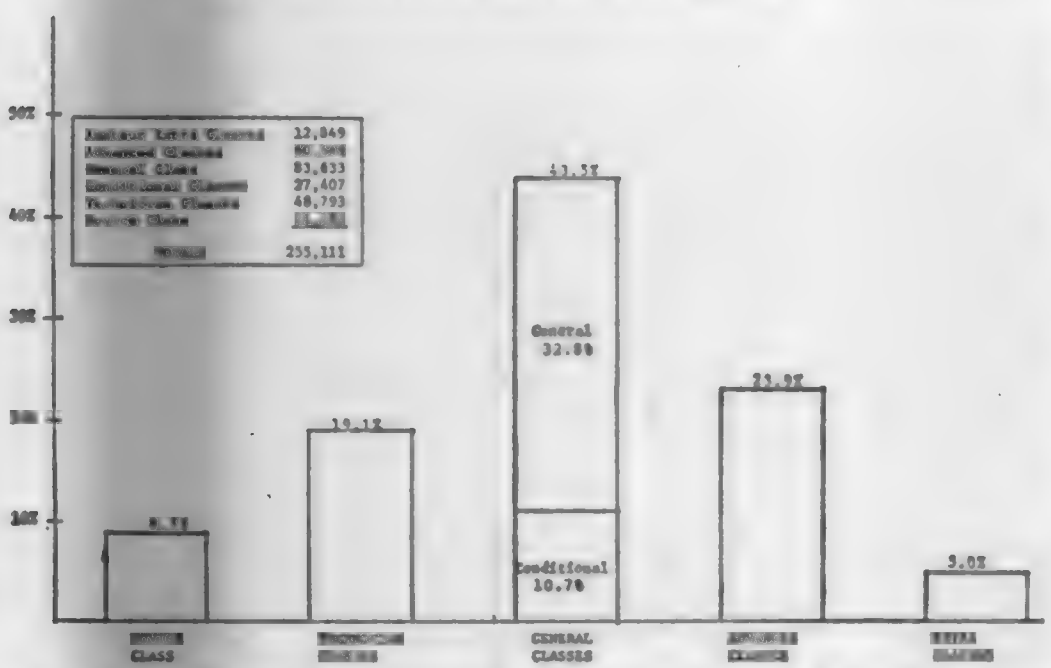
11. Under the proposed license class

6. The privileges associated with each operator license class are intended to provide the necessary incentives for amateurs to upgrade their skills. This system has been largely responsible for thousands of amateurs to upgrade, particularly to Advanced Class and to Amateur Extra Class. The current number of operators in each license class is shown in Figure 2. While it is gratifying to see even the limited success of this system toward fulfilling the basis and purpose of the Amateur Radio Service, it is a desirable goal for most amateurs to reach a higher operator class, say the Advanced Class, or even the Amateur Extra Class.[1]

7. An inherent principle in arriving at any new licensing system is a logical relationship between the qualification requirements and the operator privileges authorized at each license class level. For instance, it would not be rational to require an applicant to demonstrate a certain specific proficiency in order to qualify for a particular operator license class which authorized no corresponding privileges requiring that proficiency. Conversely, an operator license class should not authorize significantly more privileges than the requirements for that license class reasonably justify. While we believe there are the means available within the Amateur Service to satisfy the reasonable needs of most United States citizens having a genuine interest in pursuing radio activities within the basis and purpose of the Service, there are basic limitations brought about by practical realities. For example, the vast array of interests and levels of ability among amateurs must be provided for within a fixed number of different operator license classes. The resources available to the Commission for regulating the Service are not unlimited. Issuing licenses, preparing and conducting examinations, monitoring the frequencies, enforcing the regulations, etc., are all activities that must be provided by the Commission. In this proceeding, we are moving on the assumption the amateurs' record of cooperation and assistance will continue in the future, and an unduly large increase in the Commission's workload will not be necessary.

[1] Section 97.1(c) states as one of the principles expressing a fundamental purpose of the Amateur Radio Service: "Encouragement and improvement of the Amateur Radio Service through the rules which provide for advancing skills in both the communication and technical phases of the art."

FIGURE 2. PERCENTAGE OF AMATEUR LICENSEES IN EACH CLASS, May, 1974



8. We are proposing in this proceeding to establish a new Communicator Class operator license, having no telegraphy requirements nor privileges. Operation under this license would be limited in a manner similar to that of the current Novice Class, except frequency privileges would be above 144 MHz. The objective would be to enable beginners to enter the Amateur Radio Service and, through the experience gained by operation of a low-power radiotelephony station, develop the necessary interest and skill to qualify for higher class operator licenses.

9. Those petitions calling for another new operator license class above the current Technician Class raise significant questions regarding the scope of the Technician Class as presently constituted. For example, in RM-1535, the American Radio Relay League (ARRL) states:

> It is readily apparent from the various pronouncements of the Commission over the years and from the present interests and operations of Technician Class licenses that the purposes for which the Technician Class was established * * * require review. It is respectfully suggested that any Notice of Proposed Rule Making invite comments and suggestions for major revisions of the Technician Class license * * * In numerous disasters * * * including the Alaskan earthquake in 1964 and the recent Hurricane Camille, the contributions of Technicians in providing internal communications have been valuable beyond estimation. Participation by Technicians in the League's Amateur Radio Emergency Corps (AREC) has grown over the years. The evolution of Technicians as communicators as well as experimenters * * * since the class was established must be recognized.

Although interest in the communication aspects of amateur radio has emerged among the some 49,000 Technician Class licensees, apparently they are not sufficiently persuaded by the additional communication privileges in the High Frequency (HF) and Medium Frequency (MF) amateur bands afforded to General Class licensees to the extent of increasing their telegraphy skill from 5 words to 13 words per minute, the only real difference in qualification between the two license classes. The needs and interests of this group probably are fully satisfied by the operation of an amateur radio station in the VHF (Very-high Frequency) regions and above. Accordingly, we can conclude technological and operational developments by amateurs in the VHF, and possibly in the UHF (Ultra-high Frequency) bands, have reached the point where the interest to amateurs is comparable to, if not already exceeding, that in the MF and HF "shortwave" bands. Therefore, in order provide meaningful incentives for amateurs interested in this part of the radio spectrum to upgrade their skills, the incentive principles should also be applied for these bands similar to those now in effect in the shortwave bands. A new higher class operator license comparable in requirements and privileges to the Advanced Class, except based upon operation above 29 MHz, may be desirable. Obviously, for this new higher class license, any additional telegraphy skill is not meaningful since telegraphy is not a major communication mode in these frequency bands. However, other modes, such as television, remote control, facsimile, repeaters etc., are very meaningful, and need to be emphasized. Therefore, we are proposing another new operator class license, the Experimenter Class, as the means toward fulfilling these needs.

10. We have examined several possible revised operator license class structures in a search for the best way to incorporate the proposed Communicator Class and the proposed Experimenter Class licenses. As broad objectives, we desire to (1) preclude, or at least minimize, any adverse impact upon presently licensed amateurs, (2) closely relate requirements to privileges for each license class, (3) provide realistic upgrading steps and incentives, (4) provide the opportunity and flexibility for persons interested only in shortwave radio, or only in VHF and above, of interested in both, to obtain a license and pursue their particular interests. As a result, the structure we are proposing is shown in Figure 3, and the specific proposed rule amendments are given in the regulations below. In general, we favor this structure because it seems to more fully reflect our objectives and to satisfy most of the objectives of the petitioners. Two series of operator

license would be offered, Series A and Series B. Amateurs would be permitted to hold one operator license permitting privileges in one or both series. For example, an amateur could hold an operator license authorizing Novice Class privileges in Series A and also Technician Class privileges in Series B, a request asked for by several petitioners. Operator licenses in Series A would authorize only privileges on amateur frequencies below 29 MHz, and operator licenses in Series B would authorize only privileges on amateur frequencies above 29 MHz. Operator licenses would normally be issued for a 5 year renewable term, including the Communicator Class and the Novice Class in order to compensate for any increased administrative burdens resulting from the proposed amendments. (Novice Class licensees are currently issued on a 2 year, non-renewable basis, no filing fee). Section 303(L)(1) of the Communications Act of 1934 does allow us to issue operator licenses for life, as requested for the Amateur Extra Class in RM-2030. Under our current rules, the operator license[5] is always combined with the Primary station license which cannot be granted for a term longer than 5 years, a requirement of section 307(d) of the Act. We are proposing to adopt the request. Our records indicate very few amateurs drop out of amateur radio after they have attained the Amateur Extra Class. The licensee would still be required to renew his station license(s) every five years, so in effect, this proposed rule would amount to eliminating the need to retake the examinations should the amateur neglect to renew his license.

[5] Although large certificates are awarded to Amateur Extra Class licensees upon request, the certificates do not satisfy the availability requirements of § 97.83.

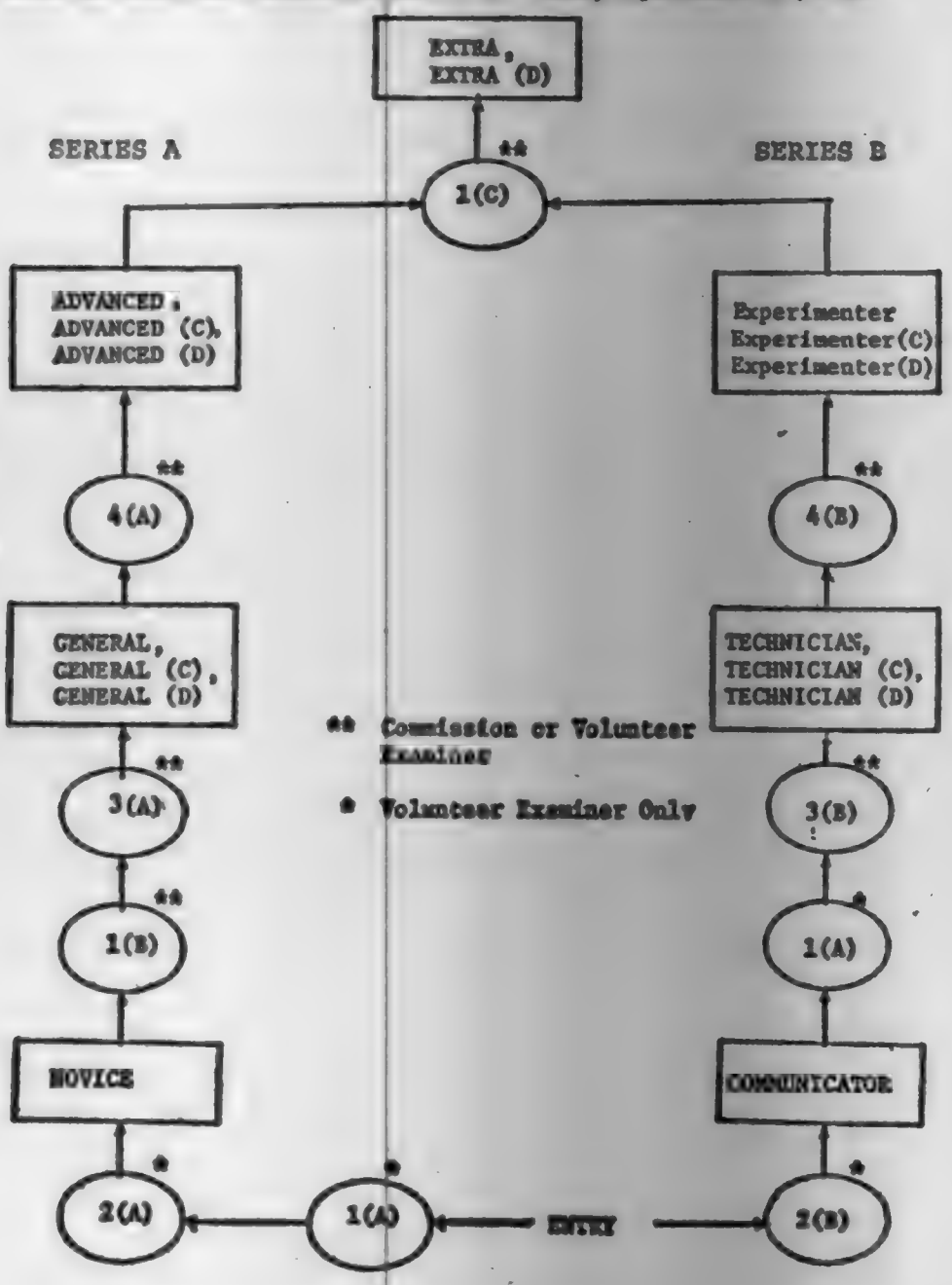


FIGURE 3. PROPOSED REVISED STRUCTURE OF OPERATOR LICENSE CLASSES AND EXAMINATION ELEMENTS

11. Under the proposed license class structure, new Advanced Class licenses and General Class licenses would no longer carry requirements and privileges above 29 MHz. The Experimenter Class and the Technician Class would be the counterpart operator licenses in Series B, and would not carry any requirements and privileges in Series A frequency bands. The current Amateur Extra Class would be shortened in name to Extra Class, and would authorize full amateur privileges in both series. We are proposing to discontinue the written examination and the exclusive telephony segments available only to this class. The material in the current Element 4(B) examination required for Amateur Extra Class would be combined with the material for the current Advanced Class Element 4(A) and, together with other new material, be used in new examination Elements 4(A) and 4(B) for the Advanced Class and Experimenter Class respectively. Material related to the shortwave domain would be used in 4(A) and material related to the other domains would be used in 4(B). After obtaining both the Advanced Class and Experimenter Class, an amateur would then only need pass the Element 1(C) 20 word per minute telegraphy examination to qualify for the Extra Class. Because of this additional telegraphy requirement, the Extra Class would continue to have exclusive telegraphy subband privileges.

12. Under the proposed license structure, every currently licensed amateur radio operator would automatically be eligible to renew upon application, his current operator license to include privileges in at least one, and in most cases both series without further examination. Table 1 illustrates the highest class, or classes, of operator license that could be obtained without further examination.

13. Both of the proposed license series would be based upon three levels of difficulty: a beginner level, an intermediate level, and an advanced level. Ideally, this type of system would offer a newcomer the opportunity to enter the Amateur Radio Service at the beginner level with a minimum of proficiency, gain the experience and practical knowledge necessary to qualify for the intermediate level, and then move on to the advanced level. The privileges authorized at both the beginner and intermediate levels would be only those necessary to provide the desired experience for upgrading. Similarly, the related qualification requirements would be only the minimum necessary to insure that the licensee understands the privileges, limitations, and responsibilities associated with the license, with particular emphasis on methods for properly evaluating emissions of the type(s) authorized by the license.

14. We are proposing three principal areas of operator privileges: operating frequencies, emissions, and maximum transmitter power. For Series A, the authorized frequency bands would be basically the same as at the present be-

low 29 MHz, except the exclusive telephony segments reserved to the Amateur Extra Class would be also available to the Advanced Class. In Series B, the Technician Class would be authorized all amateur frequencies above 50 MHz, thus gaining additional frequencies 50.0–50.1 MHz and 144–145 MHz. The Experimenter Class would be authorized all above 29 MHz, and the Communicator Class all above 144 MHz. The Extra Class and Experimenter Class would be authorized all amateur emissions. The Advanced Class would be authorized all amateur emissions permitted below 29 MHz. The General and Technician Classes would be authorized emimions A1, A3, and F3. The Novice Class would continue with A1 only, while the new Communicator Class would be permitted emission F3. Related examination elements would contain questions concerning the technical and operational aspects of the emissions authorized.

TABLE 1. Eligibility of currently licensed amateur radio operators for proposed new operator licenses, without further examination.

CURRENT OPERATOR CLASSES / PROPOSED OPERATOR CLASSES	Amateur Extra Class	Amateur Extra (C) Class	Advanced Class	Advanced (C) Class	General Class	Conditional Class	Conditional (P) Class	Technician Class	Technician (C) Class	Novice Class
SERIES E										
Extra Class	X									
Extra (D) Class		X								
SERIES B										
Experimenter Class			X							
Experimenter(C) Class				X						
Experimenter(D) Class					X					
Technician Class						X			X	
Technician (C) Class							X			X
Technician (D) Class								X		
Communicator Class										
SERIES A										
Advanced Class				X						
Advanced (C) Class										
Advanced (D) Class					X					
General Class						X				
General (C) Class							X			
General (D) Class								X		
Novice Class									X	X

15. In proposing maximum transmitter power levels, we have taken into consideration a number of factors. Amateur transmitters have not been a significant source of interference to other services, and where there has been a problem, amateurs have been very cooperative. Also, amateurs, by and large, do use the minimum transmitter power necessary to conduct their communications. Therefore, there should be no real problem if the limits were to be increased in some instances. We would like to improve the technique specified in the rules for determining power. Modern communications requires better methods for determining transmitter power than the "plate voltage times current" method. We are proposing to specify the maximum transmitter output in terms of peak envelope power (PEP), except at the beginner level where the emissions authorized do permit a fairly accurate measurement to be made of the input power using the method now specified. Under current rules and practices, the maximum output peak envelope power that could be developed would be on the order of 2000 watts (100 percent modulated, full carrier, double sideband A3). Specifying this level as advanced amateur practice, and 6 dB (approximately one "S" unit) as intermediate amateur practice (500 watts PEP output) is the method used to establish these proposals. An additional 6 dB lower step (250 watts input approximates 125 watts output PEP for A1 and F3 emissions) would be the beginner level.

16. The requirements for a new license, as shown in the regulations below, are similar to those now in effect, except the content of the various examination elements would be adjusted to more closely correlate with the privileges for each particular license class. While we are not proposing to lower, or increase, the telegraphy speed requirements, we are proposing a modification in the manner of testing. In RM–1724, the petitioner claims most operators must pass through a "code hump" between the speeds of 11 and 13 words per minute. Possibly the 5 wpm rate and the 10 wpm rate require the same skill level. In any event, the 13 wpm rate does require a skill level above that required for a 5 wpm rate. Otherwise, there would be no point to have both a Technician Class and a General Class under the present rules, since the two skill levels are the only difference between the requirements. Therefore, we are not proposing any changes in the telegraphy examination speeds.

17. Under the proposed system, the operator license for an amateur qualifying by means of a mail examination on the basis of a protracted physical disability would have the letter (D) inserted following the operator class [example: Advanced (D) class]. A license of this type would be renewable without re-examination upon satisfactory showing the disability continued, and they could not appear for a regular Commission supervised examination. Otherwise, they would be required to demonstrate their proficiency through re-examination. The operator license of an amateur qualifying by means of a mail examination on the basis of difficulty in traveling to a regular Commission examination point, would have the letter (C) inserted following the operator class (example: General (C) class). The only purpose of this conditionally issued type of license would be to provide a temporary authorization until the person could qualify before a Commission examiner. Hence, these licenses would not be renewable, since it would not be unreasonable to expect a conditionally licensed amateur to travel to one of the many Commission examining points sometime within the five year period. He would then have to successfully complete a regular Commission su-

[1] See § 97.27.

pervised examination in order to continue as an amateur radio operator.

18. In the best interests of the Amateur Radio Service, and to be fair to all amateurs, we believe that every applicant should clearly establish his qualifications for the privileges authorized by an amateur radio operator license. Overall, our experience indicates mail examinations are not as effective as Commission supervised examinations in establishing qualifications. Because of our experience in re-examining amateur radio operators, and considering the proposed amendments may place additional demands upon a mail examination system, we are proposing some amendments in the regulations below intended to improve the system. Only an Extra Class licensee would be eligible to serve as a volunteer examiner for all examination elements. Advanced Class licensees would be eligible to administer examination elements for the General (C) and (D), and Novice Classes. Experimenter Class licensees would be eligible to administer examination elements for the Technician (C) and (D), and the Communicator Classes. Another proposal is to increase the required number of persons administering a volunteer examination. The second person may be the holder of any class of amateur operator license.

19. A specific call sign proposal is not included in this proceeding. However, because of the ramifications of this proposal, some relative comments are appropriate. Existing licensees will be able to retain current call signs if desired, and if authorized for both privileges, the same call sign may be used in both Series A and B. Licensees in Series B entering amateur radio as a result of this proceeding, will be issued a distinctive call sign for operation in that Series. If a later authorization for Series A privileges is granted, the single resulting call sign will reflect the dual Series authorization. Under this proposal, Technician Class licensees could obtain Novice privileges in Series A without examination, and therefore could retain their present call signs if desired. Further details will be contained in the call sign proceeding to be issued.

20. In view of the extensive amendments to the rules requested by the petitioners, and those proposed herein, it is imperative those submitting comments carefully consider the future needs of the Amateur Radio Service. To this end, we are allowing more than the normal amount of time for suggestions and comments to be filed. These proposals represent our best thoughts in these important matters. We are interested in receiving comments from informed amateurs in these areas.

21. Authority for the proposed rule changes herein is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

22. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before June 16, 1975, and reply comments on or before July 16, 1975. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision on the rules which are proposed herein, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

23. In accordance with the provision of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, pleadings, briefs, or other documents shall be furnished the Commission.

24. All filings in this proceeding will be available for examination by interested parties during regular business hours in the Commission's public reference room at its headquarters in Washington, D.C. (1919 M Street NW.).

Adopted: December 4, 1974.

Released: December 16, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] VINCENT J. MULLINS, *Secretary.*

APPENDIX I
PETITIONERS

1. RM–1016, D. McGarrett, Centerreach, New York
2. RM–1363, K. J. Deskur, Endwell, New York
3. RM–1454, S. C. Davis, Manchester, Connecticut
4. RM–1456, W. Green, Peterborough, New Hampshire
5. RM–1516, E. W. DeCloedt, Cupertino, California
6. RM–1521, W. A. Welch, II, Wappong, Connecticut
7. RM–1526, E. C. Lips, Pittsburgh, Pennsylvania
8. RM–1535, American Radio Relay League, Newington, Connecticut
9. RM–1568, E. E. Gooch, Brilliant, Ohio
10. RM–1572, C. DeWitt, Omaha, Nebraska
11. RM–1602, C. R. Clark, Notre Dame, Indiana
12. RM–1615, C. C. Drumeller, Warr Acres, Oklahoma
13. RM–1629, M. K. Gormley, APO, New York, New York
14. RM–1633, W. Green, Peterborough, New Hampshire
15. RM–1656, Ronald A. Reed, West Los Angeles, California
16. RM–1724, R. A. Cowan, Port Washington, New York
17. RM–1793, G. Jacobs, Silver Spring, Maryland, S. F. Meyer, Linden, New Jersey
18. RM–1805, Radiotrician Confederation, Grouse Creek, Utah
19. RM–1841, United CB'ers of America, Detroit, Michigan
20. RM–1920, C. W. Tazewll, Baltimore, Maryland
21. RM–1947, R. R. Dopmeyer, Opelousa, Louisiana
22. RM–1976, Edgewood Amateur Radio Society, Baldwin Park, California
23. RM–1991, U.S. Citizens Radio Council
24. RM–2030, L. E. White, Closter, New Jersey
25. RM–2043, R. E. Heimberger, Shaker Heights, Ohio
26. RM–2053, Hercules Radio and Recording Studio, Daytona Beach, Florida
27. RM–2149, M. R. Wardean, Venice, California
28. RM–2150, W. A. Schroeder, Cherry Hill, New Jersey
29. RM–2162, Falmouth Amateur Radio Association, Woods Hole, Massachusetts
30. RM–2166, W. Brady, Norwalk, California
31. RM–2216, H. M. Krawetz, Sunnyvale, California
32. RM–2219, J. C. Halliford, Ft. Stockton, Texas
33. RM–2256, M. S. Donnell, San Jose, California
34. RM–2284, S. E. Green, et al., Austin, Texas
35. RM–2449, P. Williams, Santa Cruz, California

Part 97, of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 97.5 is revised to read:

§ 97.5 Classes of operator licenses.

(a) The following Series A operator licenses authorize operations in the amateur radio frequency bands below 29 MHz:

(1) *Advanced Class, Advanced(C) Class, Advanced(D) Class.* Licenses to conduct amateur radio communications using advanced level amateur practices.

(2) *General Class, General(C) Class, General(D) Class.* Intermediate grade licenses to conduct amateur radio communication for the purpose of developing individual proficiency toward qualifying for the Advanced Class license.

(3) *Novice Class.* Introductory grade license to conduct amateur radio operation for the purpose of developing proficiency toward qualifying for the General Class license.

(b) The following Series B operator licenses authorize operations in the amateur radio frequency bands above 29 MHz:

(1) *Experimenter Class, Experimeter (C) Class, Experimenter(D) Class.* Licenses to conduct amateur radio communication using advanced level practices.

(2) *Technician Class, Technician(C) Class, Technician (D) Class.* Intermediate grade licenses to conduct amateur radio communication for the purpose of developing individual proficiency toward qualifying for the Experimenter Class license.

(3) *Communicator Class.* Introductory grade license to conduct amateur radio communication for the purpose of developing individual proficiency toward qualifying for the Technician Class and Novice Class licenses.

(c) The Extra Class and Extra(D) Class licenses authorize amateur radio operation using all authorized privileges, including certain exclusive privileges.

(d) The designator (C) following the type of operator license class indicates the license is conditionally issued because the licensee qualified under the provisions of § 97.26.

(e) The designator (D) following the type of operator license class indicates the license is conditionally issued because the licensee qualified under the provisions of § 97.27.

2. Section 97.7 is revised to read as follows:

[1] Commissioner Quello absent.

§ 97.7 Privileges of operator license.

The following operating privileges are authorized by the class of operator license indicated for all new amateur licenses issued after (effective date of new rules). Amateurs licensed prior to the date will receive a new license upon the first renewal after (effective date of new rules):

(a) *Extra Classes.* All amateur radio operator privileges.

(b) *Advanced Classes.* All amateur radio operator privileges below 29 MHz, except for frequencies 3500–3525 kHz, 7000–7025 kHz 14000–14025 kHz, and 21.000–21.025 MHz.

(c) *General Classes.* (1) Frequencies 1800–2000 kHz, 3525–3775 kHz, 3890–4000 kHz, 7.025–7.150 MHz, 7.225–7.300 MHz, 14.025–14.200 kHz, 14.275–14.350 kHz, 21.025–21.250 MHz, 21.350–21.450 MHz and 28.0–29.0 MHz within the limitations of § 97.61.

(2) Emissions A1, A3, and F3.

(3) Except for power limitations set forth in § 97.61, the maximum transmitter output power shall not exceed 500 watts peak envelope power.

(d) *Novice Class.* (1) Frequencies 3700–3750 kHz, 7100–7150 kHz, (7050–7075 kHz when the amateur radio operation is not within Region 2), 21.100–21.200 MHz, and 28.100–28.200 MHz.

(2) Emission A1.

(3) 250 watts input power to the transmitter final amplifying stage supplying radio frequency energy to the antenna, exclusive of power for heating the cathode of a vacuum tube(s), within the limitations of § 97.67.

(e) *Experimenter Classes.* All amateur radio operator privileges above 29 MHz.

(f) *Technician Classes.* (1) All amateur frequencies above 50 MHz.

(2) Emissions A1, A3, and F3.

(3) Except for power limitations set forth in § 97.61, the maximum transmitter output power shall not exceed 500 watts peak envelope power.

(g) *Communicator Class.* (1) All amateur frequencies above 144 MHz.

(2) Emission F3.

(3) 250 watts input power to the transmitter final amplifying stage supplying radio frequency energy to the antenna, exclusive of power for heating the cathode of a vacuum tube(s), within the limitations of § 97.67.

3. Section 97.9 is revised to read as follows:

§ 97.9 Eligibility for a new operator license.

Any citizen[1] or national of the United States is eligible to apply for an amateur radio operator license. A person may be issued no more than one operator license in Series A, and no more than one in Series B. A holder of an Extra Class operator license may not hold any other amateur radio operator license issued by the Commission. The requirements for each operator class are:

[1] Senate Bill 2457 if enacted; would delete citizenship requirement.

(a) *Extra Class.* Applicant shall have successfully completed examination elements 1(C), 2(A), 2(B), 3(A), 3(B), 4(A), and 4(B).

(b) *Advanced Class.* Applicant shall have successfully completed examination elements 1(B), 2(A), 3(A), and 4(A).

(c) *General Class.* Applicant shall have successfully completed examination elements 1(B), 2(A), and 3(A).

(d) *Novice Class.* Applicant shall have successfully completed examination elements 1(A) and 2(A).

(e) *Experimenter Class.* Applicant shall have successfully completed examination elements 1(A), 2(B), 3(B), and 4(B).

(f) *Technician Class.* Applicant shall have successfuly completed examination elements 1(A), 2(B), and 3(B).

(g) *Communicator Class.* Applicant shall have successfully completed examination element 2(B).

4. Section 97.13 and headnote are revised to read as follows:

§ 97.13 Eligibility for renewal of operator license.

(a) An amateur radio operator license, other than a conditionally issued license, may be renewed upon proper application, in which it is stated that the applicant is fully qualified in the requirements for the original license of the class being renewed. If the applicant is not fully qualified, the license will not be renewed, and the applicant may apply for a new operator license if and when he qualifies by examination at a later date.

(b) If a license, other than a conditionally issued license, is allowed to expire, application for renewal may be made during a period of grace of 1 year after the expiration date. During this 1 year period of grace, an expired license is not valid. A license renewed during the grace period will be dated currently and will not be backdated to the date of its expiration.

(c) Application for renewal of an amateur radio operator license shall be submitted on FCC Form 610 and shall be accompanied by the applicant's operator license or photocopy thereof. Application for renewal of unexpired licenses must be made during the license term. In any case in which the licensee has, in accordance with the provisions of this section, made timely and sufficient application for renewal of an unexpired license, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined.

(d) Operator licenses obtained on the basis of § 97.26 are not renewable.

(e) Operator licenses obtained on the basis of § 97.27 are not renewable unless the application is accompanied by a current physician's affidavit.

(f) Extra Class operator licenses are issued for the life of the licensee, and do not have to be renewed.

5. Section 97.15 is added new to read as follows:

§ 97.15 Modification of operator license.

(a) Application for modification of an amateur radio operator license shall be submitted on FCC Form 610 and shall be accompanied by the applicant's operator license(s) or photocopy(s) thereof.

(b) When only the name of the licensee is changed, or when only the mailing address is changed, a formal application for modification of license is not required. However, the licensee shall notify the Commission promptly of these changes. The notice, which may be in letter form, shall contain the name and address of the licensee as they appear in the Commission's records, the new name and/or address, as the case may be, the primary station call sign and class of operator license. The notice shall be sent to Federal Communications Commission, Gettysburg, Pennsylvania 17325, and a copy shall be kept by the licensee until a new license is issued.

6. Section 97.21 is revised to read as follows:

§ 97.21 Examination elements.

Examination for amateur radio operator privileges will comprise one or more of the following elements:

(a) *Element 1(A).* Slow speed telegraphy test in International Morse Code at 5 words per minute.

(b) *Element 1(B).* Intermediate speed telegraphy test in International Morse code at 13 words per minute.

(c) *Element 1(C).* High speed telegraphy test in International Morse code at 20 words per minute.

(d) *Element 2(A).* Rules, basic principles, and amateur practices essential to beginners' amateur radiotelegraphy operation using the privileges authorized in the Novice Class.

(e) *Element 2(B).* Rules, basic principles, and amateur practices essential to beginners' amateur radiotelegraphy operation using the privileges authorized to the Communicator Class.

(f) *Element 3(A).* Rules, intermediate level principles, and amateur practices essential to amateur radio operation using the privileges authorized to the General Class.

(g) *Element 3(B).* Rules, intermediate level principles, and amateur practices essential to amateur radio operation using the privileges authorized to the Technician Classes.

(h) *Element 4(A).* Advanced level principles and amateur practices essential to amateur radio operation using the privileges authorized to the Advanced Class.

(i) *Element 4(B).* Advanced level principles and amateur practices essential to amateur radio operation using the privileges authorized to the Experimenter Class.

7. Section 97.23 is revised to read as follows:

§ 97.23 Examination requirements.

(a) The telegraphy test required of an applicant for an amateur radio operator license shall determine the applicant's ability to send correctly by hand

using a hand key (or, if supplied by the applicant, a semi-automatic or electronic, hand operated key, other than keyboard type) and to receive correctly by ear, in plain language, messages in the International Morse code at not less than the prescribed speed, counting 5 characters to the word, each numeral or each punctuation mark counting as 2 characters.

(b) All written examinations for an amateur radio operator license shall be completed by the applicant in legible handwriting or hand printing by means of ink or pencil. Whenever the applicant's signature is required, his normal signature shall be used. Applicants unable to comply with these requirements, because of a physical disability, may dictate their answers to the examination questions and to the receiving code test. If the examination, or any part thereof, is dictated by the applicant, the examiner shall certify the nature of the applicant's disability and the name and address of the person(s) taking and transcribing the dictation.

8. Section 97.25 is revised to read as follows:

§ 97.25 Examination credit.

(a) An applicant for an amateur radio operator license will be given credit for those examination elements required for any other class or operator license held when the application is filed. However, credit will not be given for examination elements 1(B), 3(A), 3(B), 4(A), and 4(B) given under the provisions of § 97.30 for a class of operator license other than that being applied for, except for holders of Advanced (D) Class, Experimenter (D) Class, General (D) Class, and Technician (D) Class when qualifying for a license under the provisions of § 97.27.

NOTE.—Credit for examination elements will be given to applicants holding a valid operator license at the time of the adoption of this rule, in accord with the following schedule, during a period not exceeding one year following the expiration date on the current license:

(1) *Amateur Extra Class.* All examination elements.

(2) *Amateur Extra (C) Class.* Elements 1(A), 2(A), and 2(B). Also all other examination elements as if passed on the basis of § 97.27.

(3) *Advanced Class.* Elements 1(A), 1(B), 2(A), 2(B), 3(A), 3(B), 4(A), and 4(B).

(4) *Advanced (C) Class.* Elements 1(A), 2(A), and 2(B). Also elements 1(B), 3(A), 3(B), 4(A), and 4(B) as if passed on the basis of § 97.27.

(5) *General Class.* Elements 1(A), 1(B), 2(A), 2(B), 3(A), and 3(B).

(6) *Conditional Class.* Elements 1(A), 2(A), and 2(B). Also elements 1(B), 3(A), and 3(B) if passed on the basis of § 97.28.

(7) *Conditional Class (P) Class.* Elements 1(A), 2(A), and 2(B). Also elements 1(B), 3(A), and 3(B) as if passed on the basis of § 97.27.

(8) *Technician Class.* Elements 1(A), 2(B), 3(A), and 3(B).

(9) *Technician (C) Class.* Elements 1(A), 2(A), and 2(B). Also elements 3(A) and 3(B) as if passed on the basis of § 97.28.

(10) *Novice Class.* Elements 1(A) and 2(A).

(b) Upon request, an applicant for an amateur radio license will be given credit for element 1(A) and 1(B) if within 5 years prior to the receipt of his application by the Commission, he held a commercial radiotelegraph operator license or permit issued by the Federal Communications Commission.

(c) Upon request, an applicant for an amateur radio operator license will be given credit for elements 1(A), 1(B), and 1(C), if he holds a valid First Class commercial radiotelegraph operator license or holds any commercial radiotelegraph operator license or permit issued by the Commission containing aircraft radiotelegraph endorsement.

(d) Applicant submitting evidence of having held the Amateur Extra First Class operator license and having held its successor license will be given credit for examination element 1(C) if he so requests. An applicant must present his proof in advance of the desired examination time to the Amateur and Citizens Division, Washington, D.C., 20554 and receive a letter of certification for presentation to the Commission Field Office where the examination will be taken. No credit for the telegraphy requirement will be given without the letter of certification.

9. Section 97.27 and headnote are revised to read as follows:

§ 97.27 Availability of operator license to physically disabled persons.

If it is shown by physician's certificate an applicant is unable to travel to any regular Commission examination point because of a protracted physical disability, a new or renewed Extra (D) Class, Advanced (D) Class, Experimenter (D) Class, General (D) Class, or Technician (D) Class operator license may be issued on the basis of examinations successfully passed under the provisions of § 97.30. These licenses may not be renewed without a current physician's affidavit.

10. Section 97.28 and headnote are revised to read as follows:

§ 97.28 Availability of operator license to persons residing at great distances from Commission examination points.

(a) A new Advanced (C) Class, Experimenter (C) Class, General (C) Class, or Technician (c) Class license may be issued on the basis of examinations successfully passed under the provisions of § 97.30 under one of the following conditions:

(1) If the applicant's legal residence, mailing address, and/or any station location or proposed station location are more than 175 miles actual distance from the nearest Commission examining point.

(2) If the applicant is shown by certificate of the commanding officer to be in the armed forces of the United States at an Army, Navy, Air Force, or Coast Guard station and, for that reason, to be unable to appear for examination at a Commission examination point.

(3) If the applicant demonstrates by sufficient evidence that he is unable to appear at a Commission examination point because his current temporary residence, for the 12 coming months is outside the continental limits of the United States, its teritories or possessions.

(b) Operator licenses obtained under the provisions of these rules are not renewable.

11. Section 97.29 and headnote are revised to read as follows:

§ 97.29 Manner of conducting Commission supervised examinations.

(a) Except as provided by § 97.27 and § 97.28, examination elements 1(B), 1(C), 3(A), 3(B), 4(A), and 4(B) may only be administered by an authorized Commission employee or representative at locations and at times specified by the Commission.

(b) Examination element 4(A) may only be administered to a person having successfully passed element 3(A).

(c) Examination element 4(B) may only be administered to a person having successfully passed element 3(B).

(d) Examination element 3(A) may only be administred to a person having successfully passed element 2(A).

(e) Examination element 3(B) may only be administered to a person having successfully passed examination elements 2(B).

12. Section 97.30 is added new to read as follows:

§ 97.30 Manner of conducting mail examinations.

(a) Unless otherwise prescribed by the Commission, examination elements 1(A), 2(A), 2(B), and any elements administered under the provisions of § 97.27 and § 97.28 will be conducted and supervised by two proxy volunteer examiners proposed by the applicant and approved by the Commission. The volunteer examiners shall be at least 21 years of age, shall be unrelated to the applicant, and at least one shall hold the proper class of license to administer examinations in accordance with the following schedule:

(1) *Extra Class.* All examination elements.

(2) *Advanced Class.* Examination elements 1(A), 1(B), 2(A), and 3(A).

(3) *Experimenter Class.* Examination elements 1(A), 2(B), and 3(B).

(b) Written examinations shall be obtained, administered, and submitted in accordance with the following procedure:

(1) Within 10 days after successfully passing any required telegraphy examination element, an applicant shall submit an application (FCC Form 610), together with any filing fee prescribed, to the Commission's office in Gettysburg, Pennsylvania 17325. The application shall include a written request from the volunteer examiners for the appropriate examination papers. The examiners' written request shall include (1) the name and mailing address of the volun-

teer examiners, (2) the name of the applicant, (3) a statement by the volunteer examiners that the applicant has passed the telegraphy examination element for the class of operator license, if required, under their supervision within the 10 days prior to the submission of the request, and (4) the volunteer examiners' signatures. Examination papers will be forwarded to one of the volunteer examiners.

NOTE.—When the applicant is entitled to credit for any telegraphy examination element under the provisions of § 97.28, an application may be submitted without regard to the 10 day limitation. The examiners' request should then state that a telegraphy examination was not administered for that reason. The applicant should furnish details as to the class, number, and expiration date of any license involved.

(2) The proxy volunteer examiners shall be responsible for the proper conduct and necessary supervisions of the examination. Administration of the examination shall be in accordance with the instructions included with the examination papers.

(3) The examination papers, either completed, or unopened in the event the examination if not administered for whatever reason, shall be returned by the volunteer examiner to the Commission's office at Gettysburg, Pennsylvania, no later than 30 days after the date the papers are mailed by the Commission (the date of mailing is normally stamped by the Commission on the outside of the examination envelope).

13. Section 97.33 is revised to read as follows:

§ 97.33 Eligibility for re-examination.

An applicant who fails an examination for an amateur radio operator license may not take another examination for the same or higher class license in the same series within 30 days.

14. Section 97.35 and headnote are revised to read as follows:

§ 97.35 Additional requirements for licensees holding licenses on the basis of mail examinations.

(a) A licensee holding an amateur radio operator license obtained by a mail examination administered by proxy volunteer examiners may be required to appear for a Commission supervised examination, the amateur radio license(s) the Commission. If the licensee fails to appear for this examination when directed to do so, or fails to pass such examination, the amteur radio license(s) involved shall be subject to cancellation. When a license is cancelled under this provision, a new license will not be issued for the same class of operator license as that cancelled.

(b) A holder of an amateur radio operator license obtained on the basis of a mail examination under the provisions of § 97.27 shall make application for re-examination within one-year upon becoming able to travel to any Commission examination point.

(c) A holder of an amateur radio operator license obtained on the basis of mail examination under the provisions of § 97.28 shall apply for re-examination within one-year of when the licensee changes his legal residence, or mailing address, and/or any station or proposed station location within 175 miles actual distance to the nearest Commission examination point, or when a new examination point is established within 175 actual miles distance to the licensee's legal residence, mailing address, or station location.

15. Section 97.38 is added new to read as follows:

§ 97.38 Types of station licenses and eligibility.

(a) The following types of station licenses are available to properly licensed amateur radio operators.

Type of station	*Eligible licensees*
Series A Primary station.	Extra Class, any Series A Class operator.
Series A Secondary station.	-Do-
Series B Primary station.	Extra Class, any Series B Class operator.
Series B Secondary station.	-Do-
Series A Club station.	Extra Class, Advanced Class operator.
Series B Club station.	Extra Class, Experimenter Class operator.
Repeater station, Control station, Auxiliary Link station, Space station.	Extra Class Experimenter Class operator.
Military Recreation station.	Individual, whether or not a licensed amateur radio operator, who is in charge of a proposed Military Recreation station.

16. Section 97.67 (a) and (b) are revised and paragraph (d) added to read as follows:

§ 97.67 Maximum authorized power.

(a) Within all other limitations specified herein, amateur radio stations shall use the minimum amount of transmitter power necessary to carry out the desired communications.

(b) Except for power limitations set forth in §§ 97.7 and 97.61, the maximum transmitter output power shall not exceed 2000 watts peak envelope power.[1]

• • • • •

[1] This is one proposal under consideration. The Commission is also considering alternatives such as PEP input, average power input, ratios of peak to average power output and limitations on dissipation ratings of final power amplifier devices or a combination of these. Specific comments on the practicality of these proposals, alternate proposals and the practicality of attendant power measuring techniques by amateur stations are requested.

We request comments on the need for rules limiting the use of techniques which increase the average power in A3 single sideband suppressed carrier transmissions, without increasing the peak envelope power. The comments should discuss the various techniques utilized for the purpose in the Amateur Radio Service, the engineering standards that must be observed for good amateur practice when using these techniques, the nature of any unnecessary interference that can be caused by the improper use of these techniques, and the capabilities of amateurs to make measurements necessary to proper usage.

(d) Any transmitter capable of exceeding the power limitations specified herein shall not be operated in the Amateur Radio Service unless there is incorporated adequate measures to insure the limitations will not be exceeded.

[FR Doc.74-29511 Filed 12-19-74;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 35, 101, 104, 154, 201, 204]

[Docket No. RM75-13]

ACCOUNTS AND REPORTS

Construction Work in Progress

DECEMBER 13, 1974.

Amendments to Uniform Systems of Accounts for Public Utilities and Licensees and for Natural Gas Companies (Classes A, B, C and D) and to regulations under the Federal Power Act and the Natural Gas Act, to provide for inclusion of construction work in progress in rate base.

On November 27, 1974, the American Public Power Association filed a motion to extend the time for filing comments to the above-designated rulemaking noticed November 14, 1974. Similar motions were filed by the Power Section, Georgia Municipal Association on November 29, 1974, the North Carolina Electric Membership Corporation on December 4, 1974, and the Edison Electric Institute on December 10, 1974.

Upon consideration, notice is hereby given that the time for filing comments in the above matter is extended to and including March 31, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29683 Filed 12-19-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 231 and 271]

[Release No. 33-5546, IC-8009; File No. S7-507]

SALES LITERATURE FOR INVESTMENT COMPANIES

Proposed Amendments of Statement of Policy; Extension of Comment Period

The Securities and Exchange Commission has received requests for an extension of the due date for comments upon its proposal to amend the Statement of Policy under the Securities Act of 1933. These proposed amendments would permit certain sample charts portraying investment results on a total return basis to be set forth in the sales literature employed in the sale of investment company securities. Notice of the proposed amendments was published on November 4, 1974 in Release Nos. 33-5537 and IC-8571

and in the FEDERAL REGISTER on November 20, 1974, 39 FR 40789.

The Commission desires a prompt determination with respect to adoption of the proposed amendments but has determined that an extension until February 14, 1975, is appropriate and will not result in undue delay.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

DECEMBER 6, 1974.

[FR Doc.74-29631 Filed 12-19-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1030, 1001, 1002, 1004, 1006, 1007, 1011, 1012, 1013, 1015, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1060, 1061, 1062, 1063, 1064, 1065, 1068, 1069, 1070, 1071, 1073, 1075, 1076, 1078, 1079, 1090, 1094, 1096, 1097, 1098, 1099, 1101, 1102, 1104, 1106, 1108, 1120, 1121, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1136, 1137, 1138, and 1139]

[Docket No. AO 361-A12, etc.]

MILK IN THE CHICAGO REGIONAL, AND CERTAIN OTHER MARKETING AREAS

Decision and Order To Terminate Proceeding on Proposed Amendments to Marketing Agreements and to Orders [1]

7 CFR part	Marketing area	Docket No.
1030	Chicago Regional	AO 361-A12.
1001	Boston Regional	AO 14-A54.
1002	New York-New Jersey	AO 71-A69.
1004	Middle Atlantic	AO 160-A52.
1006	Upper Florida	AO 356-A12.
1007	Georgia	AO 366-A12.
1011	Appalachian	AO 261-A17.
1012	Tampa Bay	AO 347-A16.
1013	Southeastern Florida	AO 286-A24.
1015	Connecticut	AO 305-A32.
1032	Southern Illinois	AO 313-A26.
1033	Ohio Valley	AO 166-A45.
1036	Eastern Ohio-Western Pennsylvania	AO 179-A40.
1040	Southern Michigan	AO 225-A29.
1044	Michigan Upper Peninsula	AO 299-A21.
1046	Louisville-Lexington-Evansville	AO 123-A41.
1049	Indiana	AO 319-A24.
1050	Central Illinois	AO 355-A17.
1060	Minnesota-North Dakota	AO 360-A11.
1061	Southeastern Minnesota Northern Iowa (Dairyland)	AO 367-A10.
1062	St. Louis-Ozarks	AO 10-A48.
1063	Quad Cities-Dubuque	AO 105-A40.
1064	Greater Kansas City	AO 23-A47.
1065	Nebraska-Western Iowa	AO 86-A33.
1068	Minneapolis-St. Paul	AO 178-A34.
1069	Duluth-Superior	AO 153-A23.
1070	Cedar Rapids-Iowa City	AO 229-A29.
1071	Neosho Valley	AO 227-A30.
1073	Wichita	AO 173-A31.
1075	Black Hills, S. Dak.	AO 248-A16.
1076	Eastern South Dakota	AO 260-A22.
1078	North Central Iowa	AO 272-A24.
1079	Des Moines, Iowa	AO 295-A29.
1090	Chattanooga, Tenn.	AO 266-A19.
1094	New Orleans, La.	AO 103-A36.
1096	Northern Louisiana	AO 257-A24.
1097	Memphis, Tenn.	AO 219-A30.
1098	Nashville, Tenn.	AO 184-A36.
1099	Paducah, Ky.	AO 183-A30.
1101	Knoxville, Tenn.	AO 195-A23.
1102	Fort Smith, Ark.	AO 237-A24.
1104	Red River Valley	AO 298-A24.
1106	Oklahoma Metropolitan	AO 210-A37.
1108	Central Arkansas	AO 243-A28.
1120	Lubbock-Plainview, Tex.	AO 328-A17.
1121	South Texas	AO 364-A9.

[1] See 39 FR 40782; November 20, 1974.

7 CFR part	Marketing area	Docket No.
1124	Oregon-Washington	AO 368-A7.
1125	Puget Sound, Wash.	AO 226-A27.
1126	North Texas	AO 231-A42.
1127	San Antonio, Tex.	AO 232-A28.
1128	Central West Texas	AO 238-A31.
1129	Austin-Waco, Tex.	AO 356-A24.
1130	Corpus Christi, Tex.	AO 259-A28.
1131	Central Arizona	AO 271-A18.
1132	Texas Panhandle	AO 262-A26.
1133	Inland Empire	AO 275-A27.
1134	Western Colorado	AO 301-A15.
1136	Great Basin	AO 309-A21.
1137	Eastern Colorado	AO 326-A19.
1138	Rio Grande Valley	AO 335-A22.
1139	Lake Mead, Nev.	AO 274-A2.

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Rosemont, Illinois, October 8-10, 1974, pursuant to notice thereof issued on September 18, 1974 (39 FR 34295).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Secretary for Marketing and Consumer Services, on November 13, 1974, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein subject to the following changes:

Under Issue No. 1, paragraphs 8 through 13 are revised into paragraphs 8 through 15.

The material issues on the record relate to:

1. Revising the basic formula floor price for Class I pricing purposes during the next few months; and

2. Whether an emergency exists to warrant the omission of a recommended decision.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Class I price level.* No action should be taken at this time to raise the minimum "floor" price for Class I milk in the Federal milk orders.

Presently, Class I prices under all orders are determined by adding a specified differential to a basic formula price, which is the average of prices paid during the second preceding month for manufacturing grade milk in Minnesota and Wisconsin. The basic formula price provisions of the orders specify that for the purpose of computing Class I prices such basic formula price shall be not less than $4.33. (The Red River Valley order does not have a basic formula price provision. Class prices under this order are tied to the Oklahoma Metropolitan order that uses the basic formula price.)

As stated in the hearing notice, the purpose of the hearing was to receive evidence with respect to the economic and emergency marketing conditions that relate to the minimum level of Class I price to be established for the forthcoming fall and winter months under each order. The specific proposal considered was to "amend each of the respective orders to provide immediately for a minimum basic formula price of up to $7.50 and for each of the months through March 1975."

Producer cooperative representatives in all markets testified in support of a basic formula "floor" price of $7.50 for computing Class I prices November 1974 through March 1975. Such witnesses stated that a $7.50 basic formula "floor" price is the minimum amount needed to help maintain an adequate supply of milk this fall and winter because recent large increases in the price of feed and other production items (notably fuel, fertilizer, machinery, electricity, hardware, and supplies) in the face of a drastic drop in milk prices last summer has placed dairy farmers in a severe cost-price squeeze which threatens the continued production of milk.

Milk producers from all regions of the country testified on the cost and returns situation on their farms. They cited rising production costs and the recent decline in the prices received for the milk, cattle, and calves they ship to market, and stated that they could not continue in milk production without significant improvement in the price received for their milk.

Cooperative association and producer witnesses were supported in their request for emergency price action by several members of Congress; state officials; representatives of national, state and local farm organizations; as well as certain proprietary handlers and associations of handlers. Other handler witnesses and a consumer witness gave proponents qualified support in that they do not expect dairy farmers to produce at a loss.

Certain handler witnesses expressed concern that immediate adoption of a $7.50 basic formula "floor" price would force handlers to increase resale prices too rapidly and would result in some loss in fluid milk sales volume. In this regard one handler proposed that any basic formula "floor" price be not more than $7.25 and not be made effective before December 1974. Handlers also expressed their concern that it takes some time to adjust their resale prices and therefore urged that they be afforded 25 days of advance notice of any Class I price increase.

Although the record amply demonstrates that the price decline in the second quarter of 1974 placed dairy farmers in a difficult cost-price situation, the current level of milk production continues to exceed demand, and thus there is no basis for modifying the present Class I price formulas at this time.

Milk and dairy product prices, which declined sharply in the second quarter of this year, have since increased rather

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significantly. As indicated in the record, the Minnesota-Wisconsin price increased from the seasonal low of $6.29 per hundredweight in July to $6.69 in September. Official notice was taken in the recommended decision of the Minnesota-Wisconsin price of $6.82 for October. Prices substantially above the July level are expected to prevail through early 1975.

Wholesale prices for butter and cheese likewise strengthened significantly by the time of the hearing. Average prices in September for these products were 6.5 to 7 cents per pound higher than during the summer months when these prices were at a low point this year. It is expected that such prices will remain above the earlier low levels through early 1975.

The decline in milk production experienced for an extended period has slackened. Milk production was up almost 3 percent over a year ago in September, the sharpest increase in almost a decade. This followed production gains during July and August. Monthly milk production is expected to be close to corresponding months of the prior year through early 1975, since dairy farmers are likely to retain their cows and feed supplies of roughage stored for this barn feeding season. Increased milk production in the third quarter accompanied by lower fluid milk sales pushed more milk into manufacturing uses, particularly into butter and nonfat dry milk.

On the demand side, during the first six months of 1974, Class I prices averaged about $2.50 above the prior year and Class I sales were about 5 percent lower for the corresponding period. This sales decline nearly stopped in September 1974 when Class I prices were $1.65 less than what they averaged during the first six months of the year.

The Commodity Credit Corporation has removed over one billion pounds of milk equivalent from the commercial market this year under the price support program. Purchases of nonfat dry milk continue to be sizable during the seasonally low milk production period, and some cheese is still being purchased. CCC inventories of nonfat dry milk are rising at a rapid rate, reaching about 135 million pounds at the end of October; a year ago CCC had no stocks. Commercial stocks of butter, cheese, and nonfat dry milk are at record levels, reflecting in substantial measure the excess of domestic production over domestic consumption.

The 2-month advance announcement of Class I prices under milk orders affords a measure of price assurance from now until action is required to be taken under the price support program. The October Minnesota-Wisconsin price of $6.82 is the basic formula price for computing December Class I prices. As indicated, it is expected that the Minnesota-Wisconsin price will remain near this level into early 1975. Under the circumstances, dairy farmers have reasonable assurance of Class I price levels through the remainder of the period through March 1975.

Further price assurance to dairy farmers is provided under the dairy price support program. The level of support required is that which will attract the production of adequate supplies of milk to meet the nation's needs. The support level for the 1975–76 marketing year must be established by April 1, 1975, and may not be less than 75 percent of parity. Even if the support price is established at the statutory minimum, the level of support will exceed the current level of manufacturing milk prices. Dairy farmers will benefit from this higher level of price assurance.

2. *Need for omitting recommended decision.* This proceeding included the issuance of a recommended decision and the opportunity to file exceptions thereto.

Consideration was given at the hearing to the need for omitting certain customary procedural steps to expedite the effectuation of any pricing amendments that might result from the hearing. For reasons set forth earlier, it was concluded that the orders should not be amended. Thus, no emergency was found that necessitated the omission of a recommended decision and the opportunity for interested parties to file exceptions to the proposed findings and conclusions.

Ruling on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Termination Order

In view of the foregoing, it is hereby determined that the proceeding with respect to proposed amendments to the tentative marketing agreements and to the orders should be and is hereby terminated.

Signed at Washington, D.C., on: December 16, 1974.

Richard L. Feltner,
Assistant Secretary.

[FR Doc.74-29703 Filed 12-19-74;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice 438]

ERIE COUNTY, NEW YORK

Application for Presidential Permit for a Pipeline at Erie County, New York

With reference to Executive Order 11423, the Secretary of State has received an application from the Lakehead Pipe Line Company, Inc., a Delaware Corporation and a wholly-owned subsidiary of Interprovincial Pipe Line Company, a Canadian corporation, for a permit for the construction, connection, operation and maintenance of a pipeline across the U.S.–Canadian boundary at a point on the boundary approximately 535 feet west of Lot 39, Town of Grand Island, Erie County, State of New York.

The pipeline will carry liquid hydrocarbons, and is an integral part of the proposed expansion of that part of the Interprovincial-Lakehead pipeline system between Westover, Ontario and Buffalo, New York.

The applicant has advised that it has applied to the Corps of Engineers for a permit in respect of the proposed crossing of the Niagara River.

Public comments on the application are invited. Anyone wishing to review the application and associated documents may do so in Room 6420, Department of State, Washington, D.C.

For the Secretary of State.

[SEAL] TERRY L. LEITZELL,
Acting Assistant Legal Adviser for Ocean, Environment and Scientific Affairs.

[FR Doc.74-29626 Filed 12-19-74;8:45 am]

[Public Notice CM-8/1]

GOVERNMENT ADVISORY COMMITTEE ON INTERNATIONAL BOOK AND LIBRARY PROGRAMS

Notice of Meeting

The Government Advisory Committee on International Book and Library Programs will meet in open session in Room 1406 in the Department of State, 2201 C Street, NW., Washington, D.C. from 9:00 a.m. to 5:00 p.m. on January 16, 1975.

The Committee will re-examine its role and establish priorities for its 1975 program. It will also begin discussions on improving techniques to teach the reading of English to non-native speakers.

For purposes of fulfilling building security requirements, anyone wishing to attend the meeting must advise the Executive Secretary by telephone in advance of the meeting. Telephone: 632-2841.

Dated: December 16, 1974.

CAROL M. OWENS,
Executive Secretary.

[FR Doc.74-29639 Filed 12-19-74;8:46 am]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 75-3]

FOREIGN CURRENCIES

Certification of Rates

DECEMBER 10, 1974.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 74-264 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Austria schilling:	
Nov. 25, 1974	$0.0564
Nov. 26, 1974	.0565
Nov. 27, 1974	.0565
Nov. 28, 1974	Holiday
Nov. 29, 1974	.0563
Belgium franc:	
Nov. 25, 1974	$0.026840
Nov. 26, 1974	.026890
Nov. 27, 1974	.026890
Nov. 28, 1974	Holiday
Nov. 29, 1974	.026840
Denmark krone:	
Nov. 25, 1974	$0.1720
Nov. 26, 1974	.1728
Nov. 27, 1974	[1]
Nov. 28, 1974	Holiday
Nov. 29, 1974	.1723
Germany deutsche mark:	
Nov. 25, 1974	$0.4068
Nov. 26, 1974	.4075
Nov. 27, 1974	.4059
Nov. 28, 1974	Holiday
Nov. 29, 1974	.4044
Netherlands guilder:	
Nov. 29, 1974	$0.3896
Switzerland franc:	
Nov. 25, 1974	$0.3720
Nov. 26, 1974	.3755
Nov. 27, 1974	.3725
Nov. 28, 1974	Holiday
Nov. 29, 1974	.3687

[SEAL] R. N. MARRA,
Director, Duty Assessment Division.

[FR Doc.74-29716 Filed 12-19-74;8:45 am]

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[1] Use Quarterly Rate.

Fiscal Service

[Dept. Circ. 570, 1974 Rev., Supp. No. 7]

NEW ENGLAND INSURANCE CORPORATION

Surety Companies Acceptable on Federal Bonds

A Certificate of Authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $2,858,000 has been established for the company.

Name of Company, location of principal executive office, and State in which incorporated:

New England Reinsurance Corporation

Boston, Massachusetts

Massachusetts

Certificates of Authority expire on June 30 each year, unless sooner revoked and new Certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the Circular, when issued, may be obtained from the Treasury Department, Bureau of Government Financial Operations, Audit Staff, Washington, D.C. 20226.

Dated: December 13, 1974.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.74-29715 Filed 12-19-74;8:45 am]

Office of the Secretary

PORTABLE ELECTRIC TYPEWRITERS FROM JAPAN

Antidumping; Withholding of Appraisement Notice

Information was received on February 14, 1974, that portable electric typewriters from Japan were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (refered to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the Federal Register of March 20, 1974, on page 10456. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price or exporter's sales price, as applicable (sections 203 and 204 of the Act; 19 U.S.C 162 and 163) of portable electric typewriters from Japan is less, or is likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

STATEMENT OF REASONS

The information currently before the U.S. Customs Service tends to indicate that the probable basis of comparison for fair value purposes will be between purchase price or exporter's sales price, and third country prices of such or similar merchandise.

Purchase price will probably be calculated on the basis of the f.o.b. packed, Japanese port price, with deductions for freight and shipping charges.

Exporter's sales price will probably be calculated on the basis of the resale price in the United States, with deductions for the applicable transportation and insurance costs, selling expenses in the United States, commissions, warranty costs, and brokerage charges.

Third country price will probably be calculated on the basis of both delivered and resale prices in Canada. Deductions from these prices will probably be made for the applicable transportation costs, and various direct and indirect costs incurred in sales of the merchandise.

Using these criteria, there are reasonable grounds to believe or suspect that the purchase price or exporter's sales price, as applicable, will be lower than the adjusted third country price.

Customs officers are being directed to withhold appraisement of portable electric typewriters from Japan in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs Regulations (19 CFR 153.32(b), 153.37), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, D.C. 20229, in time to be received by his office not later than December 30, 1974. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by this office not later than January 20, 1975.

This notice, which is published pursuant to § 153.34(b), Customs Regulations (19 CFR 153.34(b)), shall become effective on December 20, 1974. It shall cease to be effective at the expiration of 6 months from the date of this publication, unless previously revoked.

Dated: December 19, 1974.

[SEAL] DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.74-29683 Filed 12-19-74;10:20 pm]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of section 10 of Pub. L. 92-463, effective January 5, 1973, notice is hereby given that a closed Panel meeting of the DIA Scientific Advisory Committee will be held at Pomponio Plaza, Rosslyn, Virginia on:

Wednesday and Thursday, 22-23 January, 1975.

The entire meeting commencing at 0900 hrs. is devoted to the discussion of classified information as defined in section 552(b), title 5 of the U.S. Code, therefore will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

DECEMBER 17, 1974.

[FR Doc.74-29704 Filed 12-19-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT DES 74-110]

OUTER CONTINENTAL SHELF OFFSHORE CENTRAL GULF OF MEXICO

Notice of Availability of Draft Environmental Impact Statement and of Public Hearing Regarding Possible Oil and Gas Lease Sale

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental impact statement relating to a possible Outer Continental Shelf general oil and gas lease sale of 594 tracts of submerged lands on the Outer Continental Shelf in the Central Gulf of Mexico.

Single copies of the draft environmental statement can be obtained from the Office of the Manager, Gulf of Mexico Outer Continental Shelf Office, Bureau of Land Management, Suite 3200, The Plaza Tower, 1001 Howard Avenue, New Orleans, Louisiana 70113, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental statement will also be available for public review in the main libraries in the following cities: New Orleans, Lafayette, and Baton Rouge, Louisiana; and Galveston and Houston, Texas.

Maps of the area of the Central Gulf of Mexico upon which tracts being considered for leasing have been depicted and a listing of these tracts may also be obtained from either the Bureau of Land Management's Gulf of Mexico Outer Continental Shelf Office or the Office of Public Affairs, Bureau of Land Management at the above listed addresses.

In accordance with 43 CFR 3301.4, a public hearing will be held beginning at 9 a.m. on January 21, 1975, in the St. Maxent Room, Downtown Howard Johnson, 330 Loyola, New Orleans, Louisiana 70112, for the purpose of receiving comments and suggestions relating to the possible lease sale. If necessary, the hearing will extend through January 22, 1975.

The hearing will provide the Secretary with additional information from both the public and private sectors to help evaluate fully the potential effects of the possible offering of the 594 tracts on the total environment, aquatic resources, aesthetics, recreation and other resources in the entire area during the exploration, development, and operation phases of the leasing program.

The hearing will also provide the Secretary, under section 102(2)(C) of the National Environmental Policy Act of 1969, with the opportunity to receive additional comments and views of interested State and local agencies.

Interested individuals, representatives of organizations and public officials wishing to testify at the hearing are requested to contact the Manager, Gulf of Mexico Outer Continental Shelf Office, Bureau of Land Management, at the above listed address by 4:15 p.m., e.s.t., January 15, 1975. Written comments from those unable to attend the hearing should be addressed to the Director (Attn: 732), Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. 20240. The Department will accept written testimony and comments on the draft environmental statement until February 12, 1975. This should allow ample time for those unable to testify at the hearing to make their views known and for the submission of supplemental materials by those presenting oral testimony. Time limitations make it necessary to limit the length of oral presentations to ten minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the hearing officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, the hearing officer will give others present an opportunity to be heard.

After all testimony and comments have been received and analyzed a final environmental statement will be prepared.

CURT BERKLUND,
Director, Bureau of Land Management.

Approved:

STANLEY D. DOREMUS
Deputy Assistant Secretary of the Interior.

DECEMBER 18, 1974.

[FR Doc.74-29756 Filed 12-19-74;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:
Oregon Cooperative Wildlife Research Unit
104 Nash Hall
Oregon State University
Corvallis, Oregon 97331

Howard M. Wight, Leader
E. Charles Meslow, Assistant Leader

APPLICATION FOR ENDANGERED WILDLIFE RESEARCH PERMIT

Director, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

Attention: Chief, Division of Law Enforcement

Numbering corresponds to 50 CFR Part 13. Section 13.12(a):

(1-3) Oregon Cooperative Wildlife Research Unit, 104 Nash Hall, Oregon State University, Corvallis, Oregon 97331, 503/754-1531.

Howard M. Wight, Leader
E. Charles Meslow, Assistant Leader
Thomas Gavin, Graduate Research Assistant
Field Technicians as required

(4) Activity to be conducted principally on lands of the Columbian White-tailed Deer National Wildlife Refuge. Activities may extend to a lesser degree on any habitat of the species in Oregon and Washington.

(5) 13.12(b) and reference to § 17.23 do not apply because we are not involved with importation of foreign wildlife.

(6) Not applicable.

(7) We hereby certify that we have read and are familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50; and we further certify that the information submitted in this application for a permit is complete and accurate to the best of our knowledge and belief. We understand that any false statement hereon may subject us to the criminal penalties of 18 U.S.C. 1001.

(8) Desired effective date: December 1, 1974.

(9) Application date: October 23, 1974.

(10) Signatures:

Howard M. Wight,
Unit Leader.
E. Charles Meslow,
Assistant Unit Leader.

The following information is of the sort requested in § 17.23(a)(1)-(7), but we are not dealing with imported endangered foreign wildlife.

Numbering corresponds to 50 CFR Part 13. Sec. 17.23 (a):

(1) Columbian White-tailed Deer (*Odocoileus virginianus leucurus*).

We wish to capture and mark up to approximately 30 percent of the estimated 250 deer on the Washington mainland portion of the Columbian White-tailed Deer National Wildlife Refuge. All sex and age groups are involved.

(2) Not applicable.
(3) Research contract attached.
(4-7) Not applicable.

[Amendment No. 1—Contract No. 14-16-0008-752]

JUNE 21, 1974.

OREGON STATE UNIVERSITY,
Corvallis, Oregon 97331

GENTLEMEN: Contract No. 14-16-0008-752, for research studies on the ecology of the Columbian white-tailed deer, along the lower Columbia River in Washington and Oregon, is hereby amended by extending the performance time to June 30, 1976, and by the addition of $7,000 to the contract to cover fiscal year 1975.

This amendment is necessary to carry out the second year's study under the original contract.

All other terms and conditions of the contract remain unchanged.

Please indicate your acceptance of this amendment by signing and returning the original to this office.

Sincerely yours,

LELAND H. BARRINEAU,
Chief, Division of Contracting and General Services (Contracting Officer).

The above amendment and all conditions relating thereto are hereby accepted.

Oregon State University:

By: George Hand.
Title: Division — AES.
Date: July 11, 1974.

C. E. WARREN,
Acting Head, Department of Fisheries and Wildlife.

Date: July 1, 1974.

CONTRACT—RESEARCH ON ECOLOGY OF THE COLUMBIAN WHITE-TAILED DEER ALONG THE LOWER COLUMBIA RIVER IN WASHINGTON AND OREGON

This contract entered into pursuant to the authority under the Federal Property and Administrative Services Act of 1949 as amended, section 302(c)(5), and the Fish and Wildlife Act of 1956, 70 Stat. 1119, (16 USC-742 d and f), this 4th day of June 1973, between the United States of America, acting through the authorized Contracting Officer of the Bureau of Sport Fisheries and Wildlife, of the Fish and Wildlife Service, Department of the Interior (hereinafter called the Bureau) and the Oregon State University (hereinafter called the Contractor).

Witnesseth: The Parties hereto do mutually agree to the conduct of the work pursuant to the General Provisions attached hereto and made a part hereof as follows:

1. Description of Work: The Contractor will conduct research on the Ecology of the Columbian White-tailed Deer, along the Lower Columbia River in Washington and Oregon, as more particularly set forth in the Contractor's proposal attached hereto and made a part hereof.
2. Cost: $7,000.00.
3. OPE: 10 percent Salaries and Wages.
4. Period of Performance: June 1, 1973, through June 30, 1974. Contract will be renewed for two (2) additional years, provided funds are appropriated.
5. Project Leader: Howard M. Wight, Leader, Oregon Cooperative Wildlife Research Unit, Oregon State University.
6. Equal Employment Opportunity: The attached Form 3-178, entitled Equal Employment Opportunity Clause, is made a part of this contract.

In witness thereof, the Parties hereto have executed this contract as of the day and month and year first above written.

Oregon State University:

By: Wilson H. Foote.
Title: Associate Director, Agri. Exper. Sta.

THE UNITED STATES OF AMERICA

LELAND H. BARRINEAU,
Contracting Officer Bureau of Sport Fisheries and Wildlife.

A PROPOSED REFUGE MANAGEMENT STUDY OUTLINE; OFFICE OF ENDANGERED SPECIES

TITLE OF STUDY

Ecology of the Columbian White-tailed Deer along the Lower Columbia River in Washington and Oregon, Phase II.

The purpose of this statement is to present information concerning the second phase of the study. It is assumed that the reader will be aware of previous statements concerning the justification for the study.

OBJECTIVES

1. To determine the effect of the experimental pasture management plan to be initiated in spring 1973 on utilization of habitat by the Columbian white-tailed deer on the Washington mainland.

H_0—uniform pattern of utilization of all pastures by white-tailed deer in relation to climatic seasons.

H_0—uniform pattern of utilization of all pastures by white-tailed deer in relation to utilization by cattle.

H_0—uniform pattern of utilization of all pastures by white-tailed deer in relation to cultivation practices and phenology of height of herbaceous vegetation.

TECHNIQUES TO BE USED

Sight observations and pellet group counts.

Enclosures and clip quadrants to estimate production and differential utilization of forage by cattle and deer.

METHODS OF ANALYSIS

Chi-square, linear regression, and correlation.

RELATIONSHIP TO MARSHALL MEMO OF 10-72

Objective 1 will assist in gathering biological information useful in categories and subcategories 1112, 11121, 111211, 111212, 113, 121, 1211, 12111, 12112, 12113, 1213, 12131, 12132, 12133, 12211, 123, 128, 129, 131.

SIGNIFICANCE OF OBJECTIVE TO MANAGEMENT

Knowledge of the relationship of intensity of grazing by cattle to utilization of existing plant communities by white-tailed deer is essential to formulating an effective management plan. The dispersion of the deer on the study area is believed related to the vegetative pattern on the study areas. A grazing plan for cattle has been agreed upon by the Refuge Division and a leasee. This plan provides for differential grazing of cattle in relation to the plant communities represented on the Washington mainland. The differential grazing will permit the examination of the three hypotheses listed under Objective 1.

2. To determine changes in population parameters that reflect changes in density of white-tailed deer on the Island in relation to reduction in grazing pressure.

H_0—the density of whitetailed deer will remain the same.

TECHNIQUES TO BE USED

Diurnal and nocturnal (spotlight) observations that include notation of sex and age distribution, fawn-doe ratios and trends in indices.

Observations of marked and unmarked animals.

Pellet group counts as appropriate.

Analysis of composition of vegetation within communities.

METHODS OF ANALYSIS

Chi-square and qualitative appraisal.

RELATIONSHIP TO MARSHALL MEMO OF 10–72

Objective 2 will assist in gathering biological information useful in categories and subcategories 11, 111, 1112, 11121, 1113, 1114, 121, 1213, 128, 129, and 131.

SIGNIFICANCE OF OBJECTIVE TO MANAGEMENT

The opportunity to allow the population of white-tailed deer on the mainland portion of the Columbian white-tailed deer refuge to expand in numbers appears limited. However, the population on Tenasillahe Island portion of the refuge is sufficiently isolated and sufficiently low in density, to attempt an increase in density. Thus, the Island population may be utilized as an experimental population to determine potential for increase, for trapping and transplating of deer, and application of other techniques that might detract from public enjoyment of the subspecies on the mainland. It is recognized that the Island is not yet under Bureau control, and the timing of the exchange of property to the Bureau is unknown. However, it is essential to have a plan of approach for determining whether a competitive relationship exists between grazing of cattle and the deer. Changes in the rate of increase of the Island population will assist in that determination. The current population level on the Island is approximately 20 animals. This is far below the density of the mainland population. The exploitation of the Island through heavy grazing by the corporation currently controlling the Island may have affected the ability of the Island to sustain a more dense population of white-tailed deer. Therefore, it is important to determine changes in population parameters that may occur following the exchange of land ownership. It is essential that this potential be recognized so that preliminary research may be conducted prior to the exchange of land ownership. Otherwise, the information desired to define the situation prior to the exchange of land ownership would be wanting. It is further recognized that the land transfer may not occur during the period of the research project. If that were the case, the objective would not be activated.

3. To determine the social groupings of the white-tailed deer in relation to various climatic seasons of the year.

Ho_1—no difference between seasons in the sex and age groupings of the white-tailed deer.

Ho_2—no exchange of individuals occurs between social groups in relation to climatic seasons.

TECHNIQUES TO BE USED

Marked and unmarked animals and sight observations.

METHODS OF ANALYSIS

Chi-square and association tables.

RELATIONSHIP TO MARSHALL MEMO OF 10–72

Objective 3 will assist in gathering biological information useful in categories and subcategories 12, 121, 1214, 122, 1221, 12211, 12212, 122121, 122122, 122123, and 123.

SIGNIFICANCE OF OBJECTIVE TO MANAGEMENT

It is essential to detail the social grouping of white-tailed deer as the seasons change. Social changes that may occur during fawning and raising young, during rut, and during winter, need to be quantified. Examination of the social groupings of the deer will allow predictions concerning the maximum probable densities that the population will withstand. There appears to be an increase in the deer numbers on the Washington mainland during the January–February period of the current study. Examination of the social groupings and changes of social groupings will help us to describe this population change. In addition, the information gathered under Objective 3 will be of great value in interpreting reactions of the individuals to changing densities as they may occur. This will be particularly important with the island population if and when it begins to increase. The information gained under this objective will be of value in informing the general public concerning the basic life history and behavior of this subspecies. Persons visiting the Refuge can be presented with ideas concerning specific things to look for in the interactions between individual deer on the Refuge and, thus, heighten their interest in basic biology.

4. To determine the home range of white-tailed deer on the Washington mainland and the Island.

Ho_1—that home range does not differ between sex and age groupings.

Ho_2—that home range does not differ between seasons.

Ho_3—that home range does not differ between animals living on the mainland and on the Island (possibly a density comparison).

Ho_4—that home range remains the same as the cattle are introduced and removed as well as during the duration of stay.

Ho_5—that home range remains unaffected by changes in the number of visitor days to the Washington mainland.

TECHNIQUES TO BE USED

Marked animals and sight observations.

METHODS OF ANALYSIS

Several methods of describing home range will be evaluated. The one providing the most realistic pattern will be chosen as the standard for comparison and testing of the several hypotheses. The repetitiveness of ability to make observations will determine the final choice of techniques.

RELATIONSHIP TO MARSHALL MEMO OF 10–72

Objective 4 will assist in gathering biological information useful in categories and subcategories 12, 121, 1214, 122, 1221, 12211, 12212, 122121, 122122, 122123, and 123.

SIGNIFICANCE OF OBJECTIVE TO MANAGEMENT

The home range of many ungulent species is known to vary with the population density. It is important to know the home range of the individuals within the population during the years of the study in order to relate possible changes in home range to manipulation of vegetation and cattle. Knowledge of home range size is essential to determining where and how techniques designed for habitat improvement can be applied, and to evaluate these techniques when they are applied. Evaluation of home ranges in relation to season will provide information concerning tolerance of individuals during various times of the year. Evaluation of differences in home range size between the mainland and the Island may give us a possible comparison of the relationship of density since the mainland population is greater than the insular population. Evaluation of home range size in relation to the presence or absence of cattle on the area assist in evaluating the inter-relationships between these two species. In addition, the concepts of home range and dispersion may allow us to evaluate the effect of increasing numbers of visitors to the Washington mainland. Animals marked for this phase of the study will be useful for two other phases of the study.

5. To determine movement of white-tailed deer in relation to season, sex, and age.

Ho_1—that there is no differential movement of deer in relation to season.

Ho_2—that there is no differential movement of deer in relation to sex.

Ho_3—that there is no differential movement of deer in relation to age.

TECHNIQUES TO BE USED

Marked animals and sight observations.

METHODS OF ANALYSIS

All movement (significant shift in home range) will be plotted and evaluated in relation to season, sex, and age. Timing and distances of movement will be compared between groupings using appropriate statistical methods.

RELATIONSHIP TO MARSHALL MEMO OF 10–72

Objective 5 will assist in gathering biological information useful in categories and subcategories 1112, 11121, 121, 1214, 122, 123, 125, and 128.

SIGNIFICANCE OF OBJECTIVE TO MANAGEMENT

Information concerning seasonal movements in relation to sex and age, are important in determining how the species might adapt to other areas where introductions might occur. Information on movement will allow determination of the relationship of ingress and egress and how to account for it in any popu-

lation model we devise to assist in management. Marked animals will allow evaluation of the potential of ingress and egress that appears to occur in late winter. Exchange of animals between the Washington and Oregon mainlands and the Island can be quantified.

OTHER DATA TO BE GATHERED

Social behavior in relation to season and density (if possible).

Listing of foods identified as being consumed by white-tailed deer.

Interspecific behavior with any and all species where interaction occurs, (cattle, waterfowl, black-tailed deer, canids, and other carnivores).

Reaction to "disturbance" factors in relation to sex, age, season, (slamming doors, sonic booms, firearms, barking dogs, voices).

BREADTH OF THE RESEARCH

It is recognized that five objectives and fourteen hypotheses are proposed for study during the next phase of the project. The design will provide the opportunity for the observer to gather information useful for testing more than a single hypothesis. Differential techniques for testing each of the hypotheses is not required. The investigator will describe changes in the vegetation, make observations of animals under a systematic scheme, make pellet counts over established transects, and capture and mark animals to provide for individual recognition essential to Objectives 3, 4, and 5. The plant communities have been evaluated, and equipment and facilities will be on hand. I see no reason why a Ph. D. candidate cannot adequately perform the tasks stated in this document.

DATA ANALYSIS AND INTERPRETATION

Analysis of the data will be accomplished on a continuing basis. A graduate research assistant will be responsible for initial accumulation and analysis of the data. Statistical analysis and interpretation will be accomplished with guidance of statistical consultants on the University campus and the principal investigator. The ultimate responsibility for the content and preparation of reports lies with the principal investigator, Dr. Paul A. Vohs, Jr.

COOPERATORS

Refuge Division, Bureau of Sport Fisheries and Wildlife, Region 1
Oregon Cooperative Wildlife Research Unit, Oregon State University
Department of Fisheries and Wildlife, Oregon State University
Oregon State Game Commission
State of Washington Department of Game

RESPONSIBILITY

Supervision of graduate research assistants and temporary assistance in conducting the research project will be the responsibility of the principal investigator. Supervision of the personnel while in residence on the study area and when using refuge facilities and equipment will be the responsibility of the Refuge Division.

The Division of Refuges will provide the study area, boats and motors as needed, adequate on-refuge transportation including an all-terrain vehicle for movement on Tenasillahe Island, and housing on the study area. The Oregon Cooperative Wildlife Research Unit will provide binoculars, spotting scope, rocket net traps, reference library, scales and balances, and other laboratory equipment. The University will provide secretarial assistance, laboratory space, statistical consulting services, library services, veterinary diagnosis, project overhead, and the services of the principal investigator.

TIME TABLE

Personnel. Graduate Research Assistant (Ph. D. candidate) 1 July 1973 to 30 June 1976.

PROJECT OBJECTIVES

1. Continuous from 1 July 1973 to 1 January 1977 with limited data obtained from 15 September 1973 to 15 June 1974.
2. As appropriate as control of Island permits.
3. 15 June 1974–30 June 1976.
4. 15 June 1974–30 June 1976.
5. 15 June 1974–30 June 1976.

PROJECT COSTS

$7,000 annually for fiscal years 1974, 1975, 1976.

Proposed budget, fiscal year 1974:

Graduate stipend (Ph.D. level) 1974	[1] $3,648
Student assistance wages	500
Other payroll expense (10% S&W)	415
Off-Refuge transportation and per diem (assistant and principal investigator)	750
Services and supplies:	
Computer programming and operation	400
Film and film processing	200
Darts, bait, cartridges	300
Supplies	500
Miscellaneous and contingency	287
Total	7,000

[1] These will increase each year according to the following scale: Year 1975—$3,792, Year 1976—$3,886 (Other areas of the budget will be reduced accordingly).

REPORTS

Reports of progress will be made on a quarterly basis and included in the quarterly report of the Oregon Cooperative Wildlife Research Unit. The final report will be due 1 January 1977 and will be comprised of a thesis accepted by the Department of Fisheries and Wildlife, Oregon State University. Additional written material as appropriate to the project will be provided to the Refuge Division. In the event of the absence of a thesis, the principal investigator shall prepare an appropriate report. The Division of Wildlife Refuges will receive three copies of all reports.

PUBLICATIONS

Manuscripts reporting completed work will be submitted to scientific journals as appropriate following review by cooperators.

SUBMITTED BY

Paul A. Vohs, Jr., *Associate Professor of Wildlife Ecology*, Department of Fisheries and Wildlife, Oregon State University.
Date: seventeenth of April, 1973.

APPROVED BY

———— H. Toole, Associate Director, Agricultural Experiment Station, April 26, 1973.

COOPERATORS ENDORSEMENTS

Howard M. Wight, Leader, Oregon Cooperative Wildlife Research Unit April 20, 1973.

Charles E. Warren, Acting Head, Department of Fisheries and Wildlife April 26, 1973.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW, Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before January 20, 1975 will be considered.

Dated: December 16, 1974.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.74-29705 Filed 12-19-74;8:45 am]

Office of Hearings and Appeals

[Docket No. M 75-69]

BEAR COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861 (c) (1970), Bear Coal Co., Inc., has filed a petition to modify the application of 30 CFR § 75.1405 to its Bear Mine, Somerset, Colorado.

30 CFR § 75.1405 provides:

• • • All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970. • • •

Petitioner's reasons for obtaining a waiver of § 75.1405 may be summarized as follows:

(1) The subject mine cars are small and of early design. As a result, it would be impractical to purchase automatic couplers which the cars could not accommodate.

(2) The cars enter the mine in trips comprised of 18 cars. These trips remain intact

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and there is no coupling or uncoupling of the cars except between the car linked to the locomotive and the locomotive.

(3) When the cars are brought to the surface, they are dumped individually. During the dumping procedure, the cars are held stationary by brakes and wedges. At no time is coupling or uncoupling accomplished while the car is in motion.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 20, 1975. Such requests or comments must be filed with the Departmental Hearings Branch—OHA, U.S. Department of the Interior, 6432 Federal Building, Salt Lake City, Utah 84138. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

DECEMBER 12, 1974.

[FR Doc.74-29621 Filed 12-19-74;8:45 am]

[Docket No. M75-71]

LONE MOUNTAIN COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861 (c) (1970), Lone Mountain Coal Company has filed a petition to modify the application of 30 CFR § 77.1605(k) to its No. 1 Mine, Scott County, Tennessee.

30 CFR § 77.1605(k) reads as follows:

• • • Berms or guards shall be provided on the outer bank of elevated roadways. • • •

In support of its petition, Petitioner states:

The modification of the subsection of the Code of Federal Regulations, referred to above, is necessary to the safe and confident operation of Petitioner's mine. Furthermore, the alternate methods hereinafter suggested and specified will at all times guarantee no less than the same measure of safety and protection afforded to the miners, as does the regulation sought to be modified.

The alternate methods of accomplishing the purpose of the regulation sought to be modified are:

1. A daily inspection of all coal-hauling vehicles shall be made and any defects detected shall be corrected before the vehicle is put into service. A record of the inspection and repair on each vehicle shall be kept and maintained by a supervisory employee.
2. All rules of the road (traffic system) shall be posted on the bulletin boards throughout the mine area, and such rules of the road shall be made part of the training and retraining programs.
3. Roadway surfaces shall be kept free of debris, excessive water, snow and ice, and maintained as free as practicable of small ditches (washboard effects).
4. A traffic system shall be put into use requiring that loaded vehicles have the right-of-way on the highwall side of the roads regardless of their direction of travel.
5. Warning signs shall be posted designating curves, steep grades where trucks should shift to a lower gear, and where roadways are reduced to one-lane traffic. Stop signs shall be posted where one road intersects another, giving main haulage road traffic the right-of-way. Signs shall also be posted designating passing points.
6. All equipment operators shall be trained in the use of haulage equipment and the safety of vehicles on haulage roads.
7. All haulage vehicles shall have:
(A) original manufacturers brakes and
(B) emergency (parking) braking systems.
8. Adequate supplies of crushed stone or other suitable materials shall be stored at strategic locations along the haulage roads for use when the road surface becomes slippery.
9. On roads that afford only one traffic lane, a minimum width of 12 feet shall be maintained, with passing points provided at intervals of not more than 1,000 feet.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 20, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

[FR Doc.74-29622 Filed 12-19-74;8:45 am]

[Docket No. M75-70]

NEW RIVER COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), New River Coal Company has filed a petition to modify the application of 30 CFR § 77.1605(k) to its No. 2 Mine, Scott County, Tennessee.

30 CFR § 77.1605(k) reads as follows:

• • • Berms or guards shall be provided on the outer bank of elevated roadways. • • •

In support of its petition, Petitioner states:

The modification of the subsection of the Code of Federal Regulations, referred to above, is necessary to the safe and confident operation of Petitioner's mine. Furthermore, the alternate methods hereinafter suggested and specified will at all times guarantee no less than the same measure of safety and protection afforded to the miners, as does the regulation sought to be modified.

The alternate methods of accomplishing the purpose of the regulation sought to be modified are:

1. A daily inspection of all coal-hauling vehicles shall be made and any defects detected shall be corrected before the vehicle is put into service. A record of the inspection and repair on each vehicle shall be kept and maintained by a supervisory employee.
2. All rules of the road (traffic system) shall be posted on the bulletin boards throughout the mine area, and such rules of the road shall be made part of the training and retraining programs.
3. Roadway surfaces shall be kept free of debris, excessive water, snow and ice, and maintained as free as practicable of small ditches (washboard effects).
4. A traffic system shall be put into use requiring that loaded vehicles have the right-of-way on the highwall side of the roads regardless of their direction of travel.
5. Warning signs shall be posted designating curves, steep grades where trucks should shift to a lower gear, and where roadways are reduced to one-lane traffic. Stop signs shall be posted where one road intersects another, giving main haulage road traffic the right-of-way. Signs shall also be posted designating passing points.
6. All equipment operators shall be trained in the use of haulage equipment and the safety of vehicles on haulage roads.
7. All haulage vehicles shall have:
(A) original manufacturers brakes and
(B) emergency (parking) braking systems.
8. Adequate supplies of crushed stone or other suitable materials shall be stored at strategic locations along the haulage roads for use when the road surface becomes slippery.
9. On roads that afford only one traffic lane, a minimum width of 12 feet shall be maintained, with passing points provided at intervals of not more than 1,000 feet.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 20, 1975. Such requests or comments must be file dwith the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

DECEMBER 6, 1974.

[FR Doc. 74-29623 Filed 12-19-74;8:45 am]

[Docket No. M 75-67]

RONCCO COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861 (c) (1970), Roncco Coal Company has filed a petition to modify the application of 30 CFR § 75.313 to its Roncco Mine, Thermopolis, Wyoming.

30 CFR § 75.313 reads in pertinent part:

• • • The Secretary or his authorized representative shall require, as an additional device for detecting concentrations of methane, that a methane monitor, approved as reliable by the Secretary after March 30, 1970, be installed, when available, on any electric face cutting equipment, continuous miner, longwall face equipment, and loading machine. • • •

In support of its petition, Petitioner states:

1. The subject mine is above the water table.
2. No mining is being carried on in virgin coal.
3. There has never been any gas detected in this mine.
4. It would be unreasonable and impractical to mount a methane monitor on the cutting machine.

3. The methane monitor would be exposed to loose particles of coal since the machine is situated near an area which is constantly being blasted.

4. Presently, pillars are being pulled down and Petitioner plans to close down the mine in the coming year.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 20, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

DECEMBER 12, 1974.

[FR Doc.74-29624 Filed 12-19-74;8:45 am]

National Park Service

[DFT. DES. 74-108]

PROPOSED MASTER PLAN; GUADALUPE MOUNTAINS NATIONAL PARK, TEXAS

Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for a proposed Master Plan for Guadalupe Mountains National Park, Texas, and invites written comment by February 3, 1975. Written comment should be addressed to the Superintendent, Guadalupe Mountains National Park, at the address given below.

The draft environmental statement considers the extent and kind of physical development needed to accommodate the types and levels of public use that can be allowed within the widely varying environmental conditions of the park area. Proposed master plan concepts include park operations headquarters, transportation system, management facilities, interpretive facilities, access roads, wilderness-use facilities and land classification.

Copies are available from or for inspection at the following locations:

Southwest Regional Office
National Park Service
Old Santa Fe Trail
Post Office Box 728
Santa Fe, New Mexico 87501

Guadalupe Mountains National Park
3225 El Paso Road
Carlsbad, New Mexico 88220

Chamizal National Memorial
Room 630—Southwest National Bank Bldg.
300 East Main Drive
El Paso, Texas 79901

Dated: December 13, 1974.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.74-29710 Filed 12-19-74;8:45 am]

Office of the Secretary

OUTER CONTINENTAL SHELF

Geological and Geophysical Exploration

Correction

In FR Doc. 74-29190, appearing on page 43562, in the issue for Monday, December 16, 1974, the signature "John C. Whitaker, Secretary of the Interior", should be "John C. Whitaker, Acting Secretary of the Interior".

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation Number A108]

MISSOURI

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in 16 counties in Missouri. The Secretary has found that this need exists as a result of natural disasters shown on the attached chart which also lists the 16 counties.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Christopher S. Bond that such designation be made.

Applications for Emergency loans must be received by this Department no later than February 6, 1975, for physical losses and September 9, 1975, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 13th day of December, 1974.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

MISSOURI

1974

County	Excessive rainfall	Drought	Freeze	Hailstorms
Butler	Mar. 1 to June 10 (cold weather).	June 15 to Aug. 15	Mar. 23 and 24, Oct. 1 and 2.	
Franklin	Mar. 20 to May 15	June 15 to Aug. 1	Mar. 23, Oct. 1 and 2	
Howell	Mar. 9 to June 10 (cold spring).	June 1 to Aug. 26	Mar. 24 to 26	
Jefferson	May 1 to June 10	June 10 to Aug. 15	Mar. 23 and 24, Oct. 1 and 2.	
Macon	Apr. 1 to June 15 (flooding).	June 15 to Aug. 15	Oct. 1 and 2	
Mercer	Apr. 1 to June 15	do	do	
Miller	Mar. 1 to June 10	June 10 to Aug. 15	Mar. 23 and 24.	
Mississippi	Mar. 9 to May 31	do	Mar. 23 and 24, Oct. 1 and 2.	
Moniteau	Apr. 15 to June 15	June 15 to Aug. 15	Oct. 1 and 2	
New Madrid	Apr. 20 to May 15	June 15 to Aug. 9	do	
Osage	May 1 to May 31 (flooding).	June 1 to Aug. 8	Mar. 23, Oct. 1 and 2.	
Pemiscot	Mar. 1 to June 10	June 1 to Aug. 9	Oct. 1 and 2	July 19 to 22.
Pettis	Apr. 1 to June 10	June 10 to Aug. 5	do	
Ray		June 15 to Aug. 13	do	
Scott	Mar. 1 to June 10	June 10 to Aug. 15	Mar. 23 and 24, Oct. 1 and 2.	
St. Charles	Mar. 20 to May 15	June 15 to Aug. 1	do	

[FR Doc.74-29496 Filed 12-19-74;8:45 am]

Soil Conservation Service

BELLE CREEK WATERSHED PROJECT, MINN.

Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973, and § 650.8 (b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Belle Creek Watershed Project, Goodhue County, Minnesota.

Recent environmental studies and consultation of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Harry M. Major, State Conservationist, Soil Conservation Service, USDA, 200 Federal Building, 316 North Robert Street, St. Paul, Minnesota 55101, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection, trout stream improvement and flood prevention. The planned works of improvement include conservation land treatment supplemented by five single purpose floodwater retarding

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structures, two grade stabilization structures and two miles of trout stream improvement.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, 200 Federal Building, 316 North Robert Street, St. Paul, Minnesota 55101

No administrative action of implementation of the proposal will be taken until January 6, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

DECEMBER 11, 1974.

[FR Doc.74-29610 Filed 12-19-74;8:45 am]

CANE CREEK WATERSHED PROJECT, NORTH CAROLINA AND SOUTH CAROLINA

Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 650.8 (b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Cane Creek Watershed Project, Union County, North Carolina and Lancaster County, South Carolina.

The environmental assessment of this Federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. G. E. Huey, State Conservationist, Soil Conservation Service, USDA, 601 Federal Building, 901 Sumter Street, Columbia, South Carolina 29201, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection, flood prevention, municipal and industrial water supply, and basic recreational facilities. The remaining planned works of improvement include conservation land treatment measures supplemented by five single purpose floodwater retarding structures, two multiple purpose structures for flood prevention and municipal and industrial water supply, and basic recreational facilities.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, 601 Federal Building, 901 Sumter Street, Columbia, South Carolina 29201

No administrative action on implementation of the proposal will be taken until January 6, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

DECEMBER 11, 1974.

[FR Doc.74-29611 Filed 12-19-74;8:45 am]

LEONA RIVER WATERSHED PROJECT, TEX.

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement for the Leona River Watershed Project, Uvalde County, Texas, USDA-SCS-EIS-WS-(ADM)-74-13(F).

The environmental impact statement concerns a plan for watershed protection and flood prevention. The planned works of improvement provide for conservation land treatment, 4 floodwater retarding structures, and channel work consisting of about 3.5 miles of enlargement to an existing ephemeral stream channel through an urban area.

The final environmental impact statement has been filed with the Council on Environmental Quality.

A limited supply is available at the following location to fill singe copy requests;

Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

DECEMBER 11, 1974.

[FR Doc.74-29612 Filed 12-19-74;8:45 am]

LOWER PINE CREEK WATERSHED PROJECT, CALIF.

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1970; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and § 650.7(e) of the Soil Conservation Service Guidelines (39 FR 19651, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental impact statement for the Lower Pine Creek Watershed Project, Contra Costa County, California, USDA-SCS-EIS-WS-(ADM)-75-1-(D)-CA.

The environmental impact statement concerns a plan for watershed protection, flood prevention and recreation. The planned works of improvement include water control structures and recreational development. The water control structures involve two earthfill dams connected through a saddle to create a single flood retarding and recreation reservoir. Total area to be occupied by the dams and reservoir is 56 acres. The recreational development planned will occupy 151 acres including the dams and reservoir. Facilities will include provisions for swimming, boating, picnicking and hiking. A park with capacity to handle 3600 visitors daily is planned. Local average annual demand for the recreation development is estimated to be 193,800 visitor days per year.

A limited supply of copies is available at the following location:

Soil Conservation Service, USDA, 2828 Chiles Road, Davis, California 95616

Copies of the draft environmental impact statement have been sent for comment to various federal, state and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action should be addressed to George H. Stone, State Conservationist, Soil Conservation Service, P.O. Box 1019, Davis, California 95616.

Comments must be received on or before February 28, 1975, in order to be considered in the preparation of the final environmental impact statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

DECEMBER 11, 1974.

[FR Doc.74-29613 Filed 12-19-74;8:45 am]

ROCK CREEK WATERSHED PROJECT, OREG.

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and § 650.7(e) of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental impact statement for the Rock Creek Watershed Project, Gilliam

and Morrow Counties, Oregon, USDA–SCS–EIS–WS–(ADM)–75–2–(D)–OR.

The environmental impact statement concerns a plan for watershed protection, flood prevention, and irrigation. The planned works of improvement will include conservation land treatment measures on 38,200 acres of cropland, 45,000 acres of rangeland, and 15,000 acres of forest land; a multiple-purpose dam and reservoir with 14,430 acre-feet of storage and a surface area of 264 acres. Other structural measures include a check dam and diversion plus a multistage pumping plant and 44,400 feet of pressurized pipeline ranging in size from 10 to 30 inches in diameter with a 36 c.f.s. capacity for the irrigation water distribution system.

A limited supply of copies is available at the following location to fill single copy requests:

(Soil Conservation Service, USDA, 1218 S.W. Washington Street, Portland, Oregon 97205

Copies of the draft environmental impact statement have been sent for comment to various Federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to James W. Mitchell, State Conservationist, Soil Conservation Service, 1218 SW. Washington Street, Portland, Oregon 97205.

Comments must be received on or before February 10, 1975, in order to be considered in the preparation of the final environmental impact statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

DECEMBER 13, 1974.

[FR Doc.74–29615 Filed 12–19–74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

[File No. 23/64; Case No. 250]

GEORG EIGLER

Conditional Restoration of Export Privileges

In the matter of Georg Eigler, Parkstrasse 10, Salzburg, Austria; Respondent.

By order effective August 4, 1958, the above-named respondent was denied U.S. export privileges for the duration of export controls, after having been temporarily denied those privileges on December 17, 1957. In a letter of March 5, 1974, the respondent requested that he be removed from the Table of Denial and Probation Orders. The request was referred to the Hearing Commissioner and was duly considered by him. He has reported that it appears from representations made by the respondent and otherwise from information in possession of the Compliance Division, Office of Export Administration, that conditional restoration of the respondent's export privileges is consistent with the purposes of the export administration program. The Hearing Commissioner has recommended that an order be entered to restore conditionally the export privileges of said respondent and to place him on probation for the duration of export controls.

The undersigned has considered the record herein and concurs with the Hearing Commissioner that conditional restoration of Georg Eigler's export privileges and placing him on probation for the duration of export controls is consistent with the purposes of the U.S. Export Administration Act of 1969, as amended, and the regulations issued thereunder.

Accordingly, it is hereby ordered: That the export privileges of Georg Eigler be and hereby are restored conditionally, and the respondent is placed on probation for the duration of export controls. The conditions of probation are that the respondent: (1) Shall fully comply with all the requirements of the Export Administration Act of 1969, as amended, and all regulations, licenses, and orders issued thereunder; (2) shall on request of the Office of Export Administration, or a representative of the U.S. Government acting on its behalf, promptly and fully disclose the details of respondent's participation in any and all transactions involving U.S.-origin commodities or technical data, including information as to the disposition or intended disposition of those commodities or technical data and on request shall also furnish all records and documents relating to such matters. Further, on request, the respondent shall promptly disclose the names and addresses of his partners, agents, representatives, employees, and other persons associated with him in trade or commerce.

Upon a finding by the Director, Office of Export Administration, or any other official as may be exercising the duties now exercised by the Director, that the respondent has failed to comply with any of the conditions of probation, the Director, or any other official as may be exercising the duties now exercised by the Director, may by supplemental order, with or without prior notice to the respondent, revoke the probation of the respondent and thereby deny him all export privileges for such period as the Director or the other official may deem appropriate. This order shall not preclude the Bureau of East-West Trade from taking further action as may be warranted for any violation.

This order shall become effective immediately and supersedes the denial order issued against the respondent on August 4, 1958, to the extent that the new order is inconsistent therewith.

RAUER H. MEYER,
Director, Office of Export Administration.

DECEMBER 12, 1974.

[FR Doc.74–29711 Filed 12–19–74;8:45 am]

Social and Economic Statistics Administration

SURVEY OF RETAIL SALES, PURCHASES, AND INVENTORY

Notice of Determination

In accordance with Title 13, United States Code, sections 181, 224, and 225, and due notice of consideration having been published November 8, 1974 (39 FR 39590) I have determined that certain 1974 annual data for retail trade are needed to provide a sound statistical basis for the formation of policy by various governmental agencies and are also applicable to a variety of public and business needs. This annual survey is a continuation of similar surveys conducted each year since 1951, and makes available on a comparable classification basis, data covering 1974 year-end inventories, annual sales and purchases. These data are not publicly available on a timely basis from nongovernmental or other governmental sources.

Reports will be required only from a selected sample of retail firms in the United States. The sample will provide, with measurable reliability, statistics on the subjects specified above. Reports will be requested from sample stores on the basis of their sales size, selection in census list sample mail panel, and location in census sample areas. A group of the largest firms, in terms of number of retail stores, will be requested to report their sales and number of stores by county; but those firms which are participants in the Bureau's monthly survey will be asked to report in total only.

Report forms will be furnished to the firms covered by the survey and will be due 15 days after receipt. Copies of the forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that an annual survey be conducted for the purpose of collecting these data.

Dated: December 7, 1974.

VINCENT P. BARABBA,
Director, Bureau of the Census.

[FR Doc.74–29723 Filed 12–19–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

SAFETY AND OCCUPATIONAL HEALTH STUDY SECTION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), the Director, Center for Disease Control, announces the meeting dates and other required information for the following National Advisory body of the National Institute for Occupational Safety and Health which is scheduled to assemble during the month of January 1975.

Committee Name	Date/Time/Place	Type of Meeting and/or Contact Person
Safety and Occupational Health Study Section.	Jan. 23 to 24, 1975, 9 a.m., Conference Room G Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20852.	Open Jan. 23, 1975, 9 a.m. to 10 a.m. Closed remainder of meeting. Contact Dr. John F. Bester, Parklawn Bldg., 5600 Fishers Lane, Rooms 9-44, Rockville, Md. 20852. Code: 301-443-4452.

Purpose: The committee is charged with the initial review of research, training, demonstration, and fellowship grant applications for Federal assistance in program areas administered by the National Institute for Occupational Safety and Health, and with advising the Institute staff on training and research needs.

Agenda: From 9 a.m. to 10 a.m. on January 23, the Study Section will be open for administrative and staff reports. From 10 a.m. on January 23 through the end of the meeting, the Study Section will be reviewing research and demonstration grant applications and will not be open to the public, in accordance with the determination by the Director, Center for Disease Control, pursuant to the provisions of Public Law 92-463, section 10(d).

Agenda items are subject to change as priorities dictate.

A portion of the meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: December 11, 1974.

WILLIAM C. WATSON, JR.,
Director,
Center for Disease Control.

[FR Doc.74-29620 Filed 12-19-74;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION RULES, REGULATIONS AND PROPOSAL COMMITTEE

Meeting

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the National Advisory Council on Indian Education Rules, Regulation and Proposal Committee will be held on January 4, 1975, 9 am-5 pm and January 5, 1975, 9 am-5 pm at the Newton Sands Motel, 3320 East Van Buren Street, Phoenix, Arizona 85007.

The National Advisory Council on Indian Education is established under section 401 of the Indian Education Act (Pub. L. 92-318, Title IV). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under Section 318 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering Indian Education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other federal laws relating to Indian Education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The proposed agenda includes:

1. Developing procedures for the reading process of Title IV, Part B and C Proposals.
2. Recommendations of Reader Review.
3. Other Committee Business.

This meeting is open to the public. Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th St., NW Room 326, Washington, D.C. 20004.

Signed at Washington, D.C. on December 18, 1974.

DWIGHT A. BILLEDEAUX,
Executive Director, National Advisory Council on Indian Education.

[FR Doc.74-29761 Filed 12-19-74;8:45 am]

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION RESEARCH AND PUBLICATIONS COMMITTEE

Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the National Advisory Council on Indian Education (Research and Publication Committee) will be held on January 3, 1975, 9 a.m.-5 p.m., at the Newton Sands Motel, 3320 East Van Buren Street, Phoenix, Arizona 85007.

The National Advisory Council on Indian Education is established under section 401 of the Indian Education Act (Pub. L. 92-318, Title IV). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the arministration of this title, including policies and procedures governing the approval of State plans under Section 318 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering Indian Education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other federal laws relating to Indian Education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The proposed agenda includes:

1. Preparation for National Advisory Council on Indian Education's Second Annual Report to Congress.
2. Other Committee Business.

This meeting is open to the public. Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th St., NW Room 326, Washington, D.C. 20004.

Signed at Washington, D.C. on December 18, 1974.

DWIGHT A. BILLEDEAUX,
Executive Director, National Advisory Council on Indian Education.

[FR Doc.74-29760 Filed 12-19-74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA-455-DR; NFD-242]

PUERTO RICO

Amendment to Notice of Major Disaster

Notice of Major Disaster for the Commonwealth of Puerto Rico, dated December 2, 1974, and published December 6, 1974 (39 FR 42706), is hereby amended to include the following municipalities among those municipalities determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of November 30, 1974:

The Municipalities of:	
Adjuntas	Penuelas
Guanica	Sabana Grande
Guayanilla	San Sebastian
Lares	Villalba
Mariaao	Yauco

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

Dated: December 16, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.74-29725 Filed 12-19-74;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON RIVER BEND STATION, UNITS 1 & 2

Rescheduling of Meeting

The meeting of the Advisory Committee on Reactor Safeguards' Subcommittee on River Bend Station, Units 1 & 2, originally scheduled for December 17, 1974, notice of which was published at 39 FR 41759, December 2, 1974, has been rescheduled for January 6, 1975. The time and place for the meeting remain unchanged from the original notice.

The following additional changes are made concerning the original meeting notice:

(a) Written statements submitted on the agenda item should be postmarked no later than December 30, 1974.

(b) The time set aside for oral statements will be January 6, 1975.

(c) Calls to the Advisory Committee on Reactor Safeguards regarding cancellation or rescheduling should be made by prepaid telephone call on January 3, 1975.

(d) Copies of the transcript of the open portion of the meeting will be available after January 7, 1975.

(e) Copies of the minutes of the meeting will be available after April 7, 1975.

All other aspects of the original notice for the meeting remain unchanged, and the determination made to close specific portions of the meeting is applicable to the rescheduled meeting.

JOE B. LA GRONE,
Acting Advisory Committee, Management Officer.

[FR Doc.74-29105 Filed 12-19-74;8:45 am]

[Docket Nos. 50-524, 50-525, 50-526, and 50-527]

ALABAMA POWER CO.

Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters

The Alabama Power Company (the applicant), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, which was docketed September 27, 1974, for authorization to construct and operate four generating units utilizing four boiling water reactors. The application was tendered on August 16, 1974. Following a preliminary review for completeness, the application (the preliminary safety analysis report and antitrust information) was found to be acceptable for docketing. Docket Nos. 50-524, 50-525, 50-526, and 50-527 have been assigned to the application and they should be referenced in any correspondence relating to the application. The environmental report, which was also tendered on August 16, 1974 and supplemented on October 14, 1974, was accepted for a detailed review on November 15, 1974.

The proposed nuclear facilities, designated by the applicant as the Alan R. Barton Nuclear Plant, Units 1, 2, 3, and 4 are to be located in Chilton and Elmore Counties, Alabama, approximately 15 miles southeast of Clanton, along the west side of the Coosa River. Each unit is designed for initial operation at approximately 3579 megawatts (thermal), with a net electrical output of approximately 1159 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before January 28, 1975. The request should be filed in connection with Docket Nos. 50-524-A, 50-525-A, 50-526-A, and 50-527-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20545, and at the Clanton Public Library, 100 First Avenue, Clanton, Alabama 35045.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, an environmental report dated November 11, 1974. The report, which discusses environmental considerations related to the construction and operation of the proposed facilities is being made available for public inspection at the aforementioned locations and at the Alabama Development Office, State Office Building, Montgomery, Alabama 36104; Birmingham Regional Planning Commission, 2121 Building, Room 1524, Eighth Avenue North, Birmingham, Alabama 35203; Central Alabama Regional Planning Commission, 210 Washington Building, Montgomery, Alabama 36104.

After the environmental report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission's Regulatory staff. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 15th day of November 1974.

For the Atomic Energy Commission.

[SEAL] JOHN F. STOLZ,
Chief, Light Water Reactors Project Branch 2-1, Directorate of Licensing.

[FR Doc.74-27691 Filed 11-29-74;8:45 am]

[Docket Nos. 50-514, 50-515]

PORTLAND GENERAL ELECTRIC CO.

Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters

Portland General Electric Company (the applicant), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, which was docketed August 6, 1974 for authorization to construct and operate two generating units utilizing two pressurized water reactors. The Environmental Report and Site Suitability Report were tendered on June 7, 1974. Following a preliminary review for completeness, the Environmental Report and Site Suitability Report were, on August 6, 1974, found to be acceptable for docketing. The applicant submitted the PSAR August 6, 1974 and it was found to be acceptable on October 18, 1974. Docket Nos. 50-514 and 50-515 have been assigned to the application and should be referenced in any correspondence relating to the application.

The proposed nuclear facilities, designated by the applicant as the Pebble Springs Nuclear Plant, Units 1 and 2 are located in Gilliam County, Oregon. Each unit is designed for initial operation at 3600 megawatts (thermal), with a net electrical output of 1260 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before February 7, 1975. The request should be filed in connection with Docket Nos. 50-514-A and 50-515-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the Arlington Public School, District 3, P.O. Box 10, Arlington, Oregon 97812.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, an environmental report dated June 7, 1974. The report, which discusses environmental considerations related to the construction and operation of the proposed facility is being made available for public inspection at the aforementioned locations and at the Federal Aid Coordination Section, Local Government Relations Division, Executive Department 301 Public Service Building, Salem, Oregon 97310 and the East Central Oregon Association of Counties, Umatilla County Court House, Pendleton, Oregon 97801.

After the environmental report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission's Regulatory staff. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER, a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the

availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 22 day of November, 1974.

For the Atomic Energy Commission.

A. SCHWENCER,
Chief, Light Water Reactors Branch 2-3, Directorate of Licensing.

[FR Doc.74-28371 Filed 12-6-74;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REGULATORY GUIDES

Meeting

DECEMBER 17, 1974.

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Regulatory Guides will hold a meeting on January 8, 1975 in Room 1046, 1717 H Street, NW, Washington, D.C. This meeting will have both open and closed sessions.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

WEDNESDAY, JANUARY 8, 1975, 9:30 A.M. UNTIL ABOUT 11 A.M.

The Subcommittee will hear presentations from the Regulatory Staff and will hold discussions with this group pertinent to its review of existing seismic requirements in Regulatory Guides 1.26 and 1.29 in regard to individual systems and to discuss changes to Draft 1 of Revision 1 to Regulatory Guide 1.88 on Collection, Storage, and Maintenance of Nuclear Power Plant Quality Assurance Records.

In connection with the above agenda items, the Subcommittee may hold one or more Executive Sessions, not open to the public, at approximately 9 a.m. and 11 a.m. on January 8 to consider matters related to the above review. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee members and internal deliberations for the purpose of formulating recommendations to the ACRS.

After the above portion of the meeting is concluded, the Subcommittee will meet in closed session with the AEC Regulatory Staff and any consultants at about 11:15 a.m. until the close of business to discuss the following working papers:

1. Emergency Plans for Nuclear Power Plants.
2. Instrument Span and Trip Setting.
3. Overhead Crane Handling Systems for Nuclear Power Plants.
4. Effects of Residual Elements on Predicted Radiation Damage.

This portion of the meeting may include Executive Sessions both before and after the closed session with the Regulatory Staff:

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that other closed sessions will be held to discuss and exchange views on working papers which fall within exemption (5) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views and to avoid undue interference with agency or Subcommittee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting concerning existing seismic requirements in Regulatory Guides 1.26 and 1.29 in regard to individual systems and Draft 1 of Revision 1 to Regulatory Guide 1.88 on Collection, Storage, and Maintenance of Nuclear Power Plant Quality Assurance Records, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the above documents may do so by mailing 25 copies thereof, postmarked no later than January 2, 1975 to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 9:30 a.m. and 10:30 a.m. on January 8, 1975.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on January 7, 1975 to the Advisory Committee on Reactor Safeguards (telephone 202-634-1413) between 8:30 a.m. and 5:15 p.m., Eastern Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) A copy of the transcript of the open portion of the meeting will be available for inspection on or after January 9, 1975 at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20545. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, NE, Washington, D.C. 20002 (telephone 202-547-6222) upon payment of appropriate charges.

(i) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20545 after April 8, 1975. Copies may be obtained upon payment of appropriate charges.

ROBERT A. KOHLER,
Acting Advisory Committee Management Officer.

[FR Doc.74-28719 Filed 12-19-74;8:45 am]

[Docket Nos. STN 50-522 and STN 50-523]

PUGET SOUND POWER AND LIGHT CO. ET AL.

Receipt of Application for Construction Permits and Licenses

Notice of receipt of application for construction permits and facility licenses and availability of applicants' environmental report and certain site suitability information; time for submission of views on antitrust matters.

The Puget Sound Power and Light Company, acting for itself and as agent for the Pacific Power and Light Company, The Washington Water Power Company, the Idaho Power Company, and the Washington Public Power Supply System (the applicants), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, have filed an application, which was docketed September 30, 1974, for authorization to construct and operate two generating units utilizing two boiling water reactors. The application was tendered on August 6, 1974. Following a preliminary review for completeness, the application [environmental report and site suitability information required for an authorization to conduct certain on-site work in accordance with 10 CFR § 50.10(e)] was found to be acceptable for docketing. Docket Nos. STN 50-522 and STN 50-523 have been

assigned to the application and they should be referenced in any correspondence relating to the application. The Preliminary Safety Analysis Report, which was tendered on November 27, 1974, is undergoing a preliminary review to determine its acceptability for a detailed review.

The proposed nuclear facilities, designated by the applicants as the Skagit Nuclear Power Project, Units 1 and 2, are to be located in Skagit County, Washington, approximately 5 miles northeast of Sedro Woolley. Each unit is designed for initial operation at approximately 3800 megawatts (thermal), with a net electrical output of approximately 1300 megawatts.

A notice of hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before February 19, 1975. The request should be filed in connection with Docket Nos. STN 50-522-A and STN 50-523-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20545, and at the Sedro Woolley Library, 802 Ball Avenue, Sedro Woolley, Washington 98284.

The applicants have filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, an environmental report dated September 18, 1974. The report, which discusses environmental considerations related to the construction and operation of the proposed facilities is being made available for public inspection at the aforementioned locations and at the Office of the Governor, State Planning and Community Affairs Agency, Olympia, Washington 98504.

After the environmental report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission's Regulatory staff. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 11th day of December, 1974.

For the Atomic Energy Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Project Branch 2-1, Directorate of Licensing.

[FR Doc.74-29398 Filed 12-19-74;8:45 am]

[Docket Nos. STN 50-522 and STN 50-523]

PUGET SOUND POWER AND LIGHT CO., ET AL.

Hearing on Application for Construction Permits

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", Part 51 "Licensing and Regulatory Policy and Procedures for Environmental Protection", and Part 2, "Rules of Practice", notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Puget Sound Power and Light Company, acting for itself and as agent for the Pacific Power and Light Company, The Washington Water Power Company, Idaho Power Company, and the Washington Public Power Supply System (the applicants), for construction permits for two boiling water nuclear reactors designated as the Skagit Nuclear Power Project, Units 1 and 2 (the facilities), each of which will be designed for operation at 3800 thermal megawatts with a net electrical output of approximately 1300 megawatts. The proposed facilities are to be located 5 miles northeast of Sedro Woolley in Skagit County, Washington.

The hearing, which will be scheduled to begin in the vicinity of the site of the proposed facilities, will be conducted by an Atomic Safety and Licensing Board (Board) which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel, consisting of Dr. Frank F. Hooper, Mr. Gustave A. Linenberger, and Samuel W. Jensch, Esq., Chairman.

Pursuant to 10 CFR § 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER at a later date.

Upon completion by the Commission's Regulatory staff of a favorable safety evaluation of the application and an environmental review, and upon receipt of a report by the Advisory Committee on Reactor Safeguards, the Director of Regulation will consider making affirmative findings on Items 1-3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of construction permits to the applicants. In the event that a separate hearing is held with respect to a Limited Work Authorization, Item 6 below describes the matters for consideration.

ISSUES PURSUANT TO THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. Whether in accordance with the provisions of 10 CFR § 50.35(a):

(a) The applicants have described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and have identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicants and the applicants have identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicants are technically qualified to design and construct the proposed facilities,

3. Whether the applicants are financially qualified to design and construct the proposed facilities; and

4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

ISSUE PURSUANT TO NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA)

5. Whether, in accordance with the requirements of 10 CFR Part 51, the construction permits should be issued as proposed.

ISSUES PURSUANT TO 10 CFR § 2.761a (LIMITED WORK AUTHORIZATION)

6. Pursuant to 10 CFR § 2.761a, a separate hearing and partial decision by the Board on issues pursuant to NEPA and general site suitability and certain other possible issues may be held and issued prior to and separate from the hearing and decision on other issues. In the event the Board, after the separate hearing, makes favorable findings on such issues, the Director of Regulation may, pursuant to 10 CFR § 50.10(e) authorize the applicants to conduct certain onsite work entirely at their own risk prior to completion of the remainder of the proceeding.

In the event that this proceeding is not a contested proceeding, as defined by

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10 CFR § 2.4(n), the Board will determine without conducting a de novo evaluation of the application: (1) whether the application and the record of the proceeding contain sufficient information, the review of the application by the Commission's Regulatory staff has been adequate to support the proposed findings to be made by the Director of Regulation on Items 1–4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permits proposed by the Director of Regulation; and (2) whether the NEPA review conducted by the Commission's Regulatory staff has been adequate.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as issues in this proceeding, Items 1–5 above as a basis for determining whether construction permits should be issued to the applicants.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with § 51.52(c) of 10 CFR Part 51: (1) determine whether the requirements of section 102(2)(A), (C), and (D) of NEPA and Part 51 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding for the permits with a view to determining the appropriate action to be taken; and (3) determine after weighing the environmental, economic, technical and other benefits against environmental and other costs, and considering available alternatives whether construction permits should be issued, denied, or appropriately conditioned to protect environmental values.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days after the notice of hearing is published or at such other time as the Board deems appropriate, for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any required special prehearing conference, and within sixty (60) days after discovery has been completed or at such other time as the Board may specify, for the purpose of dealing with the matters specified in 10 CFR 2.752.

The Board will set the time and place for any special prehearing conference, prehearing conference and evidentiary hearing, and the respective notices will be published in the FEDERAL REGISTER.

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may make an oral or written statement on the record. He does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of Items 1–5 above. Limited appearances will be permitted at the time of the hearing at the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by February 19, 1975. The presiding Atomic Safety and Licensing Board may make further provision with respect to limited appearances subsequently during the course of this proceeding.

Any person whose interest may be affected by the proceeding, who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR 2.714. A petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have all rights of the applicants to participate fully in the conduct of the hearing, such as the examination and cross-examination of witnesses, with respect to their contentions related to the matters at issue in the proceeding.

A petition for leave to intervene must be filed with the Secretary of the Commission and others as specified below by January 20, 1975. A petition for leave to intervene which is not timely will not be granted unless the Board determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Board has considered those factors specified in 10 CFR 2.714(a) (1)–(4) and 2.714(d).

Pursuant to 10 CFR 2.101, the application was filed without the full Preliminary Safety Analysis Report (PSAR) covering the matters in 10 CFR 50.34(a) and 50.34a, but with certain site suitability information required for an authorization to conduct certain on-site work in accordance with 10 CFR 50.10 (e). Under 10 CFR 2.101, the omitted material can be filed by the applicants within six months. The full PSAR, which was tendered on November 27, 1974, is undergoing a preliminary review by the Commission's Regulatory staff to determine its acceptability for a detailed review. In view of this, any person who wishes to participate as a party in this proceeding pursuant to 10 CFR 2.714 need not set forth in any petition for leave to intervene required to be filed by January 20, 1975, any contentions related to matter covered by the PSAR except for contentions related to matter covered by the site suitability information which has already been docketed. A deadline for filing of other contentions related to matter covered by the PSAR will be established by the Board subsequent to the acceptance of the full PSAR for a detailed review. In all other aspects, said petition must meet the requirements of 10 CFR 2.714, namely, setting forth the interest of the petitioner in the proceeding, facts and reasons why intervention should be permitted, and a general statement as to the subject matter in the proceeding as to which intervention is sought.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the applicants by January 10, 1975.

Papers required to be filed in this proceeding shall be filed by mail or telegram addressed to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Docketing and Service Section, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission. A copy of any petition for intervention should also be sent to the Chief Hearing Counsel, Office of the General Counsel, Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545, and to Mr. Robert Lowenstein, Lowenstein, Newman, Reis and Axelrad, Suite 1214, 1025 Connecticut Avenue, NW., Washington, D.C. 20036, attorney for the applicants.

For further details, see the application for construction permits dated September 18, 1974, and amendments thereto, and the applicants' environmental report dated September 18, 1974, and site suitability information which are available as noted above for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., between the hours of 8:30 a.m. and 5 p.m. on weekdays. Copies of those documents are also available at the Sedro Woolley Library, 802 Ball Avenue, Sedro Woolley, Washington 98284, for inspection by members of the public between the hours of: 2 p.m. and 5 p.m. and 7 p.m. and 9 p.m. on Monday through Thursday; 2 p.m. and

5 p.m. on Friday; and 10 a.m. and 12 p.m. on Saturday. As they become available, copies of the safety evaluation report by the Commission's Directorate of Licensing, the Commission's draft and final environmental statements, the report of the Advisory Committee on Reactor Safeguards (ACRS), the proposed construction permits, the transcripts of the prehearing conferences and of the hearing, and other relevant documents, will also be available at the above locations. Copies of the Directorate of Licensing's Safety Evaluation Report, the Commission's Final Environmental Statement, the proposed construction permits, and the ACRS report may be obtained, when available, by request to the Deputy Director for Reactor Projects, Directorate of Licensing United States Atomic Energy Commission—Regulation, Washington, D.C. 20545.

Dated at Washington, D.C. this 12th day of December.

UNITED STATES ATOMIC ENERGY COMMISSION,
GORDAN M. GRANT,
Assistant Secretary of the Commission.

[FR Doc.74-29309 Filed 12-19-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26973]

AEROMAR, C. POR A.

Charter and Nonscheduled Authority; Dominican Republic-United States; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in this proceeding is assigned to be held on January 15, 1975, at 10 a.m. (local time), in Room 503, Universal Building, 1825 Connecticut Avenue, NW, Washington, D.C., before the undersigned.

Dated at Washington, D.C., December 17, 1974.

[SEAL] ALEXANDER N. ARGYRAKIS,
Administrative Law Judge.

[FR Doc.74-29722 Filed 12-19-74;8:45 am]

[Docket No. 23604, etc.]

KODIAK-WESTERN ALASKA RENEWAL PROCEEDING

Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding now assigned to be held on December 16, 1974 (39 FR 41196, November 25, 1974), is hereby postponed to January 8, 1975, at 10 a.m. (local time) in Room 1031, North Universal Building, 1875 Connecticut Ave., NW., Washington, D.C., before the undersigned Administrative Law Judge. The postponement is granted at the request of Kodiak-Western Alaska Airlines, Inc.

Dated at Washington, D.C., December 16, 1974.

[SEAL] WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc.74-29720 Filed 12-19-74;8:45 am]

[Docket No. 26977]

NEW YORK-RIO-JOHANNESBURG CASE

Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Milton H. Shapiro to Administrative Law Judge Greer M. Murphy. Future communications should be addressed to Judge Murphy. An earlier notice dated December 9, 1974 (39 FR 43419, December 13, 1974), noted the reassignment but ascribed an incorrect docket number to the proceeding.

Dated at Washington, D.C., December 17, 1974.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.74-29721 Filed 12-19-74;8:45 am]

COMMISSION ON CIVIL RIGHTS

DELAWARE STATE ADVISORY COMMITTEE

Notice and Agenda of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware State Advisory Committee (SAC) to this Commission will convene at 12 noon, on January 10, 1975, YMCA Building, 11th and Washington Streets, Wilmington, Delaware.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, NW., Washington, D.C. 20037.

The purpose of this meeting to plan a conference on equal employment opportunity in Wilmington, Delaware, during March 1975.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 17, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-29646 Filed 12-19-74;8:45 am]

ILLINOIS STATE ADVISORY COMMITTEE

Notice and Agenda of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois State Advisory Committee (SAC) to this Commission will convene at 1 p.m. on January 16, 1975, at 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Midwestern Regional Office of the Commission, Room 1428, 219 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting is to discuss project proposals and appoint new members to project sub-committee.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 17, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-29644 Filed 12-19-74;8:45 am]

MARYLAND STATE ADVISORY COMMITTEE

Notice and Agenda of Open Meeting

Notice is hereby given, pursuant to be the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland State Advisory Committee (SAC) to this Commission will convene at 8 p.m. on January 9, 1974, Federal Building, 31 Hopkins Plaza, Room 106, 21201.

Persons wishing to attend this meeting should contact the Commission Chairman, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, NW., Washington, D.C. 20037.

The purpose of this meeting election of officers, reports of subcommittees and planning for new SAC activities.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 17, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-29645 Filed 12-19-74;8:45 am]

MICHIGAN STATE ADVISORY COMMITTEE

Notice and Agenda of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan State Advisory Committee (SAC) to this Commission will convene at 9 a.m. on January 16, 1975, at University Inn, 1100 Trowbridge, Lansing, Michigan 48823.

Persons wishing to attend this meeting should contact the Committee Chairman or the Midwestern Regional Office of the Commission, Room 1428, 219 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting is to consider alternative possibilities for Advisory Committee projects for the coming year, to discuss methods of committee organization and operation, and to set general policy on issues to be addressed by the Committee.

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This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 17, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-29647 Filed 12-19-74;8:45 am]

NEW JERSEY STATE ADVISORY COMMITTEE

Notice and Agenda of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. on January 14, 1975, Labor Education Center, New Brunswick, New Jersey 07102.

Persons wishing to attend this meeting should contact the Committee Chairman, or the New York Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to review the Committee's report on the Prison Project.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 16, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-29648 Filed 12-19-74;8:45 am]

UTAH STATE ADVISORY COMMITTEE

Notice and Agenda of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Utah State Advisory Committee (SAC) to this Commission will convene at 7 p.m. on January 23, 1975, Northwest Multipurpose Center-1300 W. 2n, Salt Lake City, Utah, 84101.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mountain States Regional Office of the Commission, Room 216, 1726 Champa Street, Denver, Colorado 80202.

The purpose of this meeting shall be that Utah SAC will hear reports from four subcommittees on Housing, Education, Administration of Justice and Police/Community Relations. SAC members will also discuss their involvement in the legal proposal designed to look at the enrollment of minorities and women in Law Schools in Utah.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 16, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-29643 Filed 12-19-74;8:45 am]

COUNCIL ON WAGE AND PRICE STABILITY

DIRECTOR OF THE COUNCIL ON WAGE AND PRICE STABILITY

Delegation of Authority

DECEMBER 12, 1974.

Delegation of authority by the Chairman to the Director of the Council on Wage and Price Stability to request data from any Department or Agency of the United States which collects, generates or otherwise prepares or maintains data or information pertaining to the economy.

Pursuant to the authority vested in me as Chairman of the Council on Wage and Price Stability (hereinafter "the Chairman") by the Council on Wage and Price Stability Act (hereinafter "the Act"), Public Law 93-387, it is hereby ordered as follows:

1. The Director of the Council on Wage and Price Stability (hereinafter "the Director") is hereby directed and authorized to exercise all of the authorities vested in the Chairman by section 4(a) of the Act.

2. Significant policy decisions under section 4(a) of the Act shall be made under the general guidance and pursuant to any general policies which might be developed by the Chairman.

3. The Director is authorized to redelegate any or all of the authorities vested in him by this Order.

4. This Order shall be effective immediately.

WILLIAM E. SIMON,
Chairman, Council on Wage and Price Stability.

[FR Doc.74-29656 Filed 12-19-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-32000/157; FRL 307-6]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW, Washington, D.C. 20460.

On or before February 18, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street SW, Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after February 18, 1975.

APPLICATIONS RECEIVED

EPA File Symbol 496-RNA. Chase Products Co., 19th & Gardner Rd., Broadview IL 60153. SPICE GLYCOLIZED AIR SANITIZER DEODORIZER NO. 2. Active Ingredients: Triethylene Glycol 6.00%; Isopropyl Alcohol 10.00%; Methyl Dodecyl Benzyl Trimethyl Ammonium Chloride 0.008%; Methyl Dodecyl Xylene bis (Trimethyl ammonium chloride) 0.002%; Essential oils 0.29%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 496-RNG. Chase Products Co. MINT GLYCOLIZED AIR SANITIZER DEODORIZER NO. 2. Active Ingredients: Triethylene Glycol 6.00%; Isopropyl Alcohol 10.00%; Methyl Dodecyl Benzyl Trimethyl Ammonium Chloride 0.008%; Methyl Dodecyl Xylene bis (Trimethyl ammonium chlorides) 0.002%; Essential Oils 0.31%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 496-RNU. Chase Products Co. EVERGREEN GLYCOLIZED AIR SANITIZER DEODORIZER. Active Ingredients: Triethylene Glycol 6.00%; Isopropyl Alcohol 10.00%; Methyl Dodecyl Benzyl Trimethyl Ammonium Chloride 0.008%; Methyl Dodecyl Xylene bis (Trimethyl ammonium chloride) 0.002%; Essential Oils 0.24%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 15300-T. Chemical Treatment Co., Hanover Ind. Air Park, 500 Lickinghole Rd., Ashland VA 23005. CHEMICAL TREATMENT COMPANY CL-212. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34973-R. Down East Chemical Corp., 233 Oxford St., Portland ME 04111. D.E. FOOD PLANT CLEANER, CLEANER-DEODORANT-DISINFECTANT-FUNGICIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.6%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.6%; Sodium Carbonate 3.0%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 35045-R. Durbal Industries, 247 Oakwood Ave., Staten Island NY 10301. SEA GUARD ANTIFOULING PAINT WITH TEFLON. Active Ingredients: Cuprous Oxide 40.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6621-LL. Eagle Chem. Co., 2819 W. Lake St., Chicago IL 60612. CLEAN BOWL. Active Ingredients: Hydrogen Chloride 7.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34624-R. Ecometics Inc., 4 Wilton Ave., Norwalk CT 06851. THE AMAZING NEW ECOMETICS FLEA & TICK SHAMPOO & CONDITIONER. Active Ingredients: Pyrethrins 0.045%; Piperonyl Butoxide, Technical 0.090%; N-Octyl bicycloheptenedicarboximide 0.150%; Petroleum Distillate 0.215%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11497-RE. Enviro Chem. Corp., PO Box 29113, Dallas TX 75229. SUPER FOGICIDE CONTROLS MOSQUITOES, FLIES, GNATS. Active Ingredients: Petroleum distillate 93.3%; Piperonyl Butoxide Technical 5.02%; Pyrethrins 0.502%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 13442-A. Environment Engineering, Inc., 1310 Headquarters Dr., Greensboro NC 27405. ENCOR M-28. Active Ingredients: Disodium cyanodithioimidocarbonate 4.2%; Potassium N-methyldithiocarbamate 5.8%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1598-EGL. FCX, Inc., PO Box 2419, Raleigh NC 27602. FCX TOXAPHENE 8 EMULSIFIABLE INSECTICIDE. Active Ingredients: Toxaphene 71%; Xylene 24%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11529-I. Farris Chem. Co., Inc., PO Box 10126, Knoxville TN 37919. BAF-60. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 11529-O. Farris Chem. Co., Inc., PO Box 10126, Knoxville TN 37919. BAF-60. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 824-RN. Givaudan Corp., Sindar Div., 321 W. 44th St., New York NY 10036. GIVAUDAN GIV-GARD BNS 25%-AF. Active Ingredients: B-Bromo-B-nitrostyrene 25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 32461-G. Jamestown Chem. Co., PO Box 68, Trumbull CT 06611. B-105. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(d) of interim policy.

EPA File Symbol 4822-RUE. S. C. Johnson & Son, Inc., 1525 Howe St., Racine WI 53403. DEEP WOODS FORMULA OFF! FLY AND MOSQUITO REPELLENT TOWELETTES. Active Ingredients: N,N-Diethyl-meta-toluamide 30.69%; related isomers 1.62%; 2,3:4,5-bis(2-butylene) tetrahydro-2-Furaldehyde 1.08%; N-octyl bicycloheptenedicarboximide 4.31%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 635-ATU. E-Z-Flo Chem. Co., Div. of Kirsto Co., PO Box 808, Lansing MI 48903. E-Z-FLO MANEB 80 W. Active Ingredients: Maneb (Manganese ethylenebisdithiocarbamate) 80.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10778-U. Metropolitan Refining Co., Inc., 50-23 23rd St., Long Island City NY 11101. VAPORENE L. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 27581-G. Midland Research Lab., Inc., 9420 Quivira Rd., Lenexa KS 66215. CHEM-I-CAL 608. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1706-RUG. Nalco Chem. Co., 6216 W. 66th Pl., Chicago IL 60638. NALCO 4WC239 MICROORGANISM CONTROL CHEMICAL. Active Ingredients: Methylene bis(thiocyanate) 10.0%; bis (tributyitin) oxide 1.0%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 12488-G. Norman Chem. Co., 1630 Carroll Ave., St. Paul MN 55104. 962M BIOCIDE. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 3008-GA. Osmose Wood Preserving Co. of Amer., Inc., 980 Ellicott St., Buffalo NY 14209. OSMOSE K-33-C WOOD PRESERVATIVE (50%). Active Ingredients: Arsenic Acid 17.00%; Copper Oxide 9.25%; Chromic Acid 23.75%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34736-T. Owens Service Co., 930 E. 80th St., Bloomington MN 55420. OWENCIDE N-175M. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34736-A. Owens Service Co., 930 E. 80th St., Bloomington MN 55420. OWENCIDE N-87M. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 4561-GER. Pennwalt Corp., Three Parkway, Philadelphia PA 19102. PENNWALT APL-LUSTR G COATING WITH SCALD INHIBITOR. Active Ingredients: Ethoxyquin (6-ethoxy-1,2-dihydro-2,2,4-trimethyl quinoline) 0.35%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9241-R. The Powell Co., Inc., PO Box 1317, 700 N. Main St., Lima OH 45805. POCO-SOL GERMICIDAL BOWL CLEANSE. Active Ingredients: Hydrogen chloride 23.00%; n-alkyl(C14 50%, C12 40%, C16 10%) dimethyl benzyl ammonium chlorides 0.05%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 655-LET. Prentiss Drug & Chem. Co., Inc., 363 7th Ave., New York NY 10001. PRENTOX ROACH BAIT INSECTICIDE (CONTAINS 2% BAYGON). Active Ingredients: 2-(1-Methylethoxy) phenol methylcarbamate 2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 602-ELR. Ralston Purina Co., Checkerboard Square, St. Louis MO 63188. PURINA LICE AND FLY KILLER-CR. Active Ingredients: 0-0-Diethyl 0-(3-chloro - 4-methyl-2-oxo-(2H)-1-benzopyran-7-yl) phosphorothioate 1%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 602-ELN. Ralston Purina Co., Checkerboard Square, St. Louis MO 63188. PURINA CATTLE DUSTER INSECTICIDE. Active Ingredients: 0,0-Diethyl 0-(3-chloro-4-methyl-2-oxo-(2H)-1-benzopyran-7-yl) phosphorothioate 1%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6811-UI. Research Products Co., 2426 Merrell Rd., Dallas TX 75229. CLEAR-FYNE DISINFECTANT DEODORANT. Active Ingredients: Isopropanol 4.75%; Pine Oil 3.95%; Alkyl (C14 68%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 1.97%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 523-IU. Roberts Laboratories, 4995 N. Main St., Rockford IL 61101. ROBERTS DUSTFM ALL PURPOSE LIVESTOCK AND POULTRY DUST WITH RABON. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 3.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11547-UN. Share Corp., 2655 N. 126th St., Brookfield WI 53005. SHARE CORP. ELECTRO-SPRAY-CONCENTRATE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68%, C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 11547-GO. Share Corp. SHARE CORP. FOUR WAY DISINFECTANT. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 11547-GI. Share Corp. SHARE CORP. GERMICIDAL CLEANER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.8%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%; Sodium Metasilicate 2.4%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 9800-RU. Stewart Hall Chem. Corp., 223 Washington St., Mt. Vernon NY 10553. ALGAEGON 11. Active Ingredients: Disodium cyanodithioimidocarbonate 4.90%; Potassium N-methyldithiocarbamate 6.76%. Method of Support:

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Application proceeds under 2(b) of interim policy.

EPA File Symbol 9600-RG. Stewart Hall Chem. Corp. ALGAEGON 8. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 9600-RE. Stewart Hall Chem. Corp. ALGAEGON 17. Active Ingredients: Disodium cyanodithioimidocarbonate 7.83%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 11687-TG. Transvaal, Inc., PO Box 89, Jacksonville AR 72076. TRANSVAAL SODIUM-TCA GRASS KILLER. Active Ingredients: Sodium Trichloroacetate 90.0%. Method of Support: Application proceeds under 2(C) of interim policy.

EPA File Symbol 1769-ELO. National Chemsearch, Div. of NL Industries, Inc., 2727 Chemsearch Blvd., Irving TX 75061. GREENADIER CLEANER - DISINFECTANT - DEODORIZER-FUNGICIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.25%; Sodium Carbonate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 12043-G. Veraz Chemical Co., 3753 Brooklyn Ave., N.E., Seattle WA 98105. TEST BEST DISINFECTANT-DEODORIZER-SANITIZER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 12043-U. Veraz Chemical Co., 3753 Brooklyn Ave., N.E., Seattle WA 98105. RINSEQUIP DISINFECTANT-DEODORIZER-SANITIZER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 5645-RU. Veterinary Laboratories, Inc., PO Box 8304, Lenexa KS 66215. VET-LABS FOUR-WAY SCREW-WORM BOMB. Active Ingredients: Gamma Isomer of Benzene Hexachloride from Lindane 3.0%; Xylene 12.5%; Mineral Oil 30.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7401-ELO. Voluntary Purchasing Groups, Inc., PO Box 460, Bonham, TX 75418. HI-YIELD SPECIAL 4-4 MIX. Active Ingredients: Toxaphene, Technical Chlorinated Camphene 39.5%; 0,0-diethyl 0-p-nitrophenyl phosphorothioate 19.3%; Aromatic Petroleum Derivatives Solvent 38.3%. Method of Support: Application proceeds under 2(c) of interim policy.

Dated: December 10, 1974.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.74-29247 Filed 12-19-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20277; File No. BP-19564 etc.]

BRONCO BROADCASTING COMPANY, INC. ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing

In the matter of Applications of Bronco Broadcasting Company, Inc., St. Louis, Missouri; Norman Broadcasting Co., (WGNU) (Docket No. 20277; File No. BP-19564), Granite City, Illinois; Curtis L. Mann, Trustee in bankruptcy (KWK) (Docket No. 20278; File No. BP-19648), St. Louis, Missouri; construction permits for Curtis L. Mann, Trustee in bankruptcy (KWK) (Docket No. 20279; File No. BR-4884), St. Louis, Missouri; for renewal of license, Curtis L. Mann, Trustee in bankruptcy (Assignor) Docket No. 20280; File No. BAL-8127), and Doubleday Broadcasting Company, Inc. (Assignee) for Commission consent to assignment of license for radio station KWK, St. Louis, Missouri.

1. The Commission has before it for consideration the above-described applications, two of which have been accepted for filing. Among those which have not been accepted for filing is the application of Norman Broadcasting Company (hereinafter WGNU), licensee of standard broadcast station WGNU, 920 kHz, Granite City, Illinois, which was tendered for filing December 28, 1973, requesting a construction permit to change frequency to 1380 kHz, 5 kW, DA-2, U. The application of Bronco Broadcasting Company, Inc. (Bronco), which has not been accepted for filing, was tendered for filing on June 12, 1974. Bronco requests the facilities formerly authorized to Vic-Way Broadcasting, Inc., bankrupt former licensee of station KWK, St. Louis, Missouri. The question which we must resolve initially in this proceeding is whether either or both of these applications are acceptable for filing. An understanding of the sequence of events preceding the filing of these applications is necessary in placing our decision in this proceeding in proper perspective.

2. Vic-Way Broadcasting, Inc., licensee of station KWK, encountered serious and, as it turned out, fatal financial difficulties in its operation of station KWK and, on September 21, 1973, ceased operations. On October 10, 1973, Mr. Curtis L. Mann was appointed Receiver to take over the assets of Vic-Way, including the facilities of station KWK. On November 5, 1973, the Receiver filed an application (BR-4884) for renewal of the license of station KWK. The "cut-off" date for filing competing applications against this application was January 1, 1974. On December 17, 1973, Vic-Way was adjudicated a bankrupt and Mr. Mann was appointed Trustee in Bankruptcy. On December 28, 1973, the WGNU application was tendered for filing and purported to be mutually exclusive with the KWK application for renewal. In the meantime, however, offers to purchase the assets of station KWK from the bankrupt estate were made by Doubleday Broadcasting Company, Inc., and Bronco. On January 14, 1974, the bankruptcy court issued an order authorizing the Trustee to accept the offer of Doubleday and the following week, on January 21, 1974, the Trustee filed an application (BAL-8077) to assign the license of station KWK from the Receiver to the Trustee. This application was granted on February 26, 1974. In the meantime, however, Bronco, on January 24, 1974, filed a notice of appeal from the bankruptcy court's order authorizing acceptance of Doubleday's offer. On March 26, 1974, the United States District Court for the Eastern District of Missouri, Eastern Division, filed a Memorandum and Order (Vic-Way Broadcasting Company, et al. v Curtis L. Mann, No. 73E-1629), denying Bronco's appeal.

3. Following the District Court's action, an application (BAL-8127) was filed on April 5, 1974, requesting the Commission's consent to the assignment of the license of station KWK from Curtis L. Mann, Trustee, to Doubleday. Three days later, on April 8, 1974, an application was tendered by the Trustee and Doubleday, jointly, requesting modification of the facilities of station KWK.[1] This application, which has not been accepted for filing, requests a change in nighttime transmitter location to Davis Street, 0.8 miles south of the city limits of Carondelet, Illinois, reduction of nighttime power to 1 kW, and equipment changes. This application for modification and the co-pending application for assignment to Doubleday are, admittedly, mutually contingent in that the Trustee indicates that, because he will not operate the station, he does not want a grant of the modification application unless the assignment application is granted; Doubleday indicates that it does not want the assignment unless it can have the modification. The applications are, in substance, "accommodation" applications filed by the Trustee for the benefit of his proposed assignee. With matters in this posture, Bronco tendered an application, on June 12, 1974, requesting the same facilities as those authorized for station KWK. These various events, however, did not escape the filing of opposing pleadings at each step along the way.

4. We treat first with the WGNU application, for it presents fewer difficulties. The WGNU application was tendered for filing on December 28,

[1] See paragraph 18, infra.

1973, specifying the present site of station WGNU, approximately 2½ miles northeast of the site where the KWK facilities had been located,[2] and proposing to change frequency to KWK's frequency (1380 kHz) and to increase power to 5 kW. On February 1, 1974, Doubleday filed a Motion to Dismiss the WGNU application.[3] Basically, Doubleday's attack is bottomed on WGNU's alleged failure to comply with the provisions of § 73.37 of the Commission's rules. It is said that WGNU made no showing that the proposed operation would comply with § 73.37(a) of the rules regarding prohibited overlap with existing stations. In addition, it is alleged that WGNU did not show that its proposal would comply with § 73.37(e) of the rules, which requires that the proposed operation serve 25 percent unserved area, day or night, or that there is no FM channel available for use in the community and that 20 percent of the principal city receives less than two aural services. The failure to make the showing, it is said, renders the WGNU application incomplete and not acceptable for filing under the provisions of § 1.227(b)(6) of the rules. There is no question that WGNU proposes a major change in its facilities. WGNU maintains that the provisions of § 73.37 (a) and (e) are inapplicable to an application which specifies substantially the same facilities as those specified in a co-pending application for renewal, but, in the event that the Commission determines otherwise, requests a waiver of the rule.

5. Unquestionably, there would be a substantial increase in the service area of station WGNU operating as proposed compared to its present service area. There would, however, be no significant difference between the proposed service area and that authorized to station KWK as set forth in the renewal application. With the exception of a difference in site of approximately 2.4 miles, the requested facilities are virtually identical to the KWK facilities proposed in the application for renewal. This being so, there is no requirement that a timely filed application specifying the same facilities as those specified in the application for renewal of the license of an authorized station make any of the showings required by § 73.37 of the rules. To find otherwise would be to require a fruitless and unproductive act on the part of such applicants. Doubleday also alleged, in its petition for dismissal of the WGNU application, that the proposed WGNU predicted 2 mV/m contour would completely encompass the predicted 25 mV/m contour of station KJCF, 1400 kHz, Festus, Missouri. In response to this allegation, WGNU made field intensity measurements from its present (and proposed) site and demonstrated that such overlap would not occur. Doubleday did not pursue the point. The Commission's own computations support the WGNU showing. We hold, on the basis of the foregoing, that WGNU has met those parts of § 73.37 which, under our rules and policies, it was required to meet and that the application is substantially complete, acceptable for filing, and timely filed. We are, therefore, accepting the WGNU application for filing. We further find that the application is mutually exclusive with the application of the Trustee for renewal of the license of station KWK.

6. The time element in connection with the Bronco application is essential in understanding our action with respect to that application. According to information contained in the pleadings, Bronco first manifested an interest in acquiring the facilities of station KWK from the Receiver in October 1973, when its principals contacted counsel for the Receiver. Following the filing of the application[4] (BR–4884) for renewal by the Receiver in November 1973, Bronco, on December 4, 1973, submitted a bid of $750,000 conditioned upon its ability to obtain necessary financing and approval of its board of directors. The offer was to be valid until February 1, 1974. On December 17, 1973, a hearing was held in the bankruptcy court at which Vic-Way was adjudicated a bankrupt and the Receiver was appointed Trustee in Bankruptcy. All interested parties were advised that 10 percent of the offered purchase price must be deposited with the Trustee. Bronco indicated that it would furnish the deposit ($75,000) in ten days. On December 28, 1973, another hearing was held with respect to the Bronco offer and Bronco deposited with the Trustee $15,000 and promised to provide the balance of the deposit before January 2, 1974. Bronco's attorney indicated that, if the balance of the deposit were not provided by that date, the court could proceed without regard to Bronco's offer. This offer was also made contingent on the availability of financing by January 10, 1974, after which Bronco would expect to receive no further consideration if it did not furnish the balance of the purchase price. The date for filing an application mutually exclusive with the renewal application was January 1, 1974, and by that date only the WGNU application had been submitted. By January 10, 1974, the date which Bronco itself had established as the date by which it would consider itself out of contention if the money had not been deposited, Bronco was unable to provide the full amount of deposit, but offered only an additional $20,000. On January 11, 1974, Bronco's deposit ($35,000) was returned to it.

7. On January 14, 1974, the Bankruptcy Court issued an order authorizing the Trustee to accept Doubleday's offer of $660,000. The following week, on January 21, 1974, an application (BAL–8077) was filed by the Receiver seeking the Commission's consent to the involuntary assignment of KWK's license to himself as Trustee. This application was granted February 26, 1974. In the meantime, however, on January 24, 1974, Bronco filed a notice of appeal from the Bankruptcy Court's decision. On January 28, 1974, Bronco submitted an alternative offer of $670,000, subject to Bronco's ability to obtain satisfactory financing. On February 28, 1974, oral argument was held in the United States District Court for the Eastern District of Missouri, Eastern Division, on Bronco's appeal and at that argument, Bronco conceded that it had not yet been able to obtain the necessary financing. On March 26, 1974, the District Court denied Bronco's appeal, noting that Bronco had expressly conditioned its offer on the procurement of the offered amount by January 10, 1974, a condition it did not meet. The March 26 date is critical, for at this time, Bronco knew that it could not acquire KWK's assets by assignment. On April 5, 1974, the application (BAL–8127) for assignment from the Trustee to Doubleday was filed and, three days later, on April 8, 1974, the application for modification of the facilities of KWK was filed jointly by the Trustee and Doubleday.[4] Nothing further of significance transpired until Bronco tendered its application on June 12, 1974. This application was accompanied by a request for waiver of § 1.516(e)(1) of the rules, relating to the time within which a competing application must be on file.[5] The question now is whether Bronco is "cut off" and, if so, whether a waiver is warranted.

8. Bronco argues that the public interest would be served by grant of a waiver because the "cut-off" rule is inapplicable where a Trustee does not propose to operate the station and for this reason he is in a different posture than a regular renewal applicant. Moreover, Bronco argues, orderly processing and action or the renewal application would not be impeded because the Trustee's modification application and the WGNU application have not been accepted for filing and no hearing is under way. In any event, it is said, the renewal application cannot be granted except in conjunction with the assignment application. Finally, Bronco argues that the public interest is an overriding consideration in this case where the Commission may have a choice among a greater number of applicants. Bronco insists that it acted diligently throughout this entire sequence of events.

9. It is true that Commission policy favors a wide choice of qualified applicants, but there are other considerations of equal or transcendent importance. In the first place, despite Bronco's insistence that time is not of the essence, an argument it unsuccessfully urged on the District Court, early resolution of this pro-

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[2] The Commission understands that at least the six-tower array of station KWK has been dismantled. The state of other equipment is not known.

[3] WGNU filed an opposition thereto on March 1, 1974, Doubleday filed its reply on March 22, 1974.

[4] See paragraph 13, infra.

[5] WGNU filed an opposition to the petition for waiver on June 24, 1974, and Doubleday filed its opposition on July 12, 1974. Bronco replied to both on August 9, 1974.

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ceeding is necessary for the protection of innocent creditors. It is unrealistic to argue that a third applicant in this case would not complicate and prolong the hearing. Standing alone, the interests of the creditors may not be sufficient to preclude acceptance of the Bronco application, but there are other factors. The Commission's cut-off rules have a purpose and are necessary in order to conduct proceedings in an orderly and efficient manner. Prairie Broadcasting Company, 47 FCC 2d 373, 30 RR 2d 613. The cut-off procedures were adopted in order to promote the orderly and timely processing of renewal applications and this requires that there be a date certain, prior to the expiration of the current license term, by which the Commission and the license renewal applicant may be informed as to the filing of mutually exclusive applications. Broadcast License Renewal Applications, 16 FCC 2d 858 (1969). These cut-off procedures are observed in all cases except where unusual and compelling circumstances require otherwise. We have concluded, for the reasons discussed below, that Bronco has not shown the existence of compelling or unusual reasons. We note, at this point, that to accept Bronco's late-filed application would adversely affect the rights of WGNU as well as those of Doubleday and the Trustee because WGNU timely filed and, as of the cut-off date, was entitled to prepare for a contest only with the renewal applicant.

10. The question of whether Bronco was diligent in its pursuit of an authorization for KWK's facilities is dispositive of the acceptability of its application. Assuming, without deciding, that Bronco could not reasonably have been expected to file a competing application while it sought the facilities of KWK by assignment, we start from March 26, 1974, the date the District Court denied Bronco's appeal. At that point, certainly, Bronco knew that, if it were to have a chance at the KWK facilities, it must file a competing application. In fact, it did not do so until nearly three months later. When Doubleday questioned this lapse of nearly three months, Bronco responded:

> Bronco submits that the period between March 26, 1974, and the filing of its application on June 12, 1974, is reasonable and necessary for conducting an ascertainment of community needs survey, and for the preparation of an application for a new broadcast radio station in a large city such as St. Louis.

The facts show that Bronco conducted its ascertainment survey in two parts: The first being a survey of leaders, the second being a survey of the general public. The community leaders survey consisted of participation in the joint effort of a group of St. Louis broadcasters conducted by the St. Louis Broadcasters Association in July 1973. Bronco, along with the other St. Louis broadcasters, employed Media Statistics, Inc. (Mediastat) in June 1973 to conduct the survey of the general public. The latter was completed and a report submitted dated July 12, 1973. It is apparent, therefore, that the ascertainment survey was accomplished nearly one year before Bronco filed its application. Bronco did not attempt to explain its alleged need for an additional three months, nor did it file a supplement indicating that it did more than the Association survey. Its engineering was signed April 29, 1974, and its equipment proposal was dated May 1, 1974. Its letter from Commerce Bank of University City, purporting to be a financial proposal, was dated May 28, 1974. We know that its efforts to obtain financing began long before May 28, 1974. In summary, it is clear that Bronco's survey was complete in July 1973, and its application was complete and could have been filed, at the latest, at the end of May 1974. We think, however, that Bronco was bound to prepare its application long before March 26, 1974.

11. The acceptance of Doubleday's offer, by order of the Bankruptcy Court, on January 14, 1974, was an event which should have alerted Bronco to the likelihood that it could not acquire KWK by assignment. Bronco chose to pursue its appeal, but it did not, at the same time, prepare an application for submission in the event that it did not succeed on appeal. But, "• • • the burden • • • is, and properly should be, upon an interested person to act affirmatively to protect himself." Red River Broadcasting Co. v. Federal Communications Commission, 98 U.S. App. D.C. 1, 98 F 2d. 282, cert. denied, 305 U.S. 625 (1938); Spanish International Broadcasting Company v. Federal Communications Commission, 128 U.S. App. D.C. 93, 385 F 2d. 615, 9 RR 2d 2053. A "hard look" at the bona fides of Bronco's efforts leaves much to be desired. Bronco claims that the public interest requires that the Commission have as wide a choice of qualified applicants as possible, but, while we agree with the proposition, we cannot number Bronco among the qualified. There can be no doubt that the heart of the problem is Bronco's ability to finance its proposal; this failure led to its rejection by the bankruptcy court in the first place. Bronco's financial proposal is totally unacceptable, even at this late date. It consists of a letter from Commerce Bank of University City stating:

> As you know, we are considering a $400,000 line of credit to this Company. We are impressed by the quality and abilities of the Investor Group and wish to investigate this situation further.

The final paragraph states:

> We appreciate your cooperation in this matter and should be in a position to give to you the results of our loan committee decision in three or four weeks.

This is a letter, dated May 28, 1974, to Bronco's attorneys. Nothing further from the bank has been filed. Certainly, this is far from a commitment to lend funds. Bronco did submit further amendments to its financial proposal consisting of changes in stockholdings and guarantees by these stockholders of the amount of any bank loan. These were dated prior to the letter from the bank, yet nothing was filed to indicate either that these guarantors were financially qualified to meet their commitments, nor that such commitments were acceptable to the bank. We do not here pass upon Bronco's financial qualifications, but where a prospective applicant urges on us the existence of unusual and compelling circumstances warranting a waiver of our cut-off rules and acceptance of its application, we think that a far greater degree of perfection is required. Bronco, after all, asks for a waiver of a rule and the principle is well established that the burden of justifying a waiver is on the party requesting the waiver. United States v. Storer Broadcasting Company, 351 U.S. 192, 76 S. Ct. 763, 13 RR 2151. It is hardly arguable, moreover, that a question of candor is raised by Bronco's assertion that additional time was needed to make a community survey. We are simply unable to discern any justification for Bronco's failure to file a timely application. We are also acutely aware of the danger to our procedures which a waiver under these circumstances would represent. It could well destroy the value of the cut-off rules and would undoubtably constitute an invitation to numerous requests for similar waivers. Where, as here, we can find no justification for the delay in filing, we would be hard pressed to distinguish this case from others which must inevitably follow.

12. For the reasons stated, we will deny Bronco's request for waiver and return its application. At the same time, we are accepting the WGNU application and the Trustee's application for modification. We will simultaneously designate all of the pending applications for hearing in a consolidated proceeding. The pendency of mutually contingent applications for assignment and modification is not unusual and, because they are realistically "accommodation" applications, they are often routinely granted; e.g. KTRB Broadcasting, Inc., 48 FCC 2d 635, 31 RR 2d 306.

13. As mentioned in paragraph 3, supra, an application for modification of the facilities of KWK was filed jointly by the Trustee in Bankruptcy and Doubleday. Since Doubleday has no present interest in the facilities of station KWK and has nothing which could be modified, we are accepting this application as an application filed by the Trustee in Bankruptcy. We have before us, then, the above-captioned application of WGNU for a construction permit to make changes in the facilities of station WGNU, the application of the Trustee in Bankruptcy for modification of the facilities of station KWK, the application of the Trustee for renewal of the license of station KWK, and the application for assignment. The question arises as to what proposals are to be compared in this proceeding. It is obviously unrealistic to compare the WGNU proposal with the Trustee's application for renewal for, as we have pointed out, the Trustee has no intention of operating the station, either as presently licensed or as proposed. In fact, WGNU will be competing against the application of the Trustee for operation of sta-

tion KWK as it is proposed to modify that operation. The comparison will, therefore, be between the WGNU proposal and the application for renewal taken in conjunction with the applications for assignment and modification of KWK. Doubleday will, of course be made a party to the proceeding. The applications for renewal, modification, and assignment must stand or fall together. Doubleday is involved in pending antitrust litigation. In the event of grant of the renewal, modification and assignment applications, therefore, the authorization will be subject to an appropriate condition.

14. The Trustee in Bankruptcy proposes to serve St. Louis, Missouri, and Norman Broadcasting Co. proposes to serve Granite City, Illinois. It is apparent, therefore, that a determination must be made as to whether a decision in this matter will be based upon the criteria set forth in section 307(b) of the Communications Act of 1934, as amended, with respect to a fair, efficient and equitable distribution of radio service. Accordingly, appropriate issues are being specified. Since the proposals contemplate service of substantial areas in common, if a choice cannot be made between them on the basis of the criteria of section 307(b), it will be necessary to determine, on a comparative basis, which of the applicants is better qualified. A contingent comparative issue is, therefore, being specified. Because there is a significant disparity in the areas and populations to be served by the proposed nighttime operations, the data adduced with respect to the areas and populations to be served nighttime will be relevant to a determination on a comparative basis if this is the basis upon which the choice between the applicants is to be made.

15. We find that the applicants are qualified to construct, own and operate as proposed. Because the applications are mutually exclusive, the Commission is unable to make the statutory finding that a grant of the applications would serve the public interest, convenience and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues set forth below.

Accordingly, for the reasons stated, *It is ordered*, That the request of Bronco Broadcasting Company, Inc., for waiver of § 1.516(e)(1) of the Commission's rules is denied, and its application is returned as unacceptable for filing; the above-described application of Norman Broadcasting Co. is accepted for filing, and the above-described application of Curtis L. Mann, Trustee in Bankruptcy, for modification of the facilities of station KWK, is accepted for filing.

It is further ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications of Norman Broadcasting Co. and Curtis L. Mann, Trustee, for construction permits; of Curtis L. Mann, Trustee, for renewal of license; and of Curtis L. Mann, Trustee, for assignment of license to Doubleday Broadcasting Company, Inc., are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary service from the proposed operations and the availability of other primary aural (1 mV/m or greater in the case of FM) service to such areas and populations.

2. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the event that it is concluded that a choice between the applicants should not be based solely upon considerations relating to section 307(b), which of the proposals would better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

It is further ordered, That Doubleday Broadcasting Company, Inc., is made a party to this proceeding.

It is further ordered, That, in the event of grant of the applications of the Trustee in Bankruptcy for renewal, modification and assignment, the authorization issued pursuant to the grants will be subject to the following condition:

This grant is subject to the condition that it is without prejudice to whatever action, if any, the Commission may deem appropriate as the result of final action in the civil antitrust actions now pending in which either Doubleday Broadcasting Company, Inc., or its parent corporation, is a party, and subject also to the condition that the Commission shall be notified immediately of the final disposition of each of the cases.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

By the Commission Commissioner Hooks dissenting; Commissioner Quello absent.

Adopted: December 4, 1974.

Released: December 16, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-29696 Filed 12-19-74;8:45 am]

[Docket Nos. 19892, 19894; File Nos. BPH-8240, BPH-8327; FCC 74R-441]

GREAT SOUTHWEST MEDIA CORP. AND ARKADELPHIA BROADCASTING CO.

Memorandum Opinion and Order Enlarging Issues

In the matter of applications of Great Southwest Media Corp., Arkadelphia, Arkansas (Docket No. 19892; File No. BPH-8240) and Arkadelphia Broadcasting Co. Arkadelphia, Arkansas (Docket No. 19894; File No. BPH-8327) for construction permits.

1. Before the Review Board is a motion to enlarge issues, filed August 27, 1974, and a motion to reopen record, filed October 4, 1974, by Arkadelphia Broadcasting Company (Arkadelphia), requesting the addition of § 1.65 and/or § 1.514 and misrepresentation issues against Great Southwest Media Corporation (Southwest).[1]

2. In support of its requests, Arkadelphia alleges that on February 19, 1974, the Secretary of State of Arkansas revoked Southwest's corporate charter because of Southwest's failure to pay its required state franchise tax.[2] As a consequence, movant avers, since Southwest has lost its corporate charter, it no longer has the necessary legal status to further prosecute the instant application.[3] In addition, petitioner asserts that Southwest, in violation of the Commission's disclosure rules, failed to inform the Commission of either the loss of its state charter or that the control of its FM application has been transfered to an unincorporated association of individuals. In light of the above, Arkadelphia requests the addition of legal qualifications and § 1.65 and/or § 1.514 issues against Southwest. Arkadelphia also alleges that Southwest, in contravention of § 1.65 and/or § 1.514, failed to notify the Commission that on March 21, 1974, the City of Gurdon, Arkansas, granted Southwest a franchise for the establishment of a cable television system in Gurdon, and also that Southwest, on February 25, 1974, paid $500 to the City of Gurdon as binding consideration for the issuance of

[1] Also before the Review Board for consideration are: (a) The Broadcast Bureau's comments, filed September 11, 1974; (b) opposition, filed September 20, 1974, by Southwest; and (c) reply, filed October 2, 1974, by Arkadelphia.

[2] To support this allegation, Arkadelphia submits the affidavit of John M. Riggle, a principal of Arkadelphia, and a certificate from the Arkansas Secretary of State which reveals that Southwest's charter was revoked by Governor's Proclamation on February 19, 1974, under Act 304 of 1953, for non-payment of franchise taxes and had not been reinstated as of July 25, 1974.

[3] Petitioner, in support, attaches an affidavit by Mr. Jack Files, an attorney for Arkadelphia, in which Files states that in his legal opinion, Southwest is not a legal entity or a corporate body and "is not authorized to do business, hold property, or to act in any legal way in the State of Arkansas."

the franchise.[6] Moreover, Arkadelphia argues that Southwest's failure to disclose to the Commission the franchise award and the $500 payment is inconsistent with Southwest's pledge to keep the Commission informed of all its business transactions, and requires the addition of a misrepresentation issue against the applicant.[8]

3. Opposing enlargement, Southwest asserts that on August 29, 1974, the Secretary of State of Arkansas restored Southwest's corporate charter.[9] Consequently, the applicant maintains that its reinstatement moots any possible question regarding its legal capacity to prosecute its application. Turning to the corporate charter—§ 1.65 issue, Southwest submits an affidavit from Wayne Duncan, its President, who states that neither he nor any other Southwest stockholder had received notice of the franchise tax due or of the charter revocation until August 27, 1974, when Duncan read the instant motion during the hearing.[7] Moreover, Southwest states that immediately upon learning of the revocation, it took the steps necessary to have its charter restored. Therefore, Southwest claims, it had no intention of withholding pertinent information from the Commission, and urges the Board to deny Arkadelphia's § 1.65 and § 1.514 requests. With regard to the CATV franchise question, Southwest contends that, contrary to petitioner's assertions, the franchise awarded by the City of Gurdon does not obligate Southwest to construct the cable television system, but merely grants the applicant an option to establish the system. Accordingly, Southwest argues that it does not have a binding commitment with Gurdon to construct the CATV system and, thus, is under no obligation to report the award and payment to the Commission, either under § 1.65, § 1.514, or pursuant to Southwest's prior representations (see footnote 5, supra). In light of the foregoing, Southwest requests that the misrepresentation and failure to disclose issues be denied.

4. The Review Board will add a § 1.65 issue against Southwest for its failure to inform the Commission of the award of the CATV franchise and will deny the motion in all other respects. As noted in its petition to reopen record, the record in this proceeding was closed on August 27, 1974, the day on which the instant pleading was filed. A decision to reopen the record is an action that we are ordinarily reluctant to take in light of the "doctrine of administrative finality and the important public policy of orderliness, expedition and finality in the adjudicating process." Athens Broadcasting Co., 27 FCC 2d 374, 25 RR 2d 483 (1972). However, the doctrine of administrative finality is not a bar to a reopening of the record where the need for further hearing to make reasonably certain that the prospective licensee will operate the facility responsibly and in the public interest outweighs the need for finality. See DuPage County Broadcasting, Inc., 23 FCC 2d 22, 19 RR 2d 568 (1970). Here, the Board is of the view that Southwest's failure to inform the Commission of both the awarding of the CATV franchise and the $500 payment could be such a serious violation of § 1.65 as to cast doubt upon its qualifications to be a broadcast licensee. In this regard, we note that the CATV franchise could have a substantial impact on the comparative criterion of diversification of mass media, and that the Commission has clearly held that a CATV franchise is an interest which must be reported under § 1.65 of the rules. See Media, Inc., 22 FCC 2d 875, 18 RR 2d 1175 (1970), and TV Signal Company of Aberdeen, 23 FCC 2d 603, 19 RR 2d 298 (1970). Moreover, Southwest had previously conceded to the Commission that it had a CATV proposal pending before the Gurdon City Council and also pledged to inform the Commission of all its business transactions, including any new developments as to the Gurdon CATV franchise—a pledge Southwest has apparently breached.[9] Accordingly, a § 1.65 issue will be added.[9]

As to the remaining allegations, the Board is of the opinion that they are not sufficient to warrant a reopening of the record. Thus, it is clear that the reinstatement of Southwest's corporate charter "seemingly moots any question concerning its prospective corporate activity in prosecuting its application," Intercast, Inc., 43 FCC 2d 658, 28 RR 2d 367 (1973), and consequently a legal qualifications issue will not be added. In addition, although § 1.65 required the disclosure of the revocation of Southwest's corporate charter,[10] we have no reason to doubt the veracity of Southwest in asserting that it did not receive notification of a required tax payment or the revocation of the corporate charter; therefore, it could not be expected to report this information. Cf. RKO General, Inc. (WOR–TV), 47 FCC 2d 939, 30 RR 2d 1355 (1974).

5. Accordingly, *It is ordered*, That the motion to enlarge issues, filed August 27, 1974, and the petition to reopen record, filed October 4, 1974, by Arkadelphia Broadcasting Company, are granted to the extent herein indicated, and are denied in all other respects; and

6. *It is further ordered*, That the record herein is reopened and the issues are enlarged by the addition of the following issue:

To determine whether Great Southwest Media Corporation failed to amend its application as required by § 1.65 of the Commission's rules and, if so, to determine the effect thereof upon the applicant's basic and/or comparative qualifications to be a Commission licensee.

7. *It is further ordered*, That the burden of proceeding with the introduction of evidence under the issue added herein shall be upon Arkadelphia Broadcasting Company, and the burden of proof thereunder shall be upon Great Southwest Media Corporation.

Adopted: December 4, 1974.

Released: December 16, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[11]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.74-29697 Filed 12-19-74;8:45 am]

[Docket Nos. 20010, 20011; File Nos. BRCT-10; 4540; FCC 74R-444]

CBS, INC. AND FIRST DELAWARE VALLEY CITIZENS TELEVISION, INC.

Applications for Renewal of Broadcast License and Construction Permit

1. This proceeding involves the mutually exclusive applications of CBS, Inc. (WCAU–TV) (CBS) for renewal of broadcast license and First Delaware

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[6] In support, movant attaches the affidavits of Riggle (see footnote 2, supra), and Dick Jackson, Mayor of Gurdon. Jackson, in his sworn statement, declares that prior to the franchise award and the $500 payment by Southwest, a written presentation was made before the Gurdon City Council by representatives of Southwest (including its President, Wayne Duncan), on December 11, 1973, in their attempt to obtain a CATV franchise.

[8] According to petitioner, Southwest, in response to an earlier motion to enlarge filed by Arkadelphia on January 4, 1974, conceded to the Commission that it had a CATV franchise proposal pending before the City Council of Gurdon, but, that it had not reported the proposal to the Commission. Moreover, petitioner asserts, Southwest specifically pledged to keep the Commission informed of all of its business interests, and this pledge was noted by the Review Board in its Memorandum Opinion and Order, 46 FCC 2d 1142, 30 RR 2d 378 (1974). It is movant's position that the failure of the applicant to report the franchise award and the $500 payment demonstrates that its prior representations were false.

[9] Southwest attaches to its pleading a copy of a certificate from the Secretary of State of Arkansas indicating that as of August 29, 1974, Southwest's corporate charter had been reinstated.

[7] Southwest also submits an affidavit from B. W. Sanders, its attorney, in which the affiant states that the applicant never received the required notification of the tax due and the charter revocation, due to a failure of the State's Franchise Tax Division to follow its normal procedures.

[9] In this connection, we note that Southwest's obligation to report developments in its attempts to acquire a CATV franchise arises regardless of whether or not the applicant is contractually bound to construct the system.

[9] With respect to the requested misrepresentation issue sought concerning Southwest's alleged failure to abide by its earlier representations to the Commission regarding the reporting of its business transactions, the Board notes that an inquiry into the § 1.65 allegation may encompass an examination of Southwest's possible intent in withholding the information, thereby rendering a separate misrepresentation issue unnecessary.

[10] The Board notes that according to the information now before it, the non-payment of the franchise tax and the revocation of Southwest's corporate charter both occurred subsequent to the filing of Southwest's application and therefore § 1.514 is inapplicable.

[11] Concurring statement of Board Member Kessler filed as part of the original document.

Valley Citizens Television, Inc. (First Delaware) for authority to construct a new television broadcast station at Philadelphia, Pennsylvania. Presently before the Review Board are two motions to enlarge issues, filed May 16 and July 9, 1974, by CBS, requesting addition of numerous issues against First Delaware.[1]

SUBURBAN ISSUE

2. In support of its request for a Suburban issue, CBS first states that it contacted 102 of the 788 persons listed in First Delaware's community leader survey, and that of this group 11 have sworn that to the best of their recollection they have had no contact with First Delaware representatives and 13 have sworn that to the best of their recollection, while they may have had contact with a First Delaware representative, they were not asked for and did not give their views on the comunity's needs, interests or problems.[2] With respect to this latter contention, CBS also asserts that the manner in which First Delaware conducted its community leader interviews distorted the survey's results; thus, CBS refers to 19 affidavits of community leaders contacted by First Delaware, which, in CBS's opinion, demonstrate that First Delaware asked questions primarily designed to elicit views about the adequacy of local television service (including that of WCAU-TV), rather than the community's needs and interests. CBS argues that evidence of distortion in the survey results is revealed by the fact that "mass media" is the fifth ranked problem in First Delaware's community leader survey, but that, in contrast, its general public survey produced no adverse comments about the media, whatsoever. In this regard, CBS also urges that First Delaware sought to mislead the Commission as to the reason for the frequency of community leader comments regarding the media by stating that such frequency was due to the interviewer's identification with the proposed new broadcast facility. Finally, CBS contends that its contacts with 102 of the community leaders listed by First Delaware reveal several other Primer[3] violations; specifically, petitioner alleges that four leaders' views were obtained by written questionnaries rather than personal contact, that at least six of the leaders contacted by First Delaware were not informed of the nature or purpose of the group making the contact and that three leaders discussed their views with a secretary, rather than principals or prospective management-level employees. Relevant supporting affidavits are submitted. In sum, CBS urges that all of the above requires addition of Suburban and misrepresentation issues, citing Belo Broadcasting Corporation 42 FCC 2d 1011, 28 RR 2d 732 (1973), reconsideration granted on other grounds, 44 FCC 2d 707, 29 RR 2d 323 (1974).

3. As an initial matter, First Delaware states that all community leaders it listed as being contacted were interviewed in order to ascertain the needs and interests of the community. In support of these assurances, First Delaware supplies affidavits from principals who conducted the interviews in question, avering that the interviews had taken place, that they had subsequently recontacted the interviewees wherever possible, and describing the results of the recontacts.[4] Also supplied by First Delaware are a number of memoranda taken by its principals during the initial interviews, including descriptions of the interviewees' comments, as well as curative affidavits from five of the CBS affiants who, upon being recontacted by First Delaware, now recall the interview. In any event, First Delaware argues that the affidavits submitted by CBS do not support its allegations; rather, contends opposer, these affidavits are more properly characterized as equivocal, since they employ such terms as "to the best of my recollection", "I do not remember", "I do not recall", etc., when referring to the contact by First Delaware; and, moreover, in view of the substantial lapse of time since the contacts were made (one to two years), it is not surprising that memories have dimmed. As to the alleged "distortion" of the survey, First Delaware maintains that its principals did, in fact, fully identify themselves,[5] but submits that even if they had not, the ascertainment involved would not have been inconsistent with the Primer's injunction because the pertinent issue is whether the community leaders were interviewed. Moreover, argues First Delaware, although explaining the purpose of the interview often prompted comments about local programming, such discussion was discounted unless it was specifically raised by the interviewee. As to the other alleged deficiencies, First Delaware points to the affidavits from its principals avering that each interview was conducted by them either in person or by telephone[6] and contends that any indication of support for CBS' allegations is due to the faulty memory of the interviewees. Finally, concludes First Delaware, even assuming, arguendo, that the 35 community leaders in question were to be totally discounted, CBS has not presented sufficient evidence to warrant addition of a Suburban issue, citing Radio Dinuba Co., 36 FCC 2d 573, 25 RR 2d 1190 (1972). The Broadcast Bureau agrees with First Delaware that the affidavits supplied by CBS do not adequately demonstrate either that the community leaders were not interviewed or that the questions posed by First Delaware distorted the survey's results. The Bureau also considers any other shortcomings alleged by CBS to be de minimis.

4. In reply, CBS asserts that First Delaware has unfairly characterized the averments of the CBS affiants since six of them have stated positively that they were not contacted or were not asked their views on community problems. Moreover, petitioner continues, even though First Delaware has recontacted many of the affiants to "aid their recollection",[7] most have refused to retract their earlier averments. However, CBS contends even allowing for First Delaware's contentions in this regard, the Commission has held that affidavits of persons who do not recall being interviewed are sufficient to raise a misrepresentation issue, citing, inter alia, RKO General, Inc. (WOR-TV), 47 FCC 2d 827, 30RR 2d 1155 (1974); and Itawamba County Broadcasting Co., 46 FCC 2d 60, 29 RR 2d 1154 (1974). Furthermore, urges CBS, where, as here, the number of controverting affiants is significant, the Commission has rejected the argument that the passage of time provides an excuse for the failure to recall the contact. CBS also argues that the affidavits of the First Delaware principals cannot defeat addition of appropriate issues because, to the extent that they contradict the CBS affiants, they simply

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[1] Also before the Board are the following related pleadings: (a) opposition to May 16, 1974, motion to enlarge, filed July 11, 1974, by First Delaware; (b) Broadcast Bureau's comments on May 16, 1974, motion to enlarge; (c) errata to (a), filed July 15, 1974, by First Delaware; (d) Broadcast Bureau's comments on July 9, 1974, motion to enlarge; (e) opposition to July 9, 1974, motion to enlarge, filed July 24, 1974, by First Delaware; (f) reply to (a), filed July 31, 1974, by CBS; (g) reply to (e), filed August 5, 1974, by CBS; (h) errata to (f), filed August 7, 1974, by CBS; (i) petition for leave to file a supplement and supplement to the first motion of CBS, filed September 19, 1974, by CBS; (j) comments to (i), filed September 24, 1974, by First Delaware; (k) comments to (i), filed September 26, 1974, by the Broadcast Bureau; (l) petition for leave to file reply and reply, filed October 8, 1974, by CBS; (m) petition for leave to file second supplement to motion to enlarge and supplement thereto, filed October 24, 1974, by CBS; (n) opposition to (m), filed November 5, 1974, by First Delaware; and (o) comments on (m), filed November 5, 1974, by First Delaware.

[2] CBS attaches the affidavits of these interviewees to its petition and also asserts that 11 other leaders listed by First Delaware indicated that they were not contacted but declined to execute affidavits.

[3] Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, 21 RR 2d 1507 (1971) (hereinafter the Primer).

[4] In most cases of recontact, the principals aver that the interviewees were simply not certain as to whether the previous contact occurred, rather than adamant that it had not; however, most declined to sign further affidavits.

[5] In support, First Delaware supplies copies of the form used in conducting the interviews.

[6] In support of its position that telephone contacts are permissible, First Delaware cites Lexington County Broadcasters, Inc., 40 FCC 2d 694, 27 RR 2d 416 (1973), rev. den. FCC 73-1295; and California Stereo, Inc., 39 FCC 2d 401, 26 RR 2d 887 (1973).

[7] In this regard, CBS submits a further affidavit from one of its affiants averring that the First Delaware principal who contacted him used "highly questionable techniques" in an effort to force him to change his position. CBS also believes this casts doubt on the reliability of other modifications obtained by First Delaware.

raise a factual question and, to the extent that they discuss statements of the CBS affiants, they are hearsay. CBS next contends that First Delaware has failed to refute CBS's allegations that the primary focus of First Delaware's community leader survey was local television service rather than the community's needs and interests. As to the other alleged deficiencies, CBS argues that the only rebuttal supplied by First Delaware is, in the main, composed of self-serving affidavits from its own principals, rather than rehabilitating statements from those CBS affiants who reported the deficiencies.

5. The Review Board will deny the requested misrepresentation and Suburban issues. After a careful study of all the material submitted by the parties, we have concluded that CBS has not raised a substantial question of misrepresentation. By CBS' own admission,[8] only four of its affiants have stated unequivocally that they were not contacted by First Delaware and only two others state that they were not asked about the community's needs and interests.[9] The remainder of the CBS affiants, five of whom now recall the prior First Delaware contact after being recontacted,[10] indicate only that they do not recall the First Delaware interview. Thus, of the 788 community leaders listed in First Delaware's survey, CBS has supplied affidavits challenging less than 1 percent. In such circumstances, the Commission has consistently held that a misrepresentation issue is not warranted. See, *e.g.*, Lake Radio, Inc., 42 FCC 2d 737, 28 RR 2d 587 (1973), (two challenged out of 45); Childress Broadcasting Corp. of West Jefferson, FCC 70-1032, 20 RR 2d 335 (two out of 50); Home Service Broadcasting Corp., 24 FCC 2d 192, 19 RR 2d 347 (1970) (one out of 120). See also, Radio Dinuba Co., supra.[11]

[8] CBS' reply, pp. 12–13.

[9] Moreover, we note that the Bureau is of the view that the wording of the CBS affidavits indicates that only one of the four unequivocally denies being interviewed. While we believe that there is room for legitimate disagreement in this regard, we do not believe that, in the total context of First Delaware's Suburban showing, either number is sufficient to require further inquiry.

[10] Both the statements by CBS that several First Delaware interviewees declined to execute affidavits and the averments of First Delaware principals that CBS affiants, when recontacted, indicated that they now 'remember the first contact must be discounted as hearsay. See, e.g., Eastern Broadcasting Corp., 29 FCC 2d 472, 21 RR 2d 1147 (1971).

[11] In the cases relied upon by CBS either the percentage of possibly improper contacts was significantly higher or there were other, substantiating evidence of misrepresentation. Thus, in RKO General, Inc. (WOR–TV), supra, as many as 68 community leaders were not, or did not recall being, contacted and in Itawamba County Broadcasting Co., Inc., supra, 17 of 150 were apparently not contacted, three of whom may have been deceased at the time of the survey. Finally, we believe Belo Broadcasting Corporation, supra, is distinguishable on the grounds that in the present situation opposer has supplied affidavits of its own principals and contemporaneous notes regularly taken during the interviews in question as well as numerous uncontroverted affidavits from the interviewees in retraction of earlier affidavits.

[12] Although the use of telephone contacts could bear on the question of whether a dialogue with community leaders has been achieved, the use of telephone contacts is not specifically prohibited and it appears that this method was used only on a few occasions. We therefore do not believe that a substantial question in this regard has been raised. Cf. Lexington County Broadcasters, Inc., supra.

And, in contradiction of these affidavits, First Delaware has supplied both the averments of its principals that the CBS affiants were, in fact, contacted and copies of the notes made during the interviews. Compare RKO General, Inc. (WOR–TV), supra. Moreover, we believe that the relatively insignificant amount of contradictions shown by CBS could well be accounted for by the passage of time and/or the cursory nature of the contact. See, e.g., Home Service Broadcasting Corp., supra. For these reasons, combined with the fact that we are unable to find any apparent motive for the alleged falsification of such a low percentage of interviews, the misrepresentation issue will be denied. Nor do we believe that a Suburban issue is warranted. We cannot agree with CBS that its affidavits support its allegations of "distortion" of First Delaware's community leader survey. Thus, as noted by the Bureau, in only one instance did an interviewee categorically deny being asked about the problems, needs and interests of his community and, while certain interviewees state that they also discussed how present television service relates to these problems, we can perceive no basis for concluding that the inclusion of this line of questioning necessarily invalidates the survey. Also, upon being recontacted by First Delaware, various interviewees have supplied new affidavits indicating that they now recall making the statements attributed to them concerning the community's needs and interests. The likelihood of this is, in our view, borne out since the form used by First Delaware clearly directs that the appropriate questions be asked, compare WPIX, Inc. (WPIX), 34 FCC 2d 419, 24 RR 2d 58 (1972). Finally, aside from the fact that First Delaware has supplied further affidavits which substantially mitigate CBS' remaining charges of First Delaware's total ascertainment effort, we agree with the Bureau that they are de minimis[13] and that the public interest quiry.

Misrepresentation Issue re Edward P. Morgan

6. Next, CBS requests an issue to determine whether Edward P. Morgan, a 5 percent shareholder in First Delaware and a senior partner of a law firm which regularly practices before the Commission, has participated in making serious and material misrepresentations to the Commission in another nonrelated proceeding presently pending before the Commission.[14, 15] Noting that the Review Board had added an issue in the Belo Broadcasting proceeding to determine whether the applicant WADECO, Inc. had made misrepresentations to the Commission regarding the availability of a $2,500,000 bank loan,[16] and that WADECO had been represented during the pertinent period by the law firm of Welch and Morgan of which Morgan is the senior partner, CBS alleges that Morgan was involved in or had knowledge of the alleged misrepresentations. Thus, CBS asserts that while Morgan was not directly in charge of the case, he did receive copies of memoranda and correspondence pertaining to problems concerning the availability of the Castle Trust loan commitment letter,[17] and, in one instance, was the recipient of a letter from WADECO's president informing him of the unsuitability of the loan commitment.[18] This letter, quite aside from other indicia of knowledge, CBS reasons, clearly served to put Morgan on notice that reliance on the bank loan commitment was misplaced and therefore that continuing to represent its availability to the Commission constituted an affirmative misrepresentation.[19]

[13] The proceeding to which CBS refers is the Dallas, Texas, TV broadcast proceeding (Docket Nos. 19744–19745), which involves the mutually-exclusive application of Belo Broadcasting Corp. (WFAA–TV) and WADECO, Inc.

[14] CBS has twice petitioned for leave to file supplements to its motion to enlarge issues with respect to this issue in order to submit information which was obtained during the taking of depositions in the Belo Broadcasting proceeding. Since this information was promptly brought to the Board's attention and is relevant to our disposition of the requested issue, the Board will grant both petitions.

[15] Belo Broadcasting Corp. (WFAA–TV), FCC 2d 520, 28 RR 2d 325 (1973).

[16] In this connection, Mr. Wade, the president of WADECO has testified and deposed that he had advised the attorney in charge of the case, Thomas M. P. Christensen, repeatedly during the period beginning shortly after the filing of the commitment letter until over a year later that the letter was invalid and should be withdrawn.

[17] This letter, dated June 30, 1972, reads in pertinent part:

As you know I have tried diligently for almost a year to secure a suitable letter of credit for our FCC application and have met with nothing but disappointment—I must reluctantly say I have lost all hope of securing such a letter before we are granted the franchise. Likewise I am convinced—and have been verbally assured repeatedly—that we will have no trouble at that time securing the operating capital. Therefore, I am requesting you to do whatever you can to get an early designation for hearing notwithstanding our financial vulnerability.

[18] In a deposition session held during October 1974, Wade stated that Morgan may have been informed of the fact that the loan commitment was invalid prior to that time; Wade relates that he may have informed Morgan of this fact during a meeting in Detroit in the early spring of 1972; however, Wade also explains that he became aware of problems with the bank letter after receiving an inquiry from the Commission which was sent subsequent to the time his Detroit meeting with Morgan was held.

7. In opposition, First Delaware submits an affidavit executed by Morgan in which the affiant denies any personal knowledge or involvement with the circumstances surrounding the alleged misrepresentation. Morgan explains that the Belo case was assigned to Christensen, and that, with one exception,[19] the correspondence referred to by CBS which was directed to Christensen was dealt with by Christensen. With respect to his own role in the proceeding, Morgan explains that he did not follow the day-to-day developments of the case, and, as a result, he did not give close attention to the copies of correspondence pertaining to the proceeding which he regularly received. And, as to the June 30, 1972, letter from Wade, see note 17, supra, Morgan avers that he placed a wholly reasonable, albeit different, interpretation upon it than CBS. Morgan avers that he interpreted the letter to mean that Wade's continuing efforts to secure local financing had met with no success and that this was Wade's reason for using the term "suitable letter of credit", rather than a reference to the Castle Trust letter. Nor, continues Morgan, did he interpret Wade's stated desire to go to hearing "notwithstanding our financial vulnerability" to refer to the validity of the Castle Trust letter; rather, avers Morgan, the only problems he was aware of concerning the Castle Trust letter were about its suitability, i.e., whether or not it was adequate to meet Commission requirements. As indication of what his interpretation of Wade's letter had been at the time of receipt, Morgan submits his letter of reply, which Morgan contends, demonstrates that he was not aware of the necessity of withdrawing the Castle Trust letter.[20] Moreover, avers Morgan, he never had oral discussions with Wade concerning Wade's June 30, 1972, letter. Finally, First Delaware also supplies an affidavit of Thomas Christensen in which he avers that, to the best of his recollection, "Mr. Morgan was neither involved in negotiations relating to the bank letter written by the Castle Trust, nor the author of correspondence or pleadings relating to that matter." The Broadcast Bureau agrees that CBS has failed to adequately demonstrate that Morgan was involved in or aware of any misrepresentation which may have been committed. Thus, the Bureau accepts both Morgan's interpretation of Wade's letter and Morgan's statement concerning the one Castle Trust letter addressed to him as reasonable.

8. In reply, CBS contends that Morgan's affidavits do not deny that he received copies of all relevant documents and correspondence between the bank and Christensen and between Christensen and Wade, and that because a misrepresentation issue was added in the Belo proceeding an issue is required here to determine the extent of Mr. Morgan's involvement in any misrepresentation. CBS also rejects Morgan's interpretation of Wade's letter, arguing that the Wade-Morgan exchange of letters only makes sense if both parties were referring to the difficulties with the loan commitment which had led to the Commission letter of inquiry.

9. The Board will deny the requested misrepresentation issue against Morgan. In order to add the requested issue it would be necessary for CBS to show that Morgan either had some connection with the filing of a possibly invalid financial commitment letter or, subsequent to filing, Morgan become aware that a possibly invalid letter had been filed and failed to so inform the Commission. This, in the Board's view, CBS has failed to do. Stripped of conjecture and speculation, CBS' allegations are based on the one Castle Trust letter addressed to Morgan, the June 30, 1972, letter from Wade to Morgan, and the deposition testimony of Wade. However, as to the Castle Trust letter, we find reasonable Mr. Morgan's explanation that it was addressed to him because of the absence of Mr. Christensen, and that, in light of customary mail room practices and the presence of Christensen's, rather than his, initials on the letter, he did not even see it. Moreover, we have both Morgan's and Christensen's sworn affidavits that Morgan did not participate in the arrangements resulting in the Castle Trust commitment letter. And, with respect to the June 30, 1972, letter from Wade to Morgan, we agree with the Bureau that Morgan's construction of the letter is reasonable[21] and this construction is fully supported by Morgan's reply, see note 20, supra. In this regard, we have also reviewed the available letters and memoranda which may have gone across Morgan's desk concerning the Castle Trust loan commitment and we do not believe that any of these would necessarily indicate the existence of a possible or potential misrepresentation. Finally, we have reviewed the entire relevant deposition testimony of Mr. Wade and find it fails to support CBS' theory that Morgan had knowledge of the alleged misrepresentation. With the exception of the June 30, 1972, letter discussed above, nowhere does Wade unequivocally state that he communicated to Morgan, either in writing or orally, his opinion that the letter was invalid or that the letter should be withdrawn. Accordingly, the requested issue will be denied.

Alleged Violations of Federal Securities Law

10. CBS next requests an issue to determine whether First Delaware engaged in misrepresentations and other unlawful conduct in the offer and sale of its stock. Specifically, CBS initially charges that First Delaware principals made serious misstatements and failed to disclose material facts in soliciting investments, thereby violating the Securities Act of 1933. In support of these assertions, CBS supplies an affidavit from a Mr. Barry Nemcoff[22] in which he avers that the president of First Delaware, Mr. Barnhouse, in asking Nemcoff to convey an offer to invest to his superior (Mr. Segel) had informed him that the law firm representing First Delaware had represented a successful challenger in another, nonrelated proceeding in Boston, Massachusetts, that this proceeding could be resolved "fairly quickly, perhaps within a year or two", and that CBS was in violation of Commission regulations relating to "overlap".[23] CBS charges that the statements of Barnhouse are incorrect and that such misstatements clearly would mislead potential investors. CBS also alleges that similar misrepresentations were made by Mr. Barnhouse in public statements and in support of this contention CBS quotes articles in two newspapers and a magazine. Petitioner also submits an affidavit from Geogory M. Harvey, who avers that he attended a meeting of a private club in Philadelphia at which Mr. Barnhouse, as speaker, made similar misstatements. Therefore, concludes CBS, the misrepresentations made in the solicitations of stock offers are a violtaion of federal securities law and clearly could reflect on First Delaware's character qualifications. CBS also alleges that federal securities law requires First Delaware to register its stock and provide each offeree with a detailed prospectus, but that First Delaware has not done so and therefore an issue is required to determine the effect of this fail-

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[19] Morgan avers that a letter from Castle Trust was addressed to him because of the absence of Christensen for medical reasons, that he (Morgan) has no recollection of seeing this letter, and that Christensen, rather than Morgan, initiated it, indicating that the office employee who opens the mail, knowing that the case was assigned to Christensen, routed it directly to Christensen.

[20] The text of this letter to Wade, dated July 5, 1972, reads as follows:

Your letter of June 30, raises two matters: i.e., (1) the thought that a suitable bank letter will not be forthcoming until WADECO's application is granted; and (2) a request that we secure an early hearing designation.

Apropos (1), above, we can never be found financially qualified and thereby secure a grant ['franchise'] absent a satisfactory bank letter covering the cost of construction and initial [3 months] operations. Hopefully, this can be secured before the hearing is concluded. However, it is simply not in the cards to obtain a grant until such time as an applicant is found to be financially qualified.

In the case of (2), the only thing holding up hearing designation is our own amendments. Once these cease, we will be designated for hearing.

[21] As further noted by the Bureau, what Wade intended to communicate is not directly relevant to the question of what Morgan knew.

[22] Nemcoff, in his affidavit, states that until mid-May, 1972, he was news director at WCAU-TV but that at the time of the relevant communications with Barnhouse, he was vice president for communications for Franklin Mint Corporation, Philadelphia, Pennsylvania.

[23] An affidavit from a Mr. John Facenda, an employee of WCAU-TV, is also submitted by CBS in which the affiant states that his participation in the applicant had been solicited.

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ure on First Delaware's character and basic qualifications.

11. In opposition, First Delaware contends that CBS' allegations of fraud and misrepresentation are insufficient to warrant the addition of the requested issue.[8] Aside from this lack of sufficiency, First Delaware submits affidavits, which, in its view, serve to counter CBS' more particular allegations. In an affidavit executed by Barnhouse, the affiant avers that there was never an offer or intention to offer either of the CBS affiants an opportunity to invest in or associate with First Delaware and, in fact, asserts Barnhouse, he had not even heard of First Delaware at the time of his initial conversations with Nemcoff and Fecundal.[9] Moreover, as a rebuttal of the Harvey affidavit, First Delaware again refers to the Barnhouse affidavit in which the affiant denies that he made the statements attributed to him by Harvey, as well as to corroborative affidavits executed by two members of the audience.[10] In any event, First Delaware continues, the actual composition of the present group of stockholders belies the suggestion that Barnhouse engaged in solicitation of its members; thus, the applicant notes that the present stockholders were the friends and acquaintances of the members of the organizing groups, and that each investor had the opportunity to meet with the company's attorneys and discuss the full circumstances of his proposed participation. Finally, as to CBS' allegation that federal law requires First Delaware to file a registration statement, First Delaware argues that it is exempt since it extended only a private offering, but that even if it had not, no issue should be added because this area of securities law is complex, confusing and in a state of flux and, because there is clearly no intent to misrepresent or deceive, no purpose would be served by further inquiry by the Commission. The Broadcast Bureau basically supports First Delaware's position, arguing that CBS has not shown that Barnhouse was soliciting investments, that violation of federal securities law is, at best, doubtful, that it does not appear that any of the First Delaware stockholders were misled and, finally, that this matter should be left to the Securities and Exchange Commission.

12. In reply, CBS attempts to distinguish the cases relied on by First Delaware on the grounds that in those cases, as opposed to the instant situation, the alleged securities violations were either wholly unrelated to the broadcast activities of the applicants or related only to the failure to register its stock. Second, CBS urges that the existence of conflicting affidavits is a sufficient basis for adding the requested issue. But in any event, CBS contends, the affidavits submitted by First Delaware tend to confirm rather than refute the existence of the alleged misrepresentations. For example, CBS argues, Barnhouse's affidavit does not categorically deny the possibility of a solicitation of Fecunda and Nemcoff and, in CBS' opinion, the affidavits therefore do not allay the question of whether the conversations held constitute an "offering" under the federal securities law. Moreover, First Delaware's unreliability in this regard is demonstrated by the varying representations made to the Commission, CBS argues; thus, CBS contends that contrary to the applicant's statement, that it did not solicit investments after July 1972, in September of 1972 First Delaware reported to the Commission that it had increased the number of shareholders thereby indicating that it must have been continually soliciting offers.

13. The Board will deny the requested issue. In our view, CBS has supplied no reason to deviate from our usual practice of nonintervention in matters of alleged violations of local or federal law where, as here, the forum entrusted with the enforcement of those laws has not been initially consulted. RKO General, Inc. (WOR–TV), 47 FCC 2d 827, 30 RR 2d 1155 (1974); Northeast Oklahoma Broadcasting, Inc. supra; Bangor Broadcasting Corp., supra; and Lamar Life Broadcasting Company, supra. CBS' attempt to distinguish these cases on the grounds that they dealt with alleged violations involving non-broadcast related activities is not sufficient to relieve the Board of this injunction, since the threshold question remains the same, namely, whether there has been a violation of particular federal laws, the enforcement of which has been entrusted to another federal agency. Thus, while the violation of federal securities laws could reflect upon an applicant's qualifications to be a Commission licensee, we believe that the type of allegations supplied by CBS would more appropriately be dealt with by the agency directly charged with enforcement and interpretation of those laws. Moreover, we agree with the Bureau that the affidavits supplied by CBS do not adequately support its contention that Barnhouse made misrepresentations in the solicitation of stock sales, or that he made the alleged misrepresentations in an attempt to induce the affiants to join the group. Nemcoff, Fecenda and Segel cannot be deemed ignorant bystanders in the broadcasting field who could have been duped into investing without obtaining all informative financial data. In any event, the affidavits of Nemcoff and Fecenda indicate on their face that they had no interest in this group. And CBS' showing is devoid of any indication that these purported representations were made by Barnhouse to any of the persons who are now First Delaware stockholders. In sum, two of the three statements attributed to Barnhouse appear to be statements of opinion, one of which, regarding the overlap question, was the subject of a petition to enlarge issues. In our view, the third misstatement attributed to Barnhouse, concerning the past record of the applicant's counsel, even if shown to have occurred, would not be sufficient basis for adding a misrepresentation issue. It is of critical significance that, absent a showing of solicitation, petitioner has shown no intent to deceive, a sine qua non of a misrepresentation issue. Finally, with respect to the other exhibits supplied by CBS, we note that the newspaper and magazine articles are clearly unacceptable hearsay (Commission Rule 1.239) and the contents of the Barnhouse speech as reported in the Harvey affidavit are adequately rebutted by extrinsic evidence.[11] Accordingly, the requested issue will be denied.

ALLEGED VIOLATION OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT

14. CBS next requests an issue to determine whether two First Delaware principals, Soloman Katz and Matthew O. Adams, have violated the Labor-Management Reporting and Disclosure Act (hereinafter Act), by entering into a loan agreement in the course of preparing the First Delaware application. Specifically, CBS notes that Katz has agreed to lend Adams the amount necessary to meet his First Delaware stock subscription; however, according to the petitioner, Adams is an "organizer" in a union which represents employees in another nonrelated corporation of which Katz is Chairman of the Board and a 20 percent stockholder. Such a loan agreement, contends CBS, violates section 186 of the Act and an issue is required to determine the effect of the violation on First Delaware's qualifications. The Review Board agrees with First Delaware and the Broadcast Bureau that the above allegations do not warrant addition of an issue. As discussed above,[12] it is our usual practice to refrain from initially intervening in matters concerning alleged violations of local or federal law when the matters raised are clearly within the province and expertise of another government agency, and CBS

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[8] In any event, First Delaware notes that the Commission has traditionally been reluctant to intervene in situations such as this when it appears that none of the agencies primarily entrusted with enforcement of the law in question, i.e., Federal securities law, has taken any action or, indeed, even been consulted as to the possibility of violations. Northeast Oklahoma Broadcasting, Inc., 40 FCC 2d 543, 27 RR 2d 144 (1973); Bangor Broadcasting Corp., 23 FCC 2d 687, 23 RR 2d 883 (1972); and Lamar Life Broadcasting Company, 26 FCC 2d 112, 20 RR 2d 509 (1970).

[9] With respect to CBS' allegations concerning the overlap rules, First Delaware notes that on May 16, 1974, it filed a petition to enlarge issues alleging that CBS was in violation of Rule 73.635.

[10] As a related matter, First Delaware notes that the quotes from newspapers and a magazine are hearsay and stresses that they could in no sense be regarded as being a stock solicitation.

[11] First Delaware has supplied affidavits of two other members of the audience which are in agreement with Barnhouse's denial of the misstatements attributed to him by the Harvey affidavit.

[12] See paragraph 13, supra, and cases cited therein.

has provided no basis for departure from our usual practice.

ALLEGED BREACH OF FIDUCIARY DUTY BY DONALD BARNHOUSE

15. Next, CBS contends that Donald Barnhouse, First Delaware's president and a former employee of the present licensee (WCAU–TV), violated his fiduciary duty to WCAU–TV by his surreptitious participation in the preparation of First Delaware's application while at the same time maintaining the employment at WCAU–TV. Although this association allegedly breaches the fiduciary relationship customarily inherent in an employee-employer relationship, CBS emphasizes that it was also a breach of the agreement entitled "Report on Conflicts of Interest" which Barnhouse was required to sign as a condition of employment and which clearly prohibited Barnhouse's participation in a competing application. In sum, concludes CBS, Barnhouse's conduct in this regard has a bearing on his possible future conduct as a principal in First Delaware and an appropriate issue is required. The Review Board will deny the requested issue. As noted by the Broadcast Bureau, even assuming that there is a private contractual dispute between CBS and Barnhouse arising from Barnhouse's obligations under the "Report on Conflicts of Interest" the Commission is clearly an inappropriate forum for settling that dispute in the first instance.[23] In any event, petitioner has not alleged any specific conduct on the part of Barnhouse, i.e., theft of confidential information, etc. which might reflect on his or First Delaware's character qualifications. In our view, it is important to note that Barnhouse readily and promptly revealed his association with First Delaware; thus according to independent and unchallenged affidavits submitted with First Delaware's opposition, within less than one month from the time Barnhouse was initially contacted with regard to his possible participation in the First Delaware application he informed his supervisor at CBS of such participation. Accordingly, no issue will be added.

TRANSMITTER SITE AVAILABILITY AND RELATED ENGINEERING AND COST ISSUES[24]

16. In support of its request for a transmitter site availability issue, CBS first notes that First Delaware proposed to operate from the present CBS site in its initial application. However, alleging not only that First Delaware has never approached the existing licensee to discuss the site's possible future availability, CBS unequivocally states that it "will not, under any circumstances," enter into a lease agreement with First Delaware.[25] Moreover, as indication of the unavailability of any site, CBS directs the Board's attention to the deposition of First Delaware's president, Donald Barnhouse, in which he admits that First Delaware is now proceeding on the assumption that CBS will not lease its site, but that it has not yet adopted firm plans to acquire another site from an alternate source. In addition, CBS argues that because First Delaware's site is clearly unavailable, its contingent financial, engineering and equipment proposals are no longer accurate and appropriate issues are required to determine whether First Delaware can operate as proposed. Finally, CBS requests a § 1.514 and/or § 1.65 issue to determine whether First Delaware has failed to timely inform the Commission of the unavailability of its proposed antenna site. The Broadcast Bureau supports the addition of site availability and § 1.65 issues.

17. In opposition, First Delaware asserts that it "continues to propose the originally specified site" and that Mr. Barnhouse's deposition testimony indicates only that alternatives are under consideration. Moreover, the applicant continues, CBS has stated that it will not lease the site but has not indicated that it would not sell and thus Belo Broadcasting Corp., 44 FCC 2d 707, 29 RR 2d 323 (1974), upon which petitioner relies, is readily distinguishable. Next, First Delaware suggests that the refusal of a former licensee to make its site available to a winning applicant especially when as here the use to which the land can be put is limited, frustrates the public interest and arguably constitutes a violation of § 73.635 of the Commission's Rules. Finally, First Delaware contends that the equitable doctrine of laches must be applied against CBS because the licensee has known for almost two years that First Delaware proposed to lease the existing facilities.

18. The Review Board will add the requested site availability and § 1.65 issues but will deny the related engineering and financial issues. CBS has unequivocally averred that it will not, "under any circumstances" lease its site to First Delaware,[26] thereby raising a substantial question as to whether First Delaware has reasonable assurance of the availability of its proposed site. Belo Broadcasting Corp., supra.[27] However, we believe that the addition of contingent financial qualifications and effectuation of proposal issues, as well as expansion of the standard site availability issue, would be both premature and hypothetical in nature, particularly in view of Mr. Barnhouse's deposition testimony indicating that alternative sites are presently being explored. Should a future First Delaware amendment specify a definite site, and/or a different engineering proposal, thereby substantially affecting First Delaware's financial, engineering or equipment proposals, an appropriate request for additional issues would be entertained. We do, however, believe a § 1.65 issue should be added. Although First Delaware states that it continues to propose the original site now owned by CBS, it is apparent that, based upon the Schneider affidavit denying its availability, First Delaware knew or should have known since May 16, 1974, that it no longer had reasonable assurance of its proposed site and should have reported this circumstance to the Commission. The deposition of Mr. Barnhouse buttresses our conclusion in this regard since he contradicts First Delaware's statement by admitting that the applicant is now proceeding on the assumption that CBS will not make its site available.[28] Accordingly, site availability and § 1.65 issues will be added.

FINANCIAL AND COST ESTIMATES ISSUES

19. CBS contends that First Delaware's financial showing is deficient in three areas.[29] First, CBS alleges that the proposed $4,000,000 bank loan from Lincoln Bank of Philadelphia to First Delaware is in question because the Pennsylvania Banking Code prohibits a loan to any one customer which "would exceed ten percent of the capital, surplus, undivided profits and capital securities of the institution * * *." Moreover, argues CBS, the wording of the "commitment" letter is inadequate because the terms are too indefinite.[30] Specifically, CBS asserts that the letter fails to define its "customary and reasonable credit criteria", that the

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[23] In this regard, see also our discussion at paragraphs 13 and 15, supra.

[24] Both CBS' first and second motions contain a request for a transmitter site availability issue. The second motion which is based on depositions taken of First Delaware's president, also requests an expansion of the traditional issue to include the availability of any site, rather than the proposed site, as well as related engineering and cost issues. Since the second motion is in support of the first motion and was filed within ten days of the taking of depositions upon which it is based, it will be regarded as timely filed.

[25] This position was declared in the attached affidavit of John A. Schneider, president of the CBS Broadcast Group and a vice president and director of CBS, Inc., which was served on First Delaware on May 16, 1974.

[26] First Delaware's application states that it will lease (rather than purchase) the proposed site and therefore we attach no significance to the fact that CBS did not address itself to a possible sale of the site.

[27] Also in this regard, we have recently rejected the contention that section 73.635 requires a losing applicant for renewal of license to make its facilities available to its competitor. RKO General, Inc. (WOR–TV), — FCC 2d —, 21 RR 2d 883 (1974).

[28] Because there is no basis for concluding that prior to receipt of the Schneider affidavit First Delaware could reasonably assume that its site would be unavailable, United Television Co., Inc., 18 FCC 2d 363, 16 RR 2d 621 (1969), we will not specify a Rule 1.514 issue.

[29] A limited financial issue was previously specified against First Delaware in the Commission's designation Order, FCC 74–363, 39 FR 15158, published May 1, 1974.

[30] Relevant portions of the letter state that the loan will be made on the conditions that First Delaware meets all "customary and reasonable credit criteria" of the Bank, that three stockholders (Morgan, Kohn and Katz) remain with the corporation and supply personal guarantees, that the terms of repayment are contingent upon the exact credit conditions prevailing at the time of the cash advance but that the Bank currently contemplates calculating interest on any loan made at the rate of 2 percent above the prime rate, and that the loan will be repaid, after a one-year moratorium, in eight semi-annual installments "or as otherwise reasonable in line with financial projections received prior to the time of borrowing * * *."

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precise rate of interest is not specified and that the repayment schedule is indefinite. Second, CBS contends that the stock subscription agreements upon which First Delaware relies are not legally binding or enforceable and that "numerous subscribers" have failed to demonstrate the capacity to meet their subscriptions. Asserting that various of the stock subscriptions are void, because First Delaware has violated Federal and state securities law (see paragraph 10, supra), CBS argues that each of its subscribers is therefore free to demand recision. With respect to the second assertion, CBS lists eleven First Delaware subscribers whom it contends have failed to show their ability to meet their subscriptions in one or more of the following respects: (a) Reliance on an unenforceable loan which is in violation of labor law provisions (see paragraph 14, supra); (b) failure to submit a balance sheet and/or statement of subscriber's income during the relevant past two-year period; (c) failure to disclose the nature of the security when the subscriber is relying on loan; (d) listing of jointly held rather than individual property (with spouse); and (e) lack of current liquid assets.[28] Third, CBS urges that First Delaware has substantially underestimated the minimum, necessary costs to construct and operate its proposed station for three months. Specifically, CBS alleges that First Delaware's proposed cost of program origination equipment of $1,485,000 is $36,641 below the minimum necessary provision[29] and, additionally, that it also failed to account for substantial first-year principal and interest payments owed to its equipment supplier in the amount of $96,187. CBS also argues that the bank commitment letter allows a one-year moratorium on principal only and therefore interest payments for the first year of operation should have been included. Finally, CBS argues that First Delaware has substantially underestimated minimum preoperating expenses, sales and salary costs, program and production costs, engineering and technical costs, general and administrative costs and numerous other expenses.

20. In opposition, First Delaware initially notes that CBS has erred in assuming that an applicant must demonstrate that it has a contractually binding commitment with a lending institution. Rather, First Delaware asserts, it is required to demonstrate reasonable assurance of the availability of a proposed loan; and the bank letter it is relying upon sufficiently sets forth the terms and conditions of the loan to satisfy Commission standards in this respect, the applicant concludes. As a related matter, First Delaware states that the Bank has made loans in the past which were in excess of its statutory limit by participating with other banks, but argues that this is not presently a subject for Commission inquiry so long as there is reasonable assurance that the funds are available. However, in an effort to rebut any doubt as to the availability of funds, First Delaware states, one of its principals, Sol Katz, has set up an escrow account in the amount of $4,000,000 which will be available to First Delaware in the event bank financing is not available. This agreement provides a one-year moratorium on principal and interest payments and, therefore, First Delaware contends, any question of interest payments is allayed. With respect to its subscription agreements, First Delaware argues that since no violation of law has been shown, these obligations must be regarded as valid and binding. Moreover, asserts First Delaware, its subscribers have shown either liquid assets or loan commitments sufficient to meet their subscriptions, and CBS has failed to impeach these showings with any specific, factual evidence to the contrary.[30] Next, as to the alleged cost underestimates, First Delaware states that CBS' predictions are based on its own expenses, but that First Delaware, as a new applicant, cannot be expected to run its facility from the outset as if it had the funds and resources of CBS. Furthermore, based upon the affidavits of two persons with relevant television operation experience who question the basis of CBS' calculations and affirm First Delaware's projected costs, First Delaware reasserts that its costs are both reasonable and realistic. The Broadcast Bureau also opposes CBS' request for additional financial issues against First Delaware, asserting that most of the matters raised by petitioner were considered by the Commission prior to designation and found to be satisfactory. Moreover, in the Bureau's opinion, the existing flow of revenue which will become available to First Delaware, fully covers any possible deficiencies in the applicant's proposal.

21. In reply, CBS contends that, in the absence of a substantiating letter from the lending bank, there is no support for First Delaware's suggestion that the participation of other lending institutions would ensure the availability of the proposed loan. CBS also attacks the reliability of the Katz escrow agreement, stating that two of the required guarantors have not indicated a willingness to so obligate themselves, that no representative of the Bank holding the escrow account has signed the agreement and that the First Delaware application has not been amended to reflect the agreement. In response to the argument that the Commission has already reviewed and approved First Delaware's financial data, CBS contends that a large amount of relevant information was not before the Commission at the time of designation, such as the allegations concerning securities violations, the Lincoln Bank's legal lending limit, the interest and principal payments due during the first year of operation and First Delaware's underestimated costs. Finally, CBS attacks the affidavits supplied by First Delaware concerning its cost estimates, arguing that aside from being conclusory and nonresponsive, they are not based on independent analysis by persons with experience in operating a VHF television station in a major market.

22. Generally, when a bank letter expresses a firm agreement to extend a line of credit to a broadcast applicant, the Review Board will not question the availability of the loan commitment. But, when, as here, it is undisputed that the proposed loan would violate statutory limitations governing the amount a bank may lend, it is incumbent upon an applicant to make a further showing of availability. First Delaware's statement that it is customary for banks to participate in meeting loan commitments in excess of the statutory limitation does not, however, constitute a sufficient or proper showing in this regard. Thus, there is no indication either that the Lincoln Bank contemplates and is willing to arrange to have other banks share in the loan, or that other banks would be willing to participate in extending funds to the full extent necessary to satisfy the commitment to First Delaware. Absent further assurances of this nature,[31] the Board cannot conclude that First Delaware has reasonable assurance of the availability of its proposed loan.[32] Alternatively, we cannot conclude that First Delaware has reasonable assurance of the availability of the Katz

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[28] CBS' second motion, see note 30, supra, also alleges that, based upon the deposition of Donald Barnhouse, Lisa A. Richetti, another First Delaware subscriber not mentioned in CBS' first motion, appears to be unwilling to meet her stock subscription agreement because, although requested to do so, she has not yet paid any amount pursuant to the stock subscription agreement.

[29] In support, CBS supplies the affidavits of four individuals, three of whom are employed by CBS, stating their criticisms of various aspects of First Delaware's cost proposals.

[30] In any event, the applicant asserts that any Commission concern about stock subscriptions, has been resolved; thus, First Delaware notes that although the Commission did raise certain questions as to some of the First Delaware stockholders prior to designation, the Commission stated that the stock subscribers could meet their commitments to the applicant in the designation Order, FCC 74-363, released April 24, 1974.

[31] Compare Lamar Life Broadcasting Co., 36 FCC 2d 112, 20 RR 2d 500 (1970); and TVUE Associates, Inc., 5 FCC 2d 419, 8 RR 2d 264 (1966), in which the applicant submitted the following—an affidavit from the president of the lending bank stating that he had signed the loan commitment with full knowledge of state banking limitations; an affidavit from the commissioner of the state's department of banking attending that consistent with state law, a bank could commit itself to extend a loan in excess of the statutory limit and seek participation from other banks; and letters from other banks confirming that they would share in the loan to the extent necessary to meet the commitment.

[32] We do not, however, agree that the terms set out in the bank letter are not sufficiently definite for Commission purposes; thus, it is readily apparent that the loan will be personally guaranteed by three principals, that the interest rate will be 2 percent above the prevailing prime interest rate, and that the repayment schedule provides that after a one-year moratorium, payment of principal will be made in eight equal installments.

escrow fund,[46] since the applicant has not demonstrated the willingness of its principals, Harold E. Kohn and Edward P. Morgan, to personally guarantee repayment of the escrow fund, a condition precedent of the arrangement. Similarly, First Delaware has failed to clearly and fully document the capacity of its stock subscribers to meet their commitments.[47] The chief deficiency in this regard, which affects six subscribers who are relying on loans to satisfy their obligations,[48] is the failure to indicate what, if any, security will be required for their enabling loans. See Viking Television, Inc., 16 FCC 2d 1018, 15 RR 2d 954 (1969); and Form 301, Section III. Additionally, the showings with respect to two subscribers fail to include either balance sheets or statements of income, both of which are specifically called for in the application form.[49] And third, in three instances,[50] First Delaware has not sought to ascertain whether the spouses of subscribers agree to utilize jointly-held assets for the purchase of the applicant's stock.[51] Finally, the first-year cost estimates appearing in First Delaware's application are not unreasonable on their face and, in our view, petitioner has failed to raise any sufficiently substantiated and/or specific question as to these projected costs. In essence, the relevant affidavits supplied by CBS in this regard assume the need for either additional or different types of equipment or salaries,[52] or assume the application of the Ultravision Broadcasting Co.[53] standard, rather than First Delaware has supplied affidavits from persons with experience in broadcasting, averring that the cost estimates are realistic. In sum, we do not believe that CBS has adequately demonstrated that First Delaware cannot meet all its necessary expenses with the sum projected. Accordingly, this request will also be denied.

SECTION 1.65 AND/OR SECTION 1.514 ISSUES

23. In support of its request for a § 1.65 and/or § 1.514 issue, CBS initially alleges that First Delaware has failed to disclose information concerning business interests and occupations of four of its principals, who, in the aggregate, own 44.5 percent of the applicant. Specifically, CBS charges First Delaware with the failure to report the following in its application:[54] (a) that its president, Donald Barnhouse, is presently engaged in three occupations—as a salaried officer of the "Committee of Seventy", an agency involved in Philadelphia civic affairs, as a contributor of a regular weekly column to the Camden, New Jersey Courier Post newspaper, and as a news commentator on Philadelphia radio Stations WFLN and WFLN-FM; (b) that Soloman Katz, a director and 25.5 percent owner of First Delaware, became a director of the First Pennsylvania Banking and Trust Co. in March 1973, that Katz, as late as December 1960 (and well within the five-year period at the time of the filing of First Delaware's original application) owned more than 25 percent of the stock in Transport Pool Corporation, a business engaged in the rental of trucking equipment, and that, while First Delaware has reported Katz's position as president and Chairman of Strick Corporation, it has never reported his position as chairman and director of Strick Corporation's corporate parent, Strick, Inc.; (c) that William Meehan, a First Delaware director and 5 percent owner is also a salaried member and vice chairman of the Pennsylvania Turnpike Commission and that within the last five years Meehan was an officer and director of Supply Company of Central City, Inc., a Pennsylvania Corporation; and (d) that Joseph M. Rodriquez, a First Delaware director and 3 percent owner, is the salaried chairman of the State Commission of Investigation of New Jersey. CBS contends that the above information was clearly required to be reported and could affect First Delaware's integration proposal. Next, CBS charges that First Delaware has also violated Rule 1.514 by failing to submit balance sheets and after-tax income statements[55] for another four of its principals and has also failed to reveal the market or exchange on which certain securities listed in various balance sheets are traded. Finally, CBS alleges that in violation of Section IV-B, Question 21 of Form 301, First Delaware has failed to submit the names of the individuals who will manage the proposed station.

24. In opposition, First Delaware concedes that it failed in some four[56] instances to inform the Commission of information called for by Form 301, but stresses that the omissions, all of which have little significance, were inadvertent. Turning to CBS' remaining allegations, First Delaware contends that Form 301 requires information as to the principal occupations of parties, rather than part-time, or clearly limited forms of association. Thus, First Delaware alleges that Barnhouse is not regularly employed by the Courier Post, but rather is paid $50 per column purchased and published, and that, rather than being an employee of radio Stations WFLN and WFLN-FM, Barnhouse's commentaries on those stations are presented as a "public service." Similarly, First Delaware asserts, Meehan's position on the Pennsylvania Turnpike Commission and Rodriquez's position on the State Commission of Investigation of New Jersey are neither business enterprises nor, given the demands of the positions, "principal occupations". First Delaware argues that, although it did not supply balance sheets and after-tax income statements for certain of its principals, adequate financial information concerning each of the principals has been submitted to demonstrate that each can meet its subscription obligations and therefore further inquiry would be useless. Moreover, failure to identify the exchange on which certain stocks of subscribers are traded is not significant, First Delaware notes, since none of the individuals listing the stocks are relying on them to meet his obligation to the applicant. Finally, First Delaware contends that there is no Commission requirement that an applicant include the names of prospective managing personnel at the time of the filing of the application.

25. The Broadcast Bureau supports CBS' request to the extent that Barnhouse's integration proposal. Next, CBS charges that First Delaware has also violated Rule 1.514 by failing to submit balance sheets and after-tax income statements[55] for another four of its principals and has also failed to reveal the market or exchange on which certain securities listed in various balance sheets are traded. Finally, CBS alleges that in violation of Section IV-B, Question 21 of Form 301, First Delaware has failed to submit the names of the individuals who will manage the proposed station.

24. In opposition, First Delaware concedes that it failed in some four[56] instances to inform the Commission of information called for by Form 301, but stresses that the omissions, all of which have little significance, were inadvertent. Turning to CBS' remaining allegations, First Delaware contends that Form 301 requires information as to the principal occupations of parties, rather than part-time, or clearly limited forms of association. Thus, First Delaware alleges that Barnhouse is not regularly employed by the Courier Post, but rather is paid $50 per column purchased and published, and that, rather than being an employee of radio Stations WFLN and WFLN-FM, Barnhouse's commentaries on those stations are presented as a "public service." Similarly, First Delaware asserts, Meehan's position on the Pennsylvania Turnpike Commission and Rodriquez's position on the State Commission of Investigation of New Jersey are neither business enterprises nor, given the demands of the positions, "principal occupations". First Delaware argues that, although it did not supply balance sheets and after-tax income statements for certain of its principals, adequate financial information concerning each of the principals has been submitted to demonstrate that each can meet its subscription obligations and therefore further inquiry would be useless. Moreover, failure to identify the exchange on which certain stocks of subscribers are traded is not significant, First Delaware notes, since none of the individuals listing the stocks are relying on them to meet his obligation to the applicant. Finally, First Delaware contends that there is no Commission requirement that an applicant include the names of prospective managing personnel at the time of the filing of the application.

25. The Broadcast Bureau supports CBS' request to the extent that Barn-

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[46] A First Delaware amendment containing the escrow agreement was accepted by the Presiding Judge in an Order, FCC 74M-1078, released August 29, 1974.

[47] As indicated in paras. 13 and 14, *supra*, however, the Board will not substitute its judgment for that of state and federal authorities as a means of assessing the validity of contractual agreements.

[48] Matthew O. Adams, Sadie T. M. Alexander, Donald Barnhouse, Edward P. Morgan, Joseph Rodriquez and Regina Ryan.

[49] Sadie T. M. Alexander and Helen Dickens Henderson.

[50] Richard Gilmore, Nettie Taylor and Clifford Brenner.

[51] Three of CBS' remaining contentions may be readily dismissed. Thus, stock subscribers, as distinguished from applicants, are not required to show the terms of repayment for loans obtained for this purpose (Western Communications, Inc., 39 FCC 2d 1077, 26 RR 2d 1456 (1973)), and the Commission will not call upon a subscriber to make a detailed showing of liquidity of assets when assets are vastly in excess of the amount committed to the applicant. Finally, with respect to the subscription agreement of Lisa A. Richette, we note the following: Richette's total obligation to First Delaware is $4,000 and her current balance sheet shows assets of $28,000 and no current liabilities. Therefore, as noted by the Bureau, absent a showing that her balance sheet is inaccurate or that she has sought to withdraw her commitment, there is no basis for questioning her capacity to meet her obligation to First Delaware.

[52] Moreover, the CBS affidavits are for the most part supplied by its own employees and it appears that estimates contained therein were to some extent based upon the licensee's actual costs; however, we have previously held that such a comparison is invalid. See Radio Geneva, Inc., 42 FCC 2d 254, 27 RR 2d 1080 (1973); Dowric Broadcasting Co., Inc., 37 FCC 2d 40, 25 RR 2d 92 (1972); Eastern Broadcasting Corp., 26 FCC 2d 26, 21 RR 2d 417 (1971).

[53] 1 FCC 2d 544, — RR 2d — (1965).

[54] Citing Orange Nine, Inc., 7 FCC 2d 786, 9 RR 2d 1157 (1967), rev. den. FCC 67-960.

[55] FCC Form 301, Section II, Table II requires, inter alia, that the applicant "state the principal occupations and businesses in which each [principal] is engaged at the present time or has been engaged at any time within the past 5 years, and, in addition, state any other business or financial enterprise in which such [principal] has now or within the past 5 years has had either a 25 percent or greater interest or any official relationships."

[56] Section III, Question 4 of Form 301.

[57] First Delaware explains that it submitted a copy of a letter dated July 3, 1973, from Barnhouse to the law firm representing First Delaware in this proceeding informing the firm of his participation in the "Committee of Seventy", a Philadelphia civic organization, but that firm inadvertently failed to relay this information to the Commission. The applicant also alleges that the failure to report Katz's involvement with the First Banking and Trust Co. and Strick, Inc. as well as Meehan's involvement with the Supply Company of Cental City, Inc., which ended over four and one-half years prior to the initial filing of First Delaware's application, was inadvertent.

house, Katz, Meehan and Rodriques have failed to disclose pertinent business interests. However, the Bureau opposes the remainder of CBS' request arguing that neither the balance sheet of the First Delaware principals in question nor the stocks listed on certain other balance sheets are required to establish the subscribers' financial qualifications. Finally, the Bureau notes that First Delaware's staffing proposal has not been shown to be either incomplete or misleading since there is no showing that First Delaware has selected a station manager or program director.

26. In reply, CBS notes that on July 11, 1974, First Delaware filed a petition to amend[24] which reflects much of the information alleged lacking in CBS' motion to enlarge, as well as additional new information relating to some nine other occupations and business interests of various First Delaware principals. CBS also attacks First Delaware's assertions that certain of the activities of First Delaware principals need not be reported. Rather, CBS urges, Barnhouse's regular and substantial involvement in the print and broadcast media are possibly decisionally relevant and, while Katz does not own 25 percent or more of all stock in Transport Corporation, he does own more than 25 percent of the voting stock. CBS also argues that the alleged violations are too numerous to be excused as inadvertent and, because some of the information reflects on First Delaware's integration proposal, the failure to disclose is too serious to be overlooked. CBS also reiterates its claim that balance sheets are necessary when a stock subscriber is relying on a loan from other individuals, citing Jimmie H. Howell, 46 FCC 2d 50, 29 RR 2d 1317 (1974); and Calojay Enterprises, Inc., FCC 71-1262, 33 FCC 2d 690. Finally, CBS argues that specification of the exchange on which securities are traded and the identity of proposed management personnel are relevant to an applicant's basic and comparative qualifications and should have been reported.

27. The Board will deny the requested Rules 1.514 and 1.65 issues. Although it may be argued that First Delaware was remiss in failing to disclose more complete information concerning the business interests and associations of its principals and the financial status of its stock subscribers,[25] there is no basis for concluding that the applicant withheld or had a motive to withhold material information.[26] Compare Brindlee Broadcasting Co., 46 FCC 2d 721, 30 RR 2d 207 (1974). In addition, with one exception, we fail to see how the changes alleged by CBS and now reported in First Delaware's recent amendment could have any material effect on the outcome of this proceeding.[27] The one exception is Mr. Barnhouse's involvement with the Committee of Seventy, which might potentially interfere with Barnhouse's full time commitment to First Delaware, and therefore, its integration proposal;[28] however, in view of the letter from Barnhouse to the applicant's counsel disclosing such participation, it appears that there was no intent to conceal this information. We also believe that in this complex comparative proceeding this omission would not be of decisional significance, causing decisional authorities to act differently had they known the true facts; nor has CBS made any threshold showing in this respect except a conclusory one that the omission could "possibly" be of decisional importance. Moreover, it is our view that First Delaware's other omissions—Katz's association with the First Banking and Trust Co. and Strick, Inc. and Meehan's involvement in Supply Company four years prior to the filing of the initial application—do not provide sufficient additional justification for the specification of issues. Rather, two of the instances appear to be clearly the result of inadvertence, since they either involved an association with an enterprise which went out of business over four years prior to filing First Delaware's application or a failure to report an association with a parent corporation, even though the principal's position in a subsidiary company had been fully revealed. In sum, we do not believe that the allegations raise a substantial question sufficient to specify additional issues since they do not indicate that the omissions shown can be regarded as decisionally significant in the ultimate resolution of this proceeding; nor can it reasonably be stated that they form a pattern of conduct with respect to the applicant's dealings with the Commission. RKO General, Inc. WNAC-TV), 41 FCC 2d 772, 27 RR 2d 1537 (1973); Auburn Publishing Co., 34 FCC 2d 134, 24 RR 2d 29 (1972); and Harvit Broadcasting Corp, 32 FCC 2d 656, 23 RR 2d 328 (1971). See also, Chapman Broadcasting Company, 25 FCC 2d 855, 20 RR 2d 411 (1970).

INEPTNESS ISSUE

28. CBS' final request is for an ineptness issue against First Delaware. This request is based upon the presently requested issues, the issues designated against First Delaware and "many other omissions and inadequacies which, while perhaps not individual grounds for adding §§ 1.514(a) or 1.65 issues, further demonstrate a pattern of ineptness • • •." The Board has thoroughly reviewed these allegations and determined that CBS has not met the standards necessary for addition of an ineptness issue. As we stated in Edward G. Atsinger, III, 29 FCC 2d 443, 447, 21 RR 2d 1039, 1045 (1971), "[I]t is well established that diligence or ineptness issues will be added only where an applicant's conduct has concerned relevant matters of major significance, *and* where the conduct has disclosed a pattern of carelessness • • •". In our view, CBS' allegations satisfy neither standard. Thus, the issues added against First Delaware in the designation Order and those added herein are limited in scope and do not reflect any pattern of carelessness or inadvertence on the part of the applicant. Alvin L. Korngold, 40 FCC 2d 536, 27 RR 2d 78 (1973); Lexington County Broadcasters, Inc., 40 FCC 2d 320, 26 RR 2d 1716 (1973), and Southern Broadcasting Co., 38 FCC 2d 943, 26 RR 2d 458 (1973).

29. Accordingly, *it is ordered*, That the petitions for leave to file supplements to the first motion to enlarge issues, filed September 19 and October 24, 1974, by CBS, Inc., are granted and the supplements are accepted; and

30. *It is further ordered*, That the petition for leave to file reply to comments on supplement to first motion of CBS, Inc., to enlarge issues, filed October 8, 1974, by CBS, Inc., is granted; and

31. *It is further ordered*, That the first motion to CBS, Inc. to enlarge issues and the second motion of CBS, Inc. to enlarge issues, filed on May 16, 1974, and

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[24] This amendment was accepted by Order, FCC 74M-892, released July 24, 1974.

[25] CBS' allegations concerning the financial showings of certain of First Delaware's subscribers relate to inadequate documentation of the applicant's overall financial qualifications, rather than non-disclosure *per se*, and, thus, may more appropriately be considered under the financial issue added herein.

[26] With respect to the Rule 1.65 aspect of CBS' request, we note that while Commission Rules require an applicant to notify the Commission within 30 days of any event which may be of decisional significance, Rule 1.65 was intended to apply only when there has been a substantial change and only when that change may be significant to the Commission's determination of the public interest. See Report and Order in Docket 14867 (Reporting of Changed Circumstances), 29 FR 15516, 3 RR 2d 1622 (1964).

[27] For this reason we also believe that those cases principally relied upon by CBS are inapposite. Thus, in Southern Broadcasting Co., 38 FCC 2d 461, 25 RR 2d 1138 (1972), the failure to report antitrust suits against a principal of the applicant could clearly reflect on its character qualifications. In Charles W. Holt, 38 FCC 2d 536, 25 RR 2d 1180 (1972), the failure to report a principal's ownership in certain businesses had a direct bearing under a specifically specified contingent comparative issue. In United Television Co., Inc., 33 FCC 2d 424, 23 RR 2d 644 (1972), the applicant failed to report a principal's association with the bank supplying the applicant's entire financing as well as two other principals' ownership in a corporation which had applied for a CATV franchise, all of which were clearly and directly relevant to the standard comparative issue. Finally, in Lamar Life Broadcasting Co., 26 FCC 2d 940, 20 RR 2d 1014 (1970), the applicant failed to report a principal's ownership interest in a corporation which held 40% of the applicant's stock, a matter which clearly should have been brought to the Commission's attention.

[28] In contrast, the Board believes that Barnhouse's other activities—as well as those of Katz, Meehan and Rodriques—are sufficiently limited in scope so as to fall outside any reasonable definition of "principal occupations". See Northeast Oklahoma Broadcasting, Inc., 40 FCC 2d 543, 27 RR 2d 144 (1973). Additionally, we note that First Delaware has rebutted CBS' allegations concerning Katz's interest in Transport Pool by submitting a letter from that company's executive vice president stating that Katz has never owned a 25% interest in the company.

July 9, 1974, respectively, are granted, to the extent indicated herein, and are denied in all other respects, and that the issues in this proceeding are enlarged to include the following:

(a) To determine whether First Delaware Valley Citizens Television, Inc. has reasonable assurance of the availability of its proposed transmitter site.

(b) To determine whether First Delaware Valley Citizens Television, Inc. has kept the Commission fully informed of significant and material changes in conditions and circumstances relating to its proposed transmitter site and, if not, the effect thereof on the basic and/or comparative qualifications of the applicant to be a Commission licensee.

32. *It is further ordered,* That existing issue 1(f) is renumbered as 1(g) and that the following subpart 1(f) is added:

1(f) To determine whether First Delaware Valley Citizens Television, Inc. has a bank loan commitment in the amount of $4,000,000 available to it and whether Matthew O. Adams, Sadie T. M. Alexander, Donald Barnhouse, Edward P. Morgan, Joseph Rodriques, Regina Ryan, Helen Dickens Henderson, Richard Gilmore, Nettie Taylor and Clifford Brenner have demonstrated their ability to meet their stock subscription commitments to the applicant, and, if not, whether First Delaware Valley Citizens Television, Inc., is financially qualified to construct and operate its proposed television station.

33. *It is further ordered,* That the burden of proceeding with the introduction of evidence under issue (a), and the burden of proof under issues (a) and (b) shall be on First Delaware Valley Citizens Television, Inc.; and the burden of proceeding with the introduction of evidence under issue (b) added herein shall be on CBS, Inc.

Adopted: December 11, 1974.

Released: December 18, 1974.

FEDERAL COMMUNICATIONS COMMISSION,*

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-29695 Filed 12-19-74;8:45 am]

[FCC 74-1283; Docket No. 20122]

FISHING VESSELS

International Radiotelephone and Radiotelegraph Regulations

In the Matter of International radiotelephone and radiotelegraph regulations for fishing vessels. Draft of [IMCO] Convention on Safety of Fishing Vessels.

1. In this second Notice of Inquiry the Commission is providing additional information and seeks comments into the matter of preparation for a conference to be convened by the Inter-Governmental Maritime Consultative Organization (IMCO), possibly in 1976, on radio regulations to be included in a new Convention on Safety of Fishing Vessels.[1]

2. A Notice of Inquiry in the above-captioned matter was released on August 2, 1974 (FCC 74-819) and was published in the FEDERAL REGISTER on August 7, 1974 (39 FR 28457), as a means of obtaining information preparatory to the convening of IMCO meetings to be held in London, England, during the period September 9-27, 1974. The dates for filing comments and reply comments have passed.

3. Comments were filed by: American Tunaboat Association, Marine Electric Company, North Pacific Marine Radio Council, National Fish Mean & Oil Association, Standard Products Co., Inc., Southern California Marine Radio Council, and Zapata Haynie Corporation. These comments were studied and, with due attention to existing national statutes, paraphrased in a letter to the Department of State, with copies to the United States Delegation to the IMCO Sub-Committee on Radiocommunications, in session at London, England. The Commission was represented on the United States Delegations to the IMCO Sub-Committee on Radiocommunications meeting (September 9-13, 1974) and to the Sub-Committee on Safety of Fishing Vessels (September 16-27, 1974).

4. The results of these IMCO meetings relative to Chapter X of the Draft Convention on Safety of Fishing Vessels are set forth in IMCO Document PFV XVI/WP.2 dated September 18, 1974, which is attached as an Appendix to this Notice. It will be noted that major changes have been made from the Draft Convention attached to the Notice of Inquiry released August 2, 1974, in the instant proceeding.

5. With regard to regulation 1, Application, appearing in the attached Appendix, it will be noted that there has been a major change from Regulation 1 as it appears in Appendix 2 to the August 2, 1974, Notice of Inquiry. As revised, the regulations in the Draft Convention would apply to "all fishing vessels of 24 meters in length, or 100 gross tonnage, and upwards to which the Convention applies". At both IMCO Sub-Committee meetings there were administrations which favored increasing the gross tonnage upwards from 100 gross tons, while a considerable number favored reducing that value to 50 gross tons. At the meetings, the United States Delegation pressed to delete vessel length as an application criteria.

6. The next meeting of the IMCO Sub-Committee on Radio communications will be held in London, England, during the period March 3-7, 1975, and the information obtained in response to the instant Notice will be used by the Commission in preparation for that meeting.

7. To the extent it has been practical to do so, a concerted effort has been made to bring Chapter X into conformity with the parallel provisions which appear in the Safety of Life at Sea (SOLAS) Convention. We believe this will facilitate reference to regulations of interest, as well as assist in administration of the Draft Convention as ultimately adopted. While these changes represent, in our opinion, substantial improvement over the initial draft (August 2, 1974), they do not conform the draft convention to our National Statutes. The Communications Act (47 U.S.C. 351), for example, requires that cargo ships of 300 gross tons and upward, other than passenger vessels, to be mandatorily equipped with certain specified radio installations without regard to the length of vessel. In addition, it will be noted that starting in regulation 8(g), fifth line, square brackets ([ ]) appear in regulations 8, 9, 11, 12, 13, 15 and 16. These brackets designate unresolved provisions on which the IMCO meetings were unable to reach agreement, due to the shortness of time, desire of administrations to give them more mature consideration at home, or for some other reason. Additional comments are, therefore requested with regard to these matters.

8. In view of the foregoing, a Second Notice of Inquiry is hereby adopted. Authority for this action is contained in section 4(i), 303 and 403 of the Communications Act of 1934, as amended.

9. Interested persons may file comments on or before January 6, 1975, and reply comments on or before January 17, 1975. Comments and reply comments shall be filed pursuant to § 1.419(b) which requires, among other things, an original and 14 copies of all filings. All relevant and timely comments and reply comments filed in this Docket will be considered by the Commission before further action is taken. The Commission may also take into account other pertinent information before it in addition to specific comments elicited by the Second Notice in this proceeding.

10. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: November 27, 1974.

Released: August 2, 1974.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-29686 Filed 12-19-74;8:45 am]

[FCC 74-1329; Docket Nos. 20275 and 20276
File Nos. BPH-8404 and BPH-8465]

JECO INC. AND BIG VALLEY BROADCASTING, INC.

Applications for Construction Permits

In re Applications of JECO, INC. (KCTY-FM) Salinas, California (Has: 103.9 MHz, #280; 3 kW (H&V); 300 feet Requests: 103.9 MHz, #280; 3kW (H&V); 120 feet) and BIG VALLEY BROADCASTING, INC. (KTRB-FM) Modesto, California (Has: 104.1 MHz, #281; 4.7 kW (H&V); 260 feet Requests: 104.1 MHz, #281; 1.725 kW (H&V); 1,923.8 feet) for construction permits.

1. The Commission has before it the above-captioned applications for major

* Board Members Kessler and Emerson filed a concurring and dissenting statement (in part) with the original.

[1] Appendix filed with original document.

changes to the existing facilities of stations (KCTY(FM), Salinas, California, and KTRB(FM), Modesto, California, and a petition filed by JECO, Inc. [JECO], licensee of KCTY, to dismiss the application of Big Valley Broadcasting, Inc. [Big Valley].

2. Both applicants seek to change their transmitter sites. Each proposed site meets the minimum mileage separation requirements of § 73.207 of the rules in that the distance between each applicant's proposal and the authorized site of the other complies with the rules. However, the distance between the proposed sites is itself 8.3 miles less than required to determine whether either or mutually exclusive, and a hearing is required to determine whether either or both of the applications should be granted.[1]

3. Although JECO in its petition has failed to indicate the basis for its standing to object to the Big Valley proposal, it is apparent that its standing derives from its status as a potential interferee. See FCC v. NBC, Inc. (KOA), 319 U.S. 239 (1942).

4. In its petition, JECO asserts that the Big Valley application violates section 73.207 of the rules, and therefore that it should not have been accepted for filing by the Commission. JECO argues that the appropriate reference point by which to determine short-spacing for the purposes of § 73.207 is the Salinas post office, since the site presently authorized for the Salinas transmitter is unavailable to JECO, the site owner having donated it to an educational institution. Thus, JECO reasons, the authorized site is "unavailable for use as a reference point" within the meaning of § 73.208(b)(1), and the post office reference point must be used as required by § 73.208(b)(3). However, site unavailability for the applicant's purposes is not necessarily the same as site unavailability for the purposes of § 73.208. Since the continuing development of the FM allocation structure depends on the use of authorized as well as theoretical sites, the Commission must retain control over the location of such sites. Therefore, once a site has been authorized by Commission action, it is deemed available for the purposes of the allocation system until deleted by later Commission action. In other words, § 73.208 requires that an existing site be used as the reference point as long as it continues to be authorized by the Commission. In this way the Commission will always have a definite, known distribution of authorized reference points on which to base future allocation determinations. Thus, inasmuch as the original Salinas site retains its authorization, it is "available" for use as a reference point within the meaning of § 73.208(b). And since Big Valley's proposal, at the time it was tendered for filing, met the spacing requirements with regard to the existing Salinas site, it is acceptable and will not be dismissed.

5. JECO also argues that the explicit language of § 73.207 requires that an applicant demonstrate that its proposal is not short-spaced to any pending proposals as well as existing sites and reference points. As noted above, this is inconsistent with existing policy, which dictates that short-spaced proposals be designated for hearing. Carolina Broadcasting Co., 18 FCC 2d 482 (1969), cited by JECO, does not support petitioner's position. There, no existing authorization was available as a reference point, and the application in question was short-spaced to both the community reference point and a proposed transmitter site. Since the applicant [Carolina] failed to supply sufficient justification to warrant a waiver of its short-spacing vis-a-vis the community reference point, the application was dismissed. Despite the short-spacing to the proposed site, the Commission noted that Carolina would have been entitled to comparative status with the earlier applicant if Carolina had not been short-spaced to the community reference point or if a waiver for that short-spacing has been justified.[2] Here, an authorized site is available, and Big Valley is not short-spaced to it. Thus, Big Valley's proposal is acceptable for filing and entitled to comparative consideration with JECO's application.[3]

6. JECO also alleges that the Big Valley application, originally filed by Big Valley's assignor, KTRB Broadcasting, Inc. (KTRB), is a form of strike application intended to impede and delay the JECO application. In addition, the petitioner asserts that Big Valley and KTRB are engaged in "a novel form of trafficking." JECO raised both of these issues in a previously filed petition in the Big Valley-KTRB assignment proceeding. In a Memorandum Opinion and Order,[4] the opinion, no useful purpose would be served by repeating them. In view of the foregoing, JECO's petition will be denied.

7. The respective proposals, which are for different communities, would serve substantially different areas and populations. Consequently, it will be necessary to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

9. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary service from the respective proposals and the availability of other primary aural (1 mV/m or greater in the case of FM) service to such areas and populations.

2. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

10. *It is further ordered,* That the Petition to Dismiss filed by JECO, Inc., is denied.

11. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issue specified in this Order.

12. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: December 3, 1974.

Released: December 16, 1974.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.74-29698 Filed 12-19-74;8:45 am]

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[1] JECO correctly notes that, while section 1.572(e) of the television processing rules expressly requires a comparative hearing in circumstances such as these, there is no analogous provision in the FM rules. However, Ashbacker Radio Corp. v. FCC, 326 U.S. 327 (1945), requires that a comparative hearing be held when two bona fide applications are mutually exclusive. The Commission has previously followed this policy in a similar FM proceeding. King and King Broadcasters, FCC 69-831, released August 4, 1969.

[2] Atlantic Video Corp., 25 FCC 687 (1970), recon. denied, 32 FCC 2d 519 (1971), cited by JECO in a footnote, presents the same basic facts as Carolina, and thus is similarly not in point.

[3] It should also be noted that the notion, raised obliquely by JECO, that JECO's earlier filing should affect Big Valley's acceptability, is incorrect. If a prior application could render a later one unacceptable, the rule assuring comparative status to such applications would be applicable only to applications filed simultaneously. It is clear that, where two proposals are short-spaced only with regard to their proposed sites, the prior filing of one should give it no advantage over the other.

[4] *KTRB, Inc.*, FCC 74-625, released September 6, 1974, 31 RR 2d 306.

CABLE TELEVISION TECHNICAL ADVISORY COMMITTEE (CTAC)

Steering Committee Meeting

Pursuant to section 10 of the Federal Advisory Committee Act, 5 U.S.C. App. I § 10 (Supp. II, 1972), notice is hereby given of a meeting of the CTAC Steering Committee on January 8 and 9, 1975, to be held at 2025 M St., NW., Washington, D.C.—Room 6331. The meeting is scheduled to commence at 10 a.m.

The agenda is as follows:

(1) Report on November 14 Meeting.

(2) Review of Final Individual Panel Reports (Copies for Distribution).

(3) Review of Material for Final Steering Committee Report.

(4) Recent FCC Activities Relevant to CTAC.

(5) Plans for closing Present Phase of CTAC Activities.

(6) New Business.

(7) Adjournment.

Any member of the public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Inquiries may be directed to Mr. A. M. Rutkowski, FCC, 1919 M St., NW., Washington, D.C. 20554—(202) 632-9797.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-30094 Filed 12-19-74;8:45 am]

Continued from page 44039

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20291; RM-2254]

TABLE OF ASSIGNMENTS; FM BROADCAST STATIONS

Notice of Proposed Rule Making

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Sharpesville, Pennsylvania).

1. Notice of Proposed Rule Making is hereby given concerning amendment of the FM Table of Assignments (§ 73.202 (b) of the Commission's Rules and Regulations) with respect to the petition of Sanford A. Schafitz, licensee of fulltime AM station WFAR, Farrell, Pennsylvania, proposing the assignment of Channel 240A to Sharpsville, Pennsylvania, as its first local broadcast outlet.

2. Sharpsville (population 6,126), located on the Shenango River in Mercer County (population 127,175), is approximately 2.5 miles from the Pennsylvania-Ohio boundary, 19 miles north of New Castle, Pennsylvania and 15 miles northeast of Youngstown, Ohio. It is part of the Shenango Valley business and residential community. Since its incorporation in 1874, Sharpsville's population has steadily increased. Petitioner states that the 1980 Sharpsville population is forecast at 7,000 persons.

3. Sharpsville has no newspaper of its own and is, therefore, serviced by the Sharon Herald, which is circulated in the Sharpsville - Farrell-Sharon-Wheatland, Pennsylvania area. The community is also serviced by two banks: a branch office of both the McDowell National Bank and the National Bank of Mercer County. Transportation facilities are available to the community, since it is located on state and federal interstate roads and is serviced by both the Erie Lackawanna and Penn Central Railroads. Petitioner avers that, as a result of the community's comprehensive land use plan and urban renewal program, Sharpsville has experienced a vast improvement in modern moderately priced housing and rental units. The community's labor force, estimated at 1,600 persons, is primarily engaged in manufacturing, professional services and wholesale and retail businesses. Petitioner avers that the Sharpsville market area will undergo considerable economic growth because of a predicted 50 percent increase in the populations of its adjacent areas. Petitioner also states that the average Sharpsville family, about 3 persons in size, earns a median income of $6,600 which is in excess of the Mercer County average income. The median of the community's educational attainment level is 11.4 years of completed schooling. This is 0.8 years more schooling than the national median.

4. As mentioned above, Sharpsville presently does not have a local broadcast service. Sharon (population 22,653), the largest community in Mercer County and 2 miles southwest of Sharpsville, however, has a daytime-only AM station and a Class B FM station. Another community contiguous with Sharpsville is Farrell (population 11,022), located some 4 miles southwest of it and serviced by petitioner's fulltime AM station, WFAR.

5. With respect to the technical feasibility of a Sharpsville FM channel assignment, adoption of petitioner's proposal would not affect any of the existing FM assignments. Sharpsville, however, is short-spaced 26 miles as to co-channel Canadian station CFPL-FM (Class C_1) at London, Ontario. The Canada-United States agreement on border spacings requires a separation of 150 miles. This Commission has been advised in a May 24, 1973, letter from the Canadian Department of Telecommunications that there would be no objection to the assignment of Channel 240A to Sharpsville.

6. The petitioner's preclusion study indicates that preclusion would occur only as to the requested channel. Use of the adjacent channels is already precluded by existing stations. The areas which would be precluded from using Channel 240A if that channel is assigned to Sharpsville are those areas (1) also short-spaced 26 miles as to Canadian Station CFPL-FM and (2) meeting FCC and Canadian spacing requirements. Two areas are in the short-spaced group of precluded areas. The first is a 93 square mile area which is west of Sharpsville, located between Warren, Ohio and Sharon, Pennsylvania, and contains no communities. The second area contains two communities which presently have FM channel assignments: Oil City, Pennsylvania (WDJR, Channel 253) and Franklin, Pennsylvania (WVEN, Channel 257A). According to the information supplied by petitioner, the precluded area that meets all spacing requirements is small and rural and contains no communities.

7. The Commission notes that petitioner states that he is a "prospective applicant for a new FM broadcast station at Sharpsville, Pennsylvania." Commission policy requires that a petitioner for an FM channel assignment express a commitment to apply for a construction permit for use of a channel if it is assigned. The Commission trusts that petitioner will make this commitment in his comments filed pursuant to this Notice.

8. As petitioner mentions, Sharpsville is located less than 20 miles from Youngstown, Ohio. In this respect, the Commission notes the potential existence of a Berwick issue.[1] Although Berwick issues are usually dealt with at the application stage, we wish to make note of the issue in this Notice. The Commission trusts that petitioner will express his commitment to serve the needs and interests of the Sharpsville community, the community of assignment, and not those of the community of Youngstown.

9. Accordingly, in view of the foregoing and pursuant to authority contained in sections 4(i), 5(d)(1), 303 and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules and Regulations, we propose for consideration the following revision in our FM Table of Assignments (§ 73.202(b) of the rules and regulations) with respect to Sharpsville, Pennsylvania, as follows:

§ 73.202 Table of assignments.

City	Channel No.	
	Present	Proposed
Sharpsville, Pa.		240A

* * * * *

10. *Showings required.* Comments are invited on the proposal discussed above. Proponent will be expected to answer whatever questions that may be presented in initial comments. The proponent of the proposed assignment is also expected to file comments even if he only resubmits or incorporates by reference his former pleading. He should also state his intention to apply for the channel if it is assigned, and if authorized, to build the station promptly. Failure to file com-

[1] Berwick Broadcasting Corporation et al., 12 F.C.C. 2d 8 (1968) applying to FM stations the suburban issue considerations of AM broadcast stations set forth in Policy Statement on Section 307(b), 2 F.C.C. 2d 190 (1965), affirmed on reconsideration, 2 F.C.C. 2d 393 (1966).

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ments or address the issues raised may lead to denial of the request.

11. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposal in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

12. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before January 24, 1975, and reply comments on or before February 13, 1975. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

13. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

Adopted: December 11, 1974.

Released: December 17, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-29691 Filed 12-19-74;8:45 am]

FEDERAL ENERGY ADMINISTRATION

WHOLESALE PETROLEUM ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Wholesale Petroleum Advisory Committee will meet Tuesday, January 7, 1975, at 9 a.m. at the Regency Hyatt House, 265 Peachtree Street, NE., Atlanta, Georgia.

The Committee was established to advise the Administrator, Federal Energy Administration, with expert and technical advice concerning the wholesale trade of selling heating oil, residual fuel, and gasoline.

The agenda for the meeting is as follows:

A. Old Business:
1. Review of Conservation Measures.
2. Discussion of Unleaded Gasoline Pricing and Octane.
3. Review of Crude Equalization Program.
B. New Business:
1. Discussion of Compliance Problems.
2. Review of Problems Associated with Suppliers' Distribution.
3. Review of New FEA Forms.
4. Discussion of Product Cost Increases and the Banking Provision for Costs.
5. Discussion of Two-Tier Pricing.
6. Remarks from the Floor (10 Minute Rule).

The meeting is open to the public; however, space and facilities are limited.

The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Advisory Committee Management Office, (202) 961-7022 at least 5 days before the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection at the Federal Energy Administration, Washington, D.C.

Issued at Washington, D.C. on December 16, 1974.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

[FR Doc.74-29690 Filed 12-19-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ID-1747]

ALLAN K. HAMER

Initial Application

DECEMBER 13, 1974.

Take notice that on November 29, 1974, Allan K. Hamer (Applicant) filed an initial application with the Federal Power Commission, pursuant to section 305 (b) of the Federal Power Act to hold the following positions:

Director and president.	Fall River Electric Light Co.	Public utility.
Director	Mantaup Electric Co.	Do.

Fall River Electric Light Company ("Fall River"), a Massachusetts corporation having its principal place of business at 85 North Main Street, Fall River, Massachusetts, owns and operates facilities for the distribution of electric energy at retail in the city of Fall River and in neighboring towns of Swansea, Somerset, the major part of Dighton, and a part of Westport, all in Massachusetts. Fall River also supplies electric energy to The Narragansett Electric Company for resale. Most of the energy sold by Fall River is purchased from Mantaup Electric Company.

Mantaup Electric Company ("Mantaup"), a Massachusetts corporation having its principal place of business in Somerset, Massachusetts, owns and operates facilities in that town for the generation of electric energy and facilities in Somerset and elsewhere in Massachusetts for the transmission of such energy. Most of the electric energy which it generates, together with additional energy which it purchases, is sold to Blackstone Valley Electric Company ("Blackstone"), Brockton Edison Company ("Brockton") and Fall River which companies together own all of Mantaup's outstanding securities except short-term notes.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29667 Filed 12-19-74;8:45 am]

[Docket No. E-7775]

APPALACHIAN POWER CO.

Extension of Time

DECEMBER 13, 1974.

On December 12, 1974, Appalachian Power Co., filed a motion to extend the time for filing briefs on exceptions and briefs opposing exceptions to the Administrative Law Judge's Decision issued November 1, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the date for filing briefs on exceptions is extended to January 6, 1975, and the date for filing briefs opposing exceptions is extended to February 5, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29659 Filed 12-19-74;8:45 am]

[Docket No. E-9139]

APPALACHIAN POWER CO. ET AL.

Changes in Rates and Charges

DECEMBER 12, 1974.

Take notice that American Electric Power Service Corporation (AEP) on November 29, 1974, tendered for filing on behalf of its affiliates, Appalachian Power Company (Appalachian), Ohio Power Company (Ohio), and Wheeling Electric Company (Wheeling), Modification No. 3 dated January 1, 1975 to the Operating Agreement dated June 1, 1971 among

Appalachian, Ohio, Wheeling, Monongahela Power Company and West Penn Power Company, designated Appalachian Rate Schedule FPC No. 55, Ohio Rate Schedule FPC No. 73 and Wheeling Rate Schedule FPC No. 5.

AEP states that Section 1 of Modification No. 3 provides for an increase in the Demand Charge for Short Term Power from $0.45 to $0.50 per kilowatt per week and Section 2 provides for an increase in the Demand Charge for Limited Term Power from $2.50 to $2.75 per kilowatt per month, both schedules proposed to become effective January 1, 1975. Applicant states that since the use of Short Term and Limited Term Power cannot be accurately estimated, it is impossible to estimate the increases in revenues resulting from the Modification.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29660 Filed 12-19-74;8:45 am]

[Docket Nos. E-8855, E-9037]

BOSTON EDISON CO.

Extension of Procedural Dates

DECEMBER 13, 1974.

On December 6, 1974, Staff Counsel filed a motion to extend the procedural dates fixed by order issued July 12, 1974, as most recently modified by notice issued October 10, 1974, in the above designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, December 24, 1974.
Service of Intervenor's Testimony, January 20, 1975.
Service of Company Rebuttal, February 4, 1975.
Hearing, February 18, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29662 Filed 12-19-74;8:45 am]

[Docket No. E-8712]

CAROLINA POWER & LIGHT CO.

Order Accepting for Filing and Suspending Proposed Rate Increase and Establishing Procedures

DECEMBER 12, 1974.

On April 1, 1974,[1] Carolina Power & Light Company (CP&L) tendered for filing, as a proposed change in its rates, a contract dated March 30, 1973, between CP&L and the United States Department of Interior, Southeastern Power Administration (SEPA)[2].

The March 30, 1973, contract provides for the sale, purchase and transmission of electric power and energy generated at the John H. Kerr Project, a multipurpose Federal reservoir project operated by the Corps of Engineers. Electric power and energy generated at the project and not required in the operation thereof is sold for the Department of Interior by SEPA pursuant to its Wholesale Power Rate K8-2-A[3] to its preference customers and to CP&L.

CP&L submitted the March 30, 1973, contract pursuant to section 205 of the Federal Power Act for the purpose of superseding a contract dated December 7, 1955, as amended, between SEPA and CP&L which is on file with the Commission as CP&L's Rate Schedule FPC No. 42. The March 30, 1973, contract would increase CP&L's rates to SEPA for transmitting power and energy from the Kerr Project to SEPA's preference customers (municipalities and electric cooperatives) located in CP&L's service territory through certain changes in the number and boundaries of the geographical zones wherein the power and energy is wheeled and delivered by CP&L together with other changes in the wheeling charges of CP&L. The December 3, 1973, contract states that Zone 1 will continue to include all preference customer delivery points within 100 miles of the Kerr Project but the wheeling charge for Zone 1 will be changed from 0.93 mills per kwh to 1 mill per kwh. Zone 2 will include delivery points between 100 and 150 miles of the Kerr Project instead of between 100 and 165 miles of the Project as at present and the wheeling charge for Zone 2 will be increased from 1.73 mills per kwh to 1.75 mills per kwh. Additionally, Zone 3 will be established to include all delivery points located more than 150 miles from the Kerr Project, with a wheeling charge of 2.50 mills per kwh to be applicable to the deliveries in this zone. Our investigation indicates that CP&L will deliver an aggregate of approximately 122,000 megawatt-hours each year to SEPA's preference customers in the three zones and that CP&L's total charges to SEPA under the March 30, 1973, contract for this transmission service will be approximately $195,000 annually. The March 30, 1973 contract provides for payment of this amount by specifying a monthly transmission service charge of $16,250.

The March 30, 1973 contract also provides for continuation of the existing arrangement whereby CP&L sells deficiency energy to SEPA's preference customers whenever energy is not available to said customers from the Kerr Project. It is also provided that such sales are to be made at the same rate charged by SEPA for energy sold to its preference customers (currently 4.50 mills per kwh), but not less than 4.50 mills per kwh. Similar provisions for CP&L's sales of deficiency energy to preference customers are contained in CP&L's Rate Schedule FPC No. 42. The March 30, 1973, contract does not, therefore, change CP&L's deficiency energy rate to preference customers.

Notice of the CP&L's April 1, 1974, filing was issued on April 17, 1974, with comments, protests or petitions to intervene due on or before April 25, 1974. To date, this Commission has received no pleadings in response to this notice.

Our review of the March 30, 1973, contract indicates that CP&L's proposed increased rates and charges to SEPA for wheeling power and energy may be excessive under the applicable ratemaking standards of the Commission and therefore, may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful within the meaning of the Federal Power Act. Accordingly, we will accept CP&L's April 1, 1974, filing as completed on November 12, 1974, for filing, suspend for one day and permit the rates to go into effect subject to refund. Furthermore, we shall direct that a hearing be held to determine the lawfulness of CP&L's proposed Rate Schedule FPC No. 103. It is our intention that this hearing should concern CP&L's increased wheeling charges to SEPA, but need not concern CP&L's charges for deficiency energy sales to SEPA's preference customers.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act, particularly sections 205, 206, 307, 308 and 309 thereof, that the Commission enter upon a hearing concerning the lawfulness of the proposed rates and charges contained in CP&L's proposed Rate Schedule FPC No. 103 and that said tariff sheet be suspended as hereinafter ordered.

[1] The April 1, 1974, filing was completed on November 12, 1974. Therefore, November 12, 1974, is assigned as the filing date for this filing.

[2] Designated as: Carolina Power & Light Company, Rate Schedule FPC No. 103.

[3] Accepted by Commission order dated January 7, 1974, in Docket No. E-7002 to become effective on that date.

(2) Good cause exists to suspend CP&L's proposed Rate Schedule FPC No. 103 for one day, to become effective December 13, 1974, subject to refund.

(3) Good cause exists to accept for filing CP&L's proposed Rate Schedule FPC No. 103.

(4) The disposition of this proceeding should be expedited in accordance with the procedures set forth below.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, particularly sections 205 and 206 thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held on May 28, 1975, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the lawfulness of CP&L's proposed tariff sheet.

(B) Pending a hearing and final decision thereon, CP&L's proposed tariff sheet designated as Rate Schedule FPC No. 103 is hereby suspended for one day and the use thereof deferred until December 13, 1974, subject to refund.

(C) On or before February 14, 1975, CP&L shall serve its case-in-chief, including testimony and exhibits in support of its proposed increased wheeling charges to SEPA. The Commission Staff shall serve its prepared testimony and exhibits on or before May 16, 1975.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(E) CP&L's proposed Rate Schedule FPC No. 103 is hereby accepted for filing and permitted to become affective December 13, 1974, subject to refund.

(G) Nothing contained herein should be construed as limiting the rights of the parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.8 of the Commission's rules of practice and procedure.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-29664 Filed 12-19-74;8:45 am]

[Docket No. RP75-14]

CONSOLIDATED GAS SUPPLY CORP.

Order Rejecting Without Prejudice Proposed Tariff Sheets and Permitting Intervention

DECEMBER 13, 1974.

On September 9, 1974, Consolidated Gas Supply Corporation (Consolidated) tendered for filing "Pro Forma" tariff sheets which would permit Consolidated to include in rate base amounts expended for construction work in progress (CWIP). Such treatment would be accorded to any gas supply or gas supply-related project exceeding $10 million in cost and requiring a construction period of more than twelve months. Acceptance by the Commission of Consolidated's proposal would permit the Company to recover in its current rates the cost of capital associated with such construction work. Present Commission practice permits only the capitalization of the cost of money used during construction.

Consolidated does not seek to make the proposed tariff sheets effective prior to approval by the Commission. The Company does request, however, that a hearing be convened to consider the proposed sheets.

In support of its filing, Consolidated states that acceptance of the proposed tariff sheets would increase the Company's cash flow and improve the quality of its securities, thereby enhancing its ability to finance major new construction.

Notice of Consolidated's filing was issued on September 18, 1974, with comments, protests or petitions to intervene due on or before October 1, 1974. Timely petitions to intervene were filed by thirteen companies.[1] An untimely petition to intervene was received from Southern Tier Gas Corporation. Each petitioner generally alleged that it has a direct interest in this proceeding which is not adequately represented by existing parties.

On November 14, 1974, the Commission issued[2] a "Notice of Proposed Rulemaking" which would amend the Uniform Systems of Accounts for Public Utilities and Licensees and for Natural Gas Companies (Classes A, B, C and D), as well as the regulations under the Federal Power Act and Natural Gas Act, to permit inclusion of CWIP in rate base. If the "Proposed Rulemaking" were adopted, amounts that could be included, pursuant to this amendment, in the rate bases of natural gas companies would be those amounts expended and recorded in Account 107, "Construction Work in Progress—Gas". The Commission has stated that any interested person may submit, in writing and not later than December 30, 1974, any data, views, comments or suggestions concerning said "Proposed Rulemaking."

Our review of Consolidated's filing, in light of the "Proposed Rulemaking" issued in Docket No. RM75-13, indicates that acceptance of or a hearing on the tendered "Pro Forma" tariff sheets would be premature at this time. Accordingly, we shall reject these tariff sheets without prejudice to Consolidated's right to file data, views, comments or suggestions concerning said "Proposed Rulemaking", and without prejudice to Consolidated's right to file such new tariff sheets, if any, as may be appropriate after the Commission has acted on said "Proposed Rulemaking".

The Commission finds:

(1) Participation in this proceeding of the above-named petitioners to intervene may be in the public interest.

(2) Good cause exists to reject Consolidated's filing as hereinafter ordered and conditioned.

The Commission orders:

(A) The above-named petitioners are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in its petition to intervene, and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that it may be aggrieved because of any order or orders issued by the Commission in this proceeding.

(B) Consolidated's "Pro Forma" tariff sheets, tendered for filing on September 9, 1974, are hereby rejected without prejudice to Consolidated's right to file data, views, comments or suggestions concerning the "Proposed Rulemaking" in Docket No. RM75-13, and without prejudice to Consolidated's right to file such new tariff sheets, if any, as may be appropriate after the Commission has acted on said "Proposed Rulemaking".

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD, *Acting Secretary.*

[FR Doc.74-29665 Filed 12-19-74;8:45 am]

[Docket No. ID-1723]

FRANK N. BIEN

Supplemental Application

DECEMBER 13, 1974.

Take notice that on November 19, 1974, Frank N. Bien (Applicant) filed a supplemental application with the Federal Power Commission. Pursuant to section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following positions:

Executive Vice President & Director, Ohio Electric Company, Public Utility.

Ohio Electric Company, whose principal office is located at 301 Cleveland Avenue, SW., Canton, Ohio 44702 owns and operates the General James M. Gavin Plant at Gallipolis, Ohio which, when completed, will have two 1300 megawatt generating units. All of Ohio

[1] These petitioners are Rochester Gas and Electric Corporation, Public Service Commission of the State of New York, Public Service Commission of West Virginia, Michigan Wisconsin Pipe Line Company, The Peoples Natural Gas Company, Texas Eastern Transmission Corporation, Columbia Gas Transmission Corporation, Colorado Interstate Gas Company, New York State Electric and Gas Corporation, Tennessee Gas Pipeline Company, Algonquin Gas Transmission Company, Niagara Mohawk Power Corporation, and Transcontinental Gas Pipe Line Corporation.

[2] Docket No. RM75-13.

Electric Company's available electric energy is sold to Ohio Power Company, of which it is a wholly owned subsidiary.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29661 Filed 12-19-74;8:45 am]

GERALD P. MALONEY

Supplemental Application

[Docket No. ID-1549]

DECEMBER 13, 1974.

Take notice that on November 19, 1974, Gerald P. Maloney (Applicant) filed a supplemental application with the Federal Power Commission. Pursuant to section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following position:

Vice President & Director, Ohio Electric Co., Public Utility.

Ohio Electric Company, whose principal office is located at 301 Cleveland Avenue, SW., Canton, Ohio 44702, owns and operates the General James M. Gavin Plant at Gallipolis, Ohio which when completed, will have two 1300 megawatt generating units. All of Ohio Electric Company's available electrical energy is sold to Ohio Power Company, of which it is a wholly owned subsidiary.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29670 Filed 12-19-74;8:45 am]

[Docket No. E-9153]

GULF STATES UTILITIES CO.

Application

DECEMBER 13, 1974.

Take notice that on December 2, 1974, Gulf States Utilities Company (Applicant), filed an application with the Federal Power Commission, pursuant to Section 204 of the Federal Power Act seeking authorization to negotiate with at least three underwriters regarding the proposed issuance and sale of Common Stock by negotiated underwriting.

Applicant seeks permission to negotiate with underwriters regarding the terms upon which the securities might be issued, in order to determine whether application for exemption from competitive bidding requirements of § 34.1a (a) (b) and (c) of the Commission's regulations under the Federal Power Act should be made. Applicant represents that it has not engaged in any negotiations for the sale or underwriting of securities.

Applicant is incorporated under the laws of the state of Texas, with its principal business office at Beaumont, Texas and is engaged in the electric utility business in portions of Louisiana and Texas.

Any person desiring to be heard or to make any protest with reference to the application should on or before December 31, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29666 Filed 12-19-74;8:45 am]

[Docket No. E-8967]

INDIANA AND MICHIGAN ELECTRIC CO.

Order Denying Petition for Rehearing

DECEMBER 13, 1974.

On August 21, 1974, Indiana and Michigan Electric Company (I&M) tendered for filing an unsigned agreement with the City of Auburn, Indiana (Auburn), which would provide service for Auburn under I&M's FPC Tariff WS. The new rate schedule was filed to cancel and supersede I&M's FPC Rate Schedule No. 29, pursuant to which Auburn has been served under Tariff IP for the duration of its 1964 contract with I&M.

By order of October 18, 1974, we conditionally accepted the proposed service agreement for filing and ordered I&M and Auburn to file briefs on the limited issue of contract interpretation of certain provisions of their Service Agreement. In our October 18 order we did dispose of one issue of contention between the parties, that of the date on which the ten-year term of the Service Agreement commenced. In its pleadings Auburn argued that, assuming it did not have the right to elect to continue service under Tariff IP according to the terms of the contract, the earliest date it could be served under Tariff WS would be November 17, 1974, since the ten-year contract was signed on November 16, 1964. I&M, on the other hand, argued that the 1964 contract actually began to run on October 21, 1974, since service to Auburn actually commenced on that date. After a review of the pleadings and the contract in question, we determined that the ten-year term of the I&M-Auburn Service Agreement actually began to run on October 21, 1964, even though the contract was not formally signed until November 16, 1964. For the purposes of assigning an effective date to our conditional acceptance of I&M's filing in our October 18, 1974 order, we therefore determined that the ten year term of the 1964 contract would expire at 11.59 p.m. on October 20, 1974. Our finding was premised on the following contract language in the 1964 I&M-Auburn Service Agreement:

> The Company is to furnish and the Customer is to take electric energy under the terms of this Agreement for a period of ten (10) years from the time such service is commenced * * *

This clear and unambiguous language establishing the commencement of the ten-year period to be the initiation of service to Auburn and the fact that I&M's billing records indicate service commenced on October 21, 1964, dictated our conclusion.

On November 18, 1974, Auburn filed a petition for rehearing of that part of our October 18, 1974 order which determined the date on which the ten-year term of the I&M-Auburn contract commenced and which therefore concluded the expiration date to be October 20, 1974. Auburn argues that the Commission failed to give weight to other provisions of the contract which, according to Auburn, support the proposition that the ten-year term did not commence until the contract was formally signed. For this proposition Auburn cites the following contract language: (a) I&M has agreed to furnish service to Auburn under Tariff IP "* * * during the term of this Agreement * * *"; (b) "There are no unwritten understandings or agreements relating to the service hereinabove provided"; (c) "This Agreement cancels and supersedes all previous agreements relating to the purchase by Customer and sale by Company of electric energy * * *"; and (d) "This Agreement shall be in full force and effect when signed by the authorized representatives of the parties hereto." Auburn argues that these contractual phrases

provide that the contract did not come into full force and effect until November 16, 1964, the date it was signed by the parties, and I&M did not commence service to Auburn *under the written agreement* until that date (italics by Auburn). Auburn concludes therefore, that the Commission erred in conditionally accepting I&M's filing to be effective October 21, 1974.

Contrary to the assumption made by Auburn, service to Auburn prior to the date of the actual signing of the contract could indeed be the point of reference agreed to by the parties from which the ten year term of the contract began to run. The provision in the contract providing for a ten year term expressly provided that the term of ten years began from the date of commencement of service and not from the date of the signing of the contract. Moreover, if the parties had intended that the ten-year term run from the date of the signing of the contract or even a later date they had the express opportunity to so provide. The contract provides the following: "The date that service shall be deemed to have commenced under this Agreement shall be ——— ." To insure that the ten-year term commenced from another date than that of October 21, 1964, the parties had merely to fill in a date on this blank. They did not do so, even though both were assuredly cognizant that I&M had been serving Auburn under Tariff IP for nearly a month prior to the signing of the formal contracts.

Although, as Auburn alleges, the contract provides that it be in full force and effect upon its signing, there is nothing in contract law to preclude the parties from adopting as the date from which a ten-year term is to commence a date prior to the signing of the contract. Indeed it is a solid premise of contract law that the parties may agree and contract to any term so long as that term is lawful. This contract is a clear instance in which the parties agreed to adopt as the beginning of their ten-year term for contractual service a date prior to the actual signing of the contract. This conclusion proceeds logically and reasonably from the existence of the separate provision giving the parties the opportunity to fill in any date they chose to consider as the date service commenced under the contract (regardless of when actual service began). The conclusion that the parties considered a past date as appropriate for the commencement of the ten-year term is inherent also in the phraseology of the provision which allows the parties to fill in a date that they deemed service "to have commenced under this Agreement". From the fact that the parties had full knowledge that service had already commenced to Auburn, the unambiguous language in the contract providing that the ten year term begin to run from the commencement of service to Auburn, and the by-passed opportunity in the contract for the parties to stipulate another date service was deemed to have been commenced under the contract, it is clear that the ten year term for the I&M-Auburn service agreement began to run on October 21, 1964.

None of the four contract terms cited by Auburn in its Petition for Rehearing leads us to a different conclusion since those provisions do not preclude the parties from adopting a date prior to the signing of the contract as the commencement of the ten-year term. It is clear from the language of the contract that the parties intended the term of the Agreement to relate back to the date upon which service to Auburn commenced. Moreover, this is not an instance where any unwritten understanding or agreement is involved since the parties reduced to writing, in clear and unambiguous language, their intent to commence the ten-year term of the Agreement with the already past initiation of service to Auburn. Nor, as Auburn insinuates, does the question of the date the ten-year term of service involve any cancelled or superseded previous agreement. There is only one agreement for service and the contract reduced those terms to writing, including the provision relating to the date upon which service was to have begun under the Agreement. As to the phrase providing that the Agreement shall be in full force and effect when signed, Auburn is quite correct in stating that the signing of the Agreement performed that function. What Auburn has apparently neglected to consider is that the signing of the Agreement gave full force and effect to every provision in the contract, including the provision that the ten year term shall have begun when service to Auburn commenced.

For these above reasons we shall affirm our prior finding in our October 18, 1974 order regarding the date on which the 1964 I&M-Auburn contract began to run and deny Auburn's petition for rehearing of that part of our order. We note, however, that our finding in the prior order was for the purpose of establishing a date upon which I&M could place into effect its tendered filing pursuant to our conditional acceptance of it, pending our final determination of the merits of the case.

The Commission finds:

Auburn's Petition for Rehearing of part of our order of October 18, 1974, in Docket No. E-8967 raises no new issues of fact or law that have not been fully considered by the Commission that would justify the granting of the petition for rehearing.

The Commission orders:

(A) Auburn's Petition for Rehearing of our order of October 18, 1974, in Docket No. E-8967 is hereby denied.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-29069 Filed 12-19-74;8:45 am]

[Docket No. ID-1794]

JOHN R. BURTON

Supplemental Application

DECEMBER 12, 1974.

Take notice that on November 19, 1974, John R. Burton (Applicant) filed a supplemental application with the Federal Power Commission. Pursuant to section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following position:

Secretary, Ohio Electric Co., Public Utility.

Ohio Electric Company, whose principal office is located at 301 Cleveland Avenue, SW., Canton, Ohio 44702, owns and operates the General James M. Gavin Plant at Gallipolis, Ohio which, when completed, will have two 1300 megawatt generating units. All of Ohio Electric Company's available electrical energy is sold to Ohio Power Company, of which it is a wholly owned subsidiary.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and prodcedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29068 Filed 12-19-74;8:45 am]

[Docket No. RP71-16; PGA75-3A]

MIDWESTERN GAS TRANSMISSION CO.

Alternate PGA Filing

DECEMBER 13, 1974.

Take notice that on December 9, 1974, Midwestern Gas Transmission Company (Midwestern) tendered for filing Second Substitute Seventh Revised Sheet No. 5 and Substitute First Revised Sheet No. 85 to Third Revised Volume No. 1 of its FPC Gas Tariff, to be effective on January 1, 1975.

Midwestern states that on November 15, 1974, it made a PGA filing which increased its Northern System Base Tariff Rates to reflect a Canadian supplier rate increase to $1.00 (Canadian) per MMbtu and made certain related technical changes in Midwestern's Northern System PGA provisions. Such increased Base Tariff Rates were also reflected, according to Midwestern, in its filing of November 22, 1974, to reflect a reduction in its Northern System rates pursuant to

a Commission-approved settlement affecting a reduction in the depreciation rate for the Northern System.

Midwestern states that the substitute sheets filed on December 9, 1974, remove the Canadian increase from its Northern System Base Tariff Rates and reflect such increase as a Current Purchased Gas Cost Rate Adjustment, should the Commission determine that such a revision is necessary. Midwestern requests that the Commission, if it should decline to accept the tariff sheets as filed on November 15 and 22, 1974, accept such alternative tariff sheets along with the other tariff sheets filed November 15, 1974, which are unaffected by this adjustment, to be effective as of January 1, 1975. In such event, Midwestern requests that the Commission grant such waivers of its regulations as may be necessary.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29671 Filed 12-19-74;8:45 am]

[Docket No. RP72-140; PGA75-4A]

MISSISSIPPI RIVER TRANSMISSION CORP.

Proposed Change in Rates

DECEMBER 12, 1974.

Take notice that Mississippi River Transmission Corporation (Mississippi) on November 25, 1974, tendered for filing Alternate Twenty-Fourth Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1 to become effective December 1, 1974.

Mississippi states that the instant filing was made pursuant to the purchased gas cost adjustment provisions of Mississippi's tariff to supplement Mississippi's purchased gas cost adjustment filing of October 16, 1974, in order to reflect the applicable rate under Rate Schedule CD-1 to Mississippi's tariff on December 1, 1974, excluding the effect of United Gas Pipe Line Company's (United) National Rate Surcharge.

Mississippi requested that Alternate Twenty-Fourth Revised Sheet No. 3A be accepted for filing effective December 1, 1974, if, and only if, the Commission should not approve United's National Rate Surcharge. In the event the Commission should approve such surcharge, Mississippi renews its request of October 16, 1974 that Twenty-Fourth Revised Sheet No. 3A be made effective December 1, 1974.

Mississippi submitted schedules containing computations supporting the rate changes to be effective December 1, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 30, 1974. Protests will be considered by the Commission to determine appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29672 Filed 12-19-74;8:45 am]

[Docket No. CP75-166]

MONTANA-DAKOTA UTILITIES CO.

Application

DECEMBER 13, 1974.

Take notice that on December 5, 1975, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismark, North Dakota 58501, filed in Docket No. CP75-166 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under the Act (18 CFR 157.7(b)), for a certificate of public convenience and necessity authorizing the construction during the 12-month period commencing August 1, 1975, and operation of natural gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

Applicant states that the total cost of the proposed facilities will not exceed $2,680,000 with no single project to exceed $670,000. Applicant proposes to finance the proposed facilities with internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 8, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29673 Filed 12-19-74;8:45 am]

[Docket No. E-7942]

NANTAHALA POWER AND LIGHT CO.

Further Extension of Procedural Dates

DECEMBER 13, 1974.

On December 10, 1974, Nantahala Power and Light Company filed a motion to extend the procedural dates fixed by order issued September 26, 1974, as modified by notice issued October 18, 1974, in the above-designate matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company Testimony, December 16, 1974.
Service of Staff and Intervenor's Testimony, January 10, 1975.
Service of Company Rebuttal, January 24, 1975.
Hearing, February 3, 1975 (10 a.m. e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29675 Filed 12-19-74;8:45 am]

[Docket No. RP74-100]

NATIONAL FUEL GAS SUPPLY CORP.

Extension of Procedural Dates

DECEMBER 12, 1974.

On November 22, 1974, Staff Council filed a motion to extend the procedural dates fixed by order issued August 9, 1974, in the above-designated matter. No objection to the motion has been received.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

plicant's proposed Rate Schedule T-1, A to their contracts with the following Gas Pipe Line Company (United) from

Service of Staff's Testimony, January 21, 1975.
Service of Intervenor's Testimony, February 4, 1975.
Service of Company Rebuttal, February 18, 1975.
Hearing, March 4, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29676 Filed 12-19-74;8:45 am]

[Docket No. CP73-317]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Petition To Amend

DECEMBER 13, 1974.

Take notice that on November 19, 1974, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP73-317 a petition to amend the order issued in said docket on August 29, 1973 (50 FPC 602), as amended November 16, 1973 (50 FPC ——), pursuant to section 7(c) of the Natural Gas Act by authorizing the extension to October 31, 1977, of the period during which redeliveries may be made by Applicant to Iowa-Illinois Gas and Electric Company (Iowa-Illinois) from Northern Illinois Gas Company (NI-Gas) and the rescheduling of said deliveries so as to enable NI-Gas to retain a portion of the gas previously delivered by Petitioner from Iowa-Illinois under the authorization granted in the August 29, 1973, order, all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

By the August 29, 1973, order, as amended, the Commission authorized rescheduling of deliveries under which Petitioner states it delivered approximately 3 million additional Mcf of natural gas to NI-Gas during the period ending December 1, 1973. Said gas was released by Iowa-Illinois. By the August 29, 1973, order Petitioner was further authorized to redeliver equivalent volumes to Iowa-Illinois during the period April 1974 through October 1976 to be provided by release of gas by NI-Gas. Petitioner states that delivery to NI-Gas was completed on November 3, 1973.

Petitioner states that Iowa-Illinois has determined that there exists a substantial possibility that it will be unable to supply the requirements of its firm consumers under certain severe weather conditions subsequent to the 1974-1975 winter heating season and is, therefore, interested in making the necessary arrangements which will minimize the development of an emergency situation during the winter heating seasons of 1975-1976 and 1976-1977, by means of increasing deliveries to it during said periods. Petitioner further states that NI-Gas is interested in retaining as much as possible of the approximately 3 million Mcf of natural gas it received under the terms of the rescheduling agreement.

In view of these circumstances, Petitioner proposes, at the request of NI-Gas and Iowa-Illinois, to extend the term of redeliveries to Iowa-Illinois to October 31, 1977, and to make redeliveries as follows:

(1) From November 1, 1975, to April 1, 1976, 420,000 Mcf at a maximum daily rate of 5,000 Mcf;
(2) From November 1, 1976, to April 1, 1977, 420,000 Mcf at a maximum daily rate of 12,000 Mcf.

In addition Petitioner proposes that any portion of the 420,000 Mcf not used by Iowa-Illinois during the 1975-1976 winter period shall be available during the following winter period and that any portion of the total 840,000 Mcf not used during the 1976-1977 winter period shall be delivered to Iowa-Illinois during the period April 1, through October 31, 1977. In consideration of the rescheduled winter redeliveries of 840,000 Mcf of gas, NI-Gas would retain the remaining 2,160,000 Mcf of gas previously received by it.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 6, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29677 Filed 12-19-74;8:45 am]

[Docket No. E-7690 (PTP Cost-Rules)]

NEW ENGLAND POWER POOL AGREEMENT (NEPOOL)

Extension of Procedural Dates

DECEMBER 12, 1974.

On December 9, 1974, New England Power Pool filed a motion to extend the procedural dates fixed by order issued July 23, 1974, as most recently modified by notice issued October 29, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Rebuttal Evidence, January 17, 1975.
Hearing, January 22, 1975 (10 a.m. e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29678 Filed 12-19-74;8:45 am]

[Docket No. CP74-290]

NORTHERN BORDER PIPELINE CO.

Supplement to Application

DECEMBER 13, 1974.

Take notice that on November 15, 1974, Northern Border Pipeline Company, a partnership (Applicant), 20 Montchanin Road, Wilmington, Delaware 19807, filed in Docket No. CP74-290 a supplement to its application filed in said docket pursuant to section 7(c) of the Natural Gas Act by submitting Exhibit P, its proposed tariff, in compliance with § 157.14(a)(13)(i) of the Commission's regulations under the Natural Gas Act (18 CFR 157.14(a)(13)(i)), all as more fully set forth in the supplement which is on file with the Commission and open to public inspection.

By its application in the subject docket filed May 14, 1974,[1] Applicant seeks a certificate of public convenience and necessity authorizing the construction and operation of facilities to transport as a contract carrier natural gas in interstate commerce from the international border near Monchy, Saskatchewan, Canada, across approximately 1,619 miles to a point near Delmont, Pennsylvania, for the account of various contract shippers. Applicant did not accompany said application with certain exhibits, including Exhibit P. Applicant now submits as Exhibit P its proposed tariff which contains a cost-of-service form of rate schedule for firm transportation service.

Applicant states that it shall transport gas only pursuant to written contracts in the form of service agreements as set out in its proposed tariff and that Applicant will, to the extent possible, provide the same contract for each shipper. Applicant further states that its tariff generally contemplates that Applicant will transport gas owned by shippers, rather than purchase and sell the gas. According to the provisions of the proposed tariff:

Each shipper may tender any amount up to its contractual maximum daily quantity (MDQ), and Applicant is obligated to accept all of such tendered gas within the separate contractual quantities for each delivery point. Deliveries by a shipper in excess of its MDQ, which excess Applicant may refuse to receive, are subject to an overrun transportation charge pursuant to Applicant's proposed Rate Schedule OT-1. Applicant will redeliver thermally equivalent volumes to each shipper reduced by each shipper's share of gas necessary to run Applicant's compressors, for line pack and for other uses and losses associated with gas transportation. In return for the transportation of its gas, each shipper must pay its allocable share of Applicant's cost-of-service.[2] Pursuant to Ap-

[1] The application was noticed in the FEDERAL REGISTER on June 14, 1974 (39 FR 20919).

[2] Applicant states that it has not yet determined the rate of return on common equity that it will propose but that it will do so at a later time.

become a party to a proceeding or to par-

plicant's proposed Rate Schedule T–1, each shipper will pay to Applicant an amount equal to the proportion that its contract Mcf-miles bears to the total contract Mcf-miles of all shippers[*] (so that all shippers together must pay 100 percent of Applicant's cost-of-service). The return component (rate-of-return x rate base) of Applicant's cost-of-service will be computed monthly. Working capital, a component of the rate base, will include 150 percent of monthly gas operating and maintenance expenses, plus prepayments, materials and supplies, and required deposits. Amounts actually billed each month to the shippers will be based on advanced estimates, with adjustments to later charges for the difference between estimates and actual cost to each shipper. If Applicant takes less than 80 percent of gas tendered (within the MDQ) by a shipper, that shipper shall be entitled to a reduction equal to the proportion the volume tendered but not received bears to that shipper's MDQ multiplied by return on common equity, plus applicable taxes.

Applicant states that the proposed tariff, based on the concept of a cost-of-service charge, is designed to furnish security for prospective investors. Applicant also states that it will not build or contribute to the cost of building any lateral pipelines to shippers or other persons.

Any person desiring to be heard or to make any protest with reference to said supplement should on or before January 2, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Any person who has heretofore filed a protest or petition to intervene need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–29679 Filed 12–19–74;8:45 am]

[Docket No. E–9155]

NORTHERN STATES POWER CO.

Proposed Changes in Rates and Charges

DECEMBER 13, 1974.

Take notice that Northern States Power Company (Wisconsin), Eau Claire, Wisconsin, on December 6, 1974, tendered for filing First Revised Schedule A to their contracts with the following eleven wholesale customers.

	FPC Rate Schedule No.
Bangor	37, Supplement No. 2
Cadott	42, Supplement No. 2
Bloomer	45, Supplement No. 2
Cornell	47, Supplement No. 2
New Richmond	48, Supplement No. 2
Spooner	49, Supplement No. 2
Whitehall	51, Supplement No. 2
Trempealeau	52, Supplement No. 2
Black River Falls	54, Supplement No. 2
Westby	55, Supplement No. 4
Rice Lake	56, Supplement No. 1

The rate schedule is proposed to be effective for deliveries of power and energy on and after February 6, 1975.

Northern States Power Company (Wisconsin) states that the proposed rate schedule will increase revenues from their wholesale customers by $944,151, based on sales for the test year ended September 30, 1974. The Company says that it realized an operating loss before income taxes on its wholesale business in the test period and that rising financing and operating costs necessitate an increase in its rates which have not been changed since 1937 except for a decrease in 1947 and a subsequent addition of a fuel adjustment clause. The filing also proposes modifications in rate design, and fuel cost base in the fuel adjustment clause.

A copy of the filing has been mailed to each of Northern States Power Company (Wisconsin) customers affected by the proposed change and to the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 3, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–29680 Filed 12–19–74;8:45 am]

[Docket No. CI75–355]

PENNZOIL PRODUCING CO.

Application

DECEMBER 13, 1974.

Take notice that on November 29, 1974, Pennzoil Producing Company (Applicant), 900 Southwest Tower, Houston, Texas 77002, filed in Docket No. CI75–355 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas in interstate commerce to United Gas Pipe Line Company (United) from the Walker Creek Field, Columbia County, Arkansas, and delivery of said gas to Beacon Gasoline Company for redelivery to United at a point on United's pipeline in Webster Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell to United from the subject acreage estimated monthly volumes of 60,000 Mcf of natural gas for a term of one year from January 13, 1975, or until recycling operations are fully implemented in the Walker Creek Field, whichever comes first, at 60 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Initial upward Btu adjustment is estimated to be 1.8 cents per Mcf. Applicant states that it expects recycling operations, as a result of the unitizing of its interests in the Walker Creek Field with interests of other owners in said field, to be implemented fully within six to eight months from the date the instant application was filed. Applicant asserts that prior to that time the subject gas will be available to the interstate market.

The application indicates that the gas which is the subject of the instant application was previously sold to United by Applicant pursuant to a certificate of public convenience and necessity with pre-granted abandonment authorization in Docket No. CI73–573 and that last deliveries were made on July 3, 1974. The application further indicates that deliveries of gas recommenced on November 14, 1974, pursuant to § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29). Applicant states that said sale of gas at the contract rate of 60 cents per Mcf, adjusted for Btu content, is expected to continue for 60 days, and that in the event the instant application has not been acted upon by the Commission by the expiration of the 60-day period, deliveries are expected to continue pursuant to Opinion No. 699–B for not more than 12 months.

Applicant further states that it is willing to accept a certificate conditioned to a price equal to the national ceiling rate established by Opinion No. 699, issued June 21, 1974, in Docket No. R–389–B, including price adjustments and fixed price escalations provided therein or afterwards established on rehearing of Opinion No. 699.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to

[*] The tariff provides for adjusting cost-of-service during the early period of service to prevent costs from being overly onerous on those shippers which are first to attach to Applicant's line.

RP75–17–1 are hereby dismissed without

Applicant asserts that Panhandle has

Notice of the application, affording op-

become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29681 Filed 12-19-74;8:45 am]

[Docket Nos. RP75-16-1; RP75-17-1]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND EASTERN SHORE NATURAL GAS CO.

Order Granting Interventions and Dismissing Without Prejudice Petition for Extraordinary Relief

DECEMBER 13, 1974.

On September 6, 1974, Stauffer Chemical Company (Stauffer) filed a petition for permanent and interim extraordinary relief pursuant to § 1.7(b) of the Commission's rules of practice and procedure, in Docket No. RP75-17-1, from the curtailment provisions of its supplier of natural gas, Eastern Shore Natural Gas Company (Eastern Shore). Notice of Stauffer's petition was issued on October 8, 1974 (39 FR 37013). On October 10, 1974, Eastern Shore filed a petition for extraordinary relief from the curtailment provisions of its sole supplier, Transcontinental Gas Pipe Line Corporation (Transco), in Docket No. RP75-16-1. Stauffer seeks an order directing Eastern Shore to deliver to Stauffer at its Delaware City, Delaware plant not less than 1,823,852 Mcf annually, with provision for monthly peak requirements of not less than 178,000 Mcf and daily peak requirements of not less than 6,800 Mcf. Eastern Shore requests that its daily volume entitlement from Transco commencing November 16, 1974, be fixed at an amount sufficient to provide Eastern Shore with a winter season total delivery volume of 2,267 MMcf and a summer season total delivery volume of 3,060 MMcf.

Since the two above docketed proceedings may involve common issues of fact and law they shall be consolidated for purposes of hearing and decision thereon.

Stauffer states that it requires the above-mentioned gas volumes in order to enable continuance of its carbon disulfide manufacturing operations by the use of natural gas as a feedstock, for which no other raw material may be technologically substituted, and as a process fuel, for which there is no alternate nongaseous fuel. Stauffer states that in order to forestall irreparable injury to Stauffer, its customers, its employees, the national supply of rayon, cellophane, carbon tetrachloride, fluorocarbon propellants and refrigerants, and agricultural chemicals, and other employees and businesses involved, it requests that interim relief be granted during the pendency of the above petition.

Stauffer states that its contract with Eastern Shore, which was entered into in 1960, provides for the firm delivery of 7,050 Mcf of natural gas a day. Stauffer states that under Eastern Shore's estimated curtailments, Stauffer would be curtailed up to 62 percent of its daily contract demand. Stauffer claims that curtailments of this severity would compel the shutdown of Stauffer's Delaware City plant for "prolonged periods of time."

Eastern Shore states that it was advised by Transco that its deliveries during the 1975–1976 winter season would be curtailed by some 26–34 percent. Based on this information, Eastern Shore states that it notified its firm industrial customers that it did not expect to meet their firm requirements and, in the case of Stauffer, Eastern Shore estimated that curtailments would range up to 63 percent of daily contract demand.

By telegram issued November 13, 1974, the Secretary of the Commission informed Eastern Shore that its petition for extraordinary relief filed October 10, 1974, did not contain the minimal information required by § 2.78(a)(11)(k) of the Commission's rules.

Eastern Shore responded on November 18, 1974. Eastern Shore concludes that it lacks the ability to serve Stauffer's entire feedstock, plant protection and process requirements during the coming year from its present estimated gas supply, unless it curtails human needs requirements or other industrial feedstock plant protection or process requirements. However, Eastern Shore fails to demonstrate this lack of flexibility with specific data. Additionally, Eastern Shore admits that a firm disposition of its estimated supply of available natural gas is extremely speculative at this time due to the uncertainty surrounding the nature of the curtailment plan to be implemented on Transco's system and the uncertainty of Transco's supply situation. Such response does not comply with § 2.78(a)(11)(k) of the Commission's Rules which requires Eastern Shore to provide details regarding any flexibility available by effectuating additional curtailment to existing industrial customers.

On December 4, 1974, "An Amendment of Stauffer Chemical Company to Petition for Interim and Permanent Extraordinary Relief from Pipeline Curtailment Plan" was filed. In said amendment, Stauffer asks that its request for interim relief be suspended and, at the same time, urges the Commission to enter on a hearing on Stauffer's request for permanent relief so that the Commission will have a developed record on which to respond to any renewed request for interim relief filed by Stauffer. Stauffer states that it is withdrawing its request for interim relief in light of recently developing circumstances, which include the reduced demand for carbon disulfide of Stauffer's customers and the ability of Transco to meet Stauffer's requirements under the Interim Settlement Agreement, which went into effect as a result of the D.C. Circuit's November 27, 1974, Order in Consolidated Edison Co., et al. v. FPC, No. 73-1999. Stauffer states, however, that "the volatile economic situation in which Stauffer's customer presently find themselves" (sic) may necessitate a resurgence of demand for carbon disulfide and a corresponding need for extraordinary relief.

Therefore, Stauffer would have the Commission enter on a hearing in order to prospectively determine a request for relief while the need for "interim relief is not now necessary." Such a request would open the floodgates to similar petitions which are designed to secure relief under circumstances which have not yet transpired. The speculative nature of such requests cannot support a conclusion that extraordinary circumstances exist which entitle the petitioner to extraordinary relief. In view of deepening curtailments, the Commission must closely scrutinize requests for extraordinary relief, and accordingly, must dismiss petitions which do not present a material and genuine immediate need for extraordinary relief. Such dismissal does not preclude the petitioner from filing a proper request when the circumstances warrant an extraordinary remedy.

Pursuant to the notice of the instant petition, issued October 8, 1974 (39 FR 37013), timely petitions to intervene have been filed by Columbia Gas Transmission Corporation (Columbia), General Motors Corporation (General Motors) and the Brick Institute of America (BIA), Farmers Chemical Association (FCA), and Transcontinental Gas Pipe Line Corporation (Transco). Untimely petitions to intervene were filed by Philadelphia Electric Company (PEC), Long Island Lighting Company (Long Island), and Philadelphia Gas Works (PGW). Columbia, General Motors and BIA, FCA, Transco, PEC, Long Island, and PGW each state that any relief granted to Stauffer would effect Transco's many other customers and their consumers whose needs and priorities may be equal to or greater than those of Eastern Shore or Stauffer. All of the above-named petitioners will be permitted to intervene in this proceeding.

The Commission finds:

(1) The petitions filed by Eastern Shore and Stauffer should be dismissed without prejudice to being refiled as as hereinbefore noted.

(2) Participation of the above-named petitioners for intervention may be in the public interest.

The Commission orders:

(A) The petitions for extraordinary relief filed in Docket Nos. RP75-16-1 and

RP75–17–1 are hereby dismissed without prejudice.

(B) The above-named petitioners are hereby permitted to become interveners in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* that the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in these proceedings.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–29682 Filed 12–19–74;8:45 am]

[Docket No. C175–360]

W. V. HARLOW

Application

DECEMBER 13, 1974.

On December 5, 1974, W. V. Harlow, Jr., d/b/a W. V. Harlow, et al. (Applicant), 501 Amarillo Petroleum Building, Amarillo, Texas 79101, filed in Docket No. C175–360 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Panhandle Eastern Pipe Line Company (Panhandle) from acreage in Meade County, Kansas, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that he commenced the sale of natural gas to Panhandle from the subject acreage on November 22, 1974, within the contemplation of § 157.29 of the Commission's regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue to sell said gas for one year from the expiration of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell, commencing January 22, 1975, approximately 15,000 Mcf of gas per month at 55 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot with an upward adjustment limitation of 1,200 Btu per cubic foot. Initial adjustment is expected to be 6.18 cents per Mcf.

Applicant further states that he is filing this application for a limited-term certificate, rather than acting under his small producer certificate, so as to secure pre-granted abandonment authorization and to be certain that upon the expiration of the limited-term contract under which the subject sale is to be made that Applicant and his facilities or properties would not be subject to the jurisdiction under the Natural Gas Act on and after the expiration of the sales contract.

Applicant asserts that Panhandle has encountered firm service deficiencies on its system and has contracted with Applicant in a good faith attempt to help alleviate Panhandle's gas supply shortage. Applicant further asserts that the price provided in the instant application was arrived at by arm's length negotiation and presents the low end of the current range of prices for sales from producers in intrastate, industrial and city gate markets and that the gas to be delivered under the instant proposal is not otherwise available at a price less than provided in the contract or for a term longer than the period in the contract.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 8, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–29668 Filed 12–19–74;8:45 am]

FEDERAL RESERVE SYSTEM

AMERIBANC, INC.

Order Approving Acquisition of Bank

Ameribanc, Inc., St. Joseph, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire up to 100 percent of the voting shares of the First National Bank of Tarkio, Tarkio, Missouri ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired. The Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fourteenth largest banking organization in Missouri, controls three banks with aggregate deposits of approximately $133 million, representing less than 1 percent of the total deposits in commercial banks in the State.[1] The proposed acquisition of Bank would increase Applicant's share of state deposits only slightly and would not alter Applicant's ranking among the State's banking organizations. Moreover, consummation of the proposal would not significantly affect the concentration of banking resources in Missouri.[2]

Bank ($9.8 million in deposits) is the third largest of the five commercial banks in the relevant banking market (approximated by Atchison County, Missouri), and holds approximately 20 percent of the deposits in the market. Applicant's banking subsidiary nearest Bank is located in St. Joseph, Missouri, 64 miles south of Tarkio.[3] It appears that no meaningful competition between Bank and Applicant's subsidiary banks would be eliminated as a result of the proposed acquisition. Furthermore, on the basis of the facts of record, particularly the distances separating Bank and Applicant's subsidiary banks and Missouri's branching laws, it does not appear that any significant potential competition would develop between Applicant and Bank. In addition, it appears unlikely Applicant would enter the Atchison County banking market de novo as the population per banking office and deposits per banking office ratios for the market are below the statewide averages. On the basis of the foregoing, the Board concludes that consummation of the proposal would not have significantly adverse effects on competition in any relevant area.

The financial and managerial resources and future prospects of Applicant and its subsidiaries are considered satisfactory. The financial and managerial resources and future prospects of Bank

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[1] All banking data are as of December 31, 1973, and reflect bank holding company formations and acquisitions approved through October 31, 1974.

[2] In a related matter, Applicant has pending an application filed under section 3(a)(5) of the Bank Holding Company Act for the Board's prior approval to merge with First American Bancshares, Inc., St. Joseph, Missouri, which controls five banks with total deposits of approximately $25 million, representing .18 percent of the commercial bank deposits in the State.

[3] The closest banking subsidiary of First American Bancshares, Inc., to Bank is located in Skidmore, Missouri, approximately, 30 miles southeast of Tarkio and outside Bank's market area.

are generally satisfactory. Applicant has indicated a willingness to maintain the capital of its subsidiary banks at acceptable levels. In light of the above, the Board regards the banking factors as being consistent with approval of the application. Applicant proposes to expand the range of services presently offered by Bank. In particular, affiliation with Applicant will enable Bank to offer investment and estate planning services and expanded agricultural lending. These considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[4] effective December 11, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-29618 Filed 12-19-74;8:45 am]

MANUFACTURERS HANOVER CORP.

Order Approving Acquisition of Ritter Financial Corporation

Manufacturers Hanover Corporation, New York, New York, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Ritter Financial Corporation, Wyncote, Pennsylvania ("Ritter"), a company which, directly and through subsidiaries,[1] engages in the activities of a consumer finance company by making, acquiring or servicing for its own account or the account of other loans or other extensions of credit; acting as agent or broker for the sale of credit life and credit accident and health insurance and consumer credit related property insurance directly related to its extensions of credit by Ritter or its credit-granting subsidiaries; and acting as reinsurer of credit related life and credit accident and health insurance. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a) (1), (3), (9), and (10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (39 FR 18161). The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of the Virginia Association of Insurance Agents, Inc., the Brunswick Insurance Agency, and The National Association of Casualty and Surety Agents, in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, a multi-bank holding company, is the third largest banking organization in New York State, and the fourth largest nationally. Applicant controls Manufacturers Hanover Trust Company, New York, New York ("Bank"), and five other commercial banks which, collectively, hold domestic deposits of $11.7 billion,[2] representing approximately 10 per cent of the total deposits in commercial banks in New York State. Applicant also controls nonbanking companies engaged in leasing and mortgage banking.

Ritter is a relatively small, regional consumer finance company with total assets of $83 million and net consumer finance receivables of $72 million. Ritter is primarily engaged in providing personal installment loans and consumer installment credit. It maintains 125 offices in Connecticut, New Jersey, North Carolina, Pennsylvania, Virginia and West Virginia. Ritter's two offices in Connecticut compete in the Metropolitan New York market[3] in providing personal installment loans. Applicant, through Bank and Manufacturers Hanover Suffolk Trust Company, Suffolk, N.A. ("Suffolk Bank") also competes for such business in the market. The nearest office of Applicant and Ritter are 12 miles apart. Applicant's two subsidiaries in the market account for approximately 6 percent of the personal instalment loans outstanding, while Ritter's offices in the market account for less than one-tenth of one percent of the personal instalment loans outstanding. The competition existing between Applicant and Ritter that would be eliminated upon consummation of the proposed transaction would be only slight.

With respect to the question of whether consummation of the proposal would eliminate any significant competition in the future, Ritter opened 14 new offices in 1973 and purchased three others and has the resources to continue independently to expand de novo. Applicant, through Bank and Suffolk Bank, operates more than 180 branch offices in the New York metropolitan market. In the past few years Applicant has indicated its desire to expand in banking and nonbanking activities by acquiring several firms including commercial banks, a leasing company and a mortgage banking company. However, like many other large bank holding companies, Applicant's capital and liquidity positions have not kept pace with its recent growth in assets. Thus, although Applicant appears to possess the resources to compete more actively with Ritter, by de novo expansion in the consumer finance company business or by accelerated growth in consumer lending, it appears questionable at this time whether this would occur on a scale large enough to result in substantial future competition with Ritter. On the basis of these facts, the Board concludes that the only significant competition that would be foreclosed upon approval of this application would be some distance in the future.

In order for the Board to approve an acquisition under section 4(c)(8) of the Bank Holding Company Act it must determine that approval can reasonably be expected to produce benefits to the public such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests or unsound banking practices.

In several recent cases the Board has expressed its general concern with the rapid expansion of some U.S. banking organizations in both domestic and foreign markets, and the implications of such expansion for their capital and liquidity positions. In this connection the Board has encouraged a slower rate of expansion in recent months by these banking organizations. In cases where the asset growth of a banking organization has been rapid relative to capital, and has been funded to an appreciable degree by potentially volatile sources of funds, the Board, under current economic and financial conditions, must consider on a case-by-case basis, whether proposals that would utilize funds for further expansion rather than for improvement of the organization's capital and liquidity positions are consistent with the public interest standard of section 4(c)(8) of the Act.

In accordance with above-described policy, the Board would have reservations about further expansion by Applicant. However, the proposal which Applicant has placed before the Board contains a number of factors which, in the Board's view, overcome these reservations. Foremost among these is the fact that the proposal does not constitute a utilization of funds for expansion, which funds could be used elsewhere to strengthen Applicant's organization. The proposal involves a stock-for-stock acquisition and Ritter appears to be adequately capitalized in relation to the risk involved in its business. In addition, a reasonable projection of Ritter's earnings indicates that such earnings will be

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[4] Voting for this action: Governors Sheehan, Bucher, Holland, Wallich and Coldwell. Absent and not voting: Chairman Burns and Governor Mitchell.

[1] Realty Advisory Services, Inc. ("RAS"), one of Ritter's subsidiaries, has an interest in a condominium real estate venture. Applicant has committed that upon approval of this application it would not acquire RAS nor engage in this activity.

[2] Unless otherwise noted, all financial data are as of December 31, 1973.

[3] The Metropolitan New York market consists of all New York City, Nassau, Putnam, Rockland and Westchester Counties and western Suffolk County in New York State, the southwestern half of Fairfield County in Connecticut; and the northeastern two-thirds of Bergen County and eastern Hudson County in New Jersey.

well in excess of the dividend requirements on the preferred and common stock to be issued by Applicant in the exchange. Thus, Applicant's consolidated capital base would not in any way be diluted.

Another factor which has entered into the Board's decision is that Applicant intends to maintain Ritter's present independent short-term bank financing and to continue the independent issuance by Ritter of commercial paper until such time and under such circumstances as the Board may deem appropriate. Thus, it will not be necessary, at least for the time being, for Applicant to enter the debt market to support Ritter's activities. Ritter's present commercial paper rating is such that this program seems feasible. Furthermore, Applicant intends to defer its original plans for de novo expansion of Ritter by opening 85 new offices and for financing Ritter's entry into new product lines and further market penetration until such time and under such circumstances as the Board may deem appropriate. The Board concludes that consummation of the proposal would not require Applicant to divert any significant amount of its financial or managerial resources to assure continuation of Ritter's successful operations.

An additional consideration which the Board has taken into account is that the proposal constitutes Applicant's initial and relatively small entry into the consumer finance company business. The application is considered to be a foothold acquisition which will give Applicant the expertise and market position to successfully compete in this business.

The normal public benefits which can be expected to accrue from the entry of bank holding companies into the finance company business would be expected to accrue in this case. The ultimate de novo expansion of Ritter and entry into new product lines can also be expected to result in additional benefits to the public. Furthermore, Applicant is committed to lower interest rates by 4 percent to all borrowers without being more restrictive in its credit standards.

As discussed hereinafter, Applicant will lower credit insurance premium rates in the three States where policies are reinsured by a Ritter subsidiary. These public benefits lend weight for approval and, in view of the other characteristics of the proposal, the Board finds that approval of the acquisition is warranted.

Upon acquisition of Ritter Applicant also proposes to engage in certain credit-related insurance activities. Through offices of Ritter Applicant would sell credit life and credit accident and health insurance, credit casualty insurance and nonfiling insurance.[4] In view of the limited nature of these insurance activities, the Board finds that no significant existing or potential competition would be eliminated upon consummation of this proposal.

Incident to this application, Applicant has also applied for authority to act, through a subsidiary of Ritter, as reinsurer of group credit life and credit accident and health insurance sold in connection with extensions of credit by Ritter's offices in Virginia, West Virginia, and New Jersey. Such insurance is underwritten by an insurer qualified to underwrite such insurance in these States and is assigned or ceded to Ritter's subsidiary. Credit life and disability insurance is generally made available by banks and other lenders, and such insurance is designed to assure repayment of a loan in the event of the death or disability of the borrower.

In connection with its addition of credit life underwriting to the list of permissible activities for bank holding companies, the Board stated that:

> To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service.

Applicant has stated that it would reduce the rates charged by Ritter's lending subsidiaries for credit life insurance from 1.8 percent to 7.8 percent in these States. Such reductions are in addition to the recently lowered regulatory maximum rates in Virginia, and West Virginia. The Board finds that the proposed rate changes provide reduced costs to customers and are procompetitive and in the public interest. The Board concludes that such benefits outweigh any possible adverse effects that could result from providing such insurance services.

In deciding that approval of the proposed acquisition would be consistent with the public interest standard of section 4(c)(8) of the Act and, in particular, with the Board's policy of slower growth in significant bank holding company expansion, the Board took into account the following facts, in addition to the circumstances previously enumerated. Bank, which had experienced considerable expansion prior to mid-1974, has in recent months curtailed its loan and investment activities; and Applicant has committed not to undertake new acquisitions of existing firms or ventures into new activities over the months immediately ahead. Applicant also plans a significant addition to Bank's capital from external sources during 1975.

On the basis of all the facts of record, including the Board's view that Applicant's commitments are assurance that the acquisition will neither result in any significant increased demand upon Applicant's financial or managerial resources nor cause any immediate alteration or expansion of Ritter's present operations, the Board has determined, in accordance with the provisions of section 4(c)(8), that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved, subject to the condition that during 1975 Applicant maintains its dividend payment per share in an amount not to exceed, on an annual basis, the dividend payment per share in effect for the third quarter of 1974. The Board's approval determination is also subject to the conditions set forth in section 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of New York, pursuant to delegated authority.

By order of the Board of Governors,[5] effective December 10, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-29617 Filed 12-19-74;8:45 am]

[4] Nonfiling insurance is insurance that protects Ritter's security interest in personal property against security interests which might be perfected by third parties.

[5] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Bucher, Holland, Wallich, and Coldwell.

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 13, 1974. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202–376–5425.

INTERSTATE COMMERCE COMMISSION

Request for approval of reinstatement of ICC Form BOp 102, Notice of Intent to Perform Interstate Transportation for Certain Nonmembers Under section 203(b)(5) of the I.C. Act. Potential respondents are 8000 motor carriers of agricultural commodities intending to transport goods for compensation. Approximately 30 reports are filed annually.

The average respondent burden is ½ man hour per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.74-29746 Filed 12-19-74;8:45 am]

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 16, 1974. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

FEDERAL MARITIME COMMISSION

Request for extension with no change of FMC-12, Application for Admission to Practice before FMC. Non-attorneys seeking to practice before the FMC are required to submit this application. There are approximately 30 applicants per year. Required time per application is estimated to be one hour.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.74-29747 Filed 12-19-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

TASK GROUP NO. 10 ADVISORY COMMITTEE FOR RESEARCH

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of Task Group No. 10 of the Advisory Committee for Research to be held at 9 a.m. on January 10 and 11, 1975, in room 511 at 1800 G Street, NW, Washington, D.C.

The purpose of the Task Groups (which are composed of Advisory Committee for Research members) is to provide the Committee with a mechanism to consider numerous issues of interest to the full committee.

The agenda for the meeting of Task Group 10 will be to discuss the prospective contents of its report to the Advisory Committee for Research on, "The Social Science as a Research Area in the National Interest."

This meeting shall be open to the public. Individuals who wish to attend should inform Mr. Leonard F. Gardner, Special Assistant, Directorate for Research (202/632-4278) Rm. 320, National Science Foundation, Washington, D.C. 20550, prior to the meeting.

Persons requiring further information concerning this Task Group should contact Mr. Gardner at the above address. Summary minutes relative to this meeting will be in the form of the Task Group Report and will be available after it has been presented to the full committee at its next meeting which is tentatively scheduled for November 1975. Please send all requests for the Task Group Report to the Management Analysis Office, Rm. 720-K, 1800 G Street, NW, Washington, D.C. 20550.

FRED K. MURAKAMI,
Committee Management Officer.

DECEMBER 17, 1974.

[FR Doc.74-29713 Filed 12-19-74;8:45 am]

TASK GROUP NO. 11 ADVISORY COMMITTEE FOR RESEARCH

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of Task Group No. 11 of the Advisory Committee for Research to be held at 9 a.m. on January 13 and 14, 1975, in room 543 at 1800 G Street, NW, Washington, D.C.

The purpose of the Task Groups is to provide the Advisory Committee for Research with a mechanism to consider numerous specific topics of interest to the full committee.

The agenda for the meeting of Task Group 11 will be to discuss the prospective contents of its report to the Advisory Committee for Research on, "Review and Evaluation of Committee Operation."

This meeting shall be open to the public. Individuals who wish to attend should inform Mr. Leonard F. Gardner, Special Assistant, Directorate for Research (202/632-4278) Rm. 320, National Science Foundation, Washington, D.C. 20550, prior to the meeting.

Persons requiring further information concerning this Task Group should contact Mr. Gardner at the above address. Summary minutes relative to this meeting will be in the form of the Task Group Report and will be available after it has been presented to the full committee at its next meeting which is tentatively scheduled for November 1975. Please send all requests for the Task Group Report to the Management Analysis Office, Rm. 720-K, 1800 G Street, NW, Washington, D.C. 20550.

FRED K. MURAKAMI,
Committee Management Officer.

DECEMBER 17, 1974.

[FR Doc.74-29712 Filed 12-19-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

Public Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of a panel of the Business Advisory Council on Federal Reports to be held in Room 2010, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C., on Tuesday, January 7, 1975, at 9:30 a.m.

The purpose of the meeting is to advise the Statistical Policy Division of the Office of Management and Budget concerning problems associated with the requirement that plan administrators of pension and welfare plans file descriptives of such plans with the U.S. Department of Labor pursuant to the Employee Retirement Income Security Act of 1974. The meeting will be open to public observation and participation.

Further information regarding the meeting may be obtained from the Statistical Policy Division, Office of Management and Budget, Room 10201, New Executive Office Building, Washington, D.C. 20503, Telephone (202) 395-3443.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.74-29714 Filed 12-19-74;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on December 16, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529) or from the reviewer listed.

NEW FORMS

None

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration:

Statement of Deficiencies and Plan of Correction and Continuation Sheet, Form SSA 2567, SSA 2567A, Annual, Caywood (395-3443), Medicare and medicaid providers & suppliers of service.

Post-Certification Revisit Report and Continuation Sheet, Form SSA 2567B, Annual, Caywood (395-3443), Medicare & medicaid providers and suppliers of service.

Independent Laboratory Survey Report Form, Form SSA 1557, Annual, Caywood (395–3443), Independent labs. participating in medicare program.
Outpatient Physical Therapy Survey Report, Form SSA 1693, Occasion Caywood (395–3443), Outpatient P.T. facilities in medicare program.
Psychiatric Hospital Survey Report, Form SSA 1537A, Occasional, Caywood (395–3443), Psych. hospitals participating in medicare program.
Portable X-ray Survey Report Form, Form SSA 1882, Occasional, Caywood (395–3443), Portable X-ray facilities.
Hospital Survey Report Form, Form SSA 1537, Occasional, Caywood (395–3443), Hospitals participating in medicare program.
Hospital Request to Establish Eligibility in the Health Insurance for the Aged Program, Form SSA 1514, Occasional, Caywood (395–3443), Hospitals.
Certification and Transmittal Spell of Illness 1861(J)(1) Supplement, Form SSA 1539A, Occasional, Caywood (395–3443), District Port facilities.
Utilization Review Survey Report, Form SSA 1538, Occasional, Caywood (395–3443), Hospitals.
Long-Term Care Facility Request to Establish Eligibility in the Medicare and/or Medicaid Program, Form SSA 1516, Occasional, Caywood (395–3443), Nursing facilities and intermediate care facilities.
Attachment of Certification and Transmittal, Form SSA 1539B, Occasional, Caywood (395–3443), Independent labs. participating in medicare program.
Home Health Agency Survey, Form SSA 1571, Occasional, Caywood (395–3443), Home health agencies participating in medicare program.
Tuberculosis Hospital Survey Report, Form SSA 1537B, Occasional, Caywood (395–3443), TB hospitals participating in medicare program.
Request for Approval of Independent Laboratory under the Health Insurance for the Aged Program, Form SSA 1517, Occasional, Caywood (395–3443), Independent labs.
Fire Safety Survey Report, Form SSA 2786, Annual, Caywood (395–3443), Hospitals & long-term care facilities.
Certification and Transmittal Form, Form SSA 1539, Occasional, Caywood (395–3443), Medicare and medicaid providers & suppliers of service.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization & Conservation Service: Application for Approval of Warehouse—Peanuts, CC–7405, Occasional, Evinger (395–3648), Cold Storage Warehouses.
Statistical Reporting Service: Survey of Flue-cured Tobacco Varieties Form ____, Annual, Evinger (395–3648), Tobacco Growers.
Foreign Agricultural Service: Regulations—Agricultural Trade Development & Assistance (Title I PL 480), Form ____, Occasional, Evinger (395–3648), Commodity Suppliers; Shipping Firms.

FEDERAL RESERVE SYSTEM

Monthly Report on Foreign Branch Assets & Liabilities, Form FR–502, Monthly, Hulett (395–4730), Foreign Branches of U.S. Banks.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization & Conservation Service: Application for Approval of Tank Farm (For Storage & Handling of Bulk Oil), Form CCC–813, Occasional, Evinger (395–3648), Operators of Tank Farms.

DEPARTMENT OF COMMERCE

Maritime Administration:
Application for Ship Mortgage and/or Loan Insurance Under Title XI, Merchant Marine Act, As Amended, Form MA–163, Occasional, Evinger (395–3648).
Vessel Data—Vessels of 1600 Gross Tons or More & Vessels Under 15000 Gross Tons, Form MA–510, Occasional, Evinger (395–3648).
National Oceanic & Atmospheric Administration: Shrimp Log Book—Shrimp Landings—U.S. Flag Vessels, Form NOAA 88–22, Monthly, Evinger (395–3648).

DEPARTMENT OF HEALTH, EDUCATION & WELFARE

Social Security Administration: Statement of Marital Relationship, Form SSA–754, Occasional, Evinger (395–3648).
Statement Regarding Marriage (Proof of Common-Law Marriage From Qualified Persons), Form SSA–753, Occasional, Evinger (395–3648).

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION & WELFARE

Social Security Administration:
Hospitals with a Distinct Part Extended Care Facility Computing Reimbursable Costs on the Departmental RCCAs or Combination, Form SSA–9553, Annual, Evinger (395–3648).
Monthly Summary of Cash Transactions & Cash Analysis, Form SSA–2050, Monthly, Evinger (395–3648).
Equal Employment Opportunity Compliance Report (Religious and Ethnoreligious Affiliation Questionnaire), Form SSA–1776, Occasional, Evinger (395–3648).
Request for Benefits Payable—beneficiary outside U.S., Form SSA–669(f), Occasional, Evinger (395–3648).
Questionnaire Regarding Survivors Insurance Benefits (For Applicant in a Foreign Country), Form SSA–485, Occasional, Evinger (395–3648).

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–29607 Filed 12–19–74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

GREATER WASHINGTON INVESTORS, INC.

Suspension of Trading

DECEMBER 16, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Greater Washington Investors, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 17, 1974 through December 26, 1974.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 74–29658 Filed 12–19–74;8:45 am]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Nondisapproval of Amendments to Constitution

Notice is hereby given that on December 12, 1974, the Commission considered and did not disapprove proposed amendments to the Constitution of the Chicago Board Options Exchange, Inc. (CBOE) pursuant to rule 9b–1 under the Securities Exchange Act of 1934 (17 CFR 240.-9b–1). The CBOE had proposed to amend sections 4.3, 5.3, and 6.1 which govern the manner in which members are elected to the Exchange's Board of Directors. These proposed changes were originally published at 39 FR 42723 on December 6, 1974.

The amendment to section 6.1 requires that at least three of the directors elected to the Exchange's Board of Directors be elected from members whose ordinary place of business is located outside the Chicago metropolitan area; one such non-resident director is to be elected each year. This amendment defines a non-resident director as a member whose ordinary place of business is located more than 50 miles from the Exchange's trading floor.

Section 4.3 is amended to require the Exchange's Nominating Committee to select nominees in conformance with the above amendment. Also, section 5.3 is amended to indicate that where nominations are made by petitions, as permitted by section 4.5 of the Exchange's Constitution, and as a result a non-resident member does not receive a plurality of votes, the non-resident candidate receiving the largest vote among all non-resident candidates would be elected director in lieu of the resident candidate receiving the lowest winning plurality.

All interested persons are invited to submit their views and comments on the proposed amendments to CBOE's plan either before or after it has become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 10–54. The proposed amendments are, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW., Washington, D.C.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 12, 1974.

[FR Doc.74–29650 Filed 12–19–74;8:45 am]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Non-disapproval of Amendments to Option Plan

Notice is hereby given that on December 12, 1974, the Commission considered and did not disapprove proposed amendments to the Option Plan of the Chicago Board Options Exchange, Inc. (CBOE) pursuant to rule 9b–1 under the Securi-

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ties Exchange Act of 1934 (17 CFR 240.9b–1). The CBOE proposed to amend rules 1.1(d), 1.1(m), 4.9, 4.11, 4.12, 4.14, 4.15, 4.16, 5.2, 5.3, 5.5, 5.6, 5.7, 6.40, 6.50, 6.51(d), 9.7(c), 9.17, 10.2, 11.1, 13.4, 15.2, 15.3; add new rules 6.55, 6.56, 6.57, 6.58, and 6.59; and delete rule 11.4.

The amendment to rule 1.1(d) is simply to reflect name changes of the Clearing Corporation.

The amendment to rule 1.1(m) makes it clear that options which are the subject of transactions that are rejected by the Clearing Corporation are still "option contracts" under CBOE's Rules.

Rule 4.9 has been amended to add the words "clearing corporation."

Rules 4.11, 4.12, 4.14, 4.15, 4.16, 9.7(c), 9.17 and 15.3 have been amended to reflect the possibility of multiple trading in options. In addition, rule 4.11 has been further amended to remove the 500 contracts per expiration month limit insofar as it pertains to covered short positions and certain spread positions. Such limits appeared to be too restrictive on customers having large positions in the underlying stock or spread positions and to be unnecessary for such positions in light of the continued applicability of the 1,000 contracts per class limit. Rule 4.16 has also been amended to delete the last sentence thereof (the subject matter of which is being added to the Clearing Corporation's by-laws).

Rules 5.2, 5.6, 5.7, 11.1 and 11.4 have been amended to reflect the fact that portions of the subject matter thereof will be added to the by-laws of the Clearing Corporation. Rule 5.3 has been amended to refer to the proposed Participant Exchange Agreement. In addition, these rules and rule 5.5 have been amended in minor respects to improve the drafting and to eliminate some obsolete references.

Rule 6.40 has been amended to reflect the proposed amendment to rule 5.6.

The amendments to rules 6.50, 6.51(d) and 15.2 and new rules 6.55–6.59 were necessary as a result of the Exchange's taking over the responsibility for trade comparison.

The amendment to rule 13.4 is simply a drafting "clean up" made necessary by the recent amendment to rule 13.2.

All interested persons are invited to submit their views and comments on the proposed new rules and rules amendments and deletions to CBOE's plan either before or after they have become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 10–54. The proposed new rules and rules amendments and deletions are, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW, Washington, D.C.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 18, 1974.

[FR Doc.74–29657 Filed 12–19–74;8:45 am]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Proposed Amendments to Option Plan

Notice is hereby given that the Chicago Board Options Exchange, Inc. (CBOE) has filed proposed amendments to its Option Plan pursuant to rule 9b–1 under the Securities Exchange Act of 1934 (17 CFR 240.9b–1). The CBOE proposes to amend rules 2.8, 18.1, 18.4, 18.5, 18.7 and 18.13.

The principal change sought by the proposed amendments is to reduce the number of arbitrators serving on arbitration panels in controversies arising out of Exchange business between members or between Exchange members and non-members. In disputes arising between members, the proposed amendments to Exchange rule 18.5(a) would reduce the number of members serving on arbitration panels, where the amount involved in the controversy is more than $5,000 (exclusive of interest and costs), from five to three members. In controversies between a member and a non-member of the Exchange, the proposed amendments to Exchange rule 18.5(b), similarly would reduce the number of arbitrators from five to three in controversies involving amounts in excess of $500; in non-member disputes involving less than $500, the non-member could elect to have a single arbitrator resolve the dispute.

The proposed amendments also effect changes in the qualifications required for non-member arbitrators serving on arbitration panels in controversies between members and non-members of the Exchange; in controversies involving only members, the arbitrators will continue to be members of the Exchange's Arbitration Committee. Exchange rule 2.8 presently provides that non-member arbitrators are not to be engaged in the securities or commodities business. The proposed amendments to rule 2.8 would allow non-member arbitrators to be engaged in those businesses, but such persons could not be affiliated or associated with members of the Exchange. This amendment is designed to provided required needed expertise for complex arbitration proceedings, while at the same time assuring independent arbitrators. The proposed amendments to rule 2.8 would also allow the President of the Exchange to appoint non-member arbitrators, rather than the Chairman of the Exchange, with the approval of the Board of Directors, as is presently required. This will allow needed flexibility in appointing non-member arbitrators where, for example, an unusual number of arbitration proceedings require additional arbitrators.

Exchange rule 18.1 would be amended to provide that the arbitration provisions of the Exchange's rules do not constitute a waiver of any right of action that may arise under the Securities Act of 1933 or the Securities Exchange Act of 1934. This amendment is to make clear the effect of the Supreme Court's decision in Wilko v. Swan, 346 U.S. 427 (1953). That decision declared as invalid an arbitration agreement which purported to waive judicial remedies under the Securities Act of 1933, where such waiver was made before any controversy arose. The proposed amendment to Exchange rule 18.1 (c) would also extend the effect of that decision to claims under the Securities Exchange Act of 1934.

The proposed amendments to Exchange rules 18.4 are technical amendments that will allow an expedited and simplified method for processing arbitration claims. Also, rule 18.13 would be eliminated and its provisions incorporated in rule 18.5(a).

Finally, Exchange rule 18.7 would be amended to authorize arbitration panels to require the parties to an arbitration proceeding to post with the Exchange a bond or other security for expenses of the proceeding. This proposal is designed to assure that the parties will pay expenses associated with arbitration proceedings.

The proposed amendments will become effective on January 20, 1975, or upon such earlier date as the Commission may allow unless the Commission shall disapprove the change in whole or in part as being inconsistent with the public interest or the protection of investors.

All interested persons are invited to submit their views and comments on the proposed amendments to CBOE's plan either before or after it has become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW, Washington, D.C. 20549. Reference should be made to File No. 10–54. The proposed amendments are, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW, Washington, D.C.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 12, 1974.

[FR Doc.74–29663 Filed 12–19–74;8:45 am]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Proposed Amendments to Option Plan

Notice is hereby given that the Chicago Board Options Exchange, Inc. (CBOE) has filed amendments to its Option Plan pursuant to rule 9b–1 under the Securities Exchange Act of 1934 (17 CFR 240.9b–1). The CBOE proposes to amend rule 2.6 and add a new rule 6.6.

The proposed amendments would modify rule 2.6 in two ways: First, the definition of a quorum for the Floor Procedure Committee would be changed from "three" to a "majority" to reflect the growth in the size of the committee. Second, the Floor Procedure Committee would be empowered to appoint additional Floor Officials from among those members who are regularly engaged in business on the Exchange floor. These additional Floor Officials would assist the Floor Procedure Committee in overseeing activity on the floor and in maintaining a fair and orderly market. The additional Floor Officials would not be members of the Floor Procedure Committee and would not have the authority to halt

trading under rule 6.3, to declare a fast market and take related action under proposed rule 6.6 or to impose fines under rule 6.20.

Proposed rule 6.6 is new and would grant the Floor Procedure Committee and its members authority to adopt special procedures to deal with unusual market conditions. Whenever a large influx of orders in a particular class of option contracts impairs the maintenance of a fair and orderly market under normal trading procedures, it is proposed that a Floor Official may declare the market in that class to be "fast." Under a "fast market" declaration, a Floor Official would be authorized to do one or more of the following with respect to the class or classes involved:

(i) Assign one or more classes or series of options traded at the post to Board Brokers at other posts.

(ii) Authorize Board Broker clerks to execute transactions.

(iii) Assign brokerage responsibilities for particular series to specific Floor Brokers in the trading crowd.

(iv) Authorize one or more Market-Makers to act as Floor Brokers.

(v) Direct that one or more trading rotations be employed pursuant to rule 6.2.

(vi) Restrict the entry of new orders into the book.

(vii) Take such other actions as are deemed necessary in the interest of maintaining a fair and orderly market.

The fast market would be terminated as soon as conditions would permit. This proposal is intended to provide an alternative to halting trading under existing rule 6.3.

Proposed rule 6.6 would also empower the Floor Procedure Committee to place restrictions on the entry of certain types of orders in one or more classes or series of option contracts if deemed necessary for the maintenance of a fair and orderly market. Any such restriction would require approval by the Exchange's Board of Directors if it were to remain in effect for longer than two consecutive business days.

The proposed amendments will become effective on January 20, 1975, or upon such earlier date as the Commission may allow unless the Commission shall disapprove the change in whole or in part as being inconsistent with the public interest or the protection of investors.

All interested persons are invited to submit their views and comments on the proposed amendments to CBOE's plan either before or after they become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549. Reference should be made to File No. 10–54. The proposed amendments are, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW., Washington, D.C.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 12, 1974.

[FR Doc.74–29654; Filed 12–19–74;8:45 am]

[File No. 70–5596]

MISSISSIPPI POWER CO.

Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

Notice is hereby given that Mississippi Power Company ("Mississippi"), 2992 West Beach, Gulfport, Mississippi 39501, a public-utility subsidiary company of The Southern Company, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Mississippi proposes to issue and sell, subject to the competitive bidding requirements of rule 50, up to $14,000,000 principal amount of its First Mortgage Bonds, ____ percent Series ("New Bonds") to mature not more than 30 years and not less than 5 years, such maturity date to be determined and prospective bidders notified not less than 72 hours prior to the time of bidding. The price of the New Bonds (which will be not less than 99% nor more than 102¾% of the principal amount thereof) will be determined by competitive bidding. The New Bonds will be issued under an Indenture dated as of September 1, 1941, between Mississippi and Morgan Guaranty Trust Company of New York, as Trustee, as heretofore supplemented and to be further supplemented by a Supplemental Indenture ("Indenture") to be dated as of January 1, 1975, which contains a prohibition until January 1, 1980, against refunding the issue with the proceeds of funds borrowed at a lower effective interest cost.

Mississippi proposes in 1975 to use the proceeds from the sale of the New Bonds together with (1) cash contributions to capital of $17,000,000 by The Southern Company during 1975 ($3,000,000 of which is authorized in Commission's order in File No. 70–5471 and the remainder to be the subject of a subsequent statement on Form U–1, (2) funds to be provided through the issuance of tax exempt revenue bonds by various governmental authorities for construction of certain pollution control facilities (A portion of these securities was authorized in Commission's orders in File Nos. 70–5389 and 70–5489, and the remainder will be the subject of subsequent statements on Form U–1), and (3) cash on hand in excess of operating requirements and interest and dividends, to finance its 1975 construction program, to pay notes payable in the form of bank notes and commercial paper notes incurred for such purpose, and for other lawful purposes.

A statement as to the fees and expenses to be paid by Mississippi in connection with the proposed issuance and sale of the New Bonds is to be supplied by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed tranaction.

Notice is further given that any interested person may, not later than January 9, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–29652 Filed 12–19–74;8:45 am]

SMALL BUSINESS ADMINISTRATION

INVESTCAL SMALL BUSINESS INVESTMENT CO.

Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR 107.701 (1974)) for the transfer of control of Investcal Small Business Investment Company (Investcal), 9171 Wilshire Boulevard, Suite 310, Beverly Hills, California 90210, a Federal licensee under the Small Business Investment Act of 1958, as amended (Act), License No. 09/14–0012.

Investcal was licensed on September 20, 1960. Its present combined paid-in capital and paid-in surplus is $402,000. This proposed transfer of control is subject to and contingent upon approval by SBA.

Mr. I. Morton Haas plans to purchase all of the common stock of Investcal which is presently owned by Saraphen Investment Company. This constitutes 88.2 percent of the outstanding stock of Investcal. After the acquisition, the office will be moved to 1888 Century Park East, 17th Floor, Los Angeles, California 90067.

The new officers and directors of Investcal will be:

Mr. I. Morton Haas, President, Director
1929 West Pico Boulevard
Los Angeles, California 90006
Mr. Herbert Slavin, Secretary-Treasurer, Director
10480 West Pico Boulevard
Los Angeles, California 90064
Mr. Donald Barr, Director
10,000 Santa Monica Boulevard
Suite 208
Los Angeles, California 90067

Matters involved in SBA's consideration of the application include the general business reputation and character of the new owner and the probability of successful operation of Investcal under the new officers' control and management (including adequate profitability and financial soundness) in accordance with the Act and regulations.

Notice is hereby given that any interested person may, not later than Jan. 6, 1975, submit to SBA, in writing, relevant comments on the transfer of control. Any such comments should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW, Washington, D.C. 20416.

A copy of this Notice shall be published by the transferee in a newspaper of general circulation in Los Angeles, California.

Dated: December 16, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-29724 Filed 12-19-74;8:45 am]

TARIFF COMMISSION

[TEA-W-255]

GENERAL ELECTRIC CO.

Workers' Petition for a Determination; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of the Syracuse New York plant of General Electric Co., New York, New York, the United States Tariff Commission, on December 17, 1974, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with transistors and diodes (of the type provided for in item 687.60 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, NW., Washington, D.C., and at the New York City office of the Tariff Commission located at 6 World Trade Center.

By order of the Commission.

Issued: December 17, 1974.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74-29723 Filed 12-19-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 658]

ASSIGNMENT OF HEARINGS

DECEMBER 17, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notice of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after December 20, 1974.

MC-F-12207, Ruan Transport Corporation—Purchase—Harold Waggoner & Company, and MC 107496 Sub 961, Ruan Transport Corporation, now assigned February 3, 1975, at St. Louis, Mo., will be held in Courtroom No. 2, 6th Floor, U.S. Courthouse, 1114 Market St.

AB 6 Sub 12, Burlington Northern Inc., Abandonment Between Monticello and Clearwater, in Wright, Sherburne, and Stearns Counties, Minnesota, now assigned January 14, at St. Cloud, Minn., will be held at the VA Hospital, Building 51.

MC 113410 Sub 87, Dahlen Transport, Inc., now assigned January 22, 1975, at St. Paul, Minn., will be held in Judge Lord's Courtroom No. 2, Federal Building & Courthouse, 316 N. Robert St.

MC 23632 Sub 67, Mitchell Bros. Truck Lines; MC 95876 Sub 140, Anderson Trucking Service, Inc.; MC 107496 Sub 20, Harry L. Young and Sons, Inc.; MC 108119 Sub 40, E. L. Murphy Trucking Co.; MC 112855 Sub 259, International Transport, Inc.; MC 123407 Sub 134, Sawyer Transport, Inc.; MC 123681 Sub 24, Wilding Transportation, Inc.; MC 125433 Sub 26, F-B Truck Line Company; and MC 127242 Sub 2, Houston Truck Lines, Inc.; now assigned February 3, 1975, at Minneapolis, Minn., reassigned to February 3, 1975 (1 week), in Room 584, Court of Appeals, 5th floor, Federal Building and U.S. Courthouse, 316 North Robert St., St. Paul, Minn.

MC 134068 Sub 16, Kodiak Refrigerated Lines, Inc., now assigned January 16, 1975, at St. Paul, Minn., will be held in Judge Lord's Courtroom No. 2, Federal Building & Courthouse, 316 N. Robert St.

MC 29120 Sub 177, All-American, Inc., now assigned January 20, 1975, at St. Paul, Minn., will be held in Judge Lord's Courtroom No. 2, 316 N. Robert St.

MC 128383 Sub 54, Pinto Trucking Service, Inc., now assigned January 13, 1975, at Washington, D.C., is postponed to a date to be hereafter fixed.

MC 53965 Sub 95, Graves Truck Line, Inc., now assigned January 14, 1975, at Denver, Colo., is postponed to a date to be hereafter fixed.

MC 134922 Sub 75, E. J. McAdams, now assigned January 21, 1975, at New York, New York, is postponed to a date to be hereafter fixed.

MC 128383 Sub 59, Pinto Trucking Service, Inc., now assigned January 28, 1975, at Washington, D.C., is postponed to a date to be hereafter fixed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-29742 Filed 12-19-74;8:45 am]

[AB 7 (Sub-No. 7)]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD

Proposed Abandonment of Portion of Line

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in newspapers of general circulation in Fergus County, Montana, on or before December 29, 1974, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 5th day of December, 1974.

By the Commission, Commissioner Tuggle.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[AB 7 (Sub-No. 7)]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY ABANDONMENT BETWEEN HEATH AND GRASS RANGE, IN FERGUS COUNTY, MONTANA

The Interstate Commerce Commission hereby gives notice that by order dated December 5, 1974, it has been determined that the proposed abandonment by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee Road) of its line of railroad or of operations over such line between Heath and Grass Range, Fergus County, Montana, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality

of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental effects of the proposed action are considered insignificant because (1) nearby rail service will continue to be available upon abandonment at Lewistown over existing rail lines of the Milwaukee Road and the Burlington Northern, Inc., (2) diversion of rail traffic will not be significant because of the fairly minimal volume of freight movements, (3) degradation of the area's environment will be minimal, and (4) there are no definitive local economic development plans for the area dependent upon the continuation of direct rail access.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-3066.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before January 16, 1975.

This negative environmental determination shall become final unless good and sufficient reason is filed to demonstrate why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.74-29734 Filed 12-19-74;8:45 am]

[No. MC-127954 (Sub-No. 3G)]

MARSH MOTOR HAULAGE, INC.

Extension—Gateway Elimination

At a Session of the Interstate Commerce Commission, Operating Rights Board, held at its office in Washington, D.C., on the 12th day of November, 1974.

It appearing, that by application filed June 4, 1974, Marsh Motor Haulage, Inc., of Port Newark, N.J., seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of the commodities and between the points indicated below in order to eliminate the gateway of Port Newark, N.J.;

It further appearing, that the application is unopposed, has not involved the taking of testimony at a public hearing, or the submission of evidence by opposing parties in the form of affidavits, and the public interest will best be served by disposition of the matter without issuance of a report and recommended order;

It further appearing, that in publishing notice of this application in the FEDERAL REGISTER, the State of Delaware was inadvertently omitted from the destination description; that since it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority in our findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced;

It further appearing, that since the authority granted herein will encompass all of applicant's authority in its lead certificate, we shall condition the grant of authority herein so that applicant can request in writing the coincidental cancellation of that certificate;

And it further appearing, that the evidence submitted in the form of verified statements in support of the application amply warrants the grant of authority set forth below; therefore:

We find, that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of household goods, as defined by the Commission, between points in New York, New Jersey, Connecticut, Delaware, Pennsylvania, Massachusetts, Maine, New Hampshire, Vermont, Rhode Island, Maryland, Virginia, North Carolina, Ohio, Indiana, Illinois, Michigan, and the District of Columbia; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that an appropriate certificate should be issued; that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969; and that the application in all other respects should be denied.

It is ordered, That said application, except to the extent granted herein, be, and it is hereby, denied.

It is further ordered, That upon compliance by applicant with the requirements of sections 215, 217, and 221(c) of the Interstate Commerce Act, and with the Commission's rules and regulations thereunder, a certificate be issued to applicant authorizing operations, in interstate or foreign commerce, as a common carrier by motor vehicle of the commodities described, and in the manner described in the second preceding paragraph, subject (1) to the prior publication in the FEDERAL REGISTER of a notice of the authority actually granted by this order, and (2) to receipt by the Commission of a request in writing by applicant for the coincidental cancellation of its Certificate No. MC 127954.

It is further ordered, That unless compliance is made by applicant with the requirements of sections 215, 217, and 221(c) of the Act within 90 days after the date of service of this order, or within such additional time as may be authorized by the Commission, the grant of authority made herein shall be considered as null and void and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

And it is further ordered, That this order shall be effective on the date hereof.

By the Commission, Operating Rights Board.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.74-29741 Filed 12-19-74;8:45 am]

[Notice No. 205]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before January 17, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75513. By order entered 12-6-74, the Motor Carrier Board approved the transfer to Frozen Food Express, Inc., Bedford, Mass., of that portion of the operating rights set forth in Certificate No. MC 125403, issued January 2, 1964, to S. T. L. Transport, Inc., Rochester, N.Y., authorizing the transportation of frozen fruit in containers, from a specified area in New York to points in Connecticut and Massachusetts; frozen foods, from points in Erie, Niagara, Monroe, and Wayne Counties, N.Y., to points in Maine, New Hampshire, and Vermont; and from points in Genesee, Livingston, Ontario, Oswego, and Orleans Counties, N.Y., to points in Maine, New Hampshire, and Vermont; and frozen fruits, frozen berries, and frozen vegetables, from points in a described area in New York to specified points in Connecticut, Maine, Massachusetts, and New Hampshire. S. Michael Richards, P.O. Box 225, 44 North Ave., Webster, N.Y. 14580, attorney for transferor, and Francis E. Barrett, Jr., 10 Industrial Park Rd., Hingham, Mass. 02043, attorney for transferee.

No. MC-FC-75515. By order of December 6, 1974, the Motor Carrier Board approved the transfer to Morrison-Knudson Company, Inc., Boise, Idaho, of the operating rights in Permit No. MC 103390 issued June 16, 1949, to F & S Contracting Company, a corporation, Butte, Mont., authorizing the transportation of various commodities from and to specified points in Montana. Arthur J. Schlanger,

P.O. Box 7808, Boise, Idaho 83729, attorney for applicants.

No. MC–FC–75522. By order entered 12–6–74, the Motor Carrier Board approved the transfer to Fine Truck Line, Inc., Fort Smith, Ark., of the operating rights set forth in Certifictaes Nos. MC 96881 (Sub-No. 2), MC 96881 (Sub-No. 5), MC 96881 (Sub-No. 6), MC 96881 (Sub-No. 7), MC 96881 (Sub-No. 10), MC 96881 (Sub-No. 11), and MC 96881 (Sub-No. 12), issued by the Commission December 23, 1958, October 4, 1960, July 26, 1968, March 19, 1970, May 17, 1971, September 18, 1972, June 1, 1973, respectively, to Orville M. Fine, doing business as Fine Truck Line, Fort Smith, Ark., authorizing the transportation of general commodities, with the usual exceptions, between specified points in Arkansas, Louisiana, Oklahoma, and Texas, over specified routes. Don A. Smith, P.O. Box 43, 14 North 7th St., Fort Smith, Ark. 72901, attorney for applicants.

No. MC–FC–75537. By order entered 12–6–74, the Motor Carrier Board approved the transfer to James Elwood Quinn, Inc., Beulaville, North Carolina, of the operating rights set forth in Certificates Nos. MC 116048, MC 116048 (Sub-No. 2), MC 116048 (Sub-No. 6), MC 116048 (Sub-No. 10), MC 116048 (Sub-No. 12), MC 116048 (Sub-No. 14), MC 116048 (Sub-No. 16), MC 116048 (Sub-No. 17), MC 116048 (Sub-No. 18), and MC 116048 (Sub-No. 19), issued by the Commission, August 20, 1957, January 19, 1961, October 10, 1963, October 22, 1963, June 26, 1963, June 8, 1964, March 13, 1967, April 6, 1967, March 17, 1967, and March 15, 1967, respectively, to Mangum Trucking Company, Inc. (Richard T. Meek, Trustee in Bankruptcy), Charlotte, N.C., authorizing transportation of lumber, bananas, animal feed ingredients, animal and poultry feed and supplements, frozen french fried potatoes, reconditioned steel drums, frozen foods, and frozen potato products, from, to, or between points in Alabama, Florida, Georgia, Illinois, Kentucky, Louisiana, Maine, New York, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia. Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301, attorney for applicants.

No. MC–FC–75443. By order of December 6, 1974, the Motor Carrier Board approved the transfer to J. D. Lewis Corporation, Cordele, Ga., of the operating rights in Certificate No. MC 115558 (Sub-No. 1), issued September 24, 1957, to E. D. Towson, Ocilla, Ga., authorizing the transportation of various commodities from specified points in Georgia to points in Florida. George M. Mixon, 202 Twelfth Ave. East, Cordele, Ga. 31015, attorney for applicants.

No. MC–FC–75550. By order of December 9, 1974, the Motor Carrier Board approved the transfer to Deron, Inc., Milwaukie, Oreg., of the operating rights in Permit No. MC 136283 (Sub-No. 1), issued June 7, 1973, to Egon Mascher, doing business as Egon Mascher Trucking, Milwaukie, Oreg., authorizing the transportation of floor covering from Marcus Hook, Pa., to points in Oregon and Idaho. Lawrence V. Smart, Jr., 419 NW. 23rd Ave., Portland, Oreg. 97210, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–29743 Filed 12–19–74;8:45 am]

federal register

FRIDAY, DECEMBER 20, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 246

PART II

DEPARTMENT OF THE TREASURY

Monetary Offices

■

FOREIGN PORTFOLIO INVESTMENT STUDY REGULATIONS AND FINAL FORMS

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Title 31—Money and Finance: Treasury

CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

PART 129—FOREIGN PORTFOLIO INVESTMENT STUDY REGULATIONS

Notice is hereby given of the promulgation in final form by the Department of the Treasury of a new Part 129 of Title 31 of the Code of Federal Regulations to include the Foreign Portfolio Investment Regulations.

On November 1, 1974, a notice of proposed rulemaking regarding these regulations was published in the FEDERAL REGISTER (39 FR 38771). The public was given until November 22, 1974 to submit in writing comments, data, views, arguments or suggestions pertaining to the proposed regulations prior to their publication in final form. A number of public comments were received in response to the foregoing notice. In addition, a public hearing on the proposed regulations was held at the Office of Management and Budget on November 26, 1974. Suggestions and comments have been carefully considered and taken into account in the revision of the regulations which is herewith published in final form. The changes reflected in the final regulations are simplifying and clarifying in nature.

The proposed regulations are promulgated under the authority of the Foreign Investment Study Act (Pub. L. 93-479) which directs the Secretary of the Treasury "to conduct a comprehensive, overall study" of foreign portfolio investment and authorizes the Secretary to issue such rules as he deems necessary to carry out his functions under the Act. The study, which will be the first complete survey of foreign portfolio investment in the United States since 1941, will provide complete statistics on such investment as of year-end 1974 and supply a data base from which estimates of annual balance-of-payments figures for later years may be extrapolated.

The reporting requirements prescribed under 31 CFR Part 128 are not affected by these provisions.

In that it is important that persons subject to the regulations be able to rely thereon in advance of the December 31, 1974 "benchmark" date for collection of the foreign investment data that are the subject of the study, there is good cause to make these regulations effective immediately. Accordingly, the regulations become effective upon publication in the FEDERAL REGISTER.

The regulations are as follows:

Subpart A—Definitions

Sec.
129.1 United States.
129.2 Person.
129.3 United States person.
129.4 United States issuer.
129.5 United States holder of record.
129.6 Foreign person.
129.7 Foreign official institution.
129.8 The Act.
129.9 The Secretary.

Subpart B—Recordkeeping and Reporting Requirements

Sec.
129.10 Determination by the Secretary.
129.11 Reports.
129.12 Exemptions.
129.13 Records.
129.14 Protection of information.

Subpart C—Description of Forms Prescribed Under this Part

129.20 Copies.
129.21 Form FPI-1. Reporting form for United States issuers.
129.22 Form FPI-2. Reporting form for United States holders of record.
129.23 Special reports.

Subpart D—Penalties

129.30 Civil and criminal penalties.
129.31 Fraudulent reporting.

AUTHORITY: Sec. 7, 88 Stat. 1450.

Subpart A—Definitions

§ 129.1 United States.

The term "United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, and all territories and possessions of the United States.

§ 129.2 Person.

The term "person" means an individual, partnership, association, trust, corporation, or other organization, including the Federal, State, and local governments and any agencies, corporations, financing institutions, or other instrumentalities thereof, including Federally-sponsored agencies.

§ 129.3 United States person.

The term "United States person" means any individual resident in the United States or any other person organized or created under the laws of the United States, including the Federal, State, and local governments and any instrumentalities thereof, including Federally-sponsored agencies.

§ 129.4 United States issuer.

The term "United States issuer" means any United States person who issues, through public or private distribution, any security or other evidence of ownership, participation, or indebtedness, including the following:

(a) Stocks or investment company shares, including rights, warrants, and scrip;

(b) Debt obligations having an original maturity of more than one year, including such obligations as bonds, debentures, notes, mortgages, bank and other long-term loans and other obligations, certificates of deposit, and certificates of participation;

(c) Business or investment trust certificates or shares;

(d) Limited partnership interests; transferable shares in a business venture, association, or syndicate; or any fractional interest in oil and gas, real estate, crops, or other investment property.

§ 129.5 United States holder of record.

The term "United States holder of record" means any person subject to the jurisdiction of the United States who is carried on stock transfer records or other ownership records as having title to any security or other evidence of ownership, participation, or indebtedness of a United States person which he is holding on behalf of another person. The term "United States holder of record" may include such persons as nominees, custodians, agents, trustees, other fiduciaries, banks, brokers, or other intermediaries, who hold title to investments on behalf of another person: *Provided*, That the term also extends to a person acting as a custodian for bearer securities of private issuers or for bearer or registered securities issued by Federal, State, or local governments or their instrumentalities, including Federally-sponsored agencies, even though such person is not carried on ownership records as holding title to such securities.

§ 129.6 Foreign person.

The term "foreign person" includes:

(a) Any individual, including a citizen of the United States, resident outside the United States.

(b) Any partnership, association, corporation, or other organization created or organized under the laws of a foreign country, excepting branches and agencies thereof located in the United States.

(c) Any branch, subsidiary, or other allied organization within a foreign country of a partnership, association, corporation, or other organization, created or organized under the laws of a foreign country or of the United States. For example, a branch of an American broker or dealer located outside the United States, including a branch of a person subject to the reporting requirements of these regulations, should be regarded as a foreign person. In addition, overseas head offices of branches, subsidiaries, and agencies which are located in the United States, as well as other branches of such head offices which are located outside the United States, should be regarded as foreign persons.

(d) Any government of a foreign country and any subdivision, agency, or instrumentality thereof, including all foreign official institutions, even if located in the United States.

(e) Any official international or regional organization, or subordinate or affiliated agency thereof, created by treaty or convention between sovereign states, even though located in the United States; and any private relief, philanthropic or other organization of an international or regional character with headquarters abroad.

(f) Any person in the United States to the extent such person is acting on behalf of, for the account of, or for the benefit of, a foreign person, except for a holder of record as defined in § 129.5 of this part.

§ 129.7 Foreign official institution.

The term "foreign official institution" includes central governments of foreign countries and their possessions and recognized central banks of issue, including the following:

(a) The treasuries, including ministries of finance, or corresponding departments of national governments; central banks, including all departments thereof; stabilization funds, exchange control offices, or other governmental exchange authorities; and fiscal agents of the national governments which have as an important part of their functions, activities similar to those of a treasury, central bank, or stabilization fund: *Provided*, That branches or agencies of foreign official banking institutions which are located in the United States shall not be regarded as foreign official institutions for purposes of these regulations.

(b) Diplomatic and consular establishments and other departments and agencies of national governments, such as army and navy departments, purchasing commissions, and state trading organizations.

(c) Any international or regional organization, or subordinate or affiliated agency thereof, created by treaty or convention between sovereign states: *Provided*, That the term "foreign official institution" shall not include the following: (1) Nationalized or other government-owned banks or corporations (Nationalized or other government-owned banks should be regarded as "foreign banks" and nationalized or other government-owned corporations should be included in the category "other foreign holders" unless such banks or corporations fall within one of the categories set forth in paragraph (a) of this section), and (2) personal accounts of foreign diplomatic and other official representatives of foreign countries.

§ 129.8 The Act.

For the purposes of this part, "the Act" means the Foreign Investment Study Act of 1974 (Pub. L. 93-479, 88 Stat. 1450).

§ 129.9 The Secretary.

The term "the Secretary" means the Secretary of the Treasury.

Subpart B—Recordkeeping and Reporting Requirements

§ 129.10 Determination by the Secretary.

The Secretary hereby determines that the recordkeeping and reporting provisions of this subpart are necessary to enable him to carry out his functions under the Act.

§ 129.11 Reports.

(a) *United States issuers.* A report is required on Form FPI-1 (described in § 129.21 of this part) from United States issuers as follows:

(1) *Routine large issuer reporters; assets test.* A report is required on Form FPI-1 from every United States issuer, irrespective of whether it has evidence of foreign investment, which, as of the latest available closing date of its books had:

(i) Total consolidated assets of more than $20 million, if it is a nonbanking organization;

(ii) Total consolidated assets of more than $50 million, if it is a banking organization;

(2) *Selective small issuer reporters; foreign ownership test.* Except as provided in section 129.12(a) of this part, a report on Form FPI-1 is required from every United States issuer which is not a routine reporter under paragraph (a)(1) of this section, which has evidence of foreign ownership of any of its securities or other evidences of ownership or indebtedness. This requirement applies without regard to the size of the issuer's assets determined under paragraphs a(1) (i) or (ii) of this section.

(3) *Consolidated reports.* Where several domestic corporations or other business enterprises are affiliated with or under the common control of a single parent enterprise, such parent shall submit a consolidated form FPI-1 on behalf of all its domestic affiliates or subsidiaries.

(4) *Acknowledgement required.* Copies of Form FPI-1 and general and special instructions will be mailed to certain issuers. These issuers will be selected on the basis of information indicating that they have or have had foreign ownership, or may be of special interest to foreign investors on account of size, industry, international operations, or other factors. Each such issuer is required to submit an acknowledgment of receipt as provided in special instructions pertaining to Form FPI-1, even if it is not required to submit a report under paragraph (a)(2) of this section, or if it falls within the exemption of § 129.12(a) of this part. This requirement is necessary to insure compliance with the reporting requirements and efficient administration of the study.

(b) *United States holders of record.* Except as provided in § 129.12(b) of this part, a report is required on Form FPI-2 (described in paragraph 129.22 of this part) from every United States holder of record who holds on behalf of a foreign person any security or any other evidence of ownership, participation, or indebtedness of a United States issuer. Included among holders of record who must report are trustees holding investments for revocable trusts organized under the laws of the United States where the trustor is a foreign person.

(1) *Consolidated reports.* Where several nominees, trustees, or other holders of record are affiliated with or under the common control of a single bank, broker, or other institution, such parent institution shall submit a consolidated Form FPI-2 on behalf of all such holders of record.

(2) *Acknowledgment required.* Copies of Form FPI-2 and general and special instructions will be mailed to certain nominees and other holders of record or their parent institutions. These holders of record will be selected based on the 1974 Nominee List published by the American Society of Corporate Secretaries, Inc. and other information indicating that such institutions either offer their services to the public as nominees or may be acting on behalf of foreign investors. Each such holder of record is required to submit an acknowledgment of receipt as provided in special instructions pertaining to Form FPI-2 even if it is not required to file a report under paragraph (b) of this section or if it falls within the exemption of § 129.12 (b) of this part. This requirement is necessary to insure compliance with the reporting requirements and the efficient administration of the study.

(c) *Time and place of filing reports.* Reports on Forms FPI-1 and FPI-2 should be filed not later than March 1, 1975 with the Foreign Portfolio Investment Project, Office of the Assistant Secretary for International Affairs, Department of the Treasury, Washington, D.C. 20220.

§ 129.12 Exemptions.

(a) *United States issuers.* A report on Form FPI-1 is not required from any United States issuer, irrespective of whether it has knowledge of foreign ownership, which, as of the latest available closing date of its books, had total consolidated assets of less than $1,000,000.

(b) *United States holders of record.* A report on Form FPI-2 is not required from the following holders of record:

(1) Holders of record which held for foreign customers investments in United States issuers aggregating $25,000 or less based on market value of stocks or face value for debt obligations as of December 31, 1974. This exemption does not apply to holders of record under management or control of a single bank, broker, or other parent institution, except where the aggregate holdings of holders of record under a single parent institution total $25,000 or less.

(2) Parents or guardians acting as custodians for minors.

(3) Estates or trusts where the foreign heirs, legatees, or beneficiaries do not have full control of the management of the assets of the estate or trust.

(c) *Special exemption.* The Secretary or his delegate may by written order or authorization grant additional exemptions, in whole or in part, from the requirements of this part, which may apply to particular persons or classes of persons, and which shall be revocable in the discretion of the Secretary or his delegate.

§ 129.13 Records.

(a) Every person subject to the provisions of this part, whether or not such person is exempt from the reporting requirements of this part, shall maintain a full record of any information which the Secretary directs (including worksheets, journals or other books of original entry, minute books, stock transfer records, lists of shareholders, or financial statements) as being germane to his functions

in carrying out the foreign portfolio investment study.

(b) Such information shall be maintained for such period as the Secretary directs, but shall not be required to be maintained beyond the date fixed by section 10 of the Act for final submission of the study to Congress.

§ 129.14 Protection of information.

(a) *Confidentiality.* In addition to the Secretary, the only individuals who may have access to information furnished under the provisions of this part are those sworn employees, including consultants, of the Department of the Treasury designated by the Secretary. Neither the Secretary nor any such employee may—

(1) Use any information furnished under this part except for analytical or statistical purposes within the United States government; or

(2) Publish, or make available to any other person in any manner, any such information in a manner that the information furnished under this part by any person can be specifically identified with such person except for purposes of an enforcement proceeding under the Act: *Provided,* That the Secretary may exchange information furnished under the provisions of this part with the Secretary of Commerce in order to prevent any duplication or omission in the studies conducted by each Secretary pursuant to the Act.

(b) *Notification of customers.* (1) Section 7(b)(2) of the Act provides that:

> Whenever an order under clause (2) of this subsection requires a person to produce information which can be specifically identified as being part of the records of its customers, the Secretary shall, upon being provided the names and addresses of such customers, send a notice to such customers that information from their records will be disclosed pursuant to this Act; • • •

Notice to customers is not required under the Act where a reporter is "directly involved in the ownership or management of assets for the customer as nominee, agent, partner, fiduciary, trustee, or in a similar relationship."

(2) Should any person be required to submit, pursuant to the provisions of the Act or any amendment to this part, information which can be specifically identified as being part of the records of its customers where such person is not directly involved in the ownership or management of assets for the customers as a nominee, agent, partner, fiduciary, trustee, or in a similar relationship, the Secretary, upon being provided the names and addresses of such customers, shall send a notice to such customers that information from their records will be disclosed pursuant to the Act. Any reporter having submitted names of customers pursuant to the provisions of this paragraph shall be required to submit a report on its due date or within 10 days of being notified by the Secretary that notice to such customers has been given, whichever is later.

Subpart C—Description of Forms Prescribed Under this Part

§ 129.20 Copies.

Copies of the forms described in this subpart may be obtained from the Foreign Portfolio Investment Project, Office of the Assistant Secretary for International Affairs, Department of the Tdeasury, Washington, D.C. 20220.

§ 129.21 Form FPI–1. Reporting form for United States issuers.

On this form, United States issuers of securities or other evidences of ownership, participation, or indebtedness are required to report foreign ownership, by country and issue, of stocks and debt obligations issued by them which were held by foreign persons as of December 31, 1974, and to supply certain information relating to the ownership distribution of outstanding issues, and information regarding foreign placement of securities, stock-for-stock or stock-for-assets exchanges with foreign persons.

§ 129.22 Form FPI–2. Reporting form for United States holders of record.

On this form, United States holders of record are required to report foreign ownership, by country and issue, of those stocks and debt obligations which they held on behalf of foreign persons as of December 31, 1974.

§ 129.23 Special reports.

Any person subject to the provisions of this part may be required to submit a special report which the Secretary deems necessary to supplement information supplied by such person on Forms FPI–1 or FPI–2 or which may otherwise be necessary to enable the Secretary to carry out his functions under the Act.

Subpart D—Penalties

§ 129.30 Civil and criminal penalties.

In accordance with section 8 of the Act, the penalties and enforcement procedures described in paragraphs (a), (b), and (c) of this section shall apply to violations of this part and any reporting requirement imposed hereunder or any other rule, regulation, order, or instruction promulgated by the Secretary under the authority of the Act.

(a) *Civil penalty.* Attention is directed to section 8(a) of the Act which provides:

> Whoever fails to furnish any information required pursuant to the authority of this Act, whether required to be furnished in the form of a report or otherwise, or to comply with any rule, regulation, order, or instructions promulgated pursuant to the authority of this Act may be assessed a civil penalty not exceeding $10,000 in a proceeding brought under subsection (b) of this section. (88 Stat. 1458).

(b) *Civil proceeding; injunction.* Attention is directed to section 8(b) of the Act which provides:

> Whenever it appears to either the Secretary of the Treasury or the Secretary of Commerce that any person has failed to furnish any information required pursuant to the provisions of this Act, whether required to be furnished in the form of a report or otherwise, or has failed to comply with any rule, regulation, order, or instruction promulgated pursuant to the authority of this Act, such Secretary may in his discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, seeking a mandatory injunction commanding such person to comply with such rule, regulation, order, or instruction, and upon a proper showing by such Secretary of the relevance to the purposes of the Act of such rule, regulation, order, or instructions, a permanent or temporary injunction or restraining order shall be granted without bond, and such person shall also be subject to the civil penalty provided in subsection (a) of this section if the judge finds that such penalty is necessary to obtain compliance with such injunction or restraining order. (88 Stat. 1453).

(c) *Criminal penalties.* Attention is directed to section 8(c) of the Act which provides:

> Whoever willfully fails to submit any information required pursuant to this Act, whether required to be furnished in the form of a report or otherwise, or willfully violates any rule, regulation, order, or instruction promulgated pursuant to the authority of this Act shall, upon conviction, be fined not more than $10,000 or, if a natural person, may be imprisoned for not more than one year or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. (88 Stat. 1453).

§ 129.31 Fraudulent reporting.

Attention is also directed to section 1001 of the United States Criminal Code which provides:

> Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both. (18 U.S.C. 1001)

Dated: October 16, 1974.

CHARLES A. COOPER,
Assistant Secretary.

[FR Doc.74-29717 Filed 12-19-74;8:45 am]

DEPARTMENT OF THE TREASURY

Monetary Offices

FOREIGN PORTFOLIO INVESTMENT STUDY

Final Forms

Notice is hereby given of the promulgation in final form by the Department of the Treasury of forms and instructions to implement the Foreign Portfolio Investment Study Regulations (see today's FEDERAL REGISTER, p. 44120).

On November 1, 1974, a notice of proposed forms was published in the FEDERAL REGISTER (39 FR 38771). The public was given until November 22, 1974 to submit in writing comments, data, views, arguments or suggestions pertaining to the proposed forms and instructions prior to their publication in final form. A number of public comments were received in response to the foregoing notice. In addition, a public hearing on the proposed forms and instructions was held at the Office of Management and Budget on November 26, 1974. Suggestions and comments have been carefully considered and taken into account in the revision of the forms and instructions which is herewith published in final form. The changes reflected in the final forms and instructions are simplifying and clarifying in nature.

The forms and instructions are promulgated under the authority of the Foreign Investment Study Act of 1974 (Pub. L. 93-479) which directs the Secretary of the Treasury "to conduct a comprehensive, overall study" of foreign portfolio investment, and which authorizes the Secretary to require from any person the submission of reports which he determines are necessary to carry out the study. The forms include Form FPI-1, which is required of United States issuers, and Form FPI-2, which is required of United States holders of record. Also promulgated herewith are general instructions and special instructions applicable to both forms.

In that it is important that reporters who will be utilizing the forms and instructions be able to rely thereon in advance of the December 31, 1974 "benchmark" date for collection of the foreign investment data that are the subject of the study, there is good cause to make these forms and instructions effective immediately. Accordingly, the forms and instructions become effective upon publication in the FEDERAL REGISTER.

Dated: December 16, 1974.

[SEAL] CHARLES A. COOPER,
Assistant Secretary.

SURVEY OF FOREIGN PORTFOLIO INVESTMENTS IN THE UNITED STATES AS OF DECEMBER 31, 1974

GENERAL INSTRUCTIONS

PART I. INTRODUCTION

This survey is being conducted by the Department of the Treasury pursuant to the Foreign Investment Study Act of 1974 (Public Law 93-479, October 26, 1974), which directs the Secretary of the Treasury "to conduct a comprehensive, overall study" of foreign portfolio investments in the United States. A parallel study of foreign direct investment in the United States is being conducted by the Secretary of Commerce under the same law.

Section 7 of the Foreign Investment Study Act authorizes the Secretary of the Treasury to establish by regulation whatever rules he deems necessary to carry out his functions under the Act. The Secretary of the Treasury, having published regulations governing the study, as well as the following instructions and forms, in the FEDERAL REGISTER on December 20, 1974 (39 FR 44131), and having consulted with the Director of the Office of Management and Budget, has determined that the following instructions and forms are necessary to carry out the foreign portfolio investment study authorized and directed by Congress in the Act. The filing of these forms is therefore mandatory under section 7 of the Act.

Information furnished in these forms will be held in confidence by the Secretary of the Treasury in accordance with section 7(c) of the Act which states:

In addition to the Secretary of Commerce and the Secretary of the Treasury, the only individuals who may have access to information furnished under subsection (b) (2) are those sworn employees, including consultants, of the Department of Commerce or Department of the Treasury designated by the Secretary of either such Department. Neither such Secretary nor any such employee may—

(1) Use any information furnished under subsection (b) (2) except for statistical or analytical purposes provided by this Act; or

(2) Publish, or make available to any other person in any manner, any such information in a manner that the information furnished under subsection (b) (2) by any person can be specifically identified, except for the purposes of a proceeding under section 8 [an enforcement proceeding under the Act].

Such Secretaries may exchange any such information furnished under subsection (b) (2) in order to prevent any duplication or omission in the studies compiled by each such Secretary.

PART II. GENERAL INSTRUCTIONS

A. *Who must report.*

1. *United States issuers.* The reporting obligations of United States corporations, partnerships, investment companies, joint stock associations, joint ventures, and other organizations or groups of persons subject to the jurisdiction of the United States, which issue shares, certificates, or other evidence of ownership, participation, or indebtedness, are governed by the following classifications:

a. *Routine large issuer reporters—assets test.* A report is required on Form FPI-1 from every United States issuer, irrespective of whether it has evidence of foreign investment which, as of the latest available closing date of its books, had:

(1) Total consolidated assets of more than $20 million, if it is a nonbanking organization;

(2) Total consolidated assets of more than $50 million, if it is a banking organization;

b. *Selective small issuer reporters—foreign ownership test.* Except as otherwise provided in these instructions, a report on Form FPI-1 is required from every United States issuer which is not a routine reporter under subparagraph a. above, which has evidence of foreign ownership of any of its securities or other evidences of ownership, participation, or indebtedness. This requirement applies without regard to the size of the issuer's assets determined under subparagraph a. (1) or (2) above.

c. *Exempted issuers—Assets test.* A report on Form FPI-1 is not required from any United States issuer, irrespective of whether it has knowledge of foreign ownership, which, as of the latest available closing date of its books, had total consolidated assets of less than $1,000,000.

d. *Consolidated reports.* Where several domestic corporations or other business enterprises are affiliated with or under the common control of a single parent enterprise, such parent shall submit a consolidated Form FPI-1 on behalf of all its domestic affiliates or subsidiaries. A list of these subsidiaries and affiliates should be attached to Form FPI-1.

e. *Acknowledgment required.* The Treasury will mail copies of Form FPI-1 and general and special instructions to certain issuers. These issuers will be selected on the basis of information indicating that they have or have had foreign ownership, or may be of special interest to foreign investors on account of size, industry, international operations, or other factors. Each such issuer is required to submit an acknowledgment of receipt as provided in specific instructions pertaining to Form FPI-1, even if it is not required to submit a report under subparagraphs (b) and (c) above. This requirement is deemed necessary to insure the completeness and accuracy of reporting and efficient administration of the study.

2. *United States holders of record.* Except as otherwise provided by these instructions, a report is required on Form FPI-2 from any person subject to the jurisdiction of the United States who acts on behalf of a foreign person as a holder of record of any security or any other evidence of ownership, participation or indebtedness of a United States issuer. Included among holders of record who must report are trustees holding investments for a revocable trust organized under the laws of any jurisdiction within the United States where the trustor is a foreign person.

a. *Consolidated reports.* Where several nominees, trustees, or other holders of record are affiliated with or under the common control of a single bank, broker, or other institution, such parent institution should file a consolidated Form FPI-2 on behalf of all such holders of record.

b. *Exempted holders of record.* A report on Form FPI-2 is not required from the following holders of record:

(1) Holders of record which held for foreign customers investments in United States issuers aggregating $25,000 or less based on fair market value as of December 31, 1974. This exemption does not apply to holders of record under common management or control as described in subparagraph (a) above, except where aggregate holdings of holders of record under a single parent institution total $25,000 or less.

(2) Parents or guardians acting as custodians for minors.

(3) Estates or trusts where the foreign heirs, legatees, or beneficiaries do not have full control of the management of the assets of the estate or trust.

(c) *Acknowledgment required.* The Treasury will mail copies of Form FPI-2 and general and special instructions to certain nominees and other holders of record or their parent institutions. These holders will be selected based on the 1974 Nominee List published by the American Society of Corporate Secretaries, Inc. and other information indicating that such institutions either offer their services to the public as nominees or may be acting on behalf of foreign investors. Each such holder is required to submit an acknowledgment of receipt as provided in specific instructions pertaining to Form FPI-2 even if it is not required to submit a report under Paragraph 2.b. above. This requirement is deemed necessary to insure

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compliance with the reporting requirements and efficient administration of the study.

B. *What must be reported?*

1. *Inclusions.* Except as otherwise provided in these instructions, reporters must report on both Forms FPI–1 and Form FPI–2 ownership by a foreign person as of December 31, 1974 of any of the following interests in a United States issuer:

a. Stocks or investment company shares, including rights, warrants, and scrip, or other evidence of equity ownership. (See the direct investment exclusion, paragraph 2.b.(2)(i) below).

b. Debt obligations having an original maturity of more than one year. (Portions of obligations having an original maturity of more than one year which will fall due in 1975 must be reported even if carried on an issuer's books as current obligations.) Include such obligations as bonds, debentures, notes, mortgages, bank and other long-term loans, and, in the case of financial institutions, certificates of deposit, and certificates of participation. In addition to private obligations, the survey also covers foreign holdings of debt obligations of the Federal, State and local governments including any agencies, corporations, financing institutions, or other instrumentalities thereof, including Federally-sponsored agencies.

c. Business or investment trust certificates or shares.

d. Limited partnership interests; transferable shares in a business venture, association, or syndicate; or any fractional interest in oil and gas, real estate, crops, or other investment property.

2. *Exclusions:* Certain foreign investments should be excluded from reports as follows:

a. *Form FPI–1 and Form FPI–2:*

Mutual insurance companies. Equity interests in mutual insurance companies arising from insurance policies.

b. Form FPI–1 only:

(i) *Capital structure of issuer.*

(ii) *Intercompany holdings.* Form FPI–1 should exclude from the listing and description of the issuer's securities and long-term debt, all issues held entirely within the reporter's company system. For example, if a domestic subsidiary has one issue of securities held entirely by its parent as well as other publicly-held issues, only the latter should be listed and described in the appropriate items on Form FPI–1.

(iii) *Issues of foreign subsidiaries.* Issues of securities and long-term debt of subsidiaries or affiliates incorporated under the laws of a foreign jurisdiction should not be listed and described as issues of the reporter on Form FPI–1.

(2) *Certain foreign investment in issuer.*

(i) *Direct investment.* Data should not be filed on Schedules A or B of Form FPI–1 on investment by a foreign person in a United States issuer, if the holdings of such foreign person amount to 10 percent or more of the total voting power of the United States issuer. A foreign person who owns such a 10 percent or greater interest is defined as a "direct investor" in the issuer. In such a case, holdings by the direct investor in that issuer should be reported to the Bureau of Economic Analysis, Department of Commerce.

(ii) *Investment by foreign affiliates.* Investment in the equity or debt of a United States parent company by a foreign subsidiary should not be reported. For purposes of the survey, a foreign subsidiary is defined as a foreign enterprise in which a United States corporation owns at least 10 percent of the voting stock or equivalent ownership interest.

c. *Form FPI–2 only:*

Certain United States trusts. Assets of a revocable or irrevocable personal inter vivos or testamentary trust, where the trustor is a United States person, even if a beneficiary is a foreign person; or of an irrevocable personal inter vivos or testamentary trust, even if the trustor is a foreign person should not be reported.

C. *Space on form insufficient.*

When space does not permit a full answer to any question on the form, the information required should be submitted on supplementary sheets appropriately labeled and incorporated by reference under the question. All supplementary sheets, including continuation sheets, should be attached to the form to which they pertain.

D. *Industry classification of reporter.*

The Enterprise Standard Industrial Classification (SIC) will be used to identify reporters by the kind of economic activity in which they are engaged. The code for use in this survey consists of two digits, which breaks economic activity down into seventy-five major groups. The code is reproduced in Annex A of these instructions and the appropriate code number for the reporter should be entered in item 1.e of Part I in reporting Form FPI–1 or FPI–2. For those companies involved in several different types of economic activity, use the code number that describes the principal activity of the company as measured by sales (or revenues if the reporter does not have sales).

E. *Country detail.*

Information on Schedules A and B has to be prepared in accordance with the country list shown in Annex B. For convenience of use, countries are listed in alphabetical sequence. Please note that the country identification to be used in the report should include both the name of the country and the code number provided for each country.

F. *CUSIP number.*

Each stock, debt obligation, and instrument reportable in Parts II and III, and on Schedules A and B of Form FPI–1, or on Schedule C of Form FPI–2, must be identified by its CUSIP number in the space provided. (The CUSIP number was developed by the Committee on Uniform Security Identification Procedures of the American Bankers Association. It is assigned to long-term securities by the CUSIP Service Bureau, Standard & Poor's Corporation, 34 Hudson Street, New York, New York 10014). If a particular stock or debt obligation does not have a CUSIP number, no entry should be made in the space for a CUSIP number.

G. *Foreign currency securities.*

All amounts requested for security issues denominated in foreign currency should be given in that foreign currency only and should not be converted into U.S. dollars. This applies particularly to items 12 and 14 and to Schedule B of Form FPI–1, and to Schedule C of Form FPI–2.

H. *Required information not available.*

All reasonable efforts should be made to obtain the required information. When actual information cannot be obtained, estimates will be acceptable but should be so marked with the notation "Est." whenever used. If any information not available at the time of reporting is obtained thereafter, a supplementary report should be filed promptly with a full explanation. Reporters must answer every question on the appropriate reporting form. However, lines and columns on attached schedules which are not applicable to a particular reporter should be left entirely blank.

I. *Number of copies.*

A single original copy of the report shall be filed. In addition, each person reporting shall retain a copy of his report.

J. *Time and place of filing reports.*

Reports shall be filed no later than March 1, 1975. Reports shall be mailed to: Foreign Portfolio Investment Project, Office of the Assistant Secretary for International Affairs, U.S. Department of the Treasury, Washington, D.C. 20220.

K. *Method of filing reports.*

The requested data may be reported using the following methods.

1. *Typewritten.* All data are to be typed on the report forms using continuation sheets and supplemental sheets as necessary, as described in paragraph C.

2. *Computer printout.* Printed output produced by data processing equipment may be submitted for Schedules A and B of Form FPI–1, and Schedule C of Form FPI–2. The data must be printed in the same sequence shown in the schedules and not contain any extraneous information. The printout must show all headings and column identifications in each page (either computer produced or original schedule forms attached). All printing should be double-spaced.

3. *Magnetic tape.* Magnetic tape output produced by data processing equipment may be submitted for Schedules A and B of Form FPI–1, and Schedule C of Form FPI–2 when accompanied by a printout of the tape. Physical specifications, label and format detail for both tape and print will be available after January 15, 1975 from the address shown in paragraph "J" of the General Instructions. Reporting specifications will be mailed as soon as available. Only tapes which meet these specifications, will be acceptable as part of the report due in this survey.

A combination of the above methods may be used, e.g. typewritten Schedules A and B and computed produced Schedule C.

L. *Extension of the reporting deadline.*

If a report cannot be filed within the time allotted, an application for an extension of the filing date should be submitted to the Treasury at least one week prior to the original filing date (see Paragraph J. above) stating the reason for the anticipated delay and the time required to submit a report. Upon receipt of an application, additional time for filing may be granted for good cause shown.

M. *Information regarding preparation of reports.*

Anyone desiring information concerning preparation of reports or copies of forms or instructions, or requiring an extension of the reporting period (see Paragraph L above) should direct inquiries to the above address or he may call Area Code (202) 634–5099.

PART III. DEFINITIONS

1. "United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, and all territories and possessions of the United States.

2. "Person" means an individual, partnership, association, trust, corporation, or other organization, including the Federal, State, and local governments and any agencies, corporations, financing institutions, or other instrumentalities thereof, including Federally-sponsored agencies.

3. "United States person" means any individual resident in the United States or any other person organized or created under the laws of the Federal, State, and local governments and any instrumentalities, thereof, including Federally-sponsored agencies.

4. "United States issuer" means any United States person who issues, through public or private distribution, any security or other evidence of ownership, participation, or indebtedness, including the following:

(a) Stocks or investment company shares, including rights, warrants, and scrip;

(b) Debt obligations having an original maturity of more than one year, including such obligations as bonds, debentures, notes, mortgages, bank and other long-term loans and other obligations, certificates of deposit, and certificates of participation;

(c) Business or investment trust certificates or shares;

(d) Limited partnership interests; transferable shares in a business venture, association, or syndicate; or any fractional interest in oil and gas, real estate, crops, or other investment property.

5. "United States holder of record" means any person subject to the jurisdiction of the United States who is carried on stock transfer records or other ownership records as having title to any security or other evidence of ownership, participation or indebtedness of a United States issuer which he is holding on behalf of another person. The term "United States holder of record" may include such persons as nominees, custodians, agents, trustees, other fiduciaries, banks, brokers, or other intermediaries, who hold title to investments on behalf of another person: *Provided*, That the term also extends to a person acting as a custodian for bearer securities of private issuers or for bearer or registered securities issued by Federal, State, or local governments or their instrumentalities, including Federally-sponsored agencies, even though such person is not carried on ownership records as holding title to such securities.[1]

6. "Foreign person" includes:

(a) Any individual, including a citizen of the United States, resident outside the United States.

(b) Any partnership, association, corporation, or other organization created or organized under the laws of a foreign country, excepting branches and agencies thereof located in the United States.

(c) Any branch, subsidiary or other allied organization within a foreign country of a partnership, association, corporation or other organization created or organized under the laws of a foreign country or of the United States. Thus, for example, branches of American brokers and dealers (including a reporter's own branches) located in foreign countries should be considered as foreign persons. Branches, subsidiaries, and agencies located in the United States of foreign brokers and dealers should consider their overseas head offices and other overseas branches of such head offices as foreign persons.

(d) Any government of a foreign country and any subdivision, agency or instrumentality thereof, including all foreign official institutions, even though located in the United States.

(e) Any official international or regional organization, or subordinate or affiliated agency thereof, created by treaty or convention between sovereign states, even though located in the United States; and any private relief, philanthropic or other organization of an international or regional character with headquarters abroad.

(f) Any person in the United States to the extent such person is acting on behalf of, or for the account of, or for the benefit of a foreign person except for a holder of record.

7. "Foreign official institution" (See Annex C) means central governments of foreign countries and their possessions and recognized central banks of issue, including the following:

(a) The treasuries, including ministries of finance, or corresponding departments of national governments; central banks, including all departments thereof; stabilization funds, including official exchange stabilization funds, exchange control offices, or other governmental exchange authorities; and fiscal agents of the national governments which have as an important part of their functions, activities similar to those of a treasury, central bank or stabilization fund. *Provided*, That branches or agencies of foreign official banking institutions which are located in the United States shall not be considered foreign official institutions for purposes of these instructions.

(b) Diplomatic and consular establishments and other departments and agencies of national governments, such as army and navy departments, purchasing commissions and state trading organizations.

(c) Any international or regional organization, or subordinate or affiliated agency thereof, created by treaty or convention between sovereign states.

Provided, That the term "foreign official institution" shall not include the following: (i) Nationalized or other government-owned banks or corporations (Nationalized or other government-owned banks should be regarded as "foreign banks" and nationalized or other government-owned corporations should be included in the category "other foreign holders" unless such banks or corporations fall within one of the categories set forth in subparagraph (a) above); and (ii) personal accounts of foreign diplomatic and other official representatives of foreign countries.

8. "Employer's identification number" means the unique taxpayer's identification number assigned to the employer by the Internal Revenue Service (This is the number which should be entered in Part I, Item 1 (Identification of Reporter) on Form FPI-1 and FPI-2).

9. "Consolidated financial data" means the financial data regarding an issuer, developed in accordance with standard accounting concepts used by the issuer, shown in its annual report to stockholders or included in its annual report to the Securities and Exchange Commission (SEC).

ANNEX A: ENTERPRISE STANDARD INDUSTRIAL CLASSIFICATION

A: Agriculture, Forestry, and Fishing:
- 01—Agricultural production—crops
- 02—Agricultural production—livestock
- 07—Agricultural services
- 08—Forestry
- 09—Fishing, hunting and trapping

B: Mining:
- 10—Metal mining
- 11—Coal mining
- 13—Oil and gas extraction
- 14—Nonmetallic minerals, except fuels

C: Construction:
- 15—General building contractors
- 16—Heavy construction contractors
- 17—Special trade contractors

D: Manufacturing
- 20—Food and kindred products
- 21—Tobacco manufactures
- 22—Textile mill products
- 23—Apparel and other textile products
- 24—Lumber and wood products
- 25—Furniture and fixtures
- 26—Paper and allied products
- 27—Printing and publishing
- 28—Chemicals and allied products
- 29—Petroleum and coal products
- 30—Rubber and miscellaneous plastics products
- 31—Leather and leather products
- 32—Stone, clay and glass products
- 33—Primary metal industries
- 34—Fabricated metal products
- 35—Machinery, except electrical
- 36—Electrical and electronic equipment
- 37—Transportation equipment
- 38—Instruments and related products
- 39—Miscellaneous manufacturing industries

E: Transportation and Public Utilities
- 40—Railroad transportation
- 41—Local and interurban passenger transit
- 42—Trucking and warehousing
- 43—U.S. postal service
- 44—Water transportation
- 45—Transportation by air
- 46—Pipe Lines, except natural gas
- 47—Transportation services
- 48—Communication
- 49—Electric gas, and sanitary services

F: Wholesale Trade:
- 50—Wholesale trade—durable goods
- 51—Wholesale trade—nondurable goods

G: Retail Trade:
- 52—Building materials and garden supplies
- 53—General merchandise stores
- 54—Food stores
- 55—Automotive dealers and services stations
- 56—Apparel and accessory stores
- 57—Furniture and home furnishing stores
- 58—Eating and drinking places
- 59—Miscellaneous retail

H: Finance Insurance, and Real Estate
- 60—Banking
- 61—Credit agencies other than banks
- 62—Security, commodity brokers and services
- 63—Insurance carriers
- 64—Insurance agents, brokers and service
- 65—Real estate
- 66—Combined real estate, insurance, etc.
- 67—Holding and other investment companies

I: Services:
- 70—Hotels and other lodging places
- 72—Personal services
- 73—Business services
- 75—Auto repair, services and garages
- 76—Miscellaneous repair services
- 78—Motion pictures
- 79—Amusement and recreation services
- 80—Health services
- 81—Legal services
- 82—Educational services
- 83—Social services
- 86—Membership organizations
- 89—Miscellaneous services

J: Public Administration:
- 90—Public administration

K: Nonclassifiable Enterprises:
- 99—Nonclassifiable enterprises

ANNEX B. LISTING OF COUNTRIES AND COUNTRY CODES

The foreign holdings of U.S. securities are required to be reported in the country detail listed below. Insert in schedules A and B of Form FPI-1, on separate lines, the respective

[1] Section 7(b)(2) of the Act provides that whenever any person is required to submit information which may be specifically identified as having been obtained from the records of its customers, the Secretary, after having been provided names and addresses of such customers, shall send a notice to such customers that information from their records will be disclosed pursuant to the Act. This notification requirement does not apply where a reporter is "directly involved in the ownership or management of assets for the customer as nominee, agent, partner fiduciary, trustee, or in a similar relationship."

Form FPI-2 is required only of holders of record who stand in one of the foregoing named relationships to a foreign customer. While the regulations promulgated pursuant to the Act provide for notice to customers that information derived from their records will be reported in situations where notice is required by the Act, the survey does not, under the provisions of these regulations, extend to such situations.

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country names and codes that are needed and insert on schedule C of Form FPI-8 the applicable country name and code in item 4.

Name of country	Country code
Afghanistan	AF-4040-1
Albania	AL-1510-5
Algeria	AG-3010-5
Argentina	AR-3010-4
Australia	AS-6000-9
Austria	AU-1018-2
Bahamas	BF-3531-9
Bahrain	BA-4070-3
Bangladesh	BG-4074-6
Barbados	BB-3015-5
Belgium	BE-1025-1
Belize (British Honduras)	BH-3571-8
Bermuda	BD-3590-2
Bhutan	BT-4081-9
Bolivia	BL-3020-1
Botswana	BC-5050-4
Brazil	BR-3030-2
British West Indies [1]	BW-3600-5
British Oceania	BO-5020-8
British West Africa	WA-5070-9
Brunei	BX-4100-2
Bulgaria	BU-1520-2
Burma	BM-4110-6
Burundi	BY-5080-6
Cambodia	CB-4120-3
Cameroon	CM-5100-4
Canada	CA-2999-8
Canary Islands	CR-5110-1
Central African Republic	CT-5130-6
Chad	CD-5140-3
Chile	CI-3040-6
China, Peoples Republic of (Mainland China)	CH-4140-8
China, Republic of (Taiwan)	TW-4030-2
Colombia	CO-3050-3
Comoro Islands	CN-5151-9
Congo (Brazzaville)	CF-5160-8
Costa Rica	CS-3058-9
Cuba	CU-3070-6
Cyprus	CY-1040-5
Czechoslovakia	CZ-1526-8
Dahomey	DM-5180-2
Denmark	DA-1050-2
Dominican Republic	DR-3080-5
Ecuador	EC-3100-3
Egypt	EG-3700-2
El Salvador	ES-3108-9
Equatorial Guinea (Fernando Po and Rio Muni)	EK-5194-2
Estonia	EN-1540-7
Ethiopia, including Eritrea	ET-5210-8
Falkland Islands	FA-3630-7
Fiji	FJ-6060-7
Finland	FI-1070-7
France	FR-1080-4
French Polynesia	FP-6070-4
French West Indies and Guiana	FG-3060-9
F.T.A.I. (French Somaliland)	FT-5230-4
Gabon	GB-5241-8
Gambia	GA-5250-7
German Democratic Republic	GC-1600-4
Germany, Federal Republic of	GE-1100-2
Ghana	GH-5260-4
Gibraltar	GI-1108-6
Goa	GO-4171-8
Greece	GR-1120-7
Grenada	GJ-3670-6
Guatemala	GT-3120-8
Guinea	GV-5270-1
Guyana	GY-3130-5
Haiti	HA-3140-2
Honduras	HO-3148-8
Hong Kong	HK-4100-5
Hungary	HU-1550-4
Iceland	IC-1130-4
India	IN-4210-2
Indonesia	ID-4321-8
Iran	IR-4220-7
Iraq	IZ-4240-4
Ireland	EI-1140-1
Israel	IS-4250-1
Italy	IT-1150-9
Ivory Coast	IV-5300-7
Jamaica	JM-3160-7
Japan	JA-4260-9
Jordan	JO-4270-8
Kenya	KE-5310-4
Korea, Republic of	KS-4300-1
Kuwait	KU-4310-0
Laos	LA-4330-3
Latvia	LV-1560-1
Lebanon	LE-4341-9
Lesotho	LT-5315-5
Liberia	LI-5320-1
Libya	LY-5330-0
Liechtenstein	LC-1160-6
Lithuania	LH-1570-9
Luxembourg	LU-1170-3
Macao	MC-4350-8
Malagasy Republic (Madagascar)	MA-5340-6
Malawi	MI-5350-5
Malaysia	MY-4360-5
Maldive Islands	MV-4370-2
Mali	ML-5358-0
Malta, including Gozo	MT-1181-9
Mauritania	MR-5370-8
Mauritius	MP-5380-5
Mexico	MX-3170-4
Monaco	MN-1200-9
Mongolia	MG-4381-8
Morocco	MO-5400-3
Mozambique	MZ-5408-9
Nauru	NR-6130-1
Nepal	NP-4420-2
Netherlands	NL-1210-6
Netherlands Antilles & Surinam	NA-3730-3
New Caledonia	NC-6140-9
New Zealand	NZ-6168-9
Nicaragua	NU-3180-1
Niger	NG-5420-8
Nigeria	NI-5430-5
North Korea	KN-4440-7
North Viet-Nam	VN-4450-4
Norway	NO-1220-3
Oman (Muscat and Oman)	MU-4410-8
Other Western Europe [2]	OE-1490-7
Pakistan	PK-4470-9
Panama	PN-3188-7
Paraguay	PA-3210-7
Peru	PE-3220-4
Philippines	RP-4480-6
Poland	PL-1576-8
Portugal	PO-1231-9
Portuguese Timor	PT-4500-4
Portuguese West Africa	PW-5448-8
Qatar	QA-4510-1
Reunion Island	RE-5460-7
Rhodesia (Southern)	RH-5470-4
Romania	RO-1580-6
Rwanda	RW-5501-8
St. Pierre and Miquelon Islands	SB-6221-9
Saudi Arabia	SA-4560-8
Senegal	SG-5530-1
Seychelles	SE-5540-9
Sierra Leone	SL-5550-6
Singapore	SN-4601-9
Somalia	SO-5560-3
South Africa	SF-5571-9
Spain	SP-1250-5
Spanish Sahara	SS-5600-3
Sri Lanka (Ceylon)	CE-4131-9
Sudan	SU-5610-3
Swaziland	WZ-5621-9
Sweden	SW-1260-2
Switzerland	SZ-1268-8
Syria	SY-4620-5
Tanzania	TZ-5640-6
Thailand	TH-4641-8
Togo	TO-5650-2
Tonga	TN-6244-8
Trinidad and Tobago	TD-3240-9
Tunisia	TS-5670-7
Turkey	TU-1280-7
Uganda	UG-5690-4
United Arab Emirates	TC-4660-4
United Kingdom	UK-1300-5
United States Trust Territory of the Pacific Islands	TT-6250-2
Upper Volta	UV-5711-8
Uruguay	UY-3260-3
U.S.S.R.	UR-1610-1
Vatican City	VT-1310-2
Venezuela	VE-3271-9
Viet-Nam, Republic of	VS-4650-9
Western Samoa	WS-6261-8
Yemen (Aden)	YS-4708-2
Yemen (San'a)	YE-4710-4
Yugoslavia	YO-1321-8
Zaire	CG-5170-5
Zambia	ZA-5720-7
International and regional:	
African regional organizations [3]	AZ-7690-2
Asian regional organizations [4]	AX-7690-6
Bank for International Settlements	BS-1330-7
European Fund	EF-1340-4
European regional organizations [5]	EO-7390-3
International organizations [6]	IL-7290-7
Latin American regional organizations [7]	LR-7491-8

[1] Includes Anguilla, Antigua, British Virgin Islands, Caicos Islands, Caymen Islands, Dominica, Montserrat, Saint Christopher and Nevis, Saint Lucia, Saint Vincent, and Turk Islands.

[2] Includes Andorra and San Marino.

[3] Includes African Development Bank.

[4] Includes Asian Development Bank and Southeast Asia Treaty Organization.

[5] Includes European Atomic Energy Community (Euratom), European Coal and Steel Community, European Economic Community, European Investment Bank, North Atlantic Treaty Organization, and Organization for Economic Cooperation and Development.

[6] Includes Food and Agriculture Organizations, International Atomic Energy Agency, International Bank for Reconstruction and Development, International Children's Emergency Fund, International Development Association, International Finance Corporation, International Labor Organization, International Monetary Fund, International Refugee Organization, United Nations and its Specialized Agencies and Commissions, Universal Postal Union, and World Health Organizations.

[7] Includes Central American Bank for Economic Integration, Inter-American Development Bank, Organization of American States (Pan American Union) and affiliated organizations.

ANNEX C: LIST OF FOREIGN OFFICIAL INSTITUTIONS

This list of foreign institutions which conform to the definition of "foreign official institutions" used in this survey may be used to identify such foreign official institutions for the purposes of making this report.

The listing has been arranged on an area basis, listing countries alphabetically within each area, and showing official institutions for each such country.

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EUROPE

Albania:
- Banque de l'Etat Albanais (State Bank of Albania).
- People's Republic of Albania.

Austria:
- Oesterreichische Nationalbank.
- Austrian Consulate General.
- Embassy of Austria.
- Republic of Austria.
- Trustee of the Austrian Government 1933-43 Bonds.

Bank for International Settlements

Belgium-Luxembourg:
- Banque Internationale a Luxembourg, S.A.
- Banque Nationale de Belgique.
- Belgian Economic Mission (Mission Economique Belge).
- Belgian Embassy.
- Belgian Government Delegation to the United Nations.
- Belgian Information Center.
- Commercial Counselor of Belgium.
- Consulate General de Belgique.
- Embassy of Luxembourg.
- Grand Duchy of Luxembourg.
- Grand Duke of Luxembourg.
- Kingdom of Belgium.
- Office of Belgian Agricultural Attache.
- Office of Belgian Military Attache.

Bulgaria:
- Banque Nationale de Bulgarie or Bulgarska Narodna Banka.
- Legation of the People's Republic of Bulgaria.
- People's Republic of Bulgaria.

Cyprus: Central Bank of Cyprus.

Czechoslovakia:
- Statni Banka Ceskoslovenska (State Bank of Czechoslovakia).
- Narodni Banka Ceskoslovenska (Narodni Bank pro Cechy).
- Central Slovac Consulate General.
- Czechoslovak Consulate.
- Czechoslovak Embassy.
- Czechoslovak Office for Relief and Rehabilitation.
- Czechoslovak Socialist Republic.
- Office of Czechoslovak Commercial Attache.
- Office of Czechoslovak Military and Air Attaches.

Denmark:
- Danmarks Nationalbank.
- Consulate General of Denmark.
- Danish Consulate General, Greenland Section.
- Embassy of Denmark.
- Kingdom of Denmark.
- Ministry of Finance.
- Office of Danish Military, Naval, and Air Attaches.

Estonia:
- Eesti Pank.
- Consulate General of Estonia.
- Government of Estonia.
- Legation of Estonia.

Finland:
- Bank of Finland (Finlands Bank) (Suomen Pankki).
- Consulate of Finland.
- Embassy of Finland.
- Republic of Finland.

France:
- Banque de France.
- Caisse Centrale de Cooperation Economique.
- Consulate de France.
- Consulate General de France.
- Credit National pour Faciliter la Reparation des Dommages Causes par la Guerre.
- Embassy of French Republic.
- French Republic.
- French Republic, General Treasury.
- Office of Commercial Attache.
- Office of Commercial Counselor.
- Office of Financial Counselor.
- Office of French Air Attache.
- Office of French Military Attache.
- Stabilization Fund of the Republic of France.

Germany:
- Deutsche Bundesbank.
- Combined Travel Board.
- Federal Republic of Germany.
- German Consulate General in New York.
- German Embassy.
- Joint Export-Import Agency.
- Trustees of German External Loan.

Greece:
- Banque de Greece.
- Consulate General of Greece.
- Embassy of Greece.
- Greek Seamens Pension Fund.
- Greek Supply Council.
- Hellenic Republic.
- Kingdom of Greece.
- Office of Greek Naval Attache.
- Royal Consulate General of Greece, Mercantile Marine Department.

Hungary:
- National Bank of Hungary (Magyar Nemzeti Bank) (Ungarische Nationalbank).
- Consulate General of Hungary.
- Hungarian People's Republic.
- Hungarian State Tourist Department.
- Legation of Hungary.

Iceland:
- Sedalabanki Islands (Central Bank of Iceland).
- Counselor of Iceland.
- Embassy of Iceland.
- Republic of Iceland.

Ireland:
- Central Bank of Ireland.
- Consulate of Ireland.
- Consulate General of Ireland.
- Department of External Affairs, Ireland.
- Irish Government Departments.
- Embassy of Ireland.
- Minister of Finance.
- Republic of Ireland.

Italy:
- Banca d'Italia.
- Consulate General of Italy.
- Embassy of Italy.
- Istituto Nazionale per i Cambi con l'Estero.
- Istituto Mobiliare Italiano.
- Italian Coal Procurement Agency (Ente Approvigionamenti Carboni).
- Italian Credit Consortium for Public Works.
- Italian Government Departments.
- Italian Technical Delegation.
- Italian Tourist Information Service, Inc.
- Office of Italian Air Attache.
- Office of Italian Military Attache.
- Office of Italian Naval Attache.
- Ufficio Italiano dei Cambi (Cambital) (Exchange Control Office).
- Republic of Italy.

Latvia:
- Latvijas Bankas, Riga, Latvia.
- Department of State Economy, Latvian Ministry of Finance.
- Government of Latvia.
- Legation of Latvia.

Lithuania:
- Lietuvos Bankas.
- Government of Lithuania.
- Lithuanian Consulate.
- Lithuanian Legation.

Malta: Central Bank of Malta.

Netherlands:
- De Nederlandsche Bank, N.V.
- Auditor General of the Netherlands Government.
- Consul General of the Netherlands.
- Departments of the Government of the Netherlands.
- Embassy of the Netherlands.
- Kingdom of the Netherlands.
- Netherlands Delegation to the United Nations.
- Netherlands Economic Mission.
- Netherlands Government.
- Netherlands Government Food Purchasing Bureau.
- Netherlands Ministry of Traffic, Directorate General of Shipping.
- Netherlands Purchasing Commission.
- Office of Netherlands Naval Attache.
- Royal Netherlands Navy.
- The Netherlands Information Bureau.

Norway:
- Norges Bank.
- Consulate General of Norway.
- Embassy of Norway.
- Kingdom of Norway.
- Norwegian Purchasing Commission.
- Norwegian Shipping and Trade Commission.
- Royal Norwegian Air Force.
- Royal Norwegian Commerce Department.
- Royal Norwegian Information Service, New York.
- Statens Kornforretning.

Poland:
- Narodowy Bank Polski.
- Bank Polski.
- Commercial Counselor of Embassy of Poland.
- Consulate General of the Polish People's Republic.
- Embassy of Poland.
- Financial Counselor of Embassy of Poland.
- Ministry of Finance of the Polish People's Republic.
- Office of Polish Military Attache.
- Polish American Supply Corporation.
- Polish People's Republic.

Portugal:
- Banco de Portugal.
- Agencia Financial de Portugal.
- Casa de Portugal.
- Embassy of Portugal.
- Office of Portuguese Naval Attache.
- Portuguese Consulate General.
- Portuguese Naval Mission.
- Republic of Portugal.

Roumania:
- Banque Nationale de la Republique Socialiste de Roumanie.
- Embassy of Rumania.
- Rumanian People's Republic.

Soviet Zone of Germany: Staatsbank.

Spain:
- Banco de Espana.
- Consul General of Spain.
- Embassy of Spain.
- Foreign Market Services (Servicios de MercadosExtrajeros).
- Instituto Espanol de Moneda Extranjera.
- Spanish Agriculture Office.
- Spanish Office of Foreign Economy and Trade.
- The Spanish State.

Sweden:
- Sveriges Riksbank.
- Consulate General of Sweden.
- Embassy of Sweden.
- Kingdom of Sweden.
- Office of Swedish Air Attache.
- Swedish Travel Information Bureau, Inc.

Switzerland:
- Banque Nationale Suisse.
- Consulate General of Switzerland.
- Embassy of Switzerland.
- Swiss Confederation.
- Swiss Government Departments.

NOTE: The Bank for International Settlements is classified under "Other Western Europe."

Turkey:
- Banque Centrale de la Republique de Turquie (Central Bank of Turkish Republic) (Turkeye Cumhuriyet Merkez Bankasi).
- Embassy of Turkey.
- Office of Commercial Counselor.
- Republic of Turkey.

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Republic of Turkey Purchasing Delegation.
Turkish Consulate General.
Turkish Economic Mission.

United Kingdom:
Bank of England.
British Army Services.
British Army Staff.
British Consulate General.
British Embassy.
British Ministry of Transport.
British Joint Services Mission.
British Merchant Navy Committee.
British Ministry of Pensions.
British Government Treasury.
British Naval Welfare Fund.
British Supply Office.
Office of British Air Attache.
Office of British Army Paymaster.
Office of British Military Attache.
Office of British Naval Attache.
R.A.F. Delegation.
United Kingdom Delegation to the United Nations.
United Kingdom of Great Britain and Northern Ireland.
United Kingdom Payments Office.
United Kingdom Treasury and Supply Delegation.

U.S.S.R.:
State Bank of the U.S.S.R.
Amtorg Trading Corporation.
Embassy of U.S.S.R.
Government Purchasing Commission of the Soviet Union in the U.S.
Information Bulletin, Embassy, U.S.S.R.
Office of the Military and Naval Attaches.
Telegraphic Agency of the U.S.S.R.
Union of Soviet Socialist Republics.
U.S.S.R. Delegation to the United Nations Organization.

NOTE: The International Bank for Economic Cooperation, Moscow, is classified under "Other Eastern Europe."

Vatican City:
Accounts in the name of "His Holiness, the Pope".
Amministrazione del Beni Della Santa Sede.
Amministrazione Speciale Della Santa Sede.
Apostolic Delegation.
Istituto per le Opere de Religione.
Mission for the Society of Jesus—Vatican Account.
Pontificia Opera Assistenza Comitato Economico.
Sacra Congregazione de Propaganda Fide Vatican City.
State of the Vatican City.

Yugoslavia:
Banque Nationale de la Republique Federative Populaire de Jugoslavia.
Consulate General of the Federal People's Republic.
Embassy of the Federal People's Republic of Yugoslavia.
Federal People's Republic of Yugoslavia.
Permanent Yugoslav Delegation to the United Nations.
Yugoslav Commercial Delegation.

CANADA

Bank of Canada.
Canadian Army Staff.
Canadian Consulate General.
Canadian Embassy.
Canadian Joint Staff.
Canadian Naval Staff.
Department of Trade and Commerce of Canada.
Dominion of Canada.
Minister of Finance and Receiver General of Canada.
Office of the Commercial Counselor of Canada.

LATIN AMERICA

Argentina:
Banco Central de la Republica Argentina.
Argentine Consulate General.
Argentine Delegation to the United Nations.
Argentine Embassy.
Argentine Government Purchasing Missions.
Argentine Naval Commission.
Argentine Republic.
Commission de Adquisiciones Aeronauticas en Canada y los Estados Unidos.
Instituto Argentino de Promocion del Intercambio (IAPI).
Ministry of Finance.

Bahamas:
Bahamas Central Bank.
Bahamas Monetary Authority.

Barbados: Central Bank of Barbados.

Bolivia:
Banco Central de Bolivia.
Bolivian Army Purchasing Commission.
Bolivian Government Central Purchasing Agency.
Consulate General of Bolivia.
Contraloria General Tesoreria Nacional.
Embassy of Bolivia.
Republic of Bolivia.

Brazil:
Banco Central do Brasil.
Banco do Brasil.
Brazilian Aeronautical Commission.
Brazilian Delegation to the Pan American Union.
Brazilian Embassy.
Brazilian Military Commission.
Brazilian Navy Fund.
Brazilian Treasury Delegation.
Comissao Mista Ferroviaria Brasileiro-Boliviano.
Consulate General of Brazil.
Delegation to the United Nations.
Foreign Trade Department of the Banco do Brasil.
Office of Brazilian Air Attache.
Office of Brazilian Military Attache.
Office of the Commercial Counselor.
Office of the Finance Counselor.
United States of Brazil.

British Honduras: Currency Board of British Honduras.

British West Indies: Board of Commissioners of Currency, British Caribbean Territories (Eastern Group).

Chile:
Banco Central de Chile.
Caja Autonoma de Amortizacion de la Deuda Publica de Chile.
Chilean Air Force Commission.
Chilean Naval Commission.
Consulate General of Chile.
Embassy of Chile.
Military Mission of Chile.
Ministry of Finance.
Republic of Chile.
Superintendencia de la Casa de Moneda y Especies Valorades.

Colombia:
Banco de la Republica.
Consulate General of Colombia.
Embassy of Colombia.
Republic of Colombia.

Costa Rica:
Banco Central de Costa Rica (Central Bank of Costa Rica).
Embassy of Costa Rica.
Republic of Costa Rica.

Cuba:
Banco Nacional de Cuba (National Bank of Cuba).
Consulate General de Cuba.
Cuban Mission to the United Nations.
Embassy of Cuba.
Republic of Cuba.

Dominican Republic:
Banco Central de la Republica Dominicana.
Banco de Reservas de la Republica Dominicana.
Consulate General of the Dominican Republic.
Dominican Republic.
Embassy of the Dominican Republic.

Ecuador:
Banco Central del Ecuador.
Consulate General of Ecuador.
Embassy of Ecuador.
Gobierno del Ecuador, Programa de Mantenimiento de Carreteras.
Office of the Air Attache.
Office of the Naval Attache.
Republic of Ecuador.

El Salvador:
Banco Central de Reserva de El Salvador.
Consulate of El Salvador.
Embassy of El Salvador.
Republic of El Salvador.

French West Indies and French Guiana:
Caisse Centrale de Cooperation Economique.
Office des Changes de Guyane.
Office des Changes de la Guadeloupe.
Office des Changes de la Martinique.
Institut d'Emission des Departements d'Outre-mer.

Guatemala:
Banco de Guatemala.
Consulate General of Guatemala.
Embassy of Guatemala.
Guatemalan Government Agencies.
Republic of Guatemala.
Secretaria de Hacienda y Credito Publico de Guatemala.

Guyana: Bank of Guyana.

Haiti:
Banque Nationale de la Republique d'Haiti.
Consulate of Haiti.
Embassy of Haiti.
Office of Military Attache, Army of Haiti.
Republic of Haiti.

Honduras:
Banco Central de Honduras (Central Bank of Honduras).
Consul General of Honduras.
Embassy of Honduras.
Honduran Exchange Control Commission.
Ministerio de Hacienda Credito Publico y Comercio
Republic of Honduras.

Jamaica:
Bank of Jamaica.
Government of Jamaica.
Embassy of Jamaica.

Mexico:
Banco de Mexico.
Consulate General of Mexico.
Delegacion Fiscal Mexico.
Embassy of Mexico.
Office of the Agricultural Attache.
United Mexican States.

Netherlands Antilles and Surinam (Netherlands Guiana):
Bank van de Nederlandse Antillen (Voorheen de Curacaosche Bank).
Central Bank of Surinam (Centrale Bank van Suriname).

Nicaragua:
Banco Central de Nicaragua.
Consulate General of Nicaragua.
Embassy of Nicaragua.
High Commissioner of the Republic of Nicaragua.
Ministry of Treasury and Public Credit.
Office of Military Attache to the Nicaraguan Embassy.
Republic of Nicaragua.
Republic of Nicaragua-Collector General of Customs.

Panama:
Banco Nacional de Panama.
Consulate General of Panama.
Republic of Panama.

Paraguay:
Banco Central del Paraguay.
Consulate General of Paraguay.
Embassy of Paraguay.
Republic of Paraguay.

Peru:
Banco Central de Reserva del Peru.
Banco de la Nacion.
Consulate General of Peru.
Embassy of Peru.
Office of Air Attache to the Peruvian Embassy.
Peruvian Government Department.
Peruvian Military Commission.
Peruvian Naval Commission.
Republic of Peru.

Trinidad and Tobago: Central Bank of Trinidad and Tobago.

Uruguay:
Banco Central del Uruguay.
Banco de la Republica Oriental del Uruguay.
Consulate General of Uruguay.
Direccion de Credito Publico.
Embassy of Uruguay.
Republic of Uruguay.
Uruguayan Military Mission.
Uruguayan Naval Mission.

Venezuela:
Banco Central de Venezuela.
Consulate General of Venezuela.
Embassy of Venezuela.
Ministerio de Obras Publicas.
Office of Air Attache.
Republic of Venezuela.

ASIA

Afghanistan:
Da Afghanistan Bank.
Embassy of Afghanistan.
Kingdom of Afghanistan.
Royal Legation of Afghanistan.

Bangladesh: Bangladesh Bank.

Brunei: Currency Board of Brunei.

Burma:
People's Bank Union of Burma.
Central Treasury Office.
Consulate of Burma.
Embassy of Burma.
Union of Burma.

Cambodia:
Banque Nationale du Cambodge.
Cambodia Embassy.
Kingdom of Cambodia.

China, People's Republic of (China Mainland and China, Republic of (Taiwan).

For purposes of reporting, all accounts listed below should be regarded as "official." If an account is blocked under Foreign Assets Control Regulations, it should be reported opposite the People's Republic of China. On the basis of information available in January 1973, all other accounts should be reported opposite the Republic of China, except for: (a) the People's Bank of China and (b) the Chinese Mission to the United Nations, which should be reported opposite the People's Republic of China.

Central Bank of China.
Bank of Taiwan.
Central Trust of China.
Board of Supplies, Executive Yuan.
China Defense Supplies Incorporated.
Chinese Air Force.
Chinese Air Force Library.
Chinese Delegation to Far East Commission.
Chinese Directorate General of Telecommunications.
Chinese Embassy.
Chinese Government Procurement and Services Mission.
Chinese Government Supply Mission.
Chinese Mail Section.
Chinese Military Procurement Technical Group.
Chinese Ministry of Education.
Chinese Naval Attache Office.
Chinese News Service.
Chinese Petroleum Corporation.
Chinese Postal Administration.
Chinese Signal Department.
Chinese Technical Mission.
Commission of Aeronautical Affairs.
Consulate General of China.
Council for U.S. Aid.
Delegation to International Emergency Food Council.
Delegation to the World Fund and Bank Conference.
Directorate General of Postal Remittances and Savings Bank.
Directorate General of Salt Administration.
Foreign Trade Office.
Information Office.
Inspector General Chinese Maritime Customs.
Joint Commission on Rural Reconstruction in Taiwan.
Military Missions.
Ministry of Communications.
Ministry of Economic Affairs.
Ministry of Education.
Ministry of Finance.
Ministry of Health.
Ministry of National Defense.
National Resources Commission.
National Treasury.
Navy, Kiangnan Dockyard.
Office of the Chinese Delegation to the United Nations.
Office of the Commercial Counselor.
Peoples Bank of China.
Republic of China.
Research Laboratory Ministry of Communications.
Universal Trading Corporation.

India:
Reserve Bank of India.
Embassy of India.
Government of India Education Department.
Government of India Information Services.
India Supply Mission.
Republic of India.

Indonesia:
Bank Indonesia.
Government of Republic of Indonesia.
Indonesia Supply Mission.
Indonesian Embassy.
Republic of Indonesia.
Trade Commissioner for Indonesia.

Iran:
Bank Markazi Iran.
Consulate General of Iran.
Imperial Embassy of Iran.
Imperial Legation of Iran.
Kingdom of Iran.
Ministry of War, Government of Iran, Office of the Military Attache.

Iraq:
Central Bank of Iraq.
Embassy of Iraq.
Republic of Iraq.

Israel:
Bank of Israel.
Consulate General of Israel.
Embassy of Israel.
Government of Israel.
Israeli Supply Mission.
State of Israel.
Treasury for the State of Israel.

Japan:
Bank of Japan or Nippon Ginko.
Consulate of Japan.
Embassy of Japan.
Government of Japan.
Japanese Ministry of International Trade (MITI).
Office of Minister of Finance of Japanese Government.

Jordan:
Central Bank of Jordan.
Hashemite Kingdom of Jordan.
Jordan Embassy.

Korea:
Bank of Korea.
Korea Exchange Bank.
Korean Embassy.
Republic of Korea.
Special Representative of the Republic of Korea.

Kuwait:
Central Bank of Kuwait.
Embassy of Kuwait.
Kuwait Currency Board.
Kuwait Investment Company.
State of Kuwait.

Laos:
Banque Nationale du Laos.
Embassy of Laos.
Kingdom of Laos.

Lebanon:
Bank of Lebanon.
Consulate General of Lebanon.
Embassy of Lebanon.
Ministry of Defense.
Republic of Lebanon.

Malaysia:
Central Bank of Malaysia (Bank Negara Malaysia).
Board of Commissioners of Currency, Malaysia and British Borneo.
Embassy of Malaysia.
Government of Malaysia.

Nepal:
State Bank of Nepal (Rastra Bank).
Kingdom of Nepal.
Embassy of Nepal.

Oman (Muscat and Oman):
Muscat Currency Authority.
Sultan of Oman.

Pakistan:
State Bank of Pakistan.
Consulate of Pakistan.
Embassy of Pakistan.
Office of Educational and Cultural Attache.

Philippines:
Central Bank of the Philippines.
Armed Forces of the Philippines (Procurement Mission Fund).
Embassy of the Philippines.
Philippine Constabulary.
Philippine Purchasing Agency.
Philippine Relief and Trade Rehabilitation Administration.
Republic of the Philippines.

Portuguese Timor: Banco Nacional Ultramarino (branch banks).

Saudi Arabia:
Embassy of Saudi Arabia.
His Majesty, the King of Saudi Arabia.
Kingdom of Saudi Arabia.
Ministry of Finance of the Saudi Arab Government.
Saudi Arabia Monetary Agency.
Saudi Arabian Delegation to the United Nations.

Singapore:
Board of Commissioners of Currency.
Monetary Authority of Singapore.

Sri Lanka (Ceylon):
Central Bank of Ceylon.
Embassy of Sri Lanka.
Republic of Sri Lanka.

Syria:
Banque Centrale de Syrie.
Embassy of the Syrian Arab Republic.
Syrian Arab Republic.
Syrian Consulate General.

Thailand:
Bank of Thailand.
Office of Thai Commercial Attache.
Office of Thai Military Attache.
Office of Naval Attache.

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Royal Thai Embassy.
Siamese Purse.
Viet-Nam:
Banque Nationale du Viet-Nam.
Embassy of Viet-Nam.
Republic of Viet-Nam.
Yemen (Aden): Bank of Yemen.
Yemen (San'ā'): Central Bank of Yemen.

AFRICA

Algeria:
Banque Centrale d' Algeria.
Embassy of Algeria.
Burundi:
Banque de la Republique du Burundi (Bank of the Republic of Burundi).
Republic of Burundi.
Cameroon: Federal Republic of Cameroon.
Central African Republic: Central African Republic.
Chad: Republic of Chad.
Comoro Islands: Banque de Madagascar et des Comores.
Congo, Republic of (Brazzaville): Republic of Congo (Brazzaville).
Dahomey: Republic of Dahomey.
Egypt:
Central Bank of Egypt.
Bureau Egyptian Commercial Counsellor.
Egyptian Education Bureau.
Egyptian Office for the United Nations.
Office of the Military Attache.
Consulate of Egypt.
Embassy of Egypt.
Ethiopia:
National Bank of Ethiopia.
Consulate General of Ethiopia.
Embassy of Ethiopia.
Empire of Ethiopia.
Ethiopian Government Department.
French Somaliland:
Office Colonial des Changes Somalien, Banque de l'Indochine, Djibouti.
Tresor Publique de la Cote Francaise des Somalis.
Gabon: Gabon Republic.
Ghana:
Bank of Ghana.
Republic of Ghana.
Guinea:
Banque de la Republique de la Guinee.
Republic of Guinea.
Ivory Coast: Republic of Ivory Coast.
Kenya: Central Bank of Kenya.
Liberia:
Consulate General of Liberia.
Embassy of Liberia.
Republic of Liberia.
Libya:
Bank of Libya.
Embassy of Libya.
Kingdom of Libya.
Malagasy Republic: Institut Malgache d'Emission.
Malawi: Reserve Bank of Malawi.
Mali:
Banque de la Republique du Mali.
Republic of Mali.
Mauritania: Islamic Republic of Mauritania.
Mauritius: Bank of Mauritius.
Morocco:
Banque du Maroc.
Kingdom of Morocco.
Mozambique: Banco Nacional Ultramarino (branch banks).
Niger: Republic of Niger.
Nigeria:
Central Bank of Nigeria.
Federation of Nigeria.
Portuguese West Africa:
Banco de Angola.
Banco Nacional Ultramarino (branch banks).
Reunion Island: Institut d'Emission des Departements d'Outre-Mer.
Rhodesia (Southern): Reserve Bank of Rhodesia.
Rwanda:
Banque Nationale du Rwanda.
Republic of Rwanda.
Senegal: Republic of Senegal.
Sierra Leone: Bank of Sierra Leone.
Somalia: Banca Nazionale Somala.
South Africa:
South African Reserve Bank.
Embassy of the Republic of South Africa.
Permanent Delegation of the Republic of South Africa to the United Nations.
Republic of South Africa.
Republic of South Africa Department of Customs.
Republic of South Africa Government Supply Office.
South African Consulate General.
Sudan:
Bank of the Sudan.
Republic of the Sudan.
Tanzania: Bank of Tanzania.
Togo: Republic of Togo.
Tunisia:
Central Bank of Tunisia (Banque Centrale de la Tunisie).
Uganda: Bank of Uganda.
Upper Volta: Republic of Upper Volta.
Zaire: Nationale Banque du Zaire.
Zambia: Bank of Zambia.

OTHER COUNTRIES

Australia:
Reserve Bank of Australia.
Australia Consulate General.
Australian Imperial Force.
Commonwealth of Australia.
Embassy of the Commonwealth of Australia.
Office of Air Attache.
French Polynesia: Banque de l'Indochine, Succursale de Papeete, Office des Changes de Tahiti.
New Caledonia: Banque de l'Indochine, Succursale de Noumea, Office des Changes de la Nouvelle Caledonie.
New Zealand:
Reserve Bank of New Zealand.
Dominion of New Zealand.
Embassy of New Zealand.
New Zealand Trade Commission.
Office of Commercial Attache.
Western Samoa: Bank of Western Samoa.

INTERNATIONAL AND REGIONAL

International:
Food and Agriculture Organization.
International Atomic Energy Agency.
International Bank for Reconstruction and Development.
International Children's Emergency Fund.
International Civil Aviation Organization (Montreal, Canada).
International Development Association.
International Finance Corporation.
International Labor Organization.
International Monetary Fund.
International Refugee Organization.
United Nations, and Specialized Agencies and Commissions.
Universal Postal Union.
World Health Organization.
European regional:
European Atomic Energy Community (Euratom).
European Coal and Steel Community.
European Communities.
European Economic Community.
European Development Fund.
European Free Trade Association.
European Investment Bank.
North Atlantic Treaty Organization.
Organization for Economic Cooperation and Development.
Note: The Bank for International Settlements is classified under "Other Western Europe." The International Bank for Economic Cooperation, Moscow, is classified under "Other Eastern Europe."
Latin American Regional:
Andean Development Corporation.
Andean Subregional Group.
Caribbean Development Bank.
Caribbean Free Trade Association.
Caribbean Regional Development Agency.
Central American Bank for Economic Integration.
Central American Institute for Industrial Research and Technology.
Central American Monetary Stabilization Fund.
Inter-American Development Bank.
Latin American Free Trade Association.
Organization of American States (Pan American Union), and affiliated organizations.
Organization for Central American States.
Permanent Secretariat of the Central American General Treaty of Economic Integration.
River Plate Basin Commission.
Asian Regional:
Asia and Pacific Council.
Asian Development Bank.
Association of Southeast Asian Nations.
Central Treaty Organization (CENTO).
Colombo Plan.
South East Asia Treaty Organization (SEATO).
African Regional:
African Development Bank.
Banque Centrale des Etats de l'Afrique de l'Ouest.
Banque Centrale des Etats de l'Afrique Equatorial et du Cameroun.
Conseil de l'Entente.
East African Common Services Organization.
East African Community.
Organisation Commune Africaine ,et Malagache.
Organization of African Unity.
Union des Etats de l'Afrique Centrale.
Union Douaniere et Economique de l'Afrique Centrale.
Union Douaniere des Etats de l'Afrique de l'Ouest.

ANNEX D: CODE FOR SECURITIES AND LONG-TERM DEBT

	Code
Form FPI–1:	
Voting common stock	11
Nonvoting common stock	12
Warrants, rights, or transferable stock options	13
Voting preferred stock	14
Nonvoting preferred stock	15
Certificates of participation	16
Other ownership shares or certificates	17
Registered bonds or debentures, excluding convertible issues	21
Bearer bonds or debentures, excluding convertible issues	22
Convertible bonds or debentures	23
Notes to, and loans from, banks	24
Notes to, and loans from, nonbanks	25
Mortgages, other than bond issues	26
Certificates of deposit	27
Commercial paper	28
Other long-term debt	29
Form FPI–3:	
Common stock	11
Warrants, rights or transferable stock options	13
Preferred stock	15
Certificates of participation	16
Other ownership shares or certificates	17
Bonds or debentures	21
Notes to, and loans from, banks	24
Notes to, and loans from, nonbanks	25
Mortgages, other than bond issues	26
Certificates of deposit	27
Commercial paper	28
Other long-term debt	29

The data furnished on this report will be held in strict confidence

Treasury Form FPI-1

Reporting Form for U.S. Issuers of Securities

NOTE: Mail completed form to:

Foreign Portfolio Investment Project
Office of the Assistant Secretary for International Affairs
U.S. Department of the Treasury
Washington, D.C. 20220

Give name, title and telephone number of person to be consulted concerning any question regarding this report.

Name: _____ Title: _____

Telephone: Area Code ( ) Number: _____

Part I: Information Relating to the Reporting Company: (Entries with arrows should be made directly in the "code spaces" column)

	Code Spaces
1. Identification of reporter:	
a. Employer's Identification Number ----->	/ / / / / / / / /
b. Name of company _____	
c. Address _____	
_____ ----->	Zip Code / / / / /
d. Type of organization (check box) ----->	Corporation ☐ 1 Partnership ☐ 2 Business or investment trust ☐ 3 Other ☐ 4
e. Principal business activity of reporter (use Enterprise SIC Code, in Annex A to the General Instructions) ----->	/ /

2. Trading of Securities:

a. Check the appropriate box (boxes) to identify the exchanges on which your securities are traded in the United States.

	Code Spaces: Common (Voting) Stock	Other Stock	Bonds or debentures	Other Debt
(1) New York Stock Exchange ---------->	☐	☐	☐	☐
(2) American Stock Exchange ---------->	☐	☐	☐	☐
(3) Pacific Stock Exchange ---------->	☐	☐	☐	☐
(4) Midwest Stock Exchange ---------->	☐	☐	☐	☐
(5) Other U.S. stock exchanges ---------->	☐	☐	☐	☐
(6) Over the counter ---------->	☐	☐	☐	☐
(7) None of the above ---------->	☐	☐	☐	☐

b. Check the appropriate box (boxes) to identify the exchanges on which your securities are traded outside the United States:

(1) London Stock Exchange ---------->	☐	☐	☐	☐
(2) Amsterdam Stock Exchange ---------->	☐	☐	☐	☐
(3) Frankfurt Stock Exchange ---------->	☐	☐	☐	☐
(4) Zurich Stock Exchange ---------->	☐	☐	☐	☐
(5) Paris Bourse ---------->	☐	☐	☐	☐
(6) Tokyo Stock Exchange ---------->	☐	☐	☐	☐
(7) Other (identify)_____ ---------->	☐	☐	☐	☐

	Code Spaces (Dollars) bill.	million	thousand
3. Consolidated financial data: (For fiscal year ending _____) :			
a. Total assets ---------->			
b. Total liabilities (excl. net worth)->			
c. Total net worth (lines a-b)---------->			
d. Total net sales or revenues -------->			
e. Total net earnings (after taxes)---->			

	Actual amounts: dollars	cents
f. Earnings (primary) per share of common stock ---------->		
g. Cash dividends declared per share of common stock---------->		

4. If a foreign person(s) holds an interest in your company's voting stock of 10 percent or more, give extent of combined ownership, in percent, of such foreign holder(s) ----------> Ownership percent

Certification: The undersigned official executing this certification on behalf of the company hereby certifies that the information contained in this report, including any addenda, schedules or statements attached hereto, is correct and complete to the best of his knowledge and belief.

Name of company_____

Signature of authorized official _____

Title of official_____ Date _____

Part II: Information concerning ownership of reporter's security issues as of 12/31/74
Common (voting) stock, warrants, rights, etc., and other stock having voting privileges.
(Fill in required detail on an issue by issue basis.
Use extra sheet for additional issues, if needed).

Item	Voting common stock (with one vote per share voting power) (Code No. 11) CUSIP No: (1)	Warrants, rights or transferable options for common stock (no voting power) (Code No. 13) CUSIP No: (2)	Other voting stock (describe and state voting power) (Code No. 12) CUSIP No: (3)
5. Number of shares, warrants, rights or transferable stock options issued and still outstanding, total -->			
a) Held by U.S. persons excluding U.S. holders of record ---------->			
b) Held by U.S. holders of record ---------->			
c) Held by foreign persons ---------->			
6. Value per share of stock, or per warrant, right or transferable stock option:			
a) Market value per share, or unit of warrant, right, etc. as of 12/31/74 ---------->			
b) Bookvalue as of 12/31/74 per share of stock, or other value (identify_____) per unit of warrant, right etc., based on company books ---------->			
7. Cash dividends declared per share for 12-month period to 12/31/74 ---------->			

If, based on your records, any portion of the company's voting stocks were held by foreign reside (see Item 5c above) give detail by country and by issue as requested on Schedule A.

Capital stock other than voting stock, such as preference stock or non voting issues of common stock as of 12/31/74
(Fill in required detail on an issue-by-issue basis
Use extra sheet for additional issues, if needed).

Item	Describe each issue below: Code No. CUSIP No: (1)	Code No. CUSIP No: (2)	Code No. CUSIP No: (3)	Code No. CUSIP No (4)
8. Number of shares issued and still outstanding, total →				
a) Held by U.S. persons excluding U.S. holders of record ----------→				
b) Held by U.S. holders of record ----------→				
c) Held by foreign persons----------→				
9. Value per share of stock:				
a) Market value as of 12/31/74----------→				
b) Bookvalue as of 12/31/74 based on company books----------→				
10. Cash dividends declared per share for the twelve-month period to 12/31/74----------→				

If, based on your records, any portion of these securities were held by foreign residents (see item 8c above) give detail by country and by issue as requested on Schedule A.

NOTICES 44135 44138 NOTICES

Bonds, debentures, notes and other long-term debt obligations as of 12/31/74
(Fill in required detail on an issue by issue basis.
Use extra sheet for additional issues, if needed.)

	Code No. CUSIP No. (1)	Code No. CUSIP No. (2)	Code No. CUSIP No. (3)	Code No. CUSIP No. (4)
11. Description of issue				
a) Year of original offering date. ---------->				
b) Year of maturity date. ---------->				
c) Interest rate (in percent). Give rate on a 2 digit decimal basis. (Example: 6 1/4% show as 6.25)---------->				
d) Interest payment date. Give months of scheduled interest payments. (Example: June and December show as 6-12; March and September show as 3-9)---------->				
e. Market value as of 12/31/74. Give price per $100 face amount on a 2 digit decimal basis. (Example: 64 1/8 show as 64.12)---------->				
f. Currency in which the issue is denominated, if other than U.S. dollars. Use country code from Annex B of the General Instruction to designate currency ---------->				
12. Face amount of issue outstanding, total --->				
Registered securities:				
a) Held by U.S. persons excluding U.S. holders of record---------->				
b) Held by U.S. holders of record---------->				
c) Held by foreign persons ---------->				
Bearer securities:				
d) Amount outstanding ---------->				

If, based on your records, any portion of these debt obligations were held by foreign persons (see item 12c above) give detail by country and by issue as requested in Schedule B.

13. Give list of U.S. nominees, custodians, fiduciaries, or brokers who are registered as holders of record for 1,000 shares or more of your company's stocks, or $100,000 face amount or more of any of your company's debt issues, except for names listed in the 1974 issue of "Nominee List" published by the American Society of Corporate Secretaries, Inc.

(see item 5c above) give detail by country and by issue as requested on Schedule A.

Part III: Foreign Placements and Exchanges of Stock

14 Did you make primary placements or sales of your securities (including securities of your financing and other U.S. subsidiaries in foreign countries since 1965? (Check box)---------- Yes [ ] No [ ]

If the answer to item 14 is yes, fill out the following schedule below:

Foreign Placements or Sales of U.S. Securities Since 1965

Give description of issue (Identify bearer issues in column 2 with code 1, registered issues with code 2) (2)	CODE 1 or 2 (2)	CUSIP No. (3)	Year of transaction (4)	Value of primary placement or sale of: Debt issues (including those of U.S. subsidiaries (5)	Value of primary placement or sale of: Stock issues (including those of U.S. subsidiaries (6)	Country of placement (use country code from Annex B) (7)

15. Did you issue your company's stock in exchange for stock of foreign companies, for tangible foreign assets, or for intangible items such as patents, know-how, manufacturing rights, etc. ----------→ Yes [ ] No [ ]

If the answer to item 15 is yes, fill out the following schedule below:

Exchange of Stock for Foreign Assets Since 1965

Give description of your stock (1)	CUSIP No. (2)	Year of transaction (3)	Value of your stock exchanged for: Foreign corporate stock (4)	Value of your stock exchanged for: Foreign tangible assets (5)	Value of your stock exchanged for: Foreign intangible assets (6)

	Code Spaces
PART IV: Relationship to Treasury Foreign Exchange Forms	
16 (a) Did you engage on your own behalf, or on behalf of your customers, in transactions in long-term securities with foreigners during the year 1974? (Check box) →	Yes No
If your answer to (a) above is yes, do you now file reports with the Treasury, through a Federal Reserve Bank, on Form S-1 (Purchases and Sales of "Long-Term" Securities by Foreigners)? (Check box) →	Yes No
(b) Are you a banking firm (check box) →	Yes No
If your answer to (b) above is yes, did you have liabilities to, or claims on, foreigners for your own account or for the account of your domestic customers during the year 1974? →	Yes No
If your answer to (b) above is yes, do you now file reports with the Treasury, through a Federal Reserve Bank, on Form B-1? (Check box) →	Yes No
On Form B-2? →	Yes No
On Form B-3? →	Yes No
(c) Are you a non banking firm? (Check box) →	Yes No
If your answer to (c) above is yes, did you have liabilities to, or claims on, non affiliated foreigners during the year 1974 (Check box) →	Yes No
If your answer to (c) above is yes, do you now file reports with the Treasury, through the Federal Reserve Bank of New York, on Form C-1/2? (Check box) →	Yes No
(d) Are you a brokerage firm or security dealer? (Check box) →	Yes No
If your answer to (d) above is yes, did you have debit or credit balances for account of, or with, foreigners during the year 1974? (Check box) →	Yes No
If your answer to (d) above is yes, do you now file reports with the Treasury, through a Federal Reserve Bank, on Form S-4? (Check box) →	Yes No

FYI-2
Schedule A.

Reporting Form for U.S. Issuers of Securities

Breakdown of Foreign Ownership in U.S. Stocks and Other Equity Interests, by Country 1/

Report filed by
Name: _____
E.I. No. _____

This is page ___ of ___ pages

Identify stock issue: _____ Cusip No. | | | | | | | | | Code No. _____

Foreign countries	Code No.	Number of shares held by foreign persons as of 12/31/74															
				Individuals Residing Abroad				All Other Foreign Persons									
		Total (Columns (4) to (9))		U.S. nationals residing in foreign countries		Foreign nationals residing in foreign countries		Foreign official institutions		Foreign banks, brokers and nominees		Investment companies, insurance companies, pension funds & other employee benefit funds or trusts		Other foreign holders such as corporations partnerships, etc.	
(1)	(2)	(3)		(4)		(5)		(6)		(7)		(8)		(9)	
		No. of holders (3a)	No. of shares (3b)	No. of holders (4a)	No. of shares (4b)	No. of holders (5a)	No. of shares (5b)	No. of holders (6a)	No. of shares (6b)	No. of holders (7a)	No. of shares (7b)	No. of holders (8a)	No. of shares (8b)	No. of holders (9a)	No. of shares (9b)
Grand Total															

1/ Exclude direct and indirect holdings in U.S. securities by foreign direct investors. A foreign direct investor is any foreign person owning 10% or more of the voting stock of the U.S. company. (See paragraph B.2.b. of the General Instructions.)

FPI-1
Schedule B

Reporting Form for U.S. Issuers of Securities

Breakdown of Foreign Ownership in U.S. Long-Term Debt Obligations, By Country[1]

(Give all amounts shown below in the currency of issue)

Identify debt issue or obligation
Cusip No.
Code No.

If this is a foreign currency issue, identify currency of issue

Report filed by:
Name:
E.I. No.

This is page ___ of ___ pages

Foreign countries (1)	Code No. (2)	Face Amount of Issue Held by Foreign Persons as of 12/31/74															
		Total (columns (4) to (9)) (3)		Individuals Residing Abroad				All Other Foreign Persons									
				U.S. nationals residing in foreign countries (4)		Foreign nationals residing in foreign countries (5)		Foreign official institutions (6)		Foreign banks, brokers and business (7)		Investment companies, insurance companies, pension funds & other employee benefit funds or trusts (8)		Other foreign holders such as corporations partnerships, etc. (9)	
		No. of holders (3a)	Face amount (3b)	No. of holders (4a)	Face amount (4b)	No. of holders (5a)	Face amount (5b)	No. of holders (6a)	Face amount (6b)	No. of holders (7a)	Face amount (7b)	No. of holders (8a)	Face amount (8b)	No. of holders (9a)	Face amount (9b)
All countries, total																	

[1] Exclude direct and indirect holdings of U.S. debt obligations by foreign direct investors. A foreign direct investor is any foreign person owning 10% or more of the voting stock of the U.S. company. (See paragraph B.2.b. of the General Instructions.)

Specific Instructions Relating to Form FPI-1

1. *Who must report.* Form FPI-1 is required only of United States issuers. For information as to which types of issuers are required to submit Form FPI-1, as well as the exemption level for certain small issuers, please refer to Paragraph A.1. of Part II of the General Instructions.

2. *What must be reported.* General information as to what must be reported by United States issuers filing Form FPI-1 may be found in Paragraph B.1. of Part II of the General Instructions.

3. *Acknowledgement required.* The regulation and General Instructions require selected issuers receiving copies of Form FPI-1 from the Treasury to submit an acknowledgement of receipt. The package of reporting forms includes a reply card to be used for this purpose.

4. *Instructions pertaining to specific items on Form FPI-1:*

Item 1.a. For a definition of "Employer's Identification Number", refer to Paragraph 8 of Part III of the General Instructions.

Item 1.c. Enter both address and ZIP code. Make entry for ZIP code number in coding spaces provided.

Item 2. If a security is traded on more than one of the identified exchanges, check off all relevant boxes in Item 2.

Item 3. Consolidated financial data should be given for the latest available year-end or closest 12-month period. If the company operates on a calendar year basis and dates for 1974 are not yet available, information should be supplied for the year ending 12/31/73. Information should be based on consolidations used in reports to stockholders or to the Securities and Exchange Commission.

Amounts that have to be converted to U.S. dollars should be converted in agreement with standard accounting principles. If the company uses different conversion procedures, these may be used but a statement should be appended describing these procedures.

Item 3.f. If the reporter is not a corporation, enter here the closest equivalent of per-share earnings for other units of ownership.

Item 3.g. This item applies only to corporations.

Item 4. If a foreign person(s) holds an interest in the reporter's voting stock of 10 percent or more, enter the extent of combined foreign ownership by such foreign holder(s).

Items 5 through 12. If the columns provided for these items are not sufficient to describe all of your issues of securities and your long-term debt that have to be reported, you may reproduce the respective pages of the questionnaire for the purpose of including these items.

If this is a consolidated report, as provided for in paragraph A.1.d. of the General Instructions, list all subsidiaries and affiliates consolidated in this report, and append this list to the report.

Items 5(a)(b), 8(a)(b), and 12(a)(b). For a definition of the term holder of record as used in these items, refer to Paragraph 8 of Part III of the General Instructions.

Note: Securities held by parents or guardians acting as custodians for minors may be included in line (a) of these items.

Items 6(a), 9(a), and 11(c). Enter market value as of December 31, 1974. If no transactions in these securities occurred in the market on December 31, 1974, enter market value as of the latest available preceding date when such transactions occurred. If a security was not traded within 90 days prior to 12/31/74, an estimated market value (identified Est.) may be substituted in order to establish a reasonable valuation.

Items 6(b) and 9(b). This information should be supplied as of December 31, 1974. However, if the reporter does not ordinarily close its books as of that date, enter book value as of the nearest available closing date.

Item 7. Stock dividends or dividends in kind should not be included in this item.

Item 8 and 11. Make appropriate code entry in each column heading to identify the type of issue described below. Use Appendix D, code for Form FPI-1, for that purpose.

Items 11 and 12. Certificates of Deposit. Combine all certificates of deposit of an issuing company and show them as a single issue. In line 11(b) give range of maturities and in line 11(c) give range of interest for the total of all certificates covered by the group.

Item 11 (f). If an issue is denominated in a currency other than United States dollars, it must be reported in that currency. For purposes of making this entry use the code symbol of the country from Annex B of the General Instructions.

Schedule to Item 14, col. 5. State amounts at face value rather than market value.

Schedule to Item 14, col. 6. State amounts at market value at time of placement or sale.

Schedule to Item 15, cols. 4, 5, and 6. State amounts at market value at the time of the stock exchange.

Schedules A and B

Code number. Where an interest in an issuer, whether equity or debt, does not have a CUSIP number, leave "CUSIP No. " " but enter the appropriate issue code from Annex D of the General Instructions in the

Item 1.c. Enter both address and ZIP code

space provided. (For treatment of certificates of deposit, see specific instructions to items 11 and 12 above.)

Schedule B. Use country code from Annex B of the General Instructions to identify foreign currency of issue.

Country detail. For each country in which your issues are held list the name of the country and the country code as listed in Annex B of the General Instructions. Use reproduced continuation sheets if necessary.

Column 7. If a foreign holder engages in multiple activities, list it under the column representing its primary activity. Example: A foreign bank which operates an investment company should be listed as a bank.

General Note: Neither the number of holders nor the number of shares or amounts should be rounded. Enter actual figures, including fractional shares.

Treasury Form FPI-2

The data furnished on this report will be held in strict confidence

REPORTING FORM FOR U.S. HOLDERS OF RECORD

Note: Mail completed form to:

Foreign Portfolio Investment Project
Office of the Assistant Secretary
for International Affairs
U.S. Department of the Treasury
Washington, D.C. 20220

Give name, title and telephone number of person to be consulted concerning any question regarding this report.

Name: _____ Title: _____

Telephone number: Area Code ( ) Number _____

Part I. Information Relating to the Reporting Firm (entries with arrows should be made directly in the "Code Spaces" column.)

Code Spaces

1. Identification of reporter:

a. Employer's Identification Number ----------→ |_|_|_|_|_|_|_|_|_|

b. Name of company _____

c. Address _____ ⟶ Zip Code |_|_|_|_|_|

_____

d. Type of organization (Check box) ----------→ Corporation ☐ Other ☐

e. Principal business of reporter (use Enterprise SIC code in Annex A of the instructions) ----------→ |_|_|_|

Part II. Information Relating to U.S. corporate securities, including debt obligations, held for foreign accounts or customers.

2. If you are a holder of record, directly, or indirectly, of shares of stock or of any debt obligations for foreign persons, file the necessary Schedules C for your foreign accounts.

Number of Schedules C submitted----------→ |_|_|_|_|

Certification: The undersigned official executing this certification on behalf of the company hereby certifies that the information contained in this report, including any addenda, schedules or statements attached hereto, is correct and complete to the best of his knowledge and belief.

Name of Company _____

Signature of authorized official _____

Title of official _____ Date _____

FRIDAY, DECEMBER 20, 1974

Schedule C

BREAKDOWN OF INVESTMENTS HELD FOR FOREIGN PERSONS

Name of reporter:

1. Total number of foreign accounts in your filing: _____

2. This is the report for account No(s). _____

3. This is sheet No. ____ of ____ sheets for report covered in item 2 above.

4. Country of foreign owner_____ Country code _____

5. Kind of foreign owner (check box)

a. U.S. national residing abroad
b. Foreign national residing abroad
c. Official institution
d. Bank, broker or nominee
e. Investment company, insurance company, pension fund or other employee benefit funds or trusts
f. Other business firms

Stocks and long-term debt obligations held for foreign person as of 12/31/74

Identification of investment (Name of issuer and type of stock or non corporate ownership interest, type of debt issue or other obligation) (1)	Code (2)	Cusip No. (3)	Stocks: No. of shares (4)	Debt obligations (5) Face amount (in dollars or foreign currency (5a)	Foreign currency code (See instruction) (5b)

SPECIFIC INSTRUCTIONS RELATING TO FORM FPI-2

1. *Who must report:*

Form FPI-2 is required only of United States holders of record. For information as to which holders of record are required to submit Form FPI-2, as well as the exemption level, and the requirement of consolidated reports from multiple holders under a single parent institution, please refer to Paragraph A.2. of the General Instructions.

2. *What must be reported:*

General information as to what must be reported by United States holders of record filing Form FPI-2 may be found in Paragraphs B. 1. and 2. of the General Instructions.

3. *Acknowledgment required:*

The regulations and General Instructions require selected holders of record receiving copies of Form FPI-2 from the Treasury to submit an acknowledgment of receipt. The package of reporting forms, mailed to reporters, includes a reply card to be used for this purpose.

4. *Instructions pertaining to specific items on Form FPI-2:*

Item 1a. For a definition of "Employer's Identification Number" refer to Paragraph 8 of Part III of the General Instructions.

Item 1c. Enter both address and ZIP code. Make ZIP code entry in code space provided.

Item 1e. Enter the appropriate business code from Annex A of the General Instructions.

Schedule C

Submit Schedule C for each account held for a foreign person or for an aggregated group as defined below.

Item 2. Assign an arbitrary identifying number to each foreign account in sequential order from 1 to the total number of accounts reported. Do not use actual internal account numbers. Enter the appropriate identifying number in this item.

NOTE: Reporters may aggregate accounts for purposes of Schedule C provided that the accounts fall within a single country and a single category listed in Item 5. Reporters using this method are not obligated, however, to aggregate all accounts in a single country/category. Neither does an election to aggregate for one or more country/categories bind the reporter to use the aggregate method for all accounts reported on Schedule C. In item 2, aggregated accounts should be identified by inclusive sequential numbers (e.g. 16–20).

Item 4. Enter the appropriate country name and country code from Annex B of the General Instructions.

Item 5. If the foreign person is engaged in several activities enter only the category for its major activity. Example: A foreign bank which also operates an investment company should be identified as a bank.

Column 2. Enter code numbers only for issues for which you do not have CUSIP numbers. Use Annex D of the General Instruction, Code for Securities and Long-Term Debt for FPI-2.

Column 3. The CUSIP number must be listed for any security that has such a CUSIP number assigned to it (see Part II, F of the General Instructions).

Column 4. Enter the number of shares of stock certificates, or other units of ownership. Enter actual numbers; do not round.

Column 5. Enter face amount of debt obligations in Column 5a in the currency of issue. Do not convert foreign currency into U.S. dollars, and do not round.

Column 5b. If an entry involves a foreign currency issue, enter the appropriate country code in Annex B of the General Instructions.

Certificates of Deposit. Certificates of deposit should be totaled by issuing institutions and shown in separate lines of Schedule C.

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PART III

DEPARTMENT OF LABOR

Wage and Hour Division

■

Employees of Public Agencies Engaged in Fire Protection or Law Enforcement Activities (Including Personnel in Correctional Institutions)

DEC 20 1974 XUM

DEC 20 1974 XUM

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION

PART 553—EMPLOYEES OF PUBLIC AGENCIES ENGAGED IN FIRE PROTECTION OR LAW ENFORCEMENT ACTIVITIES (INCLUDING SECURITY PERSONNEL IN CORRECTIONAL INSTITUTIONS)

The Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), as amended by the Fair Labor Standards Amendments of 1974 (Pub. L. 93-259), 88 Stat. 55), extends the Act's minimum wage, overtime, equal pay and recordkeeping requirements to most public agency employees. In the case of certain public agencies (i.e., those having employees engaged in fire protection and law enforcement activities, including security personnel in correctional institutions), application of the Act's overtime provisions was delayed until January 1, 1975. This delay was accomplished by new section 13(b)(20) which provided an interim overtime exemption for all such employees regardless of the size of the employing public agency. Effective January 1, 1975, however, the section 13(b)(20) exemption will, by its express terms, be limited to fire protection and law enforcement employees who are employed by a public agency which has, during the workweek, less than five employees so engaged. For larger public agencies having such employees, the Act provides, in section 7(k), a partial overtime exemption which, by its express terms, becomes effective January 1, 1975. These two sections are self-executing and do not depend upon administrative rules or regulations.

On May 17, 1974, however, the Acting Administrator of the Wage and Hour Division, United States Department of Labor, recognizing the need for the issuance of guidelines for interpreting the new and unique overtime exemptions relating to these public agency employees, published in the FEDERAL REGISTER (39 FR 17596) notice of a hearing scheduled for June 3, 1974, to obtain evidence and receive comments regarding the duties, customs, practices, and working conditions of such employees.

The public hearing, which was held as scheduled on June 3, 1974, lasted two full days, during which time 11 individuals and organizations testified and 143 related exhibits were made a part of the hearing record.

Thereafter, on October 30, 1974, the Administrator of the Wage and Hour Division, after reviewing the hearing record in light of the express language and legislative history of the sections 7(k) and 13(b)(20) exemptions, issued proposed regulations (29 CFR Part 553), defining "employees engaged in fire protection and law enforcement activities" and prescribing tentative guidelines for determining hours worked, the work period and tour of duty, and caused the proposed regulations to be published in the FEDERAL REGISTER (39 FR 38663).

The proposed regulations as thus published invited interested persons to submit written comments, suggestions, data or arguments in regard to them on or before December 2, 1974, and, in addition, scheduled a further public hearing for November 18, 1974. In order to give as wide publicity as possible to all affected public agencies, copies of the proposed regulations were mailed directly to the governors of all 50 States, with informational copies going to every State Attorney General and State Fire Marshal, each of whom was requested to bring the proposed regulations to the attention of interested State and local government officials. In addition, approximately 800 copies of the proposed regulations were mailed to individuals, labor organizations, employer organizations, State and local government officials and agencies, as well as to members of the United States Congress.

The further public hearing, announced in the FEDERAL REGISTER on November 1, 1974, was held in Washington, D.C., on November 18-21, 1974, for the purpose of receiving oral suggestions, proposals and comments on the proposed Part 553 from interested persons. Thirty-eight individuals and organizations testified at this second hearing and approximately 300 related exhibits were made a part of the hearing record, which, along with the June 1974 hearing record, is on file with the Chief, Branch of Wage-Hour Standards, Wage and Hour Division, United States Department of Labor, Room 1107, 711 14th Street, NW., Washington, D.C. 20210.

A thorough analysis of all testimony and written material received in connection with the November 1974 hearing has been made, again in conjunction with the express statutory language and pertinent legislative history. This analysis indicated the desirability of making certain changes and additions in 29 CFR Part 553, as proposed, as well as adding new sections to it for the purpose of calling attention to the existence of other Fair Labor Standards Act exemptions which might be available to public agencies affected by new Part 553, as well as to the Act's recordkeeping requirements which are applicable to all covered employers. Other changes in proposed Part 553 expand the term "any employee in fire protection activities" to include employees of forestry conservation agencies who spot forest or brush fires and help in their extinguishment along with other individuals who are called upon to assist during periods of emergencies and high fire danger. Similarly, the term "any employee in law enforcement activities" has been expanded to include "border patrol agents," and modified to indicate that fish and game wardens and criminal investigative agents assigned to such offices as those of a district attorney may be engaged in such activities, depending upon the particular facts. Both of the foregoing terms have been further expanded to indicate that bona fide fire protection and law enforcement employees will not lose their exempt status when they perform "support activities" on a rotational assignment for training or familiarization purposes, or for other reasons due to illness, injury or infirmity; the requirement that law enforcement officers be sworn has been deleted, as has the requirement for completed training. The sections dealing with training (§ 553.7), secondary and joint employment (§ 553.9), volunteers (§ 553.11) and "comp time" (formerly § 553.17 and now § 553.18) have been further clarified, and a new section has been added to explain the general rules for determining compensable hours of work. Numerous other minor changes have been made but they are not discussed in this preamble since they can be readily discerned by comparing the proposed Part 553 with the version now to be issued. It was suggested that changes be made in the current definitions of executive, administrative or professional employees, and these suggestions, although not germane to the section 7(k) or 13(b)(20) exemptions, will be considered when 29 CFR Part 541 is reissued. The arguments criticizing the subsections dealing with mutual aid agreements (§ 553.10) and sleep and meal time (§ 553.15) were carefully considered. No substantive changes were made, however, because these subsections restate legal requirements which cannot be waived or altered by any official of the Department of Labor. Numerous other arguments were directed to the inflationary or cost impact of Part 553. Whatever impact there is, however, is the result of the 1974 Amendments, which, after Congress had considered these same arguments, expressly extended overtime protection to employees engaged in fire protection and law enforcement activities. Moreover, the extent to which the Act will have a cost impact on such public agencies depends, in large part, upon which of the several alternatives open to them the State and local jurisdictions elect to use. Assuming that all jurisdictions elect section 7(k), without any modification in the present tours of duty, the estimated cost impact of the extension of the Act's overtime requirement for calendar year 1975 is estimated to be $27 million for all such jurisdictions.

In issuing Part 553, it is recognized that the Secretary of Labor has been directed by the 1974 Amendments to conduct a study in calendar year 1976 of the hours ordinarily worked by fire protection and law enforcement employees, and to publish the results thereof in the FEDERAL REGISTER (88 Stat. 61). Now, therefore, pending completion of such study or studies, the final version of Part 553 is hereby adopted on an interim basis to read as follows:

Sec.

553.1 Statutory provisions.
553.2 Purpose and scope.

EMPLOYEES ENGAGED IN FIRE PROTECTION AND LAW ENFORCEMENT ACTIVITIES (INCLUDING SECURITY PERSONNEL IN CORRECTIONAL INSTITUTIONS)

Sec.

553.3 Fire protection activities.
553.4 Law enforcement activities.
553.5 20-percent limitation on nonexempt work.
553.6 Public agency employees engaged in both fire protection and law enforcement activities.

Sec.
553.7 Employees attending training facilities.
553.8 Ambulance and rescue service employees.
553.9 Fire protection or law enforcement employees who perform unrelated work for their own agency or for another public agency or private employer.
553.10 Mutual aid.
553.11 Fire protection and law enforcement volunteers.

RULES FOR DETERMINING THE TOUR OF DUTY, WORK PERIOD AND COMPENSABLE HOURS OF WORK

553.12 General statement.
553.13 Tour of duty.
553.14 General rules for determining compensable hours of work.
553.15 Sleeping and meal time as compensable hours of work.
553.16 Work period.
553.17 Early relief.
553.18 Trading time.
553.19 Time off for excess hours or so-called "comp time."
553.20 The "regular rate."
553.21 Records to be kept.

AUTHORITY: Secs. 1–19, 52 Stat. 1060, as amended; 88 Stat. 60; (29 U.S.C. 201–219).

§ 553.1 Statutory provisions.

(a) In extending coverage to certain public agency employees, the Fair Labor Standards Act (hereafter the Act), by virtue of section 13(b)(20), provided a complete overtime exemption for any employee of a public agency who is engaged in fire protection or law enforcement activities (including security personnel in correctional institutions) during the period between the effective date of the 1974 Amendments (May 1, 1974) to and through December 31, 1974. Beginning January 1, 1975, however, this complete overtime exemption may be claimed only with respect to "any employee of a public agency who in any workweek is employed in fire protection activities or any employee of a public agency who in any workweek is employed in law enforcement activities (including security personnel in correctional institutions), if the public agency employs during the workweek less than five employees in fire protection or law enforcement activities, as the case may be."

(b) Beginning January 1, 1975, public agencies not qualifying for the complete overtime exemption provided in section 13(b)(20) will be required to pay overtime compensation to their fire protection and law enforcement employees on a workweek basis as required by section 7(a) of the Act unless they elect to take advantage of the partial overtime exemption provided in section 7(k) which applies, not on a workweek basis, but on a work period basis, as follows:

> • • • No public agency shall be deemed to have violated subsection (a) with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if—
>
> (1) In a work period of 28 consecutive days the employee receives for tours of duty which in the aggregate exceed 240 hours; or
>
> (2) In the case of such an employee to whom a work period of at least 7 but less than 28 days applies, in his work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his work period as 240 hours bears to 28 days, compensation at a rate of not less than one and one-half times the regular rate at which he is employed.
>
> (B) Effective January 1, 1976, section 7(k) is amended by striking out "240 hours" each place it occurs and inserting in lieu thereof "232 hours".
>
> (C) Effective January 1, 1977, such section is amended by striking out "232 hours" each place it occurs and inserting in lieu thereof "216 hours".
>
> (D) Effective January 1, 1978, such section is amended—
>
> (i) By striking out "exceed 216 hours" in paragraph (1) and inserting in lieu thereof "exceed the lesser of (A) 216 hours, or (B) the average number of hours (as determined by the Secretary pursuant to section 6(c)(3) of the Fair Labor Standards Amendments of 1974) in tours of duty of employees engaged in such activities in work periods of 28 consecutive days in calendar year 1975"; and
>
> (ii) By striking out "as 216 hours bears to 28 days" in paragraph (2) and inserting in lieu thereof "as 216 hours (or if lower, the number of hours referred to in clause (B) of paragraph (1)) bears to 28 days • • •.

(c) These statutory provisions, as is apparent from their terms, are limited to public agencies and do not apply to any private organization engaged in furnishing fire protection or law enforcement services, and this is so even if the services are provided under contract with a public agency.

(d) In determining whether a public agency qualifies for the section 13(b)(20) exemption after January 1, 1975, the fire protection and law enforcement activities are considered separately. Thus, for example, if a public agency employs less than five employees in fire protection activities but five or more employees in law enforcement activities (including security personnel in a correctional institution), it may claim the exemption for the fire protection employees but not for the law enforcement employees. No distinction is made between full-time and part-time employees, and both must be counted in determining whether the exemption applies. Bona fide volunteers may be excluded. This determination of the number of employees engaged in each of the two named activities is made on a workweek basis.

(e) In addition to the special exemptions provided in sections 7(k) and 13(b)(20), which are the subject matter of Parts 53, the Act provides other exemptions which, depending upon the facts, may be claimed for certain employees in lieu of such special exemptions. For example, section 13(a)(1) provides a complete exemption for any employee employed in a bona fide executive, administrative or professional capacity, as those terms are defined and delimited in 29 CFR Part 541, and that exemption may be claimed for any fire protection or law enforcement employee who meets all of the tests specified in Part 541 relating to duties, responsibilities and salary. Thus, although police captains are clearly employees engaged in law enforcement activities, they may also, depending upon the facts, qualify for the section 13(a)(1) exemption, in which event the employing agency may claim that exemption for such employees in lieu of the section 7(k) or 13(b)(20) exemption. Similarly, certain criminal investigative agents may qualify as administrative employees, in which event the employing agency may elect which of the applicable exemptions it will claim for such employees. In no event, however will the election to take the section 13(a)(1) exemption for an employee who qualifies for it result in excluding that employee from the count that must be made under § 553.1(d) in determining whether the employer may claim for its other employees the section 13(b)(20) exemption.

§ 553.2 Purpose and scope.

The purpose of Part 553 is to define the pertinent statutory terms used in sections 7(k) and 13(b)(20) and to set forth the rules by which the Administrator of the Wage and Hour Division will determine the compensable hours of work, tour of duty and work period in applying the section 7(k) exemption.

EMPLOYEES ENGAGED IN FIRE PROTECTION AND LAW ENFORCEMENT ACTIVITIES (INCLUDING SECURITY PERSONNEL IN CORRECTIONAL INSTITUTIONS)

§ 553.3 Fire protection activities.

(a) As used in section 7(k) and 13(b)(20) of the Act, the term "any employee in fire protection activities" refers to any employee (1) who is employed by an organized fire department or fire protection district and who, pursuant to the extent required by State statute or local ordinance, has been trained and has the legal authority and responsibility to engage in the prevention, control or extinguishment of a fire of any type and (2) who performs activities which are required for, and directly concerned with the prevention, control or extinguishment of fires, including such incidental non-firefighting functions as housekeeping, equipment maintenance, lecturing, attending community fire drills and inspecting homes and schools for fire hazards. The term would include all such employees, regardless of their status as "trainee," "probationary," or "permanent" employee, or of their particular speciality or job title (e.g., firefighter, engineer, hose or ladder operator, fire specialist, fire inspector, lieutenant, captain, inspector, fire marshal, battalion chief, deputy chief, or chief), and regardless of their assignment to support activities of the type described in paragraph (d) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity. The term would also include rescue and ambulance service personnel if such personnel form an integral part of the public agency's fire protection activities. See § 553.7.

(b) The term "any employee in fire protection activities" also refers to employees who work for forest conservation agencies or other public agencies charged with forest fire fighting responsibilities, and who direct or engage in (1) fire spotting or lookout activities, or (2) fighting fires on the fireline or from aircraft or (3) operating tank trucks, bulldozers and tractors for the purpose of clearing fire

breaks. The term includes all persons so engaged, regardless of their status as full time or part time agency employees or as temporary or casual workers employed for a particular fire or for periods of high fire danger, including those who have had no prior training. It does not include such agency employees as biologists and office personnel who do not fight fires on a regular basis, except, of course, during those emergency situations when they are called upon to spend substantially all (i.e., 80 percent or more) of their time during the applicable work period in one or more of the activities described in paragraph (b) (1), (2) and (3) of this section. Additionally, for those persons who actually engage in these fire protection activities, the simultaneous performance of such related functions as housekeeping, equipment maintenance, tower repairs and/or the construction of fire roads, would also be within the section 7(k) or 13(b)(20) exemption.

(c) Not included in the term "employee in fire protection activities" are the so-called "civilian" employees of a fire department, fire district, or forestry service who engage in such support activities as those performed by dispatchers, alarm operators, apparatus and equipment repair and maintenance workers, camp cooks, clerks, stenographers, etc.

§ 553.4 Law enforcement activities.

(a) As used in sections 7(k) and 13(b)(20) of the Act, the term "any employee in law enforcement activities" refers to any employee (1) who is a uniformed or plainclothed member of a body of officers and subordinates who are empowered by statute or local ordinance to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power of arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics.

Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as "trainee," "probationary" or "permanent" employee, and regardless of their assignment to duties incidental to the performance of their law enforcement activities such as equipment maintenance, and lecturing, or to support activities of the type described in paragraph (f) of this section, whether or not such assignment is for training or familiarization purposes, or for reasons of illness, injury or infirmity. The term would also include rescue and ambulance service personnel if such personnel form an integral part of the public agency's law enforcement activities. See § 553.8.

(b) Typically, employees engaged in law enforcement activities include city police; district or local police; sheriffs, under sheriffs or deputy sheriffs who are regularly employed and paid as such; court marshals or deputy marshals; constables and deputy constables who are regularly employed and paid as such; border control agents; state troopers and highway patrol officers. Other agency employees not specifically mentioned may, depending upon the particular facts and pertinent statutory provisions in that jurisdiction, meet the three tests described above. If so, they will also qualify as law enforcement officers. Such employees might include, for example, fish and game wardens or criminal investigative agents assigned to the office of a district attorney, an attorney general, a solicitor general or any other law enforcement agency concerned with keeping public peace and order and protecting life and property.

(c) Some of the law enforcement officers listed above, including but not limited to certain sheriffs, will not be covered by the Act if they are elected officials and if they are not subject to the civil service laws of their particular State or local jurisdition. Section 3(e)(2)(C) of the Act excludes from its definition of "employee" elected officials and their personal staff under the conditions therein prescribed. 29 U.S.C. 203(e)(2)(C). Such individuals, therefore, need not be counted in determining whether the public agency in question has less than five employees engaged in law enforcement activities for purposes of claiming the section 13(b)(20) exemption.

(d) Employees who do not meet each of the three tests described above are not engaged in "law enforcement activities," as that term is used in sections 7(k) and 13(b)(20). Such employees would typically include (1) building inspectors (other than those defined in § 553.3(a)), (2) health inspectors, (3) animal control personnel, (4) sanitarians, (5) civilian traffic employes who direct vehicular and pedestrian traffic at specified intersections or other control points, (6) civilian parking checkers who patrol assigned areas for the purpose of discovering parking violations and issuing appropriate warnings or appearance notices, (7) wage and hour compliance officers, (8) equal employment opportunity compliance officers, (9) tax compliance officers, (10) coal mining inspectors, and (11) building guards whose primary duty is to protect the lives and property of persons within the limited area of the building.

(e) The term "any employee in law enforcement activities" also includes, by express reference, "security personnel in correctional institutions." A correctional institution is any government facility maintained as part of a penal system for the incarceration or detention of persons suspected or convicted of having breached the peace or committed some other crime. Typically, such facilities include penitentiaries, prisons, prison farms, county, city and village jails, precinct house lockups and reformatories. Employees of correctional institutions who qualify as security personnel for purposes of the section 7(k) exemption are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions, regardless of whether their duties are performed inside the correctional institution or outside the institution (as in the case of road gangs). These employees are considered to be engaged in law enforcement activities regardless of their rank (e.g., warden, assistant warden or guard) or of their status as "trainee," "probationary," or "permanent" employee, and regardless of their assignment to duties incidental to the performance of their law enforcement activities, or to support activities of the type described in paragraph (f) of this section, whether or not such assignment is for training or familiarization purposes or for reasons of illness, injury or infirmity.

(f) Not included in the term "employee in law enforcement activities" are the so-called "civilian" employees of law enforcement agencies or correctional institutions who engage in such support activities as those performed by dispatcher, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks and stenographers. Nor does the term include employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching, or in psychological, medical and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties.

§ 553.5 20-percent limitation on nonexempt work.

Employees engaged in fire protection or law enforcement activities, as described in §§ 553.3 and 553.4, may also engage in some nonexempt work which is not performed as an incident to or in conjunction with their firefighting activities. For example, those who work for forest conservation agencies may, during slack periods, plant trees and perform other conservation activities. The performance of such nonexempt work will not defeat either the section 7(k) or 13(b)(20) exemption unless it exceeds 20 percent of the total hours worked by the particular employee during the applicable work period.

§ 553.6 Public agency employees engaged in both fire protection and law enforcement activities.

Some public agencies have employees (sometimes referred to as public safety officers) who engage in both law enforcement activities and fire protection activities, depending upon the agency needs at the time. This dual assignment would not defeat either the section 7(k) or 13(b)(20) exemption, provided that each of the activities performed meets the appropriate tests set forth in §§ 553.3(a), 553.4(a) and (e). This is so regardless of how the employees divide their time between the two types of activities. If, however, either the fire protection or law enforcement activities do not meet the tests of § 553.3(a) or §§ 553.4(a) and (e), and if such nonqualifying activities, standing alone or in conjunction with

some other nonexempt activity, exceed 20 percent of the employee's total hours of work in the work period, neither exemption would apply.

§ 553.7 Employees attending training facilities.

The attendance at a bona fide fire or police academy or other training facility, when required by the employing public agency, does not constitute engagement in exempt activities, unless the employee in question meets all the tests described in § 553.3(a) or § 553.4(a), as the case may be, in which event such training or further training would be incidental to, and thus part of, the employee's fire protection or law enforcement activities. Only the time spent in actual training or retraining constitutes compensable hours of work. All other time, such as that spent in studying and other personal pursuits, is not compensable hours of work even in situations where the employee is confined to campus or to barracks 24 hours a day. See § 553.14. Attendance at training facilities and schools, which is not required but which may incidentally improve the employee's performance of his or her regular tasks or prepare the employee for further advancement, need not be counted as working time even though the public agency may pay for all or part of such training.

§ 553.8 Ambulance and rescue service employees.

(a) Ambulance and rescue service employees of a public agency other than a fire protection or law enforcement agency may be treated as employees engaged in fire protection or law enforcement activities of the type contemplated by sections 7(k) and 13(b)(20) if their services are substantially related to firefighting or law enforcement activities in that (1) the ambulance and rescue service employees have received special training in the rescue of fire and accident victims or firefighters injured in the performance of their firefighting duties, and (2) the ambulance and rescue service employees are regularly dispatched to fires, riots, natural disasters and accidents.

(b) Ambulance and rescue service employees of public agencies subject to the Act prior to the 1974 Amendments do not come within the section 7(k) or section 13(b)(20) exemptions, since it was not the purpose of those Amendments to deny the Act's protection of previously covered employees. This would include employees of public agencies engaged in the operation of a hospital; an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institutions; a school for mentally or physically handicapped or gifted children; an elementary or secondary school; an institution of higher education; a street, suburban, or interurban electric railway; or local trolley or motor bus carrier.

(c) Ambulance and rescue service employees of private organizations do not come within the section 7(k) or section 13(b)(20) exemptions even if their activities are substantially related to the fire protection and law enforcement activities performed by a public agency.

§ 553.9 Fire protection or law enforcement employees who perform unrelated work for their own agency or for another public agency or private employer.

(a) If an employee regularly engaged in exempt fire protection or law enforcement activities also works for another department or agency of the same State or political subdivision, such employee will lose the exemption if the other work is unrelated to fire protection or law enforcement activities. For example, if a city police officer also works as a clerk in the city health department, which is clearly nonexempt work, the city could not claim the section 7(k) exemption for such employee and would have to pay overtime compensation for all hours worked for the two agencies in excess of 40 per week. See 29 CFR 778.117 for an explanation of how overtime compensation is computed in such a situation. If, however, such employee's other job for the city is also exempt work, as, for example lifeguarding at a seasonally operated city beach which work is exempt from both the Act's minimum wage and overtime provisions by virtue of section 13(a)(3), the city would be entitled to claim the lesser of the two exemptions which, in the example given would be the section 7(k) exemption, and it would have to pay overtime compensation only for the combined hours (if any) which are in excess of the employee's tour of duty.

(b) These same principles also apply where the fire protection or law enforcement employee works for another public or private employer who, although entirely separate from the employee's regular employer, is nonetheless a joint employer with the fire protection or law enforcement agency. Usually, of course, working for a separate employer does not affect the employee's status as an employee engaged in fire protection or law enforcement activities or the employing agency's right to claim the section 7(k) or 13(b)(20) exemption. In some limited circumstances, however, the relationship between the fire protection or law enforcement agency and the other employer is so closely related that they must be treated as joint employers. Such a joint employment relationship exists where the work done by the employee simultaneously benefits both employers and where it is done pursuant to an arrangement between the employers to share or interchange employees, or where one employer acts directly or indirectly in the interest of the other employer in relation to the same employee, or where the employers are so closely associated that they share control of the employee, directly or indirectly. See 29 CFR Part 791.

(c) To illustrate, if a police officer independently finds after-hours employment as a repair mechanic in a gas station or as a security guard in a department store, there would be no joint employment relationship between the police department and the second employer. This would be so even if the police officer wore his or her uniform at the second job and even if the police department engaged in such "brokering" functions as maintaining a list of officers available for extra outside work and referring employment requests to such officers. Nor would it matter whether the police department also established a wage scale for such extra outside work and approved it so as to avoid any conflict of interest problem. On the other hand, if the second employer is required by local ordinance or otherwise to hire a police officer to control crowds at a stadium or to direct traffic at a sports arena or during a parade, such employment benefits both the police department and the second employer, and, since both act in the interest of the other, a joint employment relationship is created.

§ 553.10 Mutual aid.

If employees engaged in fire protection activities voluntarily respond to a call for aid from a neighboring jurisdiction, they are volunteers in rendering such aid and their employer is not required to compensate them for the time spent in the neighboring jurisdiction. See § 553.10. If, however, the employees respond to such a call because their employer has a mutual aid agreement with a neighboring jurisdiction or if the employees are directed by their agency to respond, all hours worked by these employees in rendering such aid must be added to their regular hours of work for purposes of the section 7(k) exemption.

§ 553.11 Fire protection and law enforcement volunteers.

(a) Individuals who volunteer to perform fire protection or law enforcement activities, usually on a part-time basis and as a public service, are not considered to be employees of the public agency which receives their services. Such individuals do not lose their volunteer status because their tuition may have been paid or they may have been reimbursed for attending special classes or other training to learn about fire protection or law enforcement or because they are reimbursed for approximate out-of-pocket expenses incurred incidental to answering a call or to the cost of replacing clothing or other items of equipment which may have been consumed or damaged in responding to a call. Nor is the volunteer status of such individuals lost where the only material recognition afforded them is the holding of an annual party, the furnishing of a uniform and related equipment, or their inclusion in a retirement or relief fund, a workman's compensation plan or a life or health insurance program, or the payment of a nominal sum on a per call or other basis which may either be retained, in whole or in part, by the volunteer or donated to finance various social activities conducted by or under the auspices of the agency. Payments which average $2.50 per call will be considered nominal. Payments in excess of this amount may also qualify as nominal, depending upon the distances which must be traveled and other expenses incurred by the volunteer. For purposes of this paragraph, it is not necessary for the

agency to maintain an exact record of expenses.

(b) Where, however, individuals engaged in fire protection or law enforcement activities receive more than a nominal amount or payment on a basis which does not reasonably approximate the expenses incurred by them, they are employees rather than volunteers and must be paid in accordance with the Act's requirements.

(c) Volunteers engaged in fire protection or law enforcement activities may include individuals who are employed in some other capacity by the same public agency. For example, a civilian PBX operator of a public agency engaged in law enforcement activities may also be a volunteer member of the local police reserve force. Similarly, an employee of a village Department of Parks and Recreation may serve as a volunteer firefighter in his or her local community.

(d) Police officers or firefighters of one jurisdiction may engage in fire protection or law enforcement activities on a voluntary basis for another jurisdiction where there is no mutual aid agreement or other relationship between the two jurisdictions. Such employees cannot, however, perform fire protection or law enforcement activities on a voluntary basis for their own agency, although they can engage in other activities not directly related to these primary functions. For example, a paramedic employed by a city fire department could volunteer to give a course in first aid at the city hospital and a police officer could volunteer to counsel young juveniles who are members of a boy's club or other similar organizations.

RULES FOR DETERMINING THE TOUR OF DUTY, WORK PERIOD AND COMPENSABLE HOURS OF WORK

§ 553.12 General statement.

(a) In extending the Act's coverage to public agency employees engaged in fire protection and law enforcement activities, Congress, recognizing the uniqueness of these activities, established section 7(k) which permits the computation of hours worked on the basis of a work period (which can be longer than a workweek) and which bases the overtime requirements on a work period concept. In adding this provision, Congress made it clear that some adjustment would have to be made in the usual rules for determining compensable hours of work (Conf. Rept. 93–953, p. 27) and where the employer elects section 7(k), these rules must be used for purpose of both the Act's minimum wage and overtime requirements.

(b) If, however, any public agency chooses not to claim the partial overtime exemption provided in section 7(k), but elects to pay overtime compensation as required by section 7(a), it need not concern itself with the "tour of duty" or "work period" discussion which follows or with the special rules relating to the determination of what constitutes compensable hours of work since, in that event, overtime would be payable on a workweek basis and the regular method of computing "hours worked" as set forth in 29 CFR Part 785 would apply. Such an agency would not, however, be able to take advantage of the special provisions of Part 553 relating to the balancing of hours over an entire work period, trading time and early relief.

§ 553.13 Tour of duty.

The term "tour of duty," as used in section 7(k), means the period during which an employee is on duty. It may be a scheduled or unscheduled period. Scheduled periods refer to shifts, i.e., the period of time which elapses between scheduled arrival and departure times, or to scheduled periods outside the shift, as in the case of a special detail involving crowd control during a parade or other such event. Unscheduled periods refer to time spent in court by police officers, time spent handling emergency situations, or time spent after a shift in order to complete required work. When an employee actually works fewer hours than those scheduled, the employee's tour of duty is reduced accordingly. Nothing in section 7(k) precludes employers (acting pursuant to collective bargaining agreements or in accordance with their own authority) from establishing new tours of duty for their employees, provided, however, that the change is intended to be permanent at the time that it is made.

§ 553.14 General rules for determining compensable hours of work.

(a) Compensable hours of work generally include all of that time during which an employee is on duty or on the employer's premises or at a prescribed workplace, as well as all other time during which the employee is suffered or permitted to work for the employer. Such hours thus include all pre-shift and post-shift activities which are an integral part of the employee's principal activity or which are closely related and indispensable to its performance, such as attending roll call, writing up and completing reports or tickets, and washing and re-racking fire hose. It also includes time which an employee spends in attending required training classes. See § 553.7. Time spent away from the employer's premises under conditions so circumscribed that they restrict the employee from effectively using the time for personal pursuits, also constitutes compensable hours of work. For example, a police officer who is required to remain at home until summoned to testify in a pending court case and who must be in a constant state of instant readiness, is engaged in compensable hours of work. On the other hand, employees who are confined to barracks while attending police academies are not on duty during those times when they are not in class or at a training session since they are free to use such time for personal pursuits. This would also be true in a forest fire situation where employees, who have been relieved from duty and transported away from the fire line, are, for all practical purposes, required to remain at the fire camp because their homes are too far distant for commuting purposes. Also, a police officer who has completed his or her tour of duty but who is given a patrol car to drive home and use on private business, is not working simply because the radio must be left on so that the officer can respond to emergency calls. Of course, the time spent in responding to such calls would be compensable, except in those instances where it is miniscule and cannot, as an administrative matter, be recorded for payroll purposes.

(b) Additional examples of compensable and noncompensable hours of work are set forth in 29 CFR Part 785 which is fully applicable to employees for whom the section 7(k) exemption is claimed except to the extent that it has been modified below in § 553.15.

§ 553.15 Sleeping and meal time as compensable hours of work.

(a) Where the employer has elected to use the section 7(k) exemption, sleep and meal time cannot be excluded from compensable hours of work where (1) the employee is on duty for less than 24 hours, which is the general rule applicable to all employees (29 CFR 785.21) and (2) where the employee is on duty for exactly 24 hours, which represents a departure from 29 CFR 785.21.

(b) Sleep and meal time may, however, be excluded in the case of fire protection or law enforcement employees who are on duty for more than 24 hours, but only if there is an express or implied agreement between the employer and the employee to exclude such time. In the absence of any such agreement, sleep and meal time will constitute hours of work. If, on the other hand, the agreement provides for the exclusion of sleep time the amount of such time shall, in no event, exceed 8 hours, in a 24-hour period, which is also the amount of time permitted when the agreement fails to specify the duration of sleep time. If such sleep time is interrupted by a call to duty, the interruption must be counted as hours worked, and if the period is interrupted to such an extent that the employee cannot get a reasonable night's sleep (which, for enforcement purposes, means at least 5 hours), the entire time must be counted as hours of work.

§ 553.16 Work period.

(a) As used in section 7(k), the term "work period" refers to any established and regularly recurring period of work which, under the terms of the Act and legislative history, cannot be less than 7 consecutive days nor more than 28 consecutive days. Except for this limitation, the work period can be of any length, and it need not coincide with the pay period or with a particular day of the week or hour of the day. Once the beginning time of an employee's work period is established, however, it remains fixed regardless of how many hours are worked within that period. The beginning of the work period, may, of course, be changed, provided that the change is intended to be permanent at the time that it is made.

(b) An employer may have one work period applicable to all of its employees, or different work periods for different employees or groups of employees. Prior

approval from the Wage and Hour Division is not required. The employer must, however, make some notation in its records which shows the work period for each employee and which indicates the length of that period and its starting time.

(c) For those employees who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required until the ratio between the number of days in the work period and the hours worked during such work period exceeds the ratio between a work period of 28 days and 240 hours, at which point all additional hours are paid for at one and one-half times the employee's regular rate of pay.

(d) The ratio of 240 hours to 28 days is 8.57143 hours per day (8.57 rounded). Accordingly, overtime compensation at a rate of not less than one and one-half times the employee's regular rate of pay must be paid during calendar year 1975 for all hours worked in excess of the following maximum hours standards:

Work period (days):	Maximum hours standard
28	240
27	231
26	223
25	214
24	206
23	197
22	189
21	180
20	171
19	163
18	154
17	146
16	137
15	129
14	120
13	111
12	103
11	94
10	86
9	77
8	69
7	60

§ 553.17 Early relief.

It is a common practice among employees engaged in fire protection activities to relieve employees on the previous shift or tour of duty prior to the scheduled starting time. Such early relief may occur pursuant to employee agreement, either expressed or implied. This practice will not have the effect of increasing the number of compensable hours of work where it is voluntary on the part of the employees and does not result, over a period of time, in their failure to receive proper compensation for all hours actually worked. On the other hand, if the practice is required by the employer the time involved must be added to the employee's tour of duty and treated as compensable time.

§ 553.18 Trading time.

Another common practice or agreement among employees engaged in fire protection or law enforcement activities is that of substituting for one another on regularly scheduled tours of duty (or for some part thereof) in order to permit an employee to absent himself or herself from work to attend to purely personal pursuits. This practice is commonly referred to as "trading time." Although the usual rules for determining hours of work would require that the additional hours worked by the substituting employee be counted in computing his or her total hours of work, the legislative history makes it clear that Congress intended the continued use of "trading time" "both within the tour of duty cycle * * * and from one cycle to another within the calendar or fiscal year without the employer being subject to [additional overtime compensation] by virtue of the voluntary trading of time by employees" (Congressional Record, March 28, 1974, Page S 4692). Accordingly, the practice of "trading time" will be deemed to have no effect on hours of work if the following criteria are met: (a) The trading of time is done voluntarily by the employees participating in the program and not at the behest of the employer; (b) the reason for trading time is due, not to the employer's business operations, but to the employee's desire or need to attend to personal matter; (c) a record is maintained by the employer of all time traded by his employees; (d) the period during which time is traded and paid back does not exceed 12 months.

§ 553.19 Time off for excess hours or so-called "comp time."

(a) As a general rule, all overtime hours must be paid for in cash and not in time off. Section 7(k) creates a partial exception to this general rule by allowing employers to balance the employee's hours over a work period, which, as indicated in § 553.16, may be longer than a workweek, and to pay the overtime compensation required by the Act only if the employee's hours exceed the total number of hours established by section 7(k) for that particular work period. Thus, for example, if the duration of the employee's work period is 28 consecutive days, and he or she works 80 hours in the first week, but only 60 in the second week and 50 in each of the next 2 weeks, no additional overtime compensation would be required, since the total number of hours worked does not exceed 240. Of course, there might be a State law requiring overtime compensation at some earlier point (e.g., for any hours worked in excess of 40 in a week), but that obligation could be met with "comp time," if comp time is permissible under State law and if the wages paid to the employee for all hours worked during the entire 28-day tour of duty equal at least the minimum wage set forth in section 6(b) of the Act (29 U.S.C. 206(b)). Similarly, an employee whose work period is 1 week could be paid in "comp time" for all excess hours up to 60, provided that comp time is a permissible form of payment under State law and provided, also, that the wages paid to the employee equal at least the statutory minimum wage. Such "comp time" could be taken at any time authorized by state law or local ordinance.

(b) If the employee in either of the examples given above works more than the stated number of hours for a 7-day or 28-day work period, overtime compensation must be paid at one and one-half times the employee's regular rate. In computing the employee's regular rate, the cash equivalent of any comp time must be included. See also § 553.20.

§ 553.20 The "regular rate".

The rules for computing an employee's "regular rate," for purposes of the Act's overtime requirements, are set forth in 29 CFR Part 778. These rules are fully applicable to employees for whom the section 7(k) exemption is claimed, except that wherever the word "workweek" is used the word "work period" should be substituted.

§ 553.21 Records to be kept.

The recordkeeping requirements of the Act are set forth in 29 CFR Part 516. These requirements are applicable to public agencies engaged in fire protection and law enforcement activities, except that where section 7(k) is claimed, the records for those employees can be kept on a work period, instead of a workweek, basis. In addition, the records must show, as indicated in § 553.16(b), the work period for each employee.

Signed at Washington, D.C. this 18th day of December 1974.

BETTY SOUTHARD MURPHY,
Administrator.

[FR Doc.74-29843 Filed 12-19-74;8:45 am]

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PART IV

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions, Modifications, and Supersedeas Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions, Modifications, and Supersedeas Decisions

General wage determination decisions. General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 C.F.R. 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138), and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and supersedeas decisions to general wage determination decisions. Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138), and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

New general wage determination decisions.

Alabama	AR–4067

Modifications to general wage determination decisions. The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State):

California:	
AR–1044; AR–1045	Nov. 8, 1974
Colorado:	
AR–1032; AR1033; AR–1034; AR–1035	Sept. 27, 1974
Connecticut:	
AR–3094	Aug. 16, 1974
Hawaii:	
AR–1052	Dec. 6, 1974
Illinois:	
AR–3074; AR–3076	Aug. 9, 1974
Louisiana:	
AR–78	Nov. 15, 1974
Montana:	
AR–1017	Aug. 16, 1974
AR–1030	Sept. 27, 1974
New Jersey:	
AR–2078	Nov. 15, 1974
AR–2080; AR–2082	Nov. 22, 1974
AR–2088	Nov. 29, 1974
Oklahoma:	
AR–80	Nov. 22, 1974
Pennsylvania:	
AQ–2046	Mar. 8, 1974
AQ–2061; AQ–2064	Mar. 29, 1974
AQ–2062	Apr. 5, 1974
AR–2001	July 5, 1974
AR–2033; AR–2034	Sept. 27, 1974
Texas:	
AR–45	Sept. 20, 1974
AR–46; AR–53; AR–83	Sept. 27, 1974
AR–84	Dec. 6, 1974
Washington:	
AR–1051	Do.
Wisconsin:	
AQ–2095	Feb. 15, 1974

Supersedeas decisions to general wage determination decisions. The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decision being superseded):

Maryland:	
AR–2023 (AR–2003)	Aug. 23, 1974
Michigan:	
AR–3104; AR–3107; AR–3110 (AR–3177)	Aug. 16, 1974
AR–3140 (AR–3178)	Oct. 11, 1974
Mississippi:	
AQ–4113 (AR–4066)	May 17, 1974
Nevada:	
AQ–1061 (AR–1058); AQ–1062 (AR–1059)	Feb. 15, 1974
New York:	
AR–2051 (AR–2006)	Sept. 13, 1974
North Dakota:	
AR–1036 (AR–1035)	Sept. 27, 1974
South Dakota:	
AR–1026 (AR–1056)	Aug. 30, 1974
Texas:	
AR–47 (AR–60)	Sept. 27, 1974

Signed at Washington, D.C., this 13th day of December 1974.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

NOTICES

NEW DECISION

STATE: Alabama
DECISION NO.: AR-4067
DESCRIPTION OF WORK: Building construction (excluding single family homes and garden type apartments up to and including 4 stories).

COUNTY: Madison
DATE: Date of Publication

43-AL-I

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apprentice
Asbestos workers	$7.71	.30	.30		.05
Boilermakers	7.50	.40	.90		.02
Bricklayers	8.20				
Carpenters	7.12				.03
Cement masons	6.75				
Electricians; Linemen	7.65	.30	1%		½ of 1%
Glaziers	6.00				
Laborers:					
Laborers; Mason tenders	4.11	.15	.20		
Air tool op. (jackhammer, vibrator); Mortar mixers	4.44	.15	.20		
Millwrights	7.49				.03
Painters, brush	4.50				
Plumbers; Pipefitters	8.10	.40	.35		.10
Roofers	4.85				
Sheet metal workers	8.75	.40	.35		.05
Truck drivers	3.67				
Power equipment operators:					
Backhoe; Crane; Front end loader	6.00				
Compressor	6.78	.25	.35		
Tractor	7.98	.25	.35		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr
DECISION #AR-1044 - Mod. #2 (39 FR 38677 - November 8, 1974) Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California					
Change:					
Electricians					
Los Angeles County					
Electricians	$ 10.23	.71	1% + 1.25		.02
Cable Splicers	10.53	.71	1% + 1.25		.02
Traffic Signal & Street Lighting:					
Electricians	10.23	.71	1% + 1.25		.02
Utility Technician No. 1	7.67	.71	1% + 1.25		.02
Utility Technician No. 2	7.16	.71	1% + 1.25		.02
Tunnel					
Electricians	11.25	.71	1% + 1.25		.02
Cable Splicers	11.55	.71	1% + 1.25		.02
Sound Technicians:					
Sound Technicians (on building construction)	10.19	.50	1%		
Sound Technician (on modification of existing building)	8.21	.50	1%		
Line Construction:					
Groundmen	7.86		1%		
Linemen	10.48		1%		
Cable Splicers	10.78		1%		
DECISION #AR-1045 - Mod. #1 (39 FR 39687 - November 8, 1974) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California					
Change:					
Electricians					
Los Angeles County					
Electricians	$ 10.23	.71	1% + 1.25		.02
Cable Splicers	10.53	.71	1% + 1.25		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr
DECISION #AR-1032 - Mod. #3 (39 FR 34957-September 27, 1974) Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado					
Change:					
Building Construction					
Painters:					
Park County (southern half)					
Brush, Roller, Taper, hand texture	$7.20	.50	.20		.03
Paperhanger, Steel Painter	7.70	.50	.20		.03
Spray	7.80	.50	.20		.03
Steel Spray	8.30	.50	.20		.03
Roofers:					
Eagle and southern portions of Lake, Jefferson, Park, Douglas, and Elbert Counties	7.91	.42	.10		
Tile Layers:					
Remaining Counties	7.60	.53	.40	.25	
DECISION #AR-1033 - Mod. #2 (39 FR 34967-September 27, 1974) Garfield, Gunnison, Mesa, Montrose, and Pitkin Counties, Colorado					
Change:					
Building Construction					
Asbestos workers	9.01	.38	.72		
Glaziers	8.37				
Millwrights	7.58	.48	.60	.40	.05
Painters:					
Brush and Roller	8.51	.50	.45		.04
Drywall Finisher, Paperhanger	8.71	.50	.45		.04
Spray, Swing Stage	8.99	.50	.45		.04
Roofers	7.91	.42	.10		

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #AR-1034 - Mod. #2 (39 FR 34970-September 27, 1974) Las Animas and Pueblo Counties, Colorado					
Change:					
Building Construction					
Asbestos workers	$9.01	.38	.72		
Glaziers	8.37				
Roofers	7.91	.42	.10		
DECISION #AR-1035 - Mod. #2 (39 FR 34976-September 27, 1974) El Paso County, Colorado					
Change:					
Building Construction					
Asbestos Workers	9.01	.38	.72		
Electricians	9.07	.42	1%+.25		.01
Glaziers	8.37				
Painters:					
Brush, Roller, Tapers, hand texture	7.20	.50	.20		.03
Paperhanger, Steel Painter	7.70	.50	.20		.03
Spray	7.80	.50	.20		.03
Steel Spray	8.30	.50	.20		.03
Plasterers	8.69				.01
Plumbers, Pipefitters	8.18	.55	.65	1.17	.05
Roofers	7.91	.42	.10		
Soft Floor Layers	7.10	.35	.45	.30	.05
DECISION #AR-3094 - Mod. #4 (39 FR 29730 - August 16, 1974) Fairfield County, Connecticut					
Change:					
Electricians:					
Norwalk-Westport-Wilton-Weston	$8.85	.43	1% +.30	6%	1%
DECISION #AR-1052 - Mod. #1 (39 FR 42819-December 6, 1974) Statewide, Hawaii					
Change:					
Lathers	$8.65	.44	.60		.01

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #AR-3074 - Mod. #1 (39 28836 - August 9, 1974) Williamson County, Illinois					
CHANGE:					
Asbestos Workers	$9.35	.35	.30		
Boilermakers	9.15	.60	1.00		.01
Carpenters:					
Carpenters & Soft Floor Layers	7.13	.35	.35		.02
Millwrights & Piledrivermen	7.13	.35	.35		.02
Electricians	9.65	.30	1%+.20		½ of 1%
Elevator Constructors	8.39	.39	.26	2½%+a&b	.02
Helpers	70%JR	.39	.26	2½%+a&b	.02
Helpers (Prob.)	50%JR				
Ironworkers	7.55	.45	.50		.02
Laborers	6.75		.30		.035
Sprinkler Fitters	9.40	.50	.70		.08
OMIT:					
Boilermakers' helpers	8.10	.40	.95		.01
DECISION #AR-3076 - Mod. #1 (39 28831 - August 9, 1974) Winnebago County, Illinois					
CHANGE:					
Bricklayers & Stonemasons	8.85	.30	.40	.45	.02
Carpenters; Soft Floor Layers & Piledrivermen	8.70	.25	.35		
Electricians	9.60	.30	1%+.10		1%
Elevator Constructors	8.07	.39	.24	2½%+a&b	.02
Helpers	70%JR	.39	.26	2½%+a&b	.02
Helpers (Prob.)	50%JR				
Line Construction:					
Linemen; Digger Opr.	9.25	.35	1%		.25%
Groundmen Equip. Opr.	6.28	.35	1%		.25%
Groundmen	6.06	.35	1%		.25%
Marble-Tile & Terrazzo Workers	8.40	.25		.25	
Painters:					
Brush & Roller	7.80	.30			
Structural Steel (Open)	8.05	.30			
Spray	8.70	.30			
Plumbers & Steamfitters	9.25	.35	.40		.05
Sheet Metal Workers(West ½)n:	8.95	.25	.20		.02
Sprinkler Fitters	9.40	.50	.70		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
DECISION #AR-78 - Mod. #3 (39 FR 40429 - November 15, 1974) Statewide Louisiana					
Change:					
Glaziers:					
Zone 5	$6.40		.10		
Marble setters:					
Zone 5	6.00				
Painters:					
Zone 1:					
Group 1	6.71				
Group 2	6.835				
Group 3	6.91				
Group 4	7.055				
Group 5	7.195				
Terrazzo workers:					
Zone 5	6.00				
Tile setters:					
Zone 5	6.00				

DECISION #AP-1017 - Mod. 4
(39 FR 29803 - August 16, 1974)
Statewide, Montana

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
PAINTERS:					
Beaverhead, Broadwater (southwest portion); Jefferson (southern area, south of the city of Boulder); Madison (west of a line running north-south through the west limits of Harrison and Silver Bow Counties					
Brush	$5.82	.25	.10		
Spray	8.60	.25	.10		
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, Wheatland (south of the City of Harlowtown), Wibaux and Yellowstone Counties					
Brush	5.84	.25	.20		
Steel	6.09	.25	.20		
Spray	6.82	.25	.20		
Cascade, Choteau (south of a line running East and West through the southern limits of Big Sandy), Daniels, Fergus, Glacier (excl. Glacier National Park), Garfield, Judith Basin, Lewis and Clark (northern portion from a line running East and West through the northern limits of Craig), McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, Valley, and Wheatland (northern area from a line running East and West through the southern limits of Harlowtown) Counties					
Painters, brush, preparatory work, Pot tender; Rollers not over 9" for wire mesh, Louvers, Peg boards behind radiators and perforated tile only; Parking lot stripping and related work	6.60	.34	.20		

MODIFICATIONS P. 7

DECISION #AR-1017 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS: (Cont'd)					
Paperhanger; Rollers up to 9" long and brush cutting in ahead of roller	$6.85	.34	.30		
Perfaterer	6.95	.34	.30		
Brush on steel	7.10	.34	.30		
Water and Sandblasting; Application of cold tar products (including epoxies, polyurethanes and acid resistent paints; Spraying and airless spray	8.85	.34	.30		
Roller over 9" long	10.20	.34	.30		
Broadwater, Gallatin, Jefferson, (northern area from a line running East and West five miles south of the southern city limits of Boulder), Lewis and Clark (southern portion from a line running East and West through the southern limits of Craig), Madison (east of the West city limits of Harrison), Meagher, Park, Powell(northern area from a line running East and West through the southern city limits of Helmsville)					
Brush	6.61	.25	.20		
Spray; Steel brush	7.61	.25	.20		
Structural steel brush	8.11	.25	.20		
Steel spray	8.61	.25	.20		
Structural steel spray	9.11	.25	.20		
Blaine, Hill, Liberty and Chouteau (north of the southern limits of the city of Big Sandy) Counties	5.90				
Flathead, Granite (northern area north limits of Phillipsburg), Lake (southern area including City of Ronan), Lincoln, Mineral, Missoula, Powell (northern area through south limits of Helmsville), Ravalli, and Sanders Counties	7.10	.34	.30		.04

MODIFICATIONS P. 8

DECISION #AR-1039 - Mod. #2
(39 FR 34999 - September 27, 1974)
Statewide, Montana

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS:					
Beaverhead, Broadwater (southwest portion); Jefferson (southern area, south of the city of Boulder); Madison (west of a line running north-south through the west limits of Harrison and Silver Bow Counties					
Brush	$5.87	.25	.10		
Spray	8.60	.25	.10		
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, Wheatland (south of the City of Harlowtown), Wibaux and Yellowstone Counties					
Brush	5.84	.25	.20		
Steel	6.09	.25	.20		
Spray	6.82	.25	.20		
Cascade, Choteau (south of a line running East and West through the southern limits of Big Sandy), Daniels, Fergus, Glacier (excl. Glacier National Park), Garfield, Judith Basin, Lewis and Clark (northern portion from a line running East and West through the northern limits of Craig), McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, Valley, and Wheatland (northern area from a line running East and West through the southern limits of Harlowtown) Counties					
Painters, brush, preparatory work; Pot tender; Rollers not over 9" for wire mesh, Louvers, Peg boards behind radiators and perforated tile only; Parking lot stripping and related work	6.60	.34	.20		

DECISION #AR-1039 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
PAINTERS: (Cont'd)					
Paperhanger; Rollers up to 9" long and brush cutting in ahead of roller	$6.85	.34	.30		
Perfataper	6.95	.34	.30		
Brush on steel	7.10	.34	.30		
Water and Sandblasting; Application of cold tar products (including epoxies, polyurethanes and acid resistant paints; Spraying and airless spray	8.85	.34	.30		
Roller over 9" long	10.20	.34	.30		
Broadwater, Gallatin, Jefferson, (northern area from a line running East and West five miles south of the southern city limits of Boulder), Lewis and Clark (southern portion from a line running East and West through the southern limits of Craig), Madison (east of the West city limits of Harrison), Meagher, Park, Powell(northern area from a line running East and West through the southern city limits of Helmsville)					
Brush	6.61	.25	.20		
Spray; Steel brush	7.61	.25	.20		
Structural steel brush	8.11	.25	.20		
Steel spray	8.61	.25	.20		
Structural steel spray	9.11	.25	.20		
Blaine, Hill, Liberty and Chouteau (north of the southern limits of the city of Big Sandy) Counties	5.90				
Flathead, Granite (northern area north limits of Phillipsburg), Lake (southern area including City of Ronan), Lincoln, Mineral, Missoula, Powell (northern area through south limits of Helmsville), Ravalli, and Sanders Counties	7.10	.34	.30		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
DECISION #AR-2080 - Mod. #2 (39 FR 40473 - November 15, 1974) Bergen County, New Jersey					
Change:					
Bricklayers, Cement Masons, Plasterers & Stone Masons: Remainder of County	$9.20	.97	.78		.02
DECISION #AR-2080 - Mod. #2 (39 FR 41130 - November 22, 1974) Burlington County, New Jersey					
Change:					
Bricklayers, Cement Masons, Marble Masons, Plasterers, Stone Masons, Terrazzo Workers, & Tile Setters: Bordentown City, Chesterfield Twp., Bordentown Twp., North Hanover Twp. & Mansfield Twp..	9.15	.55	1.00		.03
Laborers, Building Construction: Bordentown City, Bordentown Twp., Chesterfield Twp., Florence Twp., Burlington Twp., Burlington City, Mansfield Twp., New Hanover Twp., & Springfield Twp.					
Laborers, Mortar Mixers, Mason Tenders, Pneumatic Gas, Electric Tool Operators, Power Buggy, Wreckers & Pipe Layers (Concrete & Clay)	7.00	.40	.35		
Plasterers' Tenders & Hod Carriers	7.10	.40	.35		
DECISION #AR-2080 - Mod. #2 (39 FR 41146 - November 22, 1974) Cumberland County, New Jersey					
Change:					
Bricklayers, Cement Masons, Marble Setters, Plasterers, Stone Masons, Terrazzo Workers & Tile Setters	8.95	.38	.25		.02

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #AR-2088 - Mod. #1 (39 FR 41677 - November 29, 1974) Mercer County, New Jersey					
Change:					
Bricklayers, Stone Masons, Cement Masons, Plasterers, Marble Masons, Terrazzo Workers, & Tile Setters:					
Princeton Boro. & Princeton Twp.:					
Bricklayers, Plasterers, Stone Masons & Cement Masons	$9.15	.55	1.00		.03
Marble Masons	9.15	.55	1.00		.03
Terrazzo Workers	9.15	.55	1.00		.03
Tile Setters	9.15	.55	1.00		.03
Remainder of County	9.15	.55	1.00		.03
Laborers, Building Construction:					
Remainder of County:					
Laborers, Mortar Mixers, Mason Tenders, Pneumatic Gas, Electric Tool Operators, Power Buggy, Wreckers & Pipe Layers (Concrete & Clay)	7.00	.40	.55		
Plasterers' Tenders & Hod Carriers	7.10	.40	.55		
DECISION NO. AR-80 Mod. #1 (39 FR41107 - November 22, 1974) Comanche County, Oklahoma					
Change:					
CARPENTERS:					
Carpenters	6.50	.25	.25		.02
Millwrights	7.00	.25	.25		.02
Piledrivermen	7.00	.25	.25		.02
Power Saw Operator	6.625	.25	.25		.02
Bricklayers-Stonemasons	7.95		.20		.10

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #AR-2001 - Mod. #4 (39 FR 24803 - July 5, 1974) Frankling County, Pennsylvania					
Change:					
Millwrights	$ 7.995	5%	3%+.25	2%	1%
Piledrivermen	9.58	5%	8%		.50 of 1%
Sprinkler Fitters	9.60	.50	.70		.08
DECISION #AR-2033 - Mod. #1 (39 FR 35048 - September 27, 1974) Allegheny County, Pennsylvania					
Change:					
Lathers	8.53	.45	1.10		.01
Millwrights	7 995	5%	3%+.25	2%	1%
Piledrivermen	9.58	5%	8%		.50 of 1%
Plumbers	9.405	.60	.20		.12
Soft Floor Layers	8.96	5%	6%	6%	.5%
Stonemasons	9.60	.45	.85		
Sprinkler Fitters	9.60	.50	.70		.08
DECISION #AR-2034 - Mod. #1 (39 FR 35051 - September 27, 1974) Armstrong County, Pennsylvania					
Change:					
Millwrights	7.995	5%	3%+.25	2%	1%
Piledrivermen	9.58	5%	8%		.50 of 1%
Soft Floor Layers	8.96	5%	6%	6%	.5%
Sprinkler Fitters	9.60	.50	.70		.08

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MODIFICATIONS P. 13

[illegible] - [illegible] - Mod. #5 (39 FR - 9338 - March 8, [illegible]) Elk County, Pennsylvania	Basic Hourly Rates	Fringe Benefit Payments			
		H & W	[illegible]	[illegible]	[illegible]
Change:					
Ironworkers	$9.08	.70	.81		.04
Millwrights	7.995	5%	3%+.25	28%	1/2%
Piledrivermen	9.58	5%	8%		.50 of 1%
Sprinkler Fitters	9.60	.50	.70		.08
[illegible] - [illegible] - Mod. # 4 (39 FR 11805 - March 29, 1974) Cambria County, Pennsylvania					
Change:					
Bricklayers & Stonemasons	8.88	.45	.60		
Cement Masons	8.05	1.00			
Millwrights	7.99[illegible]	5%	3%+.25	26%	1/2%
Soft floor layers	8.96	5%	6%	6%	.5%
Marble, Tile & Terrazzo Workers	8.88	.45	.60		.01
Sprinkler Fitters	9.60	.50	.70		.08
Piledriverman	9.58	5%	8%		.50 of 1%
[illegible] - [illegible] - Mod. # 5 (39 FR 12578 - April 5, 1974) Blair County, Pennsylvania					
Change:					
Bricklayers & Stonemasons	8.88	.45	.60		.01
Cement Masons	8.05	1.00			
Ironworkers	9.08	.70	.81		.04
Marble, Tile & Terrazzo Workers	8.88	.45	.60		.01
Millwrights	7.995	5%	3%+.25	26%	1/2%
Piledriverman	9.58	5%	8%		.50 of 1%
Decision # AQ-2084 - Mod. # 3 (39 FR 11808 - March 29, 1974) Bedford County, Pennsylvania					
Change:					
Cement Masons	8.05	1.00			
Piledrivermen	9.58	5%	8%		.50 of 1%
Millwrights	7.995	5%	3%+.25	26%	1/2%
Soft floor layers	8.96	5%	6%	6%	.5%
Sprinkler Fitters	9.60	.50	.70		.08

MODIFICATIONS P.14

Decision # AQ-2099 - Mod. # 3 (39 FR 14175 - April 19, 1974) Lehigh County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Change:					
Bricklayers & Stonemasons	$[illegible].80	.35	.80		
Electricians	[illegible].70	.30	1%		.01
Elevator Constructors	[illegible].69	.345	.23	2%+a+b	.015
Elevator Constructors Helpers	[illegible].08	.345	.23	2%+a+b	.015
Elevator Constructors Helpers (Prob.)	4.345				
Marble, & Tile Setters	7.64	.35	.80		
Marble & Tile Helpers	6.65	.60	.25		
Plasterers	8.15	.30	.41		.01
Terrazzo Workers	7.89	.35	.80		
Terrazzo Workers Helpers	6.65	.60	.25		
Sprinkler Fitters	9.60	.50	.70		.08
DECISION #AR-45 - Mod. #3 (39 FR 34015 - September 20, 1974) Bexar County, Texas					
Change:					
Carpenters:					
Carpenters	$7.12	.38	.30	.40	.02
Millwrights	7.42	.38	.30	.40	.02
DECISION #AR-46 - Mod. #3 (39 FR 35459 - September 27, 1974) Wichita County, Texas					
Change:					
Laborers:					
General laborers	4.125	.275	.20		
Pipelayer (concrete & clay); Power buggy operator; Gunite mixer; Cement work mixer; Power tool operator; Bell hole man (piers)	4.25	.275	.20		
Mason tender; Mason mortar mixer; Plasterer tender; Hod carrier; Plasterer mortar mixer	4.375	.275	.20		
Gunnite over 1½" thick; Nozzleman & machine operator	4.375	.275	.20		
Powderman, blaster	4.625	.275	.20		
Omit:					
Painters:					
Brush	3.50				
Spray	4.00				

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MODIFICATIONS P. 16

MODIFICATIONS P. 15

DECISION #AR-46 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Add:					
Painters: Brush Spray; Wallcovering; Pressure roller; Sandblasting; Structural steel; Bosun chair; Window jack & window sill; Stage; Fire escape; Steel storage tanks; Stilts; Mittens; Ames tools; Drywall finishing	$7.895		.20		.02
On jobs requfring less than six 250 foot rolls of joint tape, or less than eight man hours of bedding time the drywall finishing rate will be	8.145		.20		.02
Steeple jack rate (radio & TV towers, smoke stacks, chimneys and water towers, and similar facilities and flag poles stop buildings located closer to the edge of the building than the height of the pole); Tonic material rate (creosote, coal tar products or similar materials injurious to the skin)	7.895		.20		.02
	9.145		.20		.02

MODIFICATIONS P. 16

DECISION #AR-52 - Mod. #3 (39 FR 35066 - September 27, 1974) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	[illegible]	App. Tr.
Change:					
Electricians:					
Zone 1:					
Electricians	$8.00	.30	1%		1/2%
Cable splicers	8.88	.30	1%		1/2%
Line Construction:					
Zone 1:					
Lineman	8.08	.30	1%		1/2%
Cable splicers	8.88	.30	1%		1/2%
Groundman, more than 1 year experience	5.42	.30	1%		1/2%
Groundman, less than 1 year experience	4.73	.30	1%		1/2%
Operator-hole digger, line truck	6.28	.30	1%		1/2%
Flat bed truck driver	4.73	.30	1%		1/2%
Plumbers & Pipefitters:					
Zone 1	7.73	.25	.55	.30	
Zone 2	7.98	.25	.55	.30	
Zone 3	8.23	.25	.55	.30	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #AR-53 - Mod. #3 (39 FR 35069 - September 27, 1974) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas					
Change:					
Electricians	$8.08	.30	1%		1/2%
Plumbers	7.73	.25	.55	.30	
DECISION #AR-84 - Mod. #1 (39 FR 42830 - December 6, 1974) Galveston & Harris Counties, Texas					
Change:					
Electricians:					
Harris County	8.65	.30	3%		.04
Sheet metal workers:					
Harris County	8.335	.225	.475	.20	.025

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #AR-1051 - Mod. #1 (39 FR 42832-December 6, 1974) Statewide, Washington					
Change:					
Plumbers:					
Chellan, Clallam, King, Kittitas (north of 47°15' N. Lat.), Douglas (west of 119°30' W. Long.), Jefferson and Okanogan (except the area lying between 119°30' W. Long. and South of 48°30' N. Lat.) Counties	$9.61	.58	.95	.75	.06
Adams (except area between a line drawn south from the western boundary of Ferry County to Highway #10 eastward to Whitman County), Asotin, Benton, Columbia, Franklin Garfield, Grant, Klickitat, Walla Walla, Yakima, Douglas, (east of 119°30' W. Long.), Ferry (west of a line drawn from Creston in Lincoln County Northward to the Canadian Border), Kittitas (south of 47°15' N. Lat.), Lincoln (west of a line drawn from Schrag in Adams County northward to the Ferry County Line), and Okanogan (east of 119°30' N. Lat.) Counties	10.11	.33	.85	.62	.10
Adams (area between a line drawn south from the western boundary of Ferry County to Highway #10 and eastward to Whitman County), Asotin, Cowlitz, Ferry (east of a line drawn from Creston in Lincoln County northward to the Canadian Border), Grays Harbor, Kitsap, Lewis, Lincoln (east of a line drawn from Schrag in Adams County northward to the Ferry County Line), Mason, Pend Oreille,					

DECISION NO AR-1051 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Appr. Tr.
Plumbers: (Cont'd)					
Pierce, Skagit, Snohomish, Spokane, Stevens, Thurston, Wahkiakum, Whatcom, Whitman, and Clark and Skamania (those portions lying north of an east-west line drawn through Woodland eastward to the Klickitat County Line) Counties	$9.50	.33	.85	.00	.10
Clark and Skamania Counties South of an east-west line drawn through Woodland eastward to the Klickitat County Line.	9.37	.70	1.00		.00
Ironworkers:					
Statewide except Clark, Cowlitz, Klickitat, Pacific (southern portion), Skamania and Wahkiakum Counties					
Structural, Ornamental, Reinforcing, Fence Erectors, Riggers, and Signalman	9.11	.48	.80		.00
Clark, Cowlitz, Klickitat, Pacific (southern portion), Skamania and Wahkiakum Cos.					
Structural, Ornamental, Reinforcing, Fence Erectors, Riggers and Signalmen	8.90	.48	.80		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Appr. Tr.
DECISION #AO-3095 - Mod. #1 (39 FR 5982 - February 15, 1974) Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania & Wisconsin					
CHANGE:					
Under Dipper & Hydraulic Dredging:					
Chief Engineer	$9.56	.25	.25	a	
Operators	9.49	.25	.25	a	
Assistant Engineers	9.13	.25	.25	a	
Welders; Cranemen-Dipper Dredging; Spill Barge Opr.-Hydraulic Dredging	9.04	.25	.25	a	
Under Drill Boats:					
Engineers	9.01	.25	.25	c	
Blasters	9.13	.25	.25	c	
Firemen	8.66	.25	.25	c	
Drillers, Welders or Machinists	9.02	.25	.25	c	
Oilers & Helpers	8.48	.25	.25	c	

NOTICES

SUPERSEDEAS DECISION

STATE: Maryland

COUNTIES: Baltimore, Harford, Howard and Baltimore City

DECISION NO.: AR-2093

DATE: Date of Publication

Supersedes Decision No. AR-2023, dated August 23, 1974 in 39 FR 30761.

DESCRIPTION OF WORK: Building Construction (excluding single family houses and garden type apartments up to and including 4-stories), Heavy Construction (excluding sewer and water lines)

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BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
Asbestos Workers	$7.65	.60	.75		.02
Boilermakers	8.65	.60	.70		.02
Bricklayers	9.00	.40	.50		.07
Carpenters	8.10	.60	.54		.05
Cement Masons	8.62	.25	.30		
Electricians:					
Zone 1 - From Baltimore City Hall to 25 Miles	8.80	.50	1¼+.20		¼%
Zone 2 - Over 25 Miles to 45 Miles from Baltimore City Hall	9.05	.50	1¼+.20		¼%
Zone 3 - Over 45 Miles from Baltimore City Hall	9.30	.50	1¼+.20		¼%
Elevator Constructors	8.45	.395	.26	2½%+a&b	.02
Elevator Constructors' Helpers	5.915	.395	.26	2½%+a&b	.02
Elevator Constructors' Helpers (probationary)	4.225				
Glaziers:					
Glaziers	7.70	.25	.30		
Swinging Scaffold or Bosun's Chair	7.95	.25	.30		
Ironworkers:					
Ironworkers, finishers, rodmen, pre-cast & pre-stress erectors	8.47	.60	1.05		.04
Sheeters	8.72	.60	1.05		.04
Laborers:					
Laborers	5.75	.275	.30		.05
Hod carriers	6.15	.275	.30		.05
Plasterers' laborers	5.90	.275	.30		.05
Power tool operators	5.85	.275	.30		.05
Pipelayers (concrete & clay)	5.95	.275	.30		.05
Wagon drill operators	6.00	.275	.30		.05
Mason tenders	6.05	.275	.30		.05
Scaffold builders	6.25	.275	.30		.05
Lathers	8.84	.35	.35		.01
Lead Burners	9.25	.35		e	.01
Linemen & Cable Splicers:					
Zone 1 - From Baltimore City Hall to 25 Miles	9.15	.35	1%		1%
Zone 2 - Over 25 Miles to 45 Miles from Baltimore City Hall	9.40	.35	1%		1%
Zone 3 - Over 45 Miles from Baltimore City Hall	9.65	.35	1%		1%

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BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
Marble Setters	$9.00	.40	.50		.07
Marble, Tile & Terrazzo Workers' Helpers	6.00	.20	.20		
Millwrights	8.20	.60	.54		.05
Painters:					
Brush	7.445	.85	.45		.05
Structrual Steel, Spray(Steel), Steamcleaning & Sandblasting	7.945	.85	.45		.05
Spackling, Taping & Wall Coverings	7.595	.85	.45		.05
Spray (except steel)	7.695	.85	.45		.05
Piledrivermen	8.10	.60	.54		.05
Plasterers	8.55	.35	.30		
Plumbers	8.68	.35	.45		.10
Roofers:					
Roofers, Damp & Waterproof Workers	6.40	.35	.40		.05
Slate, Tile; Asbestos & Asphalt Shingle	6.85	.35	.40		.05
Precast Slab & Woodblock Layer	7.40	.35	.40		.05
Sheet Metal Workers	8.17	.55	.50		.05
Soft Floor Layers - Resilient Floor Layers	8.10	.60	.54		.05
Sprinkler Fitters:					
Baltimore City including a 10-mile radius beyond the City Limits	8.60	.40	.60		.10
Harford & Howard Counties and the remainder of Baltimore County	9.40	.50	.70		.08
Steamfitters	8.41	.45	.60		.12
Stone Masons	9.00	.40	.50		.07
Tile & Terrazzo Workers	7.26	.40	.40		.04
Truck Drivers:					
Goose-necks, drop frame trailers	7.35	.50	.30	fbg	
All "A" Frames, winch trucks, fork lifts & trailers	7.15	.50	.30	fbg	
Flat beds & pick-ups	6.70	.50	.30	fbg	
Helpers	6.40	.50	.30	fbg	
Mixer trucks with agitator of 12 yds. capacity	5.05	.50	.30	fbg	
Mixer trucks with agitator over 12 yds. capacity	5.48	.50	.30	fbg	
Euclid wagons & dumpsters	5.97	.50	.30	fbg	
Dump trucks	5.66	.50	.30	fbg	

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BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apprn. Tr.
TRUCK DRIVERS (EXCAVATION):					
Dump truck	5.89	.50	.30	MAJ	
Euclid Wagons & Dumpsters	6.20	.50	.30	MAJ	
Drop-Frame, Goose-Neck & Trailers	6.09	.50	.30	MAJ	
Pick-Ups	5.71	.50	.30	MAJ	
Helpers	5.76	.50	.30	MAJ	
Welders - receive rates prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day' C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F.
b. Employer contributes 4% of basic hourly rate for 5 years or more of service as vacation pay credit.
c. Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve (provided employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
f. Employee with 1 year of service - 1 week's paid vacation; 2 years of service - 2 weeks paid vacation; 10 years of service - 3 weeks paid vacation, provided the employee has worked 125 days in the previous contract year.
g. Holidays: A trhough F plus the employee's birthday; the day after Thanksgiving Day and Christmas Eve (provided the employee has worked one day and has been available for work during holiday week).
h. Employee with 1 year of service - 1 week's paid vacation; 2 years of service - 2 weeks paid vacation; 10 years of service - 3 weeks paid vacation, provided employee has worked 100 days in the contract year.
j. Holidays A through F plus the employee' birthday, Good Friday and Christmas Eve (providing the employee has worked one day and has been available for work during the holiday week).

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BUILDING & HEAVY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$7.93	.50	.50	a	.07
GROUP 2	7.48	.50	.50	a	.07
GROUP 3	7.37	.50	.50	a	.07
GROUP 4	7.25	.50	.50	a	.07
GROUP 5	7.14	.50	.50	a	.07
GROUP 6	6.97	.50	.50	a	.07
GROUP 7	6.80	.50	.50	a	.07
GROUP 8	6.62	.50	.50	a	.07
GROUP 9	6.30	.50	.50	a	.07
GROUP 10	6.05	.50	.50	a	.07
GROUP 11	5.98	.50	.50	a	.07

FOOTNOTE: a. 6 paid holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day

CLASSIFICATIONS

GROUP 1 - Backfiller, backhoe, concrete mixing plants, scale type batching plants, cableway, derrick, derrick boat, boat captain, dragline, elevating grader, excavating scoop (25 yds., and over), hoist (2 active drums or more), pile driving machine, tower crane, power shovel, standard gauge locomotive, trenching machine, tunnel mucking machine, Zimco type overhead loader, whirley rig, welder, concrete paver, double concrete pump, front end loader (1-3/4 yds., and over), multiple conveyor, mighty midget with compressor, repair mechanic, twin engine scraper, gradall
GROUP 2 - Tractor with attachments (2 or more), autopatrol type grader
GROUP 3 - Compressors (2 or more), conveyors (2 or more), space heaters, over 4 welders (more than 6, another man), well point system
GROUP 4 - Front end tractor loader (under 1-3/4 yds.), bulldozer
GROUP 5 - Concrete mixer, concrete pump, one drum hoist, elevator operator, narrow gauge locomotive, stone crusher, hi-lift, fork lift
GROUP 6 - Excavating scoop (under 25 yds.), caterpillar type tractor
GROUP 7 - Finishing machine, bull float, sub grader, longitudinal float, screeding machine, concrete spreader, asphalt spreader
GROUP 8 - Single compressor, grout pump, power roller, pumps, well drill, engine driven welders (up to 4), space heaters (up to 4), steam hammer, pile extractor, conveyor
GROUP 9 - Fireman, truck crane oiler, grease truck, fuel truck
GROUP 10 - Wheel tractor
GROUP 11 - Oiler, deck hand, mechanic's helper

SUPERSEDEAS DECISION

STATE: Michigan

COUNTIES: Alger, Baraga, Chippewa, Gogebic, Houghton, Keewenaw, Mackinac, Marquette & Ontonagon

DECISION NO: AR-3177

DATE: Date of Publication

Supersedes Decision Nos. AR-3104, AR-3107 & AR-3110 dated August 16, 1974 in 39 FR 29790, 39 FR 29801 & 39 FR 29811 Respectively

DESCRIPTION OF WORK: Building (excluding single family homes and garden type apartments up to and including 4 stories) and Heavy Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos Workers:					
Chippewa and Mackinac Cos.	$ 7.98	.66	.95		.02
Gogebic and Ontonagon Cos.	9.15	.30	.25		
Remainder of Counties	8.56	.45	.20	.65	.03
Boilermakers	8.83	.60	1.00	1.00	.01
Bricklayers:					
Alger and Marquette Cos.	7.88	.45	.35	.50	.01
Chippewa and Mackinac Cos.	8.39	.45	.30		
Remainder of Counties	8.35	.45	.35		
Carpenters:					
Carpenters	7.54	.50	.40		.01
Millwrights	8.04	.50	.40		.01
Piledrivermen	7.74	.50	.40		.01
Cement Masons:					
Alger and Marquette Cos.	7.38	.45	.35	.50	.01
Chippewa and Mackinac Cos.	7.82	.45	.30		
Remainder of Counties	7.85	.45	.35		
Electricians:					
Alger and Marquette Cos.					
Electricians	8.80	.30	1%		4%
Cable Splicers	10.12	.30	1%		4%
Chippewa & Mackinac Cos.					
Electricians	8.30	.40	1%		
Cable Splicers	9.545	.40	1%		
Gogebic County					
Electrical contracts over $3,000 including industrial	8.45	4%	1%	11%	3%
Electrical contracts up to $3,000 except industrial	7.05	4%	1%	11%	3%
Remainder of Counties					
Electrical contracts over $5,000	8.45	.40	1%		1%
Electrical contracts up to $5,000	7.00	.40	1%		1%
Elevator Constructors	7.785	.39	.26	[illegible]	.02
Elevator Constructors helpers	70%JR	.39	.26	[illegible]	.02
Elevator Constructors helpers (PROB)	50%JR				
Ironworkers: Structural, Reinforcing & Ornamental	8.04	.25	1.31		.02
Lathers	7.95	.44	.10	.50	.01
Leadburners	8.75	.30			.01
Painters:					
Chippewa & Mackinac Cos.					
Brush	6.95		.50		
Paperhanging	7.25		.50		

Painters (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Sandblasting; Spray; Tapers, hand	$ 7.45		.50		
Tapers, machine	7.55		.50		
Steel	9.45		.50		
Glaziers	5.80		.50		
Baraga, Houghton, Keweenaw and Northern portion of Ontonagon					
Painters; Glaziers; Tapers, hand	6.75				
Tapers, machine	7.25				
Spray; Sandblasting	7.30				
Gogebic County and remaining portion of Ontonagon County					
Painters; Paperhanger	6.00				
Spray	6.50				
Plasterers:					
Alger and Marquette Counties	7.83	.45	.35	.50	.01
Chippewa and Mackinac County	8.24	.45	.30		
Remainder of Counties	8.35	.45	.35		
Plumbers: Steamfitters	8.13	.35	.30		.02
Roofers	7.75		.50		
Sheet Metal Workers					
Alger, Chippewa, Mackinac and Marquette	8.25	.32	.40		.02
Remainder of County	7.55	.28	.30		.02
Soft Floor Layers	7.54	.50	.40		.01
Sprinkler Fitters	9.40	.50	.70		.08
Tile Setters and Terrazzo Workers					
Alger and Marquette Cos.	7.63	.45	.35	.50	.01
Chippewa and Mackinac Cos.	8.19	.45	.30		
Remainder of County	8.35	.45	.35		
Truck Drivers:					
Truck Driver	6.52	11.00a	11.00a		
Heavy Duty; Double axle and Semi	6.65	11.00a	11.00a		
Euclid	6.88	11.00a	11.00a		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

Footnote:
a. Per Week, Per Employee

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS A	$ 6.05	.40	.30		
CLASS B	6.15	.40	.30		
CLASS C	6.45	.40	.30		
CLASS D	6.60	.40	.30		

CLASSIFICATIONS

CLASS A: General Construction Laborers

CLASS B: Chipping Hammers; Concrete Mixers; Green Cutting (air, electric or gas); Material Mixers (hand or machine ; Motor driven buggies; Mortar Mixers; Hand Blasters; Tamping Machines; Vibrator Operator; Laborers with concrete mixer to pour, including pour from trucks

CLASS C: Blasters; Buster Operators; Cement Gun Nozzleman; Drillers; Layers of all non-metallic pipe; Mixers

CLASS D: Underground Work, Tunnels and Shafts- muckers, caisson workers, miners, drillers, blasters.

Line Construction:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Lineman; Heavy Equipment Operator	$ 7.88	.35	1%		½%
Cable Splicer	8.21	.35	1%		½%
Combination Digger Operator Tractor Operator:					
First Six Months	5.73	.35	1%		½%
Over Six Months	6.18	.35	1%		½%
Light Equipment Operator: Distribution Line Truck Driver Operator; Groundman					
First Six Months	4.99	.35	1%		½%
Over Six Months	5.43	.35	1%		½%
Combination Winch Truck Driver - Groundman					
First Six Months	4.55	.35	1%		½%
Over Six Months	5.19	.35	1%		½%
Combination Truck Driver - Groundman	4.40	.35	1%		½%

Power Equipment Operators:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Building, Heavy and Underground					
Class A	$ 7.07	.50	.55	.22	.01
Class B	6.68	.50	.55	.21	.01
Class C	6.31	.50	.55	.20	.01
Class D	5.91	.50	.55		
Steel Construction					
Class 1	7.31	.50	.55	.23	.01
Class 2	6.83	.50	.55	.21	.01
Class 3	6.02	.50	.55	.19	

CLASSIFICATIONS

Building, Heavy and Underground

CLASS A: Regular Equipment Operators, Crane, Dozer, Front End Loader; Mechanic

CLASS B: Air Track Drill; Boom Truck; Concrete Mixers; Fork Truck; Material Hoist and Tugger; Pumps, 6" or over; Pumpcrete; Beltcrete; Squeese crete; Sweeping Machine; Trencher; Winches; Well Points and Freeze Systems

CLASS C: Air Compressor; Conveyor; Concrete Saw; Farm Tractor (without attachments); Generator; Guard Post Driven; Mulching; Pumps under 6"

CLASS D: Oiler; Fireman; Heater Operator

Steel Nonstruction

CLASS 1: Operator

CLASS 2: Compressor

CLASS 3: Oiler; Fireman

SUPERSEDEAS DECISION

STATE: Michigan — COUNTY: Marquette
DECISION NO: AR-3178 — DATE: Date of Publication
Supersedes Decision No. AR-3149 dated October 11, 1974 in 39 FR 36757
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos Workers	$ 6.85	.35	.20	.55	.06
Boilermakers	8.83	.60	1.00	1.00	.01
Bricklayers; Stonemasons	7.88	.45	.35	.50	.01
Carpenters	7.54	.50	.40		.01
Cement Masons	7.38	.45	.35	.50	.01
Electricians	5.80	.30	.06		1%
Elevator Constructors	7.785	.39	.26	2½%	.02
Elevator Constructors' Helpers	5.45	.39	.26	2½%	.02
Elevator Constructors' Helpers (prob.)	3.89				
Ironworkers, structural, ornamental & reinforcing	8.04	.25	.50	1.31	.02
Laborers:					
Laborers	6.05	.40	.30		
Chipping Hammers; Concrete Mixers; Green Cutter (Air, electric or gas); Material Mixers; Mortar Mixers; Motor driven buggy operator; Sandblasters; Tamping machines; Vibrator operators	6.15	.40	.30		
Lathers	7.65	.44	.10	.50	.01
Marble Setters	6.98	.35	.35	.50	.01
Sheet Metal Workers	8.25	.31	.40		.02
Soft Floor Layers	7.54	.50	.40		.01
Sprinkler Fitters	9.50	.50	.70		.08
Tile Setters; Terrazzo Workers	7.63	.45	.35	.50	.01
Tile Setters' Helpers	6.53	.45	.35	.50	.01
Truck Drivers:					
Regular	6.02	17.00a	10.00a		
Heavy Duty, double axle and semi	6.15	17.00a	10.00a		
Euclid type equipment	6.38	17.00a	10.00a		
Welders - receive rate prescribed for craft performing operation to which welding is incidental					

Footnote:
a. Per Week, Per Employee

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Power Equipment Operators					
Regular Equipment Operator Crane; Dozer; Front End Loaders Job Mechanic Air Track Drill; Boom Truck Concrete Mixers; Fork Truck; Material Hoist and Tugger; Pump, 6" and over; Pumpcrete; Belt Crete; Squeeze crete; Sweeping Machine; Trencher; Winches; Well points and Freese Systems	$ 7.07	.50	.55	.22	.01
	6.68	.50	.55	.21	.01

NOTICES

SUPERSEDEAS DECISIONS

COUNTY: Statewide *See Below:

SUPERSEDEAS DECISIONS

STATE: Mississippi
DECISION NUMBER: AR-4066
SUPERSEDES DECISION NO.. AQ-4113 dated May 17, 1974, in 39 FR 17664
Description of Work: Heavy and highway construction

COUNTY: Statewide *See Below: except Hancock, Harrison Jackson and Pearl River.
DATE: Date of Publication

	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air tool operator	2.50	2.50	3.25	2.75	2.50	3.00
Asphalt raker	2.50	2.50	3.00	2.50	2.75	2.75
Bricklayers	4.25	4.00	5.00	5.50	5.00	4.25
Carpenter	3.50	3.50	3.75	3.75	3.75	3.75
Cement masons (Finisher)	3.25	3.50	3.50	3.50	3.50	3.50
Concrete saw operator	3.00	3.00	3.00	3.00	3.00	4.00
Electricians	5.30	4.50	6.50	6.50	4.50	5.40
Form setter	3.75	3.25	3.25	2.50	3.25	2.80
Grade checkes	2.75	2.50	2.50	2.50	2.25	2.25
Ironworker, reinforcing	3.25	3.00	2.50	3.25	3.50	4.00
Ironworker, structural	3.00	2.75	3.00	3.00	3.00	3.30
Laborer, unskilled	2.00	2.00	2.00	2.00	2.00	2.00
Mason tender (Cement mason helper)	2.50	2.75	2.75	2.50	2.75	2.90
Painter (Structural steel)	2.75	3.00	3.00	4.00	4.00	3.90
Piledriverman	2.75	2.80	3.00	2.75	3.00	3.00
Truck driver	2.50	2.25	2.50	2.25	2.25	2.75
Tugboat operator						2.50
Welder	3.25	2.75	3.50	3.00	3.00	3.70
POWER EQUIPMENT OPERATORS:						
"A" frame truck (winch)			3.00		2.75	2.40
Aggregate spreader operator	2.75	3.00	3.00	2.75	2.50	3.00
Air compressor operator	3.25	2.60	3.00	2.50	2.75	2.60
Asphalt distributor-spreader operator	3.00	2.75	3.00	2.75	2.75	3.00
Asphalt plant	2.75	2.75	3.00	2.75	2.75	3.50
Backhoe or shovel operator	3.50	2.80	3.50	3.50	3.25	3.50
Bulldozer operator	3.50	3.25	3.75	3.50	3.50	3.25
Concrete batch plant operator	3.00	3.00	3.00	3.10	2.75	3.25
Concrete breaker & hydo-hammer operator	2.25	2.25	2.25			
Concrete finishing machine op.	3.50	2.75	3.10	3.00	3.75	3.50
Concrete paving machine op.	3.50	3.00	3.00	3.50	3.00	3.30
Concrete spreader machine op.	2.75	2.50	3.10	3.25	2.80	3.00
Crane, dragline operator	3.25	3.50	4.00	3.75	4.00	4.00
Crusher feeder operator			3.00		2.50	3.50
Curing machine operator	3.00	2.25	2.75	2.75		3.00
Earth auger	3.00	3.00	3.50	3.00	3.00	2.75
Fireman	2.85	2.50	3.00	2.75	2.75	3.00
Guard rail post driver		2.50	3.50		2.75	2.75
Joint filler	2.25	2.00	2.50		2.75	3.00
Joint setter	2.50		3.00	2.30	2.30	
Loader operator (all types)	3.00	2.75	3.00	2.75	3.00	3.50
Mechanic	3.50	3.00	3.75	3.50	3.50	3.75
Mixer operator (All types)	3.00	2.50	2.75	2.75	2.50	3.00
Motor patrol operator	3.50	3.50	3.75	3.25	3.50	3.75
Mud-jack operator	2.65		2.25			
Mulcher operator	2.50	2.75	2.25	2.25	2.25	2.50
Oiler-greaser	2.50	2.50	2.75	2.50	2.75	2.75
Piledriver operator	3.25	3.75	3.75	3.25	3.90	4.00
Pipelayer	3.00		3.00	3.00		2.80
Roller operator (self-propelled)	2.50	2.50	2.75	2.60	2.75	2.75
Scales (all types)	2.50	2.20	2.35	2.40	2.20	2.85
Scraper operator	3.25	3.25	3.50	3.25	3.00	3.25
Steel machine operator			2.25			
Striping machine operator	4.00	4.00	4.00	4.25	4.00	4.00
Sub grader machine operator						3.50
Tractor operator (track type)	2.75	2.75	3.00	2.35	3.00	2.75
Tractor operator (wheel type)	2.25	2.50	2.25	2.25	2.25	2.50
Trenching machine	2.75	2.50	2.75	2.25	2.75	3.00

COUNTIES:

*ZONE I: Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Okitbbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union and Webster.

*ZONE II: Bolivar, Carroll, Cmahoma, DeSoto, Grenda, Leflore, Montgomery, Panola, Quitman, Sunflower, Tallahatchie, Tate, Tunica, Washington and Yalobusha.

*ZONE III: Claiborne, Copiah, Hinds, Holmes, Humphreys, Issaquena, Madison, Rankin, Sharkey, Simpson, Warren and Yazoo.

*ZONE IV: Attala, Clarke, Jasper, Kemper, Lauderdale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston.

*ZONE V: Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson.

*ZONE VI: George, and Stone.

NOTICES

STATE: Nevada COUNTY: Clark (excluding the Nevada Test Site)

DECISION NUMBER: AR-1058 DATE: Date of Publication

Supersedes Decision #AQ-1081 dated February 15, 1974, in 39 FR 5992

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$10.16	.78	.72		
BOILERMAKERS	8.50	.65	1.00	.50	.02
BRICKLAYERS; Stonemasons	9.02	.35	.30	1.00	.01
CARPENTERS:					
Carpenters	8.46	.45	.60	.80	.12
Hardwood Flomrlayers; Patent Scaffolds Erectors; Power Saw Operators	8.61	.45	.60	.80	.12
Piledrivermen	8.64	.45	.60	.80	.12
Millwrights	8.96	.45	.60	.80	.12
CEMENT MASONS:					
Cement Masons	7.90	.50		1.60	.08
Cement Floor Finishing Machine; Color Work	8.15	.50		1.60	.08
ELECTRICIANS:					
Electricians; Technicians	10.86	.43	1%		.05
Cable Splicers	11.19	.43	1%		.05
ELEVATOR CONSTRUCTORS	9.21	.195	.20	2%+a	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.195	.20	2%+a	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.85				.05
IRONWORKERS:					
Fence Erectors	8.09	.73	.975	.85	.02
Reinforcing	9.78	.73	.975	.85	.02
Ornamental; Structural	9.78	.73	.975	.85	.02
LATHERS	8.55	.35	.50	1.00	.06
MARBLE MASONS; Terrazzo Workers; Tile Setters	9.02	.35	.30	1.00	.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS:					
Brush; Roller	$9.60	.47	.25		.05
Paperhangers; Sandblasters; Spray; Steel; Swing Stage; Tapers	9.95	.47	.25		.05
PLASTERERS	8.08	.50			.05
PLUMBERS; Steamfitters	9.70	.45	1.30	1.60	.08
ROOFERS	9.13	.30			
SHEET METAL WORKERS	8.93	.63	1.30	1.00	.05
SOFT FLOOR LAYERS	8.82	.40			.01
SPRINKLER FITTERS	11.85	.50	.70		.08

FOOTNOTE:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.

Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

NOTICES

LABORERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Group 1	$6.23	.26	.75	1.00	
Group 2	6.28	.26	.75	1.00	
Group 3	6.31	.26	.75	1.00	
Group 4	6.33	.26	.75	1.00	
Group 5	6.35	.26	.75	1.00	
Group 6	6.36	.26	.75	1.00	
Group 7	6.38	.26	.75	1.00	
Group 8	6.41	.26	.75	1.00	
Group 9	6.42	.26	.75	1.00	
Group 10	6.44	.26	.75	1.00	
Group 11	6.49	.26	.75	1.00	
Group 12	6.52	.26	.75	1.00	
Group 13	6.54	.26	.75	1.00	
Group 14	6.57	.26	.75	1.00	
Group 15	6.59	.26	.75	1.00	
Group 16	6.655	.26	.75	1.00	
Group 17	6.68	.26	.75	1.00	
Group 18	6.75	.26	.75	1.00	
POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)					
Group 1	7.88	.95	1.50	.30	.04
Group 2	8.14	.95	1.50	.30	.04
Group 3	8.39	.95	1.50	.30	.04
Group 4	8.51	.95	1.50	.30	.04
Group 5	8.71	.95	1.50	.30	.04
Group 6	8.81	.95	1.50	.30	.04
Group 7	8.92	.95	1.50	.30	.04
Group 8	9.07	.95	1.50	.30	.04
Group 9	9.18	.95	1.50	.30	.04
TRUCK DRIVERS					
Group 1	8.00	.35	.50		
Group 2	8.11	.35	.50		
Group 3	8.16	.35	.50		
Group 4	8.32	.35	.50		
Group 5	8.50	.35	.50		
Group 6	9.00	.35	.50		

LABORERS

Group 1: Debris Handler; Dry Packing of Concrete and Filling of Form-bolt Holes; Dumpman; Gas and Oil Pipeline Laborers; Demolition Laborers; General or Construction Laborers; Spotter; Window Cleaner

Group 2: Cutting Torch Operator (Demolition); Tarman and Honorman

Group 3: Guinea Chaser

Group 4: Fine Grader, highway and street paving, airport, runways and similar type heavy construction; Landscape Gardener and Nursery-man

Group 5: Laborers - packing rod steel and pans

Group 6: Underground Laborers including Caisson Bellowers

Group 7: Chucktender (except tunnels); Scaler; Septic Tank Digger and Installer (leadman); Tank Scaler and Cleaner

Group 8: Cesspool Digger and Installer

Group 9: Concrete Curer-impervious Membrane and Oiler of all Materials; Making and Caulking of all non-metallic pipe joints; Riprap Stonepaver; Sandblaster (pot tender)

Group 10: Asphalt Ironer, Raker, Spreader, Buggymobile; Cement Dumper (on 1 yd. or larger mixers and handling bulk concrete); Cement Grinding Machine Operator; Concrete Core Cutter; Concrete Saw Man, excluding tractor type; Gas and Oil Pipeline Wrapper Pot Tender and Form Man; Tree Climber, faller, Chain Saw Operator; Pittsburgh Chipper and similar type; Vibrators and all pneumatic gas, electric, and similar mechanical tools not separately classified herein; Roto Scraper

Group 11: Rock Slinger; Scaler, using bosun chair, safety belt or power tools

Group 12: Driller and/or Pavement Breaker

Group 13: Laying of all Non-metallic Pipe (including sewer pipe, drain pipe and underground tile)

Group 14: Gas and Oil Pipeline Wrapper - 6 inch pipe and over

Group 15: Cribber or Shorer; Powderman

Group 16: Steel Headerboard Man

Group 17: Driller (Core, Diamond or Wagon) Joy Driller Model T.W.-M-2A Gardner-Denver Model DH-163 and similar drills; Sandblaster - Nozzleman

Group 18: Head Rock Slinger

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

GROUP 1: Brakeman; Compressor Op.; Engineer Oiler; Generator Op.; Heavy Duty Repairman Helper; Pump Op.; Signalman; Switchman

GROUP 2: Concrete Mixer Op., Skip Type; Conveyor Op.; Fireman; Generator, Pump or Compressor (2-5 inclusive) Portable units, over 5 units, 10c per hour for each additional unit up to nine units, Hydrostatic Pump Op.; Oiler Crusher (Asphalt or Concrete Plant); Plant Operator, Generator, Pump or Compressor; Rotary Drill Helper (oilfield); Skiploader - Wheel type up to 3/4 yd. without attachment; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant Operator; Trenching Machine Oiler; Truck Crane Oiler

GROUP 3: A-Frame or Winch Truck Operator; Chainman; Elevator Op. (inside); Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Saw Op.; Power-driven Jumbo Form Setter Op.; Power Concrete Curing Machine Op.; Rose Carrier Op. (jobsite); Stationary Pipe Wrapping and Cleaning Machine Op.

GROUP 4: Asphalt Plant Fireman; Boring Machine Op.; Boxman or Mixerman (Asphalt or Concrete); Chip Spreading Machine Op.; Concrete Pump Op. (small portable); Bridge Type Unloader and Turntable Op.; Dinkey Locomotive or Motorman (up to and including 10 ton); Equipment Greaser (Grease Truck); Helicopter Hoist Op.; Highline Cableway Signalman; Hydra-hammer - Aero Stomper; Power Sweeper Op.; Roller Op. (compacting); Screed Op. (Asphalt or Concrete); Rodman; Trenching Machine Op. (up to 6 ft.);

GROUP 5: Asphalt Plant Engineer; Concrete Batch Plant Op.; Backhoe Op. (up to and including 3/4 yd.); Bit Sharpener, Concrete Joint Machine Op. (Canal and similar type); Concrete Planer Op.; Derrickman (oilfield type); Deck Engine Op.; Drilling Machine Op. (including water wells); Forklift Op. (under 5 ton capacity); Hydrographic Seeder Machine Op.; (straw, pulp, or seed); Instrumentman; Machine Tool Op.; Maginnis Internal Full Slab Vibrator; Mechanical Berm, curb or gutter (concrete or asphalt); Mechanical Finisher Op. (concrete - Clary-Johnson-Bidwell or similar); Pavement Breaker Op.; Road Oil Mixing Machine Op.; Roller Op. (asphalt or finish); Rubber-tired Earth Moving Equipment (single engine, up to and including 25 yd. struck); Self-propeller Tar Pipelining Machine Op.; Slip Form Pump Op. (power-driven hydraulic lifting device for concrete forms); Tugger Hoist (1 drum); Tunnel Locomotive Op. (over 10 and up to and including 30 tons); Stinger Crane (Austin-Western or similar type); Skiploader Operator (Crawler and Wheel type over 3/4 yds. and up to and including 1 1/2 yds.); Tractor Op. - Bulldozer, Tamper, Scraper (single engine, up to 100 h.p., flywheel and similar types, up to and including D-5 and similar types); Welder - General

GROUP 6: Asphalt or Concrete Spreading Operator (tamping or finishing); Asphalt Paving Machine Op. (Barber-Greene or similar type); BHL Lima Road Pactor, Wagner Pactor or similar, Op., Bridge Crane Op.; Cast in Place Pipe Laying Machine Op.; Combination Mixer and Compressor Op. (Gunite work); Concrete Pump Op. (truck mounted); Concrete Mixer Op. - Paving;

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Crane Op. (up to and including 25 ton capacity); Crushing Plant Op.; Drill Doctor; Elevating Grader Op.; Forklift Op. (over 5 tons); Grade Checker; Grade-All Op.; Grouting Machine Op.; Heading Shield Op.; Heavy Duty Repairman; Hoist Op. (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Slab Machine Op. (Vagtborg and similar type); Lift Mobile Op.; Loader Op. (Athey, Euclid, Sierra and similar type); Material Hoist Op.; Mucking Machine Op. (1/4 yd. rubber-tired, rail or track type); Pneumatic Concrete Placing Machine Op. (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun Op.; Rotary Drill Op. (excluding Caisson Type); Rubber-tired Earth Moving Equipment Op. (single engine Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); Rubber-tired Scraper Op. (self-loading - Paddel wheel type, John Deere, 1040 and similar single unit); Rubber-tired Earth Moving Equipment Op., multiple engine (up to and including 25 yds. struck); Skiploader Op. (Crawler and Wheel type - over 1 1/2 yds. up to and including 6 1/2 yds.); Surface Heaters and Planer Op.; Trenching Machine Op. (over 6 ft. depth capacity, manufacturers rating); Tower Crane Op.; Tractor Compressor Drill Combination Op.; Tractor Op. (any type larger than D-5 - 100 Flywheel h.p. and over, or similar); (Bull Dozer, Tamper, Scraper and Push Tractor, single engine); Tractor Op. (Boom Attachments), Traveling Pipe Wrapping, Cleaning and Bending Machine Op.; Tunnel Locomotive Op. (over 30 tons); Shovel, Backhoe, Dragline, Clamshell Op. (over 3/4 yds. and up to 5 cu. yd. M. R. C.)

GROUP 7: Crane Op. - over 25 ton up to and including 100 tons M. R. C.); Derrick Barge Op.; Dual Drum Mixer; Hoist Op., Stiff Legs, Guy Derrick, or similar type, up to and including 100 tons; Monorail Locomotive Op. (Diesel, gas or electric); Motor Patrol - Blade Op. (single engine); Multiple Engine Tractor Operator (Euclid and similar type, except Quad 9 Cat); Party Chief; Rubber-tired Earth Moving Equipment Op. (single engine over fifty (50) yds. struck); Rubber-tired Earth Moving Equipment Operator (multiple engine, Euclid, Caterpillar and similar) (over 25 yds. and up to 50 cu. yds. struck); Tractor Loader Op. (Crawler and wheel type over 6 1/2 yds.); Tower Crane Repairman; Shovel, Backhoe, Dragline, Clamshell Op. (over 5 cu. yds., M. R. C.); Welder - Certified; Woods Mixer Op. and similar Pugmill equipment; Heavy Duty Repairman - Welder combination

GROUP 8: Auto Grader Op.; Automatic Slip Form Op.; Crane Op. - over 100 tons; Hoist Op., Stiff Legs, Guy Derricks or similar types (capable of hoisting 100 tons or more); Mass Excavator Op.; Mechanical Finishing Machine Op.; Mobile Form Traveler Op.; Motor Patrol Op. (multi-engine); Pipe Mobile Machine Op.; Rubber-tired Earth Moving Equipment Op. (multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); Rubber-tired Self-Loading Scraper Op. (Paddle Wheel - Auger type self-loading - 2 or more units); Rubber-tired Scraper Op. - pushing one another without Push Cat, Push-Pull (.50c per hour additional to base rate); Tandem Equipment Op. (2 units only), Tandem Tractor Op. (Quad 9 or similar type); Tunnel Mole Boring Machine

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POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

GROUP 9: Canal Liner Op.; Canal Trimmer Op.; Helicopter Pilot; Highline Cableway Op.; Remote Controlled Earth Moving Equipment Op.; Wheel Excavator Op. (over 750 cu. yds.)

TRUCK DRIVERS

Group 1: Busses, job site, up to 25 passengers; Dump (less than 12 yds.); Pickups; Service Truck Driver, Teamster Equipment (Highest rate for dual craft operation); Truck Repairman Helper; Trucks (less than 15 tons); Warehouseman; Water and fuel (under 2,500 gals.)

Group 2: Bootman; Busses, job site more than 25 passengers; Dump (12 yds. but less than 16 yds.); Road Oil Spreader; Trucks (15 and 20 tons); Trucks working on gas and oil pipeline, including winch truck and all size trucks; Truck Greaser; Water and Fuel (2,500 gals. to 4,000 gals.)

Group 3: Dumpcrete (less than 6½ yds.); Tireman; Transit-mix (under 3 yds.)

Group 4: Dump (16 yds. up to and including 22 yds.); Dumpcrete (6½ yds. and over); Dumpster; Euclid Type Spreader; Fork Lift; Ross Carrier-Highway; Transit-mix (3 yds. but less than 6 yds.); Trucks (20 tons but less than 30 tons); Water and Fuel (4,000 gals. but less than 6,000 gals.)

Group 5: Dump (over 22 yds.); Transit-mix (6 yds. or more); Truck Repairman; Truck (30 tons and over); Water and Fuel (6,000 gals. and over)

Group 6: D.W., D.W. 10 and 20 Euclid type equipment; LeTorneau Pulls; Terra Cobra and similar; PB and similar, when performing work within Teamster jurisdiction, regardless of attachments including power units pulling off highway Belly Dumps in tandem

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SUPERSEDEAS DECISION

STATE: Nevada COUNTY: Washoe
DECISION NUMBER: AR-1059 DATE: Date of Publication
Supersedes Decision #AQ-1082 dated February 15, 1974, in 39 FR 5996
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$10.28	.97	.75	1.07	.06
BOILERMAKERS	8.58	.85	1.00	.50	.02
BRICKLAYERS; Stonemasons:					
Zone A (0-15 miles from Court House in Reno)	8.45	.45	.45		.01
Zone B (15-35 miles from Court House in Reno)	9.95	.45	.45		.01
Zone C (35-75 miles from Court House in Reno)	10.31	.45	.45		.01
BRICK TENDERS:					
Zone A (0-15 miles from Court House in Reno)	7.81	.50	.45		.05
Zone B (15-35 miles from Court House in Reno)	8.31	.50	.45		.05
Zone C (35-75 miles from Court House in Reno)	8.75	.50	.45		.05
CARPENTERS:					
Carpenters	8.31	.50	.80	1.00	.04
Hardwood Floorlayers; Power Saw Operator; Shinglers; Patent Scaffold Erectors	8.50	.50	.80	1.00	.04
Piledrivermen	8.55	.50	.80	1.00	.04
Millwrights	8.95	.50	.80	1.00	.04
CEMENT MASONS:					
Cement Masons	8.05	.50	.40	1.00	.01
Mastic, Magnesite and all Composition Masons	8.30	.50	.40	1.00	.01
Troweling Machine; Grinder Operator and Kelly Float	8.55	.50	.40	1.00	.01
DRYWALL INSTALLERS	7.15	.60	.70	.90	.03
ELECTRICIANS:					
Electricians	$9.59	.53	1%+.25		.03
Cable Splicers	10.55	.53	1%+.25		.03
ELEVATOR CONSTRUCTORS	9.21	.195	.20	2%+a	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.195	.20	2%+a	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	7.845	.25	.55	.855	
IRONWORKERS:					
Fence Erectors	8.89	.73	.975	.85	.02
Reinforcing	9.78	.73	.975	.85	.02
Ornamental; Structural	9.78	.73	.975	.85	.02
LATHERS	8.21	.40	.35		.01
PAINTERS:					
Brush	8.30	.50	.20		
Paperhangers; Spray; Structural Steel; Swing Stage; Sandblasters; Tapers	8.55	.50	.20		
PLASTERERS	8.85	.50	.75		
PLASTERERS' TENDERS	7.75	.50	.45		
PLUMBERS; Steamfitters	9.44	.58	.60	1.95	.10
ROOFERS	8.10	.25	.05		.02
SHEET METAL WORKERS	8.85	.74	1.50	.89	.03
SOFT FLOOR LAYERS	8.45	.50	.20		
SPRINKLER FITTERS	11.85	.50	.70		.08
TERRAZZO WORKERS; TILE SETTERS:					
Zone A (0-15 miles from Court House in Reno)	9.45	.45	.45		.01
Zone B (15-35 miles from Court House in Reno)	9.95	.45	.45		.01
Zone C (35-75 miles from Court House in Reno)	10.35	.45	.45		.01

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

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TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
DUMP (Single or Multiple units including Semis and Double and Transfer Units; Dumpcrete and Bulk Cement Spreader:					
Under 4 yards	$6.45	.51	.65		.05
4 yards and under 8 yards	6.65	.51	.65		.05
8 yards and under 18 yards	6.85	.51	.65		.05
18 yards and under 35 yards	7.00	.51	.65		.05
35 yards and under 60 yards	7.25	.51	.65		.05
60 yards and under 75 yards	7.40	.51	.65		.05
75 yards and under 100 yards	7.55	.51	.65		.05
100 yards and over	7.70	.51	.65		.05
TRANSIT MIX (Using Boom);					
Under 8 yards	6.975	.51	.65		.05
8 yards and including 12 yards	7.075	.51	.65		.05
Over 12 yards	7.275	.51	.65		.05
WATER AND JETTING:					
Up to 2500 gallons	6.65	.51	.65		.05
2500 gallons and over	6.85	.51	.65		.05
DW 20's and 21's and other similar Cat Type; Terra Cobra; LeTourneau Pulls; Tournerockers; Euclid and similar type equipment when pulling Aqua/Pak; Water Tank Trailers and Fuel and/or Grease Tank Trailer, or either misc. Trailers (except as defined under dump trucks	7.10	.51	.65		.05
FLAT RACK; INDUSTRIAL LIFT WITH MECHANICAL TAILGATE:					
Single Unit 2 axle	6.65	.51	.65		.05
Single Unit 3 axle	6.75	.51	.65		.05
BUS AND MANHAUL:					
Up to 18,000 lbs. (single unit)	6.50	.51	.65		.05
18,000 lbs. and over (single unit)	6.60	.51	.65		.05
WINCH AND A-FRAME:					
Under 18,000 lbs.	6.60	.51	.65		.05
18,000 lbs. and over	6.70	.51	.65		.05

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TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Heavy duty transport (high bed); Heavy duty transport (gooseneck lowbed); Tiltbed or flatbed pull trailers	$7.00	.51	.65		.05
Bootman, Combination bootman and road oiler	6.90	.51	.65		.05
Road oiler or bootman; Truck oiler and greaser; Fuel driver, fuel man and fuel island man	6.60	.51	.65		.05
Helicopter pilot (when transporting men or materials)	7.40	.51	.65		.05
Lift jitney and fork lift	6.70	.51	.65		.05
Warehouseman; Spotters; Teamsters	6.55	.51	.65		.05
Fireman repairman	6.85	.51	.65		.05
Truck repairman	7.15	.51	.65		.05
Pickup truck and pilot cars (jobsite)	6.50	.51	.65		.05

NOTICES

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Group 1	$7.10	.50	.45		.10
Group 2	7.20	.50	.45		.10
Group 3	7.35	.50	.45		.10
Group 4	7.60	.50	.45		.10
Group 5	7.90	.50	.45		.10
Group 6	7.90	.50	.45		.10
Group 6-A:	7.60	.50	.45		.10
Group 6-B:	7.25	.50	.45		.10

LABORERS

Group 1: All cleanup work of debris, grounds, and buildings including windows and tile; Dumpman or Spotter (other than asphalt); General Laborer; Gardeners and Landscape Laborers; Limber, Brushloader and Piler

Group 2: Choker Setter or Rigger (clearing work only); Pittsburgh Chipper and similar type Brush Shredders; Concrete Worker (wet or dry) all concrete work not listed in Group 3; Crusher or Grizzly Tender; Gunnies Chaser (Stakeman); Panel Forms (wood or metal) handling, cleaning, and stripping of; Loading and unloading, carrying and handling of all rods and material for use in reinforcing concrete; Railroad Trackmen (maintenance, repair or builders); Sloper; Semi-skilled Wreckers (salvaging of building materials other than those listed in Group 3); Greasing Dowels

Group 3: Asphalt Workers (Ironers, Shoveler, Cutting Machine); Buggymobile; Chainsaw, faller, logloader and bucker; Compactor (all types); Concrete Mixer under 1/2 yds.; Concrete Pan Work (breadpan type), (handling, cleaning, stripping); Concrete Saw, Chipping, Grinding, Sanding, Vibrator; Cribbing, Shoring, Legging, Trench Jacking, hand-guided Lagging Hammer; Curbing or Divider Machine; Curb Setter (precast or cut); Ditching Machine (hand-guided); Drillers' Helper, Chuck Tender; Form Raiser, Slip Forms; Grouting of concrete walls; Windows and door jams; Headerboardman; Jackhammer, Pavement Breaker, Air Spade; Mastic Workers (wet or dry); Pipe Wrapper, Kettleman, Potman, and Men applying asphalt, creosote and similar type materials; All power tools (air, gas, or electric) not listed in Group 5; Pipejacking; Posthole Digger (air, gas, or electric) Post Driver; Riprap-stonepaver and Rock Slinger, incl. placing of sack concrete wet or dry; Rototiller; Rigging and Signaling in connection with Laborers' work; Sandblaster, Potman, Hunman or Nozzleman; Vibra-screed; Skilled Wrecker (removing and salvaging of sash, windows, doors, plumbing, and electrical fixtures)

Group 4: Burning and Welding in connection with Laborers' work; Joy Drill Model TWM-2A, Gardner Denver Model DH 143 and similar type drills; Track Drillers, Diamond Core Drillers, Wagon Drillers, Mechanical Drillers on multiple units; High Scalers; Concrete Pump; Heavy Duty Vibrators with stinger 5" diameter or over; Pipelayer, Caulker and Bander; Pipelayer - waterline, sewerline, gasline, or conduit; Asphalt Rakers

Group 5: Blasters and Powdermen, all work of loading, placing and blasting of all powder and explosives of any type, regardless of method used for such loading and placing.

Group 6-A: Nozzleman, Rodman

Group 6-B: Gunman, Materialman

Group 6-C: Kabomndman

POWER EQUIPMENT OPERATORS

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POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	App. Tr.
	AREA 1	AREA 2				
Group 1	$7.80	$8.95	.85a	1.37	.70	.20
Group 2	8.14	9.29	.85a	1.37	.70	.20
Group 3	8.32	9.47	.85a	1.37	.70	.20
Group 4	8.79	9.94	.85a	1.37	.70	.20
Group 5	8.98	10.13	.85a	1.37	.70	.20
Group 6	9.09	10.24	.85a	1.37	.70	.20
Group 7	9.25	10.40	.85a	1.37	.70	.20
Group 8	9.59	10.74	.85a	1.37	.70	.20
Group 9	9.79	10.94	.85a	1.37	.70	.20
Group 10	10 00	11.15	.85a	1.37	.70	.20
Group 10-A	10.11	11.26	.85a	1.37	.70	.20
Group 11	10.26	11.41	.85a	1.37	.70	.20
Group 11-A	11.24	12.39	.85a	1.37	.70	.20

a. Includes $.13 per hour to Pensioned Health and Welfare Fund.

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POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Assistant to Engineer, including Brakeman, Deckhand, Fireman, Heavy Duty Repairman Helper, Oiler, Partsman (heavy duty repair shops parts room when needed), Switchman, Tar Pot Fireman

Group 2: Compressor; Material Loader and/or Conveyor (handling building materials); Pump; Tar Pot Fireman (power agitated)

Group 3: Box Operator (Bunker); Concrete Curing Machines (streets, highways, airports, canals); Conveyor Belt (tunnel); Engineer Generating Plant (500 K. W.); Fireman Hot Plant; Hydraulic Monitor; Lubrication and Service Engineer (mobile and grease rack); Mixer Box Operator (concrete Plant); Motorman; Rodman or Chainsman; Rotomist; Screedman (except asphaltic or concrete paving); Oiler (truck crane)

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper Multi-purpose; Boxman (asphalt plant); Concrete Mixer, Skip type; Dinky; Fork Lift (construction job site); Ross Carrier; Skip Loader (under 1 cu. yd.); Tie Spacer; Line Master

Group 5: Concrete Mixer (over 1 cu. yd.); Concrete Pumps or Pumpcrete Guns; Elevator and Material Hoist (1 drum); Screedman (Barber-Greene and similar) (asphaltic or concrete paving); Shuttle Car; Signalman

Group 6: Boom Truck or Dual Purpose "A" Frame Truck; B.L.H. Lima Road Pactor or similar; Chip Box Spreader (Flaherty type or similar); Concrete Batch Plant (wet or dry); Concrete Saws (highways, streets, airports, canals); Highline Cableway Signalman; Locomotive (over 30 tons); Maginnis International Full Slab Vibrator (airports, highways, canals, warehouses); Mechanical Burn, Curb and/or Curb Gutter Machine (concrete or asphalt); Power Jumbo (setting slip forms, etc., in tunnels); Roller (except asphalt); Self-propelled Compactor (single engine); Slip Form Pump (power driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Stationary Pipe Wrapping, Cleaning and Bending Machine; Pavement Breaker or Tamper (with or without compressor combination); Pavement Breaker, truck mounted, with compressor combination; Small Rubber-tired Tractors; Self-propelled Tape Machine

Group 7: Compressor (over 2); Concrete Conveyor; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Crusher Plant Engineer; Deck Engineer; Drilling and Boring Machinery, vertical and horizontal (not to apply to waterliners, wagon drills or jackhammers); Generators; Grade Setters; Grade Checker; Instrument Man; Kolman Loader; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Pipe Bending Machines (pipelines only); Pipe Cleaning Machines (tractor propelled and supported); Pipe Wrapping Machines (tractor propelled and supported); Portable Crushing and Screening Plants; Pumps (over 2); Refrigeration Plant; Self-propelled Boom type Lifting Device (center mount) (10 ton capacity or less); Slusher; Soil Tester (certified); Surface Heater and Planer; Trenching Machine (maximum digging capacity 3 ft. depth) Truck type Loader; Welding Machines (gasoline or diesel); Roller (asphalt)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 8: Asphalt Plant Engineer; Car Passer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor; Dozer; Concrete Batch Plant (multiple units); Elevating Grader; Grooving and Grinding Machine (highways); Heavy Duty Repairman and/or Welder; Ken-seal; Loader (up to and including 2½ cu. yds.); Mechanical Trench Shield; Mixermobile; Push Cats; Road Oil Mixing Machine; Wood-mixer (and other similar pugmill equipment); Rubber-tired Earthmoving equipment (up to and including 35 cu. yds. "struck" M.R.C., Euclids, T-Pulls, DW's 10, 20, 21, and similar); Self-propelled Compactor with Dozer; Sheepfoot; Small Tractor (with boom); Soil Stabilizer (P & H or equal); Timber Skidder (rubber tire) or similar equipment; Tractor; Tractor drawn scraper; Tractor mounted Compressor Drill Combination; Trenching Machine (over 3 ft. depth); Tri-Batch Paver; Tunnel Badger or Tunnel Boring Machine; Tunnel Mole Boring Machine

Group 9: Canal Finger Drain Digger; Chicago Boom; Combination Backhoe and Loader (up to and including 3/8 yds.); Combination Mixer and Compressor (gunnite); Lull Hi-lift (20 ft. or over); Mucking Machine; Tractor with boom (D-6 or larger); Track Laying type Earth moving Machine (single engine with tandem scrapers); Sub-grader (Gurries or other types)

Group 10: Boom type Backfilling Machine; Bridge Crane; Cary-lift or similar; Chemical Grouting Machine; Chief of Party; Derricks; Derrick Barges (except excavation work); Euclid Loader and similar types; Heavy Duty Rotary Drill Rigs; Lift-slab (Vagtborg and similar types); Loader (over 2½ cu. yds. up to and including 4 cu. yds.); Locomotive (over 100 tons) (single or multiple units); Multiple Engine Earth Moving Machines (Euclid, Dozers, etc.); Pre-stress Wire Wrapping Machine; Rubber Tired Scraper, self-loading; Self-propelled Reservoir-debris equipment floating (200 HP and over); Shuttle Car (Reclaim Station); Single Engine Scraper (over 35 cu. yds.); Train Loading Station; Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons); Trenching Machine; Multi-engine with sloping attachments (JEFFCO or similar)

Group 10-A: Backhoe (up to and including 1 cu. yd. hydraulic); Backhoe (up to and including 1 cu. yd.)(Cable); Cranes (not over 25 tons)(hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Motor Patrol; Power Shovels, Clamshells, Draglines, Cranes (up to and including 1 cu. yd.); Rubber-tired Scraper, self-loading (twin engine); Self-propelled Boom-type Lifting Device (center mount) (over 10 tons)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 11: Automatic Asphalt or Concrete Slip Form Paver; Automatic Railroad Car Dumper; Canal Finger Drain Backfiller; Canal Trimmer; Cranes (over 25 tons); Highline Cableway Operator; Loader (over 4 yds. up to and including 12 cu. yds.); Multi-engine Earthmoving Equipment (up to and including 75 cu. yds. "struck" M.R.C.); Power Shovels, Clamshells, Draglines, Backhoes, Gradeall (over 1 yd. and up to and including 7 cu. yds. M.R.C.); Self-propelled Compactor (with multiple propulsion power units); Single Engine Rubber Tired Earth-moving Machine (with tandem scraper); Slip Form Paver (concrete or asphalt); Tandem Cats and Scrapers; Tower Crane Mobile; Universal Liebher and Tower Cranes (and similar types); Wheel Excavator (up to and including 750 cu. yds. per hour); Whirley Cranes (over 25 tons)

Group 11-A: Hand Wagons (in conjunction with wheel excavators); Loader (over 12 cu. yds.); Multi-engine Earth Moving Equipment (over 75 cu. yds. "struck" M.R.C.); Operator of Helicopter (when used in construction work); Power Shovels and Draglines (over 7 cu. yds. M.R.C.); Remote Controlled Earth Moving Equipment; Wheel Excavator (over 750 cu. yds. per hour)

AR-1059 P. 11

NEVADA AREA DEFINITIONS for Power Equipment Operators

** AREA 2: All areas not included within Area 1 as defined below.
* AREA 1: All of Northern Nevada within the following lines:

Commencing at the N.W. corner of township 22N, range 18E, Mount Diablo Baseline and Meridian at the California-Nevada border;
Thence Easterly to the N.E. corner of township 22N, range 22E;
Thence Southerly to the N.E. corner of township 20N, range 22E;
Thence Easterly to the N.W. corner of township 20N, range 26E;
Thence Northerly to the N.W. corner of township 22N, range 26E;
Thence Easterly to the N.W. corner of towhnsip 22N, range 29E;
Thence Northerly to the N.W. corner of township 30N, range 29E;
Thence Easterly to the N.E. corner of township 30N, range 33E;
Thence Southerly to the S.E. corner of township 24N, range 33E;
Thence Westerly to the S.E. corner of township 24N, range 31E;
Thence Southerly to the S.E. corner of township 16N, range 31E;
Thence Westerly to the S.E. corner of township 16N, range 30E;
Thence Southerly to the S.E. corner of township 15N, range 30E;
Thence Westerly to the S.E. corner of township 15N, range 27E;
Thence Southerly to the S.E. corner of township 14N, range 27E;
Thence Westerly to the S.E. corner of township 14N, range [illegible]3E;
Thence Southerly to the S.E. corner of township 13N, range 23E;
Thence Westerly to the S.E. corner of township 13[illegible], range [illegible]E;
Thence Southerly to the N.E. corner of township 10N, range 22E;
Thence Easterly to the N.E. corner of township 10N, range 23E;
Thence Southerly along the Easterly line of range 23E to the intersection of the California-Nevada border;
Thence North-Westerly, then Northerly following the California-Nevada border to the point of beginning.

Area 1 also includes that portion of Northern Nevada included within the following line:

Commencing at the S.W. corner of township 37N, range 52E;
Thence Easterly to the S.E. corner of township 37N, range 52E;
Thence Northerly to the N.E. corner of township 37N, range 52E;
Thence Easterly to the N.W. corner of township 37N, range 58E;
Thence Southerly to the S.W. corner of township 37N, range 58E;
Thence Easterly to the S.E. corner of township 37N, range 58E;
Thence Southerly to the N.E. corner of township 31N, range 58E;
Thence Westerly to the N.W. corner of township 31N, range 58E;
Thence Southerly to the S.W. corner of township 31N, range 58E;
Thence Westerly to the S.E. corner of township 31N, range 52E;
Thence Northerly to the N.E. corner of township 31N, range 52E;
Thence Westerly to the S.E. corner of township 32N, range 51E;
Thence Northerly to the point of beginning.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: ERIE
DECISION NO. AR-2096 DATE: Date of Publication
Supersedes Decision No. AR-2051, dated September 13, 1974 in 39 FR 33155
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway construction.

15-New York-1-2-3-X 1 of 4

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App Tr
Asbestos workers	$ 9.21	.67	.55		.04
Boilermakers	9.45	.50	.85		.02
Bricklayers:					
Tonawanda and Grand Island Twps:					
Bricklayers and stone masons	9.79	.55	1.00		
Terrazzo workers & Tile setters	9.41	.55	1.00		
Marble masons	9.505	.55	1.00		
Remainder of County:					
Bricklayers and stone masons	9.79	.55	1.00		
Marble setters	9.505	.55	1.00		
Terrazzo workers & Tile setters	9.41	.55	1.00		
Carpenters, Building:					
Grand Island north of White Haven Road					
Carpenters	8.95	1.10	.70		.02
Millwrights	9.05	1.10	.70		.02
Remainder of County, Building, Heavy and Highway:					
Carpenters, dock carpenters, drivers tenders, millwrights and piledrivermen	8.78	1.25	1.10		
Divers	16.07	1.25	1.10		
Cement masons:					
Building	10.18		.75		
Electricians	10.79	.45	12%+.70		.05
Elevator Constructors	9.63	.395	.26	.86+a+b	.02
Elevator Constructors' helpers	6.74	.395	.26	.86+a+b	.02
Elevator Constructors' helpers (prob.)	4.815				
Glaziers	8.64	.50	.45+g		.05
Ironworkers, structural, ornamental & reinforcing:					
Grand Island to White Haven Road	9.16	.51	.40		.01
Remainder of County	9.61	.75	.78		.04
Lathers	10.92		.10		.01
Lead burners	9.25	.35		c	.01
Line Construction					
Linemen	9.79	.50	.50	d	3/8%
Cable splicer	10.54	.50	.50	d	3/8%
Groundman digging machine operator	8.81	.50	.50	d	3/8%
Groundman mobile equipment	8.30	.50	.50	d	3/8%

AR-2096 P. 2

15-New York-1-2-3-X 2 of 4

BUILDING, HEAVY & HIGHWAY CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App Tr
Line Construction (Cont'd)					
Groundmen truck driver and mechanic	$ 7.90	.50	.50	a	3/8%
Groundmen dynamite man	8.30	.50	.50	a	3/8%
Marble, Tile & Terrazzo workers' helpers	7.76	.50	.40+I		
Painters:					
Grand Island North of White Haven Road:					
Painters, brush	6.945	.425+.45	.40		.01
Spray, Steel steeple jacks, swing scaffold	7.345	.425+.45	.40		.01
Bridge-crossing the Niagara R River	9.86	.425+.45	.40		.01
Sandblasting and waterblasting	7.845	.425+.45	.40		.01
Remainder of County:					
Painters, brush	8.655	.525	.30+j		.10
Steel tanks, towers, stacks, flag poles, radio TV towers	9.155	.525	.30+j		.10
Sandblasting, swing stage, spray bosun chair	8.905	.525	.30+j		.10
Bridges 35' high or in depth of 35' from road level	10.32	.525	.30+j		.10
Plasterers	11.06				
Plumbers	10.51	.50	.45		.04
Roofers:					
Composition, damp waterproofers, sprayers, asphalt mastic, wood block floor workers, steep roofers and siders	8.12	1.00	1.10		.02
Slate, tile precast tile roofers and asbestos	8.27	1.09	1.10		.02
Sheet metal workers	9.98	.40	.95		.08
Soft floor layers	8.20	1.25	1.10		
Sprinkler fitters	10.34	.50	.70		.06
Steam fitters	9.70	.62	.73		.06
Truck Drivers, Building, Heavy & Highway:					
Contractor drivers	8.695	.50	.55	e+f	
Ready mix	7.965	.375	.55	e+f	
Dump	7.965	.375	.55	e+f	

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15-New York-1-2-3-X 3 of 4

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15-New York-1-2-3-W 4 of 4

BUILDING, HEAVY & HIGHWAY CONSTRUCTION (CONT'D)

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Holidays: A through F; Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work day immediately preceding and following the holiday.

d. Holidays; A through F; Washington's Birthday; Election Day for President of the United States and election of Governor of New York State, provided employee works the day before.

e. After one year, one weeks vacation; 2 years, 6 days vacation; 3 years, 7 days vacation; up to 2 weeks maximum vacation after completion of the 5th year, full vacations are earned by a driver who works 1040 hours or more in the calendar year, if an employee works less than 1040 hours in any calendar year, vacation will be prorated for either 1 or 2 weeks of vacation on the basis of using the number of hours worked as the numerator and 1040 as the denominator.

f. Paid Holidays, A through F, Friday after Thanksgiving Day except where the employee is laid off 2 or more weeks prior to the holiday, however employees laid off less than 2 weeks prior to election Day will automatically be eligible for the subsequent Friday after Thanksgiving as a paid holiday even though laid off.

g. Employer contributes $.40 per hour to Supplemental Unemployment Benefits fund.

h. Employer contributes $1.05 per hour to a combined Health, Welfare and Supplemental Unemployment Benefit fund.

FOOTNOTES: (Cont'd)

i. Employer contributes $1.00 per hour to a supplemental unemployment benefit fund.

j. Employer contributes $.45 per hour to a Supplement Unemployment Benefit fund.

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BUILDING, HEAVY AND HIGHWAY CONSTRUCTION LABORERS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OT
BUILDING						
BLASTER; Plumbing Laborer, Wagon Drill Operator; Swing Scaffold	$8.205	.65	1.20		.05	
PNEUMATIC-GAS-ELECTRIC TOOL OP (over 8 feet deep)	8.155	.65	1.20		.05	
MORTAR MIXER	8.105	.65	1.20		.05	
FOUNDATION LABORER (over 8 feet deep) Mud Carriers; Plaster Tender; Plaster Scaffold Builder; Pneumatic Gas-Electric Tool Operator	8.055	.65	1.20		.05	
LABORER	7.955	.65	1.20		.05	
WRECKING						
WAGON DRILL OPERATOR	8.205	.65	1.20		.05	
PNEUMATIC-GAS-ELECTRIC TOOL OPERATORS Steel Burners	8.055	.65	1.20		.05	
WRECKERS	7.955	.65	1.20		.05	
OPEN CUT SEWER						
BLASTER: Wagon Drill Op	8.205	.65	1.20		.05	
BOTTOM MEN: Pneumatic-Gas-Electric Tool Op.	8.305	.65	1.20		.05	
LABORER: Top Men	7.955	.65	1.20		.05	
CAISSON-SHAFT-COFFERDAMS (OPEN CUT)						
BLASTER: Bottom Men; Wagon Drill Op.	8.205	.65	1.20		.05	
PNEUMATIC-GAS-ELECTRIC TOOL OP.	8.055	.65	1.20		.05	
TOP MEN	7.955	.65	1.20		.05	
STREET-ROAD-WORK						
PAVEMENT FORM SETTER; Wagon Drill Op.	8.205	.65	1.20		.05	
CONCRETE WORKER (Bootmen); Pneumatic-Gas-Electric Tool Op.	8.055	.65	1.20		.05	
LABORER	7.955	.65	1.20		.05	
SOFT GROUND TUNNEL OR JACKING						
RODMEN(reinforce); Welder	8.555	.65	1.20		.05	
LEAD MINER	8.355	.65	1.20		.05	
CONCRETE FORM MOVER: Monkey Hole Man: Side Miner	8.305	.65	1.20		.05	
BOTTOM SHAFT MEN	8.255	.65	1.20		.05	
TUNNEL-SHAFT MUCKER: Shaft Miner	8.205	.65	1.20		.05	
CAR PUSHER: Concrete Placing Crew; & Bull Gangs	8.105	.65	1.20		.05	
TOP MAN	7.955	.65	1.20		.05	
ROCK TUNNEL						
RODMAN (reinforce); Welder	8.555	.65	1.20		.05	
LEAD HEADING ROCK DRILLERS	8.355	.65	1.20		.05	
CONCRETE FORM MOVER; Side Heading Rock Drillers	8.305	.65	1.20		.05	
PLUG HOLE AND ROOF BOLT DRILLERS: Mucking Machine Tender; Tunnel & Shaft Mucker; Shaft Sinking Drillers	8.205	.65	1.20		.05	
BOTTOM SHAFT MAN	8.155	.65	1.20		.05	

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION LABORERS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OT
CAR PUSHERS; Bull & Tract Gangs; Concrete Placing Crew	$8.105	.65	1.20		.05	
TOP MAN	7.955	.65	1.20		.05	

BUILDING AND HEAVY CONSTRUCTION - POWER EQUIPMENT OPERATORS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OT
BUILDING						
ASPHALT PLANT OPERATOR	$8.205	.65	1.20		.05	
BACKFILLER; Boiler Operator; Bulldozer; Concrete Mixer Operator (1 bag); Concrete Pump Operator; Crane Operator; Derrick Operator; Hoist Operator (2 drums or more); Locomotive Operator; Mucking Machine Operator; Pavement Breaker; Power Shovel Operator; Roller Operator; Scraper Operator; Tractor Operator; Trenching Machine Operator	8.155	.65	1.20		.05	
Concrete Mixer Operator (2 bags); Hoist Operator (1 drum); Hydraulic Backhoe Operator (under 1 cubic yard)	8.105	.65	1.20		.05	
Concrete Mixer Operator (3 bags); Hydraulic Backhoe Operator (1 cubic yard or more)	8.055	.65	1.20		.05	
OILER	7.955	.65	1.20		.05	
WRECKING						
BACKFILLER; Boiler Operator; Bulldozer; Concrete Mixer Operator (1 bag); Concrete Pump Operator; Crane Operator; Derrick Operator; Hoist Operator (2 drums or more); Locomotive Operator; Mucking Machine Operator; Pavement Breaker; Power Shovel Operator; Roller Operator; Scraper Operator; Tractor Operator; Trenching Machine Operator	8.155	.65	1.20		.05	
Concrete Mixer Operator (2 bags); Hoist Operator (1 drum); Hydraulic Backhoe Operator (under 1 cubic yard)	8.105	.65	1.20		.05	
Concrete Mixer Operator (3 bags); Hydraulic Backhoe Operator (1 cubic yard or more)	8.055	.65	1.20		.05	
OILER	7.955	.65	1.20		.05	
OPEN CUT SEWER						
BACKFILLER; Boiler Operator; Bulldozer; Concrete Mixer Operator (1 bag); Concrete Pump Operator; Crane Operator; Derrick Operator; Hoist Operator (2 drums or more); Locomotive Operator; Mucking Machine Operator; Pavement Breaker; Power Shovel Operator; Roller Operator; Scraper Operator; Tractor Operator; Trenching Machine Operator	8.155	.65	1.20		.05	
Concrete Mixer Operator (2 bags); Hoist Operator (1 drum); Hydraulic Backhoe Operator (under 1 cubic yard)	8.105	.65	1.20		.05	
Concrete Mixer Operator (3 bags); Hydraulic Backhoe Operator (1 cubic yard or more)	8.055	.65	1.20		.05	
OILER	7.955	.65	1.20		.05	

BUILDING AND HEAVY CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP I: Crane with a main boom over 100 feet

GROUP II: all boom type equipment, all pan and carry-all operators, Archer hoist, back and pull hoe operator, blast or rotary drill, track or cat mounted, boiler (when used for power), boom trucks, cableway operator, concrete paver machine, crane operator, derrick operator, dragline operator, elevating grader (self-propelled), head tower operator, hot roller (finish course), hydraulic booms, hydro crane, maintenance engineer, mucking machine operator, multiple drum hoist, (more than 1 drum in use), Peine crane, pile driving machine operator, power grader machine operator, scoopmobile, shovel operator, skimmer operator, test core drill machine, tractor shovel operator, vertical caisson auger drill, well drilling machine

GROUP III: Back filling machine operator, Kolman loader, roller machine operator, snatch and pusher cats, stone crusher, towed or self-propelled rollers, trenching machine operator

GROUP IV: Air hoist operator, cage hoist operator, conveyor operator, conveyor system, (belt-crete or similar), hoisting engine op., house elevator, (when used for hoisting), industrial tractor, locomotive op., (irrespective of power), push button hoist op., Strato tower, tractors (when using winch power)

GROUP V: Concrete mixer op., (½ c.y. or over), gasoline driven boring machine, hydraulic system pumps, hydro hammer, finishing machine op., (asphalt spreader), finishing machine op., pump op., (4" or over), pump op., (2 or 3 in a battery)

GROUP VI: Air compressor operator, (under 160 cu. ft.), air compressor op., (over 160 cu. ft.), generator grount machine operator, heating boiler operator, (used for temporary heat), lubrication unit or truck, mechanical heaters, (when 9 are in a battery), mechanic or repairman, pneumatic mixer op., power plant (in excess of 10KW), welding machine operator, (to and including 3 machines) Bulldozer & tractor, (50 h.p., Monorail

GROUP VII: Bulldozer & tractor, (50 h.p., drawbar or under), jeep trench, mulchers, power brooms and rakes, seeders

GROUP VIII: Firemen

GROUP IX: Truck crane driver

GROUP X: Aggregate bin op., apprentice engineer or oiler, cement bin op., concrete mixer op., (under ½ c.y.), mechanical heaters, (when one or two are used), pump operators (one inch), pump op., (two inches), pump operators, (three inches), tractor machines

BUILDING AND HEAVY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
GROUP I	$10.235	.40	.90		.10
GROUP II	9.735	.40	.90		.10
GROUP III	9.58	.40	.90		.10
GROUP IV	9.54	.40	.90		.10
GROUP V	9.455	.40	.90		.10
GROUP VI	9.30	.40	.90		.10
GROUP VII	9.54	.40	.90		.10
GROUP VIII	9.145	.40	.90		.10
GROUP IX	8.985	.40	.90		.10
GROUP X	8.83	.40	.90		.10
GROUP XI	8.685	.40	.90		.10

HIGHWAY CONSTRUCTION

H.Y. -9-FEO-3- C — 1 of 3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Master Mechanic	$10.66	.40	.40+a		.10	
Cranes:						
Boom over 100 ft	10.07	.40	.40+a		.10	
Boom over 200 ft	10.57	.40	.40+a		.10	
Boom over 300 ft	11.07	.40	.40+a		.10	
All boom type equipment, all pan and carry-all operators, archer hoist asphalt roller (finish course), asphalt spreader or paver, automatic fine grader machine (C.M.I and similar type), back filling machine operators, back and pull hoe operator, belt placer (C M I. and similar type), black top plants, blast or rotary drill, truck or cat mounted, boiler (when used for power), boom trucks, boring machine operator, bulldozers (all sizes), cableway operator, caisson auger, central mix plant (and all concrete batching plants), cherry picker, concrete paver machine, concrete pump, crane operator, derrick operator, dragline operator dredge, Elevating grader (self-propelled), excavator (all purpose hydraulically operated), fork-lift, front end loader, gradall, greder, head tower operator, hydraulic booms, hydro crane, Lubrication Unit on Truck, maintenance engineer, mucking machine operator, multiple drum hoist (more than 1 drum in use), overhead crane, paine crane or similar type, pile driving machine operator, pump crete, push or snatch cats, quarry master or equivalent, ready mix concrete plant, road widener, rock bit sharpener (all types), scoop-mobile, shovel, side boom, skimmer operator, slip form paver (C.M I and similar type), test core drill machine, tire truck and repair, tractor [illegible] trenching machine, tractor shovel operator, truck crane, tunnel shovel machine, well drilling machine winch, winch truck with A Frame	$9.57	.40	.40+a		.10	

HIGHWAY CONSTRUCTION
(Cont.)

H.Y. -9-FEO-3-C — 2 of 3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Air motor operator, all other like grade machine (C.M I. and similar type), belt placer (C.M.I. and type), bending machine (pipe), boring machine operator, bituminous spreader and mixer, cage hoist operator, concrete finishing machine, concrete mixer operator - ½ cu yd or more, concrete saw - self-propelled, concrete spreader, conveyor operator, conveyor systems (belt crete or similar), hoisting engine operator, house elevator (when use for hoisting), hydraulic pipe jack machine or similar type machines, hydro hammer or similar types, industrial tractor, Holman loader or similar type machines, locomotive operator mixer for stabilized base self-propelled, monorail, plant engineer, push button hoist operator, roller machine operator, slip form paver (C.M.I. and similar type), snorkel stone crushers, strato-tower, towed or self-propelled rollers, tractors (when using winch power), tractors (with towed accessories), tube finisher (C.M.I. and similar type).	9.43	.40	.40+a		.10	
Air compressors (under 150 cu.ft.) air compressors (over 150 cu.ft.) asphalt curb & gutter machines, blower for burning brush, chipping machine and chip spreader, concrete curb and gutter machines, concrete curing machines, generator, grout or gunite machines, heating boiler operator (used for temporary heat) hydraulic rock expander or similar type machines, hydraulic system pumps, mechanical heaters (when 3 are in a battery), motorized hydraulic Pin Puller, pneumatic mixer operator, post hole digger and post driver, power plant in excess of 10 H.P. [illegible] (½" or over), pump Operator (2 or 3 in a battery), welding machine-						

HIGHWAY CONSTRUCTION

H.Y.-9-FEO-3-C — 3 of 3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Air tool operator, barrel vibrator, batch hopper, brick and tile cutting machine, bull float, burlap machine, carpenter, chain saw operator, chipping gun, chuck tender, clipping machine operator, concrete buggy, concrete conveyor, concrete form tamper, concrete grinder, concrete saw operator - walk behind, concrete vibrator, crack cleaning machine, curb finishing machine, deck hand, drill operator, dry pack machine, dry wall finisher, fence builder, fence post driver, fine grader, finishing machine operator, form setter, gas engine driven concrete vibrator, grade checker, grout machine, guard rail post driver, guard rail punch, guard rail reflectorizer, guard rail repair, guard rail rivet machine, guard rail router, guard rail straightener, guard rail wood blocker, guard rail wood drill, guard rail wood post borer, guard rail wood post punch, hand operated concrete saw, hand operated pavement breaker, hand operated post hole digger, hand operated rock drill, hand operated rock splitter, hand operated tamper, hand operated vibrator, hydraulic post driver, impact wrench, jackhammer, joint sealer, laborer, landscape man, mason tender, mechanical broom, mechanical finisher, mechanical grinder, mechanical trimmer, mortar mixer, pavement breaker, pipe layer, pipe wrapping machine, plasterer, power broom, power saw operator, power tool operator, rebar bender, rebar cutter, rebar tier, rip rap man, rock splitter, rodman, roto-mill, roto-tiller, sand blasting machine, sand mixer, scaffold builder, screed, shoring erector, signal man, spreader box, stake driver, stone spreader, tamper, tie back machine, timber faller, timber sawyer, timber scaler, tree climber, tree faller, tree pruner, tree remover, truck driver - 2 axle, truck driver - 3 axle, truck driver - 4 axle, truck driver - 5 axle, truck driver - 6 axle, truck driver - 7 axle, truck driver - 8 axle, truck driver - 9 axle, truck driver - 10 axle, truck driver - 11 axle, truck driver - 12 axle, truck driver - 13 axle, truck driver - 14 axle, truck driver - 15 axle, truck driver - 16 axle, truck driver - 17 axle, truck driver - 18 axle, truck driver - 19 axle, truck driver - 20 axle, truck driver - 21 axle, truck driver - 22 axle, truck driver - 23 axle, truck driver - 24 axle, truck driver - 25 axle, truck driver - 26 axle, truck driver - 27 axle, truck driver - 28 axle, truck driver - 29 axle, truck driver - 30 axle, truck driver - 31 axle, truck driver - 32 axle, truck driver - 33 axle, truck driver - 34 axle, truck driver - 35 axle, truck driver - 36 axle, truck driver - 37 axle, truck driver - 38 axle, truck driver - 39 axle, truck driver - 40 axle, truck driver - 41 axle, truck driver - 42 axle, truck driver - 43 axle, truck driver - 44 axle, truck driver - 45 axle, truck driver - 46 axle, truck driver - 47 axle, truck driver - 48 axle, truck driver - 49 axle, truck driver - 50 axle, truck driver - 51 axle, truck driver - 52 axle, truck driver - 53 axle, truck driver - 54 axle, truck driver - 55 axle, truck driver - 56 axle, truck driver - 57 axle, truck driver - 58 axle, truck driver - 59 axle, truck driver - 60 axle, truck driver - 61 axle, truck driver - 62 axle, truck driver - 63 axle, truck driver - 64 axle, truck driver - 65 axle, truck driver - 66 axle, truck driver - 67 axle, truck driver - 68 axle, truck driver - 69 axle, truck driver - 70 axle, truck driver - 71 axle, truck driver - 72 axle, truck driver - 73 axle, truck driver - 74 axle, truck driver - 75 axle, truck driver - 76 axle, truck driver - 77 axle, truck driver - 78 axle, truck driver - 79 axle, truck driver - 80 axle, truck driver - 81 axle, truck driver - 82 axle, truck driver - 83 axle, truck driver - 84 axle, truck driver - 85 axle, truck driver - 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HIGHWAY CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Operator (1 machine over 300 amps. or 2 or 3 machines regardless of amps), well point systems (electric, diesel or gas driven	9.14	.40	.40+a		.10	
Fireman, jeep trencher, motorized hydraulic seeders, mulching machines power broom and rakes, truck crane driver,	8.99	.40	.40+a		.10	
Aggregate bin operator apprentice engineer or oiler, C.M.I and similar type concrete spreads, cement bin operator, concrete mixer operator (under ½ cu yd), mechanical heaters (when one or two are used), pump operator (one inch), pump operator (two inch), pump operator (three inch), revining widener, steam cleaner, tractor machines	8.54	.40	.40+a		.10	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a Employer contributes $ .50 per hour to a Supplemental Unemployment Benefit fund.

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SUPERSEDEAS DECISION

STATE: North Dakota

COUNTIES: Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Walsh and Ward

DECISION NUMBER: AR-1055

DATE: Date of Publication

Supersedes Decision No. AR-1036 dated September 27, 1974, in 39 FR 35038

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
ASBESTOS WORKERS (except Walsh County)	$7.69	.35	.50		.005
BOILERMAKERS (except Walsh Co.)	8.35	.60	1.00		.02
BRICKLAYERS; Stonemasons:					
Burleigh and Morton Counties	7.78		.15		
Grand Forks, Steele and Walsh Counties	8.60		.15		
Cass and Richland Counties	8.25	.40	.15	.30	
Ward County	7.23		.15		.02
CARPENTERS:					
Burleigh and Morton Counties					
Carpenters	6.80				.02
Piledrivermen	6.925				.02
Grand Forks, Steele (Northern area) and Walsh Counties					
Carpenters	7.15		.20		.02
Piledrivermen	7.38		.20		.02
Millwrights	7.53		.20		.02
Cass, Richland and Steele (Southern area) Counties					
Carpenters	7.21		.30		
Ward County					
Carpenters	6.78				.02
Piledrivermen	7.01				.02
Millwrights	7.26				.02
CEMENT MASONS:					
Grand Forks and Steele Counties	6.25		.15		
Cass, and Richland Counties	7.51				
Ward County	5.50				
ELECTRICIANS:					
Cass, Grand Forks, Richland and Steele Counties					
Zone mileage from main P. O. in the Cities of Grand Forks, Valley City, Fargo and West Fargo.					
Zone (A) Within 0-15 miles of each main P. O.					
Electricians	7.95	.30	1%	6%	1½%
Cable Splicers	8.25	.30	1%	6%	1½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
ELECTRICIANS: (Cont'd)					
Zone (B) 15-30 miles of each main P. O.					
Electricians	$8.37	.30	1%	6%	1½%
Cable Splicers	8.87	.30	1%	6%	1½%
Zone (C) Over 30 miles of each main P. O.					
Electricians	8.95	.30	1%	6%	1½%
Cable Splicers	9.35	.30	1%	6%	1½%
Burleigh, Morton, and Ward Counties					
Zone mileage from main P. O. in the Cities of Minot, Bismarck and Mandan					
Zone (A) Within 0-25 miles of each main P. O.					
Electricians	7.80	.30	1%	6%	1½%
Cable Splicers	8.20	.30	1%	6%	1½%
Zone (B) Over 25 miles from main P. O.					
Electricians	9.60	.30	1%	6%	1½%
Cable Splicers	9.45	.30	1%	6%	1½%
ELEVATOR CONSTRUCTORS (excluding Walsh County)	8.35	.395	.16	3½%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.395	.16	3½%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
IRONWORKERS:					
Ornamental; Structural; Reinforcing	8.50	.48	.38		.01
PAINTERS:					
Cass, Grand Forks, Richland and Steele Counties					
Brush; Roller; Paperhangers	7.25				.01
Sandblasting; Structural Steel	7.50				.01
Spray	8.00				.01
Drywall Tapers and Sanders	8.04				
Burleigh and Morton Counties					
Brush	5.93				
Spray	5.83				
Ward County					
Brush	5.20				
Spray	5.55				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PLASTERERS:					
Grand Forks and Steele Counties	$6.80		.15		
Ward County	6.50				
Cass and Richland Counties	8.30				
PLUMBERS:					
Cass, Grand Forks, Richland, Steele, and Walsh Counties	8.25	.38	.20		.01
Burleigh and Morton Counties	7.85	.35	.25		.02
Ward County	7.45	.35	.25		.02
ROOFERS:					
Cass and Richland Counties	5.30				
SHEET METAL WORKERS:					
Burleigh, Grand Forks, Morton, Steele and Ward Counties	8.00				
Cass, and Richland Counties	7.25	.40	.10		.01
SOFT FLOOR LAYERS:					
Cass and Richland Counties	5.75	.20			
SPRINKLER FITTERS (except Walsh County)	8.00	.50	.70		.08

FOOTNOTE:

a. Employer credits 2% basic hourly rate for employee with 6 months to 5 years' service; 4% basic hourly rate with over 5 years' service as Vacation Credit Plan. Six Paid Holidays: A through F.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

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BUILDING CONSTRUCTION

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Grand Forks and Steele Counties					
Group 1:					
Laborers; Concrete bucket dumpman	$5.42	.20			
Group 2:					
All power tools (air, gas and electric); Operators of tools that come under the laborers' jurisdiction; Brick, plaster and finishor tender; Sandblaster and gunnite pot tender; Hose tender where under the laborers' jurisdiction	5.57	.20			
Group 3:					
Hod Carriers; Non-metallic Pipelayer; Gas Line wrapping or taping; Sand Blaster and Gunnite Nozzleman where under laborers' jurisdiction; Cutting Torch for demolition	5.77	.20			
Burleigh and Morton Counties					
Group 1:					
Laborers; Concrete bucket man; Brick and Plasterer tender	4.80	.20			
Groups 2 & 3:					
All Power tool operator of tools that come under the laborers' jurisdiction; Mortar Mixer; Hod Carriers; Non-metallic Pipe layer; Gas Line wrapping or taping; Cutting Torch for demolition	4.90	.20			

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
Cass and Richland Counties					
Group 1: Laborers; Concrete Bucket dumpman; Bricktender	$4.99	.20			
Group 2: All Power tool operators of tools that come under the laborers' jurisdiction; Plasterers tender; and Mortar Mixer	5.14	.20			
Group 3: Mod Carriers; Non-metallic Pipe layer; Gas Line wrapping and taping (Distribution only); Cutting Torch for demolition	5.14	.20			
Ward County					
Group 1: Laborer; Concrete bucket dumpman	4.99	.20			
Group 2: All Power tool operators of all tools that come under the laborers' jurisdiction; Mortar Mixer; and Plasterer tender	5.09	.20			
Group 3: Non-metallic Pipe layer; Gas Line wrapping or taping (Distribution only); Cutting Torch for demolition	5.24	.20			
Walsh County	2.75				

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
GROUP 1 CRANES, tower and overhead; Cherry picker	$ 6.90	.35	.25			
GROUP 2 BRAKEMEN; Any air compressed operations over 300 well points; Frontend loader over 1 1/2 cu. yds.; Power plant engineer; Straddle Carrier; Oiler; Mechanic and welder; Batch plant drill rig; Tractor, over 75 HP; Concrete pumps, stationary and boom type; Forklift, over 3,000 lbs. lifting capacity	6.10	.35	.25			
GROUP 3 HOIST; Greaser; Concrete mixer operator; Boom truck; Firemen; Tractor, 75 HP and under; Frontend loader, 1 1/2 cu. yds., and under; Air compressor, 300 and under; Forklift, 3,000 lbs. and under lifting capacity; Self-propelled scissor jax	5.30	.35	.25			

Site Preparation Excavation and Incidental Paving (except Walsh County)

LABORERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr
Group 1	$3.20				
Group 2	3.30				
Group 3	3.40				
Group 4	3.50				

Site Preparation Excavation and Incidental Paving (except Walsh County)

POWER EQUIPMENT OPERATORS

Group 1	6.95	.35	.25		
Group 2	6.80	.35	.25		
Group 3	6.65	.35	.25		
Group 4	6.60	.35	.25		
Group 5	6.35	.35	.25		
Group 6	6.12	.35	.25		
Group 7	5.19	.35	.25		
Group 8	5.04	.35	.25		
Group 9	4.94	.35	.25		
Group 10	4.60	.35	.25		

Site Preparation Excavation and Incidental Paving (except Walsh County)

TRUCK DRIVERS

Simple Axle	4.77	.35	.15		
Tandem	4.87	.35	.15		
Agitator Dumpcrete	5.12	.35	.15		
Off road heavy end dumps, 20 yds. and under; Tandem Semi, Lowboy	5.12	.35	.15		
Euclid, over 20 yds.	5.75	.35	.15		

LABORERS

Group 1: General Construction Laborer (Chip Spreader Leverman, Fine Grader, Form Grader, Landscape Worker, Pump Operator (prewater) Tunnel Worker, Sign Erector); Reinforced Steel Setter; Sack Shaker (cement and mineral filler); Pipe Handler; Drill Runner Helper; Salamander Heater and Blower Tender

Group 2: Semi Skilled Laborer (Joint Filler Machine Operator, Chip Spreader Operator); Bulk Cement Handler; Conduit Layer, telephone or electrical; Form Setter (pavement); Gas, Electric or Pneumatic Tool Operator (chipping hammer, grinders and paving brakers, tamper (dirt), Concrete Vibrator Operator); Chain Saw Operator; Concrete Curing Man (not water); Bituminous Worker (Shoveler, Dumper, Raker and Floater); Kettleman (bituminous or lead); Concrete Bucket Signalman; Power Buggy Operator; Brick and Mason Tender; Multiplate Pipe Layer; Culvert Pipe Layer

Group 3: Caisson Work; Bottom Man, (sanitary sewer, storm sewer, water, and gas lines); Concrete Mixer Operator (one bag capacity); Mortar Mixer

Group 4: Pipe Layers (sanitary sewer, storm sewer, water, and gas lines); Drill Runner (including Wagon Churn or Air Track); Powderman, Gunite and SandBlast, Nozzleman

POWER EQUIPMENT OPERATORS

Group 1: Cableway Operator; Crane Operator with over 135' boom; Derrick (Guy and Stiff Leg), (power), (skids and stationary); Front End Loader over 10 cu. yds.; Gantry Crane Operator; Mole Operator, including power supply or tunnel mucking machine; Power Shovel and/or other equipment with shovel type controls 3½ cu. yds.

NOTICES

NOTICES

POWER EQUIPMENT OPERATORS (Cont'd)

Group 2: Concrete Mixer Stationary Plant Operator over 34E; Dredge Operator or Engineer, Dredge Operator (power) and Engineer; Elevator Grader Operator; Locomotive, Crane Operator; Master Mechanic; Mixer (paving) Concrete Paving Operator, road; Power Shovel and/or other equipment with shovels and/or other equipment with shovel type controls up to 3¼ cu. yds.; Scraper Tandem; Tandem Pusher Quad 9 or similar; Tractor Operator (pipeline); Side Boom; Truck Crane Operator; Hydrocrane Operator, 15 ton and over

Group 3: Dope Machine Operator (pipeline); Drill Rigs, Heavy Duty Rotary or Churn or Cable Drill; Front End Loader Operator, 6 cu. yds. and over; Locomotive, all types, Pipeline Wrapping, Cleaning and Bending Machine Operator; Power actuated Horizontal Boring Machine over 6" Operator (pipeline); Pumperete Operator; Refrigeration Plant Engineer; Slip Form Operator (power driven)(paving); Tandem Scraper-twin engine, 50 cu. yds. struck and over

Group 4: Asphalt Paving Machine Operator; Asphalt Plant Operator and Console Board Operator; CMI Grading Operator; Crushing Plant Operator (gravel and stone or gravel washing crushing and screening plant operator); Front End Loader Operator, 1 cu. yd. up to 6 cu. yds.; Grader or Motor Patrol, Finishing Earth Work and Bituminous; Mechanic or Welder (heavy duty); Rubber Tired Industrial Tractor with Backhoe attachment (water main sanitary sewer and storm sewer, trunk line construction); Scraper Operator; Tractor type Dozer D-6 and over; Trenching Machine Operator, sewer and water, (except Ditch Witch or similar use oiler rates); Turnapull Operator, (or similar type)

Group 5: Bituminous Spreader and Bituminous Finishing Operator (power); Concrete Distributor and Spreader Operator, Finishing Machine Longitudinal Float Operator, Pt. Machine Operator and Spray Operator; Concrete Mixer Operator on job site 16S or over; Paving Breaker or Tamping Machine Operator, including machine with power shovel attachments (power driven); Power actuated Augers and Boring Machine Operator; Power actuated Jacks Operator; Power Plant Engineer, 100 K.W.H. and over; Push Tractor; Self-propelled Traveling Soil Stabilizer; Soil Cement Stabilizer; Truck Mechanic

Group 6: Concrete Saw Operator (multiple blade)(power operated); Fine Grade Operator; Roller, steel and self-propelled rubber, on Hot Mix Asphalt Paving; Tractor Type Dozer under D-8 H.P.; Distributor Operator

POWER EQUIPMENT OPERATORS (Cont'd)

Group 7: Brakeman or Switchman; Concrete Batch Plant Operator (cement, rock, and sand) Electronic; Concrete Mixer Operator on job site under 16S; Crane Truck Oiler; Grader Operator (Motor Patrol) (haul road); Gravel Screening Plant Operator (portable not crushing or washing); Greaser (truck or tractor); Gunnite Operator Gunall; Hoist Engineer (power); Launchman (Tankerman or Pilot License); Pick-up Sweeper, 1 yd. and over hopper capacity; Shouldering Machine Operator (power) (Apsco or similar type) including Self-propelled Sand Chip Spreader Flaherty or similar; Sheepsfoot Roller or Compactor (self-propelled)

Group 8: Crawler Type Tractor Pulling Compaction or Aerating Equipment; Farm type Rubber Tired Tractor with Backhoe attachment; Self-propelled Vibrating Packer Operator Pad type (35 hp and over); Off road self-propelled watering equipment; Boom Truck Operator; Roller, steel and self-propelled rubber, on other than Hot Mix

Group 9: Bituminous Spreader and Bituminous Finishing Machine Operator (helper) (power); Concrete Batch Operator (cement, rock and sand) (manual); Form Trench Digger (power); Front End Loader Operator up to 1 cu. yd.; Hyster Carrier or Forklift; Leverman; Mechanics' Helper or Greaser Helper; Oiler (power shovel, crane dragline); Pugmill Operator; Pump Operator (well points); Self-propelled Broom

Group 10: Conveyor Operator; Curb Machine Operator (manual); Dredge Deck Hand; Farm Tractors, Rubber Tired for Compacting and Aerating; Front End Loader Operator (farm type rubber tired tractor); Stump Chipper Operator; Tie Tamper and Ballast Machine Operator

NORTH DAKOTA - LINE CONSTRUCTION

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I Cable Splicer; Lineman; Tractor dozer operator (D-4 and larger) all rigs erecting steel tower and "H" fixtures, also tension-pulling machines	$ 7.90	.35	1%		1/2%
GROUP II Groundman - operating special equipment hole digging machines; Aerial baskets on energized circuits; Tractors (D-4) and larger; Transmission line pole hauling; all Fifth wheel trucks and other setting and assembly equipment excluding steel tower and "H" fixtures erection	6.37	.35	1%		1/2%
GROUP III Groundman-Truck or tractor driver (with winch); Operators of trucks up to and including 2 1/2 tons; Tractor including D-2 and smaller; Including wheel tractors and crawler tractors	5.31	.35	1%		1/2%
GROUP IV Groundman-Truck or tractor driver (without winch); Operators of trucks up to and including 2 1/2 tons; D-2 and smaller; including wheel tractors and crawler tractors; Groundmen	4.88	.35	1%		1/2%

SUPERSEDEAS DECISION

STATE: South Dakota COUNTY: Minnehaha
DECISION NUMBER: AR-1056 DATE: Date of Publication
Supersedes Decision No. AR-1026 dated August 30, 1974, in 39 FR 31865
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$8.53	.35	.40		
BOILERMAKERS	8.35	.60	1.00		.02
BRICKLAYERS; Stonemasons	7.50	.25	.30	.50	
CARPENTERS:					
Carpenters, Piledrivermen	7.51		.20		.05
Millwrights	8.47		.20		.05
CEMENT MASONS	7.35				
ELECTRICIANS:					
0 miles through 30 miles from Sioux Falls Post Office					
Electricians	8.17	.30	1%	6%	1½%
Cable Splicers	8.99	.30	1%	6%	1½%
Over 30 miles from Sioux Falls Post Office					
Electricians	8.77	.30	1%	6%	1½%
Cable Splicers	9.59	.30	1%	6%	1½%
ELEVATOR CONSTRUCTORS	8.085	.345	.23	2%+a	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.345	.23	2%+a	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	5.79				
LABORERS:					
Laborers	4.35				
Mortar mixers, Paving breakers, Jack hammer operator	4.45				
Nozzleman (gunite, sandblast and shotcrete)	4.60				
LATHERS	6.83				.01
PAINTERS:					
Brush	6.07				
Spray	6.57				
Tapers	6.32				
PLASTERERS	7.53				.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PLUMBERS; Steamfitters	$8.365	.32	.15	.17	.03
SHEET METAL WORKERS	7.92		.15	.35	
SPRINKLER FITTERS	7.85	.50	.70		.08
WELDER: Receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

NOTICES

SUPERSEDEAS DECISION

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: AR-90
COUNTY: Lubbock
DATE: Date of Publication
Supersedes Decision No. AR-47, dated September 27, 1974, in 39 FR 35059.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See General Wage Determination AR-36 for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$8.00	.35	.30		.02
BOILERMAKERS	7.80	.30	.76		.02
BRICKLAYERS & STONEMASONS	7.65		.20		
CARPENTERS	6.45	.30	.30		.01
CEMENT MASONS	6.00				
ELECTRICIANS:					
Electricians	7.80	.30	1%		1/10%
Cable splicers	7.85	.30	1%		1/10%
IRONWORKERS:					
Structural; Ornamental; Reinforcing	6.85	.55	.50		.10
All ironworkers on jobs 30 miles or more from the city of Lubbock	6.775	.55	.50		.10
LABORERS:					
GROUP 1	3.925	.275	.10		.01
GROUP 2	4.20	.275	.10		.01
GROUP 3	4.125	.275	.10		.01
GROUP 4	4.275	.275	.10		.01
GROUP 5	4.525	.275	.10		.01

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading and unloading materials, wrecking buildings and all structures and all construction laborers except those named below
GROUP 2 - Air tool operator (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (concrete and clay and all non-metallic pipe); handling, laying and cleaning pumpcrete pipe
GROUP 3 - Mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders
GROUP 4 - Wagon drill
GROUP 5 - Blasters and powder make-up men

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LATHERS	$6.75	.20			.01
LINE CONSTRUCTION:					
Lineman	7.60	.30	1%		
Operators	80%JR	.30	1%		
Groundmen (more than 1 year experience)	55%JR	.30	1%		
Groundmen (less than 1 year experience	50%JR	.30	1%		
Flat bed truck operator	70%JR	.30	1%		

DECISION NO. AR-90

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS:					
Brush	$5.80		.20		.04
Spray	6.45		.20		.04
PLASTERERS	6.00				
PLUMBERS & STEAMFITTERS	7.50		.40		.04
POWER EQUIPMENT OPERATORS:					
GROUP 1	5.60	.30	.50		.10
GROUP 2	6.50	.30	.50		.10
GROUP 3	6.90	.30	.50		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman
GROUP 2 - Air compressors, Pumps, Welding Machines, Throttle valves, Light Plants; Conveyor; Wagon drill; Elevators building; Form graders; Hoist, single drum; Ford tractor including blade and mower on rear; Mixers less than 14 cubic feet; Screening plants; Crushing plants; Fork lifts (short, under 25 feet); Concrete pumps (all types); Bobcat type equipment; Ford tractor or like with any attachments (except blade and mower on rear); All other equipment of similar nature coming under the light equipment class, when power operated
GROUP 3 - Drilling machines (all types); Scoopmobiles; Hoists, two drums or more; Forklifts (over 25 ft.); Winch truck; Six wheel truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic feet or over; Blade graders, self-propelled; Cableways; Cranes - power operated(to 100 feet of boom); Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving mixer (all types); Pile drivers; Mobile concrete mixers over 14 cubic feet; Bulldozers, loaders, tractovators; Scrapers and pulls; Welder; Trenching machines; Roller, ten tons or over; Air compressors, pumps, welding machines and light plants; Air compressor & air tugger; Boilers, two or more fired by one man; Heavy duty mechanic; All other equipment of similar nature coming under the heavy equipment class, when power operated

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ROOFERS	$3.50				
SHEET METAL WORKERS	8.33		.10		.07
SOFT FLOOR LAYERS	5.80		.20		.04
SPRINKLER FITTERS	9.05	.50	.70		.08
TRUCK DRIVERS	3.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

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federal register

MONDAY, DECEMBER 23, 1974

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Volume 39 ■ Number 247

Pages 44193–44387

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This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 330, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation increases the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period December 13–19, 1974. The quantity that may be shipped is increased due to improved market conditions for Navel oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Navel Orange Regulation 330 (39 FR 43293). The marketing picture now indicates that there is a greater demand for Navel oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Navel oranges to fill the current market demand thereby making a greater quantity of Navel oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1)(i) and (iii) of § 907.630 (Navel Orange Regulation 330) (39 FR 43293) are hereby amended to read as follows:

§ 907.630 Navel Orange Regulation 330.

* * * * *

(b)(1) * * *

(i) District 1: 1,334,000 cartons;

(iii) District 3: 116,000 cartons:

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 18, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-29799 Filed 12-20-74;8:45 am]

PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

Expenses and Rate of Assessment

This document authorizes expenses of $27,800 of the Interior Grapefruit Marketing Committee, under Marketing Order No. 913, for the 1974–75 fiscal period and fixes a rate of assessment of $0.0055 per standard packed box of grapefruit handled in such period to be paid to the committee by each first handler as his pro rata share of such expenses.

On November 27, 1974, notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 41379) regarding proposed expenses and the related rate of assessment for the period August 1, 1974, through July 31, 1975, pursuant to the marketing agreement, as amended, and Order No. 913, as amended (7 CFR Part 913), regulating the handling of grapefruit grown in the Interior District in Florida. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The notice provided that all written data, views, or arguments in connection with said proposals be submitted by December 12, 1974. None were received. After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Interior Grapefruit Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 913.210 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Interior Grapefruit Marketing Committee during the period August 1, 1974, through July 31, 1975, will amount to $27,800.

(b) *Rate of Assessment.* The rate of assessment for said period, payable by each handler in accordance with § 913.31, is fixed at $0.0055 per standard packed box of grapefruit.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of grapefruit are now being made, (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during the aforesaid period, and (3) such period began on August 1, 1974, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: December 17, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-29798 Filed 12-20-74;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—GENERAL REGULATIONS AND POLICIES

PART 1408—SETOFF, WITHHOLDING AND STOP PAYMENT POLICIES OF COMMODITY CREDIT CORPORATION

Carrier Debts; Correction

FR Doc. 74–28085, in the issue dated December 2, 1974, is corrected as follows.

On page 41733 in the heading in the second column "Debits" Due CCC should read "Debts" Due CCC. On the same page in § 1408.4(e)(2)(iii) the word "prescribe" should read "prescribed".

On page 41734 in § 1408.11(a) the word "bared" should read "barred", and in the same paragraph the reference to § 1408.4(d)(4) should be changed to 1408.4(e)(3). In § 1408.11(c) the reference to (d) of § 1408.4 should be changed to (e) of 1408.4.

Signed at Washington, D.C., on December 16, 1974.

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.74-29049 Filed 12-20-74;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 317—PRIORITY DELIVERY OF COAL UNDER DEPARTMENT OF DEFENSE CONTRACTS

On October 8, 1974 the Federal Energy Administration (FEA) issued a notice of proposed rulemaking to establish procedures for instituting priority coal supply contracts or priority treatment of coal supply contracts for the Department of Defense (DOD). Under the proposal, FEA would be authorized to issue written orders to suppliers requiring them to provide specific types and amounts of coal to DOD. Such orders would take precedence over all other existing contracts.

Comments were invited from all interested persons by October 21, 1974 and a total of eight written comments were received. The public hearing which was scheduled in the proceeding for October 21 and 22 was cancelled on October 18th after FEA failed to receive any requests to present oral presentations.

The final regulations published here reflect FEA's consideration of all comments received, including those received subsequent to the official closing date, as well as all other information available to FEA.

A number of changes have been made in the regulations, as proposed, in response to comments received. Several comments expressed concern over the possible adverse effects a priority system for the military might have on other end users of coal such as homeowners, hospitals, schools, and public utilities. Several suggestions were offered for alleviating this concern including granting all persons adversely affected by a priority order the right to appeal, providing public notice of all priority orders, and making FEA's intention to avoid unfair distributions of burdens and undue hardships explicit in the regulations.

In response to these suggestions and further analysis by FEA, the following changes have been made in the regulations, as proposed:

Section 317.3 has been amended to require FEA's actions in administering the priority program to be consistent with its general responsibility under section 7 of the Federal Energy Administration Act of 1974 to avoid unfair distribution of burdens and undue hardships whenever possible.

A new § 317.4 has been added to require that public notice be given of all written requests received from DOD for priority orders.

Section 317.5 has been amended to require a supplier who must reduce the amount of coal being delivered to non-DOD contractors in order to fulfill a priority order, to do so on a pro-rata basis except as otherwise provided in the order.

Section 317.6 has been amended to permit any person whose supply of coal will be directly reduced as a result of a priority order to file an appeal with FEA.

A number of minor revisions have also been made to the regulations, as proposed, in response to comments received. At the suggestion of the Environmental Protection Agency, § 317.3 has been amended to require FEA to specify the sulphur and ash content of coal to be delivered to DOD under priority orders. A minor change in the wording of § 317.3 has also been made to make it clear that a supplier will not be required to enter into a contract with another supplier in order to fulfill a priority order. Finally, § 317.9 has been amended to provide that all communications concerning Part 317 be addressed to the Federal Energy Administration, Code 55, Washington, D.C. 20461.

(Defense Production Act of 1950, as amended (50 U.S.C. App. 2071 et seq.); Federal Energy Administration Act of 1974 Pub. L. 93-275, 88 Stat. 96; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, Part 317 of Chapter II Title 10 of the Code of Federal Regulations, is established as set forth below, effective immediately.

Issued in Washington, D.C., December 17, 1974.

ROBERT E. MONTGOMERY, Jr.,
General Counsel,
Federal Energy Administration.

Part 317 is added to Chapter II to read as follows:

Sec.
317.1 Purpose.
317.2 Definitions.
317.3 Order.
317.4 Notice.
317.5 Effect of order.
317.6 Appeal.
317.7 Other procedures.
317.8 Records and reports.
317.9 Address.
317.10 Violations and sanctions.

AUTHORITY: Defense Production Act of 1950, as amended, 50 U.S.C., App. 2071 et seq.; Federal Energy Administration Act of 1974, Pub. L. 93-275, 88 Stat. 96; E.O. 11790, 39 FR 23185.

§ 317.1 Purpose.

This part establishes the procedures to be utilized by FEA to implement the provisions of the Defense Production Act of 1950 (50 U.S.C. App. 2071 et seq.) whenever the interests of national defense require the priority delivery of coal under Department of Defense contracts. The regulation provides that FEA may require that, upon issuance of an order directing priority treatment, persons shall supply coal to the Department of Defense on a priority basis above all other contractual or other obligations.

§ 317.2 Definitions.

"DOD" means the Department of Defense, including Military Departments and Defense Agencies.

"FEA" means the Federal Energy Administration, acting either through the Administrator or the delegate of the Administrator.

"Order" means a written directive or verbal communication of a written directive, if promptly confirmed in writing, issued by FEA.

"Person" means any individual, firm, estate, trust, sole proprietorship, partnership, association, company, joint-venture, corporation, governmental unit or instrumentality thereof, or a charitable, education or other institution, and includes any officer, director, owner or duly authorized representative thereof.

§ 317.3 Order.

(a) *Issuance.* Upon receipt of written notification from DOD that a serious disruption will occur in the supply of coal necessary to meet a particular and essential military need, the FEA consistent with the responsibilities imposed under section 7 of the Federal Energy Administration Act of 1974 and the Defense Production Act of 1950, as amended, may order a person regardless of other existing contracts and orders, to perform fully its contractual obligations to provide DOD with coal meeting its specifications, or to enter into agreements with DOD to provide coal in excess of such requirements, or to enter into contracts with DOD to provide a specific quality and quantity of coal. Such order shall state the type, size, and sulphur and ash content of coal to be delivered, the maximum quantity of coal that the person is obligated to deliver, the delivery schedule, and any other terms necessary to ensure the timely receipt of the specified supply of coal.

(b) *Compliance.* Each person to whom an order is issued pursuant to this part shall deliver the specified supply of coal to DOD in accordance with the terms of the order.

§ 317.4 Notice.

Upon receipt of written notification from DOD pursuant to § 317.3, notice shall be given to the public either through publication in the FEDERAL REGISTER or through another appropriate method prior to the issuance of an order.

§ 317.5 Effect of order.

(a) *Defense against claims for damages.* No person shall be liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with the provisions of any authorized order issued in accordance with this part.

(b) *Pro-rata reduction.* If, in order to fulfill a priority order for a specific type of coal, a supplier must reduce the amount of that type of coal being supplied to another non-DOD contractors, such reductions shall be made on a pro-rata basis except as otherwise provided in the order.

§ 317.6 Appeal.

Any person to whom an order is issued in accordance with this part or whose supply of coal will be directly reduced as a result of a priority order, may file an appeal of such order with FEA. The procedures that control the filing and the evaluation of such appeal are those stated in Subpart H of Part 205 of this chapter.

§ 317.7 Other procedures.

(a) *Stay.* An application for stay of an order issued in accordance with this part may be filed in accordance with Subpart I of Part 205 of this chapter.

(b) *Conferences or hearings.* A request for a conference or hearing regarding an order issued in accordance with this part may be filed in accordance with Subpart M of Part 205 of this chapter.

(c) *Computation of time; effective date of orders.* The computation of time with respect to any order issued in accordance with this part and the effective date of any such order shall be as stated in §§ 205.5 and 205.10, respectively, of Part 205 of this chapter.

(d) *Service.* The service of any order issued in accordance with this part shall be in accordance with § 205.7 of Part 205 of this chapter.

(e) *Subpoenas, Witness fees.* The issuance of subpoenas and the payment of witness fees shall be in accordance with § 205.8 of Part 205 of this chapter.

§ 317.8 Records and reports.

(a) Each person to whom an order is issued in accordance with this part shall make and preserve for at least two years thereafter accurate and complete records of deliveries in accordance with such order. Such records may be retained in the form of microfilm or photographic persons who, at the time such microfilm copies instead of the original by those or other photographic records are made, maintain such records in the regular and usual course of business.

(b) All records required by this part shall be made available upon request for inspection and audit by duly authorized representatives of the FEA.

(c) Persons to whom orders are issued in accordance with this part shall make such records and submit such reports to FEA as it may require.

§ 317.9 Address.

All written communications concerning this part shall be addressed to the Federal Energy Administration, Code 55, Washington, D.C. 20461.

§ 317.10 Violations and sanctions.

(a) Any practice that circumvents or contravenes or results in a circumvention or contravention of the requirements of this part or any order issued pursuant thereto is a violation of the regulations provided in this part.

(b) *Criminal Penalties.* Any person who wilfully violates any provision of this part, either by commission or omission, or any order issued pursuant thereto shall be subject to a fine of not more than $10,000 or imprisoned for not more than one year, or both.

[FR Doc.74-29850 Filed 12-18-74;4:13 pm]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 74-SW-30; Amdt. 39-2048]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Model 205A and 205A-1 Helicopters

Amendment 39-1304 (36 FR 19360), AD 71-21-2, requires certain repetitive inspections of the vertical fin forward spar until the spar is modified for Bell Model 205A and 205A-1 helicopters equipped with certain tail booms. After issuing Amendment 39-1304, the agency found the daily inspection requirement needed clarification. In response to an air carrier operator's hardship, the AD is being amended to specify certain checks before the first flight of each day in place of certain inspections.

Since this amendment provides a relief from Amendment 39-1304 and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1304 (36 FR 19360), AD 71-21-2 is further amended as follows:

1. By amending paragraph (d) to read:

Before the first flight of each day after the inspection in paragraph (c) is accomplished, conduct a check as follows:

2. By amending paragraph (d)(4) to read:

The above check may be performed by the pilot.

This amendment becomes effective December 23, 1974.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, (49 U.S.C. 1354(a); 1421, and 1423); sec. 6(c) of the Department of Transportation Act, (49 U.S.C. 1655(c)))

Issued in Fort Worth, Texas on December 6, 1974.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.74-29951 Filed 12-20-74;8:45 am]

[Docket No. 74-NE-45, Amdt. 39-2065]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney JT8D Aircraft Engines

On November 14, 1974, a proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive applicable to Pratt & Whitney Aircraft Model JT8D-1, -1A, -7, and -7A turbofan engines due to failures of low turbine shafts was published in the FEDERAL REGISTER (39 FR 40167). These failures have been caused by excessive taper wear or plate peeling of the No. 2 compressor hub spline which imposes an uneven leading of the shaft spline surfaces resulting in fatigue failure of the shaft. Early investigations indicated that the shafts separated at the root of the last thread of the threaded forward section which mates with the No. 2 compressor hub coupling nut. To reduce the stress levels in the threaded area, Pratt & Whitney released a rework procedure to undercut the threads. Shafts reworked in accordance with this procedure have been found with the failures originating in the shaft spline. Since this condition is likely to exist in other JT8D engines, the following Airworthiness Directive will require the removal of low turbine shafts that have not been reworked and a repetitive inspection on shafts with reworked splines at intervals of 6700 cycles in service. The AD will also require an inspection of the No. 2 compressor hub spline.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Most of the comments suggested clarification of the Airworthiness Directive. These suggestions have been incorporated into the AD. One comment was concerned with the identification of reworked shafts and stated that some operators have complied with the intent of Pratt & Whitney Service Bulletin 2452, to rework the low turbine shaft, except for the reidentification. Accordingly, Paragraphs 1 and 2 have been changed to include these shafts. Another commentator suggested that since the eddy current inspection procedure introduced in Pratt & Whitney Service Bulletin 2452, Revision 5, had not been changed in subsequent revisions, Revision 5, instead of Revision 9, should be used to preclude confusion in the acceptable inspection procedure. This request has been incorporated.

Paragraph 2 of the proposed AD specified eddy current inspection of certain turbine shafts prior to the accumulation of 6700 cycles since last inspection or within the next 2000 cycles, whichever is later. A commentator questioned whether other methods of inspection were acceptable for previous inspections. Since no data has been submitted to justify the use of an alternate method, the AD has been changed to specify only the eddy current inspection procedure.

Paragraph 3 of the AD requires the inspection of the No. 2 compressor hub spline for taper wear or plate peeling when the low turbine shafts are removed or inspected in accordance with Paragraphs 1 and 2. A comment was received indicating this could cause unnecessary engine disassembly when shafts are removed for reasons other than for shaft inspections. Therefore, Paragraph 3 has been changed to specify that the No. 2 compressor hub spline inspection for taper wear need not coincide with shaft

removals. Plated No. 2 compressor hubs must be inspected for plate peeling at each shaft removal.

It has been requested that operators be allowed to submit data for adjustment in compliance times. To allow this, a new paragraph has been added.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation Regulation is amended by adding the following new Airworthiness Directive:

PRATT & WHITNEY AIRCRAFT. Applies to all Pratt & Whitney JT8D-1, -1A, -7, and -7A model turbofan engines

Compliance required as indicated.

To prevent failure of the low turbine shaft spline accomplish the following:

1. Remove from service thin wall low turbine shafts not incorporating Pratt & Whitney Aircraft Service Bulletin 2452 (P/Ns 479796; 493412, 511215, 524958, 528365, 528566, 539961, 540354, 540355, 540452, 542500, 552504, 576306, 576312, 576313, 576314, and 587879) prior to the accumulation of 6700 cycles in service since new, or within the next 2000 cycles in service after the effective date of this AD, whichever is later.

2. Inspect thin wall low turbine shafts incorporating Pratt & Whitney Aircraft Service Bulletin 2452 (P/Ns 540354-S/B2452, 540355-S/B2452, 540452-S/B2452, 576276, 576277, 576278, 576279, 576280, 576283, 576284, 576285, 576286, and 576287) for cracked splines in accordance with the eddy current spline inspection procedure in Pratt & Whitney Service Bulletin 2452, Revision 5, or later FAA approved revision, or equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region, prior to the accumulation of 6700 cycles in service since last eddy current spline inspection or within the next 2000 cycles in service after the effective date of this AD, whichever is later, unless already accomplished. Inspect thereafter at intervals not to exceed 6700 cycles in service from the last inspection. Remove shafts with cracks from service before further flight.

3. Inspect the No. 2 compressor hub spline for taper wear or plate peeling in accordance with Pratt & Whitney Aircraft Alert Service Bulletin 4357 or later FAA approved revision, Paragraph IV.D.1, IV.D.2, IV.D.3, and IV.D.4 as applicable, when the low turbine shafts are removed or inspected in accordance with Paragraph 1 and 2 above, or when inspecting for taper wear, at intervals not to exceed 6700 cycles in service from last hub inspection. Remove hubs with taper wear in excess of .010 inch or plate peeling from service before further flight.

The manufacturer's service bulletins identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft, 400 Main Street, East Hartford, Connecticut 06108. These documents may also be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at Federal Aviation Administration Headquarters, 800 Independence Avenue, SW., Washington, D.C. 20591. A historical file on this AD which includes the incorporated material in full is maintained by the Federal Aviation Administration at its headquarters in Washington, D.C., and at the New England Regional Office in Burlington, Massachusetts.

Upon submission of substantiating data through an FAA maintenance inspector by an owner or operator, the Chief, Engineering and Manufacturing Branch, FAA, New England Region, may adjust the compliance time.

NOTE: Pratt & Whitney Alert Service Bulletin 4357 pertains to this subject.

This amendment becomes effective January 8, 1975.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958 (49 U.S.C. 1345(a), 1420, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

NOTE.—The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

Issued in Burlington, Mass., on December 16, 1974.

FERRIS J. HOWLAND,
Director, New England Region

[FR Doc. 74-29663; Filed 12-20-74;8:45 am]

[Docket No. 74-SO-113; Amdt. 39-2043]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman American Model G-1159 Airplanes

Amendment 39-2027 (39 FR 41516) AD 74-25-03 requires the installation of a placard on the Flight Power Shut-off handle to prevent the actuation of the handle in flight until Grumman American Aircraft Service Change No. 186 has been incorporated. After issuing Amendment 39-2027 (39 FR 41516) the agency determined that compliance with Aircraft Service Change No. 186 should have been required in the AD, rather than assuming compliance would take place. Therefore, the AD is being amended to require the incorporation of Aircraft Service Change No. 186 in conjunction with the installation of the placard.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (37 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2027 (39 FR 41516) AD 74-25-03 is amended by deleting the second sentence and adding two sentences: "Incorporate Grumman American Aircraft Service Change No. 186. Upon compliance with this service change, remove the placard."

This amendment becomes effective immediately.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in East Point, Ga., on December 3, 1974.

DUANE W. FREER,
Deputy Director,
Southern Region.

[FR Doc.74-29660 Filed 12-20-74;8:45 am]

[Airspace Docket No. 74-AL-15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Airway, Controlled Airspace and Reporting Point Changes

On November 20, 1974, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (39 FR 40784) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would change airways, control areas, reporting points and a control zone in the areas of King Salmon and Cold Bay, Alaska.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 27, 1975, as hereinafter set forth.

1. Section 71.103 (40 FR 305) is amended as follows:

a. In G-8 "20 AGL INT Fort Randall, Alaska, RBN 255° and Cape Sarichef, Alaska, RBN 344° bearings; 20 AGL Fort Randall RBN; 20 AGL Naknek River, Alaska, RBN;" is deleted and "20 AGL INT Cold Bay, Alaska, LOM 253° and Cape Sarichef, Alaska, NDB 344° bearings; 20 AGL Cold Bay LOM; King Salmon, Alaska, LOM;" is substituted therefor.

b. In G-11 "From INT Fort Randall, Alaska, RBN 041° and Port Moller, Alaska, RBN 313° bearings," is deleted and "From INT Cold Bay, Alaska, LOM 041° and Port Moller, Alaska, NDB 313° bearings," is substituted therefor.

2. Section 71.109 (40 FR 306) is amended as follows:

In B-27 "Naknek River, Alaska, RBN; " is deleted and "King Salmon, Alaska, LOM;" is substituted therefor.

3. Section 71.163 (40 FR 346) is amended as follows:

a. Control 1400 is amended to read as follows:

CONTROL 1400

That airspace within 5 miles each side of the 262° bearing from King Salmon, Alaska, LOM extending from the LOM to the Anchorage CTA/FIR boundary, and between lines diverging at an angle of 5° from the King Salmon LOM 262° bearing extending from the LOM to the Anchorage CTA/FIR boundary, excluding the airspace below 2,000 feet MSL outside the United States.

b. Control 1401 is amended to read as follows:

CONTROL 1401

That airspace within 5 miles each side of the 246° bearing from the King Salmon,

Alaska, LOM extending from the LOM to Long. 160°00'00" W., and between lines diverging at an angle of 5° from the King Salmon, LOM 246° bearing extending from the LOM to Long. 160°00'00" W., excluding the airspace below 2,000 feet MSL outside the United States.

4. Section 71.171 (40 FR 354) is amended as follows:

The Cold Bay, Alaska, Control Zone is amended to read as follows:

COLD BAY, ALASKA

Within a 5-mile radius of the Cold Bay Airport (Lat. 55°12'06" N., Long. 162°43'28" W.); within 8 miles each side of the 339° bearing from the Cold Bay LOM, extending from the 5-mile radius zone to 10.5 miles north of the LOM, and within 5 miles west and 2.5 miles east of the Cold Bay VORTAC 150° radial, extending from the 5-mile radius zone to 18 miles south of the VORTAC.

5. In § 71.211 (40 FR 634) the following reporting points are amended to read as follows:

a. CRACK Lat. 57°21'23" N., Long. 159° 23'14" W. (INT King Salmon, Alaska, LOM 226°, Port Heiden, Alaska, NDB 314° bearings).

b. GARRS Lat. 56°19'09" N., Long. 161° 20'25" W. (INT King Salmon, Alaska, LOM 262°, Cape Newenham, Alaska, NDB 131° bearings).

c. HERRY Lat. 57°50'30" N., Long. 160° 20'27" W. (INT King Salmon, Alaska, LOM 246°, Cape Newenham, Alaska, NDB 131° bearings).

d. DEPTH Lat. 56°19'17" N., Long. 161° 09'43" W. (INT Cold Bay, Alaska, LOM 041°, Port Moller, Alaska, NDB 313° bearings).

e. MORDI Lat. 54°52'39" N., Long. 165°03' 54" W. (INT Cold Bay, Alaska, LOM 253°, Cape Sarichef, Alaska, NDB 342° bearings).

f. WIDTH Lat. 57°21'18" N., Long. 155°59' 40" W. (INT King Salmon, Alaska, LOM 163°, Port Heiden, Alaska, NDB 074° bearings).

6. In § 71.213 (40 F.R. 637) the following reporting points are amended as follows:

a. GARRS Lat. 56°19'09" N. Long. 161°20' 25" W. (INT King Salmon, Alaska, LOM 262°, Cape Newenham, Alaska, NDB 131° bearings).

b. HERRY Lat. 57°50'30" N., Long. 160°20' 27" W. (INT King Salmon, Alaska, LOM 246°, Cape Newenham, Alaska, NDB 131° bearings).

(Sec. 307(a), 1110, Federal Aviation Act of 1958, (49 U.S.C. 1348(a), 1510), Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655 (c))

Issued in Washington, D.C., on December 16, 1974.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-29670 Filed 12-20-74;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-880, Amdt. 7]

PART 250—PRIORITY RULES DENIED-BOARDING COMPENSATION TARIFFS AND REPORTS OF UNACCOMMODATED PASSENGERS

Inclusion of Foreign Air Carriers on a Limited Basis; Extending Effective Date

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., December 17, 1974.

By ER-880, published in the FEDERAL REGISTER on October 29, 1974,[1] the Board adopted an amendment to its "denied-boarding compensation" rule, as set forth in Part 250 of its Economic Regulations (14 CFR Part 250), so as to expand coverage of the rule to include foreign air carriers. The effective date of the amendment was stated to be December 28, 1974.

A number of foreign carriers have requested that the effectiveness of this amendment be stayed or substantially extended. Although the separate requests vary in particular details, they are generally grounded on the argument that the present effective date gives foreign carriers an insufficient amount of time in which to prepare themselves for compliance. The foreign carriers note that they face particular practical difficulties in preparing the requisite tariffs and priority boarding rules for filing with the Board, as well as in preparing company manuals for the instruction and guidance of their far-flung personnel, in various stations throughout the world, who will be responsible for administering these rules. Moreover, they note that some questions have arisen as to the proper interpretation of the precise scope of this rule,[2] the manner in which payments thereunder are to be affected by currency restrictions which may prevail in certain countries, and the extent to which the rule's reporting requirements and the prescribed reporting form are appropriate.

We are persuaded that the difficulties involved in carrying out the various intermediate procedural steps which are necessary to insure full compliance with ER-880 by the carriers, their agents and employees cannot reasonably be surmounted by the December 28th effective date. However, we do not believe that the effectiveness of a regulation which we have duly adopted for the protection of users of air transportation should be delayed, in its entirety, for a longer period than is absolutely essential.

Accordingly, we have determined to extend the effective date of ER-880 until March 1, 1975. As so extended, the foreign air carriers will have had an aggregate of approximately four months from the date of publication of this amendment until its effectiveness. This length of time should be entirely adequate to enable these carriers to prepare themselves for compliance with a rule which has applied to their U.S. competitors for more than seven years.[3] To the extent that a question has been raised as to the rule's precise applicability, we shall shortly issue our interpretation. However, pending such interpretation, we wish to emphasize that we fully expect foreign air carriers to proceed with implementation of their internal procedures to enable compliance to be achieved by March 1, 1975.

Accordingly, the effective date of ER-880 is hereby extended to March 1, 1975.[4]

(Sec. 204(a), Federal Aviation Act, as amended, 72 Stat. 743, (49 U.S.C. 1324))

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-29640 Filed 12-20-74;8:45 am]

[1] 39 FR 38057.

[2] The question arises under the provision of § 250.2 which states that the rule "applies to flights or portions of flights originating or terminating in the United States * * *."

[3] Part 250 was adopted by ER-503, dated August 8, 1967, and became effective on October 17, 1967.

[4] By PS-60, issued contemporaneously herewith, we are similarly extending the effective date of PS-58, which was issued contemporaneously with ER-880 so as to apply our policy on orally confirmed reservations to foreign air carriers.

SUBCHAPTER F—POLICY STATEMENTS

[Reg. PS-60, Amdt. 39]

PART 399—STATEMENTS OF GENERAL POLICY

Oral Confirmed Reservations To Include Foreign Air Carriers; Extending Effective Date

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., December 17, 1974.

By PS-58 (39 FR 38096, Oct. 29, 1974), we amended our Policy Statement § 399.83, on orally confirmed reservations, so as to apply to foreign air carriers. That amendment was adopted contemporaneously with ER-880, which amended our "denied-boarding compensation" rule so as to apply to foreign air carriers.

By ER-890, issued contemporaneously herewith, we are extending the effective date of ER-880 from December 28, 1974, until March 1, 1975. For the reasons stated therein, we are granting the same extension for the effective date of the related amendment to § 399.83, as made by PS-58.

Accordingly, the effective date of PS-58 is hereby extended to March 1, 1975.

(Sec. 204(a), Federal Aviation Act, as amended, 72 Stat. 743 (49 U.S.C. 1324))

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-29639 Filed 12-20-74;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

Modification of Fertilizer Monitoring Reports

The FEDERAL REGISTER of August 27, 1974 announced that beginning with the month of September 1974, Form DIB-661P, "Report by Fertilizer Exporter," would be required to be submitted on a monthly basis, rather than semi-monthly as previously. The present format of Form DIB-661P provides information on unfilled contracts for the export of fertilizer through the fourth quarter of 1974. Due to the continuing shortage of

fertilizer and the resultant need for statistics on existing export contracts through the 1975 crop year, fertilizer exporters are hereby required to report monthly all existing export contracts through the first half of 1975 on Form DIB–661P. In order to make the continuation of reporting as simple as possible, rather than introduce a new monthly form, Form DIB–661P will continue in use and exporters are requested to revise items 1, 2, and 5 to read "• • • for shipment through June 1975" instead of "• • • for shipment through 1974" and to provide information for this period. In addition, the column headings under "Unfilled Export Contracts" should be revised to read: "1st Quarter 1975" and "2nd Quarter 1975" with information provided accordingly and remaining columns left blank.

Accordingly, § 376.5(b) of the Export Administration Regulations is revised to read as follows:

§ 376.5 Monitoring of fertilizers.

• • • • • •

(b) *Monthly reports and deadlines.* The reporting period is monthly, and information is to be compiled for the period ending as of the close of business on the last business day of each calendar month. If the exporter has Forms DIB–661P that indicate the need for a semi-monthly report, he may alter the heading by removing the prefix "semi-" from the word "semi-monthly." In addition, Form DIB–661P should be altered by revising items 1, 2, and 5 to read "• • • for shipment through June 1975" instead of "• • • for shipment through 1974," and by revising the first two column headings under "Unfilled Export Contracts" to read: "1st Quarter 1975" and "2nd Quarter 1975"—the other columns remaining unused. Information supplied in accordance with these revised instructions will provide statistics as to future export contracts through the 1975 crop year. Reports must be physically received in the Office of Export Administration by the close of business on the eighth working day after the end of each calendar month. If an accounting system is used that is incompatible with the reporting periods and deadlines specified, the specific details should be reported promptly to the Office of Export Administration for a determination as to whether an exception from these requirements can be granted. If an eight day deadline has been satisfied through the use of a Telex or TWX submission, a confirmation form must be submitted to the Office of Export Administration within 24 hours (by mail as evidenced by a U.S. Postal Service postmark, or by actual delivery).

• • • • • •

Effective date of action: December 18, 1974.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.74–29819 Filed 12–20–74;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[FD&C Red No. 40]

PART 8—COLOR ADDITIVES

Subpart G—Listing of Color Additives for Cosmetic Use Subject to Certification

The Commissioner of Food and Drugs, having evaluated data in a color additive petition (CAP 4C0111) filed by Allied Chemical Corp. Specialty Chemicals Division, c/o CFR Services, Reston, VA 22070, concludes that FD&C Red No. 40 and its lakes are safe and suitable for use in coloring cosmetics generally within the limitations prescribed by this order. It is further concluded that certification is necessary for the protection of the public health.

The provisions set forth in this order are for general use of the color in cosmetics which would include its currently regulated use in the coloring of dentifrices which are cosmetics. Accordingly, the specific use in coloring dentifrices is deleted from the regulation.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403; 21 U.S.C. 376 (b), (c), and (d)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 8 is amended in § 8.7201 by revising paragraphs (a) and (b) to read as follows:

§ 8.7201 FD&C Red No. 40.

(a) *Identity and specifications.* (1) The color additive FD&C Red No. 40 shall conform in identity and specifications to the requirements of § 8.244(a) (1) and (b).

(2) The listing of this color additive includes lakes prepared as described in §§ 9.100 and 9.280 of this chapter, except that the color additive used is FD&C Red No. 40 and the resultant lakes meet the specification and labeling requirements prescribed by § 9.100 or § 9.280 of this chapter.

(b) *Uses and restrictions.* FD&C Red No. 40 may be safely used in coloring cosmetics generally subject to the following restrictions:

(1) The color additive may be used in amounts consistent with good manufacturing practice.

(2) The color additive shall not be exposed to oxidizing or reducing agents which may affect the integrity of the color or any other conditions which may affect the integrity of the color.

• • • • • •

Any person who will be adversely affected by the foregoing order may at any time on or before January 22, 1975 file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective February 21, 1975, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Sec. 706(b), (c), (d), 74 Stat. 399–403; 21 U.S.C. 376(b), (c), (d))

Dated: December 13, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–29790 Filed 12–20–74;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 18—MILK AND CREAM

Identity Standards for Milk and Cream; Order Staying Certain Provisions

Correction

In FR Doc. 74–28462 appearing at page 42351 in the issue of Thursday, December 5, 1974, in the first line of paragraph 1 of item II on page 42353 of the preamble, the reference to "§ 10.10" should read "§ 18.10".

December 17, 1974.

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 428]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the fourth column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
•	•	•	•	•	•	•
Alabama	Shelby	Alabaster, city of	Dec. 13, 1974. Emergency	May 24, 1974		
Arkansas	Cross	Parkin, city of	do			
California	Sonoma	Sebastopol, city of	do			
Florida	Osceola	Kissimmee, city of	do	Mar. 8, 1974		
Indiana	Madison	Alexandria, town of	do	July 19, 1974		
Do	Jackson	Unincorporated areas	do	Nov. 23, 1973		
Do	Tippecanoe	West Lafayette, city of	do			
Iowa	Carroll	Carroll, city of	do	July 23, 1974		
Michigan	Charlevoix	Charlevoix, city of	do	July 7, 1974		
New York	Rockland	Pomona, village of	do	Mar. 15, 1974		
Do	Ulster	Ulster, town of	do	May 3, 1974		
Do	Rockland	Haverstraw, town of	do	Mar. 29, 1974		
Ohio	Cuyahoga	Strongsville, city of	do	June 21, 1974		
Oklahoma	Kingfisher	Dover, town of	do			
Pennsylvania	Allegheny	Verona, borough of	do	May 31, 1974		
Do	York	Seven Valleys, borough of	do	May 3, 1974		
Do	Schuylkill	Pale Alto, borough of	do	July 26, 1974		
•	•	•	•	•	•	•
Do	Luzerne	Ashley, borough of	do	Apr. 5, 1974		
Do	Lancaster	Providence, township of	do	May 31, 1974		
Do	Washington	North Charleroi, borough of	do	Nov. 1, 1974		
Texas	Harris	Hillshire Village, city of	do	July 23, 1974		
Do	Deaf Smith	Hereford, city of	do	June 7, 1974		
Do	San Saba	San Saba, city of	do	Feb. 8, 1974		
Do	Cooke	Gainesville, city of	do	Feb. 15, 1974		
Utah	Davis	Layton, city of	do	Aug. 9, 1974		
Virginia	Fauquier	Remington, town of	do	Nov. 15, 1974		
W. Virginia	Mercer	Matoaka, town of	do	May 31, 1974		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 26, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), (42 U.S.C. 4001–4127); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: December 10, 1974.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.74-29726 Filed 12-20-74;8:45 am]

[Docket No. FI-429]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the fourth column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
•	•	•	•	•	•	•
Arkansas	Columbia	Magnolia, city of	Dec. 20, 1974. Emergency	Oct. 26, 1973		
Kansas	Sherman	Goodland, city of	do	Feb. 25, 1974		
Mississippi	Covington	Collins, city of	do			
Do	Simpson	Magee, city of	do			
Pennsylvania	Tioga	Sullivan, township of	do	Jan. 3, 1975		
South Carolina	Williamsburg	Kingstree, town of	do	May 17, 1974		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 26, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), (42 U.S.C. 4001–4127); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: December 12, 1974.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.74-29728 Filed 12-20-74;8:45 am]

DEC 23 1974 V 39 N 247 XUM

[Docket No. FI 480]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the fourth column of the table is followed by a designation which indicates whether the date signifies (1) the effective date of the authorization of the sale of flood insurance in the area under the emergency or under the regular flood insurance program; (2) the effective date on which the community became ineligible for the sale of flood insurance because of its failure to submit land use and control measures as required pursuant to § 1909.24(a); or (3) the effective date of a community's formal reinstatement in the program pursuant to § 1909.24(b). The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
•	•	•	•	•	•	•
Arkansas	Logan	Paris, city of	Dec. 18, 1974. Emergency	May 31, 1974		
Connecticut	New Haven	Seymour, town of	do	July 26, 1974		
Illinois	Cook	Dolton, village of	do	Mar. 22, 1974		
New York	Ulster	Shandaken, town of	do	May 31, 1974		
Do	Nassau	Sands Point, village of	do	June 28, 1974		
Do	do	Great Neck, village of	do	July 26, 1974		
South Dakota	Pennington	Rapid City, city of	Dec. 3, 1974. Suspension withdrawn.			
Texas	Coryell	Gatesville, city of	Dec. 3, 1974. Emergency	Apr. 5, 1974		
Utah	Cache	Smithfield, city of	do	June 28, 1974		
Virginia	Rockingham	Timberville, town of	do	Feb. 15, 1974		
Washington	Thurston	Tumwater, city of	do	Jan. 28, 1974		
West Virginia	Brook	Wellsburg, city of	do	May 17, 1974		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 26, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969) (42 U.S.C. 4001–4127); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: December 11, 1974.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.74-29729 Filed 12-20-74;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Tennessee Plan; Level of Federal Enforcement

1. *Background.* Part 1954 of Title 29, Code of Federal Regulations, sets out procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for the evaluation and monitoring of State plans which have been approved under section 18(c) of the Act and 29 CFR Part 1902. Section 1954.3 of this chapter provides guidelines and procedures for the exercise of discretionary Federal enforcement authority under section 18(e) of the Act with regard to Federal standards in issues covered under an approved State plan. In accordance with § 1954.3(b) of this chapter, Federal enforcement authority will not be exercised as to occupational safety and health issues covered under a State plan where a State is operational. A State is determined to be operational under § 1954.3(b) of this chapter when it has provided for the following requirements: Enacted enabling legislation, approved State standards, a sufficient number of qualified enforcement personnel and provisions for the review of enforcement actions. In determining whether and to what extent a State plan meets the operational guidelines, the results of evaluations conducted under 29 CFR Part 1954 are taken into consideration. Once this determination has been made, under § 1954.3(f) of this chapter, a notice of the determination of the operational status of a State plan as described in an agreement setting forth the Federal-State responsibilities is to be published in the FEDERAL REGISTER.

2. *Notice of Tennessee operational agreement.* (a) In accordance with the provisions of § 1954.3 of this chapter, notice is hereby given that it has been determined that Tennessee has met the following conditions for operational status:

(1) Enactment of the Tennessee Occupational Safety and Health Act of 1972 (hereinafter referred to as TOSHA) (Title 50, chapter 5, TCA) which became effective on July 1, 1972; and was amended by chapter 513 Public Acts 1974 and House Bill 1407 which became effective July 1, 1974, in conformity with the requirements of § 1952.223(b) of this chapter;

(2) Promulgation under Tennessee Code Annotated, section 50–507 and 50–515 of the Tennessee Occupational Safety and Health Act of 1972, of general industry and construction standards by the Commissioner of Labor on July 2, 1973, January 9, 1974, and May 31, 1974, and of occupational health standards by the Commissioner of Health on July 18, 1973, May 2, 1974, and August 1, 1974. The maritime standards of 29 CFR 1910.13 through 1910.16 are excluded as Tennessee has not assumed jurisdiction over maritime or longshoring activities covered by those standards. The general industry and construction standards were found in the professional judgment of the Assistant Regional Director to be identical to the Federal standards in 29 CFR Part 1910 and 29 CFR Part 1926, and to provide overall protection equal to the comparable Federal standards in such issues;

(3) A sufficient number of qualified safety and health personnel employed under an approved merit system: namely nineteen (19) safety inspectors and nineteen (19) health inspectors as of September 1, 1974;

(4) Operation since May 5, 1974, of a review and appeals system before the Tennessee Occupational Safety and Health Review Commission providing the mechanism for employers and employees to contest enforcement actions and/or abatement dates. The appeals are processed in accordance with rules of procedure promulgated by the Commission and effective on May 5, 1974, Tennessee Plan Change Supplement I, p. V(c)(3).

(5) State enforcement since July 2, 1973, of the State standards described in (2) above, monitored under 29 CFR Part

1954, including two semi-annual evaluations, covering the period from July 1, 1973, to June 30, 1974.

(b) In addition, the State has provided under its plan for:

(1) Notification to employers and employees since October 1, 1974, of rights and responsibilities under TOSHA by requiring the display of a State poster in workplaces covered by the plan;

(2) Occupational accident and illness recordkeeping and reporting by employers covered under the Plan (TCA 50–552);

(3) Responding to complaints filed with the Tennessee Department of Labor or the Tennessee Department of Health for violations of the prohibition against discrimination by employers against employees for exercising their rights under TOSHA (TCA 50–542);

(4) Assurance of the rights of employers and employees and their representatives consistent with the provisions of the Federal Act and its implementing regulations.

(5) Coverage of State and local Government employees in a manner designed to be ultimately as effective as coverage provided for private employees.

Pursuant to this finding, an agreement effective November 11, 1974, and incorporated as part of the Tennessee plan has been entered into between Eugene Fowinkle, Commissioner of the Tennessee Department of Public Health, Ben O. Gibbs, Commissioner of the Tennessee Department of Labor, and Donald E. MacKenzie, Assistant Regional Director for Occupational Safety and Health of the U.S. Department of Labor providing that Federal enforcement activity under section 18(e) of the Act will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910 and 29 CFR Part 1926 wherever Tennessee occupational safety and health standards are in effect and operational.

Under the agreement, Federal responsibility under the Act will continue to be exercised, among other things, with regard to complaints about violations of the discrimination provisions of section 11(c) of the Act (29 U.S.C. 660(c)); enforcement of standards promulgated under the Act subsequent to the agreement where necessary to protect employees, as in the case of standards promulgated under section 6(c) of the Act (29 U.S.C. 665(c)), until such time as the State shall have adopted equivalent standards in accordance with Subpart C of 29 CFR Part 1953; enforcement of Federal standards in the maritime and longshoring issues covered by 29 CFR 1910.13 through 1910.16 which issues have been specifically excluded from coverage under the plan; and investigations and inspections for the purpose of evaluating the State plan under sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)).

The agreement is subject to revision or termination by the Assistant Secretary of Labor for Occupational Safety and Health upon substantial failure by the State to comply with any of its provisions, or when the results of evaluation under 29 CFR Part 1954 reveal that State operations covered by the agreement fail in a substantial manner to be at least as effective as the Federal program.

In accordance with this agreement and effective as of November 11, 1974, Subpart P of 29 CFR Part 1952 is hereby amended as set forth below.

Section 1952.222 is amended to read as follows:

§ 1952.222 Level of Federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) and § 1954.3 of this chapter under which an agreement has been entered into with Tennessee, effective November 11, 1974, and based on a determination that Tennessee is operational in issues covered by the Tennessee occupational safety and health plan, discretionary Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under Part 1910 and Part 1926 of this chapter. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: Complaints filed with the U.S. Department of Labor about violations of the discrimination provisions of section 11(c) of the Act (29 U.S.C. 660(c)); Federal standards promulgated subsequent to the agreement where necessary to protect employees, as in the case of temporary emergency standards promulgated under section 6(c) of the Act (29 U.S.C. 665(c)), in the issues covered under the plan and the agreement until such time as Tennessee shall have adopted equivalent standards in accordance with Subpart C of Part 1953 of this chapter; Standards in §§ 1910.13 through 1910.16 of this chapter which issues have been specifically excluded from coverage under the Tennessee plan; and investigations and inspections for the purpose of the evaluation of the Tennessee plan under section 18 (e) and (f) of the Act (29 U.S.C. 667(e) and (f)). The Assistant Regional Director for Occupational Safety and Health will make a prompt recommendation for resumption of exercise of Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in Tennessee.

(Secs. 6(g)(2), 18, 84 Stat. 1600, 1608 (29 U.S.C. 257(g)(2), 667)).

Signed at Washington, D.C., 16th day of December 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-29601 Filed 12-20-74;8:45 am]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Vermont State Plan; Completion of Developmental Steps

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On October 16, 1973, notice was published in the FEDERAL REGISTER (38 FR 28658) of the approval of the Vermont Plan and of the adoption of Subpart U of Part 1952 containing the decision and describing the plan. On January 16, 1974, and on May 23, 1974, the State of Vermont submitted supplements to the plan involving developmental changes, and State initiated changes.

The supplements include legislation captioned S. 196 submitted to the State Legislature in accordance with the requirement of 29 CFR 1952.273(a) of the State's developmental schedule, enacted, and approved by the Governor on April 3, 1974, and administrative regulations, issued under section 230 of the Vermont Occupational Safety and Health Act, effective January 1974, governing the operation of the Vermont Occupational Safety and Health Review Board, in accordance with the requirement of 29 CFR 1952.273(c) of the State developmental schedule. The legislation provides for the following:

(a) Deletion of the provision permitting the granting of variances for premises other than a work place. (section 205(b)).

(b) Giving the Commissioner of Labor and Industry, pursuant to his authority to make inspections and investigations, the necessary legal authority to get a court order compelling an individual to testify in cases where such individual has refused to do so. (section 206(b)).

(c) Mandatory provision for employee participation during the inspection process. (section 206(e)).

(d) Provision for the right of an employee to request an inspection or register a complaint, coupled with the right of such employee to remain anonymous, and to receive written notice of determination that no violation exists. (section 206(f)).

(e) Provision for the right of employees or their representatives to notify the Commissioner in writing, before or during an inspection of any violation of the Act and have an informal review of any refusal to cite, with a written statement of the Commissioner's final disposition of the case. (section 206(g)).

(f) Provision for the right of employees to be informed of imminent danger situations. (section 208(b)).

(g) Deletion of the section dealing with penalties and employee sanctions and replacement with new penalty sections which are substantively identical to the penalty provisions of the Federal Act. (section 210).

(h) Clarification of the section on standards for products distributed or used in interstate commerce. (section 222(a)).

(i) Provision for both employers and employees to have twenty (20) days to

appeal a citation to the review board. (section 226(e)).

(j) Elimination of the de novo review procedure and substitution of a new judicial review procedure patterned after the Federal one. (section 227).

(k) Elimination of the requirement that at least one member of the occupational safety and health review board be qualified for membership in the American Society of Safety Engineers, and enumeration of the duties of the hearing judges employed by the board. (Section 230(a) and (b).)

(l) Authorization of the commissioner to set standards which assure that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. (Section 224(e).)

(m) Provision of the right of employees to be informed of their protections and obligations under the Act and the right of employees to have access to information on their exposure to toxic materials or harmful physical agents and to receive prompt information when he has been or is being exposed to such materials at levels in excess of those prescribed by applicable health and safety standards. (Sections 228(c)(1) and (2).)

(n) Provision for handling employee discrimination complaints under the Act with the Commissioner of Labor and Industry Investigating complaints of discrimination and bringing appropriate court action. (Section 231(a), (b) and (c).)

(o) Repeal of 21 V.S.A. Section 1621 (f) which made it an unfair labor practice to discriminate against an employee because he has filed a complaint or instituted a proceeding under the Vermont Act.

The administrative regulations governing the operation of the Review Board are substantively identical to Part 2200 of this chapter.

2. *Location of the plan and its supplements for inspection and copying.* A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations; Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room 850, 1726 M Street NW., Washington, D.C. 20210; Regional Administrator, Occupational Safety and Health Administration, 18 Oliver Street, Fifth Floor, Boston, Massachusetts 02110; and Department of Labor and Industry, State Office Building, Montpelier, Vermont 05602.

3. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that good cause exists for not publishing Vermont's enacted legislation and regulations because both the legislation and the regulations substantively meet the assurances given by the State when the plan was approved and incorporate language essentially identical to the Federal Act. Therefore further public comment would be unnecessary.

4. *Decision.* Since the legislation and regulations, as passed, are in substantive compliance with the assurances given by the State when the plan was approved, and incorporate language identical to the Federal Act in all essential areas, it is determined that the legislation and regulations, incorporated as part of the approved plan, should be approved as completion of developmental steps in the Vermont plan.

Accordingly, Subpart U of 29 CFR Part 1952 is hereby amended, effective immediately, as set forth below.

A new § 1952.274 is added to Subpart U of Part 1952 to read as follows:

§ 1952.274 Completed developmental steps.

(a) In accordance with § 1952.273(a), amendments to the Vermont Occupational Safety and Health Act were passed by the legislature and signed by the Governor on April 3, 1974.

(b) In accordance with § 1952.273(c), rules governing the operation of the Occupational Safety and Health Review Board have been adopted, under section 230 of the Vermont Act, effective January, 1974.

(Secs. 8(g), 18, Pub. L. 91-596, 84 Stat. 1600, 1608, (29 U.S.C. 657(g), 667))

Signed at Washington, D.C., this 16th day of December 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-29800 Filed 12-20-74;8:45 am]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Hawaii Plan Supplement

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) for review of changes and progress in the development and implementation of State plans which have been approved under section 18(c) of the Act and Part 1902 of this title. On January 4, 1974, a notice was published in the FEDERAL REGISTER of the approval of the Hawaii plan and of the adoption of Subpart Y of Part 1952 describing the plan. On October 22, 1974, the State of Hawaii submitted a supplement involving a developmental change (See Subpart B of 29 CFR Part 1953). This supplement consists of amendments, H.B. 2193, to the State's enabling legislation, H.R.S. section 396-1 et seq., which were enacted by the Hawaii Legislature and became effective on June 4, 1974.

2. *Issues.* The decision approving the Hawaii State plan, including its enabling legislation, incorporated several assurances from the State on amendments to the legislation to meet the requirements of the Act and 29 CFR Part 1902. These amendments provide for the following:

(a) Adequate protections for trade secrets;

(b) Posting of citations or orders at or near the place where a violation occurred;

(c) Removal of the provision providing for arrest powers;

(d) Mandatory relief under section 8(e)(4) of the Hawaii Occupational Safety and Health Act where there is a finding of discrimination for exercising rights provided for under the Act; and

(e) Sanctions which are in conformity with the Federal sanctions.

In addition, our review of the enabling legislation has revealed a potentially critical situation which must be resolved by the State. The Hawaii Administrative Procedure Act, H.R.S. 91-1 et seq., is applicable to review proceedings before the Appeals Board. It has become apparent that the designee, the Department of Labor and Industrial Relations, may not have the right to appeal an adverse decision of the Appeals Board to the courts. Access to the courts is provided for any person aggrieved by an order of an administrative agency. However, the definition of "person" under the Hawaii A.P.A. seems to specifically exclude a state agency. H.R.S. 91-1. If experience under plan operations indicates such a defect, the State may be required to amend its law to provide for such an agency right to appeal. (See Nevada Decision, 39 FR 1008).

3. *Location of supplements for inspection and copying.* A copy of this supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Room 850, 1726 M Street, NW., Washington, D.C. 20210; Office of the Assistant Regional Director, Occupational Safety and Health Administration, Room 9470, Federal Office Building, 450 Golden Gate Avenue, San Francisco, California 94102; and the Department of Labor and Industrial Relations, Room 308, 825 Milani Street, Honolulu, Hawaii, 96813.

4. *Public participation.* Under § 1953.2 (c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the amendments to the Hawaii enabling legislation are stated as they were in the plan as it was submitted and approved and do not constitute any change from the plan as approved. Accordingly, it is believed that further public comment is unnecessary.

5. *Decision.* After consideration, the Hawaii Plan Supplement outlined above

is approved under Part 1953. However, this decision is not to be interpreted as relieving Hawaii from seeking further legislative amendments if, during the continuing evaluation of the plan by the Assistant Secretary, it is found that such amendments may be necessary to render the Hawaii plan operations at least as effective as the Federal program. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. Accordingly Subpart Y of 29 CFR Part 1952 is amended by adding a new section, § 1952.314.

§ 1952.314 Completed developmental steps.

In accordance with § 1952.313(1), specific Legislative amendments were enacted by the State Legislature and signed by the Acting Governor on June 7, 1974.

(Secs. 8(g), Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 667(g) 667))

Signed at Washington, D.C., this 13th day of December 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-29802 Filed 12-20-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 4—DEPARTMENT OF AGRICULTURE

PART 4-50—DISPUTES AND APPEALS

Procurement; Miscellaneous Amendments

These amendments involve matters relating to agency management and to contracts and include rules interpreting and implementing existing regulations of other Federal agencies which are not subject to the notice and public procedure requirements for rule making under 5 U.S.C. 553. It is in the public interest that these provisions be made effective immediately. Accordingly, in accordance with the Secretary's Statement of Policy (36 FR 13804) it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest.

Subpart 4-50.2—Contract Appeals

1. Section 4-50.203 is revised to read as follows:

§ 4-50.203 Receipt and transmittal.

Upon receipt of the appeal, the officer receiving it shall certify the date of receipt, and such date shall be considered as the date of filing with the Board of Contract Appeals. The appeal shall be forwarded within 10 days after receipt through agency channels to the Board of Contract Appeals in care of the Hearing Clerk, Department of Agriculture, Washington, D.C. 20250.

A copy of the letter transmitting the appeal to the Board shall be furnished to the Office of Operations.

2. Section 4-50.204 is revised to read as follows:

§ 4-50.204 Board of Contract Appeals.

The organization, functions, and rules of procedure of the Board of Contract Appeals, Department of Agriculture, are set forth in Title 7, Code of Federal Regulations, Part 24. (See § 4-52.506.)

Effective date: December 23, 1975.

(5 USC 301, 40 USC 486(c))

Done at Washington, D.C., this 13th day of December 1974.

GEORGE C. KNAPP,
Acting Director,
Office of Operations.

[FR Doc.74-29847 Filed 12-20-74;8:45 am]

Title 45—Public Welfare

CHAPTER XII—ACTION

PART 1217—VISTA VOLUNTEER LEADER

Adoption of Proposed Regulations

On September 23, 1974, there was published in the FEDERAL REGISTER (39 FR 34063) a notice of proposed rulemaking to Chapter XII, Title 45. The proposed regulations provide for the designation of volunteer leaders for the VISTA volunteer program. Such leaders are designated after at least one year of service on the basis of experience and special skills and a demonstrated leadership among volunteers.

Interested persons were given 30 days in which to submit comments.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date. These regulations are effective December 23, 1974.

Approved: December 18, 1974.

JOHN L. GANLEY,
Deputy Director, ACTION.

Sec.
1217.1 Introduction.
1217.2 Establishment of position.
1217.3 Qualifications.
1217.4 Selection procedure.
1217.5 Allowances and benefits.
1217.6 Roles of volunteers.

AUTHORITY: (Secs. 104(b) and 420 of Pub. L. 93-113, 87 Stat. 398 and 414.)

§ 1217.1 Introduction.

Section 105(a)(1), Part A, of the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, 87 Stat. 398, authorizes the Director of ACTION to pay VISTA volunteers a stipend not to exceed $50 per month and a stipend not to exceed $75 a month in the case of VISTA volunteers who have served for at least a year and have been designated volunteer leaders. Section 105(a)(1) further provides that the selection of volunteer leaders shall be pursuant to standards, established in regulations which the Director shall prescribe, which shall be based upon the experience and special skills and the demonstrated leadership of such persons among volunteers.

§ 1217.2 Establishment of position.

A request for the proposed establishment of VISTA volunteer leader position for a specific project shall be submitted by a sponsor in writing in advance to the appropriate ACTION Regional Director. Specific tasks, responsibilities, qualifications, and the proposed supervisory structure are to be detailed in the request.

§ 1217.3 Qualifications.

A volunteer recommended for a VISTA volunteer leader position must have:

(a) completed a one-year term as a VISTA volunteer.

(b) demonstrated ability to work constructively and communicate with volunteers, supervisor/sponsor, and the target population.

(c) demonstrated ability to work well with and gain acceptance of other volunteers.

(d) demonstrated ability to provide self-motivation and self-direction, and maturity to accept supervision and direction from supervisor/sponsor.

(e) sensitivity to the needs and attitudes of others, and exhibit a sincere commitment to the mission of VISTA.

§ 1217.4 Selection procedure.

(a) *Nomination.* Candidates may be nominated in writing to the Regional Director by the Program Officer or the State Program Director in whose area the volunteer serves. The nomination shall include a copy of the completed ACTION Form V-95a, for the Regional Director's review.

(b) *Selection.* VISTA volunteer leaders will be selected by the Regional Director (or his designee). The criteria for selection shall include:

(1) The recommendation of the volunteer by the State Program Director or Program Officer.

(2) An overall rating by the supervisor/sponsor of above average on the ACTION Form V-95a.

(3) A description of specific tasks, responsibilities, qualifications, and the proposed supervisory structure, which justifies the establishment of the VISTA volunteer leader position. A selection decision is final.

(c) *Reenrollment.* VISTA volunteer leaders may be reenrolled in accordance with the VISTA reenrollment and extension policy.

§ 1217.5 Allowances and benefits.

The VISTA volunteer leader shall be entitled to all allowances and benefits of a VISTA volunteer at the level which is consistent with the level for all volunteers on his/her project, except that:

(a) The stipend will be increased from $50 to $75 per month effective on the date of selection of the VISTA volunteer leader.

(b) Support for on-the-job transportation may be increased, consistent with ACTION policy.

§ 1217.6 Roles of volunteers.

VISTA volunteer leaders may have the following roles:

(a) Primary contact with VISTA volunteers on personal and administrative matters.

(b) Aid in communication of VISTA policies to VISTA volunteers.

(c) Encourage and develop VISTA volunteer leadership and initiative on projects.

(d) Aid as a resource in development and conduct of training programs.

(e) Assist sponsor in preparation for arrival of VISTA volunteers, and assist new volunteers in settling-in, housing, orientation, etc.

(f) Aid in the development of meaningful relationship and understanding of individual program concepts with VISTA volunteers and supervisor/sponsor.

(g) Advise supervisor on potential problem areas, and needs of VISTA volunteers.

(h) Aid supervisor/sponsor in the redevelopment of projects to best meet goals and objectives addressing the community's problem(s).

[FR Doc.74-29824 Filed 12-20-74;8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER H—TRAINING

[General Order 97, Rev., Amdt. 5]

PART 310—MERCHANT MARINE TRAINING

Subpart C—Admission and Training of Midshipmen at the United States Merchant Marine Academy

PAY INCREASE

Part 310 of Title 46 of the Code of Federal Regulations is hereby amended. This amendment increases the pay that midshipmen of the United States Merchant Marine Academy receive while assigned to merchant vessels for sea year training.

The purpose of this amendment is to implement the Maritime Administration policy that midshipmen shall receive the same rate of pay from their steamship company employers for the sea year training as cadets receive at the Federal academies.

Since the rate of pay received by midshipmen while assigned to subsized merchant vessels is a matter of public contract with the owners of such vessels, this amendment to the Merchant Marine Training regulations is adopted without notice of proposed rule making.

Part 310 of Title 46 of the Code of Federal Regulations is amended by revising the first sentence of paragraph (c) of § 310.58 to read as follows:

§ 310.58 Training on subsidized vessels.

* * * * *

(c) *Pay.* Midshipmen shall receive pay, while attached to merchant vessels, at the rate of $317.10 per month from their steamship company employers.

* * * * *

Effective date. This amendment shall become effective January 1, 1975.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (49 Stat. 1987, 46 U.S.C. 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 842) as amended by Pub. L. 91-469 (84 Stat. 1036), Department of Commerce Order 10-8 (38 FR 19707, July 23, 1973))

(Catalog of Federal Domestic Assistance Program No. 11-507 U.S. Merchant Marine Academy (Kings Point))

Dated: December 17, 1974.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.74-29852 Filed 12-20-74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19988]

PART 76—CABLE TELEVISION SERVICES

Program Origination Correction

The appendix to the report and order in Docket 19988, FCC 74-1279, released December 9, 1974 (39 FR 43303, December 12, 1974), is corrected to include amendment of §§ 76.13 (a), (b), and (c), to read as follows:

In § 76.13, paragraphs (a)(4), (b)(4) and (c)(3) are amended, as follows:

§ 76.13 Filing of applications.

* * * * * *

(a) * * *

(4) A statement that explains how the proposed system's franchise and its plans for availability and administration of access channels and other nonbroadcast cable services are consistent with the provisions of §§ 76.31, 76.251, and 76.253;

NOTE: If the proposed system's franchise was issued prior to March 31, 1972, only substantial consistency with the provisions of § 76.31 need be demonstrated in the statement required by subparagraph (4), until the end of the current franchise period, or March 31, 1977, whichever occurs first.

* * * * *

(b) * * *

(4) A statement that explains how the system's plans for availability and administration of access channels and other nonbroadcast cable services are consistent with the provisions of §§ 76.251 and 76.253;

* * * * *

(c) * * *

(3) A statement that explains how the system's plans for availability and administration of access channels and other nonbroadcast cable services are consistent with the provisions of §§ 76.251 and 76.253;

* * * * *

Released: December 12, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-29816 Filed 12-20-74;8:45 am]

[Docket No. 20109; FCC 74-1388]

NEW YORK AND LOS ANGELES URBANIZED AREAS

Reallocation of Land Mobile Channels

Report and order—Proceeding Terminated. In the matter of amendment of Parts 89, 91, and 93 of the rules to reallocate land mobile channels in the 470-512 MHz band in the New York and Los Angeles urbanized areas, Docket No. 20109.

1. On July 23, 1974, the Commission released a notice of proposed rulemaking in the above entitled matter which was published in the FEDERAL REGISTER of July 31, 1974 (39 FR 27702). Comments and reply comments were filed by the organizations listed below.

Comments

American Trucking Association (ATA)
Central Committee on Telecommunications of the American Petroleum Institute (API)
National Association of Business and Educational Radio (NABER)
National Association of Manufacturers (NAM)

Reply Comments

California Mobile Radio Assn. (CMRA)

2. Our proposal to reallocate frequencies in the 470-512 MHz band received support predictably from representatives of services which would benefit from the proposal and opposition from representatives of services which would lose frequencies. API and NAM opposed the reallocation proposal primarily because some of the frequencies now allocated jointly in the Petroleum, Forestry Products, and Manufacturers Radio Services would be reallocated to the Business Radio Service. API and NAM argued, in substance, that although the frequencies set aside in the 470-512 MHz band for these services are not used extensively, they will be required in the future, and the Commission should reserve them for this purpose in recognition of the importance of the activities in which petroleum and manufacturers licensees use radio facilities.

3. While we appreciate APT's and NAM's arguments, we do not believe they are persuasive in the context of this proceeding. As we have previously stated, the frequencies in the 470-512 MHz band were made available in order to accommodate immediate requirements in our most populous urban centers. The fact is that the frequencies allocated in the Petroleum/Forestry Products/Manufacturers pool are not being used while frequencies in the Business Radio Service are being rapidly exhausted and applications continue to be filed in the Business Radio Service at a rapid rate. Reallocation of those frequencies in the Business Radio Service will permit us to accommodate the increasing requirements in that service, as well as to provide for any immediate

needs of petroleum and manufacturers services who would continue to have access to them in the Business Radio Service. Accordingly, we will adopt the reallocation proposal. However, some changes will be made in accordance with the comments and other information that has come to our attention since the proposal was issued.

4. Thus, instead of allocating all of the frequencies in the reserve pool in New York City to the Business Radio Service, we will set aside six of those channel pairs for the Taxicab Radio Service. This is to accommodate recently developed requirements in that service brought about, in part, by changes in the rules governing taxicab operations in New York City. While six pairs of channels may not accommodate all of the immediate taxicab radio requirements in New York City, in view of the magnitude of the total frequency requirements in that industry,[1] they will afford substantial immediate relief. It is apparent, however, that the overall solution will have to be found on frequencies between 806 and 947 MHz recently made available for land mobile purposes in Docket No. 18262. As a further step in accommodating some of the immediate requirements in the taxicab industry under Taxicab Radio Service in that area, we are also amending the Rules to increase channel loading in the 470–512 MHz band from 150 to 200 mobiles per channel pair.

5. In Los Angeles, based on the comments, we have decided to make available for assignment the frequencies in reserve pool A, as well as those proposed in the notice of proposed rulemaking, but for those frequencies (reserve pool A) we will follow the assignment method we have developed for assigning frequencies in the 470–512 MHz band in the Dallas, Houston, and Miami urbanized areas. This assignment scheme will permit Public Safety Radio Service applicants, for example, to apply for the first channel in the reserve pool and when that channel is substantially filled, the next channel may be licensed, and so on. Conversely, the highest channel in reserve pool A will be made available to any user from any of the other service groups. In addition, those frequencies will be assigned only when the applicant shows that the frequencies in his service in this band are loaded to or near capacity. The rules in the attached appendix reflect the allocation and the method for assigning these frequencies.

6. The proposal to permit mobile relay frequencies in the Land Transportation Radio Service received no significant opposition. Therefore, we are amending the rules in Part 93 to permit mobile relay operations in the 470–512 MHz band. In this connection, we note that ATA expresses concern that, with this amendment, the Land Transportation Radio Service applicants might somehow be excluded from the Business Radio Service. This, obviously, was not our intention.

7. We have also modified our original proposal concerning frequency assignments for shared repeater operations, the so-called "community repeaters." We had proposed a certain maximum period of time (such as 18 months) during which we would not re-assign in the same area a frequency pair set aside for a particular community repeater. This was to allow such a facility to develop sufficient capacity to saturate the channel and avoid inherent interference problems. While this proposal was generally accepted, a number of suggestions for changes were made. For example, NABER indicated that the period of 18 months would be too long and urged that a 12 month period be designated instead. CMRA urged that the operator of a community repeater be required to complete construction of the facility within sixty days after the first license for its use was granted, that applications for at least three more users be filed with the Commission for the use of the same facility within six months, and that the channel be at least 50 percent loaded within nine months after the date of the first grant was made. We agree that some of CMRA's suggestions are worth while and we are incorporating them in the rules. However we will require construction of the facility within ninety days and that the frequency assigned to it be loaded to at least 50 percent within a nine month period. We are also adopting NABER's suggestion and will reduce the period during which a frequency will not be reassigned to twelve months. Thus, unless these requirements are substantially met, the frequency pair assigned to a community repeater will be made available for assignment to other systems as well.

8. Our proposal to reduce the maximum permissible power for stations situated on high sites in the Los Angeles area elicited opposition from API and CMRA. CMRA argued:

> • • • the power levels presently allowed under the rules that apply to the 470–512 MHz band are the minimum levels necessary to provide adequate signals, even within the 30 mile mobile operating area. Due to the hills within a 30 mile radius of Mt. Lukens, the most heavily used site serving the Los Angeles area, knife edge diffraction and reflection of signals play an important part in eliminating "dead areas" throughout the geographic vicinity. Any power reduction will only serve to reduce the effectiveness of the 470–512 MHz channels and make them greatly inferior to the lower UHF frequencies.[2]

9. We have considered CMRA's argument, and substantially similar arguments advanced by API, but we do not agree they justify retention of the power levels now permitted for stations on the high sites, such as Mt. Lukens or Sierra Peak. Neither CMRA nor API supplied engineering calculations to support their contention. Clearly, there will always be some locations where a mobile station will be unable to receive its base station, even with presently authorized power levels. This is due to the "shadowing" effect which most often occurs when the mobile unit is behind a high hill or tall building, and only an enormous increase in base station power could overcome many such obstruction losses. We do not believe that land mobile systems can or should be engineered to overcome all obstructions. Rather, systems should be engineered to provide a signal which will be useable in a reasonable percentage of the locations within the licensee's service area. To do otherwise would result in the rapid exhaustion of available land mobile frequencies because of congestion generated by excessive base station power. Nevertheless, we recognize the path losses caused by "shadowing" and we have made reasonable allowances in the power levels we will allow in order to overcome some of the obstruction or "shadowing" losses: Namely, we have built a 20 dB allowance into the formula we have used to calculate maximum permissible power levels at different site elevations and we believe this allowance is reasonable. Clearly, this will not provide coverage in all "shadow" areas, but, as we have just stated, this would require enormous power levels. The power levels now authorized provide a marginal benefit in this respect, but limit, generally, the possibility of re-use of the frequencies. In our view, the benefit of the higher power levels is not sufficient to warrant their continued authorization. Our objective here is to assure reasonable re-use of the frequencies in the Los Angeles area and, to accomplish this objective, curtailment of the power of stations at high elevations is necessary.

10. We want to emphasize that we are dealing here with a situation where many of the land mobile transmitters on frequencies in the 470–512 MHz band are located at high elevations. As we stated in the Notice, most of the mobile relay

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[1] There are over 10,000 taxicabs in that city, most of which are not equipped with radio because of restrictions formerly placed on taxicab operation. Previously, a cab "on call" was required to stop and pick up any passenger desiring a ride without regard to the cab's original destination. Relaxation of this rule permits New York taxicab operators to use radio much more effectively than heretofore and cabs are being equipped with radio as rapidly as possible.

[2] CMRA also contended that power reduction in stations on high elevations will not achieve the desired result (that is it will not allow increased re-use of the frequencies at 40 mile or longer distances) because, even with reduced power, temperature inversions in the Los Angeles area can generate an increase in UHF signal level up to 30 dB. We are aware of this phenomenon, but we do not believe that this argument supports CMRA's position. Generally, for more than marginal increases, signal enhancement due to temperature inversion is not significant at line of sight distances. Substantial signal enhancements caused by temperature inversions occur at distances where refraction through the troposphere is the dominant mode of communications at UHF frequencies. These distances are generally much greater than the 40–50 miles with which we are concerned here.

stations in this band are situated on just three sites, Sierra Peak, elevation 3,045' above sea level (ASL), Mt. Lukens, elevation 5,040' ASL, and a peak eastward of Mt. Lukens, elevation 2,000' ASL. From these three sites there are virtually line-of-sight paths into much of the Los Angeles metropolitan area. Assuming a useable receiver threshold sensitivity of 0.5 μV/50 ohms, and allowing a 20 dB margin for overcoming shadowing and other location variability losses, the values in the following table will provide sufficient signal levels for coverage within the 30 mile operating radius of the mobile units in the Los Angeles area.

Antenna height (ASL) (feet)	*Power (ERP)*
5,000	25 W.
4,500	30 W.
4,000	40 W.
3,500	50 W.
3,000	70 W.
2,500	100 W.
2,000	155 W.

This table is derived from the formula:

R(dBw) = −113dB −40log(D) −20log(F) +20log(Ht) +20log(Hr) +10log(P) where R(dBw) = −123dBw; D=30 miles; F=500 MHz; Ht= Base Station Antenna height (ASL); Hr=6'; and P=Base Station Power (ERP)

This formula is derived from the information supplied in Report R-6602, released by the Office of the Chief Engineer on September 7, 1966.

11. We believe that the power levels shown above will allow a reasonable quality of service and expanded re-use of frequencies. The reduced power levels shown above will apply to new systems authorized in the 470–512 MHz band in the Los Angeles urbanized area. Existing systems will be required to comply within a period of five years, January 1, 1980.

12. The basic plan adopted by the Commission for the shared use of frequencies in the 470–512 MHz band requires, among other things, that land mobile systems be designed so that the mobile units operate within 30 miles of the associated base station. CMRA urged that this limitation should be eliminated and that mobile units should be permitted to operate within 80 miles of the center of the urbanized area involved. CMRA's request will be denied here. It is not within the scope of the notice in this proceeding and it is contrary to the basic plan designed to avoid interference to television stations and to assure re-use of the frequencies.[3]

[3] CMRA in its comments has stated that some licensees in the 470–512 MHz band use powers in mobile units in excess of the 200 watts ERP maximum permitted by the rules. While CMRA has not provided us with specific information, we are concerned about its allegations and enforcement effort will be directed to this problem. Also, we want to caution licensees that they may jeopardize their licenses if they operate their radio facilities in violation of the rules and the terms of their authorizations.

13. In view of the foregoing, the Commission concludes that the public interest will be served by amending the rules as proposed in Docket 20109.

14. *Accordingly, it is ordered,* Pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, That Parts 89, 91, and 93 of the Commission's Rules are amended effective January 27, 1975 as set forth below. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303)).

Adopted: December 10, 1974.

Released: December 19, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Parts 89, 91, and 93 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 89—PUBLIC SAFETY RADIO SERVICES

A. In § 89.123, paragraph (b) is amended by the addition of a new footnote to Figure "A", paragraph (e) is amended by the addition of a new footin the frequency tabulation, and new paragraphs (i) & (j) added to read as follows:

§ 89.123 Frequencies in the band 470–512 MHz.

* * * * * * *

(b) * * *

[2] For stations in the Los Angeles urbanized area with antenna elevations 1,500 or more feet above sea level, the maximum authorized effective radiated power (ERP) shall be in accordance with the following table:

Antenna height (ASL) (feet)	*Power (ERP)*
1,501–2,000	155 W.
2,001–2,500	100 W.
2,501–3,000	70 W.
3,001–3,500	50 W.
3,501–4,000	38 W.
4,001–4,500	31 W.
4,501–5,000	25 W.

Existing stations may continue to use presently authorized powers until January 1, 1980.

* * * * * * *

(e) * * *

CHANNEL 14

PUBLIC SAFETY

Base	*Mobile*
470.3125 to 471.4125	473.3125 to 474.4125

CHANNEL 15

PUBLIC SAFETY

Base	*Mobile*
476.3125 to 477.4125	479.3125 to 480.4125

* * * * * * *

(i) Frequencies available for assignment in the Los Angeles, Calif. urbanized area:

CHANNEL 14

PUBLIC SAFETY

Base	*Mobile*
470.3125 to 471.1875	473.3125 to 474.1875

RESERVE POOL

Base	*Mobile*
471.1625 to 471.2875	474.1625 to 474.2875

CHANNEL 20

PUBLIC SAFETY

Base	*Mobile*
506.3125 to 507.1875	509.3125 to 510.1875

RESERVE POOL

Base	*Mobile*
507.1625 to 507.3075	510.1625 to 510.3075

(j) Reserve pool frequencies are available for assignment to applicants in the Public Safety Radio Service in the Los Angeles urbanized area after all available Public Safety frequencies in the 470–512 MHz band have been assigned and are substantially loaded in accordance with the standard set forth in footnote 2, paragraph (c) of this section. Channels shall be assigned starting with the lowest frequency (471.1625 or 507.1625 MHz) and progressing upward from these points a channel at a time. Mobile station frequencies are 3 MHz higher than the corresponding base station frequencies. Normally, each channel shall be substantially filled before the next channel will be assigned.

PART 91—INDUSTRIAL RADIO SERVICES

B. 1. In § 91.58 a new paragraph (d) is added as follows:

§ 91.58 Supplemental information to be submitted with application.

* * * * * * *

(d) Each application for authority to operate on any frequency in the range 470–512 MHz shall be accompanied by a statement indicating whether or not the proposed base station frequency will be used by more than one licensee. When an applicant plans to share the use of such a facility, he must submit the names and call signs of all existing users.

2. In § 91.114, paragraph (b) is amended by the addition of a new footnote to Figure "A", footnote 2 in paragraph (f) is amended, the frequency tabulation under paragraph (h) is amended, and a

[2] For stations in the Los Angeles urbanized area with antenna elevations 1,500 or more feet above sea level, the maximum authorized effective radiated power (ERP) shall be in accordance with the following table:

Antenna Height (ASL) (feet)	*Power (ERP)*
1,501–2,000	155 W.
2,001–2,500	100 W.
2,501–3,000	70 W.
3,001–3,500	50 W.
3,501–4,000	38 W.
4,001–4,500	31 W.
4,501–5,000	25 W.

Existing stations may continue to use presently authorized powers until January 1, 1970.

new paragraph (j) is added to read as follows:

§ 91.114 Frequencies in the band 470–512 MHz.

* * * * *

(f) * * *

2. The channel loading is 90 units. A unit is defined as one vehicular mobile unit or three hand carried transmitter-receivers. Loading standards will be applied in terms of the number of units actually in use or to be placed in use within 8 months following authorization. A licensee will be required to show that an assigned frequency pair is at full capacity before it may be assigned a second or additional frequency. Channel capacity may be reached either by the requirements of a single licensee or by several users sharing a channel. Until a channel is loaded to capacity it will be available for assignment to other users in the same area. A frequency pair may be reassigned at distances 40 miles (20 miles for Channel 15, Chicago; Channel 20, Philadelphia; and Channel 17, Washington) or more from the location of base station authorized on that pair without reference to loading at the point of original installation. Following authorization, the licensee shall notify the Commission either during or at the close of the 8 month period of the number of units in operation. Notwithstanding the foregoing, if the base station facility is to be used by more than a single licensee, the frequency assigned to it will not be reassigned for use by another facility within 40 miles (or 20 miles where applicable) for a period of 12 months: *Provided*, That the facility is constructed within 90 days from the date of the first grant, meets the loading standards to at least 50 per cent within 8 months, and meets all loading standards within 12 months.

* * * * *

(h) * * *

CHANNEL 14

BUSINESS

Base	Mobile
471.8625 to 472.3375 and 472.7625 to 472.8375	476.8625 to 476.8875 and 476.7625 to 476.8875

PETROL.-FOREST PROD. MANUF.

Base	Mobile
472.9125 to 472.3375	475.9125 to 475.9375

CHANNEL 15

BUSINESS

Base	Mobile
477.0625 to 475.2375 and 478.0875 to 478.0875	480.0625 to 481.2375 and 481.0875 to 481.0875

PETROL.-FOREST PROD. MANUF.

Base	Mobile
478.9125 to 478.9375	481.9125 to 481.9375

* * * * *

(j) Frequencies available for assignment in the Los Angeles, California urbanized area:

CHANNEL 14

POWER TELEPHONE MAINTENANCE

Base	Mobile
471.3125 to 471.4125	474.3125 to 474.4125

PETROL.-FOREST PROD. MANUF.

Base	Mobile
472.6125 to 472.6375	475.8125 to 475.8375

SPECIAL INDUSTRIAL

Base	Mobile
471.4375 to 471.6375	474.4375 to 474.6375

BUSINESS

Base	Mobile
471.6625 to 472.6375	474.6625 to 475.4375

CHANNEL 20

POWER TELEPHONE MAINTENANCE

Base	Mobile
507.3125 to 407.4125	510.3125 to 510.4125

PETROL.-FOREST PROD. MANUF.

Base	Mobile
508.8125 to 508.8375	511.8125 to 511.8375

SPECIAL INDUSTRIAL

Base	Mobile
507.4375 to 507.6375	510.4375 to 510.6375

BUSINESS

Base	Mobile
507.6425 to 508.4375	510.6425 to

CHANNEL 14

RESERVE POOL*

Base	Mobile
471.1625 to 471.2875	474.1625 to 474.2875

CHANNEL 20

RESERVE POOL*

Base	Mobile
506.1625 to 506.2875	511.1625 to 511.2875

*Reserve pool frequencies are available for assignment to applicants in the Industrial Radio Services in the Los Angeles urbanized area after all available Industrial frequencies in the 470–512 MHz band have been assigned and are substantially loaded in accordance with the standards set forth in footnote 2, paragraph (d), (e), and (f) of this section. Channels shall be assigned starting with the highest frequency (471.2875 or 508.2875 MHz) and progressing downward from those points a channel at a time. Mobile station frequencies are 3 MHz higher than the corresponding base station frequencies. Normally, each channel shall be substantially filled before the next channel will be assigned.

PART 93—LAND TRANSPORTATION RADIO SERVICES

C. In § 93.114, paragraph (a) is amended by the addition of a new subparagraph (8), paragraph (b) is amended by the addition of a new footnote to Fig. "A", the first sentence of footnote 2 is amended in paragraph (c), the frequency tabulation in paragraph (f) is amended, and a new paragraph (j) is added as follows:

§ 93.114 Frequencies in the band 470–512 MHz.

(a) * * *

(8) The mobile relay mode of operation may be authorized in the Land Transportation Radio Services.

(b) * * *

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[1] For stations in the Los Angeles urbanized area with antenna elevations 1,500 or more feet above sea level, the maximum authorized effective radiated power (ERP) shall be in accordance with the following table.

Antenna height (ASL) (feet)	*Power (ERP)*
1,501–2,000	155 W.
2,001–2,500	109 W.
2,501–3,000	70 W.
3,001–3,500	50 W.
3,501–4,000	38 W.
4,001–4,500	31 W.
4,501–5,000	25 W.

Existing stations may continue to use presently authorized powers until January 1, 1980.

(c) * * *

2. The channel loading is 150 units except in the New York-Northeast, New Jersey urbanized area where the channel loading is 200 units.

* * * * *

(f) * * *

CHANNEL 14

TAXICAB

Base	Mobile
472.3625 to 472.4375 and 472.6375 to 472.7375	475.3625 to 475.4375 and 475.6375 to 475.7375

RAILROAD-MOTOR CARRIER-AUTOMOBILE EMERGENCY

Base	Mobile
472.4625 to 472.6125	475.4625 to 475.6125

CHANNEL 15

TAXICAB

Base	Mobile
476.3625 to 476.4875 and 476.6875 to 476.7375	481.3625 to 481.4875 and 481.6875 to 481.7375

RAILROAD-MOTOR CARRIER-AUTOMOBILE EMERGENCY

Base	Mobile
476.5125 to 476.6625	476.5125 to 476.6625

(j) Frequencies available for assignment in the Los Angeles, California area:

CHANNEL 14

TAILBAR

Base	Mobile
472.9125	475.9125
to	to
472.9675	475.9675

RAILROAD-MOTOR CARRIER-AUTOMOBILE EMERGENCY

Base	Mobile
472.4625	475.4625
to	to
472.7875	475.7875

CHANNEL 20

TAILBAR

Base	Mobile
508.9125	511.9125
to	to
508.9675	511.9675

RAILROAD-MOTOR CARRIER-AUTOMOBILE EMERGENCY

Base	Mobile
508.4625	511.4625
to	to
508.7875	511.7875

CHANNEL 14

RESERVE POOL*

Base	Mobile
471.3625	474.1625
to	to
471.3875	474.3875

CHANNEL 20

RESERVE POOL*

Base	Mobile
511.1625	508.1625
to	to
511.9675	508.3875

[FR Doc.74-29688 Filed 12-20-74;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S.O. 1108-A]

PART 1033—CAR SERVICE

Reading Co. et al. Authorized To Operate Over Tracks of Lehigh Valley Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 16th day of December 1974.

Upon further consideration of Revised Service Order No. 1108 (37 FR 28634; 38 FR 5876, 23792; 39 FR 1851, 10591, 20799 and 40499), and good cause appearing therefor:

It is ordered, That: § 1033.1108 *Revised Service Order 1108-A* (Reading Company, Andrew L. Lewis, Jr., and Joseph L. Castle, trustees, authorized to operate over tracks of Lehigh Valley Railroad Company, John F. Nash and Robert C. Haldeman, trustees) be, and it is hereby, vacated and set aside.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, 17(2)). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10-17), 15(4), 17(2))

It is further ordered, That this order shall become effective at 11:59 p.m., December 18, 1974 and that a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.74-29658 Filed 12-20-74;8:45 am]

[S.O. 1125, Amdt. 4]

PART 1033—CAR SERVICE

St. Louis-San Francisco Railway Co. Authorized To Operate Over Tracks of the Kansas City Southern Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 16th day of December 1974.

Upon further consideration of Service Order No. 1125 (38 FR 6863, 19126, 33482, and 39 FR 18281), and good cause appearing therefor:

It is ordered, That: § 1033.1125 *Service Order No. 1125 St. Louis-San Francisco Railway Company authorized to operate over tracks of the Kansas City Southern Railway Company* be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

Expiration date. The provisions of this order shall expire at 11:59 p.m., June 1, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, 17(2)). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10-17), 15(4), 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.74-29659 Filed 12-20-74;8:45 am]

[S.O. 1154, Amdt. 2]

PART 1033—CAR SERVICE

St. Louis-San Francisco Railway Co. Authorized To Operate Over Tracks of the Alabama Great Southern Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 16th day of December 1974.

Upon further consideration of Service Order No. 1154 (38 FR 28292 and 39 FR 12009), and good cause appearing therefor:

It is ordered, That: § 1033.1154 *Service Order No. 1154 St. Louis-San Francisco Railway Company authorized to operate over tracks of the Alabama Great Southern Railroad Company* be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 1, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1974.

(Secs. 1, 12, 15, 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, 17(2)). Interprets or applies secs. 1(10-17), 15(4), 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10-17), 15(4), 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.74-29660 Filed 12-20-74;8:45 am]

* Reserve pool frequencies are available for assignment to applicants in the Land Transportation Radio Services in the Los Angeles urbanized area after all available Public Safety frequencies in the 470-512 MHz band have been assigned and are substantially loaded in accordance with the standard set forth in footnote 2, paragraph (c) and (d) of this section. Channels shall be assigned starting with the highest frequency (471.2875 or 508.2875 MHz) and progressing downward from these points a channel at a time. Mobile station frequencies are 3MHz higher than the corresponding base station frequencies. Normally, each channel shall be substantially filled before the next channel will be assigned.

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Blackwater National Wildlife Refuge, Maryland

The following special regulations are issued and are effective during the period January 1, 1975 through December 31, 1975.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

MARYLAND

BLACKWATER NATIONAL WILDLIFE REFUGE

Entry by foot or motor vehicle is permitted during daylight hours on designated travel routes for the purposes of nature study, photography, hiking, and sightseeing. Two-wheel motor vehicles (motorcycles, motorbikes, trail bikes, and mini-bikes) are not permitted on the auto drive. Visitors must remain in their vehicles while on the auto drive. Bicycles are permitted on a designated portion of the auto drive.

Pets are permitted on a leash not exceeding 10 feet in length in designated parking areas only.

Fires are prohibited for any purpose in the public use areas.

The refuge, comprising approximately 11,627 acres, is delineated on a map available from the Refuge Manager, Blackwater National Wildlife Refuge, Route 1, Box 121, Cambridge, Maryland 21613, or from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
Regional Director, U.S. Fish and Wildlife Service.

DECEMBER 13, 1974.

[FR Doc.74-29773 Filed 12-20-74;8:45 am]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Montezuma National Wildlife Refuge, New York

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

NEW YORK

MONTEZUMA NATIONAL WILDLIFE REFUGE

Travel by motor vehicle or on foot is permitted on designated travel routes for the purpose of nature study, photography, and sight-seeing during daylight hours. Pets are permitted if on a leash not over 10 feet in length.

The refuge area, comprising 6,433 acres, is delineated on maps available from the Refuge Manager, Montezuma National Wildlife Refuge, R.D. #1, Box 1411, Seneca Falls, New York 13148 and from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
Regional Director, U.S. Fish and Wildlife Service.

DECEMBER 13, 1974.

[FR Doc.74-29772 Filed 12-20-74;8:45 am]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Supawna Meadows National Wildlife Refuge, New Jersey

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

NEW JERSEY

SUPAWANA MEADOWS NATIONAL WILDLIFE REFUGE

Travel by bicycle or on foot is permitted from sunrise to sunset unless prohibited by posting, for the purpose of nature study, photography, hiking, and sight-seeing. Pets are permitted if on a leash not over ten feet in length.

The refuge area, comprising 653 acres, is delineated on maps available at refuge headquarters, Brigantine National Wildlife Refuge, PO. Box 72, Great Creek Road, Oceanville, new Jersey 08231, or from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
Regional Director, U.S. Fish and Wildlife Service.

DECEMBER 13, 1974.

[FR Doc.74-29771 Filed 12-20-74;8:45 am]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Tinicum National Environmental Center, Pennsylvania

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

PENNSYLVANIA

TINICUM NATIONAL ENVIRONMENTAL CENTER

Entrance into the refuge is permitted for the purpose of bicycling, hiking, nature study, sightseeing and photography from dawn to dusk. Motorcycles, snowmobiles, all terrain, air cushion or other similar motor vehicles are prohibited on the refuge dikes. Pets are permitted if on a leash not exceeding 10 feet in length. Boats are not permitted in the refuge impoundments.

A map of the refuge is available at the refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse Building, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
Regional Director, Fish and Wildlife Service.

DECEMBER 13, 1974.

[FR Doc.74-29772 Filed 12-20-74;8:45 am]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Trustom Pond National Wildlife Refuge, Rhode Island

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

RHODE ISLAND

TRUSTOM POND NATIONAL WILDLIFE REFUGE

Entry into and travel by bicycle or on foot is permitted from sunrise to sunset on designated routes unless prohibited by posting for the purpose of nature study, biking, photography, and sightseeing. Pets are permitted if on a leash not over 10 feet in length.

The entire refuge beach has no lifeguards. Swimming will be at the visitor's own risk. Year round access across the refuge for surf fishing is permitted.

Small cooking fires are permitted only on the ocean beach. No other fires are permitted at other locations on the refuge. Camping, tents, floating devices and nudity are not permitted on the refuge.

Over-the-sand vehicles, snowmobiles, air cushion, all terrain or other similar vehicles are not permitted on the refuge.

A map of the refuge is available from the Refuge Manager, Ninigret National Wildlife Refuge, Box 307, Charlestown, Rhode Island 02813 or from the Regional

Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations governing recreation on wildlife refuge areas generally, which are set forth in 50 CFR Part 28 and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
Regional Director, U.S. Fish and Wildlife Service.

DECEMBER 13, 1974.

[FR Doc.74-29774 Filed 12-20-74;8:45 am]

PART 33—SPORT FISHING

Blackwater National Wildlife Refuge, Maryland

The following special regulations are issued and are effective during the period April 15, 1975 through October 31, 1975.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

MARYLAND

BLACKWATER NATIONAL WILDLIFE REFUGE

Sport fishing and crabbing on the Blackwater National Wildlife Refuge, Route 1, Box 121, Cambridge, Maryland 21613, is permitted only on those areas designated by signs as open to fishing. These open areas, comprising, approximately 2,700 acres, are delineated on a map available at refuge headquarters or from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109. Sport fishing and crabbing shall be in accordance with all applicable State regulations except for the following special conditions.

(1) Season: April 15–October 31—daylight hours only.

(2) Boat launching from refuge lands is not permitted.

(3) All fish and crab lines must be attended. No set tackle may be used.

(4) Use of airboats is prohibited.

The provisions of this special regulation supplement the regulations which govern sport fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through October 31, 1975

RICHARD E. GRIFFITH,
Regional Director, U.S. Fish and Wildlife Service.

DECEMBER 13, 1974.

[FR Doc.74-29768 Filed 12-20-74;8:45 am]

PART 33—SPORT FISHING

Bombay Hook National Wildlife Refuge, Delaware

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

DELAWARE

BOMBAY HOOK NATIONAL WILDLIFE REFUGE

Sport fishing on the Bombay Hook National Wildlife Refuge, Smyrna, Delaware, is permitted in tidal waters. These open areas are delineated on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse Building, Boston, Massachusetts 02109. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) Fishing from boats only is permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas, generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
Regional Director, U.S. Fish and Wildlife Service.

DECEMBER 13, 1974.

[FR Doc.74-29770 Filed 12-20-74;8:45 am]

PART 33—SPORT FISHING

Iroquois National Wildlife Refuge, New York

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

§ 33.5 Special regulation; sport fishing; for individual wildlife refuge areas.

NEW YORK

IROQUOIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Iroquois National Wildlife Refuge, Basom, New York is permitted on all waters designated by signs as open in accordance with specified dates. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions.

(1) All waters will be closed to fishing from April 1 through July 15 and October 1 through November 30 except those portions of the Feeder Canal and Oak Orchard Creek designated by signs as open.

(2) Boats without motors may be used on Oak Orchard Creek from the Knowlesville Road to a wire two miles westward.

(3) Firearms are not permitted in boats.

(4) Leaving boats, structures, or other equipment overnight on the refuge is not permitted.

All fishing areas are delineated on maps available at refuge headquarters or from the Regional Director, Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas, generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
Regional Director, Fish and Wildlife Service.

DECEMBER 13, 1974.

[FR Doc.74-29707 Filed 12-20-74;8:45 am]

PART 33—SPORT FISHING

Prime Hook National Wildlife Refuge

The following special regulation is issued and is effective during the period January 1, 1975 through December 31, 1975.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

DELAWARE

PRIME HOOK NATIONAL WILDLIFE REFUGE

Sport fishing is permitted in accordance with all applicable State regulations. Boats, with or without motors, are permitted for fishing freshwater streams and ponds. Boats may be launched from designated access points or public roads.

The refuge is delineated on maps available at refuge headquarters or from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
Regional Director, U.S. Fish and Wildlife Service.

DECEMBER 13, 1974.

[FR Doc.74-29769 Filed 12-20-74;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7334]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Special Rules for Determining Tax Credit for Foreign Income Taxes Paid by Controlled Foreign Corporations

By a notice of proposed rule making appearing in the FEDERAL REGISTER for December 23, 1971 (36 FR 24816), amendments to the Income Tax Regulations (26 CFR Part 1) were proposed in order to provide special rules for determining the tax credit of a domestic corporation for foreign income taxes paid by a controlled foreign corporation. After

consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, certain changes were made, and the proposed amendments of the regulations, subject to the changes indicated below, are adopted by this document.

Sections 1.960–1(c)(3) and 1.960–1(c)(2) have each been changed from the notice of proposed rule making by inserting a cross reference to the principles of paragraphs (b)(3)(iv) and (viii) and (c) of § 1.9541 for determining the effective foreign tax rate and by the addition of a simple example involving the dividends-received deduction.

This document also amends example (2) in § 1.963–3(h), which was amended by paragraph 9 of T.D. 7120, which was published in the FEDERAL REGISTER for June 4, 1971 (36 FR 10851). This amendment was not proposed with the notice of proposed rule making published on December 23, 1971. The penultimate sentence in example (2) provides that the foreign tax credit is determined in accordance with § 1.963–4. This is incorrect since the example does not involve a chain or group of controlled foreign corporations. Accordingly, the sentence has been corrected to refer to section 902 as modified by the regulations under section 963.

The proposed amendments of the regulations are hereby adopted, subject to the changes set forth below, effective for taxable years of foreign corporations beginning after December 31, 1962, and for taxable years of U.S. shareholders within which or with which such taxable years of such corporations end:

PARAGRAPH 1. The amendment of § 1.960–1, as set forth in paragraph 2 of the notice, is changed by revising so much of § 1.960–1 (c) (3) as follows subdivision (ii) thereof to read as set forth below.

PAR. 2. The amendment of § 1.960–2, as set forth in paragraph 3 of the notice, is changed by revising so much of § 1.960–2 (c) (2) as follows subdivision (ii) thereof to read as set forth below.

Par. 3. Section 1.963–3 is amended by revising example (2) in paragraph (h) to read as set forth below.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917 (26 U.S.C. 7805)))

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 16, 1974.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

1. In § 1.959–3 paragraph (e) is amended to read as follows:

§ 1.959–3 Allocation of distributions to earnings and profits of foreign corporations.

* * * * *

(e) *Determination of foreign tax credit.* For purposes of applying section 902 and section 960 in determining the foreign tax credit allowable under section 901 in a case in which distributions are made by a second-tier corporation or a first-tier corporation, as the case may be, from its earnings and profits for a taxable year which are attributable to an amount included in the gross income of a U.S. shareholder under section 951(a) or which are attributable to amounts excluded from the gross income of such foreign corporation under section 959(b) and § 1.959–2 with respect to a U.S. shareholder, the rules of paragraph (b) of this section shall apply except that in applying subparagraph (1) or (2) of such paragraph—

(1) Distributions from the earnings and profits for such taxable year of the second-tier corporation shall be considered first attributable to its earnings and profits attributable to distributions from the earnings and profits of the foreign corporation, if any, next lower in the chain of ownership described in section 958(a), to the extent of such earnings and profits of the second-tier corporation, and then to the other earnings and profits of such second-tier corporation, and

(2) Distributions from the earnings and profits for such taxable year of the first-tier corporation shall be considered first attributable to its earnings and profits attributable to distributions from the earnings and profits of the second-tier corporation, to the extent of such earnings and profits of the first-tier corporation, and then to the other earnings and profits of such first-tier corporation. For purposes of this paragraph, a second-tier corporation is a foreign corporation referred to in section 960(a)(1)(B), and a first-tier corporation is a foreign corporation referred to in section 960(a)(1)(A). The application of this paragraph may be illustrated by the following examples:

Example (1). * * *

(c) During 1964, S Corporation distributes $100 to R Corporation, and R Corporation distributes $100 to A Corporation. Neither corporation has any earnings or profits or deficit in earnings and profits for such year. On December 31, 1964, R Corporation has earnings and profits (computed before distributions to A Corporation made for the year) of $200, consisting of $100 of section 959(c)(1) amounts of R Corporation for 1963 and of $100 of section 959(c)(1) amounts of S Corporation for 1963. For purposes of determining the foreign tax credit under section 960 and the regulations thereunder, the $100 distribution by R Corporation shall be considered attributable to S Corporation's earnings and profits for 1963 described in section 959(c)(1).

Example (2). * * *

(c) During 1965 neither T Corporation nor U Corporation has any earnings and profits or deficit in earnings and profits or investment of earnings in U.S. property, but T Corporation distributes $100 to A Corporation. For purposes of determining the foreign tax credit under section 960 and the regulations thereunder, the $100 distribution of T Corporation shall be considered attributable to T Corporation's earnings and profits for 1964 described in section 959(c)(1).

* * * * *

2. In § 1.960–1 paragraph (c) is amended to read as follows:

§ 1.960–1 Foreign tax credit with respect to taxes paid on earnings and profits of controlled foreign corporations.

* * * * *

(c) *Amount of foreign income taxes deemed paid by domestic corporation in respect of earnings and profits of foreign corporation attributable to amount included in income under section 951*—(1) *In general.* * * *

(iii) In applying subdivision (i) of this subparagraph to a first-tier corporation which for the taxable year has income excluded under section 959(b), subparagraph (3) of this paragraph shall apply for purposes of excluding certain earnings and profits of such corporation and foreign income taxes, if any, attributable to such excluded income.

* * * * *

(3) *Exclusion of earnings and profits and taxes of first-tier corporation having income excluded under section 959(b).* If in the case of a first-tier corporation to which subparagraph (1)(i) of this paragraph is applied—

(i) The earnings and profits of such first-tier corporation for its taxable year consist of (*a*) earnings and profits attributable to dividends received from a second-tier corporation to which, in accordance with paragraph (b) of § 1.960–2, section 902(b) does not apply and (*b*) other earnings and profits, and

(ii) The effective rate of foreign income taxes paid or accrued by such first-tier corporation in respect to the dividends to which its earnings and profits described in subdivision (i)(*a*) of this subparagraph are attributable is higher or lower than the effective rate of foreign income taxes paid or accrued by such first-tier corporation in respect to the income to which its earnings and profits described in subdivision (i)(*b*) of this subparagraph are attributable, then, for purposes of applying subparagraph (1)(i) of this paragraph to the foreign income taxes paid, accrued, or deemed to be paid, by such first-tier corporation on or with respect to its earnings and profits for such taxable year, the earnings and profits of such first-tier corporation for such taxable year shall be considered not to include the earnings and profits described in subdivision (i)(*a*) of this subparagraph and only the foreign income taxes paid, accrued, or deemed to be paid, by such first-tier corporation in respect to the income to which its earnings and profits described in subdivision (i)(*b*) of this subparagraph are attributable shall be taken into account. For purposes of applying this subparagraph, the effective rate of foreign income taxes paid or accrued in respect to income shall be determined consistently with the principles of paragraphs (b)(3)(iv) and (viii) and (c) of

§ 1.964–1. Thus, for example, the effective rate of foreign income taxes paid or accrued in respect to dividends received by such first-tier corporation shall be determined by taking into account any intercorporate dividends received deduction allowed to such corporation for such dividends.

(4) *Illustrations.* • • •

Example (6). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income $175 attributable to the earnings and profits of A Corporation for such year. For 1965, B Corporation has earnings and profits of $225, on which it pays foreign income taxes of $75. In 1965, B Corporation distributes $150, which, under paragraph (b) of § 1.960–2, consists of $100 to which section 902(b) does not apply (from B Corporation's earnings and profits attributable to an amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation) and $50 to which section 902(b)(1) applies (from B Corporation's other earnings and profits). The country under the laws of which A Corporation is incorporated imposes an income tax of 40 percent on all income but exempts from tax dividends received from a subsidiary corporation. A Corporation makes no distribution for 1965. Under paragraph (b) of § 1.960–2, A Corporation is deemed to have paid $25 ($50/$150×$75) of the $75 foreign income taxes paid by B Corporation on its pretax earnings and profits of $225. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a)(1)(C) with respect to A Corporation are determined as follows upon the basis of the following assumed facts:

Pretax earnings and profits of A corporation:	
Dividends received from B corporation	$150.00
Other income	250.00
Total pretax earnings and profits	400.00
Foreign income taxes:	
On dividends received from B corporation	None
On other income ($250×0.40)	100.00
Total foreign income taxes	100.00
Earnings and profits:	
Attributable to dividends received from B corporation to which sec. 902(b) does not apply	100.00
Attributable to other income:	
Attributable to dividends received from B corporation to which section 902(b)(1) applies	50.00
Attributable to other income ($250—$100 [$250×0.40])	150.00
Subtotal	200.00
Total earnings and profits	300.00
Foreign income taxes deemed paid by N corporation under sec. 960(a)(1)(C) with respect to A corporation:	
Tax paid by A corporation in respect to its income other than dividends received from B corporation to which sec. 902(b) does not apply ($175/$200×$200)	87.50
Tax of B corporation deemed paid by A corporation under sec. 902(b)(1) in respect to such income ($175/$200×$25)	21.88
Total foreign income taxes deemed paid by N corporation under sec. 960(a)(1)(C) with respect to A corporation	109.38

2. In § 1.960–2 paragraphs (c) and (e) are amended to read as follows:

§ 1.960–2 Interrelation of section 902 and section 960 when dividends are paid by second-tier corporation or by first-tier corporation.

• • • • •

(c) *Application of section 902(a) to dividends received by domestic corporation from first-tier corporation.* • • •

(2) *Separate determinations under section 902(a) in case of first-tier corporation having income excluded under section 959(b).* If in the case of a first-tier corporation to which subparagraph (1) of this paragraph is applied—

(i) The earnings and profits of such first-tier corporation for its taxable year consist of (a) earnings and profits attributable to dividends received from a second-tier corporation to which, in accordance with paragraph (b) of this section, section 902(b) does not apply and (b) other earnings and profits, and

(ii) The effective rate of foreign income taxes paid or accrued by such first-tier corporation in respect to the dividends to which its earnings and profits described in subdivision (i)(a) of this subparagraph are attributable is higher or lower than the effective rate of foreign income taxes paid or accrued by such first-tier corporation in respect to the income to which its earnings and profits described in subdivision (i)(b) of this subparagraph are attributable, then, for purposes of applying subparagraph (1) of this paragraph to dividends received by the domestic corporation from the first-tier corporation, section 902(a) shall be applied separately to the portion of the dividends which is attributable to the earnings and profits described in subdivision (i)(a) of this subparagraph and separately to the portion of the dividends which is attributable to the earnings and profits described in subdivision (i)(b) of this subparagraph. For this purpose, in making each such separate determination, only the foreign income taxes paid, accrued, or, in the case of earnings and profits described in subdivision (i)(b) of this subparagraph, deemed to be paid, by such first-tier corporation in respect to the income to which the earnings and profits are attributable in respect of which the separate determination is being made shall be taken into account. For purposes of applying this subparagraph, no part of the foreign income taxes paid, accrued, or deemed to be paid, by such first-tier corporation for such taxable year in respect to the income to which its earnings and profits described in subdivision (i)(b) of this subparagraph are attributable shall be attributed to its earnings and profits described in subdivision (i)(a) of this subparagraph; and no part of the foreign income taxes paid or accrued by such first-tier corporation for such taxable year in respect to the dividends to which its earnings and profits described in subdivision (i)(a) of this subparagraph are attributable shall be attributed to its earnings and profits described in subdivision (i)(b) of this subparagraph. Furthermore, the effective rate of foreign income taxes paid or accrued in respect to income shall be determined consistently with the principles of paragraphs (b)(3) (iv) and (viii) and (c) of § 1.964–1. Thus, for example, the effective rate of foreign income taxes paid or accrued in respect to dividends received by such first-tier corporation shall be determined by taking into account any intercorporate dividends received deduction allowed to such corporation for such dividends.

• • • • •

(e) *Illustrations.* The application of this section may be illustrated by the following examples, in all of which, other than examples (7) and (8), it is assumed that the effective rate of foreign income taxes paid or accrued by the first-tier corporation in respect to dividends received from the second-tier corporation is the same as the effective rate of foreign income taxes paid or accrued by the first-tier corporation in respect to its other income:

• • • • •

Example (7). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income $100 attributable to the earnings and profits of B Corporation for such year. For 1965, B Corporation distributes $150 consisting of $100 from its earnings and profits attributable to the amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation and $50 from its other earnings and profits. The country under the laws of which A Corporation is incorporated imposes an income tax of 10 percent on all income but exempts from tax dividends received from a subsidiary corporation. For 1965, A Corporation distributes $175, consisting of $100 from its earnings and profits attributable to the amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation, and $75 from its other earnings and profits. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a)(1)(C) and section 902(a)(1) are determined as follows on the basis of the facts assumed:

B corporation (3d-tier corporation):	
Pretax earnings and profits	$200.00
Foreign income taxes (20%)	40.00
Earnings and profits	160.00
Amount required to be included in N corporation's gross income for 1965 under sec. 951 with respect to B corporation	100.00
Dividends paid by B corporation:	
Dividends to which sec. 902(b) does not apply (from B corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N corporation's gross income with respect to B corporation)	100.00
Dividends to which sec. 902(b)(1) applies (from B corporation's other earnings and profits)	50.00
Total dividends paid to A corporation	150.00
Foreign income taxes of B corporation deemed paid by A corporation for 1965 under sec. 902(b)(1) ($50/$100×$40)	12.50
A corporation (1st-tier corporation):	
Pretax earnings and profits:	
Dividends received from B corporation	150.00
Other income	100.00
Total pretax earnings and profits	250.00
Foreign income taxes:	
On dividends received from B corporation	None
On other income ($100×0.10)	10.00
Total foreign income taxes	10.00
Earnings and profits:	
Attributable to dividends received from B corporation to which sec. 902(b) does not apply	100.00
Attributable to other income:	
Attributable to dividends received from B corporation to which sec. 902(b)(1) applies	50.00
Attributable to other income ($100−$10)	90.00
Subtotal	140.00
Total earnings and profits	240.00
Earnings and profits after exclusion of amounts attributable to dividends to which sec. 902(b) does not apply ($240−$100)	140.00
Amount required to be included in N corporation's gross income for 1965 under sec. 951 with respect to A corporation	None
Dividends paid by A corporation:	
Dividends to which sec. 902(a) does not apply (from A corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N corporation's gross income with respect to A corporation)	None
Dividends to which sec. 902(a)(1) applies (from A corporation's other earnings and profits)	175.00
Total dividends paid to N corporation	175.00
N corporation (domestic corporation):	
Foreign income taxes deemed paid by N corporation under sec. 960(a)(1)(C) with respect to B corporation ($100/$160×$40)	25.00
Foreign income taxes deemed paid by N corporation under sec. 902(a)(1) with respect to A corporation (allocation of earnings and profits being made under pars. (c)(2) and (d) of this section):	
Tax paid by A corporation in respect to dividends received from B corporation to which sec. 902(b) does not apply ($100/$100×$0)	None
Tax paid by A corporation in respect to its other income ($75/$140×$10)	5.36
Tax of B corporation deemed paid by A corporation in respect to such other income ($75/$140×$12.50)	6.70
Total taxes deemed paid under sec. 902(a)(1)	12.06
Total foreign income taxes deemed paid by N corporation under sec. 901	37.06

Example (8). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, not a less developed country corporation, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1965, N Corporation is required under section 951 to include in gross income $150 attributable to the earnings and profits of B Corporation for such year and $47.50 attributable to the earnings and profits of A Corporation for such year. For 1965, B Corporation distributes $200, consisting of $150 from its earnings and profits attributable to the amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation and $50 from its other earnings and profits. The country under the laws of which A Corporation is incorporated imposes an income tax of 5 percent on dividends received from a subsidiary corporation and 20 percent on other income. For 1965, A Corporation distributes $100 from its earnings and profits to N Corporation, such amount being attributable under paragraph (e) of § 1.959-3 to the amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation. The foreign income taxes deemed paid by N Corporation for 1965 under section 960(a)(1)(C) and section 902(a)(1) are determined as follows on the basis of the facts assumed:

B corporation (2d-tier corporation):	
Pretax earnings and profits	[illegible]
Foreign income taxes (20 percent)	50.00
Earnings and profits	[illegible]
Amount required to be included in N corporation's gross income for 1965 under sec. 951 with respect to B corporation	150.00
Dividends paid by B corporation:	
Dividends to which sec. 902(b) does not apply (from B corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N corporation's gross income with respect to B corporation)	[illegible]
Dividends to which sec. 902(b)(1) applies (from B corporation's other earnings and profits)	[illegible]
Total dividends paid to A corporation	[illegible]
Foreign income taxes of B corporation deemed paid by A corporation for 1965 under sec. 960(b)(1) ($60 × $200/$50)	[illegible]
A corporation (1st-tier corporation):	
Pretax earnings and profits:	
Dividends received from B corporation	200.00
Other income	100.00
Total pretax earnings and profits	300.00
Foreign income taxes:	
On dividends received from B corporation to which sec. 902(b) does not apply ($150×0.05)	7.50
On other income:	
Dividends received from B corporation which to sec. 902(b)(1) applies ($50×0.05)	2.50
Other income of A corporation ($100×0.20)	20.00
Total	22.50
Total foreign income taxes	30.00
Earnings and profits:	
Attributable to dividends received from B corporation to which sec. 902(b) does not apply ($150—$7.50)	142.50
Attributable to other income:	
Attributable to dividends received from B corporation to which sec. 902(b)(1) applies ($50—$2.50)	47.50
Attributable to other income ($100—$20)	80.00
Total	127.50
Total earnings and profits	270.00
Earnings and profits after exclusion of amounts attributable to dividends to which sec. 902(b) does not apply ($270 less $142.50)	127.50
Amount required to be included in N corporation's gross income for 1965 under sec. 951 with respect to A corporation	47.50
Dividends paid by A corporation:	
Dividends to which sec. 902(a) does not apply (from A corporation's earnings and profits in respect of which an amount is required under sec. 951 to be included in N corporation's gross income with respect to A corporation)	None
Dividends to which sec. 902(a)(1) applies (from A corporation's other earnings and profits)	100.00
Total dividends paid to N corporation	100.00
N Corporation (domestic corporation):	
Foreign income taxes deemed paid by N corporation under sec. 960(a)(1)(C) with respect to—	
B corporation ($150/$200×$50)	37.50
A corporation (allocation of earnings and profits being made under § 1.960-1(b) (3) and par. (d) of this sec.):	
Tax paid by A corporation ($47.50/$127.50×$22.50)	8.38
Tax of B corporation deemed paid by A corporation under sec. 902(b)(1) ($47.50/$127.50×$30.00)	11.18
Total	19.56
Total taxes deemed paid under sec. 960(a)(1)(C)	57.06
Foreign income taxes deemed paid by N corporation under sec. 960(a)(1) with respect to A corporation (allocation of earnings and profits being made under par. (c)(2) and (d) of this sec.) ($142.50/$270.00×$7.50)	3.96
Total foreign income taxes deemed paid by N Corporation under sec. 901	61.02

4. In § 1.963–3 paragraph (h) is amended to read as follows:

§ 1.963–3 Distributions counting toward a minimum distribution.

• • • • • •

(h) *Illustrations.* The application of this section may be illustrated by the following examples:

• • • • • •

Example (2). Domestic corporation M directly owns all of the one class of stock of controlled foreign corporation A. Both corporations use the calendar year as the taxable year, and A Corporation's taxable year and its distribution period for 1963 coincide. For 1963, $50 is included in the gross income of M Corporation under section 951(a)(1)(B) as A Corporation's increase in earnings invested for such year in United States property. For 1964, M Corporation makes a first-tier election with respect to A Corporation. For 1964, A Corporation has earnings and profits of $100, including $10 attributable to an increase in earnings invested for such year in United States property. During 1964, A Corporation distributes earnings and profits of $80 to M Corporation. Without regard to paragraph (e) of this section, $10 of this distribution is attributable under section 959(c)(1) to A Corporation's 1964 earnings and profits required to be included in M Corporation's gross income under section 951(a)(1)(D). Pursuant to paragraph (e) of this section, however, the entire distribution of $80 counts toward a minimum distribution for 1964 and is considered to be from earnings and profits of A Corporation for 1964 described in section 959(c)(3). Thus the entire distribution of $80 is included in M Corporation's gross income as a dividend and the foreign tax credit in respect of such amount is determined in accordance with section 902 as modified by the regulations under section 963. On the other hand, if A Corporation made no distributions for 1964, no part of the $10 of A Corporation's increase in earnings invested in United States property for such year would count toward a minimum distribution for any other year but would be included in the gross income for M Corporation for 1964 under section 951(a)(1)(B), and the foreign tax credit in respect of such amount would be determined in accordance with § 1.960–1.

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[FR Doc.74–29867 Filed 12–20–74;8:45 am]

[TD 7332]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

PART 301—PROCEDURE AND ADMINISTRATION

Imposition of Tax on Nonresident Alien Individuals; Return Requirements; Declarations of Estimated Income Tax

By a notice of proposed rule making appearing in the FEDERAL REGISTER for October 5, 1971 (36 FR 19371), amendments to the Income Tax Regulations (26 CFR Part 1) and the regulations on procedure and administration (26 CFR Part 301) were proposed in order to conform such regulations to the amendments of the Internal Revenue Code of 1954 made by subsections (a), (b), (f), (g), (j), (l), and (m) of section 103 of the Foreign Investors Tax Act of 1966 (80 Stat. 1547, 1550, 1551, 1552, and 1554). The amendments made by such subsections are effective for taxable years beginning after December 31, 1966.

Section 103(a) of the Act amends section 871 of the Code to substantially revise the income tax treatment of nonresident alien individuals. Under the new provisions the income of a nonresident alien individual which is effectively connected with the conduct of a U.S. business is taxed at the regular graduated rates applicable to individuals, and certain income from U.S. sources which is not so connected is taxed at a flat 30-percent rate. U.S. source capital gains of a nonresident alien individual not engaged in business in the United States are taxed at a flat rate of 30 percent, but only if the alien was in the United States for 183 days or more during the taxable year. An election is also provided which allows a nonresident alien individual to treat income from real property as income which is effectively connected with the conduct of a U.S. business. Moreover, a new rule provides for an exclusion from gross income of certain annuities received under qualified stock bonus, pension, profit-sharing, or annuity plans in certain circumstances.

Section 103(b) of the Act adds a new rule in section 872 of the Code that the gross income of a nonresident alien individual includes only that income from U.S. sources which is not effectively connected with the conduct of a U.S. business and all income (whether or not derived from U.S. sources) which is effectively connected with the conduct of a U.S. business. A new section 872(b)(4) excludes from gross income certain bond income of residents of certain Pacific Islands.

Section 103(f) of the Act adds to the Code a new section 877, which provides

in certain cases for a special income tax in the case of an individual who at any time after March 8, 1965, and within the 10-year period preceding the close of the taxable year made a tax-motivated expatriation from the United States.

Section 103(g) of the Act amends 116 of the Code to provide that, in the case of a nonresident alien individual, the $100 dividend exclusion applies as a general rule only in determining the graduated tax and only if the dividends are effectively connected with the conduct of a U.S. business.

Section 103(j) of the Act adds a new section 6015(i) to the Code. Under new section 6015(i) a declaration of estimated tax is required of a nonresident alien individual only if he is subject to withholding of tax on wages, or has certain income which is effectively connected with the conduct of a U.S. business, or is a resident of Puerto Rico for the entire taxable year.

Section 103(l) of the Act makes what is essentially a conforming amendment in 7701(a)(31) of the Code, relating to the definition of a foreign estate or trust.

Section 103(m) of the Act makes a conforming amendment in section 932 of the Code, relating to citizens of possessions of the United States who are not otherwise citizens of the United States.

In addition to conforming the regulations to the changes made by the Foreign Investors Tax Act of 1966 certain other changes are made in the Income Tax Regulations. Thus, new § 1.871–13 provides rules for the taxation of an alien individual for a taxable year in which he becomes a citizen or resident of the United States or of an individual for a taxable year in which he gives up his U.S. citizenship or becomes a nonresident alien. An amendment to § 1.932–1(a)(1) incorporates a rule, taken in principle form I.T. 3788, 1946–1 C.B. 153, that the term "naturalization", as used in such section, means only naturalization in a State, Territory, or the District of Columbia. Section 1.6012–1(b) contains revised return requirements of nonresident alien individuals. One significant change is that with certain exceptions every nonresident alien individual who is engaged in trade or business in the United States is required to make a return of income. Another change consists of return requirements in the case of an individual who becomes a citizen or resident of the United States, or abandons his U.S. citizenship or residence, during the taxable year.

In order to avoid confusion by making such amendments in the Income Tax Regulations as were necessary to conform to the significant changes made by the 1966 Act, the decision was reached to replace the pertinent regulations with completely new regulations applicable only to taxable years beginning after December 31, 1966, and to refer to those sections in the Code of Federal Regulations (revised as of January 1, 1971) where the corresponding rules for taxable years beginning before January 1, 1967, may be found.

After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed on October 8, 1971, the amendments of the regulations as so proposed are hereby adopted, subject to the changes set forth below:

INCOME TAX REGULATIONS

PARAGRAPH 1. The amendment to § 1.1–1, as set forth in paragraph 2 of the notice of proposed rule making, is changed by adding thereto an amendment of so much of paragraph (a)(2) as precedes the table therein and by adding a new paragraph (a)(2)(ii), to read as set forth below.

PAR. 2. Section 1.871–1, as set forth in paragraph 10 of the notice of proposed rule making, is changed by revising paragraph (a) to read as set forth below.

PAR. 3. Section 1.871–7, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising paragraph (d)(3)(i) to read as set forth below.

PAR. 4. Section 1.871–8, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising paragraph (b)(1), example (2) in paragraph (c)(2), and paragraph (d) to read as set forth below.

PAR. 5. Section 1.871–10, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising paragraph (b)(3), and by adding a new subparagraph (3) to paragraph (d), to read as set forth below.

PAR. 6. Section 1.871–11, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising paragraphs (a), (c), and (e), and example (2)(a) in paragraph (f), to read as set forth below.

PAR. 7. Section 1.871–12, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising paragraph (c)(2) and example (2) in paragraph (d) to read as set forth below.

PAR. 8. Section 1.871–13, as set forth in paragraph 12 of the notice of proposed rule making, is changed by revising the heading of such section, by revising paragraphs (a), (b), (c), and (d), and by revising example (3) in paragraph (e), to read as set forth below.

PAR. 9. Section 1.872–2, as set forth in paragraph 16 of the notice of proposed rule making, is changed by revising paragraph (e)(2) to read as set forth below.

PAR. 10. Section 1.876–1, as set forth in paragraph 17 of the notice of proposed rule making, is changed by revising paragraph (c) to read as set forth below.

PAR 11. Section 1.878, as set forth in paragraph 18 of the notice of proposed rulemaking, is changed to read as set forth below.

PAR. 12. The amendment of § 1.932–1(a)(1), as set forth in paragraph 21 of the notice of proposed rulemaking, is changed to read as set forth below.

PAR. 13. The amendment of § 1.6012–1, as set forth in paragraph 24 of the notice of proposed rulemaking, is changed by deleting the amendment of paragraph (a)(5) and by revising subparagraphs (1)(i), (2)(ii), (3)(ii), and (5) of paragraph (b) to read as set forth below.

PAR. 14. The amendment of § 1.6012–3, as set forth in paragraph 25 of the notice of proposed rulemaking, is changed by revising paragraph (b)(2)(i)(c) to read as set forth below.

PAR. 15. The amendment of § 1.6015(a), as set forth in paragraph 27 of the notice of proposed rule making, is deleted.

PAR. 16. The amendment of § 1.6015(a)–1, as set forth in paragraph 28 of the notice of proposed rule making, is changed by striking out the deletion of paragraph (c).

PAR. 17. Section 1.6015(i)–1, as set forth in paragraph 31 of the notice of proposed rule making, is changed by revising paragraph (b)(1) to read as set forth below.

PAR. 18. Section 1.703–1 is amended by adding at the end of paragraph (b)(2) the following new subdivision to read as set forth below.

PAR. 19. Section 1.864–4 is amended by revising paragraph (c)(3)(i) to read as set forth below.

PAR. 20. The following new section is added immediately after § 1.875–1 to read as set forth below.

PAR. 21. Section 1.912 is amended to read as set forth below.

PAR. 22. Section 1.6012–2 is amended by revising paragraph (g)(5) to read as set forth below.

REGULATIONS ON PROCEDURE AND ADMINISTRATION

PAR. 23. Section 301.6015 is amended by revising subsection (c) of section 6015, by redesignating subsection (i) of section 6015 as subsection (j), by adding a new subsection (i) to section 6015 immediately after subsection (h), and by revising the historical note, as set forth below.

PAR. 24. Section 301.6015–1 is amended to read as set forth below.

PAR. 25. Section 301.7701, as set forth in paragraph 33 of the notice of proposed rulemaking, is amended by revising paragraph (34)(B) of section 7701(a) and the historical note to read as set forth below.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 16, 1974.

Frederic W. Hickman,
Assistant Secretary of the Treasury.

PARAGRAPH 1. Section 1.1 is amended by redesignating subsection (d) of section 1 (as amended by section 111 of the Revenue Act of 1964) as subsection (e), by adding a new subsection (d) to such section 1, and by revising the first historical note, as follows:

§ 1.1 Statutory provisions; tax imposed.

SECTION 1. *Tax imposed.* * * *

(d) *Nonresident aliens.* In the case of a nonresident alien individual, the tax imposed by subsection (a) shall apply only as provided by section 871 or 877.

(e) *Cross reference.* For definition of taxable income, see section 63.

[Sec. 1 as amended by sec. 111, Rev. Act 1964 (78 Stat. 19); sec. 103(a)(2), Foreign Investors Tax Act 1966 (80 Stat. 1560)]

* * * * *

PAR. 2. Section 1.1–1 is amended by revising paragraphs (a)(1), (b), and (c) to read as follows:

§ 1.1–1 Income tax on individuals.

(a) *General rule.* (1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien individual. For optional tax in the case of taxpayers with adjusted gross income of less than $10,000 (less than $5,000 for taxable years beginning before January 1, 1970) see section 3. The tax imposed, is upon taxable income (determined by subtracting the allowable deductions from gross income). The tax is determined in accordance with the table contained in section 1. See subparagraph (2) of this paragraph for reference guides to the appropriate table for taxable years beginning on or after January 1, 1964, and before January 1, 1965, taxable years beginning after December 31, 1964, and before January 1, 1971, and taxable years beginning after December 31, 1970. In certain cases credits are allowed against the amount of the tax. See part IV (section 31 and following), subchapter A, chapter 1 of the Code. In general, the tax is payable upon the basis of returns rendered by persons liable therefor (subchapter A (sections 6001 and following), chapter 61 of the Code), or at the source of the income by withholding. For the computation of tax in the case of a joint return of a husband and wife, or a return of a surviving spouse, for taxable years beginning before January 1, 1971, see section 2. The computation of tax in such a case for taxable years beginning after December 31, 1970, is determined in accordance with the table contained in section 1(a) as amended by the Tax Reform Act of 1969. For other rates of tax on individuals, see section 5(a). For the imposition of an additional tax for the calendar years 1968, 1969, and 1970, see section 51(a).

(2)(i) For taxable years beginning on or after January 1, 1964, the tax imposed upon a single individual, a head of a household, a married individual filing a separate return, and estates and trusts is the tax imposed by section 1 determined in accordance with the appropriate table contained in the following subsection of section 1:

* * * * *

(ii) For taxable years beginning after December 31, 1970, the tax imposed by section 1(d), as amended by the Tax Reform Act of 1969, shall apply to the income effectively connected with the conduct of a trade or business in the United States by a married alien individual who is a nonresident of the United States for all or part of the taxable year or by a foreign estate or trust. For such years the tax imposed by section 1(c), as amended by such Act, shall apply to the income effectively connected with the conduct of a trade or business in the United States by an unmarried alien individual (other than a surviving spouse) who is a nonresident of the United States for all or part of the taxable year. See paragraph (b)(2) of § 1.871–8.

* * * * *

(b) *Citizens or residents of the United States liable to tax.* In general, all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Code whether the income is received from sources within or without the United States. Pursuant to section 876, a nonresident alien individual who is a bona fide resident of Puerto Rico during ing the entire taxable year is, except as provided in section 933 with respect to Puerto Rican source income, subject to taxation in the same manner as a resident alien individual. As to tax on nonresident alien individuals, see sections 871 and 877.

(c) *Who is a citizen.* Every person born or naturalized in the United States and subject to its jurisdiction is a citizen. For other rules governing the acquisition of citizenship, see chapters 1 and 2 of title III of the Immigration and Nationality Act (8 U.S.C. 1401–1459). For rules governing loss of citizenship, see sections 349 to 357, inclusive, of such Act (8 U.S.C. 1481–1489), Schneider v. Rusk, (1964) 377 U.S. 163, and Rev. Rul. 70–506, C.B. 1970–2, 1. For rules pertaining to persons who are nationals but not citizens at birth, e.g., a person born in American Samoa, see section 308 of such Act (8 U.S.C. 1408). For special rules applicable to certain expatriates who have lost citizenship with a principal purpose of avoiding certain taxes, see section 877. A foreigner who has filed his declaration of intention of becoming a citizen but who has not yet been admitted to citizenship by a final order of a naturalization court is an alien.

PAR. 3. Section 1.116 is amended by revising section 116(d) and by revising the historical note. These amended provisions read as follows:

§ 1.116 Statutory provisions; partial exclusion of dividends received by individuals.

SEC. 116. *Partial exclusion of dividends received by individuals.* * * *

(d) *Certain nonresident aliens ineligible for exclusion.* In the case of a nonresident alien individual, subsection (a) shall apply only—

(1) In determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of dividends which are effectively connected with the conduct of a trade or business within the United States, or

(2) In determining the tax imposed for the taxable year pursuant to section 877(b).

[Sec. 116 as amended by sec. 8(a), Life Insurance Company Tax Act 1959 (73 Stat. 139); sec. 10(f), Act of Sept. 14, 1960 (Public Law 86–779, 74 Stat. 1009); secs. 201 (c) and (d)(6)(C), Rev. Act 1964 (78 Stat. 33); sec. 103(g), Foreign Investors Tax Act 1966 (80 Stat. 1553)]

PAR. 4. Section 1.116–1 is amended by revising paragraph (e)(1). This amended provision reads as follows:

§ 1.116–1 Partial exclusion of dividends.

* * * * *

(e) *Taxpayers not entitled to exclusion.* (1) For taxable years beginning after December 31, 1966, the exclusion allowed by section 116(a) and paragraph (a) of this section shall, in the case of a nonresident alien individual, apply only (i) in determining the tax imposed for the taxable year pursuant to section 871(b)(1), and the regulations thereunder, and only in respect of dividends which are effectively connected for the taxable year with the conduct of a trade or business in the United States by such individual, or (ii) in determining the tax imposed for the taxable year pursuant to section 877(b). For taxable years beginning before January 1, 1967, the exclusion is not available to nonresident alien individuals with respect to whom a tax is imposed for the taxable year under section 871(a).

* * * * *

PAR. 5. Section 1.154 is amended by revising section 154(3) and by adding a historical note. These amended and added provisions read as follows:

§ 1.154 Statutory provisions; cross references.

SEC. 154. *Cross references.* * * *

(3) For exemptions of nonresident aliens, see section 873(b)(3).

* * * * *

[Sec. 154 as amended by sec. 103(c)(2), Foreign Investors Tax Act 1966 (80 Stat. 1551)]

PAR. 6. Section 1.337–5 is amended by revising paragraph (d) to read as follows:

§ 1.337–5 Special rules for certain minority shareholders.

* * * * *

(d) *Claim for credit or refund.* Claim for credit or refund of the tax deemed to have been paid by a shareholder pursuant to section 337(d) and paragraph (b) of this section shall be made on the shareholder's income tax return (or in an amended return or claim for credit or refund) for the taxable year in which he receives the first distribution in complete liquidation. In the case of a shareholder which is a partnership, claim shall be made by the partners for credit or refund of their distributive shares of the tax deemed to have been paid by the partnership. In the case of a shareholder which is an electing small business corporation (within the meaning of section 1371(b)), claim shall be made by those persons who are shareholders of such corporation on the last day of the corporation's taxable year in which it received the first distribution in complete liquidation. In the case of a shareholder which is exempt from tax under section 501(a) and to which section 511 does not apply for the taxable year, claim for refund of the tax deemed to have been paid by such shareholder shall be made on Form 843. For other rules applicable to the filing

of claims for credit or refund of an overpayment of tax, see section 6402 and the regulations thereunder. For the limitations applicable to the credit or refund of an overpayment of tax, see section 6511 and the regulations thereunder.

• • • • • •

PAR. 7. Section 1.852–9 is amended by revising paragraph (c)(2)(ii) to read as follows:

§ 1.852–9 Special procedural requirements applicable to designation under section 852(b)(3)(D).

• • • • •

(c) *Shareholders.* • • •

(2) *Credit or refund.* • • •

(ii) *Form to be used.* Claim for refund or credit of the tax deemed to have been paid by a shareholder with respect to an amount of undistributed capital gains shall be made on the shareholder's income tax return for the taxable year in which such amount of undistributed capital gains is includable in gross income. In the case of a shareholder which is a partnership, claim shall be made by the partners on their income tax returns for refund or credit of their distributive shares of the tax deemed to have been paid by the partnership. In the case of a shareholder which is exempt from tax under section 501(a) and to which section 511 does not apply for the taxable year, claim for refund of the tax deemed to have been paid by such shareholder on an amount of undistributed capital gains for such year shall be made on Form 843 and copy B of Form 2439 furnished to such shareholder shall be attached to its claim. For other rules applicable to the filing of claims for credit or refund of an overpayment of tax, see § 301.6402–2 of this chapter (Regulations on Procedure and Administration), relating to claims for credit or refund, and § 301.6402–3 of this chapter, relating to special rules applicable to income tax.

• • • • • •

PAR. 8. Section 1.871 is amended by revising the heading thereof, by revising so much of section 871(a) as precedes paragraph (2) thereof, by revising section 871(b), and by revising the historical note, as follows:

§ 1.871A Statutory provisions; tax on nonresident alien individuals (before amendment by Foreign Investors Tax Act of 1966).

SEC. 871. *Tax on nonresident alien individuals*—(a) *No United States business—30 percent tax*—(1) *Imposition of tax.* Except as otherwise provided in subsection (b) there is hereby imposed for each taxable year, in lieu of the tax imposed by section 1, on the amount received, by every nonresident alien individual not engaged in trade or business within the United States, from sources within the United States, as interest (except interest on deposits with persons carrying on the banking business), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income (including amounts described in section 402(a)(2), section 403(a)(2), section 631 (b) and (c), and section 1235, which are considered to be gains from the sale or exchange of capital assets), a tax of 30 percent of such amount.

• • • • • •

(b) *No United States business—regular tax.* A nonresident alien individual not engaged in trade or business within the United States shall be taxable without regard to subsection (a) if during the taxable year the sum of the aggregate amount received from the sources specified in subsection (a)(1), plus the amount by which gains from sales or exchanges of capital assets exceed losses from such sales or exchanges (determined in accordance with subsection (a)(2)) is more than $19,000 in the case of a taxable year beginning in 1964 or more than $21,200 in the case of a taxable year beginning after 1964, except that—

(1) The gross income shall include only income from the sources specified in subsection (a)(1) plus any gain (to the extent provided in subchapter P, sec. 1201 and following, relating to capital gains and losses) from a sale or exchange of a capital asset if such gain would be taken into account were the tax being determined under subsection (a)(2);

(2) The deductions (other than the deduction for charitable contributions and gifts provided in section 873(c)) shall be allowed only if and to the extent that they are property allocable to the gross income from the sources specified in subsection (a), except that any loss from the sale or exchange of a capital asset shall be allowed (to the extent provided in subchapter P without the benefit of the capital loss carryover provided in section 1212), if such loss would be taken into account were the tax being determined under subsection (a)(2).

If (without regard to this sentence) the amount of the taxes imposed is the base of such an individual under section 1 or under section 1201(b), minus the credit under section 35, is an amount which is less than 30 percent of the sum of—

(A) The aggregate amount received from the sources specified in subsection (a)(1), plus

(B) The amount, determined under subsection (a)(2), by which gains from sales or exchanges of capital assets exceed losses from such sales or exchanges,

then this subsection shall not apply and subsection (a) shall apply. For purposes of this subsection, the term "aggregate amount received from the sources specified in subsection (a)(1)" shall be applied without any exclusion under section 116.

• • • • • •

[Sec. 871 as amended by secs. 40(a) and 41(a), Technical Amendments Act 1958 (72 Stat. 1638, 1639); sec. 2(b), Act of April 22, 1960 (Pub. L. 86–437, 74 Stat. 79); sec. 110(b), Mutual Educational and Cultural Exchange Act 1961 (75 Stat. 535); secs. 113(b) and 201(d)(12), Rev. Act 1964 (78 Stat. 24, 32); as in effect before amendment by sec. 103(a), Foreign Investors Tax Act 1966 (80 Stat. 1547)]

PAR. 9. Immediately before § 1.871–1 the following new section is inserted:

§ 1.871 Statutory provisions; tax on nonresident alien individuals (after amendment by Foreign Investors Tax Act of 1966).

SEC. 871. *Tax on nonresident alien individuals*—(a) *Income not connected with United States business—30 percent tax*—(1) *Income other than capital gains.* There is hereby imposed for each taxable year a tax of 30 percent of the amount received from sources within the United States by a nonresident alien individual as—

(A) Interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income,

(B) Gains described in section 402(a)(2), 403(a)(2), or 631 (b) or (c), and gains on transfers described in section 1235 made on or before October 4, 1966,

(C) In the case of bonds or other evidences of indebtedness issued after September 28, 1965, amounts which under section 1232 are considered as gains from the sale or exchange of property which is not a capital asset, and

(D) Gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like property, or of any interest in any such property, to the extent such gains are from payments which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged, or from payments which are treated as being so contingent under subsection (e), but only to the extent the amount so received is not effectively connected with the conduct of a trade or business within the United States.

(2) *Capital gains of aliens present in the United States 183 days or more.* In the case of a nonresident alien individual present in the United States for a period or periods aggregating 183 days or more during the taxable year, there is hereby imposed for such year a tax of 30 percent of the amount by which his gains, derived from sources within the United States, from the sale or exchange at any time during such year of capital assets exceed his losses, allocable to sources within the United States, from the sale or exchange at any time during such year of capital assets. For purposes of this paragraph, gains and losses shall be taken into account only if, and to the extent that, they would be recognized and taken into account if such gains and losses were effectively connected with the conduct of a trade or business within the United States, except that such gains and losses shall be determined without regard to section 1202 (relating to deduction for capital gains) and such losses shall be determined without the benefits of the capital loss carryover provided in section 1212. Any gain or loss which is taken into account in determining the tax under paragraph (1) or subsection (b) shall not be taken into account in determining the tax under this paragraph. For purposes of the 183-day requirement of this paragraph, a nonresident alien individual not engaged in trade or business within the United States who has not established a taxable year for any prior period shall be treated as having a taxable year which is the calendar year.

(b) *Income connected with United States business—graduated rate of tax*—(1) *Imposition of tax.* A nonresident alien individual engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 1 or 1201(b) on his taxable income which is effectively connected with the conduct of a trade or business within the United States.

(2) *Determination of taxable income.* In determining taxable income for purposes of paragraph (1), gross income includes only gross income which is effectively connected with the conduct of a trade or business within the United States.

(c) *Participants in certain exchange or training programs.* For purposes of this section, a nonresident alien individual who (without regard to this subsection) is not engaged in trade or business within the United States and who is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section

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101(a)(15) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(15)(F) or (J)), shall be treated as a nonresident alien individual engaged in trade or business within the United States, and any income described in section 1441(b) (1) or (2) which is received by such individual shall, to the extent derived from sources within the United States, be treated as effectively connected with the conduct of a trade or business within the United States.

(d) *Election to treat real property income as income connected with United States business*—(1) *In general.* A nonresident alien individual who during the taxable year derives any income—

(A) From real property held for the production of income and located in the United States, or from any interest in such real property, including (i) gains from the sale or exchange of such real property or an interest therein, (ii) rents or royalties from mines, wells, or other natural deposits, and (iii) gains described in section 631 (b) or (c), and

(B) Which, but for this subsection, would not be treated as income which is effectively connected with the conduct of a trade or business within the United States,

may elect for such taxable year to treat all such income as income which is effectively connected with the conduct of a trade or business within the United States. In such case, such income shall be taxable as provided in subsection (b)(1) whether or not such individual is engaged in trade or business within the United States during the taxable year. An election under this paragraph for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary or his delegate with respect to any taxable year.

(2) *Election after revocation.* If an election has been made under paragraph (1) and such election has been revoked, a new election may not be made under such paragraph for any taxable year before the fifth taxable year which begins after the first taxable year for which such revocation is effective, unless the Secretary or his delegate consents to such new election.

(3) *Form and time of election and revocation.* An election under paragraph (1), and any revocation of such an election, may be made only in such manner and at such time as the Secretary or his delegate may by regulations prescribe.

(e) *Gains from sale or exchange of certain intangible property.* For purposes of subsection (a)(1)(D), and for purposes of sections 881(a)(4), 1441(b), and 1442(a)—

(1) *Payments treated as contingent on use, etc.* If more than 50 percent of the gain for any taxable year from the sale or exchange of any patent, copyright, secret process or formula, good will, trademark, trade brand, franchise, or other like property, or of any interest in any such property, is from payments which are contingent on the productivity, use, or disposition of such property or interest, all of the gain for the taxable year from the sale or exchange of such property or interest shall be treated as being from payments which are contingent on the productivity, use, or disposition of such property or interest.

(2) *Source rule.* In determining whether gains described in subsection (a)(1)(D) and section 881(a)(4) are received from sources within the United States, such gains shall be treated as rentals or royalties for the use of, or privilege of using, property or an interest in property.

(f) *Certain annuities received under qualified plans.* For purposes of this section, gross income does not include any amount received as an annuity under a qualified annuity plan described in section 403(a)(1), or from a qualified trust described in section 401(a) which is exempt from tax under section 501(a), if—

(1) All of the personal services by reason of which such annuity is payable were either (A) personal services performed outside the United States by an individual who, at the time of performance of such personal services, was a nonresident alien, or (B) personal services described in section 864(b)(1) performed within the United States by such individual, and

(2) At the time the first amount is paid as such annuity under such annuity plan, or by such trust, 90 percent or more of the employees for whom contributions or benefits are provided under such annuity plan, or under the plan or plans of which such trust is a part, are citizens or residents of the United States.

(g) *Cross references.* (1) For tax treatment of certain amounts distributed by the United States to nonresident alien individuals, see section 402(a)(4).

(2) For taxation of nonresident alien individuals who are expatriate U.S. citizens, see section 877.

(3) For doubling of tax on citizens of certain foreign countries, see section 891.

(4) For adjustment of tax in case of nationals or residents of certain foreign countries, see section 896.

(5) For withholding of tax at source on nonresident alien individuals, see section 1441.

(6) For the requirement of making a declaration of estimated tax by certain nonresident alien individuals, see section 6015(i).

[Sec. 871 as amended by secs. 40(a) and 41(a), Technical Amendments Act 1958 (72 Stat. 1638, 1639); sec. 2(b), Act of April 22, 1960 (Public Law 86-437, 74 Stat. 79); sec. 110(b), Mutual Educational and Cultural Exchange Act 1961 (75 Stat. 535); secs. 113(b) and 201(d)(12), Rev. Act 1964 (78 Stat. 24, 32); sec. 103(a), Foreign Investors Tax Act 1966 (80 Stat. 1547)]

PAR. 10. Section 1.871-1 is revised to read as follows:

§ 1.871-1 Classification and manner of taxing alien individuals.

(a) *Classes of aliens.* For purposes of the income tax, alien individuals are divided generally into two classes, namely, resident aliens and nonresident aliens. Resident alien individuals are, in general, taxable the same as citizens of the United States; that is, a resident alien is taxable on income derived from all sources, including sources without the United States. See § 1.1-1(b). Nonresident alien individuals are taxable only on certain income from sources within the United States and on the income described in section 864(c)(4) from sources without the United States which is effectively connected for the taxable year with the conduct of a trade or business in the United States.

(b) *Classes of nonresident aliens*—(1) *In general.* For purposes of the income tax, nonresident alien individuals are divided into the following three classes:

(i) Nonresident alien individuals who at no time during the taxable year are engaged in a trade or business in the United States.

(ii) Nonresident alien individuals who at any time during the taxable year are, or are deemed under § 1.871-9 to be, engaged in a trade or business in the United States, and

(iii) Nonresident alien individuals who are bona fide residents of Puerto Rico during the entire taxable year.

An individual described in subdivision (i) or (ii) of this subparagraph is subject to tax pursuant to the provisions of subpart A (section 871 and following), part II, subchapter N, chapter 1 of the Code, and the regulations thereunder. See §§ 1.871-7 and 1.871-8. The provisions of subpart A do not apply to individuals described in subdivision (iii) of this subparagraph, but such individuals, except as provided in section 933 with respect to Puerto Rican source income, are subject to the tax imposed by section 1 or section 1201(b). See § 1.876-1.

(2) *Treaty income.* If the gross income of a nonresident alien individual described in subparagraph (1) (i) or (ii) of this paragraph includes income on which the tax is limited by tax convention, see § 1.871-12.

(3) *Exclusions from gross income.* For rules relating to the exclusion of certain items from the gross income of a nonresident alien individual, including annuities excluded under section 871(f), see §§ 1.872-2 and 1.894-1.

(4) *Expatriation to avoid tax.* For special rules applicable in determining the tax of a nonresident alien individual who has lost U.S. citizenship with a principal purpose of avoiding certain taxes, see section 877.

(5) *Adjustment of tax of certain nonresident aliens.* For the application of pre-1967 income tax provisions to residents of a foreign country which imposes a more burdensome income tax than the United States, and for the adjustment of the income tax of a national or resident of a foreign country which imposes a discriminatory income tax on the income of citizens of the United States or domestic corporations, see section 896.

(6) *Citizens of certain U.S. possessions.* For rules for treating as nonresident alien individuals certain citizens of possessions of the United States who are not otherwise citizens of the United States, see section 932 and § 1.932-1.

(d) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.871-1 and 1.871-7(a) (Rev. as of Jan. 1, 1971).

PAR. 11. Section 1.871-6 is amended to read as follows:

§ 1.871-6 Duty of withholding agent to determine status of alien payee.

(a) *Proof of status required.* If income is paid to an alien individual without withholding the tax under chapter 3 of the Code, except insofar as the regulations thereunder permit exemption from withholding, then the withholding agent must be prepared to justify the failure to withhold.

(b) *Evidence of residence.* A withholding agent may rely upon the evidence of residence afforded by the fact that the alien individual has filed Form 1078 or an equivalent written statement. This statement or form shall be filed in the manner prescribed in § 1.1441-5.

(c) *Cross reference.* For definition of the term "withholding agent," see § 1.1465-1.

(d) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.871-6 (Rev. as of Jan. 1, 1971).

PAR. 12. Section 1.871-7 is deleted and the following new sections are inserted in lieu thereof:

§ 1.871-7 Taxation of nonresident alien individuals not engaged in U.S. business.

(a) *Imposition of tax.* (1) This section applies for purposes of determining the tax of a nonresident alien individual who at no time during the taxable year is engaged in trade or business in the United States. However, see also § 1.871-8 where such individual is a student or trainee deemed to be engaged in trade or business in the United States or where he has an election in effect for the taxable year in respect to real property income. Except as otherwise provided in § 1.871-12, a nonresident alien individual to whom this section applies is not subject to the tax imposed by section 1 or section 1201(b) but, pursuant to the provision of section 871(a), is liable to a flat tax of 30 percent upon the aggregate of the amounts determined under paragraphs (b), (c), and (d) of this section which are received during the taxable year from sources within the United States. Except as specifically provided in such paragraphs, such amounts do not include gains from the sale or exchange of property. To determine the source of such amounts, see sections 861 through 863, and the regulations thereunder.

(2) The tax of 30 percent is imposed by section 871(a) upon an amount only to the extent the amount constitutes gross income. Thus, for example, the amount of an annuity which is subject to such tax shall be determined in accordance with section 72.

(3) Deductions shall not be allowed in determining the amount subject to tax under this section except that losses from sales or exchanges of capital assets shall be allowed to the extent provided in section 871(a)(2) and paragraph (d) of this section.

(4) Except as provided in §§ 1.871-9 and 1.871-10, a nonresident alien individual not engaged in trade or business in the United States during the taxable year has no income, gain, or loss for the taxable year which is effectively connected for the taxable year with the conduct of a trade or business in the United States. See section 864(c)(1)(B) and § 1.864-3.

(5) Gains and losses which, by reason of section 871(d) and § 1.871-10, are treated as gains or losses which are effectively connected for the taxable year with the conduct of a trade or business in the United States by the nonresident alien individual shall not be taken into account in determining the tax under this section. See, for example, paragraph (c)(2) of § 1.871-10.

(6) For special rules applicable in determining the tax of certain nonresident alien individuals, see paragraph (b) of § 1.871-1.

(b) *Fixed or determinable annual or periodical income.* The tax of 30 percent imposed by section 871(a)(1) applies to the gross amount received from sources within the United States as fixed or determinable annual or periodical gains, profits, or income. Specific items of fixed or determinable annual or periodical income are enumerated in section 871(a)(1)(A) as interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, and emoluments, but other items of fixed or determinable annual or periodical gains, profits, or income are also subject to the tax, as, for instance, royalties, including royalties for the use of patents, copyrights, secret processes and formulas, and other like property. As to the determination of fixed or determinable annual or periodical income, see paragraph (a) of § 1.1441-2. For special rules treating gain on the disposition of section 306 stock as fixed or determinable annual or periodical income for purposes of section 871(a), see section 306(f) and paragraph (h) of § 1.306-3.

(c) *Other income and gains*—(1) *Items subject to tax.* The tax of 30 percent imposed by section 871(a)(1) also applies to the following gains received during the taxable year from sources within the United States:

(i) Gains described in section 402(a)(2), relating to the treatment of total distributions from certain employees' trusts; section 403(a)(2), relating to treatment of certain payments under certain employee annuity plans; and section 631 (b) or (c), relating to treatment of gain on the disposal of timber, coal, or iron ore with a retained economic interest;

(ii) [Reserved]

(iii) Gains on transfers described in section 1235, relating to certain transfers of patent rights, made on or before October 4, 1966; and

(iv) Gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, or other like property, or of any interest in any such property, to the extent the gains are from payments (whether in a lump sum or in installments) which are contingent on the productivity, use or disposition of the property or interest sold or exchanged, or from payments which are treated under section 871(e) and § 1.871-11 as being so contingent.

(2) *Nonapplication of 183-day rule.* The provisions of section 871(a)(2), relating to gains from the sale or exchange of capital assets, and paragraph (d)(2) of this section do not apply to the gains described in this paragraph; as a consequence, the taxpayer receiving gains described in subparagraph (1) of this paragraph during a taxable year is subject to the tax of 30 percent thereon without regard to the 183-day rule contained in such provisions.

(3) *Determination of amount of gain.* The tax of 30 percent imposed upon the gains described in subparagraph (1) of this paragraph applies to the full amount of the gains and is determined (i) without regard to the alternative tax imposed by section 1201(b) upon the excess of the net long-term capital gain over the net short-term capital loss; (ii) without regard to the deduction allowed by section 1202 in respect of capital gains; (iii) without regard to section 1231, relating to property used in the trade or business and involuntary conversions; and (iv), except in the case of gains described in subparagraph (1)(ii) of this paragraph, whether or not the gains are considered to be gains from the sale or exchange of property which is a capital asset.

(d) *Gains from sale or exchange of capital assets*—(1) *Gains subject to tax.* The tax of 30 percent imposed by section 871(a)(2) applies to the excess of gains derived from sources within the United States over losses allocable to sources within the United States, which are derived from the sale or exchange of capital assets, determined in accordance with the provisions of subparagraphs (2) through (4) of this paragraph.

(2) *Presence in the United States 183 days or more.* (i) If the nonresident alien individual has been present in the United States for a period or periods aggregating 183 days or more during the taxable year, he is liable to a tax of 30 percent upon the amount by which his gains, derived from sources within the United States, from sales or exchanges of capital assets effected at any time during the year exceed his losses, allocable to sources within the United States, from sales or exchanges of capital assets effected at any time during that year. Gains and losses from sales or exchanges effected at any time during such taxable year are to be taken into account for this purpose even though the nonresident alien individual is not present in the United States at the time the sales or exchanges are effected. In addition, if the nonresident alien individual has been present in the United States for a period or periods aggregating 183 days or more during the taxable year, gains and losses for such taxable year from sales or exchanges of capital assets effected during a previous taxable year beginning after December 31, 1966, are to be taken into account, but only if he was also present in the United States during such previous taxable year for a period or periods aggregating 183 days or more.

(ii) If the nonresident alien individual has not been present in the United States during the taxable year, or if he has been present in the United States for a period or periods aggregating less than 183 days during the taxable year, gains and losses

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from sales or exchanges of capital assets effected during the year are not to be taken into account, except as required by paragraph (c) of this section, in determining the tax of such individual even though the sales or exchanges are effected during his presence in the United States. Moreover, gains and losses for such taxable year from sales or exchanges of capital assets effected during a previous taxable year beginning after December 31, 1966, are not to be taken into account, even though the nonresident alien individual was present in the United States during such previous year for a period or periods aggregating 183 days or more.

(iii) For purposes of this subparagraph, a nonresident alien individual is not considered to be present in the United States by reason of the presence in the United States of a person who is an agent or partner of such individual or who is a fiduciary of an estate or trust of which such individual is a beneficiary or a grantor-owner to whom section 671 applies.

(iv) The application of this subparagraph may be illustrated by the following examples:

Example (1). B, a nonresident alien individual not engaged in trade or business in the United States and using the calendar year as the taxable year, is present in the United States from May 1, 1971, to November 15, 1971, a period of more than 183 days. While present in the United States, B effects for his own account on various dates a number of transactions in stocks and securities on the stock exchange, as a result of which he has recognized capital gains of $10,000. During the period from January 1, 1971, to April 30, 1971, he carries out similar transactions through an agent in the United States, as a result of which B has recognized capital gains of $5,000. On December 15, 1971, through an agent in the United States B sells a capital asset on the installment plan, no payments being made by the purchaser in 1971. During 1972, B receives installment payments of $50,000 on the installment sale made in 1971, and the capital gain from sources within the United States for 1972 attributable to such payments is $12,500. In addition, during the period from January 1, 1972, to May 31, 1972, B effects for his own account, through an agent in the United States, a number of transactions in stocks and securities on the stock exchange, as a result of which B has recognized capital gains of $20,000. At no time during 1972 is B present in the United States or engaged in trade or business in the United States. Accordingly, for 1971, B is subject to tax under section 871(a)(2) on his capital gains of $15,000 from the transactions in that year on the stock exchange. For 1972, B is not subject to tax on the capital gain of $12,500 from the installment sale in 1971 or on the capital gains of $20,000 from the transactions in 1972 on the stock exchange.

Example (2). The facts are the same as in example (1) except that B is present in the United States from June 15, 1972, to December 31, 1972, a period of more than 183 days. Accordingly, B is subject to tax under section 871(a)(2) for 1971 on his capital gains of $15,000 from the transactions in that year on the stock exchange. He is also subject to tax under section 871(a)(2) for 1972 on his capital gains of $32,500 ($12,500 from the installment sale in 1971 plus $20,000 from the transactions in 1972 on the stock exchange).

Example (3). D, a nonresident alien individual not engaged in trade or business in the United States and using the calendar year as the taxable year, is present in the United States from April 1, 1971, to August 31, 1971, a period of less than 183 days. While present in the United States, D effects for his own account on various dates a number of transactions in stocks and securities on the stock exchange, as a result of which he has recognized capital gains of $15,000. During the period from January 1, 1971, to March 31, 1971, he carries out similar transactions through an agent in the United States, as a result of which D has recognized capital gains of $8,000. On December 20, 1971, through an agent in the United States D sells a capital asset on the installment plan, no payments being made by the purchaser in 1971. During 1972, D receives installment payments of $200,000 on the installment sale made in 1971, and the capital gain from sources within the United States for 1972 attributable to such payments is $50,000. In addition, during the period from Feburary 1, 1972, to August 15, 1972, a period of more than 183 days, D effects for his own account, through an agent in the United States, a number of transactions in stocks and securities on the stock exchange, as a result of which D has recognized capital gains of $25,000. At no time during 1972 is D present in the United States or engaged in trade or business in the United States. Accordingly, D is not subject to tax for 1971 or 1972 on any of his recognized capital gains.

Example (4). The facts are the same as in example (3) except that D is present in the United States from February 1, 1972, to August 15, 1972, a period of more than 183 days. Accordingly, D is not subject to tax for 1971 on his capital gains of $23,000 from the transactions in that year on the stock exchange. For 1972 he is subject to tax under section 871(a)(2) on his capital gains of $25,000 from the transactions in that year on the stock exchange, but he is not subject to the tax on the capital gain of $50,000 from the installment sale in 1971.

(3) *Determination of 183-day period*—(i) *In general.* In determining the total period of presence in the United States for a taxable year for purposes of subparagraph (2) of this paragraph, all separate periods of presence in the United States during the taxable year are to be aggregated. If the nonresident alien individual has not previously established a taxable year, as defined in section 441(b), he shall be treated as having a taxable year which is the calendar year, as defined in section 441(d). Subsequent adoption by such individual of a fiscal year as the taxable year will be treated as a change in the taxpayer's annual accounting period to which section 442 applies, and the change must be authorized under this part (Income Tax Regulations) or prior approval must be obtained by filing an application on Form 1128 in accordance with paragraph (b) of § 1.442–1. If in the course of his taxable year the nonresident alien individual changes his status from that of a citizen or resident of the United States to that of a nonresident alien individual, or vice versa, the determination of whether the individual has been present in the United States for 183 days or more during the taxable year shall be made by taking into account the entire taxable year, and not just that part of the taxable year during which he has the status of a nonresident alien individual.

(ii) *Definition of "day".* The term "day", as used in subparagraph (2) of this paragraph, means a calendar day during any portion of which the nonresident alien individual is physically present in the United States (within the meaning of sections 7701(a)(9) and 638) except that, in the case of an individual who is a resident of Canada or Mexico and, in the normal course of his employment in transportation service touching points within both Canada or Mexico and the United States, performs personal services in both the foreign country and the United States, the following rules shall apply:

(*a*) The performance of labor or personal services during 8 hours or more in any 1 day within the United States shall be considered as 1 day in the United States, except that if a period of more or less than 8 hours is considered a full workday in the transportation job involved, such period shall be considered as 1 day within the United States.

(*b*) The performance of labor or personal services during less than 8 hours in any day in the United States shall, except as provided in (*a*) of this subdivision, be considered as a fractional part of a day in the United States. The total number of hours during which such services are performed in the United States during the taxable year, when divided by eight, shall be the number of days during which such individual shall be considered present in the United States during the taxable year.

(*c*) The aggregate number of days determined under (*a*) and (*b*) of this subdivision shall be considered the total number of days during which such individual is present in the United States during the taxable year.

(4) *Determination of amount of excess gains*—(i) *In general.* For the purpose of determining the excess of gains over losses subject to tax under this paragraph, gains and losses shall be taken into account only if, and to the extent that, they would be recognized and taken into account if the nonresident alien individual were engaged in trade or business in the United States during the taxable year and such gains and losses were effectively connected for such year with the conduct of a trade or business in the United States by such individual. However, in determining such excess of gains over losses no deduction may be taken under section 1202, relating to the deduction for capital gains, or section 1212, relating to the capital loss carryover. Thus, for example, in determining such excess gains all amounts considered under chapter 1 of the Code as gains or losses from the sale or exchange of capital assets shall be taken into account, except those gains which are described in section 871(a)(1) (B) or (D) and taken into account under paragraph (c) of this section and are considered to be gains from the sale or exchange of capital assets. Also, for example, a loss described in section 631 (b) or (c) which is considered to be a loss from the sale of a

capital asset shall be taken into account in determining the excess gains which are subject to tax under this paragraph. In further illustration, in determining such excess gains no deduction shall be allowed, pursuant to the provisions of section 267, for losses from sales or exchanges of property between related taxpayers. Any gains which are taken into account under section 871(a)(1) and paragraph (c) of this section shall not be taken into account in applying section 1231 for purposes of this paragraph. Gains and losses are to be taken into account under this paragraph whether they are short-term or long-term capital gains or losses within the meaning of section 1222.

(ii) *Gains not included.* The provisions of this paragraph do not apply to any gains described in section 871(a)(1)(B) or (D), and in subdivision (i), (iii), or (iv) of paragraph (c)(1) of this section, which are considered to be gains from the sale or exchange of capital assets.

(iii) *Allowance of losses.* In determining the excess of gains over losses subject to tax under this paragraph losses shall be allowed only to the extent provided by section 165(c). Losses from sales or exchanges of capital assets in excess of gains from sales or exchanges of capital assets shall not be taken into account.

(e) *Credits against tax.* The credits allowed by section 31 (relating to tax withheld on wages), by section 32 (relating to tax withheld at source on nonresident aliens), by section 39 (relating to certain uses of gasoline and lubricating oil), and by section 6402 (relating to overpayments of tax) shall be allowed against the tax of a nonresident alien individual determined in accordance with this section.

(f) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.871-7 (b) and (c) (Rev. as of Jan. 1, 1971).

§ 1.871-8 Taxation of nonresident alien individuals engaged in U.S. business or treated as having effectively connected income.

(a) *Segregation of income.* This section applies for purposes of determining the tax of a nonresident alien individual who at any time during the taxable year is engaged in trade or business in the United States. It also applies for purposes of determining the tax of a nonresident alien student or trainee who is deemed under section 871(c) and § 1.871-9 to be engaged in trade or business in the United States or of a nonresident alien individual who at no time during the taxable year is engaged in trade or business in the United States but has an election in effect for the taxable year under section 871(d) and § 1.871-10 in respect to real property income. A nonresident alien individual to whom this section applies must segregate his gross income for the taxable year into two categories, namely (1) the income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual, and (2) the income which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual. A separate tax shall then be determined upon each such category of income, as provided in paragraph (b) of this section. The determination of whether income or gain is or is not effectively connected for the taxable year with the conduct of a trade or business in the United States by the nonresident alien individual shall be made in accordance with section 864(c) and §§ 1.864-3 through 1.864-7. For purposes of this section income which is effectively connected for the taxable year with the conduct of a trade or business in the United States includes all income which is treated under section 871 (c) or (d) and § 1.871-9 or § 1.871-10 as income which is effectively connected such year with the conduct of a trade or business in the United States by the nonresident alien individual.

(b) *Imposition of tax*—(1) *Income not effectively connected with the conduct of a trade or business in the United States.* If a nonresident alien individual who is engaged in trade or business in the United States at any time during the taxable year derives during such year from sources within the United States income or gains described in section 871(a)(1), and paragraph (b) or (c) of § 1.871-7 or gains from the sale or exchange of capital assets determined as provided in section 871(a)(2) and paragraph (d) of § 1.871-7, which are not effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual, such income or gains shall be subject to a flat tax of 30 percent of the aggregate amount of such items. This tax shall be determined in the manner, and subject to the same conditions, set forth in § 1.871-7 as though the income or gains were derived by a nonresident alien individual not engaged in trade or business in the United States during the taxable year, except that (i) the rule in paragraph (d)(3) of such section for treating the calendar year as the taxable year shall not apply and (ii) in applying paragraph (c) and (d)(4) of such section, there shall not be taken into account any gains or losses which are taken into account in determining the tax under section 871(b) and subparagraph (2) of this paragraph. A nonresident alien individual who has an election in effect for the taxable year under section 871(d) and § 1.871-10 and who at no time during the taxable year is engaged in trade or business in the United States must determine his tax under § 1.871-7 on his income which is not treated as effectively connected with the conduct of a trade or business in the United States, subject to the exception contained in subdivision (ii) of this subparagraph.

(2) *Income effectively connected with the conduct of a trade or business in the United States*—(i) *In general.* If a nonresident alien to whom this section applies derives income or gains which are effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual, the taxable income or gains shall, except as provided in § 1.871-12, be taxed in accordance with section 1 or, in the alternative, section 1201(b). See section 871(b)(1). Any income of the nonresident alien individual which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual shall not be taken into account in determining either the rate or amount of such tax. See paragraph (b) of § 1.872-1.

(ii) *Determination of taxable income.* The taxable income for any taxable year for purposes of this subparagraph consists only of the nonresident alien individual's taxable income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual; and, for this purpose, it is immaterial that the trade or business with which that income is effectively connected is not the same as the trade or business carried on in the United States by that individual during the taxable year. See example (2) in § 1.864-4(b). In determining such taxable income all amounts constituting, or considered to be, gains or losses for the taxable year from the sale or exchange of capital assets shall be taken into account if such gains or losses are effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual, and, for such purpose, the 183-day rule set forth in section 871(a)(2) and paragraph (d)(2) of § 1.871-7 shall not apply. Losses which are not effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual shall not be taken into account in determining taxable income under this subdivision, except as provided in section 873(b)(1).

(iii) *Cross references.* For rules for determining the gross income and deductions for the taxable year, see sections 872 and 873, and the regulations thereunder.

(c) *Change in trade or business status*—(1) *In general.* The determination as to whether a nonresident alien individual is engaged in trade or business within the United States during the taxable year is to be made for each taxable year. If at any time during the taxable year he is engaged in a trade or business in the United States, he is considered to be engaged in trade or business within the United States during the taxable year for purposes of sections 864(c)(1) and 871(b), and the regulations thereunder. Income, gain, or loss of a nonresident alien individual is not treated as being effectively connected for the taxable year with the conduct of a trade or business in the United States if he is not engaged in trade or business within the United States during such year, even though such income, gain, or loss may have been effectively connected for a previous taxable year with the conduct of a trade or business in the United

States. See § 1.864–3. However, income, gain, or loss which is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by a nonresident alien individual will generally be treated as effectively connected for a subsequent taxable year if he is engaged in a trade or business in the United States during such subsequent year, even though such income, gain, or loss is not effectively connected with the conduct of the trade or business carried on in the United States during such subsequent year. This subparagraph does not apply to income described in section 871 (c) or (d). It may not apply to a nonresident alien individual who for the taxable year uses an accrual method of accounting or to income which is constructively received in the taxable year within the meaning of § 1.451–2.

(2) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). B, a nonresident alien individual using the calendar year as the taxable year and the cash receipts and disbursements method of accounting, is engaged in business (business R) in the United States from January 1, 1971, to August 31, 1971. During the period of September 1, 1971, to December 31, 1971, B receives installment payments of $30,000 on sales made in the United States by business R during that year, and the income from sources within the United States for that year attributable to such payments is $7,500. On September 15, 1971, another business (business S), which is carried on by B only in a foreign country sells to U.S. customers on the installment plan several pieces of equipment from inventory. During the period of September 16, 1971, to December 31, 1971, B receives installment payments of $50,000 on these sales by business S, and the income from sources within the United States for that year attributable to such payments is $10,000. Under section 864(c)(3) and paragraph (b) of § 1.864–4 the entire income of $17,500 is effectively connected for 1971 with the conduct of a business in the United States by B. Accordingly, such income is taxable to B under paragraph (b)(2) of this section.

Example (2). Assume the same facts as in example (1), except that during 1972 B receives installment payments of $20,000 from the sales made during 1971 in the United States by business R, and of $80,000 from the sales made in 1971 to U.S. customers by business S, the total income from sources within the United States for 1972 attributable to such payments being $13,000. At no time during 1972 is B engaged in a trade or business in the United States. Under section 864(c)(1)(B) the income of $13,000 for 1972 is not effectively connected with the conduct of a trade or business in the United States by B. Moreover, such income is not fixed or determinable annual or periodical income. Accordingly, no amount of such income is taxable to B under section 871.

Example (3). Assume the same facts as in example (2), except that during 1972 B is engaged in a new business (business T) in the United States from July 1, 1972, to December 31, 1972. Under section 864(c)(3) and paragraph (b) of § 1.864–4, the income of $13,000 is effectively connected for 1972 with the conduct of a business in the United States by B. Accordingly, such income is taxable to B under paragraph (b)(2) of this section.

Example (4). Assume the same facts as in example (2), except that the installment payments of $20,000 from the sales made during 1971 in the United States by business R and not received by B until 1972 could have been received by B in 1971 if he had so desired. Under § 1.451–2, B is deemed to have constructively received the payments of $20,000 in 1971. Accordingly, the income attributable to such payments is effectively connected for 1971 with the conduct of a business in the United States by B and is taxable to B in 1971 under paragraph (b)(2) of this section.

(d) *Credits against tax.* The credits allowed by section 31 (relating to tax withheld on wages), section 32 (relating to tax withheld at source on nonresident aliens), section 33 (relating to the foreign tax credit), section 35 (relating to partially tax-exempt interest), section 38 (relating to investment in certain depreciable property), section 39 (relating to certain uses of gasoline and lubricating oil), section 40 (relating to expenses of work incentive programs), and section 6402 (relating to overpayments of tax) shall be allowed against the tax determined in accordance with this section. However, the credits allowed by sections 33, 38, and 40 shall not be allowed against the flat tax of 30 percent imposed by section 871(a) and paragraph (b)(1) of this section. Moreover, no credit shall be allowed under section 35 to a nonresident alien individual with respect to whom a tax is imposed for the taxable year under section 871(a) and paragraph (b)(1) of this section, even though such individual has income for such year upon which tax is imposed under section 871 (b) and paragraph (b)(2) of this section. For special rules applicable in determining the foreign tax credit, see section 906 (b) and the regulations thereunder. For the disallowance of certain credits where a return is not filed for the taxable year, see section 874 and § 1.874–1.

(e) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.871–7(d) (Rev. as of Jan. 1, 1971).

§ 1.871–9 Nonresident alien students or trainees deemed to be engaged in U.S. business.

(a) *Participants in certain exchange or training programs.* For purposes of §§ 1.871–7 and 1.871–8 a nonresident alien individual who is temporarily present in the United States during the taxable year as a nonimmigrant under subparagraph (F) (relating to the admission of students into the United States) or subparagraph (J) (relating to the admission of teachers, trainees, specialists, etc., into the United States) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F) or (J)), and who without regard to this paragraph is not engaged in trade or business in the United States during such year, shall be deemed to be engaged in trade or business in the United States during the taxable year. For purposes of determining whether an alien who is present in the United States on an F visa or a J visa is a resident of the United States, see § 1.871–2.

(b) *Income treated as effectively connected with U.S. business.* Any income described in paragraph (1) (relating to the nonexcluded portion of certain scholarship or fellowship grants) or paragraph (2) (relating to certain nonexcluded expenses incident to such grants) of section 1441(b) which is received during the taxable year from sources within the United States by a nonresident alien individual described in paragraph (a) of this section is to be treated for purposes of §§ 1.871–7, 1.871–8, 1.872–1, and 1.873–1 as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual. However, such income is not to be treated as effectively connected for the taxable year with the conduct of a trade or business in the United States for purposes of section 1441(c)(1) and paragraph (a) of § 1.1441–4. For exclusion relating to compensation paid to such individual by a foreign employer, see paragraph (b) of § 1.872–2.

(c) *Exchange visitors.* For purposes of paragraph (a) of this section a nonresident alien individual who is temporarily present in the United States during the taxable year as a nonimmigrant under subparagraph (J) of section 101(a)(15) of the Immigration and Nationality Act includes a nonresident alien individual admitted to the United States as an "exchange visitor" under section 201 of the U.S. Information and Educational Exchange Act of 1948 (22 U.S.C. 1446), which section was repealed by section 111 of the Mutual Educational and Cultural Exchange Act of 1961 (75 Stat. 538).

(d) *Mandatory application of rule.* The application of this section is mandatory and not subject to an election by the taxpayer.

(e) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.871–7(a)(3) (Rev. as of Jan. 1, 1971).

§ 1.871–10 Election to treat real property income as effectively connected with U.S. business.

(a) *When election may be made.* A nonresident alien individual or foreign corporation which during the taxable year derives any income from real property which is located in the United States and, in the case of a nonresident alien individual, held for the production of income, or derives income from any interest in any such property, may elect, pursuant to section 871(d) or 882(d) and this section, to treat all such income as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that taxpayer. The election may be made whether or not the taxpayer is engaged in trade or business in the United States during the taxable year for which the election is made or whether or not the taxpayer has income from real property

which for the taxable year is effectively connected with the conduct of a trade or business in the United States, but it may be made only with respect to that income from sources within the United States which, without regard to this section, is not effectively connected for the taxable year with the conduct of a trade or business in the United States by the taxpayer. If for the taxable year the taxpayer has no income from real property located in the United States, or from any interest in such property, which is subject to the tax imposed by section 871(a) or 881(a), the election may not be made. But if an election has been properly made under this section for a taxable year, the election remains in effect, unless properly revoked, for subsequent taxable years even though during any such subsequent taxable year there is no income from the real property, or interest therein, in respect of which the election applies.

(b) *Income to which the election applies*—(1) *Included income.* An election under this section shall apply to all income from real property which is located in the United States and, in the case of a nonresident alien individual, held for the production of income, and to all income derived from any interest in such property, including (i) gains from the sale or exchange of such property or an interest therein, (ii) rents or royalties from mines, oil or gas wells, or other natural resources, and (iii) gains described in section 631 (b) or (c), relating to treatment of gain on the disposal of timber, coal, or iron ore with a retained economic interest. The election may not be made with respect to only one class of such income. For purposes of the election, income from real property, or from any interest in real property, includes any amount included under section 652 or 662 in the gross income of a nonresident alien individual or foreign corporation that is the beneficiary of an estate or trust if, by reason of the application of section 652(b) or 662(b), and the regulations thereunder, such amount has the character in the hands of that beneficiary of income from real property, or from any interest in real property. It is immaterial that no tax would be imposed on the income by section 871(a) and paragraph (a) of § 1.871–7, or by section 881(a) and paragraph (a) of § 1.881–2, if the election were not in effect. Thus, for example, if an election under this section has been made by a nonresident alien individual not engaged in trade or business in the United States during the taxable year, the tax imposed by section 871(b)(1) and paragraph (b)(2) of § 1.871–8 applies to his gains derived from the sale of real property located in the United States and held for the production of income, even though such income would not be subject to tax under section 871(a) if the election had not been made. In further illustration, assume that a nonresident alien individual not engaged in trade or business, or present, in the United States during the taxable year has income from sources within the United States consisting of oil royalties, rentals from a former personal residence, and capital gain from the sale of another residence held for the production of income. If he makes an election under this section, it will apply with respect to his royalties, rentals, and capital gain, even though such capital gain would not be subject to tax under section 871(a) if the election had not been made.

(2) *Income not included.* For purposes of subparagraph (1) of this paragraph, income from real property, or from any interest in real property, does not include (i) interest on a debt obligation secured by a mortgage of real property, (ii) any portion of a dividend, within the meaning of section 316, which is paid by a corporation or a trust, such as a real estate investment trust described in section 857, which derives income from real property, (iii) in the case of a nonresident alien individual, income from real property, such as a personal residence, which is not held for the production of income or from any transaction in such property which was not entered into for profit, (iv) rentals from personal property, or royalties from intangible personal property, within the meaning of subparagraph (3) of this paragraph, or (v) income which, without regard to section 871(d) or 882(d) and this section, is treated as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States.

(3) *Rules applicable to personal property.* For purposes of subparagraph (2) of this paragraph, in the case of a sales agreement, or rental or royalty agreement, affecting both real and personal property, the income from the transaction is to be allocated between the real property and the personal property in proportion to their respective fair market values unless the agreement specifically provides otherwise. In the case of such a rental or royalty agreement, the respective fair market values are to be determined as of the time the agreement is signed. In making determinations of this subparagraph, the principles of paragraph (c) of § 1.48–1, relating to the definition of "section 38 property," apply for purposes of determining whether property is tangible or intangible personal property and of paragraph (a)(5) of § 1.1245–1 apply for purposes of making the allocation of income between real and personal property.

(c) *Effect of the election*—(1) *Determination of tax.* The income to which, in accordance with paragraph (b) of this section, an election under this section applies shall be subject to tax in the manner, and subject to the same conditions, provided by section 871(b)(1) and paragraph (b)(2) of § 1.871–8, or by section 882(a)(1) and paragraph (b)(2) of § 1.882–1. For purposes of determining such tax for the taxable year, income to which the election applies shall be aggregated with all other income of the nonresident alien individual or foreign corporation which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that taxpayer. To the extent that deductions are connected with income from real property to which the election applies, they shall be treated for purposes of section 873(a) or section 882(c)(1) as connected with income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by the nonresident alien individual or foreign corporation. An election under this section does not cause a nonresident alien individual or foreign corporation, which is not engaged in trade or business in the United States during the taxable year, to be treated as though such taxpayer were engaged in trade or business in the United States during the taxable year. Thus, for example, the compensation received during the taxable year for services performed in the United States in a previous taxable year by a nonresident alien individual, who has an election in effect for the taxable year under this section but is engaged in trade or business in the United States at no time during the taxable year, is not effectively connected for the taxable year with the conduct of a trade or business in the United States. In further illustration, gain for the taxable year from the casual sale of personal property described in section 1221 (1) derived by a nonresident alien individual who is not engaged in trade or business in the United States during the taxable year but has an election in effect for such year under this section is not effectively connected with the conduct of a trade or business in the United States. See § 1.864–3. If an election under this section is in effect for the taxable year, the income to which the election applies shall be treated, for purposes of section 871(b)(1) or section 882(a)(1), section 1441(c)(1), and paragraph (a) of § 1.1441–4, as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States by the taxpayer.

(2) *Treatment of property to which election applies.* Any real property, or interest in real property, with respect to which an election under this section applies shall be treated as a capital asset which, if depreciable, is subject to the allowance for depreciation provided in section 167 and the regulations thereunder. Such property, or interest in property, shall be treated as property not used in a trade or business for purposes of applying any provisions of the Code, such as section 172(d)(4)(A), relating to gain or loss attributable to a trade or business for purposes of determining a net operating loss; section 1221(2), relating to property not constituting a capital asset; or section 1231(b), relating to special rules for treatment of gains and losses. For example, if a nonresident alien individual makes the election under this section and, while the election is in effect, sells unimproved land which is located in the United States and held for investment

purposes, any gain or loss from the sale shall be considered gain or loss from the sale of a capital asset and shall be treated, for purposes of determining the tax under section 871(b)(1) and paragraph (b)(2) of § 1.871–8, as a gain or loss which is effectively connected for the taxable year with the conduct of a trade or business in the United States.

(d) *Manner of making or revoking an election*—(1) *Election, or revocation, without consent of Commissioner*—(i) *In general.* A nonresident alien individual or foreign corporation may, for the first taxable year for which the election under this section is to apply, make the initial election at any time before the expiration of the period prescribed by section 6511(a), or by section 6511(c) if the period for assessment is extended by agreement, for filing a claim for credit or refund of the tax imposed by chapter 1 of the Code for such taxable year. This election may be made without the consent of the Commissioner. Having made the initial election, the taxpayer may, within the time prescribed for making the election for such taxable year, revoke the election without the consent of the Commissioner. If the revocation is timely and properly made, the taxpayer may make his initial election under this section for a later taxable year without the consent of the Commissioner. If the taxpayer revokes the initial election without the consent of the Commissioner he must file amended income tax returns, or claims for credit or refund, where applicable, for the taxable years to which the revocation applies.

(ii) *Statement to be filed with return.* An election made under this section without the consent of the Commissioner shall be made for a taxable year by filing with the income tax return required under section 6012 and the regulations thereunder for such taxable year a statement to the effect that the election is being made. This statement shall include (*a*) a complete schedule of all real property, or any interest in real property, of which the taxpayer is titular or beneficial owner, which is located in the United States, (*b*) an indication of the extent to which the taxpayer has direct or beneficial ownership in each such item of real property, or interest in real property, (*c*) the location of the real property or interest therein, (*d*) a description of any substantial improvements on any such property, and (*e*) an identification of any taxable year or years in respect of which a revocation or new election under this section has previously occurred. This statement may not be filed with any return under section 6851 and the regulations thereunder.

(iii) *Exemption from withholding of tax.* For statement to be filed with a withholding agent at the beginning of a taxable year in respect of which an election under this section is to be made, see paragraph (a) of § 1.1441–4.

(2) *Revocation, or election, with consent of Commissioner*—(i) *In general.* If the nonresident alien individual or foreign corporation makes the initial election under this section for any taxable year and the period prescribed by subparagraph (1)(i) of this paragraph for making the election for such taxable year has expired, the election shall remain in effect for all subsequent taxable years, including taxable years for which the taxpayer realizes no income from real property, or from any interest therein, or for which he is not required under section 6012 and the regulations thereunder to file an income tax return. However, the election may be revoked in accordance with subdivision (iii) of this subparagraph for any subsequent taxable year with the consent of the Commissioner. If the election for any such taxable year is revoked with the consent of the Commissioner, the taxpayer may not make a new election before his fifth taxable year which begins after the first taxable year for which the revocation is effective unless consent is given to such new election by the Commissioner in accordance with subdivision (iii) of this subparagraph.

(ii) *Effect of new election.* A new election made for the fifth taxable year, or taxable year thereafter, without the consent of the Commissioner, and a new election made with the consent of the Commissioner, shall be treated as an initial election to which subparagraph (1) of this paragraph applies.

(iii) *Written request required.* A request to revoke an election made under this section when such revocation requires the consent of the Commissioner, or to make a new election when such election requires the consent of the Commissioner, shall be made in writing and shall be addressed to the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225. The request shall include the name and address of the taxpayer and shall be signed by the taxpayer or his duly authorized representative. It must specify the taxable year for which the revocation or new election is to be effective and shall be filed within 75 days after the close of the first taxable year for which it is desired to make the change. The request must specify the grounds which are considered to justify the revocation or new election. The Director of International Operations may require such other information as may be necessary in order to determine whether the proposed change will be permitted. A copy of the consent by the Director of International Operations shall be attached to the taxpayer's return required under section 6012 and the regulations thereunder for the taxable year for which the revocation or new election is effective. A copy of such consent may not be filed with any return under section 6851 and the regulations thereunder.

(3) *Election by partnership.* If a nonresident alien individual or foreign corporation is a member of a partnership which has income described in paragraph (b)(1) of this section from real property, any election to be made under this section in respect of such income shall be made by the partners and not by the partnership.

(e) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. There are no corresponding rules in this part for taxable years beginning before January 1, 1967.

§ 1.871–11 Gains from sale or exchange of patents, copyrights, or similar property.

(a) *Contingent payment defined.* For purposes of section 871(a)(1)(D), section 881(a)(4), § 1.871–7(c)(1)(iv), § 1.881–2(c)(1)(iii), and this section, payments which are contingent on the productivity, use, or disposition of property or of an interest therein include continuing payments measured by a percentage of the selling price of the products marketed, or based on the number of units manufactured or sold, or based in a similar manner upon production, sale or use, or disposition of the property or interest transferred. A payment which is certain as to the amount to be received, but contingent as to the time of payment, or an installment payment of a principal sum agreed upon in a transfer agreement, shall not be treated as a contingent payment for purposes of this paragraph. For the inapplication of section 1253 to certain amounts described in this paragraph, see paragraph (a) of § 1.1253–1.

(b) *Payments treated as contingent on use.* Pursuant to section 871(e), if more than 50 percent of the gain of a nonresident alien individual or foreign corporation for any taxable year from the sale or exchange after October 4, 1966, of any patent, copyright, secret process or formula, goodwill, trademark, trade brand, franchise, or other like property, or of any interest in any such property, is from payments which are contingent on the productivity, use, or disposition of such property or interest, all of the gain of such individual or corporation for the taxable year from the sale or exchange of such property or interest are, for purposes of section 871(a)(1)(D), section 881(a)(4), section 1441(b), or section 1442(a), and the regulations thereunder, to be treated as being from payments which are contingent on the productivity, use, or disposition of such property or interest. This paragraph does not apply for purposes of determining under section 871(b)(1) or 882(a)(1) the tax of a nonresident alien individual or foreign corporation on income which is effectively connected for the taxable year with the conduct of a trade or business in the United States.

(c) *Sale or exchange.* A sale or exchange for purposes of this section includes, but is not limited to, a transfer by an individual which by reason of section 1235, relating to the sale or exchange of patents, is considered the sale or exchange of a capital asset. The provisions of section 1253, relating to transfers of franchises, trademarks, and trade names, do not apply in determining whether a transfer is a sale or exchange for purposes of this section.

(d) *Recovery of adjusted basis.* For purposes of determining for any taxable

year the amount of gains which are subject to tax under section 871(a)(1)(D) or 881(a)(4), payments received by the nonresident alien individual or foreign corporation during such year must be reduced by amounts representing recovery of the taxpayer's adjusted basis of the property or interest which is sold or exchanged. Where the taxpayer receives in the same taxable year payments which, without reference to section 871(e) and this section, are not contingent on the productivity, use, or disposition of the property or interest which is sold or exchanged and payments which are contingent on the productivity, use, or disposition of the property or interest which is sold or exchanged, the taxpayer's unrecovered adjusted basis in the property or interest which is sold or exchanged must be allocated for the taxable year between such payments on the basis of the gross amount of each such type of payments. Where the taxpayer receives in the taxable year only payments which are not so contingent or only payments which are so contingent, the taxpayer's unrecovered basis must be allocated in its entirety to such payments for the taxable year.

(e) *Source rule.* In determining whether gains described in section 871(a)(1)(D) or 881(a)(4) and paragraph (b) of this section are received from sources within the United States, such gains shall be treated, for purposes of section 871(a)(1)(D), section 881(a)(4), section 1441(b), and section 1442(a), as rentals or royalties for the use of, or privilege of using, property or an interest in property. See section 861(a)(4), § 1.861–5, and paragraph (a) of § 1.862–1.

(f) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). (a) A, a nonresident alien individual who uses the cash receipts and disbursements method of accounting and the calendar year as the taxable year, holds a U.S. patent which he developed through his own effort. On December 15, 1967, A enters into an agreement of sale with M Corporation, a domestic corporation, whereby A assigns to M Corporation all of his U.S. rights in the patent. In consideration of the sale, M Corporation is obligated to pay a fixed sum of $60,000, $20,000 being payable on execution of the contract and the balance payable in four annual installments of $10,000 each. As additional consideration, M Corporation agrees to pay to A a royalty in the amount of 2 percent of the gross sales of the products manufactured by M Corporation under the patent. A is not engaged in trade or business in the United States at any time during 1967 and 1968. His adjusted basis in the patent at the time of sale is $28,800.

(b) In 1967, A receives only the $20,000 paid by M Corporation on the execution of the contract of sale. No gain is realized by A upon receipt of this amount, and his unrecovered adjusted basis in the patent is reduced to $8,800 ($28,800 less $20,000).

(c) In 1968, M Corporation has gross sales of $600,000 from products manufactured under the patent. Consequently, for 1968, M Corporation pays $22,000 to A, $10,000 being the annual installment on the fixed payments and $12,000 being payments under the terms of the royalty provision. A's recognized gain for 1968 is $13,200 ($22,000 reduced by the unrecovered adjusted basis of $8,800). Of the total gain of $13,200, gain in the amount of $6,000 ($10,000—[$8,800×$10,000/$22,000]) is considered to be from the fixed installment payment and of $7,200 ($12,000—[$8,800×$12,000/$22,000]) is considered to be from the royalty payment. Since 54.5 percent ($7,200/$13,200) of the gain recognized in 1968 from the sale of the patent is from payments which are contingent on the productivity, use, or disposition of the patent, all of the $13,200 gain recognized in 1968 is treated, for purposes of section 871(a)(1)(D) and section 1441(b), as being from payments which are contingent on the productivity, use, or disposition of the patent.

Example (2). (a) F, a foreign corporation using the calendar year as the taxable year and not engaged in trade or business in the United States, holds a U.S. patent on certain property which it developed through its own efforts. Corporation F uses the cash receipts and disbursements method of accounting. On December 1, 1966, F Corporation enters into an agreement of sale with D Corporation, a domestic corporation, whereby D Corporation purchases the exclusive right and license, and the right to sublicense to others, to manufacture, use, and/or sell certain devices under the patent in the United States during the term of the patent. The agreement grants D Corporation the right to dispose, anywhere in the world, of machinery manufactured in the United States and equipped with such devices. Corporation D is granted the right, at its own expense, to prosecute infringers in its own name or in the name of F Corporation, or both, and to retain any damages recovered.

(b) Corporation D agrees to pay to F Corporation annually $5 for each device manufactured under the patent during the year but in no case less than $5,000 per year. In 1967, D Corporation manufactures 2,500 devices under the patent; and, in 1968, 1,500 devices. Under the terms of the contract D Corporation pays to F Corporation in 1967 $12,500 with respect to production in that year and $7,500 in 1968 with respect to production in that year. F Corporation's basis in the patent at the time of the sale is $17,000.

(c) With respect to the payments received by F Corporation in 1967, no gain is realized by that corporation and its unrecovered adjusted basis in the patent is reduced to $4,500 ($17,000 less $12,500).

(d) With respect to the payments received by F Corporation in 1968, such corporation has recognized gain of $8,000 ($7,500 reduced by unrecovered adjusted basis of $4,500). Of the total gain of $8,000, gain in the amount of $2,000 ($5,000—[$4,500×$5,000/$7,500]) is considered to be from the fixed installment payment and of $1,000 ($2,500—[$4,500×$2,500/$7,500]) is considered to be from payments which are contingent on the productivity, use, or disposition of the patent. Since 33.3 percent ($1,000/$3,000) of the gain recognized in 1968 from the sale of the patent is from payments which are contingent on the productivity, use, or disposition of the patent, only $1,000 of the $8,000 gain for that year constitutes gains which, for purposes of section 881(a)(4) and section 1442(a), are from payments which are contingent on the productivity, use, or disposition of the patent. The balance of $2,000 is gain from the sale of property and is not subject to tax under section 881(a).

(g) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966, but only in respect of gains from sales or exchanges occurring after October 4, 1966. There are no corresponding rules in this part for taxable years beginning before January 1, 1967.

§ 1.871–12 Determination of tax on treaty income.

(a) *In general.* This section applies for purposes of determining under § 1.871–7 or § 1.871–8 the tax of a nonresident alien individual, or under § 1.881–2 or § 1.882–1 the tax of a foreign corporation, which for the taxable year has income described in section 872(a) or 882(b) upon which the tax is limited by an income tax convention to which the United States is a party. Income for such purposes does not include income of any kind which is exempt from tax under the provisions of an income tax convention to which the United States is a party. See §§ 1.872–2(c) and 1.883–1(b). This section shall not apply to a nonresident alien individual who is a bona fide resident of Puerto Rico during the entire taxable year.

(b) *Definition of treaty and nontreaty income—(1) In general.* (i) For purposes of this section the term "treaty income" shall be construed to mean the gross income of a nonresident alien individual or foreign corporation, as the case may be, the tax on which is limited by a tax convention. The term "nontreaty income" shall be construed, for such purposes, to mean the gross income of the nonresident alien individual or foreign corporation other than the treaty income. Neither term includes income of any kind which is exempt from the tax imposed by chapter 1 of the Code.

(ii) In determining either the treaty or nontreaty income the gross income shall be determined in accordance with §§ 1.872–1 and 1.872–2, or with §§ 1.882–3 and 1.883–1, except that in determining the treaty income the exclusion granted by section 116(a) for dividends shall not be taken into account. Thus, for example, treaty income includes the total amount of dividends paid by a domestic corporation not disqualified by section 116(b) and received from sources within the United States if, in accordance with a tax convention, the dividends are subject to the income tax at a rate not to exceed 15 percent but does not include interest which, in accordance with a tax convention, is exempt from the income tax. In further illustration, neither the treaty nor the nontreaty income includes interest on certain governmental obligations which by reason of section 103 is excluded from gross income, or interest which by reason of a tax convention is exempt from the tax imposed by chapter 1 of the Code.

(iii) For purposes of applying any income tax convention to which the United States is a party, original issue discount which is subject to tax under section 871(a)(1)(C) or 881(a)(3) is to be treated as interest, and gains which are subject to tax under section 871(a)(1)(D) or 881(a)(4) are to be treated as royalty income. This subdivision shall not apply, however, where its application would be contrary to any treaty obligation of the United States.

(2) *Application of permanent establishment rule of treaties.* In applying this section with respect to income which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by a nonresident alien individual or foreign corporation, see section 894(b), which provides that with respect to such income the nonresident alien individual or foreign corporation shall be deemed not to have a permanent establishment in the United States at any time during the taxable year for purposes of applying any exemption from, or reduction in rate of, tax provided by any tax convention.

(c) *Determination of tax.*—(1) *In general.* If the gross income of a nonresident alien individual or foreign corporation, as the case may be, consists of both treaty and nontreaty income, the tax liability for the taxable year shall be the sum of the amounts determined in accordance with subparagraphs (2) and (3) of this paragraph. In no case, however, may the tax liability so determined exceed the tax liability (tax reduced by allowable credits) with respect to the taxpayer's entire income, determined in accordance with § 1.871–7 or § 1.871–8, or with § 1.881–2 or § 1.882–1, as though the tax convention had not come into effect and without reference to the provisions of this section. Determinations under this paragraph shall be made without taking into account any credits allowed by sections 31, 32, 39, and 6402, but such credits shall be allowed against the tax liability determined in accordance with this subparagraph.

(2) *Tax on nontreaty income.* For purposes of subparagraph (1) of this paragraph, compute a partial tax (determined without the allowance of any credit) upon only the nontreaty income in accordance with § 187–1 or § 1.871–8, or with § 1.881–2 or § 1.882–1, whichever applies, as though the tax convention had not come into effect. To the extent allowed by paragraph (d) of § 1.871–8, or paragraph (c) of § 1.882–1, the credits allowed by sections 33, 35, 38, and 40 shall then be allowed, without taking into account any item included in the treaty income, against the tax determined under this subparagraph.

(3) *Tax on treaty income.* For purposes of subparagraph (1) of this paragraph, compute a tax upon the gross amount, determined without the allowance of any deduction, of each separate item of treaty income at the reduced rate applicable to that item under the tax convention. No credits shall be allowed against the tax determined under this subparagraph.

(d) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). (a) A nonresident alien individual who is a resident of a foreign country with which the United States has entered into a tax convention receives during the taxable year 1967 from sources within the United States total gross income of $4,100, consisting of the following items and determined without regard to the $100 exclusion granted by section 116(a):

Dividends the tax on which is limited by the tax convention to a rate not to exceed 15 percent	$2,100
Compensation for personal services, the tax on which is not limited by the tax convention	1,000
Total gross income	4,100

(b) The dividends are paid by a domestic corporation not disqualified by section 116(b). The taxpayer is engaged in business in the United States during the taxable year by reason of performing personal services in the United States for a period in excess of 90 days, but does not have a permanent establishment therein. Under paragraph (c)(6)(i) of § 1.864–4, the dividends are effectively connected for the taxable year with the conduct of a trade or business in the United States. Interest expense in the amount of $2,100 connected with the dividend income is paid by the taxpayer during the taxable year.

(c) The tax liability for the taxable year is $193, determined as follows:

Total gross income, determined by taking into account the exclusion granted by section 116(a)		$4,000
Less: Deduction for interest expense paid	$2,100	
Deduction for personal exemption	600	2,700
Taxable income		1,300
Tax under section 1 of the Code (determined as provided in § 1.871–8(b)(2) as though the tax convention had not come into effect) ($145 plus 16 percent of $300)		193

(d) If the tax had been determined as provided in paragraph (c)(2) and (3) of this section, the tax liability would have been $521, determined as follows:

Nontreaty gross income	$1,000
Less: Deduction for personal exemption	600
Nontreaty taxable income	400
Tax under section 1 of the Code on nontreaty taxable income (14% of $400)	56
Plus: Tax on treaty income (gross dividends) ($2,100×15 percent)	465
Total tax	521

Example (2). (a) A nonresident alien individual who is a resident of a foreign country with which the United States has entered into a tax convention receives during the taxable year 1967 from sources within the United States total gross income of $22,000, consisting of the following items:

Compensation for personal services the tax on which is not limited by the tax convention (effectively connected income under § 1.864–4(c)(5)(ii))	$20,000
Oil royalties the tax on which is limited by the tax convention to 15 percent of the gross amount thereof (effectively connected income by reason of election under § 1.871–10)	2,000
Total gross income	22,000

(b) The taxpayer is engaged in business in the United States during the taxable year but does not have a permanent establishment therein. There are no allowable deductions, other than the deductions allowed by sections 613 and 873(b)(3).

(c) The tax liability for the taxable year is $6,100, determined as follows:

Nontreaty gross income	$20,000
Less: Deduction for personal exemption	600
Nontreaty taxable income	19,400
Tax under section 1 of the Code on nontreaty taxable income ($5,170 plus 45 percent of $1,400)	5,800
Plus: Tax on treaty income (Gross oil royalties) ($2,000×15 percent)	300
Total tax (determined as provided in paragraph (c)(2) and (3) of this section)	6,100

(d) If the tax had been determined under paragraph (b)(2) of § 1.871–8 as though the tax liability would have been $6,478, determined as follows and by taking into account the election under § 1.871–10:

Total gross income		$22,000
Less: Deduction under section 613 for percentage depletion ($2000×27½ percent)	$550	
Deduction for personal exemption	600	1,150
Taxable income		20,850
Tax under section 1 of the Code on taxable income ($5,070 plus 48 percent of $850)		6,478

(e) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.871–7(e) (Rev. as of Jan. 1, 1971).

§ 1.871–13 Taxation of individuals for taxable year of change of U.S. citizenship or residence.

(a) *In general.* (1) An individual who is a citizen or resident of the United States at the beginning of the taxable year but a nonresident alien at the end of the taxable year, or a nonresident alien at the beginning of the taxable year but a citizen or resident of the United States at the end of the taxable year, is taxable for such year as though his taxable year were comprised of two separate periods, one consisting of the time during which he is a citizen or resident of the United States and the other consisting of the time during which he is not a citizen or resident of the United States. Thus, for example, the income tax liability of an alien individual under chapter 1 of the Code for the taxable year in which he changes his residence will be computed under two different sets of rules, one relating to resident aliens for the period of residence and the other relating to nonresident aliens for the period of nonresidence. However, in determining the taxable income for such year which is subject to the graduated rate of tax imposed by section 1 or 1201 of the Code, all income for the period of U.S. citizenship or residence must be aggregated with the income for the period of nonresidence which is effectively connected for such year with the conduct of a trade or business in the United States.

(2) For purposes of this section, an individual is deemed to be a citizen or resident of the United States for the day on which he becomes a citizen or resident of the United States, a nonresident of the United States for the day on which he abandons his U.S. residence, and an alien for the day on which he gives up his U.S. citizenship.

(b) *Acquisition of U.S. citizenship or residence.* Income from sources without the United States which is not effectively connected with the conduct by the taxpayer of a trade or business in the United States is not taxable if received by an alien individual while he is not a resident of the United States even though he becomes a citizen or resident of the United States after its receipt and before the close of the taxable year. However, income from sources without the United States which is not effectively connected with the conduct by the taxpayer of a trade or business in the United States is taxable if received by an individual while he is a citizen or resident of the United States, even though he earns the income earlier in the taxable year while he is neither a citizen nor resident of the United States.

(c) *Abandonment of U.S. citizenship or residence.* Income from sources without the United States which is not effectively connected with the conduct by the taxpayer of a trade or business in the United States is not taxable if received by an alien individual while he is not a resident of the United States, even though he earns the income earlier in the taxable year while he is a citizen or resident of the United States. However, income from sources without the United States which is not effectively connected with the conduct by the taxpayer of a trade or business in the United States is taxable if received by an individual while he is a citizen or resident of the United States, even though he abandons his U.S. citizenship or residence after its receipt and before the close of the taxable year.

(d) *Special rules*—(1) *Method of accounting.* Paragraphs (b) and (c) of this section may not apply to an individual who for the taxable year uses an accrual method of accounting.

(2) *Deductions for personal exemptions.* An alien individual to whom this section applies is entitled to deduct one personal exemption for the taxable year under section 151. In addition, he is entitled to such additional exemptions as are allowed as a deduction under section 151 but only to the extent the amount of such additional exemptions do not exceed his taxable income (determined without regard to any deduction for personal exemptions) for the period in the taxable year during which he is a citizen or resident of the United States. This subparagraph does not apply to the extent it is inconsistent with section 873, and the regulations thereunder, or with the provisions of an income tax convention to which the United States is a party.

(3) *Exclusion of dividends received.* In determining the $100 exclusion for the taxable year provided by section 116 in respect of certain dividends, only those dividends for the period during which the individual is neither a citizen nor resident of the United States may be taken into account as are effectively connected for the taxable year with the conduct of a trade or business in the United States. See § 1.116–1(c)(1).

(e) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). A, a married alien individual who uses the calendar year as the taxable year and the cash receipts and disbursements method of accounting, becomes a resident of the United States on June 1, 1971. During the period of nonresidence from January 1, 1971, to May 31, 1971, inclusive, A receives $15,000 income from sources without the United States which is not effectively connected with the conduct of a trade or business in the United States. During the period of residence from June 1, 1971, to December 31, 1971, A receives wages of $10,000, dividends of $200 from a foreign corporation, and dividends of $75 from a domestic corporation qualifying under section 116(a). Of the amount of wages so received, $2,000 is for services performed by A outside the United States during the period of nonresidence. Total allowable deductions (other than for personal exemptions) amount to $700, none of which are deductible under section 62 in computing adjusted gross income. For 1971 A's spouse has no gross income and is not the dependent of another taxpayer. For 1971, A's taxable income is $8,200, all of which is subject to tax under section 1, as follows:

Wages		$10,000
Dividends from foreign corporation		200
Dividends from domestic corporation ($75 less $75 exclusion)		0
Adjusted gross income		10,200
Less deductions:		
Personal exemptions (2×$650)	$1,300	
Other allowable deductions	700	2,000
Taxable income		8,200

Example (2). The facts are the same as in example (1) except that during the period of nonresidence from January 1, 1971, to May 31, 1971, A receives from sources within the United States income of $1,850 which is effectively connected with the conduct by A of a business in the United States and $350 in dividends from domestic corporations qualifying under section 116(a). Only $50 of these dividends are effectively connected with the conduct by A of a business in the United States. The assumption is made that there are no allowable deductions connected with such effectively connected income. For 1971, A has taxable income of $10,075 subject to tax under section 1 and $300 income subject to tax under section 871(a)(1)(A), as follows:

Wages		$10,000
Business income		1,850
Dividends from foreign corporation		200
Dividends from domestic corporation ($125 less $100 exclusion)		25
Adjusted gross income		12,075
Less deductions:		
Personal exemptions (2×$650)	$1,300	
Other allowable deductions	700	2,000
Taxable income subject to tax under section 1		10,075
Income subject to tax under section 871(a)(1)(A)		300

Example (3). A, a married alien individual with three children, uses the calendar year as the taxable year and the cash receipts and disbursements method of accounting. On October 1, 1971, A and his family become residents of the United States. During the period of nonresidence from January 1, 1971, to September 30, 1971, A receives income of $18,000 from sources without the United States which is not effectively connected with the conduct of a trade or business in the United States and of $2,500 from sources within the United States which is effectively connected with the conduct of a business in the United States. It is assumed there are no allowable deductions connected with such effectively connected income. During the period of residence from October 1, 1971, to December 31, 1971, A receives wages of $2,000, of which $400 is for services performed outside the United States during the period of nonresidence. Total allowable deductions (other than for personal exemptions) amount to $250, none of which are deductible under section 62 in computing adjusted gross income. Neither the spouse nor any of the children has any gross income for 1971, and the spouse is not the dependent of another taxpayer for such year. For 1971, A's taxable income is $1,850, all of which is subject to tax under section 1, as follows:

Wages (residence period)		$2,000	
Less: Allowable deductions		250	
Taxable income (without deduction for personal exemptions) (residence period)			$1,750
Business income (nonresidence period)			2,500
Total taxable income (without deduction for personal exemptions)			4,250
Less deduction for personal exemptions:			
Taxpayer		650	
Wife and 3 children (4×$650, but not to exceed $1,750)		1,750	
			2,400
Taxable income			1,850

(f) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. There are no corresponding rules in this part for taxable years beginning before January 1, 1967.

§ 1.871–8 [Deleted]

PAR. 13. Section 1.871–8 is deleted.

PAR. 14 Section 1.872 is amended by revising sections 872 (a) and (b)(3)(B), by adding a new paragraph (4) at the end of section 872(b), and by revising the historical note. These amended and added provisions read as follows:

§ 1.872 Statutory provisions; gross income.

SEC. 872. *Gross income*—(a) *General rule.* In the case of a nonresident alien individual, gross income includes only—

(1) Gross income which is derived from sources within the United States and which is not effectively connected with the conduct of a trade or business within the United States, and

(2) Gross income which is effectively connected with the conduct of a trade or business within the United States.

(b) *Exclusions.* * * *

(3) *Compensation of participants in certain exchange or training programs.* * * *

(B) An office or place of business maintain in a foreign country or in a possession of the United States by a domestic corporation, a domestic partnership, or an individual who is a citizen or resident of the United States.

(4) *Certain bond income of residents of the Ryukyu Islands or the Trust Territory of the Pacific Islands.* Income derived by a nonresident alien individual from a series E or series H U.S. savings bond, if such individual acquired such bond while a resident of the Ryukyu Island or the Trust Territory of the Pacific Islands.

[Sec. 872 as amended by sec. 110(c), Mutual Educational and Cultural Exchange Act 1961 (75 Stat. 536); sec. 103(b), Foreign Investors Tax Act 1966 (80 Stat. 1560)]

PAR. 15. Section 1.872–1 is amended to read as follows:

§ 1.872–1 Gross income of nonresident alien individuals.

(a) *In general*—(1) *Inclusions.* The gross income of a nonresident alien individual for any taxable year includes only (i) the gross income which is derived from sources within the United States and which is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual and (ii) the gross income, irrespective of whether such income is derived from sources within or without the United States, which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual. For the determination of the sources of income, see sections 861 through 863 and the regulations thereunder. For the determination of whether income from sources within or without the United States is effectively connected for the taxable year with the conduct of a trade or business in the United States, see sections 864(c) and 871 (c) and (d), §§ 1.864–3 through 1.864–7, and §§ 1.871–9 and 1.871–10. For special rules for determining the income of an alien individual who changes his residence during the taxable year, see § 1.871–13.

(2) *Exchange transactions.* Even though a nonresident alien individual who effects certain transactions in the United States in stocks, securities, or commodities during the taxable year may not, by reason of section 864(b)(2) and paragraph (c) or (d) of § 1.864–2, be engaged in trade or business in the United States during the taxable year through the effecting of such transactions, nevertheless he shall be required to include in gross income for the taxable year the gains and profits from those transactions to the extent required by § 1.871–7 or § 1.871–8.

(3) *Exclusions.* For exclusions from gross income, see § 1.872–2.

(b) *Individuals not engaged in U.S. business.* In the case of a nonresident alien individual who at no time during the taxable year is engaged in trade or business in the United States, the gross income shall include only (1) the gross income from sources within the United States which is described in section 871 (a) and paragraphs (b), (c), and (d) of § 1.871–7, and (2) the gross income from sources within the United States which, by reason of section 871 (c) or (d) and § 1.871–9 or § 1.871–10, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual.

(c) *Individuals engaged in U.S. business.* In the case of a nonresident alien individual who is engaged in trade or business in the United States at any time during the taxable year, the gross income shall include (1) the gross income from sources within and without the United States which is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual, (2) the gross income from sources within the United States which, by reason of the election provided in section 871(d) and § 1.871–10, is treated as effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual, and (3) the gross income from sources within the United States which is described in section 871(a) and paragraphs (b), (c), and (d) of § 1.871–7 and is not effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual.

(d) *Special rules applicable to certain expatriates.* For special rules for determining the gross income of a nonresident alien individual who has lost U.S. citizenship with a principal purpose of avoiding certain taxes, see section 877 (b)(1).

(e) *Alien resident of Puerto Rico.* This section shall not apply in the case of a nonresident alien individual who is a bona fide resident of Puerto Rico during the entire taxable year. See section 876 and § 1.876–1.

(f) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.872–1 (Rev. as of Jan. 1, 1971).

PAR. 16. Section 1.872–2 is amended to read as follows:

§ 1.872–2 Exclusions from gross income of nonresident alien individuals.

(a) *Earnings of foreign ships or aircraft*—(1) *Basic rule.* So much of the income from sources within the United States of a nonresident alien individual as consists of earnings derived from the operation of a ship or ships documented, or of aircraft registered, under the laws of a foreign country which grants an equivalent exemption to citizens of the United States nonresident in that foreign country and to corporations organized in the United States shall not be included in gross income.

(2) *Equivalent exemption*—(i) *Ships.* A foreign country which either imposes no income tax, or, in imposing an income tax, exempts from taxation so much of the income of a citizen of the U.S. nonresident in that foreign country and of a corporation organized in the United States as consists of earnings derived from the operation of a ship or ships documented under the laws of the United States is considered as granting an equivalent exemption for purposes of the exclusion from gross income of the earnings of a foreign ship or ships.

(ii) *Aircraft.* A foreign country which either imposes no income tax, or, in imposing an income tax, exempts from taxation so much of the income of a citizen of the U.S. nonresident in that foreign country and of a corporation organized in the United States as consists of earnings derived from the operation of aircraft registered under the laws of the United States is considered as granting an equivalent exemption for purposes of the exclusion from gross income of the earnings of foreign aircraft.

(3) *Definition of earnings.* For purposes of subparagraphs (1) and (2) of this paragraph, compensation for personal services performed by an individual aboard a ship or aircraft does not constitute earnings derived by such individual from the operation of ships or aircraft.

(b) *Compensation paid by foreign employer to participants in certain exchange or training programs*—(1) *Exclusion from income.* Compensation paid to a nonresident alien individual for the period that the nonresident alien individual is temporarily present in the United States as a nonimmigrant under subparagraph (F) (relating to the admission of students into the United States) or subparagraph (J) (relating to the admission of teachers, trainees, specialists, etc., into the United States) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F) or (J)) shall be excluded from gross income if the compensation is paid to such alien by his foreign employer. Compensation paid to a nonresident alien individual by the U.S. office of a domestic bank which is acting as paymaster on behalf of a foreign employer constitutes compensation paid by a foreign employer for purposes of this paragraph if the domestic bank is reimbursed by the foreign employer for such payment. A nonresident alien individual who is temporarily present in the United States as a nonimmigrant under such subparagraph (J) includes a nonresident alien individual admitted to the United States as an "exchange visitor" under section 201 of the U.S. Information and Educational Exchange Act of 1948 (22 U.S.C. 1446), which section was repealed by section 111 of the Mutual Education and Cultural Exchange Act of 1961 (75 Stat. 538).

(2) *Definition of foreign employer.* For purposes of this paragraph, the term "foreign employer" means a nonresident alien individual, a foreign partnership, a foreign corporation, or an office or place of business maintained in a foreign country or in a possession of the United States by a domestic corporation, a

domestic partnership, or an individual who is a citizen or resident of the United States. The term does not include a foreign government. However, see section 893 and § 1.893–1. Thus, if a French citizen employed in the Paris branch of a banking company incorporated in the State of New York were admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act to study monetary theory and continued to receive a salary from such foreign branch while studying in the United States, such salary would not be includable in his gross income.

(c) *Tax convention.* Income of any kind which is exempt from tax under the provisions of a tax convention or treaty to which the United States is a party shall not be included in the gross income of a nonresident alien individual. Income on which the tax is limited by tax convention shall be included in the gross income of a nonresident alien individual if it is not otherwise excluded from gross income. See §§ 1.871–12 and 1.894–1.

(d) *Certain bond income of residents of the Ryukyu Islands or the Trust Territory of the Pacific Islands.* Income derived by a nonresident alien individual from a series E or series H U.S. savings bond shall not be included in gross income if such individual acquired the bond while he was a resident of the Ryukyu Islands or the Trust Territory of the Pacific Islands. It is not necessary that the individual continue to be a resident of such Islands or Trust Territory for the period when, without regard to section 872(b)(4) and this paragraph, the income from the bond would otherwise be includible in his gross income under the provisions of section 446 or 454.

(e) *Certain annuities received under qualified plans.* Pursuant to section 871(f), income received by a nonresident alien individual as an annuity under a qualified annuity plan described in section 403(a)(1) (relating to taxation of employee annuities), or from a qualified trust described in section 401(a) (relating to qualified pension, profit-sharing, and stock bonus plans) which is exempt from tax under section 501(a) (relating to exemption from tax on corporations, certain trusts, etc.), shall not be included in gross income, and shall be exempt from tax, for purposes of section 871 and §§ 1.871–7 and 1.871–8, if—

(1) All of the personal services by reason of which the annuity is payable were either—

(i) Personal services performed outside the United States by an individual (whether or not the annuitant) who, at the time of performance of the services, was a nonresident alien individual, or

(ii) Personal services performed in the United States by a nonresident alien individual (whether or not the annuitant) which, by reason of section 864(b)(1) (or corresponding provision of any prior law), were not personal services causing such individual to be engaged in trade or business in the United States during the taxable year, and

(2) At the time the first amount is paid (even though paid in a taxable year beginning before January 1, 1967) as such annuity under such annuity plan, or by such trust, to (i) the individual described in subparagraph (1) of this paragraph, or (ii) his nonresident alien beneficiary if such beneficiary is entitled to receive such first amount, 90 percent or more of the employees or annuitants for whom contributions or benefits are provided under the annuity plan, or under the plan or plans of which the trust is a part, are citizens or residents of the United States.

This paragraph shall apply whether or not the taxpayer is engaged in trade or business in the United States at any time during the taxable year in which the annuity is received. This paragraph shall not apply to distributions by an employees' trust or from an annuity plan which give rise to gains described in section 402(a)(2) or 403(a)(2), whichever applies. See section 871(a)(1)(B) and paragraph (c)(1)(i) of § 1.871–7. For exemption from withholding of tax at source on an annuity which is exempt from tax under section 871(f) and this paragraph, see paragraph (g) of § 1.1441–4.

(f) *Other exclusions.* Income which is from sources without the United States, as determined under the provisions of sections 861 through 863, and the regulations thereunder, is not included in the gross income of a nonresident alien individual unless such income is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual. To determine specific exclusions in the case of other items which are from sources within the United States, see the applicable sections of the Code. For special rules under a tax convention for determining the sources of income and for excluding, from gross income, income from sources without the United States which is effectively connected with the conduct of a trade or business in the United States, see the applicable tax convention. For determining which income from sources without the United States is effectively connected with the conduct of a trade or business in the United States, see section 864(c)(4) and § 1.864–5.

(g) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 4, 1967 see 26 CFR 1.872–2 (Rev. as of Jan. 1, 1971).

PAR. 17. Section 1.876–1 is amended by revising paragraphs (b) and (c) and by adding a new paragraph (d). These amended and added provisions read as follows:

§ 1.876–1 Alien residents of Puerto Rico.

* * * * *

(b) *Exceptions.* Though subject to the tax imposed by section 1, a nonresident alien individual who is a bona fide resident of Puerto Rico during his entire taxable year shall nevertheless be treated as a nonresident alien individual for the purpose of many provisions of the Code relating to nonresident alien individuals. Thus, for example, such a resident of Puerto Rico is not allowed to determine his tax in accordance with the optional tax table (section 4(d)(1)); is not allowed the standard deduction (section 142(b)(1); is not allowed a deduction for a "dependent" who is a resident of Puerto Rico unless the dependent is a citizen of the United States (section 152(b)(3)); is subject to withholding of tax at source under chapter 3 of the Code (sections 1441(e) and 1451(e)); is generally excepted from the collection of income tax at source on wages (paragraph (d)(1) of § 31.3401(a)(6)–1 of this chapter (Employment Tax Regulations)); is not allowed to make a joint return or a joint declaration of estimated tax (sections 6013(a)(1) and 6015(b)); must pay his estimated income tax on or before the 15th day of the 4th month of the taxable year (sections 6015(i)(3), 6073(a), and 6153(a)(1)); and generally must pay his income tax on or before the 15th day of the 6th month following the close of the taxable year (sections 6072(c) and 6151(a)).

(c) *Credits against tax.* The credits allowed by section 31 (relating to tax withheld on wages), section 32 (relating to tax withheld at source on nonresident aliens), section 33 (relating to taxes of foreign countries), section 35 (relating to partially tax-exempt interest), section 38 (relating to investment in certain depreciable property), section 39 (relating to certain uses of gasoline and lubricating oil), and section 40 (relating to expenses of work incentive programs) shall be allowed against the tax determined in accordance with this section. No credit shall be allowed under section 37 in respect of retirement income.

(d) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.876–1 (Rev. as of Jan. 1, 1971).

PAR. 18. Section 1.877 is redesignated as § 1.878 and revised to read as follows:

§ 1.878 Statutory provisions; certain foreign exempt organizations.

SEC. 878. *Foreign educational, charitable, and certain other exempt organizations.* For special provisions relating to foreign educational, charitable, and other exempt organizations, see sections 512(a) and 4948.

[Sec. 878 as redesignated by sec. 103(f)(1), Foreign Investors Tax Act 1966 (80 Stat. 1551); as amended by sec. 101(j)(20), Tax Reform Act 1969 (83 Stat. 528)]

PAR. 19. The following new section is inserted immediately after § 1.876–1:

§ 1.877 Statutory provisions; expatriation to avoid tax.

SEC. 877. *Expatriation to avoid tax*—(a) *In general.* Every nonresident alien individual who at any time after March 8, 1965, and within the 10-year period immediately preceding the close of the taxable year lost U.S. citizenship, unless such loss did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle B,

shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

(b) *Alternative tax.* A nonresident alien individual described in subsection (a) shall be taxable for the taxable year as provided in section 1 or section 1201(b), except that—

(1) The gross income shall include only the gross income described in section 872(a) (as modified by subsection (c) of this section), and

(2) The deductions shall be allowed if and to the extent that they are connected with the gross income included under this section except that the capital loss carryover provided by section 1212(b) shall not be allowed; and the proper allocation and apportionment of the deductions for this purpose shall be determined as provided under regulations prescribed by the Secretary or his delegate.

For purposes of paragraph (2), the deductions allowed by section 873(b) shall be allowed; and the deduction (for losses not connected with the trade or business if incurred in transactions entered into for profit) allowed by section 165(c)(2) shall be allowed, but only if the profit, if such transaction had resulted in a profit, would be included in gross income under this section.

(c) *Special rules of source.* For purposes of subsection (b), the following items of gross income shall be treated as income from sources within the United States:

(1) *Sale of property.* Gains on the sale or exchange of property (other than stock or debt obligations) located in the United States.

(2) *Stock or debt obligations.* Gains on the sale or exchange of stock issued by a domestic corporation or debt obligations of U.S. persons or of the United States, a State or political subdivision thereof, or the District of Columbia.

(d) *Exception for loss of citizenship for certain causes.* Subsection (a) shall not apply to a nonresident alien individual whose loss of U.S. citizenship resulted from the application of section 301(b), 350, or 355 of the Immigration and Nationality Act, as amended (8 U.S.C. 1401(b), 1482, or 1487).

(e) *Burden of proof.* If the Secretary or his delegate establishes that it is reasonable to believe that an individual's loss of U.S. citizenship would, but for this section, result in a substantial reduction for the taxable year in the taxes on his probable income for such year, the burden of proving for such taxable year that such loss of citizenship did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle B shall be on such individual.

[Sec. 877 as added by sec. 103(f)(1), Foreign Investors Tax Act 1966 (80 Stat. 1551)]

PAR. 20. Section 1.932 is amended by revising section 932(a) and by adding a historical note as follows:

§ 1.932 Statutory provisions; taxation of citizens of possessions of the United States.

SEC. 932. *Citizens of possessions of the United States*—(a) *General rule.* Any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall be subject to taxation under this subtitle in the same manner and subject to the same conditions as in the case of a nonresident alien individual. This section shall have no application in the case of a citizen of Puerto Rico.

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[Sec. 932 as amended by sec. 103(m), Foreign Investors Tax Act 1966 (80 Stat. 1554)]

PAR. 21. Section 1.932–1 is amended by revising paragraph (a)(1) to read as follows:

§ 1.932–1 Status of citizens of U.S. possessions.

(a) *General rule*—(1) *Definition and treatment.* A citizen of a possession of the United States (except Puerto Rico), who is not otherwise a citizen or resident of the United States, including only the States and the District of Columbia, is treated for the purpose of the taxes imposed by Subtitle A of the Code (relating to income taxes) as if he were a nonresident alien individual. However, for purposes of the tax imposed on self-employment income by chapter 2 of the Code, the term "possession of the United States" as used in section 932 and the preceding sentence does not include American Samoa, Guam, or the Virgin Islands. See section 1402(a)(9). See subpart A (section 871 and following), part II, subchapter N, chapter 1 of the Code, and the regulations thereunder, for rules relating to imposition of tax on nonresident alien individuals. For Federal income tax purposes, a citizen of a possession of the United States who is not otherwise a citizen of the United States is a citizen of a possession of the United States who has not become a citizen of the United States by naturalization in a State, Territory, or the District of Columbia. The fixed or determinable annual or periodical income from sources within the United States of a citizen of a possession of the United States who is treated as if he was a nonresident alien individual is subject to withholding. See section 1441.

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PAR. 22. Section 1.1493 is amended by adding a historical note to read as follows:

§ 1.1493 Statutory provisions; definition of foreign trust.

• • • • •

[Sec. 1493 as in effect before its repeal by sec. 103(1)(2), Foreign Investors Tax Act 1966 (80 Stat. 1544)]

PAR. 23. Section 1.1493–1 is revised to read as follows:

§ 1.1493–1 Definition of foreign trust.

For taxable years beginning before January 1, 1967, a trust is to be considered a "foreign trust" within the meaning of chapter 5 of the Code, if, assuming a subsequent sale by the trustee, outside the United States and for cash, of the property transferred to the trust, the profit, if any, from such sale (being income from sources without the United States under the provisions of part I (section 861 and following), subchapter N, chapter 1 of the Code), would not be included in the gross income of the trust under subtitle A of the Code. For taxable years beginning after December 31, 1966, the term "foreign trust," as used in chapter 5 of the Code, shall have the meaning prescribed by section 7701(a)(31).

PAR. 24. Section 1.6012–1 is amended by revising paragraph (b) to read as follows:

§ 1.6012–1 Individuals required to make returns of income.

• • • • •

(b) *Return of nonresident alien individual*—(1) *Requirement of return*—(i) *In general.* Except as otherwise provided in subparagraph (2) of this paragraph, every nonresident alien individual who is engaged in trade or business in the United States at any time during the taxable year or who has income which is subject to taxation under subtitle A of the Code shall make a return on Form 1040NR. For this purpose it is immaterial that the gross income for the taxable year is less than the minimum amount specified in section 6012(a) for making a return. Thus, a nonresident alien individual who is engaged in a trade or business in the United States at any time during the taxable year is required to file a return on Form 1040NR even though (*a*) he has no income which is effectively connected with the conduct of a trade or business in the United States, (*b*) he has no income from sources within the United States, or (*c*) his income is exempt from income tax by reason of an income tax convention or any section of the Code. However, if the nonresident alien individual has no gross income for the taxable year, he is not required to complete the return schedules but must attach a statement to the return indicating the nature of any exclusions claimed and the amount of such exclusions to the extent such amounts are readily determinable.

(ii) *Treaty income.* If the gross income of a nonresident alien individual includes treaty income, as defined in paragraph (b)(1) of § 1.871–12, a statement shall be attached to the return on Form 1040NR showing with respect to that income—

(*a*) The amounts of tax withheld,

(*b*) The names and post office addresses of withholding agents, and

(*c*) Such other information as may be required by the return form, or by the instructions issued with respect to the form, to show the taxpayer's entitlement to the reduced rate of tax under the tax convention.

(2) *Exceptions*—(i) *Return not required when tax is fully paid at source.* A nonresident alien individual who at no time during the taxable year is engaged in a trade or business in the United States is not required to make a return for the taxable year if his tax liability for the taxable year is fully satisfied by the withholding of tax at source under chapter 3 of the Code. This subdivision does not apply to a nonresident alien individual who has income for the taxable year which is treated under section 871 (c) or (d) and § 1.871–9 (relating to students or trainees) or § 1.871–10 (relating to real property income) as income which is effectively connected for the taxable year with the conduct of a trade or business in the

United States by that individual, or to a nonresident alien individual making a claim under § 301.6402–3 of this chapter (Procedure and Administration Regulations) for the refund of an overpayment of tax for the taxable year. For purposes of this subdivision, some of the items of income from sources within the United States upon which the tax liability will not have been fully satisfied by the withholding of tax at source under chapter 3 of the Code are:

(*a*) Interest upon so-called tax-free covenant bonds upon which, in accordance with section 1451 and § 1.1451–1, a tax of only 2 percent is required to be withheld at the source.

(*b*) In the case of bonds or other evidences of indebtedness issued after September 28, 1965, amounts described in section 871(a)(1)(C),

(*c*) Capital gains described in section 871(a)(2) and paragraph (*d*) of § 1.871–7, and

(*d*) Accrued interest received in connection with the sale of bonds between interest dates, which, in accordance with paragraph (h) of § 1.1441–4, is not subject to withholding of tax at the source.

(ii) *Return of individual for taxable year of change of U.S. citizenship or residence.* (*a*) If an alien individual becomes a citizen or resident of the United States during the taxable year and is a citizen or resident of the United States on the last day of such year, he must make a return on Form 1040 for the taxable year. However, a separate schedule is required to be attached to this return to show the income tax computation for the part of the taxable year during which the alien was neither a citizen nor resident of the United States. A Form 1040NR, clearly marked "Statement" across the top, may be used as such a separate schedule.

(*b*) If an individual abandons his U.S. citizenship or residence during the taxable year and is not a citizen or resident of the United States on the last day of such year, he must make a return on Form 1040NR for the taxable year. However, a separate schedule is required to be attached to this return to show the income tax computation for the part of the taxable year during which the individual was a citizen or resident of the United States. A Form 1040, clearly marked "Statement" across the top, may be used as such a separate schedule.

(*c*) A return is required under this subdivision (ii) only if the individual is otherwise required to make a return for the taxable year.

(iii) *Beneficiaries of estates or trusts.* A nonresident alien individual who is a beneficiary of an estate or trust which is engaged in trade or business in the United States is not required to make a return for the taxable year merely because he is deemed to be engaged in trade or business within the United States under section 875(2). However, such nonresident alien beneficiary will be required to make a return if he otherwise satisfies the conditions of subparagraph (1)(i) of this paragraph for making a return.

(iv) *Certain alien residents of Puerto Rico.* This paragraph does not apply to a nonresident alien individual who is a bona fide resident of Puerto Rico during the taxable year. See section 876 and paragraph (a)(1)(iii) of this section.

(3) *Representative or agent for nonresident alien individual*—(i) *Cases where power of attorney is not required.* The responsible representative or agent within the United States of a nonresident alien individual shall make on behalf of his nonresident alien principal a return of, and shall pay the tax on, all income coming within his control as representative or agent which is subject to the income tax under subtitle A of the Code. The agency appointment will determine how completely the agent is substituted for the principal for tax purposes. Any person who collects interest or dividends on deposited securities of a nonresident alien individual, executes ownership certificates in connection therewith, or sells such securities under special instructions shall not be deemed merely by reason of such acts to be the responsible representative or agent of the nonresident alien individual. If the responsible representative or agent does not have a specific power of attorney from the nonresident alien individual to file a return in his behalf, the return shall be accompanied by a statement to the effect that the representative or agent does not possess specific power of attorney to file a return for such individual but that the return is being filed in accordance with the provisions of this subdivision.

(ii) *Cases where power of attorney is required.* Whenever a return of income of a nonresident alien individual is made by an agent acting under a duly authorized power of attorney for that purpose, the return shall be accompanied by the power of attorney in proper form, or a copy thereof, specifically authorizing him to represent his principal in making, executing, and filing the income tax return. Form 2848 may be used for this purpose. The agent, as well as the taxpayer, may incur liability for the penalties provided for erroneous, false, or fraudulent returns. For the requirements regarding signing of returns, see § 1.6061–1. The rules of paragraph (e) of § 601.504 of this chapter (Statement of Procedural Rules) shall apply under this subparagraph in determining whether a copy of a power of attorney must be certified.

(iii) *Limitation.* A return of income shall be required under this subparagraph only if the nonresident alien individual is otherwise required to make a return in accordance with this paragraph.

(4) *Disallowance of deductions and credits.* For provisions disallowing deductions and credits when a return of income has not been filed by or on behalf of a nonresident alien individual, see section 874(a) and the regulations thereunder.

(5) *Effective date.* This paragraph shall apply for taxable years beginning after December 31, 1966, except that it shall not be applied to require (i) the filing of a return for any taxable year ending before January 1, 1974, which, pursuant to instructions applicable to the return, is not required to be filed or (ii) the amendment of a return for such a taxable year which, pursuant to such instructions, is required to be filed. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.6012–1(b) (Rev. as of Jan. 1, 1967).

* * * * *

PAR. 25. Section 1.6012–3 is amended by revising subparagraph (2) (i), (iii), and (v) of paragraph (b) to read as follows:

§ 1.6012–3 Returns by fiduciaries.

* * * * *

(b) *For other persons.* * * *

(2) *Nonresident alien individuals*—(i) *In general.* A resident or domestic fiduciary or other person charged with the care of the person or property of a nonresident alien individual shall make a return for that individual and pay the tax unless—

(*a*) The nonresident alien individual makes a return of, and pays the tax on, his income for the taxable year,

(*b*) A responsible representative or agent in the United States of the nonresident alien individual makes a return of, and pays the tax on, the income of such alien individual for the taxable year, or

(*c*) The nonresident alien individual has appointed a person in the United States to act as his agent for the purpose of making a return of income and, if such fiduciary is required to file a Form 1041 for an estate or trust of which such alien individual is a beneficiary, such fiduciary attaches a copy of the agency appointment to his return on Form 1041.

* * * * *

(iii) *Disallowance of deductions and credits.* For provisions disallowing deductions and credits when a return of income has not been filed by or on behalf of a nonresident alien individual, see section 874 and the regulations thereunder.

* * * * *

(v) *Cross reference.* For requirements of withholding tax at source on nonresident alien individuals and of returns with respect to such withheld taxes, see §§ 1.1441–1 to 1.1465–1, inclusive.

* * * * *

PAR. 26. Section 1.601a–4 is revised to read as follows:

§ 1.6012–4 Miscellaneous returns.

For returns by regulated investment companies of tax on undistributed capital gain designated for special treatment under section 852(b)(3)(D), see § 1.852–9. For returns with respect to tax withheld on nonresident aliens and foreign corporations and on tax-free covenant bonds, see §§ 1.1461–1 to 1.1465–1, inclusive. For returns of tax on transfers to avoid income tax, see § 1.1494–1. For the requirement of an annual report by persons completing a Government contract.

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see 26 CFR (1939) 17.16 (Treasury Decision 4906, approved June 23, 1939), and 26 CFR (1939) 18.15 (Treasury Decision 4909, approved June 28, 1939), as made applicable to section 1471 of the 1954 Code by Treasury Decision 6091, approved August 16, 1954 (19 F.R. 5167, C.B. 1954–2, 47). See also § 1.1471–1.

• • • • •

PAR. 28. Section 1.6015(a)–1 is amended by revising paragraph (d), as follows:

§ 1.6015(a)–1 Declaration of estimated income tax by individuals.

• • • • •

(d) *Nonresident alien individuals.* For the rules exempting certain nonresident alien individuals from the requirement of making a declaration of estimated income tax, see § 1.6015(i)–1.

• • • • •

PAR. 29. Section 1.6015(i) is redesignated as § 1.6015(j) and revised to read as follows:

§ 1.6015(j) Statutory provisions; declaration of estimated income tax by individuals; applicability.

SEC. 6015. *Declaration of estimated income* tax by individuals. • • •

(j) *Applicability.* This section shall be applicable only with respect to taxable years beginning after December 31, 1954; and sections 56, 59, and 60 of the Internal Revenue Code of 1939 shall continue in force with respect to taxable years beginning before January 1, 1955.

[Sec. 6015(j) as redesignated by sec. 103(j)(2) Foreign Investors Tax Act (80 Stat. 1554)]

[(b) *Declarations of estimated tax.* In the case of a taxable year beginning before [December 30, 1969], if any taxpayer is required to make a declaration or amended declaration of estimated tax, or to pay any amount or additional amount of estimated tax, by reason of the amendments made by [the Tax Reform Act of 1969], such amount or additional amount shall be paid ratably on or before each of the remaining installment dates for the taxable year beginning with the first installment date on or after [January 29, 1970]. With respect to any declaration or payment of estimated tax before such first installment date, sections 6015 [and] 6654 • • • of the Internal Revenue Code of 1954 shall be applied without regard to the amendments made by [the Tax Reform Act of 1969]. For purposes of this subsection, the term "installment date" means any date on which, under section 6153 • • • of such Code • • •, an installment payment of estimated tax is required to be made by the taxpayer. (Sec. 946(b), Tax Reform Act 1969 (83 Stat. 729))]

§ 1.6015(j)–1 [Redesignated]

PAR. 30. Section 1.6015(i)–1 is redesignated as § 1.6015(j)–1.

PAR. 31. The following new sections are inserted immediately after § 1.6015(h)–1:

§ 1.6015(i) Statutory provisions; declaration of estimated income tax by individuals; nonresident alien individuals.

(1) *Nonresident alien individuals.* No declaration shall be required to be made under this section by a nonresident alien individual unless—

(i) Withholding under chapter 24 is made applicable to the wages, as defined in section 3401(a), of such individual,

(ii) Such individual has income (other than compensation for personal services subject to deduction and withholding under section 1441) which is effectively connected with the conduct of a trade or business within the United States, or

(iii) Such individual is a resident of Puerto Rico during the entire taxable year.

[Sec. 6015(i) as added by sec. 103(j)(3), Foreign Investors Tax Act 1966 (80 Stat. 1554)]

§ 1.6015(i)–1 Nonresident alien individuals.

(a) *Exception from requirement of making a declaration.* No declaration of estimated income tax is required to be made under section 6015(a) and § 1.6015(a)–1 by a nonresident alien individual unless—

(1) Such individual has wages, as defined in section 3401(a), and the regulations thereunder, upon which tax is required to be withheld under section 3402,

(2) Such individual has income (other than compensation for personal services upon which tax is required to be withheld at source under section 1441) which is effectively connected for the taxable year with the conduct of a trade or business in the United States by such individual, or

(3) Such individual has been, or expects to be, a resident of Puerto Rico during the entire taxable year.

(b) *Rules applicable to nonresident alien individuals required to make a declaration*—(1) *Tests to be applied.* A nonresident alien individual who is not excepted by paragraph (a) of this section from the requirement of making a declaration of income tax is required to file a declaration if his gross income meets the requirements of section 6015(a) and § 1.6015(a)–1. In making the determination under section 6015(a)(1) as to whether the amount of the gross income of a nonresident alien individual is such as to require making a declaration of estimated income tax, only the tests relating to a single individual (other than a head of household) or to a married individual not entitled to file a joint declaration with his spouse shall apply, since a nonresident alien individual may not make a joint declaration by reason of section 6015(b) and is not a head of household. Only in a rare case would a nonresident alien individual be a surviving spouse.

(2) *Determination of gross income.* To determine the gross income of a nonresident alien individual who is not, or does not expect to be, a resident of Puerto Rico during the entire taxable year, see section 872 and §§ 1.872–1 and 1.872–2. To determine the gross income of a nonresident alien individual who is, or expects to be, a resident of Puerto Rico during the entire taxable year, see section 876 and § 1.876–1. For purposes of applying paragraph (a)(2) of this section, income which is effectively connected for the taxable year with the conduct of a trade or business in the United States includes all income which is treated under section 871 (c) or (d) and § 1.871–9 (relating to students and trainees) or § 1.871–10 (relating to real property income) as income which is effectively connected for such year with the conduct of a trade or business in the United States.

(c) *Effective date.* This section shall apply for taxable years beginning after December 31, 1966. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.6015(a)–1(d) (Rev. as of Jan. 1, 1971).

PAR. 32. Section 1.6061–1 is amended to read as follows:

§ 1.6061–1 Signing of returns and other documents by individuals.

(a) *Requirement.* Each individual (including a fiduciary) shall sign the income tax return required to be made by him, except that the return may be signed for the taxpayer by an agent who is duly authorized in accordance with paragraph (a)(5) or (b) of § 1.6012–1 to make such return. Other returns, statements, or documents required under the provisions of subtitle A or F of the Code or of the regulations thereunder to be made by any person with respect to any tax imposed by subtitle A of the Code shall be signed in accordance with any regulations contained in this chapter, or any instructions, issued with respect to such returns, statements, or other documents.

(b) *Cross references.* For provisions relating to the signing of returns, statements, or other documents required to be made by corporations and partnerships with respect to any tax imposed by subtitle A of the Code, see §§ 1.6062–1 and 1.6063–1, respectively. For provisions relating to the making of returns by agents, see paragraphs (a)(5) and (b) of § 1.6012–1; and to the making of returns for minors and persons under a disability, see paragraph (a)(4) of § 1.6012–1 and paragraph (b) of § 1.6012–3.

PAR. 18. Section 1.703–1 is amended by adding at the end of paragraph (b)(2) the following new subdivision:

§ 1.703–1 Partnership computations.

• • • • •

(b) *Elections of the partnership.* • • •

(2) *Exceptions.* • • •

(iii) Each partner who is a nonresident alien individual or a foreign corporation shall add his distributive share of income derived by the partnership from real property located in the United States, as described in section 871(d)(1) or 882(d)(1), to any such income derived by him and may elect under § 1.871–10 to treat all such income as income which is effectively connected for the taxable year with the conduct of a trade or business in the United States.

PAR. 19. Section 1.864–4 is amended by revising paragraph (c)(3)(i) to read as follows:

§ 1.864–4 U.S. source income effectively connected with U.S. business.

• • • • •

(c) *Fixed or determinable income and capital gains.* • • •

(3) *Application of the business-activities test*—(i) *In general.* For purposes of subparagraph (1) of this paragraph, the business-activities test shall ordinarily apply in making a determination with respect to income, gain, or loss which, even though generally of the passive type, arises directly from the active conduct of the taxpayer's trade or business in the United States. The business-activities test is of primary significance, for example, where (*a*) dividends or interest are derived by a dealer in stocks or securities, (*b*) gain or loss is derived from the sale or exchange of capital assets in the active conduct of a trade or business by an investment company, (*c*) royalties are derived in the active conduct of a business consisting of the licensing of patents or similar intangible property, or (*d*) service fees are derived in the active conduct of a servicing business. In applying the business-activities test, activities relating to the management of investment portfolios shall not be treated as activities of the trade or business conducted in the United States unless the maintenance of the investments constitutes the principal activity of that trade or business. See also subparagraph (5) of this paragraph for rules applicable to taxpayers conducting a banking, financing, or similar business in the United States.

* * * * *

PAR. 20. The following new section is added immediately after § 1.875–1:

§ 1.875–2 Beneficiaries of estates or trusts.

(a) [Reserved]

(b) *Exception for certain taxable years.* Notwithstanding paragraph (a) of this section, for any taxable year beginning before January 1, 1975, the grantor of a trust, whether revocable or irrevocable, is not deemed to be engaged in trade or business within the United States merely because the trustee is engaged in trade or business within the United States.

(c) [Reserved]

PAR. 21. Section 1.912 is amended to read as follows:

§ 1.912 Statutory provisions; exemptions for certain allowances.

SEC. 912. *Exemptions for certain allowances.* The following items shall not be included in gross income, and shall be exempt from taxation under this subtitle:

(1) *Foreign areas allowances.* In the case of civilian officers and employees of the Government of the United States, amounts received as allowances or otherwise (but not amounts received as post differentials) under—

(A) Title IX of the Foreign Service Act of 1946, as amended (22 U.S.C., sec. 1131 and following),

(B) Section 4 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C., sec. 403e),

(C) Title II of the Overseas Differentials and Allowances Act, or

(D) Subsection (e) or (f) of the first section of the Administrative Expenses Act of 1946, as amended, or section 23 of such Act.

(2) *Cost-of-living allowances.* In the case of civilian officers or employees of the Government of the United States stationed outside the continental United States (other than Alaska), amounts (other than amounts received under title II of the Overseas Differentials and Allowances Act) received as cost-of-living allowances in accordance with regulations approved by the President.

(3) *Peace corps allowances.* In the case of an individual who is a volunteer or volunteer leader within the meaning of the Peace Corps Act and members of his family, amounts received as allowances under section 5 or 6 of the Peace Corps Act other than amounts received as—

(A) Termination payments under section 5(c) or section 6(1) of such Act,

(B) Leave allowances,

(C) If such individual is a volunteer leader training in the United States, allowances to members of his family, and

(D) Such portion of living allowances as the President may determine under the Peace Corps Act as constituting basic compensation.

[Sec. 912 as amended by sec. 523(a), Overseas Differentials and Allowances Act (74 Stat. 802); sec. 201(a), Peace Corps Act (76 Stat. 215)]

PAR. 22. Section 1.6012–2 is amended by revising paragraph (g)(5) to read as follows:

§ 1.6012–2 Corporations required to make returns of income.

* * * * *

(g) *Returns by foreign corporations.* * * *

(5) *Effective date.* This paragraph shall apply for taxable years beginning after December 31, 1966, except that it shall not be applied to require (i) the filing of a return for any taxable year ending before January 1, 1974, which, pursuant to instructions applicable to the return, is not required to be filed or (ii) the amendment of a return for such a taxable year which, pursuant to such instructions, is required to be filed. For corresponding rules applicable to taxable years beginning before January 1, 1967, see 26 CFR 1.6012–2(g) (Rev. as of Jan. 1, 1967).

REGULATIONS ON PROCEDURE AND ADMINISTRATION

PAR. 23. Section 301.6015 is amended by revising subsection (c) of section 6015, by redesignating subsection (i) of section 6015 as subsection (j), by adding a new subsection (i) to section 6015 immediately after subsection (h), and by revising the historical note, as follows:

§ 301.6015 Statutory provisions; declaration of estimated income tax by individuals.

SEC. 6015. *Declaration of estimated income tax by individuals.* * * *

(c) *Estimated tax.* For purposes of this title, in the case of an individual, the term "estimated tax" means—

(1) The amount which the individual estimates as the amount of the income tax imposed by chapter 1 for the taxable year (other than the tax imposed by section 56) plus

(2) The amount which the individual estimates as the amount of the self-employment tax imposed by chapter 2 for the taxable year, minus

(3) The amount which the individual estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1.

* * * * *

(i) *Nonresident alien individuals.* No declaration shall be required to be made under this section by a nonresident alien individual unless—

(1) Withholding under chapter 24 is made applicable to the wages, as defined in section 3401(a), of such individual,

(2) Such individual has income (other than compensation for personal services subject to deduction and withholding under section 1441) which is effectively connected with the conduct of a trade or business within the United States, or

(3) Such individual is a resident of Puerto Rico during the entire taxable year.

(j) *Applicability.* This section shall be applicable only with respect to taxable years beginning after December 31, 1954; and sections 58, 59, and 60 of the Internal Revenue Code of 1939 shall continue in force with respect to taxable years beginning before January 1, 1955.

[Sec. 6015 as amended by sec. 74, Technical Amendments Act 1958 (72 Stat. 1660); sec. 5(a), Act of Sept. 14, 1960 (Pub. Law 86–779, 74 Stat. 1000); sec. 1(a)(1), Act of Sept. 25, 1962 (Pub. Law 87–682, 76 Stat. 575); sec. 102(a) Tax Adjustment Act 1966 (80 Stat. 62); sec. 103(j), Foreign Investors Tax Act 1966 (80 Stat. 1554); secs. 201(b)(13), 803(d)(7) and 944, Tax Reform Act 1969 (83 Stat. 586, 684, 729); sec. 209, Rev. Act 1971 (85 Stat. 517)]

[(b) *Declarations of estimated tax.* In the case of a taxable year beginning before [December 30, 1969], if any taxpayer is required to make a declaration or amended declaration of estimated tax, or to pay any amount or additional amount of estimated tax, by reason of the amendments made by [the Tax Reform Act of 1969], such amount or additional amount shall be paid ratably on or before each of the remaining installment dates for the taxable year beginning with the first installment date on or after [January 29, 1970]. With respect to any declaration or payment of estimated tax before such first installment date, sections 6015 [and] 6654 * * * of the Internal Revenue Code of 1954 shall be applied without regard to the amendments made by [the Tax Reform Act of 1969]. For purposes of this subsection, the term "installment date" means any date on which, under section 6153 * * * of such Code * * *, an installment payment of estimated tax is required to be made by the taxpayer. (sec. 948(b), Tax Reform Act 1969 (83 Stat. 729))]

PAR. 24. Section 301.6015–1 is amended to read as follows:

§ 301.6015–1 Declaration of estimated income tax by individuals.

For provisions relating to requirement of declarations of estimated income tax by individuals, see §§ 1.6015(a)–1 to 1.6015(j)–1, inclusive, of this chapter (Income Tax Regulations).

* * * * *

PAR. 33. Section 301.7701 is amended by revising section 7701(a)(20), by adding paragraphs (30), (31), (33), and (34) to section 7701(a), and by revising the historical note. These amended and added provisions read as follows:

§ 301.7701 Statutory provisions; definitions.

Sec. 7701. *Definitions.* (a) When used in this title where not otherwise distinctly expressed or manifest incompatible with the intent thereof—

* * * * *

(20) *Employee.* For the purpose of applying the provisions of section 79 with respect to group-term life insurance purchased for employees, for the purpose of applying the provisions of sections 104, 105, and 106 with respect to accident and health insurance or accident and health plans, for the purpose of applying the provisions of section 101(b) with respect to employees' death benefits, and for the purpose of applying the provisions of subtitle A with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, the term "employee" shall include a full-time life insurance salesman who is considered an employee for the purpose of chapter 21, or in the case of services performed before January 1, 1951, who would be considered an employee if his services were performed during 1951.

* * * * *

(30) *U.S. person.* The term "United States person" means—

(A) A citizen or resident of the United States,

(B) A domestic partnership,

(C) A domestic corporation, and

(D) Any estate or trust (other than a foreign estate or foreign trust, within the meaning of section 7701(a)(31)).

(31) *Foreign estate or trust.* The terms "foreign estate" and "foreign trust" mean an estate or trust, as the case may be, the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.

* * * * *

(33) *Regulated public utility.* The term "regulated public utility" means—

(A) A corporation engaged in the furnishing or sale of—

(i) Electric energy, gas, water, or sewerage disposal services, or

(ii) Transportation (not included in subparagraph (C)) on an intrastate, suburban, municipal, or interurban electric railroad, on an intrastate, municipal, or suburban trackless trolley system, or on a municipal or suburban bus system, or

(iii) Transportation (not included in clause (ii)) by motor vehicle—

if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, by a public service or public utility commission or other similar body of the District of Columbia or of any State or political subdivision thereof, or by a foreign country or an agency or instrumentality or political subdivision thereof.

(B) A corporation engaged as a common carrier in the furnishing or sale of transportation of gas by pipeline, if subject to the jurisdiction of the Federal Power Commission.

(C) A corporation engaged as a common carrier (i) in the furnishing or sale of transportation by railroad, if subject to the jurisdiction of the Interstate Commerce Commission, or (ii) in the furnishing or sale of transportation of oil or other petroleum products (including shale oil) by pipeline, if subject to the jurisdiction of the Interstate Commerce Commission or if the rates for such furnishing or sale are subject to the jurisdiction of a public service or public utility commission or other similar body of the District of Columbia or of any State.

(D) A corporation engaged in the furnishing or sale of telephone or telegraph service, if the rates for such furnishing or sale meet the requirements of subparagraph (A).

(E) A corporation engaged in the furnishing or sale of transportation as a common carrier by air, subject to the jurisdiction of the Civil Aeronautics Board.

(F) A corporation engaged in the furnishing or sale of transportation by common carrier by water, subject to the jurisdiction of the Interstate Commerce Commission under part III of the Interstate Commerce Act, or subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act of 1933.

(G) A railroad corporation subject to part I of the Interstate Commerce Act, if (i) substantially all of its railroad properties have been leased to another such railroad corporation or corporations by an agreement or agreements entered into before January 1, 1954, (ii) each lease is for a term of more than 20 years, and (iii) at least 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from such leases and from sources described in subparagraphs (A) through (F), inclusive. For purposes of the preceding sentence, an agreement for lease of railroad properties entered into before January 1, 1954, shall be considered to be a lease including such term as the total number of years of such agreement may, unless sooner terminated, be renewed or continued under the terms of the agreement, and any such renewal or continuance under such agreement shall be considered part of the lease entered into before January 1, 1954.

(H) A common parent corporation which is a common carrier by railroad subject to part I of the Interstate Commerce Act if at least 80 percent of its gross income (computed without regard to capital gains or losses) is derived directly or indirectly from sources described in subparagraphs (A) through (F), inclusive. For purposes of the preceding sentence, dividends and interest, and income from leases described in subparagraph (G), received from a regulated public utility shall be considered as derived from sources described in subparagraphs (A) through (F), inclusive, if the regulated public utility is a member of an affiliated group (as defined in section 1504) which includes the common parent corporation.

The term "regulated public utility" does not (except as provided in subparagraphs (G) and (H)) include a corporation described in subparagraphs (A) through (F), inclusive, unless 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from sources described in subparagraphs (A) through (F), inclusive. If the taxpayer establishes to the satisfaction of the Secretary or his delegate that (I) its revenue from regulated rates described in subparagraph (A) or (D) and its revenue derived from unregulated rates are derived from the operation of a single interconnected and coordinated system or from the operation of more than one such system, and (II) the unregulated rates have been and are substantially as favorable to users and consumers as are the regulated rates, then such revenue from such unregulated rates shall be considered, for purposes of the preceding sentence, as income derived from sources described in subparagraph (A) or (D).

(34) *Estimated income tax.* The term "estimated income tax" means—

(A) In the case of an individual, the estimated tax as defined in section 6015(c), or

(B) In the case of a corporation, the estimated tax as defined in section 6154(c).

[Sec. 7701 as amended by sec. 22 (g) and (h), Alaska Omnibus Act (73 Stat. 140, 147); sec. 18 (i) and (j), Hawaii Omnibus Act (74 Stat. 416); sec. 108(t), Social Security Amendments 1960 (74 Stat. 941); secs. 6(c) and 7(h), Rev. Act 1962 (76 Stat. 982, 988); sec. 5, Act of Oct. 23, 1962 (Pub. Law 87-870, 76 Stat. 1161); secs. 204(a)(3) and 234 (b)(3), Rev. Act 1964 (78 Stat. 36, 114); sec. 102(b)(5), Tax Adjustment Act 1966 (80 Stat. 64); sec. 108(1)(1), Foreign Investors Tax Act 1966 (80 Stat. 1554); sec. 108 (e)(3), Revenue and Expenditure Control Act 1968 (82 Stat. 264)]

[FR Doc.74-29666 Filed 12-20-74;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 280]

EASTERN PACIFIC TUNA FISHERIES

Proposed Continuation of Experimental Program

The resolution adopted by the Inter-American Tropical Tuna Commission for 1975 recommends to continue in 1975 the experimental fishing program in effect since 1969.

The Commission's resolution for 1975, as in 1974, allows vessels of 400 tons carrying capacity or less to fish for yellowfin tuna within the regulatory area during the closed season under such restrictions as may be necessary to limit the catch of yellowfin by such vessels to 6000 tons during 1975. Regarding this allotment, the National Marine Fisheries Service will entertain comments from the industry or interested persons on changes to the present distribution of the allotment to vessels under 400 short tons carrying capacity. The total allotment tonnage for distribution for 1975 is 6700 short tons. The additional 700 tons allotted to the vessels of 400 short tons carrying capacity or less is expected to be available from the unused portion of the overall country 15 percent incidental catch.

Experience gained since the last publication of amendments to the yellowfin tuna regulations on May 1, 1974, indicates a need for further amendments to the regulations to make them more effective in implementing the yellowfin conservation recommendations of the Commission.

An explanation of the proposed amendments follows:

1. In § 280.1(p) a new definition is added to eliminate certifications required by § 280.9(f-g) which are not necessary to the yellowfin conservation program.

2. Section 280.6(b) and § 280.7(d)(1) are amended in order to adopt a constant reporting time frame. This is especially important because some foreign countries may wish to utilize the United States reporting procedures as an aid to enforcement of their regulations in 1975. The time designation is felt to be universally used and understood.

3. Section 280.7(a)(1) is amended to immediately implement emergency measures for 1975 which may be communicated by the Director of Investigations. The Commission recognized in its Resolution for 1975 that any emergency measures adopted at a special meeting (tentatively scheduled for March 3, 1975) must be implemented promptly by the Contracting Governments if such measures are to have the conservation effects intended. Interested persons are therefore notified that publication of such emergency measures in accordance with normal rulemaking is expected to be impracticable and that good cause is expected to exist for making such measures effective less than 30 days from publication.

4. Section 280.7(a)(1) is amended to qualify vessels which are fishing off Africa when the open season for yellowfin tuna ends in 1975 for a last open season trip by eliminating the requirement that such vessels must be in an actual port on the closure date. The in-port requirement for such vessels is not necessary to the IATTC conservation program because the location of these vessels in the Atlantic or Caribbean at the closure precludes the potential for illegal fishing in the regulatory area prior to the departure of such vessels on their last open season trip. However, it should be noted that the proposed amendment does not eliminate the other requirements of § 280.7(a)(1-2), including the condition that the vessel must have completed a voyage in the regulatory area during the current open season or the previous year, and that departure from an actual port must be made within 30 days after the closure and under the conditions of § 280.7(a)(2).

5. Section 280.7(b)(3) is amended to better enable us to keep proper records of the yellowfin catches made against the bait and jig boat allotment. A large number of bait and jig boats are not members of any boat owner's association; and some have fished on the allotment without our knowledge, with the result that the bait boat allotment for 1974 was exceeded. Without notification prior to a vessel's leaving on such a trip, we would need to compensate for these unknown trips, with a possibility that the reversion to a 15 percent incidental catch would occur sooner than was actually necessary.

6. Section 280.7(f)(1) is amended to spell out a vessel's obligations and alleviate the problems resulting from the failure of vessels to provide NMFS with timely notification prior to unloading.

7. Section 280.7(h) is revised to stop the sale in a foreign country of yellowfin tuna which was taken in excess of the closed season restrictions.

Before final adoption of amendments, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731, on or before January 15, 1975.

Interested persons will also be afforded an opportunity to comment orally on the proposed amendments at a public hearing to be held in the United Portuguese Club, 2818 Addison Street, San Diego, California, beginning at 9:30 a.m., January 10, 1975. Any person who intends to testify at this hearing is requested to furnish in writing prior to the hearing his name and the name of the organization he represents, if any, to the said Regional Director.

The proposed amendments are issued under the authority contained in subsection (c) of section 6 of the Tuna Conventions Act of 1950, as amended (16 U.S.C. 955(c)), as modified by Reorganization Plan No. 4, effective October 3, 1970 (35 FR15627).

Issued at Washington, D.C., and dated December 17, 1974.

JACK W. GEHRINGER,
Acting Director.

The proposed amendments are described below.

1. Section 280.1 is amended by adding a new definition, reading as follows:

§ 280.1 Definitions.

* * * * *

(p) Port facility in the Americas. All port facilities in North, South, and Central America, including all the Caribbean ports, but excluding ports in Argentina, Brazil, and Uruguay.

§ 280.6 [Amended.]

2. Section 280.6(b) is amended by changing the phrase "* * * between 0800 and 1000 hours local California time." to read "* * * between 1600 Greenwich Mean Time (G.m.t.) and 1800 G.m.t."

§ 280.7 [Amended]

3. Section 280.7(a)(1) is amended by the addition of a new section to the end of the existing language, to read as follows: ": *Provided, however,* That if the Director of Investigations, as a result of emergency measures adopted at a special meeting of the Commission, notifies the Contracting Governments to the Convention that further unrestricted fishing for yellowfin tuna shall cease, or that other measures must be taken to protect the stocks, every fishing vessel at sea, having yellowfin tuna aboard in excess of the incidental catch limitations provided in § 280.7(b), shall return directly without delay to its home port or port of departure to unload or to receive an inspection by a designated agent of the National Marine Fisheries Service. This

requirement shall take effect upon publication of notice in the FEDERAL REGISTER by the Service Director, or on a date to be specified in such notice. Any vessel failing to comply with the above requirements shall be restricted to the incidental catch limitations of § 280.7(b) for its entire fishing voyage; vessels in port on the effective date of such notice will not be allowed an additional unrestricted fishing voyage, but shall be subject to the incidental catch limitations of § 280.7(b). Other, less restrictive, measures may be specified, in the manner provided above, as necessary to implement the notification from the Director of Investigations."

4. Section 280.7(a)(1) is amended by the addition of a new sentence at the end of the paragraph as amended in (3) above, to read as follows: "A vessel which is in the Atlantic Ocean or the Caribbean Sea at the closure shall, for the purposes of this paragraph (a)(1) of § 280.7 only, be considered to be 'in port'."

5. Section 280.7(b)(3) is amended by the addition of a new sentence between the existing second and third sentences to read as follows: "During the period of the closed season that bait and jig boats are fishing for their allotments, all such boats must notify the Regional Director when they depart port on a fishing voyage."

6. Section 280.7(d)(1) is amended by changing the phrase "* * * between 0800 and 1000 hours local California time." to read "* * * between 1600 Greenwich Mean Time (G.m.t.) and 1800 G.m.t."

7. Section 280.7(f)(1) is amended by the addition of a new sentence before the last sentence of the paragraph, to read as follows: In addition, the Regional Director shall be notified not less than 48 hours in advance of the date and place of any unloadings from inspected vessels.

8. Section 280.7(h) is revised to read as follows: (h) All fishing vessels wishing to sell or deliver in a foreign country fish caught in the Pacific Ocean, either within or outside the regulatory area, must first obtain express permission from the Regional Director prior to unloading. Requests for such permission shall be made at least 48 hours prior to the desired date of such sale or delivery and shall include the tonnage by species to be unloaded, whether such fish were caught within or outside the regulatory area, and the desired date and place of unloading. The Regional Director may deny permission or set such conditions, including a different date or place of unloading, as are necessary to insure compliance with the provisions of these regulations.

[FR Doc.74-29776 Filed 12-20-74;8:45 am]

CIVIL SERVICE COMMISSION

[5 CFR Part 890]

COMPREHENSIVE HEALTH BENEFITS PLAN NETWORKS

Proposed Approval Procedures

Notice is hereby given that under authority of section 8913 of title 5, United States Code, it is proposed to add § 890.204 to Subpart B of Part 890 of Chapter I of Title 5 of the Code of Federal Regulations to provide for the approval of comprehensive health benefits plan networks.

It is the opinion of the Civil Service Commission that the present health benefits statute (chapter 89 of title 5, United States Code) permits the Commission to enter into contracts for one or more networks of group-practice or individual-practice comprehensive health benefit plans. However, an amendment to the existing health benefits regulations is necessary, to establish the rules and procedures for such networks to be approved for participation in the Federal Employees Health Benefits Program, and to give public notice that the Civil Service Commission will entertain applications by organizations interested in offering such networks under this program.

Carriers and other interested persons may submit written comments, objections, or suggestions to the Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission, Washington, D.C. 20415, on or before January 22, 1974.

Accordingly, it is proposed to amend Part 890 by adding a new § 890.204 to Subpart B to read as follows:

§ 890.204 Comprehensive Plan Networks.

(a) *Discretionary approval.* The Commission may, in its discretion, approve the offering by a qualified carrier of a network of five or more group-practice plans or a network of five or more individual-practice plans when it determines that approval would afford employees and annuitants in the geographic areas to be served by the plans an additional choice in the method of obtaining health care. Letter application for approval may be made by the carrier to the Commission. Participation of an approved network becomes effective on the January 1st which is (1) at least nine months after the Commission receives the application and (2) at least six months after the Commission has received all evidence to demonstrate that the carrier and plans in the network have met all requirements for approval.

(b) *Qualified carriers.* For purposes of this section a carrier is a legal entity defined in section 8901(7) of title 5, United States Code, and which provides assurances satisfactory to the Commission that it has:

(1) At least five years recent successful experience in operating a health benefits plan of the indemnity, service, group- or individual-practice type.

(2) Financial resources sufficient to guarantee the solvency of each plan in the network it offers, and

(3) Arrangements in effect to monitor the operations, including the administration and prompt availability and quality of care, of each plan in the network it offers and the ability to promptly correct deficiencies in such operations.

(c) *Compliance with law and regulations.* Each carrier offering a network of plans must agree, in its own behalf and in behalf of each plan in the network, to comply with those provisions of chapter 89 of title 5, United States Code and of this Part which, in the judgment of the Commission, apply to their operation and are not inconsistent with provisions of this section.

(d) *Carrier certification.* No offering of a network of plans shall be approved and no new plan shall be added to an existing network unless the carrier certifies, in the form specified by the Commission, either that each plan is a "qualified health maintenance organization" as that term is defined in section 1310 (d) of the Health Maintenance Organization Act of 1973, or that, as of the date of certification, it has—

(1) Been in operation for at least one year,

(2) At least 5,000 enrollees, exclusive of family members,

(3) Contracts to provide prepaid health care with at least ten employers, and

(4) A formal procedure in effect for adjusting complaints from enrollees.

(e) *Additional requirements for group-practice networks.* No offering of a network of group-practice plans shall be approved and no plan shall be added to an existing network unless the carrier certifies, in the form specified by the Commission, that each such plan:

(1) Has physicians practicing as a group in a common center or centers,

(2) Includes physicians representing at least three major medical specialties who receive at least 75 percent of their professional income from prepaid funds,

(3) Provides a full range of medical care, including preventive care, and reasonable indemnities for emergency care obtained outside the area served by the plan, and

(4) Is community-rated.

(f) *Additional requirements for individual-practice networks.* No offering of a network of individual-practice plans shall be approved and no plan shall be added to an existing network unless the carrier certifies, in the form specified by the Commission, that each such plan:

(1) Has contracts or other binding agreements with participating physicians who constitute at least 50 percent of the physicians in the area served by the plan which require their acceptance of payments by the plan as full or substantially full payment for covered services,

(2) Provides a full range of medical care, including in-hospital services, general home and office care, out-of-hospital diagnostic procedures, preventive care, and reasonable indemnities for care, obtained from nonparticipating physicians.

(3) Pays its participating physicians on the same basis (e.g., fee-for-service, periodic per capita payment), as all other plans in the network, and

(4) Assumes 100 percent of the financial risk attributable to providing physician and related care (but not necessarily services and supplies provided and

billed for by nonphysician providers), except that the carrier may assume such risk for all plans in the network.

(g) *Uniform benefits and enrollment charges.* All plans in a network shall provide the same benefits at the same enrollment charges.

(h) *Enrollment charges for group-practice networks.* Under such formulae as may be agreed to by the carrier and the Commission, the enrollment charges for a group-practice network shall be community-rated and be developed by averaging the community rates of each of the plans in the network, adjusted by such increments and decrements as are appropriate to account for differences between the benefits and features offered Federal employees and those offered other subscribers in the community, with each such rate weighted by the number of self-only and self-and-family enrollees in each plan in the network as of June 30 preceding the year in which the enrollment charges apply. For a newly approved network, or for a plan newly added to a network, the plans', or plan's, weighted adjusted community rate shall be used in computing the average. An increment, as agreed upon by the carrier and the Commission, for the reasonable and necessary operating expenses of the carrier shall be included in the development of enrollment charges but increments for risk, service, or similar charges to be retained by the carrier or for capital expenditures or the accumulation of reserves (other than the contingency reserve) shall not be included.

(i) *Enrollment charges for individual-practice networks.* Enrollment charges for an individual-practice network may be community-rated and developed as provided in paragraph (h) of this section for a group-practice network if the plans in the network pay participating physicians on other than a fee-for-service basis, or they may be experience-rated so that any net gains, plus earnings from their investment, or losses on the operations of the network in one year are taken into account in developing the enrollment charges for the next year. For experience-rated networks, increments, as agreed upon by the carrier and the Commission, for maintaining reserves considered prudent by agreement of the Carrier and the Commission, and for the actual, reasonable, and necessary operating expenses of the carrier and the plans shall be included in the development of enrollment charges but increments for risk, service, or similar charges to be retained by the carrier or the plans shall not be included. Reserves shall be prudently invested by the carrier and earnings credited to the reserves. Upon termination of an experience-rated network any reserves or operating gains, plus earnings thereon, held by the carrier after all its liabilities attributable to the operation of the network have been paid shall revert to the contingency reserve for the network in the Employees Health Benefits Fund.

(j) *Move from the area served by network plan.* An employee or annuitant enrolled in a network plan who moves out of the area served by the plan into an area served by another plan in the same network continues the enrollment and is entitled to benefits from the other plan. If the move is to an area not served by another plan in the same network, he may change plans under § 890.301.

(k) *Plans added to network.* Each plan added to a network must be approved in advance by the Commission. Letter application for approval, may be made by the carrier to the Commission. Addition of an approved plan becomes effective on the January 1st which is (1) at least nine months after the Commission receives the application and (2) at least six months after the Commission receives all certifications required for approval.

(l) *Summary withdrawal of approval.* The Commissioners may, in their discretion, summarily withdraw approval of a plan (or plans) in a network if they find that the plan is not in compliance with the applicable provisions of chapter 89 of title 5, United States Code or of this part, or that the certifications mentioned in paragraph (d) and (e) or (f) of this section are unwarranted, or that the continued offering of the plan is inimical to Federal employees or annuitants or to the Federal Employees Health Benefits Program.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74-29730 Filed 12-20-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 310-3]

CALIFORNIA

Approval and Disapproval of Compliance Schedules

On May 31, 1972 (37 FR 10842), September 22, 1972 (37 FR 19812), and May 14, 1973 (38 FR 12702), pursuant to Section 110 of the Clean Air Act, as amended (42 U.S.C. § 1857c-5) and 40 CFR Part 51, the Administrator approved and promulgated portions of the California plan for the implementation of the national ambient air quality standards. On June 19, September 4 and 19, and October 18, 1974, after notice and public hearings, the Governor of California through his designee submitted to the Environmental Protection Agency (EPA) revisions to the state compliance schedule portion of the approved plan. This publication proposes that these revisions be approved, with specific exceptions discussed below, pursuant to section 110 of the Clean Air Act and 40 CFR 51.8.

Seventy-four compliance schedules were submitted. Two of the schedules are ambiguous regarding the specific regulations with which the subject sources are required to comply. Therefore no formal action will be taken by EPA regarding these schedules pending clarification by the State. One schedule requires compliance with a regulation for the control of pollutants for which the Administrator of EPA has not established national standards. Since EPA has no authority to promulgate or enforce such a regulation, it will take no formal action regarding the compliance schedule. However, the lack of such action by EPA in no way affects the ability of the state or local air pollution control agency to enforce the schedule.

It is proposed to disapprove 2 schedules, Monolith Portland Cement Company and Simpson Lee Paper Company, because the final compliance date in each schedule extends beyond the allowable attainment date as specified in 40 CFR 52.238.

The remaining 69 schedules have been found to satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51. However, 40 of these 64 schedules have expired and the affected sources are now required to be in compliance with the applicable air pollution control regulations. Therefore, EPA will take no action with regard to the compliance schedules submitted for these sources. It is proposed that the remaining 29 schedules listed below be approved as revisions to the State plan.

Each proposed compliance schedule revision establishes a new date by which an individual air pollution source must comply with an emission limitation specified by the implementation plan. This date is indicated in the table below, under the heading "Final Compliance Date." In some cases, the schedule includes incremental steps towards compliance with the specified regulations. While the table below does not include these interim dates, the actual compliance schedule does. The increments of progress, as well as the final compliance date, are legally enforceable by the Administrator pursuant to section 113 of the Clean Air Act, as amended.

The heading "Effective Date" in the table below refers to the date the compliance schedule becomes effective for purposes of federal enforcement. The entry "Immediately" under that heading indicates that the schedule will be federally enforceable when the final promulgation of the schedule becomes effective.

Proposed compliance schedule revisions listed below are available for public inspection at the California Air Resources Board, at the office of EPA, Region IX, and at EPA's Washington, D.C. office, at the addresses listed below. An evaluation report setting forth EPA's position on each of the 74 schedules is also available at the office of EPA, Region IX.

State of California Air Resources Board
1709 11th Street
Sacramento CA 95814

Environmental Protection Agency, Region IX
Enforcement Division
100 California Street
San Francisco CA 94111

Environmental Protection Agency
Division of Stationary Source Enforcement
Room 3304
401 M Street SW.
Washington DC 20460

Interested persons are encouraged to submit written comments on any proposed compliance schedule. All comments postmarked on or before January 22, 1974, will be considered by EPA prior to finalizing this proposed rulemaking. Comments should be addressed to: Director, Enforcement Division, EPA, Region IX, 100 California Street, San Francisco, California 94111. All comments will be available for public inspection during business hours at the above address.

This proposed rulemaking is issued under the authority of section 110(a) of the Clean Air Act, as amended (42 U.S.C. 1857c-5(a)).

Dated: December 11, 1974.

PAUL DEFALCO,
Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart F—California

1. In § 52.220, paragraph (c) is amended as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(8) Supplemental information (compliance schedules) was submitted by the California Air Resources Board on December 27, 1973, February 19, April 22, June 7 and 19, September 4 and 19, and October 18, 1974.

2. In § 52.240, paragraph (g) is amended by adding the following schedules to the table in subparagraph (1):

§ 52.240 Compliance schedules.

* * * * *

(g) * * *

(1) * * *

Source	Location (county)	Rule or regulation involved	Date of adoption	Effective date	Final compliance date
Diamond International Corp. (Chico).	Butte	2-2, 2-4, 2-5	July 31, 1974	Immediately	Jan. 2, 1975
Amstar Corp., [illegible]	Fresno	404, 405	June 19, 1974	do	Dec. 31, 1974
Holtville Alfalfa Mills (dehydrating system) (order No. 1b).	Imperial	114, 121	Apr. 16, 1974	do	Jan. 31, 1975
Standard Oil Co. of California (order No. 74-7).	Kern	413	June 6, 1974	do	Feb. 1, 1975
General Motors Corp., General Motors Assembly Division (order No. 1504-2).	Los Angeles	66(c)	June 25, 1974	do	July 1, 1975
U.S. Air Force—Norwalk facility	do	61	June 20, 1974	do	May 31, 1975
American Forest Products (Oakhurst).	Madera	403	May 20, 1974	do	Dec. 10, 1974
USAF, Castle Air Force Base (classified waste incinerator).	Merced	417	Apr. 25, 1974	do	May 31, 1975
Tenneco, Inc. (order No. 66)	Monterey	426	Jan. 24, 1974	do	July 1, 1975
Kerr Glass Manufacturing Corp. (order No. 73-101).	Orange	54, 52, 54	June 12, 1974	do	Dec. 15, 1974
USAF, March Air Force Base (order No. 6-74).	Riverside	61	Mar. 19, 1974	do	July 31, 1975
E. C. De Young, Inc. (order No. 106).	San Bernardino	50, 50A	Jan. 10, 1974	do	Jan. 1, 1975
La Habra Products, Inc. (order No. 107).	do	50, 50A	Feb. 21, 1974	do	Do.
Tuft-West, Inc. (order No. 76-D)	do	50, 50A	do	do	Do.
Diamond Walnut Growers, Inc. (order No. 74-17).	San Joaquin	403, 404	May 14, 1974	do	June 15, 1975
Haley Brothers, Inc. (order No. 74-20).	do	404	June 20, 1974	do	Jan. 1, 1975
Phillips Petroleum Co. (order No. 74-14).	do	410, 412	Mar. 21, 1974	do	Dec. 31, 1974
Port of Stockton (order No. 73-8)	do	403, 405	Apr. 16, 1974	do	May 1, 1975
Union Oil Co. (order No. 74-16)	do	412	Mar. 21, 1974	do	Dec. 31, 1974
Johns-Manville Products Corp. (order No. 7).	Santa Barbara	16	Mar. 11, 1974	do	July 31, 1975
U.S. Plywood, Division of Champion International (order No. 74-2).	Siskiyou	4.1	Apr. 15, 1974	do	Jan. 31, 1975
East-West Dairymen's Association (order No. 12).	Stanislaus	403, 405	July 24, 1974	do	July 24, 1975
Farmers Warehouse (order No. 7)	do	403, 405	Apr. 17, 1974	do	Mar. 13, 1975
Paramount-McKesson, Inc. (order No. 8).	do	403, 405	do	do	Apr. 6, 1975
Haig Berberian, Inc. (order No. 10).	do	404, 405	July 24, 1974	do	Dec. 15, 1974
Knudsen Corp. (order No. 9)	do	405, 406	do	do	Apr. 17, 1975
Glen A. Wells Co. (order No. 13)	Tulare	401, 404, 405	May 14, 1974	do	Jan. 1, 1975
Glen A. Wells Co. (order No. 14)	do	401, 404, 405	do	do	Do.
Pacific International Rice Mills, Inc. (order No. 74-003).	Yolo	2.19	Apr. 17, 1974	do	Apr. 17, 1975

3. In § 52.240, paragraph (g) is amended by adding a new subparagraph (2) as follows:

§ 52.240 Compliance schedules.

* * * * *

(g) * * *

(2) The compliance schedules for the sources identified below are disapproved as not meeting the requirements of § 51.15 of this chapter. All regulations cited are air pollution control regulations of the county in which the source is located, unless otherwise indicated.

	Source	Location (county)	Rule or regulation involved	Date of adoption	Effective date	Final compliance date
Simpson Lee Paper Co. (order No. 72-V-7).		Shasta	3.2	Oct. 31, 1973	Immediately	Jan. 15, 1976
Monolith Portland Cement Co. (order No. 73-6 as amended Mar. 11, 1974).		Kern	401(b), 404.1, 405	Dec. 31, 1973	do	July 1, 1976

[FR Doc.74-29709 Filed 12-20-74;8:45 am]

[40 CFR Part 52]

[FRL 309-8]

GEORGIA

Approval and Promulgation of Implementation Plans

Section 110 of the Clean Air Act and the implementing regulations of 40 CFR Part 51 require each State to submit a plan which provides for the attainment and maintenance of the national ambient air quality standards throughout its territory. Each such plan is to contain legally enforceable compliance schedules setting forth the dates by which all sources must be in compliance with any applicable requirements of the plan.

On February 13, 1974 (39 FR 5504), the Administrator published as proposed rulemaking a number of individual compliance schedules submitted by the State of Georgia pursuant to these requirements. Additional schedules were proposed on October 3, 1974 (39 FR 35681). At that time the Administrator noted that the State had, on August 2, 1974, submitted a number of schedules which had not received a public hearing. These schedules, in the form of temporary operating permits, were subsequently resubmitted on November 7, 1974 after notice and public hearing; additional temporary operating permits were submitted for the first time on the same date. On October 8, 1974, Georgia submitted a number of temporary operating permits for sources previously subject to consent orders. These schedules are now offered as proposed rulemaking, and the public is invited to comment on them.

Each of the proposed compliance schedules identified below establishes a date by which an individual air pollution source must attain compliance with an emission limitation of the State implementation plan. This date is indicated under the heading "Final Compliance Date". In most cases the schedule includes incremental steps toward compliance, with interim dates for achieving these steps. While the table below does not list these dates, the actual schedules do. The notation "Immediately" under the heading "Effective Date" means that the schedule will become Federally enforceable immediately upon its approval by the Administrator.

The compliance schedules listed below are available for public inspection at the following locations:

Air Programs Office
Environmental Protection Agency
Region IV
1421 Peachtree Street, NE.
Atlanta, Georgia 30309

Air Quality Control Section
Environmental Protection Division
Georgia Department of Natural Resources
19 Hunter Street, SW.
Atlanta, Georgia 30334

Freedom of Information Center
Environmental Protection Agency
401 M Street, SW.
Washington, D.C. 20460

An evaluation of any schedule may be obtained by consulting personnel of the Agency's Region IV Air Programs Office at the Atlanta address given above.

Each of the schedules was adopted by the State and submitted to the Agency after notice and public hearing as required by 40 CFR 51.4. Each also satisfies the substantive requirements of 40 CFR 51.6 and 51.15 pertaining respectively to plan revisions and compliance schedules, and is consistent with the approved control strategies of the Georgia plan. None of these schedules involves regulations now under litigation.

All interested parties are encouraged to submit written comments on these proposed compliance schedules. To be considered, such comments must be received on or before January 22, 1975. After carefully weighing the relevant comments received and all other available information in the light of requirements set forth in the Clean Air Act and in the implementing regulations of 40 CFR Part 51, the Administrator will take approval/disapproval action on the schedules. Comments should be addressed to the attention of John Eagles at the Agency's Region IV Air Programs Office (address given above).

(Sec. 110(a), Clean Air Act (42 U.S.C. 1857c-5(a)))

Dated: December 13, 1974.

JACK E. RAVAN,
Regional Administrator,
Region IV.

It is proposed to amend Part 52 of Chapter I, Title 40, Code of Federal Regulations, as follows:

Subpart L—Georgia

§ 52.570 [Amended]

1. Section 52.570(c) is amended by inserting in paragraph (4) the following dates in proper chronological order: October 8 and November 7 (1974).

2. Section 52.576 is added as follows:

§ 52.576 Compliance schedules.

(a) The compliance schedules for the sources identified below are approved as meeting the requirements of § 51.6 and § 51.15 of this chapter. All regulations cited are air pollution control regulations of the State.

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Source	Location	Regulation involved	Date of adoption	Effective	Final compliance date
American Coach Co., conical burner, permit No. 2421-095-1595-T.	Milledgeville, Baldwin County.	391-3-1-.02 (2)(L).	Oct. 30, 1974	Immediately...	Dec. 31, 1974
American Cyanamid Co., kaolin clay processing facilities, permit No. 2[illegible]-094-1609-T.	Anderson, Sumter County.	391-3-1-.02 (2)(N).	do	do	Nov. 30, 1974
American Industrial Clay Co., kaolin clay processing facilities, permit No. 2[illegible]-130-1231-T.	Sandersville, Washington County.	391-3-1-.02 (2)(N), 391-3-1-.02 (2)(P).	do	do	Dec. 31, 1974
Associated Rubber Co., facility for the reclaiming of rubber, permit No. 2[illegible]-071-1256-T.	Tallapoosa, Haralson County.	391-3-1-.02 (2)(A).	do	do	July 1, 1975
Augusta Building Supply, ready mix concrete facility, permit No. 2[illegible]-121-1433-T.	Augusta, Richmond County.	391-3-1-.02 (2)(N).	do	do	Do.
Babcock and Wilcox Co., kaolin clay processing facility, permit No. 2[illegible]-121-1719-T.	Hephzibah, Richmond County.	391-3-1-.02 (2)(N).	do	do	Jan. 1, 1975
Bainbridge Tie & Lumber Co., lumber company—open burning of waste, permit No. 2421-[illegible]-1801-T.	Fowlstown, Decatur County.	391-3-1-.02 (2)(A).	do	do	Dec. 31, 1974
Balfour Lumber Co., conical burner only, permit No. 2421-[illegible]-1686-T.	Thomasville, Thomas County.	391-3-1-.02 (2)(L).	do	do	Do.
Bostwick Gin, cotton gin, permit No. 0724-104-1474-T.	Bostwick, Morgan County.	391-3-1-.02 (2)(Q).	do	do	Aug. 15, 1974
Burgess Pigment Co., kaolin clay processing facilities, permit No. 2[illegible]-130-1661-T.	Sandersville, Washington County.	391-3-1-.02 (2)(N), 391-3-1-.02 (2)(P).	do	do	Aug. 1, 1974
C. & S. Block, Inc., concrete block facility, permit No. 2271-[illegible]-1725-T.	Dalton, Whitfield County.	391-3-1-.02 (2)(N).	do	do	July 1, 1974
Cohutta Talc Co., Inc., talc processing facility, permit No. 2[illegible]-106-1662-T.	Chatsworth, Murray County.	391-3-1-.02 (2)(N).	do	do	Aug. 31, 1974
Collins Ready Mix Concrete, Inc., ready mix concrete facility, permit No. 2273-012-1246-T.	Jackson, Butts County.	391-3-1-.02 (2)(N).	do	do	Sept. 30, 1974
Columbia Nitrogen Corp., granular fertilizer manufacturing plant, permit No. 2871-211-1341-T.	Macon, Bibb County.	391-3-1-.02(2) (R), 391-3-1-.02(2)(N).	do	do	Dec. 31, 1974
Columbia Nitrogen Corp., sulfuric acid plant, permit No. 2871-093-1390-T.	Moultrie, Colquitt County.	391-3-1-.02(2) (N).	do	do	Do.
Coastal Timber Lands, Inc., conical burner, permit No. 2421-[illegible]-1596-T.	Gray-Jones County.	391-3-1-.02(2) (L).	do	do	Do.
Dave T. Brown Lumber Co., lumber waste, open burning, permit No. 2421-043-1705-T.	Trenton, Dade County.	391-3-1-.02(2) (A).	do	do	Do.
E. C. Carter Gin Co., cotton gin, permit No. 0724-016-1557-T.	Portal, Bulloch County.	391-3-1-.02(2) (Q).	do	do	Aug. 15, 1974
J. U. Barber Lumber Co., Inc., conical burner, permit No. 2421-[illegible]-1567-T.	Lothairville, Meriwether County.	391-3-1-.02(2) (L).	do	do	Dec. 31, 1974
V. Albert Brown Lumber Co., conical burner, permit No. 2421-156-1510-T.	Warthen, Washington County.	391-3-1-.02(2) (L).	do	do	Do.
W. C. Bradley Co., cotton gin, permit No. 0724-128-1563-T. mix concrete facility, permit No. 2271-092-1708-T.	Dunaka, Stewart County. Lowndes County.	391-3-1-.02(2) (Q). (N).	do	do	Aug. 15, 1974
Concrete Industries, Inc., concrete products facility, permit No. 2271-047-1709-T.	Albany, Dougherty County.	391-3-1-.02(2)-(N).	do	do	Do.
Cornell-Young Co., ready mix concrete facility, permit No. 2273-011-1502-T.	Macon, Bibb County.	391-3-1-.02(2)-(N).	do	do	Aug. 30, 1974
Cornell-Young Co., ready mix concrete facility, permit No. 2273-011-1501-T.	do	391-3-1-.02(2)-(N).	do	do	May 15, 1975
Damascus Lumber Co., lumber company—open burning of wastes, permit No. 2421-048-1788-T.	Damascus, Early County.	391-3-1-.02(2)-(A).	do	do	Dec. 31, 1974
Davis Lumber Co., lumber company—open burning of wastes, permit No. 2421-047-1744-T.	Albany, Dougherty County.	391-3-1-.02(2)-(A).	do	do	Do.
Day Co's., conical burner only, permit No. 2421-120-1697-T.	Cuthbert, Randolf County.	391-3-1-.02(2)-(L).	do	do	Dec. 15, 1974
Del-Cook Lumber Co., conical burner No. 1, conical burner No. 2, permit No. 2421-087-1736-T.	Adel, Cook County.	391-3-1-.02 (2)(L)	do	do	Dec. 31, 1974
Eagle-Picher Industries; zinc and manganous oxide line, permit No. 2875-113-1707-T.	Cedartown, Polk County.	391-3-1-.02 (2)(N)	do	do	Feb. 15, 1975
Espy Materials, Inc., ready mix concrete facility, permit No. 2273-025-1506-T.	Savannah, Chatham County.	391-3-1-.02 (2)(Q)	do	do	Jan. 31, 1975
Feed Seed and Farm Supplies, Inc., feed mill, permit No. 2048-124-1549-T.	Sylvania, Screven County.	391-3-1-.02 (2)(N)	do	do	Do.

	Source	Location (county)	Rule or regulation involved	Date of adoption	Effective date	Final compliance date
	Freeman Lumber Co., conical burner, permit No. 2442-158-1304-T.	Tennsboro, Wilkinson County.	391-3-1-.02 (2)(L)	do	do	Dec. 31, 1974
	Freeport Kaolin Co., kaolin clay processing facilities, permit No. 3295-139-1673-T.	Gordon, Wilkinson County.	391-3-1-.02 (2)(N)	do	do	July 1, 1975
	General American Transportation Corp., sandblasting of railroad cars, disposal of paint residue and spray painting of railroad cars, permit No. 3743-148-1622-T.	Waycross, Ware County.	391-3-1-0.2 (2)(N)	do	do	Dec. 15, 1974
	General Refractories Co., kaolin clay processing facilities, permit No. 3295-005-1622-T.	Stevens Pottery, Baldwin County.	391-3-1-.02 (2)(P), 391-3-1-.02(2)(N)	do	do	Feb. 28, 1975
	Georgia Crate and Basket, conical burner only, permit No. 2442-136-1702-T.	Thomasville, Thomas County.	391-3-1-.02 (2)(L)	do	do	Dec. 31, 1974
	Georgia Kaolin Co., kaolin clay processing facilities, permit No. 3295-143-1244-T.	Dry Branch, Bibb County.	391-3-1-.02 (2)(P), 391-3-1-.02 (2)(N)	do	do	Dec. 1, 1974
	Georgia Kaolin Co., kaolin clay bulk terminal facilities, permit No. 3295-025-1717-T.	Savannah, Chatham County.	391-3-1-.02 (2)(N)	do	do	July 31, 1975
	Georgia Marble Co., calcium carbonate, permit No. 3281-061-1668-T.	Whitestone, Pierce County.	391-3-1-.02 (2)(N)	do	do	Do.
	Georgia Talc Co., Inc., aluminum hydrate processing facility, permit No. 3295-105-1714-T.	Chatsworth, Murray County.	391-3-1-.02 (2)(N)	do	do	Sept. 30, 1974
	Georgia Tennessee Mining & Chemical Co., fullers earth clay processing plant No. 8 facilities, permit No. 3295-081-1267-T.	Wrens, Jefferson County.	391-3-1-.02 (2)(P) 391-3-1-.02 (2)(N)	do	do	Sept. 1, 1974
	Cold Kist Fertilizer, superphosphate and granular fertilizer manufacturing plant, permit No. 2871-040-1328-T.	Cordele, Crisp County.	391-3-1-.02 (2)(F), 391-3-1-.02(2)(N)	do	do	Dec. 31, 1974
	Griffin Gin & Supply Co., Inc.; cotton gin, permit No. 0724-150-1561-T.	Meigs, Thomas County.	391-3-1-.02 (2)(Q)	do	do	Aug. 15, 1974
	Hallman Wood Products, Inc., conical burner, permit No. 2411-117-1607-T.	Eatonton, Putnam County.	391-3-1-.02 (2)(L)	do	do	Dec. 31, 1974
	Hardwoods of Georgia Inc., lumber company—open burning of wastes, permit No. 2421-068-1790-T.	Raymond, Coweta County.	391-3-1-.02 (2)(A)	do	do	Do.
	Harris Cement Products, Inc., concrete products facility, permit No. 3272-008-1793-T.	Cartersville, Bartow County.	391-3-1-.02 (2)(N)	do	do	Sept. 30, 1974
	Harris Lumber Co., conical burner, permit No. 2421-028-1586-T.	Ballground, Cherokee County.	391-3-1-.02 (2)(L)	do	do	Dec. 31, 1974
	Harrison Lumber Co., conical burner, permit No. 2421-147-1585-T.	Monroe, Walton County.	391-3-1-.02 (2)(L)	do	do	Do.
	Hatcher Feed Mills, Inc.; feed mill, permit No. 2048-102-1457-T.	Forsyth, Monroe County.	391-3-1-.02 (2)(N)	do	do	Jan. 31, 1975
	Heart of Georgia Peanut & Gin Co., cotton gin, permit No. 0724-116-1567-T.	Hawkinsville, Pulaski County.	391-3-1-.02 (2)(Q)	do	do	Aug. 15, 1974
	Hogan-Scarboro Corp., conical burner, permit No. 2424-87-1589-T.	Dudley, Laurens County.	391-3-1-.02 (2)(L)	do	do	Dec. 31, 1974
	Homerville Pole Co., conical burner, permit No. 2411-32-1559-T.	Homerville, Clinch County.	391-3-1-.02 (2)(L)	do	do	Do.
	Hopeful Peanut and Milling Co., feed mill, permit No. 2048-125-1551-T.	Camilla, Mitchell County.	391-3-1-.02 (2)(N)	do	do	Jan. 31, 1975
	J. M. Huber Corp., kaolin clay processing facilities, permit No. 3295-081-1657-T.	Wrens, Jefferson County.	391-3-1-.02 (2)(N)	do	do	June 1, 1975
	Irvin Lumber Co., lumber company—open burning of wastes, permit No. 2421-154-1745-T.	Cleveland, White County.	391-3-1-.02 (2)(A)	do	do	Dec. 31, 1974
	Jackson Ready Mix Concrete, Inc., ready mix concrete facility, permit No. 3273-078-1627-T.	Commerce, Jackson County.	391-3-1-.02 (2)(N)	do	do	May 15, 1975
	Jones Concrete Co., ready mix concrete facility, permit No. 3273-137-1828-T.	Tifton, Tift County.	391-3-1-.02 (2)(N).	do	do	Do.
	M. C. Jones Lumber Co., Inc., conical burner only, permit No. 2421-134-1701-T.	Milan, Telfair County.	391-3-1-.02 (2)(L).	do	do	Dec. 31, 1974
	Howard G. Kennedy Co., feed mill, permit No. 2048-125-1537-T.	Parrott, Terrell County.	391-3-1-.02 (2)(N).	do	do	Jan. 31, 1975
	Frank G. Lake Sawmill, conical burner, permit No. 2421-079-1616-T.	Monticello, Jasper County.	391-3-1-.02 (2)(L).	do	do	Dec. 31, 1974
	Thiele Kaolin Co., kaolin clay processing facilities, permit No. 3295-002-1664-T.	Stapleton, Jefferson County.	391-3-1-.02 (2)(N).	do	do	June 1, 1975
	Thiele Kaolin Co., kaolin clay processing facility, permit No. 3295-150-1640-T.	Sandersville, Washington County.	391-3-1-.02 (2)(P), 391-3-1-.02 (2)(N).	do	do	Dec. 31, 1974
	Thomason Lumber Co., Inc., conical burner, permit No. 2421-153-1609-T.	Dalton, Whitfield County.	391-3-1-.02 (2)(L).	do	do	Do.
	Thor Mining Co., fullers earth processing facilities, permit No. 3295-130-1716-T.	Ochlocknee, Thomas County.	391-3-1-.02(2) (P), 391-3-1-.02(2)(N)	do	do	Sept. 15, 1974

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Source	Location (county)	Rule or regulation involved	Date of adoption	Effective date	Final compliance date
Transvaal Inc., caprous chloride, Permit No. 2[illegible]-1564-T.	Powder Springs, Cobb County.	391-3-1-.02(2)(A)	do	do	June 18, 1975
Tucker Concrete Co. Inc., ready mix concrete facility, permit No. [illegible]-1732-T.	Tucker, Dealab County.	391-3-1-.02(2)(N)	do	do	June 15, 1975
Waverly Mineral Products Co., fullers earth processing facilities, permit No. 3296-136-1361-T.	Meigs, Thomas County.	391-3-1-.02(2)(P), 391-3-1-.02(2)(N)	do	do	Feb. 1, 1975
Wrightsville Lumber Co., lumber company—open burning of wastes, permit No. 2421-082-1743-T.	Wrightsville, Johnson County.	391-3-1-.02(2)(A)	do	do	Dec. 31, 1974
Young Harris College, 4-60 horsepower coal fired boilers. Permit No. 3221-139-1481-T.	Young Harris, Towns County.	391-3-1-.02(2)(D)	do	do	June 1, 1975
Wilson & Sons, ready mix concrete facility, permit No. 3273-063-[illegible]-T.	Marietta, Cobb County.	391-3-1-.02(2)(N)	do	do	Apr. 30, 1975
Longleaf Industries Inc., conical burner only, permit No. 2421-128-1692-T.	Lumpkin, Stewart County.	391-3-1-.02(2)(L)	do	do	Dec. 31, 1974
Macon Prestressed Concrete Co., prestressed concrete facility, permit No. 3272-011-1710-T.	Macon, Bibb County.	391-3-1-.02(2)-(N)	do	do	May 30, 1975
Mathis-Akins Concrete Block Co., concrete products facility, permit No. 3272-011-1712-T.	do	391-3-1-.02(2)(N)	do	do	Do.
Mathis-Akins Concrete Block Co., ready mix concrete facilities, permit No. 3273-076-1712-T.	Warner Robins, Houston County.	391-3-1-.02(2)(N)	do	do	Do.
Mayo Products Co., anhydrous sodium metasilicate products, permit No. 2819-033-1699-T.	Smyrna, Cobb County.	391-3-1-.02(2)(E), 391-3-1-.02(2)(N)	do	do	July 22, 1975
Meredith Pole and Timber Co., Inc., open burning of wastes, permit No. 2411-009-1741-T.	Fitzgerald, Ben Hill County.	391-3-1-.02(2)(A)	do	do	Dec. 31, 1974
NVF Co.—Hartwell Division, homade burner, permit No. 3441-073-1778-T.	Hartwell, Hart County.	391-3-1-.02(2)(L)	do	do	Do.
New Riverside Ochre Co., barite and ochre processing facility, permit No. 2816-008-1705-T.	Cartersville, Bartow County.	391-3-1-.02(2)(N)	do	do	Feb. 28, 1975
Norman Park Gin Warehouse, cotton gin, permit No. 0724-035-1572-T.	Norman Park, Colquitt County.	391-3-1-.02(2)(Q).	do	do	Aug. 15, 1974
Oil-Dri Corp. of Georgia, fullers earth processing facilities, permit No. 3296-136-1354-T.	Ochlocknee, Thomas County.	391-3-1-.02(2)(P), 391-3-1-.02(2)(N)	do	do	Aug. 1, 1974
Omega Farm Supply Inc., cotton gin, permit No. 0724-127-1645-T.	Omega, Tift County	391-3-1-.02(2)(Q)	do	do	Sept. 1, 1974
Pekor Iron Works, cupola, permit No. 3561-106-1773-T.	Columbus, Muscogee County.	391-3-1-.02(2)(O)	do	do	Oct. 30, 1974
Putnam Lumber Co., conical burner, permit No. 2421-117-1606-T.	Eatonton, Putnam County.	391-3-1-.02(2)(L)	do	do	Dec. 31, 1974
Rockmart Gin Co., cotton gin, permit No. 0724-115-1605-T.	Rockmart, Polk County.	391-3-1-.02(2)(Q)	do	do	Aug. 15, 1974
Royster Co., superphosphate and granular fertilizer manufacturing plant, permit No. 2871-029-1343-T.	Athens, Clarke County.	391-3-1-.02(2)(N)	do	do	Dec. 31, 1974
Royster Co., granular fertilizer manufacturing plant, permit No. 2871-011-1342-T.	Macon, Bibb County.	391-3-1-.02(2)(N)	do	do	Do.
Sardis Lumber Co., open burning of wastes, permit No. 2421-017-1739-T.	Sardis, Burke County.	391-3-1-.02(2)(A)	do	do	Do.
R. D. Sharpe Lumber Co., open burning of wastes, permit No. 2421-082-1738-T.	Millen, Jenkins County.	391-3-1-.02(2)(A)	do	do	Do.
Shirley Feed & Seed Service, feed mill, permit No. 2048-078-1568-T.	Commerce, Jackson County.	391-3-1-.02(2)(N)	do	do	Jan. 31, 1975
Southeast Schokbston Inc., concrete products facility, permit No. 3273-069-1353-T.	Lavonia, Franklin County.	391-3-1-.02(2)(N)	do	do	Sept. 1, 1974
Southern Crate and Veneer Co., conical burner only, permit No. 2449-011-1703-T.	Macon, Bibb County.	391-3-1-.02(2)(L)	do	do	Dec. 31, 1974
Southern Talc Co., talc, barite and aluminum hydrate processing facility, permit No. 3296-105-1344-T.	Chatsworth, Murray County.	391-3-1-.02(2)(N)	do	do	Aug. 15, 1974
Southwire Co., nickel sulfate plant, permit No. 3357-022-1828-T.	Carrollton, Carroll County.	391-3-1-.02(2)(A)	do	do	Dec. 31, 1974

Source	Location (county)	Rule or regulation involved	Date of adoption	Effective date	Final compliance date
Southern Wood Piedmont Co., conical burner only, permit No. 2491-121-0715-T.	Augusta, Richmond County.	391-3-1-.02 (2)(L)	....do	....do	Dec. 31, 1974
Stowe-Woodward Co., open burning of solvents, permit No. 2552-124-1620-T.	Griffin, Spalding County.	391-3-1-.02 (2)(A)	....do	....do	Sept. 1, 1974
Sullivan Lumber Co., conical burner only, permit No. 2421-152-1685-T.	Preston, Webster County.	391-3-1-.02 (2)(L)	....do	....do	Dec. 31, 1974
Taylor Gin and Warehouse, cotton gin, permit No. 0724-095-1542-T.	Doerun, Colquitt County.	391-3-1-.01 (2)(G)	....do	....do	Aug. 15, 1974
Continental Can Co. Inc., conical burner, permit No. 2421-557-1781-T.	Washington, Wilkes County.	391-3-1-.01 (2)(L)	....do	....do	Dec. 31, 1974
Great Southern Paper Co., No. 1 power boiler, No. 2 power boiler, permit No. 2631-049-2220-T.	Cedar Springs, Early County.	391-3-1-.02 (2)(D)	June 1, 1973	....do	Feb. 1, 1975
Great Southern Paper Co., No. 2 lime kiln, permit No. 2631-049-2218-T.	Cedar Springs, Early County.	391-3-1-.02 (2)(K)	....do	....do	Nov. 1, 1974
Greater Southern Paper Co., No. 1 dissolving tank with gas reinjection, No. 2 dissolving tank with mesh pad, permit No. 2631-049-2215-T.	Cedar Springs, Early County.	391-3-1-.01 (2)(E)	....do	....do	Jan. 1, 1975
Greater Southern Paper Co., Nos. 1 and 2 recovery boiler and electrostatic precipitator, permit No. 2631-049-2215-T.	....do	391-3-1-.02 (2)(E)	....do	....do	Oct. 31, 1974
Owens Illinois, Inc., Riley boiler, permit No. 2631-092-861-T.	Valdosta, Lowndes County.	391-3-1-.02 (2)(D)	....do	....do	Jan. 1, 1975
Owens Illinois, Inc., No. 1 C.E. boiler, No. 2 C.E. boiler, permit No. 2631-092-1866-T.	....do	391-3-1-.02 (2)(D)	....do	....do	Do.
Owens Illinois, Inc., Nos. 1, 2, and 3 lime kiln, permit No. 2631-092-1859-T.	....do	391-3-1-.02 (2)(K)	....do	....do	Nov. 30, 1974
Owens Illinois, Inc., No. 3 dissolving tank, permit No. 2631-092-1858-T.	....do	391-3-1-.02 (2)(E)	....do	....do	Do.
Owens Illinois, Inc., No. 3 recovery, permit No. 2631-092-1856-T.	....do	391-3-1-.02 (2)(E).	....do	....do	Dec. 1, 1974
Owens Illinois, Inc., facility for the surface treatment of glass products with $SnCl_4$, permit No. 2221-060-1760-T.	Hapeville, Fulton County.	391-3-1-.02 (2)(E)	....do	....do	Dec. 1, 1975
Owens Illinois, Inc., glass furnace E, permit No. 2221-060-1768-T.	Hapeville, Fulton County.	391-3-1-.02 (2)(E)	....do	....do	Oct. 1, 1974
Engelhard Minerals & Chemicals Corp., sulphuric acid byproducts plant, permit No. 2819-043-2039-T.	[illegible] County.	391-3-1-.02 (2)(P), 391-3-1-.02(2) (N)	....do	....do	May 1, 1975
Engelhard Minerals & Chemicals Corp., fuller earth processing facilities, permit No. 2306-043-1723-T.	....do	391-3-1-.02(2) (P), 391-3-1-.02(2)(N)	....do	....do	July 31, 1975
Southern States Phosphate & Fertilizer, 2 contact sulfuric acid plants, permit No. 2819-025-1446-T.	Savannah, [illegible] County.	391-3-1-.02 (2)(J)	....do	....do	Dec. 31, 1974
Southern States Phosphate & Fertilizer, granular fertilizer manufacturing plant, normal superphosphate manufacturing plant, permit No. 2871-025-1445-T.	....do	391-3-1-.02 (2)(R)	....do	....do	Do.
Cities Service Co., sulfuric acid plant, aluminum manufacturing plant, permit No. 2819-121-1448-T.	Augusta, [illegible] County.	391-3-1-.02 (2)(J)	....do	....do	Do.
Anderson Construction Co., ready mix concrete facility, permit No. 2275-026-1504-T.	Fort Gaines, Clay County.	391-3-1-.02(2) (N).	Oct. 20, 1974	....do	July 1, 1975
Augusta Foundry Inc., induction furnace, permit No. 2321-121-1439-T.	Augusta, Richmond County.	391-3-1-.02(2) (Q).	....do	....do	Apr. 30, 1975
Baxley Ready Mix, ready mix concrete facility, permit No. 2275-100-1529-T.	Baxley, Appling County.	391-3-1-.02(2) (N).	....do	....do	July 1, 1975
Brunswick Pulp and Paper Co., power boilers No. 1, 2, 3, and 4, permit No. 2661-069-1562-T.	Brunswick, Glynn County.	391-3-1-.02(2) (D).	....do	....do	Apr. 1, 1975
Brunswick Pulp and Paper Co., No. 4 lime kiln, permit No. 2631-069-1560-T.	....do	391-3-1-.02(2) (E).	....do	....do	Jan. 1, 1975
Cedartown Block and Concrete Co., ready mix concrete facility, permit No. 2275-115-1971-T.	Cedartown, Glynn County.	391-3-1-.02(2) (N).	....do	....do	July 1, 1975
Concrete Industries Inc., ready mix concrete, permit No. 2275-127-1953-T.	Tifton, Tift County.	391-3-1-.02(2) (N).	....do	....do	Do.

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Source	Location (county)	Rule or regulation involved	Date of adoption	Effective date	Final compliance date
Concrete Industries, Inc., ready mix concrete facility, permit No. [illegible]-436-1512-T.	Thomasville, Thomas County.	391-3-1-.02 (2)(N)	do	do	Do.
Cope Rendering Co., Inc., rendering plant with the exception of fuel burning equipment covered under separate permits, permit No. 2077-025-1874-T.	Moultrie, Colquitt County.	391-3-1-.02 (2)(A))	do	do	Nov. 30, 1974
Costal Timberlands Inc., conical burner, permit No. 2421-034-1896-T.	Gray, Jones County.	391-3-1-.02 (2)(L)	do	do	Dec. 31, 1974
Creasy Brothers, Paving Contractors, hot mix asphalt plant, permit No. 2951-016-1798-T.	Statesboro, Bulloch County.	391-3-1-.02 (2)(K)	do	do	Oct. 1, 1974
Cyprus Industrial Minerals Co., Nos. 96 and 97 kaolin clay processing facilities, permit No. [illegible]-143-2029-T.	Jeffersonville, Twiggs County.	391-3-1-.02 (2)(P), 391-3-1-.02 (2)(N)	do	do	Jan. 1, 1975
Cyprus Industrial Minerals Co., kaolin clay No. 53 processing facilities, permit No. 3295-150-2031-T.	Sandersville, Washington County.	391-3-1-.02 (2)(P), 391-3-1-.02 (2)(N)	do	do	Dec. 31, 1974
Dekalb General Hospital, Morse Boulger heavy duty destructor, permit No. 3062-044-2886-T.	Decatur, Dekalb County.	391-3-1-.02 (2)(C)	do	do	May 1, 1975
Design Concrete, Inc., ready mix concrete facility, permit No. 3273-057-1894-T.	Rome, Floyd County.	391-3-1-.02 (2)(N)	do	do	July 1, 1975
Engelhard Minerals & Chemicals Inc., catalyst processing facilities, permit No. 2810-045-1961-T.	Attapulgus, Decatur County.	391-3-1-.02 (2)(P)	do	do	July 31, 1975
Engelhard Minerals and Chemicals Corp., kaolin clay processing facilities, permit No. 3295-155-1881-T.	Oconee, Washington County.	391-3-1-.02 (2)(P)-(N)	do	do	July 31, 1975
Evans Concrete Products Co., Inc., ready mix concrete facility, permit No. 3273-054-1928-T.	Claxton, Evans County.	391-3-1-.02 (2)(N)	do	do	July 1, 1975
Georgia Dimension Co., conical burner only, permit No. 3428-034-1905-T.	Adrian, Johnson County	391-3-1-.02 (2)(L)	do	do	Dec. 31, 1974
Georgia Kraft Co., recovery No. 1 and 2 with electrostatic precipitater, permit No. 2531-011-1815-T.	Macon, Bibb County.	391-3-1-.02 (2)(E)	do	do	Feb. 28, 1975
Georgia Kraft Co., No. 4 smelt tank with demister pads, permit No. 2531-057-1808-T.	Rome, Floyd County.	391-3-1-.02 (2)(E)	do	do	May 1, 1975
Georgia Kraft Co., No. 2 smelt tank with demister pads, permit No. 2531-057-1807-T.	Rome, Floyd County.	391-3-1-.02(2)(E)	do	do	Do.
Georgia Kraft Co., No. 1 smelt tank with demister pads, permit No. 2531-057-1806-T.	do	391-3-1-.02(2)(E)	do	do	Do.
Gold Kist Fertilizer, Clyo, superphosphate and granular fertilizer manufacturing plant, permit No. 2871-051-1845-T.	Clyo, Effingham County.	391-3-1-.02(2)(F)	do	do	Dec. 31, 1974
Golden's Foundry & Machine Co., foundry, permit No. 3321-105-1798-T.	Columbus, Muscogee County.	391-3-1-.02(2)(O)	do	do	Jan. 1, 1975
Harrison Gin Co., cotton gin, permit No. 0724-071-2041-T.	Harrison, Cowals County.	391-3-1-.02(2)(Q)	do	do	July 1, 1975
ITT Rayonier Inc., No. 1, 2, 3 recovery, permit No. 2531-151-1865-T.	Jesup, Wayne County.	391-3-1-.02(2)(E)	do	do	Jan. 1, 1975
Jack Davis Concrete Inc., concrete products facility, permit No. 3271-141-1872-T.	LaGrange, Troupe County.	391-3-1-.02(2)(N)	do	do	Sept. 30, 1974
Ledbetter Bros., Inc., hot mix asphalt plant, permit No. 2951-008-1976-T.	White, Bartow County.	391-3-1-.02(2)(K)	do	do	July 1, 1975
Ledbetter Bros. Inc., hot mix asphalt plant, permit No. 2951-057-1966-T.	Rome, Floyd County.	391-3-1-.02(2)(K)	do	do	Oct. 1, 1974
Lewis Gin and Warehouse, cotton gin, permit No. 0724-045-1995-T.	Moultrie, Colquitt County.	391-3-1-.02 (2)(Q)	do	do	Sept. 30, 1974
Liberty Concrete Products, ready mix concrete facility, permit No. 3273-089-1529-T.	Midway, Liberty County.	391-3-1-.02 (2)(N)	do	do	July 1, 1974
Lyons Concrete Products, Inc., ready mix concrete facility, permit No. 3273-138-1998-T.	Lyons, Toombs County.	391-3-1-.02 (2)(N)	do	do	Do.
M. & M. Super Markets, Inc., fire engineers model 1 660D-1 incinerator, permit No. 5411-025-2012-T.	Savannah, Chatham County.	391-3-1-.02 (2)(C)	do	do	Feb. 28, 1975
M. & M. Super Markets, Inc., fire engineers incinerator, permit No. 5411-025-2013-T.	do	391-3-1-.02 (2)(C)	do	do	Do.
Masonry Products, Inc., concrete block facility, permit No. 3271-[illegible]-1804-T.	Carrollton, Carroll County.	391-3-1-.02 (2)(N)	do	do	July 1, 1975

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McCluskey Mills, Inc., cotton gin, permit No. 0734-139-1965-T.	Americus, Sumter County.	391-3-1-.02(2) (Q).	....do....	....do....	Jan. 6, 1975
Mullite Co. of America, kaolin clay processing facility No. 1, permit No. 2296-139-2027-T.	Andersonville, Sumter County.	391-3-1-.02(2) (N).	....do....	....do....	Jan. 1, 1975
Mullite Co. of America, kaolin clay processing facility No. 2, permit No. 2296-139-2028-T.	....do....	391-3-1-.02(2) (N).	....do....	....do....	Feb. 1, 1975
Muscogee Lumber Co., conical burner, permit No. 2421-139-1996-T.	Columbus, Muscogee County.	391-3-1-.02(2) (L).	....do....	....do....	Sept. 16, 1974
Norman W. Paschall Co., picking and blending operation, permit No. 2294-066-1678-T.	Peachtree City, Fayette County.	391-3-1-.02(2) (N).	....do....	....do....	Jan. 31, 1975
Phillips Concrete Block Co., Inc., concrete block facility, permit No. 2271-056-1945-T.	Fayetteville, Fayette County.	391-3-1-.02(2) (N).	....do....	....do....	July 1, 1975
Phillips Concrete Block Co., Inc., ready mix concrete facility, permit No. 2273-056-1944-T.	....do....	391-3-1-.02(2) (N).	....do....	....do....	Do.
Rosebud Manufacturing Co., waste disposal incinerator, permit No. 2341-139-1904-T.	Vidalia, Toombs County.	391-3-1-.02(2) (C).	....do....	....do....	Do.
Smith-Sheppard Concrete Co., Inc., ready mix concrete facility, permit No. 2273-180-1999-T.	Sandersville, Washington County.	391-3-1-.02 (2)(N)	....do....	....do....	July 1, 1975
Southern Pipe and Supply Co./ Vidalia Concrete Block Co., concrete pipe facility, permit No. 2273-138-1907.	Vidalia, Toombs County.	391-3-1-.02 (2)(N)	....do....	....do....	Do.
Southern Pipe and Supply Co./ Vidalia Concrete Block Co., ready mix concrete facility, permit No. 2273-138-1908-T.	....do....	391-3-1-.02 (2)(N)	....do....	....do....	Do.
Steed Concrete, Inc., ready mix concrete facility, permit No. 2273-079-2019-T.	Fitzgerald, Ben Hill County.	391-3-1-.02 (2)(N)	....do....	....do....	Jan. 31, 1975
Stephens Gin and Bonded Warehouse, cotton gin, permit No. 0734-140-2051-T.	Soperton, Treutlen County.	391-3-1-.02 (2)(Q)	....do....	....do....	Jan. 28, 1975
Swainsboro Concrete Products Co., Inc., ready mix concrete facility, permit No. 2273-052-1953-T.	Swainsboro, Emanuel County.	391-3-1-.02 (2)(N)	....do....	....do....	July 1, 1975
W. G. Dunn, cotton gin, permit No. 0734-125-1475-T.	Parrott, Terrell County.	391-3-1-.02 (2)(Q)	....do....	....do....	Aug. 15, 1974
Whitley Concrete Co., ready mix concrete facility, permit No. 2273-044-1966-T.	Decatur, De Kalb County.	391-3-1-.02 (2)(N).	....do....	....do....	Dec. 15, 1974
Cyprus Industrial Minerals Co., kaolin clay processing facilities No. 51 and No. 52, permit No. 2296-150-2029-T.	Sandersville, Washington County.	391-3-1-.02 (2)(P), 391-3-1-.02 (2)(N).	....do....	....do....	Oct. 1, 1975
Georgia Marble Co., marble, dolomite and calcium carbonate processing operation, permit No. 2281-061-1614-T.	Wilkinson, Pickens County.	391-3-1-.02 (2)(N).	....do....	....do....	July 1, 1975
Georgia Tennessee Mining Chemical Co., fullers earth clay processing facilities, permit No. 2296-051-1363-T.	Wrens, Jefferson County.	391-3-1-.02 (2)(P), 391-3-1-.02 (2)(N).	....do....	....do....	Sept. 1, 1975
M. C. Jones Lumber Co., conical burner only, permit No. 2421-124-1701-T.	Milan, Telfair County.	391-3-1-.02 (2)(L).	....do....	....do....	Dec. 31, 1974
Tocoa Foundry and Machine Co., Inc., electric arc furnace shotblast system with fabric filter, permit No. 2326-127-1985-T.	Tocoa, Stephens County.	391-3-1-.02 (2)(O).	....do....	....do....	June 30, 1975

[FR Doc.74-29706 Filed 12-20-74;8:45 am]

[40 CFR Part 52]

[FRL 311-8]

GEORGIA

Approval and Promulgation of Implementation Plans

On May 31, 1972 (37 FR 10842), the Administrator approved portions of the Georgia plan to attain and maintain the national ambient air quality standards. The State has since adopted certain changes in its regulations and now proposes to make those changes part of its implementation plan. The State also proposes to remove one regulation from the plan as being unnecessary to attain and maintain the national ambient air quality standards. All proposed revisions have met the procedural requirements of 40 CFR Part 51, pertaining to public hearings and plan revisions, and were submitted for the Agency's approval on July 23, 1974. The purpose of this notice is to describe the proposed revisions and to invite public comment on them.

Subsection 391-3-1-.02(2)(a), *General Provisions*, is revised to include an explicit statement that whenever more than one section of the regulations can be applied to a source's emissions, the more stringent one will take precedence.

Subsection 391-3-1.02(2)(g), *Sulfur Dioxide*, is revised to state that no source is exempted from the emission limits defined in paragraph (g)(1), and further revised to explicitly state that sources subject to this regulation must also meet the sulfur-in-fuel limitation of paragraph (g)(3), which remains unchanged, in addition to the provisions of paragraphs (g)(1) and (g)(2). A new paragraph (g)(4) will, however, allow the sulfur-in-fuel limit to be exceeded provided that sulfur oxide removal technology is used to reduce sulfur oxide emissions to that level which would be achieved by burning fuel specified in paragraph (g)(3) without sulfur oxide removal.

The State also proposes to remove from its implementation plan subsection 391-3-1-.02(2)(l) which provides emission limitations for nitrogen dioxide from nitric acid plants. Analysis performed since the original classification of certain areas of the State as Priority I—air quality poor enough to produce health effects—for nitrogen dioxide has led the Administrator to reclassify them as Priority III—no damage to health or welfare—(39 FR 16344). Therefore, the Agency does not require a control strategy or supporting regulations for emission of this pollutant from stationary sources. These emission limits will remain a part of the State regulations and will continue to be enforceable by the State, but the Agency will not have the power to enforce them if the present proposal is approved.

Copies of the proposed changes may be examined at the following locations during normal business hours:

Air Programs Office
Environmental Protection Agency
1421 Peachtree Street, NE.
Atlanta, Georgia 30309

Air Quality Control Section
Environmental Protection Division
Georgia Department of Natural Resources
19 Hunter Street, SW.
Atlanta, Georgia 30334

An evaluation of these changes and their effects can be obtained by consulting personnel of the Agency's Region IV Air Programs Office at the above location.

Interested persons are encouraged to submit written comments on the proposed plan revisions. After carefully weighing relevant comments and all other available information in the light of requirements set forth in section 110 (a) of the Clean Air Act and in the implementing regulations of 40 CFR Part 51, the Administrator will take approval/disapproval action on the Georgia proposals. Comments will be accepted on or before January 22, 1975. They should be addressed to Air Programs Office, Environmental Protection Agency, Region IV, 1421 Peachtree Street, NE., Atlanta, Georgia 30309, Attention: John Eagles.

(Sec. 110(a), Clean Air Act, (42 U.S.C. 1857 c-5(a)))

Dated: December 13, 1974.

JACK E. RAVAN,
Regional Administrator,
Region IV.

[FR Doc.74-29753 Filed 12-20-74;8:45 am]

[40 CFR Part 85]

[FRL 373-1]

COVERAGE OF MOTOR VEHICLE CERTIFICATE OF CONFORMITY

Notice of Proposed Rulemaking

I. *Introduction.* Since the beginning of the US EPA Motor Vehicle Certification Program there has been a series of apparent misunderstandings between EPA and the auto industry as to the degree of similarity that must exist between production vehicles and vehicles described in the application for certification before the certificate of conformity can be deemed to cover the production vehicles. Clearly, such similarity is of concern to the auto manufacturers because the regulations and the certificate of conformity currently provide that the certificate "covers only those new motor vehicles which conform, in all material respects, to the design specifications that applied to those vehicles described in the application for certification" (emphasis added). (Certificates of earlier model years contained language which was different, but was intended to mean the same thing.)[1] Section 203(a)(1) of the Clean Air Act provides a civil fine of up to $10,000 for each uncertified vehicle introduced into commerce.

The misunderstandings mentioned above generally involved "running changes" made by the vehicle manufacturer to production vehicles after certification and have in our opinion resulted, for the most part, from the lack of express guidance from EPA as to what is meant by the phrase "conform, in all material respects, to the design specifications."

One particular question has involved whether production vehicles which fall in a higher inertia weight class[2] than the prototype with respect to which the relevant certificate of conformity was issued are covered by that certificate.

Although we believe that in the vast majority of cases a manufacturer will be able to determine from its general experience with the certification program and EPA administration of it when a given vehicle departs too far from the design of the prototype to be considered covered by the certificate, there are obvious advantages to spelling out in a precise and definite manner exactly which production vehicles are covered by a certificate of conformity and which are not. The regulations proposed today attempt to do this.

II. *Background*—a. *Certification.* The theory of the certification process is: If prototype vehicles demonstrate compliance with the emission standards, then production vehicles which have essentially the same design as the tested vehicles should also meet the prescribed standards and are, therefore, covered by the certificate of conformity issued on the basis of the prototype testing. Then, to the extent that production vehicles are actually similar to certification prototypes, and to the extent that certification testing is representative of the actual use of production vehicles, the intent of the Act—that pollution from vehicles be controlled to the levels contemplated by the section 202 standards—is served.

The most comprehensive application of the certification theory would require that every configuration of production vehicles be represented in certification testing and that every production vehicle be exactly like its tested counterpart in all features that affect emission performance.

For several practical reasons, this comprehensive application is significantly different from either the optimum or the practiced application. First, there is a very large number of conceivable combinations of optional features (configurations) which would necessitate testing many more vehicles than the present regulations or Agency resources permit. Second, certification vehicles are constructed using processes which are different from the construction processes used in mass production, and the consequential differences in emission characteristics between prototype and production vehicles of identical configurations can be greater than the differences between configurations. Third, because of the inherent difference between certification testing and the way vehicles are actually used, the benefit of such extensive testing is questionable.

Fortunately, the drafters of the Clean Air Act apparently realized the limitations associated with the theory of certification and provided other means by which conformity with the regulations under which a certificate is issued could be determined and nonconformity remedied. Specifically, the other means are the assembly-line test of section 206 and the in-use warranty test and recall provisions of section 207.

Notwithstanding its inherent limitations, the certification process was intended to have meaning. To permit production vehicles to be different from the certification vehicles to any extent or degree that suits the manufacturers would render the entire certification process a sham. But the precise similarity between production vehicles and prototypes that is required could profitably be the subject of further clarification.

III. *Discussion.*—a. *Running change.* A running change is a design change made to production vehicles after a certificate of conformity covering such vehicles has been issued. Such changes are provided for in the regulations at 40 CFR 85.075–33 and –34.[3] These sections provide that any "change" in production vehicles in respect to certain parameters and systems specified elsewhere (§ 85.075–5(a)(3) and (b)(3)) in the regulations are to be reported to the Administrator in order to permit him "to determine, on the basis of testing that he may require or conduct, whether the production vehicle, as modified, would still be covered by the certificate of conformity then in effect."

There are at least three problems that exist in enforcing these regulations. First, the exact reference point from which a change is to be determined is not specified. This deficiency in the regulations gives rise to the question: Are change reports required when the change creates a difference between the changed production vehicle and (1) the preceeding production vehicles (as the language of § 85.075–33 suggests), the configuration of which may or may not have been tested as a prototype, (2) the certification vehicle which "represented" that production vehicle configuration according to § 85.075–30(b)(1), or (3) The description of that vehicle's configuration contained in the application for certification? Second, the degree of change to the referenced parameters allowed (1) Before reporting is required and (2) Before certification terminates is not clear. This has led to wide variety in the reporting practices of manufacturers. Third, the phrase "still be covered by a certificate of conformity" suggests that the degree (or effect) of a change which requires reporting is less than or different from that which causes certificate coverage to terminate. The implication is that the results of emission testing (or engineering evaluation with respect to probable emissions effect) will be determinative of certificate coverage.

Problems (1) and (2) are definitional shortcomings. We propose to resolve them by adding a new Appendix VII to Part 85 containing a list of vehicle parameters and specifications which may reasonably be expected to affect emissions. These parameters and specifications must currently be described in some detail in Part I of a manufacturer's certification application. The regulations would then specify that (1) "changes" will be determined by taking the specifications and parameters listed in Appendix VII, as described in the Part I application, as a starting point, and (2) that any change to a production vehicle which caused the description of these specifications and parameters contained in the corresponding Part I to be an inaccurate description as applied to that vehicle would both (i) trigger the reporting requirement and (ii) render that vehicle uncertified unless the Administrator took formal action to extend the coverage of the certificate.

This approach, we believe, has advantages both for the manufacturer and

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[1] For a discussion of this change in language, see 39 FR 7545 (Feb. 27, 1974).

[2] Inertia weight class is a range of loaded vehicle weights which determine the setting on the dynamometer used in conducting the certification emissions tests. The dynamometer simulates the resistance which the vehicle must overcome during the emissions test. Generally speaking, the higher the inertia weight setting for a given vehicle, the higher the exhaust emissions and fuel consumption.

[3] All discussion in this preamble is keyed to the section numbers in Subpart A of 40 CFR Part 85. Identical changes are, of course, proposed for the six other parallel subparts of Part 85 setting standards for categories of vehicles and engines other than light duty vehicles (B, C, D, H, I, and J).

for EPA. The manufacturer is provided with an explicit and easily applicable "touchstone" which can be used in its production operations to ensure that the preconditions of certification are met. At the same time, EPA's enforcement task will be easier since the regulations will avoid the necessity of proving, on a case-by-case basis, whether the particular departure from the design of the prototype that is at issue is enough to support a finding that the certificate coverage does not extend to it. Though this approach does leave open the possibility that some design changes which cause standard to be exceeded may occur without voiding the coverage of the certificate, we believe that the list is comprehensive enough to minimize the possibilities of such an occurrence. However, comments on how the list in Appendix VII might be lengthened, shortened, modified, or redefined are particularly solicited.

Problem (3) demonstrates an inconsistency in the logic between what the certificate says it covers and the running change procedures of the present regulations. The regulation (§ 85.075–33) implies that a change in the design specifications ("parameters and systems") gives rise to a reporting requirement, and the Administrator will determine whether the vehicle can still be covered by a certificate. However, there is no reason within the program to require reporting of changes which would not cause termination of the certificate. A reason to require reporting of changes which would cause termination of certificate coverage is to allow the Administrator to determine if the changed vehicle can be covered by a certificate. Hence, the running change regulations should be revised to be consistent with the scope of certificate coverage.

This has been done by providing that any change in a production vehicle which causes it to cease to be accurately described by Part I application so far as the parameters and specifications enumerated in Appendix VII are concerned will have the effect of both triggering the reporting requirement and requiring an amended certificate to be obtained.

b. *Misbuilds.* A particularly difficult type of change to regulate is that of a misbuild. A misbuilt vehicle is one which, due to an error, differs in some material respect, from the intended design specifications applicable to that vehicle, and thus to the description contained in the application for Certification. In addition to causing vehicles not to be covered by a certificate of conformity, a misbuild may also pollute above prescribed standards and not perform in the hands of the user as intended by the manufacturer. A misbuild may result from clerical mistakes in the design/production system, poor communications (e.g., misunderstood instructions to assembly line workers), or other human errors which are not, by exercise of reasonable and prudent measures, detected. Regardless of the precise reason for a misbuild, it may result in uncertified vehicles being introduced into commerce.

Clearly, it is in the interest of the auto manufacturers, the general public and EPA to assure that the occurrence of misbuilds is minimized to the greatest extent possible. Although there is no specific provision in these regulations regarding misbuilds, the auto industry is specifically invited to comment on the policy EPA should adopt regarding misbuilds.

c. *Inertia weight class.* Another important aspect of the certificate coverage definition concerns inertia weight class. The existing regulations require that the manufacturers report in the application for certification either the actual or estimated inertia weight class of vehicles to be covered by the certificate. The question then arises as to whether production vehicles are covered by a certificate of conformity if they are in an inertia weight class different from that reported in the application.

Technical amendments to the regulations (38 FR 17130, June 28, 1973) permit a manufacturer to certify a vehicle in the next higher inertia weight class if his estimated weight is within 100 pounds of the next higher inertia weight class. The stated purpose of this provision was to give manufacturers flexibility in certification. It was not made clear that a good faith, but incorrect, estimate would result in production vehicles being uncertified.

Since (1) the inertia weight class is very important to emission performance, (2) whether a manufacturer acted in good faith in certifying in a lower inertia weight class than he should have is difficult to determine, and (3) the manufacturer has pronounced incentive to certify his prototype vehicles in as low an inertia weight class as possible (an incentive that should be guarded against), the regulations proposed today would provide that any production vehicles which fall in a different inertia weight class than that reported in the application for certification are not covered by the certificate.

These amendments are issued under the authority of the following sections of the Clean Air Act, as amended: 206 (Sec. 206, 79 Stat. 994, as amended by Section 8(a), 84 Stat. 1694, 42 U.S.C. 1857f–6); 206 (Sec. 207, 79 Stat. 994, 42 U.S.C. 1857f–6); and 301(a) (Sec. 301(a), 81 Stat. 504 as amended by Sec. 15(c), 84 Stat. 1713, 42 U.S.C. 1857g(a)).

Any comments concerning the amendments proposed today should be submitted in writing to:

Director
Mobile Source Enforcement Division (EG–340)
Environmental Protection Agency
401 M Street, SW.
Washington, D.C. 20460

Five copies of any such comments should be submitted on or before February 21, 1975. Comments received after such date may not be considered in the final rulemaking. Copies of all comments will be made available for public inspection during normal working hours at the Freedom of Information Center, Room 232, West Tower, EPA, 401 M Street, SW., Washington, D.C. Copies of an issue paper by N. D. Shutler of EPA which was relied on in drawing up this proposal are also in the comment file.

Dated: December 13, 1974.

JOHN QUARLES,
Acting Administrator.

1. Section 85.002(a)(31) is added to read as follows:

§ 85.002 Definitions.

(a) * * *

(31) As applied to any individual production vehicle, "Conforms, in all material respects, to the design specifications which applied to those vehicles described in the application for certification" means that the description in the appropriate application for certification of the parameters and specifications enumerated in Appendix VIIA is accurate in all respects as applied to that vehicle.

2. The first sentence of § 85.075–2(b)(1) is revised as follows:

§ 85.075–2 Application for certification.

* * * * *

(b) * * *

(1) Identification and description of the vehicles covered by the application and a description of their engine, emission control system and fuel system components including the applicable parameters and specifications of Appendix VIIA.

* * * * *

3. Section 85.075–5(b)(3) is revised as follows:

§ 85.075–5 Test vehicles.

* * * * *

(b) * * *

(3) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider those design specifications listed in the application for certification.

4. Section 85.075–33 is revised as follows:

§ 85.075–33 Changes to a vehicle covered by certification.

(a) The manufacturer shall notify the Administrator of any intended change in production vehicles that would cause such vehicles not to conform to any of the specifications and parameters of Appendix VIIA as described in the appropriate application for certification, giving a full description of the change. Such notification shall constitute a proposed amendment to the application on which certification of the original vehicle was based and shall be in advance of the change unless the manufacturer elects to follow the procedures described in § 85.075–34.

(b) Based upon the description of the change, and data derived from such

testing as the Administrator may require or conduct, the Administrator will determine whether the application for certification may be amended as proposed so that the changed vehicles will be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that such an amendment to the outstanding certificate is justified, he shall notify the manufacturer in writing granting the amendment. Except as provided in § 85.075–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles will not be covered by the certificate of conformity, he will notify the manufacturer in writing. The manufacturer may then, at his option, proceed with either of the following with respect to the disapproved change:

(1) Request a hearing as provided under § 85.075–30(b)(3); or

(2) In the event the failure can be shown to the satisfaction of the Administrator to be attributable to a vehicle malfunction, repair the test vehicle, and demonstrate by testing that the repaired vehicle meets applicable standards. Another vehicle which conforms in all material respects to the same design specifications that applied to the repaired vehicle, shall then be operated and tested in accordance with applicable test procedures.

5. Paragraphs (a), (b), (c), and (d) of § 85.075–34 are revised and paragraph (e) is added as follows:

§ 85.075–34 Alternative procedure for amending certificates of conformity.

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of a vehicle under § 85.075–32 or a change in a vehicle under § 85.075–33, may notify him by appropriate amendment to the application for certification concurrently with the making of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected vehicles. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Administrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce vehicles as described in the amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in § 85.075–32(b) and (c), or § 85.075–33(b) and (c) as appropriate.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Administrator determines under § 85.075–32 or § 85.075–33 do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

(e) Any changed or added vehicles produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

6. Section 85.102(a)(24) is added to read as follows:

§ 85.102 Definitions.

(a) * * *

(24) As applied to any individual production vehicle, "Conforms, in all material respects, to the design specifications which applied to those vehicles described in the application for certification" means that the description in the appropriate application for certification of the parameters and specifications enumerated in Appendix VIIA is accurate in all respects as applied to that vehicle.

7. The first sentence of § 85.175–2(b)(1) is revised as follow:

§ 85.175–2 Application for certification.

* * * * * *

(b) * * *

(1) Identification and description of the vehicles covered by the application and a description of their engine, emission control system and fuel system components including the applicable parameters and specifications of Appendix VIIA.

* * * * * *

8. Section 85.175–5(b)(3) is revised as follows:

§ 85.175–5 Test vehicles.

* * * * * *

(b) * * *

(3) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider those design specifications listed in the application for certification.

9. Section 85.175–33 is revised as follows:

§ 85.175–33 Changes to a vehicle covered by certification.

(a) The manufacturer shall notify the Administrator of any intended change in production vehicles that would cause such vehicles not to conform to any of the specifications and parameters of Appendix VIIA as described in the appropriate application for certification, giving a full description of the change. Such notification shall constitute a proposed amendment to the application on which certification of the original vehicle was based and shall be in advance of the change unless the manufacturer elects to follow the procedures described in § 85.175–34

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the application for certification may be amended as proposed so that the changed vehicles will be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that such an amendment to the outstanding certificate is justified, he shall notify the manufacturer in writing granting the amendment. Except as provided in § 85.175–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles will not be covered by the certificate of conformity, he will notify the manufacturer in writing. The manufacturer may then, at his option, proceed with either of the following with respect to the disapproved change:

(1) Request a hearing as provided under § 85.175–30(b)(3); or

(2) In the event the failure can be shown, to the satisfaction of the Administrator, to be attributable to a vehicle malfunction, repair the test vehicle, and demonstrate by testing that the repaired vehicle meets applicable standards. Another vehicle which conforms in all material respects to the same design specifications that applied to the repaired vehicle, shall then be operated and tested in accordance with applicable test procedures.

10. Paragraphs (a), (b), (c), and (d) of § 85.175–34 are revised and paragraph (e) is added as follows:

§ 85.175–34 Alternative procedure for amending certificates of conformity.

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of a vehicle under § 85.175–32 or a change in a vehicle under § 85.175–33, may notify him by appropriate amendment to the application for certification concurrently with the making of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected vehicles. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Administrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce vehicles as described in the

amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in § 85.175–32 (b) and (c), or § 85.175–33 (b) and (c) as appropriate.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Administrator determines under § 85.175–32 or § 85.175–33 do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

(e) Any changed or added vehicles produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

11. Section 85.202(a)(29) is added to read as follows:

§ 85.202 Definitions.

(a) * * *

(29) As applied to any individual production vehicle, "Conforms, in all material respects, to the design specifications which applied to those vehicles described in the application for certification" means that the description in the appropriate application for certification of the parameters and specifications enumerated in Appendix VIIA is accurate in all respects as applied to that vehicle.

12. The first sentence of § 85.275–2(b)(1) is revised as follows:

§ 85.275–2 Application for certification.

* * * * *

(b) * * *

(1) Identification and description of the vehicles covered by the application and a description of their engine, emission control system and fuel system components including the applicable parameters and specifications of Appendix VIIA.

* * * * *

13. Section 85.275–5(b)(3) is revised as follows:

§ 85.275–5 Test vehicles.

* * * * *

(b) * * *

(3) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider those design specifications listed in the application for certification.

14. Section 85.275–33 is revised as follows:

§ 85.275–33 Changes to a vehicle covered by certification.

(a) The manufacturer shall notify the Administrator of any intended change in production vehicles that would cause such vehicles not to conform to any of the specifications and parameters of Appendix VIIA is described in the appropriate application for certification, giving a full description of the change. Such notification shall constitute a proposed amendment to the application on which certification of the original vehicle was based and shall be in advance of the change unless the manufacturer elects to follow the procedures described in § 85.275–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the application for certification may be amended as proposed so that the changed vehicles will be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that such an amendment to the outstanding certificate is justified, he shall notify the manufacturer in writing granting the amendment. Except as provided in § 85.275–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles will not be covered by the certificate of conformity, he will notify the manufacturer in writing. The manufacturer may then, at his option, proceed with either of the following with respect to the disapproved change:

(1) Request a hearing as provided under § 85.275–30(b)(3); or

(2) In the event the failure can be shown, to the satisfaction of the Administrator, to be attributable to a vehicle malfunction, repair the test vehicle, and demonstrate by testing that the repaired vehicle meets applicable standards. Another vehicle which conforms in all material respects to the same design specifications that applied to the repaired vehicle, shall then be operated and tested in accordance with applicable test procedures.

15. Paragraphs (a), (b), (c), and (d) of § 85.275–34 are revised and paragraph (e) is added as follows:

§ 85.275–34 Alternative procedure for amending certificates of conformity.

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of a vehicle under § 85.275–32 or a change in a vehicle under § 85.275–33, may notify him by appropriate amendment to the application for certification concurrently with the making of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected vehicles. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Administrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce vehicles as described in the amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in §§ 85.275–32 (b) and (c), or § 85.275–33 (b) and (c) as appropriate.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Administrator determines under § 85.275–32 or § 85.275–33 do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

(e) Any changed or added vehicles produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

16. Section 85.302 is amended by adding a new paragraph reading as follows:

§ 85.302 Definitions.

* * * * *

As applied to any individual production vehicle, "Conforms, in all material respects, to the design specifications which applied to those vehicles described in the application for certification" means that the description in the appropriate application for certification of the parameters and specifications enumerated in Appendix VIIA is accurate in all respects as applied to that vehicle.

17. The first sentence of § 85.376–2(b)(1) is revised as follows:

§ 85.376–2 Application for certification.

* * * * *

(b) * * *

(1) Identification and description of the vehicles covered by the application and a description of their engine, emission control system and fuel system components including the applicable parameters and specifications of Appendix VIIA.

* * * * *

18. Section 85.376–5(b)(3) is revised as follows:

§ 85.376–5 Test vehicles.

* * * * *

(b) * * *

(3) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider those design specifications listed in the application for certification.

• • • • •

19. Section 85.376–33 is revised as follows:

§ 85.376–33 Changes to a vehicle covered by certification.

(a) The manufacturer shall notify the Administrator of any intended change in production vehicles that would cause such vehicles not to conform to any of the specifications and parameters of Appendix VIIA is as described in the appropriate application for certification, giving a full description of the change. Such notification shall constitute a proposed amendment to the application on which certification of the original vehicle was based and shall be in advance of the change unless the manufacturer elects to follow the procedures described in § 85.376–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the application for certification may be amended as proposed so that the changed vehicles will be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that such an amendment to the outstanding certificate is justified, he shall notify the manufacturer in writing granting the amendment. Except as provided in § 85.376–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles will not be covered by the certificate of conformity, he will notify the manufacturer in writing. The manufacturer may then, at his option, proceed with either of the following with respect to the disapproved change:

(1) Request a hearing as provided under § 85.376–30(b)(4); or

(2) In the event the failure can be shown, to the satisfaction of the Administrator, to be attributable to a vehicle malfunction, repair the test vehicle, and demonstrate by testing that the repaired vehicle meets applicable standards. Another vehicle which conforms in all material respects to the same design specifications that applied to the repaired vehicle, shall then be operated and tested in accordance with applicable test procedures.

20. The heading and paragraphs (a), (b), (c), and (d) of § 85.376–34 are revised and paragraph (e) is added as follows:

§ 85.376–34 Alternative procedure for amending certificates of conformity.

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of a vehicle under § 85.376–32 or a change in a vehicle under § 85.376–33 may notify him by appropriate amendment to the application for certification concurrently with the making of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected vehicles. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Administrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce vehicles as described in the amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in § 85.376–32 (b) and (c), or § 85.376–33(b) and (c) as appropriate.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Administrator determines under § 85.376–32 or § 85.376–33 do not meet applicable standards, and to cause such non conformity to be remedied at no expense to the owner.

(e) Any changed or added vehicles produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

21. Section 85.702(a)(23) is added to read as follows:

§ 85.702 Definitions.

(a) • • •

(23) As applied to any individual production engine, "Conforms, in all material respects, to the design specifications which applied to those engines described in the application for certification" means that the description in the appropriate application for certification of the parameters and specifications enumerated in Appendix VIIB is accurate in all respects as applied to that engine.

22. The first sentence of § 85.774–2(b)(1) is revised as follows:

§ 85.774–2 Application for certification.

• • • • •

(b) • • •

(1) Identification and description of the engines covered by the application and a description of their emission control systems, including the applicable parameters and specifications of Appendix VIIB.

• • • • •

23. Section 85.774–5(b)(3) is revised as follows:

§ 85.774–5 Test engines.

(b) • • •

(3) The Administrator may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Administrator will consider those design specifications listed in the application for certification.

• • • • •

24. Section 85.774–33 is revised to read as follows:

§ 85.774–33 Changes to an engine covered by certification.

(a) The manufacturer shall notify the Administrator of any intended change in production engines that would cause such engines not to conform to any of the specifications and parameters of Appendix VIIB as described in the appropriate application for certification, giving a full description of the change. Such notification shall constitute a proposed amendment to the application on which certification of the original engine was based and shall be in advance of the change unless the manufacturer elects to follow the procedures described in § 85.774–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the application for certification may be amended as proposed so that the changed engines will be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that such an amendment to the outstanding certificate is justified, he shall notify the manufacturer in writing granting the amendment. Except as provided in § 85.774–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified engines will not be covered by the certificate of conformity, he will notify the manufacturer in writing. The manufacturer may then, at his option, proceed with either of the following with respect to the disapproved change:

(1) Request a hearing as provided under § 85.774–30(b)(3); or

(2) In the event the failure can be shown, to the satisfaction of the Administrator, to be attributable to an engine malfunction, repair the test engine, and demonstrate by testing that the repaired engine meets applicable standards. Another engine which conforms in all material respects to the same design specifications that applied to the repaired engine, shall then be operated and tested in accordance with applicable test procedures.

25. Paragraphs (a), (b), (c), and (d) of § 85.774–34 are revised and paragraph (e) is added as follows:

§ 85.774–34 Alternative procedure for amending certificates of conformity.

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of an engine under § 85.774–32 or a change in an engine under § 85.774–33, may notify him by appropriate amendment to the application for certification concurrently with the making of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected engines. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Administrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce engines as described in the amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in § 85.774–32 (b) and (c), or § 85.774–33 (b) and (c) as appropriate.

(d) Election to produce engines under this section will be deemed to be a consent to recall all engines which the Administrator determines under § 85.774–32 or § 85.774–33 do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

(e) Any changed or added engines produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

26. Section 85.802(a)(28) is added to read as follows:

§ 85.802 Definitions.

(a) • • •

(28) As applied to any individual production engine, "Conforms in all material respects, to the design specifications which applied to those engines described in the application for certification" means that the description in the appropriate application for certification of the parameters and specifications enumerated in Appendix VIIB is accurate in all respects as applied to that engine.

27. The first sentence of § 85.874–2(b)(1) is revised as follows:

§ 85.874–2 Application for certification.

• • • • • •

(b) • • •

(1) Identification and description of the engines covered by the application and a description of their emission control systems, including the applicable parameters and specifications of Appendix VIIB.

• • • • • •

28. Section 85.874–33 is revised to read as follows:

§ 85.874–33 Changes to an engine covered by certification.

(a) The manufacturer shall notify the Administrator of any intended change in production engines that would cause such engines not to conform to any of the specifications and parameters of Appendix VIIB as described in the appropriate application for certification, giving a full description of the change. Such notification shall constitute a proposed amendment to the application on which certification of the original engine was based and shall be in advance of the change unless the manufacturer elects to follow the procedures described in § 85.874–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the application for certification may be amended as proposed so that the changed engines will be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that such an amendment to the outstanding certificate is justified, he shall notify the manufacturer in writing granting the amendment. Except as provided in § 84.874–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified engines will not be covered by the certificate of conformity, he will notify the manufacturer in writing. The manufacturer may then, at his option, proceed with either of the following with respect to the disapproved change:

(1) Request a hearing as provided under § 85.874–30(b)(3); or

(2) In the event the failure can be shown, to the satisfaction of the Administrator, to be attributable to an engine malfunction, repair the test engine, and demonstrate by testing that the repaired engine meets applicable standards. Another engine which conforms in all material respects to the same design specifications that applied to the repaired engine, shall then be operated and tested in accordance with applicable test procedures.

29. The heading and text of § 85.874–34 is revised to read as follows:

§ 85.874–34 Alternative procedure for amending certificates of conformity.

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of an engine under § 85.874–32 or a change in an engine under § 85.874–33 may notify him by appropriate amendment to the application for certification concurrently with the making of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected engines. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Administrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce engines as described in the amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in § 85.874–32 (b) and (c), or § 85.874–33 (b) and (c) as appropriate.

(d) Election to produce engines under this section will be deemed to be a consent to recall all engines which the Administrator determines under § 85.874–32 or § 85.874–33 do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

(e) Any changed or added engines produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

30. Section 85.902(a)(28) is added to read as follows:

§ 85.902 Definitions.

(a) • • •

(28) As applied to any individual production engine, "Conforms in all material respects, to the design specifications which applied to those engines described in the application for certification" means that the description in the appropriate application for certification of the parameters and specifications enumerated in Appendix VIIB is accurate in all respects as applied to that engine.

31. The first sentence § 85.974–2(b)(1) is revised as follows:

§ 85.974–2 Application for certification.

• • • • • •

(b) • • •

(1) Identification and description of the engines covered by the application and a description of their emission control systems, including the applicable parameters and specifications of Appendix VIIB.

• • • • • •

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32. Section 85.974–33 is revised to read as follows:

§ 85.974–33 Changes to an engine covered by certification.

(a) The manufacturer shall notify the Administrator of any intended change in production engines that would cause such engines not to conform to any of the specifications and parameters of Appendix VIIB as described in the appropriate application for certification, giving a full description of the change. Such notification shall constitute a proposed amendment to the application on which certification of the original engine was based and shall be in advance of the change unless the manufacturer elects to follow the procedures described in § 85.974–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the application for certification may be amended as proposed so that the changed engines will be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that such an amendment to the outstanding certificate is justified, he shall notify the manufacturer in writing granting the amendment. Except as provided in § 85.974–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified engines will not be covered by the certificate of conformity, he will notify the manufacturer in writing. The manufacturer may then, at his option, proceed with either of the following with respect to the disapproved change:

(1) Request a hearing as provided under § 85.974–30(b)(3); or

(2) In the event the failure can be shown, to the satisfaction of the Administrator, to be attributable to an engine malfunction, repair the test engine, and demonstrate by testing that the repaired engine meets applicable standards. Another engine which conforms in all material respects to the same design specifications that applied to the repaired engine, shall then be operated and tested in accordance with applicable test procedures.

33. Section 85.974–34 is revised to read as follows:

§ 85.974–34 Alternative procedure for amending certificates of conformity.

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of an engine under § 85.974–32 or a change in an engine under § 85.974–33, may notify him by appropriate amendment to the application for certification concurrently with the making of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected vehicles. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Administrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce engines as described in the amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in § 85.974–33 (b) and (c), or § 85.974–33 (b) and (c) as appropriate.

(d) Election to produce engines under this section will be deemed to be a consent to recall all engines which the Administrator determines under § 85.974–32 or § 85.974–33 do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

(e) Any changed or added engines produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

APPENDIX VII

A. Light duty vehicle parameters and specifications.

1. Cylinder bore center-to-center dimen-Cycle Reciprocating Engines.

f. Cylinder bore centre-to-center dimension.

2. Centerline of crankshaft to centerline of camshaft dimension.

3. Centerline of crankshaft to the top of the cylinder block head face dimension.

4. Cylinder block configuration and material (including liners if applicable).

5. Combustion cycle.

6. Method of aspiration.

7. Displacement.

8. Bore and stroke.

9. Number of cylinders.

10. Compression ratio.

11. Surface to volume ratio.

12. Type of cylinder head and material.

13. Combustion chamber configuration.

14. Intake port area and configuration at cylinder head and manifold mating surface.

15. Exhaust port area and configuration at cylinder head and manifold mating surface.

16. Valves.

a. Head diameter.

b. Type and material.

c. Seat angle and preparation.

d. Valve spring material and load.

e. Valve spring retainer and/or rotator configuration.

f. Valve stem seal type and material.

g. Location of valves.

h. Valve activation mechanism.

i. Number of valves per cylinder.

17. Intake manifold configuration and material.

18. Exhaust manifold configuration and material.

19. Piston and piston ring(s) configuration and material.

20. Exhaust system configuration and backpressure.

21. Camshaft timing.

a. Cam profile.

b. Valve overlap.

22. Advertised H.P. at RPM.

23. Advertised Torque at RPM.

24. Governor descriptions.

25. Supercharger description.

26. Precombustion chamber configuration and material.

II. Basic Engine Parameters—Two-Stroke Cycle Reciprocating Engines.

1–25. Same as section I.

26. Intake port(s).

a. Configuration.

b. Location.

c. Preparation.

d. Timing in combustion cycle.

27. Exhaust port(s).

a. Configuration.

b. Location.

c. Preparation.

d. Timing in combustion cycle.

28. Transfer port(s).

a. Configuration.

b. Location.

c. Preparation.

d. Timing in combustion cycle.

29. Crankcase volume.

30. Precombustion chamber configuration and material.

III. Basic Engine Parameters — Rotary Engines.

1. Major axis dimension.

2. Minor axis dimension.

3. Eccentricity dimension.

4. Width of rotor housing dimension.

5. Generating radius dimension.

6. Intake port(s).

a. Configuration.

b. Location.

c. Preparation.

d. Timing and overlap if exposed to combustion chamber.

7. Exhaust port(s).

a. Configuration.

b. Location.

c. Preparation.

d. Timing and overlap if exposed to combustion chamber.

8. Housing configuration and material.

9. Combustion cycle.

10. Method of aspiration.

11. Number of spark plugs per rotor.

12. Displacement.

13. Rotor and seals.

a. Number of rotors and seals per rotor.

b. Configuration and seal retention.

c. Materials.

14. Compression ratio.

15. Surface to volume ratio.

16. Combustion chamber configuration.

17. Intake manifold configuration and material.

18. Exhaust manifold configuration and material.

19. Advertised H.P. at RPM.

20. Advertised Torque at RPM.

21. Exhaust system configuration and backpressure.

22. Governor description.

23. Supercharger description.

24. Precombustion chamber configuration and material.

IV. Air Inlet System.

1. Air cleaner type and configuration.

2. Air inlet temperature control system.

3. Inlet fresh air pick up method.

4. Maximum allowable restriction.

V. Fuel System.
1. Carburetion.
a. Number of carburetors.
b. Type.
c. Number of venturis per carburetor.
d. Venturi diameter.
e. Maximum air flow.
f. Fuel metering system type and calibration.
g. Enrichment system type and calibration.
h. Idle stop mechanism.
i. Starting system (e.g. choke).
j. Altitude compensation type and calibration.
k. Air-fuel flow specification (flow curve).
l. General compensation system type and calibration.
m. Component material.
n. Part number(s).
2. Fuel injection.
a. Control parameters.
b. Basic type (mechanical, electronic, timed, continuous).
c. Point of injection.
d. Maximum air flow.
e. Throttle mechanism type and calibration if applicable.
f. Fuel shutoff system type and calibration.
g. Cold start enrichment system type and calibration.
h. Enrichment system type and calibration.
i. Air-fuel flow specification (flow curve).
j. Altitude compensations type and calibration.
k. General compensation systems type and calibration.
l. Injector configuration and material.
m. Operating pressures.
n. Basic injector timing and advance characteristics.
o. Part number(s).
3. General.
a. Fuel pump configuration and specifications.
b. Fuel control mechanisms and vents.
c. Altitude compensation type and calibration.
d. Idle speed specification and setting procedure.
e. Idle mixture specification and setting procedure.
f. Fuel rate at maximum horsepower (Diesel only).
g. Fuel rate at maximum torque (Diesel only).
VI. Ignition System.
1. General type and description of operation.
2. Basic initial timing.
3. Spark advance specifications.
4. Spark plug.
a. Heat range.
b. Gap.
c. Tip configuration.
5. Ignition wire material.
6. Dwell (if applicable).
7. Starting circuit description.
8. General compensating systems type and calibration.
9. Altitude compensating system.
10. Insulation and heat sink (if applicable) material.
11. Part number(s).
VII. Cooling System.
1. Thermostat calibration.
2. Capacity of coolant.
3. Water pump capacity.
VIII. Engine Accessories.
1. Air conditioning system description and usage.
2. Power steering system description and usage.
3. Power brakes system description and usage.
4. Power take-off component(s) description and usage.
5. Vacuum take-offs.
IX. Exhaust Emission Control System.
1. System type (air injection, smoke control, EGR, etc.) and method of operation.
2. Component design and materials.
3. Location of component on vehicle.
4. Calibration of components.
5. Part number(s).
X. Evaporative Emission Control System.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).
XI. Crankcase Emission Control System.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).
XII. Auxiliary Emission Control Devices.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).
XIII. Emission Control Related Warning Systems.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibrations of components.
5. Part number(s).
XIV. Driveline Parameters.
1. Torque convertor or clutch configuration and torque transfer performance.
2. Transmission.
a. Automatic gear ratios and shift speeds.
b. Semiautomatic and manual gear ratios.
3. Differential and transfer case.
a. Number of wheels driving vehicle.
b. Axle ratio.
c. Special features that cause any changes to the torque transfer characteristics and quantifications of the additional horsepower requirements (e.g. overdrive).
4. Tires.
a. Size.
b. Type.
5. Engine speed to vehicle speed relationship (N/V).
XV. Vehicle Parameters.
1. Model.
2. Inertia weight class.
3. Curb weight average for model.
4. Roadload horsepower requirements.
5. Engine location in vehicle.
6. Fuel tank(s) configuration and material.
7. Fuel line(s) and hose size (including restrictors) and routing.

B. Heavy Duty Engine Parameters and Specifications.

I. Basic Engine Parameters-Four Stroke Cycle Reciprocating Engines.
1. Cylinder bore center-to-center dimension.
2. Centerline of crankshaft to centerline of camshaft dimension.
3. Centerline of crankshaft to the top of the cylinder block head face dimension.
4. Cylinder block configuration and material (including liners if applicable).
5. Combustion cycle.
6. Method of aspiration.
7. Displacement.
8. Bore and stroke.
9. Number of cylinders.
10. Compression ratio.
11. Surface to volume ratio.
12. Type of cylinder head and material.
13. Combustion chamber configuration.
14. Intake port area and configuration at cylinder head and manifold mating surface.
15. Exhaust port area and configuration at cylinder head and manifold mating surface.
16. Valves.
a. Head diameter.
b. Type and material.
c. Seat angle and preparation.
d. Valve spring material and load.
e. Valve spring retainer and/or rotator configuration.
f. Valve stem seal type and material.
g. Location of valves.
h. Valve activation mechanism.
i. Number of valves per cylinder.
17. Intake manifold configuration and material.
18. Exhaust manifold configuration and material.
19. Piston and piston ring(s) configuration and material.
20. Exhaust system configuration and backpressure.
21. Camshaft timing.
a. Cam profile.
b. Valve overlap.
22. Advertised H.P. at RPM.
23. Advertised Torque at RPM.
24. Governor descriptions.
25. Supercharger description.
26. Precombustion chamber configuration and material.

II. Basic Engine Parameters—Two-Stroke Cycle Reciprocating Engines.
1–25. Same as section I.
26. Intake port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing in combustion cycle.
27. Exhaust port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing in combustion cycle.
28. Transfer port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing in combustion cycle.
29. Crankcase volume.
30. Precombustion chamber configuration and material.

III. Basic Engine Parameters—Rotary Engines.
1. Major axis dimension.
2. Minor axis dimension.
3. Eccentricity dimension.
4. Width of rotor housing dimension.
5. Generating radius dimension.
6. Intake port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing and overlap if exposed to combustion chamber.
7. Exhaust port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing and overlap if exposed to combustion chamber.
8. Housing configuration and material.
9. Combustion cycle.
10. Method of aspiration.
11. Number of spark plugs per rotor.
12. Displacement.
13. Rotor and seals.
a. Number of rotors and seals per rotor.
b. Configuration and seal retention.
c. Materials.
14. Compression ratio.
15. Surface to volume ratio.
16. Combustion chamber configuration.
17. Intake manifold configuration and material.
18. Exhaust manifold configuration and material.
19. Advertised H.P. at RPM.
20. Advertised Torque at RPM.
21. Exhaust system configuration and backpressure.

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22. Governor description.
23. Supercharger description.
24. Precombustion chamber configuration and material
IV. Air Inlet System.
1. Air cleaner type and configuration.
2. Air inlet temperature control system.
3. Inlet fresh air pick up method.
4. Maximum allowable restriction.
V. Fuel System.
1. Carburetion.
a. Number of carburetors.
b. Type.
c. Number of venturis per carburetor.
d. Venturi diameter.
e. Maximum air flow.
f. Fuel metering system type and calibration.
g. Enrichment system type and calibration.
h. Idle stop mechanism.
i. Starting system (e.g. choke).
j. Altitude compensation type and calibration.
k. Air-fuel flow specification (flow curve).
l. General compensation system type and calibration.
m. Component material.
n. Part number(s).
2. Fuel injection.
a. Control parameters.
b. Basic type (mechanical, electronic, timed, continuous).
c. Point of injection.
d. Maximum air flow.
e. Throttle mechanism type and calibration if applicable.
f. Fuel shutoff system type and calibration.
g. Cold start enrichment system type and calibration.
h. Enrichment system type and calibration.
i. Air-fuel flow specification (flow curve).
j. Altitude compensation type and calibration.
k. General compensation systems type and calibration.
l. Injector configuration and material.
m. Operating pressures.
n. Basic injector timing and advance characteristics.
o. Part number(s).
3. General.
a. Fuel pump configuration and specifications.
b. Fuel control mechanisms and vents.
c. Altitude compensation type and calibration.
d. Idle speed specification and setting procedure.
e. Idle mixture specification and setting procedure.
f. Fuel rate at maximum horsepower (Diesel only).
g. Fuel rate at maximum torque (Diesel only).
VI. Ignition System.
1. General type and description of operation.
2. Basic initial timing.
3. Spark advance specifications.
4. Spark plug.
a. Heat range.
b. Gap.
c. Tip configuration or glow plug.
5. Ignition wire material.
6. Dwell (if applicable).
7. Starting circuit description.
8. General compensating systems type and calibration.
9. Altitude compensating system.
10. Insulation and heat sink (if applicable) material.
11. Part number(s).
VII. Cooling System.
1. Thermostat calibration.
2. Capacity of coolant.
3. Water pump capacity.
VIII. Engine Accessories.
1. Air conditioning system description and usage.
2. Power steering system description and usage.
3. Power brakes system description and usage.
4. Power take-off component(s) description and usage.
5. Vacuum take offs
IX. Exhaust Emission Control System.
1. System type (air injection, smoke control, EGR, etc.) and method of operation.
2. Component design and materials.
3. Location of component on vehicle.
4. Calibration of components.
5. Part Number(s).
X. Evaporative Emission Control System.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).
XI. Crankcase Emission Control System.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).
XII. Auxiliary Emission Control Devices.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).
XIII. Emission Control Related Warning Systems.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibrations of components.
5. Part number(s).

[FR Doc.74-29784 Filed 12-20-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19828; RM-1910, RM-2282 and Docket No. 19823; RM-2283]

FM BROADCAST STATIONS IN CERTAIN CITIES IN MISSOURI

Order To Show Cause Table of Assignments

1. The Commission has under consideration comments and reply comments filed in response to the notice of proposed rulemaking issued in this proceeding.[1] In the notice the Commission proposed the substitution of Class C Channel 297 for Channel 292A which is licensed to KLEX, Inc. (KLEX), Lexington, Missouri. KLEX, the proponent of this proposal, stated in its comments of November 23, 1973, that it "waives the waiting period and hearing requirements of section 316 of the Communications Act and agrees to accept a modification of its license to specify operation of KBEK (FM) on Channel 293 in lieu of Channel 292A". S & M Investments, Inc. (S & M), Liberty, Missouri, submitted a counterproposal proposing assignment of Channel 293 to Liberty and assignment of Class C Channel 297 to Lexington. KLEX has objected to S & M's counterproposal.

2. S & M's counterproposal would also require channel changes at Eldorado Springs and Butler, Missouri. Daryl Predine, licensee of Station KEBM-FM, Eldorado Springs, has consented to this change on condition that he be reimbursed for the expenses involved. Daryl Predine has indicated that S & M has advised him that it will reimburse him for reasonable and necessary costs of this modification. The grant of a construction permit to Bates County Broadcasting Co. (Bates), Butler, Missouri, was made subject to the condition that Bates accept any modification requiring use of a channel other than the one presently assigned as a result of whatever action the Commission may take in the instant proceeding. As such, KLEX remains the only licensee whose channel may be changed by the S & M counterproposal who is due a formal notification of this possibility and its rights in this respect.

3. Although it is well settled Commission policy that the licensee of a station whose channel of operation is being modified is entitled to reimbursement for the actual cost of this modification from the party benefiting from it, this policy will not apply to KLEX in this proceeding because KLEX has petitioned for a Class C channel, and S & M's proposal would provide one even though different from the one requested.

4. *Accordingly, it is ordered*, That pursuant to section 316 of the Communications Act of 1934, as amended, KLEX Inc., licensee of Station KBEK(FM), Lexington, Missouri, shall show cause why its license should not be modified to specify operation on Channel 297 instead of Channel 292A if the Commission in this proceeding finds it in the public interest to delete Channel 292A from Lexington and to substitute Channel 297 in its place, and to modify the license of station KBEK(FM). KLEX Inc. would be entitled to no reimbursement for this change.

5. Pursuant to § 1.87 of the Commission's rules and regulations, the licensee of Station KBEK(FM), KLEX Inc., may, not later than January 22, 1975, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, KLEX Inc., may, not later than January 22, 1975, file a written statement showing with particularity why its license should not be modified as proposed in this order to show cause. In this case, the Commission may call on KLEX Inc., to furnish additional information, designate the matter for hearing, or issue without further proceedings, an order modifying the license as provided in the order to show cause. If the right to request a hearing is waived and no written statement is filed by the date referred

[1] Notice of proposed rule making, adopted September 19, 1973 (FCC 73-961, 38 FR 27303). The Commission also has before it a petition for reconsideration of its decision assigning Channel 292A to Butler, Missouri (44 F.C.C. 2d 762) filed by S & M Investments, Inc.

to above, KLEX Inc. will be deemed to consent to modification as proposed in the order to show cause and a final order will be issued by the Commission if the channel changes mentioned above are found to be in the public interest.

6. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), 303(r), and 316 of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules and regulations.

7. It is directed, that the Secretary of the Commission send a copy of this order by certified mail, return receipt requested, to KLEX, Inc., Lexington, Missouri, the party to whom the order to show cause is directed.

Adopted: December 5, 1974.

Released: December 16, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-29618 Filed 12-20-74;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice CM-5/2]

U.S. ADVISORY COMMISSION ON INTERNATIONAL EDUCATIONAL AND CULTURAL AFFAIRS

Meeting

The United States Advisory Commission on International Educational and Cultural Affairs will meet in open session on Tuesday, January 21, 1975, in Room 1205 of the Main State Department Building, 2201 C Street, NW., from 9:30 a.m. to 12 noon.

The agenda will include reports on:

1. The East-West Center;
2. The Government Advisory Committee on International Book and Library Programs;
3. The December 17–18 meeting of the Board of Foreign Scholarships;
4. The status of budget request of the Bureau of Educational and Cultural Affairs;
5. Discussion of a possible Commission initiative in the field of U.S.-Latin American educational and cultural exchanges;
6. Consideration of the report of the Panel on International Information, Education and Cultural Relations;
7. Consideration of the U.S. role in UNESCO, particularly as it relates to the Bureau of Educational and Cultural Affairs;
8. Discussion on subjects to be included in the Commission's annual report to Congress; and
9. Such new business that is brought to the attention of members.

For purposes of fulfilling building security requirements, anyone wishing to attend the open session must advise the Staff Director by telephone in advance of the meeting. Telephone: (202) 632–2764. Members of the public will be accommodated up to the seating capacity of the meeting room.

Dated: December 18, 1974.

WILLIAM E. WELD, Jr.,
Staff Director,
Commission Secretariat.

[FR Doc.74-29851 Filed 12-20-74;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 75-4]

FOREIGN CURRENCIES

Certification of Rates

DECEMBER 13, 1974.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 74-264 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Austria schilling:

Dec. 4, 1974	$0.0562
Dec. 5, 1974	.0565
Dec. 6, 1974	.0566

Belgium franc:

Dec. 4, 1974	0.026850
Dec. 5, 1974	.026900
Dec. 6, 1974	.026875

Germany deutsche mark:

Dec. 2, 1974	0.4002
Dec. 3, 1974	.4000
Dec. 4, 1974	.4035
Dec. 5, 1974	.4050
Dec. 6, 1974	.4030

Netherlands guilder:

Dec. 4, 1974	0.3894
Dec. 5, 1974	.3902
Dec. 6, 1974	.3894

Switzerland franc:

Dec. 2, 1974	0.3645
Dec. 3, 1974	.3675
Dec. 4, 1974	.3733
Dec. 5, 1974	.3772
Dec. 6, 1974	.3750

[SEAL] JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

[FR Doc.74-29841 Filed 12-20-74;8:45 am]

Office of the Secretary

DEBT MANAGEMENT ADVISORY COMMITTEES

Meetings and Determination

Notice is hereby given, pursuant to section 10 of Pub. L. 92-463, that meetings will be held in Washington on January 21 and 22, 1975, of the following debt management advisory committees:

American Bankers Association, Government Borrowing Committee.
Securities Industry Association, Government Securities and Federal Agencies Committee.

The agenda for the meetings will include briefings for the advisory committees by Treasury staff on current debt management problems on January 21, separate deliberations by the two committees on January 21, and separate reports to the Secretary of the Treasury and Treasury staff on the morning of January 22.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department Order 190, revised, I hereby determine that these meetings are concerned with information exempt from disclosure under section 552(b)(4) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees are utilized by this Department at meetings called by representatives of this office. When so utilized they are recognized to be advisory committees under Pub. L. 92-463. The advice provided consists of commercial and financial information given and received in confidence in order to avoid adverse effects of premature disclosure on the financial markets and the economy. As such these debt management advisory committee activities concern matters which fall within the exemption covered by section 552(b)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential".

The Special Assistant to the Secretary (Debt Management) shall be responsible for maintaining records of the meetings of these committees and for providing annual reports setting forth a summary of their activities and such other matters as may be informative to the public consistent with the provisions of 5 U.S.C. 552(b)(4).

Dated: December 17, 1974.

[SEAL] JACK F. BENNETT,
Under Secretary for
Monetary Affairs.

[FR Doc.74-29831 Filed 12-20-74;8:45 am]

RADIAL BALL BEARINGS FROM JAPAN

Antidumping Proceeding

On November 20, 1974, information was received in proper form pursuant to § 153.26 and § 153.27, Customs regulations (19 CFR 153.26, 153.27), indicating a possibility that radial ball bearings, ex-

cluding those with integral shafts, with an outer diameter of 9 mm and over, but not over 180 mm, from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.). Radial ball bearings are used in various industrial equipment, including alternators and generators for cars, lawnmowers, various mechanical power transmission devices, electric motors, exhaust fans, transmissions for all types of civilian and military self-propelled vehicles, and other equipment.

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs regulations (19 CFR 153.30).

Dated: December 19, 1974.

[SEAL] DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.74-29884 Filed 12-20-74;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

CONTROL OF STARLINGS AND OTHER BLACKBIRDS AT ARMY INSTALLATIONS

Intent To Prepare Environmental Impact Statement

DECEMBER 16, 1974.

The previous notice in the FEDERAL REGISTER of October 21, 1974, (39 FR 37402 Oct. 21, 1974) concerning control of blackbirds, Fort Campbell, Kentucky, and Milan Army Ammunition Plant, Tennessee is hereby revoked. Although not regarded a major federal action having a significant impact on the environment under the provisions of the National Environmental Policy Act, the Department of the Army is proceeding with the preparation of a Draft Environmental Impact Statement (DEIS) due to the divergence of opinion expressed by various individuals and organizations on the proposed action. The DEIS is expected to be available about December 23, 1974.

The proposed control program involves large starling and blackbird roosts on Army installations. Various methods of control are being considered. The proposed control program should arrest damage to the local agricultural economy, help reduce a source of debilitating disease and improve aviation safety. Should it be concluded that an environmentally acceptable control measure is feasible and that such a measure should be employed prior to the blackbirds leaving their roosts for their spring migration, accelerated review of the DEIS will be requested from interested agencies and organizations.

Advance requests for copies of the DEIS and suggestions for consideration in preparing the statement may be sent to Mr. Henry L. T. Koren, Deputy Under Secretary of the Army, Department of the Army, Washington, D.C. 20310 prior to December 20, 1974.

HENRY L. T. KOREN,
Deputy Under Secretary of the Army.

[FR Doc.74-29808 Filed 12-20-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKAN NATURAL GAS TRANSPORTATION SYSTEMS

Additional Meetings

Notice is hereby given that public meetings will be held to obtain suggestions and comments on impacts of proposed systems for transporting natural gas from Alaska North Slope to the lower United States. Information on impacts will be considered in preparing the environmental impact statement. These meetings are in addition to the meetings which were announced in the FEDERAL REGISTER on December 11, 1974.

These meetings will be conducted by the Joint Interagency Task Force which is responsible for preparing that statement and which is composed of the Department of the Interior and the staff of the Federal Power Commission.

Background. The transportation of natural gas resources from the Arctic regions of northeast Alaska to markets in the lower United States is an issue of increasing national importance. In this regard, applications for natural gas pipeline right-of-way permits across Federal lands and certificates of public convenience and necessity authorizing the construction of natural gas transmission facilities have been received by the Department of the Interior and the Federal Power Commission in connection with proposed systems to deliver gas from northeast Alaska to the lower United States.

The Alaskan Arctic Gas Pipeline Company requested Federal permits and certificates to construct a pipeline for transportation of natural gas from the Prudhoe Bay area of Alaska. The proposed pipeline would cross northeast Alaska through the Arctic National Wildlife Range before crossing the international border and going south through Canada. Additional certificate applications have been filed with the Federal Power Commission by Interstate Transmission Associations and Northern Border Pipeline Company requesting Commission approval of related natural gas transmission systems which may be required to distribute the Alaskan Arctic gas throughout the United States. In this regard, additional permit applications are expected to be filed with the Department of the Interior.

The proposed system will consist of a main trunk line of 48-inch diameter located generally from Prudhoe Bay, approximately 2,600 miles to Caroline, Alberta. The main trunk will fork in the vicinity of Caroline, with 42-inch fork lines going to the area of Kingsgate, British Columbia (to the west), and Monchy, Saskatchewan (to the east). From these points, pipelines are expected to be generally located as follows:

1. From Kingsgate through Idaho, Washington, Oregon, and California to San Francisco;
2. From Kingsgate through Idaho, Washington, Oregon, Nevada and California to Los Angeles; and
3. From northern Montana through North Dakota, South Dakota, Minnesota, Iowa, Illinois, Indiana, Ohio, West Virginia to Pennsylvania.

El Paso Natural Gas Company has filed for certificates of public convenience and necessity to construct a natural gas pipeline system from Prudhoe Bay across Alaska on a north-south route ultimately delivering gas to the lower United States by cryogenic oceangoing tankers. The system is a 42-inch diameter line that would run generally from Prudhoe Bay southward following the Alyeska oil pipeline corridor, but with a port location near Point Cravina rather than at Valdez. At the terminus, the gas is to be liquefied and transported by cryogenic tankers to the west coast of the lower United States.

In response to these applications, the Federal Power Commission has responsibility for the evaluation and jurisdiction for the certification of the proposed transportation systems. The FPC staff, with the assistance of the Department of the Interior and others, is required to conduct a detailed independent analysis and prepare a detailed environmental statement. Because any pipeline involved will cross the public lands and other areas of Department of the Interior jurisdiction, and because permits or concurrences will be required for such crossings, Interior is directly involved in the proposed action and required to prepare a detailed environmental impact statement. In view of these considerations, it was agreed (May 1974) that FPC and Interior will assume joint responsibility for preparation of an environmental impact statement in order to most effectively and expeditiously assess the impacts.

MEETINGS

Meetings will be conducted at 10–11:30 a.m., 1:30–4:30 p.m., and 7:30–9 p.m., local time in the following locations:

Spokane, Washington
Federal Building, Room 695
West 920 Riverside
January 13, 1975

Bismarck, North Dakota
Holiday Inn, Far West Room

Memorial Highway
January 15, 1975

Reno, Nevada
Pioneer Motor Inn
221 South Virginia Street
January 15, 1975

The meetings will be open to the public with any individual invited to present a statement directed at environmental impacts. All statements received will be considered in the analysis of the environmental impacts but written comments are encouraged. Since the meetings are "information seeking" rather than "debate of merits of the proposals," the presiding officer will not permit cross questioning at the meeting.

Formal applications for the proposed gas transportation facilities are available for public inspection at the Department of the Interior, Washington, D.C.; the Federal Power Commission, Washington, D.C.; Office of the Special Assistant to the Secretary of the Interior, Chicago, Illinois; or the Bureau of Land Management Eastern States Office, Silver Spring, Maryland; Bureau of Land Management District Office, West 920 Riverside, Spokane, Washington 99201; U.S. Fish and Wildlife Service, Room 316, Federal Building, Bismarck, North Dakota.

The applications are also on file at the Bureau of Land Management State Office in each of those states in which gas transportation facilities have been proposed and at the Alaskan Gas Transportation System—EIS Task Force Offices which are listed below:

ALASKA TEAM LEADER

Alaskan Gas Transportation System—EIS Task Force
U.S. Department of the Interior
Bureau of Land Management
555 Cordova Street
Anchorage, Alaska 99501
Phone: 205/442-0150
Ask for: 907/277-1561

EVALUATION TEAM LEADER

Alaskan Gas Transportation System—EIS Task Force
United States Geological Survey
National Center, Mail Stop 106
Reston, Virginia 22092
Phone: 703/860-7491

WEST COAST TEAM LEADER

Alaskan Gas Transportation System—EIS Task Force
U.S. Department of the Interior
Bureau of Land Management
729 N.E. Oregon Street
Room 100
Portland, Oregon 97208
Phone: 503/234-3361—Ext. 4024

NORTHERN ROUTES TEAM LEADER

Alaskan Gas Transportation System—EIS Task Force
U.S. Department of the Interior
Bureau of Land Management
715 Kipling Street
Lakewood, Colorado 80215
Phone: 303/234-4888

PROJECT MANAGER—BLM (302)

Alaskan Gas Transportation System—EIS Task Force
U.S. Department of the Interior
Bureau of Land Management
18th & C Streets, NW.
Room 1540
Washington, D.C. 20240
Phone: 202/343-4917

CURT BEEKLUND,
Director, Bureau of Land Management.

DECEMBER 18, 1974.

[FR Doc.74-29676 Filed 12-20-74;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Notice of Application; Correction

On November 13, 1974, a notice was published in the FEDERAL REGISTER (39 FR 40044-48) that an application had been filed with the Fish and Wildlife Service, U.S. Department of the Interior, by the Patuxent Wildlife Research Center, U.S. Fish and Wildlife Service, Laurel, Maryland, for a permit relative to studies of endangered species.

Notice is hereby given that all references to Manatee, West Indian (Florida), (*Trichechus manatus*), are hereby deleted from this application.

Dated: December 17, 1974.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.74-29604 Filed 12-20-74;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:

Dr. James R. Dixon, Professor
Mark A. Staton, Ph.D., Graduate Student
Department of Wildlife and Fisheries Sciences
Texas A & M University
College Station, Texas 77843

INFORMATION SHEET

(1) Name and address:
Dr. James R. Dixon
Department of Wildlife and Fisheries Sciences
Texas A & M University
College Station, Texas 77843

(2) Institutional affiliation:
Chief Curator, Texas Cooperative Wildlife Collections; and
Professor of Wildlife and Fisheries Sciences
Texas A & M University

(3) We presently hope to conduct our research at the Murphree Wildlife Management Area, located adjacent to the southwest city limits of Port Arthur, Jefferson County, Texas; and, the Welder Wildlife Refuge, located seven miles NE of Sinton, San Patricio County, Texas.

(4) We are applying for this permit under Section 10(2)[?] (Exceptions; permits) of the Endangered Species Act of 1973 (Pub. L. 93-205, 93rd Congress) [Included in September 4, 1974 letter].

(5) As supporting documents from authorized authorities, we include a copy of our original grant proposal and a letter from the Endangered Species Office and International Affairs which shows that the grant has been funded by them.

(6) I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

(7) Desired effective date of permit: March 1, 1975 to March 1, 1977.

(8) Dated: September 4, 1974.

(9) Signature: James R. Dixon.

INFORMATION SHEET

(1) Name and Address:
Mark A. Staton
Department of Wildlife and Fisheries Sciences
Texas A & M University
College Station, Texas 77843

(2) Institutional affiliation:
Ph.D. Graduate Student
Texas A & M University
Department of Wildlife and Fisheries Sciences

(3) We presently hope to conduct our research at the Murphree Wildlife Management Area, located adjacent to the southwest city limits of Port Arthur, Jefferson County, Texas; and, the Welder Wildlife Refuge, located seven miles NE of Sinton, San Patricio County, Texas.

(4) We are applying for this permit under Section 20(2) (Exceptions; permits) of the Endangered Species Act of 1973 (Pub. L. 93-205, 93rd Congress) [Included in September 4, 1974 letter].

(5) As supporting documents from authorized authorities, we include a copy of our original grant proposal and a letter from the Endangered Species Office and International Affairs which shows that the grant has been funded by them.

(6) I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

(7) Desired effective date of permit: March 1, 1975 to March 1, 1977.

(8) Date: September 4, 1974.

(9) Signature: Mark A. Staton.

CONTRACTS FOR RESEARCH STUDIES ON SURVIVORSHIP OF ALLIGATORS THROUGH THEIR FIRST YEAR AND ONE-HALF OF LIFE

This contract entered into pursuant to the authority under the Federal Property and Administrative Services Act of 1949, as amended, section 302(c)(5) and the Fish and Wildlife Act of 1956, 70 Stat. 119 (16 U.S.C. 742 d and f), this 25th day of June 1974, between the United States of America, acting through the authorized Contracting Officer of the Fish and Wildlife Service, Department of the Interior (hereinafter called the Service) and the Texas A&M University (hereinafter called the Contractor).

Witnesseth: The Parties hereto do mutually agree to the conduct of the work pursuant to the General Provisions attached hereto and made a part hereof as follows:

1. *Description of Work.* The Contractor will undertake research studies on survivorship of Alligators through their first year and one-half of life, as more particularly set forth in the Contractor's proposal attached hereto and made a part hereof.

2. *Cost.* $12,684.
3. *Overhead.* (15%)
4. *Period of Performance.* June 26, 1974 through June 30, 1976.
5. *Project Officer.* Dr. Howard Campbell, National Fish and Wildlife Lab., 2620 East University Avenue, Gainesville, Florida.
6. *Equal Employment Opportunity.* The attached Form 3-176, entitled Equal Opportunity in Employment, is made a part of this contract.

In witness thereof, the Parties hereto have executed this contract as of the day and month and year first above written.

Texas Agricultural Experiment Station

TEXAS A&M UNIVERSITY

By: Williams.
Title: President.
Date: July 8, 1974.

THE UNITED STATES OF AMERICA

By: Leland H. Barrineau,
Contracting Officer,
Fish and Wildlife Service.

A PROPOSAL FOR A STUDY OF YOUNG ALLIGATORS

submitted to

Chief

Endangered Species Office and International Affairs

Washington, D.C.

proposed title:

SURVIVORSHIP OF ALLIGATORS THROUGH THEIR FIRST YEAR AND ONE-HALF OF LIFE

by

Dr. James R. Dixon

and

Mark A. Staton

Main objectives.

I. To determine the survivorship of young alligators through their first summer, first winter, and second summer of life;

II. To determine the overwintering habits of the first-year alligators.

Historical summary of the problem.

The American alligator, *Alligator mississipiensis,* is a rare and endangered species over most of its geographical range; this is so largely because of the commercial value of this reptile's hide, which has encouraged much poaching. Despite its commercial value, despite the fact that it is an endangered species, and despite the regrettable fact that it is among a small group of survivors of the subclass of reptiles that once ruled the face of the earth. Very little objective scientific information is available on the young of this animal to people who are trying to propagate this species and to prevent it from becoming extinct.

The literature available on alligators during their first year and one-half of life is confusing, clearly contradictory, and for all practical purposes, never quantitative. The food habits of the American alligator were studied by Kellogg (1929). However, the sample used by this researcher were severely biased since more than 95 percent of his animals were from the salt marshes of Louisiana where food is atypical for most other members of the species. Even more detrimental is the fact that no attention was paid to differential predation by size class; in addition, no attention was given to the fact that much of this food could have been secondarily ingested (Neill, 1971). Neill (1971) suggests crayfish as a food item for the young alligator, but does not volunteer other suggestions; needless to say, there is no quantitative information on the subject.

There is some useful information on predation on young alligators. Neill (1971) lists the great blue heron, raccoon, black bear, cottonmouth mocassin, and introduced wild hog as predators of the young alligator. Various hawks, eagles, snapping turtles, and frogs of the genus *Rana* were also mentioned by Neill as possible predators. LeBuff (1957) adds otters, skunks, and adult alligators from six to fourteen feet in length to this list. LeBuff states: "* * * undoubtedly the alligator should rank relatively high in the list of the hatchling's enemies." As will be noted below, this is in sharp contrast to what most other authors report. Undoubtedly, other predators of young alligators exist, such as largemouth bass, water snakes, and other carniforous vertebrates.

LeBuff's statement concerning cannibalism by alligators is contrary to the reports of other authors that the adult alligator (usually considered to be the mother of the young) actually protects them; some authors claim this period of maternal care to be up to three years long. Protection by the mother or by any adult of the species would of course be a great positive factor in the survivorship of the alligator during its first year of life, a very critical period of the life history of this animal. It is at this stage that alligators are most likely to undergo heavy predation, and the environmental extremes in temperature (especially during winter) would place a great stress on the species. Thus adult (parental or nonparental) care in the form of protection from predators, or in the form of providing an overwintering den site, would contribute greatly to the survivorship of the young and to the survival of the species as a whole. However, the literature concerning this aspect of the life history of this animal is totally confusing and chaotic. The following quotes from the literature will suffice to demonstrate this point.

From McIlhenny's (1935) book on the life history of the alligator, we get the following information:

"As soon as the young are hatched, they are led by the mother to her den, which is usually in a secluded pool in the wet prairie or the head of some small bayou. The young remain with, and are guarded by, the mother from the time of hatching all through the winter, and until the next spring's mating season. At this time the female wanders off in search of a mate, and the young, being then about sixteen or eighteen inches in length and well able to take care of themselves, spread over the surrounding marshes and bayous."

Others, such as Goin and Goin (1971) and Oliver (1955) have apparently cited McIlhenny. Viosca (1960) feels that the maternal care is even more longlasting:

"Young alligators seem to stay in the feeding area guarded by their mother for as long as three and a half years. I have evidence of a mother, father, and three generations of young hibernating together in a single water hole. Similar reports from professional alligator hunters seem to bear this out. Most of the young will have wandered away by the fourth year, when their length is between three and a half and four feet."

However, Neill's (1971) observations on the alligator are quite the opposite of those of McIlhenny and Viosca. Neill agrees that the adult alligator does protect the young of the species; however, Neill asserts that any adult will protect young which happens to be in its territory, and therefore, the protection is not necessarily maternal. According to Neill, such protection is given when the young sounds its "distress call"; McIlhenny does not mention the distress call, saying that the adult will respond to the regular "umph" of the young which it sounds in case of danger. Neill states:

"The adult's reaction to the distress call is the only direct interaction between adult and juvenile alligators. Except when reacting to the distress call, the adults ignore the juveniles competely, as far as one can judge from overt responses of the adult."

In contrast to this are the following observations by McIlhenny and by Kushlan (1973).

"I have seen mother alligators catch large fish, large snakes, and turtles in their jaws and crush them to a pulp, holding them at the surface of the water between their jaws, so that the young could gather bits of food from the crushed flesh." (McIhenny, 1935)

"On 16 August a number of juveniles still at the nest site were captured and used to test the response of the mother to the juvenile distress cry. While the female was floating in the water next to the roadbed, I held a juvenile 1 m above the ground and elicited distress cries by squeezing it. The mother moved quickly out of the water and climbed up the bank, a distance of 3 m. At this point I immediately released the juvenile. In direct and deliberate motions, the female then turned her head sideways, opened her jaws, picked up the juvenile with the side of her mouth, and with a jerk of her head positioned it on the bottom of her mouth in front of her tongue. The female remained on the roadbed for several minutes holding her mouth agape by about 3 cm and then backed down into the water. She remained there for several minutes more, then increased her gape slightly and the juvenile swam out." (Kushlan, 1973)

With regard to overwintering, Neill states that the adults do not provide an overwintering den site for the young. Instead,

"Dispersal takes place so soon after hatchling that, even in captivity, one rarely has a chance to see a brood while more than a few of its members are still together. * * * Ignoring aggregation that is forced by low water, in most areas the herpetologist will see an aggregation of hatchlings only if he is fortunate enough to be on hand in the first hour or two after hatching."

LeBuff (1957) agrees with Neill on this matter:

Upon emergence from their thin-shelled prison the young head directly toward the nearest water which is not a carefully planned "playground" but the shoreline of the pond, lake, or stream nearest their nest. They go immediately to the shallow waters bordering their possible future habitat.

However, Neill and LeBuff do not agree on the matter of predation by adults on young alligators.

Numerous other contradictions in the literature concerning the life history of these young alligators could be cited. The question of whether the female opens the nest for the young at the time of their emergence from that nest is a good example. Another serious fault of the information on young alligators is its total lack of quantitative data. Perhaps the most quantitative information available on any aspect of the life history of young alligators is the statement by Neill (1971) concerning survivorship:

"Studies in Georgia revealed that the number of hatchlings present in a lake or a sharply delimited expanse of low flatwoods was reduced by about nine-tenths between the end of the hatching season and the beginning of the following active season. These observations were made at fairly undisturbed localities, and at a time when hatchling alligators were not collected by man. The decimation of hatchlings was a result of natural hazards and perhaps innate defects."

Neill does not state if this information is published (and if so, where), and a rundown of the literature cited by Neill in this

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particular part of his text is equally unrevealing as to its source. However, Neill surely does not expect this statement to be of any value in describing the demography of these young alligators since no idea of the sample size involved is given; in addition, the localities involved are not given (which would allow an evaluation of how "undisturbed" the localities were). In stating that the study was done at a time when there was no predation by man on the young, Neill almost implies that there might have been hunting of the adults by man. If there is much parental care given to the young as claimed by many other authors, then the hunting of the adults would certainly have been detrimental to the first-year alligators.

Thus information on the survivorship (or mortality) of alligators during their hatching year is virtually nonexistent, and a study of the matter is merited. Ted Joanen of the Louisiana Wild Life and Fisheries Commission, who has for over ten years been doing research on these animals in order to propagate the alligator in captivity and manage their populations, has assured me that information on mortality during their hatching year is needed and would prove useful in the management scheme (pers. comm., August, 1973).

Thus, we offer a preliminary outline of the proposed study herein.

Methods and materials. The site for the study has not been selected and will be dependent upon the amount allocated for transportation and supplies. Ideally, the study area would be inhabited by a population of alligators large enough so that young from a minimum of ten to twenty nests could be studied. It would also be worthwhile to have two study areas with as great a latitudinal difference in location as possible so that differences in the overwintering habits due to differences in the severity of the winter might be discovered; again, this would be dependent upon allocations for travel and supplies.

A. *Survivorship.* To determine survivorship of young in the alligator population (or populations) studied, the alligators will be marked in two ways—by toe clipping and by color-coded markers. Various combinations of toes clipped will allow for marking of many more animals than will actually be involved in the study. Combinations of two markers of different color (as many different colors as necessary could be used) will also allow for marking and later identification of nest mates. These markers would consist of small, soft plastic strips, which would not stand out conspicuously and thereby possibly increase natural predation on the animals; in addition, the animals could be identified without being handled. This is the main purpose for having two marking systems. Most authors agree that the behavior of crocodilians can be changed by man's intereference with their activities (for example see McIlhenny, 1935, Bustard, 1968, and Neill, 1971). Since toe clipping will necessarily involve handling the animals, the color-coded marker system will allow an evaluation of the effect of handling on their behavior and, consequently, even their survivorship. If more than one population is studied, then both systems would be used at each study area.

Sampling of the population at different intervals of the first year and one-half will help to determine the numbers of alligators present, thus giving an idea of when predation is highest and of the losses incurred over winter.

B. *Overwintering Habits.* The literature is totally contradictory about the overwintering habits of young alligators, and the first winter could be a negative influence on the survivorship of young alligators, thus an examination of its overwintering activities is necessary. This will involve many field observations. The methods we propose in this portion of the study are: (1) Radioactive transmitters (tantalum); (2) radio transmitters (sonar). Radio transmitters will be placed on various mother alligators shortly before the hibernation period begins, thus allowing us to trace them to their dens, and be able to monitor her activities during the winter. The radioactive tracers placed in selected young from different nests will allow the field worker to know if there are young denning up with the mother for the winter. If such is the case, examination of the den and identification of the young by its mark (color-coded marker or toes clipped) will allow the determination of the overwintering relationships between adults and young of the population. In addition, observations of winter basking by the young would indicate whether the young use the same den after basking, the distance from the den they might move, and if indeed an adult's den site is always, sometimes, or never used.

Although a determination of survivorship and overwintering behavior will be the main objectives of this study, the field work will undoubtedly result in other observations on the life history and demography of the young as well as the adult alligators. For example, den site of the young and seasonal variations in density will be calculated. Observational data on predation, feeding, and behavior will also be taken. Thus, this study would provide essential information about this unique endangered species of reptile which will be useful in preventing it from becoming extinct.

Budget:

Item	1st year	2d year	Total
Salary for 1 MS Student ($350 per month)	$4,200.00	$4,200.00	$8,400.00
Equipment [1]	800.00	200.00	1,000.00
Transportation (summer and winter trips to study area and other alligator localities)	500.00	500.00	1,000.00
Subtotal	5,700.00	5,100.00	10,800.00
Overhead (15 percent)			1,670.00
Total			12,470.00

[1] Radio transmitters, receivers, and radioisotopes.

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Kellogg, R. 1929. The habits and economic importance of alligators. U.S. Department of Agriculture, Technical Bulletin No. 147.

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LeBuff, C. R., Jr. 1957. Observations on captive and wild North American crocodilians. Herpetologica 13(1): 25–28.

McIlhenny, E. A. 1935. The alligator's life history. Christopher Publishing House, Boston.

Neill, W. T. 1971. The last of the ruling reptile, alligators, crocodiles, and their kin. Columbia Univ. Press, New York.

Oliver, J. A. 1955. The natural history of North American amphibians and reptiles. D. Van Nostrand Co., Princeton, N.J.

Viosca, P., Jr. 1960. The sun worshiper. Louisiana Conservationist, April, 1960.

NOTE: The literature cited section of Neill's 1971 book on the crocodilians is supposedly complete and was used in the preparation of this paper. In addition, the bibliographies of the many publications by Joanen and Albert M. Reese, as well as many other papers in our possession were used to search the literature for pertinent information. The Zoological Record and Biological Abstracts were also used. Therefore, we feel that the information herein is representative of the information available on the young of alligators and that the complete bibliography will yield only a minimum of additional information to that enclosed.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before January 22, 1975, will be considered.

Dated: December 17, 1974.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.74-29805 Filed 12-20-74;8:45 am]

MARINE MAMMAL PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit has been received under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407).

Applicant:

Jack W. Lentfer
U.S. Fish and Wildlife Service
813 D Street
Anchorage, Alaska 99501

Date: November 7, 1974.

To: Director, U.S. Fish & Wildlife Service, Washington, D.C.

From: Leader, Polar Bear Project, Research Division, U.S. Fish and Wildlife Service, Anchorage, AK.

Subject: Permit Application.

Enclosed is an application for a polar bear research permit as required by the Marine Mammal Act.

JACK W. LENTFER.

APPLICATION FOR POLAR BEAR RESEARCH PERMIT AS REQUIRED BY MARINE MAMMAL PROTECTION ACT OF 1972

Information required by 50 CFR 13.12.

1. Applicant's name, address, and phone number: Jack W. Lentfer, U.S. Fish and Wildlife Service, 813 D Street, Anchorage, Alaska 99501, Phone 907-265-4506.

2. Date of birth: May 13, 1931. Height: 6'1". Weight: 170 lbs. Color of Hair: Light. Color of Eyes: Blue. Sex: Male. Affiliation: Leader, Polar Bear Project, U.S. Fish and Wildlife Service.

3. Agency Director: Lynn A. Greenwalt, Director, U.S. Fish and Wildlife Service, Washington, D.C.

4. Location of Activity: North and northwest Alaska coast, Beaufort and Chukchi Seas, and Wrangel Island.

5. Information required by 50 CFR 18.31 for marine mammal research permit:

(1) Purpose: To provide for immobilization of polar bears in order to examine for marks or mark, and obtain biological specimens and data.

Dates of taking: March 1, 1975 through February 28, 1978.

Location and manner of taking: Field operations will be conducted from Pt. Hope, Pt. Barrow, Oliktok, and Barter Island, Alaska; Wrangel Island, U.S.S.R.; and AID JEK drifting ice stations in the Beaufort Sea. Bears other than cubs will be immobilized by injecting 1.6 milligrams per kilogram body weight of the immobilizing drug Sernylan (phencyclidine hydrochloride) and .07–.11 milligram per kilogram body weight of the tranquilizing drug Acepromazine into a large rump muscle with a syringe gun. Cubs will be handled without drugs. Most bears will be immobilized from a helicopter; possibly a few will be immobilized from the ground. Bears become immobile within 7 to 20 minutes and remain immobile for 2 to 5 hours. Bears will be marked for long-term identification with ear tags and a lip tattoo and for short-term identification from a distance with a number dyed on the fur. A veterinary tooth extractor will be used to remove a rudimentary premolar tooth approximately 8 millimeters long. Vacutainer syringes will be used to obtain blood samples from the femoral vein. Milk will be obtained by manual extrusion of mammae. Techniques for immobilizing and handling animals are judged to be safe; the attempted temporary immobilization of 659 polar bears by Alaskan researchers has resulted in deaths of only 5 animals. Experience which has been gained will reduce the mortality rate in the future.

(2) Stocks, numbers and products to be taken, weights, ages, sizes, sex, and condition: Bears captured west and south of Point Lay, Alaska belong to one subpopulation, and bears captured north and east of Point Lay belong to another subpopulation. Relationships of these bears to Canadian and Siberian populations are not known. Sizes of Alaskan populations are not known. Up to 800 animals will be immobilized over a period of 3 years. A rudimentary premolar tooth and blood sample will be taken from most animals and a milk sample will be taken from lactating females. Both sexes and all age classes of bears will be immobilized. Ages will range from 4 months to 25 years. Weights will range from 15 to 1,400 pounds. No mortalities are expected, but to cover contingencies, authorization is requested to possess carcasses of any bears killed accidentally during immobilizing procedures.

(3) Methods of transport and holding: Not applicable.

(4) Description of research project: The Alaska polar bear research program includes studies of population discreteness, movement patterns, seasonal distribution and abundance, reproductive biology, and effects of human development on populations. Much of the information is obtained by immobilizing animals. Flights to locate animals for immobilization provide data on distribution and abundance of bears in relation to ice type and in relation to distribution of seals, their principal food. Examination of immobilized animals provides data on sex and age composition and reproductive biology. Marking and recovering animals provides data on movements. All studies contribute to a better understanding of life history and ecology and aid in evaluating effects of human development on populations. Studies are part of a cooperative program with Canada and Russia. The Alaska Department of Fish and Game and the U.S. Fish and Wildlife Service have now marked more than 650 bears. The Canadian Wildlife Service has marked approximately 300 bears adjacent to northwestern Canada, and the Russians are marking bears on Wrangel Island in northwestern Russia.

Cementum layering in premolar teeth will provide estimates of age for individual animals. Electrophoretic analysis of blood will aid in assessing population discreteness. Milk samples will aid in assessing population discreteness and determining levels of environmental contaminants in a top trophic level Arctic carnivore.

Data will be used for annual Department of Interior status reports required by the Marine Mammal Act, and for evaluation of a management program proposed by the State of Alaska. The studies are part of an international research effort coordinated by the Polar Bear Specialist Group associated with the International Union for the Conservation of Nature. Studies partially fulfill research obligations of the U.S.–U.S.S.R. Environmental Protection Agreement and the International Polar Bear Agreement prepared at Oslo, Norway in November 1973. Data will be made available to the Alaska Department of fish and game and polar bear management and research agencies in other countries.

6. Documentation for importation from foreign country: Not applicable.

7. Certification: I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

8. Desired effective date of permit: March 1, 1975–February 28, 1978.

9. Date of application: November 7, 1974.

10. Signature of applicant:

JACK W. LENTFER.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before January 22, 1975, will be considered.

Dated: December 17, 1974.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.74–29806 Filed 12–20–74;8:45 am]

National Park Service

ISLE ROYALE SEAPLANE SERVICE

Intention To Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before January 22, 1975, the Department of the Interior, through the Superintendent, Isle Royale National Park, proposes to issue a concession permit to Clarence J. Grognet, doing business as Isle Royale Seaplane Service, authorizing it to provide air transportation of passengers and freight for the public, and to use certain Government-owned docks and fueling facilities located in Isle Royale National Park, for a period of five years from January 1, 1975 through December 31, 1979.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the human environment, and that it is not a major Federal action under the National Environmental Policy Act and the guidelines of the Council on Environmental Quality. The environmental assessment may be reviewed in the Midwest Regional Office, 1709 Jackson Street, Omaha, Nebraska 68102, and the Office of the Superintendent, 87 N. Ripley Street, Houghton, Michigan 49931.

The foregoing concessioner has performed its obligations under an existing permit to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the issuance of a new permit. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before January 22, 1975.

Interested parties should contact the Superintendent, Isle Royale National Park, 87 North Ripley Street, Houghton, Michigan 49931, for information as to the requirements of the proposed permit.

Dated: November 18, 1974.

HUGH P. BEATTIE,
Superintendent.

[FR Doc.74–29830 Filed 12–20–74;8:45 am]

NOAH RECTOR AND PHILLIP MOSS

Intention To Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on January 22, 1975, the Department of the Interior, through the Superintendent, Ozark National Scenic Riverways, proposes to issue a concession permit to Noah Rector and Phillip Moss, authorizing them to provide concession facilities and service for the public at Ozark National Scenic Riverways for a period of two (2) years from December 31, 1974 through December 31, 1976.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the human environment, and that it is not a major Federal action under the National Environmental Policy Act and the guidelines of the Council on Environmental Quality. The environmental assessment may be reviewed in the Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska and the Headquarters of the Ozark National Scenic Riverways, Van Buren, Missouri.

The foregoing concessioner has performed its obligations under the expired permit to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be

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given preference in the renewal of the permit and in negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before January 22, 1975.

Interested parties should contact the Superintendent, Ozark National Scenic Riverways, for information as to the requirements of the proposed permit.

RANDALL R. POPE,
Superintendent.

NOVEMBER 14, 1974.

[FR Doc.74-29629 Filed 12-20-74;8:45 am]

INDEPENDENCE NATIONAL HISTORICAL PARK ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Independence National Historical Park Advisory Commission will be held at 10:30 a.m. on January 9, 1975, at 313 Walnut Street, Philadelphia, Pennsylvania.

The Commission was established by Pub. L. 80-795 to render advice on such matters relating to the park as may from time to time be referred to them for consideration.

The members of the Commission are as follows:

Mr. Arthur C. Kaufmann (Chairman)
Mr. John P. Bracken
Hon. Michael J. Bradley
Hon. James A. Byrne
Mr. Filindo B. Masinn
Mr. Frank C. P. McGlinn
Mr. John B. O'Hara
Mr. Howard D. Rosengarten
Mr. Charles B. Tyson

The matters to be considered at this meeting include:

1. Chestnut Street Mall project.
2. Independence Mall planning for Bicentennial.
3. Memorial for the late Judge Edwin O. Lewis.
4. Area F.
5. Superintendent's Report.

The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed. Persons desiring further information concerning this meeting, or who wish to submit written statements, may contact Hobart G. Cawood, Superintendent, Independence National Historical Park, Philadelphia, Pennsylvania, at Area Code 215, 597-7120.

Minutes of the meeting shall be available for inspection two weeks after the meeting at the office of the Independence National Historical Park, 313 Walnut Street, Philadelphia, Pennsylvania.

Dated: December 10, 1974.

CHESTER L. BROOKS,
Regional Director, Mid-Atlantic Region, National Park Service.

[FR Doc.74-29787 Filed 12-20-74;8:45 am]

WESTERN REGIONAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a field trip and public meeting of the Western Regional Advisory Committee will be held in Hawaii. The field trip will begin on January 13, 1975 in Hilo, Hawaii and end on January 17, 1975 in Honolulu, Hawaii. A public meeting will be held at 9:00 a.m. HST on January 18, 1975 in the conference room of the Waikiki Beachcomber Hotel, 2300 Kalakaua Avenue, Honolulu, Hawaii.

The purpose of the Western Regional Advisory Committee is to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on programs and problems pertinent to the Western Region of the National Park Service.

The members of the Advisory Committee are as follows:

Lewis S. Eaton, Fresno, California (Chairman)
Ben Avery, Phoenix, Arizona
David W. Ballio, Jr., Lihue, Kauai, Hawaii
Ed Fike, Las Vegas, Nevada
Bernard Fontana, Tucson, Arizona
Jean Ford, Las Vegas, Nevada
James Hooper, Crescent City, California
Jack Walston, San Francisco, California
Todd Watkins, Bishop, California

The matters of general discussion by the public and the committee will be the four currently established National Park Service areas in Hawaii:

(1) City of Refuge National Historical Park.
(2) Haleakala National Park.
(3) Hawaii Volcanoes National Park.
(4) Puukohola Heiau National Historic Site.

Other general discussion items will be on park studies:

(1) Honokohau.
(2) U.S.S. Arizona Memorial.

The field trip will provide the committee with an onsite orientation of the programs and problems pertinent to the above listed areas.

The meeting will be open to the public. Any member of the public will also be able to file, with the committee, a written statement concerning the matters to be discussed.

Due to a lack of space, only the Advisory Committee members and associated National Park Service personnel will be provided transportation for the field trip.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Ray C. Foust, Executive Assistant to the Regional Director, Western Regional Office at (415) 556-8227.

Minutes of the meeting will be available for public inspection eight weeks after the meeting at the Western Regional Office, National Park Service, 450 Golden Gate Avenue, San Francisco, California.

Dated: December 12, 1974.

HOWARD H. CHAPMAN,
Regional Director, Western Region, National Park Service.

[FR Doc.74-29758 Filed 12-20-74;8:45 am]

Office of the Secretary

FEDERAL METAL AND NONMETAL MINE SAFETY ADVISORY COMMITTEE

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Federal Metal and Nonmetal Mine Safety Advisory Committee, authorized to be established under the Federal Metal and Nonmetallic Mine Safety Act (Pub. L. 89-577), will meet on Wednesday—January 29, Thursday—January 30, and Friday—January 31, 1975, starting at 8:30 a.m. each day until the Advisory Committee concludes its business, at the Braniff Place Tucson, 180 West Broadway, Tucson, Arizona 85701—Telephone Number: Area Code 602-624-9711.

The matters to be discussed at this meeting include suggested new and revised safety standards which are carried over from the October 30-31, 1974, and November 1, 1974, meeting of the Advisory Committee held in Denver, Colorado. These standards relate to the "second escapeway" standard, electricity, and gassy mines. A final review will be made of the actions taken by the Advisory Committee on safety standards relating to man hoisting and a definition and safety standard relating to kelly bars and the use of explosives. In addition the agenda will consist of suggested new and revised health and safety standards and definitions relating to fire prevention and control; air quality, ventilation, radiation and physical agents; personal protection; miscellaneous standards concerning housekeeping, protruding nails, caution signs and caution labels; and, the addition of a new section which will be designated "Sanitation" which includes four standards concerning change rooms, drinking water, food storage and receptacles, and expectorating. Copies of the agenda and the suggested standards are available for the public and may be obtained from or may be examined in the office of the Executive Secretary.

The meeting of the Advisory Committee is open to the public. Public attendance will be limited to seating available in the meeting room of the Braniff Place Tucson. Persons desiring to attend this meeting are requested to notify the Executive Secretary in writing of their intention to attend the meeting by Wednesday, January 22, 1975.

Written data, views or arguments concerning the subjects to be considered may be filed with the Executive Secretary by Wednesday, January 22, 1975. Any such submission, timely received, will be provided to the members of the Advisory Committee and will be included in the record of the meeting. Persons wishing to orally address the committee at the meeting should submit a written request to be heard to the Executive Secretary no later than Wednesday, January 22, 1975. The request must contain a short summary of the intended presentation and an estimate of the amount of time that will be needed. At the meeting the Chairman will announce whether oral presentations will be allowed and, if so, under what conditions.

All written notices and requests to the Executive Secretary should be addressed as follows:

Mr. Robin A. Van Meter
Executive Secretary
Federal Metal and Nonmetal Mine Safety Advisory Committee
Room 2517
U.S. Department of the Interior
Washington, D.C. 20240
Telephone Number: Area Code 202-343-4406

Dated: December 18, 1974.

C. K. MALLORY,
Deputy Assistant Secretary of the Interior.

[FR Doc.74-29662 Filed 12-20-74;8:45 am]

[INT FES 74-66]

PROPOSED CRESCENT LAKE WILDERNESS AREA

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a Final Environmental Statement for the Proposed Crescent Lake Wilderness Area, Garden County, Nebraska.

The proposal recommends that approximately 24,502 acres of the Crescent Lake National Wildlife Refuge in Garden County, Nebraska be designated as wilderness within the National Wilderness Preservation System.

Copies of the Final Statement are available for inspection at the following locations:

Regional Director
Federal Building, Fort Snelling
Room 630
Twin Cities, Minnesota 55111

Refuge Manager
Star Route 69366
Ellsworth, Nebraska 69340

U.S. Fish and Wildlife Service
Office of Environmental Coordination
Department of the Interior
Room 2252
18th and C Streets, NW.
Washington, D.C. 20240

Single copies may be obtained by writing the Chief, Office of Environmental Coordination, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Dated: December 17, 1974.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.74-29634 Filed 12-20-74;8:45 am]

PROPOSED VALENTINE WILDERNESS AREA

[INT FES 74-67]

Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a Final Environmental Statement for the Proposed Valentine Wilderness Area, Cherry County, Nebraska.

The proposal recommends that approximately 16,317 acres of the Valentine National Wildlife Refuge in Cherry County, Nebraska be designated as wilderness within the National Wilderness Preservation System.

Copies of the Final Statement are available for inspection at the following locations:

Regional Director
Federal Building, Fort Snelling
Room 630
Twin Cities, Minnesota 55111

Refuge Manager
Hidden Timber Star Route
Valentine, Nebraska 69201

U.S. Fish and Wildlife Service
Office of Environmental Coordination
Department of the Interior
Room 2252
18th and C Streets, NW.
Washington, D.C. 20240

Single copies may be obtained by writing the Chief, Office of Environmental Coordination, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Dated: December 17, 1974.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.74-29633 Filed 12-20-74;8:45 am]

[INT FES 74-68]

PROPOSED YUKON FLATS NATIONAL WILDLIFE REFUGE, ALASKA

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed Yukon Flats National Wildlife Refuge in Alaska. The proposal is made in accordance with the Alaska Native Claims Settlement Act of 1971. The environmental statement considers the legislative establishment of the Yukon Flats National Wildlife Refuge and its management by the agency indicated below.

Proposal recommends that: Approximately 3.59 million acres of public lands and waters in northeast Alaska be designated by Congress as the Yukon Flats National Wildlife Refuge.

Management by: Fish and Wildlife Service.

The final environmental statement is available for inspection at the following locations:

North Atlantic Regional Office
National Park Service
150 Causeway Street
Boston, Massachusetts 02114

Southeast Regional Office
National Park Service
3401 Whipple Avenue
Atlanta, Georgia 30344

Rocky Mountain Regional Office
National Park Service
645-655 Parfet Avenue
Denver, Colorado 80215

Western Regional Office
National Park Service
450 Golden Gate Avenue
Box 36063
San Francisco, California 94102

Fish and Wildlife Service
1500 Plaza Building, Room 288
1500 NE. Irving Street
P.O. Box 3737
Portland, Oregon 97208

Fish and Wildlife Service
Federal Building—Fort Snelling
Room 630
Twin Cities, Minnesota 55111

Fish and Wildlife Service
John W. McCormack P.O. and Courthouse
Boston, Massachusetts 02109

U.S. Forest Service
Federal Building
Missoula, Montana 59801

U.S. Forest Service
Federal Building
517 Gold Avenue, SW.
Albuquerque, New Mexico 87101

U.S. Forest Service
630 Sansome Street
San Francisco, California 94111

Mid-Atlantic Regional Office
National Park Service
143 South Third Street
Philadelphia, Pennsylvania 19106

Midwest Regional Office
National Park Service
1709 Jackson Street
Omaha, Nebraska 68102

Southwest Regional Office
National Park Service
P.O. Box 728
Santa Fe, New Mexico 87501

Pacific Northwest Regional Office
National Park Service
Room 931, 4th and Pike Building
1424 Fourth Avenue
Seattle, Washington 98101

Fish and Wildlife Service
500 Gold Avenue, SW.
Room 9018
P.O. Box 1306
Albuquerque, New Mexico 87103

Fish and Wildlife Service
17 Executive Park Drive, NE.
Room 411
Atlanta, Georgia 30329

Fish and Wildlife Service
10597 West Sixth Avenue
Denver, Colorado 80215

U.S. Forest Service
Denver Federal Building
Denver, Colorado 80225

U.S. Forest Service
Federal Building
324 25th Street
Ogden, Utah 84401

U.S. Forest Service
319 SW. Pine Street
P.O. Box 3623
Portland, Oregon 97208

U.S. Forest Service
1720 Peachtree Road, NW.
Atlanta, Georgia 30309

Bureau of Land Management
1600 Broadway
Room 700
Denver, Colorado 80202

Bureau of Land Management
Federal Building
300 Booth Street
Reno, Nevada 89502

Bureau of Land Management
Federal Building, Room 398
550 W. Fort Street
Boise, Idaho 83702

Bureau of Land Management
2120 Capitol Avenue

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P.O. Box 1828
Cheyenne, Wyoming 82001

Bureau of Land Management
Federal Building
316 North 26th Street
Billings, Montana 59101

Bureau of Land Management
Robin Building
7981 Eastern Avenue
Silver Spring, Maryland 20910

Southeast Regional Office
Bureau of Outdoor Recreation
148 Cain Street
Atlanta, Georgia 30303

Mid-Continent Regional Office
Bureau of Outdoor Recreation
Denver Federal Center
Building 41, P.O. Box 25387
Denver, Colorado 80225

Northwest Regional Office
Bureau of Outdoor Recreation
1000 2nd Avenue
Seattle, Washington 98104

U.S. Forest Service
633 W. Wisconsin Avenue
Milwaukee, Wisconsin 53203

Bureau of Land Management
Federal Building
125 South State Street
Salt Lake City, Utah 84111

Bureau of Land Management
Federal Building
Room 3022
Phoenix, Arizona 85025

Bureau of Land Management
Federal Building
P.O. Box 1449
Santa Fe, New Mexico 87501

Bureau of Land Management
2800 Cottage Way
Room E-2841
Sacramento, California 95825

Bureau of Land Management
729 Northeast Oregon Street
P.O. Box 2965
Portland, Oregon 97208

Northeast Regional Office
Bureau of Outdoor Recreation
Federal Office Building
600 Arch Street
Philadelphia, Pennsylvania 19106

Lake Central Regional Office
Bureau of Outdoor Recreation
3853 Research Park Drive
Ann Arbor, Michigan 48104

South Central Regional Office
Bureau of Outdoor Recreation
5000 Marble Avenue, NE.
Albuquerque, New Mexico 87110

Pacific Southwest Regional Office
Bureau of Outdoor Recreation
450 Golden Gate Avenue
San Francisco, California 94102

A limited number of single copies of the final environmental statement is available from the following:

Department of the Interior
Alaska Planning Group
Washington, D.C. 20240

Department of the Interior
National Park Service
524 W. Sixth Avenue
Room 201
Anchorage, Alaska 99501

Department of the Interior
Fish and Wildlife Service
813 D Street
Anchorage, Alaska 99501

Dated: December 17, 1974.

STANLEY D. DOREMUS,
Deputy Assistant
Secretary of the Interior.

[FR Doc.74-29787 Filed 12-20-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

DESCHUTES NATIONAL FOREST ADVISORY COMMITTEE

Meeting

The Deschutes National Forest Advisory Committee will meet at 6:30 p.m., January 9, 1975, for a no-host dinner at Tony's Poco Toro Restaurant, Bend, Oregon. The program will follow at 8:00 p.m.

The subject to be discussed at this meeting will be "Manpower Programs that the Forest Service can Participate in for Local Economy Stimulation."

The meeting will be open to the public.

Dated: December 16, 1974.

MALVIN C. ELDRED,
Acting Forest Supervisor.

[FR Doc.74-29632 Filed 12-20-74;8:45 am]

Office of the Secretary

NATIONAL ADVISORY COMMITTEE ON SAFETY IN AGRICULTURE

Meeting

A meeting of the National Advisory Committee on Safety in Agriculture will be held at 9 a.m., February 26 and 27, 1975, in Room 218 Administration Building, U.S. Department of Agriculture, Washington, D.C. The meeting will adjourn at 3 p.m., February 27, 1975.

The purpose of the committee is to advise the Secretary of Agriculture and other officials on the development of the Department's safety program and ways the Department can work most effectively in farm and rural safety programs with other government agencies, farm organizations, the National Safety Council, and others.

The purpose of the meeting is to review program progress, problems, and recommended actions in the areas of education, standards, information, research, and surveys.

The meeting is open to the public; however, space and facilities are limited. Written statements may be filed with the committee before or after the meeting. Any member of the public who wishes to file a statement or has further questions may contact Robert O. Gilden, Executive Secretary of the Committee, U.S. Department of Agriculture, Room 5529, South Building, Washington, D.C. 20250, telephone number (202) 447-4946.

Dated: December 18, 1974.

ROBERT O. GILDEN,
Executive Secretary.

[FR Doc.74-29797 Filed 12-20-74;8:45 am]

NAVAJO INDIANS

Feed Grain Donations

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Navajo Indian Lands in Arizona, New Mexico and Utah, and the Acoma, Isleta, Jemez, Laguna, Mescalero, Santa Ana, Santa Domingo and Zia Indian Lands in New Mexico has been materially increased and become acute because of severe and prolonged drought creating a serious shortage of livestock feeds. These lands are reservations or other lands designated for Indian use and are utilized by members of the Indian tribes for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribes will not displace or interfere with normal marketing of agricultural commodities.

Based on the above determinations, I hereby declare the reservations and grazing lands of these tribes to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestockmen who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through the duration of the existing emergency or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C., on December 17, 1974.

EARL L. BUTZ,
Secretary.

[FR Doc.74-29848 Filed 12-20-74;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

BULK CHEMICAL CARRIER CONSTRUCTION PROGRAM

Issuance of Order Regarding Requirements of the National Environmental Policy Act

Notice is hereby given that the Maritime Subsidy Board published and served on December 13, 1974 a Final Opinion and Order, identified as Docket No. A-93, regarding comformance of the Maritime Administration Bulk Chemical Carrier Construction Program to the requirements of the National Environmental Policy Act, 42 U.S.C. 4321 et seq.

The Final Opinion and Order in

Docket No. A-93 is available to interested persons through the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20230.

Dated: December 16, 1974.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.74-29853 Filed 12-20-74;8:45 am]

NATIONAL BANK OF COMMERCE OF SEATTLE

Change of Name of Approved Trustee

Notice is hereby given that effective January 1, 1975, the name of The National Bank of Commerce of Seattle will be changed to Rainier National Bank.

Dated: December 12, 1974.

BERT KYLE,
Director, Office of Domestic Shipping.

[FR Doc.74-29854 Filed 12-20-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the Food and Drug Administration announces the following public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act:

Committee name	Date, time, place	Type of meeting and contact person
1. Anti-Infective Agents, Advisory Committee.	Jan. 27 and 28, 9 a.m., Conference Room E, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—Mary K. Bruch (HFD-140), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4310.

Purpose. Reviews and evaluates all available data on safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for use in treating infectious diseases.

Agenda. "Pseudomembraneous Colitis as a Side Effect of Administration of Clindamycin"—presentation by Upjohn Co.; "Blood Levels of Erythromycin Salts"—presentation by Upjohn Co.; "Benefit/Risk Ratio of Cephalosporins with no Renal Toxicity"—presentation by FDA; and comments and presentations by interested persons.

Committee name	Date, time, place	Type of meeting and contact person
2. Panel on Review of Cold, Cough, Allergy, Bronchodilator and Antiasthmatic Drugs.	Jan. 30 and 31, 9 a.m., Room 1409, FB-5, 200 C St. SW., Washington, D.C.	Closed January 30, 9 a.m. to 3:30 p.m., open January 30 after 3:30 p.m., closed January 31. Thomas D. DeCillis (HFD-109), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available data on safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing cold, cough, allergy, bronchodilator, and antiasthmatic drug products.

Agenda. Closed session: Continuing review of over-the-counter cold, cough, allergy, bronchodilator, and antiasthmatic drug products under investigation. Open session: Comments and presentations by interested persons.

Committee name	Date, time, place	Type of meeting and contact person
3. Panel on Review of Hemorrhoidal Drugs.	Jan. 31 and Feb. 1, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open January 31, 9 a.m. to 10 a.m., closed January 31 after 10 a.m., closed February 1. Thomas D. DeCillis (HFD-109), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available data on safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing hemorrhoidal drug products.

Agenda. Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter hemorrhoidal drug products under investigation.

Agenda items are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Most Food and Drug Administration advisory committees are created to advise the Commissioner of Food and Drugs on pending regulatory matters. Recommendations made by the committees on these matters are intended to result in action under the Federal Food, Drug, and Cosmetic Act, and these committees thus necessarily participate with the Commissioner in exercising his law enforcement responsibilities.

The Freedom of Information Act recognized that the premature disclosure of regulatory plans, or indeed internal discussions of alternative regulatory approaches to a specific problem, could have adverse effects upon both public and private interests. Congress recognized that such plans, even when finalized, may not be made fully available in advance of the effective date without damage to such interests, and therefore provided for this type of discussion to remain confidential. Thus, law enforcement activities have long been recognized as a legitimate subject for confidential consideration.

These committees often must consider trade secrets and other confidential information submitted by particular manufacturers which the Food and Drug Administration by law may not disclose, and which Congress has included within the exemptions from the Freedom of Information Act. Such information includes safety and effectiveness information, product formulation, and manufacturing methods and procedures, all of which are of substantial competitive importance.

In addition, to operate most effectively, the evaluation of specific drug or device products requires that members of committees considering such regulatory matters be free to engage in full and frank discussion. Members of committees have frequently agreed to serve and to provide their most candid advice on the understanding that the discussion would be private in nature. Many experts would be unwilling to engage in candid public discussion advocating regulatory action against a specific product. If the committees were not to engage in the deliberative portions of their work on a confidential basis, the consequent loss of frank and full discussion among committee members would severely hamper the value of these committees.

The Food and Drug Administration is relying heavily on the use of outside experts to assist in regulatory decisions. The Agency's regulatory actions uniquely affect the health and safety of every citizen, and it is imperative that the best advice be made available to it on a continuing basis in order that it may most effectively carry out its mission.

A determination to close part of an advisory committee meeting does not mean that the public should not have ready access to these advisory committees considering regulatory issues. A determination to close the meeting is subject to the following conditions: First, any interested person may submit written data or information to any committee, for its consideration. This information will be accepted and will be considered by the committee. Second, a portion of every committee meeting will be open to the public, so that interested persons may present any relevant information or views orally to the committee. The period for open discussion will be designated in any announcement of a committee meeting. Third, only the deliberative portion of a committee meeting, and the portion dealing with trade secret and confidential information, will be closed to the public. The portion of any meeting during which

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nonconfidential information is made available to the committee will be open for public participation. Fourth, after the committee makes its recommendations and the Commissioner either accepts or rejects them, the public and the individuals affected by the regulatory decision involved will have an opportunity to express their views on the decision. If the decision results in promulgation of a regulation, for example, the proposed regulation will be published for public comment. Closing a committee meeting for deliberations on regulatory matters will therefore in no way preclude public access to the committee itself or full public comment with respect to the decisions made based upon the committee's recommendation.

The Commissioner has been delegated the authority under section 10(d) of the Federal Advisory Committee Act to issue a determination in writing, containing the reasons therefor, that any advisory committee meeting is concerned with matters listed in 5 U.S.C. 552(b), which contains the exemptions from the public disclosure requirements of the Freedom of Information Act. Pursuant to this authority, the Commissioner hereby determines, for the reasons set out above, that the portions of the advisory committee meetings designated in this notice as closed to the public involve discussion of existing documents falling within one of the exemptions set forth in 5 U.S.C. 552(b), or matters that, if in writing, would fall within 5 U.S.C. 552(b), and that it is essential to close such portions of such meetings to protect the free exchange of internal views and to avoid undue interference with Agency and committee operations. This determination shall apply only to the designated portions of such meetings which relate to trade secrets and confidential information or to committee deliberations.

Dated: December 17, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.74-29786 Filed 12-20-74;8:45 am]

[DESI 2811; Docket No. FDC-D-230; NDA 2-811]

CHORIONIC GONADOTROPIN

Follow-up Notice and Opportunity for Hearing

Correction

In FR Doc. 28409 appearing at page 42397 in the issue of Thursday, December 5, 1974, in the first line of the second paragraph in the first column on page 42402 the letters reading "HCC" should read "HCG".

DEL MONTE CORP.

Canned Peaches Deviating From Identity Standard; Extension of Temporary Permit for Market Testing

Pursuant to § 10.5 (21 CFR 10.5), concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated pursuant to section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), a temporary permit was issued to the Del Monte Corp., 215 Fremont St., PO Box 3575, San Francisco, CA 94119. Notice of this permit issuance was published in the FEDERAL REGISTER of October 18, 1973 (38 FR 28962). The permit covered limited interstate market tests of canned peaches of a style of pack designated "slices and pieces" that is not provided for by the standard of identity (21 CFR 27.2). The slices are more than 50 percent by weight of the product and the food is vacuum packed with a small amount of heavy sirup which is absorbed into the fruit.

The name "Yellow Cling Peaches" and the statements "Vacuum Packed" and "Slices and Pieces-Sweetened" are declared on the principal display panel of the label.

The Del Monte Corp. has submitted a petition, in conjunction with a request for extension of the temporary marketing permit, proposing to amend the standards of identity and quality for canned peaches to provide for the optional style of pack "slices and pieces." This petition is on file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, for review by interested persons.

Pursuant to the proposal published in the FEDERAL REGISTER of December 9, 1973 (37 FR 26340) to amend § 10.5 (21 CFR 10.5), the Commissioner concludes that it will be in the interest of consumers to extend the time period for market tests. As set forth in the proposed amendment to § 10.5, all interested persons may participate in the market tests under the conditions that apply to the Del Monte Corp., including the labeling requirements and the amount to be distributed (40,000 cases of 24/12½ oz. cans). The designated area of distribution does not necessarily apply to such interested persons. Any interested person who elects to participate in the extended market test shall notify the Commissioner in writing of that fact, the amount to be distributed, and the area of distribution. Along with such notification, he shall submit the labeling under which the food is to be distributed.

This permit, as issued to the Del Monte Corp. and such others who participate in accordance with the provisions set forth above, expires either on the effective date of an affirmative order ruling on the proposal to amend the standards of identity and quality for canned peaches or 30 days after a negative order ruling on the proposal, whichever comes first.

Dated: December 16, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-29789 Filed 12-20-74;8:45 am]

Health Resources Administration

NATIONAL ADVISORY BODIES

Announcement of Meetings

Pursuant to the Federal Advisory Act (Pub. L. 92-463), the Administrator, Health Resources Administration, announces the meeting dates and other required information for the following National Advisory bodies scheduled to assemble during the month of January 1975:

Committee name	Date/time/place	Type of meeting and/or contact person
Long-Term Care for the Elderly Research Review and Advisory Committee.	Jan. 9 and 10, 1975—9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20852.	Open—January 9—9 to 9:30 a.m. and January 10—9 a.m. to 4 p.m. Closed—remainder of meeting. Contact: David McFall, room 15-29, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code 301-443-2090. or Martha O. Greenspan, room 11A-33, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code 301-443-2340.

Purpose. The Committee serves to provide a coordinated professional technical review of proposals submitted to DHEW concerning long-term care for the elderly, to identify problems and issues and develop a tentative ordering of priorities in long-term care for consideration by the Division of Long-Term Care, Bureau of Health Services Research, Health Resources Administration.

Agenda. During the open portion of the meeting agenda items include administrative reports, minutes, establishment of future meeting dates, and discussion of other related general matters. During the closed session the committee will be reviewing project proposals concerning care for the elderly and therefore will not be open to the public, in accordance with the provisions set forth in section 552(b)(4), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration pursuant to Pub. L. 92-463, section 10(d).

Committee name	Date/time/place	Type of meeting and/or contact person
Health Services Research Study Section.	January 13 and 14, 1975—9 a.m., Roosevelt Hotel, Madison Room, Madison and 45th St., New York, N.Y. 10017.	Open—January 13—9 to 10 a.m. Closed—remainder of meeting. Contact: Michael J. Enright, room 15-10, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code 301-443-2020.

Purpose. The Committee is charged with the review of grant applications for Federal assistance in the program areas administered by the Bureau of Health Services Research.

Agenda. During the open portion of the meeting agenda items include administrative reports, interim reports, and discussion of other general related items. During the closed session the committee will be reviewing grant applications and therefore will not be open to the public, in accordance with the provisions set forth in section 552(b)(4), Title 5, U.S. Code and the Determination by the Administrator, Health Resources Administration pursuant to Pub. L. 92–463, section 10(d).

Committee name	Date/time/place	Type of meeting and/or contact person
Joint meeting of Health Services Research Study Section and Health Services Developmental Grants Study Section.	January 15, 1975—8:30 a.m., Roosevelt Hotel, Madison Room, Madison and 45th St., New York, N.Y. 10017.	Open—Contact: Michael J. Enright, room 15–19, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code 301–443–2920. or David McFall, room 15–29, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code 301–443–2930.

Purpose. The Study Sections are charged with the review of grant applications for Federal assistance in the program areas administered by the Bureau of Health Services Research.

Agenda. The Study Sections will receive presentations from selected speakers under the theme "The methods of research in high density population areas and the use of the research product to inform policy development" and engage in topical discussions. Papers will be presented on Health Services Research in Urban Areas. Due to limited space available persons planning to attend should notify the contact person listed above.

Committee name	Date/time/place	Type of meeting and/or contact person
Health Services Developmental Grants Study Section.	January 16 and 17, 1975—8:30 a.m. Roosevelt Hotel, Madison Room, Madison and 45th St., New York, N.Y. 10017.	Open—January 16—8:30 to 9. Closed—remainder of meeting. Contact: David McFall, room 15–29, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20852. Code: 301–443–2930.

Purpose. The Study Section is charged with the review of grant applications for Federal assistance in the program areas administered by the Bureau of Health Services Research.

Agenda. During the open portion of the meeting agenda items include administrative reports, minutes, and discussion of other related general matters. During the closed session the committee will be reviewing grant applications and therefore will not be open to the public, in accordance with the provisions set forth in section 552(b)(4), Title 5 U.S. Code and the Determination by the Administrator, Health Resources Administration pursuant to Pub. L. 92–463, section 10(d).

Committee name	Date/time/place	Type of meeting and/or contact person
Health Care Technology Study Section.	January 20 and 21, 1975—9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20852.	Open—January 20—9 to 10. Closed—remainder of meeting. Contact: John R. Hall, room 15–19, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code: 301–443–2920.

Purpose. The Committee is charged with the review of grant applications for Federal assistance in the program areas administered by the Bureau of Health Services Research which relates to the use of systems analysis, operations research, management sciences, and computer sciences in the broad fields of community health services, hospital medicine and patient care.

Agenda. During the open session of the meeting agenda items include administrative reports, and discussion of other related general matters. During the closed session the committee will be reviewing grant applications and therefore will not be open to the public, in accordance with the provisions set forth in section 552(b)(4), Title 5 U.S. Code and the Determination by the Administrator, Health Resources Administration pursuant to Pub. L. 92–463, Section 10(d).

Agenda items are subject to change as priorities dictate.

Those portions of the meetings so indicated, are open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact the persons listed above.

Dated: December 13, 1974.

DANIEL F. WHITESIDE,
Associate Administrator for Operations and Management, Health Resources Administration.

[FR Doc.74–29619 Filed 12–20–74;8:45 am]

Office of Education

ADVISORY COUNCIL ON DEVELOPING INSTITUTIONS

Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), that the next meeting of the Advisory Council on Developing Institutions will be held on January 26–27, 1975, from 9 a.m. to 4 p.m. in Room 3000, at the Office of Education, 400 Maryland Avenue, SW, Washington, D.C.

The Advisory Council on Developing Institutions was established by Title III of the Higher Education Act of 1965, as amended. The Council is governed by the provisions of Part D of the General Education Provisions Act and of the Federal Advisory Committee Act. (P.L. 92–463). The Council shall assist the Commissioner in identifying the characteristics of developing institutions through which the purpose of Title III may be achieved, and in establishing the priorities and criteria to be used in making grants under section 304(a) of the Title.

The meeting of the Council shall be open to the public. The meeting will focus on the staffing capability of the Division of Institutional Development and plans for the next Annual Report of the Council.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the Director of the College and University Unit, BPE, located in Room 4682, ROB III, 7th and D Streets, SW.

Signed at Washington, D.C., on December 18, 1974.

PRESTON VALIEN,
Director, College and University Unit, BPE.

[FR Doc.74–29822 Filed 12–20–74;8:45 am]

NATIONAL ADVISORY COMMITTEE ON THE HANDICAPPED

Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), that the next meeting of the National Advisory Committee on the Handicapped will be held on January 20–22, 1975, at 8:30 a.m., in Room 1134, Federal Office Building 6, 400 Maryland Avenue, SW., Washington, D.C.

The National Advisory Committee on the Handicapped is established under (20 U.S.C. 123g) Section 448(b) of the General Education Provisions Act. The Committee is established to review the administration and operation of programs for the handicapped in the Office of Education, and make recommendations for their improvement.

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The meeting of the Committee shall be open to the public. The proposed agenda includes discussion with Bureau of Education for the Handicapped personnel in regards to Early Childhood and Vocational Education Programs; the status of legislation and the handicapped; subcommittee reports; and format for the 1975 Annual Report. Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the Deputy Commissioner, Bureau of Education for the Handicapped, located in Room 2100, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. 20202.

Signed at Washington, D.C., on December 16, 1974.

EDWIN W. MARTIN,
Acting Deputy Commissioner for the Handicapped, Bureau of Education for the Handicapped.

[FR Doc.74-29621 Filed 12-20-74;8:45 am]

Office of the Secretary

HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the Health Insurance Benefits Advisory Council (HIBAC), established pursuant to section 1867 of the Social Security Act, as amended, which advises the Secretary of Health, Education, and Welfare on Medicare and Medicaid matters will meet on Friday, January 10, 1975, at 9:00 a.m. in Room 5051 of the Department of Health, Education, and Welfare's North Building, 330 Independence Avenue, SW., Washington, D.C. The Council will consider matters pertaining to the Medicare and Medicaid programs.

The Mental Health Subcommittee of HIBAC, which is considering expansion of coverage of mental health benefits under Medicare will meet on Thursday, January 9, 1975, at 1:00 p.m. in Room 5169 of Health, Education, and Welfare's North Building.

These meetings are open to the public.

Further information on the Council and the Committees may be obtained from Mr. Sherman Lazrus, Executive Secretary, Health Insurance Benefits Advisory Council, Room 17A-31, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone (301) 443-1185.

Dated: December 3, 1974.

SHERMAN LAZRUS,
Executive Secretary, Health Insurance Benefits Advisory Council.

[FR Doc.74-29638 Filed 12-20-74;8:45 am]

PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH NATIONAL COMMISSION

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, in accordance with a schedule adopted on December 4, 1974, will meet on January 10 and 11, 1975, in Conference Room 6, Building 31, C Wing, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014. The meeting will convene at 9 a.m. and adjourn at 5 p.m. both days and will be open to the public, subject to the limitation of available space.

Issues relating to fetal research as covered by sections 202(b) and 213 of the National Research Act (Pub. L. 93-348) will comprise the agenda. Time permitting, other areas of the legislative mandate to the Commission will be discussed.

Members of the public will be given an opportunity to present their views on fetus research during the first day of the third meeting of the Commission, February 14, 1975. In accordance with procedures governing public participation at meetings of the Commission, any person wishing to speak at the third meeting must file a written request and receive prior approval from the Commission. Requests must include a detailed summary of the proposed presentation, which shall be limited to 10 minutes for each participant. In order to be considered for approval by the Commission at its next meeting, requests to speak at the February meeting must be received by the Commission not later than January 9, 1975. Requests should be addressed to: Staff Director, National Commission for the Protection of Human Subjects, Westwood Building, Room 125, 9000 Rockville Pike, Bethesda, Maryland 20014. Written materials of any length may be submitted to the Commission at any time.

Requests for information should be directed to Ms. Anne Ballard (301) 496-7526, Room 125, Westwood Building, 9000 Rockville Pike, Bethesda, Maryland 20014.

CHARLES U. LOWE,
Executive Director, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

DECEMBER 17, 1974.

[FR Doc.74-29637 Filed 12-20-74;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50-463 and 50-464]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON FULTON GENERATING STATION

Notice of Meeting

DECEMBER 18, 1974.

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Subcommittee on the Fulton Generating Station will hold a meeting on January 7, 1975 at the Sheraton-Conestoga Village, U.S. Route 222, Lancaster, Pennsylvania 17604.

The purpose of this meeting will be to develop information for consideration by the ACRS in its review of the application by the Philadelphia Electric Company for a permit to construct the Fulton Generating Station, Units 1 and 2, located in Fulton and Drumore Townships, Lancaster County, Pennsylvania.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

TUESDAY, JANUARY 7, 1975, 9:00 A.M. UNTIL THE CONCLUSION OF BUSINESS (ABOUT 1:00 P.M.)

The Subcommittee will hear presentations by representatives of the Regulatory Staff and the Philadelphia Electric Company and will hold discussions with these groups pertinent to its review of matters related to the application for a construction permit for the Fulton Generating Station, Units 1 and 2.

In connection with the above agenda item, the Subcommittee will hold Executive Sessions, not open to the public, at approximately 8:30 a.m. and at the end of the session to consider matters related to the above review. These will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

In addition to the Executive Sessions, the Subcommittee may hold one or more closed sessions with representatives of the Regulatory Staff and Applicant for the purpose of discussing privileged information relating to the matters under review, if necessary.

I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552 (b) and that closed sessions may be held, if necessary, to discuss certain documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Subcommittee operation, and to avoid public disclosure of proprietary information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than December 31, 1974 to the Executive Secretary, Advisory

Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 and at the Lancaster County Library, 125 North Duke Street, Lancaster, Pennsylvania 17602.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 9:00 a.m. and 11:00 a.m. on January 7, 1975.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on January 3, 1975 to the Advisory Committee on Reactor Safeguards (telephone 301-973-5651) between 8:30 a.m. and 5:15 p.m., E.T.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street NW., Washington, D.C. 20545, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after January 9, 1975 at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545 and within approximately nine days at the Lancaster County Library, 125 North Duke Street, Lancaster, Pennsylvania 17602. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street NE., Washington, D.C. 20002 (telephone 202-547-6222) upon payment of appropriate charges.

(j) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545 after April 7, 1975. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-29899 Filed 12-20-74;8:45 am]

[Docket No. 50-482A]

KANSAS GAS AND ELECTRIC CO. AND KANSAS CITY POWER & LIGHT CO.

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c. of the Atomic Energy Act of 1954, as amended, a letter of advice from the Attorney General of the United States, dated December 10, 1974, a copy of which it attached as Appendix A below.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's rules of practice, 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by January 23, 1975 either (1) by delivery to the AEC Public Docketing and Service Section at 1717 H Street, NW., Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, ATTN: Docketing and Service Section.

For the Atomic Energy Commission.

ABRAHAM BRAITMAN,
Chief, Office of Antitrust & Indemnity, Directorate of Licensing.

APPENDIX A

[Docket No. 50-482A]

WOLF CREEK GENERATING STATION, UNIT 1

KANSAS GAS AND ELECTRIC COMPANY

KANSAS CITY POWER & LIGHT COMPANY

DECEMBER 10, 1974.

You have requested our advice pursuant to the provisions of Section 105 of the Atomic Energy Act, as amended, in regard to the above-cited application.

1. *The Facility involved.* The Wolf Creek Generating Station, Unit 1, will consist of one 1180 mw unit located approximately three and one-half miles northeast of the town of Burlington in Coffey County, Kansas. The plant will be owned jointly by two investor-owned utilities: Kansas Gas and Electric Company (50%) and Kansas City Power & Light Company (50%). The estimated cost of the unit at completion will be approximately $829 million. The unit is scheduled to go into operation between 1982 and 1983. Applicants intend to integrate the unit into their electric bulk power supply systems and to market the power therefrom as a portion of their respective system outputs. Kansas Gas and Electric Company has primary responsibility for construction and operation of the unit.

2. *The Applicants.* Kansas Gas and Electric Company ("KGE") is a privately-owned integrated electric utility which serves an 8100 square mile area in southeastern Kansas which has a population of approximately 587,000. KGE currently supplies the full bulk power requirements of twelve municipal systems and three rural electric cooperatives and the partial bulk power requirements of nine municipalities, five cooperatives and two investor-owned utilities. In 1973, KGE's total electric operating revenues were in excess of $79 million. Its 1973 peak load was 1201 mw; its generating capacity at that time was 1634 mw, consisting of 1564 mw of thermal generating capacity and 70 mw of net purchases. KGE maintains extra-high voltage interconnections with Kansas City Power & Light Company, Oklahoma Gas and Electric Company, Empire District Electric Company, Kansas Power and Light Company, Central Telephone and Utilities Corporation and Public Service Company of Oklahoma.

Kansas City Power & Light Company ("KCPL") is also a privately-owned integrated electric utility which serves a 5700 square mile area in northwest Missouri and northeast Kansas, including the Kansas City Metropolitan Area. KCPL provides the full bulk power requirements of six municipalities and one rural electric cooperative as well as the partial bulk power requirements of seven municipalities and two cooperatives. In 1973, KCPL had operating revenues in excess of $155 million. During the same year, KCPL had a peak load of 1757 mw and 2224 mw of the thermal generating capacity. KCPL has extra-high voltage interconnections with KGE, Kansas Power and Light Company, Union Electric Company, Iowa Power and Light Company, St. Joseph Light and Power Company, Missouri Public Service Company, the Southwestern Power Administration, and the municipal systems of Kansas City, Kansas, and Independence, Missouri.

Both Applicants are members of the Mo-Kan Power Pool which consists of seven companies in Kansas and western Missouri which engage in the coordinated development of generation and transmission facilities, reserve sharing and the interchange of power and energy. In addition, KGE and KCPL are partners in jointly-owned thermal generation.

3. *Competitive considerations.* In the course of the Department's review of this application, inquiries were made of all electric utilities smaller than the Applicants who were located in or adjacent to their service areas. These inquiries probed a wide range of competitive conduct by the Applicants and the market structure existing in their respective service areas.

In response to its initial inquiries, the Department received no complaints of serious anticompetitive conduct by KGE. Instead, the Department learned that, as early as January 1973, KGE had contacted neighboring utilities, informed them of the Wolf Creek project, and invited them to study the feasibility of joint participation in these facilities. Negotiations have progressed since then and, with the single exception discussed subsequently, no neighboring utility has complained of the contemplated terms or conditions of participation.

KGE's record of coordinated operation with neighboring utilities does not appear to reflect anticompetitive policies and practices. KGE has wheeled electric power and energy both to and between municipal utilities located within its service area; no occasion on

which the Company has refused to provide wheeling services has been disclosed. Similarly, the Company has entered into interconnection agreements with isolated utilities and has provided either full or partial bulk power requirements wholesale service upon request.[1]

Toward the end of its antitrust review of this application, the Department was contacted by Kansas Electric Cooperatives, Inc. ("KEC"), a nonprofit membership corporation authorized to plan and negotiate for long-range bulk power supplies for its members. KEC's membership consists of 27 rural electric cooperatives which distribute electricity at retail in Kansas, seven of which currently purchase power from KGE. (At an earlier date, KEC had indicated to the Department that it was not aware of any anticompetitive activity on the part of KGE but was then engaged in ongoing negotiations with the Company concerning participation in the Wolf Creek nuclear unit.) KEC alleged that it was being denied effective access to the Wolf Creek nuclear unit because KGE, after initially offering access, had refused to negotiate meaningfully concerning the terms and conditions which would be required to effectuate the offer.

In order to eliminate any possibility that KEC might be denied effective access to the Wolf Creek nuclear unit because of failure by KGE to enter into all necessary ancillary arrangements, the Department has secured from KGE the commitments set forth in the attached letter dated November 29, 1974. KGE has agreed that these commitments may be imposed as conditions on the Wolf Creek license.

Turning now to consideration of KCPL, we note that this Applicant has refused to enter into interconnection and coordination agreements with other utilities on reasonable terms and conditions. There have also been allegations that KCPL has repeatedly refused to wheel power on behalf of smaller utilities. In addition, some smaller utilities have maintained that they have been unable to secure any assurance of access to the Wolf Creek nuclear facilities on reasonable terms and conditions. Finally, KCPL's wholesale contracts appear to be unduly restrictive in that they contain restraints upon the end use of power purchased thereunder, and further restrict the purchaser from acquiring power from any alternative supplier. Such a range of anticompetitive activity, together with KCPL's dominance with respect to generation and transmission within its service area, would appear to constitute a *prima facie* indication of a "situation inconsistent with the antitrust laws."

While not admitting the validity of any of the allegations made to the Department, KCPL expressed a willingness to voluntarily accept the imposition of conditions on the Wolf Creek license which would guarantee the existence of an acceptable competitive atmosphere in its service area in the future. These conditions, which are set forth in a letter dated July 29, 1974, which is attached hereto, would compel KCPL to interconnect and coordinate operations with other electric utilities, purchase and sell bulk power in connection with coordinated planning of new facilities, offer access to Wolf Creek and any future nuclear generating facilities, wheel bulk power on behalf of others, and sell full and partial requirements bulk power at wholesale. In addition, KCPL has agreed to eliminate the restrictive provisions in its wholesale contracts.

[1] Our review indicated that KGE had included some potentially restrictive language in certain wholesale contracts. When this matter was raised by the Department, KGE agreed to delete the language.

Shortly after receipt of KCPL's July 29, 1974 letter, questions were raised whether acts by KCPL in purported implementation of the commitments might not, if fully implemented, frustrate the intent and substance of the conditions to which the Company had consented. This necessitated further lengthy discussions between the Department and KCPL. As a result of these discussions, KCPL substantially modified its course of conduct and agreed to accept the additional condition contained in the attached letter dated November 22, 1974.

4. *Conclusion.* The acceptance of the license conditions outlined above by KGE and KCPL, together with their elimination of restrictive provisions from their wholesale contracts, should go far toward assuring viable competition in their respective service areas. Under these circumstances, we conclude that an antitrust hearing concerning the Applicants' policies and practices will not be necessary if the requested license is conditioned in the manner agreed to by the Department and the Applicants.

[Docket No. 50-482A]

WOLF CREEK GENERATING STATION, UNIT 1

KANSAS GAS AND ELECTRIC COMPANY

KANSAS CITY POWER & LIGHT COMPANY

JULY 29, 1974.

Attached to this letter are Proposed Conditions which Kansas City Power & Light Company ("KCPL") agrees may be included as Conditions to the Construction Permit and Operating License to be issued by the Atomic Energy Commission ("AEC") in connection with the above referenced application. These Proposed Conditions are submitted with the understanding that the Department of Justice will advise the AEC that no antitrust hearing with reference to KCPL will be required.

These Conditions will be accepted by KCPL subject to the following understandings:

1. KCPL does not intend, by acceptance of these Conditions or by operations in accordance therewith, to become a common carrier or to hold itself out as a public utility ready, willing and able to sell electric power and energy at wholesale for resale to entities outside of its present or future service areas in Missouri and Kansas as defined in Section 1 (b) of the attached Proposed Conditions.

2. KCPL reserves all rights and protection as may be afforded to it by law with respect to any and all distribution and/or sale of retail electric service in its certificated service areas in Missouri and Kansas.

3. By acceptance of the attached Conditions, KCPL does not waive any, and hereby reserves all, rights that it may have to apply to any appropriate forum to seek such changes in the Conditions as may at the time be appropriate in accordance with the then existing laws and good industry practices.

4. All of KCPL's understandings and commitments, with the exception of commitments relating to the modification of language in KCPL's wholesale contracts, are contained in the attached Proposed Conditions and this cover letter.

5. Nothing herein or in any of the attached Proposed Conditions shall be construed as a waiver by KCPL of its rights to contest the application of any Condition to a particular factual situation.

Based on the above understandings, Kansas City Power & Light Company presently is willing to accept Conditions to the above referenced Construction Permit and Operating License, if and when issued by the AEC, which are identical to the Proposed Conditions attached to this cover letter.

WOLF CREEK, UNIT 1

PROPOSED CONDITIONS

I. As used herein:

(a) "Licensee" means Kansas City Power & Light Company.

(b) "Licensee's Service Area" means those portions of the States of Missouri and Kansas which are certificated to Licensee by the respective state regulatory commissions. An entity shall be deemed to be in the "Licensee's Service Area" if it has electric power generation, transmission or distribution facilities located in whole or in part in or adjacent to the above-described area or in counties served in part at retail by Licensees.

(c) "Bulk Power" means the electric power, and any attendant energy, supplied or made available at transmission or subtransmission voltage by one entity to another.

(d) "Entity" means person, a private or public corporation, a municipality, a cooperative, a joint stock association, business trust or a lawful association of any of the foregoing constituting a separate legal entity owning, operating or proposing to own or operate equipment or facilities for the generation, transmission or distribution of electricity, provided that, except for municipalities and cooperatives, an "entity" is restricted to those which are or will be a public utility under the laws of the state in which the entity transacts business or under the Federal Power Act and are or will be providing electric service under a contract or rate schedule on file with and subject to the regulation of a state regulatory commission or the Federal Power Commission.

(e) "Cost" means any and all operating, maintenance, general and administrative expenses, together with any and all ownership costs, which are reasonably allocable to the transaction consistent with industry practices. Cost shall include a reasonable return on Licensee's investment. The sale of a portion of the capacity of a generating unit shall be upon the basis of a rate that will recover to the seller the pro rata part of the fixed costs and operating, maintenance, general and administrative expenses of the unit, provided that, in circumstances in which Licensee and one or more entities in Licensee's Service Area each takes an undivided interest in a unit in fee, construction costs and operation, maintenance, general and administrative expenses shall be paid pro rata.

2. (a) Licensee shall interconnect with and coordinate operations (by means of reserve sharing and the sale and purchase of emergency and/or scheduled maintenance and/or other classes of bulk power) with any entity(ies) in Licensee's Service Area engaging in or proposing to engage in electric bulk power supply on terms that will fully compensate Licensee for its costs in connection therewith. Such coordination arrangements will allow the other party(ies) full access to the benefits of coordination.

(b) Emergency and/or scehduled maintenance bulk power service shall be provided by each party to the extent required by the system in need, and be furnished to the fullest extent available from the supplying system. Licensee and each party(ies) shall provide to the other emergency and/or scheduled maintenance bulk power service if and when available from its own generation and from generation of others to the extent it can do so without impairing service to its customers including other electric systems to whom it has firm commitments and the receiving party shall fully compensate the other party for its costs in connection therewith.

(c) Licensee and the other party(ies) to an interconnection and reserve sharing arrangement shall from time to time jointly establish the minimum reserves to be in-

stalled and/or provided under contractual arrangements as necessary to maintain in total a reserve margin sufficient to provide adequate reliability of power supply of the interconnected systems of the parties. Unless otherwise agreed upon, minimum reserves shall be calculated as a percentage of estimated peak load responsibility. No party to the arrangement shall be required to maintain greater reserves than such minimum, provided that, if the reserve requirements of a party are increased over the amount such party would be required to maintain or have available without such interconnection, then the other party(ies) to such interconnection shall be required to carry or provide for, in addition to such minimum reserves, the full amount in kilowatts of such increase. If in addition to sharing reserves, one party sells capacity to another in order for that other to meet its reserve responsibility, the seller shall be appropriately compensated for such sale in accordance with applicable filed rates.

(d) The parties to such a reserve sharing arrangement each shall provide such amounts of operating (ready and spinning) reserve capacity as may be adequate to avoid the imposition of unreasonable demands on the other in meeting the normal contingencies of operating its system. However, in no circumstances shall a party's operating reserve requirement exceed its minimum installed reserve requirement as determined in 2(c).

(e) Interconnections will not be limited to low voltages when higher voltages are available from Licensee's installed facilities in the area where interconnection is appropriate, if and when the proposed arrangement is found to be technically and economically feasible. Control and telemetering facilities shall be provided as required for safe and prudent operation of the interconnected systems.

(f) Interconnection and coordination agreements shall not embody any unreasonably restrictive provisions pertaining to intersystem coordination. Good industry practice as developed in the area from time to time (if not unreasonably restrictive) will satisfy this provision.

3. Licensee will sell bulk power from new generating capacity planned or under construction at its cost or purchase bulk power from any other entity(ies) in Licensee's Service Area engaging in or proposing to engage in generation of electric power when such transaction would serve to reduce the overall costs of new bulk power supply for itself or for the owner party(ies) to the transaction. This refers specifically to the opportunity to coordinate in the planning of new generation, transmission and related facilities. This provision shall not be construed to require Licensee to purchase or sell bulk power if it finds such purchase or sale infeasible or its costs in connection with such purchase or sale would exceed its benefits therefrom.

4. Licensee and any successor in title shall offer an opportunity to participate in Wolf Creek Nuclear Unit 1 to any entity(ies) in Licensee's Service Area which shall indicate its interest therein in writing delivered to Licensee prior to October 31, 1974, and in any other nuclear generating unit(s) which they or either of them, may construct, own and operate severally or jointly, during the term of the instant license, or any extension or renewal thereof, by either a reasonable ownership interest in such unit(s), or by a contractual rights to purchase a reasonable portion of the output of such unit(s) at the cost thereof if the entity(ies) so elects. Upon timely offer by Licensee, notice of intention to participate in future nuclear units must be given to Licensee in writing prior to the placement of orders for major equipment. In connection with such access, licensee will also offer transmission service as may be required for delivery of such power to such entity(ies) on a basis that will fully compensate Licensee for its cost.

5. (a) Licensee shall facilitate the exchange of bulk power by transmission over its transmission facilities to, from, between or among any entities in Licensee's Service Area with which it is at any time interconnected, and between any such interconnected entity(ies) and any other entity(ies) engaging in bulk power supply outside Licensee's Service Area between whose facilities Licensee's transmission lines and the transmission lines of others would form a continuous electrical path, provided that (1) the necessary rights to utilize such other transmission lines have been obtained, (2) the reliability of Licensee's bulk power system is not thereby impaired, and (3) the arrangements reasonably can be accommodated from a functional and technical standpoint. Such transmission shall be on terms that fully compensate Licensee for its cost, including transmission losses associated therewith. Any entity(ies) requesting such transmission arrangements shall give reasonable advance notice to Licensee of its (their) schedule and requirements for bulk power to be scheduled by Licensee over Licensee's transmission facilities.

(b) Licensee shall include in its planning and construction of facilities to be owned by Licensee sufficient transmission capacity as may be contractually reserved for the type of transactions referred to in subparagraph (a) of this paragraph, provided that the entity(ies) in Licensee's Service Area give Licensee sufficient advance notice as may be necessary to accommodate its (their) requirements from a functional and technical standpoint and provided that such entity (ies) fully compensates Licensee for the contractual reservation by Licensee of capacity in its transmission facilities.

6. Licensee will sell power for resale to any entity(ies) in Licensee's Service Area now engaging in or proposing to engage in retail distribution of electric power under contracts for its (their) full or partial requirements at Licensee's applicable filed rates to the extent Licensee can do so without impairing service to its retail customers.

7. The foregoing conditions shall be implemented in a manner not inconsistent with the provisions of, and as provided under, the Federal Power Act and all other applicable Federal and State laws and all rates, charges and practices in connection therewith are to be subject to the approval of regulatory agencies having jurisdiction over them.

[Docket No. 50-482A]

WOLF CREEK GENERATING STATION, UNIT 1

KANSAS GAS AND ELECTRIC COMPANY

KANSAS CITY POWER & LIGHT COMPANY

NOVEMBER 22, 1974.

Reference is made to my July 29, 1974, letter to you with respect to Proposed Conditions which Kansas City Power & Light Company (KCPL) agrees may be included as Conditions to the Construction Permit and Operating License to be issued by the Atomic Energy Commission (AEC) in connection with the above referenced application.

Pursuant to subsequent discussions between representatives of KCPL and Department of Justice, please be advised that KCPL hereby agrees to accept the following amendment and supplement to the Proposed Conditions as submitted with KCPL's cover letter dated July 29, 1974:

A. Amend section 4 of the Proposed Conditions by deleting the date "October 31, 1974" and substituting therefor the date "March 1, 1975".

B. Supplement section 7 of the Proposed Conditions by adding the following thereto at the end thereof:

"With respect to any initial rate schedule (including an initial contract submission) associated with these license conditions which Licensee files with any such regulatory agency having jurisdiction, Licensee shall include a provision that (1) if within thirty (30) days after such filing by the Licensee a protest or complaint with respect thereto is filed with such regulatory agency, and (2) if the submitted rates become effective prior to the resolution of any contested issues set forth in such protest or complaint, and (3) if such submitted rates are thereafter reduced in accordance with regulatory proceedings and findings, then, within thirty (30) days after issuance of a final and non-appealable order effecting such reduction, the Licensee shall make appropriate refunds (including interest) to retroactively reflect such reductions".

Except as amended and supplemented by the above, the Proposed Conditions and the understandings set forth in KCPL's cover letter dated July 29, 1974, remain unchanged.

[Docket No. 50-482A]

WOLF CREEK GENERATING STATION, UNIT 1

KANSAS GAS AND ELECTRIC COMPANY

KANSAS CITY POWER & LIGHT COMPANY

NOVEMBER 22, 1974.

Attached to this letter are Proposed Conditions which Kansas Gas and Electric Company (KG&E) agrees may be included as Conditions to the Construction Permit and Operating License to be issued by the Atomic Energy Commission (AEC) in connection with the above referenced application. These Proposed Conditions are submitted with the understanding that the Department of Justice will advise the AEC that no antitrust hearing with reference to KG&E will be required.

These Conditions will be accepted by KG&E subject to the following understandings:

1. KG&E does not intend, by acceptance of these Conditions or by operations in accordance therewith, to become a common carrier or to hold itself out as a public utility ready, willing and able to sell electric power and energy at wholesale for resale to entities outside of its present or future service areas in Kansas as defined in section 1(b) of the attached Proposed Conditions.

2. KG&E reserves all rights and protection as may be afforded to it by law with respect to any and all distribution and/or sale of retail electric service in its certificated service areas in Kansas.

3. By acceptance of the attached Conditions, KG&E does not waive any, and hereby reserves all, rights that it may have to apply to any appropriate forum to seek such changes in the Conditions as may at the time be appropriate in accordance with the then existing law and good industry practices.

4. All of KG&E's understandings and commitments are contained in the attached Proposed Conditions and this cover letter.

5. Nothing herein or in any of the attached Proposed Conditions shall be construed as a waiver by KG&E of its rights to contest the application of any Condition to a particular factual situation.

6. It is understood that if the parties to a reserve coordination agreement referred to in paragraph 4 cannot agree upon a minimum reserve requirement, the participating entities' minimum reserve requirement shall be neither less than nor greater than

Licensee's minimum system reserve requirement.

7. We further agree, predicated upon the above and referenced conditions, to not impose nor attempt to enforce any resale restrictions in both the municipal and cooperative wholesale contracts all within conditions and limitations imposed by regulatory authority.

Based on the above understandings, Kansas Gas and Electric Company presently is willing to accept Conditions to the above referenced Construction Permit and Operating License, if and when issued by the AEC, which are identical to the Proposed Conditions attached to this cover letter.

WOLF CREEK, UNIT 1

PROPOSED CONDITIONS FOR KANSAS GAS AND ELECTRIC COMPANY

1. As used herein:

(a) "Licensee" means Kansas Gas and Electric Company.

(b) "Licensee's Service Area" means those counties located in whole or in part within the area certificated to Licensee by the appropriate state regulatory commission.

(c) "Bulk Power" means the electric power, and any attendant energy, supplied or made available at transmission or subtransmission voltage by one entity to another.

(d) "Emergency support" is capacity and energy as available from one system, and as needed by another system to replace capacity and energy made unavailable due to forced outages of generating equipment or transmission facilities.

(e) "Maintenance support" is capacity and energy planned by one system to be made available to another system to replace capacity and energy made unavailable due to maintenance of generating equipment or transmission facilities.

(f) "Entity" means a financially responsible private or public corporation, governmental agency or authority, municipality, cooperative, or lawful association of any of the foregoing, owning, contractually controlling, or operating, or in good faith proposing to own, contractually control, or operate, facilities for the generation and transmission of electricity for bulk power supply which meets each of the following criteria: (1) Its existing or proposed facilities are technically feasible of interconnection with those of Licensee; (2) with the exception of municipalities, cooperatives, government agencies or authorities it is, or upon commencement of operations will be, a public utility subject to regulation with respect to rates and services under the laws of Kansas.

(g) "Participating entity" is an "entity" participating in the ownership of or power output from Wolf Creek Unit 1.

2. Licensee shall offer an opportunity to participate in the Wolf Creek Nuclear Unit Number 1 and any other nuclear generating unit(s) which it may construct, own and operate severally or jointly, during the term of the instant license or an extension or renewal thereof, to any entity(ies) in Licensee's Service Area. Such participation shall be in reasonable amounts, by an ownership interest, or at the option of the entity, by a contractual right to purchase a portion of the output of such units, or on any other mutually agreeable basis.

3. Licensee shall interconnect with any participating entity in Licensee's Service Area which requests such interconnection and provide for the following:

(a) Maintaining and coordinating of reserves, including, where applicable, the purchase and sale of reserve capacity and energy,

(b) Emergency support,

(c) Maintenance support,

(d) Delivery of "unit power" or other participation power out of Wolf Creek Unit 1 from the Licensee,

(e) transmission services for the above and as described subsequently.

4. (a) Licensee and the participating entities in Licensee's Service Area having a reserve coordination arrangement shall from time to time jointly establish the minimum reserve requirements to be installed and/or provided under contractual arrangements as necessary to maintain in total a reserve margin sufficient to provide adequate reliability of power supply to the interconnected systems of the parties. To have reserve coordination rights, other than reserves for Wolf Creek, with the Licensee, a participating entity must own or have contractual rights to generating capacity other than of Wolf Creek Nuclear Unit Number 1. Unless otherwise agreed upon, the minimum reserve requirement shall be calculated as a percentage of the projected annual peak load, adjusted for purchases and sales of firm power, including partial requirements firm power. The parties to such a reserve coordinating arrangement shall provide such amounts of operating (ready and spinning) reserve capacity as may be adequate to avoid the imposition of unreasonable demands on the others in meeting the normal contingencies of operating their systems. However, in no circumstances shall any party's spinning or operating reserve requirement exceed the minimum reserve requirement as provided above.

(b) Emergency and/or scheduled maintenance bulk power service shall be provided by each party to the extent required by the system in need, and be furnished to the fullest extent available from the supplying system. Licensee and each party(ies) within Licensee's Service Area shall provide to the other emergency and/or scheduled maintenance bulk power service if and when available from its own generation to the extent it can do so without impairing service to its customers including other electric systems to whom it has firm commitments.

5. (a) Licensee shall transmit the power from a participating entity's share of Wolf Creek Nuclear Unit Number 1 to the participating entity, or for the account of such participating entity, to delivery or interconnection points on Licensee's system and in amounts as specified by the participating entity. Such deliveries shall be reasonable as to the number of points, system adequacy and frequency of schedule changes.

(b) Licensee shall transmit power from an entity(ies) outside Licensee's Service Area to a participating entity within Licensee's Service Area in an amount at least equal to the share of Wolf Creek Nuclear Unit Number 1 of a participating entity within Licensee's Service Area when the output of this unit is reduced or unavailable because of maintenance or for other reasons.

(c) If capacity and energy from a participating entity's(ies') portion of Wolf Creek Nuclear Unit Number 1 are delivered to other entities, Licensee shall also provide transmission for a later scheduled return of such energy within the same calendar year, in an equal amount of mwhrs, from these other entities to the delivery point of the participating entity within Licensee's Service Area, provided that such transmission arrangements can be reasonably accommodated from a functional and technical standpoint.

6. Licensee shall sell power at its filed and effective rates (for total or partial requirements) to any entity in Licensee's Service Area now engaging or proposing to engage in the wholesale or retail sale of electric power.

[FR Doc.74-29791 Filed 12-20-74;8:45 am]

[Docket No. 50-214]

LOS ANGELES DEPARTMENT OF WATER AND POWER

Withdrawal of Application for Utilization Facility License

Take notice that the Atomic Energy Commission, by Order dated July 18, 1974, has granted the request dated October 23, 1973, of the Department of Water and Power of the City of Los Angeles, 111 North Hope Sreet, Los Angeles, California 90051, for withdrawal of its application for license to construct and operate the Malibu Nuclear Plant, Unit 1, a pressurized water nuclear reactor at a site in Corral Canyon, Los Angeles County, California. A copy of the request for withdrawal is available for inspection at the AEC's Public Document Room, 1717 H Street, NW., Washington, D.C.

Notice of receipt of the application was published in the FEDERAL REGISTER on March 6, 1964, 29 FR 3114.

For the Atomic Energy Commission.

Dated at Bethesda, Md., this 16th day of December 1974.

KARL KNIEL,
Chief, Light Water Reactors Branch 2-2, Directorate of Licensing.

[FR Doc.74-29794 Filed 12-20-74;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Atomic Energy Commission has issued four new guides in its Regulatory Guide series. This series has been developed to describe and make available to the public methods acceptable to the AEC regulatory staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.70.11, "Information for Safety Analysis Reports—Quality Assurance During Operations Phase;" Regulatory Guide 1.70.12, "Information for Safety Analysis Reports—Reactor Materials;" Regulatory Guide 1.70.13, "Information for Safety Analysis Reports—Code Cases Applicable to Reactor Coolant Pressure Boundary Components;" and Regulatory Guide 1.70.14, "Information for Safety Analysis Reports—Emergency Planning," identify information that is needed in safety analysis reports at the construction permit and operating license stages of review.

These guides are four of a number being issued in the 1.70.X series to identify information that has often been missing from applicants' safety analysis reports or to present revisions necessary to make a portion of the "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants," Revision 1, October 1972 (Regulatory

Guide 1.70), consistent with the appropriate Standard Review Plan. Standard Review Plans (SRPs) are being prepared by the Regulatory staff for the guidance of staff reviewers who perform the detailed safety review of applications to construct or operate nuclear power plants. A primary purpose of SRPs is to improve the quality and uniformity of staff reviews and to provide a well-defined base from which to evaluate proposed changes in the scope and requirements of reviews. A complete Revision 2 of the Standard Format incorporating the changes presented in this 1.70.X series will be issued following completion of publication of the SRPs.

Comments and suggestions in connection with improvements in all published guides are encouraged at any time. Public comments on Regulatory Guides 1.70.11, 1.70.12, 1.70.13, and 1.70.14 will, however, be particularly useful in developing the forthcoming revision of the Standard Format if received by February 24, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 12th day of December 1974.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.74-29703 Filed 12-20-74;8:45 am]

[Docket Nos. STN 50-483, STN 50-486]

UNION ELECTRIC CO.

Special Prehearing Conference

The Atomic Safety and Licensing Board, after an inquiry respecting the convenience and availability of the parties for a special prehearing conference, has determined that January 16, 1975 in Saint Louis, Missouri is a convenient date and place.

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, particularly § 2.751(a) thereof, that a special prehearing conference shall convene at 9:30 a.m. on Thursday, January 16, 1975 in U.S. District Court, First Floor, Judge Harper's Courtroom, at the U.S. Courthouse and Customhouse, 1114 Market Street, Saint Louis, Missouri 63101.

Issued: December 17, 1974, Germantown, Maryland.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.74-29705 Filed 12-20-74;8:45 am]

[Docket Nos. 50-514, 50-515]

PORTLAND GENERAL ELECTRIC CO.

Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report: Time for Submission of Views on Antitrust Matters

Portland General Electric Company (the applicant), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, which was docketed August 6, 1974 for authorization to construct and operate two generating units utilizing two pressurized water reactors. The Environmental Report and Site Suitability Report were tendered on June 7, 1974. Following a preliminary review for completeness, the Environmental Report and Site Suitability Report were, on August 6, 1974, found to be acceptable for docketing. The applicant submitted the PSAR August 6, 1974 and it was found to be acceptable on October 18, 1974. Docket Nos. 50-514 and 50-515 have been assigned to the application and should be referenced in any correspondence relating to the application.

The proposed nuclear facilities, designated by the applicant as the Pebble Springs Nuclear Plant, Units 1 and 2 are located in Gilliam County, Oregon. Each unit is designed for initial operation at 3600 megawatts (thermal), with a net electrical output of 1260 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before February 7, 1975. The request should be filed in connection with Docket Nos. 50-514-A and 50-515-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the Arlington Public School, District 3, P.O. Box 10, Arlington, Oregon 97812.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, an environmental report dated June 7, 1974. The report, which discusses environmental considerations related to the construction and operation of the proposed facility is being made available for public inspection at the aforementioned locations and at the Federal Aid Coordination Section, Local Government Relations Division, Executive Department, 301 Public Service Building, Salem, Oregon 97310 and the East Central Oregon Association of Counties, Umatilla County Court House, Pendleton, Oregon 97801.

After the environmental report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission's Regulatory staff. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER, a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Md., this 22d day of November 1974.

For the Atomic Energy Commission.

A. SCHWENCER,
Chief, Light Water Reactors Branch 2-3, Directorate of Licensing.

[FR Doc.74-28371 Filed 12-6-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25513, Agreement C.A.B. 24596, R-6; Docket No. 25280, Agreement C.A.B. 24597, R-8; Order 74-12-23]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Increased Fuel Costs

Correction

In FR Doc. 74-28859 appearing at page 43244 in the issue of Wednesday, December 11, 1974 in the table at the top of page 43245 the C.A.B. agreement number 24597 should be inserted between the R-6 and R-8 entries.

CONSUMER PRODUCT SAFETY COMMISSION

PEDAL-POWERED VEHICLES

Denial of Petition

Section 10 of the Consumer Product Safety Act (Pub. L. 92-573, 83 Stat. 1217; 15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. Section 10 of the Act also provides that if the Commission denies such petition, it shall publish in the FEDERAL REGISTER its reasons for such denial.

On November 29, 1973, Consumers Union of the United States, Inc. peti-

tioned the Consumer Product Safety Commission to begin a proceeding under the Consumer Product Safety Act to develop a consumer product safety standard applicable to pedal-powered vehicles. In this petition, Consumers Union described the design and performance characteristics of one specific pedal-powered vehicle, and expressed the opinion that the vehicle in question was unsuitable for use on public roads and demonstrated the need for a consumer product safety standard applicable to such vehicles.

Among defects alleged in the petition were an inadequate low gear which severely limited the ability of the vehicle to climb hills; the absence of a reverse gear; slippage and breakage of the transmission chain; inadequate brakes; and instability during sharp turns. The petition requested the Commission to promulgate a consumer product safety standard to improve safety-related performance characteristics of pedal-powered vehicles and to require labeling of those vehicles to indicate that they are not suitable for use on public roads.

At a public meeting with members of the Commission staff on June 13, 1974, attorneys representing Environmental Vehicles, Inc. of Sterling Heights, Michigan, manufacturer of the vehicle described in the petition, presented data and information to support the contention that pedal-powered vehicles do not pose an "unreasonable risk of injury," and therefore a proceeding under section 7 of the Consumer Product Safety Act to develop a consumer product safety standard applicable to pedal-powered vehicles is not warranted.

In a poll of 129 owners of pedal-powered vehicles, one injury was reported to an occupant of a pedal-powered vehicle who suffered a scraped shoulder when the vehicle overturned while making a sharp left turn. This injury and a statement in the petition that an unspecified number of persons on the Consumers Union staff suffered "skinned limbs" when a pedal-powered vehicle overturned on "several occasions" and "had their feet painfully trapped under the vehicle's pedals" are the only injuries associated with pedal-powered vehicles known to the Commission staff.

In the evaluation of this petition, members of the Commission staff inspected and operated a pedal-powered vehicle manufactured by Environmental Vehicles, Inc.

Information available to the Commission staff indicates that Environmental Vehicles, Inc. is the principal manufacturer of pedal-powered vehicles. An attorney representing that company at the public meeting of June 13, 1974, stated that the firm had sold more than 17,000 units during the preceding eighteen months. Other manufacturers of pedal-powered vehicles known to the Commission staff are Pedal Powered Inc., which reported sales of 100 units as of June 5, 1974; and Pedicar Inc., which reported that it had sold no vehicles to the public as of June 5, 1974.

After consideration of the allegations contained in the petition and the information developed by the Commission staff in this matter, the Consumer Product Safety Commission denies the petition because it finds that the limited number of reported injuries associated with pedal-powered vehicles and the small number of pedal-powered vehicles sold to consumers to date or likely to be sold to consumers in the foreseeable future do not constitute an unreasonable risk. The action taken by the Commission to deny the petition for a proceeding to develop a consumer product safety standard applicable to pedal-powered vehicles does not affect or limit the obligations of any manufacturer of pedal-powered vehicles to comply with provisions of section 15 of the Consumer Product Safety Act (15 U.S.C. 2064) applicable to reporting and correction of product defects which create a substantial risk of injury to the public.

Therefore, pursuant to section 10(d) of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1217; 15 U.S.C. 2059(d)), notice is hereby given of the Commission's denial of the above-described Consumers Union petition.

A copy of the petition may be seen during working hours, Monday through Friday, in the Office of the Secretary, Consumer Product Safety Commission, 1750 K Street NW., Washington, D.C.

Dated: December 18, 1974.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.74-29823 Filed 12-20-74;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Receipt

Environmental impact statements received by the Council on Environmental Quality from December 9 through December 13, 1974. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the *minimum* period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (February 3, 1975) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost, from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250, (202) 447-3965.

AGRICULTURAL RESEARCH SERVICE

Final

Sewage Treatment, Agri. Research Center, Prince Georges County, Maryland, December 9: The statement refers to the proposed provision of tertiary treatment for two existing sewage disposal plants at the Beltsville Agricultural Research Center, by the use of the land treatment approach of tertiary lagoons and spray irrigation. The overall effect of the action is to be the provision of adequate tertiary sewage treatment in order to eliminate sources of pollution for Beaver Dam Creek and Little Paint Branch. (20 pages). Comments made by: EPA, State and local agencies. (ELR Order No. 41837.)

FOREST SERVICE

Draft

Timber Management, Rio Grande N.F., Colorado, December 9: The statement refers to the proposed revision of the 1962 Timber Management Plan for the Rio Grande National Forest. Revision is for the ten years of 1975-1984. Annually, 9,500 acres, or 1.1% of the available commercial forest land will receive various timber management activities. Adverse impact are degradation of air quality, temporary increases in soil movement and stream sedimentation, and erosion of wilderness values on inventoried roadless areas not selected as new study areas. (ELR Order No. 41842.)

Bear Valley Planning Unit Land Use Plan, Idaho, December 9: The statement discusses the Bear Valley Planning Unit Land Use Plan. The Bear Valley Planning Unit contains a gross area of 192,965 acres, with 149,311 acres within the Boise National Forest and 41,304 acres within the Challis National Forest. In developing the plan, the planning unit was divided into six management areas. Of the inventoried roadless and undeveloped areas, 46,730 acres will remain roadless, with the remaining 94,041 acres being developed as the need arises. There will be temporary sedimentation and short periods of air pollution. (ELR Order No. 41843.)

Hebgen Lake Planning Unit, Gallatin N.F., Montana, December 9: The action consists of implementing land use allocations for 118,665 acres of National Forest lands and waters in the Hebgen Lake land use planning unit. The plan provides a reasonable mix of uses related to the land suitability. The mix of uses range from a wilderness resource to a highly developed recreation resource and mixtures of silvicultural opportunities. Additional roads would be constructed. Adverse impacts include the loss of some timber areas, possible change of the natural physical, social, cultural and economic environment of the area, loss of wildlife habitat, short-term degradation of water quality and soil disturbance due to construction operations. (ELR Order No. 41838.)

Final

Kaniksu National Forest, Washington, Montana, and Idaho, December 9: The statement refers to the implementation of the 10-year Timber Management Plan for the Forest. The plan involves the construction of roads and the harvesting of timber in the 1,600,000 acre Forest. Adverse impact will include effects upon soil, air and water, aesthetics, and wildlife (225 pages). Comments made by: DOI, State agencies. (ELR Order No. 41832.)

SOIL CONSERVATION SERVICE

Draft

Upper Muddy Boggy Creek Watershed, several counties, Oklahoma, December 9: The Upper Muddy Boggy Creek Watershed work plan proposes a project for watershed protection and flood prevention. The project measures include accelerated application of land treatment measures for the protection of 94,809 acres of agricultural upland and the installation of 86 floodwater structures for the reduction of floodwater, sediment,

and erosion damages on 8,876 acres of floodplain land in Pontotoc, Hughes, Coal, and Pittsburgh Counties. Adverse impacts are the inundation of land, decreased woody habitat, disruption of fish and wildlife, and short term increase in erosion, and turbidity (40 pages). (ELR Order No. 41846.)

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Mr. W. Herbert Pennington, Office of Assistant General Manager, E-201, AEC, Washington, D.C. 20545, (301) 973-4241. For Regulatory Matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, F-722, AEC, Washington, D.C. 20545, (301) 973-7373.

Final

Seabrook Station, Units 1 and 2, Rockingham County, New Hampshire, December 11: The statement refers to the proposed granting of construction permits to the Public Service Company of New Hampshire. The Seabrook Station will employ identical pressurized-water reactors to produce 3411 MWt and 1194 MWe (net) each; future outputs of 3570 MWt and 1250 MWe are anticipated. Exhaust steam will be cooled by a once-through flow of water from the Gulf of Maine. The construction site is largely wooded; 1545 acres will be required for transmission line right-of-way. Marine biota will be adversely affected by thermal and mechanical shock. Comments made by: AMP, USDA, COT, DOC, EPA, FPC, HEW, HUD, DOI, USCG, State and local agencies, and concerned citizens. (ELR Order No. 41860.)

DEPARTMENT OF DEFENSE

ARMY CORPS.

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, (202) 693-7168.

Draft

Duplicate Locks, Illinois Waterway, December 9: The proposed project involves the construction of supplemental locks at Lockport, Dresden Island, Marseilles, Starve Rock, Peoria, and LaGrange. Several lift bridges in Joliet will be replaced with fixed bridges, and a new fixed bridge will be constructed at Caton Farm Rd. replacing 16th Street Bridge in Lockport. Adverse impacts include: temporary degradation of water, noise, and air quality during construction; disturbance to one historic site; change in land use patterns; some relocations; and the creation of spoil deposition sites (Chicago District). (ELR Order No. 41844.)

Missouri River Levee System, Mills and Pottawattamie Counties, Iowa, December 11: The proposed project will provide for the construction of levee unit L-611-614, the total length of which is 27.7 mile with 18.8 miles along the Missouri River and the remainder on tieback levees. Flood prevention has been designed to provide 1.8 times a 100-year period. Adverse impacts are the commitment of 302 acres of land, increased potential for damage within the minimum 3,000 ft. floodway, emissions, noise, and soil erosion during construction, and disturbance of fish and wildlife habitat (Omaha District). (ELR Order No. 41850.)

Ontanagon Harbor, Operation and Maintenance, Michigan, December 11: The action involves operation and maintenance of Ontonagon Harbor, Lake Superior, Michigan. Principal activities include breakwater repair, dredging, and dredge material disposal. Adverse impacts are increased turbidity, increased noise and congestion in the harbor, and land use alterations due to on-land placement of dredge material (St. Paul District) (35 pages). (ELR Order No. 41864.)

Cattaraugus Creek Harbor, Flood Control, Chautauqua and Erie Counties, New York, December 9: The statement refers to the proposed plan for navigation, flood control and related purposes in Cattaraugus Creek Harbor at Chautauqua and Erie Counties, NY. The plan calls for: breakwaters in southern Lake Erie; a bern extending from the inner end of the north breakwater northerly to high ground; a channel from deep water in the lake upstream to a maneuvering area; a maneuvering area about 300 ft. by 600 ft. with a depth of 6 ft.; and, 2 levees on the left bank. Adverse impacts include: temporary noise and dust during construction; permanent loss of approximately 13 acres of bottom habitat; and, land use changes caused by shoreline development (Buffalo District). (ELR Order No. 41834.)

Mud Creek Local Protection Project, Oklahoma, December 12: The statement refers to the construction of the Mud Creek Local Protection Project, Idabel, Oklahoma. The project involves the widening and straightening of 8,950 ft. of channel, removal of 10 bridges, and replacement of modification of 6 additional bridges. Adverse impacts include the acquisition of 16.4 acres of land, displacement of 14 houses, disturbance to flora and fauna, and increased dust and noise pollution due to construction (Tulsa District). (ELR Order No. 41866.)

Double Bayou, Maintenance Dredging, Chambers County, Texas, December 13: The statement refers to the maintenance dredging of Double Bayou in Chambers County, Texas. Maintenance will be accomplished by hydraulic pipeline dredge with dredged materials disposed of in open water and on land disposal areas. Adverse impacts include disturbance to swimming and bottom dwelling organisms, destruction of vegetation at disposal sites, degradation of water quality, and objectionable odors caused by proposed land disposal operations (Galveston District). (ELR Order No. 41867.)

Ashland Harbor, Operation and Maintenance, Wisconsin, December 9: The statement refers to the proposed operation and maintenance activities within Ashland Harbor, Lake Superior to maintain authorized channel and basin depths. Polluted material dredged from the harbor will be placed in an on-land disposal site. Adverse impacts are minor harbor congestion, air and water contamination, disturbance of bottom sediments and organic matter, and increased turbidity (St. Paul District). (ELR Order No. 41836.)

Final

Talofofo Bay, Guam, December 11: Proposed is a shore protection plan which would provide 900 feet of revetment between the right bank of the Talofofo River mouth and the existing revetment at Gayloup Point. There will be temporary water turbidity from construction, access to the shoreline would be impaired by the structure (Honolulu District) (42 pages). Comments made by: DOI, EPA, HEW, USCG, Guam agencies. (ELR Order No. 41857.)

Fly Creek, Baldwin County, Alabama, December 9: The proposed project is the maintenance dredging of the Fly Creek navigation channel to its authorized dimensions. Increased turbidity and siltation will occur in the vicinity of the dredge intake and spoil discharge area. Adverse impacts include loss of vegetation and wildlife on four land disposal areas and one open water disposal area; loss of benthic habitat; and disruption of approximately five acres of channel bottom (Mobile District) (37 pages). Comments made by: EPA, DOI, DOC, HUD, DOT, USDA, State agencies. (ELR Order No. 41839.)

Dauphin Island Bay, Alabama, December 9: The proposed project is the continuation of maintenance dredging of a two channel navigation project to its authorized dimensions. Adverse effects are reduction in water quality and disruption of 140 acres of bay bottom and 10 acres of grass dunes (36 pages). Comments made by: EPA, DOI, DOC, HEW, DOT, HUD, USDA, State agencies. (ELR Order No. 41840.)

Ouachita and Black Rivers, a 9-foot Navigation Project, Arkansas and Louisiana, December 11: The statement refers to a proposed navigation project which will include: completion of a channel with a minimum depth of 9 feet and a minimum bottom width of 100 feet, on the Ouachita River from the mouth of the Black River to Camden, Arkansas; the construction of new locks and dams at Felsenthal and Calion; the realignment of river bends; and the establishment of 2 National Wildlife Refuges, one of 65,000 acres in connection with the Felsenthal Lock and one of 18,000 acres in connection with the Columbia Lock. Adverse impact will include the inundation of 16,000 acres of lowland forest and wildlife habitat. There will be project induced navigation activity and industrial growth (117 p.). Comments made by: EPA, DOI, USDA, HEW, HUD, DOT, State and local agencies. (ELR Order No. 41856.)

Carters Dam and Lake, Murray, Gilmer, and Gordon Counties, Georgia, December 11: The statement refers to the complete construction and operation of a multipurpose (flood control, hydroelectric power, and recreation) reservoir project on the Coosawattee River. Approximately 8,000 acres have been acquired for the project. Of that amount 4,250 acres (mostly forest and agricultural lands), will be inundated (70 pages). Comments made by: DOI, USDA, DOT, HUD, EPA, State agencies. (ELR Order No. 41855.)

Rock Island Local Protection Project, Rock Island County, Illinois, December 12: The statement refers to a proposed local flood protection project for Rock Island. Project measures will include a earthen levee, floodwall with removable steel top section, access ramps, pumping stations and landscaping. The project would protect the city from a 200 year frequency flooding of the Mississippi. The project will adversely affect wildlife by acting as a barrier to river access (Rock Island District) (42 pages). Comments made by: EPA, DOI, DOT, State and local agencies. (ELR Order No. 41865.)

Paint Creek Lake, Ross and Highland Counties, Ohio, December 11: The statement refers to the on-going construction and operation of a dam, reservoir and other facilities, for purposes of flood control, water supply and quality control, fish and wildlife enhancement, and recreation. Adverse impacts of the project include the loss of agricultural land and historic and archeological sites (Huntington District). Comments made by: USCG, USDA, EPA, FPC, HUD, DOI, State agencies. (ELR Order No. 41859.)

Final

Colleton River, Dredging and Pier Construction, Beaufort County, South Carolina, December 9: The statement refers to the proposed dredging of the river and the construction of a pier and six dolphins on the north shore of Colleton Neck at Victoria Bluff. The action will provide needed facilities for the construction of a metal plate assembly yard which will produce large aluminum tanks for use in the shipboard transportation of liquified natural gas. Adverse impact of the project includes: the loss of 100 acres of wooded upland and 25 acres of bog; an increase in air pollution; and possible harm to three endangered species (Charleston District). Comments made by: DOC, DOI, USDA, HEW, DOT, State and local agencies, and concerned citizens. (ELR Order No. 41833.)

Waterway Dredging, Virginia, December 9: Proposed is the maintenance dredging of Waterway on the coast of Virginia between the barrier islands and the peninsula of the Eastern Shore. An inland channel 6' deep by 60' wide will be dredged for a distance of 85 miles. There will be adverse impact to marine biota (66 pages). Comments made by: EPA, DOC, DOI, State agencies. (ELR Order No. 41841.)

East Lynn Lake, Twelvepole Creek, Wayne County, West Virginia, December 11: The statement refers to the operation and maintenance of a dam and management of a 1,005-acre multiple-purpose lake (23,921 acres of land) and other facilities for flood-control, recreation, fish and wildlife conservation, and incidental redevelopment benefits. The project is located in the East Fork of Twelvepole Creek, about 6 miles southeast of the city of Wayne. Adverse impacts include the loss of land; conversion of natural stream reach with associated aquatic and terrestrial habitat to a lake environment; period fluctuation of pool levels; loss of nutrient recharge on lands previously flooded downstream; and, the disruption of the lives of the people living on the acquired land. Comments made by: EPA, DOI, USDA, USCG, DOT, State and local agencies. (ELR Order No. 41858.)

Red River Lake, Kentucky, December 9: This response has been prepared as the result of the questions and comments made by the Council on Environmental Quality, and consists of clarification, amplification, and response to such comments. This submission to the Council on Environmental Quality is made in accordance with current Corps of Engineers Policy and Guidelines (Paragraph 7c., Engineer Regulation No. 1105-2-507, 15 April 1974). No further administrative action will be taken by the Army in regard to this Project sooner than thirty (30) days after publication of this notice, in order to allow for agency and public review. Comments on this document should be sent during this period to the District Engineer, U.S. Army Corps of Engineers, P.O. Box 59, Louisville, Ky. 40201. (ELR Order No. 1847FS.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kaudera, Executive Director of Environmental Affairs, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, (202) 343-4161.

Draft

Interagency Motor Pool, Dallas, Texas, December 10: The proposed action consists of leasing space for the GSA Interagency Motor Pool which will most likely result in new construction. The facility will consist of 3,500 sq. ft. of net usable office and storage for 8 employees, and 166,000 sq. ft. of net usable parking area or 550 parking spaces. The facility will provide a service area which will include two 10,000 gallon underground gasoline tanks and an automatic drive-through carwash. There will be short-term construction inconveniences caused by the project (96 pages). (ELR Order No. 41849.)

Final

Oxnard AFB, Camarillo, Ventura County, California, December 9: Proposed is the disposal of Oxnard Air Force Base by GSA. Included would be: the conveyance of 633 acres and 45 buildings to Ventura Co. for commercial airport use; the assignment of 16 acres and 15 buildings to HEW for conveyance to Regional Occupational Program School; assignment of 9 acres and 8 buildings to HEW for conveyance to Oxnard High School; assignment of 40 acres, 1 building to HEW for conveyance to Ventura Co. Commun. College; assignment of 36 acres and 18 buildings to BOR, DOI, for conveyance to local recreational entities; sale of the chapel to a religious organization; and conveyance of 1 building to Justice Dept. There will be local impact from airport operations. Comments made by: HEW, DOT, HUD, DOI, EPA, State and local agencies, and concerned citizens. (ELR Order No. 41845.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Acting Director, Office of Community and Environmental Standards, Room 7206, 451 7th Street SW., Washington, D.C. 20410, (202) 755-5980.

Final

"The Seasons", Washington, D.C., December 10: Proposed is the construction of a ten story highrise apartment building at 1755 Que St. NW., Washington; Federal insurance has been applied for under Section 221(d)(4) of the National Housing Act. There will be visual impact from the project. The project may adversely affect (by blocking sun and air) adjacent Victorian-era townhouses. (180 pages). Comments made by: AHP, DOI, EPA, local agencies, and concerned citizens. (ELR Order No. 41848.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

BUREAU OF RECLAMATION

Draft

Coal Gasification Project, Navajo Mine, San Juan County, New Mexico, December 11: The Western Gasification Company proposes to construct and operate 4 gasification plants and the necessary support facilities in northwestern New Mexico on the Navajo Indian Reservation 35 miles southwest of Farmington. On an annual average the first plant would have an initial output of 250 million cu. ft. per day (MMCFD) of substitute natural gas (SNG) and would become operational in late 1977 or early 1978. The total production of 1,000 MMCFD would be achieved when all 4 plants become operational in 1983. Adverse impacts include emissions of sulphur dioxide, nitrogen oxides, and particulate degradation of water quality, use of 28,000 acres of land, and the displacement of 9 families. (ELR Order No. 41861.)

NATIONAL PARK SERVICE

Draft

Bandelier National Monument, Los Alamos, Sandoval, and Santa Fe Counties, New Mexico, December 11: The statement refers to a conceptual master plan for Bandelier National Monument in the counties of Los Alamos, Sandoval, and Santa Fe. The plan will set the development patterns and goals for administration of the area for at least 5 years. Also, proposed is a boundary adjustment involving the acquisition of private and state lands totaling approximately 7,310 acres both north and south of the existing boundaries. Master plan proposals will increase the propensity for minor human impact on vegetation in localized areas of the monument. (ELR Order No. 41854.)

INTERSTATE COMMERCE COMMISSION

Draft

Abingdon Branch Abandonment, Virginia and North Carolina, December 12: The Norfolk and Western Railway Company (N&W) proposes to abandon and completely dismantle their Abingdon Branch between Abingdon, Va. and West Jefferson, N.C., a distance of approximately 56.04 miles, all within Washington and Grayson Counties, Va., and Ashe County, N.C. Abandonment of rail service will increase the use of cars in the area. (ELR Order No. 41863.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590, (202) 426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Taylor Highway, Alaska, December 9: The proposed project involves the reconstruction of the existing Taylor Highway from Tetlin Junction to the Eagle turnoff and the spur road from the turnoff to the Canadian Border. The facility will be a 2-lane, unpaved road designed to meet present and future recreation and commercial development over a 20-year period. Six bridges will be replaced. There will be disruptions normally associated with construction (147 pages). (ELR Order No. 41831.)

57th St. Improvement, Kansas City, Wyandotte County, Kansas, December 9: The proposed project requires the construction of 1.8 miles of 4-lane minor arterial roadway (57th Street) from Kew Drive to Parallel Drive, all within Kansas City, Kansas. Adverse impacts are the acquisition of right-of-way, displacement of 1 family and 1 church, and increased air and noise pollution (56 pages). (ELR Order No. 41835.)

FAS 426, Marion County, December 12: The statement refers to the improvement of 0.208 miles of FAS Route 426 in Marion County. The project includes a bridge and channel change. Lands required for right-of-way will be taken from agricultural production and wildlife habitat. (ELR Order No. 41862.)

U.S. 285, Rio Arriba County, New Mexico, December 9: The statement refers to the proposed construction of U.S. 285 in Rio Arriba County. The length of the new facility will be 7.2 miles. Adverse impacts are temporary noise and air pollution during construction, and the acquisition of land (mostly undeveloped rangeland) for right-of-way. (ELR Order No. 41829.)

Northwest County Highway, Shelby County, Tennessee, December 9: The proposed project involves the construction of Northwest County Highway between Millington and Arlington in north Shelby County, Tennessee. The project length is approximately 18 miles. Adverse impacts include the displacement of residences and businesses, loss of farmland and wildlife habitat, increased air and noise pollution, and temporary soil erosion and siltation during construction. (ELR Order No. 41828.)

Final

Iowa Freeway 561, Scott and Clinton Counties, Iowa, December 11: The proposed project is the construction of 14.6 miles of Freeway 561. The project will displace an unspecified number of families, businesses and amount of land acreage, primarily agricultural and timber. Major adverse effects will include loss and disruption of wildlife habitats, and increases in noise, air and water pollution (124 pages). Comments made by: HEW, HUD, USDA, DOI, EPA, COE, State and local agencies. (ELR Order No. 41851.)

Legislative Route 1033, Section A02, Mifflin and Juniata Counties, Pennsylvania, December 11: The statement refers to the proposed reconstruction of a section of existing 3-lane L.R. 1033 into a four lane limited access highway. Length of project is 6.4 miles. An unspecified number of businesses and low income families will be displaced. Temporary sedimentation and siltation of the Juniata River, dust and increased noise levels will occur during construction. Comments made by: USDA, DOI, EPA, HEW, State and local agencies, and concerned citizens. (ELR Order No. 41852.)

U.S. WATER RESOURCES COUNCIL

Contact: Mr. Don Maughan, Director, 2120 L Street NW., 8th Floor, Washington, D.C. 20037, (202) 254-6303.

Draft

Great Lakes Basin Framework Study, The Great Lakes Basin Comprehensive Framework Study evaluates the water and related land resources of the Great Lakes Basin, in an attempt to obtain a concensus among involved States and Federal agencies on the general rate at which future development of these resources should proceed, which types of development should be encouraged or discouraged, and which geographic areas should receive special consideration for development or preservation. (ELR Order No. 41690.)

On December 6, 1974, CEQ published notice of a final environmental impact statement for the Williams Creek and Cougar Bluffs Roadless Areas, Umpqua Creek National Forest. It has come to the attention of the Council that the summary which was included with the notice was incorrect.

The correct Final EIS summary concerns a proposal for management direction of two Roadless Areas within the Umpqua National Forest, Douglas County. This proposal is to manage the areas for a combination of resource values including water, wildlife and fish habitat, timber and outdoor recreation. Comments made by: COE, DOI, HUD, DPA, USDA, State and local agencies. (ELR Order No. 41784.)

The commenting period on this statement began on November 29, 1974 and will continue for a minimum of thirty (30) days.

In the December 6, 1974 issue of the FEDERAL REGISTER, CEQ published a notice of availability concerning the Relocation of New Hampshire Route 111, Rockingham County, New Hampshire. In the summary the statement is referred to as a revised draft. It has come to the attention of the Council that the statement is actually a Final Environmental Statement.

The commenting period for this EIS started on the date the statement was received by CEQ (November 27, 1974) and will continue for a minimum of thirty (30) days.

GARY L. WIDMAN,
General Counsel.

[FR Doc.74-29846 Filed 12-20-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 307-7; OPP-32000/158]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before February 21, 1975, any person who (a) is or has been applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after February 21, 1975.

APPLICATIONS RECEIVED

EPA File Symbol 11515-LO. ABC Chemical Corp., 17000 W. Eight Mile Rd., Southfield MI 48075. ABC CHEMICAL CORPORATION SUPERKILL PLUS 2,4-D CRAB GRASS KILLER. Active Ingredients: Dodecyl Ammonium Methanearsonate 8.00%; Octyl Ammonium Methanearsonate 8.00%; Octyl Ammonium Salt of 2,4-Dichlorophenoxyacetic Acid 5.44%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6233-RE. Amador Chemical Corp., 1640 N. Broadway St., Stockton CA 95205. FLAG GERMICIDE CLEANER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.8%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%; Sodium Metasilicate 2.4%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 3866-RI. Arco Chemical Corp., 4871 N. 119th St., Milwaukee WI 53225. ARCO CHEMICAL CORP. GRANULAR SHOCK, SHOCK TREATMENT. Active Ingredients: Calcium Hypochlorite 65%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4313-UT. Carroll Co., 2900 W. Kingsley Rd., Garland TX 75041. WEED-GO WITH DRIFT CONTROL. Active Ingredients: Petroleum oil 94.94%; 2,4-Dichlorophenoxyacetic acid, isooctyl ester 1.09%; Bromacil (5-bromo-3-sec-butyl-6-methyluracil 0.96%; Pentachlorophenol 0.80%; Other cholorophenols 0.09%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 496-RNL. Chase Products Co., 19th & Gardner Rd., Broadview IL 60153. LEMON GLYCOLIZED AIR SANITIZER DEODORIZER NO. 2. Active Ingredients: Triethyl Glycol 6.00%; Isopropyl Alcohol 10.00%; Methyl Dodecyl Benzyl Trimethyl Ammonium Chloride 0.008%; Methyl Dodecyl Xylene bis (Trimethyl ammonium chloride) 0.002%; Essential Oils 0.20%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 644-RNN. Exxon Chemical Co., PO Box 3272, Houston TX 77001. RUST-BAN VY 6547 ANTI-FOULING PROTECTIVE COATING. Active Ingredients: Cuprous Oxide 66.8%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34911-I. Hi-Yield Chemical Co., PO Box 460, Bonham TX 75418. HI-YIELD BUG BAIT. Active Ingredients: Carbaryl (1-Napthyl N-Methylcarbamate) 4%; Metaldehyde 1%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34911-0. Hi-Yield Chemical Co. HI-YIELD LAWN WEED KILLER. Active Ingredients: Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 9.45%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34911-A. Hi-Yield Chemical Co. HI-YIELD 5% SEVIN DUST. Active Ingredients: Carbaryl (1-naphthyl N-methylcarbamate) 5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34911-L. Hi-Yield Chemical Co. HI-YIELD 5% SEVIN SQUEEZE DUSTER. Active Ingredients: Carbaryl (1-naphthyl N-methylcarbamate) 5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34911-T. Hi-Yield Chemical Co. HI-YIELD GARDEN INSECT SPRAY. Active Ingredients: Methoxychlor, Technical 15%; Malathion 12%; Aromatic Petroleum Derivative Solvent 62%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4972-RI. Protexall Chemicals, Inc., 5576 S. Ridgewood (Harbor Oak), Daytona Beach FL 32019. DON'S D-K READY MIX ROACH-ANT BUG KILLER. Active Ingredients: Pyrethrins 0.050%; Piperonyl butoxide, technical 0.100%; N-octyl bicycloheptene dicarboximide 0.166%; Chlorpyrifos [0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothioate 0.500%; Aromatic petroleum distillate 0.290%; Petroleum distillate 6.609%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 70-ENU. Rigo Co., 1200 Ft. Wayne Natl. Bank Bldg., Buckner KY 40010. KILL-KO SEVIN 50-W CARBARYL INSECTICIDE. Active Ingredients: Carbaryl (1-naphthyl methylcarbamate) 50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 70-ENG. Rigo Co., 1200 Ft. Wayne Natl. Bank Bldg., Buckner KY 40010. KILL-KO RAT BLUES-F THRO PAC. Active Ingredients: 3-(alpha-Acetonylfurfuryl) - 4 - Hydroxy coumarin 0.025%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 148-212. Thompson-Hayward Chemical Co., 5200 Speaker Rd., Kansas City KS 66106. T-H DED-WEED LV-6

BIUDSE EIL LOW VOLATILE ESTER. Active Ingredients: 2,4,5-trichlorophenoxyacetic acid isooctyl ester 84.0%. Method of Support: Application proceeds under 3(c) of Interim policy.

Dated: December 10, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-29246 Filed 12-20-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 20256, 20257]

ALFA LEASING CORP. AND ISO AERO SERVICE INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regards to applications of Alfa Leasing Corporation, Kinston, North Carolina, Docket No. 20256, File No. 49-A-L-74; ISO Aero Service, Inc., Kinston, North Carolina, Docket No. 20257, File No. 47-A-L-74; for an aeronautical advisory station to serve Stallings Field, Kinston, North Carolina.

1. Alfa Leasing Corporation (hereinafter called Alfa) has filed an application for a new aeronautical advisory station license at Stallings Field, North Carolina, and ISO Aero Service, Inc. (hereinafter called ISO) has also filed an application for new aeronautical advisory facilities at the same airport.[1] Section 87.251(a) of the Commission's rules provides that only one aeronautical advisory station may be authorized to operate at a landing area and, therefore, the above-captioned applications are mutually exclusive. Accordingly, it is necessary to designate the applications for a comparative hearing in order to determine which application should be granted. Except for the issues specified herein, each applicant is otherwise qualified.

2. By letter, dated August 21, 1974, Alfa has alleged that ISO has been operating an aeronautical advisory station at Stallings Field for the past two years without a valid Commission license for such facilities.

3. In view of the foregoing: *It is ordered*, That, pursuant to the provisions of § 309(e) of the Communications Act of 1934, as amended, and § 0.331 (b)(21) of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following issues: (a) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications;

(5) Ability to provide information pertaining to primary and secondary communications as specified in Section 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators;

(b) To determine whether ISO has operated, and under what circumstances, an aeronautical advisory radio station at Stallings Field without proper authorization from the Commission and, if so, the effect of such operation on ISO's qualifications to be a Commission licensee; and

(c) To determine in light of the evidence adduced on the foregoing issues which, if either, of the applications should be granted.

4. *It is further ordered*, That the burden of proof and the burden of proceeding with the introduction of evidence on issue (b) is on Alfa and on all other issues, the burdens are on each applicant with respect to its application except issue (c) which is conclusory.

5. *It is further ordered*, That to avail themselves of an opportunity to be heard, Alfa and ISO, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this Order file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Adopted, December 2, 1974.

Released, December 10, 1974.

[SEAL] CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.74-29217 Filed 12-20-74;8:45 am]

[1] ISO was the licensee of aeronautical advisory station KIK3 at Stallings Field, which expired on October 5, 1972, and the subject application was received by the Commission on July 8, 1974. Accordingly, a timely renewal was not filed, and the application is essentially a new application seeking reinstatement of its previously held authorization.

KOREA

International Amateur Third Party Radio Communications

DECEMBER 11, 1974.

Information has been received by the Commission indicating the Government of the Republic of Korea has authorized Amateur radio stations with call sign prefix HL9 to conduct third party communications with U.S. Amateur radio station licensees on a temporary basis for the period beginning December 22, 1974, 1500 G.m.t. and ending January 4, 1975, 1500 G.m.t.

Accordingly, the Commission has no objections to Amateur radio stations licensed by the Commission conducting Amateur third party radio communications with Republic of Korea Amateur radio stations (call sign prefix HL9) during the aforementioned time period.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-29214 Filed 12-20-74;8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS

Meeting

As a matter of public notice, members of the Executive Committee of the Radio Technical Commission for Aeronautics will meet on administrative matters on January 3, 1975, at the Goose Creek Country Club, Leesburg Pike, between Vienna and Leesburg, Virginia, commencing at 1:30 p.m.

The Agenda for the meeting is:

1. Approval of the Minutes of the November 1, 1974, meeting.
2. Special Committee Activities Report for November-December, 1974.
3. Chairman's Report of RTCA Activities.
4. Report of ad hoc Group on the William E. Jackson Memorial Award.
5. Other Business.
6. Date of next meeting.

The meeting is open to the public on a space available basis. Any members of the public may file a written statement with the Commission either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Commission prior to the meeting.

Those desiring to attend the meeting or more specific information should contact the RTCA Secretariat, Suite 655, 1717 H Street, NW., Washington, D.C. 20006, or phone area code 202/296-0484.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-29210 Filed 12-20-74;8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics Special Committee 122—Planning for 50 Kiloherts VOR/ILS Channeling. It is to be held on January 8-9, 1975, in Conference Room 8 ABC, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C., commencing at 9 a.m.

The Agenda is as follows:

1. Opening comments and introduction.
2. Review of the Minutes of the previous meeting.
3. Technical discussion:

a. (1) Examination of the need for modifications to airborne equipment and procedures in order to preclude degradation of safety as a result of erroneous course information which may be displayed during inadvertent mistuning.

(2) Examination of the need for reduction of VOR harmonic radiation levels at additional facilities.

(3) Examine the potential of further (harmonic) reduction below the levels in ICAO Annex 10.

b. Development of recommendations concerning the steps necessary to insure that the airborne equipment utilized in a given area is capable of safe operation in the environment provided by the particular interference protection criteria applied in that area.

c. Development of proposals for amendments/revisions to the VOR/DME and ILS Minimum Performance Standards and Minimum Operational Characteristics as necessary, for airborne equipment designed to operate in a 50 kHz/Y channel environment.

4. New Business.

5. Assignment of Tasks.

The meeting is open to the public on a space available basis. Any members of the public may file a written statement with the Commission either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Commission prior to the meeting.

Those desiring to attend the meeting or more specific information should contact the RTCA Secretariat, Suite 655, 1717 H Street, NW., Washington, D.C., 20006, or phone area code 202/296-0484.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-29811 Filed 12-20-74;8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics International Coordination Group 12—Airborne LORAN Receivers. It is to be held on January 16, 1975 in RTCA Conference Room 261, 1717 H Street, NW., Washington, D.C. 20006, commencing at 9 a.m.

A formal Agenda has not been published. The group will review work accomplished since its previous meeting on January 21, 1974. It will consider for formalization its Second Draft Report, Minimum Performance Standards—Airborne LORAN Receiving Equipment. The Document will update RTCA Document DO-92 for LORAN-A equipment issued in 1958 and additionally will incorporate Minimum Performance Standards for LORAN-C receivers.

The meeting is open to the public on a space available basis. Any member of the public may file a written statement with the Commission either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Commission prior to the meeting.

Those desiring to attend the meeting or more specific information should contact the RTCA Secretariat, Suite 655, 1717 H Street, NW., Washington, D.C. 20006, or phone area code 202/296-0484.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-29815 Filed 12-20-74;8:45 am]

FEDERAL MARITIME COMMISSION

AGENCIA MARITIMA INTERMARES LTDA.

Issuance of Certificate [Casualty]

Security for the protection of the public financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Agencia Maritima Intermares Ltda.
Brasilio De Gama 52
Sao Paulo
Brazil

Dated: December 18, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-29874 Filed 12-20-74;8:45 am]

AGENCIA MARITIMA INTERMARES LTDA.

Issuance of Certificate [Performance]

Security for the protection of the public indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 C.F.R. Part 540):

Agencia Maritima Intermares Ltda.
Brasilio De Gama 52
Sao Paulo
Brazil

Dated: December 18, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-29875 Filed 12-20-74;8:45 am]

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, ET AL.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Notice of agreement filed by:

Thomas W. Gleason, Counsel
International Longshoremen's Association
17 Battery Place
New York, New York 10004
and
C. P. Lambos, Counsel
New York Shipping Association, Inc.
Lorens, Finn, Giardino & Lambos
25 Broadway
New York, New York 10004

Agreement No. T-3017-2, between the International Longshoremen's Association, AFL-CIO (ILA) the New York Shipping Association, Inc. (NYSA), Sea-Land Service, Inc., Seatrain Lines, Inc., and Transamerican Trailer Transport, Inc. (Carriers), modifies the parties, basic agreement providing for the settlement of the parties' litigation in and the withdrawal of the Carriers from FMC Dockets Nos. 69-57 and 73-34. The purpose of the modification is to move the date by which the basic agreement must receive Commission approval or by its terms become null and void from December 15, 1974 to January 15, 1975.

Notice of the filing of Agreement No. T-3017 appeared in the FEDERAL REGISTER on November 8, 1974 (FR Doc. 74-26248, 39 FR 39602) and eleven days were granted for comments. Inasmuch as Agreement No. T-3017-2 only changes the date by which the Commission must approve Agreement No. T-3017 and does not in any way change the agreement's substance, no further time will be granted for comments. Comments filed in connection with Agreement No. T-3017 will, however, be taken into account by the Commission in its consideration of Agreement No. T-3017-2.

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Mari-

time Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico.

Dated: December 17, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-29673 Filed 12-20-74;8:45 am]

JAPAN/KOREA-ATLANTIC AND GULF FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW, Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before January 13, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq.
1100 Connecticut Avenue, NW.
Washington, D.C. 20036

Agreement No. 3103-56 is an application on behalf of the member lines of the Japan/Korea-Atlantic and Gulf Freight Conference to extend the presently approved intermodal authority, as set forth in Article 1 of the conference agreement, for a period of eighteen (18) months beyond January 23, 1975. The presently approved intermodal authority expires July 22, 1975. Under the extended authority applied for, it is provided that if the conference does not exercise the intermodal tariff publishing authority granted within the first twelve (12) months of the said extended period, the member lines may publish their own intermodal tariffs. However, should the conference file its own intermodal tariff after the elapse of said twelve month period and the member lines do likewise, the conference tariff would supersede the member lines' intermodal tariffs only to the extent that origins, destinations and tariff commodity descriptions are the same.

Dated: December 16, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-29672 Filed 12-20-74;8:45 am]

PORT OF SEATTLE AND AMERICAN PRESIDENT LINE, LTD.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 13, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Rosie Smith
Rental Management Specialist
Port of Seattle
P.O. Box 1209
Seattle, Washington 98111

Agreement No. T-2640-5, between the Port of Seattle (Port) and American President Line, Ltd. (APL), modifies the basic agreement between the parties providing for the 5-year lease to APL (formerly American Mail Line, Ltd.) of Terminal 25, Seattle, Washington. The purpose of Agreement No. T-2640-5 is to adjust rental payments in accordance with actual construction costs and amend the bonding provisions.

Dated: December 13, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-29671 Filed 12-20-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RM75-11]

CHANGE IN ANNUAL CHARGES FOR USE OF GOVERNMENT LANDS

Further Extension of Time

DECEMBER 16, 1974.

On November 29, 1974, Montana Power Company, Pacific Gas and Electric Co., Pacific Power and Light Co., Puget Sound Power and Light Co., Southern California Edison Co., Virginia Electric and Power Co. and Washington Water Power Co. jointly filed a motion to extend the procedural dates fixed by notice issued October 30, 1974, as most recently modified by notice issued December 2, 1974, in the above-designated matter.

Upon consideration, notice is hereby given that the time for filing comments in the above matter is extended to and including February 3, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29706 Filed 12-20-74;8:45 am]

COORDINATING COMMITTEE, TRANSMISSION-TECHNICAL ADVISORY COMMITTEE, AND TRANSMISSION-TECHNICAL ADVISORY TASK FORCES

Designation of Member

DECEMBER 16, 1974.

By Orders issued May 10, 1971, 36 FR 8910, December 21, 1971, 36 FR 25183, and December 28, 1973, 39 FR 1482, the Federal Power Commission established and renewed the Coordinating Committee, Transmission-Technical Advisory Committee and Transmission-Technical Advisory Task Forces of the National Gas Survey.

1. *Membership.* A new member to the Coordinating Committee, and the replacement of a member to the Transmission-Technical Advisory Committee and Transmission-Technical Advisory Task Forces-Economics, Facilities, Operations, and Regulation and Legislation, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Edwin D. Goebel, Technical Director, National Gas Survey, Bureau of Natural Gas, Federal Power Commission.

The appointment of Dr. Goebel to the Coordinating Committee represents an additional member to that Committee. He is being added to the other aforementioned Committees to fill the vacancies created thereon by the resignation of Thomas H. Jenkins, former Director,

National Gas Survey, Federal Power Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-29785 Filed 12-20-74;8:45 am]

[Docket No. RP75-6-1]

CITIES SERVICE GAS CO. AND CUSTOM RESINS, INC.

Application and Order Providing Hearing and Establishing Procedures

DECEMBER 12, 1974.

On July 23, 1974, Custom Resins, Inc. (Custom Resins) filed a petition for extraordinary relief pursuant to § 1.7(b) of the Commission's rules of practice and procedure and § 2.78 of the Commission's regulations. Custom Resins requested emergency relief from the curtailment plan of Cities Service Gas Co. (CITCO). Custom Resins is a manufacturing firm which produces various chemicals. It stated it had executed a letter of intent with Gulf Oil Company (Gulf) to acquire part of the Jayhawk Petrochemical plant near Columbus, Kansas, and to modify and modernize the plant for the production of ammonia to be used solely as fertilizer.

Custom Resins stated that the plant in the past utilized approximately 50,000 Mcf per day of natural gas, but that in recent years production had been cut back and that natural gas consumption only averaged 4000 Mcf per day, gas supplied to Gulf on an interruptible basis. Custom Resins planned to produce 70,000 tons of ammonia per year and stated a need for 8000 Mcf per day approximately ⅓ to be used for process purposes and the remaining ⅔ as feedstock.

By letter order dated August 9, 1974, the Commission dismissed the petition for extraordinary relief on the ground that the petition was actually a petition for certificate authorization and that the proper procedure would be an application under section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity.

On September 9, 1974, Custom Resins filed an application for rehearing alleging essentially that Custom Resins is the successor in interest to Gulf which in turn was a successor in interest to prior owners of the plant dating back to a "grandfather" certificate issued in Docket No. G-298, 4 FPC 471 (1943).

The Commission issued an order on October 4, 1974, granting a rehearing for the purpose of reconsideration and requiring a response by CITCO. The Order contained detailed questions to be answered by CITCO concerning the amount of gas it had supplied to Gulf and to Gulf's predecessors in interest at the Jayhawk plant.

On November 4, 1974, CITCO filed an answer to the petition for extraordinary relief and application for rehearing of Custom Resins. CITCO's answer denied that Custom Resins a successor in interest to Gulf for the reason that the Jayhawk plant has not been sold by Gulf, nor is there a contract requiring its sales, but only a letter of intent. As required by the Commission's order CITCO detailed the amount of gas it had supplied Gulf and other predecessors through the years. CITCO detailed its critical gas curtailment program and questioned whether the service requested by Custom Resins is within the jurisdiction of the Commission or in the public interest. CITCO also noted that notice of filing of Custom Resins petition has not been published in the FEDERAL REGISTER, and suggested that due to the nature of the requested relief and CITCO's supply shortage, many of its customers may have an interest which may be directly affected by the Commission's action in this proceeding, and who therefore are entitled to be permitted to intervene under section 1.8 of the rules of practice and procedure.

It appears that CITCO is correct in its contention that other parties affected are entitled to public notice and the right to intervene. It also appears that the question of whether or not Custom Resins is a successor in interest or an applicant for new service is both a legal and factual question which would be more fully explored in a formal hearing.

Therefore any person desiring to be heard to make any protest with reference to the said application should on or before December 19, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

An examination of the application and of the data submitted in support thereof and of the response of CITCO presents a question of whether the application is in the public interest. Therefore, we deem a hearing to be in the public interest.

The Commission orders. (A) Pursuant to the authority of the Natural Gas Act, a public hearing will be held commencing January 9, 1975, at 10:00 a.m., e.s.t., in a hearing room to be designated at the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(B) A presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(C) All parties desiring to testify in this proceeding shall file their direct testimony and evidence on or before December 27, 1974.

By the Commission.

[SEAL] MARY B. KIDD, *Acting Secretary.*

[FR Doc.74-29777 Filed 12-20-74;8:45 am]

[Docket No. E-7994]

CONSUMERS POWER CO. AND DETROIT EDISON CO.

Order Approving Settlement Agreement and Terminating Proceeding

DECEMBER 16, 1974.

On December 27, 1971 and March 6, 1972, Consumers Power Company (Consumers) and the Detroit Edison Company (Detroit) tendered for filing, two similar June 1, 1971 initial Sales Agreements, as amended August 15, 1971, with Commonwealth Edison Co. (Commonwealth) entitling Commonwealth to purchase up to ⅓ of the initial output of the Ludington Pumped Storage Plant for the first ten years of operation, and up to 1/6 of plant output for five years thereafter. The Ludington Pumped Storage Plant is a jointly-owned project of Consumers and Detroit, comprising six units of 312 MW generating and 323 MW pumping capacity each upon completion in 1974.

By order issued August 26, 1973, the Commission instituted a section 206 investigation and hearing herein to determine the justness and reasonableness of the terms of the filings in general, and the derivation of the return component of the proposed annual fixed charge factor in particular. Subsequent discussion among the parties resulted in the preparation and offer of a proposed settlement herein, which with the concurrence of all parties was offered and transcribed in the October 12, 1973 prehearing conference record and certified to the Commission by the Presiding Administrative Law Judge on October 12, 1973 along with a Staff Motion to accordingly terminate the proceeding. Written notice of the certification was issued by the Commission on October 23, 1974 (39 FR 38723), stating that any person desiring to make comments or suggestions thereupon should submit them in writing on or before November 1, 1974. No comments or suggestions have been received.

The offer of settlement tendered by Consumers, Detroit and Commonwealth explains that (1) the proposed compensation formula initially submitted excludes consideration of an additional investment of $33,234,000 for the construction of necessary transmission facilities within the State of Michigan apart from the capital costs of the Ludington Plant itself, and (2) inclusion of the additional transmission facilities investment in calculating the fixed charge level produced by the tendered compensation formula reduces the resultant annual fixed charge rate from 15.77 percent to 13.89 percent, and reduces the rate of return component from 10.32 percent to 9.05 percent.

Based upon our review of the offer of settlement certified to us by the Presiding Administrative Law Judge on October 12, 1973, as well as the entire record in this proceeding, we find that the offer of settlement provides a reasonable and appropriate resolution of the issues in this proceeding, and that the offer of settlement should be accepted for filing, approved and made effective as hereinafter ordered and conditioned. In light of this action, Staff's motion to terminate the proceedings is granted.

The Commission finds. The offer of settlement certified to the Commission on October 12, 1973, in this docket should be accepted for filing, approved, and made effective as hereinafter ordered and conditioned.

The Commission orders. (A) The offer of settlement certified to the Commission on October 12, 1973, is hereby accepted for filing, incorporated herein by reference, approved and made effective.

(B) Staff's motion to terminate the proceedings is hereby granted.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-29778 Filed 12-20-74;8:45 am]

[Docket No. ID-1744]

EBERT E. FOURNACE

Supplemental Application

DECEMBER 12, 1974.

Take notice that on November 19, 1974, Ebert E. Fournace (Applicant) filed a supplemental application with the Federal Power Commission. Pursuant to section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following position:

Vice President, Ohio Electric Company, Public Utility.

Ohio Electric Company, whose principal office is located at 301 Cleveland Avenue, SW., Canton, Ohio 44702 owns and operates the General James M. Gavin Plant at Gallipolis, Ohio which, when completed, will have two 1300 megawatt generating units. All of Ohio Electric Company's available electrical energy is sold to Ohio Power Co., of which it is a wholly owned subsidiary.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-29770 Filed 12-20-74;8:45 am]

[Docket Nos. CP74-322, CP75-3, CI74-738]

MICHIGAN GAS STORAGE CO. ET AL.

Order Setting Hearing, Prescribing Procedures, Granting Interventions and Consolidating Proceedings

DECEMBER 13, 1974.

Northern Michigan Exploration Company (NOMECO) proposes in Docket No. CI74-738 to sell natural gas to Consumers Power Company (Consumers) for resale from its working interest in leases from Offshore Louisiana to be transported through the facilities of Stingray Pipeline Company (Stingray), Natural Gas Pipeline Company of America (Natural), Trunkline Gas Company (Trunkline) and Michigan Gas Storage Company (MGS), and ultimately to Consumers in the State of Michigan.

NOMECO, a wholly owned subsidiary of Consumers is one of the working interest owners in Vermillion Block 320, East Cameron Block 338, and West Cameron Block 639 in the Federal Domain Offshore Louisiana, and proposes herein to sell 40,000 Mcf per day of natural gas from the above leases.

Trunkline seeks certificate authorization to transport NOMECO's gas on a firm basis up to 41,500 Mcf per day, less fuel used by Trunkline, from the point of production to the Consumers-Trunkline interconnection on the Indiana-Michigan border near Elkhart, Indiana. NOMECO's gas will be taken and measured by Trunkline in a common stream with gas purchased by Trunkline from other producers owning interests in the same leases, wells and platforms. The subject gas will be initially transported through the facilities of Stingray to the facilities of Natural which would transport the gas for a distance of approximately 54 miles, to Trunkline's facilities for delivery to Consumers for the credit of NOMECO. Michigan Gas Storage Company, a subsidiary of Consumers, in Docket No. CP74-322 seeks authority from the Commission to transport the gas within the State of Michigan on behalf of Consumers. No new facilities are proposed to be constructed. Transportation agreements between Stingray and Natural, it is stated, have been designed to accommodate the full wellhead streams of offshore production, including the volumes attributable here to NOMECO. A transportation contract dated October 2, 1973, between Stingray, Trunkline and Natural provides that Trunkline and Natural have the right to assign or otherwise permit the use of a portion of its share of capacity of Stingray's facilities, with the consent of the other, and Natural by letter dated June 21, 1974, has consented to allowing Trunkline to utilize a portion of its capacity for the transportation of the gas of NOMECO. Trunkline states that it has unutilized mainline capacity, even if it had a full supply of gas to serve its present contract demands, due to a cessation of transportation service for Tennessee Gas Pipeline Company.

On June 14, 1974, NOMECO requested issuance of a certificate pursuant to § 2.75 of the rules (Optional Procedure) authorizing long-term sales of gas (20 year primary terms) to Consumers from three fields in the Offshore Louisiana, Federal Domain, at an initial rate of 45.0¢ per Mcf at 15.025 psia. On July 24, 1974, NOMECO amended its application to request authorization to make the proposed sales at the national rate established in Opinion No. 699 (43.0¢ at 14.73 psia subject to upward and downward Btu adjustment from a base of 1,000) plus transportation charges based on cost-of-service.

NOMECO owns a 12½ percent working interest in Block 320, Vermilion Area, Block 338, East Cameron Area, and Block 639, West Cameron Area, and has dedicated such interests to a June 12, 1974, contract with Consumers. The contract provides that NOMECO will sell and arrange for the transportation and delivery to Consumers of up to 40,000 Mcf per day. In addition, the contract provides that Consumers will pay a transportation charge which is equal to the transportation charges paid by NOMECO to Trunkline. It is noted that Consumers is also required to pay MGS a transportation charge based on MGS' cost-of-service.

The application of NOMECO indicates that Consumers will use the additional gas to serve its market in the State of Michigan. Data filed in Docket No. CI74-738 indicates that Consumers has currently in effect a gas allocation plan for new customers approved by the Michigan Public Service Commission (MPSC), and Consumers is currently accepting new customers in its Priority 1 and 2 Categories, which are residential, commercial and industrial customers requiring not more than 6,600 cubic feet of gas per hour. Consumers' projected ability to serve a limited amount of new load is premised on assumptions that curtailment from Trunkline and Panhandle Eastern Pipe Line Company will not increase, exploration and development within the State of Michigan will continue, feedstock shortages and other problems will not limit Consumers' Marysville SNG plant operation, and the subject NOMECO offshore supply project will be certificated. Consumers does not curtail firm load but has interrupted seasonal firm customers 60 days this year. Consumers has pending before the MPSC a program for curtailment should the need arise. Such curtailment plan is based on end-use concepts, the first usage curtailed would be large boiler fuel loads. Notices of these applications were issued on July 30, 1974, in Trunkline (39 FR 28327, August 6, 1974); on July 9, 1974, in MGS (39 FR 26066, July 16, 1974); and on July 9 and August 7, 1974, in NOMECO (39 FR 26067, 29234, July 10 and August 14, 1974).

Petitions to intervene were filed by Central Illinois Public Service Company,

Columbia Gas Transmission Company, Consumers Power Company, Laclede Gas Company, Michigan Gas Storage Company, Michigan Gas Utilities Company, Mississippi River Transmission Corporation, and Northern Michigan Exploration Company. A notice of intervention was filed by the Michigan Public Service Commission. No party requests a formal hearing; however, the Commission has determined that the applications for certificates for the sale of gas and transportation from Offshore Louisiana in the Federal domain to distribution companies, such as Consumers, should be the subject of formal hearing to determine inter alia whether the end-use of the subject gas under present and projected circumstances is required by public convenience and necessity in view of the severe shortage of natural gas. In Opinion No. 668 and Opinion No. 668–A, "Northern Michigan Exploration Company, et al.", October 23, and December 7, 1973, the Commission found, among other things, that the record developed therein on the issue of vertical integration was insufficient as a bar to the proposed transportation there proposed. However, that proposal did not involve the movement of reserves from the offshore federal domain. Considering the circumstances of the present severe shortage of natural gas a formal hearing will be convened to examine all public interest issues associated with the movement of volumes from the offshore federal domain under the circumstances herein proposed inclusive of such issues and evidence relating to present and projected end-use of all gas supply available to Consumers, including the proposed NOMECO gas supply. The matter of "vertical integration" having been resolved in Opinion No. 668–A, no evidence or argument on this issue need be submitted.

The Commission's policy on utilization and conservation of natural resources, relevant to this proceeding, § 2.78 of the General Policy and Interpretations, states, 18 CFR 2.78(a)(1):

Section 2.78 *Utilization and Conservation of Natural Resources—Natural Gas.* (a)(1) The national interests in the development and utilization of natural gas resources throughout the United States will be served by recognition and implementation of the following priority-of-service categories for use during periods of curtailed deliveries by jurisdictional pipeline companies:

(1) Residential, small commercial (less than 50 Mcf on a peak day).

(2) Large commercial requirements (50 Mcf or more on a peak day), firm industrial requirements for plant protection, feedstock and process needs, and pipeline customer storage injection.

(3) All industrial requirements not specified in (2), (4), (5), (6), (7), (8) or (9).

(4) Firm industrial requirements for boiler fuel use at less than 3,000 Mcf per day, but more than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

(5) Firm industrial requirements for large volume (3,000 Mcf or more per day) boiler fuel use where alternate fuel capabilities can meet such requirements.

(6) Interruptible requirements of more than 300 Mcf per day, but less than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

(7) Interruptible requirements of intermediate volumes (from 1,500 Mcf per day through 3,000 Mcf per day), where alternate fuel capabilities can meet such requirements.

(8) Interruptible requirements of more than 3,000 Mcf per day, but less than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

(9) Interruptible requirements of more than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

The above list of priorities requires the full curtailment of the lower priority category volumes to be accomplished before curtailment of any higher priority volumes is commenced.

Consumers and MGS (jointly or separately) shall submit a complete statement of total gas supply, market, and storage field data for one full year of actual operation and three full years of projected operations, with and without the proposed NOMECO supply. Consumers will make a submission of any present and projected customer conversions from any other fuel to natural gas, the number of such customers, the volumes of natural gas, and the cost of fuel displaced on an equivalent Btu basis.

Gas storage field data shall include the type, capacity and location of each natural gas storage field, or facility, or other similar plant or facility attached to Consumers' and MGS' systems. For each present and projected storage field, details of the actual and projected operation shall include a study of each gas storage field showing: Location; geology; original and present reserves for each reservoir; original and present pressure of each reservoir; proposed top and base storage pressures; proposed top and base gas volumes to be stored; a deliverability study, including daily and annual injection and withdrawal rates and pressures; and maximum daily deliverability and maximum storage capacity under any proposed plan of development.

A statement of the total gas supply committed to, controlled by, or possessed by Consumers, MGS and NOMECO which is or will be available within three years shall be presented together with:

(i) The estimated total volume of proven reserves in place for each reservoir in each field from which they take natural gas, giving names and location of fields (state, county, or parish).

(ii) The estimated total volumes of proven reserves available by fee or under lease, segregated by gas fields and reservoirs thereof, giving names and locations of fields (state, county, or parish).

(iii) The names and addresses of persons with whom they have gas purchase contracts, the effective dates and remaining terms in years of such contracts.

(iv) A study, showing the daily volumes of natural gas which can and are proposed to be obtained each year from each source of supply.

(v) Estimate of the Btu content of the available gas.

Consumers shall also present a similar study of all alternate sources of SNG, LNG, etc.

Market data will show the number and annual and seasonal consumption of residential, commercial, firm industrial, interruptible industrial, residential spaceheating, commercial spaceheating, and other types of customers; total annual and peak day gas requirements by classification of service as set forth above in the nine priorities; total past and expected curtailments of service all to be listed by the classifications of service as indicated above; an explanation of basic factors used in estimating future requirements, including, for example: Peak day and annual degree day deficiencies, annual load factors of deliveries to proposed customers; derivation of numbers of customers proposed to be served; individual consumer peak day and annual consumption factors for each class of consumers, with supporting historical data; forecasted saturation of spaceheating as related to past experience; and full detail as to all other sources of gas supply available including manufacturing facilities and liquid petroleum gas; a full description of all facilities, other than transmission facilities, necessary to provide service in any new communities to be served; and a copy of each market survey made within the past 3 years for new markets proposed to be served.

In the event Consumers' data shows a gas supply deficiency, the following shall be submitted. The estimated peak day and monthly volumes of natural gas which would be available with and without the certificates requested.

A full description of Consumers currently effective curtailment program and details regarding any flexibility which may be available by effectuating additional curtailment to its existing industrial customers including Consumers' use of gas. Consumers should also provide a breakdown of the estimated disposition of its natural gas estimated to be available by nine priorities established above for the 3 year forecast period.

A breakdown of all natural gas requirements on peak day and monthly bases at the individual plant site by specific end-uses. The specific end-uses to which the natural gas requested will be utilized and should also reflect the scheduling within each particular end-use with and without the certificates requested. A description of existing alternate fuel capabilities on peak day and monthly bases broken down by nine end-uses as shown herein. For the alternate fuels shown above, provide a description of the existing storage facilities and the amount of present fuel inventory, names and addresses of existing alternate fuel suppliers, and anticipated delivery schedules for the period for which certificates is sought; and the current price per million Btu for natural gas supplies and alternate fuels supplies.

A description of efforts to secure local natural gas and alternate fuels, including documentation of contacts with the

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Federal Energy Administration and any state or local fuel allocation agencies or public utility commission.

A description of all fuel conservation activities undertaken by the utility and its customers.

The Commission finds. (A) The above-named petitioners should be granted intervention in the above-described proceeding.

(B) The above proceedings should be consolidated for hearing and decision.

The Commission orders. (A) Pursuant to the authority conferred on the Federal Power Commission by the Natural Gas Act and the Commission's Regulations under the Natural Gas Act and the public hearing will commence on January 21, 1975, at 10:00 a.m. e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 respecting the issues set forth above and as contained in the applications above.

(B) The petitioners named above are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission, provided that the participation of such interveners shall be limited to matters affecting the rights and interests specifically set forth in their petitions to intervene, and that the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved, because of any order issued by the Commission in this ceeding.

(C) Applicants and intervenors shall serve prepared direct testimony in support of their positions on issues in this proceeding, including prepared testimony of witnesses and exhibits, on the Office of the Administrative Law Judges, the Commission Staff and every party to this proceeding on or before January 13, 1975.

(D) An Administrative Law Judge to be hereinafter designated by the Chief Administrative Law Judge shall preside at the hearing and, in his discretion shall control the proceedings hereafter.

(E) The proceedings in Docket Nos. CP74-322, CP75-3 and CI74-738 are hereby consolidated for hearing and decision.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-29780 Filed 12-20-74;8:45 am]

[Docket No. RP75-38]

MISSISSIPPI RIVER TRANSMISSION CORP.

Petition To Change Method of Accounting for Storage Gas Withdrawals

DECEMBER 13, 1974.

Take notice that on November 18, 1974 Mississippi River Transmission Corporation For Approval To Change To Last-In-First-Out (LIFO) Method Of Accounting For Storage Gas Withdrawals. MRT's Petition requests the Commission approval of a change from the first-in-first-out (FIFO) to the last-in-first-out (LIFO) method of accounting for storage gas withdrawals commencing with the year 1974.

MRT states that it has been utilizing FIFO in connection with the pricing of storage gas withdrawals since it began withdrawing gas from St. Jacob Storage Field in 1966 and that continued application of the FIFO method would cause a significant and unacceptable distortion in MRT's reported net income and its financial statements for 1974 and subsequent years. MRT further states that this distortion is particularly severe when, as in the case with MRT's storage gas inventories under the FIFO method, revenues received for the sale of a commodity currently are being retailed to prices paid for that commodity in a much earlier period. Finally, MRT states that the proposed switch from the FIFO to LIFO method of accounting as to storage inventories would reduce MRT's 1974 net earnings by approximately $1.6 million.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR §§ 1.8, 1.10). All such petitions or protests should be filed on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-29781 Filed 12-20-74;8:45 am]

[Docket Nos. E-8756, E-8757, E-8758, E-8761]

NORTHEAST UTILITIES COS.

Order Amending Prior Order and Terminating Proceedings

DECEMBER 16, 1974.

By order issued July 22, 1974, in the above captioned proceeding, we accepted for filing certain unit sales contracts filed by the Northeast Utilities Cos. (Connecticut Light and Power Co. (CL&P), Hartford Electric Light Co. (HELCO), and Western Massachusetts Electric Co. (WMECO)), subject to the outcome of the proceedings in Connecticut Light and Power Co., Docket Nos. E-8105, et al. Footnote 1 of that order, which listed the sales contracts filed by NU, was erroneous. The correct designations of these contracts are as follows:

CL&P's Rate Schedule No. FPC 94; HELCO Rate Schedule No. FPC 77; CL&P Rate Schedule No. FPC 92; and HELCO Rate Schedule No. FPC 76 and WMECO Rate Schedule No. FPC 92, both concurring in CL&P Rate Schedule No. FPC 92.

We shall amend our order of July 22, 1974, to reflect the correct rate schedule designations.

Additionally, these contracts were accepted for filing subject to the outcome of the proceeding in Connecticut Light and Power Company, Docket Nos. E-8105, et al. In Opinion No. 701, issued July 22, 1974, we affirmed and adopted the Initial Decision of the Presiding Administrative Law Judge in that proceeding with regard to rate of return on short term unit sales contracts. Since the contracts herein conform to the outcome in that case, we shall lift the refund obligation imposed by our order in these dockets and terminate these proceedings.

The Commission finds. (1) Good cause exists to amend our order of July 22, 1974 to reflect the correct rate schedule designations as set out below.

(2) Good cause exists to lift the refund obligation previously imposed and to terminate the proceedings in these dockets.

The Commission orders. (A) Footnote 1 of our order of July 22, 1974, is hereby amended to read:

CL&P's Rate Schedule No. FPC 94; HELCO Rate Schedule No. FPC 77; CL&P Rate Schedule No. FPC 92; and HELCO Rate Schedule No. FPC 76 and WMECO Rate Schedule No. FPC 92, both concurring in CL&P Rate Schedule No. FPC 92.

(B) The refund obligation previously imposed in these dockets is hereby lifted and the proceedings in this docket are hereby terminated.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIRD, *Acting Secretary.*

[FR Doc.74-29782 Filed 12-20-74;8:45 am]

[Dockets Nos. G-9379, G-20870, RP66-2]

PAN AMERICAN PETROLEUM CORP., ET AL. AND UNITED FUEL GAS CO.[1]

Petition for Order Releasing Producer Refunds and Permitting Retention of Supplier Refunds

DECEMBER 16, 1974.

Columbia Gas Transmission Corp. (Petitioner), an affiliate of Columbia Gas System, Inc., as legal successor to United Fuel Gas Company (United Fuel), on December 2, 1974, filed a petition requesting an order of the Commission releasing certain supplier refunds (including interest) held by Pan American Petroleum Corporation (Pan Am) pursuant to an order issued September 11, 1967. Petitioner also requests that the requested order permit it to retain the refund amounts and interest paid by Pan Am, without obligation to flow-through such refunds to Petitioner's jurisdictional customers. Petitioner states that Pan Am, pursuant to the 1967 order, holds in escrow the sum of $2,572,229.77 plus interest accruing from December 31, 1965.

[1] United Fuel Gas Company, a predecessor in interest to Columbia Gas Transmission Corporation, was an affiliate of Columbia Gas System, Inc.

Petitioner asserts that the terms of its predecessor's rate settlement agreement in Docket No. G–20270, as approved by the Commission, contemplate its retention of supplier refunds resulting from producer rate increases effective after June 1, 1961, and that the $2,572,229.77 amount of refunds is applicable to its purchases of gas from Pan Am during the period July 1, 1962 through March 31, 1966.

Petitioner states that copies of the petition have been served upon specifically listed jurisdictional customers, intervenors in Docket No. G–20270, and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR §§ 1.8, 1.10). All such petitions or protests should be filed on or before December 23, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–29783 Filed 12–20–74;8:45 am]

[Docket No. RP72–99]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Tariff Filing

DECEMBER 13, 1974.

Take notice that Transcontinental Gas Pipe Line Corp. (Transco) on November 29, 1974 tendered for filing revised tariff sheets to its FPC Gas Tariff First Revised Volume No. 1, as follows:

Second Substitute Eleventh Revised Sheet No. 5
Third Substitute Seventh Revised Sheet No. 6
Original Sheet No. 159–A
Original Sheet No. 159–B

Transco states that the purposes of this filing are (1) to reinstate the Section 20 collection procedures for credits net of debits granted to customers under Transco's curtailment plan which expired on November 15, 1974, and (2) to "track" the net costs thereof incurred by Transco through October 31, 1974.

Transco states that its presently effective curtailment plan provides for an across-the-board tracking procedure for demand charge adjustments, which method was agreed to by the parties, whereas the previously effective "pro rata" plan provided for a collection method which recognized zone rate differentials—again by agreement of all parties. Because the tracking demand charge adjustments made under the "pro rata" plan is the principal purpose of its filing, Transco proposes to reinstitute, commencing January 1, 1975, the tracking method under the "pro rata" plan until all credits net of debits under such plan have been recouped. In the alternative, Transco has submitted sheets providing for the recoupment of such credits under the method contained in the presently effective plan, although Transco states that it does not believe that this method reflects the intent of the parties.

The Company states that copies of the filing have been mailed to each of the company's jurisdictional customers and interested State Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR §§ 1.8 and 1.10). All such petitions or protests should be filed on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–29784 Filed 12–20–74;8:45 am]

[Docket No. G–16139, etc.]

Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

Applications

DECEMBER 11, 1974.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 30, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and Date Filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G–16139..... D 9–16–74	Gulf Oil Corp., P.O. Box 1589, Tulsa, Okla. 74102.	Transwestern Pipeline Co., acreage in Hansford County, Tex.	(1)	.....
CI63–145..... E 11–14–74	Mitchell Energy Corp. (successor to A. H. Wadsworth, Jr.), 3900 One Shell Plaza, Houston, Tex. 77002.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., Nada Field, Colorado County, Tex.	25.0	14.65
CI63–575..... D 11–30–72	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., Woodward Area, Major County, Okla.	Depleted	.....
CI66–639..... C 11–20–74	Ashland Oil, Inc., P.O. Box 1503, Houston, Tex. 77001.	Cities Service Gas Co., Northeast Waynoka Field, Woods and Woodward Counties, Okla.	[2] 15.0	14.65
CI66–698..... D 11–25–74	The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112.	Texas Eastern Transmission Corp., North Carlton Field, Ouachita and Union Parishes, La.	Nonproductive	.....
CI67–119..... D 12–14–72	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79105.	Panhandle Eastern Pipe Line Co., acreage in Ellis County, Okla.	(3)	.....
CI72–519..... D 11–22–74	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Washington Ranch Pool, Eddy County, N. Mex.	(4)	.....
CI75–174..... A 9–23–74	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Transcontinental Gas Pipe Line Corp., Vermilion Block 57 Field, offshore Louisiana.	[5][6] 46.0 .4	[illegible] .3

Filing Code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
C175-321 (G-20464) F 11-15-74	American Natural Gas Production Co. (successor to Phillips Petroleum Co.), One Woodward Ave., Detroit, Mich. 48226.	Transwestern Pipeline Co., Cree Flowers Field, Roberts County, Tex.	[1] 15.1	14.73
C175-322 (CI61-737) F 11-15-74	American Natural Gas Production Co. (successor to Shell Oil Co.).	....do	[2] 23.30 [3] 23.78	14.65 14.65
C175-324 (C871-54) F 11-15-74	Sun Calvert Co. (successor to Calvert Exploration Co.), P.O. Box 2880, Dallas, Tex. 75221.	Arkansas Louisiana Gas Co., Arkoma Area, Haskell, Latimer, LeFlore, and Pittsburg Counties, Okla.	[4] 45.000 [5] 20.328 [6] 17.278	14.65 14.65 14.65
C175-325 (C166-1086) B 11-15-74	Earlsboro Oil and Gas Co., Inc. et al., 1200 First National Bldg., Oklahoma City, Okla. 73102.	Panhandle Eastern Pipe Line Co., Northeast Waynoka Field, Woods County, Okla.	Depleted	
C175-327 A 11-18-74	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	United Gas Pipe Line Co., Block 587, West Cameron Area, offshore Louisiana.	[7] 20.0	15.025
C175-328 A 11-18-74	Petroleum, Inc., 200 West Douglas, Wichita, Kans. 67202.	Kansas-Nebraska Natural Gas Co., Inc., acreage in Weld County, Colo.	[8] 42.7065	14.65
C175-329 (C871-54) F 11-14-74	Sun Calvert Co. (successor to Calvert Exploration Co.).	Transwestern Pipeline Co., Worsham Field, Reeves County, Tex.	[9] 35.0	14.65
C175-330 A 11-21-74	Pennzoil Offshore Gas Operators, Inc., 3000 One Shell Plaza, Houston, Tex. 77002.	United Gas Pipe Line Co., Block 587, West Cameron Area, offshore Louisiana.	[10] [11] 37.2	15.025
C175-331 (CI65-267) B 11-22-74	CRA International, Inc., P.O. Box 2329, Tulsa, Okla. 74101.	Texas Eastern Transmission Corp., Englehart Field, Colorado County, Tex.	Depleted	[12]
C175-332 (CI61-120) B 11-22-74	Terra Resources, Inc., P.O. Box 2329, Tulsa, Okla. 74101.	Natural Gas Pipeline Co. of America, Panhandle Field, Carson County, Tex.	[13]	
C175-333 A 11-22-74	Clinton Oil Co., P.O. Box 1201, Wichita, Kans. 67201.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., acreage in Morton County, Kans.	[14] 42.7064	14.65
C175-347 (G-2894) F 11-25-74	Millard Deck Oil Co., (successor to Atlantic Richfield Co.), P.O. Box 1047, Eunice, N. Mex. 88231.	El Paso Natural Gas Co., Eumont Field, Lea County, N. Mex.	[15] 17.9028	14.65

[1] No deliveries ever made due to water content in gas.
[2] Subject to upward and downward Btu adjustment.
[3] Acreage is incapable of gas production in accordance with sales contract.
[4] Acreage assigned to Black River Corporation.
[5] Being renoticed, because by amendment to application filed 11-15-74, Applicant requests a higher price.
[6] Rate which is effective January 1, 1975. Applicant is willing to accept a certificate in accordance with Opinion No. 699.
[7] Rate for gas from the well on North tract; includes 3.20¢ per Mcf upward Btu adjustment.
[8] Rate for gas from the well on South tract; includes 3.78¢ per Mcf upward Btu adjustment.
[9] Rate for gas from the varnum Lease (all Sands except Spiro).
[10] Rate for gas from the Young Ranch 1-26, Young Ranch 1-27, Arnwine Unit and Diamond Unit.
[11] Rate for gas from all other units.
[12] Subject to upward and downward Btu adjustment and subject to a 1.0¢ per Mcf gathering charge.
[13] Includes 7.2¢ per Mcf upward Btu adjustment.
[14] Applicant is willing to accept a certificate in accordance with Opinion No. 699.
[15] Acreage sold to Service Drilling Company.
[16] Subject to upward Btu adjustment; estimated adjustment is 1.0¢ per Mcf.

[FR Doc.74-29564 Filed 12-20-74;8:45 am]

[Docket No. CS75-222, etc.]

"SMALL PRODUCER" CERTIFICATES [1]

Applications

DECEMBER 12, 1974.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 3, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
C875-220..	Nov. 7, 1974	Mrs. Louise Van Denbosch Barnwell, 901 Lincoln Dr., Shreveport, La. 71107.
C875-223	....do	R. S. Barnwell, Sr.
C875-224..	Nov. 11, 1974	Joseph Oil Corp., 85 Broad St., New York, New York 10038.
C875-226..	Nov. 12, 1974	Thomas G. Vessels, 600 South Cherry St., Suite 1220, Denver, Colo. 80222.
C875-227..	Nov. 13, 1974	B. W. Whittington, P.O. Box 588, Portland, Tex. 78374.
C875-228..	Nov. 14, 1974	H. G. Worsham, d.b.a. Worsham Consultants, 1405 Federal Blvd., Denver, Colo. 80204.
C875-229..	Nov. 15, 1974	Champlin Exploration, Inc., 1974 Petroleum Partnership, P.O. Box 1966, Enid, Okla. 73701.
C875-230..	Nov. 18, 1974	Howard W. Jennings, 2401 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.
C875-231	....do	Marsh Oil Associates, Suite 1000, 595 Madison Ave., New York, N.Y. 10022.
C875-232..	Nov. 20, 1974	Susanna F. Kelly, Cameron, Mont. 59720.
C875-233	....do	Fourth Enterprises, Inc., 722 The Main Bldg., Houston, Tex. 77002.
C875-234	....do	H. A. Stuart, P.O. Box 1757, Victoria, Tex., 77901.
C875-235..	Nov. 19, 1974	T. F. Hodge, 2907 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.
C875-236..	Nov. 21, 1974	Lightning Productions, Inc., 2010 Republic National Bank Bldg., Dallas, Tex. 75201.
C875-237	....do	Robert E. Miller, 115 Stone Mountain Dr., Conroe, Tex. 77301.
C875-238..	Nov. 1, 1974	Trust under the Will of Thomas K. Boyd, The First National Bank of Chicago, One First National Plaza, Chicago, Ill. 60670.
C875-239..	Nov. 20, 1974	Eugene F. Fullen, Box 53902, Lafayette, La. 70501.

[FR Doc.74-29577 Filed 12-20-74;8:45 am]

[Docket No. E-9161]

MONONGAHELA POWER CO., ET AL.

Filing of Rates and Charges for New Service

DECEMBER 18, 1974.

Take notice that Allegheny Power Service Corporation (APSC) on December 9, 1974, tendered for filing on behalf of its affiliates, Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (the APS Companies) an Agreement between the APS Companies and UGI Corporation (UGI) for the sale by the APS Companies and the purchase by UGI of 50,000 kw of electric power and energy to be sold from the APS Companies' Harrison Station (Harrison Power) for a period of six years commencing January 1, 1975. The Agreement provides, among other things, that Harrison Power will be sold to UGI at a rate of $3.95 per kw per month plus 110 percent of the out-of-pocket cost of energy delivered, including losses. Deliveries of energy to UGI will be scheduled for as many hours as UGI

desires but not to exceed 50,000 kwh per hour, and such deliveries shall be made unless: (1) None of the three units of the Harrison Station is operating; (2) the APS Companies have received an order from an appropriate governmental body to curtail or for any other reason have curtailed the output of the Harrison Station as a result of a shortage of fuel; or (3) transmission of the energy is made impossible.

Applicants estimate that for the twelve months ended December 31, 1975 the demand charges will total $2,370,000 ($197,500 per month). Further, Applicants state that energy charges cannot be estimated at the present time since the cost of producing energy will vary and the number of kwh that UGI will take will vary from month to month.

Applicants state that no facilities need be constructed or acquired in connection with the sale and purchase of Harrison Power.

Applicants have requested the Commission to accept the Agreement for filing, to be effective on or before January 1, 1975, as they intend to commence the sale and purchase of Harrison Power as of that date. Accordingly, Applicants have requested waiver of any requirements of the Commission's rules and regulations deemed necessary and desirable by the Commission to grant the requested effective date.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29686 Filed 12-20-74;8:45 am]

[Docket Nos. RP71-119, RP74-31-34]

PANHANDLE EASTERN PIPE LINE CO.

Petition for Extraordinary Relief

DECEMBER 18, 1974.

Take notice that on December 13, 1974, Anchor Hocking Corporation ("Anchor Hocking") filed a petition for permanent extraordinary relief from the natural gas curtailments imposed by Panhandle Eastern Pipe Line Company ("Panhandle") on Anchor Hocking's glass container plant located at Winchester, Indiana. Anchor Hocking, a direct sale customer of Panhandle, states that due to unexpected additional curtailments being imposed this winter season by Panhandle, Anchor Hocking could effectively lose delivery of the required 790 Mcf per average day necessary to fuel the feeders and annealing lehrs at the Winchester plant. If the minimum 790 Mcf of process gas per average day is curtailed, Anchor Hocking will not have sufficient gas to maintain full production and will as a result suffer irreparable injury. Without relief, the Winchester plant will have to shut down, at least in part. This will create a significant loss of employment in the town of Winchester, in which Anchor Hocking is by far the largest employer. Irreparable injury will also occur to Anchor Hocking itself and to its customers.

Accordingly, Anchor Hocking has moved for permanent extraordinary relief from curtailment through a Commission order requiring Panhandle to deliver to the Winchester plant 790 Mcf per average day, with a peak day of 875 Mcf. Any volumes delivered pursuant to such extraordinary relief in excess of entitlements under the effective Panhandle curtailment plan would be subject to payback out of subsequent daily entitlements in excess of 790 Mcf per average day.

In order to avoid irreparable injury pending hearings on its request for permanent relief, Anchor Hocking has also moved for immediate temporary relief identical with the permanent relief requested. In this connection, Anchor Hocking requested and Panhandle has agreed to a grant of emergency relief from curtailments during the months of December and January.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said petition should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) on or before December 27, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29687 Filed 12-20-74;8:45 am]

FEDERAL RESERVE SYSTEM

ASSOCIATED BANK CORP.

Acquisition of Bank

Associated Bank Corporation, Iowa City, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Community State Bank of Clear Lake, Clear Lake, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 14, 1975.

Board of Governors of the Federal Reserve System, December 13, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-29762 Filed 12-20-74;8:45 am]

NATIONAL CITY CORP.

Acquisition of Bank

National City Corporation, Cleveland, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of Third National Bank of Sandusky, Sandusky, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 14, 1975.

Board of Governors of the Federal Reserve System, December 13, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-29763 Filed 12-20-74;8:45 am]

W. J. YOUNG & CO.

Order Approving Exemption of Nonbanking Activities of Bank Holding Company

W. J. Young & Co., Clinton, Iowa, a bank holding company within the meaning of the Bank Holding Company Act by virtue of its ownership of over 63 per cent of the voting shares of The Clinton National Bank, Clinton, Iowa ("Bank"), has applied to the Board of Governors, pursuant to section 4(d) of the Act (12 U.S.C. 1843(d)), for an exemption from the prohibitions of section 4 of the Act (relating to nonbanking activities of, and acquisitions by, a bank holding company).

Notice of receipt of the application was published in the FEDERAL REGISTER on October 10, 1974 (39 FR 36512), providing an opportunity for interested persons to submit comments and views with respect to the application. Time for filing comments and views has expired and all those received have been considered. No request for a hearing has been received.

Section 4(d) of the Act provides that, to the extent such action would not be

substantially at variance with the purposes of the Act and subject to such conditions as the Board considers necessary to protect the public interest, the Board may grant an exemption from the prohibitions in section 4 of the Act to a bank holding company that controlled one bank prior to July 1, 1968, and has not thereafter acquired the control of any other bank, in order (1) to avoid disrupting business relationships that have existed over a long period of years without adversely affecting the banks or communities involved, (2) to avoid forced sales of small locally owned banks to purchasers not similarly representative of community interests, or (3) to allow retention of banks that are so small in relation to the holding company's total interests and so small in relation to the banking market to be served as to minimize the likelihood that the bank's powers to grant or deny credit may be influenced by a desire to further the holding company's other interests.

The Board has considered the application in light of the factors set forth in section 4(d) of the Act, and finds that:

Applicant was incorporated in 1882 for the purpose of holding the interests of the W. J. Young family. At the present time, the Young family interests consist of sole ownership of the Clinton Herald Co., publisher of the "Clinton Herald," a six-day per week evening newspaper of general circulation in Clinton, and a company that is engaged in commercial printing; ownership of less than five per cent of the stock in Newmont Mining, a company listed on the New York Stock Exchange; and ownership of over 63 per cent of the outstanding voting stock in Bank.

W. J. Young & Co. acquired a significant ownership interest (43.9 per cent) in Bank in 1924; however, the Young family's contact with that Bank began at the time of Bank's organization in 1865, when W. J. Young sat as a member of the board of directors of Bank. In addition, Clinton Savings Bank, which was organized in 1875 by the Young family for the purpose of providing a depository for the earnings of W. J. Young lumber mill employees, was merged with Clinton Bank in 1945. Accordingly, it appears that Applicant or its predecessors have controlled Bank since 1924 and members of the Young family have been directly associated with Clinton Bank since 1865. Furthermore, the record indicates that over the last ten years Applicant has maintained an average demand deposit balance of approximately $150,000 to $200,000 with Bank. Bank appears to be in satisfactory financial condition, and the record contains nothing to suggest that Applicant has abused its relationship with Bank or misused Bank's resources for the benefit of Applicant's other interests. There is no reason to believe that permitting Applicant's relationship with Clinton Bank to continue would adversely affect Bank or the communities involved.

Furthermore, the Board notes that at the present time over 90 per cent of Bank's stock is owned either by Applicant or the residents of Clinton and its environs. Forced sale of Bank could result in a loss of such local control, and could detract from the bank's involvement in the local community. In this regard, it is noted that Bank has a loan to deposit ratio of 71 per cent and, furthermore, it has exhibited an active interest in various community projects.

Bank is the second largest banking institution in the Clinton RMA (the relevant banking market) with 27.6 percent of market deposits.[1] As of year-end 1973, Bank had total deposits of $33.7 million and total assets of $38.2 million. Applicant, on an unconsolidated basis, had assets of $3.9 million. On a net income basis, Bank accounted for 41.3 percent of Applicant's total net income for the 1973 calendar year. Thus, the facts presented do not meet the standards for exemption set forth in section 4(d)(3) of the Act, although the record does not contain any evidence that Bank has used its powers to grant or deny credit to further Applicant's other interests.

Based on the foregoing and other considerations reflected in the record, the Board has concluded, pursuant to the tests set forth in sections 4(d)(1) and 4(d)(2) that an exemption is warranted to avoid disrupting a business relationship that has existed over a long period of years without adversely affecting the banks or communities involved, and that forced sale of Bank could result in sale of Bank to purchasers not similarly representative of community interests. In addition, granting an exemption to Applicant would not be substantially at variance with the purposes of the Act nor adverse to the public interest; and an exemption is warranted under the provisions of section 4(d) of the Act. Accordingly, an exemption pursuant to section 4(d) of the Act is hereby granted subject to the condition that this determination may be revoked if the facts upon which it is based change in any material respect. Further, the provisions of any credit, property, or service by Applicant or any subsidiary thereof shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under § 106 of the Bank Holding Company Act Amendments of 1970. The determination herein is subject to the Board's authority to require modification or termination of the activities of Applicant or any of its nonbanking subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasions thereof.

By order of the Board of Governors,[2] effective December 12, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-29766 Filed 12-20-74;8:45 am]

[1] The Clinton RMA is comprised of the incorporated areas of Clinton and Camanche and the section of Hampshire township in Clinton County, all in Iowa; in Illinois, it includes Fulton, Fulton Township, one quarter of Garden Plain Township and the small northern portion of Albany Township in which Albany City is located.

WYOMING BANCORPORATION

Acquisition of Bank

Wyoming Bancorporation, Cheyenne, Wyoming, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of Bank of Wyoming, Hanna, Wyoming, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 14, 1975.

Board of Governors of the Federal Reserve System, December 13, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-29764 Filed 12-20-74;8:45 am]

WYOMING BANCORP.

Order Approving Acquisition of Bank

Wyoming Bancorporation, Cheyenne, Wyoming, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of The First National Bank of Kemmerer, Kemmerer, Wyoming ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in Wyoming, controls thirteen subsidiary banks with aggregate deposits of $202.8 million, representing 16 per

[2] Voting for this action: Governors Sheehan, Bucher, Holland, Wallich and Coldwell. Absent and not voting: Chairman Burns and Governor Mitchell.

cent of the total commercial bank deposits in the State.[1] The acquisition of Bank ($21.8 million deposits) would increase Applicant's share of State deposits by 1.7 percentage points and would not result in any significant increase in the concentration of banking resources in Wyoming.

Bank is the only bank located in Kemmerer (population of about 2,300). Applicant's subsidiary bank nearest to Bank is located in Evanston, 50 miles southwest of Bank. Bank is located 85 miles northwest of Rock Springs where Applicant has received approval to acquire a *de novo* bank. In view of the fact that Kemmerer, Evanston, and Rock Springs are distinct market areas, no significant existing competition would be eliminated by consummation of the proposed acquisition. Furthermore, from the facts of record, it appears unlikely that any significant competition will develop between Applicant's subsidiary banks and Bank in the future. Although Applicant has the resources to enter the market *de novo*, it does not appear from the record that the area is particularly attractive for such an alternative means of entry at this time or that Applicant would attempt such entry.[2] Accordingly, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and its subsidiaries are regarded as satisfactory and consistent with approval of the application. The same factors are satisfactory with regard to Bank, particularly in view of Applicant's commitment to inject $300,000 in equity capital into Bank. Factors relating to the convenience and needs of the community to be served are also consistent with approval. Affiliation with Applicant will enable Bank to introduce longer term certificates of deposit and extend the weekday banking hours; and Applicant will provide additional management expertise in the lending and investment functions of Bank. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record,[3] the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[4] effective December 12, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-29765 Filed 12-20-74;8:45 am]

[1] All banking data are as of December 31, 1973. Applicant has also received approval to acquire Bank of Wyoming, N.A., Rock Springs, Wyoming, and Bank of Wyoming, N.A., Sheridan, Wyoming, proposed new banks.

[2] It is noted that an application has been filed by a group of individuals with the Regional Administrator of National Banks for a charter for a national bank to be located in Kemmerer.

[3] Dissenting Statement of Governor Holland filed as part of the original document. Copies are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Kansas City.

[4] Voting for this action: Vice Chairman Mitchell, Governors Sheehan, Bucher, Wallich, and Coldwell. Voting against this action: Governor Holland. Absent and not voting: Chairman Burns.

GENERAL ACCOUNTING OFFICE

ATOMIC ENERGY COMMISSION

Receipt of Regulatory Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 13, 1974. See 44 U.S.C. 3512(c) & (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

ATOMIC ENERGY COMMISSION

Request for clearance of application, reporting, and recordkeeping requirements contained in 10 CFR 55.10, 55.33, 55.41, and Appendix A of Part 55 of the Commission's regulations pertaining to the qualification of licensed operators; frequency of each requirement is biennial or on occasion; potential respondents are applicants for operator licenses; respondent burden varies greatly depending on the requirement and is estimated at 636 total man-hours annually.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.74-29626 Filed 12-20-74;8:45 am]

FEDERAL MARITIME COMMISSION

Receipt of Regulatory Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 16, 1974. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

FEDERAL MARITIME COMMISSION

Request for review and clearance of an extension without change of FMC reporting requirement under 46 U.S.C. 816, 820, 841a and FMC General Order 15. Approximately 550 marine terminal operators will be required to file with the Commission a schedule of tariffs showing all its rates, charges, rules, and regulations relating to or connected with the receiving, handling, storing, and/or delivering of property at its terminal facilities. The respondents must file 11 times annually. The respondent burden per filing varies considerably depending on the size of the operator. No estimate of the average number of man-hours can be made.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.74-29827 Filed 12-20-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Reg.; Temporary Reg. F-315]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in intrastate rate proceedings.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Tennessee Public Service Commission involving the application of the South Central Bell Telephone Company for increases in its intrastate rates and charges.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
Administrator of General Services.

DECEMBER 12, 1974.

[FR Doc.74-29828 Filed 12-20-74;8:45 am]

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NATIONAL ENDOWMENT FOR THE HUMANITIES

ADVISORY COMMITTEE EDUCATION PANEL

Meeting

DECEMBER 13, 1974.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the Education Panel will meet at Washington, D.C., on January 10, 16 and 17, 1975.

The purpose of the meeting is to review Planning Grant Program applications submitted to the National Endowment for the Humanities for grants to educational institutions and non-profit organizations.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 532(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation on the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.74–29750 Filed 12–20–74;8:45 am]

ADVISORY COMMITTEE EDUCATION PANEL

Meeting

DECEMBER 17, 1974.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the Education Panel will meet at Washington, D.C., on January 20, 1975.

The purpose of the meeting is to review Development Grant Program applications submitted to the National Endowment for the Humanities for grants to educational institutions and nonprofit organizations.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation on the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.74–29751 Filed 12–20–74;8:46 am]

ADVISORY COMMITTEE PLANNING PANEL

Meeting

DECEMBER 16, 1974.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub L. 92–463) notice is hereby given that a meeting of the Planning Panel will be held at Washington, D.C., on January 16 and 17, 1975.

The purpose of the meeting is to review Youthgrants in the Humanities applications submitted to the National Endowment for the Humanities for project grant awards.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Panel.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.74–29752 Filed 12–20–74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on December 18, 1974 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Not assigned as of 10/74, Plant Introduction Evaluation Report, CR 46, on occasion, farms, Evinger, S. K., 395–3648.

DEPARTMENT OF DEFENSE

Department of the Army (excl. Office of Civil Defense):
- Army Advertising Awareness and Attitudinal Survey REMAS–1, 51264, single-time, males and fathers aged 17 to 21, Hall, George, 395–4697.
- Student/Educator Survey REMAS–3, 0, single-time, high school educators and youth, Hall, George, 395–4697.
- Recruiting Advertisement Survey REMAS–4, 0, single-time, NPS males—14 to 21 years of age, Hall, George, 395–4697.

Departmental and other, Survey for Distribution of Military Training Route Chart, 0, single-time, civil airports, Lowry, R. L., 395–3772.

Department of the Army (excl. Office of Civil Defense):
- Survey Instrument for High School Students, 0, single-time, urban, suburban, and rural high school students, Hall, George, 395–4697.
- Survey Instrument for College Students, 0, single-time, ROTC and non-ROTC students, Hall, George, 395–4697.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration: Mailing List Maintenance Card, FD 2509, annually, business firms, Caywood, D.F., 395–3443.

National Institutes of Health:
- Can-Dial Evaluation, NIH–CA–21, single-time, individuals, Reese, B. F., 395–5630.
- Laboratory Survey, NIH–ND–6, single-time, research scientists, Eliett, C. A., 395–6172.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development: Community Development Block Grant—Discretionary Funds Preapplication for Federal Assistance, 0, annually, local governments, Community & Veterans Affairs Division, 395–3532.

DEPARTMENT OF LABOR

Bureau of Labor Statistics: Survey of Occupational Wages in Westchester County, New York, and Stamford, Conn., BLS 2751A, annually, business firms, Strasser, A., 395–3880.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis:
- International Receipts and Payments or Royalties, Licensing Fees, Rentals, etc., BEA–93, annually, business firms, Hulett, D.T., 395–4730.
- Foreign Personal Remittances (bank report), AL remittances, BE 579, monthly, financial institutions, Hulett, D.T., 395–4730.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation: Federal Crop Insurance Regulations * * *, on occasion, farms with crop insurance, Evinger, S.K., 395–3648.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control: Trade Name Request Forms for NOHS (National Occupational Hazard Survey), NIOSH15, on occasion, chemical manufacturers, Eliett, C.A., 395–6172.

PHILIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–29836 Filed 12–20–74;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 12/17/74 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the Agency sponsoring the proposed collection of information; the Agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

New Forms

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service:
- Request for Long-Term Agreement—Rural Environmental Conservation, RE–310, on occasion, farmers, Lowry, R.L., 395–3772.
- Request for Cost-Sharing—Rural Environmental Conservation, RE–245, annually, farmers, Lowry, R.L., 395–3772.
- CMS Purchase Order—Rural Environmental Conservation, RE–250, on occasion, farmers and vendors, Lowry, R.L., 395–3772.

DEPARTMENT OF COMMERCE

Maritime Administration: Operating-Differential Subsidy for Bulk Cargo Vessels Engaged on World-Wide Services, 0, monthly, business firms, Caywood, D.P., 395–3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration: Activity Analysis of House Officers and Teaching Physicians, SSA–9765, single-time interns, residents, fellows, and teaching physicians, Collins, L., 395–3756.

Health Resources Administration: Spanish-Surnamed Physician and Medical Student Study in the U.S., 0, single-time, Spanish-surnamed physicians and medical students, Collins, L., 395–3756.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research: Administrative Agency Experiment—Third Staff Survey, 0, single-time, current and former employees of EHAP agencies, Lowry, R. L., 395–3772.

Office of the Secretary: Development Fund Certified Non-Buyer Questionnaire, 0, single-time, development fund program participants in Bay area, Lowry, R. L., 395–3772.

Policy Development and Research: Metro-Jobs Project Applicant's Form, 0, annually, individuals, community and Veterans Affairs Division, 395–3532.

DEPARTMENT OF JUSTICE

Departmental and Other Applicant's Environmental Evaluation, 4550, on occasion, applicants, economics and General Government Division, 395–3451.

DEPARTMENT OF THE INTERIOR

Bureau of land management: Cadastral Surveyor Questionnaire, 9180–37, on occasion, private surveying and engineering firms, Lowry, R. L., 395–3772.

NATIONAL SCIENCE FOUNDATION

Characteristics of Highly Cited Papers in the Engineering Sciences, 0, Single-time, primarily faculty of academic institutions, Lowry, R. L., 395–3772.

VETERANS ADMINISTRATION

Application for Education Loan, 22–8725, on occasion, veterans, Lowry, R. L., 395–3772.

Revisions

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control: The Relationship of Nutritional Status and Immunity Levels to Socioeconomic Stratification, CDC 888 0521, single-time, households, Reese, B. F., 395–3680.

Extensions

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration:
- Authorization by Accredited Hospitals to Disclose the AOA Accreditation survey, SSA–2672, on occasion, Evinger, S. K., 395–3648.
- Authorization by Accredited Hospitals to Disclose the JCAH Accreditation Survey, SSA 2674, on occasion, Evinger, S.K., 395–3648.
- Hospitals With a Distinct Part Extended Care Facility Computing Reimbursable Costs on Combination Method, SSA–9555, annually, Evinger, S.K., 395–3648.
- Hospital With a Distinct Part Extended Care Facility, Computing Reimbursable Cost on Gross RCCAC Basis, SSA–9556, annually, Evinger, S.K., 395–3648.
- Hospital and Hospital Based Extended Care Facility Statement of Reimbursable Costs, SSA 9554, annually, Evinger, S.K., 395–3648.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management: Operating Budget Forms and Summary Budget, HUD–52564, annually, Community and Veterans Affairs Division, 395–3532.

PHILIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–29836 Filed 12–20–74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V–74–59]

PHILADELPHIA COKE DIVISION OF EASTERN ASSOCIATED COAL CORP.

Application for Variance and Interim Order; Grant of Interim Order

I. *Notice of application.* Notice is hereby given that Philadelphia Coke Division of Eastern Associated Coal Corporation, 4501 Richmond St., Philadelphia, Pa. 19137 has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596) 29 CFR 1905.11 for a variance and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.23(c)(1) concerning the Protection of Open-sided floors, platforms, and runways.

The address of the place of employment that will be affected by the application is as follows:

Philadelphia Coke Division of Eastern Associated Coal Corporation
4501 Richmond Street
Philadelphia, Pa. 19137

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application the applicant contends that it is providing a place of employment as safe as that required by § 1910.23(c)(1) which requires that every open-sided floor or platform 4 feet or more above adjacent floor or ground level shall be guarded by a standard railing on all open sides.

The applicant contends that as the major element of its operation are two contiguous coke oven batteries of 37 ovens each. These batteries are operated as a unit. The coke ovens were built in 1928 and have been in continuous operation since February 1, 1929. The cost of replacing these batteries with batteries which would permit compliance with § 1910.23(c)(1) is estimated to be $20 million.

The operation is a series of batch operations, so arranged and operated as to effect a continuous distillation of bituminous coal. Each of the 74 ovens is approximately 3½ feet wide, and has a door at either end. The coal is charged into each oven unit from the top and at the appropriate time the oven is opened at each end, with the residue coke pushed from one side out the other side into a "hot car."

The applicant alleges that removal of the residue coke from the oven is accomplished as follows. On each side of the ovens there is a "bench" a few inches below the oven floor level. This bench is six feet, ten inches wide and runs the length of the 74 ovens (approximately 260 feet). The bench is 11 feet above the adjacent track level. About four feet above ground level a set of tracks (similar to railroad tracks) run parallel to the bench along the length of the bench (track level). Along these tracks, on the west side of the ovens ("pusher side"), travels a large machine called a "pusher" which protrudes over the bench to the oven doors. The pusher is operated by an employee from a cab in the upper portion of the pusher. There is also another machine, called a "clay carrier," on the

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pusher side of the ovens, which travels along the surface of the bench on overhead rails, but does not extend beyond the edge of the bench. The function of the clay carrier and its operator is to seal the oven doors with clay after the residue coke has been pushed out and the door replaced in order that the oven be prepared for the next charge of coal.

The applicant further contends that on the east side of the oven batteries ("coke side"), two machines travel along the surface of the bench on tracks. The first of these is a combination door opener and coke guide, which is operated by one employee from a cab in the machine. This machine is positioned by its operator in front of the appropriate oven and removes the oven door. It is then positioned in such a way as to set the coke guide (which is equal in height and width to the oven itself) immediately in front of the oven. As the coke is pushed through the oven from the other side by the pusher, it is forced through the coke guide and into a "hot car" which is positioned on track level below the bench. After the hot coke has been pushed out of the oven into the hot car, the door opener replaces the door on the oven. The other machine on the coke side of the batteries is a clay carrier which seals the oven door after it has been replaced. The clay carrier is operated by one employee from a cab in the machine. Both of these machines occupy the full width of the bench, and casual passage around them is impossible.

The applicant alleges that there are seven employees involved in this operation. They are: a pusher operator, clay carrier operators (one on either side), door opener operator, hot car operator, heater helper, and an oven foreman. These employees do on occasion walk along the bench, but are never required to approach the edge of the bench. The applicant further states that other than for maintenance and repair work, no other employees work on or below the bench area.

The applicant states that because of the nature of the operation, it is impossible to install a standard guardrail. The pusher which travels the length of the pusher side bench does protrude over the full width of the bench. The portion of the pusher which protrudes over the bench is a mere 1 inch above the bench. Were a railing or a toeboard to be erected along the edge of the bench, it would necessarily prohibit the pusher from travelling along the bench from oven to oven as it must do. Likewise, the coke guide on the coke side bench extends beyond the bench by 10⅞ inches. Thus, erection of a railing on the edge of the coke side bench would prohibit the necessary movement of the door opener along the bench.

The applicant states that in the past 32 years there have been only two incidents of an employee falling from the bench. In each case only minor injuries were sustained by the employee.

The applicant states that in lieu of a standard guardrail the following procedures will be established:

(a) A regulation will be adopted prohibiting unauthorized personnel, including those who might attempt to use the benches as a passageway for transit, from entering upon the benches, and barricades will be erected at the ends thereof with signs giving notice that only authorized personnel are permitted to enter the area.

(b) Safety rules for the six job classifications (pusher operator, luterman, door machine operator, hot car operator, heater helper, and oven foreman) will be prescribed, and mandatory safety classes will be instituted for all employees who work on the oven benches.

(c) The present regulation prohibiting employees from attempting to walk or crawl around the outside of the movable rail-mounted equipment on the benches would remain in force.

(d) Sufficient lifebelts and safety lines will be provided so that all employees can meet the requirements under item (e) below. The lifebelt will be a harness or belt manufactured or provided by a recognized supplier of safety equipment suitable for the purpose. The lifebelt will have a six-foot lanyard attached; a bar, shackle, or other device, will be affixed to the end of the lanyard so it can be securely hooked to the oven buckstays along the benches. The buckstays will be modified, if necessary, to permit such attachment, by the addition of welded rings or other fixtures enabling quick and safe connection.

(e) A yellow, or other high visibility, stripe will be painted along the benches at a distance of one foot from the edge, and warning signs will be posted at appropriate locations reading as follows:

"Caution. Oven Bench is Unprotected with Handrail. Stay Within Painted Stripe on Outside of Bench. Work on or Outside of Stripe Requires Lifebelt and Safety Line."

The applicant contends that these additional safety measures will virtually eliminate any risk of employee injury and result in a situation as safe and healthful as that which would exist were the applicant to install the railings and toeboards required by § 1910.23(c)(1).

A copy of the application will be made available for inspection and copying upon request at the Office of Compliance Programming, U.S. Department of Labor, 1726 M Street NW., Room 210, Washington, D.C. 20210, and at the following Regional and Area Offices:

U.S. Department of Labor
Occupational Safety and Health Administration
Gateway Building—Suite 15220
1535 Market Street
Philadelphia, Pennsylvania 19104

U.S. Department of Labor
Occupational Safety and Health Administration
Room 8458
William J. Green, Jr., Federal Building
600 Arch Street
Philadelphia, Pennsylvania 19106

All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for a variance are invited to submit written data, views and arguments relating to the pertinent application no later than January 22, 1975. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than January 22, 1975, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Compliance Programming, at the above address.

II. *Interim Order.* It appears from the application for a variance and interim order, that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance application. Therefore it is ordered pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 and 29 CFR 1905.11(c) that the Philadelphia Coke Division of Eastern Associated Coal Corporation be, and is

hereby, authorized to operate its 74 coke ovens provided the following conditions are met:

1. Warning signs shall be posted in pertinent areas, emphasizing the necessity of avoiding the edge of the benches and the danger inherent in the absence of a handrail. These signs will be posted at every way of access to the benches as well as on the benches themselves.

2. Safety classes are instituted for the employees who work in the bench area.

3. Unauthorized personnel are prohibited from the bench area.

4. Approved lifebelts and safety lines as specified in the variance application shall be provided and used by all employees working in the bench area.

5. A yellow or other high visibility stripe will be painted along the oven benches at a distance of one foot from the edge.

Philadelphia Coke Division of Eastern Associated Coal Corporation shall give notice of this interim order to employees affected thereby, by the same means required to be used to inform them of the application for a variance.

Effective date. This interim order shall be effective as of December 23, 1974, and shall remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C., this 16th day of December 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-29844 Filed 12-20-74;8:45 am]

Office of the Secretary

MT. VERNON, OHIO PLANT OF PPG INDUSTRIES, INC., PITTSBURGH, PENNSYLVANIA

Worker Request for Certification of Eligibility To Apply for Adjustment Assistance; Investigation

A petition requesting certification of eligibility to apply for adjustment assistance has been filed on December 13, 1974, with the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, by the United Glass and Ceramic Workers of North America, AFL–CIO, and the Window Glass Cutters League of America, AFL–CIO, on behalf of workers and former workers of the Mt. Vernon, Ohio plant of PPG Industries, Inc., Pittsburgh, Pennsylvania. The request for certification is made under Proclamation 3967 (Adjustment of Duties on Certain Sheet Glass) of February 27, 1970. In that Proclamation the President, among other things, acted to provide under section 302(a)(3) with respect to the sheet glass industry that its workers may request the Secretary of Labor for certifications of eligibility to apply for adjustment assistance, under Chapter 3, Title III, of the Trade Expansion Act of 1962.

The Act, section 302(b)(2), provides that the Secretary of Labor shall certify as eligible to apply for adjustment assistance under Chapter 3 any group of workers in an industry with respect to which the President has acted under section 302(a)(3), upon a showing by such group of workers to the satisfaction of the Secretary of Labor that the increased imports (which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused or threatened to cause unemployment or underemployment of a significant number or proportion of workers of such workers' firm or subdivision thereof.

In view of the petition and the responsibilities of the Secretary of Labor, the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.11. The investigation relates, as above indicated, to the determination of whether any of the group of workers covered by the request should be certified as eligible to apply for adjustment assistance, including the determinations of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart C of 29 CFR Part 90.

Interested persons should submit written data, views or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. 20210, on or before December 30, 1974.

Signed at Washington, D.C. this 13th day of December 1974.

GLORIA G. VERNON,
Director, Office of Foreign Economic Policy.

[FR Doc.74-29803 Filed 12-20-74;8:45 am]

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INTERSTATE COMMERCE COMMISSION

[Notice 459]

ASSIGNMENT OF HEARINGS

DECEMBER 18, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after December 23, 1974.

MC 129350 (Sub-No. 45), Charles E. Wolfe, DBA Evergreen Express, now assigned January 13, 1975, at Helena, Mont., is cancelled and reassigned January 13, 1975, at Billings, Mont., in Room 246, U.S. Post Office Building, 26th and First Ave., North. MC 119738 Sub 3, Haggard Heavy Hauling, Inc., now assigned January 15, 1975, at St. Louis, Mo., is cancelled and the application is dismissed.

MC 51146 Sub 374, Schneider Transport, Inc., now assigned January 14, 1975, at Indianapolis, Indiana is cancelled and transferred to Modified Procedure. MC 134139 Sub 11, B. L. T. Corporation, now being assigned January 21, 1975 (2 days) at New York, N.Y. in Room F-2220, 26 Federal Plaza.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-29863 Filed 12-20-74;8:45 am]

[AB 48 (Sub-No. 3)]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Abandonment Between Fairbury and Ruskin in Jefferson and Nuckolls Counties, Nebraska

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding, because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. § 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby directed to publish the appended notice in newspapers of general circulation in Jefferson, Thayer and Nuckolls Counties, Nebr., on or before December 31, 1974, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 13th day of December 1974.

By the Commission, Commissioner Tuggle.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[AB 48 (Sub-No. 3)]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY

ABANDONMENT BETWEEN FAIRBURY AND RUSKIN IN JEFFERSON AND NUCKOLLS COUNTIES, NEBRASKA

The Interstate Commerce Commission hereby gives notice that by order dated December 13, 1974, it has been determined that the proposed abandonment by the Chicago, Rock Island and Pacific Railroad of its line of railroad between Fairbury and Ruskin in Jefferson, Thayer, and Nuckolls Counties, Nebr., a distance of approximately 39.39 miles, if approved by the Commission does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental effects of the proposed action are considered insignificant because rail traffic over the line has been embargoed since March 1973 and, prior to the embargo, traffic over the line was low. Substantial use was being made of motor carrier movement despite the availability of direct rail access. Permanent diversion of traffic to motor carrier and the associated environmental effects, i.e. increase in energy consumption and deterioration of air quality, will be minimal. Alternate rail service also exists in the area over several lines, all within 8 miles of each affected station. The abandonment and subsequent sale of the right-of-way may result in the destruction of the few remaining wildlife habitats in the area. Sale of the abandoned right-of-way to governmental agencies for public use may mitigate this impact.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-2086.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before January 17, 1975.

This negative environmental determination shall become final unless good and sufficient reason is filed to demonstrate why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.74-29862 Filed 12-20-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 18, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before January 7, 1975.

FSA No. 42917—*Liquefied Petroleum Gas Within and From Western States.* Filed by Western Trunk Line Committee, Agent, (No. A-2712), for and on behalf of carriers parties to schedule listed below. Rates on liquefied petroleum gas, in tank-carloads, as described in the application, from specified points in Wyoming, to points in western trunk-line territory.

Grounds for relief—Market competition, modified short-line distance formula and grouping.

Tariff—Supplement 2 to Western Trunk Line Committee, Agent, tariff W-200-E, ICC A-4936. Rates are published to become effective on January 20, 1975.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-29865 Filed 12-20-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 18, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR § 1100.40) and filed on or before January 7, 1975.

FSA No. 42918—*Joint Water-Rail Container Rates—Seatrain International.* Filed by Seatrain International, S.A., (No. 13), for and on behalf of itself and carriers parties to its tariffs Nos. 704, 710-A, and 715, I.C.C. Nos. 3, 16, and 17, respectively, and its tariff No. 705, I.C.C. No. 2 (Seatrain Pacific, S.A., Series). Rates on general commodities, between specified United States rail terminals, on the one hand, and ports in the United Kingdom, Continental Europe, and the Far East, on the other.

Grounds for relief—Water competition.

Tariffs—As set forth above. Rates are published to become effective on January 15, 1975.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-29856 Filed 12-20-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 18, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR § 1100.40) and filed on or before January 7, 1975.

FSA No. 42919—*Commodity Rates—Louisiana Midland Railway Company.* Filed by Southwestern Freight Bureau, Agent, (No. B-598), for and on behalf of carriers parties to Uniform Classification Committee, Agent, tariff 11, ICC 7. Rates on property moving on point-to-point commodity rates, between Louisiana Midland Railway Company stations, Packton to Vidalia, Louisiana, on the one hand, and points in the United States and Canada, on the other.

Grounds for relief—New stations.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-29857 Filed 12-20-74;8:45 am]

[Notice 206]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before January 13, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75525. By order of December 9, 1974 the Motor Carrier Board approved the transfer to Paper Transportation Specialists, Inc., Portland, Oreg., of the operating rights in Permit No. MC-135241 (Sub-No. 1) issued September 7, 1972 to Kenneth M. Allison, doing business as Allison Trucking, Portland, Oreg., authorizing the transportation of various commodities from and to specified points and areas in Washington, Oregon and California. Nick I. Goyak, 404 Oregon National Bldg., 610 S.W. Adler St., Portland, Oreg., 97205, attorney for applicants.

No. MC-FC-75547. By order of December 9, 1974 the Motor Carrier Board approved the transfer to Bennie Elmquist and Gerald Elmquist, a partnership, doing business as Elk Horn Elevator, Elk Horn, Iowa, 51531, of the operating rights in Certificate No. MC-44839 issued December 31, 1940 to Bennie Elmquist, Elk Horn, Iowa, 51531, authorizing the transportation of various commodities from and to specified points and areas in Iowa and Nebraska.

No. MC-FC-75549. By order entered 12-9-74 the Motor Carrier Board approved the transfer to R-M, Inc., Lynn, Mass., of the operating rights set forth in Certificate of Registration No. MC-120943 (Sub-No. 1), issued January 28, 1964, to A. Francis, Inc., Swampscott, Mass., evidencing a right to engage in transportation, in interstate or foreign commerce, of general commodities, anywhere within the Commonwealth of Massachusetts. Frank J. Weiner, 15 Court Square, Boston, Mass. 02108, attorney for transferee and Arnold J. Levin, 10 Lowell St., Peabody, Mass. 01960, attorney for transferor.

No. MC-FC-75552. By order entered 12-9-74 the Motor Carrier Board approved the transfer to Emanual J. Werner, doing business as Rego Park Moving & Storage Co., Middle Village, N.Y., of the operating rights set forth in Certificate No. MC-21551, issued by the Commission March 2, 1953, to Arthur Werner and Emanuel Werner, a partnership, doing business as Werner Bros. & Co., Middle Village N.Y., authorizing the transportation of household goods, as defined by the Commission, between New York, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia. John P. Tynan, 65-12 69th Place, Middle Village, N.Y. 11379, attorney for applicants.

No. MC-FC-75559. By order of December 9, 1974 the Motor Carrier Board approved the transfer to John P. Hoover and Ronald J. Hoover, a partnership, doing business as Phillipsburg Truck Line, Route 3, Phillipsburg, Kansas, 67661, of the operating rights in Permits No. 33964 and MC-33964 (Sub-No. 1) issued December 19, 1963 and November 25, 1966 respectively to Ralph Cox and John Hoover, a partnership, doing business as Phillipsburg Truck Line, Route 3, Phillipsburg, Kansas, 67661, authorizing the transportation of various commodities from and to specified points and areas in Missouri, Kansas, and Colorado.

No. MC-FC-75573. By order entered December 9, 1974 the Motor Carrier Board approved the transfer to Functional Marketing System, Inc., Jamaica, N.Y., of the operating rights set forth in Permits Nos. MC-129973 (Sub-No. 6) and MC-129973 (Sub-No. 10), and a portion of the operating rights set forth in Permit No. MC-129973 (Sub-No. 9), issued by the Commission February 26, 1973, July 31, 1974, and September 27, 1974, respectively, to Field Marketing Services, Inc., New York, N.Y., authorizing the transportation of books, and educational materials, equipment and supplies, between points in New Jersey, on the one hand, and, on the other, specified counties in New York; between specified counties in New Jersey and New York, N.Y., on the one hand, and, on the other specified points in Delaware, Pennsylvania, New York, and New Jersey; and business and trade directories, registers and guides, credit reference books, and related publications, and business materials and supplies, between specified counties in New York and New Jersey. Larsh B. Mewhinney, 235 Mamaroneck Ave., White Plains, N.Y. 10605, attorney for transferee and William J. Lippman, 1819 H St. NW., Washington, D.C. 20006, attorney for transferor.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-29861 Filed 12-20-74;8:45 am]

[Notice 168]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 17, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, on or before January 7, 1975. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the

Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 40630 (Sub-No. 9 TA), filed December 11, 1974. Applicant: VIRGINIA FURNITURE CARRIERS, INC., P.O. Box 369, Bassett, Va. 24055. Applicant's representative: Frank B. Hand, Jr., P.O. Box 446, Winchester, Va. 22601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Bassett, Va., to points in Virginia, restricted to traffic having a prior movement by railroad, for 180 days. Supporting shipper: Bassett Furniture Industries, Inc., Bassett, Va. Send protests to: Danny R. Beeler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, Va. 24011.

No. MC 95350 (Sub-No. 5 TA), filed December 9, 1974. Applicant: R. W. JONES TRUCKING COMPANY, P.O. Drawer T, Vernal, Utah 84078. Applicant's representative: Harry D. Pugsley, Suite 400, 315 East 2nd South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, materials, equipment, supplies, and facilities* used in, or incidental to, or in connection with the discovery, development, production, extraction, and preservation of oil shales, natural gas, and petroleum and the construction, dismantling, repair, servicing, and maintenance of facilities for the storage, operations, processing, repressuring, and blending of oil shale, natural gas, gasoline, and petroleum, between points in Emery, Grand, Duchesne, and Uintah Counties, Utah, on the one hand, and, on the other, points in Wyoming and Colorado, for 180 days. Supporting shippers: There are approximately 11 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 107403 (Sub-No. 926 TA), filed December 10, 1974. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Methyl chloride*, in bulk, in tank vehicles, from Institute, W. Va., to Chattanooga, Tenn., for 180 days. Supporting shipper: G. Frederic Stunkard, Manager of Transportation, Velsicol Chemical Corporation, 341 E. Ohio Street, Chicago, Ill. 60611. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 111729 (Sub-No. 485 TA), filed December 11, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceuticals, radioactive drugs, and medical isotopes*, and *related supplies and accessories*, between Arlington Heights, Ill., on the one hand, and, on the other, points in Alabama, Florida, North Carolina, and South Carolina, for 180 days. Supporting shipper: Amersham/Searle Corporation, 2636 S. Clearbrook Drive, Arlington Hts., Ill. 60005. Send protests to: Anthony Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, Room 1807, New York, N.Y. 10007.

No. MC 113024 (Sub-No. 133 TA) (Correction), filed November 26, 1974, published in the FEDERAL REGISTER issue of December 9, 1974, and republished as corrected this issue. Applicant: ARLINGTON J. WILLIAMS, INC., R.D. 2, S. Dupont Highway, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbon black*, in bags, from Evangeline Parish, La., to McCook, Nebr. and Wilmington, Del., for the account of Electric Hose & Rubber Company, Wilmington, Del., for 180 days.

NOTE.—The purpose of this republication is to change the origin to Evangeline Parish, La., in lieu of Seagraves, Tex., which was published in the FEDERAL REGISTER in error. The rest of the application will remain the same.

No. MC 117765 (Sub-No. 180 TA), filed December 10, 1974. Applicant: HAHN TRUCK LINE, INC., 5315 Northwest 5th Street, Oklahoma City, Okla. 73112. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Carpet, carpet padding*, from the plantsite of Sequoyah Industries, Inc., and facilities, Anadarko, Okla., to points in Delaware, Florida, Georgia, Maryland, New Jersey, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia; and (B) *Materials and supplies* used in manufacture (except commodities in bulk), installation and/or distribution of carpet, from Calhoun, Dalton, Hazelhurst, Jasper, and Savannah, Ga.; Anderson, Columbia and Greenwood, S.C.; Chattanooga, Tenn. and Longview, Tex., to Anadarko and Watonga, Okla., for 180 days. Supporting shipper: Sequoyah Industries, Inc., Joseph Allen, T.M., P.O. Box 369, Anadarko, Okla. 73005. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240-Old P.O. Bldg., 215 N.W. Third, Oklahoma, City, Okla. 73102.

No. MC 118468 (Sub-No. 42 TA), filed December 10, 1974. Applicant: UMTHUN TRUCKING CO., a Corporation, 910 South Jackson, P.O. Box 166, Eagle Grove, Iowa 50533. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum*, granular, ground, or pulverized, in bulk, from the warehouse facilities of the United States Gypsum Company at or near Winona, Minn., to points in the Upper Peninsula of Michigan and Wisconsin, under contract with United States Gypsum Company, for 180 days. Supporting shipper: United States Gypsum Company, 101 South Wacker Drive, Chicago, Ill. 60606. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 119789 (Sub-No. 231 TA), filed December 9, 1974. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulators, electric wire or wiring, pottery or pottery and iron combined, and parts*, from Sandersville, Ga., to points in Arizona, California, Colorado, Nevada, New Mexico, Texas, and Utah, for 180 days. Supporting shipper: Interpace Corp. (Lapp Insulator Corp.), P.O. Box 776, Sandersville, Ga. Send protests to: District Supervisor Gerald T. Holland, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 123502 (Sub-No. 45 TA), filed December 10, 1974. Applicant: FREE STATE TRUCK SERVICE, INC., Route 3, P.O. Box 760, Glen Burnie, Md. 21061. Applicant's representative: W. Wilson Corroum (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude rubber*, in bulk, in dump vehicles, from Belle Mead and Somerville, N.J., to Baltimore, Md., for 180 days. Supporting shipper: Edwin W. Burchess, Exec. Vice President, International Briquetting Corp., 2805 Light Street, Baltimore, Md. 21230. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 124579 (Sub-No. 13 TA), filed December 11, 1974. Applicant: WIKEL BULK EXPRESS, INC., R.D. #2, Huron, Ohio 44839. Applicant's representative: Robert E. Wikel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats, incidental materials and supplies* when moved on same trailer, from points in

Erie County, Ohio, to points in Michigan, Indiana, Kentucky, Illinois, New York, Pennsylvania, and West Virginia, for 180 days. Supporting shipper: Everett Fiberglass, Inc., 1305 Huron Avery Road, Huron, Ohio 44839. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 125161 (Sub-No. 18 TA), filed December 6, 1974. Applicant: UNITED FREIGHTWAYS, INC., 671 Chestnut Street, North Andover, Mass. 01845. Applicant's representative: George C. O'Brien, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Limestone*, in bulk, in specially designed pneumatic self-unloading tank vehicles, from Adams, Mass., to North Leeds, Maine, for 180 days. Supporting shipper: Boston Feed Supply Corporation, 177 Milk Street, Boston, Mass. 02109. Send protests to: District Supervisor Max Gorenstein, Interstate Commerce Commission, Bureau of Operations, 150 Causeway Street, Boston, Mass. 02114.

No. MC 128007 (Sub-No. 7 TA), filed December 11, 1974. Applicant: BOYD TRUCKING CO., P.O. Box 577, Cottonwood, Calif. 96022. Applicant's representative: Marvin Handler, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and forest products*, between points in California except those in Butte and Inyo Counties, subject to the following restrictions: (1) No shipments shall be transported which originate at or are destined to points south of Woodland, Calif., except that shipments may be transported which originate at and are destined to points north and east of Stockton, Calif., including Stockton; (2) No service shall be performed between Montague, Callahan, and intermediate points; (3) No service shall be performed between points on U.S. Highway 101 north of Alton, on the one hand, and, on the other, points in San Francisco Bay; and (4) Carrier shall not transport any shipments of sawdust, wood shavings, wood chips, and wood pieces except when shipments thereof have a prior or subsequent movement by for-hire rail, motor, or water carrier, for 180 days.

NOTE.—Applicant will be available to interline with other carriers at any points served by it.

Supporting shipper: There are no supporting shippers. Send protests to: A. J. Rodrigues, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 128831 (Sub-No. 7TA), filed December 10, 1974. Applicant: DIXON RAPID TRANSFER, INC., East River Road, Dixon, Ill. 61021. Applicant's representative: Robert H. Levy, 29 South LaSalle, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and duct* used in heating, cooling, air conditioning and exhaust systems, and *materials and supplies* used in the installation thereof and *building construction wall sections and accessories and parts* used in the installation thereof, from the plant site of United Sheet Metal, Division of United McGill Corp. at Westerville, Ohio, to points in Nebraska, Indiana, and Iowa, for 180 days. Supporting shipper: United Sheet Metal Division of United McGill Corp, 200 E. Broadway, Westerville, Ohio 43081. Send protests to: District Supervisor Charles R. Nesmith, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 135245 (Sub-No. 3TA), filed December 9, 1974. Applicant: BURGER'S EXPRESS, INC., doing business as BOULDER VALLEY TRANSFER, INC., P.O. Box 1365, Boulder, Colo. 80302. Applicant's representative: Ross F. Robbins (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cosmetics, toilet preparations, toilet articles;* and (2) *Equipment and supplies* used in connection with the commodities described in (1) under continuing contract with Avon Products, Inc. from points in Boulder County, Colo., to points in Colorado, for 180 days. Supporting shipper: Avon Products, Inc., 83rd & College, Kansas City, Mo. 64141. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

No. MC 136023 (Sub-No. 3 TA), filed December 12, 1974. Applicant: WILLIAM L. SMITH, doing business as CIRCLE S. TRUCKING, 1308 S.W. Gamma Court, Pendleton, Oreg. 97801. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood residuals*, from points in Grant, Union and Umatilla Counties, Oreg., to points in Cowlitz County, Wash., for 180 days. Supporting shipper: Wakny, Inc., 5470 S.W. Arrowood Lane, Portland, Oreg. 97225. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 139112 (Sub-No. 6 TA), filed December 6, 1974. Applicant: CALEX EXPRESS, INC., 149 Warden Avenue, Trucksville, Pa. 18708. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery, and related advertising matter*, in vehicles equipped with mechanical refrigerations, from Humboldt Industrial Park, Hazle Township, Pa., to Detroit, Mich.; Chicago, Ill.; Seattle, Wash.; and Los Angeles and Emeryville, Calif., for 150 days. Supporting shipper: Cadbury Corporation, P.O. Box 340, Humboldt Industrial Park, Hazleton, Pa. 18201. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 140429 (Sub-No. 1 TA), filed December 11, 1974. Applicant: WILLIAM F. HOOPS, INC., 440 North Keyser Avenue, Deshler, Ohio 43516. Applicant's representative: A. Charles Tell, 100 E. Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Anti-freeze and windshield washer fluid*, from Pandora, Ohio, to points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Pennsylvania, Tennessee, Virginia, and West Virginia; and (B) *Materials* used in packaging the commodities specified in (A) above, from Chicago, Elgin and Momence, Ill.; St. Louis, Mo.; Morristown and North Bergen, N.J.; Brockway and Philadelphia, Pa.; and Lansing, Mich., to Pandora, Ohio, for 180 days. Restriction: Restricted to service performed under a continuing contract with Konalrad Products, Inc. of Pandora, Ohio. Supporting shipper: Konalrad Products, Inc., 501 Basinger Road, Pandora, Ohio. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Bldg., 234 Summit Street, Toledo, Ohio 43604.

No. MC 140461 TA filed December 12, 1974. Applicant: ELECTROMATIC, INC., 6110 N.E. Union Avenue, Portland, Oreg. 97211. Applicant's representative: Thomas E. Maddocks (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Television sets and combination television-radio phonograph sets and stereo sets* for the account of S. S. Kresge Company, doing business as K Mart, (1) from points in Clark County, Wash., to points in Multnomah, Clackamas, Columbia, and Washington Counties, Oreg.; and (2) from points in Washington County, Oreg., to points in Cowlitz, Clark and Skamania Counties, Wash., for 180 days. Supporting shipper: S. S. Kresge Co., 13750 S. E. Johnson, Portland, Oreg. 97222. Send protests to: District Supervisor Huetig, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Oreg. 97204.

By The Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.74-29604 Filed 12-20-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

DECEMBER 18, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before January 2, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 43867 (Sub-No. E1), (Correction), filed May 6, 1974, published in the FEDERAL REGISTER November 26, 1974. Applicant: McALISTER TRUCKING COMPANY, P.O. Box 2214, 1610 East Scott St., Wichita Falls, Tex. 76307. Applicant's representative: Hardy McAlister (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (3) *Machinery, equipment, materials, and supplies*, used in or in connection with, the drilling of water wells, (b) between points in Texas, Oklahoma, Louisiana and points in New Mexico on, south, and east of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 56 to Springer, thence along U.S. Highway 85 to its intersection with the northern boundary of Mora County, thence along the northern boundary of Mora County to its intersection with the eastern boundary of Santa Fe County, thence along the eastern, northern, and western boundary of Santa Fe County to its intersection with Interstate Highway 25, thence along Interstate Highway 25 to its intersection with the northern boundary of Dona Ana County, thence along the western boundary of Dona Ana County to its intersection with the northern boundary of Luna County, thence along the northern and western boundary of Luna County to the International Boundary line between the United States and Mexico and points in Kansas on, south or east of a line beginning at the Kansas-Oklahoma State line and extending along U.S. Highway 56 to junction U.S. Highway 154, thence along U.S. Highway 154 to junction U.S. Highway 54, thence along U.S. Highway 54 to the junction Kansas Highway 96, thence along Kansas Highway 96 to junction Kansas Highway 39, thence along Kansas Highway 39 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Kansas Highway 57, thence along Kansas Highway 57 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 160, thence along U.S. Highway 160 to the Kansas-Missouri State line, on the one hand, and, on the other, points in Montana (points in Texas)*; (c) between points in Illinois, Indiana, and Kentucky on the one hand, and, on the other, St. Louis, Missouri, and points in Kansas, Oklahoma, New Mexico, Texas, Arizona, Colorado, Utah, and Wyoming (points in Kansas, Oklahoma, and Texas)*; and (d) between points in Texas, Oklahoma, Louisiana, New Mexico, and Kansas (points in Texas and Oklahoma); (9) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells; (b) between points in Texas, Oklahoma, Louisiana, and points in New Mexico on, south, and east of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 56 to Springer, thence along U.S. Highway 85 to the northern boundary of Mora County, thence along the northern boundary of Mora County to its intersection with the eastern boundary of Santa Fe County, thence along the eastern, northern, and western boundary of Santa Fe County to its intersection with Interstate Highway 25, thence along Interstate Highway 25 to the northern boundary of Dona Ana County, thence along the western boundary of Dona Ana County to its intersection with the northern boundary of Luna County, thence along the northern and western boundary of Luna County to the International Boundary line between the United States and Mexico, and points in Kansas on, south, and east of a line beginning at the Kansas-Oklahoma State line and extending along U.S. Highway 56 to junction U.S. Highway 154, thence along U.S. Highway 154 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction Kansas Highway 96, thence along Kansas Highway 96 to junction Kansas Highway 39, thence along Kansas Highway 39 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Kansas Highway 57, thence along Kansas 57 to junction U.S. Highway 69 to junction U.S. Highway 160, thence along U.S. Highway 160 to the Kansas-Missouri State line, on the one hand, and, on the other, points in Montana (points in Texas)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above. The purpose of this correction is to clarify the territorial description in (3)(b) above, correct the gateways in (3)(c) above, include (3)(d), and to correct a destination highway number in (9)(b) above.

No. MC 52953 (Sub-No. E2) (Correction), filed May 3, 1974, published in the FEDERAL REGISTER November 27, 1974. Applicant: ET & WNC TRANSPORTATION CO., 132 Legion St., Johnson City, Tenn. 37601. Applicant's representative: H. M. Cook (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in Delaware, New Jersey, and Pennsylvania within 35 miles of Philadelphia, Pa., and points in New Jersey within 35 miles of the New York, N.Y., commercial zone, on the one hand, and, on the other, points in Burke, Cleveland, McDowell, Polk, and Rutherford Counties, N.C., points in Gaston County, N.C., on and west of U.S. Highway 321, points in that part of Catawba County, N.Y., on and west of a line beginning at the northern Catawba County line and extending along North Carolina Highway 127 to junction North Carolina Highway 10, thence along North Carolina Highway 10 to the southern Catawba County line, and points in Caldwell County, N.C., on and west of a line beginning at the southern Caldwell County line and extending along U.S. Highway 321 to junction North Carolina Highway 18, thence along North Carolina Highway 18 to the western Caldwell County line. The purpose of this filing is to eliminate the gateways at Asheville and Swannanoa, N.C. The purpose of this correction is to clarify the destination territories.

No. MC 61403 (Sub-No. E46), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, (1) between points in Arkansas, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, North Carolina, and Virginia, (2) from points in Arkansas to points in Connecticut, Maine, New Hampshire, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E2), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting. *Chemicals*, in bulk, in tank vehicles, (1) between points in Alabama, on the

one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, and West Virginia; and (2) from points in Alabama to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E17), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, in tank vehicles, between points in Virginia on and south of U.S. Highway 250 beginning at the Virginia-West Virginia State line, thence to junction Interstate Highway 64, thence along Interstate Highway 64 to and including Newport News, on the one hand, and, on the other, points in Wisconsin (Kingsport, Tenn.)*; and (2) *Liquid chemicals*, in bulk, in tank vehicles, from points in Virginia to points in Oklahoma, points in North Dakota on and west of U.S. Highway 281 and on and east of U.S. Highway 85, and South Dakota on and east of U.S. Highway 85, Nebraska and Kansas (Kingsport, Tenn., Sheffield, Ala., and Marshall, Ill.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 61403 (Sub-No. E18), filed May 31, 1974. Applicant: The MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, (1) between points in Texas, on the one hand, and, on the other, points in Virginia and West Virginia, and (2) from points in Texas to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E19), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, in tank vehicles, between points in Delaware, on the one hand, and, on the other, points in Indiana on and south of Indiana Highway 64, points in North Carolina on and west of U.S. Highway 221, points in South Carolina on and west of a line beginning at the South Carolina-North Carolina State line and extending along South Carolina Highway 18 to junction U.S. Highway 176, thence along U.S. Highway 176 to junction South Carolina Highway 121, thence along South Carolina Highway 121 to junction U.S. Highway 25, thence along U.S. Highway 25 to the South Carolina-Georgia State line (Kingsport, Tenn)*; and (2) *Chemicals* (except naval stores to Pensacola, Fla.), in bulk, in tank vehicles, from points in Delaware to points in Florida on and west of U.S. Highway 231, and Oklahoma (Kingsport, Tenn., and Sheffield, Ala.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 61403 (Sub-No. E22), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, (1) between points in Illinois on and south of U.S. Highway 36, on the one hand, and, on the other, points in Virginia, (2) between points in Illinois north of U.S. Highway 36, on the one hand, and, on the other, points in Virginia on, south, and east of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 33 to Harrisonburg, thence along U.S. Highway 11 to New Market, thence along U.S. Highway 211 to the Virginia State line-Washington, D.C. District line, and (3) between points in Illinois north of U.S. Highway 460, on the one hand, and, on the other, points in Tennessee on and east of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 25E to Newport, thence along U.S. Highway 411 to Sevierville, thence along U.S. Highway 441 to the Tennessee-North Carolina State line. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E34), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, in tank vehicles, (a) between points in Tennessee on, north, and east of a line beginning at the Kentucky-Tennessee State line and extending along Interstate Highway 75 to Knoxville, thence along U.S. Highway 70 to the North Carolina-Tennessee State line, on the one hand, and, on the other, points in Texas (Kingsport, Tenn.)*, (b) between points in Tennessee east of a line beginning at the Tennessee-Kentucky State line and extending along Interstate Highway 75 to Knoxville, thence along U.S. Highway 11 to Athens, thence along Tennessee Highway 39 to Englewood, thence along U.S. Highway 411 to Madisonville, thence along Tennessee Highway 68 to the Tennessee-Georgia State line, on the one hand, and, on the other, points in Wisconsin (Kingsport, Tenn.)*, (c) from points in Tennessee to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont (Kingsport, Tenn.)*, and (d) from points in Tennessee on and east of a line beginning at the Tennessee-Virginia State line and extending along U.S. Highway 25E to Newport, thence along U.S. Highway 25 to the Tennessee-North Carolina State line, to points in Oklahoma (Kingsport, Tenn., and Sheffield, Ala.)*; and (2) *Liquid chemicals*, in bulk, in tank vehicles, (a) from points in Tennessee on and east of U.S. Highway 27, to points in North Dakota on and east of U.S. Highway 85, and points in South Dakota, on and east of U.S. Highway 27 (Kingsport, Tenn., and Marshall, Ill.)*, and (b) from points in Tennessee on, east, and north of a line beginning at the Tennessee-Kentucky State line and extending along Interstate Highway 75 to Knoxville, thence along U.S. Highway 70 to the Tennessee-North Carolina State line, to points in Colorado east of U.S. Highway 85, points in Iowa, Kansas, and Nebraska (Kingsport, Tenn., and Marshall, Ill.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 61403 (Sub-No. E37), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except muriatic acid, caustic soda, and caustic potash), in bulk, in tank vehicles, (a) from points in North Carolina on and east of U.S. Highway 21 to points on and west of a line beginning at the Tennessee-Mississippi State line and extending along Tennessee Highway 22 to Union City, thence along Tennessee Highway 21 to the Tennessee-Kentucky State line, and (b) from points in that part of North Carolina bounded by a line beginning at the North Carolina-Tennessee State line and extending along U.S. Highway 23 to the North Carolina-Georgia State line, thence along the North Carolina-Georgia State line to U.S. Highway 21, thence along U.S. Highway 21 to the North Carolina-Virginia State line, thence along the North Carolina-Virginia State line to the point of beginning to points in Shelby County, Tenn. The purpose of this filing is to eliminate the gateways of Kingsport, Tenn., and Sheffield, Ala.

No. MC 61403 (Sub-No. E38), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Dry plastics*, in bulk, in tank and hopper-type vehicles, from the plant site of Foster Grant Co., at Peru, Ill., to points in Florida, Georgia, North Carolina, and South Carolina. The purpose of this filing is to eliminate the gateway of Jeffersonville, Ind.

No. MC 61403 (Sub-No. E41), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O.

Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from points in Illinois on and south of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 50 to Sandoval, thence along U.S. Highway 185 to Hillsboro, thence along Illinois Highway 16 to Litchfield, thence along U.S. Highway 66 to junction Illinois Highway 108, thence along Illinois Highway 108 to Kampsville, thence along Illinois Highway 96 to Hamburg, to points in Connecticut, Maine, Massachusetts, New Hampshire, and Rhode Island. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E44), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from points in Mississippi, to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E39), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except muriatic acid, caustic soda, and caustic potash), in bulk, in tank vehicles, from points in Virginia, to points in that part of Tennessee bounded by a line beginning at the Tennessee-Mississippi State line, and extending along Tennessee Highway 22 to Union City, thence along Tennessee Highway 21 to the Tennessee-Kentucky State line, thence along the Tennessee-Kentucky State line to the Tennessee-Mississippi State line, thence along the Tennessee-Mississippi State line to the point of beginning. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn., and Sheffield, Ala.

No. MC 61403 (Sub-No. 140), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from the plant site of Ashland Chemical Company, Division of Ashland Oil & Refining Company at or near Mapleton, Ill., to points in Louisiana south of a line beginning at the Louisiana-Texas State line and extending along U.S. Highway 190 to junction U.S. Highway 90, thence along U.S. Highway 90 to the Louisiana-Mississippi State line, and points in Texas on, east, and south of a line beginning at the Texas-Louisiana State line and extending along U.S. Highway 190 to Livingston, thence along U.S. Highway 59 to the International Boundary line between the United States and Mexico. Restricted against the transportation of (1) naval stores to De Quincy, La., (2) caustic potash and caustic soda to points in Louisiana. The purpose of this filing is to eliminate the gateway of Sheffield, Ala.

No. MC 83745 (Sub-No. E15), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and such commodities* generally requiring rigging, special equipment, or specialized handling (except articles requiring special vehicular equipment for over-the-road movements), between Zelienople, Pa., on the one hand, and, on the other, points in Ohio (except Mahoning County). The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E16), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and such commodities* generally requiring rigging, special equipment, or specialized handling (except articles requiring special vehicular equipment), for over-the-road movement between Butler, Pa., on the one hand, and, on the other, points in Ohio beginning at the Ohio-Michigan State line and extending along Interstate Highway 75 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction Ohio Highway 31, thence along Ohio Highway 31 to junction Ohio Highway 736, thence along Ohio Highway 736 to junction Ohio Highway 161, thence along Ohio Highway 161 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Ohio Highway 60 to the Ohio-West Virginia State line. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 95540 (Sub-No. E803), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Georgia 30301. Applicant's representative: Jerome F. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, and frozen vegetables*, from those points in North Carolina on and east of a line beginning at the North Carolina-Tennessee State line and extending along U.S. Highway 25/70 to its junction with U.S. Highway 25, thence along U.S. Highway 25 to the North Carolina-South Carolina State line, to points in California. The purpose of this filing is to eliminate the gateways of points in California.

No. MC 95540 (Sub-No. E805), filed November 25, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Washington Court House, Ohio, to points in California and Arizona, and those points in New Mexico on and west of a line beginning at the New Mexico-Texas State line and extending along Interstate Highway 25 to its junction with New Mexico Highway 44, thence along New Mexico Highway 44 to its junction with U.S. Highway 550, thence along U.S. Highway 550 to the New Mexico-Colorado State line. The purpose of this filing is to eliminate the gateway of Washington, Pa.

No. MC 95540 (Sub-No. E806), filed November 29, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, and meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from South Edmeston, N.Y., to points in Mississippi on and south of a line beginning at the Mississippi-Alabama State line and extending along U.S. Highway 78 to its junction with Mississippi Highway 6, thence along Mississippi Highway 6 to its junction with Mississippi Highway 9, thence along Mississippi Highway 9 to its junction with Mississippi Highway 330, thence along Mississippi Highway 330 to its junction with Mississippi Highway 32, thence along Mississippi Highway 32 to its junction with Mississippi Highway 1, thence along Mississippi Highway 1 to the Mississippi-Arkansas State line. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC 95540 (Sub-No. E807), filed November 29, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Charlotte and Concord, N.C., to points in Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateways of Gainesville, Ga., and points in Tennessee.

No. MC 95540 (Sub-No. E808), filed November 29, 1974. Applicant: WATKINS

MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Charlotte, and Concord, N.C., to those points in Tennessee on and west of a line beginning at the Tennessee-Georgia State line and extending along U.S. Highway 411 to its junction with Tennessee Highway 30, thence along Tennessee Highway 30 to its junction with Tennessee Highway 111, thence along Tennessee Highway 111 to its junction with U.S. Highway 70, thence along U.S. Highway 70 to its junction with Tennessee Highway 56, thence along Tennessee Highway 56 to the Tennessee-Kentucky State line. The purpose of this filing is to eliminate the gateway of Gainesville, Ga.

No. MC 95540 (Sub-No. E809), filed November 29, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, and meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from South Edmeston, N.Y., to those points in Texas on and south of a line beginning at the Texas-Arkansas State line and extending along U.S. Highway 82 to its junction with Interstate Highway 35, thence along Interstate Highway 35 to its junction with U.S. Highway 380, thence along U.S. Highway 380 to its junction with Texas Highway 199, thence along Texas Highway 199 to its junction with U.S. Highway 82, thence along U.S. Highway 82 to the Texas-New Mexico State line. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC 106398 (Sub-No. E83), filed May 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, complete, knocked down, or in sections and component parts, materials, supplies, and fixtures*, to points in Pennsylvania, Ohio, Indiana, Missouri, Kentucky, West Virginia, Virginia, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Arkansas, to points in Minnesota. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 107515 (Sub-No. E287), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats* (except liquid commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, (1) from points in North Carolina to points in Texas, that part of Arkansas on and south of a line beginning at the Arkansas-Mississippi State line, thence along U.S. Highway 82 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 270, thence along U.S. Highway 270 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 271, thence along U.S. Highway 271 to the Arkansas-Oklahoma State line, that part of Oklahoma on and south of a line beginning at the Oklahoma-Arkansas State line, thence along U.S. Highway 271 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Muskogee Turnpike, thence along Muskogee Turnpike to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Interstate Highway 35, thence along Interstate Highway 35 to the Kansas-Oklahoma State line, and that part of Kansas on and south of a line beginning at the Oklahoma-Kansas State line, thence along Interstate Highway 35 to Wichita, thence along Interstate Highway 35W to Salina, thence along U.S. Highway 81 to the Kansas-Missouri State line, (2) from points in that part of North Carolina on and south of U.S. Highway 29, to points in Oklahoma, (3) from points in that part of North Carolina on and east of U.S. Highway 15, to points in Arkansas, and (4) from points in that part of North Carolina on and east of North Carolina Highway 49, to points in that part of Kansas on and north of Interstate Highway 70, restricted against the transportation of traffic originating in points in Florida. The purpose of this filing is to eliminate the gateways of (1) any point that is both within 10 miles of Atlanta, Ga., and within the Atlanta Commercial Zone, as defined by the Commission (except Atlanta), and (2) Montgomery, Ala.

No. MC 107515 (Sub-No. E299), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen edible meats and frozen edible meat products*, from Covington, Ky., to points in that part of Mississippi on and south of U.S. Highway 84, that part of Louisiana on and south of a line beginning at the Louisiana-Mississippi State line, thence along U.S. Highway 84 to junction Louisiana Highway 28, thence along Louisiana Highway 28 to Alexandria, thence along U.S. Highway 165 to Lake Charles, thence along Interstate Highway 10 to the Louisiana-Texas State line, and that part of Texas on and south of a line beginning at the Texas-Louisiana State line, thence along Interstate Highway 10 to Houston, thence along U.S. Highway 290 to junction Interstate Highway 10, thence along Interstate Highway 10 to the Texas-New Mexico State line. The purpose of this filing is to eliminate the gateway of Gainesville, Ga.

No. MC 119774 (Sub-No. E302), filed November 11, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and (2) *Earth drilling machinery and equipment and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Wyoming, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateways of Oklahoma and Arkansas.

No. MC 107515 (Sub-No. E301), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats*, as described in the report in *Modification of Permits—Packinghouse Products*, 46 M.C.C. 23, from Covington, Ky., to points in that part of Alabama on and south of Interstate Highway 59, that part of Mississippi on and south of a line beginning at the Mississippi-Alabama State line, thence along Interstate Highway 59 to Jackson, thence along Interstate Highway 55 to junction U.S. Highway 98, thence along U.S. Highways 98/84 to the Mississippi-Louisiana State line, that part of Louisiana on and south of a line beginning at the Louisiana-Mississippi State line, thence along U.S. Highway 84 to junction Louisiana Highway 28, thence along Louisiana Highway 28 to Alexandria, thence along Louisiana Highway 8 to the Louisiana-Texas State line. The

purpose of this filing is to eliminate the gateway of Atlanta, Ga.

No. MC 107515 (Sub-No. E302), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen edible meats and frozen edible meat products* (except commodities in bulk, in tank vehicles), from Adairsville, Ky., to the District of Columbia, and points in Connecticut, Massachusetts, New Jersey, that part of Virginia on and east of Interstate Highway 95, that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, thence along Interstate Highway 83 to York, thence along U.S. Highway 30 to Lancaster, thence along U.S. Highway 30 to junction Pennsylvania Highway 10, thence along Pennsylvania Highway 10 to Reading, thence along U.S. Highway 222 to junction Pennsylvania Turnpike, thence along Pennsylvania Turnpike to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line, that part of New York on and east of a line beginning at the New Jersey-New York State line, thence along U.S. Highway 209 to junction Interstate Highway 87, thence along Interstate Highway 87 to junction Pennsylvania Highway 74, thence along Pennsylvania Highway 74 to the New York-Vermont State line, restricted against transportation of traffic originating at Nashville, Tenn. The purpose of this filing is to eliminate the gateway of Rocky Mount, N.C.

No. MC 107515 (Sub-No. E313), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen meats and meat products* (except commodities in bulk, in tank vehicles), from the plant site of Iowa Beef Packers at or near Emporia, Kans., to points in Rhode Island, that part of Virginia on and east of a line beginning at the North Carolina-Virginia State line, thence along Interstate Highway 85 to junction Interstate Highway 95, thence along Interstate Highway 95 to the Virginia-District of Columbia Boundary line, that part of Connecticut on and east of a line beginning at Long Island Sound, thence along Connecticut Highway 9 to junction Interstate Highway 91, thence along Interstate Highway 91 to the Connecticut-Massachusetts State line, that part of Massachusetts on and east of a line beginning at the Connecticut-Massachusetts State line, thence along Interstate Highway 91 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Interstate Highway 495, thence along Interstate Highway 495 to junction U.S. Highway 3, thence along U.S. Highway 3 to the Massachusetts-New Hampshire State line, that part of New Hampshire on and east of a line beginning at the New Hampshire-Massachusetts State line, thence along U.S. Highway 3 to junction Interstate Highway 93, thence along Interstate Highway 93 to junction New Hampshire Highway 101, thence along New Hampshire Highway 101 to junction Interstate Highway 95, thence along Interstate Highway 95 to the New Hampshire-Maine State line, and that part of Maine on and east of Interstate Highway 95. The purpose of this filing is to eliminate the gateway of Gatesville, N.C.

No. MC 107515 (Sub-No. E361), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from points in that part of Ohio on and north of a line beginning at Lake Erie, thence along U.S. Highway 6 to junction Interstate Highway 80/90, thence along Interstate Highway 80/90 to the Ohio-Indiana State line, to points in that part of Alabama on and south of a line beginning at the Georgia-Alabama State line, thence along U.S. Highway 80 to Montgomery, thence along Interstate Highway 82 to the Alabama-Mississippi State line, that part of Mississippi on and south of a line beginning at the Mississippi River, thence along Mississippi Highway 16 to junction Mississippi Highway 15, thence along Mississippi Highway 15 to junction Interstate Highway 20, thence along Interstate Highway 20 to the Mississippi-Louisiana State line, and that part of Louisiana on and south of Interstate Highway 20. The purpose of this filing is to eliminate the gateways of (1) Detroit, Mich., and (2) Columbus, Ohio.

No. MC 107515 (Sub-No. E362), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from Cleveland, Ohio, to points in that part of Louisiana on and south of a line beginning at the Gulf of Mexico, thence along Interstate Highway 10 to junction U.S. Highway 190, thence along U.S. Highway 190 to junction U.S. Highway 71, thence along U.S. Highway 71 to Shreveport, thence along Interstate Highway 20 to the Louisiana-Texas State line, that part of Texas on and south of a line beginning at the Louisiana-Texas State line, thence along Interstate Highway 20 to Dallas, thence along Interstate Highway 35E to junction Interstate Highway 35, thence along Interstate Highway 35 to the Texas-Oklahoma State line, and that part of Oklahoma on and west of Interstate Highway 35. The purpose of this filing is to eliminate the gateways of (1) Detroit, Mich., and (2) Columbus, Ohio.

No. MC 107515 (Sub-No. E363), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from points in that part of Ohio on and north of a line beginning at the Pennsylvania-Ohio State line, thence along Interstate Highway 80 to Cleveland, thence along Ohio Highway 8 to Akron, thence along Interstate Highway 76 to junction U.S. Highway 42, thence along U.S. Highway 42 to Mansfield, thence along U.S. Highway 30N to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Indiana State line, to points in that part of Florida on and south of a line beginning at the Atlantic Ocean, thence along Florida Highway 827 to Lake Okeechobee, thence along U.S. Highway 27 to junction Florida Highway 80, thence along Florida Highway 80 to junction Florida Highway 833, thence along Florida Highway 833 to junction Florida Highway 846, thence along Florida Highway 846 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateways of (1) Detroit, Mich., and (2) Columbus, Ohio.

No. MC 107515 (Sub-No. E365), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, from points in that part of Ohio on and north of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 36 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction Ohio Highway 67, thence along Ohio Highway 67 to junction Ohio Highway 53, thence along Ohio Highway 53 to junction Ohio Highway 587, thence along Ohio Highway 587 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Ohio Highway 420, thence along Ohio Highway 420 to junction U.S. Highway 280, thence along U.S. Highway 280 to Lake Erie, to Buffalo, Rochester, and Syracuse, and points in Connecticut, Rhode Island, and Massachusetts. The purpose of this filing is to eliminate the gateway of Detroit, Mich.

No. MC 107515 (Sub-No. E367), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats and edible meat products* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Carey and New Riegel, Ohio, to points in that part of Mississippi on and south of a line beginning at the Alabama-Mississippi State line, thence along Mississippi Highway 16 to junction Mississippi Highway 492, thence along Mississippi Highway 492 to junction Mississippi Highway 15, thence along Mississippi Highway 15 to junction Interstate Highway 20, thence along Interstate Highway 20 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Louisiana-Mississippi State line, and that part of Louisiana on and south of a line beginning at the Louisiana-Mississippi State line, thence along Interstate Highway 20 to junction Louisiana Highway 888, thence along Louisiana Highway 888 to junction Louisiana Highway 4, thence along Louisiana Highway 4 to junction Louisiana Highway 155, thence along Louisiana Highway 155 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Texas-Louisiana State line, restricted to the transportation of traffic originating at the plant site and warehourse facilities of Riegel Provisions Co., at New Riegel and Carey, Ohio. The purpose of this filing is to eliminate the gateway of plant site of Commercial Code Storage, Inc., located at or near Doraville, Ga.

No. MC 107515 (Sub-No. E368), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, in vehicles equipped with mechanical refrigeration, from Cleveland, Ohio, to points in that part of Minnesota on and north of a line beginning at the Wisconsin-Minnesota State line, thence along Minnesota Highway 70 to junction Minnesota Highway 107, thence along Minnesota Highway 107 to junction Minnesota Highway 23, thence along Minnesota Highway 23 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 27, thence along Minnesota Highway 27 to junction Minnesota Highway 10, thence along Minnesota Highway 10 to the Minnesota-South Dakota State line, that part of Wisconsin on and north of a line beginning at the Michigan-Wisconsin State line, thence along U.S. Highway 41 to junction Wisconsin Highway 22, thence along Wisconsin Highway 22 to junction Wisconsin Highway 55, thence along Wisconsin Highway 55 to junction Wisconsin Highway 47, thence along Wisconsin Highway 47 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction U.S. Highway 8, thence along U.S. Highway 8 to junction U.S. Highway 53, thence along U.S. Highway 53 to junction Wisconsin Highway 70, thence along Wisconsin Highway 70 to the Minnesota-Wisconsin State line, and that part of Colorado on and west of a line beginning at the Colorado-Wyoming State line, thence along Colorado Highway 13 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Colorado Highway 65, thence along Colorado Highway 65 to junction Colorado Highway 92, thence along Colorado Highway 92 to junction U.S. Highway 550, thence along U.S. Highway 550 to the New Mexico-Colorado State line. The purpose of this filing is to eliminate the gateway of the plant site of Chef-Pierre, Inc., at Traverse City, Mich.

No. MC 107515 (Sub-No. E369), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except frozen fruits, frozen berries, and frozen vegetables), from points in that part of Ohio on and north of a line beginning at the Ohio-Michigan State line, thence along U.S. Highway 23 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Ohio Highway 18, thence along Ohio Highway 18 to Akron, thence along Interstate Highway 77 to Canton, thence along U.S. Highway 30 to the Ohio-Pennsylvania State line, to points in Oklahoma, Texas, and that part of Missouri on and north of a line beginning at the Missouri-Illinois State line, thence along U.S. Highway 54 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Missouri-Arkansas State line. The purpose of this filing is to eliminate the gateways of (1) Detroit, Mich., and (2) the plant site of Holloway House, Inc., at Lafayette, Ind.

No. MC 107515 (Sub-No. E371), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from points in that part of Ohio on and north of a line beginning at the Pennsylvania-Ohio State line, thence along Interstate Highway 90 to Cleveland, thence along Interstate Highway 71 to junction Ohio Highway 95, thence along Ohio Highway 95 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction Interstate Highway 75, thence along Interstate Highway 75 to the Ohio-Michigan State line, that part of Texas on and south of a line beginning at the Louisiana-Texas State line, thence along Interstate Highway 10 to Houston, thence along U.S. Highway 290 to junction with Interstate Highway 10, thence along Interstate Highway 10/U.S. Highway 290 to the International Boundary line between the United States and Mexico. The purpose of this filing is to eliminate the gateways of (1) Detroit, Mich., and (2) Columbus, Ohio.

No. MC 107515 (Sub-No. E372), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, in vehicles equipped with mechanical refrigeration, from Toledo, Ohio, to points in Florida, Louisiana, that part of North Carolina on and east of Interstate Highway 85, that part of South Carolina on and east of a line beginning at the North Carolina-South Carolina State line, thence along U.S. Highway 21 to junction Interstate Highway 20, thence along Interstate Highway 20 to the South Carolina-Georgia State line, that part of Georgia on and south of Interstate Highway 20, that part of Alabama on and south of a line beginning at the Georgia-Alabama State line, thence along Interstate Highway 20 to junction U.S. Highway 78, thence along U.S. Highway 78 to Birmingham, thence along Interstate Highway 20/159 to Tuscaloosa, thence along U.S. Highway 82 to the Alabama-Mississippi State line, that part of Mississippi on and south of U.S. Highway 82, that part of Arkansas on and south of a line beginning at the Mississippi-Arkansas State line, thence along U.S. Highway 82 to junction U.S. Highway 65, thence along U.S. Highway 65 to Little Rock, thence along Interstate Highway 40 to the Arkansas-Oklahoma State line, that part of Oklahoma on and south of Interstate Highway 40, and that part of Texas on and south of Interstate Highway 40, and (2) *Meats, meat products and meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in the appendix to the report in *Modification of Permits—Packinghouse Products*, 46 M.C.C. 23, 48 M.C.C. 628 (except canned goods not requiring refrigeration), from Toledo, Ohio, to points in Georgia, Alabama, North Carolina, and South Carolina. The purpose of this filing is to eliminate the gateways of (1) Detroit, Mich., and (2) Columbus, Ohio.

No. MC 107515 (Sub-No. E429), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta,

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Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products and dairy products*, as described in the Appendix to the report in *Modification of Permits—Packinghouse Products*, 46 M.C.C. 23, 48 M.C.C. 628, in vehicles equipped with mechanical refrigeration (except canned goods not requiring refrigeration), (a) from points in that part of Michigan on and east of a line beginning at the Michigan-Ohio State line, thence along U.S. Highway 23 to junction Interstate Highway 75, thence along Interstate Highway 75 to the International Boundary line between the United States and Canada, to points in that part of Mississippi on and south of Interstate Highway 20; and (b) from points in that part of Michigan on and east of a line beginning at the Michigan-Ohio State line, thence along U.S. Highway 127 to Lansing, thence along U.S. Highway 27 to junction Interstate Highway 75, thence along Interstate Highway 75 to the International Boundary line between the United States and Canada, to points in that part of Louisiana on and south of a line beginning at the Louisiana-Mississippi State line, thence along U.S. Highway 61 to Baton Rouge, thence along Interstate Highway 10 to Lafayette, thence along U.S. Highway 90 to the Mississippi-Louisiana State line. The purpose of this filing is to eliminate the gateways of (1) Columbus, Ohio, and (2) Atlanta, Ga.

No. MC 107515 (Sub-No. E430), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Atlanta, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except frozen fruits, frozen berries, and frozen vegetables); (a) from points in the Lower Peninsula of Michigan, to points in Missouri, Oklahoma, Texas, and points in that part of Kentucky on and north of a line beginning at the Kentucky-Indiana State line, thence along Interstate Highway 65 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Missouri-Kentucky State line; and (b) from points in that part of Michigan on and north of a line beginning at the Michigan-Indiana State line, thence along Interstate Highway 94 to junction U.S. Highway 27, thence along U.S. Highway 27 to Lansing, thence along Michigan Highway 78/21 to Flint, thence along Michigan Highway 78/21 to Lake Huron, to points in that part of Kentucky on and west of a line beginning at the Kentucky-Indiana State line, thence along U.S. Highway 150 to Danville, thence along U.S. Highway 127 to the Kentucky-Tennessee State line, restricted to the transportation of traffic destined to the destination specified. The purpose of this filing is to eliminate the gateway of the plant site of Holloway House, Inc., at Lafayette, Ind.

No. MC 107515 (Sub-No. E431), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration; (a) from points in Michigan to points in Louisiana, that part of Tennessee on and east of U.S. Highway 127, that part of Mississippi on and south of a line beginning at the Mississippi-Alabama State line, thence along Mississippi Highway 12 to junction U.S. Highway 51, thence along U.S. Highway 51 to Jackson, thence along Interstate Highway 20 to the Mississippi-Louisiana State line; (b) from points in that part of Michigan on and east of a line beginning at the Michigan-Ohio State line, thence along U.S. Highway 127 to Lansing, thence along Interstate Highway 75 to the International Boundary line between the United States and Canada, to points in Tennessee and Arkansas; and (c) from points in that part of Michigan on and east of a line beginning at the Michigan-Indiana State line, thence along Michigan Highway 66 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Interstate Highway 75, thence along Interstate Highway 75 to the International Boundary line between the United States and Canada, to points in Mississippi. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC 107515 (Sub-No. E435), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree, Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from South Hutchison, Kans., to the District of Columbia, and to points in Connecticut, Massachusetts, Ohio, Rhode Island, that part of Michigan on and east of a line beginning at the International Boundary line between the United States and Canada, thence along Interstate Highway 75 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Indiana-Michigan State line, and that part of Indiana on and east of a line beginning at the Indiana-Michigan State line, thence along Indiana Highway 15 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 31, thence along U.S. Highway 31 to Indianapolis, thence along Indiana Highway 37 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 150, thence along U.S. Highway 50/150 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Indiana-Kentucky State line, restricted (1) against the transportation of traffic destined to the facilities of Lorillard, a Division of Loew's Theatres, Inc., or its affiliates, and (2) to the transportation of traffic originating at South Hutchinson, Kans. The purpose of this filing is to eliminate the gateway of the plant site of Food Specialties of Kentucky, Division of Oscar Ewing, Inc., in Jefferson County, Ky.

No. MC 107515 (Sub-No. E439), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen meats and meat products* (except hides and commodities in bulk), from Wichita, Kans., to points in Maine, and that part of New Hampshire east of a line beginning at the Massachusetts-New Hampshire State line, thence along New Hampshire Highway 10 to Keene, thence along New Hampshire Highway 9 to Concord, thence along Interstate Highway 93 to junction New Hampshire Highway 104, thence along New Hampshire Highway 104 to junction New Hampshire Highway 25, thence along New Hampshire Highway 25 to the New Hampshire-Maine State line, restricted to the transportation of traffic originating at Wichita, Kans. The purpose of this filing is to eliminate the gateway of Gatesville, N.C.

No. MC 107515 (Sub-No. E440), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Arkansas City, Kans., to points in that part of South Carolina on and south of a line beginning at the Georgia-South Carolina State line, thence along Interstate Highway 20 to junction Interstate Highway 95, thence along Interstate Highway 95 to the North Carolina-South Carolina State line, and that part of North Carolina on and south of a line beginning at the North Carolina-South Carolina State line, thence along Interstate Highway 95 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction U.S. Highway 64, thence along U.S. Highway 64 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Tifton, Ala.

No. MC 107515 (Sub-No. E44), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen meats and meat products* (except

commodities in bulk, in tank vehicles), from the plant site of Farmland Foods, Inc., near Garden City, Kans., to the District of Columbia, and to points in Delaware, Rhode Island, Connecticut, New Hampshire, Maine, that part of Virginia on and east of a line beginning at the District of Columbia-Virginia Boundary line, thence along U.S. Highway 29 to Danville, thence along U.S. Highway 58 to South Boston, thence along U.S. Highway 360 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Virginia Highway 45, thence along Virginia Highway 45 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 15, thence along U.S. Highway 15 to Culpepper, thence along U.S. Highway 29/211 to the Virginia-District of Columbia Boundary line, that part of Maryland on and east of Interstate Highway 94, that part of Pennsylvania on and east of U.S. Highway 1, that part of New Jersey on and east of a line beginning at the Delaware River, thence along U.S. Highway 1 to junction New Jersey Highway 18, thence along New Jersey Highway 18 to junction Interstate Highway 287, thence along Interstate Highway 287 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction New Jersey Highway 511, thence along New Jersey Highway 511 to the New Jersey-New York State line, that part of New York on and east of a line beginning at the New Jersey-New York State line, thence along Interstate Highway 87 to junction Interstate Highway 90, thence along Interstate Highway 90 to the New York-Massachusetts State line, and that part of Massachusetts on and east of U.S. Highway 70 and on and north of Interstate Highway 90, restricted to traffic originating the main plant site. The purpose of this filing is to eliminate the gateway of Gatesville, N.C.

No. MC 107515 (Sub-No. E442), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from Kansas City, Kans. (except points in the Missouri portion of the Kansas City, Kans.-Kansas City, Mo., commercial zone, as defined by the Commission), to points in that part of Virginia on and east of a line beginning at the North Carolina-Virginia State line, thence along U.S. Highway 220 to Roanoke, thence along U.S. Highway 221/460 to Bedford, thence along U.S. Highway 221 to Lynchburg, thence along U.S. Highway 29 to Warrenton, thence along U.S. Highway 29/211 to the District of Columbia-Virginia Boundary line, restricted against the transportation of traffic originating at points in the Missouri portion of the Kansas City, Mo.-Kansas City, Kans., commercial zone, as defined by the Commission. The purpose of this filing is to eliminate the gateway of the plant sites of Family Foods Inc., and Ambrosia Chocolate Company, Division of W. R. Grace & Co., at Charlotte, N.C.

No. MC 107515 (Sub-No. E454), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Kansas City, Mo., to points in that part of Louisiana on and south of a line beginning at the Gulf of Mexico, thence along Louisiana Highway 1 to junction U.S. Highway 90, thence along U.S. Highway 90 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction U.S. Highway 190, thence along U.S. Highway 190 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Louisiana-Mississippi State line, that part of Mississippi on and south of a line beginning at the Mississippi-Louisiana State line, thence along U.S. Highway 51 to junction U.S. Highway 98, thence along U.S. Highway 98 to junction Mississippi Highway 42, thence along Mississippi Highway 42 to the Mississippi-Alabama State line, that part of Alabama on and south of a line beginning at the Alabama-Mississippi State line, thence along Alabama Highway 56 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Alabama Highway 52, thence along Alabama Highway 52 to junction Alabama Highway 27, thence along Alabama Highway 27 to the Alabama-Florida State line, and that part of Florida on and south of a line beginning at the Alabama-Florida State line, thence along Florida Highway 81 to junction Florida Highway 20, thence along Florida Highway 20 to junction U.S. Highway 331, thence along U.S. Highway 331 to junction U.S. Highway 98, thence along U.S. Highway 98 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of New Orleans, La.

No. MC 107515 (Sub-No. E455), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Unfrozen meat and meat products, from* Phelps City, Mo., to points in that part of Maryland on and south of a line beginning at the Chesapeake Bay, thence along Maryland Highway 16 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Maryland Highway 18, thence along Maryland Highway 18 to junction Maryland Highway 313, thence along Maryland Highway 313 to the Maryland-Delaware State line, and that part of Delaware on and south of a line beginning at the Maryland-Delaware State line, thence along Delaware Highway 11 to junction Delaware Highway 8, thence along Delaware Highway 8 to the Delaware Bay. The purpose of this filing is to eliminate the gateway of Gatesville, N.C.

No. MC 107515 (Sub-No. E456), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, (a) from Kansas City, and St. Joseph, Mo., to points in Florida and that part of Tennessee (except Memphis, Tenn., and points in the Memphis commercial zone as defined by the Commission), on and south of a line beginning at the Tennessee-Alabama State line, thence along Interstate Highway 65 to junction Tennessee Highway 96, thence along Tennessee Highway 96 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Tennessee-Kentucky State line; and (b) from St. Joseph, Mo., to Nashville, Tenn. The purpose of this filing is to eliminate the gateway of Booneville, Miss.

No. MC 107515 (Sub-No. E457), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen meats and meat products*, from Kansas City, Mo., to points in those parts of New Hampshire and Maine on and east of Interstate Highway 95, and that part of Massachusetts on and east of a line beginning at the Massachusetts-Rhode Island State line, thence along Massachusetts Highway 126 to junction Interstate Highway 495, thence along Interstate Highway 495 to junction Interstate Highway 95, thence along Interstate Highway 95 to the Massachusetts-New Hampshire State line. The purpose of this filing is to eliminate the gateway of Gatesville, N.C.

No. MC 107515 (Sub-No. E463), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen, fresh, and cured meats*, from points in Louisiana, to the District of Columbia

and points in Delaware, New Jersey, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, that part of Virginia on and east of a line beginning at the Virginia-North Carolina State line, thence along U.S. Highway 29 to Lynchburg, thence along U.S. Highway 501 to junction Interstate Highway 81, thence along Interstate Highway 81 to the Virginia-Maryland State line, that part of Maryland on and east of Interstate Highway 81, and that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, thence along U.S. Highway 220 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line, and that part of New York on and east of New York Highway 14. The purpose of this filing is to eliminate the gateways of (1) any point that is both within 10 miles of Atlanta, Ga., and within the Atlanta, commercial zone as defined by the Commission (except Atlanta), and (2) Gatesville, N.C.

No. MC 107515 (Sub-No. E469), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, in containers, from New Orleans, La., to the District of Columbia, and to points in Vermont, New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Maryland, Maine, New Jersey, Delaware, that part of Virginia on and east of a line beginning at the Virginia-North Carolina State line, thence along U.S. Highway 15 to junction U.S. Highway 522, thence along U.S. Highway 522 to the Virginia-West Virginia State line, and that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, thence along U.S. Highway 219 to junction Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction Interstate Highway 79, thence along Interstate Highway 79 to Lake Erie. The purpose of this filing is to eliminate the gateways of (1) Atlanta, Ga., and (2) Gatesville, N.C.

No. MC 107515 (Sub-No. E470), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk, in tank vehicles), from points in that part of Louisiana on and south of a line beginning at the Texas-Louisiana State line, thence along Louisiana Highway 8 to junction Louisiana Highway 28, thence along Louisiana Highway 28 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Louisiana-Mississippi State line, to points in that part of South Carolina on and east of a line beginning at the Georgia-South Carolina State line, thence along Interstate Highway 20 to Columbia, thence along U.S. Highway 21 to the South Carolina-North Carolina State line, and that part of North Carolina on and east of U.S. Highway 21. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC 110420 (Sub-No. E160), filed June 4, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Glycerin, soap stock, liquid soap and fatty acids, in bulk, in tank vehicles, from the plant site of Armour Company near Aurora, Ill., (1) to points in Minnesota, that part of Kansas in and west of Norton, Graham, Trego, Ness, Hodgeman, Edwards, Kiowa, and Comanche Counties, and that part of Iowa in and west of Winnebago, Hancock, Wright, Hamilton, Greene, and Audubon Counties (Milwaukee, Wis.)*; (2) to Baltimore, Md., and points in New Jersey, and Delaware (Janesville, Wis.)*; (3) to points in Colorado, Idaho, Montana, Utah, Wyoming, and that part of Nebraska on and west of U.S. Highway 281 (Janesville, Wis.)*; (4) to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut (Milwaukee, Wis., and Carpentersville, Ill.)*; (5) to points in Texas (Milwaukee, Wis., and Kankakee, Ill.)*; (6) to New Orleans, La. (Milwaukee, Wis)*; (7) to points in South Carolina, that part of North Carolina in and east of Ashe, Wataug, Caldwell, Burke, and Cleveland Counties, that part of Virginia in and east of Augusta, Rockbridge, Bedford, Franklin, and Patrick Counties, that part of New York in and east of Wayne, Cayuga, Tompkins, and Chemung Counties, and that part of Pennsylvania in and east of Bradford, Sullivan, Columbia, Schuylkill, Dauphin, and York Counties (Janesville, Wis., and Carpentersville, Ill.)*; and (8) to points in that part of Georgia in and south of Toccoa, Homer, Jackson, Gwinnett, Rosewell, DeKalb, Coweta, Heard, and Smyrna Counties (Janesville, Wis.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 113843 (Sub-No. E814), (Correction), filed May 19, 1974, published in the FEDERAL REGISTER September 24, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Marysville, Pa., to that portion of New Hampshire on and north of a line beginning at the New Hampshire-Vermont State line and extending along U.S. Highway 4 to junction New Hampshire Highway 118, thence along New Hampshire Highway 118 to junction New Hampshire Highway 25, thence along New Hampshire Highway 25 to the New Hampshire-Maine State line. The purpose of this filing is to eliminate the gateway of Syracuse, N.Y. The purpose of this correction is to correct a typographical error.

No. MC 113843 (Sub-No. E517), (Correction), filed May 23, 1974, published in the FEDERAL REGISTER August 5, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Moosic, Pa., to points in Oklahoma. The purpose of this filing is to eliminate the gateway of Dundee, N.Y. The purpose of this correction is to correct a typographical error.

No. MC 113843 (Sub-No. E524), (Correction), filed May 23, 1974, published in the FEDERAL REGISTER August 5, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Moosic, Pa., to points in Wisconsin. The purpose of this filing is to eliminate the gateway of LeRoy, N.Y. The purpose of this correction is to correct a typographical error.

No. MC 113843 (Sub-No. E518), (Correction), filed May 23, 1974, published in the FEDERAL REGISTER August 5, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Moosic, Pa., to points in Illinois. The purpose of this filing is to eliminate the gateway of Elmira, N.Y. The purpose of this correction is to correct a typographical error.

No. MC 113843 (Sub-No. E839), (Correction), filed June 4, 1974, published in the FEDERAL REGISTER October 8, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Marysville, Pa., to points in that portion of Vermont on and north of a line beginning at the Vermont-New Hampshire State line and extending along Interstate Highway 89 to junction Vermont Highway 107, thence along Vermont Highway 107 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 73, thence along Vermont Highway 73 to junction

Vermont Highway 73A, thence along Vermont Highway 73A to Lake Champlain. The purpose of this filing is to eliminate the gateway of Syracuse, N.Y. The purpose of this correction is to correct a typographical error.

No. MC 113843 (Sub-No. E912), (Correction), filed June 4, 1974, published in the FEDERAL REGISTER November 4, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, between points in that part of Michigan on, and south, and east of a line beginning at the Detroit River and extending along Michigan Highway 39 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Michigan Highway 60, thence along Michigan Highway 60 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Michigan-Ohio State line, on the one hand, and, on the other, points in Salem County, N.J. The purpose of this filing is to eliminate the gateway of Elmira, N.Y. The purpose of this correction is to indicate complete destination territory.

No. MC 115331 (Sub-No. E13) (Correction), filed May 6, 1974, published in the FEDERAL REGISTER November 21, 1974. Applicant: TRUCK TRANSPORT INC., 230 St. Clair Ave., East St. Louis, Ill. 62201. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk (except lime used for agricultural purposes), from Limedale, Ark., to points in Florida, Georgia, North Carolina, and South Carolina. The purpose of this filing is to eliminate the gateways of St. Genevieve, St. Louis, Kansas City, and Hannibal, Mo., and Adams County, Ill. The purpose of this correction is to clarify the destination territories.

No. MC 115603 (Sub-No. E6), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof (except the stringing or picking up of pipe in connection with main or trunk pipelines); (2) *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (3) Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Kansas, on the one hand, and, on the other, points in Mississippi. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E7), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., PO. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, materials, supplies, and equipment* incidental to, or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum; and (2) Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Colorado, on the one hand, and, on the other, points in Texas on and east of a line beginning at the New Mexico-Texas State line and extending along Texas Highway 2290 to its junction with Texas Highway 214, thence along Texas Highway 214 to its junction with Texas Highway 145, thence along Texas Highway 145 to its junction with U.S. Highway 385, thence along U.S. Highway 385 to its junction with Texas Highway 305, thence along Texas Highway 305 to its junction with U.S. Highway 290, thence along U.S. Highway 290 to its junction with Texas Highway 163, thence along Texas Highway 163 to its junction with US. Highway 90, thence along U.S. Highway 90 to its junction with U.S. Highway 277, thence along U.S. Highway 277 to the United States-Mexico International Boundary line. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E8), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (2) *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (3) Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Texas, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E9), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Oklahoma 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, (1) between points in Texas, on the one hand, and, on the other, points in Arkansas on and north of a line beginning at the Arkansas-Oklahoma State line and extending along Arkansas Highway 32 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with Arkansas Highway 27, thence along Arkansas

Highway 27 to its junction with Arkansas Highway 26, thence along Arkansas Highway 26 to its junction with Arkansas Highway 8, thence along Arkansas Highway 8 to its junction with Arkansas Highway 46, thence along Arkansas Highway 46 to its junction with U.S. Highway 270, thence along U.S. Highway 79 to its junction with U.S. Highway 49, thence along U.S. Highway 49 to the Arkansas-Mississippi State line, (2) between points in Arkansas, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 259 to its junction with U.S. Highway 82, thence along U.S. Highway 82 to its junction with Texas Highway 24, thence along Texas Highway 24 to its junction with U.S. Highway 380, thence along U.S. Highway 380 to its junction with U.S. Highway 75, thence along U.S. Highway 75 to its junction with Interstate Highway 635, thence along Interstate Highway 635 to its junction with Interstate Highway 35E, thence along Interstate Highway 35E to its junction with Interstate Highway 35, thence along Interstate Highway 35 to its junction with U.S. Highway 84, thence along U.S. Highway 84 to its junction with Texas Highway 116, thence along Texas Highway 116 to its junction with U.S. Highway 190, thence along U.S. Highway 190 to its junction with U.S. Highway 281, thence along U.S. Highway 281 to its junction with Texas Highway 29, thence along Texas Highway 29 to its junction with Texas Highway 16, thence along Texas Highway 16 to its junction with Texas Highway 27, thence along Texas Highway 27 to its junction with Texas Highway 41, thence along Texas Highway 41 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with U.S. Highway 57, thence along U.S. Highway 57 to the United States-Mexico International Boundary line. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115003 (Sub-No. E11), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Oklahoma 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials*, and *supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main or trunk pipelines; (2) *Machinery, equipment, materials*, and *supplies*, used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (3) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in New Mexico, on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateways of points in Texas, Oklahoma, and Kansas.

No. MC 119988 (Sub-No. E26), filed June 3, 1974. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, Tex. 75902. Applicant's representative: Joe E. Kinard, 201 W. Commerce St., Dallas, Tex. 75208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printed advertising matter*, and (2) *newspaper supplements* otherwise exempt from economic regulation under Section 203(b)(7) of the Act when transported in mixed loads with printed advertising matter, from the facilities of the Oklahoma Publishing Co., Web Offset Division, at or near Oklahoma City, Okla., to points in California (except San Francisco), north of a line beginning at the California-Arizona State line, and thence along Interstate Highway 40 to junction California Highway 58, thence along California Highway 58 to junction California Highway 99, thence along California Highway 99 to junction California Highway 46, thence along California Highway 46 to the Pacific Ocean. The purpose of this filing is to eliminate the gateway of Ringgold, Calif.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-28866 Filed 12-20-74;8:45 am]

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PART II

ENVIRONMENTAL PROTECTION AGENCY

■

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLE ENGINES

Recall Procedures

V 39 N 247 DEC 23 74 XUM

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 275-2]

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Subpart S—Recall Regulations

On March 25, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER, (39 FR 11103), concerning the proposal to establish a new Subpart (S) in Part 85 of Title 40 to provide procedures for conducting recalls pursuant to section 207(c)(1) of the Clean Air Act. Interested persons were given until May 24, 1974, to submit written comments on the proposal and such comments were received from American Motors, Chrysler, Ford, General Motors, International Harvester, Volkswagen, Volvo, Fiat, White, Motor Vehicle Manufacturers Association, Engine Manufacturers Association, Motor and Equipment Manufacturers Association, Specialty Equipment Manufacturers Association, Caterpillar Tractor, Cummins Engine, Mack Truck, Automobile Importers of America, Public Interest Research Group, State of Maryland, and Western Union.

Explanatory statement. Section 207(c)(1) of the Clean Air Act provides that "if the Administrator determines that a substantial number of any class or category of vehicles or engines, although properly maintained and used, do not conform to the regulations prescribed under section 202, when in actual use throughout their useful life * * * he shall require the manufacturer to submit a plan for remedying the nonconformity * * *." The manufacturer may request a public hearing to contest the Administrator's determination of nonconformity. Unless, as a result of such hearing, the determination is withdrawn, the manufacturer must give dealers, ultimate purchasers, and subsequent purchasers notice of the nonconformity. Section 207(c)(2) authorizes the Administrator to promulgate regulations to prescribe the content of the notification and the manner in which it is given. Section 208(a) authorizes the Administrator to require the manufacturer to establish and maintain such records and to make such reports as are necessary to ensure that the manufacturer is in compliance with Title II, Part A of the Act and applicable regulations thereunder.

Without an * adequate regulatory scheme, the effectiveness of any recall will be diminished by the delays which accompany *ad hoc* decision and policy making. These delays are contrary to the interest of the public, the environment, and the Agency and should be avoided. To this end, I am promulgating the following regulations to implement the statutory requirements of the Clean Air Act. These regulations are contained in six major sections:

1. Section 85.1802 describes the notification to be sent by the Administrator to a manufacturer of vehicles or engines against whom a determination of nonconformity has been lodged. The notification will include a description of each class or category of vehicles or engines subject to the determination of nonconformity as well as the factual basis for the determination. Finally the manufacturer will be given a date by which he is to submit a plan to remedy the nonconformity.

2. Section 85.1803 describes the Remedial Plan. The regulations require the manufacturer, upon notification by the Administrator that a nonconformity exists, to submit descriptions of the proposed repairs, alterations, or modifications he intends to use to correct the nonconformity, the method by which owners of the nonconforming vehicles or engines will be identified, and the procedure which owners must follow to have their vehicles remedied. The regulations further require the manufacturer to describe any conditions upon which eligibility for repair is premised.

The regulations also address the obligations of a manufacturer subject to a recall in regard to the notification of purchasers. Notification of vehicle or engine owners will usually be by first class mail. A copy of the notification must be included in the plan. To increase the efficiency of the notification process, a manufacturer must use all reasonable means necessary to locate ultimate and subsequent purchasers.

Under the regulations, each vehicle or engine which participates in the recall campaign (i.e., inspection for repair followed by repair if necessary or repair without inspection), will have a decal affixed in the engine compartment in proximity to the emission label or in such other location as approved by the Administrator.

3. Section 85.1804 provides for the approval of the remedial plan by the Administrator and for the implementation of the plan by the manufacturer. Under the regulations, the manufacturer will receive written notice that the remedial plan has been approved or disapproved. Upon receipt of notice that the plan has been approved the manufacturer is to commence implementation of the plan.

One aspect of implementation is the notification of vehicle or engine owners. The regulations provide that when no public hearing is requested to challenge the determination of nonconformity, consumer notification is to commence within 15 working days of the receipt of the Administrator's approval of the remedial plan. If a hearing is held, unless the Administrator withdraws his determination of nonconformity, the Administrator will, within 60 days of the completion of the hearing, order the manufacturer to commence prompt notification of vehicle and engine owners.

4. Section 85.1805 describes the contents of the notification to be sent to vehicle or engine owners. The section requires the manufacturer to explain to the vehicle or engine owner most of what is contained in the remedial plan. Besides describing the procedural aspects of obtaining correction of the nonconformity, the notification will inform the vehicle or engine owner of the adverse effects, if any, that an uncorrected nonconformity may have on performance, driveability, and the functioning of other engine components. Owners will be warned that failure to correct the nonconformity may cause vehicles to fail an emission inspection, if required by State or local law. In addition, a vehicle or engine owner will be cautioned that by not participating in the recall campaign, he may have failed to have properly maintained his vehicle or engine which could cause him to be ineligible for free repair under his emissions warranty or a future recall campaign.

These warnings are designed to improve the response to the recall campaign by encouraging vehicle and engine owners to seek correction of the nonconformity as well as to give vehicle and engine owners important information concerning the mechanical condition of their vehicles or engines and the legal impact of the failure to obtain correction of the nonconformity.

5. Section 85.1806 describes the records which a manufacturer must keep and the reports he must make of the recall campaign. From this data, the Administrator will be able to evaluate the success of the recall campaign and determine whether a subsequent notification will be required.

6. Section 85.1807 describes the procedures which will be followed in the event that the manufacturer requests a public hearing to contest the Administrator's finding of nonconformity. The hearing is designed to conform with the requirements of the Administrative Procedure Act, 5 U.S.C. 551–9, and 701–6, as amended. Under the regulations, party status is afforded the contesting manufacturer, the Agency, and interveners. Any member of the public may petition to intervene. If the presiding officer determines that certain criteria are met, the petition will be granted. The criteria are designed to test the petitioner's interest in the proceeding. In this manner, effective public participation can be provided without sacrificing the concomitant public interest in an expedited hearing.

Comments received. (In the discussion to follow, section numbers are referenced to the proposed regulations unless otherwise noted.)

I. ISSUES

A. ISSUES RAISED IN ORIGINAL PROPOSAL

In the preamble to the proposed regulations, two major concerns were indentified: (1) The formality required by the public hearing requirement of section 207(c)(1) of the Act; and, (2) the viability of the decal and certificate program to be implemented as part of the remedial plan.

1. *Public hearings.* The question of the nature of the public hearing required by the recall provisions of the Act was resolved in favor of formal hearings to be governed by the requirements of the Administrative Procedure Act (herein,

APA), 5 U.S.C. 554 et seq (1970). Although comments were received concerning the content of the procedures (discussed below), the conclusion that section 207(c)(1) should be read to require a formal APA hearing was not challenged and the formal nature of the proceedings has been retained for final promulgation.

2. *Decal and certificate programs.* Under the proposed regulations, each vehicle brought to a repair facility in response to notification would have a decal affixed to one of the non-movable inside glass surfaces. In addition vehicle owners would receive a recall campaign certificate. Some owners of recalled vehicles may not be eligible for free remedial repair (e.g., the vehicle was not properly maintained and used) but the decal and certificate would still be issued if the vehicle were brought to the appropriate repair facility.

The purpose of the decal and certificate programs was to complement state inspection programs by allowing identification of those vehicles which had complied with the recall notification and those which had not. As proposed, every vehicle presented for repair would have a decal applied and the vehicle owner would have received a certificate regardless of whether any remedial action had been taken. The conditioning of the issuance of the decal and certificate on actual repair was rejected in the original proposal on the basis that to do so might deter some states from utilizing them.

The force of the criticism was directed at two points: (a) The decal should be conditioned on actual participation in the recall campaign (i.e., inspection for repair followed by repair if necessary or repair without inspection); and (b) the certificate should be dropped as it was redundant and served no independent function.

In view of the lack of response from states concerning the program (only Maryland commented), and in consideration of the comments of vehicle manufacturers, the final regulations reflect the substance of these comments. The certificate provision has been dropped altogether. The decal, as suggested, will be affixed only to those vehicles or engines actually receiving remedial action. It should be noted that remedial action is constituted either of remedial repair or merely inspection for repair if no repair is needed. As the decal provision is intended to aid state inspection programs, those vehicles or engines inspected for repair but not requiring repair must be distinguished from those which were not involved in the recall campaign in any way.

The regulations provide for the issuance of a decal only upon actual participation in the recall campaign. Where an owner is found ineligible for the remedial action because of a failure to properly maintain or use his vehicle or engine, no decal would be issued. States which utilize the decal for inspection programs may desire to establish procedures by which those who are ineligible for remedial action and who obtain the proper service at their own expense can demonstrate effective compliance with the recall campaign for inspection purposes.

Additional comments were directed at the location of the decal itself and the majority favored locating the decal in the engine compartment. The location of the decal on the glass surface, it was suggested, would risk removal by owners and loss due to glass breakage, and was complicated by state laws regulating window obstructions. The location of the decal in the engine compartment, on the other hand, would not subject the decal to the same degree of risk of destruction and is not regulated by state law.

As part of the arguments to drop the certificate, several manufacturers suggested that the VIN number could be included in the decal to insure that decals are not transferred.

The final regulations thus require the decal to contain the vehicle or engine identification number and provide for installation in the engine compartment.

B. OTHER ISSUES RAISED BY PUBLIC COMMENTS

The comments to the proposed regulations raised three major issues not previously addressed in the regulations themselves or the supporting documents: (1) The division of responsibility for the recall plan and the subsequent recall campaign of heavy duty vehicles when the engine and the vehicle in which it is installed are produced by different manufacturers (i.e., the multiple manufacturer problem); (2) the impact of the recall regulations on aftermarket part manufacturers and independent service facilities; and (3) the ability of foreign manufacturers to comply with the time limits specified in various sections of the regulations. A fourth class of comments demonstrated concern over the lack of definitions for the terms "substantial number" and "class or category."

1. *Multiple manufacturers.* Analysis of the issues surrounding the recall of heavy duty vehicles when the engine and vehicle manufacturer are not the same has lead EPA to the conclusion that the burden of the recall campaign must be with the manufacturer (vehicle or engine) at fault. Thus, the issuance of the notification of nonconformity to a manufacturer would implicitly allege that the manufacturer is responsible as the sole cause of the nonconformity. The other manufacturer(s) would not be liable in any way to EPA for correcting the nonconformity and any necessary assistance would be a matter for agreement between the parties.

The heavy duty manufacturers urged that the final regulations delineate the lines of responsibility between vehicle and engine manufacturers. To determine the duties of each manufacturer in advance of an actual recall would, however, ignore the general principle that liability should be based in fault. No formalized demarcation of the responsibilities of the various manufacturers in a recall of a vehicle not produced by a single manufacturer could be fair in all cases. The most equitable solution to this problem is to handle each case on its own merits. For these reasons, no attempt has been made to define the roles of vehicle and engine manufacturers in the regulations.

2. *Impact on the aftermarket parts and independent service industries.* The comments also raised the question of the anticompetitive impact of the regulations on the aftermarket parts and independent service industries.

Section 85.1803(a)(4) requires a manufacturer against whom a recall order is lodged to describe "the proper maintenance and use, if any, upon which the manufacturer conditions eligibility for repair under the remedial plan, * * * (provided that no) such condition may be imposed unless it is, in the judgment of the Administrator, demonstrably related to preventing the nonconformity." It was suggested that the provision be modified to ensure that use of aftermarket parts could not be used to deny eligibility for remedial action per se. Although it is unlikely that a blanket prohibition of the use of aftermarket parts could satisfy the proviso of the condition (quoted above), the suggested modification serves to avoid any future argument over this issue and has therefore been adopted in the final regulations. It should be noted that the owner notification letter (as described in § 85.1805 sections (a)(3) contains a statement as to the proper maintenance requirements to be imposed on vehicle or engine owners. The language of this provision has also been changed in response to the comments of the aftermarket parts industry.

It was also contended that § 85.1803 (a)(5) was anti-competitive in that it restricts the performance of the repair to agents of the manufacturer. It was argued that unless special knowledge is needed to perform the repair, a vehicle or engine owner should be allowed to have the nonconformity corrected at any facility of their choice. The difficulty with this argument is that the Act requires a manufacturer to remedy the nonconformity. The legislative history provides no basis for requiring the vehicle or engine manufacturer to pay for recall work done by service facilities in general as opposed to franchised dealers or authorized agents. Of course, if the unlikely circumstance arose that special service not available from agents of the manufacturer was necessary to remedy the nonconformity, the Agency could require the manufacturer to utilize such service. However, the manufacturer will be able to remedy the vast majority of the recalls through his own agents. Since manufacturers have traditionally been allowed to specify who would perform recall (and warranty) work, no adequate justification exists for changing the status quo.

3. *Foreign manufacturers.* Another issue raised by the comments not originally addressed by the proposed regulations concerns the ability of foreign manufacturers to comply with the various time limits specified in the regulations. The major deadlines are: (a) The date for

submission of the remedial plan; (b) the date by which notification of owners should commence; (c) the dates for submission of quarterly reports; and (d) the time allowed for a request for a public hearing. All of these provisions allow for the exercise of discretion on the part of the Administrator (either in setting the date or in extending it). The concern of foreign manufacturers is understandable but the flexibility of the regulations would seem to answer these concerns and no changes in regard to these comments have been made.

4. *Need for definitions.* Manufacturers also criticized the policy decisions not to define "substantial number" and "class or category" as those phrases are used in section 207(c)(1) of the Act. The definition of these terms is not necessary to the exercise of the recall authority granted by the Clean Air Act. Although it may be argued that formal definitions could simplify the issues of any recall hearing (and thereby expedite the hearing), until the full impact of such definitions on other programs is understood, rulemaking in these areas should be postponed.

II. Specific Provisions

A. Notice to the Manufacturer

Section 85.1802 of the proposed regulations was designed to afford a manufacturer notice that a determination of nonconformity had been lodged against him and to provide the manufacturer the basis for the determination. A manufacturer was also to be given at least 30 days in which to submit a remedial plan.

Criticism of this provision was aimed at the lack of specificity as to the information to be given a manufacturer concerning the determination of nonconformity and the 30 day period allowed for submission of a remedial plan.

The detail of the explanation of the factual basis of the Administrator's recall decision to be given to a manufacturer is, of course, an important consideration. A manufacturer will probably base his decision to request a public hearing in large part on the data provided by the EPA. It is in the interest of the agency to avoid such hearings when possible and it is therefore in the Agency's interest to provide sufficient information to a manufacturer to convince him that the determination is sound. The general statement of § 85.1802 that the manufacturer will be given the factual basis for the determination of nonconformity encompasses any statistical analysis and data used in making the determination (not previously provided the manufacturer by the EPA). For this reason, the general language of the provision has not been changed.

The provision also called for the submission of a remedial plan on or before a date designated by the Administrator which date was to be no sooner than thirty days after the receipt by the manufacturer of the notice of nonconformity. Section 85.1803(c) allowed the manufacturer to obtain an extension upon good cause shown. The objections of the manufacturers to the thirty days language was that thirty days is not sufficient time in which to devise a remedy to the nonconformity and prepare a remedial plan. The thirty day period was intended to be a minimum period. The actual deadline for the submission of the remedial plan would be determined only after evaluation of the particular cause of the nonconformity, the technological problems involved in remedying the nonconformity, and the time needed for devising a workable plan to apply the remedy to vehicles or engines in the field. The time imposed on foreign manufacturers would also reflect any delay expected because of overseas mail service. Furthermore, a manufacturer could request an extension if the time allocated for the remedial plan is not sufficient.

Despite the obvious flexibility of the provision, the 30 day period has been extended to 45 days in order to make the remedial plan deadline consistent with the amended provision governing requests for public hearings.

B. Remedial Plan

Section 85.1803 describes the Remedial Plan. The proposed regulations would require the manufacturer, upon notification by the Administrator that a nonconformity exists, to submit descriptions of the repairs, alterations, or modifications he intends to use to correct the nonconformity, the method by which owners of the nonconforming vehicles or engines would be identified, and the procedure which owners must follow to have their vehicles remedied. The proposed regulations would also require the manufacturer to describe any conditions upon which eligibility for repair was premised.

Section 85.1803 also addressed the obligations of a manufacturer subject to a recall in regard to the notification of purchasers. Notification to ultimate and subsequent purchasers was required to be in writing and a copy of the notification was to be included in the plan. The decal and certificate programs (discussed above) were also described in the section.

The comments to the requirements of § 85.1803 can be grouped into four general classifications: (1) Those aimed at the provisions concerning the design and testing of the remedial repair; (2) those aimed at the notification of vehicle or engine owners; (3) those directed to the actual conduct of the campaign; and (4) the comments aimed at the information needed by the EPA to evaluate the manufacturer's plan.

1. *Remedial repair.* The proposed regulations, pursuant to subparagraph (a)(2) of § 85.1803, required a manufacturer to submit "a description of the specific modification, alterations, repairs, (etc) * * *" to be used to remedy the nonconformity and a summary of technical information which supports the decision to use the particular remedy. Section 85.1803(a)(8) required the remedial plan to include a statement "that an adequate supply of parts would be available to perform" the remedial repair. Paragraph (f) of this section allowed the Administrator to require the manufacturer to conduct tests incorporating the remedial repair according to procedures specified by the Administrator.

The comments reflect a concern on the part of manufacturers that these provisions could be burdensome in application, especially when (under § 85.1802) a manufacturer might be given only 30 days in which to submit the remedial plan.

Because the factors of each recall determination will not be the same, the regulations provide the Administrator with flexibility in determining the time allowed a manufacturer to submit a remedial plan (some of the considerations involved in determining this deadline are discussed above). Although the potential for abuse can be said to exist, the regulations themselves are not inherently burdensome and the possibility of unfairness in their application is justified by the flexibility they provide the Agency to deal with the variables of recall.

As part of the evaluation of the remedial plan, it is important to know how the manufacturer will ensure that the parts to conduct the remedial repair will be available. As proposed, the regulations did not require notice of the date by which parts would be available but only a statement that they would be available. The analysis of the criticism of this provision revealed further deficiences in its scope. For this reason, the final regulations require not only a description of when parts will be available but information concerning the quantity of parts designated for initial shipment and the method to be used to ensure that the supply of parts is both adequate and responsive to owner demand.

Concern was also expressed with the broad authority of the Administrator to require testing of the manufacturer's remedy pursuant to § 85.1803(f). It should be pointed out that the testing under this provision would not always be required and in any case would not interfere with the initial submission of the remedial plan. The question here is the extent to which the discretion granted by the provision is necessary to the purpose of the provision. As the authority reflected by paragraph (f) would be exercised when doubt exists as to the effectiveness of the remedy, it is the need for data which is the essence of the requirement. In response to these comments, the provision has been modified to limit the discretion of the Administrator in this case to requiring tests "reasonably designed to demonstrate" the effectiveness of a remedy.

2. *Consumer notification.* The second classification of comments identified above represents those aimed at consumer notification. As a matter of editorial comment, it was pointed out that the phrase "ultimate and subsequent purchasers (if known)" was confusing in that the phrase taken literally would include the owner of record and the original purchaser (who may no longer be the owner of record). In order to avoid this confusion, it was suggested that the phrase "vehicle or engine owner" be used in its place. This suggestion has been

adopted. It should be emphasized that this change cannot be interpreted to relieve the manufacturer of taking positive action to identify and notify subsequent purchasers.

The substantive objections were made in regard to paragraph (b) of § 85.1803 which required: (1) Notification of owners to be made in writing and "by certified mail or such other means as approved by the Administrator" and (2), that a manufacturer use all reasonable means necessary to locate owners "provided that the Administrator may require the manufacturer to use motor vehicle registration lists as available from state or commercial sources * * *." These comments raised questions concerning the effectiveness of certified mail and commercial and state sources for owner notification purposes. Although much of this reaction can be viewed as economic in origin, there is merit in the criticisms, especially that directed toward vehicle registration lists.

Presently, safety related notifications handled by the NHTSA are made by certified mail as required by statute. The NHTSA experience would appear to oppose the manufacturers' argument that certified mail is "ineffective" but the data that is available tends to support the contention that first class mail is at least as effective as certified mail in reaching owners. The requirement that the initial notification always be made by certified mail has therefore been dropped. Certified mail may, however, be required when warranted by good cause.

The possible use of registration lists to locate vehicle or engine owners was emphatically denounced. A number of manufacturers described the inadequacies and costs of such sources in detail. It should be noted that §.85.1804 (describing the owner notification) requires a manufacturer to include a card in the owner notification letter on which the letter recipient can note that the vehicle or engine has been sold and the address of the purchaser. In response to these comments, the discretion of the Administrator to require the use of such lists is restricted to "good cause" in the final regulations.

Paragraph (g) of the proposed regulations would have allowed the Administrator to order subsequent notifications "by reasonable and appropriate means." For the reasons discussed above, this provision has been changed to allow subsequent notifications to be made by first class mail (or other reasonable means) and reserves certified mail to circumstances where good cause can be demonstrated.

3. *Conduct of the campaign.* The third classification of comments concerns those provisions dealing with actual conduct of the recall campaign. (A discussion of the criticism made with regard to the impact of the requirements of the provisions on the aftermarket and independent service industries appears above). Specific attention was given by manufacturers to the requirement that "repair shall be completed within 60 days from the date the owner first tenders the vehicle or engine * * *" It was pointed out that, as written, an owner could present his vehicle or engine for repair prior to the date on which parts would be available to dealers. Also, the 60 day period was needlessly inflexible. The language of this provision in the final regulations has been changed to require the repair to be completed within a reasonable time from the date an owner tenders his vehicle or engine (measured after the date designated by the manufacturer as the date after which the repair could be obtained). The "reasonable time" would be designated the Administrator upon review and approval of the plan.

Section 85.1803(a)(6) required a manufacturer to give specific information concerning those persons, other than dealers who were to perform the remedial repair. One manufacturer objected strenuously to this requirement as burdensome and argued that it effectively limited the class of those who could perform the repair to his dealers. In evaluating these comments, the purpose of the provision must be kept in mind. The EPA has an interest to see that the repair is done correctly and according to all the requirements of the recall plan. To the extent that the manufacturer has delegated his duties under the plan to persons outside his corporate umbrella, the EPA can demand certain assurances that the recall campaign will not suffer as a result of this delegation. The assurances should not, however, be so stringent as to deny a manufacturer the option of designating nondealers as facilities for performing the remedial repair (e.g., authorized warranty agents).

For these reasons, the requirements of § 85.1803(a)(6) have been changed to require a manufacturer to provide, as a part of the plan, a description of the class of persons, (other than dealers or authorized warranty agents), if any, who will perform the remedial repair and a statement that participating members will be properly equipped to perform it.

4. *Evaluation of the Remedial Plan.* The final group of comments were directed at various provisions requesting, or allowing for the Administrator to request, information concerning the proposed remedy and the remedial plan. The objections were largely editorial and are reflected in minor language changes in the final regulation. An objection was raised to the broad discretion of the Administrator to request additional information with regard to the plan. The final regulations limit this authority to other information which the Administrator may "reasonably determine is necessary to evaluate the remedial plan." This language is in substantial conformity with Section 208 (a) of the Act.

C. APPROVAL OF PLAN; IMPLEMENTATION

Section 85.1804 provides for the approval of the remedial plan by the Administrator for the implementation of the plan by the manufacturer. Under the proposed provisions, the manufacturer would receive written notice that the remedial plan has been approved. Upon receipt of this notice the manufacturer is to commence implementation of the plan.

One aspect of implementation is the notification of ultimate and subsequent purchases. The proposed regulations provide that when no public hearing was requested to challenge the determination of nonconformity, consumer notification would commence within 15 days of the receipt of the Administrator's approval of the remedial plan. If a hearing was held, unless the Administrator withdraws his determination of nonconformity, the Administrator would, within 60 days of the completion of the hearing, order the manufacturer to commence prompt notification of vehicle and engine owners.

Criticism was also directed at the 15 day period allowed for implementation of the plan following notice of its approval by the Administrator. This criticism ignores the fact that the provision also allows the Administrator to specify a time other than the 15 day period in which notification is to commence and that the approval of the plan is made in full view of the manufacturer's statements regarding parts availability and the date on or after which an owner could receive the remedial repair. Again, the period specified is a minimum period and the provision is sufficiently flexible to handle any difficulties which might arise.

In response to additional comments and in order to clarify the provision, the 15 day period has been changed to "15 working days." Other than this clarification, the notification requirement has not been changed in the final regulations.

D. NOTIFICATION TO VEHICLE OR ENGINE OWNERS

Section 85.1805 describes the content of the notification to be sent to owners of recalled vehicles and engines. The section would require the manufacturer to explain to the vehicle or engine owner most of what is contained in the remedial plan. Besides describing the procedural aspects of obtaining correction of the nonconformity, the notification would inform the vehicle or engine owner of the adverse effects, if any, that an uncorrected nonconformity may have on performance, driveability, and the functioning of other engine components. In addition, owners would be warned that failure to correct the nonconformity could cause vehicles to fail an emission inspection, if required by State or local law, and could jeopardize the warranty made applicable to engines and vehicles by section 207 of the Act. These warnings were designed to improve the response to the recall campaign by encouraging vehicle and engine owners to seek correction of the nonconformity as well as to give vehicle and engine owners important information concerning the mechanical condi-

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tion of their vehicles or engines and the legal impact of the failure to obtain correction of the nonconformity.

The bulk of the comments concerned the content of the notification letter itself. Particular attention was given to those warnings described above. The crux of the criticism was that these statements would not always be true (e.g., a nonconforming vehicle might not fail a state inspection test) and therefore should be deleted. The express qualification of these warnings, however, emphasizes their function as warnings and not statements of inevitable result. A consumer whose vehicle or engine is subject to a recall campaign should be fully informed of the potential consequences of failing to participate in the campaign.

A number of comments were directed specifically at the requirement that the notification letter include the statement that failure to comply with a recall campaign could jeopardize an owner's emissions warranty. The difficulty with the required statement is that it raises more questions than it may answer. It was pointed out in the comments that nonparticipation in a recall campaign could more accurately be found to be a lack of proper maintenance and could thereby cause a vehicle or engine owner to be ineligible for free repair under the emissions warranty or, in the event a class of vehicles or engines was recalled a second time, to be ineligible for repair under a recall campaign. It was also noted that the first clause of the emissions warranty covers a vehicle or engine which fails to meet certain standards at the time of sale. Since the condition of a vehicle or engine at the time of sale cannot be affected by future treatment by its owner, the admonition in question cannot be said to apply to this part of the emissions warranty. In order to clarify these and other issues concerning the implications of a failure to participate in a campaign, the language of the warning has been modified to incorporate the view that what an owner risks by nonparticipation is a later finding that he has not properly maintained his vehicle or engine which could cause him to be ineligible for free repair under the warranty provisions or in a future recall campaign.

Finally it was urged that the Administrator's discretion to impose further requirements in regard to notification as "are necessary to fulfill the intent of the law" was too broad. In response to these comments, the provision has been changed to allow for additional requirements "which the Administrator has determined are reasonable and necessary to ensure the effectiveness of the recall campaign."

E. RECORDS AND REPORTS

Section 85.1806 describes the records which a manufacturer must keep and the reports he must make of the recall campaign. From this data, the Administrator would be able to evaluate the success of the recall campaign and determine whether a subsequent notification will be required.

In response to the comments received this section has been redrafted to conform more substantially with the regulations of the NHTSA concerning safety-related defects, 49 CFR 573.1 et seq (1973). The regulations were originally intended to parallel the NHTSA requirements but grew more complex as the proposal was developed. In redrafting this section, the particular information needed to evaluate the effectiveness of an emissions recall must be kept in mind. These can be listed as follows:

(1) The number of vehicles or engines which are affected by the nonconformity.

(2) The number of vehicles or engines which the manufacturer will recall. This may be larger than the figure given in (1) above as the manufacturer may have to recall a large number of vehicles or engines to insure the remedy of a smaller number of nonconforming vehicles or engines.

(3) The number of owners to whom notification was sent. From this figure, the number of owners who cannot be identified can be calculated.

(4) The number of vehicles or engines inspected under the recall campaign.

(5) The number of inspected vehicles or engines found to contain the nonconformity.

(6) The number of vehicles or engines actually receiving corrective action under the remedial plan.

The special requirements of the Clean Air Act make some additional information (not required in safety-related recalls) necessary. Thus, when eligibility for the remedial repair is conditioned on proper maintenance, it is important to know the number of vehicles and engines which did not qualify for remedial service and the names and addresses of their owners in order to monitor the application of the condition and to prevent abuses.

Because the NHTSA reporting requirements would substantially provide the information outlined above and in view of the cost savings for manufacturers of utilizing existing administrative machinery, the final regulations follow the NHTSA reporting requirements more closely.

F. PUBLIC HEARINGS

Section 85.1807 describes the procedures which would be followed in the event the manufacturer requested a public hearing to contest the Administrators finding of nonconformity. As discussed above, the hearing is formal and conforms to the requirements of the APA. The substantive comments concerned the following aspects of the procedures:

(1) Public participation.

(2) Protection of trade secrets or other "proprietary" information.

(3) Request for a public hearing.

(4) Oral testimony and cross examination.

(5) Other comments.

1. *Public participation.* The question of public participation and the role the public should play in a recall hearing made up the bulk of the comments received concerning the proposed hearing procedures. It was argued that due to the adversary nature of the hearing, little was to be gained by allowing the public to participate in the status of a party. The fear was expressed that the Agency might lose control of the proceedings and it was urged that a manufacturer's rights would be prejudiced if it were exposed to the challenges of various "private attorney general" interveners.

It was suggested that the hearings could best be administered by creating two public intervener classifications—one granting full party status to those with financial and other interests and the other for those whose interests were more general and providing for less than party status. (This distinction becomes more important as other rights are defined in terms of the status of the participants. For example, the right to attend pre-hearing conferences and to present oral testimony would belong to full parties only.)

Section 207(c)(1) of the Clean Air Act provides that when a manufacturer requests a public hearing, interested persons shall have "an opportunity to present their views and evidence in support thereof" at such a hearing. The hearing procedures were designed to provide meaningful public participation without sacrificing the Agency's ability to control the direction of the proceedings. It was determined that the best approach to this end was to allow interested persons to participate as parties and to provide safeguards to ensure that the proceedings were orderly and that the issues were resolved expeditiously. Before a potential intervener would be admitted as a party, it was required to be demonstrated that his participation would contribute to the resolution of the contested issues. A direct economic interest was not required. In addition, the procedures as proposed granted broad discretion to the presiding officer to control the direction of the hearing and to determine the need for oral testimony, direct and cross examination, prehearing conferences, and the use of various discovery devices.

The appropriateness of the approach described above, is emphasized by the position taken by the Administrative Law Conference of the United States in regard to public participation in administrative hearings. The Conference noted in its recommendation that:

> Each agency has a prime responsibility to reexamine its rules and practices to make public participation meaningful and effective without impairing the agency's performance of its statutory obligations.

1 CFR 305.71–6 (1974).

As to the scope of the participation, the Conference concluded that a:

> Public intervener generally should be allowed all the rights of any other party * * *. Where the intervener focuses on only one aspect of the proceeding or does not seek to controvert adjudicative facts, consideration should be given to limiting its participation to particular issues, written evidence, argument or the like. Agencies should be cautious in advance of actual experience in anticipating that intervention will cause undue delays. Id.

Although the basic approach of the comments has been rejected, they did focus attention on the degree of public participation to be allowed after intervention had been granted. Because the issues raised at such proceedings may be diverse and since a public participant's ability to contribute to the proceeding may be limited to only a portion of those issues, it is logical that the intervention itself should be so limited. The regulations have been modified, therefore, to allow the presiding officer to limit the participation of an intervener to the issue or issues of the hearing which are within the scope of his interest as reflected in his petition to intervene. This change will serve to expedite the proceedings and allow for the development of the issues in a more orderly fashion.

The suggestion that copies of petitions to intervene be served upon all parties has been adopted. Objections to such petitions, if any, may be filed with the presiding officer who must consider any objections in determining whether or not to grant a petition to intervene.

2. *Protective orders.* Comments were also made regarding the protection of proprietary, trade secret, or confidential information from disclosure through the discovery or service provisions of the hearing procedures.

Section 85.1807(m) of the regulations allows discovery upon determination of the presiding officer that the information is not otherwise available and has significant probative value. Furthermore, a motion for discovery must set forth the circumstances warranting discovery and the information expected to be discovered. These requirements appear to adequately protect a manufacturer from any form of "fishing expedition" which might be launched by an over zealous party.

As for trade secrets, though Section 208(b) of the Act allows them to be disclosed in a proceeding such as this one, it also restates Congressional policy that trade secrets be protected where this can be done consistent with EPA's discharge of its responsibilities. Accordingly, the hearing procedures have been modified to allow the presiding officer to subject such secrets, even where they are relevant to the hearing, to protective orders designed to prevent their public disclosure.

It was also pointed out that the regulations provide for broad discovery of the identity and expected testimony of witnesses. In unusual circumstances, it may be desirable to limit or defer this discovery in order to protect a witness from harassment or other forms of pressure or influence. The final regulations therefore allow the presiding officer to restrict or defer from disclosure, upon good cause shown, the name of a witness or a summary of his expected testimony.

3. *Request for a public hearing.* It was also argued that the allowance of only 30 days after notice of a recall order for a manufacturer to request a public hearing in conjunction with the proviso that failure to request a hearing within that time period would constitute a waiver of his right to a hearing was unfair and inflexible. It was suggested that the manufacturer should be given sixty days in which to request a hearing as a matter of right and thereafter, he could request a hearing upon good cause shown.

The suggestion itself admits the authority of the agency to qualify the right of a manufacturer to a hearing under section 207(c)(1) of the Act. The issue does not, therefore, focus on the power to qualify the statutory right to a hearing but whether the qualification imposed is reasonable. The thirty day period for hearing request was not challenged as being unlawful but, in view of several hypothetical situations, as being insufficient.

In order to balance these competing interests, the period to request a public hearing has been extended to forty-five days in the final regulations. It should be pointed out that the Administrator possesses discretion to provide a period longer than forty-five days to request a hearing and to extend the deadline imposed in a recall order. In addition, after the period to request a hearing as of right has expired, the Administrator may, in his discretion and upon good cause shown, grant a manufacturer a hearing to contest the nonconformity.

4. *Oral testimony and examination of witnesses.* It was urged that a manufacturer's right of due process required that a manufacturer be granted the right to present evidence in oral form and to examine and cross examine witnesses. The regulations as proposed granted the presiding officer broad discretion to determine the extent to which oral testimony and examination would be allowed. The parties are not, therefore, denied the use of these procedures but they must demonstrate that such testimony or examination is necessary for a full and true disclosure of the facts. The ability of the presiding officer to determine which issues and what evidence are best presented in written versus oral form is crucial to the orderly and expeditious conduct of the proceedings. As the manufacturer has been denied no substantive right, no changes to the final regulations were made in response to these comments.

5. *Other comments.* Exception was taken to the content of the request for a public hearing. The proposed regulations required the request to enumerate the issues to be raised at the hearing by the manufacturer and to provide a summary of the evidence which supported the manufacturer's position on each issue. Because a request must be filed within 30 days of the receipt of a notice of nonconformity, a manufacturer would have to prepare his case well in advance of a hearing which could not be held sooner than 30 days from the date of the request. This, it was argued, is unfair and, in view of the substantial discovery provisions of the regulations, unnecessary.

The Agency, of course, has a need to know the issues a manufacturer intends to raise at a hearing in order that the Agency may prepare its case. Also the notice of the hearing must contain sufficient information to allow interested persons to determine whether or not to participate and to draft petitions which reflect a meaningful interest. A mere listing of the issues which a manufacturer intends to raise at a hearing would not adequately serve these needs. The summary of evidence is, on the other hand, potentially burdensome. The final regulations require, therefore, a brief discussion of the reasons why the manufacturer believes he should prevail on each issue. Although the manufacturer's reasons may be primarily opinions and not evidence, the statements will be helpful in determining which claims have merit and which do not and should also sufficiently define the scope and direction of the hearing to allow interested persons to define their interests in the petitions to intervene.

The remainder of the comments received were substantially editorial in nature and will not be individually discussed.

Internal review of the proposed procedures revealed a deficiency which the final regulations have corrected. As proposed, no procedures were established for summary judgment. The final regulations include a provision allowing for an accelerated decision on motion of any party or on the presiding officer's own motion at any time it appears that there has been a failure to state a claim upon which relief may be granted, there is no issue of fact and a party is entitled to judgment as a matter of law, or in the event a party fails to obey a procedural order of the presiding officer.

They shall take effect on January 22, 1975.

JOHN QUARLES,
Acting Administrator.

DECEMBER 16, 1974.

Subpart S—Recall Regulations

Sec.
85.1801 Definitions.
85.1802 Notice to manufacturer of nonconformity; submission of Remedial Plan.
85.1803 Remedial Plan.
85.1804 Approval of Plan; Implementation.
85.1805 Notification to vehicle or engine owners.
85.1806 Records and reports.
85.1807 Public hearings.

AUTHORITY: Sec. 301(a), Clean Air Act, 81 Stat. 504, as amended by sec. 15(c), 84 Stat. 1713 (42 U.S.C. 1857g(a)). The regulations implement sec. 207(c)(1)–(2), Clean Air Act, 84 Stat. 1697 (42 U.S.C. 1857f–5a(c)(1)–(2)); sec. 208(a), Clean Air Act, 81 Stat. 501, as renumbered by sec. 8(a), 84 Stat. 1694 (42 U.S.C. 1857f–6(a))

Subpart S—Recall Regulations

§ 85.1801 Definitions.

For the purposes of this Subpart, except as otherwise provided, words shall be defined as provided for by sections 214 and 302 of the Clean Air Act, 42 U.S.C. 1857, as amended.

(1) "Act" shall mean the Clean Air Act, 42 U.S.C. 1857, as amended.

(2) "Days" shall mean calendar days.

§ 85.1802 Notice to manufacturer of nonconformity; submission of Remedial Plan.

(a) A manufacturer will be notified whenever the Administrator has determined that a substantial number of a class or category of vehicles or engines produced by that manufacturer, although properly maintained and used, do not conform to the regulations prescribed under section 202 of the Act. The notification will include a description of each class or category of vehicles or engines encompassed by the determination of nonconformity, will give the factual basis for the determination of nonconformity (except information previously provided the manufacturer by the Agency), and will designate a date, no sooner than 45 days from the date of receipt of such notification, by which the manufacturer shall have submitted a plan to remedy the nonconformity.

(b) Unless a hearing is requested pursuant to § 85.1807, the remedial plan shall be submitted to the Administrator within the time limit specified in the Administrator's notification, provided that the Administrator may grant the manufacturer an extension upon good cause shown.

(c) If a manufacturer requests a public hearing pursuant to § 85.1807, unless as a result of such hearing the Administrator withdraws his determination of nonconformity, the manufacturer shall submit the remedial plan within 30 days of the end of such hearing.

§ 85.1803 Remedial Plan.

(a) When any manufacturer is notified by the Administrator that a substantial number of any class or category of vehicles or engines, although properly maintained and used, do not conform to the regulations (including emission standards) promulgated under section 202 of the Act, the manufacturer shall submit a plan to the Administrator to remedy such nonconformity. The plan shall contain the following:

(1) A description of each class or category of vehicle or engine to be recalled including the model year, the make, the model, and such other information as may be required to identify the vehicles or engines to be recalled.

(2) A description of the specific modifications, alterations, repairs, corrections, adjustments or other changes to be made to bring the vehicles or engines into conformity including a brief summary of the data and technical studies which support the manufacturer's decision as to the particular remedial changes to be used in correcting the nonconformity.

(3) A description of the method by which the manufacturer will determine the names and addresses of vehicle or engine owners.

(4) A description of the proper maintenance or use, if any, upon which the manufacturer conditions eligibility for repair under the remedial plan, an explanation of the manufacturer's reasons for imposing any such condition, and a description of the proof to be required of a vehicle or engine owner to demonstrate compliance with any such condition. Eligibility may not be denied solely on the basis that the vehicle or engine owner used parts not manufactured by the original equipment vehicle manufacturer, or had repairs performed by outlets other than the vehicle manufacturer's franchised dealers. No maintenance or use condition may be imposed unless it is, in the judgement of the Administrator, demonstrably related to preventing the nonconformity.

(5) A description of the procedure to be followed by vehicle or engine owners to obtain correction of the nonconformity. This shall include designation of the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied: *Provided*, That repair shall be completed within a reasonable time designated by the Administrator from the date the owner first tenders his vehicle or engine after the date designated by the manufacturer as the date on or after which the owner can have the nonconformity remedied.

(6) If some or all of the nonconforming vehicles or engines are to be remedied by persons other than dealers or authorized warranty agents of the manufacturer, a description of the class of persons other than dealers and authorized warranty agents of the manufacturer who will remedy the nonconformity, and a statement indicating that the participating members of the class will be properly equipped to perform such remedial action.

(7) Three copies of the letters of notification to be sent to vehicle or engine owners.

(8) A description of the system by which the manufacturer will assure that an adequate supply of parts will be available to perform the repair under the remedial plan including the date by which an adequate supply of parts will be available to initiate the repair campaign, the percentage of the total parts requirement of each person who is to perform the repair under the remedial plan to be shipped to initiate the campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(9) Three copies of all necessary instructions to be sent to those persons who are to perform the repair under the remedial plan.

(10) A description of the impact of the proposed changes on fuel consumption, driveability, and safety of each class or category of vehicles or engines to be recalled and a brief summary of the data, technical studies, or engineering evaluations which support these conclusions.

(11) Any other information, reports or data which the Administrator may reasonably determine is necessary to evaluate the remedial plan.

(b) (1) Notification to vehicle or engine owners shall be made by first class mail or by such means as approved by the Administrator: *Provided*, That for good cause, the Administrator may require the use of certified mail to ensure an effective notification.

(2) The manufacture shall use all reasonable means necessary to locate vehicle or engine owners: *Provided*, That for good cause, the Administrator may require the manufacturer to use motor vehicle registration lists as available from State or commercial sources to obtain the names and addresses of vehicle or engine owners to ensure an effective notification.

(3) The Administrator reserves the right to require the manufacturer to send by first class mail or other reasonable means subsequent notification to vehicle or engine owners: *Provided*, That for good cause, the Administrator may require the use of certified mail to ensure an effective notification.

(c) (1) The manufacturer shall require those who perform the repair under the remedial plan to affix a permanent decal to each vehicle repaired or, when required, inspected under the remedial plan.

(2) The decal shall be placed in the engine compartment near the emission label or in such other location as approved by the Administrator.

(3) The decal shall:

(i) Contain the recall campaign number as designated by the manufacturer.

(ii) Designate the facility at which the vehicle or engine was repaired or inspected for repair.

(iii) Contain the vehicle or engine identification number.

(d) The Administrator may require the manufacturer to conduct tests on components and vehicles or engines incorporating a proposed change, repair, or modification reasonably designed and necessary to demonstrate the effectiveness of the change, repair, or modification.

§ 85.1804 Approval of Plan: Implementation.

(a) If the Administrator finds that the remedial plan is designed and effective to correct the nonconformity, he will so notify the manufacturer in writing. If the remedial plan is not approved, the Administrator will provide the manufacturer notice of the disapproval and the reasons for the disapproval in writing.

(b) Upon receipt of notice from the Administrator that the remedial plan has been approved, the manufacturer shall commence implemenistion of the approved plan. Notification of vehicle or engine owners shall be in accordance with requirements of this subpart and shall proceed as follows:

(1) when no public hearing as described in § 85.1807 is requested by the manufacturer, notification of vehicles or engine owners shall commence within 15 working days of the receipt by the manufacturer of the Administrator's approval unless otherwise specified by the Administrator.

(2) when a public hearing as described in § 85.1807 is held, unless as a result of such hearing the Administrator

withdraws the determination of nonconformity, the Administrator shall, within 60 days after the completion of such hearing, order the manufacturer to provide prompt notification of such nonconformity.

§ 85.1805 Notification to vehicle or engine owners.

(a) The notification of vehicle or engine owners shall contain the following:

(1) The statement: "The Administrator of the U.S. Environmental Protection Agency has determined that your vehicle orengine may be emitting pollutants in excess of the Federal emission standards. These standards were established to protect the public health or welfare from the dangers of air pollution."

(2) A statement that the nonconformity of any such vehicles or engines which have been, if required by the remedial plan, properly maintained and used, will be remedied at the expense of the manufacturer.

(3) A description of the proper maintenance or use, if any, upon which the manufacturer conditions eligibility for repair under the remedial plan and a description of the proof to be required of a vehicle or engine owner to demonstrate compliance with such condition. Eligibility may not be denied solely on the basis that the vehicle or engine owner used parts not manufactured by the original equipment vehicle manufacturer, or had repairs performed by outlets other than the vehicle manufacturer's franchised dealers.

(4) A clear description of the components which will be affected by the remedy and a general statement of the measures to be taken to correct the nonconformity.

(5) A statement that such nonconformity if not repaired may cause the vehicle or engine to fail an emission inspection test when such tests are required under State or local law.

(6) A description of the adverse affects, if any, that an uncorrected nonconformity would have on the performance or driveability of the vehicle or engine.

(7) A description of the adverse affects, if any, that such nonconformity would have on the function of other engine components.

(8) A description of the procedure which the vehicle or engine owner should follow to obtain correction of the nonconformity. This shall include designation of the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied.

(9) A card to be used by a vehicle or engine owner in the event the vehicle or engine to be recalled has been sold. Such card should be addressed to the manufacturer and shall provide a space in which the owner may indicate the name and address of the person to whom the vehicle or engine was sold.

(10) The statement: "In order to ensure your full protection under the emission warranty made applicable to your (vehicle or engine) by Federal law, and your right to participate in future recalls, it is recommended that you have (vehicle or engine) serviced as soon as possible. Failure to do so could legally be determined to be a lack of proper maintenance of your (vehicle or engine)."

(b) No notice sent pursuant to paragraph (a) of this section nor any other contemporaneous communication sent to vehicle or engine owners or dealers shall contain any statement or implication that the nonconformity does not exist or that the nonconformity will not degrade air quality.

(c) The manufacturer shall be informed of any other requirements pertaining to the notification under this section which the Administrator has determined are reasonable and necessary to ensure the effectiveness of the recall campaign.

§ 85.1806 Records and reports.

(a) The manufacturer shall provide to the Administrator a copy of all communications which relate to the remedial plan directed to dealers and other persons who are to perform the repair under the remedial plan. Such copies shall be mailed to the Administrator contemporaneously with their transmission to dealers and other persons who are to perform the repair under the remedial plan.

(b) The manufacturer shall provide for the establishment and maintenance of records to enable the Administrator to conduct a continuing analysis of the adequacy of the recall campaign. The records shall include, for each class or category of vehicle or engine, but need not be limited to, the following:

(1) Recall campaign number as designated by the manufacturer.

(2) Date owner notification was begun, and date completed.

(3) Number of vehicles or engines involved in the recall campaign.

(4) Number of vehicles or engines known or estimated to be affected by the nonconformity.

(5) Number of vehicles or engines inspected pursuant to the remedial plan. found to be affected by the nonconformity.

(7) Number of vehicles actually receiving repair under the remedial plan.

(8) Number of vehicles determined to be unavailable for inspection or repair under the remedial plan due to exportation, theft, scrapping or for other reasons (specify).

(9) Number of vehicles or engines determined to be ineligible for remedial action due to a failure to properly maintain or use such vehicles or engines.

(c) If the manufacturer determines that the original answers for paragraphs (b) (3) and (4) of this section are incorrect, revised figures and an explanatory note shall be submitted. Answers to paragraphs (b) (5), (6), (7), and (8), and (9) of this section shall be cumulative totals.

(d) Unless otherwise directed by the Administrator, the information specified in paragraph (b) of this section shall be included in quarterly reports, with respect to each recall campaign, for six consecutive quarters beginning with the quarter in which the notification of owners was initiated, or until all nonconforming vehicles or engines involved in the campaign have been remedied, whichever occurs sooner. Such reports shall be submitted no later than 25 working days after the close of each calendar quarter.

(e) The manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, lists of the names and addresses of vehicles or engine owners.

(1) To whom notification was given;

(2) Who received remedial repair or inspection under the remedial plan; and

(3) When eligibility for repair is conditioned on proper maintenance or use, that were determined pot to qualify for such remedial action.

(f) The records described in paragraph (e) of this section shall be made available to the Administrator upon request.

(g) The records and reports required by this section shall be retained for not less than 5 years.

§ 85.1807 Public hearings.

(a) *Definitions.* The following definitions shall be applicable to this section:

(1) "Hearing Clerk" shall mean the Hearing Clerk of the Environmental Protection Agency.

(2) "Intervener" shall mean a person who files a petition to be made an intervener pursuant to paragraph (g) of this section and whose petition is approved.

(3) "Manufacturer" refers to a manufacturer contesting a recall order directed at that manufacturer.

(4) "Party" shall include the Environmental Protection Agency, the manufacturer, and any interveners.

(5) "Presiding Officer" shall mean an Administrative Law Judge appointed pursuant to 5 U.S.C. 3105 (see also 5 CFR Part 930 as amended).

(6) "Judicial Officer" shall mean an officer or employee of the Agency appointed as a Judicial Officer by the Administrator pursuant to this section who shall meet the qualifications and perform functions as follows:

(i) *Officer.* There may be designated for the purposes of this section one or more Judicial Officers. As work requires, there may be a Judicial Officer designated to act for the purposes of a particular case.

(ii) *Qualifications.* A Judicial Officer may be a permanent or temporary employee of the Agency who performs other duties for the Agency. Such Judicial Officer shall not be employed by the Office of Enforcement and General Counsel or the Mobile Source Enforcement Division or have any connection with the prep-

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aration or presentation of evidence for a hearing held pursuant to this subpart.

(iii) *Functions.* The Administrator may consult with a Judicial Officer or delegate all or part of his authority to act in a given case under this Section to a Judicial Officer: *Provided*, That this delegation shall not preclude the Judicial Officer from referring any motion or case to the Administrator when the Judicial Officer determines such referral to be appropriate.

(b) *Request for public hearing.* (1) If the manufacturer disagrees with the Administrator's finding of nonconformity he may request a public hearing as described in this section. Requests for such a hearing shall be filed with the Administrator not later than 45 days after the receipt of the Administrator's notification of nonconformity unless otherwise specified by the Administrator. Two copies of such request shall simultaneously be served upon the Director of the Mobile Source Enforcement Division and two copies filed with the Hearing Clerk. Failure of the manufacturer to request a hearing within the time provided shall constitute a waiver of his right to such a hearing. In such a case, the manufacturer shall carry out the recall order as required by § 85.1803–6. (i) Subsequent to the expiration of the period for requesting a hearing as of right, the Administrator may, in his discretion and for good cause shown, grant the manufacturer a hearing to contest the nonconformity.

(2) The request for a public hearing shall contain:

(i) A statement as to which classes or categories of vehicles or engines are to be the subject of the hearing;

(ii) A concise statement of the issues to be raised by the manufacturer at the hearing for each class or category of engine or vehicle for which the manufacturer has requested the hearing; and

(iii) A statement as to reasons the manufacturer believes he will prevail on the merits on each of the issues so raised.

(3) A copy of all requests for public hearings shall be kept on file in the Office of the Hearing Clerk and shall be made available to the public during Agency business hours.

(c) *Filing and service.* (1) An original and two copies of all documents or papers required or permitted to be filed pursuant to this section shall be filed with the Hearing Clerk. Filing shall be deemed timely if mailed, as determined by the postmark, to the Hearing Clerk within the time allowed by this section. If filing is to be accomplished by mailing, the documents shall be sent to the address set forth in the notice of public hearing as described in paragraph (f) of this section.

(2) Except for requests to commence a hearing, at the same time a party files with the Hearing Clerk any additional issues for consideration at the hearing or any written testimony, documents, papers, exhibits, or materials, proposed to be introduced into evidence or papers filed in connection with any appeal, it shall serve upon all other parties copies thereof. A certificate of service shall be provided on or accompany each document or paper filed with the Hearing Clerk. Documents to be served upon the Director of the Mobile Source Enforcement Division shall be mailed to: Director, Mobile Source Enforcement Division, U.S. Environmental Protection Agency (EG–340), 401 M Street SW, WSM, Washington, D.C. 20460. Service by mail is complete upon mailing.

(d) *Time.* (1) In computing any period of time prescribed or allowed by this section, except as otherwise: *Provided*, The day of the act or event from which the designated period of time begins to run shall not be included. Saturdays, Sundays, and Federal legal holidays shall be included in computing any such period allowed for the filing of any document or paper, except that when such period expires on a Saturday, Sunday, or Federal legal holiday, such period shall be extended to include the next following business day.

(2) A prescribed period of time within which a party is required or permitted to do an act shall be computed from the time of service, except that when service is accomplished by mail, three days shall be added to the prescribed period.

(e) *Consolidation.* The Administrator or the Presiding Officer in his discretion may consolidate two or more proceedings to be held under this section for the purpose of resolving one or more issues whenever it appears that such consolidation will expedite or simplify consideration of such issues. Consolidation shall not affect the right of any party to raise issues that could have been raised if consolidation had not occurred.

(f) *Notice of public hearings.* (1) Notice of a public hearing under this section shall be given by publication in the FEDERAL REGISTER. Notice will be given at least 30 days prior to the commencement of such hearings.

(2) The notice of a public hearing shall include the following information:

(i) The purpose of the hearing and the legal authority under which the hearing is to be held.

(ii) A brief summary of the Administrator's determination of nonconformity;

(iii) A brief summary of the manufacturer's basis for contesting the Administrator's determination of nonconformity;

(iv) Information regarding the time and location of the hearing and the address to which all documents required or permitted to be filed should be sent;

(v) The address of the Hearing Clerk to whom all inquiries should be directed and with whom documents are required to be filed.

(vi) A statement that all petitions to be made an intervener must be filed with the Hearing Clerk within 25 days from the date of the notice of public hearing and must conform to the requirements of paragraph (g) of this section.

(3) The notice of public hearing shall be issued by the Assistant Administrator for Enforcement and General Counsel.

(g) *Interveners.* (1) Any person desiring to intervene in a hearing to be held under section 207(c)(1) of the Act shall file a petition setting forth the facts and reasons why he thinks he should be permitted to intervene.

(2) In passing upon a petition to intervene, the following factors, among other things, shall be considered by the Presiding Officer:

(i) The nature of the petitioner's interest including the nature and the extent of the property, financial, environmental protection, or other interest of the petitioner;

(ii) The effect of the order which may be entered in the proceeding on petitioner's interest;

(iii) The extent to which the petitioner's interest will be represented by existing parties or may be protected by other means;

(iv) The extent to which petitioner's participation may reasonably be expected to assist materially in the development of a complete record;

(v) The effect of the intervention on the Agency's statutory mandate.

(3) A petition to intervene must be filed within 25 days following the notice of public hearing under section 207(c)(1) of the Act and shall be served on all parties. Any opposition to such petition must be filed within five days of such service.

(4) All petitions to be made an intervener shall be reviewed by the Presiding Officer using the criteria set forth in subparagraph (2) of this paragraph and considering any oppositions to such petition. Where the petition demonstrates that the petitioner's interest is limited to particular issues, the Presiding Officer may, in granting such petition, limit petitioner's participation to those particular issues only.

(5) If the Presiding Officer grants the petition with respect to any or all issues, he shall so notify, or direct the Hearing Clerk to notify, the petitioner and all parties. If the Presiding Officer denies the petition he shall so notify, or direct the Hearing Clerk to notify, the petitioner and all parties and shall briefly state the reasons why the petition was denied.

(6) All petitions to be made an intervener shall include an agreement by the petitioner, and any person represented by the petitioner, to be subject to examination and cross-examination and to make any supporting and relevant records available at its own expense upon the request of the Presiding Officer, on his own motion or the motion of any party or other intervener. If the intervener fails to comply with any such request, the Presiding Officer may in his discretion, terminate his status as an intervener.

(h) *Intervention by motion.* Following the expiration of the time prescribed in paragraph (g) of this section for the submission of petitions to intervene in a hearing, any person may file a motion

with the Presiding Officer to intervene in a hearing. Such a motion must contain the information and commitments required by subparagraphs (2) and (6) of paragraph (g) of this section, and, in addition, must show that there is good cause for granting the motion and must contain a statement that the intervener shall be bound by agreements, arrangements, and other determinations which may have been made in the proceeding.

(i) *Amicus Curiae.* Persons not parties to the proceedings wishing to file briefs may do so by leave of the Presiding Officer granted on motion. A motion for leave shall identify the interest of the applicant and shall state the reasons why the proposed amicus brief is desirable.

(j) *Presiding Officer.* The Presiding Officer shall have the duty to conduct a fair and impartial hearing in accordance with 5 U.S.C. sections 554, 556 and 557, to take all necessary action to avoid delay in the disposition of the proceedings and to maintain order. He shall have all power consistent with Agency rule and with the Administrative Procedure Act necessary to this end, including the following:

(1) To administer oaths and affirmations;

(2) To rule upon offers of proof and receive relevant evidence;

(3) To regulate the course of the hearings and the conduct of the parties and their counsel therein;

(4) To hold conferences for simplification of the issues or any other proper purpose;

(5) To consider and rule upon all procedural and other motions appropriate in such proceedings;

(6) To require the submission of direct testimony in written form with or without affidavit whenever, in the opinion of the Presiding Officer, oral testimony is not necessary for full and true disclosure of the facts. Testimony concerning the conduct and results of tests and inspections may be submitted in written form.

(7) To enforce agreements and orders requiring access as authorized by law;

(8) To require the filing of briefs on any matter on which he is required to rule;

(9) To require any party or any witness, during the course of the hearing, to state his position on any issue;

(10) To take or cause depositions to be taken whenever the ends of justice would be served thereby;

(11) To make decisions or recommend decisions to resolve the disputed issues on the record of the hearing.

(12) To issue, upon good cause shown, protective orders as described in paragraph (n) of this section.

(k) *Conferences.* (1) At the discretion of the Presiding Officer, conferences may be held prior to or during any hearing. The Presiding Officer shall direct the Hearing Clerk to notify all parties and interveners of the time and location of any such conference. At the discretion of the Presiding Officer, persons other than parties may attend. At a conference the Presiding Officer may:

(i) Obtain stipulations and admissions, receive requests and order depositions to be taken, identify disputed issues of fact and law, and require or allow the submission of written testimony from any witness or party;

(ii) Set a hearing schedule for as many of the following as are deemed necessary by the Presiding Officer:

(A) Oral and written statements;

(B) Submission of written direct testimony as required or authorized by the Presiding Officer;

(C) Oral direct and cross-examination of a witness where necessary as prescribed in paragraph (p) of this section;

(D) Oral argument, if appropriate.

(iii) Identify matters of which official notice may be taken;

(iv) Consider limitation of the number of expert and other witnesses;

(v) Consider the procedure to be followed at the hearing; and

(vi) Consider any other matter that may expedite the hearing or aid in the disposition of the issue.

(2) The results of any conference including all stipulations shall, if not transcribed, be summarized in writing by the Presiding Officer and made part of the record.

(l) *Primary discovery (exchange of witness lists and documents).* (1) At a prehearing conference or within some reasonable time set by the Presiding Officer prior to the hearing, each party shall make available to the other parties the names of the expert and other witnesses the party expects to call, together with a brief summary of their expected testimony and a list of all documents and exhibits which the party expects to introduce into evidence. Thereafter, witnesses, documents, or exhibits may be added and summaries of expected testimony amended upon motion by a party.

(2) The Presiding Officer, may, upon motion by a party or other person, and for good cause shown, by order (i) restrict or defer disclosure by a party of the name of a witness or a narrative summary of the expected testimony of a witness, and (ii) prescribe other appropriate measures to protect a witness. Any party affected by any such action shall have an adequate opportunity, once he learns the name of a witness and obtains the narrative summary of his expected testimony, to prepare for the presentation of his case.

(m) *Other discovery.* (1) Except as so provided by paragraph (l) of this section, further discovery, under this paragraph, shall be permitted only upon determination by the Presiding Officer:

(i) That such discovery will not in any way unreasonably delay the proceeding;

(ii) That the information to be obtained is not obtainable voluntarily; and

(iii) That such information has significant probative value. The Presiding Officer shall be guided by the procedures set forth in the Federal Rules of Civil Procedure, where practicable, and the precedents thereunder, except that no discovery shall be undertaken except upon order of the Presiding Officer or upon agreement of the parties.

(2) The Presiding Officer shall order depositions upon oral questions only upon a showing of good cause and upon a finding that:

(i) The information sought cannot be obtained by alternative methods; or

(ii) There is a substantial reason to believe that relevant and probative evidence may otherwise not be preserved for presentation by a witness at the hearing.

(3) Any party to the proceeding desiring an order of discovery shall make a motion or motions therefor. Such a motion shall set forth:

(i) The circumstances warranting the taking of the discovery;

(ii) The nature of the information expected to be discovered; and

(iii) The proposed time and place where it will be taken. If the Presiding Officer determines the motion should be granted, he shall issue an order for the taking of such discovery together with the conditions and terms thereof.

(4) Failure to comply with an order issued pursuant to this paragraph may lead to the inference that the information to be discovered would be adverse to the person or party from whom the information was sought.

(n) *Protective orders: in camera proceedings.* (1) Upon motion by a party or by the person from whom discovery is sought, and upon a showing by the movant that the disclosure of the information to be discovered, or a particular part thereof, (other than emission data) would result in methods or processes entitled to protection as trade secrets of such person being divulged, the Presiding Officer may enter a protective order with respect to such material. Any protective order shall contain such terms governing the treatment of the information as may be appropriate under the circumstances to prevent disclosure outside the hearing: *Provided,* That the order shall state that the material shall be filed separately from other evidence and exhibits in the hearing. Disclosure shall be limited to parties to the hearing, their counsel and relevant technical consultants, and authorized representatives of the United States concerned with carrying out the Act. Except in the case of the government, disclosure may be limited to counsel to parties who shall not disclose such information to the parties themselves. Except in the case of the government, disclosure to a party or his counsel shall be conditioned on execution of a sworn statement that no disclosure of the information will be made to persons not entitled to receive it under the terms of the protective order. (No such provision is necessary where government employees are concerned because disclosure by them is subject to the terms of 18 U.S.C. 1905.)

(2) (i) A party or person seeking a protective order may be permitted to

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make all or part of the required showing in camera. A record shall be made of such in camera proceedings. If the Presiding Officer enters a protective order following a showing in camera, the record of such showing shall be sealed and preserved and made available to the Agency or court in the event of appeal. (ii) Attendance at any in camera proceeding may be limited to the Presiding Officer, the Agency, and the person or party seeking the protective order.

(3) Any party, subject to the terms and conditions of any protective order issued pursuant to subparagraph (1) of this paragraph, desiring for the presentation of his case to make use of any in camera documents or testimony shall make application to the Presiding Officer by motion setting forth the justification therefor. The Presiding Officer, in granting any such motion, shall enter an order protecting the rights of the affected persons and parties and preventing unnecessary disclosure of such information, including the presentation of such information and oral testimony and cross-examination concerning it in executive session, as in his discretion is necessary and practicable.

(4) In the submittal of proposed findings, briefs, or other papers, counsel for all parties shall make a good faith attempt to refrain from disclosing the specific details of in camera documents and testimony. This shall not preclude references in such proposed findings, briefs, or other papers to such documents or testimony including generalized statements based on their contents. To the extent that counsel consider it necessary to include specific details in their presentations, such data shall be incorporated in separate proposed findings, briefs, or other papers marked "confidential", which shall become part of the *in camera* record.

(o) *Motions.* (1) All motions, except those made orally during the course of the hearing, shall be in writing and shall state with particularity the grounds therefor, shall set forth the relief or order sought, and shall be filed with the Hearing Clerk and served upon all parties.

(2) Within ten days after service of any motion filed pursuant to this section, or within such other time as may be fixed by the Administrator, the Judicial Officer, or the Presiding Officer, as appropriate, any party may serve and file an answer to the motion. The movant shall, if requested by the Administrator, the Judicial Officer, or the Presiding Officer, as appropriate, serve and file reply papers within the time set by the request.

(3) The Presiding Officer shall rule upon all motions filed or made prior to the filing of his decision or accelerated decision, as appropriate. The Administrator or the Judicial Officer, as appropriate, shall rule upon all motions filed prior to the appointment of a Presiding Officer and all motions filed after the filing of the decision of the Presiding Officer or accelerated decision. Oral argument of motions will be permitted only if the Presiding Officer, the Administrator, or the Judicial Officer, as appropriate, deems it necessary.

(p) *Evidence.* (1) The official transcripts and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record. Immaterial or irrelevant parts of an admissible document shall be segregated and excluded so far as practicable. Documents or parts thereof subject to a protective order under paragraph (n) of this section shall be segregated. Evidence may be received at the hearing even though inadmissible under the rules of evidence applicable to judicial proceedings. The weight to be given evidence shall be determined by its reliability and probative value.

(2) The Presiding Officer shall allow the parties to examine and to cross-examine a witness to the extent that such examination and cross-examination is necessary for a full and true disclosure of the facts.

(3) Rulings of the Presiding Officer on the admissibility of evidence, the propriety of examination and cross-examination and other procedural matters shall appear in the record.

(4) Parties shall automatically be presumed to have taken exception to an adverse ruling.

(q) *Interlocutory Appeal.* (1) An interlocutory appeal may be taken to the Administrator either (i) with the consent of the Presiding Officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense or prejudice to any party or substantial detriment to the public interest, or (ii) absent the consent of the Presiding Officer, by permission of the Administrator.

(2) Applications for interlocutory appeal of any ruling or order of the Presiding Officer may be filed with the Presiding Officer within 5 days of the issuance of the ruling or order being appealed. Answers thereto by other parties may be filed within 5 days of the service of such applications.

(3) The Presiding Officer shall rule on such applications within 5 days of the filing of such application or answers thereto.

(4) Applications to file such appeals absent consent of the Presiding Officer shall be filed with the Administrator within 5 days of the denial of any appeal by the Presiding Officer.

(5) The Administrator will consider the merits of the appeal on the application and any answers thereto. No oral argument will be heard nor other briefs filed unless the Administrator directs otherwise.

(6) Except under extraordinary circumstances as determined by the Presiding Officer, the taking of an interlocutory appeal will not stay the hearing.

(r) *Record.* (1) Hearings shall be stenographically reported and transcribed, and the original transcript shall be part of the record and the sole official transcript. Copies of the record shall be filed with the Hearing Clerk and made available during Agency business hours for public inspection. Any person desiring a copy of the record of the hearing or any part thereof shall be entitled to the same upon payment of the cost thereof.

(2) The official transcripts and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record.

(s) *Proposed findings, conclusions.* (1) Within 20 days of the close of the reception of evidence, or within such longer time as may be fixed by the Presiding Officer, any party may submit for the consideration of the Presiding Officer proposed findings of fact, conclusions of law, and a proposed rule or order, together with reasons therefor and briefs in support thereof. Such proposals shall be in writing, shall be served upon all parties, and shall contain adequate references to the record and authorities relied on.

(2) The record shall show the Presiding Officer's ruling on the proposed findings and conclusions except when his order disposing of the proceeding otherwise informs the parties of the action taken by him thereon.

(t) *Decision of the Presiding Officer.* (1) Unless extended by the Administrator, the Presiding Officer shall issue and file with the Hearing Clerk his decision within 30 days after the period for filing proposed findings as provided for in paragraph(s) of this section has expired.

(2) The Presiding Officer's decision shall become the decision of the Administrator (i) when no notice of intention to appeal as described in paragraph (u) of this section is filed, 30 days after the issuance thereof, unless in the interim the Administrator shall have taken action to review or stay the effective date of the decision; or (ii), when a notice of intention to appeal is filed but the appeal is not perfected as required by paragraph (u) of this section, 5 days after the period allowed for perfection of an appeal has expired unless within that 5 day period, the Administrator shall have taken action to review or stay the effective date of the decision.

(3) The Presiding Officer's decision shall include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact or law presented on the record and an appropriate rule or order. Such decision shall be supported by substantial evidence and based upon a consideration of the whole record.

(4) At any time prior to the issuance of his decision, the Presiding Officer may reopen the proceeding for the reception of further evidence. Except for the correction of clerical errors, the jurisdiction of the Presiding Officer is terminated upon the issuance of his decision.

(u) *Appeal from the Decision of the Presiding Officer.* (1) Any party to a proceeding may appeal the Presiding Officer's decision to the Administrator: *Provided,* That within 10 days after issuance of the Presiding Officer's decision such party files a notice of intention to appeal and an appeal brief within 30 days of such decision.

(2) When an appeal is taken from the decision of the Presiding Officer, any

party may file a brief with respect to such appeal. The brief shall be filed within 20 days of the date of the filing of the appellant's brief.

(3) Any brief filed pursuant to this paragraph shall contain in the order indicated, the following:

(i) A subject index of the matter in the brief, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto;

(ii) A specification of the issues intended to be urged;

(iii) The argument presenting clearly the points of fact and law relied upon in support of the position taken on each issue, with specific page references to the record and the legal or other material relied upon; and

(iv) A proposed form of rule or order for the Administrator's consideration if different from the rule or order contained in the Presiding Officer's decision.

(4) No brief in excess of 40 pages shall be filed without leave of the Administrator.

(5) Oral argument will be allowed in the discretion of the Administrator.

(v) *Review of the Presiding Officer's Decision in Absence of Appeal.* (1) If, after the expiration of the period for taking an appeal as provided for by paragraph (u) of this section, no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected, the Hearing Clerk shall so notify the Administrator.

(2) The Administrator, upon receipt of notice from the Hearing Clerk that no notice of intention to appeal has been filed, or if filed, not perfected pursuant to paragraph (u) of this section, may, on his own motion, within the time limits specified in paragraph (t)(2) of this section, review the decision of the Presiding Officer. Notice of the intention of the Administrator to review the decision of the Presiding Officer shall be given to all parties and shall set forth the scope of such review and the issues which shall be considered and shall make provision for filing of briefs.

(w) *Decision on appeal or review.* (1) Upon appeal from or review of the Presiding Officer's decision, the Administrator shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and, in addition shall to the extent necessary or desirable exercise all the powers which he could have exercised if he had presided at the hearing.

(2) In rendering his decision, the Administrator shall adopt, modify or set aside the findings, conclusions, and rule or order contained in the decision of the Presiding Officer and shall set forth in his decision a statement of the reasons or bases for his action.

(3) In those cases where the Administrator believes that he should have further information or additional views of the parties as to the form and content of the rule or order to be issued, the Administrator, in his discretion, may withhold final action pending the receipt of such additional information or views, or may remand the case to the Presiding Officer.

(x) *Reconsideration.* Within twenty (20) days after issuance of the Administrator's decision, any party may file with the Administrator a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the Presiding Officer or the Administrator. Any party desiring to oppose such a petition shall file and answer thereto within ten (10) days after the filing of the petition. The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Administrator.

(y) *Accelerated decision: dismissal.* (1) The Presiding Officer, upon motion of any party or *sua sponte*, may at any time render an accelerated decision in favor of the Agency or the manufacturer as to all or any part of the proceeding, without further hearing or upon such limited additional evidence such as affidavits as he may require, or dismiss any party with prejudice, under any of the following conditions:

(i) Failure to state a claim upon which relief can be granted, or direct or collateral estoppel;

(ii) There is no genuine issue of material fact and a party is entitled to judgment as a matter of law; or

(iii) Such other and further reasons as are just, including specifically failure to obey a procedural order of the Presiding Officer.

(2) If under this paragraph an accelerated decision is issued as to all the issues and claims joined in the proceeding, the decision shall be treated for the purposes of these procedures as the decision of the Presiding Officer as provided in paragraph (p) of this section.

(3) If under this paragraph, judgment is rendered on less than all issues or claims in the proceeding, the Presiding Officer shall determine what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon issue an order specifying the facts which appear without substantial controversy, and the issues and claims upon which the hearing will proceed.

(z) *Conclusion of hearing.* (1) If, after the expiration of the period for taking an appeal as provided for by paragraph (r) of this section, no appeal has been taken from the Presiding Officer's decision, and, after the expiration of the period for review by the Administrator on his own motion as provided for by paragraph (v) of this section, the Administrator does not move to review such decision, the hearing will be deemed to have ended at the expiration of all periods allowed for such appeal and review.

(2) If an appeal of Presiding Officer's decision is taken pursuant to paragraph (u) of this section, or if, in the absence of such appeal, the Administrator moves to review the decision of the Presiding Officer pursuant to paragraph (v) of this section, the hearing will be deemed to have ended upon the rendering of a final decision by the Administrator.

(aa) *Judicial Review.* (1) The Administrator hereby designates the Deputy General Counsel, Environmental Protection Agency as the officer upon whom copy of any petition for judicial review shall be served. Such officer shall be responsible for filing in the court the record on which the order of the Administrator is based.

(2) Before forwarding the record to the court, the Agency shall advise the petitioner of costs of preparing it and as soon as payment to cover fees is made shall forward the record to the court.

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MONDAY, DECEMBER 23, 1974

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PART III

SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

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DRUG TREATMENT SERVICES AND CENTRAL INTAKE UNITS

Federal Funding Criteria

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SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

[21 CFR Parts 1402, 1403]

DRUG TREATMENT SERVICES AND CENTRAL INTAKE UNITS

Proposed Federal Funding Criteria

For the past several months, the Special Action Office for Drug Abuse Prevention has undertaken studies of the types of services and facilities that should be required for all drug abuse treatment centers and central intake units which operate through funds furnished under contracts or grants made by agencies or departments of the Federal Government. Based on these studies, guidelines and criteria have been developed and the Director of the Special Action Office has determined that they should be published as proposed regulations for the purpose of seeking public comments prior to their promulgation as final regulations. The proposed regulation on funding criteria for treatment services is published as Part 1402 (21 CFR Part 1402) and the proposed regulation on funding criteria for drug treatment central intake units is published as Part 1403 (21 CFR Part 1403).

GENERAL OBJECTIVES

The guidelines which are proposed in Part 1402 and Part 1403 represent a major step in efforts to upgrade the quality of services at Federally funded drug abuse treatment centers and central intake units. They also reflect established levels of program performance which hopefully can be achieved by all drug treatment and central intake unit programs with minimal assistance from the Federal Government.

COMMENTS BY DEPARTMENT OF DEFENSE, VETERANS ADMINISTRATION AND BUREAU OF PRISONS

While Parts 1402 and 1403 do not apply to programs which are established and conducted under the direct control of departments and agencies of the Federal Government, information as to the manner in which their standards differ from those proposed herein will be extremely helpful in the promulgation of final regulations. Therefore, all such departments and agencies, including particularly the Department of Defense, the Veterans Administration and the Bureau of Prisons (Department of Justice) are requested to submit comments on these proposed regulations, and to note in those comments any significant differences between the standards applied in the conduct of their programs and those set forth in proposed Parts 1402 and 1403.

SINGLE STATE AGENCIES

Single State Agencies in states which have adopted or are developing standards for the performance of treatment and central intake unit services through accreditation of facilities, licensing of agencies, and certification of drug abuse workers by the state may arrange for a review of such standards to determine whether they are in conformity with the standards set forth in Parts 1402 and 1403. Upon determination that applicable state standards are in substantial conformity with those set forth in parts 1402 and 1403, such state standards will then apply in measuring the performance of treatment and central intake services. All requests for review should be submitted in writing to the Director, Division of Community Assistance, National Institute on Drug Abuse, 11400 Rockville Pike, Rockville, Maryland 20852.

WRITTEN COMMENTS

All persons or organizations, including Federal and State agencies, having an interest in these proposed regulations are invited to submit written comments. Comments are requested to be in triplicate and should be submitted on or before January 22, 1975. They should be mailed or delivered to the Office of the General Counsel, Special Action Office for Drug Abuse Prevention, 726 Jackson Place, NW., Washington, D.C. 20506. Written comments will be available for public inspection in Room 3026 of this address during regular business hours.

Dated: December 23, 1974.

ROBERT L. DUPONT,
Director, Special Action Office for Drug Abuse Prevention.

PART 1402—FEDERAL FUNDING CRITERIA FOR DRUG TREATMENT SERVICES

Sec.

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1402.14 Patient follow-up.
1402.15 Patient record system.
1402.16 Program hours.
1402.17 Provision for meals.
1402.18 Compliance with all Federal and State regulations.
1402.19 Exceptions to requirements.

AUTHORITY: Secs. 310, 221, 222, the Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255. (21 U.S.C. 1120, 1131, and 1132).

§ 1402.01 Applicability.

This part is applicable to all drug abuse programs and projects which provide treatment and rehabilitation services, including but not limited to, outpatient methadone, residential methadone, residential drug free, outpatient drug free, and day care drug free, and which receive funding from any agency or department of the Federal Government through a grant or contract awarded after the effective date of this part. This part does not apply to programs conducted directly by departments and agencies of the Federal Government.

§ 1402.02 Definitions.

(a) *Patient.* The term "patient" means any person who has been accepted for treatment or rehabilitation services furnished under a contract or grant funded by an agency or department of the Federal Government.

(b) *Program.* The term "program" means a Federally funded activity through contract or grant which provides facilities and services for the treatment or rehabilitation of drug abuse patients.

(c) *Program director.* The term "program director" means the person having the ultimate responsibility for supervising and conducting a drug abuse treatment and/or rehabilitation program.

(d) *Treatment plan.* The term "treatment plan" means that mode of treatment or rehabilitation that is determined appropriate to meet the objective needs of the patient.

§ 1402.03 Technical assistance.

Drug abuse treatment and rehabilitation programs, which experience difficulty or for any reason have need for advice or assistance in meeting the funding criteria set forth in this part may obtain technical and other assistance from the Program Development Specialist, Division of Community Assistance, National Institute on Drug Abuse, 11400 Rockville Pike, Rockville, MD 20852.

§ 1402.04 General requirements.

The grantee or contractor shall provide the necessary facilities, materials, services, and personnel for the operation of a drug abuse treatment and rehabilitation facility. The contractor or grantee shall establish and operate, or shall engage a subcontractor to establish and operate such facilities, and provide such material, services, and personnel as are necessary to provide drug dependent persons with services in accordance with the provisions of this part. The grantee or contractor shall:

(a) Provide services through such drug abuse treatment or rehabilitation facilities as may be appropriate, at such site or sites as shall be approved by the contracting or awarding authority.

(b) Maintain all facilities in a clean, safe, and attractive condition in accordance with applicable standards established under Federal, State and local laws.

(c) Develop criteria which meet the requirements of this part for the admission of patients and the termination of services to them.

(d) Install and maintain appropriate equipment and furnishings which are suitable for the type of treatment and rehabilitation services being conducted.

(e) Establish procedures under which a complete personal, medical, and drug history for each patient will be developed upon the patient's entry to the program and maintained throughout the treatment and rehabilitation process. This is essential for the purpose of identifying symptoms of flashbacks, psychotic manifestations, and severe physical illness requiring immediate psychiatric or medical care and for the development of the pa-

tient's treatment plan. The intake process must proceed expeditiously to avoid discouragement and should not exceed a period of three days.

§ 1402.05 Minimum standards for physical and laboratory examinations.

(a) *Performance.* A physical and laboratory examination should be administered by qualified personnel as soon as practicable after the patient's admission but not later than 21 days after such admission. The procedures for such examination shall be detailed in the patient's treatment plan. Residential drug free programs are required to perform physical examinations at the earliest practicable time because of the possibility of infectious diseases and the close patient contact. In the event that the residential program has an induction phase, the physical examination should be performed during the period of such phase. This criterion is not intended to supersede FDA regulations requiring a phyical examination at intake.

(b) *Examination.* The physical and laboratory examination of each patient shall include:

(1) Investigation of the possibility of infectious disease, pulmonary, liver, cardiac abnormalities, dermatologic sequelae of addiction and possible concurrent surgical problems;

(2) Complete blood count and differential;

(3) Serological tests for syphilis;

(4) Routine and microscopic urinalysis;

(5) Urine screening for drugs (toxicology);

(6) SMA 12/60 or equivalent;

(7) Chest X-ray;

(8) Sickle cell, as appropriate;

(9) Australian antigen, as appropriate; and

(10) EKG and biological tests for pregnancy, as appropriate.

§ 1402.06 Pre-admission interview.

(a) *Information to be obtained.* Each patient seeking admission or re-admission shall be interviewed by a qualified mental health professional (i.e., a person who by virtue of training and experience is capable of assessing the psychological and sociological background of drug abusers to determine the optimum treatment plan). Under the supervision and guidance of the mental health professional, the staff shall take a complete personal history which should include the following information:

(1) Family background;

(2) Educational achievement;

(3) Vocational achievement;

(4) Problems of a legal nature, including history of criminal conduct;

(5) History relating to the use of drugs, including types of drugs abused, the extent of abuse and prior treatment experience; and

(6) Any other relevant information bearing on the patient's drug abuse problem.

(b) *Development of appropriate treatment plan.* A primary objective of the admission interview is to determine the most appropriate mode of treatment for the patient and to assure that he understands the nature of the program and what may be expected of him. Any program of treatment recommended should be designed to meet the needs of the patient consistent with the projected program expectations. Where a Central Intake Union (CIU) provides the intake screening, it is the responsibility of the program to which the patient has been referred by the CIU to develop an individually tailored treatment plan appropriate for the patient involved after a careful review of the records and an interview with the patient.

(c) *Reexamination and reports.* For persons receiving outpatient treatment, individual treatment plans shall be reexamined and altered where necessary, by the treatment team no less than every 90 days. For all other modalities, the individual treatment plan shall be reviewed and reexamined every 30 days. A complete report of each review shall be recorded in the patient's clinical record.

(d) *Information to be documented.* Each treatment plan must include documented information relating to (1) short and long term goals for treatment generated by both staff and client, (2) the assignment of a primary counselor, (3) a delineation of the type and frequency of counseling services to be provided, and (4) a delineation of those supportive services needed by the individual patient.

§ 1402.07 Medical services.

(a) Designation of medical director. Each grantee or contractor shall designate a medical director who must assume medical responsibility for the drug abuse treatment and rehabilitation program and be licensed to practice medicine in the jurisdiction in which the program is located. He must insure that the initial evaluation is properly performed and that the medical needs of each patient are periodically evaluated, and that emergency medical services, when needed, are adequately provided. It is also the responsibility of the medical director to determine what emergency medical equipment and supplies are needed to deal with possible overdoses and any other medical emergencies that might arise. Medical services which are not directly related to the provision of drug abuse treatment services should be provided through city or county medical facilities. Such medical services are not reimbursable under Federal contracts or grants, either directly or indirectly.

(b) *Services to patients receiving prescription medication (other than methadone).* Each grantee or contractor shall, for those patients receiving prescription medication through the program, establish procedures under which consultation with a program physician will be provided, at a minimum, once every four weeks, or more frequently if the needs of the patient require it.

§ 1402.08 Agreement for emergency services.

Each program is required to formalize a written agreement with a licensed hospital or hospitals in the community for the purpose of providing emergency, inpatient and ambulatory medical services as needed.

§ 1402.09 Mental health consultation.

Each program shall provide a minimum of 5 hours per week of professional mental health consultation per 100 patients. The objective of this consultation should be to review selected cases and to provide assistance to the staff in patient management or for the referral for psychiatric services.

§ 1402.10 Counseling.

A variety of counseling techniques may be utilized in individual, family, or group counseling sessions conducted by trained personnel under the supervision of a duly qualified professional. In the case of group counseling, the size of the group should range between 5 and 15 individuals. In outpatient methadone and outpatient drug free programs, each patient shall have available a minimum of three hours per week of counseling. In residential drug free, residential methadone, and day care drug free program, a minimum of 10 hours per week of formalized counseling shall be available for each patient. These counseling guidelines should be considered minimum for planning purposes; however, the actual counseling allotted should be based upon individual client needs.

§ 1402.11 Provision for supportive services.

The following supportive services shall be provided:

(a) Educational;

(b) Vocational counseling and training;

(c) Job development and placement; and

(d) Legal services through local licensed lawyers.

To the maximum extent possible programs shall utilize community resources to provide these services. Documentation of any agreements to provide the services set forth in this section shall be provided to contracting or awarding authority. If any program can adequately demonstrate inability to obtain the requisite supportive services, it must submit a formal request to their program development specialist to have such services provided directly.

§ 1402.12 Procedures for urine surveillance.

The following procedures shall be followed for urine surveillance:

(a) Urine specimens from each patient must be collected in a manner that minimizes falsification and on a randomly scheduled basis. In programs dispensing methadone, urine specimens for all patients must be analyzed weekly for opiates and monthly for methadone, amphetamines, barbiturates, as well as other drugs as indicated. For all other programs, it is recommended that urine specimens from all patients be analyzed at least monthly for opiates, methadone, amphetamines, barbiturates, as well as

other drugs as indicated. More frequent testing should occur when clinically indicated. Exceptions to these requirements may be authorized in particular circumstances.

(b) Laboratories used for urine testing shall comply with all State and Federal proficiency testing and licensure programs that are acceptable to the Secretary of DHEW Laboratories covered by this requirement include any independent, clinical, government or program facility that offers to perform presumptive analysis for screening purposes as well as definitive qualitative analysis for confirmed identifications.

(c) Urine testing results shall be used as one clinical tool for purposes of diagnosis, patient management, and in the determination of patient treatment plans. Patient records must reflect the manner in which test results are utilized, and shall distinguish presumptive from definitive qualitative laboratory results.

(d) Clinical directors electing to rely upon presumptive urinalysis results for patient management must demonstrate adequate access to definitive qualitative laboratory analysis for use when necessary, e.g., criminal justice system records, intake urine testing on all prospective methadone clients, any loss of patient privileges based on urinalysis results, and for random checks on less frequently used drugs not detectable by a screening method.

§ 1402.13 Vocational rehabilitation and employment programs.

All patients enrolled in outpatient treatment shall be encouraged to participate in either an educational program, a job training program or gainful employment as soon as appropriate but not later than 120 days from date of enrollment. In the case of patients enrolled in residential programs such patient shall be encouraged to enroll within 60 days after the date of admission. If, for any reason, a patient is not encouraged to seek such participation, the reasons therefor shall be recorded in the patient's records. Although patients may refuse to participate in these programs, they should be encouraged to do so as a basic element of the treatment plan.

§ 1402.14 Patient follow-up.

Each program shall establish a policy which will encourage a follow-up by maintaining minimum contact with discharged patients.

§ 1402.15 Patient record system.

Each program shall establish a patient record system to document and monitor patient care. This system shall comply with all Federal and State reporting requirements. All records shall be kept confidential in accordance with part 1401 of the Code of Federal Regulations. 21 CFR 1401.

§ 1402.16 Program hours.

A reasonable effort must be made to adjust the hours for the operation of the program to meet the needs of the patient. For outpatient treatment programs, consideration should be given to the employment hours of patients and clinic operating hours should be scheduled at such times as will not conflict with patient's working schedules. Patients who are not employed or who are not attending school or training programs are expected to arrange their schedules in order to receive services at suitable times. Where necessary to accommodate the needs of patients, the program must recognize that the usual 9 a.m. to 5 p.m. workday shall not be rigidly adopted for outpatient treatment. In many clinics with large patient admissions, a 12 hour day of operations is frequently necessary. In any event, the following minimum hours of operation shall be maintained:

(a) *Outpatient methadone.* Seven (7) days per week as follows: 5 days per week at 8 hours per day (in all cases at least 2 hours must be outside the regular 9 a.m. to 5 p.m. day) and two days per week at 4 hours per day.

(b) *Residential methadone and residential drug free.* Seven (7) days per week at 24 hours per day.

(c) *Outpatient drug-free.* At least 6 days per week: 5 days at 8 hours per day (in all cases at least 2 hours must be outside of the 9 a.m. to 5 p.m. regular schedule) and one day at 5 hours.

(d) *Day care drug free.* At least 6 days must be provided at 10 hours per day.

(e) *Central Intake Unit.* At least 5 days per week at 8 hours per day must be provided.

§ 1402.17 Provision for meals.

Residental methadone and residential drug free programs shall provide a minimum of 3 meals per day per patient. Day care drug free programs may provide one meal per patient per day is expedient.

§ 1402.18 Compliance with all Federal and State regulations.

All programs which use methadone for detoxification and maintenance treatment must comply with all of the regulations of the Food and Drug Administration as well as other applicable Federal and State regulations and directives.

§ 1402.19 Exceptions to requirements.

Any exceptions to the requirements of the criteria set forth in this Part 1402 may be requested by submitting an application to the Director, Division of Community Assistance, National Institute on Drug Abuse, 11400 Rockville Pike, Rockville, MD 20852. The application shall fully explain and justify the necessity for the requested exception.

PART 1403—FEDERAL FUNDING CRITERIA FOR DRUG TREATMENT CENTRAL INTAKE UNITS

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1403.02 Definitions.
1403.03 Technical assistance.
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1403.16 Compliance with all Federal and State regulations.
1403.17 Exceptions to requirements.

AUTHORITY: Secs. 210, 221, 222, Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255, 21 U.S.C. 1120, 1131, and 1132).

§ 1403.01 Applicability.

This part is applicable to all drug treatment central intake units which receive funding from any agency or department of the Federal Government through grant or contract awarded after the effective date of this part. The regulations of this part do not prohibit or supersede additional or more stringent requirements which may be imposed by Federal Departments or agencies through regulations or the terms and conditions of a grant or contract.

§ 1403.02 Definitions.

(a) *Patient.* The term "patient" means any person who has been accepted for treatment or rehabilitation services furnished under a contract or grant funded by an agency or department of the Federal Government.

(b) *Program.* The term "program" means a Federally funded activity through contract or grant which provides facilities and services for the treatment or rehabilitation of drug abuse patients.

(c) *CIU.* The term "CIU" means central intake unit.

(d) *Qualified mental health professional.* The term "qualified mental health professional" means a person who, by virtue of training and experience, is capable of assessing the psychological and sociological background of drug abusers to determine the treatment plan most appropriate for the patient.

(e) *Treatment plan.* The term "treatment plan" means that mode of treatment or rehabilitation that is determined appropriate to meet the objective needs of the patient.

§ 1403.03 Technical assistance.

Drug abuse treatment and rehabilitation programs which experience difficulty, or for any reason have need for advice or assistance, in meeting the funding criteria set forth in this part 1403, may obtain technical and other assistance from the Program Development Specialist, Division of Community Assistance, National Institute on Drug Abuse, 11400 Rockville Pike, Rockville, MD 20852.

§ 1403.04 General requirements.

The grantee or contractor shall provide adequate facilities, material, services, and personnel for the operation of a central intake facility. The contractor or grantee shall establish and operate,

NOTICE TO FEDERAL REGISTER READERS

or shall engage a subcontractor to establish and operate, such facilities and provide such material, services, and personnel as are necessary to provide such services to drug dependent persons in accordance with the provisions of this part. The central intake unit shall be established and operated at such site or sites as shall be approved by the awarding authority and under procedures which provide (a) criteria for the admission of patients and for the termination of services rendered to them and (b) informal, standardized, initial patient orientation, multi-phasic health screening, and referral to an appropriate treatment modality for new and readmitted patients.

§ 1403.05 Operation of facilities and examination of patients.

(a) *Hours of operation and maintenance of facilities.* Each CIU facility shall remain open at least 8 hours per day, 5 days per week. The intake process must proceed expeditiously to avoid discouragement and shall not exceed a period of two days. The facility shall be appropriately furnished to provide the required services and shall be maintained in a condition consistent with applicable regulations of Federal, State and local authorities.

(b) *Examination.* At the time of intake, an initial personal, medical, and drug history shall be obtained and also a physical and laboratory examination administered by qualified personnel. Such examination should check the possibility of infectious diseases, pumonary, liver, cardiac abnormalities, dermatologic sequelae of addiction and possible concurrent surgical problems. The laboratory examination should include a check of the following:

(1) Complete blood count and differential;

(2) Serologic test(s) for syphilis;

(3) Routine and microscopic urinalysis;

(4) Urine screening for drugs (toxicology);

(5) SMA 12/60 or equivalent;

(6) Chest X-ray;

(7) Sickle Cell, as appropriate;

(8) Australian antigen, as appropriate;

(9) Pap Smear and gonorrhea culture, as appropriate;

(10) Tetanus toxoid as appropriate; and

(11) DKG and biological tests for pregnancy, as appropriate.

§ 1403.06 Medical services.

Each grantee or contractor shall designate a medical director who must assume medical responsibility for the CIU and be licensed to practice medicine in the jurisdiction in which the program is located. He must insure that the initial evaluation is properly performed and that the medical needs of each patient are properly evaluated and/or referred, as the case may be. Medical services shall include initial diagnostic work up, identification of medical and surgical problems for referral to other treatment facilities, and a review of patients' records. The medical director should, if appropriate, request a copy of the patient's previous medical records and shall forward them to the appropriate treatment center.

§ 1403.07 Agreement for emergency services.

Each program is required to formalize a written agreement with a licensed hospital or hospitals in the community for the purpose of providing emergency, inpatient and ambulatory medical services as needed. Such services which are not directly related to the provision of drug abuse treatment services, are not reimbursable under a contract or grant, either directly or indirectly.

§ 1403.08 Pre-admission interview.

Each program shall conduct an interview of each new patient admitted or a former patient re-admitted by a mental health professional or by qualified intake counselor under the supervision of such a professional. In the course of the interview, the staff shall take a complete personal history, including information as to the patient's family, education, vocation, drug history (including the kinds of drugs abused and when commenced) and prior treatment services. The staff should then discuss with the patient the various treatment modalities available to him. After discussing the availability of these modalities in the light of the patient's particular needs (including the results of the physician's evaluation), a treatment plan should be selected by mutual agreement and an appropriate referral made.

§ 1403.09 Patient file.

The program should maintain a patient file of all drug dependent individuals referred for treatment through its screening and referral unit. This file should be updated by the particular agencies as transfers to other programs and terminations occur. These records shall be held confidential and shall not be disclosed except as authorized by applicable laws and regulations.

§ 1403.10 Referral for treatment.

Upon reaching an agreement, as to the modality to be applied, the patient should be referred to treatment within 48 hours and his intake records transferred to the center administering such treatment.

§ 1403.11 Uniform intake procedures.

Each receiving treatment program shall maintain uniform intake procedures so that it will not be necessary for programs which receive patients from the CIU to perform duplicate services.

§ 1403.12 Urine surveillance.

Urine specimens should be obtained from each patient under appropriate supervision during the intake process. The specimens must be analyzed for morphine, methadone, cocaine, codeine, amphetamines, barbiturates, as well as other drugs if indicated. Laboratories which are used for urine testing must comply with all Federal and State proficiency testing programs.

§ 1403.13 Patient record keeping.

Each CIU program shall establish a record system for patients which must be adequate to meet all Federal and State reporting requirements and records shall be kept confidential in accordance with part 1401 of this Title (21 CFR 1401).

§ 1403.14 Agreements between CIU and community programs.

Each CIU program shall establish and provide the awarding agency with documentary evidence of formal agreements with community based drug treatment programs. Such documentary evidence shall include the treatment program's agreement to utilize the CIU for patient intake functions and to avoid duplication of effort. They should also provide for the acceptance of only those patients who have been processed through the CIU.

§ 1403.15 Definition of procedures by CIU.

Each CIU program shall define:

(a) The procedure by which applicants shall be oriented to available options;

(b) The decision making process for determining recommended referral;

(c) The decision making process for "mutual agreement" between applicants, programs, and CIU staff regarding referral; and

(d) Procedures for meeting the needs of patients referred to the CIU for re-screening and referral to a more suitable modality or program. These shall be subject to Federal and State approval.

§ 1403.16 Compliance with all Federal and State regulations.

All programs which use methadone for detoxification and maintenance treatment must comply with all regulations of the Food and Drug Administration as well as all other relevant Federal and State regulations and directives.

§ 1403.17 Exceptions to requirements.

Applications for exceptions to the criteria and requirements set forth in this part 1403 should be submitted to the Director, Division of Community Assistance, National Institute on Drug Abuse, 11400 Rockville Pike, Rockville, MD 20852, for his consideration and action. Each application shall fully explain and justify the necessity for the requested exception.

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Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—
- Almonds grown in California; termination of certain provision; comments by 1–3–75..... 43848; 12–19–74
- Canned grapefruit and oranges; revision of grade standards; comments by 12–31–74..... 43551; 12–16–74
- Dried prunes produced in California; modification of salable and reserve percentages for 1974–75 crop year; comments by 1–3–75..... 43634; 12–17–74
- United States standards for grades for mechanically harvested American (Eastern type) grapes for processing; comments by 12–30–74. 22958; 6–25–74

Rural Electrification Administration—
- Alternate bid provisions; purchase of materials and equipment; comments by 12–30–74..... 41535; 11–29–74

ATOMIC ENERGY COMMISSION

- Measurement Control Program; special nuclear material; comments by 12–30–74 ..... 38392; 10–31–74

CIVIL AERONAUTICS BOARD

- Travel group charters; deletion of termination date; comments by 1–3–75. 41995; 12–4–74

CONSUMER PRODUCT SAFETY COMMISSION

- Administrative policy and procedures; comments by 12–30–74..... 37780; 10–24–74

ENVIRONMENTAL PROTECTION AGENCY

- Coal preparation plants; standards of performance for new stationary sources; comments by 12–30–74. 40512; 11–18–74
- New portable air compressors; comments by 12–31–74..... 42379; 12–5–74
- Transportation equipment noise emission for medium and heavy duty trucks; comments by 12–31–74. 42379; 12–5–74

FEDERAL COMMUNICATIONS COMMISSION

- Wireless microphones; order extending time for filing comments and reply comments; comments by 1–3–75. 42922; 12–9–74

FEDERAL HOME LOAN BANK BOARD

- Federal Home Loan Bank System; liquid assets; comments by 12–31–74. 41264; 11–26–74
- Federal Savings and Loan System; interest on escrow funds; comments by 12–31–74..... 41386; 11–27–74

FEDERAL POWER COMMISSION

- Accounts and reports; construction work in progress; comments by 12–30–74. 40787; 11–20–74

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—
- Educational opportunity programs; funding criteria for fiscal year 1975; comments by 12–30–74.... 41536; 11–29–74

Food and Drug Administration—
- Acrylonitrile copolymers intended for use in contact with food; comments by 1–3–75..... 38907; 11–4–74
- Federal-State cooperative program; food service sanitation; comments by 12–30–74..... 35438; 12–1–74
- Frozen strawberries; identity and quality standards; comments by 1–2–75..... 35809; 10–4–74
- Land and air conveyances, and vessels: food; comments by 12–30–74. 35438; 10–1–74
- New animal drug applications; comments by 1–3–75..... 38909; 11–4–74

Office of the Secretary—
- Handling of late proposals; policies and procedures; comments by 1–3–75..... 41988; 12–4–74
- Support for improvement of post-secondary education; comments by 1–2–75 ..... 41748; 12–2–74

INTERIOR DEPARTMENT

Indian Affairs Bureau—
- Ahtanum Indian Irrigation Project; irrigation operation and maintenance charges; comments by 12–30–74. 41534; 11–29–74
- Fort Hall Irrigation Project; irrigation operation and maintenance charges; comments by 12–30–74. 41534; 11–29–74
- Wapato Indian Irrigation Project; irrigation operation and maintenance charges; comments by 12–30–74. 41534; 11–29–74

National Park Service—
- Cape Hatteras National Seashore, North Carolina; proposed fishing regulations; comments by 1–2–75. 43728; 12–18–74

INTERSTATE COMMERCE COMMISSION

- Transportation of "waste" products for reuse and recycling; comments by 1–2–75 ..... 41863; 12–3–74

NATIONAL CREDIT UNION ADMINISTRATION

- Mergers of credit unions; comments by 1–2–75 ..... 39476; 11–7–74

SECURITIES AND EXCHANGE COMMISSION

- Alternative approach for certain brokers and dealers; net capital requirements; comments by 12–31–74..... 41540; 11–29–74
- Mutual fund sales literature; commission statement of policy; comments by 12–30–74 ..... 40789; 11–20–74

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—
- Airworthiness directive Boeing 727; comments by 12–30–74.... 40036; 11–13–74
- Alteration of transition area; comments by 1–3–75.... 41994, 41995; 12–4–74
- Boeing model 747–100/200 series airplanes; proposed airworthiness directive; comments by 12–31–74. 41261; 11–26–74
- Designation of the Kenansville, N.C. transition area; comments by 1–2–75..... 41751; 12–2–74
- Federal airways; proposed alteration; comments by 1–2–75..... 41855; 12–3–74
- Transition area; proposed alteration; comments by 1–2–75..... 41855; 12–3–74

Next Week's Meetings

AGRICULTURE DEPARTMENT

Forest Service—
- Tonto National Forest Grazing Advisory Board; to be held at Phoenix, Arizona (open with restrictions) 1–3–75. 40599; 11–19–74

ATOMIC ENERGY COMMISSION

- Ad Hoc Isotopes subcommittee general advisory committee; to be held at Menlo Park, Calif., on 1–3–75. 43753; 12–18–74

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CIVIL SERVICE COMMISSION

Federal Prevailing Rate Advisory Committee; to be held at Washington, D.C., on 1–9–75, 1–16–75, 1–23–75, 1–30–75 ..... 43776; 12–18–74

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—

National advisory bodies; to be held at Washington, D.C., on 1–2–75 and 1–3–75.... 43746; 12–18–74

National advisory bodies; Mental Health Services Research Review Committee; to be held at Santa Fe, N. Mex., on 1–6 to 1–8–75. 43746; 12–18–74

National advisory bodies; to be held at Washington, D.C. on 1–6–75, thru 1–12–75..... 43746; 12–18–74

INTERIOR DEPARTMENT

Land Management Bureau—

Albuquerque District Advisory Board; to be held at Albuquerque, New Mexico (open with restrictions) 1–3–75..... 39586; 11–8–74

Arizona Phoenix District Advisory Board; to be held at Kingman, Ariz. (open with restrictions) 1–3–75..... 42015; 12–4–74

Arizona Strip District Advisory Board; to be held in St. George, Utah (open with restrictions) 1–3–75. 43095; 12–10–74

National Advisory Board Council; to be held in Denver, Colo. (open) 1–3–75..... 43561; 12–16–74

New Mexico Grazing District 3 Advisory Board; to be held in Las Cruces, New Mexico (open) 1–3–75..... 39483; 11–7–74

Safford District Advisory Board; to be held at Safford, Ariz. (open with restrictions) 1–3–75..... 42015; 12–4–74

Susanville District Grazing Advisory Board, Calif.; to be held at Susanville, Calif. (open with restrictions) 1–3–75..... 42015; 12–4–74

Office of the Assistant Secretary—

Oil Shale environmental advisory panel; to be held at Lakewood, Colo., on 1–9–75..... 43743; 12–18–74

MANAGEMENT AND BUDGET OFFICE

Advisory Committee on GNP Data Improvement; to be held in Washington, D.C. (open) 1–2–75..... 43594; 12–16–74

Advisory Committee on Social Indicators (open) 1–3–75..... 43426; 12–13–74

NATIONAL ENDOWMENT FOR THE HUMANITIES

Fellowships Panel; to be held at Washington, D.C. (closed) 1–3–75. 42428; 12–6–74

Fellowships Panel; to be held at Washington, D.C. (closed) 1–3, 1–13, and 1–17–75..... 41314; 11–26–74

STATE DEPARTMENT

Office of the Secretary—

Department of Defense Wage Committee; to be held at Washington, D.C. (closed) 12–31–74.... 39747; 11–11–74

VETERANS ADMINISTRATION

Veterans Administration Wage Committee; to be held in Washington, D.C. (closed) 1–2–75..... 41787; 12–2–74

Weekly List of Public Laws

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

S. 433..... Pub. Law 93–523
Safe Drinking Water Act
(Dec. 16, 1974; 88 Stat. 1660)

S. 1353..... Pub. Law 93–524
Vessels, net tonnage for waste materials
(Dec. 18, 1974; 88 Stat. 1694)

S. 3906..... Pub. Law 93–525
Flying units of the Air Force, aeronautical ratings for command
(Dec. 18, 1974; 88 Stat. 1695)

S. 4016..... Pub. Law 93–526
Presidential Recordings and Materials Preservation Act
(Dec. 19, 1974; 88 Stat. 1695)

The following bill was vetoed by the President: S3537, to modify section 204 of the Flood Control Act of 1965 (79 Stat. 1085); Weekly Compilation of Presidential Documents, Vol. 10, No. 51.

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

SUBCHAPTER C—PROCUREMENT PRACTICES

PART 331—CONTRACT CLAUSE

PART 351—BASIC REQUIREMENTS

Additional Exemption

The purpose of this publication by the Cost Accounting Standards Board is to adopt modifications to Part 331, Contract Coverage, and Part 351, Basic Requirements, of its rules and regulations. These modifications will provide an exemption from Cost Accounting Standards Board requirements for certain national defense contracts and subcontracts of $500,000 or less.

Public Law 91-379 requires that Cost Accounting Standards must be used in all negotiated prime contract and subcontract national defense procurements with the United States in excess of $100,000, with certain stated exceptions. From time to time the Board refers to contracts subject to its rules and regulations as "covered contracts". Section 719 (h) (2) of Pub. L. 91-379 authorizes the Cost Accounting Standard Board to prescribe rules exempting from its requirements such classes or categories of national defense contractors and subcontractors as it determines, on the basis of the size of the contracts involved or otherwise, are appropriate and consistent with the purposes sought to be achieved by Pub. L. 91-379. The Board has granted several exemptions to classes or categories of contractors and subcontractors and also has established a procedure under which waiver of the Board's requirements may be granted for individual contracts.

A proposed exemption increasing the minimum contract amount requiring compliance with Cost Accounting Standards Board rules, regulations and Standards from $100,000 to $500,000 was published by the Board on September 27, 1974 (39 FR 34669). The Board received 82 responses to the September 27 proposal. Comments were received from individual companies, government agencies, professional associations, industry associations, public accounting firms, and individuals. All of these comments have been carefully considered by the Board, and the Board takes this opportunity to express its appreciation for the helpful suggestions which have been furnished.

The comments below summarize the major issues discussed by respondents in connection with the initial publication and explain the Board's disposition of these issues.

Issuance of the exemption. Practically all the commentators expressed concurrence in the proposed exemption, giving either unqualified support or support with added comments that additional exemptions should also be considered. However, three commentators—a consulting firm, a major aerospace company and a Government agency—disagreed with the proposed exemption, stating that an increase in the threshold for compliance with CAS requirements was inconsistent with the Board's objective of establishing uniformity and consistency among contractors doing business with the Government.

The Board agrees that the adoption of the proposed regulation will exempt a substantial number of contractors and subcontractors who otherwise would be covered, and consequently will permit such companies to follow accounting practices other than those set out in Cost Accounting Standards. However, the Board is aware that compliance with its rules, regulations and standards may involve additional administrative effort, particularly on the part of small companies, which may not be commensurate with the benefit to the Government or the contractor resulting from such compliance. The Board, after considering the efforts required by both the Government and its contractors to assure compliance on all covered contracts in excess of $100,000, is persuaded that maximum benefit to the Government with minimum cost can be achieved by limiting the mandatory application of its standards to contractors who receive awards which constitute a substantial majority of the national defense procurement dollars. As was stated at the time the proposed exemption was issued for comment, some 70 percent of the prime contractors of the Department of Defense did not receive one or more negotiated awards in excess of $500,000 in Fiscal Year 1973. Thus, only 30 percent, or approximately 750 prime contractors, who received contract awards totaling $20 billion, would continue to be covered. The exemption would remove coverage from only about 10 percent of the dollar value of annual DOD awards.

In view of the foregoing, the Board considers the proposed exemption increasing the minimum contract amount requiring compliance with the Cost Accounting Standards Board rules, regulations, and standards to be in keeping with the purposes sought to be achieved by Pub. L. 91-379 and to be an appropriate exercise of the authority granted to the Board by section 719(h) (2) of that law.

Increase exemption on all contracts to $500,000. A number of commentators suggested that the $500,000 single contract threshold for compliance with Board rules, regulations, and standards be changed to exempt all contracts of $500,000 or less. Those giving reasons in support of this suggestion generally based their comments on simplification of administration. These commentators felt that it would be difficult for the Government or prime contractors, when awarding a prime contract or subcontract in excess of $100,000 to determine whether the contractor or subcontractor had in existence a prior $500,000 covered contract.

The Board, in proposing the $500,000 threshold, did so with the intent of exempting those companies which do not receive contracts in excess of $500,000 from the Government. However, it was decided in the interest of consistency in cost accounting practices that once a contractor had received a covered contract of that size, compliance with CASB rules, regulations and standards on contracts at the level established in Pub. L. 91-379 was appropriate. This is also consistent with the desire expressed by contractors to follow a single set of accounting practices. Further, the requirement for coverage of contracts in excess of $100,000 where the contractor already has received a covered contract in excess of $500,000 will permit the small contracts to be available for equitable adjustment if subsequently issued standards should become applicable. Moreover, once the administrative effort has been expended to comply with standards for contracts in excess of $500,000, compliance with standards on contracts above the statutory threshold of $100,000 requires little added effort.

With respect to the commentators' statements concerning the difficulties, when making an award exceeding $100,000, of determining whether a contractor or subcontractor had in existence a prior award exceeding $500,000, the Board feels that an administrative requirement can be established for obtaining this information. A similar requirement now exists concerning the disclosure statement, whereby contractors are required to submit a disclosure statement, state that they have previously filed a disclosure statement, or submit a certificate of monetary exemption. The Board feels that a similar requirement can be set concerning the $500,000 level. The Board is not persuaded that this matter would create problems of sufficient significance to eliminate coverage down to the $100,000 level.

In considering the advantages of the exemption as proposed compared to its assessment of the administrative difficulties foreseen by commentators, the Board is persuaded that its proposal relative to coverage of awards in excess of $100,000 should not be changed.

Exemption based on sales. A number of commentators urged that the Board establish an exemption based on sales, using either minimum annual dollar amount of sales to the Government, or Government sales as a percentage of total annual sales, or a combination of these two factors. The most frequently suggested amount was $10 million of sales to the Government or Government sales amounting to 10 percent of total annual sales. The objective sought by these commentators was an exemption of those companies or business units whose sales to the Government constituted a reasonably small portion of their total annual sales and whose business was essentially commercially oriented.

The Board has given lengthy consideration to the use of a sales basis for the establishment of a minimum threshold for compliance with its rules, regulations and standards. It did not use that basis at this time due to the nature of the problems involved in administering an exemption based on sales. In either of the situations suggested by commentators, the representation concerning the amount of sales must be made by the contractor and subsequently verified by the Government. This verification would impose very substantial and time-consuming efforts on both the Government and the contractor. Particularly in the case of Government sales as a percentage of total sales, Government representatives would be placed in the position of examining a contractor's total sales, including those made in its commercial business. Examination of a company's records concerning its total sales is not presently performed by Government procurement activities and would present new and unique problems to both parties as well as requiring substantial additional effort on the part of Government representatives.

An exemption based on sales would require a measurement period during which a contractor's status with respect to compliance with standards would be determined. Contracts under which sales were recorded during this period would not be subject to standards. If the volume of sales during the measurement period exceeded a stated threshold, a contractor would then be required to comply with standards under contracts received in subsequent periods. Thus, the contracts that brought the contractor under the Board's rules would not be subject to standards, while those received at a later time would be.

The Board has decided that the administrative problems involved with an exemption based on sales should be considered before establishing such a threshold. The Board will continue to study these problems and investigate whether exemptions based on criteria other than a minimum contract amount would be appropriate and consistent with the purposes of Pub. L. 91-379.

Retroactivity. Several commentators requested that the Board modify its proposal so as to provide retroactive exemption to existing contracts where the circumstances are such that these existing contracts would have been exempt if awarded after the effective date of the proposed regulation.

The Board has no authority to modify existing contractual agreements between the government procurement agencies and their contractors. However, the Board sees nothing inconsistent with its regulations or with Pub. L. 91-379 in modification by the procurement agencies of contracts in this category, assuming of course that the Government receives adequate consideration for deletion of the CAS requirements.

Increase minimum amount. A number of commentators recommended that the exemption proposed be increased to an amount greater than $500,000, the figure of $1,000,000 being frequently mentioned. The Board is not now prepared to raise further the minimum contract amount requiring compliance with its promulgations. The Board, in studying an exemption based on minimum contract amount, concluded that the $500,000 threshold was the most appropriate one for achieving its objectives, all factors considered. The Board will continue to examine various limitations but considers that the threshold established in the proposed exemption best meets its requirements and obligations at this time.

Effect of final payment under contracts subject to CAS clause. Several commentators urged that the exemption of contracts of $500,000 or less should not be dependent on the final payment on contracts which are subject to Board requirements, on the grounds that final payment can occur a substantial period of time after completion of work on a contract and that there are many technicalities in closing out a contract which do not involve cost accounting applications.

The Board considers this point to be well taken and has changed the requirement in § 331.30(b)(8) where it first appears to "notification of final acceptance of all items or work to be delivered." At that time it is considered that all direct costs will have been charged to the contract since all work will have been completed, and any further accounting transactions would be the result of adjustments not directly related to contract performance.

Reduction of contract price by exclusion of commercial items. Some commentators, in reading the introductory comments to the Board's initial publication of this exemption, interpreted the phrase "minimum contract amount requiring compliance" in a manner not at all intended by the Board. These commentators interpreted this phrase to permit the price of a contract subject to standards to be reduced by the value of those individual contract items or subassemblies of final contract items whose prices could be considered to be "catalog" or "market" prices, if sold separately. They requested that the regulation be clarified to reflect their interpretation of the Board's introductory comments.

Those requesting this clarification misunderstood the Board's intentions. The Board does not intend that the price of a contract be adjusted to exclude the price of items or subassemblies which, if purchased separately, might be exempt from the Board's promulgations. Consequently, the change in the regulation requested by commentators on this point would be completely inappropriate.

Definition of contractor. One commentator noted that the prefatory comments to the Board's September 27, 1974, publication specifically mentioned the fact that receipt of a contract in excess of $500,000 by one business unit of a multi-unit company would not in itself require other units of the same company to follow Board requirements. This commentator requested that the definitions of "defense contractor" and "defense subcontractor" contained in § 331.20 (b) and (c) be modified to reflect this intention by the Board.

As the Board stated in its September 27 publication, its contract requirements have been applied to business units, such as a profit center, division, subsidiary, or similar unit of a company, which perform the contract, even in those cases where the contract was entered into on behalf of the overall company rather than the business unit. This application of the Board's requirements to a performing business unit is well established and unchallenged, and clarification of the definitions of "contractor" and "subcontractor" does not appear necessary.

Effective date. Several commentators raised questions concerning the effective date of the eligibility for this exemption in relation to awards received prior to January 1, 1975. Contractors who have received a prime contract or subcontract in excess of $500,000 subject to cost accounting standards prior to January 1, 1975, and on which notification of final acceptance of all items or work to be delivered on that contract or subcontract has not been received, is a contractor who has "already received a contract or subcontract in excess of $500,000." as that phrase is used in § 331.30(b)(8). Therefore, today's publication requires that a contractor meeting this test will be required to comply with standards on all covered prime contracts or subcontracts in excess of $100,000 received after January 1, 1975, under the provisions of § 331.30.

(Sec. 103, 84 Stat. 796 (50 U.S.C. App. 2168))

In view of the foregoing, the following additions and changes to Part 331 and Part 351 of the Board's regulations are being made effective January 1, 1975.

1. Amend § 331.30(a), *Applicability, exemption, and waiver,* by adding after the words, "in excess of $100,000", the following, "except as provided in paragraph (b) of this section,".

2. Amend the same § 331.30 by adding the following new paragraph (b)(8).

These amendments would have the following effect:

§ 331.30 Applicability, exemption, and waiver.

(a) The head of each relevant Federal agency shall cause or require the clause set forth in § 331.50 captioned Cost Accounting Standards to be inserted in all negotiated defense contracts in excess of $100,000, except as provided in paragraph (b) below, other than contracts entered into by the agency where the price is based on: (1) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. Additionally, all solicitations, likely to result in a contract in which the clause set forth in § 331.50 must be inserted, shall include the notice set forth in § 331.40 captioned Disclosure Statement—Cost Accounting Practices and Certification.

* * * * *

(b) * * *

(8) Any contract or subcontract of $500,000 or less, unless it is awarded to a contractor who, on the date of such award, (i) has already received a contract or subcontract in excess of $500,000 and (ii) has not received notification of final acceptance of all items of work to be delivered on that contract or subcontract and on all other contracts or subcontracts awarded after January 1, 1975, which were subject to the cost accounting standards clause. For the purposes of this paragraph (b)(8) an intra-corporate transfer shall be considered to be a subcontract. Notwithstanding this exemption, any contractor entitled to an exemption under this paragraph (b)(8) may elect to comply with the cost accounting standards clause. The contractor may elect to comply in connection with the receipt of its first contract or subcontract awarded after January 1, 1975, which but for this paragraph (b)(8) would be subject to the clause. A contractor who does not elect to comply with the clause in connection with the receipt of the first contract or subcontract, may thereafter make such an election only if it receives a contract or subcontract of the type described, at a time when it has no other contract or subcontract of that type on which notificaion of final aceptance of all items or work to be delivered has not been received.

3. Amend § 331.40, *Solicitation notice,* by adding after the words in the first sentence of paragraph (a), "law or regulation," the following, "and except for contracts which may be exempt under the provisions of 4 CFR 331.30(b),".

This amendment would have the following effect:

§ 331.40 Solicitation notice.

DISCLOSURE STATEMENT—COST ACCOUNTING PRACTICES AND CERTIFICATION

(a) Any contract in excess of $100,000 resulting from this solicitation, except contracts where the price negotiated is based on: (1) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation, and except for contracts which may be exempt under the provisions of 4 CFR 331.30(b), will be subject to the requirements of the Cost Accounting Standards Board. Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of the Cost Accounting Standards Board must, as a condition of contracting, submit a disclosure statement as required by regulations of the Board. The disclosure statement must be submitted as a part of the offeror's proposal under this solicitation unless, in compliance with agency procedures, the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal, or unless post-award submission has been authorized by the contracting officer in accordance with regulations of the Cost Accounting Standards Board (see 4 CFR 331.60). If an applicable disclosure statement has already been submitted, the offeror may satisfy the requirement for submission by providing the following information: [1]

CERTIFICATION (APPLICABLE ONLY TO PROPOSALS RESULTING IN CONTRACTS SUBJECT TO COST ACCOUNTING STANDARDS BOARD REQUIREMENTS)

By submission of this offer, the offeror certifies that his practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable disclosure statement.

4. Amend § 331.50, *Contract clause,* by adding after "law or regulation" in subsection (d)(2), the following: ", and except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to accept the cost accounting standards clause by reason of § 331.30(b) of Title 4, Code of Federal Regulations (4 CFR 331.30(b))."

This amendment would have the following effect:

§ 331.50 Contract clause.

* * * * *

(d) The contractor shall include in all negotiated subcontracts which he enters into the substance of this clause except paragraph (b) of this section, and shall require such inclusion in all other subcontracts of any tier, except that this requirement shall apply only to negotiated subcontracts in excess of $100,000 where the price negotiated is not based on:

(1) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or

(2) Prices set by law or regulation, and except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to accept the cost accounting standards clause by reason of § 331.30(b) of Title 4, Code of Federal Regulations (4 CFR 331.30(b)).

* * * * *

5. Amend section 351.40, *Filing requirement,* by inserting in the first sentence of paragraph (a) after the figures "$100,000", the following, "except as provided in 4 CFR 331.30(b)," and by inserting in the second sentence of paragraph (a) after the figures, "$100,000", the following, "except as provided in 4 CFR 331.30(b),".

This amendment would have the following effect;

§ 351.40 Filing requirement.

(a) The requirements of this part are applicable to all defense contractors who enter into negotiated national defense contracts with the United States in excess of $100,000, except as provided in 4 CFR 331.30(b), other than contracts where the price negotiated is based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. A separate disclosure statement must be submitted covering the practices of each of the contractor's profit centers, divisions, or similar organizational units whose costs included in the total price of any contract exceed $100,000, except as provided in 4 CFR 331.30(b), except where such costs are based on (i) established catalog or market prices of commercial items sold in substantial quantities to the general public or (ii) prices set by law or regulation. If the cost accounting practices under contracts are identical for more than one organizational unit, then only one statement need be submitted for those units, but each such organizational unit must be identified. A disclosure statement will also be required for each corporate or group office whose costs are allocated to one or more corporate segments performing contracts covered by Pub. L. 91-379.

* * * * *

6. Amend § 351.130, *Instructions and information,* by adding to paragraph (a) of the instructions set forth in this section at the end of the third sentence thereof, the following, "or contracts exempt under the provisions of 4 CFR 331.30(b)", and by adding to the fourth sentence of paragraph (a) of the instructions set forth in this section the words, "or contracts exempt under the provisions of 4 CFR 331.30(b)," at the end thereof.

This amendment would have the following effect:

§ 351.130 Instructions and information.

The following instructions and information shall be used by persons completing disclosure statements.

INSTRUCTIONS AND INFORMATION

(a) This disclosure statement has been designed to meet the requirements of Pub. L. 91-379, and persons completing it are to describe their contract cost accounting practices. For timing of requirement to file a disclosure statement, see § 351.40. A statement must be submitted by all defense contractors who enter into negotiated national defense contracts with the United States in excess of $100,000 other than contracts where the price negotiated is based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law

[1] (The agency issuing the solicitation should specify the data which it will accept if any in lieu of resubmission of a disclosure statement already submitted.)

or regulation, or contracts exempt under the provisions of 4 CFR 331.30(b). A separate disclosure statement must be submitted covering the practices of each of the contractor's profit centers, divisions, or similar organizational units, whose costs included in the total price of any contract exceed $100,000, except where such costs are based on (i) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (ii) prices set by law or regulation, or contracts exempt under the provisions of 4 CFR 331.30(b). If the cost accounting practices under contracts are identical for more than one organizational unit, then only one statement need be submitted for those units, but each such organizational unit must be identified. A disclosure statement will also be required for each corporate or group office when costs are allocated to one or more corporate segments performing contracts covered by Pub. L. 91-379, but only Part VIII of the statement need be completed.

* * * * *

NOTE: Forms CASB-DS-1 and CASB-DS-2, referred to in 4 CFR, §§ 351.140 and 351.145, respectively, when revised, will be modified in accordance with the modifications to 4 CFR 351.130.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.74-29625 Filed 12-23-74;8:45 am]

Title 21—Food and Drugs

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Removal of Naloxone and Its Salts From Control

A notice was published in the FEDERAL REGISTER, on July 10, 1974 (39 FR 25327) proposing the removal of naloxone and its salts from Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91-513). All interested persons were given 30 days after publication to submit their objections, comments, or requests for hearing.

In view of the fact that no comments, objections, or requests for a hearing were received as to the proposed order, and based upon the investigation of the Drug Enforcement Administration and upon the scientific and medical evaluation and recommendation of the Secretary of Health, Education, and Welfare, received pursuant to section 201(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(b)), the Administrator of the Drug Enforcement Administration finds that naloxone and its salts have a currently accepted medical use in treatment in the United States and do not have at this time a potential for abuse or abuse liability to justify continued control in any schedule under the Act.

Therefore, under the authority vested in the Attorney General by section 201 (a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(a)), and redelegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator hereby orders that § 1308.12(b)(1) of Title 21 of the Code of Federal Regulations be amended to read as follows:

§ 1308.12 Schedule II.

* * * * *

(b) * * *

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding naloxone and its salts, but including the following:

(i) Raw opium	9600
(ii) Opium extracts	9610
(iii) Opium fluid extracts	9620
(iv) Powdered opium	9639
(v) Granulated opium	9640
(vi) Tincture of opium	9630
(vii) Apomorphine	9030
(viii) Codeine	9050
(ix) Ethylmorphine	9190
(x) Etorphine hydrochloride	9059
(xi) Hyrocodone	9193
(xii) Hydromorphone	9150
(xiii) Metopon	9260
(xiv) Morphine	9300
(xv) Oxycodone	9143
(xvi) Oxymorphone	9652
(xvii) Thebaine	9333

This order is effective December 24, 1974.

Dated: December 18, 1974.

JOHN R. BARTELS, JR.,
Administrator,
Drug Enforcement Administration.

[FR Doc.74-29925 Filed 12-23-74;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. 1 To Sixth Rev. S.O. 1124]

PART 1033—CAR SERVICE

Demurrage and Free Time on Freight Cars

DECEMBER 19, 1974.

At a Session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 17th day of December 1974.

Upon further consideration of Sixth Revised Service Order No. 1124 (39 FR 40500), because of substantial reductions in carloadings during the Christmas-New Year period, and for other good cause appearing:

It is ordered, That:

§ 1033.1124 *Service Order No. 1124* be, and it is hereby, suspended until further order of the Commission.

Effective date. This amendment shall become effective at 7 a.m., December 21, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, and 17(2)). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10-17), 15(4), and 17(2)))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the FEDERAL REGISTER.

By the Commission, Division 3.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-29997 Filed 12-23-74;8:45 am]

[Amdt. 1 to S.O. 1201]

PART 1033—CAR SERVICE

Demurrage and Free Time at Ports

DECEMBER 19, 1974.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 17th day of December 1974.

Upon further consideration of Service Order No. 1201 (39 FR 40501), because of substantial reductions in carloadings during the Christmas-New Year period, and for other good cause appearing:

It is ordered, That:

§ 1033.1201, *Service Order No. 1201* be, and it is hereby, suspended until further order of the Commission.

Effective date. This amendment shall become effective at 7 a.m., December 21, 1974.

Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, and 17(2)). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10-17), 15(4), and 17(2)).

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the FEDERAL REGISTER.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-29998 Filed 12-23-74;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-491]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The Federal Insurance Administrator finds that comment and public procedure and the use of delayed effective dates in identifying the areas of communities which have special flood or mudslide hazards, in accordance with 24 CFR Part 1915, would be contrary to the public interest. The purpose of such identific ations is to guide new development away from areas threatened by flooding. Since this publication is merely for the purpose o f informing the public of the location of areas of special flood hazard and has no binding effect on the sale of flood insurance or the commencement of construction, notice and public procedure are impracticable, unnecessary, and contrary to the pu blic interest. Inasmuch as this publication is not a substantive rule, the identification of special hazard areas shall be effective on the date shown. Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Alabama	Chambers	Lafayette, town of.	H 010028 01 through H 010028 08	Alabama Development Office, Office of State Planning, State Office Bldg., 501 Dexter Ave., Montgomery, Ala. 36104. Alabama Insurance Department, Room 453, Administrative Bldg., Montgomery, Ala. 36104.	Mayor, City Hall, Town of Lafayette, Lafayette, Ala. 36862.	Dec. 6, 1974.
Do	Bullock	Union Springs, city of.	H 010016 01 through H 010016 04	do	Mayor, City Hall, City of Union Springs, Union Springs, Ala. 36089.	Do.
Do	Geneva	Malvern, town of.	H 010097 01 through H 010097 02	do	Mayor, Town of Malvern, Malvern, Ala. 36344.	Do.
Do	Crenshaw	Unincorporated areas.	H 010245 01 through H 010245 02	do	County Commissioner, Crenshaw Courthouse, County of Crenshaw, Crenshaw, Ala.	Do.
Do	Lamar	do	H 010271 01 through H 010271 04	do	County Commissioner, Lamar County Courthouse, County of Lamar, Lamar, Ala.	Do.
Arkansas	Greene	Paragould, city of.	H 050085A 01 through H 050085A 03	Division of Soil and Water, Resources, State Department of Commerce, 1920 West Capitol Ave., Little Rock, Ark. 72201. Arkansas Insurance Department, 400 University Tower Bldg., Little Rock, Ark. 72204.	City Clerk's Office, City Hall, 221 West Court St., Paragould, Ark. 72450.	Sept. 7, 1973. Dec. 6, 1974.
Do	Lee	Aubrey, town of.	H 050123 01	do	Mayor, P.O. Box 94, Aubrey, Ark. 72311.	Dec. 6, 1974.
Do	do	Rondo, town of.	H 050126 01	do	Mayor, Route 1, Box 19R, Lexa, Ark. 72366.	Do.
California	Monterey	Salinas, city of.	H 060202A 01 through H 060202A 08	Department of Water Resources, P.O. Box 388, Sacramento, Calif. 95802. California Insurance Department, 107 South Broadway, Los Angeles, Calif. 90012.	Mayor, City Hall, 200 Lincoln Ave., Salinas, Calif. 93901.	Mar. 15, 1974. Dec. 6, 1974.
Do	Fresno	Firebaugh, city of.	H 060045 01 through H 060045 02 H 060184 01 through H 060184 03	do	Mayor, City Hall, 1575 11th St., Firebaugh, Calif. 93622.	Mar. 1, 1974. Dec. 6, 1974.
Connecticut	Litchfield	Bridgewater, town of.		Department of Environmental Protection, Division of Water and Related Resources, Room 207, State Office Bldg., Hartford, Conn. 06115. Connecticut Insurance Department, State Capitol Bldg., 165 Capitol Ave., Hartford, Conn. 06115.	Mayor, Town of Bridgewater, Bridgewater, Conn. 06752.	Do.
Florida	Escambia	South Flomaton, city of.	H 120084 01	Department of Community Affairs, 2571 Executive Center Circle East Howard Bldg., Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, the Capitol, Tallahassee, Fla. 32304.	Mayor, City of South Flomaton, City Hall, South Flomaton, Fla. 36441.	Do.
Do	Indian River	Vero Beach, city of.	H 120124 01 through H 120124 05	do	Chamber of Commerce, 1216 21st St., City of Vero Beach, Fla. 32960.	Do.
Do	Palm Beach	Atlantis, city of.	H 120198 01	do	Mayor, 260 Orange Tree Dr., City of Atlantis, Atlantis, Fla. 33462.	Do.
Do	do	Cloud Lake, town of.	H 120198 01	do	Mayor, Town of Cloud Lake, Land Rd., West Palm Beach, Fla. 33406.	Do.
Do	do	Glen Ridge, town of.	H 120200 01	do	Mayor, Town of Glen Ridge, 1340 Churchill Rd., West Palm Beach, Fla. 33406.	Do.
Do	do	North Palm Beach, village of.	H 120217 01 through H 120217 02	do	Department of Public Services, 645 Prosperity Farms Rd., Village of North Palm Beach, North Palm Beach, Fla. 33408.	Do.
Georgia	Coffee	Douglas, city of.	H 130216 01 through H 130216 07	Department of Natural Resources, Office of Planning and Research, 270 Washington St. SW., room 707, Atlanta, Ga. 30334. Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.	Building Inspector's Office, City Hall, P.O. Drawer 470, City of Douglas, Douglas, Ga. 31533.	Do.
Do	Toombs	Lyons, city of.	H 130223 01 through H 130223 06	do	Mayor, City Hall, City of Lyons, Lyons, Ga. 30436.	Do.

						Effective date

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
De	Madawaska and Talbot.	Manchester, city of.	H [illegible] 01 through H [illegible] 04	do	Mayor, City Hall, City of Manchester, Manchester, Ga. 31816.	Do.
Illinois	Cook	Schaumburg, village of.	H 170139 01 through H 170139 02	Governor's Task Force on Flood Control, P.O. Box 475, Lisle, Ill. 60532.	Office of the Village Engineer, 714 South Plum Grove Rd., Village of Schaumburg, Schaumburg, Ill. [illegible]	Do.
				Illinois Insurance Department, 525 West Jefferson St., Springfield, Ill. [illegible]		
De	Greene	Hillview, village of.	H 170253 01	do	President, Town Hall, Village of Hillview, Hillview, Ill. 62050.	Do.
De	McLean	Anchor, village of.	H 170490 01	do	Mayor, Village of Anchor, Anchor, Ill. 61720.	Do.
De	do	Cooksville, village of.	H 170494 01	do	Mayor, Village of Cooksville, Cooksville, Ill. 61730.	Do.
De	do	Gridley, village of.	H 170496 01	do	Mayor, Village of Gridley, Gridley, Ill. 61744.	Do.
De	do	McLean, village of.	H 170501 01	do	Mayor, Village of McLean, McLean, Ill. 61754.	Do.
De	White	Springerton, village of.	H 170686 01	do	Mayor, Village of Springerton, Springerton, Ill. 62887.	Do.
De	Fulton	Bryant, village of.	H 170746 01	do	Chairman, Village of Bryant, Lewistown, Ill. 61542.	Do.
De	do	Norris, village of.	H 170770 01	do	Chairman, Village of Norris, Lewistown, Ill. 61542.	Do.
De	do	St. David, village of.	H 170775 01	do	Chairman, Village of St. David, Lewistown, Ill. 61542.	Do.
De	do	Smithfield, village of.	H 170776 01	do	Chairman, Village of Smithfield, Lewistown, Ill. 61542.	Do.
Indiana	De Kalb	Unincorporated areas.	H 180044 01 through H 180044 02	Division of Water, Department of Natural Resources, 616 State Office Bldg., Indianapolis, Ind. 46204. Indiana Insurance Department, 509 State Office Bldg., Indianapolis, Ind. [illegible]	County Commissioners, De Kalb County Courthouse, County of De Kalb, Dekalb, Ind.	Do.
De	Lake	do	H 180126 01 through H 180126 02	do	Lake County Plan Commission, 126 South Main St., Lake County, Crown Point, Ind. 46307.	Do.
De	Steuben	Clear Lake, town of.	H 180247 01	do	Chairman, Town Board, Town Hall, Clear Lake, Ray, Ind. 46737.	Do.
De	Switzerland	Unincorporated areas.	H 180251 01 through H 180251 03	do	Planning and Zoning Commission, Switzerland County Courthouse, County of Switzerland, Vevay, Ind. [illegible]	Do.
De	Wayne	do	H 180280 01 through H 180280 02	do	County Area Planning Commission, Wayne County Courthouse, County of Wayne, Wayne, Ind.	Do.
De	Miami	Macy, town of	H 180307 01	do	County Building Commissioner, Town of Macy, Peru, Ind. 46970.	Do.
Iowa	[illegible]	Pisgah, town of	H 190151 01	Iowa Natural Resources, Council James W. Grimes, Bldg., Des Moines, Iowa 50319. Iowa Insurance Department, Lucas State Office Bldg., Des Moines, Iowa 50319.	Mayor, Pisgah, Iowa 51564	Do.
Do	Webster	Harcourt, town of.	H 190280 01	do	Mayor, Harcourt, Iowa 50544	Do.
Do	Black Hawk	La Porte City, city of.	H 190309 01 through H 190309 02	do	Planning and Zoning Commission, City Hall, Waterloo, Iowa 50705.	Do.
Kansas	Pottawatomie	Louisville, city of.	H 200272 01	Division of Water Resources, State Board of Agriculture, Topeka, Kans. 66612. Kansas Insurance Department, 1st Floor, Statehouse, Topeka, Kans. 66612.	Mayor, Louisville, Kans 66460	Do.
De	Republic	Republic, city of.	H 200286 01	do	Mayor, City Hall, Republic, Kans. 66964.	Do.
De	Washington	Morrowville, city of.	H 200356 01	do	Mayor, City Hall, Morrowville, Kans. 66958.	Do.
Kentucky	Bell	Unincorporated [illegible]	H 210010 01 through H 210010 08	Division of Water, Kentucky Department of Natural Resources, Capitol Plaza Office Tower, Frankfort, Ky. 40601. Kentucky Insurance Department, Old Capitol Annex, Frankfort, Ky. 40601.	County Commission, Bell County Courthouse, Bell County, Bell, Ky. 41011.	Do.
De	Davies	do	H 210062 01 through H 210062 08	do	Planning Director, Owensboro Metropolitan Planning Commission, Davies County, P.O. Box 327, Owensboro, Ky. 42301.	Do.
De	Jefferson	St. Matthews, city of.	H 210123 01 through H 210123 02	do	Mayor, City of St. Matthews, St. Matthews, Ky. 40207.	Do.
De	Jessamine	Unincorporated [illegible]	H 210125 01 through H 210125 05	do	Chairman, Jessamine County Courthouse, Jessamine County, Nicholasville, Ky. 40356.	Do.
De	McCracken	do	H 210151 01 through H 210151 06	do	County Commissioner, McCracken County Courthouse, County of McCracken, McCracken, Ky. 40068.	Do.
De	McLean	do	H 210153 01 through H 210153 02	do	County Commissioners, McLean County Courthouse, County of McLean, McLean, Ky.	Do.
De	Oldham	do	H 210185 01 through H 210185 04	do	Office of Planning and Zoning, Oldham County, Courthouse Annex, LaGrange, Ky. 40031.	Do.
Maine	Franklin	Temple, town of	H 220062 01 through H 220062 11	Maine Soil and Water Conservation Commission, State House, Augusta, Maine 04330. Maine Insurance Department, Capitol Shopping Center, Augusta, Maine 04330.	Selectman, Town Office, Town of Temple, Temple, Maine 04984.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do	York	Kennebunkport, town of.	H [illegible] through H [illegible]	do	Chairman, Board of Selectmen, Town of Kennebunkport, Atlantic Ocean, Maine 04046.	Do.
Do	Somerset	Norridgewock, town of.	H 230178 01 through H 230178 10	do	Town Manager, Town Office, Town of Norridgewock, Norridgewock, Maine 04957.	Do.
Do	Cumberland	Raymond, town of.	H 230226 01 through H 230226 10	do	Planning Board, Town of Raymond, Raymond, Maine 04071.	Do.
Do	Kennebec	Manchester, town of.	H 230229 01 through H 230229 08	do	Mayor, Town Hall, Town of Manchester, Manchester, Maine 04351.	Do.
Do	Washington	Alexander, town of.	H 230313 01 through H 230313 09	do	Mayor, Town of Alexander, Alexander, Maine.	Do.
Do	Oxford	Byron, town of.	H 230320 01 through H 230320 04	do	Town Manager, Town of Byron, Byron, Maine.	Do.
Do	Somerset	Moscow, town of.	H 230364 01 through H 230364 12	do	Mayor, Town of Moscow, Moscow, Maine.	Do.
Maryland	Harford	Aberdeen, town of.	H 240041 01 through H 240041 [illegible]	Department of Water Resources, State Office Bldg., Annapolis, Md. 21401. Maryland Insurance Department, 201 West Preston St., Baltimore, Md. 21201.	Town of Aberdeen, Box 70, 3 West Bel Air Ave., Aberdeen, Md. 21001.	Do.
Do	Montgomery	Brookeville, town of.	H 240096 01	do	Town Commissioners Town of Brookeville, Brookeville, Md. 20729.	Do.
Do	Dorchester	Brookview, town of.	H 240097 01	do	Mayor, Town of Brookview, Brookview, Md.	Do.
Do	do	Eldorado, town of.	H 240105 01	do	Mayor, Town of Eldorado, Eldorado, Md.	Do.
Do	Frederick	Myersville, town of.	H 240116 01	do	Frederick County Planning and Zoning, Town of Myersville, Frederick, Md. 21701.	Do.
Massachusetts	Bristol	Taunton, city of	H [illegible] through H [illegible]	Division of Water Resources, Water Resources Commission, State Office Bldg., 100 Cambridge St., Boston, Mass. [illegible]. Massachusetts Division of Insurance, 100 Cambridge St., Boston, Mass. [illegible].	Mayor, City of Taunton, City Hall, 15 Summer St., Taunton, Mass. 02780.	Do.
Do	Dukes	Chilmark, town of.	H 250055 01 through H 250055 11	do	Chairman, Board of Selectmen, Town Office, Town of Chilmark, Chilmark, Mass. [illegible].	Do.
Do	do	Gay Head, town of.	H 250070 01 through H 250070 [illegible]	do	Chairman, Board of Selectmen, Town of Gay Head, Gay Head, Mass. [illegible].	Do.
Do	Essex	Middleton, town of.	H 250094 01 through H 250094 07	do	Planning Board, Town Hall, Town of Middleton, Middleton, Mass. 01949.	Do.
Do	Worcester	Rutland, town of.	H 250231 01 through H 250231 [illegible]	do	Chairman, Board of Selectmen, Town Hall, Town of Rutland, Rutland, Mass. 01543.	Do.
Michigan	Arenac	Standish, township of.	H 260017 01 through H 260017 10	Water Resources Commission, Bureau of Water Management, Stevens T. Mason Bldg., Lansing, Mich. 48926. Michigan Insurance Bureau, 111 North Homer St., Lansing, Mich. 48913.	Township Hall, State and Bordeau Roads, Township of Standish, Standish, Mich. 48658.	Do.
Do	Genesee	Burton, township of.	H 260073 01 through H 260073 09	do	Township of Burton, Genesee County Drain Commissioner, Division of Water and Waste Services, G-4610 Beecher Rd., Flint, Mich. 48504.	Do.
Do	Leelanau	Leelanau, township of.	H 260114 01 through H 260114 10	do	Leelanau Township Supervisors, Leelanau, Mich. 49654.	Do.
Minnesota	Meeker	Kingston, city of	H 270284 01	Division of Waters, Soils and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Minnesota Division of Insurance, R-210 State Office Bldg., St. Paul, Minn. 55101.	Ray Maikkula, Village Clerk, City of Kingston, Kingston, Minn. 55326.	Do.
Do	Chippewa	Watson, city of	H 270610 01	do	Mayor, City Hall, City of Watson, Watson, Minn. 56295.	Do.
Mississippi	Hinds	Jackson, city of	H 280072 01 through H 280072 15	Mississippi Research and Development Center, P.O. Drawer 2470, Jackson, Miss. 39205. Mississippi Insurance Department, 910 Box 79, Jackson, Miss. 39205.	Office of the City Clerk and Building Inspection Department, City of Jackson, P.O. Box 22568, 218 South President St., Jackson, Miss. 39205.	Do.
Missouri	Audrain	Benton, city of	H [illegible]	Department of Natural Resources, Division of Program and Policy Development, State of Missouri, 308 East High St., Jefferson City, Mo. 65101. Division of Insurance, P.O. Box 690, Jefferson City, Mo. 65101.	Mayor, Benton City, Mo. 65232	Do.
Do	do	Rush Hill, village of.	H 290019 01	do	Mayor, City Hall, 300 North Coal, Mexico, Mo. 65265.	Do.
Do	Butler	Neelyville, village of.	H 290046 01	do	Mayor, Neelyville, Mo. 63954	Do.
Do	Cape Girardeau	Delta, city of	H 290055 01	do	City Council, Delta, Mo. 63744	Do.
Do	Holt	Craig, town of	H 290169 01	do	Mayor, City Hall, Craig, Mo. 64437	Do.
Do	Macon	Elmer, city of	H 290219 01	do	Mayor, City Hall, Elmer, Mo. 63538	Do.
Do	St. Charles	O'Fallon, city of	H 290316A 01 through H 290316A [illegible]	do	Mayor, City Hall, O'Fallon, Mo. 63366	Feb. 1, 1974. Dec. 6, 1974.
Do	do	Augusta, village of.	H 290461 01	do	Presiding Judge, Village of Augusta, St. Charles County Court, Court House, St. Charles, Mo. 63301.	Do.

						Effective date

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	Newton	Readings Mill, village of.	H 290494 01	do.	Chairman, Board of Trustees, of Readings Mill, Joplin, Mo. 64801.	Do.
Nebraska	Hitchcock	Stratton, village of.	H 310112 01	Nebraska Natural Resources Commission, P.O. Box 94726, State House, Station, Lincoln, Nebr. 68509. Nebraska Insurance Department, 1325 "L" St., Lincoln, Nebr. 68509.	Chairman, Board of Trustees, c/o Village Clerk, Stratton, Nebr. 69043.	Do.
Do.	Hamilton	Stockham, village of.	H 310106 01	do.	Mayor, Stockham, Nebr. 68818.	Do.
Do.	Merrick	Clarks, village of.	H 310149 01	do.	Village Board, Clarks, Nebr. 68628.	Do.
Do.	Otoe	Burr, village of.	H 310161 01	do.	Mayor, Burr, Nebr. 68324.	Do.
Do.	Stanton	Pilger, village of.	H 310216 01	do.	Mayor, Village of Pilger, Pilger, Nebr. 68779.	Do.
New Hampshire	Grafton	Landaff, town of.	H 330130 01 through H 330130 03	Office of State Planning Division of Community Planning, State House Annex, Concord, N.H. 03301. New Hampshire Insurance Department, 78 North Main St., Concord, N.H. 03301.	Chairman, Planning Board, Town of Landaff, Landaff, N.H.	Do.
Do.	Rockingham	Hampton Falls, town of.	H 330133 01 through H 330133 07	do.	Selectmen, Town Hall, Town of Hampton Falls, Hampton Falls, N.H. 03844.	Do.
New Jersey	Atlantic	Corbin City, city of.	H 340005 01 through H 340005 04	Bureau of Water Control, Department of Environmental Protection, P.O. Box 1390, Trenton, N.J. 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Mayor, City of Corbin City, Maple St. rural free delivery, Woodbine, N.J. 08270.	Do.
Do.	Cape May	Upper, township of.	H 340159 01 through H 340159 19	do.	Township Clerk, Township of Upper, Upper, N.J. 08226.	Do.
Do.	Morris	Chester, township of.	H 340555 01 through H 340555 11	do.	Mayor, Township of Chester, Chester, N.J. 07930.	Do.
New York	Albany	Rensselaerville, town of.	H 360014 01 through H 360014 05	New York State Department of Environmental Conservation, Division of Resources Management Services, Bureau of Water Management, Albany, N.Y. 12201. New York State Insurance Department, 123 William St., New York, N.Y. 10038.	Supervisor, Town of Rensselaerville, Rensselaerville, N.Y. 12144.	Do.
Do.	Delaware	Fleischmanns, village of.	H 360197 01	do.	Mayor, Village of Fleischmanns, Fleischmanns, N.Y. 12430.	Do.
Do.	Erie	Angola, village of.	H 360892 01	do.	Mayor, Village Hall, Village of Angola, Angola, N.Y. 14006.	Do.
Do.	Jefferson	Brownville, town of.	H 361063 01 through H 361063 10	do.	Mayor, Town of Brownville, Brownville, N.Y. 13615.	Do.
Do.	Chautauqua	Ellicott, town of.	H 361073 01 through H 361073 11	do.	Mayor, Town of Ellicott, Ellicott, N.Y. 14205.	Do.
Do.	Allegany	Angelica, town of.	H 361095 01 through H 361095 05	do.	Mayor, Town of Angelica, Angelica, N.Y. 14709.	Do.
Do.	Greene	Coxsackie, town of.	H 361115 01 through H 361115 10	do.	Mayor, Town of Coxsackie, Coxsackie, N.Y. 12051.	Do.
Do.	Genesee	Byron, town of.	H 361139 01 through H 361139 08	do.	Mayor, Town of Byron, Byron, N.Y. 14422.	Do.
Do.	Schuyler	Hector, town of.	H 361204 01 through H 361204 12	do.	Mayor, Town of Hector, Hector, N.Y. 14841.	Do.
Do.	Ulster	Marlborough, town of.	H 361220 01 through H 361220 06	do.	Mayor, Town of Marlborough, Marlborough, N.Y. 12542.	Do.
Do.	do.	Plattekill, town of.	H 361221 01 through H 361221 11	do.	Mayor, Town of Plattekill, Plattekill, N.Y. 12568.	Do.
Do.	Wayne	Galen, town of.	H 361225 01 through H 361225 06	do.	Mayor, Town of Galen, Galen, N.Y.	Do.
Do.	Washington	Fort Ann, town of.	H 361231 01 through H 361231 05	do.	Mayor, Town of Fort Ann, Fort Ann, N.Y. 12827.	Do.
Do.	Dutchess	Dover, town of.	H 361335 01 through H 361335 16	do.	Mayor, Town of Dover, Dover, N.Y. 12522.	Do.
Do.	Chenango	Lincklaen, town of.	H 361376 01 through H 361376 08	do.	Mayor, Town of Lincklaen, Lincklaen, N.Y.	Do.
Do.	Schoharie	Gilboa, town of.	H 361433 01 through H 361433 20	do.	Mayor, Town of Gilboa, Gilboa, N.Y. 12076.	Do.
Do.	Cayuga	Meridian, village of.	H 361520 01 through H 361520 03	do.	Mayor, Village of Meridian, Meridian, N.Y. 13114.	Do.
Do.	Columbia	Chatham, village of.	H 361522 01 through H 361522 08	do.	Mayor, Village of Chatham, Chatham, N.Y. 12037.	Do.
Do.	Hamilton	Speculator, village of.	H 361527 01 through H 361527 07	do.	Mayor, Village of Speculator, Speculator, N.Y. 12164.	Do.
North Carolina	Sampson	Clinton, city of.	370263 01	North Carolina Office of Water and Air Resources, Department of Natural and Economic Resources, P.O. Box 27687, Raleigh, N.C. 27611. North Carolina Insurance Department, P.O. Box 26387, Raleigh, N.C. 27611.	Mayor, City Hall, City of Clinton, Clinton, N.C. 28328.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
North Dakota	Bottineau	Newbury, city of	H 380009 01	State Water Commission, State Office Building, 900 East Blvd., Bismarck, N. Dak. 58501. North Dakota Insurance Department, State Capitol, Bismarck, N. Dak. 58501.	Mayor, Newbury, N. Dak. 58762	Do.
Do.	Kidder	Dawson, city of	H 380039 01	do.	Mayor, City Building, Dawson, N. Dak. 58428.	Do.
Do.	do.	Tappen, city of	H 380040 01	do.	Mayor, City Building, Tappen, N. Dak. 58487.	Do.
Do.	McHenry	Upham, city of	H 380050 01	do.	Mayor, Upham, N. Dak. 58789	Do.
Do.	Morton	Fisher, city of	H 380080 01	do.	Mayor, Fisher, N. Dak. 58535	Do.
Do.	Ramsey	Lawton, city of	H 380095 01	do.	Mayor, Lawton, N. Dak. 58345	Do.
Do.	do.	Starkweather, city of.	H 380096 01	do.	Mayor, Starkweather, N. Dak. 58377	Do.
Do.	Rolette	St. John, city of	H 380106 01	do.	Mayor, St. John, N. Dak. 58369	Do.
Ohio	Guernsey	Kimbolton, village of.	H 390201 01	Ohio Department of Natural Resources, Fountain Square, Columbus, Ohio 43224. Ohio Insurance Department, 447 East Broad St., Columbus, Ohio 43215.	President of Council, Village of Kimbolton, Kimbolton, Ohio 43749.	Do.
Do.	Hamilton	Milford, village of	H 390227A 01	do.	Mayor, 18 Main St., Village of Milford, Milford, Ohio 45150.	Feb. 8, 1974: Dec. 6, 1974.
Do.	Lorain	Elyra, city of	H 390350A 01 through H 390350A 08	do.	Mayor, City Hall, Court St., City of Elyra, Elyra, Ohio 44035.	May 3, 1974: Dec. 6, 1974.
Oklahoma	Adair	Watts, town of	H 400002 01	Oklahoma Water Resources Board, 2241 Northwest 40th St., Oklahoma City, Okla. 73112. Oklahoma Insurance Department, Room 408 Will Rogers Memorial Bldg., Oklahoma City, Okla. 73105.	City Council, City Hall, Watts, Okla. 74964.	Do.
Do.	Alfalfa	Jet, town of	H 400097 01	do.	Mayor, Town of Jet, Jet, Okla. 73749	Do.
Do.	Caddo	Gracemont, town of.	H 400023 01	do.	Mayor, Gracemont, Okla. 73042	Do.
Oregon	Baker	Haines, city of	H 410008 01	Executive Department, State of Oregon, Salem, Oreg. 97310. Oregon Insurance Division, Department of Commerce, 158 12th St. NE., Salem Oreg. 97310.	Mayor, City Hall, Haines, Oreg. 97833.	Do.
Do.	Clackamas	Rivergrove, city of.	H 410022 01	do.	Mayor, City Hall, Rivergrove, Oreg.	Do.
Do.	Union	Cove, city of	H 410217 01	do.	Mayor, Cove, Oreg. 97824	Do.
Pennsylvania	Clearfield	Troutville	H 420315 01	Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120. Pennsylvania Insurance Department 108 Finance Bldg., Harrisburg, Pa. 17120.	Mayor, Troutville, Pa. 15866	Do.
Do.	Huntingdon	Birmingham, borough of.	H 420482 01	do.	Mayor, Borough of Birmingham, Birmingham Box 49x, Rural Delivery No. 1, Tyrone, Pa. 16686.	Do.
Do.	do.	Huntingdon, borough of.	H 420486 01	do.	Municipal Bldg., 508 Washington St., Borough of Huntingdon, Huntingdon, Pa. 16652.	Do.
Do.	Mifflin	McVeytown	H 420638 01	do.	Mayor, McVeytown, Pa. 17051	Do.
Do.	Philadelphia	Philadelphia, city of.	H 420757 01 through H 420757 20	do.	Water Department, 1160 Municipal Service Bldg., City of Philadelphia, Philadelphia, Pa. 19107.	Do.
Do.	Potter	Oswayne, borough of.	H 420763 01 through H 420763 [illegible]	do.	Mayor, Rural Delivery No. 2, Borough of Oswayne, Coudersport, Pa. 16915.	Do.
Do.	Westmoreland	Mount Pleasant, township of.	H [illegible] 01 through H [illegible] 05	do.	Office of the Township Secretary, Mount Pleasant Township Supervisors, Rural Delivery No. 4, Township of Mount Pleasant, Bloomsburg, Pa. 17815.	Do.
Do.	Berks	Bern, township of.	H [illegible] 01 through H [illegible] 07	do.	Bern Township Bldg., Rural Delivery No. 1, Township of Bern, Leesport, Pa. 19533.	Do.
Do.	do.	Heidelberg, township of.	H [illegible] 01 through H [illegible] 08	do.	Chairman, Board of Supervisors, Route 1, Robesonia, Pa. 19551.	Do.
Do.	do.	Penn, township of.	H 421091 01 through H [illegible] 05	do.	Chairman of Commissioners, Courthouse, Township of Penn, Reading, Pa. 19601.	Do.
Do.	Adams	Union, township of.	H [illegible] 01 through H [illegible] 06	do.	Chairman, Board of Supervisors, Township of Union, Rural Delivery No. 1, Hanover, Pa. 17331.	Do.
Do.	Armstrong	Cadogan, township of.	H [illegible] 01 through [illegible]	do.	Supervisor, Township of Cadogan, Cadogan, Pa. 16212.	Do.
Do.	do.	East Franklin, township of.	H [illegible] 01 through H [illegible] 09	do.	Chairman, Board of Supervisors, 303 Oak Dr., Kittanning, Pa. 16201.	Do.
Do.	do.	Redbank, township of.	H [illegible] 01 through H [illegible] 10	do.	Chairman, Board of Supervisors, Township of Redbank, Oak Ridge, Pa. 16245.	Do.
Do.	Erie	Greenfield, township of.	H [illegible] 01 through H [illegible] 04	do.	Chairman, Board of Supervisors, Rural Delivery No. 3, Northeast, Pa. 16428.	Do.
Do.	Berks	Wernersville, borough of.	H 421274 01 through H 421274 08	do.	Mayor, 15 West Gaul St., Wernersville, Pa. [illegible]	Do.
Do.	Bedford	Woodbury, borough of.	H [illegible] 01	do.	Mayor, Woodbury, Pa. 16695	Do.
Do.	Cambria	Cambria, township of.	H [illegible] 01 through H [illegible] 14	do.	Chairman, Board of Supervisors, Cambria Township Bldg., West High St., Edensburg, Pa. 15931.	Do.
Do.	do.	Reade, township of.	H 421445 01 through H [illegible] 09	do.	Chairman, Board of Supervisors, Township of Reade, Coalport, Pa. 16627.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	Clarion	Highland, township of.	H 421508 01 through H 421508 08	do.	Chairman, Board of Supervisors, Rural Delivery No. 2, Clarion, Pa. 16214.	Do.
Do.	Clearfield	Bigler, township of.	H 421514 01 through H 421514 10	do.	Chairman, Board of Supervisors, Box 367, Township of Bigler, Madera, Pa. 16661.	Do.
Do.	do.	Bradford, township of.	H 421516 01 through H 421516 14	do.	Chairman, Board of Supervisors, Township of Bradford, Woodland, Pa. 16881.	Do.
Do.	do.	Covington, township of.	H 421521 01 through H 421521 15	do.	Chairman, Board of Supervisors, Frenchville, Pa. 16836.	Do.
Do.	Clinton	West Keating, township of.	H 421542 01 through H 421542 11	do.	Chairman, Board of Supervisors, Township of West Keating, Potter-dale, Pa. 16870.	Do.
Do.	Delaware	Tinicum, township of.	H 421600 01 through H 421600 06	do.	President of Commissioners, Township of Tinicum, Box 24, Essington, Pa. 19064.	Do.
Do.	Elk	Spring Creek, township of.	H 421614 01 through H 421614 06	do.	Chairman, Board of Supervisors, Township of Spring Creek, Halton, Pa. 15842.	Do.
Do.	Fayette	Franklin, township of.	H 421625 01 through H 421625 10	do.	Chairman, Board of Supervisors, Sumcock, Pa. 15490.	Do.
Do.	do.	Henrycalay, town of.	H 421628 01 through H 421628 15	do.	Chairman, Board of Supervisors, Rural Delivery No. 1, Markleys-burg, Pa. 15459.	Do.
Do.	do.	Lower Tyrone, township of.	H 421630 01 through H 421630 04	do.	Chairman, Board of Supervisors, Rural Delivery No. 1, Township of Lower Tyrone, Dawson, Pa. 15428.	Do.
Do.	Franklin	Greene, township of.	H 421669 01 through H 421669 11	do.	Township of Greene, Municipal Bldg., Scotland, Pa. 17254.	Do.
Do.	Huntingdon	Barree, township of.	H 421693 01 through H 421693 07	do.	Chairman, Board of Supervisors, Route, 1, Township of Barree, Petersburg, Pa. 16669.	Do.
Do.	do.	Hopewell, township of.	H 421690 01 through H 421690 06	do.	Chairman, Board of Supervisors, Alitch, Pa. 16810.	Do.
Do.	do.	Logan, township of.	H 421694 01 through H 421694 07	do.	Chairman, Board of Supervisors, Rural Delivery, Township o. Logan, Petersburg, Pa. 16669.	Do.
Do.	do.	Penn, township of.	H 421698 01 through H 421698 06	do.	Chairman, Board of Supervisors, Township of Penn, Reston, Pa. 16647.	Do.
Do.	do.	Porter, township of.	H 421699 01 through H 421699 11	do.	Chairman, Board of Supervisors, Rural Delivery No. 1, Township of Poter, Alexandria, Pa. 16611.	Do.
Do.	do.	Union, township of.	H 421704 01	do.	Chairman, Board of Supervisors, Rural Delivery No. 1, Township of Union, Mapleton Depot, Pa. 17052.	Do.
Do.	Indiana	Armstrong, township of.	H 421708 01 through H 421708 12	do.	Chairman, Board of Supervisors, Rural Delivery No. 3, Township of Armstrong, Shelocta, Pa. 15774.	Do.
Do.	do.	Conemaugh, township of.	H 421715 01 through H 421715 09	do.	Chairman, Board of Supervisors, Rural Delivery No. 1, Saltsburg, Pa. 15681.	Do.
Do.	Jefferson	Heath, township of.	H 421728 01 through H 421728 10	do.	Chairman, Board of Supervisors, Rural Delivery No. 1, Halton, Pa. 15842.	Do.
Do.	do.	Polk, township of.	H 421733 01 through H 421733 11	do.	Chairman of Commissioners, Courthouse, Township of Polk, Brookville, Pa. 15825.	Do.
Do.	Juniata	Beale, township of.	H 421738 01 through H 421738 09	do.	Chairman, Board of Supervisors, Rural Delivery No. 2, Township of Beale, Port Royal, Pa. 17082.	Do.
Do.	Monroe	Eldred, township of.	H 421887 01 through H 421887 07	do.	Chairman, Board of Supervisors, Rural Delivery No. 2, Knaksetown, Pa. 18058.	Do.
Do.	do.	Middle Smithfield, township of.	H 421890 01 through H 421890 15	do.	Chairman, Board of Supervisors, Rural Delivery No. 1, Township of Middle Smithfield, East Stroudsburg, Pa. 18301.	Do.
Do.	do.	Ponoco, township of.	H 421882 01 through H 421882 11	do.	Chairman of Commissioners, Township of Ponoco, Monroe County Courthouse, Stroudsberg, Pa. 18360.	Do.
Do.	Montgomery	Salford, township of.	H 421918 01 through H 421918 05	do.	Chairman of Commissioners, Montgomery County Commissioners, Courthouse, Township of Salford, Norristown, Pa. 19404.	Do.
Do.	Montour	Mayberry, township of.	H 421923 01	do.	Chairman, Board of Supervisors, Rural Delivery No. 2, Township of Mayberry, Catawissa, Pa. 17820.	Do.
Do.	Potter	Sylvania, township of.	H 421930 01 through H 421930 06	do.	Chairman, Board of Supervisors, Rural Delivery No. 1, Township of Sylvania, Austin, Pa. 16720.	Do.
Do.	do.	West Branch, township of.	H 421932 01 through H 421932 06	do.	Mayor, Township of West Branch, Rural Delivery No. 1, Galeton, Pa. 16922.	Do.
Do.	Schuylkill	Butler, township of.	H 421999 01 through H 421999 13	do.	Chairman, Board of Supervisors, Township of Butler, Fountain Springs, Ashland, Pa. 17921.	Do.
Do.	Snyder	Centre, township of.	H 422023 01 through H 422023 06	do.	Chairman, Board of Supervisors, Rural Delivery No. 2, Middleburg, Pa. 17842.	Do.
Do.	Somerset	Rockwood, borough of.	H 422045 01	do.	Mayor, 705 Grandview Ave., Rockwood, Pa. 15557.	Do.
Do.	Sullivan	Davidson, township of.	H 422060 01 through H 422060 05	do.	Chairman, Board of Supervisors, Rural Delivery No. 1, Muncy Valley, Pa. 17758.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	Venango	Cranberry, township of.	H [illegible] through H [illegible]	do	Chairman, Board of Supervisors, Rural Delivery No. 4, Cochranton, Pa. 16314.	Do.
Do.	Washington	Donegal, township of.	H [illegible] through H [illegible]	do	Chairman, Board of Supervisors, Rural Delivery No. 2, Claysville, Pa. 15323.	Do.
Do.	do	Mount Pleasant, township of.	H [illegible] through H [illegible]	do	Chairman, Board of Supervisors, Box 1, Hickory, Pa. 15340.	Do.
Do.	do	West Pike Run, township of.	H [illegible] through H [illegible]	do	Chairman, Board of Supervisors, Rural Delivery No. 1, Township of West Pike Run, Daisytown, Pa. 15427.	Do.
Do.	Wayne	Damascus, township of.	H [illegible] through H [illegible]	do	Chairman, Board of Supervisors, Tyler Hill, Pa. 18469.	Do.
Do.	Wyoming	Mehoopany, township of.	H [illegible] through H [illegible]	do	Chairman, Board of Supervisors, Rural Delivery No. 2, Mehoopany, Pa. 18629.	Do.
Do.	do	Washington, township of.	H [illegible] through H [illegible]	do	Chairman, Board of Supervisors, Rural Delivery No. 1, Township of Washington, Tunkhannock, Pa. 18657.	Do.
Do.	do	Windham, township of.	H [illegible] through H [illegible]	do	Chairman, Board of Supervisors, Township of Windham, Laceyville, Pa. 18623.	Do.
Do.	Cambria	Gallitzin, township of.	H [illegible] through H [illegible]	do	Chairman, Board of Supervisors, Rural Delivery No. 1, Gallitzin, Pa. 16641.	Do.
Do.	Luzerne	Warrior Run, borough of.	H [illegible]	do	Mayor, 205 Chestnut St., Warrior Run, Pa. 18706.	Do.
Do.	Chester	New Garden, township of.	H [illegible] through H [illegible]	do	Chairman, Board of Supervisors, Township of New Garden, Avondale, Pa. 19311.	Do.
Do.	do	Oxford township of.	H [illegible] through H [illegible]	do	Chairman of Commissioners, Township of Oxford, Courthouse, West Chester, Pa. 19380.	Do.
Do.	do	Honeybrook, township of.	H [illegible] through H [illegible]	do	Chairman, Board of Supervisors, Rural Delivery No. 2, Honeybrook, Pa. 19344.	Do.
Do.	Montgomery	Franconia, township of.	H 422494 01 through H [illegible]	do	Chairman, Board of Supervisors, Box 73, Franconia, Pa. 18924.	Do.
Do.	do	Salford, township of.	H [illegible] through H [illegible]	do	Chairman, Board of Supervisors, Rural Delivery No. 1, Township of Salford, Telford, Pa. 18969.	Do.
Do.	Chester	Kennett, township of.	H [illegible] through H [illegible]	do	Chairman, Board of Supervisors, Rural Delivery No. 3, Kennett Square, Pa. 19348.	Do.
South Carolina	Anderson	Unincorporated areas.	H [illegible] through H [illegible]	South Carolina Water Resources Commission, P.O. Drawer 164, 700 Knox Abbott Dr., Cayce, S.C. 29033. South Carolina Insurance Department, 2711 Middleburg St., Columbia, S.C. 29204.	County Planning Commission, Anderson County Courthouse, County of Anderson, Anderson, S.C. 29621.	Do.
South Dakota	Brown	Columbia, town of.	H 460008 01	South Dakota Planning Agency, Office of Executive Management, State Capitol Building, Pierre, S. Dak. 57501. South Dakota Department of Insurance, Insurance Building, Pierre, S. Dak. 57501.	Mayor, Town of Columbia, Columbia, S. Dak. 57433.	Do.
Do.	Minnehaha	Baltic, town of.	H 460058 01 through H [illegible]	do	City Auditor, City of Baltic, Baltic, S. Dak. 57003.	Do.
Do.	Moody	Trent, town of.	H [illegible]	do	Mayor, Town of Trent, Trent, S. Dak. 57069.	Do.
Do.	Spink	Ashton, city of.	H 460077 01	do	Mayor, City of Ashton, Ashton, S. Dak. 57424.	Do.
Tennessee	Dickson	Unincorporated areas.	H 470046 01 through H [illegible]	Tennessee State Planning Office, 660 Capitol Hill Bldg., Nashville, Tenn. [illegible]. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	County Planning Commission, Dickson County Courthouse, County of Dickson, Dickson, Tenn. 37055.	Do.
Do.	Williamson	do	H 470294 01 through H [illegible]	do	County Planning Commission, Williamson County Courthouse, County of Williamson, Williamson, Tenn.	Do.
Texas	Bexar	Alamo Heights, city of.	H [illegible]	Texas Water Development Board, P.O. Box 12067, Capitol Station, Austin, Tex. 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, Tex. 78701.	City Engineer's Office, City Hall, City of Alamo Heights, 6116 Broadway, Alamo Heights, Tex. 78209.	May 10, 1974; Dec. 6, 1974.
Do.	do	Selma, city of.	H 480046 01	do	Mayor, Route 3, Box 131-E, City of Selma, San Antonio, Tex. 78218.	Do.
Do.	Hall	Lakeview, town of.	H 480278 01	do	Mayor, City Hall, Lakeview, Tex. 79239.	Do.
Vermont	Windham	Grafton, town of.	H 500129 01 through H [illegible]	Management and Engineering Division, Water Resources Department, State Office Bldg., Montpelier, Vt. 05602. Vermont Insurance Department, State Office Bldg., Montpelier, Vt. [illegible].	Chairman, Grafton Board of Selectmen, Grafton, Vt. 05146.	Do.

Secretary of Defense (Atomic Energy): § 213.3315 Department of Labor.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	Grand Isle	Alburg, village of	H 500275 01 through H 500275 02	do	Mayor, Village of Alburg, Alburg, Vt. 05440.	Do.
Do.	Lamoille	Belvidere, town of.	H 500227 01 through H 500227 02	do	Mayor, Town of Belvidere, Belvidere, Vt. 05442.	Do.
Do.	do	Eden, town of	H 500229 01 through H 500229 02	do	Mayor, Town of Eden, Eden, Vt. 05652.	Do.
Do.	do	Hyde Park, town of.	H 500230 01 through H 500230 04	do	Mayor, Town of Hyde Park, Hyde Park, Vt. 05655.	Do.
Do.	Rutland	Ira, town of	H 500260 01 through H 500260 02	do	Mayor, Town of Ira, Ira, Vt.	Do.
Do.	do	Middletown Springs, town of.	H 500261 01 through H 500261 02	do	Mayor, Town of Middletown Springs, Middletown Springs, Vt. 05757.	Do.
Do.	do	Poultney, village of.	H 500266 01	do	Chairman, Poultney Board of Selectmen, Town Hall, Poultney, Vt. 05764.	Do.
Do.	Windham	Athens, town of	H 500279 01 through H 500279 02	do	Mayor, Town of Athens, Athens, Vt.	Do.
Do.	do	Brookline, town of.	H 500280 01 through H 500280 02	do	Mayor, Town of Brookline, Brookline, Vt.	Do.
Virginia	Independent City	Richmond, city of	H 510129 01 through H 510129 19	Bureau of Water Control Management, State Water Control Board, 2d Floor, Davenport Bldg., 11 South 10th St., Richmond, Va. 23219. Virginia Insurance Department, 200 Blanton Bldg., P.O. Box 1157, Richmond, Va. 23209.	Commissioner of Buildings, 501 North 9th St., City of Richmond, Richmond, Va. 23219.	Do.
Do.	Surry	Unincorporated areas.	H 510157 01 through H 510157 24	do	County Administrator's Office, Surry County, Surry County Courthouse, Surry, Va. 23883.	Do.
Do.	Halifax	do	H 515527 01 through H 515527 36	do	Office of the County Administrator, County Office Bldg., County of of Halifax, Halifax, Va. 24558.	Do.
Washington	Lincoln	Almira, town of	H 530167 01	Department of Ecology, Olympia, Wash. 98501. Washington Insurance Department, Insurance Bldg., Olympia, Wash. 98501.	Mayor, City Hall, Almira, Wash. 99103.	Do.
Do.	Spokane	Latah, town of	H 530178 01	do	County Commissioners, Spokane County Courthouse, Town of Latah, Spokane, Wash. 99201.	Do.
Do.	do	Rockford, town of	H 530181 01	do	Mayor, City Hall, Rockford, Wash. 99030.	Do.
Do.	Kitsap	Poulsbo, city of	H 530041 01	do	City Engineering, P.O. Box 985, City of Poulsbo, Poulsbo, Wash. 98370.	Do.
Wisconsin	Burnett	Unincorporated areas.	H 550252 01 through H 550252 08	Department of Natural Resources, P.O. Box 450, Madison, Wis. 53701. Wisconsin Insurance Department, 212 North Bassett St., Madison, Wis. 53703.	County Planning Commission, Burnett County Courthouse, County of Burnett, Burnett, Wis. 54822.	Do.
Do.	Green	do	H 550157 01 through H 550157 03	do	County Planning and Zoning Commission, Green County Courthouse, County of Green, Green, Wis.	Do.
Do.	Sauk	Troy, village of	H 550406 01 through H 550406 12	do	Chairman, County Board of Supervisors, Courthouse, Village of Troy, Baraboo, Wis. 53913.	Do.
Do.	Sheboygan	Waldo, village of	H 550422 01	do	Village President, Village of Waldo, Waldo, Wis. 53093.	Do.
Wyoming	Goshen	Yoder, town of	H 560024 01	Wyoming Disaster and Civil Defense Agency, P.O. Box 1709, Cheyenne, Wyo. 82001. Department of Insurance, State of Wyoming, State Office Building, Cheyenne, Wyo. 82001.	City Building Inspector, Town of Yoder, Torrington, Wyo. 82240.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: December 11, 1974.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.74-29727 Filed 12-23-74;8:45 am]

(6) Four Confidential Assistants to

(25) Two Staff Assistants to the As-

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Miscellaneous Revocations

Supart C of Part 213 is amended to show that under the provisions of § 213.3101b, 95 positions are no longer excepted under Schedule C.

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.* • • •

(2) One Special Assistant to the Deputy Director.

• • • • •

(d) *Office of the Special Representative for Trade Negotiations.* • • •

(4) [Revoked]

(5) [Revoked]

• • • • •

(j) *Special Action Office for Drug Abuse Prevention.*

(1) [Revoked]

• • • • •

(3) [Revoked]

(4) [Revoked]

(5) [Revoked]

• • • • •

(k) *Office of Economic Opportunity.* • • •

(13) [Revoked]

(14) [Revoked]

§ 213.3304 Department of State.

(a) *Office of the Secretary.* • • •

(2) Four Private Secretaries to the Secretary.

• • • • •

(3) [Revoked]

• • • • •

(u) *Office of the Counselor.*

(1) [Revoked]

• • • • •

§ 213.3305 Treasury Department.

(a) *Office of the Secretary.* • • •

(37) [Revoked]

• • • • •

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* • • •

(2) One Private Secretary to the Deputy Secretary of Defense and one Private Secretary to each of the following: the Director of Defense Research and Engineering; the Principal Deputy Director of Defense Research and Engineering; the Deputy Directors of Defense Research and Engineering (Tactical Warfare Programs), (Strategic Systems), (Research and Technology), the Director Advanced Research Projects Agency; the Assistant Secretaries of Defense (Manpower and Reserve Affairs), (International Security Affairs), (Public Affairs), (Installations and Logistics), (Comptroller), (Systems Analysis), (Intelligence), and (Legislative Affairs); the General Counsel; the Assistant to the Secretary of Defense (Atomic Energy); and the Military Assistants to the Secretary of Defense.

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§ 213.3307 Department of the Army.

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(b) [Revoked]

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§ 213.3310 Department of Justice.

• • • • •

(b) *Office of the Deputy Attorney General.*

(1) One Confidential Assistant (Private Secretary) to the Deputy Attorney General.

• • • • •

(k) *Board of Immigration Appeals.* • • •

(2) Three Members of the Board.

• • • • •

(o) *Office of the U.S. Attorney.*

(1) Secretary and Confidential Assistant to the U.S. Attorney (23 positions).

• • • • •

(s) *Law Enforcement Assistance Administration.*

(1) [Revoked]

• • • • •

(4) [Revoked]

• • • • •

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.*

(1) Eight Confidential Assistants to the Secretary.

(2) Four Special Assistants to the Secretary.

• • • • •

(29) [Revoked]

• • • • •

(31) One Confidential Assistant to the Assistant Secretary for Management.

• • • • •

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* • • •

(6) [Revoked]

• • • • •

(b) *Rural Electrification Administration.* • • •

(4) One Assistant to the Administrator.

• • • • •

(h) *Agricultural Stabilization and Conservation Service.* • • •

(4) Three Confidential Assistants to the Administrator.

• • • • •

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* • • •

(16) One Confidential Assistant to the Director, Office of Foreign Direct Investments.

• • • • •

(18) [Revoked]

• • • • •

(b) [Revoked]

• • • • •

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* • • •

(5) [Revoked]

(6) One Assistant to each Assistant Secretary of Labor appointed by the President, except the Assistant Secretary for Manpower.

• • • • •

(11) [Revoked]

• • • • •

(18) [Revoked]

• • • • •

§ 213.3316 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* • • •

(4) [Revoked]

• • • • •

(6) Five Confidential Assistants to the Under Secretary.

• • • • •

(8) [Revoked]

(9) [Revoked]

• • • • •

(13) Four Assistants ot the Secretary.

• • • • •

(15) Two Private Secretaries to the Secretary.

• • • • •

(24) [Revoked]

• • • • •

(c) *Office of Education.*

(1) One Special Assistant to the Commissioner of Education.

• • • • •

(5) [Revoked]

(6) [Revoked]

• • • • •

(9) [Revoked]

• • • • •

(k) *Office of the Assistant Secretary for Planning and Evaluation.* • • •

(13) [Revoked]

• • • • •

(l) *Social Security Administration.* • • •

(2) [Revoked]

• • • • •

(n) *Office of the Assistant Secretary for Human Development.* • • •

(4) [Revoked]

• • • • •

(o) *Social and Rehabilitation Service.* • • •

(10) [Revoked]

• • • • •

(q) *Office of the Special Assistant to the Secretary for Civil Rights.*

(1) One Special Assistant to the Special Assistant.

• • • • •

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.* • • •

(4) Three Confidential Assistants to the Assistant Administrator.

• • • • •

the following action prior to the expiration

(6) Four Confidential Assistants to the Administrator.

• • • • • •

(8) Two Special Assistants to the Assistant Administrator.

• • • • • •

(16) One Confidential Assistant to the Associate Administrator for Federal Management Policy.

• • • • • •

(b) *Public Buildings Service.* • • •

• • • • • •

(2) Four Confidential Assistants to the Commissioner.

• • • • • •

(c) *Federal Supply Service.* • • • •

(2) Two Confidential Assistants to the Commissioner.

• • • • • •

(d) *National Archives and Records Service.* • • •

(2) [Revoked]

• • • • • •

(h) *Automated Data and Telecommunications Service.*

(1) [Revoked]

• • • • • •

§ 213.3339 U.S. Tariff Commission.

• • • • • •

(e) [Revoked]

• • • • • •

§ 213.3342 Export-Import Bank of the United States.

• • • • • •

(d) [Revoked]

• • • • • •

(h) [Revoked]

• • • • • •

§ 213.3348 National Aeronautics and Space Administration.

• • • • • •

(c) One Secretary to each of the following: The Associate Adminstrator for Manned Space Flight, the Associate Administrator for Advanced Research and Technology.

• • • • • •

§ 213.3359 Action.

• • • • • •

(1) [Revoked]

• • • • • •

§ 213.3360 Consumer Product Safety Commission.

(a) One Secretary (Stenography) to one Commissioner and one Staff Assistant to one Commissioner.

(b) One Special Assistant for External Affairs to each of three Commissioners.

• • • • • •

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* • • •

(6) [Revoked]

• • • • • •

(8) [Revoked]

• • • • • •

(25) Two Staff Assistants to the Assistant to the Secretary (Public Affairs).

• • • • • •

(29) [Revoked]

• • • • • •

(32) [Revoked]

(33) [Revoked]

• • • • • •

(47) Three Public Information Specialists, Office of the Assistant to the Secretary for Public Affairs.

• • • • • •

(b) *Office of the Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Administration Commissioner.* • • •

(8) [Revoked]

• • • • • •

§ 213.3388 Federal Energy Administration.

• • • • • •

(c) *Office of Public Affairs.* • • •

(2) [Revoked]

• • • • • •

(f) [Revoked]

• • • • • •

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* • • •

(14) [Revoked]

• • • • • •

(16) [Revoked]

(17) Six Congressional Liaison Officers, Office of the Director of Congressional Affairs.

• • • • • •

(32) [Revoked]

• • • • • •

(g) *St. Lawrence Seaway Development Corporation.*

(1) One Special Assistant to the Administrator.

• • • • • •

(h) *Federal Aviation Administration.* • • •

(6) [Revoked]

((5 U.S.C. secs. 3301), 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–29955 Filed 12–23–74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that an additional position of Confidential Assistant to the Secretary (Interdepartmental Activities) is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER, § 213.3312(a)(18) is amended as set out below.

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* • • •

(18) Two Confidential Assistants to the Secretary (Interdepartmental Activities).

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–29956 Filed 12–23–74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Transportation; Correction

In the FEDERAL REGISTER of August 10, 1973 (38 FR Doc. 73–16524), appearing on page 21621, § 213.3394(f)(1) was revoked in error. Section 213.3394(f)(1) reads as follows:

§ 213.3394 Department of Transportation.

• • • • • •

(f) *Urban Mass Transportation Administration.*

(1) One Assistant Administrator for Public Affairs.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74–29956 Filed 12–23–74;8:45 am]

Title 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 2]

PART 775—FEED GRAINS

Subpart—Feed Grain Program for Crop Years 1974–1977

1975 NATIONAL FEED GRAIN ALLOTMENT

On July 17, 1974, a notice of proposed rule making was published in the FEDERAL REGISTER (39 FR 26159) stating that the Secretary of Agriculture proposed to make determinations and issue regulations relative to the 1975 national feed grain allotment. Interested persons were invited to submit written data, views, and recommendations regarding the determinations. The comments and recommendations received have been duly considered.

The regulations governing the Feed Grain Program for Crop Years 1974–1977 issued July 12, 1974 (39 FR 25663) are amended by adding a new § 775.4a. The purpose of this section is to determine and proclaim the 1975 national feed grain allotment.

Pursuant to section 105(b)(2) of the Agricultural Act of 1949, as amended by the Agriculture and Consumer Protection Act of 1973, Pub. L. 93–86, 87 Stat. 221, 231 (1973), the Secretary is required, prior to January 1 of each calendar year, to determine and proclaim for the crop produced in such calendar year a national acreage allotment for feed grains

in § 1822.63, which will own the housing and operate it as a part of its

and Plant Health Inspection Service is

unnecessary, and contrary to the public

which shall be the number of acres he determines, on the basis of the estimated national average yield of the feed grains included in the program for the crop for which the determination is being made, will produce the quantity (less imports) of such feed grains that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks of any of the feed grains are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the feed grain allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks.

The determination in § 775.4a of the 1975 national feed grain allotment is based on the acreages, yields, and usage set out therein. The determination has been made on the basis of the latest available statistics of the Federal Government. Compliance with the feed grain allotment is not a condition of eligibility for participation in the program, and feed grain acreage on the farm may vary widely from the farm feed grain allotment. Hence, in determining the national allotment, an adjustment for the purpose of increasing carryover stocks to a more desirable level was not considered necessary, and no such adjustment was made.

Part 775 is amended by adding a new § 775.4a to read as follows:

§ 775.4a 1975 national feed grain allotment.

Based on estimated utilization (less imports) for the 1975–1976 marketing year of 5,924 million bushels of corn, 875 million bushels of sorghum, and 445 million bushels of barley and estimated national yields of 93.0 bushels per acre for corn, 60.0 bushels per acre for sorghum, and 45.5 bushels per acre for barley, the combined acreage of corn, sorghum and barley needed to produce a quantity of feed grains equal to estimated utilization is determined to be 89.0 million acres and a 1975 national feed grain allotment of 89.0 million acres is hereby proclaimed.

(Sec. 105, 63 Stat. 1054, as amended; 87 Stat. 231; (7 U.S.C. 1441) note)

Effective date: December 24, 1974.

Signed at Washington, D.C. on December 18, 1974.

EARL L. BUTZ,
Secretary.

[FR Doc.74-29909 Filed 12-23-74;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—GENERAL REGULATIONS

[FmHA Instruction 424.1]

PART 1804—PLANNING AND PERFORMING DEVELOPMENT WORK

Subpart A—Planning and Performing Development Work

In page 37992 of the FEDERAL REGISTER of October 25, 1974, there was published a notice of proposed rulemaking, amending § 1804.4 by adding a new paragraph (g)(5) concerning actions to be taken during the warranty period and redesignating the present paragraph (g)(5) to paragraph (g)(6). Also, under consideration was a program identified as Appendix B o fthis subpart entitled, "Notifying Borrowers of Expiration of 1-Year Warranty Period," which will notify borrowers of the expiration of the 1-year warranty period. If construction deficiencies exist, borrowers will request the County Supervisor to conduct an inspection.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed revised guidelines. No written comments, suggestions, or objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date. This amendment is effective on December 24, 1974.

Dated: December 10, 1974.

F. W. NAYLOR, Jr.,
Acting Administrator.

1. As amended, § 1804.4(g)(5) reads as follows:

§ 1804.4 Performing development.

* * * * *

(g) *Inspection of development work.* * * *

(5) *Guarantee—warranty period.* In all cases where Form FmHA 424–19 has been executed, the following actions will be taken:

(i) The County Supervisor will assist borrowers as provided in Subpart C of this Part, "Handling Construction Complaints."

(ii) Borrowers will be notified of the warranty expiration date prior to the 11th month of the warranty period. Appendix B describes the action that will be taken.[1]

* * * * *

2. Appendix B, as added reads as follows:

APPENDIX B—NOTIFYING BORROWERS OF EXPIRATION OF 1-YEAR WARRANTY PERIOD

1. *Purpose.* This Appendix outlines the procedures for notifying borrowers of the expiration of the 1-year warranty period for defects in materials or workmanship when Form FmHA 424–19, "Builder's Warranty," has been signed by a warrantor.

2. *Policy.* Each borrower will be notified of the expiration date of Form FmHA 424–19 and the name and address of the warrantor with instructions for notifying the warrantor of any defects that must be corrected. Ordinarily, notification will be given by letter; however, if complaints have been received or known construction defects exist, an onsite inspection will be made by the County Supervisor or construction inspector to determine the nature and seriousness of the defects.

3. *Implementation, alternatives and action to be taken.* The County Supervisor will take the following action prior to the expiration of the 1-year Builder's Warranty:

a. A letter notifying the borrower of the expiration date of the Builder's Warranty will be mailed to the borrower early in the 10th month of the warranty period.

b. If the County Supervisor does not hear from the borrower within 30 days, he can reasonably assume that no complaint exists or that any complaint has been satisfied, unless he has information to the contrary.

c. If the borrower notifies the County Supervisor that any complaint has not been satisfied, an onsite construction inspection shall be made as early as possible but not later than the 11th month of the 1-year Builder's Warranty period. The results of the inspection visit will be recorded on Form FmHA 424–12, "Inspection Report." If the borrower complaints are justified, the case should be handled in accordance with Subpart C of this Part, "Handling Construction Complaints."

((7. U.S.C. 1989); (42 U.S.C. 1480); delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

[FR Doc.74-30000 Filed 12-23-74;8:45 am]

[1] Appendix A reserved.

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.4]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart C—Farm Labor Housing Loan Policies, Procedures, and Authorizations

REVISION OF ELIGIBILITY REQUIREMENTS

On page 37648 of the FEDERAL REGISTER of October 23, 1974, there was published a notice of proposed rulemaking to revise § 1822.64 of Subpart C of Part 1822. The purpose of this revision is to clarify eligibility requirements an applicant must meet to obtain a Labor Housing loan, and provides that the financial condition of individual members of associations of farmers be considered in determining whether credit is available from other sources.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed revision. No comments, suggestions, or objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date. This revision is effective on December 24, 1974.

Dated: December 10, 1974.

F. W. NAYLOR, Jr.,
Acting Administrator.

Section 1822.64 is revised to read as follows:

§ 1822.64 Eligibility requirements.

(a) *Eligibility of applicant.* To be eligible for an LH loan the applicant must:

(1) Be an individual farmowner or an organization, as those terms are defined

proceeding would make additional release patterns for other traditional uses. either allocation or usage restrictions un-

in § 1822.63, which will own the housing and operate it on a nonprofit basis.

(2) Concerning availability of other credit;

(i) Be unable to provide the necessary housing from the applicant's own resources, including any power to levy taxes, assessments, or charges, and be unable to obtain the necessary credit from any other source upon terms and conditions the applicant could reasonably be expected to fulfill; and

(ii) If an association of farmers, the individual members, individually and jointly must be unable to obtain the necessary housing by utilizing their own resources and be unable, by pledging their personal liability, to obtain the necessary credit from any other source upon terms and conditions the applicant could reasonably be expected to fulfill.

(3) Have sufficient operating capital to pay such costs as property and liability insurance premiums, premiums on any required fidelity bonds, utility hookup charges, maintenance, tools and equipment, and other initial expenses not included in the loan.

(4) After the loan is made, have income sufficient to pay operating expenses, make necessary capital replacements, make the payments on the loan and other authorized debts, and accumulate reasonable reserves as required.

(5) Possess the legal capacity, character, ability and experience to carry out the undertakings and obligations required for the loan including the obligation to maintain and operate the housing and related facilities for the purpose for which the loan is made.

(6) If an individual farmowner or an association of farmers, the housing must be for labor to be used in the farming operations of the applicant, the association members, or by a corporation owner by the applicant's members.

(b) *Authorized representative of applicant.* The FmHA will deal only with the applicant or its bonified representative and technical advisors. The authorized representative of the applicant must be a person who has no pecuniary interest in the award of the architectural or construction contracts, the purchase of equipment, or the purchase of land for the housing site.

((42 U.S.C. 1480); 7 CFR 2.23; 7 CFR 2.70)

[FR Doc.74-29910 Filed 12-23-74;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Definition of "State" Amended and the United States Virgin Islands Declared Hog Cholera Free

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that the Animal and Plant Health Inspection Service is amending §§ 76.1(l) and 76.2(g) of Chapter I of Title 9 of the Code of Federal Regulations to include the Virgin Islands of the United States as a hog cholera free State.

Statement of considerations. A systematic surveillance for the detection of hog cholera has been in effect in the United States Virgin Islands for many years. Hog cholera has not been known to exist in the United States Virgin Islands since it was introduced from the United States through vaccinated swine imported in 1941. That outbreak was promptly contained and vaccination has not been practiced since 1964. A continued surveillance for hog cholera in the Virgin Islands of the United States by diagnosticians from the Commonwealth of Puerto Rico for the investigation of suspected hog cholera remains in effect. In view of the fact that hog cholera has not occurred in the United States Virgin Islands since 1941, it is deemed appropriate to list that Territory as qualifying for hog cholera free status under § 76.2 (g) of the regulations contained in 9 CFR Part 76.

Accordingly, Part 76 is amended as follows:

1. § 76.1(l) is amended to read:

§ 76.1 Definitions.

* * * * *

(l) *State.* Any State, Puerto Rico, the United States Virgin Islands, or the District of Columbia.

§ 76.2 [Amended]

* * * * *

2. § 76.2(g) is amended by adding thereto the United States Virgin Islands.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141)

Effective date. The foregoing amendments shall become effective December 18, 1974.

The amendments change the definition of "State" to include the United States Virgin Islands and declare that area to be hog cholera free under the regulations of this Part 76.

The amendments do not change the requirements under the regulations in 9 CFR Part 76 with respect to the interstate movement of swine or swine products. They have the effect of relieving restrictions on indemnity payments under the regulations in 9 CFR Part 56 and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 18th day of December 1974.

J. M. HEJL,
Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-29909 Filed 12-23-74;8:45 am]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Hog Cholera Eradication and Free States

This amendment deletes the Commonwealth of Puerto Rico from the list of Hog Cholera Eradication States in 9 CFR 76.2(f), as amended, and adds said State to the list of Hog Cholera Free States in § 76.2(g) upon the basis of a determination that such State qualifies for hog cholera free status under § 76.2(g). The special provisions of 9 CFR Part 76, as amended, pertaining to the interstate movement of swine and swine products from such Eradication or Free States remain applicable to the Commonwealth of Puerto Rico.

The removal of the Commonwealth of Puerto Rico from the list of Hog Cholera Eradication States and the addition of this State to the list of Hog Cholera Free States affects the Federal indemnities payable under other regulations (9 CFR Part 56, as amended) for swine slaughtered because of hog cholera in the Commonwealth of Puerto Rico.

Accordingly, Part 76, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, the reference to the Commonwealth of Puerto Rico in paragraph (f) is deleted, and paragraph (g) is amended by adding thereto the name of said State.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141)

Effective date. The foregoing amendment shall become effective December 18, 1974.

The amendment does not change the requirements under the regulations in 9 CFR Part 76 with respect to the interstate movement of swine or swine products. It has the effects of relieving restrictions on indemnity payments under the regulations in 9 CFR Part 56 and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking

through Friday. The person making the

Comments should be identified on the

proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 18th day of December 1974.

J. M. HEJL,
Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-29907 Filed 12-23-74;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 210—GENERAL ALLOCATION AND PRICE RULES

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Limitation of Refinery Fuel Use of Propane and Butane, Clarification of Special Restriction of Propane and Butane for SNG Use, Gas Utility Use and Industrial Use

The Federal Energy Administration hereby amends, effective immediately, the Mandatory Petroleum Allocation Regulations concerning the allocation of propane and butane to limit their use as refinery fuel. In addition, the special restrictions on the use of propane and butane contained in § 211.10(g)(8) and former § 211.10(g)(9) have been clarified and expanded to include refinery fuel use.

The allocation and pricing of propane and butane has been a matter of continuing concern to the FEA. Recently, FEA has been advised that several refiners have anticipated allocation fractions for propane and butane during the first allocation quarter of 1975 which represent substantial reductions from the allocation fractions implemented by the same refiners during the last allocation quarter of 1974. FEA is concerned that these reductions are due, in part, to the fact that refiners are using these products directly and in mixtures of other allocated and non-allocated products in increasing amounts as refinery fuel, since they have become relatively inexpensive fuels for this use. This situation was not anticipated when 10 CFR 211.81(a)(2) was promulgated excluding from Subpart D of the Mandatory Petroleum Allocation Regulations "propane in mixtures of light hydrocarbons produced in a refinery and used in that refinery for use other than as feedstock."

The present diversion of propane or butane directly or indirectly in other mixtures for use as a refinery fuel threatens substantial disruption of traditional propane and butane supply patterns for other traditional uses. Accordingly, the propane and butane produced in a refinery for use in that refinery will be allocated in the same manner as propane and butane produced in a gas processing plant pursuant to Subparts D and E. In addition, a limitation has been placed upon the use of propane or butane from any source, without regard to whether it has been subject to refining or processing or is contained in other mixtures. In particular, the use of propane or butane for refinery fuel in excess of certain volumes has been prohibited.

The revised regulations add a new definition for "refinery fuel use" and exclude refinery fuel use from the definition of "energy production." A definition of "natural gas liquids" has also been added. The definitions of "butane," "propane" and "propane-butane mix" have been revised. An allocation level of one hundred percent of base period use subject to the allocation fraction for refinery fuel use of propane, butane and natural gasoline has also been added to Subparts D and E of Part 211.

Refiners which use allocated products (including propane and butane) for refinery fuel use or other uses do so in their capacity as either an end-user or wholesale purchaser-consumer. They must as suppliers, therefore, allocate these products to themselves in their capacities as wholesale purchaser-consumers or end-users. Other suppliers of these products to refiners for refinery fuel use will also allocate to refiners in accordance with the revised regulations.

FEA has also revised and combined §§ 211.10(g)(8) and 211.10(g)(9) making it clear that end-users and wholesale purchaser-consumers of propane or butane may not accept or use these fuels to exceed one hundred percent of their base period use for synthetic natural gas feedstock use, gas utility use or other industrial use. Refinery fuel use has been similarly restricted; therefore, refiners may not use propane or butane directly or indirectly from any source in a period which corresponds to a base period to exceed one hundred percent of their base period use for refinery fuel use.

Sections 211.81 and 211.91 have been revised to indicate that the propane and butane allocation subparts exclude the propane and butane content of natural gas liquids and refinery gas from direct allocation. However, the restriction placed upon the use of the propane and butane content of natural gas liquids and refinery gas under § 211.10(g)(8) is emphasized.

Finally, § 210.34 of Part 210 and § 211.1 of Part 211 have been revised to delete reference to the term "refinery gas" in those sections. In so doing, the FEA intends to avoid possible confusion as to FEA's position regarding the component elements of refinery gas. The exemption originally provided for refinery gas was intended to clarify FEA's position that the methane and ethane content of gas produced in the refining of crude oil for use as refinery fuel was not subject to either allocation or usage restrictions under the regulations. FEA intended, however, to restrict the use of the propane and butane content of refinery gas and other mixtures even though such mixtures contained ethane, methane, or other non-allocated products prior to processing. The possibility that §§ 210.34 and 211.1 as previously written were susceptible to contrary interpretation was inadvertent. Accordingly, the amendments to § 211.81 of Subpart D and § 211.91 of Subpart E make it clear that FEA allocates propane, butane, and propane-butane mixtures, as such, and that with respect to mixtures that contain non-allocated products, FEA restricts the use of the propane and butane contained in those mixtures.

FEA has concluded that these amendments and revisions must be made effective immediately and prior to opportunity for comment, because the increasing use of propane and butane as refinery fuels would be particularly injurious to the public welfare in view of the need for propane and butane to be available at the end-user and wholesale purchaser-consumer level during the current heating season and during the current period of substantial natural gas curtailments. Accordingly, the provisions of section 7(i)(1)(B) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), with respect to notice and opportunity for comment, are hereby waived upon a finding that strict compliance therewith would cause serious harm and injury to the public welfare.

The review provisions of section 7(c)(2) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275) are hereby waived for a period of fourteen days, as provided for in that section, upon a finding that there is an emergency situation, which requires immediate action. FEA is submitting the text of this emergency amendment concurrently with its issuance to the Environmental Protection Agency for its review.

Because these amendments and revisions are being issued on an emergency basis, an opportunity for oral presentation of views is not possible prior to the implementation of these amendments and revisions. A public hearing, however, will be held beginning at 9:30 a.m., on January 9, 1975 at the Federal Building, Room 3000, 12th and Pennsylvania Avenue, NW., Washington, D.C., to receive comments from interested persons. The hearing will be continued through January 10, 1975, if necessary. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.s.t., December 31, 1974. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday

constitutes greater than ten (10) per-

§ 211.92 [Amended]

refiners' price rules of the FEA are not

through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through January 3, 1975. Each person selected to be heard will be so notified by the FEA before 5:30 p.m., e.s.t., January 6, 1975 and must submit 100 copies of his or her statement to Executive Communications, FEA, Room 3315, Federal Building, Washington, D.C., 20461, before 9 a.m., e.s.t., January 8, 1975.

The FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearing will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the hearing, to Executive Communications, FEA, before 4:30 p.m., e.s.t., January 6, 1975. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answers.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the FEA and made available for inspection at the Administrator's Reception Area of the FEA, Room 3400, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may buy a copy of the transcript from the reporter.

Interested persons are invited to submit data, views, or arguments with respect to the emergency amendment to Executive Communications, Federal Energy Administration, Box BP, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to Executive Communications, FEA, with the designation "Limitation on Refinery Fuel Use." Fifteen copies should be submitted. All comments received by January 6, 1975, and all relevant information, will be considered by the Federal Energy Administration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and treated it according to its determination.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790 (39 FR 23185)).

In consideration of the foregoing, Parts 210 and 211 of Chapter II, Title 10 of the Code of Federal Regulations, are amended as set forth below, effective immediately.

Issued in Washington, D.C., December 19, 1974.

ROBERT E. MONTGOMERY, Jr.,
General Counsel,
Federal Energy Administration.

1. Section 210.34 is amended to delete the definition of "refinery gas" from paragraph (b) and to revise paragraph (a) to read as follows:

§ 210.34 Petroleum refinery products.

(a) Petroleum refinery products such as petroleum wax, petroleum coke, asphalt and road oil which are not crude oil, refined petroleum products, or residual fuel oils are exempt from the provisions of Parts 211 and 212 of this chapter.

• • • • •

2. Section 211.1 is amended to revise paragraph (b)(3) to read as follows:

§ 211.1 Scope.

• • • • •

(b) *Exclusions.* • • •

(3) Petroleum refinery products such as petroleum wax, petroleum coke, asphalt and road oil which are not crude oil, refined petroleum products, or residual fuel oil are excluded from this part.

• • • • •

3. Section 211.10 is amended in paragraph (g) by deleting paragraph (g)(9) and revising paragraph (g)(8) to read as follows:

§ 211.10 Supplier's method of allocation.

• • • • •

(g) *Allocations fractions greater than one.* • • •

(8) *Limitation on purchaser's rights including special restrictions on propane and butane.*

Unless directed by FEA no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept quantities of allocated product which exceed one hundred (100) percent of the end-user's or wholesale purchaser-consumer's current requirements, *provided,* That (i) no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of propane or butane (including the propane and butane content of natural gas liquids and refinery gas) in excess of one hundred (100) percent of base period use for synthetic natural gas feedstock use, gas utility use, or any industrial use except for the purpose of increasing inventories for such uses to the levels allowed under § 211.86(g) or § 211.96(e) *and provided further,* That (ii) no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of propane or butant (including the propane and butane content of natural gas liquids and refinery gas) in excess of one hundred (100) percent of base period use for refinery fuel use.

4. Section 211.51 is amended by revising the definition of "energy production" and by adding definitions of "butane," "natural gas liquids," "natural gasoline," "propane," "propane-butane mix" and "refinery fuel use" in the appropriate alphabetical order to read as follows:

§ 211.51 Definitions.

• • • • •

"Butane" means the chemical C_4H_{10} in its commercial forms, including both normal butane and iso-butane, their mixtures and mixtures of butane and propane containing ten (10) percent by weight or less of propane. Included within the definition of butane is the butane content of natural gas liquids and refinery gas when used for refinery fuel use.

• • • • •

"Energy production" means the exploration, drilling, mining, refining, processing, production and distribution of coal, natural gas, geothermal energy, petroleum or petroleum products, shale oil, nuclear fuels and electrical energy. It also includes the construction of facilities and equipment used in energy production, such as pipelines, mining equipment and similar capital goods. Excluded from this definition are synthetic natural gas manufacturing, electrical generation whose power source is petroleum based, gasoline blending and manufacturing and refinery fuel use.

• • • • •

"Natural gas liquids" means a mixed hydrocarbon stream containing, in whole or in substantial part, mixtures of ethane, butane (iso-butane and normal butane), propane or natural gasoline.

• • • • •

"Natural gasoline" means those liquid hydrocarbon mixtures containing substantial quantities of pentanes and heavier hydrocarbons, which have been extracted from natural gas.

• • • • •

"Propane" means the chemical C_3H_8 in its commercial forms including propane-butane mixes in which propane

a level not justified on the basis of costs same time, the FEA is issuing an emer- tivities in order to calculate the increased

constitutes greater than ten (10) percent of the mixture by weight. Included within the definition of propane is the propane content of natural gas liquids and refinery gas when used for refinery fuel use.

• • • • •

"Propane-butane mix" means any mixture consisting exclusively of propane and butane.

• • • • •

"Refinery fuel use" means the use of an allocated product as fuel in the refining of petroleum products.

• • • • •

5. Section 211.81 is revised to read as follows:

§ 211.81 Scope.

(a) This subpart is applicable to all suppliers, including producers, and purchasers of propane.

(b) This subpart provides for the mandatory allocation of all propane produced in or imported into the United States, except bottled propane, and the propane content of natural gas liquids and refinery gas. Restrictions on the use of the propane content of natural gas liquids and refinery gas are specified in § 211.10(g)(8) of this Part.

(c) This subpart provides for a state set-aside.

§ 211.82 [Amended]

6. Section 211.82 is amended by deleting the definitions of "propane" and "propane-butane mix."

7. Section 211.83 is amended in paragraph (c) by deleting the word "and" in subparagraph (2)(iv); by replacing the period [.] after subparagraph (2)(v) with a semicolon [;] and by adding the word "and" thereafter; and by adding a new paragraph (c)(2)(vi) to read as follows:

§ 211.83 Allocation levels.

• • • • •

(c) *Allocation levels subject to an allocation fraction.* • • •

(vi) Refinery fuel use.

• • • • •

(2) • • •

8. Section 211.91 is revised to read as follows:

§ 211.91 Scope.

(a) This subpart is applicable to all supliers and purchasers of butane and natural gasoline.

(b) This subpart provides for the mandatory allocation of all butane and natural gasoline produced in or imported into the United States, except bottled butane, and the butane content of natural gas liquids and refinery gas. Restrictions on the use of the butane content of natural gas liquids and refinery gas are specified in § 211.10(g)(8) of this Part.

(c) This subpart does not provide for a state set-aside.

§ 211.92 [Amended]

9. Section 211.92 is amended by deleting the definitions of "butane" and "natural gasoline."

10. Section 211.93 is amended in paragraph (c) by deleting the word "and" in subparagraph (2)(iii); by replacing the period [.] after subparagraph (2)(iv) with a semicolon [;] and by adding the word "and" thereafter; and by adding a new paragraph (c)(2)(v) to read as follows:

§ 211.93 Allocation levels.

• • • • •

(c) *Allocation levels subject to an allocation fraction.* • • •

(2) • • •

(v) Refinery fuel use.

• • • • •

[FR Doc.74-30022 Filed 12-20-74;9:48 am]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Changes in the Price Regulations for Natural Gas Liquids and Natural Gas Liquid Products

On September 6, 1974, the Federal Energy Administration issued a Notice proposing a number of significant changes in the Mandatory Petroleum Price Regulations (39 FR 32718, September 10, 1974). Comments were invited from interested persons by September 27, 1974, and more than 80 comments were received. A public hearing on the proposal was held September 30 and October 1, 1974, at which approximately 20 interested persons presented statements. The FEA has previously amended its regulations with respect to certain of the possible changes contained in the September 10 Notice. Amendments to the FEA regulations were issued on November 1, 1974 (39 FR 39258, November 6, 1974), and on November 29, 1974 (39 FR 42368, December 5, 1974), with action on the remaining proposals included in the September 10 Notice having been deferred, pending further study and analysis by the FEA.

The FEA has now completed its analysis of the comments and statements submitted in this proceeding on the proposal to promulgate new regulations designed specifically to cover the prices of natural gas liquids and products produced from natural gas liquids, including propane, and is today adopting new regulations on this subject, to be effective January 1, 1975.

Action on all other revisions to the price regulations proposed in the September 10 Notice is deferred until a later date. However, those possible revisions continue to be under active consideration by FEA for decision in this proceeding.

I. *Background.* In proposing to adopt new regulations designed specifically to cover natural gas liquids and natural gas liquid products, including propane, the FEA in its September 10 Notice outlined the basis for its statutory authority for such regulations and indicated that the refiners' price rules of the FEA are not well-suited for regulating prices of liquid products produced from natural gas because of the differences between the operations of a gas plant and a refinery.

The comments received in this proceeding have underscored those differences between gas processing and crude oil refining, and have made even more apparent the difficulty of formulating generally applicable regulations for a very complex sector of the petroleum industry. In the regulations adopted today, the FEA seeks to apply a set of rules to this sector of the industry which is as simple and understandable as possible. The FEA is fully aware, however, that these new regulations could have an unanticipated impact on various entities and interests. Accordingly, although the regulations issued today will provide the basic framework for FEA regulation of prices of natural gas liquids and natural gas liquid products, the FEA is aware that revisions to these regulations may well be called for.

A principal aspect of the regulations adopted today is that they serve to allocate costs of producing propane and other natural gas liquid products to the prices which may be charged for those products, consistent with the provisions concerning propane price regulations of § 5(b)(11) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275). Although this approach has the advantages of permitting all natural gas royalty owners, producers and processors to be treated on an equivalent basis, and of avoiding the general non-cost justified price increases that were proposed in the September 10 Notice, it necessarily involves price disparities because of the differing costs of crude oil and natural gas.

The alternative to a cost-based price regulatory system would be a system of administered prices at various levels of distribution. Under such a system, prices could be established for natural gas liquid products that would approximate the prices of crude petroleum derived products, on a BTU equivalency basis. To the extent that demand for natural gas liquid products is exaggerated by their relatively low prices in comparison with similar products produced from crude oil, such a price system could be expected to return demand to more normal levels. Such a system would also minimize the price disparity problem, which is particularly acute in the marketing sector of the propane industry. Single prices at given levels of distribution would, however, necessarily involve inequities for producers and processors having different costs, and those with the lowest costs, might be in a position to reap "windfall" profits. Further, in order for any administered ceiling price system at various levels of distribution to stimulate additional supplies, the price level that was established would have to be at or near the level needed to provide sufficient incentive for additional production, which would be

a level not justified on the basis of costs for most existing production.

As the foregoing summary indicates, there is no single ideal solution to the regulation of natural gas liquid prices, and the regulations adopted by the FEA today are a necessary compromise among the conflicting considerations which must be taken into account. As stated in the September 10 Notice, the fundamental objective is to permit prices that will be as low as reasonably possible without adversely affecting the availability of the product. The adverse effects of price disparities stemming from the differing costs of crude oil and natural gas on the distribution sector of the industry, and the added demand for natural gas liquid products priced at less than the prices for BTU equivalent crude petroleum derived products, were also among the problems adverted to by the FEA in its September 10 Notice. A further important consideration in this proceeding is that the FEA must ensure, to the maximum extent practicable, that its regulations do not have an undue adverse impact on any particular segment of the industry, and that established relationships and operations in the industry are not unnecessarily disrupted.

The principal features of the revised cost-based system with respect to the pricing of natural gas liquids being adopted today are: (1) The continuation of May 15, 1973 as the reference point from which increased costs and lawful prices are to be determined, but with an adjustment of May 15, 1973 selling prices of natural gas liquid products at the first sale level to at least 8.5 cents per gallon for propane, 9 cents per gallon for butane, and 10 cents per gallon for natural gasoline; (2) provision for the addition of up to 0.5 cents per gallon to May 15, 1973 selling prices to reflect increased non-product costs incurred in processing natural gas liquids; (3) provision for the addition of an increment to May 15, 1973 selling prices to account for actual increased cost of natural gas shrinkage attributable to the production of natural gas liquids since that date; (4) provision for the increased costs attributable to propane to be applied selectively among classes of purchaser by refiners, gas processors, and resellers in determining propane prices for sales to different classes of purchaser; (5) a requirement that refiners who process natural gas liquids exclude revenues which represent recovery of increased costs of crude oil from the revenues received in the sale of natural gas liquid products, for the purpose of determining net-back payments to royalty owners or producers; and (6) a price rule for natural gas liquids extracted in gas processing facilities constructed after the effective date of these regulations which provides an incentive for the construction of such facilities by permitting somewhat higher prices to be charged for products produced in new plants. The FEA is also soliciting comments on an appropriate price incentive for the expansion of existing gas processing facilities. At the same time, the FEA is issuing an emergency amendment to its allocation regulations to govern the use of propane as a refinery fuel, to insure that undue volumes of propane are not consumed for this purpose.

II. *Definitions and applicability.* As indicated in the September 10 Notice, the application of price rules to natural gas liquids is complicated by the fact that a price for natural gas liquids is typically not determined until the natural gas liquid products are sold separately—with royalty owners, producers, and gas processors then receiving portions of the sales revenues as determined by contractual arrangement.

In order to clarify the applicability of FEA price regulations to these various transactions, two new definitions have been adopted. "First sale" is used to refer to the first transaction with respect to which a specified per unit (*e.g.*, cents-per-gallon) price is determined. "Net-back sale" is used to refer to transactions with respect to which a specified per unit price is not determined, but as to which the transferor of the product is entitled to receive a percentage of the ultimate sales revenues of the product or products involved. These new definitions are to make clear that FEA regulations apply to all transactions—both "first sales" and "net-back sales."

As to "net-back sales," entities such as royalty owners, producers, and gas processors may not receive greater "net-back" revenues per gallon than were received on May 15, 1973, unless the related "first sale" prices of the natural gas liquid products, upon which the amount of the net-back revenues are based, are increased above their May 15, 1973 levels pursuant to the regulations adopted today, or unless the contractual terms are revised to afford a larger percentage net-back. The FEA has determined that it would be administratively impracticable to seek to regulate, in effect, the various terms of the many contractual arrangements under which "net-backs" are determined. Accordingly, FEA regulations will not address the manner in which the net-back revenues are allocated between parties, except to provide specifically that the manner in which net-back revenues are allocated shall not constitute a basis upon which a first sale price may be increased.

The new Subpart K of Part 212 adopted today applies to all sales other than resales of natural gas liquids and natural gas liquid products by all entities, including producers, royalty owners, gas plant operators, and refiners. The definition of "refiner" set forth in § 212.31, which includes those entities which refine crude oil and which process natural gas to obtain natural gas liquids or natural gas liquid products, has not been changed. However, the applicability sections of Subpart E (Refiners) and Subpart K (Natural Gas Liquids) provide that where a refiner that refines crude oil and processes natural gas is involved, the provisions of Subpart K will be applied to the refiner's gas processing activities in order to calculate the increased product and nonproduct costs attributable to natural gas liquids and natural gas liquid products, which will then be used, together with increased costs determined under Subpart E for products refined derived from crude oil, to determine the lawful selling prices for the refiner's total volumes of propane, butane, and natural gasoline, and for any covered products which are produced from propane, butane or natural gasoline.

III. *Adjusted May 15, 1973 prices.* May 15, 1973 is the date to which reference is made under FEA regulations in determining lawful prices for the sale of all covered products. This is done, in general, by use of those product costs incurred on May 15, 1973, or during the month of May, 1973, as the costs against which current product costs are measured, for purposes of determining the amount of increased product costs. The amount of increased product costs may then be applied to May 15, 1973 prices, to determine current lawful selling prices. This method of price determination serves, in general, to preserve a seller's May 15, 1973 margin (*i.e.*, the difference between May 15, 1973 product costs and May 15, 1973 selling prices) and to provide for a dollar-for-dollar pass through of increased product costs.

Originally, this May 15, 1973 date was chosen by the Cost of Living Council ("Council") for use in that part of its Phase IV petroleum regulations which was applicable to refiners. The Phase IV regulations were implemented by the Council in August, 1973. Upon review of the period which preceded the initiation of the Phase IV controls, the Council determined that the month of May, 1973 represented the most recent relatively stable time period during which market forces appeared to have been operating relatively free of the effects of price controls, particularly with respect to crude oil prices. Accordingly, May was chosen as the most appropriate reference point to determine historical margins under a system of price controls designed to "freeze" prices at a time that approximated free market conditions, and to allow a dollar-for-dollar pass through of increased product costs, incurred since that time. Although another date, January 10, 1973, was initially selected as a basis for the historical margins under the price regulations applicable to resellers and retailers, May 15, 1973 was ultimately selected as the best single date on which to base the price controls applicable to all sectors of the petroleum industry.

In the case of natural gas liquids, however, the FEA has concluded that May 15, 1973 selling prices of individual firms do not in some cases reflect a stable price situation based on relatively free market conditions, nor do they necessarily reflect historical margins. Propane prices, for example, ranged between 4 and 22 cents per gallon on May 15, 1974. This 18 cent spread in prices represented

a substantial departure from more typical market conditions, and reflected the fact that some firms had changed their prices, while others had not. The price spread for propane in August, 1971, for example, was only 6.5 cents per gallon, and reflected a more normal market situation. In many cases the low May 15, 1973 prices of certain sellers were in large part the result of economic controls that began under the Council's Phase I freeze of August, 1971.

The FEA also recognizes that May 15, 1973 propane prices reflect a seasonal demand reduction for that product, in many instances. To date, the FEA has received several requests for exceptions to the price regulations, citing the inequity of determining current lawful prices on the basis of atypically low prices that were in effect on May 15, 1973, for some sellers, but not for others.

The FEA has determined that the arithmetic average of the prices for which some fifty firms were selling propane on May 15, 1973 represents a price level that is more representative for purposes of determining allowable prices, than are the individual prices of each firm. Therefore, those firms that were selling at lower prices than the arithmetic average price, which is more representative of the essentially free market prices upon which the regulations are intended to be based, will be permitted to use an adjusted "free market" May 15, 1973 price, for purposes of FEA price regulations.

The FEA has concluded that a conservative but appropriate adjusted May 15, 1973 price for propane, which may be used by any firm in lieu of its actual May 15, 1973 selling price for propane, is 8.5 cents per gallon. This figure is based in part on the arithmetic average of the prices of some fifty firms for propane on May 15, 1973, which was 9.03 cents per gallon. Also, the Cost of Living Council collected comprehensive data on the selling prices of propane in August, 1973. Since all prices were frozen on June 13, 1973, by the Council, and since propane prices typically do not increase in summer months, the arithmetic average August price of 8.91 cents per gallon should also be indicative of average May 15, 1973 prices. However, the price range by August had been reduced to 11.7 cents per gallon, which further indicates that prices were in a state of transition on May 15, 1973.

Permitting the use of this adjusted May 15, 1973 "free market" price for propane is analogous to the crude oil ceiling price regulation, which does not limit each producer of crude oil to a price based on the price actually charged by that producer in sales of its crude oil on May 15, 1973. Rather, producers' prices for domestic crude oil are based on "the highest posted price * * * [on] May 15, 1973, for that grade of crude petroleum at that field * * *" (10 CFR 212.73(b)).

Thus, in order to obviate the necessity of dealing with this problem through exceptions on a case-by-case basis, and in light of the fact that average prices for propane were at a level of somewhat more than 8.5 cents per gallon on May 15, 1973, the FEA has determined that, in calculating the weighted average price at which propane was lawfully priced in transactions on May 15, 1973, for use in the price rule, a seller of propane in a first sale transaction may use the higher of its actual weighted average selling price per gallon on that date, or 8.5 cents per gallon. This provision should help insure that all processors of natural gas will have margins comparable to historical levels—thus providing a continuing incentive to produce natural gas liquid products.

The FEA has further determined that, in view of the fact that prices for butane and natural gasoline have historically exceeded the price of propane by an average of 0.5 cents per gallon for butane and 1.5 cents per gallon for natural gasoline, the May 15, 1973 prices which may be used for these two products for purposes of the price regulations will be the higher of the actual price on that date for each product, or 9 cents per gallon for butane and 10 cents per gallon for natural gasoline.

These provisions with respect to adjusted May 15, 1973 prices are intended to remove inequities that have resulted from non-representative May 15, 1973 prices. Although not intended primarily as a measure to reduce current price disparities, this provision should also tend to alleviate the price disparity problem in the marketing sector of the propane industry.

IV. *Non-product cost allowance.* The FEA recognizes that processors of natural gas liquids may be incurring increased costs of operations, such as rent, labor, interest, etc., which cannot be accounted for as increased natural gas shrinkage costs. The FEA does not, however, have sufficient data to determine the extent of these cost increases, on an average industry-wide basis.

The FEA has concluded that the differences in gas plant operations from those of crude oil refinery operations justify a somewhat different treatment of non-product costs. Particularly in view of the large number of gas plants and the fact that many of them are not under the ownership of a single legal entity, the FEA has concluded that regulations to provide for the computation and the pass-through of increased non-product costs on a plant-by-plant, or even a firm-by-firm basis, in the manner of the recently amended non-product cost pass-through regulations which are generally applicable to refiners (§ 212.87), is impracticable and would present an unreasonable administrative burden if applied to all gas plants. In view of the foregoing, the FEA has determined that actual increased non-product costs of operating gas processing plants may be passed through in prices charged for natural gas liquids, provided that not more than 0.5 cents per gallon will be permitted to be added to the May 15, 1973 selling price of natural gas liquid products, in recognition of increased non-product costs incurred since that date. Gas plant operators will be required to maintain records to justify non-product cost increases, just as they will be required to do with respect to product cost increases, and the pass through of increased non-product costs by refiners that process natural gas and refine crude oil will be subject to the profit margin limitations of Subpart E.

Any firms that have increased non-product costs of gas processing that would justify a greater price increase than 0.5 cents per gallon may request permission to charge higher prices, on a case-by-case basis through the exceptions process.

V. *Increased cost of natural gas shrinkage.*—For natural gas processing, the equivalent of increased product cost is the increase in the cost of the "shrinkage" which occurs in the natural gas stream from which the liquids are extracted, as a result of the extraction of the liquids. The "cost" of such shrinkage is the reduction in sales revenues received from the natural gas because of the reduced gas volume or BTU content of the gas after processing. Where the price permitted to be charged for natural gas has increased since May 15, 1973, an increased cost of "shrinkage" resulting from extraction of the liquids has been the result. The FEA has determined that this cost increase is the equivalent of increased product cost, and shall therefore be permitted to be passed through in the prices charged for natural gas liquid products so that the economic incentive to remove the liquids from the natural gas stream will not be lost.

The cost of shrinkage shall be computed based upon the contractural terms in effect for the sale of natural gas during the time period for which shrinkage cost is being measured. Thus, in those cases where the natural gas processed is or was sold under contracts at prices based on BTU value, the cost of "shrinkage" is to be computed based on the reduction in sales revenues from natural gas because of reduced BTU value attributable to gas processing, and where the natural gas processed is or was sold under contracts at prices based on the volume of gas, the cost of "shrinkage" is to be computed based on the reduction in sales revenues from natural gas sales because of reduced volume attributable to gas processing.

Thus, any selling prices for natural gas liquid products which exceed the adjusted May 15, 1973 price for the product, plus the 0.5 cents per gallon allowed for increased nonproduct costs, must be justified by increased natural gas shrinkage costs. The pass-through of increased shrinkage costs will permit continuing price disparities, particularly as long as the wide disparity in prices being charged for interstate sales and for intrastate sales of natural gas persists. However, as was noted above, this type of regulation will permit the full cost of processing higher priced natural gas to be passed through and, to the extent that

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the prices of natural gas begin to move closer to the prices of crude oil, on a BTU basis, the problem of price disparities between crude oil derived products and natural gas liquid products will be alleviated, without the need for any action by FEA.

Gas plant operators will be required to maintain records to establish the amount of increased shrinkage costs attributable to the gas they process. The total increased shrinkage cost attributable to the entire volume of natural gas processed to obtain a given volume of natural gas liquids may be attributed to the prices charged for those liquids in a first sale, without regard to which entity actually retains title to the natural gas, and therefore "incurs" an increased shrinkage cost by virtue of reduced natural gas sales revenues. This approach avoids the complexities inherent in attempting to allocate the shrinkage costs pursuant to the wide variety of contractual terms that are in existence, and is consistent with the application of a "first sale" price rule which leaves the parties to "net-back" sale arrangements free to allocate the revenues from first sales of natural gas liquid products as they see fit.

Because the amount of increased shrinkage costs and volumes of natural gas liquids to which those costs are attributable are relatively stable, such costs may be added to prices on a current basis. This will contribute to administrative simplicity. Gas processors will simply be required, for each month, to establish that the increased shrinkage costs for that month justify the prices charged in that month. Increased shrinkage costs not recovered in one month may be carried forward for recovery in a subsequent month.

Where different volumes of natural gas processed in the same gas plant are subject to separate contracts for sale, and have different increased shrinkage costs, the increased costs attributable to a particular volume of natural gas may be allocated directly to the prices charged for the liquids extracted from that volume of gas, or the total amount of increased shrinkage costs attributable to all natural gas processed in a plant may be allocated to the total volume of liquids extracted from that gas. Whichever method of cost allocation is used, no more than a volumetrically proportional share of the available increased costs may be allocated to prices charged for propane.

VI. *Unequal application among classes of purchaser of increased costs to determine prices for propane.* FEA price regulations require generally that the amount of increased product costs used in determining prices charged for a particular product be equally applied to the May 15, 1973 selling price to each class of purchaser of that product. In the September 10 Notice, the FEA proposed a relaxation of this requirement, for all products, in order to restore a measure of pricing flexibility that is not currently available under the price regulations. The September 10 Notice proposed to eliminate the equal application requirement, except to the extent that it is necessary to protect the independent sector of the market. The FEA has not yet completed its analysis of this proposal as to the pricing of covered products in general, but it has concluded that a revision to its regulations in this regard for propane prices is appropriate at this time, in light of the special considerations which affect the prices of this product.

In revising the equal application of increased cost requirement for propane prices, the FEA will, as proposed in its September 10 Notice, afford protection for independent marketers by requiring that the smallest increment of increased product cost be applied to prices charged to any class of purchaser that includes an independent marketer. In addition, that same restriction will be extended to include prices charged in sales to any class of purchaser that includes residential users.

Although no limitation was proposed on the extent of the difference in amounts of increased product costs that could be applied to the May 15, 1973 selling price to different classes of purchaser under this revision, the FEA has concluded that there should be such a limitation, at least initially. Accordingly, under the new regulation, the greatest amount of increased product cost added to the May 15, 1973 selling price of propane to a particular class of purchaser may not exceed the smallest amount of increased product cost added to the May 15, 1973 selling price of propane to any other class of purchaser by more than 100 percent. Thus, if a seller had May 15, 1973 weighted average selling prices of 9 cents per gallon to a class of purchaser that included an independent marketer, and of 11 cents per gallon to another class of purchaser, and that seller added increased costs of 5 cents per gallon to determine a current selling price of 14 cents per gallon to the class of purchaser that included an independent marketer, the highest amount of increased costs that it could add to its May 15, 1973 selling price to the other class of purchaser would be 10 cents per gallon, which would result in a selling price in this example to that class of purchaser of 21 cents per gallon.

These revisions to the price regulations for propane are intended to help preserve reasonable price levels for propane used by residential users, and at the same time to help forestall some of the excessive demand for this product from so-called "non-traditional" users, which could be intensified by the availability to such users of the product at prices which are based solely on natural gas prices, and which would therefore typically be less than prices for BTU equivalent crude petroleum derived fuels. This provision should also serve to make additional propane available through imports, by facilitating the pass through of the higher cost of imported product, especially to industrial and utility users of propane, which are in a better position to meet the higher cost of imported product than are residential users.

VII. *Separate calculation of revenues from natural gas liquid product sales by refiners that refine crude oil and process natural gas.* The FEA has become aware of the significant problem currently faced by independent natural gas processors that do not refine crude oil in obtaining new supplies of natural gas for processing. Since natural gas producers and royalty owners traditionally receive a percentage of the selling price of the liquid products, they seek to commit their natural gas to the processor that has the highest lawful selling price for those products, in order to maximize their return. And since those refiners that also refine crude oil are permitted to determine selling prices for products under a method that reflects the increased cost of crude oil, while independent natural gas processors do not have increased crude oil costs, the lawful selling prices of such refiners are generally higher than those of natural gas processors.

The FEA is therefore amending its regulations in order specifically to provide that the revenues received in sales of natural gas liquid products shall be reduced by the amount of increased crude oil costs that were recovered in such sales, for purposes of determining net-back revenues.

This provision necessarily overrides any contractual provisions that are inconsistent with it. It should be noted, also, that any contractual provisions that depend upon "posted" or "market" prices would be generally inoperative, since the operation of the FEA cost-based price regulations replaces "market prices" with maximum lawful prices, which depend upon the differing costs attributable to various sellers.

VIII. *Prices for natural gas liquid products from gas plants that have been placed in operation since May 15, 1973, and for new gas plants constructed after the effective date of this regulation.* Prices for natural gas liquids products produced in gas plants that were placed in operation after May 15, 1973, and therefore did not have a May 15, 1973 selling price, may be computed on the basis of the adjusted May 15, 1973 prices for natural gas liquid products specified by these regulations. In addition, increased natural gas shrinkage costs may be computed on the basis of a May 15, 1973 selling price for natural gas of 23 cents per thousand cubic feet (MCF) for gas with a BTU content of 1000 BTUs per cubic foot (CF), which represents the average price of natural gas sold in interstate sales on that date.

With respect to gas plants on which construction is begun after the effective date of this regulation, the same May 15, 1973 imputed price for natural gas shall be used for computing increased shrinkage cost. However, higher imputed May 15, 1973 prices of 12 cents per gallon for propane, 12.5 cents per gallon for

butane, and 13.5 cents per gallon for natural gasoline may be used. The additional 3.5 cents per gallon with respect to May 15, 1973 prices, to be used in computing lawful prices for natural gas liquid products produced in new gas plants is intended to provide an incentive for the construction of new plants, and thereby to maximize supply. Comments are requested with respect to this provision of the regulations, and if this incentive is not regarded as sufficient, data to support the need for any further incentive should be submitted.

The maximization of extraction of liquids from existing plants, through providing price incentives for plant modernization and expansion, is also an objective of the FEA. The FEA does not have on hand sufficient data to determine either the criteria by which increased extraction can be appropriately measured, or what the needed incentives to achieve further liquid extraction would be. It may be possible, for example, to provide by regulation that where the percentage of propane extracted from the natural gas stream by a particular gas plant is increased by a certain percentage, a special additional price per gallon of product produced in that plant could be charged. Comments are also requested on this issue.

IX. *Relationship to allocation regulations.* The cost-based regulations adopted today continue to relate the prices of natural gas liquid products to the prices of the natural gas from which they are extracted. To the extent that natural gas prices are regulated at less than the equivalent BTU prices of crude oil, natural gas liquid products will be priced at levels which represent generally a lower price per BTU than fuels derived from crude petroleum.

The argument that natural gas liquid prices must be priced on a BTU equivalence basis with crude oil derived products, in order to avoid additional price-stimulated, demand on a diminishing quantity of natural gas liquid products, is a forceful one. The FEA has concluded, however, that in the present circumstances the allocation regulations offer the most appropriate method of dealing with this problem.

One aspect of this problem that was repeatedly raised in this proceeding was the assertion that refiners would turn to propane for use as a refinery fuel, unless propane were permitted to be priced at the same level per BTU as fuels derived from crude petroleum.

The authority of the FEA to allocate petroleum products is fully adequate to limit this, however. Refiners, like other industrial users of fuel, are subject to limitations in their use of propane as a source of fuel. An appropriate regulatory changes is being issued, on an emergency basis, to prevent the possibly excessive use of propane as refinery fuel.

The regulations issued today are predicated in large part on the proposition that natural gas liquids and natural gas liquid products are being processed and distributed in a manner that reflects historical supplier-purchaser relationships. Should it appear that new relationships are being created with the intent to avoid the impact of the price regulations, revision to the allocation regulations, or other appropriate steps by FEA, will be taken.

Written Comment Procedures

Interested persons are invited to submit data, views or arguments with respect to the specific matters concerning incentives for new and expanded gas processing facilities upon which comments have been solicited to Executive Communications, Federal Energy Administration, Box BO, Washington, D.C. 20461. Ten copies of each comment should be submitted, and should be identified on the outside envelope and on documents submitted to Executive Communications with the designation "Further Comments on Mandatory Petroleum Price Regulations." All comments received by January 15, 1975, and all relevant information will be considered by FEA in this connection.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective January 1, 1975.

Issued in Washington, D.C., December 19, 1974.

ROBERT E. MONTGOMERY, Jr.,
General Counsel,
Federal Energy Administration.

1. Section 212.31 is amended in the definition of "producer" to read as follows:

§ 212.31 Definitions.

* * * * *

"Producer" means a firm or that part of a firm which produces crude petroleum or natural gas, or any firm which owns crude petroleum or natural gas when it is produced.

* * * * *

2. Section 212.81 is revised to read as follows:

§ 212.81 Applicability.

This subpart applies to each sale of a covered product which is purchased or refined by a refiner, except as provided in Subparts F and K.

3. Section 212.83 is amended in paragraph (c)(1)(iii) and is further amended by adding paragraphs (c)(1)(v) to read as follows:

§ 212.83 Allocation of refiners' increased costs.

* * * * *

(c) *Allocation of increased product costs*—(1) *General rule.* * * *

(iii) *Special propane rule.* Notwithstanding the provisions of § 212.83(c)(1)(ii) and § 212.83(e), a refiner in computing base prices for propane for the twelve month period of August 1, 1974 through July 31, 1975:

(A) May not apportion to propane a greater percentage of increased cost of crude petroleum purchased or landed in the twelve month period July 1, 1974, through June 30, 1975, than the percentage that the volume of propane sold during the twelve month period August 1, 1974, through July 31, 1975, which was produced by that refiner from crude petroleum is to the total volume of all products (including other than covered products) sold by it during the same twelve month period, which were produced by that refiner from crude petroleum. Notwithstanding § 212.83(b), for purposes of this special propane rule, cost of crude petroleum shall not include the cost of natural gas liquids; and

(B) May apportion to propane the increased cost of propane purchased or landed in the twelve month period of July 1, 1974, through June 30, 1975; and

(C) May apportion to propane the increased product costs attributable to propane produced from natural gas as determined pursuant to the provisions of § 212.146 of Subpart K of this part; and

(D) May not apportion to propane any increased product costs incurred prior to July 1, 1974, and not recovered through July 31, 1974.

* * * * *

(v) *Exception to equal application rules for propane.* Notwithstanding the provisions of paragraphs (c)(1)(i) and (ii) of this section, a refiner may comply with the provisions of this paragraph by applying unequal amounts of increased costs to the weighted average May 15, 1973 selling price of propane to classes of purchaser of propane, *provided,* That the highest amount of increased cost applied to the weighted average May 15, 1973 selling price to any class of purchaser shall not exceed by more than 100 percent the amount of increased cost applied to the weighted average May 15, 1973 selling price to any other class of purchaser, and, *provided further,* That no greater amount of increased cost shall be applied to the weighted average May 15, 1973 selling price of propane in sales to any class of purchaser which includes either an independent marketer, as defined in § 211.51 of this Chapter, or a purchaser that uses the product for residential use, as defined in § 211.51 of this Chapter, than is applied to the weighted average May 15, 1973 selling price of propane in sales to any other class of purchaser.

5. Section 212.93 is amended by redesignating paragraphs (f) and (g) as (g) and (h), respectively, and by adding a new paragraph (f) to read as follows:

§ 212.93 Price rule.

* * * * *

(f) *Exception to equal application rules for propane.* Notwithstanding the provisions of paragraph (e) above, a seller may comply with the provisions of this section by applying unequal amounts of increased costs to the weighted average May 15, 1973 selling price of propane to classes of purchaser of propane, *provided,* That the highest amount of increased

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cost applied to the weighted average May 15, 1973 selling price to any class of purchaser shall not exceed by more than 100 percent the amount of increased cost applied to the weighted average May 15, 1973 selling price to any other class of purchaser, and *provided further*, That no greater amount of increased cost shall be applied to the weighted average May 15, 1973 selling price of propane in sales to any class of purchaser which includes either an independent marketer, as defined in § 211.51 of this Chapter, or a purchaser that uses the product for residential use, as defined in § 211.51 of this Chapter, than is applied to the weighted average May 15, 1973 selling price of propane in sales to any other class of purchaser.

• • • • •

6. A new Subpart K is added to Part 212 to read as follows:

Subpart K—Natural Gas Liquids

Sec.
212.141 Applicability and relationship to other subparts.
212.142 Definitions.
212.143 General price rule.
212.144 Adjusted May 15, 1973 first sale price.
212.145 Increased non-product costs.
212.146 Increased product costs.
212.147 Allocation of increased product costs.
212.148 Increased product costs for natural gas liquid products from gas plants that began operation after May 15, 1973.
212.149 Net-back calculations.
212.150 Records required to be maintained.

AUTHORITY: (Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185).

Subpart K—Natural Gas Liquids

§ 212.141 Applicability and relationship to other Subparts.

(a) *Scope.* This subpart applies to all sales of natural gas liquids and natural gas liquid products, including transfers between affiliated entities, by all firms, including gas plant operators, producers of natural gas, natural gas royalty owners, and refiners except sales by resellers or retailers, which are subject to Subpart F of this part.

(b) *Relationship to other Subparts*—(1) *Gas plant operators.* Refiners that only refine liquid hydrocarbons from oil and gas field gases and do not refine crude petroleum shall determine their maximum lawful prices pursuant to this Subpart K and are not also subject to Subpart E.

(2) *Crude oil refiners which are also gas plant operators*—(i) *General.* Refiners that refine liquid hydrocarbons from oil and gas field gases, and also refine crude petroleum, shall determine their May 15, 1973 selling prices and increased costs for natural gas liquids and for natural gas liquid products produced in gas plants pursuant to this subpart, but shall determine their maximum lawful selling prices pursuant to Subpart E.

(ii) *Calculation of increased product costs.* Such refiners shall calculate the increased product costs of all natural gas liquids (except natural gas liquids which are separated from natural gas at the well head of an oil well, and purchased as crude oil) and the increased product costs attributable to natural gas liquid products pursuant to §§ 212.146 and 212.147 of this subparrt, and shall add the amount of increased product costs so determined to the amount of increased product costs incurred in each month of measurement and determined to be allocable to other than special products under the refiner's cost allocation formulae of § 212.83(c)(1), provided that the amount of such increased product costs allocable to propane prices is limited pursuant to the provisions of § 212.147(c) and § 212.83(c)(1)(iii).

(iii) *Calculation of increased non-product costs.* Such refiners shall calculate increased non-product costs attributable to natural gas processing pursuant to § 212.145, and shall add the amount of increased non-product costs so determined to the amount of increased non-product costs incurred in each month of measurement and determined to be allocable to prices charged for covered products pursuant to § 212.87(b), provided that the inclusion of such increased non-product costs determined pursuant to § 212.145 in prices charged by such refiners shall constitute the charging of an allowable price in excess of base price which will make such refiners subject to the profit margin limitation of § 212.82(d).

(c) *Sales of ethane.* This subpart does not apply to sales of ethane.

§ 212.142 Definitions.

For purposes of this subpart—

"Cost of natural gas shrinkage" means the reduction in selling price per thousand cubic feet (MCF) of natural gas processed, which is attributable to the reduction in volume or BTU value of the natural gas resulting from the extraction of natural gas liquids, as determined pursuant to the contract in effect at the time for which cost of natural gas shrinkage is being measured, and under which the processed natural gas is sold.

"First sale" means, with respect to natural gas liquids or natural gas liquid products, the first transfer for value to a class of purchaser for which a fixed price per unit of volume is determined.

"Gas plant" means a facility in which natural gas liquids are separated from natural gas, or in which natural gas liquids are fractionated or otherwise separated into natural gas liquid products, or both.

"Gas plant operator" means any firm, including a gas plant owner, which operates a gas plant and keeps the gas plant records.

"Gas plant owner" means any firm with an ownership interest in a gas plant.

"Groundbreaking" means the date on which the actual physical construction of a gas plant is undertaken.

"Natural gas liquids" means a mixed hydrocarbon stream containing, in whole or in substantial part, mixtures of ethane, butane (iso-butane and normal butane), propane or natural gasoline.

"Natural gas liquid products" means the separate products derived from natural gas liquids, including butane (iso-butane and normal butane), propane, propane-butane mixtures, and natural gasoline, but not ethane.

"Net-back sale" means, with respect to natural gas liquids, any transfer for value to a class of purchaser for which a percentage of the revenues from the first sale of natural gas liquids or natural gas liquid products is received.

§ 212.143 General price rule.

(a) *First sale.* A royalty owner, producer, gas plant owner, gas plant operator or other entity may not charge to (or receive from) any class of purchaser a price in excess of the weighted average price at which natural gas liquids or natural gas liquid products were lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, except to the extent permitted by this subpart.

(b) *Net-back sale.* A royalty owner, producer, gas plant owner, gas plant operator, or other entity that transferred natural gas liquids or natural gas liquid products to any class of purchaser on May 15, 1973, in a net-back sale shall not charge (or receive) per gallon revenues for such natural gas liquids or natural gas liquid products in excess of the per gallon revenues received in such net-back sales on May 15, 1973, except to the extent that the first sale price upon which the net-back amount is determined is permitted to increase above its May 15, 1973 level pursuant to this subpart, and except to the extent that the method for determining the amount of the net-back is changed, provided, however, that any change in the method of determining the amount of any net-back shall not constitute an increased product cost or an increased non-product cost.

§ 212.144 Adjusted May 15, 1973 first sale price.

(a) *Natural gas liquid products.* For purposes of determining lawful prices of natural gas liquid products in a first sale pursuant to this subpart, a firm may use, in lieu of the weighted average price at which natural gas liquid products were lawfully priced in first sale transactions with a class of purchaser on May 15, 1973, prices of not more than $.085 per gallon for propane, not more than $0.09 per gallon for butane, and not more than $.10 per gallon for natural gasoline.

(b) *Natural gas liquids.* For purposes of determining lawful prices of natural gas liquids in a first sale, if the first sale price was determined on May 15, 1973 by reference to first sale prices of natural gas liquid products, less a specified percentage or amount to take into account the costs of further processing needed before the natural gas liquids could be sold separately as natural gas liquid products, a firm may use, in lieu

of the actual May 15, 1973 selling prices for natural gas liquid products which were used to determine first sale prices of natural gas liquids on May 15, 1973, first sale prices of not more than $.085 per gallon for propane, not more than $.09 per gallon for butane and not more than $.10 per gallon for natural gasoline, provided that the first sale price of natural gas liquids shall be reduced by same percentage or amount from these adjusted first sale prices for natural gas liquid products as it was from the actual May 15, 1973 selling prices of natural gas liquid products, which served as the reference for determining the May 15, 1973 first sale price of natural gas liquids

(c) *Imputed May 15, 1973 first sale prices for natural gas liquid products from new gas plants where groundbreaking did not occur until January 1, 1975, or thereafter.* For purposes of determining lawful prices of natural gas liquid products produced in a gas plant where groundbreaking did not occur until January 1, 1975, or thereafter, a firm may use as the weighted average price at which natural gas liquid products were lawfully priced in first sale transactions on May 15, 1973, prices of not more than $.12 per gallon for propane, not more than $.12.5 per gallon for butane, and not more than $.13.5 per gallon for natural gasoline.

§ 212.145 Increased non-product costs.

The first sale price of natural gas liquid products may be increased by an amount which is not in excess of $.005 per gallon in excess of the amount otherwise permitted to be charged pursuant to the provisions of this subpart, to reflect non-product cost increases which have been incurred since May 15, 1973; *provided,* That, records are maintained to show the increased non-product costs attributable to gas plant operations, under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned, are sufficient to justify the amount of the price increase on a dollar-for-dollar pass through basis.

§ 212.146 Increased product costs.

(a) The first sale price of natural gas liquids or natural gas liquid products may be increased in each month as provided in § 212.147 to reflect, on a dollar-for-dollar basis, increased product costs since May, 1973 attributable to the production of such natural gas liquids or natural gas liquid products.

(b) Increased product costs are (1) the difference between the weighted average cost per gallon of natural gas liquids purchased in a first sale in the month of May 1973, and the weighted average cost per gallon of natural gas liquids purchased in a first sale in the current month multiplied by the number of gallons of natural gas liquids purchased in the current month, plus (2) the difference between the weighted average cost of natural gas shrinkage per thousand cubic feet (MCF) of natural gas processed in the month of May 1973, and the weighted average cost of natural gas shrinkage per thousand cubic feet (MCF) of natural gas processed in the current month, multiplied by the number of thousand cubic feet (MCF's) of natural gas processed in the current month.

§ 212.147 Allocation of increased product costs.

(a) *Exclusion of increased product costs attributable to ethane.* The total amount of increased product costs attributable each month to a given volume of natural gas shall be reduced each month by an amount equal to the product of the increased product costs multiplied by

$$\left(\frac{V_e^*}{V^*}\right),$$

where:

V^*=The total volume of all natural gas liquid products and ethane derived from that volume of natural gas and sold in the current month, and

V_e^*=The total volume of all ethane derived from that volume of natural gas and sold in the current month.

(b) *Aggregation of increased product costs.* Where increased product costs measured with respect to particular volumes of natural gas or natural gas liquids processed in a gas plant in a month are different, (i) the increased product costs measured with respect to a particular volume of natural gas may be allocated to the particular sales volumes of natural gas liquid products which is produced therefrom; or, in the alternative, (ii) the total amount of increased product costs measured with respect to the total amount of natural gas and natural gas liquids processed in a gas plant in a month may be allocated to the total sales volume of natural gas liquid products produced from all volumes of natural gas and natural gas liquids processed in that gas plant.

(c) *Increased product costs allocable to propane.* The total amount of increased product costs allocable to the price of propane derived from a particular volume of natural gas shall not exceed the amount of increased product cost determined pursuant to paragraphs (a) and (b) of this section to be attributable to that volume of natural gas and allocable to the sales volume of natural gas liquid products derived therefrom, multiplied by

$$\left(\frac{V_p^*}{V_n^*}\right),$$

where:

V_n^*=The total volume of all natural gas liquid products derived from that volume of natural gas and sold in the current month, and

V_p^*=The total volume of propane derived from that volume of natural gas and sold in the current month.

(d) *Allocation of increased product costs among classes of purchaser.* In computing maximum lawful prices for sales of natural gas liquid products other than propane, the amount of increased product cost allocable to such products pursuant to this section shall be equally applied to each class of purchaser. The total amount of increased product costs allocable to natural gas liquid products may be apportioned among natural gas liquid products, other than propane, in whatever amounts are deemed appropriate. In computing maximum lawful prices for sales of propane, unequal amounts of increased product costs may be applied to different classes of purchaser, *provided,* That the highest amount of increased product cost applied to the weighted average May 15, 1973 selling price to any class of purchaser shall not exceed by more than 100 percent the amount of increased product cost applied to the weighted average May 15, 1973 selling price to any other class of purchaser, and, *provided further,* That no greater amount of increased product cost can be applied to the weighted average May 15, 1973 selling price of propane in sales to any class of purchaser which includes an independent marketer, as defined in § 211.51 of this Chapter, or a purchaser that uses the product for residential use, as defined in § 211.51 of this Chapter, than is applied to the weighted average May 15, 1973 selling price of propane to any other class of purchaser.

(e) *Carry-forward of unrecovered increased product costs.* Increased product costs calculated pursuant to this section and not recovered in sales revenues in the current month may be carried forward for recovery in a subsequent month, *provided,* That such unrecovered increased product costs shall be allocated to prices as provided in this section, and, *provided further,* That to the extent any sales revenues in any current month recover in excess of the amount of increased product costs calculated pursuant to this section, such amounts shall be subtracted from the amount of increased product costs otherwise available to be allocated to prices in the following month.

§ 212.148 Increased product costs for natural gas liquid products from gas plants that began operation after May 15, 1973.

For purposes of determining increased product costs attributable to natural gas liquid products produced in a gas plant that began operation after May 15, 1973, a firm shall use a May 15, 1973 price of natural gas of 23 cents per thousand cubic feet (MCF) for 1000 BTU per cubic foot natural gas.

§ 212.149 Net-back calculations.

For purposes of calculating net-back revenues, revenues from sales of natural gas liquid products shall exclude any amounts that represent recoupment of increased cost of crude oil, provided for pursuant to Subpart E.

§ 212.150 Records required to be maintained.

Prices otherwise permitted to be charged pursuant to this subpart to reflect increased product costs and increased non-product costs shall not be charged unless records adequate to demonstrate such increased product costs

and increased non-product costs are maintained. The FEA will treat gas plant operators as responsible in the first instance for maintaining such records, without, however, relieving gas plant owners and other entities subject to these regulations of the responsibility for compliance with these regulations. Where one or more gas plants are under common ownership, the records required by this section may be kept in the aggregate for all of the gas plants concerned.

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Title 10—Energy

[Ruling 1974-33]

INAPPLICABILITY OF THE "STRIPPER WELL LEASE" EXEMPTION TO GAS WELLS

Facts. Firm P produces crude petroleum and petroleum condensates, including natural gas liquids from Property A (as defined in 10 CFR 210.32). From Property B, Firm P produces natural gas and condensates, including natural gas liquids. State X, where both properties are located, has classified the production of Property A as production of an oil well from an oil reservoir, and the production of Property B as production of a gas well from a gas reservoir. Firm P, during the preceding calendar year, produced less than ten barrels per well per day of crude petroleum and petroleum condensates, including natural gas liquids, from Property A, and less than ten barrels per well per day of petroleum condensates, including natural gas liquids, were extracted from the natural gas produced from Property B.

Issue. May Firm P apply the "stripper well lease" exemption of 10 CFR 210.32 to Property A and Property B?

Ruling. Firm P may apply this exemption to Property A, which qualifies as a "stripper well lease" under § 210.32. Firm P may not apply the "stripper well lease" exemption to the production of natural gas liquids obtained from Property B, since that property does not qualify as a "stripper well lease" under § 210.32.

A stripper well lease is defined in § 210.32(b) as "a 'property' whose average daily production of crude petroleum and petroleum condensates, including natural gas liquids, per well did not exceed 10 barrels per day during the preceding calendar year."

The provisions of 10 CFR 210.32 specifically apply, therefore, only to a property which has a "production of crude petroleum and petroleum condensates, including natural gas liquids." Firm P may, therefore, apply the provisions of the stripper well lease exemption to the production of the property where "oil wells" are producing (whether or not there is production of associated gas or of casinghead gas), but may not properly claim the exemption for the natural gas liquid production of "gas wells" on a property, since these wells do not produce crude petroleum.

This interpretation of a stripper well lease comports with industry usage and the congressional intent in providing for a stripper well lease exemption in the Emergency Petroleum Allocation Act of 1973. The phrase "stripper well" has long been understood in the petroleum industry to refer only to a well which produces oil, or oil with associated gas. The "stripper well" concept, commonly measured at ten barrels per day, has never extended to gas wells, whose production of liquids is always marginal by definition.

The purpose of the Congress, in extending exempt status for the first sale of "stripper well" production in the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159), (EPAA) was to assure economic viability and continued production of crude oil from marginal oil wells. The legislative history of this exemption reveals that Congress understood the "stripper well" concept in the same way that the oil industry applies the phrase, namely with reference to oil wells with such low production levels of crude oil that the producer received only a marginal return over cost of production.

Neither the Congress nor the FEA regulations intended to extend the "stripper well" language to encompass any production of "crude petroleum and petroleum condensates, including natural gas liquids" of wells which do not produce crude petroleum, for which the phrase "stripper well" has no real significance. The profitability of production of natural gas from a gas well depends principally on the volumes of gas produced and the price for which it is sold. The amounts of liquids associated with that gas, whether or not they are separated from the gas, would not, therefore, be the only appropriate factor to take into account in determining whether a price incentive was necessary to insure the continuation of gas production from a gas well.

The fact that gas well liquid production is not to be regarded as in an exempt status pursuant to § 210.32 is further shown by the anomalous results such an exemption would yield in connection with the processing of liquids from natural gas. If the stripper well lease provisions of § 210.32 were applicable to Firm P's gas property, Firm P would have an incentive to keep the volume of liquids ultimately recovered from the gas below ten barrels per day per gas well. The processing and recovery of liquids (predominately propane, butanes and natural gasoline) from gas production is an important source of the supply of these liquids, and ought not be discouraged by the producer's desire to sell fewer barrels of liquids in order to obtain an exempt "first sale" of those liquids. This result was never intended by the stripper well lease exemption. Further, it would be clearly unreasonable if the stripper well lease exemption were to be regarded as depending upon the existence, location, or efficiency of individual extracting or processing plants.

Thus, the first sale exemption of § 210.32 applies only to the production of oil wells, which produce crude petroleum and petroleum condensates, including natural gas liquids, and does not apply to gas wells which produce condensates, including natural gas liquids, since neither the purpose nor the language of the "stripper well lease" exemption can be regarded as extending to such production.

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DECEMBER 19, 1974.

[FR Doc.74-29979 Filed 12-20-74;8:21 pm]

[Ruling 1974-29]

PRODUCTION WELLS FOR PURPOSES OF THE "STRIPPER WELL LEASE" EXEMPTION

Facts. Firm P, a producer of petroleum, produced during the preceding calendar year 150,000 barrels of crude petroleum and petroleum condensates, including natural gas liquids from 40 production wells located on Property A, as defined in 10 CFR 210.32. In addition, there were five injection wells in operation on that property last year. An injection well is one which is used to inject water, air, gas, steam or other materials into the ground to assist in the recovery of crude petroleum through producing wells. Wells which formerly produced crude petroleum may be used for injection purposes, or new wells may be drilled solely for the purpose of injecting materials into oil-bearing formations and reservoirs.

The average daily production per well from Property A was 10.27 barrels, based on the 40 production wells, whereas the average daily production per well would be 9.13 barrels if 45 wells, including the 5 injection wells, were used to calculate the average daily production figure.

Issue. Is an "injection" well a "well" for the purpose of determining whether the average daily production of a property was 10 barrels or less per well in the preceding calendar year, for purposes of the stripper well lease exemption of 10 CFR 210.32?

Ruling. No. Under the FEA regulations, the first sale of domestic crude petroleum and petroleum condensates, including natural gas liquids, produced from any stripper well lease, is exempt from the mandatory price and allocation regulations. A stripper well lease is defined as a property whose average daily production did not exceed 10 barrels per day per well during the preceding calendar year. "Average daily production" is further defined in 10 CFR 210.32(b) as:

> The qualified maximum total production of domestic crude petroleum and petroleum condensates, including natural gas liquids, produced from a property during the preceding calendar year, divided by a number equal to the number of days in that year times the number of wells which produce crude petroleum and petroleum condensates, including natural gas liquids, from that property in that year.

Thus, the FEA regulations by their specific language provide that only wells "which produce crude petroleum" are to be counted in calculating average daily production for the purpose of determining whether the stripper well lease exemption applies. While injection techniques help to "produce" crude petroleum, they are not wells which themselves "produce" crude petroleum. Therefore, wells which did not actually yield or produce crude petroleum during the preceding calendar year are not production wells for this purpose. Whether the nonproducing well was an "injection" well, a disposal well, a dry well, a spent well or a shut-in well will not change this result.

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DECEMBER 19, 1974.

[FR Doc.74-29080 Filed 12-20-74;3:22 pm]

[Ruling 1974-27]

ALLOCATION OF REFINER'S INCREASED PRODUCT COSTS TO SALES VOLUMES

Facts. Firm A, a refiner subject to the Federal Energy Administration (FEA) Mandatory Petroleum Price Regulations, sells most of its covered products to domestic purchasers in arm's-length sales. Some of the covered products refined by Firm A, however, are consumed by A as refinery fuel, as other plant operating fuels, or as delivery vehicle fuel, some are transferred to Firm A's affiliated entities for further processing and ultimate sale as petrochemicals or other products not subject to FEA price regulations, and some are sold for export to points outside the United States.

Issue. How should Firm A allocate increased product costs under 10 CFR 212.83(c) with respect to these transactions?

Ruling. Firm A must include in its volume of covered products to which it allocates increased product costs pursuant to § 212.83 the total volume of the covered products which it (a) sells in arm's-length transactions; (b) refines and consumes internally; (c) transfers to affiliated entities for further processing and ultimate sale as other than covered products; and (d) sells for export.

All of the foregoing transactions constitute transfers for value which must be treated as part of Firm A's sales volume of covered products for purposes of allocating increased product costs pursuant to § 212.83(c), and for purposes of calculating increased product cost recoupment pursuant to § 212.83(e), so that the dollar-for-dollar pass through provisions of the price regulations are effectively carried out.

If Firm A were to exclude from its sales measurement the internal product consumption, transfers to affiliates, and export sales, in the fact situation posed above, it would apply its increased product costs only to its arm's-length sales of these products. Such discriminatory application of increased costs only to arm's-length purchasers would violate the equal application of increased product cost provisions of § 212.83(c), and would be inconsistent with the purposes of the Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, since the dollar-for-dollar pass through of increased product costs provided for by the Act would not be realized on an equitable basis if Firm A and its affiliates were to be permitted to avoid the impact of the pass-through provisions.

The uses to which Firm A may put the fuels it produces constitute clear economic value to it. Examples of these uses include, but are not limited to, use as refinery fuels and use as operating fuels (such as diesel fuel to power generator engines or gasoline to operate delivery vehicles). All volumes of covered products produced by Firm A and used by Firm A must therefore have the same increment of increased product cost assigned to them as is assigned to each product by Firm A in determining its selling price for that product in arm's-length transactions, with that increment of increased product cost to be regarded as recouped by Firm A when it uses the product, and therefore no longer available for pass-through in prices charged by Firm A in arm's-length transactions. Of course, to the extent that this means of accounting for internal use of fuel by Firm A serves to increase Firm A's non-product costs, such increased costs may be passed through by Firm A, to the extent permitted pursuant to the regulations governing increased non-product cost pass-through. (The cost of crude oil and of purchased covered products which are used as refinery fuel or otherwise consumed by Firm A are excluded from Firm A's initial calculation of increased product costs, pursuant to § 212.83, as amended effective December 1, 1974.)

Similarly, transfers of covered products by Firm A to affiliated entities, for further processing and ultimate sale as products other than covered products, which are exempt from price regulation, must be treated as sales by Firm A. These volumes must bear the same increment of increased product costs as is applied to prices charged those classes of purchaser which purchase the same product at arm's-length. Just as the FEA permits "transactions between affiliated entities" to be used as a basis for determining costs (*e.g.*, § 212.83(b), and § 212.83(f)), FEA requires that the economic significance of transactions between affiliated entities be taken into account when determining recovery of increased costs in sales of covered products. "Increased product costs" are not to be attributed in every instance of an internal transfer or transfer to an affiliate of covered products, but must be provided for in each instance where there will be no ultimate sale in an arm's-length transaction of that covered product, or of equal volumes of other covered products derived from that covered product.

The rationale for this requirement is apparent, since it would obviously be unfair to permit Firm A to pass through its increased product costs only in arm's-length sales and not in transfers to its affiliates, particularly since its affiliates could well be competitors of its arm's-length purchasers in an unregulated sector of industry, such as the petrochemical sector.

The volumes of product sold in export sales by Firm A, which are exempt from the price limitations of the FEA pursuant to § 212.53, are nevertheless regarded as sales of covered products under Part 212 for purposes of determining cost recovery. Thus, although the FEA does not regulate the "prices charged for export sales of covered products," the revenues received in such sales must be regarded as resulting in the recoupment by Firm A of increased product costs, to the extent that the selling prices in such sales are higher than the weighted average prices at which the same products were sold to the same classes of purchaser on May 15, 1973.

The reason for this means of accounting for export sales is self-evident, since any failure to take into account sales revenues from such sales as recoupment of increased product costs would result in double recoupment of costs—once in the export sale and again in domestic sales. This requirement that recovery of increased product costs in export sales also be taken into account is also apparent by virtue of the fact that any other approach would provide a strong incentive for export of badly needed petroleum products, at the expense of domestic consumers.

It should also be noted that the "V" factor in the cost formulae of § 212.83 encompasses as sales volumes not only the volumes of petroleum products (covered products and products refined from crude petroleum other than covered products) which are disposed of by the refiner in arm's-length transactions, but also the volumes of these products which are accounted for in transactions of the types described above. In general, the "V" factor appearing in § 212.83(c) serves to establish a proportion of increased product costs which may be allocated to covered products.

The "total volume" of product, including volumes which are disposed of by internal consumption on affiliated entity transactions of a refiner or by export sales, must therefore be used when allocating increased product costs under the "V" factor of the § 212.83 formulae, so that no distortion in that cost allocation will result from the exclusion of such transactions.

This ruling defines the manner in which the foregoing transactions are to have been accounted for under the price regulations since their inception, except with respect to refinery fuel. The FEA is aware that there was a basis upon which refiners could have concluded that the increased cost of refinery fuel derived from crude oil was permitted to be treated as an increased product cost prior

to December 1, 1974. An amendment to the cost allocation formulae of § 212.83, effective December 1, 1974, now explicitly requires that the cost of crude oil and of purchased covered products which are used as refinery fuel be excluded from the increased product cost pass through provisions of the regulations. With respect, therefore, only to covered products consumed as refinery fuel, this ruling is interpretive of the regulations as amended December 1, 1974. In all other respects, it is interpretive of the price regulations since they were first promulgated.

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DECEMBER 19, 1974.

[FR Doc.74-30086 Filed 12-20-74;2:35 pm]

[Ruling 1974-30]

MEASUREMENT OF THE NUMBER OF BARRELS OF PRODUCTION FROM AN OIL WELL FOR THE "STRIPPER WELL LEASE" EXEMPTION OF 10 CFR § 210.32

Facts. Firm P, a producer, produces crude petroleum, and petroleum condensates, including natural gas liquids, and casinghead gas from oil wells operated on a property, as defined in 10 CFR 210.32. Firm P transmits, to nearby storage and gathering facilities, the condensates and natural gas liquids obtained at the wellhead, along with the crude petroleum. These liquids are then eventually transmitted through a pipeline, and are all treated as crude petroleum. Firm P subsequently receives "run tickets" as evidence of the volumes of these liquids which were disposed of in this way. The casinghead gas, a natural gas which is "wet," or rich in natural gas liquids in their gaseous phase, is separately transmitted to a processor at a nearby natural gas processing plant, where the natural gas liquids (propane, butanes, and natural gasoline) are extracted from the gas.

The processor, pursuant to prior contractual agreements with Firm P, determines an amount of liquids, which it has extracted and sold, that is attributable to the gas transmitted to it by Firm P, and notifies Firm P of the volumes to which it is entitled under the processing agreement.

Issue. What volumes of liquid hydrocarbons are included in the measurement of production by Firm P, for purposes of the "stripper well lease" exemption of 10 CFR 210.32?

Ruling. For purposes of measuring the volumes of liquids produced by Firm P under § 210.32 of FEA regulations, Firm P should include only those volumes of unseparated liquids which were transmitted and sold as part of the "crude petroleum" liquid stream. It may exclude all those volumes of separated natural gas liquids, which were ultimately extracted from its casinghead gas, but were not sold as crude petroleum and petroleum condensate.

Thus, Firm P's average daily production of crude petroleum and petroleum condensates, including natural gas liquids, would not include any products produced in the processing plant (so-called "plant products") whether or not the plant keeps the accounts of these product volumes for Firm P.

The purpose of the stripper well lease exemption was to provide needed incentives to increase available supplies of crude petroleum by avoiding the shutdown of the traditional "stripper well" because of high costs of production in relation to the relatively small volumes of crude oil produced from such wells. The increase in crude oil supplies, which the exemption is intended to promote, does not, however, have any necessary relationship to whether or to what extent any "wet" gas obtained by an oil producer is processed to obtain separated natural gas liquids. Firm P therefore should determine its production for purposes of the stripper well lease exemption based upon the liquid hydrocarbons which it produces and sells as crude oil, without regard to the fact that its production also yields a "wet" gas, from which certain volumes of separated natural gas liquids can be extracted.

Although the stripper well concept is applicable only to the production of an oil well (See FEA Ruling 1974-28), the FEA nevertheless included the phrase "natural gas liquids" when it defined the production to be taken into account for purposes of the exemption provisions of § 210.32 as "crude petroleum and petroleum condensates, including natural gas liquids." The term "natural gas liquids" was included solely in the context of the "petroleum condensates," which often are produced at a well and which flow with the crude petroleum to storage, gathering and pipeline facilities. "Natural gas liquids" are among the petroleum condensates which may be separated at a well from the associated gas produced by an oil well (often by a simple series of baffles), and in order to include all of the liquid production of the well that is moved as crude petroleum, "natural gas liquids" are included as "petroleum condensates" whenever they are commingled with crude petroleum. Natural gas liquids are not included therefore, when they are transmitted separately from the crude petroleum, in gaseous state or liquid state, to a processing plant for separation into the component products.

The stripper well lease exemption was not intended by FEA to be applied to, or withheld from, particular properties simply because one may produce a substantial amount of "wet" gas, which yields large volumes of natural gas liquids, and another may not. Nor would the intent of the exemption be served were its applicability to depend upon whether a particular producer's processing contract calls for the attribution of the resulting liquid volumes back to the lease. The effects of applying "stripper well" concepts to processed volumes of liquids would be as varied as the many different arrangements between producers and processors, and would further depend on the existence or efficiency of particular gas plants.

Accordingly, Firm P's production for purposes of § 210.32 includes all liquid hydrocarbons which are treated as crude petroleum. Typically, Firm P may maintain records of the volumes of these liquids which are sent to a pipeline by means of "run tickets" or other similar evidence of sales volume. These will reflect the volumes of all liquids treated as "crude petroleum," including petroleum condensates and unseparated, mixed natural gas liquids, but will not include other natural gas liquids which are ultimately separated from the "wet" gas, and separately accounted for.

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DECEMBER 19, 1974.

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Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 7—INTERPRETIVE RULINGS

Customer-Bank Communication Terminals

National bankers, associations of bankers, or bank regulatory officials from 14 different states have approached the Comptroller's Office concerning the use by national banks of mechanisms which allow bank customers electronically to initiate from locations remote from the bank certain limited banking transactions. The questions raised present difficult issues concerning the interpretation of Federal law, the interaction of Federal law with diverse state laws, the competitive balance both within the banking industry and between banks and other financial institutions, and the future development of electronic services which will benefit the banking public and alter traditional banking methods.

For the reasons set forth below, the Comptroller has determined both as a matter of law as a matter of sound public policy that such off premises customer-bank communication terminals (CBCT's may be operated by national banks without regard to the restrictions contained in Federal law regulating branch banks. An interpretive ruling is being issued herewith expressing that conclusion. The Comptroller also has determined, however, that certain monitoring procedures and cautions should be implemented concerning the use of CBCT's in an attempt to help assure the orderly development of the nation's banking system.

I. *Description of CBCT's.* A number of different types of CBCT's now are available or can be expected to develop in the near future. No attempt is made here to catalog every possible type of terminal. In general, these terminals permit an existing bank customer to initiate transactions resulting in a cash

withdrawal from his account, a crediting of funds to his account, a transfer between his checking and saving accounts, and payment transfers from his account into accounts maintained by other bank customers.

Both manned and unmanned CBCT's are now in use. The CBCT typically involves: (a) A card issued to and carried by the customer which is inserted into the machine; and (b) a keyboard by which the customer or operator of the CBCT can insert information as to the transaction the customer wishes to accomplish. The customer's card sometimes contains information as to what transactions are authorized for that particular customer, and some CBCT's are capable of updating that information at the completion of the transaction. The CBCT may be self-contained, or it may be connected by wire (on-line) to a bank's central computer at a remote location. Information which is not transmitted instantaneously to the central computer is recorded within the CBCT by tape or other means, and the tape periodically is removed and taken to the bank for processing. All transactions conducted at a CBCT are subject to verification either by on-line communication with the bank's computer or by later examination by the bank of the tape and funds collected from the CBCT.

Unmanned CBCT's may be under control either of the bank or of a third party. When a third party is involved, however, his functions usually are related to ownership, maintenance, and servicing of the CBCT's. He is not directly involved financially in the transaction between the customer and the bank.

Manned CBCT's now in use always involve a third party in addition to the bank and its customer. In a typical operation, the CBCT would be located in a supermarket and manned by an employee of the store. Transactions which involve receipt of funds or cash withdrawals are verified by the employee, and are debited or credited to an account maintained by the supermarket at the same bank. Thus the bank customer is giving funds to or receiving funds from the supermarket, and the supermarket is a financial, as well as an operational, intermediary between the customer and the bank.

Certain devices are permissible and may be used by national banks without regard to the interpretive ruling issued herewith, such as a device or teller's window which is a part of a bank's main office or of an authorized branch. See, e.g., Dunn v. First National Bank of Cartersville, 345 F. Supp. 853 (N.D. Ga. 1972); Driscoll v. Northwestern National Bank, 484 F. 2d 173 (8th Cir. 1963), reversing 349 F. Supp. 245 (D. Minn. 1972). This ruling also does not deal with the use of any device whose sole function is to verify a customer's credit standing for purposes of authorizing a credit card transaction or guaranteeing payment of a check.

II. *Historical and statutory background.* Branch banks were an uncommon phenomena when the National Currency Act of 1863 and its replacement and revision, the National Bank Act of 1864, were passed. These Acts thus contained no provision dealing with branch banks. Section 8 of the National Bank Act of 1864 required the "usual business" of a national bank to be transacted "* * * at an office or banking house located in the place specified in its organization certificate." 13 Stat. 102.[1] As early as 1871 the Supreme Court interpreted this statute to permit a national bank's cashier to certify checks elsewhere than at the banking house, explaining:

> The provision of the Act of Congress as to the place of business of the banks created under it must be construed reasonably. The business of every bank, away from its office—frequently large and important—is unavoidably done at the proper place by the cashier in person, or by correspondents or other agents.

Merchants Bank v. State Bank, 10 Wall. 604; 651 (1871); see also Bank of Augusta v. Earle, 13 Pet. 519 (1839).

In 1911 Attorney General Wickersham recognized a "wide difference" between "the right to establish branch banks at which a general banking business is carried on," and "the mere appointment of agents to receive and collect money and forward it to the bank." 29 Ops. Atty. Gen. 81, 90. The Attorney General further noted (Id. at 88):

> [A] branch bank requires, in effect, a division of the capital, the working force is organized, and the business conducted as if it were a separate organization, and it competes in all branches of the banking business with other banks in that locality the same as if it were an independent institution.

In the ensuing decade state laws permitting branch banking gave state banks such a competitive advantage that they threatened, in some states, to eclipse the national banking system altogether. In an attempt to meet this competitive threat, the Comptroller authorized national banks to establish so-called "teller windows," relying upon a 1923 opinion of Attorney General Dougherty that the absence of authority for national bank branching did not prevent national banks from opening additional offices "for the transaction of business of a routine character" such as "the receipt of deposits and the cashing of checks for their customers." 34 Ops. Atty. Gen. 1. A year later, the Supreme Court held that the 1923 opinion of the Attorney General authorizing teller windows had gone too far in seeking to expand the off-premises functions that national banks might perform in the absence of an express branching power, but the Court specifically endorsed the 1911 opinion of Attorney General Wickersham. First National Bank in St. Louis v. Missouri, 263 U.S. 640.

A month after the Supreme Court decision in the St. Louis case, Rep. McFadden introduced a bill to authorize branches for national banks. One of the principal purposes of the McFadden Act was to clarify the doubts cast upon the operation by national banks of tellers windows as a result of the Supreme Court opinion. Indeed, one opponent of the bill objected to the speed with which "the comptroller's office had the case on appeal ready for Congress." 67 Cong. Rec. 2842 (1926) (Rep. Nelson). It seems clear that Congress intended to define these tellers windows as branches, and to authorize them within the applicable branching limitations.

Rep. McFadden's bill became the McFadden Act of 1927, 44 Stat. 1228. The Act permitted a national bank, with the approval of the Comptroller, to establish and operate new branches within the limits of the city, town, or village in which the bank is situated, if such establishment and operation were permitted by state law to state banks. The Act further defined "branch" as follows:

> The term "branch" as used in this section shall be held to include any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State or Territory of the United States or in the District of Columbia at which deposits are received, or checks paid, or money lent.

The McFadden Act also imposed for the first time a limit on the branching ability of some state chartered banks. State banks which were members of the Federal Reserve System were permitted to retain and operate existing branches, but were forbidden to establish any new branches "* * * beyond the limits of the city, town, or village in which the parent bank is situated." According to Rep. McFadden, this Act established competitive equality "among all member banks of the Federal Reserve System." 68 Cong. Rec. 5815 (1927).[2]

The branch definition of the McFadden Act never has been amended and is found at 12 U.S.C. 36(f). The only major change since the McFadden Act in the branching powers of national banks was accomplished by the Banking Act of 1933, 48 Stat. 189, which permitted a national bank to establish and operate branches at any point within the state in which the bank was situated, if such establishment and operation were authorized to state banks and subject to the restrictions as to location imposed by state law upon state banks. This statute also established minimum capital requirements for branches of national banks. The Banking Act of 1933 also permitted "outside" branches to be established by state member banks.

III. *The Exclusivity of the Federal Definition of "Branch".* The Supreme Court in First National Bank in Plant City v. Dickinson, 396 U.S. 122, 133 (1969), rejected the contention that "state law definitions of what constitute 'branch

[1] This provision of section 8 later became section 5190 of the Revised Statutes and, as amended, is now found at 12 U.S.C. § 81.

[2] Even the limited competitive equality spoken of by Rep. McFadden was not completely achieved because of the grandfather rights given to state member banks on branches outside their home town or city and because of minimum population restrictions applicable to branches of national banks but not to branches of state member banks.

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banking' must control the content of the Federal definition of § 36(f)." Courts both before[3] and after[4] the Plant City decision have recognized that "what constitutes a branch of a national bank * * * is to be determined by application of the standards prescribed by 12 U.S.C. § 36(f)." North Davis Bank v. First National Bank of Layton, 457 F. 2d 820, 822 (10th Cir. 1972). The Comptroller agrees that state law cannot affect the definition of terms used in this federal statute, and that a resolution of whether a CBCT is a branch for purposes of federal law should be the same, for example, in California, which permits statewide branch banking, as in Texas, whose constitution prohibits branching.

The underlying structure of the National Bank Act shows the necessity of this result. The National Bank Act of 1864, 13 Stat. 99, substantially amended and replaced the National Currency Act of 1863, 12 Stat. 655. The paramount intention of both of these statutes was to "* * * give every possible support to the pubic credit * * *" by a uniform currency "* * * furnished by national associations, organized under a general act of Congress * * *" Abraham Lincoln, Special Message on Financing the War, Senate Journal, pp. 121–122 (37th Cong., 3rd Sess., Jan. 17, 1863). The first Comptroller of the Currency, Hugh McCulloch, in submitting his detailed recommendations for the amendment of the National Currency Act of 1863, pointed out that the national banking system was expected in the seaboard areas "* * * to supersede the system of banking in these states by attracting to it the capital of existing [i.e., state] banks." Annual Report of the Comptroller of the Currency, p. 10 (Nov. 28, 1863). Secretary of the Treasury Chase emphasized at page 19 of his 1863 Annual Report that the recommended changes in the national banking system would "* * * induce the conversion, at the earliest practicable period, of the bank corporations of the states into national banking associations * * *." Consistent with this intention Congress gave special competitive advantages to national banks over state banks in order to induce the state banks either to convert into national associations or go out of business altogether. When the state banking system did not disappear as expected, Congress in 1865 enacted a 10 percent tax on state bank notes, 13 Stat. 469, which was expected to eliminate the state banking system. Sections 7 and 14 of the 1865 Act specifically provided for the conversion of state chartered banks into national banking associations. The 1865 statue largely achieved the desired result: in one year the number of state chartered banks dropped from 1,089 to 349 while the number of national banks rose from 467 to 1,294.

Thus there is no general purpose in the National Bank Act to defer to state statutes regulating state chartered banks, and it is against this background that Chief Justice Burger's admonition in Plant City, *supra*, 396 U.S. at 133–134 must be read:

> Admittedly, state law comes into play in deciding how, where, and when branch banks may be operated, Walker Bank, supra, for in section 36(c) Congress entrusted to the States the regulation of branching as Congress then conceived it. But to allow the States to define the content of the term "branch" would make them the sole judges of their own powers. Congress did not intend such an improbable result as appears from the inclusion in section 36 of a general definition of 'branch.'

In other words, the "branch" definition of section 36(f) cannot be varied by state law, but instead constitutes in itself the test to be applied in the first instance to determine the extent to which state law is to be permitted to operate upon national banks in controvention of the National Bank Act's general supremacy over state law. See, e.g., Tiffany v. National Bank of Missouri, 18 Wall. 409 (1874); Easton v. Iowa, 188 U.S. 220 (1903).

This construction of 12 U.S.C. § 36(f) accords with the settled principle that words in a federal statute should be given a federal and nation-wide meaning. New York v. Feiring, 313 U.S. 283, 285 (1941). This principle is particularly applicable where a federal statute delimits the extent to which a federal instrumentality is subject to state law. See, e.g., First Agricultural National Bank v. State Tax Commission, 392 U.S. 339, 347 (1968). The need to give a federal content to words used in a federal statute is not diminished because the statute might have been enacted to allow national banks to compete with the state banks on equal terms. Federal Deposit Insurance Corp. v. Tremaine, 133 F. 2d 827 (2d Cir. 1943).

Thus the Comptroller is called upon to construe the branch definition of the McFadden Act as a matter of federal law and to apply that construction in a consistent manner to CBCT's throughout the United States.

IV. *Construing and applying the "branch" definition.* The principal statutory question is whether a CBCT is a "branch bank, branch office, branch agency, additional office, or * * * branch place of business" within the meaning of the McFadden Act. A branch bank commonly is thought of as a building containing teller's windows, desks and chairs, customer counters, and bank personnel with whom the banking public may transact a full range of banking services. A CBCT obviously is not an "office", and only a very few of the kinds of transactions normally associated with a banking office or place of business can be initiated at a CBCT. A CBCT customer cannot, for example, open an account with the bank, apply for a loan, purchase savings bonds, obtain money orders, cashiers checks, or travellers checks, maintain a safe deposit box, cash travellers checks, exchange currency, or engage in any of a large number of other common retail banking transactions. Indeed, only an existing customer of the bank may use a CBCT.[5] The CBCT therefore is more closely analogous to a mail box or a telephone through which a customer may communicate with his bank to accomplish certain routine transactions. The Comptroller thus believes that a CBCT would not be a branch bank, branch office, branch agency, additional office, or branch place of business within the common understanding of those terms, and thus looks to the legislative history for guidance as to whether those terms should be given other than their ordinary meaning.

As already noted, one of the principal Congressional concerns was the tellers windows then being operated by national banks. There was no consistent Congressional understanding, however, of the exact nature of these tellers windows or of what other places of business should or should not be classified as branches. This confusion was summarized by Rep. Stevenson, who pointed out that many members of Congress objected to the McFadden Act because its authorization of only "inside" branches for national and state member banks effectively would prohibit the development of statewide branching. He noted an alliance of those who "do not want any limitation placed on the power of the states to grant branches anywhere and everywhere" with a "small but very respectable element who are so adverse to branch banking or branch offices or branch anything that they would protest against the national bank teller carrying change across the street to a one-legged widow selling peanuts to a paralyzed cripple on the corner." 67 Cong. Rec. 2837 (1926).

Some legislators viewed branches in functional rather than physical terms. See, e.g., 67 Cong. Rec. 3248 (1926) (Rep. Cannon), 67 Cong. Rec. 2855 (1926) (Rep. Kurtz), and 68 Cong. Rec. 5816 (1927) (Rep. McFadden). The strongest indication, however, is that legislators viewed both tellers windows and branches as having certain physical and personnel aspects. Rep. Celler described the tellers windows as, "large monumental establishments, large buildings costing fortunes to build" which were physically "separate establishments" and "in effect branches." 67 Cong. Rec. 2860 (1926). Rep. LaGuardia in comparing tellers windows to branches said, "year after year teller windows are increased in the cities. They are not teller windows in any sense of the word. They are complete banking establishments * * *, monumental buildings, with a vice president in charge, with complete banking departments which are instituted under the guise of teller windows." 67 Cong. Rec. 3230 (1926). CBCT's do not have these physical and personnel characteristics and apparently would not fall

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[3] Camden Trust Co. v. Gidney, 301 F. 2d 521 (D.C. Cir.), cert. denied, 369 U.S. 886 (1962).

[4] See, e.g., The Ramapo Bank v. Camp, 425 F. 2d 333, 346 (2d Cir. 1970).

[5] See the discussion of this customer limitation in Independent Bankers of Oregon v. Camp, 357 F. Supp. 1352, 1355 (D. Ore. 1973), remanded 9th Cir. Nos. 73-2396 and 73-2399 (Dec. 4, 1973).

within the most widely accepted Congressional understanding of the terms "branch bank, branch office, branch agency, additional office, or * * * branch place of business." CBCT's would seem closer to the routine off-premises activities approved by the Supreme Court in Merchants Bank v. State Bank, supra, and by Attorney General Wickersham in 1911 than they would to the teller's windows which Congress intended by the McFadden Act to authorize.[8]

Additionally, the legislative history of the McFadden Act shows a Congressional intention to permit competition and to promote public service. Rep. McFadden stated that "the main purpose of the bill is to remove certain outstanding handicaps from national banks which now stated that "the main purpose of the bill fledged and efficient modern banking business." 66 Cong. Rec. 2630 (1926). He also stated that "there is another factor involved besides the question of meeting the competition of [state] banks and that is the question of service." 66 Cong. Rec. 1778 (1925). Rep. Watkins explained his vote in favor of the bill as follows (66 Cong. Rec. 1775 (1925)):

> I am persuaded to vote for this measure for the reason that crowded conditions, traffic regulations, lack of parking facilities in our cities necessitate some change in banking facilities to suit the convenience of the complex and crowded business world. Banks, bankers, and customers in large cities are in a situation similar to telephone, electric light and gas companies, or the post office, all of which have branches for the customers' convenience. Economy in time, energy, and many other factors demand that the old order give away to a modern and sensible plan. Party traditions and prejudices should not fetter or bind us to the detriment of our country or the service of our constituents.

The current CBCT's are merely the forerunner of an expected family of customer operated electronic terminals which will change the face of the banking industry. A few banks already offer a service which permits a customer to activate the bank's computer directly from the customer's telephone and thus to initiate various banking transactions. Technology already exists through which a terminal located in a retail establishment could be used to transfer automatically the retailer's account funds by which a customer would pay the retailer for goods and services. Defining such electronic communication devices as branches and applying to them the severe geographic and capital restrictions contained in the McFadden Act would stifle the development of modern banking and of a newly evolving payments system. This result would be an inappropriate use of a statute one of whose principal purposes was to expand banking powers to provide the public with better service.

[8] Other activities national banks routinely conduct off premises include new-business solicitation, loan closings, sale of money orders and travellers checks, banking by mail, credit card services, various correspondent services, and data processing. Some banks maintain their trust departments in buildings separate from the main bank.

The Comptroller believes, moreover, that a contrary interpretation of the McFadden Act would establish an undesirable competitive inequality in some states between national and state chartered banks. In the state of Washington, for example, traditional branches may be established only within the same county as the bank's main office, or elsewhere within the state by merger. CBCT's may be established by state banks, however, anywhere within the state. Thus, if a CBCT were a branch within the meaning of the McFadden Act, the result in the state of Washington would be that national banks could establish traditional branches statewide, although state chartered banks could not. This result seems out of harmony with the intention of the McFadden Act.

The Supreme Court in Plant City, *supra*, stated that "it is relevant in construing 'branch' to consider, not merely the contractual rights and liabilities created by the transaction, but all those aspects of the transaction that might give the [national] bank an advantage in its competition for customers." 396 U.S. at 136–137. This statement was made in the context of an opinion which had reviewed the legislative history of the McFadden Act, and determined that the Act dealt with competition between state chartered and national banks. 396 U.S. at 130–134; See also First National Bank of Logan v. Walker Bank & Trust Co., 385 U.S. 252 (1966). The Court in Plant City, after considering both the contractual rights and liabilities and the competitive aspects determined that "a systematic attempt to secure for national banks branching privileges which Florida denies to competing state banks" was involved in the operation of an armored car service and a receptacle which were advertised as a "mobile drive-in" providing "Full Service Banking at your doorstep," and that this operation constituted branch banking.

Consideration — as hereafter set forth—of the competitive aspects referred to by the Court in Plant City does not require CBCT's to be viewed as branches. Additionally, an analysis of the contractual rights and liabilities under which a CBCT is operated shows that—even if a CBCT is considered to be a branch office, branch agency, or branch place of business—it is not receiving deposits, paying checks, or making loans within the meaning of 12 U.S.C. 36(f). Such an analysis is made in an appendix hereto, which represents the views of the Comptroller should these questions be raised. The contractual rights and liabilities reviewed in this analysis arise from the usual operating procedures of a CBCT, and have significant purposes other than structuring the technical and legal aspects of the transaction to avoid the branch banking statutes. Compare Plant City, *supra*, 396 U.S. at 126, 136–137.

State reaction to CBCT's has been varied and conflicting. At least three states, Oregon, Washington, and Massachusetts, authorize some sort of CBCT by specific legislation which does not treat these facilities as branches. Indeed, the legislation in the State of Washington, which was signed on April 30, 1974, authorizes the establishment of "satellite facilities" anywhere within the state, and specifically provides "that such a facility shall not be construed to be the establishment of a branch." Branch banking in the State of Washington, as already noted, is limited for the most part to a bank's home county.

The Attorneys General of Texas, Kansas, and Florida have authorized the use of CBCT's in some circumstances, although branch banking is prohibited in each of these states. The Attorney General of Illinois, another state which prohibits branch banking, however, has determined that the same off-premises activities permitted in Texas and Florida would constitute illegal branch banking if performed in Illinois. The Attorney General in Nebraska—another non-branching state—has ruled that a CBCT is a branch, but his opinion has been reversed by a state court.

The competitive picture is greatly influenced by recent regulations of the Federal Home Loan Bank Board permitting the establishment by federally chartered savings and loan associations of remote service units. See 39 FR 23991 (June 28, 1974). Similar regulations have been issued for credit unions by the National Credit Union Administration. 39 FR 30107 (Aug. 21, 1974). In some states, such as Nebraska, savings and loan associations have been quick to take advantage of the regulations, and the banking industry should be permitted to meet this competition. While it sometimes is difficult for agencies acting under statutes passed by three different Congresses to fathom any clear overall Congressional intent, no reason suggests itself why Congress would desire the McFadden Act to be interpreted to impair the health of the national banking system through the loss of customers who are now discovering the convenience of remote CBCT's offered by credit unions and savings and loan associations.

It is expected that the interpretive ruling issued herewith may give national banks an advantage vis-a-vis state banks in some states, but not in other states. Where competitive differences do occur, they will be of the sort normally associated with the dual banking systems. State banks, for example, may elect not to join the Federal Reserve System and thereby frequently are permitted (depending upon state law) to keep reserves in interest bearing notes or in correspondent accounts at other banks, thus substantially reducing the costs of maintaining reserve accounts. State banks also sometimes are given higher lending limits or broader discretion in making loans. In other non-branching areas national banks enjoy competitive advantages. These differences are inherent in a dual banking system which is fundamentally inconsistent with complete equality between state chartered banks and national banks. *Cf.* First National Bank of Fairbanks v. Camp, 465 F. 2d 586, 596 (D.C. Cir.), cert. denied, 409

U.S. 1124 (1972). As the Supreme Court noted in Walker Bank, *supra*, the principle of competitive equality applied only insofar as branch banking is concerned. 385 U.S. at 261. Nevertheless, the Comptroller will urge temporary limits, as explained below, in an attempt to minimize any competitive imbalances which might result from this ruling.

Thus consideration of the competitive aspects as required by Plant City shows that the use of CBCT's will not be part of a systematic attempt to gain a competitive advantage for national banks, but instead is a necessary step to enable national banks to meet existing and potential competition from federal savings and loan associations and from state chartered institutions. The use of CBCT's by national banks also is required to bring to banking customers the benefits of existing electronic communication technology.

The Comptroller is faced with a difficult task of applying a 50 year old statute to an industry undergoing a great change as a result of modern electronic technology. Persuasive legal arguments can be made in support of either interpretation of the statute.[1] The Comptroller believes, however, that the sound development of the country's banking system and the underlying legislative purpose of the McFadden Act are better served by concluding that CBCT's should not be defined as branches. He thus has stated that conclusion in an interpretive ruling which is published herewith.[2]

V. *Authority to operate CBCT's.* It should be noted that a national bank clearly is authorized to operate a CBCT, even though a CBCT is not a branch. Sections 17 and 18 of the National Bank Act contemplate that a national bank shall engage in "the business of banking" and Section 8 of that Act authorizes a national bank to exercise all such incidental powers as shall be necessary to carry on the business of banking. See 12 U.S.C. secs. 26, 27 and 24 Seventh.

The business of banking changes with the times. In an early case the Supreme Court upheld the authority of a national bank to certify a check because the practice of certifying checks had "grown out of the business needs of the country." Merchants Bank v. State Bank, 77 U.S. 604, 648 (1871). A more recent construction of these statutes by the Supreme Court upheld a national bank's power to advertise as being "one of the most usual and useful weapons" in "modern competition for business." Franklin National Bank v. New York, 347 U.S. 373, 377 (1954). A number of other Supreme Court cases during the last century have construed these statutes in a similar flexible and reasonable fashion.

A CBCT basically is a means of a bank customer transmitting his requests or instructions to a bank, and receiving responses thereto. Communications between a bank and its customer concerning disposition of the customer's account are a part of the banking business. So long as the conduct of this business does not constitute branching, it may be done away from the banking house (Merchants Bank v. State Bank, supra), and is not subject to regulation by state law (Franklin National Bank v. New York, supra).

VI. *Limitations.* Even though a CBCT is not a branch, the Comptroller possesses regulatory authority which can be exercised to limit CBCT's to insure the sound development of the banking system. This regulatory authority should be used sparingly, however, because

> • • • regulation has too often resulted in protection of the status quo. • • • Industries have been more progressive when the agencies have endeavored to confine regulation to a necessary minimum and have otherwise fostered competition.

Annual Report of the Council of Economic Advisors, 106–107 (1970). Particularly in this new area where technology and consumer response are changing rapidly, the Comptroller believes that sellers and users of these services should be given the widest latitude in determining how, when, and where CBCT's can be used efficiently.

Nevertheless, a change from traditional banking, in which geography is of supreme importance, to electronic banking in which time and distance become irrelevant, will involve competitive adjustments for many banks. The Comptroller thus is adopting the following policies:

First, any national bank wishing to establish a CBCT may not do so without giving 30 days prior written notice to the Comptroller containing the information specified in the interpretive ruling. This will enable the Comptroller to monitor the development of CBCT's and to halt or alter their establishment if such action appears appropriate. Authority for this reporting requirement is found in 12 U.S.C. 161.

Second, each national bank should consider the impact that operation of CBCT's will have upon competing financial institutions. The Comptroller urges national banks prior to July 1, 1975, not to establish a CBCT in any state in which state law would prohibit a state chartered bank from establishing a similar facility. This urging is at the request of the Conference of State Bank Supervisors and is designed to give the legislatures of such states an opportunity to consider whether they wish to place their state chartered banks on an equal competitive footing with national banks and with savings and loan associations. This urging also is consistent with the philosophy of the pending legislation arising from the report of the President's Commission on Financial Structure and Regulation that changes in the financial structure apply similarly to competing institutions. During May 1975 the Comptroller will examine the then existing situation to determine whether equitable considerations indicate further policy statements in this regard.

Third, some state laws concerning CBCT's require that these devices be shared by other financial institutions. The Comptroller is not adopting any similar requirement. In this regard, the antitrust laws of the United States are applicable to the operation of CBCT's. As the Department of Justice noted in a May 1974 statement to the Board of Governors of the Federal Reserve System:

> The question of compulsory access to any EFT [electronic funds transfer] system will turn on fact questions—and the terms of any access will have to be tailored to the particular facts. At the outset compulsory access would not be required unless the particular facility is found to be 'essential' in the sense that exclusion would impose a significant handicap.

Just as exclusion from a CBCT system sometimes might raise questions under the antitrust laws, the sharing by two or more competitors of a CBCT system also could raise legal difficulties if, for example, the result of that sharing was to discourage competition and innovation between two competitors each of whom independently was capable of establishing its own system. Thus the Comptroller's ruling permits, but does not require, banks to share CBCT's with other financial institutions, and national banks and their counsel are advised to consider the antitrust laws when questions arise concerning the sharing of these facilities.

VII. *Effective date.* The Administrative Procedure Act does not require notice and solicitation of comments in connection with interpretive rules. 5 U.S.C. § 553(b). Many interested persons have made their views informally known to the Comptroller even without a formal solicitation of comments, and these views have been considered. The Administrative Procedure Act also permits interpretive rules to become effective immediately. 5 U.S.C. 553(d). Since the interpretive ruling issued herewith will not restrict any activities now being carried out by any bank, and since the Comptroller believes that substantial public benefit will result from this ruling, no reason exists to delay its effectiveness. Therefore, effective immediately upon publication, the existing 12 CFR 7.7491, "Deposit Machines" is rescinded, and the new § 7.7491, "Customer-Bank Communication Terminals" accompanying this statement is adopted.

Part 7 of 12 CFR Chapter I is amended by revising § 7.7491 to read as follows:

§ 7.7491 Customer-Bank communication terminals.

(a) A national bank may make available for use by its customers one or more electronic devices or machines through which the customer may communicate to the bank a request to withdraw money either from his account or from a previously authorized line of credit, or an in-

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[1] Indeed a previous Comptroller apparently interpreted the statute differently in at least one instance where he was focusing primarily on the competitive aspects of a particular application. See Independent Bankers of Oregon, *supra*.

[2] For the reasons expressed herein the Comptroller believes that branch definition of 38 D.C. Code Section 36-109(b), which is identical to that of the McFadden Act, should be interpreted to embrace a CBCT.

struction to receive or transfer funds for the customer's benefit. The device may receive or dispense cash in accordance with such a request or instruction, subject to verification by the bank. Such devices may be unmanned or manned by a bona fide third party under contract to the bank. The bank for a reasonable period of time may provide one of its employees to instruct and assist customers in the operation of the device. Any transactions initiated by such a device shall be subject to verification by the bank either by direct wire transmission or otherwise.

(b) Use of such devices at locations other than the main office or a branch office of the bank does not constitute branch banking. A bank may provide insurance protection under its bonding program for transactions involving such devices.

(c) The establishment and use of these devices is subject to the following limitations:

(1) Written notice must be given to the Comptroller's Office and to the office of the appropriate regional administrator 30 days before any such device is put into operation. Such notice shall describe with regard to the device or machine:

(i) The location;

(ii) A general description of the area where located (e.g., shopping center, gasoline station, supermarket) and the manner of installation (e.g., free standing, exterior wall, separate interior booth);

(iii) The manner of operation, including whether the device is on-line;

(iv) The kinds of transactions which will be performed;

(v) Whether the device will be manned, and, if so, by whose employee;

(vi) Whether the device will be shared, and, if so, under what terms and with what other institutions and their location;

(vii) The manufacturer and, if owned, the purchase price or, if leased, the lease payments and the name of the lessor;

(viii) The distance from the nearest banking office and from the nearest similar device of the reporting bank; and

(ix) The distance from the nearest banking office and nearest similar device of another commercial bank, which will not share the facility, and the name of such other bank or banks.

(2) National banks are urged prior to July 1, 1975, not to establish a CBCT in any state in which state law would prohibit a state chartered bank from establishing a similar facility.

(3) To the extent consistent with the antitrust laws, national banks are permitted, but not required, to share such devices with one or more other financial institutions.

Effective date. This section becomes effective December 24, 1974.

Dated: December 11, 1974.

JAMES E. SMITH,
Comptroller of the Currency.

APPENDIX

Communications between customers and their banks through CBCT's involve transactions to consummate the following kinds of transactions: Cash withdrawals from demand accounts, savings accounts and credit card accounts; deposit to demand accounts or to savings accounts; transfers from demand to savings, or from savings to demand, or from credit card to demand; payment deduct from demand or from savings. Consummation of these transactions by the bank for the customer is contingent upon certain conditions being satisfied before contractual rights and obligations attach and "deposits are received, or checks paid, or money lent." These conditions arise in an electronic banking situation because the CBCT's involved are not sophisticated enough to carry out the procedures, such as authentication and verification, necessary to assure safe and sound banking and prevent losses to customers and banks.

UNMANNED AUTOMATED TERMINALS

When an unmanned automated terminal is operated off-line, i.e., not connected by wire to the bank's computer, a deposit transaction is not consummated until the bank actually is notified of the customer's instructions, and the amount of funds necessary to implement the instruction are received and verified. This notification, receipt, and verification takes place at the bank after collection from the CBCT of the funds left there and of a tape or other medium upon which all instructions have been recorded. The bank cannot give credit for these funds prior to receipt and verification any more than it could give credit for items sent by mail to the bank and not yet received. These funds do not become deposits for any purpose—including the application of 12 U.S.C. 36(f)—until received and accepted at the chartered banking premises. See, e.g., Bernstein v. Northwestern National Bank, 157 Pa. Super. 73, 41 A. 2d 440, In re Farmers State Bank of Amhearst, 67 S.D. 51, 58–59, 289 N.W. 75, 78–79.

Funds left at an unmanned CBCT which is connected by wire to the bank's computer and operated on-line similarly do not become deposits until received and verified at the bank. The customer's instructions to receive the deposit are instantaneously communicated to the bank, just as if the customer had called the bank by telephone to request that the bank receive funds for his account. No unmanned CBCT now in use, however, is able to verify the funds received, and it would be unsafe and unsound practice for the bank to give immediate unconditional credit to a customer based solely upon information supplied by the customer without verification. Thus the customer's offer to create a deposit relationship is not accepted, and the contractual debtor-creditor deposit relationship does not arise, until the funds are received, counted, and accepted at the bank.

Cash withdrawals from unmanned CBCT's are accomplished by the customer requesting the bank through the CBCT to deliver to the customer a pre-packaged bundle of currency in a standard amount, such as $25 or $50. A cash withdrawal from a deposit account using an unmanned CBCT does not constitute paying a check. First, if the withdrawal is from a savings account, no check can be involved because savings deposits by definition are not subject to withdrawals by check. Second, whatever the nature of the deposit account, the CBCT is activated by a card or similar device and no check is involved. The required form of a check is specified in section 3–104 of the Uniform Commercial Code. Nothing resembling a check is used in withdrawals using an unmanned CBCT. Third, all withdrawals are subject to verification. If the CBCT is on-line, the verification takes place instantaneously at the bank. See, e.g., Kan. Atty. Gen. Op. No. 74–196 (June 12, 1974). If the CBCT is offline, the transaction is verified at the bank when the tape or other record is retrieved from the CBCT. If the withdrawal was not in accordance with the agreement between the bank and its customer for any reason, such as a lack of sufficient funds in the customer's account, then no authorized withdrawal has taken place and the customer is liable to the bank for the funds he improperly obtained.

Similarly, a cash withdrawal from an open end credit account, such as a credit card or approved overdraft account, does not constitute making a loan at the CBCT. Such withdrawals are from an already approved line of credit, and are subject to verification that the withdrawal is within the approved line. With most unmanned CBCT's this verification takes place at the bank, either immediately with an on-line CBCT, or later with an off-line CBCT.[1] In these circumstances the revolving credit agreement may be viewed as an original contract which establishes the loan relationship between the customer and bank. Each request by the customer for a cash advance must be verified and accepted by the bank. The transaction thus is consummated, and the loan made, when the bank verifies at its office that the credit agreement conditions are satisfied. This conclusion of ordinary contract law is supported by the truth in lending regulations of the Federal Reserve Board, which provide with regard to consumer loans:

A transaction shall be considered consummated at the time a contractual relationship is created between the creditor and a customer irrespective of the time of performance of either party.

12 CFR 226.2(cc). The time of consummation of a cash withdrawal transaction under the revolving credit agreement here involved is when that transaction is verified at the bank. Thus no loan is made at the CBCT.

It should be noted again that the legal structure of these transactions is not tailored to fit the branch banking law, but arises from the nature of an unmanned CBCT. The bank by contract with its customers will treat all CBCT transactions in the manner here described, whether the CBCT is located in the bank lobby or in a shopping center miles away.

MANNED CBCT'S

A manned CBCT consists of a terminal connected by wire (on-line) to the bank's computer together with an operator. The operator is the employee of a third party, such as a supermarket, who also is financially involved in the transaction. A bank customer presents to the operator information necessary to implement the desired transaction. The transaction instructions and information are communicated electronically to the bank, which, through transfers between the customer's and the establishment's accounts at the bank, consummates the desired transaction.

As with on-line unmanned CBCT's, all transactions are verified instantaneously at the bank and, insofar as the bank is concerned, consummated at the bank. The reasoning stated above for unmanned CBCT's is equally applicable here. Additionally, the

[1] When the customer's card itself contains information about his borrowing limit which is updated at an off-line unmanned CBCT when cash is withdrawn, it might be argued that the verification takes place at the CBCT. Even in this situation, however, the transaction is subject to verification to prevent such occurrences as an unauthorized transaction resulting from an improperly altered authentication card.

banking' must control the content of the Federal definition of § 36(f)." Courts both before[3] and after[4] the Plant City decision have recognized that "what constitutes a branch of a national bank * * * is to be determined by application of the standards prescribed by 12 U.S.C. § 36(f)." North Davis Bank v. First National Bank of Layton, 457 F. 2d 820, 822 (10th Cir. 1972). The Comptroller agrees that state law cannot affect the definition of terms used in this federal statute, and that a resolution of whether a CBCT is a branch for purposes of federal law should be the same, for example, in California, which permits statewide branch banking, as in Texas, whose constitution prohibits branching.

The underlying structure of the National Bank Act shows the necessity of this result. The National Bank Act of 1864, 13 Stat. 99, substantially amended and replaced the National Currency Act of 1863, 12 Stat. 655. The paramount intention of both of these statutes was to "* * * give every possible support to the pubic credit * * *" by a uniform currency "* * * furnished by national associations, organized under a general act of Congress * * *" Abraham Lincoln, Special Message on Financing the War, Senate Journal, pp. 121–122 (37th Cong., 3rd Sess., Jan. 17, 1863). The first Comptroller of the Currency, Hugh McCulloch, in submitting his detailed recommendations for the amendment of the National Currency Act of 1863, pointed out that the national banking system was expected in the seaboard areas "* * * to supersede the system of banking in these states by attracting to it the capital of existing [i.e., state] banks." Annual Report of the Comptroller of the Currency, p. 10 (Nov. 28, 1863). Secretary of the Treasury Chase emphasized at page 19 of his 1863 Annual Report that the recommended changes in the national banking system would "* * * induce the conversion, at the earliest practicable period, of the bank corporations of the states into national banking associations * * *." Consistent with this intention Congress gave special competitive advantages to national banks over state banks in order to induce the state banks either to convert into national associations or go out of business altogether. When the state banking system did not disappear as expected, Congress in 1865 enacted a 10 percent tax on state bank notes, 13 Stat. 469, which was expected to eliminate the state banking system. Sections 7 and 14 of the 1865 Act specifically provided for the conversion of state chartered banks into national banking associations. The 1865 statue largely achieved the desired result: in one year the number of state chartered banks dropped from 1,089 to 349 while the number of national banks rose from 467 to 1,294.

Thus there is no general purpose in the National Bank Act to defer to state statutes regulating state chartered banks, and it is against this background that Chief Justice Burger's admonition in Plant City, *supra*, 396 U.S. at 133–134 must be read:

> Admittedly, state law comes into play in deciding how, where, and when branch banks may be operated. Walker Bank, supra, for in section 36(c) Congress entrusted to the States the regulation of branching as Congress then conceived it. But to allow the States to define the content of the term "branch" would make them the sole judges of their own powers. Congress did not intend such an improbable result as appears from the inclusion in section 36 of a general definition of 'branch.'

In other words, the "branch" definition of section 36(f) cannot be varied by state law, but instead constitutes in itself the test to be applied in the first instance to determine the extent to which state law is to be permitted to operate upon national banks in controvention of the National Bank Act's general supremacy over state law. See, e.g., Tiffany v. National Bank of Missouri, 18 Wall. 409 (1874); Easton v. Iowa, 188 U.S. 220 (1903).

This construction of 12 U.S.C. § 36(f) accords with the settled principle that words in a federal statute should be given a federal and nation-wide meaning. New York v. Feiring, 313 U.S. 283, 285 (1941). This principle is particularly applicable where a federal statute delimits the extent to which a federal instrumentality is subject to state law. See, e.g., First Agricultural National Bank v. State Tax Commission, 392 U.S. 339, 347 (1968). The need to give a federal content to words used in a federal statute is not diminished because the statute might have been enacted to allow national banks to compete with the state banks on equal terms. Federal Deposit Insurance Corp. v. Tremaine, 133 F. 2d 827 (2d Cir. 1943).

Thus the Comptroller is called upon to construe the branch definition of the McFadden Act as a matter of federal law and to apply that construction in a consistent manner to CBCT's throughout the United States.

IV. *Construing and applying the "branch" definition.* The principal statutory question is whether a CBCT is a "branch bank, branch office, branch agency, additional office, or * * * branch place of business" within the meaning of the McFadden Act. A branch bank commonly is thought of as a building containing teller's windows, desks and chairs, customer counters, and bank personnel with whom the banking public may transact a full range of banking services. A CBCT obviously is not an "office", and only a very few of the kinds of transactions normally associated with a banking office or place of business can be initiated at a CBCT. A CBCT customer cannot, for example, open an account with the bank, apply for a loan, purchase savings bonds, obtain money orders, cashiers checks, or travellers checks, maintain a safe deposit box, cash travellers checks, exchange currency, or engage in any of a large number of other common retail banking transactions. Indeed, only an existing customer of the bank may use a CBCT.[5] The CBCT therefore is more closely analogous to a mail box or a telephone through which a customer may communicate with his bank to accomplish certain routine transactions. The Comptroller thus believes that a CBCT would not be a branch bank, branch office, branch agency, additional office, or branch place of business within the common understanding of those terms, and thus looks to the legislative history for guidance as to whether those terms should be given other than their ordinary meaning.

As already noted, one of the principal Congressional concerns was the tellers windows then being operated by national banks. There was no consistent Congressional understanding, however, of the exact nature of these tellers windows or of what other places of business should or should not be classified as branches. This confusion was summarized by Rep. Stevenson, who pointed out that many members of Congress objected to the McFadden Act because its authorization of only "inside" branches for national and state member banks effectively would prohibit the development of statewide branching. He noted an alliance of those who "do not want any limitation placed on the power of the states to grant branches anywhere and everywhere" with a "small but very respectable element who are so adverse to branch banking or branch offices or branch anything that they would protest against the national bank teller carrying change across the street to a one-legged widow selling peanuts to a paralyzed cripple on the corner." 67 Cong. Rec. 2837 (1926).

Some legislators viewed branches in functional rather than physical terms. See, e.g., 67 Cong. Rec. 3248 (1926) (Rep. Cannon), 67 Cong. Rec. 2855 (1926) (Rep. Kurtz), and 68 Cong. Rec. 5816 (1927) (Rep. McFadden). The strongest indication, however, is that legislators viewed both tellers windows and branches as having certain physical and personnel aspects. Rep. Celler described the tellers windows as, "large monumental establishments, large buildings costing fortunes to build" which were physically "separate establishments" and "in effect branches." 67 Cong. Rec. 2860 (1926). Rep. LaGuardia in comparing tellers windows to branches said, "year after year teller windows are increased in the cities. They are not teller windows in any sense of the word. They are complete banking establishments * * * monumental buildings, with a vice president in charge, with complete banking departments which are instituted under the guise of teller windows." 67 Cong. Rec. 3230 (1926). CBCT's do not have these physical and personnel characteristics and apparently would not fall

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[3] Camden Trust Co. v. Gidney, 301 F. 2d 521 (D.C. Cir.), cert. denied, 369 U.S. 886 (1962).

[4] See, e.g., The Ramapo Bank v. Camp, 425 F. 2d 333, 348 (2d Cir. 1970).

[5] See the discussion of this customer limitation in Independent Bankers of Oregon v. Camp, 367 F. Supp. 1353, 1355 (D. Ore. 1973), remanded 9th Cir. Nos. 73-2398 and 73-2399 (Dec. 4, 1973).

within the most widely accepted Congressional understanding of the terms "branch bank, branch office, branch agency, additional office, or * * * branch place of business." CBCT's would seem closer to the routine off-premises activities approved by the Supreme Court in Merchants Bank v. State Bank, supra, and by Attorney General Wickersham in 1911 than they would to the teller's windows which Congress intended by the McFadden Act to authorize.[6]

Additionally, the legislative history of the McFadden Act shows a Congressional intention to permit competition and to promote public service. Rep. McFadden stated that "the main purpose of the bill is to remove certain outstanding handicaps from national banks which now stated that "the main purpose of the bill fledged and efficient modern banking business." 66 Cong. Rec. 2630 (1926). He also stated that "there is another factor involved besides the question of meeting the competition of [state] banks and that is the question of service." 66 Cong. Rec. 1778 (1925). Rep. Watkins explained his vote in favor of the bill as follows (66 Cong. Rec. 1775 (1925)):

> I am persuaded to vote for this measure for the reason that crowded conditions, traffic regulations, lack of parking facilities in our cities necessitate some change in banking facilities to suit the convenience of the complex and crowded business world. Banks, bankers, and customers in large cities are in a situation similar to telephone, electric light and gas companies, or the post office, all of which have branches for the customers' convenience. Economy in time, energy, and many other factors demand that the old order give away to a modern and sensible plan. Party traditions and prejudices should not fetter or bind us to the detriment of our country or the service of our constituents.

The current CBCT's are merely the forerunner of an expected family of customer operated electronic terminals which will change the face of the banking industry. A few banks already offer a service which permits a customer to activate the bank's computer directly from the customer's telephone and thus to initiate various banking transactions. Technology already exists through which a terminal located in a retail establishment could be used to transfer automatically the retailer's account funds by which a customer would pay the retailer for goods and services. Defining such electronic communication devices as branches and applying to them the severe geographic and capital restrictions contained in the McFadden Act would stifle the development of modern banking and of a newly evolving payments system. This result would be an inappropriate use of a statute one of whose principal purposes was to expand banking powers to provide the public with better service.

[6] Other activities national banks routinely conduct off premises include new-business solicitation, loan closings, sale of money orders and travellers checks, banking by mail, credit card services, various correspondent services, and data processing. Some banks maintain their trust departments in buildings separate from the main bank.

The Comptroller believes, moreover, that a contrary interpretation of the McFadden Act would establish an undesirable competitive inequality in some states between national and state chartered banks. In the state of Washington, for example, traditional branches may be established only within the same county as the bank's main office, or elsewhere within the state by merger. CBCT's may be established by state banks, however, anywhere within the state. Thus, if a CBCT were a branch within the meaning of the McFadden Act, the result in the state of Washington would be that national banks could establish traditional branches statewide, although state chartered banks could not. This result seems out of harmony with the intention of the McFadden Act.

The Supreme Court in Plant City, *supra*, stated that "it is relevant in construing 'branch' to consider, not merely the contractual rights and liabilities created by the transaction, but all those aspects of the transaction that might give the [national] bank an advantage in its competition for customers." 396 U.S. at 136–137. This statement was made in the context of an opinion which had reviewed the legislative history of the McFadden Act, and determined that the Act dealt with competition between state chartered and national banks. 396 U.S. at 130–134; See also First National Bank of Logan v. Walker Bank & Trust Co., 385 U.S. 252 (1966). The Court in Plant City, after considering both the contractual rights and liabilities and the competitive aspects determined that "a systematic attempt to secure for national banks branching privileges which Florida denies to competing state banks" was involved in the operation of an armored car service and a receptacle which were advertised as a "mobile drive-in" providing "Full Service Banking at your doorstep," and that this operation constituted branch banking.

Consideration — as hereafter set forth—of the competitive aspects referred to by the Court in Plant City does not require CBCT's to be viewed as branches. Additionally, an analysis of the contractual rights and liabilities under which a CBCT is operated shows that—even if a CBCT is considered to be a branch office, branch agency, or branch place of business—it is not receiving deposits, paying checks, or making loans within the meaning of 12 U.S.C. 36(f). Such an analysis is made in an appendix hereto, which represents the views of the Comptroller should these questions be raised. The contractual rights and liabilities reviewed in this analysis arise from the usual operating procedures of a CBCT, and have significant purposes other than structuring the technical and legal aspects of the transaction to avoid the branch banking statutes. Compare Plant City, *supra*, 396 U.S. at 126, 136–137.

State reaction to CBCT's has been varied and conflicting. At least three states, Oregon, Washington, and Massachusetts, authorize some sort of CBCT by specific legislation which does not treat these facilities as branches. Indeed, the legislation in the State of Washington, which was signed on April 30, 1974, authorizes the establishment of "satellite facilities" anywhere within the state, and specifically provides "that such a facility shall not be construed to be the establishment of a branch." Branch banking in the State of Washington, as already noted, is limited for the most part to a bank's home county.

The Attorneys General of Texas, Kansas, and Florida have authorized the use of CBCT's in some circumstances, although branch banking is prohibited in each of these states. The Attorney General of Illinois, another state which prohibits branch banking, however, has determined that the same off-premises activities permitted in Texas and Florida would constitute illegal branch banking if performed in Illinois. The Attorney General in Nebraska—another non-branching state—has ruled that a CBCT is a branch, but his opinion has been reversed by a state court.

The competitive picture is greatly influenced by recent regulations of the Federal Home Loan Bank Board permitting the establishment by federally chartered savings and loan associations of remote service units. See 39 FR 23991 (June 28, 1974). Similar regulations have been issued for credit unions by the National Credit Union Administration. 39 FR 30107 (Aug. 21, 1974). In some states, such as Nebraska, savings and loan associations have been quick to take advantage of the regulations, and the banking industry should be permitted to meet this competition. While it sometimes is difficult for agencies acting under statutes passed by three different Congresses to fathom any clear overall Congressional intent, no reason suggests itself why Congress would desire the McFadden Act to be interpreted to impair the health of the national banking system through the loss of customers who are now discovering the convenience of remote CBCT's offered by credit unions and savings and loan associations.

It is expected that the interpretive ruling issued herewith may give national banks an advantage vis-a-vis state banks in some states, but not in other states. Where competitive differences do occur, they will be of the sort normally associated with the dual banking systems. State banks, for example, may elect not to join the Federal Reserve System and thereby frequently are permitted (depending upon state law) to keep reserves in interest bearing notes or in correspondent accounts at other banks, thus substantially reducing the costs of maintaining reserve accounts. State banks also sometimes are given higher lending limits or broader discretion in making loans. In other non-branching areas national banks enjoy competitive advantages. These differences are inherent in a dual banking system which is fundamentally inconsistent with complete equality between state chartered banks and national banks. *Cf.* First National Bank of Fairbanks. v. Camp, 465 F. 2d 586, 596 (D.C. Cir.), cert. denied, 409

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U.S. 1124 (1972). As the Supreme Court noted in Walker Bank, *supra*, the principle of competitive equality applied only insofar as branch banking is concerned. 385 U.S. at 261. Nevertheless, the Comptroller will urge temporary limits, as explained below, in an attempt to minimize any competitive imbalances which might result from this ruling.

Thus consideration of the competitive aspects as required by Plant City shows that the use of CBCT's will not be part of a systematic attempt to gain a competitive advantage for national banks, but instead is a necessary step to enable national banks to meet existing and potential competition from federal savings and loan associations and from state chartered institutions. The use of CBCT's by national banks also is required to bring to banking customers the benefits of existing electronic communication technology.

The Comptroller is faced with a difficult task of applying a 50 year old statute to an industry undergoing a great change as a result of modern electronic technology. Persuasive legal arguments can be made in support of either interpretation of the statute.[1] The Comptroller believes, however, that the sound development of the country's banking system and the underlying legislative purpose of the McFadden Act are better served by concluding that CBCT's should not be defined as branches. He thus has stated that conclusion in an interpretive ruling which is published herewith.[2]

V. *Authority to operate CBCT's.* It should be noted that a national bank clearly is authorized to operate a CBCT, even though a CBCT is not a branch. Sections 17 and 18 of the National Bank Act contemplate that a national bank shall engage in "the business of banking" and Section 8 of that Act authorizes a national bank to exercise all such incidental powers as shall be necessary to carry on the business of banking. See 12 U.S.C. secs. 26, 27 and 24 Seventh.

The business of banking changes with the times. In an early case the Supreme Court upheld the authority of a national bank to certify a check because the practice of certifying checks had "grown out of the business needs of the country." Merchants Bank v. State Bank, 77 U.S. 604, 648 (1871). A more recent construction of these statutes by the Supreme Court upheld a national bank's power to advertise as being "one of the most usual and useful weapons" in "modern competition for business." Franklin National Bank v. New York, 347 U.S. 373, 377 (1954). A number of other Supreme Court cases during the last century have construed these statutes in a similar flexible and reasonable fashion.

A CBCT basically is a means of a bank customer transmitting his requests or instructions to a bank, and receiving responses thereto. Communications between a bank and its customer concerning disposition of the customer's account are a part of the banking business. So long as the conduct of this business does not constitute branching, it may be done away from the banking house (Merchants Bank v. State Bank, supra), and is not subject to regulation by state law (Franklin National Bank v. New York, supra).

VI. *Limitations.* Even though a CBCT is not a branch, the Comptroller possesses regulatory authority which can be exercised to limit CBCT's to insure the sound development of the banking system. This regulatory authority should be used sparingly, however, because

> • • • regulation has too often resulted in protection of the status quo. • • • Industries have been more progressive when the agencies have endeavored to confine regulation to a necessary minimum and have otherwise fostered competition.

Annual Report of the Council of Economic Advisors, 106–107 (1970). Particularly in this new area where technology and consumer response are changing rapidly, the Comptroller believes that sellers and users of these services should be given the widest latitude in determining how, when, and where CBCT's can be used efficiently.

Nevertheless, a change from traditional banking, in which geography is of supreme importance, to electronic banking in which time and distance become irrelevant, will involve competitive adjustments for many banks. The Comptroller thus is adopting the following policies:

First, any national bank wishing to establish a CBCT may not do so without giving 30 days prior written notice to the Comptroller containing the information specified in the interpretive ruling. This will enable the Comptroller to monitor the development of CBCT's and to halt or alter their establishment if such action appears appropriate. Authority for this reporting requirement is found in 12 U.S.C. 161.

Second, each national bank should consider the impact that operation of CBCT's will have upon competing financial institutions. The Comptroller urges national banks prior to July 1, 1975, not to establish a CBCT in any state in which state law would prohibit a state chartered bank from establishing a similar facility. This urging is at the request of the Conference of State Bank Supervisors and is designed to give the legislatures of such states an opportunity to consider whether they wish to place their state chartered banks on an equal competitive footing with national banks and with savings and loan associations. This urging also is consistent with the philosophy of the pending legislation arising from the report of the President's Commission on Financial Structure and Regulation that changes in the financial structure apply similarly to competing institutions. During May 1975 the Comptroller will examine the then existing situation to determine whether equitable considerations indicate further policy statements in this regard.

Third, some state laws concerning CBCT's require that these devices be shared by other financial institutions. The Comptroller is not adopting any similar requirement. In this regard, the antitrust laws of the United States are applicable to the operation of CBCT's. As the Department of Justice noted in a May 1974 statement to the Board of Governors of the Federal Reserve System:

> The question of compulsory access to any EFT [electronic funds transfer] system will turn on fact questions—and the terms of any access will have to be tailored to the particular facts. At the outset compulsory access would not be required unless the particular facility is found to be 'essential' in the sense that exclusion would impose a significant handicap.

Just as exclusion from a CBCT system sometimes might raise questions under the antitrust laws, the sharing by two or more competitors of a CBCT system also could raise legal difficulties if, for example, the result of that sharing was to discourage competition and innovation between two competitors each of whom independently was capable of establishing its own system. Thus the Comptroller's ruling permits, but does not require, banks to share CBCT's with other financial institutions, and national banks and their counsel are advised to consider the antitrust laws when questions arise concerning the sharing of these facilities.

VII. *Effective date.* The Administrative Procedure Act does not require notice and solicitation of comments in connection with interpretive rules. 5 U.S.C. § 553(b). Many interested persons have made their views informally known to the Comptroller even without a formal solicitation of comments, and these views have been considered. The Administrative Procedure Act also permits interpretive rules to become effective immediately. 5 U.S.C. 553(d). Since the interpretive ruling issued herewith will not restrict any activities now being carried out by any bank, and since the Comptroller believes that substantial public benefit will result from this ruling, no reason exists to delay its effectiveness. Therefore, effective immediately upon publication, the existing 12 CFR 7.7491, "Deposit Machines" is rescinded, and the new § 7.7491, "Customer-Bank Communication Terminals" accompanying this statement is adopted.

Part 7 of 12 CFR Chapter I is amended by revising § 7.7491 to read as follows:

§ 7.7491 Customer-Bank communication terminals.

(a) A national bank may make available for use by its customers one or more electronic devices or machines through which the customer may communicate to the bank a request to withdraw money either from his account or from a previously authorized line of credit, or an in-

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[1] Indeed a previous Comptroller apparently interpreted the statute differently in at least one instance where he was focusing primarily on the competitive aspects of a particular application. See Independent Bankers of Oregon, *supra*.

[2] For the reasons expressed herein the Comptroller believes that branch definition of 26 D.C. Code Section 26–103(b), which is identical to that of the McFadden Act, should be interpreted to exclude a CBCT.

struction to receive or transfer funds for the customer's benefit. The device may receive or dispense cash in accordance with such a request or instruction, subject to verification by the bank. Such devices may be unmanned or manned by a bona fide third party under contract to the bank. The bank for a reasonable period of time may provide one of its employees to instruct and assist customers in the operation of the device. Any transactions initiated by such a device shall be subject to verification by the bank either by direct wire transmission or otherwise.

(b) Use of such devices at locations other than the main office or a branch office of the bank does not constitute branch banking. A bank may provide insurance protection under its bonding program for transactions involving such devices.

(c) The establishment and use of these devices is subject to the following limitations:

(1) Written notice must be given to the Comptroller's Office and to the office of the appropriate regional administrator 30 days before any such device is put into operation. Such notice shall describe with regard to the device or machine:

(i) The location;

(ii) A general description of the area where located (e.g., shopping center, gasoline station, supermarket) and the manner of installation (e.g., free standing, exterior wall, separate interior booth);

(iii) The manner of operation, including whether the device is on-line;

(iv) The kinds of transactions which will be performed;

(v) Whether the device will be manned, and, if so, by whose employee;

(vi) Whether the device will be shared, and, if so, under what terms and with what other institutions and their location;

(vii) The manufacturer and, if owned, the purchase price or, if leased, the lease payments and the name of the lessor;

(viii) The distance from the nearest banking office and from the nearest similar device of the reporting bank; and

(ix) The distance from the nearest banking office and nearest similar device of another commercial bank, which will not share the facility, and the name of such other bank or banks.

(2) National banks are urged prior to July 1, 1975, not to establish a CBCT in any state in which state law would prohibit a state chartered bank from establishing a similar facility.

(3) To the extent consistent with the antitrust laws, national banks are permitted, but not required, to share such devices with one or more other financial institutions.

Effective date. This section becomes effective December 24, 1974.

Dated: December 11, 1974.

JAMES E. SMITH,
Comptroller of the Currency.

APPENDIX

Communications between customers and their banks through CBCT's involve instructions to consummate the following kinds of transactions: Cash withdrawals from demand accounts, savings accounts and credit card accounts; deposit to demand accounts or to savings accounts; transfers from demand to savings, or from savings to demand, or from credit card to demand; payment deduct from demand or from savings. Consummation of these transactions by the bank for the customer is contingent upon certain conditions being satisfied before contractual rights and obligations attach and "deposits are received, or checks paid, or money lent." These conditions arise in an electronic banking situation because the CBCT's involved are not sophisticated enough to carry out the procedures, such as authentication and verification, necessary to assure safe and sound banking and prevent losses to customers and banks.

UNMANNED AUTOMATED TERMINALS

When an unmanned automated terminal is operated off-line, i.e., not connected by wire to the bank's computer, a deposit transaction is not consummated until the bank actually is notified of the customer's instructions, and the amount of funds necessary to implement the instruction are received and verified. This notification, receipt, and verification takes place at the bank after collection from the CBCT of the funds left there and of a tape or other medium upon which all instructions have been recorded. The bank cannot give credit for these funds prior to receipt and verification any more than it could give credit for items sent by mail to the bank and not yet received. These funds do not become deposits for any purpose—including the application of 12 U.S.C. 36(f)—until received and accepted at the chartered banking premises. See, e.g., Bernstein v. Northwestern National Bank, 157 Pa. Super. 73, 41 A. 2d 440, In re Farmers State Bank of Amherst, 67 S.D. 51, 58–59, 289 N.W. 75, 78–79.

Funds left at an unmanned CBCT which is connected by wire to the bank's computer and operated on-line similarly do not become deposits until received and verified at the bank. The customer's instructions to receive the deposit are instantaneously communicated to the bank, just as if the customer had called the bank by telephone to request that the bank receive funds for his account. No unmanned CBCT now in use, however, is able to verify the funds received, and it would be unsafe and unsound practice for the bank to give immediate unconditional credit to a customer based solely upon information supplied by the customer without verification. Thus the customer's offer to create a deposit relationship is not accepted, and the contractual debtor-creditor deposit relationship does not arise, until the funds are received, counted, and accepted at the bank.

Cash withdrawals from unmanned CBCT's are accomplished by the customer requesting the bank through the CBCT to deliver to the customer a pre-packaged bundle of currency in a standard amount, such as $25 or $50. A cash withdrawal from a deposit account using an unmanned CBCT does not constitute paying a check. First, if the withdrawal is from a savings account, no check can be involved because savings deposits by definition are not subject to withdrawals by check. Second, whatever the nature of the deposit account, the CBCT is activated by a card or similar device and no check is involved. The required form of a check is specified in section 3–104 of the Uniform Commercial Code. Nothing resembling a check is used in withdrawals using an unmanned CBCT. Third, all withdrawals are subject to verification. If the CBCT is on-line, the verification takes place instantaneously at the bank. See, e.g., Kan. Atty. Gen. Op. No. 74–196 (June 12, 1974). If the CBCT is offline, the transaction is verified at the bank when the tape or other record is retrieved from the CBCT. If the withdrawal was not in accordance with the agreement between the bank and its customer for any reason, such as a lack of sufficient funds in the customer's account, then no authorized withdrawal has taken place and the customer is liable to the bank for the funds he improperly obtained.

Similarly, a cash withdrawal from an open end credit account, such as a credit card or approved overdraft account, does not constitute making a loan at the CBCT. Such withdrawals are from an already approved line of credit, and are subject to verification that the withdrawal is within the approved line. With most unmanned CBCT's this verification takes place at the bank, either immediately with an on-line CBCT, or later with an off-line CBCT.[1] In these circumstances the revolving credit agreement may be viewed as an original contract which establishes the loan relationship between the customer and bank. Each request by the customer for a cash advance must be verified and accepted by the bank. The transaction thus is consummated, and the loan made, when the bank verifies at its office that the credit agreement conditions are satisfied. This conclusion of ordinary contract law is supported by the truth in lending regulations of the Federal Reserve Board, which provide with regard to consumer loans:

A transaction shall be considered consummated at the time a contractual relationship is created between the creditor and a customer irrespective of the time of performance of either party.

12 CFR 226.2(cc). The time of consummation of a cash withdrawal transaction under the revolving credit agreement here involved is when that transaction is verified at the bank. Thus no loan is made at the CBCT.

It should be noted again that the legal structure of these transactions is not tailored to fit the branch banking law, but arises from the nature of an unmanned CBCT. The bank by contract with its customers will treat all CBCT transactions in the manner here described, whether the CBCT is located in the bank lobby or in a shopping center miles away.

MANNED CBCT'S

A manned CBCT consists of a terminal connected by wire (on-line) to the bank's computer together with an operator. The operator is the employee of a third party, such as a supermarket, who also is financially involved in the transaction. A bank customer presents to the operator information necessary to implement the desired transaction. The transaction instructions and information are communicated electronically to the bank, which, through transfers between the customer's and the establishment's accounts at the bank, consummates the desired transaction.

As with on-line unmanned CBCT's, all transactions are verified instantaneously at the bank and, insofar as the bank is concerned, consummated at the bank. The reasoning stated above for unmanned CBCT's is equally applicable here. Additionally, the

[1] When the customer's card itself contains information about his borrowing limit which is updated at an off-line unmanned CBCT when cash is withdrawn, it might be argued that the verification takes place at the CBCT. Even in this situation, however, the transaction is subject to verification to prevent such occurrences as an unauthorized transaction resulting from an improperly altered authorization card.

bank customer is dealing directly not with the bank, but with a third party, as the following discussion illustrates.

A customer, for example, might give to an establishment which operates a CBCT a check of which the customer is a payee, such as a payroll check from the customer's employer, and request the establishment to return less in cash than the face amount of a check and transfer the remaining amount from the establishment's bank account to the customer's account, thereby effecting a deposit in the customer's account of a portion of the check. The establishment might be agreeable to doing this, not only because it accommodates the customer, but also because it reduces the amount of cash the establishment must keep on hand to cash customer's checks.

The bank's computer is used to assure the customer that the establishment has adequate funds to transfer to the customer's account and to assure the establishment that the customer is presenting a valid bank card for identification purposes. The computer, acting on the basis of bank records and instructions programmed by bank personnel, identifies the customer's card as a valid card, accepts information as to the amount of the transfer between accounts, effects the transaction immediately or prepares it for later posting in accordance with the bank's procedures, and confirms the transaction to the customer and the establishment. The cash received by the customer is from the establishment, not from the bank, and all transactions involving the bank occurred at the bank's own computer.

By arrangement between the parties, the bank also may assume certain risks, for example that the establishment may accept the check from the customer without fear of dishonor. This is a credit risk of the sort ordinarily taken by a bank. The assumption of this risk usually is subject to compliance with various procedures established by the bank, including the possibility of charging the face amount of a check so processed back to the customer's account. The establishment is not an agent of the bank because it is acting as it does for its own business purposes, and accordingly is a bona fide third party. Transactions involving cash withdrawals from a customer's account would follow essentially the same process, including a transfer between the customer's and the establishment's accounts.

With regard to such manned CBCT's it seems clear that the banking aspects of the transactions initiated by a customer are consummated at the bank, and not at the location of the CBCT. As with unmanned CBCT's these transactions are structured to fit the operational capabilities of the CBCT and the bank's computer and to comply with prudent banking practices. It could not be said that these contractural and operational arrangements have no significant purpose other than to remove the possibility that the monies received will become "deposits" within the meaning of the branch banking law. See Walker Bank, supra, 396 U.S. at 126. Additionally, the customer's direct transactions are not with the bank at all, but with a bona fide third party.

[FR Doc.74-29060 Filed 12-23-74;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Changes in Rates

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), and for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country, Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve bank of—	Rate	Effective
Boston	7¼	Dec. 10, 1974
New York	7¼	Dec. 9, 1974
Philadelphia	7¼	Do.
Cleveland	7¼	Dec. 13, 1974
Richmond	7¼	Dec. 10, 1974
Atlanta	7¼	Dec. 16, 1974
Chicago	7¼	Dec. 10, 1974
St. Louis	7¼	Dec. 13, 1974
Minneapolis	7¼	Do.
Kansas City	7¼	Do.
Dallas	7¼	Dec. 10, 1974
San Francisco	7¼	Dec. 11, 1974

2. Section 201.52 is amended to read as follows:

§ 201.52 Advances to member banks under section 10(b).

(a) The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve bank of—	Rate	Effective
Boston	8¼	Dec. 10, 1974
New York	8¼	Dec. 9, 1974
Philadelphia	8¼	Do.
Cleveland	8¼	Dec. 13, 1974
Richmond	8¼	Dec. 10, 1974
Atlanta	8¼	Dec. 16, 1974
Chicago	8¼	Dec. 10, 1974
St. Louis	8¼	Dec. 13, 1974
Minneapolis	8¼	Do.
Kansas City	8¼	Do.
Dallas	8¼	Dec. 10, 1974
San Francisco	8¼	Dec. 11, 1974

(b) The rates for advances to member banks for prolonged periods and in significant amounts under section 10(b) of the Federal Reserve Act and § 201.2(e)(2) of Regulation A are:

Federal Reserve bank of—	Special rate	Effective
Boston	9½	Dec. 10, 1974
New York	9½	Dec. 9, 1974
Philadelphia	9½	Do.
Cleveland	9½	Dec. 13, 1974
Richmond	9½	Dec. 10, 1974
Atlanta	9½	Dec. 16, 1974
Chicago	9½	Dec. 10, 1974
St. Louis	9½	Dec. 13, 1974
Minneapolis	9½	Do.
Kansas City	9½	Do.
Dallas	9½	Dec. 10, 1974
San Francisco	9½	Dec. 11, 1974

3. Section 201.53 reads as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

Federal Reserve bank of—	Rate	Effective
Boston	10	Dec. 10, 1974
New York	10	Dec. 9, 1974
Philadelphia	10	Do.
Cleveland	10	Dec. 13, 1974
Richmond	10	Dec. 10, 1974
Atlanta	10	Dec. 16, 1974
Chicago	10	Dec. 10, 1974
St. Louis	10	Dec. 13, 1974
Minneapolis	10	Do.
Kansas City	10	Do.
Dallas	10	Dec. 10, 1974
San Francisco	10	Dec. 11, 1974

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357)

By order of the Board of Governors, December 17, 1974.

[SEAL] THEODORE E. ALLISON, *Secretary of the Board.*

[FR Doc.74-29016 Filed 12-23-74;8:45 am]

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Credit Union Service Center

On pages 32632-32633 of the September 10, 1974, edition of the FEDERAL REGISTER there were published proposed amendments to Part 701 (12 CFR Part 701) which would redesignate §§ 701.26 and 701.27 and add a new § 701.26.

After considering all comments submitted by interested parties, the proposed amendments, as set forth below, are hereby adopted without change.

Effective date: These amendments are effective immediately.

HERMAN NICKERSON, Jr., *Administrator.*

DECEMBER 17, 1974.

1. Section 701.26 is redesignated as § 701.27–1, and the heading revised to read:

§ 701.27–1 Purchase of accounting services.

2. Section 701.27 is redesignated as § 701.27–2, and the heading revised to read:

§ 701.27–2 Participation in accounting service center.

3. A new § 701.26 is added to read as follows:

§ 701.26 Credit union service center.

(a) For the purposes of this section. (1) "Service Center" means a credit union service center which provides services to include, but not necessarily limited to, physical facilities, centralized management, and accounting services.

(2) "Accounting Service" means the maintenance of bookkeeping, accounting, or other records related to the purposes and functions of a credit union by manual, mechanical or electronic methods, and the furnishing of reports and information derived from such records.

(3) "Individual Identity" means that the identity of each participating Federal credit union is easily distinguishable from other credit unions and organizations participating in the service center activities.

(4) "Centralized management" means the single authority responsible for supervising, controlling and directing the day-to-day operations of the service center.

(b) (1) One or more Federal credit unions may contract with a vendor other than a Federal credit union to provide a credit union service center. The contract shall be in writing, shall have the approval of the Administrator, and shall expressly provide for:

(i) Segregating the credit union's assets and records;

(ii) Maintaining the credit union's individual identity;

(iii) Establishing minimum security devices and procedures in accordance with Part 748 (12 CFR 748);

(iv) Complying with the mandatory requirements with regard to the advertisement of insured status in accordance with Part 740 (12 CFR 740);

(v) Describing the services to be provided by the vendor and establishing the costs of these services subject to periodic review and negotiation;

(vi) Complying with the provisions of section 701.14 of this Part concerning all services performed;

(vii) Immediate availability and possession of the Federal credit union's books and records for examination by the Administrator and audit by the supervisory committee;

(viii) Establishing centralized management in consonance with the board of directors of each credit union directing and controlling the affairs of the credit union;

(ix) Notifying the credit union's surety company and obtaining written assurance from surety that coverage extends to the service center and its employees;

(x) Appointing the service center and its employees as agents of the credit union for purposes of transacting contracted services; and

(xi) Terminating, assigning, and mediating the contract.

(2) The files of the Federal credit union shall contain specific information concerning the procedures to be used by the vendor in complying with the terms of the contract. Such information may be in the form of a standard operating or users manual.

(3) A Federal credit union, in addition to regular payments for services as provided under the contract, shall not pay in advance the actual or estimated charges for more than 3 months' services. Where such advance payment is made it shall be amortized over a period not in excess of the period of the written agreement.

(c) (1) Requests for approval shall be submitted to the Regional Director in writing with a copy of the contract and all pertinent facts in support of the proposal not later than 60 days prior to the proposed implementation of the contract. A Federal credit union shall notify the Regional Director in writing within 30 days of the termination of the contract.

(2) The Regional Director will investigate each request to participate in a credit union service center activity and will make a recommendation as to whether it should be approved or disapproved. The request, contract and the recommendation of the Regional Director shall be forwarded to the Administrator, who shall approve or disapprove the application. The Regional Director will be informed of the Administrator's action on the application and will promptly notify the Federal credit union concerned.

(3) Notwithstanding the provisions of paragraph (c) (2) of this section, the Regional Director may approve a Federal credit union's request supported by a standard contract of the same service center which has received prior approval by the Administrator in accordance with the provisions of paragraph (c) (2) of this section.

(d) No official or employee of a participating Federal credit union may have a pecuniary interest in the credit union service center pursuant to this section. No official of a participating Federal credit union may receive from the vendor of such services any salary or compensation other than the reimbursement of necessary expenses incurred in connection with the vendor's activities.

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Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Revision 13]

PART 121—SMALL BUSINESS SIZE STANDARDS

This is revision 13 of Part 121 of Chapter I of Title 13 of the Code of Federal Regulations. Revision 13 of Part 121 rescinds revision 12, including amendments 1 through 16 thereto. In addition to incorporating the amendments to revision 12, this revision contains several clarifying and simplifying changes, the most significant of which are described below:

1. Section 121.3–2(a) has been revised by adding thereto material set forth in revision 12, § 121.3–16, *Interpretations*, which section has been deleted by this revision.

2. Section 121.3–2(b) has been revised by adding the procedure for computing a concern's average annual receipts for its preceding 3 fiscal years when the concern has been in business less than 3 years.

3. Section 121.3–2(i) has been reworded to clarify that a concern organized for profit can qualify as a small business even if it is owned by or subject to the control of a nonprofit entity.

4. Section 121.3–2(r) has been revised by adding thereto material appearing in § 121.3–16 of revision 12.

5. Section 121.3–6 has been revised by adding thereto material appearing in § 121.3–16 of revision 12.

6. Section 121.3–16(b) (3) (ii) has been revised to make it clear that an appeal may be taken not only from the industry classification which the contracting officer has designated in the solicitation, but also from his designation of the appropriate Small Business Administration size standard for such industry.

7. Section 121.3–8 has been revised by adding material appearing in § 121.3–16 of revision 12.

8. Section 121.3–9 has been revised by adding material appearing in § 121.3–16 of revision 12. Language has also been added to clarify procedures governing size self-certification and protest by the contracting officer.

9. Section 121.3–10 has been revised by adding material appearing in § 121.3–16 of revision 12. A clause has also been added to clarify what action shall be taken where no financial assistance size standard has been established for an industry, field of operation, or activity. Finally, § 121.3–10(b) has been revised to reflect the elimination from Schedule A of all industries with a 250-employee size standard.

10. Section 121.3–16, *Interpretations*, has been deleted and the interpretative material added to the appropriate sections of the regulation.

11. Schedule A has been revised by:

a. Eliminating all industries with a 250-employee size standard (see new

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§ 121.3–10(b)(2) which establishes a 250-employee standard for any manufacturing industry not set forth in Schedule A), and

b. Arranging the industries in numerical rather than alphabetical order. (This conforms with arrangement of Schedule B.)

12. This revision also establishes a definition of a small cable television operator for the purpose of obtaining an SBA loan. The new definition was proposed in the FEDERAL REGISTER on September 6, 1974 (39 FR 32334).

Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is hereby revised as follows:

Sec.
121.3 Statutory provisions.
121.3–1 Purpose and method of establishing size standards.
121.3–2 Definition of terms used in this part.
121.3–3 Organization—size functions.
121.3–4 Size determinations.
121.3–5 Protest of small business status.
121.3–6 Appeals.
121.3–7 Differentials.
121.3–8 Definition of small business for Government procurement.
121.3–9 Definition of small business for sales of Government property.
121.3–10 Definition of small business for SBA loans.
121.3–11 Definition of small business for assistance by small business investment companies or by development companies.
121.3–12 Definition of small business Government subcontractors.
121.3–13 Definition of small business for the purpose of lease guarantee.
121.3–14 Definition of small business for the purpose of Government leases of uranium prospecting or mining rights.
121.3–15 Definition of small business for the purpose of surety bond guarantee assistance.

AUTHORITY: Pub. L. 85–536, sec. 5(b)6, 72 Stat. 385.

§ 121.3 Statutory provisions.

(a) Small Business Act, as amended.

SEC. 3. For the purpose of this Act, a small business concern shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation. In addition to the foregoing criteria, the Administrator, in making a detailed definition, may use these criteria, among others: Number of employees, and dollar volume of business. Where the number of employees is used as one of the criteria in making such definition for any of the purposes of this Act, the maximum number of employees that a small business concern may have under the definition shall vary from industry to industry to the extent necessary to reflect differing characteristics of such industries and to take proper account of other relevant factors.

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SEC. 8(b) It shall also be the duty of the Administration and it is hereby empowered, whenever it determines such action is necessary—

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(6) To determine within any industry the concerns, firms, persons, corporations, partnerships, cooperatives, or other business enterprises which are to be designated "small business concerns" for the purpose of effectuating the provisions of this Act. To carry out this purpose, the Administrator, when requested to do so, shall issue in response to each such request an appropriate certificate certifying an individual concern as a "small business concern" in accordance with the criteria expressed in this Act. Any such certificate shall be subject to revocation when the concern covered thereby ceases to be a "small business concern." Offices of the Government having procurement or lending powers, or engaged in the disposal of Federal property or allocating materials or supplies, or promulgating regulations affecting the distribution of materials or supplies, shall accept as conclusive the Administration's determination as to which enterprises are to be designated "small business concerns," as authorized and directed under this paragraph.

(b) Small Business Investment Act of 1958, as amended.

SEC. 103. As used in this Act—

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RULES AND REGULATIONS

(5) The term "small business concern" shall have the same meaning as in the "Small Business Act."

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§ 121.3–1 Purpose and method of establishing size standards.

(a) Purpose. This part defines "small business concerns" and establishes standards, criteria, and procedures to determine which concerns are "small business concerns" within the meaning of the Small Business Act, as amended (hereinafter referred to as the "Act") and the Small Business Investment Act of 1958, as amended (hereinafter referred to as the "Investment Act").

(b) Method of establishing size standards—(1) Use of Standard Industrial Classification Manual. The Standard Industrial Classification (SIC) Manual, as amended, prepared and published by the Bureau of the Budget (now Office of Management and Budget), Executive Office of the President, will be used by SBA as a guide in defining industries. Its use therefore is advisory and not mandatory.

(2) Size standards policy. (i) The fundamental purpose of Small Business Administration assistance is to preserve free competitive enterprise by strengthening the competitive position of small business concerns.

(ii) It is the Small Business Administration's view that, in the absence of proof to the contrary, there is a segment of each industry wherein concerns by reason of their small size are at a competitive disadvantage. Therefore, the definition of small business for each industry should be limited to that segment of the industry struggling to become or remain competitive.

(iii) Smaller concerns often are forced to compete with middle-sized as compared with very large concerns. In consideration of this fact, the standard for each industry should be established as low as reasonably possible. It should be lowered in any case where the SBA determines that a few concerns under the size standard umbrella have, because of their size, gained undue competitive strength as compared with other concerns under the umbrella.

(iv) It is the Small Business Administration's view that concerns which, with or without assistance under the Small Business Act, have grown to a size which exceeds the applicable small business size standard should compete for Government contracts not reserved for small business concerns or should seek commercial markets in the same or related fields. Under such circumstances small business concerns should not rely on continuing assistance under the Small Business Act from the cradle to the grave, but should plan for the day on which they become other than small business and should be able to compete without assistance.

(3) Factors in formulating size standards. The following factors shall be considered in formulating industry size standards:

(i) Concentration of output; that is, the portion of the total output of an industry which is accounted for by a limited number of companies.

(ii) Coverage ratio, that is, the ratio of the industry's shipments of its primary products, to the total shipments by all industries of the primary products of the industry in question.

(iii) Specialization ratio, that is, the ratio of the industry's shipments of its primary products to its total shipments of primary and secondary products.

(iv) The total number of concerns in the industry.

(v) The size of industry leaders.

(vi) The SBA programs for which the size standard is established. In formulating industry size standards for the purpose of Government procurement, the additional factor of Government procurement history shall be used. The use of this additional factor may cause the size standards for the purpose of Government procurement and the size standards for the purpose of financial assistance to differ for the same industry.

(4) Product classification. For size standard purposes, a product or service shall be classified into only one industry, even though, for other purposes, it could be classified into more than one industry. In determining the SIC Industry into which particular products shall be classified for size standard purposes, consideration shall be given to all appropriate factors including:

(i) Alphabetic indexes published by the Office of Management and Budget, Executive Office of the President; Bureau of the Census; and the Bureau of Domestic Commerce.

(ii) Description of the product under consideration.

(iii) Previous Government procurements for the same or similar products, and

(iv) Published information concerning the nature of companies which manufacture such products.

A product or service shall be classified in the industry whose definition best describes the principal nature of the product or service being procured. The end use of a product does not govern the

industry into which it is to be classified. In a borderline situation, the product or service shall be classified in the indutry whose size standard would best serve to accomplish the purposes of the Small Business Act. When a procurement is for two or more items with different size standards, a bidder must qualify as a small business under the definition of a small business applicable to any item on which it bids. If a multi-item procurement requires the successful bidder to deliver all items and/or perform all services being procured, the applicable size standard is that for the industry whose products or services account for the greatest proportion of the contract price.

(5) Product classification decision. The SBA Regional Director or his delegatee of the SBA Region in which the principal office of the applicant, not including its affiliates, is located, shall determine the appropriate SIC classification, except that for procurement purposes the determination shall be made by the official specified in Section 121.3-8, and for lease guarantee reinsurance purposes the determination shall be made by the Associate Administrator for Finance and Investment. Such determination shall be subject to appeal in the manner provided in § 121.3-6.

§ 121.3-2 Definition of terms used in this part.

(a) Affiliates: Concerns, other than investment companies licensed, or state development companies qualifying under the Small Business Investment Act of 1958 and the regulations issued pursuant thereto, or investment companies registered under the Investment Company Act of 1940, are affiliates of each other when either directly or indirectly (1) one concern controls or has the power to control the other, or (2) a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management, and contractual relationships: *Provided, however,* That restraints imposed on a franchise by its franchise agreement shall not be considered in determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, if the franchisee has the right to profit from his effort, commensurate with ownership, and bears the risk of loss or failure. Where a concern is a subcontractor pursuant to section 8(a)(2) of the Small Business Act and, in connection therewith, is the subject of a divestiture agreement approved by SBA for the benefit of socially or economically disadvantaged individuals, the receipts, employment, and other factors of the concern attributable to the section 8(a)(2) subcontract shall not be included in determining the size of either concern during the term of such divestiture agreement. Other contracts and business of such subcontractor may also be excluded in determining the size if, in the judgment of SBA, substantial beneficiaries of such other contracts and business will be the socially or economically disadvantaged individuals in question.

(i) Nature of Control. Every business concern is considered as having one or more parties who directly or indirectly control or have the power to control it. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists.

EXAMPLE. A party owning 50 percent of the voting stock of a concern would have negative power to control such concern since he can block any action of the other stockholders. Also, the bylaws of a corporation may be drawn up in such a manner which would permit a stockholder with less than 50 percent of the voting stock to block any actions taken by the other stockholders. Affiliation exists when one or more parties have the power to control a concern while at the same time another party, or other parties, may be in control of the concern at the will of the party or parties with the power to control.

(ii) Meaning of "party or parties." The term "party or parties" includes, but is not limited to, two or more persons with an identity of interest such as members of the same family or persons with common investments in more than one concern. In determining who controls or has the power to control a concern, persons with an identity of interest may be treated as though they were one person.

(iii) Control through stock ownership.

(*a*) A party is considered to control or have the power to control a concern if he controls or has the power to control 50 percent or more of its voting stock.

(*b*) A party is considered to control or have the power to control a concern even though he owns, controls, or has the power to control less than 50 percent of the concern's voting stock if the block of stock he owns, controls, or has the power to control is large as compared with any other outstanding block of stock. If two or more parties each owns, controls, or has the power to control less than 50 percent of the voting stock of a concern and such minority block is (*1*) equal or substantially equal in size, and (*2*) large as compared with any other block outstanding, there is a presumption that each of such parties controls or has the power to control such concern; however, such presumption may be rebutted by a showing that such control or power to control, in fact, does not exist.

(*c*) If a concern's voting stock is distributed other than as described above, its management (officers and directors) is deemed to be in control of such concern.

EXAMPLE. In a corporation where the officers and directors own various size blocks of stock totalling 40 percent of a concern's voting stock, but no officer or director has a block sufficient to give him control or the power to control and the remaining 60 percent is widely distributed with no individual stockholder having a stock interest greater than 10 percent, management has the power to control.

(iv) Stock options, convertible debentures, and agreements to merge. Stock options and convertible debentures exercisable at the time of or within a relatively short time after a size determination and agreements to merge in the future are considered as having a present effect on the power to control the concern. Therefore, in making a size determination, such options, debentures, and agreements are treated as though the rights held thereunder had been exercised prior to the date of the determination.

EXAMPLE. If, on the date of the determination, company "A" holds an option to purchase a controlling interest in company "B" and such option can be exercised at any time by company "A," the situation is treated as though company "A" had exercised its rights and had become owner of a controlling interest in company "B" prior to the determination. Further, if, as of the date of a determination, company "A" has entered into an agreement to merge with company "B" in the future, the situation is treated as though the merger had taken place prior to the date of the determination.

(v) Voting trusts. If the purpose of a voting trust or similar agreement is to separate voting power from beneficial ownership of voting stock for the purpose of shifting control of or the power to control a concern in order that such concern or another concern may qualify as a small business within the size regulation, such voting trust shall not be considered valid for this purpose, regardless of whether the trust is or is not valid within the appropriate jurisdiction. However, if a voting trust is entered into for a legitimate purpose other than that described above, and it is a valid trust within the appropriate jurisdiction, it may be considered valid for the purpose of a size determination, provided such consideration is determined to be in the best interest of the small business program.

(vi) Control through common management. A concern is considered as controlling or having the power to control another concern when one or more of the following circumstances are found to exist, and it is reasonable to conclude that under the circumstances, such concern is directing or influencing or has the power to direct or influence, the operation of such other concern.

(*a*) Interlocking management. Officers, directors, employees, or principal stockholders of one concern serve as a working majority of the board of directors or officers of another concern.

(*b*) Common facilities. One concern shares common office space and/or employees and/or other facilities with another concern particularly where such concerns are in the same or related industry or field of operation, or where such concerns were formerly affiliated.

(*c*) Newly organized concern. Former officers, directors, principal stockholders, and/or key employees of one concern organize a new concern in the same or a related industry or field of operation, and serve as its officers, directors, principal stockholders, and/or key employees, and one concern is furnishing or will furnish the other concern with subcontracts, financial or technical assistance, and/or other facilities, whether for a fee or otherwise.

(vii) Control through contractual relationships—(a) Definition of a joint venture for size determination purposes. A joint venture, for size determination purposes, is an association of persons or concerns with interest in any degree or proportion by way of contract, express or implied, consorting to engage in and carry out a single business venture, such as a Government contract, for joint profit for which purpose they combine their efforts, property, money, skill, or knowledge, but without creating a corporation or partnership in the legal or technical sense of the term.

(b) Joint ventures—financial assistance. For the purpose of financial assistance to a joint venture, the parties thereto are considered as controlling or having the power to control each other and are considered as being affiliated. For the purpose of financial assistance to a concern which has requested assistance for its own use, but which is incidentally a party to a joint venture, such concern is not considered as being affiliated with its joint venturer.

(c) Joint venture—procurement assistance. Concerns bidding on a particular procurement as joint venturers are considered as controlling or having the power to control each other with regard to performance of the contract, and therefore are considered as being affiliated. However, a concern which is a party to one or more joint ventures, but which is bidding on a procurement as an individual concern, is not considered as being affiliated with its joint ventures since they have no power to control its performance of the contract being bid on.

(d) Where a concern is not considered as being an affiliate of a concern with which it is participating in a joint venture, it is necessary, nevertheless, in computing annual receipts, etc., for the purpose of applying size standards to include such concern's share of the joint venture receipts (as distinguished from its share of the profits of such venture).

(e) Franchise and license agreements. If a concern operates or is to operate under a franchise (or a license) agreement, the following policy is applicable: In determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, the restraints imposed on a franchisee by its franchise agreement shall not be considered provided that the franchisee has the right to profit from its effort and the risk of loss or failure, commensurate with ownership. Even though a franchisee may not be controlled by the franchisor by virtue of the contractual relationship between them, the franchisee may be controlled by the franchisor or others through common ownership or common management, in which case they would be considered as affiliated.

(b) "Annual receipts" means the gross income (less returns and allowances, sales of fixed assets, and interaffiliate transactions) of a concern (and its domestic and foreign affiliates) from sales of products and services, interest, rents, fees, commissions, and/or from whatever other source derived, as entered on its regular books of account for its most recently completed fiscal year (whether on a cash, accrual, completed contracts, percentage of completion, or other acceptable accounting basis) and, in the case of a concern subject to U.S. Federal income taxation, reported or to be reported to the U.S. Treasury Department, Internal Revenue Service for Federal income tax purposes: *Provided, however,* If, for the purpose of receiving financial assistance under a Small Business Administration program, it is determined that (1) the applicant has completed at least 3 months of its current fiscal year, (2) its gross for receipts for the completed months of its current fiscal year are at least 25 percent lower than its receipts during the corresponding months of its most recently completed fiscal year, and (3) the reduction in receipts was primarily due to the shortage of energy or materials, its "annual receipts" for size determination purposes shall be computed by reducing its annual receipts for its most recently completed fiscal year by the determined percentile.

If a concern has been in business less than a year, its annual receipts for the purpose of a size standard based on 1 year's receipts shall be computed by determining its average weekly receipts for the period in which it has been in business and multiplying such figure by 52. If a concern has been in business less than 3 years, its average annual receipts for the purpose of a size standard based on 3 years' receipts, shall be computed by determining its average weekly receipts for the period in which it has been in business, and multiplying such figure by 52. Except as set forth in § 121.3–10, if a concern has acquired an affiliate during the applicable accounting period, it is necessary in computing the applicant's annual receipts to include the affiliate's receipts during the entire applicable accounting period, rather than only its receipts during the period in which it has been an affiliate. The receipts of a former affiliate are not included even if such concern had been an affiliate during a portion of the applicable accounting period.

(c) "Appeal" means a written communication addressed to the SBA Size Appeals Board requesting it to review a determination relating to a size matter made by a district director or his delegatee, or by a contracting officer.

(d) "Area of substantial unemployment," for the purpose of small business size determination, means a geographical area within the United States which is classified by the Department of Labor either as an "Area of Substantial Unemployment," or an "Area of Substantial and Persistent Unemployment."

(e) "Base maintenance" means furnishing at an installation within the several States, Commonwealth of Puerto Rico, Virgin Islands, the Trust Territory of the Pacific Islands, or the District of Columbia, three or more services which may include but are not limited to such maintenance activities as janitorial and custodial services, protective guard services, commissary services, base housing maintenance, fire prevention services, safety engineering services, messenger services, grounds maintenance and landscaping services, and air-conditioning and refrigeration maintenance: *Provided, however,* That whenever the contracting officer determines prior to the issuance of bids that the estimated value of one of the foregoing services constitutes more than 50 percent of the estimated value of the entire contract, the contract shall not be classified as base maintenance but in the industry in which such service is classified.

(f) "Bona fide feed stocks" means crude and any other hydrocarbon material actually charged to refinery processing units, as distinguished from materials used as components in products to be delivered after merely filtering, settling, or blending.

(g) "Crude-oil capacity" means the maximum daily average crude throughput of a refinery in complete operation, with allowance for necessary shutdown time for routine maintenance, repairs, etc. It approximates the maximum daily average crude runs to stills that can be maintained for an extended period.

(h) "Certificate of Competency" means a certificate issued by SBA pursuant to the authority contained in section 8(b)(7) of the Act stating that the holder of the certificate is competent as to capacity and credit to perform a specific Government procurement or sales contract.

(i) "Concern" means any business entity organized for profit (even if its ownership is in the hands of a nonprofit entity) with a place of business located in the United States and which makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, material and/or labor, etc. "Concern" includes but is not limited to an individual, partnership, corporation, joint venture, association, or cooperative. For the purpose of making affiliation findings (see paragraph (a) of this section) any business entity, whether organized for profit or not, and any foreign business entity, i.e., any entity located outside the United States, shall be included.

(j) "Contracting officer" means the person executing a particular contract on behalf of the Government and any other employee who is a properly designated contracting officer; the term includes the authorized representative of a contracting officer acting within the limits of his authority.

(k) "Convalescent or nursing home" means those facilities for the accommodation of convalescents or other persons who are not acutely ill or not in need of hospital care but who may require nursing care and related medical services, which facility is privately owned and operated for the purpose of obtaining profits which shall inure to the benefit of its owners, stockholders, or members.

(l) "Department store" means a concern employing 25 or more persons engaged in the retail sale of some items in

each of the following merchandise lines: (1) Furniture, home furnishings, appliances, radio and television sets; (2) a general line of apparel for the family; and (3) household linens and dry goods; provided, however, that sales within any one of the preceding merchandise lines do not exceed 80 percent of the concern's total sales and the aggregate of such merchandise lines account for at least 50 percent of the concern's total sales.

(m) "Forest products industry" as used in Section 121.3–9(b) means logging, wood preserving, and the manufacture of lumber and wood related products such as veneer, plywood, hardboard, particle board, or wood pulp, and of products of which lumber or wood related products are the principal raw material.

(n) "Gross leasable area" means the total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any, expressed in square feet measured from the centerline of a joint partition and from outside wall faces.

(o) "Hospital" means a health facility duly licensed as a hospital providing inpatient medical or surgical care of the sick or injured, including obstetrics, which facility is privately owned and operated for the purpose of obtaining profits which shall inure to the benefits of its owner, stockholders or members.

(p) "Industry" means a grouping of establishments primarily engaged in similar lines of activity as listed and described in the Standard Industrial Classification Manual, as amended (SIC Manual), prepared and published by the Bureau of the Budget (now Office of Management and Budget), Executive Office of the President.

(q) "Medical and dental laboratory" means those facilities which provide services to doctors, dentists, hospitals, and similar health facilities, which facilities are privately owned and operated for the purpose of obtaining profits which shall inure to the benefit of its owners, stockholders, or members.

(r) "Nonmanufacturer" means any concern which, in connection with a specific Government procurement contract other than a construction or service contract, does not manufacture or produce the products required to be furnished by such procurement. Nonmanufacturer includes a concern which can manufacture or produce the products referred to in the specific procurement but does not do so in connection with that procurement. For size determination purposes there can only be one manufacturer of the end item being procured. The manufacturer of the end item being procured is the concern which, with its own forces, transforms inorganic or organic substances including raw materials and/or miscellaneous parts or components into such end item. Whether a bidder on a particular procurement is the manufacturer or a nonmanufacturer for the purpose of a size determination is not for determination by the contracting officer. The decision shall be made by the appropriate SBA regional director or his delegatee, and need not be consistent with the contracting officer's decision as to whether such concern is or is not a manufacturer for the purpose of the Walsh-Healey Act, etc.

(s) A concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(t) "Number of employees" means the average employment of any concern, including the employees of its domestic and foreign affiliates, based on the number of persons employed on a full-time, part-time, temporary, or other basis during the pay period ending nearest the last day of the third month in each calendar quarter for the preceding four quarters: *Provided, however*, If, for the purpose of determining a concern's eligibility for financial assistance under a Small Business Administration program, it is determined that a concern's employment in its most recently completed calendar quarter is at least 25 percent lower than its employment in the corresponding quarter in the preceding calendar year and that such reduction in employment was primarily due to the shortage of energy or materials, its "number of employees" for size determination purposes shall be determined by reducing its average employment for the preceding four calendar quarters by the determined percentile. If a concern has not been in existence for four full calendar quarters, "number of employees" means the average employment of such concern and its affiliates during the period such concern has been in existence based on the number of persons employed during the pay period ending nearest the last day of each month. If a concern has acquired an affiliate during the applicable accounting period, it is necessary, in computing the applicant's number of employees, to include the affiliate's number of employees during the entire applicable accounting period rather than only its employees during the period in which it has been an affiliate. The employees of a former affiliate are not included even if such concern had been an affiliate during a portion of the applicable accounting period.

(u) "Protest" means a statement in writing from any bidder or offeror on a particular procurement or disposal (or from any other party interested therein) alleging that another bidder or offeror on such procurement is not a small business concern. Such statement shall contain the basis for the protest, together with specific detailed evidence in support of the protestant's claim. A protest received after the time limits set forth in § 121.3–5(a) shall be acted on, but such determination shall not apply to the procurement in question.

(v) "Redevelopment area" for the purpose of small business size determinations means a geographical area within the United States which has been designated as a "redevelopment area" in accordance with the Public Works and Economic Development Act of 1965 (Pub. L. 89–136, sec. 401, 75 Stat. 48).

(w) "Shopping center" means a group of commercial establishments planned, developed, owned, and managed as a unit with off-street parking provided on the property.

(x) "Size determination" means an SBA ruling, in writing, that a concern is or is not, or was or was not, a small business within the meaning of this part. An opinion rendered by SBA to a contracting officer on the basis of published or commonly known information and without the benefit of a formal SBA inquiry, is not a "size determination" as that term is used in this part.

(y) "United States" as used in this regulation includes the several States, the territories and possessions of the United States, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia.

§ 121.3–3 Organization—size functions.

The Assistant Administrator for Advocacy, Planning and Research shall:

(a) Develop and recommend small business size standards to the Administrator of SBA for promulgation;

(b) Conduct industry hearings pertaining to size matters;

(c) In concert with the Office of General Counsel, issue interpretations of the Size Standards Regulation;

(d) Consider and take appropriate action on written petitions objecting to or requesting amendments or rescission of a published size standard;

(e) Establish procedures for the implementation of all size programs; and

(f) Perform such other related functions as may be appropriate to administer the SBA size program.

§ 121.3–4 Size determinations.

Original size determinations shall be made by the regional director, or his delegate, serving the region in which the principal office of the concern (not including its affiliates) whose size is in question is located, except that for lease guarantee reinsurance purposes such determinations shall be made by the Associate Administrator for Finance and Investment. The regional director, or his delegatee, or the Associate Administrator for Finance and Investment, promptly shall notify in writing, by certified mail, return receipt requested, the concern in question and other interested persons of his decision. Such determination shall become effective immediately and shall remain in full force and effect unless and until reversed by the Small Business Size Appeals Board pursuant to § 121.3–6. For the purpose of Government procurements or sales, a size determination shall be made only in the event of a protest pursuant to § 121.3–5, a request for a redetermination pursuant to § 121.3–15 (e), a request for a Certificate of Competency, on request by the U.S. General Accounting Office, or if a regional direc-

tor or his delegatee has information which causes him to question the size status of a concern for the purpose of the Small Business Subcontracting Program or Source Search Program, or for any other purpose relating to Government procurement, and he concludes that a size determination is necessary: *provided, however*, That a regional director or his delegatee may, whenever he deems such action necessary, determine the size status of a concern for the purpose of the Government Timber Sales Program.

§ 121.3–5 Protest of small business status.

(a) How to protest: Any bidder or offeror or other interested party may challenge the small business status of any other bidder or offeror on a particular Government procurement or sale. Such challenge shall be made by delivering a protest to the contracting officer responsible for the particular procurement or sale involved. In order to apply to the procurement or sale in question, such protest must be filed prior to the close of business on the 5th day, exclusive of Saturdays, Sundays, and legal holidays, after bid or proposal opening, except that in the case of negotiated procurements, a protest may be filed within 5 days exclusive of Saturdays, Sundays, and legal holidays after receipt from the contracting officer of notification of the identity of the offeror being protested. Such filing must be delivered to the contracting officer by hand, telegram, or mail within the 5-day period allotted, *Provided however*, That a protest shall be considered timely if made by telephone to the contracting officer within the 5-day period allotted and the contracting officer thereafter receives a confirming letter (1) within such 5-day period or (2) postmarked no later than 1 day after the date of such telephone protest. Any contracting officer who receives a protest shall promptly forward such protest to the SBA district office serving the geographical area in which the principal office of the protested concern, not including its affiliates, is located. A contracting officer may at any time after bid opening question the small business status of any bidder or offeror for the purpose of a particular procurement or sale by filing a protest with the SBA district office serving the area in which the principal office of the protested concern, not including its affiliates, is located. A protest by a contracting officer shall be timely for the purpose of the procurement or sale in question whether filed before or after award.

(b) Notification of protest: Upon receipt of such protest, the SBA district director or his delegatee shall immediately notify the contracting officer and the protestant of the date such protest has been received and that the size of the concern being protested is being considered by SBA. The district director or his delegatee shall also advise the protested bidder or offeror of the receipt of the protest and shall forward to the protested bidder or offeror a copy of the protest and a blank SBA Form 355, *Application for Small Business Size Determination*, by certified mail, return receipt requested. Such bidder must, within 3 working days after receipt of the copy of the protest and SBA Form 355, file the completed form as directed by SBA, must attach thereto a statement in answer to the allegations of the letter of protest, together with evidence to support such position. If such bidder or offeror does not submit the completed SBA Form 355 within the bling period provided above, or within any additional period of time granted by SBA for cause, SBA will rule the protested concern is other than a small business.

(c) Notification of determination. After receipt of aprotest and responses thereto, SBA shall determine the small business status of the protested bidder or offeror and, by certified mail, return receipt requested, notify the contracting officer, the protestant, anl the protested bidder or offeror of its decision within 10 working days, if possible.

(d) If SBA has determined that a concern is ineligible as a small business for the purpose of aparticular procurement, it cannot thereafter become eligible for the purpose of such procurement by taking affirmative acts to constitute itself a small business.

§ 121.3–6 Appeals.

(a) Organization. The Size Appeals Board shall review appeals from size determinations made pursuant to §§ 121.3–4 and 121.3–5 and from product classifications made pursuant to §§ 121.3–8 and 121.3–10 and shall make final decisions as to whether such determinations or classifications should be affirmed, reversed or modified. The Size Appeals Board only has jurisdiction to consider appeals from formal determinations as to a concern's small business size status and appeals from product or service classification determinations made by contracting officers for the purpose of Government procurements. It has no jurisdiction to consider an appeal from an informal opinion or advice concerning a company's small business size status, an opinion as to a company's future small business size status based on proposed but unexecuted changes in its organization, management or contractual relations, or an appeal based on an allegation that the small business size standard established by SBA for a particular industry or field of operation is improper for the purpose intended. Size Appeals Board proceedings are essentially fact-finding and nonadversary in nature. The Size Appeals Board shall conduct such proceedings as it determines appropriate to enable it to discharge its duties.

(1) The Size Appeals Board shall consist of five members, to wit: the Deputy Administrator (Chairman), the Associate Administrator for Procurement Assistance (Vice Chairman), the Associate Administrator for Operations, the Associate Administrator for Finance and Investment, and the Assistant Administrator for Advocacy, Planning and Research.

(2) Each member of the size Appeals Board shall, in writing, designate one or more alternates to serve in his stead in the event of absence or disability. Each member or his alternate shall have one vote, except that the Chairman, or the Vice Chairman acting in his stead, shall vote only in the event of a tie.

(b) Method of appeal—(1) Who may appeal. An appeal may be filed by:

(i) Any concern or other interested party which has protested the small business status of another concern pursuant to § 121.3–5 and whose protest has been denied by a regional director or his delegatee;

(ii) Any concern or other interested party which has been adversely affected by a decision of a regional director or his delegatee or by the Associate Administrator for Finance and Investment pursuant to §§ 121.3–4 and 121.3–5;

(iii) Any concern or other interested party which has been adversely affected by a decision of a contracting officer regarding product classification pursuant to § 121.3–8; and

(iv) The Small Business Administration Associate Administrator for the Small Business Administration program involved.

(2) Where to appeal. Written notices of appeal shall be addressed to the Chairman, Size Appeals Board, Small Business Administration, Washington, D.C. 20416.

(3) Time for appeal. (i) An appeal from a size determination or product classification by a regional director, or his delegatee, may be taken at any time, except that because of the urgency of pending procurements, appeals concerning the small business status of a bidder or offeror in a pending procurement must be taken within 5 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a decision by a regional director or his delegatee. Unless written notice of such appeal is received by the Size Appeals Board before the close of business on the 5th working day, the appellant will be deemed to have waived its rights of appeal insofar as the pending procurement is concerned.

(ii) An appeal from a contracting officer's designation of the Standard Industrial Classification industry into which the product or service being procured is classified, and/or the Small Business Administration size standard applicable thereto may be taken: (*a*) Not less than 10 days, exclusive of Saturdays, Sundays, and legal holidays, before bid opening day or deadline for submitting proposals or quotations, in cases wherein the bid opening date or last date to submit proposals or quotations is more than 30 days after the issuance of the invitation for bids or request for proposals or quotations, or (*b*) not less than 5 days, exclusive of Saturdays, Sundays, and legal holidays, before the bid opening day or deadline for submitting proposals or quotations, in cases wherein the bid opening date or last date to submit proposals or quotations is 30 or less days after the issuance of the invitation for bids or request for proposals or quotations, and

(iii) The timeliness of an appeal under paragraph (b)(3) (i) and (ii) of this section shall be determined by the time

of receipt of the appeal by the Size Appeals Board: *Provided, however,* That an appeal received after such time limit has expired shall be deemed to be timely and shall be considered if, in the case of mailed appeals, such appeal is sent by registered or certified mail and the postmark thereon indicates that the appeal would have been received within the requisite time limit but for delays beyond the control of the appellant, or in the case of telegraphed appeals, the telegram date and time line indicates that the appeal would have been received within the requisite time limit but for delays beyond the control of the appellant.

(4) Notice of appeal. No particular form is prescribed for the notice of appeal. However, the appellant shall submit to the Board an original and four legible copies of such notice and, to avoid time-consuming correspondence, the notice should include the following information:

(i) Name and address of concern on which the size determination was made;

(ii) The character of the determination from which appeal is taken and its date;

(iii) If applicable, the IFB or contract number and date, and the name and address of the contracting officer;

(iv) A concise and direct statement of the reasons why the decision of a regional director, or his delegatee, the contracting officer or the Associate Administrator for Finance and Investment is alleged to be erroneous;

(v) Documentary evidence in support of such allegations; and

(vi) Action sought by the appellant.

(c) Notice to interested parties. The Size Appeals Board shall promptly acknowledge receipt of the Notice of Appeal and shall send a copy of such Notice of Appeal to the appropriate regional director or his delegatee and to the contracting officer (if a pending procurement is involved). If the appellant is not the concern whose size status is in question, the Board shall also send a copy of the notice to such concern. The Board shall notify all known interested parties that the appeal has been filed. The Board in its discretion may also provide any of such interested parties with copies of applicant's Notice of Appeal, or parts thereof, when the Board determines that this would be in the interest of fairness or would assist it in the performance of its functions.

(d) Statement of interested parties. After an appeal has been filed, any other interested parties may file with the Board a signed statement, together with four legible copies thereof, as to why the appeal should or should not be denied. Such statement shall be accompanied by appropriate evidence. Such statements and supporting evidence shall be mailed or delivered to the Chairman, Size Appeals Board, Small Business Administration, Washington, D.C. 20416, within 5 calendar days of the receipt of appropriate notification of appeal or other action in the proceeding unless an extension is for cause granted by the Chairman of the Size Appeals Board. If the appellant is the concern whose size status is in question, the Board will provide copies of such statements and appropriate evidence submitted in connection with the appeal or a reconsideration thereof to such appellant.

(e) Consideration by the Size Appeals Board. (1) The Size Appeals Board shall consider the appeal on the written submission of the parties. The Board may also, in its discretion, conduct an oral inquiry. After consideration of all relevant information, the Board shall promptly render a decision which shall state the reason for such decision.

(2) Procedures in oral inquiries. In considering size appeals, and in reconsidering size appeals decisions, the Size Appeals Board may hold an oral inquiry to assist it in arriving at facts necessary in deciding the appeal. The following rules shall govern such oral inquiries:

(i) Oral inquiries may be held by the Size Appeals Board upon the request of any party to a size appeal or by the Board on its own motion. The Board will, in its discretion, determine whether an oral inquiry will be of assistance in its determination of a size appeal. The Board shall inform the party making a request for oral inquiry whether its request is granted. If the Board grants the request for an oral inquiry, it will so notify all other interested parties.

(ii) Oral inquiries held by the Board are investigative in nature and not adversary. Such inquires shall be conducted informally in a manner which will facilitate the Board's factfinding function and insure fairness to all participants.

(iii) Whenever the Board permits the appearance of two or more parties before it in an oral inquiry, cross-examination shall not be permitted between or among such parties; however, any party appearing in such oral inquiry may suggest questions for the Board to direct to other parties which may assist the Board in its determination of relevant facts.

(f) Decision of the Size Appeals Board. The decision of the Size Appeals Board shall be predicated upon the entire record, and it shall state in writing the basis for its findings and conclusions. The Chairman shall promptly notify, in writing, the appellant and the other interested parties of the Board's decision together with the reasons therefor.

(g) Reconsiderations. (1) Following any decision in a size appeals case, an interested party, within no more than 5 business days following the decision, may petition the Board for reconsideration upon presentation of appropriate justification therefor. The petition for reconsideration to the Board may be in any form, with an original and four copies. The Board will notify interested parties that a petition for reconsideration has been received.

(2) The Board shall consider the petition for reconsideration upon the statement and other evidence presented by the petitioners and any other evidence the Board, in its discretion, deems necessary.

(3) Grounds for reconsideration. Grounds for reconsideration shall be:

(i) A material error of fact in the original decision; or

(ii) Relevant information not previously considered by the Board or relevant information not previously available to any of the parties involved;

(iii) When a request for reconsideration is made by any of the interested parties, such requesting party must demonstrate to the Board that the grounds for reconsideration involve facts or information which were not previously presented to the Board through no fault or omission of such party.

(4) If the Board denies the request for reconsideration, it shall notify all parties. If the request for reconsideration is granted, the Board shall so notify all interested parties, setting forth a reasonable time within which the interested parties may, if appropriate, submit additional information. The Board may, in its discretion, provide interested parties with copies of appropriate information submitted by other parties where it determines that this is necessary in the interest of fairness or to better assist the Board in performing its factfinding functions.

(5) Following its reconsideration of the matter, the Board will promptly render a decision pursuant to paragraph (f) of this section. The decision of the Board shall constitute the final administrative remedy afforded by this Agency.

§ 121.3–7 Differentials.

(a) Alaska. If an applicant for a size determination is a concern which has 50 percent or more of its annual sales or receipts attributable to business activity within Alaska then, whenever "annual sales or annual receipts" are used in any size definition contained in this part, said dollar limitation is increased by 25 percent of the amount set forth therein.

(b) Substantial or persistent unemployment areas; areas of concentrated unemployment or underemployment; certified eligible concerns and redevelopment areas.

(1) Financial assistance programs of the Small Business Administration and financial assistance under the Small Business Investment Act of 1958, as amended. Notwithstanding any other provision of this part, the applicable size standards for the purpose of all financial assistance programs of the Small Business Administration, except the surety bond guarantee assistance program, and for the purpose of financial assistance under the Small Business Investment Act of 1958, as amended, are increased by 25 percent whenever the concern maintains or operates a plant, facility, or other business establishment within an area of substantial unemployment or underemployment or redevelopment area as defined in § 121.3–2 (d) and (v) or is designated as a "Certified Eligible" concern by the Department of Labor and agrees to use the assistance within such area, or, if it does not maintain a plant, facility, or other business establishment within such area, agrees to utilize the assistance for the establishment and/or

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operation of a plant, facility, or other business establishment within such area.

(2) Government procurement assistance, sales of Government property, and Government subcontracting. Section 121.3–7(b) is not applicable to size determinations for the purpose of Government procurement assistance, sales of Government property, or Government subcontracting.

§ 121.3–8 Definition of small business for Government procurement.

A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts and can further qualify under the criteria set forth in this section. When computing the size status of a bidder or offeror, the number of employees, annual receipts, or other applicable standards of the bidder or offeror and all of its affiliates shall be included. In the submission of a bid or proposal on a Government procurement, a concern which meets the criteria provided in this section and which either has not been determined by SBA to be ineligible, or has been determined to be ineligible but subsequently has on the basis of a significant change in ownership, management or contractual relations, applied for recertification and had its application granted, may represent that it is a small business. In the absence of a written protest or other information which would cause him to question the veracity of the self-certification, the contracting officer shall accept the self-certification at face value for the particular procurement involved. If a concern has been determined by SBA to be ineligible as a small business under a particular size standard and it has already self-certified as a small business on a pending procurement subject to the same or lower number of employees or annual receipts size standard (whichever is applicable), it shall immediately notify the contracting officer of such adverse size determination and shall not thereafter self-certify on a procurement subject to the same or a lower employee or annual receipts size standard (whichever is applicable) until it has applied for recertification based on a significant change in its ownership, management, or contractual relations, and has been determined eligible as a small business under such size standard by either the regional office which issued the adverse determination or the Small Business Size Appeals Board. If the contracting officer has cause to question the veracity of a self-certification and elects to do so, he shall refer the eligibility issue to SBA by filing a formal protest pursuant to § 121.3–5. If a procurement calls for more than one item and the bidder can bid on any or all items, the bidder must meet the size standard for each item for which it submits a bid. If the procurement calls for more than one item and a bidder is required to bid on all or none of such items, the bidder can qualify as small business for such procurement if it meets the size standard for the item accounting for the greatest percentage of the total contract value. The determination of the appropriate classification of a product or service shall be made by the contracting officer. Both classification and the applicable size standard (number of employees, average annual receipts, etc.) shall be set forth in the solicitation and such determination of the contracting officer shall be final unless appealed in the manner provided in § 121.3–6. If no standard for an industry, field of operation or activity (e.g., animal speciality; fin fish; management-logistics support to be performed outside of the several States, Commonwealth of Puerto Rico, Virgin Islands, the Trust Territory of the Pacific Islands, or the District of Columbia) has been set forth in this section, a concern bidding on a Government contract is a small business if, including its affiliates, it is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and has 500 employees or less.

(a) Construction. Any concern bidding on a contract for work which is classified in Division C, Contract Construction, of the Standard Industrial Classification Manual, as amended, prepared and published by the Office of Management and Budget, Executive Office of the President, is:

(1) Small if its average annual receipts for its preceding 3 fiscal years do not exceed $7.5 million: *Provided, however,* That, if the requirements of the contracts are classified in an industry set forth in Schedule H of this part, it is small if it does not exceed the size standard established therein for such industry.

(2) Small if it is bidding on a contract for dredging and (i) its average annual receipts for its preceding 3 fiscal years do not exceed $5 million and (ii) it performs the dredging of at least 40 percent of the yardage advertised in the plans and specifications with dredging equipment owned by the bidder or obtained from another small business dredging [illegible].

(b) Manufacturing. Any concern bidding on a contract for a product it manufactured is classified:

(1) As small if it is bidding on a contract for food canning and preserving and its number of employees does not exceed 500 persons, exclusive of agricultural labor as defined in section (k) of the Federal Unemployment Tax Act, 68A Stat. 454, 26 U.S.C. (I.R.C. 1954) 3306.

(2) As small if it is bidding on a contract for a product classified within an industry set forth in Schedule B of this part and its number of employees does not exceed the size standard established for that industry.

(3) As small if it is bidding on a contract for a product classified within an industry not set forth in Schedule B of this part and its number of employees does not exceed 500 persons.

(4) As small if it is bidding on a contract for pneumatic tires within Census Classification Codes 30111 and 30112: *Provided,* That (i) the value of the pneumatic tires within Census Classification Codes 30111 and 30112 which it manufactured in the United States during the preceding calendar year is more than 50 percent of the value of its total worldwide manufacture, (ii) the value of the pneumatic tires within Census Classification Codes 30111 and 30112 which it manufactured worldwide during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during said period, and (iii) the value of the principal products which it manufactured or otherwise produced or sold worldwide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during said period.

(5) As small if it is bidding on a contract for passenger cars within Census Classification Code 37171: *Provided,* That (i) the value of the passenger cars within Census Classification Code 37171 which it manufactured or otherwise produced in the United States during the preceding calendar year is more than 50 percent of the value of its total worldwide manufacture or production of such passenger cars, (ii) the value of the passenger cars within Census Classification Code 37171, which it manufactured or otherwise produced during the preceding calendar year was less than 5 percent of the total value of all such manufactured or produced in the United States during the said period, and (iii) the value of the principal products which it manufactured or otherwise produced or sold during the preceding calendar year is less than 10 percent of the total value of such product manufactured or otherwise produced or sold in the United States during said period.

(6) Rebuilding on a factory basis or equivalent: As small if it is bidding on a contract for rebuilding machinery or equipment on a factory basis, the purpose of which is to restore such machinery or equipment to as serviceable and as like-new condition as possible and its number of employees does not exceed the number of employees specified for the classification code applicable to the manufacturer of the original item.

NOTE: The size standard contained herein is not limited to concerns who are manufacturers of the original item but it is applicable to all bidders or offerors. The term "rebuilding on a factory basis" as used in this subsection does not include ordinary repair services such as those involving minor repair and/or preservation operations.

(c) Nonmanufacturing. Any concern which submits a bid or offer in its own name, other than on a construction or service contract, but which proposes to furnish a product not manufactured by said bidder or offerer, is deemed to be a small business concern when:

(1) Its number of employees does not exceed 500 persons, and

(2) (i) In the case of Government procurement reserved for or involving the preferential treatment of small businesses, such nonmanufacturer furnishes in the performance of the contract the

products of a small business manufacturer or producer, which products are manufactured or produced in the United States: *Provided, however,* if the goods to be furnished are woolen, worsted, knitwear, duck, and webbing, dealers and converters shall furnish such products which have been manufactured or produced by a small weaver (small knitter for knitwear), and if finishing is required, by a small finisher. If the procurement is for thread, dealers and converters shall furnish such products which have been finished by a small finisher. (Finishing of thread is defined as all "dyeing, bleaching, glazing, mildew proofing, coating, waxing, and other applications required by the pertinent specifications but excluding mercerizing, spinning, throwing, or twisting operations.")

(ii) If the procurement is for a refined petroleum product, other than a product classified in Standard Industrial Classfication Industries No. 2951, Paving Mixtures and Blocks; No. 2952, Asphalt Felts and Coatings; No. 2992, Lubricating Oils and Greases; or No. 2999, Products of Petroleum and Coal, Not Elsewhere Classified; paragraph (g) of this section is for application. For size determination purposes there can only be one manufacturer of the end item being procured. The manufacturer of the end item being procured is the concern which with its own forces transforms inorganic or organic substances including raw materials and/or miscellaneous parts or components into such end item. Whether a bidder on a particular procurement is the manufacturer or a nonmanufacturer for the purpose of a size determination is not for determination by the contracting officer. The decision shall be made by the appropriate SBA regional director or his delegatee, and need not be consistent with the contracting officer's decision as to whether such concern is or is not a manufacturer for the purpose of the Walsh-Healey Act, etc. The Government often purchases items in the form of kits such as, but not limited to, tool kits and survival kits, which are not manufactured items but merely assemblages of separate manufactured items. Accordingly, a concern which purchases some or all of such items and packages them into kit form is considered to be a nonmanufacturer for size determination purposes. Such a concern can qualify as a small business only if it meets all other qualifications of a small nonmanufacturer set forth in this part and if more than 50 percent of the total value of the kit and its contents is accounted for by items manufactured by small business. For the purpose of a size determination, a sawmill is considered as the manufacturer of treated lumber, even if it contracts out the treatment of the lumber. Therefore, a small business sawmill can deliver in the performance of a set-aside procurement lumber which has been treated by a concern which does not qualify as a small business concern. For the purpose of a size determination, a concern which converts liquid oxygen to gaseous oxygen, with or without additives, is a nonmanufacturer of the gaseous oxygen and, therefore, must furnish gaseous oxygen converted from liquid oxygen manufactured by a small business concern.

(d) Research, development, and testing. Any concern bidding on a contract for research, development, and/or testing is classified:

(1) As small if it is bidding on a contract for research and/or development which requires delivery of a manufactured product and (i) it qualifies as a small business manufacturer within the meaning of paragraph (b) of this section for the industry into which the product is classified, or (ii) it qualifies as a small business nonmanufacturer within the meaning of paragraph (c) of this section.

(2) As small if it is bidding on a contract for research and/or development which does not require delivery of a manufactured product or on a contract for testing and its number of employees does not exceed 500 persons.

(e) Services. Any concern bidding on a contract for services (including but not limited to services set forth in Division I, Services, of the Standard Industrial Classification Manual), not elsewhere defined in this section, is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $1 million.

(1) Any concern bidding on a contract for engineering services other than marine engineering service is classified as small if its average annual receipts for its peceding 3 fiscal years do not exceed $5 million.

(2) Any concern bidding on a contract for motion picture production or motion picture services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(3) Any concern bidding on a contract for janitorial and custodial services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(4) Any concern bidding on a contract for base maintenance is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(5) Any concern bidding on a contract for marine cargo handling services is classified as small if its annual receipts do not exceed $5 million for its preceding 3 fiscal years.

(6) Any concern bidding on a con tract for naval architectural and marine engineerig services is classified as small if its average anual receipts for its preceding 3 fiscal years do not exceed $6 million.

(7) Any concern bidding on a con tract for food services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $4 million.

(8) (i) Any concern bidding on a contract for laundry services including linen supply, diaper services, ad industrial laundering is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(ii) Any concern bidding on a contract for cleaning and dyeihg includig rug cleaig services, is classified as small if its average anual receipts for the preceding 3 fiscal years do not exceed $1 million.

(9) Any concern bidding on a contrac for computer programming services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(10) Any concern bidding on a contract for flight training services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(11) Any concern bidding on a contract for motorcar rental and leasing services or truck rental and leasing services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(12) Any concern bidding on a contract for tire recapping services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million. This section applies only to procurements requiring the services of tire retreading and repair shops (Standard Industrial Classification Industry No. 7534, Tire Retreading and Repair Shops) and not to procurements for the repairing and/or retreading of pneumatic aircraft tires which, by reason of the extent and nature of the equipment and operations required, are considered for size standards purposes to be manufactured within the meaning of Standard Industrial Classification Industry No. 3011, Tires and Inner Tubes.

(13) Any concern bidding on a contract for data processing services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(14) Any concern bidding on a contract for computer maintenance services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(15) Any concern bidding on a contract for services requiring the use of one or more helicopters or fixed-wing aircraft is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(f) Transportation. Any concern bidding on a contract for passenger or freight transportation, not elsewhere defined in this section, is classified:

(1) As small if its number of employees does not exceed 500 persons.

(2) As small if it is bidding on a contract for air transportation and its number of employees does not exceed 1,500 persons.

(3) As small if it is bidding on a contract for either trucking (local and/or long-distance), and/or warehousing and/or packing and crating and/or freight forwarding, and its annual receipts do not exceed $5 million.

(g) Refined petroleum products. Any concern bidding on a contract for a refined petroleum product other than a product classified in Standard Industrial Classification Industries No. 2951, Paving Mixtures and Blocks; No. 2952, As-

phalt Felts and Coatings; No. 2992, Lubricating Oils and Grease; or No. 2999, Products of Petroleum and Coal, Not Elsewhere Classified; is classified as small if (1) (i) its number of employees does not exceed 1,000 persons; (ii) it does not have more than 30,000 barrels-per-day crude oil or bona fide feed stock capacity from owned or leased facilities or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except one on a refined-product-for-refined-product basis), or a throughput or other form of processing agreement, with the same effect as though such facilities had been leased; and (iii) the product to be delivered in the performance of the contract will contain at lea t 90 percent components refined by the bidder from either crude oil or bona fide feed stocks; *provided, however,* That a petroleum refining concern which meets the requirements in subparagraph (1) (i) and (ii) of this paragraph may furnish the product of a refinery not qualified as small business if such product is obtained pursuant to a bona fide exchange agreement, in effect on the date of the bid or offer, between the bidder or offeror and the refiner of the product to be delivered to the Government which requires exchanges in a stated ratio on a refined-petroleum-product-for-a-refined-petroleum-product basis, and precludes a monetary settlement, and that the products exchanged for the products offered and to be delivered to the Government meet the requirement in subparagraph (1) (iii) of this paragraph; and, *provided further,* That the exchange of products for products to be delivered to the Government will be completed within 90 days after the expiration of the delivery period under the Government contract; and that any product furnished pursuant to a bona fide exchange agreement must be for delivery in the same Petroleum Administration for Defense (PAD) District pursuant to Schedule C of Part 121, as that in which the small refinery is located; or

(2) Its number of employees does not exceed 500 persons and the product to be delivered to the Government has been refined by a concern which qualifies under subparagraph (1) of this paragraph. The proviso that the product to be delivered in the performance of the contract will contain at least 90 percent components refined by the bidder from either crude oil or bona fide feed stocks contemplates that, in accomplishing such refining, the bidder will utilize its own employees and facilities which it owns or obtains under a bona fide lease as distinguished from any other arrangement having the same effect as a lease. The proviso permitting a concern which meets the requirements in paragraph (g) (1) (i) and (ii) of this section to furnish the product of a refinery not qualified as small business if such product is obtained pursuant to a bona fide exchange agreement which meets prescribed requirements, contemplates that the product exchanged by the bidder for the product to be furnished, shall have been refined by the bidder utilizing only its own employees and its own facilities or facilities obtained through a bona fide lease.

§ 121.3–9 Definition of small business for sales of Government property.

In the submission of a bid or proposal for the purchase of Government-owned property, a concern which meets the criteria provided in this section and which either has not been determined by SBA to be ineligible, or has been determined to be ineligible but subsequently has, on the basis of a significant change in ownership, management or contractual relations, applied for recertification and had its application granted, may represent that it is a small business. In the absence of a written protest or other information which would cause him to question the veracity of the self-certification, the contracting officer shall accept the self-certification at face value for the particular sale involved. If the contracting officer has cause to question the veracity of a self-certification and elects to do so, he shall refer the eligibility issue to SBA by filing a formal protest pursuant to § 121.3–6. If a concern has been determined by SBA to be ineligible as a small business under a particular size standard and it has already self-certified as a small business on a pending sale subject to the same or lower number of employees or annual receipts size standard (whichever is applicable), it shall immediately notify the contracting officer of such adverse size determination and shall not thereafter self-certify on a sale subject to the same or a lower employee or annual receipts size standard (whichever is applicable) until it has applied for recertification based on a significant change in its ownership, management, or contractual relations, and has been determined eligible as a small business under such size standard by either the regional office which issued the adverse determination or the Small Business Size Appeals Board.

(a) Sales of Government-owned property other than timber. A small business concern for the purpose of the sale of Government-owned property other than timber is a concern, including its affiliates, which is independently owned and operated, is not dominant in its field of operation, and can further qualify under the following criteria:

(1) Manufacturers. Any concern which is primarily engaged in manufacturing is small if its number of employees does not exceed 500 persons: *Provided, however,* That a concern primarily engaged in SIC Industry 2911, Petroleum Refining, is small if its number of employees does not exceed 1,000 persons and it does not have more than 30,000 barrels-per-day crude oil or bona fide stock capacity from owned and/or leased facilities, or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except one on a refined-product-for-refined-product basis) or a throughput or other form of processing agreement, with the same effect as though such facilities had been leased.

(2) Other than manufacturers. Any concern which is primarily not a manufacturer (except as specified in subparagraph (3) of this paragraph) is small if its average annual receipts for its preceding 3 fiscal years do not exceed $1 million.

(3) Stockpile purchasers. Any concern primarily engaged in the purchase of materials which are not domestic products is small if its annual sales or annual receipts for its preceding 3 fiscal years do not exceed $25 million.

(b) Sales of Government-owned timber. (1) In connection with sale of Government-owned timber, a small business is a concern that:

(i) Is primarily engaged in the logging or forest products industry;

(ii) Is independently owned and operated;

(iii) Is not dominant in its field of operation; and

(iv) Together with its affiliates, its number of employees does not exceed 500 persons.

(2) In the case of Government sales of timber reserved for or involving preferential treatment of small businesses, when the Government timber being purchased is to be resold, a concern is a small business when:

(i) It is a small business within the meaning of subparagraph (1) of this paragraph, and

(ii) It agrees that it will not sell to a concern which is not a small business within the meaning of this paragraph more than 30 percent of such timber or, in the case of timber from certain geographical areas set forth in Schedule E of this part, more than the percentage established therein for such area. The term "sell" includes but is not limited to the exchange of sawlogs for sawlogs on a product-for-product basis with or without monetary adjustment, and an indirect transfer such as the sale of the assets of (or a controlling interest in) a concern after it has been awarded one or more set-aside sales of timber. Under the latter circumstances, if, after being awarded a set-aside sale of timber a small business concern merges with or becomes subject to the control of a large business, so much of such timber (or sawlogs therefrom) shall be sold to one or more small businesses as is necessary for compliance with the 30 percent (50 percent in Alaska) restriction.

(3) In the case of Government sales reserved for or involving preferential treatment of small businesses, when the Government timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when:

(i) It meets the criteria contained in subparagraph (1) of this paragraph, and

(ii) It agrees that in manufacturing lumber or timbers from such sawlogs cut from the Government timber, it will do so only with its own facilities or those of concerns that qualify under subparagraph (1) of this paragraph as a small business. This provision assumes that the successful bidder will remain a small

business until the products have been manufactured. Accordingly, if, after acquiring the set-aside sale the bidder is purchased by, becomes controlled by, or merged with a large business, so much of such timber (or sawlogs therefrom) as is necessary shall be sold to one or more small businesses for compliance with the 30 percent (50 percent in Alaska) restriction. Any concern which self-certifies as a small business concern for the purpose of award under a small business set-aside sale of Government timber is expected to maintain evidence that it did so in good faith. Accordingly, such a concern will have to maintain for a period of 3 years the names, address, and size status of each concern to whom the timber or sawlogs were sold or disposed, and the log species, grades, and volumes involved. Such concern, and any subsequent small business concern that acquires the sawlogs, also shall require its small business purchasers to maintain similar records for a period of 3 years. Further, if the timber purchased is not to be resold in the form of sawlogs, but is to be manufactured into lumber or timbers by a concern other than the bidder, the bidder must maintain records to show the name, address, and size status of the concern manufacturing the sawlogs into lumber or timbers.

§ 121.3–10 Definition of small business for SBA loans.

A small business concern for the purpose of receiving an SBA loan is a concern, including its affiliates, which, on the date of receipt of the loan application accepted by the SBA, is independently owned and operated, is not dominant in its field of operation, and can further qualify under the criteria set forth below, *provided however*, That a concern which applies for an SBA loan to refinance an existing SBA loan but which, since the date of the original financing, has by natural growth, as distinguished from merger, etc., grown to a size which exceeds the applicable size standard, is considered as small for the purpose of refinancing if SBA administratively determines that refinancing is necessary to protect the Government's financial interest. A concern which is a small business under § 121.3–8 and which has applied for or received a Certificate of Competency is a small business eligible for an SBA loan to finance the contract covered by the Certificate of Competency. If no standard for an industry, field of operation, or activity has been set forth in this section, a concern seeking a size determination shall submit SBA Form 355 to the Assistant Administrator for Advocacy, Planning and Research, Washington, D.C. 20416, who shall determine what size standard shall be used on an ad hoc basis until a size standard is established for such industry or field of activity. If an applicant for an SBA loan has external operating affiliates (i.e., affiliates which are primarily engaged in selling to the general public or to concerns other than the applicant concern or an affiliate thereof) and such external operating affiliates are engaged in industries subject to size standards different than that of the applicant concern the applicant concern's size status shall be determined by computing the percentage that the size of the applicant concern, including any internal operating affiliates (i.e., affiliates primarily engaged in selling to the applicant or an affiliate thereof) is of the size standard for the industry in which the applicant, together with its internal operating affiliates, is of the size standard for the industry in which each external operating affiliate is primarily engaged; and adding to it the percentage that the size of each of its external operating affiliate is primarily engaged. In order for the applicant to be eligible under this revision, the total of such percentages must not exceed 100 percent. If a concern, including its internal operating affiliates, if any, is engaged in more than one industry, the applicable size standard shall be that for its primary industry. In determining which of the industries is the primary industry, consideration shall be given to these criteria among others: Distribution among such industries of receipts, employment, and costs of doing business.

(a) Construction. Any construction concern is small if its average annual receipts do not exceed $5 million for its preceding 3 fiscal years; *provided, however*, That, if it is primarily engaged in an industry set forth in Schedule I of this part, it is small if its annual receipts do not exceed the size standard established therein for that industry.

(b) Manufacturing. Any manufacturing concern is classified:

(1) As small if it is primarily engaged in an industry set forth in Schedule A of this part and its number of empolyees does not exceed the size standard established therein for that industry.

(2) As small if it is primarily engaged in an industry not set forth in Schedule A of this part and its number of employees does not exceed 250 persons.

(3) As small if it is primarily engaged in the food canning and preserving industry and its number of employees does not exceed 500 persons exclusive of agricultural labor as defined in subsection (k) of the Federal Employment Tax Act, 68A Stat. 454, 26 U.S.C. (I.R.C. 1954) 3306.

(c) Retail. Any retailing concern is classified:

(1) As small if it is primarily engaged in an industry or subindustry set forth in Schedule D of this part and its annual receipts do not exceed the size standard established therein for that industry or subindustry.

(2) As small if it is primarily engaged in an industry or subindustry not set forth in Schedule D of this part and its annual receipts do not exceed $1 million.

(d) Services. Any concern primarily engaged in a service industry (including but not limited to service industries set forth in Division I, Services, of the Standard Industrial Classification Manual) is classified:

(1) As small if its annual receipts do not exceed $1 million;

(2) As small if it is primarily engaged in the hotel and motel industry and its annual receipts do not exceed $2 million;

(3) As small if it is primarily engaged in the power laundry industry and its annual receipts do not exceed $2 million;

(4) As small if it is primarily engaged in the trailer court and parks industry and its annual receipts do not exceed $1 million: provided, that a minimum of 50 percent of the annual receipts is derived from the rental of space to tourist trailers for periods not in excess of 30 days;

(5) As small if it is primarily engaged in owning and operating a hospital and its capacity does not exceed 150 beds (excluding cribs and bassinets);

(6) As small if it is primarily engaged in owning and operating a convalescent or nursing home and its annual receipts do not exceed $1 million;

(7) As small if it is primarily engaged in owning and operating a medical or dental laboratory and (i) it is operated in connection with an eligible proprietary hospital or (ii) it is not operated in connection with an eligible proprietary hospital and its annual receipts do not exceed $1 million;

(8) As small if it is primarily engaged in the motion picture production industry and its annual receipts do not exceed $5 million;

(9) As small if it is primarily engaged in the motion picture services industry and its annual receipts do not exceed $5 million;

(10) As small if it is primarily engaged in rendering engineering services and its annual receipts do not exceed $2.5 million;

(11) As small if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours;

(12) As small if it is primarily engaged in providing cable television service rental to homes, and its annual receipts do not exceed $2.5 million. (See 13 CFR 120.2(d)(4) for SBA policy which bars concerns that originate programs from receiving financial assistance. This policy limitation is not applicable to small business investment company assistance.)

(e) Shopping centers. (1) Any concern primarily engaged in operating shopping centers is small if (i) it does not have assets exceeding $5 million, (ii) it does not have net worth in excess of $2.5 million, (iii) it does not have an average net income, after Federal income taxes, for the preceding 2 fiscal years in excess of $250,000 (average net income to be computed without benefit of any carryover loss), and (iv) it does not lease more than 25 percent of the gross leasable area to concerns which do not meet the small business definitions contained in this section.

(2) For the purpose of size determinations, shopping center operators will not be considered affiliated with their tenants merely because of lease agreements.

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(f) Transportation and warehousing. Any concern primarily engaged in passenger and freight transportation or warehousing is classified:

(1) As small if its annual receipts do not exceed $1 million;

(2) As small if it is primarily engaged in the air transportation industry and its number of employees does not exceed 1,000 persons;

(3) As small if it is primarily engaged in the storage of grain and it does not have more than 1 million bushels capacity in owned and leased facilities, and its annual receipts do not exceed $1 million;

(4) As small if it is primarily engaged in trucking (local and/or long distance) and/or warehousing and/or packing and crating and/or freight forwarding and its annual receipts do not exceed $5 million.

(g) Wholesale. (1) Any wholesaling concern is classified:

(i) As small if it is primarily engaged in an industry or subindustry set forth in Schedule C of this part and its annual receipts do not exceed the size standard established therein for that industry or subindustry.

(ii) As small if it is primarily engaged in an industry or subindustry not set forth in Schedule C of this part and its annual receipts do not exceed $5 million.

(2) Any concern primarily engaged in wholesaling, but also engaged in manufacturing, is not a "small business concern" unless it qualifies under both the manufacturing and wholesaling standards.

(h) Mining and mining services. Any mining or mining services concern primarily engaged in an industry set forth in Schedule F of this part is classified as small if its number of employees does not exceed the size standard established therein for that industry.

(i) Custom livestock feeding. Any concern primarily engaged in custom livestock feeding is classified as small if its annual receipts do not exceed $2 million.

(j) Agriculture production (crops), fish farms and fish hatcheries, etc. Any concern primarily engaged: (1) In an industry set forth in Major Group 01—Agriculture Production—Crops, of the Standard Industrial Classification Manual, (2) in the operation of a fish farm (part of Standard Industrial Classification Industry No. 0279, Animal Specialties, Not Elsewhere Classified), (3) in the operation of a fish hatchery (part of Standard Industrial Classification Industry No. 0921, Fish Hatcheries and Preserves), (4) in the propagation of fur-bearing animals (part of Standard Industrial Classification Industry No. 0271, Fur-Bearing Animals and Rabbits), (5) in the planting of oysters (part of Standard Industrial Classification Industry No. 0913, Shellfish), or (6) in the operation of hatcheries for chicks and poults (Standard Industrial Classification Industry No. 0254, Poultry Hatcheries), where such hatchery operators produce more than 50 percent of the chicks or 50 percent of the poults hatched are retained by the operators for the production of broilers or turkeys for market, is classified as small if its annual receipts do not exceed $250,000.

§ 121.3–11 Definition of small business for assistance by small business investment companies or by development companies.

A small business concern for the purpose of receiving financial or other assistance from small business investment companies or development companies is one which:

(a) Together with its affiliates, is independently owned and operated, is not dominant in its field of operation, does not have assets exceeding $2.5 million, and does not have an average net income, after Federal income taxes, for the preceding 2 years in excess of $250,000 (average net income to be computed without benefit of any carryover loss); or

(b) Qualifies as a small business concern under § 121.3–10.

§ 121.3–12 Definition of small business Government subcontractors.

(a) Any concern in connection with subcontracts of $2,500 or less which relate to Government procurements will be considered a small business concern if, including its affiliates, its number of employees does not exceed 500 persons.

(b) Any concern in connection with subcontracts exceeding $2,500 which relate to Government procurements will be considered a small business concern if it qualifies as such under § 121.3–8: *Provided, however,* That a nonmanufacturer is considered as small business for the purpose of Government subcontracting if, including its affiliates, its number of employees does not exceed 500 persons.

§ 121.3–13 Definition of small business for the purpose of lease guarantee.

A small business concern for the purpose of lease guarantee is a concern that qualifies as a small business under Section 121.3–11.

§ 121.3–14 Definition of small business for the purpose of Government leases of uranium prospecting or mining rights.

In the submission of a bid or proposal for a Government lease of uranium prospecting or mining rights, a concern whose number of employees does not exceed 100 persons may represent that it is a small business in the absence of a written protest or other information which would cause him to question the veracity of the self-certification at face value for the particular lease involved.

§ 121.3–15 Definition of small business for the purpose of surety bond guarantee assistance.

A small business concern for the purpose of surety bond guarantee assistance is a concern that qualifies as a small business under § 121.3–10, with the following exception:

(a) Construction. Any construction concern is small if its annual receipts for its preceding fiscal year or its average annual receipts for its preceding 3 fiscal years do not exceed $2 million: *Provided, however,* That, if the concern is primarily engaged in an industry set forth in Schedule I of this part, it is small if its annual receipts for its preceding fiscal year or its average annual receipts for its preceding 3 fiscal years do not exceed the maximum established therein for that industry.

Effective date: This revision shall become effective on December 24, 1974.

(All SBA programs listed in the Catalog of Federal Domestic Assistance Programs under Nos. 59.001–59.013.)

Dated: December 11, 1974.

THOMAS S. KLEPPE,
Administrator.

SCHEDULE A—EMPLOYMENT SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN MANUFACTURING

(The following size standards are to be used when determining the size status of applicants for SBA business loans, displaced business loans, economic opportunity loans, surety bond guarantee assistance, and as alternate standards for Sections 501 and 502 loans and SBIC assistance.)

Census classification code	Industry or class of products	Employment size standard (number of employees)[1]
	MAJOR GROUP 20—FOOD AND KINDRED PRODUCTS	
2011	Meat packing plants	500
2013	Sausages and other prepared meat products	500
2026	Condensed and evaporated milk	500
2024	Ice cream and frozen desserts	500
2026	Fluid milk	500
2032	Canned specialties	1,000
2033	Canned fruits, vegetables, preserves, jams, and jellies	500
2034	Dried and dehydrated fruits, vegetables, and soup mixes	500
2037	Frozen fruits, fruit juices, and vegetables	500
2038	Frozen specialties	500
2041	Flour and other grain mill products	500
2043	Cereal breakfast foods	1,000
2045	Blended and prepared flour	500
2046	Wet corn milling	750
2047	Dog, cat and other pet foods	500
2052	Cookies and crackers	500
2061	Cane sugra refining	750
2063	Beet sugar	750
2066	Chocolate and cocoa products	500
2067	Chewing gum	500
2075	Soybean oil mills	500
2076	Vegetable oil mills, except corn, cottonseed and soybean	1,000
2079	Shortening, table oils, margarine and other edible fats and oils, n.e.c.	750
2082	Malt beverages	500
2085	Distilled, rectified and blended liquors	750
2087	Flavoring extracts and flavoring sirups, n.e.c.	500
20981	Desserts (ready to mix)	500
20984	Baking powder and yeast	500
	MAJOR GROUP 21—TOBACCO MANUFACTURES	
2111	Cigarettes	1,000
2121	Cigars	500
2131	Tobacco (chewing and smoking) and snuff	500
2141	Tobacco stemming and redrying	500
	MAJOR GROUP 22—TEXTILE MILL PRODUCTS	
2211	Broad-woven fabric mills, cotton	1,000
2221	Broad-woven fabric mills, manmade fiber and silk	500
2261	Finishers of broad-woven fabrics of cotton	500
2262	Finishers of broad-woven fabrics of manmade fiber and silk	500

Census classification code	Industry or class of products	Employment size standard (number of employees)[1]
2271	Woven carpets and rugs	750
2272	Tufted carpets and rugs	500
2279	Carpets and rugs, n.e.c.	500
2281	Yarn spinning mills: cotton, manmade fibers and silk	500
2284	Thread mills	500
2296	Tire cord and fabric	1,000
	MAJOR GROUP 23—APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS AND SIMILAR MATERIALS	
2321	Men's, youths', and boys' shirts (except work shirts) and nightwear	500
	MAJOR GROUP 25—FURNITURE AND FIXTURES	
2522	Metal office furniture	500
	MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS	
2611	Pulp mills	750
2621	Paper mills, except building paper mills	750
2631	Paperboard mills	750
2641	Paper coating and glazing	500
2643	Bags, except textile bags	500
2646	Pressed and molded pulp goods	750
2647	Sanitary paper products	500
2648	Stationery, tablets and related products	500
2649	Converted paper and paperboard products, n.e.c.	500
2654	Sanitary food containers	750
2661	Building paper and building board mills	750
	MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS	
2812	Alkalies and chlorine	1,000
2813	Industrial gases	1,000
2816	Inorganic pigments	1,000
2819	Industrial inorganic chemicals, n.e.c.	1,000
2821	Plastic materials, synthetic resins and nonvulcanizable elastomers	750
2822	Synthetic rubber (vulcanizable elastomers)	1,000
2823	Cellulosic manmade fibers	1,000
2824	Synthetic organic fibers, except cellulosic	1,000
2834	Pharmaceutical preparations	700
2841	Soap and other detergents, except specialty cleaners	750
2842	Specialty cleaning, polishing, and sanitation preparations	500
2844	Perfumes, cosmetics, and other toilet preparations	500
2861	Gum and wood chemicals	500
2865	Cyclic (coal tar) crudes, and cyclic intermediates, dyes, and organic pigments (lakes and toners)	750
28651	Cyclic (coal tar) crudes	500
2869	Industrial organic chemicals, n.e.c.	1,000
2873	Nitrogenous fertilizers	1,000
2874	Phosphatic fertilizers	500
2875	Fertilizers, mixing only	500
2879	Pesticides and agricultural chemicals, n.e.c.	500
2892	Explosives	750
2895	Carbon black	500
28952	Fatty acids	500

Census classification code	Industry or class of products	Employment size standard (number of employees)[1]
	MAJOR GROUP 29—PETROLEUM REFINING AND RELATED PRODUCTS	
2911	Petroleum refining [2]	1,000
2952	Asphalt felts and coatings	750
2992	Lubricating oils and greases	500
	MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS	
3011	Tires and innertubes	1,000
3021	Rubber and plastics footwear	1,000
3031	Reclaimed rubber	750
3041	Rubber and plastics hose and belting	500
3069	Fabricated rubber products, n.e.c.	500
	MAJOR GROUP 31—LEATHER AND LEATHER PRODUCTS	
3143	Men's footwear, except athletic	500
3144	Women's footwear, except athletic	500
3149	Footwear, except rubber, n.e.c.	500
	MAJOR GROUP 32—STONE, GLASS AND CONCRETE PRODUCTS	
3211	Flat glass	1,000
3221	Glass containers	750
3229	Pressed and blown glass and glassware, n.e.c.	750
3241	Cement, hydraulic	750
3253	Ceramic wall and floor tile	500
3261	Vitreous china plumbing fixtures and china and earthenware fittings and bathroom accessories	500
3262	Vitreous china table and kitchen articles	500
3263	Fine earthenware (whiteware) table and kitchen articles	500
3264	Porcelain electrical supplies	500
3274	Lime	500
3275	Gypsum products	1,000
3292	Asbestos products	750
3293	Gaskets, packing and sealing devices	500
3296	Mineral wool	750
3297	Nonclay refractories	750
	MAJOR GROUP 33—PRIMARY METAL INDUSTRIES	
3312	Blast furnaces (including coke ovens), steel works and rolling mills	1,000
3313	Electrometallurgical products	750
3315	Steel wire drawing and steel nails and spikes	1,000
3316	Cold rolled steel sheet, strip and bars	1,000
3317	Steel pipe and tubes	1,000
3321	Gray iron foundries	500
3322	Malleable iron foundries	500
3324	Steel investment foundries	500
3325	Steel foundries, n.e.c.	500
3331	Primary smelting and refining of copper	1,000
3332	Primary smelting and refining of lead	1,000
3333	Primary smelting and refining of zinc	750
3334	Primary production of aluminum	1,000
3339	Primary smelting and refining of nonferrous metals, n.e.c.	750
3351	Rolling, drawing and extruding of copper	750
3353	Aluminum sheet, plate and foil	750
3354	Aluminum extruded products	750
3355	Aluminum rolling and drawing, n.e.c.	750
3356	Rolling, drawing and extruding of nonferrous metals, except copper and aluminum	750
3357	Drawing and insulating of nonferrous wire	1,000
3398	Metal heat treating	750
3399	Primary metal products, n.e.c.	750

Census classification code	Industry or class of products	Employment size standard (number of employees)[1]
	MAJOR GROUP 34—FABRICATED METAL PRODUCTS, EXCEPT MACHINERY AND TRANSPORTATION EQUIPMENT	
3411	Metal cans	1,000
3412	Metal shipping barrels, drums, kegs and pails	500
3421	Cutlery	
3431	Enameled iron and metal sanitary ware	750
3432	Plumbing fixture fittings and trim (brass goods)	500
3433	Heating equipment, except electric and warm air furnaces	500
3452	Bolts, nuts, screws, rivets and washers	500
3462	Metal forging and stamping	500
3482	Small arms ammunition	1,000
3483	Ammunition, except for small arms, n.e.c.	1,000
3484	Small arms	1,000
3493	Steel springs, except wire	500
3494	Valves and pipe fittings, except plumbers' brass goods	500
3497	Metal foil and leaf	500
3499	Fabricated metal products, n.e.c.	500
	MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL	
3511	Steam, gas, and hydraulic turbines and turbine generator set units	1,000
3519	Internal combustion engines, n.e.c.	1,000
3523	Farm machinery and equipment	500
3524	Garden tractors and lawn and garden equipment	500
3531	Construction machinery and equipment	750
3532	Mining machinery and equipment, except oil field machinery and equipment	500
3533	Oil field machinery and equipment	500
3534	Elevators and moving stairways	500
3536	Hoists, industrial cranes, and monorail systems	500
3537	Industrial trucks, tractors, trailers and stackers	750
3541	Machine tools, metal cutting types	500
3542	Machine tools, metal forming types	500
35492	Precision measuring tools	500
3546	Power-driven hand tools	500
3547	Rolling mill machinery and equipment	500
3549	Metalworking machinery, n.e.c.	500
3555	Printing trades machinery and equipment	500
3561	Pumps and pumping equipment	500
3562	Ball and roller bearings	750
3563	Air and gas compressors	500
3566	Speed changers, industrial-high-speed drives and gears	500
3568	Mechanical power transmission equipment, n.e.c.	500
3572	Typewriters	1,000
3573	Electronic computing equipment	1,000
3574	Calculating and accounting machines, except electronic computing equipment	1,000
3579	Office machines, n.e.c.	500
3585	Air-conditioning and warm-air heating equipment and commercial and industrial refrigeration equipment	750
3586	Measuring and dispensing pumps	500

Census classification code	Industry or class of products	Employment size standard (number of employees)[1]
	MAJOR GROUP 36—ELECTRICAL AND ELECTRONIC MACHINERY, EQUIPMENT AND SUPPLIES	
3612	Power, distribution and specialty transformers	750
3613	Switchgear and switchboard apparatus	750
3617	Motors and generators	1,000
3622	Industrial controls	750
3624	Carbon and graphite products	750
3629	Electrical industrial apparatus, n.e.c.	500
3631	Household cooking equipment	750
3632	Household refrigerators and home and farm freezers	1,000
3633	Household laundry equipment	1,000
3634	Electric housewares and fans	750
3635	Household vacuum cleaners	750
3636	Sewing machines	750
3639	Household appliances, n.e.c.	500
3641	Electric lamps	1,000
3642	Current-carrying wiring devices	500
3644	Noncurrent-carrying wiring devices	500
3651	Radio and television receiving sets, except communication types	750
3652	Phonograph records and prerecorded magnetic tape	750
3661	Telephone and telegraph apparatus	1,000
3662	Radio and television transmitting, signaling and detection equipment and apparatus	750
3671	Radio and television receiving-type electron tubes, except cathode ray	1,000
3672	Cathode ray television picture tubes	750
3673	Transmitting, industrial and special purpose electron tubes	750
3674	Semiconductors and related devices	500
3675	Electronic capacitors	500
3676	Resistors for electronic applications	500
3677	Electronic coils, transformers and other inductors	500
3678	Connectors, for electronic applications	500
3679	Electronic components, n.e.c.	500
3691	Storage batteries	750
3692	Primary batteries, dry and wet	1,000
3693	Radiographic X-ray, fluoroscopic X-ray, therapeutic X-ray, and other X-ray apparatus and tubes; electromedical and electrotherapeutic apparatus	500
3694	Electrical equipment for internal combustion engines	750
3699	Electrical machinery, equipment and supplies, n.e.c.	500
	MAJOR GROUP 37—TRANSPORTATION EQUIPMENT	
3711	Motor vehicle and passenger car bodies	1,000
3714	Motor vehicle parts and accessories	500
3715	Truck trailers	500
3721	Aircraft [2]	1,500
3724	Aircraft engines and engine parts	1,000
3728	Aircraft parts and auxiliary equipment, n.e.c.	1,000
3731	Shipbuilding and repairing	1,000
3743	Railroad equipment	750
3751	Motorcycles, bicycles and parts	500
3764	Guided missile and space vehicle propulsion units and propulsion unit parts	1,000
69	Guided missile and space vehicle parts and auxiliary equipment, n.e.c.	1,000
3795	Tanks and tank components	1,000

Census classification code	Industry or class of products	Employment size standard (number of employees)[1]
	MAJOR GROUP 38—MEASURING, ANALYZING AND CONTROLLING INSTRUMENTS, PHOTOGRAPHIC, MEDICAL AND OPTICAL GOODS, CLOCKS AND WATCHES	
3811	Engineering, laboratory, scientific and research instruments and associated equipment	500
3822	Automatic controls for regulating residential and commercial environments and appliances	500
823	Industrial instruments for measurement, display and control of process variables and related products	500
24	Totalizing fluid meters and counting devices	500
3825	Instruments for measuring and testing of electricity and electrical signals	500
3829	Measuring and controlling devices, n.e.c.	500
3861	Photographic equipment and supplies	500
3873	Watches, clocks, clockwork operated devices, and parts	500
	MAJOR GROUP 39—MISCELLANEOUS MANUFACTURING INDUSTRIES	
3914	Silverware, plated ware and stainless steel ware	500
3951	Pens, mechanical pencils and parts	500
3996	Linoleum, asphalted-felt-base, and other hard surface floor coverings, n.e.c.	750
39993	Matches	500

[1] The "number of employees" means the average employment of any concern and its affiliates based on the number of persons employed during the pay period ending nearest the last day of the third month in each calendar quarter for the preceding four quarters.

[2] Together with its affiliates does not employ more than 1,000 persons and does not have more than 30,000 barrels per day crude oil or bona fide feed stock capacity from owned and/or leased facilities or from facilities made available to such concerns under an arrangement such as, but not limited to, an exchange agreement (except one on a refined-product-for-a-refined-product basis) or a throughput or other form of processing agreement with the same effect as though such facilities had been leased.

[3] Includes maintenance as defined in the Federal Aviation Regulations (14 CFR 1.1) but excludes contracts solely for preventive maintenance as defined in 14 CFR 1.1. As defined in the Federal Aviation Regulations, "Maintenance means inspection, overhaul, repair, preservation, and the replacement of parts, but excludes preventive maintenance. 'Preventive maintenance' means simple or minor preservation operations and the replacement of small standard parts not involving complex assembly operations."

SCHEDULE B—INDUSTRY EMPLOYMENT SIZE STANDARDS FOR THE PURPOSE OF GOVERNMENT PROCUREMENT (MANUFACTURING)

Census classification code	Industry or class of products	Employment size standard (number of employees)[1]
	MAJOR GROUP 20—FOOD AND KINDRED PRODUCTS	
2026	Fluid milk [3]	750
2032	Canned specialties	1,000
2043	Cereal breakfast foods	1,000
2046	Wet corn milling	750
2052	Cookies and crackers	750
2062	Cane sugar refining	750
2063	Beet sugar	750
2076	Vegetable oil mills, except corn, cottonseed and soybean	1,000
2079	Shortening, table oils, margarine and other edible fats and oils, n.e.c.	750
2085	Distilled, rectified, and blended liquors	750

Census classification code	Industry or class of products	Employment size standard (number of employees)[1]
	MAJOR GROUP 21—TOBACCO MANUFACTURES	
2111	Cigarettes	1,000
	MAJOR GROUP 22—TEXTILE MILL PRODUCTS	
2211	Broad-woven fabric mills, cotton	1,0
2261	Finishers of broad-woven fabrics of cotton	1,000
2271	Woven carpets and rugs	750
2296	Fabrics, not rubberized	1,000
2296	Tire cord and fabric	1,000
	MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS	
2611	Pulpmills	750
2621	Papermills, except building papermills	750
2631	Paperboard mills	750
2646	Pressed and molded pulp goods	750
2654	Sanitary food containers	750
2661	Building paper and building board mills	750
	MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS	
2812	Alkalies and chlorine	1,000
2813	Industrial gases	1,000
2816	Inorganic pigments	1,000
2819	Industrial inorganic chemicals, n.e.c.	1,000
2821	Plastics materials, synthetic resins, and nonvulcanizable elastomers	750
2822	Synthetic rubber (vulcanizable elastomers)	1,000
2823	Cellulosic manmade fibers	1,000
2824	Synthetic organic fibers, except cellulosic	1,000
2833	Medicinal chemicals and botanical products	750
2834	Pharmaceutical preparations	750
2841	Soap and other detergents, except specialty cleaners	750
2865	Cyclic (coal tar) crudes, and cyclic intermediates, dyes, and organic pigments (lakes and toners)	750
2869	Industrial organic chemicals, n.e.c.	1,000
2873	Nitrogenous fertilizers	1,000
2892	Explosives	750
	MAJOR GROUP 29—PETROLEUM REFINING AND RELATED INDUSTRIES [3]	
2952	Asphalt felts and coatings	750
	MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS	
3011	Tires and innertubes	1,000
30111	Passenger car and motorcycle pneumatic tires (casings) [4]	
30112	Truck and bus (and off-the-road) pneumatic tires [4]	
3021	Rubber and plastics footwear	1,000
3031	Reclaimed rubber	750
	MAJOR GROUP 32—STONE, CLAY, GLASS, AND CONCRETE PRODUCTS	
3211	Flat glass	1,000
3221	Glass containers	750
3229	Pressed and blown glass and glassware, n.e.c.	750
3241	Cement, hydraulic	750
3261	Vitreous china plumbing fixtures and china and earthenware fittings and bathroom accessories	750
3275	Gypsum products	1,000
3292	Asbestos products	750
3296	Mineral wool	750
3297	Nonclay refractories	750

Census classification code	Industry or class of products	Employment size Standard (number of employees)[1]
	MAJOR GROUP 33—PRIMARY METAL INDUSTRIES	
3312	Blast furnaces (including coke ovens), steel works, and rolling mills	1,000
3313	Electrometallurgical products	750
3315	Steel wire drawing and steel nails and spikes	1,000
3316	Cold-rolled sheet, strip and bars	1,000
3317	Steel pipe and tubes	1,000
3331	Primary smelting and refining of copper	1,000
3332	Primary smelting and refining of lead	1,000
3333	Primary smelting and refining of zinc	750
3334	Primary production of aluminum	1,000
3339	Primary smelting and refining of nonferrous metals, n.e.c.	750
3351	Rolling, drawing, and extruding of copper	750
3353	Aluminum sheet, plate, and foil	750
3354	Aluminum extruded products	750
3355	Aluminum rolling and drawing, n.e.c.	750
3356	Rolling, drawing, and extruding of nonferrous metals, except copper and aluminum	750
3357	Drawing and insulating of nonferrous wire	1,000
3398	Metal heat treating	750
3399	Primary metal products, n.e.c.	750
	MAJOR GROUP 34—FABRICATED METAL PRODUCTS, EXCEPT MACHINERY AND TRANSPORTATION EQUIPMENT	
3411	Metal cans	1,000
3431	Enameled iron and metal sanitary ware	750
3482	Small arms ammunition	1,000
3483	Ammunition, except for small arms, n.e.c.	1,500
3484	Small arms	1,000
	MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL	
3511	Steam, gas, and hydraulic turbines and turbine-generator set units	1,000
3519	Internal combustion engines, n.e.c.	1,000
3531	Construction machinery and equipment	750
3537	Industrial trucks, tractors, trailers and stackers	750
3562	Ball and roller bearings	750
3572	Typewriters	1,000
3573	Electronic computing equipment	1,000
3574	Calculating and accounting machines, except electronic computing equipment	1,000
3585	Air conditioning and warm air heating equipment and commercial and industrial refrigeration equipment	750
	MAJOR GROUP 36—ELECTRICAL AND ELECTRONIC MACHINERY, EQUIPMENT, AND SUPPLIES	
3611	Power, distribution, and specialty transformers	750
3613	Switchgear and switchboard apparatus	750
3621	Motors and generators	1,000
3622	Industrial controls	750
3624	Carbon and graphite products	750
3631	Household cooking equipment	750
3632	Household refrigerators and home and farm freezers	1,000
3633	Household laundry equipment	1,000
3634	Electric housewares and fans	750
3635	Household vacuum cleaners	750
3636	Sewing machines	750
3641	Electric lamps	1,000
3651	Radio and television receiving sets, except communication types	750
3652	Phonograph records and prerecorded magnetic tapes	750
3661	Telephone and telegraph apparatus	1,000
3662	Radio and television transmitting, signaling, and detection equipment, and apparatus [5]	750
3671	Radio and television receiving type electron tubes, except cathode ray	1,000
3672	Cathode ray television picture tubes	750
3673	Transmitting, industrial, and special purpose electron tubes	750
3692	Primary batteries, dry and wet	1,000
3694	Electrical equipment for internal combustion engines	750
	MAJOR GROUP 37—TRANSPORTATION EQUIPMENT	
3711	Motor vehicles and passenger car bodies	1,000
37111	Passenger cars (knocked down or assembled) [6]	
3721	Aircraft [6]	1,500
3724	Aircraft engines and engine parts [6]	1,000
3728	Aircraft parts and auxiliary equipment, n.e.c.	1,000
3731	Shipbuilding and repairing	1,000
3743	Railroad equipment	1,000
3761	Guided missiles and space vehicles	1,000
3764	Guided missiles and space vehicle propulsion units and propulsion unit parts	1,000
3769	Guided missile and space vehicle parts and auxiliary equipment, n.e.c.	1,000
3795	Tanks and tank components	1,000
	MAJOR GROUP 39—MISCELLANEOUS MANUFACTURING INDUSTRIES	
3996	Linoleum, asphalted-felt-base, and other hard surface floor coverings, n.e.c.	750

[1] The "number of employees" means the average employment of any concern and its affiliates based on the number of persons employed during the pay period ending nearest the last day of the third month in each calendar quarter for the preceding four quarters.

[2] The size standard for Census Classification Code 2026, *Fluid Milk*, was reduced to 625 employees effective May 1, 1973, and further reduced to 500 employees, effective May 1, 1974.

[3] The size standard for SIC 2011 is set forth in § 121.3-8(g).

[4] The size standards for SIC 30111, 30112, and 37111 are set forth in §§ 121.3-8(b)(4) and 121.3-8(b)(5), respectively, of this part.

[5] Guided missile engines and engine parts are classified in SIC 3764 and 3724. Missile control systems are classified in SIC 3662.

[6] Includes maintenance as defined in the Federal Aviation Regulations (14 CFR 1.1) but excludes contracts solely for preventive maintenance as defined in 14 CFR 1.1. As defined in the Federal Aviation Regulations: "Maintenance" means inspection, overhaul, repair, preservation, and the replacement of parts, but excludes preventive maintenance. "Preventive maintenance" means simple or minor preservation operations and the replacement of small standard parts not involving complex assembly operations.

SCHEDULE C—ANNUAL RECEIPTS SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN WHOLESALING

(The following size standards are to be used when determining the size status of wholesaling concerns for the purpose of SBA business loans, displaced business loans, economic opportunity loans, and as alternate standards for Sections 501 and 502 loans and SBIC assistance. Where a code is followed by a letter, the size standard applies only to the class of product designated.)

Industry or subindustry code	Industry, subindustry, or class of products	Annual sales size standard (maximum, in millions)
5012	Automobile and motor vehicles	15
5014	Tires and tubes	15
5023(a)	Home furnishings, floor coverings	10
5039	Construction materials, n.e.c.	10
5041	Sporting and recreational goods and supplies	15
5042	Toys and hobby goods and supplies	10
5051(a)	Metal service centers	10
5051(b)	Metals sales offices	15
5052(a)	Coal	10
5063	Electrical apparatus and equipment, wiring supplies, and construction materials	15
5064	Electrical appliances, television, and radio sets	10
5081	Commercial machines and equipment	15
5082	Construction and mining machinery and equipment	10
5083	Farm and garden machinery and equipment	15
5084	Industrial machinery and equipment	10
5085	Industrial supplies	10
5111	Printing and writing paper	10
5113	Industrial and personal service paper	15
5122	Drugs, drug proprietaries, and druggists' sundries	10
5133	Piece goods (woven fabrics)	10
5134	Notions and other dry goods	10
5139	Footwear	10
5141	Groceries, general line	15
5142	Frozen foods	15
5143	Dairy products	10
5147	Meats and meat products	10
5149	Groceries and related products, n.e.c.	10
5152	Cotton	15
5153	Grain	10
5154	Livestock	10
5161	Chemicals and allied products	15
5171	Petroleum bulk stations and terminals	15
5172	Petroleum and petroleum products wholesalers, except bulk stations and terminals	15
5182	Wines and distilled alcoholic beverages	15
5194	Tobacco and tobacco products	10
5198	Paints, varnishes, and supplies	15

SCHEDULE D—ANNUAL RECEIPTS SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN RETAILING

(The following size standards are to be used when determining the size status of retailing concerns for the purpose of SBA loans, displaced business loans, economic opportunity loans, and as alternate standards for sections 501 and 502 loans and SBIC assistance. Where a code is followed by a letter, the size standard applies only to the class of product designated.)

Industry or subindustry code	Industry, subindustry, or class of products	Annual sales size standard (maximum, in millions)
	MAJOR GROUP 52—BUILDING MATERIALS, HARDWARE, GARDEN SUPPLY, AND MOBILE HOME DEALERS	
5271	Mobile home dealers	$3
	MAJOR GROUP 53—GENERAL MERCHANDISE	
5311	Department stores	$5
5331	Variety stores	2
5411	Grocery stores	5
5423(a)	Meat markets (a part of meat and fish (seafood) markets)	5
	MAJOR GROUP 55—AUTOMOTIVE DEALERS AND GASOLINE SERVICE STATIONS	
5511	Motor vehicle dealers (new and used)	5
5521	Motor vehicle dealers (used only)	5
5599(a)	Aircraft (a part of automotive dealers, n.e.c.)	3
	MAJOR GROUP 56—APPAREL AND ACCESSORY STORES	
5611	Men's and boys' clothing and furnishings stores	1.5
5621	Women's ready-to-wear stores	1.5
5651	Family clothing stores	1.5
5661	Shoe stores	1.5

XUM

Census classification code	Industry or class of products	Employment size standard (number of employees)[1]
MAJOR GROUP 57—FURNITURE, HOME FURNISHINGS, AND EQUIPMENT STORES		
5722	Household appliance stores	1.5
5732	Radio and television stores	1.5
MAJOR GROUP 59—MISCELLANEOUS RETAIL		
[illegible]	Mail-order houses	5

SCHEDULE E—GOVERNMENT-OWNED TIMBER RESALE STANDARDS FOR SPECIFIC GEOGRAPHICAL AREAS

Area from which timber is cut	Percentage of timber purchased that may be sold to other than small business
Alaska	50 percent.

SCHEDULE F—EMPLOYMENT SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN MINING AND MINING SERVICES

(The following size standards are to be used when determining the size status of mining and mining services concerns for the purpose of SBA business loans, displaced business loans, economic opportunity loans, and as alternate standards for Section 501 and 502 loans and small business investment company assistance.)

Census classification code	Industry or class of products	Employment size standard (number of employees)
1111	Anthracite	250
1112	Anthracite mining services	[illegible]
1211	Bituminous coal and lignite	[illegible]
1213	Bituminous coal and lignite mining services	[illegible]

SCHEDULE G—PETROLEUM ADMINISTRATION FOR DEFENSE (PAD) DISTRICTS AS UTILIZED BY THE DEFENSE FUEL SUPPLY CENTER IN THE PROCUREMENT OF REFINED PETROLEUM PRODUCTS

PAD Districts and States included in PAD Districts

1. Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, West Virginia, North Carolina, South Carolina, Georgia, and Florida.

2. North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, Ohio, Kentucky, and Tennessee.

3. New Mexico, Texas, Arkansas, Louisiana, Mississippi, and Alabama.

4. Montana, Idaho, Wyoming, Utah, and Colorado.

5. Alaska, Hawaii, Washington, Oregon, Nevada, California, and Arizona.

Industry or subindustry code	Industry, subindustry, or class of products	Annual sales size standard (maximum, in millions)
1711	Plumbing, heating (except electric), and air-conditioning	$2
1721	Painting, paper hanging, and decorating	1
1731	Electrical work	2
1741	Masonry, stone setting, and other stonework	1

SCHEDULE H—ANNUAL RECEIPTS SIZE STANDARDS FOR PURPOSE OF BIDDING ON PROCUREMENTS FOR CONSTRUCTION—SPECIAL TRADE CONTRACTORS

Industry or subindustry code	Industry, subindustry, or class of products	Annual sales size standard (maximum, in millions)
1742	Plastering, drywall, acoustical, and insulation work	$1
1743	Terrazzo, tile, marble, and mosaic work	1
1751	Carpentering and flooring	1
1752	Floor laying and other floorwork, not elsewhere classified	1
1761	Roofing and sheet metal work	1
1771	Concrete work	1
1781	Water well drilling	1
1791	Structural steel erection	1
1793	Glass and glazing work	1
1794	Excavating and foundation work	1
1795	Wrecking and demolition work	1
1796	Installation or erection of building equipment, not elsewhere classified	1
1799	Special trade contractors, not elsewhere classified	1

SCHEDULE I—ANNUAL RECEIPTS SIZE STANDARDS FOR CONCERNS PRIMARILY ENGAGED IN CONSTRUCTION (SPECIAL TRADE CONTRACTORS)

Industry or subindustry code	Industry, subindustry, or class of products	Annual sales size standard (maximum, in millions)
1711	Plumbing, heating (except electric), and air-conditioning	$2
1721	Painting, paperhanging, and decorating	1
1731	Electrical work	2
1741	Masonry, stone setting, and other stonework	1
1742	Plastering, drywall, acoustical, and insulation work	1
1743	Terrazzo, tile, marble, and mosaic work	1
1751	Carpentering and flooring	1
1752	Floor laying and other floorwork, not elsewhere classified	1
1761	Roofing and sheet-metal work	1
1771	Concrete work	1
1781	Water well drilling	1
1791	Structural steel erection	1
1793	Glass and glazing work	1
1794	Excavating and foundation work	1
1795	Wrecking and demolition work	1
1796	Installation or erection of building equipment, not elsewhere classified	1
1799	Special trade contractors, not elsewhere classified	1

[FR Doc. 74-29625 Filed 12-23-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION

[Docket No. 74-NW-19-AD; Amdt. 39-2056]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing 707/720 Series Airplanes

Amendment 39-646 33 FR 12303, AD 68-18-3 requires inspection of the wing center section upper forward skin panels for cracks and repair as necessary, on Boeing model 707/720 series airplanes. Recently, the FAA has been requested to provide compliance times in terms of flights as an option to the original compliance times which were stated in the amendment in terms of hours of total-time-in-service.

The skin cracks have been shown to be a fatigue problem caused by flight cycles. Therefore, the AD is being amended to provide compliance times in terms of number of flights, as well as hours of time-in-service. Further, the transfer of administrative responsibility for the AD to the Northwest Region of the FAA as a result of agency organizational changes is recognized in the amendment.

Since this amendment imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697) § 39.13 of Part 39 of the Federal Aviation regulations, Amendment 39-646 33 FR 12303, AD 68-18-3 is amended as follows:

The reference to "Chief, Aircraft Engineering Division, FAA Western Region" is hereby changed to "Chief, Engineering and Manufacturing Branch, FAA Northwest Region." The following new paragraphs (m) and (n) are added:

• • • • •

(m) Where the following hours of time-in-service appear herein, an operator may use the following tabulation of equivalency to flights as an alternative to determine inspection requirements:

300 hours or 300 flights; 1000 hours or 600 flights; 2000 hours or 1200 flights; 3000 hours or 1800 flights; 3500 hours or 2200 flights; 4000 hours or 3300 flights; 7500 hours or 4000 flights; 8000 hours or 5300 flights; 8500 hours or 5600 flights; 10000 hours or 4000 flights; 12000 hours or 6400 flights; 12500 hours or 6600 flights; 14000 hours or 9400 flights; 14500 hours or 8900 flights.

For purposes of this paragraph, one flight is defined as one takeoff and landing.

(n) For the purpose of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of flights may be determined by dividing each airplane's hours' time in service by the operator's fleet average time from takeoff to landing for the airplane type.

This amendment becomes effective December 30, 1974.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Seattle, Washington, December 16, 1974.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.74-29631 Filed 12-23-74;8:45 am]

[Airworthiness Docket No. 74-WE-82-AD; Amdt. 39-2064]

PART 39—AIRWORTHINESS DIRECTIVES

Certain AiResearch Engines

There have been failures of the high speed pinion (HSP) gear bearing assembly and decoupling of the propeller reduction gear on the AiResearch Model TPE331-1, -2, -3, -5 and -6 series engines as a result of oil starvation caused by loosening of the HSP gear bearing carrier attachment bolts and/or failure of the oil transfer tube support bracket. Since this condition is likely to exist or develop in other engines of the same type design, an airworthiness directive is being issued to require a modification of the HSP gear bearing carrier bolts and recurring inspection of the oil transfer tube bracket on certain AiResearch Model TPE331-1, -2, -3, -5 and -6 series.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation regulations is amended by adding the following new airworthiness directive.

AiResearch Manufacturing Company of Arizona.—Applies to certain Model TPE331 series engines:

Compliance required as indicated.

To detect, correct and prevent loosening of the high speed pinion (HSP) gear carrier bolts and to detect fatigue failure of the HSP gear oil transfer tube accomplish the following:

(1) TPE331-1-101B, S/N 93058 through 93061; TPE331-1-151A, S/N 92249 and 92336 through 92354; TPE331-1-151K, S/N 26001 through 26014; TPE331-1-151G, S/N 91193 through 91198; TPE331-2-201A, S/N 90218 through 90278; TPE331-3U-303G, S/N 03108, 03109 and 03112 through 03180; TPE331-3UW-303G, S/N 05031 through 05042; TPE 331-3U-307G, S/N 03001, 05016; TPE331-5-251C, S/N 22006 through 22057; TPE331-5-251K, S/N 06113, 06190 through 06442 and 06444 through 06454; TPE331-6-251M, S/N 20144 and 20182 through 20583; and, TPE331-6-251B, S/N 27001, 27002. Within the next 100 hours time in service after the effective date of this AD, unless previously accomplished, replace the two high speed pinion gear carrier bolts, P/N MS21279-07, with two bolts, P/N MS9489-07, and lockplate, P/N 3101483-1, and inspect to insure proper torque on bolt, P/N MS21297-07, securing lube adapter, P/N 3101210, and bolt, P/N MS21279-10, securing lube nozzle, P/N 3101209, as described in paragraph 2.D. of AiResearch Service Bulletin TPE331-72-0092, dated December 9, 1974, or later FAA approved revisions.

(2) Engines listed in (1) above as well as the following: TPE331-1-101B, S/N 93062 and subsequent; TPE331-1-151A, S/N 92355 and subsequent; TPE331-1-151K, S/N 26015 and subsequent; TPE331-1-151G, S/N 91199 and subsequent; TPE331-2-201A, S/N 90279 and subsequent; TPE331-3U-303G, S/N 03181 and subsequent; TPE331-3UW-303G, S/N 05043 and subsequent; TPE331-5-251C, S/N 22058 and subsequent; TPE331-5-251K, S/N 06443 and 06455 and subsequent; TPE331-6-251M, S/N 20534 and subsequent; and, TPE331-6-251B, S/N 27003 and subsequent. Within the next 100 hours time in service, unless accomplished within the last 100 hours time in service prior to the effective date of this AD, and thereafter, at intervals not to exceed 200 hours time in service, inspect the oil transfer tube. P/N 3101187-1, per the instructions contained in paragraph 2.C. of the above referenced service bulletin. If the oil transfer tube bracket is cracked or separated, either:

(a) Replace with a serviceable P/N 3101187-1; or

(b) Accomplish the installation of a tube, P/N 3101187-2, clamp, P/N 3101484-1, and washer, P/N AN960C416L, using the existing clamp bolt, per the instructions of paragraph 2.E. of the above referenced service bulletin.

(3) Equivalent procedures may be approved by the Chief, Aircraft Engineering Division, FAA Western Region, upon submission of adequate substantiation data.

(4) Aircraft may be flown to a base for performance of maintenance required by paragraph (1) and the inspection required by paragraph (2) of this AD per FAR's 21.197 and 21.199.

This amendment becomes effective December 30, 1974.

(Sec. 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Los Angeles, California on December 16, 1974.

Arvin O. Basnight,
Director, FAA Western Region.

[FR Doc.74-29882 Filed 12-23-74;8:45 am]

[Docket No. 12762; Amdt. No. 121-114]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Ground Proximity Warning Systems

The purpose of this amendment to Part 121 of the Federal Aviation Regulations is to require installation of an approved ground proximity warning system on each large turbine-powered airplane (turbojet and turboprop) used in operations under Part 121. These amendments also apply to air travel clubs certificated under Part 123 and to air taxi operators certificated under Part 135, when conducting operations governed by those parts with large turbine-powered airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment by a Notice of Proposed Rule Making (Notice 74-32) issued on September 12, 1974 (published in the Federal Register on September 16, 1974; 39 FR 33234), as amended by Notice 74-32A, issued October 1, 1974 (published in the Federal Register on October 7, 1974; 39 FR 36017). Due consideration has been given to all comments presented in response to the notice. Except for editorial changes, and except as specifically discussed hereinafter, these amendments and the reasons therefor are the same as those in Notice 74-32.

Of the 31 public comments received in response to Notice 74-32, 18 favored the adoption of the proposed rule. Some commentators recommended changes that are discussed hereinafter. Several commentators made suggestions that were not within the scope of the notice, and, accordingly, those comments are not discussed, but will be retained by the FAA for future study.

In light of recent air carrier accidents involving large turbine-powered airplanes caused by inadvertent contact with the ground, the FAA believes that public interest requires the installation of ground proximity warning systems on these aircraft as soon as possible. Based on comments received and on further investigations, the FAA has determined that these systems can be developed, manufactured, and installed on all large turbine-powered airplanes operated under Part 121 by December 1, 1975. Accordingly, § 121.360, as adopted, prohibits the operation of a large turbine-powered airplane under Part 121 after December 1, 1975, unless it is equipped with a ground proximity warning system that meets the requirements of that section.

Several commentators asserted that flight crewmembers now have adequate warning of ground proximity through the use of present instrumentation, including altitude alerting systems, and appropriate inflight procedures. The FAA believes that present instrumentation and inflight procedures provide for safe and adequate terrain clearance as long as proper flight crewmember discipline is maintained and appropriate flight operations procedures are followed. However, notwithstanding those instruments and procedures, as stated in Notice 74-32, a number of air carrier accidents involving large turbine-powered airplanes have been caused by inadvertent contact with the ground, and might have been avoided if a ground proximity warning system had been installed to give warning of the impending disaster to the flight crew.

Several commentators pointed out that the warning system should operate during non-precision approaches. The FAA agrees, and any system for which approval is sought under new § 121.360 must be capable of providing warnings during non-precision approaches.

A number of comments were received with respect to the kind of warnings to be given. One commentator suggested that a visual warning should not be required, since it could distract the pilot from taking corrective action. For the same reason, another commentator stated that the warning should not operate continuously until the hazardous condition no longer exists and should be capable of being muted or cancelled.

The FAA believes that a ground proxmity warning system should provide automatic and distinct aural and visual warnings with no required input from the flight crew, and that it should operate continuously as long as a terrain

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hazard exists, since the cessation of the warning might lead to a mistaken belief that the hazard no longer exists. The FAA does not agree that the continuous operation of either the visual or the aural warning will distract the pilot from taking corrective action.

With respect to comments concerning the capability of the equipment that would be required under the proposed rule, it should be noted that the equipment must be capable of providing not only a warning based on the rate of descent of the aircraft and the height of the aircraft above the terrain directly beneath the aircraft, but also a warning based on the computed height of the aircraft above the terrain along the aircraft's projected flight path. The rule, as adopted, has been clarified so that it clearly states this requirement and the other requirements for approval discussed in the preamble to Notice 74-32.

One commentator contended that turbopropeller-powered airplanes should not be required to have the proposed warning system because they do not have "sink rates" as high as those of turbojet-powered airplanes, they are more responsive to the application of power, and they are less subject to an insidious loss of altitude after takeoff. In addition, the commentator indicated that the proposed warning system requirement would cause engineering and installation problems for older aircraft. The FAA does not agree that turbopropeller-powered airplanes should be excepted from this requirement, since a review of air carrier accidents involving inadvertent contact with the ground does not support such an exception.

One commentator questioned whether the rule as proposed would require a ground proximity warning system separate from all other aircraft systems. It was not the intent of the FAA to preclude the integration of such a warning system with other aircraft systems when compatability exists.

Certain commentators pointed out that the requirement in proposed § 121.360 (a), that the ground proximity warning system provide a warning at any height less than 3,000 feet above the ground, is not appropriated in the light of the capability of radio altimeters presently in use in large turbine-powered airplanes. The FAA agrees, and § 121.360(a), as adopted, requires only that the system provide a warning at any height less than 2,500 feet.

A number of commentators urged the FAA to expedite the development of standards for ground proximity warning systems. As stated in Notice 74-32, the FAA has initiated a study to develop either a Technical Standard Order or an amendment to Part 25 establishing specific standards. The FAA expects to issue those standards in the very near future. However, pending the development of such standards the FAA intends to continue to approve the installation of ground proximity warning systems through the issuance of supplemental type certificates after compliance has been shown with the general equipment requirements of Part 25.

The phrase "impending terrain hazard" in proposed § 121.360(a) has been changed to "imminent inadvertent contact with the ground," so as to more clearly describe the hazard for which the system must provide a warning.

Proposed § 121.360(c) would have prohibited the operation of a large turbine-powered airplane under Part 121 6 months after the effective date of the amendment unless it had been equipped with a radio altimeter that automatically provides a discrete aural warning when the airplane descends below a predetermined height between 1,000 and 500 feet above the ground. In view of the shortening of the period for compliance with § 121.360(a) to require the installation of ground proximity warning systems by December 1, 1975, proposed § 121.360(c) has not been adopted.

In lieu of proposed § 121.360(d), a reference to new § 121.360 has been added to § 121.303(d)(2). This will prohibit the takeoff of any large turbine-powered airplane being operated under Part 121 unless the ground proximity warning system required by § 121.360 is in operable condition. However, § 121.627(c) will allow the continuation of a flight beyond a terminal point with the equipment inoperative if the minimum equipment list and procedures for the continuation of flight are included in the certificate holder's manual.

(Secs. 313(a), 601, 603, and 604 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423, and 1424. Sec. 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c))

In consideration of the foregoing, and for the reasons stated in Notice No. 74-32, Part 121 of the Federal Aviation Regulations is amended, effective January 23, 1975, as follows:

§ 121.303 [Amended]

1. By amending paragraph (d)(2) of § 121.303 by deleting the phrase "and 121.359" and substituting therefor the phrase ", 121.359, and 121.360".

2. By adding a new § 121.360 immediately after § 121.359 to read as follows:

§ 121.360 Ground proximity warning systems.

(a) After December 1, 1975, no person may operate a large turbine-powered airplane unless it is equipped with an approved ground proximity warning system that is designed, constructed, and installed to provide a warning of imminent inadvertent contact with the ground.

(b) The ground proximity warning system required by paragraph (a) of this section must:

(1) Operate at any height less than 2,500 feet above the ground;

(2) Provide both visual and aural warnings that—

(i) Initiate simultaneously and are distinct from each warning provided by any other aircraft warning device;

(ii) Initiate automatically without any crewmember action; and

(iii) Operate continuously until the hazardous condition no longer exists; and

(3) Provide warnings based on the—

(i) Rate of descent of the aircraft (including any negative rate of climb after takeoff) in relation to the height of the aircraft above the terrain directly beneath the aircraft;

(ii) Computed height of the aircraft above the terrain along the aircraft's projected flight path;

(iii) Landing gear and flap positions of the aircraft; and

(iv) Performance capability of the aircraft.

Issued in Washington, D.C., on December 18, 1974.

ALEXANDER P. BUTTERFIELD,
Administrator.

[FR Doc.74-29068 Filed 12-23-74;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-891, Amdt. 27]

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Revising Form 298-A and Related Instructions for Its Use

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., October 31, 1974; effective January 23, 1975.

Subpart B of Part 298 of the Economic Regulations requires air taxi operators to register with the Board, to reregister biennially, and to notify the Board of any change in operations. The within amendment to § 298.50 will require the air taxi operator, at the time of registration or reregistration, to list on Form 298-A[1] the address and telephone number of the operator's local FAA office. The amendment to § 298.52 will require the operator to use this same Form 298-A in reporting to the Board any change in his name, address or type of operations.

We are also taking this opportunity to effect certain technical changes in § 298.50, including deletion of obsolete provisions relating to the reporting of aircraft with maximum payload capacities between 5,000 and 7,500 pounds,[1] and to revise Form 298-A so as to reflect such changes and otherwise simplifying it.

Since the amendments provided for herein are rules of agency procedure and practice, and impose no significant burden on any person, the Board finds that notice and public procedure are unnecessary.

In consideration of the foregoing, the Board hereby amends Part 298 of the

[1] Which is no longer required, see ER-864, dated June 24, 1974, 39 FR 23004, June 28, 1974.

[2] CAB Form 298-A is filed as part of the original document hereto and can be obtained from the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

Economic Regulations (14 CFR Part 298) effective January 23, 1975, to read as follows:

1. Amend § 298.50(c) to read as follows:

§ 298.50 Filing for registration by air taxi operators.

* * * * *

(c) Registration and reregistration shall be accomplished by filing with the Board's Bureau of Operating Rights:

(1) CAB Form 298–A, "Registration, Reregistration and Amendments under Part 298 of the Economic Regulations of the Civil Aeronautics Board," executed in duplicate. This form shall be certified by a responsible official and shall include the following information:

(i) The name of the carrier and its mailing address;

(ii) The carrier's principal place of business, if different from its mailing address, and its area code and telephone number;

(iii) The carrier's FAA certificate number, if any, and the address and telephone number of the carrier's local FAA office;

(iv) Whether the carrier proposes to perform (or, for reregistration, whether the carrier is currently performing) scheduled passenger or cargo, on-demand passenger or cargo, and/or mail service;

(v) A list of the aircraft which the carrier proposes to operate (or, for reregistration, the aircraft which the carrier is currently operating) in air taxi operations, and the aircraft type, FAA registration number and passenger capacity of each such aircraft;

(vi) For initial registration, the proposed date of commencement of air taxi operations;

(vii) For reregistration, whether the carrier has carried passengers in air transportation between any point in the United States and any point outside thereof during the past 12 months;

(2) A certificate of insurance which is currently effective (or, in case of initial registration, is to become effective), as defined in § 298.41(b);

(3) A $15 registration or reregistration fee, as the case may be. This shall be in the form of a check, draft, or postal money order, payable to the Civil Aeronautics Board.

2. Amend § 298.52 to read as follows:

§ 298.52 Notification to the Board of change in operations.

Each air taxi operator (whether or not he has on file with the Board a currently effective registration under § 298.50) shall notify the Board's Bureau of Operating Rights, Washington, D.C. 20428, on CAB Form 298–A, of any change in his name or address, or of any change in his type of operations (passenger, cargo, mail, scheduled, etc.) or of his temporary or permanent cessation of operations. Such notification shall be mailed, or otherwise delivered, so as to be received by the Board no later than 30 days after the reported event has occurred.

(Sec. 204(a), 407 and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766 and 771; 49 U.S.C. 1324, 1377, and 1386)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74–29982 Filed 12–23–74;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER VIII—BUREAU OF ECONOMIC ANALYSIS, DEPARTMENT OF COMMERCE

Name Change From Office of Business Economics to Bureau of Economic Analysis

Pursuant to Department of Commerce Organization Order 35–4A, effective January 1, 1972, which established the Social and Economic Statistics Administration and changed the name of the Office of Business Economics to the Bureau of Economic Analysis (37 FR 3461), Title 15 of the Code of Federal Regulations is amended as follows:

The title of Chapter VIII of Title 15 of the Code of Federal Regulations is revised to read as set forth above. All references to the "Office of Business Economics" in Chapter VIII are correspondingly changed.

In accordance with Administrative Procedure 5 U.S.C. 553, notice and hearing on this amendment and postponement of the effective date thereof is unnecessary since this amendment is entirely administrative in nature. Therefore, this amendment will become effective on December 24, 1974.

Dated: December 17, 1974.

GEORGE JASZI,
Director, Bureau of Economic Analysis.

[FR Doc.74–30005 Filed 12–23–74;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 770—AIR QUALITY GUIDELINES FOR USE IN FEDERAL-AID HIGHWAY PROGRAMS

Air Quality Guidelines

By notice in the FEDERAL REGISTER of September 5, 1973 (38 FR 23969) the Federal Highway Administration (FHWA) published a notice of proposed rulemaking containing air quality guidelines. These guidelines were required to implement section 136(b) of the Federal-aid Highway Act of 1970 (23 U.S.C. 109(j)), which requires that guidelines be promulgated to assure that highways constructed pursuant to Title 23, U.S.C. are consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

Because it was necessary to have guidelines for the assessment of highway plans, interim regulations were promulgated on November 16, 1973 (38 FR 31677) as Part 770 of Title 23 CFR. Since that time FHWA has considered all comments received. These are set forth and discussed in the final environmental impact statement prepared for the issuance of these guidelines which was transmitted to the Council on Environmental Quality on September 17, 1974.

In consideration of the foregoing, Part 770 of Title 23 of the Code of Federal Regulations is amended to read as follows:

Subpart B—Air Quality Guidelines

Sec.
770.200 Purpose.
770.201 Definitions.
770.202 Policy.
770.203 Application.
770.204 Urban Transportation Plans and Programs.
770.205 Highway Sections.
770.206 Construction of Highways.

AUTHORITY: 23 U.S.C. 109(h), 23 U.S.C. 109(j), 42 U.S.C. 4332, 23 U.S.C. 315, 49 CFR 1.48(b).

§ 770.200 Purpose.

To issue policy and procedures covering air quality guidelines for use in planning, location, and construction of highway improvements pursuant to 23 U.S.C.

§ 770.201 Definitions.

(a) *Action.* The construction or reconstruction, including associated activities, of a highway section.

(b) *Air quality control region.* An interstate or intrastate area designated by the Administrator of the Environmental Protection Agency pursuant to 42 U.S.C. 1857. (Section 107 of the Clean Air Act of 1970.)

(c) *Air pollution control agency.* The State, local, or multistate agency as defined by 42 U.S.C. 1857. (Section 302(b) of the Clean Air Act of 1970.)

(d) *Environmental impact statement (EIS).* A detailed statement prepared in response to 42 U.S.C. 4332. (Section 102(2)(c) of the National Environmental Policy Act of 1969.)

(e) *Highway agency.* The agency with the primary responsibility for initiating and carrying forward the action. For highway sections financed with Federal-aid highway funds, the highway agency will normally be the appropriate State, county, or city highway agency. For highways financed with other funds, such as forest highways, park roads, etc., the highway agency will be the appropriate Federal or State agency with the primary responsibility for initiating and carrying forward the action.

(f) *Highway section.* A highway development proposal between logical termini (population centers, major traffic generators, major crossroads, etc.) as normally included in a location study or multiyear highway improvement program.

(g) *Indirect source review agency.* The agency designated in an applicable State implementation plan to meet the requirements of 40 CFR 51.18 (38 FR 15834, June 18, 1973).

(h) *National Ambient Air Quality Standards.* The National Ambient Air

Quality Standards established pursuant to 42 U.S.C. 1857 (Section 109 of the Clean Air Act of 1970).

(i) *Negative declaration.* A document supporting a determination that a proposed major action will not have a significant impact upon the quality of the human environment of a magnitude to require the processing of an EIS.

(j) *Policy Board (Policy Committee, Coordinating Committee, etc.).* That group of local officials, individuals or representatives of agencies or organizations which has been designated by the State to provide policy guidance and direction in the conduct of the urban transportation planning process in an urbanized area.

(k) *Urban transportation planning process (3C planning process).* The continuing, comprehensive, and cooperative planning process established pursuant to 23 U.S.C. 134.

(l) *State implementation plan (SIP).* The plan required by 42 U.S.C. 1857 (Section 110 of the Clean Air Act of 1970) to attain and maintain a national ambient air quality standard. For the purpose of this directive, an approved SIP is the implementation plan, or most recent revision thereof, which has been approved or promulgated by the Environmental Protection Agency under section 110 of the Clean Air Act.

(m) *Urban transportation plans and programs.* Proposed area-wide plans and proposed capital improvement programs developed through the urban transportation planning process.

§ 770.202 Policy.

It is the policy of the Federal Highway Administration (FHWA) that highway agencies responsible for the planning, location, and construction of highways pursuant to 23 U.S.C. consult with the local, State, and Federal air pollution control agencies, as appropriate, and assure that decisions on highways are consistent with approved State implementation plans and that adequate consideration is given to preservation and enhancement of air quality.

§ 770.203 Application.

Land use, air quality, and transportation planning are interdependent. It is, therefore, essential that planning activities be closely coordinated in the conceptual stages and throughout the highway development process. The highway agency shall follow the appropriate procedures outlined in § 770.204 through § 770.206 in order to assure that the planning, location, and construction of highways are consistent with the approved State implementation plan for attainment and maintenance of air quality standards.

(a) The continuing review procedure described in § 770.204 shall be a requirement for each transportation planning process established pursuant to 23 U.S.C. 134.

(b) The procedures for consideration of air quality described in § 770.205 shall apply to the processing of Federal-aid highway proposals.

(c) The procedures described in § 770.206 shall apply to the consideration of construction specifications as related to air quality.

§ 770.204 Urban Transportation Plans and Programs.

(a) To assure that land use and transportation planning conducted pursuant to 23 U.S.C. 134 and air quality planning conducted pursuant to 42 U.S.C. 1857 and the transportation plans resulting therefrom are coordinated, the responsible highway agency in cooperation with each 3C planning agency shall establish a continuing review procedure with the air pollution control agency to:

(1) Assess the consistency of the transportation plan and program with the approved State implementation plan;

(2) Solicit comments annually from the air pollution control agency including its assessment of the consistency of the transportation plan and program with the approved State implementation plan prior to transportation plain approval by the policy board; and

(3) Identify and attempt to resolve differences with the air pollution control agency.

(b) The highway agency shall request the policy board to annually determine the consistency of the current transportation plan and program with the approved State implementation plan. The highway agency shall furnish FHWA a record of this determination along with any written comments received from the air pollution control agency and the policy board's disposition of these comments.

(c) The Regional Federal Highway Administrator, in consultation with the Regional Administrator of the Environmental Protection Agency, shall annually:

(1) Assess the degree of coordination in the planning process between planning for transportation and air quality planning; and

(2) Review the determination on consistency between the transportation plan and program and the approved State implementation plan.

(d) Any deficiencies shall be cited to the highway agency. Significant deficiencies (including major instances of inconsistency) shall be considered by the Regional Federal Highway Administrator as grounds for withholding planning certification.

§ 770.205 Highway Sections.

(a) The following procedures shall apply to highway sections for which both the draft and the final environmental impact statement are submitted to FHWA or for which a negative declaration is considered by FHWA after the effective date of this directive:

(1) The studies and coordination activities related to the construction or reconstruction of a highway section shall include an appropriate consideration of air quality. The level of this consideration and/or the air quality analysis is to be determined on the basis of the nature and location of the highway section, anticipated traffic volume, existing air quality problems, sensitivity of nearby receptors to air pollution, and meteorological conditions. It is anticipated that lower volume facilities in areas without critical air quality problems can be satisfactorily analyzed using simplified analysis techniques and that on-site measurements will not be required. High volume facilities in areas with critical air quality problems will usually require on-site data gathering and a high level of analysis.

(2) For highway sections where a negative declaration rather than an EIS is to be prepared, the negative declaration shall briefly outline the air quality considerations involved in the development of the highway proposal. For highway sections subject to the requirements of 40 CFR 51.18, "Review of New Sources and Modifications," the negative declaration shall also include a record of required coordination with the indirect source review agency. The FHWA Division Engineer shall review the air quality information in the negative declaration for adequacy. FHWA adoption of the negative declaration shall constitute the FHWA determination that the highway is considered to be consistent with the approved State implementation plan.

(3) For highway sections on which a draft EIS is prepared, the draft shall contain:

(i) An identification of the air quality impact of the highway section;

(ii) An identification of the analysis methodology utilized;

(iii) A brief summary of the early consultation with the air pollution control agency and, where applicable, a brief summary of consultation with the indirect source review agency;

(iv) Any comments received from the air pollution control agency and, where applicable, any comments received from the indirect source review agency; and

(v) The highway agency's determination on the consistency of each alternative under consideration with the approved State implementation plan.

(4) Where required by 40 CFR 51.18, the preferred alternative shall be submitted to the indirect source review agency for review. The proposed final EIS shall not be submitted to the FHWA Regional Administrator for adoption if the indirect source review agency has found as a part of the procedures established pursuant to 40 CFR 51.18 that the highway section will result in a violation of applicable portions of the control strategy or will interfere with the attainment or maintenance of the National Ambient Air Quality Standards.

(5) The final EIS may be adopted by the FHWA only after FHWA has determined that the proposed highway section is consistent with the approved State implementation plan. The determination on consistency shall be made by the Regional Federal Highway Administrator.

(6) In making his determination, the Regional Federal Highway Administrator shall consider the following:

(i) The adequacy and the conclusions of the air quality analysis;

(ii) The comments received from the air pollution control agency resulting from the requirements of § 770.204(a)(2) and § 770.205(a)(3) (where issues raised by the air pollution control agency have not been resolved by the highway agency or the FHWA Division Engineer prior to submission of the proposed final EIS to the FHWA, the Regional Administrator shall not make a positive determination on consistency without first consulting with the EPA Regional Administrator); and

(iii) Comments received from other agencies as part of the EIS procedure and the disposition of these comments.

(7) The Regional Federal Highway Administrator shall furnish the results of any consultation with the EPA Regional Administrator on the final EIS and the FHWA determination on consistency in the transmitted information for those final environmental impact statements which require review by FHWA Headquarters.

(b) The following procedures shall apply to highway sections for which the draft environmental impact statement was submitted to the FHWA prior to the effective date of this directive and for which the final environmental impact statement is submitted to FHWA after the effective date of this directive:

(1) Prior to the processing of the final EIS, the highway agency, in consultation with the FHWA Division Engineer, shall review available material on the development of the highway section, including the draft EIS, and shall make a written determination on the adequacy of the consideration of air quality for the highway section.

(2) If the determination concludes that the consideration of air quality is adequate, the final EIS may be processed following established EIS processing procedures.

(3) If the determination concludes that additional information and/or analysis are necessary, a revised draft or supplement shall then be furnished to appropriate local, State, and Federal agencies with expertise in air quality. At least forty-five days shall be allowed for comment by interested agencies.

(4) Comments received shall be incorporated and addressed in the final EIS as required in Volume 7, Chapter 7, section 2 of the Federal-Aid Highway Program Manual,[1] "Environmental Impact and Related Statements."

(5) Where required by 40 CFR 51.18 the preferred alternative shall be submitted to the indirect source review agency for review. The proposed final EIS shall not be submitted to the FHWA Regional Administrator for adoption if the indirect source review agency has found as part of the procedures established pursuant to 40 CFR 51.18 that the highway section will result in a violation of applicable portions of the control strategy or will interfere with the attainment or maintenance of the National Ambient Air Quality Standards.

(6) Where issues raised by the air pollution control agency have not been resolved by the highway agency or the FHWA Division Engineer prior to submission of the proposed final EIS to the FHWA, the FHWA Regional Administrator shall not make a positive determination on consistency without first consulting with the EPA Regional Administrator.

(7) Adoption of the final EIS by the FHWA shall constitute the FHWA determination that the highway section is considered to be consistent with the approved State implementation plan.

(c) The following procedures shall apply to highway sections for which the final environmental impact statement is submitted to FHWA not later than the effective date of this directive, for which a substantial amount of the grade and drain work remains to be advertised for bids, and for which a decision on the consistency of the highway section with the approved State implementation plan has not been made by the Regional Federal Highway Administrator:

(1) The highway agency shall review the information available on the development of the highway section, including the final EIS, and shall prepare a report for the FHWA on the consistency of the proposed action with the approved State implementation plan.

(i) If the highway agency or the FHWA Division Engineer concludes that additional information and/or analysis are necessary to make a determination on consistency, the highway agency shall develop such information or perform such analysis before making the report.

(ii) If the information on the development of the highway section or the air quality analysis indicates that implementation of the proposed action will result in a significant air quality impact, the highway agency shall solicit comments from and consult with the air pollution control agency. In such cases, the report shall set forth the anticipated air quality effects of the proposal, a brief summary of coordination with the air pollution control agency, including comments received and a discussion of substantial unresolved air quality issues, if any.

(2) The FHWA Division Engineer may concur in such reports, except those which include an inconsistency finding by the air pollution control agency. Concurrence in the report by the FHWA Division Engineer shall constitute the FHWA determination that the highway section is considered to be consistent with the approved State implementation plan.

(3) Reports containing an inconsistency finding shall be forwarded to the FHWA Regional Administrator. Before concurring in proposed highway section approvals, the FHWA Regional Administrator shall consult with the EPA Regional Administrator for the purpose of reviewing the air quality information and consistency determination presented in the report.

(4) Concurrence in proposed highway section approvals by the FHWA Regional Administrator shall constitute the FHWA determination that the highway section is considered to be consistent with the approved State implementation plan.

(5) The FHWA Regional Administrator may request preparation and processing of a revised or supplemental EIS for the highway section where, in his judgement, the air quality issues raised are of such magnitude as to make the processing in this form necessary. The revised or supplemental EIS shall be processed in accordance with procedures contained in Volume 7, Chapter 7, Section 2 of the Federal-Aid Highway Program Manual, "Environmental Impact and Related Statements."

(d) Advancement of highway sections may continue under the provisions of 23 U.S.C. where the Regional Federal Highway Administrator has made a consistency determination in accordance with the interim regulations (23 CFR 770, 38 FR 31677) or where a substantial amount of the grade and drain work has been authorized prior to the effective date of this directive.

§ 770.206 Construction of Highways.

(a) The highway agency shall take steps to assure that its current specifications, and any revisions thereof and the use of specific equipment and/or materials associated with construction are consistent with the approved State implementation plan. This shall be accomplished in coordination with the air pollution control agency.

(b) The highway agency shall establish procedures in order that any changes in the State implementation plan will be reviewed to determine if revisions to the construction specifications will be necessary.

(c) Revisions to the construction specifications resulting from the above requirements shall be made in consultation with FHWA.

Effective Date. This amendment is effective December 26, 1974.

Issued on December 16, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.74-29001 Filed 12-23-74;8:45 am]

[1] The Federal-Aid Highway Program Manual is available for inspection and copying as prescribed in 49 CFR Part 7, App. D.

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Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 7348]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Rates and Earnings Base of Certain Self-Employment Tax [1]

By a notice of proposed rule making appearing in the FEDERAL REGISTER for July 3, 1973 (38 FR 17727), amendments to the Income Tax Regulations (26 CFR Part 1) were proposed in order to conform such regulations to the provisions of sections 115(b)(2), 118(a), 122 (b) and (c), and 502(b) of the Social Security Amendments of 1967 (81 Stat. 839, 841, 843, 844, 934), section 203(b)(1) of the Act of March 17, 1971 (Pub. L. 92–5, 85 Stat. 10), sections 203(b)(1) and 204 (a)(1) and (b)(1) of the Act of July 1, 1972 (Pub. L. 92–336, 86 Stat. 418, 420, 421), and section 135 (a)(1) and (b)(1) of the Social Security Amendments of 1972 (86 Stat. 1362, 1363), relating to the rates and earnings base of the self-employment tax and to self-employment coverage of retired partners, certain employees of States and political subdivisions, and ministers, members of religious orders, and Christian Science practitioners. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, certain changes were made. The proposed amendments of the regulations, as revised, including an amendment to the Income Tax Regulations in order to conform such regulations to the provisions of section 203(b)(1) of the Act of July 9, 1973 (Pub. L. 93–66, 87 Stat. 153) and section 5(b)(1) and (f) of the Act of December 31, 1973 (Pub. L. 93–233, 87 Stat. 954), relating to the earnings base of the self-employment tax, and section 6(b)(1) of the Act of December 31, 1973 (Pub. L. 93–233, 87 Stat. 955), relating to the rate of tax on self-employment income for purposes of hospital insurance, are adopted by this document.

Several of the above statutory amendments revised the rates and earnings base of the tax on self-employment income. For taxable years beginning after 1974, the taxable earnings base may be increased by the Secretary of the Department of Health, Education, and Welfare under section 230 of the Social Security Act if he provides a cost-of-living increase in benefits under section 215(i) of that Act.

Under prior law, the term "trade or business", for self-employment tax purposes, did not include the performance of services by a minister, a member of a religious order, or a Christian Science practitioner in his capacity as such unless such individual (other than a member of a religious order under a vow of poverty) elected to have the social security program extended to him in respect of such services. Under present law such service constitutes a trade or business (except in the case of a member of a religious order under a vow of poverty) unless the individual is granted an exemption from the tax on self-employment income in respect of such service. To qualify for the exemption an individual must be conscientiously opposed to, or because of religious principles be opposed to, the acceptance (with respect to service performed by him in his capacity as a minister, member, or Christian Science practitioner) of any public insurance which makes payments in the event of death, disability, old age, or retirement or makes payments toward the cost of, or provides services for, medical care (including the benefits of any insurance established by the Social Security Act). Based on the legislative history of section 115(b)(2) of the Social Security Amendments of 1967, the regulations require that this conscientious opposition be based on religious grounds.

Applications for exemption must be made by the later of (1) the due date of the return (including any extension thereof) for the second taxable year for which the clergyman has at least $400 of net earnings from self-employment, or (2) the due date of the return (including any extension thereof) for his second taxable year ending after 1967. For this purpose, if a clergyman's last original return filed before the expiration of the application period shows no liability for tax on self-employment income, that return will be treated as an application for exemption, provided that, before February 18, 1975, he files a Form 4361, the form specified for use as an application for exemption.

Under prior law, the term "trade or business", for self-employment tax purposes, did not include the performance of the functions of a public office or service performed by an individual as an employee of a State or a political subdivision. The amendment placed a minor limitation on the scope of these exclusions thereby providing coverage to certain individuals performing service for a State or a political subdivision thereof in a position compensated solely on a fee basis. In general, the rules of the proposed regulations on this subject are finalized without substantive change, except that section 1.1402(c)–2(a)(2), describing certain covered officials, has been reserved and is the subject of a new notice of proposed rulemaking.

Retirement payments made by a partnership to a retired partner are excluded from net earnings from self-employment provided certain conditions (designed to assure that the payments are bona fide retirement income) are met. Generally speaking, the treatment accorded such payments is similar to that accorded retirement income under the Federal Insurance Contributions Act.

A credit or refund is provided, under certain circumstances, in respect of the hospital insurance tax in the case of a railroad employee or employee representative subject to tax under the Railroad Retirement Tax Act who is also subject to tax under the Federal Insurance Contributions Act. If such an employee or employee representative has net earnings from self-employment, his taxable railroad compensation is taken into account in computing self-employment income. The purpose of these changes was to prevent the imposition of a double tax burden on an individual with respect to hospital insurance. Adoption of amendments to the regulations.

On July 3, 1973, a notice of proposed rule making with respect to the Income Tax Regulations (26 CFR Part 1) under sections 1401 and 1402 of the Internal Revenue Code of 1954 to conform such regulations to sections 115(b)(2), 118(a), 122 (b) and (c), and 502(b) of the Social Security Amendments of 1967 (81 Stat. 839, 841, 843, 844, 934), section 203 (b)(1) of the Act of March 17, 1971 (Pub. L. 92–5, 85 Stat. 10), sections 203(b)(1) and 204 (a)(1) and (b)(1) of the Act of July 1, 1972 (Pub. L. 92–336, 86 Stat. 418, 420, 421), and section 135 (a)(1) and (b)(1) of the Social Security Amendments of 1972 (86 Stat. 1362, 1363) was published in the Federal Register (38 FR 17727). After consideration of all relevant matter presented by interested persons regarding the proposed rules, the amendment of the Income Tax Regulations under sections 1401 and 1402 is hereby adopted, subject to the following changes (including changes conforming such regulations to the provisions of section 203(b)(1) of the Act of July 9, 1973 (Pub. L. 93–66, 87 Stat. 153), section 5(b)(1) and (f) of the Act of December 31, 1973 (Pub. L. 93–233, 87 Stat. 954), and section 6(b)(1) of the Act of December 31, 1973 (Pub. L. 93–233, 87 Stat. 955)):

PARAGRAPH 1. Section 1.1401 is amended as set forth in paragraph 1 below.

PAR. 2. Section 1.1401–1, as set forth in paragraph 2 below, is amended by revising paragraph (b)(2).

PAR. 3. Section 1.1402 (b), as set forth in paragraph 8 below, is amended by revising subparagraph (H) and the historical note.

PAR. 4. Section 1.1402(b)–1, as set forth in paragraph 9 below, is amended by revising paragraph (b)(1)(ii) and (2)(ii) and the examples in paragraphs (b)(2)(iii) and (c).

PAR. 5. Section 1.1402(c)–2, as set forth in paragraph 11 below, is amended by revising paragraph (a).

PAR. 6. Section 1.1402(c)–3, as set forth in paragraph 12 below, is amended by revising paragraph (f)(1).

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 16, 1974.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.74-29748 Filed 12-19-74;8:45 am]

[1] See proposed rule on subject (74-29749) published elsewhere in this issue.

PARAGRAPH 1. Section 1.1401 is amended by revising paragraph (3) of section 1401(a), by revising paragraphs (2), (3), (4), and (5) of section 1401(b), and by revising the historical note to read as follows:

§ 1.1401 Statutory provisions; rate of tax on self-employment income.

SEC. 1401. *Rate of tax*—(a) *Old-age, survivors, and disability insurance.* • • •

(3) In the case of any taxable year beginning after December 31, 1970, and before January 1, 1973, the tax shall be equal to 6.9 percent of the amount of the self-employment income for such taxable year;

• • • • • •

(b) *Hospital insurance.* • • •

(2) In the case of any taxable year beginning after December 31, 1972, and before January 1, 1974, the tax shall be equal to 1.0 percent of the amount of the self-employment income for such taxable year;

(3) In the case of any taxable year beginning after December 31, 1973, and before January 1, 1978, the tax shall be equal to 0.90 percent of the amount of the self-employment income for such taxable year;

(4) In the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to 1.10 percent of the amount of the self-employment income for such taxable year;

(5) In the case of any taxable year beginning after December 31, 1980, and before January 1, 1986, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year; and

(6) In the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.50 percent of the self-employment income for such taxable year.

[Sec. 1401 as amended by sec. 208(a), Social Security Amendments of 1954 (68 Stat. 1093); sec. 202(a), Social Security Amendments 1956 (70 Stat. 845); sec. 401(a), Social Security Amendments 1958 (72 Stat. 1041); sec. 201(a), Social Security Amendments 1961 (75 Stat. 140); secs. 111(c)(4) and 321(a), Social Security Amendments 1965 (79 Stat. 342, 394); sec. 109(a)(1) and (b)(1), Social Security Amendments 1967 (81 Stat. 835); sec. 204(a)(1) and (b)(1), Act of July 1, 1972 (Pub. Law 92-336, 86 Stat. 420, 421); sec. 135(a)(1) and (b)(1), Social Security Amendments 1972 (86 Stat. 1362, 1363); sec. 6(b)(1), Act of December 31, 1973 (Pub. Law 93-233, 87 Stat. 955)]

PAR. 2. Section 1.1401-1 is amended by revising subparagraph (2) of paragraph (b), to read as follows:

§ 1.1401-1 Tax on self-employment income.

(b) The rates of tax on self-employment income are as follows:

• • • • • •

(2) For hospital insurance:

Taxable year	*Percent*
Beginning after December 31, 1965 and before January 1, 1967	0.35
Beginning after December 31, 1966 and before January 1, 1968	.50
Beginning after December 31, 1967 and before January 1, 1973	.60
Beginning after December 31, 1972 and before January 1, 1974	1.0
Beginning after December 31, 1973 and before January 1, 1978	.90
Beginning after December 31, 1977 and before January 1, 1981	1.10
Beginning after December 31, 1980 and before January 1, 1986	1.35
Beginning after December 31, 1985	1.50

• • • • • •

PAR. 3. Section 1.1402(a) is amended by revising paragraphs (8) and (9) of section 1402(a), by adding a new paragraph (10) immediately after such paragraph (9), and by revising the historical note. These amended and added provisions read as follows:

§ 1.1402(a) Statutory provisions; definitions; net earnings from self-employment.

SEC. 1402. *Definitions*—(a) *Net earnings from self-employment.* • • •

(8) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c)(4) without regard to section 107 (relating to rental value of parsonages) and section 119 (relating to meals and lodging furnished for the convenience of the employer) and, in addition, if he is a citizen of the United States performing such service as an employee of an American employer (as defined in section 3121(h)) or as a minister in a foreign country who has a congregation which is composed predominantly of citizens of the United States, without regard to section 911 (relating to earned income from sources without the United States) and section 931 (relating to income from sources within possessions of the United States);

(9) The term "possession of the United States" as used in sections 931 (relating to income from sources within possessions of the United States) and 932 (relating to citizens of possessions of the United States) shall be deemed not to include the Virgin Islands, Guam, or American Samoa; and

(10) There shall be excluded amounts received by a partner pursuant to a written plan of the partnership, which meets such requirements as are prescribed by the Secretary or his delegate, and which provides for payments on account of retirement, on a periodic basis, to partners generally or to a class or classes of partners, such payments to continue at least until such partner's death, if—

(A) Such partner rendered no services with respect to any trade or business carried on by such partnership (or its successors) during the taxable year of such partnership (or its successors), ending within or with his taxable year, in which such amounts were received, and

(B) No obligation exists (as of the close of the partnership's taxable year referred to in subparagraph (A)) from the other partners to such partner except with respect to retirement payments under such plan, and

(C) Such partner's share, if any, of the capital of the partnership has been paid to him in full before the close of the partnership's taxable year referred to in subparagraph (A).

[Sec. 1402(a) as amended by sec. 201(a) and (c)(4), Social Security Amendments 1954 (68 Stat. 1087, 1089); sec. 201(e)(2), (g), and (i), Social Security Amendments 1956 (70 Stat. 840-842); sec. 5(b), Act of Aug. 30, 1957 (Pub. Law 85-239, 71 Stat. 523); sec. 108(k), Social Security Amendments 1960 (74 Stat. 933); sec. 227, Rev. Act 1964 (78 Stat. 97); sec. 312(b), Social Security Amendments 1965 (79 Stat. 381); sec. 118(a), Social Security Amendments 1967]

PAR. 4. The portion of paragraph (a) of § 1.1402(a)-1 which precedes subparagraph (1) of such paragraph is amended to read as follows:

§ 1.1402(a)-1 Definition of net earnings from self-employment.

(a) Subject to the special rules set forth in §§ 1.1402(a)-3 to 1.1402(a)-17, inclusive, and to the exclusions set forth in §§ 1.1402(c)-2 to 1.1402(c)-7, inclusive, the term "net earnings from self-employment" means—

• • • • • •

PAR. 5. Paragraphs (c) and (d) of § 1.1402(a)-2 are amended to read as follows:

§ 1.1402(a)-2 Computation of net earnings from self-employment.

• • • • • •

(c) *Aggregate net earnings.* Where an individual is engaged in more than one trade or business within the meaning of section 1402(c) and § 1.1402(c)-1, his net earnings from self-employment consist of the aggregate of the net income and losses (computed subject to the special rules provided in §§ 1.1402(a)-1 to 1.1402(a)-17 inclusive) of all such trades or businesses carried on by him. Thus, a loss sustained in one trade or business carried on by an individual will operate to offset the income derived by him from another trade or business.

(d) *Partnerships.* The net earnings from self-employment of an individual include, in addition to the earnings from a trade or business carried on by him, his distributive share of the income or loss, described in section 702(a)(9), from any trade or business carried on by each partnership of which he is a member. An individual's distributive share of such income or loss of a partnership shall be determined as provided in section 704, subject to the special rules set forth in section 1402(a) and in §§ 1.1402(a)-1 to 1.1402(a)-17, inclusive, and to the exclusions provided in section 1402(c) and §§ 1.1402(c)-2 to 1.1402(c)-7, inclusive. For provisions relating to the computation of the taxable income of a partnership, see section 703.

• • • • • •

PAR. 6. Section 1.1402(a)-3 is amended to read as follows:

§ 1.1402(a)-3 Special rules for computing net earnings from self-employment.

For the purpose of computing net earnings from self-employment, the gross income derived by an individual from a trade or business carried on by him, the allowable deductions attributable to such trade or business, and the individual's distributive share of the income or loss, described in section 702(a)(9), from any trade or business carrier on by a partnership of which he is a member shall be computed in accordance with the special rules set forth in §§ 1.1402(a)-4 to 1.1402(a)-17, inclusive.

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PAR. 7. The following section is added immediately after § 1.1402 (a)–16.

§ 1.1402 (a)–17 Retirement payments to retired partners.

(a) *In general.* There shall be excluded, in computing net earnings from self-employment for taxable years ending on or after December 31, 1967, certain payments made on a periodic basis by a partnership, pursuant to a written plan of the partnership, to a retired partner on account of his retirement. The exclusion applies only if the payments are made pursuant to a plan which meets the requirements prescribed in paragraph (b) of this section, and, in addition, the conditions set forth in paragraph (c) of this section are met.

(b) *Retirement plan of partnership.* (1) To meet the requirements of section 1402(a)(10), the written plan of the partnership must set forth the terms and conditions of the program or system established by the partnership for the purpose of making payments to retired partners on account of their retirement. To qualify as payments on account of retirement, the payments must constitute bona fide retirement income. Thus, payments of benefits not customarily included in a pension or retirement plan such as layoff benefits are not payments on account of retirement. Eligibility for retirement generally is established on the basis of age, physical condition, or a combination of age or physical condition and years of service. Generally, retirement benefits are measured by, and based on, such factors as years of service and compensation received. In determining whether the plan of the partnership provides for payments on account of retirement, factors, formulas, etc., reflected in public, and in broad based private, pension or retirement plans in prescribing eligibility requirements and in computing benefits may be taken into account.

(2) The plan of the partnership must provide for payments on account of retirement—

(i) To partners generally or to a class or classes of partners,

(ii) On a periodic basis, and

(iii) Which continue at least until the partner's death.

For purposes of subdivision (i) of this subparagraph, a class of partners may, in an appropriate case, contain only one member. Payments are made on a periodic basis if made at regularly recurring intervals (usually monthly) not exceeding one year.

(c) *Conditions relating to exclusion—* (1) *In general.* A payment made pursuant to a written plan of a partnership which meets the requirements of paragraph (b) of this section shall be excluded, in computing net earnings from self-employment, only if—

(i) The retired partner to whom the payment is made rendered no service with respect to any trade or business carried on by the partnership (or its successors) during the taxable year of the partnership (or its successors), which ends within or with the taxable year of the retired partner and in which the payment was received by him;

(ii) No obligation (whether certain in amount or contingent on a subsequent event) exists (as of the close of the partnership's taxable year referred to in subdivision (i) of this subparagraph) from the other partners to the retired partner except with respect to retirement payments under the plan or rights such as benefits payable on account of sickness, accident, hospitalization, medical expenses, or death; and

(iii) The retired partner's share (if any) of the capital of the partnership has been paid to him in full before the close of the partnership's taxable year referred to in subdivision (i) of this subparagraph.

By application of the conditions set forth in this subparagraph, either all payments on account of retirement received by a retired partner during the taxable year of the partnership ending within or with his taxable year are excluded or none of the payments are excluded. Subdivision (ii) of this subparagraph has application only to obligations from other partners in their capacity as partners as distinguished from an obligation which arose and exists from a transaction unrelated to the partnership or to a trade or business carried on by the partnership. The effect of the conditions set forth in subdivisions (ii) and (iii) of this subparagraph is that the exclusion may apply with respect to payments received by a retired partner during the taxable year of the partnership ending within or with his taxable year only if at the close of the partnership's taxable year the retired partner had no financial interest in the partnership except for the right to retirement payments.

(2) *Examples*—The application of subparagraph (1) of this paragraph may be illustrated by the following examples. Each example assumes that the partnership plan pursuant to which the payments are made meets the requirements of paragraph (b) of this section.

Example (1). A, who files his income tax returns on a calendar year basis, is a partner in the ABC partnership. The taxable year of the partnership is the period July 1 to June 30, inclusive. A retired from the partnership on January 1, 1973, and receives monthly payments on account of his retirement. As of June 30, 1973, no obligation existed from the other partners to A (except with respect to retirement payments under the plan) and A's share of the capital of the partnership had been paid to him in full. The monthly retirement payments received by A from the partnership in his taxable year ending on December 31, 1973, are not excluded from net earnings from self-employment since A rendered service to the partnership during a portion of the partnership's taxable year (July 1, 1972, through June 30, 1973) which ends within A's taxable year ending on December 31, 1973.

Example (2). D, a partner in the DEF partnership, retired from the partnership as of the close of December 31, 1972. The taxable year of both D and the partnership is the calendar year. During the partnership's taxable year ending December 31, 1973, D rendered no service with respect to any trade or business carried on by the partnership. On or before December 31, 1973, all obligations (other than with respect to retirement payments under the plan) from the other partners to D have been liquidated, and D's share of the capital of the partnership has been paid to him. Retirement payments received by D pursuant to the partnership's plan in his taxable year ending December 31, 1973, are excluded in determining his net earnings from self-employment (if any) for that taxable year.

Example (3). Assume the same facts as in example (2) except that as of the close of December 31, 1973, D has a right to a fixed percentage of any amounts collected by the partnership after that date which are attributable to services rendered by him prior to his retirement for clients of the partnership. The monthly payments received by D in his taxable year ending December 31, 1973, are not excluded from net earnings from self-employment since as of the close of the partnership's taxable year which ends with D's taxable year, an obligation (other than an obligation with respect to retirement payments) exists from the other partners to D.

PAR. 8. Section 1.1402(b) is amended by revising subparagraph (E) and adding subparagraphs (F), (G), (H) and (I) of paragraph (1), and by revising the flush material following paragraph (2) of section 1402(b) and the historical note to read as follows:

§ 1.1402 (b) Statutory provisions; definitions; self-employment income.

Sec. 1402. *Definitions.* • • •

(b) *Self-employment income.* • • •

(1) • • •

(E) For any taxable year ending after 1967 and beginning before 1972, (i) $7,800, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(F) For any taxable year beginning after 1971 and before 1973, (i) $9,000, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(G) For any taxable year beginning after 1972 and before 1974, (i) $10,800, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(H) For any taxable year beginning after 1973 and before 1975, (i) $13,200, minus (ii) the amount of the wages paid to such individual during the taxable year; and

(I) For any taxable year beginning in any calendar year after 1974, (i) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for such calendar year, minus (ii) the amount of the wages paid to such individual during such taxable year; or

(2) The net earnings from self-employment, if such net earnings for the taxable year are less than $400.

For purposes of clause (1), the term "wages" (A) includes such remuneration paid to an employee for services included under an agreement entered into pursuant to the provisions of section 218 of the Social Security Act (relating to coverage of State employees), or under an agreement entered into pursuant to the provisions of section 3121(l) (relating to coverage of citizens of the United States who are employees of foreign subsidiaries of domestic corporations), as would be wages under section 3121(a) if such services constituted employment under section 3121(b), and (B) includes, but solely with respect to the tax imposed by section 1401 (b), compensation which is subject to the tax imposed by section 3301 or 3311. An individual who is not a citizen of the United

States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for purposes of this chapter, be considered to be a nonresident alien individual.

[Sec. 1402(b) as amended by sec. 201(b), Social Security Amendments 1954 (68 Stat. 1088); sec. 402(a), Social Security Amendments 1956 (72 Stat. 1042); sec. 103(1), Social Security Amendments 1960 (74 Stat. 938); sec. 320(b)(1), Social Security Amendments 1965 (79 Stat. 393); secs. 106(b)(1) and 502(b), Social Security Amendments 1967 (81 Stat. 835, 934); sec. 203(b)(1), Act of March 17, 1971 (Pub. Law 92-5, 85 Stat. 10); sec. 203(b)(1), Act of July 1, 1972 (Pub. Law 92-336, 86 Stat. 418); sec. 203(b)(1), Act of July 9, 1973 (Pub. Law 93-66, 87 Stat. 153); sec. 5(b)(1) and (f), Act of December 31, 1973 (Pub. Law 93-233, 87 Stat. 954)]

PAR. 9. Paragraphs (b) and (c) of § 1.1402(b)-1 are amended to read as follows:

§ 1.1402(b)-1 Self-employment income.

* * * * *

(b) *Maximum self-employment income*—(1) *General rule.* Subject to the special rules described in subparagraph (2) of this paragraph, the maximum self-employment income of an individual for a taxable year (whether a period of 12 months or less) is—

(i) For any taxable year beginning in a calendar year after 1974, an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for such calendar year; and

(ii) For any taxable year—

Ending before 1955	$3,600
Ending after 1954 and before 1959	4,200
Ending after 1958 and before 1966	4,800
Ending after 1965 and before 1968	6,600
Ending after 1967 and beginning before 1972	7,800
Beginning after 1971 and before 1973	9,000
Beginning after 1972 and before 1974	10,800
Beginning after 1973 and before 1975	13,200

(2) *Special rules.* (i) If an individual is paid wages as defined in subparagraph (3) of this paragraph in a taxable year, the maximum self-employment income for such taxable year is computed as provided in subdivision (ii) or (iii) of this subparagraph.

(ii) If an individual is paid wages as defined in subparagraph (3) (i) or (ii) of this paragraph in a taxable year, the maximum self-employment income of such individual for such taxable year is the excess of the amounts indicated in subparagraph (1) of this paragraph over the amount of the wages, as defined in subparagraph (3) (i) and (ii) of this paragraph, paid to him during the taxable year. For example, if for his taxable year beginning in 1974, an individual has $15,000 of net earnings from self-employment and during such taxable year is paid $1,000 of wages as defined in section 3121(a) (see subparagraph (3)(i) of this paragraph), he has $12,200 ($13,200 —$1,000) of self-employment income for the taxable year.

(iii) For taxable years ending on or after December 31, 1968, wages, as defined in subparagraph (3)(iii) of this paragraph, are taken into account in determining the maximum self-employment income of an individual for purposes of the tax imposed under section 1401 (b) (hospital insurance), but not for purposes of the tax imposed under section 1401 (a) (old-age, survivors, and disability insurance). If an individual is paid wages as defined in subparagraph (3) (iii) of this paragraph in a taxable year, his maximum self-employment income for such taxable year for purposes of the tax imposed under section 1401 (a) is computed under subparagraph (1) of this paragraph or subdivision (ii) of this subparagraph (whichever is applicable), and his maximum self-employment income for such taxable year for purposes of the tax imposed under section 1401 (b) is the excess of his section 1401 (a) maximum self-employment income over the amount of wages, as defined in subparagraph (3) (iii) of this paragraph, paid to him during the taxable year. For purposes of this subdivision, wages as defined in subparagraph (3) (iii) of this paragraph are deemed paid to an individual in the period with respect to which the payment is made, that is, the period in which the compensation was earned or deemed earned within the meaning of section 3231 (e). For an explanation of the term "compensation" and for provisions relating to when compensation is earned, see the regulations under section 3231 (e) in Part 31 of this chapter (Employment Tax Regulations). The application of the rules set forth in this subdivision may be illustrated by the following example:

Example. M, a calendar-year taxpayer, has $15,000 of net earnings from self-employment for 1974 and during the taxable year is paid $1,000 of wages as defined in section 3121 (a) (see subparagraph (3)(i) of this paragraph) and $1,600 of compensation subject to tax under section 3201 (see subparagraph (3)(iii) of this paragraph). Of the $1,600 of taxable compensation, $1,200 represents compensation for services rendered in 1974 and the balance ($400) represents compensation which pursuant to the provisions of section 3231(e) is earned or deemed earned in 1973. M's maximum self-employment income for 1974 for purposes of the tax imposed under section 1401(a), computed as provided in subdivision (ii) of this subparagraph, is $12,200 ($13,200—$1,000), and for purposes of the tax imposed under section 1401(b) is $11,000 ($12,200—$1,200). However, M may recompute his maximum self-employment income for 1973 for purposes of the tax imposed under section 1401(b) by taking into account the $400 of compensation which is deemed paid in 1973.

(3) *Meaning of term "wages".* For the purpose of the computation described in subparagraph (2) of this paragraph, the term "wages" includes:

(i) Wages as defined in section 3121 (a);

(ii) Such remuneration paid to an employee for services covered by—

(*a*) An agreement entered into pursuant to section 218 of the Social Security Act (42 U.S.C. 418), which section provides for extension of the Federal old-age, survivors and disability insurance system to State and local government employees under voluntary agreements between the States and the Secretary of Health, Education, and Welfare (Federal Security Administrator before April 11, 1953), or

(*b*) An agreement entered into pursuant to the provisions of section 3121 (l), relating to coverage of citizens of the United States who are employees of foreign subsidiaries of domestic corportations,

as would be wages under section 3121 (a) if such services constituted employment under section 3121 (b). For an explanation of the term "wages", see the regulations under section 3121 (a) in Part 31 of this chapter (Employment Tax Regulations); and

(iii) Compensation, as defined in section 3231 (e), which is subject to the employee tax imposed by section 3201 or the employee representative tax imposed by section 3211.

(c) *Minimum net earnings from self-employment.* Self-employment income does not include the net earnings from self-employment of an individual when the amount of such earnings for the taxable year is less than $400. Thus, an individual having only $300 of net earnings from self-employment for the taxable year would not have any self-employment income. However, an individual having net earnings from self-employment of $400 or more for the taxable year may, by application of paragraph (b)(2) of this section, have less than $400 of self-employment income for purposes of the tax imposed under section 1401 (a) and the tax imposed under section 1401 (b) or may have self-employment income of $400 or more for purposes of the tax imposed under section 1401 (a) and of less than $400 for purposes of the tax imposed under section 1401 (b). This could occur in a case in which the amount of the individual's net earnings from self-employment is $400 or more for a taxable year and the amount of such net earnings from self-employment plus the amount of wages, as defined in paragraph (b) (3) of this section, paid to him during the taxable year exceed the maximum self-employment income, as set forth in paragraph (b) (1) of this section, for the taxable year. However, the result occurs only if such maximum self-employment income exceeds the amount of such wages. The application of this paragraph may be illustrated by the following example:

Example. For 1974 M, a calendar-year taxpayer, has net earnings from self-employment of $2,000 and wages (as defined in paragraph (b)(3) (i) and (ii) of this section) of $12,500. Since M's net earnings from self-employment plus his wages exceed the maximum self-employment income for 1974 ($13,200), his self-employment income for 1974 is $700 ($13,200—$12,500). If M also had wages, as defined in paragraph (b)(3) (iii) of this section, of $200, his self-employment income would be $700 for purposes of the tax imposed under section 1401(a) and $500 ($13,200—$12,700 ($12,500+$200)) for

purposes of the tax imposed under section 1401(b).

For provisions relating to when wages as defined in paragraph (b)(3)(iii) of this section are treated as paid, see paragraph (b)(2)(iii) of this section.

* * * * *

PAR. 10. Section 1.1402(c) is amended by revising paragraphs (1) and (2) of section 1402(c), by revising the historical note, and by adding material following the historical note. These amended and added provisions read as follows:

§ 1.1402 (c) Statutory provisions; definitions; trade or business.

Sec. 1402. *Definitions.* * * *

(c) *Trade or business.* * * *

(1) The performance of the functions of a public office, other than the functions of a public office of a State or a political subdivision thereof with respect to fees received in any period in which the functions are performed in a position compensated solely on a fee basis and in which such functions are not covered under an agreement entered into by such State and the Secretary of Health, Education, and Welfare pursuant to section 218 of the Social Security Act;

(2) The performance of service by an individual as an employee, other than—

(A) Service described in section 3121(b)(14)(B) performed by an individual who has attained the age of 18,

(B) Service described in section 3121(b)(16),

(C) Service described in section 3121(b)(11), (12), or (15) performed in the United States (as defined in section 3121(e)(2)) by a citizen of the United States,

(D) Service described in paragraph (4) of this subsection, and

(E) Service performed by an individual as an employee of a State or a political subdivision thereof in a position compensated solely on a fee basis with respect to fees received in any period in which such service is not covered under an agreement entered into by such State and the Secretary of Health, Education, and Welfare pursuant to section 218 of the Social Security Act;

[Sec. 1402(c) as amended by secs. 201(c)(1), (2), and (5), and 205(e), Social Security Amendments 1954 (68 Stat. 1068, 1080, 1092); sec. 201 (e)(3) and (f), Social Security Amendments 1956 (70 Stat. 841); sec. 106(b), Social Security Amendments 1960 (74 Stat. 945); secs. 311(b) (1) and (2) and 319(a), Social Security Amendments 1965 (79 Stat. 381, 390); secs. 115(b)(1) and 122(b), Social Security Amendments 1967 (81 Stat. 839, 843)]

Sec. 122. [Social Security Amendments of 1967]. * * *

(c) [Effective dates] * * *.

(2) Notwithstanding the provisions of subsections (a) and (b) of this section, any individual who in 1968 is in a position to which the amendments made by such subsections apply may make an irrevocable election not to have such amendments apply to the fees he receives in 1968 and every year thereafter, if on or before the due date of his income tax return for 1968 (including any extensions thereof) he files with the Secretary of the Treasury or his delegate, in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe, a certificate of election of exemption from such amendments.

[Sec. 122(c)(2), Social Security Amendments 1967 (81 Stat. 844)]

PAR. 11. Section 1.1402(c)–2 is amended to read as follows:

§ 1.1402(c)–2 Public office.

(a) *In general*—(1) *General rule.* Except as otherwise provided in subparagraph (2) of this paragraph, the performance of the functions of a public office does not constitute a trade or business.

(2) *Fee basis public officials.* [Reserved]

(b) *Meaning of public office.* The term "public office" includes any elective or appointive office of the United States or any possession thereof, of the District of Columbia, of a State or its political subdivisions, or of a wholly-owned instrumentality of any one or more of the foregoing. For example, the President, the Vice President, a governor, a mayor, the Secretary of State, a member of Congress, a State representative, a county commissioner, a judge, a justice of the peace, a county or city attorney, a marshal, a sheriff, a constable, a registrar of deeds, or a notary public performs the functions of a public office.

PAR. 12. Section 1.1402(c)–3 is amended by revising paragraph (a) and by adding a new paragraph (f) immediately after paragraph (e). These amended and added provisions read as follows:

§ 1.1402 (c)–3 Employees.

(a) *General rule.* Generally, the performance of service by an individual as an employee, as defined in the Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code) does not constitute a trade or business within the meaning of section 1402 (c) and § 1.1402 (c)–1. However, in five cases set forth in paragraphs (b) to (f), inclusive, of this section, the performance of service by an individual is considered to constitute a trade or business within the meaning of section 1402(c) and § 1.1402(c)–1. (As to when an individual is an employee, see section 3121 (d) and (o) and the regulations thereunder in Part 31 of this chapter (Employment Tax Regulations).)

* * * * *

(f) *State and local government employees compensated on fee basis*—(1) *In general.* (i) Section 1402(c)(2)(E) and this paragraph are applicable only with respect to fees received by an individual after 1967 for service performed by him as an employee of a State or a political subdivision thereof in a position compensated solely on a fee basis. If an individual performs service for a State or a political subdivision thereof in more than one position, each position is treated separately for purposes of determining whether the service performed in such position is performed by an employee and whether compensation for service performed in the position is solely on a fee basis.

(ii) If an individual receives fees after 1967 for service performed by him as an employee of a State or a political subdivision thereof in a position compensated solely on a fee basis, the service for which such fees are received constitutes a trade or business within the meaning of section 1402(c) and § 1.1402(c)–1 except that if service performed in such position is covered under an agreement entered into by the State and the Secretary of Health, Education, and Welfare pursuant to section 218 of the Social Security Act at the time a fee is received, the service to which such fee relates does not constitute a trade or business. See also paragraph (a) of § 1.1402(c)–2, relating, in part, to the performance of the functions of a public office of a State or a political subdivision thereof by an individual.

(2) *Election with respect to fees received in 1968.* (i) Any individual who in 1968 receives fees for service as an employee of a State or a political subdivision thereof in a position compensated solely on a fee basis may elect, if the performance of the service for which such fees are received constitutes a trade or business pursuant to the provisions of subparagraph (1) of this paragraph, to have such performance of service treated as excluded from the term "trade or business" for the purpose of the tax on self-employment income, pursuant to the provisions of section 122(c)(2) of the Social Security Amendments of 1967 (as quoted in § 1.1402(c)). Such election shall not be limited to service to which the fees received in 1968 are attributable but must also be applicable to service (if any) in subsequent years which, except for the election, would constitute a trade or business pursuant to the provisions of subparagraph (1) of this paragraph. An election made pursuant to the provisions of this subparagraph is irrevocable.

(ii) The election referred to in subdivision (i) of this subparagraph shall be made by filing a certificate of election of exemption (Form 4415) on or before the due date of the income tax return (see section 6072), including any extension thereof (see section 6081), for the taxable year of the individual making the election which begins in 1968. The certificate of election of exemption shall be filed with an internal revenue office in accordance with the instructions on the certificate.

PAR. 13. The following sections are inserted immediately after § 1.1402(e)–1A.

§ 1.1402 (e)–2A Ministers, members of religious orders and Christian Science practitioners; application for exemption from self-employment tax.

(a) *In general.* (1) Subject to the limitations set forth in subparagraphs (2) and (3) of this paragraph, any individual who is (i) a duly ordained, commissioned, or licensed minister of a church or a member of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order) or (ii) a Christian Science practitioner may request an exemption from the tax on self-employment income (see §§ 1.1401 and 1.1401–1) with respect to services performed by him in his capacity as a minister or member, or as a Christian Science practitioner, as the case may be. Such a request shall be made by filing an application for exemption on Form 4361 in the manner provided in paragraph (b) of this section and within the time specified

in § 1.1402(e)–3A. For provisions relating to the taxable year or years for which an exemption from the tax on self-employment income with respect to service performed by a minister or member or a Christian Science practitioner in his capacity as such is effective, see § 1.1402(e)–4A. For additional provisions applicable to services performed by individuals referred to in this subparagraph, see paragraph (e) of § 1.1402(c)–3 and § 1.1402(c)–5 relating to ministers and members of religious orders, and paragraphs (a)(3)(ii) and (b) of § 1.1402(c)–6 relating to Christian Science practitioners.

(2) The application for exemption shall contain, or there shall be filed with such application, a statement to the effect that the individual making application for exemption is conscientiously opposed to, or because of religious principles is opposed to, the acceptance (with respect to services performed by him in his capacity as a minister, member, or Christian Science practitioner) of any public insurance which makes payments in the event of death, disability, old age, or retirement or makes payments toward the cost of, or provides services for, medical care (including the benefits of any insurance system established by the Social Security Act). Thus, ministers, members of religious orders, and Christian Science Practitioners requesting exemption from social security coverage must meet either of two alternative tests: (i) A religious principles test which refers to the institutional principles and discipline of the particular religious denomination to which he belongs, or (ii) a conscientious opposition test which refers to the opposition because of religious considerations of individual ministers, members of religious orders, and Christian Science Practitioners (rather than opposition based upon the general conscience of any such individual or individuals). The term "public insurance", as used in section 1402(e) and this paragraph, refers to governmental, as distinguished from private, insurance and does not include insurance carried with a commercial insurance carrier. To be eligible to file an application for exemption on Form 4361, a minister, member, or Christian Science practitioners need not be opposed to the acceptance of all public insurance making payments of this specified type; he must, however, be opposed on religious grounds to the acceptance of any such payment which, in whole or in part, is based on, or measured by earnings from, services performed by him in his capacity as a minister or member (see § 1.1402(c)–5) or in his capacity as a Christian Science practitioner (see paragraph (b)(2) of § 1.1402(c)–6). For example, a minister performing service in the exercise of his ministry may be eligible to file an application for exemption on Form 4361 even though he is not opposed to the acceptance of benefits under the Social Security Act with respect to service performed by him which is not in the exercise of his ministry.

(3) An exemption from the tax imposed on self-employment income with respect to service performed by a minister, member, or Christian Science practitioner in his capacity as such may not be granted to a minister, member, or practitioner who (in accordance with the provisions of section 1402(e) as in effect prior to amendment by section 115(b)(2) of the Social Security Amendments of 1967 (81 Stat. 839)) filed a valid waiver certificate on Form 2031 electing to have the Federal old-age, survivors, and disability insurance system establish by title II of the Social Security Act extended to service performed by him in the exercise of his ministry or in the exercise of duties required by the order of which he is a member, or in the exercise of his profession as a Christian Science practitioner. For provisions relating to waiver certificates on Form 2031, see §§ 1.1402(e)(1)–1 through 1.1402(e)(6)–1.

(b) *Application for exemption.* An application for exemption on Form 4361 shall be filed in triplicate with the internal revenue officer or the internal revenue office, as the case may be, designated in the instructions relating to the application for exemption. The application for exemption must be filed within the time prescribed in § 1.1402(e)–3A. If the last original Federal income tax return of an individual to whom paragraph (a) of this section applies which was filed before the expiration of such time limitation for filing an application for exemption shows no liability for tax on self-employment income, such return will be treated as an application for exemption, provided that before February 18, 1975 such individual also files a properly executed Form 4361.

(c) *Approval of application for exemption.* The filing of an application for exemption on Form 4361 by a minister, a member of a religious order, or a Christian Science practitioner does not constitute an exemption from the tax on self-employment income with respect to services performed by him in his capacity as a minister, member, or practitioner. The exemption is granted only if the application is approved by an appropriate internal revenue officer. See § 1.1402(e)–4A relating to the period for which an exemption is effective.

§ 1.1402 (e)–3A Time limitation for filing application for exemption.

(a) *General rule.* (1) Any individual referred to in paragraph (a) of § 1.1402(e)–2A who desires an exemption from the tax on self-employment income with respect to service performed by him in his capacity as a minister or member of a religious order or as a Christian Science practitioner must file the application for exemption (Form 4361) prescribed by § 1.1402(e)–2A on or before whichever of the following dates is later:

(i) The due date of the income tax return (see section 6072), including any extension thereof (see section 6081), for his second taxable year ending after 1967, or

(ii) The due date of the income tax return, including any extension thereof, for his second taxable year beginning after 1955 for which he has net earnings from self-employment of $400 or more, any part of which—

(*a*) In the case of a duly ordained, commissioned, or licensed minister of a church, consists of remuneration for service performed in the exercise of his ministry,

(*b*) In the case of a member of a religious order who has not taken a vow of poverty as a member of such order, consists of remuneration for service performed in the exercise of duties required by such order, or

(*c*) In the case of a Christian Science practitioner, consists of remuneration for service performed in the exercise of his profession as a Christian Science practitioner.

See paragraph (c) of this section for provisions relating to the computation of net earnings from self-employment.

(2) If a minister, a member of a religious order, or a Christian Science practitioner derives gross income in a taxable year both from service performed in such capacity and from the conduct of another trade or business, and the deductions allowed by chapter 1 of the Internal Revenue Code which are attributable to the gross income derived from service performed in such capacity equal or exceed the gross income derived from service performed in such capacity, no part of the net earnings from self-employment (computed as prescribed in paragraph (c) of this section) for the taxable year shall be considered as derived from service performed in such capacity.

(3) The application of the rules set forth in subparagraphs (1) and (2) of this paragraph may be illustrated by the following examples:

Example (1). M, who makes his income tax returns on a calendar year basis, was ordained as a minister in January 1960. During each of two or more taxable years ending before 1968 M has net earnings from self-employment in excess of $400 some part of which is from service performed in the exercise of his ministry. M has not filed an effective waiver certificate on Form 2031 (see paragraph (a)(3) of § 1.1402(e)–2A). If M desires an exemption from the tax on self-employment income with respect to service performed in the exercise of his ministry, he must file an application for exemption on or before the due date of his income tax return for 1969 (his second taxable year ending after 1967), or any extension thereof.

Example (2). M, who makes his income tax returns on a calendar year basis, was ordained as a minister in January 1966. M has net earnings of $350 for the taxable year 1966 and has net earnings in excess of $400 for each of his taxable years 1967 and 1968 (some part or all of which is derived from service performed in the exercise of his ministry). M has not filed an effective waiver certificate on Form 2031 (see paragraph (a)(3) of § 1.1402(e)–2A). If M desires an exemption from the tax on self-employment income with respect to service performed in the exercise of his ministry, he must file an application for exemption on or before the due date of his income tax return for 1969 (his second taxable year ending after 1967), or any extension thereof.

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Example (3). Assume the same facts as in example (2) except that M has net earnings in excess of $400 for each of his taxable years 1967 and 1969 (but less than $400 in 1968). The application for exemption must be filed on or before the due date of his income tax return for 1969, or any extension thereof.

Example (4). M was ordained as a minister in May 1973. During each of the taxable years 1973 and 1975, M, who makes his income tax returns on a calendar year basis, derives net earnings in excess of $400 from his activities as a minister. M has net earnings of $350 for the taxable year 1974, $200 of which is derived from service performed by him in the exercise of his ministry. If M desires an exemption from the tax on self-employment income with respect to service performed in the exercise of his ministry, he must file an application for exemption on or before the due date of his income tax return for 1975, or any extension thereof.

Example (5). M, who was ordained a minister in January 1973, is employed as a toolmaker by the XYZ Corporation for the taxable years 1973 and 1974 and also engages in activities as a minister on weekends. M makes his income tax returns on the basis of a calendar year. During each of the taxable years 1973 and 1974 M receives wages of $14,000 from the XYZ Corporation and derives net earnings of $400 from his activities as a minister. If M desires an exemption from the tax on self-employment income with respect to service performed in the exercise of his ministry, he must file an application for exemption on or before the due date of his income tax return for 1974, or any extension thereof. It should be noted that although by reason of section 1402 (b) (1) (G) and (H) no part of the $400 represents "self-employment income", nevertheless the entire $400 constitutes "net earnings from self-employment" for purposes of fulfilling the requirements of section 1402 (e) (2).

Example (6). M, who files his income tax returns on a calendar year basis, was ordained as a minister in March 1973. During 1973 he receives $410 for service performed in the exercise of his ministry. In addition to his ministerial services, M is engaged during the year 1973 in a mercantile venture from which he derives net earnings from self-employment in the amount of $4,000. The expenses incurred by him in connection with his ministerial services during 1973 and which are allowable deductions under chapter 1 of the Internal Revenue Code amount to $410. During 1974 and 1975, M has net earnings from self-employment in amounts of $4,600 and $4,800, respectively, and some part of each of these amounts is from the exercise of his ministry. The deductions allowed in each of the years 1974 and 1975 by chapter 1 which are attributable to the gross income derived by M from the exercise of his ministry in each of such years, respectively, do not equal or exceed such gross income in such year. If M desires an exemption from the tax on self-employment income with respect to service performed in the exercise of his ministry, he must file an application for exemption on or before the due date of his income tax return for 1975, or an extension thereof.

(b) *Effect of death.* The right of an individual to file an application for exemption shall cease upon his death. Thus, the surviving spouse, administrator, or executor of a decedent shall not be permitted to file an application for exemption for such decedent.

(c) *Computation of net earnings*—(1) *Taxable years ending before 1968.* For purposes of this section net earnings from self-employment for taxable years ending before 1968 shall be determined without regard to the fact that, without an election under section 1402(c) (as in effect prior to amendment by section 115 (b)(2) of the Social Security Amendments of 1967, see § 1.1402(c)–1A), the performance of services by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, or by a member of a religious order in the exercise of duties required by such order, or the performance of service by an individual in the exercise of his profession as a Christian Science practitioner, does not constitute a trade or business for purposes of the tax on self-employment income.

(2) *Taxable years ending after 1967.* For purposes of this section and § 1.1402 (e)–4A net earnings from self-employment for taxable years ending after 1967 shall be determined without regard to section 1402(c) (4) and (5). See § 1.1402 (c)–3(c)(2) and § 1.1402(c)–5 relating to ministers and members of religious orders, and paragraphs (a)(3)(ii) and (b) of § 1.1402(c)–6 relating to Christian Science practitioners.

§ 1.1402(e)–4A Period for which exemption is effective.

(a) *In general.* If an application for exemption on Form 4361—

(1) Is filed by a minister, a member of a religious order, or a Christian Science practitioner eligible to file such an application (see particularly paragraph (a) (2) and (3) of § 1.1402(e)–2A), and

(2) Is approved (see paragraph (c) of § 1.1402(e)–2A),

the exemption from the tax on self-employment income shall be effective for the first taxable year ending after 1967 for which such minister, member, or practitioner has net earnings from self-employment of $400 or more any part of which was derived from the performance of service in his capacity as a minister, member, or practitioner, and for all succeeding taxable years. See, however, paragraphs (b)(1)(ii) and (d)(2) of § 1.1402(c)–5 relating to ministers and members of religious orders and paragraph (b)(2) of § 1.1402(c)–6 relating to Christian Science practitioners.

(b) *Exemption irrevocable.* An exemption granted to a minister, a member of a religious order, or a Christian Science practitioner pursuant to the provisions of section 1402(e) is irrevocable.

[FR Doc.74-13260 Filed 7-2-74;8:45 am]

Title 32—National Defense

CHAPTER XIV—THE RENEGOTIATION BOARD

PART 1459—COSTS ALLOCABLE TO AND ALLOWABLE AGAINST RENEGOTIABLE BUSINESS

PART 1470—INFORMATION REQUIRED OF CONTRACTORS

Miscellaneous Amendments

The Renegotiation Board hereby adopts the proposed amendments to Parts 1459 and 1470 of its regulations which were published on October 9, 1974 (39 FR 36352–36354), certain significant changes having been made therein.

Under the proposed amendments as published on October 9, 1974, the Renegotiation Board sought in a two-phase program to require that all financial statements filed with the Renegotiation Board be in conformance with cost accounting standards promulgated by the Cost Accounting Standards Board. The proposed amendments provided that for the first phase (fiscal years beginning after December 31, 1974 but before January 1, 1976), contractors with any renegotiable contracts or subcontracts subject to one or more cost accounting standards would have been required to report all their renegotiable business in conformance with the standards in effect with respect to such renegotiable contracts and subcontracts. For the second phase (fiscal years beginning on or after January 1, 1976), all contractors subject to renegotiation would have been required to file financial statements with the Renegotiation Board in conformance with all cost accounting standards in effect, even though none of the renegotiable business reported in the financial statements was subject to such standards.

Significant changes in the proposed amendments are reflected in the within regulations adopted by the Board. The second phase of the proposed program has been eliminated and conformance with cost accounting standards has been limited only to that portion of a contractor's renegotiable business which is derived from contracts or subcontracts subject to such standards. The remaining portion of the contractor's renegotiable business will be reported in accordance with the contractor's usual method of accounting, except that, under certain circumstances, extended application of cost accounting standards is permissible.

The new regulations, as adopted, read as set forth below.

Dated: December 19, 1974.

REX M. MATTINGLY,
Acting Chairman.

Section 1459.1 is amended as follows:

1. Paragraphs (b) (1) through (7) inclusive are deleted in their entirety and the following inserted in lieu thereof.

2. Paragraph (b) (8) is redesignated as (b) (9) and a new paragraph (b) (8) is added as follows.

§ 1459.1 Statutory provisions and general regulations.

* * * * * *

(b) *Profits, cost allocation and allowance; general*—(1) *Accounting methods.* In connection with renegotiation on an over-all fiscal year basis, except as otherwise provided in these regulations, income received or accrued and costs paid or incurred will be considered as having been received or accrued or paid or incurred in the fiscal year to which such items are to be attributed in accordance with the method of accounting

employed by the contractor in determining net income for Federal income tax purposes or in accordance with such other method of accounting as the contractor and the Board may agree upon pursuant to the provisions of paragraph (b)(3) of this section: *Provided*, That, the method of accounting to be employed is not in conflict with the contractor's obligations under paragraph (b)(2) of this. Except with respect to allocations made pursuant to such paragraph (b)(2), nothing in the preceding sentence shall affect the authority of the Board under section 103 (f) and (i) of the Act to determine the income received or accrued or the costs paid or incurred by the contractor with respect to renegotiable business in a fiscal year in accordance with such method of accounting as, in the opinion of the Board, properly reflects such income or costs, if the method of accounting employed by the contractor in determining net income for Federal income tax purposes does not, in the opinion of the Board, properly reflect such income or costs, and the contractor and the Board are unable to agree upon a method which does properly reflect such income or costs.

(2) *Cost accounting standards.* The Board was designated a "relevant Federal agency" by Cost Accounting Standards Board regulation, § 331.2, 4 CFR 331.2, issued under Pub. L. 91-379 (84 Stat. 796, approved August 15, 1970), 50 U.S.C. App. 2168. Accordingly, the Board extends recognition to cost accounting standards promulgated by the Cost Accounting Standards Board, and in filing financial statements with the Renegotiation Board, contractors are required to comply with such standards as provided herein.

(i) *Fiscal years beginning after December 31, 1974.* For fiscal years beginning after December 31, 1974, contractors with any renegotiable contracts or subcontracts subject to one or more cost accounting standards are required to file financial statements with the Renegotiation Board in conformance with these standards for that portion of their renegotiable business subject to such standards, with the remaining portion of their renegotiable business to be reported in such financial statements in accordance with the provisions of paragraph (b)(1) of this section, except as provided in paragraphs (b)(2)(ii) (*a*), (*b*) and (*c*) of this section.

(ii) *Extended application of cost accounting standards.* For fiscal years beginning after December 31, 1974, contractors subject to cost accounting standards for a portion of their renegotiable business who file financial statements with the Renegotiation Board as provided in subsection paragraph (b)(2)(i) of this section, may extend the application of such cost accounting standards in the following manner:

(*a*) In addition to that portion of the renegotiable business that is subject to one or more cost accounting standards and required to be reported for renegotiation purposes in accordance with such standards, contractors may report all other renegotiable business within the same profit center (as defined in § 351.30 of the Cost Accounting Standards Board regulations, 4 CFR 351.30) in accordance with such cost accounting standards.

(*b*) In addition to that portion of the renegotiable business that is subject to one or more cost accounting standards and required to be reported for renegotiation purposes in accordance with such standards, or any renegotiable business reported as provided in paragraph (b)(2)(ii)(*a*) of this section, contractors, with Board approval, may report any other renegotiable business in accordance with such standards.

(*c*) Financial statements filed with the Renegotiation Board pursuant to paragraphs (b)(2)(ii)(*a*) or (ii)(*b*) of this section shall conform with all other requirements of this part of the regulations, including the requirement that no item will be allowed as a cost of renegotiable business to the extent that such item has, in a previous renegotiation under the act, been allowed as a cost of renegotiable business (see RBR § 1459.1(c)(8)); and the requirement that any reporting practice followed pursuant to (b)(2)(ii)(*a*) or (*b*) must be followed in subsequent fiscal years (see, for example, RBR § 1459.1(c)(1)).

(iii) *Accounting period.* The Renegotiation Board has been excepted from certain provisions of Cost Accounting Standard No. 406, "Cost Accounting Period." Thus, where the contractor's cost accounting period is different from its fiscal year under the Act, the latter shall be used.

(3) *Differing accounting methods.* (i) The Board will permit a contractor to adopt for renegotiation purposes a method of accounting other than that used by the contractor for Federal income tax purposes, *provided* That:

(*a*) The method of accounting to be adopted is not in conflict with the contractor's obligation under 50 U.S.C. App. 2168 or paragraph (b)(2) of this section to comply with the cost accounting standards.

(*b*) The Board finds that the method of accounting employed by the contractor for Federal income tax purposes is manifestly unsuitable for the purpose of renegotiation because it does not clearly reflect the profits attributable to the contractor's performance of renegotiable contracts for the fiscal year under review, and the method of accounting to be adopted does clearly reflect such profits; and

(*c*) The contractor enters into a written agreement with the Board before the conclusion of the renegotiation proceedings for the year under review, providing among other things substantially as follows:

(*1*) That the contractor will employ such different method of accounting for the purposes of the renegotiation proceedings for the year under review and all subsequent years, whether such proceedings are concluded by agreement or order;

(*2*) That no cost or expense recognized in the renegotiation proceedings for the first year covered by the agreement will be recognized in any subsequent renegotiation proceeding; and

(*3*) That the computation of losses, if any, in preceding fiscal years (see § 1457.9 of this chapter) will be made on the basis of such different method of accounting.

(ii) Under this section, a contractor may adopt a different method of accounting for the purpose of determining all amounts received or accrued and costs paid or incurred in a fiscal year, as in the case of a change from a cash receipts and disbursements method of accounting to an accrual method of accounting; or it may adopt a different method of accounting for a particular item of cost or for a particular class of items of cost which would result in recognizing such item or items in one fiscal year rather than another.

(iii) Subject to the foregoing conditions, the Board will also permit a contractor to adopt for renegotiation purposes the completed contract method of accounting for contracts to be performed over a period of more than one fiscal year, which, because of circumstances of performance, would require estimates of performance and allocation of income and cost that could result in material distortion in accounting on an interim basis prior to completion. Such contracts may include contracts for construction of major facilities or major units (such as a vessel or group of vessels) when the profits can best be determined upon completion.

(iv) If a contractor employs, for the purposes of a renegotiation proceeding relating to the year under review, a method of accounting different from that which it employed for the purposes of a renegotiation proceeding relating to the preceding fiscal year, whether pursuant to this section or otherwise, it will be required to employ such different method of accounting for the purposes of all subsequent renegotiation proceedings, and the amounts received or accrued and costs paid or incurred which have been recognized in prior renegotiation proceedings will not be recognized in the proceedings relating to the year under review.

(4) *Allocation of costs.* In general, except as provided in paragraph (b)(2) of this section, the costs paid or incurred with respect to renegotiable business in the fiscal year under review will be the costs allocated to such business and such year by the contractor's established cost accounting method if that method reflects recognized accounting principles and practices. If in the opinion of the Board there is no adequate or effective cost accounting method in use, or if the method employed does not properly reflect such costs because there are unjustified or improper allocations of items of cost in the accounting records or in the

reports or statements filed for the purpose of renegotiation, costs will be allocated in accordance with such method as in the opinion of the Board does properly reflect such costs. The fact that all receipts and accruals during a fiscal year are classifiable as renegotiable does not necessarily mean that all items of cost estimated to be deductible in that year are allocable to renegotiable business.

(5) *Tax deductions.* When an item of cost is allocable in whole or in part to renegotiable business, the Board will estimate the amount allowable as a deduction or exclusion under chapter 1 of the Internal Revenue Code, and such estimated amount will be allowed as a cost of renegotiable business in the fiscal year under review to the extent that it is allocable to such business and such year in accordance with the principles set forth in this paragraph (b). No such item of cost will be allowed in an amount less than or in excess of that estimated to be in the determination of taxable income under the Internal Revenue Code, and all items of cost will be allocated to the fiscal year in which they are allowable in the determinatoin of taxable income under said Code, except as otherwise provided in this paragraph (b). When it is clear that a contractor's deductions and exclusions under the Internal Revenue Code result in allowable costs of renegotiable business which are in the aggregate either high or low on a comparative basis, this circumstance will be considered in connection with the factor of the "reasonableness of costs" of the contractor and the determination of the amount of any profit adjustment to be required of the contractor. In estimating amounts allowable as deductions or exclusions under chapter 1 of the Internal Revenue Code, due consideration will be given to any pertinent action by the Internal Revenue Service. Published rulings of the Internal Revenue Service on matters of general application will be adhered to in making such estimates. However, the allowance of items as costs is not required merely because they have been or are expected to be allowed for tax purposes by particular revenue agents or other field representatives of the Internal Revenue Service. Occasionally cases may be encountered in which revenue agents will have allowed salaries or other items as deductions for tax purposes which the Board concludes are not properly allowable under the Internal Revenue Code or are properly allowable in a different amount or for a different year. In such cases the action of the revenue agents is not regarded as conclusive. Similarly, disallowances by such officials are not conclusive. The Board will exercise independent judgment on whether and to what extent and for what year items are allowable as deductions or exclusions under the Internal Revenue Code. Such judgment will be based upon an estimate of what the courts would do if the deductibility or excludability of the items were the subject of litigation.

(6) *Effect of cost principles promulgated by other agencies.* Agreements for the allowance or disallowance of costs entered into by a contractor with another agency of the Government, either by specific contractual provision or by acceptance (expressed or implied) of Government regulations or policies, are not controlling with respect to recognition of Thus, a cost properly disallowed in ac- such costs for renegotiation purposes. cordance with the Armed Services procurement regulation, in connection with a contract to which such regulation is applicable, will nevertheless be recognized for renegotiation purposes if such cost is a proper Federal income tax deduction. Similarly, an item allowable as a "cost" by such regulation or by specific contractual agreement will not be allowed unless it is a proper Federal income tax deduction. Furthermore, a specific agreement that additional proper costs incurred in performing a contract will not be claimed as an addition to the contract price will not result in the non-recognition of such cost for renegotiation purposes.

(7) *Conditional allowance of cost.* If an occasion should arise in which the Board is unable to make a reasonable estimate of whether or the extent to which a particular item is allowable as a deduction or exclusion under the Internal Revenue Code for the year under review and the item is material in relation to the excessive profits to be eliminated, the Board may allow the item as a cost in renegotiation, *provided,* That the contractor agrees to refund as additional excessive profits the amount so allowed to the extent that such amount may finally be determined to be not allowable as a deduction or exclusion under the Internal Revenue Code for the year under review.

(8) *Costs previously allowed in renegotiation.* No item will be allowed as a cost of renegotiable business to the extent that such item has, in a previous renegotiation under the act or under any other renegotiation law, been allowed as a cost in determining excessive profits, notwithstanding that such item may be a deduction or exclusion under chapter 1 of the Internal Revenue Code in computing taxable net income for the taxable period corresponding to the fiscal period covered by the current renegotiation.

(9) *Replacement of inventory involuntarily liquidated.* • • •

• • • • •

Section 1470.3 *Filing of financial statement* is amended as follows:

1. Paragraph (c) is amended by designating the existing material as (c)(1), *General,* and by inserting immediately following paragraph (c)(1) the following new paragraph (c)(2) as follows:

§ 1470.3 Filing of financial statement.

• • • • •

(c) *Sufficiency of contents.* (1) *General.* • • •

(2) *Cost accounting standards.* The Board recognizes the cost accounting standards promulgated by the Cost Accounting Standards Board. To the extent one or more such standards are applicable to a fiscal year, under the provisions of 50 U.S.C. App. 2168 and § 1459.1(b)(2) of this chapter, the Standard Form of Contractor's Report shall be prepared in accordance therewith. Upon request there shall be filed with the Board copies of disclosure statements, if any, and other explanatory documents and information filed with the Cost Accounting Standards Board and procurement agencies.

• • • • •

(Sec. 109, 65 Stat. 22; 50 U.S.C.A., App. Sec. 1219)

[FR Doc.74-30009 Filed 12-23-74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74 295]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

GIWW, Mile 57.6 Through Mile 59.8, West of Harvey Lock, Houma, La.

This amendment changes the regulations for the drawbridges located across the GIWW at mile 57.6 through mile 59.8, west of Harvey Lock, Houma, Louisiana to allow closed periods during the morning and evening rush hour vehicular traffic. This amendment is required while extensive repairs are completed on the drawbridge located at mile 57.7. Marine interests have agreed to this temporary restriction. The Coast Guard has found that good cause exists for granting this change without notice of proposed rule making on the basis that it would be contrary to the public interest to delay this work.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.241 immediately after § 117.240 to read as follows:

§ 117.241 GIWW, Houma, Louisiana, bridges.

(a) The drawbridges located at mile 57.6 through mile 59.8, west of Harvey Lock, Houma, Louisiana need not open for the passage of vessels from 7:30 to 8:30 a.m. and 4:30 to 5:30 p.m., Monday through Friday, except holidays.

(b) These regulations shall be revoked as of January 31, 1975.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499), (49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall become effective on December 24, 1974.

Dated: December 16, 1974.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.74-29963 Filed 12-23-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 138]

PART 1–3—PROCUREMENT BY NEGOTIATION

PART 1–5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

Negotiated Cost Contracts

This amendment of the Federal Procurement Regulations makes two changes in Subpart 1–3.8. The changes concern the elimination of exemptions from the requirements for obtaining cost or pricing data where negotiated cost contracts involve construction or basic research with educational institutions. In addition, the amendment changes Subpart 1–5.9 to eliminate a reference regarding the use of GSA sources of supply by grantees and to eliminate a requirement that agencies submit copies of authorizations to the General Services Administration, Federal Supply Service, for cost reimbursement contractors to use GSA sources of supply.

Subpart 1–3.8—Price Negotiation Policies and Techniques

Section 1–3.807–3 is amended to modify paragraph (b) as follows:

§ 1–3.807–3 Requirements for cost or pricing data.

* * * * *

(b) The requirements of paragraph (a) of this section need not be applied (1) where the contracting officer determines, in writing, that the price negotiated is based on (i) adequate price competition, (ii) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (iii) prices set by law or regulation, or (2) where, in exceptional cases, the head of the agency or his authorized designee authorizes the waiver of those requirements and states in writing his reasons for such determination (see § 1–3.302(e)).

* * * * *

Subpart 1–5.9—Use of GSA Supply Sources by Contractors Performing Cost-Reimbursement Type Contracts

Section 1–5.900 is amended as follows:

§ 1–5.900 Scope of subpart.

This subpart prescribes policies and procedures for Federal agencies regarding the use of General Services Administration (GSA) supply sources (i.e., items available through Federal Supply Schedule contracts and from GSA stores stock) by contractors in performing certain Government contracts. The term "contractor" as used in this subpart, unless the context otherwise requires, includes subcontractors who qualify in accordance with the provisions of § 1–5.902(b). (The use of GSA sources by grantees is not authorized.)

Section 1–5.902 is amended to modify paragraph (f), as follows:

§ 1–5.902 Authorization to contractors.

* * * * *

(f) Copies of each authorization shall be forwarded to the Federal Supply Service of the General Services Administration regional office serving the geographical area in which the facilities of the authorized contractor are located.

* * * * *

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c))

Effective date. This amendment is effective January 27, 1975, but may be observed earlier.

Dated: December 17, 1974.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.74–29917 Filed 12–23–74;8:45 am]

SPECIAL AND DIRECTED SOURCES OF SUPPLY, ILLUSTRATION OF FORMS, OFFICE SYMBOLS

Miscellaneous Amendments

The revision to AECPR 9–5.5206–5 is being made in order to cancel the moratorium imposed by FPMR 101–25.104–2 on the purchase of steel filing cabinets by either AEC or cost-type contractors, and to delete the requirement for obtaining GSA approval of such direct AEC procurements. These changes are being made to bring AECPR into accord with FPMR Amendment E–144 dated June 19, 1974. The revision to AECPR 9–16.9 is intended to bring AECPR 9–16.951–2 (AEC 103a) Purchase Order Terms, in line with the latest organizational changes, as well as with AEC and Federal Procurement Regulation requirements. The remaining change is being made for the purpose of updating AECPR 9–53.202 to reflect the assignment of the symbol "DR" to identify purchase orders issued by the Director of Regulation in accordance with the recent delegation to him of contractual authority.

PART 9–5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

1. Paragraphs (a) and (b) of § 9–5.5206–5 are revised as follows:

§ 9–5.5206–5 Steel filing cabinets.

(a) Procurement of steel filing cabinets, by either AEC or cost-type contractors, is subject to AEC utilization requirements.

(b) Direct AEC procurements of steel filing cabinets are subject to the requirements of FPMR 101–26.308. These requirements do not apply to grantees or contractors authorized to use GSA supply sources. However, such filing cabinets shall not be procured by AEC cost-type contractors unless approved by the Manager of the cognizant Field Office, on the bases that AEC utilization requirements have been met and the actions prescribed by FPMR 101–25.302–2 have been taken. A copy of the Field Office approval shall be retained in the appropriate purchasing office files.

PART 9–16—PROCUREMENT OF FORMS

* * * * *

2. In § 9–16.951–2, paragraph 10 is revised as follows:

§ 9–16.951–2 (AEC 103a) Purchase Order Terms.

* * * * *

10. *Contract Work Hours and Safety Standards Act—Overtime Compensation.* See the clause set forth in FPR 1–12.303, including the revision to paragraph (c) thereof as required by AECPR 9–12.302.

* * * * *

3. In § 9–16.951–2, paragraph 13 is revised as follows:

§ 9–16.951–2 (AEC 103a) Purchase Order Terms.

* * * * *

13. *Priorities, Allocations, and Allotments.* The contractor shall follow the provisions of DMS Regulation 1 and all other applicable regulations and orders of the Domestic and International Business Administration, Department of Commerce in obtaining controlled materials and other products and materials needed to fill this order.

PART 9–53—NUMBERING AND DISTRIBUTION OF CONTRACTS AND ORDERS

4. Section 9–53.202, is revised as follows:

§ 9–53.202 Procurement office symbols.

The symbols assigned for the purpose of identifying AEC procurement offices on purchase orders issued by them are set forth as follows:

Procurement office:	*Order prefix*
Albuquerque	AL–
Brookhaven	BH–
Chicago	CH–
Dayton	DA–
Grand Junction	GJ–
Idaho Falls	ID–
Kansas City	KC–
Los Alamos	LS–
New Brunswick	NB–
Nevada	NV–
Oak Ridge	OR–
Paducah	PD–
Portsmouth	PM–
Pittsburgh	PN–
Puerto Rico	PR–
Richland	RL–
San Francisco	SF–
Savannah River	SR–
Headquarters Services	WA–
Director of Regulation	DR–

(Sec. 161 of the Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; Sec. 205 of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, (40 U.S.C. 486))

Effective date: This amendment is effective December 24, 1974.

Dated at Germantown, Maryland this 19th day of December, 1974.

For the Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

[FR Doc.74–30090 Filed 12–23–74;8:45 am]

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CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER C—SUPPLY AND PROCUREMENT

[FPMR Amdt. E–156]

PART 101–25—GENERAL

Subpart 101–25.3—Use Standards

USE OF UNLEADED GASOLINE IN 1975 MODEL YEAR GOVERNMENT-OPERATED MOTOR VEHICLES

This regulation provides revised policy requiring that only unleaded gasoline be used in all 1975 or later model year Government-operated motor vehicles designed to operate on such fuel.

Section 101–25.303 is revised to read as follows:

§ 101–25.303 Gasoline for use in motor vehicles.

Pursuant to the regulations of the Environmental Protection Agency (EPA), codified in 40 CFR Part 80, unleaded (0.05 gm./gal.) gasoline shall be used in 1975 or later model year Government-operated motor vehicles designed to operate on such fuel (passenger carrying vehicles and trucks up to and including 6000 lbs. GVWR) within the 50 States. For 1974 or earlier model year Government-operated motor vehicles within the 50 States, unleaded or low-lead content (0.5 gm./gal.) gasoline shall be used unless it is clearly impractical or unfeasible to do so.

(a) Government-operated motor vehicles used overseas shall be fueled in accordance with this § 101–25.303 unless (1) such use would be in conflict with country-to-country or multinational logistics agreements or (2) such gasolines are not available locally.

(b) The cost of gasoline shall not be used as a factor in determining the feasibility of using unleaded or low-lead content gasoline in 1974 or earlier model year Government-operated motor vehicles; however, manufacturers' recommendations for octane requirements and minimum lead content shall be generally followed.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Effective date. This regulation is effective December 24, 1974.

Dated: December 12, 1974.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.74–22918 Filed 12–23–74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 74–1285]

PART 73—RADIO BROADCAST SERVICES

Two-Tone Attention Signal System

Correction

In FR Doc. 74–28960 appearing at page 43301 in the issue for Thursday, December 12, 1974 make the following change:

In the center column, in § 73.906(a), the third line should read "quencies of 583 and 960 hertz and shall".

[Docket No. 19988 FCC 74–1279]

PART 76—CABLE TELEVISION SERVICES

Cable Television Systems, Development of Services

Correction

In FR Doc. 74–28962 appearing at page 43310 in the issue for Thursday, December 12, 1974 make the following change:

In the third column, in § 76.305(c), the third line from the bottom should read "(a)(7) shall be retained for the periods".

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 726]

BURLEY TOBACCO

Determinations on Marketing Quotas for the 1975–76 Marketing Year

Pursuant to the Agricultural Adjustment Act of 1938, as amended, (7 U.S.C. 1281 et seq., hereinafter referred to as the "Act"), the Secretary is preparing to determine and announce the amount of the national marketing quota, the national reserve and the national factor for burley tobacco for the 1975–76 marketing year.

Section 319(b) of the Act provides that the national marketing quota for the 1975–76 marketing year shall be determined and announced not later than February 1, 1975. Burley tobacco farmers approved marketing quotas on a poundage basis for the 1974–75, 1975–76, and 1976–77 marketing years (39 FR 23985).

Section 319(c) provides that the national marketing quota shall be the amount produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 5 per centum of such estimated utilization and exports. For each marketing year for which marketing quotas are in effect under this section, the Secretary in his discretion may establish a reserve (hereinafter referred to as the "national reserve") from the national marketing quota in an amount not in excess of 1 per centum of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas are not otherwise established.) A reserve of 3,000,000 pounds was established for the 1974–75 marketing year (39 FR 4565).

The Act (7 U.S.C. 1301(b)) defines "Total supply" as the carry-over at the beginning of the marketing year (October 1) plus the estimated production in the United States during the calendar year in which the marketing year begins. The total supply for the 1974–75 marketing year is 1,643 million pounds, composed of carry-over of 1,071 million pounds and estimated production of 572 million pounds.

The Act (7 U.S.C. 1301(b)) defines "Reserve supply level" as normal supply plus 5 percent. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports as an allowance for a normal carry-over. A "Normal year's domestic consumption" is defined as the yearly average quantity produced in the United States and consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "Normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the ten marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports. The reserve supply level for the 1974–75 marketing year was determined to be 1,635 million pounds, calculated from a normal year's domestic consumption of 530 million pounds and a normal year's exports of 60 million pounds (39 FR 4565). The proposed reserve supply level for the 1975–76 marketing year is 1,701 million pounds, calculated from a normal year's domestic consumption of 538 million pounds and a normal year's exports of 85 million pounds.

The amount of burley tobacco produced in the United States and estimated to have been utilized in the United States during the 1973–74 marketing year was 533 million pounds, and the amount exported was 87 million pounds, farm-sales weight basis. The amount of the national marketing quota for the 1974–75 marketing year is 608 million pounds based upon estimated utilization in the United States of 565 million and estimated exports of 75 million pounds, with a downward adjustment of 32 million pounds (39 FR 4565). For the 1975–76 marketing year, utilization in the United States is estimated to be about 555 million pounds and exports are estimated to be about 95 million pounds. The total supply for the 1974–75 marketing year is 58 million pounds less than the proposed reserve supply level, but the amount of the upward adjustment, if any, desirable for maintaining an adequate supply is still being considered.

Section 319(e) provides, in part, that the farm marketing quota shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined: *Provided*, That such national factor shall not be less than 95 per centum.

Section 319(i) provides, in part, that if the Secretary, in his discretion, determined it is desirable to encourage additional marketings of any grades of burley tobacco during any marketing year to insure traditional market patterns to meet the normal demands of export and domestic markets, he may authorize the marketing of such grades without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced, and such marketings shall be eligible for price support.

Section 319(h) provides that effective with the marketing year beginning October 1, 1976, no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any of the five years immediately preceding the year for which farm marketing quotas are being established.

The subjects and issues involved in the proposed determinations with respect to burley tobacco for the 1975–76 marketing year are:

1. The amount of the national marketing quota.
2. The amount of the reserve supply level.
3. The amount of the national reserve.
4. Whether the Secretary should implement the provision in section 319(i) to encourage additional marketings of any grades to insure traditional market patterns.

The national factor is not considered an issue in these determinations because it results from a mathematical computation under section 319(e).

Consideration will be given to data, views and recommendations pertaining to the proposed determinations, rules and regulations covered by this notice which are submitted in writing to the Director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in room 6741-South Building, 14th and Independence Avenue SW., Washington, D.C. All submissions must, in order to be sure of consideration, be postmarked not later than January 14, 1975.

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Signed at Washington, D.C. on: December 20, 1974.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.74-30061 Filed 12-23-74;8:45 am]

DEPARTMENT OF LABOR

Office of Employee Benefits Security

[29 CFR Part 2552]

FIDUCIARY RESPONSIBILITY

Regulations Under the Employee Retirement Income Security Act of 1974

Section 403(a) of the Employee Retirement Income Security Act of 1974 (the Act) requires generally that assets of employee benefit plans be held in trust by one or more trustees. Section 403(b)(4) of the Act provides that this requirement shall not apply to a plan which the Secretary of Labor (the Secretary) exempts from such requirement and which is not subject to any of the following provisions of the Act: Part 2 of Title I (participation and vesting), Part 3 of Title I (funding), or Title IV (plan termination insurance).

The proposed regulation would exempt any unfunded welfare benefit plan from the requirements of section 403(a) of the Act. For the purposes of this regulation, any welfare benefit plan under which benefits are paid or to be paid directly to plan participants and beneficiaries only from the general assets of the person establishing or maintaining the plan is to be considered an unfunded welfare benefit plan. A plan is not an unfunded welfare benefit plan if plan participants and beneficiaries make contributions to the plan through withholding or otherwise, or if there is a separately maintained bank account or other evidence of the existence of a segregated or separately maintained or administered fund out of which plan benefits are to be provided. All funded employee benefit plans, welfare or pension, would still be subject to the requirements of section 403(a).

Unfunded welfare benefit plans do not have assets. In such plans, benefits are paid directly from the general assets of the person establishing or maintaining the plan. Therefore, the underlying rationale for the Act's requirement that a trust be utilized—to prevent commingling of plan assets with assets belonging to the person managing the plan assets—is not applicable to such unfunded plans.

It should be noted that the exemption proposed by this regulation for unfunded welfare benefit plans applies only to the requirement that the assets of employee benefit plans generally be held in trust by one or more trustees. A plan exempted under this regulation must still comply with the other requirements set forth in Parts 1 and 4 of Title I of the Act, except to the extent to which it may be exempted therefrom under the provisions of other regulations issued under the Act. Furthermore, any person who is a fiduciary with respect to an unfunded welfare benefit plan must still comply with the other fiduciary responsibility provisions of the Act.

Interested persons are invited to submit comments to "Comments—Section 2552.1," Office of Employee Benefits Security, Labor-Management Services Administration, P.O. Box 176, Washington, D.C. 20044. All comments received before January 24, 1975, will be considered before final action is taken on this proposal. The proposal may be changed in light of the comments received.

Accordingly, it is proposed to amend Chapter XXV of Title 29 of the Code of Federal Regulations by adding a new Part 2552 to read as follows:

PART 2552—CONTROL AND MANAGEMENT OF FUNDS

Sec.
2552.1 Exemption from trust requirements for unfunded welfare benefit plans.

AUTHORITY: (Sec. 505, Pub. L. 93-406, 88 Stat. 894 (29 U.S.C. 1135), and also as specifically noted).

§ 2552.1 Exemption from trust requirements for unfunded welfare benefit plans.

(a) Under the authority of section 403(b)(4) of the Employee Retirement Income Security Act of 1974 (the Act), any employee welfare benefit plan under which benefits are paid or to be paid directly to plan participants and beneficiaries only from the general assets of the person who established the plan is hereby exempted from the requirements of section 403(a) of the Act, which generally requires that assets of employee benefit plans be held in trust by one or more trustees.

(b) The exemption set forth in paragraph (a) above does not exempt an unfunded employee welfare benefit plan from any other provisions of Parts 1 and 4 of Title I of the Act. Any person who is a fiduciary with respect to an unfunded welfare benefit plan must still comply with the other fiduciary responsibility provisions of the Act.

Signed at Washington, D.C., this 19th day of December, 1974.

PAUL J. FASSER, JR.,
Assistant Secretary of Labor, for Labor-Management Relations.

[FR Doc.74-30007 Filed 12-23-74;8:45 am]

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. OSHA-30]

EMPLOYMENT RELATED HOUSING (TEMPORARY LABOR CAMPS)

Notice of Hearing

On September 23, 1974, pursuant to section 6(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655), Secretary of Labor's Order No. 12-71 (36 FR 8754) and 29 CFR Part 1911, a proposal was published in the FEDERAL REGISTER (39 FR 34057) to revise § 1910.142 of Title 29, Code of Federal Regulations, which concerns employment related housing.

In accordance with the provisions of the proposal, and with the notice which appeared in the FEDERAL REGISTER (39 FR 40505, November 18, 1974) extending the period for submitting written comments, numerous comments and requests for informal hearings were received.

There were numerous objections to the proposal by employees, employers and their respective representatives. Objections by or on behalf of employees asserted that the proposed regulations would not provide a safe and healthful place of employment, while objections by or on behalf of employers alleged that in many instances the regulations would be too stringent. Some of the major issues raised in the comments dealt with bathing facilities, electricity, windows, screening, shelter structures, spacing requirements for beds and living areas, toilet facilities, cooking facilities, and adequacy of the water supply.

Some commenters asserted that the scope of the proposed regulations exceeded the authority of the Occupational Safety and Health Administration because some regulations would be neither necessary nor appropriate for the protection of employees. It was also suggested that the regulations should not apply to marine housing or to housing provided by an employer which is used by an employee as a permanent residence. Others commented that the protection which would be afforded by the proposed regulations would not extend to non-employee occupants and, in addition, would place the burden upon the employee to prove that occupancy of the housing facility was a condition of employment.

In view of the interest shown during the written comment period and pursuant to section 6(b)(3) of the Act (84 Stat. 1594, 29 U.S.C. 655) and 29 CFR Part 1911, I have directed that an informal hearing be held in four locations concerning the proposed standard. Oral data, views and arguments with respect to any of the provisions of the proposed housing standard will be heard before an administrative law judge or judges to be designated for this purpose.

A prehearing conference commencing at 9:30 a.m. local time will be held at each location, in order to establish the order and time for the presentation of statements and to settle any other procedural matters relating to the proceeding. The hearings will begin immediately thereafter and will be held as follows:

Jan. 20, 1975	Departmental Auditorium, Conference Room B, Constitution Ave. between 12th & 14th Sts.
Jan. 28, 1975	Federal Office Building, room 418, 234 Summit St., Toledo, Ohio.
Jan. 28, 1975	Galt Ocean Mile Hotel, Board Rooms A and B, 3200 Galt Ocean Dr., Fort Lauderdale, Fla.
Feb. 4, 1975	U.S. Department of Interior, Bonneville Power, Administration Auditorium, 1002 Northeast Holladay St., Portland, Oreg.

Interested persons wishing to appear at any one of the listed hearings must file a written notice of intention to appear, together with two copies, postmarked no later than January 15, 1975. Such requests should be addressed to Mrs. Jeanne Ferrone, Attn: Docket OSH–38, Occupational Safety and Health Administration, Room 200, 1726 M Street, NW Washington, D.C. 20210. The notice must state the name and address of the person wishing to appear, the capacity in which he will appear, and the approximate amount of time required for his presentation. The notice must also include or be accompanied by, a statement of the position to be taken in regard to the specific issues to be raised, and the evidence to be adduced in support to this position. For persons wishing to appear at the hearings but unable to attend, written statements postmarked no later than January 20, 1975 may be submitted to the above address. The written statements should be submitted in triplicate.

The hearing shall be conducted in accordance with the rules of procedure in 29 CFR Part 1911. The oral proceedings shall be reported verbatim. The use of prepared statements by witnesses is encouraged. An original and two copies of all documents should be submitted at the time of the presentation.

The administrative law judge shall have all the powers necessary or appropriate to conduct a fair and full informal hearing, including the powers:

(a) To regulate the course of the proceeding;

(b) To dispose of procedural requests, objections, and comparable matters;

(c) To confine the presentations to pertinent issues;

(d) To regulate the conduct of those present at the hearing by appropriate means;

(e) In his discretion, to permit cross-examination of any witness; and

(f) In his discretion, to keep the record open for a reasonable, stated time to receive written recommendations, supporting reasons, and additional data, views, and arguments from any person who has participated in the oral proceeding.

Following the close of the hearings, the presiding administrative law judge shall certify the entire record of the hearings to the Assistant Secretary of Labor for Occupational Safety and Health.

Upon consideration of the record of the hearing, and any written data, views, or arguments received in response to the notice of proposed rulemaking, a determination may be made to adopt the proposal with or without changes or to withdraw the proposal.

Signed at Washington, D.C. this 20th day of December, 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74–30108 Filed 12–23–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Urban Mass Transportation Administration

[Dockets Nos. 74–10, 74–11 and 74–14]

[23 CFR Parts 450 and 470]

[49 CFR Part 613]

URBAN TRANSPORTATION PLANNING

Extension of Comment Period

This notice extends the period for comments to the notice published October 9, 1974 (39 FR 36350) proposing urban area boundary regulations, and the notices published on November 8, 1974 (39 FR 39660, 39665), proposing urban transportation planning regulations and transportation improvement program regulations.

A number of requests for extensions of time were submitted including one from the American Public Transit Association (APTA). Among other matters, APTA felt the need for additional time to consider the impact on the proposed procedures of the recently enacted National Mass Transportation Assistance Act of 1974 (Pub. L. 93–503). The Maryland Department of Transportation also requested an extension in view of the substantial implication to existing State laws and procedures. A number of other States and organizations informally requested an extension for reasons similar to those formally expressed by APTA and the Maryland Department of Transportation. Accordingly, UMTA and FHWA grant these requests and extend the comment period until January 15, 1975. If further analysis of the National Mass Transportation Assistance Act of 1974 indicates that substantive amendments should be made to these proposed regulations, they will be published at a later time; however, at this time it is not anticipated that these proposed regulations will require any major amendment necessitating republication for formal comment.

Dated: December 18, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

FRANK C. HERRINGER,
Urban Mass Transportation Administrator.

[FR Doc.74–29880 Filed 12–23–74;8:45 am]

ACTION

[48 CFR Part 1213]

ACTION COOPERATIVE VOLUNTEER PROGRAM

Terms and Conditions of Volunteer Service

The ACTION Cooperative Volunteer Program (ACV) is authorized under section 122(a), Part C, Title I, of the Domestic Volunteer Act of 1973, Pub. L. 93–113. It provides full-time volunteer service opportunities for individuals on projects involving a broad range of human, social, and environmental needs. Full-time service involves the enrollment of individuals in the program for a period of at least a year. In keeping with 402(12) of Pub. L. 93–113, volunteer sponsors enter into an agreement with ACTION to reimburse ACTION for the direct costs of volunteer support, i.e. allowances, stipend and other direct benefits. Ths feature distinguishes ACV from other Title I full-time volunteer programs such as VISTA and the Program for Local Service.

Section 122(b) requires that the assignment of volunteers under Part C, Ttle I of Pub. L. 93–113 be on such terms and conditions as the Director of ACTION shall determine. Also, section 122 (c) provides that the Director may provide to persons serving as full-time volunteers in a program of at least one year's donation such allowances and stipends as he determines are necessary. The kinds and amount of such allowanaces and stipends may not exceed those authorized to be provided to VISTA volunteers (Part A, Title I, Pub. L. 93–113).

Notice is hereby given that the Director of ACTION proposes to amend Chapter XII of Title 45, Code of Federal Regulations to add a new Part 1213. This amendment wil lprovide regulations concerning two areas: (1) The terms and conditions for volunteer service in ACV, and (2) the amount of allowances and stipends that ACV volunteers receive.

Inquiries may be addressed and comments and views concerning the proposed new part may be submitted to ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525, Attention: Associate Director for Domestic and Operations. All comments received on or before January 21, 1975 will be considered. All comments in response to this proposal will be available for public inspection during normal business hours at the foregoing address.

It is therefore proposed to add a new Part 1213 to Chapter XII of Title 45 of the Code of Federal Regulations as follows:

PART 1213—ACTION COOPERATIVE VOLUNTEER PROGRAM

Subpart A—General

Sec.
1213.1–1 Introduction.

Subpart B—Description of Volunteer Service

1213.2–1 Enrollment and duration of service.
1213.2–2 Provisional volunteers.
1213.2–3 Extension of service and reenrollment.
1213.2–4 Living conditions.
1213.2–5 Role of volunteer.

Subpart C—ACTION Provided Volunteer Support

Sec.
1213.3–1 Financial support.
1213.3–2 Transportation.
1213.3–3 Health support.
1213.3–4 Legal support.
1213.3–5 Insurance.
1213.3–6 Leave.
1213.3–7 Federal service.
1213.3–8 Lost property.

Subpart D—Sponsor Provided Volunteer Support

1213.4–1 Training.
1213.4–2 Supervision.
1213.4–3 Job-related transportation.
1213.4–4 Supplies and equipment and office facilities.
1213.4–5 Emergencies.

Subpart E—Administrative Hold—Grievance, Removal, Resignation, Suspension, and Termination

1213.5–1 Administrative hold.
1213.5–2 Volunteer grievances.
1213.5–3 Resignation.
1213.5–4 Sponsor request for removal of volunteer.
1213.5–5 Suspension and termination.

Subpart F—Special Conditions Affecting Volunteer Service

1213.6–1 Sponsor's employment of volunteer.
1213.6–2 Nondisplacement of employees and impairment of contracts of service.
1213.6–3 Nonappropriate assignments.
1213.6–4 Political activities and limitation of unlawful activities.
1213.6–5 Nondiscrimination.
1213.6–6 Religious activities.
1213.6–7 Evaluation.
1213.6–8 Limitation on labor and anti-labor activity.
1213.6–9 Loans and debts.

Subpart G—Miscellaneous

1213.7–1 Student loan deferrals.
1213.7–2 Death benefits.
1213.7–3 Firearms.

AUTHORITY: Secs. 121, 122, 402 (12) and (14) and 420 of Pub. L. 93–113, 87 Stat. 395, 400, 401, 407 and 414.

Subpart A—General

§ 1213.1–1 Introduction.

(a) Section 122(a), Part C, of the Domestic Volunteer Service Act of 1973 (the Act), Pub. L. 93–113, 87 Stat. 401, authorizes the Director of ACTION to conduct and to make contracts for special volunteer programs to encourage wider volunteer participation on a full-time basis to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty. The ACTION Cooperative Volunteer Program (ACV) is one of these special volunteer programs. It provides full-time volunteer service opportunities for individuals in assignments with nonprofit and public agency sponsors involving a broad range of human, social, and environmental needs, particularly those related to poverty.

Organizations wishing to become sponsors enter into an agreement with ACTION to share expenses associated with ACV volunteer assignments. The sponsor's share consists of reimbursing ACTION for the direct costs of volunteer support, i.e. allowances, stipend and other direct benefits.

(b) Section 122(b) requires that the assignment of ACV volunteers be on such terms and conditions as the Director shall determine.

(c) Section 122(c) provides that the Director may provide to persons serving as full-time volunteers in a program of at least one year's duration such allowances and stipends as he determines are necessary. The kinds and amount of such allowances and stipends may not exceed those authorized to be provided to VISTA volunteers (Part A, Title I, Pub. L. 93–113).

Subpart B—Description of Volunteer Service

§ 1213.2–1 Enrollment and duration of service.

ACTION enrolls an individual in ACV during the preservice processing it provides. Such enrollment is for a period comprising the time of such processing, ACTION preservice orientation, and a on-year assignment to a project.

§ 1213.2–2 Provisional volunteers.

Individuals are considered to be provisional volunteers during the period of pre-service processing and ACTION preservice orientation. They have all the rights and benefits and are subject to all the duties of volunteers, except as expressly provided in these regulations or where it would appear from the language of a section of the regulations to be inappropriate.

§ 1213.2–3 Extension of service and reenrollment.

In certain situations, a volunteer may have his period of volunteer service extended for not more than one year, at the request of a sponsor and the concurrence of the appropriate ACTION Regional Director.

A volunteer may only be reenrolled for a period of at least one year. A sponsor must request the reenrollment and it must be approved by the appropriate ACTION Regional Director. No volunteer may serve for more than a total of five years in full-time volunteer programs under Title I of Pub. L. 93–113.

Such extensions and reenrollments may be for the same or different projects and may include interregional and intraregional transfers.

§ 1213.2–4 Living conditions.

To the extent practicable volunteers are expected to make a personal commitment to live among and at the economic level of the people served by the project in which the volunteer works. The sponsor will insure that this commitment is observed.

§ 1213.2–5 Role of the volunteer.

The volunteer's assignments are carried out under the auspices of the sponsor. The volunteer assumes a "live-in" obligation carrying his work into all facets of community life and social activity. He is available for service without regard to regular working hours seven days a week, except for periods of approved leave.

Subpart C—ACTION Provided Volunteer Support

§ 1213.3–1 Financial support.

(a) *Food and lodging.* Each ACV volunteer receives from ACTION a food and lodging allowance approximately commensurate with the actual standard of living of the residents of the community to which he is assigned. The amount of this allowance is determined by the Regional Office after consultation with the sponsor.

(b) *Personal living allowance.* ACTION also provides each volunteer a personal living allowance of $75 per month. It is intended to cover incidental expenses and local travel.

(c) *Adjustment allowance.* At the beginning of service, a volunteer may receive from ACTION an adjustment allowance when necessary to cover the initial cost of securing and setting up living quarters. Such an allowance is usually provided only to volunteers who serve outside their home area. It is not usually available to volunteers recruited locally for an assignment in their home or nearby communities.

(d) *Stipend.* At the conclusion of the term of service, each volunteer receives a stipend of $50 for each month of service on an ACV project. Volunteers may be authorized to make bi-weekly allotments from the stipend, not in excess of $12.50, in extraordinary circumstances. These may include allotments for obligations incurred prior to service for family support, insurance or loan payments and income taxes.

(e) *Provisional volunteers.* Provisional volunteers do not receive any allowances nor do they accrue stipends. During the period they are provisional volunteers their food and lodging is provided by ACTION and they receive a nominal amount of money for living expenses.

(f) *Emergencies.* In case of emergencies, ACTION may provide the volunteer with assistance and support to prevent injury or hardship to him, including a $500 advance against allowances and stipends due the volunteer or to be paid subsequently to him during his volunteer service.

(g) *No dependent support.* ACTION assumes no financial responsibility for a non-volunteer spouse, a volunteer's children or other dependents.

§ 1213.3–2 Transportation.

ACTION will be responsible for providing the volunteer with needed transportation for the following purposes:

(a) To, and when appropriate, from volunteer/sponsor staging;

(b) To the pre-service processing site, whether it is the ACTION Regional Office or any other designated facility;

(c) To the project site following completion of pre-service processing, and at the beginning of the volunteer's terms of service;

(d) For the return trip from the projects site to the volunteer's home of record following completion of service;

(e) Whenever necessary to enable the volunteer to travel outside the geographic

area to which he has been assigned when he does so at the request of the Government;

(f) When approved in cases of emergency.

For the purpose of (d) of this section, the term "home of record" shall be either:

(1) The legal residence of the volunteer's parent or legal guardian if the volunteer had been residing with the parent or legal guardian immediately prior to entering ACTION service, or if the volunteer was a full-time student whose permanent residency was with the parent or legal guardian.

(2) The residence established by the volunteer while attending college immediately prior to entering ACTION.

(3) The residence established by the volunteer while employed immediately prior to entering ACTION.

(4) The legal residence established by the volunteer for purposes of voting and/or payment of state tax.

Each volunteer must specify a home of record at the time he is enrolled. Subsequent modification of the home of record may be authorized in certain circumstances at the discretion of the Regional Director.

§ 1213.3–3 Health support.

ACTION provides ACV volunteers with a health benefits program at no cost to the volunteers.

Coverage includes most medical and surgical costs, hospitalization, prescription drugs, and emergency dental care. ACTION reserves the right to alter the extent, or the method of providing health care for volunteers. In nonemergency situations, the Regional Office must clear hospitalization or other serious (in excess of $150) treatments.

§ 1213.3–4 Legal support.

ACTION will pay certain legal expenses where volunteers are involved in criminal or civil judicial or administrative proceedings to the extent provided in Part 1220.

§ 1213.3–5 Insurance.

(a) ACV volunteers are covered by the Federal Employees Compensation Act. This provides a broad-based workmen's compensation-type coverage for volunteer job-related accidents and occupational sickness.

(b) ACV volunteers are also Federal employees for the purpose of the Federal Tort Claims Act. Any third-party claims for injury or damage to property arising out of the volunteer's job-related activities will be treated as claims against the United States.

§ 1213.3–6 Leave.

(a) *Vacation leave.* Once on the job for four months, an ACV volunteer earns one day of leave for each full month of service up to a maximum of seven days, including one weekend. No leave is to be granted during the last month of service, except for emergencies. During leave, the volunteer's regular support allowances are continued. No leave may be taken without the approval of the sponsor.

(b) *Emergency leave.* Should a member of a volunteer's immediate family—spouse, mother, father, sister, brother, child or guardian—become critically ill or die, emergency leave may be granted by the sponsor for a period of up to one week. Any additional time requires the approval of the ACTION Regional Office. It does not count against vacation leave. The volunteer will be paid for transportation by the fastest scheduled carrier to and from the emergency site and for actual travel expenses incurred, but not in excess of those authorized in standard government travel regulations.

§ 1213.3–7 Federal service.

Section 415(c) of the Act provides that should an ACV volunteer subsequently enter Federal service, his period of volunteer service counts as a like period of Federal service for certain purposes, including job security and retirement benefits.

§ 1213.3–8 Lost property.

(a) The Regional Director may at his discretion reimburse volunteers or trainees for or replace lost, damaged, or stolen property; cash representing certain allowances; and equipment and supplies if, (1) reimbursement is essential to the volunteer's capacity to serve effectively in his particular assignment for the duration of his service, and (2) the loss, damage, or theft did not result from the volunteer's negligence.

(b) Lost or stolen cash may be reimbursed only if it represents the volunteer's food and lodging or living allowance or other payments essential to the volunteer's service. Lost or stolen cash representing payment of stipend or vacation allowances will not be reimbursed.

(c) No reimbursement will be made for luxury items, such as photographic or phonographic equipment or jewelry.

Subpart D—Sponsor Provided Volunteer Support

§ 1213.4–1 Training.

(a) The sponsor is fully responsible for designing and implementing a program of in-service training which will completely equip the volunteer to perform the tasks to which he has been assigned.

(b) In-service training will be conducted by the sponsor in accordance with plans agreed upon during the program development process, and submitted to ACTION as part of the agreement. Those plans must be tailored to the volunteer's needs for additional skills and information in the performance of assigned tasks.

§ 1213.4–2 Supervision.

The sponsor has the sole responsibility for providing appropriate supervision, leadership, and direction to the volunteers in conformance with the plan prepared in cooperation with ACTION and submitted with the project proposal. The plan is to be executed in such a manner that the volunteers can attain project goals within the proposed time frame.

§ 1213.4–3 Job-related transportation.

The sponsor is responsible for determining the job-related transportation needs of the volunteer. The volunteers are expected to use public transportation in connection with their work whenever it is available and adequate. When it is not, the sponsor shall provide suitable private transportation, including obtaining and maintaining motor vehicles for the job-related use of the volunteers as appropriate. Whether the sponsor purchases vehicles or obtains them through a leasing arrangement, he is responsible for monitoring the use of those vehicles and restricting the use of transportation provided to volunteers to work on the project. The volunteer and the sponsor are jointly responsible for compliance with all state and local laws concerning vehicle registration, operator licensing, and financial responsibility on any private vehicles used by the volunteer, either as part of his work assignment or for personal convenience.

§ 1213.4–4 Supplies and equipment and office facilities.

The sponsor is responsible for providing most job-related support involving facilities, equipment, and consumable supplies needed by the volunteer, including telephone and secretarial support.

§ 1213.4–5 Emergencies.

In case of emergencies in which it is not possible for ACTION to provide a volunteer with the necessary assistance and support in time to prevent injury or hardship to him, the sponsor may furnish the needed assistance, including an advance of up to $500 from its own funds to the volunteer. Such advances, however, should be cleared in advance by telephone with the ACTION Regional Director or designee.

Subpart E—Administrative Hold, Grievances, Removal, Resignation, Suspension and Termination

§ 1213.5–1 Administrative hold.

(a) Volunteers will be placed in Administrative Hold Status under the following circumstances:

(1) No placement after training.

(2) Pending transfer to a new project.

(3) Leave taken for personal reasons in excess of the seven days for vacation leave, seven days for emergency leave, seven days for extension beyond three months, and fourteen days for reenrollment.

(4) Absence from project site without authority of the sponsoring organization.

(5) During termination action.

(6) Arrest and placement in jail without bail, depending on nature of charges.

(7) Removal from site at request of sponsoring organization, pending decision on transfer to new assignment.

(b) Exceptions to these guidelines must be authorized by the Regional Director. Volunteers may be placed in Administrative Hold status for up to 30 days. In exceptional circumstances, the

Regional Director may extend this period of time as appropriate. The Regional Director may modify any and all allowances, including stipend, when a volunteer is placed in Administrative Hold status.

§ 1213.5–2 Volunteer grievances.

(a) At times, a volunteer will consider that he has been adversely affected in some matter arising out of his work situation or the terms and conditions of his service. The Volunteer Grievance Procedure, Part 1211, furnished to each volunteer, applies to certain of these matters. This procedure is applicable to situations in which the volunteer believes there has been a deviation from, misinterpretation or misapplication of laws, regulations, policies or procedures governing his service.

(b) The Grievance Procedure establishes a formal and informal mechanism to resolve such problems. The informal mechanism aims to resolve disputes at the level of the sponsor and the state program officer. The formal part of the Grievance Procedure provides a hearing in certain cases and includes appeals to ACTION's national office in Washington.

(c) The procedure that the sponsor employs at the informal stage of the ACTION Grievance Procedure will also be used for any disputes between the sponsor and a volunteer not involving a law or regulation or an ACTION policy and procedure.

§ 1213.5–3 Resignation.

A volunteer may resign at any time, by notifying the sponsoring organization and the Regional Office. When practicable, thirty days advance notice should be given to insure that the departure will be only minimally disruptive to the project. In case of resignation, all outstanding advances, including unearned vacation allowances, are deducted from the volunteer's stipend. The volunteer receives his final stipend check three to five weeks after regional submission of the termination papers to ACTION/Washington.

§ 1213.5–4 Sponsor request for removal of volunteer.

The sponsoring organization may request ACTION to remove a volunteer whose performance in its view is unsatisfactory at any time. Before resorting to a formal request for removal the sponsor should contact the appropriate ACTION state official to seek help in trying to resolve any problem with a volunteer. The sponsor may then prepare a written request for removal and submit it to the Regional Office. ACTION may, depending on the circumstances, follow one of three courses of action: (a) suspend the volunteer, (b) terminate him, or (c) transfer him to another project.

§ 1213.5–5 Suspension and termination.

(a) *Causes.* ACTION may suspend or terminate a volunteer for any of the following reasons:

(1) Conviction of any criminal offense under Federal, state, or local statute or ordinance;

(2) Violation of any provision of the Domestic Volunteer Service Act of 1973, or any ACTION policy, regulation or instruction;

(3) Failure, refusal or inability to perform prescribed project duties as outlined in the project proposal and directed by the sponsoring organization to which the volunteer is assigned;

(4) Involvement in activities which substantially interfere with the volunteer's performance of his/her duties on the project;

(5) Intentional false statement, omission, fraud, or deception in obtaining selection as a volunteer;

(6) Any conduct on the part of the volunteer which substantially diminishes his/her effectiveness as a volunteer;

(7) Inability to perform the project duties because of serious illness, medical disability, or pregnancy, as determined by the attending physician, in accordance with ACTION policy;

(8) Lack of a viable job for which the volunteer is qualified if the initial job assignment ends or is terminated prior to completion of a period of service;

(9) Unsatisfactory job performance. Procedures for the suspension and termination of volunteers are contained in Part 1212.

(b) *Suspension.* Volunteers may be suspended for up to 30 days to enable ACTION to determine whether termination proceedings should be started against the volunteer. Suspension is not warranted if sufficient evidence exists to start termination proceedings.

(c) *Termination of or refusal to renew ACTION/sponsoring organization agreement.* If the Memorandum of Agreement between ACTION and a sponsoring organization is terminated or not renewed, a volunteer who is removed from the project and whose removal was not caused by conduct which would otherwise be grounds for termination is entitled to the following administrative considerations:

(1) Reassignment to another project where possible.

(2) If reassignment is not possible at the time of project close-out, and if the volunteer wishes to resume service (provided that his/her job performance has been satisfactory), he/she may, at the discretion of the Regional Director, receive special consideration for reinstatement as soon as an appropriate slot is open.

If a volunteer wishes, he/she my terminate without prejudice in the event that a Memorandum of Agreement between ACTION and the sponsor is terminated.

(d) *Deselection of a provisional volunteer.* The Regional Director may deselect a provisional volunteer on the grounds listed in paragraph (a) of this section or for a failure to meet training or selection standards during pre-service orientation. Procedures for such deselection are contained in Part 1212.

Subpart F—Special Conditions Affecting Volunteer Service

§ 1213.6–1 Sponsor's employment of volunteer.

ACV volunteers make a commitment to one full year of ACTION service. Similarly, ACTION asks that the sponsor on his part must honor the spirit of that commitment and refrain from offering fully paid employment to volunteers during their first year of service. Volunteers may not perform services or duties or engage in activities for which the sponsor receives or requests any compensation. Volunteers may not receive any other compensation, directly or indirectly, from a sponsor while serving as a volunteer.

§ 1213.6–2 Nondisplacement of employees and impairment of contracts of service.

An ACV volunteer's assignment is limited to activities that would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service. (Part 1216 implements this provision.)

§ 1213.6–3 Nonappropriate assignments.

(a) An assignment is not appropriate for a volunteer if:

(1) The service, duty, or activity is principally administrative or clerical, or

(2) The volunteer is not directly in contact with groups or individuals who are to be served by the project or is not performing services, duties, or engaged in activities which are authorized under section 122(a) of the Act.

§ 1213.6–4 Political activities and limitation of unlawful activities.

(a) ACV volunteers are covered by the Hatch Act to the same extent as Federal employees. This Act prohibits volunteers from engaging in partisan political activities of any sort at any and all times during their terms of service, including periods of official leave.

(b) Section 403 of Pub. L. 93–113 requires that a sponsor's project be operated in such a manner as to avoid involvement of ACV volunteers in any partisan or nonpartisan political activity in an election for public or party office, voter transportation during elections, and voter registration drives.

(c) While engaged in carrying out their duties volunteers may, as a part of the project, participate in lawful and nonpolitical demonstrations and protest activities which are approved by the sponsor as a part of its project activity and which are not in violation of any ACTION policies.

§ 1213.6–5 Nondiscrimination.

Part 1203 provides regulations concerning nondiscrimination in ACTION programs and activities.

(a) No person with responsibilities in the operation of an ACV project shall discriminate with respect to such program because of race, creed, belief, color,

national origin, sex, age, or political affiliation.

§ 1213.6–6 Religious activities.

Volunteers will not give religious instruction, conduct worship services, or engage in any other religious activity as part of their duties. Volunteers who serve in an institution that gives religious instruction or engages in other religious activities will not be used as replacements for regular personnel of the institution. For example, volunteers assigned to serve in a program conducted under the auspices of a church-related school may not be used as substitutes for regular teachers in the school. They may, however, work in new programs which are carried on in addition to the school's regular programs and which are conducted in conformance with the above restrictions.

§ 1213.6–7 Evaluation.

(a) On a quarterly basis and two months prior to the termination of a volunteer's year of service, and at any other time which circumstances may dictate, ACTION may inspect that portion of a project with which the volunteer is involved. The purpose of the inspection will be to independently observe and judge the extent to which the volunteer's work has contributed to the objectives of the program described in the project proposal.

(b) The sponsor is expected to cooperate fully with ACTION representatives, and ACTION will in turn review results of the evaluation with the sponsor.

§ 1213.6–8 Limitation on labor and anti-labor activities.

Volunteers may not engage in any activities, services, or duties which assist any labor or anti-labor organizing activity, or related activity.

§ 1213.6–9 Loans and debts.

(a) ACVs have the same legal and financial responsibilities as do all other persons. Volunteers are encouraged to pay all legal debts promptly to avoid creating a situation which would impair the volunteer's ability to function. In cases of continued financial irresponsibility by a volunteer to the extent of embarrassment or adverse reflection upon the sponsor organization's project or ACTION, administrative or disciplinary action may be taken by the Regional Office, up to and including termination, where appropriate.

(b) Volunteers are not authorized to obtain extension of credit by representing themselves as a Federal Government employee.

Subpart G—Miscellaneous

§ 1213.7–1 Student loan deferrals.

(a) The Higher Education Act of 1965, as amended, exempts full-time domestic volunteers from repayment of National Defense Education Act loans for a period of service not to exceed three years. Volunteers wishing to defer repayment of NDEA loans must obtain the necessary forms from their universities. Regional Offices are authorized to certify these forms, but if the university or volunteer should submit the form to Headquarters for certification, it will be sent to the appropriate Regional Office for completion.

(b) If the volunteer is still in service at the time of ACTION's certification, his anticipated termination date will be furnished to the lender.

(c) Repayment of other college loans may also be deferred. These repayments, however, are deferred at the discretion of the lender. If the lender is willing to defer payment, volunteers must obtain the necessary forms from the lender and forward them to the Regional Office for certification. If forms are not available from the lender, a letter to the university or lender may be prepared certifying the dates of the volunteer's service.

§ 1213.7–2 Death benefits.

In case of the death of a volunteer away from his home of record, certain costs associated with transportation of the body are reimbursable either under the Federal Employees Compensation Act or ACTION policy. Volunteers whose death results from personal injury or illness sustained in the performance of his project duties are eligible for reimbursement of certain funeral expenses. Monthly benefits for eligible dependents of deceased volunteers may be available under the Federal Employees Compensation Act. In certain other unusual circumstances, payment of certain funeral expenses for volunteers not meeting the above requirements may be authorized.

§ 1213.7–3 Firearms.

ACTION volunteers may not normally possess, use, or carry firearms. If a volunteer wishes to keep firearms for hunting, approval must be obtained from the sponsor, State Program Director and the ACTION Regional Director in the region where the volunteer is assigned. The volunteer must request approval for possession or use of firearms from his sponsor and his State Program Director. If he receives their approval, his request may then be considered by his ACTION Regional Director. If approval is granted by the ACTION Regional Director, the volunteer must adhere to all state and local regulations relating to the possession and use of firearms.

Issued in Washington, D.C. on December 19, 1974.

JOHN L. GANLEY,
Deputy Director, ACTION.

[FR Doc.74–29919 Filed 12–23–74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 310–6]

WEST VIRGINIA IMPLEMENTATION PLAN

Miscellaneous Amendments

On May 31, 1972 (37 FR 10842), the Administrator of the Environmental Protection Agency published his initial approvals and disapprovals of state implementation plans submitted pursuant to section 110 of the Clean Air Act, as amended in 1970. At that time, the Administrator approved the state implementation plan submitted by the State of West Virginia (40 CFR 52.2522).

On November 8, 1974, the State of West Virginia submitted to the Administrator proposed revisions to the state implementation plan for the attainment and maintenance of air quality standards. The proposed changes include:

1. An amendment to Regulation II, "To Prevent and Control Particulate Air Pollution from Combustion of Fuel in Indirect Heat Exchangers." The amendment, in effect, would allow sulfur oxides to be added to a combustion unit exit gas stream for the purpose of improving control equipment efficiency on existing fuel burning units.

2. Amendments to Regulation VII, "To Prevent and Control Particulate Air Pollution from Manufacturing Process Operations." The essential change would allow the primary aluminum reduction potlines which are equipped with fluidized bed reactors or other similar gas cleaning devices to be exempt from the provisions presently governing process weight operations, provided that at least 99 percent of the gaseous fluoride is removed from the exit gas stream, and that the particulate loading not be greater than 0.01 grains per standard cubic foot (gr/scf). Other changes are merely updates of the present regulation.

3. Amendments to Regulation XIII, "Permits for Construction, Modification, or Relocation of Stationary Sources of Air Pollutants, and Procedures for Registration and Evaluation." The amendments would require permits for certain indirect sources and would closely parallel those requirements provided in the Administrator's existing regulations. This particular proposal was previously submitted by the State of West Virginia on June 17, 1974. Accordingly, the Administrator announced receipt of the submission and provided for a public comment period (39 FR 39584).

4. Amendments to the state implementation plan's control strategies for particulate matter. The essential change would allow compliance schedules for particulate sources to extend beyond June 30, 1975, but no later than June 30, 1977, provided that ambient air quality standards are met by June 30, 1975.

On October 24, 1974 and December 6, 1974, the State of West Virginia submitted proof that public hearings regarding these proposed changes, with the appropriate 30 day notice took place at the following times:

1. Proposed changes to Regulation II—June 5, 1974.

2. Proposed changes to Regulation VII—July 23, 1974.

3. Proposed changes to Regulation XIII—January 11, 1974.

4. Proposed changes to the SIP—July 23, 1974.

This notice is to advise the public of the receipt of these proposed amendments, and to request public comment on them. Only those comments received before January 23, 1975, will be considered.

The Administrator's decision to approve or disapprove these proposed revisions will be based on whether or not they meet the requirements of section 110 of the Clean Air Act and EPA regulations in 40 CFR part 51.

Copies of the proposed revisions are available for public inspection during normal business hours at the Offices of EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106; at the Office of the West Virginia Air Pollution Control Commission, 1558 Washington Street, East, Charleston, West Virginia 25311; and at the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460. All comments should be addressed to the Director, Air and Hazardous Materials Division, EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania, 19106.

(42 U.S.C. 1857c-5)

Dated: December 13, 1974.

R. W. Fosse,
Regional Administrator.

[FR Doc.74-29978 Filed 12-23-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20228; RM-2365, 2239, 2360]

FM BROADCAST STATIONS

Table of Assignments; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Southold, Center Moriches, and Westhampton Beach, New York).

1. On November 5, 1974, the Commission adopted a Notice of Proposed Rule Making in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on November 11, 1974, 39 F.R. 49170. The dates for filing comments and reply comments are December 18, 1974, and January 7, 1975, respectively.

2. On December 11, 1974, East Coast Broadcasting Corporation, by its counsel requested that the time for filing comments and reply comments be extended to January 27 and February 14, 1975, respectively. Counsel states that intervening holidays and vacation schedules of various individuals preclude the completion of engineering and demographic studies being made by East Coast Broadcasting Corporation to be made in this proceeding.

3. It appears that the requested extension is warranted. *Accordingly, it is ordered,* That the dates for filing comments and reply comments is extended to and including January 27 and February 14, 1974, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's rules.

Adopted: December 16, 1974.

Released: December 18, 1974.

[SEAL] PAUL WM. PUTHEY,
Acting Chief,
Broadcast Bureau.

[FR Doc.74-30079 Filed 12-23-74;8:45 am]

[47 CFR Part 73]

[Docket No. 20068; RM-2324]

TELEVISION BROADCAST STATIONS

Table of Assignments; Order Extending Time for Filing Reply Comments

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations. (Alliance, Hay Springs, and Scottsbluff, Nebraska).

1. On May 23, 1974, the Commission adopted a Notice of Proposed Rule Making in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on May 31, 1974, 39 F.R. 19230. The date for filing comments has expired and the present date for filing reply comments is presently December 16, 1974.

2. On October 24, 1974, Counsel for Wyneco Communications, Inc. (Wyneco), licensee of Station KSTF-(TV), Scottsbluff, Nebraska, requested authorization to inspect certain Annual Financial Reports for Station KDUH-TV, Hay Springs, its parent Station KOTA-TV, Rapid City, South Dakota, and its sister satellite Station KHSD-TV, Lead, South Dakota on the grounds that it was otherwise available and was essential in order that Wyneco can undertake a meaningful evaluation of the contentions in Duhamel's comments with respect to the viability of KDUH-TV in their reply comments. Wyneco's request has not yet been acted on by the Commission and in view of this Wyneco on December 11, 1974, requested a further extension of time to and including January 10, 1975, in which to file its reply comments.

3. We are of the view that the requested extension is warranted. *Accordingly, it is ordered,* That the date for filing reply comments is extended to and including January 10, 1975.

4. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Adopted: December 17, 1974.

Released: December 18, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] PAUL WM. PUTHEY,
Acting Chief,
Broadcast Bureau.

[FR Doc.74-30080 Filed 12-23-74;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

SUPERVISORY COMMITTEE AUDITS

Notice is hereby given that the Administrator of the National Credit Union Administration, pursuant to the authority conferred by section 120, 73 Stat. 635, 12 U.S.C. 1766, and section 209, 84 Stat. 1014, 12 U.S.C. 1789, proposes to amend Part 701 (12 CFR Part 701) by revising § 701.12 as set forth below.

The proposed revision is necessitated by the recent amendment to § 115 of the Federal Credit Union Act (12 U.S.C. 1761(d)).

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendment to the Administrator, National Credit Union Administration, 2025 M St., NW., Washington, D.C. 20456. Comments received prior to January 15, 1975 will be considered before final action is taken on this proposal. Copies of all written comments received will be available for public inspection during normal business hours at the foregoing address.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1014 (12 U.S.C. 1789))

HERMAN NICKERSON, JR.,
Administrator.

DECEMBER 17, 1974.

§ 701.12 Supervisory Committee Audits.

(a) The supervisory committee of each Federal credit union shall make or cause to be made an annual audit covering the period elapsed since the last annual audit. The annual audit shall be made in accordance with the requirements and standards set forth in the Supervisory Committee Manual for Federal Credit Unions (NCUA 8023). Upon completion a report of the audit shall be promptly made to the board of directors of the Federal credit union, and, upon request, to the Regional Director. A summary of the report shall be submitted to the members at the next annual meeting.

(b) The supervisory committee shall be responsible for the preparation and maintenance of work papers used to support each audit. As a minimum, each audit report shall be supported by work paper forms prescribed by the Supervisory Committee Manual for Federal Credit Unions, or their equivalent. Such work papers shall be available for review by any employee or employees of the National Credit Union Administration designated by the Administrator.

(c) The supervisory committee shall conduct supplementary audits upon request of the Administrator, and also may conduct additional audits on its own initiative.

[FR Doc.74-29976 Filed 12-23-74;8:45 am]

RENEGOTIATION BOARD

[32 CFR Part 1452]

PRIME CONTRACTS AND SUBCONTRACTS

Definition of Subcontracts To Perform Work or Furnish Materials

The Renegotiation Board proposes to amend its regulation interpreting the

definition of the term "subcontract" contained in section 103(g)(1) of the Renegotiation Act of 1951, 50 U.S.C. App. 1213(g)(1).

Certain prime contracts and "related subcontracts" are made subject to renegotiation by 50 U.S.C. App. 1212(a). In section 103(g)(1), cited above, the term "subcontract" is defined to include any purchase order or agreement to perform work or furnish materials "required for the performance of" a renegotiable prime contract or subcontract. The present regulation, 32 CFR 1452.4(b), interprets such statutory definition.

Paragraph (b)(1) of the present regulation, 32 CFR 1452.4, describes various transactions within the statutory definition of a subcontract. The proposed amendment of paragraph (b)(1) makes the regulation fully consistent with the scope of the statutory definition of a subcontract. The five illustrations of subcontracts in the present regulation have been retained and a new illustration of a subcontract to perform work or furnish materials under a prime contract or subcontract for work or services has been added. The definition of materials used in processing other materials has been eliminated from the proposed regulation because such definition merely explains the illustrations of subcontracts and does not form a necessary part of the definition of such subcontracts.

Paragraph (b)(2) of the present regulation, 32 CFR 1452.4, has been eliminated entirely from the proposed regulation. Paragraph (b)(3) of the present regulation, 32 CFR 1452.4, has been modified to exclude from the definition of a subcontract only purchase orders or agreements for "office supplies."

The Board believes that the proposed amendments conform fully with the legislative intent that all arrangements to perform work or furnish materials required for the performance of a renegotiable prime contract or subcontract be subject to renegotiation. Many subcontracts for the sale of items excluded from renegotiation under paragraphs (b)(2) and (3) of the present regulation but not so excluded under the proposed regulation may be eligible for one of the exemptions found in section 106 of the Renegotiation Act of 1951, as amended, 50 U.S.C. App. 1216, and the regulations promulgated thereunder.

The Board proposes to issue the proposed amendments not earlier than February 13, 1975. Interested persons are hereby notified that any changes, to be considered, must be presented in writing, to the Renegotiation Board, 2000 M Street NW., Washington, D.C. 20446, not later than February 7, 1975.

Written material or suggestions submitted will be available for public inspection during regular business hours in the library at the principal office of the Board, 2000 M Street NW., Washington, D.C.

Dated: December 19, 1974.

REX M. MATTINGLY,
Acting Chairman.

PART 1452—PRIME CONTRACTS AND SUBCONTRACTS WITHIN THE SCOPE OF THE ACT

Section 1452.4 *Subcontracts to perform work or furnish materials* is amended by deleting paragraph (b) in its entirety and inserting in lieu thereof the following:

§ 1452.4 Subcontracts to perform work or furnish materials.

* * * * * *

(b) *Interpretation of statutory provision.*—(1) *In general.* Except as provided in subsections 103(g)(2) and (3) of the act, the term "subcontract" means any purchase order or agreement to perform all or any part of the work or to make or furnish any materials required for the performance of a renegotiable prime contract or subcontract. For example, without limiting the foregoing, the term "subcontract" includes any purchase order or agreement for any of the following: (i) The sale or processing of an end product which is to be delivered under a renegotiable prime contract; or (ii) the sale or processing of materials to be physically incorporated in such end product; or (iii) the sale, furnishing or installation of machinery, equipment or other materials used in the processing of such end product or materials incorporated therein; or (iv) the sale, furnishing or installation of materials incorprated in machinery, equipment or other materials used in the processing of such end product or materials incorporated therein; or (v) the sale, processing, furnishing or installation of materials, or the performance of work, required for the performance of a renegotiable prime contract or subcontract for work or services; or (vi) the performance of work or services required for the performance of a renegotiable prime contract or subcontract included in paragraphs (b)(1)(i), (ii), (iii), (iv), or (v) of this section.

(2) *Office supplies.* Subcontracts to furnish office supplies are specifically excluded from the statutory definition of a subcontract. Therefore, subcontracts for office supplies, even though such office supplies are ultimately sold to a Department, are not subject to renegotiation. The term "office supplies" includes paper, ink, typewriter ribbons, binders, covers, blotters, paper clips, staples, and other items of a consumable character, as well as related items of a relatively short life and minor cost, such as pens, penholders, pencils, blotter pads, and calendars; the term "office supplies" does not include office furniture, machinery and equipment, such as desks, chairs, lamps, rugs, wastebaskets, filing cases, typewriters, and calculating, recording, reproducing, and dictating machines.

(Sec. 109, 65 Stat. 22; 50 U.S.C.A., App. Sec. 1219)

[FR Doc.74-30008 Filed 12-23-74;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Office of the Secretary

PRESIDENT'S LABOR MANAGEMENT COMMITTEE

Continuation of Closed Meeting

Notice is hereby given that the closed meeting of the President's Labor Management Committee, which took place on December 18, 1974 (39 FR 43411, 39 FR 41387), will be continued on December 30, 1974, at 11:00 a.m. in the Secretary's Conference Room in the Treasury Department, Washington, D.C. 20220.

Dated: December 20, 1974.

[SEAL] WARREN F. BRECHT,
Assistant Secretary for Administration.

[FR Doc.74-30112 Filed 12-20-74;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 74-3]

ALEXANDER ROBBINS, M.D.

Suspension of Certificate of Registration

On February 5, 1974, the Drug Enforcement Administration issued an Order to Show Cause to Alexander Robbins, M.D., 1100 Drexel Avenue, Miami Beach, Florida 33139, as to why his Certificate of Registration (DEA Registration No. AR0148406) should not be revoked "• • • for the reason that, on October 26, 1973, in the United States District Court [for] the Southern District of Florida, [he was] • • • found guilty [of] the unlawful dispensing of controlled substances listed in Schedule III, a drug related felony violation of the Controlled Substances Act of 1970."

Thereafter, by letters of February 27, 1974 and March 11, 1974, the respondent requested a hearing in the matter, and on April 8, 174, a hearing was held before John F. Cook, Administrative Law Judge, in Miami, Florida. Following that hearing, Proposed Findings of Fact and Conclusions of Law were submitted to Judge Cook by counsel for the Government and the Respondent.

On August 30, 1974, Judge Cook filed recommended findings of fact and conclusions of law and his recommended decision with the Drug Enforcement Administration. In his exhaustive opinion, Judge Cook found that the judgment of conviction at the District Court level is adequate grounds for suspension under section 304(a)(2) of the Act, even though an appeal is pending. Judge Cook cited two previous final orders of the Director of the Bureau of Narcotics and Dangerous Drugs supporting the proposition that section 304(a)(2) does not require the concluding of appeals before the particular registration in question may be suspended or revoked. Leonard S. Cohen and Senate Drug Store, 38 FR 9522 (April 17, 1973) and Dr. Carl Oslin Ramzy, 36 FR 24077 (December 18, 1971). In addition, Judge Cook relied upon U.S. v. Rosenstengel, 323 F. Supp. 499 (E.D. Mo. 1971) and U.S. v. Liles, 432 F. 2d 18 (9th Cir. 1970), two cases wherein the conviction of a felony at the trial level resulted in the revocation of a federal license or registration under a similar statute.

The Administrator adopts the finding of the Administrative Law Judge that the language of the Act,

> • • • particularly indicated by the use of the term "convicted" in section 304(a) as opposed to the term "convictions • • •, have become final" in section 401(b)(1)(A) • • • shows a clear intent by Congress that for purposes of the Controlled Substances Act, the conviction of the respondent in the District Court is a "conviction" within the meaning of section 304(a)(2) of the Act, • • •

The provisions of section 304 are discretionary in nature upon a finding by the Administrator that the registrant (1) has materially falsified an application for registration, submitted pursuant to the Controlled Substances Act; (2) has been convicted of a felony violation of state or federal law relative to controlled substances; or (3) has had his state license or registration suspended, revoked, or denied by the jurisdiction in which he conducts his registered activity.

Since the Administrative Law Judge found that Dr. Robbins has been convicted of a felony violation of federal law relative to controlled substances, specifically 21 U.S.C. section 841(a)(1), the only other issue during this administrative proceeding was:

> • • • (assuming that the Respondent has been convicted of a felony) should the Attorney General suspend or revoke his registration? (Tr., page 6, line 8–11).[1]

In his evaluation of the evidence, the Administrative Law Judge found that the evidence did not "show behavior which would warrant the extreme step of revocation of registration." Also, the Administrative Law Judge noted a lack of evidence of any other criminal violations by respondent, and no "other evidence that respondent is totally unfit to be registered."

Accordingly, the Administrative Law Judge chose to recommend suspension of respondent's registration for a period of nine months. The Administrator finds, with reference to this particular respondent, and only in light of the nature of the facts and circumstances in this particular case, that suspension is the appropriate sanction to be applied. However, due to the seriousness of the charge underlying Dr. Robbins' conviction, the Administrator, in exercise of his discretion, finds that a suspension of respondent's registration for a period of only nine months would be clearly inadequate in duration to ensure protection of the public health and safety. After evaluating the entire record, it is the opinion of the Administrator that the suspension of respondent's registration should be for a period of two years from the date of this opinion.

In reaching this conclusion, the Administrator finds it especially significant to note that the Administrative Law Judge's opinion adopted, in substance, the bulk of the Government's proposed findings of fact and conclusions of law. Specifically, the Administrative Law Judge came to the "inescapable" conclusion that Dr. Robbins "was acting outside the scope of his legitimate professional practice" while he engaged in this illegal dispensing of controlled substances.

In summary, due to the seriousness of the nature of Dr. Robbins' conviction for the unlawful dispensing of a controlled substance, and after reviewing the transcript of testimony of the hearing, the findings of fact and conclusions of law recommended by the Administrative Law Judge, the Administrator hereby adopts the recommended decision of the Administrative Law Judge, provided that the suspension of the subject Certificate of Registration be for a period of two years from the date of this order.

Therefore, in accordance with the provisions of § 1316.66, Title 21, Code of Federal Regulations, and in view of the foregoing, it is the Administrator's opinion that Alexander Robbins, M.D. was convicted of a felony violation of the Controlled Substances Act, to wit, the unlawful dispensing of controlled substances.

Therefore, under the authority vested in the Attorney General by section 304 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 824), and redelegated to the Administrator of the Drug Enforcement Administration, by § 0.100, as amended, Title 28, Code of Federal Regulations, the Administrator hereby orders that the Certificate of Registration of Alexander Robbins, M.D. (DEA Registration No. AR0148406), be, and hereby is suspended

[1] See Government's Reply Brief, p. 1.

for a period of two years from the date of this order.

Dated: December 18, 1974.

JOHN R. BARTELS, Jr.,
Administrator.

[FR Doc.74-29921 Filed 12-23-74;8:45 am]

IMPORTER OF CONTROLLED SUBSTANCE

Notice of Application

By Notice dated October 21, 1974, and published in the FEDERAL REGISTER on October 25, 1974; (39 FR 38005) Cord Laboratories, Inc., 19191 Filer, Detroit, Michigan 48234, made application to the Drug Enforcement Administration to be registered as an Importer of Amobarbital, a basic class controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with 21 CFR 1311.42, the above firm is granted registration as an Importer of Amobarbital.

Dated: December 18, 1974.

JOHN R. BARTELS, Jr.,
Administrator.

[FR Doc.74-29924 Filed 12-23-74;8:45 am]

IMPORTATION OF CONTROLLED SUBSTANCES

Notice of Application

Pursuant to section 1008 of the Controlled Substance Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedules I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with § 1311.42 of Title 21, Code of Federal Regulations, notice is hereby given that on December 2, 1974, McNeil Laboratories, Inc., Camp Hill Road, Fort Washington, Pennsylvania 19034, made application to the Drug Enforcement Administration to be registered as Importer of Codeine, a basic class controlled substance listed in schedule II.

Any person registered to manufacture Codeine in bulk may, on or before January 23, 1975 file written comments on or objection to the issuance of the proposed registration and may, at the same time, file written request for a hearing on the application (stating with particularity the objections or issues, if any, concerning which the person desires to be heard and a brief summary of his position on those objections or issues).

Comments and objections may be addressed to the Hearing Clerk, Office of Administrative Law Judge, Drug Enforcement Administration, Room 1130, 1405 Eye Street, NW, Washington, D.C. 20537.

Dated: December 18, 1974.

JOHN R. BARTELS, Jr.,
Administrator.

[FR Doc.74-29922 Filed 12-23-74;8:45 am]

IMPORTER OF CONTROLLED SUBSTANCE

Notice of Applications

By Notices dated October 16, 1974, and published in the FEDERAL REGISTER on October 21, 1974; (39 FR 37402) Smith Kline & French Laboratories, 1500 Spring Garden Street, Philadelphia, Pennsylvania 19101, and Elkin-Sinn Inc., Subsidiary of Medical Electroscience & Pharmaceuticals, 2 Esterbrook Lane, Cherry Hill, New Jersey 08002, made application to the Drug Enforcement Administration to be registered as Importers of Amobarbital, a basic class controlled substance listed in schedule II.

No comments or objections having been received, and, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with 21 CFR 1311.42, the above firms are granted registration as Importers of Amobarbital.

Dated: December 18, 1974.

JOHN R. BARTELS, Jr.,
Administrator.

[FR Doc.74-29923 Filed 12-23-74;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Notice of Application

By Notice dated September 17, 1974, and published in the FEDERAL REGISTER on September 30, 1974; (39 FR 35188-9) Fher Corporation Ltd., Carretera 132, Km 25.3, P.O. Box 4108, Ponce, Puerto Rico 00731, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Phenmetrazine, a basic class controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with 21 CFR 1301.43, the above firm is granted registration as a bulk manufacturer of Phenmetrazine.

Dated: December 18, 1974.

JOHN R. BARTELS, Jr.,
Administrator.

[FR Doc.74-29920 Filed 12-23-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ANCEL JOHNSON

Issuance of Permit Marine Mammals

On September 16, 1974, a notice was published in the FEDERAL REGISTER (39 FR 33246-47) that an application had been filed with the Fish and Wildlife Service by Ancel Johnson, Marine Mammal Substation, Naval Support Activity, Seattle, Washington, for a permit to engage in sea otter research.

Notice is hereby given that on December 13, 1974, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Fish and Wildlife Service issued a permit to Ancel Johnson, subject to certain conditions set forth therein. The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Suite 600, 1612 K Street NW., Washington, D.C.

Dated: DECEMBER 19, 1974.

C. R. BAVIN,
Chief, Division of Law Enforcement, Fish and Wildlife Service.

[FR Doc.74-29993 Filed 12-23-74;8:45 am]

National Park Service

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION

Notice of Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held on Saturday, January 11, 1975, at 9 a.m., at the Stephen Mather Training Center, Harpers Ferry, West Virginia.

The Commission was established by Public Law 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Miss Nancy Long (Chairman), Glen Echo, Maryland.
Mrs. Caroline Freeland, Bethesda, Maryland.
Mr. Donald Frush, Hagerstown, Maryland.
Hon. Vladimir A. Wahbe, Baltimore, Maryland.
Mr. Anthony Abar, Annapolis, Maryland.
Mr. John C. Lewis, Hamilton, Virginia.
Mrs. Dorothy Grotos, Arlington, Virginia.
Mr. Burton C. English, Berkeley Springs, West Virginia.
Mr. Henry W. Miller, Jr., Paw Paw, West Virginia.
Mr. Lorenzo W. Jacobs, Jr., Washington, D.C.
Mr. Joseph H. Cole, Washington, D.C.
Mr. Ronald A. Clites, LaVale, Maryland.
Mrs. Mary Miltenberger, Cumberland, Maryland.
Dr. James H. Gilford, Frederick, Maryland.
Dr. Kenneth R. Bromfield, Frederick, Maryland.
Mr. Grant Conway, Brookmont, Maryland.
Mr. Edwin F. Wesely, Chevy Chase, Maryland.
Mr. John C. Frye, Gapland, Maryland.
Mr. Rome F. Schwagel, Keedysville, Maryland.
Mr. Justice Douglas (Special Consultant).

The matters to be discussed at this meeting include:

(1) Potomac River Reports.
(2) County Reports.
(3) Status of General Plan.
(4) Superintendent's Report.

(5) Film of 1974 C&O Canal Association Reunion Hike.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 30 persons will be able to attend the sessions. Any number of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanton, Associate Director, Cooperative Activities, National Capital Parks, at Area Code 202-426-6715. Minutes of the meeting will be available for public inspection two weeks after the meeting, at the Office of National Capital Parks, Room 208, 1100 Ohio Drive SW., Washington, D.C.

Dated: December 16, 1974.

JOHN A. TOWNSLEY,
Acting Director,
National Capital Parks.

[FR Doc.74-30084 Filed 12-23-74;8:45 am]

Office of the Secretary

[Order No. 2962]

ALASKA NATIVE VILLAGES

Land Selections by Unapproved Native Villages

Sec. 1 *Timely Filing.* Departmental Order No. 2965 of June 10, 1974, provided additional time for the final determination to be made of the eligibility of Alaska Native Villages for benefits under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601-1624. In order to permit the timely filing of land selection applications by villages not yet determined to be eligible for such benefits, I hereby waive the regulations, 43 CFR 2651.2 (a)(2) and 2651.2(a)(9), requiring certification of eligibility before the filing of land selection applications.

a. Any proposed village whose eligibility is not yet determined may file its land selection application prior to the final eligibility determination and certification of its eligibility.

b. Action on these filings and on any conflicting Native selections will be held in abeyance until the village's eligibility is determined and the certification therof issued.

Sec. 2 *Effective Date.* This order is effective immediately.

Dated: December 16, 1974.

JOHN C. WHITTAKER,
Acting Secretary of the Interior.

[FR Doc.74-29978 Filed 12-23-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

TIMBER MANAGEMENT PLAN REVISIONS FOR THE ARAPAHO NATIONAL FOREST

Draft Environmental Statement, Notice of Availability

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Timber Management Plan Revisions for the Arapaho National Forest. The Forest Service report number is USDA-FS-R2-DES (Adm) FY-75-04.

The environmental statement concerns a proposal to revise the Timber Management Plan for the Arapaho National Forest and to apply timber management activities at a level compatible with other resources and uses that could be affected by timber harvest.

This draft environmental statement was transmitted to CEQ on December 18, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service,
So. Agriculture Bldg., Room 3230,
12th St. and Independence Ave. SW.,
Washington, D.C. 20250.

USDA, Forest Service,
11177 West 8th Avenue,
P.O. Box 25127,
Denver, Colorado 80225.

USDA, Forest Service,
Arapaho National Forest,
Federal Building,
301 S. Howes,
Fort Collins, Colorado 80521.

A limited number of single copies are available upon request to W. J. Lucas, Regional Forester, USDA Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colorado 80225.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to W. J. Lucas, Regional Forester, USDA Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colorado 80225. Comments must be received by February 18, 1975, in order to be considered in the preparation of the final environmental statement.

CLAYTON B. PIERCE,
Director, Multiple Use and Environmental Quality Coordination.

DECEMBER 18, 1974.

[FR Doc.74-30043 Filed 12-23-74;8:45 am]

TIMBER MANAGEMENT PLAN, MODOC NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Timber Management Plan, Modoc National Forest, California USDA-FS-R5-DES(Adm) 75-6.

The environmental statement concerns a proposed timber management plan for the management of the timber resources on the forest.

This draft environmental statement was transmitted to CEQ on December 17, 1974.

Copies are available for inspection during regular working hours on the following locations:

USDA, Forest Service,
South Agriculture Bldg., Room 3230,
12th St. and Independence Ave. SW.,
Washington, D.C. 20250.

USDA, Forest Service,
630 Sansome Street, Rm. 531,
San Francisco, California 94111.

Modoc National Forest,
441 North Main Street,
Alturas, California 96101.

A limited number of single copies are available upon request to Regional Forester, Douglas R. Leisz, California Region, U.S. Forest Service, 630 Sansome Street, San Francisco, California 94111.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal Agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Douglas R. Leisz, Regional Forester, 630 Sansome Street, San Francisco, California 94111. Comments must be received by February 17, 1975, in order to be considered

in the preparation of the final environmental statement.

GLENN P. HARRY,
Deputy Regional Forester.

DECEMBER 17, 1974.

[FR Doc.74-29968 Filed 12-23-74;8:45 am]

Soil Conservation Service

CHOCOLATE, LITTLE CHOCOLATE, AND LYNN BAYOU WATERSHED, TEXAS

Notice of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; § 1500.6(e) of the Council on Environmental Quality guidelines (38 FR 20550) August 1, 1973; and § 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Little Chocolate Channel Work, Chocolate, Little Chocolate, and Lynn Bayou Watershed Project, Calhoun County, Texas.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Edward E. Thomas, State Conservationist, Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The proposal concerns an independent portion of the remaining works of improvement consisting of 16 miles of multiple-purpose channel work for flood prevention and drainage on intermittent and ephemeral streams and about 112 pipe drop structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501.

No administrative action on implementation of the proposal will be taken until 15 days after the date of this notice.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: December 17, 1974.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74-30002 Filed 12-23-74;8:45 am]

UPPER ELK RIVER WATERSHED PROJECT, KANSAS

Notice of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500 of the Council on Environmental Quality guidelines (38 FR 20550, August 1, 1973); and § 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental statement is not being prepared for the Upper Elk River Watershed Project, Elk, Butler, and Greenwood Counties, Kansas.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Robert K. Griffin, State Conservationist, Soil Conservation Service, USDA, 760 S. Broadway, Salina, Kansas 67401, has determined that the preparation and review of an environmental statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement remaining to be built include conservation land treatment supplemented by 22 floodwater retarding structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, 760 S. Broadway, Salina, Kansas 67401.

No administrative action on implementation of the proposal will be taken until 15 days after the date of this notice.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: December 18, 1974.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources.

[FR Doc.74-30001 Filed 12-23-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

NEW YORK UNIVERSITY MEDICAL CENTER, ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the Federal Register.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00211-33-90000. Applicant: New York University Medical Center, 550 First Avenue, New York, N.Y. 10016. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for the investigation of cerebral diseases such as tumors, cysts and hemorrhages which overcome the limitations of conventional X-ray techniques in brain tissue investigations. The article will provide the diagnostician with accurate information on the nature and location of diseased or damage tissue and eliminate the principal physical and psychological discomforts to patients which have been unavoidable with some other techniques. Application received by Commissioner of Customs: November 19, 1974.

Docket Number: 75-00212-33-90000. Applicant: University of Wisconsin Center for Health Sciences, Dept. of Radiology, 1300 University Avenue, Madison, Wisconsin 53706. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for studies of patients with neurologic disease such as brain atrophy, brain tumor, brain death, and various congenital brain disorders through computerized transaxial tomographs. The article will also be used to train diagnostic radiology physicians. Application received by Commissioner of Customs: November 19, 1974.

Docket Number: 75-00213-65-46070. Applicant: State University of New York at Buffalo, 3435 Main Street, Buffalo, New York 14214. Article: Scanning Electron Microscope, Model JSM U-3. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to carry out sophisticated and detailed studies of metallic, nonmetallic, and biological materials. Specific projects will include:

1. Large strain rate deformation of materials.
2. Surface integrity studies of high strength alloys.
3. Stress corrosion sensitivity of engineering surfaces of commercial alloys.
4. Friction and wear behavior of cast irons.
5. Studies in Process Metallurgy; Gas-solid reactions and solidification of two component alloys.
6. Effect of topography and heterogeneity on wetting of solids by liquids.
7. Calcified tissue research.
8. Drug release rates on spansules.

The article will also be used for educational purposes in graduate and undergraduate level courses, including nontechnical people in health services.

Application received by Commissioner of Customs: November 20, 1974.

Docket Number: 75-00214-01-11000. Applicant: Yale University, Purchasing

Dept., 260 Whitney Avenue, New Haven, Connecticut 06520. Article: Gas Chromatograph-Mass Spectrometer, Model MAT 111. Manufacturer: Varian MAT, West Germany. Intended use of article: The article is intended to be used for the study of metabolites in the blood and urine from patients with metabolic disease and from control subjects. The materials analyzed will be complex mixtures of compounds extracted from blood or urine. The objectives of the investigations that will require use of the article are threefold; 1) to detect and characterize metabolic disorders which have not yet been described; 2) to establish the diagnosis of known diseases in new patients; 3) to study such disorders, both known and newly discovered, in greater detail in order to gain insight into their biochemical origins and implications. Application received by Commissioner of Customs: November 20, 1974.

Docket Number: 75-00215-33-46500. Applicant: West Virginia University Medical Center, Medical Center Campus, Morgantown, West Virginia 26506. Article: Ultramicrotome, Model Om U3. Manufacturer: C. Reichert Optische Werke, Austria. Intended use of article: The article is intended to be used primarily for studies of materials involved in electron microscopic studies of blood platelets, platelet aggregates, and other tissue of varying density. Aggregates will vary in size and compactness from one specimen to another. Other samples to be studied will include formed tissues of several types (spleen, lung, alimentary system, skin), with thrombi or with areas of necrosis and/or inflammation or neoplasm. Application received by Commissioner of Customs: November 20, 1974.

Docket Number: 75-00216-33-46040. Applicant: University of Iowa, Purchasing Department, Jefferson Building, Iowa City, Iowa 52242. Article: Electron Microscope, Model JEM 100C with Side Entry Goniometer & Scanning Device. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to quantitate synaptic contacts in the central nervous system by an automated system which detects density due to staining of the structures under study. Application received by Commissioner of Customs: November 20, 1974.

Docket Number: 75-00217-33-46500. Applicant: Biomedical Laboratory, Edgewood Arsenal, Aberdeen Proving Ground, Md. 21010. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological, mainly mammalian tisseus derived from experimental animals, exhibiting both normal and induced pathologic structure. The experiments to be conducted include experiments on the normal, physiological behavior of cells and tissues in regard to antigen recognition and antibody response. Application received by Commissioner of Customs: November 20, 1974.

Docket Number: 75-00218-33-46500. Applicant: University of California at Los Angeles, 405 Hilgard Avenue, Los Angeles, California 90024. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological tissues and products as a result of experimental programs designed to investigate disease processes in man and animals. The experiments to be conducted include both normal and abnormal development of synapses in the young developing nervous system. Application received by commissioner of Customs: November 20, 1974.

Docket Number: 75-00219-33-46500. Applicant: Yale University, Purchasing Dept., 20 Ashmun Street, New Haven, Conn. 06520. Article Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section materials for high resolution light and electron microscope examination of kidney tubules from rats and kidney tubules and urinary bladders of several species of amphibians and several species of fish. Application received by Commissioner of Customs: November 20, 1974.

Docket Number: 75-00220-33-46500. Applicant: County of Los Angeles, John Wesley Hospital, 2825 S. Hope Street, Los Angeles, California 90007. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section specimens of human blood and bone marrow for investigation aimed at understanding the normal maturation process of human bone marrow cells and aberrations of this process which occur in neoplastic diseases. The article will also be used to train physicians in techniques for electron microscopy. Application received by Commissioner of Customs: November 20, 1974.

Docket Number: 75-00221-33-90000. Applicant: Delaware Valley Neurosurgical Association—Episcopal Hospital, C-111 Episcopal Hospital, Front Street and Lehigh Avenue, Philadelphia, Pa. 19125. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article will be used to study the brain by computerized transaxial tomography (CTT). Examples of planned projects are the study of traumatic and/or spontaneous intracranial hemorrhage, management of cerebral edema, the effect of immunotherapy on the growth of brain tumors, dementia, isotope brain scan versus CTT and ultrasound versus CTT. The article will also be used to train neurological, neurosurgical and radiological residents, as well as medical students and physicians in the use of CTT. Application received by Commissioner of Customs: November 20, 1974.

Docket Number: 75-00224-33-46040. Applicant: Philadelphia College of Osteopathic Medicine, 4150 City Avenue, Philadelphia, Pa. 19131. Article: Electron Microscope, Model JEM 100C. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for research in the following areas:

(1) Study of the female reproductive tract in the fertilization process and sperm physiology, an investigation concerned with the effect of the oviductal constituents of various hormones on the capacitation of spermatozoa.

(2) The structural organization of skeletal and cardiac muscle in normal and pathological material from man and animals.

(3) Experiments in the important process of genetic activity and genetic replication that occur in normal and viral infected cells, including protein-nuclear acid interactions during adeno-2 virus infection. The article will also be used to familiarize medical students with electron microscopy and to make the transition from light microscopy to electron microscopy. Application received by Commissioner of Customs: November 22, 1974.

Docket Number: 75-00226-33-46040. Applicant: Trenton State College, Trenton, New Jersey 08625. Article: Electron Microscope, Model HS-9. Manufacturer: Hitachi, Ltd. Japan. Intended use of article: The article is intended to be used in the following research projects:

(1) The effects of drugs and ionic imbalance on mitochondrial ultrastructure of Purkinje fibers of canine heart.

(2) The origin and development of C-body endosymbiont inclusions in mutant and normal oocytes of *Drosophila melanogaster* and *Drosophila virilis*.

(3) An ultrastructural analysis of green and blue-green algae of New Jersey: Taxonomic differentiation.

(4) The ultrastructure of amoebocytes and lymphocytes isolated from hard clam, Mercenaria mercenari in polluted and non-polluted environments.

(5) Electron microscopic visualization of DNA isolated from *E. Coli* during ϕX174 infection.

The article will also be used to introduce the undergraduate Biology major to the theory and practical operation of the electron microscope. Application received by Commissioner of Customs: November 22, 1974.

Docket Number: 75-00227-33-90000. Applicant: University of Michigan, 1405 East Ann Street, Ann Arbor, Michigan 48104. Article: EMI Scanner System with Magnetic Tape Storage System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for scanner evaluation of patients with signs or symptoms of intracranial disease to define more precisely the modern role of all methods of intracranial diagnosis in light of the contribution made by the article. In addition, the article will be used to present the modern aspects of neuroradiology to residents, neuroradiology fellows, medical students and x-ray technology students. Application received by Commissioner of Customs: November 22, 1974.

Docket Number: 75-00228-00-46040. Ohio 45701. Article: Electron Microscope, Model HS-8, Mark II. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used for training graduate students in its

use in the course Botany 725E, "Electron Microscopy." Students will be taught (1) basic procedures for preparing plant material for examination by transmission electron microscope, and (4) photoelectron optics and related alignment procedures for standard transmission electron microscopy, (3) examination and evaluation of specimen image in the electron microscope, and (4) photographic recording and duplication. Application received by Commissioner of Customs: November 22, 1974.

Docket Number: 75–00229–33–46500. Applicant: Veterans Administration Hospital, Laboratory Service, 1400 V.F.W. Parkway, West Roxbury, Mass. 02132. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of cardiac muscle from animals (cats, dogs, rats) and from human tissues removed at surgery. The article will also be used to train pathologists to use the electron microscope for examination of normal and diseased tissues, in order to provide new information about diseases. Application received by Commissioner of Customs: November 22, 1974.

Docket Number: 75–00230–33–46040. Applicant: The Pennsylvania State University College of Medicine, Department of Microbiology, 500 University Drive, Hershey, Pa. 17033. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used in the graduate course "Electron Microscope Techniques" to teach the basic techniques in specimen preparation, use of the electron microscope and photographic competence in developing and printing of electron micrographs, to graduate students, medical students and post-doctoral fellows, who intend to examine DNA or to use the ultrastructural approach in some phase of their research. Application received by Commissioner of Customs: November 22, 1974.

Docket Number: 75–00231–75–68495. Applicant: University of California, Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, New Mexico 87544. Article: Pump: Electric Drive. Manufacturer: Stansted Eng. Co. Ltd., United Kingdom. Intended use of article: The article is intended to be used to extend P–V–T data on the molecular hydrogens up to 40 kbar to better understand the processes leading to laser fusion and the creation of metallic hydrogen. Application received by Commissioner of Customs: November 22, 1974.

Docket Number: 75–00232–33–46500. Applicant: Children's Hospital Research Foundation, Elland and Bethesda Avenues, Cincinnati, Ohio 45229. Article: Ultramicrotome, Model Om U3. Manufacturer: C. Reichert Optische Werke, Austria. Intended use of article: The article is intended to be used to cut sections of mouse palate one-millionth of an inch thin. The section is then to be viewed and photographed with an electron microscope to determine whether contracticle proteins are found in the fetal palate and whether these proteins are responsible for palatal shelf elevation during development. Application received by Commissioner of Customs: November 22, 1974.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director, Special Import Programs Division.

[FR Doc.74–29971 Filed 12–23–74;8:45 am]

UNIVERSITY OF CALIFORNIA, ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of EMI Scanner Systems

The following is a consolidated decision on applications for duty-free entry of EMI Scanner Systems. Pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket Number: 75–00058–33–90000. Applicant: University of California, Los Angeles, Center for the Health Sciences, Los Angeles, California 90024. Article: EMI Scanner with Magnetic Tape System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used to explore the possibilities of transverse tomography using holographic image reconstruction. The article will provide data for comparison with the holographic method as well as for digital methods. Experiments will also be conducted on other forms of display (topographic, density, etc.) and reproduction. Studies will also be conducted to determine the feasibility of reconstructing the images in planes other than the transverse axis in which they are obtained. The article will also be used in the following courses in which student participants will be introduced to the modalities of the EMI Scanner techniques:

Basic Principles in Radiology
Radiology Clerkship
Advanced Senior Clerkship—Diaghostic Division
Special Senior Clerkship—Diagnostic Division
Applications of Medical Physics
Physics of Diagnostic Radiology
Neurology Depth Elective

Application received by Commissioner of Customs: August 16, 1974. Advice submitted by the Department of Health, Education, and Welfare on: November 5, 1974.

Docket Number: 75–00076–33–90000. Applicant: Allegheny General Hospital, 320 East North Avenue, Pittsburgh, Pa. 15212. ARTICLE: EMI Scanner and Magnetic Tape System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in an investigation carried out both on humans and on animals in the attempt to learn more about the density of tissues, to evaluate the density of tissues as they refer to the various types of pathology effecting the tissue involved, in this case the brain of a patient, and to attempt to correlate this information with known diagnostic studies previously used and subsequently found operative information. The article will be used to screen large numbers of patients, the results of which will be compared with the conventional carotid angiography and pneumoencephalography. This maposes in lecture courses within the hospital and within the medical school complex in demonstrating its usefulness and in obtaining the information and instructing others in its efficiency and diagnostic facilities. Application received by Commissioner of Customs: August 26, 1974. Advice submitted by the Department of Health, Education, and Welfare on: November 21, 1974.

Docket Number: 75–00092–33–90000. Applicant: Montefiore Hospital and Medical Center, 111 E. 210th Street, Bronx, New York 10467. Article: EMI Scanner, 160x160 Matrix Option and Magnetic Tape System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for computerized assisted tomographic axial examination of the brain in studies of neurological diseases (i.e., brain tumors, brain atrophy) degenerative disease of children and adults (i.e., multiple sclerosis, Parkinson's disease) for the development of techniques which have been unavailable for the diagnosis of diseases affecting the brain. The article will also be used in the training of individuals in neuroradiology, neurology, pediatric neurology and neurosurgery. Application received by Commissioner of Customs: September 4, 1974. Advice submitted by the Department of Health, Education, and Welfare on: November 21, 1974.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each foreign article is a newly developed system which is designed to provide precise transverse axial X-ray tomography. The Department of Health, Education, and Welfare (HEW) advised in its respectively cited memoranda that the sensitivity and the non-invasive methodology of each article are pertinent to the purposes for which each foreign article is intended to be used. HEW also advised that it knows of no domestic instrument of equivalent scientific value to any of the articles to which the foregoing applications relate for such purposes as these articles are intended to be used.

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The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director, Special Import Programs Division.

[FR Doc.74-28078 Filed 12-20-74;8:45 am]

MOREHOUSE COLLEGE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00180-33-46040. Applicant: Morehouse College, 223 Chestnut Street SW., Atlanta, Ga. 30314. Article: Electron Microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for study of the unsolved problem of the linearity of all axial structures during the regeneration of the tadpole tail and the notochord is especially puzzling in this regard. The article will also be used in the course Biology 487; 488. Techniques in Electron Microscopy to develop some proficiency in the use of the electron microscope by a large number of students.

Comments: No comments have been received with respect to this application. A letter was received from Adam David Company dated December 20, 1973, and is being treated as an offer to supply additional information under Section 701.9 of the regulations.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

In reply to Question 8 the applicant alleges the foreign article provides the following pertinent characteristics which are not possessed by the most closely comparable domestic instrument or apparatus, which the applicant assumes to be the EMU-4C, supplied by the Adam David Company:

1. The design concept of the EM 9S-2 differs considerably from the domestically manufactured instrument. The EMU-4C was designed as an extremely versatile instrument for high resolution work with biological and non-biological applications. A much greater number of controls, push buttons and read-out meters were built into this microscope, thus requiring a much higher degree of sophistication in its operation. By comparison, the EM 9S-2 was designed for biological applications, overall ease of foolproof operation and safer performance for students with little, or even without, previous experience;

2. Extra low magnifications, down to 30X, without change of pole piece. By switch action alone an entire grid can be imaged and focused at 140X without distortion;

3. A semi-automatic "beam finder" enabling rapid beam location even when the condenser aperture and the gun are completely disaligned;

4. All apertures can be removed for cleaning purposes without disassembling or removing parts of the microscope column;

5. Thin metal film objective apertures (three discs with seven holes each);

6. It is possible to obtain stereo tilt, plus or minus 6°, by using the normal specimen holder, thus obviating the necessity of a tilting stage;

7. Photomagazines for 60 and 75 sheet films or glass plates 7 cm. x 7 cm. are available, permitting the uninterrupted taking of micrographs over prolonged periods of time;

8. A fully automatic photographic system. The operation of a single lever activates a spot-reading timing system; there is five-digit sequential numbering of negatives; negatives are transported automatically with double exposure excluded; provision for manual override is included and an "empty magazine" indicator is present;

9. Unique specimen airlock system in which the specimen holder and the handling rod are one unit. Thus, accidental separation and loss of the specimen holder during transfer operation is impossible;

10. The 10x binocular viewing microscope has high-eyepoint eyepieces;

11. Automatic vacuum system with safeguards against water and electrical power failure;

12. Low number of controls at the column and console of the EM 9S-2; and

13. Highly stable column alingment.

The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated October 24, 1974 that the description of research and teaching does not establish a pertinent specification, within the meaning of subsection 701.2(n), for the article that upholds duty-free entry. HEW advises that the work intended by the applicant requires an instrument with high resolution capability, such as the EMU-4C, which, according to HEW, possesses the technical capabilities necesary to carry it out. With respect to the specific capabilities listed by the applicant in reply to Question 8 of the application, HEW advises as follows: a. Items (1) and (2) are not pertinent specifications for the purposes intended within the meaning of subsection 701.2(n) of the regulations; b. Items (3), (4), (5), (12) and (13) are conveniences which are not necessary for accomplishing the applicant's intended purposes, and, therefore, are not pertinent specifications within the meaning of subsection 701.2(n) of the regulations; and c. Items (6) (7) (8) (9) (10) and (11) are matched by similar features provided by the EMU-4C.

For these reasons, we find that the Model EMU-4C is of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director, Special Import Programs Division.

[FR Doc.74-28064 Filed 12-23-74;8:45 am]

NATIONAL ACCELERATOR LABORATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 73-00410-98-42800. Applicant: National Accelerator Laboratory, Universities Research Association, Inc., 2100 Pennsylvania Avenue NW., room 828, Washington, D.C. 20006. Article: 75 Dipole Magnets. Manufacturer: Thomson Electric, Ltd., Canada. Intended use of article: The articles are to be used in the construction of a 200 BeV accelerator which is to be used in a large variety of scientific exploratory experiments with protons accelerated by the article to 200 BeV energy.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application is a resubmission of Docket Number 72-00194-98-42800, previously denied without prejudice to resubmission by the Department's letter dated October 31, 1972, because of certain informational deficiencies. The applicant issued a request for proposal for fabricating the foreign article to 13 firms, including eight domestic manufacturers. It is noted that three domestic firms offered proposals to the applicant's request. In its memorandum dated August 21, 1972, with respect to Docket Number 72-00194-98-42800, the National Bureau of Standards (NBS)

advised that it knows of no additional domestic manufacturers of magnets considered comparable to the foreign article. In response to Question 8(c) of the present submission, the applicant claims inter alia that delivery of the article by July 1, 1971 is necessary for the accomplishment of the research purposes and that the domestic manufacturers who were willing and able to produce the article (those which offered proposals, i.e., National Electric Coil, Westinghouse Electric Corporation and Airco Temescal) could not meet the specified delivery date because of prior contractual obligations with the applicant which absorbed their current production capacity. In this connection, it is noted that § 701.11(e) of the Department's regulations specifies that duty-free entry of the article shall be considered justified, without regard to whether there is being manufactured in the United States an instrument, apparatus, or accessory of equivalent scientific value for the purposes intended, if the delay in obtaining such domestic article will seriously impair the accomplishment of the applicant's intended purposes.

NBS evaluated the present application and advised in its memorandum dated February 19, 1974, that delivery by July 1, 1971 is pertinent to the commencement of useful operation of the accelerator at the scheduled time and hence to the applicant's research purposes. NBS further advised that the applicant has supplied evidence that the domestic manufacturers who were willing and able to produce the article had their capacity absorbed with current contracts and, therefore, were not able to meet the pertinent delivery date.

Accordingly, we find that the delivery times for domestic instruments of equivalent scientific value to the article for the purposes described in response to Question 7 of the application were excessive within the meaning of § 701.11(e).

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director, Special Import Programs Division.

[FR Doc.74-29966 Filed 12-23-74;8:45 am]

UNIVERSITY OF MINNESOTA MEDICAL SCHOOL

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00061-33-46500. Applicant: University of Minnesota Medical School, 2630 University Avenue Southeast, Minneapolis, Minnesota 55414. Article: LKB Ultrotome III Ultramicrotome 88001-NM with Microscope Holder. Manufacturer: LKB Produkter AB, Sweden. Intended use of Article: The article is intended to be used in experiments involving the determination of the normal structure of nerve endings in human muscle spindles compared to similar endings in muscle spindles from cat, rat, and other mammals, and in the study of the responses of muscle spindles to physiological stimulation and to a variety of pharmaceutical agents to which they will be exposed.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by HEW in its memorandum of November 21, 1974 that cutting speeds in the excess of 4 mm/sec are pertinent to the applicant's research studies.

We therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director, Special Import Programs Division.

[FR Doc.74-29965 Filed 12-23-74;8:45 am]

BEAUMONT HOSPITAL

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket number: 74-00197-33-46040. Applicant: William Beaumont Hospital, 3601 W. 13 Mile Road, Royal Oak, Michigan 48072. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used to study the ultrastructure of glomerular and cellular abnormalities in the kidney, both as a means of identifying the disease process and as a method of conducting research. Similarly, cellular alterations in patients suffering from hepatic disease will be studied ultrastructurally to identify and investigate the disease process. The article will also be used as an adjunct to the research into the identifying characteristics of embryonal malignancies; as a means of characterizing the cellular types involved in thyroid tumors and of studying their response to different therapeutic and pharmacologic modalities; as a means of studying lymphoid and lymphocytic reactions in disease states and in malignancies of the hematopoietic systems.

Comments: Comments dated December 19, 1974, have been received from the Adam David Company which allege, inter alia, that the Model EMU-4C and accessories are of equivalent scientific value to the article.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: In the reply to Questions 8 and 9 the applicant alleges that the foreign article provides the following specifications which are pertinent to the in-

tended purposes and that are not possessed by the most closely comparable domestic instrument or apparatus:

(1) A microscope, simple in operation, that will be used by many people, some of them in training;

(2) A range of magnification from very low to medium high, while not disturbing the specimen or losing the field of viewing;

(3) Adequate resolution at higher magnification for differential of small particles and cellular organelles;

(4) Capability of using 70 mm. camera for large numbers of spatially oriented, sequential pictures in quantitative studies;

(5) Ready availability of contracted manufacturer's service and maintenance; and

(6) Single condenser system.

At the time the article was ordered, two domestically manufactured electron microscopes were available. The Model ETEM 101 (a relatively simple low resolution instrument designed for use by beginners with a minimum of supervision), manufactured by Elektros Incorporated, and the Model EMU-4C, supplied by Adam David Company. HEW advise in its memorandum dated August 7, 1974, that "The most nearly comparable domestic instrument for the work described is the EMU-4C. This instrument has equivalent guaranteed resolution and magnification range without pole piece change [Characteristics 3 and 2, above, respectively]. It also provides a selection in cameras or condenser [characteristics 4 and 6, respectively]. Projected service needs [characteristic 5] and other conveniences cited [such as simplicity in operation characteristic 6] are not relevant." Accordingly, HEW recommends that this application be denied since the intended purposes do not establish a pertinent specification of the article, within the meaning of § 701.2(n) of the regulations that justifies duty-free entry.

Therefore, we find that the Model EMU-4C is of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.74-29068 Filed 12-23-74;8:45 am]

INDIANA UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 74-00543-33-46530. Applicant: The Trustees of Indiana University, Bloomington, Indiana 47401. Article: Sagittare 40—MEV Linear Accelerator. Manufacturer: Thomson-CSF, France. Intended use of article: The article is intended to be used in both an electron as well as a photon mode for the treatment of cancer. The article will also be used in biological research which will include the effects of high dose rates on in vitro cell survival and also the effects of various energy relations on cell survivals. Physics research projects will center on the measurement of neutron fluxes in and around the 40 meV linear accelerator as well as electron dosimetry and photon dosimetry as it relates to the treatment of cancer. In addition the article will serve for the training of residents in the use of accelerators.

Comments: Comments dated August 7, 1974, were received from Varian Associates (Varian) which allege, inter alia, that the Varian Radiation Division Clinac 35 radiotherapy linear accelerator with accessories is equivalent in all clinical respects, except maximum electron energy, to the foreign article.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, could have been made available to the applicant without excessive delay within the meaning of § 701.11(e) of the regulations. Reasons: Excessive delivery time is described in § 701.11(e) of the regulations as follows:

Excessive delivery time. Duty-free entry of the article shall be considered justified without regard to whether there is being manufactured in the United States an instrument, apparatus, or accessory of equivalent scientific value for the purposes described in response to question 7 of the application form, if the delay in obtaining such domestic instrument, apparatus, or accessory (as indicated by the difference between the delivery times quoted by domestic manufacturer and foreign manufacturer) will seriously impair the accomplishment of the purposes. In determining whether the difference in delivery times is excessive, the Deputy Assistant Secretary shall take into account the relevancy of the applicant's program to other research programs with respect to timing, the applicant's need to have such instrument, apparatus, or accessory available at the scheduled time for the course(s) in which the article is intended to be used, and other relevant circumstances.

The foreign article was ordered December 7, 1973, with a quoted delivery time of six months. The quoted delivery time of the Varian Model Clinac 35 was 700 days (approximately 23 months). We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 10, 1974, that the delivery time for the Clinac 35 is excessive. The Department notes the applicant's intended research and educational programs would be delayed by approximately one year if the domestic article was to be utilized. Accordingly, we find that the difference between the delivery time for the article and the delivery time quoted for the domestic instrument is excessive within the meaning of § 701.11(e) since the longer delivery time of the domestic instrument would seriously impair the accomplishment of the applicant's purposes.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.74-29070 Filed 12-23-74;8:45 am]

UNIVERSITY OF WASHINGTON

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00057-55-17500. Applicant: University of Washington, Department of Oceanography WB-10, Seattle, Washington 98195. Article: Two Recording Current Meters, Model #4. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article is intended to be used in experiments involving continuous detailed monitoring of currents and thermal structure of the Arctic Ocean in pursuit of the following objectives:

(a) Definition of special velocity components of tidal origin (semi-diurnal, diurnal, fortnightly bands, etc.) and differentiation of these from inertial events.

(b) Determination of seasonal and long-term variability of velocity and thermal fields in the Arctic Ocean.

(c) Assessment of the role of planetary waves.

(d) Mapping of the climatologically mean velocity field.

(e) Measurement of short-term aperiodic accelerations.

Comments: No comments have been received with respect to this application.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant alleges that the article provides measurements of current speed, current direction, water temperature (as low as −1.9° C.) at a data sampling interval of 10 minutes for a duration of 70 days. The National Oceanic and Atmospheric Administration (NOAA) advises in its memorandum dated November 11, 1974, that the specifications described above are pertinent

to the applicant's purposes within the meaning of § 701.2(n) of the regulations. The most closely comparable domestic instrument is the Model VACM vector averaging current meter manufactured by AMF Sea-Link Systems. The VACM provides measurement of current speed, current direction, and water temperature (−2 to 30° C.) with internal data recording. It utilizes the vector averaging technique which continuously samples current velocity every ⅛ rotor turn minimizing the possibility of data aliasing. In addition, the VACM, has a 11.5 x 10⁶ bit data storage capacity which is equivalent to or better than that of the article and, which permits sampling frequency of the same order and duration required of the article. NOAA further advises that the VACM satisfies all the specifications of the article found pertinent.

For these reasons, we find that the domestically-manufactured VACM is of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.74-29969 Filed 12-23-74;8:45 am]

YALE UNIVERSITY, ET AL.

Consolidated Decision on Application for Duty-Free Entry of Scientific Articles; Correction

In the notice of consolidated decision on applications for duty-free entry of scientific articles appearing at page 42934 in the FEDERAL REGISTER of Monday, December 9, 1974, the following docket should be deleted:

Docket number: 74-00437-90-42600. Applicant: National Aeronautics and Space Administration, Langley Research Center (MS 146), Hampton, Virginia 23665. Article: Alpha-numeric Display Device Made from a Two-Color-Monolithic Array of Light-Emitting Diodes. Manufacturer: Bowmar Canada Limited, Canada. Date of denial without prejudice to resubmission: July 2, 1974.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.74-29967 Filed 12-23-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

SACCHARIN AND ITS SALTS

Beverage and Other Food Manufacturers

The Food and Drug Administration has learned of a seizure made by the State of New York of nondiet beverages that contain a mixture of sugar and saccharin as sweetening agents. The Food and Drug Administration has also received information, as yet unconfirmed, that other food manufacturers may be using mixtures of saccharin and nutritive sweeteners in food formulations which are not labeled as special dietary foods offered for calorie control.

The use of saccharin or admixtures of saccharin as a sweetening agent in such products is illegal. Saccharin and its salts are food additives within the meaning of sections 201(s), 402(a)(2)(C) and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(s), 342(a)(2)(C), 348) and may not be used in food except under the conditions of use set forth in 21 CFR 121.4001, which restricts use to valid special dietary foods (i.e., foods specifically offered for calorie control) and to certain limited technological uses other than calorie reduction, as specified in that regulation. Combinations of nutritive sweeteners and saccharin or its salts in "diet beverages" or diet beverage bases are also subject to additional requirements set forth in 21 CFR 3.72. Both regulations set forth restrictions upon use and require special labeling to distinguish the valid special dietary food products from other foods. Furthermore, all special dietary foods are subject to applicable labeling requirements of 21 CFR Part 125.

The purpose of this notice is to emphasize the existence of the above-referenced regulations and to inform all beverage and other food manufacturers that the Commissioner of Food and Drugs is notifying the public, all Food and Drug Administration field units, and all State food and drug officials to be alert to this type of adulteration. Illegal use of saccharin or its salts subjects the products involved and the responsible companies and individuals to potential regulatory action, including seizure, injunction, and criminal prosecution.

Dated: December 18, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-29926 Filed 12-23-74;8:45 am]

ADVISORY COMMITTEES

Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the Food and Drug Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, of the Panel on Review of Dentifrices and Dental Care Agents for an additional period of 2 years beyond December 27, 1974.

Authority for this committee will expire December 27, 1976, unless the Secretary formally determines that continuance is in the public interest.

Dated: December 19, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-30046 Filed 12-23-74;8:45 am]

NATIONAL ADVISORY FOOD AND DRUG COMMITTEE

Notice of Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the Food and Drug Administration announces the establishment by the Secretary, Department of Health, Education, and Welfare, on November 15, 1974, of the following advisory committee:

Designation. National Advisory Food and Drug Committee.

Purpose. The committee will review and evaluate agency programs and provide advice and guidance to the Secretary, Assistant Secretary for Health, and the Commissioner of Food and Drugs on policy matters of national significance as they relate to FDA's statutory mission in the following areas: Food, drugs, cosmetics, medical devices, biological products, and electronic products.

Authority for this committee will expire November 15, 1976, unless the Secretary formally determines that continuance is in the public interest.

Concurrent with this action, the Secretary also abolished the National Advisory Drug Committee, National Advisory Food Committee, and the National Advisory Veterinary Medicine Committee.

Dated: December 19, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Comissioner for Compliance.

[FR Doc.74-30048 Filed 12-23-74;8:45 am]

TOXICOLOGY ADVISORY COMMITTEE

Notice of Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the Food and Drug Administration announces the establishment by the Secretary, Department of Health, Education, and Welfare, on December 9, 1974, of the following advisory committee:

Designation. Toxicology Advisory Committee.

Purpose. The committee will (1) review and evaluate all available data relating to evaluation of the safety of chemicals present in foods, drugs, cosmetics, and medical devices; (2) advise the Secretary, Assistant Secretary for Health, and the Commissioner of Food and Drugs on matters concerning the safety of specific human drugs, animal drugs, color and food additives, cosmetic components, and components of devices; and (3) recommend the development of standardized methodologies for the toxicity testing of such materials.

Authority for this committee will expire December 9, 1976, unless the Secretary formally determines that continuance is in the public interest.

Dated: December 19, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-30047 Filed 12-23-74;8:45 am]

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National Institute of Education

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Notice of Meeting

Notice is hereby given that the next meeting of the National Council on Educational Research will be held on January 9 and 10, 1975, at the National Institute of Education, 1200 19th Street NW, Washington, D.C. in Room 823.

The National Council on Educational Research is established under section 405 (b) of the General Education Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute;

(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute;

(c) Recommending to the Assistant Secretary and the Director ways to strengthen educational research, to improve the collection and dissemination of research findings, and to insure the implementation of educational renewal and reform based upon the findings of educational research.

This meeting will be open to the public except for the closed sessions. The tentative agenda includes:

JANUARY 9, 1975.

10 a.m. to 12 noon.....	Open Session, Routine Business, Review of FY 1975 Budget and Programs.
12 noon to 1 p.m.....	Lunch.
1 p.m. to 5:30 p.m.....	Closed Session, Discussion of FY 1976 Budget and Program Planning.

JANUARY 10, 1975.

9:15 a.m. to 3:30 p.m..	Closed Session, Discussion of FY 1976 Budget and Program Planning.

Members of the public are invited to attend the open session. Written statements relevant to an agenda item (or to any other item considered of interest to the Institute) may be submitted at any time and should be sent to the Chairman and the Executive Secretary of the Council at the address shown below. Requests to address the Council meeting should be submitted in writing to the Chairman and the Executive Secretary by the close of business January 3, 1975. The Chairman will determine whether a presentation should be scheduled.

In accordance with Council policy (NCER Resolution No. 013074-6) copies of Council resolutions and minutes of Council meetings can be obtained by contacting the Executive Secretary. Resolutions are available shortly after the particular meeting at which adopted. Because minutes require approval by the Council at a subsequent meeting, they are usually available approximately four to six weeks after the date of the meeting to which they refer.

In order to verify the tentative agenda, assure adequate seating arrangements, or to obtain summaries of this meeting and copies of any resolutions adopted by the Council at this meeting, interested persons are requested to contact Ms. Caroline Phillips, Executive Secretary, National Council on Educational Research, whose address and telephone number are listed below:

National Council on Educational Research, Office of Planning and Management, National Institute of Education, Washington, D.C. 20208, 202-254-7900.

Dated: December 20, 1974.

EMERSON ELLIOTT,
Acting Director,
National Institute of Education.

[FR Doc.74-30060 Filed 12-23-74;8:45 am]

ADULT DEVELOPMENT AND AGING RESEARCH COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Adult Development and Aging Research Committee, National Institute of Child Health and Human Development, February 6-7, 1975, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on February 6 from 9 a.m. to 9:30 a.m. to discuss administrative and current status reports. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 6 from 9:30 to adjournment on February 7 for the review, discussion and evaluation of individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications and proposals.

Mrs. Majorie Neff, Committee Management Officer, NICHD, Landow Building, Room C-603, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1756, will provide summaries of meetings and rosters of committee members. Dr. Walter Spieth, Executive Secretary, Adult Development and Aging Research Committee, NICHD, Landow Building, Room A-710, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1033, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.217, National Institutes of Health)

SUZANNE L. FREMEAU,
COMMITTEE MANAGEMENT OFFICER,
National Institutes of Health.

DECEMBER 12, 1974.

[FR Doc.74-29947 Filed 12-23-74;8:45 am]

ALLERGY AND IMMUNOLOGY RESEARCH COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Allergy and Immunology Research Committee, National Institute of Allergy and Infectious Diseases, February 13-14, 1975, at the La Valencia Hotel in La Jolla, California.

This meeting will be open to the public on February 13, 1975, from 9 a.m. to 10:30 a.m. for the discussion of general policy matters. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 13, 1975, from 10:30 a.m. to adjournment on February 14, 1975, for the review, discussion, and evaluation of individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications and proposals.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, Bethesda, Maryland, telephone (301) 496-5717, will provide summaries of meetings and rosters of committee members.

Dr. Luis A. Froehlich, Executive Secretary, Allergy and Immunology Research Committee, Extramural Programs, National Institute of Allergy and Infectious Diseases, Westwood Building, Room 703, Bethesda, Maryland, telephone (301) 496-7131, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

DECEMBER 12, 1974.

[FR Doc.74-29939 Filed 12-23-74;8:45 am]

AUTOMATION IN THE MEDICAL LABORATORY SCIENCES REVIEW COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Automation in the Medical Laboratory Sciences Review Committee, January 29-30, 1975, 9 a.m., Dulles Marriott Hotel, Washington, D.C. This meeting will be open to the public on January 29 from 9 a.m. to 12 noon for opening remarks and general discussion. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 29 from 12 noon to 5 p.m., and January 30 from

9 a.m. to 5 p.m., for the review, discussion, evaluation, and ranking of individual contract proposals. The proposals contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.

Mr. Paul Deming, Research Reports Officer, NIGMS, Building 31, Room 4A46, Bethesda, Maryland 20014, Telephone: 301-496-5676, will provide a summary of the meeting and a roster of committee members.

Dr. Robert S. Melville, Executive Secretary, Automation in the Medical Laboratory Sciences Review Committee, boratory Sciences Review Committee, Westwood Building, Room 954, Bethesda, Maryland 20014, Telephone: 301-496-7081, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13-856, National Institute of General Medical Sciences, National Institutes of Health)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

DECEMBER 12, 1974.

[FR Doc.74-29042 Filed 12-23-74;8:45 am]

BEHAVIORAL SCIENCE CONFERENCE

Notice of Meeting

A notice is hereby given of the Behavioral Science Conference of the Division of Cancer Control and Rehabilitation, National Cancer Institute, to be held January 20, 21, 22, 1975, at the El Tropicano Motor Hotel, River Room, San Antonio, Texas.

The entire meeting will be open to the public from 8 a.m., January 20, 1975 to adjournment on January 22, 1975 to discuss the behavioral sciences as they relate to cancer control and rehabilitation. Attendance by the public will be limited to space available.

For additional information please contact: Dr. Joseph Cullen, Blair Building, Room 716A, National Cancer Institute, National Institutes of Health, Bethesda, Maryland 20014, (301) 427-7478.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

DECEMBER 17, 1974.

[FR Doc.74-29032 Filed 12-23-74;8:45 am]

BIOMEDICAL LIBRARY REVIEW COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Biomedical Library Review Committee, National Library of Medicine, on February 5-6, 1975, from 8:30 a.m. to 5:00 p.m. each day, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland.

This meeting will be open to the public from 8:30 a.m. to 10:30 a.m. and from 2 p.m. to 5 p.m. on February 5 to discuss administrative reports and program developments. Attendance by the public will be limited to space available. In accordance with provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 5 from 10:30 a.m. to 1 p.m. and from 5:30 a.m. to adjournment on February 6, for the review, discussion, and evaluation of individual grant applications. The applications contain information of a proprietary nature—including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications in the field of biomedical communications.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20014, Telephone Number: 301-496-4191, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.348, 13.349, 13.351, 13.352, 13.353—National Institutes of Health)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

DECEMBER 12, 1974.

[FR Doc.74-29040 Filed 12-23-74;8:45 am]

BREAST CANCER EPIDEMIOLOGY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Breast Cancer Epidemiology Committee, National Cancer Institute, February 11, 1975, Tropicana Hotel, Central American Room, San Antonio, Texas. This meeting will be open to the public on February 11, 1975 from 12:30 p.m. to 1 p.m. to discuss miscellaneous committee matters. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 11, 1975 from 1 p.m. until adjournment at 2 p.m. for review of contract proposals. The contracts contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the contracts.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of the meeting and rosters of committee members.

Dr. Bernice T. Radovich, Executive Secretary, Landow Building, Room B-404, National Institutes of Health, Bethesda, Maryland 20014 (301/496-6773) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

DECEMBER 17, 1974.

[FR Doc.74-29030 Filed 12-23-74;8:45 am]

BREAST CANCER NETWORK MEETING

Notice of Meeting

Notice is hereby given of the meeting of the Breast Cancer Network Meeting, National Cancer Institute, January 15, 1975, Building 31, Conference Room 8.

This meeting will be open to the public from 8:30 a.m. to adjournment on January 15, 1975 to discuss the details of management plans for the operation of the Breast Cancer Networks. Attendance by the public will be limited to space available.

For additional information please contact: Dr. Roger Halterman, Blair Building, Room 5A09, National Cancer Institute, National Institutes of Health, Bethesda, Maryland, (301) 427-7477.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

DECEMBER 17, 1974.

[FR Doc.74-29029 Filed 12-23-74;8:45 am]

CANCER CONTROL AND REHABILITATION ADVISORY COMMITTEE

Notice of Establishment

The Director, National Institutes of Health, announces the establishment on November 22, 1974, of the advisory committee indicated below by the Director, National Cancer Institute, under the authority of section 410(a)(3) of the Public Health Service Act (42 U.S.C. 266d). Such advisory committee shall be governed by the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) setting forth standards governing the establishment and use of advisory committees.

Name: Cancer Control and Rehabilitation Advisory Committee.

Purpose: The Committee provides to the Director, NCI and the Director, Division of Cancer Control and Rehabilitation, advice on all matters relating to NCI activities in the field of cancer control and rehabilitation and on coordination of the entire national effort to control cancer. The Committee will termi-

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nate November 22, 1975, unless renewed by appropriate action as authorized by law.

R. W. LAMONT-HAVERS,
Acting Director,
National Institutes of Health.

DECEMBER 16, 1974.

[FR Doc.74-29039 Filed 12-23-74;8:45 am]

CANCER RESEARCH CENTER REVIEW COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cancer Research Center Review Committee, National Cancer Institute on February 7 and 8, 1975, to be held in Building 31, C-Wing, Conference Room 7.

This meeting will be open to the public on February 7, 1975, from 8:30 a.m. to 10 a.m. to discuss procedures to be followed in review of applications, assignment of applications to the Cancer Research Center Review Committee and to the Cancer Special Program Advisory Committee. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 7, 1975, from 10 a.m. to 5 p.m. and on February 8, 1975, from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of meetings and rosters of committee members.

Robert L. Manning, Ph.D., Executive Secretary, Westwood Building, Room 803, National Institutes of Health, Bethesda, Maryland 20014 (301/496-7721) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.312, National Institutes of Health)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

DECEMBER 12, 1974.

[FR Doc.74-29042 Filed 12-23-74;8:45 am]

DENTAL RESEARCH INSTITUTES AND SPECIAL PROGRAMS ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Dental Research Institutes and Special Programs Advisory Committee, National Institute of Dental Research, January 31, 1975, National Institutes of Health, Building 31-C, Conference Room 7.

This meeting will be open to the public on January 31, 1975, from 9 a.m. to 10:15 a.m. for a report on the evaluation of dental research institutes and centers. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 31, 1975 from 10:30 a.m. to adjournment, for the review, discussion and evaluation of the progress of the individual programs and projects of the dental research institutes and centers. These progress reports contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information, financial data such as salaries, and personal information concerning individuals associated with the dental research institutes and centers.

Dr. Emil L. Rigg, Special Assistant for Institutes and Centers, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 507, Bethesda, Maryland 20014 (telephone 301-496-7748) will provide summaries of meetings, rosters of committee members, and will furnish substantive program information.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

DECEMBER 16, 1974.

[FR Doc.74-29038 Filed 12-23-74;8:45 am]

DIVISION OF BLOOD DISEASES AND RESOURCES

Notice of Meeting

The Division of Blood Diseases and Resources, National Heart and Lung Institute, National Institutes of Health and the Division of Blood and Blood Products, Bureau of Biologics, Food and Drug Administration are co-sponsoring an Albumin Workshop on February 12-14, 1975. The workshop will be held on the NIH campus in Building 1, Wilson Hall auditorium, Bethesda, Maryland from 9 a.m. to 5 p.m. each day.

The purpose of the workshop is to review the state-of-the-art in clinical use of albumin and PPF and to identify needs for further research in this area. The third day of the meeting will include the establishment of preliminary guidelines for the clinical use of albumin and the formulation of recommendations for further research in the subject area.

Attendance by the public will be limited to space available.

For additional information please contact: Dr. Anthony René, Building 31, Room 5A-11, National Heart and Lung Institute, National Institutes of Health, Bethesda, Maryland 20014, (301) 496-1537.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

DECEMBER 17, 1974.

[FR Doc. 74-29040 Filed 12-23-74;8:45 am]

EXPERIMENTAL THERAPEUTICS STUDY SECTION

Amended Notice of Meeting

Notice is hereby given of a change in the meeting place of the Experimental Therapeutics Study Section, Division of Research Grants, which was published in the FEDERAL REGISTER on November 29, 1974 (39 FR 41571).

The Experimental Therapeutics Study Section meeting was to have convened at Building 31, Rm. 6, Bethesda, Md., but has been changed to the United Inn, Bethesda, Md., at 8:30 a.m., January 9-11, 1975.

This meeting will be open to the public for approximately one hour at the beginning of the first session of the first day of the meeting.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

DECEMBER 18, 1974.

[FR Doc.74-29027 Filed 12-23-74;8:45 am]

GENERAL CLINICAL RESEARCH CENTERS COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the General Clinical Research Center Committee, Division of Research Resources, February 10, 1975, National Institutes of Health, Bldg. 31-C, Conference Room 8, Bethesda, Maryland.

This meeting will be open to the public on February 10 from 9:00 a.m. to 9:30 a.m. to discuss future plans of the Committee and general announcements. Attendance by the public will be limited to space available. In accordance with the provisions set forth in section 552(b)4 and section 552(b)6, of Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 10 from 9:30 a.m. to recess on that day for the review, discussion and evaluation of individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B-39, Bethesda, Maryland 20014, phone 301-496-6595, will provide summaries of meetings and rosters of Committee members.

Dr. William R. DeCesare, Executive Secretary, General Clinical Research Centers Committee, Division of Research Resources, National Institutes of Health, Building 31, Room 4B-13, Bethesda, Maryland 20014, phone 301-496-5595, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.333, National Institutes of Health)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

DECEMBER 12, 1974.

[FR Doc.74-29939 Filed 12-23-74;8:45 am]

GENERAL RESEARCH SUPPORT PROGRAM ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the General Research Support Program Advisory Committee, Division of Research Resources, February 6-7, 1975, National Institutes of Health, Building 31, Conference Room 9.

This meeting will be open to the public on February 6, 1975 from 9 a.m. to 12:30 p.m. to report progress on proposed changes in the General Research Support/Biomedical Sciences Support Program. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 6, 1975 from 12:30 p.m. to 5 p.m. and on February 7, 1975 from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, Building 31, Room 5B39, Bethesda, Maryland 20014, AC 301 496-5545 will provide summaries of meetings and rosters of committee members. Dr. Ciriaco Q. Gonzales, Executive Secretary, General Research Support Program Advisory Committee, Division of Research Resources, Building 31, Room 4B04, Bethesda, Maryland 20014, AC 301 496-6743 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13.337 and 13.375, National Institutes of Health)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

DECEMBER 12, 1974.

[FR Doc. 74-29945 Filed 12-23-74;8:45 am]

HEART AND LUNG PROJECT COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Heart and Lung Program Project Committee, National Heart and Lung Institute, January 31-February 1, 1975, National Institutes of Health, Building 31, Conference Room 9. This meeting will be open to the public on January 31, 1975, from 8:30 a.m. to approximately 9:30 a.m. to discuss administrative details and to hear a report of the current status of the Division of Lung Diseases. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 31, 1975, from 9:30 a.m. until the adjournment on February 1, 1975, for the review, discussion and evaluation of individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLI, NIH, Building 31, Room 5A21, Bethesda, Maryland 20014, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Arthur W. Merrick, Executive Secretary, NHLI, NIH, Westwood Building, Room 655, phone (301) 496-7351, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, 13.838, and 13.839 National Institutes of Health)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

DECEMBER 12, 1974.

[FR Doc.74-29943 Filed 12-23-74;8:45 am]

HIGH BLOOD PRESSURE EDUCATION RESEARCH PROGRAM AD HOC REVIEW COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the High Blood Pressure Education Research Program ad hoc Review Committee, National Heart and Lung Institute, February 6-8, 1975, National Institutes of Health, Building 31, Conference Room 10.

This meeting will be open to the public on February 6, 1975, from 8:30 a.m. to approximately 9:30 a.m. to discuss review procedures. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 6, 1975, from 9:30 a.m. until the adjournment on February 8, 1975, for the review, discussion and evaluation of individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLI, NIH, Building 31, Room 5A21, Bethesda, Maryland 20014, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Alice M. McGill, Prevention, Control and Education Coordinator, NHLI, NIH, Landow Building, Room 1005, phone (301) 496-1706, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, 13.838, and 13.839 National Institutes of Health)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

DECEMBER 12, 1974.

[FR Doc.74-29944 Filed 12-23-74;8:45 am]

INFECTIOUS DISEASE COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Infectious Disease Committee, National Institute of Allergy and Infectious Diseases, January 16-17, 1975, Wilson Hall, Building 1, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 9 a.m. to 3 p.m. on January 16, 1975 to review and discuss the hepatitis collaborative program and from 8:30 a.m. to 3 p.m. on January 17, 1975 to review and discuss the Ara-A collaborative study and administrative reports. Attendance by the public will be limited to space available. In accordance with the provisions set forth in section 552(b)4 and 552(b)6, Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 3 p.m. to 5 p.m. on January 16, 1975 for the review, discussion and evaluation of individual contracts in the hepatitis program. The meeting will be closed to the public from 3 p.m. to adjournment on January 17, 1975 for the review, discussion and evaluation of the Ara-A collaborative study. These contracts contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with these contracts.

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Mr. Robert Schreiber, Information Officer, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A–34, phone 496–5717 will furnish summaries of the meeting and roster of committee members. Mrs. Martha Mathews, Executive Secretary of the Infectious Disease Committee, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Building 31, Room 7A–10, phone 496–5105, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.857, National Institutes of Health)

Dated November 20, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74–29931 Filed 12–23–74;8:45 am]

MATERNAL AND CHILD HEALTH RESEARCH COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Maternal and Child Health Research Committee, National Institute of Child Health and Human Development, on February 12–13, 1975, in Room C418, Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland.

The meeting will be open to the public on February 12, 1975, from 9 a.m. to 11 a.m., to discuss general business of the Committee and reports from the Acting Associate Director for Extramural Programs, Program Director for Perinatal Biology and Infant Mortality Branch, Acting Program Director for Growth and Development Branch, and the Executive Secretary of the Committee. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6) of Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 12, 1975, from 11 a.m. until adjournment, for the review, discussion and evaluation of individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries and personal information concerning individuals associated with the applications.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room C–603, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1756, will provide summaries of meetings and rosters of committee members. Dr. Patsy H. Sampson, Executive Secretary of the Maternal and Child Health Research Committee, NICHD, Room C717, Landow Building, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–5575, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.317, National Institutes of Health)

Dated: December 12, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74–29940 Filed 12–23–74;8:45 am]

NEUROLOGICAL DISEASES AND STROKE SCIENCE INFORMATION PROGRAM ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Neurological Diseases and Stroke Science Information Program Advisory Committee, National Institute of Neurological Diseases and Stroke, on January 20–21, 1975, Building 31, Room 8A30, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public from 9 a.m. to 5 p.m., on January 20th, and from 9 a.m. to adjournment on January 21st, to discuss future activities of the Committee. Attendance by the public will be limited to space available.

This meeting is necessary to advise the Director, NINDS regarding the future of the NINDS Neurological Information Network. This advice is a vital element for the report by the Director, NINDS to the Congress, which in its second supplementary appropriation of 1974 for the DHEW, required reconsideration of a previous decision regarding the information centers in the network. This advisory meeting must be held at this time to permit a prompt timely response to the Congress for which the Director, NINDS is committed.

The Chief, Office of Scientific and Health Reports, Mrs. Ruth Dudley, Bldg. 31, Room 8A03, NIH, NINDS, Bethesda, Maryland, will furnish summaries of the meeting and rosters of committee members.

Mr. Alfred Weissberg, Executive Secretary of the Committee, Room 706, Federal Bldg., Phone. 49–66064, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.366, National Institutes of Health)

Dated: December 16, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74–29937 Filed 12–23–74;8:45 am]

NEUROLOGY A STUDY SECTION

Amended Notice of Meeting

Notice is hereby given of a change in the meeting date of the Neurology A Study Section, Division of Research Grants, which was published in the FEDERAL REGISTER on November 29, 1974 (39 FR 41571).

The Neurology A Study Section was to have convened at 9:00 a.m. on January 8–11, 1975, but has been changed to 9:00 a.m. January 9–11, 1975 at Building 1, Bethesda, Maryland, the same location for which it was originally scheduled.

The meeting will be open to the public for approximately one hour at the beginning of the first session of the first day of the meeting.

Dated: December 16, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74–29933 Filed 12–23–74;8:45 am]

POPULATION RESEARCH COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on January 20–21, 1975, in Room C–418, Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on January 20, 1975 from 9 a.m. to 10:30 a.m. to discuss the program status, new developments and projections for population research centers and program projects. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6) of Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on January 20, 1975 from 10:30 a.m. until adjournment, for the review, discussion and evaluation of individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries and personal information concerning individuals associated with the applications.

Mrs. Majorie Neff, Committee Management Officer, NICHD, Landow Building, Room C–603, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1756, will provide summaries of meetings and rosters of committee members.

Dr. William A. Sadler, Executive Secretary of the Population Research Committee, NICHD, Room C–733, Landow Building, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–6515, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.317, National Institutes of Health)

Dated: December 12, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74–29941 Filed 12–23–74;8:45 am]

PRESIDENT'S CANCER PANEL

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the

President's Cancer Panel, National Cancer Institute, February 11, 1975, 9:30 a.m. to adjournment, National Institutes of Health, Building 31, Conference Room 2. This meeting will be open to the public from 9:30 a.m. to 12 noon for a report from the Director, National Cancer Institute, and a report from the Chairman, President's Cancer Panel. Attendance by the public will be limited to space available. The meeting will be closed to the public from 1:30 p.m. to adjournment for review and discussion of the proposed fiscal year 1977 budget in accordance with the provisions set forth in section 552(b)(5) of Title 5 U.S. Code and 10(d) of Pub. L. 92-463.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish transcripts of the open meeting and roster of committee members.

Dr. Richard A. Tjalma, Executive Secretary, Building 31, Room 11A46, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5854) will provide substantive program information.

Dated: December 18, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74-29928 Filed 12-23-74;8:45 am]

PULMONARY DISEASES ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart and Lung Institute, February 1, 1975, in Conference Room 8, Building 31, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public on February 1, 1975, from 8:30 a.m. until 5 p.m., to discuss the Division of Lung Diseases programs relative to contracts and Specialized Centers of Research. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart and Lung Institute, Building 31, Room 5A21, National Institutes of Health, Bethesda, Maryland 20014, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Malvina Schweizer, Executive Secretary of the Committee, Westwood Building, Room 6A18, National Institutes of Health, Bethesda, Maryland 20014, phone (301) 496-7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, National Institutes of Health)

Dated: December 12, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74-29936 Filed 12-23-74;8:45 am]

TROPICAL MEDICINE AND PARISITOLOGY STUDY AND BIOMEDICAL COMMUNICATION STUDY

Amended Notice of Meetings

Notice is hereby given of a change in the meeting date or place of the following National Institutes of Health Study Sections which were published in the FEDERAL REGISTER on November 29, 1974 (39 FR 41571).

The Tropical Medicine and Parisitology Study Section meeting was to have convened at the Connecticut Inn Motel, Washington, D.C., but has been changed to the Bethesdan Motor Hotel, 7740 Wisconsin Avenue, Bethesda, Maryland at 9 a.m., January 8-10, 1975.

The Biomedical Communication Study Section was to have met January 16-17, 1975, but will meet for one day only, January 17, 1975 at 9 a.m. at the Holiday Inn, Chevy Chase, Maryland, the same location for which it was originally scheduled.

These meetings will be open to the public for approximately one hour at the beginning of the first session of the first day of the meeting.

Dated: December 16, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.74-29934 Filed 12-23-74;8:45 am]

Office of Education

RIGHT TO READ STATE GRANTS PROGRAM

Notice of Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in the Cooperative Research Act, Pub. L. 83-531, as amended, 20 USC 331, applications are being accepted for non-competing continuation grants under the Right to Read State Grants Program. No new grants will be awarded under this program.

In order to be considered for support, applications should be received by the U.S. Office of Education Application Control Center on or before January 30, 1975.

A. *Applications sent by mail.*

An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202, Attention: 13.533. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The Application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date or if such fifth calendar day is a Saturday, Sunday, or Federal Holiday not later than the next following business day, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing day by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.*

An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. 20202.

Hand delivered applications will be accepted daily between the hours of 8:30 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal Holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Authority.*

The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR 100a), the General Regulations for Right to Read (45 CFR Part 151, Subpart A; published in the FEDERAL REGISTER on June 20, 1974 at 39 FR 22147), and regulations for the State Grants Program which are being separately published in the FEDERAL REGISTER in proposed form (45 CFR Part 151, Subpart D).

D. *Program information and forms.*

Information and application forms may be obtained from the Right to Read Program, U.S. Office of Education, Room 2131, 400 Maryland Avenue SW., Washington, D.C. 20202.

(20 U.S.C. 331a(a)(1))

Dated: December 17, 1974.

(Catalog of Federal Domestic Assistance Number 13.533; Right to Read—Elimination of Illiteracy)

T. H. BELL,
U.S. Commissioner
of Education.

[FR Doc.74-30040 Filed 12-23-74;8:45 am]

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Public

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the National Advisory Council on Vocational Education will be held on January 16, 1974 from 9 a.m. to 5 p.m., Eastern Standard Time and January 17, 1974 from 9 a.m. to 12 Noon, Eastern Standard Time, at the Ramada Inn, Washington, D.C.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs, supported with assistance under the act; review the administration and operation of vocational education programs under the act; including the effectiveness of

such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the Secretary of HEW for transmittal to the Congress; and conduct independent evaluation of programs carried out under the act and publish and distribute the results thereof.

The meeting of the Council shall be open to the public. The proposed agenda includes:

January 16, 1974, 9 a.m. to Noon: Discussion of meetings with Commissioner of Education, representatives of Domestic Council, and Assistant Secretary of Education.

Discussion of Roles of Vocational Education, Career Education, Career Counseling, and CETA.

Discussion of Council Priorities and Concerns for FY 76.

Noon to 5 p.m. Committee Meetings.

January 17, 1974, 9 a.m. to Noon: Reports on Committee Meetings, Other General Business.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the Council's Executive Director, located in Suite 412, 425–13th Street, NW, Washington, D.C. 20004.

Signed at Washington, D.C., on December 16, 1974.

CALVIN DELLEFIELD,
Executive Director.

[FR Doc.74-30000 Filed 12-23-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 74-10; Notice 09]

AIR BRAKE SYSTEMS

Request for Comments

A question has been raised concerning Federal Motor Vehicle Safety Standard No. 121 (49 CFR 571.121) that indicates that a more explicit explanation of the basic assumptions underlying its requirements is in order. (See entry N6–74–10–1 in this docket.) Specifically, the requirement that tractor-trailers be capable of meeting the braking test requirements without lockup of wheels, except in certain limited circumstances, has been questioned as unduly design-restrictive, in that it requires the vehicle to have antilock systems that are not necessary to achieve the required stopping distances in the specified 12-foot lane.

The purpose of these requirements is to assure a minimum safe level of braking system performance when a driver attempts to stop or slow down a motor vehicle under either normal or emergency conditions of real-world use. The tests employed to achieve these ends consist of stopping the vehicle from various initial speeds while traversing a straight path on a smooth, flat roadway. Stops are made under two different conditions of vehicle loading, and on both dry and wet pavement surfaces. The performance requirements associated with these tests deal with two fundamental aspects of performance: (a) The deceleration levels which the vehicle is capable of achieving, and (b) the degree to which the vehicle's directional stability and controllability remain unimpaired by brake application.

Minimum safe levels of deceleration capability are assured by prescribing maximum distances within which the vehicle must be able to stop under the various test conditions. Maintenance of adequate directional stability and controllability is assured by stipulating two independent performance constraints which must be satisfied during the test maneuvers: (a) That all parts of the vehicle remain within a 12-foot lane, to preclude excessive side-to-side brake imbalance which cannot be compensated by the typical driver, and (b) that all wheels continue rolling until the vehicle's speed falls below 10 mph.

Requirement (b), the one that has been questioned, is based on the fact that a locked wheel, whose tire is sliding against the road surface, is lacking in adequate directional stability. That is, the sliding tire cannot generate forces to change the direction in which it is moving, whether longitudinal or lateral. Thus, a vehicle whose wheels are locked is likely to slide sidewards as a result of such conditions as unevenness or banking in the road surface, wind forces, impacts on or by another vehicle, or steering inputs by the driver as a result either of the emergency situation or of curve in the road. One or more of these factors are often present in a situation where the full braking capability of a vehicle is needed because of an emergency. Consequently, the NHTSA has determined that the capability of keeping the wheels rolling while making a full-torque brake application is a necessary element of any vehicle's safety braking performance.

It is not enough merely to be able to bring the vehicle to a halt within the prescribed length and lane on a flat, straight surface. Safe braking capability must take into account the other variables that affect braking performance, and the prohibition against locking is included in the requirement to assure safe braking under such other conditions. The stipulated performance requirements are compatible with widely accepted automotive engineering practice, and the safety performance thus measured is found to have a strong correlation with safe real-world braking performance.

The foregoing statement is an amplification of the discussions of Standard No. 121 that have appeared in preambles to previous issuances on this subject. The NHTSA has assumed that interested persons have agreed with these principles, and in the opinion of the NHTSA, the tests and requirements of Standard 121 (in particular, the stipulation that wheels not lock up at speeds above 10 mph) constitute the most objective, meaningful, and efficient experimental methods to measure safety braking performance that are presently available.

It is not now anticipated that there will be any further amendment to the rule on the basis of this statement. To ensure that all relevant comments are included in the public record, however, this agency is interested in receiving any comments that interested persons may wish to submit on the subject discussed in this notice.

Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW, Washington, D.C. 20590. It is requested but not required that 10 copies be submitted. All comments received will be available for examination at the above address.

(Sec. 103, 119, Pub. L. 89–563, 80 Stat. 718, (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51)

Issued on December 18, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74-30006 Filed 12-20-74;10:36 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS PROCEDURES SUBCOMMITTEE

Notice of Meeting

DECEMBER 19, 1974.

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Procedures Subcommittee will hold a closed meeting at 2 p.m. on January 8, 1975, in Washington, D.C. to discuss ACRS policy and internal practices with regard to the functioning of the Committee and the conduct of its activities.

I have determined, in accordance with subsection 10(d) of Public Law 92–463, that the meeting will consist of exchanges of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). Any factual material that may be presented during the meeting will be inextricably intertwined with such exempt material, and no separation of this material is considered practical. It is essential to close this meeting to protect the free interchange of internal views and to avoid undue interference with Subcommittee and agency operation.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-30019 Filed 12-23-74;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON LMFBR HYPOTHETICAL CORE DISRUPTIVE ACCIDENTS (HCDA'S)

Notice of Meeting

DECEMBER 19, 1974.

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safe-

guards' Working Group on LMFBR Hypothetical Core Disruptive Accidents (HCDA's) will hold a meeting at 8:30 a.m. on January 8, 1975, in Room 1062, 1717 H Street NW., Washington, D.C. The subject scheduled for discussion is LMFBR Hypothetical Core Disruptive Accidents. This meeting will be closed to the public.

The Subcommittee is meeting to discuss various alternative proposals, which may be made to proceed with the study and what kind of support may be anticipated, to formulate recommendations to the full ACRS regarding the above subject.

I have determined, in accordance with subsection 10(d) of Public Law 92-463 that the meeting will consist of exchanges of opinions, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). Any factual material that may be presented during the meeting will be inextricably intertwined with such exempt material and no separation of this material is considered practical. It is essential to close this meeting to protect the free interchange of internal views and to avoid undue interference with Subcommittee and agency operation.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-30018 Filed 12-23-74;8:45 am]

REGULATORY GUIDE

Notice of Issuance and Availability

The Atomic Energy Commission has issued two new guides in its Regulatory Guide series. This series has been developed to describe and make available to the public methods acceptable to the AEC Regulatory staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.70.15, "Information for Safety Analysis Reports—Industrial Security for Nuclear Power Plants," and Regulatory Guide 1.70.16, "Information for Safety Analysis Reports—Missile Barrier Design Procedures," identify information that is needed in safety analysis reports at the construction permit and operating license stages of review.

These guides are two of a number being issued in the 1.70.X series to identify information that has often been missing from applicants' safety analysis reports or to present revisions necessary to make a portion of the "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants," Revision 1, October 1972 (Regulatory Guide 1.70), consistent with the appropriate Standard Review Plan. Standard Review Plans (SRPs) are being prepared by the Regulatory staff for the guidance of staff reviewers who perform the detailed safety review of applications to construct or operate nuclear power plants. A primary purpose of SRPs is to improve the quality and uniformity of staff reviews and to provide a well-defined base from which to evaluate proposed changes in the scope and requirements of reviews. A complete Revision 1 of the Standard Format incorporating the changes presented in this 1.70.X series will be issued following completion of publication of the SRPs.

Comments and suggestions in connection with improvements in all published guides are encouraged at any time. Public comments on Regulatory Guides 1.70.15 and 1.70.16 will, however, be particularly useful in developing the forthcoming revision of the Standard Format if received by February 28, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 17th day of December 1974.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.74-30020 Filed 12-23-74;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Notice of Meeting

DECEMBER 20, 1974.

In accordance with the purposes of sections 29 and 183b. of the Atomic Energy Act (42 U.S.C. 2039, 2233b.), the Advisory Committee on Reactor Safeguards will hold a meeting on January 9-11, 1975 in Room 1046, 1717 H Street NW, Washington, D.C.

The following constitutes that portion of the Committee's agenda for the above meeting which will be open to the public:

Thursday, January 9, 1975. 8:30 a.m.-12:30 p.m.: River Bend Station, Units 1 and 2 (Open)—The Committee will meet with representatives of Gulf States Utilities Company and the AEC Regulatory Staff to hear presentations and hold discussions regarding its review of the request for a construction permit for this station. Portions of this meeting will be closed if required to discuss proprietary information related to the design, construction and/or operation of this station and to discuss security arrangements for this facility. Closed portions will also be held for Committee deliberative sessions.

2:15 p.m.-3 p.m.: Douglas Point Nuclear Generating Station (Open). The Committee will meet with representatives of the Potomac Electric Power Company to hear presentations and hold discussions regarding the request for a construction permit for this station. Portions of this session will be closed if required to discuss proprietary information related to the design, construction and/or operation of this station and to discuss security arrangements for this plant. Closed portions will also be held for Committee deliberative sessions.

Friday, January 10, 1975. 10 a.m.-11 a.m.—Meeting with AEC Regulatory Staff (Open)—The Committee will hear presentations and hold discussions with representatives of the AEC Regulatory Staff regarding recent reactor operating experience and recent licensing actions.

11 a.m.-12:30 p.m. and 1:30 p.m.-2:30 p.m.—WASH-1400, Reactor Safety Study (Open). The Committee will meet with representatives of the AEC Staff to hear presentations and discuss this report. Portions of this session will be closed if required, under the provisions of section 10(d) of Public Law 92-463 (the Federal Advisory Committee Act) to exchange opinions leading to the formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b).

It should be noted that, in addition to the closed portions of the agenda items noted above, the Committee will hold other sessions not open to the public under the authority of section 10(d) of Public Law 92-463 (the Federal Advisory Committee Act), to consider the above applications and other matters. I have determined in accordance with subsection 10(d) of Public Law 92-463 that it is necessary to close such portions of the meeting to protect proprietary data (5 U.S.C. 552(b)(4)), and to protect the free interchange of internal views to avoid undue interference with agency or Committee operation (5 U.S.C. 552(b)(5)). Any non-exempt material that may be discussed during the closed portions of the meeting will be inextricably intertwined with discussion of exempt material and no further separation is practical. Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing 25 copies thereof, postmarked no later than December 31, 1974, to the Executive Secretary, Advisory Committee on Reactor Safeguards,

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U.S. Atomic Energy Commission, Washington, D.C. 20545. Such written comments shall be based on documents related to the agenda items noted above, and related documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW, Washington, D.C. 20545, and as follows:

REVISE BASIS STATION, UNITS 1 & 2

Audubon Library, West Feliciana Branch, St. Francisville, Louisiana 70775.

DOUGLAS POINT NUCLEAR GENERATING STATION

St. Charles County Library, Garrett and Charles Street, La Plata, Maryland 20646.

WASH-1400, REACTOR SAFETY STUDY

AEC's field information offices in Albuquerque; Chicago; King of Prussia, Pennsylvania; Idaho Falls, Idaho; Las Vegas, Nevada; Grand Junction, Colorado; Oak Ridge, Tennessee; Richland, Washington; San Francisco; Aiken, South Carolina; Atlanta, and Denver.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Committee. To the extent that the time available for the meeting permits, the Committee will receive oral statements during a period of not more than 30 minutes at an appropriate time, chosen by the Chairman of the Committee.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Committee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting or portions of the meeting have been cancelled or rescheduled, and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on January 8, 1975, to the Office of the Executive Secretary of the Committee (Telephone: 202-634-1371) between 8:30 a.m. and 5:15 p.m., Eastern Time. It should be noted that the schedule noted above is tentative, based on the anticipated availability of related information, etc. It may be necessary to reschedule items during the same day to accommodate required changes. The ACRS Executive Secretary will be prepared to describe these changes on January 8, 1975.

(e) Questions may be propounded only by members of the Committee and its consultants.

(f) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(g) Persons desiring to attend portions of the meeting where proprietary information is being discussed may do so by providing to the Executive Secretary 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information providing for access to this information.

(h) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. on or after April 11, 1975. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-30087 Filed 12-23-74;8:45 am]

[Docket No. 50-219]

JERSEY CENTRAL POWER AND LIGHT CO.

Availability of Final Environmental Statement, Oyster Creek Nuclear Generating Station, Unit 1

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement prepared by the Commission's Directorate of Licensing, related to the issuance of a full term operating license for the Oyster Creek Nuclear Generating Station currently being operated by the Jersey Central Power and Light Company located in Lacey Township, Ocean County, New Jersey is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Ocean County Library in Toms River, New Jersey. The Final Environmental Statement is also being made available at the Division of State and Regional Planning, Department of Community Affairs, P.O. Box 2768, Trenton, New Jersey 08625, and at the Ocean County Planning Board, Court House Square, Toms River, New Jersey 08753.

The notice of availability of the Draft Environmental Statement for the Oyster Creek Nuclear Generating Station, Unit 1, and requests for comments from interested persons was published in the FEDERAL REGISTER on July 8, 1973 (38 FR 17870). The comments received from Federal, State, local and interested members of the public have been included as appendices to the Final Environmental Statement.

Single copies of the Final Environmental Statement may be obtained by writing the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 20th day of December 1974.

For the Atomic Energy Commission.

WM. H. REAGAN, JR.,
Chief, Environmental Projects Branch 4, Directorate of Licensing.

[FR Doc.74-30089 Filed 12-23-74;8:45 am]

[Docket No. 50-267]

PUBLIC SERVICE COMPANY OF COLORADO

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. DPR-34 issued to Public Service Company of Colorado which revised Technical Specifications for operation of the Fort St. Vrain Nuclear Generating Station, located in Weld County, Colorado. The amendment is effective as of its date of issuance.

The amendment permits revised staffing requirements for plant operating shifts.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment dated October 23, 1974, (2) Amendment No. 5 to License No. DPR-34, with any attachments, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Greeley Public Library, City Complex Building, Greeley, Colorado 80631.

A copy of items (2) and (3) may be obtained upon request addressed to the United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 19th day of December 1974.

For the Atomic Energy Commission.

ROBERT A. CLARK,
Chief, Gas Cooled Reactors Branch, Directorate of Licensing.

[FR Doc.74-30088 Filed 12-23-74;8:45 am]

[Docket Nos. 50-445 & 50-446]

TEXAS UTILITIES GENERATING CO., ET AL. (COMANCHE PEAK STEAM ELECTRIC STATION, UNITS 1 AND 2)

Assignment of Members of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for these proceedings:

Alan S. Rosenthal, Chairman
Michael C. Farrar, Member
Dr. Lawrence R. Quarles, Member

Dated: December 17, 1974.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.74-29698 Filed 12-23-74;8:45 am]

[Docket No. 50-186]

UNIVERSITY OF MISSOURI—COLUMBIA

Notice of Proposed Issuance of Amendment to Facility Operating License

The Atomic Energy Commission (the Commission) is considering the issuance of an amendment to Facility Operating License No. R-103 issued to the University of Missouri (the licensee) for operation of the University of Missouri Research Reactor (UMRR) located in Columbia, Missouri.

The proposed amendment would revise provisions in the Technical Specifications to increase the maximum allowable average fuel burnup from 99 megawatt days (MWD) for the UAl intermetallic fuel to 150 megawatt days (MWD) per element. It would also increase the allowable time between inspections of the fuel elements.

The notice provides that within 30 days after publication of notice in the FEDERAL REGISTER, any member of the public whose interest may be affected by the proceeding may file a request for a public hearing in the form of a petition for leave to intervene with respect to whether the amendment to the facility operating license should be issued.

Petitions for leave to intervene must be filed under oath or affirmation and in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. Petitions for leave to intervene must set forth the interest of the petitioner in the proceeding how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of the FEDERAL REGISTER Notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Docketing and Service Section by January 23, 1975. A copy of the petition and/or request for hearing should be sent to the Chief Hearing Counsel, Office of the General Counsel, Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or the licensing board designated by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated October 21, 1974, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. As they become available, the Commission's related Safety Evaluation, and the proposed license amendment and attachment will also be available at the above location. A copy of the Safety Evaluation and the proposed amendment and attachment, when available may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 13th day of December, 1974.

For the Atomic Energy Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Directorate of Licensing.

[FR Doc.74-29702 Filed 12-23-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 27257; Order 74-12-71]

AIRLIFT INTERNATIONAL, INC.

Surcharge Per Shipment of Restricted Articles, Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of December, 1974.

By tariff revision[1] bearing the issued date of November 30, and marked to become effective December 30, 1974, Airlift International, Inc. (Airlift) proposes to establish a surcharge of $5.00 per shipment of articles subject to the Restricted Articles Tariff, C.A.B. No. 82.

Airlift asserts, in support of its proposal and in answer to a compaint, inter alia, that the tariff rule requiring that restricted articles be tendered outside of containers under container charges has resulted in Airlift's absorbing additional costs; that these costs, which are adequately justified, amount to $5.29 in additional direct labor costs per shipment plus certain non-labor costs; that the proposal would generate $35,400 in additional revenue over the next twelve months; and that Airlift does not favor embargoes, but it must recover its extra costs of handling restricted articles.

The Council for Safe Transportation of Hazardous Articles (COSTHA) filed a complaint requesting rejection, or alternatively, suspension and investigation. In support of its request for rejection, COSTHA alleges, inter alia, that the proposal is a penalty charge for compliance with the tariff restriction on acceptance of containerized restricted articles, and that tariff non-acceptance is a matter outside the authority of the Board to endorse. In support of its request for suspension and investigation, COSTHA alleges, among other things, that the proposal is based on purported costs incurred by the carrier in voluntary action in contravention of the carrier's common carrier obligation; that the direct labor cost comparison submitted by Airlift is inadequate to support the charges assessed, since it is a summary without indication as to methodology or identification of acts performed in consuming the man-minutes counted; and that the surcharge will divert traffic to other modes and will be tantamount to an embargo of restricted articles.

With respect to COSTHA's request for rejection, we believe the imposition of a surcharge to be an economic matter under the purview of the Board. Airlift has essentially complied with the Board's Economic Regulations on filing tariffs (14 CFR Part 221), and, consequently, we find no basis for rejection.

Upon consideration of all relevant matters, however, the Board finds that Airlift's proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

In support of its assertion that restricted articles require additional services peculiar to such articles, Airlift submits the results of a man-minute study designed to quantify the costs of such services and presents a purportedly partial list of non-labor costs, not quantified. The man-minute study indicates that a restricted article shipment requires an average of 50 man-minutes at a cost of $5.29, including benefits.

We believe that the foregoing submission has significant defects. There is no indication of the size of the sample upon which the man-minute data are based; without such indication, it is impossible

[1] Revision to Airline Tariff Publishers, Inc., Agent, C.A.B. No. 96.

to evaluate the accuracy of the figures. Moreover, we believe that terminal handling costs for restricted article shipments may vary by the number of pieces per shipment, as well as by the number of shipments. For example, Airlift claims that over half of the man-minutes, 26.5 out of a total of 50, are required for an item that includes "inspection of packaging, marking, and labeling; confirmation of quantity limitations," as well as certain other items. It is apparent that the requirements indicated above vary with the number of pieces per shipment. Consequently, Airlift's submission raises a serious question as to whether a surcharge applied on a per-shipment basis, regardless of the number of pieces per shipment, is unreasonable or unjustly discriminatory.

Our suspension action herein is consistent with those actions taken with respect to proposals establishing a $3.00 surcharge per shipment in Orders 74–1–100 for Braniff Airways, Inc. (Braniff) and 73–12–116 for United Air Lines, Inc. (United). Investigation of these surcharges was consolidated into the Domestic Freight Rate Investigation, Docket 22859.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That: 1. An investigation is instituted to determine whether the charge and provisions in Rule No. 51(C) on 26th and 27th Revised Pages 18–B of Airline Tariff Publishers, Inc., Agent, Tariff C.A.B. No. 96, and rules, regulations, or practices affecting such charge and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful charge and provisions, and rules, regulations, or practices affecting such charge and provisions;

2. Pending hearing and decision by the Board, the charge and provisions in Rule 51(C) on 26th and 27th Revised Pages 18–B of Airline Tariff Publishers, Inc., Agent, Tariff C.A.B. No. 96, are suspended and their use deferred to and including March 19, 1975, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein designated Docket 27283, be assigned before an Administrative Law Judge of the Board at a time and place hereafter to be designated;

4. Except to the extent granted herein, the complaint of the Council for Safe Transportation of Hazardous Articles in Docket 27218 is dismissed; and

5. Copies of this order shall be filed with the tariff and served upon Airlift International, Inc., and the Council for Safe Transportation of Hazardous Articles, which are hereby made parties to Docket 27283.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-29085 Filed 12-23-74;8:45 am]

[Docket Nos. 27061 and 27062]

EASTERN AIR LINES, INC.

Suspension/Deletion of Service at Mayaguez, Puerto Rico; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on January 30, 1975, at 10:00 a.m. (local time), in Room 1031 North Universal Building, 1875 Connecticut Avenue, NW, Washington, D.C., before Chief Administrative Law Judge Robert L. Park.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before January 17, 1975, and the other parties on or before January 24, 1975. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., December 18, 1974.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.74-29081 Filed 12-23-74;8:45 am]

[Docket No. 25280; Agreement C.A.B. 24815; Order 74–12–75]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Minimum Charges for Cargo Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 19th day of December, 1974.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement, adopted by mail vote for expedited January 1, 1975 effectiveness at the 38th Meeting of TC1 Specific Commodity Rates Board, has been assigned the above-designated C.A.B. agreement number.

The agreement would amend IATA Resolution 501 relating to minimum charges for cargo within TC1 by increasing by $2 the existing charges which range from $10 to $27. IATA alleges that the increase is required because cargo rates within TC1 have been increased three times in recent months while the minimum charges have remained status quo.

We will approve the agreement as the proposed new minimum charges appear consistent with similar charges for the distances involved and which are currently in effect in various world areas, including charges which the Board has permitted to become effective within the United States.

The Board, acting pursuant to sections 102, 204(a), 412 and 1002 of the Act, does not find that Resolution 100 (Mail 966) 501, incorporated in Agreement C.A.B. 24815, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That: 1. Agreement C.A.B. 24815 be and hereby is approved;

2. The carriers are hereby authorized to file tariffs implementing the approved agreement on not less than one day's notice for effectiveness not earlier than January 1, 1975. The short-notice authority granted in this paragraph expires on January 31, 1975; and

3. Tariffs implementing the agreement shall be marked to expire not later than September 30, 1975.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-29082 Filed 12-23-74;8:45 am]

[Docket No. 25280; Agreements C.A.B. 24819, 24835; Order 74–12–73]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding North Atlantic Cargo Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 19th day of December, 1974.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement, requested at a North Atlantic Cargo Policy Meeting held November 4–6, 1974 at Geneva and adopted by mail vote, has been designated Agreement C.A.B. 24819.

The agreement would extend the existing North Atlantic (except Africa) cargo rates structure, due to expire December 31, 1974, by one month to January 31, 1975. The IATA carriers consider this action necessary so they may have additional time to consider a proposal under development which would amend the entire North Atlantic rates structure as of February 1, 1975. In that

light we will approve the instant agreement. At this time, we will also approve a mail vote agreement establishing bulk unitization charges for rate classifications three and five from Jersey to New York at levels representing a differential seven cents higher than existing rates between New York and London.

The Board, acting pursuant to sections 102, 204(a) and 412 of the Act, does not find resolutions JT12(Mail 856)002 and JT12(Mail 854)534a, incorporated in Agreements C.A.B. 24819 and 24835 respectively, to be adverse to the public interest or in violation of the Act provided that approval is subject, where applicable, to conditions previously imposed by the Board.

Accordingly, it is ordered, That: 1. Agreements C.A.B. 24819 and 24835 be and hereby are approved subject, where applicable, to conditions previously imposed by the Board;

2. The carriers and affected indirect air carriers are hereby authorized to file tariffs implementing or reflecting the provisions of Agreement C.A.B. 24819 on not less than one day's notice for effectiveness not earlier than January 1, 1975. The authority granted in this paragraph expires on January 31, 1975; and

3. Tariffs implementing the agreements shall be marked to expire on their respective expiry dates.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-29994 Filed 12-23-74;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COTTON TEXTILES

Products Produced or Manufactured in the Republic of China

DECEMBER 18, 1974.

On January 4, 1974, there was published in the FEDERAL REGISTER (39 FR 1102), a letter dated December 27, 1973 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, establishing levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products produced or manufactured in the Republic of China and exported to the United States during the twelve-month period beginning January 1, 1974. As set forth in that letter, the levels of restraint are subject to adjustment pursuant to paragraph 6 of the Bilateral Cotton Textile Agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of China, which provides that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent.

Accordingly, at the request of the Government of the Republic of China and pursuant to the provision of the bilateral agreement referred to above, there is published below a letter of December 18, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the levels of restraint applicable to cotton textile products in selected categories for the twelve-month period which began on January 1, 1974.

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229

DEAR MR. COMMISSIONER: On December 27, 1973, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning January 1, 1974 of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in the Republic of China, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1] Certain of these levels were previously amended by directive of September 5, 1974.

Pursuant to paragraph 6 of the Bilateral Cotton Textile Agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed further to amend, effective on December 28, 1974, the levels of restraint established in the aforesaid directive of December 27, 1973 for cotton textile products in the following categories for the twelve-month period which began on January 1, 1974:

Category		Amended 12-month level of restraint
5/6	square yards	3,141,891
9/10	do	35,699,010
18/19	do	4,001,198
22/23	do	3,858,266
24/25	do	3,762,725
26/27	do	7,823,535
43 and part of 62 (only T.S.U.S.A. Nos. 382.0002, 382.0605, and 382.0610)	dozen	118,572
46/47	square yards	12,447,396
48	dozen	22,992
49	do	35,372
50	do	253,052
51	do	406,542
54	do	43,559
60	do	30,203
62 (All T.S.U.S.A. Nos. except those combined with category 43)	pounds	48,729
63	do	364,275
64	do	350,331

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of China which provide, in part, that within the aggregate limit, the limits for Groups I and II may be exceeded by not more than five (5) and ten (10) percent, respectively; for limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

[2] These levels have not been adjusted to reflect any entries made on or after January 1, 1974.

The actions taken with respect to the Government of the Republic of China and with respect to imports of cotton textiles and cotton textile products from the Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74-29989 Filed 12-23-74;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1975

Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed addition of the following commodities and service to Procurement List 1975, November 12, 1974 (39 FR 39964).

COMMODITIES

Ballpoint pen, stick type, RAD 19019
Ballpoint pen, stick type, RAD 19022

SERVICE

INDUSTRIAL CLASS 7349

Janitorial/Custodial Service, Non-Commissioned Officer's Club, Building 512, Homestead Air Force Base, Florida.

Comments and views regarding these proposed additions may be filed with the Committee not later than 30 days after the date of this FEDERAL REGISTER. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.74-30071 Filed 12-23-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 310-7]

PLUTONIUM AND THE TRANSURANIUM ELEMENTS

Public Hearing

In the September 23, 1974 issue of the FEDERAL REGISTER 39 FR 34096, the Environmental Protection Agency published a notice of intent to evaluate the environmental impact of plutonium and

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the other transuranium elements and to consider whether new guidelines or standards under the authorities of this Agency are needed to assure adequate protection of the general ambient environment and of the public health from potential contamination of the environment by radionuclides of the transuranium elements. This notice requested information from interested parties relevant to the development of standards and guidelines.

In accordance with the above request, this Agency in the October 24, 1974, issue of the FEDERAL REGISTER 39 FR 37510 announced public hearings on the above subject to be held in Washington. Further hearings were to be scheduled if deemed advisable.

Response from those interested parties in the Western United States has made it advisable to continue the public hearing in that region. Accordingly, the Environmental Protection Agency will hold a continuance of the public hearing on the environmental impact of plutonium and the other transuranium elements on January 10, 1975, at 9 a.m. at the U.S. Post Office Auditorium, 1823 Stout Street, Denver, Colorado.

Persons wishing to present an oral statement at this hearing shall give written notice to the Director, Criteria and Standards Division (AW-560), Office of Radiation Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460 no later than January 3, 1975, in order to be placed on the agenda.

The procedures and rules announced in the FEDERAL REGISTER notice of public hearing, 39 FR 37810 shall also apply to this hearing. A transcript of the hearing will be made and a copy of the transcript, together with copies of all documents presented at this hearing, will constitute the record of the hearing. Copies of the transcript will be available for public inspection within 30 days after conclusion of the hearings at locations to be announced.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

DECEMBER 18, 1974.

[FR Doc.74-29877 Filed 12-22-74;8:45 am]

[OPP-32000/139 (FRL 307-8)]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW., Washington, D.C. 20460.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail on or before February 24, 1975. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Application submitted under 3(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after February 24, 1975.

APPLICATIONS RECEIVED

EPA File Symbol 3051-TO. Agricultural Products Co., Inc., PO Box 698, Mesquite NM 88044. ACCO DIPEL 150 DUST. Active Ingredients: Bacillus thuringiensis, Berliner, Potency of 320 International Units per mg. (at least 0.5 billion viable spores per g.) 0.064 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 35480-R. Mr. Bar-B-Q, Inc., 50 Lexington Ave., Bethpage NY 11714. MR. BAR-B-Q, INC. TORCH FUEL WITH CITRONELLA. Active Ingredients: Petroleum Napthan 99 percent; Citronella 1 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7048-RR. Edmar Chemical Co., 7800 Bessemer Ave., Cleveland OH 44127. BIO-MAGIC RINSE G POWDER FABRIC SOFTENER-BACTERIOSTAT. Active Ingredients: 2,4,4'-Trichloro-2'-Hydroxydiphenyl Ether 1.8 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 11696-6. Feedwaters, Inc., 240 Evelyn St., Paramus NJ 07652. BETACOL 51 COMPOSITION. Active Ingredients: Sodium Dimethyldithiocarbamate 27.6 percent; Sodium 2-Mercaptobansothiasole 2.4 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 17909-G. General Drug & Chemical Corp., PO Box 5092, Kansas City MO 64101. GENERAL DRUG FORMALDEHYDE. Active Ingredients: Formaldehyde 37 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 302-LEI. The Chas. H. Lilly Co., 100 SE Alder, Portland OR 97214. MILLER'S ROSE AND FLORAL SPRAY. Active Ingredients: Pyrethrins 0.026 percent; Piperonyl Butoxide, Technical 0.256 percent; Rotenone 0.128 percent; Other Cube Extractives 0.238 percent; Captan (N-trichloromethylthio-4 - cyclohexene - 1,2-dicarboximide) 0.504 percent; 2,4-Dinitro-6-octyl phenyl crotonate 0.146 percent; 2,6-Dinitro-4-octyl phenyl crotonate Nitrooctyl phenols (principally dinitro) 0.010 percent; Petroleum Distillate 0.096 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 302-LET. The Chas. H. Lilly Co. SPRAY OIL 90 SUPERIOR TYPE FOR DORMANT AND SUMMER USE. Active Ingredients: Petroleum Oil 90 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 302-LEO. The Chas. H. Lilly Co. MILLER'S BRUSH KILLER. Active Ingredients: 2,4,5-Trichlorophenoxyacetic Acid, Butoxypropyl Ester 12.7 percent; 2,4-dichlorophenoxy acetic acid, Butoxypropyl Ester 26.9 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 302-LEA. The Chas. H. Lilly Co. MILLER'S MULTI-PURPOSE HOUSE PLANT INSECT SPRAY. Active Ingredients: Tetramethrin (1-Cyclohexene-1,2-dicarboximidomethyl 2,2-dimethyl - 3 - (2-methylpropenyl) cyclopropanecarboxylate) 0.250 percent; Related Compounds 0.034 percent; (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2 - methylpropenyl) cyclopropanecarboxylate 0.106 percent; Related compounds 0.014 percent; Petroleum Distillate 9.000 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1021-RGGR. McLaughlin Gormley-King Co., 8810 Tenth Ave. N., Minneapolis MN 55427. PYROCIDE INTERMEDIATE 7296. Active Ingredients: Pyrethrins 3.00 percent; Piperonyl butoxide technical 6.00 percent; N-octyl bicycloheptene dicarboximide 10.66 percent; 0,0-Diethyl 0-(2 - isopropyl - 6 - methyl - 4-pyrimidinyl) phosphorothioate 33.34 percent; Petroleum distillate 42.00 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8637-RU. Mitco, Inc., 1601 Steele Ave., SW, Grand Rapids MI 49502. CC-18-L. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68 percent; Potassium N-methyldithiocarbamate 5.07 percent. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 8637-RE. Mitco, Inc. CC-20-L. Active Ingredients: Disodium cyanodithioimidocarbonate 14.7 percent; Potassium N-methyldithiocarbamate 20.3 percent. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 8637-RG. Mitco, Inc. CC-19-L. Active Ingredients: Disodium cyanodithioimidocarbonate 7.25 percent; Potassium N-methyldithiocarbamate 10.15 percent. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 4581-292. Pennwalt Corp., Agchem-Decco Div., 3 Parkway, Philadelphia PA 19102. PENNCAP M. Active Ingredients: 0,0-Dimethyl 0-p-nitrophenyl phosphorothioate 22 percent; Xylene base aromatic solvent 5.61 percent. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34901-R. Smith Distributors, 2743 Shadowdale, Houston TX 77043. SPRAY KILL DO IT YOURSELF EXTERMINATOR PROFESSIONAL TYPE CONCENTRATE INSECTICIDE. Active Ingredients: 0,0-diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 18.27 percent;

2,2-dichlorovinyl dimethyl phosphate (DDVP) 5.26 percent; Related compounds 0.39 percent; Chlordane Technical 16.62 percent; Aromatic Petroleum Derivative Solvent 45.20 percent. Method Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9782-LE. Woodbury Chemical Co., PO Box 4819, Princeton FL 33030. ZINC PHOSPHIDE MOUSE BAIT. Active Ingredients: Zinc Phosphide 1 percent. Method of Support: Application proceeds under 2(c) of interim policy.

REPUBLISHED ITEMS

The following items represent a correction in the list of Applications Received published in the FEDERAL REGISTER of December 4, 1974 (39 FR 42022).

EPA File Symbol 279-EOOA. FMC Corp., Aricultural Chem. Div., 100 Niagara St., Middleport NY 14105. CODE 920.00 PYRENONE 5.0-0.5 & 25.0 E. C. REPELLENT INSECTICIDE. Originally published as CODE 920.0 PYRENONE 5.0100.5 & 25.0 E. C. REPELLENT INSECTICIDE.

EPA File Symbol 10433-G. Lee Chemical Corp., 2300 Taft Ave., Orlando FL 32804. LEE FOG MASTER. Active Ingredients: Petroleum Distillate 98.42 percent . . . Pyrethrins 0.250 percent. Originally published as Active Ingredients: Petroleum Distillate 98.42 percent . . . Pyrethrins 9.250 percent.

Dated: December 10, 1974.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.74-29240 Filed 12-23-74;8:45 am]

[FRL 312-3]

RESEARCH PRODUCTS CO., INC.

Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a pesticide petition (PP 5F1535) has been filed by Research Products Co., Inc., Post Office Box 1057, 1835 E. North St., Salina, KS 67401, proposing establishment of a tolerance (40 CFR Part 180) for negligible residues of the fumigant phosphine from postharvest treatment with aluminum phosphide in or on the raw agricultural commodities seed and pod vegetables (except soybeans) at 0.01 part per million.

The analytical method proposed in the petition for determining residues of the fumigant is a procedure in which the amount of phosphine gas present is measured in a graduated Drager tube. The measurement is based on the volume of coloration change of white gold compound to a grayish violet colloidal gold (derived from the reaction of phosphine with the gold compound).

Dated: December 19, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-30002 Filed 12-23-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 732]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

DECEMBER 16, 1974.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the list below must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20850-CD-P-(2)-75, General Telephone Company of the Northwest, Inc. (KON912). C.P. to change antenna system operating on 454.425 & 454.525 MHz. located at 426 Casino Road, Everett, Washington.

20851-CD-P-(4)-75, Page A Fone Corporation (KKG410). C.P. to relocate facilities and change antenna system operating on 454.025, 454.075, 454.175, & 454.300 MHz. to be located at Fort Worth National Bank Building, 500 Throckmorton Street, Fort Worth, Texas.

20852-CD-P-75, Airsignal of Colorado, Inc. (new). C.P. for a new one-way station to operate on 35.58 MHz. to be located at Cheyenne Mountain, Manitou Springs, Colorado.

20853-CD-P-75, Tel-Illinois, Inc. (KWH304). C.P. to add Transmitter Loc. :#2 operating on 158.70 MHz. to be located at Existing WSIE(FM) Tower, Edwardsville, Illinois.

20854-CD-P-75, Tel-Illinois, Inc. (KUO565). C.P. to add Transmitter Loc. #2 operating on 43.22 MHz. to be located at Existing WSIE(FM) tower, Edwardsville, Illinois.

20855-CD-P-(2)-75, Tel-Page, Inc. (KMB305). C.P. for additional facilities to operate on 43.58 MHz. at Loc. #3: Summit of Roundtop Peak, east of Oakland, California; and same facilities at Loc. #4: 1200 Lakeshore Avenue, Oakland, California.

20856-CD-P-75, Mobile Radio Telephone Service, Inc. (KRS691). C.P. to increase power operating on 152.24 MHz. located at Ensign Park, Salt Lake City, Utah.

20857-CD-P-(2)-75, Airsignal of Colorado, Inc. (KAA276). C.P. for additional control facilities to operate on 2175.2 MHz at Loc. #3: 1616 Glenarm Place, Denver, Colorado; and repeater facilities to operate 2112.4 MHz. at Loc. #4: 2.2 miles due south from Golden, Lookout Mountain, Colorado.

20858-CD-P-75, Mobile Radio Communication Service, Inc. (KOA264). C.P. to reinstate facilities operating on 152.06 MHz. at Loc. #2: 310 Southwest 4th Avenue, Portland, Oregon.

20859-CD-P-(4)-75, Summit Mobile Radio Company (KCI304). C.P. for additional facilities operating on 152.06 & 152.12 MHz., Base and 459.225 MHz, Repeater at Loc. #1: Streaked Mountain, 3.5 miles SW. of Buckfield, Maine; and additional facilities operating on 454.225 MHz., Control at Loc. #2: 32 Cook Street, Auburn, Maine.

20860-CD-P-75, Vegas Instant Page (KRH 634). C.P. to add facilities operating on 152.240 MHz. at Loc. #3: 1020 Industrial Road, Boulder City, Nevada.

20861-CD-P-(6)-75, Mobile Radio Telephone Service, Inc. (KOE252). C.P. to relocate facilities from KOA272-operating on 152.03 MHz. and change antenna system operating on 152.09, 152.12, 152.15, 454.125, & 454.225 at Loc. #1: Oquirrh Range, 5.2 mi. SW. of Garfield, Utah.

20862-CD-P-75, Metrotec, Inc. (KTS283). C.P. to add antenna Loc. #3 operating on 35.22 MHz. to be located 3 miles NE. of Bolivar, Ohio.

20863-CD-P-75, Vegas Instant Page (KPL 943). C.P. to add antenna Loc. #4 operating on 35.58 MHz. to be located at 1020 Industrial Road, Boulder City, Nevada.

20437-CD-P-(13)-75, (KKD292), South Central Bell Telephone Company, New Orleans, Louisiana. Amend to add base frequencies on 454.375 and 454.525 MHz. Also, add test frequencies on 459.375 and 459.525 MHz. All other particulars to remain as reported on PN #721 dated September 30, 1974.

Corrections

20834-CD-P-75, Comex, Inc. (KCC797), should read: C.P.. to add antenna location #5 to operate on 152.12 MHz. All other particulars to remain the same as reported on PN #731, dated December 9, 1974.

20827-CD-TC-(2)-75, J & S Communication Company. Correction to delete Call Sign KRS906. File number should read: 20627-CD-TC-75. All other particulars to remain the same as reported on PN #731, dated December 9, 1974.

20947-CD-P-(3)-75, Samuel W. Waldenberg (new). Correction to include FN #20850-CD-P-75. All other particulars to remain the same as reported on PN #731, dated December 9, 1974.

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[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (part 21 of the rules).

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Information

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding Ex Parte presentations by reasons of potential electrical interference.

Radio Phone Communications, Inc., Arlington, Virginia, (KMM684), FN: 7067-C2-P-(3)-69.

Washington Mobile Telephone Company, Arlington, Virginia (new), FN 5647-C2-P-(3)-69.

RURAL RADIO

00211-CR-P-75, Continental Telephone Company of Texas (new). C.P. for a new rural subscriber station to operate on 157.80 MHz. to be located at 44.5 miles South Southwest of Pecos, Texas.

00212-CR-P-75, Continental Telephone Company of Texas (new). C.P. for a new rural subscriber station to operate on 158.07 MHz. to be located at 24.5 East Southeast of Van Horn, Texas.

POINT-TO-POINT MICROWAVE RADIO SERVICE

1726-CF-R-75, Continental Telephone Company of Texas (KVU58), Van Horn, Texas. Renewal of Developmental License expiring December 20, 1974. Applicant requests authority to change from Developmental to Regular service on 11015V and 11015H MHz towards Lobo, Texas, on azimuth 180 degrees/42 minutes.

1727-CF-R-75, Same (WHT95), Valentine, Texas. Renewal of Developmental License expiring December 20, 1974. Applicant requests authority to change from Developmental to Regular service on 11175H and 11175V MHz towards Lobo, Texas, on azimuth 315 degrees/49 minutes.

1728-CF-R-75, Same (WHT97), Lobo, Texas. Renewal of Developmental License expiring December 20, 1974. Applicant requests authority to change from Developmental to Regular service on 11385V and 11385H MHz towards Sierra Blanca, Texas, on azimuth 304 degrees/02 minutes; 11305V and 11305H MHz towards Valentine, Texas, on azimuth 134 degrees/39 minutes.

1729-CF-R-75, Same (WHT96), Sierra Blanca, Texas. Renewal of Developmental License expiring December 20, 1974. Applicant requests authority to change from Developmental to Regular service on 10775V and 10775H MHz towards Lobo, Texas, on azimuth 123 degrees/46 minutes.

1873-CF-P-75, Northwestern Bell Telephone Company (new), 500 Main Street, Ames, Iowa. Lat. 42°01'32" N., Long. 93°36'51" W. C.P. for a new station on 6241.7V MHz towards Boone, Iowa, on azimuth 316 degrees/20 minutes.

1874-CF-P-75, Same (WAN23), 9.5 miles NNE. of Boone, Iowa. Lat. 42°09'58" N., Long. 93°47'37" W. C.P. to add 6019.2V MHz towards a new point of communication at Ames, Iowa, on azimuth 136 degrees/13 minutes.

1876-CF-P-75. The Pacific Telephone and Telegraph Company (new), 17200 South Vermont Avenue, Gardena, California. Lat. 33°52'31" N., Long. 118°17'21" W. C.P. for a new station on 11265V and 11585V MHz towards Los Angeles, California, on azimuth 316 degrees/57 minutes.

1877-CF-P-75, Same (KNM40), 8539 Airport Boulevard, Los Angeles, California. Lat. 33°57'36" N., Long. 118°23'08" W. C.P. to add 10655V and 11175V MHz towards a new point of communication at Los Angeles, California, on azimuth 136 degrees/54 minutes.

1878-CF-P-75, American Telephone and Telegraph Company (KOC26), 10 South Canal Street, Chicago, Illinois. Lat. 41°52'54" N., Long. 87°38'24" W. C.P. to add 10675V MHz towards Morton Grove, Illinois, on azimuth 324 degrees/08 minutes.

1879-CF-P-75, Same (KSO56), On Naragansett Street 525' south of Main Street, Morton Grove, Illinois. Lat. 42°01'56" N., Long. 87°47'13" W. C.P. to add 11325V MHz towards Chicago #2, Illinois, on azimuth 144 degrees/02 minutes; 11605V MHz towards Northbrook, Illinois, on azimuth 321 degrees/39 minutes.

1880-CF-P-75, American Telephone and Telegraph Company (WJL25), 2305 Sanders Road, Northbrook, Illinois. Lat. 42°06'44" N., Long. 87°52'16" W. C.P. to add 11155V MHz towards Morton Grove, Illinois, on azimuth 141 degrees/36 minutes.

1895-CF-P-75, Southwestern Bell Telephone Company (KSW26), 405 North Broadway Avenue, Oklahoma City, Oklahoma. Lat. 35°28'16 N., Long. 97°30'53" W. C.P. to add 6345.5V MHz; change polarity from Horizontal to Vertical on 11365, and change 6286.2H and 6404.8H towards Guthrie, Oklahoma, to 6286.2V and 6404.8V MHz and direct them towards Yukon, Oklahoma, on azimuth 299 degrees/45 minutes.

1896-CF-P-75, Same (KSW28), 2.2 miles SSW. of Minco, Oklahoma. Lat. 35°16'36" N., Long. 97°57'32" W. C.P. to change points of communication, power, replace transmitters, and change frequency to 6286.2V and 6404.8V MHz towards a new point of communication at Cement, Oklahoma, on azimuth 199 degrees/11 minutes.

1897-CF-P-75, Same (KSW32), 1702 Gore Street, Lawton, Oklahoma. Lat. 34°36'20" N., Long. 98°24'48" W. C.P. to change frequency, point of communication, power and replace transmitter to 6034.2H MHz towards a new point of communication at Letitia, Oklahoma, on azimuth 99 degrees/25 minutes.

1898-CF-P-75, Same (WKR26), 4.3 miles NNE. of Yukon, Oklahoma. Lat. 35°32'54" N., Long. 97°42'36" W. C.P. to add 6034.2V MHz and 6152.8V MHz towards Minco, Oklahoma, on azimuth 214 degrees/39 minutes; change 10725V and 10915V MHz to 6152.8H and 6034.2H MHz, add 6034.8H MHz towards Oklahoma City, Oklahoma, on azimuth 119 degrees/38 minutes.

1899-CF-P-75, Same (new), 2.4 miles ESE. of Cement, Oklahoma. Lat. 34°55'36" N., Long. 98°06'24" W. C.P. for a new station on 6034.2V MHz towards Letitia, Oklahoma, on azimuth 192 degrees/39 minutes; 6034.2H and 6152.8H MHz towards Minco, Oklahoma, on azimuth 19 degrees/06 minutes.

1900-CF-75, Same (new), 0.5 mile ESE. of Letitia, Oklahoma. Lat. 34°34'44" N., Long. 98°12'13" W. C.P. for a new station on 6286.2V MHz towards Lawton, Oklahoma, on azimuth 279 degrees/42 minutes; 6286.2H MHz towards Cement, Oklahoma, on azimuth 12 degrees/56 minutes.

1901-CF-ML-75, The Pacific Telephone and Telegraph Company (WJM30), 3.6 miles NNE. of Farmington, California. Lat. 37°58'27" N., Long. 120°58'08" W. Mod. of License to add facilities 4198H and 6434.8H MHz towards Patterson, California, on azimuth 200 degrees/26 minutes; 4196V and 6404.8V MHz towards Lodi, California, on azimuth 301 degrees/33 minutes; formerly licensed to American Telephone and Telegraph Company (WDE78).

1902-CF-ML-75, Same (WJM31), 4.6 miles WSW. of Patterson, California. Lat. 37°26'48" N., Long. 121°12'54" W. Mod. of License to add facilities 4190V and 6152.8H MHz towards Pacheco Pass, California, on azimuth 177 degrees/04 minutes; 4190H and 6152.8V MHz towards Farmington, California, on azimuth 20 degrees/16 minutes; formerly licensed to American Telephone and Telegraph Company (WDE79).

1903-CF-ML-75, The Pacific Telephone and Telegraph Company (WJM32), 8.8 miles NE of Bell Station, Pacheco Pass, California. Lat. 37°07'29" N., Long. 121°11'-40" W. Mod. of License to add facilities 4198V and 6404.8V MHz towards Patterson, California, on azimuth 357 degrees/05 minutes; formerly licensed to American Telephone and Telegraph Company (WDE77).

1932-CF-P-75, American Telephone and Telegraph Company (KLS27), 5 miles NE. of Floresville, Texas. Lat. 29°11'21" N., Long. 98°06'20" W. C.P. to add 3870V MHz towards San Antonio, Texas, on azimuth 305 degrees/40 minutes; change transmission path towards Seguin, Texas, to 39.3 kilometers on azimuth 33 degrees/45 minutes.

1939-CF-P-75, The Mountain States Telephone and Telegraph Company (KPS96), Little Mountain, 8.3 miles WSW. of Plain City, Utah. Lat. 41°15'25" N., Long. 112°-14'13" W. C.P. to replace transmitters and change power on 10755H and 11075V MHz towards Promontory, Utah, on azimuth 339 degrees/04 minutes from Western Electric, TJ to Farinon, SS1000-01.

1946-CF-P-75, American Telephone and Telegraph Company (KJM70), 130 West Nassau Street, Lake City, Florida. Lat. 30°-11'17" N., Long. 82°35'15" W. C.P. to add 3790V MHz towards Ellisville, Florida, on azimuth 169 degrees/45 minutes; 4110V MHz towards Benton, Florida, on azimuth 354 degrees/30 minutes.

1947-CF-P-75, Same (KJM88), 4.2 miles Southeast of Nickelsville, Georgia. Lat. 32°39'15" N., Long. 83°01'48" W. C.P. to add 4110V MHz towards Garretta, Georgia, on azimuth 186 degrees/49 minutes.

1948-CF-P-75, Same (KJM89), 8.2 miles ESE. of Rents, Georgia. Lat. 32°19'55" N., Long. 82°58'06" W. C.P. to add 4150H MHz towards McRae, Georgia, on azimuth 174 degrees/12 minutes; 4150V MHz towards Nickelsville, Georgia, on azimuth 336 degrees/34 minutes.

1949-CF-P-75, Same (KJM90), 4.2 miles ESE. of McRae, Georgia. Lat. 32°01'39" N., Long. 82°49'54" W. C.P. to add 4110H MHz towards Pridgen, Georgia, on azimuth 195 degrees/10 minutes; 4110H MHz towards Garetta, Georgia, on azimuth 354 degrees/13 minutes.

1950-CF-P-75, Same (KJM91), 1.2 mile NNW. of Pridgen, Georgia. Lat. 31°42'38" N., Long. 83°36'00" W. C.P. to add 4150H MHz towards Pearson, Georgia, on azimuth 173 degrees/09 minutes; 4150H MHz towards McRae, Georgia, on azimuth 15 degrees/09 minutes.

1951-CF-P-75, Same (KJM92), 3.3 miles East of Mora, Georgia. Lat. 31°24'19" N., Long. 82°53'26" W. C.P. to add 4110H MHz towards Pridgen, Georgia, on azimuth 353 degrees/10 minutes; change distance to 34.8 kilometers and add 4110H MHz towards Homerville, Georgia, on azimuth 166 degrees/47 minutes.

1952-CF-P-75, Same (KJM93), 5.9 miles NW. of Homerville, Georgia. Lat. 31°05'52" N., Long. 82°49'11" W. C.P. to add 4150H MHz towards Fargo, Georgia, on azimuth 151 degrees/39 minutes: Change distance to 34.8 milometers and add 4150H MHz towards Pearson, Georgia, on azimuth 343 degrees/49 minutes.

1792-CF-P-75, The Western Union Telegraph Company (new), 3555 Briar Crest Drive, Los Angeles, California. Lat. 34°-07'03" N., Long. 118°23'29" W. C.P. for a new station on frequencies 3710V, 3870V, and 4110V MHz toward Sierra Peak, California, on azimuths 113°28'.

1793-CF-P-75, Same (new), Gulf & Western Building, 1520 Broadway, New York, New York. Lat. 40°45'06" N., Long. 73°58'-55" W. C.P. for a new station on frequencies 3730V MHz toward Warwick, New York, on azimuths 327°16' and 4050V MHz toward New York, New York, on azimuths 327°16'.

1794–CF–P–75, Same (KHL61), 2.8 miles South of Warwick, New York. Lat. 41°12'30" N., Long. 74°21'23" W. C.P. to add frequencies 3770V MHz, 3850V, 4170V MHz toward New York, New York, on azimuths 147°02' and frequency 11585V MHz toward Vernon, New Jersey, on azimuth 253°47'.

1795–CF–P–75, Same (KNJ72), 5 Miles WSW. of Corona, California. Lat. 33°51'01" N., Long. 117°39'10" W. C.P. to add frequencies 3750– MHz and 3990V MHz toward Los Angeles #2, California, on azimuth 293° 47' and frequencies 3910V MHz, 4150V MHz toward Perris, California, on azimuths 99°56'.

1796–CF–P–75, Same (WQQ40), 1.7 miles SW. of Vernon, New Jersey. Lat. 41°10'38" N., Long. 74°29'51" W. C.P. to add frequencies 10815H MHz and 1093V MHz toward Warwick, New York, on azimuths 73°41' and 10975V MHz toward Glenwood, New Jersey, on azimuths 04°27'.

1797–CF–P–75, Same (WQQ41), 1.1 Miles NW. of Vernon, New Jersey. Lat. 41°12'44" N., Long. 74°29'38" W. C.P. to add frequencies 11545V MHz and 11665H MHz toward Vernon, New Jersey, on azimuths 184°27'.

1798–CF–P–75, Same (WQR30), 3.8 miles SW. of Perris, California. Lat. 33°45'30" N., Long. 117°18'58" W. C.P. to add frequency 11625V MHz toward Perris, California, on azimuths 03°49'.

1799–CF–P–75, Same (WQR31), 2.3 miles West of Perris, California. Lat. 33°48'00" N., Long. 117°18'43" W. C.P. to add frequencies 10895H MHz and 11135H MHz toward Steele Valley, California, on azimuth 183°49' and 4030V MHz on azimuth 280° 07'

1930–CF–MP–75, Southern Pacific Communications Company (WAH684), 0.15 mile West of State Road #4, 0.2 Mile South of Caroline. Lat. 41°03'05" N., Long. 89°53'50" W. M.P. to change antenna location resulting in change in coordinates as stated above; change in azimuth on frequency 61231V toward Greenwich, Ohio, to 94°10' and toward Maple Grove, Ohio, to 301°59'.

1366–CF–P–75, West Texas Microwave Company (KLR75), Estes Ranch, 3.8 Miles North of Abilene, Texas. Lat. 32°20'32" N., Long. 99°45'58" W. C.P. to add point of communication on frequencies 5930.4V MHz, 5969.7V MHz, and 6167.6V MHz toward Table Mountain, Texas, on azimuth 180°03'.

1367–CF–P–75, Southwest Texas Transmission Company (WPF93), Table Mtn., 21.0 Miles NE. of Ballinger, Texas. Lat. 32°00'-28" N., Long. 99°46'00" W. C.P. to add point of communication on frequencies 6141.7H MHz, 6301.0H MHz, and 6460.3H MHz toward Miles, Texas, on azimuth 229° 15'.

1368–CF–P–74, Same (WSM42), Miles, Texas. Lat. 31°35'19" N., Long. 100°10'51" W. C.P. to add frequencies 5969.7H MHz, 6106.3H MHz, and 6167.6H MHz toward Ballinger, Texas, on azimuth 57°28' and 5969.7H MHz, 6106.3H MHz, and 6167.6H MHz toward San Angelo, Texas, on azimuth 229°31'. (A waiver of 21.701(l) is requested by West Texas and Southwest Texas.)

1706–CF–MP–75, Midwestern Relay Company (WIV43), Foshay Tower, S. 9th St., Minneapolis, Minnesota. Lat. 44°58'26" N., Long. 93°16'17" W. C.P. (1) to increase transmitter power for frequency 11625H MHz on corrected azimuth 42°54' toward Arden Hills (WIV45), Minnesota; (2) to increase transmitter power for frequencies 11265V MHz and 11505V MHz on corrected azimuth 276°04' toward Golden Valley (Studios of WTCN), Minnesota; and (3) to increase transmitter power for frequencies 11345H MHz and 11505H MHz and add by power split frequency 11265H MHz on corrected azimuth 199°35' toward Edina (Studios of KMSP), Minnesota.

1707–CF–MP–75, Same (WIV45), 1296 W. County Rd. F, Arden Hills, Minnesota. Lat. 45°03'47" N., Long. 93°09'18" W. C.P. (1) to add by power split frequency 10775V MHz on corrected azimuth 201°34' toward Saint Paul (Studios of KSTP), Minnesota; (2) to change polarization and point of communication for frequency 11175H MHz and to increase power on frequencies 10775H MHz, 10935H MHz, and 11095H MHz on corrected azimuth 223°03' toward Foshay Tower (WIV43), Minnesota.

1709–CF–MP–75, American Television & Communications Corp. (WPF92), 2.5 Miles SSW. of Delray Beach, Florida. Lat. 26°25'52" N., Long. 80°05'38" W. Mod. of C.P. (1123–C1–P–73) to relocate station to foregoing coordinates.

1708–CF–MP–75, Same (WJL80), 2.0 Miles West of Micco, Florida. Lat. 27°53'25" N., Long. 80°33'12" W. Mod. of C.P. (4250–C1–MP–74) to correct coordinates to foregoing.

1710–CF–P–75, Eastern Microwave, Inc. (KOK71), Beech Hill, 7.0 Miles E. of Marlboro, New Hampshire. Lat. 42°54'41" N., Long. 72°04'11" W. C.P. to add 11262.0H MHz toward Manchester, New Hampshire (new), on azimuth 76°22'.

1712–CF–P–75, Eastern Microwave, Inc. (new), Wood Hill, 2.2 Miles SW. of Lawrence, Massachusetts. Lat. 42°39'17" N., Long. 71°13'06" W. C.P. to add (a) frequency 11225.0H MHz toward Lawrence, Massachusetts, on azimuth 84°51'(b) frequency 11225.0H MHz toward new point of communications Woburn, Massachusetts, on azimuth 172°3'.

1713–CF–P–74, Same (KOK71), Beech Hill, 7.0 miles E. of Marlboro, New Hampshire. Lat. 42°54'41" N., Long. 72°04'11" W. C.P. to add 6330.7V MHz toward Florida Mt. (N. Adams), Massachusetts, on azimuth 252°34'. A waiver of section 21.701(l) is requested).

1721–CF–P–74, Michigan Bell Telephone Company (WAS494), Dow Center, 2030 Abbott Rd 1, Midland, Michigan. Lat. 43°36'58" N., Long. 84°12'01" W. C.P. to add 6412.2H MHz toward Saginaw, Michigan, on azimuth, 134°16'.

1720–CF–P–74, Same (KQM41), 309 S. Washington Street, Saginaw, Michigan. Lat. 43°25'51" N., Long. 83°56'24" W. C.P. to add 4110H MHz toward Pine Run, Michigan, on azimuth 143°37'; and 6100.9V MHz toward Midland, Michigan, on azimuth 314°28'.

1717–CF–P–75, Same (KQF43), 1.5 Miles East of Pine Run, Michigan. Lat. 43°10'20" N., Long. 83°40'48" W. C.P. to add 4150V MHz toward Flint, Michigan, on azimuth 183°20', and 4150H MHz toward Saginaw, Michigan, on azimuth 323°48'.

1718–CF–P–75, Same (KQG59), 502 Beach St., Flint, Michigan. Lat. 43°00'58" N., Long. 83°41'33" W. C.P. to add 4110V MHz toward Pine Run, Michigan, on azimuth 03°19' and 4110V MHz toward Atlas, Michigan, on azimuth 115°22'.

1757–CF–P–75, Eastern Microwave, Inc. (new), Equinox, Mtn., 2.3 Miles W. of Manchester, Vermont. Lat. 43°09'56" N., Long. 73°07'14" W. C.P. to add 6093.5H MHz toward Bennington, Vermont, on azimuth 193°31'.

1953–CF–P–75, American Telephone and Telegraph Company (KJM94), 10.3 miles East of Thelma, Georgia. Lat. 30°49'39" N., Long. 82°39'03" W. C.P. to add 4110V MHz towards Benton, Florida, on azimuth 183 degrees/31 minutes; 4110H MHz towards Homerville, Georgia, on azimuth 331 degrees/44 minutes.

1954–CF–P–75, Same (KJM95), 3 miles North of Benton, Florida. Lat. 30°31'05" N., Long. 83°40'22" W. C.P. to add 4150V MHz towards Lake City, Florida, on azimuth 174 degrees/49 minutes; 4150V MHz towards Fargo, Georgia, on azimuth 03 degrees/30 minutes.

1955–CF–P–75, Same (WQN65), 4.7 miles SE. of Ellisville, Florida. Lat. 29°56'53" N., Long 82°33'29" W. C.P. to add 3830V MHz towards Lake City, Florida, on azimuth 343 degrees/48 minutes.

1956–CF–P–75, The Mountain States Telephone and Telegraph Company (KBC96), Baxter Pass, 22.5 miles North Northwest of Mack, Colorado. Lat. 39°35'11" N., Long. 108°57'00" W. C.P. to add 2118.4H MHz towards a new point of communication at Raven Ridge, Colorado, on azimuth 0 degrees/00 minutes; 2112.0V MHz towards Grand Jct., Colorado, on azimuth 149 degrees/30 minutes.

1957–CF–P–75, Same (KVU54), 800 Main Street, Grand Junction, Colorado. Lat. 39°04'03" N., Long. 108°33'30" W. C.P. to add 2162.0V MHz towards Baxter Pass, Colorado, on azimuth 329 degrees/44 minutes.

1958–CF–P–75, Same (new), Raven Ridge, 8 miles West Northwest of Rangely, Colorado. Lat. 40°07'40" N., Long. 108°57'00" W. C.P. for a new station on 2175.0V MHz towards a new point of communication at Rangely, Colorado, on azimuth 109 degrees/29 minutes. 2168.4H MHz towards Baxter Pass, Colorado, on azimuth 180 degrees/00 minutes.

1959–CF–P–75, Same (new), 112 North White Avenue, Rangely, Colorado. Lat. 40°05'17" N., Long. 108°48'15" W. C.P. for a new station on 2128.0V MHz towards Raven Ridge, Colorado, on azimuth 289 degrees/35 minutes.

Correction

1513–CF–ML–75, American Telephone and Telegraph Company (KSP73). Correct station location to read: 1.2 miles SE. of Hardinsburg, Indiana. (Rest same as reported on Public Notice dated November 25, 1974.)

[FR Doc.74–29612 Filed 12–23–74;8:45 am]

[Report No. 730]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

DECEMBER 2, 1974.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list below must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (part 21 of the rules).

days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING:

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE:

20795–CD–P–75, John E. Willcox, dba Willcox Communications (KJU805). C.P. to reinstate expired license operating on 152.12 MHz located at U.S. Highway #41, Lake City, Florida.

20796–CD–MP–75, Industrial Communications, Inc., dba Port Arthur Mobile Phone (KRS642). C.P. to relocate facilities operating on 152.21 MHz to be located at Church House Rd., 6 miles S. of Vidor, Texas.

20797–CD–P–75, Services Unlimited, Inc. (KRH656). C.P. to add standby facilities to operate on 152.24 MHz at Loc. #1: Wachovia Building, Winston-Salem, North Carolina.

20798–CD–P–75, Northeast Louisiana Telephone Company, Inc. (new). C.P. for a new 2-way station to operate on 152.81 MHz to be located at Lot 123, near corner of Third Avenue and Fifth Street, Collinston, Louisiana.

20799–CD–P/L–75, Wilkes Telephone and Electric Company (KIM912). C.P. and License to reinstate expired facilities operating on 152.57 MHz located 400 feet N. of 215 E. Robert Toombs Avenue, Washington, Georgia.

20800–CD–P–75, Amelia Telephone Corporation (new). C.P. for a new 2-way station to operate on 152.66 MHz to be located at intersection of Routes 661 & 630, 2.5 miles NE of Amelia, Virginia.

20802–CD–P–75, Dodge County Telephone Company (new). C.P. for a new 2-way station to operate on 152.51 MHz to be located 1.8 mile SW of [illegible]ville, Wisconsin.

20803–CD–MP–(4)–75, Hawaiian Telephone Company (KUA216). Mod. Permit to replace transmitter operating on 152.75 & 152.78 MHz at Loc. #1: 2.9 miles NE of Honolulu, Mt. Tantalus, Hawaii; and change antenna system operating on 152.75 & 152.78 MHz at Loc. #7: .8 mile S. of Hawaii Kai P.O., Koko Head, Hawaii.

20804–CD–P–(2)–75, Salinas Valley Radio Telephone Company (KMA837). C.P. for additional facilities to operate on 454.025 & 454.175 MHz at Loc. #1: Mt. Toro, 10.2 miles SSE of Salinas, California.

20805–CD–MP–75, Salinas Valley Radio Telephone Company (KMA837). Mod. Permit to change antenna system and relocate facilities operating on 2161 MHz to be located at 590 Valenzuela Road, Monterey, California.

20806–CD–P–75, Summit Mobile Radio Company (KCI304). C.P. to relocate facilities operating on 454.075 MHz at Loc. #2: 32 Cook Street, Auburn, Maine, control.

Corrections:

20035–C2–P–74, Cinatti Radio Telephone Systems, Inc. Should have been listed as an additional channel and location to KQK710. All other particulars are to remain as reported on the Commission's PN #728 dated October 15, 1973.

20505–C2–P–(3)–74, Radio Dispatch Company, Lakewood, New Jersey. Should have been listed as additional channels to KEC943. All other particulars are to remain as reported on PN #674 dated November 12, 1973.

20585–CD–P–(2)–75, Houston Mobilfone, Inc. (KKA343). Correct entry on PN #725, dated October 29, 1974 to read: Change antenna system and relocate facilities operating on 454.250 & 454.300 MHz located at 6222 Skyline Drive, Houston, Texas.

RURAL RADIO SERVICE:

60195–CR–P–75, Continental Telephone Company of Texas (new). C.P. for a new rural subscriber-fixed station to operate on 157.80 & 158.04 MHz located 20.5 miles SSE of Pecos, Texas.

60196–CR–P–75, Continental Telephone Company of Texas (new). C.P. for a new rural subscriber-fixed station to operate on 157.80 & 158.04 MHz located 12.5 miles SSE of Pecos, Texas.

60197–CR–P–75, Continental Telephone Company of Texas (new). C.P. for a new rural subscriber-fixed station to operate on 157.80 & 158.04 MHz located 11 miles WNW of Pecos, Texas.

60198–CR–P–75, Continental Telephone Company of Texas (new). C.P. for a new rural subscriber-fixed station to operate on 157.80 & 158.04 MHz located 38 miles NW of Pecos, Texas.

POINT-TO-POINT MICROWAVE RADIO SERVICE

1531–CF–P–75, American Telephone and Telegraph Company (KYZ91), 4.9 miles NW of Roanoke, Texas. Lat. 33°01'43" N., Long. 97°18'05" W. C.P. to change coordinates as indicated above; add 3770H MHz and change distance in kilometers and azimuth toward Ft. Worth, Texas on azimuth 184°09'; change distance in kilometers and azimuth toward Grapevine, Texas to 115°-09'; change distance in kilometers and azimuth toward Kennedale, Texas to 167°03'; change distance in kilometers and azimuth toward Adams, Texas to 71°46'.

1532–CF–MP–75, Same (WDD90), 3 miles ESE of Hawley, Pennsylvania. Lat. 41°27'51" N., Long. 75°07'46" W. Mod. C.P. to change polarization from Vertical to Horizontal on 11265, 11345, 11425, 11505 and 11585 MHz toward Rowland, Pennsylvania on azimuth 74°09'.

1533–CF–P–75, The Mountain States Telephone and Telegraph Company (new), Crystal Dam, 13.6 miles East of Montrose, Colorado. Lat. 38°31'17" N., Long. 107°38'-42" W. C.P. for a new station on 2178.0V MHz toward Fitzpatrick, Mesa, Colorado via passive reflector.

1534–CF–P–75, Same (KAN20), 26 miles East of Montrose, Colorado. Lat. 38°23'50" N., Long. 107°26'48" W. C.P. to add 2128.0V MHz toward a new pt. of communication at Crystal Dam, Colorado via passive reflector.

1535–CF–P–75, General Telephone Company of Kentucky (new), Treadway Avenue, Owingsville, Kentucky. Lat. 38°08'28" N., Long. 83°45'58" W. C.P. for a new station on 2176.8H MHz toward Reynoldsville, Kentucky via passive reflector.

1536–CF–P–75, Same (KYC60), Reynoldsville, 4.3 miles NW of the Owingsville, Kentucky intersection of U.S. route 60 and Kentucky 36, Lat. 38°11'28" N., Long. 83°48'59" W. C.P. to add 2126.8H MHz toward Owingsville, Kentucky on azimuth 141°32'.

1538–CF–P/L–75, General Telephone Company of Michigan (new), within the operating territory served by the Grantee. C.P. and License for a new developmental station on 3700–4200; 5925–6425; 10700–11700 toward an Associated Temporary Fixed Station.

1553–CF–P–75, Multi-Point Communications Corporation (new), 1058 W. Washington Boulevard, Chicago, Illinois. Lat. 41°52'59" N., Long. 87°39'14" W. C.P. for a new station on freq. 11265.0V MHz toward John Hancock Building, Chicago, Illinois on azimuth 56°12'.

1554–CF–P–75, The Pacific Telephone and Telegraph Company (KMQ41), Wolf Creek, 6 miles SW of Grass Valley, California. Lat. 39°09'17" N., Long. 121°06'01" W. C.P. to add 6197.2H MHz toward Cisco Butte, California on azimuth 67°57'.

1555–CF–P–75, Same (KMZ79), Cisco Butte, near Cisco, California. Lat. 39°18'22" N., Long. 120°33'45" W. C.P. to add 5945.2V MHz toward Wolf Creek, California on azimuth 248°17'; 5945.2H MHz toward Mt. Rose, Nevada on azimuth 57°47'.

1556–CF–P–75, Bell Telephone Company of Nevada (KOP47), Peavine Peak, 7.6 miles NW of Reno, Nevada. Lat. 39°35'22" N., Long. 119°55'39" W. C.P. to change power, replace transmitter and change freq. to 11305V, 11465V and 11625V MHz toward Reno, Nevada on azimuth 124°49'; change power, replace transmitter and change freq. to 10735V, 10895V and 11055V MHz toward Mt. Rose, Nevada on azimuth 182°36'.

1557–CF–P–75, Same (KOY38), Mt. Rose, 13 miles SW of Reno, Nevada. Lat. 39°19'23" N., Long. 119°56'35" W. C.P. to change power, replace transmitter and change freq. to 11265V, 11425V and 11585V MHz toward Peavine Peak, Nevada on azimuth 02°35'; change power, replace transmitter and change freq. to 6197.2V MHz toward Cisco Butte, California on azimuth 265°11'.

1558–CF–P–75, Same, 195 East First Street, Reno, Nevada. Lat. 39°31'35" N., Long. 119°48'36" W. C.P. to change power, replace transmitter on 10775V add 10935V and 11095V MHz toward Peavine Peak, Nevada on azimuth 304°44'.

The following renewal applications for the term ending January 1, 1990 have been received.

American Telephone & Telegraph Co.

Call sign	Station name
KAA62	Princeton, IA
KAA63	Lowden, IA
KAA64	Morse, IA
KAA65	Homestead, IA
KAA70	Des Moines, IA
KAA85	Collins, IA
KAA86	Gilman, IA
KAA87	Chelsea, IA
KAA95	Earlham, IA
KAA96	Adair, IA
KAB20	Elkhorn, IA
KAB21	Minden, IA
KAB24	Denver, CO
KAB26	Prospct Vly, CO
KAB27	Ft Morgan, CO
KAB28	Atwood, CO
KAB29	Peetz, CO
KAC24	Twig, MN
KAC25	Wales, MN
KAC29	Isabella, MN
KAC30	Julesburg, CO
KAC31	Ogallala, NE
KAC32	Sutherland, NE
KAC33	Maxwell, NE
KAC34	Cozad, NE
KAC35	Elm Creek, NE
KAC36	Gibbon, NE
KAC37	St. Libory, NE
KAC38	Fullerton, NE
KAC39	Columbus, NE
KAC55	Tofte, MN
KAC56	Hovland, MN
KAC58	No Bend, NE
KAC59	Arlington, NE
KAC60	Omaha, NE
KAC61	Buckhorn Mt, CO
KAC62	Broomfield, CO
KAC63	Kansas City, MO
KAC64	Hudson, CO
KAC66	Dalton, KS
KAC67	Wichita Jct, KS
KAC68	Eldorado, KS
KAC69	Matfld Grn, KS
KAC70	Halls Sumit, KS
KAC71	Worden, KS
KAC72	Lenape, KS
KAC73	Kansas City, MO
KAE39	Castana, IA
KAH84	St. Louis, MO
KAH85	Witoka, MN
KAH86	Chester, MN
KAH87	Red Wing, MN
KAH88	Newport, MN
KAH89	Minneapolis, MN
KAH91	Elkhorn, MO
KAH92	Dover, MO
KAH93	Slater, MO
KAI71	Moville Jct., IA
KAI78	Prairie Home, MO
KAI79	Holt Summit, MO
KAI80	Hermann, MO
KAI81	Gray Summit, MO
KAI83	Fairview, KS
KAI85	Oak Grove, MO
KAI87	Hoyt, KS
KAJ60	Barnett, MO
KAJ66	Blk Forest, CO
KAJ67	Louisburg, KS
KAJ69	Nevada, MO
KAJ70	Goldn Cy Jc, MO
KAJ74	Dexter, MN
KAJ76	Windsor, MO
KAJ77	Cole Camp, MO
KAK43	Hume, MO
KAK46	Cedar Rpds, IA
KAK47	Vinton, IA
KAK48	Wyoming, MN
KAK49	Bollag, MN
KAK73	Luce, MN
KAK74	Sebeka, MN
KAK75	Motley, MN
KAK76	Little Fall, MN
KAK77	Gilman, MN
KAK78	Zimmermn, MN
KAK80	Brinktown, MO

American Telephone & Telegraph Co.

Call sign	Station name
KAL47	Cape Gr Jct MO
KAL48	Mondamin, IA
KAL52	Hoeatl, MO
KAL75	Richwoods, MO
KAL78	Duluth, MN
KAL79	Joplin, MO
KAL80	Seneca, MO
KAM34	Halifax, MO
KAM39	San Luis, CO
KAM41	Adaville, IA
KAM42	Moe, SD
KAM43	Pmpkin Ctr, SD
KAM44	Liberal, KS
KAM45	Sublette, KS
KAM46	Montezuma, KS
KAM47	Dge Cty Jct, KS
KAM48	Mulnville, KS
KAM62	Cullison, KS
KAM63	Nashville, KS
KAM64	Bluff City, KS
KAM65	South Haven, KS
KAM69	Greeley R, CO
KAM70	Strasburg, CO
KAM71	Kiowa R, CO
KAM95	Colo Springs, CO
KAM97	Sioux Falls, SD
KAN21	Winslow, NE
KAN22	Portsmouth, IA
KAN23	Griswold, IA
KAN24	Red Oak, IA
KAN89	St Louis, MO
KAN90	La Veta Pas, CO
KAN92	Hanston, KS
KAN93	Larned, KS
KAN94	Hoisington, KS
KAN95	Ellsworth, KS
KAO46	Mineapolis, KS
KAO47	Aurora, KS
KAO48	Linn, KS
KAO49	Beattie, KS
KAO50	Humboldt, NE
KAO51	Watson, MO
KAO52	Corning, IA
KAO53	Afton, IA
KAO54	Leon, IA
KAO55	Mystic, IA
KAO56	Blakesburg, IA
KAO57	Fairfield, IA
KAO58	Crafrdsvill, IA
KAP26	Davenport, IA
KAQ68	Jamestown, ND
KAQ72	Raymond, IA
KAQ76	Elsberry, MO
KAQ77	Wright City, MO
KAQ78	Hillsboro, MO
KAQ86	Valley City, ND
KAQ87	Urbana, ND
KAQ89	Tappen, ND
KAQ90	Driscoll, ND
KAQ91	Bismarck Jc, ND
KAR43	Pierceville, KS
KAR44	Holcomb, KS
KAR45	Lakin, KS
KAR46	Syracuse, KS
KAR47	Hartman, CO
KAR48	Lamar, CO
KAR49	Eads, CO
KAR50	Wild Horse, CO
KAR51	Hugo, CO
KAR52	Limon, CO
KAR53	New Salem, ND
KAR54	Antelope, ND
KAR55	Dickinson, ND
KAR56	Fryburg, ND
KAR57	Sentnel Bte, ND
KAR59	Dearborn, MO
KAR60	Helena, MO
KAR61	Bedison, MO
KAR69	Braddyville, IA
KAR70	Mineola, IA
KAR75	Gardner, ND
KAR76	Buxton, ND
KAR77	Gr Forks Jc, ND
KAR78	Pisek, ND
KAR79	Olga, ND

American Telephone & Telegraph Co.

Call sign	Station name
KAR83	Paola, KS
KAR84	La Cygne, KS
KAR85	Dayton, MO
KAR86	Holden, MO
KAR87	Aullville, MO
KAS37	Lawrenceton, MO
KAS38	Alliance, MO
KAS39	Campbell, MO
KAS40	Bloomfield, MO
KAS42	Ames, IA
KAS43	Radcliffe, IA
KAS44	Hampton, IA
KAS45	Nora Spring, IA
KAS46	Glenville, MN
KAS67	Hartland, MN
KAS68	Medford ,MN
KAS69	Lonsdale, MN
KAS85	Cedarwood, CO
KAU62	Boone, CO
KAV53	Truckton, CO
KAV54	Calhan, CO
KAW74	Knoxville, MO
KAW75	Cameron, MO
KAX39	Blue Grass, IA
KAY66	Fargo, ND
KAY69	Westcreek, CO
KAY72	Atlanta, KS
KAY83	Critchell, CO
KAZ54	Manzanola, CO
KAZ59	La Junta, CO
KAZ60	Frick, CO
KAZ61	Lamar 2, CO
KBC88	Endrlin, ND
KBD32	Hollister, MO
KBD34	Goodhope, MO
KBD35	Manfield, MO
KBD36	Bendavis, MO
KBD37	Lenox, MO
KBD38	Cherryville, MO
KBD39	Shirley, MO
KBI25	Cheyenne Mt, CO
KBI26	Kutch, CO
KBI27	Beulah, CO
KBI28	Simla, CO
KBI30	Thatcher, CO
KBI31	Walsenburg, CO
KBI32	Red Wing, CO
KBI33	Monte Vista, CO
KBI34	South Fork, CO
KBI35	Wolf Crk Ps, CO
KBI36	Pagosa Spgs, CO
KBI37	Bayfield, CO
KBI38	Hesperus, CO
KBI39	Yellow Jkt, CO
KBI40	Dove Creek, CO
KBI45	Sioux City, IA
KBI46	Chester, SD
KBI47	Arlington, SD
KBI48	Watertown, SD
KBI61	Loveland, IA
KBI97	Two Buttes, CO
KBI98	Coldwater, KS
KBI99	Tyro, KS
KBT46	Dennis, KS
KBT47	Walnut, KS
KBT48	Port Scott, KS
KBT49	Minneola, KS
KBT50	Manter, KS
KBT51	Ulysses, KS
KBT52	Woods, KS
KBT53	Plains, KS
KBT54	Walker, MO
KBT55	Deepwater, MO
KBT69	Gwinner, ND
KBT70	Britton, SD
KBT71	Bristol, SD
KBT72	Wallace, SD
KCA22	High Rock, MA
KCA23	Boston, MA
KCA43	Bear Hill, MA
KCA44	Asnebumskit, MA
KCA45	Bald Hill, CT
KCA46	Johntom Hil, CT
KCA47	Spindle Hil, CT
KCA78	Mohawk, Mtn, CT

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American Telephone & Telegraph Co.

Call sign	Station name
KCA79	Booth Hill, CT
KCB79	Chester, NH
KCB80	Sanford, ME
KCB81	Portland, ME
KCB82	Brunswick, ME
KCB83	Liberty, ME
KCB99	Orwell, VT
KCC85	Kings Mtn, ME
KCC86	Franklin, ME
KCC92	Cooper Hill, ME
KCC99	Providence, RI
KCD80	Peru, MA
KCD81	Wendell, MA
KCD85	Ashburnham, MA
KCD86	Nobscot, MA
KCD87	Winsted, CT
KCD88	Durham, CT
KCD89	Hartford, CT
KCD70	New Haven, CT
KCE33	Granville, MA
KCE34	Springfield, MA
KCE38	E Charlotte, VT
KCG64	Cheltenham 2 MD
KCJ79	Killingly, CT
KCJ80	Montville, CT
KCK61	Cornish, ME
KCK62	West Paris, ME
KCK63	Black Mtn, ME
KCK64	Andover, ME
KCK76	Bangor, ME
KCK79	Manchester, NH
KCL43	Vienna, ME
KCL44	Athens, ME
KCL45	Dover Foxcr, ME
KCL46	Lincoln, ME
KCL47	Wytopitlock, ME
KCL48	Topsfield, ME
KCL68	Berry Mtn, MA
KCL69	Pittsfield, MA
KCL73	Francestown, NH
KCL74	Lempster, NH
KCL75	Brownsville, VT
KCL76	Meriden, NH
KCL77	White Rv Jt, VT
KCL91	Barnard, VT
KCL92	Granitevill, VT
KCL93	Burlington, VT
KCL94	Irasville, VT
KCL98	Tilton, NH
KCL99	Water Vllge, NH
KCM82	Littleton, MA
KEA22	New York 4, NY
KEA23	Martinsvill, NJ
KEA25	Buffalo, NY
KEA34	Tyner, NY
KEA36	Cntrl Lisle, NY
KEA39	Erin, NY
KEA43	Vernal, NY
KEA45	Monterey, NY
KEA46	Hartsville, NY
KEA47	Alma, NY
KEA49	Albany, NY
KEA50	Rotterdam, NY
KEA51	Cherry Valy, NY
KEA52	Deerfield, NY
KEA53	Sullivan, NY
KEA56	Olean, NY
KEA57	Genesee, NY
KEA62	Birch Hill, NY
KEA63	Jackie Jons, NY
KEA76	Leelin, NJ
KEA77	Cherryville, NJ
KEA78	Plattsburg, NY
KEA79	Franklinvil, NY
KEA87	Windsor, NY
KEA88	New Berlin, NY
KEB27	Green Pond 1, NJ
KEB31	Syracuse, NY
KEB32	Pinnacl Hil, NY
KEB33	Phelps, NY
KEB34	Van Buren, NY
KEB37	Temp. Fixed
KEB38	Swedesboro, NJ
KEB39	New Albany, NJ

American Telephone & Telegraph Co.

Call sign	Station name
KEB40	New Egypt, NJ
KEB46	Austerlitz, NY
KEB47	Plainview, NY
KED49	Farpham, NY
KED50	Ripley, NY
KED51	White Plain, NY
KED52	No. Hebron, NY
KED67	Stone Tavrn, NJ
KEE50	Shirley, NY
KEE51	Noyack, NY
KEE52	Montauk, NY
KEE54	Navesink, NJ
KEE55	Hempstead, NY
KEE56	Pleasantvill, NY
KEE57	Poughquag, NY
KEE58	Haithan Hil, NY
KEE59	Walden, NY
KEE60	Colesville, NJ
KEE61	Surprise, NY
KEE71	Rensselrvill, NY
KEE72	Decatur, NY
KEE73	Peterboro, NY
KEE74	Amboy Centr, NY
KEE75	Phoenix, NY
KEE76	Utica, NY
KEE77	Chenango, NY
KEE78	E. Steamburg, NY
KEE79	Bristol Crt, NY
KEE80	Warsaw, NY
KEE81	Springville, NY
KEE85	N. Syracuse, NY
KEF71	Hillsdale, NY
KEG40	Binghamton, NY
KEG42	Smartville, NY
KEG43	Barnes Crns, NY
KEG44	Edwards, NY
KEG45	Colton, NY
KEG46	Reynoldston, NY
KEG61	Kinderhook, NY
KEG62	Ellenville, NY
KEG63	Newark, NJ
KEG64	Bohemia, NY
KEL79	Rochester, NY
KEL87	New York 7, NY
KEL94	Rosendale, NY
KEL96	Deposit, NY
KEL97	Long Eddy, NY
KEL98	Monticello, NY
KEL99	Monroe, NY
KEM28	Jenkins, NJ
KEM29	Cedarbrook 1, NJ
KEM30	Mount Royal, NJ
KEM32	Atlntic Cty, NJ
KEM33	Pt Republic, NJ
KEM37	Hastings, NY
KEM38	Keeseville, NY
KEM44	Holland, NY
KEM50	Trenton, NJ
KEM51	Camden, NJ
KEM53	Green Pond 2, NJ
KEM53	New Brunswk, NJ
KEM54	Sciota, NY
KEM64	Netcong, NJ
KEM65	Paterson W., NJ
KEM66	Rochelle Pk, NJ
KEM67	Alpine, NJ
KEM68	Clarksville, NY
KEM69	Wurtsboro, NY
KEM70	Olivebridge, NY
KEM71	Rock City, NY
KEM72	Sayreville, NJ
KEM73	Quinton, NJ
KEM74	Tully, NY
KEM75	Georgetown, NY
KEM76	Barnegat, NJ
KEM77	Manahawkin, NJ
KEZ65	Pt Reyes, CA
KGA26	Wyndmoor, PA
KGA27	Buckinghamt PA
KGA34	Thomas Hill, PA
KGA35	New Holland, PA
KGA36	Hallam, PA
KGA37	Waggoner Gp, PA
KGA38	Clarks Knob, PA
KGA39	Sideling Hl, PA

American Telephone & Telegraph Co.

Call sign	Station name
KGA40	Bald Knob, PA
KGA41	Johnstown, PA
KGA42	Salina, PA
KGA43	Troy Hill, PA
KGA95	Fairview, PA
KGB26	Catoctin Mt, MD
KGC87	Mt Wheeler, PA
KGC88	Cambrills, MD
KGD51	St John, ND
KGF61	Baltimore, MD
KGF62	Carney, MD
KGF63	North East, MD
KGF64	Philadelphia, PA
KGF98	Waterford, PA
KGG35	Topton Mtn, PA
KGG36	Big Boulder, PA
KGH24	Fairlee, MD
KGH25	Marriott Hl, MD
KGH26	Waldorf, MD
KGH27	Washington, DC
KGH33	Jennerstown, PA
KGH34	Penn Run, PA
KGH35	Cabot, PA
KGH36	Lillyville, PA
KGH37	London, PA
KGH38	Adamsville, PA
KGH41	Del Water G, PA
KGH83	Lionville, PA
KGH84	Oxford, PA
KGH85	Wayne, PA
KGH86	Gouldsboro, PA
KGH89	Eagles Mere, PA
KGH90	Elimsport, PA
KGH91	Swissdale, PA
KGH92	Unionville, PA
KGH93	Dean, PA
KGH94	Ebensburg, PA
KGH95	Derry, PA
KGH96	W Mifflin, PA
KGH97	Fittsburgh, PA
KGI20	Connellsvil, PA
KGI21	Uniontown, PA
KGI62	N Barnaby, MD
KGI63	Mehoopany, PA
KGJ22	Dillsburg, PA
KGJ24	Germantown, MD
KGJ25	Lewistown, MD
KGJ26	Blu Rdg Smt, PA
KGJ27	Frostburg, MD
KGJ30	Harrisburg, PA
KGJ33	Buckhorn, PA
KGJ33	Mtn Top, PA
KGJ68	Clear Sprin, MD
KGJ72	Berrysburg, PA
KGN34	Beltsville, MD
KGN35	Suitland, MD
KGN36	Lanark, PA
KGN37	Plumstead Vl, PA
KGN38	Southampton, PA
KGN78	Westwood, MD
KGN82	Windber, PA
KGN87	Faulkner, MD
KGN89	Mt Jewett, PA
KGN90	Munderf, PA
KGN91	Sligo, PA
KGN92	Butler, PA
KGN93	Aliquippa, PA
KGN94	Eldersville, PA
KGN95	Fr Frederic, MD
KGN99	Monrovia, MD
KGO81	Randallstow, MD
KGO82	Clarksville, MD
KGO83	Silver Spg, MD
KGO60	Trappe, MD
KGO72	Baldwin, PA
KGO73	Apollo, PA
KGO74	Centerport, PA
KGO75	Cornwall, PA
KGO76	Freysville, PA
KGO77	Hanover, PA
KGO78	Lewisberry, PA
KGO79	Cashtown, PA
KGO80	McConnellsb, PA
KGO81	Chaneysvill, PA
KGO83	Sycamore, PA

American Telephone & Telegraph Co.

Call sign	Station name
KGO84	Salisbury, PA
KGO85	Fairchance, PA
KGO86	Mt Nebo, PA
KGP38	Harrow, PA
KGP39	Denton, MD
KGP40	Finland, PA
KGP41	Landenberg, PA
KGP42	Blackiston, DE
KGP43	Glasgow, DE
KGP45	Washington, DC
KGP49	Pomonkey, MD
KGP50	Flint Hill, VA
KGP54	Hagerstown, MD
KGP61	Eden, MS
KGP62	Anguilla, MS
KGP63	Cary, MS
KGP64	Transylvania, LA
KGP65	Delhi, LA
KGP66	Mangham, LA
KGP67	Clarks, LA
KGP68	Winnfield, LA
KGP69	Montgomery, LA
KGP70	Robeline, LA
KGP71	Hornbeck, LA
KGP72	Mayflower, TX
KGP73	Rockland, TX
KGP74	Camden, TX
KGP75	Camilla, TX
KGP76	Willis, TX
KGP77	Spring, TX
KGP78	Fairbanks, TX
KGP82	Layton, PA
KGP83	Wilmington, DE
KIA57	Thach, AL
KIA59	Brickchutch, TN
KIA60	Farmington, TN
KIA61	Duplex, TN
KIA62	Pegram, TN
KIA63	Ivy Point L, TN
KIA64	Adairville, KY
KIA67	Clifty, KY
KIA68	Sacramento, KY
KIA69	Robards, KY
KIA88	Richmond, VA
KIA90	Mt. Pist, Sc VA
KIA91	Newtown, VA
KIA92	Longview, VA
KIB27	Garden City, VA
KIB37	Radford R, VA
KIB38	Mtn. Lake, VA
KIB79	Jackson, GA
KIB80	Round Oak, GA
KIB81	Gordon, GA
KID63	Atlanta, GA
KID64	Sawnee Mtn., GA
KID65	Currahee Mt., GA
KID66	Little Mtn, SC
KID67	Parris Mtn., SC
KID68	Gaffney, SC
KID69	Filbert, SC
KID70	Granitevle, NC
KID71	Youngs Mtn., NC
KID72	Thomasville, NC
KIJ90	Brown Sumit, NC
KIJ91	
KIJ92	Axton Lodge, VA
KIJ93	Smith Mtn., VA
KIJ94	Tobacco Row, VA
KIJ95	Heard Mtn., VA
KIJ96	Clark Mtn., VA
KIJ97	Haymarket, VA
KIK31	Lynchburg, VA
KIK32	Dalton, GA
KIK33	Adairsville, GA
KIK34	Marietta, GA
KIK35	Signal Mtn., TN
KIK36	Monteagle, TN
KIK37	Woodbury, TN
KIK38	Lavergne, TN
KIK39	Nashville, TN
KIK40	Graball, TN
KIK41	Scottsville, KY
KIK42	Horse Cave, KY
KIK63	Elizabethtw, KY
	Brooks, KY

American Telephone & Telegraph Co.

Call sign	Station name
KIK64	Louisville, KY
KIK65	Lovejoy, GA
KIK66	Forsyth, GA
KIK67	Macon, GA
KIK68	Kathleen, GA
KIK69	Eastman, GA
KIK70	Fitzgerald, GA
KIK71	Nicholls, GA
KIK72	Waycross, GA
KIK92	Folkston, GA
KIK93	Hilliard, FL
KIK94	Jacksonvl R, FL
KIK95	Palmetto, GA
KIK96	Omaha, AL
KIK97	Ashland, AL
KIK98	Equality, AL
KIK99	Montgomery, AL
KIL22	Lowndesboro, AL
KIL23	Pleasant Hl, AL
KIL24	Safford, AL
KIL25	Aimwell, AL
KIL26	Norfolk, VA
KIL27	Hillsboro, NC
KIL28	Westover, NC
KIL29	Chattanooga, TN
KIL30	Augusta, GA
KIL31	Hancock Lnd, GA
KIL68	Newark, IL
KIL83	Verona, IL
KIL84	Allendale, SC
KIL93	Mcalpine, NC
KIL94	Asheville, NC
KIL95	Camp CK Bld, TN
KIL96	Greencovesp, FL
KIL97	Carraway, FL
KIL98	Crescent Cy, FL
KIL99	Deleon Spgs, FL
KIM20	Longwood, FL
KIM21	Orlando, FL
KIM22	Herscher, IL
KIM23	Onarga, IL
KIM29	East Lynn, IL
KIM34	Willmsprt, IN
KIM35	Crawfdvle, IN
KIM41	Cloverdle, IN
KIM42	Freedom, IN
KIM45	Marco, IN
KIM47	Montgmery, IN
KIM49	Greens Knob, VA
KIM50	Roanoke, VA
KIM51	Schnelvle, IN
KIM52	Leopold, IN
KIM53	Pine Castle, FL
KIM54	Holopaw, FL
KIM55	Melbourne R, FL
KIM56	Fellsmere, FL
KIM57	Ft Pierce, FL
KIM58	Stuart, FL
KIM69	Payneville, KY
KIM66	Madrid, KY
KIM71	Brownsville, KY
KIM72	Game, KY
KIM78	Flippen, KY
KIM86	Gainesboro, TN
KIM90	Smithville, TN
KIM91	Spencer, TN
KIN20	Coalmont, TN
KIN23	Orme, TN
KIN28	Rosalie, AL
KIN34	Collbran, AL
KIN35	Haney, GA
KIN39	Buchanan, GA
KIN43	Jupiter, FL
KIN49	W Palm Bch, FL
KIN47	Silas, AL
KIN48	Fruitdale, AL
KIN49	Mt Vernon, AL
KIN89	Clayvillage, KY
KIN92	Oak Grove, VA
KIN93	Aylett, VA
KIN95	Memphis, TN
KIP57	Miami, FL
KIP58	Goulds, FL
KIP59	Florida Cy, FL

American Telephone & Telegraph Co.

Call sign	Station name
KIQ99	Greensboro, NC
KIR20	Paint Bank, VA
KIR21	Airpoint, VA
KIR22	Spencer, VA
KIS33	Birmingham, AL
KIS34	Warrior, AL
KIS35	Falkville, AL
KIS36	Decatur, AL
KIT26	Waleska, GA
KIT27	Yorkville, GA
KIT28	Villa Rica, GA
KIT29	Rockdale, GA
KIT30	Grayson, GA
KIT34	Petersburg, VA
KIT41	Dillwyn, VA
KIT42	Gilville, VA
KIT43	Matoaca, VA
KIT44	Dewitt, VA
KIT45	Margaretsvl, NC
KIT46	Scotland Nk, NC
KIT92	Rylnd Hts, KY
KIT93	Butler, KY
KIT94	Williamstwn, KY
KIT95	Marbury, AL
KIT96	Maplesville, AL
KIT97	Woodstock, AL
KIU25	Classified
KIV60	Sadieville, KY
KIV70	Chatsworth, GA
KIV71	Cleveland R, TN
KIV72	Pikeville, TN
KIV73	Crossville, TN
KIV74	Jamestown, TN
KIV75	Wiborg, KY
KIV76	Argyle, KY
KIV77	Junction Cy, KY
KIV78	Versailles, KY
KIV79	Oxford, KY
KIW77	Bardstown, KY
KIW81	Omps, VA
KIW82	Hamilton, VA
KIW83	Linden, VA
KIW84	Warrenton 2, VA
KIW85	Indep Hill, VA
KIY56	Springgrove, KY
KJA62	Ft Lauderdl, FL
KJB46	Quantico, VA
KJC26	Clinton, SC
KJC27	Chapin, SC
KJC28	Columbia 2, SC
KJC29	Swansea, SC
KJC30	Blackville, SC
KJC95	Morristown, TN
KJC96	Greentop, TN
KJC98	Oakland, FL
KJC99	Polk City, FL
KJE58	Raleigh, NC
KJG83	Pendleton, VA
KJG84	Post Oak, VA
KJG85	Morrisville, VA
KJG86	Nokesville, VA
KJG87	Aldie, VA
KJH33	Arlington, TN
KJH34	Brownsville, TN
KJH53	Leesburg, VA
KJH70	Pennsuco, FL
KJH79	Brentwood, TN
KJH80	Dickson, TN
KJH84	Lobelville, TN
KJH85	Lexington, TN
KJH86	Jackson, TN
KJH87	York, SC
KJH88	Carlisle, SC
KJH89	Johnston R, SC
KJH90	Clarks Hill, SC
KJH91	Powhatan, VA
KJH92	Farmville, VA
KJH93	Madisonvill, VA
KJH94	Cody, VA
KJH95	Blairs, VA
KJH96	Reidsville, NC
KJH97	Meadows, NC
KJH98	Smithtown, NC
KJH99	Charles, NC
KJJ20	Anderson Mt, SC

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American Telephone & Telegraph Co.

Call sign	Station name
KJJ21	Charlotte, NC
KJJ22	Gastonia, R, NC
KJJ68	Ojus R, FL
KJJ69	Boynton, Bch, FL
KJJ70	Margate, FL
KJJ94	Chatham, NC
KJK34	Linden, FL
KJK35	Fruitlandpk, FL
KJK36	Oklawaha, FL
KJK37	Sparr, FL
KJK38	Gainesville, FL
KJK72	Glen Allen, VA
KJL40	Classified
KJL41	Leesburg 5, VA
KJL49	Classified
KJL50	Classified
KJL53	Stanardsvl, VA
KJL54	Charlottesv, VA
KJM20	Lake Hamlt, FL
KJM21	Frost Proof, FL
KJM22	Sebring, FL
KJM23	Childs, FL
KJM24	Palmdale, FL
KJM25	Moore Haven, FL
KJM26	Clwstnjct, FL
KJM27	Okeelanta, FL
KJM28	Andytown No, FL
KJM29	Andytown So, FL
KJM61	Lambert, NC
KJM62	Troy, NC
KJM63	Coleridge, NC
KJM64	Silk Hope, NC
KJM65	Duncan, NC
KJM66	Dunn, NC
KJM67	Princeton, NC
KJM68	Wilson, NC
KJM69	Rocky Mount, NC
KJM70	Lake City, FL
KJM71	Jasper, FL
KJM72	Madison, FL
KJM73	Monticello FL
KJM74	Thomasville, GA
KJM75	Climax Whig, GA
KNM76	Oak Grove, FL
KJM77	Pleasant Hl, FL
KJM78	Marianna, FL
KJM79	Chipley, FL
KJM80	Prosperity, FL
KJM81	Liberty, FL
KJM82	Wing, AL
KJM83	Dixie, AL
KJM84	Brewton, AL
KJM85	Thomson, GA
KJM86	Mitchell, GA
KJM87	Tennille, GA
KJM88	Nickelsvl, GA
KJM89	Garretts, GA
KJM90	Mcrae, GA
KJM91	Pridgen, GA
KJM92	Pearson, GA
KJM93	Somerville, GA
KJM94	Fargo, GA
KJM95	Benton, FL
KJM96	Sanderson, FL
KJM97	Baldwin, FL
KJM98	Jacksonvl 2, FL
KJM99	Dukes, FL
KJW68	Goodway, AL
KJW69	Blacksher, AL
KJW70	Citronelle, AL
KJW71	Goldhead, FL
KJW72	Middleburg, FL
KJX26	Cajah Mtn, NC
KJX27	Marion, NC
KJX28	Black Mtn, NC
KJX29	Mt Olive Ch, NC
KKA88	Luis Lopez, NM
KKC90	Austin Jct, TX
KKC91	Lone Man Mt, TX
KKC92	Bulverde, TX
KKC93	San Antonio, TX
KKC95	Glencoe, OK
KKC96	Ponca City, OK
KKC97	Hardy, OK
KKC98	Guthrie, OK

American Telephone & Telegraph Co.

Call sign	Station name
KKH65	Dallas, TX
KKH66	Adams, TX
KKH67	Gainesville, TX
KKH68	Marietta, OK
KKH69	Davis, OK
KKH70	Wayne, OK
KKH71	Norman, OK
KKH72	Oklahoma Cy, OK
KKK30	Ennis, TX
KKK31	Richland, TX
KKK32	Kirk, TX
KKK33	Cedar Spgs, TX
KKK34	Rockdale, TX
KKK35	Lexington, TX
KKK36	Bastrop, TX
KKK37	Lockhart, TX
KKK43	Cowvia, OK
KKK44	Ketchum, OK
KKK45	Pryor, OK
KKK80	Little Rock, AR
KKK82	Bernalillo, NM
KKK83	La Cienega, NM
KKK84	Nambe, NM
KKK85	Ojo Calnte, NM
KKK86	Questa, NM
KKK92	Grapevine, TX
KKL88	Olive, OK
KKL89	Midlothian, TX
KKM25	Woodbury, TX
KKM26	Waco, TX
KMM27	Moody, TX
KKM28	Florence, TX
KKM29	Pflugerville, TX
KKN22	Jackson, MS
KKN23	Houston, TX
KKN28	Laplace, LA
KKN29	Sorrento, LA
KKN30	Baton Rouge, LA
KKN31	Whynot, MS
KKO20	Meridian, MS
KKO21	Newton, MS
KKO22	Forest, MS
KKO23	Goshen Spgs, MS
KKO24	Sweetwater, TX
KKO31	Shreveport, LA
KKO37	Amarillo Jct, TX
KKO38	Vega, TX
KKO39	Adrian, TX
KKP80	Wheatland, NM
KKP81	Tucumcari, NM
KKP82	Cuerro, NM
KKP83	Santa Rosa, NM
KKP84	Clines Crnr, NM
KKP85	Tijeras, NM
KKP86	Albuq Jct, NM
KKP88	Livonia, LA
KKP89	Cecelia, LA
KKP90	Lafayette, LA
KKP91	Maxie, LA
KKP92	Fenton, LA
KKP95	Quitman, MS
KKP96	Terrell, TX
KKP97	Emory, TX
KKP98	Lindale, TX
KKP99	East Mtn, TX
KTT20	Marshall, TX
KKT21	Leigh, TX
KKT22	Haughton, LA
KKT23	Athens, LA
KKT24	Vienna, LA
KKT25	Monroe S, LA
KKT26	Oak Ridge, LA
KKT27	Tendal, LA
KKT28	Vicksburg, MS
KKT29	Raymond, MS
KKT53	San Fidel, NM
KKT54	Paxton Sprg, NM
KKT55	Black Rock, NM
KKT66	Crosby, TX
KKT67	Felicia, TX
KKU46	Carlsbad, NM
KKU89	Borger, TX
KKU90	Pringle, TX
KKU91	Gruver, TX
KKU92	Hooker, OK

American Telephone & Telegraph Co.

Call sign	Station name
KKW31	Albuquerque, NM
KKW32	Los Lunas, NM
KKW33	Socorro 1, NM
KKW34	San Antonio, NM
KKX56	Monticello, NM
KKX57	Cutter, NM
KKX58	Rincon, NM
KKX60	Crazy Cat, TX
KKX61	El Paso, TX
KKX63	Kaufman, TX
KKY47	Lake Charl, LA
KKZ89	Seguin, TX
KLC40	Weimar, TX
KLC41	Shiner, TX
KLC42	Cat Springs, TX
KLC43	Katy, TX
KLD62	Star, MS
KLD63	Wesson, MS
KLD64	Auburn, MS
KLD65	Gloster, MS
KLD56	Clinton, LA
KLD98	Marmaduke, AR
KLD99	Bay, AR
KLJ72	Brandon, MS
KLK79	Biscoe, AR
KLK80	Lonoke, AR
KLN20	Redwood, MS
KLN21	Bentonia, MS
KLN22	Pickens, MS
KLN23	Tchula, MS
KLN24	Greenwood, MS
KLN25	Glendora, MS
KLN69	Clarksdale, MS
KLN70	Dundee, MS
KLN71	Marianna, AR
KLN72	Forest City, AR
KLN73	Cherry Vlly, AR
KLN81	Wayside, TX
KLN82	Silverton, TX
KLN83	Lockney, TX
KLO77	Petersburg, TX
KLO93	Hunter, AR
KLR95	Beaumont, TX
KLR96	Peveto, TX
KLR97	Edgerly, LA
KLS27	Floresville, TX
KLS28	Pleasanton,TX
KLS29	Hindes, TX
KLS30	Cotulla, TX
KLS31	Encinal, TX
KLS32	Laredo Jct, TX
KLS77	Whitewright, TX
KLS78	Achille, OK
KLS79	Bennington, OK
KLS80	Kiowa, OK
KLS81	Krebs, OK
KLS82	Kinta, OK
KLS83	Gans, OK
KLS84	Natural Dam, AR
KLS85	Durham, AR
KLS86	Berryville, AR
KLS87	Denton, TX
KLS88	Decatur, TX
KLS89	Perrin, TX
KLS90	Graford, TX
KLS91	Woodson, TX
KLS97	Albany, TX
KLS98	Stamford, TX
KLS99	McCaulley, TX
KTL20	Snyder, TX
KLT21	Vincent, TX
KLT22	Ackerly, TX
KLT23	Tarzan, TX
KLT24	Odessa, TX
KLT25	Notrees, TX
KLT26	Wink, TX
KLT27	Orla, TX
KLT28	Delaware Sp, TX
KLT29	Pine Sprngs, TX
KTL30	Salt Flat, TX
KLT31	Rim Rock Mt, TX
KLT32	Valeta, TX
KLT57	Sharrah, OK
KLT58	Prague, OK
KLT59	Mounds, OK

American Telephone & Telegraph Co.

Call sign	Station name
KLT90	Tulsa, OK
KLT92	Hueco Mtn, NM
KLT93	Orgrande, NM
KLT94	Organ, NM
KLT95	Fairacres, NM
KLT96	Deming, NM
KLT97	Gage, NM
KLT98	White Signl, NM
KLV37	Neely, MS
KLV38	Wiggins, MS
KLV39	Lumberton, MS
KLV40	Crossroads, NM
KLV41	Talisheek, LA
KLV45	Pine, LA
KLV46	Wilmer, LA
KLV47	Montpelier, LA
KLV48	Pride, LA
KLV49	Starhill, LA
KLV50	Innis, LA
KLV51	Long Bridge, LA
KLV52	Turkey Creek, LA
KLV66	Oakdale, LA
KLV67	Sugartown, LA
KLV68	Singer, LA
KLV69	Deweyville, TX
KLV70	Silsbee, TX
KLV71	Batson, TX
KLV72	Dayton, TX
KLV83	Henryetta, OK
KLV84	McAlester, OK
KLV85	Daisy, OK
KLV86	Darwin, OK
KLV87	Boswell, OK
KLV88	Petty, TX
KLV89	Commerce, TX
KLV90	Greenville, TX
KLV91	Combine, TX
KLV93	Paloduro, TX
KLV94	Hedley, TX
KLV95	Wellington, TX
KLV96	Reed, OK
KLV97	Sentinel, OK
KLV98	Mtn View, OK
KLV99	Washita, OK
KLW20	Middleberg, OK
KLW21	Noble, OK
KLW22	Nevada, TX
KMC30	Sn Francsco, CA
KMC31	E Bay Hills, CA
KMC32	Vaca Hill, CA
KMC33	Sacramento, CA
KMC34	Wolf Creek, CA
KMC63	Cisco Bte, CA
KMJ86	Los Angeles, CA
KMJ87	Padua Hills, CA
KMJ88	Strawbry, Pk, CA
KMJ89	Cline Sprgs, CA
KMJ90	Sandy, CA
KMJ91	Turquoise, CA
KML66	Mtn Pass, CA
KMQ40	Pt Arena, CA
KNB54	Cima, CA
KNE66	Kelso, CA
KNJ99	Hector, CA
KNK20	Bess, CA
KNK21	Lucerne Vly, CA
KNK22	Lytle Creek, CA
KNK23	Olinda, CA
KNK24	Arcadia, CA
KNK93	Echo Summit, CA
KNK94	Union Hill, CA
KNK95	Ben Bolt, CA
KNK96	Lodi, CA
KNK97	Clayton, CA
KNK98	Round Top, CA
KNK99	Oakland, CA
KNL24	Crna de Mar, CA
KNL25	San Clement, CA
KNL26	San Marcos, CA
KNL28	Salton, CA
KNL29	Brawley, CA
KNL30	Glamis, CA
KOB23	Barro, UT
KOB24	Cedar Mtn, UT
KOB25	Stansbry Is, UT

American Telephone & Telegraph Co.

Call sign	Station name
KOB26	SLC Jct, UT
KOB27	Pratts Pass, UT
[illegible]	Wahsatch, UT
[illegible]	Evanston, WY
KOB61	Church Bte, WY
KOB62	Green River, WY
KOB63	Rock Spgs, WY
KOB64	Bitter Crk, WY
KOB65	Creston, WY
KOB66	No Rawlins, WY
KOB67	Hanna, WY
KOB68	Rock River, WY
KOB69	Crow Crk Hl, WY
KOB70	Rocky Pt, NV
KOB81	Ruby, NV
KOB82	Adobe Hill, NV
KOB83	Tuscarora, NV
KOB84	Argenta, NV
KOB85	Fish Creek, NV
KOB86	Stlwtr Rnge, NV
KOB87	Wild Horse, NV
KOB88	Hot Springs, NV
KOB89	Chrchll Bte, NV
KOB90	Mt Rose, NV
KOB91	Wendover, NV
KOB95	Suffolk, NY
KOC26	Chicago 6, IL
KOC27	Matteson, IL
KOC34	Green Hill, RI
KOP55	Sanders, AZ
KOP56	Pnted Desrt, AZ
KOP57	Holbrook Jc, AZ
KOP58	Winslow, AZ
KOP59	Sunshine AZ
KOP60	Flagstaff AZ
KOP61	Williams, AZ
KOP62	Crookton, AZ
KOP63	Seligman, AZ
KOP64	Kingman, AZ
KOR47	Santa Claus, AZ
KOR48	Searchlight, NV
KOT52	Angeles Pt, WA
KOU87	Cheyenne Jc, WY
KOU88	Cheyenne, WY
KOU89	Horse Creek, WY
KOU90	Chugwater, WY
KOU91	Wendover, WY
KOU92	Douglas, WY
KOU93	Orpha, WY
KOU94	Casper Jct, WY
KOU96	Teapot, WY
KOU97	Midwest, WY
KOU98	Mayoworth, WY
KOU99	Ft McKinney, WY
KOV20	Sheridan, WY
KOV21	Wyola, MT
KOV22	Ft Custer, MT
KOV43	Billings, MT
KOV44	Billngs Jct, MT
KOV47	Columbus, MT
KOV48	Big Timber, MT
KOV49	Bozeman, MT
KOV50	Three Forks, MT
KOV51	Toston, MT
KOV52	Winston, MT
KOV54	Helena Jct, MT
KOV55	Craig, MT
KOY54	Glendive Jt, MT
KOY55	Fallon, MT
KOY56	Miles City, MT
KOY57	Hathaway, MT
KOY58	Forsyth, MT
KOY59	Big Horn, MT
KOY60	Pompeys Plr, MT
KOY61	Gold Creek, MT
KOY62	Bearmouth, MT
KOY63	Missoula Jc, MT
KOY64	Superior, MT
KOY65	Mullan, MT
KOY66	Coeur D' alene, ID
KOY67	Tekoa, WA
KOY68	Sprague Jct, WA
KPB83	Bountiful, UT
KPB84	North Ogden, UT
KPB85	Riverside, UT

American Telephone & Telegraph Co.

Call sign	Station name
KPB86	Malad City, ID
KPB87	Inkom, ID
KPB88	Pocatlo Jct, ID
KPE97	Boise, ID
KPE98	Boise Jct, ID
KPE99	Mountn Home, ID
KPF20	Indian Bu, ID
KPF21	Jerome, ID
KPF22	Burley, ID
KPF23	Rupert, ID
KPF24	Amren Falls, ID
KPM66	Riverton, UT
KPM67	Payson, UT
KPM68	Levan, UT
KPM69	Scipio, UT
KPM70	Meadow, UT
KPM71	Cricket Mtn, UT
KPM72	Milford, UT
KPM73	Lund, UT
KPM74	Enterprise, UT
KPM75	Santa Clara, UT
KPM76	Mormon Mesa, NV
KPM77	Arrow Canyn, NV
KPM78	Arden, NV
KPM79	Beer Bottle, NV
KPP46	Mount Blyn, WA
KPQ27	Simms, MT
KPQ28	Choteau, MT
KPQ29	Valier, MT
KPQ30	Santa Rita, MT
KPT94	Duncan, AZ
KPT95	Pima, AZ
KPT96	Klondyke, AZ
KPT97	Winkleman, AZ
KPT98	Kelvin, AZ
KPT99	Oracle, AZ
KPV20	Tucson, AZ
KPV21	Apache Jct, AZ
KPV22	Phoenix, AZ
KPW24	Delta, UT
KPW25	Clear Lake, UT
KPW26	Confusn Mtn, UT
KPW27	Sacrmnto Pa, NV
KPW28	Connors Pas, NV
KPW76	Murry Smt, NV
KPW77	Currant, NV
KPW78	Lockes, NV
KPW79	Warm Spgs, NV
KPW80	Stone Cabin, NV
KPW81	Booker, NV
KPW82	Gilbert, NV
KPW83	Table Mtn, NV
KPW84	Kinkaid, NV
KPW85	Wassuk, NV
KPW86	Topaz Lake, NV
KPW93	Cstl Dm Mtn, AZ
KPW94	Quartzsite, AZ
KPW95	Salome, AZ
KPW96	Aguila, AZ
KPW97	Morristown, AZ
KPW98	Cave Creek, AZ
KPX88	Monticello, UT
KPX89	Moab, UT
KPX90	Crscnt Junc, UT
KPX91	Green River, UT
KPX92	Cleveland, UT
KPX93	Ephraim, UT
KPX94	Leamington, UT
KPY95	Nampa, ID
KPY96	Parma, ID
KPY97	Maryhill, WA
KPY98	Goldendale, WA
KPY99	Ahtanum, WA
KPZ20	Tieton, WA
KPZ21	Amercn Rvr, WA
KPZ22	Enumclaw, WA
KPZ23	Seattle 5, WA
KPZ24	Yakima, WA
KQA26	Kalamazo Co, MI
KQA40	Gandeeville, WV
KQA41	Elizabeth, WV
KQA42	Parkersburg, WV
KQA48	Cincinnati, OH
KQA49	White Oak, OH
KQA50	Sprgboro, OH

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American Telephone & Telegraph Co.

Call sign	Station name
KQA51	Dayton, OH
KQA53	Springfld, OH
KQA54	Catawba, OH
KQA66	Wilmtn, OH
KQA67	Richfld, OH
KQA68	Chairsvle, OH
KQA69	Cleveland, OH
KQA70	Lorain, OH
KQA71	Birmingham, OH
KQA72	Castalia, IL
KQA73	Gibsonbrg, OH
KQA74	Toled, OH
KQA75	Swanton, OH
KQA76	Wauseon, OH
KQA77	Bryan, OH
KQA80	Sulphr. Gr, OH
KQA81	Wright Pten, OH
KQA82	Bluffton, OH
KQA83	Detroit, MI
KQA86	Brookvle, OH
KQA87	New Hope, OH
KQA88	Ayersvle, OH
KQB39	Hopedale, OH
KQB40	Gilmore, OH
KQB41	New Castl, OH
KQB42	Alexandra, OH
KQD73	Dansville, MI
KQD75	Kingsvle, OH
KQD76	Painesvle, OH
KQD78	Jones, MI
KQD79	Kalamazoo, MI
KQD81	Cutlervle, MI
KQE45	Botkins, OH
KQE49	Bridgeprt, OH
KQE72	Hopetown, OH
KQE73	Beaver, OH
KQE74	Buckhorn, OH
KQE75	Skyhigh, WV
KQE76	Tyler, WV
KQE91	Milford, MI
KQF42	Atlas, MI
KQF48	Ida, MI
KQF49	Frocksbg, OH
KQF50	Polk, OH
KQF51	N Fairfld, OH
KQF52	Bascom, OH
KQF53	Republic, OH
KQF54	Rudolph, OH
KQF57	Gerald, OH
KQF58	West Unity, OH
KQF59	Reading, MI
KQF60	Parma, MI
KQF61	Lacey, MI
KQG22	Battle Ck, MI
KQG23	Southfield, MI
KQG36	Morgantown, WV
KQG37	Wolf Summit, WV
KQG38	Alexander, WV
KQG39	Webster Spg, WV
KQG40	Nettie, WV
KQG41	Rainelle, WV
KQG57	Sumpter, MI
KQG64	Lisbon, OH
KQG65	Perrysvle, OH
KQG66	Ragersvle, OH
KQH32	Glen, WV
KQH33	Charleston, WV
KQH34	Clintonvill, WV
KQH36	Farmac, MI
KQH36	Grand Rapds, MI
KQH50	Rose Hill, OH
KQH51	Schumm, OH
KQH53	Paulding, OH
KQH62	Owensvle, OH
KQI60	New Viena, OH
KQI76	Fletcher, OH
KQI77	Cairo, OH
KQI78	Hamler, OH
KQI79	Berkey, OH
KQL35	New Calif, OH
KQL36	Urbana, OH
KQN35	Huntington, WV
KQO32	Blue Ball, OH
KQO33	Frankfort, OH
KQO34	Shandon, OH

American Telephone & Telegraph Co.

Call sign	Station name
KQO46	Kates Mtn, WV
KQO55	Classified
KQO62	Dryden, MI
KQO63	Lamb, MI
KQO64	Malaga, OH
KQO65	Plant, Cty, OH
KQO66	Mcconnsvle, OH
KQO67	New Lexng, OH
KQO68	Amanda, OH
KQO69	Delhi Hls, OH
KQO72	Wash Ct Hse, OH
KQO73	Wilmingtn, OH
KQO74	Columbus, OH
KRR45	Lookout, OK
KRR47	Alva, OK
KRR48	Goltry, OK
KRR49	Hunter, OK
KRR50	Sumner, OK
KRR51	Burbank, OK
KRR52	Herd, OK
KRR60	Salt Lake C, UT
KRR76	Berry, AL
KRR77	Carrollton, AL
KRR78	Crossville, AL
KRR79	Douglas, AL
KRS89	Ft Payne, AL
KRS90	Gordo, AL
KRS91	Jasper, AL
KRS92	Nectar, AL
KRS93	Dahlonega, GA
KRS94	Elberton, GA
KRS95	Emma, GA
KRS96	Fairmount, GA
KRS97	Gainesville, GA
KRS98	Jersey, GA
KRS99	Lula, GA
KRT20	Pocataligo, GA
KRT21	Shannon, GA
KRT22	Statham, GA
KRT23	Summerville, GA
KRT24	Brooksville, MS
KRT25	Canton, MS
KRT26	Cynthia, MS
KRT27	Durant, MS
KRT28	Louisville, MS
KRT29	Mashulavle, MS
KRT30	Williamsble, MS
KRT31	Bunn, NC
KRT32	Coats, NC
KRT33	Elerbe, NC
KRT34	Pine View, NC
KRT35	Mcfarlan, NC
KRT36	Southern, Pn, NC
KRT37	Warrenton, NC
KRT38	Wendell, NC
KRT39	Cross Keys, SC
KRT40	Heath Sprin, SC
KRT41	Hickory Tav, SC
KRT42	Level Land, SC
KRT43	Pageland, SC
KRT44	Shelton, SC
KRT45	White Oak, SC
KRT46	Amelia, VA
KRT47	Boydton, VA
KRT48	Caledonia, VA
KRT49	Coatesville, VA
KRT50	Corbin, VA
KRT51	Victoria, VA
KSA36	Chicago 2, IL
KSA40	Angola, IN
KSA41	La Grange, IN
KSA42	Goshen, IN
KSA43	Mishawaka, IN
KSA44	La Porte, IN
KSA45	Valparaiso, IN
KSA46	Chgo Hts, IL
KSA47	Cloverdale, IL
KSA48	Plato Ctr, IL
KSA49	Lee, IL
KSA50	Sublette, IL
KSA51	Tampico, IL
KSA71	Chicago 1, IL
KSA72	Prospect, WI
KSA74	Lk Zurich, IL
KSA77	Glenwood, IN

American Telephone & Telegraph Co.

Call sign	Station name
KSA78	Greenfld, IN
KSA79	Lemont, IL
KSA80	Lostant, IL
KSA81	Norway, IL
KSB66	Indianapols, IN
KSB67	Montclair, IN
KSB68	Lena, IN
KSB69	Terre Hte, IN
KSB70	Kansas, IL
KSB71	Mattoon, IL
KSB72	Lakewood, IL
KSB73	Vansbnsbg, IL
KSB74	Highland, IL
KSB75	Matamora, IL
KSE21	Groveland, IL
KSE22	Teheran, IL
KSE23	Berlin, IL
KSE24	Scottvle, IL
KSE25	Newbern, IL
KSE26	Alden, IL
KSE27	Palmyra, WI
KSE28	Milwaukee, WI
KSE29	Stoughton, WI
KSE30	Baraboo, WI
KSE69	Mt Tabor, WI
KSE70	Coon Valy, WI
KSE76	Slinger, WI
KSE96	Springfld, IL
KSF22	Chicago 3, IL
KSF29	Leo, IN
KSF36	Grantsbg, WI
KSF71	Danbury, WI
KSF72	Chaffey, WI
KSF77	Graysvle, IN
KSF78	Brucevle, IN
KSF79	Petersbg, IN
KSF80	Stanley, IN
KSF81	Evansville, IN
KSG63	Kouts, IN
KSG64	Grant Park, IL
KSG65	Bonfield, IL
KSG66	Winnebago, IL
KSG67	Capron, IL
KSG72	Culver, IN
KSG73	Atwood, IN
KSG74	Albion, IN
KSG75	Plant Lke, IN
KSH88	Madison, WI
KSH89	Madison Jct, WI
KSH90	Waterntn Jct, WI
KSH96	Joy, IL
KSH97	New Windsr, IL
KSH98	Kewanee, IL
KSH99	Buda, IL
KSI20	Mendota, IL
KSI24	E Entrpr, IN
KSI25	Manchstr, IN
KSI26	Mt Carmel, IN
KSI27	Lynn, IN
KSI28	Hudson, WI
KSI29	Gillespie, IL
KSI30	Waterloo, IL
KSI31	Mascoutah, IL
KSI52	Sth Bend, IN
KSJ40	Commnwith, WI
KSJ41	Crandon, WI
KSJ42	Parrish, WI
KSJ43	Rib Hill, WI
KSJ44	Stevens Pnt, WI
KSJ47	Lancsville, IN
KSM21	Portage, WI
KSM22	Coloma, WI
KSM23	Bancroft, WI
KSN54	Centrla Jct, IL
KSN65	Odell, IL
KSN66	Saybrook, IL
KSN67	Cisco, IL
KSN68	Macon, IL
KSN69	Mokomis, IL
KSN70	Hookdale, IL
KSO56	Morton Gr, IL
KSO57	Lindnhrst, IL
KSO58	Franklin, WI
KSO70	Manteno, IL
KSO71	Tinley Pk, IL

American Telephone & Telegraph Co.

Call sign	Station name
KSO75	Ft Wayne, IN
KSO80	Sheridan, IN
KSO81	Michtown, IN
KSO82	Monon, IN
KSO83	Burrows, IN
KSO84	Wheatfld, IN
KSP23	Morgantwn, IN
KSP24	New Unvle, IN
KSP25	Clear Spg, IN
KSP26	Salem, IN
KSP27	Flyd Knbs, IN
KSP31	Walsh, IL
KSP32	Oakdale, IL
KSP33	Freeburg, IL
KSP35	Centuria, WI
KSP36	Cumberlnd, WI
KSP37	Cameron, WI
KSP38	Eagleton, WI
KSP39	Eau Claire, WI
KSP40	Bellinger, WI
KSP41	Medford, WI
KSP60	Lawncsbg, IN
KSP70	Versailes, IN
KSP71	Paris Cra, IN
KSP72	Henryvle, IN
KSP73	Hardinsbg, IN
KSP74	Edwrdvle, IN
KSP75	Birdseye, IN
KSP76	Standal, IN
KSP77	Ft Branch, IN
KSP78	St Wendls, IN
KSP79	Crossvle, IL
KSP80	Mclnsboro, IL
KSP81	Valier, IL
KSP93	Racine, WI
KSQ42	Walcott, ND
KSQ43	Casselton, ND
KSQ55	Graysville, AL
KSQ56	Wiley, AL
KSQ57	Coker, AL
KSQ58	Akron, AL
KSQ59	Marion, AL
KSQ60	Orrville, AL
KSQ61	Oakhill, AL
KSQ62	Georgiana, AL
KSQ63	Rosehill, AL
KSQ64	Victoria, AL
KSQ65	Pinckard, AL
KSV22	Tumbleton, AL
KSV23	Blakley, GA
KSV24	Newton, GA
KSV25	Bridgeboro, GA
KSV26	Norman Park, GA
KSV27	Morven, GA
KSV28	Clyattville, GA
KSV29	Day, FL
KSV30	Mayo, FL
KSV31	Bell, FL
KSV32	Chiefland, FL
KSV33	Gulf Hamock, FL
KSV34	Dunnellon, FL
KSV35	Floral City, FL
KSV36	Dade City, FL
KSV51	Kiptopeke, VA
KSV52	Silver Beac, VA
KSV53	Onancock, VA
KSV54	Wallops Sta, VA
KSV55	Helena 1, MT
KSV56	East Helena, MT
KSV57	Lake Helena, MT
KSV59	Sandoval, NM
KSW25	West Andovr, MA
KTF51	Luke AFB, AZ
KTF75	Crafrdsville, AR
KTF88	Slaton, TX
KTF89	Post, TX
KTF90	Dermott, TX
KTF91	Pyron, TX
KTG40	Arkabutla, MS
KTG41	West Helena, AR
KTG42	Palmer, AR
KTG43	Stuttgart, AR
KTG44	Tucker, AR
KTG45	Alexander, AR

American Telephone & Telegraph Co.

Call sign	Station name
KTG58	Lyme, CT
KTG59	New London, CT
KTQ65	Bethany, CT
KTQ66	New Fairfld, CT
KTQ67	Putnam Valy, NY
KTQ68	Campbel Hal, NY
KTQ69	Hope, NJ
KTQ86	Julian Rs, CA
KTR43	Green Vly, AZ
KTR44	Carmen, AZ
KTR52	Nathan, AL
KTR53	Forkville, AL
KTR54	Hodges, AL
KTR55	Fulton, MS
KTR56	Dumas, MS
KTR57	Ashland, MS
KTR58	Galena, MS
KTR59	Como, MS
KVD79	Paron, AR
KVD80	Danville, AR
KVD81	Union Hill, AR
KVD82	Bates, AR
KVD83	Talihina, OK
KVD84	Hartshorne, OK
KVD85	Stuart, OK
KVD86	Spaulding, OK
KVD87	Asher, OK
KVD88	Happy, TX
KVD94	Archer, FL
KVI43	Youngstw, OH
KVI44	Campbell, OH
KVI50	St Paul, MN
KVI51	Lino Lakes, MN
KVI56	Winamac, IN
KVI57	Plymouth, IN
KVU33	Cheshire, CT
KVU34	Little City, CT
KVU37	Geigertown, PA
KVU38	Lynnport, PA
KVU39	Allentown, PA
KVU40	Freeland, PA
KVU41	Beaumont, PA
KVU42	Ransom, PA
KVU43	Scranton, PA
KVU49	Cedarbrook 2, NJ
KVU50	Carmel, NJ
KVU58	Moseley, VA
KVU71	Grnd Rpds, OH
KVU72	Lyons, OH
KVU73	Clinton, MI
KVU74	Plymth Jct, MI
KVU77	Timpas, CO
KYC22	Wickes, MT
KYC23	Boulder, MT
KYC24	Twin Bridge, MT
KYC25	Glen, MT
KYC26	Bannack, MT
KYC27	Leadore, ID
KYC28	Gilmore, ID
KYC29	Mud Lake, ID
KYC30	Atomic City, ID
KYC31	Springfield, ID
KYC81	Kinnelon, NJ
KYC85	Beckmann, TX
KYC86	Rio Medina, TX
KYC88	Camp Verde, TX
KYC89	Harper, TX
KYC90	Segovia, TX
KYC91	Cleo, TX
KYC92	Eden, TX
KYC93	Mereta, TX
KYC94	Bronte, TX
KYC95	Maryneal, TX
KYC99	Monticello, KY
KYJ61	Appleton, WI
KYJ62	Hortonvle, WI
KYJ63	Fisk, WI
KYJ64	Fox Lake, WI
KYJ83	Stafford, VA
KYJ84	Rhoadesvill, VA
KYJ85	Advance Mls, VA
KYJ86	Afton, VA
KYJ87	McKinley, VA
KYJ88	Warm Spring, VA
KYJ89	Anthony, WV

American Telephone & Telegraph Co.

Call sign	Station name
KYJ90	Springdale, WV
KYJ91	Flat Top, WV
KYJ92	Kopperstown, WV
KYJ93	Holden, WV
KYJ94	Missouri Br, WV
KYJ95	Paintsville, KY
KYJ96	Seitz, KY
KYJ97	Cowcreek, KY
KYJ98	Annville, KY
KYJ99	Mt. Victory, KY
KYM98	IDA, KY
KYM99	Allons, TN
KYN20	Algood, TN
KYN21	Cassville, TN
KYN22	Sentertown, TN
KYN23	Wartrace, TN
KYN24	Culleoka, TN
KYN25	Brace, TN
KYN26	Waynesboro, TN
KYN27	Olivehill, TN
KYN28	Michie, TN
KYN29	Pocahontas, TN
KYN30	Saulsbury, TN
KYN31	Slayden, MS
KYN32	Cockrum, MS
KYN67	Roscoe, NE
KYN68	Chappell, NE
KYN69	Sunol, NE
KYN70	Dalton, NE
KYN71	Angora, NE
KYN72	Berea, NE
KYN73	Whitney, NE
KYN74	Wayside, NE
KYN75	Smithwick, SD
KYN76	Fairburn, SD
KYN77	Caputa, SD
KYN78	Hereford, SD
KYN79	Newell, SD
KYN80	Castle Rock, SD
KYN81	Redig, SD
KYN82	Ludlow, SD
KYN83	Reeder, ND
KYN84	New England, ND
KYN85	Dunn Center, ND
KYN86	Killdeer, ND
KYN87	Keene, ND
KYN88	Spring Brook, ND
KYN89	Corinth, ND
KYN90	Boone, IA
KYN93	Lyons, NE
KYO23	Fall River, MA
KYO24	Berkley, MA
KYO58	Reading, PA
KYO63	Arlington 2, VA
KYO77	Wheeling, WV
KYR98	Tallman, NY
KYS55	Mount Airy, NJ
KYS56	Monmouth Jt, NJ
KYS84	South Owego, NY
KYS85	Richford, NY
KYS86	Vestal, NY
KYS87	South Salem, NY
KYS88	Stamford, CT
KYS89	Roslyn Hbr, NY
KYS99	Forest Lake, PA
KYZ91	Roanoke, TX
KYZ92	Kennedale, TX
KZA33	Itasca, TX
KZA34	West, TX
KZA35	Biesel, TX
KZA36	Hammond, TX
KZA37	Caldwell, TX
KZA38	Independence, TX
KZA39	Pattison, TX
KZA40	Rosenberg, TX
KZA41	Arcola, TX
KZA49	Attica, NY
KZA50	Byron, NY
KZA56	Bernal Hgts, CA
KZA57	Sierra Mrna, CA
KZA58	Loma Prieta, CA
KZA59	Salinas, CA
KZA60	Carmel Vly, CA
KZA61	Jamesbrg Rs, CA
KZA78	Valley Poin, WV

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American Telephone & Telegraph Co.	
Call sign	*Station name*
KZA79	Rowelsburg, WV
KZA80	Etam R, WV
KZA81	Etam, WV
KZA83	Horn Lake, MS
KZI42	Sumerco, WV
KZI43	Charleston R, WV
KZI44	Longmont, CO
KZI45	Timnath, CO
KZI49	Newport New, VA
KZI66	Ady, TX
KZS63	Annapolis, MD
KZS64	Cheltenham, MD
KZS65	Reddish Knc, VA
KZS67	Worcester, MA
KZS72	Blackstone, MA
WAD84	Las Nutrias, NM
WAD85	La Joya, NM
WAD86	Magdalena, NM
WAD87	Datil, NM
WAD88	Quemado, NM
WAD39	Greer, AZ
WAD40	McNary, AZ
WAD41	Seneca, AZ
WAD42	Miami, AZ
WAD43	Florence, AZ
WAD44	Casa Grande, AZ
WAD45	Red Hill, NM
WAD46	S Phoenix, AZ
WAD47	Vale, OR
WAD48	Brogan, OR
WAD49	Elkhorn, OR
WAD50	John Day, OR
WAD51	Dayville, OR
WAD52	Mitchell, OR
WAD53	Antelope, OR
WAD54	Maupin, OR
WAD55	Grass Vly, OR
WAD56	Pine Grove, OR
WAD57	Mount Hood, OR
WAD58	Boring, OR
WAD59	Portland, OR
WAD61	Swain Notch, ME
WAD62	Canton, ME
WAD63	West Minot, ME
WAX97	Claysburg, PA
WAX98	Altoona, PA
WAY29	Coopers Roc, WV
WAY57	Brickeys, AR
WBO69	Laurel Mtn, WV
WBO70	Arthurdale, WV
WBP67	Wheatlnd, ND
WBP72	Columbus, NJ
WBP73	Hamilton Sq, NJ
WBP74	New Britain, PA
WCZ29	Mission, KS
WDE72	New Orlns 2, LA
WDE74	Jamesbrg Gs, CA
WDE75	Palo Escrto, CA
WDE76	Thompsn Vly, CA
WDE77	Pacheco Pss, CA
WDE78	Parmington, CA
WDE79	Patterson, CA
WDE87	Sacaton, AZ
WDE88	Chndlr Hgts, AZ
WDE89	Scholle, NM
WDE90	Mountainair, NM
WDE91	Pedernal, NM
WDE92	Carnero, NM
WDE93	Cardenas, NM
WDE94	Taiban, NM
WDE95	Nazareth, TX
WDE96	Field, NM
WDE97	Broadview, NM
WDE98	Black, TX
WGI23	Mableton, GA
WGI24	Atla 3-Smyrna, GA
WGI25	Tucker, GA
WGI26	Monticello, GA
WHB36	Marion, WI
WHB38	Eland, WI
WHB40	Pueblo, CO
WHT48	Ada, MI

American Telephone & Telegraph Co.	
Call sign	*Station name*
WHT83	Dahlonega 2, GA
WHT84	Nelson, GA
WIV84	Rutledge, GA
WIV86	Warner Spgs, CA
WIV87	Wildomar, CA
WIV88	Corona, CA
WJK78	Stephentown, NY
WJL25	Northbrook, IL
WJL30	Cambridge, MN
WJL87	Finksburg, MD
WJM51	Wilbur, IN
WJM59	Lawrence, MA
WJM60	No. Pelham, NH
WKR77	Palmer, IN
WKS20	Denver Zuni, CO
WKS21	Dnvr Champa, CO
WLJ71	Plano, IL
WPE77	Collinsvill, IL
WPE78	Middleport, NY
WPE79	Olcott, NY
WPG32	Far Rockway, NY
WPX92	Houston 3, TX
WPY26	Temp. fixed
WQN65	Ellisville, FL
WQQ56	Buford, GA
WQQ58	Tulsa Jct, OK
WQR45	Brockton, MA
WQR46	Lebanon, Ch, VA
WSL71	Lacombe, LA

[FR Doc.74-29694 Filed 12-23-74;8:45 am]

TABLE OF CANADIAN TELEVISION CHANNEL ALLOCATIONS WITHIN 250 MILES OF THE CANADA-U.S.A. BORDER

DECEMBER 6, 1974.

The attached table of Canadian Television Channel Allocations is recapitulative and contains information supplied by the Department of Communications of Canada, pursuant to Section F of the Canadian-U.S.A. Television Agreement (TIAS 2594). It reflects all the additions, changes and deletions notified to the Commission by the above date and supersedes previous lists issued by the Commission.

Further additions, changes and deletions, as coordinated between the Commission and the Canadian Department of Communications will be issued from time to time.

Copies of the list may be obtained from ABS Duplicators, Inc., 1732 Eye Street NW., Washington, D.C. 20006, Telephone (202) 298-5537.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

CANADIAN—U.S.A. TELEVISION AGREEMENT

TABLE OF ALLOCATIONS FOR VHF AND UHF TELEVISION

(Listed by Province)

CANADA

TABLE A

OFFSET CARRIER DESIGNATORS

— Zero offset frequency (underscored)
\+ Plus 10 kHz
— Minus 10 kHz
L Limited Allocation

ALBERTA

City	VHF channel No.	UHF channel No.
Banff		51+
Blairmore		57+
Brooks		66—, 72
Burmis	3, 5— L[1]	
Calgary	2+, 4, 9+	16, 22, 38, 44, 50, 73+, 79
Cardston		19+
Claresholm		52
Coronation	10	
Drumheller	12	30
Fort MacLeod		74—
Hanna		78—
High River		56
Innisfail		71
Lacombe		15—
Lethbridge	7, 13+	23+, 58—, 64+, 80
Medicine Hat	6—, 8	40, 65+, 71+
Olds		81
Oyen	2— L[2]	
Pincher Creek		70
Pivot	4+ L[2]	
Provost		24—
Raymond		36+
Red Deer	6+, 8+	31—, 59, 65
Rocky Mountain House		37
Stettler		67
Taber		42+
Vulcan		25

L[1]—Limitation to protect CBUAT-3 Crawford Bay, B.C.
L[2]—Limitation to protect CKSA-TV Lloydminster, Sask. and CHCT-TV Calgary, Alberta.
L[3]—Limitation 18 dbk and 500 feet EHAAT.

BRITISH COLUMBIA

City	VHF channel No.	UHF channel No.
Bonnington	13+ L[1]	
Campbell River	7—	49+
Canal Flats	12 L[17]	
Cassiar	7	
Castlegar		81+
Chilliwack	3	14+, 36+
Clinton	9+ L[3]	
Courtenay	9— L[4], 13	79
Cranbrook	10	59+
Crawford Bay	5 L[9]	
Creston	3 L[9]	42
Duncan		51
Enderby		72, 78
Fernie	8+ L[7]	21+
Golden	13 L[8]	64
Grand Forks		57
Hope		65
Kamloops	4+, 6+ L[9]	50+, 74+, 80
Kelowna	2, 5— L[10]	21, 43+
Kimberley		71—
Kinnaird		63+
Kitimat		21
Ladysmith		29
Merritt		20+
Mission City		81
Mount Timothy	3, 5—	
Nanaimo		23—, 63
Natal	11 L[11]	
Nelson	3+ L[13], 9 L[13]	14, 23
Newcastle Ridge	11—	
Oliver	8	41
Penticton	10 L[14], 13	73, 79+
Port Alberni	3+ L[15]	27+, 71+
Port Hardy	8	
Powell River		15—, 43
Prince Rupert	6+, 7	14, 20
Princeton		71
Radium		77
Revelstoke		66+
Rossland		19
Salmon Arm	9— L[16]	56+
Smithers		28
Spillimacheen		69
Squamish		35+
Summerland		49
Terrace	3	19
Trail	11	36, 52+
Vancouver-New Westminster	2+, 8+	26, 32, 45, 55, 61, 72+, 83
Vernon	7—, 12 L[17]	18, 27
Victoria	6, 10+	42, 53, 74, 80+
Warfield		25+
Williams Lake		21+

L[1]—Limitation to protect CHBC–TV–1, Penticton, B.C.
L[2]—Limitation to protect CFCN–TV–1, Drumheller, Alberta.
L[3]—Limitation to protect CHBC–TV–4, Salmon Arm, B.C.
L[4]—Limitation of 8.9 kW ERP, 493 feet EHAAT specified directional pattern, to protect KCTS, Seattle, Wash.
L[5]—1 kW ERP and 100 feet EHAAT.
L[6]—Limitation to protect CJOC–TV–3, Burmis, Alberta, and 790 watts maximum ERP and 2,000 feet EHAAT.
L[7]—Limitation of 1,000 watts maximum ERP and —1,804 feet EHAAT.
L[8]—Limitation to protect CBUDT, Bonnington, B.C., and CHBC–TV–1 Penticton, B.C.
L[9]—Limitation to protect CHEK–TV, Victoria, B.C.
L[10]—To protect CFCR–TV–6, Mount Timothy, B.C., and CBUAT–3, Crawford Bay, B.C.
L[11]—Limitation to protect CBUAT, Trail, B.C.
L[12]—Limitation to protect CJLH–TV–3, Burmis, Alberta
L[13]—Limitation 1.37 kW ERP, 1,400 feet EHAAT, to protect KCFW–TV, Kalispell, Mon'.
L[14]—Limitation to protect CBUBT, Cranbrook, B.C.
L[15]—To protect CBUT–2, Chilliwack, B.C.
L[16]—Limitation to protect CBUAT–1, Nelson, B.C.
L[17]—Limitation to protect CBUBT–1, Canal Flats, B.C.

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MANITOBA

City	VHF channel No.	UHF channel No.
Alonsa	11— L[1]	47, 32, 42, 55
Altona		58
Baldy Mountain		47+
Beausejour		44
Birch River	2 L[2], 4— L[3], 13+	43+
Boissevain		53—
Brandon	2— L[4], 4+, 5+	21+, 37+, 63
Carberry		61
Carman		60
Dauphin-(Baldy Mountain)	6— L[5], 8, 12— L[6]	18—, 57
Dawson Bay		19, 41+, 53+, 62+
Fisher Branch	10+ L[7]	33—, 45+
Foxwarren	2 L[8], 11	28+, 34—, 58+
Gimli		65
Interlake	8— L[9]	
Killarney		43
Lac du Bonnet	4 L[10], 5— L[11]	15+, 24—, 46, 52
Matheson Island		35, 41, 53, 62—
Melita	9+ L[12]	45
Minnedosa		59
Morden-Winkler		47—
Neepawa		29
Pembina Valley		19+, 35—, 41—, 64
Portage La Prairie		17, 38
Roblin		52
Russel		22
St. Boniface (see Winnipeg)		
Ste. Rose du Lac	7— L[13]	
Selkirk		54
Sherridon		21, 27, 33
Steinbach		18
Swan River		14
Vassar		16, 28, 37, 53+, 62
Virden		32
West Hawk		34, 40+, 50, 56
Winnipeg-St. Bonniface	3—, 6—, 7+, 9+, 13+	20+, 26, 36, 42, 48, 71, 77+, 83

L[1]—Limitation to protect CKX–TV–1, Foxwarren, Manitoba.
L[2]—Limitation to protect CKBQ–TV, Melfort, Sask., and an allocation at Brandon, Manitoba.
L[3]—Limitation to protect CKBI–TV–3, Greenwater Lake, Sask.
L[4]—Site to be located no less than 170 miles from cochannel assignment at Grand Forks, North Dakota, with site coordinates 48°08′24″ North Latitude, 97°59′28″ West Longitude, and limited to 100 kilowatts maximum ERP and 1,000 feet EHAAT, or the equivalent, in the general direction of Grand Forks, North Dakota.
L[5]—Limitation to protect CHSS–TV, Wynyard, Sask., CBWT, Winnipeg, Manitoba, and an allocation at The Pas, Man.
L[6]—Limitation to protect an allocation at Wynyard, Sask.
L[7]—Limitation 200 kW ERP 600 feet EHAAT to protect CBWAT–5, Red Lake, Ontario.
L[8]—Limitation to protect CKX–TV–2, Melita, Manitoba, CBKRT, Regina, Saskatchewan, and an allocation at Winnipeg, Manitoba.
L[9]—Limitation to protect CKSS–TV, Dauphin, Manitoba, and CBWAT, Kenora, Ontario.
L[10]—Limitation to protect allocations at Dryden, Ontario, and Brandon, Manitoba.
L[11]—Limitation to protect CKX–TV, Brandon, Manitoba, and CBWCT, Fort Frances, Ontario.
L[12]—Limitation to protect Channel 9— at Regina, Saskatchewan, and Channel 9+ at Winnipeg, Manitoba.
L[13]—Limitation to protect CKY–TV, Winnipeg, Manitoba, and CFSS–TV, Carlyle Lake, Saskatchewan.

NEW BRUNSWICK

City	VHF channel No.	UHF channel No.
Bathurst		54+, 82
Buctouche		27
Bon Accord	6−	
Campbellton	7− L[1], 12	38, 78+
Caraquet		64
Chatham		62+
Chipman		67+
Dalhousie		60
Dorchester		18+
Edmundston	13	18, 68
Fredericton-Saint John	5− L[2], 9+	15, 45+, 61
Grand Falls	4 L[2]	20
McAdam		71−, 77−
Milltown		33
Moncton	2, 7, 11	24+ 30, 70 83
Neguac	3 L[1]	
Newcastle		35
Oromocto		21−, 51−
Perth		37+
Richibucto		40−
Sackville		53
St. Andrews		82+
Saint John	4+	17, 23, 39, 69 78
St. Leonard		50+
St. Quentin		42−
St. Stephens		49−
Salisbury		14
Shediac		31
Shippegan		46
Sussex		48
Tracadie		52
Upsalquitch Lake (see Campbellton)		
Woodstock	3+ L[3]	19+

L[1]—Limitation 18 dbk and 500 feet EHAAT and Toward Channel 7, CKRT–TV, Riviere du Loup, P.Q.

L[2]—Limitation to protect CJCH–TV, Halifax, Nova Scotia, CHAU–TV, Carleton (New Carlisle), Quebec, and WABI–TV, Bangor, Maine.

L[3]—Limitation to protect CHSJ–TV, Saint John, N.B., CFCM–TV, Quebec, P.Q., and a cochannel allocation at Ste. Anne des Monts, P.Q.

L[4]—Limitation to protect cochannel allocation at Woodstock, New Brunswick.

L[5]—Limitation to protect Channel 5, CJBR–TV, Rimouski, P.Q.

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NORTHWEST TERRITORIES

City	VHF channel No.	UHF channel No.
Inuvik	6	
Fort McPherson	13	

NOVA SCOTIA

City	VHF channel No.	UHF channel No.
Amherst		47, 71
Annapolis Royal		32
Antigonish	9	23—
Bridgetown		29
Bridgewater	9— L[1]	51
Caledonia	6+	
Canning	10	
Digby		52—
Halifax	3, 5, 13 L[2]	22, 32, 38+, 44+, 63, 74
Kentville		76
Liverpool	12	62
Luneburg		41
Middleton		60+
New Glasgow	4— L[2]	15—, 43, 65
Parrsboro		20+
Pictou		25
Sheet Harbour	11+ L[4]	35+
Shelburne	8	75
Springhill		26
Tatamagouche		49, 77
Truro		65, 71
Windsor		16+
Wolfville		50
Yarmouth	11—, 3— L[2]	40

L[1]—Limitation 17.78 dbk and 500 feet EHAAT.
L[2]—Limitation to protect cochannel stations CBCT, Charlottetown, P.E.I. and WMED–TV, Calais, Maine.
L[3]—Limitation to protect CHSJ–TV, Saint John, N.B., and CJCB–TV, Sydney, N.S.
L[4]—Limitation to protect Channel 11, CBAFT, Moncton, N.B.
L[5]—Limitation to protect CBHT, Halifax, N.S.

ONTARIO

City	VHF channel No.	UHF channel No.
Arnprior		20
Atikokan	7—	39
Ayr		28[6]
Bancroft	2+ L[1]	
Barrie	3+	55+, 74, 83+
Belleville	6—	15—
Blind River		40+
Brantford		63
Brockville		27+, 75
Chapleau	7+ L[1]	33+
Chatham		48[5], 59[6], 81—
Cobourg-Port Hope		67+, 80
Collingwood		78+
Cornwall	8+ L[1]	36+, 77, 83
Deep River		25—
Dryden	4+, 9— L[4]	20
Elliot Lake	2, 7— L[2], 12+	18—
Espanola		77
Exeter		52—[6]
Forest		21+[6]
Fort Frances	5	25
Fort William-Pt. Arthur	2, 4—	20—, 26, 32, 38, 44
Gananoque		19+
Geraldton	13+	
Goderich		33
Guelph		79
Haliburton	5 L[6]	
Hamilton	11+ L[7]	41—, 47—, 53
Hanover		36[6]
Hearst	4—, 7	
Huntsville	8+ L[8], 11— L[8]	
Kapuskasing	2+ L[10], 10, 12	77—, 83
Kenora	8	21, 32+
Kingston	11—	32—, 38—, 73
Kirkland Lake	2, 11	
Kitchener-Waterloo	13+	76, 82

City	VHF channel No.	UHF channel No.
Leamington		22—, 72
London	10	18[g], 40
Manitouwadge	8+	
Marathon	11—	
Midland		58+
Niagara Falls		81
North Bay	10—, 4— L[11]	48+, 70, 76+
Oakville		73+
Oil Springs		29+[h], 42—[i]
Orillia		24—, 46—
Oshawa		16+, 22+, 77—
Ottawa-Hull	4+, 6 L[12], 9+, 13+ L[13]	14, 24, 30+, 40, 46, 52—, 58
Owen Sound		26, 32
Paris	6+	
Parry Sound		62—
Pembroke	5+	41, 47, 53—
Peterborough	12+	33+, 44, 54
Picton		56
Port Arthur (see Ft. William)		
Prescott		48
Red Lake	10—	
Renfrew		69
St. Catherines		69+
St. Thomas		65
Sarnia		68, 79—
Sault Ste. Marie	2—, 5 L[14]	20, 26—, 48, 54, 83+
Smiths Falls		71, 81+
Stratford		30—
Sturgeon Falls	7	82+
Sudbury	5, 9+ L[15], 13—	19, 25+, 41+, 47+, 69—
Thessalon		70+
Timmins	6, 9—, 3—, L[16], 7— L[17]	62, 68+, 78
Toronto	5 L[18], 9	19—, 25, 45, 51, 57, 79
Trenton		35
Wawa	9+ L[10]	
Welland		75+
White River	12— L[10]	
Wiarton	2—	
Windsor	9—	22—[j], 26—[k], 32+[l], 78[m]
Wingham	8—	60
Woodstock		71

L[1]—Limitation to protect cochannel assignment at Wiarton, Ontario. Limitation to protect WGR–TV, Buffalo, N.Y. Bancroft assignment to be located no less than 170 miles from WGR–TV.

L[2]—Limitation to protect CBFOT–2, Hearst, Ontario.

L[3]—The transmitter site of a television broadcast station authorized to operate pursuant to this allocation shall not be located less than 170 miles from the transmitter site of cochannel station WMTW–TV, Poland Springs, Maine. The effective radiated power from the Cornwall station over a sector encompassing the northern and southern limits of Lake Champlain will not exceed the equivalent of 50 kilowatts from an antenna 500 feet above average terrain.

L[4]—Limitation 20 dbk and 1,000 feet EHAAT.

L[5]—Limitation to protect CFCL–TV–6, Chapleau, Ontario; CBFST, Sturgeon Falls, Ontario and a cochannel limited allocation at Timmins, Ontario.

L[6]—Limitation of 310 watts maximum radiated power and 100 watts equivalent non-directional power, with specified directional antenna pattern at 149 feet EHAAT. Also, limitation to protect WPTZ–TV, North Pole, N.Y., and WHEN–TV, Syracuse, New York.

L[7]—Limitation to protect Channel 11—, CKWS–TV, Kingston, Ontario.

L[8]—Limitation to protect Channel 8—, CKNX–TV, Wingham, Ontario, and Channel 8, WROC–TV, Rochester, New York.

L[9]—Limitation to protect CHCH–TV, Hamilton, Ontario, CKWS–TV, Kingston, Ontario, and CBOFT–1, Chapeau, Quebec.

L[10]—Limitation to protect CFCL–TV–2, Kirkland Lake, Ontario.

L[11]—Limitation to protect CKRN–TV, Rouyn, Quebec and CBOT, Ottawa, Ontario.

L[12]—Limitation to protect CBMT, Montreal, Quebec and Channel 6, Belleville, Ontario.

L[13]—Limitation to protect Channel 13—, CKTM–TV, Three Rivers, P.Q.

L[14]—Limitation to protect CKSO–TV, Sudbury, Ontario.

L[15]—Limitation to protect CBFOT, Timmins, Ontario.

L[16]—Limitation to protect CKSO–TV–1, Elliot Lake, Ontario.

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L[17]—Limitation to protect CFCL-TV-6, Chapleau, CBFOT-2, Hearst and CBFST, Sturgeon Falls.
L[18]—Limitation to protect WHEN-TV, Syracuse, New York.
L[19]—Limitation to protect CBFOT, Timmins, Ontario.
L[20]—Limitation to protect CBFOT-1, Kapuskasing, Ontario.
Approximate site locations:
[a] 43°15'35" North Latitude, 80°26'39" West Longitude.
[b] 42°25'40" North Latitude, 82°07'14" West Longitude.
[c] 42°27'00" North Latitude, 82°05'00" West Longitude.
[d] 43°21'00" North Latitude, 81°28'48" West Longitude.
[e] 43°06'00" North Latitude, 82°00'00" West Longitude.
[f] 44°09'00" North Latitude, 81°02'00" West Longitude.
[g] 42°57'15" North Latitude, 81°15'58" West Longitude.
[h] 42°43'21" North Latitude, 82°10'00" West Longitude.
[i] 42°08'00" North Latitude, 82°45'42" West Longitude.
[j] 42°17'42" North Latitude, 83°05'00" West Longitude.
[k] 42°09'09" North Latitude, 82°57'05" West Longitude.
[l] 42°08'28" North Latitude, 82°51'40" West Longitude.

PRINCE EDWARD ISLAND

City	VHF channel No.	UHF channel No.
Charlottetown, P.E.I.	8+, 13+	31, 37, 81
Summerside		57, 75+

QUEBEC

City	VHF channel No.	UHF channel No.
Alma		48+, 74+, 80−
Asbestos		53
Baie Comeau-Hauterive	5+ L[3]	28, 57+, 79+
Baie St. Paul		75
Buckingham		50+
Cabano		63+
Chapeau	11+ L[2]	
Chicoutimi-Arvida	2+ L[3], 6	36, 58, 70, 76−, 82−
Clermont-La Malbaie		23+
Coaticook		75−
Cowansville		79
Dolbeau		78−
Donnacona		24+
Dorchester County	6 L[3]	
Drummondville		19−, 41+
Estcourt		43−
Forestville		77
Fox River	7 L[3]	
Granby		73−
Hull (see Ottawa, Ontario)		
Jolliette		65+
Jonquiere-Kenogami	12+	14, 20−, 30−, 42
Lac Etchemin		55+
Lac Megantic		42+
La Tuque	3− L[3]	34, 66
Magog		81
Manicouagan	10	
Marieville	4 L[3]	
Matane	6+ L[3], 9−	24, 49+
Mont Climont	11 L[3]	
Mont Joli		22
Mont Laurier	3+	68
Mont Tremblant	11 L[19]	
Montreal-Verdun	2, 6+, 10, 12	17, 23, 29, 35+, 50, 78, 82
Montmagny		49, 67
New Carlisle	5	17+
Normandin	10−	
Perce	3+ L[3]	15+
Pleasisville		61+
Port Alfred-Bagotville	9+	52+, 64+
Quebec-Levis	2+ L[3], 4, 5−, 11+.	15−, 21, 27, 45, 51+, 77+, 83+

City	VHF channel No.	UHF channel No.
Rapides des Jouchims	8— L[2]	
Rimouski	3—	16, 51
Riviere du Loup	7+	35—, 71
Roberval	8+	26+
Ste. Adele		56+
Ste. Anne des Monts	4—	
Ste. Anne de la Pocatiere		65
St. Felicien		72+
St. Georges de Beauce		72
St. Hyacinthe		47+
St. Jean-Iberville		70—
St. Jerome		78
Ste. Marguerite-Marie	2— L[4]	
Sept Iles	3+ L[5], 11—, 13+.	14, 20+
Shawinigan Falls		16+, 43, 63
Sherbrooke	7, 9 L[6]	14—, 30, 50
Sorel-Tracy		25
Thetford Mines		32, 74, 80
Timiskaming	12— L[7]	
Trois Pistoles		73.
Trois Rivieres	13—	37, 69+
Valleyfield		26, 66+
Verdun (see Montreal)		
Victoriaville		71+

L[1]—Limitation to protect CHAU–TV, Carleton (New Carlisle).
L[2]—Limitation to protect CKWS–TV, Kingston, Ontario, and CBFT–1, Mt. Tremblant, P.Q.
L[3]—Limitation to protect a cochannel allocation at Quebec City, Quebec.
L[4]—Limitation to protect CHSJ–TV–1, Bon Accord, N.B., CJPM–TV, Chicoutimi, P.Q., CBMT, Montreal, P.Q., and WCSH–TV, Portland, Maine.
L[5]—Limitation 63 watts, 850 feet EHAAT toward Channel 7—, CKCD–TV, Campbellton, N.B.
L[6]—Limitation to protect CBFT–2, Mont Laurier, Quebec.
L[7]—Limitation to protect CBOT, Ottawa, Ontario, and CFCM–TV, Quebec, P.Q.
L[8]—Limitation to protect CHSJ–TV–1, Bon Accord, N.B., and CJPM–TV, Chicoutimi, P.Q.
L[9]—Limitation ERP 1.25 dbk EHAAT 732 feet with specified antenna pattern.
L[10]—Limitation toward CKWS–TV, Kingston, Ont. and CBVT, Quebec, P.Q.
L[11]—Limitation toward Channel 2—, CHAU–TV–1, Ste. Marguerite-Marie, P.Q.
L[12]—Limitation to protect CBFT, Montreal, Quebec, and CKRS–TV–2, Chicoutimi, Quebec, and Quebec City site to be located not less than 170 miles from WLBZ–TV, Channel 2, Bangor, Maine.
L[13]—Limitation to protect CKVR–TV–2, Huntsville, Ontario, CJSS–TV, Cornwall, Ontario, and CJDG–TV, Lithium Mines, P.Q.
L[14]—Limitation toward Channel 2+, CKRS–TV–2, Chicoutimi, P.Q.
L[15]—Limitation to protect CJBR–TV, Rimouski, Quebec.
L[16]—Limitation to protect CBOFT, Ottawa, Ontario, and WMUR–TV, Manchester, New Hampshire. Assignment to be located no less than 170 miles from WMUR–TV, Manchester, New Hampshire.
L[17]—Limitation 18 dbk and 860 feet EHAAT and specified radiation pattern.

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SASKATCHEWAN

City	VHF channel No.	UHF channel No.
Assiniboia		61
Biggar		41−
Broadview		62
Canora		64−
Carlyle Lake	7+ L[1]	
Colgate	12	
Esterhazy		83+
Estevan		40
Eston		32
Fort Qu'Appelle		41
Gravelbourg		39−
Greenwater Lake	4 L[2]	
Humboldt		25
Indian Head		75+
Kamsack		42+
Kindersley		38+
Maple Creek		53+
Melville		46+
Moose Jaw	4−, 7−	16, 26, 55
Moosomin		54+
Oxbow		56+
Regina	2, 9−, 13−	18+, 24+, 47, 53, 71, 77−
Riverhurst	10−, L[3]	
Rosetown		63
Saskatoon	8+, 11	17, 23, 33, 54, 70, 76
Shaunavon	7+, L[4]	78
Stranraer	3−, 9	
Swift Current	5−, 12−	40+, 56
Unity		80−
Watrous		78+
Weyburn		48+
Wilkie		31
Willow Bunch	6− L[5], 10+, L[6]	
Wynyard	6, 12+ L[7]	31+
Yorkton	3, 10	20, 33+

L[1]—Limitation 20 dbk and 500 feet EHAAT and toward CKMJ-TV, Marquis (Moose Jaw) Saskatchewan.
L[2]—Limitation to protect CHAB-TV, Moose Jaw, Saskatchewan.
L[3]—Limitation to protect Channel 10+, CKBI-TV-1, Alticane, Sask.
L[4]—Limitation to protect CKMJ-TV, Channel 7−, Marquis, (Moose Jaw) Saskatchewan.
L[5]—Limitation to protect Channel 6, CKOS-TV-3, Wynyard, Sask.
L[6]—Limitation to protect CJFB-TV-3, Riverhurst, Saskatchewan.
L[7]—Limitation to protect Channel 12, CKCK-TV-1, Colgate, Saskatchewan, and an allocation at Swift Current, Sask.

YUKON TERRITORY

City	VHF channel No.	UHF channel No.
Clinton Creek	8	
Dawson	3, 10	14, 20
Elsa	2	
Faro	8	
Keno Hill	13	
Mayo	7	
Watson Lake	8+	
Whitehorse	2+, 6	14, 20

12 4 61 62 40 32 41 25 1122334455667889900

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc.74-29818 Filed 12-23-74;8:45 am]

[Docket Nos. 20266, 20267; File Nos. BPH-6363, BPH-6965]

KENNEBEC WESTERN BROADCASTING CO. AND WILLSON BROADCASTING CO.

Application for Construction Permits

In re applications of Kennebec Western Broadcasting Company, Hanford, California; Requests: 103.7 mHz; Channel No. 279 50 kW(H&V); 497.6 feet; Willson Broadcasting Company, Hanford, California; Requests: 103.7 mHz; Channel No. 279; 50 kW(H&V); 500 feet; For construction permits.

1. The Commission, by the Chief of the Broadcast Bureau, acting pursuant to delegated authority, has under consideration the two above-captioned applications which are mutually exclusive in that they seek the same channel in Hanford, California.

2. Both applicants request a waiver of § 73.210 of the Commission's rules in order that they may locate the main studio of the proposed facility at the site of the tower and transmitter, outside of the city limits of Hanford. In light of the potential hazards that a tower would pose if located closer to Hanford, and thus within the area of the Lemoore Naval Air Station as well as other airports, and because of the demonstrated accessibility of the proposed site to the residents of the city of license, good cause has been established, and permission will be granted, to locate the main studio of the proposed facility outside of the city limits of Hanford, consistent with § 73.210 (a)(3) of the Commission's rules.

3. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for a hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(2) To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

5. *It is further ordered,* That, the applicants having demonstrated that good cause exists for the location of the main studio outside the city limits of Hanford and that the location is consistent with operation of the station in the public interest, permission to so locate the main studio is granted.

6. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

7. *It is further ordered,* That, the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: December 9, 1974.

Released: December 13, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-30078 Filed 12-23-74;8:45 am]

STANDARD BROADCAST APPLICATION

Availability for Processing

The following application, seeking the facilities of station KAVE, Carlsbad, New Mexico, was accepted for filing on November 14, 1974. The former licensee of KAVE failed to file an application for renewal of its license, and the KAVE license expired on October 1, 1974. The Commission will accept any other applications for consolidation with the following application which proposes essentially the same facilities. The Commission will also entertain a request for joint interim operation by all interested and qualified applicants.

BP-19837, NEW, Carlsbad, New Mexico, Zia Telecommunications, Inc., Req: 1240 kHz, 250 W, 1 kW-LS, U.

Pursuant to the provisions of §§ 1.227(b)(1) and 1.591(b) of the Commission's rules, an application, in order to be considered with this application must be tendered no later than January 31, 1975. Any request for joint interim operation must be filed no later than March 3, 1975.

The attention of any party in interest desiring to file pleadings concerning this application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for the provisions governing the time of filing and other requirements relating to such pleadings.

Adopted: December 17, 1974.

Released: December 18, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-30077 Filed 12-23-74;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ALLOCATION OF FEEDSTOCKS TO SYNTHETIC NATURAL GAS FACILITIES

Public Hearing

The Federal Energy Administration (FEA) hereby gives notice that public hearings will be held on the petitions of two Synthetic Natural Gas (SNG) manufacturers for assignment or adjustment of base period volumes under 10 CFR 211.29. Specific information on each petition is set forth in the Appendix to this notice.

Notice of these petitions was originally issued on October 25, 1974 and written comments regarding the petitions were solicited at that time. Fourteen comments from interested persons have been received and several of the comments contain requests that the FEA hold public hearings on individual petitions under § 211.29 of the FEA regulations prior to official action on such petitions. In view of these requests and because the FEA believes that factual disputes between interested parties respecting these petitions are likely, the FEA has determined that public hearings on such petitions will materially advance consideration of the issues involved.

Therefore, a public hearing on the petitions set forth in the Appendix to this notice will be held beginning at 9:30 a.m. on January 7, 1975 in the Auditorium, Room 2105, at 2000 M Street, NW, Washington, D.C. 20036, in order to receive further comments from interested persons. Each petition set forth in the Appendix to this notice will receive separate consideration during the hearing.

Any person who has an interest in the petitions set forth in the Appendix to this notice or who is a representative of a group or class of persons which has an interest in the petitions, may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, Box BR, Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, D.C. 20461, and must be received before 4:30 p.m., e.d.t., January 2, 1975. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Since the petitions set forth in the Appendix to this notice are to be considered separately, requests for an opportunity to make oral presentation should identify the petition or petitions to be addressed. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he is a proper representative of a group or class of persons which has such an interest; and give a concise summary of the proposed oral presentation and a phone number where he may be contacted through January 3, 1975. Each person selected to be heard will be so notified by the FEA before 4:30 p.m.,

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e.d.t., January 3, 1975 and must submit 50 copies of this statement to Executive Communications, FEA, Room 3309, Federal Building, Washington, D.C. 20461, before 4:30 p.m., e.d.t., on January 6, 1975.

It should be emphasized that, in holding these hearings, the FEA intends to receive comments addressing the specific application of 10 CFR § 211.29 and Special Rule No. 1 thereunder to the individual petitions under consideration. Accordingly, persons requesting an opportunity to make an oral presentation should be prepared to provide information which is directed toward consideration of the criteria set forth in § 211.29 and Special Rule No. 1 with specific regard to the petitions set forth in the Appendix to this notice. General comments respecting the propriety or legality either of the Special Rule itself or of the FEA's policy regarding the use of petroleum feedstocks in the manufacture of SNG, except to the extent that such comments address the propriety or legality of application of the Special Rule in a specific instance, are not regarded as germane for the purpose of these hearings and are therefore discouraged.

The FEA reserves the right to select the persons to be heard at these hearings to schedule their respective presentations and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desires to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the hearings, to Executive Communications, FEA, before 4:30 p.m., EDT, January 6, 1975. Any person who makes an oral statement and who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by the FEA and made available for inspection at the Administrator's Reception Area of the FEA, Room 3400, The Federal Building, 12th and Pennsylvania Avenue, NW, Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., December 18, 1974.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

APPENDIX

Petitioner	Feedstock (specific chemical content)	Annual capacity (millions of cubic feet per day)	Assignment or adjustment of base per volume requested	Supplier	Status
Columbia LNG Corp...	Natural Gas Liquids, LPG, Naphtha.	250	6,370,000 bbls for each base period.	Dome Petroleums, La Gloria, Ohio.	Complete.
Northern Illinois Gas Co.	Liquid Petroleum gas, Natural Gas liquids, Naphtha.	105	4,349,800 bbls for each base period.	UPG, Inc., ARCO, San Juan Oil Co.	Do.

[FR Doc.74-29003 Filed 12-19-74;11:12 pm]

SOUTHERN CALIFORNIA OUTER CONTINENTAL SHELF

Notice of Public Symposium

The Federal Energy Administration hereby announces that it will hold a public symposium in Los Angeles, California, on January 22 and 23, 1975, to examine issues and problems surrounding possible accelerated exploration and development of the Outer Continental Shelf (OCS) lying off the coast of Southern California. Representatives of industry, local and Federal Government officials, members of university staffs and members of the public have been selected to present views on various aspects of the subject. The public is invited to attend and to submit written views upon the issues. The symposium will be held in Room 8544, Federal Building, 300 N. Los Angeles Street, Los Angeles, California 90012, beginning at 9 a.m. on January 22, 1975.

Recent events have shown that undue reliance upon foreign oil imports has a severely unfavorable impact upon the United States' balance of trade and can constitute a threat to the national security and economy. One of the options to reduce this reliance upon imports is to increase domestic oil and gas production by exploring and developing any reserves that might exist on the Outer Continental Shelf.

The Federal Energy Administration (FEA) believes the option of exploring and developing the Outer Continental Shelf must be examined in all its facets with a complete airing of varying views. The Department of the Interior has issued a draft environmental statement concerning exploration and development of the OCS and will conduct public hearings in the near future regarding the draft statement. Those hearings are expected to develop in great detail the environmental considerations involved in exploring and developing the Outer Continental Shelf.

In view of the fact that environmental issues will be considered in the hearing of the Department of the Interior, the symposium commencing on January 22, 1975, to be conducted by the FEA will focus on the following listed issues:

(a) The place of the OCS in U.S. energy supply/demand balance.

(b) Operating conditions and technical constraints regarding operating on the OCS.

(c) Applicable laws, rules and regulations.

(d) Social impacts of OCS exploration and development.

The FEA encourages representatives of recognized regional groups, environmental and consumer organizations, officials of State and local governments, representatives of the oil, gas and chemical industries, and the general public to attend the symposium and to submit written comments on the above issues. Written comments should be submitted no later than February 7, 1975, and should be addressed to the Federal Energy Administration, Executive Communications, Box BS, 12th Street and Pennsylvania Avenue, NW, Washington, D.C. 20461.

PROCEDURES FOR THE SYMPOSIUM

Persons selected to address the symposium have been asked to limit their oral presentation to about twenty minutes. A few minutes for questions will be reserved at the end of each presentation. The symposium will be open to the public and to the press and other media. A complete record of the proceedings will be compiled and made available to the public in Room 3400, Administrator's Reception Area, between the hours of 8 a.m. and 4:30 p.m. daily.

Any questions concerning the symposium should be directed to the Office of Oil and Gas, 202-961-7478.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

DECEMBER 18, 1974.

[FR Doc.74-29461 Filed 12-19-74;1:08 pm]

ALLOCATION OF OLD OIL

Availability of Reporting Forms

On December 16, 1974, the Federal Energy Administration mailed FEA Forms P-102-MO (Refiners Monthly Report) P-104-MO (Importers Monthly

Report), which are the required reports for the month of November 1974 under FEA's Old Oil Entitlements Program (39 FR 42246; December 4, 1974), to the firms listed in the Appendix to this notice.

If a firm not listed in the Appendix hereto believes that it qualifies as an eligible firm under the program, it should contact FEA at (202) 634–7610 to obtain copies of the appropriate reporting forms.

Issued in Washington, D.C., on December 19, 1974.

ROBERT E. MONTGOMERY, Jr.,
General Counsel,
Federal Energy Administration.

APPENDIX

The following is a list of firms to which FEA mailed copies of the reporting forms for November 1974 under FEA's Old Oil Entitlements Program:

Allied Materials Corporation
Amerada Hess Corporation
American Oil Company
A. Johnson
American Petrofina, Inc.
APCO Oil Corporation
Arizona Fuels Corporation
Ashland Oil Company
Atlantic Richfield Company
Bay Refining Company
Bayou State Oil Corporation
Beacon Oil Company
Belcher Oil Company
Blue Ridge Fuel Company
CRA-Farmland Industries, Inc.
Calumet Refining Company
Canal Refining Company
Caribou Four Corners Oil Co.
Castle Coal & Oil Company, Inc.
Central Petroleum Corporation
C & H Refinery
Champlin Petroleum Company
Charter International Oil Co.
Cirillo Brothers Oil Company
Cities Service Oil Company
Claiborne Gasoline Company
Clark Oil & Refining Corporation
Coastal States Gas Corporation
Colonial Oil Company
Colonial Oil Industries, Inc.
Commonwealth Oil Refining Co. Inc.
Continental Oil Company
Cross Oil & Refining Co. of AR
Crown Central Petroleum Corporation
Crystal Refining Company
Crystal Oil Company
Deepwater Oil Terminals, Inc.
Delta Refining Company
Diamond Shamrock Corporation
Dingman Oil & Refining Co., Inc.
Dorchester Gas Producing Co.
Eastern of New Jersey, Inc.
Eddy Refining Company
Edgington Oxnard Refinery
Elm City Filling Stations, Inc.
Evangeline Refining Co., Inc.
Exxon Corporation
Famariss Oil & Refining Co.
Edgington Oil Company
Farmers Union Central Exchange
Fletcher Oil & Refining Co.
Flint Chemical Corporation
Fort Neck Oil Terminals Corp.
Gary Operating Company
George Hall Corporation
Getty/Skelly Oil Co. of the U.S.
Giant Industries Inc.
Gladieux Refining Company
Goetz Oil Corporation
Golden Eagle Refining Co., Inc.
Good Hope Refineries, Inc.
Guam Oil & Refining Co., Inc.
Gulf Oil Corporation
Gulf States Oil & Ref. Co.
H. N. Hartwell & Son, Inc.
Hawaiian Independent Refinery, Inc.
Howard Oil Company
Howell Corporation
Hunt Oil Company
Husky Oil Company
Indiana Farm Bureau Cooperative Association
Irving Oil Corporation
J. W. Refining, Inc.
Jet Fuel Refinery
The Kaiser Trading Co.
Kentucky Oil & Refining Co.
Kerr-McGee Corporation
The King Service, Inc.
Koch Refining Co.
LaGloria Oil & Gas Company
Lakeside Refining Co.
Laketon Asphalt Refining, Inc.
Little America Refining Co.
MacMillan Ring-Free Oil Co., Inc.
Marathon Oil Company
Marion Corporation
Meenan Oil Co., Inc.
Mid-America Refining Co., Inc.
Midland Cooperatives, Inc.
Mid-Tex Refinery
Mobil Oil Corporation
Mohawk Petroleum Corporation
Mountaineer Refining Co., Inc.
Murphy Oil Corporation
National Cooperatives Refinery Association
National Oil Recovery Corp.
Navajo Refining Company
New England Petroleum Corporation
Newhall Refining Company, Inc.
R. B. Newman Fuel Corporation
North American Petroleum Corp.
Northeast Petroleum Industries Inc.
Northern New Jersey Oil Company
Northland Oil & Refining Co.
Northville Industries Corporation
Monsanto Company
Morrison Petroleum Company
Oil Shale Corporation
Oriental Refining Company
Pace Oil Company
Pasco Incorporated
Patchogue Oil Terminal Corp.
Patterson Fuel Oil Co., Inc.
Pennzoil Company
Petroleum Heat & Power Co., Inc. Stamford, Conn.
Petroleum Heat & Power Co., Inc. Phila., Pa.
Phillips Petroleum Company
Pioneer Refining Company
Pittston Co.
Plateau, Incorporated
Powerine Oil Company
Pride Refining Incorporated
Publicker Industries, Inc.
Quaker-State Oil Refining Corp.
The Refinery Corporation
Remington Oil Co., Inc.
Rico Petroleum Corporation
Road Oil Sales, Inc.
Rock Island Refining Corporation
OKC Refining Incorporated
Rockway Fuel Oil Corporation
Royal Petroleum Corporation
Saber Petroleum Corporation
Sage Creek Refining Company, Inc.
San Joaquin Refining Co.
Sears Oil Co. & Sears Petroleum & Transport Corp.
Seminole Asphalt Refining Co.
Shaheen Natural Resources Co.
Shell Oil Company
Sigmor Corporation
Signal Companies, Inc.
Somerset Refining Company
Sound Refining Inc.
Southern Terminal & Transport Co.
South Hampton Company
Southland Oil Company
Southwestern Refining Company
Standard Oil Company of CA.
Standard Oil Company of Ohio
Stephens International Corp.
Steuart Petroleum Company
Stillings Petroleum Corporation
Sunland Refining Corporation
Sun Oil Company
Swann Oil Company
A. Tarricone
Tenneco Oil Company
Tesoro Petroleum Corporation
Texaco Incorporated
Texas Asphalt & Refining Co.
Texas Fuel & Asphalt Co., Inc.
Texas City Refining Inc.
Thagard Oil
Thriftway Oil Co.
Thunderbird Resources Inc.
Tonkawa Refining Co.
Total Leonard Incorporated
U.S. Oil & Refining Co.
Union Oil Company of Ca.
Union Petroleum Corporation
Union Texas Petroleum
United Independent Oil Co.
United Refining Company
Ven-Fuel Inc.
Vickers Petroleum Corporation
VI Oil Company
Vulcan Asphalt Refining Co.
Wallace & Wallace Fuel Oil Co.
Warrior Asphalt Corporation
Webber Tanks
Wellen Oil Inc.
West Coast Oil Company
Western Refining Co.
Wickett Refining Company
Toro Petroleum Corporation
Winston Refining Company
Wireback Oil Co.
Witco Chemical Corporation
Wyatt, Inc.
Yetter Oil Company
Young Refining Corporation

[FR Doc.74-30021 Filed 12-20-74;9:42 am]

FEDERAL MARITIME COMMISSION

[Docket No. 74-54]

INTERNATIONAL FREIGHT SERVICES, LTD. INC.

Order of Hearing on Petition for License

On November 30, 1973, pursuant to section 44, Shipping Act, 1916 (46 U.S.C. 841b), International Freight Services, Ltd. Inc., 6519 Eastland Road, Cleveland, Ohio, filed an application for a license as an independent ocean freight forwarder. The Commission's investigation of International Freight Services, Ltd. Inc. revealed apparently that:

(1) The experience of one of the employees who was to be made the qualifying officer pursuant to § 510.5(a) (2) (iii) of the Commission's General Order 4 (46 CFR 510.5(a) (2) (iii)), was falsely enlarged so that it would appear that the employee was fully qualified to perform ocean freight forwarding services. This employee was also induced by the applicant's President and sole stockholder, Mr. Swift, to make false and misleading

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statements to the Federal Maritime Commission investigator;

(2) A second person was also induced by Mr. Swift to make false and misleading statements to the Federal Maritime Commission investigator;

(3) On the applicant's original application, Mr. Swift falsely stated he was a citizen of the United States, when in fact he is a citizen of Mexico.

When confronted by discrepancies from the facts provided in this application, Mr. Rafael Swift, the President and sole stockholder of the applicant, withdrew the application and re-filed a modified application which was received by the Commission on March 18, 1974.

Mr. Swift, who subsequently alleges to be the qualifying officer pursuant to § 510.5(a)(2)(iii) of the Commission's General Order 4 (46 CFR 510.5(a)(2)(iii)) with respect to ocean freight forwarding, does not appear to have adequate experience to competently perform the necessary duties of a licensed independent ocean freight forwarder. It is therefore questionable whether he would be able to properly perform ocean freight forwarding duties for the applicant corporation in the public interest.

In the foregoing respects, Mr. Swift's conduct appears to demonstrate a lack of regard for the Commission's rules and regulations, the statutory provisions of the Shipping Act, 1916, and reflects a lack of fitness and ability to be licensed as an independent ocean freight forwarder. In view of the fact that Mr. Swift is the sole stockholder and President of the applicant, International Freight Services, Ltd., Inc., it further appears that the applicant, International Freight Services, Ltd., Inc., lacks the fitness and ability to be licensed as an independent ocean freight forwarder.

Pursuant to § 510.8 of the Commission's General Order 4 (46 CFR 510.8) the Commission, on August 1, 1974, advised the applicant of its intent to deny the application for the reasons set out hereinabove. In accordance with General Order 4, an applicant may, within 20 days of receipt of such advice request a hearing on the application.

By letter dated August 9, 1974, Mr. Swift, as President of the applicant, requested the opportunity to show at a hearing that denial of International Freight Services, Ltd., Inc.'s application is unwarranted.

Now, therefore, it is ordered, That pursuant to section 44 of the Shipping Act, 1916, § 510.8 of the Commission's General Order 4 (46 CFR 510.8), a hearing is hereby ordered to afford International Freight Services, Ltd. Inc. the opportunity to demonstrate that the foregoing information and/or reasons do not warrant finding that the applicant is not fit and able properly to carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, and the requirements, rules and regulations of the Commission issued thereunder.

It is further ordered, That International Freight Services, Ltd. Inc. be hereby made a petitioner in this proceeding pursuant to Rule 3(a) of the Commission's Rules of Practice and Procedure (46 CFR 502.41).

It is further ordered, That this proceeding be assigned for public hearing and an initial decision before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the presiding Administrative Law Judge on or before June 19, 1975.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon petitioner.

It is further ordered, That any persons other than petitioner who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene in accordance with Rule 5 (1) of the Commission's Rules of Practice and Procedure (46 CFR 502.72).

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-29087 Filed 12-23-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-9165]

ALABAMA POWER CO.

Filing of Service Agreement

DECEMBER 17, 1974.

Take notice that on December 9, 1974, Alabama Power Company filed in Docket No. E-9165 a proposed service agreement dated July 1, 1974, providing for service by Alabama to Tallapoosa River Electric Cooperative, Inc. under Alabama's Tariff Rate Schedule REA-1 at two proposed delivery points, LaFayette and Providence, Alabama.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 9, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Alabama's filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29088 Filed 12-23-74;8:45 am]

[Docket No. E-9163]

CONSUMERS POWER CO.

Filing of Contract for Electric Service

DECEMBER 17, 1974.

Take notice that on December 9, 1974, Consumers Power Company (Consumers) tendered for filing with the Federal Power Commission a Contract for Electric Service with the Village of Union City, Michigan. The Contract, when it becomes effective under its terms, will cancel and supersede an earlier Contract between the same two parties, as amended, that has been in effect since October 19, 1965, and designated as FPC Rate Schedule No. 11. The rates to be charged under the new Contract are the same as those established by Commission Order in Docket No. E-7803, dated August 30, 1974. The new Contract increases the capacity reservation from 2000 kilowatts to 5000 kilowatts. Consumers states that this increase could affect the minimum charge established under the terms of the Contract, but is not expected to affect revenues actually collected by Consumers from the Village of Union City.

Consumers states that the proposed effective date of the new Contract will be "the date that the Company completes all work required to provide the reserve capacity of 5000 kw from its said 46,000-2400/4160 volt station. Consumers estimates this completion to occur during the first week of January, 1975.

Consumers states that copies of the filing were mailed to the Village of Union City and to the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 31, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary

[FR Doc.74-29089 Filed 12-23-74;8:45 am]

[Docket No. ID-1235]

DONALD C. COOK

Supplemental Application

DECEMBER 16, 1974.

Take notice that on November 19, 1974, Donald C. Cook (Applicant) filed a supplemental application with the Federal Power Commission. Pursuant to section

305(b), of the Federal Power Act, Applicant seeks authority to hold the following position:

President & Director, Ohio Electric Company, Public Utility.

Ohio Electric Company, whose principal office is located at 301 Cleveland Avenue, SW, Canton, Ohio 44702 owns and operates the General James M. Gavin Plant at Gallipolis, Ohio which, when completed, will have two 1300 megawatt generating units. All of Ohio Electric Company's available electrical energy is sold to Ohio Power Company, of which it is a wholly owned subsidiary.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29890 Filed 12-23-74;8:45 am]

[Docket No. E-8547]

MISSOURI EDISON CO.

Further Extension of Procedural Dates

DECEMBER 16, 1974.

On December 9, 1974, Staff Counsel filed a motion to indefinitely suspend the procedural dates fixed by order issued February 15, 1974, as most recently modified by notice issued September 24, 1974, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, January 8, 1975.
Service of Company Rebuttal, January 29, 1975.
Prehearing Conference, February 4, 1975 (10 a.m. e.s.t.).
Hearing (Unchanged) February 18, 1975 (10 a.m. e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29891 Filed 12-23-74;8:45 am]

[Project No. 5]

MONTANA POWER CO.

Extension of Procedural Dates

DECEMBER 17, 1974.

On December 13, 1974, The Montana Power Company filed a motion to extend the procedural dates fixed by order issued November 15, 1974 in the above-designated matter. On December 16, 1974, Staff Counsel filed an answer concurring in the above motion and seeking further extensions.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company's Testimony, December 27, 1974.
Service of Staff's Testimony and that of all other participants, January 17, 1975.

The Hearing Date will remain as scheduled (February 25, 1975, at 10:30 a.m. e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29892 Filed 12-23-74;8:45 am]

[Docket No. E-8823]

SOUTH CAROLINA ELECTRIC AND GAS CO.

Further Extension of Procedural Dates

DECEMBER 17, 1974.

On December 10, 1974, Saluda River Electric Cooperative, Inc., filed a motion to extend the procedural dates fixed by order issued August 2, 1974, as most recently modified by notice issued October 29, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Intervenor's Testimony, January 8, 1975.
Service of Company Rebuttal, January 17, 1975.
Hearing (Unchanged), January 28, 1975 (10 a.m. e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29893 Filed 12-23-74;8:45 am]

[Docket No. E-8514]

SOUTHERN SERVICES, INC.

Further Extension of Procedural Dates

DECEMBER 17, 1974.

On December 13, 1974, Southern Services, Inc., Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company, the Cities of Acworth, et al., and the Water, Light and Sinking Fund Commission of the City of Dalton, Georgia, jointly filed a motion to extend the procedural dates fixed by order issued May 8, 1974, as most recently modified by notice issued November 19, 1974 in the above-designated matter. The motion states that Staff Counsel has no objection to the extension.

Upon consideration, Notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Evidence by Intervenors, January 30, 1975.
Service of Evidence by Staff, February 20, 1975.
Service of Company Rebuttal, March 3, 1975.
Hearing, March 17, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29894 Filed 12-23-74;8:45 am]

[Docket No. E-9156]

WISCONSIN PUBLIC SERVICE CORP.

Amendment to Interconnection and Emergency Energy Agreement

DECEMBER 17, 1974.

Take notice that on December 6, 1974, Wisconsin Public Service Corporation (Wisconsin) tendered for filing a proposed amendment to Article VIII of the Interconnection and Emergency Energy Agreement between Consolidated Water Power Company and Wisconsin. Wisconsin states that the agreement has been mutually agreed upon by the parties.

As several retroactive dates are requested, Wisconsin urges a waiver of the prior notice requirement as set forth in section 205(d) of the Federal Power Act.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-29895 Filed 12-23-74;8:45 am]

[Docket No. E-9124]

NEW YORK STATE ELECTRIC AND GAS CORP.

Notice of Amendment to Filing

DECEMBER 18, 1974.

Take notice that on November 25, 1974, New York State Electric and Gas Corporation (New York) tendered for filing a letter agreement dated October 11, 1974, which constitutes an amendment to the agreement dated March 12, 1970, between the Power Authority of the State of New York and Niagara Mohawk Power Corporation (Niagara), New York State Electric and Gas Corporation (NYSE&G) and Rochester Gas and Electric Corporation (RG&E). New York states that the earlier agreement provides for the sale by New York, Niagara and RG&E to the Power Authority of the State of New York of up to 200,000 kilowatts of power for supplying specified high load factor manufacturers for the period commencing with the date of initial service and terminating on March 31, 1974.

New York submits that the later agreement filed herewith extends the term of the earlier agreement to July 1, 1975. Niagara and RG&E concur. An effective date of November 1, 1974, is requested.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30080 Filed 12-23-74;8:45 am]

FEDERAL RESERVE SYSTEM

AMERICAN BANCORP, INC.

Formation of Bank Holding Company

American Bancorp, Inc., Hammond, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80.25 percent or more of the voting shares of American State Bank, North Judson, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than January 16, 1975.

Board of Governors of the Federal Reserve System, December 17, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-29911 Filed 12-23-74;8:45 am]

FIRST MACOMB CORP.

Order Approving Formation of Bank Holding Company

First Macomb Corporation, Mount Clemens, Michigan, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 percent of the voting shares of the successor by consolidation to Mount Clemens Bank, Mount Clemens, Michigan ("Bank"). The bank with which Bank is to be consolidated has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a recently-organized corporation formed for the purpose of becoming a bank holding company through the acquisition of Bank. The proposed transaction essentially involves the transfer of control of Bank from individuals to a corporation owned by the same individuals. Bank holds deposits of approximately $91.5 million,[1] representing 0.62 of one percent of the total deposits in commercial banks in the Detroit banking market,[2] and ranks as the 20th largest of 45 banks operating in that market. Upon acquisition of Bank, Applicant would control less than 0.34 of one percent of the total commercial bank deposits in Michigan. Since the proposed transaction is essentially a reorganization of Bank's ownership and Applicant presently has no subsidiaries, consummation of the proposal would not have an adverse effect on existing or potential competition, nor would it increase the concentration of banking resources or have an adverse effect on other banks in any of the relevant areas. Therefore, the Board concludes that the competitive considerations are consistent with approval of the application.

The financial condition of Bank is considered generally satisfactory in view of Applicant's commitment to inject $1.5 million of equity capital into Bank within one year after consummation of the proposal. The managerial resources of Bank and Applicant are considered satisfactory and the future prospects for each appear favorable. Therefore, the banking factors are consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served are also consistent with approval of the application. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago, pursuant to delegated authority.

[1] All banking data are as of December 31, 1973.

[2] The Detroit banking market is approximated by Macomb, Oakland, and Wayne Counties, Michigan.

By order of the Board of Governors,[3] effective December 16, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-29912 Filed 12-23-74;8:45 am]

FIRST MISSISSIPPI NATIONAL CORP.

Order Approving Formation of Bank Holding Company

First Mississippi National Corporation, Hattiesburg, Mississippi, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to First Mississippi National Bank, Hattiesburg, Mississippi ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired. The Board has considered the application and all comments received, including those submitted by The People's Bank of Biloxi, Biloxi, Mississippi ("Protestant"), in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a recently organized corporation formed for the purpose of becoming a bank holding company through the acquisition of Bank's stock. Bank (deposits of $136.6 million) is the largest of four banks in the Forrest and Lamar County banking market and controls 68.5 per cent of the total deposits in commercial banks in that market.[1] Since the proposal represents a shifting of Bank's ownership from individuals to a corporation owned by the same individuals, consummation of the proposal would have no adverse effects on competition in any relevant area. Accordingly, the Board concludes that competitive considerations are consistent with approval of the application.

The managerial resources and future prospects of Applicant, which will depend initially upon those of Bank, are considered satisfactory and the financial condition of Bank is regarded as generally satisfactory. Accordingly, banking factors are regarded as being consistent with approval of the application. Since the proposal is merely reorganization of existing ownership interests in Bank, considerations relating to the convenience and needs of the communities to be

[3] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, Holland, Wallich and Coldwell. Absent and not voting: Chairman Burns.

[1] Banking data are as of December 31, 1973.

served will remain unchanged; however, such considerations are consistent with approval. It is the Board's judgment that consummation of the transaction would be in the public interest and that the application to acquire Bank should be approved.

At noted above, an objection was received to the proposed bank holding company formation. In acting on the present application, the Board has fully considered the arguments offered by the Protestant as well as Applicant's response thereto. Protestant's main contentions appear to be as follows: (1) The close relationship of the top management of Bank and Deposit Guaranty National Bank, Jackson, Mississippi ("Deposit Guaranty") indicates that approval of this holding company formation is tantamount to a future merger between Bank and Deposit Guaranty; (2) financial and managerial resources of Bank are not satisfactory; and (3) the holding company formation will disadvantage present shareholders of Bank because the holding company will be incorporated in Delaware.

From the facts of record, it is the Board's view that, although a correspondent relationship does exist between the two banks, there is no substantial evidence to indicate that Deposit Guaranty controls or has a controlling influence over Bank within the meaning of the provisions of the Bank Holding Company Act. In fact, Deposit Guaranty does not own any of Bank's voting securities and it does not appear from the record that it controls or has the power to vote 5 percent or more of the voting securities of Bank. Thus, the Board would not regard the instant proposal as being tantamount to a future merger of the two institutions; furthermore, any such merger would have to be approved by the appropriate supervisory authorities under the Bank Merger Act. With respect to financial and managerial considerations, the Board finds, as noted above, that such factors are consistent with approval of the application. Finally, the Board finds no legal impediment, either under the Bank Holding Company Act or relevant State law, to a holding company formed for the purpose of acquiring a bank in Mississippi being incorporated in the State of Delaware. Accordingly, on the basis of the facts of record, the Board concludes that Protestant raises no significant issues that would warrant denial of the application.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[2] effective December 17, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-29913 Filed 12-23-74;8:45 am]

NCNB CORP.

Order Granting Determination Under Bank Holding Company Act

In the matter of the request by NCNB Corporation, Charlotte, North Carolina ("NCNB"), for a determination pursuant to section 2(g)(3) of the Bank Holding Company Act of 1956, as amended.

NCNB, a bank holding company within the meaning of section 2(a) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841(a)) ("Act"), has requested a Board determination, pursuant to section 2(g)(3) of the Act (12 U.S.C. 1841(g)(3)), that NCNB is not in fact capable of controlling Collier Cobb and Associates, Inc., Chapel Hill, North Carolina ("Collier"), notwithstanding the indebtedness incurred by Collier to NCNB in connection with its purchase during April, 1974, from NCNB of all of the shares of American Commercial Agency, Inc. ("ACA") and, further, notwithstanding that Collier is currently indebted to NCNB's subsidiary bank, North Carolina National Bank ("Bank"), and may borrow additional funds from Bank in the future. Bank has retained possession of all ACA shares sold by NCNB to Collier as security for indebtedness incurred by Collier to NCNB and Bank arising from the sale transaction and subsequent loan to Collier. ACA is a general insurance agency to which NCNB has 10-year grandfather rights under section 4(a)(2) of the Act.

Under the provisions of section 2(g)(3) of the Act, shares transferred after January 1, 1966, by any bank holding company (or by any company which, but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor, or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor unless the Board of Governors of the Federal Reserve System, after opportunity for hearing, determines that the transferor is not in fact capable of controlling the transferee.

Notice of receipt of this request, affording an opportunity for hearing and for interested persons to make written comments with respect to NCNB's request for a determination under section 2(g)(3), was published in the FEDERAL REGISTER on Thursday, February 14, 1974 (39 FR 5667). The time provided for requesting a hearing or for submission of written comments expired on March 4, 1974. No request for a hearing or written comments has been received by the Board, nor has any evidence been received to show that NCNB is in fact capable of controlling Collier.

It is hereby determined that NCNB is not in fact capable of controlling Collier. This determination is based on the documentary evidence of record in this proceeding, including commitments by NCNB that:

1. NCNB will not own, control or hold with power to vote, directly or indirectly, any of the outstanding voting shares of either Collier or ACA.

2. Neither NCNB nor any of its subsidiaries will have any employee, officer or director who is at the same time an employee, officer or director of either Collier or ACA.

3. Neither NCNB nor any of its subsidiaries will control or exert a controlling influence over any employee, officer or director of either Collier or ACA.

4. The terms of the existing loan obligations of Collier to North Carolina National Bank, the terms of the proposed installment obligations of Collier to NCNB which will be created in connection with the sale of the capital stock of ACA and the terms of any future credit obligations of Collier to NCNB or any of its subsidiaries are and will be on terms that are the same or similar to and not less favorable to NCNB than those which would be offered to other borrowers in connection with similar transactions.

5. NCNB will not control or exert a controlling influence over either Collier Cobb or ACA through the existing indebtedness of Collier Cobb to NCNB or in any other manner.

6. In the event Collier defaults on the loan from Bank or obligation to NCNB and Bank obtains title to the shares of ACA in its possession, pursuant to the pledge agreement, solely for purposes of affecting sale thereof, NCNB shall notify the Board of that fact and Bank shall sell such shares as soon as practicable, in any event, within a period not to exceed 18 months, and in accordance with any instructions the Board may issue.

Accordingly, it is ordered that NCNB's request for a determination pursuant to section 2(g)(3) be, and hereby is, granted.

By order of the Board of Governors,[1] effective December 16, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-29914 Filed 12-23-74;8:45 am]

PENTAGON BANKSHARES, INC.

Order Denying Formation of Bank Holding Company

Pentagon Bankshares, Inc., Minneapolis, Minnesota, has applied for the

[2] Voting for this action: Vice Chairman Mitchell, Governors Sheehan, Bucher, Holland, Wallich, and Coldwell. Absent and not voting: Chairman Burns.

[1] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Bucher, Holland, Wallich, and Coldwell.

XUM

Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 87.4 percent of the voting shares of the State Bank of St. Anthony Village, St. Anthony Village, Minnesota ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a recently organized nonoperating corporation, formed for the purpose of becoming a bank holding company through the acquisition of Bank. The purpose of the proposed transaction is to effect a transfer of ownership of Bank from individuals to a corporation owned by the same individuals with no change in the Bank's management or operations. Bank (deposits of $17.6 million) is the 27th largest of 103 banking organizations in the relevant banking market,[1] controlling less than .3 of one percent of the total commercial bank deposits therein. (All banking data are as of December 31, 1973.) Since Applicant presently has no subsidiaries, consummation of the proposal would not have an adverse effect on existing or potential competition, nor would it increase the concentration of banking resources or have an adverse effect on other banks in the relevant market. Therefore, the Board concludes that the competitive considerations are consistent with approval of the application.

As it has indicated on previous occasions, the Board believes that a holding company should be a source of financial and managerial strength for its subsidiary bank(s) and every proposed acquisition or formation is closely examined with this consideration in mind. Regarding the subject proposal, the Board has some concern about the financial and managerial resources of Applicant. In particular, the Board notes that Applicant proposes to service the debt that it will incur as a part of this transaction entirely through dividends from Bank. In the Board's view, the debt retirement program does not provide Applicant with the necessary financial flexibility to service the acquisition debt while maintaining Bank's capital at an acceptable level. Moreover, Bank has paid no dividends in recent years and the introduction of dividends at this time in order to service the acquisition debt could place an undue strain on Bank's overall financial condition. Accordingly, on the basis of the foregoing and other facts of record, the Board concludes that the considerations relating to the managerial and financial aspects of Applicant's proposal weigh against approval of the application.

As noted above, the proposed formation represents merely a restructuring of the ownership of Bank with no significant changes in Bank's operations or the services offered to customers. Consequently, considerations relating to the convenience and needs of the community to be served lend no weight toward approval of the application. On the other hand, the servicing requirements of the acquisition debt incurred by Applicant could impair Bank's ability to continue to serve the community as a viable banking organization.

On the basis of all the facts in the record, the Board concludes that the financial considerations involved in this proposal present adverse circumstances bearing upon the financial condition and prospects of Applicant and Bank. These adverse factors are not outweighed by any procompetitive effects or benefits to the convenience and needs of the community to be served. Accordingly, it is the Board's judgment that consummation of the proposal would not be in the public interest, and that the application should be, and is hereby, denied.

By order of the Board of Governors,[2] effective December 16, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-29015 Filed 12-23-74;8:45 am]

[1] The relevant banking market is approximated by the Minneapolis-St. Paul RMA.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Bucher, Holland, Wallich and Coldwell.

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 19, 1974. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC form are invited from all interested persons, organizations, public interest groups, and affected businesses. This proposed form is being reviewed expeditiously and comments must be received on or before January 7, 1975. Comments should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street NW., Washington, D.C. 20548.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

INTERSTATE COMMERCE COMMISSION

Request for clearance of a new annual performance report to be filed by Household Goods Carriers with the Interstate Commerce Commission and furnished each prospective customer. The purpose of the report is to provide information to prospective consumers which will permit them to intelligently compare the services of competing carriers. The requirement and data to be included in the report are specified in 49 CFR 1056.7(b). Respondents will be some 2,500 Household Goods Motor Carriers. Reporting burden is estimated at 660 man-hours for each respondent.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.74-29092 Filed 12-23-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

DECEMBER 13, 1974.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 7, January 15 and 16, 1975, from 9 a.m. to 4 p.m., Room 12A01, Fritz G. Lanham Federal Building, 819 Taylor Street, Fort Worth, Texas. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Federal Youth Center, Bastrop, Texas, Project NTX74997. Frank and open discussion of the professional qualifications of the firms being considered is essential to insure selection of the best qualified firms. Accordingly, pursuant to a determination that it will be concerned with a matter listed in 5 U.S.C. 552(b)(5) the meeting will not be open to the public.

L. N. STEWART,
Acting Regional Administrator.

[FR Doc.74-29090 Filed 12-23-74;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

DECEMBER 6, 1974.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering services, Region I, January 20, 1975 from 10 a.m. to noon, Room 711, John W. McCormack Post Office and Courthouse Building, Postoffice Square, Boston, Mass. 02109.

The meeting will be concerned with the review of the conceptual design for the proposed new Federal Office Building, New Haven, Connecticut. Frank and open critical analysis of the proposed design is essential to insure that the design approach produces the best possible design solution. Accordingly, pursuant to a determination that it will be concerned with a matter listed in 5 USC 552(b)(5) the meeting will not be open to the public.

ALBERT A. GAMMAL, Jr.,
Regional Administrator.

[FR Doc.74-29991 Filed 12-23-74;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (74-75)]

AD HOC ADVISORY SUBCOMMITTEE TO REVIEW PROPOSALS FOR PARTICIPATION IN THE SCIENTIFIC DEFINITION OF SPACE SHUTTLE MISSIONS FOR SOLAR PHYSICS SPACELAB PAYLOADS

Notice of Meeting

The NASA Ad Hoc Advisory Subcommittee of the Space Science and Applications Steering Committee for review of proposals for participation in the scientific definition of Space Shuttle Missions for Solar Physics payloads will meet at the Goddard Space Fight Center in Greenbelt, Maryland on January 8, 9, and 10, 1975. The meetings will be held in Room 200 in Building 26 from 9 a.m. to 5 p.m.

The Subcommittee will discuss, evaluate and categorize proposals for participation on Facility Definition Teams which will define Space Shuttle Missions for Solar Physics Spacelab Payloads. Throughout the Subcommittee sessions, the professional qualifications of the proposers and their potential scientific contributions to the Facility Definition Teams will be candidly discussed and appraised. Discussion of these matters in a public session would invade the privacy of the proposers and the other individuals involved. The meeting will be closed to members of the public.

Since the Subcommittee session will be concerned throughout with matters listed in 5 U.S.C. 552(b)(6), it is hereby determined that the session will be closed to the public.

For further information please contact Dr. Adrienne F. Timothy at (202)—755-8490.

BOYD C. MYERS, II,
Assistant Associate Administrator for Organization and Management, National Aeronautics and Space Administration.

DECEMBER 19, 1974.

[FR Doc.74-29974 Filed 12-23-74;8:45 am]

[Notice (74-74)]

RESEARCH AND TECHNOLOGY ADVISORY COUNCIL, COMMITTEE ON ENERGY TECHNOLOGY AND SPACE PROPULSION

Notice of Meeting

The NASA Research and Technology Advisory Council, Committee on Energy Technology and Space Propulsion will meet January 10, 1975, at NASA Headquarters, 600 Independence Avenue, SW., Washington, D.C. The meeting will be held in Room 625. Members of the public will be admitted on a first-come, first-served basis, up to the seating capacity of the room which is about 40 persons. All visitors must register at the reception desk in Room 625.

The NASA Research and Technology Advisory Council, Committee on Energy Technology and Space Propulsion serves in an advisory capacity only. The Chairman is Dr. Beno Sternlicht, and there are 11 members. The following list sets forth the approved agenda and schedule for the January 10, 1975, meeting of the Committee on Energy Technology and Space Propulsion. For further information, please contact Mr. R. D. Ginter, Area Code 202, 755-8475, or Mr. W. H. Woodward, Area Code 202, 755-8501.

JANUARY 10, 1975

Time:	*Topic*
8:30 a.m.	Reports of working groups (Purpose: Chairmen of the four working groups listed below will report to the committee on the status of the work being done by the respective groups: (1) Space power and propulsion, (2) NASA's terrestrial energy capabilities, (3) Potential joint industry/NASA terrestrial energy projects, and (4) NASA surface propulsion technology.).
1 p.m.	Discussion of issues raised by NASA (Purpose: To afford an opportunity for the committee to discuss issues regarding: (1) Early distribution of NASA research results to U.S. manufacturers, (2) workshops or seminars which would be useful to committees, (3) emphasis to be placed on particular technology problems, and (4) most fruitful potential areas of research to reduce aircraft fuel consumption.).
2 p.m.	Future plans (Purpose: The committee chairman will review the remaining actions to be taken by the working groups and will propose a tentative agenda and schedule for the next committee meeting.).
2:30 p.m.	Adjournment.

BOYD C. MYERS, II,
Assistant Associate Administrator for Organization and Management, National Aeronautics and Space Administration.

DECEMBER 18, 1974.

[FR Doc.74-29973 Filed 12-23-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

ADVISORY COMMITTEE ON THE BALANCE OF PAYMENTS STATISTICS PRESENTATION

Establishment

Determination pursuant to Executive Order 11769 (Advisory Committee Management) and Pub. L. 92-463 (Federal Advisory Committee Act).

The objectives and scope of the Advisory Committee on the Balance of Payments Statistics Presentation is to provide advice on improvements in the presentation of the balance of payments accounts, which are developed and published by the Department of Commerce, to facilitate a more meaningful interpretation of the U.S. balance of payments and exchange rate developments each quarter. Particular attention will be paid to the continued adequacy of the overall summary balances in reflecting pressures on the price of the dollar in international exchange markets.

It is determined that the Advisory Committee on the Balance of Payments Statistics Presentation is essential in providing assistance necessary to carry out my responsibilities under the Budget and Accounting Procedures Act of 1950, as amended, Executive Order No. 8248, September 1939 and Executive Order No. 10253, June 1951. It is also determined that the Advisory Committee on the Balance of Payments Statistics Presentation is in the public interest.

The Advisory Committee on the Balance of Payments Statistics Presentation will terminate on September 30, 1975 unless renewed prior to that date. The authority to make determinations as to the formation and utilization of advisory committees and panels of the Advisory Committee on the Balance of Payments Statistics Presentation is hereby delegated to the Deputy Associate Director for Statistical Policy. This authority may be redelegated.

Dated: December 19, 1974.

ROY L. ASH,
Director.

[FR Doc.74-29978 Filed 12-23-74;8:45 am]

CLEARANCE OF REPORTS

Lists of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and budget on 12/19/74 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

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NEW FORMS

DEPARTMENT OF AGRICULTURE

Departmental and other, Survey of Bee and Pollinating Insect Research Priorities, Selected Participants in the Industry, single-time, Suppliers, processors & marketing firms, Natural Resources Division, 395-5627.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service: Study to Assess the Nutritional Quality and Microbiological Safety of Various School Food Delivery Systems, Single-time, School Children ages ten thru twelve, Human Resources Division, 395-5831.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics: Precanvass for the Full-Scale Statistical Survey of Elementary Schools 1975, OE 2360-4, single-time. Local education agencies, Planchon, P., 395-5926.

NEW FORMS

ENVIRONMENTAL PROTECTION AGENCY

SOTDAT (Source Test Data), on occasion, Air Pollution emission record, where available, Weiner, N., 395-4990.

REVISIONS

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration, Summary of Electric Construction Releases, REA 168, on occasion, REA electric borrower engineers, Bridges, B. K., 395-3442.

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Management and Budget: Federal grant application award notification, annually, agencies applying for grant applications, Lowry, R. L., 395-3772.

PHILLIP D. LARSEN,
Budget and management officer.

[FR Doc.74-29108 Filed 12-23-74;8:45 am]

POSTAL RATE COMMISSION

SAN ANTONIO, TEXAS

Notice of Visit to Postal Facilities

DECEMBER 19, 1974.

Notice is hereby given that an employee of the Postal Rate Commission will be visiting Postal Service facilities on the dates indicated for the purpose of acquiring general background knowledge of postal operations.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed.

A report of the visit will be on file in the Commission's docket room.

Place of visit:	Date of visit
San Antonio, Tex.	January 3 and 4 1975

By direction of the Commission.

JOSEPH A. PRIMER,
Secretary.

[FR Doc.74-29069 Filed 12-23-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

I-T-E IMPERIAL CORP.

Notice Amending Notice of Suspension of Trading

DECEMBER 12, 1974.

The Commission having determined to amend its notice of December 4, 1974 summarily suspending trading in the securities of I-T-E Imperial Corp. for the period December 5, 1974 through December 14, 1974.

Therefore, pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in the common stock being traded on the New York and Pacific Stock Exchanges and the preferred 4.60 percent cumulative stock being traded on the Philadelphia-Baltimore-Washington Stock Exchange and all other securities of I-T-E Imperial Corp. being traded otherwise than on a national securities exchange is suspended, for the period from December 5, 1974 through midnight (e.s.t.) December 12, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29064 Filed 12-23-74;8:45 am]

[Release No. IC-8206; File No. S7-509]

REGISTRATION OF FOREIGN INVESTMENT COMPANIES

Request for Public Comments

Introduction. Recent years have seen a developing trend towards internationalization of the capital markets, including our own, together with a general policy favorable to the free flow of capital between nations. In view of these developments, the Commission is now considering various questions concerning foreign access to United States markets by foreign broker-dealers and banks directly or through domestic subsidiaries.[1] The purpose of this release is to invite comments which will assist the Commission in exploring the issues involved in registration and regulation of foreign investment companies under the Investment Company Act of 1940 (the "Act").

The investment company vehicle can be useful as an instrument to channel funds of a country's nationals into foreign investments. A foreign investment company, managed by experts familiar with the foreign economy, business atmosphere, political situation and the factors relevant to the analysis of the investment merits of the securities of the foreign issuers in the area of their operations, should be in a position to assist the investor to meet the risks and problems of investing abroad. Domestic investment companies have provided these services to foreign investors who have channeled substantial sums into securities of United States issuers through United States investment companies. In 1973, sales of United States open-end investment companies to foreigners aggregated $257.4 million. The foreigners were afforded the opportunity to invest their funds and, at the same time, provided the United States economy with a source for significant amounts of capital.

At the present time, foreign investment companies are restricted in their ability to attract United States investor interest. Although the concept of the investment company originated in Europe and has spread from there to the United States and the other commercial nations of the world, most foreign investment companies are not now permitted to sell their securities in this country. Without this ability they cannot, in any meaningful way, serve as an instrument for private United States investment in foreign securities or as a vehicle for foreign economies to obtain capital from private United States sources.

A foreign investment company must be registered under the Act in order to sell its shares in the United States, but such registration is prohibited unless the Commission can make the special, and often difficult, findings called for by section 7(d) of the Act [15 U.S.C. 80a-7(d)]. As more fully discussed below, the United States has participated in a conference of the Organisation for Economic Cooperation and Development ("OECD") which resulted in the development of certain rules for the operations of investment companies and a recommendation, supported by the Commission, that member countries take those rules into account when considering their existing legislation or applications for permission to sell publicly in their own territory securities of foreign institutions for collective investments.

In line with this action, the Commission believes it appropriate to consider the extent to which it can and should act to facilitate the registration under the Act of investment companies which are domiciled in countries which are members of the OECD and which comply with the rules it adopted. On the other hand, the Commission believes that it should not encourage the registration of foreign investment companies under circumstances where necessary regulatory modifications would significantly lessen investor protections or provide such companies with an unfair competitive advantage over United States investment companies. The Commission therefore seeks the assistance of the international financial community, interested agencies of the United States and foreign governments, state regulatory authorities in the United States, and members of the

See footnotes at end of document.

bar and the public generally, on the policy questions posed below. The Commission recognizes that many of these questions may also arise in the case of companies domiciled in non-OECD member countries. Accordingly, comments on these questions to the extent they are applicable to such companies may also be submitted.

Background. The statutory provisions. The Commission has previously permitted a limited number of foreign investment companies to register under the Act and offer their securities in the United States. The only provisions of the Act specifically dealing with the Commission's authority to permit a foreign investment company to register under the Act and publicly offer its securities in the United States are contained in sections 8(a) and 7(d) of the Act [15 U.S.C. 80a-8(a), 80a-7(d)]. Section 8(a) of the Act authorizes only a domestic investment company to register and section 7(d) prohibits a foreign investment company from using the mails or any instrumentality of interstate commerce to publicly offer its securities in the United States. However, section 7(d) also authorizes the Commission to permit a foreign investment company to register under the Act and make a public offering of its securities, but only:

> * * * if the Commission finds that, by reason of special circumstances or arrangements it is both legally and practically feasible effectively to enforce the provisions of this [Act] against such company and that the issuance of such order is otherwise consistent with the public interest and protection of investors.

This then is the statutory standard which section 7(d) requires the Commission to apply in considering the registration of a foreign investment company under the Act. However, section 6(c) [15 U.S.C. 80a-6(c)] of the Act empowers the Commission by rule or order to exempt any person, security or transaction from any provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and the provisions of the Act; and section 38(a) of the Act authorizes the Commission to make, issue, amend, and rescind such rules and regulations and such orders as are necessary or appropriate to the exercise of the power conferred upon the Commission elsewhere in the Act.

Rule 7d-1. In 1954, the Commission adopted Rule 7d-1 [17 CFR 270.7d-1] under the Act to enumerate the conditions and special arrangements to be entered into by Canadian management investment companies in order to enable them to obtain an order permitting registration. In announcing that it had under consideration the adoption of the rule,[1] the Commission described the standards of the rule as "special arrangements" formulated "[i]n line with the policy of this government to facilitate and encourage foreign investments * * *" and "[a]fter extended discussions with certain Canadian companies which [had] applied for registration * * *."[2] The Commission went on to state:

> The conditions and arrangements have been established in the light of the high degree of comity that has prevailed between this country and Canada, the existing treaties, the proximity of the two countries, their joint heritage of the common law, and the essential similarity of statutes and law relating generally to corporations and the rights of stockholders. Accordingly, the rule is applicable only to Canadian management investment companies. Conditions and arrangements proposed by investment companies organized under the laws of other foreign countries will be considered on a case by case basis in the light of the statutory standards.

The special arrangements specified in Rule 7d-1, generally speaking, provide that the charter and by-laws of the company contain the substantive provisions of the Act which the company must agree may be enforced as a matter of contract right in the United States or Canada by shareholders. At least a majority of the officers and of the directors are required to be citizens of the United States and a majority of each such majority must be residents of the United States. The officers and directors must also agree to comply with the Act and consent to the enforcement of their agreements by shareholders in those jurisdictions. In furtherance of this purpose the rule also requires the company to maintain its assets in the United States and agree to their liquidation and distribution upon direction of the Commission, or the courts, upon a finding of noncompliance by the company or its officers and directors with their agreements or the Commission's order. The Commission indicated its belief that these provisions "in the over-all * * * will accord protection to investors, equal to, though not necessarily identical with, the protection accorded by the Act to investors in the usual domestic company."[3]

Although the provisions of Rule 7d-1 are applicable only to Canadian companies, they have come to be used as guidelines in the consideration of applications of other foreign companies for permission to register.[5]

The OECD rules. The Commission has taken additional action looking to internationalization of the capital markets with respect to investment company securities. In 1972, representatives of the United States, including a representative of the Commission, participated in the deliberations of the OECD which led to the promulgation by that body of a set of "Standard Rules for the Operations of Institutions for Collective Investments" ("Standard Rules").[6] The Standard Rules are applicable to investment companies of the open-end type and, generally speaking, deal with minimum requirements for disclosure and the furnishing of periodic financial reports to investors and the filing of periodic reports with supervisory authorities. They also deal with the institutions' sales practices and activities and their investment practices, including restrictions relating to short sales, borrowings, and the writing of options. In addition, the Standard Rules deal with minimum capital requirements, issuance of warrants, custody of assets, management and distribution agreements, conflicts of interest, incentive performance fees, pricing of shares and assignment of management agreements. These rules further provide that each member country provide official surveillance of the institutions domiciled there.

It can be seen therefore that the Standard Rules represent a significant step forward in the protection of investors in investment company securities although they do not provide many important protections afforded by the Act. Following the promulgation of the Standard Rules, the OECD recommended that member countries:

> (1) Review, as appropriate, their existing legislation or regulations concerning the operations of institutions for collective investment, taking into consideration the Standard Rules and to take the Standard Rules into account when preparing new legislation or regulations on this subject;
>
> (2) When considering applications for admission to public sale in their own territory of the securities of foreign institutions for collective investment which comply with the Standard Rules, give substantial weight, within the framework of their legislation, to the fact of such compliance.

The Commission supported these recommendations.

Proposed legislation. Shortly thereafter, the Commission proposed enactment of the "Foreign Portfolio Sales Corporation Act of 1973." One provision of that proposal would amend section 7(d) of the Act to authorize the Commission, in considering applications by a foreign investment company to register, to "take into account the differing laws, regulations, customs and business conditions of particular countries and the adequacy of existing regulations in such countries."[7] The purpose of the suggested provision, as described by the Commission, is to:

> * * * provide greater flexibility under section 7(d) to the Commission in allowing registration of foreign investment companies. This should better enable the Commission to administer the Act in light of developments in foreign securities regulation and recent adoption of an OECD Code of proposed uniform standards for the regulation of investment companies.[8]

Sales abroad of securities of United States investment companies. The Commission has also taken action to facilitate the sales overseas of securities of United States investment companies. In its "Guidelines Concerning the Applicability of the Federal Securities Laws to the Offer and Sale outside of the United States of shares of Registered Open-end Investment Companies" ("Guidelines") promulgated on June 23, 1970 (Investment Company Act Release No. 6082), the Commission indicated that it considered the protections of the securities laws to be applicable to United States investment companies even when selling outside the United States. Among other things, the Guidelines made clear the

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See footnotes at end of document.

Commission's view that the registration requirements of the Securities Act of 1933 apply to shares of a registered open-end investment company offered and sold outside the United States to foreign nationals and that the issuer should conduct such offerings by means of a prospectus not substantially different from the one used in the United States printed in a language understood by that segment of the foreign investing public being solicited. The Guidelines also expressed the Commission's view that while the provisions of the Act apply to an open-end company registered under the Act regardless of where its shares are sold, exemptive relief from the price maintenance provisions of the Act may be justified under appropriate circumstances with respect to overseas sales to foreign nationals.

In recognition of the Commission's position that the extensive pattern of investor protection provided by the United States securities laws was generally available to foreign investors, German authorities have since permitted several United States investment companies to sell their shares in Germany. In addition, a number of United States companies are now selling in the European community outside of Germany. Most recently, several United States investment companies have been permitted to sell their shares in Japan.[9]

The current situation. Despite the action taken by the Commission looking to the registration of foreign investment companies and the substantial interest manifested in registering foreign investment companies, to date only a small number of foreign companies have actually registered under the Act.[10] Recently, interest has been expressed in registering companies organized in Belgium, Germany, Japan, The Netherlands and Switzerland. However, it appears that the provisions of section 7(d) of the Act and Rule 7d–1 (taken as guidelines) are considered formidable obstacles to obtaining the required permission of the Commission. Even where the proposed OECD Standard Rules are met, conflicts between the laws of the company's domicile and the United States securities laws raise substantial questions as to whether registration may be permitted.

In view of the foregoing, the Commission wishes to consider whether and how United States investors in foreign investment companies permitted to register under the Act can be provided with adequate protection without unduly impeding the public offering of the securities of such companies in the United States and the operation of such companies outside of the United States.

Issues to be addressed. American investors have for many years manifested an interest in investing in foreign securities and, in view of the increasing internationalization of the securities markets, this interest may be expected to increase. As pointed out above, foreign investment companies could provide a valuable medium for such investment. On the other hand, investors in investment companies are in need of special protections, extending beyond disclosure, and the Investment Company Act was a response to that need. Section 7(d) of the Act expresses a policy that American investors in foreign investment companies should have the same protection. As the Senate and House Committees in their reports on that Act put it:

> Foreign investment companies may not register as investment companies or publicly offer securities of which they are the issuer in the United States unless the Commission finds that these foreign investment companies can be effectively subjected to the same type of regulation as domestic investment companies.[11]

This objective has proven to be difficult to accomplish except in the case of some Canadian investment companies, which essentially are controlled by Americans. Many foreign investment companies find it difficult, if not impossible, to comply fully with the Act because of the requirements of foreign law and practice; other investment companies may be deterred by the requirements of section 7(d). As discussed above, the Standard Rules afford certain of the protections provided by the Act and, in certain respects, provide additional protections. The basic question, therefore, is whether or not it is desirable, under present conditions, to relax certain of the restrictions in the Act with respect to foreign investment companies, particularly those domiciled in OECD member countries which adopt the regulatory framework provided in the Standard Rules, and, if desirable, how this can be done in a way which will not sacrifice essential investor protections.

In view of the foregoing, the Commission requests comments on the following questions:[12]

1. (a) What effect would increasing the number of foreign investment companies registered under the Act have on the United States capital markets, on domestic issuers of securities, and on the domestic investment company industry?

(b) Would easing requirements for access by foreign investment companies to the United States facilitate the entry of United States investment companies into foreign markets?

2. (a) Should the Commission permit foreign investment companies to register under the Act under conditions and arrangements which do not provide protections equal to those provided under the Act and, if so, what provisions of the Act should they not be required to meet?

(b) Should any foreign investment company established in an OECD member country which has conformed with the Standard Rules and which company complies with such rules be permitted to register under the Act?

(c) If not, what additional protections should be required?

(d) Is it feasible and practical to require a foreign investment company to solicit proxies, or to provide United States investors with voting rights to elect directors, pass upon advisory and underwriting contracts, ratify the selection of auditors and pass upon any proposal to change fundamental investment policy or go out of the investment company business?

(e) Is it feasible and practical to require a foreign investment company subject to regulation in another country to comply fully with bookkeeping, record retention, valuation and capital structure requirements of the Act and is it possible to provide adequate safeguards from overreaching by affiliated persons in a manner equal to that contemplated by section 17 [15 U.S.C. 80a–17] of the Act?

(f) Can net asset value of the shares of a foreign investment company which invests in foreign securities be readily and reliably ascertained?

(g) Must the Commission inquire into the adequacy of the foreign markets for the securities in the investment company's portfolio, particularly in the case of a company which has issued redeemable securities?

(h) If it is not feasible and practical to apply these protections and safeguards with respect to a foreign investment company, what variations are possible in order to provide "equal" protections to United States investors?

3. (a) A fundamental touchstone of the Commission's program for regulating United States investment companies involves a routine inspection. Can this be accomplished with respect to foreign investment companies?

(b) Are the problems of surveillance and enforcement presented by permitting foreign investment companies to register under the Act, especially in view of the laws of their respective jurisdictions of origin (including "secrecy" laws), capable of solution? Among other things, these problems include access to information abroad to determine the nature of transactions and to verify the manner in which they are being conducted, the policing of foreign broker relationships with customers to insure compliance with applicable United States law, and the extent to which foreign courts would honor judgments rendered by United States courts against foreign brokers doing business here.

(c) Can foreign courts enforce, and is it likely that foreign courts will enforce, United States securities laws or United States judgments based on violations of those laws against such foreign persons?

(d) What requirements are appropriate to assure adequate jurisdiction over a foreign investment company by United States courts?

(e) Should the assets of such a company be kept in the United States or should a specified percentage of its officers or directors be required to be United States citizens or residents?

4. (a) To what extent would additional costs be incurred in regulating foreign investment companies and in enforcing the securities laws against them?

See footnotes at end of document.

(b) How should they be measured and should such measurement take into account varying distances from the United States?

(c) If such additional costs should be borne by the registered foreign investment companies themselves, what procedure should be used to assess and obtain payment of the additional costs and from whom should payment be obtained (e.g., as a class or otherwise)?

5. Could foreign-exchange problems adversely affect United States investors in foreign investment companies with respect to payment of dividends and ability to redeem shares and, if so, what protections are needed in this regard?

6. Would the domestic investment company industry be unfairly disadvantaged if foreign investment companies were permitted to operate in the United States without being required to comply fully with the Act in essentially the same manner as domestic investment companies?

7. (a) If all registered investment companies of the same type, domestic and foreign, are not required to meet essentially the same regulatory standards under the Act, what would prevent any investment company, domestic or foreign, from organizing or reorganizing under the laws of the foreign country whose investment companies registered under the Act are subject to the regulation deemed least restrictive?

(b) If such action were not prevented would not the quality of regulation tend to deteriorate?

(c) How can such action be prevented?

(d) Should the Commission entertain an application for registration by a foreign investment company only if it has had an operating history of not less than a specified period, say five years?

8. (a) Would the flexible standard proposed for Section 7(d) as part of the Foreign Portfolio Sales Corporation bill (H.R. 8256, 93d Cong. 1st Sess.) provide the Commission with adequate authority to deal with the registration needs of those foreign investment companies which desire to sell their shares in the United States?

(b) If not, how might the bill be changed to clarify the Commission's authority?

9. (a) In the light of United States law and policy, particularly the policies of the National Banking Act of 1933 (the "Glass-Steagall Act") which is generally interpreted to restrict bank participation in the management of an investment company, would it be in the public interest and consistent with the protection of investors in the United States to permit a foreign investment company to register under the Act where such company has an investment adviser, principal underwriter or broker which is a foreign bank or where it has an officer, director, or employee who is an officer or director of a foreign bank?

(b) Should the Commission concern itself with the possible circumvention of the provisions of the Glass-Steagall Act by United States banks through ownership or control of or other interests in foreign banks which act as investment company underwriters?

The Commission requests written comments and data or other information on the enumerated questions and any other matters relevant to the issues involved in registering foreign investment companies under the Act. All such submissions should be directed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549 by January 31, 1975, and should be designated File No. S7-539.

Although the Commission, as previously noted, is most interested in the questions relating to registration of foreign investment companies in light of the formulation by the OECD of the Standard Rules, the Commission is aware that investment companies domiciled in non-OECD member countries may also wish to register under the Act and offer their securities in the United States. In view of this possibility, comments and data and other information also may be submitted with respect to the enumerated questions from the prespective of companies established in such other jurisdictions. Any such submissions should be made at the time and place and in the manner noted above.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 2, 1974.

[FR Doc.74-29953 Filed 12-23-74;8:45 am]

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[1] Public comments have been submitted to the Commission on this matter pursuant to the Commission's invitation. (Securities Exchange Act Release No. 10634, February 8, 1974.)

[2] Investment Company Act Release No. 1945 (1954).

[3] Id. at 1.

[4] Id. at 2.

[5] See e.g., Pan Australian Fund, Ltd., Investment Company Act Release No. 8028 (1973); First American-Australian Investors, Ltd., Investment Company Act Release No. 6517 (1971); and American-South African Investment Company Ltd., Investment Company Act Release No. 2756 (1958).

[6] Standard Rules for the Operations of Institutions for Collective Investments in Securities (Organisation for Economic Cooperation and Development, Paris, 1972). Copies may be purchased in the United States from OECD Publications Center, Suite 1207, 1750 Pennsylvania Avenue, NW., Washington, D.C. 20006, at $2.25 each. Orders and inquiries may also be sent to OECD Publications Office, 2 Rue André-Pascal, 75 Paris 16c, France.

[7] In 1973, Congressman Harley O. Staggers introduced this proposed bill as H.R. 8256. No further action has been taken in the Congress and the bill is still pending.

[8] SEC-Treasury Department Memorandum entitled "Description of Foreign Portfolio Sales Corporation Proposal," March 27, 1973, p. 7.

[9] In accordance with the view of the Commission contained in the Guidelines, the Commission has granted exemption from the price maintenance provisions of the Act with respect to sales of securities in Germany (Pilgrim Fund Incorporated, Investment Company Act Release No. 5966, February 10, 1970) and Japan (Dreyfus Fund Incorporated, Investment Company Act Release No. 7631, January 18, 1973; Keystone Custodian Funds, Inc. as Trustee for Keystone Custodian Fund, Series S-4, Investment Company Act Release No. 7814, May 11, 1973).

[10] At June 30, 1974, seven foreign companies with total net assets of about $500 million were registered under the Act. Of the seven registered, four are Canadian companies, one is a South African company, one is an Australian company, and one is an English company.

[11] S. Rep. No. 1775, 76th Cong., 3rd Sess. (1940), 13; H.R. Rep. No. 2639, 76th Cong. 3rd Sess (1940), 13. The original bill which became the Investment Company Act, S. 3580, would have simply prohibited any foreign investment company from making a public offering in the United States and would have permitted only domestic companies to register. The change to the present language was made in committee for reasons that are not entirely clear.

[12] When used in the following questions, the term "foreign investment company" means a foreign investment company domiciled in an OECD member country which has adopted the regulatory framework provided in the Standard Rules.

REPORT COORDINATING GROUP (ADVISORY)

Notice of Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, the Securities and Exchange Commission announces a public advisory committee meeting.

The Commission's Report Coordinating Group (Advisory), will hold a meeting on January 17, 1975 at 55 Water Street, Twenty-third Floor, New York, New York. The meeting will commence at 10 a.m. local time and will be for the purpose of discussing the FOCUS Report of financial and operational information and the development of simplified trading forms and assessment forms.

The Group's meetings are open to the public. Any interested person may attend and appear before or file statements with the advisory committee. Said statements, if in written form, may be filed before or after the meeting. Oral statements shall be made at the time and in the manner permitted by the Report Coordinating Group.

The Report Coordinating Group was formed to assist the Commission in developing a coherent, industry-wide, coordinated reporting system. In carrying out this objective, the Report Coordinating Group is to review all reports, forms and similar materials required of broker-dealers by the Commission, the self-regulatory community and others. The Group is expected to advise the Commission on such matters as eliminating unnecessary duplication in reporting, reducing reporting requirements where feasible, and developing the FOCUS Report of financial and operational information. (Securities Exchange Act Release No. 10612; Securities Exchange Act Release No. 10959).

Information concerning the meeting, including the procedures for submitting statements to the Group, may be obtained by contacting: Mr. Daniel J.

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Piliero II, Secretary, SEC Report Coordinating Group, Securities and Exchange Commission, Washington, D.C. 20549.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-29959 Filed 12-23-74;8:45 am]

[34-11125]

GOLD PURCHASING AND INVESTING

Recommendations

As of December 31, 1974 the Federal restrictions on the purchase, sale and ownership of gold will be lifted. The President's Special Assistant for Consumer Affairs, the Department of Justice, the Federal Trade Commission (FTC), the U.S. Postal Inspection Service and the Securities and Exchange Commission (SEC) have today issued the recommendations set forth below to prospective gold purchasers and investors.

The Department of Treasury recently announced that the U.S. Government will offer for sale 2 million ounces of gold in 400-ounce bars on January 6, 1975, at public auction. The Department will consider at a later date whether subsequent sales of gold would be appropriate.

As in the instance of other precious metals, investors and unsophisticated purchasers must often rely upon the representations of others and the integrity of the seller or promoter. Accordingly, it is recommended that purchasers and investors obtain as much information as possible about the companies and individuals with whom they are dealing. In other words, investigate before you invest.

Various Federal and State regulatory agencies will regulate gold trading. The SEC regulates public interstate offerings of and trading in securities related to gold. Federal law prohibiting unfair or deceptive acts in interstate commerce is enforced by the FTC. Trading in gold commodity futures and transactions involving margin and leverage contracts in gold bullion and bulk gold coins will be regulated effective April 21, 1975 by the recently created Commodity Futures Trading Commission. Federal laws against securities and mail fraud will be enforced by the SEC, the Postal Inspection Service, and the Department of Justice. Justice Department has underway a major effort to detect and prosecute the growing number of frauds involving gold and other precious metals.

The purchase of and investment in gold is a potentially fertile area for unscrupulous promoters and fraudulent schemes. Moreover, the price of gold is oftentimes dictated by speculative interests rather than industrial supply and demand, and is subject to significant and rapid fluctuations.

Inquiries or complaints regarding unfair or deceptive trade practices, including false or misleading advertisements, should be addressed to the FTC's Division of Special Statutes, 7th Street and Pennsylvania Avenue NW., Washington, D.C. 20580. With respect to investment programs, prospective investors should insist upon a prospectus or offering circular before making an investment decision. A copy of the prospectus may be reviewed at the public reference facilities of the respective state securities agencies, and in the instance of registered interstate offerings or registered companies, at the public reference rooms of the SEC in Washington, D.C., New York City, Chicago and Los Angeles. To determine whether any particular company is registered with the SEC call or write the SEC, Public Reference Section, 500 North Capitol Street, Washington, D.C. 20549, (202) 523-5506. Information concerning buyer-investor experience with specific companies may be obtained from your nearest Better Business Bureau.

The following guidelines are suggested (but should not be considered to be all inclusive) before purchasing or investing in gold.

1. Be wary of unsolicited correspondence or calls from strangers offering to sell you gold or gold investments;

2. Be skeptical of promises of spectacular profits. Ask yourself why am I being offered this golden opportunity;

3. Resist pressures to make hurried, uninformed decisions;

4. Be suspicious of claims of new, secret or exotic processes to extract gold;

5. Seek independent advice from a person you trust and who is knowledgeable;

6. Consider the risks in relation to your own financial position and needs;

7. Find out if the company has registered with the SEC or state securities agency;

8. Attempt to determine the seller's mark-up (or how much it cost the seller to purchase the gold);

9. Ascertain what costs, in addition to the quoted price of gold, are involved. For example, you may be required to pay a refining charge, assay fees, commissions, shipping and storage fees, insurance costs and sales tax;

10. Demand a written guarantee concerning weight and fineness (pureness). Some gold bears a refiner's mark assaying its weight and fineness; however, there are no Federal standards;

11. Attempt to make your purchases through local reputable firms. (Firms including the term "Exchange" in their name should not be assumed to constitute an association or group of firms which provide a public market for buyers and sellers);

12. Obtain in writing the terms of your purchase, for example, when and how the gold will be delivered and stored, including what security precautions will be taken to insure that your gold is not shaved or that counterfeit gold is not substituted;

13. Ask whether the gold will be segregated and stored in your name (not the seller's or supplier's). Make sure you receive a written receipt showing that the requisite amount of gold is being stored for your account by a reputable concern; and

14. Ask whether there will be a ready market for the gold in the form being offered to you. You may have to pay to have your gold reassayed, recast into a different shape, size and/or transported to a distant market before you can sell it.

The areas which are fraught with the greatest potential for fraud are representations concerning the existence, amount and purity of gold, accuracy of assays and geological surveys and secret refining processes. Several schemes that appear to have already surfaced involve the following situations:

1. False mining claims were used to inflate a company's financial position and to tout its investment merit. Bogus or speculative geological surveys by a purported expert or misleading ore samples were used by the company as the basis for unwarranted high estimates of mineral value.

2. Purportedly large quantities of gold located outside of the United States and obtained from underdeveloped countries were being offered in the form of certificates of ownership through off-shore banks.

3. An unscrupulous assayer conspired with a seller to certify that bars of almost pure lead were pure gold.

4. Gold coins of low purity have been issued within the past year or two by small foreign entities. (The Certification Service of the American Numismatic Association, P.O. Box 87, Ben Franklin Station, Washington, D.C. 20044, will, for a fee, authenticate gold coins.)

5. Secret processes promised to extract gold from ore which had been previously labeled as worthless. Investors were induced to finance the construction of the secret-process machinery necessary for the production of the gold.

If you believe that you may have been the victim of a fraud, you should consult your attorney to determine what steps to take to assert and protect your rights. You should also communicate such information to any of the Federal agencies listed above or to the Consumer Protection Division of the Attorney General's Office in your state or your State Securities Commissioner, and to your nearest local Better Business Bureau. Consider authorizing your attorney to inform the agencies of any problem that may arise. Although the agencies cannot intervene in your behalf or offer legal representation to obtain redress of your individual rights, your complaint may prevent others from being defrauded.

Remember, investigate before you make a purchase or investment.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 9, 1974.

[FR Doc.74-30107 Filed 12-23-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

DECEMBER 19, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's gateway elimination rules (49 CFR 1065 (a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before January 3, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutivly for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 37203 (Sub-No. E7), (Correction), filed June 4, 1974, published in the FEDERAL REGISTER December 11, 1974. Applicant: MILLSTEAD VAN LINES, INC., P.O. Drawer 878, Bartlesville, Okla. 74003. Applicant's representative: Thomas J. Sedberry, Suite 1102, Perry-Brooks Bldg., Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Wyoming, on the one hand, and, on the other, points in Oklahoma on and east of a line beginning at the Oklahoma-Kansas State line on Interstate Highway 35, thence along Interstate Highway 35 to the Oklahoma-Texas State line. The purpose of this filing is to eliminate the gateways of points in Oklahoma within 25 miles of Coffeyville, Kans., and Tulsa, Okla., and points in Oklahoma within 80 miles of Tulsa. The purpose of this correction is to correct the "E" number, previously published by E1.

No. MC 61403 (Sub-No. E4), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, between points in Delaware, on the one hand, and, on the other, points in Georgia, Kentucky, Louisiana, Mississippi, Missouri (except St. Louis), Tennessee, and Texas. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E5), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, in tank vehicles, from Tampa, Fla., to points in Arkansas, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia (Kingsport, Tenn., and Sheffield, Ala.)*; and (2) *Liquid chemicals*, in bulk, in tank vehicles, (except phosphate and phosphatic products), from Tampa, Fla., to points in Iowa, Kansas, Minnesota, Nebraska, North Dakota east of U.S. Highway 85, South Dakota east of U.S. Highway 85 and Wisconsin (Sheffield, Ala., and Marshall, Ill.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 61403 (Sub-No. E6), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, in tank vehicles, between points in Georgia, on the one hand, and, on the other, points in Maryland, Michigan, Minnesota, New Jersey, New York, Pennsylvania, and Wisconsin (Kingsport, Tenn.)*; (2) *Chemicals*, in bulk, in tank vehicles, from points in Georgia, to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont (Kingsport, Tenn.)*; and (3) *Liquid chemicals*, in bulk, in tank vehicles, from points in Georgia to points in North Dakota on and east of U.S. Highway 85 and South Dakota on and east of U.S. Highway 85 (Kingsport, Tenn., and Marshall, Ill.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 61403 (Sub-No. E8), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, between points in Maryland, on the one hand, and, on the other, points in Mississippi, Tennessee, and Texas. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E9), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, between points in Michigan, on the one hand, and, on the other, points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E10), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, between points in Mississippi, on the one hand, and, on the other, points in New Jersey, New York, and Pennsylvania. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E11), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, between points in Minnesota, on the one hand, and, on the other, points in North Carolina, South Carolina, and Virginia. The purpose of this filing is to eliminate the gateway of Kingsport, Tenn.

No. MC 61403 (Sub-No. E14), filed May 31, 1974. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Charles E. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, (1) between points in New York, on the one hand, and, on the other, points in Tennessee and Texas (Kingsport, Tenn.)*, (2) between points in New York (except Suffolk County), on the one hand, and, on the other, points in South Carolina (Kingsport, Tenn.)*, (3) between points in New York on and west of a line beginning at the New York-Pennsylvania State line and extending along New York Highway 7 to junction New York Highway 12, thence along New York Highway 12 to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 30, thence along New York Highway 30 to the International Boundary line between the United States and Canada, on the one hand, and, on the other, points in North Carolina on and west of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 52 to junction U.S. Highway 601, thence along U.S. Highway 601 to junction U.S. Highway 52, thence along U.S. Highway 52 to the North Carolina-South Carolina State line (Kingsport, Tenn.)*; (2) *Chemicals*, in bulk, in tank vehicles, from points in New York to points in Florida on and west of U.S. Highway 331 (Kingsport, Tenn., and Sheffield, Ala.)*; and (3) Chemicals, in bulk, in tank vehicles, over irregular routes, between points in Suffolk County, N.Y., on the one hand, and, on the other, points in South Carolina

on and west of U.S. Highway 321 (Kingsport, Tenn.). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 73688 (Sub-No. E13) (Correction), filed May 14, 1974, published in the FEDERAL REGISTER November 5, 1974. Applicant: SOUTHERN TRUCKING CORP., P.O. Box 7195, Memphis, Tenn. 38107. Applicant's representative: Fred F. Bradley, Frankfort, Ky. 40601. Authority sought to perate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Structural steel, steel piling, iron, steel, culvert, and contractors' equipment, wire, nails, roofing materials, and fabricated metal pipe*, which are iron, steel, or steel products, between Greenville, Miss., on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate the gateways of points in Arkansas and Memphis, Tenn. The purpose of this correction is to omit the restriction.

No. MC 76177 (Sub-No. E70), filed May 21, 1974. Applicant: BAGGETT TRANSPORTATION COMPANY, 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, between points in Delaware, Maryland, and New Jersey, on the one hand, and, on the other, points in Colorado, Utah, and Wyoming. The purpose of this filing is to eliminate the gateway of Carthage, Mo., and points within 6 miles thereof.

No. MC 76177 (Sub-No. E71), filed May 21, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, between points in New York and Pennsylvania, on the one hand, and, on the other, points in Colorado and Utah. The purpose of this filing is to eliminate the gateway of Carthage, Mo., and points within 6 miles thereof.

No. MC 76177 (Sub-No. E72), filed May 21, 1974. Applicant: BAGGETT TRANSPORTATION COMPANY, 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives, and blasting supplies*, between points in New York and Pennsylvania, on the one hand, and, on the other, points in that part of Wyoming on, South, and west of a line beginning at the Wyoming-South Dakota State line, thence along U.S. Highway 26 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Wyoming Highway 120, thence along Wyoming Highway 120 to the Wyoming-Montana State line. The purpose of this filing is to eliminate the gateway of Carthage, Mo., and points within 6 miles thereof.

No. MC 76177 (Sub-No. E73), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives, and blasting supplies*, from points in Maryland to points in Oklahoma. The purpose of this filing is to eliminate the gateways of (1) points in that part of West Virginia within 10 miles of Martinsburg, W. Va. (except Martinsburg, W. Va.)*; (2) Grafton, Ill., and points within 2 miles thereof; and (3) Wolf Lake, Ill., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E74), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C explosives, and blasting supplies*, from points in Alabama, to points in Michigan and Pennsylvania. The purpose of this filing is to eliminate the gateway of Greenup, Ky., and points within 5 miles thereof.

No. MC 76177 (Sub-No. E75), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION COMPANY, 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Kentucky, Virginia, and West Virginia, to points in Georgia. The purpose of this filing is to eliminate the gateways of (1) Grafton, Ill., and points within 2 miles thereof; (2) Wolf Lake, Ill., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E76), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives, and blasting supplies*, from points in Kentucky to points in Montana. The purpose of this filing is to eliminate the gateways of Seneca and Grafton, Ill.

No. MC 76177 (Sub-No. E77), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION COMPANY, 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives, and blasting supplies*, from points in Wyoming to points in Louisiana. The purpose of this filing is to eliminate the gateway of Atlas, Mo., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E79), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION COMPANY, 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives, and blasting supplies*, from points in Colorado, Utah, and Wyoming to points in Tennessee. The purpose of this filing is to eliminate the gateway of Atlas, Mo., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E80), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION COMPANY, 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives, and blasting supplies*, from points in Alabama, Florida, and Mississippi to points in Nebraska. The purpose of this filing is to eliminate the gateway of the plant site of Trojan-U.S. Powder, division of Commercial Solvents Corporation, at or near Ordill, Ill.

No. MC 76177 (Sub-No. E81), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION COMPANY, 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives, and blasting supplies*, between points in Mississippi, on the one hand, and, on the other, points in Pennsylvania. The purpose of this filing is to eliminate the gateway of McAdory, Ala., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E83), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION COMPANY, 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives, and blasting supplies*, from points in New Mexico, Texas, Louisiana, and Mississippi to points in Indiana. The purpose of this filing is to eliminate the gateway of points in that part of Illinois that are within 25 miles of Energy, Ill., and also within 15 miles of Wolf Lake, Ill.

No. MC 76177 (Sub-No. E87), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives, and blasting supplies*, from points in

Georgia, North Carolina, and South Carolina to points in Nebraska. The purpose of this filing is to eliminate the gateways of (1) points in Alabama, and (2) the plant site of Trojan-U.S. Powder, division of Commercial Solvents Corporation, at or near Ordill, Ill.

No. MC 95540 (Sub-No. E311), filed November 29, 1974. Applicant: WATKINS MOTOR LINES, INC., PO Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk, in tank vehicles), from South Edmeston, N.Y., to points in Alabama and those points in Arkansas on and southwest of a line beginning at the Arkansas-Missouri State line and extending along Arkansas Highway 25 to its junction with U.S. Highway 63, thence along U.S. Highway 63 to the Arkansas-Missouri State line. The purpose of this filing is to eliminate the gateway of Gainesville, Ga.

No. MC 106398 (Sub-No. E50) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER October 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, complete, knocked down, or in sections, and component parts, materials, supplies, and fixtures when shipped with such buildings, and accessories* used in the erection, construction, and completion thereof, from points in New Jersey, Delaware, Maryland, and the District of Columbia, to points in Minnesota, South Dakota, Nebraska, and Kansas. The purpose of this filing is to eliminate the gateways of Hanover, Pa., and Des Moines, Iowa. The purpose of this correction is to correct the "E" number, previously published as E9.

No. MC 106398 (Sub-No. E143) (Correction), filed May 31, 1974, published in the FEDERAL REGISTER October 31, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood* (except in bulk), from the plant site of General Plywood Corporation at New Albany, Ind., to points in the Upper Peninsula of Michigan and Wisconsin. The purpose of this filing is to eliminate the gateway of the facilities of the Celotex Corporation at Charleston, Ill. The purpose of this correction is to correct the "E" number, previously published as E144.

No. MC 109397 (Sub-No. E2) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER July 29, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear and byproduct materials, and radioactive materials*, between points in Illinois, on the one hand, and, on the other, points in Washington, restricted to the transportation of traffic moving under Government bills of lading. The purpose of this filing is to eliminate the gateway of the facilities of the General Electric Co., located near Morris, Grundy County, Ill. The purpose of this correction is to omit the exception.

No. MC 109397 (Sub-No. E3) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER July 29, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear and byproduct materials, and radioactive materials*, between points in the Lower Peninsula of Michigan, on the one hand, and, on the other, points in that part of Illinois on and west of U.S. Highway 66, restricted to the transportation of traffic moving under Government bills of lading. The purpose of this filing is to eliminate the gateway of the facilities of the General Electric Co., located near Morris, Grundy County, Ill. The purpose of this correction is to omit the exception.

No. MC 109397 (Sub-No. E4) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER July 25, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear and byproducts materials, and radioactive materials*, between points in Washington, on the one hand, and, on the other, points in Kentucky, Tennessee, Alabama, Georgia, South Carolina, and Florida, restricted to the transportation of traffic moving under Government bills of lading. The purpose of this filing is to eliminate the gateways of (1) the facilities of the General Electric Co., located near Morris, Grundy County, Ill., and (2) points in DuPage County, Ill. The purpose of this correction is to omit the exception.

No. MC 109397 (Sub-No. E5) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER July 25, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear and by-product materials, and radioactive materials*, between points in the Lower Peninsula of Michigan and that part of Wisconsin on and east of a line beginning at the Michigan-Wisconsin State line, thence along U.S. Highway 41 to junction Wisconsin Highway 67, thence along Wisconsin Highway 67 to the Wisconsin-Illinois State line, restricted to the transportation of traffic under Government bills of lading. The purpose of this filing is to eliminate the gateway of (1) the facilities of the General Electric Co., located near Morris, Grundy County, Ill., and (2) points in DuPage County, Ill. The purpose of this correction is to omit the exception.

No. MC 109397 (Sub-No. E6) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER July 25, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear and by-product materials, and radioactive materials*, between points in Anderson and Roane Counties, Tenn., on the one hand, and, on the other, points in Iowa, Minnesota, and Wisconsin, restricted to the transportation of traffic under Government bills of lading. The purpose of this filing is to eliminate the gateways of (1) the facilities of the General Electric Co., located near Morris, Grundy County, Ill., and (2) points in DuPage County, Ill. The purpose of this correction is to omit the exception.

No. MC 109397 (Sub-No. E7) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER July 25, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear and byproducts materials, and radioactive materials*, between points in Anderson and Roane Counties, Tenn., on the one hand, and, on the other, points in that part of Illinois on and north of Illinois Highway 17, restricted to the transportation of traffic under Government bills of lading. The purpose of this filing is to eliminate the gateway of points in DuPage County, Ill. The purpose of this correction is to omit the exception.

No. MC 109397 (Sub-No. E8) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER July 29, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear, and byproduct materials, and radioactive materials*, between the Cimarron facilities of Kerr-McGee Corporation at or near Crescent, Okla., on the one hand, and, on the other, points in Michigan, that part of Wisconsin on and east of U.S. Highway 51, and those parts of Indiana and Ohio on and

north of U.S. Highway 30, restricted to the transportation of traffic under Government bills of lading. The purpose of this filing is to eliminate the gateways of (1) the facilities of the General Electric Co., located near Morris, Grundy County, Ill., and (2) the Argonne National Laboratory of the United States Atomic Energy Commission, near Lemont, Ill. The purpose of this correction is to omit the exception.

No. MC 109397 (Sub-No. E9) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER July 29, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear, and byproducts materials, and radioactive materials*, between points in Washington, Idaho, Oregon, Nevada, and that part of California on, west, and north of Interstate Highway 15, on the one hand, and, on the other, points in Illinois, restricted to the transportation of traffic under Government bills of lading. The purpose of this filing is to eliminate the gateway of the facilities of the General Electric Co., located near Morris, Grundy County, Ill. The purpose of this correction is to omit the exception.

No. MC 109397 (Sub-No. E10) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER July 29, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Special, nuclear, radioactive, and by-product materials*, between the Nuclear Generating Stations located at or near Monticello, Minn., and Two Rivers, Wis., on the one hand, and, on the other, points in that part of South Carolina on and east of South Carolina Highway 121, restricted to the transportation of traffic moving under Government bills of lading. The purpose of this filing is to eliminate the gateways of (1) the facilities of the General Electric Co., located near Morris, Grundy County, Ill., and (2) Sheffield, Ill. The purpose of this correction is to omit the exception.

No. MC 109397 (Sub-No. E11) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER July 29, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear, and by-product materials, and radioactive materials*, between points in that part of South Carolina on and east of South Carolina Highway 121, on the one hand, and, on the other, points in that part of Illinois on and north of U.S. Highway 36, restricted to the transportation of traffic moving under Government bills of lading. The purpose of this filing is to eliminate the gateway of the facilities of the General Electric Co., located near Morris, Grundy County, Ill. The purpose of this correction is to omit the exception.

No. MC 109397 (Sub-No. E36) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER August 5, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Explosives*, (1) from points in Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, Texas, and that part of Tennessee on and west of U.S. Highway 27, to points in New Jersey; (2) from points in Florida, Georgia, Louisiana, Mississippi, New Mexico, and Texas, to points in Pennsylvania; (3) from points in Florida to points in Delaware, Maryland, and Virginia; and (4) from points in Georgia to points in Delaware, Maryland, and that part of Virginia on and east of U.S. Highway 21; and (B) *Ammunition and explosives, and component parts* of ammunition and explosives when moving in the same vehicle therewith (except such commodities which, because of size or weight, require the use of special equipment or special handling), from points in Clay and Duval Counties, Fla., to points in North Carolina, Delaware, Maryland, New Jersey, Pennsylvania, and Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Charleston, S.C. The purpose of this correction is to clarify the territorial description.

No. MC 109397 (Sub-No. E38) (Correction), filed May 14, 1974, published in the FEDERAL REGISTER October 22, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: George Cain (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, equipment, tools, parts, and supplies*, moving in connection therewith, between points in the Lower Peninsula of Michigan, on the one hand, and, on the other, points in New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, Virginia, North Carolina and the District of Columbia, restricted to the transportation of traffic transported on trailers, and further restricted to the transportation of articles requiring specialized handling or rigging. The purpose of this filing is to eliminate the gateway of points in Lucas County, Ohio. The purpose of this correction is to correct the "E" number, previously published as E36.

No. MC 111545 (Sub-No. E581) (Correction), filed May 28, 1974, published in the FEDERAL REGISTER September 11, 1974. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, unassembled, from points in Florida to points in Indiana, Massachusetts, and Ohio. The purpose of this filing is to eliminate the gateway of Marietta, Ga. The purpose of this correction is to clarify the territorial description.

No. MC 113495 (Sub-No. E47) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER December 3, 1974. Applicant: GREGORY HEAVY HAULER, INC., P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: E. T. Gregory (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road-construction machinery, equipment, and supplies* (except petroleum products and coal tar products in bulk, in tank vehicles, and except coal), from points in Ohio to points in Pocahontas County, W. Va. The purpose of this filing is to eliminate the gateway of points in Virginia. The purpose of this correction is to clarify the exception.

No. MC 114211 (Sub-No. E175), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tractors* (except those with vehicle beds, bed frames, or fifth wheels), *agricultural machinery and implements, industrial and construction machinery and equipments, and trailers*, designed for the transportation of the commodities described above (except those designed to be run by passenger automobiles), *attachments*, for the commodities described above, *internal combustion engines*, and *parts* of the commodities described above, when moving in mixed loads with such commodities, between Miami, Fla., Savannah, Ga., and Wilmington, N.C., on the one hand, and, on the other, points in Wyoming, Nebraska, and South Dakota, restricted to the transportation of traffic moving in foreign commerce only. The purpose of this filing is to eliminate the gateway of Grand Island, Nebr.

No. MC 114211 (Sub-No. E176), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, from points in that part of South Dakota on and west of a line beginning at the North Dakota-South Dakota State line, thence along U.S. Highway 83 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 18,

thence along U.S. Highway 18 to junction South Dakota Highway 47, thence along South Dakota Highway 47 to the South Dakota-Nebraska State line, to points in that part of Iowa on and east of Iowa Highway 169. The purpose of this filing is to eliminate the gateway of Ft. Dodge, Iowa.

No. MC 114211 (Sub-No. E177), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe* (except pipe used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products), *fittings and accessories therefore*, when moving with such pipe, from points in that part of Michigan on, south, and west of a line beginning at the Indiana-Michigan State line, thence along U.S. Highway 127 to junction Interstate Highway 96, thence along Interstate Highway 96 to Muskegon, that part of Indiana on and north of U.S. Highway 40, to points in Idaho, Utah, and Arizona. The purpose of this filing is to eliminate the gateway of the plant site of Griffin Pipe Co., located at or near Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E178), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe* (except pipe used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products), *fittings and accessories therefore* when moving with such pipe from points in Missouri and that part of Illinois on and south of a line beginning at the Ohio-Illinois State line, thence along U.S. Highway 136 to junction Illinois Highway 94, thence along Illinois Highway 94 to junction U.S. Highway 34, thence along U.S. Highway 24 to junction Illinois Highway 99, thence along Illinois Highway 99 to junction Illinois Highway 104, thence along Illinois Highway 104 to junction Illinois Highway 29, thence along Illinois Highway 29 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction Illinois Highway 32, thence along Illinois Highway 32 to junction Illinois Highway 70, thence along Illinois Highway 70 to the Illinois-Indiana State line, to points in Idaho, and that part of Utah on and north of a line beginning at the Colorado-Utah State line, thence along Interstate Highway 70 to junction Utah Highway 128, thence along Utah Highway 128 to junction U.S. Highway 163, thence along U.S. Highway 163 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction Utah Highway 4, thence along Utah Highway 4 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction Utah Highway 56, thence along Utah Highway 56 to the Utah-Nevada State line. The purpose of this filing is to eliminate the gateway of the plant site of the Griffin Pipe Company located at or near Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E179), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, implements, and parts*, as described in Appendix XII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and *farm tractors*, from points in that part of Iowa on and north of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 71 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Iowa Highway 330, thence along Iowa Highway 330 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 96, thence along Iowa Highway 96 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Iowa-Minnesota State line, to points in Louisiana. The purpose of this filing is to eliminate the gateways of Des Moines, Iowa, points in that part of Missouri within 15 miles of Martin City, Kans., and Claremore, Okla.

No. MC 114211 (Sub-No. E180), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof* (except commodities which, because of size or weight, requires the use of special equipment and special handling, and those described in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459), from points in that part of Iowa on, north, and west of a line beginning at the Iowa-Minnesota State line, thence along U.S. Highway 63 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 330, thence along Iowa Highway 330 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Iowa-Nebraska State line, to points in that part of Nebraska on and south of Interstate Highway 80. The purpose of this filing is to eliminate the gateways of Council Bluffs, Iowa, and Omaha, Nebr.

No. MC 114211 (Sub-No. E181), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, from points in that part of Minnesota on and north of a line beginning at the South Dakota-Minnesota State line, thence along Minnesota Highway 19 to junction Minnesota Highway 5, thence along Minnesota Highway 5 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-Wisconsin State line, to points in Indiana, Kentucky, Ohio, West Virginia, Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Rhode Island, Connecticut, Massachusetts, Vermont, New Hampshire, Maine, and that part of Michigan on and south of Interstate Highway 96, and of the District of Columbia. The purpose of this filing is to eliminate the gateways of Minneapolis, Minn., and Horsecon, Wis.

No. MC 114211 (Sub-No. E162), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Road building and machinery*, from points in that part of North Dakota on and east of a line beginning at the International Boundary line between the United States and Canada, thence along North Dakota Highway 256 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction North Dakota 3, thence along North Dakota 3 to the North Dakota-South Dakota State line, to points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateways of Canton, S. Dak., and points in Kansas.

No. MC 114211 (Sub-No. E265), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements and machinery, tractors* (except truck tractors), *attachments and accessories therefor, and equipment* designed for use with agricultural implements and machinery, and tractors, from the plant site and storage facilities of International Harvester Co., located at West Chicago, Ill., to points in Washington, Oregon, California, Nevada, Idaho, Utah, Wyoming, and Montana, restricted to the transportation of self-propelled vehicles (except motor vehicles as defined in section 203(a)(13) of the Interstate Commerce Act and commodities moving in driveaway service), equipment designed for use in conjunction with self-propelled vehicles (except tank semi-trailers), and parts and attachments for self-propelled vehicles and equipment designed for use in conjunction therewith. The purpose

of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E269), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe and fittings and accessories therefore* when moving with such pipe, from points in that part of Illinois on and north of a line beginning at the Iowa-Illinois State line, thence along U.S. Highway 34 to junction Illinois Highway 116, thence along Illinois Highway 116 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Illinois-Indiana State line, to points in Wyoming, Colorado, New Mexico, that part of Nebraska on, south, and west of a line beginning at the Iowa-Nebraska State line, thence along Interstate Highway 80 to junction U.S. Highway 73, thence along U.S. Highway 73 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 275, thence along U.S. Highway 275 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Nebraska Highway 137, thence along Nebraska Highway 137 to the Nebraska-South Dakota State line (except points in that part of Nebraska on and west of a line beginning at the Iowa-Nebraska State line, thence along U.S. Highway 75 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Nebraska-Kansas State line), that part of Kansas on and west of a line beginning at the Nebraska-Kansas State line, thence along U.S. Highway 77 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Kansas-Oklahoma State line, that part of Oklahoma on and west of a line beginning at the Kansas-Oklahoma State line, thence along U.S. Highway 81 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction Oklahoma Highway 79, thence along Oklahoma Highway 79 to the Oklahoma-Texas State line, that part of South Dakota on, west, and south of a line beginning at the Nebraska-South Dakota State line, thence along South Dakota Highway 47 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction South Dakota Highway 34, thence along South Dakota Highway 34 to junction U.S. Highway 212, thence along U.S. Highway 212 to the South Dakota-Wyoming State line, that part of Montana on and west of a line beginning at the Wyoming-Montana State line, thence along U.S. Highway 212 to junction Montana Highway 22, thence along Montana Highway 22 to junction Montana Highway 200, thence along Montana Highway 200 to junction Montana Highway 24, thence along Montana Highway 24 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction Montana Highway 242, thence along Montana Highway 242 to the International Boundary line between the United States and Canada, and in that part of Texas on and west of a line beginning at the Oklahoma-Texas State line, thence along Texas Highway 79 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction U.S. Highway 81, thence along U.S. Highway 81 to the International Boundary line between the United States and Mexico. The purpose of this filing is to eliminate the gateway of the plant site of the Griffin Pipe Co., located at or near Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E270), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Cast iron pressure pipe* (except pipe used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products), and *fittings and accessories therefor*, when moving with such pipe, from points in that part of Nebraska on and east of a line beginning at the South Dakota-Nebraska State line, thence along U.S. Highway 81 to junction Nebraska Highway 92, thence along Nebraska Highway 92 to junction Nebraska Highway 15, thence along Nebraska Highway 15 to junction Nebraska Highway 33, thence along Nebraska Highway 33 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Nebraska-Kansas State line, to points in Utah, Arizona, and that part of Idaho on and west of a line beginning at the Idaho-Montana State line, thence along U.S. Highway 93 to junction U.S. Alternate Highway 93, thence along U.S. Alternate Highway 93 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Idaho-Wyoming State line, restricted to the transportation of traffic which, because of size or weight, requires the use of special equipment. The purpose of this filing is to eliminate the gateway of the plant site of the Griffin Pipe Co., located at or near Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E271), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe, and fittings and accessories therefor* when moving with such pipe, from points in New York and that part of Pennsylvania on and north of a line beginning at Erie, thence along U.S. Highway 19 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Interstate Highway 380, thence along Interstate Highway 380 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line, and in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line, thence along Interstate Highway 80 to junction Interstate Highway 280, thence along Interstate Highway 280 to the New Jersey-New York State line, to points in North Dakota, South Dakota, Nebraska, Montana, Wyoming, Colorado, New Mexico, that part of Kansas on and west of a line beginning at the Missouri-Kansas State line, thence along Interstate Highway 35 to junction U.S. Highway 75, thence along U.S. Highway 75 to the Kansas-Oklahoma State line, that part of Minnesota on and west of a line beginning at the Iowa-Minnesota State line, thence along U.S. Highway 59 to junction Minnesota Highway 7, thence along Minnesota Highway 7 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-South Dakota State line, that part of Texas on and west of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 75 to junction Interstate Highway 35E, thence along Interstate Highway 35E to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 90, thence along U.S. Highway 90 to junction Texas Highway 123, thence along Texas Highway 123 to junction U.S. Highway 181, thence along U.S. Highway 181 to junction Texas Highway 72, thence along Texas Highway 72 to junction U.S. Highway 281, thence along U.S. Highway 281 to the International Boundary line between the United States and Mexico, and that part of Oklahoma on and west of a line beginning at the Kansas-Oklahoma State line, thence along U.S. Highway 75 to junction Indian National Turnpike, thence along Indian National Turnpike to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 75, thence along U.S. Highway 75 to the Oklahoma-Texas State line. The purpose of this filing is to eliminate the gateway of the plant site of Griffin Pipe Co., located at or near Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E272), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Agricultural machinery, implements, and parts* as described in Appendix XII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and *farm tractors* (except commodities which because of size or weight, require the use of special equipment, and those described in *Mercer Extension-Oilfield Commodities*, 74 M.C.C. 459), between points in that part of Iowa on and east of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 71 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 25, thence along Iowa Highway 25 to junction Iowa Highway 44, thence along Iowa Highway 44 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 35, thence along Iowa Highway 35 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 78, thence along Iowa Highway 78 to junction Iowa Highway 1, thence along Iowa Highway 1 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction U.S. Highway 61, thence along U.S. Highway 61 to the Iowa-Illinois State line, to points in Oklahoma. The purpose of this filing is to eliminate the gateways of Des Moines, Iowa, points in that part within 15 miles of Martin City, Kans., and Marin City, Kans.

No. MC 114211 (Sub-No. E277), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, agricultural implements, and parts thereof*, between points in that part of South Dakota on and east of a line beginning at the Wyoming-South Dakota State line, thence along U.S. Highway 14 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction South Dakota Highway 47, thence along South Dakota Highway 47 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction South Dakota Highway 50, thence along South Dakota Highway 50 to junction U.S. Highway 81, thence along U.S. Highway 81 to the South Dakota-Oklahoma State line, on the one hand, and, on the other, points in that part of Oklahoma on, south, and east of a line beginning at the Kansas-Oklahoma State line, thence along U.S. Highway 281 to junction U.S. Highway 183, thence along U.S. Highway 183 to the Oklahoma-Texas line, restricted against the transportation of traffic which because of size or weight, requires the use of special equipment, and further restricted against the transportation of commodities described in *Mercer Extension-Oilfield Commodities*, 74 M.C.C. 459. The purpose of this filing is to eliminate the gateway of Beatrice, Nebr.

No. MC 114211 (Sub-No. E278), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm tractor show displays, and experimental farm tractors*, between points in the Upper Peninsula of Michigan, on the one hand, and, on the other, points in Colorado, Kansas, that part of South Dakota on and west of a line beginning at the Nebraska-South Dakota State line, thence along U.S. Highway 385 to junction U.S. Highway 18, thence along U.S. Highway 18 to the South Dakota-Wyoming State line, that part of Nebraska on and south of a line beginning at the Iowa-Nebraska State line, thence along U.S. Highway 20 to junction Nebraska Highway 12, thence along Nebraska Highway 12 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Nebraska-South Dakota State line, and that part of Iowa on, south, and west of a line beginning at the Illinois-Iowa State line, thence along U.S. Highway 20 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Iowa Highway 3, thence along Iowa Highway 3 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 3, thence along Iowa Highway 3 to junction Iowa Highway 4, thence along Iowa Highway 4 to junction Iowa Highway 7, thence along Iowa Highway 7 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Iowa-South Dakota State line, restricted against the transportation of commodities which, because of size or weight, requires the use of special equipment. The purpose of this filing is to eliminate the gateway of Dubuque, Iowa.

No. MC 114211 (Sub-No. E279), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm tractors* (except those with vehicle beds, bed frames, or fifth wheels) *equipment designed for use in conjunction with farm tractors and parts* for farm tractors, and equipment designed for use therewith, from points in North Dakota to points in the United States and east of Indiana, Kentucky, Tennessee, Arkansas, and Louisiana, and points in that part of Michigan on and east of a line beginning at Hancock, thence along U.S. Highway 41 to junction U.S. Highway 141, thence along U.S. Highway 141 to the Michigan-Wisconsin State line, that part of Wisconsin on and east of a line beginning at the Michigan-Wisconsin State line, thence along U.S. Highway 2 to junction U.S. Highway 141, thence along U.S. Highway 141 to junction U.S. Highway 151, thence along U.S. Highway 151 to junction Wisconsin Highway 69, thence along Wisconsin Highway 69 to the Wisconsin-Illinois State line, that part of Illinois on and east of a line beginning at the Wisconsin-Illinois State line, thence along Illinois Highway 26 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Illinois Highway 84, thence along Illinois Highway 84 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction U.S. Highway 61, thence along U.S. Highway 61 to the Missouri-Illinois State line, that part of Iowa on and east of a line beginning at the Illinois-Iowa State line, thence along U.S. Highway 67 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Iowa Highway 96, thence along Iowa Highway 96 to the Iowa-Missouri State line, that part of Missouri on and east of a line beginning at the Illinois-Missouri State line, thence along U.S. Highway 61 to junction Missouri Highway 16, thence along Missouri Highway 16 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction Missouri Highway 11, thence along Missouri Highway 11 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Missouri-Kansas State line, and that part of Texas on and east of a line beginning at the Arkansas-Texas State line, thence along U.S. Highway 59 to junction Texas Highway 155, thence along Texas Highway 155 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Interstate Highway 35, thence along Interstate Highway 35 to the International Boundary line between the United States and Mexico. The purpose of this filing is to eliminate the gateway of Fargo, N. Dak.

No. MC 114211 (Sub-No. E281), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, road making machinery, and contractors' equipment and supplies*, from points in that part of Minnesota on and south of a line beginning at the Minnesota-South Dakota State line, thence along Minnesota Highway 19 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Minnesota-Iowa State line, to points in that part of Washington on and west of a line beginning at the Washington-Idaho State line, thence along Interstate Highway 90 to junction U.S. Highway 395, thence along U.S. Highway 395 to the Washington-Oregon State line, that part of Oregon on and west of a line beginning at the Washington-Oregon State line, thence along U.S. Highway 395 to junction Oregon Highway 74, thence along Oregon Highway 74 to junction Oregon Highway 206, thence along Oregon Highway 206 to junction Oregon Highway 218, thence along Oregon Highway 218 to junction U.S. Highway 97, thence along U.S. Highway 97 to the Oregon-California State line, and that part of California on and west of a line beginning at the Oregon-California State line, thence along U.S. Highway 97 to junction Interstate Highway 5, thence along Interstate Highway

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5 to junction California Highway 99, thence along California Highway 99 to junction California Highway 58, thence along California Highway 58 to junction California Highway 14, thence along California Highway 14 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction California Highway 170, thence along California Highway 170 to junction U.S. Highway 101, thence along U.S. Highway 101 to junction Interstate Highway 10, thence along Interstate Highway 10 to the California-Arizona State line, restricted to the transportation of self-propelled vehicles (except motor vehicles as defined in Section 203(a)(13) of the Interstate Commerce Act and commodities moving in driveaway service), equipment designed for use in conjunction with self-propelled vehicles (except tank semi-trailers), and parts and attachments therefore. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E282), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe and fittings and accessories therefore* when moving with such pipe, from points in that part of Iowa on and west of Iowa Highway 59, to points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Ohio, Pennsylvania, New Jersey, Delaware, Maryland, Ohio, West Virginia, Kentucky, Virginia, Tennessee, North Carolina, South Carolina, Louisiana, Mississippi, Alabama, Georgia, and Florida, and the District of Columbia, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment. The purpose of this filing is to eliminate the gateway of Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E283), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, implements, and parts*, as described in Appendix XII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and *farm tractors*, between points in that part of Iowa on, north, and east of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 65 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Iowa-Illinois State line, on the one hand, and, on the other, points in that part of Kansas on and south of a line beginning at the Colorado-Kansas State line, thence along U.S. Highway 36 to junction Kansas Highway 28, thence along Kansas Highway 28 to junction Kansas Highway 9, thence along Kansas Highway 9 to junction U.S. Highway 159, thence along U.S. 159 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Missouri-Kansas State line. The purpose of this filing is to eliminate the gateways of Des Moines, Iowa, and Kansas City, Mo.

No. MC 114211 (Sub-No. E284), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural shredders, agricultural sprayers, scalpers, row crop shields, corn cribs*, knocked down, and *attachments and parts* for shredders, sprayers, scalpers, and corn cribs, when moving incidentally to and in the same vehicle with said commodities, from points in North Dakota to points in Indiana, Kentucky Ohio, Pennsylvania, New York (except points in Kings, Queens, Nassau, and Suffolk Counties), that part of Michigan on and south of a line beginning at Lake Michigan, thence along U.S. Highway 10 to junction Michigan Highway 25, thence along Michigan Highway 25 to junction Michigan Highway 142, thence along Michigan Highway 142 to Lake Huron, and that part of Missouri on and east of U.S. Highway 65. The purpose of this filing is to eliminate the gateway of Olwein, Iowa.

No. MC 114211 (Sub-No. E285), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural shredders, agricultural sprayers, scalpers, row crop shields, corn cribs*, knocked down, and *attachments and parts* for shredders, sprayers, scalpers, and corn cribs, when moving incidentally to and in the same vehicle with said commodities from points in that part of Minnesota on and south of U.S. Highway 12, to points in Indiana, Kentucky, Ohio, Pennsylvania, New York (except points in Kings, Queens, Nassau, and Suffolk Counties), and that part of Michigan on and south of a line beginning at the Lake Michigan, thence along U.S. Highway 10 to junction Michigan Highway 25, thence along Michigan Highway 25 to junction Michigan Highway 142, thence along Michigan Highway 142 to Lake Huron. The purpose of this filing is to eliminate the gateway of Olwein, Iowa.

No. MC. 114211 (Sub-No. E286), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural shredders, agricultural sprayers, scalpers, row crop shields, corn cribs*, knocked down, and *attachments and parts* for shredders, sprayers, scalpers, and corn cribs, when moving incidentally to and in the same vehicle with said commodities, from points in Minnesota to points in Pennsylvania, Kentucky, New York (except points in Kings, Queens, Nassau, and Suffolk Counties), that part of Missouri on and east of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 61 to junction Missouri Highway 16, thence along Missouri Highway 16 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Missouri-Arkansas State line, that part of Michigan on and east of Interstate Highway 75, that part of Ohio on and south of a line beginning at the Indiana-Ohio State line, thence along Ohio Highway 29 to junction Interstate Highway 75, thence along Interstate Highway 75 to the Ohio-Michigan State line, and in that part of Indiana on and south of a line beginning at the Illinois-Indiana State line, thence along Indiana Highway 32 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction Indiana Highway 18, thence along Indiana Highway 18 to junction Indiana Highway 67, thence along Indiana Highway 67 to the Indiana-Ohio State line. The purpose of this filing is to eliminate the gateway of Olwein, Iowa.

No. MC 114211 (Sub-No. E287), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural shredders, agricultural sprayers, scalpers, road crop shields, corn cribs*, knocked down, and *attachments and parts* for said shredders, sprayers, scalpers, and corn cribs, when moving incidentally to and in the same vehicle with said commodities, from points in that part of Iowa on, north, and west of a line beginning at the Minnesota-Iowa State line, thence along U.S. Highway 52 to junction Iowa Highway 150, thence along Iowa Highway 150 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa Highway 57, thence along Iowa Highway 57 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 330, thence along Iowa Highway 330 to junction Iowa Highway 80, thence along Iowa Highway 80 to the Iowa-Nebraska State line, to points in Ohio, Pennsylvania, New York (except points in Kings, Queens, Nassau, and Suffolk Counties), the Lower Peninsula of Michigan, that part of the Upper Peninsula of Michigan on and north of U.S. Highway 2, that part of Kentucky on and east of a line beginning at the Kentucky-Indiana State line, thence along Kentucky Highway 69 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Kentucky-Tennessee State line, and that part of Indiana on, north, and east of a line beginning at Lake Michigan, thence along

Interstate Highway 65 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Interstate Highway 69, thence along Interstate Highway 69 to junction Indiana Highway 18, thence along Indiana Highway 18 to junction Indiana Highway 3, thence along Indiana Highway 3 to junction Indiana Highway 46, thence along Indiana Highway 46 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction Indiana Highway 58, thence along Indiana Highway 58 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction Indiana Highway 237, thence along Indiana Highway 237 to the Indiana-Kentucky State line. The purpose of this filing is to eliminate the gateway of Olwein, Iowa.

No. MC 114211 (Sub-No. E288), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cast concrete*, the transportation of which, because of size or weight, require the use of special equipment, from New Ulm, Minn., to points in Missouri. The purpose of this filing is to eliminate the gateway of points in Iowa.

No. MC 114211 (Sub-No. E289), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such agricultural and industrial implements* as are self-propelled vehicles, or equipment designed for use in conjunction with self-propelled vehicles, and *parts and attachments therefor*, from Bloomington, Ill., to points in Washington, Oregon, Idaho, Montana, that part of Nevada on, north, and west of U.S. Highway 91, that part of Utah on and west of a line beginning at the Idaho-Utah State line, thence along Utah Highway 30 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction U.S. Highway 91, thence along U.S. Highway 91 to the Utah-Arizona State line, that part of Wyoming on, north, and west of a line beginning at the South Dakota-Wyoming State line, thence along Wyoming Highway 24 to junction Wyoming Highway 116, thence along Wyoming Highway 116 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction Wyoming Highway 59, thence along Wyoming Highway 59 to junction Wyoming Highway 387, thence along Wyoming Highway 387 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction U.S. Highway 89, thence along U.S. Highway 89 to the Wyoming-Idaho State line, and in that part of California on, west, and north of a line beginning at the Nevada-California State line, thence along Interstate Highway 15 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction Interstate Highway 5, thence along Interstate Highway 5 to the International Boundary line between the United States and Mexico. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E293), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors*, from points in Minnesota to points in that part of Texas on and south of a line beginning at the Louisiana-Texas State line, thence along Interstate Highway 20 to junction Texas Highway 31, thence along Texas Highway 31 to junction Texas Highway 22, thence along Texas Highway 22 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction U.S. Highway 190, thence along U.S. Highway 190 to junction Texas Highway 29, thence along Texas Highway 29 to junction U.S. Highway 290, thence along U.S. Highway 290 to junction U.S. Highway 67, thence along U.S. Highway 67 to the International Boundary line between the United States and Mexico. The purpose of this filing is to eliminate the gateway of Waterloo, Iowa.

No. MC 114211 (Sub-No. E295), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, road making machinery, and contractors' equipment and supplies*, from points in Illinois and that part of Iowa on and east of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 169, to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Iowa-Minnesota State line, to points in Washington, Oregon, Idaho, Utah, that part of Montana on and west of a line beginning at the International Boundary line between the United States and Canada, thence along Montana Highway 242 to junction U.S. Highway 191, thence along U.S. Highway 191 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Montana-Wyoming State line, and that part of Wyoming on, west, and south of a line beginning at the Wyoming-Montana State line thence along U.S. Highway 87 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Wyoming-Nebraska State line. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 115603 (Sub-No. E3), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Machinery, materials, supplies, and equipment* incidental to, or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum; and (2) Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (a) between points in Kansas, on the one hand, and, on the other, points in Colorado on and north of a line beginning at the Colorado-Nebraska State line and extending along U.S. Highway 34 to its junction with U.S. Highway 85, thence along U.S. Highway 85 to its junction with Colorado Highway 66, thence along Colorado Highway 66 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with Colorado Highway 318, thence along Colorado Highway 318 to the Colorado-Wyoming State line, (b) between points in Colorado on and west of a line beginning at the Colorado-New Mexico State line and extending along Interstate Highway 25 to its junction with U.S. Highway 6, thence along U.S. Highway 6 to its junction with Colorado Highway 71, thence along Colorado Highway 71 to the Colorado-Nebraska State line, on the one hand, and, on the other, points in Kansas on and east of a line beginning at the Colorado-Kansas State line and extending along Kansas Highway 51 to its junction with U.S. Highway 56, thence along U.S. Highway 56 to its junction with U.S. Highway 160, thence along U.S. Highway 160 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with Kansas Highway 17, thence along Kansas Highway 17 to its junction with U.S. Highway 50, thence along U.S. Highway 50 to its junction with Kansas Highway 177, thence along Kansas Highway 177 to its junction with U.S. Highway 24, thence along U.S. Highway 24 to its junction with U.S. Highway 281, thence along U.S. Highway 281 to its junction with Kansas Highway 9, thence along Kansas Highway 9 to its junction with Kansas Highway 223, thence along Kansas Highway 223 to its junction with Kansas Highway 23, thence along Kansas Highway 23 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with Kansas Highway 27, thence along Kansas Highway 27 to the Kansas-Nebraska State line, and (c) between points in Colorado, on the one hand, and,

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on the other, points in Kansas on and east of a line beginning at the Kansas-Nebraska State line and extending along Kansas Highway 27 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with U.S. Highway 283, thence along U.S. Highway 283 to its junction with Kansas Highway 9, thence along Kansas Highway 9 to its junction with Kansas Highway 15, thence along Kansas Highway 15 to its junction with unnumbered highway, thence along unnumbered highway to its junction with U.S. Highway 77, thence along U.S. Highway 77 to its junction with Kansas Highway 9, thence along Kansas Highway 9 to its junction with Kansas Highway 99, thence south 9 miles along Kansas Highway 99 to its junction with unnumbered highway, thence along unnumbered highway to its junction with Kansas Highway 9, thence along Kansas Highway 9 to its junction with U.S. Highway 75, thence along U.S. Highway 75 to its junction with Kansas Highway 16, thence along Kansas Highway 16 to its junction with U.S. Highway 59, thence along U.S. Highway 59 to its junction with U.S. Highway 160, thence along U.S. Highway 160 to its junction with unnumbered highway near junction of U.S. Highway 160 and U.S. Highway 83, thence along unnumbered highway to its junction with U.S. Highway 56, thence along U.S. Highway 56 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateways of points in Oklahoma, Nebraska, and Missouri.

No. MC 115603 (Sub-No. E4), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (2) *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (3) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Kansas, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateway of points in Nebraska.

No. MC 115603 (Sub-No. E5), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, between points in Kansas, on the one hand, and, on the other, points in Arkansas. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E17), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operates as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, materials, supplies, and equipment* incidental to, or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum; and (2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Wyoming, on the one hand, and, on the other, points in New Mexico on and east of a line beginning at the New Mexico-Texas State line and extending along Interstate Highway 10 to its junction with U.S. Highway 82, thence along U.S. Highway 82 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with New Mexico Highway 18, thence along New Mexico Highway 18 to its junction with U.S. Highway 87, thence along U.S. Highway 87 to the New Mexico-Colorado State line. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E18), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in, connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof (except the stringing or picking up of pipe in connection with main or trunk pipelines), between points in New Mexico, on the one hand, and, on the other, points in Arkansas. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub No. E19), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof (except the stringing or picking up of pipe in connection with main or trunk pipelines); (2) *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (3) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in New Mexico,

on the one hand, and, on the other, Mississippi. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E20), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, material, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except the stringing or picking up of pipe in connection with main or trunk pipe lines); (2) *Machinery, equipment, materials, and supplies*, used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; (3) *Earth drilling machinery and equipment and machinery, equipment, materials, and supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (a) between points in Illinois, on the one hand, and, on the other, points in Louisiana on and west of a line beginning at the Louisiana-Arkansas State line and extending along U.S. Highway 167 to its junction with U.S. Highway 84, thence along U.S. Highway 84 to its junction with U.S. Highway 165, thence along U.S. Highway 165 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with Louisiana Highway 10, thence along Louisiana Highway 10 to its junction with Louisiana Highway 31, thence along Louisiana Highway 31 to its junction with U.S. Highway 90, thence along U.S. Highway 90 to its junction with Louisiana Highway 83, thence along unnumbered highway to Weeks on the Gulf of Mexico, and (b) between points in Illinois on and west of a line beginning at the Illinois-Wisconsin State line and extending along U.S. Highway 51 to its junction with Illinois Highway 2, thence along Illinois Highway 2 to its junction with Illinois Highway 88, thence along Illinois Highway 88 to its junction with Illinois Highway 116, thence along Illinois Highway 116 to its junction with U.S. Highway 34, thence along U.S. Highway 34 to the Illinois-Iowa State line, on the one hand, and, on the other, points in Louisiana on and west of a line beginning at Shell Beach on the Gulf of Mexico and extending along Louisiana Highway 46 to its junction with Louisiana Highway 39, thence along Louisiana Highway 39 to its junction with Interstate Highway 10, thence along Interstate Highway 10 to its junction with U.S. Highway 61, thence along U.S. Highway 61 to the Louisiana-Mississippi State line. The purpose of this filing is to eliminate the gateway of points in Oklahoma and Texas.

No. MC 115603 (Sub-No. E36), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof (except the stringing or picking up of pipe in connection with main or trunk pipelines; (2) Machinery, equipment, materials, and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (3) Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to used, in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in South Dakota, on the one hand, and, on the other, points in Mississippi. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 119443 (Sub-No. E5) (Correction), filed May 17, 1974, published in the FEDERAL REGISTER July 18, 1974. Applicant: P. E. KRAMME, INC., Main St., Monroeville, N.J. 08343. Applicant's representative: Gerald A. Kramme (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chocolate, liquid chocolate coating, liquid chocolate liquor, and liquid cocoa butter*, in bulk, in tank vehicles, from Jersey City, N.J., to points in (1) Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and Wisconsin and Buffalo, N.Y., and the District of Columbia; (2) points in that part of West Virginia on and south of a line beginning at the West Virginia-Virginia State line on U.S. Highway 50, thence west over U.S. Highway 50 to the junction of West Virginia Highway 50 and the West Virginia-Maryland State line, thence south and north along the West Virginia-Maryland State line to the junction of the West Virginia-Maryland State line and U.S. Highway 50, thence west over U.S. Highway 50 to the junction of U.S. Highway 50 and West Virginia Highway 18, thence north over West Virginia Highway 18 to the West Virginia-Ohio State line; (3) points in that part of Ohio on and west of a line beginning at the Ohio-West Virginia State line and Ohio Highway 800, thence north over Ohio Highway 800 to junction Ohio Highway 800 and Ohio Highway 78, thence west over Ohio Highway 78 to junction Ohio Highway 78 and Ohio Highway 146, thence north on Ohio Highway 146 to junction Ohio Highway 146 and Ohio Highway 285, thence north over Ohio Highway 285 to junction Ohio Highway 285 and Ohio Highway 265, thence west over Ohio Highway 265 to junction Ohio Highway 265 and U.S. Highway 40, thence west over U.S. Highway 40 to junction U.S. Highway 40 and Interstate Highway 77, thence north over Interstate Highway 77 to junction U.S. Highway 250 and Interstate Highway 77, thence north over Interstate Highway 77-U.S. Highway 250 to junction Interstate Highway 77-U.S. Highway 250 and U.S. Highway 250-Ohio Highway 21, thence north over U.S. Highway 250-Ohio Highway 21 to junction U.S. Highway 250-Ohio Highway 21 and Ohio Highway 21, thence north over Ohio Highway 21 to junction Ohio Highway 21 and U.S. Highway 30, thence west over U.S. Highway 30 to junction U.S. Highway 30 and Ohio Highway 93, thence north over Ohio Highway 93 to junction Ohio Highway 93 and unnumbered Ohio Highway 2 miles south of U.S. Highway 21, thence west over unnumbered Ohio Highway to junction unnumbered Ohio Highway and Ohio Highway 94, thence north over Ohio Highway 94 to Marshallville and junction unnumbered Ohio Highway, thence west over unnumbered Ohio Highway to junction unnumbered Ohio Highway and Ohio Highway 585, thence south over Ohio Highway 585 to Smithville and junction Ohio Highway 585 and unnumbered Ohio Highway, thence west over unnumbered Ohio Highway to junction unnumbered Ohio Highway and Ohio Highway 3, thence south over Ohio Highway 3 to Madisonburg

and junction Ohio Highway 30 and unnumbered Ohio Highway, thence west over unnumbered Ohio Highway through Overton to junction unnumbered Ohio Highway and Ohio Highway 539, thence north over Ohio Highway 539 to junction Ohio Highway 539 and Ohio Highway 604, thence west over Ohio Highway 604 to junction Ohio Highway 604 and Ohio Highway 302, thence west over Ohio Highway 302 to junction U.S. Highway 250, thence north over U.S. Highway 250 to junction U.S. Highway 250 and Ohio Highway 162, thence west over Ohio Highway 162 to junction Ohio Highway 162 and Ohio Highway 19, thence north over Ohio Highway 19 to Green Springs and junction Ohio Highway 19 and unnumbered Ohio Highway, thence east over unnumbered Ohio Highway to junction unnumbered Ohio Highway and Ohio Highway 101, thence north over Ohio Highway 101 to junction Ohio Highway 101 and Ohio Highway 269, thence north over Ohio Highway 269 to Castalia and junction Ohio Highway 269 and unnumbered Ohio Highway, thence east over unnumbered Ohio Highway to junction unnumbered Ohio Highway and Ohio Highway 4, thence over Ohio Highway 4 to Sandusky and Lake Erie. The purpose of this filing is to eliminate the gateways of Philadelphia, Hershey, Elizabethtown, and Lititz, Pa., and Dover, Del. The purpose of this correction is to correct the route description.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-29999 Filed 12-23-74;8:45 am]

[Ex Parte No. MC-43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

DECEMBER 19, 1974.

At a session of the Interstate Commerce Commission, Motor Carrier Leasing Board, held at its office in Washington, D.C. on the 17th day of December 1974.

It appearing, that a petition has been filed by Akers Motor Lines, Inc. (MC 72442 sub 4 and numerous subs), Central Motor Lines, Incorporated (MC 39406 and various subs) and Northern Freight Lines, Inc. (MC 31675 and four subs), under temporary common control, for waiver of paragraphs (a)(3) and (c) of § 1057.4 of the lease and interchange of vehicles regulations (49 CFR 1057), concerning equipment leased between petitioners;

It further appearing, That petitioners have a jointly administered program applying the same standards of inspection and maintenance to equipment in accordance with the motor carrier safety regulations of the U.S. Department of Transportation;

It further appearing, That the U.S. Department of Transportation offers no objection to the petition in view of the fact that there is no significant adverse information regarding petitioners' past safety inspection and maintenance programs and the fact that the current safety program is unified and controlled, conducted, and administered by petitioner Akers;

It is ordered, That a waiver of paragraph (a)(3) and (c) of § 1057.4, be, and, it is hereby granted provided that the equipment is inspected on the day it is to be leased and found to meet the requirements of the safety regulations of the U.S. Department of Transportation and that petitioners remain in satisfactory compliance with those regulations and under common control.

By the Commission, Motor Carrier Leasing Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-29994 Filed 12-23-74;8:45 am]

[Notice 207]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

DECEMBER 24, 1974.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before January 13, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC FC 75530. By order of December 17, 1974, the Motor Carrier Board approved the transfer to Cedar Rapids Transfer and Storage Company, a corporation, Cedar Rapids, Iowa, of the operating rights in Certificate No. MC 5895 issued October 31, 1950, to Cedar Rapids and Iowa City Railway Company, a corporation, Cedar Rapids, Iowa, authorizing the transportation of general commodities, with exceptions, between Cedar Rapids and Iowa City, Iowa, over regular routes serving all intermediate points.

William O. Gray, 807 American Bldg., Cedar Rapids, Iowa, 52401, Attorney for transferee.

John F. Gaston, P.O. Box 351, Cedar Rapids, Iowa, 52406, Attorney for transferor.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-29996 Filed 12-23-74;8:45 am]

[Notice 22]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a certificate on permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Commercial Carriers, Inc., MC-42066 Sub-446	MC-42066 Sub-448	Dec. 5, 1972
Schneider Transport, Inc., MC-51146 Sub-322	MC-51146 Sub-301	Oct. 20, 1974
Shropshire Trucking Inc., MC-73087 Sub-3	MC-73087 Sub-4	Feb. 1, 1973
Roy Bros., Inc., MC-112963 Sub-23	MC-112963 Sub-25	Sept. 18, 1972
DBA Paffile Truck Lines, MC-117304 Sub-26	MC-117304 Sub-28	Oct. 3, 1972
Nationwide Carriers, Inc., MC-117940 Sub-69	MC-117940 Sub-72	Dec. 18, 1972
Acme Transport Co., MC-120673 Sub-3	MC-120673 Sub-4	Sept. 7, 1972
Mitchell Transport, Inc., MC-124212 Sub-58	MC-124212 Sub-60	Dec. 1, 1972
Mobile Home Express, Inc., MC-127777 Sub-13	MC-127777 Sub-16	May 2, 1973
DBA, Evergreen Express, MC-129950 Sub-14	MC-129950 Sub-16	Dec. 22, 1972
R & S Trucking, Inc., MC-133734 Sub-1	MC-133734 Sub-2	Sept. 21, 1972
Suddath of Savannah, MC-135095 Sub-1	MC-135095 Sub-2	Oct. 12, 1972

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-29995 Filed 12-23-74;8:45 am]

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PART II



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

PUBLIC INFORMATION

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V

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PUBLIC INFORMATION

The Commissioner of Food and Drugs issued a notice of proposed rulemaking, published in the FEDERAL REGISTER of May 5, 1972 (37 FR 9128), on the disclosure of information to the public in conformity with Public Law 89-487, revised by Public Law 90-23, the public information section of the Administrative Procedure Act, known commonly as the "Freedom of Information Act."

The Commissioner received a total of 667 letters, 68 of which made substantive comments on one or more sections of the proposal. These letters were from individuals, consumer groups, nonprofit institutions and associations, trade associations, and representatives of companies subject to regulation under the laws administered by the Food and Drug Administration.

The bulk of the comments, mainly from individuals, made general observations in favor of the release of more or all information in government files to all who want to review it.

A small number of comments opposed in general any liberalization of disclosure policies on the ground that this posed a threat to free enterprise.

Most of the letters making substantive comments were concerned with various specific provisions of the regulations and contained recommendations for changes. These comments and recommendations and the Commissioner's conclusions concerning them are set out below.

The proposed regulations have been implemented since they were published except in a few minor respects. The Commissioner concluded not to issue final regulations immediately after the time for public comment on the proposal had expired, in order to gain experience under the proposal and because of pending litigation on the scope of the trade secrets exemption. Substantial experience has now been gained under the proposal, and the preamble and final regulations cover all of the types of issues that have arisen in the intervening 2 years. The pending litigation, "Morgan v. FDA," 495 F.2d 1075 (D.C. Cir. 1974), has been concluded. Accordingly, the Commissioner concludes that it is appropriate to issue these final regulations governing the handling of all public information requests by the Food and Drug Administration.

GENERAL POLICY AND ORGANIZATION OF THE FINAL REGULATIONS

1. When the proposed regulations were first published in May 1972, they represented a major change from prior agency policy. Whereas the agency formerly retained roughly 90 percent of the records in its files as confidential and disclosed only 10 percent, during the past 2 years it has reversed this proportion and now makes available roughly 90 percent of the records in its files.

The Commissioner has carefully reviewed the impact of this policy on the Food and Drug Administration during the past 2 years, and concludes that it has had a beneficial rather than a detrimental effect. Contrary to fears expressed in many comments at the time the proposal was published, this new policy of open disclosure has not hindered communications or relations with anyone outside the Federal government nor has it impeded internal agency deliberations. It has, of course, properly encouraged closer public scrutiny of Food and Drug Administration actions, and thus has fostered greater public accountability of the agency.

Accordingly, the Commissioner concludes not only that the open disclosure policy under the proposed regulations should be continued, but indeed that greater use should be made in the future of the Commissioner's discretionary authority to release agency records which, under the strict terms of the statute, could be retained as confidential. This policy is reflected in these final regulations. The Commissioner believes that this policy is in the best interests of both the public and the government.

2. The proposed regulations were divided into two different types of provisions. The general provisions relating to procedure, fees, exemptions, and some specific categories of agency records were included in Part 4 of Title 21 of the Code of Federal Regulations. Specific provisions relating to documents that are already the subject of regulations in other parts of Title 21 of the Code of Federal Regulations were incorporated directly into those other parts, such as the provisions relating to section 305 hearing records, food additive petitions, and new drug applications.

Upon review of the comments submitted on the proposal, the Commissioner concludes that this basic structure should be retained. Whenever possible, provisions relating to disclosure or nondisclosure of records should be incorporated into existing or new regulations dealing specifically with those types of documents.

The Commissioner has also concluded that the more general provisions in Part 4 require reorganization in order to group together the provisions that more closely relate to each other and to make these regulations more readable and understandable. Accordingly, Part 4 has been divided into six subparts, dealing with official testimony and information, general policy, procedures and fees, exemptions, limitations on exemptions, and the availability of specific types of documents for which requests are frequently made.

FREEDOM OF INFORMATION ACT AMENDMENTS

3. In October 1974 Congress passed H.R. 12471, the Freedom of Information Act amendments, to revise and add to a number of the existing provisions of the Freedom of Information Act. On October 17, 1974, the President vetoed this bill. On November 20 and 21, 1974, Congress voted to override the President's veto. The new amendments become effective 90 days after enactment, i.e., on February 19, 1975.

The Commissioner notes that, the concerns expressed by the President in his veto message are not applicable to the types of records contained in Food and Drug Administration files. Many of the provisions in the amendments reflect recommendations made earlier by the Administrative Conference of the United States or are already reflected in existing case law, in the regulations of the Department of Health, Education, and Welfare, and in the proposed Food and Drug Administration regulations published in May 1972. Accordingly, the Food and Drug Administration has closely followed the legislative progress of these amendments in preparing these final regulations, so that the regulations would fully implement the new amendments. The Commissioner has carefully considered the final regulations published in this order, in the light of the congressional policy established in the amendments, and concludes that they meet both the spirit and the letter of the amended law.

GENERAL COMMENTS

4. Comments contended that the open disclosure policy set out in the proposed regulations published in May 1972 would increase product liability and other litigation problems for companies.

The Commissioner advises that the question of whether this type of litigation would increase or decrease is not a factor to be considered in determining the disclosure of information to the public under the Freedom of Information Act.

5. Comments contended that many Food and Drug Administration records and documents should not be disclosed because they could be distorted, misconstrued, and quoted out of context.

The Commissioner realizes that all public information can be abused. This is, however, not a reason for declining to comply with the requirements of the Freedom of Information Act.

6. One comment stated that, in the scientific world, the ability to publish an article containing data that have not previously been made available is a definite advantage. It was contended that those who create the data have a right to publish them without the threat of a prior disclosure of such data by the Food and Drug Administration.

The Commissioner concludes that, once disclosable data have been submitted to the Food and Drug Administration, they will be disclosed to the public upon request. Before any voluntary submission of unpublished scientific information to the Food and Drug Administration, the person submitting it will have an opportunity to obtain an opinion from the agency under the procedure established in § 4.44 of the regulations as to whether it will be disclosed to the public upon request, or whether it falls within an exemption from disclosure and thus will not be available for public disclosure.

The Freedom of Information Act contains no exemption permitting the Food and Drug Administration to withhold data from public disclosure solely on the ground that it is not yet published. Accordingly, unless data fall within one of the specific statutory exemptions from disclosure, the only positive means for a scientist to protect his first publication rights is to publish the information before submitting it to the Food and Drug Administration.

7. A comment contended that some data and information submitted to the Food and Drug Administration may not properly be copied for distribution to the public because of the copyright rights to it.

The Commissioner concludes that, to the extent that the Freedom of Information Act and the copyright laws conflict, the specific requirements for public disclosure under the Freedom of Information Act must be construed to prevail.

8. It was asserted in comments that there is no legal support for the provision contained in several places in the proposed regulations that records shall be disclosed unless "extraordinary circumstances" exist. It was suggested that guidelines be adopted to establish the meaning of "extraordinary circumstances."

The Commissioner advises that this type of provision creates a strong presumption of disclosure and requires any person who believes that a specific record falling within the rule should not be disclosed bears the burden of overcoming that presumption by showing unusual circumstances that justify nondisclosure. Because it is impossible to predict what facts would be sufficient to satisfy this burden, the Commissioner concludes that general guidelines are not feasible and that this type of provision will be administered on the basis of the facts shown in each case.

9. Several provisions in the proposed regulations published in May 1972 would have imposed the requirement that, within 180 days from the final regulations, any person who had previously submitted data or information to the Food and Drug Administration must review that material and, if confidentiality was desired and justified, submit a request that it be retained in confidence. Numerous comments objected to this provision on the grounds that it imposed an impossible burden on industry in light of the voluminous information submitted and that much of this information would never be requested anyway. It was almost uniformly suggested that this matter be handled on an ad hoc basis when requests for disclosure are received.

The Commissioner agrees with these comments, and has deleted all requirements for justifying the confidentiality of previously submitted material. When a request for information is received, and it clearly falls within the disclosure rules laid out in these final regulations, it will be disclosed at once. If the matter presents a close question, the affected person may be consulted pursuant to § 4.45. The Commissioner concludes that this procedure is sufficient and will reduce the burden on both the agency and persons who submit information.

10. Comments suggested that the decision of the Assistant General Counsel, Food and Drug Division, on disclosure should constitute final agency action since the Assistant Commissioner for Public Affairs did not appear to have the necessary legal expertise. A comment also suggested that the power to make final decisions on disclosure be placed in the office of the Associate Commissioner for Compliance who would then delegate this power to an Administrative Law Judge operating out of that office.

The Commissioner advises that it is in accordance with the policy of the Department of Health, Education, and Welfare to vest the power to make final decisions on public disclosure of records in the Assistant Commissioner for Public Affairs. The legal expertise of the Assistant General Counsel and the experience of the Associate Commissioner for Compliance is available to the Assistant Commissioner for Public Affairs at all times.

11. One comment stated that the proposed regulations of the Food and Drug Administration appear to go beyond the proposed regulations of the Department of Health, Education, and Welfare, and contended that the Food and Drug Administration has no authority to promulgate regulations different from the Department regulations.

The Department published its final regulations in the FEDERAL REGISTER of August 17, 1973 (38 FR 22231). Section 5.11 of those regulations (45 CFR 5.11) expressly recognizes that the Food and Drug Administration may issue its own supplementary regulations as long as they are consistent with the Department regulations. The Commissioner concludes that these final regulations are entirely consistent with the Department regulations.

12. Questions have arisen about the availability for public disclosure of the various types of petitions filed with the agency pursuant to the Administrative Procedure Act rather than pursuant to particular provisions of the Federal Food, Drug, and Cosmetic Act, requesting the agency to take or refrain from taking action with respect to any matter subject to its jurisdiction.

The Commissioner advises that such petitions will be the subject of explicit provisions in the new procedural regulations that will be published in the FEDERAL REGISTER in the near future. Accordingly, no provision is included in these regulations relating to such matters.

13. Questions have been asked as to whether data and information contained in a request for hearing on such matters as a food standard regulation, a food additive regulation, or withdrawal of a new drug application, are available for public disclosure.

The Commissioner advises that this matter will also be handled in the new procedural regulations that will be published in the FEDERAL REGISTER in the near future. As a general rule, such data and information have the same status as they would if they had been submitted as part of a petition or application of the type involved in the proceeding.

14. Requests have been made for all internal memoranda and other documents supporting a particular proposed or final regulation issued by the Food and Drug Administration.

The Commissioner advises that this matter will also be handled in the proposed new procedural regulations to be published shortly in the FEDERAL REGISTER. Accordingly, no provision with respect to this matter is included in these final regulations.

SECTION 305 HEARING RECORDS

15. Section 305 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335) provides for an informal hearing before the Food and Drug Administration reports any violation of the Federal Food, Drug, and Cosmetic Act to a United States attorney for prosecution. Section 1.6(c) of the proposed regulations makes available for public disclosure factual information contained in the file relating to a hearing held under section 305 after the file is closed or the statute of limitations runs, whichever occurs first.

The basic objection to § 1.6(c) voiced in several comments was fear of what was variously termed "trial by newspaper" or "trial by press." It was argued that the effect of making public a section 305 citation would be to stigmatize a company without providing the company an opportunity for a public defense. This would be particularly true, it was asserted, if the section 305 hearing resulted in a determination that there was no basis for criminal prosecution. It was felt that the need for the public to know was outweighed by the potential injury to the manufacturer generated by a possible public misunderstanding over the nature of a section 305 hearing. Several comments drew parallels between the section 305 hearing and a grand jury hearing, suggesting that the secrecy necessary for the latter to operate was also necessary for a section 305 hearing.

The Commissioner concludes that the legislative history of the Freedom of Information Act and the recent amendments shows that Congress considered the potential for harm caused by release to the public of government information, and found it to be outweighed by the public's right to obtain this information. Section 1.6(c)(4) adequately protects the rights of individuals by providing for deletion of names of individuals who were considered for criminal prosecution but were not prosecuted from the disclosable material. The Constitution and the Freedom of Information Act protect the right of privacy only of individuals. Accordingly, § 1.6(c) does not provide for similar deletion of names of corporations.

16. Concern was expressed that the utility of the section 305 hearing, described in current Food and Drug Administration regulations as "private and informal" (21 CFR 1.6(a)), would be seriously impaired if the hearing file is publicly disclosed. In a private and informal setting, a manufacturer might be willing to admit unintentional technical violations of the act in order to place the full facts on the record. If there were to be free disclosure of such factual information, it was stated, it would close the mouths of the manufacturers and prevent the section 305 hearing from accomplishing its purpose.

The Commissioner has no reason to believe that disclosure of this information after the matter is closed would impair the utility of the section 305 hearing. The Commissioner concludes that disclosure of the section 305 hearing records after the matter is closed is particularly important where prosecution is not recommended, or is recommended but not filed, in order to assure a public accounting of the matter. Any regulatory matter must at some point in time be open to public scrutiny and public accountability.

17. One comment argued that the Freedom of Information Act exemption for "investigatory files" was dispositive and prevented the Food and Drug Administration from providing for even limited release of investigatory records. The case of "Frankel v. SEC," 460 F. 2d 813 (2d Cir. 1972), was cited as a bar to the disclosures provided for in § 1.6(c). In "Frankel," a shareholder sought the SEC investigatory files on a corporation against which the SEC had brought suit. Prior to the request for disclosure the suit had been concluded by a consent decree. The Court noted that one of the purposes of the exemption for investigatory files, as expressed in the House and Senate reports, was "• • • to keep confidential the procedures by which the agency conducted its investigation and by which it has obtained information" (460 F. 2d at 817) and reversed the District Court decision which held that after the file was not being actively used for law enforcement purposes it was no longer subject to the investigatory file exemption.

The Commissioner notes that the exemptions from disclosure for which the Freedom of Information Act provides are discretionary, not mandatory. The Commissioner has concluded, as a matter of discretion, that these records should be available for public disclosure after the matter is closed or the statute of limitations runs, whichever occurs first. See "Rayner & Stonington, Inc. v. FDA," No. 68–1995 (E.D. Pa. 1969). The "Frankel" decision merely holds that, where an agency does assert the investigatory file exemption, it may properly do so even after the matter is closed. The Commissioner does agree that those portions of investigatory records that would reveal confidential investigative techniques and procedures will not be disclosed, and § 4.64(a)(5) of the regulations so provides.

18. Questions have been raised as to whether section 305 hearing records, or any other investigatory records, compiled with respect to the activity of an individual, e.g., a clinical investigator, will be released after a determination is made not to take regulatory action and the matter is closed.

The Commissioner advises that all such records will be released to the public in accordance with §§ 1.6(c) and 4.64 after the matter is closed. Names and other information that would identify the individual will be deleted. If records relating to a closed section 305 hearing for a specific individual are requested by name, they will also be released after deletion of identifying information.

19. There was criticism of the provision for the deletion of "statements of witnesses obtained through promises of confidentiality, names of individuals • • • and other confidential information" since these exemptions are not specifically provided for in the statute. It was also suggested that keeping secret the names of individuals against whom the Food and Drug Administration determines not to bring prosecutions is a misapplication of "Wisconsin v. Constantineau," 400 U.S. 433 (1971). It was asserted that one court has rejected the contention that "Constantineau" bars disclosure of names of persons against whom "no prosecution" decisions have been made by administrative agencies, "Wellford v. Hardin," 444 F.2d 21 (4th Cir. 1971). It was contended that the public has a right to know of and judge these kinds of decisions, particularly since strict criminal liability is involved.

The Commissioner concludes that the Food and Drug Administration, as a law enforcement agency, is entitled under the Freedom of Information Act to exempt from disclosure investigatory records compiled for law enforcement purposes, and may, under some circumstances, keep such records confidential after the enforcement action is completed. See, e.g., "Frankel v. SEC," 460 F.2d 813 (2d Cir. 1972); "Weisberg v. Department of Justice," 489 F.2d 1195 (D.C. Cir. 1973); "Aspin v. Department of Defense," 491 F.2d 24 (D.C. Cir. 1973). The Food and Drug Administration views nondisclosure of witness statements induced by a promise of confidentiality to be essential to its law enforcement function and finds that such statements are protected by the investigatory records exemption. "Other confidential information" refers only to confidential information within the meaning of the Freedom of Information Act, and the regulation has been revised to so state. With regard to the nondisclosure of names of individuals, § 1.6(c) is clearly in accord with the holding in "Wisconsin v. Constantineau." "Wellford v. Hardin" is inapplicable since it dealt with the disclosure of names of persons to whom warning letters were sent in lieu of prosecution and therefore would apply to section 305 of the Federal Food, Drug, and Cosmetic Act rather than to section 305. As discussed elsewhere in this preamble, all warning letters issued under section 305 of the act are immediately released to the public.

20. It was suggested that what was determined to be disclosable "factual information" might well not be strictly factual since "facts" as recorded may reflect the opinions and subjective evaluations of the recorder. Opinions and subjective evaluations would thus be indirectly available for public disclosure when investigatory records are released.

The Commissioner is aware that in some instances it may be difficult to distinguish between fact and opinion. An effort will be made to separate the two and to release under § 1.6(c) those portions of the section 305 hearing records which do not contain any subjective opinions, except where the Commissioner concludes, in his discretion, that release of such additional material would be in the public interest.

The Commissioner notes that the investigatory records exemption is discretionary, not mandatory. Accordingly, the Commissioner may determine to release opinions and subjective information if he concludes that it is in the public interest to do so. A new § 4.62 has been added to the final regulations explicitly to provide for such discretionary disclosure.

21. A question has arisen as to whether the names of Food and Drug Administration employees will be deleted from section 305 hearing records.

The Commissioner concludes that the names of all Food and Drug Administration employees will be disclosed, except in rare circumstances where it is concluded that disclosure of such names would be inconsistent with the other provisions of these regulations, e.g., it would endanger confidential sources of information. The Commissioner believes that the names of all government officials involved in any regulatory matter should ordinarily be a matter of public information. Section 4.62 of the final regulations states this policy.

22. Questions have also arisen as to whether the names of individuals will be deleted from section 305 hearing records if the matter results in criminal prosecution.

The Commissioner concludes that such names will not be deleted if those specific individuals were included in the criminal prosecution. The name and other information that would identify any individual in a section 305 citation but not subsequently prosecuted will be deleted in order to protect his privacy.

23. Questions have arisen as to whether all or any portion of section 305 hearing records may be disclosed before the matter is closed or the statute of limitations has run.

Although the Commissioner retains discretion to release such information before the file is closed, he concludes that this will be done only in rare circumstances where consideration of criminal prosecution is involved. Because a section 305 hearing raises the possibility of criminal prosecution, the Food and Drug Administration must take precautions to avoid prejudicial pretrial publicity. Accordingly, the Commissioner will only very rarely exercise his discretion to release such material before the file is

closed or the statute of limitations runs, and only under circumstances that demonstrate a compelling necessity.

24. Questions have been raised with respect to the exact time at which section 305 hearing records become "closed."

The Commissioner advises that the Food and Drug Administration has adopted general guidelines to determine when section 305 hearing records are closed. These guidelines are set out in § 1.6(c) of the final regulations and discussed in paragraph 113 of this preamble.

25. Under the Freedom of Information Act amendments, the investigatory records exemption has been amended to read as follows:

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

The Commissioner concludes that the policy stated in § 1.6(c) fully complies with this change in the law. Section 305 hearing records deal with possible criminal prosecution. The Food and Drug Administration must be careful to avoid prejudicial pretrial publicity with respect to criminal matters. See "United States v. Abbott Laboratories," 369 F. Supp. 1396 (E.D.N.C. 1973), rev'd, No. 74-1230 (4th Cir. 1974). Accordingly, the Commissioner concludes that, except in rare circumstances, information should not be released from a section 305 hearing record before the matter is closed, in order to avoid interference with enforcement proceedings or prejudicing a person's right to a fair trial and an impartial adjudication.

The Conference Report No. 93-1380, dated September 25, 1974, on the Freedom of Information Act amendments indicates that the purpose of this revision of the law is to narrow some of the court decisions that had tended to expand the investigatory file exemption. The Commissioner notes that § 1.6(c) is considerably narrower than a number of the court decisions would permit, and that the agency has already concluded to exercise its discretion to release investigatory records when a case is closed. The information excluded from such release under the final regulations falls squarely within the provisions of the revised statutory exemption contained in the amendments.

Official Records and Information

26. A number of questions have arisen as to when the Food and Drug Administration will permit an employee to testify in private litigation.

The Commissioner concludes that the primary obligation of Food and Drug Administration employees is to implement and enforce the laws subject to the agency's jurisdiction. The agency has no congressional mandate to aid private litigants. Accordingly, the Food and Drug Administration will ordinarily decline to permit agency employees to testify or otherwise participate in their official capacity in private litigation.

The Commissioner recognizes, however, that exceptions will exist to this rule. For example, the Commissioner will permit Food and Drug Administration employees to testify or participate in private litigation in instances where former Food and Drug Administration employees testify with respect to agency policy in a way that requires correction of the record to prevent an unjust result, or where private litigation is designed to achieve the same purpose that would be achieved by agency action and thus is concluded by the Food and Drug Administration to be in the public interest, or where the results of the private litigation may have a significant impact on Food and Drug Administration policy or action, or where Food and Drug Administration action resulted in the lawsuit. Section 4.1 of the regulations has been revised to state this policy, and has been divided into three sections and rewritten for editorial purposes.

General Policy

27. A number of comments on the proposed regulations published in May 1972 related to the broad policy underlying and interspersed with the specific provisions.

The Commissioner concludes that a new Subpart B should be added to 21 CFR Part 4, to include such statements of general policy.

Policy on Disclosure of Food and Drug Administration Records

28. Comments contended that the proposed regulations published in May 1972 improperly placed the burden for justifying nondisclosure on companies who have previously furnished information, while placing no burden upon the public to justify any compelling need or cogent reason for requesting the information.

The Commissioner advises that these comments accurately reflect the proposed and final regulations, and that those regulations in turn reflect the intent of Congress as embodied in the Freedom of Information Act. Under the law, any person is entitled to receive information unless it is subject to one of the stated exemptions. The law does not require that there be any justification whatever for such a request. Only where there is a request for discretionary release of exempt records, or for waiver of fees, does the justification for disclosure become relevant.

Uniform Access to Records

29. In administering the Freedom of Information Act, the Food and Drug Administration has uniformly adopted the position that, if any record is available to any member of the public, it must be made available to all members of the public, with only very limited exceptions. This approach guarantees equal access to all information available from the Food and Drug Administration.

The Commissioner concludes that this general policy should be explicitly stated in the final regulations. Accordingly, a new § 4.21 has been added for that purpose.

30. Comments requested clarification of the statement to the effect that information in Food and Drug Administration files that has previously been made public "in an authorized manner" will be generally released to the public, and asked what would be considered an "unauthorized" manner.

The Commissioner advises that this phrase, and other similar language in the final regulations, is intended to exclude information that is "leaked" from agency files or otherwise disclosed in an unauthorized manner. Thus, if an internal memorandum is given to a member of the press without authorization, and part of it is reproduced in the public media, the entire memorandum or even the portion that has been reproduced need not be made available for public disclosure. Any different policy would encourage unauthorized disclosures of agency material.

The Commissioner concludes that release by Congress of material that would not be disclosed by the Food and Drug Administration is nevertheless an authorized release, since Congress is authorized to release any information it wishes to release. Accordingly, any material obtained by Congress, i.e., by a committee or subcommittee, and subsequently authorized to be disclosed, automatically triggers the requirement that it be released for public disclosure by the Food and Drug Administration to any person who requests it.

31. Some comments indicated that it would be acceptable to have scientific information contained in Food and Drug Administration files furnished to scientists and scholars, but that it should not be furnished to the news media or others who might distort it.

The Commissioner advises that such a distinction is untenable under the Freedom of Information Act. If any such information is made available to one member of the public, it must be made available to all.

Partial Disclosure of Records

32. The Freedom of Information Act amendments specify that any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under the Freedom of Information Act.

The Commissioner regards this new provision as a statement of existing Food and Drug Administration policy under the proposed regulations, and existing case law. See "EPA v. Mink," 410 U.S. 73

(1973). Accordingly, § 4.22 has been added to state this general policy.

The Commissioner concludes that, as a general rule, when a document contains some material that is disclosable and other material that is nondisclosable, it will be released with the nondisclosable material deleted unless the two types of material are so inextricably linked that it is not reasonably possible to separate them. In instances of this type, the Commissioner may also exercise his discretion pursuant to § 4.82 of the regulations to release the entire document, or to make only a minimum number of deletions, e.g., the names of individuals, in order to avoid release of a document that would not be meaningful or useful to the public.

REQUEST FOR EXISTING RECORDS

33. Questions have been raised as to what constitutes a request for records under the Freedom of Information Act.

The Commissioner advises that pamphlets, speeches, and other materials routinely prepared for public distribution are distributed free of cost to the public upon request and thus do not fall under the Freedom of Information Act and these regulations. It is the policy of the Food and Drug Administration to regard any request for records not routinely prepared for distribution to the public to be under the Freedom of Information Act, whether or not the Freedom of Information Act is mentioned in the request, and thus subject to the requirements of these new regulations. New § 4.23 clearly states this policy.

PREPARATION OF NEW RECORDS

34. Questions have been raised as to whether the Freedom of Information Act requires the creation of new records or documents that do not presently exist, in order to provide an adequate response to a request.

The Commissioner concludes that the Freedom of Information Act pertains only to existing records. It does not create an obligation to prepare new compilations of information or otherwise to create new documents in order to respond to an inquiry.

On occasion, a request for documents that presently do not exist may raise questions of sufficient public interest to justify the diversion of agency time and effort necessary to prepare new documents that will provide an adequate response. The Commissioner may exercise his discretion in this regard whenever he concludes that it is in the public interest to do so. New § 4.24 of the regulations reflects this policy.

35. In the past 2 years, several requests have been received which would involve compiling statistics, researching citations to FEDERAL REGISTER notices, and similar work by the Food and Drug Administration.

The Commissioner advises that the Food and Drug Administration ordinarily will not undertake the compilation of new statistical reports or legal research, or preparation of new computer programs, or similar work, except where such work would benefit the public generally and fits within the priorities and objectives of the agency. Any decision to undertake such work is solely within the discretion of the Commissioner.

RETROACTIVE APPLICATION OF REGULATIONS

36. Comments contended that the Freedom of Information Act may not properly be applied on a retroactive basis to data and information supplied to the Food and Drug Administration prior to the enactment date of the statute.

The Commissioner concludes that the Freedom of Information Act applies to all data and information in Food and Drug Administration files, regardless of when it was submitted. New § 4.25 of the final regulations so provides.

INDEXES OF CERTAIN AGENCY RECORDS

37. The Freedom of Information Act amendments provide for the maintenance and distribution of current indexes providing identifying information with respect to final opinions by an agency made in the adjudication of cases, statements of policy and interpretations not published in the FEDERAL REGISTER, and administrative staff manuals and instructions to staff that affect members of the public.

The Commissioner has ordered preparation of appropriate indexes of this type. New § 4.26 has been added to the regulations stating that such indexes shall be available at cost upon request from the Food and Drug Administration Public Records and Documents Center (HFC–18), Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20852.

Since all final agency opinions in the adjudication of administrative cases are published in the FEDERAL REGISTER, an index will contain a citation to each. Such matters include only adjudicatory decisions in contested cases on the denial or revocation of new drug applications and new animal drug applications, and not decisions in rule making proceedings such as food standards and antibiotic drugs. An index will also include all statements of policy and interpretation adopted by the agency since enactment of the various laws subject to the jurisdiction of the agency, not published in the FEDERAL REGISTER, and still in force. Finally, an index will cover all administrative staff manuals and instructions that contain directives that affect a member of the public, except those that contain only internal personnel rules and practices of the agency, which are specifically exempt from public disclosure under the Freedom of Information Act.

SUBMISSION OF RECORDS MARKED AS CONFIDENTIAL

38. Several comments contended that merely stamping documents submitted to the Food and Drug Administration as "confidential" or "privileged" or "trade secret material" would create a presumption of confidentiality or, at the very least, an obligation on the part of the Food and Drug Administration to review the material and to return it if the Food and Drug Administration disagreed with the requested status of the documents. In effect, the comments suggested that any such designation would trigger a request for a presubmission review, and that the failure of the agency to respond to any such designation would automatically require the Food and Drug Administration to retain those documents in confidence.

The Commissioner disagrees with these comments. New § 4.27 explicitly provides that any such designation is inadequate to trigger a presubmission review for confidentiality, and that the acceptance by the Food and Drug Administration of documents so designated creates no obligation whatever on the part of the Food and Drug Administration with respect to their subsequent handling under the Freedom of Information Act. A presubmission review of records submitted voluntarily to the Food and Drug Administration, to determine whether they will be disclosed to the public on request, may be obtained under the provisions of new § 4.44.

FOOD AND DRUG ADMINISTRATION DETERMINATIONS OF CONFIDENTIALITY

39. A number of comments objected to requirements contained in several provisions in the proposed regulations that confidential information be specifically marked "confidential" upon submission, and that such claims to confidentiality be justified in advance of any request for the information. It was contended that this would be a massive amount of paperwork, much of which may be needless.

The Commissioner agrees with this comment. Most determinations for confidentiality are already spelled out in the form of specific provisions in the final regulations and in this preamble, and many of the remainder will be settled by the new procedure for presubmission review specified in § 4.44 of the final regulations. Where close questions arise, moreover, § 4.45 will be utilized to permit consultation with the affected person. Accordingly, the final regulations do not require that data or information be stamped as confidential or that justification for confidentiality be submitted. Indeed, under § 4.27 of the final regulations, stamping material as confidential will have no effect whatever. New § 4.28 provides that the status of all records will be determined solely by the regulations and any presubmission review that is requested.

PROHIBITION ON WITHDRAWAL OF RECORDS FROM FOOD AND DRUG ADMINISTRATION FILES

40. Situations have frequently arisen within the past 2 years in which persons who have voluntarily submitted information without a written pledge of confidentiality by the Food and Drug Administration have objected to release of the documents involved or have requested that the disputed documents be returned to them.

The Commissioner notes that new § 4.44 makes it clear that any information voluntarily submitted without a written pledge of confidentiality pursuant to the procedures contained in that provision may be disclosed to the public unless the Commissioner concludes that it falls within one of the exemptions set out in the Freedom of Information Act and these implementing regulations and that he should not exercise his discretion to release the information involved. Under no circumstances will the Food and Drug Administration return any document submitted to it. The only circumstances under which any document will not be retained by the Food and Drug Administration is where, pursuant to new § 4.44, there is a presubmission review, the Food and Drug Administration concludes that the information will not be accepted as confidential, and the person declines to submit the information on that basis and requests that it be returned to him instead. New § 4.29 makes this policy clear.

Food and Drug Administration Public Records and Documents Center

41. The Freedom of Information Act amendments embody a congressional mandate for greater agency accountability for compliance with the provisions of the Freedom of Information Act.

The Commissioner has established a Public Records and Documents Center to be responsible for the agency's compliance with the Freedom of Information Act. All requests for records will be submitted to this Center, and all responses will be coordinated by it. Section 4.30 of the final regulations so provides.

Permanent File of Requests for Food and Drug Administration Records

42. In order to permit public review of information previously disclosed under the Freedom of Information Act, the Food and Drug Administration maintains a permanent file of all requests and responses. This file is available for public review during working hours.

The Commissioner concludes that a new § 4.31 should be added to the final regulations stating this policy.

Disclosure of Food and Drug Administration Employee Names

43. Questions frequently arise as to whether the names of Food and Drug Administration employees contained in various agency records will be deleted prior to disclosure of such records.

The Commissioner concludes that, except in extraordinary circumstances, the names of all government officials involved in any regulatory matter are properly disclosed to the public. New § 4.32 states this policy. Only in unusual circumstances, such as where the identity of a confidential source would be disclosed if the name of the agency employee involved in the matter were also disclosed, will the name of the agency employee be deleted before the requested records are made available for public disclosure.

Procedures and Fees

44. The Freedom of Information Act amendments contain a number of provisions pertaining to procedures and fees. In addition, the proposed regulations published in May 1972 contained several provisions relating to procedures and fees, and the Commissioner concludes that they should be set out in one place for ready reference.

Accordingly, the Commissioner is adding a new Subpart C to 21 CFR Part 4, relating to procedures and fees.

Filing a Request for Records

45. The Freedom of Information Act amendments state that, upon any request for records which reasonably describes such records and which is made in accordance with published rules, the records shall be made promptly available.

The Commissioner concludes that this policy should be clearly stated in a new § 4.20, along with directions on where to file a request for any Food and Drug Administration record.

Time Limitations

46. The publication of rules stating the time, place, fees (if any) and procedures to be followed by the public in requesting records pursuant to the Freedom of Information Act is important for the proper implementation of that law.

The Commissioner concludes that all requests for Food and Drug Administration documents shall be made in writing to the Public Records and Documents Center (HFC–18), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852. Such requests will be logged in at the time, and in the order, they are received. The time at which a written request is logged in at that office shall determine the beginning of any time requirements. Oral requests for documents will not trigger any time requirements. Written requests sent elsewhere within the agency will not trigger any time requirements until they are redirected to the Public Records and Documents Center and are logged in there. This is the only way in which an accounting of all public information requests can accurately be made.

47. The recommendations of the Administrative Conference of the United States, the regulations of the Department of Health, Education, and Welfare, and the Freedom of Information Act amendments all provide that the agency determine within 10 days, excepting Saturdays, Sundays, and legal public holidays, after the receipt of any request whether or not to comply with that request, and, if not, immediately notify the person making the request of such determination, the reasons therefor, and the right of such person to appeal any adverse determination. The Freedom of Information Act amendments provide for an extension of the 10-day time period in "unusual circumstances," and define that phrase.

The Commissioner has included, in § 4.41 of the final regulations, provisions implementing this concept. Within 10 days of receipt, a determination will be made whether, or to what extent, the information will be released, except in unusual circumstances. As soon as possible after that determination is made and any required prepayment is furnished, the disclosable material will be forwarded or made available to the person requesting it.

The Commissioner anticipates that in most instances the specific provisions of these final regulations, together with the explanatory discussion in this preamble, will clearly determine whether the material is disclosable.

48. A number of comments on the proposed regulations asked for clarification of the procedure under which responses are made and persons are required to furnish payment before receiving the requested records.

The Commissioner agrees that a specific procedure should be included in the regulations and a new provision in § 4.41 has been added for this purpose. Within the 10 days required for response to a Freedom of Information Act request, an estimate will be made of the cost of providing the requested records that are available and the response will contain that estimate. If the cost can be determined accurately ahead of time and is greater than $25, the response will state that the records will be sent or made available upon receipt of the amount of money specified or estimated. If the person requesting the information wishes to proceed and sends the prepayment, the material will be obtained and forwarded as quickly as possible.

The Commissioner concludes that records should not be furnished until the money is actually received, since otherwise there would be no way to guarantee that fees will in fact be paid. Situations have arisen during the past 2 years where the Food and Drug Administration has gathered documents at agency expense in response to a request under the Freedom of Information Act, only to be informed that the expense involved was too high.

Fees

49. The proposed regulations published in May 1972 contained uniform standard charges at or slightly below the cost of the activity to the Food and Drug Administration. It also provided for waiver of fees on the basis of indigence. Criticism of the fee schedule was made by several groups in comments filed on the proposal. One comment indicated that copies should cost no more than the few cents per page they cost the agency. The $5.00 fee for certification of authenticity was thought to be out of line and it was suggested that the charge be 50 cents, the amount charged for that service by the United States District Court for the District of Columbia. It was contended that there should be a threshold fee, below which there is no charge. It was suggested that the fees, as proposed, would act as a deterrent to legitimate requests for disclosure.

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Upon reconsideration, the Commissioner has modified the fee schedule in some respects. The fees charged by the Department of Justice (16 CFR 16.9) and the Department of Health, Education, and Welfare (45 CFR 5.61) have been used as a model. The charges, as modified, are slightly less than the actual cost to the agency. Under the Federal User Charges Act (31 U.S.C. 483a), and in accordance with the policy of the Federal government, these costs must be passed along to those who seek services from the agency. This system should not act as a deterrent to legitimate requests for disclosure.

50. Comments requested that the fees for copying be reduced to five cents per page.

The Commissioner advises that the cost to the government for copying is in excess of 10 cents per page. Accordingly, the Commissioner concludes that a fee of 10 cents per page is reasonable.

51. Numerous questions have been raised with respect to the fee required for a computer printout of information that is available in this form.

The Commissioner advises that fees for computer printouts will be assessed at actual cost. No standard fee can be calculated, because of the different factors that must be considered with respect to each request. Section 4.42(a)(3) states this policy.

52. Comments also urged that the hourly fee for search not be charged for administrative time spent in deciding whether to grant access to information and suggested that this be explicitly stated in the regulations.

The Commissioner advises that the hourly fee is to be charged exclusively for actual time spent in determining what records are requested, locating those records, and copying them. It will be the policy of the Food and Drug Administration not to charge for time spent by legal counsel or others in determining which information must be disclosed pursuant to the Freedom of Information Act. This policy is reflected in § 4.42(b) of the final regulations.

53. Questions have been raised as to how a check or money order for documents should be made payable, and to whom it should be sent within the Food and Drug Administration.

The Commissioner advises that all checks or money orders should be made payable to the "Food and Drug Administration." The term "United States" or the initials "U.S." should not be included. Checks or money orders are to be mailed to the Accounting Operations Branch (HFA–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852. Section 4.42(c) of the final regulations states these requirements.

Waiver of Fees

54. Many different circumstances have been brought to the Commissioner's attention to justify a waiver of fees.

As a general principle, the Commissioner concludes that waiver or reduction of fees should not be granted except under circumstances of indigence, or where it will benefit the public broadly, or where it involves another component of the federal government or a state government. Thus, information furnished to a congressional committee, a federal agency, a state or local agency, a court, or a foreign government, will ordinarily be furnished without cost.

The Commissioner has also determined that the cost of obtaining payment for a small number of records, in terms of government time and effort involved, exceeds the revenue obtained from this effort. Accordingly, the final regulations provide that no fee will be charged where the specific request and any related requests involve a cost of less than $5.00.

55. Comments stated that the regulations should include a definition of "indigence" and "strong public interest necessary to justify a waiver of fees." It was suggested that the customary definition of indigence, "unable to afford the fee without deprivation of the necessities of life," ignores the needs of most nonprofit and citizens' groups. The following test was suggested:

1. The requester purports to represent the consumer and general public interest.

2. The requester is a nonprofit organization exempted from payment of Federal income taxes by the Internal Revenue Service.

3. It generates no profits and, except in connection with its charitable activities, sells no goods or services.

4. It receives its funds solely from one or more of the following sources: Membership dues, contributions from the general public and from other charitable organizations, and grants and contracts with government agencies.

5. It has no uncommitted funds available at the time of the request for payment of the fees from which it seeks relief by waiver.

The Commissioner notes that the Federal User Charges Act (31 U.S.C. 483a) and the Freedom of Information Act do not make any distinction between industry, citizens' groups, professional associations, and individuals. All who can pay must bear the cost of covered services provided to them by the Federal government.

The Commissioner concludes that the test of indigence suggested in the comments is insufficient to demonstrate that release of the information requested will primarily benefit the general public. Under the test suggested in the comment, any request that even purports to be in the general public interest would be sufficient to justify a waiver of fees.

The Commissioner concludes that a definition of indigence based on the definition of this term used by state and federal courts in determining who may proceed in forma pauperis should be adopted for purposes of these regulations. Section 4.43(b) sets out the considerations that will be used in determining indigence.

56. The Freedom of Information Act amendments provide that documents shall be furnished without charge or at a reduced charge where the agency makes a discretionary determination that waiver or reduction of the fee is in the public interest because furnishing the information can be considered primarily as benefiting the general public.

The Commissioner advises that a new paragraph (c) has been added to § 4.43 of the final regulations to implement this provision.

The Food and Drug Administration has in the past received a substantial number of open-ended requests for documents from individuals and organizations purporting to represent the consumer and general public interest. For example, requests have been made for all data and information in Food and Drug Administration files relating to the safety of cosmetics, and for all "Dear Doctor" letters required by the Food and Drug Administration to be sent to physicians to correct misleading advertising and labeling. It is apparent that, if all such requests were honored without the requirement of fees, the agency would soon be engulfed by similar requests for information from large numbers of individuals and organizations, and that a major portion of its time would be spent answering such inquiries.

Thus, in applying this new provision, the Commissioner will require a demonstration of a broad public interest before fees will be waived or reduced. As part of this demonstration, the Commissioner will request a statement of the intended purpose to which the information will be put, in order to determine whether it is likely to be used in a manner that will benefit the public generally. Narrow and specific requests for documents will be far more likely to satisfy this standard than will broad fishing expeditions requesting large numbers of vaguely described documents covering a wide range of issues. In making a determination of the public interest involved, the Commissioner will weigh the agency resources involved against the likely benefit to the public.

The Commissioner wishes to assist any inquiry that will genuinely advance the public interest. If this is to be done, however, the very limited resources available in the Food and Drug Administration for this purpose must be devoted to those requests that demonstrate the greatest likelihood of useful public service. The Commissioner intends to utilize this authority to encourage requests for information that will broadly promote the public interest.

57. Questions have arisen as to whether fees will be assessed when the records requested are not found or are withheld from public disclosure.

The Commissioner advises that no fees will be assessed under these circumstances. This policy is stated in new § 4.43(d).

Presubmission Review of Request for Confidentiality of Voluntarily Submitted Data or Information

58. Section 4.26 of the proposed regulations contained a provision permitting

any person who wishes to submit information voluntarily to the Food and Drug Administration to request an initial determination as to whether it will be held in confidence or will be disclosed upon request to the public. The comments submitted on the proposal, and numerous questions that have arisen in the intervening 2 years, have made it clear that this provision has not been well understood by those who reviewed the proposal.

Accordingly, the Commissioner concludes that this provision should be the subject of a separate procedural regulation and expanded to clarify its intended application. Section 4.44 has been added to the final regulations to accomplish this purpose.

The Commissioner concludes that any person who wishes to submit information on a voluntary basis to the Food and Drug Administration is entitled to a presubmission determination of the status of the documents involved if that status is not already determined by other provisions in the regulations. Merely labeling a submission as "confidential" is insufficient to trigger this provision and raises within the Food and Drug Administration no obligation to consider the status of the documents at that time or to return the information or otherwise to communicate with the person submitting it. Similarly, oral assurances of confidentiality by Food and Drug Administration employees will not be honored. If this procedure is to be invoked, it must be done in strict accordance with the requirements of new § 4.44. The Commissioner realizes that this is a stringent procedure but concludes that this is the only way that these matters can be handled in fairness both to persons submitting information and to the members of the public who subsequently request the information involved.

The Commissioner emphasizes that this procedure is not available where the status of a record is already determined by other provisions in the final regulations, and especially § 4.111 *Data and information submitted voluntarily to the Food and Drug Administration*. For example, § 4.111(d)(2) states that no information on manufacturing processes is available for public disclosure, and thus presubmission review of any such information would be unnecessary and inappropriate.

59. Comments expressed concern that, although there is validity in the concept of permitting the Food and Drug Administration to accept information in confidence that it would not otherwise obtain, procedures should be spelled out to preclude abuse of this provision.

The Commissioner agrees with this comment. Accordingly, the final regulations provide that such information may be accepted in confidence only if it is relevant to and important for agency activity, and only if the Assistant Commissioner for Public Affairs signs a letter pledging confidentiality. A determination of confidentiality cannot be given orally or by any other agency official.

60. Comments pointed out that, if information submitted voluntarily on a pledge of confidentiality is already contained in other Food and Drug Administration records which are not exempt from disclosure, those other records should be disclosed to the public.

The Commissioner advises that, under these circumstances, a determination of confidentiality will not be made. If a determination of confidentiality is mistakenly made, the information already available in the Food and Drug Administration files will, if it is not otherwise exempt from disclosure, promptly be disclosed upon request.

61. Many comments indicated the need for a "meaningful" appeal procedure that would go to the highest level within the agency and to the courts, with provision for a stay of disclosure to permit the commencement of an appeal process.

The Commissioner agrees that an appeal procedure and a stay of disclosure pending appeal is reasonable, where the issue presents a close question. Appropriate procedures have been incorporated in §§ 4.44 through 4.46 for this purpose.

Situations in Which Confidentiality Is Uncertain

62. Proposed § 4.33 stated that, where disclosure is uncertain, the Food and Drug Administration will consult with the person who submitted the information in making a determination whether it will be disclosed. This proposed provision has been included in the final regulations as § 4.45.

Comments stated that industry should be notified in all instances, not just in situations where the Food and Drug Administration is uncertain about disclosure. This section was also criticized because it does not make clear who decides when disclosure of data is uncertain, and whether such an "uncertain" status is created only with regard to previously submitted material or whether it also applies to newly submitted material.

The Commissioner concludes that the Food and Drug Administration will notify the submitting person only when it determines that there is some question as to the status of the material. There are many instances in which the material is clearly disclosable under the law and these implementing regulations, and it would be burdensome and wasteful to contact the person who had submitted it under such circumstances.

A decision as to whether or not the status of the data is "uncertain" and therefore subject to § 4.45 will be made by those administratively responsible for making disclosures. Such a decision will be made, if necessary, with the assistance of legal counsel.

Uncertainty about the status of information voluntarily submitted on which presubmission review is requested is the subject of separate provisions in new § 4.44.

63. Comments suggested that a company should be advised whenever any record is to be released for public disclosure pursuant to the Freedom of Information Act if that record was either submitted by the company or refers to the company.

The Commissioner rejects this suggestion. Any such procedure would severely hinder implementation of the Freedom of Information Act. Section 4.45 of the final regulations provides for consultation with affected persons wherever a close issue arises, and § 4.46 permits an affected person to seek court review in such instances.

The Commissioner advises that the final regulations adequately state the basis on which disclosure will be made to the public in the future. The proper remedy for any person to pursue, in the event that he has submitted data or information in the past which he believes to be confidential but which, under the final regulations, is included within a category for which public disclosure is permitted, is to bring a declaratory judgment action contesting the validity of the regulations. Unless these regulations are successfully challenged in the courts, the Food and Drug Administration intends to implement them. Thus, all persons who have previously submitted records to the Food and Drug Administration are hereby put on public notice that such information will be handled in the future as set out in these final regulations and this preamble. For this reason, specific notice to a person that a particular record will be disclosed pursuant to these regulations is unnecessary as well as impracticable.

64. Comments contended that this provision shows the high value that the Food and Drug Administration puts on industry interests in information as opposed to the public welfare. Some interpreted this provision as the Food and Drug Administration asking to be persuaded that the information is confidential. It was suggested that, in situations where it has not been conclusively established that the information falls squarely within an exemption to the Freedom of Information Act, the information should be disclosed.

The Commissioner regards these comments as reflecting a lack of understanding of the law. The exemptions under the Freedom of Information Act relate to such important issues as personal privacy and valuable trade secrets. Congress has directed Federal agencies to consider these matters and the Commissioner regards this responsibility as important. In utilizing this provision the Food and Drug Administration will seek clarification in uncertain situations, not persuasion. If information does not fit within any exemption to the Freedom of Information Act, it will be disclosed.

Judicial Review of Proposed Disclosure

65. A number of questions have been raised with respect to the right of a person to obtain a court determination before the Food and Drug Administration discloses data or information submitted by that person which he believes should be retained by the agency in confidence.

During the past 2 years the Commissioner has adopted a procedure of permitting any person who believes he would

be adversely affected by disclosure of information to institute suit in a United States District Court to enjoin such disclosure. The Commissioner has stated that, if any such suit is instituted, no disclosure will be undertaken until all court appeals are exhausted. The Commissioner believes that this procedure adequately balances the right of the public to obtain information against the right of a person to protect the confidentiality of material that he believes should not be publicly disclosed. Accordingly, new § 4.46 of the final regulations includes this procedure.

The Commissioner cautions that this does not mean that the Food and Drug Administration must in every instance advise persons who might be affected by a disclosure of information that such information has been requested by a member of the public. The Food and Drug Administration will exercise its judgment in determining when close issues exist that may give rise to this procedure. The Commissioner believes that experience during the past 2 years has demonstrated that proper judgment in these matters can readily be exercised.

DENIAL OF A REQUEST FOR RECORDS

66. The Commissioner concludes that specific provisions should be made in the final regulations for the procedure to be followed upon denial of any request for records. The Freedom of Information Act amendments provide that the names and titles or positions of each person responsible for the denial of a request for information shall be set forth in the letter denying the request.

Accordingly, new § 4.47 has been added to the regulations to accomplish these purposes.

NONSPECIFIC AND OVERLY BURDENSOME REQUESTS

67. Section 4.33 of the proposed regulations, which dealt with nonspecific and overly burdensome requests, has been redesignated as § 4.45 in the final regulations.

A few comments were concerned that the proposed regulations were not sufficient to prevent "fishing expeditions." It was emphasized that the Freedom of Information Act, as well as the Attorney General's Memorandum interpreting it, makes information available only in response to a request for identifiable records. It was noted that the courts have upheld the requirement that those seeking disclosure under the act provide a reasonable description of the records to enable government employees to locate the documents, citing "Irons v. Schuyler," 465 F. 2d 608 (D.C. Cir. 1972); "Bristol-Myers Co. v. FTC," 424 F. 2d 935 (D.C. Cir. 1970).

The Commissioner notes that many cases, as well as the Freedom of Information Act amendments, require only that documents be described, not that they be specifically identified. Section 4.40(b) of the final regulations states this requirement. A request must be made with sufficient specificity to permit the Food and Drug Administration to determine what information is requested and to obtain it. However, merely because a request is nonspecific or broad does not mean that the records requested are not identifiable. For example, a request for all of the documents in a particular category is a broad, nonspecific request, yet such records would be easily identified. If a request is so vague that it is difficult, if not impossible, to determine which records the request seeks, the agency will seek clarification.

68. A comment objected to this provision on the ground that the Freedom of Information Act provides for no such balancing of public interest against administrative efficiency, and contended that there is no justification for any provision dealing with "overly burdensome" requests, citing "Wellford v. Hardin," 444 F. 2d 21 (4th Cir. 1971).

The Commissioner advises that this provision is intended to emphasize the need for specific requests, rather than general requests for large numbers of documents that are often not relevant to the immediate interests of the person making the request, and to point out that responding to requests for large numbers of documents may require a substantial period of time. The Commissioner notes that the Freedom of Information Act amendments provide only that the person making a request be informed within 10 days whether part or all of the documents will be disclosed. No statutory time limit is established for actual production of the documents themselves. This indicates recognition by Congress that government employees cannot be expected to drop all other duties in order to respond to requests for information. There is no indication, in short, that Congress intends the Food and Drug Administration to handle freedom of information requests on a higher priority basis than its important law enforcement duties.

On the other hand, the Commissioner does not intend that requests under the Freedom of Information Act receive a low priority or simply be ignored. They will be handled as expeditiously as is feasible. Sections 4.41 and 4.43 of the final regulations so provide.

REFERRAL TO PRIMARY SOURCE OF RECORDS

69. Comments on the proposed regulations asked what documents will be distributed without charge pursuant to the regulations. In particular, questions were raised about the status of documents such as the Code of Federal Regulations (CFR), FEDERAL REGISTER, United States Pharmacopeia (U.S.P.), and National Formulary (N.F.).

The Commissioner notes that there are a wide variety of materials, including press releases and educational materials, which are prepared by the Food and Drug Administration for distribution to the public. These will continue to be released and distributed without charge.

It is the policy of the Food and Drug Administration that if anyone is charged for a document, all must be charged unless the fee is waived pursuant to these regulations. Conversely, if a document is routinely given free of charge, then all must receive it free of charge.

Two of the documents referred to in the comments, i.e., CFR and the FEDERAL REGISTER, are available from the Government Printing Office. The other two, U.S.P. and N.F., are available from the organizations that publish them. Since none of these are Food and Drug Administration materials and all are readily available elsewhere at a price lower than it would cost the Food and Drug Administration to reproduce them, it is the policy of the Food and Drug Administration to refer anyone who requests them to those places where they are available, pursuant to § 4.49 of the final regulations.

AVAILABILITY OF RECORDS AT NATIONAL TECHNICAL INFORMATION SERVICE

70. In a number of instances, the Food and Drug Administration has recognized that reports or information generated or received by the agency will receive widespread interest. The Department of Commerce has established the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22152, to serve as a clearinghouse for such information. The Food and Drug Administration is, for example, sending all scientific literature reviews and reports of the Select Committee on GRAS Substances of the Federation of American Societies for Experimental Biology to NTIS for reproduction and distribution to the public, as announced in the FEDERAL REGISTER of July 26, 1973 (38 FR 20054), April 17, 1974 (39 FR 13796), and September 23, 1974 (39 FR 34218).

The Commissioner concludes that, when documents are furnished to NTIS, a single copy will be available for public review at the Food and Drug Administration. All requests for copies of such documents will be answered by referring the person requesting the copies to NTIS. The Commissioner concludes that this approach fully satisfies the requirements of the Freedom of Information Act. Section 4.50 of the final regulations states this policy.

USE OF PRIVATE CONTRACTOR FOR COPYING

71. A comment suggested that, rather than charge for copying or sending information to an independent contractor for copying, information in Food and Drug Administration files that is available for public disclosure should be loaned to the person who is requesting it who can then copy it himself.

The Commissioner concludes that lending material for copying usually will not be permitted. The Food and Drug Administration has had difficulty with loss of materials from files in the office of the Hearing Clerk. The Food and Drug Administration would have no way to determine whether materials loaned to individuals would be returned intact. Only where materials requested are contained in bound volumes and their safe return can be assured would this possibly be feasible. The Commissioner concludes

that no change in the final regulations is warranted to handle these situations.

REQUEST FOR REVIEW WITHOUT COPYING

72. Numerous requests have been received by the Food and Drug Administration during the past 2 years for an opportunity to review specified documents without the necessity of copying them. Such requests have pointed out that copying is expensive and that on occasion only a few, if any, of the requested documents might be relevant to the person's needs. Copies would then be requested only of those documents which, after a personal review, are determined to be relevant.

The Commissioner advises that this procedure is entirely acceptable to the Food and Drug Administration except where a record involved contains both disclosable and nondisclosable material. Under those circumstances, the only feasible way to make the record available for inspection is to copy it with the nondisclosable material blocked out. Accordingly, a new § 4.52 is added to the final regulations to state this policy.

INDEXING TRADE SECRET AND CONFIDENTIAL COMMERCIAL OR FINANCIAL DATA AND INFORMATION

73. In recent court decisions, it has been suggested that, upon judicial review of an agency decision to deny documents or portions thereof, the agency may be required to itemize and index the disputed material in order to permit adequate judicial consideration of the issues.

The Commissioner concludes that, where records or portions thereof are denied on the basis of the exemption for trade secrets and confidential commercial or financial data and information, the matter is subsequently contested in the courts, and the court orders such itemization and indexing, the Food and Drug Administration will require that this be undertaken by the person affected, i.e., the person who submitted the documents. The Food and Drug Administration will also request that the person affected intervene to defend the trade secret status of the disputed documents. The failure of the affected person to itemize and index such disputed documents and to defend their status will constitute a waiver of any trade secret defense, and the Food and Drug Administration will promptly make them available for public disclosure. Section 4.53 states this policy.

The Commissioner concludes that the burden of defending the trade secret status of disputed documents is properly placed upon the affected person, because this status inures only to the benefit of that person. The Commissioner concludes that it should not be encumbent upon the government to defend the property right of a person in such a matter, and that, in any event, the person affected is in the best position to present a trade secret defense to the court.

EXEMPTIONS

74. The Freedom of Information Act provides that all government records and documents shall be made available to the public upon request, except for the following nine specific types of information:

1. (A) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order.

2. Related solely to the internal personnel rules and practices of an agency.

3. Specifically exempted from disclosure by statute.

4. Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

5. Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.

6. Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

7. Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel.

8. Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

9. Geological and geophysical information and data, including maps, concerning wells.

Of these nine exemptions, the four relating to trade secrets, internal memoranda, personal privacy, and investigatory files are of particular importance to the Food and Drug Administration.

In the proposed regulations published in May 1972, the provisions relating to these four exemptions were interspersed with a number of other sections relating to other matters. The Commissioner concludes that, for purposes of clarity, the provisions of the final regulations relating to these exemptions should be separated from the other sections and placed in a separate new Subpart D of Part 4.

75. Questions have arisen as to whether documents that are not available from the Food and Drug Administration because of the applicability of one of the exemptions, e.g., trade secrets, may be obtained directly from the company or other person who has submitted them.

The Commissioner advises that this procedure is entirely acceptable, and encourages companies and other persons submitting information to the Food and Drug Administration to make such exempt material available.

APPLICABILITY OF EXEMPTIONS

76. Numerous comments on the proposed regulations suggested that each of the available exemptions should be repeated as possibly applicable in every particular section dealing with the status of particular types of documents, e.g., correspondence and written summaries of oral discussions.

The Commissioner notes that § 4.36 of the proposal provided that nondisclosable portions of documents will be deleted from otherwise disclosable material before it is made public. It is apparent, however, that this provision was not clearly understood by many who reviewed the proposal. Accordingly, the Commissioner is placing this provision in new § 4.60, the first section in Subpart D of Part 4 dealing with exemptions, and has revised it more clearly to state the policy that each exemption is to be considered in determining whether all or any part of otherwise disclosable records should be deleted before making the records available to the public.

77. It was suggested in comments on the proposed regulations that, if deletions of confidential information are to be made, only the company is capable of making all necessary deletions. Frequently, it was stated, just the association of a trade name of a product with a certain composition may be a breach of confidentiality. In many records a complete rewriting would be necessary rather than a simple deletion because confidential material may be interwoven with nonconfidential material.

The Commissioner advises that, where there is some uncertainty as to the confidential status of the material, the person who submitted it will, under § 4.45, have the opportunity to indicate which portions of a record he believes should be exempt. However, the person who submits material does not under any circumstances have the final say on what will and will not be deleted.

TRADE SECRETS AND COMMERCIAL OR FINANCIAL INFORMATION THAT IS PRIVILEGED OR CONFIDENTIAL

78. By far the most extensive comment on the proposed regulations related to the definitions of "trade secret" and "confidential data or information" in proposed § 4.25, and the specific application of these definitions with respect to particular information received in petitions and applications as reflected in the proposed amendments to Parts 8, 121, 130, 135, and 146.

Numerous comments pointed out that the regulations must reflect the interaction of three statutes: The general Federal confidentiality statute, 18 U.S.C. 1905; the confidentiality provision in section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)); and the exemption under the Freedom of Information Act for "trade secrets and commercial or financial information that is privileged or confidential" (5 U.S.C. 552(b)(4)). The Commissioner notes that the preamble to the proposed regulations referred to all three statutes, and that the proposal was intended to reflect the congressional policy embodied in them.

The general Federal confidentiality statute, 18 U.S.C. 1905, provides that:

> Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than $1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment.

Section 201(j) of the Federal Food, Drug, and Cosmetic Act, (21 U.S.C. 321 (j)) prohibits:

> (j) The using by any person to his own advantage, or revealing, other than to the Secretary or officers or employees of the Department, or to the courts when relevant in any judicial proceeding under this Act, any information acquired under authority of section 404, 409, 505, 506, 507, 512, 704, or 708 concerning any method or process which as a trade secret is entitled to protection.

The Commissioner concludes that the Freedom of Information Act trade secrets exemption is at least as broad as, and is perhaps somewhat broader than, the confidentiality provisions of the other two statutes. The major difference between them is that, whereas the Freedom of Information Act exemption is discretionary, the other two statutes embody mandatory requirements. Disclosure of information prohibited by the other two statutes constitutes a criminal offense. Accordingly, to the extent that the other two confidentiality statutes apply, disclosure of trade secrets and confidential commercial or financial information by the Food and Drug Administration is wholly prohibited by Federal law. Even if such disclosure would be in the public interest, in order to protect the public health, and even if the Commissioner wishes as a matter of discretion to release such material, such disclosure cannot lawfully be undertaken.

The Commissioner concludes that it is not feasible or practical to determine the differences, if any, between the confidentiality provisions in 18 U.S.C. 1905 and 21 U.S.C. 331(j), and in the Freedom of Information Act. If there are any differences, they are extremely subtle and small. Accordingly, the Commissioner intends, for practical reasons of daily administration of the law, to regard the coverage of these provisions as identical. This will have the effect of prohibiting any discretionary release of documents that fall within the trade secrets and confidential commercial information exemption to the Freedom of Information Act. The Commissioner concludes that to do otherwise would invite confusion, lead to arbitrary decisions, and raise the possibility of violation of the criminal sanctions contained in the two mandatory Federal confidentiality statutes.

The Food and Drug Administration has on numerous occasions testified before Congress that current statutory prohibitions prevent disclosure of useful information contained in the agency's files, and particularly, data relating to the safety and effectiveness of drugs. The Food and Drug Administration cannot change the law, and thus is bound by the present provisions until Congress acts.

79. One comment discussed at length the Commissioner's citation of 18 U.S.C. 1905, the general Federal confidentiality statute, contending that this statutory provision was intended by Congress to be solely a "remedial" provision and does not represent substantive law. It argued that 18 U.S.C. 1905 has no application unless the information sought falls within one of the exemptions to the Freedom of Information Act, and that 18 U.S.C. 1905 is not itself an exemption to the Freedom of Information Act, citing "Frankel v. SEC," 336 F. Supp. 675 (S.D.N.Y. 1971); "Schaptro v. SEC," 339 F. Supp. 467 (D.D.C. 1972). It was suggested that 18 U.S.C. 1905 may properly be read to provide for criminal penalties for disclosure of information only when such disclosure is specifically prohibited by another statute, and to read 18 U.S.C. 1905 as an exemption to the Freedom of Information Act would, in effect, nullify the act and such could not have been the intent of Congress.

The Commissioner believes that this issue is moot, in view of the fact that the confidentiality provisions in 21 U.S.C. 331(j) and the trade secret exemption from the Freedom of Information Act cover the same type of information. The Commissioner also advises, however, that he does not concur with the legal interpretation provided by the comment. The comment did not cite any other confidentiality provision in Federal law that does not carry with it a sanction against release of the confidential information. Accordingly, if 18 U.S.C. 1905 were read solely as a remedial statute, to provide sanctions for disclosure of information that is prohibited by other sections of the law, it would be wholly meaningless. The only way to give this provision of the law true meaning is to read it as a general Federal prohibition against disclosure of trade secret information. This is the interpretation adopted by the Attorney General's Memorandum on the Freedom of Information Act. In any event, it is not necessary to resolve this legal question in this instance because of the separate confidentiality requirements in the Federal Food, Drug, and Cosmetic Act and the Freedom of Information Act.

80. A large number of comments questioned the use of the definition of a trade secret in section 757 of the Restatement of Torts. The comments argued that this definition was intended for purposes of litigation, to establish commercial damages, and thus is an inappropriate definition for harmonizing the competing values of an "open society" with adequate protection of trade secrets. The comments stated that the regulations should be sensitive to a "right of privacy" of a manufacturer and should recognize that information furnished by industry to the Food and Drug Administration is subject to a property right. Under the approach suggested in these comments, the key to a question of confidentiality would be whether the company intended the information to be confidential and whether it had, in fact, so treated the information, not whether there is a competitive use for the information.

The Commissioner concludes, upon review of the comments and the relevant case law, that the Restatement definition of a trade secret should remain the basic guideline for application of this exemption from the Freedom of Information Act. The Supreme Court has recently noted that the Restatement definition of a trade secret is "widely relied-upon," "Kewanee Oil Co. v. Bicron Corp.", 94 S. Ct. 1879 (1974). The Commissioner can find no reason why it should be utilized for determining commercial damages but not for purposes of the Freedom of Information Act.

The Commissioner agrees that there is a property right reflected by the trade secrets exemption from the Freedom of Information Act. He concludes that new § 4.61 adequately reflects that right.

The Commissioner does not agree that the intent of the person who submits documents to the Food and Drug Administration controls, or is even relevant to, the question whether those documents may be released to the public upon request under the Freedom of Information Act. The Freedom of Information Act establishes specific exemptions, which are to be applied by objective criteria. The subjective standard proposed in the comments would result in little or no disclosure of information to the public, contrary to the clear intent of Congress.

81. Comments suggested that the official Restatement Comment on the definition of trade secrets be included as part of the Food and Drug Administration regulations. Comment (b) to section 757 of the *Restatement of Torts* states that:

> An exact definition of a trade secret is not possible. Some factors to be considered in determining whether given information is one's trade secret are: (1) The extent to which the information is known outside his business; (2) the extent to which it is known by employees and others involved in his business; (3) the extent of measures taken by him to guard the secrecy of the information; (4) the value of the information to him and to his competitors; (5) the amount of effort or money expended by him in developing the information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

The Commissioner agrees that the official Comment on the Restatement definition is helpful in understanding the intended meaning of the definition. This Comment neither broadens nor narrows the definition itself, but simply elucidates the various factors encompassed within that definition. The Commissioner concludes that it is unnecessary to include this Comment as part of the definition in the final regulations, but advises that these factors will be considered in applying the definition set out in the regulations.

82. The definition of a trade secret as set forth in the proposed Uniform Trade Secret Protection Act was suggested as a possible alternative definition by several comments:

> Any formula, pattern, device or compilation of scientific, technical, or commercial information which the trade secret owner has taken reasonable precautions to maintain in secrecy so that except by the use of improper means there would be difficulty in acquiring it, and which gives said owner an opportunity to obtain an advantage over others who do not know or use it * * * Matter which otherwise constitutes a trade secret will not lose its status as such if it is disclosed by the trade secret owner to and accepted by an outsider in confidence * * *

The Commissioner concludes that there is no significant difference between this definition and the Restatement definition. Both place primary emphasis upon competitive advantage.

83. A number of comments cited case law dealing with trade secrets for the proposition that any technical or scientific information developed by a company may be considered a trade secret where it is not generally known or readily ascertainable and when it is protected and maintained as confidential by the developer and is of value to him.

The Commissioner agrees with this general statement of the case law, and concludes that the definition set out in § 4.61 of the final regulations adequately reflects it. In the Commissioner's opinion, the concept of commercial and competitive value is fully recognized by the courts.

84. Other comments contended that the Restatement definition of a trade secret is far too broad. One suggested that the controlling definition of trade secret in connection with the release of information should be the one noted in "Consumers Union v. Veterans Administration," 301 F. Supp. 796, 801 (S.D. N.Y. 1969), appeal dismissed, 436 F.2d 1363 (2d Cir. 1971):

> * * * an unpatented, secret, commercially valuable plan, appliance, formula, or process, which is used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities.

Information contained in a new drug application concerning animal and clinical testing, it was asserted, would not be a trade secret under this definition.

The Commissioner notes that the court in the "Consumers Union" case did not attempt an all-inclusive definition of a trade secret for purposes of all Federal law. It used a judicial description found in a 1925 case that arose under the predecessor statute of 18 U.S.C. 1905. There is no reason to consider that definition controlling for purposes of the Freedom of Information Act. Moreover, even this definition does not exclude clinical data since such data can properly be considered as part of a "plan" or a "process".

85. Comments stated that the Restatement definition of trade secret is inadequate because it does not include a crucial element required in the common law of trade secrets in order to prove damages, i.e., the requirement that improper means be employed in obtaining the information.

The Commissioner concludes that the common law requirement that improper means be employed to obtain a trade secret in order to prove damage is comparable to the requirement included in the proposed and final regulations that information cannot be regarded as a trade secret if it has been previously disclosed in a lawful manner to any member of the public. Accordingly, no modification in the definition in the final regulations is warranted.

86. Several comments took the position that, while the Restatement definition indicates that the information must give an individual an opportunity to obtain an advantage over competitors, the language in the second paragraph 5 of the preamble to the proposal seemingly excluded any information which is not currently providing a manufacturer with a competitive advantage and thus narrowed further what was already a narrow definition of trade secrets.

The Commissioner concludes that information which provided a manufacturer with a competitive advantage in the past, but is not currently providing a competitive advantage and will not, in all likelihood, do so in the future, is not covered by the Restatement definition and does not fall within the trade secrets exemption. If the information is not currently providing a competitive advantage the Food and Drug Administration will make a determination as to the probability of a future competitive advantage. Paragraph 5 of the preamble to the proposal indicated that the Food and Drug Administration has made some conclusions from past experience as to the probability of future competitive advantage with regard to safety, effectiveness, and functionality data. If a manufacturer can show in a particular case that, because of extraordinary circumstances, these data will provide a future competitive advantage, they will not be made available for public disclosure.

87. Several comments pointed out that the statutory exemption for trade secrets actually extends to two separate types of information, trade secrets and confidential commercial information, and that while, in theory, these two were treated as separate entities in the proposal, by relying solely upon the criterion of competitive advantage the two were in fact merged together into one narrow exemption. It was urged that the Restatement definition is only adequate to deal with the concept of "trade secret" and is not relevant in determining whether or not information was "confidential". It was again suggested that the manner in which information was treated was of greater importance in determining its confidential nature than the immediate use of the information. It was suggested that the regulations be amended to provide a separate type of exemption for confidential information that does not rely upon the concept of competitive advantage.

Other comments emphasized that there was no exemption for confidential information per se and that the exemption applies only to confidential information that is commercial or financial in nature.

The Commissioner concludes that, under the relevant statutes, trade secrets and confidential commercial or financial information are two separate categories of exempt information, and that there are different criteria for each. This is reflected in the separate definitions for each given in § 4.61 (a) and (b) of the final regulations. If information falls within either paragraph (a) or (b) it will be considered exempt. However, it should be noted that the matter of competitive advantage is often significant in determining whether commercial information is confidential within the meaning of § 4.61(b) since confidential information per se is not exempt, but only confidential information that is commercial or financial in nature.

88. Numerous comments discussed an appropriate definition for "commercial or financial information" that is "privileged or confidential". Some argued that this would include all information which a company regards as confidential and uses in the course of its business, and others contended that it should apply only to such clear financial information as data relating to sales and profits.

The Commissioner has reviewed the legislative history of the Freedom of Information Act and has concluded that this phrase is properly interpreted on a narrow basis. If it were interpreted broadly, as suggested by some comments, it would make the trade secrets exemption irrelevant, and indeed would largely undermine the philosophy of the Freedom of Information Act. The legislative history indicates that this portion of the exemption was intended to apply to information customarily held in strict confidence, such as business sales statistics, inventories, customer lists, manufacturing processes, and technical or financial data submitted to obtain a loan, as well as to information customarily subject to the doctor-patient and lawyer-client privileges. The Commissioner believes that the provisions of 18 U.S.C. 1905 and 21 U.S.C. 331(j) are properly interpreted in the same way. Accordingly, the Commissioner has revised the final regulations to reflect this approach to the matter.

89. There was objection to the dependence of a confidential status upon whether or not the information was of a type "customarily held in strict confidence or regarded as privileged." The issue, it was asserted, was whether a particular record or document was, in fact, held in confidence.

The Commissioner does not agree with this comment. If the confidential status of commercial information depended solely upon the way that each individual manufacturer handles information in his own business, decisions under the Freedom of Information Act would be highly inconsistent and would require the Food and Drug Administration to conduct an ad hoc inquiry into the way that each manufacturer handles documents submitted to the agency. Such an approach is neither practicable nor contemplated by the law.

The Commissioner notes that the legislative history shows that Congress intended that commercial and financial information submitted to the government would be handled according to the customary and usual practice in the industry rather than according to the way that any particular firm regards it. Thus, it is customary to expect that the doctor-patient and lawyer-client privilege will be respected, whereas many other forms of commercial information are not customarily held in confidence.

In this respect, the criteria for a trade secret and for confidential commercial information are substantially different. The former depends entirely upon the competitive advantage attributable to the specific information involved, whereas the latter may be applicable even if there is no specific competitive advantage involved if such information is generally held in strict confidence according to usual industry practice. In both instances, of course, lawful prior public release of the information automatically destroys the confidential status of the information.

90. Comments asserted that the need for the public disclosure of safety and effectiveness data is so great that no justification of trade secret or confidential commercial status was sufficient to withhold such information.

The Commissioner concludes that it is Congress which weighs the need for the release of certain information against the need for retaining it as confidential. With regard to trade secrets, Congress has concluded that the need to withhold such information outweighs the need to release it. The Freedom of Information Act expressly makes an exemption for this type of information and other statutes provide for criminal penalties for releasing it.

91. Comments suggested that language covering manufacturing and quality control procedures be added to this provision in the final regulations even though it is specifically dealt with in other provisions.

The Commissioner advises that § 4.61 is intended to serve as a general definition, and not to catalog all information that may have trade secret status. The fact that it does not mention a particular type of information does not mean that information is not a trade secret.

92. One comment contended that the fact that more than one manufacturer in an industry may know of and use an ingredient does not lessen the competitive advantage that accrues to those manufacturers who know and use the ingredient as opposed to all other manufacturers in the industry. The comment also argued that it is frequently impossible for any manufacturer to know whether any of his competitors has become aware of his use of a particular ingredient.

The Commissioner concludes that use of an ingredient by more than one manufacturer for the same purpose is not, in itself, sufficient to justify a conclusion that such use is not a trade secret. The Commissioner recognizes that whether the use of an ingredient constitutes a trade secret will depend upon a number of factors, and primarily whether it has previously been disclosed to the public as defined in § 4.81 of the regulations. A representation by a company that, to the best of its knowledge and belief, the ingredient has not previously been disclosed to any member of the public, will be sufficient to create a prima facie case of confidentiality, which may be rebutted by the Food and Drug Administration if it determines that the ingredient has in fact become public knowledge.

93. Comments asserted that the release of information under the proposed regulations would result in claims against the government based on "Padbloc v. United States," 161 Ct. Cl. 369 (1963) and "Bofors v. United States," 153 F. Supp. 397 (Ct. Cl. 1957).

The Commissioner concludes that, since the Freedom of Information Act requires release of information not specifically exempt, and no contract is involved, no claims may properly be made against the government under the "Padbloc" case. The Commissioner notes that the "Padbloc" and "Bofors" cases involved a breach of contract in a commercial venture with the government and thus are not relevant here.

94. Comments suggested that a manufacturer's assertion that specified information is either a trade secret or confidential commercial information not be overruled unless "clearly erroneous." It was also suggested that a final determination be subject to judicial review on the weight of the evidence as a whole, since otherwise there would be too severe a burden of persuasion for the company in court to overturn an incorrect determination by the Food and Drug Administration.

The Commissioner concludes that the Freedom of Information Act does not permit the Food and Drug Administration to accept a manufacturer's assertions of confidential status without careful scrutiny of each claim. Moreover, under the Freedom of Information Act the courts are obligated to "determine the matter de novo" and the burden is on the agency to sustain any denial of records.

95. A question has arisen as to whether information that has been made public through a patent can nevertheless be classified as a trade secret.

The Commissioner concludes that all information made public through a patent will be available for public disclosure, and that the trade secrets exemption will under no circumstances be applicable to any such information.

96. A comment contended that information which may fall within the trade secrets protection cannot be divulged without notice, hearing, and judicial review, citing "American Sumatra Tobacco Corp. v. SEC," 93 F.2d 236 (D.C. Cir. 1937).

The Commissioner concurs with the substance of this comment. Notice and an opportunity to present comments on the rules to be utilized in determining when the trade secrets exemption applies were furnished by the proposed regulations published in May 1972. The possibility of judicial review has been extended, with rare exception, to affected persons when disclosure is contemplated by the Food and Drug Administration in situations where the facts present a close question. Upon the receipt of any further comments and any modifications of these regulations as provided in this final order, judicial review will be available through a declaratory judgment action challenging the final regulations or a declaratory judgment action in accordance with § 4.46 challenging the proposed release of specific records. Accordingly, the Commissioner concludes that the general principles laid down in the "Sumatra" case are fully satisfied.

INTER- AND INTRA-AGENCY MEMORANDA OR LETTERS

97. Section 4.27 of the proposed regulations, which dealt with the internal memorandum exemption from the Freedom of Information Act, is redesignated as § 4.62 in the final regulations.

Comments stated that the term "memoranda" is unclear. Questions were asked whether it refers to all written communications, including an investigator's report, or only to a document entitled "memorandum." It was suggested that the preamble should state the criteria for determining whether or not a document is a "memorandum."

The Commissioner advises that the term "memoranda" refers to all written communications and not just to those documents bearing the title "memorandum." The legislative history of the Freedom of Information Act reveals that this was the intended congressional meaning of the term. Section 4.62 has been revised accordingly.

98. One comment contended that if the explanatory portions of an internal agency memorandum are deleted and the remainder is disclosed, the "factual" information may be reported out of context. It was suggested that, because of this consideration, all portions of agency memoranda should be exempt. It was also suggested that, since it is frequently difficult to distinguish between "fact" and

"conclusion," some clarification of the term "factual information" would be helpful. It was stated that "factual information" should be defined to include factual analysis and materials which can be considered surveys and studies.

The Commissioner notes that the intra-agency memorandum exemption applies only to opinions, recommendations, or policy discussions within the deliberative processes of an agency. The courts have held that an entire agency memorandum that includes both factual information and opinions is not exempt from disclosure unless fact is so interwoven with opinion that the two cannot be separated. The Commissioner intends to make liberal use of his discretion to disclose internal memoranda reflecting policy discussions, with deletion only of trade secret data and material relating to personal privacy, wherever this can be done without disrupting the agency's activities. In all other instances the agency will do its best to distinguish between "fact" and "opinion." The Commissioner concludes that it is neither necessary nor practical to define the term "factual information." The dividing line between fact and opinion must be made on a review of the specific material in question.

99. Comments contended that the agency, by not disclosing agency memoranda while at the same time disclosing written communications from private external sources, creates the possibility of presenting a distorted view. For example, damaging communications from and to a firm could be disclosed while data contained in intra-agency memoranda relevant to a full understanding of the situation would be withheld.

The Commissioner advises that he intends, wherever feasible, to exercise his discretion to release internal agency memoranda in order to avoid the possibility of a distorted view. In any event, the factual portions of internal memoranda are clearly disclosable unless they cannot reasonably be separated from the policy portions.

100. In a number of instances, requests have been received by the Food and Drug Administration for disclosure of internal memoranda analyzing data or information submitted to the Food and Drug Administration. Such memoranda invariably contain both factual information and opinions and recommendations, and the two very seldom are or can be separated. Moreover, even the way that the factual information is presented may well reflect the internal opinions and views of the Food and Drug Administration staff.

The Commissioner concludes that, as a general rule, such internal summaries of data and information will not ordinarily be disclosed if the underlying data and information are available for public disclosure. Thus, an analysis of food additive safety data, all of which are available for disclosure, usually will not be made public. Where the underlying data and information are not available for public disclosure, however, the Commissioner either will exercise his discretion to release the entire analysis with appropriate limited deletions, such as names of patients, trade secrets, and statements that would represent an unwarranted invasion of privacy, but disclosing all of the deliberative and policy discussion, or will, at the very least, make available the document with the factual information intact and all of the deliberative and policy discussion deleted. Thus, as discussed elsewhere in this preamble, the Commissioner has concluded to make available for public disclosure internal memoranda summarizing the safety and effectiveness data contained in previously approved new drug applications, with deletions only of the limited type mentioned above, since the underlying safety and effectiveness data are themselves not publicly available. This general approach to the handling of internal agency summaries has recently received judicial approval in "Montrose Chemical Corp. v. Train," 491 F.2d 63 (D.C. Cir. 1974).

101. It is frequent practice for the Food and Drug Administration to prepare a summary of comments received on proposed regulations or objections received on final regulations, for purposes of internal decisionmaking. Requests have been made for copies of such summaries.

The Commissioner concludes that such summaries are internal memoranda that ordinarily will not be made available for public disclosure. Such summaries usually combine both factual information and conclusions and policy recommendations. The underlying documents on which the summary is based are all available for public disclosure. The courts have recently ruled that such summaries are therefore exempt from disclosure pursuant to the internal memorandum exemption. "Montrose Chemical Corp. v. Train," 491 F.2d 63 (D.C. Cir. 1974).

102. Weekly reports are prepared by Food and Drug Administration field offices for submission to the Executive Director for Regional Operations in Washington. Requests have been made for such reports.

The Commissioner advises that such reports are internal memoranda that are explicitly exempt from disclosure under the Freedom of Information Act. Although they contain some factual information that may be disclosable, they also contain conclusions and recommendations relating to policy that are not disclosable.

The Commissioner advises that, in order to promote free and open discussion between field personnel and headquarters, it is not feasible to make these reports available for public disclosure on a routine basis. The factual information contained in any specific report may well be available for public disclosure if it does not otherwise fall within an exemption from the Freedom of Information Act, and the Commissioner will also consider release of any specific report on a discretionary basis if good cause is shown for such release.

CLEARLY UNWARRANTED INVASIONS OF PERSONAL PRIVACY

103. A comment wanted to know the exemption to the Freedom of Information Act upon which the deletion of names from records is based. The comment stated that names or identifying characteristics may be deleted from "personnel and medical files" only if disclosure would produce a "clearly unwarranted invasion of privacy." Whether or not an invasion of privacy is clearly unwarranted must be decided on a case-by-case basis. "Getman v. NLRB," 450 F.2d 670 (D.C. Cir. 1971) was cited for the proposition that an agency must "balance the right of privacy of affected individuals against the right of the public to be informed, and the statutory language 'clearly unwarranted' instructs [an agency] to tilt the balance in favor of disclosure", 450 F.2d at 674.

The Commissioner advises that he bases the deletion of names upon both the privacy exemption under the Freedom of Information Act and general principles pertaining to the right to privacy under common law and the Constitution. The Freedom of Information Act exempts from disclosure all medical and personnel files, and all similar files the disclosure of which is a clearly unwarranted invasion of personal privacy. The agency has concluded that the release of any names contained in a medical file is clearly unwarranted, except in extraordinary circumstances. A possible exception to this general conclusion might arise if an issue of fraud were to be involved. Similarly, names of individuals involved in criminal investigations will be deleted if no criminal charges are brought, in order to prevent unfair accusations.

104. Many questions have been asked about the relationship between proposed § 4.31 and the related provisions in proposed § 4.26(f). It was contended that they are to some extent inconsistent or, in any event, require clarification, since proposed § 4.31 provided for public disclosure of the identity of any person who writes to the Food and Drug Administration and proposed § 4.26(f) provided for deletion of the name of the person reporting adverse reaction and complaint information.

The Commissioner agrees that these two provisions require clarification, and appropriate modifications have been made in the final regulations. The Commissioner advises that, pursuant to § 4.111(c)(3)(i) of the final regulations, all consumer letters and other communications received from lay persons, which relate to their own personal complaints, will be made public after deletion of names and other identifying information, in order to protect their privacy. With respect to complaints received voluntarily from third parties, usually health professionals, i.e., doctors, nurses, pharmacists, and so forth, relating to such matters as adverse reactions they have observed, and which thus relate to complaints made on behalf of other persons, the Commissioner concludes on the

basis of the longstanding experience of the Food and Drug Administration that it is essential to pledge that all identifying information will be deleted prior to public disclosure, and § 4.111(c)(3)(iii) so provides. If such a pledge is not made, the possibility of persuading health professionals voluntarily to submit important adverse reaction information on marketed products to the Food and Drug Administration is substantially diminished, and indeed perhaps wholly destroyed. Such information is important to the Food and Drug Administration and to the public, since it may well lead to action by the Food and Drug Administration designed to protect the public health. Accordingly, the Commissioner concludes that deletion of all such identifying information from such reports prior to release to the public is fully within the intent of the personal privacy and confidential commercial information exemptions.

105. Comments stated that, even though a specific request for confidentiality may not be made, consumer complaint letters may contain documents which are per se confidential. Some complaints contain medical records which were obtained by a patient's written release to doctors or hospitals. Such medical records may be confidential or such medical release may imply the confidentiality of the entire complaint. Release of medical records of complainants may violate the doctor-patient relationship of confidentiality. The comments pointed out that the Freedom of Information Act exempts medical files of government employees from disclosure, and urged that this same privilege be extended to all letters containing such material which are submitted to the Food and Drug Administration.

The Commissioner advises that such medical records are seldom enclosed with a consumer complaint. However, if the Food and Drug Administration receives medical records of a complainant, they will be held as confidential even if the complainant makes no specific request for confidentiality, except that they may be disclosed to the complainant.

106. Comments on various provisions in the proposed regulations contended that manufacturer and product names should be accorded the same treatment as individual names. It was urged that corporations be permitted to require the Food and Drug Administration to keep their identity confidential if they submitted a particular piece of information voluntarily. Comments requested that the requirement of a showing of "extraordinary circumstances" for nondisclosure of corporate names be deleted. Other comments argued, however, that a manufacturer should never be permitted to make a showing of "extraordinary circumstances" to justify nondisclosure of his identity.

The Commissioner concludes that the same treatment should not be given to corporate and product names as to individual names. The right to privacy applies only to individuals. If a corporation requests presubmission review of information it wishes to submit voluntarily pursuant to § 4.44, and makes a claim of confidentiality for the manufacturer or brand name which is rejected by the Food and Drug Administration, the corporation has the option of withdrawing that information.

The Commissioner concludes that the final regulations properly provide for a showing in a particular instance that a manufacturer or product name constitutes confidential commercial information and thus, under § 4.61, is properly deleted from a record before it is made available for public disclosure.

107. Comments contended that the name of the investigator in a test or research project should be deleted where the report of the test or project is otherwise disclosable, in order to prevent a clearly unwarranted invasion of his personal privacy.

The Commissioner does not agree with this comment. The investigator is the person who is responsible for conducting the test or study. Names of investigators are customarily published in the scientific literature with a summary of their work, and an investigator's curriculum vitae customarily refers to the research projects in which he has participated. Accordingly, the Commissioner concludes that disclosure of the name of the investigator on a particular project is neither a clearly unwarranted invasion of personal privacy nor confidential commercial information.

108. Questions have arisen as to whether the Food and Drug Administration will divulge all agency records relating to a specifically named individual, without that individual's consent.

The Commissioner advises that any such request is regarded as a clearly unwarranted invasion of personal privacy. A "fishing expedition" of this type will therefore not be permitted. In the event that a specific record relating to a specific individual is requested, it will be released in accordance with the various provisions established in the final regulations.

109. Comments suggested that § 4.31(b) of the proposed regulations, which stated that the identity of patients should not be disclosed in IND and NDA submissions, more properly belongs in other portions of Food and Drug Administration regulations.

The Commissioner concurs that this provision should be added to other Food and Drug Administration regulations, but believes that the principle should also be stated in Part 4. Accordingly, § 4.63(b) of the final regulations states this policy in general terms.

Investigatory Records Compiled for Law Enforcement Purposes

110. The proposed § 4.32, dealing with investigatory records, has been redesignated as § 4.64 in the final regulations.

The Commissioner notes that a number of comments and questions specifically directed to § 1.6(c) of the regulations, dealing with section 305 hearing records, are also generally applicable to other investigatory records compiled by the Food and Drug Administration for law enforcement purposes. Accordingly, the conclusions of the Commissioner stated in this preamble are equally applicable to § 4.64 of the final regulations, and appropriate conforming modifications have been made in § 4.64.

111. Numerous questions have been raised with respect to specific documents that will or will not be made available pursuant to the investigatory records exemption.

Each of the specific types of letters, reports, forms, worksheets, and other documents prepared or used by the Food and Drug Administration in the course of its regulatory activities has been reviewed in detail by the Commissioner, in light of the exemption for investigatory records. The proposed regulations published in May 1972 took a very open disclosure policy, and provided for disclosure even where the law permitted retention of records as confidential. Implementation of that proposal during the past 2 years has demonstrated that even greater disclosure would not harm the regulatory activities of the agency. Accordingly, the Commissioner has concluded that the final regulations should continue the broad disclosure policy reflected in the proposal, and indeed should provide even greater release of such information. Thus, as discussed in relation to § 4.101, all records relating to administrative enforcement action will be released even though they may also be part of an investigatory file.

The sole exception to this rule applies where the possibility of criminal prosecution is under active consideration. As discussed above in this preamble, considerations of interference with enforcement proceedings and the right of an individual to a fair trial and an impartial adjudication lead the Commissioner to conclude that section 305 hearing records should not be released until the matter is closed. These same considerations apply to all investigatory records pertaining to a matter that is under active review with respect to possible criminal prosecution.

This exception only applies, however, with respect to such records while criminal prosecution is under active and current consideration. The Commissioner recognizes that any records in any file within the Food and Drug Administration may at some point lead to, or become part of, a criminal prosecution. This is plainly an insufficient justification for retaining all such material as confidential. Thus, it is fully anticipated that in some instances investigatory records will be released before any serious consideration of criminal prosecution even though criminal prosecution is later considered and in fact instituted. The Commissioner concludes that this anomaly cannot be avoided if there is to be a policy in favor of the greatest possible disclosure of information to the public. The Commissioner believes that any disruption of enforcement proceedings by adherence to this policy will be insubstantial, and that

there will be no adverse impact whatever on the right to fair trial and impartial adjudication.

The Commissioner has also considered these matters in light of the revision of the investigatory records exemption contained in the Freedom of Information Act amendments. It is the Commissioner's conclusion that the final regulations fully meet the standards set out in that revision and thus that the regulations do not require further change.

112. Comments contended that the release of investigatory records after a matter is closed is directly contrary to the Food and Drug Administration's prior position as expressed in Mamana, "FDA's Obligations Under The 1966 Public Information Act," FDA Papers, Sept. 1967 at page 18:

> It is also reasonable to conclude that the indiscriminate distribution of FDA investigative files to the public would result in a carte blanche interpretation of the facts contained in such files. This would not be in keeping with the principles of fair play and justice to those regulated.

The Commissioner advises that, since the publication of that article, there has been a reevaluation of the release of such information to the public. Whether or not to claim a particular exemption is discretionary and, in this instance, the agency has exercised its discretion in favor of greater disclosure. Experience during the past 2 years has demonstrated that this will not jeopardize the agency's law enforcement efforts. The Commissioner therefore concludes that disclosure of this material is entirely proper.

113. A comment contended that, in order to justify the use of the investigatory records exemption, there must be a concrete prospect of enforcement proceedings, citing "Bristol-Myers v. FTC," 424 F. 2d 935 (D.C. Cir. 1970). It was urged that, after an inspection has been made, the Food and Drug Administration should have 3 months to decide whether or not to institute proceedings. If a decision is made not to institute proceedings or if no decision is made within 3 months, the files should be opened. The comment stated that the 5-year statute of limitations would destroy all attempts to examine or understand Food and Drug Administration compliance activities within the last 5 years, which is clearly not the intent of the Freedom of Information Act.

The Commissioner concludes that it is appropriate to establish internal guidelines for determining when a matter is "closed." No arbitrary time period can properly be established. In very few, if any, instances will disclosure of investigatory records be delayed until the statute of limitations runs. A decision on action is normally made within the Food and Drug Administration within a relatively short period of time. Only where a decision is made to take legal action and the action results in protracted preparation or litigation will the matter normally remain open for any lengthy period of time.

The Commissioner advises that investigatory records will be available as soon as the decision is made not to take action on the specific matter involved in that record. To make this intent clearer, § 4.64 has been revised to replace the word "file" with the word "record." This is consistent with the Freedom of Information Act amendments, which make the same change in the statutory language. Thus, although a Food and Drug Administration file remains open on a continuous basis, and records on which no action has been taken in the past may well be the subject of future action where there is a continuing problem, individual records will be released at the earliest possible moment.

The Commissioner advises that, except in unusual circumstances, a record will be considered closed following:

1. *Inspection*, when:

a. The report, as endorsed by the supervisor, shows either no action is indicated (NAI), or in compliance (IC), and there are no samples in the process of being analyzed which are related to the inspection. If samples are being analyzed, the file remains open until the samples are determined to be not actionable (NAI).

b. The report is endorsed as voluntary action indicated (VAI), and a subsequent decision is made by higher review authority that no action will be taken (NAI).

NOTE: The issuance of a letter to the company has no bearing on the status of the matter.

2. *Sample collection*, when:

a. The district office concludes the sample is not actionable (NAI), whether or not the sample was analyzed.

b. A decision is made by higher review authority that the sample is not actionable (NAI), based on the sample results.

c. Any legal action involving the sample is completed.

NOTE: Results of analyses or worksheets shall be given to a firm on request and thus are available to the public on request.

3. *Regulatory letter*, when:

A response has been received which has been verified to show the violations were corrected, and no further action is contemplated.

NOTE: The regulatory letter itself and any correspondence relating to it or documents given to the company are available to the public as soon as they are issued.

4. *Seizure*, when:

a. A decision is made not to forward the case to a United States attorney (PA).

b. A final decision is made by the Department of Justice not to file the case.

c. The seizure has been adjudicated, time for appeal has passed, and no further action (criminal or civil) is contemplated using that sample. This coincides with permanent abeyance (PA) of the case.

NOTE: Court papers filed in connection with a seizure are available to the public when filed, unless directed otherwise by the court.

5. *Section 305 citation*, when:

A final agency decision has been made to seek no further action on the matter (PA). If further review of the matter is requested, the matter remains open until a decision is made by the reviewing office to close the case with no further action. If prosecution is sought, the matter remains open until that action is concluded.

NOTE: Providing a copy of the memorandum prepared by the Food and Drug Administration summarizing the hearing to the citee or his attorney, to assure the accuracy of the record, does not require release of that memorandum to the public.

6. *Prosecution*, when:

a. A decision is made not to forward the case to a United States attorney (PA).

b. A final decision is made by the Department of Justice not to file the case.

c. The case is adjudicated and time for appeal is past.

NOTE: Court papers filed in connection with a prosecution are available to the public when filed, unless directed otherwise by the court.

7. *Injunction*, when:

a. A decision is made not to forward the case to a United States attorney (PA).

b. A final decision is made by the Department of Justice not to file the case.

c. The case is adjudicated and time for appeal is past.

NOTE: Court papers filed in connection with an injunction are available to the public when filed, unless directed otherwise by the court.

8. *Recall*, when:

A decision has been made not to pursue criminal or civil action, based on the recall. This may be some time after the recall is completed, or shortly after it begins. The point is reached whenever the decision is made.

NOTE: Information on each recall is immediately released to the press, specific press releases may be issued on certain recalls, and all correspondence with the firm is available to the public upon request.

9. *Imports*, when:

a. A refusal of entry has been issued. The fact of detention is public information as soon as the detention is made, but the file does not become available until after there is an opportunity for an informal hearing, a final refusal of admission is made, and all litigation is concluded.

b. The product has been released into commerce.

LIMITATIONS ON EXEMPTIONS

114. A number of the regulations in the May 1972 proposal relate to limitations on the exemptions from the Freedom of Information Act, i.e., exceptions to the usual rules of nondisclosure.

The Commissioner concludes that these limitations should properly be grouped together in a separate new Subpart E of Part 4, for purposes of clarity.

APPLICABILITY OF LIMITATIONS ON EXEMPTIONS

115. Comments requested clarification on the extent to which a record that is ordinarily exempt from public disclosure could nonetheless be disclosed by the Food and Drug Administration to limited categories of persons without invoking the rule that a record must be available to all members of the public if it is available to anyone.

The Commissioner advises that the Freedom of Information Act specifically recognizes certain categories of persons and situations where a record may be disclosed without making it generally available to all members of the public. Section 4.80 sets out those circumstances where disclosure of a record will and will not require general disclosure to the public. For example, when the Commissioner concludes to exercise his discretion pursuant to § 4.82 to disclose an internal memorandum that he would otherwise be authorized to withhold from disclosure, that record must be available to any member of the public who requests it. If the Commissioner discloses that internal memorandum to Congress or to another Federal agency, however, disclosure to the public is not required.

DATA AND INFORMATION PREVIOUSLY DISCLOSED TO THE PUBLIC

116. Section 4.28 of the proposed regulations, which provided that data and information previously made available to the public will not be regarded as confidential by the Food and Drug Administration, has been redesignated as § 4.81 in the final regulations.

A number of comments stated that the proposal was too restrictive and indicated that there may be situations in which trade secret information is furnished in confidence to individuals other than employees or paid consultants, e.g., confidential disclosures to clinical investigators or to potential or actual licensees, or during discovery, or to other government agencies, or to health authorities outside the United States. It was suggested that the applicant himself may have received the information under contract from a third party. It was further suggested that the provision be revised to contain the following language:

> For purposes of these regulations, such data and information will not be deemed to have been disclosed to the public if it is disclosed by the owner thereof on a confidential basis and with appropriate restrictions on its disclosure or use.

The Commissioner agrees that there may be other legal arrangements between business associates under which such disclosure of trade secrets is entirely appropriate and would not destroy the confidentiality of the information involved. Section 4.81 of the final regulations so provides. Disclosure to a limited number of unpaid consultants solely for purposes of the consultation involved is specifically permitted.

117. Comments stated that the mechanics for determining whether there has been prior public disclosure of a submission are unclear. It was suggested that a statement be required, subject to the False Reports to the Government Act (18 U.S.C. 1001), for all information previously submitted.

The Commissioner concludes that a statement with respect to prior disclosure will be requested only when the Food and Drug Administration concludes that the issue is relevant to a question of disclosure. It would not be feasible to require such a statement for all information previously submitted to the agency, and any such requirement would be wasteful because much of the previously submitted information is unlikely ever to be requested.

118. A comment contended that the policy as stated in the preamble seems more restrictive than as stated in the proposed regulation, i.e., the preamble refers to disclosure by the manufacturer, while the proposed regulation refers to disclosure by "any person."

The Commissioner advises that lawful disclosure to the public by any person is sufficient to destroy the confidentiality of the information. Disclosure of material only in an unlawful way, e.g., stolen material, will not destroy its confidentiality.

119. A question was raised as to what was meant by "public disclosure." It was suggested that the disclosure in a scientific article of the product formula should not be equated with the manufacturing process information and quantitative formula submitted to the Food and Drug Administration. Refinement of a manufacturing process to the point where it produces a drug of high quality is a process more costly and exacting than required to prepare new components which are described in scientific literature.

The Commissioner advises that public disclosure is any lawful disclosure outside of the company and its consultants. Any information that has appeared in a published article has been publicly disclosed. However, such publication constitutes public disclosure only of the information that appears in the article. If only the product formula appears, only the product formula has been disclosed.

120. Questions have been raised as to whether disclosure in litigation is sufficient to break the trade secret status of data and information.

The Commissioner concludes that such disclosure would break the trade secret status of the material unless it were disclosed to the court in camera or pursuant to a protective order or only to defense counsel.

121. Questions were raised in comments as to whether the confidential status of a trade secret will be broken if the information involved has been given to licensees, to Federal or State agencies or foreign governments for regulatory purposes, or to business associates under contract.

The Commissioner advises that, under all the situations described above, the confidentiality of the information will be retained. It is only when the information is given to a member of the public without any arrangement of this type that confidentiality can no longer be claimed.

The Commissioner specifically rejects the suggestion that trade secret material should not lose its confidential status if it is divulged to any member of the public pursuant to any type of "confidentiality agreement." This loose wording would permit, for example, a manufacturer to disseminate any information he wishes on a widespread basis, simply through stating in his letters that receipt of the information constitutes agreement that it will be retained as confidential. The Commissioner concludes that the trade secret laws cannot properly be construed this broadly.

122. A comment asked whether, in a situation where the composition of a new packaging material and process has been published in a patent, but the patent does not reveal the detailed commercial process, the Food and Drug Administration would conclude that the detailed commercial process had been previously disclosed, and thus would release it to the public.

The Commissioner advises that the Food and Drug Administration will find a previous disclosure of information only to the extent that such information has actually been disclosed. In the instance cited in the comment, if the commercial process has not in fact been published in the patent or elsewhere, there has not been prior disclosure and the Food and Drug Administration will not release the information.

123. In one instance during the past 2 years, the Food and Drug Administration denied a consumer's request for release of the identity of the color used in a drug when the company affected informed the agency that it had not previously made this information available to the public. Shortly thereafter, when a physician requested the same information from the company, it was given to him. The Food and Drug Administration then released the information to the consumer who had originally requested it.

The Commissioner concludes that it is important to emphasize to companies who request trade secret status of data or information submitted to the Food and Drug Administration that any statements made with respect to the lack of prior release to the public are subject to the False Reports to the Government Act. Accordingly, all communications with firms with respect to this type of issue in the future will contain a statement to that effect.

DISCRETIONARY DISCLOSURE BY THE COMMISSIONER

124. The exemptions from public disclosure under the Freedom of Information Act are discretionary, not mandatory. Numerous occasions have arisen in the past 2 years where the Commissioner has concluded that documents exempt from public disclosure under the Freedom of Information Act should nonetheless be made available to the public.

Accordingly, the Commissioner has concluded that new § 4.82 should be

added to the final regulations to authorize the discretionary release of documents which could lawfully be held as confidential under the Freedom of Information Act, where the Commissioner concludes that such release would be in the public interest, and where such release is not otherwise prohibited by law.

125. Comments contended that the purpose of the Freedom of Information Act was to make the operations of Federal agencies more available to public scrutiny without subjecting information derived from private sources to unwarranted disclosure. Comments argued that the proposed regulations published in May 1972 released most information supplied by industry without releasing internal Food and Drug Administration memoranda.

The Commissioner advises that the congressional intent was to permit greater public scrutiny of Federal agency operations and the data and information on which those agencies base their decisions. Even though internal agency memoranda are explicitly exempt from disclosure under the law, the final regulations provide for discretionary release of such information whenever the Commissioner concludes that it will not hinder agency operations and is in the public interest.

126. Questions have arisen as to whether the Commissioner may, in his discretion, release trade secret information.

The Commissioner advises, for the reasons set out elsewhere in this preamble, that he has no discretion to release trade secret information. All records subject to the trade secrets exemption from the Freedom of Information Act are prohibited from public disclosure pursuant to 18 U.S.C. 1905 and 21 U.S.C. 331(j). These prohibitions are enforceable by criminal sanctions. Accordingly, new § 4.82 does not permit discretionary release of such material.

127. Questions have also arisen with respect to the discretionary release of names of individuals where that would constitute a clearly unwarranted invasion of privacy.

The Commissioner regards the right to privacy as a fundamental principle of law and ethics. Accordingly, new § 4.82 prohibits dicretionary release of any information that falls within the personal privacy exemption.

128. Questions have arisen as to whether the written comments of a special government employee sent to the agency with respect to proposed regulations published in the FEDERAL REGISTER will be made public by filing them with the Hearing Clerk of the Food and Drug Administration, along with all other comments on the proposal.

The Commissioner concludes that any such written comments are properly filed with the Hearing Clerk. Similarly, any written comments by other governmental agencies are also properly filed with the Hearing Clerk. The Commissioner concludes that, although these comments could be retained as confidential pursuant to the exemption for inter- and intra-agency memoranda, the policy of developing a full public record for decision on proposed regulations should be paramount. Accordingly, the Commissioner concludes that he will exercise his discretionary authority by placing all such documents on public display in the office of the Hearing Clerk.

129. Concern has been expressed that, if the Commissioner exercises his discretion to release certain types of documents even though they properly fall within an exemption from the Freedom of Information Act, e.g., internal memoranda, this may be regarded as precedent that will require the disclosure of all similar documents in the future.

The Commissioner advises that discretionary release of some documents does not require disclosure of all similar documents. Such a conclusion would be counter-productive, because it would require rigid adherence to the statutory exemptions, and less disclosure of information to the public, contrary to the intent of the Freedom of Information Act. A new provision has been added to § 4.82 of the final regulations to state this policy.

DISCLOSURE PURSUANT TO COURT ORDER

130. Comments pointed out that the Food and Drug Administration cannot guarantee confidentiality for any record, since a court may conclude that the information is subject to public disclosure.

The Commissioner concurs with this comment. Accordingly, new § 4.83 states that a determination of confidentiality by the Food and Drug Administration pursuant to § 4.44, or indeed pursuant to any provision in these final regulations which states that a particular record is exempt from public disclosure, means that the Food and Drug Administration will make the record available for public disclosure only if ordered by a court.

DISCLOSURE TO CONSULTANTS, ADVISORY COMMITTEES, STATE AND LOCAL GOVERNMENT OFFICIALS COMMISSIONED PURSUANT TO 21 U.S.C. 372(a), AND OTHER SPECIAL GOVERNMENT EMPLOYEES

131. Section 4.30 of the proposed regulations published in May 1972, which states that confidential documents may be disclosed to special government employees without disclosing them to all members of the public, is redesignated as § 4.84 in the final regulations.

A comment stated that disclosure to consultants and advisory committees should be made pursuant to a "confidentiality agreement" to insure that the recipients of such information are aware that the data must be treated on a confidential basis.

The Commissioner agrees with this comment. Sections 4.80(c) and 4.84 of the regulations provide that all government employees and special government employees to whom such records are disclosed shall be subject to the same restrictions as Food and Drug Administration employees with respect to their disclosure.

132. In preparing for court cases, the Food and Drug Administration often consults with potential witnesses and, in the course of such discussion, may disclose internal information not previously disclosed to the general public. Questions have arisen as to whether such disclosure triggers the requirement that such information also be made available for public disclosure to any other person who requests it.

The Commissioner concludes that consultation with potential witnesses in preparation for litigation, whether it be in a court or in an administrative hearing, does not fall within the rule that disclosure to one member of the public requires disclosure to all. Although these potential witnesses are not always special government employees, they are government consultants for purposes of the litigation, and thus such consultation falls within the exception established in § 4.64 of the regulations for investigatory records for law enforcement purposes.

133. Comments stated that the Food and Drug Administration should clarify the conditions under which correspondence and summaries of calls and meetings with special government employees are not disclosable. It was suggested that there be disclosure unless the communication relates only and specifically to matters (a) upon which special employees are consulting or advising and (b) which are encompassed within the scope of their duties as special government employees.

The Commissioner agrees with this comment, and § 4.84 has been revised accordingly. To the extent to which a communication by or to a special government employee is not a communication by or to him in that capacity, such a communication is not covered by the inter- or intra-agency memorandum exemption, and is available for disclosure.

134. Questions have arisen with respect to release of data and information to contractors that is exempt from public disclosure.

The Commissioner concludes that, since contractors are not special government employees, they stand in the same position as any other member of the public and are not subject to the provisions in § 4.84 of the final regulations.

DISCLOSURE TO OTHER FEDERAL GOVERNMENT DEPARTMENTS AND AGENCIES

135. Questions have arisen about the disclosure of information contained in Food and Drug Administration files to other Federal government departments and agencies.

The Commissioner concludes that all data and information contained in Food and Drug Administration files may properly be disclosed to other Federal government departments and agencies, without regard to the statutory exemptions, or to triggering the necessity for releasing the information to the public generally, except for records subject to the confidentiality provisions contained in section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Thus, for example, preliminary results of scientific testing may be exchanged by government agencies so that they will be kept

informed of new developments and can prepare for any appropriate action prior to release to the public of the full results in a final report.

Section 301(j) explicitly provides that the material it covers may only be disclosed within the Department of Health, Education, and Welfare, or to the courts when relevant in any judicial proceeding. This limitation is contained in new § 4.85. Where another Federal government agency has concurrent jurisdiction over a matter, however, and thus also has legal authority to obtain and review material covered by section 301(j), the Food and Drug Administration may share such material directly with that other agency rather than requiring the other agency to obtain it from the original source. This situation occurs, for example, as a result of the joint jurisdiction of the Food and Drug Administration and the Environmental Protection Agency over pesticides that are also new animal drugs.

136. Concern has been expressed that, if the Food and Drug Administration makes available to other government agencies information that is exempt from public disclosure, those other agencies may disclose the information contrary to a pledge of confidentiality given by the Food and Drug Administration in writing or in these final regulations.

The Commissioner advises that any data or information furnished to other government agencies that is not disclosable to the general public will be furnished only pursuant to an agreement that the information will be held in confidence. If no such assurance can be given, the data or information will not be furnished. Section 4.85 of the final regulations so provides.

DISCLOSURE IN ADMINISTRATIVE OR COURT PROCEEDINGS

137. No comments were received on the provision in the proposed regulations which stated that data and information exempt from public disclosure may nevertheless be revealed in administrative or court proceedings.

The Commissioner concludes that this provision should be retained in the final regulations under § 4.86. The Food and Drug Administration will, where some disclosure is necessary, take whatever action is reasonable to reduce such disclosure to the minimum necessary under the circumstances.

DISCLOSURE TO CONGRESS

138. The Freedom of Information Act explicitly provides that the exemptions are "not authority to withhold information from Congress" (5 U.S.C. 552(c)).

The rules of Congress provide that the House of Representatives and the Senate act through their committees and subcommittees. Accordingly, a request from Congress for records, i.e., from the chairman of a committee or subcommittee, acting on behalf of that committee or subcommittee, falls within the provision set out in 5 U.S.C. 552 (c) and thus is not subject to the exemptions from disclosure. A request for records from an individual member of Congress, on his own behalf or on behalf of any constituent, is subject to all the requirements applicable to a request for records by a member of the public, including the usual exemptions and fees. See "EPA v. Mink," 410 U.S. 73 (1973); "Aspin v. Department of Defense," 491 F.2d 24 (D.C. Cir. 1973). A new § 4.87 has been added to the final regulations to state this policy.

139. A question has arisen as to whether the General Accounting Office is within the provision contained in 5 U.S.C. 552(c) which states that the exemptions from disclosure under the Freedom of Information Act do not apply to "Congress".

The Commissioner concludes that, since GAO was established by an act of Congress with powers to investigate agencies of the executive branch, it is within the exception set out in 5 U.S.C. 552(c) and thus stands on the same footing as congressional committees and subcommittees.

140. Concern has been expressed that information exempt from public disclosure pursuant to the Freedom of Information Act must nonetheless be disclosed to Congress, and that there is no statutory provision prohibiting Congress from disclosing such information. In particular, it has been pointed out that some years ago a congressional committee obtained from the Food and Drug Administration adverse reaction information which it subsequently published as part of the record of a hearing without deletion of the patient or physician names or other identifying information. As a result, physicians have expressed reluctance to supply such information to the Food and Drug Administration.

The Commissioner concurs that the law presently does not prohibit release by Congress of confidential information obtained from the Food and Drug Administration which is otherwise exempt from public disclosure. However, the Commissioner knows of no instance other than the one mentioned above in which this has happened. In that specific instance, no damage resulted from the disclosure. In discussions with congressional staff members, the Food and Drug Administration has been advised that the single incident mentioned above was an aberration that will be guarded against in the future. The Commissioner therefore concludes that disclosures of this type are extremely unlikely.

COMMUNICATIONS WITH STATE AND LOCAL GOVERNMENT OFFICIALS

141. Section 702(a) of the act (21 U.S.C. 372(a)) authorizes the Food and Drug Administration to commission any health, food, or drug officers or employee of any State, Territory, or political subdivision to act as an officer of the Food and Drug Administration in conducting examinations and investigations for purposes of enforcement of the act. Pursuant to this provision, the Food and Drug Administration has commissioned a number of State and local officials to help enforce the law. In addition, sections 301 and 311 of the Public Health Service Act (42 U.S.C. 241 and 243) encourage cooperative efforts between State and local officials and the Food and Drug Administration in regulatory activities. Indeed, the effectiveness of the Food and Drug Administration is frequently dependent upon the cooperation of such State and local officials.

The Commissioner concludes that all information exchanged between the Food and Drug Administration and a commissioned State or local official or a State or local official under contract with the Food and Drug Administration to conduct law enforcement work is exempt from disclosure under the Freedom of Information Act pursuant to the intra-agency memoranda and investigatory records exemptions. Such information will be subject to discretionary release by the Commissioner, however, pursuant to the principles established in these new regulations, after consultation with the State or local official involved.

Information supplied to the Food and Drug Administration by a State or local official who is not commissioned pursuant to section 702(a) of the act, or supplied by the Food and Drug Administration to such a State or local official, presents a somewhat different issue. A large amount of this information consists of investigatory records that are supplied by or to State and local officials on the understanding that they will be retained as confidential and will not be disclosed. The Commissioner concludes that material of this kind obtained by the Food and Drug Administration in accordance with such an understanding with State and local officials will be retained as confidential, on the grounds that disclosure would interfere with enforcement proceedings, would disclose the identity of a confidential source, and would disclose investigative techniques and procedures. Similarly, disclosure of information of this type to State or local officials will not require release of the information to the public. The Food and Drug Administration has no authority to require that State and local officials furnish this information to it. This exchange of information is important to the regulatory activities of the agency. Accordingly, the Commissioner concludes that retention of this information as confidential is fully within the intent of the investigatory records exemption. Similarly, trade secrets disclosed to the Food and Drug Administration by a State or local government official will also be retained as confidential.

A new § 4.88 has been added to the regulations to reflect this policy.

COMMUNICATIONS WITH FOREIGN GOVERNMENT OFFICIALS

142. A number of comments raised questions about the status of foreign governments under the proposed regulations. Specific instances have arisen in which a counterpart agency in a foreign country has offered data or information to the Food and Drug Administration on a confidential basis, or the Food and Drug Administration has wished to make

data or information available to the foreign government without making it available to the general public at that time. In all instances these matters have related to pending regulatory matters and the communications have represented an attempt to coordinate action on an international level.

The Commissioner notes that there is no specific exemption relating to communications with foreign governments under the Freedom of Information Act, except for classified material relating to national defense or foreign policy. The investigatory records exemption does recognize, however, that documents relating to current regulatory issues may properly be retained as confidential during the period necessary to ensure that enforcement activities are not disrupted. The Commissioner concludes that most, if not all, communications with foreign governments relating to pending regulatory matters properly fall within this exemption. Once the pending action is in fact taken, however, such communications and information would ordinarily become available for public disclosure, except where the foreign nation specifically requires that the information involved be retained as confidential for a longer period of time.

The Commissioner emphasizes the importance of maintaining good working relationships with counterpart agencies throughout the world both to sound diplomatic relations with foreign nations and to the availability of important new information of regulatory significance. Such cooperation is encouraged by sections 301 and 308 of the Public Health Service Act (42 U.S.C. 241 and 242f). Unless regulatory information can be exchanged without required public disclosure, the Food and Drug Administration will lose its sources of important information that is vital to protect the public, and will be unable to disseminate preliminary information when it is first generated within this country in order to help protect the public health throughout the world.

143. A foreign regulatory agency suggested that any information submitted to the Food and Drug Administration by a foreign company, and certified by a foreign government agency as confidential, should be held by the Food and Drug Administration as confidential.

The Commissioner concludes that the same rules with respect to confidentiality apply to foreign companies as to domestic companies under the Freedom of Information Act. An assertion by a foreign government that information submitted by a foreign company is confidential is insufficient, under the Freedom of Information Act, to require nondisclosure.

144. A comment urged that a special provision be added specifically to retain as confidential any information that is submitted to the Food and Drug Administration by a foreign government in confidence or as a trade secret. There was particular concern that confidential information in foreign government inspection reports be automatically treated as confidential. Article 162 of the Swiss Penal Code was cited as subjecting Swiss authorities to a penalty for the disclosure of trade secrets.

The Commissioner advises that the Food and Drug Administration has authority to withhold from disclosure only information specifically exempt from disclosure under the Freedom of Information Act. The Commissioner believes that § 4.89 reflects the current law in this regard and will permit the agency to retain in confidence all trade secret information or investigatory files.

145. Questions have arisen about the status of papers prepared for or by international organizations, particularly the Food and Agriculture Organization and the World Health Organization.

The Commissioner notes that 22 U.S.C. 288a(c) provides that "The archives of international organizations shall be inviolable." The Commissioner interprets this to mean that the United States government and the public may not obtain information directly from such organizations, i.e., the Freedom of Information Act does not apply to such organizations. This does not mean, however, that communications from such organizations to the Food and Drug Administration, or materials prepared by the Food and Drug Administration for such organizations, are not subject to public disclosure under the Freedom of Information Act. The Commissioner concludes that Congress has not granted special immunity to such records. Accordingly, communications to and from such organizations will have the same status as documents to and from any other organization.

146. In particular, a question has been raised about the availability for public disclosure of working papers prepared by an employee of the Food and Drug Administration for the World Health Organization.

The Commissioner notes that when such working papers are prepared by an employee in his capacity as a representative of the Food and Drug Administration, and not in an individual capacity, all such documents are properly available for public disclosure in accordance with the same rules that apply to all records contained in agency files. However, when such records are not prepared during working hours, using the facilities of the Food and Drug Administration, and copies are not included in Food and Drug Administration files, they are not available for public disclosure. Accordingly, the status of such records will be determined by the specific circumstances involved in each instance.

Use of Data or Information for Administrative or Court Enforcement Action

147. No comments were received on the provisions contained in the proposed regulations stating that any data or information obtained by the Food and Drug Administration, by any means whatever, may be used as the basis for taking any appropriate administrative or court enforcement action within its jurisdiction.

The Commissioner concludes that this provision should be retained in the final regulations as § 4.90 *Data and information* that would otherwise be exempt from public disclosure will nonetheless be released in connection with such enforcement action if necessary to implement the specific action involved. For example, the Food and Drug Administration routinely discloses commercial information about recalled products that is relevant to the recall but that would not otherwise be disclosed. The Commissioner concludes that, when enforcement action of this type occurs, such information is customarily revealed and thus that the exemption for confidential commercial information is no longer applicable.

Availability of Specific Categories of Documents

148. Many of the sections in the proposed regulations published in May 1972 related to the availability of specific categories of documents. Some of these categories of documents are the subject of separate regulations published by the Food and Drug Administration, e.g., food additive petitions and new drug applications, and the detailed rules on the availability of these types of documents are therefore properly incorporated directly into those existing regulations. In many other instances, however, there are no specific regulations dealing with the types of documents involved, e.g., agency correspondence and administrative enforcement records, and therefore separate rules are included in Part 4 to cover these matters.

The Commissioner concludes that a new Subpart F should be established in Part 4 to include all of these provisions relating to specific categories of documents not dealt with elsewhere in Food and Drug Administration regulations. For convenience, a new provision in § 4.100(c) is also included to cross-reference all other sections in the act relating to the availability of documents not specifically dealt with in Subpart F of Part 4.

Applicability

149. Numerous comments on the proposed regulations published in May 1972 expressed concern that some of the provisions dealing with specific categories of records did not directly incorporate all of the exemptions from disclosure.

The Commissioner advises that each of the exemptions from disclosure set out in Subpart D of Part 4 is applicable to each of the specific categories of records for which a provision is established in Subpart F of Part 4 or elsewhere in Food and Drug Administration regulations. Both §§ 4.60 and 4.100 state this policy.

150. Provisions in other parts of the Food and Drug Administration regulations also establish rules governing the availability for public disclosure of specific categories of records.

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For ready reference, new § 4.100(c) lists all of the other Food and Drug Administration regulations relating to public disclosure of records. Additions to this list will be made when the new procedural regulations are published, and when other regulations are published by the Food and Drug Administration setting out rules on the availability of specific records for public disclosure.

ADMINISTRATIVE ENFORCEMENT RECORDS

151. Section 4.21 of the proposed regulations, which made available for public disclosure records of all informal administrative enforcement action, has been redesignated as § 4.101 in the final regulations.

As with § 1.8(c), a number of comments expressed concern about "trial by newspaper" as a result of release of informal enforcement action records. It was stated that there was a great potential for an imbalanced and distorted view since not all information bearing on the alleged or suspected violation would necessarily be in the files, e.g., information concerning the severity of the violation and the extent of its occurrence. A Food and Drug Administration employee's notes were characterized as subjective and just one individual's opinion. It was suggested that items in a Food and Drug Administration employee's report might be incorrect, and that the company, to protect against such possibilities, should be given the opportunity to review the file and explain it before it is released to the public. It was argued that a rebuttal after the item had hit the newspapers was too late. A denial after disclosure could not repair the damage already done to a business reputation. It was also suggested that, if the agency disclosed warning letters and other requests for corrective action, it should also make public a balanced presentation of the facts, including the fact, if such is the case, that an alleged violation is minor or technical.

The Commissioner concludes that these comments are not persuasive, and that all records of administrative enforcement action disclosed to any person will be made available to the public. If accepted, the logic of the comments summarized above would require holding the pleadings in all court actions confidential until the matter was finally concluded, as well as all administrative actions. The Commissioner concludes that the approach suggested in the comments is in complete disregard of the intent of Congress as expressed in the Freedom of Information Act. See "Wellford v. Hardin," 444 F.2d. 21 (4th Cir. 1971).

The Commissioner also concludes that it is not feasible to furnish requested material to an affected person for review, prior to disclosing it to the public, nor is this required by law. Such a procedure would substantially reduce the availability of information to the public, contrary to the Freedom of Information Act.

152. Questions have been raised on the difference between "informal" and "formal" enforcement action.

The Commissioner concludes that the term "informal" should be replaced by the term "administrative," in order to clarify the intent of this section. All administrative enforcement action will be governed by this section regardless whether it is considered informal or formal in nature.

153. Many comments cited the probability of an adverse effect upon a company's desire to cooperate with the Food and Drug Administration if all such correspondence and reports are released to the public. Several stressed the importance of industry cooperation in order for the Food and Drug Administration effectively to regulate the industry. One suggested that the provision might interfere with voluntary compliance, since cooperation might, in the public's eye, indicate guilt. There would be, it was stated, a tendency to resist and litigate rather than accept "trial by newspaper." It was suggested that manufacturers who previously fully cooperated in an inspection situation would attempt to use section 704 of the Federal Food, Drug, and Cosmetic Act against the Food and Drug Administration employee by questioning the "reasonableness" of inspections and permitting nothing beyond the letter of the law.

The Commissioner concludes, on the basis of experience in the 2 years during which the provision has been implemented, that the fears expressed in the comments are wholly unfounded. There has been no adverse impact upon the cooperation of the regulated industry in complying with Food and Drug Administration requirements.

154. One comment argued that a policy of nondisclosure should apply as much to informal enforcement communications as it does to intra- and interagency communications since industry has the same right as the agency not to "operate in a fishbowl."

The Commissioner notes that the Freedom of Information Act specifically exempts intra- and interagency communications. The disclosure of communications between the Food and Drug Administration and industry does not in any way require industry to disclose its own internal decisionmaking process.

155. Questions have been raised about the status of lists of observations left by a Food and Drug Administration employee upon completion of a factory inspection, setting forth observations on violative conditions, pursuant to section 704(b) of the act. These reports are made on Forms FD-483 and, for drugs, FD-2275.

The Commissioner concludes that these are in the nature of warning letters and, since they are provided to the company involved, are also properly provided to any other person who requests them. Even though these reports of observations may form a part of an investigatory file, the Commissioner concludes that their routine release will not interfere with enforcement proceedings or impede a fair trial or an impartial adjudication because there are several thousand of them every year and, unlike section 305 hearing files, they are not closely related to possible criminal prosecution in most cases. Such reports have been released routinely upon request during the past 2 years without prejudice to the agency's regulatory activities.

156. Similar questions have been raised with respect to the status of the establishment inspection report (EIR) prepared by a Food and Drug Administration employee after an inspection. The EIR is retained only in Food and Drug Administration files, and is not sent to the establishment or any other person.

The Commissioner concludes that the EIR is properly retained as confidential until the matter is closed, since it is both an intra-agency memorandum and part of an investigatory file. Unlike the information in Forms FD-483 and FD-2275, the EIR contains personal conclusions and recommendations for consideration only within the Food and Drug Administration, and is not disclosed to anyone outside the agency except other authorized governmental officials. It is not a simple factual list of observations, but rather a much longer description of conditions observed and conclusions and recommendations with respect to those observations. The Commissioner concludes that routine release of the EIR before the matter is closed would interfere with normal enforcement activities and could have an adverse impact on a fair trial and an impartial adjudication. In specific situations, an EIR may be released by the Commissioner as an exercise of his discretion pursuant to § 4.82.

The list of the Food and Drug Administration employee's observations on violative conditions, given to the responsible company official upon completion of the inspection on Forms FD-483 or FD-2275, contains at least part of the information subsequently incorporated in the EIR. Accordingly, the Commissioner concludes that the Food and Drug Administration will respond to any request for a nondisclosable EIR with an offer to furnish a Form FD-483 or FD-2275 covering the same inspection.

157. In some instances, a Food and Drug Administration employee will discuss matters with a firm during or at the conclusion of the inspection, and will subsequently note those and perhaps other matters in the EIR. Questions have arisen as to whether this requires that the EIR be made available for public disclosure.

The Commissioner concludes that an oral discussion of matters subsequently reduced to writing in an EIR does not require that the EIR be made available for public disclosure. If any part of the EIR is subsequently disclosed to the firm or any member of the public, however, the same portion of the EIR must then be made available to anyone who requests it, except for appropriate deletions for exempt material.

158. It is common practice for a representative of the Food and Drug Administration to write a high official in a company to bring to his personal attention any violation of the law that may

have been observed during a factory inspection and reported in an EIR.

In accordance with the Commissioner's conclusion that all correspondence with any person outside the Federal government is properly made public, all such postinspection correspondence will be made publicly available upon request. Such letters are in the nature of warnings pursuant to section 306 of the act, and may well be in lieu of seizure. See "Wellford v. Hardin," 444 F.2d 21 (4th Cir. 1971). Such letters have been released publicly for the past 2 years without disruption of the activities of the agency.

159. In many instances, the Food and Drug Administration issues a formal regulatory letter pursuant to section 306 of the act, stating that appropriate court action will be undertaken if specified violations of the act are not corrected.

The Commissioner concludes that all regulatory letters, and all followup correspondence relating to such letters, will be made publicly available upon their issuance. These letters constitute administrative enforcement action by the agency and should be subject to the same disclosure principles as court enforcement action.

The Commissioner concludes that a copy of each regulatory letter will be filed in the Food and Drug Administration Public Records and Documents Center, for public review. Additional correspondence and memoranda relating to such letters will be available upon request. Thus, regulatory letters will be handled in the same way as court actions filed by the agency. All regulatory letters issued by the agency during the past 2 years have been made publicly available upon request without any adverse consequences.

160. The Food and Drug Administration often requests the recall of violative products from the market in lieu of seizure.

The Commissioner concludes that all administrative enforcement records requesting recalls are properly released to the public upon request, for the same reasons that regulatory letters and other administrative enforcement records are the subject of public disclosure. The Commissioner believes that all regulatory action taken by the agency, whether of an administrative or of a court nature, must be subject to public scrutiny and public accountability. In releasing records on recalls, however, the Commissioner will delete any confidential commercial information that may be included. For example, a list of customers of a particular company and sales demography data are customarily regarded as confidential commercial information, and will not be disclosed to the public.

161. A number of comments noted the absence in proposed § 4.21 of a specific exemption for trade secret or confidential information and indicated that such an exemption should be added.

As § 4.100(a) makes clear, each exemption from the Freedom of Information Act, including the exemption for trade secret and confidential commercial information, applies to all records released by the agency. The Commissioner concludes that it is impractial to mention each exemption in each section of the regulations.

162. Comments suggested that some of the information covered by this section would also be covered by the section on the investigatory records exemption.

The Commissioner concludes that there is no overlap between these sections. The investigatory records exemption in § 4.64 is explicitly limited only to data and information obtained by the Food and Drug Administration, retained solely in its files, and not shown to anyone outside the agency. Thus, § 4.64 covers no communications with an affected person or company, such as the observations left by a Food and Drug Administration employee or product analyses furnished to a company. Section 4.64 covers only the Food and Drug Administration's own investigatory reports which are not made available outside the agency, such as an EIR or any other internal report, as well as information contained in section 305 hearing records and other investigatory reports relating to an active and current criminal investigation. The provisions of §§ 4.64 and 4.101 have been revised to clarify this policy.

163. A number of requests have been made for "action levels" used by the agency in determining when it will institute administrative or court enforcement action against a product for violation of the law.

The Commissioner advises that all such action levels have, to the best of his knowledge, now been made public. The action levels for natural or unavoidable defects in food are the subject of § 128.10 (21 CFR 128.10). Paragraph 7 of the preamble to the final order promulgating that regulation, published in the FEDERAL REGISTER of January 5, 1973 (38 FR 854), stated that, when finally revised, all such action levels will be published in the FEDERAL REGISTER for comment, and that, in the interim, they would be available upon request from the office of the Assistant Commissioner for Public Affairs, Food and Drug Administration, Rm. 15B–42, 5600 Fishers Lane, Rockville, MD 20852. Such action levels are also available at the Food and Drug Administration Public Records and Documents Center.

The Commissioner has recently proposed a revision of Part 122 of the regulations (21 CFR Part 122), published in the FEDERAL REGISTER of December 6, 1974 (39 FR 42738), to provide for publication of all action levels for food products not included within § 128.10. Although the Commissioner recognizes that this project will require a significant amount of resources and cannot be completed in a short period of time, and that legal action can in any event be taken for violation of the law without publication of action levels or enforcement criteria, it is the Commissioner's intent in the future to publish all action levels in the FEDERAL REGISTER with time for comment, in order to codify them in regulations.

In the past, the Food and Drug Administration utilized a "tolerance on a tolerance" under some limited circumstances. In these instances, legal action would not be undertaken against a product which exceeded the announced tolerance or action level but would be taken if it exceeded the unannounced higher tolerance or action level. The legislative history of the Freedom of Information Act shows that such unannounced tolerances may properly be retained by an agency as confidential. Nevertheless, the Food and Drug Administration concluded some years ago that all such unannounced tolerances should be abolished, and none remains in existence today.

A determination that a product violates an action level must, of course, be made on the basis of specified analytical methodology and equipment. In many instances, such methodology yields variable results, and thus is accurate only within a specified range. In most instances, this variability is widely known within the scientific profession. The Food and Drug Administration will make available to the public upon request the amount of variation recognized by the agency in considering enforcement action based upon analytical results.

Finally, the Food and Drug Administration has established levels above which its field offices may request legal action directly to the office of the General Counsel, rather than through the Bureau compliance offices. Findings below these levels, but above the action level, must be sent to the Bureau compliance office and then forwarded to the office of General Counsel. The Commissioner concludes that these "direct reference levels" need not be held in confidence and may properly be made available for disclosure to the public.

COURT ENFORCEMENT RECORDS

164. The Food and Drug Administration institutes many formal legal actions in the courts every year. These include seizures, injunctions, and criminal prosecutions. The Commissioner concludes that a new § 4.102 should be added to the final regulations concerning the availability of documents relating to these matters.

All legal documents filed in the courts are public information. In order to make certain that accurate copies are obtained, copies of any such documents must be requested directly from the courts involved. The Commissioner concludes, however, that the Food and Drug Administration will make available copies of such documents when it has a copy that can be determined to be in the form actually filed in the court.

165. In some instances, legal actions requested by the Food and Drug Administration are not filed by a United States attorney. Requests have been made for copies of all such records, regardless whether the action was or was not filed.

The Commissioner advises that the correspondence with the United States attorney and the recommended complaints are available for public disclosure upon request in accordance with the provisions of § 4.64 *Investigatory records compiled for law enforcement purposes.* Names of individuals considered for criminal prosecution but not prosecuted will be deleted from such material to prevent an unwarranted invasion of personal privacy and unfair accusations.

CORRESPONDENCE

166. As with §§ 1.6(c) and 4.111, comments suggested that disclosure of all correspondence to the public would seriously affect communications between the Food and Drug Administration and industry because of a reluctance of industry to discuss sensitive issues in a public forum. It was asserted that the public interest would be better served by open communication between the Food and Drug Administration and the regulated industries.

The Commissioner concludes that there is no reason to believe that public disclosure of correspondence would hinder the flow of communications in any way. Experience under this provision during the past 2 years has shown no difficulty whatever. Correspondence between the agency and nongovernmental groups and individuals outside the agency is clearly not exempt under the Freedom of Information Act, except to the extent that portions may fall within the specific exemptions under the law.

167. Comments expressed concern that a specific exemption for trade secrets and confidential commercial information was not included in this provision, since correspondence might well include such information.

The Commissioner advises that the exemption for trade secrets and confidential commercial information applies to all agency records. Any exempt material will be deleted before correspondence is disclosed. Sections 4.60 and 4.100 emphasize that fact.

168. One comment protested that to exempt inter- and intra-agency correspondence, but not correspondence between the agency and industry, was "discrimination" that was "ominous in portent."

The Commissioner advises that the Freedom of Information Act provides for the exemption of inter- and intra-agency correspondence, but does not exempt correspondence between the agency and industry. Any "discrimination" which exists was purposely created by Congress. Moreover, there are persuasive policy reasons for handling these documents in different ways. Internal agency documents reflecting policy deliberations require confidential handling if there is to be a full and frank discussion of all alternatives within the agency. All correspondence with the regulated industries, affected professional groups, Congress, and the public must be disclosed, however, to permit public scrutiny of all of the information and views presented to the agency on which a decision is based. Public accountability thus requires a full disclosure of all such materials except where specific exemptions apply and cannot properly be waived, e.g., trade secrets or an invasion of personal privacy.

169. Comments stated that the provision relating to disclosure of correspondence to or from "members of Congress" should be clarified so that it is in accordance with the regulations of the Department of Health, Education, and Welfare which exempts correspondence with Congress from disclosure. Comments suggested that either letters to Congress should be exempted per se or the phrase "members of Congress" might be clarified to indicate that the nonexempt correspondence only includes that correspondence in which a member of Congress is not acting in an official capacity as a member of a duly authorized committee.

The Commissioner concludes that any letters to or from a member of Congress, as well as summaries of oral discussions, regardless of whether the member is acting in an official capacity or as a member of a duly authorized committee, will be available for public disclosure except to the extent that the correspondence contains trade secrets or other nondisclosable information. The final Department regulations adopted this position.

170. Comments stated that confidentiality should be maintained if the correspondence would not have taken place but for an implied assumption or the explicit promise of nondisclosure. The need for an appeal procedure before public disclosure of correspondence was asserted.

The Commissioner has added a new § 4.44 to the regulations to establish a procedure for determining those records which the agency will receive under a determination of confidentiality. Except where such procedure is followed, the Food and Drug Administration will not undertake to retain any information in confidence except specific types of records for which confidentiality is explicitly provided in these regulations, e.g., quantitative formulas that have not previously been made public. Where there is a close question with respect to possible confidentiality, the Commissioner will use the procedure set out in § 4.45 of the final regulations to consult with the affected person, and that person may then request a court determination on the issue pursuant to § 4.46 if he does not agree with the Commissioner's conclusion.

The Commissioner concludes that these procedural safeguards fully protect the right of the affected person to nondisclosure of confidential information.

171. Comments expressed concern that this provision might be misinterpreted to give the impression that protocols contained in unsuccessful contract proposals are available to the public contrary to the intent of the Department regulations. It was suggested that there were also other types of administrative information which should be free from disclosure, e.g., correspondence with applicants for employment concerning conflict of interest issues, and with private attorneys or national representatives of employee unions concerning grievances, adverse actions, or contract negotiations.

The Commissioner concludes that these comments misinterpreted the proposed regulations. Each of the statutory exemptions reflected in the proposed regulations is applicable to all of the types of records contained in Food and Drug Administration files, including correspondence. Thus, the trade secrets and personal privacy exemptions will be applied wherever the facts in a given situation show that they are applicable. For example, correspondence with a prospective employee concerning conflict of interest issues would be exempt from public disclosure under the personal privacy exemption.

172. Questions have arisen as to whether the general rules with respect to agency correspondence and summaries of telephone calls and meetings will be applicable when the subject of the correspondence or summary is a pending petition or application for approval of a specific ingredient or a product, e.g., a new drug application or a food additive petition.

The Commissioner advises that these general rules will not apply to such correspondence or summaries until the petition or application is approved. Securities analysts, competitors, and many others are interested in the progress of such petitions and applications within the agency. Daily monitoring of such matters by outside individuals or organizations is not contemplated by the Freedom of Information Act. The Commissioner concludes that such correspondence and summaries constitute trade secret and commercial or financial information that is privileged or confidential, until the approval of the ingredient or product is obtained or it is finally disapproved.

Once approval is obtained, or final disapproval results, the Commissioner concludes that all such correspondence and summaries shall be made available for public disclosure except to the extent that specific material may be exempt from disclosure as containing a trade secret or constituting an invasion of personal privacy. Thus, confidential handling will exist only during the deliberative stage of the proceeding, and the agency's decision will be subject to full public scrutiny and public accountability once a decision is final.

Sections 4.103 and 4.104 and other specific provisions dealing with petitions and applications have been modified to reflect this policy.

SUMMARIES OF ORAL DISCUSSIONS

173. Comments urged that the agency not totally withhold summaries of telephone calls and meetings if they contain both disclosable and nondisclosable information. It was suggested that the appropriate course in that circumstance would be to delete exempt material and disclose the remainder. Several cases

were cited for that proposition, "Grumman Aircraft Engineer Corp. v. Renegotiation Board," 425 F.2d 578 (D.C. Cir. 1970); "Wellford v. Hardin," 315 F. Supp. 768 (D.D.C. 1970).

The Commissioner agrees with this comment and advises that §§ 4.22 and 4.60 make this policy clear.

174. Comments asked whether the summaries to which this provision applies are intended to be a contemporaneous record or a record prepared in response to a request for information.

As stated in § 4.24 of the final regulations, the Freedom of Information Act does not require the preparation of documents in response to requests for information. Any summary of oral discussions to be disclosed pursuant to § 4.104 will be an existing contemporaneous record. If no such summary exists, none need be prepared. The Commissioner will shortly be issuing comprehensive new procedural regulations that will state the circumstances under which Food and Drug Administration employees will be required to prepare a summary of an oral discussion.

175. One comment advanced the proposition that summaries of telephone calls or meetings relating to a clearly identifiable active file should carry the level of confidentiality of the parent file. Another indicated that confidentiality should be maintained if the disclosure would not have taken place but for an assumption of confidential treatment of the information. Still another drew a parallel between disclosure of the summaries and wiretapping and commented that, since evidence of this nature is not permissible in a court of law, there was a serious question as to whether it should be made available to the public.

The Commissioner concludes that the provisions of the Freedom of Information Act apply only to specific records, not to entire files. Accordingly, it is improper to label any particular file as "confidential" and thus any summary subject to § 4.104 must be reviewed to determine whether, on its own merits, it is disclosable in part or in full.

The Commissioner advises that disclosure of information on the basis of a grant of confidentiality will be subject to the specific procedures set out in new § 4.44 of the final regulations. No other form of confidentiality will be granted except in the form of explicit provisions relating to particular types of documents in the final regulations.

The Commissioner concludes that there is no parallel whatever between preparation and disclosure of a summary of a telephone conversation and wiretapping. The public should be aware that such summaries are routinely maintained. In any event, these regulations and the new procedural regulations constitute public notice that such summaries are being prepared.

176. A number of comments were concerned with the possibility that government-composed summaries of telephone calls and meetings might contain misquotes, inaccurate transcriptions, and one-sided interpretations. It was suggested that the problem of misinterpretation could be dealt with by furnishing a copy of the summary to the nongovernment party. The nongovernment person would then be given an opportunity to reply if inaccuracies existed and any written reply would be included when disclosure was made.

The Commissioner is aware that a summary prepared by one party to an oral discussion is necessarily one-sided. Since all such summaries will be available under the Freedom of Information Act, all persons outside the Federal government who were parties to any such conversation may properly request a copy of the summary in order to verify its contents. The new procedural regulations will explicitly provide that any person outside the Federal government who was a party to such a conversation may himself prepare a summary of that conversation and submit it to the Food and Drug Administration, where it will be retained in the same files as the summary prepared by the Food and Drug Administration. In the event that a request is made under the Freedom of Information Act for any such summary, both summaries (or indeed as many as exist) will be disclosed at the same time pursuant to § 4.104(c).

177. Many comments cited this section as inhibiting frank and open communication between the Food and Drug Administration and industry. One letter suggested, on the strength of "Israel v. Baxter Laboratories," 466 F. 2d 272 (D.C. Cir. 1972), that reports of violations by competitors may be the subject of antitrust litigation, and that if under § 4.104 such reports were subject to disclosure it would discourage industry informers.

The Commissioner notes that provisions are included in § 4.64 of the final regulations to protect the confidentiality of information received from informers and confidential sources. Accordingly, the problem raised by this comment will not be encountered. The experience of the Food and Drug Administration under this provision for the past 2 years has demonstrated that disclosure of summaries of telephone conversations and other meetings will not impair the agency's activities.

178. A number of comments referred to the lack of a specific exemption in § 4.24 (b) for trade secrets and confidential information and expressed the fear that there would be disclosure without the editing out of such exempt information. Comments noted that confidential information is not per se exempt from disclosure under the Freedom of Information Act. The exemption covers only "commercial or financial information" that is "privileged or confidential". It was argued that the reference to confidential information in this provision was in effect broadening the exemption as it appears in the statute.

The Commissioner concludes that revised §§ 4.60 and 4.100 make it clear that all exemptions provided under the regulations will be applicable to every type of document in the Food and Drug Administration files. The Commissioner agrees that "confidential" information is not per se exempt from disclosure under the Freedom of Information Act, and § 4.61 makes this clear.

Testing and Research Conducted By or With Funds Provided By the Food and Drug Administration

179. Comments asked about the scope of the "nonregulatory testing and research" that would be disclosed under the proposed regulations. It was suggested that the final regulations include a definition of this phrase.

Upon reconsideration, the Commissioner concludes that it is often not feasible to distinguish between regulatory and nonregulatory testing and research, and that, in any event, there is no sound public policy reason for not disclosing both types of testing and research. The intent of the proposal was to retain as confidential the regulatory testing and research that is part of investigatory records for law enforcement purposes. The Commissioner concludes, however, that he should exercise his discretion to release this part of investigatory records upon request in order to make as full a disclosure of agency activities as possible without disrupting enforcement proceedings. All such testing and research would be required to be disclosed in the course of any enforcement proceeding, and thus its earlier disclosure should not have any adverse impact upon agency activities.

Moreover, there are strong public policy reasons for disclosing all regulatory testing and research when it is completed and a final report is available or it is otherwise disclosed to any member of the public. The Food and Drug Administration frequently requests the regulated industry to take appropriate action based upon the results of such testing and research, such as recalls. It would be unfair to request such industry action without at the same time disclosing the basis for the request.

180. The proposed regulation provided that a list of nonregulatory testing and research being conducted by or with funds provided by the Food and Drug Administration, together with any research contract, would be available for public disclosure.

In seeking to implement this proposed provision, the Commissioner has discovered that, as already noted, it is not feasible to divide testing and research into regulatory and nonregulatory purposes nor is it practical to maintain a current list of all testing and research being conducted by the agency. All research contracts are of course available for public disclosure, and any internal list of ongoing testing or research is also available upon request.

The Commissioner therefore concludes that § 4.105(a) should be revised to delete the requirement for preparation and maintenance of a comprehensive list of all agency testing and research, but to retain the provision stating that any list of agency testing and research that is prepared will be available upon request.

181. Comments requested clarification of the term "final report." If some form of agency approval is necessary before the results of such research can be characterized as "final," the public should be informed whether or not this would mean an effective agency method for preventing disclosure of testing and research the agency deems ill-advised to release, i.e., by simply never characterizing a report as "final." The comments cited "Consumers Union v. Veterans Administration," 301 F. Supp. 796 (S.D.N.Y. 1969), in which the court ordered the Veterans Administration to release raw test data on hearing aids, for the proposition that raw data in a tabular form must be released.

The Commissioner concludes that, until a report is completed and accepted by the responsible Food and Drug Administration official, it represents an intra-agency document that is not available for public disclosure. The Freedom of Information Act does not require premature disclosure of internal agency information before it is in final form, but was intended to promote disclosure of such internal agency information after it is put in final form. Release of tentative data, preliminary reports, or similar material would seriously hinder regulatory efforts of the agency.

The Commissioner fully concurs that any attempt to retain internal data and information as incomplete or, in any event, not "final" for any significant period of time is properly regarded as a violation of the intent of the Freedom of Information Act and will not be tolerated. The provisions of § 4.105 must not be used to avoid disclosure of embarrassing material or information that may cause public concern. Rather, this section is intended to permit the agency time to prepare a responsible final report that reflects an institutional approach to the matter, and a reasonable time for review of the report internally in order to determine any appropriate action, before it is released to the public.

The case of "Consumers Union v. Veterans Administration" does not justify a contrary result. There, the data involved were included in a final report and were not simply worksheets or preliminary drafts from which a final report had not yet been prepared. Moreover, the reports involved in that case had been available for a sufficient period of time to permit internal review and consideration, and no reasonable basis for failing to disclose them to the public was offered.

182. Questions have been raised as to the availability of the raw data and slides from Food and Drug Administration studies once they are completed and a final report is released.

The Commissioner advises that access to all raw data, slides, worksheets, and other similar working materials will be granted, once a final report is available.

183. Comments suggested that the statement in paragraph 4 of the preamble of the proposal to the effect that the results of testing and research represent internal information, should be clarified. The application of the internal memorandum exemption to such records was questioned.

The Commissioner concludes that the internal memorandum exemption under the Freedom of Information Act covers only the preliminary results of testing and research and draft reports based upon testing and research prior to acceptance of a final report. Once a final report is prepared, the internal memorandum exemption is not applicable to that report and it, together with any raw data, is available for public disclosure. Any draft reports remain exempt from public disclosure after the final report is released.

184. Questions have been raised as to whether preliminary data obtained from agency testing or research is disclosable if it forms the basis for a talk or other public presentation prior to preparation of a final report.

The Commissioner advises that, once such information is disclosed publicly by the Food and Drug Administration in any way, whether in correspondence or in a private conversation or in a public talk, all of such information reasonably related to the material disclosed must be made publicly available at that time even though a final report has not yet been prepared. Authorized dissemination of any data or information to persons other than as provided in Subpart E of Part 4 breaks the internal memorandum exemption and requires disclosure of such data or information to any person who requests it.

185. One comment expressed uncertainty as to whether testing done on marketed drugs would be disclosed to the public. If so, it was argued that the manufacturer should be given the opportunity to review the results and comment upon them before the report was made available to the public. Another comment suggested that a summary of the research should be prepared so that the study might be properly understood by the lay public.

The Commissioner concludes that all testing on marketed drugs, whether for regulatory or nonregulatory purposes, will be available for public disclosure. Comment by the manufacturer before the release of test results is not feasible or required by the law. The preparation of summaries of this research, as suggested, is not contemplated by the Freedom of Information Act and the agency cannot justify the expenditure of manpower which would be required to create such documents.

186. The Food and Drug Administration obtains two different types of product samples in the course of its regulatory activities. A Food and Drug Administration employee will often obtain a sample during a factory inspection. The Food and Drug Administration employee must give a receipt for such a sample, and a copy of the results of certain analyses are required by law to be furnished promptly to the person from whom the sample was obtained. Where a sample is obtained other than through a factory inspection, and it results in a seizure, the Food and Drug Administration is required under section 304(c) of the act to furnish the results of any analysis to any party to the seizure action. There is no legal requirement that the Food and Drug Administration furnish the results of any other analyses to any person who might be affected by them.

The Commissioner concludes that, regardless of the origin of any sample obtained by the Food and Drug Administration, the results of any analysis of a sample will be made available upon request to any interested person, whether or not that person is directly affected by the results of the analysis. As a matter of policy, any affected person should immediately be given the results upon request in order to take appropriate action. In accordance with the general principle that any information available to one member of the public must be available to everyone, the Commissioner concludes that all analyses of this type should be made generally available to the public upon request.

187. Several comments noted the possibility that agency research might rely, in part, on manufacturer-generated trade secrets or confidential commercial information. It was stated that this provision of the regulations should deal explicitly with this possibility and should exempt from disclosure any trade secret or confidential information utilized in such studies which had been supplied by nongovernment sources.

The Commissioner advises that § 4.61 of the regulations applies to disclosure of trade secrets and confidential commercial information in any agency documents, and §§ 4.60 and 4.100 of the final regulations make this clear. The Commissioner concurs that trade secret information may not be disclosed. This does not mean, however, that agency research or regulatory requirements cannot be based upon trade secret information. For example, bioavailability data on a drug submitted by a manufacturer may constitute trade secret information that is not disclosable to the public. This trade secret status of the underlying information would not prevent the Food and Drug Administration from conducting and disclosing its own similar research, however, or from imposing by regulation new requirements for the drug involved in order to protect the public health.

188. A comment pointed out that, in its performance tests and analyses, the Food and Drug Administration may include trade secrets or other confidential commercial data in test protocols or records of the testing.

The Commissioner advises that any trade secrets or confidential commercial information involved in testing or research will be deleted before the results are made available for public disclosure.

STUDIES AND REPORTS PREPARED BY OR WITH FUNDS PROVIDED BY THE FOOD AND DRUG ADMINISTRATION

189. Questions have arisen as to what internal Food and Drug Administration

reports and studies are available for public disclosure.

The Commissioner has reviewed the various categories of reports and studies conducted by the Food and Drug Administration, and has set out in new § 4.106 those types that will be disclosed and those that will be retained as confidential under the internal memorandum exemption. The Commissioner recognizes that a number of these reports may be partially or fully exempt under the internal memorandum exemption, but has concluded that it is in the public interest to release as many of them as feasible when they are prepared in final form. In general, the following types of reports and studies will be disclosed upon their acceptance by the responsible agency official: Quarterly and annual reports of the agency; broad reviews of agency needs by external committees, such as the Ritts Committee; surveys, compilations, and summaries of industry trends and data obtained from various outside sources for purposes of establishing internal priorities and programs; surveys of consumers or industry and other similar studies undertaken to determine the need for or content of proposed new regulations or compliance programs; and compliance studies undertaken to determine the performance of the regulated industry or the products it produces, such as contamination of foods or the sanitation status of a particular type of food plant. As a general rule, the following types of studies will not ordinarily be disclosed to the public: Internal audits of agency performance to determine the possible need for personnel changes or other action to strengthen agency performance; the records relating to the internal planning and budget process; and legislative proposals or comments unless and until they are submitted to Congress.

190. In particular, questions have been raised about the availability of the results of special drug surveys, and FORDS studies (Formulator Oriented Rx Drug Study).

The Commissioner advises that all such analyses and surveys are available for public disclosure without deletion of the brand name or lot number involved. The Bureau of Drugs of the Food and Drug Administration presently publishes the results of such analyses and surveys on a periodic basis.

191. Questions have been raised about the public availability of Food and Drug Administration compliance programs, which are sent to field offices to direct specific regulatory activities.

The Commissioner advises that all such compliance programs are available for public disclosure upon request, with any names of specific firms, the location of specific activity, and details about sampling numbers or sizes deleted in order to preclude disclosure of regulatory activities.

192. Questions have been raised about the availability of final agency work plans prepared by bureaus, field offices, and other agency components, as well as the yearly and other agency plans prepared by the office of the Commissioner for the entire agency.

The Commissioner advises that all such plans are available for public disclosure after they have been reviewed and approved by the responsible agency official in their final form, with any information about specific regulatory activities deleted.

Food and Drug Administration Manuals

193. Questions have arisen about the status of various manuals maintained by the Food and Drug Administration, such as the Regulatory Procedures Manual, the Administrative Guidelines Manual, and similar material.

The Commissioner advises that all such manuals have been reviewed to delete confidential internal directives, and are available for public review in the Food and Drug Administration Public Records and Documents Center. Copies of these manuals may also be purchased at cost, but the Food and Drug Administration does not maintain a mailing list for amendments to these manuals because of the prohibitive expense involved. A complete index of all such manuals is being prepared and will be available from the Food and Drug Administration Public Records and Documents Center pursuant to § 4.26. A partial list of these manuals is as follows:

Administrative Guidelines Manual
Bacteriological Analytical Manual
Drug Autoanalysis Manual
Food Additives Manual
Inspector Operations Manual
Inspector Programs Manual
Instrument Operations Manual
Laboratory Information Bulletins
Laboratory Operations Manual
Microanalytical Manual
Pesticide Analytical Manual
Regulatory Procedures Manual

194. A comment contended that all agency operating manuals must be made available under the Freedom of Information Act, and that the exemptions from disclosure do not apply to any portion of them.

The Commissioner disagrees with this comment. Nothing in the legislative history of the Freedom of Information Act indicates that otherwise nondisclosable information must be made available through agency operating manuals. Accordingly, the Commissioner has reviewed all such manuals and deleted from them information that falls within any of the exemptions from disclosure. All of those manuals, as so revised, are now available for public review and purchase.

Agreements Between the Food and Drug Administration and Other Departments, Agencies, and Organizations

195. Requests have been made for copies of agreements entered into by the Food and Drug Administration with State and Federal agencies and with private organizations.

The Commissioner has recently issued a notice, published in the Federal Register of October 8, 1974 (39 FR 35697), stating that all such agreements are on file in the office of the Food and Drug Administration Public Records and Documents Center, and that all future agreements will be published in the Federal Register. A new § 4.108 has been added to state this policy.

Data and Information Obtained by Contract

196. Various questions have been raised about the availability for public disclosure of data and information furnished to the Food and Drug Administration pursuant to contracts with outside organizations. In particular, the question has been raised whether information can be purchased by the Food and Drug Administration by contract, with a clause which precludes public dissemination. Some private organizations, for example, undertake market research surveys and then sell the results to purchasers who must agree not to distribute the information further. This type of contract is used so that one person to whom the reports are sold will not furnish them to a second person. There has been concern that the Freedom of Information Act would preclude the Food and Drug Administration from purchasing such information pursuant to a contract of this type.

The Commissioner concludes that the Freedom of Information Act does not permit the Food and Drug Administration to purchase information under a contract that prohibits its further public distribution, unless the information is otherwise exempt from disclosure. All information obtained by the Food and Drug Administration through a contract is available for public disclosure unless it falls within a specific exemption established in Subpart D of Part 4 of the regulations.

The Commissioner notes that, on occasion, the Food and Drug Administration has also entered into contracts which permit representatives of the agency to review data and information retained by an outside organization. Such contracts permit access to outside data and information, but do not permit the Food and Drug Administration to obtain copies of such material. Under these circumstances, since the Food and Drug Administration does not have copies of the documents in its files, the Freedom of Information Act is inapplicable.

197. A question has arisen as to whether the progress reports on contracts, which are usually submitted to the Food and Drug Administration quarterly, are available for public disclosure.

The Commissioner advises that the Freedom of Information Act requires that all information received under contract, including progress reports, is available for public disclosure when received by the Food and Drug Administration, except to the extent that it contains material otherwise exempt from public disclosure under these regulations.

INFORMATION ABOUT FOOD AND DRUG ADMINISTRATION EMPLOYEES

198. Questions have arisen as to what information is available about Food and Drug Administration employees.

The Commissioner advises that the name, title, grade, position description, salary, and work address and telephone number for every Food and Drug Administration employee is available for public disclosure. The home address and telephone number of such employees are not available because they fall within the personal privacy exemption. A new § 4.110 has been added to the regulations to state this policy.

199. The Food and Drug Administration has received a number of requests with respect to prior employment experience of present agency employees, and present employment of past agency employees. Although no such lists had been kept in the past, the Commissioner concluded that research should be undertaken in order to respond adequately to inquiries of this type.

The Commissioner advises that the statistics obtained from this research are available for public disclosure at the Food and Drug Administration Public Records and Documents Center. They will be kept up to date on a periodic basis. Pursuant to the exemption for personal privacy, the raw data are not available for public disclosure.

DATA AND INFORMATION SUBMITTED VOLUNTARILY TO THE FOOD AND DRUG ADMINISTRATION

200. Section 4.20 of the proposed regulations published in May 1972, dealing with data and information submitted voluntarily, has been redesignated as § 4.111 in the final regulations.

Several comments objected to the concept of permitting information to be withheld as confidential simply because the manufacturer would refuse to submit it unless it was so held. It was argued that the Freedom of Information Act makes no such distinction and that such an approach flouts the express intention of Congress to entitle all citizens to information in the hands of the agency which is not specifically exempt under the Freedom of Information Act.

The Commissioner agrees that a mere claim for confidential treatment does not bestow a confidential status upon information that is voluntarily submitted. Section 4.111 reflects the necessity for showing that the information falls within one of the exemptions set out in Subpart D of Part 4 of the regulations. A claim of nondisclosure based upon the trade secrets or confidential commercial information exemption or any other exemption to the Freedom of Information Act will not be automatically accepted. When the Food and Drug Administration makes a determination that information will be accepted in confidence, the agency is at that time exercising its judgment that the information properly falls within an exemption from disclosure and that the Commissioner will not exercise his discretion to disclose it pursuant to § 4.82.

201. The Food and Drug Administration has instituted a system of inspection of the food industry on the basis of hazard analysis and critical control points (HACCP). Food and Drug Administration employees regularly request, pursuant to this program, access to company records that are not required by law at this time to be given to the Food and Drug Administration for review and evaluation. Numerous questions have arisen about the availability of such records under the Freedom of Information Act after they become a part of Food and Drug Administration files.

The Commissioner advises that such records fall within the provisions in the final regulations relating to information voluntarily submitted to the government, except for those records required to be submitted by other provisions, e.g., § 90.20. Virtually all such records consist of information relating to manufacturing processes and controls, product formulations, and consumer complaints. Manufacturing processes and controls and product formulations are per se exempt from disclosure under the Freedom of Information Act, except to the extent that they have already been publicly disclosed. Consumer complaints are exempt from disclosure to the extent set out in § 4.111(c)(3)(v) of the final regulations, i.e., they will be released only as part of a blind compilation.

202. Comments contended that information given voluntarily to a Food and Drug Administration employee during a factory inspection should be considered confidential unless the employee obtains the signature of a company representative permitting him to make the information public.

The Commissioner concludes that information given by a company representative voluntarily to the Food and Drug Administration during a factory inspection will be governed by the rules set out in § 4.111 of the final regulations, and § 4.111(a) so provides. No special rules need be established for information given voluntarily during a factory inspection as contrasted with any other time.

203. Comments contended that the Food and Drug Administration should not distinguish between information submitted voluntarily and involuntarily, and suggested that the agency should reject all "voluntary" information in order to impress upon Congress the need for new legislation to compel submission of such data and information.

The Commissioner rejects this comment. As the agency designated by Congress to protect against distribution of adulterated or misbranded food, drugs, cosmetics, devices, and electronic products, the Food and Drug Administration is obligated to obtain all data and information, from any source, that will assist it in these important regulatory efforts. The Food and Drug Administration will also continue to request appropriate legislation from Congress to provide important new investigatory and enforcement tools.

204. Questions have arisen about the status of reports of adverse reactions to products, where such reactions are submitted voluntarily by the manufacturer, i.e., not pursuant to the requirements of the new drug or prescription drug factory inspection sections of the law or pursuant to a procurement contract. The law presently does not authorize the Food and Drug Administration to require that reports of such adverse reactions be furnished to it.

The Commissioner advises that such adverse reaction reports are subject to the following disclosure rules, depending upon the source of the information and any request for confidentiality submitted with it. If the reaction is reported in a consumer complaint letter, it will be made public after deletion of any information that would identify the individual involved. If it is made by a physician or other health professional, it will be made public after all identifying information relating to the patient, physician, and institution has been deleted, but the identification of the product will be released. If the reaction is reported by a manufacturer, public disclosure of the report will be made only in the form of a compilation of all adverse reaction reports, in a way that will not relate to a specific brand name or manufacturer, except when regulatory action is involved, e.g., a product recall. The Commissioner concludes that the personal privacy and confidential commercial information exemptions justify these rules.

205. Experience during the past 2 years has shown that manufacturers and physicians are uniformly unwilling to divulge consumer complaint or adverse reaction information, or other materials of this type, voluntarily except on a pledge of confidentiality.

Accordingly, the Commissioner concludes that it serves no useful purpose to require, in every instance of voluntary disclosure of this type, that the manufacturer or physician be requested to state whether the information will be disclosed without such a pledge of confidentiality. Adherence to such a provision would simply increase administrative red tape and serve no public interest. Section 4.111(c)(3)(ii) and (iii) of the final regulations therefore provides for appropriate deletions of information where it is provided by a physician, and provides that reports submitted by a manufacturer may be released only as part of a blind compilation that will not reveal the name of the manufacturer or the brand name of the product involved except when regulatory action is involved.

206. The Food and Drug Administration has established a medically oriented data systems (MODS) program under which it enters into contracts with hospitals and other medical institutions for

reporting to the agency, upon the payment of a standard fee, adverse reactions and other medical information related to products subject to the agency's jurisdiction.

The Commissioner advises that the reports obtained pursuant to such contracts are not submitted voluntarily, and thus are subject to § 4.109, which establishes the disclosure rules for information obtained by contract. Pursuant to § 4.63 the names or other information which would identify patients will be deleted prior to disclosure of such reports, but the identity of the reporting institution will be disclosed. The name of any physician or other health professional will also be disclosed if any such name is included in the report, but the contracts involved do not require the reporting of any such names.

207. One comment suggested that the provisions which permit names of those submitting adverse reaction data to remain confidential "applauds the sniper" and that if an individual is unwilling to be identified he should not be heard to complain.

The Commissioner concludes that there are valid reasons why an individual might wish to submit information in confidence. It should be noted that if an individual is not identified and the complaint cannot be followed up, this may affect the weight accorded the complaint by those to whom it is disclosed.

208. Comments contended that the Freedom of Information Act does not allow the Food and Drug Administration to distinguish between the handling of adverse reactions to products for which reports must be submitted to the agency, and adverse reactions to products for which the agency presently cannot require such reports.

The Commissioner disagrees with this comment. Until new legislation is enacted authorizing the Food and Drug Administration to obtain adverse reaction reports from manufacturers on all products subject to its jurisdiction, the agency is dependent upon the voluntary submission of such information for all products except new drugs and prescription drugs. Adverse reaction information is often of critical importance in determining the safety, or lack thereof, of a marketed product. Without such information, the Food and Drug Administration's efforts to prevent the continued marketing of an unsafe product would be substantially hindered.

Nothing in the legislative history of the Freedom of Information Act indicates that this law was intended to be applied in a way that would hinder regulatory activity or prevent an agency from taking action to protect the public health. The Commissioner believes that it is entirely reasonable to conclude that adverse reaction reports that are not required to be submitted to the Food and Drug Administration, and which the manufacturer will not otherwise submit, fall within the exemptions for confidential commercial information, personal privacy, and investigatory records. Accordingly, the Commissioner has pledged the confidentiality of such reports as provided in § 4.111(c)(3)(ii) in order to assure that they will continue to be available to the agency for its regulatory purposes.

The Commissioner recognizes the anomaly created by classifying certain portions of adverse reaction reports not required by law to be submitted to the government as confidential, while at the same time classifying those same portions of other adverse reaction reports that are required by law to be submitted to the government as not confidential. The Commissioner concludes that this anomaly must continue to exist as long as the disparity in legal authority survives. The alternative would be to discourage voluntary submission by manufacturers of any adverse reaction reports not required by law. The Commissioner concludes that this alternative would not be in the public interest.

209. Comments suggested that adverse reactions should be disclosed by the Food and Drug Administration only to health professionals, and not to the general public, in order to avoid false alarms and damage to the public health.

The Commissioner concludes that limited distribution of this type is precluded by the Freedom of Information Act, and is not in the public interest.

210. Comments suggested that reports of adverse reactions submitted to the Food and Drug Administration by someone other than the manufacturer should be available for public disclosure only after probable causation has been studied and documented and the manufacturer of the product involved has had an opportunity to comment with respect to the alleged reaction.

The Commissioner disagrees with this comment. The Freedom of Information Act nowhere provides for a procedure of this type, which would severely hinder the dissemination of information that is clearly available for public disclosure under the Freedom of Information Act.

211. Comments contended that many consumer complaints are not based on fact, but are simply intended to obtain refunds on products or are, in any event, based upon mistaken impressions. It was contended that it would be unfair to reveal all such complaints because of the many inaccuracies they contain.

The Commissioner recognizes that both industry and consumer versions of complaints may be inaccurate. This is not a basis for exempting reports on complaints or adverse reactions from disclosure under the Freedom of Information Act.

212. Large numbers of requests are received from plaintiffs' attorneys in product liability lawsuits, requesting records relating to any other injuries caused by the product that is the subject of the lawsuit.

The Commissioner advises that, in response to such requests, all such adverse reaction reports received on the product involved will be furnished, with identifying information deleted as provided in § 4.111(c)(3), except that those reports submitted voluntarily by the manufacturer to the Food and Drug Administration will not be released in any form other than as part of a blind compilation. Section 4.111 of the final regulations reflects this policy.

213. Numerous requests are made for copies of investigations conducted by the Food and Drug Administration of specific consumer complaints.

The Commissioner concludes that such complaints fall within the rules for disclosure set out above. Accordingly, they will be released depending upon the source of the information that led to the investigation. The original consumer complaint that initiated an investigation will be released after deletion of the person's identity. No disclosure of the Food and Drug Administration report shall be made if it relates to a specific person or event without the express written consent of the person who was the original source of the information that resulted in the investigation, since otherwise it would not be possible to promise that such information will be held in confidence.

Voluntary Drug Experience Reports Submitted by Physicians and Hospitals

214. The Food and Drug Administration has given wide distribution of Form FD-1639, Drug Experience Report, to physicians for use in reporting adverse reactions relating to drug products to the Food and Drug Administration. This form is stamped "In confidence," and the Food and Drug Administration has pledged that no information on this form that would identify patients or physicians or institutions will be released to the public.

The Commissioner advises that this commitment will in all instances be honored under the personal privacy, confidential commercial information, and investigatory records exemptions, and that any release of information contained on this form will be through a compilation that will in no way disclose the identity of any individual patient, physician, or institution. A new § 4.112 has been added to the final regulations to state this policy.

215. Questions have arisen as to whether a copy of the Form FD-1639, with all identifying information deleted, will be made available to the patient who is the subject of the report, or his attorney, if it is specifically requested.

The Commissioner concludes that no release of this report may be made to a patient or his representative without the permission, in writing, of the physician who submitted the report. If the report were disclosed to the patient, for purposes of malpractice litigation, this entire voluntary reporting system could be destroyed. The Commissioner concludes that, since all of the information contained in any such report can be obtained from the physician through discovery in the course of litigation, the patient has an equally effective alternative.

VOLUNTARY PRODUCT DEFECT REPORTS

216. The Food and Drug Administration has entered into a program with the United States Pharmacopeia (U.S.P.) under which reports on drug product defects are furnished to the agency for use in determining whether regulatory action is warranted. Under this program, the Food and Drug Administration has pledged that the names and identifying characteristics of physicians, patients, pharmacists, institutions, and similar persons will be deleted prior to public disclosure of any report. Similar programs are being pursued with other organizations.

The Commissioner advises that all commitments with respect to confidentiality of identifying information of this type will be honored, under the personal privacy, confidential commercial information, and investigatory records exemptions. A new § 4.113 has been added to the final regulations to state this policy.

217. A request was received for a compilation of all the drug defect reports received for one particular drug pursuant to the joint program undertaken by the United States Pharmacopeia and the Food and Drug Administration.

The Commissioner advises that specific reports will be disclosed after deletion of information that would identify any individual. A compilation of reports showing the number of reports for each drug, by generic name or by brand name, is also available for public disclosure.

The Commissioner realizes that the Food and Drug Administration does not necessarily investigate each defect report, and therefore their accuracy cannot be verified. Where this is the situation, release of such reports may be accompanied by an explanatory statement to that effect.

DATA AND INFORMATION SUBMITTED PURSUANT TO COOPERATIVE QUALITY ASSURANCE AGREEMENTS

218. The Food and Drug Administration has entered into a number of cooperative quality assurance agreements with members of the food industry. These agreements provide that the company will disclose to the Food and Drug Administration pertinent internal records and documents which are not required by law to be disclosed, and which the company regards as confidential trade secret and commercial information.

The Commissioner advises that all records and documents of this nature which are voluntarily disclosed pursuant to a cooperative quality assurance agreement will be retained by the Food and Drug Administration as confidential in accordance with § 4.111. In order to clarify this matter, a new § 4.114 has been added to the regulations to state this policy.

219. Questions have been raised as to whether the Better Salmon Control Plan entered into between the National Canners Association and the Food and Drug Administration, and any records obtained from companies pursuant to this plan, will be available for public disclosure under the Freedom of Information Act.

The Commissioner advises that the plan is available for public review in the office of the Food and Drug Administration Public Records and Documents Center. All company records obtained pursuant to the plan will be handled in accordance with the rules set out in §§ 4.111 and 4.114 of these final regulations for information voluntarily submitted to the Food and Drug Administration relating to quality assurance. No records relating to manufacturing procedures and quality control will be available for public disclosure.

PRODUCT CODES FOR MANUFACTURING OR SALES DATES

220. Requests have been made for the keys to the codes used by manufacturers to identify the actual date of manufacture of an electronic product subject to regulation under the Radiation Control for Health and Safety Act of 1968.

The Commissioner advises that the keys to all such codes have been made available for public disclosure. Final regulations revising 21 CFR .1002.10(b) and 1010.3(a)(2) were published in the FEDERAL REGISTER of May 8, 1974 (39 FR 16227), requiring that, in the future, the date of actual manufacture must be stated on the product in understandable terms rather than in code.

The Commissioner concludes that coded information with respect to a date of manufacture, a date by which the product should be sold, or a date by which the product should be used, do not fall within the trade secrets or confidential commercial information exemption. Accordingly, any key to such a code in Food and Drug Administration files will be available for public disclosure. A new § 4.115 has been added to the final regulations to state this policy.

DRUG LISTING INFORMATION

221. The Drug Listing Act of 1972 (Public Law 92-387, 86 Stat. 559), which amended section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), requires drug manufacturers to submit specific information to the Food and Drug Administration with respect to marketed drugs. This provision of the law contains its own confidentiality requirements, and there is extensive legislative history interpreting them.

The Commissioner has previously promulgated regulations in the FEDERAL REGISTER of March 7, 1973 (38 FR 6258), establishing Part 132 of the regulations (21 CFR Part 132) implementing these provisions of the law. All requests for information obtained by the Food and Drug Administration pursuant to section 510 of the act will be handled in accordance with the provisions of Part 132. Accordingly, new § 4.116 cross-references the confidentiality provisions of these regulations.

NEW DRUG INFORMATION

222. The Food and Drug Administration Bureau of Drugs has computerized a large amount of information relating to investigational new drug notices and new drug applications, extending back to the enactment of the Federal Food, Drug, and Cosmetic Act in 1938. Questions have arisen as to what information will be made available for public disclosure, and in what form, from this computer bank of information.

The Commissioner concludes that certain basic information on previously approved new drug applications should be readily available to any member of the public who wishes to review it, without cost. Accordingly, the following two computer printouts have been placed on public display in the office of the Food and Drug Administration Public Records and Documents Center, where they may be reviewed during working hours:

a. A numericial listing of all new drug applications and abbreviated new drug applications approved since 1938, showing the NDA number, the trade name, the applicant, the approval date, and, where applicable, the date approval was withdrawn and the date the Food and Drug Administration was notified that marketing of the product was discontinued.

b. A numerical listing of all new drug applications and abbreviated new drug applications approved since 1938 which are still approved. This printout shows the same information as the first printout, except that it does not show a withdrawal date.

Copies of these printouts may be ordered, at cost. Orders will be filled in accordance with the priorities established for use of the Food and Drug Administration computer.

In addition to the two computer printouts that will be permanently available for public review, the following examples of information may be obtained in printout form upon special request:

a. An alphabetical list by trade name of the approved new drug applications and abbreviated new drug applications held by specific applicants.

b. An alphabetical list of the trade names of drugs subject to approved new drug applications and abbreviated new drug applications showing either the NDA number or the applicant or both.

c. An alphabetical list of generic drugs showing approved new drug applications and abbreviated new drug applications held by applicants.

d. An alphabetical list of commercial sponsors who have filed investigational new drug notices.

Orders for such printouts will also be filled as rapidly as possible, subject to other priorities for the Food and Drug Administration computer.

The Commissioner concludes that a list of all drugs subject to investigational new drug notices constitutes trade secret information that may not be disclosed to the public.

223. The Food and Drug Administration has received requests for a list of the names and addresses of all investigators who have ever worked on investigational new drugs, without designating the specific drugs they investigated. A

similar request has been received for a list of the names and addresses of all drug companies or sponsors who have ever filed an investigational new drug notice (IND) or a new drug application (NDA), without designating the specific drugs involved.

The Commissioner advises that such lists are available for public disclosure to the extent that they already exist in documentary form or can be obtained from computer printouts by existing programs.

ADVISORY COMMITTEES

224. One comment contended that the provision in the proposed regulations relating to advisory committees "perpetuates the secrecy that has characterized the deliberations of FDA advisory committees" and proposed that the following items be required and available for disclosure:

a. The transcript of each advisory committee meeting where the same had been stenographically reported, or a complete summary of the proceedings, if not stenographically reported. The transcript or summary shall contain a record of the persons present with their affiliations, a description of the matters discussed and the conclusions reached, and copies of reports and background information received, issued, or approved by the advisory committee. The accuracy of a summary shall be certified to by the chairman of the advisory committee. Participants shall be given an opportunity to review and make corrections before a summary is certified.

b. A complete and accurate summary of each meeting or telephone call that relates, in whole or in part, to advisory committee business which was conducted at a time or place not covered by reasonable notice in the FEDERAL REGISTER as a time or place for a meeting of the advisory committee. This provision governs whether the meeting or telephone conversation involved advisory committeemen only or advisory committeemen and strangers. In case a stranger is involved, his affiliations will be disclosed.

c. A copy of each directive or guideline given to the advisory committee by the Food and Drug Administration.

d. A copy of the agenda of each meeting of an advisory committee.

e. A list of the names of all the corporations, companies, firms, state or local organizations, research organizations, and educational or other institutions in which an advisory committeeman is serving as an employee, officer, member, owner, director, trustee, advisor or consultant.

f. A list of persons who were asked to become advisory committeemen and who declined. The reason for declining, if any were given, will be disclosed.

The Commissioner will issue in the near future comprehensive new procedural regulations in 21 CFR Part 2 that will include provisions governing all aspects of the activities of advisory committees. The Commissioner concludes that detailed consideration of the application of the Freedom of Information Act to advisory committee matters should properly be dealt with in those regulations, rather than in these regulations, and an appropriate cross-reference is included in § 4.148 for this purpose.

COLOR ADDITIVE, FOOD ADDITIVE, ANTIBIOTIC, NEW DRUG, AND NEW ANIMAL DRUG PETITIONS, APPLICATIONS, AND FORMS

225. The proposed regulations published in May 1972 contained specific amendments to existing regulations dealing with color additives, food additives, new animal drugs, new human drugs, and antibiotic drugs. Many of the provisions present issues that are common to some or all of these regulations, as well as to the provisions in § 4.111 *Data and information submitted voluntarily to the Food and Drug Administration*. For example, the handling of requests for disclosure of test protocols, assay methods, adverse reaction reports, and manufacturing methods must be the same for all of these various types of documents.

Accordingly, the Commissioner has grouped together all of the comments relating to common issues for purposes of analysis and discussion in this preamble.

226. Questions have been raised with respect to the status of data and information submitted to the Food and Drug Administration in "master files" which are subsequently used to support individual petitions or applications. It was suggested in comments that all master file material should remain confidential.

The Commissioner advises that data and information contained in a master file have the same status that they would have in a petition or application. The fact that they are included in a master file rather than directly in a petition or application is of no relevance.

227. Several comments questioned the source of the "public policy," referred to in paragraph 5 of the preamble to the proposal, which favors an expanded public disclosure of research data on safety, functionality, and effectiveness in contrast to the position the Food and Drug Administration has taken since 1938 that all such data and information ordinarily represent valuable commercial property and trade secrets that must be retained as confidential. It was suggested that the relevant "public policy" to be considered was that set forth in the House and Senate reports and in the Attorney General's Memorandum. The point made in the House report that "a citizen must be able to confide in his Government" was stressed as was the statement in the Attorney General's Memorandum that "[w]here similar property in private hands would be held in confidence, such property in the hands of the United States should be covered under exemption (b) (4)."

The Commissioner advises that the "public policy" referred to in paragraph 5 of the preamble to the proposal is that expressed in the Freedom of Information Act. It is the responsibility of the Food and Drug Administration to conform with this mandate of Congress regardless of what its own past policies may have been.

The Commissioner concludes that the final regulations manifest a proper balance between the general statutory objective of releasing all records unless they are exempt and the specific statutory exemptions for trade secrets. Those records that do represent valuable commercial information, in that they provide a competitive advantage, will not be disclosed to the public.

228. A number of comments requested clarification of the intended scope of "safety, effectiveness, and functionality data" under the regulations.

The Commissioner advises that this phrase encompasses all data from animal and human tests designed to show safety and effectiveness, and all studies and tests conducted to establish the basic identity, stability, purity, potency, bioavailability, performance, and usefulness of the product. It does not include quality control tests continuously conducted on a manufacturing process and a product to establish its adherence to process and product specifications or adverse reaction reports obtained upon marketing of a drug or similar information. All of the regulations involved have been revised to reflect this policy.

229. Requests have been made for safety, effectiveness, and functionality data and information contained in letters requesting opinions on the food or feed additive or new drug or new animal drug status of products or ingredients.

The Commissioner advises that these matters will be handled as follows:

a. If the request relates to the status of a food or feed ingredient, the safety and functionality information will be made available to the public immediately.

b. If the request relates to the status of a drug or animal drug under the act, a decision as to what information is disclosable must await the response of the Food and Drug Administration to the request. If it is decided that the drug does not require a new drug application or new animal drug application, the safety and effectiveness data will be made available for public disclosure. If the decision is that a new drug application or new animal drug application is required, such data and information will remain exempt from disclosure as trade secrets except to the extent that any of it has previously been made public. This is the procedure presently being followed under the OTC drug review pursuant to § 330.10(a)(2) of the regulations (21 CFR 330.10(a)(2)).

SAFETY, EFFECTIVENESS, AND FUNCTIONALITY DATA AND INFORMATION CONTAINED IN COLOR ADDITIVE, FOOD ADDITIVE, AND ANTIBIOTIC DRUG PETITIONS AND FORMS

230. The proposed regulations published in May 1972 established the same rules for release of safety, functionality, and effectiveness data contained in color additive, food additive, and antibiotic petitions and forms. Under the Federal Food, Drug, and Cosmetic Act, these three types of petitions and forms result in public regulations rather than private licenses, although antibiotic drugs are subject to the IND provisions of the law

prior to approval for marketing. Accordingly, it was concluded that the safety, functionality, and effectiveness data do not fall within the trade secrets and confidential commercial information exemption and thus are properly made available for public disclosure regardless of whether the petitioner has previously made this information public.

All of the comments received with respect to the handling of these matters have been grouped together for purposes of analysis and discussion in this preamble.

231. It was pointed out in some comments that this was a direct about-face from the previous position of the Food and Drug Administration. It was urged that data contained in food and color additive petitions and antibiotic drug forms be disclosed only to Food and Drug Administration consultants, advisory committees, and special government employees, and not to the public.

The Commissioner notes that there was no clear policy on this matter in the past, and that in any event the policy of the Food and Drug Administration prior to enactment of the Freedom of Information Act is not determinative with respect to proper implementation of the Freedom of Information Act at the present time. The Commissioner concludes that the safety, functionality, and effectiveness data contained in food and color additive petitions and antibiotic drug forms have no trade secret value and, since they are often published in scientific journals or given to customers or scientists or disclosed to the public in other ways, are not customarily regarded as privileged. Accordingly, this type of material does not qualify as confidential either under the trade secret portion of the exemption or under the confidential commercial and financial data portion of the exemption. This is in contrast to other information, such as manufacturing procedures, which are not customarily so disclosed or made public.

232. Several comments objected to the statement in paragraph 5 of the preamble to the proposed regulations published in May 1972, to the effect that research data for food additives and color additives are "not the type of commercial information customarily regarded as privileged."

The Commissioner disagrees with this comment and affirms the statement made in the preamble to the proposed regulations. A number of comments filed by food ingredient manufacturers did not object to the release of safety and functionality data for food additives and color additives. In the intervening 2 years, all such data have been made available to the public. Although affected manufacturers were permitted an opportunity to contest such disclosure in the courts, no such lawsuits were filed. Some manufacturers have, indeed, affirmatively agreed to the disclosure of such information. Information of this type is routinely published in the scientific literature or otherwise distributed to interested scientists, potential customers, and others. Accordingly, the Commissioner concludes that it is not customarily regarded as confidential commercial information.

233. A comment suggested that safety, effectiveness, and functionality data for food additives, color additives, and antibiotic drugs do provide an advantage over competitors because they can be referred to in promotional and selling activities.

The Commissioner rejects this comment. Once such ingredients or products are approved by the Food and Drug Administration for distribution generally, the use of such data by a particular manufacturer for promotional activities cannot reasonably be regarded as providing a competitive advantage.

234. One comment contended that, even if food additive and color additive safety and functionality data provide no competitive advantage in the United States, they do provide a substantial competitive advantage in obtaining governmental approvals in foreign countries.

The Commissioner concludes that the possibility that such data and information may at some future time permit a competitive advantage in some foreign country is too conjectural and remote to permit the conclusion that all such data and information fall within the trade secrets exemption. In the event that specific facts are available to show such a competitive advantage with respect to a particular matter in a specific foreign country, the Commissioner will evaluate the situation to determine whether it presents the "extraordinary circumstances" under which the material will not be disclosed pursuant to the final regulations.

235. With regard to the safety, effectiveness, and functionality data for food and color additive petitions and antibiotic drugs, comments stated that there was no justification for withholding information until the regulations are issued. It was argued that, if this information does not provide a competitive advantage when such approval is granted, since all manufacturers are then free to make the product, it is questionable whether the information provides any competitive advantage prior to approval, since no manufacturer may market or use the product until then. It was urged that, when the approval is granted for minor variations in formulations of such ingredients or products, any competitive advantage is insignificant, considering the little time it would take a competitor to start production by using the information published in the regulation. As a positive benefit, it was argued that release before the regulation was issued might trigger research which might contribute to the making of a more reasoned decision on the petition or antibiotic drug form.

The Commissioner agrees with the substance of this comment. Accordingly, the final regulations provide that the safety and functionality data contained in color additive and food additive petitions will be made available for public disclosure when the notice of filing of the petition is published in the FEDERAL REGISTER. Where such notice of filing is substantially delayed, because the petition does not contain sufficient information and further testing is required, the safety and functionality data submitted will be available for public disclosure after the review of the submission by the Food and Drug Administration is complete and the petitioner has been informed of the deficiencies. Similarly, the safety and effectiveness data contained in an antibiotic drug form will be available for public disclosure when the Food and Drug Administration issues an approval letter to the manufacturer. This usually occurs a substantial time before an antibiotic drug monograph is published in the FEDERAL REGISTER.

The Commissioner believes that this approach adequately accommodates any legitimate desire of industry to maintain the confidentiality of its data until a reasonable time before approval, the need for the Food and Drug Administration for review and evaluation of the submission before it is released to the public, and the right of the public for access to the data and information submitted in order to make meaningful comments on it within the time permitted.

236. Comments suggested that, if food and color additive petitions and antibiotic drug forms are not customarily privileged, manufacturers should not be permitted to show "extraordinary circumstances" to justify nondisclosure. It was emphasized that no "extraordinary circumstances" may be created by a manufacturer's plea where the Freedom of Information Act exemptions do not apply.

The Commissioner advises that the provision permitting a manufacturer to show "extraordinary circumstances" to justify nondisclosure was included in the event that, on rare occasions, circumstances may arise that cannot be foreseen at this time which would require, in fairness, that material not be disclosed. The Commissioner anticipates that this will happen on very few occasions, and that in almost all instances this type of information will promptly be released to the public. In order to show "extraordinary circumstances," the manufacturer must demonstrate that release of the information will destroy a competitive advantage that he would otherwise enjoy, that he will be hurt financially as a result, and thus that it would be unlawful or unfair to release the information involved. The mere fact that the information may be embarrassing, or may require removal of a product from the market, or may disclose adverse reactions, or may be of interest to others, or that there is some remote future possibility of competitive advantage, or that others might conduct duplicative research which would be obviated by release of the information, or similar arguments, will be insufficient to justify nondisclosure.

237. Following publication of the proposed regulations in May 1972, some food additive petitions were submitted to the agency marked "confidential" or accompanied by letters stating the opinion that the information contained therein was confidential.

In each of these instances, the Food and Drug Administration responded stating that the petition was being filed without any pledge of confidentiality. In order to clarify this matter, the Commissioner is including in new § 4.27 of the final regulations a statement that any such gratuitous designation by a person submitting a petition or application is of no legal effect, and that the only pledges of confidentiality that will be made by the Food and Drug Administration are contained in these final regulations themselves and through the procedure established in new § 4.44 of the regulations.

SAFETY AND EFFECTIVENESS DATA FOR NEW DRUGS AND NEW ANIMAL DRUGS

238. The proposed regulations published in May 1972 established the same rules for release of safety and effectiveness data contained in new drug and new animal drug applications. Under the Federal Food, Drug, and Cosmetic Act, these applications, and the notices relating to investigational use of new drugs, result in private licenses rather than in public regulations. Accordingly, it was concluded that the safety and effectiveness data for new drugs and new animal drugs, including antibiotic drugs for veterinary use, fall within the trade secrets exemption and thus are not available for public disclosure unless the applicant has previously made the information public or the drug has been disapproved or withdrawn from the market or the drug has reached the stage where it may be marketed without submission of such data to the agency for approval.

All of the comments received with respect to the handling of these matters have been grouped together for purposes of analysis and discussion in this preamble.

239. Comments suggested that the provision in the proposed regulations, that the existence of an IND will not be disclosed unless it has previously been "acknowledged" by the sponsor, is too vague, and that the term "publicly disclosed" should be substituted for "acknowledged."

The Commissioner concurs in part with this comment, and uses the phrase "publicly disclosed or acknowledged" in the final regulations. Private acknowledgment of the existence of an IND to a consultant is insufficient to constitute public disclosure. Discussion with other scientists who are not paid consultants, however, or with securities analysts, or acknowledging the existence of an IND to any such person, is sufficient to break the confidentiality of the existence of an IND. The Commissioner notes that the existence of an IND is often common knowledge within the industry and the scientific world, and that confidentiality of such information is becoming more and more unusual.

240. Questions have arisen as to whether the existence of an IND notice can be regarded as confidential commercial information if the drug is marketed abroad or if published literature exists on the drug.

The Commissioner concludes that the existence of an IND notice under these circumstances will not be regarded as confidential. The marketing of a drug abroad or the publication of information about the drug constitutes public notice of the existence of the drug entity and the probability that the company will be considering marketing it. In particular, scientific discussion of the drug in the United States, in the literature or in meetings, clearly discloses the existence of an IND.

241. Requests have been received for the names and addresses of all investigators with respect to an investigational new drug where the existence of the IND notice has been publicly disclosed or acknowledged.

The Commissioner concludes that a list of all such investigators is confidential commercial information. If such a list were disclosed, there would be a good possibility that competitors could determine the progress of the investigation, or that patients would seek out the investigators to determine whether they might also receive the investigational drug, or that the value of the study could be destroyed by outside interference.

242. A request was received for the curriculum vitae of a specific person who is publicly known to be an investigator for a particular new drug.

The Commissioner concludes that a curriculum vitae is properly available for public disclosure under these circumstances. Information contained in a curriculum vitae is customarily distributed in a public fashion, and accordingly such release does not constitute an unwarranted invasion of privacy.

243. A comment contended that all IND information should be available, whether or not the IND has been terminated, for the protection of the human subjects involved in the drug experiments. The comment stated that there is increased danger in testing subjects because of the Food and Drug Administration policy of allowing drug companies to experiment on human beings before animal tests are completed. Without disclosure, it was stated, there is also no incentive for following up on patients who have taken experimental drugs.

The Commissioner concludes that the present law precludes such release of the safety and effectiveness data in an active IND file unless it has previously been publicly disclosed. The remedy for the individual who has participated in the testing of a new drug is to obtain information about the drug from the drug company involved. Current Food and Drug Administration regulations require such disclosure, and the individual to be tested also has the option of not participating in the test unless there is full disclosure of all information, including, in particular, the adverse effects on other test subjects. Proposed regulations on the followup of test subjects, and a petition relating to requirements for animal tests before human tests, are presently under active consideration.

244. Comments contended that, once an IND is terminated, there is no public benefit to be obtained from the disclosure of information in it.

The Commissioner concludes that "public benefit" is not a criterion for determining whether information shall be disclosed to the public under the Freedom of Information Act. Moreover, in many instances there will be a definite public benefit from such disclosure.

245. Comments stated that even the irrevocable and final termination of an IND in this country should not result in disclosure of the safety and effectiveness information contained in it if the same drug is being marketed elsewhere in the world.

The Commissioner does not agree with this comment. Even the pharmaceutical industry's comments generally agreed that a summary of safety and effectiveness information can properly be disclosed to the public without violating the trade secrets and confidential commercial information provisions of the law. It is only the full reports that may not properly be disclosed, because the Federal Food, Drug, and Cosmetic Act requires that such full reports are necessary in order to obtain an approved NDA. If the terminated IND contains adverse information with respect to safety and effectiveness, therefore, a summary of that information could properly be released, and would be as damaging to foreign marketing as would the full reports of such information.

Moreover, none of the comments submitted demonstrated any likelihood that the full reports of such information, as contrasted with summaries, are required under foreign law in order to justify marketing abroad. The Commissioner therefore concludes that any such possibility of competitive advantage is too conjectural and remote to justify invoking the trade secrets exemption of the Freedom of Information Act. Should a specific instance arise in which a competitive advantage can be demonstrated in concrete terms, a manufacturer is permitted to support nondisclosure of such information under the "extraordinary circumstances" exemption provided in the final regulations.

246. In at least two instances, manufacturers have requested that an IND not be terminated for fear that such termination, in and of itself, would result in the information in the IND becoming available for public disclosure.

The Commissioner advises that the termination of an IND is not dispositive with respect to the availability of information contained therein. If the company can demonstrate that the matter is still under active development, such information will retain its trade secret status.

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247. In one instance, a request was made for information contained in an IND file for which human clinical studies had been discontinued as a result of adverse animal findings. The company requested continued confidentiality of the information in the file on the ground that it was pursuing additional animal studies in order to reactivate the IND file and intended eventually to pursue an NDA.

The Commissioner concludes that, under these circumstances, safety and effectiveness information contained in an IND file that is otherwise confidential will remain confidential. An IND is terminated or abandoned only after all human and animal work with respect to the drug has been discontinued, and the data and information contained in an IND which are otherwise confidential will not be disclosed to the public as long as the matter remains open and active. Where the issue is in doubt, the Food and Drug Administration will require submission of further information from the person who submitted the IND. Any statement relating to the future intentions of that person with respect to the IND would be subject to the False Reports to the Government Act, 18 U.S.C. 1001.

248. One comment suggested that the IND provision be clarified to state that approval of an NDA, which technically results in termination or discontinuance of an IND, does not require release of all of the confidential information contained in the IND.

The Commissioner advises that the IND and NDA are regarded as one continuous process. Indeed, the NDA incorporates the IND. Accordingly, upon the filing or approval of an NDA the material in the IND has the same status as the material in the NDA. The final regulations make this clear.

249. The proposed regulations published in May 1972 provided that a list of pending new drug applications would be available for public inspection.

On reconsideration, the Commissioner has concluded that such a list should be made available only for new drug applications for which the applicant has been advised that the NDA is "approvable," and not for all pending new drug applications. The existence of a pending NDA constitutes confidential commercial information where the existence of clinical testing has not previously been publicly disclosed or acknowledged. Accordingly, the final regulations have been revised to state that the list will include only those new drug applications where the company has been advised by the Food and Drug Administration that the NDA is approvable.

250. Comments stated that the fact that a company has filed an IND or is even interested in a particular pharmaceutical area may well be a trade secret.

The Commissioner concludes that such information, although not a trade secret, is properly regarded as confidential commercial information that will not be disclosed to the public by the Food and Drug Administration unless it has previously been disclosed or acknowledged to any member of the public.

251. Comments asserted that knowledge of a pending NDA or NADA will almost always afford a competitor an advantage because he will then be in a position to adjust his marketing strategy in anticipation of a competing product. Hence, the very fact that an NDA is pending will frequently be a trade secret.

The Commissioner agrees that the fact that an NDA or NADA is pending is confidential commercial information that will not be disclosed if it has not previously been publicly acknowledged or disclosed. The trade press often reports that an NDA has been submitted or is pending before the agency and frequently a company will make such information public in its reports to stockholders.

252. Undoubtedly the most persistent issue raised in the comments relates to the disclosure of safety and effectiveness data in IND and NDA files. Comments requesting disclosure of all such information quite properly pointed out that it is important to scientists and physicians. Comments opposing disclosure of this information quite properly pointed out that it is of enormous economic value.

The Commissioner concludes that there can be no question, under present law, about the tremendous economic value of the full reports of the safety and effectiveness data contained in an IND, NDA, INAD, or NADA. Such information costs hundreds of thousands, and in some instances, millions of dollars to obtain. Release of such information would allow a competitor to obtain approval from the Food and Drug Administration for marketing the identical product, at a mere fraction of the cost. Present law contains no provision that would permit the Food and Drug Administration to refuse to approve a "me-too" product on the basis of information obtained from the first manufacturer, once that information from the first manufacturer is disclosed.

The Commissioner recognizes the important public policy issues that would be raised by disclosure of such trade secret data. The public is dependent upon private pharmaceutical manufacturers for development of drugs. In some instances those drugs may be patented, but in other instances they may not be patented. If a manufacturer's safety and effectiveness data are to be released upon request, thus permitting "me-too" drugs to be marketed immediately, it is entirely possible that the incentive for private pharmaceutical research will be adversely affected.

The Commissioner does not believe that this issue can or should be addressed by the Food and Drug Administration alone. Rather, it is an important public policy issue that can and should be addressed primarily by Congress. Accordingly, the Commissioner concludes that, if any change is to be made in the handling of the full reports of the safety and effectiveness data submitted to the agency as part of an IND, NDA, INAD, or NADA, it should properly be made by Congress through new legislation, and not by the Food and Drug Administration through these regulations.

253. Comments argued that the treatment of trade secrets in the proposed regulations is circular since the "competitive advantage" acquired is one that is based on the Food and Drug Administration's own regulatory scheme.

The Commissioner concludes that there does not appear to be any legal or policy reason why a "competitive advantage" for purposes of determining whether information is a trade secret may not be one obtained from a statutory scheme. The existing regulatory scheme is one created by the Congress and not by the Food and Drug Administration. Data that no longer provide a competitive advantage—because any competitor may lawfully market the product involved, or because the information has otherwise been made public, or for other reasons—no longer qualify as a trade secret under 18 U.S.C. 1905, 21 U.S.C. 331(j), or the Freedom of Information Act.

254. A comment objected to the withholding of NDA information on the ground that it grants a monopoly that continues forever, since in order to market an approved drug a company must do all the testing required to show safety and effectiveness. It was pointed out that this may cost millions of dollars and has the effect of limiting the market to the company that did the original testing and to those other companies which are permitted by a first company to incorporate by reference its safety and effectiveness data into their applications. This system, referred to as a "domestic cartel," bars production of a drug because of the expense of reproducing the test data, irrespective of whether the patent has expired or is declared invalid or whether the product is unpatentable because it is a "product of nature" or lacks novelty. Further, it was asserted that, once a drug was tested, there was no social gain in requiring duplication of the testing by other companies.

The Commissioner advises that the Federal Food, Drug, and Cosmetic Act requires full reports of safety and effectiveness from each company submitting an NDA. The Food and Drug Administration has, on a number of occasions, pointed out to Congress the effect of this requirement, and has suggested that Congress consider whether this policy should be retained or changed. Congress has, to date, not taken action on this matter.

255. Comments questioned whether animal and human data on safety and effectiveness can be considered a "method or process which as a trade secret is entitled to protection", within the meaning of section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)).

The Commissioner advises that, since 1938, it has been the consistent administrative interpretation that this statutory provision can encompass animal and human data, although the agency did not previously have a clear policy as to when such data did or did not represent trade

secrets. This longstanding interpretation has been set out in Food and Drug Administration manuals, in advisory opinions, and in testimony to Congress. Accordingly, the Commissioner concludes that it would be improper for the Food and Drug Administration to make an administrative determination reversing that position at this time. Moreover, regardless of the scope of section 301(j), the Commissioner concludes that the provisions of 18 U.S.C. 1905 and the trade secrets exemption to the Freedom of Information Act are clearly applicable to such data.

This issue was recently considered in the case of "Morgan v. FDA," 495 F.2d 1075 (D.C. Cir. 1974). The District Court ruled that the data on safety and effectiveness contained in a new drug application are exempt from disclosure under all three statutes. The Court of Appeals ruled that such data can properly be encompassed within the trade secrets exemption to the Freedom of Information Act.

256. Comments contended that the new drug license system results in "superpatents," and that by using drug licensing to create a second patent system the Food and Drug Administration permits companies to settle private patent disputes by cross-licensing.

The Commissioner advises that it is Congress, not the Food and Drug Administration, that has created the new drug licensing system. The Commissioner believes that the Department of Justice and the Federal Trade Commission have full legal authority to prevent any collusive cross-licensing agreements within the pharmaceutical industry. In any event, it is well recognized that a person who owns a property right of any type may contract with others for its use. Thus, a company may sell its rights in an NDA or may license others to refer to it.

257. Comments suggested that public policy supports the release of all safety and effectiveness data for new drugs, and contended that summaries of such data are insufficient to afford adequate scientific review. It was pointed out that the President's Commission on Federal Statistics recommended in 1971 that all such information should be released. Comments suggested that the procedure for release of this type of information contained in the Federal Environmental Pesticide Control Act of 1972 (Pub. L. 92-516, 86 Stat. 973) should be used.

The Commissioner agrees that public policy supports release of all safety and effectiveness data, but points out that present statutory law, 18 U.S.C. 1905 and 21 U.S.C. 331(j), prohibits such release. The Federal Environmental Pesticide Control Act of 1972 contains a statutory mechanism for protecting a manufacturer's property right in trade secret data. The Commissioner has no authority to institute such a system without statutory authorization from Congress.

258. The proposed regulations published in May 1972 would have required every holder of a previously approved NDA or NADA to submit a summary of confidential safety and effectiveness data, and every person submitting such an application in the future to include such a summary, which would then be revised by the Food and Drug Administration and publicly disclosed. Present Food and Drug Administration regulations require that an NDA or NADA contain a short or expanded summary of all of the information contained in the application. In addition, these applications are review thoroughly by Food and Drug Administration personnel who prepare internal memoranda summarizing the information they contain, evaluating it, and setting out their conclusions and recommendations on it. During the past 2 years, requests have been made for the various summaries in NDA files prepared by the medical officer, the pharmacologist, the chemist, and in some instances, the biostatistician.

The Commissioner concludes that, in view of the fact that the full reports of the safety and effectiveness data contained in an approved NADA or NDA that have not previously been disclosed to the public constitute trade secret information that is prohibited from public dissemination pursuant to 21 U.S.C. 331 (j) and 18 U.S.C. 1905, it is important that summaries of all such data and information be made available so that scientists and members of the public who are interested will have an opportunity to determine the basis on which Food and Drug Administration decisions are made. Accordingly, the Commissioner has concluded that summaries of the safety and effectiveness data and information on the basis of which an NDA or NADA has been approved should be made publicly available.

a. The Commissioner recognizes the difficulty involved in implementing this decision for previously approved NDA's and NADA's. It is not administratively feasible to prepare new summaries at this time for all such prior approvals. Accordingly, for such prior approvals the Commissioner has concluded that internal agency records that describe such data and information will be made available for public disclosure upon request. It is not possible to state exactly which internal records will be adequate to convey this information, because this may vary depending upon the bureau involved, the administrative procedures being followed at the time the approval was granted, and various other factors. Such records will include internal reviews of the data and information, action memoranda, a summary of the basis for approval, or other internal memoranda sufficient to describe the safety and effectiveness data and information for the drug involved.

The Commissioner also recognizes that many of these old memoranda were prepared solely for internal consideration, and may contain information that is not proper for public disclosure. For example, some memoranda may mention the names of patients in an IND study. Some of these memoranda also contain criticism of investigations to which the investigators have never had an opportunity to respond and other inappropriate gratuitous comments unnecessary to an objective presentation of the data and information. If these memoranda had been prepared for public dissemination, such information and comments would not have been included. Accordingly, the Commissioner concludes that the names of patients and investigators and inappropriate comments will be deleted prior to public disclosure.

On the other hand, the Commissioner concludes that the analysis, discussion, conclusions, and recommendations contained in such memoranda should not be deleted. Such material could properly be withheld from public disclosure in accordance with the exemption for intra-agency memoranda, but the Commissioner believes that public discussion of these matters is better served by disclosure of all of the conclusions and recommendations set out in the memoranda, with only the minimal deletions mentioned above. In some instances, this will disclose recommendations which the Food and Drug Administration concluded not to follow at the time, or decisions which have subsequently been reversed. The Commissioner believes that such disclosure will not harm the regulatory efforts of the agency, but indeed will serve to foster better public understanding of the internal discussion about scientific and medical issues that must always characterize an open and responsive regulatory agency.

b. For NDA's and NADA's approved in the future, the Commissioner concludes that somewhat different rules should apply. Rather than disclosing internal discussion memoranda, it is more appropriate to provide for preparation of a single institutional summary stating all of the data and information relating to the safety and effectiveness of the product on the basis of which the agency action was taken. Moreover, rather than wait until a request is made for such a summary, it will be publicly released when the approval is made.

It is not administratively feasible immediately to implement this new requirement. Accordingly, the Commissioner concludes that NDA's and NADA's approved on or after July 1, 1975, will be the subject of such an institutional summary of the safety and effectiveness data and information. This will provide sufficient time for the Bureau of Drugs and the Bureau of Veterinary Medicine to prepare guidelines for such summaries and to implement this new policy for those applications now undergoing review within the agency.

The Commissioner concludes that, for these future approvals, the summary may be prepared in one of two alternative ways. First, the relevant bureau may request the applicant to prepare a summary of all of the data and information for this purpose, which the bureau will then review, revise, and release at the time that the drug is approved. It would obviously be premature to require that

this summary be submitted with the NDA or NADA. Rather, where this alternative is utilized, the bureau will request submission of such a summary at an appropriate time near approval of the application, when it is likely that all of the data and information will have been submitted and fully considered.

The second alternative way for preparing such a summary will be for the bureau to prepare its own summary, without requesting the applicant to submit a summary for this purpose. The Commissioner concludes that this approach may well be appropriate where the application and internal memoranda already contain various summaries and the bureau decides that submission of another summary is unnecessary.

Once the requirement for an institutional summary goes into effect on July 1, 1975, it will no longer be necessary or appropriate for the Food and Drug Administration to release other internal discussion memoranda relating to approval of NDA's and NADA's. This institutional summary will collate and distill all of the numerous internal memoranda relating to these matters, and thus will set forth in a comprehensive way the basis for the approval. Since it will purposely be prepared for public dissemination, it is unnecessary for the final regulations to state that these new summaries will not violate personal privacy or otherwise contain inappropriate material.

c. Finally, the Commissioner notes that the rules pertaining to summaries set out in the final regulations apply to supplemental and abbreviated NDA's and NADA's as well as to original NDA's and NADA's. On the other hand, not every supplemental or abbreviated NDA or NADA is sufficiently different to justify a new summary. Accordingly, it will be left to the judgment of the bureau to determine whether the original summary for an NDA or NADA will require revision or supplementation to reflect changes made by approval of a supplemental NDA or NADA. Where a new use or substantially different dosage is approved such revision would undoubtedly be required, but where only such matters as manufacturing controls or ingredient sources are involved no change would be warranted.

259. A number of comments from the pharmaceutical industry agreed with the concept of making public a summary of the information on safety and effectiveness in approved new drug applications. Some comments agreed with the proposal that this should be a specially prepared summary, and some suggested that it should be the summary already provided in the NDA.

The Commissioner concludes that the rules for preparation and disclosure of summaries set out in the final regulations are adequate to provide for information to the public on the safety and effectiveness data on the basis of which an NDA or NADA is approved, with minimum disruption to the applicant and the Food and Drug Administration. The Commissioner concludes that it would be unduly burdensome to require preparation of new summaries for previously approved drugs, and that internal memoranda should be sufficient to describe the basis for these past decisions. The Commissioner also concludes that the institutional summary to be prepared and released to the public for all approvals after July 1, 1975, may properly be prepared solely by the bureau involved, or may be based upon a summary specially submitted by the applicant for that purpose. None of these summaries will be sufficient for a competitor to satisfy the statutory requirement for "full reports" of safety and effectiveness in order to obtain his own approved application, and thus the trade secret status of the underlying data and information will be preserved. If the Commissioner determines that this is not successful in providing adequate summaries of the safety and effectiveness data to the public, the matter will be reopened for consideration of alternative methods of achieving this purpose.

260. The question was raised in comments as to what was meant by "a summary of the safety and effectiveness data and information submitted" which was proposed to be submitted with each NDA for release to the public. It was suggested that a "general" summary should suffice for the needs of the practicing physician, the consumer, and the scientific community. A "detailed" summary, it was believed, would ease the burden of a subsequent new drug applicant in this country and might also enable such a manufacturer to market in other countries with little or no testing. It was also indicated that a detailed summary might well constitute prior disclosure under the patent laws of one or more foreign countries and therefore prevent the original NDA holder from obtaining patent protection in those countries. It was also suggested, because of the trade secret and otherwise confidential nature of the underlying data involved, that the manufacturer should have the final say on the content of any such summary, and that no summary change be made without the consent of the manufacturer.

The Commissioner concludes that the summaries to be released pursuant to the final regulations will not ease the burden on a subsequent new drug applicant in this country since such an applicant would nonetheless be responsible for running the required tests. The Commissioner concludes that the possibility of competitive advantage abroad is speculative and remote. Although in some instances the bureau may wish to confer with others, including the applicant, in preparing the institutional summary, this is not required and under no circumstances will the applicant have the final say on its contents.

261. Comments asked whether submission of a summary is required each time a supplemental NDA is filed. This, it was indicated, would be an unnecessary duplication since the supplement is often directed to some rather minor change in the labeling of the product with no relevance to the previously submitted safety and effectiveness data.

The Commissioner advises that, under the final regulations, a summary will be released for a supplemental NDA or NADA where the supplemental application has a significant impact on safety or effectiveness. It is unnecessary specifically to mention supplemental applications in the regulations because a supplemental application becomes part of the original application. Thus, consideration of revision or supplementation of a summary is required whenever a supplemental application is approved.

262. Comments complained that disclosure of summaries of safety and effectiveness data does not serve the purpose of the Freedom of Information Act since outside scientists need the raw data in order to determine whether the agency has acted wisely in a given instance. It was contended that release of a summary would serve only as a "public relations stunt" for the industry.

The Commissioner concludes that the present law provides the Food and Drug Administration a choice between release of a summary or release of no safety and effectiveness information, since release of the complete data would constitute disclosure of a trade secret prohibited by 21 U.S.C. 331(j) and 18 U.S.C. 1905. The release of a summary is preferable to no release of information. The summary will be complete enough to convey both the nature of the experiment and the scientific data generated.

263. Questions have arisen as to whether the Food and Drug Administration may release adverse safety data submitted by a manufacturer as part of an IND file or a pending NDA.

The Commissioner concludes that the full report and data may not properly be released, but that a summary of such data may be released, if the existence of the IND or pending NDA is itself not confidential. If the existence of the IND or pending NDA is itself confidential, release of a summary of adverse safety data would not be permitted.

Because the Commissioner concludes that the full administrative record of an IND or pending NDA represents confidential commercial information prior to approval of an NDA, a summary of safety or effectiveness data in an IND or pending NDA shall be made public only on a selective basis, in a way that will not reveal the full administrative record. Such a situation usually occurs when the matter is under consideration by a Food and Drug Administration advisory committee. This policy is reflected in § 314.14(d) of the final regulations.

264. Foreign governments have discussed with the Food and Drug Administration the possibility of exchanging data and information on the safety and effectiveness of investigational and marketed drugs.

The Commissioner concludes that the same rules will apply with respect to disclosure of such information to foreign governments as apply to disclosure to the public. This will permit the Food and Drug Administration to provide full summaries of all safety and effectiveness data for all approved NDA's, and selected summaries for IND's and pending NDA's

for which the existence of an IND has been publicly disclosed or acknowledged. The Commissioner concludes that this will adequately satisfy the need for international exchange of important regulatory information of this type.

265. Comments were received that adverse safety and effectiveness information, which might lead to a reduction in use of a drug or to withdrawal of the drug from the market, is properly regarded as confidential commercial information because it can adversely affect the sales of the product. Other comments, however, did not distinguish between adverse information and favorable information, and concluded that the Food and Drug Administration could properly release summaries of all material relating to safety and effectiveness.

The Commissioner concludes that a summary of adverse safety and effectiveness information may properly be made available for public disclosure. As already discussed, such information is commonly published in the scientific literature and distributed to the scientific community. Accordingly, it cannot be said to be customarily held in strict confidence.

266. A comment stated that, for an NDA which is not approved, a summary of the basis of the refusal should be released.

The Commissioner advises that the disapproval letter and all data from an NDA which has received final agency disapproval will be available for disclosure after all administrative and judicial appeals are exhausted. However, such records will be released only where the agency disapproval is final, and not where there is merely an intermediate determination of insufficient data for approval and the applicant continues the work needed to obtain approval.

267. Comments contended that all data and information contained in an NDA are properly held in confidence forever by the Food and Drug Administration, and thus cannot be disclosed when the drug is withdrawn or becomes an old drug or for any other reason, because (1) the legislative history of 21 U.S.C. 331(j) indicates that all such information was to be regarded as trade secrets, (2) the Food and Drug Administration has in any event obligated itself to maintain the confidence of this information by promises made to industry since 1938, and (3) the agency is precluded from changing its consistent administrative interpretation of the law under the doctrine of "Udall v. Tallman," 380 U.S. 1 (1965).

The Commissioner concludes that the legislative history of 21 U.S.C. 331(j) shows that Congress simply did not decide the issue raised in these regulations. Although Congress stated that all trade secrets in new drug applications were to remain confidential, it did not, in the reports or legislative debate, consider or define the intended scope of the term "trade secret."

The Food and Drug Administration has since 1938 pledged that all trade secret information contained in a new drug application will be held in confidence, and has stated that animal and human tests can fall within that section. The Food and Drug Administration has not previously adopted a specific definition of "trade secret," however, or delineated the precise circumstances under which animal and human data do or do not constitute trade secrets, or otherwise attempted to set out the scope of that provision of the law in the detail that is done in these regulations and this preamble. Moreover, Congress has now enacted the Freedom of Information Act, establishing new public policy, which requires reevaluation and clarification of the agency's prior policy.

The Freedom of Information Act contains a congressional mandate to release all information not explicitly prohibited or exempt from public disclosure. The proposed regulations published in May 1972 represent the Food and Drug Administration's first attempt to interpret and apply that directive. The Commissioner believes that the policy proposed there, and adopted in these final regulations, represents a reasonable accommodation of both the disclosure provisions of the Freedom of Information Act and the nondisclosure provisions contained in 21 U.S.C. 331(j), 18 U.S.C. 1905, and the trade secrets exemption from the Freedom of Information Act, insofar as they apply to trade secrets and other confidential commercial information.

268. Comments contended that the fact that a product is not currently being marketed or has been withdrawn from the market does not prevent that product from being entitled to trade secret protection, citing "Harris Manufacturing Co. v. Williams," 157 F. Supp. 779 (W.D. Ark. 1957); and "Ferroline Corp. v. General Aniline Corp.," 207 F.2d 912 (7th Cir. 1953).

The Commissioner does not concur with this comment, and believes that the cases do not support the proposition for which they are cited. In the "Harris" case, the court noted that the plaintiff had not abandoned use of the product in question, and stated that the mere fact that a company is not using a particular product at a particular time does not prevent it from being a trade secret. The final regulations make it clear that termination or disapproval of an IND or NDA refer to final termination or disapproval, not to some intermediate step. As is discussed elsewhere in the preamble, continued pursuit of the IND or NDA will be sufficient to justify the continued confidentiality of the safety and effectiveness data involved.

In the "Ferroline" case, the company had conveyed by contract its rights to the trade secret to another party, and then later regained the rights to that trade secret and attempted unsuccessfully to re-enter the field. The gravamen of its complaint was that the misappropriation of the trade secret by the defendants precluded successful reentry. The court held that the plaintiff was entitled to bring the suit notwithstanding the fact that it currently was not utilizing the trade secret in question. The Commissioner concludes that the circumstances of this case are totally different from any of those involved in the final regulations, and thus that this case is of little, if any, relevance. The final regulations do recognize that a property right in a trade secret may be conveyed by contract. In the "Ferroline" case, however, the nonuse of the trade secret was caused by the alleged breach of confidentiality, whereas in the final regulations promulgated by the Commissioner there can be no authorized release until the product is not currently being marketed or has been withdrawn from the market.

269. The major argument advanced in comments objecting to the disclosure of IND and NDA safety and effectiveness data after disapproval of the product is that the events upon which disclosure hinges, e.g., termination, discontinuance, approval, etc., are actually irrelevant to the issue of whether or not the information is a trade secret. It was contended that a number of competitive advantages continue to exist or later accrue after such an event occurs. It was asserted that simply knowing a process does or does not work is worth hundreds of thousands of dollars and years of research to a competitor. Further, such information could be used to develop marketing and sales literature and provides a definite advantage to its owner in obtaining foreign product registrations. The advantage was thought to be especially strong with respect to marketing in countries where there is little or no patent protection. The advantage in the foreign market situation could, it was suggested, be so great as to create a further imbalance against the United States in foreign trade. It was indicated that a discontinued or terminated IND or NDA may be reviewed and reactivated if there is a change in scientific knowledge. It was argued that drugs subject to termination may be found to have congeners which are safer and more effective, and that initial investigations may indicate a metabolite of the drug under study is the more active form and investigational efforts may be diverted to studies of the metabolite. Comments stated that termination may simply be the result of a determination at that point in time to use research money on another drug. The data in an investigational file may later become essential when related drugs are being investigated. Such data can form the basis of cooperative agreements with other drug companies or universities on renewed trials of a drug. Comments contended that the termination of one IND or NDA and disclosure of trade secrets relating to it may affect another IND or NDA which has not been terminated. It was also pointed out that investigations voluntarily terminated here may be continued abroad.

The Commissioner concludes that termination, in order to trigger disclosure, must be final. If there is some legitimate

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reason for the termination being only temporary, data and information will not be disclosed. The regulations also permit a showing of "extraordinary circumstances" why data in a terminated file should not be disclosed. A situation in which one IND or NDA directly affects another might be viewed as an extraordinary circumstance. Again, the possibility of foreign competitive advantage is too speculative and remote to justify a broad exemption from disclosure under the Freedom of Information Act.

270. Many comments based objections to the release of any safety and effectiveness data whatever on an affidavit by Henry E. Simmons, M.D., former Director of the Bureau of Drugs, dated April 5, 1971, filed in the United States District Court in the case of "Morgan v. FDA."

The Commissioner advises that the position taken in that affidavit no longer represents the policy of the Food and Drug Administration. Subsequent to the preparation of that affidavit, the Food and Drug Administration made a comprehensive evaluation of the status of safety and effectiveness data for drugs under the Freedom of Information Act for the first time since that law was passed. The results of that evaluation were set out in the proposed regulations published in May 1972 and in the brief subsequently filed by the Food and Drug Administration in the United States Court of Appeals in the "Morgan" case. The recent decision of the United States Court of Appeals in the "Morgan" case explicitly recognizes that, because of the procedural posture of that case, it does not provide precedent for determining the status of all safety and effectiveness data for new drugs. The Commissioner advises that the proper way to decide this issue will be through a declaratory judgment action contesting either the validity of these final regulations or the propriety of proposed disclosure of particular information in a specific instance.

271. Comments argued that, although safety and effectiveness data and information for an old drug may no longer be a "trade secret," they can still be regarded as "confidential commercial information" because they are not customarily divulged publicly.

The Commissioner rejects this comment. Such data no longer have any commercial value, and indeed no comment suggested any reasonable rationale for such value. Moreover, scientific data are customarily published in the scientific literature or in any event are made available to physicians and scientists for review, and accordingly are not customarily regarded as privileged information.

272. Comments contended that confidentiality of safety and effectiveness data should not cease once a drug becomes an old drug, particularly in light of the fact that, under the decision in "Bentex Pharmaceuticals, Inc. v. Richardson," 463 F.2d 363 (4th Cir. 1972), the Food and Drug Administration has no authority to determine old drug status.

The Commissioner notes that, upon appeal in that case, the Supreme Court held that the Food and Drug Administration has primary jurisdiction to decide the new drug/old drug status of a drug. "Weinberger v. Bentex Pharmaceuticals, Inc.," 412 U.S. 645 (1973). Since the agency will be in a position to settle this issue with administrative finality, subject only to judicial review, there should no longer be any confusion with respect to the time at which safety and effectiveness data become available for public disclosure.

273. Comments argued that information concerning a drug on which a patent is pending should be considered prima facie confidential.

The Commissioner notes that a patent application may or may not be granted. A patent which has been granted may run out before the new drug status of a product is terminated. The Freedom of Information Act provides no special status for patented products, nor does the Federal Food, Drug, and Cosmetic Act. For these reasons, the patent status of a product cannot be relied upon by the Food and Drug Administration as determinative or indicative of whether information concerning that product should be released to the public.

274. Requests have been received for safety and effectiveness information with respect to a new drug for which an NDA is effective but which is currently subject to the drug efficacy study implementation (DESI) review program. Some of these data have been submitted after publication of an initial DESI notice but prior to a notice of opportunity for hearing, and some have been submitted in response to a notice of opportunity for hearing in order to justify a request for a hearing.

The Commissioner concludes that such data and information have the same status as any other data and information on safety and effectiveness contained in the NDA. Prior to final action revoking an NDA, requests for data and information will be handled in the same way as requests relating to any other approved NDA. If the NDA is withdrawn, after all appeals are exhausted the data and information will be disclosed in the same way that data and information are disclosed for all other NDA's for which approval is denied or withdrawn.

275. Questions have arisen as to whether an approval of an antibiotic drug for animal use is a private license or a public regulation, and thus whether the safety and effectiveness data are or are not available for public disclosure upon such approval.

The Commissioner concludes that, although antibiotic drugs for animal use were formerly subject to the same form of approval contained in section 507 of the Federal Food, Drug, and Cosmetic Act as are antibiotic drugs for human use, i.e., a public regulation, the Animal Drug Amendments of 1968 (Pub. L. 90-399, 82 Stat. 342), which added section 512 to the act (21 U.S.C 360b), changed this. Under section 512, all new animal drugs, including antibiotics, require an approved NADA, i.e., a private license, before they may lawfully be marketed. Accordingly, § 146.16 of the final regulations states the same disclosure rules for new antibiotic animal drugs as for any other new animal drugs.

276. Comments stated that, prior to the development of Form FD-1800, feed manufacturers had to submit essentially the same information as the animal drug manufacturer, in order to obtain approval for use of a new animal drug. It was the previous understanding that confidentiality of feed manufacturers' applications and related files would be honored. The comments stated that the Food and Drug Administration should honor this previous understanding.

The Commissioner advises that the Food and Drug Administration will honor the confidentiality of such applications insofar as the information contained in them is exempt under the Freedom of Information Act. In accordance with the provisions of § 4.45, any request for information contained in such applications will be discussed with the manufacturer if a close question is raised. The manufacturer will be given the opportunity to assert and justify confidential status for the material requested, and may appeal to the courts in the event the Food and Drug Administration determines that the material is disclosable.

277. Questions have been raised as to whether food additive and antibiotic petitions and forms for veterinary drugs submitted prior to the effective date of the Animal Drug Amendments of 1968 (Pub. L. 90-399, 82 Stat. 342) are subject to the disclosure rules established for these petitions and forms in §§ 121.51 (h) and 431.71 or to the disclosure rules established for new animal drug applications in §§ 135.33a and 146.16. The Animal Drug Amendments changed the law by requiring approval of an individual new animal drug application for every new animal drug.

The Commissioner advises that the rules for disclosure will depend upon the nature of the approval requested or obtained. Accordingly, the food additive petitions and antibiotic forms submitted for animal drugs are subject to the disclosure rules established for these petitions and forms. The new drug applications submitted for veterinary drugs prior to the Animal Drug Amendments are similarly subject to the disclosure rules established in § 314.14.

278. Pursuant to the Controlled Substances Act (Pub. L. 91-513, 84 Stat. 1236), the Secretary of Health, Education, and Welfare is required to submit to the Attorney General a scientific and medical evaluation and recommendations relating to the scheduling of drugs. The preparation of such recommendations has been delegated to the Commissioner. Requests have been made for copies of such recommendations.

The Commissioner advises that all recommendations relating to the Controlled Substances Act are available for public disclosure.

A PROTOCOL FOR A TEST OR STUDY

279. A comment contended that the amount of money expended in developing a protocol should be irrelevant to its status as a trade secret, and that the only factors that should properly be considered in making this determination is whether it gives the owner an opportunity to obtain a competitive advantage and whether the protocol is in fact secret.

The Commissioner does not concur with this comment. Cost is one factor, but not the sole factor, in determining whether information constitutes a trade secret. However, the final regulations refer directly to the exemption for trade secrets and confidential commercial information in § 4.61, rather than attempt to specify all of the relevant factors involved.

280. Comments also contended that uniqueness is not necessary for a trade secret, and thus that this element should not be included in the criteria for determining whether a protocol constitutes a trade secret.

The Commissioner concludes that, if a protocol is not distinguishable in a significant respect from those developed by others, it cannot be regarded as providing a competitive advantage. Nevertheless, the regulations have been revised to refer only to § 4.61, rather than to attempt to set out the various criteria that will be used in determining when the standards set out in § 4.61 are met.

281. A comment stated that the criteria for determining the trade secret status of protocols seem to have eliminated the necessity of showing that a protocol is "used in one's business." It was suggested that the Restatement definition should apply, and that there must be a showing of commercial value. If protocols are not trade secrets or privileged or confidential commercial or financial information, they cannot be withheld under any other exemption.

The Commissioner advises that the criteria proposed in order to show that a protocol is a trade secret were intended to amplify the Restatement definition, not to replace it. The Restatement definition does apply to protocols, as well as to any other type of information for which trade secret status is claimed. The final regulations make this clear.

ADVERSE REACTION REPORTS, PRODUCT EXPERIENCE REPORTS, CONSUMER COMPLAINTS, AND OTHER SIMILAR DATA AND INFORMATION

282. The primary concern expressed in comments about release of this type of information was the possibility that it may frequently be "misinformation." It was pointed out that the occurrence of reaction "B" does not mean that "A" caused it, particularly in a situation where the person may have been consuming more than one product. It was further asserted that, when taken out of context, adverse reaction data are subject to misinterpretation, particularly by a layman unqualified to analyze them. As protection against misinterpretation, it was suggested that the Food and Drug Administration not release any adverse reaction information until a scientific evaluation has been made of the reaction and its probable causation. Industry, it was asserted, had a right to expect this type of protection from "cranks and dissidents." Alternatively, it was suggested that release not be permitted until the firm involved agrees. It was also suggested that the manufacturer be given an opportunity to analyze reports by third parties, and reply to the agency before the reports are made public, in order to provide a fair and balanced disclosure.

The Commissioner rejects the presumption upon which the bulk of the criticism in the comments is based, i.e., that the public, scientists, and the Food and Drug Administration are incapable of making responsible judgments on this information. This type of information, when released, will be evaluated in the same manner as any other information that is publicly available.

283. Questions have arisen about the status of reports of adverse reactions to drug products subject to the requirements of the new drug or prescription drug sections of the law. Adverse reactions for new drugs are required to be reported to the Food and Drug Administration pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act and adverse reactions for prescription drugs must be furnished to the Food and Drug Administration pursuant to the factory inspection provisions in section 704 of the act.

The Commissioner advises that such adverse reaction information is available for public disclosure with only the names and other identifying information of individuals deleted. The brand name of the product and the name of the manufacturer will not be deleted.

284. Questions have been raised as to whether adverse reactions reported to an IND file are available for public disclosure.

The Commissioner concludes that the same rules with respect to disclosure of adverse reactions should apply whether they are reported to an IND file or in a pending NDA. Such information is not available for public disclosure until the NDA is approved or finally disapproved or withdrawn, except that an individual who participates in a study involving an investigational new drug will be given a copy of any adverse reaction report relating to him. Such reports are required by law to be furnished to the Food and Drug Administration. The Commissioner concludes that furnishing adverse reaction reports under these limited circumstances raises no possible issue under the exemptions for privacy or trade secrets and confidential commercial information.

PRODUCT INGREDIENTS

285. Comments stated that even a simple list of ingredients in a product constitutes confidential commercial information which provides a competitive advantage, and that the exemption for a particular ingredient is not helpful because it may be a particular combination of all ingredients which makes the product unique and effective. It was suggested that a manufacturer be permitted to show that the entire list constitutes a trade secret.

The Commissioner rejects the suggestion that a list of ingredients is always confidential commercial information. To conform these regulations with the Drug Listing Act, however, they have been revised to state that inactive ingredients in drug products not required to be stated on the label and not previously disclosed to the public are not available for public disclosure. The Commissioner also agrees that a combination of ingredients as well as a single ingredient may qualify for exemption and the final regulations have been revised to reflect this.

286. One comment stated that this provision in the proposed regulation "is just another way of saying that excipient materials that are well known do not contribute significantly to the performance of the product." The choice of excipients, it was asserted, was arrived at by a considerable expenditure of funds and it was stated that, with the increasing attention paid to bioavailability, this process would become more costly. This regulation, it was concluded, would make it easier for generic drug manufacturers to arrive at superior products without having to conduct research and experience developmental delay. It was suggested that quantitative information be exempt except to the extent that it was disclosed on the label or labeling since the information required for public health already appears there, and that a manufacturer should not have to defend the confidentiality of any ingredient information by proving it unique.

The Commissioner agrees that undisclosed inactive ingredients in drugs will be handled as trade secret information.

287. A comment contended that an ingredient should be regarded as a trade secret if it provides a competitive advantage, and suggested that the criteria of uniqueness, importance to the product, and knowledge to competitors should be deleted.

The Commissioner intended the criteria set out in this provision of the proposed regulations to amplify the phrase "competitive advantage," and believes that they are an adequate reflection of the factors which comprise competitive advantage with respect to ingredients. Nevertheless, the final regulations have been revised to refer directly to § 4.61 rather than to attempt to specify all of the criteria applicable in determining the status of an ingredient.

ASSAY METHOD OR OTHER ANALYTICAL METHOD

288. Comments contended that an assay method is a trade secret regardless whether it must be available to permit other manufacturers to comply with limits established under Food and Drug Administration regulations.

The Commissioner does not agree with these comments. For many years the Food and Drug Administration has routinely made available for public disclosure, and has included in its widely distributed manuals, analytical methods which are contained in petitions and applications, and which are needed for regulatory assays for food and drugs. The Association of Official Analytical Chemists (AOAC) publishes official analytical methods. Other methods are frequently published in the scientific literature. Accordingly, methods of this type are not customarily regarded as confidential information. Moreover, such methods are needed by State and local officials as well as by Federal officials to assure compliance with legal requirements. They provide no competitive advantage for one manufacturer over another, but rather permit regulatory officials to assure compliance with the law. Even if such methods were not made publicly available to competing manufacturers, such competitors would still be permitted to market the products involved. Thus, the failure to make such methods public would deter only regulatory activity and would not hinder the marketing of competing products. Accordingly, the Commissioner concludes that all such methods will be made public except where they serve no regulatory function whatever. The final regulations have been revised to state this policy.

289. A comment indicated that it was not clear whether the Restatement definition of a trade secret must be met before assay methodology information will be retained as confidential. It was also stated that if the assay method is not required for the approval of a new drug, it does not provide a competitive advantage and therefore cannot be regarded as exempt.

The Commissioner advises that, as with any other information in the possession of the Food and Drug Administration which is to be exempt from disclosure as a trade secret, the information must be a trade secret within the meaning of the Restatement. The Food and Drug Administration has determined that assay methods are disclosable except where they perform no regulatory function and are shown to fall within the exemption established in § 4.61.

MANUFACTURING METHODS OR PROCESSES, INCLUDING QUALITY CONTROL PROCEDURES

290. Several comments noted that, although manufacturing methods and processes, quality control procedures, and quantitative formulas are specifically exempt from disclosure unless there has been a prior public disclosure, the proposed regulations also required all data to be marked as confidential and adequate grounds given to justify each individual item so marked. Clarification of these seemingly conflicting provisions was requested.

The Commissioner advises that a company's manufacturing methods and processes, quality control procedures, and quantitative formulas are per se exempt from disclosure unless previously disclosed or later abandoned, and need not be marked as confidential or specially justified. A manufacturer need not submit a statement on prior public disclosure or subsequent abandonment unless so requested in a specific situation by the Food and Drug Administration.

291. The technical question was raised in comments as to whether adjuvants, such as catalysts or polymerization modifiers used in a secret manufacturing process for a polymer used as a food packaging material, would be available to the public.

The Commissioner concludes that, if the adjuvants are necessary to the manufacturing of a safe product, the food additive regulation itself must disclose their use. If they are not necessary for a safe product and are exempt from regulation as food additives but are described as part of the manufacturing process in a food additive petition on the final polymer, their use would not be disclosed to the public because, under § 121.51(h)(2)(i) of the final regulations, a manufacturing process is regarded as a trade secret that will not be disclosed.

PRODUCTION, SALES, DISTRIBUTION, AND SIMILAR DATA AND INFORMATION

292. No comments contended that production, sales, or distribution data and information should be available for public disclosure.

The Commissioner concludes that such information is per se exempt from public disclosure unless it is released in a blind compilation that does not disclose confidential information, and that it need not be marked as confidential or otherwise specially justified. The only form in which such information may be disclosed to the public is through a compilation which aggregates data from several sources, in a way that does not reveal the data from any particular source. This form of blind compilation of confidential commercial information is often prepared and made public by trade associations and the Department of Commerce.

293. Questions have been raised about the release of otherwise confidential commercial information, such as sales figures and manufacturing data, after a product has been withdrawn from the market and abandoned.

The Commissioner concludes that such information ordinarily no longer represents confidential commercial information or trade secret data once the product has been removed from the market and abandoned. It will be the Commissioner's practice to consult with the company involved before making a final decision on release of such information, however, to determine whether there are future plans for remarketing the product or whether the data in some way also disclose confidential information about other products that remain on the market.

294. One comment requested an amendment to the regulations to provide that the amounts and the identity of recipients of refunds from advance deposits of fees paid to the Food and Drug Administration for certification services constitute proprietary information, exempt from public disclosure.

The Commissioner concludes that such information is exempt from public disclosure only to the extent that it may disclose sales data or the share of individual companies in the market.

FOOD STANDARD TEMPORARY PERMITS

295. Questions have arisen about the availability for public disclosure of petitions received pursuant to § 10.5 of the regulations (21 CFR 10.5) requesting a temporary permit to vary from a standard of identity, or an extension of such a permit.

The Commissioner advises that all such petitions and related correspondence are available for public disclosure upon publication of the notice granting the permit in the FEDERAL REGISTER, except to the extent that these records contain information otherwise exempt from disclosure, e.g., manufacturing procedures or quantitative formulas. Prior to a notice in the FEDERAL REGISTER granting the petition, the existence of the petition is properly regarded as confidential commercial information, since it would disclose the intent of the company to pursue the marketing of a new product. Once such a notice is published, however, the petition can no longer be regarded as confidential. Similarly, a request for extension of the permit shall be available for public disclosure if and when it is granted, since granting such an extension permits other manufacturers to begin marketing under the same terms and conditions as the first manufacturer. A new paragraph (k) is added to § 10.5 to state this policy.

PROCESSING RECORDS FOR LOW-ACID CANNED FOODS

296. The Commissioner published in the FEDERAL REGISTER of May 14, 1973 (38 FR 12716) and subsequently amended in the FEDERAL REGISTERS of January 29, 1974 (39 FR 3750) and April 1, 1974 (39 FR 11876), new regulations governing emergency permit controls for thermally processed low-acid foods packaged in hermetically sealed containers (21 CFR 90.20). The final regulations require that manufacturers subject to these regulations furnish to the Food and Drug Administration various records relating to their processing. Questions have arisen with respect to the status of such records under the Freedom of Information Act.

The Commissioner advises that all such records constitute manufacturing or processing records that fall within the trade secret exemption from the Freedom of Information Act. In order to make this policy clear, a new paragraph (l) is added to § 90.20 in this final order.

COSMETIC PRODUCT INFORMATION

297. The Commissioner has promulgated regulations relating to voluntary

registration of cosmetic product establishments, voluntary filing of cosmetic product ingredient and cosmetic raw material composition statements, and voluntary filing of cosmetic product experiences in the FEDERAL REGISTERS of April 11, 1972 (37 FR 7151) and October 17, 1973 (38 FR 28914). The recodification of cosmetic regulations under a new Subchapter G—Cosmetics was published in the FEDERAL REGISTER of March 15, 1974 (39 FR 10054). Cosmetic manufacturers have informed the Food and Drug Administration that they have delayed the filing of ingredient and composition statements and product experience reports pending promulgation of final regulations under the Freedom of Information Act in order to determine whether such information, submitted voluntarily, will be retained as confidential by the Food and Drug Administration or will be disclosed to the public upon request.

Accordingly, the Commissioner concludes that clarification of these regulations at this time is appropriate in order to conform them with the provisions of Part 4.

298. Section 710.7 of the regulations (21 CFR 710.7) provides that a copy of Form FD–2511 (Registration of Cosmetic Product Establishment) is available for public inspection in its entirety.

It is the Commissioner's understanding that no question has been raised about the public disclosure of this document because it does not contain information relating to specific products. Accordingly, no modification in this provision is warranted.

299. Section 720.8 of the regulations (21 CFR 720.8) provides that Forms FD–2512 (Cosmetic Product Ingredient Statement), FD–2513 (Cosmetic Raw Material Composition Statement), and FD–2514 (Discontinuance of Commercial Distribution of Cosmetic Product or Cosmetic Raw Material), and amendments thereto, must be clearly marked as confidential if trade secret status is claimed. The provision states that, if the Food and Drug Administration concludes that an item so marked is not exempt from disclosure, the matter may be appealed within the agency for a final decision.

The Commissioner concludes that § 720.8 should be revised to make it consistent with the general provisions contained in new Part 4 as promulgated by these final regulations. The Commissioner further concludes that, by incorporating the procedural safeguards contained in new § 4.44 and clarifying the status of voluntary ingredient disclosures in § 4.111, and adopting the principles for disclosure enunciated in the other provisions of Part 4, any questions about the status of the information contained in these forms will be resolved.

300. Section 730.7 of the regulations (21 CFR 730.7) provides that Forms FD–2704 (Cosmetic Product Experience Report), FD–2705 (Cosmetic Product Unusual Experience Report), and FD–2706 (Summary Report of Product Experience by Product Categories) shall be handled in accordance with the final regulations to be published by the agency under the Freedom of Information Act.

The Commissioner is therefore also amending § 730.7 to include the rules laid down in the final regulations established in Part 4. The Commissioner concludes that these rules will adequately protect against unfair disclosure of materials regarded by the industry as constituting important confidential commercial information and at the same time assure that information that is of major importance to Food and Drug Administration regulatory programs will in fact be submitted.

301. Questions have arisen as to the procedure by which a person who has submitted a request for confidentiality of cosmetic ingredient information pursuant to Part 720 may appeal a decision by the Bureau of Foods that the information does not constitute a trade secret and thus is available for public disclosure pursuant to the Freedom of Information Act.

The Commissioner concludes that the procedure established in new § 4.44 is properly used to resolve any issues of this nature, prior to submission of the information involved. Since this determination controls the question whether the ingredient(s) involved must be labeled pursuant to § 701.3 (21 CFR 701.3), which was published in the FEDERAL REGISTER of October 17, 1973 (38 FR 28912), an adverse determination constitutes final agency action that may be challenged in the courts. Section 720.8 is revised to reflect these conclusions.

The Commissioner realizes that a number of cosmetic companies have already submitted ingredient information with a request for confidentiality pursuant to Part 720. In order to deal fairly with all of these submissions, the Commissioner has concluded that all such requests for confidentiality will now be handled pursuant to the procedure established in new § 4.44. In the event that it is determined that the information involved is not confidential, the company will have the opportunity to withdraw the information or to submit it without a pledge of confidentiality. This will place those manufacturers who have already submitted this information to the Food and Drug Administration on an equal footing with those who have delayed such submission until the procedures for review of confidentiality were clarified.

BIOLOGICAL DRUGS

302. Subsequent to publication of the proposed regulations in May 1972, jurisdiction over section 351 of the Public Health Service Act (42 U.S.C. 262), which governs the licensing of biologics, was transferred to the Food and Drug Administration. Under section 351, a biologic must be licensed by the Food and Drug Administration before it may lawfully be shipped in interstate commerce. Unlike the regulation of human and animal drugs, all biological products are required to undergo clinical testing in order to demonstrate safety, purity, potency, and effectiveness prior to licensing, regardless whether other versions of the same product are already marketed or standards for the product have been adopted by rule making. Indeed, many of the existing standards require specific clinical testing before approval will be granted. This is required because all biological products are to some extent different and thus each must be separately proved safe, pure, potent, and effective. Although, like an approved NDA, a license to manufacture a particular biologic is a private license that is applicable only to a single manufacturer, a biologics license is under no circumstances granted by the Food and Drug Administration to a second manufacturer based upon published or otherwise publicly available data and information on another manufacturer's version of the same product. Under section 351 of the Public Health Service Act, biologics never become "old drugs" and cannot be marketed solely on the basis of an existing product standard published in the FEDERAL REGISTER. There is no such thing as a "me-too" biologic.

Thus, the regulatory scheme for biologics is quite different from the methods by which new drugs and antibiotic drugs are controlled under sections 505 and 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 and 357).

Accordingly, the Commissioner concludes that the safety and effectiveness data for a biologic regulated under section 351 of the Public Health Service Act is not properly classified as a trade secret. Such data afford no competitive advantage because, unlike the situation with new drugs, no competitor can utilize it to gain approval for his product. Moreover, since such data are routinely published in the scientific literature, they do not fall within the confidential commercial information exemption. New §§ 601.7 and 601.8 are added to the existing regulations for biologics to state this policy.

303. During the past 2 years, requests have been made for various types of information contained in Food and Drug Administration files relating to approval of particular lots of a biologic.

The Commissioner concludes that all forms used within the Bureau of Biologics to show what testing has been undertaken by the Bureau on a particular lot, the results obtained, and whether approval was granted, are available for public disclosure. All documents showing the manufacturer's testing of a particular lot will also be released, except to the extent that it would show the volume of the drug produced, manufacturing procedures and controls, yield from raw materials, costs, or other similar confidential commercial information. New § 601.8 reflects this policy.

FEDERAL HAZARDOUS SUBSTANCES ACT

304. Jurisdiction over the Federal Hazardous Substances Act has been transferred to the Consumer Product Safety Commission pursuant to the Consumer Product Safety Act (Pub. L. 92–573, 86

Stat. 1207; 15 U.S.C. 2051 note), as published in the FEDERAL REGISTER of September 27, 1973 (38 FR 27012).

Accordingly, the proposed amendment of § 191.213 (21 CFR 191.213) is withdrawn.

RELIANCE UPON FOOD AND DRUG ADMINISTRATION FREEDOM OF INFORMATION FILES

305. In preparing the final regulations, the Commissioner has relied both upon the extensive comments filed on the proposed regulations published in May 1972, and upon the numerous requests for documents received by the agency since enactment of the Freedom of Information Act. Accordingly, the Commissioner hereby incorporates by reference the Freedom of Information files of the agency as part of the administrative record on which the decision on these final regulations is based.

ADDITIONAL TIME FOR COMMENT

306. The final regulations promulgated in this final order reflect both the proposal published in May 1972 and the actual practice of the Food and Drug Administration in handling requests for documents in the intervening 2 years. Comments submitted on the proposal and requests for documents during the past 2 years have raised most of the issues discussed in this preamble and resolved in the final regulations. Accordingly, these regulations embody very few new decisions.

The Freedom of Information Act is a self-executing statute for which no regulations are required for implementation. The Food and Drug Administration is therefore obligated to disclose documents not specifically exempt from disclosure regardless of the existence of published rules of the type promulgated in this final order.

Accordingly, the Commissioner concludes that these regulations will become effective 30 days after publication in the FEDERAL REGISTER.

Nevertheless, the Commissioner recognizes that it has been over 2 years since these regulations were first proposed, that the final regulations incorporate some new decisions not specifically dealt with in the proposal or the comments, and that sound public policy supports allowing time for comment wherever feasible. Accordingly, the Commissioner is providing an additional 60 days within which to present further brief comments on issues not raised by the initial comments and discussed in this preamble. The Commissioner will then rule on those comments very expeditiously and will publish an additional order ruling upon any such matters.

The Commissioner advises that comments submitted within this additional period should address new issues, and should not reopen matters raised by the initial proposal and fully discussed in this preamble. The Commissioner is particularly interested, for example, in any comments on the new portions of the procedural regulations contained in Subpart B of Part 4 and on the new provisions relating to biological drugs, as well as on any other similar provisions which were not covered in the proposal and the comments received on it.

The Commissioner concludes that the entire final order will become effective (*insert date 30 days after date of publication in the FEDERAL REGISTER*), and that all of the provisions will be implemented pending reconsideration of any specific provisions as a result of the receipt of additional comments. This will work no hardship since, if any close or controversial issues arise, the Commissioner will utilize the provisions of § 4.45 to consult with any person who may be adversely affected by disclosure of information, and that person will have the opportunity, as set forth in § 4.46, to seek judicial determination on the issue of disclosure in the event that he disagrees with the Commissioner's conclusion.

JUDICIAL REVIEW OF FINAL REGULATIONS

307. The Commissioner notes that one of the major purposes of the initial proposal published in May 1972 and these final regulations is to settle the status under the Freedom of Information Act of every category of document contained in Food and Drug Administration files, in order to avoid ad hoc decisions and to facilitate prompt handling of requests for records.

The comments disclose a wide divergence of opinion with repect to the rules contained in these final regulations. Some comments stated that far too much was being released, and others stated that not enough was being released. The Commissioner anticipates that the same disagreement will exist with respect to portions of the final regulations as was reflected in the comments received on the proposal.

Accordingly, the Commissioner invites any person who believes that the final regulations do not properly interpret and apply the Freedom of Information Act to institute legal action in the courts to contest their validity. The Commissioner concludes that, after receipt of the additional comments permitted and any further modifications as a result thereof, all administrative remedies with respect to these matters will be exhausted, that the matters will be ripe for judicial review, and that any person will have standing to bring suit to contest these regulations since they affect the rights of the entire public, including those who have submitted or will submit information to the Food and Drug Administration and those who have requested or will request disclosure of such information by the Food and Drug Administration. The Commissioner believes that it would be in the public interest for all such issues to be litigated promptly so that these matters may be settled and the applicable rules clearly understood by everyone who is affected.

Accordingly, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 201 et seq., 52 Stat. 1040 et seq. as amended; 21 U.S.C. 321 et seq.), the Public Health Service Act (sec. 1 et seq., 58 Stat. 682 et seq. as amended; 42 U.S.C. 201 et seq.), and the Freedom of Information Act (Public Law 90-23, 81 Stat. 54-56 as amended by 88 Stat. 1561-1565; 5 U.S.C. 552) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 1, 2, 4, 8, 10, 90, 121, 135, 146, 312, 314, 431, 601, 720, and 730 are amended as follows:

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

1. In Part 1, by adding a new paragraph (c) to § 1.6 to read as follows:

§ 1.6 Presentation of views under section 305 of the act.

* * * * *

(c) Records relating to this proceeding constitute investigatory records for law enforcement purposes and may include inter- and intra-agency memoranda.

(1) Notwithstanding the rule established in § 4.21 of this chapter, no record relating to a section 305 hearing is available for public disclosure prior to the consideration of criminal prosecution based upon that record being closed, except as provided in § 4.82 of this chapter. The Commissioner will exercise his discretion to disclose records relating to a section 305 hearing pursuant to § 4.82 of this chapter prior to the consideration of criminal prosecution being closed only very rarely and only under circumstances that demonstrate a compelling public interest.

(2) After the consideration of criminal prosecution is closed, such records are available for public disclosure except to the extent that the exemptions from disclosure in Subpart D of Part 4 of this chapter are applicable. No statements of witnesses obtained through promises of confidentiality are available for public disclosure.

(3) The consideration of criminal prosecution based upon a particular section 305 hearing shall be deemed to be closed within the meaning of this section when a final decision has been made not to recommend criminal prosecution to a United States attorney based upon that hearing, or such recommendation has been finally refused, or criminal prosecution has been instituted and the matter and all related appeals have been concluded, or the statute of limitations has run.

(4) Prior to disclosure of any record specifically reflecting consideration of possible criminal prosecution of any individual, all names and other information that would identify an individual who was considered for criminal prosecution but who was not prosecuted shall be deleted unless the Commissioner concludes that there is a compelling public interest in the disclosure of such names.

(5) Names and other information which would identify a Food and Drug Administration employee shall be deleted from section 305 hearing records prior to public disclosure only pursuant to § 4.32 of this chapter.

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart G—Public Information

Subpart G [Deleted]

2. In Part 2, by deleting Subpart G—Public Information containing § 2.115 *Fee schedule for searching, supplying, and certifying records.* Concurrently, the information in this subpart is being recodified into Part 4 as § 4.42.

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3. By revising Part 4 to read as follows:

PART 4—PUBLIC INFORMATION

Subpart A—Official Testimony and Information

Sec.
4.1 Testimony by Food and Drug Administration employees.
4.2 Production of records by Food and Drug Administration employees.
4.3 Certification and authentication of Food and Drug Administration records.

Subpart B—General Policy

4.20 Policy on disclosure of Food and Drug Administration records.
4.21 Uniform access to records.
4.22 Partial disclosure of records.
4.23 Request for existing records.
4.24 Preparation of new records.
4.25 Retroactive application of regulations.
4.26 Indexes of certain records.
4.27 Submission of records marked as confidential.
4.28 Food and Drug Administration determinations of confidentiality.
4.29 Prohibition on withdrawal of records from Food and Drug Administration files.
4.30 Food and Drug Administration Public Records and Documents Center.
4.31 Permanent file of requests for Food and Drug Administration records.
4.32 Disclosure of Food and Drug Administration employee names.

Subpart C—Procedures and Fees

4.40 Filing a request for records.
4.41 Time limitations.
4.42 Fees.
4.43 Waiver of fees.
4.44 Presubmission review of request for confidentiality of voluntarily submitted data or information.
4.45 Situations in which confidentiality is uncertain.
4.46 Judicial review of proposed disclosure.
4.47 Denial of request for records.
4.48 Nonspecific and overly burdensome requests.
4.49 Referral to primary source of records.
4.50 Availability of records at National Technical Information Service.
4.51 Use of private contractor for copying.
4.52 Request for review without copying.
4.53 Indexing trade secrets and confidential commercial or financial information.

Subpart D—Exemptions

4.60 Applicability of exemptions.
4.61 Trade secrets and commercial or financial information which is privileged or confidential.
4.62 Inter- or intra-agency memoranda or letters.
4.63 Personnel, medical, and similar files, disclosure of which constitutes a clearly unwarranted invasion of personal privacy.
4.64 Investigatory records compiled for law enforcement purposes.

Subpart E—Limitations on Exemptions

4.80 Applicability of limitations on exemptions.
4.81 Data and information previously disclosed to the public.
4.82 Discretionary disclosure by the Commissioner.
4.83 Disclosure required by court order.
4.84 Disclosure to consultants, advisory committees, State and local government officials commissioned pursuant to 21 U.S.C. 372(a), and other special government employees.
4.85 Disclosure to other Federal government departments and agencies.
4.86 Disclosure in administrative or court proceedings.
4.87 Disclosure to Congress.
4.88 Communications with State and local government officials.
4.89 Communications with foreign government officials.
4.90 Use of data or information for administrative or court enforcement action.

Subpart F—Availability of Specific Categories of Records

4.100 Applicability; cross-reference to other regulations.
4.101 Administrative enforcement records.
4.102 Court enforcement records.
4.103 Correspondence.
4.104 Summaries of oral discussions.
4.105 Testing and research conducted by or with funds provided by the Food and Drug Administration.
4.106 Studies and reports prepared by or with funds provided by the Food and Drug Administration.
4.107 Food and Drug Administration manuals.
4.108 Agreements between the Food and Drug Administration and other departments, agencies, and organizations.
4.109 Data and information obtained by contract.
4.110 Data and information about Food and Drug Administration employees.
4.111 Data and information submitted voluntarily to the Food and Drug Administration.
4.112 Voluntary drug experience reports submitted by physicians and hospitals.
4.113 Voluntary product defect reports.
4.114 Data and information submitted pursuant to cooperative quality assurance agreements.
4.115 Product codes for manufacturing or sales dates.
4.116 Drug listing information.
4.117 New drug information.
4.118 Advisory committee records.

AUTHORITY: Sec. 201 et seq., Pub. L. 717, 52 Stat. 1040 et seq., as amended (21 U.S.C. 321 et seq.); sec. 1 et seq., Pub. L. 410, 58 Stat. 682 et seq., as amended (42 U.S.C. 201 et seq.); Pub. L. 90-23, 81 Stat. 54-56 as amended by 88 Stat. 1561-1565; (5 U.S.C. 552).

Subpart A—Official Testimony and Information

§ 4.1 Testimony by Food and Drug Administration employees.

(a) No officer or employee of the Food and Drug Administration or of any other office or establishment in the Department of Health, Education, and Welfare, except as authorized by the Commissioner of Food and Drugs pursuant to this section or in the discharge of his official duties under the laws administered by the Food and Drug Administration, shall give any testimony before any tribunal pertaining to any function of the Food and Drug Administration or with respect to any information acquired in the discharge of his official duties.

(b) Whenever a subpena, in appropriate form, has been lawfully served upon an officer or employee of the Food and Drug Administration commanding the giving of any testimony, such officer or employee shall, unless otherwise authorized by the Commissioner, appear in response thereto and respectfully decline to testify on the ground that it is prohibited by this section.

(c) A person who desires testimony from any employee may make written request therefor, verified by oath, directed to the Commissioner setting forth his interest in the matter sought to be disclosed and designating the use to which such testimony will be put in the event of compliance with such request: *Provided,* That a written request therefor made by a health, food, or drug officer, prosecuting attorney, or member of the judiciary of any State, Territory, or political subdivision thereof, acting in his official capacity, need not be verified by oath. If it is determined by the Commissioner, or any other officer or employee of the Food and Drug Administration whom he may designate to act on his behalf for the purpose, that such testimony will be in the public interest and will promote the objectives of the act and the agency, the request may be granted. Where a request for testimony is granted, one or more employees of the Food and Drug Administration may be designated to appear, in response to a subpena, and testify with respect thereto.

§ 4.2 Production of records by Food and Drug Administration employees.

(a) Any request for records of the Food and Drug Administration, whether it be by letter or by a subpena duces tecum or by any other writing, shall be handled pursuant to the procedures established in Subpart B of this part, and shall comply with the rules governing public disclosure established in Subparts C, D, E, and F of this part and in other regulations cross-referenced in § 4.100 (c).

(b) Whenever a subpena duces tecum, in appropriate form, has been lawfully served upon an officer or employee of the Food and Drug Administration commanding the production of any record, such officer or employee shall appear in response thereto, respectfully decline to produce the record on the ground that it is prohibited by this section, and state that the production of the record(s) involved will be handled by the procedures established in this part.

§ 4.3 Certification and authentication of Food and Drug Administration records.

(a) Upon request, the Food and Drug Administration will certify the authenticity of copies of records that are requested to be disclosed pursuant to this

part or will authenticate copies of records previously disclosed.

(b) A request for certified copies of records or for authentication of records shall be sent in writing to the Public Records and Documents Center (HFC–18), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20852.

Subpart B—General Policy

§ 4.20 Policy on disclosure of Food and Drug Administration records.

(a) The Food and Drug Administration will make the fullest possible disclosure of records to the public, consistent with the rights of individuals to privacy, the property rights of persons in trade secrets and confidential commercial or financial information, and the need for the agency to promote frank internal policy deliberations and to pursue its regulatory activities without disruption.

(b) Except where specifically exempt pursuant to the provisions of this part, all Food and Drug Administration records shall be made available for public disclosure.

(c) All nonexempt records shall be made available for public disclosure upon request regardless whether any justification or need for such records has been shown.

§ 4.21 Uniform access to records.

Any record of the Food and Drug Administration that is disclosed in an authorized manner to any member of the public is available for disclosure to all members of the public, except that:

(a) Data and information subject to the exemptions established in § 4.61 for trade secrets and confidential commercial or financial information, and in § 4.63 for personal privacy, shall be disclosed only to the persons for the protection of whom these exemptions exist.

(b) The limited disclosure of records permitted in § 1.6(c)(1) of this chapter for section 305 hearing records, in § 4.80(b) regarding certain limitations on exemptions, in § 4.103(b) for certain correspondence, and in § 4.104(b) for certain summaries of oral discussions, shall be subject to the special rules stated therein.

§ 4.22 Partial disclosure of records.

If a record contains both disclosable and nondisclosable information, the nondisclosable information will be deleted and the remaining record will be disclosed unless the two are so inextricably intertwined that it is not feasible to separate them or release of the disclosable information would compromise or impinge upon the nondisclosable portion of the record.

§ 4.23 Request for existing records.

(a) Any written request to the Food and Drug Administration for existing records not prepared for routine distribution to the public shall be deemed to be a request for records pursuant to the Freedom of Information Act, whether or not the Freedom of Information Act is mentioned in the request, and shall be governed by the provisions of this part.

(b) Records or documents prepared by the Food and Drug Administration for routine public distribution, e.g., pamphlets, speeches, and educational materials, shall be furnished free of charge upon request as long as the supply lasts. The provisions of this part shall not be applicable to such requests except when the supply of such material is exhausted and it is necessary to reproduce individual copies upon specific request.

(c) All existing Food and Drug Administration records are subject to routine destruction according to standard record retention schedules.

§ 4.24 Preparation of new records.

(a) The Freedom of Information Act and the provisions of this part apply only to existing records that are reasonably described in a request filed with the Food and Drug Administration pursuant to the procedures established in Subpart C of this part.

(b) The Commissioner may, in his discretion, prepare new records in order to respond adequately to a request for information when he concludes that it is in the public interest and promotes the objectives of the act and the agency.

§ 4.25 Retroactive application of regulations.

The provisions of this part apply to all records in Food and Drug Administration files.

§ 4.26 Indexes of certain records.

(a) Indexes shall be maintained, and revised at least quarterly, for the following Food and Drug Administration records:

(1) Final orders published in the FEDERAL REGISTER with respect to every denial or withdrawal of approval of a new drug application or a new animal drug application for which a public hearing has been requested.

(2) Statements of policy and interpretation adopted by the agency and still in force and not published in the FEDERAL REGISTER.

(3) Administrative staff manuals and instructions to staff that affect a member of the public.

(b) A copy of each such index is available at cost from the Public Records and Documents Center (HFC–18), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20852.

§ 4.27 Submission of records marked as confidential.

Marking records submitted to the Food and Drug Administration as confidential, or with any other similar term, raises no obligation by the Food and Drug Administration to regard such records as confidential, to return them to the person who has submitted them, to review them pursuant to the procedures established in § 4.44, to withhold them from disclosure to the public, or to advise the person submitting them when a request for their public disclosure is received or when they are in fact disclosed.

§ 4.28 Food and Drug Administration determinations of confidentiality.

A determination that data or information submitted to the Food and Drug Administration will be held in confidence and will not be available for public disclosure shall be made only in the form of a regulation published or cross-referenced in this part or by a written determination pursuant to the procedure established in § 4.44.

§ 4.29 Prohibition on withdrawal of records from Food and Drug Administration files.

Except pursuant to the procedure established in § 4.44 for presubmission review of records, no person may withdraw records submitted to the Food and Drug Administration. All Food and Drug Administration records shall be retained by the agency until disposed of pursuant to routine record disposal procedures.

§ 4.30 Food and Drug Administration Public Records and Documents Center.

(a) The office responsible for agency compliance with the Freedom of Information Act and this part is:

Public Records and Documents Center (HFC–18)
Food and Drug Administration
Rm. 4–62
5600 Fishers Lane
Rockville, MD 20852

(b) All requests for agency records shall be sent in writing to this office.

§ 4.31 Permanent file of requests for Food and Drug Administration records.

The Food and Drug Administration shall maintain a permanent file of all requests for Food and Drug Administration records and all responses thereto, including a copy of all of the records furnished in response to a request. This file is available for public review during working hours.

§ 4.32 Disclosure of Food and Drug Administration employee names.

The names of Food and Drug Administration employees will not be deleted from disclosable records except where such deletion is necessary to prevent disclosure of an informant or danger to the life or physical safety of the employee or under other extraordinary circumstances.

Subpart C—Procedures and Fees

§ 4.40 Filing a request for records.

(a) All requests for Food and Drug Administration records shall be filed in writing by mailing the request or delivering it to the Public Records and Documents Center (HFC–18), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20852.

(b) A request for Food and Drug Administration records shall reasonably describe the records being sought, in a way that they can be identified and located. A request should include all pertinent details that will help identify the records sought.

(1) If the description is insufficient to locate the records requested, the Food and Drug Administration will so notify the person making the request and indicate the additional information needed to identify the records requested.

(2) Every reasonable effort shall be made by the Food and Drug Administration to assist in the identification and location of the records sought.

(c) Upon receipt of a request for records, the Public Records and Documents Center shall enter it in a public log. The log shall state the date and time received, the name and address of the person making the request, the nature of the records requested, the action taken on the request, the date of the determination letter sent pursuant to § 4.41(b), the date(s) any records are subsequently furnished, the number of staff-hours and grade levels of oersons who spent time responding to the request, and the payment requested and received.

§ 4.41 Time limitations.

(a) All time limitations established pursuant to this section shall begin as of the time at which a request for records is logged in by the Public Records and Documents Center pursuant to § 4.40(c). An oral request for records shall not begin any time requirement. A written request for records sent elsewhere within the agency shall not begin any time requirement until it is redirected to the Public Records and Documents Center and is logged in there in accordance with § 4.40(c).

(b) Within 10 working days (excepting Saturdays, Sundays, and legal public holidays) after a request for records is logged in at the Public Records and Documents Center, a letter shall be sent to the person making the request determining whether, or the extent to which, the agency will comply with the request, and, if any records are denied, the reasons therefor.

(1) If all of the records requested have been located and a final determination has been made with respect to disclosure of all of the records requested, the letter shall so state.

(2) If all of the records have not been located or a final determination has not yet been made with respect to disclosure of all of the records requested, e.g., because it is necessary to consult the person affected pursuant to § 4.48, the letter shall state the extent to which the records involved shall be disclosed pursuant to the rules established in this part.

(3) In the following unusual circumstances, the time for sending this letter may be extended for up to an additional 10 working days by written notice to the person making the request setting forth the reasons for such extension and the time within which a determination is expected to be dispatched:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the Public Records and Documents Center.

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the Food and Drug Administration having substantial subject-matter interest therein.

(4) If any record is denied, the letter shall state the right of the person requesting such records to appeal any adverse determination to the Assistant Secretary for Health, Department of Health, Education, and Welfare, in accordance with the provisions of 45 CFR 5.03.

(5) If the request for records will result in a fee of more than $25.00, the letter shall specify or estimate the fee involved and shall require prepayment, as well as payment of any amount not yet received as a result of any previous request, before the records are made available. If the fee is less than $25.00, prepayment shall not be required unless payment has not yet been received for records disclosed as a result of a previous request.

(c) Whenever possible, the determination letter required by paragraph (b) of this section, relating to a request for records that involves a fee of less than $25.00, shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the agency.

(d) For requests for records involving a fee of more than $25.00, the records shall be forwarded as soon as possible after receipt of prepayment from the person requesting the records, consistent with other obligations of the agency.

§ 4.42 Fees.

(a) Unless waived in accordance with the provisions of § 4.43, the following fees shall be imposed for disclosure of any record pursuant to this part.

(1) *Copying of records.* Ten cents per copy of each page.

(2) *Copying of microfilm or microfiche.* Fifty cents per microfilm frame or microfiche.

(3) *Computerized records.* The sum of the actual costs of:

(i) The computer time involved, based upon the prevailing level of cost to government organizations and upon the particular types of computer and associated equipment and the amounts of time on such equipment that are utilized.

(ii) The supplies or materials necessary to produce the requested records.

(iii) The services of the personnel in accordance with paragraphs (a) (4) and (5) of this section.

(4) *Clerical searches.* $1.25 for each one-quarter hour spent by clerical personnel searching for and producing a requested record, including time spent copying any record.

(5) *Nonclerical searches.* $3.75 for each one-quarter hour spent by professional or managerial personnel searching for and producing a requested record, including time spent copying any record.

(6) *Certification or authentication of records.* $3.00 per certification or authentication.

(7) *Forwarding material to destination.* Postage, insurance, and special fees will be charged on an actual cost basis.

(b) No charge shall be made for the time spent in resolving legal or policy issues or in examining records for the purpose of deleting nondisclosable portions thereof.

(c) Payment shall be made by check or money order payable to "Food and Drug Administration," and shall be sent to the Accounting Operations Branch (HFA-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

§ 4.43 Waiver of fees.

(a) No fee shall be charged for disclosure of records pursuant to this part where:

(1) The cost of providing the records is less than $5.00. In making this determination, the cost of other requests by the same individual or organization, or related individuals or organizations, shall be aggregated.

(2) The records are requested by a congressional committee or subcommittee or the General Accounting Office.

(3) The records are requested by a Federal department or agency.

(4) The records are requested by a Federal court.

(5) The records are requested by a foreign government or by a State or local government or any agency thereof for purposes that are in the public interest and will promote the objectives of the act and the agency.

(b) The Assistant Commissioner for Public Affairs may waive payment of fees when he determines, based upon a petition, that the person making the request for records is indigent and that the disclosure has a strong public interest justification. All statements made in any such petition are subject to the False Reports to the Government Act, 18 U.S.C. 1001. A person shall be deemed to be indigent for the purposes of this section if he does not have income or resources sufficient to pay the fees involved. Determinations pursuant to this provision will be made within the discretion of the agency.

(c) The Assistant Commissioner for Public Affairs may reduce or waive payment of fees when he determines, based upon a verified petition, that such reduction or waiver is in the public interest because furnishing the information can be considered primarily as benefiting the general public.

(1) Any such petition shall contain a statement of the intended purpose to which the records requested will be put, showing how it will primarily benefit the general public, and, if the total fee would otherwise exceed $25.00, a statment of

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the reason why the volume of records requested is necessary and a statement of the income and financial resources available to the person making the request.

(2) The Assistant Commissioner for Public Affairs may make available part of the records requested, or different records from those requested, in response to any such request for waiver of fees where he concludes that such records adequately meet that part of the request which is in the public interest.

(3) In making a determination of the broad public interest involved, the Assistant Commissioner for Public Affairs will weigh the agency resources involved against the likely benefit to the public.

(4) Determinations pursuant to this provision will be made within the discretion of the agency.

(d) No fee shall be charged if a record requested is not found or for any record that is totally exempt from disclosure.

§ 4.44 Presubmission review of request for confidentiality of voluntarily submitted data or information.

(a) Any person who is considering submission of data or information voluntarily to the Food and Drug Administration may forward to the Director of the Bureau involved, or to the Associate Commissioner for Compliance, a request for presubmission review of the records involved to determine whether the Food and Drug Administration will or will not make part or all of them available for public disclosure upon request if they are submitted. Any such request shall state why the data or information involved fall within an exemption from public disclosure set out in Subpart D of this part and shall enclose the records involved.

(b) Pending a determination upon such request, the records involved shall be held confidentially and separately by the Food and Drug Administration and shall not be received as part of Food and Drug Administration files.

(c) Pursuant to such a request, the Food and Drug Administration shall make a determination whether part or all of the records involved will be made available for public disclosure upon request if they are submitted. A determination of confidentiality will be made only if it is concluded that the data or information involved fall within an exemption from public disclosure set out in Subpart D of this part and are relevant to and important for agency activity.

(d) After a determination is made pursuant to this section, the Food and Drug Administration shall receive as part of its files the records for which a request for confidentiality has been granted and shall so mark or designate those records. The person requesting the presubmission review shall have the option of submitting or withdrawing the records for which a request for confidentiality has been denied. No copy or summary of records withdrawn pursuant to this section, or any correspondence or memoranda or records relating thereto, shall be retained in Food and Drug Administration files.

(e) A determination of confidentiality pursuant to this section is subject to the limitations established in Subpart E of this part except that the data or information involved shall not be subject to discretionary release pursuant to § 4.82. Such a determination of confidentiality by the Food and Drug Administration means that the Food and Drug Administration will not make the data or information involved available for public disclosure unless ordered to do so by a court.

(f) A determination based upon a presubmission review pursuant to this section shall be made in writing and shall be signed only by the Assistant Commissioner for Public Affairs.

(g) Data and information that may be required to be submitted to the Food and Drug Administration but that are submitted voluntarily instead are not subject to the provisions of this section and will be handled as if they had been required to be submitted.

(h) No request under this section shall be accepted if the status of the records involved is already determined by § 4.111 or by any other regulation published or cross-referenced in this part.

§ 4.45 Situations in which confidentiality is uncertain.

In situations where the confidentiality of data or information is uncertain and there is a request for public disclosure, the Food and Drug Administration will consult with the person who has submitted or divulged the data or information or who would be affected by disclosure before determining whether or not such data or information is available for public disclosure.

§ 4.46 Judicial review of proposed disclosure.

Where the Food and Drug Administration consults with a person who will be affected by a proposed disclosure of data or information contained in Food and Drug Administration records pursuant to § 4.45, and rejects the person's request that part or all of the records not be made available for public disclosure, the decision constitutes final agency action that is subject to judicial review pursuant to 5 U.S.C. chapter 7. The person affected will be permitted 5 days after receipt of notification of such decision within which to institute suit in a United States District Court to enjoin release of the records involved. If suit is brought, the Food and Drug Administration will not disclose the records involved until the matter and all related appeals have been concluded.

§ 4.47 Denial of request for records.

(a) A denial of a request for records, in whole or in part, shall be signed by the Assistant Commissioner for Public Affairs.

(b) The name and title or position of each person who participated in the denial of a request for records shall be set forth in the letter denying the request. This requirement may be met by attaching a list of such individuals to the letter.

(c) A letter denying a request for records, in whole or in part, shall state the reasons for the denial and shall state that an appeal may be made to the Assistant Secretary for Health, Department of Health, Education, and Welfare, pursuant to the provisions of 45 CFR 5.53.

(d) Deletion of nondisclosable data and information from disclosable records shall not be deemed to be a denial of a request for records.

§ 4.48 Nonspecific and overly burdensome requests.

The Food and Drug Administration will make every reasonable effort to comply fully with all requests for disclosure of nonexempt records. Nonspecific requests or requests for a large number of documents that require the deployment of a substantial amount of agency manhours to search for and compile will be processed taking into account the staff-hours required, the tasks from which these resources must be diverted, the impact that this diversion will have upon the agency's consumer protection activities, and the public policy reasons justifying the requests. A decision on the processing of such a request for information shall be made after balancing the public benefit to be gained by the disclosure against the public loss that will result from diverting agency personnel from their other responsibilities. In any situation in which it is determined that a request for voluminous records would unduly burden and interfere with the operations of the Food and Drug Administration, the person making the request will be asked to be more specific and to narrow the request, and to agree on an orderly procedure for the production of the requested records, in order to satisfy the request without disproportionate adverse effects on agency operations.

§ 4.49 Referral to primary source of records.

Upon receipt of a request for a record or document which is contained in Food and Drug Administration files but which is available elsewhere at a lower cost, the person requesting the record or document shall be referred to the primary source of the record or document.

§ 4.50 Availability of records at National Technical Information Service.

The Food and Drug Administration is furnishing a number of records to the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22152, which reproduces and distributes such information to the public at cost. A single copy of each such record shall be available for public review at the Food and Drug Administration. All persons requesting copies of such records shall be answered by referring the person requesting the records to NTIS.

§ 4.51 Use of private contractor for copying.

The Food and Drug Administration may furnish requested records to a private contractor for copying after deletion of all nondisclosable data and information. Under these circumstances, the Food and Drug Administration will

charge the person requesting the records for all of the fees involved pursuant to § 4.42.

§ 4.52 Request for review without copying.

(a) A person requesting disclosure of records shall be permitted an opportunity to review them without the necessity for copying them where the records involved contain only disclosable data and information. Under these circumstances, the Food and Drug Administration will charge only for the costs of searching for the records.

(b) Where a request is made for review of records without copying, and the records involved contain both disclosable and nondisclosable information, the records containing nondisclosable information shall first be copied with the nondisclosable information blocked out and the Food and Drug Administration will charge for the costs of searching and copying.

§ 4.53 Indexing trade secrets and confidential commercial or financial information.

If a court requires the Food and Drug Administration to itemize and index records that the Food and Drug Administration has determined to be exempt from public disclosure as trade secrets or confidential commercial or financial information pursuant to § 4.61, the Food and Drug Administration will so inform the person affected, i.e., the person who submitted the records, and will require that such person undertake the itemization and indexing of the records and to intervene to defend the exempt status of the records. The failure of the affected person to itemize and index such disputed records and to intervene to defend the exempt status of the records will constitute a waiver by such person of such exemption, and the Food and Drug Administration will promptly make them available for public disclosure.

Subpart D—Exemptions

§ 4.60 Applicability of exemptions.

(a) The exemptions established in this subpart shall apply to all Food and Drug Administration records, except as provided in Subpart E of this part. Accordingly, a record that is ordinarily available for public disclosure in accordance with the provisions in Subpart F of this part or of another regulation cross-referenced in § 4.100(c) is not available for such disclosure to the extent that it falls within an exemption contained in this subpart, except as provided by the limitations on exemptions specified in Subpart E of this part. For example, correspondence that is ordinarily disclosable under § 4.103 is not disclosable to the extent that it contains trade secrets exempt from disclosure under § 4.61 and is not subject to discretionary release under § 4.82.

(b) Where application of one or more exemptions results in a record being disclosable in part and nondisclosable in part, the rule established in § 4.22 shall apply.

§ 4.61 Trade secrets and commercial or financial information which is privileged or confidential.

(a) A trade secret may consist of any formula, pattern, device, or compilation of information which is used in one's business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it.

(b) Commercial or financial information that is privileged or confidential means valuable data or information which is used in one's business and is of a type customarily held in strict confidence or regarded as privileged and not disclosed to any member of the public by the person to whom it belongs.

(c) Data and information submitted or divulged to the Food and Drug Administration which fall within the definitions of a trade secret or confidential commercial or financial information are not available for public disclosure.

§ 4.62 Inter- or intra-agency memoranda or letters.

All communications within the Executive Branch of the Federal government which are in written form or which are subsequently reduced to writing may be withheld from public disclosure except that factual information which is reasonably segregable in accordance with the rule established in § 4.22 is available for public disclosure.

§ 4.63 Personnel, medical, and similar files, disclosure of which constitutes a clearly unwarranted invasion of personal privacy.

(a) The names or other information which would identify patients or research subjects in any medical or similar report, test, study, or other research project shall be deleted before the record is made available for public disclosure.

(b) The names and other information which would identify patients or research subjects should be deleted from any record before it is submitted to the Food and Drug Administration. *If* the Food and Drug Administration subsequently needs the names of such individuals, a separate request will be made.

(c) Requests for deletion of business or product names prior to disclosure of any record to the public shall not be granted on the ground of privacy, but such deletion may be justified under another exemption established in this subpart, e.g., the exemption for trade secrets and confidential commercial or financial information under § 4.61.

(d) Names of individuals conducting investigations, studies, or tests on products or ingredients shall not be deleted prior to disclosure of any record to the public unless extraordinary circumstances are shown.

(e) A request for all records relating to a specific individual will be denied as a clearly unwarranted invasion of personal privacy unless accompanied by the written consent of the individual named.

§ 4.64 Investigatory records compiled for law enforcement purposes.

(a) An investigatory record for law enforcement purposes may be withheld from public disclosure pursuant to the provisions of this section to the extent that disclosure of such records would:

(1) Interfere with enforcement proceedings.

(2) Deprive a person of a right to a fair trial or an impartial adjudication.

(3) Constitute an unwarranted invasion of personal privacy.

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source.

(5) Disclose investigative techniques and procedures.

(6) Endanger the life or physical safety of law enforcement personnel.

(b) Investigatory records include all records relating to regulatory enforcement action, including both administrative and court action, which have not been disclosed to any member of the public, including any person who is the subject of the investigation.

(c) Any investigatory record which is disclosed to any person, including any person who is the subject of a Food and Drug Administration investigation, and any data or information received from any person who is the subject of a Food and Drug Administration investigation relating to such investigation, is available for public disclosure at that time in accordance with the rule established in § 4.21, except that:

(1) Disclosure of such records shall be subject to the other exemptions established in this subpart and to the limitations on exemptions established in Subpart E of this part.

(2) The record of a section 305 hearing shall be available for public disclosure only in accordance with the provisions of § 1.6(c) of this chapter.

(d) Investigatory records for law enforcement purposes shall be subject to the following rules:

(1) No such record is available for public disclosure prior to the consideration of regulatory enforcement action based upon that record's being closed, except as provided in § 4.82. The Commissioner will exercise his discretion to disclose records relating to possible criminal prosecution pursuant to § 4.82 prior to consideration of criminal prosecution being closed only very rarely and only under circumstances that demonstrate a compelling public interest.

(2) After the consideration of regulatory enforcement action is closed, such records shall be made available for public disclosure except to the extent that other exemptions from disclosure in this subpart are applicable. No statements of witnesses obtained through promises of

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confidentiality are available for public disclosure.

(3) The consideration of regulatory enforcement action based upon a particular record shall be deemed to be closed within the meaning of this section:

(i) If it relates to administrative action, when a final decision has been made not to take such action or such action has been taken and the matter has been concluded.

(ii) If it relates to court action, when a final decision has been made not to recommend such action to a United States attorney based upon that record, or a recommendation has been finally refused by a United States attorney, or court action has been instituted and the matter and all related appeals have been concluded, or the statute of limitations runs.

(iii) If it relates to both administrative and court action, when the events described in both paragraphs (d)(3)(i) and (d)(3)(ii) of this section have occurred.

(4) Prior to disclosure of any record specifically reflecting consideration of possible criminal prosecution of any individual, all names and other information that would identify an individual who was considered for criminal prosecution but who was not prosecuted shall be deleted unless the Commissioner concludes that there is a compelling public interest in the disclosure of such names.

(e) Names and other information that would identify a Food and Drug Administration employee shall be deleted from investigatory records prior to public disclosure only pursuant to § 4.32.

Subpart E—Limitations on Exemptions

§ 4.80 Applicability of limitations on exemptions.

(a) The limitations on exemptions established in this subpart shall apply to all Food and Drug Administration records, except as specifically provided herein. Accordingly, a record that is ordinarily exempt from public disclosure in accordance with the provisions in Subpart D of this part is available for such disclosure to the extent that it falls within a limitation on the exemption contained in this subpart. For example, an investigatory record that is ordinarily exempt from disclosure under § 4.64 is disclosable to Congress in accordance with the provisions of § 4.87.

(b) Disclosure of a record to any member of the public pursuant to the provisions in § 4.81, data and information previously disclosed to the public, in § 4.82, discretionary disclosure by the Commissioner, and in § 4.83, disclosure pursuant to a court order, shall invoke the rule established in § 4.21 that the record shall be made available for disclosure to all members of the public who request it. Disclosure of a record only to the limited categories of persons and under the conditions specified in § 4.84, special government employees, in § 4.85, other Federal government departments and agencies, in § 4.86, in camera disclosure in administrative or court proceedings, in § 4.87(b), Congress, in § 4.88, State and local government officials, and in § 4.89, foreign government officials, which does not result in disclosure of the record to any member of the public in an authorized manner, shall not invoke the rule established in § 4.21.

(c) Disclosure to government employees and special government employees of records exempt from public disclosure shall subject those persons to the same restrictions with respect to the disclosure of such records as any Food and Drug Administration employee.

§ 4.81 Data and information previously disclosed to the public.

(a) Any Food and Drug Administration record that is otherwise exempt from public disclosure pursuant to Subpart D of this part is available for public disclosure to the extent that it contains data or information that have previously been disclosed in a lawful manner to any member of the public, other than an employee or consultant or pursuant to other commercial arrangements with appropriate safeguards for secrecy.

(1) For purposes of this section, an individual shall be deemed to be a consultant only if disclosure of the information was necessary in order to perform that specific consulting service and the purpose of the disclosure was solely to obtain that service. The number of consultants who have received such information shall have been limited to the number reasonably needed to perform that particular consulting service.

(2) For purposes of this section, other commercial arrangements shall include licenses, contracts, and similar legal relationships between business associates.

(b) Any data or information furnished to the Food and Drug Administration for a presubmission review pursuant to the procedure established in § 4.44 shall be accompanied by a statement that the information has not previously been published or disclosed to anyone other than as provided in paragraph (a) of this section.

(c) Any statement relating to prior public disclosure is subject to the False Reports to the Government Act, 18 U.S.C. 1001.

§ 4.82 Discretionary disclosure by the Commissioner.

(a) Except as provided in paragraph (b) of this section, the Commissioner may, in his discretion, disclose part or all of any Food and Drug Administration record that is otherwise exempt from disclosure pursuant to Subpart D of this part. The Commissioner shall exercise his discretion to disclose such records whenever he determines that such disclosure is in the public interest, will promote the objectives of the act and the agency, and is consistent with the rights of individuals to privacy, the property rights of persons in trade secrets, and the need for the agency to promote frank internal policy deliberations and to pursue its regulatory activities without disruption.

(b) The Commissioner shall not make available for public disclosure any record that is:

(1) Exempt from public disclosure pursuant to § 4.61.

(2) Exempt from public disclosure pursuant to § 4.63.

(3) Prohibited from public disclosure pursuant to 21 U.S.C. 331(j), 42 U.S.C. 263g(d), 42 U.S.C. 263l, or 18 U.S.C. 1905.

(c) Discretionary disclosure of a record pursuant to this section shall invoke the requirement that the record shall be disclosed to any person who requests it pursuant to § 4.21, but shall not set a precedent for discretionary disclosure of any similar or related record and shall not obligate the Commissioner to exercise his discretion to disclose any other record that is exempt from disclosure.

§ 4.83 Disclosure required by court order.

Records of the Food and Drug Administration which the Commissioner has determined are not available for public disclosure, either in the form of a regulation published or cross-referenced in this part or by a written determination pursuant to the procedure established in § 4.44, shall nevertheless be made available for public disclosure in compliance with a final court order requiring such disclosure.

§ 4.84 Disclosure to consultants, advisory committees, State and local government officials commissioned pursuant to 21 U.S.C. 372(a), and other special government employees.

Data and information otherwise exempt from public disclosure may be disclosed to Food and Drug Administration consultants, advisory committees, State and local government officials commissioned pursuant to 21 U.S.C. 372(a), and other special government employees for use only in their work with the Food and Drug Administration. Such persons are thereafter subject to the same restrictions with respect to the disclosure of such data and information as any other Food and Drug Administration employee.

§ 4.85 Disclosure to other Federal government departments and agencies.

Any Food and Drug Administration record otherwise exempt from public disclosure may be disclosed to other Federal government departments and agencies, except that trade secrets prohibited by 21 U.S.C. 331(j) from disclosure outside the Department of Health, Education, and Welfare may be disclosed only to a department or agency that has concurrent jurisdiction over the matter and separate legal authority to obtain the specific information involved. Any disclosure under this section shall be pursuant to an agreement that the record shall not be further disclosed by the other department or agency except with the written permission of the Food and Drug Administration.

§ 4.86 Disclosure in administrative or court proceedings.

Data and information otherwise exempt from public disclosure may be revealed in Food and Drug Administration administrative or court proceedings where the data or information are relevant. The Food and Drug Administration will request that the data or information be held in camera and that any other appropriate measures be taken to reduce disclosure to the minimum necessary under the circumstances.

§ 4.87 Disclosure to Congress.

(a) All records of the Food and Drug Administration shall be disclosed to Congress upon an authorized request, except for trade secrets prohibited by 21 U.S.C. 331(j) from disclosure outside the Department of Health, Education, and Welfare.

(b) An authorized request for Food and Drug Administration records by Congress shall be made by the chairman of a committee or subcommittee of Congress acting pursuant to committee business.

(c) An individual member of Congress who requests a record for his own use or on behalf of any constituent shall be subject to the same rules in this part that apply to any other member of the public.

§ 4.88 Communications with State and local government officials.

(a) A State or local government official commissioned by the Food and Drug Administration pursuant to 21 U.S.C. 372(a) shall have the same status with respect to disclosure of Food and Drug Administration records as any special government employee.

(b) Communications with State and local government officials with respect to law enforcement activities undertaken pursuant to a contract between the Food and Drug Administration and such officials shall be subject to the rules for public disclosure established in § 4.64.

(c) Communications with State and local government officials who are not commissioned pursuant to 21 U.S.C. 372(a) or under a contract to perform law enforcement activities shall have the same status as communications with any member of the public, except that:

(1) Investigatory records compiled for law enforcement purposes by State and local government officials who perform counterpart functions to the Food and Drug Administration at the State and local level, and trade secrets and confidential commercial or financial information obtained by such officials, which are voluntarily disclosed to the Food and Drug Administration as part of cooperative law enforcement and regulatory efforts, shall be exempt from public disclosure to the same extent to which the records would be so exempt pursuant to §§ 4.61 and 4.64, as if they had been prepared by or submitted directly to Food and Drug Administration employees, except that investigatory records shall be exempt from disclosure for a longer period of time if the State or local government officials so require as a condition of their furnishing the information to the Food and Drug Administration.

(2) Disclosure of investigatory records compiled for law enforcement purposes by the Food and Drug Administration to State and local government officials who perform counterpart functions to the Food and Drug Administration at the State and local level as part of cooperative law enforcement efforts does not invoke the rule established in § 4.21 that such records shall be made available for disclosure to all members of the public.

§ 4.89 Communications with foreign government officials.

Communications with foreign government officials shall have the same status as communications with any member of the public, except that:

(a) Investigatory records compiled for law enforcement purposes by foreign government officials who perform counterpart functions to the Food and Drug Administration in a foreign country, and trade secrets and confidential commercial or financial information obtained by such officials, which are voluntarily disclosed to the Food and Drug Administration as part of cooperative law enforcement and regulatory efforts, shall be exempt from public disclosure to the same extent to which the records would be so exempt pursuant to §§ 4.61 and 4.64, as if they had been prepared by or submitted directly to Food and Drug Administration employees, except that investigatory records shall be exempt from disclosure for a longer period of time if the foreign government officials so require as a condition of their furnishing the information to the Food and Drug Administration.

(b) Disclosure of investigatory records compiled for law enforcement purposes by the Food and Drug Administration to foreign government officials who perform counterpart functions to the Food and Drug Administration in a foreign country as part of cooperative law enforcement efforts does not invoke the rule established in § 4.21 that such records shall be made available for disclosure to all members of the public.

§ 4.90 Use of data or information for administrative or court enforcement action.

Nothing in this part or this chapter shall prevent the Food and Drug Administration from using any data or information, whether obtained voluntarily or involuntarily and whether or not it is available for public disclosure, as the basis for taking any administrative or court enforcement action within its jurisdiction. Data and information otherwise exempt from public disclosure are nevertheless available for public disclosure to the extent necessary to effectuate such action, e.g., the brand name, code designation, and distribution information are released when a product is recalled.

Subpart F—Availability of Specific Categories of Records

§ 4.100 Applicability; cross-reference to other regulations.

(a) The provisions set forth in this subpart or cross-referenced in paragraph (c) of this section state the way in which specific categories of Food and Drug Administration records are handled upon a request for public disclosure. The exemptions established in Subpart D of this part and the limitations on exemptions established in Subpart E of this part shall be applicable to all Food and Drug Administration records, as provided in §§ 4.60 and 4.80. Accordingly, a record that is ordinarily available for public disclosure in accordance with this part or under other regulations is not available for such disclosure to the extent that it falls within an exemption contained in Subpart D of this part except as provided by the limitations on exemptions specified in Subpart E of this part.

(b) The Commissioner, on his own initiative or on the petition of any interested person, may amend this subpart or promulgate and cross-reference additional regulations to state the status of additional categories of documents to settle pending questions or to reflect court decisions.

(c) In addition to the provisions of this part, rules on the availability of the following specific categories of Food and Drug Administration records are established by regulations in this chapter:

(1) Section 305 hearing records, in § 1.6(c) of this chapter.

(2) Flavor ingredient records and notes, in § 1.12(i)(4)(iv) of this chapter.

(3) Environmental impact analysis reports and draft and final environmental impact statements, in §§ 6.1(h) and 6.6 of this chapter.

(4) Color additive petitions, in § 8.9 of this chapter.

(5) Food standard temporary permits, in § 10.5(k) of this chapter.

(6) Information on thermal processing of low-acid foods packaged in hermetically sealed containers, in § 90.20(c)(4) of this chapter.

(7) Food additive petitions, in § 121.51(h) of this chapter.

(8) Action levels for natural and unavoidable defects in food for human use, in § 128.10(e) of this chapter.

(9) Drug establishment registrations and drug listings, in § 132.9 of this chapter.

(10) Investigational new animal drug notices, in § 135.33 of this chapter.

(11) New animal drug application files, in § 135.33a of this chapter.

(12) Investigational new animal drug notice and a new animal drug application file for an antibiotic drug, in § 146.16 of this chapter.

(13) Methadone patient records, in § 310.505(g) of this chapter.

(14) Investigational new drug notice, in § 312.5 of this chapter.

(15) Labeling for and lists of approved new drug applications, in § 314.10 of this chapter.

(16) Master files for new drug applications, in § 314.11 of this chapter.

(17) New drug application file, in § 314.14 of this chapter.

(18) Data and information submitted for in vitro diagnostic products, in § 328.4 of this chapter.

(19) Data and information submitted for OTC drug review, in § 330.10(a)(2) of this chapter.

(20) Investigational new drug notice for an antibiotic drug, in § 431.70 of this chapter.

(21) Antibiotic drug file, in § 431.71 of this chapter.

(22) Data and information submitted for biologics review, in § 601.25(b)(2) of this chapter.

(23) Investigational new drug notice for a biological product, in § 601.50 of this chapter.

(24) Applications for establishment and product licenses for biological products, in § 601.51 of this chapter.

(25) Cosmetic establishment registrations, in § 710.7 of this chapter.

(26) Cosmetic product ingredient and cosmetic raw material composition statements, in § 720.2 of this chapter.

(27) Cosmetic product experience reports, in § 730.7 of this chapter.

(28) Electronic product information, in §§ 1002.4 and 1002.42 of this chapter.

§ 4.101 Administrative enforcement records.

(a) All Food and Drug Administration records relating to administrative enforcement action disclosed to any member of the public, including the person who is the subject of such action, are available for public disclosure at the time such disclosure is first made. Such records include correspondence with companies following factory inspection, recall or detention requests, notice of refusal of admission of an imported product, regulatory letters, information letters, Forms FD-483 and FD-2275 furnished to companies after factory inspection, and similar records.

(b) To the extent that any of such records fall within the exemption for investigatory records established in § 4.64, the Commissioner determines that they are subject to discretionary release pursuant to § 4.82.

(c) Records relating to administrative enforcement action that are not disclosed to any member of the public constitute investigatory records that are subject to the rules for disclosure established in § 4.64. For example, an establishment inspection report is an investigatory record and thus subject to § 4.64 except insofar as the Commissioner exercises his discretion to release it pursuant to § 4.82.

§ 4.102 Court enforcement records.

(a) All records and documents filed in the courts are available for public disclosure unless the court orders otherwise. The Food and Drug Administration will make available for public disclosure such records or documents if the agency can determine that it has an accurate copy of the actual record or document filed in the court. If the Food and Drug Administration cannot determine whether it has an accurate copy of such a record or document, the person requesting a copy shall be referred to the court involved.

(b) After a recommendation for court action has been finally refused by a United States attorney, the correspondence with the United States attorney and the Department of Justice with respect to that recommendation, including the pleadings recommended for filing with the court, is available for public disclosure. Prior to disclosure of any record specifically reflecting consideration of possible criminal prosecution of any individual, all names and other information that would identify an individual who was considered for criminal prosecution but who was not prosecuted shall be deleted unless the Commissioner concludes that there is a compelling public interest in the disclosure of such names.

§ 4.103 Correspondence.

(a) All correspondence to and from members of the public, members of Congress, organization or company officials, or other persons, except members of the Executive Branch of the Federal Government and special government employees, is available for public disclosure.

(b) Any such correspondence is available for public disclosure at the time that it is sent or received by the Food and Drug Administration unless a different time for such disclosure is specified in other rules established or cross-referenced in this part, e.g., correspondence relating to an IND notice or an NDA in § 314.14(e)(7) of this chapter.

§ 4.104 Summaries of oral discussions.

(a) All written summaries of oral discussions, whether in person or by telephone, with members of the public, members of Congress, organization or company officials, or other persons, except members of the Executive Branch of the Federal government or special government employees, are available for public disclosure.

(b) Any such summary is available for public disclosure at the time that it is prepared by the Food and Drug Administration unless a different time for such disclosure is specified in other rules established or cross-referenced in this part, e.g., summaries of oral discussions relating to a food additive petition in § 121.51(h)(3) of this chapter.

(c) If more than one summary of an oral discussion exists in a Food and Drug Administration file, all such summaries shall be disclosed in response to any request for such summary.

§ 4.105 Testing and research conducted by or with funds provided by the Food and Drug Administration.

(a) Any list that may be prepared by the Food and Drug Administration of testing and research being conducted by or with funds provided by the Food and Drug Administration is available for public disclosure.

(b) Any contract relating to agency testing and research, and any progress report relating thereto, is available for public disclosure.

(c) The results of all testing or research conducted by or with funds provided by the Food and Drug Administration, such as toxicological testing, compliance assays, methodology studies, and product testing, are available for public disclosure when the final report is complete and accepted by the responsible Food and Drug Administration official, after deletion of any information that would reveal confidential investigative techniques and procedures, e.g., the use of "markers" to document adulteration of a product. If such results are disclosed in an authorized manner to any member of the public before the final report is available, they are immediately available for public disclosure to any member of the public who requests them.

(d) Access to all raw data, slides, worksheets, and other similar working materials shall be provided at the same time that the final report is disclosed.

§ 4.106 Studies and reports prepared by or with funds provided by the Food and Drug Administration.

(a) The following types of reports and studies prepared by or with funds provided by the Food and Drug Administration are available for public disclosure upon their acceptance by the responsible agency official:

(1) Quarterly and annual reports of the agency.

(2) External investigations or review of agency needs and performance.

(3) Surveys, compilations, and summaries of data and information.

(4) Consumer surveys.

(5) Compliance surveys.

(6) Compliance programs, except that names of specific firms, the location of specific activities, and details about sampling numbers or sizes shall be deleted until implementation of the program is completed.

(7) Work plans prepared by Food and Drug Administration bureaus, field offices, and other components, except that names of specific firms, the location of specific activities, and details about sampling numbers or sizes shall be deleted until implementation of the plan is completed.

(b) The following types of reports and studies prepared by or with funds provided by the Food and Drug Administration are not available for public disclosure:

(1) Internal audits of agency needs and performance.

(2) Records relating to the internal planning and budget process.

(3) Legislative proposals or comments prior to submission to Congress.

§ 4.107 Food and Drug Administration manuals.

(a) All Food and Drug Administration staff manuals and instructions to staff that affect a member of the public are available for public disclosure. An

index of all such manuals is available at the Food and Drug Administration Public Records and Documents Center in accordance with § 4.26.

(b) Manuals relating solely to internal personnel rules and practices are not available for public disclosure except to the extent that the Commissioner determines that they should be disclosed pursuant to § 4.82.

(c) All Food and Drug Administration action levels which are used to determine when the agency will take regulatory action against a violative product, limits of sensitivity and variablity of analytical methods which are used in determining whether a product violates the law, and direct reference levels above which Food and Drug Administration field offices may request legal action directly to the office of the General Counsel, are available for public disclosure.

§ 4.108 Agreements between the Food and Drug Administration and other departments, agencies, and organizations.

(a) All written agreements and understandings signed by the Food and Drug Administration and other departments, agencies, and organizations are available for public disclosure.

(b) A permanent file of all such agreements and understandings is available for public review during working hours in the Food and Drug Administration Public Records and Documents Center.

(c) In accordance with the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697), all such agreements and understandings shall be published in the FEDERAL REGISTER.

§ 4.109 Data and information obtained by contract.

All data and information obtained by the Food and Drug Administration by contract, including all progress reports pursuant to a contract, are available for public disclosure when accepted by the responsible agency official except to the extent that they remain subject to an exemption established in Subpart D of this part, e.g., they relate to law enforcement matters as provided in § 4.88(b).

§ 4.110 Data and information about Food and Drug Administration employees.

(a) The name, title, grade, position description, salary, work address, and work telephone number for every Food and Drug Administration employee are available for public disclosure. The home address and home telephone number of any such employee are not available for public disclosure.

(b) Statistics on the prior employment experience of present agency employees, and subsequent employement of past agency employees, are available for public disclosure.

§ 4.111 Data and information submitted voluntarily to the Food and Drug Administration.

(a) The provisions of this section shall apply only to data and information submitted voluntarily to the Food and Drug Administration, whether in the course of a factory inspection or at any other time, and not as a part of any petition, application, master file, or other required submission or request for action. Data and information that may be required to be submitted to the Food and Drug Administration but that are submitted voluntarily instead are not subject to the provisions of this section and will be handled as if they had been required to be submitted.

(b) A determination that data or information submitted voluntarily will be held in confidence and will not be available for public disclosure shall be made only in the form of a regulation published or cross-referenced in this part or by a written determination pursuant to the procedure established in § 4.44.

(c) The following data and information submitted voluntarily to the Food and Drug Administration are available for public disclosure unless extraordinary circumstances are shown:

(1) All safety, effectiveness, and functionality data and information for a marketed ingredient or product, except as provided in § 330.10(a)(2) of this chapter for OTC drugs.

(2) A protocol for a test or study, unless it is shown to fall within the exemption established in § 4.61 for trade secrets and confidential commercial or financial information.

(3) Adverse reaction reports, product experience reports, consumer complaints, and other similar data and information shall be disclosed as follows:

(i) If submitted by a consumer or user of the product, the record is available for public disclosure after deletion of names and other information that would identify the person submitting the information.

(ii) If submitted by the manufacturer of the product, the record is available for public disclosure after deletion of:

(*a*) Names and any information that would identify the person using the product.

(*b*) Names and any information that would identify any third party involved with the report, such as a physician or hospital or other institution.

(*c*) Names and any other information that would identify the manufacturer or the brand designation of the product, but not the type of product or its ingredients.

(iii) If submitted by a third party, such as a physician or hospital or other institution, the record is available for public disclosure after deletion of:

(*a*) Names and any information that would identify the person using the product.

(*b*) Names and any information that would identify any third party involved with the report, such as a physician or hospital or other institution.

(iv) If obtained through a Food and Drug Administration investigation, the record shall have the same status as the initial report which led to the investigation, i.e., it shall be disclosed in accordance with paragraph (c)(3)(i) through (iii) of this section.

(v) Any compilation of data, information, and reports prepared in a way that does not reveal data or information which is not available for public disclosure under this section is available for public disclosure.

(vi) If a person requests a copy of any such record relating to a specific individual or a specific incident, such request will be denied unless accompanied by the written consent to such disclosure of the person who submitted the report to the Food and Drug Administration and the individual who is the subject of the report.

(4) A list of all ingredients contained in a food or cosmetic, whether or not it is in descending order of predominance, or a list of all active ingredients and any inactive ingredients previously disclosed to the public as defined in § 4.81 contained in a drug, or a list of all ingredients or components in a device. A particular ingredient or component or group of ingredients or components shall be deleted from any such list for a cosmetic or device prior to public disclosure upon a determination made pursuant to § 4.44 that the ingredient or ingredients fall within the exemption established in § 4.61 for trade secrets and confidential commercial information, and a notation shall be made that any such ingredient list is incomplete.

(5) An assay method or other analytical method, unless it serves no regulatory or compliance purpose and is shown to fall within the exemption established in § 4.61.

(d) The following data and information submitted voluntarily to the Food and Drug Administration are not available for public disclosure unless they have been previously disclosed to the public as defined in § 4.81 or they relate to a product or ingredient that has been abandoned and they no longer represent a trade secret or confidential commercial or financial information as defined in § 4.61:

(1) All safety, effectiveness, and functionality data and information for a developmental ingredient or product that has not previously been disclosed to the public as defined in § 4.81.

(2) Manufacturing methods or processes, including quality control procedures.

(3) Production, sales, distribution, and similar data and information, except that any compilation of such data and information aggregated and prepared in a way that does not reveal data or information which is not available for public disclosure under this provision is available for public disclosure.

(4) Quantitative or semiquantitative formulas.

(e) For purposes of this regulation, safety, effectiveness, and functionality data include all studies and tests of an ingredient or a product on animals and humans and all studies and tests on the ingredient or product for identity, stability, purity, potency, bioavailability, performance, and usefulness.

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§ 4.112 Voluntary drug experience reports submitted by physicians and hospitals.

(a) A voluntary drug experience report to the Food and Drug Administration on Form FD-1639 shall be handled in accordance with the rules established in § 4.111(c)(3)(iii).

(b) If a person requests a copy of any such record relating to a specific individual or a specific incident, such request will be denied unless accompanied by the written consent to such disclosure of the person who submitted the report to the Food and Drug Administration and the individual who is the subject of the report.

§ 4.113 Voluntary product defect reports.

Voluntary reports of defects in products subject to the jurisdiction of the Food and Drug Administration are available for public disclosure:

(a) If the report is submitted by the manufacturer, after deletion of data and information falling within the exemptions established in § 4.61 for trade secrets and confidential commercial or financial information and in § 4.63 for personal privacy.

(b) If the report is submitted by any person other than the manufacturer, after deletion of names and other information that would identify the person submitting the report and any data or information falling within the exemption established in § 4.63 for personal privacy.

§ 4.114 Data and information submitted pursuant to cooperative quality assurance agreements.

Data and information submitted to the Food and Drug Administration pursuant to a cooperative quality assurance agreement shall be handled in accordance with the rules established in § 4.111.

§ 4.115 Product codes for manufacturing or sales dates.

Data or information in Food and Drug Administration files which provide a means for deciphering or decoding a manufacturing date or sales date or use date contained on the label or in labeling or otherwise used in connection with a product subject to the jurisdiction of the Food and Drug Administration are available for public disclosure.

§ 4.116 Drug listing information.

Information submitted to the Food and Drug Administration pursuant to section 510 of the act (21 U.S.C. 360) shall be subject only to the special disclosure provisions established in § 132.9 of this chapter.

§ 4.117 New drug information.

(a) The following computer printouts are available for public inspection in the Food and Drug Administration Public Records and Documents Center:

(1) A numerical listing of all new drug applications and abbreviated new drug applications approved since 1938, showing the NDA number, the trade name, the applicant, the approval date, and, where applicable, the date the approval was withdrawn and the date the Food and Drug Administration was notified that marketing of the product was discontinued.

(2) A numerical listing of all new drug applications and abbreviated new drug applications approved since 1938 which are still approved, showing the same information as is specified in paragraph (a)(1) of this section except that it does not show a withdrawal date.

(b) Other computer printouts containing IND and NDA information are available to the extent that they do not reveal data or information prohibited from disclosure under §§ 4.61, 312.8, and 314.14 of this chapter.

§ 4.118 Advisory committee records.

All advisory committee records shall be handled in accordance with the rules established in Part 2 of this chapter.

PART 8—COLOR ADDITIVES

4. In Part 8, by revising § 8.9 to read as follows:

§ 8.9 Confidentiality of data and information in color additive petitions.

(a) The following data and information in a color additive petition are available for public disclosure, unless extraordinary circumstances are shown, after the notice of filing of the petition is published in the FEDERAL REGISTER or, if the petition is not promptly filed because of deficiencies in it, after the petitioner is informed that it will not be filed because of the deficiencies involved:

(1) All safety and functionality data and information submitted with or incorporated by reference in the petition.

(2) A protocol for a test or study, unless it is shown to fall within the exemption established for trade secrets and confidential commercial information in § 4.61 of this chapter.

(3) Adverse reaction reports, product experience reports, consumer complaints, and other similar data and information, after deletion of:

(i) Names and any information that would identify the person using the product.

(ii) Names and any information that would identify any third party involved with the report, such as a physician or hospital or other institution.

(4) A list of all ingredients contained in a color additive, whether or not it is in descending order of predominance. A particular ingredient or group of ingredients shall be deleted from any such list prior to public disclosure if it is shown to fall within the exemption established in § 4.61 of this chapter, and a notation shall be made that any such ingredient list is incomplete.

(5) An assay method or other analytical method, unless it serves no regulatory or compliance purpose and is shown to fall within the exemption established in § 4.61 of this chapter.

(6) All records showing the Food and Drug Administration's testing of or action on a particular lot of a certifiable color additive.

(b) The following data and information in a color additive petition are not available for public disclosure unless they have been previously disclosed to the public as defined in § 4.61 of this chapter or they relate to a product or ingredient that has been abandoned and they no longer represent a trade secret or confidential commercial or financial information as defined in § 4.61 of this chapter:

(1) Manufacturing methods or processes, including quality control procedures.

(2) Production, sales, distribution, and similar data and information, except that any compilation of such data and information aggregated and prepared in a way that does not reveal data or information which is not available for public disclosure under this provision is available for public disclosure.

(3) Quantitative or semiquantitative formulas.

(c) All correspondence and written summaries of oral discussions relating to a color additive petition are available for public disclosure in accordance with the provisions of Part 4 of this chapter when the color additive regulation is published in the FEDERAL REGISTER.

(d) For purposes of this regulation, safety and functionality data include all studies and tests of a color additive on animals and humans and all studies and tests on a color additive for identity, stability, purity, potency, performance, and usefulness.

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 10—DEFINITIONS AND STANDARDS OF IDENTITY

5. In Part 10, by adding a new paragraph (k) to § 10.5 as follows:

§ 10.5 Temporary permits for interstate shipment of experimental packs of food varying from the requirements of definitions and standards of identity.

* * * * * *

(k) All applications for a temporary permit, applications for an extension of a temporary permit, and related records are available for public disclosure when the notice of a permit or extension thereof is published in the FEDERAL REGISTER. Such disclosure shall be in accordance with the rules established in Part 4 of this chapter.

PART 90—EMERGENCY PERMIT CONTROL

6. In Part 90, by adding a new paragraph (i) to § 90.20 to read as follows:

§ 90.20 Thermal processing of low-acid foods packaged in hermetically sealed containers.

* * * * * *

(i) The following data and information submitted to the Food and Drug Administration pursuant to this section are not available for public disclosure unless

they have been previously disclosed to the public as defined in § 4.81 of this chapter or they relate to a product or ingredient that has been abandoned and they no longer represent a trade secret or confidential commercial or financial information as defined in § 4.61 of this chapter:

(1) Manufacturing methods or processes, including quality control information.

(2) Production, sales, distribution, and similar data and information, except that any compilation of such data and information aggregated and prepared in a way that does not reveal data or information which is not available for public disclosure under this provision is available for public disclosure.

(3) Quantitative or semiquantitative formulas.

PART 121—FOOD ADDITIVES

7. In Part 121, by revising § 121.51(h) to read as follows:

§ 121.51 Petitions proposing regulations for food additives.

* * * * *

(h) (1) The following data and information in a food additive petition are available for public disclosure, unless extraordinary circumstances are shown, after the notice of filing of the petition is published in the FEDERAL REGISTER or, if the petition is not promptly filed because of deficiencies in it, after the petitioner is informed that it will not be filed because of the deficiencies involved:

(i) All safety and functionality data and information submitted with or incorporated by reference in the petition.

(ii) A protocol for a test or study, unless it is shown to fall within the exemption established for trade secrets and confidential commercial information in § 4.61 of this chapter.

(iii) Adverse reaction reports, product experience reports, consumer complaints, and other similar data and information, after deletion of:

(*a*) Names and any information that would identify the person using the product.

(*b*) Names and any information that would identify any third party involved with the report, such as a physician or hospital or other institution.

(iv) A list of all ingredients contained in a food additive, whether or not it is in descending order of predominance. A particular ingredient or group of ingredients shall be deleted from any such list prior to public disclosure if it is shown to fall within the exemption established in § 4.61 of this chapter, and a notation shall be made that any such ingredient list is incomplete.

(v) An assay method or other analytical method, unless it serves no regulatory or compliance purpose and is shown to fall within the exemption established in § 4.61 of this chapter.

(2) The following data and information in a food additive petition are not available for public disclosure unless they have been previously disclosed to the public as defined in § 4.81 of this chapter or they relate to a product or ingredient that has been abandoned and they no longer represent a trade secret or confidential commercial or financial information as defined in § 4.61 of this chapter:

(i) Manufacturing methods or processes, including quality control procedures.

(ii) Production, sales, distribution, and similar data and information, except that any compilation of such data and information aggregated and prepared in a way that does not reveal data or information which is not available for public disclosure under this provision is available for public disclosure.

(iii) Quantitative or semiquantitative formulas.

(3) All correspondence and written summaries of oral discussions relating to a food additive petition are available for public disclosure in accordance with the provisions of Part 4 of this chapter when the food additive regulation is published in the FEDERAL REGISTER.

(4) For purposes of this regulation, safety and functionality data include all studies and tests of a food additive on animals and humans and all studies and tests on a food additive for identity, stability, purity, potency, performance, and usefulness.

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

8. In Part 135:

a. By revising § 135.33 to read as follows:

§ 135.33 Confidentiality of data and information in an investigational new animal drug notice.

(a) The existence of an INAD notice will not be disclosed by the Food and Drug Administration unless it has previously been publicly disclosed or acknowledged.

(b) The availability for public disclosure of all data and information in an INAD file shall be handled in accordance with provisions established in § 135.33a.

b. By adding new § 135.33a to read as follows:

§ 135.33a Confidentiality of data and information in a new animal drug application file.

(a) For purposes of this section the "NADA file" includes all data and information submitted with or incorporated by reference in the NADA, INAD's incorporated into the NADA, supplemental NADA's, reports under §§ 135.14a and 135.14b, master files, and other related submissions. The availability for public disclosure of any record in the NADA file shall be handled in accordance with the provisions of this section.

(b) The existence of an NADA file will not be disclosed by the Food and Drug Administration before an approval has been published in the FEDERAL REGISTER, unless it has previously been publicly disclosed or acknowledged.

(c) If the existence of an NADA file has not been publicly disclosed or acknowledged, no data or information in the NADA file is available for public disclosure.

(d) If the existence of an NADA file has been publicly disclosed or acknowledged before an approval has been published in the FEDERAL REGISTER, no data or information contained in the file is available for public disclosure before such approval is published, but the Commissioner may, in his discretion, disclose a summary of such selected portions of the safety and effectiveness data as are appropriate for public consideration of a specific pending issue, e.g., at an open session of a Food and Drug Administration advisory committee or pursuant to an exchange of important regulatory information with a foreign government.

(e) After an approval has been published in the FEDERAL REGISTER, the following data and information in the NADA file are immediately available for public disclosure unless extraordinary circumstances are shown:

(1) All safety and effectiveness data and information previously disclosed to the public, as defined in § 4.81 of this chapter.

(2) A summary or summaries of the safety and effectiveness data and information submitted with or incorporated by reference in the NADA file. Such summaries do not constitute the full reports of investigations under section 512(b)(1) of the act (21 U.S.C. 360b(b)(1)) on which the safety or effectiveness of the drug may be approved. Such summaries shall consist of the following:

(i) For an NADA approved prior to July 1, 1975, internal agency records that describe such data and information, e.g., a summary of basis for approval or internal reviews of the data and information, after deletion of:

(*a*) Names and any information that would identify the investigators.

(*b*) Any inappropriate gratuitous comments unnecessary to an objective analysis of the data and information.

(ii) For an NADA approved on or after July 1, 1975, a summary of such data and information prepared in one of the following two alternative ways shall be publicly released when the approval is published in the FEDERAL REGISTER.

(*a*) The Bureau of Veterinary Medicine may at an appropriate time prior to approval of the NADA require the applicant to prepare a summary of such data and information, which will be reviewed and, where appropriate, revised by the Bureau.

(*b*) The Bureau of Veterinary Medicine may prepare its own summary of such data and information.

(3) A protocol for a test or study, unless it is shown to fall within the exemption established for trade secrets and confidential commercial information in § 4.61 of this chapter.

(4) Adverse reaction reports, product experience reports, consumer complaints,

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and other similar data and information, after deletion of:

(i) Names and any information that would identify the person using the product.

(ii) Names and any information that would identify any third party involved with the report, such as a physician, hospital, or other institution.

(5) A list of all active ingredients and any inactive ingredients previously disclosed to the public as defined in § 4.81 of this chapter.

(6) An assay method or other analytical method, unless it serves no regulatory or compliance purpose and is shown to fall within the exemption established in § 4.61 of this chapter.

(7) All correspondence and written summaries of oral discussions relating to the NADA, in accordance with the provisions of Part 4 of this chapter.

(f) All safety and effectiveness data and information not previously disclosed to the public are available for public disclosure at the time that any one of the following events occurs:

(1) The NADA has been abandoned and no further work is being undertaken with respect to it.

(2) A final determination is made that the NADA is not approvable, and all legal appeals have been exhausted.

(3) Approval of the NADA is withdrawn, and all legal appeals have been exhausted.

(4) A final determination has been made that the animal drug is not a new animal drug.

(5) A final determination has been made that the animal drug may be marketed without submission of such safety and/or effectiveness data and information.

(g) The following data and information in an NADA file are not available for public disclosure unless they have been previously disclosed to the public as defined in § 4.81 of this chapter or they relate to a product or ingredient that has been abandoned and they no longer represent a trade secret or confidential commercial or financial information as defined in § 4.61 of this chapter:

(1) Manufacturing methods or processes, including quality control procedures.

(2) Production, sales, distribution, and similar data and information, except that any compilation of such data and information aggregated and prepared in a way that does not reveal data or information which is not available for public disclosure under this provision is available for public disclosure.

(3) Quantitative or semiquantitative formulas.

(h) For purposes of this regulation, safety and effectiveness data include all studies and tests of an animal drug on animals and all studies and tests on the animal drug for identity, stability, purity, potency, and bioavailability.

PART 146—ANTIBIOTIC DRUGS FOR VETERINARY USE; PROCEDURAL AND INTERPRETIVE REGULATIONS

9. In Part 146, by adding the following new section:

§ 146.16 Confidentiality of data and information in an investigational new animal drug notice and a new animal drug application file for an antibiotic drug.

(a) The rules established in §§ 135.33 and 135.33a of this chapter with regard to the confidentiality of an investigational new animal drug notice and a new animal drug application file shall apply to such notices and files for antibiotic drugs for new animal drug use.

(b) All records showing the Food and Drug Administration's testing of and action on a particular lot of a certifiable antibiotic drug for veterinary use are immediately available for public disclosure.

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 312—NEW DRUGS FOR INVESTIGATIONAL USE

10. In Part 312, by adding new § 312.5 to read as follows:

§ 312.5 Confidentiality of data and information in an investigational new drug notice (IND).

(a) The existence of an IND notice will not be disclosed by the Food and Drug Administration unless it has previously been publicly disclosed or acknowledged.

(b) The availability for public disclosure of all data and information in an IND file shall be handled in accordance with the provisions established in § 314.14 of this chapter for the confidentiality of data and information in new drug applications.

(c) Notwithstanding the provisions of § 314.14 of this chapter, the Food and Drug Administration shall disclose upon request to an individual on whom an investigational new drug has been used a copy of any adverse reaction report relating to such use.

PART 314—NEW DRUG APPLICATIONS

11. In Part 314:

a. By revising the heading and paragraph (b) of § 314.11 to read as follows:

§ 314.11 Master files.

* * * * *

(b) Section 301(j) of the act makes it an offense to divulge to unauthorized persons any information acquired from a new-drug application concerning any method or process that is a trade secret. Basic manufacturers sometimes submit data to the Food and Drug Administration in the form of so-called master files for the purpose of establishing the safety of ingredients that may be used in new drugs and authorize specified applicants to incorporate by reference such data in support of their applications. The confidentiality of such data shall be determined in accordance with Part 4 of this chapter and § 314.14. Because the applicant is legally responsible for the composition of the new drug and all its ingredients and may require information in the master file for judicial or administrative proceedings concerning the drug, the Food and Drug Administration will not withhold such information from the applicant when his need for it arises and he submits a written request for it. The Food and Drug Administration will inform the person who submitted the data of any such requests.

b. By adding new § 314.14 to read as follows:

§ 314.14 Confidentiality of data and information in a new drug application (NDA) file.

(a) For purposes of this section the "NDA file" includes all data and information submitted with or incorporated by reference in the NDA, IND's incorporated into the NDA, supplemental NDA's; reports under §§ 310.300 and 310.310 of this chapter, master files, and other related submissions. The availability for public disclosure of any record in the NDA file shall be handled in accordance with the provisions of this section.

(b) The existence of an NDA file will not be disclosed by the Food and Drug Administration before an approvable letter has been sent to the applicant, unless it has previously been publicly disclosed or acknowledged. The Director of the Bureau of Drugs will maintain a list available for public disclosure of pending NDA's for which an approvable letter has been sent to the applicant.

(c) If the existence of an NDA file has not been publicly disclosed or acknowledged, no data or information in the NDA file are available for public disclosure.

(d) If the existence of an NDA file has been publicly disclosed or acknowledged before an approval letter has been sent to the applicant, no data or information contained in the file is available for public disclosure before such letter is sent but the Commissioner may, in his discretion, disclose a summary of such selected portions of the safety and effectiveness data as are appropriate for public consideration of a specific pending issue, e.g., at an open session of a Food and Drug Administration advisory committee or pursuant to an exchange of important regulatory information with a foreign government.

(e) After an approval letter has been sent to the applicant for a pending NDA, the following data and information in the NDA file are immediately available for public disclosure unless extraordinary circumstances are shown:

(1) All safety and effectiveness data and information previously disclosed to the public, as defined in § 4.81 of this chapter.

(2) A summary or summaries of the safety and effectiveness data and information submitted with or incorporated by reference in the NDA file. Such summaries do not constitute the full reports of investigations under section 505(b)(1) of the act (21 U.S.C. 355(b)(1)) on which the safety or effectiveness of the drug may be approved. Such summaries shall consist of the following:

(i) For an NDA approved prior to July 1, 1975, internal agency records that describe such data and information, e.g., a summary of basis for approval or internal reviews of the data and information, after deletion of:

(*a*) Names and any information that would identify patients or test subjects or the investigators.

(*b*) Any inappropriate gratuitous comments unnecessary to an objective analysis of the data and information.

(ii) For an NDA approved on or after July 1, 1975, a summary of such data and information prepared in one of the following two alternative ways shall be publicly released when the approval letter is sent.

(*a*) The Bureau of Drugs may at an appropriate time prior to approval of the NDA require the applicant to prepare a summary of such data and information, which will be reviewed and, where appropriate, revised by the Bureau.

(*b*) The Bureau of Drugs may prepare its own summary of such data and information.

(3) A protocol for a test or study, unless it is shown to fall within the exemption established for trade secrets and confidential commercial information in § 4.61 of this chapter.

(4) Adverse reaction reports, product experience reports, consumer complaints, and other similar data and information, after deletion of:

(i) Names and any information that would identify the person using the product.

(ii) Names and any information that would identify any third party involved with the report, such as a physician or hospital or other institution.

(5) A list of all active ingredients and any inactive ingredients previously disclosed to the public as defined in § 4.81 of this chapter.

(6) An assay method or other analytical method, unless it serves no regulatory or compliance purpose and is shown to fall within the exemption established in § 4.61 of this chapter.

(7) All correspondence and written summaries of oral discussions relating to the NDA file, in accordance with the provisions of Part 4 of this chapter.

(f) All safety and effectiveness data and information not previously disclosed to the public are available for public disclosure at the time that any one of the following events occurs:

(1) The NDA has been abandoned and no further work is being undertaken with respect to it.

(2) A final determination is made that the NDA is not approvable, and all legal appeals have been exhausted.

(3) Approval of the NDA is withdrawn, and all legal appeals have been exhausted.

(4) A final determination has been made that the drug is not a new drug.

(5) A final determination has been made that the drug may be marketed without submission of such safety and/or effectiveness data and information.

(g) The following data and information in an NDA file are not available for public disclosure unless they have been previously disclosed to the public as defined in § 4.81 of this chapter or they relate to a product or ingredient that has been abandoned and they no longer represent a trade secret or confidential commercial or financial information as defined in § 4.61 of this chapter:

(1) Manufacturing methods or processes, including quality control procedures.

(2) Production, sales, distribution, and similar data and information, except that any compilation of such data and information aggregated and prepared in a way that does not reveal data or information which is not available for public disclosure under this provision is available for public disclosure.

(3) Quantitative or semiquantitative formulas.

(h) The compilations of information specified in § 4.117 of this chapter are available for public disclosure.

(i) For purposes of this regulation, safety and effectiveness data include all studies and tests of a drug on animals and humans and all studies and tests on the drug for identity, stability, purity, potency, and bioavailability.

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

12. In Part 431, by adding a new Subpart D to read as follows:

Subpart D—Confidentiality of Information

Sec.

431.70 Confidentiality of data and information in an investigational new drug notice for an antibiotic drug.
431.71 Confidentiality of data and information in an antibiotic drug file.

AUTHORITY: Pub. L. 90-23, 81 Stat. 54-56, as amended by 88 Stat. 1561-1565 (5 U.S.C. 552).

Subpart D—Confidentiality of Information

§ 431.70 Confidentiality of data and information in an investigational new drug notice for an antibiotic drug.

(a) The existence of an IND notice for an antibiotic drug will not be disclosed by the Food and Drug Administration unless it has previously been publicly disclosed or acknowledged.

(b) The availability for public disclosure of all data and information in an IND file for an antibiotic drug shall be handled in accordance with the provisions established in § 431.71.

(c) Notwithstanding the provisions of § 431.71, the Food and Drug Administration shall disclose upon request to an individual on whom an investigational antibiotic has been used a copy of any adverse reaction report relating to such use.

§ 431.71 Confidentiality of data and information in an antibiotic drug file.

(a) For purposes of this section, an "antibiotic drug file" includes all data and information submitted with or incorporated by reference in any form submitted pursuant to §§ 431.50 or 431.60, IND's incorporated into any such form, master files, and other related submissions. The availability for public disclosure of any record in the antibiotic drug file shall be handled in accordance with the provisions of this section.

(b) The existence of an antibiotic drug file will not be disclosed by the Food and Drug Administration before an approvable letter has been sent to the applicant, unless it has previously been publicly disclosed or acknowledged. The Director of the Bureau of Drugs will maintain a list available for public disclosure of pending Forms 5 for which an approvable letter has been sent to the applicant.

(c) If the existence of an antibiotic drug file has not been publicly disclosed or acknowledged, no data or information in the antibiotic drug file is available for public disclosure.

(d) If the existence of an antibiotic drug file has been publicly disclosed or acknowledged before an approval letter has been sent to the applicant, no data or information contained in the file is available for public disclosure before such letter is sent, but the Commissioner may, in his discretion, disclose a summary of such selected portions of the safety and effectiveness data as are appropriate for public consideration of a specific pending issue, e.g., at an open session of a Food and Drug Administration advisory committee or pursuant to an exchange of important regulatory information with a foreign government.

(e) After an approval letter has been sent to the applicant for a pending antibiotic drug file, the following data and information in the NDA file are immediately available for public disclosure unless extraordinary circumstances are shown:

(1) All safety and effectiveness data and information.

(2) A protocol for a test or study, unless it is shown to fall within the exemption established for trade secrets and confidential commercial information in § 4.61 of this chapter.

(3) Adverse reaction reports, product experience reports, consumer complaints, and other similar data and information, after deletion of:

(i) Names and any information that would identify the person using the product.

(ii) Names and any information that would identify any third party involved with the report, such as a physician or hospital or other institution.

(4) A list of all active ingredients and any inactive ingredients previously disclosed to the public as defined in § 4.81 of this chapter.

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(5) An assay method or other analytical method, unless it serves no regulatory or compliance purpose and is shown to fall within the exemption established in § 4.61 of this chapter.

(6) All correspondence and written summaries of oral discussions relating to the antibiotic file, in accordance with the provisions of Part 4 of this chapter.

(7) All records showing the testing of and action on a particular lot of a certifiable antibiotic drug by the Food and Drug Administration.

(f) The following data and information in an antibiotic drug file are not available for public disclosure unless they have been previously disclosed to the public as defined in § 4.61 of this chapter or they relate to a product or ingredient that has been abandoned and they no longer represent a trade secret or confidential commercial or financial information as defined in § 4.61 of this chapter:

(1) Manufacturing methods or processes, including quality control procedures.

(2) Production, sales, distribution, and similar data and information, except that any compilation of such data and information aggregated and prepared in a way that does not reveal data or information which is not available for public disclosure under this provision is available for public disclosure.

(3) Quantitative or semiquantitative formulas.

(g) For purposes of this regulation, safety and effectiveness data include all studies and tests of a drug on animals and humans and all studies and tests on the drug for identity, stability, purity, potency, and bioavailability.

SUBCHAPTER F—BIOLOGICS

PART 601—LICENSING

13. In Part 601, by adding a new Subpart F to read as follows:

Subpart F—Confidentiality of Information

Sec.
601.50 Confidentiality of data and information in an investigational new drug notice for a biological product.
601.51 Confidentiality of data and information in applications for establishment and product licenses.

AUTHORITY: Pub. L. 90-23, 81 Stat. 54-56, as amended by 86 Stat. 1561-1564 (5 U.S.C. 552).

Subpart F—Confidentiality of Information

§ 601.50 Confidentiality of data and information in an investigational new drug notice for a biological product.

(a) The existence of an IND notice for a biological product will not be disclosed by the Food and Drug Administration unless it has previously been publicly disclosed or acknowledged.

(b) The availability for public disclosure of all data and information in an IND file for a biological product shall be handled in accordance with the provisions established in § 601.51.

(c) Notwithstanding the provisions of § 601.51, the Food and Drug Administration shall disclose upon request to an individual on whom an investigational biological product has been used a copy of any adverse reaction report relating to such use.

§ 601.51 Confidentiality of data and information in applications for establishment and product licenses.

(a) For purposes of this section the "biological product file" includes all data and information submitted with or incorporated by reference in any application for an establishment or product license, IND's incorporated into any such application, master files, and other related submissions. The availability for public disclosure of any record in the biological product file shall be handled in accordance with the provisions of this section.

(b) The existence of a biological product file will not be disclosed by the Food and Drug Administration before a product license has been sent to the applicant, unless it has previously been publicly disclosed or acknowledged. The Director of the Bureau of Biologics will maintain a list available for public disclosure of biological products for which a license has been issued.

(c) If the existence of a biological product file has not been publicly disclosed or acknowledged, no data or information in the biological product file is available for public disclosure.

(d) If the existence of a biological product file has been publicly disclosed or acknowleged before a license has been issued, no data or information contained in the file is available for public disclosure before such license is issued, but the Commissioner may, in his discretion, disclose a summary of such selected portions of the safety and effectiveness data as are appropriate for public consideration of a specific pending issue, e.g., at an open session of a Food and Drug Administration advisory committee or pursuant to an exchange of important regulatory information with a foreign government.

(e) After a license has been issued, the following data and information in the biological product file are immediately available for public disclosure unless extraordinary circumstances are shown:

(1) All safety and effectiveness data and information.

(2) A protocol for a test or study, unless it is shown to fall within the exemption established for trade secrets and confidential commerical or financial information in § 4.61 of this chapter.

(3) Adverse reaction reports, product experience reports, consumer complaints, and other similar data and information, after deletion of:

(i) Names and any information that would identify the person using the product.

(ii) Names and any information that would identify any third party involved with the report, such as a physician or hospital or other institution.

(4) A list of all active ingredients and any inactive ingredients previously disclosed to the public, as defined in § 4.61 of this chapter.

(5) An assay method or other analytical method, unless it serves no regulatory or compliance purpose and it is shown to fall within the exemption established in § 4.61 of this chapter.

(6) All correspondence and written summaries of oral discussions relating to the biological product file, in accordance with the provisions of Part 4 of this chapter.

(7) All records showing the manufacturer's testing of a particular lot, after deletion of data or information that would show the volume of the drug produced, manufacturing procedures and controls, yield from raw materials, costs, or other material falling within § 4.61 of this chapter.

(8) All records showing the testing of and action on a particular lot by the Food and Drug Administration.

(f) The following data and information in a biological product file are not available for public disclosure unless they have been previously disclosed to the public as defined in § 4.61 of this chapter or they relate to a product or ingredient that has been abandoned and they no longer represent a trade secret or confidential commercial or financial information as defined in § 4.61 of this chapter:

(1) Manufacturing methods or processes, including quality control procedures.

(2) Production, sales, distribution, and similar data and information, except that any compilation of such data and information aggregated and prepared in a way that does not reveal data or information which is not available for public disclosure under this provision is available for public disclosure.

(3) Quantitative or semiquantitative formulas.

(g) For purposes of this regulation, safety and effectiveness data include all studies and tests of a biological product on animals and humans and all studies and tests on the drug for identity, stability, purity, potency, and bioavailability.

SUBCHAPTER G—COSMETICS

PART 720—VOLUNTARY FILING OF COSMETIC PRODUCT INGREDIENT AND COSMETIC RAW MATERIAL COMPOSITION STATEMENTS

14. In Part 720, by revising § 720.8 to read as follows:

§ 720.8 Confidentiality of statements.

(a) The availability for public disclosure of all data and information contained in, attached to, or included with, Forms FD-2512, 2513, 2514, and amendments thereto, shall be handled in accordance with the provisions established in Part 4 of this chapter. All such data and information are submitted voluntarily to the Food and Drug Administration and are thus subject to the specific provisions for the presubmission review of a request for confidentiality of voluntarily submitted data under § 4.44 of this

chapter, and to the provisions concerning data and information submitted voluntarily to the Food and Drug Administration under § 4.111 of this chapter, as well as to the exemptions in Subpart D of Part 4 of this chapter and the limitations on exemptions in Subpart E of Part 4 of this chapter.

(b) A determination pursuant to § 4.44 of this chapter that an ingredient or ingredients is not a trade secret or confidential commercial information under § 4.61 of this chapter constitutes final agency action that is subject to judicial review pursuant to 5 U.S.C. chapter 7. If suit is brought within 10 days after such a determination, the Food and Drug Administration will not disclose the records involved or require that the disputed ingredient or ingredients be disclosed in labeling until the matter is finally determined in the courts.

PART 730—VOLUNTARY FILING OF COSMETIC PRODUCT EXPERIENCES

15. In Part 730, by revising § 730.7 to read as follows:

§ 730.7 Confidentiality of reports.

The availability for public disclosure of all data and information contained in, attached to, or included with Forms FD–2704, 2705, 2706, and amendments thereto, shall be handled in accordance with the provisions established in Part 4 of this chapter. All such data and information are submitted voluntarily to the Food and Drug Administration and are thus subject to the specific provisions concerning data and information submitted voluntarily to the Food and Drug Administration in § 4.111 of this chapter, as well as to the exemptions in Subpart D of Part 4 of this chapter and the limitations on exemptions in Subpart E of Part 4 of this chapter.

Effective date. This order shall be effective on (insert date 30 days after date of publication in the FEDERAL REGISTER). Interested persons may, on or before (insert date 60 days after date of publication in the FEDERAL REGISTER), file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding matters not raised in the proposal published in the FEDERAL REGISTER of May 5, 1972 (37 FR 9128) and considered in the preamble to this order. Comments received will be available for public inspection at the above office during working hours, Monday through Friday. Any changes in this order justified by such comments will be the subject of a further order amending the specific regulations involved.

(Sec. 201 et seq., Pub. L. 717, 52 Stat. 1040 et seq., as amended (21 U.S.C. 321 et seq.); sec. 1 et seq., Pub. L. 410, 58 Stat. 682 et seq., as amended (42 U.S.C. 201 et seq.); Pub. L. 90–23, 81 Stat. 54–56, as amended by 88 Stat. 1561–1565 (5 U.S.C. 552))

Dated: December 3, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.74–28688 Filed 12–11–74;9:26 am]

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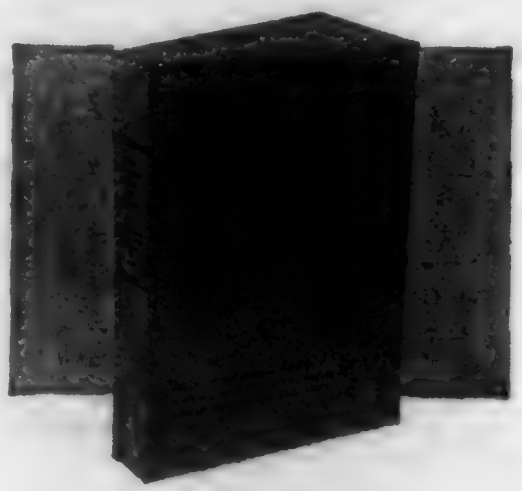
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federal register

THURSDAY, DECEMBER 26, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 249

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—VOLUNTARY INSPECTION AND CERTIFICATION SERVICE

PART 350—SPECIAL SERVICES RELATING TO MEAT AND OTHER PRODUCTS

PART 355—CERTIFIED PRODUCTS FOR DOGS, CATS, AND OTHER CARNIVORA; INSPECTION, CERTIFICATION, AND IDENTIFICATION AS TO CLASS, QUALITY, QUANTITY, AND CONDITION

Laboratory Rate Increase

Pursuant to the statutory authorities cited below, the fees relating to laboratory service performed in connection with inspection, identification, or certification service rendered to operators of meat establishments, importers, or exporters by the Animal and Plant Health Inspection Service, Meat and Poultry Inspection Program, are hereby amended to reflect increases in operating costs since the last increase December 1, 1973, and to reflect increases in Federal employees' salaries authorized by the Federal Pay Comparability Act of 1970, and Executive Order 11811, dated October 8, 1974. Such increases will more adequately cover the cost of the laboratory service provided.

Therefore, the rate for laboratory service, as provided for in these Parts, is changed from $16.88 per hour to $19.20 per hour in §§ 350.7(c) and 355.12.

(7 U.S.C. 1622(h), 1624)

It has been determined that in order to cover these increased costs of the services, the hourly fees charged in connection with the performance of the services must be increased as soon as practicable as provided herein. The need for the increase and the amount thereof are dependent upon facts within the knowledge of the Animal and Plant Health Inspection Service. Therefore, under 5 U.S.C. 553, it is found that notice and other public procedure with respect to these amendments are impracticable and unnecessary and good cause is found for making these amendments effective less than 30 days after publication in the FEDERAL REGISTER.

These amendments shall become effective January 5, 1975.

Done at Washington, D.C., on:

HARRY C. MUSSMAN,
Acting Administrator, Animal and Plant Health Inspection Service.

DECEMBER 19, 1974.

[FR Doc.74-30058 Filed 12-24-74;8:45 am]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 74-1315]

PART 545—OPERATIONS

Public Unit Accounts; Correction

DECEMBER 18, 1974.

The Federal Home Loan Bank Board hereby corrects Board Resolution No. 74-1228 (FR Doc. 74-28640, 39 FR 42693-95; December 6, 1974), which amended §§ 526.1, 526.4, and 526.5 of the Regulations for the Federal Home Loan Bank System (12 CFR 526.1, 526.4, and 526.5), and made conforming amendments to §§ 545.1-4 and 545.3-1 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 545.1-4 and 545.3-1) and to §§ 563.3-1 and 563.3-2 of the Rules and Regulations for Insurance of Accounts (12 CFR 563.3-1 and 563.3-2), by:

(1) Correcting a typographical error by changing the phrase "currently 5.5 percent" in part B.4. of the explanatory *Summary* preceding the preamble and regulatory language to read "currently 5.25 percent"; and

(2) Making retroactive to November 27, 1974, the effective date of the amendments to §§ 545.1-4(c)(3)(i) and 545.3-1(b)(3)(i), as amended by Board Resolution No. 74-1200 (FR Doc. 74-27934, 39 FR 41515-16; November 29, 1974). Board Resolution No. 74-1200 was adopted by the Board on November 22, 1974, with an effective date of November 29, 1974, thereby inadvertently superseding the later Board Resolution No. 74-1228, which was adopted by the Board on November 26, 1974, with an effective date of November 27, 1974. Sections 545.1-4(c)(3) and 545.3-1(b)(3) shall read as follows, effective November 27, 1974:

§ 545.1-4 Other savings accounts.

* * * * *

(c) *Limitations.* In accepting savings deposits under the authority contained in paragraph (a) of this section, no Federal association shall:

* * * * *

(3)(i) Accept any fixed-term savings deposit of less than $100,000 ($50,000, if the association's home office is located in Puerto Rico) for a term of less than 90 days (30 days for a public unit account) or more than 10 years; or (ii) Accept any fixed-term savings deposit of $100,000 ($50,000, if the association's home office is located in Puerto Rico) or more for a term of less than 30 days or more than 10 years. (iii) Any savings deposit issued pursuant to this section may provide for renewal, at the option of the association, for successive periods not exceeding 10 years for each renewal.

* * * * *

§ 545.3-1 Distribution of earnings at variable rates.

* * * * *

(b) *Eligibility requirements.* * * *

(3) *Accounts evidenced by certificates.* (i) A savings account of less than $100,000 ($50,000, if the association's home office is located in Puerto Rico) which is evidenced by a certificate meeting the requirements of paragraph (c) of this section may receive earnings at a rate higher than the regular rate, but not in excess of the applicable maximum rate of return prescribed for certificate accounts in Part 526 of this chapter, if such account is maintained at not less than the minimum amount required by such Part for such rate of return, and for such continuous period of not less than 90 days (30 days for a public unit account), nor more than 10 years, commencing on the date of such certificate, as the association may determine. (ii) A savings account of $100,000 ($50,000, if the association's home office is located in Puerto Rico) or more which is evidenced by a certificate meeting the requirements of paragraph (c) of this section may receive earnings at a rate higher than the regular rate, but not in excess of the applicable maximum rate of return prescribed for certificate accounts in Part 526 of this chapter, if such account is maintained at not less than such minimum amount, for such continuous period of not less than 30 days, nor more than 10 years, commencing on the date of such certificate, as the association may determine. (iii) Any savings account issued pursuant to this section may be evidenced by more than one certificate.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[FR Doc.74-30082 Filed 12-24-74;8:45 am]

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Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 75-7]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Coastwise Transportation

In accordance with section 27, 41 Stat. 999, as amended (46 U.S.C. 883), the Secretary of State has advised the Secretary of the Treasury under date of May 1, 1974, that the Netherlands allows privileges reciprocal to those provided for in the seventh proviso of the cited statute with respect to merchandise transported by United States-flag LASH-type barges. Therefore, corresponding privileges are accorded to LASH-type barges of Dutch registry effective as of the date of such notification. These privileges relate to the coastwise transportation of merchandise by LASH-type barges under the conditions specified in the seventh proviso of section 27, 41 Stat. 999, as amended (46 U.S.C. 883).

Accordingly, paragraph (b) of § 4.81a of the Customs regulations (19 CFR 4.81a(b)) is amended by the insertion of "Netherlands" after "Federal Republic of Germany" in the list of countries under that paragraph.

(Sec. 27, 41 Stat. 999, as amended (5 U.S.C. 301, 46 U.S.C. 883))

There is statutory basis for the described extension of reciprocal privileges, and the amendment recognizes an exemption from the coastwise prohibition of section 27, 41 Stat. 999, as amended (46 U.S.C. 883). Therefore, good cause is found for dispensing with notice and public procedure thereon as unnecessary, and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved: December 17, 1974.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.74-30106 Filed 12-24-74;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 121—FOOD ADDITIVES

Subpart B—Exemption of Certain Food Additives From the Requirement of Tolerances

SORBITOL; AFFIRMATION OF GRAS STATUS AS DIRECT HUMAN FOOD INGREDIENT; CORRECTION

In FR Doc. 74-21182, appearing at page 34180 in the FEDERAL REGISTER of Monday, September 23, 1974, the following correction is made on page 34181: In § 121.104(g)(4)(iv), the phrase "15 percent in nonstandardized jams and jellies" is changed to read "30 percent in nonstandardized jams and jellies."

Dated: December 18, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-30049 Filed 12-24-74;8:45 am]

PART 121—FOOD ADDITIVES

Subpart H—Food Additives Permitted in Food for Human Consumption or in Contact With Food on an Interim Basis Pending Additional Study

MANNITOL; REMOVAL FROM GRAS STATUS AND ESTABLISHMENT OF INTERIM FOOD ADDITIVE REGULATION FOR DIRECT HUMAN FOOD USE; CORRECTION

In FR Doc.74-21185 appearing at page 34178 in the FEDERAL REGISTER of Monday, September 23, 1974, the following correction is made on page 34179: In § 121.4005(d), the phrase "30 percent in nonstandardized jams and jellies" is changed to read "15 percent in nonstandardized jams and jellies."

Dated: December 18, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-30050 Filed 12-24-74;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT—FEDERAL HOUSING COMMISSIONER (FEDERAL HOUSING ADMINISTRATION)

SUBCHAPTER C—MORTGAGE AND LOAN INSURANCE PROGRAMS UNDER THE NATIONAL HOUSING ACT

[Docket No. R-74-288]

PART 221—LOST COST AND MODERATE INCOME MORTGAGE INSURANCE

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR MUTUAL RENTAL PROJECTS

Change in the Maximum Per Unit Mortgage Limitation for a One Bedroom Unit in an Elevator Type Structure Under Sections 221 and 236

The Department is amending § 221.514 of Part 221 and Section 236.12 of Part 236 to increase the maximum per unit mortgage amount for a one bedroom unit in an elevator type structure from "$16,200" to "$18,630". Section 221.514 was effective August 22, 1974 by document published Sept. 6, 1974 at 39 FR 32436 and § 236.12 was amended on October 7, 1974 at 39 FR 36009 in order to increase the maximum per unit mortgage amounts to those amounts authorized by the "Housing and Community Development Act of 1974." In preparing those amendments, the Department interpreted the "Housing and Community Development Act of 1974" as increasing the maximum one bedroom limit in an elevator type structure from "$13,500" to "$16,200." However, upon a further study of the "Housing and Community Development Act of 1974," it was determined that the limit for a one bedroom unit in an elevator type structure had been increased from "$15,525" to "$18,630." Section 303(d)(A) of the "Housing and Community Development Act of 1974" deleted "$15,525" in section 221(d)(3)(ii) of the National Housing Act and inserted in lieu thereof "$18,630". The number "$15,525" appeared in two places in Section 221(d)(3)(ii) and there was no language in Section 303(d)(A) limiting the deletion of $15,525 to non-elevator structures. Therefore, upon reconsideration, Section 303(d)(A) has been interpreted as increasing the maximum per unit limit for one bedroom units in elevator structures to $18,630. Section 303(d)(B) of the 1974 Act attempted to strike out "$13,500" in Section 221(d)(3)(ii) and replace it with "$16,200". However, since there was no figure of "$13,500" in Section 221(d)(3)(ii) to strike, the attempted deletion and replacement was a nullity.

Section 221(d)(3) is incorporated by reference into Section 236 and therefore, the maximum per unit mortgage amounts for Section 221(d)(3) are applicable to Section 236.

Since these amendments are of a technical nature to properly implement the "Housing and Community Development Act of 1974," advance notice and public procedure are not necessary and good cause exists for making these amendments effective on publication.

Accordingly, Parts 221 and 236 are amended as follows:

Section 221.514(b)(1)(ii) is amended as follows:

§ 221.514 Maximum mortgage amounts.

* * * * * * *

(b) * * *

(1) * * *

(ii) $18,630 per family unit with one bedroom

* * * * * * *

Section 236.12(b)(2) is amended as follows:

§ 236.12 Maximum mortgage amounts.

* * * * * * *

(b) * * *

(2) $18,630 per family unit with one bedroom

* * * * * * *

(Sec. 7(d), Department of Housing and Urban Development Act; 42 U.S.C. 3535(d)).

Effective date. This amendment will be effective December 26, 1974.

DAVID M. DEWILDE,
Acting Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner.

[FR Doc.74-30064 Filed 12-24-74;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Mechanical Power Presses; Correction of Effective Date

Pursuant to authority in sections 6(b) and 8(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1600; (29 U.S.C. 655, 657)) and in Secretary of Labor's Order No. 12–71 (36 FR 8754), the general effective date for the amendments to the occupational safety and health standard for mechanical power presses, § 1910.217, published in the FEDERAL REGISTER on December 3, 1974 (39 FR 41841) is changed from January 1, 1975, to February 2, 1975.

When the amendments were published, it was intended to provide a period of 60 days in which employers could familiarize themselves with the new regulations and adjust their operations accordingly. However, due to an oversight, the general effective date was stated as January 1, 1975 (39 FR 41846, 2nd column, first line) thereby giving employers only 30 days to comply with the new regulations. In order to implement the intention of providing a 60-day delayed effective date, the January 1, 1975 date is hereby changed to February 2, 1975.

Since this action does not result in any substantive change in the standard, it is unnecessary to provide a notice of proposed rulemaking or an opportunity for public participation therein.

(Secs. 6(b), 8(g), Pub. Law 91–596, 84 Stat. 1593, 1600 (29 U.S.C. 655, 657), Secretary of Labor's Order No. 12–71 (36 FR 8754), 29 CFR Part 1911)

Signed at Washington, D.C. this 20th day of December 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74–30109 Filed 12–24–74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 204—DANGER ZONE REGULATIONS

Pacific Ocean, Calif.

Pursuant to the provision of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of July 9, 1918 (40 Stat. 892; 33 U.S.C. 3) § 204.203 establishing and governing the use of a danger zone in the Pacific Ocean at San Miguel Island, California, is hereby amended with respect to paragraph (c) (9) to extend the period of use.

This regulation which extends use of the danger zone for an additional two (2) years from July 1, 1974, is effective on December 26, 1974. Consideration will be given, however, to any comments submitted to the Officer of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attn: DAEN–CWO–N on or before January 27, 1975. Those comments will assist the Department of the Army in determining whether use of the danger zone should be allowed to continue.

§ 204.203 Pacific Ocean at San Miguel Island, Calif., naval danger zone.

* * * * * *

(c) The regulations. * * *

(9) The regulations in this section shall be in effect until July 1, 1976, and shall be reviewed in May 1976 to determine the continuing need therefor.

[Regs. November 29, 1974, DAEN–CWO–N] (Sec. 7, 40 Stat. 266, Chap. XIX, 40 Stat. 892; 33 U.S.C. 1, 3)

By authority of the Secretary of the Army.

FRED R. ZIMMERMAN,
Lt. Colonel, U.S. Army,
Chief, Plans Office, TAGO.

[FR Doc.74–30042 Filed 12–24–74;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5460]

ALASKA

Partial Revocation of Public Land Order No. 5150, as Amended

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Public Land Order No. 5150 of December 28, 1971, which withdrew lands for a utility and transportation corridor in Alaska, as amended by Public Land Orders Nos. 5151 of December 29, 1971, 5182 of March 9, 1972, 5190 of March 17, 1972, and 5405 of January 10, 1974, is hereby revoked so far as it affects surveyed or unsurveyed lands within the following townships:

COPPER RIVER MERIDAN

Ts. 1, 2, 4, 5, 6, 7, 8 N., R. 1 W.
Ts. 3 thru 8 N., R. 2 W.
T. 1 S., R. 1 E.
Ts. 1 and 2 N., R. 1 E.

2. The lands described in paragraph 1 of this order are hereby deleted from Public Land Order No. 5180 of March 8, 1972, as amended.

3. The lands described in paragraph 1 of this order are subject to section 11 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 696), and will not at this time be made available for other types of disposition. While the lands described in this order remain withdrawn, the lands shall be subject to administration by the Secretary of the Interior under applicable laws and regulations and his authority to make contracts, and to grant leases, permits, rights-of-way or easements shall not be impaired by this order. Applications for leases under the Mineral Leasing Act will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

JACK O. HORTON,
Assistant Secretary of the Interior.

DECEMBER 18, 1974.

[FR Doc.74–30053 Filed 12–24–74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19983; RM–2109; FCC 74–1363]

PART 73—RADIO BROADCAST SERVICES

FM Table of Assignments, Gilroy, Calif.

Report and order (Proceeding Terminated). In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Gilroy, California), Docket No. 19983, RM–2109, FCC 74–1363.

1. The Commission here considers the notice of proposed rule making, adopted March 22, 1974 (39 FR 12872), proposing that the FM Table of Assignments (Section 73.202(b) of the Commission's Rules and Regulations) be amended by substituting Channel 233 for 232A at Gilroy, California, as petitioned for by Entertainment Radio Incorporated (Entertainment), licensee of Station KSND (FM) on the channel there. The only comments filed were by the petitioner Entertainment.

2. Entertainment petitioned for the change because of the alleged inadequacy of service from Station KSND (FM) to Gilroy, the city of assignment, and portions of Santa Clara County known as the "South County". Gilroy, population 12,665, is located in Santa Clara County, population 1,064,714, which is the San Jose Standard Metropolitan Statistical Area (SMSA). Petitioner contended that only marginal service is provided to Gilroy and Morgan Hill, population 6,485, a city 10 miles northwest of the principal city of assignment, and in Santa Clara County. Entertainment relied on the fact that there is interference in the service area (between Gilroy and Morgan Hill and parts of Morgan Hill) from Station KPFA, Channel 231, Berkeley, California. Entertainment also adduced additional information to show that Station KSND primarily serves Gilroy, Morgan Hill, and the surrounding rural area of Santa Clara County—the "South County"—and secondarily the cities of Watsonville and Hollister. We were told that because of the anticipated imminent influx of population and industry from the San Jose area an advisory South County Planning Program Policy Committee (SCPPPC) had been established as concerns an orderly and coordinated planning policy for the South County area which consists of approximately one-third of the land area of Santa Clara County and only about 2% of the present population. Because of the lack of other media—only three newspapers and Spanish language programming from

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daytime-only AM Station KAZA, licensed to Gilroy—Station KSND expected to become a primary source of local news, information, and entertainment.

3. The Notice discussed the possibility of Gilroy being entitled to a higher class FM channel in various respects. More specifically, consideration was given to whether a station on a Class B channel at Gilroy would serve unserved (no other FM service) and underserved (one FM service) areas (see *Roanoke Rapids*, 9 F.C.C. 2d 672, 673 (1967)) but petitioner's own study showed that there were a minimum of three and a maximum of 13 broadcast services in the proposed service area. However, it was shown that the operation of Station KPFA, Channel 231, Berkeley, with facilities of 59 kW at 1330 feet antenna height a.a.t. limits Station KSND service within its normal 1 mV/m contour in a northwesterly direction; that there is substantial interference in the principal area of service. Because these were not considered reasons enough for a channel change. Entertainment was asked to provide further current information about population increases at Gilroy and South County. The Notice noted that while assignments are made to a community, the Commission recognized the need to be able to provide service to an entire service area particularly near the community of assignment.

4. Entertainment has filed comments addressed to the issues raised by the Commission. It additionally requests that the Commission also issue an Order to Show Cause under Section 316 of the Communications Act of 1934, as amended, addressed to Station KSND as to modification of its license to operate on Channel 233 in lieu of 232A. Petitioner also requests expeditious action on the rulemaking.[1] Entertainment also urges that it is appropriate for a channel change to be made at Gilroy because of the need for independent local programming service in an extensive rural area in the South County and counties contiguous to Santa Clara County, of which Gilroy is the hub city, and for which Station KSND would be the source of local news, social, and public service programming. In this respect, it is pointed out that KSND is the only English language broadcasting outlet furnishing local service. It is also urged that portions of the South County which rely on programming from Station KSND do not currently receive predicted 1 mV/m service.

5. As concerns the Notice's request for additional official information and data as to population growth, Entertainment advises that there is little official information but that available from other sources demonstrates a rapid population expansion in the SCPPPC and Watsonville areas, and, indeed, projections of population increases for 1980 have already been exceeded. Thus, it is expected that the population of Gilroy will reach 25,000 by 1985. Similar information and data has been adduced showing a greater growth at Watsonville (in KSND's secondary service area). Entertainment Radio concludes that it would be appropriate to assign Channel 233 to Gilroy, since it does not deprive another city of an assigned channel or preclude use elsewhere.

6. As our Notice indicated, there might be good and sufficient reason for changing the assignment at Gilroy, California, from a Class A to a Class B channel. While it was abundantly clear that Station KSND operating on Channel 232A could not provide adequate service to its usual service area because of interference from Station KPFA, this alone was not considered grounds for a channel change. This is why we asked for additional information as to population growth of Gilroy and the surrounding area. We are satisfied that assignment of a Class B channel to Gilroy would make possible a first local service to a substantial area in the "South County" portion of Santa Clara County where a tremendous population growth is under way. In the circumstances, the public interest, convenience, and necessity would be served by assigning Channel 233 in lieu of Channel 232A. Additionally, since Channel 233 may not be used elsewhere in the area,[2] if not assigned to Gilroy, there is no reason not to make use of the higher channel (see and compare *Pensacola*, 44 F.C.C. 2d 1056, 1061 (1974)).

7. As already noted, Entertainment has asked for an Order to Show Cause to change the operating channel of Station KSND from Channel 232A to 233, should we assign Channel 233. Such action is not necessary, since it is clear that Station KSND(FM) assents to such action. However, in paragraph 9, below, we indicate the steps that Station KSND(FM) must take before commencing operation on Channel 233.

8. In view of the foregoing, and pursuant to authority contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, *it is ordered*, That effective January 27, 1975, the FM Table of Assignments, § 73.202(b) of the rules and regulations, is amended to read as follows for the city listed below:

City	Channel No.
Gilroy, California	233

9. *It is further ordered*, That effective January 27, 1975, and pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Entertainment Radio Incorporated for Station KSND(FM), Gilroy, California, is modified to specify operation on Channel 233 in lieu of Channel 232A, subject to the following conditions:

(a) The licensee shall inform the Commission in writing by no later than January 27, 1975, of its acceptance of this modification.

(b) The licensee may continue to operate on Channel 232A under its outstanding authorization until it is ready to operate on Channel 233 or the Commission sooner directs but no later than 3 a.m. local time, December 1, 1977.

(c) At least 30 days before it wishes to commence operation on Channel 233, or within 30 days after it receives notification from the Commission if the Commission sooner directs the change set forth in (b) above, but not later than November 1, 1977, the licensee of Station KSND(FM) shall submit to the Commission the technical information normally required of an applicant for a construction permit on Channel 233 at Gilroy, California.

(d) Ten days prior to commencing operation on Channel 233, the licensee shall submit the same measurement data normally required in an application for an FM broadcast station license.

(e) Entertainment Radio Incorporated shall not commence operation on Channel 233 until the Commission specifically authorizes it to do so.

10. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307))

Adopted: December 10, 1974.

Released: December 18, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-30075 Filed 12-24-74;8:45 am]

[1] As explained in later correspondence, Station KSND has been operating under severe financial difficulties preventing it from providing adequate service to the public and forcing it to curtail the hours of operation from 126 to 95 per week. Additionally, because of age and technical problems with its existing transmitter, there have been interruptions of service reducing ability to obtain advertising revenue and provide adequate service. Entertainment says that the existing transmitter must be replaced, and, because of the pending rule making, Entertainment would prefer not to undertake the additional financial burden of replacing its current facilities if the channel substitution under consideration in this proceeding will be made.

[2] Channel 233 became available only because of the deletion at Fresno to resolve an interference problem. *Fresno, Hanford, and Fowler*, 35 F.C.C. 2d 603 (1972).

[Docket No. 20000; RM-2157; FCC 74-1364]

PART 73—RADIO BROADCAST SERVICES

FM Table of Assignments, Stockton, Calif.

Report and order (Proceeding Terminated). In the matter of amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations. (Stockton, California); Docket No. 20000, RM-2157, FCC 74-1364.

1. The Commission has under consideration its notice of proposed rule making adopted April 3, 1974, 39 FR 13558, inviting comments on a proposal to assign FM Channel 261A as a third assignment to Stockton, California. This

proceeding was instituted on the basis of a petition filed by Barnes Enterprises, Inc., licensee of standard broadcast Station KWG, Stockton, California. Supporting comments were filed by petitioner. An opposition was filed by Family Stations, Inc., licensee of non-commercial FM Station KEBR (Channel 263) in Sacramento, California.

2. Stockton is a city of 107,644 population,[1] and is the seat of San Joaquin County, population 290,208. It is located about 65 miles east of San Francisco. There are three unlimited time AM stations, two commercial FM stations (257A and 297) and two educational FM stations operating in Stockton. Channel 261A could be assigned to Stockton in conformity with the Commission's minimum mileage separation rule.

3. In supporting comments petitioner states that the 1970 Census shows that in the 20-year period between 1950 and 1970 the population of the Stockton SMSA increased from 200,750 to 290,208, a 40.6% increase; the Stockton SMSA now ranks 107 nationally; in the past ten years the Stockton Urbanized Area realized a 13.3% population increase from 141,604 to 160,373; and in the same ten year period the population of the City of Stockton increased by 24,770 from 86,321 to 107,644. It contends that a third commercial FM assignment in Stockton is needed to better serve this rapidly growing area and to equalize the competitive opportunities between the three local stations. Petitioner (licensee of Station KWG, a Class IV AM station) adds that it is the only broadcast licensee in Stockton without an FM operation and if the requested channel is assigned, it plans to immediately apply for a permit to construct an FM station on this frequency.

4. The timely filed opposition of Family Stations, Inc. (KEBR) contends that Station KEBR operating on Channel 263, already receives interference in the Stockton area where the signal level is below 1 mV/m from a station operating on Channel 265A in Tracy, a town near Stockton, and that the proposed Channel 261A assignment would cause interference on the other side of the KEBR signal, thus making it more difficult for its listeners. KEBR states that if the proposed Channel 261A transmitter were placed on the north side of Stockton, this would preclude KEBR from ever placing its transmitter within the immediate vicinity of the Sacramento city limits, for the KEBR transmitter is now 25 miles northeast of Sacramento and this could be a disadvantage as most of the other Sacramento FM transmitters are near the city thus placing a greater signal over the city of license. KEBR therefore proposes, if assignment is granted in the face of these objections, that a limitation be placed on the location of the Channel 261A transmitter.

5. Although KEBR expresses concern about possible foreclosure of a future move of its transmitter site closer to Sacramento, it is presently limited by the spacing requirements by stations on Channel 260 at Marysville, California, and Channel 262 at San Jose, California, to an area immediately east of Sacramento. The assignment of Channel 261A to Stockton would have very little effect on the choice of a site. Since the provisions of Section 73.315 of the Rules would require the Stockton applicant to select a site close to the community, the possibility of a site north of Stockton being selected is minimal. Under the worst situation, KEBR could move westward about 12 miles to a location within the urban area of Sacramento so that it would be able to provide a strong signal competitive with the other local FM stations.

6. Since there is already Class A and Class B channel intermixture in the community, the assignment of another Class A channel will not contravene the Commission policy on the intermixture of channel assignments. The preclusion study shows that the proposed assignment would cause no preclusion on the six pertinent adjacent channels. The preclusion area on Channel 261A does not include any other community which warrants a Class A channel assignment. Under our population criteria Stockton has a population the size of which would warrant its being assigned a third FM channel. After consideration of the pertinent facts in this proceeding, we are of the view that the subject proposal has merit and that its adoption would serve the public interest and would result in efficient use of FM frequencies.

7. In view of the foregoing and pursuant to authority contained in sections 4(i), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, *it is ordered*, That effective January 27, 1975, the FM Table of Assignments, § 73.202(b) of the rules is amended to read as follows for the city listed below:

City	Channel No.
Stockton, California	257A, 261A, 297

8. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: December 10, 1974.

Released: December 18, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-30076 Filed 12-24-74;8:45 am]

[1] All population figures are from the 1970 U.S. Census.

[Docket No. 20024; FCC 74-1381]

PART 76—CABLE TELEVISION SERVICES

Identification of Officials Responsible for Subscriber Complaints

Report and Order (Proceeding Terminated). In the matter of: amendment of Part 76 of the Commission's Rules and Regulations Relative to a Specific Requirement In § 76.31(a)(5) that the Local Official Responsible for Subscriber Complaints be Identified in the Franchise, Docket No. 20024.

1. On April 22, 1974, the Commission adopted its *Clarification of Rules and Notice of Proposed Rulemaking*, FCC 74-384, 46 FCC 2d 175 (1974), in which it stated that,

> Assuring that subscribers receive quality service and quick resolution of any complaints is one of the most important regulatory functions to be performed at all levels of government. The primary locus of responsibility however, must be at the local level, where the service is.[1]

The experience of the Cable Television Bureau's Cable Complaint Service bears out this observation. Each month the Service receives between 70 and 110 subscriber complaint letters and approximately 50 telephone calls. Many of these complaints do not require Bureau intervention and are more appropriately matters for local consideration.[2] Much time and effort can be saved if subscribers know and are able to contact their local authorities in the first instance.

2. Section 76.31(a)(5) of the Commission's Rules states that a cable television system, in order to obtain a certificate of compliance, shall have a franchise that specifies "procedures for investigation and resolution of all complaints regarding the quality of service, equipment malfunctions, and similar matters * * *" However, we noted that,

> Many franchises are now being reviewed which have full statements of the franchisee's obligations to resolve subscriber complaints but no indication whether the franchiser has any responsibilities. We wish to make it clear, therefore, that this obligation was meant to cover both parties.[3]

Therefore, we adopted, as part of the *Clarification*, a *Notice of Proposed Rule Making in Docket No. 20024*, proposing that § 76.31(a)(5) be amended to require:

> * * * franchising authorities * * * [to] include specific provisions in the franchise on what government officials will be directly responsible for receiving and acting upon subscriber complaints.[4]

We further "urged that this information along with the specified procedure for reporting trouble to the cable operator be given to all cable subscribers as they are hooked into the system."[5]

3. We now are in receipt of comments and replies to our *Notice*, provided, in general, by members of the following five interest groups: the cable industry, the broadcast industry, municipalities, state and local commissions, and public interest organizations. Generally each expressed its support for the concept of local complaint procedures but, as might be expected, disagreed as to the extent to which such procedures should be determined by the Federal government.

[1] *Clarification, supra* at para. 86.
[2] Of the more than 500 complaints handled by the Service as of September 20, 1974, approximately 65% concerned local matters.
[3] *Clarification, supra* at para. 86.
[4] *Clarification, supra* at para. 88.
[5] *Id.*

4. Comments filed by members of the cable television industry expressed opposition to any requirement that local officials or procedures be designated in the franchise. The cable industry depends on a good relationship with its subscribers and therefore, the industry argues, additional Federal regulations are unnecessary and constitute overregulation. The National Cable Television Association argues that imposition of Federally dictated local complaint procedures will overburden franchising authorities, especially those in small communities, and will deny them flexibility in establishing complaint procedures suitable to their local needs and characteristics. The cost of this additional regulatory burden, NCTA suggests, will be passed on to the local cable operator by means of "justified" increases in the franchise fee. Buckeye Cablevision *et al.* adds that the Commission's proposal, if adopted, will detract from the purpose of the Commission's Cable Complaint Service.

5. Municipalities also oppose Federal imposition of cable complaint procedures at the local level. Mostly they fear that predetermined procedures would deny them flexibility in approach. St. Louis Park, Minnesota, views the proposed amendment as a "nationwide standard on a local service," and the League of Wisconsin Municipalities contends that "standardization of complaint procedures would tend to impede local authority." Several comments have proposed that the Commission adopt a more flexible rule that will allow for the unique powers and capabilities of individual municipalities. Thus, the City of Knoxville, Tennessee, urges adoption of advisory guidelines, the City of Tempe, Arizona, believes that the franchisor should be free to designate the responsible official, and the City of Dallas, Texas, suggests that a general designation of the City rather than a local official should be made in the franchise. The National League of Cities and the City of San Diego, California, each assert that designation of officials and procedures in the franchise would freeze the administrative organization and block future reassignment of duties or responsibilities. Therefore, they suggest that the cities be allowed to adopt complaint procedures as part of their administrative regulations where they could be more easily amended.

6. Several municipalities indicated that they already have established or are considering the establishment of complaint service procedures,[6] and that a Federally imposed program would hinder their efficiency. Others believe the local regulatory program to be a financial burden, which they wish to avoid.

7. Finally, several municipalities assert the impropriety of the proposed rule: the City of Eugene, Oregon, questions whether a city should handle consumer complaints for a commercial business since that implies its responsibility for an efficient operation; the Metropolitan Washington Council of Governments comments that a franchise is an agreement between the franchisor and franchisee and should not be used to represent the local government's obligations to the community; and the City of Anaheim, California, believes a possible conflict exists where Federal jurisdiction extends into areas of local control reserved by the State to the City.

8. Only a few comments were received from the broadcast industry. The National Association of Educational Broadcasters agrees with the Commission that franchisors as well as franchisees should share an equal obligation in resolving cable complaints. It also suggests that a complaint service should not be limited to resolution of complaints from "subscribers," but should handle any and all complaints relating to the local cable television operations.

9. Those public interest groups which submitted comments unanimously support the proposed rule change, but urged even more from the Federal government. The Civil Liberties Union of Alabama suggests that cable systems be required to notify their subscribers of the identity of the municipal agent responsible for handling complaints; the National Black Media Coalition urges that the local official be required to be named before the system begins operations; and the Philadelphia Community Cable Coalition goes one step further suggesting that the official should be named as soon as the franchising process begins. Additional suggestions include Federal publication of information for use by cable subscribers, and recordation of all complaints filed against the cable system.

10. The New York State Commission on Cable Television, which has its own Subscriber Complaint Unit, submitted comments regarding its experience. It suggested that most complaints should be resolved locally and noted that New York State presently requires each franchise to designate a local official responsible for subscriber complaints. Although the Commission indicated that the proposed rule change would be compatable with its own regulatory program, it also stated its firm opposition to the Commission's extension of its jurisdiction. The Cable Television Rates and Services Committee of the Texas Utility Advisory Council believes that franchises should contain a general designation of the City as the authority responsible for receiving and resolving complaints, thereby giving it needed flexibility in regulation. The Minnesota Commission on Cable Communications, on the one hand, supports designation of the local official in the franchise so that the public will be informed.

11. Most of the many comments received were of great assistance during our deliberatons in this proceeding. Some parties however, thought we were proposing to dictate complaint procedure for use by local authorities, and used their comments to express opposition to such an idea. Our proposal was never intended to be so drastic. We recognize that local jurisdictions may, in this area, have unique problems, and we do not intend to stifle local programs with nationally uniform complaint procedures. Rather, we are concerned that each franchising authority has adopted some program in the public interest for the efficient resolution of local cable television related complaints. As businessmen, of course, cable operators are, as a whole, devoted to maintaining a good relationship with their customers. It is inevitable, however, that complaints will arise, and we believe the establishment of local procedures, known to members of the community, will provide a more efficient method for their resolution. Further, establishment of local complaint services will enhance rather than deter from the purpose of the Commission's Cable Complaint Service, since it then will be able to devote more time to the resolution of broad problems affecting many cable systems in various localities.

12. We find much merit to the suggestion that local procedures be set out in a municipality's administrative regulations rather than the franchise. We expect that local authorities will be experimenting in the development of effective procedures and we want to provide them with needed flexibility. However, to ensure that some program of complaint resolution is available and known to the public, we believe the franchise must contain (a) a statement indicating the existence of local complaint procedures, (b) the designation of a specific official or office responsible for implementation of the complaint procedures (we are not requiring that the personal name be stated, but only the official title such as, "City Treasurer," "General Services Committee," or "Citizens' Cable Association"), and (c) a statement that the complaint procedures and responsible authority will be made known to all subscribers upon subscribing to the system.[7]

13. When we adopted the *Cable Television Report and Order*, FCC 72-108, 36 FCC 2d 143 (1972), we anticipated the development and existence of local regulatory programs and considered their financial "burden" on a community. Thus, we established the maximum franchise fee at a level that, in our judgment, was sufficiently high, three percent of gross subscriber revenues, to support such programs. Although we do allow an even higher fee where "appropriate,"[8]

[6] E.g., Portland, Oregon; Knoxville, Tennessee; Stockton, California; Burbank, California; Tempe, Arizona.

[7] In response to the Civil Liberties Union of Alabama's suggestion, that cable systems be required to notify subscribers of the identity of the municipal agent responsible for handling complaints, we note that this information will be provided pursuant to our rule but that we are permitting flexibility as to the designation of the person or persons responsible for communicating it to the subscribers.

[8] In the *Cable Television Report and Order*, *supra* at para. 186 we stated: When the fee is in excess of three percent . . . the franchising authority is required to submit a showing that the specified fee is appropriate in light of the planned local regulatory program . . .

it remains our opinion that local programs such as the one we are now proposing can be financed adequately within the present allowable franchise fee.

14. We believe the benefits for the cable subscribers, cable industry, and other members of the community justify the adoption of local complaint procedures. In *United States* v. *Southwestern Cable Co.*, 392 U.S. 157 (1968), and *United States* v. *Midwest Video Corp.*, 406 U.S. 649 (1972), the Commission's authority to regulate the cable industry was recognized by the United States Supreme Court. Our amendment is a compatible addition to our existing Rules for regulation of cable television as it is in keeping with their purposes.

15. The rules as amended will require that complaint procedures be adopted, that a responsible authority be identified, and that subscribers be informed of both. And, while the term "subscriber" complaints oftentimes has been used, we have never intended that it be narrowly defined. For a complaint service to accomplish its purpose it necessarily must consider any complaint related to operation of cable systems.*

Having carefully considered the comments submitted in response to our *Notice* we believe the increased local participation in the resolution of cable complaints required by the rule adopted will serve the public well. While more extensive procedures may in some cases be desirable, we leave that for determination at the local level.

16. The rule adopted (See Appendix) will be applicable to cable systems with franchises granted after August 1, 1975. We have chosen this date to allow sufficient time for local authorities to become aware of the amendment, and with a view toward using it in connection with any other rule changes that may result from other pending proceedings related to the *Clarification, supra.*

Authority for the rule amendment adopted herein is contained in sections 2, 4 (i) and (j), 303, 307, 308, and 309 of the Communications Act of 1934 as amended.

Accordingly it is ordered That, effective August 1, 1975, Part 76 of the Commission's rules and Regulations is amended as set forth in Appendix A.

it is further ordered, That this proceeding is terminated.

(Secs. 2, 4, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1066, 1082, 1083, 1084, 1085 (47 U.S.C. 152, 154, 303, 307, 308, 309.))

Adopted: December 11, 1974.

Released: December 17, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

APPENDIX

Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 76.31(a)(5) is amended to read as follows:

§ 76.31 Franchise standards.

(a) * * *

(5) The franchise shall: (i) Specify that procedures have been adopted by the franchisee and franchisor for the investigation and resolution of all complaints regarding cable television operations; (ii) require that the franchisee maintain a local business office or agent for these purposes; (iii) designate by title, the office or official of the franchising authority that has primary responsibility for the continuing administration of the franchise and implementation of complaint procedures; and (iv) specify that notice of the procedures for reporting and resolving complaints will be given to each subscriber at the time of initial subscription to the cable system.

NOTE.—Subparagraphs (iii) and (iv) of this paragraph are applicable only to franchises granted after August 1, 1975.

* * * * *

[FR Doc.74-30073 Filed 12-24-74;8:45 am]

* *Calvert Telecommunications Corp.*, FCC 74-1095, — FCC 2d — (1974).

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 981]

ALMONDS GROWN IN CALIFORNIA

Proposed Suspension or Termination of Certain Provisions

Notice is hereby given of a proposal to suspend § 981.71 and the second sentence in § 981.72 of the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the proposed suspensions also are pursuant to the act. It is also proposed that § 981.471 of Subpart—Administrative Rules and Regulations (7 CFR 981.441–981.482; 39 FR 23239; 39258) be terminated. The proposals were unanimously recommended by the Almond Control Board.

Section § 981.71 requires handlers receiving lots of almonds for their own account to issue a receipt to the person from whom received which is serially numbered and shows for each lot received, the number of containers in the lot, the variety, whether shelled or unshelled, and the settlement weight for each such variety. The second sentence of § 981.72 requires reports of receipts, submitted pursuant to § 981.72 to the Control Board, to be accompanied by duplicate copies of the receipts issued pursuant to § 981.71 for all almonds included in such report. Section 981.471 supplements provisions of § 981.71. Section 981.471 prescribes additional information to be shown on the receipts issued growers, and establishes procedures handlers must follow in issuing such receipts.

Since 1950, when the provisions of § 981.71 were formulated, major handlers have changed the method of receiving and sampling incoming almonds. Although the order does not require incoming inspection of almonds, many handlers have each lot sampled and analyzed for determination of defects. Generally, after the samples have been analyzed and the results known, a weight certificate, and then a settlement sheet produced by a data processing system, is issued to the grower. Periodic summaries of these settlement sheets are sent to the Control Board.

The purpose of § 981.71 was to enable the Control Board to establish the reserve obligation of each handler and furnish the Control Board with statistical information necessary for the conduct of its operations. However, receipts covering each load delivered have never served as the sole means of determining a handler's assessment or reserve obligations. Information enabling the Control Board to make these determinations is obtained through other reports, such as the report of receipts submitted pursuant to §§ 981.72 and 981.472, and redetermination reports submitted pursuant to §§ 981.73 and 981.473. The submission of grower receipts has only served to confirm the accuracy of the printout summaries from the data processing systems.

Thus, the requirements in §§ 981.71 and 981,471, and in the second sentence of § 981.72, are no longer necessary and have become obsolete. Moreover, these requirements impose an unnecessary financial burden on handlers and on the Control Board to the extent that such receipts are prepared, tabulated, and maintained. This cost burden could adversely affect producer returns.

All persons who desire to submit written data, views or arguments in connection with the aforesaid proposal should file the same in quadruplicate with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, to be received not later than January 10, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during official hours of business (7 CFR 1.27(b)).

The proposals are:

1. To suspend for the 1974–75 crop year and subsequent crop years the operation of § 981.71, and the second sentence of § 981.72 which reads as follows:

Such reports shall be accompanied by duplicate copies of the receipts issued pursuant to the provisions of § 981.71 for all almonds included in such report.

2. To terminate the operations of § 981.471 of the administrative rules and regulations (Subpart—Administrative Rules and Regulations).

Dated: December 19, 1974.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.74-30059 Filed 12-24-74;8:45 am]

Farmers Home Administration

[7 CFR Part 1823]

[FmHA Instruction 442.1]

LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

Community Facility Loans

Notice is hereby given that the Farmers Home Administration has under consideration the proposed amendment of § 1823.6 of Subpart A of Part 1823, Title 7, Code of Federal Regulations (38 FR 29026; 39 FR 41829) by the addition of paragraph (b)(4)(i) and (ii) of this section, to allow security other than real estate liens and liens on personal property in those States where such security is precluded by State law; and by the addition of paragraph (c)(3)(i) and (ii) of this section to provide that membership authorization of a project and its financing may not be required under certain conditions.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendment to the Deputy Administrator Comptroller, Farmers Home Administration, U.S. Department of Agriculture, Room 5007, South Building, Washington, D.C. 20250.

Comments will be received through January 27, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Deputy Administrator Comptroller during regular business hours. (8:15 a.m.–4:45 p.m.)

As proposed, § 1823.6(b)(4) (i) and (ii) and (c)(3) (i) and (ii) read as follows:

§ 1823.6 Security.

* * * * * * *

(b) * * *

(4) In those cases where security is not available in accordance with paragraph (b)(3) of this section, a proposal may be considered provided the organization and facilities have:

(i) Been in existence and are able to present evidence of financially successful operation of a similar facility for a period of time sufficient to indicate project success. National Office concurrence is required for those applications in which the applicant has been in existence for less than ten years and/or has not operated on a financially successful basis for at least the last five years.

(ii) Such loans will be secured by an assignment of income and liens on real and personal property as evidenced by real estate mortgages, trust deeds, financing statements, chattel mortgages or statutory liens. If State law precludes securing the loan in such manner, the loan will be secured in the best possible manner consistent with State law and customary security taken by private lenders in the State such as revenue bonds and any other security the State Director determines necessary for a sound loan.

* * * * * * *

(c) * * *

(3) *Membership authorization.* For organizations other than public bodies, the membership will authorize the project and its financing except that the State Director may, with the concurrence of the Office of the General Counsel, waive such membership authorization when State statutes and the organization's charter and bylaws do not require such authorization; and:

(i) The organization is well established and is operating with a sound financial base; or

(ii) The members of the organization have all signed an enforceable user agreement with a penalty clause and have

made the required meaningful user cash contribution, except for members presently receiving service or when State statutes or local ordinances require mandatory use of the facility.

• • • • •

(7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: December 19, 1974.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.74-30121 Filed 12-24-74;8:45 am]

Rural Electrification Administration

[7 CFR Part 1701]

REA POLICY AND PROCEDURE

Flood Insurance for Buildings Owned by REA Borrowers

Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue a supplement to REA Bulletin 114–2:414–1, Minimum Insurance and Fidelity Coverages for Electric and Telephone Borrowers. The purpose of the proposed supplement is to revise REA policy on required insurance coverage for flood damage to buildings and contents owned by REA borrowers consistent with the provisions of the Flood Disaster Protection Act of 1973. On issuance of this supplement to REA Bulletin 114–2:414–1, Appendix A to Part 1701 will be revised accordingly.

Persons interested in the provisions of the proposed supplement, may submit written data, views or comments to the Director, Office of Program Development and Analysis, Room 4314, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, by January 15, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Director, Office of Program Development and Analysis, during regular business hours.

The proposed supplement to REA Bulletin 114–2:414–1 is as follows:

To: All REA Electric and Telephone Borrowers.
From: Administrator.
Subject: Flood Disaster Protection Act of 1973.

Effective March 2, 1974, the National Flood Insurance Act of 1968, as amended on December 31, 1973, by the Flood Disaster Protection Act of 1973 (P.L. 93–234) prohibits Federal agency assistance, including loans, for acquisition or construction of buildings and equipment therein in areas identified by the Secretary of Housing and Urban Development as having special flood hazards unless the property owner purchases flood insurance to the extent available under the Act.

The Flood Insurance Act also provides that after July 1, 1975, no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes for such facilities unless the community in which the identified flood hazard area is situated is then participating in the national flood insurance program.

The Act does not apply to electric and telephone lines or to any other REA-financed facilities which are not contained in a building; its application is limited to buildings and their contents. The maximum flood insurance coverage available and required under the Flood Insurance Act is $200,000 for non-residential buildings and $200,000 for the contents thereof.

In accordance with the foregoing, section VIII of the REA Bulletin 114–2: 414–1, Minimum Insurance and Fidelity Coverages for Electric and Telephone Borrowers, is revised by renumbering paragraphs G and H as H and I, respectively, and by adding a new paragraph G, as follows:

G. *Flood Insurance:* Borrowers shall purchase and maintain flood insurance for buildings in flood hazard areas to the extent available and required under the National Flood Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973 (P.L. 93–234). The insurance should cover, in addition to the building, any machinery, equipment, fixtures and furnishings contained in the building.

The National Flood Insurance Program provides for a Standard Flood Insurance policy; however, other existing insurance policies which provide flood coverages may be used in lieu of the Standard Flood Insurance policy. Such policies, in order to satisfy the insurance requirements of Section 102 of the Flood Disaster Protection Act of 1973, should be endorsed to provide the following:

(1) The policy requires that the insurer give 30 days written notice of cancellation or non-renewal to the insured with respect to the flood insurance coverage. To be effective, such notice must be mailed to both the insured and the lender or Federal agency and must include information as to the availability of flood insurance coverage under the National Flood Insurance Program, and

(2) The policy guarantees that the flood insurance coverage offered by the insurer is at least as broad as the coverage offered by the Standard Flood Insurance Policy.

Dated: December 18, 1974.

DAVID A. HAMIL,
Administrator.

[FR Doc.74-30088 Filed 12-24-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1]

FOREIGN LANGUAGE REQUIREMENTS

Proposed Exemptions

The Commissioner of Food and Drugs has received a petition on behalf of The Dickinson Family, Inc., of Portland, OR, proposing that 21 CFR § 1.1c be amended to provide that paragraph (c)(2) and (3) of 21 CFR 1.9 "shall not apply to labels or labeling on individual serving-size packages of foods for use in restaurants, institutions and passenger carriers," provided that such packages contain no more than 1½ ounces net weight of product, are served with meals, and are not individually sold at retail. Section 1.9(c) now requires that if the label or labeling of a food bears any representation in a foreign language, all words, statements, and other information required by or under authority of the Federal Food, Drug, and Cosmetic Act shall appear therein in the foreign language. The intent of the petitioner's proposal is to permit a small individual serving-size package, if fully labeled in English in compliance with all legal requirements, also to state the name of the food in one or more foreign languages without necessitating additional labeling in the foreign language(s).

Grounds given in support of the petitioner's proposal are as follows:

(a) It is desirable, for the convenience of foreign visitors to the United States, to print the name of the product on its portion control packaged jams, jellies and preserves in the language of the foreign visitor. Such printing will also increase the feelings of good will felt by such visitors toward the United States.

(b) It is effectively impossible to conform to regulations 21 CFR 1.9(c)(2) and 21 CFR 1.9(c)(3) in more than one language on the size of package involved.

(c) The policy of Congress, as expressed in section 2 of the Fair Packaging and Labeling Act, is not hindered by the proposed exemption; the products involved are *not* subject to comparison and choice by the ultimate consumer, whose only choice is flavor, not price, quantity or quality. Indeed, most foods served as part of prepared meals are not labeled at all.

(d) The result of the exemption would be to increase, not decrease, the information contained on the labels involved. The proposed exemption will only allow the printing of additional information in foreign languages; it will not allow the deletion of any otherwise required information.

The Commissioner has considered the petition and concludes that the proposed exemption should be published for comment. However, the terms employed in the petitioner's proposed regulation would not limit the exemption to label declaration of the name of the product in the foreign languages, as discussed in the petition. The Commissioner therefore proposes to amend the regulations in a manner which will reflect clearly the limited scope of the exemption. To accomplish this, the Commissioner proposes to amend § 1.9 rather than § 1.1c as proposed by the petitioner.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701, 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055–1056 as amended; 21 U.S.C. 321, 343, 371) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that § 1.9 be amended by revising paragraph (c)(2) and (3) to read as follows:

§ 1.9 Food; labeling; prominence of required statements.

• • • • •

(c) • • •

(2) If the label contains any representation in a foreign language, all words, statements, and other information required by or under authority of the act to appear on the label shall appear thereon in the foreign language:

Provided, however, That individual serving-sized packages of foods containing no more than 1½ avoirdupois ounces or no more than 1½ fluid ounces served with meals in restaurants, institutions, and passenger carriers and not intended for sale at retail are exempt from the requirements of this paragraph (c)(2), if the only representation in the foreign language(s) is the name of the food.

(3) If any article of labeling (other than a label) contains any representation in a foreign language, all words, statements, and other information required by or under authority of the act to appear on the label or labeling shall appear on such article of labeling.

Interested persons may, on or before February 24, 1975, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: December 18, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-30052 Filed 12-24-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[FRL 313-1]

PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2,4-D; Proposed Tolerance

Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, NY 08903, on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Oregon, Arkansas, Virginia, New York, Michigan, Maryland, Connecticut, and West Virginia, submitted a petition (PP 5E1544) proposing establishment of a tolerance for residues of 2,4-D (2,4-dichlorophenoxyacetic acid) from application of its alkanolamine salts (of the ethanol and isopropanol series) in or on strawberries at 0.05 part per million.

Based on consideration given data submitted in the petition and other relevant materials, it is concluded that:

1. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

2. The proposed tolerance will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), it is proposed that § 180.142 be amended by adding a new paragraph after the proposed paragraph (d) as follows:

§ 180.142 2,4-D; tolerances for residues.

* * * * *

(e) A tolerance of 0.05 part per million is established for residues of 2,4-D (2,4-dichlorophenoxyacetic acid) from application of its alkanolamine salts (of the ethanol and isopropanol series) in or on strawberries.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, on or before January 27, 1975, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments with reference to this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 421 East Tower, 401 M Street, SW., Washington D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Environmental Protection Agency and others interested in inspecting the documents. The comments must be received on or before January 27, 1975 and should bear a notation indicating the subject. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: December 19, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-30138 Filed 12-24-74;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF DEFENSE

Department of the Navy

NAVY AND MARINE CORPS ACQUISITION REVIEW COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act [Public Law 92-463 (1972)], notice is hereby given that the Navy and Marine Corps Acquisition Review Committee will have a closed meeting on January 7, 1975, at the Naval Material Command Management Information Center (Room 310), Crystal Plaza, Building 5, Crystal City Complex, Arlington, Virginia. The meeting will commence at 1:30 p.m. and is scheduled to terminate at 3:30 p.m. The agenda consists of matters classified in the interests of national security, including future Navy programs, force levels and force level planning and current events impacting upon the U.S. Navy's ability to support policies of the United States.

Dated: December 18, 1974.

H. B. ROBERTSON, Jr.,
Rear Admiral, JAGC, U.S. Navy,
Deputy Judge Advocate General.

[FR Doc.74-30014 Filed 12-24-74;8:45 am]

Office of the Secretary of Defense

BALLISTIC MISSILE DEFENSE TECHNOLOGY ADVISORY PANEL

Establishment, Organization and Functions

In accordance with the provisions of Public Law 92-463, Federal Advisory Committee Act, notice is hereby given that the Ballistic Missile Defense Technology Advisory Panel has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its establishment.

The purpose of the panel is to review the rationale and progress of the Army Ballistic Missile Defense technology program.

The panel will consist of members who have specific knowledge and experience in the entire spectrum of Ballistic Missile Defense, optics and lasers, systems, data processing, optics, radar, interceptors, and aerospace technology.

Dated: December 20, 1974.

MAURICE W. ROCHE,
Directorate for Correspondence and Directives, OASD (Comptroller).

[FR Doc.74-30008 Filed 12-24-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 47857]

KANSAS

Proposed Withdrawal and Reservation of Lands

DECEMBER 17, 1974.

The United States Department of Justice has filed an application, Serial Number Wyoming 47857, for the withdrawal of lands described below, from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, subject to valid existing rights.

The applicant wishes to assure tenure of the lands to insure their availability for use by the Bureau of Prisons for agricultural purposes.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing no latter than January 24, 1975, to the undersigned official of the Bureau of Land Management, Department of the Interior, P.O. Box 1828, Cheyenne, Wyoming 82001.

The Department's regulations, 43 CFR 2351.4(c), provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

SIXTH PRINCIPAL MERIDIAN, KANSAS

LEAVENWORTH COUNTY

T. 8 S., R. 22 E.,

A tract of land situated in the W½ of sec. 22, more particularly described as follows:

Commencing at the northeast corner of the SW¼ of Section 15 of said township and range; thence S 0°12'44" W along the east line of said SW¼, 2241.26 feet to the westerly boundary of the Ft. Leavenworth Military Reservation; thence S 30°38'32" W along the Reservation boundary, 2432.03 feet to the northeasterly right-of-way line of U.S. Highway No. 73, being an angle point in the westerly boundary of that 23.5-acre parcel known as Buffalo Bill Park, and being the point of beginning of the tract of land herein described; thence continuing S 30°38'32" W along the Reservation boundary, 1663.82 feet; thence S 64°57'49" E along the Reservation boundary, approximately 1900 feet to the northeasterly right-of-way line of U.S. Highway No. 73; thence in a northwesterly direction along said right-of-way line, approximately 630 feet to an angle point in the southerly boundary of that 23.5-acre parcel known as Buffalo Bill Park; thence continuing in a northwesterly direction along said right-of-way line, being the westerly boundary of said 23.5-acre parcel, the following courses: on a curve to the left having a radius of 1886.67 feet, 38417 feet; N 30°42'13" W, 301 feet; on a curve to the right having a radius of 4469.5 feet, 1129.77 feet to the point of beginning; and

A tract of land situated in the SE¼ of sec. 22, the S½ of sec. 23, and the N½ of sec. 26, more particularly described as follows:

Commencing at the northeast corner of the SW¼ of Section 15 of said township and range; thence S 0°12'44" W along the east line of said SW¼, 2241.26 feet; thence S 30°38'32" W, 4115.85 feet to the southwest corner of the Ft. Leavenworth Military Reservation; thence S 64°57'49" E along the Reservation boundary, approximately 2560 feet to the southeasterly right-of-way line of the Union Pacific Railroad, being the point of beginning of the tract of land herein described; thence in an easterly direction along said right-of-way line of the Union Pacific Railroad, approximately 6650 feet to a point 350 feet normally distant westerly from the center line of Grant Avenue; thence southerly parallel to the center line of Grant Avenue, approximately 200 feet to the center of Corral Creek; thence in a southeasterly direction downstream along the center of Corral Creek, approximately 200 feet to the center of the ditch; thence in a southerly direction upstream along the center of the ditch, approximately 1910 feet to a point 200 feet north of the Reservation boundary and 270 feet normally distant westerly from the center line of Grant Avenue; thence southerly parallel to the center line of Grant Avenue, 200 feet to the Reservation boundary; thence N 73°12'23" W along the Reservation boundary, approximately 4018 feet to an angle point in the Reservation boundary; thence due west along the Reservation boundary, 1548.74 feet; thence N 64°57'49" W along the Reservation boundary, approximately 1178 feet to the point of beginning.

The tracts described contain approximately 269.6 acres.

JOHN T. WASSIBURGER,
Chief, Division of Technical Services.

[FR Doc.74-30099 Filed 12-24-74;8:45 am]

OUTER CONTINENTAL SHELF OIL AND GAS LEASING

Rescheduling of Public Hearings Regarding Proposed Increase in OCS Leasing

In the FEDERAL REGISTER of October 18, 1974 (39 FR 37222), the Department announced the availability of a draft environmental impact statement and notice of public hearings in mid-November regarding a proposed acceleration of oil and gas leasing on the Outer Continental Shelf.

In order to provide additional time for review of the draft impact statement, the Department rescheduled the hearings to early December (39 FR 39297). On November 25, 1974, Secretary Morton postponed the hearings for an additional sixty (60) days to early February 1975.

Notice is hereby given that the new dates and locations for the public hearings on this proposal are as follows:

[illegible], ALASKA

February 3 and 4 (Monday, Tuesday):
Captain Cook Hotel—Mid Deck
Fifth and K Streets
Anchorage, Alaska 99501

LOS ANGELES AREA

February 6, 7, and 8 (Thursday, Friday, Saturday)
Anaheim Convention Center—Garden Grove Room
800 West Katella Avenue
Anaheim, California 92802

TRENTON, NEW JERSEY

February 11, 12, and 13 (Tuesday, Wednesday, Thursday)
Holiday Inn
240 West State Street
Trenton, New Jersey 08608

All hearings will begin promptly at 9 a.m., local time, on the scheduled days. Every effort will be made to receive as much testimony as possible on the first day of each hearing.

Interested individuals, representatives of organizations and public officials wishing to testify at the hearings are requested to contact the Director (732), Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. 20240 by 4:15 p.m. e.s.t., January 22, 1975. They should specifically indicate in which of the above three cities they would like to testify. Anyone who registered for previously scheduled hearings is requested to register again.

The public hearings are for the express purpose of receiving information, views, comments, and suggestions relating to a proposed increase in oil and gas leasing of submerged lands on the OCS, particularly the environmental effects of the proposed action. The hearings provide the Department with the opportunity to receive comments from public and private sectors in order to fully evaluate the potential effects of such leasing on the total environment, domestic supply of the mineral resources, aquatic resources, aesthetics, recreation, and other resources in affected areas during the development and operational phases of the proposed leasing program. The hearings' format is designed to receive information and is not to exchange views on the proposed leasing program.

Written comments from those unable to attend the hearings should be addressed to the Director (Attn: 732), Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. 20240. The Department will accept written testimony and comments on the draft environmental statement until February 24, 1975. This should allow ample time for those unable to testify at the hearings to make their views known and for the submission of supplemental materials by those presenting oral testimony. Time limitations make it necessary to limit the length of oral presentations to ten minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the hearing officer at the time of presentation of the oral statement. Written statements presented in person at the hearings will be considered for inclusion in the hearing record. To the extent that time is available after presentations of oral statements by those who have given advance notice, the hearing officer will give others present an opportunity to be heard.

After all testimony and comments have been received and analyzed a final environmental statement will be prepared.

CURT BERKLUND,
Assistant Director, Bureau of Land Management.

Approved: December 20, 1974.

ROYSTON C. HUGHES,
Secretary of the Interior.

[FR Doc.74-30145 Filed 12-24-74;8:45 am]

[Wyoming 48090]

WYOMING

Application

DECEMBER 18, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Phillips Petroleum Company has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 54 N., R. 74 W.,
Sec. 19, SW¼;
Sec. 30, N½NW¼.
T. 54 N., R. 75 W.,
Sec. 24, NE¼SE¼.

The pipeline will convey natural gas across 3,912 feet of national resource lands in Campbell County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should send their name and address to the District Manager, Bureau of Land Management, P.O. Box 2834, Casper, Wyoming 82601.

ALMA LUNDBERG,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-30100 Filed 12-24-74;8:45 am]

[Wyoming 48805]

WYOMING

Application

DECEMBER 16, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 26 N., R. 113 W.,
Sec. 14, SW¼SW¼;
T. 28 N., R. 114 W.,
Sec. 8, lots 18 and 19;
Sec. 9, S½S½;
Sec. 10, S½S½;
Sec. 11, S½S½.

The pipeline will convey natural gas across 3.494 miles of national resource lands in Lincoln and Sublette Counties, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901.

ALMA LUNDBERG,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-30101 Filed 12-24-74;8:45 am]

National Park Service

EMERY C. KOLB

Intention to Extend Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before January 27, 1975, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Emery C. Kolb, authorizing him to operate a motion picture, lecture, and photographic studio for the public on the South Rim of Grand Canyon National Park, Arizona, for a period of one (1) year from January 1, 1975, through December 31, 1975.

The foregoing concessioner has performed his obligation under the expired contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a

new contract. In addition, he has a lifetime right to full possession of the property used in the operation. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before January 27, 1975.

Interested parties should contact the Assistant Director, Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: December 18, 1974.

RICHARDS M. MARKS,
Acting Associate Director,
National Park Service.

[FR Doc.74-30063 Filed 12-24-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. II, 1972), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held Tuesday, January 28, 1975, at 9:30 a.m., in Room 5230, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Committee and its Subcommittee were established to advise the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Subcommittee meeting agenda has six parts:

GENERAL SESSION

(1) Opening remarks by the Subcommittee Chairman, Hugh P. Donaghue.

(2) Presentation of papers or comments by the public.

(3) Discussion of the functions of the Operating Committee (OEA) in Scheduling and Processing License Applications.

(4) Discussion of the function of the State Department as it relates to COCOM.

(5) Discussion of the function of Department of Defense in Processing both U.S. and foreign cases.

EXECUTIVE SESSION

(6) Discussion of classified material dealing with subject matter listed in Items 3, 4 and 5.

The public will be permitted to attend the General Session, at which a limited number of seats will be available to the public. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 16, 1974, pursuant to Section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. (A copy of the determination follows this notice.) All Subcommittee members have appropriate security clearances.

Minutes of the open portion of the meeting will be available upon written request addressed to the Central Reference and Records Inspection Facility, Room 7043, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact the Subcommittee Chairman, Mr. Hugh P. Donaghue, Control Data Corporation, 2000 L Street, NW., Washington, D.C. 20036, telephone: A/C 202/296-0209.

In accordance with paragraph (4) of the Order of the United States District Court for the District of Columbia in *Aviation Consumer Action Project, et al., v. C. Langhorne Washburn, et al.*, of September 10, 1974, as amended, September 23, 1974 (Civil Action No. 1638-73), the Complete Notice of Determination to close portions of the meetings of the Computer Systems Technical Advisory Committee and subcommittees thereof, is hereby published.[1]

Dated: December 18, 1974.

RAUER H. MEYER,
Acting Director, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.74-30081 Filed 12-24-74;8:45 am]

Maritime Administration

SS CANADA MAIL

Amendment of Invitation for Sealed Bids for the Bareboat Charter of the Vessel

Notice is hereby given that Invitation for Bids No. 1, dated November 26, 1974, inviting sealed bids for the bareboat charter of the SS CANADA MAIL, Official No. 297579, notice of which was published in the Federal Register on December 6, 1974 (39 FR 42703), has been amended by Addendum No. 1, dated December 19, 1974, so as to extend the time for the receipt of bids from December 27, 1974, to 11 a.m. e.s.t., January 21, 1975, and to provide for public opening of such bids at 11:30 a.m., e.s.t. on said date at the office of the Maritime Administration, Room 3708, Commerce Building, 14th Street between E and Constitution Avenue, NW., Washington, D.C., 20230.

Dated: December 19, 1974.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.74-30142 Filed 12-24-74;8:45 am]

[1] Determination filed as part of the original document.

National Oceanic and Atmospheric Administration

BLAIR IRVINE

Issuance of Permit for Marine Mammals

On September 4, 1974, notice was published in the FEDERAL REGISTER (39 FR 32044) that an application had been filed with the National Marine Fisheries Service by Mr. Blair Irvine, Department of Zoology, University of Florida, Gainsville, Florida 32611 to take, tag and release up to 250 Atlantic bottlenosed dolphins (*Tursiops truncatus*) and an unspecified number of stranded cetaceans for the purpose of scientific research.

Notice is hereby given that on December 17, 1974, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit to Blair Irvine, subject to certain conditions set forth therein. The Permit authorizes the taking, tagging and releasing of 250 bottlenosed dolphins and up to 200 stranded animals of other cetacean species, which are not listed as endangered under the provisions of the Endangered Species Act of 1973. The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and in the Office of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Dated: December 17, 1974.

JACK W. GEHRINGER,
Acting Director,
National Marine Fisheries Service.

[FR Doc.74-30114 Filed 12-24-74;8:45 am]

LOUIS SCARPUZZI ENTERPRISES, INC.

Issuance of Permit for Marine Mammals

On September 17, 1974, notice was published in the FEDERAL REGISTER (39 FR 33385), that an application had been filed with the National Marine Fisheries Service by Louis Scarpuzzi Enterprises, Inc., 339 Riverside Drive, Fort Myers, Florida 33905, for a permit to take four Atlantic bottlenosed dolphins (*Tursiops truncatus*) for the purpose of public display.

Notice is hereby given that, on December 17, 1974, and as authorized by the

provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for two bottlenosed dolphins to Louis Scarpuzzi Enterprises, Inc., subject to certain conditions set forth therein. This Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and in the Office of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Dated: December 17, 1974.

JACK W. GEHRINGER,
Acting Director,
National Marine Fisheries Service.

[FR Doc.74-30113 Filed 12-24-74;8:45 am]

WILLIAM E. SCHEVILL AND WILLIAM A. WATKINS

Issuance of Permit for Marine Mammals

On September 4, 1974, notice was published in the FEDERAL REGISTER (39 FR 32045), that an application had been filed with the National Marine Fisheries Service by William E. Schevill and William A. Watkins, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts 02543 to take, by marking, up to 24 marine mammals for scientific research.

Notice is hereby given that on December 12, 1974, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above mentioned taking to William E. Schevill and William A. Watkins, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, in the Offices of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702, the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731, and the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: December 12, 1974.

JACK W. GEHRINGER,
Acting Director,
National Marine Fisheries Service.

[FR Doc.74-30115 Filed 12-24-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

COLLEGE LIBRARY RESOURCES PROGRAM

Closing Date for Receipt of Applications for Basic Grants for Library Materials

Notice is hereby given that pursuant to the authority contained in sections 201–206 of Title II, Part A of the Higher Education Act of 1965, as amended (20 U.S.C. 1021–1028), applications for basic grants under the College Library Resources Program are being accepted from institutions of higher education and other public and private nonprofit library agencies whose primary function is to provide library and information services to institutions of higher education. Processing of these applications will be subject to the availability of funds.

Applications must be received by the U.S. Office of Education on or before January 29, 1975.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.406. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commission will rely on the time-date stamp of such mail rooms or other documentary evidence or receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* Information and application forms will be sent to all institutions which have previously participated in the program. Other institutions desiring to participate may obtain information and application forms from the Division of Library Programs, Bureau of Postsecondary Education, U.S. Office of Education, Washington, D.C. 20202, ATTN: Library Education and Postsecondary Resources Unit (13.406)

D. *Applicable regulations and criteria.* Awards will be made under the regulations for the College Library Resources Program published in the FEDERAL REGISTER on November 18, 1974 at 39 FR 40494 (45 CFR Part 131) and also under the Office of Education General Provisions Regulations published in the FEDERAL REGISTER on November 6, 1973 at 38 FR 30654 (45 CFR Parts 100 and 100a). Because of the mandatory nature of the legislation pertaining to the basic grants, there are no applicable criteria for the awarding of these grants.

(20 U.S.C. 1021–1028)

(Catalog of Federal Domestic Assistance Number 13.406; College Library Resources Program)

Dated: December 17, 1974.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.74-30015 Filed 12-24-74;8:45 am]

LIBRARY RESEARCH AND DEMONSTRATION PROGRAM

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in sections 201, 221, and 223 of Title II, Part B of the Higher Education Act of 1965, as amended (20 U.S.C. 1021, 1031, and 1034), applications are being accepted from institutions of higher education and other public or private agencies, institutions and organizations for research and demonstration projects relating to the improvement of libraries or the improvement of the training in librarianship. Processing of these applications will be subject to the availability of funds.

Applications must be received by the U.S. Office of Education, Application Control Center, on or before January 29, 1975.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202. Attention: 13.475.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (in establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education).

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:30 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal Holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Division of Library Programs, Bureau of Postsecondary Education, Office of Education, Rm. 5909, 7th and D Streets, SW., Washington, D.C. 20202 ATTN: Library Research and Demonstration Program.

D. *Applicable regulations.* The regulations applicable to this program with funding criteria as Appendix A thereto were published in the FEDERAL REGISTER on May 17, 1974, 39 FR 17546 (45 CFR Part 133). This program is also subject to the Office of Education General Provisions Regulations (particularly CFR Parts 100 and 100a) published in the FEDERAL REGISTER on November 6, 1973, at 38 FR 30654 (20 U.S.C. 1021, 1031, 1033).

(Catalog of Federal Domestic Assistance Number 13.475, Library Research and Demonstration)

Dated: December 17, 1974.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.74-30016 Filed 12-24-74;8:45 am]

LIBRARY TRAINING PROGRAM

Closing Date for Receipt of Applications for Training in Librarianship

Notice is hereby given that pursuant to the authority contained in sections 201, 221, and 222 of Title II, Part B of the Higher Education Act of 1965, as amended (20 U.S.C. 1021, 1031, and 1033), applications are being accepted from institutions of higher education and library organizations and agencies for grants under the Library Training Program for institutes, fellowships, and traineeships. Processing of these applications will be subject to the availability of funds.

Applications for new library training grants and for continuations of existing grants must be received by the U.S. Office of Education, Application Control Center on or before January 29, 1975.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.468. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* Information and application forms will be sent to all institutions which have previously participated in the program. Other institutions and library organizations and agencies desiring to participate may obtain information and application forms from the Division of Library Programs, Bureau of Postsecondary Education, U.S. Office of Education, Washington, D.C. 20202, ATTN: Library Education and Postsecondary Resources Unit (13.468).

D. *Applicable regulations and criteria.* Awards under this program will be subject to the Office of Education General Provisions published on November 6, 1973 at 38 FR 30654 (45 CFR 100a) and the program regulations and criteria for the Library Training Program published on May 17, 1974 at 39 FR 17540.

(20 U.S.C. 1021, 1031, and 1033)

(Catalog of Federal Domestic Assistance Number 13.468; Library Training Program)

Dated: December 17, 1974.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.74-30017 Filed 12-24-74;8:45 am]

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION (LEGISLATIVE COMMITTEE)

Notice of Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), that the next meeting of the National Advisory Council on Indian Education (Legislative Committee) will be held on January 17, 1975, 9 a.m.-5 p.m. and January 18, 1975, 9 a.m.-5 p.m. at the Executive Tower Inn, 1405 Curtis, Denver, Colorado 80202.

The National Advisory Council on Indian Education is established under section 401 of the Indian Education Act (P.L. 92-318, Title IV). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matter arising in the administration of this title, including policies and procedures governing the approval of State plans under Section 318 and policies to eliminating duplication, and to effectuate the coordination of programs under this title and other programs offering Indian Education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other federal laws relating to Indian Education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The proposed agenda includes:

1. Drafting of a master plan for the future of Indian Education.

2. Identifying major issues in Indian Education.

3. Planning a systematic approach for change and its implementation.

This meeting is open to the public. Records shall be kept of all Council proceedings (and shall be available for public inspection at the office of the National Advisory Council on Indian Education located at 425 13th St. NW., Room 326, Washington, D.C. 20004).

Signed at Washington, D.C. on December 17, 1974.

DWIGHT A. BILLEDEAUX,
Executive Director, National Advisory Council on Indian Education.

[FR Doc.74-30010 Filed 12-24-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

NATIONAL ADVISORY COMMITTEE ON UNIFORM TRAFFIC CONTROL DEVICES

Open Meeting

Pursuant to Executive Order 11671, the Federal Highway Administration announces the meeting dates and relevant information for the Annual Meeting of the National Advisory Committee on Uniform Traffic Control Devices. The meeting will be held January 10-11, 1975, at the Sheraton Park Hotel, Washington, D.C. The full Committee will convene at 8:30 a.m., January 11 with Subcommittee working sessions scheduled for Friday, January 10.

For further information contact the Office of Traffic Operations, Federal Highway Administration, 400 7th Street SW., Washington, D.C. Code 202/426-0411. Attendance by the public will be limited to space available.

Purpose—This Committee reviews currently approved standards, guides, and warrants for traffic control devices contained in the Manual on Uniform Traffic Control Devices, the national standard for all classes of highways. Recommendations on revisions and proposed new standards to meet new developments and improvements are developed as needed.

The Committee makes studies, conducts investigations, prepares reports, develops recommendations and advice to assist the Federal Highway Administrator in developing appropriate standards as authorized in 23 U.S.C. 109(d) and 402(a).

Agenda—Agenda items will include reports of the chairmen of the technical

subcommittees on signs, signals, pavement markings, traffic controls for construction and maintenance areas, and bicycle facilities. Recommendations from the subcommittees for proposed additions to or revisions in current traffic control device standards will be discussed and action taken relative to providing advice to the Federal Highway Administration on these matters.

DAVID M. BALDWIN,
Acting Director, Office of Traffic Operations, Federal Highway Administration.

[FR Doc.74-30120 Filed 12-24-74;8:45 am]

CIVIL SERVICE COMMISSION

MANUAL ON FUND-RAISING WITHIN THE FEDERAL SERVICE

Proposed Changes

Notice is hereby given that under authority of Executive Order 10927 it is proposed to amend the Manual on Fund-Raising Within the Federal Service. Interested agencies and persons may submit written comments and suggestions to the Office of the Chairman, Washington, D.C. 20415, to be received by January 15, 1975. The proposed revisions are included in the material set out below.

Dated: December 20, 1974.

UNITED STATES CIVIL SERVICE COMMISSION,
IRVING KATOR,
Assistant to the Chairman.

MANUAL ON FUND-RAISING WITHIN THE FEDERAL SERVICE FOR VOLUNTARY HEALTH AND WELFARE AGENCIES

CHAPTER 3—[illegible] FOR VOLUNTARY AGENCIES

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3.4 *Definition of Terms Used in Federal Arrangements.*

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.42 *Federated Community.* A location within the domestic area where a federated fund-raising program is operated by national and local voluntary agencies through a community chest, united way, or other local federated group which is a member in good standing of, or is recognized by, the United Way of America, and which meets the nondiscrimination requirements prescribed in Chapter 7 and the requirements for the adoption and use of the Uniform Standards of Accounting and Financial Reporting. In addition, to be eligible the local united way must through its board and committee membership be broadly representative of the social and economic characteristics of the community and must through its support of member agencies demonstrate that it is meeting community needs.

Requirements for participation in a local united way must be in writing and available to the public, must be reasonable, and must be applied fairly and uniformly to all local agencies requesting participation. An appeals procedure which will provide for an independent review must be provided for local agencies denied participation by the local united way.

(NOTE.—Where a local chapter or affiliate of a national agency precluded from independent participation in the Federal fund-raising program because the agency is supported primarily through united ways or funds is not approved for participation by a local united way or fund, such chapter or affiliate may request the Civil Service Commission to review the reasons for its nonapproval.)

• • • • •

3.5 *Policies Governing Federal Arrangements.*

• • • • •

.55 *Federated Campaigns.*
.551 Authorization.

• • • • •

If a member agency does not meet the accounting and financial reporting requirements, it shall not be permitted to solicit contributions from Federal personnel in the local area. Failure will not affect the right of the fund or other member agencies which meet such requirements to solicit. Failure of a member agency, however, to meet the nondiscrimination requirements disqualifies the fund from soliciting contributions. If the local fund or chest does not meet these requirements, or where the fund is disqualified from soliciting contributions, the local area becomes a nonfederated community for purposes of fund raising and solicitations will be coordinated in accordance with Section 3.561 of the Manual. (For additional information on nondiscrimination requirements, see Chapter 7.)

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CHAPTER 5—ELIGIBILITY REQUIREMENTS FOR NATIONAL VOLUNTARY AGENCIES

5.1 *Purpose.* These eligibility requirements are established to insure that:

a. Only responsible and worthy voluntary agencies are permitted to solicit on the job in Federal installations,

b. The funds contributed by Federal personnel will be used effectively for the announced purposes of the soliciting agency, and

c. All recognized national agencies have field organizations capable of participating equitably in the joint campaign arrangements required by the Federal program.

5.2 *General Requirements.*

.21 *Type of Agency.* Only nonprofit, tax-exempt agencies, supported by voluntary contributions from the general public, providing direct services to persons in the fields of health and welfare services, or in the provision of international services consistent with the policies of the United States Government are eligible for approval. Agencies which are supported primarily through united ways and community chests will not be recognized for participation in the Federal fund-raising program except with respect to nonfederated communities and the overseas area. Such agencies may be eligible for participation in the overseas fund-raising program only if they provide a specific service to persons overseas and meet all other eligibility requirements. Those national agencies not receiving primary support from local united ways must meet all eligibility requirements in order to participate in the domestic and overseas campaigns.

.22 *Integrity of Operations.* Only agencies having a high degree of integrity and responsibility in the conduct of their affairs will be approved. Funds contributed to such organizations by Federal personnel must be used effectively for the announced purposes of the agency.

.23 *Avoidance of Competition.* To avoid solicitation competition, approval will not be granted to more than one national health agency within a single field which deals with physical handicap or disease, or if an international service agency, to more than one agency meeting a particular human need in the same geographic area, unless there is a demonstrated need for such additional service.

.24 *National Scope.* The agency must demonstrate that:

a. It is organized on a national scale with a national association which is representative of its constituent parts and which, through its board of directors, exercises close supervision over the operations and fund-raising policy of any local chapters or affiliates.

b. It has earned good will and acceptability throughout the United States, particularly in cities or communities within which or nearby are Federal offices or installations with large numbers of personnel.

Good will and acceptability will usually be shown by operating chapters providing service in all or most of the states, with contributor support from all or most parts of the nation. Good will and acceptability throughout the United States will also be demonstrated by other means, such as the extent of support received from the public, the number and location of contributors, the national character of campaigning directed to the public, the reputation of the organization on a national basis, and the proportionate effect on total income of the organization's participation in the Federal program. In the case of international agencies, chapter or affiliate coverage in all or most states need not exist.

c. It has enough fund-raising representatives at decentralized locations to be able to enter into full participation with a group of agencies in the conduct of local campaigns throughout the United States.

d. If a national health agency, it has a well-defined national program involving research, education, and community services with sufficiently developed local chapter or affiliate coverage to implement its national program in cities or communities within which or nearby are Federal offices or installations with large numbers of personnel.[1]

e. If an international service agency, it has a well-defined program not duplicative of existing programs and which meets basic human needs in an overseas area.

.25 *Type of Campaign.* Approval will be granted only for fund-raising campaigns in support of current operations. Capital fund campaigns are not authorized. Agencies must observe the policy and procedural requirements for fund raising in the Federal service.

5.3 *Specific Requirements.*

.31 *Program.* An active and necessary program providing direct services to persons, with particular regard to the welfare of the public and the persons served; evidence of consultation and cooperation with established agencies in the same or related fields; and efficient operations.

.32 *Volunteer Control.* Direction of the organization by an active, voluntary board of directors which serves without compensation, holds regular meetings, and exercises effective administrative control.

.33 *Finances.* Adoption of the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations and maintenance of a financial system which includes accounting procedures acceptable to an independent certified public accountant. Conduct of fiscal operations in accordance

[1] While a national health agency may meet eligibility requirements, local chapters, in order to participate in the local fund-raising program, must provide a direct and meaningful service in the area (county) in which the campaign is being conducted (see Section 3.573b and Section 4.2b).

with a detailed annual budget, prepared and approved at the beginning of the year by the board of directors with prior authorization by the board of any significant variations from the approved budget.

.34 *Administrative and Fund-Raising Expenses.* Administrative and fund-raising expenses which are reasonable. Expenditure for administration and fund raising not exceeding 25% of total support and revenue will be considered reasonable. Where administrative and fund-raising expense exceeds this percentage, the burden is on the voluntary organization to demonstrate the reasonableness of its fund-raising expenses under all the circumstances in its case.

.35 *Fund-Raising Practice.* Publicity and promotional activities based upon the actual program and operations of the agency and which is truthful and nondeceptive and which includes all material facts; protection afforded against unauthorized use of agency contributors' lists; no payment of commissions, kickbacks, finder fees, percentages, bonuses, or overrides for fund raising; no mailing of unordered tickets or commercial merchandise with a request for money in return; and no general telephone solicitation of the public.

.36 *Nondiscrimination.* A policy and practice of nondiscrimination on the basis of race, religion, ethnic origin, or sex, applicable to persons served by the agency, to agency staff employment, and to membership on the agency's governing board, as prescribed in Chapter 7. Organizations which are organized along religious lines or which are organized to serve persons of a particular sex may nevertheless meet eligibility requirements if a bona fide purpose for organizing along religious lines or for service directed to persons of a particular sex can be shown.

.37 *Annual Report.* Preparation of an annual report to the general public which includes a full description of the agency's activities and accomplishments and the names of chief administrative personnel.

.38 *Financial Reports.* Preparation of a consolidated annual financial report to the general public in accordance with the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations and certification of such report by an independent certified public accountant.

.39 *Independent Audit.* Completion on an annual basis of an external audit by an independent certified public accountant.

.40 *Source of Funds and Costs Report.* Filing of special report with Chairman of the Civil Service Commission which discloses on a consolidated basis the agency's (including its chapters and affiliates) sources of funds, fund-raising expense, and use of net funds in its most recent fiscal year.

5.4 *Application Requirements.*

.41 *Exemptions.* The American National Red Cross and local community chests or united ways which are members in good standing of, or are recognized by, the United Way of America are exempt from these application requirements except for the nondiscrimination requirements of paragraph 5.46h and the accounting and financial reporting requirements of paragraphs 5.46f and 5.46j. In addition, the United Way of America as a national organization must conform in its financial reporting to the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations. For purposes of this section, the American National Red Cross and its chapters are recognized as operating an accounting and financial system in substantial compliance with the Uniform Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations and certification to this effect by local chapters is not required. Local Red Cross chapters are required to furnish nondiscrimination assurances, as required by Section 7.4 of Chapter 7.

.42 *Annual Applications.* To be considered for solicitation privileges in domestic or overseas campaigns in the Federal service, each national voluntary agency must file application annually. National voluntary agencies which have already been approved for fund-raising privileges in the Federal service are not required to submit the information requested in sections 5.46 a, b, c, d, and h, except where there has been a substantial or significant change in these items; for example, a change in purpose of the organization or a decline in chapter coverage or activity. They are required to furnish information asked for in sections 5.46 e, f, g, i, j, k, l, and m.

.43 *Time and Place of Filing.* Application is filed with the Office of the Chairman, U.S. Civil Service Commission, Washington, D.C. 20415 and must be postmarked on or before February 1. Applicants are urged to file as early as possible.

.44 *Eligibility Decisions.* Decisions as to eligibility are made by the Chairman, U.S. Civil Service Commission, with the assistance of an eligibility committee of government officials and employee organization leaders, and are based upon the information filed with the agency's application and derived from other responsible sources.

.45 *Notice of Decision.* Applicants are notified of the decisions on their applications as soon as possible after filing. If dissatisfied with the Chairman's decision, the applicants have the opportunity to request a personal appearance before the Chairman's representative or a review of the decision by such official without a personal appearance.

46. *Form and Content of Application.* Applications shall be filed in the following form, with the information, documents and data specified:

a. *Corporate Name and Fiscal Year.*

b. *Origin, Purpose and Structure of Organization.* Furnish information to show agency meets the General Requirements stated in Section 5.2. Applications limited to overseas campaign privileges only will be considered under modified requirements for paragraphs 5.24 c and d.

c. *Chapters, Affiliates or Representatives.* Furnish a list of chapters, affiliates or representatives arranged in alphabetical order by state and, under the state, by cities with chapter, affiliate or representative by names and addresses.

d. *National Scope* (sec. 5.24). Demonstrate the good will and acceptability of the organization throughout the United States.

e. *Program* (sec. 5.31). Outline the program. List the names of other national voluntary agencies which offer similar services covering the whole or a part of the same field of activity and state past and current relationships with such agencies.

f. *Volunteer Control* (sec. 5.32). Describe board of directors' administrative activity in past year and list board members' names, addresses and businesses or professions.

g. *Finances* (sec. 5.33). Furnish certification by an independent certified public accountant of compliance with an acceptable financial system and adoption of the Uniform Standards.

h. *Fund-Raising Practice* (sec. 5.35). State compliance with all factors.

i. *Nondiscrimination* (sec. 5.36). Furnish written assurance of racial nondiscrimination as prescribed by Chapter 7. If applicant has filed satisfactory nondiscrimination assurance and has maintained such nondiscriminatory policy or practice without substantial change, further assurance is not required in applications for renewal of recognition.

j. *Annual Report* (sec. 5.37). Furnish copy of latest annual report.

k. *Financial Report* (sec. 5.38). Furnish copy of latest financial report prepared in accordance with the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations and certification by an independent certified public accountant that the report was prepared in conformity with the "Standards."

l. *Independent Audit* (sec. 5.39). Furnish copy of latest external audit by an independent certified public accountant.

m. *Source of Funds and Costs Report* (sec. 5.40). Furnish a special report with the Chairman of the Civil Service Commission consistent with the reporting requirements of the Standards referred to in section 5.38 which discloses the agency's sources of funds, expenditures by program service and supporting services, separately identifying fund-raising and other expenditures. The report must cover the most recent fiscal year and represent a consolidated statement of national and affiliate income and expenditures. The amount of contributions received from united funds or community chests, from Federal service campaigns, and the total from other sources must be separately identified and shown as a percent of total contributions. Report should be furnished in accordance with the format shown in the attachment to this Chapter.

5.5 *Public Announcement of Recognized Agencies and Assigned Periods.* The Chairman of the Civil Service Commission issues a bulletin in the spring of each year to announce the names of all voluntary agencies recognized for the ensuing fiscal year and to specify the periods assigned for their solicitations within the Federal service.

CHAPTER 3—ELIGIBILITY REQUIREMENTS FOR NATIONAL VOLUNTARY AGENCIES

ATTACHMENT A

.....
(Agency)

CONSOLIDATED SOURCE OF FUNDS AND COSTS REPORT
(Including Chapters and Affiliates)

(For the year ending .....)
(Date)

	Amount	Percent of Income
Support from the Public:		
Received Directly:		
Contributions	$.....	.....
Special Events (less related expenses of $.....)	.....	.....
Subtotal	.....	.....
Received Indirectly:		
United Funds and/or Community Chests	.....	.....
Federal Service Campaigns	.....	.....
Other Contributions	.....	.....
Subtotal	.....	.....
Total Support from the Public	.....	.....
Miscellaneous Revenue:		
Government Grants (including grants-in-kind)	.....	.....
Service Fees, Literature Sales, etc	.....	.....
Gain from the Sale of Products	.....	.....
Membership	.....	.....
Investment Income	.....	.....
Other Income	.....	.....
Total Miscellaneous Revenue	.....	.....
TOTAL SUPPORT AND REVENUE	.....	100
Expenditures:		
Program Services:	Amount	Percent of expenditure
(Category)	.....	.....
(Category)	.....	.....
(Category)	.....	.....
(Category)	.....	.....
Subtotal	.....	.....
Supporting Services:		
Management and general	.....	.....
Fund Raising	.....	.....
Subtotal	.....	.....
TOTAL EXPENDITURES	.....	100
EXCESS OF REVENUE OVER EXPENDITURES—$		

* * * * *

CHAPTER 7—NONDISCRIMINATION REQUIREMENTS

7.1 *Nondiscrimination Standard.* Voluntary agencies recognized for fund-raising privileges within the Federal service must operate without discrimination and must carry out affirmative programs to assure equal employment opportunity. This policy applies to persons served by the agencies, to the staffs of the agencies and to membership on their governing boards. Operating without discrimination means that:

a. No person is excluded from service because of race, ethnic origin, religion, or sex.

b. There is no segregation of those served on the basis of race, ethnic origin, religion, or sex.

c. There is no discrimination on the basis of race, ethnic origin, religion, or sex, in hiring, assignment, promotion or other conditions of staff employment. In addition, the agency has a written plan for and is undertaking positive action to achieve equal employment opportunity for all persons in the filling of its staff positions. The plan must include elements such as: contacts with appropriate organizations in the community, including minority group and women's organizations, regarding the agency's employment needs; recruitment advertisements in minority group news media where advertising in the general media is used to fill jobs; identifying the agency as an equal employment opportunity employer in recruitment advertisements; and the use for job referral purposes of only those employment agencies which do not discriminate on the basis of race, ethnic origin, religion or sex in making referrals.

d. There is no discrimination on the basis of race, ethnic origin, religion or sex in membership on the agency's governing body.

7.2 *Exemptions.* Exemptions to the above requirements relating to religion or sex may be granted by the Civil Service Commission if a voluntary agency is organized for a bona fide purpose on a religious basis or if its purpose is reasonably related to service of persons of a particular sex.

7.3 *Voluntary Agencies Affected.* Every national or local voluntary health or welfare agency which solicits contributions from Federal employees or members of the Armed Forces at place of employment or duty station must first provide satisfactory assurance that it follows a policy and practice of racial nondiscrimination. This requirement is applicable to:

a. A local united fund, community chest or other federated fund-raising organization which is authorized solicitation privileges under the provisions of Manual section 3.55, and each participating member agency;

b. Each member agency of a coordinated solicitation which is authorized solicitation privileges under the provisions of Manual section 3.56;

c. The national office and each state or local chapter of a national voluntary agency which is authorized on-the-job solicitation privileges under the provisions of Manual section 3.57;

d. Each national or local voluntary agency which is authorized solicitation privileges in the overseas area under the provisions of Manual section 3.58; and

e. Each voluntary agency which is authorized off-the-job solicitation privileges under the provisions of Manual section 3.6.

7.4. *Assurance Required.*

.41 *Form of assurance.* Assurance of nondiscrimination shall be in writing and shall consist of:

a. A statement of policy by the agency's governing board (national or local board, as appropriate) covering the elements of nondiscrimination listed in the standard,

b. A certification that the agency's practices in fact conform with the standard, and

c. A certification that the national organization and each local chapter has prepared an affirmative action plan to assure equal employment opportunity.

Policy statements and certification shall be sufficiently explicit to assure that the four elements of nondiscrimination listed in the standard are met. While no standard form or format is required, a sample form is shown at the end of this Chapter.

.42 *Filing procedure.*

a. *National level.* A national voluntary agency which is required by the provisions of Manual section 5.4 to file application annually for independent solicitation privileges shall file with the Office of the Chairman, Civil Service Commission, by February 1, satisfactory assurance with respect to the policy and practice of its national organization.

b. *Local level.*

(1) *United Funds and Chests.* A local united fund, community chest or other federated fund-raising organization shall advise its member agencies of the nondiscrimination requirements and requirement for an affirmative action plan for equal employment opportunity and request each agency to furnish assurance of nondiscrimination in the form prescribed in .41 above. It shall receive such assurances and forward them in a group, with the policy statement and certification of the federated fund-raising organization itself, to the appropriate Federal official in its local campaign area.

(2) *American Red Cross.* Where a local Red Cross chapter participates as an independent agency outside of the local United Way, such chapter must furnish the necessary nondiscrimination certification.

(3) *National Health Agencies.* Each local chapter or affiliate of a national health agency approved for Federal fund-raising privileges shall provide nondiscrimination assurance in proper form to the appropriate local Federal official.

(4) *International Service Agencies.* Each local chapter and affiliate of recognized international service organizations approved for Federal fund-raising privileges must provide satisfactory assurance of nondiscrimination to the appropriate local Federal official. Failure to submit proper certification will bar the local chapter or affiliate from participation in the appropriate local campaign.

.43 *Recipient of Assurances Filed Locally.* Nondiscrimination assurances required to be filed at the local level shall be filed with the

chairman of the appropriate local Federal coordinating group, or in the absence of such organization in the local area, with the head of the local Federal installation having the largest number of civilian and military personnel.

.44 *Submission of Affirmative Action Plans.* National or local voluntary agencies must have available for inspection the affirmative action plan specified in Section 7.1c. On request, these plans must be submitted to appropriate Federal officials who may review the plans and require amendments thereto. Appropriate Federal officials may also request information concerning employment patterns and board membership on the basis of race, ethnic origin, and sex.

.45 *When Further Assurance is Required.* A national or local voluntary agency which has filed satisfactory nondiscrimination assurance and has maintained such nondiscriminatory policy or practice is not required to file further assurance to continue its eligibility for subsequent years unless such further assurance is expressly requested by the appropriate Federal official. This may be required at any time at the option of appropriate Federal officials or as required by the Office of the Chairman, Civil Service Commission.

7.5 *Administration by the Federal Government.*

.51 *Responsibility for Administration.* The responsibility for administration of the nondiscrimination requirements at the national level is assigned to the Office of the Chairman, Civil Service Commission.

At the local level, each local Federal coordinating group is authorized and responsible for administration of the nondiscrimination requirements in its local area. In the absence of such an organization in the local area (county), the authority and responsibility is assigned to the head of the local Federal installation having the largest number of civilian and military personnel. At their discretion, a local Federal coordinating group may redelegate to an appropriate committee, or the head of a designated local Federal installation may redelegate to a subordinate official, such of the authority assigned in this section as is deemed appropriate.

The heads of Federal offices and installations shall permit the solicitation of employees or military personnel on the job, or "off the job" as defined in Manual section 3.6, only on behalf of such voluntary agencies as have been determined by the responsible Federal coordinating group or official to be qualified under the nondiscrimination standard and related requirements.

.52 *Acceptance of Nondiscrimination Assurances.* The appropriate Federal official in each local area, as designated above, will review nondiscrimination assurances filed with him to determine that they meet the requirements. He will request such additions or amendments as may be needed and recertifications as appear necessary. He will notify the heads of all local Federal offices and installations of his finding with respect to the receipt of satisfactory nondiscrimination assurances from all voluntary agencies which are otherwise eligible to solicit contributions from Federal personnel in the local area. Assurances will be retained as official records in the custody of his office. The responsible local Federal official may request interpretation or advice from the Office of the Chairman, Civil Service Commission, as needed, and may require the submission of affirmative action plans for review.

.53 *Disqualifications.* If a required nondiscrimination assurance is not filed with the appropriate Federal official, or is filed but is determined by him to be unsatisfactory, the voluntary agency concerned shall not be permitted to solicit contributions from Federal personnel in the local area until satisfactory assurance is received. This is also the case for unsatisfactory affirmative action plans.

In the event a voluntary agency files satisfactory assurance but information is received which raises a question whether the agency's practices in fact meet the standard, the appropriate Federal official shall make such investigation as may be necessary and, after providing the agency an opportunity to present evidence of satisfactory compliance, shall make a determination whether Federal fund-raising privileges in the local area will be granted or withheld from the agency. If a question regarding nondiscrimination practices is raised with respect to a voluntary agency which furnished its assurance to the Civil Service Commission, the appropriate Federal official will forward the question and all available related information to the office of the Chairman, Civil Service Commission, for investigation. Questions concerning a local voluntary agency received by the Civil Service Commission will be sent to local Federal officials for investigation and [illegible].

If a local united fund, community chest or other federated organization does not itself file the required nondiscrimination assurance, the federated organization shall not be permitted to solicit contributions from Federal personnel in the local area until satisfactory assurance is received. In such event the local area becomes a nonfederated community for purposes of Federal fund raising. Member agencies of the federated organization which individually have met the nondiscrimination requirement will not be allowed to solicit independently. However, they may organize a coordinated solicitation in accordance with the provision of Manual section 3.56.

.54 *Nonqualifying Agency Included in a Federated Organization Cancels Federated Organization's Privilege.* Failure of one or more member agencies to provide satisfactory evidence of nondiscrimination cancels the federated organization's Federal fund-raising privileges in the local area.

SAMPLE CERTIFICATE [2]

At a meeting of the governing board of _____ held on _____ the board
(name of agency) (date)
( ) adopted a policy ( ) affirmed its policy of nondiscrimination as follows:

1. No person is excluded from service because of race, ethnic origin, religion, or sex.

2. There is no segregation of persons served on the basis of race, ethnic origin, religion, or sex.

3. There is no discrimination on the basis of race, ethnic origin, religion, or sex, with regard to hiring, assignment, promotion or other conditions of staff employment. In addition, the agency has a written plan for positive action to achieve equal employment opportunity for all persons in the filling of its staff positions including elements such as contacts with various organizations in the community, including minority group organizations, regarding the agency's employment needs, recruitment advertisements in minority group news media where advertising in the general media is used to fill jobs, identifying the agency as an equal employment opportunity employer in recruitment advertisements, and the use for job referral purposes of only those employment agencies which do not discriminate on the basis of race, ethnic origin, religion, or sex in making referrals.

4. There is no discrimination on the basis of race, ethnic origin, religion, or sex in membership on the agency's governing body.

I certify that the practices of this organization conform to the policy of nondiscrimination stated above.

_____ _____
(Date) (President or other authorized official)

[2] Certificate may be appropriately modified where exemption has been granted by the Civil Service Commission for agencies organized for bona fide purposes along religious lines or where service is restricted to members of a particular sex.

[FR Doc.74-30067 Filed 12-24-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 306-8; OPP-32000/160]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before February 24, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No

claims will be accepted for possible EPA adjudication which are received after February 24, 1975.

APPLICATIONS RECEIVED

EPA Reg. No. 1730-3. American Cyanamid Co., 359 Berdon Ave., Wayne NJ 07470. PINE SOL CLEANS DISINFECTS DEODORIZES. Active Ingredients: Pine Oil 30.0%; Isopropanol 10.9%; Soap 10.0%; 4-Chloro-2-Cyclopentylphenol and related compounds 0.1%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34144-G. Andersen Water Engineering Co., 342 W. Monroe St., Chicago IL 60607. CHEMITROL ALGAECIDE M. Active Ingredients: Disodium Cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1448-LA. Buckman Laboratories, Inc., 1256 N. McLean Blvd., Memphis TN 38108. EL BUSAN 83. Active Ingredients: Potassium N,N-dimethyldithiocarbamate 20%. Method of Support: Application proceeds and 2(c) of interim policy.

EPA File Symbol 8719-AE. Chacon Chemical Corp., 5245 Chakemco St., South Gate CA 90280. CHACON TOMATO BLOSSOM SPRAY SETS BLOSSOMS REDUCES BLOSSOM AND TOMATO DROP. Active Ingredients: Chlorophenoxy Acetic Acid 0.0042%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7173-RLI. Chempar Chemical Co., Inc., 260 Madison Ave., New York NY 10016. CHEMPAR ROZOL RODENTICIDE MINERAL OIL CONCENTRATE. Active Ingredients: 3-[(p-Chlorophenyl) phenylacetyl]-1,3-indandione 0.28%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 6754-32. Dettelbach Pesticide Corp., 4111 Peachtree Rd., NE., Atlanta GA 30319. PROFESSIONAL MALATHION-50 EMULSIFIABLE LIQUID. Active Ingredients: Malathion 50.0%; Heavy Aromatic Naphtha 37.4%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 2270-370. The Huge Co., Inc., 7625 Page Ave., St. Louis MO 63133. EXCELCIDE MULTI-PURPOSE RESIDUAL SPRA. Active Ingredients: Petroleum Distillate 83.89%; 2-Butoxyethanol 15.00%; 2-(1-Methylethoxy) phenol methylcarbamate 1.00%; Pyrethrins 0.05%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 1100-21. Industrial Chemicals, Div. Cities Service Co., PO Box 50360, Atlanta GA 30302. COPPER SULFATE SNOW CRYSTALS. Active Ingredients: Copper Sulfate (Pentahydrate) 99%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 35135-R. Markay Laboratories, 250 Riverview Rd., Montebello CA 90640. MARKAY #32. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34890-E. Ohio Solvents & Chemicals Co., 3740 W. 140th St., Cleveland OH 44111. YARMOR 302 PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34890-G. Ohio Solvents & Chemicals Co., 3740 W. 140th St., Cleveland OH 44111. YARMOR 302W PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 602-ELE. Ralston Purina Co., Checkerboard Square St. Louis MO 63188. PURINA RAT AND MOUSE KILL PELLETS. Active Ingredients: Warfarin (3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin) 0.025%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 602-ELG. Ralston Purina Co. PURINA MOUSE AND RAT KILL MEAL. Active Ingredients: Warfarin (3-(alpha-Acetonylbenzyl) - 4 - hydroxycoumarin) 0.025%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 602-ELL. Ralston Purina Co. PURINA RAT AND MOUSE CONTROL PELLETS. Active Ingredients: Warfarin (3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin) 0.025%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 602-ELU. Ralston Purina Co. PURINA RAT AND MOUSE CONTROL. Active Ingredients: Warfarin (3-(alpha-Acetonylbenzyl) - 4 - hydroxycoumarin) 0.025%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 201-235. Shell Chemical Co., A Div. of Shell Oil Co., Agricultural Div., Suite 300, 1700 K St., Washington DC 20006. VAPONITE 2 EMULSIFIABLE INSECTICIDE. Active Ingredients: 2,2-dichlorovinyl dimethyl phosphate 23.7%; Related compounds 1.0%; Petroleum Hydrocarbons 70.3%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 201-250. Shell Chemical Co., A Div. of Shell Oil Co., Agricultural Div., Suite 300, 1700 K St., Washington DC 20006. VAPONITE 3 OIL SOLUTION INSECTICIDE. Active Ingredients: 2,2-Dichlorovinyl dimethyl phosphate 23.9%; Related compounds 1.0%; Petroleum Hydrocarbons 75.1%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 4867-29. Stephenson Chemical Co., Inc., PO Box 87188, College Park GA 30337. STEPHENSON CHEMICALS FOG & MILL SPRAY. Active Ingredients: Piperonyl Butoxide, Technical 1.5%; Pyrethrins 0.3%; Petroleum Oil 98.2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 1016-69. Union Carbide Corp., Agricultural Products, PO Box 1906, Salinas CA 93901. UNION CARBIDE TEMIK ALDICARB PESTICIDE 10% GRANULAR. Active Ingredients: Aldicarb [2-methyl-2-(methylthio) propionaldehyde O-(methylcarbamoyl)oxime] 10%. Method of Support: Application proceeds under 2(b) of interim policy.

Dated December 11, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-29386 Filed 12-24-74;8:45 am]

[FRL 309-3]

SCIENCE ADVISORY BOARD EXECUTIVE COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Executive Committee of the Science Advisory Board will be held beginning at 8:30 a.m., January 15, 1975. The meeting will be held in Room 1101, Waterside Mall West Tower, 401 M Street, SW., Washington, D.C.

This is a regularly scheduled meeting of the Committee. The agenda includes reports on the activities of other Committees of the Science Advisory Board, a discussion of scientific issues relevant to Agency policy on sulfates in the atmosphere, adoption of operational procedures for the Committee, member items of interest, and comments by Agency representatives.

The meeting is open to the public. Any member of the public wishing to attend, participate, present a paper, or obtain additional information should contact Dr. Thomas D. Bath, Executive Secretary, Science Advisory Board (202) 755-0263.

Dated: December 19, 1974.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.74-30011 Filed 12-24-74;8:45 am]

[FRL 313-2]

TECHNICAL ADVISORY GROUP FOR MUNICIPAL WASTE WATER SYSTEMS

Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Technical Advisory Group for Municipal Waste Water Systems is tentatively scheduled for 9 a.m. on January 13 and 14, 1975, at the Crystal Mall No. 2, Room 1112, Conference Room A, Arlington, Virginia.

The purpose of the meeting is to review and discuss the following subject matter: Section 937 (AE Procurement) and Value Analysis, Nonrestrictive Specifications, Best Practical Treatment Technology, Value Engineering, Operation and Maintenance of Waste Water Treatment Facilities, and section 201/208 Facilities Planning Regulations.

The meeting will be open to the public. Any member of the public wishing to attend should contact the Executive Secretary after January 6, 1975, to confirm the meeting date. Mr. Harold P. Cahill, Director, Municipal Construction Division, Environmental Protection Agency, Washington, D.C. 20460, can be reached on Area Code: 202-426-8966.

Dated: December 20, 1974.

JAMES L. AGEE,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.74-30139 Filed 12-24-74;8:45 am]

FEDERAL POWER COMMISSION

NATIONAL POWER SURVEY ADVISORY COMMITTEE ON THE IMPACT OF INADEQUATE ELECTRIC POWER SUPPLY

Notice of Meeting

Agenda for a meeting of the Technical Advisory Committee on the Impact of Inadequate Electric Power Supply to be held at the Federal Power Commission Offices, 825 North Capitol Street, N.E., Washington, D.C., on January 21, 1975, at 9:30 a.m. in Room 5200.

1. Meeting called to order by FPC Coordinating Representative.
2. Objectives and purposes of meeting.
A. Discussion of draft report and written comments submitted.
B. Plans for preparation and circulation of final draft.

C. Other business.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30037 Filed 12-24-74;8:45 am]

[Docket No. RI74-196]

AMOCO PRODUCTION CO.

Certification of Proposed Settlement

DECEMBER 18, 1974.

Take notice that on December 16, 1974, the Presiding Administrative Law Judge certified to the Commission the record in this proceeding and a "Stipulation for Resolution of Issues and Issuance of Commission Order Granting Petition of Amoco Production Company in FPC Docket No. RI74-196."

As more fully set forth in the Petition for Special Relief filed by Amoco Production Company (Amoco) and upon the record in this docket, Amoco has submitted a March 1, 1974 amendment to the June 23, 1950 Contract between Amoco and Cities Service Gas Company (Cities) covering sales of natural gas by Amoco to Cities in the Kansas-Hugoton Field and Panoma-Council Grove Field, located in the State of Kansas, which is on file with the Commission as Amoco's FPC Gas Rate Schedule No. 84; and, pending issuance of a Commission decision establishing an applicable nationwide rate, seeks waiver of the moratorium provided by Commission Opinion No. 586 to permit immediate effectiveness of the increases in "flowing gas rates" provided by that contract amendment.

The petition and the record further more fully reflect that, in consideration for the rate increases, Amoco and Cities entered into an Exploration and Development Agreement dated March 1, 1974, providing that if the Commission approves the requested rate increases, Amoco (1) will accelerate its drilling program in the Panoma-Council Grove Field in Kansas on acreage committed to Cities by the contract on file as Amoco's FPC Gas Rate Schedule No. 84; (2) expend a portion of the additional revenue received by Amoco in exploration and drilling in over one million acres of land in the State of Wyoming, more fully described in the record as the "Contract Area"; (3) will expend additional sums in exploration and development in said "Contract Area" in the State of Wyoming, and (4) will commit new gas reserves discovered and developed by Amoco in said "Contract Area" to Cities in accordance with the terms and conditions of the Exploration and Development Agreement and with the "Principles of Gas Purchase Contract" admitted into evidence as Exhibit No. 5 in the record.

At the conclusion of receipt into evidence of testimony and exhibits presented by the parties and cross-examination of all witnesses, certain of the parties submitted the Stipulation which has been certified to the Commission. In sum, that Stipulation provides (1) that if the Commission issues an order, on or before March 3, 1975, in accordance with the terms of the Stipulation, Amoco will be permitted to collect certain of the increased rates, effective as of December 31, 1974, subject to possible refund of any portion thereof that may exceed the national or nationwide rate applicable thereto, as established hereafter by the Commission in Docket No. R-389-B, Docket No. R-478, Docket No. RM75-14, or other similar rate-fixing proceeding of general applicability; (2) procedures under which direct or indirect customers of Cities which are parties to Docket No. RI74-196 may request refunds by Amoco in the future, for Commission decision upon such requests, and for flow-through of such refunds, if any, by Cities to its jurisdictional customers; (3) for continued performance by Amoco of its exploration and development program in Wyoming under terms and conditions more fully set forth in the Stipulation and Exploration and Development Agreement admitted into evidence as Exhibit No. 4 in the record; (4) provisions applicable to rates for future sales of natural gas by Amoco to Cities from the "Contract Area" in the State of Wyoming; and (5) provisions as to timing of Commission action upon the Stipulation and for future contingencies as to such timing.

The provisions of the Stipulation, the filings, and the record more fully reflect the nature and substance of the Stipulation, and all are available for inspection in the public files of the Commission. The record reflects that all parties were afforded opportunity to participate in the negotiation of the Stipulation, and no party has opposed certification of the record and the Stipulation for consideration and disposition by the Commission.

It was agreed upon by the parties to the proceeding that comments or protests with reference to the Stipulation should be filed on or before December 31, 1974, with the Federal Power Commission, Washington, D.C., 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.10), and reply to any such comments or protests should, on or before January 10, 1975, be filed with the Federal Power Commission. All comments, protests, and reply comments filed with the Commission will be considered by it in determining what action to take upon the Stipulation. The filing of protests, comments, or replies will not serve to make additional persons parties to the proceeding. Any person not already a party who desires to become a party to the proceeding, or to participate as a party herein, must file a petition for leave to intervene in accordance with the Commission's rules of practice and procedure.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30023 Filed 12-24-74;8:45 am]

[Docket No. RM74-23; Order No. 514-A]

ASSOCIATED GAS DISTRIBUTORS AND UNITED GAS PIPE LINE CO.

Order Denying Rehearing

DECEMBER 19, 1974.

On November 20, 1974, Associated Gas Distributors (AGD) and United Gas Pipe Line Company (United) filed in Docket No. RM74-23 applications pursuant to Section 19(a) of the Natural Gas Act and § 1.34 of the Commission's rules of practice and procedure (18 CFR 1.34) for rehearing of Order No. 514 issued October 21, 1974. Order No. 514 promulgated an amendment of Section 157.14 of the Regulations under the Natural Gas Act (18 CFR 157.14) to require pipeline companies to include additional gas supply and deliverability information as Exhibit H to applications for certificates of public convenience and necessity filed pursuant to section 7 of the Act in lieu of incorporating such data by reference to FPC Form No. 15 as theretofore permitted.

The thrust of United's application for rehearing are objections that the filing requirements imposed by Order No. 514 are burdensome and that due to lack of protection for confidentiality of producer reserve data the filing requirements are counterproductive to the attachment of gas supplies so as to be without significant public benefit. AGD on the other hand seeks to enlarge the scope of the proceeding to require pipelines to file data on "probable" and "possible potential" reserves. AGD submits that in view of the need for better gas supply data at this time of critical shortages there is no excuse for the Commission's failure to require submission of these data.

In its comments filed on June 17, 1974, in response to the Notice of Proposed Rulemaking issued in the instant proceeding on May 2, 1974 (39 FR 16487, May 9, 1974), United raised three principal objections to the proposed rule: the filing requirement is ambiguous, the filing requirement is unduly burdensome, and the failure to provide protection for confidential producer reserve data is counterproductive to the attachment of gas supplies by pipelines. The Commission reviewed these comments thoroughly prior to the promulgation of Order No. 514. The Commission, mindful of the additional effort involved in supplying gas supply and deliverability information, sought to minimize such burden upon a certificate applicant by directing that only information on gas supply and deliverability for that phase of the company operations which would be affected, should the proposal in the pending application be authorized need be filed. In addition only portions of the annual report (FPC Form No. 15) for which changes had been made or are

supplemental to the annual report then currently on file need be filed. The Commission's need for data sufficient to support a certificate application and permit prompt and intelligent review is therefore provided for at as minimal a burden to certificate applicants as possible consistent with the Commission's duty to make adequate findings as to the requirements of the public convenience and necessity with respect to specific applications under Section 7 of the Natural Gas Act. Any filing requirement involves, to some extent, the imposition of a burden. The Commission, after weighing the filing burden the proposed rule would impose against the need for timely and comprehensive gas supply and deliverability information necessary to permit the Commission effectively to process and review certificate applications concluded such additional filings are reasonable and in the public interest. United has failed to demonstrate that such a filing requirement is unduly burdensome nor has United advanced new facts in support of its original argument that failure to afford confidentiality to reserve data is counterproductive to attachment of gas supplies.

As we stated in Order No. 514 United has chosen an inappropriate forum to challenge the propriety of § 2.72 of the Commission's General Policy and Interpretations (18 CFR 2.72) which established our policy on the divulgence of information. We reemphasize that the instant order does not compel any party to submit confidential data but neither does it alter an applicant's burden of producing substantial evidence sufficient to support its application.

AGD objects to the Commission's deletion of certain language with respect to the filing of "probable" and "possible potential" reserve data which appeared in the rule proposed in this docket but not in the Final rule promulgated by Order No. 514. AGD argues that elimination of such data has severely diminished the value of the "data gathering" rule as noticed by the Commission and has defeated the Commission's goals in this Proceeding.[1]

AGD misconstrues the intent and purpose of the rule as initially proposed and as finally promulgated. Order No. 514 promulgated not a general information gathering rule but rather a rule designed to require applicants to furnish the Commission with substantial evidence in the nature of specific gas supply and deliverability data sufficient to support their individual certificate applications. Order No. 514 amends paragraph (a) of § 157.14 of the Commission's Regulations, which paragraph is limited to prescribing the scope and content of exhibits to pipeline certificate applications and in no way comports to the general information role AGD urges.

Order No. 514 is limited in scope to requiring applicants to file gas supply and deliverability data in support of their proposed project on sale for which certification is sought. If in an individual case additional information is needed paragraph (c) of § 1.11 of the Commission's Rules of Practice and Procedure (18 CFR 1.11(c)) and paragraph (c) of Section 157.14 of the Regulations under the Natural Gas Act (18 CFR 157.14 (c)) provides that the Commission may direct a party to state his case more fully or in more detail. It can hardly be argued that the reasonable additional filing requirements imposed by Order No. 514, which have as their purpose the furnishing of relevant gas supply and deliverability information as substantial evidence in support of specific certificate applications, should become unreasonable for failure to require the filing of general data on gas reserves not required to support the specific applications simply because collection of data on "probable" and "possible potential" gas reserves may be feasible.

The Commission finds:

The applications for rehearing filed by United and AGD present no new facts or principles of law which were not fully considered by the Commission in Order No. 514, or which having been more considered, warrant any modification of said order.

The Commission orders:

The applications for rehearing filed by United and AGD in Docket No. RM74-23 are denied.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-30023 Filed 12-24-74;8:45 am]

[Docket No. E-9167]

CENTRAL MAINE POWER CO.

Cancellation

DECEMBER 18, 1974.

On December 6, 1974, Central Maine Power Company tendered for filing a proposed cancellation of service. The company proposes that effective the 15th day of January, 1975, Rate Schedule FPC No. 26, effective date December 12, 1969 and filed with the Federal Power Commission by Central Maine Power Company be cancelled.

Notice of the proposed cancellation has been served upon the following:

Rumford Falls Power Company
Attention: Mr. Hayden S. Rogers
49 Congress Street
Rumford, Maine 04276

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-30024 Filed 12-24-74;8:45 am]

[Docket No. CP75-8]

CONSOLIDATED GAS SUPPLY CORP. AND TRANSCONTINENTAL GAS PIPE LINE CORPORATION

Petition To Amend

DECEMBER 18, 1974.

Take notice that on December 2, 1974, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP75-8 a petition to amend the order issuing a certificate in said docket on November 1, 1974 (American Petrofina Exploration Company, et al., Docket No. CI75-39, et al.), pursuant to section 7(c) of the Natural Gas Act by deleting a misstatement which appears in said order, all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

Petitioner states that in the subject order the statement appears that Petitioner is seeking to acquire an ownership interest of up to 70 percent in the Ship Shoal Block 246 "A" and "B" Platforms, and that Petitioner's present interest amounts to approximately 25 percent in the "A" Platform and 40 percent in the "B" Platform. Petitioner states that at the time of the application it owned no interest in either platform, but, because of the volume of gas it had already contracted for, its agreement with Consolidated Gas Supply Corporation (Consolidated) dictated that Petitioner acquire and own 25 percent and 40 percent interests in the respective platforms. Thus, Petitioner states, it was actually seeking certificate authorization to acquire an immediate 25 percent interest in the "A" Platform and an immediate 40 percent interest in the "B" Platform and to acquire in the future an interest of up to 70 percent in each platform, depending upon additional gas for which Petitioner might contract.

[1] AGD's argument that the Commission has violated its statutory obligations by failing to require the filing of data on "probable" and "possible potential" reserves merits but scant comment. In support of this argument AGD cites Austral Oil Co., et al. v. FPC, 428 F. 2d 407, 444, "The Commission 'must * * * make findings as specifically as possible * * * estimating the gas supply * * *'" and states that "The final order promulgated by the Commission fails to establish a reporting scheme which meets these goals." AGD has assembled a single quotation from different sentences in the court's opinion and has perverted the court's intent in using those particular words in context.

Petitioner requests the November 1, 1974, order be amended accordingly. Petitioner further states that as a result of the misstatement in the text of the order misconceptions found their way into finding paragraphs (5) and (10) and ordering paragraph (G), which refer to authorization for Petitioner to acquire an increased interest in the subject production platforms.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 8, 1975 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30036 Filed 12-24-74;8:45 am]

[Docket No. CP75-171]

EL PASO NATURAL GAS CO.

Application

DECEMBER 18, 1974.

Take notice that on December 9, 1974, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP75-171 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain metering facilities and taps in Maricopa County, Arizona, and to abandon certain metering and pipeline facilities in Lea County, New Mexico, and the related natural gas service rendered by means thereof, all as set forth in the application which is on file with the Commission and open to public inspection.

The application states that Applicant's Avondale meter station, which was installed under authorization issued in Docket No. G-1345 on November 29, 1951 (10 FPC 633), so as to permit measurement of additional gas supplies delivered to Arizona Public Service Company (APS) for resale in the Phoenix, Arizona, area, has been obsolete for several years because of the delivery measurement of such gas at Applicant's existing Lateral 25 meter station. Further, it is stated that Applicant's Lateral 16 check meter, which was also installed under Commission authorization issued in Docket No. G-1345, for the purpose of monitoring gas deliveries to the Phoenix Power Plant and Applicant's Lateral 16 sales meter station in Phoenix, Arizona, has now become unnecessary because of the installation of telemetering equipment on Applicant's Lateral 16 pipeline.

The application further states that Applicant proposes to abandon, in Lea County, New Mexico, the South Four Lakes Unit meter station and 0.95 mile of 4½-inch pipeline constructed pursuant to budget-type authorization granted by Commission order issued November 12, 1957, in Docket No. G-12599 (18 FPC 623), as amended, and the King Plant meter station together with 2.12 miles of 4½-inch pipeline authorized by Commission order of February 20, 1958, in Docket No. G-13252 (19 FPC 264). Applicant states that gas supplies in this area have declined to a point where it has become no longer economically feasible for producers to operate liquid recovery facilities and that the producers delivering gas through the facilities in Lea County have abandoned sales to Applicant under authorizations by the Commission.

Applicant further proposes to abandon a total of 10 taps, all of which were installed by Applicant in Maricopa County, Arizona, during the period from December 1948 through March 1960, without specific authority, for service to nine right-of-way grantors and one resale customer of APS. Applicant states that it has agreed with APS that gas service previously provided at each tap is no longer necessary inasmuch as each customer either no longer requires service or is being served by APS' integrated distribution system. The following taps are proposed to be abandoned by removal, although, Applicant states, they have no salvage value:

(1) *Taylor Trusts Tap*, located at milepost 129.2 on Applicant's 20-inch O.D. Maricopa County pipeline in the NW/4, Lot 2 of section 30, Township 2 North, Range 1 East.

(2) *J. W. Smith Tap*, located at milepost 0.1 on Applicant's 4½-inch O.D. Mesa pipeline in the NW/4 of section 5, Township 1 South, Range 4 East.

(3) *D. W. Patterson Tap*, located at milepost 6.9 on Applicant's 4½-inch O.D. Mesa pipeline in the N/2 of section 5, Township 1 South, Range 5 East.

(4) *Charles Silas Tap*, located at milepost 207.2 on Applicant's 10¾-inch O.D. Tucson-Phoenix pipeline in the NW/4 of section 5, Township 1 South, Range 4 East.

(5) *H. C. Dobson Tap*, located at milepost 6.8 on Applicant's 4½-inch O.D. Mesa pipeline in the NE/4 of section 6, Township 1 South, Range 5 East.

(6) *H. C. Dobson Tap*, located at milepost 6.3 on Applicant's 16-inch O.D. Ocotillo Power Plant pipeline in the SE/4 of section 36, Township 1 North, Range 4 East.

(7) *Howard Saylor Tap*, located at milepost 4.8 on Applicant's 6⅝-inch O.D. Line No. 2072 in the SW/4 of section 6, Township 1 South, Range 5 East.

The following taps are proposed to be abandoned in place:

(1) *H. C. Brown Tap*, located at milepost 203.8 on Applicant's 10¾-inch O.D. Tucson-Phoenix pipeline in the NW/4 of section 21, Township 1 South, Range 4 East.

(2) *L. C. McCullough Tap*, located at milepost 203.8 on Applicant's 10¾-inch O.D. Tucson-Phoenix pipeline in the NE/4, section 20, Township 1, South, Range 4 East.

(3) *A. E. Price Tap*, located at milepost 0.5 on Applicant's 6⅝-inch O.D. Chandler pipeline in the SW/4 of section 33, Township 1 South, Range 4 East.

Applicant estimates $15,200 as the total cost of abandonment of all facilities described herein.

Applicant states that the proposed abandonment will permit removal of unused facilities for use elsewhere on Applicant's system, as the need therefor arises, and that no interruption, reduction or termination of natural gas service presently rendered by Applicant will result upon effectuation of said abandonments.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 9, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonments are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30026 Filed 12-24-74;8:45 am]

[Docket No. CP73-232]

FLORIDA GAS TRANSMISSION CO. AND UNITED GAS PIPE LINE CO.

Petition To Amend

DECEMBER 18, 1974.

Take notice that on December 12, 1974, Florida Gas Transmission Company (Florida Gas), P.O. Box 44, Winter Park, Florida 32789, and United Gas Pipe Line Company (United), 1500 Southwest Tower, Houston, Texas 77002, filed in Docket No. CP73-232 a petition to amend the order issued in said docket on October 29, 1973 (50 FPC 1298), pursuant to section 7(c) of the Natural Gas Act by

authorizing the establishment of an additional delivery point on the facilities of United for the exchange of gas and authorizing such exchange, all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

Petitioners request that the certificates issued in the subject docket be amended to authorize the establishment of a new and additional delivery point for the exchange of gas, at which Florida Gas will deliver or cause to be delivered to United for redelivery to Florida Gas at any mutually agreeable authorized and existing point of interconnection between the respective systems of Florida Gas and United. The petition states that the new delivery point is located at an existing connection of United's Lirette-Mobile Pipeline with Exxon Company's Lirette Plant in section 10, Township 18S, Range 19E, Terrebonne Parish, Louisiana. At said point United proposes to receive into its pipeline up to approximately 4,000 Mcf per day of natural gas which will be sold to Florida Gas by Amoco Production Company (Amoco). United proposes to deliver equivalent volumes of gas to Florida Gas pursuant to the gas exchange agreement between the two companies dated August 13, 1973. Petitioners state that no new or additional facilities will be required to effect the proposed exchange of gas and that all exchanges of gas to be made hereunder will be made on a gas-for-gas basis.

The petition further states that the proposed exchange will enable Florida Gas to receive into its system additional quantities of gas which are availabe from production by Amoco in the Chauvin Field and will thereby aid in maintaining continuity of service to customers of Florida Gas. The proposed exchange, it is said, will provide added flexibility to the systems of both petitioners.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 13, 1975 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30037 Filed 12-24-74;8:45 am]

[Docket No. RI75-74]

DWIGHT S. RAMSAY

Petition for Special Relief

DECEMBER 18, 1974.

Take notice that on December 9, 1974, Dwight S. Ramsay (Petitioner), P.O. Box 52027, Oil Center Drive—Building 13, Lafayette, Louisiana 70501, filed a petition for special relief in Docket No. RI75-74, seeking a rate above the applicable nationwide rate as provided in Opinion No. 699 and pursuant to section 2.56(h)(6)(ii). Petitioner seeks a rate of $1.25 per Mcf for the sale of gas to Columbia Gas Transmission Corporation (formerly United Fuel Gas Company) for gas produced from wells to be drilled in the water and to a depth greater than 15,000' on State Lease 2438, West Lake Arthur Field, Jefferson Davis and Vermilion Parishes, Louisiana.

Petitioner further states that he proposes to drill one test well on the lease and if production is established it is anticipated that two productive and one nonproductive developmental wells will be drilled in determining the field boundaries. In the event three productive wells are completed the estimated recoverable reserves are 60 Bcf plus 975,000 Bbls. of condensate.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 9, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30026 Filed 12-24-74;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (74-76)]

NASA LIFE SCIENCES COMMITTEE

Notice of Meeting

The NASA Life Sciences Committee will meet on January 22-23, 1975, at the Headquarters of the National Aeronautics and Space Administration, Washington, DC 20546. The meeting will be held in Room 425 of Federal Office Building 10B, 600 Independence Avenue, S.W., Washington, DC 20546. Members of the Public will be admitted on a first come first served basis up to the seating capacity of the room, which is about 70 persons.

The NASA Life Sciences Committee serves in an advisory capacity only. In this capacity it is concerned with man in relation to space travel and habitation, with exobiology, with other life forms, and including: physiology, behavior, clinical aerospace medicine, microbiology, radiobiology, biochemistry, nutrition and food technology, biology of gravity and rhythms, and biotechnology. The current Chairman is Dr. Donald Whedon. There are 14 members.

The following list sets forth the approved agenda and schedule for the January 22-23, 1975, meeting of the Life Sciences Committee. For further information, please contact Dr. Walton L. Jones: Area Code 202, 755-2342.

JANUARY 22, 1975

Time	Topic
0900-0930	Administrative (Purpose: The oath of office will be administered to members as required. Subjects being discussed will include topics such as final approval of previous committee reports; and a report on results of the previous Space Program Advisory Council meeting.)
0930-1030	Comments on Findings presented at the Skylab Symposium on 27-29 August, 1974. (Purpose: To solicit comments from committee members who attended the Skylab Symposium relative to the future Life Sciences research directions).
1030-1100	Skylab Data availability and plan for long term studies of crews. (Purpose: (1) To inform committee members with plans and status of: a. Skylab medical data storage and acquisition b. Plans for follow-up studies of spaceflight crews to determine any long term spaceflight effects, and, (2) solicit comments and advice of the members).
1100-1200	Shuttle/Ecology report of study team (Purpose: Findings and recommendations will be presented and discussed on life sciences aspects of the impact of shuttle operations on the ecology of the launch site and elsewhere. Further, LSC comments will be solicited).
1330-1415	Spaceflight Mineral Loss. (Purpose: To present the findings of a review group on spaceflight/bed rest mineral loss and to consider the direction of future research in this area).
1415-1500	Viking Project. (Purpose: To present reports on progress of the development and testing of life detection experiments, advances in studies on heat resistant organisms, and future project options including sample return. Further LSC comments will be solicited).

1500–1530.... Status of Astronaut/Scientist Ad Hoc SPAC committee. (Purpose: To inform committee members with the status of the study on the future of scientist/astronauts in, shuttle/spacelab operations and to solicit comments of LSC on possible impact on future shuttle biomedical experimentation).

1530–1630.... Status of STARPAHC. (Purpose: To inform committee members with the status of the program using rural remote health care system as an analogue of medical support for a distant space mission, and to solicit comments on the operational test phase).

1630–1700.... General Discussion. (Purpose: To formulate position on issues discussed during day).

JANUARY 23, 1975

0900–1030.... Report on the 5th US/USSR working group meeting on Space Biology and Medicine. (Purpose: To inform the committee members on the points of the meeting and the possible future joint activities. The peer review and status of US biomedical experiments will be summarized and LSC committee comments will be solicited).

1030–1130.... Life Sciences Program Planning FY76 and 77. (Purpose: Scientific and technical thrusts being considered for FY76 and 77 will be discussed with objective of gaining committee comments).

1130–1200.... General Discussion. (Purpose: To formulate position on issues discussed during meeting).

BOYD C. MEYERS, II,
Assistant Associate Administrator for Organization and Management National Aeronautics and Space Administration.

DECEMBER 19, 1974.

[FR Doc.74-30094 Filed 12-24-74;8:45 am]

[Notice (74-77)]

NASA SPACE PROGRAM ADVISORY COUNCIL AD HOC SUBCOMMITTEE ON SCIENTIST-ASTRONAUTS

Notice of Meeting

The SPAC *Ad Hoc* Subcommittee on Scientist Astronauts of NASA will meet on January 15 and 16, 1975 in Room 820, Bldg. 1, Lyndon B. Johnson Space Center, Houston, Texas 77058. Members of the public will be admitted to the open portions of the meeting beginning at 9 a.m. each day on a first-come, first-served basis, up to the seating capacity of the room, which is about 20 persons, including Subcommittee members and other participants. Visitors will be requested to sign a visitor's register.

The SPAC *Ad Hoc* Subcommittee on Scientist Astronauts, which serves in an advisory capacity only, was established to review the scientist astronaut program of Apollo and Skylab and to study alternative approaches to the effective participation of scientists as on-board specialists in future Space Shuttle operations. The Chairman is Dr. Homer E. Newell; total membership of the Subcommittee is eight. The following list sets forth the approved agenda and schedule for the meeting. For further information, contact the Executive Secretary, Mr. Nathaniel B. Cohen, Area Code 202, 755–8433.

Item, time, and topic

JANUARY 15

1. 9:00 am *Introduction.* The Chairman will summarize the response to the request for written comments and suggestions, and will outline the steps necessary to complete the Subcommittee's assignment.

2. 9:15 am *Discussion of Submitted Comments and Suggestions.* Written comments and suggestions will be examined and discussed. Invited participants will be questioned on their particular responses.

12:00 Noon *Lunch.*

3. 1:00 pm *Executive Session.* This session is reserved for the discussion of issues relating to the qualifications of individuals involved in the scientist astronaut program as they bear on the study of the subcommittee. Discussions of these matters in a public session would constitute an invasion of the privacy of these individuals and hence the session will be closed pursuant to 5 USC 552(b)(6).

4. 3:00 pm *Working Session.* The Subcommittee will meet in a working session to summarize the views presented, discuss the issues and points to be made, develop an outline for the final report, formulate the findings and recommendations, and assign report-writing tasks to appropriate members.

5:00 pm *Adjourn.*

JANUARY 16

5. 9:00 am *Working Session.* The Subcommittee will reconvene in a working session to continue development of the final report outline and contents.

12:00 Noon *Adjourn.*

BOYD C. MYERS II,
Assistant Administrator for Organization and Management, National Aeronautics and Space Administration.

[FR Doc.74-30095 Filed 12-24-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 03/03-5114]

MODEDCO INVESTMENT CO.

Approval of Change of Control of a Small Business Investment Company

On November 14, 1974, notice was published in the FEDERAL REGISTER (39 FR 40207) of an application for change of control filed with the Small Business Administration pursuant to 13 CFR 107.701 (1974), by MODEDCO Investment Company, 1120 Connecticut Avenue NW., Washington, D.C. 20036, a Federal licensee under section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.).

The period for comment expired November 29, 1974.

Notice is hereby given that having considered the application and all other pertinent information, SBA has approved the application for change of control of MODEDCO Investment Company.

Dated: December 17, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-30044 Filed 12-24-74;8:45 am]

TARIFF COMMISSION

[337-34]

CONVERTIBLE GAME TABLES AND COMPONENTS THEREOF

Findings, Conclusion, and Recommendation

On October 26, 1972, ATI Recreation, Inc. (now Ebonite Corp., successor), of Miami Lakes, Fla., filed a complaint (as supplemented) under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) alleging unfair methods of competition and unfair acts in the importation and sale of certain convertible game tables which, among other allegations, are said to be embraced within the claim(s) of U.S. Patent No. 3,711,099 owned by the complainant.

The U.S. Tariff Commission conducted a preliminary inquiry with respect to the matters alleged in said complaint pursuant to section 203.3 of the Commission's rules of practice and procedure (19 CFR 203.3) and, on August 30, 1973, pursuant to §203.4 of the Commission's rules of practice and procedure (19 CFR 203.4), ordered that an investigation (No. 337–34) be instituted with respect to the alleged violations in the importation and sale in the United States of certain convertible game tables and components thereof. Public hearings were held in connection with this investigation on October 15–17, 1973, February 5, 1974, and September 12, 1974, pursuant to section 203.5 of the Commission's rules of practice and procedure (19 CFR 203.5).

Upon completion of its investigation, the Commission (Vice Chairman Parker dissenting in part and Commissioner Minchew not participating) finds unfair methods of competition and unfair acts in the unlicensed importation and sale of convertible game tables (whether imported assembled or not assembled) by reason of their being made in accordance with the claim(s) of U.S. Patent No. 3,711,099, or in the importation and sale of the table top(s) therefor (unless either table top, if imported separately, is for sale or for use other than the combination purposes covered by said patent, and the importer so certifies). The Commission also finds that the effect or tendency of these unfair methods of competition and unfair acts is to substantially

injure an industry, efficiently and economically operated, in the United States.[1]

The Commission therefore concludes that there is a violation of section 337 of the Tariff Act of 1930 and recommends that, in accordance with subsection (e) of section 337, the President issue an exclusion order to forbid entry into the United States of convertible game tables (whether imported assembled or not assembled) made in accordance with the claim(s) of U.S. Patent No. 3,711,099, or the table top(s) therefor, until expiration of the patent, except when (1) the importation is under license of the owner of U.S. Patent No. 3,711,099 or (2) in the case of the table top(s) either table top (if imported separately) is for sale or for use other than the combination purposes covered by said patent, and the importer so certifies.[2]

Under the statute (19 U.S.C. 1337(c)) a rehearing before the Commission may be requested. In accordance with section 201.14 of the Commission's rules of practice and procedure (19 CFR 201.14) a motion for a rehearing may be granted for good cause shown. Any such motion for a rehearing must be in writing and filed with the Secretary of the U.S. Tariff Commission, 8th and E Streets NW., Washington, D.C. 20436, within twenty (20) days after publication of this notice. The motion must state clearly the grounds which are relied upon for the granting of a rehearing and must be accompanied by nineteen (19) true copies.

By order of the Commission:

Issued: December 20, 1974.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.74-30065 Filed 12-24-74;8:45 am]

[TEA-W-250]

GARDINER SHOE CO.

Investigation Regarding Workers' Petition for Determination

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of the Gardiner Shoe Company, Inc., Lewiston, Maine, the United States Tariff Commission, on December 19, 1974, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for men (of the types provided for in items 700.27, 700.29, and 700.55 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed on or before January 6, 1975.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, NW., Washington, D.C., and at the New York City office of the Tariff Commission located at 6 World Trade Center.

By order of the Commission.

Issued: December 20, 1974.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.74-30066 Filed 12-24-74;8:45 am]

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[1] Vice Chairman Parker dissents in part and finds no unfair methods of competition and unfair acts in the separate importation and sale of the table top(s), on the ground that these table top(s), when considered separately, are not covered by the patent and are staple articles in commerce suitable for a substantial noninfringing use within the meaning of sec. 271(c) of title 35 of the United States Code (35 U.S.C. 271(c)).

[2] Vice Chairman Parker's recommendation is limited to the following: that the President issue an exclusion order to forbid entry into the United States of convertible game tables (whether imported assembled or not assembled) made in accordance with the claim(s) of U.S. Patent No. 3,711,099, until expiration of the patent, except when the importation is under license of the owner of U.S. Patent No. 3,711,099.

INTERSTATE COMMERCE COMMISSION

[Notice No. 660]

ASSIGNMENT OF HEARINGS

DECEMBER 20, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

No. 36029, Penn Central Transportation Company, George P. Baker, Robert W. Blanchette, and Richard C. Bond, Trustees, V. Burlington Northern, Inc., et al., now assigned February 11, 1975, at Washington, D.C., is postponed to March 11, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 133966 Sub 35, North East Express, Inc., now being assigned January 28, 1975 (1 day), in Room 3240, William J. Green, Jr., Federal Bldg., 600 Arch St., Philadelphia, Pa.

MC 22229 Sub. 82, Terminal Transport Co., now assigned January 20, 1975, at Tampa, Fla., will be held in Holiday Inn, 111 W. Fortune St.

MC 128878 (Sub. 34), Service Truck Line, Inc., now assigned January 14, 1975, at New Orleans, La., will be held in Conference Room, U.S. Court of Appeals Bldg., 600 Camp St.

MC 2228 Sub 104, Red Arrow Freight Lines, Inc., now assigned January 2, 1975, at Dallas, Tex., will be held at the Sheraton Inn—Mockingbird West, 1893 West Mockingbird Lane.

MC 107107 Sub 434, Alterman Transport Lines, Inc., now assigned January 16, 1975 at New Orleans, La., is cancelled and reassigned January 16, 1975 (2 days), at Mobile, Alabama, in Ramada Inn, 600 Belt Line Highway.

I & S No. 8996, Quarterly Settlements of Transit Accounts—WTL, SWL Territories, now assigned January 15, 1975, at Kansas City, Mo., is postponed to February 19, 1975, at Kansas City, Mo., in a hearing room to be later designated.

I & S No. 8998, Coal, Southwestern, Western Trunk Line & Central Territories and FSA No. 42890, Coal from Illinois, Indiana, Kentucky, and Missouri, now being assigned February 4, 1975, at Chicago, Ill., in a hearing room to be later designated.

I & S No. 9003, Lighterage Charges at New York Harbor, Penn Central Transportation Co., now being assigned February 10, 1975, at New York, N.Y., in a hearing room to be later designated.

MC 73165 Sub 345, Eagle Motor Lines, Inc., now assigned January 20, 1975 (1 day), at Memphis, Tenn., will be held in Room 978, Federal Office Bldg., 167 N. Main St.

MC 921 Sub 26, Dean Truck Lines, Inc., now assigned January 21, 1975 (2 days), at Memphis, Tenn., will be held in Room 844, Federal Office Bldg., 167 N. Main St.

MC-C-8456, Agricultural Services Association, Inc.—Investigation of Operations and Practices, now assigned January 23, 1975 (2 days), at Memphis, Tenn., will be held in Room 978, Federal Office Bldg., 167 N. Main St.

MC-C-8455, Chem-Haulers, Inc., now assigned January 14, 1975, at Birmingham, Ala., will be held at the Department of Labor Conference Room, 1961 9th Ave., South.

MC-C-8362, Hunt Truck Lines, Inc.—Investigation and Revocation of Certificate, now assigned January 14, 1975, at Kansas City, Mo., is postponed to February 24, 1975 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 126305 Sub 58, Boyd Brothers Transportation Co., Inc., now assigned January 15, 1975, at Birmingham, Ala., will be held at the Department of Labor Conference Room, 1961 9th Ave., South.

MC 136662 Sub 4, Wiley Sanders, Inc., now assigned January 16, 1975, at Birmingham, Ala., will be held at the Department of Labor Conference Room, 1931 9th Avenue, South.

MC 60787 Sub 5, Garrison Van and Warehouse Corp., Inc., now assigned January 20, 1975 at Birmingham, Ala., will be held at the Department of Labor Conference Room, 1931 9th Ave., South.

MC 113459 Sub 93, H.J. Jeffries Truck Line, Inc., and MC 113855 Sub 300, International Transport, Inc., now being assigned January 16, 1975 (2 days), at Salt Lake City, Utah, in a hearing room to be later designated.

MC 139630, Evergreen Equipment Corp., now assigned January 13, 1975, at Newark, New Jersey will be held in Room 730, Tax Court, Federal Office Building, 970 Broad Street.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-30127 Filed 12-24-74;8:45 am]

[Sixth Rev. S. O. No. 1124; Exception No. 1]

EXCEPTIONS TO CAR SERVICE ORDERS

NOVEMBER 15, 1974.

(a) Pursuant to the authority vested in me section (a)(1)(viii) of Sixth Revised Service Order No. 1124 the following exceptions to Revised Service Order No. 1124 are hereby adopted as exceptions to Sixth Revised Service Order No. 1124.

Exception No. 2—Effective April 1, 1973 (Newport News—Norfolk, VA terminal)

Exception No. 4—Effective April 1, 1973 (Penn Central ore cars located on Penn Central, Canton Railroad, or Patapsco and Back River)

Exception No. 5—Effective April 1, 1973 (Extended free time at remote stations—various railroads named in Demurrage Tariff 4-J, ICC H-59)

Exception No. 6—Effective April 7, 1973 (Certain special service gondolas on Chicago, Rock Island and Pacific)

Exception No. 7—Effective April 1, 1973 (Penn Central ore cars on Philadelphia, Bethlehem and New England)

Exception No. 10—Effective July 1, 1973 (Denver and Rio Grande Western special gondola cars in dolomite service Canyon City, Colorado)

Exception No. 11—Effective July 1, 1973 (Denver and Rio Grande Western special gondola cars in limestone service at Monarch, Colorado)

(b) The following exception to Fifth Revised Service Order No. 1124 is hereby adopted as an exception to Sixth Revised Service Order No. 1124.

Exception No. 2—Effective November 4, 1974 (Roofed Hopper Cars of mechanical designations 'HKR', 'HMR' or 'HTR')

(c) As information, Exceptions to Service Order No. 1124 or to Second, Third, Fourth or Fifth Revised Service Orders No. 1124 not specifically listed herein are no longer in effect.

Effective November 18, 1974.

Issued at Washington, D.C., November 18, 1974.

INTERSTATE COMMERCE COMMISSION,

[SEAL] R. D. PFAHLER,
Chairman, Railroad Service Board.

[FR Doc.74-30123 Filed 12-24-74;8:45 am]

[No. MC-96324 (Sub-No. 24)]

GENERAL DELIVERY, INC., EXTENSION—SHORT GAP, W. VA.

Order. At a session of the Interstate Commerce Commission, Review Board Number 1, held at its office in Washington, D.C., on the 11th day of December 1974.

Investigation of the matters and things involved in this proceeding having been made, and said review board, on the date hereof, having made and filed a report[1] herein containing its findings of fact and conclusions thereon, which report is hereby made a part hereof:

[1] Report filed as part of the original document.

It is ordered, That said application, except to the extent granted in said report, be, and it is hereby, denied.

And it is further ordered, That unless compliance is made by applicant with the requirements of sections 215, 217, and 221(c) of the Interstate Commerce Act within 90 days after the date of service hereof, or within such additional time as may be authorized by the Commission, the grant of authority made in said report, subject to the conditions set forth therein, shall be considered as null and void and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

By the Commission, Review Board Number 1.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-30128 Filed 12-24-74;8:45 am]

[Notice No. 42]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

DECEMBER 20, 1974.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC 29647 (Deviation No. 6), CHARLTON BROS. TRANSPORTATION CO., INC., 552 Jefferson Street, Hagerstown, Md. 21740, filed December 13, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Harrisburg, Pa., over Interstate Highway 78 to junction Interstate Highway 287, thence north over Interstate Highway 287 to junction Interstate Highway 80, near Troy Hills, N.J., thence east over Interstate Highway 80 to junction U.S. Highway 46, thence over U.S. Highway 46 to junction New Jersey Highway 3, thence over New Jersey Highway 3 to Hoboken, N.J., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Harrisburg, Pa., over Pennsylvania Highway 283 to Lancaster, Pa., thence over U.S. Highway 30 to Philadelphia, Pa., thence over U.S. Highway 1 to Hoboken, N.J., and return over the same routes.

No. MC 41432 (Deviation No. 25), EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, P.O. Box 10125, Dallas, Tex. 75207, filed December 4, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Lufkin, Tex., over Texas Highway 103 to junction Texas Highway 7, thence over Texas Highway 7 to junction Texas Highway 6, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Lufkin, Tex., over U.S. Highway 59 to Houston, Tex., thence over U.S. Highway 290 to junction Texas Highway 6, thence over Texas Highway 6 to Waco, Tex., and return over the same route.

No. MC 1936 (Deviation No. 14), B & P MOTOR EXPRESS, INC., 730 Gross Street, Pittsburgh, Pa. 15224, filed November 27, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Armagh, Pa., over U.S. Highway 22 to junction U.S. Highway 220, thence over U.S. Highway 220 to junction Interstate Highway 80, thence over Interstate Highway 80 to Netcong, N.J., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Armagh, Pa., over Pennsylvania Highway 56 to junction U.S. Highway 220, thence over U.S. Highway 220 to Bedford, Pa., thence over U.S. Highway 30 to Breezewood, Pa., thence over Pennsylvania Highway 126 to Warfordsburg, Pa., thence over U.S. Highway 522 to Hancock, Md., thence over U.S. Highway 40 to Baltimore, Md., thence over U.S. Highway 1 to Newark, N.J., serving all intermediate points on the specified routes and the off-route points within 30 miles of Newark, N.J., and return over the same route.

No. MC 263 (Deviation No. 14), GARRETT FREIGHTLINES, INC., P.O. Box 4048, Pocatello, Idaho 83201, filed December 3, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Portland, Oreg., over Interstate Highway 5 to junction Washington Highway 14, thence over Washington Highway 14 to junction U.S. Highway 12, thence over U.S. Highway 12 to Pasco, Wash., and return over the same route for operating convenience

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only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Portland, Oreg., over U.S. Highway 30 to Umatilla, Oreg., thence over U.S. Highway 730 to junction U.S. Highway 12, thence over U.S. Highway 12 to Pasco, Wash., and return over the same route.

No. MC 76032 (Deviation No. 26), NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223, filed December 3, 1974. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Cleveland, Ohio, over Interstate Highway 480 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Pennsylvania Highway 33, thence over Pennsylvania Highway 33 to junction Interstate Highway 78, thence over Interstate Highway 78 to junction Interstate Highway 287, thence over Interstate Highway 287 to junction U.S. Highway 1, thence over U.S. Highway 1 to Edison, N.J., and return. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Cleveland, Ohio, over U.S. Highway 422 to junction Ohio Highway 8, thence over Ohio Highway 8 to Canton, Ohio, thence over U.S. Highway 30 to junction Pennsylvania Turnpike near Irwin, Pa., thence over Pennsylvania Turnpike to junction U.S. Highway 11, thence over U.S. Highway 11 to Harrisburg, Pa., thence over U.S. Highway 22 to junction unnumbered highway near Paxtonia, Pa., thence over unnumbered highway to junction U.S. Highway 22 near Fredericksburg, Pa., thence over U.S. Highway 22 to junction unnumbered highway near Bethel, Pa., thence over unnumbered highway to junction U.S. Highway 22 near Strausstown, Pa., thence over U.S. Highway 22 to junction unnumbered highway near Walbert, Pa., thence over unnumbered highway to Easton, Pa., thence over U.S. Highway 22 to junction unnumbered highway, thence over unnumbered highway to Clinton, N.J., thence over unnumbered highway via Annandale and White House, N.J. to junction U.S. Highway 22, thence over U.S. Highway 22 to junction New Jersey Highway 28, thence over New Jersey Highway 28 to junction U.S. Highway 1 near Elizabeth, N.J., thence over U.S. Highway 1 to Edison, N.J., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-30125 Filed 12-24-74;8:45 am]

[Sixth Rev. S. O. No. 1124; Exception No. 2]

PENN CENTRAL TRANSPORTATION CO.

DECEMBER 13, 1974.

Pursuant to the authority vested in me by section (a)(1)(viii) of Sixth Revised Service Order No. 1124, the covered hopper cars listed below are exempt from the provisions of Sixth Revised Service Order No. 1124, while held for unloading on the lines of the Penn Central Transportation Company, George P. Baker, Richard C. Bond and John H. McArthur, Trustees (PC), or while held under load of cement awaiting instructions of the shipper or consignee for transfer from rail car to motor carrier at points identified as "Flexi-Flow terminals" in PC Freight Tariff 26505-D, ICC 377.

NYC 885480-885824
PC 897000-897004
PC 897050-897080
PC 897080-900199

Effective December 15, 1974.

Expires April 20, 1975.

Issued at Washington, D.C., December 13, 1974.

R. D. PFAHLER,
Chairman,
Railroad Service Board.

[FR Doc.74-30124 Filed 12-24-74;8:45 am]

[Rev. S. O. No. 994; I.C.C. Order No. 137]

SOUTHERN PACIFIC TRANSPORTATION CO.

Rerouting or Diversion of Traffic

In the opinion of R. D. Pfahler, Agent, the Southern Pacific Transportation Company, is unable to transport traffic over its line between Bonita Junction, Texas, and Cushing, Texas, because of track conditions.

It is ordered, That: (a) *Rerouting traffic.* The Southern Pacific Transportation Company, being unable to transport traffic over its line between Bonita Junction, Texas, and Cushing, Texas, because of track conditions, is hereby authorized to reroute or divert such traffic via any available route. Traffic necessary diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 2 p.m., December 13, 1974.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 31, 1975, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 13, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.74-30122 Filed 12-24-74;8:45 am]

[AB 43 (Sub-No. 8)]

ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment From Foxworth to Columbia, and Between Foxworth and Kokomo, in Marion County, Mississippi

DECEMBER 13, 1974.

The Interstate Commerce Commission hereby gives notice that: 1. On Thursday, October 24, 1974, notice was published in Marion County, Miss., that an environmental threshold assessment survey was made in the above-entitled proceeding and based on that assessment an order was served finding that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. sections 4321, et seq. 2. No comments in opposition, of an environmental nature, were received by the Commission in response to the October 24, 1974 notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.74-30120 Filed 12-24-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

DECEMBER 20, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before January 6, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 44128 (Sub-No. E1), filed June 4, 1974. Applicant: EPES TRANSPORT SYSTEM, INC., 830 S. Main Street, Blackstone, Va. 23830. Applicant's representative: James E. Wilson, Suite 1032, Pennsylvania & 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies, and equipment* (except commodities in bulk, in tank vehicles), used in marketing, packing, processing, and handling of unmanufactured tobacco and tobacco scraps and stems, (1) between points in South Carolina and that part of Georgia on and south of U.S. Highway 80, on the one hand, and, on the other, points in that part of Kentucky on and east of U.S. Highway 41, and that part of Tennessee on and east of a line beginning at the Georgia-Tennessee State line, thence along U.S. Highway 411 to junction U.S. Highway 129, thence along U.S. Highway 129 to Knoxville, thence along Interstate Highway 75 to the Kentucky-Tennessee State line, and (2) between points in South Carolina and that part of Georgia on and south of U.S. Highway 80, on the one hand, and, on the other, Ripley, Ohio, Huntington, W. Va., and New Albany and Madison, Ind., restricted in (2) above against the transportation of commodities requiring special equipment. The purpose of this filing is to eliminate the gateway of points in North Carolina.

No. MC 61242 (Sub-No. E1), filed June 2, 1974. Applicant: McKEE'S HINGHAM EXPRESS, INC., 14 Longwater Drive, Rockland, Mass. 02370. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, Mass. 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in Connecticut and New Jersey, Rochester and Niagara Falls, N.Y., and points in that part of New York on and south of Interstate Highway 90, on the one hand, and, on the other, points in Maine and New Hampshire. The purpose of this filing is to eliminate the gateway of Taunton, Mass., and points in Massachusetts within 20 miles of Taunton.

No. MC 76177 (Sub-No. E84), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Ohio to points in Texas. The purpose of this filing is to eliminate the gateway of the plant site of the Trojan-U.S. Powder, Division of the Commercial Solvents Corp., located at or near Wolf Lake (Union County), Ill.

No. MC 76177 (Sub-No. E85), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Missouri to points in Pennsylvania. The purpose of this filing is to eliminate the gateways of (1) Grafton, Ill., and points within 2 miles thereof, and (2) Jasonville, Ind., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E86), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Indiana to points in Arizona, New Mexico, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateways of (1) Grafton, Ill., and points within 2 miles thereof, and (2) Wolf Lake, Ill., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E87), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in New York to points in Texas. The purpose of this filing is to eliminate the gateways of (1) the storage magazine of the Trojan-U.S. Powder, Division of Commercial Solvents Corp., located at the junction of West Virginia Highway 62 and White Church Road near Point Pleasant (Mason County), W. Va.; (2) Grafton, Ill., and points within 2 miles thereof; (3) Wolf Lake, Ill., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E88), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Texas to points in New York and Pennsylvania. The purpose of this filing is to eliminate the gateways of (1) any point in that portion of Illinois which is both within 15 miles of Energy, Ill., and within 15 miles of Wolf Lake, Ill.; (2) the storage magazine of the Trojan-U.S. Powder, Division of Commercial Solvents Corp., located at the junction of West Virginia Highway 62 and White Church Road near Point Pleasant (Mason County), W. Va.

No. MC 76177 (Sub-No. E89), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Virginia to points in Montana. The purpose of this filing is to eliminate the gateways of (1) the storage magazine of the Trojan-U.S. Powder, Division of Commercial Solvents Corp., located at the junction of West Virginia Highway 62 and White Church Road near Point Pleasant (Mason County), W. Va.; (2) Grafton, Ill., and points within 2 miles thereof; and (3) Seneca, Ill., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E90), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Arizona, Colorado, Kansas, Montana, New Mexico, Oklahoma, South Dakota, Utah, and Wyoming to points in Kentucky. The purpose of this filing is to eliminate the gateway of Wolf Lake, Ill., and points within 15 miles thereof.

No. MC 83745 (Sub-No. E20), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and such commodities* generally requiring rigging, special equipment, or specialized handling except articles requiring special vehicular equipment for over-the-road movements between points in Westmoreland County, Pa., within 25 miles of Pittsburgh, Pa., south of U.S. Highway 30, on the one hand, and, on the other, points in Hancock, Brooke, Ohio, and

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Marshall Counties, W. Va., and those on and south of a line beginning at the West Virginia-Ohio State line and extending along West Virginia Highway 14 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction U.S. Highway 219, thence along U.S. Highway 219 to the West Virginia-Maryland State line. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83835 (Sub-No. E14), filed May 14, 1974. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Texas 75222. Applicant's representative: William A. Cunningham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and *machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except in connection with main or truck pipelines; (B) *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and byproducts, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way; and (C) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Pennsylvania west of U.S. Highway 219, on the one hand, and, on the other, points in Colorado, Iowa, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, South Dakota, and Wyoming. The purpose of this filing is to eliminate the gateways of points in Illinois.

No. MC 83835 (Sub-No. E15), filed May 14, 1974. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Texas 75222. Applicant's representative: William A. Cunningham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Contractor's heavy machinery* and other contractors' commodities requiring the use of special equipment, and (B) *Contractor's machinery and equipment* which are self propelled articles, each weighing 15,000 pounds or more, and related *contractors' machinery, tools, parts, and supplies* moving in connection therewith, restricted to commodities which are transported in trailers, (1) between points in Indiana, on the one hand, and, on the other, points in Colorado, Kansas, Missouri, and Nebraska, (2) between points in Pennsylvania, on the one hand, and, on the other, points in Kansas and Missouri, restricted in (A) and (B) above against the transportation of iron and steel and iron and steel articles, but not mining and contractors' machinery and equipment, originating at points in Indiana which are within the Chicago, Ill., Commercial Zone, as defined by the Commission. The purpose of this filing is to eliminate the gateways of points in Illinois.

No. MC 95540 (Sub-No. E337) (Correction), filed May 14, 1974, published in the FEDERAL REGISTER June 19, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, and coconuts*, and *pineapples*, when moving in the same vehicle and at the same time with bananas, from points in South Carolina east of a line beginning at the northeastern boundary and U.S. Highway 701, and proceeding along U.S. Highway 701 through Conway to Georgetown, thence along U.S. Highway 17/701 to Charleston, thence on U.S. Highway 17 to its intersection with U.S. Highway 21, thence along U.S. Highway 21 to the Atlantic Ocean, to points in Florida, Mississippi, and points in Alabama south of a line beginning at the Alabama-Mississippi State line and extending along U.S. Highway 98 to Mobile, thence along U.S. Highway 31 to Brewton, thence along U.S. Highway 29 to Andalusia, thence along Alabama Highway 55 to the Alabama-Florida State line. The purpose of this filing is to eliminate the gateway of Jacksonville, Fla. The purpose of this correction is to reflect the complete destination territory.

No. MC 95540 (Sub-No. E320), filed December 1, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome P. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and from South Edmeston, N.Y., to points in Arizona, California and New Mexico. The purpose of this filing is to eliminate the gateway of Asheville, N.C.

No. MC 95540 (Sub-No. E321), filed December 1, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome P. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, and meats, meat products, and meat byproducts*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from South Edmeston, N.Y., to points in Louisiana. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC 95540 (Sub-No. E322), filed December 1, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome P. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (except commodities in bulk in tank vehicles), from South Edmeston, N.Y., to those points in Tennessee on and south of a line beginning at the Tennessee-Georgia State line and extending along U.S. Highway 411 to its junction with Tennessee Highway 39, thence along Tennessee Highway 39 to its junction with Tennessee Highway 30, thence along Tennessee Highway 30 to its junction with U.S. Highway 705, thence along U.S. Highway 705 to its junction with U.S. Highway 70N, thence along U.S. Highway 70N to its junction with Tennessee Highway 69, thence along Tennessee Highway 69 to the Tennessee-Kentucky State line. The purpose of this filing is to eliminate the gateway of Gainesville, Va.

No. MC 107515 (Sub-No. E141), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from points in that part of Illinois on and north of Interstate Highway 80, to points in that part of Florida on, east, and south of a line beginning at the Gulf of Mexico, thence along Florida Highway 84 to junction Florida Highway 29, thence along Florida Highway 29 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Florida Highway 78, thence along Florida Highway 78 to junction U.S. Highway 441, thence along U.S. Highway 441 to junction U.S. Highway 192, thence along U.S. Highway 192 to junction Interstate Highway 95, thence along Interstate Highway 95 to junction Florida Highway 528, thence along Florida Highway 528 to the Atlantic Ocean, that part of South Carolina on, north, and east of a line beginning at the North Carolina-South Carolina State line, thence along U.S. Highway 21 to junction South Carolina 97, thence along South Carolina Highway 97 to junction U.S. Highway 521, thence along U.S. Highway 521 to junction South Carolina Highway 41, thence along South Carolina Highway 41 to the Atlantic Ocean, and that part of North Carolina on and east of

U.S. Highway 21. The purpose of this filing is to eliminate the gateways of (1) Detroit, Mich., and (2) Columbus, Ohio.

No. MC 107515 (Sub-No. E169), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE. Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned fruit juices*, in vehicles equipped with mechanical refrigeration, from points in that part of Florida on and south of a line beginning at the Gulf of Mexico, thence along Florida Highway 44 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction Florida Highway 46, thence along Florida Highway 46 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction Florida Highway 520, thence along Florida Highway 520 to the Atlantic Ocean, to points in Alabama on and north of a line beginning at the Georgia-Alabama State line, thence along Alabama Highway 22 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction Alabama Highway 25, thence along Alabama Highway 25 to junction Alabama Highway 14, thence along Alabama Highway 14 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Alabama Highway 28, thence along Alabama Highway 28 to junction Alabama Highway 17, thence along Alabama Highway 17 to junction Alabama Highway 12, thence along Alabama Highway 12 to the Alabama-Mississippi State line, that part of Mississippi on and north of the Mississippi-Alabama State line, thence along Mississippi Highway 16 to junction Mississippi Highway 21, thence along Mississippi Highway 21 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Louisiana-Mississippi State line, and that part of Louisiana on and north of a line beginning at the Louisiana-Mississippi State line, thence along U.S. Highway 84 to junction Louisiana Highway 28, thence along Louisiana Highway 28 to junction Louisiana Highway 8, thence along Louisiana Highway 8 to the Texas-Louisiana State line. The purpose of this filing is to eliminate the gateway of the plant site of Commercial Cold Storage, Inc., at or near Doraville, Ga.

No. MC 107515 (Sub-No. E170), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned citrus products*, in mixed loads with citrus products, frozen (presently authorized), and/or citrus products, not canned and not frozen (presently authorized), from points in that part of Florida on and south of a line beginning at the Gulf of Mexico, thence along Florida Highway 24 to junction U.S. Alternate Highway 27, thence along U.S. Alternate Highway 27 to junction Florida Highway 40, thence along Florida Highway 40 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction Florida Highway 46, thence along Florida Highway 46 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction Florida Highway 528, thence along Florida Highway 528 to the Atlantic Ocean, to points in that part of Pennsylvania on and north of a line beginning at the Pennsylvania-West Virginia State line, thence along Interstate Highway 79 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Interstate Highway 76, thence along Interstate Highway 76 to Pennsylvania Highway 28, thence along Pennsylvania Highway 28 to junction U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-New York State line, in that part of New York on, north, and west of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 219 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 16, thence along New York Highway 16 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 70, thence along New York Highway 70 to junction New York Highway 54, thence along New York Highway 54 to junction New York Highway 14, thence along New York Highway 14 to junction U.S. Highway 20, thence along U.S. Highway 20 to New York Highway 12, thence along New York Highway 12 to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 30, thence along New York Highway 30 to the International Boundary line between the United States and Canada. The purpose of this filing is to eliminate the gateway of the plant site of Food Specialties of Kentucky, Division of Oscar Ewing, Inc., in Jefferson County, Ky.

No. MC 107515 (Sub-No. E171), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 20326. Authority sought to operate as a *common carrier*, by motor vehicle, over routes, transporting: *Citrus products*, not canned and not frozen, in vehicles equipped with mechanical refrigeration, from points in that part of Florida on and south of a line beginning at the Gulf of Mexico, thence along Florida Highway 24 to junction U.S. Alternate Highway 27, thence along U.S. Alternate Highway 27 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Florida Highway 40, thence along Florida Highway 40 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction Florida Highway 46, thence along Florida Highway 46 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction Florida Highway 528, thence along Florida Highway 528 to the Atlantic Ocean, to points in that part of Pennsylvania on and north of a line beginning at the Pennsylvania-West Virginia State line, thence along Interstate Highway 79 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction Pennsylvania Highway 28, thence along Pennsylvania Highway 28 to junction U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-New York State line, in that part of New York on and north of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 219 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 16, thence along New York Highway 16 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 70, thence along New York Highway 70 to junction New York Highway 54, thence along New York Highway 54 to junction New York Highway 14, thence along New York Highway 14 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction New York Highway 12, thence along New York Highway 12 to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 30, thence along New York Highway 30 to the International Boundary line between the United States and Canada. The purpose of this filing is to eliminate the gateway of the plant site of Food Specialties of Kentucky, Division of Oscar Ewing, Inc., in Jefferson County, Ky.

No. MC 107515 (Sub-No. E172), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen, fresh, and cured meats*, from points in that part of Florida on and east of a line beginning at the Georgia-Florida State line, thence along Florida Highway 53 to junction Florida Highway 14, thence along Florida Highway 14 to junction U.S. Highway 221, thence along U.S. Highway 221 to junction U.S. Alternate Highway 27, thence along U.S. Alternate Highway 27 to junction Florida Highway 361, thence along Florida Highway 361 to the Gulf of Mexico, to Baltimore, Md., and to points in New Jersey, New York, Delaware, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, that part of Virginia on and east of a line beginning at the Virginia-North Carolina State line, thence along U.S. Highway 258 to junction Virginia Highway

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10, thence along Virginia Highway 10 to junction Virginia Highway 31, thence along Virginia Highway 31 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Interstate Highway 64, thence along Interstate Highway 64 to junction Virginia Highway 33, thence along Virginia Highway 33 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction U.S. Highway 301, thence along U.S. Highway 301 to the Potomac River, in that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, thence along Interstate Highway 83 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateways of (1) any point that is both within 5 miles of Macon, Ga., and within the Macon commercial zone as defined by the Commission (except Macon, Ga.), and (2) Gatesville, N.C.

No. MC 107515 (Sub-No. E174), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen, fresh, and cured meats*, from points in that part of Florida on and west of a line beginning at the Florida-Georgia State line, thence along Florida Highway 53 to junction Florida Highway 14, thence along Florida Highway 14 to junction U.S. Highway 221, thence along U.S. Highway 221 to junction U.S. Alternate Highway 27, thence along U.S. Alternate Highway 27 to junction Florida Highway 361, thence along Florida Highway 361 to the Gulf of Mexico, to the District of Columbia and to points in New York, New Jersey, Delaware, Connecticut, Rhode Island, Vermont, New Hampshire, Massachusetts, Maine, that part of Maryland on and east of Interstate Highway 81, that part of Virginia on and east of U.S. Highway 15, and that part of Pennsylvania on and east of U.S. Highway 219. The purpose of this filing is to eliminate the gateways of (1) any point that is both within 10 miles of Atlanta, Ga., and within the Atlanta, commercial zone as defined by the Commission, (except Atlanta), and (2) Gatesville, N.C.

No. MC 107515 (Sub-No. E277), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in the Appendix to the report in *Modification of Permits-Packing House Products*, 46 M.C.C. 23, 48 M.C.C. 628, in vehicles equipped with mechanical refrigeration, (1) from points in Indiana to points in that part of Massachusetts north of Massachusetts Highway 123, (2) from points in that part of Indiana on, west, and north of a line beginning at the Indiana-Ohio State line, thence along U.S. Highway 24 to junction Indiana Highway 25, thence along Indiana Highway 25 to junction Indiana Highway 28, thence along Indiana Highway 28 to the Indiana-Illinois State line, to New York, N.Y., and to points in Connecticut, Rhode Island, Massachusetts, and Hudson and Essex Counties, N.J., and (3) from points in that part of Indiana on, south, and east of a line beginning at the Indiana-Ohio State line, thence along Indiana Highway 8 to junction Indiana Highway 1, thence along Indiana Highway 1 to junction Interstate Highway 69, thence along Interstate Highway 69 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Indiana Highway 25, thence along Indiana Highway 25 to junction Indiana Highway 28, thence along Indiana Highway 28 to the Illinois-Indiana State line, to Syracuse, N.Y. The purpose of this filing is to elimtnate the gateway of Detroit, Mich.

No. MC 107515 (Sub-No. E279), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except with commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the plant site and warehouse facilities utilized by Armour & Co., at Indianapolis, Ind., to points in that part of Texas on and south of a line beginning at the International Boundary line between the United States and Mexico, thence along U.S. Highway 57 to San Antonio, thence along Interstate Highway 10 to the Texas-Louisiana State line, restricted (1) to the transportation of shipments originating at the plant site and warehouse facilities utilized by (a) Armour & Co., at Louisville, Ky., and Evansville and Washington, Ind., and (b) Wilson Certified Foods, Inc., at Louisville, Ky., and (2) against the transportation of shipments from Evansville and Indianapolis, Ind., to Memphis, Tenn., and those points in Tennessee located in the Memphis, commercial zone, as defined by the Commission, and points in Mississippi. The purpose of this filing is to eliminate the gateway of Montgomery, Ala.

No. MC 107515 (Sub-No. E280), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, (1) from points in that part of Indiana on and west of a line beginning at the Indiana-Michigan State line, thence along Indiana Highway 15 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Indiana Highway 57, thence along Indiana Highway 57 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Indiana-Kentucky State line, to points in Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, New York, to points in that part of Pennsylvania on, north, and east of a line beginning at the Maryland-Pennsylvania State line, thence along Pennsylvania Highway 472 to junction U.S. Highway 222, thence along U.S. Highway 222 to junction Pennsylvania Highway 283, thence along Pennsylvania Highway 283 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Highway 350, thence along Pennsylvania Highway 350 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Ohio-Pennsylvania State line, and points in that part of Maryland located on the Delmarva Peninsula, and those points in Maryland on and south of a line beginning at the Potomac River, thence along U.S. Highway 301 to junction Maryland Highway 177, thence along Maryland Highway 177 to the Chesapeake Bay.

(2) From points in that part of Indiana on and west of a line beginning at the Michigan-Indiana State line, thence along Indiana Highway 19 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway, 31, thence along U.S. Highway 31 to junction Indiana Highway 25, thence along Indiana Highway 25 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Kentucky-Indiana State line, to points in that part of Pennsylvania on, north, and east of a line beginning at the Ohio-Pennsylvania State line, thence along U.S. Highway 422 to junction Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Pennsylvania Highway 16, thence along Pennsylvania Highway 16 to the Maryland-Pennsylvania State line, and that part of Maryland on and north of a line beginning at the Maryland-Pennsylvania State line, thence along Maryland Highway 97 to junction U.S. Highway 140, thence along U.S. Highway 140 to Baltimore, thence along Maryland Highway 2 to Annapolis, thence along U.S. Highway 50 to the

Chesapeake Bay, (3) from points in that part of Indiana on and north of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 24 to Logansport, thence along Indiana Highway 25 to junction Interstate Highway 74, thence along Interstate Highway 74 to the Illinois-Indiana State line, to the District of Columbia, and to points in Maryland, that part of Pennsylvania on, east, and south of a line beginning at the New York-Pennsylvania State line, thence along Pennsylvania Highway 5 to junction Pennsylvania Highway 89, thence along Pennsylvania Highway 89 to junction Pennsylvania Highway 8, thence along Pennsylvania Highway 8 to junction Pennsylvania Highway 257, thence along Pennsylvania Highway 257 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 160, thence along Pennsylvania Highway 160 to the Pennsylvania-Maryland State line, in that part of Virginia on and east of a line beginning at the North Carolina-Virginia State line, thence along U.S. Highway 29 to junction U.S. Highway 501, thence along U.S. Highway 501 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Virginia Highway 42, thence along Virginia Highway 42 to junction Virginia Highway 259, thence along Virginia Highway 259 to the Virginia-West Virginia State line, and (4) from points in Indiana, to points in Massachusetts and Rhode Island. The purpose of this filing is to eliminate the gateway of Mendon, Mich.

No. MC 107515 (Sub-No. E317), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen meats and meat products* (except hides and commodities in bulk), from Holton, Kans., to points in that part of Virginia on and east of a line beginning at the North Carolina-Virginia State line, thence along Interstate Highway 85 to junction Interstate Highway 95, thence along Interstate Highway 95 to Richmond, thence along U.S. Highway 301 to the Virginia-Maryland State line, that part of Maryland on and east of U.S. Highway 301, that part of Delaware on and south of a line beginning at the Maryland-Delaware State line, thence along U.S. Highway 301 to junction Delaware Highway 310, thence along Delaware Highway 310 to the Delaware River, that part of Massachusetts on and east of a line beginning at the Connecticut-Massachusetts State line, thence along Connecticut Highway 15 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Interstate Highway 290, thence along Interstate Highway 290 to junction Interstate Highway 495, thence along Interstate Highway 495 to the New Hampshire-Massachusetts State line, that part of New Hampshire on and south of Interstate Highway 95, that part of Maine on and east of Interstate Highway 95, and points in Rhode Island. The purpose of this filing is to eliminate the gateway of Gatesville, N.C.

No. MC 107515 (Sub-No. E319), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Kansas City, Kans., to the District of Columbia, and points in that part of Virginia on and east of U.S. Highway 29, that part of Maryland on and south of a line beginning at the Potomac River, thence along Interstate Highway 495 to junction U.S. Highway 301, thence along U.S. Highway 301 to junction Maryland Highway 300, thence along Maryland Highway 300 to the Maryland-Delaware State line, that part of Connecticut on and east of a line beginning at Long Island Sound, thence along Interstate Highway 91 to junction Interstate Highway 86, thence along Interstate Highway 86 to the Connecticut-Massachusetts State line, and that part of Massachusetts on and east of a line beginning at the Connecticut-Massachusetts State line, thence along Interstate Highway 86 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Interstate Highway 495, thence along Interstate Highway 495 to the Massachusetts-New Hampshire State line, restricted against the transportation of traffic originating at points in the Missouri part of the Kansas City, Kans.-Kansas City, Mo., commercial zone, as defined by the Commission. The purpose of this filing is to eliminate the gateway of Rocky Mount, N.C

No. MC 107515 (Sub-No. E324), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettelbaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Those edible meats, edible meat products, and edible dairy products*, that are described in sections A and B of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from points in that part of Iowa on, south, and west of a line beginning at the Illinois-Iowa State line, thence along U.S. Highway 34 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 163, thence along Iowa Highway 163 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Missouri River, to points in that part of Virginia on and east of U.S. Highway 360. The purpose of this filing is to eliminate the gateways of the plant sites of Family Foods, Inc., and Ambrosia Chocolate Co., Division of W. R. Grace & Co., at Charlotte, N.C.

No. MC 107515 (Sub-No. E320), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible meats and edible meat products*, from Wichita, Kans., to the District of Columbia and to points in Connecticut, Delaware, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Maryland, Virginia, West Virginia, that part of Michigan on and east of a line beginning at the International Boundary line between the United States and Canada, thence along Interstate Highway 75 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Indiana-Michigan State line, in that part of Indiana on and east of a line beginning at the Indiana-Michigan State line, thence along Indiana Highway 15 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 150, thence along U.S. Highway 150/15 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Indiana-Kentucky State line, restricted to the transportation of traffic originating at Wichita, Kans. The purpose of this filing is to eliminate the gateway of the plant site of Food Specialties of Kentucky, Division of Oscar Ewing, Inc., in Jefferson County, Ky.

No. MC 107515 (Sub-No. E329), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen edible meats, frozen edible meat products, and frozen dairy products*, from points in that part of Iowa on, north, and east of a line beginning at the Iowa-Illinois State line, thence along Iowa Highway 103 to junction U.S. Highway 218, thence along U.S. Highway 218 to the Iowa-Minnesota State line, to points in Florida, that part of Alabama on and east of a line beginning at the Alabama-Tennessee State line, thence along Interstate Highway 65 to junction Interstate Highway 59, thence along Interstate Highway 59 to junction Alabama Highway 5, thence along Alabama Highway 5 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction U.S. Highway 90, thence along U.S. Highway 90 to Pascagoula, in that part

of Tennessee on and south of a line beginning at the Alabama-Tennessee State line, thence along Tennessee Highway 110 to junction Tennessee Highway 56, thence along Tennessee Highway 56 to junction Tennessee Highway 55, thence along Tennessee Highway 55 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction Tennessee Highway 33, thence along Tennessee Highway 33 to the Tennessee-Virginia State line. The purpose of this filing is to eliminate the gateway of Roseville, Ga.

No. MC 107515 (Sub-No. E408), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Unfrozen fresh and cured meats*, from points in Alabama, to the District of Columbia, and to points in Delaware, New Jersey, Massachusetts, Connecticut, Rhode Island, Vermont, New Hampshire, Maine, that part of Virginia on and east of Interstate Highway 95, that part of Maryland on and east of Interstate Highway 95, that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, thence along U.S. Highway 222 to junction Pennsylvania Highway 501, thence along Pennsylvania Highway 501 to junction Pennsylvania Highway 645, thence along Pennsylvania Highway 645 to junction Pennsylvania Highway 125, thence along Pennsylvania Highway 125 to junction U.S. Highway 209, thence along U.S. Highway 209 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to junction Pennsylvania Highway 42, thence along Pennsylvania Highway 42 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Pennsylvania-New York State line, in that part of New York on and east of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 220 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 26, thence along New York Highway 26 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 30, thence along New York Highway 30 to the International Boundary line between the United States and Canada. The purpose of this filing is to eliminate the gateways of (1) any point that is both within 10 miles of Atlanta, Ga., and is within the Atlanta, commercial zone as defined by the Commission, (except Atlanta), and (2) Gatesville, N.C.

No. MC 107515 (Sub No. E421), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from Carrollton, Ga., to points in Missouri, Iowa, Minnesota, Wisconsin, Michigan, that part of Pennsylvania on and north of a line beginning at the Pennsylvania-Maryland State line, thence along U.S. Highway 522 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line, in that part of West Virginia on and north of a line beginning at the Kentucky-West Virginia State line, thence along U.S. Highway 60 to junction West Virginia Highway 4, thence along West Virginia Highway 4 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 50, thence along U.S. Highway 50 to the West Virginia-Maryland State line. The purpose of this filing is to eliminate the gateway of the plant site of Odom's Sausage Co., at Madison, Tenn.

No. MC 114211 (Sub-No. E183), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except commodities which because of size or weight require the use of special equipment, and of those described in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459), from points in that part of Iowa on and west of a line beginning at the Minnesota-Iowa State line, thence along Iowa Highway 4 to junction Iowa Highway 25, thence along Iowa Highway 25 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Iowa-Missouri State line, to points in that part of Florida on and south of a line beginning at the Georgia-Florida State line, thence along Interstate Highway 41 to junction Florida Highway 100, thence along Florida Highway 100 to junction U.S. Highway 301, thence along U.S. Highway 301 to junction Florida Highway 16, thence along Florida Highway 16 to St. Augustine, that part of Georgia on and south of a line beginning at the Alabama-Georgia State line, thence along Georgia Highway 91 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Interstate Highway 75, thence along Interstate Highway 75 to the Georgia-Florida State line, and that part of Alabama on and south of a line beginning at the Alabama-Mississippi State line, thence along Alabama Highway 10 to junction Alabama Highway 17, thence along Alabama Highway 17 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Alabama Highway 55, thence along Alabama Highway 55 to the Florida-Alabama State line, that part of Mississippi on and south of a line beginning at the Arkansas-Mississippi State line, thence along U.S. Highway 82 to junction U.S. Highway 49E, thence along U.S. Highway 49E to junction Mississippi Highway 12, thence along Mississippi Highway 12 to junction Mississippi Highway 19, thence along Mississippi Highway 19 to the Mississippi-Alabama State line, and that part of Arkansas on and south of a line beginning at the Oklahoma-Arkansas State line, thence along U.S. Highway 271 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Arkansas Highway 270, thence along Arkansas Highway 270 to junction Arkansas Highway 7, thence along Arkansas Highway 7 to junction Arkansas Highway 8, thence along Arkansas Highway 8 to junction Arkansas Highway 4, thence along Arkansas Highway 4 to junction Arkansas Highway 35, thence along Arkansas Highway 35 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 82, thence along U.S. Highway 82 to the Mississippi-Arkansas State line, and to points in Louisiana. The purpose of this filing is to eliminate the gateways of points in Kansas, and Claremore, Okla.

No. MC 114211 (Sub-No. E194) filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm tractors and parts thereof*, from Racine, Wis., to points in Colorado, Kansas, and that part of Nebraska on and south of a line beginning at the Missouri-Nebraska State line, thence along Nebraska Highway 2 to junction Nebraska Highway 43, thence along Nebraska Highway 43 to junction Nebraska Highway 33, thence along Nebraska Highway 33 to junction Iowa Highway 6, thence along Iowa Highway 6 to junction Nebraska Highway 44, thence along Nebraska Highway 44 to junction Nebraska Highway 10, thence along Nebraska Highway 10 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction Interstate Highway 385, thence along Interstate Highway 385 to the South Dakota-Nebraska State line. The purpose of this filing is to eliminate the gateways of points in DeWitt, Logan, Macon, or Sangamon Counties, Ill.

No. MC 114211 (Sub-No. E195), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Road building equipment*, from points in North Dakota to points in that part of Oklahoma on and east of U.S. Highway 281, and that part of Texas on, south, and

east of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 281 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 57, thence along U.S. Highway 57 to the International Boundary line between the United States and Mexico. The purpose of this filing is to eliminate the gateways of Canton, S. Dak., and points in Kansas.

No. MC 114211 (Sub-No. E264), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe and fittings therefore*, when moving with such pipe, from points in that part of Texas on and west of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 283 to junction U.S. Highway 277, thence along U.S. Highway 277 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 377, thence along U.S. Highway 377 to Del Rio, and that part of Oklahoma on and west of a line beginning at the Kansas-Oklahoma State line, thence along U.S. Highway 281 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 283, thence along U.S. Highway 283 to the Oklahoma-Texas State line, to points in Wisconsin, Michigan, that part of Indiana on and north of U.S. Highway 24, that part of Illinois on and north of a line beginning at the Iowa-Illinois State line, thence along U.S. Highway 34 to junction Illinois Highway 116, thence along Illinois Highway 116 to junction Illinois Highway 74, thence along Illinois Highway 74 to junction Illinois Highway 9, thence along Illinois Highway 9 to junction Illinois Highway 54, thence along Illinois Highway 54 to junction Illinois Highway 57, thence along Illinois Highway 57 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Illinois-Indiana State line, that part of Nebraska on, north, and east of a line beginning at the Iowa-Nebraska State line, thence along Nebraska Highway 92 to junction U.S. Highway 275, thence along U.S. Highway 275 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Nebraska-South Dakota State line, that part of South Dakota on and east of a line beginning at the Nebraska-South Dakota State line, thence along U.S. Highway 81 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction South Dakota Highway 37, thence along South Dakota Highway 37 to junction South Dakota Highway 34, thence along South Dakota Highway 34 to junction U.S. Highway 281, thence along U.S. Highway 281 to the South Dakota-North Dakota State line, and that part of North Dakota on and east of a line beginning at the South Dakota-North Dakota State line, thence along U.S. Highway 281 to junction North Dakota Highway 57, thence along North Dakota Highway 57 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction North Dakota Highway 1, thence along North Dakota Highway 1 to the International Boundary line between the United States and Canada. The purpose of this filing is to eliminate the gateway of the plantsite of the Griffin Pipe Company located at or near Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E294), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, from points in North Dakota to points in that part of Missouri on and east of U.S. Highway 63. The purpose of this filing is to eliminate the gateway of Ft. Dodge, Iowa.

No. MC 115603 (Sub-No. E10), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Oklahoma 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main or trunk pipelines; (2) *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (3) *Earth Drilling machinery and equipment*, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled.

(c) The production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, (a) between points in Mississippi on and east of a line beginning at the Mississippi Louisiana State line and extending along Mississippi Highway 27 to its junction with U.S. Highway 51, thence along U.S. Highway 51 to its junction with U.S. Highway 49, thence along U.S. Highway 49 to its junction with U.S. Highway 49W, thence along U.S. Highway 49W to its junction with Mississippi Highway 14, thence along Mississippi Highway 14 to Mayersville, thence west along a straight line to the Mississippi-Louisiana State line, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Arkansas State line and extending along Texas Highway 8 to its junction with Texas Highway 98, thence along Texas Highway 98 to its junction with U.S. Highway 67, thence along U.S. Highway 67 to its junction with U.S. Highway 259, thence along U.S. Highway 259 to its junction with Texas Highway 557, thence along Texas Highway 557 to its junction with Texas Highway 11, thence along Texas Highway 11 to its junction with Texas Highway 515, thence along Texas Highway 515 to its junction with Texas Highway 514, thence along Texas Highway 514 to its junction with Texas Highway 19, thence along Texas Highway 19 to its junction with Texas Highway 35, thence along Texas Highway 35 to its junction with Interstate Highway 30, thence along Interstate Highway 30 to its junction with Interstate Highway 635, thence along Interstate Highway 635 to its junction with Interstate Highway 20, thence along Interstate Highway 20 to its junction with U.S. Highway 377, thence along U.S. Highway 377 to its junction with Texas Highway 42, thence along Texas Highway 32 to its junction with Texas Highway 29, thence along Texas Highway 29 to its junction with U.S. Highway 290, thence along U.S. Highway 290 to its junction with U.S. Highway 67, thence along U.S. Highway 67 to the United States-Mexico International Boundary line.

(b) Between points in Mississippi, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 259 to its junction with U.S. Highway 82, thence along U.S. Highway 82 to its junction with Texas Highway 121, thence along Texas Highway 121 to its junction with Texas Highway 5, thence along Texas Highway 5 to its junction with U.S. Highway 380, thence along U.S. Highway 380 to its junction with Texas Highway 67, thence along Texas Highway 67 to its junction with U.S. Highway 180, thence along U.S. Highway 180 to its junction with Texas Highway 351, thence along Texas Highway 351 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with U.S. Highway 67, thence along U.S. Highway 67 to its junction with U.S. Highway 385, thence along U.S. Highway 385 to its junction with Texas Highway 118 thence along Texas Highway 118 to the United States-Mexico International Boundary line; (c) between points in Mississippi on and north of a line beginning at the Mississippi-Alabama State line and extending along U.S. Highway 69 to its

junction with U.S. Highway 82, thence along U.S. Highway 82 to its junction with U.S. Highway Alternate 45, thence along U.S. Highway Alternate 45 to its junction with Mississippi Highway 41, thence along Mississippi Highway 41 to its junction with Mississippi Highway 6, thence along Mississippi Highway 6 to its junction with Mississippi Highway 7, thence along Mississippi Highway 7 to its junction with U.S. Highway 78, thence along U.S. Highway 78 to the Mississippi-Tennessee State line, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Arkansas State line and extending along Texas Highway 8 to its junction with U.S. Highway 67, thence along U.S. Highway 67 to its junction with U.S. Highway 259, thence along U.S. Highway 259 to its junction with Texas Highway 31, thence along Texas Highway 31 to its junction with U.S. Highway 77, thence along U.S. Highway 77 to its junction with U.S. Highway 87, thence along U.S. Highway 87 to the Gulf of Mexico at Port Lavaca.

(d) Between points in Mississippi on and north of a line beginning at the Mississippi-Alabama State line and extending along U.S. Highway 78 to its junction with Mississippi Highway 6, thence along Mississippi Highway 6 to its junction with Mississippi Highway 321, thence along Mississippi Highway 321 to Sherard, thence west along a straight line to the Mississippi-Arkansas State line, on the one hand, and, on the other, points in Texas on and west of a line beginning at Galveston on the Gulf of Mexico and extending along Interstate Highway 45 to its junction with U.S. Highway 290, thence along U.S. Highway 290 to its junction with U.S. Highway 183, thence along U.S. Highway 183 to the Texas-Oklahoma State line; and (e) between points in Mississippi on and east of a line beginning at the Mississippi-Tennessee State line and extending along U.S. Highway 45 to its junction with U.S. Highway 78, thence along U.S. Highway 78 to the Mississippi-Alabama State line, on the one hand, and, on the other, points in Texas on and west of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 69 to its junction with U.S. Highway 59, thence along U.S. Highway 59, to its junction with Interstate Highway 45, thence along Interstate Highway 45 to Galveston on the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E12), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main or trunk pipelines; (2) *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (3) *earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells; between points in New Mexico, on the one hand, and, on the other, points in Missouri. The purpose of this filing is to eliminate the gateways of points in Oklahoma, Kansas, and Texas.

No. MC 115603 (Sub-No. E13), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main or trunk pipe lines; (2) *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (3) *earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells; (a) between points in Nebraska, on the one hand, and, on the other, points in New Mexico on and south of a line beginning at the New Mexico-Oklahoma State line and extending along New Mexico Highway 326 to its junction with New Mexico Highway 370, thence along New Mexico Highway 370 to its junction with New Mexico Highway 120, thence along New Mexico Highway 120 to its junction with Interstate Highway 25, thence along Interstate Highway 25 to its junction with Interstate Highway 40, thence along Interstate Highway 40 to the New Mexico-Arizona State line; and (b) between points in New Mexico, on the one hand, and, on the other, points in Nebraska on and east of a line beginning at the Nebraska-Colorado State line and extending along Nebraska Highway 11 to its junction with U.S. Highway 30, thence along U.S. Highway 30 to its junction with Nebraska Highway 27, thence along Nebraska Highway 27 to its junction at Oshkosh with unnumbered highway, thence along unnumbered highway to Nebraska Highway 250, thence along Nebraska Highway 250 to its junction with Nebraska Highway 87, thence along Nebraska Highway 87 to the Nebraska-South Dakota State line. The purpose of this filing is to eliminate the gateway of points in Oklahoma and Kansas.

No. MC 115603 (Sub-No. E14), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof (except the stringing or picking up of pipe in connection with main or trunk pipelines): (2) *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (3) Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe incidental to, used in, or

in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities, and (d) the injection or removal of commodities into or from holes or wells, between points in New Mexico, on the one hand, and, on the other, points in South Dakota. The purpose of this filing is to eliminate the gateway of points in Kansas.

No. MC 115603 (Sub-No. E15), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery materials, equipment and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except the stringing or picking up of pipe in connection with main or trunk pipelines; (2) *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (3) Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells.

(a) Between points in New Mexico, on the one hand, and, on the other, points in North Dakota between a line beginning at the North Dakota-South Dakota State line and extending along North Dakota Highway 8 to its junction with North Dakota Highway 23, thence along North Dakota Highway 23 to its junction with North Dakota Highway 1804, thence along North Dakota Highway 1804 to its junction with U.S. Highway 2, thence along U.S. Highway 2 to its junction with North Dakota Highway 40, thence along North Dakota Highway 40 to its junction with North Dakota Highway 50, thence along North Dakota Highway 50 to its junction with North Dakota Highway 42, thence along North Dakota Highway 42 to the United States-Canada International Boundary line, and, a line beginning at the United States-Canada International Boundary line and extending along North Dakota Highway 30 to Lehr, thence along unnumbered highway to its junction with North Dakota Highway 3, and thence along North Dakota Highway 3 to the North Dakota-South Dakota State line; and (b) between points in North Dakota on and west of a line beginning at the United States-Canada International Boundary line and extending along North Dakota Highway 30 to Lehr, thence along unnumbered highway to North Dakota Highway 3, thence along North Dakota Highway 3 to the North Dakota-South Dakota State line, on the one hand, and, on the other, points in New Mexico on and east of a line beginning at the New Mexico-Colorado State line and extending along U.S. Highway 84 to its junction with New Mexico Highway 17, thence along New Mexico Highway 17 to its junction with New Mexico Highway 537, thence along New Mexico Highway 537 to its junction with New Mexico Highway 44, thence along New Mexico Highway 44 to its junction with New Mexico Highway 509, thence along New Mexico Highway 509 to its junction with New Mexico Highway 53, thence along New Mexico Highway 53 to its junction with Interstate Highway 40, thence west along Interstate Highway 40 to the New Mexico-Arizona State line. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 115603 (Sub-No. E16), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, materials, supplies, and equipment* incidental to, or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum; and (2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (a) between points in Colorado on and north of a line beginning at the Colorado-Wyoming State line and extending along Colorado Highway 318 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with Colorado Highway 9, thence along Colorado Highway 9 to its junction with U.S. Highway 50, thence along U.S. Highway 50 to its junction with unnumbered highway near Vineland, thence south and east along unnumbered highway to its junction with Colorado Highway 389, thence along Colorado Highway 389 to the Colorado-New Mexico State line, on the one hand, and, on the other, points in New Mexico on and east of a line beginning at the New Mexico-Oklahoma State line and extending along New Mexico Highway 18 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with U.S. Highway 70, thence along U.S. Highway 70 to its junction with New Mexico Highway 11, thence along New Mexico Highway 11 to the United States-Mexico International Boundary line; and (b) between points in Colorado on and east of a line beginning at the Colorado-Nebraska State line and extending along Colorado Highway 113 to its junction with U.S. Highway 138, thence along U.S. Highway 138 to its junction with U.S. Highway 6, thence along U.S. Highway 6 to its junction with Colorado Highway 63, thence along Colorado Highway 63 to its junction with U.S. Highway 34, thence along U.S. Highway 34 to the Colorado-Nebraska State line, on the one hand, and, on the other, points in New Mexico on and south of a line beginning at the New Mexico-Texas State line and extending along Interstate Highway 40 to its junction with Interstate Highway 25, thence along Interstate Highway 25 to its junction with Interstate Highway 10, thence along Interstate Highway 10 to the New Mexico-Texas State line. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E21), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main or trunk pipe lines; (2) *machinery, equipment, materials, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (3) *earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and*

pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells; (a) between points in Louisiana, on the one hand, and, on the other, points in Missouri on and west of a line beginning at the Missouri-Iowa State line and extending along Missouri Highway 15 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction U.S. Highway 50, thence along U.S. Highway 50 to its junction with Missouri Highway 5, thence along Missouri Highway 5 to its junction with Missouri Highway 52, thence along Missouri Highway 52 to its junction with the Missouri Highway 13, thence along Missouri Highway 13 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with Missouri Highway 39, thence along Missouri Highway 39 to the Missouri-Arkansas State line (points in Oklahoma)*.

(b) Between points in Missouri on and north of a line beginning at the Missouri-Illinois State line and extending along U.S. Highway 50 to its junction with Missouri Highway 5, thence along Missouri Highway 5 to its junction with Missouri Highway 52, thence along Missouri Highway 52 to its junction with Missouri Highway 13, thence along Missouri Highway 13 to the Missouri-Kansas State line, on the one hand, and, on the other, points in Louisiana on and west of a line beginning at the Louisiana-Arkansas State line and extending along U.S. Highway 167 to its junction with U.S. Highway 90, thence along U.S. Highway 90 to its junction with U.S. Highway 165, thence along U.S. Highway 165 to its junction with Louisiana Highway 1, thence along Louisiana Highway 1 to its intersection with U.S. Highway 190, thence along U.S. Highway 190 to its intersection with U.S. Highway BUS 61, thence along U.S. Highway BUS 61 to its junction with Interstate Highway 10, thence along Interstate Highway 10 to its junction with Louisiana Highway 1, thence along Louisiana Highway 1 to the Gulf of Mexico (points in Texas)*; and (c) between points in Missouri on and west of a line beginning at Missouri-Illinois State line and extending along U.S. Highway 50 to its junction with U.S. Highway 67, thence along U.S. Highway 67 to the Missouri-Arkansas State line and extending along Louisiana Highway 7 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with Louisiana Highway 10, thence along Louisiana Highway 10 to its junction with U.S. Highway 167, thence along U.S. Highway 167 to its junction with U.S. Highway 90, thence along U.S. Highway 90 to its junction with Louisiana Highway 1, thence along Louisiana Highway 1 to the Gulf of Mexico (points in Texas)*. The purpose of this filing is to eliminate the gateways marked with asterisks above.

No. MC 115003 (Sub-No. E22), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main or trunk pipe lines, (2) *machinery, equipment, materials, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipelines rights-of-way; and (3) *earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells; between points in Louisiana, on the one hand, and, on the other, points in Nebraska. The purpose of this filing is to eliminate the gateways of points in Kansas, Oklahoma and Texas.

No. MC 115003 (Sub-No. E23), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main or trunk pipelines, (2) *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-ways; and (3) *Earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Louisiana, on the one hand, and, on the other, points in South Dakota. The purpose of this filing is to eliminate the gateways of points in Kansas, Oklahoma and Texas.

No. MC 115003 (Sub-No. E24), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., Inc., P.O. Box 94626, Oklahoma, City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, *maintenance* and dismantling of pipe lines, including the stringing and picking up thereof except the *stringing* or picking up of pipe in connection with *main* or trunk pipe lines; (2) *Machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipelines rights-or-way; and (3) *Earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Louisiana, on the one hand, and, on the other, points in North Dakota on and west of a line

beginning at the United States-Canada International Boundary line and extending along North Dakota Highway 30 to Lehr, thence along unnumbered highway to Ashley, and thence along North Dakota Highway 3 to the North Dakota-South Dakota State line. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 115603 (Sub-No. E25), filed May 30, 1974. Applicant: TURNER BROTHERS TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Oklahoma 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, materials, supplies*, and equipment incidental to, or used in the construction, development, operation and maintenance of facilities for the discovery, development and production of natural gas and petroleum; and (2) *Earth drilling machinery and equipment, and machinery, equipment materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells; between points in Louisiana, on the one hand, and, on the other, points in Colorado. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E26), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Oklahoma 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, materials, supplies*, and *equipment*, incidental to, or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum; and (2) *Earth Drilling machinery* and *equipment*, and *machinery, equipment, materials, supplies* and *pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Louisiana, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateways of points in Oklahoma.

No. MC 115603 (Sub-No. E27), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Oklahoma 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by products, and machinery, materials, equipment, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof; (1) between points in Louisiana, on the one hand, and, on the other, points in Arkansas on and west of a line beginning at the Arkansas-Missouri State line and extending along Arkansas Highway 221 to its junction with Arkansas Highway 21, thence along Arkansas Highway 21 to its junction with unnumbered highway 1 mile south of Boxley, thence along unnumbered highway to its junction with Arkansas Highway 16, thence along Arkansas Highway 16 to its junction with Arkansas Highway 21, thence along Arkansas Highway 21 to its junction with unnumbered highway 2 miles south of Salus, thence along unnumbered highway to its junction with Arkansas Highway 23, thence along Arkansas Highway 23 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with Arkansas Highway 41, thence along Arkansas Highway 41 to its junction with Arkansas Highway 108, thence along Arkansas Highway 108 to the Arkansas-Oklahoma State line; and (2) between points in Louisiana on and south of a line beginning at the Louisiana-Texas State line and extending along Interstate Highway 10 to the Louisiana-Mississippi State line, on the one hand, and, on the other, points in Arkansas on and west of a line beginning at Arkansas-Missouri State line and extending along Arkansas Highway 201 to its junction with U.S. Highway 62, thence along U.S. Highway 62 to its junction with Arkansas Highway 14, thence along Arkansas Highway 14 to its junction with Arkansas Highway 27, thence along Arkansas Highway 27 to its junction with Arkansas Highway 7, thence along Arkansas Highway 7 to its junction with U.S. Highway 70, thence along U.S. Highway 70 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with Arkansas Highway 32, thence along Arkansas Highway 32 to its junction with Arkansas Highway 41, thence along Arkansas Highway 41 to the Arkansas-Texas State line. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E28), filed May 30, 1974. Applicant: TURNER BROTHERS TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Oklahoma 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials*, and *supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products, and by-products, and *machinery, materials, equipment*, and *supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (a) between points in Illinois, on the one hand, and, on the other, points in Arkansas on and west of a line beginning at the Arkansas-Louisiana State line and extending along U.S. Highway 7, to its junction with U.S. Highway 67, thence along U.S. Highway 67 to its junction with Arkansas Highway 355, thence along Arkansas Highway 355 to its junction with Arkansas Highway 27, thence along Arkansas Highway 27 to its junction with Arkansas Highway 19, thence along a straight line to its junction with Arkansas Highway 27 at Norman, thence along Arkansas Highway 27 to its junction with U.S. Highway 270, thence along U.S. Highway 270 to its junction with U.S. Highway 71, thence along Arkansas Highway 71 to its junction with Arkansas Highway 28, thence along Arkansas Highway 28 to Harvey, thence along a straight line to its junction with Arkansas Highway 309 at Paris, thence along Arkansas Highway 309 to its junction with Arkansas Highway 23, thence along Arkansas Highway 23 to its junction with Arkansas Highway 215, thence along Arkansas Highway 215 to its junction with unnumbered highway to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with unnumbered highway near West Fork, thence along unnumbered highway to its junction with Arkansas Highway 68, thence along Arkansas Highway 68 to its junction with Arkansas Highway 59, thence along Arkansas Highway 59 to the Arkansas-Missouri State line; and

(b) between points in Arkansas on and west of a line beginning at the Arkansas Louisiana State line and extending along U.S. Highway 167 to its junction with Arkansas Highway 8, thence along Arkansas Highway 8 to its junction with Arkansas Highway 9, thence along Arkansas Highway 9 to its junction with U.S. Highway 270, thence along U.S. Highway 270 to its junction with Arkansas Highway 7, thence along Arkansas Highway 7, to its junction with Arkansas Highway 16, thence along Arkansas Highway 16 to its junction with Arkansas Highway 59, thence along Arkansas Highway 59 to the Arkansas-Missouri State line, on the one hand, and, on the other, points in Illinois on and north of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 24 to its junction with U.S. Highway 45, thence along U.S. Highway 45 to its junction with Illinois Highway

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54, thence along Illinois Highway 54 to its junction with U.S. Highway 136, thence along U.S. Highway 136 to its junction with Illinois Highway 10, thence along Illinois Highway 10 to its junction with unnumbered highway near Easton, thence along unnumbered highway to its junction with Illinois Highway 100, thence along Illinois Highway 100 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to the Illinois-Missouri State line. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E29), filed May 30, 1974. Applicant: TURNER BROTHERS TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Oklahoma 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main or trunk pipe lines; (2) *Machinery, equipment, materials*, and *supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and

(3) *Earth drilling machinery and equipment*, and *machinery, equipment, materials*, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells; between points in Illinois on and west of a line beginning at the Illinois-Wisconsin State line and extending along U.S. Highway 51 to its junction with U.S. Highway 20, thence along U.S. Highway 20 to its junction with Illinois Highway 78, thence along Illinois 78 to its junction with U.S. Highway 34, thence along U.S. Highway 34 to its junction with U.S. Highway 67, thence along U.S. Highway 67 to its junction with U.S. Highway 24, thence along U.S. Highway 24 to its junction with Illinois Highway 107, thence along Illinois Highway 107 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to the Illinois-Missouri State line, on the one hand, and, on the other, points in Mississippi on and west of a line beginning at the Louisiana-Mississippi State line and extending along U.S. Highway 84, to its junction with U.S. Highway 61, thence along U.S. Highway 61 to Woodville, thence along unnumbered Mississippi highway thru Turnbull to the Mississippi-Louisiana State line. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E35), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment*, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, between points in South Dakota, on the one hand, and, on the other, points in Arkansas. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E37), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, materials, supplies, and equipment* incidental to, or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum; and (2) *Earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission or commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Rock County, Colo., on the one hand, and, on the other, points in North Dakota on and west of a line beginning at the United States-Canada International Boundary line and extending along North Dakota Highway 30 to Lehr, thence along unnumbered highway to Ashley, thence along North Dakota Highway 3 to the North Dakota-South Dakota State line. The purpose of this filing is to eliminate the gateway of points in Texas and Oklahoma.

No. MC 115603 (Sub-No. E40), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment*, and *supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, between points in Colorado, on the one hand, and, on the other, points in Arkansas. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115841 (Sub-No. E8) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER November 13, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products*, and *meat by-products, dairy products*, and *articles distributed by meat packinghouses*, as described in sections A, B, and C of Appendix I to the report of *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, when such commodities are foodstuffs, in vehicles equipped with mechanical refrigeration (except commodities in bulk), from points in that part of New York, N.Y., Commercial Zone, as defined by the Fifth Supplemental Report in Commercial Zones and Terminal Areas, 53 M.C.C. 451, within which local operations may be conducted under the exemption provided in section 203 (b)(8) of the Interstate Commerce Act, to points in Alabama, Kentucky, Louisiana, Mississippi, Tennessee, and Virginia (*Springfield, N.J.), California, Oregon, and Washington (*Springfield, N.J., and Birmingham, Ala.), and Arkansas and points in Georgia on and west of Interstate Highway 75 (*Springfield, N.J., and Chattanooga, Tenn.); and (2) *meats* (except canned meats), and *dairy products*, in vehicles equipped with mechanical refrigeration, restricted against the transportation of said commodities when frozen, from the points in the origin territory described in (1) above to points in Oklahoma (*Springfield, N.J., and Birmingham, Ala.). The purpose of this filing is to eliminate the

gateways indicated by the asterisks. The purpose of this correction is to include the commodities of (2) above.

No. MC 119988 (Sub-No. E30), filed June 30, 1974. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, Texas 75901. Applicant's representative: Joe E. Kinard, 201 W. Commerce Street, Dallas, Texas 75208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printed advertising matter*, and (2) *Newspaper supplements*, otherwise exempt from economic regulation under section 203(b)(7) of the Act when transported in mixed loads with printed advertising matter, from the facilities of the Oklahoma Publishing Co., Web Offset Division, at or near Oklahoma City, Oklahoma to points in Pennsylvania (except points in Bucks, Delaware, Montgomery and Philadelphia Counties). The purpose of this filing is to eliminate the gateway of Independence, Kansas.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.74-30130 Filed 12-24-74;8:45 am]

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THURSDAY, DECEMBER 26, 1974

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Volume 39 ■ Number 249

PART II

DEPARTMENT OF LABOR

Wage and Hour Division

■

CHILD LABOR VIOLATIONS

Civil Money Penalties

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DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Parts 579, 580]

CIVIL MONEY PENALTIES FOR CHILD LABOR VIOLATIONS

Assessment, Notice, Collection, and Administrative Proceedings

The Fair Labor Standards Amendments of 1974 (P.L. 93-259, 88 Stat. 55) amended section 16 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1069, 29 U.S.C. 216) to provide for the imposition of civil money penalties for violations of the child labor provisions of the Act and the regulations issued thereunder. To implement this amendment, it is proposed to amend Chapter V of Title 29 of the Code of Federal Regulations by adding thereto new Parts 579 and 580 as set forth below.

The proposed new Part 579 describes the violations for which civil money penalties may be imposed, establishes rules for the issuance of notices of penalty assessments, delineates the factors to be considered by the Secretary of Labor or the Secretary's authorized representative in assessing the amount of the penalty, provides for the filing of exceptions to the notice of penalty, and outlines the methods provided by the Act for collection of civil money penalties after their final determination.

The proposed new Part 580 sets forth the rules of practice governing administrative proceedings to be conducted when exceptions to notices of penalty are filed. These proceedings, as required by the Act, afford an opportunity for hearing in accordance with section 554 of Title 5, United States Code, before an administrative law judge. Provision is also made for final decision by an impartial appellate officer when exceptions are taken to the decision of the judge.

Interested persons may submit written data, views, or arguments concerning this proposal to the Administrator, Wage and Hour Division, Employment Standards Administration, United States Department of Labor, Washington, D.C. 20210, on or before February 10, 1975.

The new Parts 579 and 580 read as follows:

PART 579—CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES

Sec.

579.1 Purpose and scope.
579.2 Definitions.
579.3 Violations for which penalty may be imposed.
579.4 Civil money penalties—notice; finality.
579.5 Assessing the penalty.
579.6 Exception to notice of penalty.
579.7 Administrative proceedings.
579.8 Collection and recovery of penalty.

AUTHORITY: Secs. 3, 11, 12, 16, 52 Stat. 1060, as amended, 1066, as amended, 1067 as amended, 1069 as amended; 29 U.S.C. 203, 211, 212, 216; Reorg. Plan No. 6 of 1950, 64 Stat. 1263, 5 U.S.C. App.; secs. 25, 29, 88 Stat. 72, 76; Secretary of Labor's Order No. 1971, 36 FR 8755; Employment Standards Order No. 174, 39 FR 23841.

§ 579.1 Purpose and scope.

(a) Section 16(e), added to the Fair labor Standards Act of 1938, as amended, by the Fair Labor Standards Amendments of 1974, provides that:

> Any person who violates the provisions of section 12, relating to child labor, or any regulation issued under that section, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be—
>
> (1) deducted from any sums owing by the United States to the person charged;
>
> (2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or
>
> (3) ordered by the court, in an action brought for a violation of section 15(a)(4), to be paid to the Secretary.
>
> Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of Title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled "An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes" [29 U.S.C. 9a].

(b) This part provides for the issuance of the notice of civil penalty for any violation of section 12 of the Act relating to child labor or any regulation issued under that section; describes the violations for which a penalty may be imposed and the factors to be considered by the Secretary of Labor or the Secretary's designated representative in assessing the amount of such a penalty; outlines the procedure for an exception to the determination that the violations occurred which may be filed by the person so charged; and summarizes the methods provided for collection and recovery of the penalty.

§ 579.2 Definitions.

As used in this part and Part 580 of this chapter—

"Act" means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201, et seq.);

"Administrative law judge" means a person appointed as provided in 5 U.S.C. 3105 and Subpart B of Part 930 of Title 5 of the Code of Federal Regulations, and qualified to preside at hearings under 5 U.S.C. 554–557.

"Administrator" means the Administrator of the Wage and Hour Division, Employment Standards Administration, United States Department of Labor, and includes an authorized representative designated by the Administrator to perform any of the functions of the Administrator under this part and Part 780 of this chapter.

"Agency" has the meaning given it by 5 U.S.C. 551.

"Appellate officer" means the impartial representative of the Secretary of Labor designated by authority of the Secretary to make final decisions on behalf of the Secretary in administrative proceedings conducted pursuant to Part 780 of this chapter in those cases in which exceptions are filed to a decision of an administrative law judge.

"Chief Administrative Law Judge" means the Chief Administrative Law Judge, Office of Administrative Law Judges, U.S. Department of Labor, Washington, D.C. 20210.

"Department" means the United States Department of Labor.

"Person" includes any individual, partnership, corporation, association, business trust, legal representative, or organized group of persons.

"Secretary" means the Secretary of Labor, United States Department of Labor, or an authorized representative of the Secretary.

"Solicitor of Labor" means the Solicitor, United States Department of Labor, and includes attorneys designated by the Solicitor to perform functions of the Solicitor under this part and Part 780 of this chapter.

§ 579.3 Violations for which penalty may be imposed.

(a) *What constitutes the violation.* Each of the following constitutes a violation of the Act and/or the Secretary's regulations for which a penalty as provided by section 16(e) of the Act and this part may be imposed, unless employment of the minor or minors referred to is shown to come within a specific exemption or exception described in paragraph (c) of this section:

(1) Each shipment or delivery for shipment in commerce by a producer, manufacturer, or dealer of any goods produced in an establishment situated in the United States in or about which, within thirty days prior to the removal of such goods therefrom, there has been employed any minor as described in paragraph (b) of this section

(2) Each employment by an employer of any minor as described in paragraph (b) of this section, for any period in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce;

(3) The failure by an employer employing any minor described in 29 CFR 570.22 to obtain from such minor proof of age as required by the regulations in such section;

(4) The failure by an employer employing any minor described in 29 CFR

570.22 to maintain and preserve in employment records, as required by such section, evidence of the proof of age obtained from such minor;

(5) The failure by an employer employing any minor for whom records must be kept under any provision of 29 CFR Part 516 or of 29 CFR Part 545 to maintain and preserve, as required by such provision, such records concerning the date of the minor's birth and concerning the proof of the minor's age as are specified therein; and

(6) The failure by an employer employing any minor subject to any provision of 29 CFR Part 570, to take or cause to be taken such action as is necessary to assure compliance with all requirements of such provision which, by the regulations in such part, are made conditions for lawful employment of such minor.

(b) *Minors whose employment may result in violation.* The violations described in paragraph (a) may result from employment of any of the following minors as described:

(1) Any minor under the age of 18 years in any occupation (other than in agriculture) in which employment, as set forth in Subpart E of Part 570 of this chapter, has been found and declared by the Secretary to be particularly hazardous for or detrimental to the health or well-being of minors below such age;

(2) Any minor under the age of 16 years—

(i) In agriculture during school hours for the school district where such minor is living while so employed; or

(ii) In agriculture in any occupation found and declared by the Secretary as set forth in Subpart E–1 of Part 570 of this chapter, to be particularly hazardous for the employment of minors below such age; or

(iii) In any manufacturing or mining occupation; or

(iv) In any other occupation other than in agriculture unless it is established that such minor is at least 14 years of age and the employment of such minor in such occupation is specifically permitted by and in accord with regulations of the Secretary as set forth in Subpart C of Part 570 of this chapter;

(3) Any minor under the age of 14 years—

(i) In any occupation other than in agriculture; or

(ii) In agriculture, outside of school hours for the school district where such minor is living while so employed, unless it is established either—

(A) That such minor is not less than 12 years of age *and* either (*1*) that such employment is with the written consent of a parent or person standing in place of a parent of such minor, *or* (2) that such employment is on the same farm where such parent or person is also employed; or

(B) That such minor, if less than 12 years of age, is employed as described in paragraph (b)(4)(i) or (b)(4)(ii) of this section; and

(4) Any minor under the age of 12 years, unless it is established that such minor is employed in agriculture outside of school hours for the school district where such minor is living while so employed, and—

(*1*) Is employed by a parent or by a person standing in place of a parent of such minor, on a farm owned or operated by such parent or person; or

(ii) Is employed with the written consent of a parent or person standing in place of a parent of such minor, on a farm where, because of the provisions of section 13(a)(5) of the Act, none of the employees are required to be paid at the wage rate prescribed by section 6(a)(5) of the Act.

(c) *Exemptions and exceptions.* Conduct which otherwise might constitute a violation of the Act as described in paragraphs (a) (b) of this section may be shown to be not violative of the child labor provisions by evidence that a specific exemption or exception provided in the Act makes such conduct permissible. Thus, the Act provides:

(1) That none of the child labor provisions of section 12 shall apply to (i) any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions; (ii) any employee engaged in the delivery of newspapers to the consumer; (iii) any homeworker engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths); or (iv) any employee whose services during the workweek are performed in a workplace within a foreign country or within territory under the jurisdiction of the United States other than the States, territories, and possessions listed in section 13(f) of the Act (see Act, sections 13(c)(3), 13(d), 13(f));

(2) That, with respect to the violations described in paragraph (a)(1) of this section, any such shipment or delivery for shipment of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer, manufacturer, or dealer that the goods were produced in compliance with the requirements of section 12 of the Act, and who acquired such goods for value without notice of any such violation, shall not be deemed prohibited (see Act, section 12(a) and 29 CFR Part 789);

(3) That, with respect to violations described in paragraph (a)(2) of this section resulting from employment of minors as described in paragraph (b)(2)(iv), a parent or person standing in place of a parent may lawfully employ his or her own child or a child in his or her custody under the age of 16 years in an occupation *other than* (i) manufacturing or (ii) mining or (iii) an occupation found and declared by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of 16 and 18 years or detrimental to their health or well-being, and an employer may lawfully employ a young worker between 14 and 16 years of age in an occupation permitted and under conditions prescribed by 29 CFR Part 570, Subpart C;

(4) That, with respect to violations described in paragraph (a)(2) of this section resulting from employment of minors in agriculture as described in paragraph (b)(2)(ii), a parent or person standing in place of a parent may lawfully employ on a farm owned or operated by such parent or person, his or her own child or a child in his or her custody under the age of 16 years in an occupation in agriculture found and declared by the Secretary of Labor to be particularly hazardous for the employment of children below such age;

(5) That, with respect to violations described in paragraph (a)(2) of this section resulting from employment of minors in agriculture as described in paragraph (b)(2)(ii), employment of minors 12 or 13 years of age is lawful under the conditions prescribed in paragraph (b)(3)(i)(A) of this section and employment of minors under 12 years of age is lawful under the conditions prescribed in paragraph (b)(3)(i)(B) of this section; and

(6) That, with respect to violations described in paragraph (a)(2) of this section resulting from employment of minors in agriculture as described in paragraph (b)(4), employment of minors under 12 years of age is lawful under the conditions prescribed in paragraph (b)(4)(i) or (ii) of this section.

§ 579.4 Civil money penalties—notice; finality.

(a) In any instance when the Secretary finds, upon evidence resulting from an investigation pursuant to the provisions of section 11 of the Act, that there has been a violation by any person of section 12 of the Act relating to child labor or of any regulation issued under that section, and that imposition of a civil money penalty for such violation pursuant to section 16(e) of the Act is appropriate, the Secretary shall assess such penalty in accordance with the provisions of § 579.5 and shall issue and transmit to such person by certified mail a notice of penalty describing each such violation and stating the amount of the penalty assessed therefor. Information shall be included with the notice of penalty concerning the right of the person so charged to file an exception thereto and the procedure to be followed.

(b) If the person charged with violation does not, within 15 days after receipt of the notice, take exception to the determination that the violation or violations for which the penalty is imposed occurred, the administrative determination by the Secretary of the amount of such penalty shall be deemed final, and collection and recovery of the penalty shall be instituted pursuant to § 579.8 of this part.

(c) If the person charged with the violation files, within 15 days after receipt of the notice, an exception to the

determination that the violation or violations for which the penalty is imposed occurred, the final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of Title 5, United States Code, and regulations of the Secretary in Part 580 of this chapter.

§ 579.5 Assessing the penalty.

(a) The administrative determination of the amount of the civil penalty, of not to exceed $1,000 for each violation of section 12 of the Act relating to child labor or of any regulation issued under that section shall be based on the available evidence of the violation or violations and shall take into consideration the size of the business of the person charged and the gravity of the violation as provided in paragraphs (b) through (d) of this section.

(b) In determining the amount of such penalty there shall be considered the appropriateness of such penalty to the size of the business of the person charged with the violation or violations, taking into account the number of employees employed by that person (and if the employment is in agriculture, the man-days of hired farm labor used in pertinent calendar quarters), dollar volume of sales or business done, amount of capital investment and financial resources, and such other information as may be available relative to the size of the business of such person.

(c) In determining the amount of such penalty there shall be considered the appropriateness of such penalty to the gravity of the violation or violations, taking into account, among other things, any history of prior violations; any evidence of willfulness or failure to take reasonable precautions to avoid violations; the number of minors illegally employed; the age of the minors so employed and records of the required proof of age; the occupations in which the minors were so employed; exposure of such minors to hazards and any resultant injury to such minors; the duration of such illegal employment; and, as appropriate, the hours of the day in which it occurred and whether such employment was during or outside school hours.

(d) Based on all the evidence available, including the investigation history of the person so charged and the degree of willfulness involved in the violation, it shall further be determined, where appropriate,

(1) Whether the evidence shows that the violation is "de minimis" and that the person so charged has given credible assurance of future compliance, and whether a civil penalty in the circumstances is necessary to achieve the objectives of the Act; or

(2) Whether the evidence shows that the person so charged had no previous history of child labor violations, that the violations themselves involved no intentional or heedless exposure of any minor to any obvious hazard or detriment to health or well-being and were inadvertent, and that the person so charged has given credible assurance of future compliance, and whether a civil penalty in the circumstances is necessary to achieve the objectives of the Act.

(e) An administrative determination of the amount of the civil money penalty for a particular violation or particular violations of section 12 relating to child labor or any regulation issued under that section shall become final 15 days after receipt of the notice of penalty by certified mail by the person so charged unless such person has, pursuant to § 579.6, filed with the Secretary an exception to the determination that the violation or violations for which the penalty is imposed occurred.

(f) A determination of the penalty made in an administrative proceeding after opportunity for hearing as provided in section 16(e) of the Act and pursuant to Part 580 of this chapter shall be final.

§ 579.6 Exception to notice of penalty.

(a) An exception to the determination that the child labor violation or violations, for which the penalty is imposed, occurred may be filed within 15 days after receipt of the notice of penalty by the person so charged.

(b) An exception to such determination shall be filed with the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210.

(c) No particular form is prescribed for the exception to the notice of penalty. However, the exception shall be typewritten, shall be directed to the issue of the occurrence of the alleged violations, and shall state the reasons why the person charged contends that the determination regarding their occurrence is in error. The exception shall be signed by the person so charged or by such person's attorney or other authorized representative.

(d) In computing the 15 days allowed for filing exception to the determination that the violation or violations occurred, Saturdays, Sundays, and holidays shall be included, but when such time expires on such a day, such period shall be extended to include the next following day which is not such a day.

§ 579.7 Administrative proceedings.

Upon receipt of an exception to a notice of penalty under this part the Administrator shall refer the matter to the Chief Administrative Law Judge who shall assign the matter to an administrative law judge for hearing and final determination of the penalty. The rules of practice for such administrative proceedings are set forth in Part 580 of this chapter.

§ 579.8 Collection and recovery of penalty.

(a) When the determination of the amount of any civil money penalty provided for in this part becomes final under § 579.4(b) in accordance with the administrative assessment thereof, or under § 579.4(c) pursuant to the decision and order of an administrative law judge or the appellate officer in an administrative proceeding as provided in Part 580 of this chapter, the amount of the penalty as thus determined is immediately due and payable to the United States Department of Labor. The person against whom such penalty has been assessed or imposed shall promptly remit the amount thereof, as finally determined, to the Secretary by certified check or by money order, made payable to the order of "Wage and Hour Division, Labor." Such remittance may be delivered or mailed to the Regional Office, Wage and Hour Division, for the area in which the violations for which the penalty was assessed occurred, where the penalty has become final under § 579.4(b). Where the penalty has been finally determined as provided in § 579.4 (c) in an administrative proceeding, the remittance should be made through the counsel representing the Secretary before the administrative law judge or before the appellate officer, as the case may be. If the person from whom the penalty is due fails to remit the amount thereof within 30 days after such amount is finally determined, proceedings for collection or recovery thereof may be instituted as provided in paragraph (b) of this section.

(b) Pursuant to the provisions of the Act set forth in § 579.1, the amount of penalty, finally determined as provided in § 579.4 (b) or (c), may be:

(1) Deducted from any sums owing by the United States to the person charged. To effect this, any agency having sums owing from the United States to such person shall, on the request of the Secretary, withhold the specific amount of the penalty from the sums owed to the person so charged and remit that amount to the Secretary to satisfy the amount of the penalty assessed;

(2) Recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor. When the person against whom a final determination assessing a civil money penalty has been made does not voluntarily remit the amount of such penalty to the Secretary within a reasonable time after notification to do so, the Solicitor of Labor may institute such an action to recover the amount of the penalty; or

(3) Ordered by the court, in an action brought for a violation of section 15(a)(4), to be paid to the Secretary. Section 15(a)(4) of the Act makes any violation of the provisions of section 12 unlawful. Any such unlawful act or practice may be enjoined by the United States district courts under section 17 upon court action, filed by the Secretary pursuant to section 12(b); and failure of the person so enjoined to comply with the court order may subject such person to contempt proceedings. A willful violation of section 12 of the Act may subject the offender to the penalties provided in section 16(a) of the Act, enforced by the Department of Justice in criminal proceedings in the United States courts. In any of the foregoing civil or criminal

proceedings, the court may order the payment to the Secretary of the civil penalty finally assessed by the Secretary.

(c) As provided in section 16(e) of the Act, the sums collected as penalties pursuant to the provisions of that section and of this part shall be applied by the Secretary toward the reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 9a of Title 29 of the United States Code.

PART 580—CIVIL PENALTIES FOR CHILD LABOR VIOLATIONS—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS

GENERAL

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580.2 Notice of penalty and exception thereto.
580.3 Action pursuant to exception.
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HEARINGS

580.21 Hearing procedures generally.
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580.31 Proposals by the parties.
580.32 Decision and order of administrative law judge.
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580.34 Decision on exceptions.

AUTHORITY: Secs. 3, 11, 12, 16, 52 Stat. 1060, as amended, 1066, as amended, 1067, as amended, 1069, as amended; 29 U.S.C. 203, 211, 212, 216; Reorg. Plan No. 6 of 1950, 64 Stat. 1263, 5 U.S.C. App.; secs. 85, 20, 88 Stat. 72, 76; Secretary of Labor's Order No. 1371, 26 FR 8755; Employment Standards Order No. 174, 39 FR 33841; 5 U.S.C. 500, 503, 551509.

GENERAL

§ 580.1 Applicability of rules; definitions.

(a) This part provides the rules of practice for administrative proceedings relating to determination of civil penalties for violation of the child labor provisions of the Fair Labor Standards Act of 1938, as amended by the Fair Labor Standards Amendments of 1974 (Pub. L. 93-259, 88 Stat. 55), and of the regulations issued thereunder. See also Part 579 of this chapter for rules governing the issuance of notices of penalty for violations of section 12 of the Act and of the regulations issued under such section relating to child labor.

(b) The definitions set forth in § 579.2 of Part 579 of this chapter are applicable to the terms therein defined wherever used in this part.

COMMENCEMENT OF PROCEEDING

§ 580.2 Notice of penalty and exception thereto.

Any person charged with violation or violations of section 12 of the Act relating to child labor or any regulation issued under that section who receives a notice of such charge and of the assessment of a penalty or penalties therefor issued by the Secretary as provided in § 579.4 of this chapter may obtain a hearing thereon under the provisions of this part by filing with the Administrator, within 15 days after receipt of such notice and as provided in § 579.6 of this chapter, an exception to the determination that the violations for which the penalty is imposed occurred.

§ 580.3 Action pursuant to exception.

(a) Upon timely receipt of an exception to the determination of the violations charged in the notice of penalty, the Administrator shall promptly by order refer the matter, as provided in § 579.7 of this chapter, to the Chief Administrative Law Judge for the final determination in an administrative proceeding as provided in this part, with opportunity for hearing before an administrative law judge, of the issues with respect to the alleged violations and any penalties therefor.

(b) The Administrator, with such order of referral, shall transmit an authenticated copy of the notice of penalty excepted to, together with the exception signed and filed by the person charged with the violations. These shall be filed of record in the Office of Administrative Law Judges and shall, respectively, be given the effect of a complaint and answer thereto for purposes of the administrative proceeding, subject to such amendment as may be permitted under the provisions of this part.

(c) The proceeding shall be identified of record by, and any motions, pleadings, briefs, or other formal documents filed and docketed therein should carry, a number preceded by the letters "CL" and a caption identifying "Secretary of Labor" as plaintiff and the person charged with violations, by name, as respondent.

(d) After the notice of penalty and exception referred to the Chief Administrative Law Judge by the Administrator have been filed of record, the Chief Administrative Law Judge shall promptly designate an administrative law judge to conduct the proceeding in accordance with section 554 of Title 5, United States Code and the provisions of this part, and shall refer the matter to such judge for further action.

(e) Whenever a proceeding under this part is commenced by referral of the notice of penalty and exception thereto to the Chief Administrative Law Judge, the Administrator shall cause to be served on the person charged with the violations a copy of the order making such referral, together with a copy of the regulations in this Part 580.

§ 580.4 Notice of hearing.

The administrative law judge to whom the matter is referred shall, within 10 days following such referral, notify the parties by certified mail of a time and place set for hearing thereon or for a prehearing conference to be held as provided in § 580.6 of this part, or both. No date earlier than 14 days after the date of such notice shall be set for such hearing or such conference, except by agreement of the parties. Service of such notice shall be made upon the parties as provided in § 580.8.

§ 580.5 Supplemental pleadings.

If, upon review of the notice of penalty and the exception thereto, it appears to either party that such document as originally drafted by such party requires supplementation in order to clarify the issues for a hearing thereon, an amended complaint may be filed by the Secretary or an amended answer may be filed by respondent, as the case may be. Such supplemental pleading shall be filed with the Chief Administrative Law Judge, Washington, D.C. 20210, with proof of service upon the opposing party, at least 10 days prior to the date set for hearing or for a prehearing conference by the administrative law judge before whom the matter is pending, unless the time for filing such document is extended by the judge. If an amended complaint is filed by the Secretary, the respondent shall be entitled, if he or she desires to do so, to file with the Chief Administrative Law Judge an amended answer in response within 10 days after service upon the respondent of such amended complaint.

SERVICE UPON PARTIES OF PLEADINGS AND DOCUMENTS

§ 580.8 Manner of service.

Service upon any party of a pleading or document shall be made by delivering a copy or mailing a copy to the last known address. When a party is represented by an attorney, service shall be made upon the attorney.

§ 580.9 Proof of service.

A certificate of the person serving the pleading or other document by personal delivery or by mailing, setting forth the manner of said service shall be proof of the service.

§ 580.10 Service upon Department of Labor; number of copies.

An original and three copies of all pleadings and other documents shall be filed with the Department of Labor, the original with the Chief Administrative Law Judge, U.S. Department of Labor, Washington, D.C. 20210, and the copies

with the attorney representing the Department in the proceeding or the Associate Solicitor for General Legal Services, U.S. Department of Labor, Washington, D.C. 20210.

PROCEDURES BEFORE ADMINISTRATIVE LAW JUDGE, GENERALLY

§ 580.11 Authority of administrative law judge.

(a) *General powers.* In any proceeding under this part, the administrative law judge shall have all powers necessary to the conduct of fair and impartial hearings, including the following:

(1) To administer oaths and affirmations;

(2) To issue subpenas upon proper applications as provided in § 580.14;

(3) To rule upon offers of proof and receive relevant evidence;

(4) To take or cause to be taken depositions and to determine their scope;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel therein;

(6) To hold conferences for the settlement or simplification of the issues by consent of the parties;

(7) To consider and rule upon procedural requests;

(8) To make and file decisions in conformity with this part;

(9) To take any action authorized by the rules in this part or in conformance with the Administrative Procedure Act; and

(10) To exercise, for the purpose of the hearing and in regulating the conduct of the proceeding, such powers vested in the Secretary by section 9 of the Act as are necessary and appropriate therefor.

(b) *Consultation.* The administrative law judge shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.

(c) *Disqualification.* (1) When an administrative law judge deems himself/herself disqualified to preside in a particular proceeding, such judge shall withdraw therefrom by notice on the record directed to the Chief Administrative Law Judge.

(2) Whenever any party shall deem the administrative law judge for any reason to be disqualified to preside, or to continue to preside, in a particular proceeding, that party shall file with the Chief Administrative Law Judge a motion to disqualify and remove such administrative law judge, such motion to be supported by affidavits setting forth the alleged grounds for disqualification. The Chief Administrative Law Judge shall rule upon the motion.

(3) In the event of disqualification of an administrative law judge as provided in paragraph (c)(1) or paragraph (c)(2) of this section, the Chief Administrative Law Judge shall refer the matter to another administrative law judge for further proceedings.

§ 580.12 Appearances; representation of parties.

Counsel designated by the Solicitor of Labor shall represent the Secretary and appear for the Secretary in any proceeding under this part. Respondents shall have the right to appear by or with counsel of their choice, who shall qualify for such representation as provided in 5 U.S.C. 500(b). If not represented by counsel, respondents may appear in person or through authorized agents and may submit necessary documents with their own signatures.

§ 580.13 Motions and requests.

Motions or requests shall be in writing, filed with the Chief Administrative Law Judge, and copies served upon the other parties to the proceeding, except that motions or requests made during the course of any hearing or appearance before the administrative law judge shall be filed with such judge or shall be stated orally and made part of the transcript. Each motion or request shall state the particular order, ruling, or action desired, and the grounds therefor. The administrative law judge is authorized or made prior to the filing of the judge's decision as provided in § 580.32.

§ 580.14 Subpenas.

All applications for subpenas *ad testificandum* and subpenas *duces tecum* shall be made in writing to the administrative law judge. Applications for subpenas *duces tecum* shall specify as exactly as possible the documents to be produced, showing their general relevancy and reasonable scope.

§ 580.15 Witnesses and fees.

(a) The administrative law judge, either at the request of the parties or upon the judge's own motion, may request persons to appear to testify as witnesses, where such action is deemed necessary to serve the purposes of the hearing.

(b) Witnesses subpenaed by any party or by the administrative law judge shall be paid the same fees and mileage as are paid for like services in the district courts of the United States. The witness fees and mileage shall be paid by the party at whose instance the witnesses appear.

§ 580.16 Depositions.

(a) *When, how, and by whom taken.* For good cause shown, the testimony of any witness may be taken by deposition. Depositions may be taken orally or upon written interrogatories before any person designated by the administrative law judge and having power to administer oaths.

(b) *Application.* Any party desiring to take the deposition of a witness shall make application in writing to the administrative law judge, setting forth the reasons why such deposition should be taken; the time when, the place where, and the name and post office address of, the person before whom the deposition is to be taken; the name and address of each witness from whom a deposition is to be taken; and the subject matter concerning which each such witness is expected to testify.

(c) *Notice.* Such notice as the administrative law judge shall order shall be given for the taking of a deposition, but this shall not be less than 5 days' written notice when the deposition is to be taken within the United States and not less than 20 days' written notice when the deposition is to be taken elsewhere.

(d) *Taking and receiving in evidence.* Each witness testifying upon deposition shall be sworn, and the adverse party shall have the right to cross-examine. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing, read to and subscribed by the witness, and certified by the officer. Thereafter, the officer shall seal the deposition, with two copies thereof, in an envelope and mail the same by certified mail to the administrative law judge. Subject to such objections to the questions and answers as were noted at the time of taking the deposition and would be valid were the witness personally present and testifying, such deposition may be read and offered in evidence by the party taking it as against any party who was present or represented at the taking of the deposition or who had due notice thereof. No part of a deposition shall be admitted in evidence unless there is a showing that the reasons for the taking of the deposition in the first instance exist at the time of hearing.

§ 580.17 Prehearing conferences.

(a) Upon motion of the parties or when deemed appropriate by the administrative law judge, the judge may direct the parties or their counsel to meet with the judge for a conference to consider;

(1) Simplification of the issues;

(2) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitation;

(3) Stipulations, admissions of fact and of contents and authenticity of documents;

(4) Limitation of the number of expert witnesses; and

(5) Such other matters as may tend to expedite the disposition of the proceeding.

(b) The record shall show the matters disposed of by order and by agreement in such pretrial conferences. The subsequent course of the proceeding shall be controlled by such action.

§ 580.18 Consent findings and order.

(a) *General.* At any time after the commencement of a proceeding under this part and prior to the reception of evidence in any such proceeding, a party may move to defer the receipt of any evidence for a reasonable time to permit negotiation of an agreement containing consent findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be in the discretion of the administrative law judge, after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement being reached which will result in a just disposition of the issues involved.

(b) *Content.* Any agreement containing consent findings and an order disposing of a proceeding shall also provide:

(1) That the order shall have the same force and effect as an order made after full hearing;

(2) That the entire record on which any order may be based shall consist solely of the notice of penalty (or amended complaint, if one is filed), and the agreement;

(3) A waiver of any further procedural steps before the administrative law judge and the appellate officer; and

(4) A waiver of any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(1) Submit the proposed agreement for consideration by the administrative law judge; or

(2) Inform the administrative law judge that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and an order is submitted within the time allowed therefor, the administrative law judge, within 30 days thereafter, shall, if satisfied with its form and substance, accept such agreement by issuing his/her decision based upon the agreed findings.

§ 580.19 Computation of time.

Saturdays, Sundays, and holidays shall be included in computing the time allowed for filing any document or paper under this part, but when such time expires on such a day, such period shall be extended to include the next following day which is not such a day.

HEARINGS

§ 580.21 Hearing procedures generally.

(a) Pursuant to notice given as provided in § 580.4, the designated administrative law judge shall hold such hearings as provided in this part as are necessary for determination of the issues submitted for decision, exercising the powers set forth in § 580.11 and conducting the proceeding in accordance with the provisions of 5 U.S.C. 554. In any such hearing the burden of proving the violations alleged shall be upon the Secretary and except as may be determined otherwise by the administrative law judge, counsel for the Secretary shall proceed first at the hearing. The hearing shall be open to the public, unless otherwise ordered by the administrative law judge.

(b) If any party to the proceeding, after being properly served with notice of the hearing, should fail to appear at the hearing, the matter may be set for further hearing upon notice, but a party who is present shall first have an election to present such party's evidence in whole or such portion thereof sufficient to make a prima facie case in which event the administrative law judge may make a decision without further hearing. Failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with a copy of the administrative law judge's decision.

(c) Contemptuous conduct at any hearing shall be ground for exclusion from the hearing.

§ 580.22 Evidence at the hearing.

(a) *In general.* The testimony of witnesses shall be upon oath or affirmation administered by the administrative law judge and shall be subject to such cross-examination as may be required for a full and true disclosure of the facts. The administrative law judge shall exclude evidence which is immaterial, irrelevant, or unduly repetitious.

(b) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, such party shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made before the administrative law judge may be relied upon subsequently in the proceeding. Formal exception to an adverse ruling is not required.

(c) *Failure or refusal of witness to appear or answer.* The failure or refusal of a witness to appear at any hearing or to answer any question which has been ruled to be proper shall be grounds for the action provided in sections 49 and 50 of Title 15, United States Code, pursuant to the provisions of section 9 of the Act, and, in the discretion of the administrative law judge, for striking out all or part of the testimony which may have been given by such witness.

§ 580.23 Official notice.

Official notice may be taken of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice and also concerning which the Department by reason of its functions is presumed to be expert: *Provided*, That the parties shall be given adequate notice, at the hearing or by reference in the administrative law judge's decision of the matters so noticed, and shall be given adequate opportunity to show the contrary.

§ 580.24 Transcripts.

Hearings shall be stenographically reported. Copies of the transcript may be obtained by the parties upon written application to the Department at fees fixed in accordance with section 11 of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App.) and Part 70 of this title.

POST-HEARING PROCEDURES

§ 580.31 Proposals by the parties.

At the end of the hearing, the administrative law judge shall afford any party a reasonable period of time, but not less than 15 days, to file proposed findings of fact, conclusions of law, and a proposed order, together with a supporting brief expressing the reasons for such proposals. Such proposals shall be accompanied by a certification that service of the proposals has been made upon all other parties, and shall refer to all portions of the record and to all authorities relied upon in support of each proposal.

§ 580.32 Decision and order of administrative law judge.

(a) The administrative law judge shall prepare, as promptly as practicable after the expiration of the time set for filing proposed findings and related papers provided for in paragraph (a) of this section, the judge's decision in the matter, which shall become the final decision in the administrative process as provided in the Act 20 days after service of copies thereof upon the parties, unless exceptions are filed thereto as provided in § 580.33. The decision of the administrative law judge shall include a statement of findings and conclusions, with reasons and bases therefor, upon each material issue of fact, law, or discretion presented on the record. The decision shall also include an appropriate order which may affirm, in whole or in part, the determination by the Administrator of the occurrence of violations or which may find that no violations occurred, and shall order payment of a penalty in the amount originally assessed or in a lesser amount determined in accordance with 29 CFR 579.5 or order that respondent pay no penalty, as appropriate. The reasons for such action shall be stated in the decision.

(b) The administrative law judge shall transmit to the Chief Administrative Law Judge the entire record including the original of the decision. The Chief Administrative Law Judge shall serve copies of the decision on each of the parties.

§ 580.33 Exceptions.

(a) Within 20 days after the date of the decision of the administrative law judge, any party aggrieved thereby may file exceptions thereto with supporting reasons. Such party shall transmit his/her exceptions in writing to the Chief Administrative Law Judge, referring to the specific findings of fact, conclusions of law, or order excepted to, the specific pages of transcript relevant to the exceptions, and suggesting corrected findings of fact, conclusions of law, or order. Such exceptions shall be accompanied by proof of service of copies on the other party or parties to the proceeding.

(b) If exceptions are filed, the Chief Administrative Law Judge shall transmit the record of the proceeding to the appellate officer. The record shall include: The pleadings, motions, and requests filed in written form, rulings thereon, the transcript of the testimony and proceeding taken at the hearing, together with the exhibits admitted in evidence, any documents or papers filed in connection with prehearing conferences, such proposed findings of fact, conclusions of law, orders, and supporting reasons, as may have been filed, the decision of the administrative law judge, and such exceptions, statements of objections, and briefs in support thereof, as may have been filed in the proceeding.

§ 530.34 Decision on exceptions.

If exceptions to the decision of the administrative law judge are taken as provided in this part, the appellate officer shall upon consideration thereof, together with the record references and authorities cited in support thereof, make a final decision, which shall affirm, modify, or set aside, in whole or part, the findings, conclusions, and order contained in the decision of the administrative law judge and shall include a statement of reasons or bases for the actions taken. With respect to the findings of fact, the appellate officer shall modify or set aside only those findings that are clearly erroneous. Copies of the decision and order shall be served upon the parties, and shall constitute the final determination in the administrative proceeding as provided in section 16(c) of the Act.

Signed at Washington, D.C., on this 20th day of December 1974.

BETTY SOUTHARD MURPHY,
Administrator,
Wage and Hour Division.

[FR Doc.74-30070 Filed 12-24-74;8:45 am]

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federal register

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WASHINGTON, D.C.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 2—Clemency

CHAPTER I—PRESIDENTIAL CLEMENCY BOARD

PART 101—ADMINISTRATIVE PROCEDURES

PART 102—SUBSTANTIVE STANDARDS OF THE PRESIDENTIAL CLEMENCY BOARD

Procedures and Standards; Correction

On November 27, 1974, the Presidential Clemency Board published regulations in the FEDERAL REGISTER (39 FR 41351) establishing a new Chapter II in Title 2, Code of Federal Regulations.

In as much as the Selective Service System had already established 2 CFR, Chapter II at 39 FR 34511, September 26, 1974, it has become necessary to redesignate the regulations of the Presidential Clemency Board as 2 CFR, Chapter I, and reserve Parts 100–199 for use by the Board.

Therefore, FR Doc. 74-27863, published at 39 FR 41351, in the issue of Wednesday, November 27, 1974 is corrected as follows:

1. The Chapter and Part headings are renumbered to read as set forth above.

2. Wherever in the text of the document reference is made to "Chapter II", "Part 201" or "Part 202", it is changed to read "Chapter I" "Part 101" or "Part 102", respectively. All references based on a number in the 201 or 202 series are deemed changed to a 101 or 102 series, respectively.

Issued in Washington, D.C. on December 23, 1974.

CHARLES E. GOODELL,
Chairman,
Presidential Clemency Board.

[FR Doc.74-30240 Filed 12-26-74;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Allocation of Non-bonded Aviation Fuels to International Air Carriers

On December 13, 1974, the Federal Energy Administration issued amendments to §§ 211.42 and 211.146(c), the mandatory petroleum allocation regulations of 10 CFR Part 211 with respect to the allocation of non-bonded aviation fuel to international air carriers (39 FR 43812, December 18, 1974). As amended, § 211.146(c)(3) provided that international air carriers filing certifications with their suppliers under § 211.146(c) are required to file such certifications for the period corresponding to a base period beginning January 1, 1975, by December 20, 1974.

FEA has determined that due to the differences between the previous regulations and the new regulations, in particular the requirement that certifications under § 211.146(c)(3) be filed for an entire period, rather than for a month, it would be difficult if not impossible for some international air carriers to file their certifications by December 20, 1974. In addition, it has come to FEA's attention that, with respect to some international air carriers, changes in operations and other circumstances not raised with FEA in response to the November 20, 1974, further notice of proposed rulemaking with respect to this issue, make compliance with the December 20 certification deadline impossible.

Therefore, effective immediately, FEA is amending § 211.146(c)(3) to provide that certifications must be filed with suppliers by December 28, 1974. Because of this delayed certification date, it may be necessary for suppliers of aviation fuels which receive certifications from international air carriers to revise some information previously reported to FEA on their Forms 1000.

Section 7(i)(1)(B) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275) (FEAA) provides for waiver of the requirements of that section as to time of notice and opportunity to comment prior to promulgation of regulations where strict compliance with such requirements is found to cause serious harm or injury to the public health, safety, or welfare. Since a delay in the effective date of this amendment would result in international air carriers' inability to obtain non-bonded fuel for the period January 1 through March 31, 1975, in the manner intended by FEA regulations, thereby disrupting supply arrangements and interfering with such carriers' ability to provide for passenger and cargo transportation, the FEA has concluded that the requirements of Section 7(i)(1)(B) of the FEAA must be waived as to time of notice and opportunity to comment because strict compliance would result in serious harm or injury to the public welfare.

In addition, section 7(i)(1)(C) of the FEAA requires that opportunity for oral presentation of views, data and arguments be afforded with respect to any regulation which is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. This amendment is only procedural in nature and does not in itself have such an impact, but only makes operative a preexisting regulation through a change in the filing date. Therefore, there is no need for the oral presentation of views, data and arguments.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790 (39 FR 23185))

In consideration of the foregoing, Part 211 of 10 CFR Chapter II is amended as set forth below, effective immediately.

Issued in Washington, D.C., December 20, 1974.

ROBERT E. MONTGOMERY, JR.,
General Counsel,
Federal Energy Administration.

1. Section 211.146 is amended by revising subparagraph (3) of paragraph (c) to read as follows:

§ 211.146 Method of allocation.

* * * * *

(c) * * *

(3) An international air carrier which files a certification with a supplier under this paragraph shall provide such certification to its supplier at least fifteen (15) days prior to the beginning of the period corresponding to a base period to which the certification applies except that for the period corresponding to a base period beginning January 1, 1975, an international air carrier shall provide such certification by December 28, 1974. The certification shall specify:

(i) The volumes of bonded aviation fuel which can be obtained for the period from all sources;

(ii) The volumes of bonded aviation fuel which can be obtained from that supplier;

(iii) The international air carrier's base period use for that period;

(iv) The amount of the international air carrier's base period use to be supplied by that supplier;

(v) Whether and to what extent the international air carrier can use naphtha-base jet fuel; and

(vi) The amount of bonded fuel which the supplier is to subtract from that portion of the carrier's base period use to to the volume of bonded aviation fuel to be supplied by the supplier in determining the amount of non-bonded fuel the supplier is to supply to the carrier.

* * * * *

[FR Doc.74-30133 Filed 12-23-74;8:45 am]

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PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Allocation of Old Oil; Corrective Amendments

On November 29, 1974, the Federal Energy Administration issued the final rule for the allocation of old oil pursuant to authority granted by the Emergency Petroleum Allocation Act of 1973 (39 FR 42246; December 4, 1974). Subsequent to the issuance of the final rule, FEA has determined that certain corrective amendments to the rule are warranted, and FEA is hereby adopting the following amendments to the final rule effective immediately.

SMALL REFINER BIAS

In its November 1974 further notice of proposed rulemaking for the allocation of old oil, FEA stated that it had based the entitlement value of the small refiner bias set forth in the notice on the dollar value of import tickets received by small refiners under the oil import program at the time when import ticket prices were in the $1 and above range, adjusted for the rate of inflation. In the final rule, as to the first 30,000 barrels per day of each small refiner's crude runs, FEA modified the provisions of the small refiner bias to provide for issuance to small refiners of a number of incremental entitlements equivalent to the dollar value of import ticket issuances in PAD District V.

Since the promulgation of the final rule, FEA has been advised that it has incorrectly computed the value of import tickets issuable to small refiners in PAD District V under the oil import program. FEA has determined that it did in fact make technical errors in its computation of this value and accordingly is hereby revising the small refiner bias set forth in § 211.67(e) to conform to FEA's stated intent in this area.

TREATMENT OF BUY/SELL LIST SALES

FEA has also determined that the provisions of § 211.67(f) (1) of the final rule for calculating the volume of old oil deemed to be transferred in a sale by a refiner-seller to a refiner-buyer under § 211.65 are not technically correct. The final rule provided that the proportion of old oil deemed to be included in a sale under § 211.65 is to be based on the proportion of old oil included in the refiner-seller's crude oil receipts in the month in which the sale price was calculated under § 212.94. However, the sale price under the buy/sell list is based on crude oil deliveries to a refiner-seller in the month of the sale, and crude oil included in these deliveries may not necessarily be included in a refiner-seller's crude oil receipts.

The purpose of § 211.67(f) (1) is to reduce the cost equalization effects of sales under § 211.65, now that the final rule for the allocation of old oil has been adopted. FEA expects that sales under the buy/sell list will now serve to alleviate crude oil supply, as opposed to cost, problems. Thus, FEA is revising § 211.67 (f) to provide for a more accurate determination of the volume of old oil reflected in the sale price as calculated under § 212.94. Section 211.67(b) (1) provides that the proportion of old oil in a refiner-seller's crude oil deliveries that determine the sale price will also determine the proportion of old oil deemed to be transferred in a buy/sell list sale. If the sale price to the refiner-buyer is based on crude oil deliveries in PAD Districts I–IV, the proportion of old oil in those particular crude oil deliveries will determine the proportion of old oil deemed to be transferred pursuant to the sale; the result will be the same for a sale the price of which is based on crude oil deliveries in PAD District V.

As noted, the two corrective amendments made effective immediately are merely technical refinements to the final rule for the allocation of old oil which was made effective on November 29, 1974. Before the final rule was promulgated, an extensive rulemaking proceeding was held. A notice of proposed rulemaking and public hearing was issued on August 28, 1974, containing a proposal to allocate old oil proportionately among refiners (39 FR 31650, August 30, 1974). In response to this notice, more than 600 written comments were received and approximately 40 interested parties presented statements at a public hearing held on September 24 and 25, 1974. On November 7, 1974, FEA issued a further notice of proposed rulemaking (39 FR 39740, November 11, 1974), in response to which over 175 written comments were received. After evaluation of these comments, the final rule was adopted on November 29, 1974.

During the rulemaking proceeding on this final rule, oral and written comments were received with respect to the small refiner bias and the transfer of volumes of old oil in connection with buy/sell lists sales and such comments have been taken into account in the promulgation of the two technical requirements made effective today. The notice and hearing requirements of subsections 7(1) (1) (B), and (C) of the Federal Energy Administration Act of 1974 (Pub. L. 93–275) have therefore already been satisfied and a further opportunity for the presentation of oral and written views is unnecessary.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159; Federal Energy Administration Act of 1974, Pub. L. 93–275; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C. on December 20, 1974.

ROBERT E. MONTGOMERY, Jr.,
General Counsel,
Federal Energy Administration.

Section 211.67 is amended by revising paragraphs (e) and (f) to read as follows:

§ 211.67 Allocation of old oil.

* * * * * *

(e) *Entitlement adjustment for small refiners.* In addition to the number of entitlements issuable under paragraph (a) of this section, each small refiner with a daily average volume of crude oil runs to stills of less than 175,000 barrels for a particular month shall be issued the following number of additional entitlements for each day of that month: (1) For each small refiner with a daily average volume of crude oil runs to stills of 100,000 to 175,000 barrels, 1.256 entitlements less the number of entitlements obtained by multiplying the difference between that small refiner's daily average volume of crude oil runs to stills (in thousands of barrels) and 100 by 16.7733; (2) for each small refiner with a daily average volume of crude oil runs to stills of 30,000 to 100,000 barrels, 1.690 entitlements less the number of entitlements obtained by multiplying the difference between that small refiner's daily average volume of crude oil runs to stills (in thousands of barrels) and 30 by 6.1714; (3) for each small refiner with a daily average volume of crude oil runs to stills of 10,000 to 30,000 barrels, 1.238 entitlements plus the number of entitlements obtained by multiplying the difference between that small refiner's daily average volume of crude oil runs to stills (in thousands of barrels) and 10 by 22.6; and (4) for each small refiner with a daily average volume of crude oil runs to stills of zero to 10,000 barrels, 123.8 entitlements for each 1,000 barrels of that small refiner's daily average volume of crude oil runs to stills.

(f) *Transactions under § 211.65.* (1) Each sale by a refiner-seller under § 211.65 shall be deemed to include a volume of old oil proportionate to the volume of old oil included in the deliveries of crude oil to that refiner-seller that determine the price at which the sale is made under § 212.94 of Part 212. Any volumes of old oil so included in any sale under § 211.65 shall be reflected in the crude oil receipts of the refiner-buyer concerned. As to each such sale, each refiner-seller shall certify to the refiner-buyer the volume of old oil included in the volume of crude oil sold within twenty-five (25) days following the month in which the crude oil is delivered to or for the account of the refiner-buyer in accordance with the provisions of § 212.131 of Part 212.

(2) In determining the weighted average price of all crude oil delivered to a refiner-seller in a month in the specified PAD District or Districts pursuant to § 212.94 of Part 212, the cost of any required purchases or revenues from any sales of entitlements by that refiner-seller shall not be taken into account.

* * * * *

[FR Doc.74-30134 Filed 12-23-74;8:45 am]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Residual Fuel Oil; Allocation Level for Space Heating Requirements

On November 16, 1974, the Federal Energy Administration issued a notice of proposed rulemaking (39 FR 40866, November 21, 1974) concerning a change in the allocation level for space heating

requirements of residual fuel oil. Written comments were invited through December 2, 1974.

Six timely comments and three late comments were received in response to the notice of proposed rulemaking. Comments were filed by suppliers, trade associations, state and local government officials, and industry.

The proposed regulations would conform the allocation level for space heating requirements of residual fuel oil to that recently adopted for middle distillate fuels. The proposal provided for a change in the allocation level for space heating requirements of residual fuel oil from one hundred percent of base period use, not subject to an allocation fraction, to one hundred ten percent of base period use, subject to an allocation fraction, except that if a supplier's allocation fraction were less than 0.8, the supplier would supply space heating end-users and wholesale purchaser-consumers at an allocation level of eighty-eight percent of base period use, not subject to an allocation fraction (the equivalent of 0.8 times one hundred ten percent of base period use). It was also proposed to eliminate the mandatory temperature reductions of six degrees for residences and schools and ten degrees for other types of buildings, and the corresponding requirement that suppliers make deliveries on the basis of usage factors which establish the quantity of fuel required to maintain temperatures reduced as specified for each type of building. Since no temperature reductions were previously imposed upon medical and nursing buildings, it was proposed that they be accorded an allocation level of one hundred percent of current requirements, not subject to an allocation fraction.

Several comments supported the proposed elimination of the mandatory temperature reduction requirement because such a requirement is unfair to users of residual fuel oil since a similar requirement is not imposed upon users of other energy sources. In addition, the comments point out that the current allocation method of calculating levels is burdensome to suppliers of residual fuel oil. Those comments opposing the proposal were based upon the need for conservation of energy sources. FEA believes, however, that conservation can be achieved by other means and should not be imposed upon users of a fuel unless similar restrictions are placed upon similar users of other sources of energy which FEA does not regulate. The FEA has determined, therefore, that the proposed regulations should be adopted as proposed.

The following example illustrates the operation of the new regulation:

Supplier A is a supplier of residual fuel oil to three wholesale purchaser-consumers for space heating requirements and for other uses. Supplier A has no end-user or wholesale purchaser reseller customers. Supplier A desires to calculate its allocation fraction for the month of January, 1975 since residual fuel oil is allocated on a monthly basis. Firm B, a space heating wholesale purchaser-consumer to which the new allocation level applies, is supplied by Supplier A, and has a base period use for January of 20,000 gallons of residual fuel oil and an allocation requirement, as defined in § 211.10(b)(2)(iii), of 22,000 gallons (20,000 x 110%). Firm C purchases residual fuel oil from Supplier A for industrial use under an allocation level of one hundred percent of base period use, subject to an allocation fraction. Firm C's base period use for January is 30,000 gallons, and its allocation requirement is 30,000 x 100 percent, or 30,000 gallons. In addition, Supplier A supplies Firm D, a wholesale purchaser-consumer of residual fuel oil for non-military marine shipping under an allocation level of one hundred percent of current requirements, subject to an allocation fraction. Firm D's current requirements for January are 25,000 gallons, and its allocation requirement is 25,000 gallons. Supplier A has no other customers.

Thus, Supplier A's supply obligation, equal to the sum of its purchasers' allocation requirements, is 77,000 gallons. Assume that Supplier A's allocable supply for January is 60,000 gallons. Supplier A calculates its allocation fraction according to § 211.10(b) by dividing allocable supply (60,000) by supply obligation (77,000), and determines that its allocation fraction is 0.770. However, under § 211.163(c)(2), when a supplier's allocation fraction is less than 0.8, the allocation level for its space heating end-users and wholesale purchaser-consumers becomes eighty-eight percent of base period use, not subject to an allocation fraction. Since Supplier A must supply Firm B at this new allocation level, it must recalculate its allocation fraction for purposes of supplying Firms C and D.

Firm B's new allocation requirement for January is its base period use (20,000) times eighty-eight percent, or 17,600 gallons. Supplier A's new supply obligation is the sum of its purchasers' allocation requirements (17,600 + 30,000 + 25,000=72,600) minus amounts supplied to purchasers under allocation levels not subject to an allocation fraction (17,600 gallons to be supplied Firm B), or 55,000 gallons. Supplier A's new allocable supply is its total supply (60,000) less amounts supplied under allocation levels not subject to an allocation fraction (17,600), or 42,400 gallons. Supplier A's allocation fraction is therefore 42,400/55,000 or 0.771, and Supplier A will distribute its residual fuel oil as follows:

Firm B: 20,000 × .880 = 15,600
Firm C: 30,000 × .771 = 23,127
Firm D: 25,000 × .771 = 19,273
60,000

The FEA has determined that the effect of this amendment will not be so pervasive as to be likely to have a substantial impact on the nation's economy or large number of individuals or businesses, and that therefore it is not necessary to afford an opportunity for oral presentation of views on the amendment. It is evident that the increase in the allocation level for space heating tends to be offset by the application of the supplier's allocation fraction, and that other factors still in effect operate to restrain demand. Therefore the FEA does not forecast a significant overall increase in demand for residual fuel oil in the aggregate or as to individual businesses as a result of this amendment. Thus the impact with respect to expenditure as well as supply availability on businesses which supply and use residual fuel oil and individual users does not appear to be substantial. It should also be noted that the comments received in response to the notice of proposed rulemaking presented no data, views or arguments suggesting a contrary conclusion or which would otherwise support such a determination.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, Part 211 of 10 CFR Chapter II is amended as set forth below, effective January 1, 1975.

Issued in Washington, D.C., December 20, 1974.

ROBERT E. MONTGOMERY, Jr.,
General Counsel,
Federal Energy Administration.

1. Section 211.163 is amended by revising paragraphs (b) and (c) to read as follows:

§ 211.163 Allocation levels.

* * * * * *

(b) *Allocation levels not subject to an allocation fraction.* (1) One hundred (100) percent of current requirements for the following uses:

(i) Agricultural production;

(ii) Department of Defense use as specified in § 211.26; and

(iii) Space heating requirements of medical and nursing buildings.

(2) The allocation level as specified each month by the FEA for utility use. In specifying the allocation levels for each utility the FEA may include but is not limited to the following considerations:

(i) Each utility within appropriate groupings shall absorb an equal percentage cutback in electricity generation, to the maximum extent possible.

(ii) The fact that electric generating plants which now burn residual fuel oil have been identified by the FEA as candidates for conversion to coal, and the maximum possible extent to which such plants could be utilized after conversion.

(iii) The extent to which any electric generating plants which burn coal may be utilized more fully than at present.

(iv) The extent to which certain minimal levels of residual fuel oil consumption are essential, as determined by the FEA upon recommendation of the Federal Power Commission (FPC) to supply portions of a power system requirement that cannot be supplied by non-oil fired generation, or for other special considerations. Any volumes so identified shall be counted as part of a utility's total allocation.

(v) The extent to which utilities currently utilize natural gas supplies under interruptible contracts and the extent to which supplies have been interrupted.

(vi) Available stocks of residual fuel oil held by each utility.

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by application of an allocation fraction) for the following uses:

(i) Energy services;

(ii) Energy production;

(iii) Manufacture of ethical drugs and related research;

(iv) Non-military marine shipping, foreign and domestic (except cruise ships carrying passengers for recreational purposes). Sales to vessels engaged in the foreign trade of the United States shall be made on a non-discriminatory basis in regard to flag of registration, subject to modification by the FEA following consultation with appropriate Federal agencies on a case-by-case basis if required to encourage reciprocal non-discriminatory allocation of bunker fuel in foreign ports to vessels engaged primarily in the foreign trade of the United States;

(v) Sanitation services;

(vi) Telecommunications services;

(vii) Passenger transportation services.

(2) One hundred ten (110) percent of base period use (as reduced by application of an allocation fraction) for space heating requirements, except that whenever the allocation fraction of a supplier which supplies end-users and wholesale purchaser-consumers pursuant to this allocation level is less than 0.8, that supplier shall supply the space heating requirements of those end-users and wholesale purchaser-consumer at an allocation level of eighty-eight (88) percent of base period use, not subject to an allocation fraction.

(3) One hundred (100) percent of base period use for industrial use and all other users and uses of residual fuel oil not included in paragraph (b) or (c) (1) or (2) of this section.

§ 211.166 [Amended]

2. Section 211.166 is amended by deleting paragraph (e) in its entirety and paragraph (c) is amended by deleting the sentence, "With respect to space heating uses, suppliers must comply, to the fullest extent practicable, with the provisions of paragraph (e) of this section."

[FR Doc.74-30135 Filed 12-23-74;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS, ORGANISMS AND VECTORS

PART 113—STANDARD REQUIREMENTS

Miscellaneous Amendments

On June 17, 1974, a notice of proposed amendments to Part 113 was published in the FEDERAL REGISTER at 39 FR 20980.

These amendments codify in Part 113 test methods, procedures, and criteria established by Veterinary Services for evaluating biological products to be pure, safe, potent, and efficacious and not to be worthless, contaminated, dangerous, or harmful. All products shall meet the applicable requirements before marketing release is authorized.

These requirements have been developed over a period of years in cooperation with interested members of the scientific society and, for the most part, have been utilized by industry either as accepted requirements or as proposals under development.

The publication of these requirements is done to make more readily available to the general public these requirements which now appear in administrative memorandums.

These amendments revise the sterility tests in § 113.27 by adding an alternate test which may be used to test live viral vaccines of chicken embryo origin recommended for use in a manner other than parenteral injection.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice of rulemaking, and the constructive and helpful suggestions received from 21 sources, including representatives of the biologics industry, revisions of the material proposed were made for clarification of the procedures to be followed, scientific accuracy of the terminology used and adjustments in time periods and dates for completion of specified test requirements.

Pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (U.S.C. 151–158), the amendments of Part 113, Subchapter E, Chapter 1, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice are hereby adopted and are set forth herein subject to the following noted modifications:

The effective dates for having the Master Seed Virus requirements completed have been extended. Requirements for bronchitis vaccine and Marek's disease vaccine are to be completed by June 1, 1975. Those for rabies vaccine, avian encephalomyelitis vaccine, avian pox vaccine, fowl laryngotracheitis vaccine, and Newcastle disease vaccine are to be completed by January 1, 1976.

The number of test birds required for testing the Master Seed Virus for avian encephalomyelitis vaccine, avian pox vaccine, fowl laryngotracheitis vaccine and Newcastle disease vaccine has been reduced to conform with the requirements for bronchitis vaccine. The proposed method of judging the tests has been changed from a proposed percentage of protection to a stated number of birds to be protected depending upon the number of birds used by the licensee. These changes are made to statistically validate the tests and to also conform with the requirements for bronchitis vaccine. Affected paragraphs are hereinafter noted.

The time interval between the first retest of the Master Seed Virus and subsequent retests has been increased to 5 years as a result of the storage qualities evidenced by the first retests of some Master Seed Viruses. Affected paragraphs are hereinafter noted.

The incubation requirements for samples of poultry vaccines have either been adjusted by reducing the incubation time or deleting the requirements as indicated from additional stability information received with the comments. The paragraphs affected are hereinafter noted.

Section 113.27 (a) and (d) have been reworded to permit the use of the test in (a) or the test in (d) for vaccines of chicken embryo origin recommended for use in a manner other than parenteral injection. Section 113.27(d) has been further changed by deleting the proposed test using Trypticase Soy Agar.

The lead paragraph in § 113.127(a) has been reworded to limit the samples to completed product from each serial instead of samples from each serial or subserial. The required samples for § 113.127 (b) have been clarified by inserting the words "from each serial" to prevent conflict with the general statement in the lead paragraph for § 113.127.

The words "of disease" have been inserted in § 113.128(a) for clarity. Subparagraph designations in § 113.128(b) have been changed from (i), (ii), and (iii) to (1), (2), and (3), respectively. The spelling of "infection" in subparagraph (b) (2) has been corrected.

The requirements in § 113.129(a) (3) have been changed to require only the testing of primary cell cultures. Section 113.129(b) (1) has been reworded for clarity. Section 113.129(b) (3) has been changed to permit injections other than intramuscular and § 113.129(b) (4) has been changed to permit a variation in the bleeding days for test animals.

Sections 113.129(b) (5) (ii), 113.129(b) (6) and 113.129(d) (1) (i) have been reworded for clarity. Also, the second and subsequent retests of the Master Seed Virus for immunogenicity has been changed to a 5 year interval in § 113.129 (b) (6).

Spelling of the word "accordance" has been corrected in § 113.129(d) (2) (i). The requirement of 0.3 in § 113.129(d) (3) has been deleted so the test requirements can be written in the Outline of Production.

Where the name "feline distemper" appeared in § 113.139, the name "feline panleukopenia" has been substituted for scientific accuracy.

Section 113.139(b) (2) (ii) has been changed to clarify the physical requirements of the harvested embryo material. Section 113.139(c) (1) (i) has been reworded to clarify the serum dilution to be used, to relax the virus requirements, and to make (i) or (ii) optional by changing "and" to "or." Section 113.139(c) (2) has been changed to permit the use of methods other than the proposed fluorescent antibody method and to correct the test designation.

Febrile response requirement has been deleted from § 113.139(c) (3) (i) and the white blood cell count requirement has been changed to conform with the requirements in § 113.123(b) (3).

The second and subsequent retests of Master Seed Virus for immunogenicity has been changed to a 5 year interval in § 113.139(c) (4).

Section 113.139(d) (1) (i) has been relaxed to permit the use of healthy cats. Section 113.139(d) (2) has been reworded to conform with the change made in § 113.139(c) (2).

Editorial corrections have been made in the lead paragraph of § 113.140(b) and in § 113.140(b) (2). Section 113.140(b) (3)

has been reworded to permit use of containers other than Leighton tubes. § 113.140(c)(1) has been reworded to clarify the serum dilution to be used and to relax the virus requirements. Section 113.140(c)(2) has been changed to permit the use of methods other than the proposed cytopathic effect method and to correct the test designation.

Section 113.140(d)(2) has been reworded to conform with § 113.140(c)(2). The second and subsequent retests of Master Seed Virus for immunogenicity has been changed to a 5 year interval in § 113.140(c)(4) and § 113.141(c)(4).

Section 113.141(b)(2)(ii) has been reworded to permit use of containers other than Leighton tubes. Section 113.141(c)(1) has been reworded to clarify the serum dilution to be used and to relax the virus requirements.

Section 113.141(c)(2) has been changed to permit the use of methods other than the proposed fluorescent-antibody method and to correct the test designation. The words "canine distemper" have been substituted in § 113.141(c)(3)(ii) for "disease" for clarity. Section 113.141(d)(2) has been reworded to conform with the change made in § 113.141(c)(2).

The lead paragraph in § 113.142(a) has been reworded to permit the use of a virus identity test other than the two prescribed in § 113.135(c)(2).

Section 113.142(b)(2) has been reworded to permit use of containers other than Leighton tubes. Section 113.142(c)(1) has been reworded to clarify the serum dilution to be used and to relax the virus requirements. The word "samples" has been changed to "sample" in § 113.142(c)(2) and the test designation corrected.

The second and subsequent retests of Master Seed Virus for immunogenicity has been changed to a 5 year interval in §§ 113.142(c)(4), 113.143(b)(5) and 113.144(c)(9).

The lead paragraph in § 113.142(d) has been reworded to conform with the lead paragraph in § 113.142(a).

Section 113.143(c)(1) has been reworded for clarity and to provide for a repeat test. Section 113.143(c)(1)(iii) and (iv) have been reworded and redesignated as part of § 113.143(c)(1)(ii) for accuracy and clarity.

Section 113.144(c)(1)(i) has been reworded to clarify the serum dilution to be used and to relax the virus requirements. Section 113.144(c)(2) has been changed to permit the use of methods other than the proposed cytopathic effect method or hemadsorption method and to correct the test designation.

Sections 113.144(c)(3), (4), and (5) have been reworded to clarify the observation time requirements for the test animals. Section 113.144(c)(6)(ii) has been relaxed to permit checking for antibodies at two weeks post-vaccination.

The lead paragraph in § 113.144(d) and subparagraph § 113.144(d)(1) have been reworded to make the Brucella test requirements applicable only to primary cells.

The guinea pig safety test in § 113.38 has been deleted from §§ 113.144(d)(2) and 113.144(d)(3) has been reworded to conform with § 113.144(c)(2).

Section 113.145(c)(1) has been reworded to clarify the serum dilution to be used. Section 113.145(c)(2) has been changed to permit the use of methods other than the proposed plaque formation method and to correct the test designation.

Sections 113.145(c)(3) and 113.145(c)(4) have been reworded for clarity and to relax the virus requirements.

The second and subsequent retests of Master Seed Virus for immunogenicity has been changed to a 5 year interval in §§ 113.145(c)(8) and 113.146(c)(7).

The lead paragraph in § 113.145(d) and subparagraph § 113.145(d)(1) have been reworded to make the Brucella test requirements applicable only to primary cells.

The guinea pig safety test in § 113.38 has been deleted from §§ 113.145(d)(2) and 113.145(d)(3) has been reworded to conform with § 113.145(c)(2).

Section 113.146(c)(1) has been reworded to clarify the serum dilution to be used and to relax the virus requirements. Section 113.146(c)(2) has been changed to permit the use of methods other than the proposed fluorescent antibody method and to correct the test designation.

Sections 113.146(c)(3), 113.146(c)(4), and 113.146(c)(5) have been reworded for clarity and to relax the virus requirements.

The lead paragraph in § 113.146(d) and subparagraph § 113.146(d)(1) have been reworded to make the Brucella test requirements applicable only to primary cells.

The guinea pig safety test in § 113.38 has been deleted from § 113.146(d)(2) and § 113.146(d)(3) has been reworded to conform with § 113.146(c)(2).

The lead paragraph in § 113.147(a)(3) has been changed to limit the test requirements for LCM virus. The lead paragraph in § 113.147(a)(4) has been reworded to clarify the purpose of the requirement. § 113.147(a)(4)(i) has been reworded to clarify the serum dilution requirement. Section 113.147(a)(4)(ii) has been changed to correct the virus dose. An editorial change has been made in § 113.147(a)(4)(iii). Section 113.147(a)(5)(i) has been reworded for clarity and § 113.147(a)(5)(ii) has been changed to correct the virus dose.

The test designation has been corrected in § 113.147(b)(1). The second and subsequent retests of Master Seed Virus for immunogenicity has been changed to a 5 year interval in § 113.147(b)(7) and reworded to relax certain test requirements. Subdivisions § 113.147(b)(7)(i) and (ii) have been added.

Section 113.147(d)(1)(i) has been changed to limit the requirements to vaccine of avian origin and § 113.147(d)(1)(ii) has been changed to make the proposed test optional with the safety test in § 113.40 as the alternative.

The lead paragraphs in §§ 113.160, 113.161, 113.162, 113.163, 113.64, and 113.165 have been changed to permit use of the first through the fifth passage from the Master Seed Virus.

The number of test birds prescribed in § 113.160(c)(1) has been changed from thirty or more to twenty or more. The word "paralyzed" has been substituted for "crippled" in § 113.160(c)(2)(iii) as being a more accurate designation. Section 113.160(c)(4) has been reworded to conform to the reduced number of test birds.

The second and subsequent retests of Master Seed Virus for immunogenicity has been changed to a 5 year interval in §§ 113.160(c)(5), 113.161(c)(5), and 113.162(c)(4).

The term "titration method" has been substituted for "procedures" for clarity and the sample incubation requirement has been deleted from § 113.160(d)(1). A printing error in § 113.160(d)(2) has been corrected.

Section 113.160(e)(1) has been reworded to retain a sample incubation requirement for release but not for testing during the expiration period. Subdivisions § 113.160(e)(1)(i) and (ii) have been added and the virus titer requirements have been reduced to $10^{2.5}$ EID_{50} to conform with 113.160(d)(2). Section 113.161(a) has been reworded to exempt the virus from § 113.135(c). The number of test birds prescribed in § 113.161(c)(1) has been changed from thirty or more to twenty or more. The observation period in § 113.161(c)(3) has been reduced to 10 days. Section 113.161(c)(4) has been reworded to conform to the reduced number of test birds.

The lead paragraph in § 113.161(d) has been reworded to exempt the vaccine from § 113.135(c). The term "titration method" has been substituted for "procedures" in § 113.161(d)(1). Section 113.161(d)(1)(i) has been deleted and § 113.161(d)(1)(ii) has been combined with the lead paragraph in § 113.161(d)(1). A repeat test has been provided for in § 113.161(d)(2).

The lead paragraph in § 113.161(e) has been reworded to exempt the vaccine from § 113.135(c). Section 113.161(e)(1) has been rewritten to retain a sample incubation requirement for release but not for testing during the expiration period.

Inconclusive test has been substituted for unsatisfactory test in § 113.162(b). Section 113.162(c)(3)(i) has been rewritten and the word "stored" deleted from the last sentence of § 113.162(c)(3)(iii) for clarity. Section 113.162(c)(3)(iv) has been rewritten to conform with required number of embryos prescribed in (iii), to clarify the conditions for a valid test, and provide for evaluation of dead embryos. The words "Master Seed Virus" have been substituted for "virus" in § 113.162(c)(3)(vi) for specificity.

The table in § 113.162(d)(2)(ii) has been condensed to make publication in a column possible. Section 113.162(d)(3)(iii) has been changed by deleting the sample incubation requirement.

The lead paragraph in § 113.163(b) has been rewritten to provide an alternate pathogen test. The number of test birds prescribed in § 113.163(c)(1) has been changed from thirty or more to twenty or more. The word "laboratories" has been deleted from § 113.163(c)(4). Section

113.163(c)(5) has been rewritten to conform to the reduced number of test birds. The second and subsequent retests of Master Seed Virus for immunogenicity has been changed to a 5 year interval in § 113.163(c)(6).

The lead paragraph in § 113.163(d) has been rewritten to provide an alternate pathogen test in a new (1). The proposed § 113.163(d)(1) has been redesignated as (2) and captioned as "Virus titration." For clarity "titration method" has been substituted for "procedure." Section 113.163(d) has also been changed by deleting § 113.163(d)(1)(i) and redesignating (ii) as (3).

The lead paragraph in § 113.163(e) has been rewritten to conform to changes in § 113.163(d). Section 113.163(e)(1) has been rewritten to retain a sample incubation requirement for release but not for testing during the expiration period.

Editorial changes have been made in § 113.163(e)(2)(iii) for clarity. Section 113.163(e)(3) has been reworded to limit the test requirements to modified live virus vaccine.

Section 113.164(a) has been reworded to exempt the Master Seed Virus from the test in § 113.34. Section 113.164(b) has been reworded to provide for an inconclusive test. The number of test birds prescribed in § 113.164(c) has been changed from thirty or more to 20 or more. Spelling of "vaccine" has been corrected in § 113.164(c)(2). The route of challenge has been added in § 113.164(c)(3) for uniformity. Section 113.164(c)(4) has been rewritten to conform to the reduced number of test birds. The second and subsequent retests of Master Seed Virus for immunogenicity has been changed to a 5 year interval in § 113.164(c)(5).

The lead paragraph in § 113.164(d) has been reworded to exempt Newcastle Disease Vaccine from the test in § 113.34. Section 113.164(d)(1) has been redesignated (2) and reworded for clarity and a new subparagraph (1) inserted to conform with § 113.164(b).

Section 113.164(d)(1)(i) and (ii) have been changed by deleting (i) and redesignating (ii) as (3) and changing the virus titer requirements to $10^{5.0}$ EID_{50} per dose.

The lead paragraph in § 113.164(e) has been reworded to exempt Newcastle Disease Vaccine from § 113.34. Section 113.164(e)(1) has been rewritten to reduce the virus titer requirements to $10^{6.5}$ EID_{50} per dose. Section 113.164(e)(1) and § 113.164(e)(1)(i) have been deleted. Section 113.164(e)(1)(ii) has been redesignated as § 113.164(e)(1). The table in § 113.164(e)(4)(ii) has been condensed to make publication in a column possible.

Section 113.165(c) is being reserved at this time. The proposed potency test requirements for the Master Seed Virus for Marek's disease vaccine are being withheld pending further development of a satisfactory challenge virus and procedure. Section 113.165(d) has been corrected to exempt Marek's disease vaccine from the virus identity requirements in § 113.135(c). The proposed 7 day sample incubation period in § 113.165(d)(3) has been reduced to 3 days.

Part 113, Standard Requirements, of Title 9 of the Code of Federal Regulations, is amended as follows:

§ 113.27 Detection of viable bacteria and fungi in live vaccines.

* * * * *

(a) *Live viral vaccines.* Each biological product composed of live virus shall be tested according to the procedures prescribed in this paragraph: *Provided*, That, a biological product of chicken embryo origin recommended for use in a manner other than parenteral injection may be tested in accordance with the test prescribed in paragraph (d) of this section.

* * * * *

(d) Live viral vaccines of chicken embryo origin recommended for use in a manner other than parenteral injection which have not been found free of bacteria and fungi by the procedures prescribed in paragraph (a) of this section may be tested according to the procedures prescribed in this paragraph.

(1) The medium shall be Brain Heart Infusion Agar with 500 Kinetic (Kersey) units of penicillinase per ml of medium added to the agar just prior to pouring the plates.

(2) Test procedures. (i) Ten final container samples of completed product from each serial and each subserial shall be tested using the medium prescribed in paragraph (d)(1) of this section.

(ii) Immediately prior to starting the test, frozen liquid vaccine shall be thawed, and lyophilized vaccine shall be rehydrated to the quantity recommended on the label using sterile distilled water or accompanying sterile diluent. Product recommended for mass vaccination shall be rehydrated at the rate of 30 ml sterile distilled water per 1000 doses.

(iii) From each sample, two plates shall be inoculated with vaccine equal to 10 doses as recommended for poultry or one dose as recommended for other animals.

(iv) Twenty ml of medium shall be added to each plate.

(v) One plate shall be incubated at 30–35° C for seven days and the other plate shall be incubated at 20–25° C for 14 days.

(vi) Colony counts shall be made for each plate. An average colony count for the ten samples representing a serial or subserial shall be computed for each incubation condition.

(vii) If the average count at either incubation condition for a serial or subserial exceeds one colony per dose for vaccines recommended for poultry or ten colonies per dose for vaccines recommended for other animals, the serial or subserial is unsatisfactory.

§ 113.127 Encephalomyelitis Vaccine, Eastern and Western, Killed Virus.

Encephalomyelitis Vaccine, Eastern and Western, Killed Virus, shall be prepared from virus-bearing cell culture fluids. Except for § 113.120(d), each serial and subserial shall meet the general requirements prescribed in § 113.120 and the requirements prescribed in this section. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(a) *Safety test.* Bulk samples of completed product from each serial shall be tested for encephalomyelitis virus inactivation.

(1) Each of at least ten 6 to 12 hour old chickens shall be injected subcutaneously with 0.5 ml of the product and the chickens observed each day for 10 days.

(2) If unfavorable reactions attributable to the product occur in the chickens during the observation period, the serial is unsatisfactory. If unfavorable reactions not attributable to the product occur, the test is inconclusive and may be repeated: *Provided*, That, if the test is not repeated, the serial is unsatisfactory.

(b) *Potency tests.* Bulk or final container samples of completed product from each serial shall be tested for potency as provided in this paragraph. For these tests, a guinea pig dose shall be one-half the amount recommended on the label for a horse and shall be administered as recommended for a horse except for the interval between the first and second dose.

(1) *Eastern Type Fraction.* Each of 10 healthy guinea pigs (vaccinates) shall be injected with two guinea pig doses with an interval of 14 to 21 days between doses. Two additional guinea pigs from the same source shall be held as controls.

(i) Fourteen to twenty-one days after the second inoculation, serum samples from each of the vaccinates and the controls shall be tested by the plaque reduction serum neutralization test.

(ii) If the control serum samples show a titer greater than 1:2, the test is inconclusive and may be repeated; *Provided*, That, if at least nine of the vaccinate serum samples do not show a titer of 1:4 or greater, the serial or subserial is unsatisfactory.

(2) *Western Type Fraction.* Each of 10 healthy guinea pigs (vaccinates) shall be injected with two guinea pig doses with an interval of 7 days between doses. Five additional guinea pigs from the same source shall be held as controls.

(i) Ten to fourteen days after the second dose, at least nine of the 10 vaccinates and the five controls shall be injected intracerebrally with 0.1 ml of a virulent virus suspension and the guinea pigs observed each day for 10 days.

(ii) If at least 80 percent of the controls do not die or show signs of encephalomyelitis during the observation period, the test is inconclusive and may be repeated; *Provided*, That, if more than two of the challenged vaccinates die or show signs of encephalomyelitis during the observation period, the serial or subserial is unsatisfactory.

§ 113.128 Avian Encephalomyelitis Vaccine (Killed Virus).

Avian Encephalomyelitis Vaccine (Killed Virus) shall be prepared from virus-bearing tissues or fluids obtained from embryonated chicken eggs. Each serial shall meet the general requirements prescribed in § 113.120 and the re-

quirements prescribed in this section. Any serial found unsatisfactory by a prescribed test shall not be released.

(a) *Safety tests.* (1) The prechallenge part of the potency test prescribed in paragraph (b) of this section shall constitute a safety test. If any of the vaccinates develop clinical signs of disease or die due to causes attributable to the product, the serial is unsatisfactory.

(2) An inactivation test for viable avian encephalomyelitis (AE) virus shall be conducted on each serial. The test shall be conducted using susceptible chicken embryos; *Provided*, That, if a non-embryo adapted virus is used for vaccine production, the test shall be conducted in susceptible chickens.

(i) *Chicken Embryo Test.* Each of 15 or more AE susceptible 5 or 6 day old embryos shall be injected in the yolk sac with 0.2 ml of the vaccine. For a valid test, at least 80 percent of the embryos shall survive for 48 hours post-inoculation (PI). Eleven to 13 days PI, all embryos surviving the 48 hour PI period shall be examined for gross lesions of AE; all these embryos shall be normal or the serial is unsatisfactory. Concurrently, five additional embryos from the same source shall be injected with live AE virus of the production strain to serve as positive controls. At least 4 of the 5 embryos shall show evidence of AE virus infection during the 11 to 13 day PI period or the test shall be considered inconclusive and repeated; *Provided*, That, if the test is not repeated, the serial shall be declared unsatisfactory.

(ii) *Chicken test.* Each of 10 or more AE susceptible 7 day old chickens shall be injected intracerebrally with 0.1 ml vaccine each. The chickens shall be observed each day for 28 days. If any chickens show clinical signs of AE, the serial is unsatisfactory. Concurrently, 5 additional chickens from the same source shall be injected intracerebrally with live AE virus of the production strain to serve as positive controls. At least 4 of the 5 controls shall show evidence of AE virus infection during the observation period or the test shall be inconclusive and may be repeated; *Provided*, That, if the test is not repeated, the serial shall be unsatisfactory.

(b) *Potency test.* Bulk or final container samples of completed product from each serial or one subserial shall be tested. Ten or more AE-susceptible chickens (vaccinates), 4 weeks or older, properly identified and obtained from the same source and hatch, shall be injected as recommended on the label. At least 10 additional AE-susceptible chickens, properly identified and obtained from the same source and hatch shall be kept in isolation as controls.

(1) At least 28 days post-injection, the vaccinates and the controls shall be challenged intramuscularly with a virulent AE virus and the chickens observed each day for 21 days.

(2) If at least 80 percent of the controls do not show clinical signs of or die from AE infection, the test is inconclusive and may be repeated.

(3) If at least 80 percent of the vaccinates do not remain normal, the serial is unsatisfactory.

§ 113.129 Rabies Vaccine (Killed Virus).

Rabies Vaccine (Killed Virus) shall be prepared from virus-bearing cell cultures or nerve tissues obtained from animals that have developed rabies infection following injection with rabies virus. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135 and the requirements prescribed in this section.

(1) Each lot of Master Seed Virus shall be tested for viral agents by procedures prescribed in § 113.52(d) (4), (5), and (6) with the modification that one ml of Master Seed Virus is substituted for the one ml aliquot of disrupted cells.

(2) Each lot of Master Seed Virus propagated in tissue or cells of avian origin shall also be tested for extraneous pathogens by procedures prescribed in § 113.37.

(3) Each lot of Master Seed Virus propagated in primary cell cultures of hamster origin or brain tissues of mouse origin shall be tested for lymphocytic choriomeningitis (LCM) virus by the procedure for testing vaccine prescribed in subparagraph (d)(1) of this section. If LCM virus is detected, the Master Seed Virus is unsatisfactory. Vaccine virus may be neutralized with specific antiserum when necessary.

(b) The immunogenicity of the lot of Master Seed Virus shall be established in all species for which the vaccine is recommended.

(1) Thirty-five animals of each species shall be used as test animals (25 vaccinates and 10 controls). Blood samples shall be drawn from these animals and individual serums tested. Only animals which are negative at 1:2 final serum dilution for neutralizing antibodies to rabies shall be used.

(2) The preinactivation virus titer shall be established by at least five separate virus titrations. A mean relative potency value of the vaccine used in the host animal potency test shall be established by at least five replicate potency tests conducted in accordance with the National Institutes of Health test for Potency in Chapter 33 of *Laboratory Techniques in Rabies*, 1973 Edition, World Health Organization, Geneva. The volumetric method of calculation shall be used.

(3) Each of 25 vaccinates shall be injected with one dose as recommended on the label. A second such dose may be injected 30 days after the first dose unless the test is intended to qualify the vaccine for label recommendations which specify a single dose for primary immunizations.

(4) On or about days 30, 60, 90, 180, 270, and 365 post-injection, all test animals shall be bled and individual serums tested for neutralizing antibodies to rabies virus.

(5) Virulent street virus shall be furnished or approved by Veterinary Services. One year after the last dose of vaccine, challenge virus shall be injected bilaterally into the masseter muscles and the animals observed each day for 90 days as prescribed in § 113.5(b).

(i) When cattle, horses, sheep, and goats are the test animals, the immunity of the five vaccinates having the lowest titers shall be challenged: *Provided*, That, all vaccinates with titers below 1:5 shall be challenged. The remainder of the vaccinates may be challenged at a later date and the results included in the criteria used to establish a satisfactory Master Seed Virus.

(ii) When species other than those specified in subdivision (i) of this subparagraph are used for test animals, all vaccinates shall be challenged.

(iii) If at least 80 percent of the controls do not die from rabies during the observation period, the test is inconclusive.

(iv) If at least 85 percent of the challenged vaccinates do not remain well during the observation period, the Master Seed Virus is unsatisfactory.

(6) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest and the retest may be limited to serological response of the vaccinates if such response is equal to or greater than that in the original immunogenicity test.

(7) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(c) If more than 1 year duration of immunity is to be claimed, a duration of immunity test for the additional time shall be conducted as prescribed in subparagraph (b)(5) of this section for the 1 year test. At least 25 vaccinates shall be selected at the time the test is started for each challenge period. The test animals may be monitored serologically and the time of challenge adjusted accordingly. A duration of immunity test shall be considered satisfactory if 85 percent of the vaccinates are shown to be immune.

(d) Test requirements for release: Each serial and each subserial shall meet the general requirements prescribed in § 113.120 and special requirements in this paragraph.

(1) *Purity test.* (i) Primary cell cultures of hamster origin or brain tissues of mouse origin used in vaccine production shall be tested for LCM virus. Hamster origin cells shall be disrupted and undiluted cell fluids from each lot shall be tested. Where mouse brains are used in production, at least five mice which have not been injected with rabies virus shall be sacrificed and

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a 10 percent suspension of brain material shall be prepared and tested as follows:

(ii) Each of at least 10 mice obtained from a source free of LCM shall be injected in the foot pad of a hind foot with 0.02 ml and the mice observed each day for 21 days.

(iii) If any of the mice show swelling in the injected foot pad or if more than one becomes systemically abnormal, the serial or subserial is unsatisfactory.

(2) *Safety tests.* Bulk samples from each serial shall be tested for virus inactivation and safety as follows:

(i) At the end of the inactivation period, each of 20 12 to 16 gram mice shall be injected intracerebrally with 0.03 ml and two rabbits shall be injected into each cerebral hemisphere with 0.25 ml and observed each day for 21 days. The brains of animals dying between the fourth and 21st day post-injection shall be checked for rabies virus. Material from each brain recovered shall be injected into each of five mice and the mice observed each day for 14 days. The fluorescent antibody test or serum neutralization test shall be used to confirm the presence or absence of live rabies virus. If live rabies virus is confirmed, the serial is unsatisfactory unless reprocessed in accordance with § 114.18.

(ii) Each of three young (less than 6 months of age) seronegative animals of one species for which the vaccine is recommended shall be injected in the manner and dosage for primary immunization stated on the label. If one dose is used, the animals shall be observed each day for 30 days. If two doses are used, the animals shall be observed each day for 14 days after the second dose. If unfavorable reactions attributable to the product occur, the serial is unsatisfactory.

(3) *Potency test.* Bulk or final container samples of complete product from each serial shall be tested for potency by the National Institutes of Health Test described in Chapter 33, *Laboratory Techniques in Rabies*, 1973 edition. World Health Organization, Geneva. The volumetric method of calculation shall be used. The relative potency of each serial shall be at least equal to that used in an approved host animal potency study. Until such host animal potency study is approved, potency tests shall be in accordance with the filed Outline of Production.

§ 113.139 Feline Panleukopenia Vaccine.

Feline Panleukopenia Vaccine shall be prepared from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.100 and the requirements prescribed in this section.

(b) The lot of Master Seed Virus shall be tested for other agents as follows:

(1) To detect virulent feline panleukopenia virus or virulent mink enteritis virus, each of two feline panleukopenia susceptible cats, as determined by the criteria prescribed in paragraph (c)(1) of this section, shall be injected subcutaneously with the equivalent of one cat dose each and the cats observed each day for 21 days. If either or both cats show signs of disease or reduced white blood cell counts below 50 percent of the normal level established by an average of three or more counts taken prior to injection, the Master Seed Virus is unsatisfactory.

(2) To detect chlamydial agents, the yolk sac of 6 day old chicken embryos shall be injected. Three groups of 10 embryos shall be used sequentially.

(i) The inoculum for each embryo in the first group shall consist of 0.5 ml of a mixture of equal parts of the seed virus with phosphate buffered saline containing 2 mg/ml each of Streptomycin, Vancomycin, and Kanomycin.

(ii) On the tenth day post-inoculation, the yolk sacs of viable embryos shall be harvested, pooled, homogenized as a 20 percent suspension in phosphate buffered saline antibiotic diluent, and 0.5 ml of the mixture injected into the second group of chicken embryos. This process shall be repeated for the injection of the third group of embryos using the yolk sacs of viable embryos from the second group.

(iii) For each of the three passages, embryos deaths occuring within 48 hours of injection shall be disregarded except that if more than three such deaths occur at any passage, that passage shall be repealed.

(iv) If one or more embryo deaths occur at any passage after 48 hours post-injection, the yolk sacs from each of the dead embryos shall be subcultured into 10 additional embryos. If embryo deaths again occur, the seed virus is disqualified for use to produce vaccine.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) Twenty-five feline panleukopenia susceptible cats shall be used as test animals (20 vaccinates and five controls). Blood samples shall be drawn from these animals and individual serums tested. The cats shall be considered susceptible if:

(i) The results are negative at a 1:2 final serum dilution in a virus neutralization test with less than 500 $TCID_{50}$ of feline panleukopenia virus; or

(ii) A total leukocyte count of less than 4,000 occurs in a littermate challenged with virulent feline panleukopenia virus.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. The 20 cats used as vaccinates shall be injected with a predetermined quantity of vaccine virus and the remaining five cats held as uninjected controls. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used.

(3) Fourteen days post-injection, the vaccinates and the controls shall be challenged with virulent feline panleukopenia virus furnished by Veterinary Services and the cats observed each day for 14 days.

(i) If at least 80 percent of the controls do not show clinical signs of feline panleukopenia, the test is inconclusive and may be repeated. Symptoms shall include a pronounced leukopenia wherein the white blood cell count drops to less than 25 percent of the normal level established by an an average of three or more counts taken prior to challenge.

(ii) If at least 19 of the 20 vaccinates do not survive without showing clinical signs of feline panleukopenia or a pronounced drop in white blood cell count during the observation period, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest: *Provided*, That, five of five vaccinates and at least four of the controls shall meet the criteria prescribed in paragraph c(3) of this section.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) *Test requirements for release.* Each serial and subserial shall meet the requirements prescribed in § 113.135 and in this paragraph. Final container samples of completed product shall be tested. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Safety tests.* The mouse safety test prescribed in § 113.33(a) and the cat safety test prescribed in this subparagraph shall be conducted.

(i) Each of two healthy cats shall be injected with 10 cat doses by the method recommended on the label and the cats observed each day for 14 days.

(ii) If unfavorable reactions attributable to the biological product occur during the observation period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated; *Provided*, That, if not repeated, the serial shall be unsatisfactory.

(2) *Potency test.* An in vitro potency test shall be conducted. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that, when tested at any time within the expiration period, each serial and subserial shall have a virus titer of 0.7 logs greater than that used in such immunogenicity test but not less than $10^{7.0}$ ID_{50} per dose when tested by the method used in paragraph (c)(2) of this section.

§ 113.140 · Canine Hepatitis Vaccine.

Canine Hepatitis Vaccine shall be prepared from virus bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used in preparing the production seed virus for vaccine production. All serials shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135 and the requirements prescribed in this section.

(b) The lot of Master Seed Virus shall be tested for other viral agents as follows:

(1) To detect wild infectious canine hepatitis virus, each of two canine hepatitis susceptible dogs or foxes shall be injected intravenously with 2.0 ml of the seed virus and observed each day for 21 days. If clinical signs or deaths due to infectious canine hepatitis occur in either test animal during the observation period the seed virus is unsatisfactory.

(2) To detect virulent canine distemper virus, each of 2 ferrets known to be susceptible to canine distemper virus shall be injected with 1.0 ml of the seed virus and observed each day for 21 days. If clinical signs or deaths due to canine distemper occur in either test animal during the observation period, the seed virus is unsatisfactory.

(3) To detect canine distemper virus, 10 Leighton tubes containing coverslips or equally suitable cell culture vessels shall be seeded with any type cell that is susceptible to canine distemper virus. When the cell growth is satisfactory, each of five vessels shall be inoculated with 0.2 ml mixture of seed virus and antiserum (equal volumes of virus and monospecific high titer infectious canine hepatitis antiserum). Seven to ten days later, all the cell cultures shall be stained with a canine distemper specific fluorescent antibody. If all the cell cultures are not negative for specific viral staining, the seed virus is unsatisfactory. Positive virus controls shall be included.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus being tested shall be established as follows:

(1) Twenty-five canine hepatitis susceptible dogs shall be used as test animals (20 vaccinates and five controls). Blood samples shall be drawn from these animals and individual serum samples tested. The dogs shall be considered susceptible if the results are negative at a 1:2 final serum dilution in a varying serum-constant virus neutralization test with less than 500 $TCID_{50}$ of infectious canine hepatitis virus.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. The 20 dogs to be used as vaccinates shall be injected with a predetermined quantity of vaccine virus and the remaining five dogs held as uninjected controls. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used.

(3) Not less than fourteen days postinjection, the vaccinates and the controls shall each be challenged intravenously with virulent infectious canine hepatitis virus and observed each day for 14 days.

(i) If at least four of the five controls do not die and the survivor, if any, does not show clinical signs of infectious canine hepatitis and infectious canine hepatitis virus is not isolated from such survivor, the test is inconclusive and may be repeated.

(ii) If at least 19 of the 20 vaccinates do not survive without showing clinical signs of infectious canine hepatitis during the observation period, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest: *Provided*, That, five of five vaccinates and at least four of the controls shall meet the criteria prescribed in paragraph (c) (3) of this section.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) Test requirements for release:

Each serial and subserial shall meet the general requirements prescribed in § 113.135 and special requirements in this paragraph. Final container samples of completed product shall be tested. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) The dog safety test prescribed in § 113.40 and the mouse safety test prescribed in § 113.33 (a) shall be conducted.

(2) Potency test: An in vitro potency test shall be conducted. To be eligible for release, each serial and subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that, when tested at any time within the expiration period, each serial and subserial shall have a virus titer .7 logs greater than that used in such immunogenicity test but not less than $10^{7.6}$ $TCID_{50}$ per dose when tested by the method used in paragraph (c) (2) of this section.

§ 113.141 Canine Distemper Vaccine (Ferret Avirulent).

Canine Distemper Vaccine (Ferret Avirulent) shall be prepared from virus-bearing cell culture fluids or embryonated chicken eggs. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135 and the requirements prescribed in this section.

(b) The lot of Master Seed Virus shall be tested for other viral agents as follows:

(1) To detect wild canine distemper virus, each of two canine distemper susceptible ferrets shall be injected with a sample of the Master Seed Virus equivalent to the amount of virus to be used in one dog dose and observed each day for 21 days. If undesirable reactions occur in either ferret, the lot of Master Seed Virus is unsatisfactory.

(2) To detect infectious canine hepatitis virus, the two tests prescribed in this subparagraph shall be used.

(i) Each of two infectious canine hepatitis susceptible dogs or foxes shall be injected with 0.05 ml of the Master Seed Virus into the anterior chamber of one eye and examined each day for 14 days for corneal opacity. If the eyes do not remain clear, the Master Seed Virus is unsatisfactory.

(ii) Ten Leighton tubes containing coverslips or equally suitable cell culture vessels shall be seeded with any type cell that is susceptible to infectious canine hepatitis virus. When the cell growth is satisfactory, each of five tubes shall be inoculated with 0.1 ml of the Master Seed Virus. Seven to ten days later, all the cell cultures shall be stained with infectious canine hepatitis specific fluorescent antibody. If all cell cultures are not negative, the Master Seed Virus is unsatisfactory. A positive control shall be used for comparison.

(3) Master Seed Virus propagated in chicken embryos shall be tested for pathogens by the chicken embryo test prescribed in § 113.37. If found unsatisfactory, the Master Seed Virus shall not be used.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) Twenty-five canine distemper susceptible dogs shall be used as test animals (20 vacinates and five controls). Blood samples shall be drawn from these animals and individual serum samples tested. The dogs shall be considered susceptible if the results are negative at a 1:2 final serum dilution in a varying serum-constant virus neutralization test with less than 500 ID_{50} of canine distemper virus.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. The 20 dogs used as vaccinates shall be injected with a predetermined quantity of vaccine virus and the remaining five dogs held as uninjected controls. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used.

(3) At least twenty-one days postinjection, the vaccinates and the controls shall each be challenged intracerebrally with the same size dose of Snyder Hill canine distemper virus furnished by Veterinary Services and observed each day for 21 days.

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(i) If at least four of the five controls do not die and the survivor, if any, does not show clinical signs of canine distemper and canine distemper virus isolated from such survivor, the test is inconclusive and may be repeated.

(ii) If at least 19 of the 20 vaccinates do not survive without showing clinical signs of canine distemper during the observation period, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest: *Provided*, That, five of five vaccinates and at least four of the controls shall meet the criteria prescribed in paragraph (b)(3) of this paragraph.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) Test requirements for release: Each serial and subserial shall meet the general requirements prescribed in § 113.135 and the requirements in this paragraph. Final container samples of completed product shall be tested. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Safety tests.* The dog safety test prescribed in § 113.40 and the mouse safety test prescribed in § 113.33(a) shall be conducted.

(2) *Potency test.* An in vitro potency test shall be conducted. To be eligible for release, each serial and subserial shall have a virus titer sufficiently greater than the titer of the vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that, when tested at any time within the expiration period, each serial and subserial shall have a virus titer .7 logs greater than that used in such immunogenicity test but not less than $10^{2.0}$ ID_{50} per dose when tested by the method used in paragraph (c)(2) of this section.

§ 113.142 Canine Distemper Vaccine (Ferret Virulent).

Canine Distemper Vaccine (Ferret Virulent) shall be prepared from virus-bearing cell culture fluids or virus-bearing tissues obtained from ferrets that have developed canine distemper following inoculation with canine distemper virus. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be produced from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135 and the special requirements prescribed in this section: *Provided*, That, the virus identity test in paragraphs (a)(1) and (2) of this section may be conducted instead of either test prescribed in § 113.135(c).

(1) Dogs used in the safety test in § 113.40 shall be bled prior to injection and 14 to 21 days post-injection and individual serum samples prepared. When tested by a serum-neutralization method (constant virus, 100 to 500 EID_{50}, varying serum), each sample shall show serological conversion by a four-fold increase in antibodies.

(i) Chorioallantoic membranes of five 6 to 8 day old chicken embryos shall each be inoculated with 0.2 ml of the virus-antiserum mixture and a like number similarly inoculated with 0.2 ml of the virus-diluent mixture.

(ii) Absence of evidence of virus on the membranes inoculated with virus-serum mixtures demonstrates specific neutralization, provided evidence of virus on the membranes inoculated with the virus-diluent mixture is demonstrated.

(2) Ferret virulence shall be demonstrated by the virus titration conducted in susceptible ferrets.

(b) The lot of Master Seed Virus shall be tested for other viral agents as follows:

(1) To detect infectious canine hepatitis virus each of two infectious canine hepatitis susceptible dogs or foxes shall be injected with 0.05 ml of the test virus into the anterior chamber of one eye. The dogs shall be examined each day for 14 days for corneal opacity characteristic of infectious canine hepatitis. To be satisfactory, the eyes shall remain clear.

(2) Ten Leighton tubes containing coverslips or equally suitable cell culture vessels shall be seeded with any type cell that is susceptible to infectious canine hepatitis. When cell growth is satisfactory, each of five vessels shall be inoculated with 0.1 ml of test virus. Seven to ten days later, all the slides shall be stained with infectious canine hepatitis fluorescent tagged specific antibody. To be satisfactory, all slides shall be negative. A positive control shall be included.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) Twenty-five canine distemper susceptible dogs shall be used as test animals (20 vaccinates and five controls). Blood samples shall be drawn from these animals and individual serum samples tested. The dogs shall be considered susceptible if the results are negative at a 1:2 final serum dilution in varying serum-constant virus neutralization test with less than 500 ID_{50} of canine distemper virus.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established by a ferret injection method before the immunogenicity test is conducted. The 20 dogs used as vaccinates shall be injected with a predetermined quantity of vaccine virus and the remaining five dogs held as uninjected controls. To confirm the dosage calculations, a replicate virus titration shall be conducted on a sample of the vaccine virus dilution used. A satisfactory titration shall have at least one dilution having between 50 percent and 100 percent positives and at least one dilution having between 50 percent and 0 percent positives. At least 10 ferrets shall be used per dilution.

(3) Twenty-one days post-injection, the vaccinates and the controls shall each be challenged intracerebrally with the same size dose of Snyder Hill canine distemper virus furnished by Veterinary Services. The test animal shall be observed each day for 21 days.

(i) If at least four of the five controls do not die and the survivor, if any, does not show clinical signs of canine distemper and canine distemper virus isolated from such survivor, the test is inconclusive and may be repeated.

(ii) If at least 19 of the 20 vaccinates do not survive without showing clinical signs of disease during an observation period of 21 days, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest: *Provided*, That, five of five vaccinates and at least four of the controls shall meet the criteria prescribed in paragraph (c)(3) of this section.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) Test requirements for release: Each serial and subserial shall meet the general requirements prescribed in § 113.135, except that the virus identity test prescribed in paragraphs (a) (1) and (2) of this section may be used instead of tests prescribed in § 113.135(c), and the requirements in this paragraph. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Purity test.* Primary dog kidney cells which have been tested as prescribed in § 113.51 covering an area equal to two glass or plastic flasks (150 cm^2 total) and Vero cells covering an area equal to one glass or plastic flasks (75 cm^2 total) shall be used for testing for extraneous viral agents as follows:

(i) Harvesting bulk untreated material consisting of ferret spleen suspension or ferret kidney tissue culture fluids or both shall be inoculated onto the monolayers in amounts equal to five percent of the amount of maintenance media in the flasks. The inoculum shall be allowed to adsorb for 2 hours and then be removed.

(ii) The cells shall be washed with phosphate buffered saline (PBS) and maintenance media added. Twenty-four hours later the media may be changed if there is evidence of cytotoxicity from the inoculum.

(iii) All cultures shall be observed each day for 14 days after inoculation for cytopathic effect (CPE). Subcultures shall be conducted if necessary.

(iv) If there is no CPE, one of the primary dog kidney cell monolayers shall be washed in several changes of PBS and tested by successive hemadsorption tests using 0.2 percent human 0, guinea pig,

and chickens erythrocytes. After each appropriate incubation period, the cells shall be observed for hemadsorption indicating presence of a virus.

(v) The second primary dog kidney monolayer shall be subcultured in Leighton tubes with coverslips for appropriate fluorescent antibody tests.

(vi) If extraneous viral agents are detected, the serial or subserial shall not be released.

(2) *Safety tests.* Final container samples of completed product from each serial shall be tested for safety in dogs as prescribed in § 113.40 and in mice as prescribed in § 113.33(a).

(3) *Potency test.* To be eligible for release, each serial and subserial shall have a virus titer sufficiently greater than the virus dose used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer .7 logs greater than that used in the immunogenicity test when tested by the ferret injection method.

§ 113.143 Encephalomyelitis Vaccine, Venezuelan.

Encephalomyelitis Vaccine, Venezuelan, shall be prepared from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) Except for § 113.135(b), the Master Seed Virus shall meet the applicable general requirements in § 113.135 and the requirements prescribed in this section.

(b) The immunogenicity of the lot of Master Seed Virus shall be established as follows:

(1) Tests conducted by the Department have established that horses having Venezuelan Equine Encephalomyelitis antibody titers of 1:20 by the hemagglutination-inhibition (HI) method or 1:40 by the serum neutralization (SN) method were immune to challenge with virulent virus. The immunogenicity test is based on the demonstration of a serological response of at least that magnitude following vaccination of serologically negative horses.

(2) Licensees may use previous experience to select a suitable vaccine dose for the immunogenicity test, based on guinea pig infective doses. The test shall be conducted on vaccine produced according to the Outline of Production from a lot of Master Seed Virus of the highest passage to be used in production.

(3) At least 20 horses (vaccinates), serologically negative to Eastern, Western, and Venezuelan equine encephalomyelitis, shall be injected with the predetermined virus dose. Two additional seronegative animals shall be held with the vaccinates as sentinel controls. At least two guinea pig potency tests shall be conducted with samples of the vaccine dilution used as inoculum for the horses.

(4) All animals shall be bled on vaccination days −14, 0, 14, and 28. For a test result to be satisfactory, all serum samples taken on days −14 and 0 shall be negative for Venezuelan Equine Encephalomyelitis (VEE) antibodies and at least 19 of the 20 serum samples taken from vaccinates on days 14 or 28 or both shall show antibody titers of at least 1:20 (HI) or 1:40 (SN). The serum samples from the sentinel controls shall be tested and should remain negative to validate the test.

(5) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only five vaccinates and two controls need to be used in the retest: *Provided*, That, five of five vaccinates and at least four of the controls shall meet the criteria in paragraph (b)(4) of this section.

(6) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(c) Test requirements for release: Each serial and subserial shall meet the applicable general requirements prescribed in § 113.135 and special requirements in this paragraph. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) Safety tests. Bulk samples of product completed except for desiccation of bulk samples of each individual virus pool shall be tested as follows:

(i) Each of 10 young admit mice (16 to 20 grams each) shall be injected intraperitoneally with 0.3 ml of the undiluted virus sample and observed each day for 21 days. If unfavorable reactions attributable to the product occur in the mice during the observation period, the product is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test is inconclusive and may be repeated.

(ii) Groups of at least five young adult mice (16 to 20 grams each) shall be injected intracerebrally with 0.03 ml of varying (tenfold 10^0 through 10^{-6}) dilutions of the virus sample and observed each day for 21 days.

(*a*) Mice dying within 24 hours postinoculation may be disregarded in interpreting the test, except that at least four mice shall remain in each group for a valid test. Brain tissue of all mice that die after 24 hours shall be reserved for possible subpassage if the first phase of the test is unsatisfactory.

(*b*) If at least 80 percent of the total number of mice survive and if deaths that occur are not dose related, the virus pool or serial sample is satisfactory: *Provided*, That, if more than 20 percent of the mice die or if deaths appear to be dose related, a 10 percent suspension of pooled brain tissue from all dead mice shall be injected intracerebrally into each of at least 10 mice. If at least 80 percent of the subpassage mice do not survive, the test result is unsatisfactory and the virus pool or serial shall be destroyed.

(2) Final container samples of completed product, rehydrated as recommended on the label, shall be tested in accordance with § 113.33(b) and § 113.38.

(3) Potency test: Each serial and each subserial shall be tested for potency using guinea pigs as the test animal. The test shall consist of determining the 50 percent infective dose as measured by serological conversion.

(i) Groups of at least 10 guinea pigs shall be injected intraperitoneally with 1.0 ml of tenfold serial dilutions of vaccine rehydrated as recommended on the label. The range of dilutions shall be such that less than 50 percent of the guinea pigs shall convert serologically at the highest dilution and more than 50 percent shall convert at the lowest dilution.

(ii) Ten percent of the guinea pigs shall be bled before inoculation. All of the guinea pigs shall be bled 14 days postinoculation.

(iii) All serums shall be tested for VEE antibody by the hemagglutination-inhibition test. Conversion shall be positive if the preinoculation titer is less than 1:10 (final dilution) and post-inoculation titer is 1:20 or higher.

(iv) The 50 percent guinea pig intraperitoneal infective dose ($GPIPID_{50}$) is calculated by the method of Reed-Muench or Spearman-Karber.

(v) To be eligible for release, each serial of vaccine shall have a $GPIPID_{50}$ titer of sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (b) of this section to assure that when tested at any time within the expiration period, each serial shall have $GPIPID_{50}$ titer .7 logs greater than that used in such immunogenicity test but not less than $10^{3.7}$ $GPIPID_{50}$ per dose.

§ 113.144 Bovine Parainfluenza Vaccine.

Bovine Parainfluenza Vaccine shall be produced from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the tenth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135 and the requirements prescribed in this section.

(b) The lot of Master Seed Virus shall be tested for other viral agents by procedures prescribed in § 113.51 for primary cells used in cell cultures.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) Twenty-five bovine parainfluenza susceptible calves shall be used as test animals (20 vaccinates and five controls). Blood samples shall be drawn from these animals and individual serums tested. Also, nasal specimens shall be collected for virus isolation attempts. The calves shall be considered susceptible if:

(i) the results are negative at a 1:2 final serum dilution in a varying serum constant virus neutralization test with

less than 500 $TCID_{50}$ of bovine parainfluenza$_3$ virus; and

(ii) shall be negative to bovine parainfluenza$_3$ virus isolation attempts from the nasal specimens on the day of injection.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. The 20 calves to be used as vaccinates shall be injected with a predetermined quantity of vaccine virus and the remaining five calves held as uninjected controls. To confirm the dosage calculation, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used.

(3) The vaccinates and controls shall be examined for clinical signs of respiratory disease and the body temperature taken and recorded on each of the first 14 consecutive days post-injection. The vaccinates shall be bled on day 6±2 days post-injection.

(4) Three to four weeks post-vaccination, all calves shall be bled for serum antibodies and nasal specimens shall be collected for PI$_3$ virus isolation. On the same day, all vaccinates and controls shall be given acceptable challenge PI$_3$ virus titrating at least $10^{7.0}$ $TCID_{50}$ per ml and the animals observed for 14 days. Two ml of the challenge virus shall be instilled in each nostril or shall be inhaled as an aerosol suspension. Upon request, challenge virus and instructions shall be furnished by Veterinary Services.

(5) Each animal shall be examined for clinical signs of respiratory disease and the body temperature recorded on each of the 14 consecutive days of the post-challenge observation period. Each day for at least the first 10 days post-challenge, nasal specimens for virus isolation attempts shall be taken. All animals shall be bled on day 6±2 days post-challenge, and all animals shall be bled at least once 14 to 28 days post-challenge for serum antibody studies.

(6) Satisfactory Test Criteria:

(i) All virus isolations attempts shall be by culture and at least one subculture in PI$_3$ susceptible cells for a total of at least 14 days.

(ii) Two to four weeks post-vaccination, at least 19 of the 20 vaccinates shall have PI$_3$ neutralizing antibody titers of at least 1:4 and all five controls shall be negative at 1:2 dilution. None of the post-vaccination serums collected from the vaccinates on day 6±2 days shall reveal serum neutralization antibody titers of 1:32 or greater based upon final dilution.

(iii) Satisfactory resistance to challenge by vaccinates shall be determined by a significant difference between virus isolation rates from vaccinates and controls. The virus neutralization titers of post-challenge serums and respiratory symptoms and temperatures from all animals shall be considered in the evaluation of the test validity.

(7) Designated animal alternates for test animals showing anamnestic antibody responses (titers 1:32 or greater) on day 6 serums may be included in the study under the following provisions:

(i) No more than five alternates shall be allowed for the vaccinates and no more than two for the controls.

(ii) Alternates shall be subject to all requirements outlined for the animals for which they are alternates.

(iii) Antibody values from alternate animals may be used only to replace values from up to and including five vaccinates which develop antibody of 1:32 or greater by day 6±2 days post-vaccination or up to and including two controls which develop antibody titers of 1:32 or greater by day 6±2 days post-challenge.

(8) A sequential test procedure may be used in lieu of the 20 calf requirement. A beta value of .05 and a tolerance level of .78 shall be required.

(9) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest: *Provided*, That, five of five vaccinates and at least four of the controls shall meet the criteria prescribed in paragraph (c)(6) of this section.

(10) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) Test requirements for release: Each serial and subserial shall meet the applicable general requirements prescribed in § 113.135 and the requirements in this paragraph. Final container samples of completed product shall be tested except as prescribed in paragraph (d)(1) of this section. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Purity test.* The test for Brucella contamination prescribed in § 113.32 shall be conducted on each batch of primary cells intended for production use.

(2) *Safety test.* The mouse safety test prescribed in § 113.33(a) and the calf safety test prescribed in § 113.41 shall be conducted.

(3) *Potency test.* An in vitro potency test shall be conducted. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of the vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer .7 logs greater than that used in such immunogenicity test but not less than $10^{5.7}$ $TCID_{50}$ per dose by the method used in paragraph (c)(2) of this section.

§ 113.145 Bovine Rhinotracheitis Vaccine.

Bovine Rhinotracheitis Vaccine shall be prepared from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the tenth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135 and the requirements prescribed in this section.

(b) The lot of Master Seed Virus shall be tested for other viral agents by procedures prescribed in § 113.51 for primary cells used in cell cultures.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) Twenty-five infectious bovine rhinotracheitis susceptible calves shall be used as test animals (20 vaccinates and five controls). Blood samples shall be drawn from these animals and individual serums tested. The calves shall be considered susceptible if the results are negative at a 1:2 final serum dilution by the virus plaque reduction method.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. The 20 calves to be used as vaccinates shall be injected with a predetermined quantity of vaccine virus and the remaining five calves held as uninjected controls. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used.

(3) At least once during a period of 14 to 28 days post-vaccination, individual serum samples shall be collected for virus-neutralization tests from each of the vaccinates. The test virus shall be 100 to 500 $TCID_{50}$ bovine rhinotracheitis virus. Results shall be used in making a determination as prescribed in paragraph (c)(6) of this section.

(4) The vaccinates and the controls shall each be challenged with virulent infectious bovine rhinotracheitis virus and observed for 14 days. The rectal temperature of each animal shall be taken and the presence or absence of respiratory or other clinical signs of bovine rhinotracheitis noted and recorded on each of the 14 consecutive days.

(5) If at least four of the five controls do not show clinical signs of infectious bovine rhinotracheitis and a marked temperature rise to 104.5° F or higher post-challenge, the test shall be considered inconclusive and may be repeated.

(6) If less than 19 of the post-injection serum samples tested as prescribed in paragraph (c)(3) of this section show neutralization in all tubes of the 1:2 final serum dilution, or if more than one of the vaccines show a temperature of 103.5° F or higher for 2 or more days, or if more than one of the vaccinates exhibits respiratory or other clinical signs of infectious bovine rhinotracheitis, or both, the Master Seed Virus is unsatisfactory.

(7) A sequential test procedure may be used in lieu of the 20 calf requirement. A beta value of .05 and a tolerance level of .78 shall be required.

(8) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only five vaccinates and five controls

need to be used in the retest; *Provided*, That, five of five vaccinates and at least four of the five controls shall meet the criteria prescribed in paragraphs (c) (5) and (6) of this section.

(9) An outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) Test requirements for release: Each serial and subserial shall meet the applicable general requirements prescribed in § 113.135 and the requirements in this paragraph. Final container samples of completed product shall be tested except as prescribed in paragraph (c) (1) of this section. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Purity test.* The test for Brucella contamination prescribed in § 113.32 shall be conducted on each batch of primary cells intended for production use.

(2) *Safety test.* The mouse safety test prescribed in § 113.33(a) and the calf safety test prescribed in § 113.41 shall be conducted.

(3) *Potency test.* An in vitro potency test shall be conducted. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of the vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer .7 logs greater than that used in such immunogenicity test but not less than $10^{2.7}$ $TCID_{50}$ per dose by the method used in paragraph (c) (2) of this section.

§ 113.146 Bovine Virus Diarrhea Vaccine.

Bovine Virus Diarrhea Vaccine shall be prepared from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the tenth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135 and the requirements prescribed in this section.

(b) The lot of Master Seed Virus shall be tested for other viral agents by procedures prescribed in § 113.51 for primary cells used in cell cultures.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) Twenty-five bovine virus diarrhea susceptible calves shall be used as test animals (20 vaccinates and five controls). Blood samples shall be drawn from these animals and individuals serum samples tested. The calves shall be considered susceptible to bovine virus diarrhea virus infection if the results are negative at a 1:2 final serum dilution in a varying serum-constant virus neutralization test with less than 500 $TCID_{50}$ of bovine virus diarrhea virus.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. The 20 calves to be used as vaccinates shall be injected with a predetermined quantity of vaccine virus and the remaining five calves held as uninjected controls. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used.

(3) At least once during a period 14 to 28 days post-vaccination, individual serium samples shall be collected for virus-neutralization tests from each of the vaccinates. The test virus shall be less than 500 $TCID_{50}$ of bovine virus diarrhea virus. The white cell count for all vaccinates and controls shall be established at least 3 days just before challenge. Results shall be used in making a determination as prescribed in paragraph (c) (5) of this section.

(4) The vaccinates and the controls shall each be challenged with virulent bovine virus diarrhea virus and observed for 14 consecutive days. The white cell count shall be determined daily on each animal from the second through the eighth day post-challenge. If leukopenia does not develop in at least four of the five controls as compared with the vaccinates, the test shall be considered inconclusive and may be repeated.

(5) If less than 19 of the post-injection serum samples, tested as prescribed in paragraph (c) (3) of this section, show neutralization in all tubes of the 1:8 dilution; or if more than one of the vaccinates exhibits respiratory or other clinical signs of bovine virus diarrhea post-challenge; or both, the Master Seed Virus is unsatisfactory.

(6) A sequential test procedure may be used in lieu of the 20 calf requirement. A beta value of .05 and a tolerance level of .78 shall be required.

(7) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest: *Provided*, That, five of five vaccinates and at least four of the five controls shall meet the criteria prescribed in paragraphs (c) (4) and (5) of this section.

(8) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) *Test requirements for release.* Each serial and subserial shall meet the applicable general requirements prescribed in § 113.135 and the requirements in this paragraph. Final container samples of completed product shall be tested except as prescribed in paragraph (c) (1) of this section. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Purity test.* The test for Brucella contamination prescribed in § 113.32 shall be conducted on each batch of primary cells intended for production use.

(2) *Safety test.* The mouse safety test prescribed in § 113.33(a) and the calf safety test prescribed in § 113.41 shall be conducted.

(3) *Potency test.* An in vitro potency test shall be conducted. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of the vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer. 7 logs greater than that used in such immunogenicity test but not less than $10^{2.5}$ $TCID_{50}$ per dose by the method used in paragraph (c) (2) of this section.

§ 113.147 Rabies Vaccine.

Rabies Vaccine shall be prepared from virus-bearing cell cultures or embryonated chicken eggs. Only Master Seed Virus which has been established as pure, safe and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the fifth passage from the the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135 and the requirements prescribed in this section.

(1) The lot of Master Seed Virus shall be tested for viral agents by procedures prescribed in § 113.52 (d), (4), (5) and (6) with the modification that one ml. of Master Seed Virus is substituted for the one ml aliquot of disrupted cells.

(2) Each lot of Master Seed Virus propagated in tissues or cells of avian origin shall be tested for pathogens by procedures prescribed in § 113.37.

(3) Each lot of Master Seed Virus propagated in primary cell cultures of hamster origin or brain tissues of mouse origin shall be tested for lymphocytic choriomeningitis (LCM) virus. The vaccine virus may be neutralized with specific antiserum when necessary.

(i) Each of at least 10 mice obtained from a source free of LCM shall be injected in a hind foot pad with 0.02 ml and the mice observed each day for 21 days.

(ii) If any of the mice show swelling in the injected foot pad or if more than one become systemically abnormal, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be studied in each species of carnivore or domesticated wild animal for which the vaccine is specifically recommended to attempt to determine the fate of the vaccine virus. Results shall be considered in evaluating safety of vaccine virus.

(i) Obtain at least 10 unvaccinated animals, negative at 1:2 final serum dilution, of each species in which tests will be conducted. Divide each species into two groups of five animals.

(ii) For each species of animal, inject one group of five animals intramuscularly. Infiltrate a major nerve and the surrounding tissue in each of the five animals in the other group. Use 1.0 ml of high titer virus for each method of administration.

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(iii) Observe all animals for signs of rabies until scheduled time to sacrifice. If animals show definite symptoms, sacrifice and check regional lymph nodes, brain, salivary glands, and kidney for rabies virus by injection of suckling mice (not more than 7 days of age). Tissues may be held frozen at −70° C until suckling mice are available. Inject each mouse in one litter intracerebrally with 0.02 ml of a ground tissue suspension from each organ. Observe mice each day for 21 days. If any mice die, determine if the deaths were due to rabies virus in the brain by a fluorescent antibody test.

(iv) Sacrifice animals that do not show signs of rabies according to the following schedule and check regional lymph nodes, brain, salivary glands, and kidney in suckling mice.

Route of injection	Days after injection	Number of animals
Intramuscularly	28, 29, 28, 30, 28	1 each day.
Intracerally	8, 6, 9, 14, 30	1 each day.

(5) Each lot of Master Seed Virus shall be tested for safety in at least 10 unvaccinated serologically negative animals of each domestic species for which the vaccine is recommended.

(i) Each group of 10 animals shall be divided into 2 groups of 5 animals. For each species, inject one group intramuscularly with 10 doses of high titer virus.

(ii) Infiltrate a major nerve of each of the animals in the other group of 5 with 1.0 ml of the same high titer virus. For all species except canine and feline, multiple injections along the cervical spine in proximity to the nerve trunks emerging from the spinal cord may be used: *Provided*, That, at least 8 ml of virus shall be divided into four or more sites bilaterally.

(iii) Observe all animals each day for 90 days.

(iv) If any animals show clinical signs of rabies, sacrifice the animal and check appropriate brain tissue for rabies virus by the fluorescent antibody test and by mouse injection.

(v) If rabies is confirmed, the lot of Master Seed Virus is unsatisfactory.

(b) Immunogenicity determination:

(1) A geometric mean virus titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used.

(2) The maximum dosage in a single dilution test shall be the volume of a field dose of rehydrated vaccine which, on the basis of previous titrations has been diluted to the proposed minimum acceptable virus titer throughout the dating period, then further diluted 1:2.

(3) Samples of the vaccine dilution selected for host animal immunogenicity tests shall be tested using at least 20 guinea pigs as vaccinates for each of at least four dilutions. The dilutions shall not exceed five-fold and valid results shall encompass the 50 percent endpoint. Ten additional guinea pigs shall be used as controls.

(i) Each vaccinate shall be injected intramuscularly and observed each day with the controls for 21 days. If the vaccinates or the controls do not remain healthy during the prechallenge period, the test shall be inconclusive.

(ii) The vaccinates and at least 10 controls shall be challenged intramuscularly in a hind leg with 0.2 ml of a suitable dilution of street virus or with 0.5 ml of a suitable dilution of fixed virus. If the Master Seed Virus was injected into the hind leg, the challenge virus shall be injected into the opposite hind leg.

(iii) The post-challenge observation period shall be 14 days if fixed virus is used and shall be 21 days if street virus is used.

(iv) If at least 80 percent of the controls do not die or show paralysis attributable to rabies virus, the test is inconclusive.

(4) The immunogenicity of the lot of Master Seed Virus shall be established in all species for which the vaccine is recommended. Test animals shall be as uniform as possible and have no neutralizing antibodies to rabies as determined by serum-neutralization (SN) tests.

(i) Twenty-five to thirty animals shall be used as vaccinates. Each shall be injected intramuscularly at one site with the proposed minimum virus dose diluted 1: 2.

(ii) Ten additional animals shall be held as controls.

(iii) All test animals shall be bled and SN tests conducted at 30, 60 and 90 days after injection.

(iv) Challenge all species of test animals after completion of the 90 day SN tests except as provided in subparagraphs (5) and (6) of this paragraph with a virulent rabies street virus. Injection bilaterally into the masseter muscles is the recommended route for challenge.

(v) Requirements for acceptance in challenge tests shall be death due to rabies in at least 80 percent of the controls while at least 22/25 or 26/30 vaccinates remain well for a period of 90 days.

(5) An immunogenicity test in cattle, horses, sheep, and goats may be conducted in the manner described above, except only 5 vaccinated animals selected on the basis of lowest serum titers need be challenged along with suitable controls. If at least 3 of 5 of the vaccinated animals survive challenge, those with higher serological levels which were not challenged will be considered immune for meeting the requirements of acceptance. However, all test animals with titers below 1: 5 must be challenged. Virus neutralization titers of all sera shall be conducted to an endpoint.

(6) In lieu of the test set forth in subparagraph (4) of this paragraph, other test methods shall be permitted provided the test design allows no more than 5 percent probability of acceptance of a vaccine that is only 75 percent effective. Data generated by a varying dose study in host animals will be considered, provided these data are valid for determining a PD_{50} by probit analysis.

(7) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued.

(i) If correlation has been established between the efficacy in dogs and guinea pigs, the retest may be conducted in guinea pigs instead of dogs using the test prescribed in paragraph (b) (3) of this section.

(ii) If the retest is conducted in animals other than guinea pigs, only five vaccinates and five controls need be used and the retest may be limited to serological response of the vaccinates when compared with both the controls and the vaccinates in the original immunogenicity test.

(8) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(c) If more than 1 year duration of immunity is to be claimed, a duration of immunity test for the additional time shall be conducted as prescribed in paragraph (b) of this section for the 1 year test. At least 25 vaccinates shall be selected at the time the test is started for each challenge period. The test animals may be monitored serologically and the time of challenge adjusted accordingly. A duration of immunity test shall be considered satisfactory if 85 percent of the vaccinates are shown to be immune.

(d) Test requirements for release: Each serial and each subserial shall meet the general requirements prescribed in § 113.135 and special requirements in this paragraph.

(1) *Safety tests.* Final container samples of completed product from each serial or one subserial shall be tested.

(i) The test for pathogens, prescribed in § 113.37 shall be conducted on each serial or one subserial of avian origin. If necessary, neutralize the rabies virus with specific rabies antiserum.

(ii) In lieu of the safety test provided in § 113.40, a test for safety in three young seronegative animals of the most susceptible species for which the vaccine is recommended shall be conducted. Each shall be injected intramuscularly with 10 doses prepared with any practical volume of diluent. If either of the test animals shows signs of disease attributable to the vaccine during a 28 day observation period, the serial is unsatisfactory.

(2) *Virus titrations.* Final container samples of completed product shall be titrated in young adult mice or in suckling mice as prescribed in paragraph (d) (3) or (4) of this section. The following conditions shall apply in each test:

(i) Each of two vials of vaccine shall be rehydrated with a sterile diluent consisting of 3 percent normal horse serum in distilled water to which 500 units of penicillin and 1,000 mcg of streptomycin per ml has been added.

(ii) One-half dog dose from each vial shall be pooled and diluted to a volume of 10 ml. This 10 ml of diluted vaccine shall represent the 10^{-1} dilution (one dose

per 10 ml). Tenfold dilutions using the 10^{-1} dilution shall be made.

(iii) Tubes containing the desired dilutions shall be placed in an ice bath. The first dilution to be used is optional; *Provided*, That, at least 80 percent of the mice die in the lowest dilution used.

(iv) Deaths occurring during the first 4 days post-injection shall not be considered in the test; *Provided*, That, if less than 80 percent of the mice injected for any dilution survive more than 4 days, the test is inconclusive. Mice which succumb during inauguration of the test may be replaced and disregarded.

(3) Young adult mice, each weighing 14 to 16 grams, shall be used as test animals when the virus in vaccine prepared with a low egg passage strain or ERA strain of rabies virus is titrated. At least 10 mice for each dilution shall be used.

(i) At least 10 mice shall be used for each dilution. Each shall be injected intracerebrally with 0.03 ml.

(ii) The injected young adult mice shall be observed each day for 14 days except when testing vaccines made with ERA strain of rabies virus, in which case, the mice shall be observed each day for 21 days. Deaths and paralysis occurring subsequent to the fourth day post-injection shall be noted and the LD_{50} titer calculated by the Reed and Muench Method.

(iii) Virus titer requirements for release and at expiration date shall be determined for each vaccine on the basis of data available: *Provided*, That, the lowest titer permitted at expiration date when determined by this test shall be $10^{6.5}$ LD_{50} per 0.03 ml.

(4) Suckling mice, 6 days of age or younger, shall be used as test animals when virus in vaccine prepared with a high egg passage strain of rabies virus is titrated.

(i) Six to twelve mice shall be used for each dilution. Each shall be injected intracerebrally with 0.02 ml.

(ii) The injected suckling mice shall be observed each day for 21 days. Deaths and paralysis occurring subsequent to the fourth day post-injection shall be noted and the LD_{50} titer calculated by the Reed and Muench Method; and

(iii) Virus titer requirements for release and at expiration date shall be determined for each vaccine on the basis of data available: *Provided*, That, the lowest titer permitted at expiration date when determined by this test shall be $10^{5.0}$ LD_{50} per 0.02 ml.

§ 113.160 Avian Encephalomyelitis Vaccine.

Avian Encephalomyelitis Vaccine shall be prepared from virus-bearing tissues or fluids from embryonated chicken eggs. Only Master Seed Virus which has been established as pure, safe, and immunogenic in accordance with the requirements in paragraphs (a), (b), and (c) of this section shall be used for preparing the production seed virus for vaccine production. All serials shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135 and the requirements prescribed in this section.

(b) Each lot of Master Seed Virus shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37.

(c) Each lot of Master Seed Virus shall be tested for immunogenicity and the selected virus dose to be used shall be established as follows:

(1) Avian encephalomyelitis susceptible chickens, all of the same age (four weeks or older) and from the same source, shall be used. Twenty or more chickens shall be used as vaccinates for each method of administration recommended on the label. Ten additional chickens of the same age and from the same source shall be held as unvaccinated controls.

(2) A geometric mean titer of the vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. Each vaccinate shall receive a predetermined quantity of vaccine virus. Five replicate virus titrations shall be conducted on an aliquot of the vaccine virus to confirm the amount of virus administered to each chicken used in the test. At least three appropriate (not to exceed tenfold) dilutions shall be used and the test conducted as follows:

(i) For each dilution, inoculate at least 10 embryos, 5 or 6 days old, in the yolk sac with 0.2 ml each. Ten similar embryos obtained from the same source shall be kept as uninoculated negative controls. Disregard all deaths during the first 48 hours post-inoculation.

(ii) Eggs for each dilution shall be kept in separate containers and allowed to hatch. Sufficient precaution shall be taken to assure that chickens from each dilution remain separated. To be a valid test, at least 80 percent of the uninoculated eggs shall hatch.

(iii) On the third day after normal hatching time, count all unhatched eggs and all dead, paralyzed and ataxic chickens as positive evidence of viral infection.

(iv) A satisfactory titration shall have at least one dilution with between 50 and 100 percent positives and at least one dilution with between 50 and 0 percent positives.

(v) Calculate the EID_{50} by the Spearman-Karber or Reed-Muench method.

(3) At least 21 days post-vaccination, the vaccinates and the controls shall be challenged intracerebrally with a virulent avian encephalomyelitis virus and observed each day for 21 days.

(4) If at least 80 percent of the controls do not show signs of avian encephalomyelitis or die, the test is inconclusive and may be repeated. If at least 19 of 20, or 27 of 30, or 36 of 40 of the vaccinates in each group do not remain free from clinical signs of avian encephalomyelitis during the observation period, the Master Seed Virus is unsatisfactory.

(5) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only one method of administration recommended on the label need be used in the retest. The vaccinates and the controls shall meet the criteria prescribed in paragraph (C)(4) of this section.

(6) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) After a lot of Master Seed Virus has been established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the requirements in §§ 113.135, 113.37, and in this paragraph.

(1) Potency test: Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section.

(2) To be eligible for release each serial and subserial shall have an avian encephalomyelitis virus titer sufficiently greater than the titer of the vaccine used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of 0.7 logs greater than used in such immunogenicity test but not less than $10^{6.5}$ EID_{50} per dose.

(e) Before a lot of Master Seed Virus is established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the requirements in §§ 113.135, 113.37, and in this paragraph.

(1) *Virus titration.* A virus titration shall be conducted on final container samples of completed product in accordance with the titration method used in paragraph (c)(2) of this section.

(i) For release, samples shall be incubated at 37° C for not less than 7 days before preparation for use in the virus titration test. A serial or subserial which does not contain at least $10^{6.5}$ EID_{50} per dose of avian encephalomyelitis virus shall not be released.

(ii) When tested at any time within the expiration period, unincubated samples shall have an avian encephalomyelitis virus titer of at least $10^{5.5}$ EID_{50} per dose.

(2) An immunogenicity test shall be conducted on final container samples of completed product. The vaccine shall be given as recommended on the label.

(i) At least 10 susceptible chickens properly identified and obtained from same source and hatch, per serial or the first subserial, and five more similar chickens per each additional subserial, shall be used as vaccinates.

(ii) Ten nonvaccinated chickens, properly identified and obtained from the same source and hatch as the vaccinates, shall be kept in isolation as controls.

(iii) At least 21 days post-vaccination, the vaccinates and the controls shall be challenged intracerebrally with a virulent avian encephalomyelitis virus and observed each day for 21 days. Challenge

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virus shall be provided or approved by Veterinary Services.

(iv) If less than 80 percent of the controls develop recognizable signs or lesions of avian encephalomyelitis, the test is inconclusive and may be repeated.

(v) If at least 80 percent of the vaccinates do not remain free of signs of avian encephalomyelitis, the serial or subserial is unsatisfactory.

§ 113.161 Avian pox vaccine.

Fowl Pox Vaccine and Pigeon Pox Vaccine shall be prepared from virus-bearing cell culture fluids or embryonated chicken eggs. Only Master Seed Virus which has been established as pure, safe, and immunogenic in accordance with the requirements in paragraphs (a), (b), and (c) of this section shall be used for preparing the production seed virus for vaccine production. All serials shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135 except paragraph (c) of this section and shall meet the requirements prescribed in this section.

(b) Each lot of Master Seed Virus shall be tested for pathogens by the chicken inoculation test prescribed in § 113.36.

(c) Each lot of Master Seed Virus shall be tested for immunogenicity and the selected virus dose to be used shall be established as follows:

(1) Fowl pox susceptible birds all of the same age and from the same source, shall be used as test birds. Twenty or more birds shall be used as vaccinates for each method of administration recommended on the label. Ten additional birds of the same age and from the same source as the vaccinates shall be held as unvaccinated controls.

(2) A geometric means titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. Each vaccinate shall receive a predetermined quantity of vaccine virus. Five replicate virus titrations shall be conducted on an aliquot of the vaccine virus to confirm the amount of virus administered to each bird used in the test. At least three appropriate (not to exceed tenfold) dilutions shall be used and the test conducted as follows:

(i) For each dilution, inoculate at least five embryos, 9 to 11 days old, on the chorioallantoic membrane with at least 0.2 ml each. Disregard all deaths during the first 24 hours post-inoculation. To be a valid test, at least four embryos in each dilution shall remain viable beyond 24 hours.

(ii) Examine the surviving embryos for evidence of infection 5 to 7 days post-inoculation.

(iii) A satisfactory titration shall have at least one dilution with between 50 and 100 percent positives and at least one dilution with between 50 and 0 percent positives.

(iv) Calculate the EID_{50} by the Spearman-Harber or Reed-Muench method.

(3) Fourteen to twenty-one days post-vaccination, all vaccinates and controls shall be challenged by the wing web method and observed each day for 10 days. If the wing web method was used for vaccination, the opposite wing shall be used for challenge. Challenge virus shall be provided or approved by Veterinary Services.

(4) If at least 90 percent of the controls do not develop fowl pox during the observation period, the test is inconclusive and may be repeated. If at least 19 of 20, or 27 of 30, or 36 of 40 of the vaccinates in each group do not remain free from clinical signs of fowl pox during the observation period, the Master Seed Virus is unsatisfactory.

(5) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only one method of administration needs to be used in the retest. The vaccinates and the controls shall meet the criteria prescribed in paragraph (c)(4) of this section.

(6) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) After a lot of Master Seed Virus has been established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the requirements in § 113.36, in § 113.135 except paragraph (c), and in this paragraph.

(1) *Potency test.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of 0.7 logs greater than that used in such immunogenicity test but not less than $10^{2.0}$ EID_{50} per dose.

(2) *Safety test.* At least 10 fowl pox susceptible birds for each method of administration recommended on the label shall be vaccinated with vaccine from a rehydrated final container sample of completed product. Each bird shall receive one dose of vaccine and observed each day for 14 days. If any of the birds show signs of disease during the observation period for reasons attributable to the vaccine, the serial or subserial is unsatisfactory. If unfavorable reactions occur in the birds which are not attributable to the vaccine, the test is inconclusive and may be repeated.

(e) Before a lot of Master Seed Virus is established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the requirements in § 113.36, in § 113.135, except paragraph (c), and in this paragraph.

(1) Virus titration. A virus titration shall be conducted on final container samples of completed product in accordance with the titration method used in paragraph (c)(2) of this section.

(i) For release, samples shall be incubated at 37° C for not less than 7 days before preparation for use in the virus titration test. A serial or subserial which does not contain at least $10^{2.0}$ EID_{50} per dose of fowl pox virus shall not be released.

(ii) When tested at any time within the expiration period, unincubated samples shall have at least $10^{2.0}$ EID_{50} per dose of fowl pox virus.

(2) An immunogenicity test shall be conducted on final container samples of completed product. The vaccine shall be administered as recommended on the label.

(i) At least 10 susceptible birds (vaccinates) properly identified and obtained from same source and hatch, per serial or the first subserial, and five more similar birds per each additional subserial, shall be vaccinated.

(ii) Ten nonvaccinated birds, properly identified and obtained from the same source and hatch as the vaccinates, shall be kept in isolation as controls.

(iii) Ten to fourteen days post-vaccination, the vaccinates and the controls shall be challenged with a fowl pox virus furnished or approved by Veterinary Services.

(iv) The challenge virus shall be administered on the comb, or in the web of the opposite wing from that used for vaccination, or on the feather follicles and the chickens observed each day for 10 days.

(v) If less than 80 percent of the controls develop recognizable signs or lesions of fowl pox, the test is inconclusive and may be repeated.

(vi) If at least 80 percent of the vaccinates do not remain free of signs or lesions of fowl pox, the serial or subserial is unsatisfactory.

§ 113.162 Bronchitis Vaccine.

Bronchitis Vaccine shall be prepared from virus-bearing cell culture fluids or embryonated chicken eggs. Only Master Seed Virus which has been established as pure, safe, and immunogenic in accordance with the requirements in paragraphs (a), (b), and (c) of this section shall be used for preparing the production seed virus for vaccine production. All serials shall be prepared from the first through the fifth passage from the Master Seed Virus. All serials shall be prepared with the passage from the Master Seed Virus used in the immunogenicity test.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135 and the requirements prescribed in this section.

(b) Each lot of Master Seed Virus shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37; *Provided*, That, if the test is inconclusive because of a virus override, the test may be repeated using a higher titered antiserum, and if the repeat test is inconclusive for the same reason, the chicken inoculation test in § 113.36 may be conducted and the virus judged accordingly.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity and the selected virus dose to be used shall be established. Bronchitis susceptible chickens, all of the same age and from the same source, shall be used.

(1) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity tests are conducted. Each vaccinate shall receive a predetermined quantity of vaccine virus. Five replicate virus titrations shall be conducted on an aliquot of the vaccine virus to confirm the amount of virus administered to each chicken used in such tests. At least three appropriate (not to exceed tenfold) dilutions shall be used and the test conducted as follows:

(i) For each dilution, inject at least five embryos, 9 to 11 days old, in the allantoic cavity with 0.1 ml each. Deaths occurring during the first 24 hours shall be disregarded, but at least four viable embryos in each dilution shall survive beyond 24 hours for a valid test. After 5 to 8 days incubation, examine the surviving embryos for evidence of infection.

(ii) A satisfactory titration shall have at least one dilution with between 50 and 100 percent positives and at least one dilution with between 50 and 0 percent positives.

(iii) Calculate the EID_{50} by the Spearman-Karber or Reed-Muench method.

(2) Neutralization test: For each method of administration recommended on the label, twenty or more chickens shall be used as vaccinates in a neutralization test. Ten additional chickens shall be used as controls. The test shall be conducted as follows:

(i) Blood samples shall be taken from the vaccinates and the controls 21 to 28 days post-vaccination. Serums from the vaccinates shall be tested individually but serums from the controls may be tested either individually or in pools of not more than five serums. All serums shall be inactivated at 56° C for 30 minutes.

(ii) The specific serum-virus preparation and embryo injection method for the Neutralization Test described in *Methods for Examining Poultry Biologics and for Identifying and Quantifying Avian Pathogens* (NAS, 1971) shall be used. The varying virus-constant serum technique shall be used. The ID_{50} Neutralization Index (NI) of each test serum or control serum pool shall be the reciprocal of the difference between the viral infectivity endpoint of the serum-virus mixture (serum titer) and the indicator virus titration (virus titer).

(iii) The indicator virus titration shall be done using tryptose phosphate broth as diluent. All titrations shall have at least one dilution with between 50 and 100 percent positives and at least one dilution with between 50 and 0 percent positives.

(iv) To be satisfactory, the vaccine virus shall produce NI's against each type used in production as follows:

NI's of 3.0 or more for 19 of 20 or 27 of 30 or 36 of 40 vaccinate serums, provided the average NI of the control serums or pools is less than 1.5, or

NI's 2.0 or more greater than that on control serums for at least 19 of 20 or 27 of 30 or 36 of 40 of the vaccinate serums, provided the average NI of the control serums or pools is 1.0 or less.

(3) Virus-recovery test: For each method of administration recommended on the label for each virus type used in the vaccine, twenty or more chickens shall be used as vaccinates in the virus-recovery test. Ten additional chickens shall be used as controls. The test shall be conducted as follows:

(i) Each vaccine virus shall be tested against a challenge of homologous serotype (to the vaccine strain) and each other serotype against which protection is claimed.

(ii) Twenty-one to twenty-eight days post-vaccination, all vaccinates and controls shall be challenged by eye-drop with virulent bronchitis virus of each virus type and strain against which protection is claimed. Each challenge virus shall be approved or provided by Veterinary Services and shall titer at least $10^{4.5}$ EID_{50} per ml.

(iii) Tracheal swabs shall be taken once, 5 days post-challenge, from each control and vaccinate. Each swab shall be placed in a test tube containing 3 ml of tryptose phosphate broth and antibiotics. The tube and swab shall be swirled thoroughly and if they are to be stored, be immediately frozen and be stored at below −40° C pending egg evaluation. For each chicken swab, at least five chicken embryos 9 to 11 days old shall be inoculated in the allantoic cavity with 0.2 ml each of broth from each tube.

(iv) All embryos surviving the third day post-inoculation shall be used in the evaluation: *Provided*, That, if each swab is not represented by at least four embryos, the test is invalid and the results inconclusive. A tracheal swab shall be positive for virus recovery when any of the embryos in a valid test show typical infectious bronchitis virus lesions, such as but not limited to, stunting, curling, kidney urates, clubbed down, or death during the 4 to 7 day post-inoculation period. If less than 20 percent of the embryos which survive the third day post-inoculation die during the 4–7 day post-inoculation period and show no gross lesions typical of infectious bronchitis, they may be disregarded.

(v) If less than 90 percent of the controls are positive for virus recovery, the test is inconclusive and may be repeated.

(vi) If less than 90 percent of the vaccinates are negative for virus recovery, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only one method of administration recommended on the label need be used in the retest. The vaccinates and the controls shall meet the criteria prescribed in paragraphs (c) (2) and (3) of this section.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) Test requirements for release: Each serial and subserial shall meet the requirements prescribed in § 113.135 and in this paragraph.

(1) *Test for pathogens.* Final container samples of completed product shall be tested for pathogens by the test prescribed in § 113.37. If the vaccine is found to be unsatisfactory because of a virus override the test may be repeated using a higher titered antiserum and if the repeat test is also unsatisfactory for the same reason, the test prescribed in § 113.36 may be conducted and the vaccine judged accordingly.

(2) *Safety test.* Final container samples of completed product shall be tested to determine safety for use in bronchitis susceptible young chickens.

(i) Twenty-five susceptible chickens, 5 days of age or younger, properly identified and obtained from the same source and hatch, shall be vaccinated by the eye-drop method with the equivalent of 10 doses of vaccine and observed each day for 21 days post-vaccination. Severe respiratory signs or death shall be counted as failures. Two-stage sequential testing may be conducted if the first test (which then becomes stage one) has three failures.

(ii) The results shall be evaluated according to the following table:

Cumulative totals

Stage	Number of chickens	Failures for satisfactory serials	Failures for unsatisfactory serials
1	25	2	4
2	50	5	6

If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated or, in lieu thereof, the serial declared unsatisfactory.

(3) *Virus titrations.* Using the procedure prescribed in paragraph (c) (1) of this section virus titrations shall be conducted.

(i) The Newcastle disease virus fraction of combined Newcastle-Bronchitis Vaccines shall be neutralized prior to titration of the bronchitis virus fraction. Equal parts of heat-inactivated Newcastle disease antiserum shall be mixed with each appropriate serial ten-fold dilution of the vaccine. After inactivation, embryos shall be injected with 0.2 ml each and results calculated as a 0.1 ml dose to allow for serum dilution of the vaccine. The allantoic fluids, tested as prescribed in § 113.34 shall not show hemagglutinating activity in the lowest dilution used in the titration.

(ii) Each bronchitis virus type shall be harvested separately and a sample of bulk harvested material shall be collected prior to mixing with the other virus type(s). Each sample shall contain not less than the minimum virus titer stated in the filed Outline of Production.

(iii) Final container samples of completed product of each serial and sub-

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serial shall be tested. A satisfactory serial or subserial shall contain at least $10^{2.5}$ EID_{50} per dose of bronchitis virus throughout the expiration period.

§ 113.163 Fowl Laryngotracheitis Vaccine.

Fowl Laryngotracheitis Vaccine shall be prepared from virus-bearing cell culture fluids or embryonated chicken eggs. Only Master Seed Virus which has been established as pure, safe, and immunogenic in accordance with the requirements in paragraphs (a), (b), and (c) of this section shall be used for preparing the production seed virus for vaccine production. All serials shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135 and the requirements prescribed in this section.

(b) Each lot of Master Seed Virus shall be tested for extraneous pathogens by the chicken embryo inoculation test prescribed in § 113.37: *Provided*, That, if the test of the virus is inconclusive because of a virus override, the test may be repeated using a higher titered antiserum, and if the repeat test is inconclusive for the same reason, the chicken inoculation test prescribed in § 113.36 may be conducted and the virus judged accordingly. Each lot shall also be tested for safety as follows:

(1) Each of at least ten 3 to 4 week old susceptible chickens obtained from the same source and hatch as those used in the immunogenicity test prescribed in paragraph (c) of this section shall be injected intratracheally with 0.2 ml of the virus as used in the vaccine and the chickens observed each day for 14 days.

(2) If more than 20 percent of the chickens die during the observation period, the virus is unsatisfactory.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity and the selected virus dose to be used shall be established as follows:

(1) Fowl laryngotracheitis susceptible chickens all of the same age and from the same source shall be used. Twenty or more chickens shall be used as vaccinates for each method of administration recommended on the label. Ten additional chickens of the same age and from the same source shall be held as unvaccinated controls.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. Each vaccinate shall receive a predetermined quantity of vaccine virus. Five replicate virus titrations shall be conducted on an aliquot of the vaccine virus to confirm the amount of virus administered to each chicken used in the test. At least three appropriate (not to exceed tenfold) dilutions shall be used for vaccine of chicken embryo origin and the test conducted as follows:

(i) For each dilution, inject at least five embryos, 9 to 11 days old, on the chorioallantoic membrane with 0.2 ml each. Disregard all deaths during the first 24 hours post-injection. To be a valid test, at least four embryos in each dilution shall remain viable beyond 24 hours.

(ii) Examine the surviving embryos for evidence of infection 5 to 8 days post-injection.

(iii) A satisfactory titration shall have at least one dilution with between 50 and 100 percent positives and at least one dilution with between 50 and 0 percent positives.

(iv) Calculate the EID_{50} by the Spearman-Karber or Reed-Muench method.

(3) Tissue culture origin vaccine may be titrated by a tissue culture method approved by Veterinary Services and written into the filed Outline of Productions.

(4) Ten to fourteen days post-vaccination, all vaccinates and controls shall be challenged intratracheally or in the orbital sinus with infectious fowl laryngotracheitis virus and observed each day for 10 days. Challenge virus shall be provided or approved by Veterinary Services.

(5) If at least 80 percent of the controls do not die or show clinical signs of fowl laryngotracheitis during the observation period, the test is inconclusive and may be repeated. If at least 19 of 20, 27 of 30, or 36 of 40 of the vaccinates in each group do not remain free of clinical signs of fowl laryngotracheitis during the observation period, the Master Seed Virus is unsatisfactory.

(6) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only one method of administration recommended on the label need be used in the retest. The vaccinates and the controls shall meet the criteria prescribed in paragraphs (c) (4) and (5) of this section.

(7) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) After a lot of Master Seed Virus has been established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the applicable requirements in § 113.135 and the requirements prescribed in this paragraph.

(1) Final container samples from each serial shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37: *Provided*, That, if the test of the virus is inconclusive because of a virus override, the test may be repeated using a higher titered antiserum, and if the repeat test is inconclusive for the same reason, the chicken inoculation test prescribed in § 113.36 may be conducted and the vaccine judged accordingly.

(2) *Virus titration.* A virus titration shall be conducted on final container samples of completed product in accordance with the titration methods used in paragraphs (c) (2) or (3) of this section.

(3) Each serial and subserial shall have a fowl laryngotracheitis virus titer sufficiently greater than the titer of the vaccine used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer 0.7 logs greater than the titer of the vaccine used in the immunogenicity test but not less than $10^{2.5}$ EID_{50} per dose.

(e) Until a lot of Master Seed Virus is established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the applicable requirements prescribed in § 113.135, in paragraph (d) (1) of this section, and the requirements in this paragraph before release for sale.

(1) *Virus titration.* A virus titration shall be conducted on final container samples of completed product in accordance with the titration methods used in paragraphs (c) (2) or (3) of this section.

(i) For release, samples shall be incubated at 37° C for not less than 7 days before preparation for use in the virus titration test. A serial or subserial of chicken embryo origin which does not contain at least $10^{2.5}$ EID_{50} per dose of fowl laryngotracheitis virus shall not be released. Tissue culture origin vaccine shall contain $10^{2.5}$ EID_{50} or $10^{2.5}$ $TCID_{50}$ per dose.

(ii) When tested at any time within the expiration period, unincubated samples of chicken embryo origin vaccine shall have a fowl laryngotracheitis virus titer of at least $10^{2.5}$ EID_{50} per dose. Tissue culture origin vaccine shall contain $10^{2.5}$ EID_{50} or $10^{2.5}$ $TCID_{50}$ per dose.

(2) An immunogenicity test shall be conducted on final container samples of completed product. The vaccine shall be used as recommended on the label.

(i) At least 10 susceptible chickens (vaccinates) properly identified and obtained from same source and hatch, per serial or the first subserial, and five more similar chickens for each additional subserial, shall be vaccinated.

(ii) Ten nonvaccinated chickens (controls) properly identified and obtained from the same source and hatch, shall be kept in isolation.

(iii) Ten to fourteen days post-vaccination, the vaccinates and the controls shall be challenged intratracheally with a fowl laryngotracheitis virus provided or approved by Veterinary Services and observed each day for 10 days.

(iv) If less than 80 percent of the controls die or develop recognizable signs of fowl laryngotracheitis, the test is inconclusive and may be repeated.

(v) If at least 80 percent of the vaccinates do not remain free of signs of fowl laryngotracheitis, the serial or subserial is unsatisfactory.

(3) Safety test. Final container samples of completed product from each serial or one subserial of modified live virus vaccine shall be tested for safety in ten or more susceptible chickens obtained from the same source and hatch as those used in the immunogenicity test prescribed in paragraph (e) (2) of this section. Each shall be injected intratracheally with 0.2 ml of the vaccine prepared for use as recommended on the label and observed each day for 14 days. If more than 20 percent of the chickens die during the observation period, the serial or subserial is unsatisfactory.

§ 113.164 Newcastle Disease Vaccine.

Newcastle Disease Vaccine shall be prepared from virus-bearing cell culture fluids or embryonated chicken eggs. Only Master Seed Virus which has been established as pure, safe, and immunogenic in accordance with the requirements in paragraphs (a), (b), and (c) of this section shall be used for preparing the production seed virus for vaccine production. All serials shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135, except § 113.34, and the requirements prescribed in this section.

(b) Each lot of Master Seed Virus shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37: *Provided*, That, if the test of the virus is inconclusive because of a virus override, the test may be repeated using a higher titered antiserum and if the repeat test is inconclusive for the same reasons, the chicken inoculation test prescribed in § 113.36 may be conducted and the virus judged accordingly.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity and the selected virus dose to be used shall be established as follows:

(1) Newcastle Disease susceptible chickens, all of the same age and from the same source, shall be used. Twenty or more chickens shall be used as vaccinates for each method of administration recommended on the label. Ten additional chickens of the same age and from the same source shall be held as unvaccinated controls.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. Each vaccinate shall receive a predetermined quantity of vaccine virus. Five replicate virus titrations shall be conducted on an aliquot of the vaccine virus to confirm the amount of virus administered to each chicken used in the test. At least three appropriate (not to exceed tenfold) dilutions shall be used and the test conducted as follows:

(i) For each dilution, inject at least five embryos, 9 to 11 days old, in the allantoic cavity with at least 0.1 ml each. Disregard all deaths during the first 24 hours post-injection. To be a valid test, at least four embryos in each dilution shall remain viable beyond 24 hours.

(ii) Examine the surviving embryos for evidence of infection 5 to 7 days post-injection.

(iii) A satisfactory titration shall have at least one dilution with between 50 and 100 percent positives and at least one dilution with between 50 and 0 percent positives.

(iv) Calculate the EID_{50} by the Spearman-Karber or Reed-Muench method.

(3) Twenty to twenty-eight days post-vaccination, all vaccinates and controls shall be challenged intratracheally with at least $10^{4.0}$ EID_{50} of virus per chicken and observed each day for 14 days. Challenge virus shall be provided or approved by Veterinary Services.

(4) If at least 80 percent of the controls do not develop clinical signs of Newcastle disease during the observation period, the test is inconclusive and may be repeated. If at least 19 of 20, or 27 of 30, or 36 of 40 of the vaccinates in each group do not remain free from clinical signs of Newcastle disease during the observation period, the Master Seed Virus is unsatisfactory.

(5) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only one method of administration recommended on the label need be used in the retest. The vaccinates and the controls shall meet the criteria prescribed in paragraph (c) (4) of this section.

(6) A strain identity test acceptable to Veterinary Services shall be conducted.

(7) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) After a lot of Master Seed Virus has been established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the applicable requirements in § 113.135, except § 113.34, and the requirements prescribed in this paragraph.

(1) Final container samples from each serial shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37: *Provided*, That, if the test of the virus is inconclusive because of a virus override, the test may be repeated using a higher titered antiserum, and if the repeat test is inconclusive for the same reason, the chicken inoculation test prescribed in § 113.36 may be conducted and the vaccine judged accordingly.

(2) *Virus titration.* A virus titration shall be conducted on final container samples of completed product in accordance with the titration method used in paragraph (c) (2) of this section.

(3) Each serial and subserial shall have a Newcastle disease virus titer sufficiently greater than the titer of the vaccine used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer 0.7 logs greater than the titer used in the immunogenicity test but not less than $10^{6.5}$ EID_{50} per dose.

(e) Until a lot of Master Seed Virus is established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the applicable requirements prescribed in § 113.135, except § 113.34, in paragraphs (d) (1) and (2) of this section and the requirements prescribed in this paragraph.

(1) A serial or subserial which does not contain at least $10^{6.5}$ EID_{50} per dose of Newcastle disease virus through the expiration date is unsatisfactory.

(2) An immunogenicity test shall be conducted on final container samples of completed product. The vaccine shall be used as recommended on the label.

(i) At least 10 susceptible chickens (vaccinates) properly identified and obtained from same source and hatch, per serial or the first subserial, and five more similar chickens per each additional subserial, shall be vaccinated.

(ii) At least ten nonvaccinated chickens (controls), properly identified and obtained from the same source and hatch as the vaccinates, shall be kept in isolation.

(iii) Twenty to twenty-eight days post-vaccination, the vaccinates and the controls shall be challenged intratracheally with at least $10^{4.0}$ EID_{50} Newcastle disease virus provided or approved by Veterinary Services. The chickens shall be observed each day for 14 days.

(iv) If less than 80 percent of the controls die or develop recognizable signs of Newcastle disease, the test is inconclusive and may be repeated.

(v) If at least 80 percent of the vaccinates do not remain free of signs of Newcastle disease, the serial or subserial is unsatisfactory.

(3) Safety test: Final container samples of completed product from each serial or one subserial shall be tested to determine whether the vaccine is safe for use in susceptible young chickens.

(i) Twenty-five susceptible chickens, 5 days of age or younger, properly identified and obtained from the same source and hatch, shall be vaccinated by the eye drop method with the equivalent of 10 doses of vaccine and the chickens observed each day for 21 days post-vaccination. Severe respiratory signs or death shall be counted as failures. Two-stage sequential testing may be conducted if the first test (which then becomes stage one) has 3 failures.

(ii) The results shall be evaluated according to the following table:

Cumulative totals

Stage	Number of chickens	Failures for satisfactory serials	Failures for unsatisfactory serials
1	25	2 or less	4 or more.
2	50	5 or less	6 or more.

(iii) If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and may be repeated.

(iv) For vaccines not recommended for use in chickens 10 days of age or younger, the prechallenge portion of the potency test shall be considered a safety test.

§ 113.165 Marek's Disease Vaccines.

Marek's Disease Vaccine shall be prepared from virus-bearing tissue culture cells. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in

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§ 113.135, except paragraph (c), and the requirements prescribed in this section. Each lot of Master Seed Virus shall also be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except lesions typical of turkey herpes virus may be disregarded.

(b) Safety test: The Master Seed Virus shall be nonpathogenic for chickens as determined by the following procedure:

(1) Three groups of at least 50 chickens each at one day of age shall be used. These chickens shall be of the same source and hatch; be susceptible to Marek's disease; and be kept isolated in groups.

(i) *Group 1.* Each chicken shall be injected with 10 times as much viable virus as will be contained in one dose of vaccine, by the route recommended for vaccination.

(ii) *Group 2.* Each chicken shall be injected with a virulent Marek's disease herpesvirus at a dosage level that will cause gross lesions of Marek's disease in at least 60% of the chickens within 50 days.

(iii) *Group 3.* Controls.

(2) At least 40 chickens in each group shall survive for 4 days post-injection. All chickens that die shall be necropsied and examined for lesions of Marek's disease and cause of death. The test shall be judged according to the following:

(i) At 50 days of age, the remaining chickens in Group 3 shall be killed and examined for gross Marek's disease lesions. If at least 60 percent of this group do not develop Marek's disease, the test is inconclusive and may be repeated.

(ii) At 120 days of age, the remaining chickens in Groups 1 and 3 shall be weighed, killed, and necropsied. If at least 30 chickens in each of these 2 groups have not survived the 120 day period; or if any of the chickens in Groups 1 and 3 have gross lesions of Marek's disease at necropsy; or if the average body weight of the chickens in Group 1 is significantly (statistically) different from the average in Group 3 at the end of the 120 days, the lot of Master Seed Virus is unsatisfactory.

(c) [Reserved]

(d) Test requirements for release: Except for the virus identity tests in § 113.135(c), each serial and subserial shall meet the applicable requirements prescribed in § 113.135 and in this paragraph. Final container samples of completed product shall be tested. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Purity test.* The chicken embryo inoculation test prescribed in § 113.37 shall be conducted except lesions typical of turkey herpes virus may be disregarded.

(2) *Safety test.* At least 25 one-day old chickens shall be injected, by the route recommended on the label for vaccination, with the equivalent of 10 chicken doses of virus (vaccine concentrated 10X). The chickens shall be observed each day for 21 days. Chickens dying during the period shall be examined, cause of death determined, and the results recorded.

(i) If at least 20 chickens do not survive the observation period, the test is inconclusive.

(ii) If lesions of any disease or cause of death are directly attributable to the vaccine, the serial is unsatisfactory.

(iii) If less than 20 chicks survive the observation period and there are no deaths or lesions attributable to the vaccine, the test may be repeated one time; *Provided*, That, if the test is not repeated, the serial shall be declared unsatisfactory.

(3) *Potency test.* The samples shall be titrated in a cell culture system or by any other titration method acceptable to Veterinary Services. Vaccine samples of desiccated vaccine shall be incubated at 37° C for 3 days before preparation for use in the titration test. A satisfactory serial or subserial shall contain at least 1500 plaque forming units per dose at release and maintain at least 1000 plaque forming units through expiration.

(37 Stat. 832–733; 21 U.S.C. 151–158)

Effective dates. These amendments take effect January 27, 1975, except the Master Seed Virus requirements in §§ 113.162 and 113.165 shall take effect June 1, 1975, and the Master Seed Virus requirements in §§ 113.129, 113.147, 113.160, 113.161, 113.163, and 113.164 shall take effect January 1, 1976.

Done at Washington, D.C., this 19th day of December 1974.

J. M. HEJL,
Deputy Administrator, Veterinary Services, Animal and Plant Inspection Service.

[FR Doc.74-30066 Filed 12-26-74;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—SCHOOL LUNCH PROGRAM

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Revision, Reorganization and Republication

On April 11, 1974, there was published in the FEDERAL REGISTER (39 FR 13166) a notice of proposed rulemaking to amend the regulations governing the operations of the Special Supplemental Food Program for Women, Infants and Children (WIC Program). The proposals were to conform existing provisions to the requirements of Pub. L. 93–150 which amended section 17 of the Child Nutrition Act of 1966 to authorize cash grants to Indian tribes, bands or groups recognized by the Department of Interior and to the Indian Health Service of the Department of Health, Education and Welfare and to extend the pilot WIC Program through fiscal year 1975. Other proposed revisions were designed to protect the individual rights of all persons participating in the WIC Program, permit the use of dried whole milk in Puerto Rico, prohibit WIC Program benefits from being considered as income or resources under other programs, standardize the application form used by local agencies and the form for agreements between FNS and State agencies, modify the procedure for funding the grants, and add a new section on medical evaluation. Responses to the proposed rules were received from 78 individuals. The principal comments and the action taken on the proposed amendments are discussed below.

1. A number of comments proposed modifying the definition of "lactating women." The comments reflected the idea that supplemental feeding for all women for a period of 6 weeks postpartum is not a sufficient period of time for nutritionally poor women to gain a good health status. The Department gave these comments careful consideration and consulted further with professionals in the medical field. It is the considered opinion of these medical professionals that pregnant women generally return to their normal physiological state in 6 weeks after delivery. Therefore, the Department has decided in favor of retaining the "lactating women" definition as used throughout the pilot stage of the program.

2. Several comments were received opposing the definition of "local agency," because it excluded non-health community organizations, welfare agencies and private physicians from applying for participation in the WIC Program. The WIC Program is a pilot supplemental feeding program with a medical evaluation which will determine the benefits of the food intervention to WIC participants. The determination of need, the collection of standardized medical data, the maintenance of medical, financial and program records and the transmission of this information for the evaluation are best performed by a health clinic which has the required personnel, facilities and equipment. However, by a mandate from the Congress the Indian Health Service of the Department of Health, Education and Welfare provides health services to Indian, tribes, bands or groups recognized by the Department of Interior. Therefore, to fully implement Pub. L. 93–150, FNS will consider as a local agency for the WIC Program a Federally recognized Indian tribe, band or group which receives health services from the Indian Health Service.

3. A number of commentors opposed the authority given FNS to require a revision, for a stated cause and at any time, of the method or delivery system for making supplemental foods available. It is not contemplated that FNS would require arbitrary revision of any or all delivery systems, but only reasonable revision whenever FNS becomes cognizant of a problem with a delivery system and of a need for revision. FNS will allow a reasonable period of time for discussion of the problem with State or local agencies and for initiation of the revision. This action will tend to limit any misuse of program funds and will minimize the need for claiming against grantees. Therefore, no change is made in the provision which will authorize FNS to require revision of a method or delivery system for making supplemental foods available.

4. It was suggested that § 246.6(k) and § 246.7(a)(7) were contradictory in assigning responsibility for the design of a method or delivery system for making supplemental funds available. After careful review, these paragraphs were revised to differentiate between the roles that the local agency and the State agency have in designing delivery systems.

5. The comments received contained substantial support for nutrition education as an integral part of the WIC Program and the funding of such by FNS. There is no authorization for nutrition education in section 17 of the Child Nutrition Act of 1966, as amended. Therefore, the Department cannot authorize such expenditures as direct program costs.

6. It was suggested, based on State agency experience thus far in the program, that the State agency approval and recommendation of a local agency to FNS be based on an assessment of the local agency's ability to develop a projected caseload, provide required clinical evaluations and maintain adequate fiscal records. The Department believes this recommendation is proper and advantageous to State agencies considering applicant local agencies. Therefore, the regulations are amended to include such a standard for State agency action on local agency applications.

7. A few respondents opposed selection by FNS, alone, of local agencies for participation in the WIC Program. The State agencies recommend to FNS only those local agency applicants that they approve for participation in the WIC Program. Only final approval of local agencies remains with FNS.

8. Some doubt was expressed of the need to document informed consent of program participants. Early in the program, FNS consulted with the Department of Health, Education and Welfare on the need for the documentation of informed consent of persons participating in the medical evaluation of the WIC Program. When individuals consent to participate in the WIC Program detailed medical evaluation, FNS is assured that people who participate in this evaluation have been informed that they are involved in an experimental feeding program and of any attendant risks. In addition, these individuals consent to the release of otherwise confidential medical data. The liability of all participating agencies is limited, essentially, to that which they would have for other programs—negligent injury to participants.

9. Several comments were received which proposed a uniform income standard for WIC eligibility. The WIC Program was designed to be an adjunct to existing health facility services. Standards and practices used by a health facility to determine eligibility of individuals or groups of individuals for free or reduced price health services shall not be altered in such a way as to exclude potential WIC participants. USDA will continue this policy throughout the pilot stage of the WIC Program.

10. Several comments indicated that the proposed language of § 246.12(c) implied that individuals would not be eligible for supplemental foods unless there were an existing condition which could be remedied by receipt of these foods. No such implication is intended, nor should it be read into this provision. An individual may need supplemental foods for preventive reasons or to remedy an existing condition. However, each person's condition must be assessed individually and his or her needs for the supplemental foods determined by a competent professional.

11. A number of comments supported inclusion of additional items in the food package. The Department will not materially alter the food package during the pilot stage of the program. At the end of the medical evaluation period a determination will be made regarding the food package as a whole. However, the following minor modifications not included in the proposed rulemaking have been made in individual components of the food package. No notice of proposed rulemaking is being given with respect to these modifications since infants would be deprived of the cereal component of the food package until the rulemaking procedure was complete and a hiatus in supplying infant cereal could adversely affect the results of the medical evaluation.

a. USDA has reduced the required iron content in infant cereals to be used in the WIC Program from 90 milligrams to 45 milligrams per 100 grams of dry cereal and has restricted to 50 percent the quantity of milk substitutes allowable for infants over six months of age. Current Food and Drug Administration nutrition labeling regulations require that foods containing 50 percent or more of the U.S. Recommended Daily Allowance conform to regulations concerning "dietary supplements." Therefore, infant cereal manufacturers have reduced the iron content of their products to 45 milligrams per 100 grams dry products and no infant cereal is currently available which meets the requirement of 90 milligrams of iron per 100 grams of dry cereal. Since iron fortified cereal and formula are the two supplemental foods which provide iron in the diets of infants, those infants over six months of age must continue to receive iron fortified formula for at least 50 percent of the combined volume of milk and formula in order to maintain the iron content of the infant package at approximately 100 percent of the Recommended Dietary Allowance.

b. Dried whole milk was proposed as a substitute for iron fortified formula for infants after 6 months of age and as a substitute for whole fluid milk for women and children in Puerto Rico only. However, dried whole milk is now authorized for Alaska and the Virgin Islands as well as Puerto Rico to assure that program participants in these areas will receive the milk component of the food package. Other milk items are less readily available in all three areas.

12. In lieu of a standard partial medical evaluation, each State agency will be requested to submit to FNS a report summarizing the benefits and disadvantages which can be attributed to the WIC Program for all projects not participating in the detailed medical evaluation. This decision was based on the Department's consultants' opinion that any study design adopted would yield minimum definitive answers concerning the benefits to participants as a result of the WIC Program. The reasons underlying this opinion were the impossibility of providing standardized equipment, of training clinic personnel in standardized data collection procedures, and of monitoring data collection procedures at all clinic sites. Since immediate action is required, it is considered that notice and public procedure thereon are impracticable and contrary to the public interest. However, complying with the spirit of public rulemaking, interested persons may submit written comments, data, or arguments to the Hearing Clerk, Room 112A, Administrative Building, U.S. Department of Agriculture, Washington, D.C. 20250, on or before January 15, 1975. Such comments, data, or arguments received will be considered and if necessary appropriate amendments will be made to this paragraph (§ 246.15(c)). Until such time, however, § 246.15(c), as revised, shall remain in effect.

To fully effect the revisions listed above a number of conforming changes were required throughout this part. Several comments suggested changes to the regulations which are not in accordance with the provisions of section 17 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1786). Since the regulations must follow the statutory requirements, these suggestions cannot be adopted.

In arriving at the revised regulations set forth below, each of the comments received was carefully and fully considered.

To the extent that the provisions of the regulations are at variance with any of the views expressed in such comments, any suggestions or proposals contained in the comments are hereby denied and any objections are overruled for the reasons previously stated.

In order to provide interested persons with useable copies of the regulations for the program, Part 246 is revised to read as follows:

Sec.
246.1 General purpose and scope.
246.2 Definitions.
246.3 Administration.
246.4 Use of funds.
246.5 Eligibility of local agencies.
246.6 Application by local agencies.
246.7 State agency action on applications.
246.8 Selection of local agencies.
246.9 Agreements.
246.10 Payments to States.
246.11 Records and reports.
246.12 Eligibility of persons.
246.13 Supplemental foods.
246.14 Fair hearing procedure.
246.15 Medical evaluation.
246.16 Miscellaneous.

AUTHORITY: Section 10, 80 Stat. 889, as amended (42 U.S.C. 1779); sec. 9, 80 Stat. 729, as amended (42 U.S.C. 1786).

§ 246.1 General purpose and scope.

(a) This part announces the policies and prescribes regulations for a pilot Special Supplemental Food Program for Women, Infants, and Children (WIC Program) to be operated in States and areas selected by FNS. Under the WIC Program, the Department provides cash grants to the health departments or comparable agencies of States, or to Indian tribes, bands or groups recognized by the Department of the Interior or to the Indian Health Service of the Department of Health, Education and Welfare to enable State and local public or private nonprofit health agencies, or Indian tribes or the Indian Health Service, to make specified nutritionally desirable foods available to pregnant women, lactating women, infants, and children.

(b) The Department or its designee will also collect medical data and other material to evaluate the effect of food intervention upon populations which are at nutritional risk. The analysis, appraisal, and evaluation of the data and material will be performed by FNS or its designee. Further, the Department or its designee will evaluate WIC Program operations for administrative efficiency and effectiveness in accomplishing program purposes.

§ 246.2 Definitions.

For the purposes of this part and of all contracts, instructions, forms, and other documents related hereto, the term:

(a) "Adequate medical records" means those records listed under § 246.11(d).

(b) "Administrative costs" means those direct and indirect costs, except food costs and clinic evaluation costs, necessary to support WIC Program operations and authorized under an approved cost allocation plan as described in General Services Administration's Federal Management Circular (FMC) 74-4 (formerly OMB A-87).

(c) "Children" means persons at least one year of age but less than four years of age.

(d) "Clinic evaluation costs" means those costs specified in § 246.4(d) which are incurred by a local agency to provide data and other material for the medical evaluation.

(e) "Competent professionals" means physicians, nutritionists, registered nurses, dieticians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials as being competent professionally to evaluate nutritional risk.

(f) "Department" means the United States Department of Agriculture.

(g) "Evaluation visit" means a visit to the local agency by WIC Program participants selected in accordance with FNS instructions during which they will be given the tests needed to obtain information required for the evaluation of the effect of food intervention.

(h) "Food costs" means the costs of supplemental foods provided, either directly or by voucher, to participants for home consumption, but such costs shall not exceed the vendor's customary price for such food delivered to the State agency, the local agency or the participant, whichever is the first recipient.

(i) "FNS" means the Food and Nutrition Service of the Department.

(j) "FNSRO" means the appropriate Food and Nutrition Service Regional Office.

(k) "Infants" means persons under one year of age.

(l) "Lactating women" means women who are breastfeeding an infant from birth up to one year of age and also means all women for a period of six weeks postpartum.

(m) "Local agency" means a health clinic which is operated by an agency of a State; by a political subdivision of a State; or by a private nonprofit organization. It also means an Indian Health Service unit; a Federally recognized Indian tribe, band or group which operates a health clinic or which is provided health services by an Indian Health Service Unit.

(n) "Low birth weight" means a birth weight less than 2,500 grams.

(o) "Low income" means an income below the poverty level determined by the 1970 U.S. census, as revised annually for changes in the cost of living.

(p) "Nutritional risk" means one or more of the following:

(1) For pregnant or lactating women—

(i) Known inadequate nutritional patterns;

(ii) High incidence of anemia;

(iii) High rates or prematurity or miscarriage; or

(iv) Inadequate patterns of growth (underweight, obesity, or stunting).

(2) For infants and children—

(i) Deficient patterns of growth (when compared to the standards for height and weight established by H. C. Stuart and published by Waldo E. Nelson, et al., in the Textbook of Pediatrics, 9th Edition, 1969, W. B. Saunders Co., Phila., Pa.);

(ii) High incidence of nutritional anemia; or

(iii) Known inadequate nutritional patterns.

(q) "Participants" means persons to whom food is made available under the WIC Program.

(r) "Pregnant women" means persons determined by competent professionals to have one or more fetuses in utero.

(s) "Project area" means a geographic subdivision within a State determined by the local agency as the area to be served by the WIC Program.

(t) "Secretary" means the Secretary of the United States Department of Agriculture or his authorized representative.

(u) "State" means any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam or American Samoa.

(v) "State agency" means the State health department or comparable agency of a State; or an Indian tribe, band or group recognized by the Department of the Interior; or the appropriate area office of the Indian Health Service of the Department of Health, Education and Welfare.

(w) "Supplemental food" means any food authorized to be made available under the WIC Program.

(x) "WIC Program" means the Special Supplemental Food Program for Women, Infants and Children authorized by section 17 of the Child Nutrition Act of 1966, as amended.

§ 246.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in administering the WIC Program.

(b) Within the States, the State agency shall be responsible for the operation of the WIC Program within the State. The State agency shall accept applications from local agencies which desire to participate in the WIC Program. The State agency shall be responsible for the design and operation of the system for making supplemental foods available to participants, including adequate safeguards against misuse. The State agency shall be responsible for forwarding to FNSRO those applications from local agencies which demonstrate the capability of operating under the WIC Program in accordance with this part and all instructions issued hereunder. The State agency shall monitor all program activities by local agencies and shall promptly notify FNSRO of any problems, program irregularities or illegal activity discovered. The State agency shall account to FNSRO for all funds granted under the WIC Program and shall be responsible for allocating the funds available for administrative costs between the State agency and local agencies.

§ 246.4 Use of funds.

(a) Federal funds made available to any State agency for the WIC Program for any fiscal year may be used by the State agency for administrative costs and for food costs and by local agencies for administrative costs, for food costs and for clinic evaluation costs. The use of WIC Program funds in any fiscal year shall be in accordance with budgets submitted by State and local agencies and approved by FNS.

(b) The use of WIC Program funds for administrative costs shall be subject to the following condition:

(1) The formula, if any, for allocating such funds between the State agency and local agencies shall be determined by the State agency;

(2) The amount expended for any fiscal year by the State agency and its local agencies shall not exceed ten per centum of the combined administrative and food costs incurred) exclusive of clinic evaluation costs). Administrative costs in excess of those which can be paid from WIC Program funds may be funded from any source other than FNS.

(c) The use of WIC Program funds for food costs shall be subject to the following conditions:

(1) The method or delivery system for making supplemental foods available designed by the State agency (or the local agency whenever the State agency authorizes the design of such method or delivery system by the local agency) must

be approved by FNS. FNS may, for a stated cause, at any time require revision of the method or delivery system for making supplemental foods available and, after a reasonable time for the State or local agency to effect such revision, WIC Program funds shall be used in accordance with the revised method or delivery system.

(2) All of the basic supplemental foods, or the specified substitutes therefor, as indicated in § 246.13 shall be made available by each participating local agency.

(d) The use of WIC Program funds for clinic evaluation costs shall be subject to the following conditions:

(1) The expenditures shall be limited to:

(i) The appropriate portion of the wages and salaries of the competent professionals who determine the nutritional need of eligible persons for the supplemental foods and who collect data and other material requested for use by FNS or its designee in the medical evaluation;

(ii) The appropriate portion of the wages and salaries of local agency employees who prepare such data and other material for submission to FNS or its designee;

(iii) The costs of any supplies consumed by the local agency in order to provide the requested data and other material to FNS or its designee; and

(iv) The expenses of shipping or mailing such data and other material as directed by FNS or its designee.

(2) The chief medical officer of the State agency shall certify that the costs incurred by the local agency and the portion of wages and salaries allocated to clinic evaluation costs are reasonable and that these costs were necessarily incurred to provide the data and other material requested by FNS or its designee.

(e) WIC Program funds shall not be used for any purposes by or in behalf of a local agency until a WIC Program agreement has been executed between the State agency and the local agency.

(f) Upon demand by FNS, the State agency shall promptly return to FNS any unobligated WIC Program funds. A pro rata amount of funds for administrative costs shall accompany any returned funds for food costs.

§ 246.5 Eligibility of local agencies.

A local agency is eligible to apply for participation in the WIC Program if:

(a) It provides health services, free or at less than the full charge customarily made for such services, to residents of an area in which a substantial proportion of the persons have low incomes;

(b) It serves a population of women, infants or children which is at nutritional risk;

(c) Its staff includes competent professionals who interview or examine persons receiving health services;

(d) It has the personnel, expertise, facilities and equipment necessary for performing the measurements, tests and collection of data and other material specified by FNS or its designee for the WIC Program; and

(e) It maintains or is able to maintain adequate medical records.

§ 246.6 Application by local agencies.

Any eligible local agency interested in participating in the WIC Program shall file a written application with its State agency. Applications shall be made on the form prescribed by FNS and shall include the following:

(a) The name, address and telephone number of the local agency; the name of the official who shall be responsible for supervising WIC Program operations at the local level; the name and address of the organization which sponsors the local agency, if any, and the sources of funding for the local agency. A private nonprofit organization must also include a copy of the determination letter or ruling letter issued by the Internal Revenue Service granting tax-exempt status.

(b) The type and numbers of competent professionals on the staff of the local agency, by general field of specialization, who will examine or interview persons to determine eligibility for the WIC Program and will authorize supplemental foods for eligible persons.

(c) The types of health services offered by the local agency to pregnant or lactating women, infants and children; and a brief description of the financial, residential and other socio-economic criteria applied to determine the eligibility of such individuals for health care, including treatment, free or at less than the customary full charge.

(d) A description of the type of laboratory facilities available and a statement indicating whether or not blood, serum or plasma can be processed for transportation to a designee of FNS.

(e) A list specifying which of the following data are presently maintained on pregnant or lactating women, infants and children: Height; weight; head circumference (infants only); hemoglobin; hematocrit; serum or plasma concentrations of iron, albumin, vitamin A, and ascorbic acid; and percent of saturation of transferrin. Also, indicate any other laboratory tests routinely performed and any other pertinent medical data routinely recorded.

(f) The boundaries of the geographic subdivision which the local agency proposes as the project area.

(g) An estimate of the total population of the proposed project area.

(h) Data showing the percentage of the population of the proposed project area with low incomes and any other significant information on economic conditions affecting the proposed project area.

(i) Data which indicate the rate of nutritional risk within the proposed project area including information such as the incidence of nutritional anemia; the number and rate of pregnancies, especially teenage pregnancies; the incidences of prematurity and miscarriage; the percent of low birth weight infants, infant morbidity and mortality rates; and the incidence of any additional health problems known to exist among women, infants and children in the proposed project area.

(j) An estimate of the number of pregnant or lactating women, infants, or children which the local agency expects to serve monthly under the WIC Program with an indication of the racial and ethnic composition of the expected participants.

(k) A description of the method or delivery system which the local agency recommends to the State agency for making supplemental foods available to expected participants and of the operating techniques which will be followed. This description must contain sufficient detail to permit State agency approval wherever the State agency has authorized design or operation, or both, of food delivery systems by local agencies.

(l) A description of any supplemental type feeding program for the benefit of pregnant or lactating women, infants or children which is already in operation in the proposed project area or any portion thereof, including any such feeding program now being operated by the applicant. Include number of participants served by the age group or other category, costs and items of food provided, delivery system used, administrative expenditures, sources of funding for administrative, food and other program expenditures, and an explanation of the expected relationship between any such program and the WIC Program. Include a description of the method which will be used to assure that WIC Program participants will not participate in the Department's Supplemental Food Program (7 CFR § 250.14) or Pilot Food Certificate Program (7 CFR Part 265).

(m) A description of any activities which will be carried out as an adjunct of or concomitant to the WIC Program (for example, any nutrition education effort) and the sources of funding for such activities.

(n) The estimated monthly WIC Program food costs and a brief description of the estimating techniques employed to calculate this figure;

(o) The estimated WIC Program administrative costs of the local agency by general type of expenditure, a brief justification for each such budgeted expenditure and, if the total administrative costs exceed the WIC Program funds which will be made available for such costs, the sources and amounts from each source which will be used to fund such costs. Nonrecurring costs shall be noted as such and listed as annual costs. All other administrative costs shall be computed on both a monthly and an annual basis.

(p) The estimated WIC Program clinic evaluation costs by general type of expenditure and a brief justification for each budgeted expenditure. All clinic evaluation costs shall be computed on both a monthly and an annual basis.

(q) A statement that the information furnished in the application is true and accurate to the knowledge of the signer.

(r) The signature of the official in the local agency who shall be responsible for supervising local WIC Program operations.

§ 246.7 State agency action on applications.

(a) The State agency shall transmit to FNSRO each application from a local agency which the State agency approves for the WIC Program and recommends to FNS for funding. With each application, the State agency shall include a letter stating that the State agency approves and recommends the local agency for funding based on the State agency's assessment of the local agency's ability to develop a projected caseload, provide required clinical evaluations, and maintain adequate fiscal records. The State agency letter shall also indicate whether the method or delivery system for making supplemental foods available will be designed by the State agency or, if designed by the local agency, the approval of that local agency design. The State agency shall also agree to take the necessary action to assure prompt implementation of the WIC Program by the local agency if selected by FNS for funding. Immediately following notification by FNS of the local agencies selected for participation, the State agency shall submit the following information:

(1) The name and address of the State agency and the name and telephone number of the person within the State agency who shall be responsible for the WIC Program;

(2) A listing of the WIC Program operation duties to be performed by the State agency and those to be performed by the local agency;

(3) A description of the techniques which shall be used to monitor the activities of the local agency and the frequency with which they shall be employed;

(4) The estimated WIC Program administrative costs of the State agency by general type of expenditure, the estimated WIC Program food costs, if any, of the State agency and a brief justification for each of the budgeted expenditures;

(5) The method, if any, by which WIC Program funds to be used for administrative costs will be allocated between the State and local agency;

(6) If the estimated administrative costs will exceed the WIC Program funds which may be used for such purposes, the sources and amounts from each source which will be used to fund these excess administrative costs;

(7) If a State agency has not approved a locally designed method or delivery system for making supplemental foods available to participants for all selected local agencies, a detailed description of the State agency designed method or delivery system and of the operating techniques which will be followed;

(8) A description of any activities which will be carried out by the State agency as an adjunct of or concomitant to the WIC Program (for example, any nutrition education effort) and the sources of funding for such activities;

(9) Any other information which the State agency wishes to include; and

(10) The signature of the official in the State agency who shall be responsible for all WIC Program operations within the State.

(b) The State agency shall promptly notify in writing each local agency whose application is not transmitted to FNSRO of the reasons therefor and shall, in the case of a final rejection of an application, send a copy of such rejection to FNSRO.

§ 246.8 Selection of local agencies.

(a) *General.* FNS shall select local agencies for participation in the WIC Program on the basis of the information contained in each application. Local agencies shall be selected which, in the judgment of FNS, are most suited to the accomplishment of the purposes of this part. All local agencies selected shall be requested to furnish medical data and other material to enable FNS or its designee to make the evaluation referred to in § 246.15. FNS shall select local agencies for participation in the detailed medical evaluation prior to selecting the other local agencies for participation. The number of local agencies selected each fiscal year for the WIC Program shall be dependent upon the funds available to FNS.

(b) *Criteria for selection.* FNS shall select local agencies for participation in the WIC Program on the basis of the following criteria:

(1) The absence of any similar supplemental feeding program. While the absence of such a program shall be mandatory for local agencies included in the detailed medical evaluation, it shall be merely one of the factors by which all other applicants are rated;

(2) The expertise which the local agency has in conducting the necessary anthropometric measurements. In addition, local agencies shall be selected to participate in the detailed medical evaluation on the basis of their expertise in performing the required clinical tests and in processing blood, serum or plasma for shipment to FNS or its designee;

(3) The severity of nutritional risk and other health problems which affect residents of the proposed project area;

(4) The percentage of residents in the proposed project areas with low incomes and other factors which could affect the ability of such residents to secure adequate nutrition;

(5) The number of expected participants in each category of eligible persons and any demographic characteristics which could affect the WIC Program evaluation;

(6) The suitability of the proposed system for making food available to participants and the utility of that system for program evaluation purposes.

(c) *Notification.* Each State agency shall be notified in writing by FNS of the action taken on each application transmitted by that State agency. The notification shall list the amount of funds which FNS shall make available to the State agency. In addition, FNS shall publicly announce all selected local agencies and the amount of funds made available to each State agency.

§ 246.9 Agreements.

(a) Each selected State agency shall enter into a written agreement with the Department for each fiscal year before any funds authorized for the WIC Program are made available to such State agency by FNS under this part for that fiscal year. Such agreements shall cover the operation of the program during the period specified therein and may be extended at the option of the Department with the concurrence of the State agency. The agreement shall be executed by the appropriate State agency official and by the Administrator of FNSRO on behalf of the Department. The agreement shall be in the form prescribed by FNS and shall incorporate the terms and conditions set forth in this part. The agreement shall also contain any additional provisions that are required by law or may be necessary for WIC Program administration, operation or evaluation, including specific provisions on:

(1) *Nondiscrimination.* An assurance that the State agency shall comply with the requirements of the Department's regulations respecting nondiscrimination (Part 15 of this title) to the end that no person shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the WIC Program and a further assurance that no person shall be subjected to any discrimination under the WIC Program because of creed, political beliefs or sex.

(2) *Public Information.* A statement that WIC Program regulations, instructions, and other documents which do not pertain to individual participants shall be made available to the public upon request.

(3) *Program Promotion.* A guarantee of assistance to the Department in its efforts towards WIC Program promotion and nutrition education.

(b) The State agency shall enter into an agreement with each local agency in the State selected for participation in the WIC Program. The agreement shall be in writing and shall contain such terms as the State agency deems necessary to insure that:

(1) The local agency operates in conformity with the methods stated in the application and transmittal which were approved by FNS;

(2) The actions of the local agency will be in accordance with this part;

(3) Data will be collected by the local agency and made available as required this part; and

(4) The local agency will secure and document an informed consent, as set forth in § 246.11, from each participant (parent or guardian of a participating infant or child) who is included in the detailed medical evaluation component of the WIC Program.

§ 246.10 Payments to States.

FNS shall issue a Letter of Credit in favor of each State agency having an agreement with the Department under this part. The State agency shall obtain needed funds through presentation by

designated officials of a Payment Voucher on Letter of Credit in accordance with procedures prescribed by FNS and approved by the U.S. Treasury Department. Withdrawals (advances) against the Letter of Credit shall be made only in amounts necessary to meet actual current disbursement needs. The advanced funds shall be used without delay to pay currently approved costs. Advances made by the State agency to local agencies shall be made only in amounts necessary to meet actual current disbursement needs of the local agency and shall be used without delay by the local agency to pay currently approved costs.

§ 246.11 Records and reports.

(a) *General.* Each State agency and local agency selected to participate in the WIC Program shall maintain full and complete records concerning program operations. All such records shall be retained for three years following the end of the Federal fiscal year to which they pertain. However, the Department may, by written notice, require retention of any records deemed by it to be necessary for resolution of an audit or of any litigation. If the Department deems any of the program records to be of historical interest, it may require the State or local agency to forward such records to the Department whenever such agency is disposing of them. All records shall be available during normal business hours for representatives of the Department and of the General Accounting Office of the United States to inspect audit and copy, provided that medical case records of individual participants shall remain confidential.

(b) *Financial records.* Each State and local agency shall keep complete and accurate records of all amounts received and disbursed for the WIC Program. All of the cost allocation data shall also be maintained.

(c) *Food records.* Each local agency shall keep a file of the food authorizations issued each month to each participant. If a local agency actually dispenses food to participants, the agency shall keep accurate and complete records of the receipt, disposal and inventory of such foods.

(d) *Medical records.* The local agency shall record during each FNS designated evaluation visit, at a minimum, the following data: Height (first visit only for pregnant or lactating women); weight; and head circumference (infants only). Mortality and morbidity data will be recorded whenever available. If the local agency is obtaining results of hemoglobin or hematocrit tests on WIC participants, such results shall be recorded with the WIC Program medical records. Those local agencies participating in the detailed medical evaluation of the WIC Program shall keep such additional medical records as FNS or its designee shall require.

(e) *Informed consent records.* Written documentation of the informed consent of each adult participant and of the parent or guardian of each infant or child participant included in the detailed medical evaluation component shall be obtained during the initial evaluation visit of the participant and shall not contain any waiver of the legal rights of the participants or of the parent or guardian. Each local agency shall have on file the procedure followed and any statements made to participants, or information supplied them, when their informed consent to participate in the detailed medical evaluation component of the WIC Program was sought.

(f) *Civil rights records.* The local agency shall maintain participation data that shows participation by racial and ethnic groups. The data should identify participants as White, Negro or Black, American Indian, Spanish-surnamed, Oriental and other.

(g) *Reports.* State agencies and local agencies shall submit reports regarding the use of funds received under this part, participation in the WIC Program, and data necessary to permit evaluation of administrative performance and of the effect of food intervention upon participants. Such reports shall be submitted on or before the 20th of the month following the month for which data and information are requested by FNS, in a form specified by FNS, and mailed in accordance with instructions from FNS. All civil rights reports shall be based on reviewable records, reported quarterly on or before the 15th of the month following the end of a calendar quarter or as required by FNS, and reported in the form specified by FNS.

§ 246.12 Eligibility of persons.

Pregnant or lactating women, infants and children whether they (or the parent or guardian of any infant or child) have or have not given their informed consent to participate in the detailed medical evaluation, are eligible to receive supplemental foods under the WIC Program if:

(a) They reside in an approved project area;

(b) They are certified for treatment free or at least than the full charge customarily made for such services by the participating local agency which serves the project area wherein they reside; and

(c) Their individual nutritional needs for the supplemental foods described in § 246.13 are determined through medical examination or interview by a competent professional on the staff of the participating local agency.

§ 246.13 Supplemental foods.

(a) The following kinds and specifications of foods shall be available under the WIC Program:

(1) For infants:

(i) Iron fortified infant formula with at least 10 milligrams of iron per liter of formula at standard dilution (which supplies 67 kilocalories per 100 milliliters, i.e., 20 kilocalories per fluid ounce).

Substitutes. Whole fluid milk fortified with 400 International Units of vitamin D per quart; or evaporated milk fortified with 400 International Units of vitamin A per reconstituted quart; or, in Puerto Rico, the Virgin Islands and Alaska only, dried whole milk fortified with 400 International Units of vitamin D per reconstituted quart, may be substituted for not more than 50 percent of the quantity of iron fortified infant formula authorized for any infant after six months of age.

(ii) Infant cereal which contains a minimum of 45 milligrams of iron per 100 grams of dry cereal.

(iii) Fruit Juice which contains at least 30 milligrams of vitamin C per 100 milliliters.

(2) For children and pregnant or lactating women:

(i) Whole fluid milk fortified with 400 International Units of vitamin C per quart; or evaporated milk fortified with 400 International Units of vitamin D per reconstituted quart; or skim or low fat milk fortified with 400 International Units of vitamin D and at least 1500 International Units of vitamin A per fluid quart or the minimum amount required by the Food and Drug Administration, whichever is greater; or nonfat dry milk fortified with 400 International Units of vitamin D and 2000 International Units of vitamin A per reconstituted quart; or, in Puerto Rico, the Virgin Islands and Alaska only, dried whole milk fortified with 400 International Units of vitamin D per reconstituted quart; or cheese (Swiss, Natural cheddar or pasteurized process American).

(ii) Cereal (hot or cold) which contains a minimum of 30 milligrams of iron per 100 grams of dry cereal.

(iii) Fruit or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters.

(iv) Eggs.

(b) Supplemental foods shall be authorized by a competent professional in accordance with the individual needs of each eligible participant in amounts up to the following maximum quantities:

Foods	Units[1]	Maximum number of units per month	
		Infants	Children and pregnant or lactating women
Iron fortified infant formula	13 fl. oz. can of conc. liquid[2]	31	
Whole fluid milk	Fluid quart	(3)	31
Evaporated milk	13 fl. oz. can	May be substituted for whole fluid milk at rate of 13 oz can per quart of whole fluid milk.	
Skim or low fat milk	Fluid quart		May be substituted for whole fluid milk on a quart-for-quart basis.
Non-fat dry milk	4 lb. pkg		One package may be substituted for each 25 quarts of whole fluid milk.
Dry whole milk	1-pound can	In Puerto Rico, the Virgin Islands and Alaska, may be substituted for whole fluid milk at the rate of one can per three quarts of whole fluid milk.	
Cheese	Pound		May be substituted for whole fluid milk at the rate of one pound per three quarts.
Eggs	Dozen		2[4]
Infant cereal	8 oz. pkg	1	
Cereals (hot or cold)	8 oz. pkg		4
Juice, single strength[5]	46 fl. oz. can	3[6]	6

[1] Different size units may be made available provided that the total volume or weight per month remains the same.
[2] Dry or ready-to-use forms may be made available in equivalent amounts.
[3] May be substituted for not more than 50 percent of the quantity of formula beginning at age six months at the rate of one quart per can of concentrated formula.
[4] An equivalent amount of dried egg mix (two pounds) may be substituted.
[5] Frozen, concentrated fruit juices may be made available in 12 oz. cans at the same rate or in an equivalent volume in other size cans.
[6] 15-4 oz. cans of infant juices may be substituted.

§ 246.14 Fair hearing procedure.

Each State agency participating in the WIC Program shall establish a hearing procedure under which a person or his or her parent or guardian can appeal from a decision made by the local agency respecting the eligibility of such person for supplemental foods. Such hearing procedure shall provide:

(a) A simple, publicly announced method for a person to make an oral or written request for a hearing;

(b) An opportunity for the person to be assisted or represented by an attorney or other person in presenting the appeal;

(c) An opportunity to examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;

(d) That the hearing shall be held with reasonable promptness and convenience to the person and that adequate notice shall be given to the person as to the time and place of the hearing;

(e) An opportunity for the person to present oral or documentary evidence and arguments supporting his or her position without undue interference;

(f) An opportunity for the person to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;

(g) That the hearing shall be conducted and the decision made by a hearing official who did not participate in making the decision under appeal;

(h) That the decision of the hearing official shall be based on the oral and documentary evidence presented at the hearing and made a part of the hearing record;

(i) That the person and any designated representative shall be notified in writing of the decision of the hearing official;

(j) That a written record shall be prepared with respect to each hearing, which shall include the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the family of the decision of the hearing official; and

(k) That such written record of each hearing shall be preserved for a period of 3 years and shall be available for examination by the person's representative at any reasonable time and place during such period.

§ 246.15 Medical evaluation.

(a) *General.* An evaluation of the effects of food intervention on the general health and development of participants shall be performed by FNS or its designee. Local agencies shall collect the data and other material necessary for this evaluation. FNS or its designee shall determine the specific anthropometric measurements and clinical tests to be performed. Those measurements and tests selected shall present minimal risk to participants and shall be accepted medical procedures. FNS or its designee shall standardize the methods used by participating local agencies in making the required measurements and tests and in collecting data and other material. All information concerning individual participants shall be released only to persons directly connected with the WIC Program. Only those participants who consent (or, in the case of infants and children, whose parents or guardians consent) shall be included in the detailed medical evaluation. Failure of a participant (or of his or her parent or guardian) to grant such consent shall not affect such person's eligibility for supplemental foods. Consent may be withdrawn at any time and such withdrawal shall not affect a participant's continuing eligibility for supplemental foods.

(b) *Detailed Medical evaluation.* Local agencies judged by FNS to serve a population representative of persons eligible for the WIC Program in the United States and with the necessary capabilities will be selected to participate in a detailed medical evaluation of the program. These local agencies shall perform required clinical tests and process blood, serum or plasma for shipment to FNS or its designee. Blood samples of consenting infant and child participants (consent given by parent or guardian) shall be drawn by a microlancet from a finger or heel prick under sterile procedures and subjected to microanalysis for hemoglobin, hematocrit, albumin, transferrin and iron. Samples shall also be taken from consenting women participants and subjected to similar analysis. Some samples from women shall be analyzed for vitamin A content. In addition to these test results, dietary histories, anthropometric measurements and other data required by FNS shall determine the benefits of the supplemental foods on the participants. Any therapeutically significant results from tests on individual participants shall be furnished to the appropriate local agency.

(c) *Partial medical evaluation.* Each State agency will be requested to submit to FNS a report summarizing the benefits and disadvantages which can be attributed to the WIC Program for all projects not participating in the detailed medical evaluation. The States may consider for their reports not only the medical and nutritional benefits to participants, but also data concerning the impact of the WIC Program on local agencies. Evaluations of other effects of the WIC Program may be included at the discretion of the State agency. The State agency shall submit a report on the evaluation to FNS by July 31, 1975. This report shall be compiled for the the period from initiation of WIC Program operations by the State agency through June 30, 1975.

§ 246.16 Miscellaneous.

(a) Any State agency or any local agency may be disqualified from future participation if it fails to comply with the provisions of this part and its agreement with the Department or the State agency. This does not preclude the possibility of other action being taken through other means available where necessary, including prosecution for fraud under applicable Federal statutes. If FNS determines that any part of the money received by a State agency, or food purchased or vouchers redeemed with WIC Program funds were, through State agency or local agency negligence or fraud, misused or otherwise diverted from the WIC Program purposes, the State agency shall, on demand by FNS, pay to FNS a sum equal to the amount of the money or the value of the food or vouchers so misused or diverted. Further, if FNS determines that any part of the money received by a State agency, or food purchased or vouchers redeemed with WIC Program funds, were lost as a result of thefts, embezzlements, or unexplained causes, the State agency shall, on demand by FNS, pay to FNS a sum equal to the amount of the money or the value of the food or vouchers so lost. The State agency shall have full oppor-

tunity to submit evidence, explanation or of noncompliance or diversion before a final determination is made in such cases.

(b) The value of benefits or assistance available under the WIC Program shall not be considered to be income or resources of participants or their families for any purpose under Federal or State laws including, but not limited to, laws relating to taxation, welfare and public assistance programs.

(c) Requests for information or assistance on the WIC Program and all applications, transmittals, agreements or other documents required by this part shall be sent to the FNSRO serving the State as listed below:

(1) Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, Virgin Islands, West Virginia: U.S. Department of Agriculture, FNS, Northeast Region, 729 Alexander Road, Princeton, New Jersey 08540.

(2) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee: U.S. Department of Agriculture, FNS, Southeast Region, 1100 Spring Street, N.W., Atlanta, Georgia 30309.

(3) Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin: U.S. Department of Agriculture, FNS, Midwest Region, 536 South Clark Street, Chicago, Illinois 60605.

(4) Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming: U.S. Department of Agriculture, FNS, West-Central Region, 1100 Commerce Street, Room 5-D-22, Dallas, Texas 75202.

(5) Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory, Washington: U.S. Department of Agriculture, FNS, Western Region, 550 Kearney Street, Room 400, San Francisco, California 94108.

(d) FNS shall issue instructions or procedures to implement the provisions of this part.

(e) Nothing contained in this part shall prevent a State agency from imposing additional requirements for participation in the WIC Program which are not inconsistent with the provisions of this part.

NOTE: The reporting and/or record keeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

(Catalog of Federal Domestic Assistance Program No. 10.557, National Archives Reference Service)

Effective date. This part shall become effective on December 31, 1974.

Signed at Washington, D.C., on December 20, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74-30190 Filed 12-26-74;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Tangerine Reg. 46, Amdt. 5]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Amendment of Size Regulation

This amendment prescribes a minimum diameter requirement of 2$^{9}/_{16}$ inches (176 size) applicable to shipments of tangerines during the period December 30, 1974, through January 12, 1975, except that during any week of such period each handler may ship a quantity of tangerines not smaller than 2$^{7}/_{16}$ inches in diameter (210 size) equal to 35 percent of the volume of tangerines he shipped in the most recent previous week of the current fiscal period. This requirement is designed to prevent an excessive buildup of smaller-size tangerines in fresh market outlets and maintain orderly marketing conditions.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the regulation of tangerine shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The amendment reflects the Department's appraisal of the need for regulation of tangerine shipments based on the available supply and current and prospective market conditions. The amendment is designed to provide ample supplies of tangerines of the more desirable sizes in the interest of both growers and consumers. The action is designed to prevent an excessive buildup of smaller-size tangerines and maintain orderly marketing conditions by preventing the adverse effect on the market caused by shipment of excessive quantities of smaller-size fruit when more than ample supplies of the more desirable sizes are available to serve consumers' needs. This amendment is consistent with the objective of the act of promoting orderly marketing and protecting the interest of consumers.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of tangerines, grown in the production area, are presently subject to regulation by grade and size, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Growers Administrative Committee on December 17, 1974; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this amendment, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such fruit; compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. In §905.557 (Tangerine Regulation 46; 39 FR 32976, 37186, 40745, 41239, 42899) the provisions of paragraph (b)(2) are revised to read as follows:

§ 905.557 Tangerine Regulation 46.

* * * * *

(b) * * *

(2) Any tangerines, grown in the production area, which are of a size smaller than 2$^{9}/_{16}$ inches in diameter, except that a tolerance for tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the United States Standards for Florida Tangerines: *Provided,* That during the period December 30, 1974, through January 12, 1975, no handler may ship tangerines, grown in the production area, which are of a size smaller than 2$^{7}/_{16}$ inches in diameter except that a tolerance for tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the United States Standards for Florida Tangerines: *Provided further,* That during any week of said period any handler may ship a quantity of tangerines which are smaller than 2$^{9}/_{16}$ inches in diameter, including the aforesaid tolerance, if (i) the number of standard packed boxes of such smaller tangerines does not exceed 35 percent of the total shipments of tangerines by such handler during the last previous week, within the current fiscal period, in which he shipped tangerines; and (ii) such smaller tangerines are of a size not smaller than 2$^{7}/_{16}$ inches in diameter, except that a tolerance for tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in ac-

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cordance with the provisions for the application of tolerances specified in said United States Standards for Florida Tangerines.

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(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, December 23, 1974, to become effective December 30, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 74-30279 Filed 12-26-74;8:45 am]

PART 905—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Miscellaneous Amendments

The amendment provides additional safeguards designed to prevent fruit handled under the exemption provisions of the order from entering the fresh regulated market.

On November 27, 1974, notice was published in the FEDERAL REGISTER (39 FR 41379) that the Department was considering an amendment, as hereinafter set forth, of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 906.120–906.151) currently in effect pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This notice allowed interested persons 30 days during which they could submit written data, views, or arguments pertaining to these proposals. None were submitted.

The amendment provides additional safeguards pursuant to § 906.44 *Safeguards*, designed to prevent fruit handled under the exemption provisions specified in § 906.42 *Shipments for special purposes* from entering the fresh regulated market. The additional safeguards (1) remove fruit handled for conversion into fresh juice from exemption; (2) include fruit handled for processing under the exemption provisions; and (3) define the term "processing." A new rule and regulation, § 906.123 *Fruit for processing*, requires that (1) persons shipping fruit to points outside of the production area for processing ship such fruit only to approved processors; and (2) outlines procedures for the approval of such processors by the committee. Persons who ship fruit to such processors for processing would be required to promptly file diversion reports with the committee, and the committee could, if necessary to ensure compliance, require that the processors file disposition reports.

The amendment is necessary to prevent exempt fruit from entering the fresh regulated market. When fruit leaves the production area, it often loses its identity and it is difficult to determine its ultimate disposition. Currently, under the rules and regulations of the order, fruit for processing into fresh juice is exempt from grade, size, container, inspection, and assessment requirements if certain reporting requirements are met. The committee reports that fruit in such shipments should no longer have an exempt status because the number of such shipments is increasing and they are difficult to monitor since most shipments are to small processors for conversion into fresh juice. It also now considers it necessary to require handlers who ship exempt fruit for processing to processors outside of the production area to file disposition reports with the committee and only ship such fruit to "approved processors." A procedure is outlined by which the committee could certify processors and place their names on a list of approved processors. The committee could require that such processors file reports relating to the fruit they receive for processing if it is determined that such reports are necessary to effectuate compliance. These provisions are designed to ensure that fruit for processing is only shipped to bona fide processors and that the fruit is actually processed.

After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice, which were submitted by the Texas Valley Citrus Committee (established pursuant to said amended marketing agreement and order as the agency to administer the provisions thereof), it is hereby found that the amendment, as hereinafter set forth, of said rules and regulations, is in accordance with the provisions of said amended marketing agreement and order and will tend to effectuate the declared policy of the act. Such amendment is hereby approved, and said rules and regulations are amended as follows:

Paragraph (b) in § 906.120 *Fruit exempt from regulations* is revised to read as follows:

§ 906.120 Fruit exempt from regulations.

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(b) *Processing.* The term "processing" as used in § 906.42(b) means the manufacture of any orange or grapefruit product which has been preserved by any recognized commercial process, including canning, freezing, dehydrating, drying, and the addition of chemical substances, or by fermentation. Fruit so processed is handled in accordance with Section 906.123 shall be exempt from the provisions of Sections 906.34 and 906.40. Fruit for conversion into juice without pasteurization or preservative treatment, as herein described, shall be deemed fresh fruit and subject to all regulations under this part.

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A new § 906.123 *Fruit for processing* is established, reading as follows:

§ 906.123 Fruit for processing.

(a) No person shall be granted exemption from regulation to handle oranges and grapefruit for processing unless such fruit is shipped to an approved processor. All such shipments to an approved processor shall be reported to the committee on a form approved by it.

(b) *Approved processor.* Any person who desires to acquire, as an approved processor, fruit for processing, as set forth in § 906.120(b), shall, prior thereto, file an application with the committee on a form approved by it, which shall contain, but not be limited to, the following information:

(1) Name and address of applicant;

(2) Location of plant or plants where manufacturing is to take place;

(3) Approximate quantity of fruit used each month;

(4) A statement that the fruit obtained will be used for processing only and will not be resold or disposed of in fresh fruit channels; and

(5) Agree to submit such reports as are required by the committee. Such application shall be investigated by the committee staff. After such investigation, the staff shall report its findings to the committee at its next meeting or to its delegated subcommittee. Based upon the staff's report and other reliable information, the committee or delegated subcommittee shall approve or disapprove the application and notify the applicant accordingly. If the application is approved, the applicant's name shall be placed upon the list of approved processors.

(c) *Certificate by processors.* Upon request by the committee each approved processor shall submit to the committee on or before the 10th day of each month a report of the oranges and grapefruit used during the preceding calendar month. Each report shall contain a certificate to the United States Department of Agriculture and to the committee as to the truthfulness of the information shown therein.

(d) *Diversion report.* Each handler who ships fruit to processors for processing shall report to the committee on a form approved by it the following information:

(1) Name and address of the processor's place of business where the fruit was shipped;

(2) The net weight of oranges or grapefruit;

(3) Truck license number or rail car initial and number;

(4) Inspection certificate number; and

(5) Such other information as the committee may require.

The handler shall prepare 4 copies of the report and sign them. The original copy shall be submitted to the committee within 7 days. One copy shall be retained by the handler. One copy shall be given to the party transporting the fruit who, upon arrival at the processor's place of business, shall turn it over to the party receiving the fruit with the understanding that the processor will record thereon the actual net weight of the fruit re-

ceived and forward such copy to the committee office. One copy shall be submitted to the processor along with the invoice.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, December 20, 1974, to become effective February 1, 1975.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-30186 Filed 12-26-74;8:45 am]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Expenses and Rate of Assessment

This document authorizes expenses of $630,000 of the Texas Valley Citrus Committee, under Marketing Order No. 906, for the 1974–75 fiscal period and fixes a rate of assessment of $0.045 per 7/10-bushel carton or equivalent quantity of oranges and grapefruit handled in such period to be paid to the committee by each first handler as his pro rata share of such expenses.

On September 16, 1974, notice of rule-making was published in the FEDERAL REGISTER (39 FR 33227) regarding proposed expenses and the related rate of assessment for the period August 1, 1974, through July 31, 1975, and carryover of unexpended funds, pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This notice allowed interested persons 16 days during which they could submit written data, views, or arguments pertaining to these proposals. None were submitted. This regulatory program is effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Texas Valley Citrus Committee (established pursuant to said amended marketing agreement and order), it is hereby found and determined that § 906.214 is added as set forth below:

§ 906.214 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Texas Valley Citrus Committee during the period August 1, 1974, through July 31, 1975, will amount to $630,000.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 906.24, is fixed at $0.045 per 7/10-bushel carton, or an equivalent quantity of oranges and grapefruit.

(c) *Reserve.* Unexpended assessment funds in excess of expenses incurred during the fiscal period ended July 31, 1974, shall be carried over as a reserve in accordance with the applicable provisions of § 906.35.

It is hereby found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of oranges and grapefruit are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable fruit from the beginning of such period; and (3) the current fiscal period began on August 1, 1974, and the rate of assessment herein fixed will automatically apply to all assessable oranges and grapefruit beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 20, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-30187 Filed 12-26-74;8:45 am]

[Navel Orange Regulation 332]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period Dec. 27, 1974–Jan. 2, 1975. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.632 Navel Orange Regulation 332.

(a) *Findings.* (1) *Pursuant to the* marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges was fairly good during the past week. Prices f.o.b. averaged $3.71 per carton on a reported sales volume of 1,431 carlots last week, compared with an average f.o.b. price of $3.69 per carton and sales of 1,306 carlots a week earlier. Track and rolling supplies at 507 cars were down 284 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this is based became available and the time this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 23, 1974.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period De-

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cember 27, 1974, through January 2, 1975, are hereby fixed as follows:

(i) District 1: 697,000 cartons;

(ii) District 2: 48,915 cartons;

(iii) District 3: 53,900 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: December 24, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-30839 Filed 12-26-74;8:45 am]

[Lemon Regulation 672]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period Dec. 29, 1974–Jan. 4, 1975. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.972 Lemon Regulation 672.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons was good Monday morning but some decrease is expected during the remainder of the week because of the loss of two selling days over the Christmas holiday. Average f.o.b. price was $4.72 per carton the week ended December 21, 1974, compared to $4.27 per carton the previous week. Track and rolling supplies at 110 cars were down 33 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 23, 1974.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period December 29, 1974, through January 4, 1975, is hereby fixed at 175,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674)

Dated: December 24, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-30838 Filed 12-26-74;8:45 am]

[Papaya Reg. 5]

PART 928—PAPAYAS GROWN IN HAWAII

Limitation of Shipments

This regulation establishes quality and size requirements for Hawaiian papayas from January 1 through December 31, 1975 at the same levels as Papaya Regulation 4 effective during 1974. It requires all Hawaiian papayas handled to grade at least Hawaii No. 1 grade. Fruit handled in interstate or export channels shall be of pyriform shape and weigh at least 10 ounces and fruit handled in intrastate channels shall weigh at least 14 ounces except such fruit grading Hawaii Fancy shall weigh at least 15 ounces.

Notice was published in the FEDERAL REGISTER issue of December 2, 1974 (39 FR 41748) that the Department was giving consideration to a proposed regulation for handling of papayas grown in Hawaii, pursuant to the applicable provisions of the marketing agreement, and Order No. 928 (7 CFR Part 928) regulating the handling of papayas grown in Hawaii. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Interested persons were afforded opportunity to file written data, views, or arguments thereon. None were filed.

The Papaya Administrative Committee estimates that 1975 production of Hawaiian papayas will total 48.0 million pounds, 25 percent more than the estimated record large 1974 crop of 38.5 million pounds. It is anticipated fresh sales will constitute 92 percent of the crop or 44 million pounds. To reach this quantity of fresh shipments, the committee expects that in-state sales will increase nine percent to 14.2 million pounds; export sales, other than mainland, 27 percent to 3.8 million pounds; and mainland sales, 37 percent to 26.0 million pounds.

The regulation is based upon an appraisal of the prevailing supply and market situation for papayas. It is concluded that the regulation is appropriate for said supply and market conditions expected to prevail during the effective period of the regulation and, consistent with the objectives of the act, will tend to assure consumers of an adequate supply of acceptable quality papayas while maintaining grower returns at a level consistent with the public interest.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendations and information submitted by the Papaya Administrative Committee, established under the said marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such papayas, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of

papayas will be regulated only through December 31, 1974, by current Regulation 4, and, in order to effectuate the declared policy of the act, this regulation should be effective not later than January 1, 1974, to provide continuity of regulation; (2) this regulation is the same as that which was specified in the notice (39 FR 41748), to which no exceptions were submitted; and (3) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective date thereof.

Section 928.305 is added to read as follows:

§ 928.305 Papaya Regulation 5.

Order. (a) During the period January 1, 1975 through December 31, 1975, no handler shall ship any container of papayas:

(1) To any destination within the production area unless said papayas grade at least Hawaii No. 1 and are of the size which individually weigh not less than 14 ounces: *Provided*, That papayas handled as Hawaii Fancy grade shall be of a size which individually weigh not less than 18 ounces.

(2) To any export destination unless said papayas grade at least Hawaii No. 1: *Provided*, That such papayas shall be of pyriform shape and weigh not less than 10 ounces each.

(b) When used herein "Hawaii Fancy", "Hawaii No. 1", "Hawaii No. 2" and "pyriform shape" shall have the same meaning as set forth in the State of Hawaii Revised Regulation No. 1 Subsection 5.32—Wholesale Standards for Hawaiian Grown Papayas. All other terms shall have the same meaning as when used in the marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, December 20, 1974, to become effective January 1, 1975.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-30128 Filed 12-26-74;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE

[REG. T]

PART 220—CREDIT BY BROKERS AND DEALERS

Credit in Connection with Investment Contracts; Postponement of Effective Date

1. On page 34983 of the FEDERAL REGISTER of December 31, 1973, the Board of Governors announced the addition, pursuant to the authority of section 7 of the Securities and Exchange Act of 1934 (15 U.S.C. section 78g), of a new paragraph (1) to §220.6 of Regulation T. The effective date of the amendment was originally scheduled to be June 21, 1974 but was postponed until January 2, 1975 (39 FR 20906, June 17, 1974). The reason for the postponement was an announcement by the Securities and Exchange Commission of proposed amendments to its regulations that would exempt from section 7 of Securities and Exchange Act of 1934 some of the investment contracts which would be effected by the addition of paragraph (1) to section 220.6 of Regulation T. In order to provide the Commission with additional time for review of comments received on its proposal, the Board of Governors hereby announces that the effective date of paragraph (1) of § 220.6 is postponed until March 3, 1975.

By order of the Board of Governors, December 18, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-30253 Filed 12-26-74;8:45 am]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

Subchapter C—Federal Savings and Loan System

[No. 74-1209]

PART 545—OPERATIONS

Travelers' Convenience Withdrawals

DECEMBER 12, 1974.

The following summary of the amendments adopted by this resolution is provided for the reader's convenience and is subject to the full explanation in the following preamble and to specific provisions of the regulations.

I. Existing regulations: None.

II. New regulation: Permits Federal associations to offer withdrawal services to their customers traveling more than 50 miles from home through payments at FSLIC-insured disbursing institutions.

III. Reason for amendment: To enable Federal associations to offer an additional service to savings customers.

The Federal Home Loan Bank Board, by Resolution No. 74-957, dated September 19, 1974, proposed an amendment to Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545), which would add a new paragraph (e) to § 545.1 for the purpose of authorizing Federal associations to allow withdrawals from savings accounts as described below. Notice of such proposed rulemaking was published in the FEDERAL REGISTER on September 27, 1974 (39 FR 34681) with an invitation for interested persons to submit written comments by October 31, 1974. On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board considers it desirable to adopt said new paragraph (e) of § 545.1 with one change as described below.

New paragraph (e) of § 545.1 permits Federal associations to offer withdrawal services to customers who are traveling away from home. The regulation has five central features; (1) It permits Federal associations to act as the institution which offers the withdrawal service to its customers (the offering institution). (2) It permits only institutions insured by the Federal Savings and Loan Insurance Corporation to disburse funds (the disbursing institution) to customers of Federal associations making withdrawals. (3) It limits use of these services to situations where the institution disbursing funds to Federal association customers is located more than 50 miles from the customer's home. (The proposal would have required the distance to be 100 miles.) (4) It permits Federal associations to act as disbursing institutions in similar transactions in which the offering institution is FSLIC-insured. (5) The regulation has several optional features: It permits but does not require the imposition of fees on customers, payment by Federal associations of fees to disbursing institutions (and the charging of fees by a Federal where it is the disbursing institution) and the setting of withdrawal amount limitations. The regulation requires telephone authorization by the customer and to the offering institution and immediate debiting of the customer's account thereafter. The purpose of the requirements in the immediately preceding sentence is to ensure that the transaction will be the equivalent of a withdrawal at the office of the offering institution.

The Board hereby amends said § 545.1 by adding a new paragraph (e) to read as set forth below, effective January 27, 1975.

§ 545.1 Savings accounts.

* * * * *

(e) *Travelers' convenience withdrawals.* A Federal association may permit an accountholder to make a withdrawal from a "regular account" (as defined in § 526.1(d) of this chapter) through a disbursing institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation if the office of the disbursing institution through which the payment of such withdrawal is made is located more than 50 miles from the principal dwelling place of such accountholder. Such Federal association may authorize payment by the disbursing institution only upon receiving a specific telephonic withdrawal request (which may be oral or electronic) from such accountholder, and the amount so paid shall be immediately withdrawn from the savings account at such Federal association. A Federal association providing withdrawal services pursuant to this paragraph (e) may, but is not required to: (1) charge a fee to accountholders making such withdrawals, (2) place a limitation upon the amount of such withdrawal requests, and (3) pay a fee to the disbursing institution. A Federal association may also act as the disbursing institution in a similar withdrawal transaction from a regular account in another institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation, and may collect a fee for its services.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

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By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[FR Doc.74-30221 Filed 12-26-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 14226; Amdt. 39-2059]

PART 39—AIRWORTHINESS DIRECTIVES

Mitsubishi MU-2B-26 and -36 Airplanes

Pursuant to the authority delegated to me by the Administrator, an airworthiness directive (AD) was adopted on October 21, 1974, and made effective immediately upon receipt of the airmail letter AD as to all known United States operators of Mitsubishi Heavy Industries, Ltd., MU-2B-26 and -36 airplanes because of reported failures of flap flexible shaft inner cables on similar type certificated airplanes that could render the flap system inoperative on Mitsubishi MU-2B-26 and -36 airplanes. The AD requires inspections of the flap cables before further flight, periodic inspections thereafter, and replacement of shafts as necessary.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately as to all known U.S. operators of Mitsubishi MU-2B-26 and -36 airplanes by airmail letter dated October 22, 1974. These conditions still exist and the AD is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of the Federal Aviation Regulations to make it effective as to all persons.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

MITSUBISHI HEAVY INDUSTRIES, LTD. Applies to Mitsubishi MU-2B-26 and -36 airplanes.

Compliance required as indicated, except that the airplane may be flown in accordance with § 21.197 to a base where the inspection, replacement, or modification can be accomplished.

To prevent failure of the flap flexible shaft inner cable (P/N RY25-1 or 060227-OC-97.50) and resulting jammed outboard auxiliary actuator that could render the flap system inoperative, accomplish the following:

(a) Before further flight and thereafter at intervals not to exceed 50 hours time in service since the last inspection, inspect the RH and LH flap flexible shafts (P/N RY25-1 or 060227-OC-97.50) for frictional noise by listening for intermittent squeak while operating the flaps in both directions through their full travel, in quiet surroundings.

(b) If frictional noise is heard during an inspection required by paragraph (a) of this AD, before further flight, remove the clamp at W.S. 2690, if installed, and replace the affected shaft with a serviceable shaft, P/N RY25-1 or 060227-OC-97.50, installed so as to establish that no bend radius throughout the shaft between W.S. 2370 and W.S. 2910 is less than 8.7 inches (220 millimeters).

(c) If no frictional noise is heard during an inspection required by paragraph (a) of this AD, before further flight, unless already accomplished—

(1) Remove the clamp at W.S. 2690, if installed;

(2) Loosen the clamp at W.S. 2910;

(3) Flex the shaft to establish that no bend radius throughout the shaft between W.S. 2370 and W.S. 2910 is less than 8.7 inches (220 millimeters); and

(4) Tighten the clamp at W.S. 2910.

This amendment is effective December 27, 1974 as to all persons except those persons to whom it was made effective upon receipt of the airmail letter dated October 22, 1974, that contained this amendment.

Issued in Washington, D.C., on December 17, 1974.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.74-30149 Filed 12-26-74;8:45 am]

[Docket No. 14226; Amdt. 39-2060]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls Royce RB 211 Series Engines

Pursuant to the authority delegated to me by the Administrator, an airworthiness directive (AD) was adopted on September 8, 1974, and made effective immediately upon receipt as to all known United States operators of airplanes equipped with Rolls Royce RB 211 Series Engines, because of reports of cracks developing in the intermediate compressor casing immediately forward of the high pressure one borescope port and subsequent inflight shutdowns. Subsequently, the FAA determined that clarification of the AD was required and that certain inspections must be performed. Accordingly, an AD superseding the AD adopted on September 8, 1974, was adopted on October 4, 1974, and made effective immediately upon receipt as to all known United States operators of airplanes certificated in all categories equipped with Rolls Royce RB 211 Series Engines. The AD adopted October 4, 1974, adds a requirement to perform dye penetrant inspections in the vicinity of the internal wheelcase oil scavenge boss, and states more completely the requirements contained in the AD of September 8, 1974.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately as to all known United States operators of airplanes certificated in all categories equipped with Rolls Royce RB 211 Series Engines by individual telegrams dated October 4, 1974. These conditions still exist and the AD is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

ROLLS ROYCE (1971) LIMITED. Applies to Rolls Royce RB 211 Series Engines.

Compliance required as indicated.

To prevent inflight engine shutdown that could result from cracks in the intermediate compressor casing comply with the following:

(a) For wing mounted engines within the next 50 hours time in service after the effective date of this amendment, or before the accumulation of the lesser of 400 hours time in service or 260 cycles, whichever occurs later, unless already accomplished, comply with paragraphs (b) and (c) of this AD as applicable.

(b) Inspect by borescope for cracks in the outer annulus walls of the intermediate compressor casing immediately forward of the high pressure one compressor borescope port.

NOTE. Use the high pressure one stator or rotor borescope access port or both, ensuring that the borescope enters only into the airbleed annulus.

(c) Using dye penetrant, inspect the outside of the intermediate compressor casing for axial cracks in the vicinity of the internal wheelbase oil scavenge boss and the borescope access port.

(d) If a crack is found during an inspection required by this AD that has progressed forward into the radius where the annulus wall meets the main casing wall, before further flight, except that the engine may be operated in accordance with FAR §§ 21.197 and 21. 199 to base where the replacement can be accomplished, replace the cracked casing with a serviceable casing.

(e) If a crack is found during an inspection required by this AD that has not progressed forward into the radius where the annulus wall meets the main casing wall, comply with the following as applicable:

(1) If the airplane on which the affected engine is installed has one or more other engines with cracked casings installed, before further flight, except that the engines may be operated in accordance with FAR §§ 21.197 and 21.199 to a base where replacement can be accomplished, either—

(i) Replace cracked casings so that no more than one engine with a cracked casing remains installed and inspect in accordance with paragraph (f) of this AD; or

(ii) Replac all cracked casings and inspect in accordance with paragraph (g) of this AD.

(2) If the airplane on which the engine with the cracked casing is installed is not known to have another engine with a cracked casing installed, either—

(i) Before further flight, except that the engine may be operated in accordance with FAR §§ 21.197 and 21.199 to a base where replacement can be accomplished, replace the cracked casing and inspect in accordance with paragraph (g) of this AD; or

(ii) Before further flight, inspect the other engines installed on the airplane in accordance with paragraphs (b) and (c) of this AD and comply with paragraphs (d), (e), or (f) of this AD as applicable.

(f) For all engines installed on airplanes having one engine with a cracked casing installed, repeat the inspections specified in paragraphs (b) and (c) of this AD at intervals not to exceed 100 hours time in service or 70 cycles since the last inspection, whichever occurs sooner, until the engine with the cracked casing is replaced.

(g) For wing mounted engines installed on airplanes not having an engine known to have a cracked casing installed, repeat the inspections specified in paragraphs (b) and (c) of this AD at intervals not to exceed 400 hours time in service or 260 cycles since the last inspection, whichever occurs sooner.

(h) For the purpose of this AD, the number of cycles equals the number of flights that involve an engine operating sequence con-

sisting of engine starting, takeoff, operation, landing, and engine shutdown.

(i) Report all cracks found as a result of any inspection performed in compliance with this AD within 10 days of the inspection to the Chief, Engineering and Manufacturing Division, Flight Standards Service, Attention: AFS 140, Federal Aviation Administration, 800 Independence Avenue S.W., Washington, D.C. 20591. Each report must include the part number, total time in service on the part, the number of flight cycles on the part, size and location of cracks, engine serial number, and engine position. (Reporting approved by the Bureau of the Budget under BCB 04 R0174.)

This amendment is effective December 27, 1974 as to all persons except those persons to whom it was made immediately effective by the telegram dated October 4, 1974, which contained this amendment.

Issued in Washington, D.C. on December 18, 1974.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.74-30150 Filed 12-26-74;8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 14220; Amdt. 95-254]

PART 95—IFR ALTITUDES

Miscellaneous Changes

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 FR 5662), Part 95 of the Federal Aviation Regulations is amended, effective January 30, 1975, as follows:

1. By amending Subpart C as follows:

Section 95.625 *Blue Federal airway 25* is amended to read in part:

From, to, and MEA

Glenallen, Alaska, FL/RBN; *Delta Junction, Alaska, LF/RBN; 12,000. *7,200—MCA Delta Junction LF/RBN, southeast-bound.

Section 95.1001 *Direct routes—U.S.* is amended by adding:

Dothan, Ala., VOR; Blakely INT, Ga.; 2,500.
Blaly INT, Ga.; Flint INT, Ga.; 2,000.

Section 95.1001 *Direct routes—U.S.* is amended to delete:

Dothan, Alas., VOR; Blakely INT, Ga.; 2,500.
Blakely INT, Ga.; Flint INT, Ga.; *2,000. *1,500—MOCA.

Section 95.1001 *Direct routes—U.S.*

Puerto Rico Routes

Route 2 is amended to read in part:

Cruzan INT, V.I.; St. Croix, V.I., VOR; 2,400.

Route 4 is amended to read in part:

Snapper INT, V.I.; St. Croix, V.I., VOR; 2,400.

Section 95.5000 *High altitude RNAV routes:*

From/to, total distance, changeover point distance from geographic location, track angle, MEA, MAA

J808R is amended to read in part:

Sardi, N.Y., W/P; 24; 077/257 to COP; 18,000; 45,000.
Patty, N.Y., W/P; 078/258 to Patty.
Patty, N.Y., W/P; 91; 078/258 to COP; 18,000; 45,000.
Marys, Mass., W/P; 080/260 to Marys.

J809R is amended to read in part:

Sardi, N.Y., W/P; 24; 077/257 to COP; 18,000; 45,000.
Patty, N.Y., W/P; 078/258 to Patty.
Patty, N.Y., W/P; 91; 078/258 to COP; 18,000 45,000.
Marys, Mass., W/P; 080/260 to Marys.

J831R is added to read:

Patty, N.Y., W/P; 92; 087/267 to COP; 18,000; 45,000.
Nantucket, Mass., VORTAC; 088/268 to Nantucket.
Nantucket, Mass., VORTAC; 93; 18,000; 45,000.
Codds, Mass., W/P; 104/284 to Codds.

J833R is amended to read:

Bangor, Maine, VORTAC; 88; 225/045 to COP; 18,000; 45,000.
Gordi, Maine, W/P; 222/042 to Gordi.
Gordi, Maine, W/P; 150; 222/042 to COP; 18,000; 45,000.
Domie, Mass., W/P; 218/038 to Domie.
Domie, Mass., W/P; 67; 237/057 to Patty; 18,000; 45,000.
Patty, N.Y., W/P.
Patty, N.Y., W/P; 42; 258/078 to COP; 18,000; 45,000.
Sardi, N.Y., W/P; 255/075 to Sardi.

Section 95.5500 *High altitude RNAV routes:*

J944R is amended to read in part:

Morro, Calif., W/P; 97; 249/069 to COP; 18,000; 45,000.
Perch, Calif., W/P; 246/066 to Perch.
Perch, Calif., W/P; 173; 18,000; 45,000.
Ceres, Calif., W/P; 247/067 to Ceres.

J947R is amended to read in part:

San Luis Obispo, Calif., VORTAC; 130; 18,000; 45,000.
Gates, Calif., W/P; 226/046 to Gates.

J944R is amended to read in part:

Ceres, Calif., W/P; 173; 18,000; 45,000.
Perch, Calif., W/P; 067/247 to Perch.
Perch, Calif., W/P; 113; 67; Perch; 046/226 to COP; 18,000; 45,000.
Rabbi, Calif., W/P; 049/229 to Rabbi.

J963R is amended to read in part:

Gates, Calif., W/P; 130; 18,000; 45,000.
San Luis Obispo, Calif., VORTAC; 046/226 to San Luis Obispo.

J993R is amended to read in part:

Surfy, N.C., W/P; 103; 20; Surfy; 191/011 to COP; 18,000; 45,000.
Azana, S.C., W/P; 188/068 to Azana.
Azana, S.C., W/P; 119; 105; Azana; 189/009 to COP; 18,000; 45,000.
Gauge, Fla., W/P; 186/006 to Gauge.
Gauge, Fla., W/P; 20; 18,000; 45,000.
Salls, Fla., W/P; 187/007 to Salls.

J995R is amended to read in part:

Bondi, Fla., W/P; 51 042/222 to COP; 18,000; 45,000.
Halbi, Fla., W/P; 043/223 to Halbi.
Salls, Fla., W/P; 26; 20,000; 45,000.
Gauge, Fla., W/P; 007/187 to Gauge.
Gauge, Fla., W/P; 119; 15; Gauge; 006/186 to COP; 24,000; 45,000.
Azana, S.C., W/P; 009/189 to Azana.
Azana, S.C., W/P; 104; 84; Azana; 008/188 to COP; 24,000; 45,000.
Surfy, N.C., W/P; 011/191 to Surfy.

Section 95.6005 *VOR Federal airway 5* is amended to read in part:

From, to, and MEA

Chattanooga, Tenn., VOR; Summitville INT, Tenn.; 4,000.
Summitville, INT, Tenn.; Gum INT, Tenn.; 3,000.
Chattanooga, Tenn., VOR via E. alter.; Nashville, Tenn., VOR via E. alter.; 4,000.
Nashville, Tenn., VOR; *Portland INT, Tenn.; 2,500. *3,000—MRA.
Portland INT, Tenn.; Bowling Green, Ky., VOR; 2,500.
Nashville, Tenn. VOR via E. alter.; Barren INT, Ky. via E. alter.; 2,700.

Section 95.6006 *VOR Federal airway 6* is amended by adding:

Moscow INT, Iowa; Davenport, Iowa, VOR; *2,300. *2,000—MOCA.
Davenport, Iowa, VOR; Harmon INT, Ill.; *2,400. *2,100—MOCA.

Section 95.6006 *VOR Federal airway 6* is amended to delete:

Moscow INT, Iowa; Cordova, Iowa, VOR; *2,300. *2,000—MOCA.
Cordova, Iowa, VOR; Harmon INT, Ill.; *2,400. *2,100—MOCA.

Section 95.6007 *VOR Federal airway 7* is amended to read in part:

Nashville, Tenn., VOR via E. alter.; Central City, Ky., VOR via E alter.; 3,000.

Section 95.6008 *VOR Federal airway 8* is amended by adding:

Moscow INT, Iowa; Davenport, Iowa, VOR; *2,300. *2,000—MOCA.
Davenport, Iowa, VOR; Harmon INT, Ill.; *2,400. *2,100—MOCA.

Section 95.6008 *VOR Federal airway 8* is amended to delete:

Moscow INT, Iowa; Cordova, Iowa, VOR; *2,300. *2,000—MOCA.
Cordova, Iowa, VOR; Harmon INT, Ill.; *2,400. *2,100—MOCA.

Section 95.6009 *VOR Federal airway 9* is amended to read in part:

Folsom INT, La.; McComb, Miss., VOR; 2,000.
McComb, Miss., VOR; *Rosemart INT, Miss.; 2,000. *4,000—MRA.
Rosemart INT, Miss.; Jackson, Miss., VOR; 2,000.
Jackson, Miss., VOR; *Berryville INT, Miss.; 2,000. *4,000—MRA.
Berryville INT, Miss.; Greenwood, Miss., VOR; 2,000.
Greenwood, Miss., VOR; Coldwater INT, Miss.; 2,000.

New Orleans, La. VOR via E. alter.; Picayune, Miss., VOR via E. alter.; 2,000.
Picayune, Miss., VOR via E. alter.; McComb, Miss., VOR via E. alter.; 2,000.

Section 95.6009 *VOR Federal airway 9* is amended to delete:

Green Bay, Wis., VOR via W. alter.; Cecil INT, Wis. via W. alter.; 2,700.
Cecil INT, Wis. via W. alter.; Rhinelander, Wis., VOR via W. alter.; *3,000. *3,000—MOCA.
Rhinelander, Wis., VOR via W. alter.; Houghton, Mich., VOR via W. alter.; *3,500. *3,000—MOCA.

Section 95.6011 *VOR Federal airway 11* is amended to read in part:

Brookley, Ala., VOR; Greene County, Miss., VOR; 2,000.
Mobile, Ala., VOR via W. alter.; Greene County, Miss., VOR via W. alter.; 2,000.
Greene County, Miss., VOR; Laurel, Miss., VOR; 2,000.
Yarbo INT, Ala. via E. alter.; Laurel, Miss., VOR via E. alter.; 2,000.

Section 95.6015 *VOR Federal airway 15* is amended to read in part:

Waco, Tex., VOR; Scurry, Tex., VOR; *2,500. *1,900—MOCA.

Section 95.6016 *VOR Federal airway 16* is amended to read in part:

Nashville, Tenn., VOR via S. alter.; Centertown INT, Tenn., via S. alter.; 4,000.
Tampico INT, Tenn. via N. alter.; Yuma INT, Va., via N. alter.; 4,500.
Sweetwater INT, Tenn., via S. alter.; Knoxville, Tenn., VOR via S. alter.; 3,000.
Knoxville, Tenn., VOR via S. alter.; Potts INT, Tenn., via S. alter.; 5,000.
Potts INT, Tenn., via S. alter.; *Pittman INT, Tenn., via S. alter.; 6,000. *7,000—MCA Pittman INT, east-bound.
Pittman INT, Tenn., via S. alter.; Snowbird, Tenn., VOR via S. alter.; 7,000.

Section 95.6018 *VOR Federal airway 18* is amended to read in part:

Monroe, La., VOR; *Signal INT, Miss.; 2,000. *1,800—MRA.
Signal INT, Miss.; *Black INT, Miss.; 2,000. *3,600—MRA.
Black INT, Miss.; Jackson, Miss., VOR; 2,600.
*Bolton INT, Miss. via S. alter.; Jackson, Miss., VOR via S. alter.; 2,000. *3,400—MRA.
*Phoenix INT, Miss. via N. alter.; Jackson, Miss., VOR via N. alter.; 2,000. *2,900—MRA.
Meridian, Miss., VOR; Tuscaloosa, Ala., VOR; 2,000.

Section 95.6020 *VOR Federal airway 20* is amended to read in part:

Slidell INT, La.; Gulfport, Miss., VOR; 1,800.
Gulfport, Miss., VOR; Mobile, Ala., VOR; 3,000.
New Orleans, La., VOR via N. alter.; Picayune, Miss., VOR via N. alter.; 2,000.
Picayune, Miss., VOR via N. alter.; Mobile, Ala., VOR via N. alter.; 2,000.
Tuskegee, Ala., VOR; Eagle INT, Ala., *2,500. *1,900—MOCA.
Eagle INT, Ala.; Columbus, Ga., VOR; 2,600.

Section 95.6035 *VOR Federal airway 35* is amended to read in part:

*Busick INT, N.C.; Roan Mountain INT, N.C.; 9,000. *8,500—MCA Busick INT, Northbound.
*Roan Mountain INT, N.C.; Holston Mountain, Tenn. VOR; 7,000. *8,000—MCA Roan Mountain INT, Southbound.
Mars Hill INT, N.C. via W. alter.; Unicoi INT, N.C. via W. alter.; 7,000.
Unicoi INT, N.C. via W. alter.; Holston Mountain, Tenn., VOR via W. alter.; 7,000.
Hartsfield INT, Ga., Saler INT, Ga.; 2,500. *3,000—MRA.
Saler INT, Ga.; Albany, Ga., VOR; 2,000.
Albany, Ga., VOR; Macon, Ga., VOR; 2,000.

Section 95.6049 *VOR Federal airway 49* is amended to read in part:

Nashville, Tenn., VOR; via E. alter.; *Portland INT, Tenn. via E. alter.; 2,500. *3,000—MRA.
Portland INT, Tenn. via E. alter.; Bowling Green, Ky., VOR via E. alter.; 2,500.

Section 95.6051 *VOR Federal airway 51* is amended to read in part:

Ducktown INT, Tenn. via W. alter.; Hinch Mountain, Tenn., VOR via W. alter.; 5,000.

Section 95.6053 *VOR Federal airway 53* is amended to read in part:

*Busick INT, N.C.; Roan Mountain INT, N.C.; 9,000. *8,500—MCA Busick INT, Northbound.
*Roan Mountain INT, N.C.; Holston Mountain, Tenn., VOR; 7,000. *8,000—MCA Roan Mountain INT, Southbound.

Section 95.6054 *VOR Federal airway 54* is amended to read in part:

Waco, Tex. VOR; Scurry, Tex., VOR; *2,5000, *1900—MOCA.
Iuka INT, Miss.; Barton INT, Ala; *2,600, *2,100—MOCA.
Barton INT, Ala.; Muscle Shoals, Ala., VOR; 2,600.
Huntsville, Ala., VOR; Chattanooga, Tenn., VOR; 4,000.

Section 95.6056 *VOR Federal airway 56* is amended to read in part:

Jefferson INT, Ala.; Safford INT, Ala.; 2,000.
Safford INT, Ala.; Cahaba, Ala., VOR; *2,000, *1,400—MOCA.
Cahaba, Ala., VOR; *Benton INT, Ala; 2,000. *2,200—MRA.
Benton INT, Ala.; Montgomery, Ala., VOR; 2,000.
Tuskegee, Ala., VOR; Eagle INT, Ala.; *2,500. *1,900—MOCA.
Eagle INT, Ala.; Columbia, Ga., VOR; 2,600.

Section 95.6063 *VOR Federal airway 63* is amended by adding:

Milwaukee, Wis., VOR; Eden INT, Wis.; *3,000. *2,600—MOCA.
Eden INT, Wis.; Oshkosh, Wis., VOR; *2,600. 2,200—MOCA.
Oshkosh, Wis., VOR; Stevens Point, Wis., VOR; *3,000. *2,500—MOCA.
Stevens Point, Wis., VOR; Wausau, Wis., VOR; *3,500. *2,500—MOCA.
Wausau, Wis., VOR; Rhinelander, Wis., VOR; *3,500. *3,000—MOCA.
Rhinelander, Wis., VOR; Houghton, Mich., VOR; *3,500. *3,000—MOCA.
Moline, Ill., VOR; Davenport, Iowa, VOR; 2,600.
Davenport, Iowa, VOR; Thomson INT, Ill.; *2,600. *2,200—MOCA.

Section 95.6063 *VOR Federal airway 63* is amended to delete:

Moline, Ill., VOR; Cordova, Iowa, VOR; 2,600.
Cordova, Iowa, VOR; Thomson INT, Ill.; *2,600. *2,200—MOCA.

Section 95.6070 *VOR Federal airway 70* is amended to read in part:

Picayune, Miss., VOR; Greene County, Miss., VOR; 2,000.

Section 95.6090 *VOR Federal airway 90* is amended to read in part:

Litchfield, Mich., VOR; U.S.-Canadian Border; *3,000. *2,400—MOCA.

Section 95.6094 *VOR Federal airway 94* is amended to read in part:

Lambert INT, Miss; Savage INT, Mass.; 8,000.

Section 95.6097 *VOR Federal airway 97* is amended to read in part:

La Belle, Fla., VOR; St. Petersburg, Fla., VOR; 2,000.
Murphy INT, Tenn.; Howard INT, Tenn.; 6,000.
Howard INT, Tenn.; Tallassee INT, Tenn.; 6,500.
Knoxville, Tenn., VOR Via E. alter.; Maynardville INT, Tenn. Via E. alter.; 3,800.

Section 95.6115 *VOR Federal airway 115* is amended to read in part:

Sweetwater INT, Tenn. Via W. alter.; Knoxville, Tenn., VOR Via W. alter.; 3,000.

Section 95.6123 *VOR Federal airway 123* is amended by adding:

Mitch INT, Md.; Swan Point INT, Md.; 3,000, MAA–23,000.
Swan Point INT, Md.; Int. 072 M rad Wash., D.C., VOR and 240 M rad Woodstown, VOR; 7,000.
Int. 072 M rad Wash., D.C., VOR and 240 M rad Woodstown, VOR; Woodstown, N.Y., VOR; 3,000.

Section 95.6123 *VOR Federal airway 123* is amended to delete:

Int. 231 M rad Baltimore, VOR and 271 M rad Kenton, VOR; Swan Point INT, Md.; 3,000.

Section 95.6129 *VOR Federal airway 129* is amended by adding:

Geneseo INT, Ill.; Davenport, Iowa, VOR; 2,600.
Davenport, Iowa, VOR; Charlotte INT, Iowa; *2,500. *2,000—MOCA.

Section 95.6129 *VOR Federal airway 129* is amended to delete:

Geneseo INT, Ill.; Cordova, Iowa, VOR; 2,600.
Cordova, Iowa, VOR; Charlotte INT, Iowa; *2,600. *2,000—MOCA.

Section 95.6140 *VOR Federal airway 140* is amended to read in part:

Hartville INT, Tenn.; Livingston, Tenn., VOR; 3,000.
Nashville, Tenn., VOR via N. alter.; Freedom INT, Ky. via N. alter.; 2,700.
Granville INT, Tenn. via S. alter.; Livingston, Tenn., VOR via S. alter.; 3,400.

Section 95.6159 *VOR Federal airway 159* is amended to read in part:

Harnfield INT, Ga.; *Saler INT, Ga.; 2,500. *3,000—MRA.
Saler INT, Ga.; Albany, Ga., VOR; 2,000.
Albany, Ga., VOR; *Shany INT, Ga.; 2,000. *2,500—MRA.
Shany INT, Ga.; Eufaula, Ala., VOR; 2,100.

Section 95.6185 *VOR Federal airway 185* is amended to read in part:

Marshall INT, N.C.; Snowbird, Tenn., VOR; *8,000. *7,700—MOCA.
Snowbird, Tenn., VOR; *Piedmont INT, Tenn.; 7,000. *4,000—MCA Piedmont INT, southeast-bound.
Weaverville INT, N.C. via E. alter.; *Ottway INT, Tenn. via E. alter.; 7,000. *5,500—MCA Ottway INT, southeast-bound.

Section 95.6191 *VOR Federal airway 191* is amended by adding:

Oshkosh, Wis., VOR; Church INT, Wis.; *3,000. *2,100—MOCA.

Church INT, Wis.; Rhinelander, Wis., VOR; *3,600. *3,000—MOCA.

Section 95.6191 *VOR Federal airway 191* is amended to delete:

Oshkosh, Wis., VOR; Stevens Point, Wis., VOR; *3,000. *2,500—MOCA.

Stevens Point, Wis., VOR; Wausau, Wis., VOR; *3,000. *2,500–MOCA.

Wausau, Wis., VOR; Rhinelander, Wis., VOR; *3,600. *3,000—MOCA.

Oshkosh, Wis., VOR, via E. alter.; Church INT, Wis. via E. alter.; *3,000. *2,100—MOCA.

Church INT, Wis. via E. alter.; Rhinelander, Wis., VOR via E. alter.; *3,600. *3,000—MOCA.

Section 95.6194 *VOR Federal airway 194* is amended to read in part:

Clinton INT, La.; McComb, Miss., VOR; 2,000.

McComb, Miss., VOR; Mize INT, Miss.; *3,000. *1,800—MOCA.

Mize INT, Miss.; *Paulding INT, Miss.; 3,000. *3,000—MRA. *3,000—MCA Paulding INT, southwest-bound.

Paulding INT, Miss.; Meridian, Miss., VOR; 2,000.

Section 95.6221 *VOR Federal airway 221* is amended to read in part:

Litchfield, Mich., VOR; Jackson, Mich., VOR; *3,000. *2,400–MOCA.

Section 95.6222 *VOR Federal airway 222* is amended to read in part:

McComb, Miss., VOR; Hattiesburg, Miss., VOR; 2,000.

Hattiesburg, Miss., VOR; Monroeville, Ala., VOR; 2,000.

Section 95.6259 *VOR Federal airway 259* is amended to read in part:

Maiden INT, N.C.; *Collett INT, N.C.; 5,000. *8,000—MCA Collett INT, northwest-bound. Collett INT, N.C.; *Linville INT, N.C.; 8,000.
*8,000—MCA Linville INT, southeast-bound.

Linville INT, N.C.; Holston Mountain, Tenn., VOR; 7,500.

Section 95.6267 *VOR Federal airway 267* is amended to read in part:

Fontana INT, N.C.; *Kinzel INT, Tenn.; 7,000. *6,000—MCA Kinzel INT, south-bound.

Section 95.6269 *VOR Federal airway 269* is amended by adding:

*Spruce Mountain INT, Nev.; Wells, Nev., VOR; 11,000. *13,000—MCA Spruce Mountain INT, south-bound.

Section 95.6278 *VOR Federal airway 278* is amended to read in part:

Greenwood, Miss., VOR; Columbus, Miss., VOR; 2,000.

Columbus, Miss., VOR; Millport INT, Ala.; 2,000.

Section 95.6294 *VOR Federal airway 294* is amended by adding:

Big Rock INT, Iowa; Davenport, Iowa, VOR; *2,400. *2,000—MOCA.

Section 95.6294 *VOR Federal airway 294* is amended to delete:

Big Rock INT, Iowa; Cordova, Iowa, VOR; *2,400. *2,000—MOCA.

Section 95.6310 *VOR Federal airway 310* is amended to read in part:

Rose Hill INT, Va.; Holston Mountain INT, Tenn.; 6,000.

Section 95.6433 *VOR Federal airway 433* is amended by adding:

Mitch INT, Md.; Swan Point INT, Md.; 3,000. MAA—23,000.

Section 95.6433 *VOR Federal airway 433* is amended to delete:

Int. 221 M rad Baltimore VOR and 271 M rad Kenton VOR; Swan Point INT, Md.; 3,000.

Section 95.6455 *VOR Federal airway 455* is amended to read in part:

New Orleans, La., VOR; Picayune, Miss., VOR; 2,000.

Slidell INT, La., via E. alter.; Gulfport, Miss., VOR via E. alter.; 1,800.

Gulfport, Miss., VOR via E. alter.; Mouse INT, Miss., via E. alter.; 1,800.

Picayune, Miss., VOR; Hattiesburg, Miss., VOR; 2,000.

Hattiesburg, Miss., VOR; Meridian, Miss., VOR; 2,300.

Bay Springs INT, Miss., via W. alter.; *Paulding INT, Miss., via W. alter.; 3,000. *3,000—MRA. *3,000—MCA Paulding INT, southwest-bound.

Paulding INT, Miss., via W. alter.; Meridian, Miss., VOR via W. alter.; 2,000.

Section 95.6456 *VOR Federal airway 456* is amended to read in part:

*Copper INT, Alaska; Tucks INT, Alaska; **13,000. *12,000—MCA Copper INT, northeast-bound. **12,000—MOCA.

*Tucks INT, Alaska; Kenai, Alaska, VOR; 5,000. *12,000—MCA Tucks INT, southwest-bound.

Section 95.6492 *VOR Federal airway 492* is amended to read in part:

St. Petersburg, Fla., VOR; La Belle, Fla., VOR; 2,000.

Section 95.7037 *Jet route No. 37* is amended to read in part:

From, to MEA, and MAA

Gordonsville, Va., VORTAC; Kenton, Del., VORTAC; 18,000; 45,000.

Section 95.7056 *Jet route No. 56* is amended to read in part:

Mina, Nev., VORTAC; Salt Lake City, Utah, VORTAC; #33,000;45,000. #MEA is established with a gap in navigational signal coverage.

Section 95.7080 *Jet route No. 80* is amended by adding:

Robbinsville, N.J., VORTAC; Kennedy, N.Y., VORTAC; 18,000; 45,000.

Section 95.7150 *Jet route No. 150* is amended by adding:

Robbinsville, N.J., VORTAC; Hampton, N.Y., VORTAC; 18,000; 45,000.

(Secs. 307, 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1510))

Issued in Washington, D.C. on December 20, 1974.

JAMES O. ROBINSON,
Acting Chief,
Aircraft Programs Division.

[FR Doc.74-30153 Filed 12-26-74;8:45 am]

[Docket No. 14229; Amdt. No. 948]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260–3, 8260–4, or 8260–5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ–405, 800 Independence Avenue SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR–VOR/DME SIAPs, effective February 6, 1975:

Buffalo, Wyo.—Buffalo Municipal Arpt., VOR/DME Rwy 30, Amdt. 2.
Centerville, Tenn.—Centerville Municipal Arpt., VOR Rwy 2, Amdt. 2.
Cincinnati, Ohio—Blue Ash Arpt., VOR/DME–A, Amdt. 1, cancelled.
Cincinnati, Ohio—Blue Ash Arpt., VOR/Rwy. 6, Orig.
Cincinnati, Ohio—Blue Ash Arpt., VOR Rwy 24 Orig.
Eufala, Ala.—Weedon Field, VOR Rwy 18, Amdt. 3.
Fayetteville, N.C.—Fayetteville Municipal/Grannis Field, VOR Rwy 3, Amdt. 9.
Fayetteville, N.C.—Fayetteville Municipal/Grannis Field, VOR Rwy 21, Amdt. 2.
Fayetteville, N.C.—Fayetteville Municipal/Grannis Field, VOR Rwy 27, Amdt. 2.
Lawrenceville, Ga.—Gwinnett County Arpt., VOR/DME Rwy 25, Orig.
Montrose, Colo.—Montrose County Arpt., VOR–1, Rwy 13, Amdt. 4.
Montrose, Colo.—Montrose County Arpt., VOR–2, Rwy 13, Amdt. 3.

Pascagoula, Miss.—Jackson County Arpt., VOR Rwy 18, Amdt. 5.
Winchester, Ind.—Randolph County Arpt., VOR/DME-A, Orig.

• • • effective January 30, 1975:

Douglas, Ga.—Douglas Municipal Arpt., VOR-A, Orig.

• • • effective January 16, 1975:

Memphis, Tenn.—Memphis Int'l. Arpt., VOR Rwy 35R, Orig.
Salt Lake City, Utah—Salt Lake City Int'l. Arpt., VOR Rwy 16L, Amdt. 4.
Salt Lake City, Utah—Salt Lake City Int'l. Arpt., VOR Rwy 16R, Amdt. 15.
Salt Lake City, Utah—Salt Lake City Int'l. Arpt., VORTAC Rwy 34L, Amdt. 1.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective February 6, 1975:

Fayetteville, N.C.—Fayetteville Municipal/Grannis Field, LOC(BC) Rwy 21, Amdt. 1.
La Crosse, Wisc.—La Crosse Municipal Arpt., LOC(BC) Rwy 36, Amdt. 3.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective February 6, 1975:

Corinth, Miss.—Roscoe Turner Arpt., NDB Rwy 17, Amdt. 3.
Fayetteville, N.C.—Fayetteville Municipal/Grannis Field, NDB Rwy 3, Amdt. 8.
Jasper, Tenn.—Marion Co.—Brown Field, NDB Rwy 3, Amdt. 1.
La Crosse, Wisc.—La Crosse Municipal Arpt., NDB Rwy 18, Amdt. 4.

• • • effective January 16, 1975:

Memphis, Tenn.—Memphis Int'l. Arpt., NDB Rwy 35R, Orig.
Newman, Ga.—Newman Coweta County Arpt., NDB Rwy 32, Orig.
Pulaski, Tenn.—Abernathy Field, NDB Rwy 15, Orig.
Salt Lake City, Utah—Salt Lake City Int'l. Arpt., NDB Rwy 34L, Orig.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective February 6, 1975:

Fayetteville, N.C.—Fayetteville Municipal/Grannis Field, ILS Rwy 3, Amdt. 8.
La Crosse, Wisc.—La Crosse Municipal Arpt., ILS Rwy 18, Amdt. 3.

• • • effective January 16, 1975:

Memphis, Tenn.—Memphis Int'l. Arpt., ILS Rwy 17L, Orig.
Memphis, Tenn.—Memphis Int'l. Arpt., ILS Rwy 35R, Orig.
Salt Lake City, Utah—Salt Lake City Int'l. Arpt., ILS Rwy 16L, Amdt. 2.
Salt Lake City, Utah—Salt Lake City Int'l. Arpt., ILS Rwy 34L, Amdt. 22.

• • • effective December 16, 1974:

Texarkana, Ark.—Texarkana Municipal Webb Field, ILS Rwy 22, Amdt. 5.

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective February 6, 1975:

Fayetteville, N.C.—Fayetteville Municipal/Grannis Field, RADAR-1, Amdt. 1.
Renton, Wash.—Renton Municipal Arpt., RADAR-1, Amdt. 2.

• • • effective January 16, 1975:

Memphis, Tenn.—Memphis Int'l. Arpt., RADAR-1, Amdt. 3.

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective February 6, 1975.

Renton, Wash.—Renton Municipal Arpt., RNAV Rwy 33, Amdt. 2.

Correction: In Docket No. 14184, Amendment 946, to Part 97 of the Federal Aviation Regulations published in the FEDERAL REGISTER dated December 13, 1974, on page 43389, under § 97.27 effective January 23, 1975—Change effective date of Carrollton, Ga., West Georgia Regional Arpt., NDB Rwy 34, Orig., to January 16, 1975.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1948; 49 U.S.C. 1438, 1354, 1421, 1510, Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on December 19, 1974.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969 (35 FR 5610).

[FR Doc.74-30184 Filed 12-26-74;8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER C—FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

PART 1512—REQUIREMENTS FOR BICYCLES

Bicycles and Bicycle Safety Requirements; Suspension of Effective Date

Correction

In FR Doc. 74-29113, appearing at page 43536, in the issue for Monday, December 16, 1974, in the first line of the authority citation, the portion reading "(g)(1)(A)" should read "(q)(1)(A)".

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regulation No. 4, further amended]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950-)

Change in Yearly Earnings Base for Granting of Quarters of Coverage—Reduced Quarters of Coverage Required for Fully Insured Status for Men

On September 27, 1974, there was published in the FEDERAL REGISTER (39 FR 34690) a Notice of Proposed Rule Making with proposed amendments to Subpart B of Regulations Number 4 (20 CFR Part 404), regarding implementation of section 104 of Public Law 92-603. The proposed amendments to the regulations relate to the granting of four quarters of coverage if the individual has creditable earnings of a specified amount in designated years. The amendments also reflect the reduced quarters of coverage required for men in order to acquire a fully insured status.

The pertinent amendment revising the maximum yearly earnings creditable and providing for a contribution and earnings base for the granting of four quarters of coverage for a year is section 203(a)(3)(A) and (B) of Public Law 92-336, enacted July 1, 1972. Prior to the enactment of Pub. L. 92-603 (October 1972), a larger number of quarters of coverage was required for a fully insured status for men than for women. Section 104 of Public Law 92-603 reduced the quarters of coverage required for men in three steps. Under this provision, men who attain age 62 in 1975 or later will require the same number of quarters of coverage as women.

Interested persons were given 30 days to submit written comments or suggestions thereon. The 30-day period has passed and no adverse comments have been received. Accordingly, the amendments are adopted without change as set forth below.

(Secs. 205, 213(a), 214(a), and 1102 of the Social Security Act, as amended, and sec. 104(j) of Pub. L. 92-603, 53 Stat. 1368, as amended, 64 Stat. 504, as amended, 505, as amended, 49 Stat. 647, as amended, 86 Stat. 1341; (42 U.S.C. 405, 413(a), 414(a), and 1302))

Effective date: These amendments shall be effective December 27, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.803, Social Security-Retirement Insurance, Program No. 13.802, Social Security-Disability Insurance; and Program No. 13.805, Social Security-Survivors Insurance)

Dated: December 13, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: December 23, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

[FR Doc.74-30285 Filed 12-26-74;8:45 am]

Part 404 of Title 20 of the Code of Federal Regulations is amended as follows:

1. In § 404.103, paragraph (d) is revised to read as follows:

§ 404.103 Quarters of coverage.

• • • • •

(d) *Quarters of coverage based on wages paid or self-employment income derived in a year.* An individual is credited with quarters of coverage based on the amount of wages paid or self-employment income derived or a combination of both, in a year, as follows:

(1) *Based on wages.* An individual is credited with a quarter of coverage for each quarter in a calendar year (subject to the limitations in § 404.104) if such quarter occurred in a calendar year:

(i) After 1974, and he has been paid wages equal to the amount of the contribution and benefit base in effect for that year;

(ii) For the year 1974, and he has been paid wages equal to $13,200 in that year;

(iii) For the year 1973, and he has been paid wages equal to $10,800 in that year;

(iv) For the year 1972, if he has been paid wages equal to $9,000 in that year;

(v) After 1967 and prior to 1972, and he has been paid wages equal to $7,800 in such year;

(vi) After 1965 and prior to 1968, and he has been paid wages equal to $6,600 in such year;

(vii) After 1958 and prior to 1966, and he has been paid wages equal to $4,800 in such year;

(viii) After 1954 and prior to 1959, and he has been paid wages equal to $4,200 in such year;

(ix) After 1950 and prior to 1955, and he has been paid wages equal to $3,600 in such year;

(x) Prior to 1951, and he has been paid wages equal to $3,000 in such year and the conditions described in § 404.105 are met. If the conditions of § 404.105 are not met, then only those quarters in such year which occur after a quarter of coverage established in accordance with paragraph (b)(1) of this section, and prior to the quarter in which the individual becomes entitled to a primary insurance benefit, or died, are credited as quarters of coverage.

(2) *Based on self-employment income, or combination of self-employment income and wages.* In a case in which an individual has self-employment income, or a combination of self-employment income and wages, during a taxable year, he is credited with a quarter of coverage for each calendar quarter wholly or partly in such taxable year (subject to the limitations in § 404.104) if such taxable year:

(i) Ends after 1974, and the total of his self-employment income derived and wages paid, in such year equals the amount of the contribution and benefit base in effect for such year.

(ii) Ends after 1973, and prior to 1975, and the total of his self-employment income derived and wages paid, in such year equals $13,200;

(iii) Ended after 1972, and prior to 1974, and the total of his self-employment income derived and wages paid in such year equals $10,800;

(iv) Ended after 1971 and prior to 1973, and the total of his self-employment income derived and wages paid in such year equals $9,000;

(v) Ended after 1967 and prior to 1972 and the total of his self-employment income derived and wages paid in such year equals $7,800;

(vi) Ended after 1965 and prior to 1968 and the total of his self-employment income derived and wages paid, in such year equals $6,600;

(vii) Ended after 1958 and prior to 1966 and the total of his self-employment income derived and wages paid, in such year equals $4,800;

(viii) Ended after 1954 and prior to 1959 and the total of his self-employment income derived and wages paid, in such year equals $4,200;

(ix) Began after 1950 and ended prior to 1955 and the total of his self-employment income derived and wages paid, in such year equals $3,600.

* * * * *

2. Section 404.108 is revised to read as follows:

§ 404.108 Fully insured status; general.

(a) *Factors involved.* An individual is fully insured if he is credited with a required number of quarters of coverage. The number of quarters of coverage required is determined generally by the year the individual attains a certain age (referred to hereinafter as the determining age). The determining age is age 62 ((1) for months before November 1956, the determining age for a woman was age 65; (2) for men, the determining age was (i) age 65 if attainment of age 62 was prior to 1973; (ii) age 64 if attainment of age 62 was in 1973; (iii) age 63 if attainment of age 62 was in 1974) or if death occurs before attainment of the determining age, the date of death; whether or not a period of disability has been established for the individual; and the insured status requirement in effect at the time the individual first filed application for benefits, is first eligible for benefits, or dies.

(b) *When fully insured status begins.* An individual is fully insured beginning with the first day of the calendar quarter in which he acquires the last required quarter of coverage (see §§ 404.103(f) and 404.109–404.112). Though fully insured under the statutory provisions in effect during a particular period, an individual may not be fully insured under the statutory provision in effect for a prior period, and in such case, no benefits would be payable for such prior period though benefits may be payable currently based on the later requirements. Sections 404.109–404.113 set forth the various fully insured status requirements and their period of applicability.

3. Paragraphs (a) and (f) of § 404.109 are revised to read as follows:

§ 404.109 Fully insured status—beginning August 1961.

(a) *Quarters of coverage requirement.* An individual is fully insured after July 1961, if credited with not less than:

(1) One quarter of coverage, whenever acquired, for each calendar year elapsing after 1950, or, if later, the year in which the individual attained age 21 and:

(i) In the case of a woman, before the year in which she attains age 62, or if she is deceased and death occurred prior to attainment of age 62, before the year in which she died;

(ii) In the case of a man, before the year in which he attains age 62, if such attainment is in 1975 or later; if the attainment of age 62 is in 1974, up to the year he attains age 63; if attainment of age 62 is in 1973, up to the year of attainment of age 64; if attainment of age 62 is before 1973, up to the year of attainment of age 65; or if he is deceased, before the year in which he died if death occurred prior to such attainment; or

(2) Forty quarters of coverage; or

(3) In the case of an individual who died before 1951, six quarters of coverage (see § 404.113a(c) for an exception).

* * * * *

(f) *Table for determining quarters of coverage for fully insured status.* The following tables may be used to ascertain the number of quarters of coverage required for a fully insured status for benefits for months after July 1961. Instructions for use of the table are set forth in paragraph (f) (1) and (2) of this section. The numbers of quarters of coverage which appear in columns II and III (b) may be reduced by the application of the provisions of paragraph (f)(2) of this section. (See § 404.113a for circumstances under which the minimum six quarters of coverage may be reduced.)

Column I	Column II		Column III(a)	Column III(b)	Column III(c)
Date of birth	Number of quarters of coverage required for insured status; living wage earner, or one who dies after year attains determining age.		Individual born before Jan. 2, 1929 and dies before reaching determining age: Year of death	Number of quarters required for fully insured status	Individual born Jan. 2, 1929 or later, dies before reaching determining age: Age in year of death
	Men	Women			
Jan. 1, 1928 or earlier	6	6	1967	6	[1] 28
Jan. 2, 1928 to Jan. 1, 1934	7	6	1968	7	29
Jan. 2, 1934 to Jan. 1, 1935	8	6	1969	8	30
Jan. 2, 1935 to Jan. 1, 1936	9	6	1970	9	31
Jan. 2, 1936 to Jan. 1, 1937	10	7	1971	10	32
Jan. 2, 1937 to Jan. 1, 1938	11	8	1972	11	33
Jan. 2, 1938 to Jan. 1, 1939	12	8	1973	12	34
Jan. 2, 1939 to Jan. 1, 1940	13	10	1974	13	35
Jan. 2, 1940 to Jan. 1, 1941	14	11	1975	14	36
Jan. 2, 1941 to Jan. 1, 1942	15	12	1976	15	37
Jan. 2, 1942 to Jan. 1, 1943	16	13	1977	16	38
Jan. 2, 1943 to Jan. 1, 1944	17	14	1978	17	39
Jan. 2, 1944 to Jan. 1, 1945	18	15	1979	18	40
Jan. 2, 1945 to Jan. 1, 1946	19	16	1970	19	41
Jan. 2, 1946 to Jan. 1, 1947	20	17	1971	20	42
Jan. 2, 1947 to Jan. 1, 1948	21	18	1972	21	43
Jan. 2, 1948 to Jan. 1, 1949	22	19	1973	22	44
Jan. 2, 1949 to Jan. 1, 1950	23	20	1974	23	45
Jan. 2, 1950 to Jan. 1, 1951	24	21	1975	24	46
Jan. 2, 1951 to Jan. 1, 1952	25	22	1976	25	47
Jan. 2, 1952 to Jan. 1, 1953	26	23	1977	26	48
Jan. 2, 1953 to Jan. 1, 1954	27	24	1978	27	49
Jan. 2, 1954 to Jan. 1, 1955	28	25	1979	28	50
Jan. 2, 1955 to Jan. 1, 1956	29	26	1980	29	51
Jan. 2, 1956 to Jan. 1, 1957	30	27	1981	30	52
Jan. 2, 1957 to Jan. 1, 1958	31	28	1982	31	53
Jan. 2, 1958 to Jan. 1, 1959	32	29	1983	32	54
Jan. 2, 1959 to Jan. 1, 1960	33	30	1984	33	55
Jan. 2, 1960 to Jan. 1, 1961	34	31	1985	34	56
Jan. 2, 1961 to Jan. 1, 1962	35	32	1986	35	57
Jan. 2, 1962 to Jan. 1, 1963	36	33	1987	36	58
Jan. 2, 1963 to Jan. 1, 1964	37	34	1988	37	59
Jan. 2, 1964 to Jan. 1, 1965	38	35	1989	38	60
Jan. 2, 1965 to Jan. 1, 1966	39	36	1990	39	61
Jan. 2, 1966 to Jan. 1, 1967	40	37	[2] 1991	40	62
Jan. 2, 1967 to Jan. 1, 1968	40	38			
Jan. 2, 1968 to Jan. 1, 1969	40	39			
Jan. 2, 1969 or later	40	40			

[1] Or earlier.
[2] Or younger.
[3] Or later.

(1) *Required quarters of coverage.* The number of quarters of coverage required for a fully insured status appears in column II on the same line as that in column I on which appears the date of birth. If the individual dies before attaining the determining age (see § 404.109(a)), the number of quarters required appears in column III(b) opposite the year in which he died, if he was born January 1, 1939, or earlier (column III(a)), or if born January 2, 1930, or later, his age in year of death (column III(c)).

(2) *Period of disability to be excluded.* In any case in which an individual had a period of disability established which is to be excluded in determining the number of quarters of coverage required for a fully insured status (see § 404.109(c)), the number of quarters of coverage determined in accordance with paragraph (f)(1) of this section is reduced by one whenever a year or any part of a year falls within the established period of disability.

[FR Doc.74-30265 Filed 12-26-74;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 655—TRAFFIC CONTROL

Traffic Control Devices on Federal-Aid and Other Streets and Highways; Redesignations and Miscellaneous Amendments

In FR Doc. 74-22048, published at page 35660 in the issue dated Thursday, October 3, 1974, § 655.604 included two paragraphs designated as "(c) Highway safety funds." The first of these two paragraphs is redesignated as paragraph (b) and its heading should read: (b) *Highway planning and research funds.* The words "These funds" in the first and second lines are deleted.

In the same document, the following amendments are made since certain compliance dates are imminent and substantiating data is presently available.

Section 655.603(a)(1) is redesignated as § 655.603(a)(1)(i).

Section 655.603(a) is renumbered as § 655.603(a)(1) and the italicized word "*Compliance*" is replaced by the italicized phrase "*State and Federal-aid system routes.*"

Section 655.603(a)(2) is redesignated as § 655.603(a)(1)(ii).

Section 655.603(a)(3) is redesignated as § 655.603(a)(1)(iii).

Section 655.603(b) is redesignated as § 655.603(a)(1)(iv) with the heading "Construction and maintenance" and the words "by contract provision" deleted.

A new § 655.603(a)(2) will be added reading as follows:

(2) All other public roads:

(i) The target date for full conversion of signs to the new standards is December 31, 1976.

(ii) The pavement marking target date for compliance is December 31, 1975.

(iii) The target date for upgrading traffic signals is December 31, 1977.

(iv) Compliance target date for construction and maintenance traffic control devices as contained in Part VI of the MUTCD is December 31, 1975.

Section 655.603(c) is redesignated as § 655.603(b) and the first sentence is deleted.

Section 655.603(d) is redesignated as § 655.603(c).

Section 655.604(a) is amended by revising the heading and first sentence to read as follows:

(a) *Inventory.* Highway Safety Standard Number 13, Traffic Engineering Services, requires an inventory of all traffic control devices. This inventory provides the information necessary for programming a traffic control devices upgrading project.

Section 655.609(b)(3) is amended by deleting the words "at the same time as other improvements are made."

Issued on: December 18, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.74-30045 Filed 12-26-74;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-431]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the fourth column of the table is followed by a designation which indicates whether the date signifies (1) the effective date of the authorization of the sale of flood insurance in the area under the emergency or under the regular flood insurance program; (2) the effective date on which the community became ineligible for the sale of flood insurance because of its failure to submit land use and control measures as required pursuant to § 1909.24(a); or (3) the effective date of a community's formal reinstatement in the program pursuant to § 1909.24(b). The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Alabama	Lowndes	Benton, town of	Dec. 11, 1974. Suspension withdrawn.			
California	Los Angeles	San Fernando, city of	Dec. 23, 1974 Emergency			
Illinois	Moultrie	Lovington, village of	do	June 7, 1974		
Iowa	Mills	Pacific Junction, town of	do	June 28, 1974		
Louisiana	Lafourche Parish	Golden Meadow, town of	Dec. 11, 1974. Suspension withdrawn.			
Minnesota	Pennington	St. Hilaire, city of	Dec. 23, 1974 Emergency	Sept. 20, 1974		
Nebraska	Hamilton	Aurora, city of	do	May 3, 1974		
Do	Saline	DeWitt, village of	do	Dec. 7, 1973		
Do	Otoe	Talmage, village of	do	Sept. 13, 1974		
New York	Tompkins	Ulysses, town of	do	June 14, 1974		
Ohio	Warren	Lebanon, city of	do	May 10, 1974		
Oregon	Lane	Creswell, city of	do	Dec. 28, 1973		
Pennsylvania	Beaver	West Mayfield, borough of	do			
South Dakota	Davison	Mitchell, city of	do	Mar. 22, 1974		
Wisconsin	Sauk	Plain, village of	do			

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: December 16, 1974.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.74-30004 Filed 12-26-74;8:45 am]

[Docket No. FI-433]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the fourth column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Georgia	Evans	Clarton, city of	Dec. 19, 1974. Emergency	June 28, 1974		
Iowa	Chickasaw	Nashua, city of	do	May 25, 1974		
Michigan	Ontonagon	Carp Lake, township of	do			
Mississippi	Holmes	Tchula, town of	do	Jan. 28, 1974		
Missouri	St. Louis	Shrewsbury, city of	do	Mar. 29, 1974		
New Jersey	Camden	Gloucester, city of	do	June 28, 1974		
New York	Oneida	Camden, village of	do			
Oklahoma	Oklahoma	Nichols Hills, city of	do	Dec. 20, 1974		
Pennsylvania	McKean	Norwich, township of	do			
Do	Warren	Youngsville, borough of	do	Apr. 12, 1974		
Texas	Montgomery	Whispering Oaks, town of	do			
Do	Navarro	Corsicana, city of	do	Dec. 27, 1974		
Utah	Salt Lake	Murray, city of	do	Mar. 29, 1974		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: December 16, 1974.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.74-30003 Filed 12-26-74;8:45 am]

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Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER H—ECONOMIC ENTERPRISES

PART 80—INDIAN BUSINESS DEVELOPMENT PROGRAM

Revision of Part

DECEMBER 23, 1974.

This notice is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Beginning on page 31984 of the September 3, 1974, FEDERAL REGISTER (39 FR 31984), there was published a notice of proposed rulemaking to revise Part 80, Subchapter H, Chapter I, of Title 25 of the Code of Federal Regulations. This revision is made pursuant to the authority contained in Section 404 of the Act of April 12, 1974 (88 Stat. 77).

The purpose of this revision of Part 80 is to prescribe the regulations and procedures under which non-reimbursable grants will be used to stimulate and increase Indian entrepreneurship and employment through acquisition, establishment and expansion of profitmaking Indian-owned economic enterprises which will contribute to the economy of Indian reservations.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed revision. During this period, comments and suggestions were submitted by interested persons. All comments and suggestions received were analyzed and considered in revising the proposed regulations. Several of the comments and suggestions pertained to expanding the grant program which would require legislative action to change the Indian Financing Act of 1974.

The following major revisions were made to the proposed regulations as a result of the comments received:

1. To provide space for additional sections, if subsequently needed, §§ 80.5, 80.6, 80.13, 80.14 and 80.19 have been reserved. This made it necessary to renumber the sections.

2. Several changes were made to the definitions in § 80.1. Unterminated California rancherias were added to the definition of "reservation" in paragraph (j). Agriculture was added to the definition of "economic enterprise" in paragraph (k). "Grantee" was defined in a new paragraph (p). "Cooperative association" was defined in a new paragraph (q). "Corporation" was defined in a new paragraph (r). "Partnership" was defined in a new paragraph (s).

3. *Section 80.3, Eligible applicants.* This section was expanded and refined to clarify the meaning of Indian ownership and control of an economic enterprise. Added provision to permit organization under tribal law.

4. *Section 80.7, Location of enterprise.* Added requirement that economic enterprises which are or will be operated on a reservation must comply with all requirements of applicable rules, resolutions or ordinances adopted by the governing body of the tribes, if applicable.

5. *Section 80.12, Content of application.* A new paragraph (g) was added to this section requiring the preparation of a plan of operation acceptable to the lender and the Commissioner.

6. *Section 80.17, Limits of authority.* The title of this section was changed to "Grant limitations and requirements." Paragraph (a) was changed to clarify the requirement for a grant applicant to contact lenders in the area when information in the application indicates applicant may be able to obtain a loan for the total amount of financing required, without a grant. Paragraph (f) was revised to permit use of grant funds for refinancing or debt consolidation where approval is justified and required due to the financial position of an applicant and is clearly to the advantage of an applicant. A new paragraph (h) was added, establishing the conditions under which an application for a second grant will not be approved.

7. *Section 80.18, Written notice.* This is a new section which requires written notice to grant applicant whose application is disapproved of right to appeal under 25 CFR 2.

8. *Section 80.20, Disbursement of grant funds.* A provision was added to prohibit the disbursement of grant funds to a grantee until the lender making the loan has notified the Commissioner that a loan has been approved for the applicant for the amount of loan financing needed.

9. *Section 80.21, Return of unused funds.* This section has been added to require grantees to return grant funds if the enterprise is not initiated within the time stated in the grant agreement.

10. *Section 80.22, Reports.* This section was expanded to require reports from grantees for a longer period and semi-annually for the first two years after receipt of grant.

Other minor revisions were made for the purpose of clarification and understanding.

It is necessary that this program be initiated as soon as possible in order to prevent eligible Indians and Indian organizations from losing the business opportunities for which they immediately need the grants authorized by these regulations. Therefore, good cause is found for dispensing with the 30-day deferred effective date of these regulations under the exception provided in subsection (d) (3) of 5 U.S.C. 553 (1970). Accordingly, these regulations will become effective upon date of publication in the FEDERAL REGISTER.

As revised, Part 80 of Subchapter H, Chapter I, Title 25 of the Code of Federal Regulations reads as follows:

Sec.

80.1 Definitions.
80.2 Purpose.
80.3 Eligible applicants.
80.4 Eligible economic enterprises.
80.5 [Reserved]
80.6 [Reserved]
80.7 Location of enterprise.
80.8 Priority criteria.
80.9 Environmental and flood disaster protection.
80.10 Preservation of historical and archeological data.
80.11 Management and technical assistance.
80.12 Content of application.
80.13 [Reserved]
80.14 [Reserved]
80.15 Application procedures.
80.16 Grant approval authority.
80.17 Grant limitations and requirements.
80.18 Written notice.
80.19 [Reserved]
80.20 Disbursement of grant funds.
80.21 Return of unused funds.
80.22 Reports.

AUTHORITY: Sec. 404, 88 Stat. 77.

§ 80.1 Definitions.

As used in this Part 80:

(a) "Secretary" means the Secretary of the Interior.

(b) "Commissioner" means the Commissioner of Indian Affairs or his authorized representative.

(c) "Area Director" means the Bureau official in charge of an Area Office or his authorized representative.

(d) "Superintendent" means the Bureau official in charge of a Bureau Agency office or other local office reporting to an Area Director.

(e) "Indian" means any person who is a member of any Indian tribe, band, group, pueblo or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any Native as defined in paragraph (f) of this section.

(f) "Native" means a citizen of the United States who is a person of one-fourth degree or more Alaska Indian (including Tsimshian Indians not enrolled in the Metlakatla Indian Community), Eskimo, or Aleut blood, or combination thereof. The term includes any Native as so defined either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group.

(g) "Tribe" means any Indian tribe, band, group, pueblo or community and any Native village or Native group (including corporations organized by Kenai, Juneau, Sitka and Kodiak) as defined in paragraphs (h) and (i) of this section, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(h) "Native village" means any tribe, band, clan, group, village, community, or association in Alaska listed in sections 11 and 16 of the Alaska Native Claims Settlement Act (85 Stat. 688), or which

meets the requirements of the Act, and which the Secretary determines was, on the 1970 census enumeration date (as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance), composed of twenty-five or more Natives.

(i) "Native group" means any tribe, band, clan, village, community, or village association of Natives in Alaska composed of less than twenty-five Natives, who comprise a majority of the residents of the locality.

(j) "Reservation" means Indian reservations, unterminated California rancherias, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688).

(k) "Economic enterprise" means any Indian-owned, commercial, industrial, agricultural, or business activity established or organized for the purpose of profit, provided that eligible Indian ownership constitutes not less than fifty-one percent of the enterprise.

(l) "Organization" means the governing body of any Indian tribe, as defined in paragraph (g) of this section, or entity established or recognized by such governing body for the purpose of the Indian Financing Act of 1974 (88 Stat. 77).

(m) "Other organizations" means any non-Indian individual, firm, corporation, partnership, or association.

(n) "Personally operated enterprise" means a business activity personally owned and operated, and managed by an individual grantee on a full or part-time basis, with or without hired labor.

(o) "Profits" means the net income earned after deducting operating expenses from operating revenues.

(p) "Grantee(s)" means the recipient(s) of a nonreimbursable grant under this part.

(q) "Cooperative Association" means an association of individuals organized pursuant to state, federal or tribal law, for the purpose of owning and operating an economic enterprise for profit, with profits distributed or allocated to patrons who are members of the organization.

(r) "Corporation" means an entity organized pursuant to state, federal or tribal law, with or without stock, for the purpose of owning and operating an economic enterprise.

(s) "Partnership" means two or more persons engaged in the same business, sharing its profits and risks, organized pursuant to State, Federal, or Tribal law.

§ 80.2 Purpose.

The purpose of this Part 80 is to prescribe the regulations and procedures under which non-reimbursable grants may be made to eligible applicants to stimulate and increase Indian entrepreneurship and employment through establishment, acquisition or expansion of profit-making Indian-owned economic enterprises which will contribute to the economy of a reservation.

§ 80.3 Eligible applicants.

Applications for grants may be accepted only from individual Indians, Indian tribes, Indian partnerships, corporations or cooperative associations authorized to do business under State, Federal, or Tribal law. These applicants must have a form of organization acceptable to the Commissioner and unable to meet their total financing needs from their own resources and by loans from other sources such as banks, Farmers Home Administration, Small Business Administration, Production Credit Associations, and Federal Land Banks. Associations, corporations or partnerships shall be at least fifty-one percent owned by eligible Indians or an eligible Indian tribe. This Indian ownership must actively participate in the management and operation of the economic enterprise by representation on the board of directors of a corporation or cooperative association proportionate to the Indian ownership which will enable the Indian owner(s) to control management decisions. The legal organization documents will provide for the number of Indians which are to be on the board of directors, how they along with other directors will be elected or appointed and qualifications required as a condition for becoming a member of the board of directors. The legal organization documents shall provide safeguards which will prevent Indian ownership and control from decreasing below fifty-one percent. Evidence of Indian ownership in a cooperative association or corporation will be evidenced by stock ownership, if stock is or has been issued, or by other evidence satisfactory to the Commissioner. Partnerships will be evidenced by written partnership agreements which show the percentage of Indian ownership, role and authority in making management decisions in controlling the operation of the economic enterprise.

§ 80.4 Eligible economic enterprises.

An economic enterprise as defined in § 80.1(k) is eligible to receive equity capital through non-reimbursable grants if it is or will be self-sustaining and profit-oriented and will create employment for Indians. In the case of Indian-owned cooperative associations, they must distribute or allocate profits for later distribution, to members who are patrons, unless prohibited from doing so by law.

§ 80.5 [Reserved]

§ 80.6 [Reserved]

§ 80.7 Location of enterprise.

To be eligible for a grant an economic enterprise must be located on an Indian reservation or located where it makes or will make an economic contribution to a nearby reservation by providing employment to tribal members residing thereon or by expending a portion of its income for materials or services on the reservation. Economic enterprises which are or will be operated on a reservation must comply with the requirements of applicable rules, resolutions or ordinances adopted by the governing body of the tribe, if applicable.

§ 80.8 Priority criteria.

The following priority will be used in selecting economic enterprises for grant funding:

(a) *First priority.* First priority will be given to economic enterprises located on a reservation that will:

(1) Utilize Indian resources, both natural and human.

(2) Create the highest ratio of Indian jobs to the total amount of dollars to be invested, including market value of materials and equipment contributed to the project.

(3) Create the highest ratio of income to a tribe or its members in relation to the total amount of dollars to be invested, including market value of materials or equipment contributed to the project.

(4) Generate the most non-Bureau financing.

(b) *Second priority.* Second priority will be given to projects located in the immediate vicinity of a reservation that will:

(1) Utilize Indian resources, both natural and human.

(2) Create the highest ratio of Indian jobs to the total amount of dollars to be invested, including market value of materials and equipment contributed to the project.

(3) Generate the most non-Bureau financing.

§ 80.9 Environmental and flood disaster protection.

Grant funds will not be advanced until there is assurance of compliance with any applicable provisions of the Floor Disaster Protection Act of 1973 (Pub. L. 93-234), the National Environmental Policy Act (Pub. L. 91-190), 42 U.S.C. 4321 and Executive Order 11514.

§ 80.10 Preservation of historical and archeological data.

The Commissioner, before approving a grant where the grant funds and/or the loan funds will be used to finance activities involving excavations, road construction, and land development or involving the disturbance of land on known or reported historical or archeological sites, will take appropriate action to assure compliance with applicable provisions of the Act of June 27, 1960 (74 Stat. 220 (16 U.S.C. 469)), as amended by the Act of May 24, 1974 (Pub. L. 93-291, 88 Stat. 174), relating to the preservation of historical and archeological data.

§ 80.11 Management and technical assistance.

(a) Concurrent with the approval of a grant to finance an Indian economic enterprise, the Commissioner will insure that competent management and technical assistance is available to the grantee consistent with the grantee's knowledge and experience and the nature and complexity of the economic enterprise being financed. Assistance may be provided by available Bureau of

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Indian Affairs staff, other government agencies including states, tribes, or other sources which the Commissioner considers competent to provide needed assistance. It is intended that contracting for management and technical assistance be used only when adequate assistance is not available without cost. Contracts entered into in order to provide grantees with competent management and technical assistance shall be in accordance with applicable sections of the Federal Procurement Regulations and the Buy Indian Act of April 30, 1908, chapter 153 (35 Stat. 71) as amended June 25, 1910, chapter 431, section 25, (36 Stat. 861).

(b) The lender providing the loan funds under § 80.17(b) to finance an economic enterprise will include with the grantee's application the need for equity capital, the lender's evaluation of the applicant's need for management and technical assistance, specific areas of need and whether the lender will provide such assistance to the applicant.

§ 80.12 Content of application.

Applications shall be on a form prescribed by the Commissioner which shall at the minimum include:

(a) Total capital requirement, including operating capital required until such time as the cash generated from operations will be sufficient to make the enterprise self-sustaining.

(b) Amount of total financing required as well as what is obtainable from other sources, including the applicant's personal resources, and a statement of terms and conditions under which any borrowed portion is obtainable.

(c) Capital deficiency, which will be the basis for the amount of grant requested.

(d) Pro forma balance sheets and operating statements showing estimated expenses, income and net profit from operations for three years following receipt of the requested grant.

(e) Annual operating statements and balance sheets, audited if available, for the prior two years or applicable years for enterprises already in operation.

(f) Current financial statements, consisting of a balance sheet and operating statement.

(g) A plan of operation which shall be acceptable to the lender making the loan and the Commissioner.

§ 80.13 [Reserved]

§ 80.14 [Reserved]

§ 80.15 Application procedures.

Applications are to be submitted to the Superintendent having administrative jurisdiction over the reservation on which an enterprise will be or is located. If the enterprise site is near two or more reservations, application is to be made to the Superintendent having administrative jurisdiction over the reservation nearest to the location of the enterprise which the enterprise will benefit economically.

§ 80.16 Grant approval authority.

Applications for grants require approval by the Commissioner.

§ 80.17 Grant limitations and requirements.

(a) Grants will be made to assist in establishing new economic enterprises, or in purchasing or expanding established ones. However, a grant may be made only when in the opinion of the Commissioner the applicant is unable to obtain adequate financing from other sources such as banks, Farmers Home Administration, Production Credit Associations, Federal Land Banks and, is also unable to obtain a guaranteed or insured loan under Title II of the Indian Financing Act of 1974 (88 Stat. 77). Prior to making any grant, the Commissioner shall assure that, where practical, the applicant has reasonably made available for loan security and/or for input into the economic enterprise collateral or funds from his own resources. If the information in an application indicates that it may be possible for the applicant to obtain financing without a grant, the Commissioner will require the applicant to furnish letters from two customary lenders in the area, if available, who are making loans for similar purposes, showing whether or not they will make a loan to the applicant for the total financing needed without a grant.

(b) A grant may be made only to an applicant who is able to obtain at least 60 percent of the necessary financing from other sources.

(c) No grant in excess of $50,000 may be made to any applicant.

(d) Revolving loan funds as prescribed in Title I of the Indian Financing Act of 1974 and guaranteed or insured loans as prescribed in Title II of said Act may not be used as the sources of the loan portion of the total financing requirement if financing from other governmental or institutional lenders is available on reasonable terms and conditions. If a loan is not available from other sources, guaranteed or insured loans under the provisions of Title II of said Act may then be considered. If a guaranteed or insured loan is not available loans under the provisions of Title I of said Act may then be considered. Applicants for a loan from either source must meet the eligibility requirements for such loans.

(e) A grant will not be approved unless there is assurance the applicant can and will be provided with needed competent technical and management assistance commensurate with the nature of the enterprise to be funded and the knowledge and management skills of the applicant.

(f) Grant funds may not be used for refinancing or debt consolidation unless approval is justified and required due to the applicant's financial position and is clearly to the advantage of the grant applicant

(g) Ordinarily, no more than one grant will be made for a project. Nevertheless, in certain circumstances a second grant may be made to the same applicant for a new project or expansion of the original project. An addition grant will not be approved for an economic enterprise previously funded under the provisions of Title IV of the Indian Financing Act of 1974 except for expanding a successful enterprise, provided the total of grants made shall not exceed $50,000. Information to be submitted with the application will include at a minimum the following:

(1) Use made of the prior grant. Where practical, evidence of such use shall be furnished.

(2) Evidence of competent management.

(3) Maintenance of adequate accounting records.

(4) That the operation is profitable as evidenced by operating statements and balance sheets prepared from the accounting records.

(5) That expansion will increase the net profit and/or increase Indian employment.

(h) An application for a second grant will not be approved if the applicant: (1) has not complied with the reporting requirements in connection with the first grant, or (2) has not followed the plan of operation, if any, developed for the management and operation of the economic enterprise, or (3) did not follow and use the management and technical assistance furnished, or (4) is in violation of one or more provisions of the loan agreement entered into between the applicant and the lender who furnished the loan portion of the financing in connection with the first grant.

(i) An applicant for an expansion grant must meet the same eligibility requirements as an original applicant.

§ 80.18 Written notice.

The applicant for a grant which is disapproved will be notified by letter, stating the reasons for disapproval and the right of appeal pursuant to 25 CFR § 2.21, et seq. A copy of the letter will be sent to the prospective lender.

§ 80.19 [Reserved]

§ 80.20 Disbursement of grant funds.

Unless otherwise provided by an agreement between a lender and the grantee, the Commissioner may in his discretion advance grant funds directly to a grantee. He may require the funds to be deposited in a special account at the appropriate Agency headquarters office or deposited in a joint account in a bank and disbursed as needed by the grantee. The terms of a lender's loan agreement may require the lender's approval before disbursement of the funds. Grant funds will not be disbursed to a grantee until the Commissioner has been informed by the lender that a loan has been approved for the grantee in the amount of the loan financing needed.

§ 80.21 Return of unused funds.

Grantees will be required to return unused grant funds to the Commissioner if the economic enterprise for which the grant was approved is not initiated, i.e., lease obtained, if needed, construction started, equipment purchased or other, within the time stated in the grant agreement. The Commissioner may, if warranted by circumstances beyond the control of the grantee, extend the time to

allow for initiation of the enterprise, provided there is assurance the enterprise will be initiated forthwith within the extended time period. The Commissioner will notify the lender in writing of a proposed action to require the return of grant funds or of a proposal to extend the time.

§ 80.22 Reports.

(a) Grantees are required to furnish the Commissioner comparative balance sheets and profit and loss statements semi-annually for the first two years of operation following receipt of the grant, and annually thereafter for the succeeding three years. These may be copies of financial statements required by and furnished to the lender which provided the loan portion of the total financing required. If the lender does not require financial statements, the grantee must prepare and furnish copies of comparative balance sheets and profit and loss statements to the Commissioner.

(b) The Commissioner will establish accounting and reporting systems which will appropriately show the status of the Indian Business Development Program at all times.

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.74-30264 Filed 12-26-74;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T. D. 7388]

PART 11—TEMPORARY INCOME TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Temporary Regulations Relating to Elections With Respect to Retroactive Amendments

This document contains temporary income tax regulations (26 CFR Part 11) under section 412(c)(8) of the Internal Revenue Code, as added by section 1013 of the Employee Retirement Income Security Act of 1974, in order to provide rules for elections with respect to retroactive plan amendments pursuant to both section 412(c)(8) of the Code and section 302(c)(8) of such Act.

Section 412 of the Internal Revenue Code of 1954 provides minimum funding standards for certain pension plans. Subsection (c)(8) of section 412 provides that certain plan amendments adopted after the close of the plan year may be given retroactive effect.

Under section 412(c)(8), a plan amendment adopted after the close of a plan year will be deemed to have been made on the first day of the plan year at the election of the plan administrator as long as the amendment does not reduce the accrued benefit of any participant determined as of the beginning of such plan year.

For multiemployer plans, an amendment must be adopted no later than two years after the close of the plan year. In the case of all other plans, the amendment must be adopted no later than two and one-half months after the close of the plan year.

If an amendment reduces the accrued benefit of any participant determined as of the date of adoption of the amendment, approval of the Secretary of Labor must be requested before an election as to retroactive application can take effect. Approved by the Secretary of Labor is based on a finding of substantial business hardship in accordance with the factors outlined in section 412(d)(2) of the Code, and a determination that a waiver by the Secretary of the Treasury for substantial business hardship under section 412(d)(1) of the Code is unavailable or inadequate.

The temporary regulations provide, in general, that the election under section 412(c)(8) of the Code is to be made by attaching a statement of election to the annual information return required to be filed by the employer or plan administrator under section 6058 of the Code. The statement of election must state the date the plan year ended and the date the amendment was adopted. It must also contain a statement that the amendment does not reduce the accrued benefit of any employee as of the beginning of the plan year in question. In addition, it must contain either (1) a statement that the amendment does not reduce any accrued benefits as of the date of adoption, or (2) a copy of the notice filed with the Secretary of Labor and a statement as to whether approval has been granted, or the Secretary has failed to act within 90 days.

The report of the Conference Committee on the Employee Retirement Income Security Act of 1974 states that section 412(c)(8) was intended to allow amendments that retroactively reduce accrued benefits only in a situation where (1) there would otherwise be an accumulated funding deficiency for all or part of the plan year, (2) the funding deficiency could not be avoided through the implementation of any other reasonably available alternative (such as a waiver of the minimum funding requirements under section 412(d) or an extension of the amortization period under section 412(e)), and (3) the funding deficiency was not primarily attributable to the failure by employers to discharge contractual obligations to make contributions under the plan.

Special rules provide for the making of elections after the annual information return has been filed. The temporary regulations apply for purposes of section 412(c)(8) of the Code and section 302(c)(8) of the Employee Retirement Income Security Act of 1974 (88 Stat. 872).

Amendments to the regulations. In order to prescribe temporary regulations relating to elections with respect to retroactive plan amendments pursuant to section 412(c)(8) of the Internal Revenue Code of 1954, as added by section 1013 of the Employee Retirement Income Security Act of 1974 (P.L. 93-406, 88 Stat. 917) and section 302(c)(8) of such Act (88 Stat. 872), the following temporary regulations are hereby adopted:

§ 11.412(c)-7 Election to treat certain retroactive plan amendments as made on the first day of the plan year.

(a) *General rule.* Under section 412(c)(8), a plan administrator may elect to have any amendment which is adopted after the close of the plan year to which it applies deemed to have been made on the first day of such plan year if the amendment—

(1) Is adopted no later than 2 and one-half months after the close of such plan year (or, in the case of a multiemployer plan, no later than 2 years after the close of such plan year),

(2) Does not reduce the accrued benefit of any participant determined as of the beginning of such plan year, and

(3) Does not reduce the accrued benefit of any participant determined as of the time of adoption of the amendment, or, if it does so reduce such accrued benefit, it is shown that the plan administrator filed a notice with the Secretary of Labor notifying him of the amendment, and—

(i) The Secretary of Labor approved the amendment, or

(ii) The Secretary of Labor failed to disapprove the amendment within 90 days after the date on which the notice was filed.

(b) *Time and manner of making election.* (1) The election under section 412(c)(8) shall be made by the plan administrator by a statement of election described in subparagraph (3) of this paragraph, attached to the annual return relating to minimum funding standards required to be filed under section 6058 with respect to the plan year to which the election relates.

(2) In the event that an amendment to which paragraph (a) of this section applies is adopted after the filing of the annual return required under section 6058, the plan administrator may make the election under section 412(c)(8) by attaching a statement of election, described in paragraph (b)(3) of this section, to a copy of such annual return, and filing such copy no later than the time allowed for the filing of such returns under section 6058. (In the case of multiemployer plans, such copy may be filed within a 24 month period beginning with the date prescribed for the filing of such returns.)

(3) The statement of election filed by or on behalf of the plan administrator shall—

(i) State the date of the close of the first plan year to which the amendment applies and the date on which the amendment was adopted;

(ii) Contain a statement that the amendment does not reduce the accrued benefit of any participant determined as of the beginning of the plan year preceding the plan year in which the amendment is adopted; and

(iii) Contain either—

(A) A statement that the amendment does not reduce the accrued benefit of any participant determined as of the time of adoption of such amendment, or

(B) A copy of the notice filed with the Secretary of Labor under section 412(c)(8) and a statement that either the Secretary of Labor has approved the amendment or he has failed to act within 90 days after notification of the amendment.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805 Internal Revenue Code of 1954 (68A Stat. 917 (26 U.S.C. 7805))

Approved: December 20, 1974.

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

FREDERICK W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.74-30277 Filed 12-26-74;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Hawaii Plan; Approval of Occupational Health Plan

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On January 4, 1974, a notice was published in the FEDERAL REGISTER (39 FR 1010) of the approval of the Hawaii plan and of the adoption of Subpart Y of Part 1952 containing the decision of approval. On April 16, 1974, the State of Hawaii submitted a supplement to the plan involving developmental changes (see Subpart B of 29 CFR Part 1953). On October 21, 1974, a notice was published in the FEDERAL REGISTER (39 FR 37440) concerning the submission of this supplement to the Assistant Secretary of Labor for Occupational Safety and Health and the fact that the question of its approval was before him.

The supplement contained the occupational health plan for Hawaii. The plan provides that responsibility for the Hawaii occupational health program will be lodged in the Branch of Occupational Health of the Department of Labor and Industrial Relations, Division of Occupational Safety and Health. The Branch is to be fully staffed with a complement of ten persons within the three year developmental period. The supplement also provides for the participation of State laboratory services in the proficiency testing program operated by the National Institute for Occupational Safety and Health and also includes the Hawaii Occupational Health Laboratory Standard Procedures Manual. Joint funding of the occupational health program by the State and Federal governments under section 23(g) of the Act (29 U.S.C. 672(g)) is provided.

In addition, the developmental schedule for the implementation of the Hawaii occupational health program has been revised by the supplement. Full implementation of the occupational health program is now scheduled for January 1975, rather than December 1974.

Interested persons were afforded at least 30 days from the publication of the proposed supplement in the FEDERAL REGISTER to submit written comments or request an informal hearing concerning the supplements.

2. *Issues.* No comments or requests for a hearing were received during the period provided for public comments. However, in the course of the review of the supplement by the Assistant Secretary, the adequacy of the Hawaii procedures for the safeguarding of samples submitted for analysis was questioned, particularly in regard to their acceptance as evidence in any legal proceedings which might arise. By letter dated November 19, 1974, the State has provided assurances that a supplement will be added to its Occupational Health Laboratory Standard Procedures Manual which would provide adequate safeguards for samples submitted for analysis.

3. *Decision.* After consideration of the Hawaii plan supplement and the assurances of November 19, 1974, incorporated in it, it is hereby approved under Subpart B of 29 CFR Part 1953. The decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In accordance with this decision, Subpart Y of 29 CFR Part 1952 is amended as set forth below, effective December 20, 1974.

1. Section 1952.133 is corrected to be numbered § 1952.313; paragraphs 1 through 5 of renumbered § 1952.313 are redesignated as paragraphs (a) through (e) respectively, and redesignated paragraph (d) is amended to read as follows:

§ 1952.313 Developmental schedule.

* * * * *

(d) Complete implementation of occupational health program in January 1975.

* * * * *

2. Section 1952.314 of Subpart Y (appearing at 39 FR 44203; Dec. 23, 1974) is amended by inserting "(a)" before the first paragraph and by adding a new paragraph, (b), to read as follows:

§ 1952.314 Completed developmental steps.

* * * * *

(b) In accordance with § 1952.313(d), as amended, the Hawaii Occupational Health Plan was submitted to the Assistant Secretary on April 16, 1974, and approved on December 20, 1974, incorporating assurances from the State, by letter dated November 19, 1974.

(Secs. 8(g)(2), 18, Pub. L. 84 Stat. 1600, 1608 (29 U.S.C. 667(g)(2), 667))

Signed at Washington, D.C. this 20th day of December 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-30237 Filed 12-26-74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 204—DANGER ZONE REGULATIONS

Gulf of Mexico, Florida and Strait of Juan De Fuca, Washington

1. a. On September 13, 1974, the Department of the Army, acting through the Chief of Engineers, published in the FEDERAL REGISTER (39 FR 33003) proposed regulations to amend the present regulations in 33 CFR 204.120 which governs the use of navigation of danger zones in the Gulf of Mexico, southeast of St. Andrew Bay, east entrance, Florida.

b. The public comment period for this regulation expired on October 15, 1974. No comments were received.

c. The Department of the Army, acting through the Corps of Engineers is publishing herewith the final regulations as set forth below.

2. a. On October 9, 1974, the Department of the Army, acting through the Chief of Engineers, published in the FEDERAL REGISTER (39 FR 36347 and 36348) regulations to govern the use and navigation of a restricted area in the Strait of Juan de Fuca in the vicinity of Smith Island, Washington.

b. The comment period for this regulation expired on November 8, 1974. No comments were received.

c. The Department of the Army, acting through the Corps of Engineers is publishing herewith the final regulations as set forth below.

By authority of the Secretary of the Army.

FRED R. ZIMMERMAN,
Chief,
Plans Office, TAGO.

Accordingly, §§ 204.120(a)(1) and 204.220 are revised to read as follows:

§ 204.120 Gulf of Mexico, southeast of St. Andrew Bay East Entrance, Small Arms Firing Range, Tyndall Air Force Base, Fla.

(a) *The Danger Zones*—(1) *Area No. 1.* The waters of the Gulf of Mexico, southeast of St. Andrew Bay East Entrance within a rectangular area beginning at a point on shore at latitude 30°04'32", longitude 85°37'07"; thence to latitude 30°03'09", longitude 85°38'42"; thence to latitude 30°02'14", longitude 85°37'15"; thence to a point on shore at latitude 30°04'13", longitude

85°36'47"; thence along the shoreline to the point of beginning.

• • • • •

(Regs. December 9, 1974, 1522-01 (Gulf of Mexico, Fla.)—DAEN-CWO-M) (Sec. 7, 40 Stat. 266, Chap. XIX, 40 Stat. 892; (33 U.S.C. 1, 3))

§ 204.220 Strait of Juan de Fuca, Washington; air-to-surface weapon range, restricted area.

(a) *The restricted area.* A circular area immediately west of Smith Island with a radius of 1.25 nautical miles having its center at latitude 49°19'11" North and longitude 122°54'12" West. In the center of the area will be located a lighted and radar reflective buoy to serve as a navigational aid to mariners. The area will be used for air-to-surface target practice using non-explosive training devices.

(b) *The regulations.* (1) No vessel or other watercraft shall enter or remain within the designated restricted area between 0700 and 2400 hours daily, local time except as authorized by the enforcing agency and as follows: The area will be open to commercial gill net fishing during scheduled fishing periods from 15 June through 15 October annually. The October 15 closure date will be extended by the enforcing agency if determined as advantageous to the commercial gill net fishing by the Washington State Department of Fisheries.

(2) Prior to each target practice operation the restricted area will be patrolled by naval aircraft. Those vessels found within the restricted area will be overflown by the aircraft at an altitude of not less than 300' in the direction in which the unauthorized vessel is to proceed to clear the area.

(c) The regulations in this section shall be enforced by the Commandant, Thirteenth Naval District, Seattle, Washington, and such agencies as he may designate.

(Regs. December 9, 1974, 1522-01 (Strait of Juan de Fuca, Washington)—DAEN-CWO-M) (Sec. 7, 40 Stat. 266, Chap. XIX, 40 Stat. 892; (33 U.S.C. 1, 3))

[FR Doc.74-30195 Filed 12-26-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER H—UTILIZATION AND DISPOSAL

[FPMR Amdt. E-87]

MANAGEMENT OF GOVERNMENT-OWNED PERSONAL PROPERTY

Changes in Titles, Addresses, and Administrative Procedures

This regulation provides editorial and procedural changes to update existing regulations.

PART 101-42—PROPERTY REHABILITATION SERVICES AND FACILITIES

Subpart 101-42.1—Sources of Property Rehabilitation Services

1. Section 101-42.101 is amended as follows:

§ 101-42.101 General.

• • • • •

(a) The GSA Supply Catalog is published by the Federal Supply Service, GSA, to indicate sources of supply and service provided by GSA for the use of Federal agencies, including property rehabilitation type service contracts. The GSA Supply Catalog is issued in accordance with Subpart 101-30.6.

(b) GSA regional Federal Supply Service offices periodically issue bulletins to heads of Federal agencies to provide information concerning GSA service support for the maintenance, repair, rehabilitation, and reclamation of Government-owned personal property.

(c) A GSA regional Federal Supply Service office will, upon receipt of a written request from a Federal agency serviced by that office, develop sources of services, evaluate contractor capabilities, and conduct surveys or studies to justify establishing term contracts for services not available at the time the needs arise.

2. Section 101-42.102-1(b) is revised to read as follows:

§ 101-42.102-1 Primary source provisions.

• • • • •

(b) When an agency determines that services available from an existing term contract price schedule will not fill its required needs, a request to waive the requirement shall be submitted to the GSA regional Federal Supply Service office administering the contract. These requests shall specify the quantities involved, describe the difference between the services required and those listed in the price schedule, and give the reasons why the services will not meet the requirements. Waivers are not required in the case of public exigencies.

3. Section 101-42.102-3 is revised to read as follows:

§ 101-42.102-3 Contract administration.

GSA regional Federal Supply Service offices administer service contracts for and on behalf of the contracting office with respect to: (a) expediting orders; (b) evaluating the acceptability of contract workmanship; (c) ensuring contractor compliance with technical requirements of the contract; and (d) assisting in the resolution of issues that may arise between ordering agencies and contractors concerning performance of contract provisions.

Subpart 101-42.2—Property Rehabilitation Services Performed by Federal Facilities

Section 101-42.203(b) is revised to read as follows:

§ 101-42.203 Notifications.

• • • • •

(b) Before establishing or substantially expanding facilities for repair, maintenance, rehabilitation, or reclamation of personal property, agencies shall furnish specific details of the proposal to the General Services Administration (FW), Washington, D.C. 20406. The details should include type of facility, personnel complement, capability, and geographical area to be served so that the proposal may be evaluated against existing contracts and facilities. Information regarding Department of Defense facilities will pertain only to reconditioning or depot maintenance facilities.

PART 101-43—UTILIZATION OF PERSONAL PROPERTY

Subpart 101-43.3—Utilization of Excess

1. Section 101-43.303-1(b) is revised to read as follows:

§ 101-43.303-1 Acquisition of mercury.

• • • • •

(b) Mercury, minimum 99.9 percent pure (not triple distilled), is available for transfer from GSA stocks at fair market value. Requests for mercury by an agency for its use or for use by its cost-reimbursement type contractors shall be made to the Project Manager, Minerals and Ores, General Services Administration (AP), Washington, D.C. 20405. The Project Manager will furnish the current fair market value to the requesting agency which then will submit a request for transfer to the Project Manager for the quantity required. The unit of issue is a 76-pound flask.

• • • • •

2. Section 101-43.309 is revised to read as follows:

§ 101-43.309 Controlled substances.

Holding agencies shall arrange for transfers in accordance with § 101-43.315-5. In effecting the utilization of excess controlled substances, the holding agencies shall transfer excess controlled substances only to those Federal agencies which certify that they are registered with the Drug Enforcement Administration (DEA) (formerly the Bureau of Narcotics and Dangerous Drugs (BNDD)), Department of Justice, and are authorized to procure the particular controlled substances being transferred. The certification shall include the registration number of the BND Form 223, Certificate of Registration, issued by DEA.

3. Section 101-43.311-2 is revised to read as follows:

§ 101-43.311-2 Forms and distribution of reports.

Reports of excess property shall be made on Standard Form 120, Report of Excess Personal Property, and Standard Form 120A, Continuation Sheet (Report of Excess Personal Property), illustrated in §§ 101-43.4902 and 101-43.4902-2, in accordance with the instructions in § 101-43.4902-1, or, when acceptable to GSA, by data processing output. The Standard Form 120 and 120A shall be submitted in an original and three copies. Reporting by data processing output shall be submitted in the number of copies agreed upon by GSA. Reports shall be submitted to the

GSA regional office for the region in which the property is located (see § 101–43.4903), except that reports of fixed wing and rotary wing aircraft shall be submitted to the General Services Administration (FW), Washington, DC 20406, and excess Standard forms with samples of such forms shall be submitted to the General Services Administration (3F), Washington, DC 20407, for potential redistribution under the Standard forms program. The reporting of excess ADPE shall be submitted as set forth in Subpart 101–32.47, Since Standard Form 120, Report of Excess Personal Property, is an operating supply document and submitted by agencies as excess property is generated, it is excluded from the interagency reporting requirement as set forth in Subpart 101–11.11 of this chapter.

4. Section 101–43.313–3 is revised to read as follows:

§ 101–43.313–3 Intangible property.

Excess intangible property shall be reported to the General Services Administration (F), Washington, DC 20406, and shall not be transferred or disposed of without prior approval of GSA except that bonds, notes, or other securities authorized to be disposed of by the Secretary of the Treasury under section 5 of the Act of April 3, 1945 (31 U.S.C. 741a), shall not be reported to GSA.

5. Section 101–43.315–2(d) is revised to read as follows:

§ 101–43.315–2 Information of availability.

* * * * *

(d) Submission of current and future requirements for excess personal property to the appropriate GSA regional office using revised GSA Form 1539, January 1974, Request for Excess Personal Property. Section 101–43.4904 illustrates GSA Form 1539, and § 101–43.4904–1 furnishes instructions for its acquisition and use. Property utilization specialists in GSA regional offices continually review completed forms in an effort to match agency needs with property becoming available for transfer. In addition, a mechanized method of cross matching agency requirements against reported excess property is used, keyed to the 13-digit national stock number (NSN), furnished by reporting agencies on Standard Form 120, Report of Excess Personal Property, and by requesting agencies on GSA Form 1539. A bank of requirements is maintained, recorded by agency, and identified by the applicable national item identification number (NIIN), (the last nine digits of the NSN). As excess property is reported, availability is matched against requirements on a direct NIIN to NIIN basis. It is important that wherever possible the NSN be shown for each item requested. GSA will assist agencies in obtaining NSN's so that the requirements may be incorporated into the mechanized matching system. If substitute items are acceptable, these should be furnished at the same time and identified by the NSN. Agencies having electrical accounting machine punchcard capability may elect to use this method of submitting requirements; in these instances, instructions for submission of requirements may be obtained from the Federal Supply Service, Personal Property Division, at each GSA regional office. Agencies may also submit a list of property requirements which will be incorporated into the mechanized requirements bank and retained for approximately 180 days. Reported excesses during this time, if matched with recorded requirements, will be offered for immediate transfer. Normally, items for which needs are registered will not be offered in GSA Excess Property Catalogs and GSA Excess Property Bulletins; thus, it is advantageous for agencies to update their list of items at the end of each 180-day period to derive maximum benefits from the excess property program and preclude removal of the items from the requirements bank.

6. Section 101–43.315–4(c) is revised to read as follows:

§ 101–43.315–4 Transfer for redistribution.

* * * * *

(c) Items which are identical to or can be substituted for items listed in the GSA Supply Catalog shall be furnished to agencies through the GSA stock program at prices to be determined by GSA.

* * * * *

7. Section 101–43.316–1(a)(1) is revised to read as follows:

§ 101–43.316–1 Utilization.

(a) * * *

(1) Typewriting machines; office furniture, machines, equipment, and supplies; motor vehicles and automotive equipment; printing and binding equipment; construction equipment (except hand tools); and all items in the GSA Supply Catalog.

* * * * *

Subpart 101–43.4—Utilization of Abandoned and Forfeited Personal Property

Section 101–43.402–5(d)(1) is revised to read as follows:

§ 101–43.402–5 Property required to be reported.

* * * * *

(d) * * *

(1) Controlled substances (as defined in § 101–43.104–4), regardless of quantity, condition, or acquisition cost, shall be reported to the Drug Enforcement Administration, Department of Justice, Washington, D.C. 20537.

* * * * *

Subpart 101–43.5—Utilization of Foreign Excess Personal Property

1. Section 101–43.504(c) is revised to read as follows:

§ 101–43.504 Screening and selection.

* * * * *

(c) Care will be exercised by the GSA onsite representatives in the selection of property to ensure that it is economical to return the property to the United States for Federal use. Full consideration will be given by GSA onsite representatives to transportation and accessorial costs in determining whether property will be returned. Each GSA onsite representative is furnished a consolidated want list of personal property items identified by Federal Supply Classification (FSC). This want list is developed from needs registered by Federal agencies with GSA regional offices. The want list shall be used by the GSA onsite representatives as a specific guide in selecting personal property for return to the United States. Available items which are not on the want list will not be selected by GSA onsite representatives for return to the United States without prior coordination with the overseas property officer, General Services Administration (FW), Washington, DC 20406.

* * * * *

2. Section 101–43.505(a) is revised to read as follows:

§ 101–43.505 Assistance to ordering agencies.

(a) To assist Federal agencies in the selection and transfer of foreign excess personal property returned from overseas, an experienced utilization officer of the Federal Supply Service (FSS) in each GSA regional office has been designated as the Regional Overseas Property Officer (ROPO) to serve as the contact point with Federal agencies in his regional area. The regional utilization officer receives information on the property needs of Federal agencies and transmits it to the GSA onsite representatives through the appropriate operations control officer. He also disseminates information on property available to Federal agencies. The GSA FSS Central Office staff serves as the contact point for the utilization screening of available foreign excess personal property returned to the United States with the headquarters offices of Federal agencies.

* * * * *

Subpart 101–43.49—Illustrations

1. Section 101–43.4901(b)(2) is revised to read as follows:

§ 101–43.4901 Excess personal property reporting requirements.

* * * * *

(b) * * *

(2) Items in classes 1510 and 1520 held by the Department of Defense or other agencies shall be reported to the General Services Administration (FWU), Washington, DC 20406, rather than to a GSA regional office.

* * * * *

§ 101–43.4902–1 [Amended]

2. Section 101–43.4902–1(f), item 18(b), is revised to change the term[1] Federal stock numbers to national stock numbers.

3. Section 101–43.4903 is revised to read as follows:

[1] Form and instructions filed as part of the original documents.

§ 101–43.4903 Regional offices addresses and assigned areas.

Region	Office address	Regional areas
1	General Services Administration, John W. McCormack Post Office and Courthouse, Boston, Mass. 02109.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
2	General Services Administration, 26 Federal Plaza, New York, N.Y. 10007.	New Jersey, New York, Commonwealth of Puerto Rico, Virgin Islands.
3	General Services Administration, Region 3, Washington, D.C. 20407.	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.
4	General Services Administration, 1776 Peachtree Street NW., Atlanta, Ga. 30309.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
5	General Services Administration, 230 South Dearborn St., Chicago, Ill. 60604.	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.
6	General Services Administration, 1500 East Bannister Rd., Kansas City, Mo. 64131.	Iowa, Kansas, Missouri, Nebraska.
7	General Services Administration, 819 Taylor St., Fort Worth, Tex. 76102.	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
8	General Services Administration, Building 41, Denver Federal Center, Denver, Colo. 80225.	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
9	General Services Administration, 525 Market St., San Francisco, Calif. 94105.	Arizona, California, Hawaii, Nevada, Pacific Ocean areas.
10	General Services Administration, GSA Center, Auburn, Wash. 98002.	Alaska, Idaho, Oregon, Washington.

§§ 101–43.4904 and 101–43.4904–1 [Amended]

4. Section 101–43.4904 is amended to illustrate the revised GSA Form 1539, January 1974, Request for Excess Personal property.[1]

5. Section 101–43.4904–1 is revised to illustrate current instructions[1] for preparing GSA Form 1539.

PART 101–44—DONATION OF PERSONAL PROPERTY

Subpart 101–44.3—Donation for Educational, Public Health, and Civil Defense, Including Research or Public Airport Purposes

1. Section 101–44.302(c) is revised to read as follows:

§ 101–44.302 Agency responsibility.

* * * * *

(c) *Federal Aviation Administration.*

(1) The Administrator of the Federal Aviation Administration (FAA) determines whether surplus property is essential, suitable, or desirable to fulfill the immediate or foreseeable future requirements for the development, improvement, operation, or maintenance of a public airport.

(2) The Administrator of FAA is responsible for determining and enforcing compliance with the terms and conditions under which surplus property is transferred. FAA is also authorized to remove or permit the removal of certain restrictions against the use of such property which prevent or hamper the accomplishment of the purpose contemplated by the transfer.

2. Section 101–44.313 is amended as follows:

§ 101–44.313 Agency compliance.

(a) *General.* The Department of Defense (DOD), the Department of Health, Education, and Welfare (HEW), and FAA are responsible for developing and maintaining an effective system for the prevention or detection of situations involving the nonuse, improper use, or the unauthorized disposal of surplus property donated for educational public health, civil defense, or public airport purposes. This responsibility will include surveillance for any abuses of donated property; corrective action where such cases are discovered; and the furnishing of compliance reports, as may be required, to GSA.

(b) *Instructions.* DOD, HEW, and FAA will provide GSA with copies of internal instructions which outline the scope of their respective surveillance programs, the policies and methods for the enforcement of their compliance responsibilities, and the correction of abuses in the use or disposal of donated property. Copies of instructions to eligible donees concerning the proper use of donated property will also be furnished, and any changes made to these internal or external issuances and explanations thereof, will also be provided to GSA.

(c) *Reports.*

(1) For GSA to accumulate information as a basis for the exercise of its discretionary authority to approve the donation of surplus property, DOD, HEW, and FAA will make such reports on compliance actions as may be required by the Administrator of General Services.

* * * * *

3. Section 101–44.318 is revised to read as follows:

§ 101–44.318 Donation to public airports.

(a) *Requirements.* The Administrator of FAA or his duly authorized representative shall determine requirements for donable personal property of any State, political subdivision, municipality, or tax-supported institution for public airport use.

(b) *Eligibility.* The Administrator of FAA or his duly authorized representative shall prescribe the eligibility requirements for public airport applicants, and shall make determinations of eligibility.

(c) *Screening.* The Administrator of FAA, his duly authorized representatives, and duly accredited representatives of public airports shall be permitted to screen, at appropriate times, holding agencies' donable property, both reportable and nonreportable, and lists and records thereof when available.

(d) *Determination.* An applicant for surplus property, to be used for public airport purposes, shall make application to GSA using Standard Form 123, Application for Donation of Surplus Personal Property, in accordance with § 101–44.306, for donation approval of surplus property determined by the Administrator of FAA or his duly authorized representative to be essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport, or reasonably necessary to fulfill the immediate and foreseeable future requirements of the grantees for the development, improvement, operation, or maintenance of a public airport. Applications shall be prepared in accordance with § 101–44.307 and shall not require shipment of unreasonably small quantities.

(e) *Approval.* Subject to prior approval of GSA, surplus personal property determined essential, suitable, or desirable for public airport use by the Administrator of FAA or his duly authorized representative may be transferred direct to the specific public airport applicant.

Subpart 101–44.6—Donation of Abandoned and Forfeited Personal Property

Sections 101–44.601–2, 101–44.601–3, and 101–44.601–5 are revised to read as follows:

§ 101–44.601–2 Establishment of eligibility.

Eleemosynary institutions desiring to obtain available distilled spirits, wine, and malt beverages shall submit GSA Form 18, Application of Eleemosynary Institution (see § 101–44.4904), to the General Services Administration (2FW), Washington, DC 20407.

§ 101–44.601–3 Requests by institutions.

Eligible institutions desiring to obtain available distilled spirits, wine, and malt beverages shall show on the GSA Form 18, Application of Eleemosynary Institution, the kind and quantity desired. The Federal Supply Service, GSA Region 3, will advise the eligible institution when such alcoholic beverages become available, request confirmation that the institution's requirement is current, and advise the institution that shipment will be initiated upon such confirmation.

§ 101–44.601–5 Donation of lots not required to be reported.

Forfeited distilled spirits, wine, and malt beverages not required to be reported under § 101–43.402–5 may be donated to eleemosynary institutions known to be eligible therefor if the beverages are determined by the seizing agency to be suitable for human consumption. The holding agency shall promptly report such donations by letter to the General Services Administration (3FW), Washington, DC 20407. This report shall state the quantity and type so donated, the name and address of the donee institution, and the date of the donation.

[1] Form and instructions filed as part of the original document.

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Subpart 101–45.3—Sale of Personal Property

1. Section 101–45.303(b) is revised to read as follows:

§ 101–45.303 Reporting property for sale.

• • • • •

(b) *Nonreportable property.* Property not required to be reported for utilization screening and for which any required donation screening has been completed shall be reported to the appropriate GSA regional office on Standard Form 126, Report of Personal Property for Sale (illustrated in § 101–45.4923). Standard Form 126A, Report of Personal Property for Sale (Continuation Sheet), shall be used if additional pages are required (illustrated in § 101–45.4923–1). Standard Forms 126 and 126A are stocked as five-part carbon interleaved forms and may be obtained from GSA supply distribution facilities.

2. Section 101–45.304–8 is amended as follows:

§ 101–45.304–8 Forms prescribed.

• • • • •

(a) *Deviation.* In the interest of establishing and maintaining uniformity in Government sales contracts, no deviation shall be made from the Standard Form 114 series, and no special conditions of sales shall be included which are inconsistent with the provisions contained therein, unless approval is obtained from the Commissioner, Federal Supply Service, General Services Administration, Washington, DC 20406.

• • • • •

(d) *Other special conditions.*

(1) Other special terms and conditions considered by a selling agency to be necessary for the particular property offered for sale and not inconsistent with those contained in the forms prescribed in this § 101–45.304–8 may be incorporated in invitations for bids in which these forms are used. Such additional terms and conditions should be kept to an absolute minimum. To the extent practicable, incorporation of such special conditions should be accomplished by a special form developed by the selling agency for that purpose and so indicated on Standard Form 114, Sale of Government Property-Bid and Award. Each selling agency shall review periodically such terms and conditions which are in common use in its agency with a view to standardization of those in general use and elimination of unnecessary additions. The agency shall, from time to time, forward to the Commissioner, Federal Supply Service, General Services Administration, Washington, DC 20406, such additional terms and conditions desirable for inclusion in the standard forms.

• • • • •

3. Section 101–45.309–6 is amended as follows:

§ 101–45.309–6 Controlled substances.

• • • • •

(a) • • •

(3) Be distributed only to bidders who are registered with the Drug Enforcement Administration, Department of Justice, to manufacture, distribute, or dispense the controlled substances for which the bid is being submitted; and

(4) Contain the following special condition of sale:

> The Bidder shall complete, sign, and return with his bid the certificate as contained in this invitation. No award will be made or sale consummated until after this agency has obtained from the Drug Enforcement Administration, Department of Justice, verification that the Bidder is registered to manufacture, distribute, or dispense those controlled substances which are the subject of the award.

(b) The following certification shall be made a part of the invitation for bids (and contract) to be completed and signed by the bidder and returned with the bid:

> The Bidder certifies that he is registered with the Drug Enforcement Administration, Department of Justice, as a manufacturer, distributor, or dispenser of the controlled substances for which bids are submitted and that the registration number is ——.
>
> ——————
> Name of bidder (print or type).
>
> ——————
> Signature of bidder.
>
> ——————
> Address of bidder (print or type).
>
> ——————
> City State ZIP code.

(c) As a condition precedent to making an award for surplus controlled substances, the following shall be submitted to the Drug Enforcement Administration, Department of Justice, Washington, DC 20537:

• • • • •

Subpart 101–45.5—Abandonment or Destruction of Surplus Property

Section 101–45.505 is amended as follows:

§ 101–45.505 Destruction of surplus drugs, biologicals, and reagents.

• • • • •

(b) When surplus drugs, biologicals, and reagents, including controlled substances, are required to be destroyed by the holding agency, they shall be destroyed in such a manner as to ensure total destruction of the substance to preclude the utilization of any portion thereof. The destruction shall be in accordance with Federal, State, and local air and water pollution control standards. When major amounts are to be destroyed, the action shall be coordinated with local air and water pollution control authorities. As to controlled substances, in addition to the requirements set forth herein, each executive agency shall comply with the provisions of 21 CFR 307.21 of the Drug Enforcement Administration (DEA) regulations or with equivalent procedures approved by the DEA.

(c) Destruction of surplus drugs, biologicals, and reagents, including controlled substances, shall be performed by an employee of the holding agency in the presence of two additional employees of the agency as witnesses to that destruction unless in the case of controlled substances the Regional Director of DEA directs otherwise.

• • • • •

Subpart 101–45.6—Debarred and Suspended Bidders

Section 101–45.603 is revised to read as follows:

§ 101–45.603 Notices of debarment or suspension.

(a) Any notice of debarment instituted hereunder shall be consistent with the requirements of FPR 1–1.604–1, shall be in writing, and shall provide the affected party an opportunity for a hearing if he so requests within a 20-day period from the date of mailing. The written notice shall be sent by registered or certified mail, return receipt requested, to the last known address of the party. Where the notice is sent by registered or certified mail to the last known address of the party but actual or personal delivery is not effected by the U.S. Postal Service or by other means, a debarment may be imposed; but upon the submission of an appropriate application any such debarment shall be subject to reopening, and in such event a hearing shall be accorded in respect to the debarment.

(b) Any notice of suspension instituted hereunder shall be consistent with the requirements of FPR 1–1.605–3, shall be in writing, and shall be sent to the affected party by registered or certified mail, return receipt requested, to the last known address of the party in question. The suspension shall be effective upon the mailing of this notice. However, whether or not actual or personal delivery is accomplished by the U.S. Postal Service, the party in question may, at any time, submit information in opposition to such suspension and such information shall be duly considered.

PART 101–46—UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

Subpart 101–46.4—Disposal

Section 101–46.407 is revised to read as follows:

§ 101–46.407 Reports.

As soon as possible after the close of each fiscal year, but in no event later than 90 calendar days after that close, executive agencies shall submit a summary report in letter form on the transactions made pursuant to this part during the fiscal year except for transactions involving books and periodicals. Negative reports are required. Total acquisition cost for property exchanged and total

acquisition cost for property sold shall be furnished by two-digit Federal Supply Classification Groups. The above data shall be broken down to show transactions in two categories: (a) in the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands; and (b) in all other areas of the world. The summaries shall not include any property that was initially designated for exchange/sale but which was transferred for further Federal utilization. Reports shall be addressed to the General Services Administration (FW), Washington, D.C. 20406. Since the data required by this report reflects operating supply transactions, it is excluded from the interagency reporting requirements as set forth in Subpart 101-11.11 of this chapter.

NOTE: The form and instructions in §§ 101-43.4902-1, 101-43.4904, and 101-43.4904-1 are filed as part of the original document and do not appear in the FEDERAL REGISTER.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

Effective date. This regulation is effective on December 27, 1974.

Dated: December 19, 1974.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.74-30220 Filed 12-26-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5461]

[A-026009, F-010114, F-010904, F-024731, F-030995, F-031030, F-034043]

ALASKA

Partial Revocation of Alaska Communications System Withdrawals; Partial Revocation of Pumping Station Site Withdrawal

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Public Land Order No. 2425 of July 3, 1961, which withdrew lands for the Department of the Army for the Alaska Communications System, is hereby revoked as to the following described lands:

SEWARD MERIDIAN

SHEEP MOUNTAIN REPEATER SITE (A-026009)

T. 20 N., R. 10 E. (Partly unsurveyed)
Sec. 29, E½W½SE¼SW¼, E½SE¼SW¼, S½SE¼, and those portions lying south of the centerline of the Glenn Highway of: S½SE¼NE¼SW¼, SE¼SW¼NE¼SW¼, S½SW¼NE¼SE¼, S½SE¼NW¼SE¼, and S½SW¼NW¼SE¼;
Sec. 32, N½NE¼, N½S½NE¼, E½W½NE¼NW¼, E½NE¼NW¼, E½NW¼SE¼NW¼, NE¼SE¼NW¼.
Containing approximately 287 acres.

2. Title to a portion of the lands described in Paragraph 1 has passed from the United States by quitclaim deed (AA-6185) issued under the Alaska Communications Disposal Act of November 14, 1967 (81 Stat. 441-444). The remaining lands, as described below, are withdrawn under the provisions of Public Land Order No. 5418 of March 25, 1974, for classification and protection of the public interest:

T. 20 N., R. 10 E. (Partly unsurveyed)
Sec. 29, E½W½SE¼SW¼, E½SE¼SW¼, E½SE¼SE¼, and those portions lying south of the centerline of the Glenn Highway of: S½SW¼NE¼SE¼, S½S½NW¼SE¼, S½SE¼NE¼SW¼, SE¼SW¼NE¼SW¼;
Sec. 33, NE¼NE¼NE¼, S½NW¼NE¼NE¼, S½NE¼NE¼, S½N½NW¼NE¼, S½NW¼NE¼, N½S½NE¼, E½NE¼NW¼, E½W½NE¼NW¼, E½NW¼SE¼NW¼, NE¼SE¼NW¼.
Containing approximately 212 acres.

3. (a) Public Land Order No. 975 of June 18, 1954, so far as it reserved the following described lands for use of the Department of the Army for the Alaska Communications System, is hereby revoked:

TOK TOWNSITE

TOK ACS SITE (F-010114)

Block 3E, lots 1 thru 8;
Block 4E, lots 1, 2, 3, 4, 11, 12, 13, shown as Federal Reserve on supplemental plat accepted October 16, 1951, of U.S. Survey No. [illegible]51.
Containing approximately 3.08 acres.

(b) Public Land Order No. 1114 of April 7, 1955, which withdrew lands for use of the Department of the Army for the Alaska Communications System is hereby revoked in its entirety. The affected lands are described as follows:

TOK TOWNSITE

TOK ACS SITE (F-010904)

Two tracts of land situated within Tok Townsite, U.S. Survey 2931, Alaska, more particularly described as follows:

Tract 1: Commencing at the northwest corner of Lot 8, Block 3E, Tok Townsite; thence N. 09°02' E., 80 feet across First Avenue East to the true point of beginning; thence continuing N. 09°02' E., 200 feet; thence S. 80°58' E., along the south line of Second Avenue East 200 feet; thence S. 09°02' W., along the west line of East First Street 300 feet; thence N. 80°58' W., along the north line of First Avenue East, 200 feet to the true point of beginning, containing approximately 1.38 acres.

Tract 2: Commencing at the northwest corner of Lot 13, Block 4E., Tok Townsite; thence N. 09°02' E., 80 feet across First Avenue East to the true point of beginning; thence S. 80°58' E., along the south line of thence S. 80°58' S., along the south line of Second Avenue East 400 feet; thence S. 09°02' W., along the west line of East Second Street 300 feet; thence N. 80°58' W., along the north line of First Avenue East 400 feet to the true point of beginning, containing approximately 1.75 acres.

(c) Public Land Order No. 2257 of January 19, 1961, which withdrew lands for use of the Department of the Army for an Alaska Communications System Repeater Station is hereby revoked in its entirety. The affected lands are described as follows:

DELTA JUNCTION ACS REPEATER STATION (F-024731)

Beginning at Corner No. 5, U.S. Survey No. 2770 at Delta Junction, in the Fourth Judicial Division, the true point of beginning for this description; thence, S. 31°24' W., 300 feet to a point on the centerline of the Alaska Highway; S. 58°36' E., 635.21 feet long said centerline to a point; N. 31°24' E., 625.60 feet; N. 15°07' W., 236.86 feet; S. 74°53' W., 673.33 feet through Corner No. 4 of U.S. Survey 2770 to Corner No. 5 of said survey and the point of beginning. Containing 8.57 acres.

These lands have since been surveyed and are now described as Lot 82 of sec. 23, T. 10 S., R. 10 E., Fairbanks Meridian.

(d) Executive Order No. 8577 of October 29, 1940, and Public Land Order No. 290 of July 25, 1945, which withdrew lands for the War Department as a radio station site are hereby revoked in their entirety. The lands withdrawn were originally described by metes and bounds but have since been surveyed and are now described as:

KOTZEBUE ACS SITE (F-030995)

U.S. Survey 2963A and B, Block 4, Lots 1 and 2.
Containing 2.56 acres.

(e) Public Land Order No. 916 of October 1, 1953, as amended by Public Land Order No. 1613 of April 7, 1958, which withdrew lands for the Department of the Army for the Alaska Communications System is hereby revoked as to the lands described below. The lands withdrawn were originally described by metes and bounds but have since been surveyed and are now described as:

HARDING LAKE ACS SITE (F-031030)

T. 6 S., R. 4 E., Fairbanks Meridian
Sec. 15, lots 17 and 19.

Containing 4.63 acres.

4. All of the lands described in Paragraph 3 have been conveyed to RCA by quitclaim deed of January 10, 1971 (F-13507), issued under the Alaska Communications Disposal Act of November 14, 1967 (81 Stat. 441-444).

5. Public Land Order No. 386 of July 31, 1947, as amended, withdrawing lands under the jurisdiction of the Secretary of War for right-of-way purposes for a telephone line and an oil pipeline with appurtenances, is hereby revoked so far as it affects the following described lands:

PUMPING STATION "K", CANOL PROJECT (F-034043)

A tract of land containing 60 acres, situated on the north side of the Alaska Highway, to include the pumping plant and accessories at Pumping Station "K", Canol Project, more particularly described as follows:

Beginning at a point on the centerline of the Alaska Highway opposite the pumphouse at Mile Station 1330.1, thence by metes and bounds:

S. 80°56' E., 15 chains;
N. 9°04' E., 20 chains;
N. 80°56' W., 30 chains;
S. 9°04' W., 20 chains;
S. 80°56' E., along centerline of the Alaska Highway.
Approximately 15 chains to point of beginning.

The lands described above have been declared to be "property" within the

meaning of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377; 40 U.S.C. 472 (1970), and have been disposed of under that act and the regulations of the General Services Administration.

Dated: December 20, 1974.

JACK O. HORTON,
Assistant Secretary of the Interior.

[FR Doc.74-30242 Filed 12-26-74;8:45 am]

[Public Land Order 5459]

ALASKA

Amendment of Public Land Orders Nos. 5177, 5179, and 5180

By virtue of the authority vested in the Secretary of the Interior by sections 11(a)(3) and 22(h)(4) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, 696, 714, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 5177 of March 9, 1972, as amended, which withdrew lands for selection under section 12 of the act by any eligible village corporations established under section 8 of the act requiring deficiency withdrawal and the regional corporation for the approximate area covered by the operations of the Kodiak Area Native Association, now known as Koniag, Incorporated, is hereby amended to delete the following described lands from paragraph 2 of that order and add them to paragraph 1 of said order:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

T. 20 S., Rs. 45 and 46 W.
Ts. 30, 31, 32 S., R. 45 W.
Ts. 37, 38, 39 S., R. 50 W. (Fractional)
T. 41 S., R. 51 W. (Fractional)
T. 42 S., Rs. 49, 50, 51 W. (Fractional)
T. 44 S., Rs. 54 and 55 W. (Fractional)
T. 45 S., R. 54 W. (Fractional)

2. Public Land Order No. 5177 of March 9, 1972, as amended, is hereby further amended to add the following described lands to paragraph 1 of said order:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS (FRACTIONAL)

T. 37 S., Rs. 45 and 46 W.
T. 41 S., Rs. 50 and 55 W.
T. 42 S., Rs. 50, 54, and 55 W.
T. 43 S., Rs. 54 and 55 W.

3. Public Land Orders 5179 and 5180 of March 9, 1972, as amended, are hereby further amended to delete the lands described in paragraph 2 of this order.

4. The lands described in this order are hereby made subject to all the terms and conditions of Public Land Order No. 5177, and its amendments.

5. Prior to any conveyance of the lands described in this order the lands shall be subject to administration by the Secretary of the Interior under the applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this order. Applications for leases under the Mineral Leasing Act, as amended, 30 U.S.C. 181–287 (1970), will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

Dated: December 18, 1974.

JACK O. HORTON,
Assistant Secretary of the Interior.

[FR Doc.74-30243 Filed 12-26-74;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

SICK PAY EXCLUSION

Notice of Proposed Rulemaking

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by January 27, 1975. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, a person submitting written comments should not include therein material that he considers to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by January 27, 1975. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 72, 101, and 105 of the Internal Revenue Code of 1954, pertaining to the definition of "retirement age," and to the application of section 72 to accident and health plans.

Under the existing regulations, disability annuitants are entitled to exclude some, or all, of their annuity payments as "sick pay" under section 105(d) of the Code, but only until reaching "initial retirement age." Payments received after initial retirement age are treated in accordance with the rules of section 72, pertaining to the taxation of annuities.

Because of adverse court decisions, the Internal Revenue Service announced, in technical Information Release 1283, dated April 9, 1974, that taxpayers retired on disability can now apply the sick pay exclusion to their disability payments until mandatory retirement age.

Therefore, the purpose for this regulation is to formalize the Service's position as stated in TIR–1283, and to provide transitional rules pertaining to the application of section 72 to accident and health plans.

PROPOSED AMENDMENTS TO THE REGULATIONS

In view of the foregoing, the Income Tax Regulations (26 CFR Part 1) under sections 72, 101, and 105 of the Internal Revenue Code of 1954 are revised as follows:

Paragraph 1. Paragraph (b)(2) of § 1.72–4 is amended to read as follows:

§ 1.72–4 Exclusion ratio.

* * * * * * *

(b) *Annuity starting date.* * * *

(2) Notwithstanding the provisions of paragraph (b)(1) of this section, the annuity starting date shall be determined in accordance with whichever of the following provisions is appropriate:

(i) In the case of a joint and survivor annuity contract described in section 72(d) and paragraph (b)(3) of § 1.72–5, the annuity starting date is January 1, 1954, or the first day of the first period for which an amount is received as an annuity by the surviving annuitant, whichever is the later;

(ii) In the case of the transfer of an annuity contract for a valuable consideration, as described in section 72(g) and paragraph (a) of § 1.72–10, the annuity starting date shall be January 1, 1954, or the first day of the first period for which the transferee received an amount as an annuity, whichever is the later;

(iii) If the provisions of paragraph (e) of § 1.72–11 apply to an exchange of one contract for another, or to a transaction deemed to be such an exchange, the annuity starting date of the contract received (or deemed received) in exchange shall be January 1, 1954, or the first day of the first period for which an amount is received as annuity under such contract, whichever is the later; and

(iv) In the case of an employee who has retired from work because of personal injuries or sickness, and who is receiving amounts under a plan that is a wage continuation plan under section 105(d) and § 1.105–4, the annuity starting date shall be the date the employee reaches mandatory retirement age, as defined in § 1.105–4(a)(3)(i)(B). (See, also §§ 1.72–15 and 1.105–6 for transitional and other special rules.)

However, where such an employee retired before January 27, 1975, and elected to apply section 72 to amounts received for periods before mandatory retirement age, as provided in § 1.72–15(i), the annuity starting date shall be his retirement age as defined in § 1.79–2(b)(3).

PAR. 2. Section 1.72–15 is amended by revising paragraphs (a) and (d), example (1) of paragraph (f), and by adding new paragraphs (i) and (j) to read as follows:

§ 1.72–15 Applicability of section 72 to accident or health plans.

(a) *Applicability of section.* This section provides the rules for determining the taxation of amounts received from an employer-established plan which provides for distributions that are taxable under section 72 (or for distributions that are taxable under section 402(a)(2) or (e), or section 403(a)(2), in the case of certain total distributions) and which also provides for distributions that may be excludable from gross income under section 104 or 105 as accident or health benefits. See, however, paragraph (i) of this section with respect to the special election to apply section 72 to certain health or accident benefits. For example, this section will apply to a pension plan described in section 401 and exempt under section 501 which provides for the payment of pensions at retirement and the payment of an earlier pension in the event of permanent disability. This section will also apply to a profit-sharing plan described in section 401 and exempt under section 501 which provides for periodic distribution of the amount standing to the account of a participant during any period that the participant is absent from work due to a personal injury or sickness and for the distribution of any balance standing to the account of the participant upon his separation from service. For purposes of this section, the term "contributions of the employee" includes contributions by the employer which were includible in the employee's gross income. For special

rules relating to certain accident or health benefits which were treated as distributions to which section 72 applied, see paragraph (j) of this section.

* * * * *

(d) *Accident or health benefits attributable to employer contributions.* Any amounts received as accident or health benefits and not attributable to contributions of the employee are includible in gross income except to the extent that such amounts are excludable from gross income under section 105 (b), (c), or (d) and the regulations thereunder. Thus, such amounts may be excludable under section 105(d) as payments under a wage continuation plan. However, if such payments, when added to other such payments attributable to employer contributions, exceed the limitations of section 105(d), then the excess is includible in gross income under section 105(a). Such excess is not excludable under section 72. See, however, paragraph (i) with respect to the special election to apply section 72 to certain amounts received as accident or health benefits, and paragraph (j), for special rules relating to certain accident or health benefits which were treated as distributions to which section 72 applied.

* * * * *

(f) *Examples* * * *

Example (1). A, an employee, is a participant in a contributory pension plan described in section 401(a) and exempt under section 501(a). Such plan provides for the payment of a pension to each participant when he retires at age 65 or when he retires earlier if the retirement is due to permanent and total disability. In 1964, A, who was age 52, became totally and permanently disabled because of an injury, was hospitalized, and commenced to receive a pension of $74 a week under this plan. The weekly amounts received by A do not exceed 75 percent of his "regular weekly rate of wages" under section 105(d). A had contributed $11,500 to the plan. The plan does not expressly provide that any portion of the disability pension is purchased with employee contributions. Accordingly, it is presumed that no portion of the disability pension is purchased with A's contributions. The disability pension which A receives qualifies as payments under a wage continuation plan for purposes of section 105(d) and § 1.105-4, and if such payments are the only accident or health benefits which are attributable to the contributions of his employer, such payments are entirely excludable under section 105(d) until A reaches age 65, his mandatory retirement age under the plan. The payments which A receives after he becomes age 65 are taxable under section 72. The payments which A receives do constitute an annuity as defined in paragraph (b) of § 1.72-2, but since the amounts which he will receive during the first three years after attaining age 65 exceed his contributions, he shall exclude under § 1.72-13 the entire amount of all payments that he receives as an annuity after attaining age 65 until such amounts equal his contributions to the plan, or $11,500. Thereafter, the payments that he receives under the plan are includable in gross income.

* * * * *

(i) *Special election for employees retired before January 27, 1975.* (1) *Election to apply section 72.* Any employee who—

(i) Retired from work before January 27, 1975, because of personal injuries or sickness; and

(ii) Reached retirement age as defined in § 1.72-2(b)(3) (hereinafter referred to as "initial retirement age") before such date,

may elect to apply section 72 to amounts received after initial retirement age under an employer-established plan (as described in paragraph (a) of this section), even though such amounts constitute accident or health benefits to which section 105(d) would otherwise apply. The election provided for in this paragraph must be made with respect to all payments received after the employee's initial retirement age, or if assessment or collection of tax is prevented for such year by operation of any law or rule of law, then such election must be made for payments received in or after the first taxable year for which assessment or collection is not so prevented. However, elections which affect years after the first year for which the election is made and for which assessment or collection is so prevented, may be made only with the consent of, and subject to the conditions imposed by, the Commissioner. Further, where an employee has exercised the election provided for in this paragraph, the special rule of paragraph (j)(1) of this section, relating to the recomputation of the amount treated as the employee's investment in his annuity contract, shall not apply. An election made under this paragraph may be revoked only with the consent of the Commissioner.

(2) *Limitation.* If a taxpayer had claimed an exclusion after initial retirement age under section 105(d) for a taxable year for which assessment or collection of a deficiency is prevented by operation of any law or rule of law, such taxpayer may qualify for the election under this paragraph only if he agrees to the adjustments and conditions required by the Commissioner.

(3) *Manner of election.* The election provided for in paragraph (i)(1) of this section shall be made by the employee or his representative by attaching a statement to that effect to a return, or amended return, made for the taxable year in which the employee reached initial retirement age, or, if assessment or collection of tax is prevented for such year by operation of any law or rule of law, then such election shall be made by attaching such statement to the return, or amended return, for the first taxable year for which assessment or collection is not so prevented. In lieu of the procedures provided in this paragraph (i)(3) the Commissioner may prescribe a form and instructions for making the election.

(4) *Time for election.* The election provided for in paragraph (i)(1) of this section must be made within one year from [the date on which final regulations are filed by the Office of the Federal Register].

(5) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. On January 1, 1972, A, a calendar year taxpayer, retires at age 60, his initial retirement age, and receives an annuity to which (but for this paragraph) section 105(d) applies. A's mandatory retirement age is 65. A elects to apply section 72(d) as provided in this paragraph. Therefore, for 1972 and all subsequent years no amount received under the disability annuity may be excluded under section 105(d).

(j) *Special rules.* (1) *Amounts received as accident or health benefits in years closed to refund claims by law or rule of law.* Except where the election provided under paragraph (i) of this section has been exercised, an employee who—

(i) Retired from work because of personal injuries or sickness, and has reached initial retirement age, within the meaning of paragraph (i)(1) of this section, before January 27, 1975; and

(ii) Received amounts to which this section applies in years for which the allowance of a credit or refund of an overpayment of tax is prevented by operation of any law or rule of law,

shall determine the investment in, the consideration for, or the basis of the contract of such employee (hereinafter referred to in paragraph (j)(1) of this section as investment in the contract) in accordance with the rules of this paragraph. For years referred to in paragraph (j)(1)(ii) of this section, in determining the amount by which such investment in the contract shall be decreased, such investment shall not be decreased by amounts to the extent such amounts could have been excluded under section 105(d) (subject to the limitations contained in such provision). Therefore, such investment in the contract shall be decreased only by the excess of the amount excluded under section 72 for such years over the amount which could have been excluded under section 105(d). For example, in the case of an individual who was retired from work on account of injury or sickness for a full taxable year, if the amount excluded under section 72 was less than $5,200, the entire amount could have been excluded under section 105(d). On the other hand, if the amount excluded under section 72 was equal to or greater than $5,200 for a full taxable year, then $5,200 could have been excluded under section 105(d).

(2) *Surviving annuitants and beneficiaries.* (i) The rights of a surviving annuitant or beneficiary, with respect to the application of the rules of section 72, shall be based on the employee's investment in his annuity contract, as adjusted in accordance with the provisions of this paragraph. Thus, where an employee dies after having recomputed his investment as provided in paragraph (j)(1) of this section, and his contract provided a survivorship element, the survivor would assume the employee's recomputed investment for purposes of determining excludability of amounts under section 72.

(ii) Where a surviving annuitant or beneficiary failed to increase the amount treated as an employee's contribution toward his annuity contract to reflect the employee death benefit under section 101(b) and § 1.72-8(b), because the employee had treated his initial retirement

age (within the meaning of paragraph (i)(1) of this section) as his annuity starting date, such surviving annuitant or beneficiary may apply section 101 (b) as if the appropriate addition to basis had been made in the year of the employee's death. For purposes of this paragraph, the amount treated as the section 101(b) death benefit would be valued as of the date of the employee's death.

(3) *Cross references.* (i) See section 72 (b)(4) and §1.72–4(b) with respect to annuity starting dates.

(ii) See §§ 1.72–8(b) and 1.101–2(a)(2) with respect to treating certain amounts received by an estate or beneficiary as employee death benefits.

(iii) See §1.105–4(a)(3)(i)(B) for the definition of "mandatory retirement age."

(iv) See § 1.105–6 with respect to the application of section 105(b) to certain amounts received as retirement annuities before January 27, 1975, where the employee would otherwise have been eligible for benefits to which section 105(d) applies.

(4) The provisions of this section may be illustrated by the following examples. In such examples assume that the plan does not expressly provide that any portion of the disability pension is purchased with employee contributions. Accordingly, it is presumed that no portion of the disability pension is purchased with employee contributions. Also, assume that in each case the taxpayer retired only after he had been absent from work for at least 30 days on account of personal injuries or sickness:

Example (1). A, a calendar year taxpayer, retired because of disability on January 1, 1968, his 59th birthday, receiving $80 per week ($4,160 per year) under a plan which qualifies as a wage continuation plan under section 105(d) and § 1.105–4. Under the plan, A's initial retirement age is age 60 (January 1, 1970), and his mandatory retirement age is 65 (January 1, 1975). A's consideration for the contract was $10,000. For payments received in 1968 and 1969 A excluded the entire amount under section 105(d). Payments received with respect to periods after A's initial retirement age (January 1, 1970) were excluded under section 72(d) until his entire $10,000 consideration for his contract had been excluded. Thus, A applied section 72(d) to exclude $4,160 each year for taxable years 1970 and 1971, and $1,680 ($10,000—($4,160+$4,160)) for 1972. In late 1974 A realized that he was entitled to treat the full amount received under his annuity as excludable under section 105(d) rather than section 72 for the taxable years 1970 through 1974. Consequently, A filed amended returns for 1972 and 1973 excluding an additional $2,480 ($4,160—$1,680) and $4,160, respectively, claiming refunds based upon such additional exclusions. Moreover, A's annuity starting date is January 1, 1975 (A's mandatory retirement age), and he excludes under section 72(d) for 1975, 1976, and 1977, $4,160, $4,160 and $1,680 ($10,000—($4,160+$4,160)), respectively.

Example (2). B, a calendar year taxpayer retired because of disability, July 1, 1970, on his 58th birthday, receiving $1,000 per month under a plan which qualifies as a wage continuation plan for purposes of section 105(d) and § 1.105–4. Under the plan, B's initial retirement age is age 60 (July 1, 1972), and his mandatory retirement age is 65 (July 1, 1977). B's consideration for the contract was $25,000. For payments received in 1970 and 1971 B excluded under section 105(d) $2,600 and $5,200, respectively, from the $6,000 (6 x $1,000) and $12,000 (12 x $1,000) of the payments received under the plan. For the period January 1, 1972 through June 30, 1972, B excluded an additional $2,600 under section 105(d). For the period July 1, 1972 through December 31, 1972 B excluded under section 72(d)(1) the entire $6,000 in payments received under the plan. Similarly, B excluded under section 72(d)(1), the entire $12,000 in payments received under the plan in 1973. In 1974, B realized that he was entitled to take full advantage of the exclusion under section 105(d) for periods through June 30, 1977, when he would reach age 65. B filed amended returns for his 1972 and 1973 taxable years, recomputing his income without regard to section 72 and instead taking into account the exclusion under section 105(d). Thus, B restored to income the $6,000 he had previously excluded under section 72(d)(1) for 1972, and instead excluded an additional $2,600 ($5,200—$2,600) under section 105(d). Similarly, he restored to income the $12,000 he had previously excluded under section 72(d)(1) for 1973, and instead excluded $5,200. As a result, B's gross income was increased by a net amount of $3,400 ($6,000—$2,600) for 1972 and by a net amount of $6,800 ($12,000—$5,200 for 1973. B may continue to exclude under section 105(d) amounts he receives under the plan for periods prior to July 1, 1977. Thereafter, B would treat amounts received under the plan in accordance with the principles of section 72. Thus, July 1, 1977, would be his annuity starting date, and $25,000 would be his consideration for the contract.

Example (3). Assume the same facts as in example (2) except that B's investment in his annuity contract is $37,000, and that he is entitled to exclude under section 72(b) (without regard to this section) 16.9 percent or $2,028 of the $12,000 payments received per year. Thus, for the period July 1, 1972 through December 31, 1972, B had excluded under section 72(b) $1,014 (16.9 percent of $6,000), and for 1973, B excluded under section 72(b) $2,028. B files amended returns for 1972 and 1973 claiming the exclusion under section 105(d) for the entire period for both years. Thus, B restored to income $1,014 for 1972 and $2,028 for 1973, and claimed an additional $2,600 ($5,200—$2,600) exclusion under section 105(d) for 1972 and a $5,200 exclusion for 1973. Thus, for 1972 B is entitled to a net exclusion of $1,586 ($2,600—$1,014), and for 1973 a net exclusion of $3,172 ($5,200—$2,028). On July 1, 1977, B's investment in the contract is $37,000.

Example (4). C, a calendar year taxpayer, retired because of disability on January 1, 1965, on his 58th birthday receiving payments of $500 per month under a plan which qualifies as a wage continuation plan for purposes of section 105(d) and § 1.105–4. C had contributed $18,000 toward the cost of his annuity contract. Under the plan, C's initial retirement age is age 60 (January 1, 1967) and C's mandatory retirement age is age 70 (January 1, 1977). For taxable years 1965 and 1966 C excluded from gross income under section 105(d) $5,200 of the $6,000 (12×$500) he received from his employer as wage continuation benefits. On January 1, 1967, C began excluding all of the benefits C received in accordance with the rules of section 72(d). Thus, for 1967, 1968 and 1969, C excluded 100 percent of the annuity payments. For his taxable years 1970 through 1973, C included in his gross income all annuity payments. In 1974, C realized that he was entitled to use the exclusion under section 105(d) through December 31, 1976 (until he reached age 70). In 1974, C filed a timely claim for refund for his taxable years 1971, 1972 and 1973 (refunds for taxable year 1970 and prior years were barred by the statute of limitations), and continues to claim the exclusion under section 105(d) for 1974, 1975 and 1976. For 1977, C treats January 1, 1977 as the annuity starting date, and treats $15,600 as the investment in the contract. The $15,600 represents the $18,000 original investment in the contract reduced by the excess, $2,400, of the amount excluded under section 72 for 1967, 1968 and 1969 ($18,000) over the amount excludable under section 105(d) ($5,200×3) for such years.

Example (5). (i) D, a calendar year taxpayer retired because of disability, June 30, 1965, receiving $100 per month under a plan which qualifies as a wage continuation plan for purposes of section 105 (d) and § 1.105–4. Under the plan, the initial retirement age of D, whose birthday is January 1, is age 60 (January 1, 1967), and D's mandatory retirement age is age 70 (January 1, 1977). D has contributed $6,000 toward the cost of the annuity contract under such plan. For 1965 and 1966, D excludes under section 105 (d) the entire amount received under the plan ($600 and $1,200 respectively). For 1967, assume that D is entitled to exclude under section 72 (b) (without regard to this section) 27.5 percent, or $330 of the $1,200 payments under the plan per year. For 1967 through 1973, D excludes $330 per year under section 72 (b).

(ii) In 1974, D realized that he was entitled to use the exclusion provided in section 105 (d) up until January 1, 1977 when he reaches his mandatory retirement age and that he improperly applied section 72 to payments received in the years 1967 through 1973. In 1974, D filed a timely claim for refund with respect to the section 105 (d) wage continuation benefits, for 1971, 1972 and 1973 (refunds for taxable year 1970 and prior years were barred by the statute of limitations), and continues to claim the section 105 (d) exclusion for 1974, 1975 and 1976. D is entitled to a net exclusion of $870 ($1,200—$330) for each of the years 1971, 1972 and 1973.

(iii) Upon reaching mandatory retirement age on January 1, 1977, D treats such date as the annuity starting date, and treats $6,000 as the investment in the contract. The investment in the contract is not reduced, because the amount excluded under section 72(b) for 1967 through 1970 ($330 per year) does not exceed the amount excludable under section 105(d) ($1,200 per year), and the $330 per year excluded for 1971, 1972, and 1973 were restored to the investment in the contract. Therefore, assuming that D would be entitled to exclude 41.3 percent of the payments under the plan if the annuity starting date is January 1, 1977, D would be entitled to exclude $495.60 (41.3 percent of $1,200) per annum.

Example (6). Assume the facts stated in example (5) except that D's investment in his annuity contract is $100,000 and he received payments equaling $10,000 per year, and assume that D is entitled to exclude under section 72(b) (without regard to this section) 54.9 percent of the payments under the plan. Consequently, he excluded $5,490 (54.9 percent of $10,000) from his gross income for the years 1967 through 1973. In D's amended returns for 1971, 1972 and 1973, D restores $5,490 per year to the investment in the contract and excludes under section 105(d), $5,200, which represents a net increase in gross income of $290 ($5,490—$5,200). D excludes $5,200 per year under section 105(d) for 1974, 1975 and 1976. As of anuary 1, 1977, the annuity starting date, D treats $93,840 as his investment in the contract for purposes of section 72(b). The $93,840 represents the original investment of $100,000 reduced by the excess ($1,160) of the amount excluded under section 72 for

1967, 1968, 1969 and 1970 ($5,490×4=$21,960) over the amount excludable under section 105(d) ($5,280×4=$20,800). Therefore, assuming that D would be entitled to exclude 81.7 percent of the payments under the plan if the annuity starting date is January 1, 1971, D would be entitled to exclude $8,170 (81.7 percent of $10,000) per annum.

Example (7). Assume the same facts as in example (6) except that D's mandatory retirement age is 65 (January 1, 1970). D would determine his exclusion ratio for purposes of section 72(b) as of January 1, 1970, since D's mandatory retirement age is D's annuity starting date. D would treat $99,120 as his investment in his annuity contract as of such date for purposes of section 72(b). Assuming refunds for 1970 and prior taxable years were barred by the statute of limitations, the $99,120 represents the original investment of $100,000 reduced by the excess of the amount excluded under section 72(b) for 1967, 1968, and 1969 ($5,490×3=$16,470) over the amount otherwise excludable during those years under section 105(d) $5,200 × 3=$15,600). Therefore, assuming that D would be entitled to exclude 81.2 of the payments received under the plan if the annuity starting date is January 1, 1970, D would be entitled to exclude $8,120 (81.2 percent of the $10,000 received under the plans) per annum for 1971 and subsequent years. However, D is not entitled to exclude the additional $630 ($8,120—$5,490) for 1970 because credit or refund for 1970 and prior years is barred by the statute of limitations.

PAR. 3. Paragraph (a) (2) of § 1.101–2 is amended to read as follows:

§ 1.101–2 Employees' death benefits.

(a) *In general.* • • •

(2) The exclusion does not apply to amounts constituting income payable to the employee during his life as compensation for his services, such as bonuses or payments for unused leave or uncollected salary, nor to certain other amounts with respect to which the deceased employee possessed, immediately before his death, a nonforfeitable right to receive the amounts while living (see section 101(b)(2)(B) and paragraph (d) of this section). Further, the exclusion does not apply to amounts received as an annuity under a joint and survivor annuity obligation where the employee was the primary annuitant and the annuity starting date occurred before the death of the employee (see section 101(b)(2)(C) and paragraph (e)(1)(ii) of this section). In the case of amounts received by a beneficiary as an annuity (but not as a survivor under a joint and survivor annuity with respect to which the employee was the primary annuitant), the exclusion is applied indirectly by means of the provisions of section 72 and the regulations thereunder (see section 101(b)(2)(D) and paragraph (e)(1)(iii) and (iv) of this section). Thus, for example, the exclusion applies to amounts which are received by a survivor of an employee retired on disability under the provisions of the Civil Service retirement law (5 U.S.C. 8301 or any former corresponding provisions of law) or the Retired Serviceman's Family Protection Plan or Survivor Benefit Plan (10 U.S.C. 1431 et seq.), provided such employee dies before attaining mandatory retirement age (as defined in § 1.105–4(a)(2)(i)(B)).

• • • • •

PAR. 4. Paragraph (a) (3) (i) and (a) (3) (ii) of § 1.105–4 is amended to read as follows:

§ 1.105–4 Wage continuation plans.

(a) *In general.* • • •

(2) (i) Section 105(d) is applicable only if the wages or payments in lieu of wages are paid pursuant to a wage continuation plan. (See, however, § 1.105–6 for special rules for employees retired before January 27, 1975.) The term "wage continuation plan" means an accident or health plan, as defined in § 1.105–5, under which wages, or payments in lieu of wages, are paid to an employee for a period during which he is absent from work on account of a personal injury or sickness. Such term includes plans under which payments are continued as long as the employee is absent from work on account of personal injury or sickness. It includes plans under which there is a limitation on the period for which benefits will be paid, such as 13 or 26 weeks, and also plans under which benefits are continued until the employee is either able to return to work or reaches mandatory retirement age. Such term also includes a plan under which wages or payments in lieu of wages are paid to an employee who is absent from work on account of personal injury or sickness, even though the plan also provides that wages or payments in lieu of wages may be paid to an employee who is absent from work for reasons other than a personal injury or sickness.

• • • • •

(3) (i) (A) Section 105(d) applies only to amounts attributable to periods during which the employee would be at work were it not for a personal injury or sickness. Thus, an employee is not absent from work if he is not expected to work because, for example, he has reached mandatory retirement age. If a plan provides that an employee, who is absent from work on account of a personal injury or sickness, will receive a disability pension or annuity as long as he is disabled, section 105(d) is applicable to any payments that he receives under this plan before reaching mandatory retirement age, as defined in paragraph (a)(3)(i)(B) of this section. Thus, section 105(d) would not apply to the payments that an employee receives after reaching mandatory retirement age. The disability retired pay received by a member on the retired list pursuant to section 402 of the Career Compensation Act of 1949 (63 Stat. 802) or chapter 61 of title 10, United States Code (10 U.S.C. 1201 et seq.) which is in excess of the amounts excludable under section 104(a)(4) and paragraph (c) of § 1.104–1 shall be excluded from gross income subject to the limitations of section 105(d) and this section, if such pay is received before the member reaches mandatory retirement age. See § 1.72–15 for additional rules relating to the tax treatment of disability pensions. For the rules relating to certain reduced uniformed services retirement pay, see paragraph (c)(2) of § 1.122–1. For rules relating to a waiver by a member or former member of the uniformed services of a portion of disability retired pay in favor of a pension or compensation receivable under the laws administered by the Veterans Administration (38 U.S.C. 3105), see § 1.122–1(c)(3).

(B) The term "mandatory retirement age" as used in paragraph (a)(3)(i)(A) of this section means the age set by an employer for the mandatory retirement of employees in the class to which the taxpayer last belonged. Where no age is set for mandatory retirement, such term means age 65, or the age at which it has been the practice of the employer to terminate due to age, the services of the class of employees to which the taxpayer last belonged.

PAR. 5. The following section is added immediately after § 1.105–5 to read as follows:

§ 1.105–6 Special rules for employees retired before January 27, 1975.

(a) *Application of section 105 (d) to amounts received as retirement annuities.* An employee who retired from work before January 27, 1975, receiving payments under his employer-established plan (to which § 1.72–15 (a) applies) which payments were not treated as amounts received under a wage continuation plan for purposes of section 105(d), may, as of the date the employee retired, treat such plan as such a wage continuation plan to the extent such payments are received prior to mandatory retirement age (as described in § 1.105–4 (a)(3)(i)(B)), if—

(1) His employer had in operation at the time of his retirement a program providing accident and health benefits under a wage continuation plan to which section 105(d) would apply;

(2) The employer certifies, under procedures approved in advance under paragraph (c) of this section, that the employee would have been eligible for wage continuation benefits, under the terms and conditions of his employer's plan, because of personal injuries or sickness;

(3) At the time of the employee's retirement there was no substantive difference between the benefits being actually received and the benefits he would have received had he retired under his employer's wage continuation plan; and

(4) The employee agrees to the adjustments and conditions required by the Commissioner with respect to amounts excluded under section 72(b) or (d) in taxable years for which assessment or collection of a deficiency is prevented by law or rule of law.

(b) *Filing requirements.* (1) The certification required in paragraph (a)(2) and the agreement required in paragraph (a)(4) of this section shall be filed with the return, or amended return, made for the taxable year in which the employee reached initial retirement age, or, if assessment or collection of tax, or the filing of a claim for refund, is pre-

vented by operation of law or any rule of law, then for the first taxable year for which assessment of tax or claim for refund is not so prevented.

(2) The Commissioner may prescribe a form and instructions with respect to the agreement provided for in paragraph (a)(4) of this section.

(c) *Employer certification.* (1) *Advance approval of procedures.* Any reasonable and consistently applied procedures, approved in advance by the Internal Revenue Service, which require the employee to provide the employer or the insurer with medical documentation sufficient to show that an illness or disability existed as of the date of the employee's retirement, which would have entitled him to retire on account of personal injuries or sickness alone, are sufficient for purposes of this paragraph.

(2) *Place of submission.* Requests for advance approval of procedures for certification shall be submitted to the district director.

[FR Doc.74-30286 Filed 12-26-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 28]

DUNGENESS NATIONAL WILDLIFE REFUGE; WASH.

Public Access, Use, and Recreation; Correction

In FR Doc. 74-29393 appearing on page 43728 in the issue of Wednesday, December 18, 1974, an error was printed in the first sentence of paragraph 3. The sentence read as follows:

An evaluation of public use on the refuge has led to a recommendation that horses be permitted on the trail at all times and that horses be prohibited on the Spit during the principal public use season.

It was not the intent of this proposed rule to mean permitted; rather, the word should have been prohibited.

Accordingly, the first sentence of the third paragraph is corrected to read as follows:

An evaluation of public use on the refuge has led to a recommendation that horses be prohibited on the trail at all times and that horses be prohibited on the Spit during the principal public use season.

M. A. MARSTON,
Acting Director,
U.S. Fish and Wildlife Service.

[FR Doc.74-30177 Filed 12-26-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 26]

GRAIN STANDARDS

Miscellaneous Amendments; Supplemental Notice of Proposed Rulemaking

On December 4, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 42226) to amend certain sections of the regulations under the U.S. Grain Standards Act (7 U.S.C. 71 *et seq.*).

Notice is hereby given, in accordance with the administrative procedure provisions in 5 U.S.C. 553, and pursuant to the authority contained in the Act, that the said notice is hereby amended and supplemented with respect to certain provisions proposed for sections 26.14 and 26.15 of the regulations (7 CFR 26.14 and 26.15) in the above-mentioned notice of rulemaking published December 4, 1974, as hereinafter set out.

Statement of considerations. The proposed definition of "uniform in quality" in § 26.14(b)(4) of the proposal should be changed to reflect that the weighted average of the grain in the lot is not inferior to the load order grade. The wording in certain provisions of § 26.15, which provided for the inspection of grain in combined lots, inadvertently provided that the grain in each car, truck, barge, and each shiplot must conform to the load order grade. The wording of the section should have provided that no "material portion" of the grain in the combined lot could be of a grade inferior to the load order grade. A proposed definition of the term "material portion" has been added to section 26.15.

Accordingly, certain paragraphs proposed for §§ 26.14 and 26.15 in the notice of rulemaking published December 4, 1974 (39 FR 42226) are amended to read as follows:

1. In § 26.14, paragraph (b)(4) is revised to read as follows:

§ 26.14 Inspection of grain in ships.

* * * * * * *

(b) * * *

(4) The term "uniform in quality" shall mean that the weighted average of the grain in the lot is not inferior to the load order grade, and that no material portion in the lot is of a grade or equivalent of a grade inferior to the load order grade.

* * * * * * *

2. In section 26.15, paragraphs (b)(1), (c)(7), (d)(3), (e)(1) and (e)(2) are revised and (b)(4) is added to read as follows:

§ 26.15 Inspection and certification of grain in combined lots.

* * * * * * *

(b) * * *

(1) The term "uniform in quality" shall mean that the weighted average of the grain in the combined lot is not inferior to the load order grade, and that no material portion in the lot is of a grade or equivalent of a grade inferior to the load order grade.

* * * * * * *

(4) The term "material portion" shall mean a portion which is considered significant under a sampling plan prescribed in the instructions on the basis of approved statistical principles after consultation with the users of the service: *Provided*, That if the applicant has been informed by official inspection personnel or otherwise knows the quality of the grain prior to loading the grain on a ship, any portion of "off-grade" grain which is of an inferior grade in comparison with the load order grade shall be deemed to be a material portion.

(c) * * *

(7) The grain in the combined lots is found to be uniform in quality.

* * * * * * *

(d) * * *

(3) The grain in the combined lots was found to be uniform in quality.

* * * * * * *

(e) * * *

(1) *Grain not uniform in quality.* If the grain in the combined lot is found to be not uniform in quality, the grain in each portion shall be sampled, inspected, graded, and certificated as a separate lot.

(2) *Grain uniform in quality.* If the grain in the combined lot is found to be uniform in quality, an official certificate shall be issued.

* * * * * * *

Opportunity is hereby afforded all interested parties to submit written data, views, or arguments with respect to the proposed amendments of the regulations published December 4, 1974, as herein amended, to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. The time period for receiving written submissions on the proposal published on December 4, 1974, and as herein amended, is hereby extended to February 3, 1975. All written submissions on this said proposal, as herein amended, should be in duplicate and should be filed with the Hearing Clerk not later than February 3, 1975. All submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Consideration will be given to the written data, views, or arguments received by the Hearing Clerk and to other information available to the U.S. Department of Agriculture before final determination is made with respect to this proposal.

Done in Washington, D.C. on: December 20, 1974.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.74-30184 Filed 12-26-74;8:45 am]

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Notice of Proposed Rule Making With Respect to an Increase in Expenses for the 1974-75 Fiscal Period

This notice invites written comments relative to a proposed increase of $15,431 in the Control Committee expenses during the 1974-75 fiscal period (March 1, 1974, through February 28, 1975) under Marketing Order No. 917. Said increase would change the seasonal committee budget from $809,827 to $825,258 with no change in the related rate of assessment on handlers of the regulated fruits.

Consideration is being given to the following proposal submitted by the Com-

trol Committee, established under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

That the Secretary find that provisions pertaining to the committee expenses in paragraph (a) of § 917.212 *Expenses and rate of assessment* (39 FR 28277 and 30477) be revised to read as follows:

§ 917.212 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred during the fiscal period March 1, 1974, through February 28, 1975, will amount to $825,258.

* * * * * * *

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than January 17, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: December 20, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-30185 Filed 12-26-74;8:45 am]

[7 CFR Part 1033]

[Docket No. AO 166-A46]

MILK IN THE OHIO VALLEY MARKETING AREA

Notice of Extension of Time for Filing Briefs

Notice is hereby given that the time for filing briefs, proposed findings and conclusions on the record of the public hearing held November 7–8, 1974, at Columbus, Ohio, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Ohio Valley marketing area pursuant to notice issued October 16, 1974 (39 FR 37502) is hereby extended to January 2, 1975.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on: December 20, 1974.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.74-30183 Filed 12-26-74;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Part 113]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Notice of Extension of Time to Submit Written Data, Views, or Arguments

Notice is hereby given in accordance with the provisions contained in section 553 of title 5, United States Code, that the time for filing data, views, and arguments with respect to the proposed amendments to the regulations relating to viruses, serums, toxins, and analogous products in 9 CFR Part 113, as published in the FEDERAL REGISTER on October 22, 1974 (39 FR 37503) is extended to April 1, 1975 (37 Stat. 832–833; 21 U.S.C. 151–158).

Because of the newness of the requirements contained in the proposal, unexpected variations in the test results have occurred and additional time has been requested by industry to conduct more of the tests before making their comments.

Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828–A, Federal Building, Hyattsville, Maryland 20782. All comments received on or before April 1, 1975, shall be considered.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business. (7 CFR 1.27(b))

Done at Washington, D.C., this 20th day of December 1974.

J. M. HEJL,
Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-30189 Filed 12-26-74;8:45 am]

Office of the Secretary

[7 CFR Part 20]

[Amdt. 2]

EXPORT SALES REPORTING REGULATIONS

Notice of Proposed Rulemaking

The Export Sales Reporting Regulations issued pursuant to section 812 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (38 FR 28055, 39 FR 18630), require exporters to report information with respect to contracts for export sales of certain agricultural commodities.

Notice is hereby given that the Administrator, Foreign Agricultural Service, proposes to amend §§ 20.4(h) and 20.4(m) of these regulations to require that only transactions which include a firm price are to be reported. Transactions, which contain an agreed upon mechanism by which a firm price can be established would not be reportable until a fixed price has been determined. The Administrator further proposes to amend § 20.6(e) to provide for reporting only an ultimate country of destination and then only if such destination is definitely known to the reporting exporter. Intermediate destinations would no longer be reportable. Under this proposal the first report submitted after the effective date of this amendment would reflect adjustments in outstanding export sales in accordance with the proposed changes in these regulations. It is felt these proposals would improve the quality of data available to FAS.

Inquiries may be addressed, and data, views and arguments concerning the proposed amendment may be submitted to the Director, Export Sales Division, Rm. 4506, South Agriculture Building, 14th and Independence Avenue, SW, Washington, D.C. 20250. All material received on or before January 27, 1975, will be available for public inspection during normal business hours at the foregoing address.

It is therefore proposed to amend §§ 20.4(h), 20.4(m) and 20.6(e) in the manner set forth below.

Dated: December 23, 1974.

RICHARD J. BRODNER,
Acting Administrator Foreign Agricultural Service.

Sections 20.4 (h) and (m) and 20.6(e) are revised to read as follows:

§ 20.4 Definitions.

* * * * * * *

(h) *Export sale.* A transaction entered into between a reporting exporter and a foreign buyer. The transaction must represent a written agreement under which (1) the exporter agrees to export the commodity, (2) the foreign buyer agrees to receive the commodity, (3) there is a fixed price, and (4) payment will be made to or for the account of the reporting exporter by or on the behalf of the foreign buyer for delivery of the commodity. The quantity of "outstanding export sale" means the quantity not yet exported under an export sale. A transaction containing an agreed upon mechanism by which a price can be established shall not be reported until a fixed price is determined. A transaction which becomes operative only upon the imposition of export controls is excluded from this definition of "export sale" and such transactions shall not be reported under these regulations.

(m) *Purchases from foreign sellers.*

* * * * * * *

The purchase of a commodity from a seller whose place of business with respect to the transaction is outside the United States when the terms of the contract provide that the commodity to be delivered under the contract will be exported from the United States or where the seller has the option of exporting the commodity from the United States or from one or more other exporting countries. Such contracts which contain an agreed upon mechanism by which a price can be established shall not

be reported until a fixed price is determined.

§ 20.6 Submission of reports.

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(e) *Reporting of destinations.* If the country of destination is not definitely known to the reporting exporter at the time of filing a report, he shall report the destination as unknown.

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[FR Doc.74-30263 Filed 12-26-74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

STANDARD FOR OCCUPATIONAL EXPOSURE TO AMMONIA

Advance Notice of Proposed Rulemaking

The National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health, Education, and Welfare has submitted to the Secretary of Labor, pursuant to the Williams-Steiger Occupational Safety and Health Act of 1970, criteria for a recommended standard on the occupational exposure to ammonia. The office of Standards Development, Occupational Safety and Health Administration, U.S. Department of Labor is studying the criteria and would appreciate public participation on the issues of whether a new standard for ammonia should be issued on the basis of the criteria or any other information, and, if so, what should be the contents of a proposed standard for ammonia. The issues are set forth with greater particularity below.

Accordingly, interested persons are invited to submit written data, views, and arguments concerning a standard on occupational exposure to ammonia. Comments are specifically requested concerning:

(1) Whether a new standard on occupational exposure to ammonia should be issued;

(2) Each section of the standard recommended by NIOSH;

(3) Suitable alternatives to the recommendations of NIOSH;

(4) Work injury and illness experience with ammonia;

(5) Supported cost data of the estimated costs of coming into compliance with the standard recommended by NIOSH;

(6) Supported data on any possible environmental impact of the recommended standard, and specifically (a) any adverse environmental effects which cannot be avoided should the standard be adopted, (b) alternatives to such standard, (c) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (d) any irreversible commitments of resources which would be involved if the standard should be implemented; and

(7) Any other related issues.

Communications should be submitted to the Docket Officer, Occupational Safety and Health Administration, U.S. Department of Labor, Room 268, 1726 M Street, NW., Washington, D.C. 20210. The communications will be available for public inspection and copying at the above location.

The NIOSH document containing the criteria and the recommended standard on occupational exposure to ammonia will be available for inspection and copying, upon request, at any of the following addresses:

NATIONAL OFFICE

U.S. Department of Labor
Occupational Safety & Health Administration
Technical Data Center
Room 268
1726 M Street, N.W.
Washington, D.C. 20210

REGIONAL OFFICES

U.S. Department of Labor
Occupational Safety & Health Administration
Fifth Floor
18 Oliver Street
Boston, Massachusetts 02110

U.S. Department of Labor
Occupational Safety & Health Administration
1515 Broadway (1 Astor Plaza)
New York, New York 10036

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Occupational Safety & Health Administration
15220 Gateway Center
3535 Market Street
Philadelphia, Pennsylvania 19104

U.S. Department of Labor
Occupational Safety & Health Administration
1375 Peachtree Street, N.E.—Suite 587
Atlanta, Georgia 30309

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Occupational Safety & Health Administration
300 South Wacker Drive—Room 1201
Chicago, Illinois 60606

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7th Floor—Texaco Building
1512 Commerce Street
Dallas, Texas 75201

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Occupational Safety & Health Administration
911 Walnut Street
Room 3000
Kansas City, Missouri 64106

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Occupational Safety & Health Administration
Federal Building—Room 15010
1961 Stout Street
Denver, Colorado 80202

U.S. Department of Labor
Occupational Safety & Health Administration
9470 Federal Building
450 Golden Gate Avenue
Post Office Box 36017
San Francisco, California 94102

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Occupational Safety & Health Administration
506 Second Avenue
1808 Smith Tower Building
Seattle, Washington 98104

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Boston, Massachusetts 02109

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55 Pleasant Street
Concord, New Hampshire 03301

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Federal Building—Room 617
450 Main Street
Hartford, Connecticut 06103

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Occupational Safety and Health Administration
U.S. Post Office and Courthouse Building
436 Dwight Street
Room 504
Springfield, Massachusetts 01103

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Occupational Safety and Health Administration
90 Church Street—Room 1405
New York, New York 10007

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Occupational Safety and Health Administration
Federal Office Building
970 Broad Street—Room 1436C
Newark, New Jersey 07102

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Occupational Safety and Health Administration
Room 203—Midtown Plaza
700 East Water Street
Syracuse, New York 13210

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Occupational Safety and Health Administration
370 Old Country Road
Garden City, Long Island, New York 11530

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Condominium San Alberto Building
605 Condado Avenue—Room 208
Santurce, Puerto Rico 00907

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William J. Green, Jr. Federal Building
600 Arch Street
Philadelphia, Pennsylvania 19106

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Occupational Safety and Health Administration
Federal Building—Room 1110-A
31 Hopkins Plaza—Charles Center
Baltimore, Maryland 21201

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Charleston National Plaza—Suite 1726
700 Virginia Street
Charleston, West Virginia 25301

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4099 William Penn Highway
Monroeville, Pennsylvania 15146

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Federal Building—Room 8061
400 N. 8th Street, P.O. Box 10126
Richmond, Virginia 23240

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310 New Bern Avenue
Raleigh, North Carolina 27601

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Savannah, Georgia 31406

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3730 Riverside Plaza
Macon, Georgia 31204

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46 East Ohio Street
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234 N. Summit Street
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3100 Travis Street
Houston, Texas 77002

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1205 Texas Avenue
Lubbock, Texas 79401

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546 Carondelet Street—Room 302
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Room 512—Petroleum Building
420 South Boulder
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Little Rock, Arkansas 72201

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1015 Jackson Keller Road—Room 215
San Antonio, Texas 78213

U.S. Department of Labor
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Room 303—Federal Building
P.O. Box 1428
Albuquerque, New Mexico 87103

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1627 Main Street—Room 1110
Kansas City, Missouri 64108

U.S. Department of Labor
Occupational Safety and Health Administration
210 North 12th Boulevard, Room 554
St. Louis, Missouri 63101

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Petroleum Building
221 South Broadway Street—Suite 312
Wichita, Kansas 67202

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Occupational Safety and Health Administration
City National Bank Building
Room 803
Omaha, Nebraska 68102

U.S. Department of Labor
Occupational Safety and Health Administration
113 West 4th Street
North Platte, Nebraska 69101

U.S. Department of Labor
Occupational Safety and Health Administration
Squire Plaza Building
5521 W. Colfax Avenue
Lakewood, Colorado 80215

U.S. Department of Labor
Occupational Safety and Health Administration
Suite 525 Petroleum Building
2812 1st Avenue—North
Billings, Montana 59101

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Occupational Safety and Health Administration
Suite 300—Executive Building
455 East 4th South
Salt Lake City, Utah 84111

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100 McAllister Street—Room 1706
San Francisco, California 94102

U.S. Department of Labor
Occupational Safety and Health Administration
Suite 318—Ameroo Towers
2721 North Central Avenue
Phoenix, Arizona 85004

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Occupational Safety and Health Administration
333 Queen Street—Suite 606
Honolulu, Hawaii 96813

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Occupational Safety and Health Administration
1100 E. William Street
Carson City, Nevada 89701

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Hartwell Building—Room 401
18 Pine Avenue
Long Beach, California 90802

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121—107th Street, N.E.
Bellevue, Washington 98004

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Occupational Safety and Health Administration
Federal Building—Room 227
605 West 4th Avenue
Anchorage, Alaska 99501

U.S. Department of Labor
Occupational Safety and Health Administration
Room 536 Pittock Block
921 S. W. Washington Street
Portland, Oregon 97205

U.S. Department of Labor
Occupational Safety and Health Administration
220 Idaho Building
216 North 8th Street
Boise, Idaho 83702

and they will be available for inspection at the national and regional offices of the U.S. Department of Health, Education, and Welfare, National Institute for Occupational Safety and Health, at the following addresses:

U.S. Department of HEW
National Institute for Occupational Safety and Health
Room 10-A-22
5600 Fishers Lane
Rockville, Maryland 20852

U.S. Department of HEW
National Institute for Occupational Safety and Health
1100 Commerce Street, Room 9-C-08
Dallas, Texas 75202

U.S. Department of HEW
National Institute for Occupational Safety and Health
401 North Broad Street
Philadelphia, Pennsylvania 19108

U.S. Department of HEW
National Institute for Occupational Safety and Health
9017 Federal Building
19th and Stout Streets
Denver, Colorado 80202

U.S. Department of HEW
National Institute for Occupational Safety and Health
50 Seventh Street, N.E.
Atlanta, Georgia 30323

U.S. Department of HEW
National Institute for Occupational Safety and Health
Arcade Building
1321 Second Street
Seattle, Washington 98101

U.S. Department of HEW
National Institute for Occupational Safety and Health
John F. Kennedy Federal Building
Government Center
Boston, Massachusetts 02203

U.S. Department of HEW
National Institute for Occupational Safety and Health
26 Federal Plaza
New York, New York 10007

U.S. Department of HEW
National Institute for Occupational Safety and Health
601 East 12th Street
Kansas City, Missouri 64106

U.S. Department of HEW
National Institute for Occupational Safety and Health
254 Federal Office Building
50 Foulton Street
San Francisco, California 94102

U.S. Department of HEW
National Institute for Occupational Safety and Health
300 South Wacker Drive
Chicago, Illinois 60607

Finally, copies of the NIOSH document will be available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

This advance notice of proposed rulemaking is issued under section 6 of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655) and Secretary of Labor's Order No. 12-71 (36 FR 8754).

Signed at Washington, D.C., this 23rd day of December, 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-30226 Filed 12-26-74;8:45 am]

[29 CFR Part 1910]

STANDARD FOR OCCUPATIONAL EXPOSURE TO CHLOROFORM

Advance Notice of Proposed Rulemaking

The National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health, Education, and Welfare has submitted to the Secretary of Labor, pursuant to the Williams-Steiger Occupational Safety and Health Act of 1970, criteria for a recommended standard on the occupational exposure to Chloroform. The Office of Standards Development, Occupational Safety and Health Administration, U.S. Department of Labor is studying the criteria and would appreciate public participation on the issues of whether a new standard for Chloroform should be issued on the basis of the criteria or any other information, and, if so, what should be the contents of a proposed standard for Chloroform. The issues are set forth with greater particularity below.

Accordingly, interested persons are invited to submit written data, views, and arguments concerning a standard on occupational exposure to Chloroform. Comments are specifically requested concerning:

1. Whether a new standard on occupational exposure to Chloroform should be issued;

2. Each section of the standard recommended by NIOSH;

3. Suitable alternatives to the recommendations of NIOSH;

4. Work injury and illness experience with Chloroform;

5. Supported cost data of the estimated costs of coming into compliance with the standard recommended by NIOSH;

6. Supported data on any possible environmental impact of the recommended standard, and specifically (a) any adverse environmental effects which cannot be avoided should the standard be adopted, (b) alternatives to such standard, (c) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (d) any irreversible commitments of resources which would be involved if the standard should be implemented; and

7. Any other related issues.

Communications should be submitted to the Docket Officer, Occupational Safety and Health Administration, U.S. Department of Labor, Room 260, 1726 M Street, NW., Washington, D.C. 20210. The communications will be available for public inspection and copying at the above location.

The NIOSH document containing the criteria and the recommended standard on occupational exposure to Chloroform will be available for inspection and copying, upon request, at any of the following addresses:

NATIONAL OFFICE

U.S. Department of Labor
Occupational Safety and Health Administration
Technical Data Center
Room 200
1726 M Street, N.W.
Washington, D.C. 20210

REGIONAL OFFICES

U.S. Department of Labor
Occupational Safety & Health Administration
Fifth Floor
18 Oliver Street
Boston, Massachusetts 02110

U.S. Department of Labor
Occupational Safety & Health Administration
1515 Broadway (1 Astor Plaza)
New York, New York 10036

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Occupational Safety & Health Administration
15220 Gateway Center
3535 Market Street
Philadelphia, Pennsylvania 19104

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Occupational Safety & Health Administration
1375 Peachtree Street, N.E.—Suite 587
Atlanta, Georgia 30309

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300 South Wacker Drive—Room 1201
Chicago, Illinois 60606

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7th Floor—Texaco Building
1512 Commerce Street
Dallas, Texas 75201

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911 Walnut Street
Room 3000
Kansas City, Missouri 64106

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Federal Building—Room 15010
1961 Stout Street
Denver, Colorado 80202

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Occupational Safety & Health Administration
9470 Federal Building
450 Golden Gate Avenue
Post Office Box 36017
San Francisco, California 94102

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Occupational Safety & Health Administration
506 Second Avenue
1808 Smith Tower Building
Seattle, Washington 98104

AREA OFFICES

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Concord, New Hampshire 03301

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450 Main Street
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Room 504
Springfield, Massachusetts 01103

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Federal Office Building
970 Broad Street—Room 1435C
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Occupational Safety and Health Administration
Room 203—Midtown Plaza
700 East Water Street
Syracuse, New York 13210

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370 Old Country Road
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605 Condado Avenue—Room 328
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Federal Building—Room 1110-A
31 Hopkins Plaza—Charles Center
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Monroeville, Pennsylvania 15146

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Occupational Safety and Health Administration
Federal Building—Room 6081
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Building 10—Suite 33
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Federal Office Building—Room 613A
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U.S. Department of Labor
Occupational Safety and Health Administration
228 Idaho Building
216 North 8th Street
Boise, Idaho 83702

and they will be available for inspection at the national and regional offices of the U.S. Department of Health, Education, and Welfare, National Institute for Occupational Safety and Health, at the following addresses:

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Rockville, Maryland 20852

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Dallas, Texas 75202

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This advance notice of proposed rulemaking is issued under section 6 of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655) and Secretary of Labor's Order No. 12–71 (36 FR 8754).

Signed at Washington, D.C., this 23rd day of December, 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74–30225 Filed 12–26–74;8:45 am]

[29 CFR Part 1910]

STANDARD FOR OCCUPATIONAL EXPOSURE TO COTTON DUST

Advance Notice of Proposed Rulemaking

The National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health, Education, and Welfare has submitted to the Secretary of Labor, pursuant to the Williams-Steiger Occupational Safety and Health Act of 1970, criteria for a recommended standard on the occupational exposure to Cotton Dust. The Office of Standards Development, Occupational Safety and Health Administration, U.S. Department of Labor is studying the criteria and would appreciate public participation on the issues of whether a new standard for Cotton Dust should be issued on the basis of the criteria or any other information, and, if so, what should be the contents of a proposed standard for Cotton Dust. The issues are set forth with greater particularity below.

Accordingly, interested persons are invited to submit written data, views, and arguments concerning a standard on occupational exposure to Cotton Dust. Comments are specifically requested concerning:

(1) Whether a new standard on occupational exposure to Cotton Dust should be issued;

(2) Each section of the standard recommended by NIOSH;

(3) Suitable alternatives to the recommendations of NIOSH;

(4) Work injury and illness experience with Cotton Dust;

(5) Supported cost data of the estimated costs of coming into compliance with the standard recommended by NIOSH;

(6) Supported data on any possible environmental impact of the recommended standard, and specifically (a) any adverse environmental effects which cannot be avoided should the standard be adopted, (b) alternatives to such standard, (c) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (d) any irreversible commitments of resources which would be involved if the standard should be implemented; and

(7) Any other related issues.

Communications should be submitted to the Docket Officer, Occupational Safety and Health Administration, U.S. Department of Labor, Room 260, 1726 M Street, NW, Washington, D.C. 20210. The communications will be available for public inspection and copying at the above location.

The NIOSH document containing the criteria and the recommended standard on occupational exposure to Cotton Dust will be available for inspection and copying, upon request, at any of the following addresses:

NATIONAL OFFICE

U.S. Department of Labor
Occupational Safety and Health Administration
Technical Data Center
Room 200
1726 M Street, NW
Washington, D.C. 20210

REGIONAL OFFICES

U.S. Department of Labor
Occupational Safety & Health Administration
Fifth Floor
18 Oliver Street
Boston, Massachusetts 02110

U.S. Department of Labor
Occupational Safety & Health Administration
1515 Broadway (1 Astor Plaza)
New York, New York 10036

U.S. Department of Labor
Occupational Safety & Health Administration
16220 Gateway Center
3535 Market Street
Philadelphia, Pennsylvania 19104

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U.S. Department of Labor
Occupational Safety & Health Administration
1375 Peachtree Street, N.E.—Suite 587
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300 South Wacker Drive—Room 1201
Chicago, Illinois 60606

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7th Floor—Texaco Building
1512 Commerce Street
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911 Walnut Street
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Kansas City, Missouri 64106

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Federal Building—Room 11010
1961 Stout Street
Denver, Colorado 80202

U.S. Department of Labor
Occupational Safety & Health Administration
9470 Federal Building
450 Golden Gate Avenue
Post Office Box 36017
San Francisco, California 94102

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506 Second Avenue
1808 Smith Tower Building
Seattle, Washington 98104

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Occupational Safety and Health Administration
Custom House Building
State Street
Boston, Massachusetts 02109

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Federal Building—Room 425
55 Pleasant Street
Concord, New Hampshire 03301

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Federal Building—Room 617
450 Main Street
Hartford, Connecticut 06103

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436 Dwight Street
Room 504
Springfield, Massachusetts 01103

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Occupational Safety and Health Administration
90 Church Street—Room 1405
New York, New York 10007

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Federal Office Building
970 Broad Street—Room 14350
Newark, New Jersey 07102

U.S. Department of Labor
Occupational Safety and Health Administration
Room 305—Midtown Plaza
700 East Water Street
Syracuse, New York 13210

U.S. Department of Labor
Occupational Safety and Health Administration
270 Old Country Road
Garden City, Long Island, New York 11530

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Condominium San Alberto Building
605 Condado Avenue—Room 328
Santurce, Puerto Rico 00907

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Occupational Safety and Health Administration
William J. Green, Jr. Federal Building
600 Arch Street
Philadelphia, Pennsylvania 19106

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Occupational Safety and Health Administration
Federal Building—Room 1110-A
31 Hopkins Plaza—Charles Center
Baltimore, Maryland 21201

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Occupational Safety and Health Administration
Charleston National Plaza—Suite 1726
700 Virginia Street
Charleston, West Virginia 25301

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Room 802, Jonnet Building
4099 William Penn Highway
Monroeville, Pennsylvania 15145

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Federal Building—Room 8061
400 N. 8th Street, P.O. Box 10186
Richmond, Virginia 23240

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Building 10—Suite 23
La Vista Perimeter Park
Tucker, Georgia 30084

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Occupational Safety and Health Administration
Federal Office Building—Room 613A
310 New Bern Avenue
Raleigh, North Carolina 27601

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Occupational Safety and Health Administration
Room 204—Bridge Building
3200 E. Oakland Park Boulevard
Fort Lauderdale, Florida 33308

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1600 Hayes Street—Suite 302
Nashville, Tennessee 37203

U.S. Department of Labor
Occupational Safety and Health Administration
2809 Art Museum Drive—Suite 4
Art Museum Plaza
Jacksonville, Florida 32207

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Occupational Safety and Health Administration
Todd Mall, 2047 Canyon Road
Birmingham, Alabama 35216

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Suite 554-E—600 Federal Place
Louisville, Kentucky 40202

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Occupational Safety and Health Administration
Enterprise Building—Suite 204
3606 Abercorn Street
Savannah, Georgia 31406

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Occupational Safety and Health Administration
Commerce Building—Room 600
118 North Royal Street
Mobile, Alabama 36602

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Riverside Plaza Shopping Center
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Macon, Georgia 31204

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1710 Gervais Street—Room 205
Columbia, South Carolina 29201

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847 Federal Office Building
1240 East Ninth Street
Cleveland, Ohio 44199

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360 S. Third Street—Room 100
Columbus, Ohio 43215

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Michigan Theatre Building—Room 626
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Minneapolis, Minnesota 55401

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633 West Wisconsin Avenue
Milwaukee, Wisconsin 53203

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Occupational Safety and Health Administration
U.S. Post Office and Courthouse
Room 423
46 East Ohio Street
Indianapolis, Indiana 46204

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Occupational Safety and Health Administration
Room 5522—Federal Office Building
550 Main Street
Cincinnati, Ohio 45202

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Occupational Safety and Health Administration
Room 734 Federal Office Building
234 N. Summit Street
Toledo, Ohio 43604

U.S. Department of Labor
Occupational Safety and Health Administration
307 Central National Bank Building
2100 Travis Street
Houston, Texas 77002

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Occupational Safety and Health Administration
Adolphus Tower—Suite 1820
1412 Main Street
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Occupational Safety and Health Administration
Room 421—Federal Building
1205 Texas Avenue
Lubbock, Texas 79401

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Occupational Safety and Health Administration
546 Carondelet Street—Room 202
New Orleans, Louisiana 70130

U.S. Department of Labor
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Room 512—Petroleum Building
420 South Boulder
Tulsa, Oklahoma 74103

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Occupational Safety and Health Administration
Room 526—Donaghey Building
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Little Rock, Arkansas 72201

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Occupational Safety and Health Administration
1015 Jackson Keller Road—Room 215
San Antonio, Texas 78213

U.S. Department of Labor
Occupational Safety and Health Administration
Room 302—Federal Building
P.O. Box 1428
Albuquerque, New Mexico 87103

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Occupational Safety and Health Administration
1627 Main Street—Room 1110
Kansas City, Missouri 64108

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Occupational Safety and Health Administration
210 North 12th Boulevard, Room 554
St. Louis, Missouri 63101

U.S. Department of Labor
Occupational Safety and Health Administration
Petroleum Building
221 South Broadway Street—Suite 312
Wichita, Kansas 67202

U.S. Department of Labor
Occupational Safety and Health Administration
City National Bank Building
Room 508
Omaha, Nebraska 68102

U.S. Department of Labor
Occupational Safety and Health Administration
113 West 6th Street
North Platte, Nebraska 69101

U.S. Department of Labor
Occupational Safety and Health Administration
Squire Plaza Building
8527 W. Colfax Avenue
Lakewood, Colorado 80215

U.S. Department of Labor
Occupational Safety and Health Administration
Suite 529 Petroleum Building
2312 1st Avenue—North
Billings, Montana 59101

U.S. Department of Labor
Occupational Safety and Health Administration
Suite 309—Executive Building
455 East 4th South
Salt Lake City, Utah 84111

U.S. Department of Labor
Occupational Safety and Health Administration
100 McAllister Street—Room 1706
San Francisco, California 94102

U.S. Department of Labor
Occupational Safety and Health Administration
Suite 318—Amerco Towers
2721 North Central Avenue
Phoenix, Arizona 85004

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Occupational Safety and Health Administration
333 Queen Street—Suite 505
Honolulu, Hawaii 96813

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Occupational Safety and Health Administration
1100 E. William Street
Carson City, Nevada 89701

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Occupational Safety and Health Administration
Hartwell Building—Room 401
19 Pine Avenue
Long Beach, California 90802

U.S. Department of Labor
Occupational Safety and Health Administration
121–107th Street, N.E.
Bellevue, Washington 98004

U.S. Department of Labor
Occupational Safety and Health Administration
Federal Building—Room 237
605 West 4th Avenue
Anchorage, Alaska 99501

U.S. Department of Labor
Occupational Safety and Health Administration
Room 528 Pittock Block
921 S.W. Washington Street
Portland, Oregon 97205

U.S. Department of Labor
Occupational Safety and Health Administration
238 Idaho Building
210 North 8th Street
Boise, Idaho 83702

and they will be available for inspection at the national and regional offices of the U.S. Department of Health, Education, and Welfare, National Institute for Occupational Safety and Health, at the following addresses:

U.S. Department of HEW
National Institute for Occupational Safety and Health
Room 10-A-22
5600 Fishers Lane
Rockville, Maryland 20852

U.S. Department of HEW
National Institute for Occupational Safety and Health
1100 Commerce Street, Room 8-C-08
Dallas, Texas 75202

U.S. Department of HEW
National Institute for Occupational Safety and Health
401 North Broad Street
Philadelphia, Pennsylvania 19108

U.S. Department of HEW
National Institute for Occupational Safety and Health
9017 Federal Building
19th and Stout Streets
Denver, Colorado 80202

U.S. Department of HEW
National Institute for Occupational Safety and Health
50 Seventh Street, N.E.
Atlanta, Georgia 30323

U.S. Department of HEW
National Institute for Occupational Safety and Health
Arcade Building
1321 Second Street
Seattle, Washington 98101

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National Institute for Occupational Safety and Health
John F. Kennedy Federal Building
Government Center
Boston, Massachusetts 02203

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National Institute for Occupational Safety and Health
26 Federal Plaza
New York, New York 10007

U.S. Department of HEW
National Institute for Occupational Safety and Health
601 East 12th Street
Kansas City, Missouri 64106

U.S. Department of HEW
National Institute for Occupational Safety and Health
284 Federal Office Building
50 Foulton Street
San Francisco, California 94102

U.S. Department of HEW
National Institute for Occupational Safety and Health
300 South Wacker Drive
Chicago, Illinois 60607

Finally, copies of the NIOSH document will be available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

This advance notice of proposed rulemaking is issued under section 6 of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655) and Secretary of Labor's Order No. 12–71 (36 FR 8754).

Signed at Washington, D.C., this 23rd day of December, 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-30223 Filed 12-26-74;8:45 am]

[29 CFR Part 1910]

STANDARD FOR OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

Advance Notice of Proposed Rulemaking

The National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health, Education, and Welfare has submitted to the Secretary of Labor, pursuant to the Williams-Steiger Occupational Safety and Health Act of 1970, criteria for a recommended standard on the occupational exposure to crystalline silica. The Office of Standards Development, Occupational Safety and Health Administration, U.S. Department of Labor is studying the criteria and would appreciate public participation on the issues of whether a new standard for crystalline silica should be issued on the basis of the criteria or any other information, and, if so, what should be the contents of a proposed standard for crystalline silica. The issues

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are set forth with greater particularity below.

Accordingly, interested persons are invited to submit written data, views, and arguments concerning a standard on occupational exposure to crystalline silica. Comments are specifically requested concerning:

(1) Whether a new standard on occupational exposure to crystalline silica should be issued;

(2) Each section of the standard recommended by NIOSH;

(3) Suitable alternatives to the recommendations of NIOSH;

(4) Work injury and illness experience with crystalline silica;

(5) Supported cost data of the estimated costs of coming into compliance with the standard recommended by NIOSH;

(6) Supported data on any possible environmental impact of the recommended standard, and specifically, (a) any adverse environmental effects which cannot be avoided should the standard be adopted, (b) alternatives to such standard, (c) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (d) any irreversible commitments of resources which would be involved if the standard should be implemented; and

(7) Any other related issues.

Communications should be submitted to the Docket Officer, Occupational Safety and Health Administration, U.S. Department of Labor, Room 260, 1726 M Street NW., Washington, D.C. 20210. The communications will be available for public inspection and copying at the above location.

The NIOSH document containing the criteria and the recommended standard on occupational exposure to crystalline silica will be available for inspection and copying, upon request, at any of the following addresses:

National Office

U.S. Department of Labor
Occupational Safety and Health Administration
Technical Data Center
Room 260
1726 M Street, NW.
Washington, D.C. 20210

Regional Offices

U.S. Department of Labor
Occupational Safety & Health Administration
Fifth Floor
18 Oliver Street
Boston, Massachusetts 02110

U.S. Department of Labor
Occupational Safety & Health Administration
1515 Broadway (1 Astor Plaza)
New York, New York 10036

U.S. Department of Labor
Occupational Safety & Health Administration
15220 Gateway Center
3535 Market Street
Philadelphia, Pennsylvania 19104

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Occupational Safety & Health Administration
1375 Peachtree Street, N.E.—Suite 587
Atlanta, Georgia 30309

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Occupational Safety & Health Administration
300 South Wacker Drive—Room 1201
Chicago, Illinois 60606

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Occupational Safety & Health Administration
7th Floor—Texaco Building
1512 Commerce Street
Dallas, Texas 75201

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Occupational Safety & Health Administration
911 Walnut Street
Room 3000
Kansas City, Missouri 64106

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Occupational Safety & Health Administration
Federal Building—Room 15010
1961 Stout Street
Denver, Colorado 80202

U.S. Department of Labor
Occupational Safety & Health Administration
9470 Federal Building
450 Golden Gate Avenue
Post Office Box 36017
San Francisco, California 94102

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Occupational Safety & Health Administration
506 Second Avenue
1808 Smith Tower Building
Seattle, Washington 98104

Area Offices

U.S. Department of Labor
Occupational Safety and Health Administration
Custom House Building
State Street
Boston, Massachusetts 02109

U.S. Department of Labor
Occupational Safety and Health Administration
Federal Building—Room 425
55 Pleasant Street
Concord, New Hampshire 03301

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Federal Building—Room 617
450 Main Street
Hartford, Connecticut 06103

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Occupational Safety and Health Administration
U.S. Post Office and Courthouse Building
436 Dwight Street
Room 504
Springfield, Massachusetts 01105

U.S. Department of Labor
Occupational Safety and Health Administration
90 Church Street—Room 1405
New York, New York 10007

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Occupational Safety and Health Administration
Federal Office Building
970 Broad Street—Room 1435C
Newark, New Jersey 07102

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Room 208—Midtown Plaza
700 East Water Street
Syracuse, New York 13210

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370 Old Country Road
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Monroeville, Pennsylvania 15146

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Tucker, Georgia 30084

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Federal Office Building—Room 6134
310 New Bern Avenue
Raleigh, North Carolina 27601

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Occupational Safety and Health Administration
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2300 Oakland Park Boulevard
Fort Lauderdale, Florida 33309

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Occupational Safety and Health Administration
1600 Hayes Street—Suite 302
Nashville, Tennessee 37203

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Occupational Safety and Health Administration
2809 Art Museum Drive—Suite 4
Art Museum Plaza
Jacksonville, Florida 32207

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Occupational Safety and Health Administration
Todd Mall, 2047 Canyon Road
Birmingham, Alabama 35216

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Enterprise Building—Suite 204
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Savannah, Georgia 31405

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Commerce Building—Room 609
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Mobile, Alabama 36602

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Occupational Safety and Health Administration
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1710 Gervais Street—Room 205
Columbia, South Carolina 29201

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5760 I—55 North Frontage Road East
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300 South Wacker Drive
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1240 East Ninth Street
Cleveland, Ohio 44199

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Michigan Theatre Building—Room 636
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Detroit, Michigan 48226

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Occupational Safety and Health Administration
110 South Fourth Street—Room 427
Minneapolis, Minnesota 55401

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Clark Building—Room 400
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U.S. Post Office and Courthouse
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Cincinnati, Ohio 45202

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Room 734 Federal Office Building
234 N. Summit Street
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Occupational Safety and Health Administration
307 Central National Bank Building
2100 Travis Street
Houston, Texas 77002

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Occupational Safety and Health Administration
Adolphus Tower—Suite 1520
1412 Main Street
Dallas, Texas 75202

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Room 421—Federal Building
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Lubbock, Texas 79401

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Room 526—Donaghey Building
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Little Rock, Arkansas 72201

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1015 Jackson Keller Road—Room 215
San Antonio, Texas 78213

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Room 302—Federal Building
P.O. Box 1428
Albuquerque, New Mexico 87103

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Occupational Safety and Health Administration
1627 Main Street—Room 1110
Kansas City, Missouri 64108

U.S. Department of Labor
Occupational Safety and Health Administration
210 North 12th Boulevard, Room 554
St. Louis, Missouri 63101

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Occupational Safety and Health Administration
Petroleum Building
221 South Broadway Street—Suite 312
Wichita, Kansas 67202

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City National Bank Building
Room 6[illegible]
Omaha, Nebraska 68102

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Occupational Safety and Health Administration
113 West 6th Street
North Platte, Nebraska 69101

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Occupational Safety and Health Administration
Squire Plaza Building
3527 W. Colfax Avenue
Lakewood, Colorado 80215

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Occupational Safety and Health Administration
Suite 525 Petroleum Building
2812 1st Avenue—North
Billings, Montana 59101

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455 East 4th South
Salt Lake City, Utah 84111

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1100 E. William Street
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Occupational Safety and Health Administration
Hartwell Building—Room 401
19 Pine Avenue
Long Beach, California 90802

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Occupational Safety and Health Administration
121–107th Street, N.E.
Bellevue, Washington 98004

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Occupational Safety and Health Administration
Federal Building—Room 227
605 West 4th Avenue
Anchorage, Alaska 99501

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Occupational Safety and Health Administration
Room 526 Pittock Block
921 SW. Washington Street
Portland, Oregon 97205

U.S. Department of Labor
Occupational Safety and Health Administration
223 Idaho Building
216 North 8th Street
Boise, Idaho 83702

and they will be available for inspection at the national and regional offices of the U.S. Department of Health, Education, and Welfare, National Institute for Occupational Safety and Health, at the following addresses:

U.S. Department of HEW
National Institute for Occupational Safety and Health
Room 10–A–22
5600 Fishers Lane
Rockville, Maryland 20852

U.S. Department of HEW
National Institute for Occupational Safety and Health
1100 Commerce Street, Room 8–C–53
Dallas, Texas 75202

U.S. Department of HEW
National Institute for Occupational Safety and Health
401 North Broad Street
Philadelphia, Pennsylvania 19108

U.S. Department of HEW
National Institute for Occupational Safety and Health
9017 Federal Building
19th and Stout Streets
Denver, Colorado 80202

U.S. Department of HEW
National Institute for Occupational Safety and Health
50 Seventh Street, N.E.
Atlanta, Georgia 30323

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National Institute for Occupational Safety and Health
Arcade Building
1321 Second Street
Seattle, Washington 98101

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National Institute for Occupational Safety and Health
John F. Kennedy Federal Building
Government Center
Boston, Massachusetts 02203

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National Institute for Occupational Safety and Health
26 Federal Plaza
New York, New York 10007

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National Institute for Occupational Safety and Health
601 East 12th Street
Kansas City, Missouri 64106

U.S. Department of HEW
National Institute for Occupational Safety and Health
254 Federal Office Building
50 Foulton Street
San Francisco, California 94102

U.S. Department of HEW
National Institute for Occupational Safety and Health
300 South Wacker Drive
Chicago, Illinois 60607

Finally, copies of the NIOSH document will be available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

This advance notice of proposed rulemaking is issued under section 6 of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655) and Secretary of Labor's Order No. 12–71 (36 FR 8754).

Signed at Washington, D.C., this 23rd day of December, 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-30224 Filed 12-26-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 151]

RIGHT TO READ STATE GRANTS

Notice of Proposed Rule Making

In accordance with section 503 of the Education Amendments of 1972 (Pub. L. 92–318) and pursuant to the authority contained in section 2(a) of the Cooperative Research Act, Pub. L. 83–531, as amended (20 U.S.C. 331a), the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Part 151 of Title 45 of the Code of Federal Regulations by adding a new Subpart D, to read as set forth below.

1. *Right to Read Program.* Section 2 (a) (1) of the Cooperative Research Act authorizes the Commissioner of Education to award grants for surveys, dissemination of information, and exemplary projects in the field of education. Funds which are appropriated pursuant to this authority to carry out the Right to Read Program are utilized to make grants to, and contracts with, eligible applicants for the purpose of increasing functional literacy within the United States.

Apart from a limited number of specifically focused procurements, the Right to Read effort is carried out through grant awards pursuant to the provisions of this part. Grants are made within the following competitions or sub-programs: (1) Preservice Teacher Training; (2) Right to Read States Program; (3) School-based program; (4) Community-based program; and (5) Special projects for national impact.

The following regulations set forth rules governing the award and administration of grants for the planning and carrying out of statewide reading activities designed to prevent and eliminate illiteracy. The purpose of these grants is to provide financial assistance to State educational agencies (or other eligible applicants) so that they may train and provide technical assistance and information to school administrators responsible for the development and carrying out of reading programs in local educational agencies and other elementary and secondary schools.

2. *Section 503 procedures and effect.* Section 503 of the Education Amendments of 1972 requires the Commissioner to study all rules, regulations, guidelines, or other published interpretations or orders issued by him or by the Secretary after June 30, 1965, in connection with, or affecting, the administration of Office of Education programs; to report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives concerning such study; and to publish in the FEDERAL REGISTER such rules, regulations, guidelines, interpretations, and orders, with an opportunity for public hearing on the matters so published. The regulations proposed below reflect the results of this study as it pertains to the Right to Read States Program. Once these regulations are published in final form, and become effective after comments and hearing, all preceding rules, regulations, guidelines, and other published interpretations and orders issued in connection with or affecting the program (except the Office of Education's general provisions regulations) will be superseded. At present there will me no guidelines for the program. If guidelines should be issued in the future, they will be limited to recommendations and suggestions for program operation and management.

3. *Citations of legal authority.* As required by section 431(a) of the General Education Provisions Act and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section of the regulations has been placed in parentheses on the line following the text of the section.

On occasion, a citation appears at the end of a subdivision of the section. In that case, the citation applies to all that appears in that section between the citation and the next preceding citation. When the citation appears only at the end of the section it applies to the entire section.

4. *General provisions regulations.* The proposed regulations do not contain provisions relating to general fiscal and administrative matters. Requirements of this nature are covered by the Office of Education general provisions regulations (38 FR 30654, November 6, 1973). (Reference is made in particular to 45 CFR Part 100a, which contains general provisions for discretionary programs, including the Right to Read States Program.)

5. *Opportunity for public hearing.* Pursuant to section 503(c) of the Education Amendments of 1972, the Commissioner will provide interested parties an opportunity for a public hearing on these regulations as follows:

A hearing will take place at the U.S. Office of Education on January 27, 1975, in the auditorium of Regional Office Building Three (ROB–3), 7th and D Streets, SW., Washington, D.C. beginning at 10 a.m.

The purpose of the hearing is to receive comments and suggestions on the published materials.

Parties interested in attending the hearing should notify the Chairman, Office of Education Task Force on Section 503, 400 Maryland Avenue, SW., Room 2085, Federal Office Building Six (FOB–6), Washington, D.C. 20202, and are urged to submit a written copy of their comments with such notification. Each party planning to make oral comments at the hearing is urged to limit his presentation to a maximum of fifteen minutes.

Interested parties may also submit written comments and recommendations to the Chairman of the Education Task Force on Section 503 at the above address. All relevant material received prior to the date of the hearings will be considered. Comments and suggestions submitted in writing will be available for review in the above office between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week.

(Catalog of Federal Domestic Assistance Program Number 13.533; Right to Read—Elimination of Illiteracy)

Dated: November 13, 1974.

T. H. BELL,
U.S. Commissioner of Education.

Approved: December 12, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

As proposed, 45 CFR Part 151, Subpart D would read as follows:

Subpart D—Right to Read State Grants

§ 151.40 Scope and purpose.

(a) This subpart governs applications from State educational agencies (and other eligible applicants) for the purpose of carrying out statewide reading activities designed to assist school administrators responsible for the development and carrying out of reading programs in local educational agencies.

(b) (1) Although it is expected that grants pursuant to this subpart will ordinarily be awarded to State educational agencies because they are uniquely situated to carry out the activities described in this subpart, other eligible applicants under section 2 of the Act may also apply, and their applications will be reviewed on the basis of the funding requirements and criteria in this subpart.

(2) As used in this subpart, the term "State educational agency" shall include all eligible institutions, agencies, and organizations under the Act, and requirements or criteria referring to the "State educational agency" shall be applied with relationship to the applicant or grantee, as appropriate.

(20 U.S.C. 331a(a))

§ 151.41 Funding requirements.

(a) Projects assisted under this subpart must be designed to prevent and eliminate illiteracy through the following activities, and each application for assistance under this subpart must set forth a comprehensive plan which provides for the carrying out and integration of these activities:

(1) Statewide surveys and needs assessments to determine the state of the art in reading and reading instruction and to validate promising reading practices within the State. Activities conducted pursuant to this subparagraph must include an examination of the appropriateness of requirements and opportunities for preparation and certification of teachers, administrators, and other educational personnel in relationship to reading problems.

(2) (i) An exemplary training program for administrators responsible for reading programs in selected local educational agencies within the State, including training in (A) the teaching of basic reading skills, (B) organizational and administration skills, (C) interpersonal relations skills directed toward community involvement and the change process, (D) planning strategies, (E) the preparation of administrative support materials for reading programs, (F) the development and carrying out of tutoring projects in reading and the preparation of tutors for such projects, and (G) approaches to the provision of effective reading instruction for various target populations.

(ii) Administrators of reading programs in nonprofit private elementary and secondary schools may also receive training provided by the State educational agency pursuant to this subparagraph.

(3) The provision of technical assistance of an exemplary nature and the dissemination of information in support of the development, organization, and administration of reading programs in local educational agencies and other elementary and secondary schools. Activities conducted pursuant to this subparagraph must include: (i) the distribution of Right to Read materials and other information made available by the Commissioner; (ii) the provision of technical assistance, upon request and to the extent feasible, related to the use and application of such Right to Read materials and other information; (iii) the provision of follow-up technical assistance, upon request, to training program participants related to the specific areas in which training was offered, as described in subparagraph (2) of this paragraph; and (iv) the provision of information on effective and validated reading programs and specific approaches to the teaching and learning of reading skills.

(b) Assistance under this subpart shall be subject to the following requirements, and each application for assistance under this subpart must provide information adequate to establish that these requirements will be met:

(1) Activities described in paragraph (a) of this section must (i) relate to the reading problems of both children and adults and (ii) address administrative, systemic problems, as well as learning problems at the classroom or individual learner level, related to the development and carrying out of effective reading programs.

(2) With respect to each of the activities described in paragraph (a) of this section, and application submitted under this subpart must set forth: (i) Specific and measurable objectives which will contribute to the elimination of illiteracy within the State; (ii) a proposed timeframe for accomplishing such objectives; (iii) an explanation of proposed procedures and strategies for accomplishing such objectives; and (iv) an evaluation component providing for the collection, verification, and analysis of data to measure the extent to which such objectives are accomplished by the project.

(3) (i) The grantee shall establish a State agency task force consisting of representatives of all programs within the State educational agency involving or related to reading activities.

(ii) The task force shall serve as a means of securing collaboration, with respect to the planning and implementation of the project assisted pursuant to this subpart, among representatives of different programs within the State agency involving or related to reading activities and also as a means for insuring that the project is effectively coordinated with other reading activities of the State educational agency.

(4) (i) The grantee shall appoint an advisory council consisting of representatives of the following institutions, groups, or interests within the State: (A) Reading programs of local educational agencies; (B) professional educational organizations; (C) the State legislature; (D) the Governor's Office; (E) business and industry; and (F) other public and private educational service and cultural associations.

(ii) The advisory council must be equitably representative of women and of racial and ethnic minority groups within the State.

(iii) The advisory council shall serve as an advisory body in planning, implementing, and evaluating the project and in providing for its coordination with other reading activities of local educational agencies and other schools within the State.

(5) (i) The grantee shall, with the advice of the advisory council established pursuant to paragraph (b) (4) of this section, develop standards of excellence defining the elements which ought to be involved in successful reading programs in the State.

(ii) Once they are developed, the standards of excellence shall be utilized in training activities conducted pursuant to paragraph (a) (2) of this section and as a measurement instrument in carrying out any continuing survey activities pursuant to paragraph (a) (1) of this section.

(20 U.S.C. 331a(a))

§ 151.42 Evaluation criteria.

(a) *Continuation awards.* The Commissioner will evaluate Right to Read State projects according to: (1) Criteria set forth in § 100a.26(b) of this chapter (general provisions regulations applicable to discretionary project awards funded by the Commissioner); (2) the effectiveness of the existing project in carrying out the comprehensive plan described in § 151.41(a); and (3) the extent to which continuation of the project is indicated in order to avoid losing the potential benefits of prior Federal investments in the projects.

(b) *New project awards.* The Commissioner will evaluate applications for new projects under this subpart in accordance with criteria set forth in § 100a.26(b) of this Chapter and the following criteria.

(1) The extent to which the State educational agency demonstrates a commitment to the elimination of illiteracy as evidenced by factors such as the following:

(i) The existing or planned organizational status within the State educational agency of personnel with administrative responsibilities related to reading programs.

(ii) The extent to which the applicant has initiated exemplary reading activities, including comprehensive planning, organizational development, exemplary reading projects, statewide needs assessment, and evaluation.

(iii) The extent to which visibility is given to the priority of reading through public announcements, State Board resolutions, and other efforts initiated by the State educational agency.

(2) The capability of the applicant to carry out effectively activities provided for in this subpart, as evidenced by factors such as the following:

(i) The extent to which the applicant has developed effective communications and delivery systems with local educational agencies and other schools and educational resources within the State for assisting in the provision of reading programs.

(ii) The extent to which the applicant has already engaged in comprehensive planning related to reading needs within the State.

(3) The overall quality of the proposed project in providing for and integrating all of the activities described in § 151.41(a) of this part to achieve maximum impact on the elimination of illiteracy within the State.

(4) The extent to which training and technical assistance activities involve, are related to, or hold promise of generating, innovative approaches, techniques, or other activities worthy of

replication in other States or by other public or private agencies and institutions within the State.

(5) The extent to which the application reflects knowledge of recent research and development in the area of reading.

(6) The extent to which the statewide program is based on a systematic assessment of the State's needs related to reading.

(20 U.S.C. 331a(a))

§ 151.44 Allowable costs.

Allowable costs under grants awarded pursuant to this subpart shall be determined in accordance with applicable cost principles set forth in the Appendixes to Subchapter A of this chapter, subject to the restriction that not in excess of five percent of the funds supplied under the grant may be used for evaluation purposes.

(20 U.S.C. 331a(a))

[FR Doc.74-30168 Filed 12-26-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74-CE-28]

ALTERATION OF CONTROL ZONE

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone at Dubuque, Iowa.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before January 27, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new VOR approach procedure is being established for Runway 36 at the Dubuque, Iowa, Municipal Airport. Accordingly, it is necessary to alter the control zone to encompass the approach procedure so as to provide protection for aircraft executing the new approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.171 (39 FR 354), the following control zone is amended to read:

DUBUQUE, IOWA

Within a 5-mile radius of Dubuque Municipal Airport (latitude 42°24'10" N., longitude 90°43'25" W.); within 3 miles each side of the Dubuque VORTAC 321° radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC; and within 3 miles each side of the Dubuque VORTAC 126° radial, extending from the 5-mile radius zone to 8 miles southeast of the VORTAC; within 3 miles each side of the Dubuque VORTAC 182° radial, extending from the 5-mile radius zone to 8 miles south of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri, on December 2, 1974.

A. L. COULTER,
Director, Central Region.

[FR Doc.74-30146 Filed 12-26-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-CE-29]

DESIGNATION OF TRANSITION AREA

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Hampton, Iowa.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before January 27, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Council, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

The City of Hampton, Iowa, has installed a non-directional radio beacon on the Hampton Municipal Airport and is going to establish a public use instrument approach procedure based thereon. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new procedure by designating a 700-foot transition area at Hampton, Iowa.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In Section 71.181 (39 FR 440), the following transition area is added:

HAMPTON, IOWA

That airspace extending upward from 700 feet above the surface within a five (5) mile radius of the Hampton Municipal Airport (latitude 42°43'35" N., longitude 93°13'38"); excluding that airspace which overlies the Mason City, Iowa transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

Issued in Kansas City, Missouri, on December 2, 1974.

A. L. COULTER,
Director, Central Region.

[FR Doc.74-30147 Filed 12-26-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-CE-33]

DESIGNATION AND ALTERATION OF TRANSITION AREAS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Charleston, Missouri, and alter the transition area at Cape Girardeau, Missouri.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before January 27, 1975, will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained

in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new public use instrument approach procedure is being established for the Charleston, Missouri, Municipal Airport. Accordingly, it is necessary to designate a transition area at Charleston, Missouri, to provide protection for aircraft executing the new instrument approach procedure.

The west VOR approach procedure at the Cape Girardeau, Missouri, Municipal Airport has been cancelled and a new VOR approach has been designated from the south. Accordingly, it is necessary to amend the 700-foot transition area by deleting that portion designed for the approach from the west and by adding a new description to provide protection for aircraft executing the new approach procedure from the south.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (39 FR 440), the following transition area is added:

CHARLESTON, MISSOURI

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Mississippi County Airport (latitude 36°50'22" N., longitude 89°21'42" W.); and within 3 miles each side of the 186° bearing from Charleston RBN (latitude 36°50'42" N., 89°21'24" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN, excluding that portion overlying the Sikeston transition area.

In § 71.181 (39 FR 440), the following transition area is amended to read:

CAPE GIRARDEAU, MISSOURI

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Cape Girardeau Municipal Airport (latitude 37°13'31" N., longitude 89°34'15" W.); within 4.5 miles east and 9.5 miles west of the Cape Girardeau VOR 194° radial, extending from the 10-mile radius area to 18.5 miles south of the VOR, excluding the portion which overlies the Sikeston transition area.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri, on December 2, 1974.

A. L. COULTER,
Director, Central Region.

[FR Doc.74-30148 Filed 12-26-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 120]

[FRL 305-8]

WEST VIRGINIA

Water Quality Standards; Withdrawal of Notice of Proposed Rulemaking

The purpose of this notice is to withdraw notice of proposed rulemaking published in the FEDERAL REGISTER on September 19, 1973 (38 FR 26209), in which the Environmental Protection Agency proposed to amend 40 CFR Part 120 to set out water quality standards for the State of West Virginia.

The September 19, 1973 notice of proposed rulemaking was issued pursuant to section 303 of the Federal Water Pollution Control Act, as amended (Pub. L. 92-500, 86 Stat. 816, 33 U.S.C. 1251 et seq., the "Act"), which provides for Federal promulgation of water quality standards where a State fails to adopt water quality standards meeting the requirements of the Act. The EPA is required to promulgate standards within 190 days of the proposal, unless by such time the State shall have adopted water quality standards which are found to be in accordance with the requirements of the Act.

One part of the standards which was considered unacceptable concerned the minimum flow rates established in the Monongahela River and zones 1 and 2 of the Kanawha River. Most States specify that water quality standards apply at all times except during periods of low or drought flow. Therefore, waste-load allocations and levels of treatment are designed so a discharge will be in compliance with water quality standards at these minimum flow levels. The minimum flow rates are determined by examining historical hydrographic records on the fluctuations in flow. EPA currently recommends that the 7 day, 10 year flow be used for design purposes. The minimum flow rates used for the rivers mentioned above were questioned by the EPA. The flows are regulated by various water control projects and natural levels can be manipulated.

It is now believed that there is insufficient technical justification to warrant final promulgation of the flow rates called for by EPA in its proposed regulation. EPA is therefore withdrawing from consideration the portion of the proposed notice concerned with promulgating minimum flow rates for the above mentioned rivers.

The State of West Virginia, EPA and the U.S. Army Corps of Engineers have undertaken a joint study to determine the minimum flow rates for the Monongahela River and zones 1 and 2 of the Kanawha River. The study is proposed for completion in December, 1974. Upon completion of the study the results will be submitted to the EPA. If the flow rates are determined to be other than what is currently in the State's standards, the State will then provide a schedule by which the correct flow rates will be adopted.

The State has adopted all other requested changes. In response, EPA fully approved the January 14, 1974 West Virginia Water Standards submittal on July 11, 1974.

The standards of West Virginia consist of Administrative Regulations, State Water Resource Board, Chapter 20, Articles 5 and 5A, Code of West Virginia, Series I (1965) and Series II (1967), as adopted by the West Virginia Water Resources Board, on January 14, 1974, filed in the Office of the Secretary of State on March 15, 1974, and which became effective April 15, 1974. The regulations amend the use classifications and certain criteria assigned to protect those classifications previously approved by the Environmental Protection Agency on July 30, 1970.

A copy of the standards may be found at EPA Headquarters, Room 807 East Tower, 401 M Street SW., Washington, D.C. 20460, the Region III Office, EPA, 6th and Walnut Streets, Curtis Building, Room 243, Philadelphia, Pennsylvania 19106 and the West Virginia Department of Natural Resources, 1201 Greenbriar Street, Charleston, West Virginia 25311.

In consideration of the foregoing, the notice of proposed rulemaking published in the FEDERAL REGISTER on September 19, 1973 (38 FR 26209), entitled "Water Quality Standards, Navigable Waters for the State of West Virginia", is hereby withdrawn.

This withdrawal is issued under the authority of section 303 of the Federal Water Pollution Control Act, as amended (Pub. L. 92-500, 86 Stat. 816, 33 U.S.C. 1251 et seq.).

Dated: December 19, 1974.

JOHN QUARLES,
Acting Administrator.

[FR Doc.74-30136 Filed 12-26-74;8:45 am]

[40 CFR Part 180]

[FRL 312-4]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Carbofuran

FMC Corp., 100 Niagara Street, Middleport, NY 14115, submitted a petition (PP 4E1483) proposing establishment of a tolerance for combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*N*-methylcarbamate); its carbamate metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methylcarbamate; and its phenolic metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-

2,2-dimethyl-3-oxo-7-benzofuranol, and 2,3 - dihydro - 2,2 - dimethyl-3,7-benzofurandiol in or on the raw agricultural commodity coffee beans at 0.1 part per million.

Based on consideration given data in the petition and other relevant material, it is concluded that:

1. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

2. The proposed tolerance will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), it is proposed that § 180.254 be amended by revising the paragraph "0.1 part per million in or on bananas * * *" to read as follows:

§ 180.254 Carbofuran; tolerances for residues.

* * * * *

0.1 part per million in or on bananas (negligible residue), coffee beans, sorghum grain, sugar beets, and sugarcane.

* * * * *

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, on or before January 27, 1975, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments with reference to this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 421 East Tower, 401 M Street, SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Environmental Protection Agency and others interested in inspecting the documents. The comments must be received on or before January 27, 1975, and should bear a notation indicating the subject. All written comments filed pursuant to this notice will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: December 19, 1974.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.74-30068 Filed 12-26-74;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 329]

INTEREST ON DEPOSITS

Notice of Pending Reconsideration

On November 26, 1974 the Board of Directors of the Federal Deposit Insurance Corporation (hereinafter the "Board of Directors") adopted a series of amendments to Part 329 of the Corporation's rules and regulations (12 CFR Part 329). The amendments appear at 39 FR 42339-42340.

Among other things, the amendments allow insured nonmember banks to hold savings deposits of public units. Since savings deposits include so-called "NOW accounts" in Massachusetts and New Hampshire, one effect of the amendments is to permit insured nonmember banks (both commercial banks and mutual savings banks) in those two States to maintain "NOW accounts" of public units. "NOW accounts" are savings deposits that are subject to withdrawal by negotiable or transferable instruments for the purpose of making transfers to third parties. 12 CFR 329.6(c) and 329.7(b)(1)(ii), as amended. The interest rate ceilings on these "NOW accounts" are presently set at 5 percent per annum for both commercial banks and mutual savings banks.

Following publication of the amendments, the Board of Directors received a sizeable number of comments, both written and oral, regarding their effect in allowing public units in Massachusetts and New Hampshire to maintain "NOW" accounts" with banks in those States.

In view of the controversy engendered by its previous action, the Board of Directors has decided to solicit public comments on the question of whether or not public units in Massachusetts and New Hampshire should be allowed to maintain "NOW accounts" with insured nonmember banks in those States.

The comment period has been set to expire on January 20, 1974. Consequently, all comments should be submitted to the Corporation on or before that date.

Since the possibility exists that the Board of Directors will decide, upon reconsideration, to bar insured nonmember banks in Massachusetts and New Hampshire (and non-Federally insured banks in Massachusetts which are subject to the Corporation's interest rate regulations) from maintaining "NOW accounts" for public units, those banks are advised not to accept such accounts from public units until the period for public comment has expired and the Board of Directors has formally acted upon reconsideration of the issues involved.

This notice is published pursuant to section 553(b) of Title 5, United States Code, and §§ 302.1-302.5 of the rules and regulations of the Federal Deposit Insurance Corporation.

Interested persons are invited to submit written data, views or arguments regarding the subject of this notice to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429, no later than January 20, 1975.

By order of the Board of Directors, December 23, 1974.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] ALAN R. MILLER,
Executive Secretary.

[FR Doc.74-30280 Filed 12-26-74;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 74-1017]

FEDERAL SAVINGS AND LOAN SYSTEM

Proposed Amendment Relating to Evidence of Ownership

DECEMBER 19, 1974.

The following summary of the amendment proposed by this resolution is provided for the reader's convenience and is subject to the full explanation in the following preamble and to the specific provisions of the proposed regulation.

I. *Existing regulation.* Contains no provision respecting the issuance of plastic cards as evidence of account ownership.

II. *Proposed regulation.* Imposes a requirement that any plastic card issued as evidence of savings account ownership bear on the card the legend "nontransferable" or "not transferable"; exception for Federal associations in New Hampshire and Massachusetts.

III. *Reason for proposal.* Would put in regulatory form a requirement consistently imposed by the Board in approving remote service unit (RSU) applications under Federal Regulation § 545.4-2 and would facilitate the future offering of third party transfer services by Federal associations through RSU's.

The Federal Home Loan Bank Board considers it desirable to propose an amendment to Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545), for the purposes described below. Accordingly, the Board hereby proposes to amend said Part 545 by adding a new paragraph (e) to § 545.2 thereof to read as set forth below.

The proposed amendment would have the effect of placing all Federal associations (except those having their home office in New Hampshire or Massachusetts) issuing or reissuing any machine-readable instrument as evidence of ownership of a savings account after June 30, 1975, in a position to use that instrument in connection with an approved remote service unit application under § 545.4-2 of the Federal Regulations. The amendment would require Federal associations to place on the instrument the legend "nontransferable" or "not transferable". This requirement has been consistently imposed by the Board on applications approved under said § 545.4-2.

Interested persons are invited to submit written data, views and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street, NW., Washington, D.C. 20552 by January 31, 1975, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

Section 545.2 would be amended by adding paragraph (e) as follows:

§ 545.2 Evidence of Ownership.

• • • • •

(e) *Issuance of plastic cards or other machine-readable instruments.* Any machine-readable instrument issued or reissued as evidence of ownership of a savings account after June 30, 1975 by a Federal association, other than such an association having its home office in New Hampshire or Massachusetts, shall bear on the instrument the legend "nontransferable" or "not transferable".

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Sec. 2, Pub. L. 93-100, 87 Stat. 342. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR., *Assistant Secretary.*

[FR Doc.74-30271 Filed 12-26-74;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z]

TRUTH IN LENDING ACT

Open End Credit Accounts—Specific Disclosures

1. Pursuant to the authority contained in the Truth in Lending Act (15 U.S.C. 1604), the Board of Governors proposes to amend Part 226 (Regulation Z). The proposed amendment would require creditors sending blank checks or other credit devices to credit card holders which are intended to be used in connection with such accounts to include a clear disclosure statement of the charges and other pertinent credit information specifically related to the use of the blank checks or other credit devices delivered. Such a disclosure statement would be required only the first time the blank checks or other credit devices are sent to the customer, but not when later renewed or resupplied.

2. The Board proposes to amend § 226.7 by the addition of a new paragraph (f) to read as follows:

§ 226.7 Open end credit accounts—specific disclosures.

• • • • •

(f) *Delivery of new credit devices for use in open end accounts.* If a creditor of an open end credit account mails or delivers, other than as a renewal or resupply, a blank check, draft, or order or other credit device to a customer or cardholder for use in connection with such account, such blank check, draft, or order or other credit device shall be accompanied by a single written statement setting forth clearly and conspicuously those disclosures in paragraph (a) of this section which specifically relate to the use of the credit devices delivered. Such disclosure statement shall be separate from any other disclosures or promotional material delivered at the same time.

3. The proposed amendment to § 226.7 adds new disclosure requirements in the event that creditors deliver to their open end account customers blank checks for use in activating the cash advance feature of such accounts. Such disclosures must be sent at the time such blank checks are first issued to the customer and must clearly state the charges and terms involved in their use. Similar disclosures would also be required to accompany the first delivery of any other credit device for use in connection with open end credit accounts.

Should the Board adopt the proposed amendment after considering the comments received on it, an effective date would be set far enough in advance to allow for the orderly change of forms where necessary.

This notice is published pursuant to section 553(b) of Title 5 United States Code, and § 262.2(a) of the Rules of Procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).

To aid in the consideration of these matters by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to any Federal Reserve Bank for transmittal to the Board, to be received at the Board not later than January 31, 1975. Such materials will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules Regarding Availability of Information.

By order of the Board of Governors, December 18, 1974.

[SEAL] THEODORE E. ALLISON, *Secretary of the Board.*

[FR Doc.74-30251 Filed 12-26-74;8:45 a.m.]

[12 CFR Part 226]

TRUTH IN LENDING

[Reg. Z]

Credit Other Than Open End—Specific Disclosures

1. Pursuant to the authority contained in the Truth in Lending Act (15 U.S.C. 1601 et seq.), the Board of Governors proposes to amend Part 226 (Regulation Z). The proposed amendment would require creditors to disclose to customers, in advance of their becoming obligated on a credit contract, a variable interest rate clause if the contract, note, or other instrument so provides. Amend § 226.8(b) by revising subparagraph (8) to read as follows:

§ 226.8 Credit other than open end—specific disclosures.

• • • • •

(b) *Disclosures in sale and nonsale credit.* • • •

(8) If the contract, note, or other instrument so provides, the fact that the annual percentage rate is prospectively subject to change; the conditions under which such rate may be changed; and if applicable, the maximum and minimum limits of such rates stipulated in the note, contract, or other instrument evidencing the obligation.

• • • • •

2. The proposed amendment to § 226.8 (b) stipulates disclosure requirements for other than open end credit when the contract, note, or other instrument provides that the annual percentage rate is prospectively subject to change. That possibility of change, the conditions under which the change may occur, and any maximum or minimum rates must be included with the other Truth in Lending disclosures to be given to the consumer prior to consummation of the original extension of credit.

3. Should the Board adopt the proposed amendment after considering the comments received on it, an effective date would be set far enough in advance to allow for the orderly change of forms where necessary. This notice is published pursuant to section 553(b) of Title 5 United States Code, and § 262.2(a) of the Rules of Procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).

To aid in the consideration of these matters by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to any Federal Reserve Bank for transmittal to the Board, to be received at the Board not later than January 31, 1975. Such materials will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules Regarding Availability of Information.

By order of the Board of Governors, December 18, 1974.

[SEAL] THEODORE E. ALLISON, *Secretary to the Board.*

[FR Doc.74-30252 Filed 12-26-74;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 141, 260]

[Docket No. RM75-12]

ANNUAL REPORT FORMS

Future Financing Requirements; Extension of Time

DECEMBER 19, 1974.

Revisions to FPC Annual Report Forms No. 1 and No. 2 to obtain future financing requirements.

On December 11, 1974 the Interstate Natural Gas Association of America and the American Gas Association on December 16, 1974 filed a motion to extend the time for filing comments to the proposed rulemaking noticed November 6, 1974, (39 FR 40174; Nov. 14, 1974) in the above-designated matter.

Upon consideration, notice is hereby given that the date for filing comments in the above matter is extended to and including February 21, 1975.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-30228 Filed 12-26-74;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Agency of International Development

ADVISORY COMMITTEE ON VOLUNTARY FOREIGN AID

Determination

The Advisory Committee on Voluntary Foreign Aid serves as liaison between the U.S. Government and the private and voluntary organization community engaged in foreign assistance activities. In addition to its statutory duty to register and approve private and voluntary organizations, the Committee advises A.I.D. and other U.S. Government agencies on policies and procedures concerning the private and voluntary organizations; provides information, counsel and assistance to such organizations; and fosters public interest in the field of voluntary foreign aid. There continues to be a significant need for such liaison and the related functions of the Committee.

Accordingly, I hereby determine, pursuant to the provisions of section 14(a)(1)(A) of the Federal Advisory Committee Act (Pub. L. 92-463) paragraph 7 of the OMB Circular A-63 (Revised) and a comprehensive review of the activities and responsibilities of the Committee which has been completed in accordance with OMB Bulletin No. 75-2, that renewal of the Advisory Committee for a two year period, beginning January 5, 1975, is in the public interest.

DANIEL PARKER,
Administrator.

NOVEMBER 15, 1974.

[FR Doc.74-30216 Filed 12-26-74;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

FIREARMS

Granting of Relief

Notice is hereby given that pursuant to 18 U.S.C., section 925(c), the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Alverson, James R., Nine Elm Street, Danville, New York, convicted on or about October 31, 1955, and March 12, 1958, in the Livingston County Court, Geneseo, New York.

Bergerson, Everett Paul, Route 2, Box 1602, Mosinee, Wisconsin, convicted on June 2, 1964, in the District Court of Payne County, Oklahoma.

Bjornson, Allen Lawrence, 45520 Platt, Utica, Michigan, convicted on December 12, 1955, in the Circuit Court, Macomb County, Michigan.

Bugg, Ronald C., Highway 100, Hogansville, Georgia, convicted on March 8, 1965, in the Coweta County Court, Georgia.

Burnia, Charles R., 630 Ethel Street, Elvins, Missouri, convicted on May 11, 1970, in St. Francois County Circuit Court, Missouri.

Butler, Joseph A., 750 Jamaica Street, Aurora, Colorado, convicted on September 23, 1942, in the Circuit Court, Cook County, Illinois.

Daily, Robert A., 13857 Cranston Avenue, Sylmar, California, convicted on January 23, 1967, and on or about December 1, 1967, in the Superior Court of the State of California for the County of Los Angeles.

Dennis, Andrew L., P.O. Box 85, Union, Washington, convicted on June 11, 1965, in the Pierce County Superior Court, Washington.

Donaho, Tony Robert, 2132-47th, Des Moines, Iowa, convicted on May 2, 1973, in the Polk County District Court, Des Moines, Iowa.

Downey, William R., 728 Cinnaminson Street, Philadelphia, Pennsylvania, convicted on November 19, 1964, in the Common Pleas Court, Philadelphia, Pennsylvania.

Ellison, David Jay, 116 North 7th Street, Mt. Vernon, Washington, convicted on February 5, 1962, in the Superior Court, Skakit County, Washington.

Esparza, Hugo R., 4421 S.W. 101st, Seattle, Washington, convicted on December 27, 1950, in the Superior Court of the State of Washington.

Ethridge, Charles Loyd, 606 Comer Street, Eufaula, Alabama, convicted on April 10, 1939, and October 4, 1962, in the United States District Court, Middle District of Alabama.

Fitch, Gregory Lee, 3473 Carnelian Way, Carson City, Nevada, convicted on February 28, 1972, in the Sixth Judicial District Court, Humboldt County, Nevada.

Frost, Bradley C., RD #1, Sterling, New York, convicted on December 13, 1966, in the Wayne County Court, New York.

Griebel, James C., 1015 North 30th Street, Billings, Montana, convicted on April 28, 1953, in the District Court of the Thirteenth Judicial District of the State of Montana, in and for the County of Yellowstone.

Hacker, Daryl L., R.R. #1, Bettendorf, Iowa, convicted on January 6, 1956, and February 4, 1956, in the State District Court, Davenport, Iowa.

Hatch, Clarence, 405 Lilac Drive, El Dorado, Arkansas, convicted on October 4, 1966, in in the First Division Circuit Court, Thirteenth Judicial District, Arkansas.

Hatfield, Bruce Emory, Corrine, West Virginia, convicted on June 1, 1971, in the United States District Court, Southern District of West Virginia.

Hawkins, Jack Gregory, Route 3, Box 154, McBean, Georgia, convicted on March 18, 1971, in the Superior Court of Richmond County, Georgia.

Henderson, II, Lonnie, 2871 Belvidere Street, Detroit, Michigan, convicted on November 15, 1962, in the Court of Common Pleas, Cuyahoga County, Ohio.

Hetrick, Bruce S., Box 106M, Kellogg Star Route, Oakland, Oregon, convicted on March 21, 1973, in the United States District Court for the District of Oregon.

Hetrick, Lois Kuhl, Box 106M, Kellogg Star Rt., Oakland, Oregon, convicted on March 21, 1973, in the United States District Court, Oregon.

Householder, Michael Patrick, 3834 W. Lapham Street, West Allis, Wisconsin, convicted on March 23, 1967, in the Seventh Judicial District Court, Smith County, Texas.

Howard, Joe Frank, Sr., 2383 Ridgeway Drive, San Diego, California, convicted on November 24, 1941, in the United States District Court, Eastern District of Louisiana, New Orleans Division.

Hull, James T., Terry Mill Road, Round Mountain, California, convicted on August 22, 1940, in the Superior Court of Contra Costa County, State of California.

Kendall, Michael E., Route 8, Box 77, Martinsville, Virginia, convicted on June 2, 1972, in the Circuit Court of Henry County, Virginia.

LeFiore, David Kirby, 7941 Wes Hodges, Dallas, Texas, convicted on October 11, 1963, in the Criminal District Court No. 4, Dallas County, Texas.

Luburgh, Wesley M., 498 Cedarleaf Drive, Centerville, Ohio, convicted on March 21, 1969, in the Montgomery County Court of Common Pleas, Ohio.

May, Robert Dixon, Route 4, Box 1C, Louisa, Kentucky, convicted on September 21, 1942, in the United States District Court for the Eastern District of Kentucky; and on June 10, 1947, in the United States District Court for the Northern District of

Menschner, Carl J., 1125 South Monaco Parkway, Denver, Colorado, convicted on April 6, 1961, in the District Court, City and County of Denver, Colorado.

Noe, Granville, J., 1700 Russell Cave Road, Lexington, Kentucky, convicted on November 7, 1956, and on June 6, 1957, in the Lincoln County Circuit Court, Lincoln County, Kentucky.

Ostroff, Leon Morris, 7063 Atoll Avenue, North Hollywood, California, convicted on or about March 8, 1954, and on May 15, 1956, in the Superior Court, Los Angeles County, California; on March 1, 1954, in the United States District Court, Southern District of California; and on June 27, 1956, in the Criminal Court of Bexar County, Texas.

Ostroll, Howard, P.O. Box 268, Ellenville, New York, convicted on June 8, 1964, in the Westchester County Court, White Plains, New York.

Patterson, Roy Lee, Route 3, Box 84, Edgewater, Maryland, convicted on April 9, 1958, in the Superior Court, County of Granville, North Carolina.

Rainbolt, Glen W., 2838 Stinson Blvd., Minneapolis, Minnesota, convicted on or about April 20, 1953, in the United States District Court for the Western District of Kentucky.

Reed, James Doyle, 946-9th Street, S.E., Mason City, Iowa, convicted on June 29, 1962, in the United States District Court, Northern District of Ohio and on July 14, 1971, in the United States District Court, Northern District of Iowa.

Rickheim, Everett William, 701 Spring Street, Muscatine, Iowa, convicted on May 23, 1972, in the Muscatine County District Court, Iowa.

Sanden, Darwin A., P.O. Box 940, International Falls, Minnesota, convicted on March 6, 1972, in the District Court, Koochiching County, Minnesota.

Simons, James A., 975 Johnnson Avenue, Cottage Grove, Oregon, convicted on September 22, 1967, in the Circuit Court, Lane County, Oregon.

Smith, III, William T., P.O. Box 51, Reacus, Virginia, convicted on March 24, 1971, in the Isle of Wight County Circuit Court, Virginia.

Spoonhour, Sr., Garnet Eugene, R.R. #2, Box 265, Fayetteville, Pennsylvania, convicted on January 15, 1965, in the Court of Quarter Sessions, Oyer and Terminer, Franklin County, Pennsylvania.

Staley, James W. 290 E. Truman Avenue, Salt Lake City, Utah, convicted on February 18, 1954, in the Circuit Court, Winnebago County, Illinois; on August 24, 1964, in the Superior Court, County of Siskiyou, California; and on August 28, 1965, in the District Court of Josephine County, Oregon.

Steen, Richard Dale, Route 1, Box 175-A2, Salem, Virginia, convicted on April 24, 1972, in the Circuit Court for the City of Salem, Virginia.

Stewart, Orie T., 1717 14th Court, Phenix City, Alabama, convicted on April 20, 1964, in the United States District Court, Middle District of Alabama.

Terry, Jimmy L., 307 Highland Street, Bristol, Tennessee, convicted on November 22, 1965, in the Criminal Court of Sullivan County, Tennessee.

Thurman, Clarence G., 718 Brown Street, Lafayette, Indiana, convicted on July 6, 1932, in the Circuit Court of Warren County, Indiana.

Walker, Jr., Preston Roy, 3133 Ninth Street, Rock Island, Illinois, convicted on March 23, 1955, in the District Court of Scott County, Iowa; on March 18, 1958, in the District Court of Polk County, Iowa; and on January 22, 1968, in the Fourteenth Judicial Circuit Court, Rock Island County, Illinois.

Ward, Warren W., 11002 Sagewillow, Houston, Texas, convicted on January 2, 1966, in the 177th District Court, Harris County, Texas.

Whalen, Frank Eugene, 2903 Old Selma Road, Montgomery, Alabama, convicted on February 25, 1959, in the Circuit Court, Fifteenth Circuit, Montgomery County, Alabama, and on November 2, 1959, in the Circuit Court, Fourteenth Circuit, Autauga County, Alabama.

Worthen, Billie T., 5461 S.W. Dillard Highway No. 36, Roseburg, Oregon, convicted on April 17, 1972, in the Circuit Court of the State of Oregon in and for the County of Coos.

Signed at Washington, D.C. this 11th day of December, 1974.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.74-30219 Filed 12-26-74;8:45 am]

Internal Revenue Service

[Order No. 110 (Rev. 1)]

ASSISTANT COMMISSIONER (ADMINISTRATION) AND REGIONAL COMMISSIONERS

Delegation of Authority; Overpayments of Pay and Allowances; Waivers of Claims

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 214 (Revision 2), dated August 19, 1974, the authority to act on requests for waivers of claims against employees (or former employees) arising from overpayments of pay and allowances, other than travel and transportation allowances and relocation expenses and allowances payable under 5 U.S.C. 5724a, by the Internal Revenue Service is hereby delegated as follows:

A. The Assistant Commissioner (Administration) is authorized:

(1) To approve or disapprove, in whole or in part, requests for waivers concerning present or former National Office employees, (including the IRS Data Center and the National Computer Center) in amounts not exceeding $500.00; and

(2) To recommend to the Comptroller General the approval or disapproval, in whole or in part, of requests for waivers concerning present or former IRS employees in amounts exceeding $500.00.

B. Regional Commissioners are authorized to approve or disapprove, in whole or in part, requests for waivers concerning present or former regional (including Regional Counsel and Regional Inspector) employees in amounts not exceeding $500.00.

The authority delegated herein may not be redelegated.

Delegation Order No. 110, issued May 9, 1969, is superseded.

Dated: December 13, 1974.

Effective: December 13, 1974.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.74-30132 Filed 12-26-74;8:45 am]

Office of the Secretary

[Treasury Dept. Order No. 234]

PUBLIC SALE OF GOLD

Directive

By virtue of the authority vested in me as Secretary of the Treasury by section 9 of the Gold Reserve Act of 1934 (31 U.S.C. 733) and the Reorganization Plan No. 26 of 1950, I hereby authorize and direct the Under Secretary for Monetary Affairs, Jack Bennett, to take all necessary and proper measures, including direction of other officials of the Department and utilization of the services of other government agencies, for the public sale of 2,000,000 fine troy ounces of gold on January 6, 1975.

Dated: December 18, 1974.

[SEAL] WILLIAM E. SIMON,
Secretary of the Treasury.

[FR Doc.74-30111 Filed 12-26-74;8:45 am]

[Treasury Dept. Order No. 233-2]

FEDERAL ENERGY ADMINISTRATION

Delegation of Authority

Cost of Living Council Order No. 47, as amended, generally delegated to the Administrator of the Federal Energy Office price stabilization authority, under the Economic Stabilization Act of 1970, as amended, with respect to petroleum products and crude oil. Executive Order No. 11790 of June 25, 1974 (39 FR 23185), abolished the Federal Energy Office and all of its regulatory powers were transferred to the Federal Energy Administration.

However, by virtue of paragraphs 3 and 5 of Cost of Living Council Order No. 47, as amended, the Council retained the authority to make determinations and take actions with respect to Phase II, Phase III, and Phase IV compliance and enforcement cases received by the Council from the nternal Revenue Service prior to December 21, 1973. Under Executive Order 11788 of June 18, 1974 (39 FR 22113), the Secretary of the Treasury assumed the authority retained by the Cost of Living Council. The Secretary in turn delegated that authority to the Office of Economic Stabilization by Treasury Department Order No. 233, dated June 28, 1974 (39 FR 24522).

It is the purpose of this order to ensure a continuing compliance and enforcement effort with respect to those Phase III and Phase IV cases involving price stabilization of petroleum and crude oil products received by the Cost of Living Council prior to December 21, 1973, and after June 13, 1973, but which have not yet been finally resolved by the Office of Economic Stabilization.

Therefore, by virtue of the authority delegated to me by paragraph 6 of Treasury Department Order No. 233, June 28, 1974 (39 FR 24522), it is hereby ordered as follows:

1. The authority formerly retained by the Cost of Living Council under the provisions of paragraphs 3 and 5 of Cost Living Council Order No. 47, as amended, insofar as they relate to Phase III and IV of the Cost of Living Council regulations, is hereby delegated to the Administrator of the Federal Energy Administration.

2. The Administrator may exercise the authority delegated by this order as though such authority had originally been delegated by Cost of Living Council Order No. 47, as amended.

3. This order is effective immediately.

Dated: December 18, 1974.

[SEAL] WARREN F. BRECHT,
Assistant Secretary for Administration.

[FR Doc.74-30110 Filed 12-26-74;8:45 am]

[Dept. Circular, Public Debt Series—No. 18-74]

7⅛ PERCENT TREASURY NOTES OF SERIES D–1979

Dated November 6, 1974, With Interest From January 7, 1975, Due May 15, 1979

DECEMBER 23, 1974.

I. INVITATION FOR TENDERS

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders at a price not less than 99.01 percent of their face value for $1,250,000,000 or thereabouts, of notes of the United States, designated 7⅛ percent Treasury Notes of Series D–1979. Additional amounts of these notes may be issued at the average price of accepted tenders to Government accounts and to Federal Reserve Banks for themselves and as agents of foreign and international monetary authorities. Tenders will be received up to 1:30 p.m., Eastern Standard time, Monday, December 30, 1974, under competitive and noncompetitive bidding, as set forth in Section III hereof.

II. DESCRIPTION OF NOTES

1. The notes now offered will be identical in all respects with the 7⅛ percent Treasury Notes of Series D–1979 issued pursuant to Department Circular, Public Debt Series—No. 12–74, dated October 15, 1974, except that interest will accrue from January 7, 1975. With this exception the notes are described in the following quotation from that circular:

1. The notes will be dated November 6, 1974, and will bear interest[1] from that date, payable on a semiannual basis on May 15, 1975, and November 15, 1975, and thereafter on May 15 and November 15 in each year until the principal amount becomes payable. They will mature May 15, 1979, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. Book-entry notes will be available to eligible bidders in multiples of those amounts. Interchanges of notes of different denominations and of coupon and registered notes, and the transfer of registered notes will be permitted.

[1] On October 23, 1974, the Secretary of the Treasury announced that the interest rate on the notes would be 7⅛ percent per annum.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. TENDERS AND ALLOTMENTS

1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Standard time, Monday, December 30, 1974. Each tender must state the face amount of notes bid for, which must be $1,000 or a multiple thereof, and the price offered, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a price. In the case of competitive tenders, the price must be expressed on the basis of 100, with two decimals, e.g., 100.00. Tenders at a price less than 99.01 will not be accepted. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account. Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowing thereon, and Government accounts. Tenders from others must be accompanied by payment of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and price range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept more or less than the $1,250,000,000 offered to the public, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $500,000 or less without stated price from any one bidder will be accepted in full at the average price[2] (in two decimals) of accepted competitive tenders.

4. All bidders are required to agree not to purchase or sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after 1:30 p.m., Eastern Standard time, Monday, December 30, 1974.

5. Commercial banks in submitting tenders will be required to certify that they have no beneficial interest in any of the tenders they enter for the account of their customers, and that their customers have no beneficial interest in the banks' tenders for their own account.

IV. PAYMENT

1. Settlement for accepted tenders in accordance with the bids together with $13.45565 per $1,000 for accrued interest from November 6, 1974, to January 7, 1975, must be made or completed on or before Tuesday, January 7, 1975, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt. Payment must be in cash, in other funds immediately available to the Treasury by January 7, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it, which must be received at such bank or at the Treasury no later than: (1) Friday, January 3, 1975, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District in case of the Treasury, or (2) Tuesday, December 31, 1974, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Where full payment is not completed on time, the allotment will be canceled and the deposit with the tender up to 5 percent of the amount of notes allotted will be subject to forfeiture to the United States. Payment may not be made through Tax and Loan Accounts. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, pre-

[2] Average price may be at, or more or less than 100.00.

scribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

WILLIAM E. SIMON,
Secretary of the Treasury.

[FR Doc.74-30260 Filed 12-26-74;8:45 am]

[DEPT. CIRCULAR, Public Debt Series—No. 17-74]

8 PERCENT TREASURY NOTES OF SERIES H-1976

Dated April 9, 1974, with Interest From January 9, 1975; Due March 31, 1976

DECEMBER 23, 1974.

I. INVITATION FOR TENDERS

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders at a price not less than 99.76 percent of their face value for $750,000,000, or thereabouts, of notes of the United States, designated 8 percent Treasury Notes of Series H-1976. Additional amounts of these notes may be issued at the average price of accepted tenders to Government accounts and to Federal Reserve Banks for themselves and as agents of foreign and international monetary authorities. Tenders will be received up to 1:30 p.m., Eastern Standard time, Thursday, January 2, 1975, under competitive and noncompetitive bidding, as set forth in Section III hereof.

II. DESCRIPTION OF NOTES

1. The notes now offered will be identical in all respects with the 8 percent Treasury Notes of Series H-1976 issued pursuant to Department Circular, Public Debt Series—No. 4-74, dated March 21, 1974, except that interest will accrue from January 9, 1975. With this exception the notes are described in the following quotation from that circular:

1. The notes will be dated April 9, 1974, and will bear interest [1] from that date, payable on a semiannual basis on September 30, 1974, March 31 and September 30, 1975, and March 31, 1976. They will mature March 31, 1976, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. Provision will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. TENDERS AND ALLOTMENTS

1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Standard time, Thursday, January 2, 1975. Each tender submitted must be in the minimum amount of $5,000. Tenders over $5,000 must be in multiples of $1,000. Each tender must state the price offered, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a price. In the case of competitive tenders, the price must be expressed on the basis of 100, with two decimals, e.g., 100.00. Tenders at a price less than 99.76 will not be accepted. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and price range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept more or less than the $750,000,000 offered to the public, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $500,000 or less without stated price from any one bidder will be accepted in full at the average price [2] (in two decimals) of accepted competitive tenders.

4. All bidders are required to agree not to purchase or sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after 1:30 p.m., Eastern Standard time, Thursday, January 2, 1975.

5. Commercial banks in submitting tenders will be required to certify that they have no beneficial interest in any of the tenders they enter for the account of their customers, and that their customers have no beneficial interest in the banks' tenders for their own account.

IV. PAYMENT

1. Settlement for accepted tenders in accordance with the bids together with $22.19780 per $1,000 for accrued interest from September 30, 1974, to January 9, 1975, must be made or completed on or before Thursday, January 9, 1975, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt. Payment must be in cash, in other funds immediately available to the Treasury by January 9, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it, which must be received at such bank or at the Treasury no later than: (1) Monday, January 6, 1975, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District in case of the Treasury, or (2) Thursday, January 2, 1975, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Where the full payment is not completed on time, the allotment will be canceled and the deposit with the tender up to 5 percent of the amount of notes allotted will be subject to forfeiture to the United States. Payments may not be made through Tax and Loan Accounts. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery

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[1] On March 27, 1974, the Secretary of the Treasury announced that the interest rate on the notes would be 8 percent per annum.

[2] Average price may be at, or more or less than 100.00.

of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

WILLIAM E. SIMON,
Secretary of the Treasury.

[FR Doc.74-30261 Filed 12-26-74;8:45 am]

DEPARTMENT OF DEFENSE

Defense Nuclear Agency

STEMMING AND CLOSURE PANEL

Meeting

DECEMBER 18, 1974.

The next meeting of the Stemming and Closure Panel (SACPAN), sponsored by the Defense Nuclear Agency (DNA), will be held 9–10 January 1975. SACPAN members will be asked to provide advice on on-going and future DNA underground test programs. The meeting will be closed to the public.

REED R. SAMUELSON,
Executive Secretary, SACPAN.

[FR Doc.74-30201 Filed 12-26-74;8:45 am]

Office of the Secretary

DEFENSE PANEL ON INTELLIGENCE

Closed Meeting

The Fourth meeting of the Defense Panel on Intelligence will be held 9 January 1975 in the Pentagon, Office of the Secretary of Defense, and in the interest of national security the meeting shall be closed to the public under the provisions of section 552(b)(1) of title 5, United States Code, since classified material will be discussed at all sessions of the meeting. Subject matter is to assess the cumulative effect of actions which have been taken to improve intelligence within the Department of Defense in response to recommendations of the Blue Ribbon Defense Panel and to the President's memorandum of 5 November 1971.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

DECEMBER 23, 1974.

[FR Doc.74-30241 Filed 12-26-74;8:45 am]

DEFENSE SCIENCE BOARD VULNERABILITY TASK FORCE

Advisory Committee Meeting

The Defense Science Board Vulnerability Task Force will meet in closed session on 28–29 January 1975 at the Air Force Weapons Laboratory, Kirkland Air Force Base, New Mexico.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director, Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will provide an assessment of the requirement for large Electromagnetic Pulse Simulators to verify the survivability of aircraft systems in environments produced by the detonation of nuclear weapons.

In accordance with Pub. L. 92–463, section 10, paragraph (d) it has been determined that this meeting concerns matters listed in section 552(b) of title 5 of the United States code, particularly subparagraph (1) thereof, and that the public interest requires such meetings to be closed insofar as the requirements of subsections (a)(1) and (a)(3) of section 10 Pub. L. 92–463 are concerned.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

DECEMBER 23, 1974.

[FR Doc.74-30180 Filed 12-26-74;8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE ON ACCURACY

Advisory Committee Meeting

The Defense Science Board Task Force on Accuracy will meet in closed session on January 13 at the ARPA offices (1400 Wilson Blvd., Arlington, Va.) and January 14 at the Pentagon, Arlington, Va.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The task Force will undertake a review of the accuracy of U.S. and Soviet strategic offensive systems to determine the confidence that can be placed in our present estimates of accuracy and it will recommend an R&D program which can lead to improved accuracy.

In accordance with Pub. L. 92–463, section 10, paragraph (d), it has been determined that Defense Science Board meetings concern matters listed in section 552(b) of title 5 of the United States code, particularly subparagraph (1) thereof, and that the public interest requires such meetings to be closed insofar as the requirements of subsections (a)(1) and (a)(3) of section 10, Pub. L. 92–463 are concerned.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

DECEMBER 23, 1974.

[FR Doc.74-30181 Filed 12-26-74;8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE ON "TRAINING TECHNOLOGY"

Advisory Committee Meeting

A Defense Science Board Task Force on "Training Technology" will meet in closed session on 20–22 January 1975 at the Institute for Defense Analyses, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will provide an evaluation of the current effectiveness of DoD programs and management in the R&D area of Training Technology to serve as the basis for DoD policy decisions to reduce costs and increase effectiveness and efficiency of DoD Training.

In accordance with Pub. L. 92–463, section 10, paragraph (d), it has been determined that Defense Science Board meetings concern matters listed in section 552(b) of title 5 of the United States code, particularly subparagraph (1) thereof, and that the public interest requires such meetings to be closed insofar as the requirements of subsections (a)(1) and (a)(3) of section 10, Pub. L. 92–463 are concerned.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

DECEMBER 23, 1974.

[FR Doc.74-30182 Filed 12-26-74;8:45 am]

DEPARTMENT OF JUSTICE

ACTION TO ENJOIN DISCHARGE OF POLLUTANTS

Proposed Consent Judgment

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, Notice is hereby given that on December 3, 1974, a proposed consent decree in United States v. Michaelian, et al. was lodged with the United States District Court for the Southern District of New York. The proposed decree prescribes measures to substantially eliminate the flow of leachate from the Westchester County landfill at Croton Point, Westchester County, New York.

The Department of Justice will receive on or before January 27, 1975, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and refer to United States v. Michaelian, et al., D.J. Ref. 90–5–1–1–268.

The proposed consent decree may be examined at the office of the United States Attorney, Foley Square, New York, New York 10007, at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007 and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Ninth Street and Pennsylvania Avenue, NW, Washington, D.C. 20530. A copy of the proposed consent decree may be obtained by applying in person or by mail to the Pollution Control Section. In requesting a copy, please enclose a check in the amount of $0.80 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

WALLACE H. JOHNSON,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc.74-30215 Filed 12-26-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 22237]

COLORADO

Notice of Application

DECEMBER 19, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Western Slope Gas Co., P.O. Box 840, Denver, Colorado 80201, has applied for a right of way for two (2) four inch natural gas gathering pipelines across the following lands:

SIXTH PRINCIPAL MERIDIAN, COLORADO
T. 3 S., R. 101 W.,
Sections 5 and 6

The pipelines will connect the continental Douglas Creek No. 19 and No. 20 natural gas wells to applicant's West Douglas Natural Gas Field Gathering System. The purpose of this project is to enable applicant to meet the increasing demands for adequate supplies of natural gas in the Grand Junction, Colorado market area to meet residential, commercial and industrial requirements.

The purposes of this notice are: To inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application, and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed pipeline right of way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objections must be filed with the Chief, Branch of Land Operations, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, within thirty days from the date of this notice.

EVERETT K. WEEDIN,
Chief, Branch of Land Operations.

[FR Doc.74-30214 Filed 12-26-74;8:45 am]

[NM 24024]

NEW MEXICO

Notice of Application

DECEMBER 17, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gas Co. has applied for a 2-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 6 W.,
Sec. 1, Lot 1.

This pipeline will convey natural gas across .054 miles of national resource lands in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-30203 Filed 12-26-74;8:45 am]

[NM 24025]

NEW MEXICO

Notice of Application

DECEMBER 17, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gas Company has applied for a 4-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 11 W.,
Sec. 34, Lot 3, NE¼SW¼.

This pipeline will convey natural gas across .165 mile of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 74-30204 Filed 12-26-74;8:45 am]

[NM 24026]

NEW MEXICO

Notice of Application

DECEMBER 17, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½-inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 26 E.,
Sec. 9, W½SE¼.

These pipelines will convey natural gas across .287 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-30205 Filed 12-26-74;8:45 am]

[NM 24027]

NEW MEXICO

Notice of Application

DECEMBER 17, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corp. has applied for four 4½-inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 5 W.,
Sec. 9, SE¼SE¼;
Sec. 10, SW¼SW¼.
T. 32 N., R. 8 W.,
Sec. 11, Lots 5, 6, 10, 11, 12, 15;
Sec. 12, Lot 9.
T. 31 N., R. 11 W.,
Sec. 7, SE¼SE¼;
Sec. 8, SW¼SW¼.

These pipelines will convey natural gas across 1.983 miles of national resource lands in Rio Arriba and San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-30206 Filed 12-26-74;8:45 am]

[NM 24052]

NEW MEXICO

Notice of Application

DECEMBER 17, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 S., R. 24 E.,
Sec. 9, SE¼SW¼.

This pipeline will convey natural gas across .038 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-30207 Filed 12-26-74;8:45 am]

[NM 24000]

NEW MEXICO

Notice of Application

DECEMBER 17, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½-inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 29 E.,
Sec. 16, SE¼SW¼, W½ SE¼;
Sec. 21, E½NW¼.

These pipelines will convey natural gas across .864 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-30208 Filed 12-26-74;8:45 am]

[NM 24003]

NEW MEXICO

Notice of Application

DECEMBER 17, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 11 W.,
Sec. 8, SE¼NE¼.

This pipeline will convey natural gas across .010 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-30209 Filed 12-26-74;8:45 am]

[NM 24051]

NEW MEXICO

Notice of Application

DECEMBER 18, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 22 S., R. 26 E.,
Sec. 27, SW¼SW¼;
Sec. 28, SW¼NW¼, N½SW¼, NW¼SE¼;
Sec. 29, SE¼NE¼;
Sec. 34, W½NW¼ and N½SW¼.

This pipeline will convey natural gas across 1.988 miles of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-30210 Filed 12-26-74;8:45 am]

[NM 23965]

NEW MEXICO

Notice of Application

DECEMBER 18, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Co. of America has applied for a 4-inch natural gas pipeline and meter site right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 25 E.,
Sec. 7, NE¼SW¼;
Sec. 8, N½SW¼.

This pipeline will convey natural gas across .662 mile of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-30211 Filed 12-26-74;8:45 am]

[NM 23999]

NEW MEXICO

Notice of Application

DECEMBER 17, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 10 S., R. 29 E.,
Sec. 12, W½W½;
Sec. 13, W½NW¼;
Sec. 23, N½SE¼ and SW¼SE¼.

This pipeline will convey natural gas across 1.933 miles of national resource lands in Chaves County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-30212 Filed 12-26-74;8:45 am]

[NM 23953, 24003]

NEW MEXICO

Notice of Applications

DECEMBER 17, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch and one 2⅜-inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 9 W.,
Sec. 9, Lots 3, 4, SE¼NW¼.
T. 29 N., R. 11 W.,
Sec. 9, NE¼SW¼.

These pipelines will convey natural gas across .413 mile of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-30213 Filed 12-26-74;8:45 am]

[S 5597]

CALIFORNIA

Notice of Application

DECEMBER 18, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), the Calnev Pipeline Company has applied for a 14" liquid fuel pipeline right-of-way across the following described public lands:

SAN BERNARDINO BASE AND MERIDIAN
CALIFORNIA

T. 11 N., R. 4 E.,
Sec. 34, S½SW¼, S½SE¼;
Sec. 35, SE¼NE¼, S½SW¼, N½SE¼, SW¼SE¼.
T. 11 N., R. 5 E.,
Sec. 2, SE¼NE¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 10, SE¼NE¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 20, NE¼SW¼, S½SW¼, N½SE¼, SW¼SE¼;
Sec. 30, N½NE¼, SW¼NE¼; Lots 1 & 2 of NW¼, Lot 2 of SW¼.
T. 12 N., R. 6 E.,
Sec. 26, SE¼SE¼;
Sec. 32, SE¼NE¼, SE¼NW¼, N½SW¼, N½SE¼;
Sec. 34, S½NE¼, S½NW¼.
T. 12 N., R. 7 E.,
Sec. 11, E½NE¼, SW¼NE¼, SE¼SW¼, W½SE¼;
Sec. 15, S½NE¼, NE¼SW¼, S½SW¼, NW¼SE¼;
Sec. 19, SE¼SE¼;
Sec. 20, SE¼NE¼;
Sec. 21, N½NE¼, SW¼NE¼, S½NW¼, NW¼SW¼;
Sec. 29, NW¼NW¼;
Sec. 30, N½NE¼, SW¼NE¼, S½; Lots 1 & 2 of NW¼, N½ of Lot 2 of SW¼;
Portions of unsurveyed land to the east of the SE¼SE¼ of Sec. 11 and portions of unsurveyed land northeast of Sec. 11.
T. 13 N., R. 3 E.,
Sec. 12, NE¼NE¼, S½NE¼, NE¼SW¼, S½SW¼, NW¼SE¼;
Sec. 13, NW¼NW¼;
Sec. 14, NE¼NE¼, S½NE¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 19, portions of unsurveyed lands;
Sec. 20, portions of unsurveyed lands;
Sec. 21, portions of unsurveyed lands;
Sec. 22, S½NE¼, N½SW¼, N½SE¼;
Sec. 23, NE¼NW¼, W½NW¼;
Sec. 30, portions of unsurveyed lands.
T. 13 N., R. 9 E.,
Sec. 5, W½ Lot 2 of NW¼;
Sec. 6, Lot 1 & E½ Lot 2 of NE¼, Lot 1 & S½ Lot 2 of SW¼, NW¼SE¼;
Sec. 7, N½ Lot 2 of NW¼.
T. 14 N., R. 9 E.,
Sec. 12, NE¼SE¼, S½SE¼;
Sec. 13, NW¼NE¼, NE¼NW¼, S½NW¼, NW¼SW¼;
Sec. 14, NE¼SE¼, S½SE¼;
Sec. 21, SE¼NE¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 23, NW¼NE¼, NW¼;
Sec. 27, N½NW¼, SW¼NW¼;
Sec. 28, SE¼NE¼, NE¼SW¼, S½SW¼, NW¼SE¼;
Sec. 32, NE¼NE¼, S½NE¼, NW¼SE¼;
Sec. 33, NW¼NW¼.
T. 14 N., R. 10 E.,
Sec. 5, Lot 2 & W½ Lot 1 of NE¼, E½ Lot 1 of NW¼, N½SW¼, SW¼SW¼;
Sec. 6, SE¼SE¼;
Sec. 7, N½ Lot 2 of SW¼, S½ Lots 1 & 2 of NW¼, N½NE¼, SW¼NE¼.
T. 15 N., R. 10 E.,
Sec. 13, S½SW¼, NE¼SE¼, S½SE¼;
Sec. 14, SE¼SE¼;
Sec. 22, NE¼NE¼, SE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 23, N½NE¼, N½NW¼;
Sec. 27, NW¼NE¼, NE¼NW¼, S½NW¼, N½SW¼, SW¼SW¼;
Sec. 28, SE¼SE¼;
Sec. 32, SE¼SE¼;
Sec. 33, N½NE¼, SW¼NE¼, SE¼NW¼, N½SW¼, SW¼SW¼.
T. 15 N., R. 11 E.,
Sec. 1, Lot 2 & E½ Lot 3 of NE¼, Lot 1 & E½ Lot 2 of NW¼;
Sec. 2, E½ Lot 1 of NE¼, SW¼, N½SE¼;
Sec. 3, S½SE¼;
Sec. 8, SE¼SW¼, NE¼SE¼, S½SE¼;
Sec. 9, S½NE¼, N½SW¼, NW¼SE¼;
Sec. 10, NW¼NE¼, N½NW¼, SW¼NW¼;
Sec. 17, N½NW¼;
Sec. 18, S½ Lots 1 & 2 of NW¼, N½ Lots 1 & 2 of SW¼, E½NE¼, SW¼NE¼.
T. 15 N., R. 12 E.,
Sec. 6, W½ Lot 3 of NW¼;
T. 16 N., R. 12 E.,
Sec. 23, SE¼SW¼, S½SE¼;
Sec. 24, SE¼NE¼, N½SW¼, SW¼SW¼, N½SE¼;
Sec. 26, N½NW¼;
Sec. 27, N½NE¼, SW¼NE¼, S½NW¼, NW¼SW¼;
Sec. 28, S½SW¼, NE¼SW¼, N½SE¼;
Sec. 29, SE¼SE¼;
Sec. 31, SE¼NE¼, N½SE¼; Lot 1 & S½ Lot 2 of SW¼;
Sec. 32, N½NE¼, NE¼NW¼, S½NW¼.
T. 16 N., R. 12½ E.,
Sec. 24, Lots 1 & 2, N½NE¼, SW¼NE¼;
T. 16 N., R. 13 E.,
Sec. 13, SE¼NW¼;
Sec. 14, S½NE¼, N½SE¼, Lot 2;
Sec. 15, Lots 1-3, SW¼NE¼, E½NW¼;
Sec. 16, NW¼;
Sec. 17, N½SW¼, NW¼SE¼, Lots 5, 6, SW¼SW¼;
Sec. 18, NE¼SE¼, S½SE¼, Lot 9, SE¼SW¼;
Sec. 19, Lot 3.
T. 15½ N., R. 14 E.,
Sec. 21, Lots 1, 2, 5, 6, 7, 8, 9, & 10;
Sec. 22, Lots 1, 2, 3, 4.
T. 16 N., R. 14 E.,
Sec. 12, E½SE¼;
Sec. 13, SE¼SW¼, NE¼, W½SE¼;
Sec. 23, SE¼SE¼;
Sec. 24, W½SW¼, NW¼;
Sec. 26, NE¼NE¼, S½NE¼, SE¼SW¼, W½SE¼;
Sec. 31, E½NE¼NE¼;
Sec. 32, S½NE¼, NW¼NW¼, S½NW¼, E½SE¼;
Sec. 33, S½SW¼;
Sec. 34, NE¼SE¼, S½SE¼;
Sec. 35, NE¼NW¼, S½NW¼, NW¼SW¼.
T. 16 N., R. 15 E.,
Sec. 6, E½SW¼, NW¼SE¼; Lots 1, 2, SW¼NW¼;
Sec. 7, Lots 1, 2, 3, 4, NE¼NW¼.
T. 17 N., R. 15 E.,
Sec. 16, Lots 1, & 2;
Sec. 17, SE¼SE¼;
Sec. 20, NE¼NE¼, S½NE¼, W½SE¼;
Sec. 29, NW¼NE¼, E½NW¼, N½SW¼, SW¼SW¼;
Sec. 31, SE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 32, W½NW¼.

This pipeline will convey liquid fuel across 67.97 miles of national resource lands in San Bernardino County, California.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the State Office, Bureau of Land Management, Federal Office Building, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

WALTER F. HOLMES,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-30118 Filed 12-26-74;8:45 am]

OUTER CONTINENTAL SHELF RESEARCH MANAGEMENT ADVISORY BOARD

Notice and Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. No. 92-463, 5 U.S.C. App. I and the Office of Management and Budget Circular No. A-63, Revised.

The Outer Continental Shelf Research Management Advisory Board will meet during the period 9:30 a.m. to 4 p.m., Rooms 7000 A and B, Department of the Interior, January 16 and 17. The meeting will cover the following agenda items:

1. Approval of Minutes of October 3 and 4 meeting.
2. Environmental monitoring plans for Mississippi-Alabama-Florida (MAFLA) OCS.
3. Progress report on environmental benchmark data programs in Gulf of Alaska and South Texas.
4. Report on the Mid-Atlantic OCS environmental workshop meeting and initial planning for bench-mark data gathering in the Mid-Atlantic OCS.
5. Report on Southern California OCS environmental workshop meeting and status of planning for bench-mark data gathering in that area.
6. Progress in developing a comprehensive plan for collection of environmental baseline data on the Alaska OCS.
7. Discussion of the overall Bureau of Land Management Environmental Studies Program.
8. Report of Ad Hoc Committee on development of guidelines for environmental data collection.
9. Report of Ad Hoc Committee on special committee needs of the OCS Research Management Advisory Board.
10. Other business.

The meeting is open to the public and written or oral statements concerning the program content are welcome.

Those who expect to attend should make this intention known not later than January 10 to the Board's Chairman:

Frank E. Clarke, Senior Scientist, U.S. Geological Survey, Room 4443, Interior Building, Washington, D.C. 20240, 202/343-2868.

Written statements should also be submitted to the Chairman not later than January 10.

Dated: December 23, 1974.

GEORGE L. TURCOTT,
Associate Director,
Bureau of Land Management.
JACK HORTON,
Assistant Secretary of the Interior

[FR Doc.74-30087 Filed 12-26-74;8:45 am]

National Park Service

MIDWEST REGIONAL ADVISORY COMMITTEE

Notice is hereby given in accordance with Public Law 92-463 that a meeting will be held at 1:30 p.m., January 16 in Room 242 of the Nebraska Union at 14th and R Streets in Lincoln, Nebraska, and at 8:30 a.m., January 17 in the Flanagan Room of the Hilton Hotel, 16th and Dodge Streets, Omaha.

The Committee was established pursuant to Public Law 91-383 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on programs and problems pertinent to the Midwest Region of the National Park Service.

The members of the Committee are:

Honorable Robert W. Kerrey III (Chairman)
Mrs. Mildred Curtis
Mr. Norman G. Dulle
Mr. John J. Franks, Jr.
Mr. Glenn C. Gloyd
Mr. Fred D. Hartley
Mr. Lewis W. Jones
Mr. William L. Lieber
Mr. Erwin D. Sies

Matters to be considered at this meeting include:

1. The National Park Service program of historic preservation and archeology as it applies to the Midwest Region.
2. Status report on public input activities in the region.
3. Bicentennial activities.

The meeting is open to the public. It is expected that about 50 persons, in addition to the Committee, can attend. Interested persons may make presentations to the Committee or file written statements. Such requests should be made to the official listed below before 1:30 p.m., January 16.

Further information concerning this meeting may be obtained from Bill W. Dean, Associate Regional Director, Cooperative Activities, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, telephone Area Code 402 221-3481. Minutes of the meeting will be available for public inspection and copying four weeks after the meeting at the Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska.

Dated: December 17, 1974.

ROBERT L. GILBO,
Acting Regional Director, Midwest Region National Park Service.

[FR Doc.74-30084 Filed 12-26-74;8:45 am]

Office of the Assistant Secretary, Land and Water Resources

WATER RESOURCES; USE AND MANAGEMENT

Policy Statement

Notice is hereby given of a proposal to adopt a new policy concerning the use and management of water resources by persons applying for certain contracts, leases, permits, and other agreements for natural resource use under the jurisdiction of the Department of the Interior. The proposed policy and guidelines appear below. Written comments and statements will be accepted in the Office of the Assistant Secretary, Land and Water Resources, Department of the Interior, Washington, D.C. 20240, until March 3, 1975.

The Department of the Interior has responsibility for managing a considerable portion of the Nation's renewable and nonrenewable resources. Water is a key factor in the management of all these resources and is rapidly becoming a major determinant in assessment of energy development alternatives. The Department recognizes its responsibility for conserving water resources and protecting their quality. This responsibility must be exercised in a timely manner and in accord with optimal use of this limited resource. It is, therefore, the policy of this Department that:

(a) Leases, contracts, permits, and other agreements concerning resource use to which the Department is a party shall be structured as practicable to promote effective management and efficient use of water, to conserve the quantity and quality of the water resource involved, and to protect related aspects of the environment.

(b) Persons holding leases, contracts, permits, and other agreements from the Department which will have a significant impact on water resources shall submit, as part of their use plans, a description of the proposed management procedures affecting water resources. Guidelines for development of such procedures are provided following this policy statement.

(c) Institutional arrangements with the States will be sought to facilitate coordination with State entities having regulatory authority for water resources use and protection.

(d) The need for efficient use of water will be taken into account in discharging the Department's trust responsibilities for resources on Indian lands.

OUTLINE OF GUIDELINES FOR WATER MANAGEMENT PROCEDURES

In the issuance of contracts, leases, permits, and other agreements to use land or water resources under the jurisdiction of the Department of the Interior, the authorized officer of the Department may, to the extent permitted by law, specify appropriate terms and conditions relating to management of water affected by the agreement. For the purpose of aiding in the determinations as to whether an agreement should be made and, if so, what its terms and conditions should be, and for other purposes described below, the applicant, when required by regulation of the Secretary or by specific request of his delegate, must submit with his application details concerning his proposed water management procedures. A statement of detailed management procedures will be required for applicants whose proposals could have a significant effect, in the opinion of the authorized officer of the Department, on the quality and quantity of water available for uses and purposes other than those described in the application.

The following guidelines apply to the water management procedures to be included as a part of the use plan required by the Department of the Interior as an integral part of any major lease, construction permit, or other agreement. Such plans will enable the Secretary or his designee to administer the programs and responsibilities of the Department so as to conserve water resources through full consideration of viable alternative uses of water and to assure more efficient use of water in proposed operations. These procedures, moreover, will assure that water conservation considerations are taken into account in the Department's implementation of the National Environmental Policy Act (NEPA) and the Water Resources Council's Principles and Standards for Planning Water and Related Land Resources, approved by the President on September 5, 1973.

Applicants shall address the following considerations in developing water management procedures for effective and efficient use of water and in the statements required to be submitted to the Department.

1. The sources to be used in the proposed activity, whether surface or ground water and whether self-supplied or from a government or other organized entity, including information on quantity and quality of water supply.

2. Water rights owned or applied for by the applicant and by any and all subsidiaries or otherwise owned or controlled entities which hold such water or water rights.

3. Expected significant changes in quantity and quality of water through applicants' planned use involving Federal lands or resources under Interior Department jurisdiction.

4. The justification for the water quality and quantity proposed to be used.

5. The method of water use and the amount of water consumed, returns to streams, and the need for treatment before return or disposal.

6. Methods employed for conservation of water use in the proposed activity, including management and structural measures for most efficient water use and recycling or reuse of water and return flow standards.

7. Alternatives considered to reduce or minimize fresh water demand, such as air cooling in lieu of water cooling, utilization of poor quality water, or other technology.

8. The compatibility of the method and the alternatives of water use with the draft environmental impact statement required by the National Environmental Policy Act.

9. The compatibility of the water management procedures with Federal water quality control criteria and the requirements of the discharge permit system of the Federal Water Pollution Control Act of 1973, Pub. L. 92-500, section 401.

10. The compatibility of water management procedures with overall State, regional, and national water development plans.

Dated: December 18, 1974.

JACK O. HORTON,
Assistant Secretary of the Interior for Land and Water Resources.

[FR Doc.74-30158 Filed 12-26-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

ROCK CREEK ADVISORY COMMITTEE

Notice of Meeting

The Rock Creek Advisory Committee will meet at 7:00 p.m. on January 21, 1975. Meeting place will be in Drummond, Montana, in the Catholic Church basement.

The purpose of this meeting is to complete Committee review of the planning processes and begin the critique of management options in Upper Rock Creek.

The meeting will be open to the public. Any member of the public who wishes to do so shall be permitted to file a written statement with the Committee before or after the meeting. To the extent that time permits, the Committee Chairman may permit interested persons to present oral statements at the meeting.

General participation by members of the public, or questioning of Committee members or other participants shall not be permitted unless approved by the majority of Committee members.

Dated: December 17, 1974.

ROBERT W. DAMON,
Forest Supervisor, Deerlodge National Forest.

[FR Doc.74-30117 Filed 12-26-74;8:45 am]

EL YUNQUE PEAK ELECTRONIC SITE

Notice of Negative Determination

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 8411.43 of the Forest Service Guidelines (39 FR 38249) October 30, 1974: The Forest Service, U.S. Department of Agriculture gives notice that an environmental statement is not being prepared for the El Yunque Peak Electronic Site, Caribbean National Forest, Puerto Rico.

The environmental analysis does not indicate high controversy, or significant adverse local, regional or national effect on quality of the human environment as a result of the proposed policy for management of this site. As a result of these findings, Mr. Leonard A. Lindquist, Forest Supervisor of the Caribbean National Forest, P.O. Box AQ, Rio Piedras, Puerto Rico 00928, has determined that the preparation and review of an environmental statement is not required.

The proposal concerns a policy for managing an existing 25 acre electronic uses site. The policy establishes a zone to be kept free of structures in order to preserve scenic values. Zones are established to provide separation between radio receivers and transmitters, and a policy regulating future developments is established. A deadline of December 31, 1979 is set for removal of non-conforming electronic uses.

The environmental analysis report and written determination is available for inspection during regular working hours at the following location:

Institute of Tropical Forestry, University of Puerto Rico Agricultural Experiment Station Grounds, Rio Piedras, Puerto Rico 00928.

No administrative action on implementation of the policy will be taken until January 31, 1975.

Dated: December 12, 1974.

DAVID F. JOLLY,
Regional Environmental Coordinator, Southern Region.

[FR Doc.74-30192 Filed 12-26-74;8:45 am]

FALL CANKERWORM CONTROL

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, and Virginia Division of Forestry, have prepared a draft environmental statement for Fall cankerworm control in Virginia. (USDA-FS-SA-DES (Adm) FY-75-1.)

This environmental statement is an analysis of impacts associated with the proposed suppression of fall cankerworm infestations on 514 acres of wooded residential area in Prince William County, Virginia. Subjects discussed are the impacts of aerial applications of the bacterial insecticide, *Bacillus thuringiensis*, and description of techniques and benefits of suppression.

The draft environmental statement was filed with CEQ on December 19, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 12th St. & Independence Ave., SW, Washington, D.C. 20250.

USDA, Forest Service, Division of Forest Pest Control, 1621 N. Kent St., Room 1205-B, Arlington, Va. 22209.

A limited number of single copies are available upon request to:

USDA, Forest Service, Division of Forest Pest Management, 1720 Peachtree St., Room 711, Atlanta, Ga. 30309.

Virginia Division of Forestry, P.O. Box 3758, McCormick Road, Charlottesville, Virginia 22903.

Copies of the environmental statement have been sent to various Federal, State and Local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Sidney Weitzman, Area Director, 1720 Peachtree St. NW., Atlanta, Georgia 30309. Comments must be received by February 17, 1975 in order to be considered in the preparation of the final environmental statement.

CARTER P. OUALLS
Acting Area Director, Southeastern Area.

[FR Doc.74-30191 Filed 12-26-74;8:45 am]

Rural Electrification Administration

CHUGACH ELECTRIC ASSOCIATION, INC.

Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration intends to prepare a Draft Environmental Impact Statement in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969 in connection with the release of loan funds to Chugach Electric Association, Inc., Gambell at Eighth Street, Anchorage, Alaska 99501. The statement will cover approximately 23 miles of new 230 kV transmission line from the Chugach's Teeland substation to Reed substation of the Alaska Power Administration. The Teeland substation site is near the east side of Knik road about 9 miles southwest of Wasilla, Alaska. Reed substation is located ¼ mile southeast of the Glen Highway, approximately 1 mile east of the Village of Eklutna.

Interested persons are invited to submit comments which may be helpful in preparing the Draft Environmental Impact Statement.

Comments should be forwarded to the Assistant Administrator—Electric, Rural Electrification Administration, Washington, D.C. 20250, with a copy to the Chugach Electric Association, Inc., whose address was given above. Additional information may be obtained at

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Chugach's office during regular business hours. Dated at Washington, D.C. the 18 day of December 1974.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.74-30057 Filed 12-26-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

METHODIST HOSPITAL, ET AL

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before January 16, 1975.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00233-33-90000. Applicant: Methodist Hospital, 1265 Union Avenue, Memphis, Tennessee 38104. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used to study the brain, its coverings, and the eyes for detecting and localizing disease processes. The article will also be used for teaching purposes in Residency programs in Radiology, Neurosurgery, Ophthalmology, Pathology. Application received by Commissioner of Customs: November 22, 1974.

Docket number: 75-00234-33-46500. Applicant: Veterans Administration Hospital, General Medical Research 4500 South Lancaster Road, Dallas, Texas 75216. Article: Ultramicrotome, LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for three dimensional sectioning of biological membranes and related structures which will be examined to understand the molecular organization in terms that will explain their cellular functions. Application received by Commissioner of Customs: November 26, 1974.

Docket number: 75-00235-33-46500. Applicant: Veterans Administration Hospital, 500 North Foothill Blvd., Salt Lake City, Utah 84113. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of the mechanism of tumor cell killing by macrophages. The article will also be used in the course Principles and Techniques of Electron Microscopy in which students will be instructed in the proper use of the article. Application received by Commissioner of Customs: November 20, 1974.

Docket number: 75-00237-33-46500. Applicant: CMDNJ-Rutgers Medical School, Anatomy Department, P.O. Box 101, Piscataway, New Jersey 08854. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: This article is intended to be used for ultrastructural investigation of 1) sensory ganglia in tissue culture exposed to a variety of chemicals and 2) spinal cultures treated with sera and other fluids from patients with various neurological diseases including Multiple Sclerosis, Amyotrophic Lateral Sclerosis and other motor neuron diseases. Application received by Commissioner of Customs: November 26, 1974.

Docket number: 75-00238-33-46500. Applicant: Fred Hutchinson Cancer Research Center, 1102 Columbia Street, Seattle, Washington 98104. Article: Ultramicrotome, Model Om U3. Manufacturer: C. Reichert Optische Werke, Austria. Intended use of article: The article is intended to be used for studies of a wide variety of biological specimens ranging from human normal control material to pathologic (especially tumors) samples collected from surgery or biopsies. In addition, the virologist will be examining cell culture and cut specimens for evidence of virus particles. The article will also be used for instruction for technicians, graduate students and staff in the techniques of electron microscopy. Application received by Commissioner of Customs: November 26, 1974.

Docket number: 75-00239-33-46070. Applicant: St. Louis University Medical School, Department of Pathology, 1402 South Grand, St. Louis, Mo. 63104. Article: Scanning Electron Microscope, Model JSM-35U. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for a variety of specimens from patients with diseases for diagnostic and investigational purposes and for studies of various experimental models of human diseases as a means toward a better understanding of etiology, pathogenesis and control. These studies include:

(1) Diagnostic studies of human renal and hepatic biopsies.

(2) Diagnostic studies of human lung tissue and of experimental animal lung with emphasis on oxygen toxicity in the newborn.

(3) Diagnostic studies of human blood and bone marrow specimens.

(4) Studies of human tissue upon removal in surgery and freezing in cold stage accessory using low accelerating voltage to reduce specimen damage.

(5) Studies of lung inclusions using x-ray analyzer for elemental analysis of trace elements contained in said inclusions.

In addition, the article will be used in training programs for medical and graduate students in electron miscroscopy. Undergraduates in the schools of biology and medical technology will also be trained in the use of the article as a basis for technical careers and for further training and research at the graduate level. Application received by Commissioner of Customs: November 26, 1974.

Docket number: 75-00240-33-46500. Applicant: Roswell Park Memorial Institute, 666 Elm Street, Buffalo, New York 14203. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the preparation of ultrathin sections which will be examined with particular respect to cell surface features in the following material:

Cultural cells of human and animal origin, before and after malignant transformation by oncogenic viruses, and reversion of the transformed cells to normal *in vitro* behavioral pattern.

Application received by Commissioner of Customs: November 26, 1974.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.74-30193 Filed 12-26-74;8:45 am]

UNIVERSITY OF TEXAS MEDICAL BRANCH

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00048-33-46040. Applicant: University of Texas Medical Branch, Galveston, Texas 77550. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Eleteronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for ultrastructural studies on human pituitary tissue obtained from autopsies and surgical specimens, a major component of an ongoing correlated light and electron microscopic study of the normal and pathological human pituitary gland. The article will also be used for ultrastructural studies of human brain and muscle biopsies. In addition the article will be used for training to familiarize residents in neurosurgery, neurology and pathology with the diagnostic potential of electron microscopy and the necessity for proper procedure in obtaining tissue for electron microscopy as well as to impart factual

knowledge regarding the ultrastructural characteristics of various neurological and muscular disorders.

Comments: No comments have been received with respect to this application.

Decision: Application Denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Number 74–00275–33–46040 which was denied without prejudice to resubmission on May 22, 1974 for informational deficiencies.

The applicant alleges in reply to Question 8 that the following specifications of the article are pertinent to his intended purposes and are not matched in the Model EMU–4C electron microscope, supplied by the Adam David Company.

(1) A magnification range of 1600 to 200,000x, and a scanning magnification of 200x;

(2) An automatic plate numbering device in order to provide positive identification of the negatives; and

(3) Simplicity of operation in order that resident physicians can use the article after a minimal period of instruction. The Department of Health, Education, and Welfare (HEW) reviewed this application and compared the alleged pertinent specifications of the article with those of the EMU–4C, which it deemed the most closely comparable domestic electron microscope. HEW advises in its memorandum dated November 6, 1974 that (1) The use of low scanning magnifications is intended for cell recognition and special correlation of relatively large structures wherein minor distortions and differences between 200x and 400x [the capability of the Model EMU–4C] are not pertinent. (We note that the domestic Model EMU–4C electron microscope provides a magnification range of 1400 to 240,000x with 400x for scanning without a pole piece change.) HEW also advises that (2) an automatic plate numbering device is intended for the care and treatment of patients and not for scientific research or educational purposes, and is otherwise a convenience which is not necessary for accomplishing the intended research or educational purposes. Finally, HEW advises that (3) the teaching intended by the applicant is at a relatively sophisticated level wherein simplicity of operation is not pertinent; moreover, HEW is not convinced that the article is simpler and easier to operate than the domestic Model EMU–4C.

HEW concludes that the applicant provides no pertinent specification within the meaning of subsection 701.2(z) of the regulations upon which duty-free entry could be based.

Accordingly, we find that the EMU–4C is of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.74-30194 Filed 12-26-74;8:45 am]

TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Notice of Partially Closed Meeting and Agenda

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. II, 1972) notice is hereby given that a meeting of the Telecommunications Equipment Technical Advisory Committee will be held Tuesday, January 28, 1975, at 9:30 am., in Room 3708, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Committee[1] was established to advise the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to telecommunications equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Report on Telecommunications Technical Seminar in Poland.

(4) Discussion of draft sections on Findings of the Second Annual Report due March 1975.

EXECUTIVE SESSION

(5) a. Conclusions and Recommendations—draft reports.

b. Update on progress of COCOM negotiations.

The public will be permitted to attend the General Session, at which a limited number of seats will be available to the public. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 16, 1974, pursuant to section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. (A copy of the determination follows this notice.) All Committee members have appropriate security clearances.

Minutes of the open portion of the meeting will be available upon written request addressed to the Central Reference and Records Inspection Facility, Room 7043, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director Operations Dvision, Office of Export Administration, Room 1620, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202/967–4196.

In accordance with paragraph (4) of the Order of the United States District Court for the District of Columbia in Aviation Consumer Action Project, et al., v. C. Langhorne Washburn, et al., September 10, 1974, as amended, September 23, 1974 (Civil Action No. 1636–73), the Complete Notice of Determination to close portions of the meetings of the Telecommunications Equipment Technical Advisory Committee is hereby published.

Dated: December 23, 1974.

RAUER H. MEYER,
Acting Director, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.74-30275 Filed 12-26-74;8:45 am]

[1] Determination filed as a part of the original document.

National Oceanic and Atmospheric Administration

INTERIM CONVENTION ON CONSERVATION OF NORTH PACIFIC FUR SEALS

Renegotiation and Preparation of Environmental Impact Statement

The Interim Convention on Conservation of North Pacific Fur Seals was signed in Washington, D.C. on February 9, 1957, on behalf of the Governments of Canada, Japan, the Union of Soviet Socialist Republics, and the United States of America. The Interim Convention came into force on October 14, 1957, and was amended by a Protocol which was signed in Washington on October 8, 1963, and entered into force on April 10, 1964. The Protocol extended the term of the Interim Convention for an additional six years, and effected several changes. The Interim Convention was, as amended, continued in force for a further period of six years by an exchange of notes which became effective on September 3, 1969.

Pursuant to Article XIII, paragraph 4, regarding the term of the Interim Convention, as amended, the United States intends to initiate the renegotiation of the Convention in March 1975. In connection with the renegotiation, the National Marine Fisheries Service has determined that a Draft Environmental Impact Statement will be prepared prior to initiation of renegotiation.

Anyone with views or information regarding the preparation of the Draft

Environmental Impact Statement is invited to transmit such views or information to the Director, National Marine Fisheries Service, Washington, D.C. 20235 by December 31, 1974.

Dated: December 13, 1974.

JACK W. GEHRINGER,
Acting Director.

[FR Doc.74-30116 Filed 12-26-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

NATIONAL ADVISORY COUNCIL ON ALCOHOL ABUSE AND ALCOHOLISM

Notice of Rechartering

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Alcohol, Drug Abuse, and Mental Health Administration announces the rechartering by the Secretary, Department of Health, Education, and Welfare, on December 13, 1974, of the National Advisory Council on Alcohol Abuse and Alcoholism in accordance with section 14(b)(2) of said Act.

Dated: December 19, 1974.

JAMES D. ISBISTER,
Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.74-30051 Filed 12-26-74;8:45 am]

Center for Disease Control

IMMUNIZATION PRACTICES ADVISORY COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), the Director, Center for Disease Control, announces the meeting dates and other required information for the following National Advisory body which is scheduled to assemble during the month of January 1975.

Committee name	Date, time, place	Type of meeting and/or contact person
Immunization Practices Advisory Committee.	Jan. 15 to Jan. 16, 1975—8:30 a.m., room 207, Bldg. 1, Center for Disease Control, Atlanta, Ga. 30333.	Open—contact H. Bruce Dull, M.D., Bldg. No. 1—room 224, Center for Disease Control, Atlanta, Ga. 30333. Code: 404-633-3311, extension 3701.

Purpose. The Committee is charged with advising on the appropriate uses of immunizing agents for public health practice.

Agenda. The Committee will consider the current status of BCG vaccine in the prevention and control of tuberculosis in the United States. It will also continue its regular review of recommendations on the use of vaccines in public health practice.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: December 18, 1974.

H. BRUCE DULL,
Acting Director,
Center for Disease Control.

[FR Doc.74-30302 Filed 12-26-74;8:45 am]

OCCUPATIONAL SAFETY AND HEALTH

Request for Information on Certain Chemical Agents

Section 20(a)(3) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(3)) provides that the Secretary of Health, Education, and Welfare, on the basis of information available to him, shall develop criteria dealing with toxic materials which will describe exposure levels that are safe for various periods of employment. Section 22(c) of the Act authorizes the National Institute for Occupational Safety and Health (NIOSH) to develop recommended occupational safety and health standards and to perform all functions of the Secretary of Health, Education, and Welfare, under sections 20 and 21 of the Act. NIOSH is proposing to develop criteria documents and recommended occupational health standards on the following substances:

1. Methyl Parathion.
2. Carbaryl.
3. Malathion.

Each criteria document will include among other items an evaluation of available information relative to the areas listed below.

Any person having information or data in any of the areas listed below, or in other areas considered relevant to the establishment of a safe and healthful occupational environment involving these substances is requested to submit such information, with accompanying documentation to Acting Director, Office of Research and Standards Development, NIOSH, 5600 Fishers Lane, Rockville, MD 20852 on or before March 27, 1975.

1. Establishment of safe occupational environment levels for such agents including levels for acute and chronic exposure to airborne concentrations of the chemical agents as well as safe practices concerning direct contact with such agents.

2. Establishment of biologic standards, i.e., the levels of such agents, metabolites, or other effects of exposure which may be present within man without his suffering ill effects taking into consideration (a) the correlation of airborne concentrations of, and extent of exposure to such substances with effects on specific biological systems of man such as the circulatory, respiratory, urinary, and nervous system, and (b) the analytical methods for determining the amount of the substance which may be present within man.

3. Engineering controls, including ventilation, environmental temperature, humidity, and housekeeping and sanitation procedures, with attention to the technological feasibility of such controls.

4. Specifications for the conditions under which personal protective devices should be required.

5. Methodology, including instrumentation, for air sampling and sample analysis of chemical agents and methodology for measuring levels of exposure to physical agents.

6. The need for medical examinations for workers exposed to such agents, the frequency of such examinations, and the specific diagnostic tests which should be used and the rationale of their selection.

7. Work practices or procedures which may be instituted for control of the workplace environment in normal operations and those which may be instituted when environmental levels are temporarily exceeded or where peak concentrations of chemical agents in man are reached.

8. The types of records concerning occupational exposure to such agents that employers should be required to maintain.

9. Warning devices and labels which should be required for the prevention of occupational diseases and hazards caused by such agents.

All information received concerning these substances will be available for public inspection after the development of the respective criteria document.

Dated: December 20, 1974.

EDWARD J. BAIER,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc.74-30179 Filed 12-26-74;8:45 am]

National Institutes of Health

AD HOC REVIEW GROUP ON BREAST CANCER TREATMENT

Notice of Establishment

The Director, National Institutes of Health, announces the establishment on December 11, 1974, of the advisory committee indicated below by the Director, National Cancer Institute, under the authority of section 410(a)(3) of the Public Health Service Act (42 U.S.C. 286d). Such advisory committee shall be governed by the provisions of the Federal Advisory Committee Act (Public Law 92-463) setting forth standards governing the establishment and use of advisory committees.

Name: Ad Hoc Review Group on Breast Cancer Treatment.

Purpose: The Committee provides to the Director, NCI and the Director, Division of Cancer Biology and Diagnosis, advice on matters relating to the treatment of breast cancer and assistance in the technical and scientific review of contract proposals in this area. The Committee will terminate on February 11, 1976.

R. W. LAMONT-HAVERS.

DECEMBER 20, 1974.

[FR Doc.74-30157 Filed 12-26-74;8:45 am]

HUMAN EMBRYOLOGY AND DEVELOPMENT STUDY SECTION, DIVISION OF RESEARCH GRANTS

Amended Notice of Meeting

Notice is hereby given of a change in the meeting date of the Human Embryology and Development Study Section, Division of Research Grants, which was published in the FEDERAL REGISTER on November 29, 1974 (39 FR 41571).

The Human Embryology and Development Study Section was to have convened at 9 a.m. on January 8–11, 1975, but has been changed to 9 a.m. January 9–11, 1975 at Building 31, Bethesda, Maryland 20014, the same location for which it was originally scheduled.

The meeting will be open to the public for approximately one hour at the beginning of the first session of the first day of the meeting.

SUZANNE L. FREEMAN,
Committee Management Officer,
National Institutes of Health.

DEC. 20, 1974.

[FR Doc.74-30155 Filed 12-26-74;8:45 am]

PULMONARY YOUNG INVESTIGATOR GRANT COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Pulmonary Young Investigator Grant Committee, National Heart and Lung Institute, February 3 and 4, 1975, National Institutes of Health, Building 31, Conference Room 7.

This meeting will be open to the public from 8:30 a.m. to 9:30 a.m. on February 3, 1975 for an introduction to the program and discussion of review procedures. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6), title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 3 from 9:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications contain information of proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart and Lung Institute, Building 31, Room 5A21, NIH, Bethesda, Maryland 20014, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Robert C. Stroud, Review Branch, Division of Extramural Affairs, National Heart and Lung Institute, Westwood Building, Room 552A, phone (301) 496-7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.836, National Institutes of Health)

SUZANNE L. FREEMAN,
Committee Management Officer, NIH.

DECEMBER 20, 1974.

[FR Doc.74-30156 Filed 12-26-74;8:45 am]

Office of Education

EXEMPLARY PROJECTS FOR THE DEVELOPMENT OF PRESERVICE TEACHER PREPARATION PROGRAMS

Notice of Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in the Cooperative Research Act, Public Law 83-531, as amended, 20 USC 331, applications are being accepted for non-competing continuation grants under the Right to Read Program for the Development of Preservice Teacher Preparation Programs. No new grants will be awarded under this program.

In order to be considered for support, applications should be received by the U.S. Office of Education Application Control Center on or before March 14, 1975.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW, Washington D.C. 20202, Attention: 13.533. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) the Application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date or if such fifth calendar day is a Saturday, Sunday, or Federal Holiday, not later than the next following business day, as evidenced by the U.S. Postal Service postmark on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D. Streets, S.W., Washington, D.C. 20202.

Hand delivered applications will be accepted daily between the hours of 8:30 a.m. and 4 p.m. Washington time except Saturdays, Sundays, or Federal Holidays. Applications will not be accepted after 4 p.m. on the

C. *Authority.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR 100a) and the General Regulations for Right to Read (45 CFR Part 151, Subpart A, published in the FEDERAL REGISTER on June 20, 1974 in Volume 39, Number 120, page 22147). In addition, the final regulation specifically governing the Preservice Teacher Preparation Program was published in the FEDERAL REGISTER on June 20, 1974, at 39 FR 22148.

D. *Program Information and forms.* Information and application forms may be obtained from the Right to Read Program, U.S. Office of Education, Room 2131, 400 Maryland Avenue, SW, Washington, D.C. 20202.
(20 U.S.C. 331a(a)(1))

(Catalog of Federal Domestic Assistance Number 13.533; Right to Read—Elimination of Illiteracy)

Dated: December 17, 1974.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.74-30039 Filed 12-26-74;8:45 am]

Social and Rehabilitation Service

VOCATIONAL REHABILITATION SERVICES

Allotment Percentages

Pursuant to Section 8(a) of the Rehabilitation Act of 1973 (29 U.S.C. 707), and pursuant to section 501 of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1020) which provides that fiscal year 1977 shall begin on October 1, 1976 and end on September 30, 1977: It is hereby promulgated that for fiscal year 1976, for the period July 1, 1976 through September 30, 1976, and for the fiscal year ending September 30, 1977, for purposes of vocational rehabilitation services under the Rehabilitation Act of 1973 for each of the fifty States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, the allotment percentages, as specified in said Act, or determined pursuant thereto, on the basis of the per capita income data specified therein, shall be listed below. The allotment percentages shall in no case be more than 75 per centum or less than 33⅓ per centum, and the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall be 75 per centum.

Alabama	61.94	North Carolina	57.56
Alaska	41.59	North Dakota	51.46
Arizona	53.14	Ohio	48.48
Arkansas	62.44	Oklahoma	57.45
California	44.48	Oregon	53.30
Colorado	49.63	Pennsylvania	50.22
Connecticut	40.45	Rhode Island	50.67
Delaware	42.42	South Carolina	61.69
Florida	51.33	South Dakota	57.33
Georgia	56.61	Tennessee	59.47
Hawaii	43.67	Texas	55.08
Idaho	57.95	Utah	59.21
Illinois	42.91	Kentucky	60.13
Indiana	51.39	Louisiana	60.95
Iowa	51.20		
Kansas	48.45		

Maine	50.50	New York	42.18
Maryland	45.20	Vermont	50.05
Massachusetts	46.96	Virginia	51.80
Michigan	45.54	Washington	49.29
Minnesota	51.03	West Virginia	60.49
Mississippi	66.27	Wisconsin	52.31
Missouri	52.26	Wyoming	58.42
Montana	54.79	Dist. of Col.	75.00
Nebraska	50.32	American Samoa	75.00
Nevada	42.57	Guam	75.00
New Hampshire	53.06	Puerto Rico	75.00
New Jersey	41.22	Trust Territories	75.00
New Mexico	61.48	Virgin Islands	75.00

Dated: December 20, 1974.

CARMEN W. WEINBERGER,
Secretary.

[FR Doc.74-30284 Filed 12-26-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

U.S. ADVISORY COMMITTEE ON VISUAL AIDS TO APPROACH AND LANDING

Notice of Renewal

Notice is hereby given that the U.S. Advisory Committee on Visual Aids to Approach and Landing is being renewed. The Airports Service is the sponsor of the Committee which consists of a group of 14 experts on airport ground visual aids. The Committee develops information and data in support of proposals to be submitted by the United States to the ICAO Visual Aids Panel for consideration and/or positions to be taken by the United States relating to proposed international standards and recommended practices for airport ground visual aids. The Committee's activity is limited to those visual aids matters which have international implications.

The Secretary of Transportation has determined that the formation and use of the U.S. Committee on Visual Aids to Approach and Landing are necessary in the public interest in connection with the performance of duties imposed on the Federal Aviation Administration by law. Meetings of the Committee will be open to the public.

Issued in Washington, D.C. on December 17, 1974.

J. STUART JAMISON,
Acting Chairman, U.S. Advisory Committee on Visual Aids to Approach and Landing.

[FR Doc.74-30153 Filed 12-26-74;8:45 am]

U.S. TERMINAL INSTRUMENT PROCEDURES (TERPS) ADVISORY COMMITTEE

Notice of Establishment

Notice is hereby given of the establishment of the U.S. Terminal Instrument Procedures (TERPS) Advisory Committee. The Flight Standards Service is the sponsor of the committee, and members include representatives of the Federal Aviation Administration, Department of Defense, and civil aviation organizations. The committee will participate in the development, official adoption, promulgation and annual review of the TERPS standards for use in terminal areas of civil and military airports. TERPS standards are published as an FAA publication jointly signed by officials of the Federal Aviation Administration, the U.S. Army, the U.S. Navy, the U.S. Air Force, and the U.S. Coast Guard.

The Secretary of Transportation has determined that the formation and use of the U.S. Terminal Instrument Procedures (TERPS) Advisory Committee are necessary in the public interest in connection with the performance of duties imposed on the Federal Aviation Administration by law.

Issued in Washington, D.C. on December 18, 1974.

JAMES A. FORGAS,
Chairman, U.S. Terminal Instrument Procedures (TERPS) Advisory Committee.

[FR Doc.74-30151 Filed 12-26-74;8:45 am]

National Highway Traffic Safety

YOUTH HIGHWAY SAFETY ADVISORY COMMITTEE

Notice of Renewal

Notice is hereby given that the Youth Highway Safety Advisory Committee is being renewed. The Committee is composed of persons appointed by the National Highway Traffic Safety Administrator to consult with and advise him concerning programs and activities to attract and sustain the participation of young people in the national effort to combat highway deaths and injuries. The National Highway Traffic Safety Administration sponsors the Committee, which consists of 15 Members between the ages of 15–24.

The Committee reviews highway safety programs as they relate to young people and advises the Administrator on those aspects of the safety standards and countermeasures programs relating to young people. The Committee is limited to advisory functions only.

The Secretary of Transportation has determined that the formation and use of the Youth Highway Safety Advisory Committee are necessary in the public interest in connection with the performance of duties imposed on the Department by law.

Issued in Washington, D.C. on December 18, 1974.

CRAIG L. MILLER,
Acting Executive Secretary.

[FR Doc.74-29904 Filed 12-23-74;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. P-507-A]

NEW YORK STATE ELECTRIC & GAS CORP.

Notice of Receipt of Partial Application for Construction Permit and Facility License: Time for Submission of Views on Antitrust Matters

New York State Electric and Gas Corporation (the applicant), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed one part of an application, dated November 27, 1974, in connection with its plans to construct and operate 2 boiling water reactors in the Town of Somerset, Niagara County, New York. The portion of the application filed contains the information requested by the Attorney General for the purpose of an antitrust review of the application as set forth in 10 CFR Part 50, Appendix L.

The remaining portion of the application consisting of a Preliminary Safety Analysis Report accompanied by an Environmental Report, pursuant to § 2.101 of Part 2, is expected to be filed during September 1975. Upon receipt of the remaining portions of the application dealing with radiological health and safety and environmental matters, separate notices of receipt will be published by the Commission including an appropriate notice of hearing.

A copy of the partial application is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., 20545. Docket No. P-507-A has been assigned to the application and it should be referenced in any correspondence relating to it.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before February 25, 1975.

Dated at Bethesda, Maryland, this 18th day of December 1974.

For the Atomic Energy Commission.

WALTER R. BUTLER,
Chief, Light Water Reactors Projects Branch 1-2, Directorate of Licensing.

[FR Doc.74-29907 Filed 12-26-74;8:45 am]

[Docket No. 50-367]

NORTHERN INDIANA PUBLIC SERVICE CO.

Notice and Order Setting Evidentiary Hearing

In the matter of NORTHERN INDIANA PUBLIC SERVICE COMPANY (Bailly Generating Station, Nuclear-1).

On December 16, 1974, the Atomic Safety and Licensing Appeal Board remanded the above-captioned case for further evidentiary proceedings confined to the question of the environmental impact, if any, of slurry wall construction. The further proceedings are to commence on or before January 6, 1975. The purpose of the further proceedings is to permit the Joint Intervenors and the State of Illinois (1) to cross-examine such of the witnesses of the Permittee and the AEC Regulatory Staff (the Staff) as they desire; and (2) to present their own affirmative relative evidence.

In connection with this further evidentiary proceeding, the Joint Intervenors and the State of Illinois are to designate on or before December 27, 1974,

the witnesses of the Permittee and the Staff whom they wish to cross-examine at this further evidentiary hearing.

In addition, the Joint Intervenors and the State of Illinois are to supply the name, address and field of expertise of any witnesses they intend to present as soon as such witnesses have been identified. If possible, advance written testimony will be filed for these witnesses.

Please take notice that the further evidentiary proceedings will commence on Friday, January 3, 1975, in the vicinity of Chicago, Illinois, or in the vicinity of the Bailly site. The exact location of the hearing will be supplied by later notice and order.

Members of public are invited to attend this further evidentiary hearing.

Issued at Bethesda, Maryland, this 19th day of December 1974.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.74-30041 Filed 12-26-74;8:45 am]

[Docket No. 50-317]

BALTIMORE GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. DPR-53 issued to Baltimore Gas and Electric Company which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Unit 1, located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

The amendment modifies the specifications to delete some of the Appendix A Technical Specifications Requirements and to supplement the remainder with specification needed to assure safe conditions during reactor shutdown operations to inspect and recouple several control element assemblies that were not recoupled to their respective extension shafts following a recent core inspection.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment, dated December 19, 1974, (2) Amendment No. 6 to License No. DPR-53, with any attachments, and (3) the related safety evaluation contained in the Commission's letter to Baltimore Gas and Electric Company. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland 20678.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing-Regulation.

Dated at Bethesda, Maryland, this 20th day of December 1974.

For the Atomic Energy Commission.

OLAN D. PARR,
Chief, Light Water Reactors Project Branch 1-3, Directorate of Licensing.

[FR Doc.74-30176 Filed 12-26-74;8:45 am]

[Docket No. 50-317]

BALTIMORE GAS AND ELECTRIC CO.

Issuance of Amendment To Facility Operating License

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. DPR-53 issued to Baltimore Gas and Electric Company which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Unit 1, located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

The amendment modifies the Specifications to require that the baseline reactor internals vibration surveillance measurements be made at 20 percent, 50 percent, 80 percent and 100 percent power levels.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment, dated December 9, 1974, (2) Amendment No. 5 to License No. DPR-53, with any attachments, and (3) the related safety evaluation contained in the Commission's letter to Baltimore Gas and Electric Company. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland 20678.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 20th day of December 1974.

For the Atomic Energy Commission.

OLAN D. PARR,
Chief, Light Water Reactors Project Branch 1-3, Directorate of Licensing.

[FR Doc.74-30175 Filed 12-26-74;8:45 am]

[Docket Nos. 50-369, 50-370]

DUKE POWER CO.

Notice and Order Scheduling Prehearing Conference

In the matter of Duke Power Co. (William B. McGuire Nuclear Station, Units 1 and 2).

Take Notice, that in accordance with the "Notice of Hearing on Application for Facility Operating License" published by the Atomic Energy Commission in the FEDERAL REGISTER on October 7, 1974 (39 FR 36037), a prehearing conference will be held in the above captioned proceeding on January 16, 1974, at 10:00 a.m., local time in the Mecklenburg County Administration Building, Fourth Floor Commissioners' Meeting Room, 720 East Fourth Street, Charlotte, North Carolina 28202.

The Prehearing Conference will deal with the following matters:

1. Identification of the key issues in the proceeding.
2. Consideration of the intervention petition filed by the Carolina Environmental Study Group, to allow the Atomic Safety and Licensing Board to make such preliminary or final determination as to the specification of controverted matters, as may be appropriate, and
3. Establishment of a schedule for further actions in this proceeding.

Members of the public are welcome to attend the conference of parties or their counsel, however no evidence will be received and no limited appearance statements will be accepted at the prehearing conference. Statements by members of the public making limited appearances will be received at the commencement of the evidentiary hearing which will be scheduled at a later date.

Issued at Bethesda, Maryland this 20th day of December, 1974.

For the Atomic Safety and Licensing Board.

ROBERT M. LAZO,
Chairman.

[FR Doc.74-30174 Filed 12-26-74;8:45 am]

[Docket No. 50-334-OL]

DUQUESNE LIGHT CO.

Reconstitution of Board

In the matter of Duquesne Light Company (Beaver Valley Unit 1).

Dr. John C. Geyer was a member of the Atomic Safety and Licensing Board established to consider the above application. Dr. Geyer is retiring from the Atomic Safety and Licensing Board Panel.

By Order of the Commission, Gustave A. Linenberger, whose address is Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545, has been appointed a member of the Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the rules of practice, as amended.

Dated at Bethesda, Maryland, this 20th day of December, 1974.

The Atomic Safety and Licensing Board Panel.

NATHANIEL H. GOODRICH,
Chairman.

[FR Doc.74-30173 Filed 12-26-74;8:45 am]

[Docket No. 50-263]

NORTHERN STATES POWER CO.

Reconstitution of Board

In the matter of Northern States Power Company (Monticello Nuclear Generating Plant).

Dr. John C. Geyer was a member of the Atomic Safety and Licensing Board established to consider the above application. Dr. Geyer is retiring from the Atomic Safety and Licensing Board Panel.

By Order of the Commission, Dr. Richard F. Cole, whose address is Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545, has been appointed a member of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the rules of practice, as amended.

Dated at Bethesda, Maryland this 20th day of December, 1974.

The Atomic Safety and Licensing Board Panel.

NATHANIEL H. GOODRICH,
Chairman.

[FR Doc.74-30172 Filed 12-26-74;8:45 am]

[Docket No. STN 50-437]

OFFSHORE POWER SYSTEMS

Notice and Order Resetting Second Prehearing Conference

In the matter of Offshore Power Systems (Floating Nuclear Power Plants).

The Second Prehearing Conference in the above-captioned proceeding which is scheduled for January 7, 1975, in Washington, D.C., must be continued because of a conflict in the Atomic Safety and Licensing Board's schedule.

Please take notice that the Second Prehearing Conference in this case is hereby continued from January 7, 1975 until 10:00 a.m., January 28, 1975 in the Atomic Safety and Licensing Board Panel's hearing room, 12th floor, Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland 20014.

Issued at Bethesda, Maryland, this 20th day of December 1974.

By order of the Atomic Safety and Licensing Board.

DAVID M. HIGGS,
Chairman.

[FR Doc.74-30171 Filed 12-26-74;8:45 am]

[Docket Nos. STN 50-522 and STN 50-523]

PUGET SOUND POWER AND LIGHT CO. ET AL.

Receipt of Application for Construction Permits and Licenses

Notice of receipt of application for construction permits and facility licenses and availability of applicants' environmental report and certain site suitability information; time for submission of views on antitrust matters.

The Puget Sound Power and Light Company, acting for itself and as agent for the Pacific Power and Light Company, The Washington Water Power Company, the Idaho Power Company, and the Washington Public Power Supply System (the applicants), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, have filed an application, which was docketed September 30, 1974, for authorization to construct and operate two generating units utilizing two boiling water reactors. The application was tendered on August 6, 1974. Following a preliminary review for completeness, the application [environmental report and site suitability information required for an authorization to conduct certain on-site work in accordance with 10 CFR § 50.10(e)] was found to be acceptable for docketing. Docket Nos. STN 50-522 and STN 50-523 have been assigned to the application and they should be referenced in any correspondence relating to the application. The Preliminary Safety Analysis Report, which was tendered on November 27, 1974, is undergoing a preliminary review to determine its acceptability for a detailed review.

The proposed nuclear facilities, designated by the applicants as the Skagit Nuclear Power Project, Units 1 and 2, are to be located in Skagit County, Washington, approximately 5 miles northeast of Sedro Woolley. Each unit is designed for initial operation at approximately 3800 megawatts (thermal), with a net electrical output of approximately 1300 megawatts.

A notice of hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before February 19, 1975. The request should be filed in connection with Docket Nos. STN 50-522-A and STN 50-523-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20545, and at the Sedro Woolley Library, 802 Ball Avenue, Sedro Woolley, Washington 98284.

The applicants have filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, an environmental report dated September 18, 1974. The report, which discusses environmental considerations related to the construction and operation of the proposed facilities is being made available for public inspection at the aforementioned locations and at the Office of the Governor, State Planning and Community Affairs Agency, Olympia, Washington 98504.

After the environmental report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission's Regulatory staff. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 11th day of December, 1974.

For the Atomic Energy Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Project Branch 2-1, Directorate of Licensing.

[FR Doc.74-30393 Filed 12-19-74;8:45 am]

[Docket Nos. 50-445, 50-446]

TEXAS UTILITIES GENERATING CO., ET AL.

Issuance of Construction Permits

Notice is hereby given that, pursuant to the Initial Decisions of the Atomic Safety and Licensing Board, dated October 11, 1974, and December 12, 1974, the Atomic Energy Commission (the Commission) has issued Construction Permits No. CPPR-126 and No. CPPR-127 to the Texas Utilities Generating Company, Dallas Power and Light Company, Texas Electric Service Company, and Texas Power and Light Company, for construction of two pressurized water nuclear reactors at the applicants' site in Somervell County, Texas. The proposed reactors, known as the Comanche Peak Steam Electric Station, Units 1 and 2, are each designed for a rated

power of approximately 3411 megawatts thermal with a net electrical output of approximately 1159 megawatts.

The Initial Decisions are subject to review by an Atomic Safety and Licensing Appeal Board prior to their becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decisions may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the construction permits. The application for the construction permits complies with the standards and requirements of the Act and the Commission's rules and regulations.

The construction permits are effective as of their date of issuance. The earliest dates for the completion of the facilities are August 1, 1979 and August 1, 1981, for Units 1 and 2 respectively, and the latest dates for completion are August 1, 1981 and August 1, 1983, for Units 1 and 2 respectively. Each permit shall expire on the latest date for completion of the facility for which it is issued.

A copy of (1) the Initial Decisions, dated October 11, 1974, and December 12, 1974; (2) Construction Permits Nos. CPPR–126 and CPPR–127; (3) the report of the Advisory Committee on Reactor Safeguards, dated October 18, 1974; (4) the Directorate of Licensing's Safety Evaluation Report, dated September 3, 1974, and Supplement No. 1 to the Safety Evaluation Report, dated November 15, 1974; (5) the Preliminary Safety Analysis Report and amendments thereto; (6) the applicants' Environmental Report dated June 5, 1973, and supplements thereto; (7) the Draft Environmental Statement dated February 1974; and (8) the Final Environmental Statement dated June 1974 are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and at the Somervell County Public Library, On the Square, P.O. Box 417, Glen Rose, Texas. A copy of the construction permits, the Safety Evaluation Report, and its Supplement No. 1 may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 19th day of December, 1974.

For the Atomic Energy Commission.

D. B. VASSALLO,
Chief, Light Water Reactors Project Branch 1–1, Directorate of Licensing—Regulation.

[FR Doc.74–30170 Filed 12–26–74;8:45 am]

[Docket Nos. 50–434, 50–435]

VIRGINIA ELECTRIC AND POWER CO.

Issuance of Construction Permits

Notice is hereby given that, pursuant to the Initial Decision of the Atomic Safety and Licensing Board, dated December 16, 1974, the Atomic Energy Commission (the Commission) has issued Construction Permits Nos. CPPR–124 and CPPR–125 to the Virginia Electric and Power Company for construction of two pressurized water nuclear reactors at the applicant's site in Surry County, Virginia. The proposed reactors known as the Surry Power Station, Units 3 and 4, each designed for a rated power of 2631 megawatts thermal with a net electrical output of 859 megawatts.

The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the construction permits. The application for the construction permits complies with the standards and requirements of the Act and the Commission's rules and regulations.

The construction permits are effective as of their date of issuance. The earliest date for the completion of Unit 3 is November 1, 1982, and the latest date for completion is December 15, 1983. The earliest date for the completion of Unit 4 is November 1, 1983, and the latest date for completion is December 15, 1984. Each permit shall expire on the latest date for completion of the facility.

A copy of (1) the Initial Decision, dated December 16, 1974; (2) Construction Permits Nos. CPPR–124 and CPPR–125; (3) the report of the Advisory Committee on Reactor Safeguards, dated July 16, 1974; (4) the Directorate of Licensing's Safety Evaluation, dated May 23, 1974 and supplement thereto; (5) the Preliminary Safety Analysis Report and amendments thereto; (6) the applicant's Environmental Report, dated April 1973 and supplements thereto; (7) the Draft Environmental Statement, dated February 1974; and (8) the Final Environmental Statement, dated May 1974, are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW, Washington, D.C. and the Swem Library, College of William and Mary, Williamsburg, Virginia 23185. Copies of the construction permits and the Safety Evaluation may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing-Regulation.

Dated at Bethesda, Maryland, this 20th day of December, 1974.

For the Atomic Energy Commission.

A. SCHWENCER,
Chief, Light Water Reactors Branch 2–3, Directorate of Licensing.

[FR Doc.74–30169 Filed 12–26–74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 26903; Order 74–12–80]

ALASKA AIRLINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

On August 30, 1974, Alaska Airlines, Inc., filed a motion for leave to file an otherwise unauthorized document, accompanied by a petition requesting the Board to approve and establish, under section 406 of the Federal Aviation Act of 1958, a fuel surcharge applicable to mail transported by Alaska in its intra-Alaska service. Alaska does not desire at this time to institute proceedings leading to a general reexamination of its service mail rates but only requests that a fuel surcharge, to be effective September 1, 1974, be added to its present service mail rates.[1] Alaska's petition describes the substantial increases in fuel prices which have occurred since final service mail rates were established for the carrier's intra-Alaska services and seeks the establishment of a fuel surcharge based on current fuel costs. By answer filed September 6, 1974, the U.S. Postal Service indicates its support for the relief requested by Alaska.

Under the Board's rules,[2] a petition seeking an adjustment in a mail rate must challenge that rate. Since Alaska makes no request that its entire mail rate be opened, the carrier's petition fails to meet the requirements of our rules and does not serve to open its service mail rates. We will, however, treat Alaska's filing as a petition requesting the Board to institute a mail rate proceeding to determine a fuel-related surcharge on a prospective basis for its intra-Alaska mail service.[3] We take this action because we are aware that Alaska, like the other air carriers, has experienced significant fuel cost increases.

Alaska was granted a five percent intra-Alaska passenger-fare increase, effective September 20, 1974, to compensate for the unusually high fuel costs it has been experiencing. In view of this, we will institute a proceeding proposing to amended Alaska's present intra-Alaska service mail rates to establish for the future a fuel-related surcharge. We will, therefore, open Alaska's intra-Alaska service mail rates to the extent necessary to consider an appropriate fuel surcharge. It is not the intent of this proceeding to conduct a definitive inquiry into all aspects of Alaska's mail operations, but to deal primarily with whatever reasonable adjustment is needed, under the present circumstances, to reflect increased fuel costs.

In support of its petition, Alaska states that Chevron International Oil Com-

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[1] These rates were established by Order 71–2–56, February 10, 1971, and Order 71–2–102, February 23, 1971.

[2] Section 302.303(b) of the Board's Procedural Regulations.

[3] Therefore, Alaska's motion to file an unauthorized document will be denied except to the extent granted herein.

pany, Inc., who supplies all if its aviation fuel, has increased fuel prices, effective September 1, 1974, by 4.7 cents per gallon at all stations except Fairbanks where the increase was 6.39 cents. This is in addition to increases of four cents per gallon in 1973 and 4.5 cents on January 1, 1974. Based on the carrier's computations for the first six months of 1974, there has been a 58.6 percent increase in fuel cost per great-circle mail ton-mile over the fiscal year 1969 base period or an increase of 4.66 cents per great-circle mail ton-mile. The computations for the amended priority and nonpriority rates, herein, are set out in the attached Appendix.

Based on our review of the data submitted with Alaska's petition, plus additional data subsequently provided by Alaska,[4] and data provided in their Form 41 reports, we find that it is appropriate to base a fuel surcharge for Alaska on the percentage increase in fuel costs per great-circle mail ton-mile for the first half of 1974 over those for the fiscal year 1969 based period.

In view of the extraordinary fuel price increases experienced by the air carriers, we have determined to propose a fuel surcharge applicable to the carriage of mail by Alaska, effective on and after the adoption of this order. We also propose that upon application by Alaska or the Postmaster General, further adjustments of this surcharge may be made as warranted by any significant fluctuation in fuel costs which would otherwise constitute an undue burden upon the carrier or the U.S. Postal Service.

As we have previously indicated, this proceeding is primarily concerned with the limited issue of escalating fuel costs experienced by Alaska. Nevertheless, it is found from an examination of reported results that there is no reason to believe that Alaska's costs for transporting mail have declined, nor that the productivity achieved by this carrier could compensate for experienced fuel cost increases that have occurred since Alaska's intra-Alaska service mail rates were computed on the basis of fiscal year 1969 cost data. Based on the available information, it is clear that the addition of the fuel surcharge requested by Alaska is reasonable and will not result in an overpayment to the carrier for the carriage of mail.[5] While the Board does not favor opening a rate for an adjustment based on a change in only one element of cost, we recognize the unprecedented situation that has been occasioned by the world energy crisis and the resultant precipitous increase in fuel costs. Under the circumstances, no useful purpose would be served by a complete review of Alaska's intra-Alaska service mail rates, and this is particularly relevant since the Postmaster General supports the petitioner's request for a fuel-related surcharge. However, our action herein is limited to the specific circumstances of this case and is not to be considered a precedent in future proceedings.

Based on the foregoing, the Board tentatively finds and concludes that on and after December 20, 1974, the fair and reasonable final rates of compensation to be paid by the Postmaster General to Alaska Airlines, Inc., for the transportation of mail by aircraft over its intra-Alaska routes, the facilities used and useful therefor, and the services connected therewith, are those rates established in Order 71-2-102, February 23, 1971, plus a fuel surcharge of 4.66 cents per great-circle mail ton-mile as indicated in the Appendix: *Provided, however,* That if there is a further significant variation in the fuel cost per revenue ton-mile for scheduled services, the aforesaid fuel surcharge may be adjusted by further order of the Board upon application by the carrier or the Postmaster General accompanied by supportive fuel cost data.

Accordingly, pursuant to the Federal Aviation Act of 1958, particularly sections 204(a) and 406 thereof, and the Regulations promulgated in 14 CFR, Part 302,

It is ordered, That:

1. All interested persons, and particularly Alaska Airlines, Inc., and the Postmaster General, are directed to show cause why the Board should not amend Order 71-2-102, February 23, 1971, so as to adopt the following service mail rates per great-circle mail ton-mile effective on and after December 20, 1974: priority mail $1.3466 and nonpriority $1.0966, subject to the terms and conditions as set forth in Order 71-2-102;

2. The motion filed by Alaska is denied except to the extent granted herein;

3. Further procedures herein shall be in accordance with the Rules of Practice, 14 CFR Part 302, and if there is any objection to the rates and charges or to the related findings and conclusions proposed herein, notice thereof shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after the date of service of this order;

4. If notice of objection is not filed within 10 days, or if notice is filed and answer is not filed within 30 days after service of this order, or if an answer timely filed raises no material issue of fact, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of an order fixing final service mail rates and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the rates herein specified;

5. If notice of objection and answer are filed presenting issues for hearing, issues going to the establishment of the fair and reasonable rates herein [1] shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.307; and

6. This order shall be served upon Alaska Airlines, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-30105 Filed 12-26-74;8:45 am]

SATURN AIRWAYS, INC. ET AL.

Notice of Postponement of Hearing

In the matter of Saturn Airways, Inc., Docket No. 26878, and Ayhan Kaymak v. Saturn Airways, Inc., *et al.*, Docket No. 25864.

Notice is hereby given that, at the request of Saturn Airways, Inc., to which no party has filed any objection, the hearing in the above-captioned cases (39 FR 39906, November 12, 1974) has been postponed to Tuesday, February 4, 1975, at 10 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., December 18, 1974.

[SEAL] FRANK M. WHITING,
Administrative Law Judge.

[FR Doc.74-30104 Filed 12-26-74;8:45 am]

[Dockets 26260, 26494; Agreements C.A.B. 24714 R-4, 24816 R-1 through R-5, 24817 R-1 through R-6; Order 74-12-70]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Cargo Rate, Passenger Fare, and Currency Matters

Issued under delegated authority December 19, 1974.

Agreements have been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA).

Agreement C.A.B. 24714, would revalidate Resolution 016h (North and Central Pacific Cargo Policy Study Group) through September 30, 1975.[1]

Agreement C.A.B. 24816 would amend various resolutions imposing currency-related surcharges on passenger fares from Iceland and Japan to reflect recent depreciations in the values of the Icelandic krona and Japanese yen. The Board has previously approved other IATA agreements reflecting the same

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[4] Schedule F-6(b)—Fuel Consumption and Inventories—for the month of September 1974 was received on October 18, 1974.

[5] For fiscal year 1969, Alaska's reported results indicate total operating costs of 58.57 cents per revenue ton-mile. By fiscal year 1974, these costs had risen approximately 27 percent to 74.53 cents per revenue ton-mile.

[1] Filed as part of the original document.

[1] Agreement C.A.B. 24714 also proposes introduction of rates for B-747F aircraft containers, as well as a general 8 percent increase in all North/Central Pacific cargo rates; and would revalidate the underlying rate structure through September 30, 1975. Order 74-10-120 (October 23, 1974) established procedures for the disposition of these resolutions, which will be treated in a separate order.

surcharge levels from Iceland and Japan,[2] and the agreements now before us would merely clarify application of the surcharges to other world areas.

Agreement C.A.B. 24817 encompasses the revalidation, and amendment, of the TC2 (Europe/Middle East/Africa) fare structure through March 31, 1976. The agreement affects air transportation as defined by the Act only insofar as it involves normal fares, which are combinable with fares to/from U.S. points. We will approve those portions of the agreement, and disclaim jurisdiction with respect to the balance of the agreement.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14:

1. It is not found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA resolution
24714:	
R-4	JT31 (Mail 278)016b.

Agreement CAB	IATA No.	Title	Application
24816:			
R-1	002z H	JT23/JT123—Special Rules for Sales of Passenger Air Transportation (Revalidating and Amending).	2/3; 1/2/3
R-2	002h	JT12 and JT123 (South Atlantic)—Special Rules for Sales of Passenger Air Transportation (Amending).	1/2; 1/2/3
R-3	122i	JT12 and JT123 (North Atlantic)—Special Rules for Sales of Passenger Air Transportation (Amending).	1/2; 1/2/3
R-4	002m	JT12 and JT123 (Mid Atlantic)—Special Rules for Sales of Passenger Air Transportation (Amending).	1/2; 1/2/3
R-5	002v	JT23/A23—Special Rules for Sales of Passenger Air Transportation From TC2 to TC3 (Revalidating and Amending).	2/3; 1/2/3
24817:			
R-1	002	Standard Revalidation Resolution	2
R-2	002a	Special Readoption Resolution	2
24817:			
R-4	002d	TC2 Special Rules for Sales of Passenger Air Transportation (Revalidating and Amending).	2
R-5	002dd	TC2 Special Rules for Sales of Passenger Air Transportation (Revalidating and Amending).	2
R-6	311	Baggage Excess Weight Charges (Amending)	2

2. It is not found that the following resolutions, incorporated in Agreement C.A.B. 24817 as indicated, affect air transportation within the meaning of the Act:

Agreement CAB	IATA No.	Title	Application
24817:			
R-3	034e	Special Fares to/from United Kingdom	2
R-6	034r	Group Inclusive Tours from Scandinavia (Revalidating and Amending).	2
R-7	230h	TC2 Family Fares Between Points in Middle East and Between Libya and the Middle East (Revalidating and Amending).	2
R-8	002	Student Fares (Revalidating and Amending)	2

Accordingly, it is ordered, That: 1. Agreements C.A.B. 24714, R-4; C.A.B. 24816, R-1 through R-5; and C.A.B. 24817, R-1, R-2, R-4, R-5 and R-6, be and hereby are approved;

2. Jurisdiction be and hereby is disclaimed with respect to Agreement C.A.B. 24817, R-3, R-6, R-7, and R-8; and

3. The carriers are hereby authorized to file tariffs reflecting the provisions of the approved agreements, insofar as they apply in air transportation as defined by the Act, on not less than one day's notice for effectiveness not earlier than December 23, 1974. The authority granted in this paragraph expires January 20, 1975.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

JAMES L. DEEGAN,
Chief, Passenger and Cargo Rates Division, Bureau of Economics.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-30266 Filed 12-26-74;8:45 am]

COMMISSION ON CIVIL RIGHTS

ARKANSAS STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Arkansas State Advisory Committee (SAC) to this Commission will convene at 9:30 a.m. on January 18, 1975, in the Hotel Sam Peck, Loggia Room, 625 W. Capitol, Little Rock, Arkansas 72201.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Southwestern Regional Office of the Commission, Room 231, New Moore Building, 106 Broadway, San Antonio, Texas 78205.

The purpose of this meeting (1) Call to order, (2) Discussion of SWRO activities, (3) Planning of strategies for endorsement of Equal Rights Amendment, (4) Press conference to endorse Equal Rights Amendment, (5) Planning for future Arkansas programs.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 23, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-30267 Filed 12-26-74;8:45 am]

KANSAS STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Kansas State Advisory Committee (SAC) to this Commission will convene at 8:30 a.m. on January 17, 1975, at 7301 Northwest Tiffany Springs Road, Kansas City, Missouri 64153.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Central States Regional Office of the Commission, Room 3103, Old Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to discuss Revenue Sharing.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 23, 1974.

ISAIAH T. CRESWELL, JR.,
Advisory Committee Management Officer.

[FR Doc.74-30265 Filed 12-26-74;8:45 am]

PENNSYLVANIA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Pennsylvania State Advisory Committee (SAC) to this Commission will convene at 10:30 a.m. on January 21, 1975, Federal Building, Room 6306, Arch Street, Philadelphia, Pennsylvania 19106.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, NW., Washington, D.C. 20425.

The purpose of this meeting is to introduce new SAC members.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

[2] Orders 74-11-118 (November 21, 1974) and 74-11-158 (November 29, 1974) respectively.

Dated at Washington, D.C., December 20, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-30268 Filed 12-26-74;8:45 am]

VIRGINIA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Virginia State Advisory Committee (SAC) to this Commission will convene at 12:00 noon on January 16, 1975, at Gateway Inn 6007, Route 60 East, Huntington, West Virginia.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, NW., Washington, D.C. 20425.

The purpose of this meeting shall be subcommittees reports will be presented on activities in Alderson, Parkersburg and Wheeling, West Virginia.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 20, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-30266 Filed 12-26-74;8:45 am]

VIRGINIA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Virginia State Advisory Committee (SAC) to this Commission will convene at 7 p.m. on January 7, 1975, at the John Marshall Hotel, Byrd Room, 5th and Franklin Streets, Richmond, Virginia 23211.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, NW., Washington, D.C. 20425.

The purpose of this meeting is to plan SAC activities for 1975.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 20, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-30269 Filed 12-26-74;8:45 am]

MASSACHUSETTS STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts State Advisory Committee (SAC) will convene on January 21, 1975, at 3 p.m. in John F. Kennedy Federal Building, Room 505, Boston, Massachusetts.

Persons wishing to attend this meeting should contact the Committee Chairman or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to discuss project development for the new subcommittee Project Developments.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 20, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-30270 Filed 12-26-74;8:45 am]

CIVIL SERVICE COMMISSION

FUND-RAISING ADVISORY COUNCIL

Charter Renewal

Pursuant to section 14 of the Federal Advisory Committee Act (Pub. L. 92-463) and OMB Circular A-63 Revised, March 27, 1974, notice is hereby given of the renewal of the charter of the Fund-Raising Advisory Council. The Council was established under the authority of Executive Order 10927. The objectives of the Council are to maintain liaison and to provide working relationships on a national scope between the Federal Government and private voluntary charitable organizations which seek to solicit Federal employees and military personnel on the job.

The Civil Service Commission certifies that the renewal of the Council is in the public interest. A new charter for the Council has been approved and filed as required.

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74-30263 Filed 12-26-74;8:45 am]

PRIVATE VOLUNTARY AGENCY ELIGIBILITY COMMITTEE

Charter Renewal

Pursuant to section 14 of the Federal Advisory Committee Act (Pub. L. 92-463) and OMB Circular A-63 Revised, March 27, 1974, notice is hereby given of the renewal of the charter of the Committee on Private Voluntary Agency Eligibility. The Committee was established under the authority of Executive Order 10927. Its objectives are to insure through prior review of applications and supplementary financial and accounting data, that only responsible and worthy national voluntary agencies are authorized to solicit on the job in Federal installations, and to make recommendations regarding certain other matters relating to fund-raising appeals.

The Civil Service Commission certifies that the renewal of this advisory committee is in the public interest. A new charter for the Committee has been approved and filed as required.

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.74-30264 Filed 12-26-74;8:45 am]

COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT FOR THE CONDUCT OF FOREIGN POLICY

CONGRESS AND CONGRESSIONAL-EXECUTIVE RELATIONS INTERNATIONAL ECONOMIC POLICY

Public Hearings

Notice is hereby given that the Commission on the Organization of the Government for the Conduct of Foreign Policy will hold public hearings, on the subject areas noted below, in San Francisco, California, on January 28, 1975, at 9:30 a.m., in the Ceremonial Courtroom of the U.S. District Courthouse, 450 Golden Gate, 19th Floor. A second day of hearings on January 29 will be held if necessary. The hearings are held in furtherance of the Commission's mandate, as stated in section 603(a) of Pub. L. 92-352 (92nd Congress, H.R. 14734):

Section 603(a) The Commission shall study and investigate the organization, methods of operation, and powers of all departments, agencies, independent establishments, and instrumentalities of the United States Government participating in the formulation and implementation of United States foreign policy and shall make recommendations which the Commission considers appropriate to provide improved governmental processes and programs in the formulation and implementation of such policy, including, but not limited to, recommendations with respect to—

(1) the reorganization of the departments, agencies, independent establishments, and instrumentalities of the executive branch participating in foreign policy matters;

(2) more effective arrangements between the executive branch and Congress, which will better enable each to carry out its constitutional responsibilities;

(3) improved procedures among departments, agencies, independent establishments, and instrumentalities of the United States Government to provide improved coordination and control with respect to the conduct of foreign policy;

(4) the abolition of services, activities, and functions not necessary to the efficient conduct of foreign policy; and

(8) other measures to promote peace, economy, efficiency, and improved administration of foreign policy.

The hearing will focus upon two specific subject areas:

1. *Congressional-Executive Relations.* The Commission is seeking views of informed persons on the Congressional-Executive relationship in the formulation and implementation of U.S. foreign policy, views offering specific criticism and recommendations for improving Congressional-Executive organization in the following areas:

Operational Congressional Reforms: Staffing and Support Systems.
Institutional Congressional Reforms: Committee Roles and Jurisdictions.
Congressional Oversight Over the Executive Branch and Foreign Policy.
Congressional-Executive Organization: Role of Congress and Executive Branch.
Congressional-Executive Organization: The Constitutional Framework.

A partial listing of some issues raised which testimony should focus upon include the organization of committee jurisdictions for efficient consideration of foreign policy issues; the utilization of staff and support to give expertise to the Congress in its partnership with the Executive on foreign policy matters; the Congressional oversight of foreign policy, including military programs and policies, and the intelligence agencies; Congress' access to timely information, the classification system, secrecy in foreign policy; Congress' role in the treaty-making process, and the use of Executive Agreements; the issue of constitutional primacy in foreign affairs between Congress and the Executive; use of force policies, war powers, and the Commander-in-Chief authority; the constitutional and practical aspects of Congress' power of the purse in foreign policy.

Testimony need not be limited to the above issues. The only restriction is that witnesses confine themselves to organizational, structural, and procedural matters and not to substantive policy matters.

2. *International Economic Policy.* The objective of the Commission in soliciting testimony from private sectory witnesses on the subject of international economic policy organization is to receive suggestions, comments and criticisms aimed at improving governmental organization in the following specific functional areas:

International Trade.
International Investment and Multinational Corporations.
International Finance, Monetary Policy and Taxation.
Economic Assistance to Less Developed Countries.
Raw Materials and Natural Resource Availability.
Labor.

Testimony should be directed at identifying problem areas and suggesting improvements in the organization, procedures, and personnel in the manner in which the Federal Government formulates, implements, and conducts international economic policy and maintains relations with the domestic business community. The Commission is interested in compiling a detailed perspective of the private sector's experiences in dealing with the Government in the field of international economic policy. Specifically, we hope that testimony should touch on such issues as the ability to make private sector attitudes known and understood in the Government, the ability to receive explanations of governmental policies and intentions, policy inconsistencies and shifting jurisdictional responsibilities among governmental agencies, and comparisons of organizational and procedural techniques with those of foreign governments. Testimony need not be limited to such issues; the only restriction is that witnesses confine themselves to organizational, procedural and personnel matters and not to substantive policy matters.

Interested persons are encouraged to present information and views in the course of the Commission's hearing, subject to the following conditions and procedures:

(1) Any person wishing to present information and views to the Commission shall submit a request in writing, specifying the date of the hearing for which the request is made, a concise summary of the proposed presentation, and the amount of time requested for oral testimony (if any). Such request must be received at the offices of the Commission no less than 14 days prior to the proposed hearing date.

(2) The Chairman shall, within three (3) days from receipt of any such request, notify the requesting person whether the proposed presentation is consistent with the legislative mandate of the Commission, and how much time (if any) can be allotted for oral testimony.

(3) Two (2) typewritten copies of all material to be presented to the Commission shall be filed with the Commission no less than two (2) business days prior to the hearing to which it relates. Any statement or material for which no time for oral presentation has been allotted or is available shall be included in the official hearing record.

(4) Any person who takes exception to any determination of the Commission may present in writing to any Commissioner the basis for such exception and thereafter the decision of the Chairman shall be considered by the Commission and may be overruled by a majority vote. Such person shall be notified by certified mail of the decision of the Commission, which shall be final.

Requests for further information, questions, and other communications should be addressed to the Executive Director, Commission on the Organization of the Government for the Conduct of Foreign Policy, 2025 M Street NW., Washington, D.C. 20506, Suite 3002, Telephone 202-254-9850 or the World Affairs Council of Northern California, 406 Sutter Street, San Francisco, California 94108, Telephone 415-982-2541.

By the Commission.

FRANCIS O. WILCOX,
Executive Director.

[FR Doc.74-30178 Filed 12-26-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-32000/161; PRL 310-1]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before February 25, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after February 25, 1974.

APPLICATIONS RECEIVED

EPA File Symbol 1029-REE. Aidex Corp., 1024 N. 17th St., Omaha NE 68102. DACTHEX 5-G TURF AND GARDEN HERBICIDE. Active Ingredients: Dimethyltetrachloroterephthalate 5.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 241-EUA. American Cyanamid Co., PO Box 400, Princeton NJ 08540. 2% TEMEPHOS PRESSURIZED SPRAY FOR CONTROL OF FLEAS ON DOGS ONLY. Active Ingredients: (0,0'-(thiodi-p-phenylene) 0,0,0',0'- tetramethyl

bis-(phosphorothioate) 2.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8481-RTI. Amvac Chemical Corp., 4100 E. Washington Blvd., Los Angeles CA 90023. ALCO HOME AND GARDEN INSECT SPRAY PRESSURIZED. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.350%; Related compounds 0.048%; Aromatic petroleum hydrocarbons 0.464%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 962-LA. Basf Wyandotte Corp., Chemical Specialties Div., 1609 Biddle Ave., Wyandotte MI 48192. WYANDOTTE MULTICHLOR B HIGHLY-SOLUBLE CHLORINE SANITIZER. Active Ingredients: Sodium dichloro-s-triazinetrione 12.9%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 962-LI. Basf Wyandotte Corp. WYANDOTTE STERICHLOR B HIGHLY-SOLUBLE CHLORINE SANITIZER. Active Ingredients: Sodium dichloro-s-triazinetrione 6.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 962-LT. Basf Wyandotte Corp. WYANDOTTE MULTICHLOR D HIGHLY-SOLUBLE CHLORINE SANITIZER. Active Ingredients: Potassium dichloro-2-triazinetrione 13.8%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1130-G. Burnshine Products, Inc., 8140 N. Ridgeway, Skokie IL 60076. BURNISHINE PORCELAIN & BOWL CLEANER. Active Ingredients: Hydrogen Chloride 9.5%; n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.115%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.115%; Tripropylene glycol methyl ether 0.83%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4643-ET. Dearborn Chemical Div., Chemed Corp., Lake Zurich IL 60047. DEARODE 732. Active Ingredients: Bis-(tributyltin) oxide 2.38%; N-Alkyl (7% C8, 6.5% C10, 53% C12, 19% C14, 6.5% C16, 6% C18) 1,3-Propanediamine 15.00%; n-Alkyl (60% C14, 5% C12, 30% C16, 5% C18) dimethyl benzyl ammonium chloride 7.50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7478-EE. Chem-Pak Co., PO Box 757, Miami FL 33143. C QUICK. Active Ingredients: Dimethylarsinic acid 20.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7478-EG. Chem-Pak Co. C SPRINKL. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic Acid 0.25%; Isooctyl Ester of Silvex (2-(2,4,5-Trichlorophenoxy) propionic acid) 0.25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7478-EL. Chem-Pak Co. C METHOXYCHLOR 2 EC. Active Ingredients: Methoxychlor Technical 25.0%; Petroleum Distillate 70.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7478-EN. Chem-Pak Co. C FLORIDA LAWN WEED KILLER. Active Ingredients: Isooctyl Ester of 2,4-Dichlorophenoxyacetic Acid 34.5%; Isooctyl Ester of Silvex (2-(2,4,5-Trichlorophenoxy) propionic acid) 32.6%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7478-ER. Chem-Pak Co. C QUICK "TG". Active Ingredients: Monosodium Acid Methanearsonate 25.8%; Sodium Cacodylate 10.4%; Dimethylarsinic Acid (Cacodylic Acid) 1.8%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7478-EU. Chem-Pak Co. C ZINEB FUNGICIDE. Active Ingredients: Zineb (Zinc Ethylene Bis Dithiocarbamate) 75%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7478-EO. Chem-Pak Co. C MANEB FUNGICIDE. Active Ingredients: Maneb (Manganese ethylenebisdithiocarbamate) 80.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7173-RLT. Chempar Chemical Co., Inc., 260 Madison Ave., New York NY 10016. CHEMPAR ROZOL RODENTICIDE (WATER SOLUBLE) CONCENTRATE. Active Ingredients: 2-[(p-chlorophenyl) phenylacetyl]-1,3-indandione 1.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 239-EUGE. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHO LIQUID LAWN DISEASE CONTROL. Active Ingredients: Chlorothalonil (tetrachloroisophthalonitrile) 29.6%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1109-GE. Cities Service Co., PO Box 50360, Atlanta GA 30302. CITCO COPPER SULFATE HI SOL-CRYSTALS. Active Ingredients: Copper Sulfate (Pentahydrate) 99.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6621-LA. Eagle Chemical Co., 2819 W. Lake St., Chicago IL 60612. MINUS 24 WEED AND BRUSH CONTROL. Active Ingredients: Petroleum oil 96.07%; Bromacil (5-bromo-3-sec-butyl-6-methyluracil) 0.97%; Pentachlorophenol 0.79%; Other chlorophenols 0.09%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6621-LI. Eagle Chemical Co. LIQUID WEED KILLER #1. Active Ingredients: Petroleum oil 94.94%; 2,4-Dichlorophenoxyacetic acid, isooctyl ester 1.09%; Bromacil (5-bromo-3-sec-butyl-6-methyluracil) 0.96%; Pentachlorophenol 0.80%; Other chlorophenols 0.09%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6621-LT. Eagle Chemical Co. WEED KILLER #6. Active Ingredients: Petroleum oil 96.00%; 2,4-Dichlorophenoxyacetic acid, isooctyl ester 1.10%; Bromacil (5-bromo-3-sec-butyl-6-methyluracil) 0.61%; Pentachlorophenol 0.79%; Other Chlorophenols 0.09%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 3770-GER. Economy Products Co., Inc., PO Box 427, Shenandoah IA 51601. PRESSURIZED FLY SPRAY FOR HORSES AND SHOW STOCK. Active Ingredients: Butoxypolypropylene glycol 15.00%; Technical Methoxychlor 2.00%; Technical Piperonyl Butoxide 1.07%; Pyrethrins 0.31%; Mineral Oil 1.80%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2517-RG. Geisler Pet Products, Inc., 3902 Leavenworth St., Omaha NE 68105. GEISLER DOG TICK & FLEA SOAP. Active Ingredients: Pyrethrins 0.060%; Technical Piperonyl Butoxide 0.100%; N-Octyl bicycloheptene dicarboximide 0.166%; Petroleum Distillate 0.240%; 2,3,4,5 Bis (delta-2-butylene) tetrahydrofurfural 0.200%; Anhydrous Soap 83.000%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 860-RLE. Green Light Co., PO Box 16192, San Antonio TX 78246. GREEN LIGHT FRUIT AND VEGETABLE SPRAY. Active Ingredients: Malathion 50%; Xylene 39%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 334-UNI. Hysan Corp., 919 W. 38th St., Chicago IL 60609. TOWER ALGAECIDE 15. Active Ingredients: Poly-[oxyethylene(dimethyliminio)ethylene(dimethyliminio)ethylenedichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 334-UNO. Hysan Corp. TOWER ALGAECIDE 10. Active Ingredients: Poly[oxyethylene(dimethyliminio)-ethylene(dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 334-UNT. Hysan Corp. TOWER ALGAECIDE 20. Active Ingredients: Poly[oxyethylene(dimethyliminio)-ethylene(dimethyliminio)ethylene dichloride] 20.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 334-URE. Hysan Corp. POOL ALGAECIDE 40. Active Ingredients: Poly[oxyethylene(dimethyliminio)-ethylene(dimethyliminio)ethylene dichloride] 40.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 334-URG. Hysan Corp. POOL ALGAECIDE 60. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene(dimethyliminio)ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 334-URL. Hysan Corp. TOWER ALGAECIDE N 17.5. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 334-URN. Hysan Corp. POOL ALGAECIDE 10. Active Ingredients: Poly-[oxyethylene (dimethyliminio) ethylene (dimethyliminio)ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 334-URR. Hysan Corp. POOL ALGAECIDE 15. Active Ingredients: Poly-[oxyethylene (dimethyliminio) ethylene-(dimethyliminio)ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 334-URU. Hysan Corp. TOWER ALGAECIDE N 8.75. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1021-RGGG. McLaughlin Gormley King Co., 8810 Tenth Ave., N, Minneapolis MN 55427. PYROCIDE INTERMEDIATE 7238. Active Ingredients: Pyrethrins 1.43%; Piperonyl butoxide, technical 2.86%; N-octyl bicycloheptene dicarboximide 2.86%; 2-(1-Methylethoxy) phenol methylcarbamate 7.15%; Petroleum distillate 7.86%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1021-RGGG. McLaughlin Gormley King Co., 8810 Tenth Ave., N, Minneapolis MN 55427. PYROCIDE FOGGING FORMULA 7240. Active Ingredients: Pyrethrins 3.00%; Piperonyl butoxide, technical 6.00%; N-octyl bicycloheptene dicarboximide 10.00%; Petroleum distillate 81.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5298-EE. Old Fox Chemical, Inc., 96 Valley St., East Providence RI 02914. OLD FOX GRANULAR TURF AND GARDEN INSECT CONTROL. Active Ingredients: 0,0-diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5298-EG. Old Fox Chemical, Inc. OLD FOX DIAZINON 14 G SOIL AND CROP INSECT CONTROL. Active Ingredients: 0,0-diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 14%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5298-ER. Old Fox Chemical, Inc. OLD FOX DIAZINON 2%. GRAN LAWN INSECT CONTROL. Active Ingredients: 0,0-diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2169-ELE. Patterson Chemical Co., 1400 Union Ave., Kansas City MO 64101. GREEN-UP PLICTRAN 50W WETTABLE POWDER MITICIDE. Active Ingredients: Tricyclohexyltin hydroxide 50.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1124-IG. Purex Corp., 24600 S. Main St., Carson CA 90745. GUARDEX ALGAECIDE 40. Active Ingredients: Poly-[oxyethylene (dimethyliminio) ethylene-(dimethylimmio) ethylene dichloride] 40%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 602-ELA. Ralston Purina Co., Checkerboard Square, St. Louis MO 63188. PURINA FACEFLY BOMB. Active Ingredients: Pyrethrins 0.18%; Piperonyl butoxide, technical 0.36%; N-octyl bicycloheptene dicarboximide 0.60%; Di-n-propyl isocinchomeronate 1.20%; Petroleum Distillate 77.66%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 538-RGN. O. M. Scott & Sons, Marysville OH 43040. TURF BUILDER PLUS MOSS CONTROL. Active Ingredients: Ferrous Ammonium Sulfate 17.41%; Pentachlorophenol 1.85%; Other Chlorinated Phenols 0.25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 538-RGR. O. M. Scott & Sons, Marysville OH 43040. LAWN MOSS CONTROL WITH FERTILIZER. Active Ingredients: Ferrous Ammonium Sulfate 18.24%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4000-AT. Southern Chemical Products Co., PO Box 205, Macon GA 31202. RESIDUAL ROACH SPRAY. Active Ingredients: Pyrethrins 0.050%; Piperonyl butoxide, technical 0.100%; N-octyl bicycloheptene dicarboximide 0.166%; 2-(1-methylethoxy) phenol methylcarbamate 0.500%; Petroleum distillate 91.730%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2279-T. Southern Protective Products Co., 1135 Sylvan Rd., SW, Atlanta GA 30310. SOUTHERN 2810 CLEAR WOOD PRESERVATIVE. Active Ingredients: Pentachlorophenol 3.95%; Other Chlorophenol and related compounds 1.24%. Method of Support: Application proceeds under 2(c) of interim policy.

REPUBLISHED ITEM

The following item represents a correction in the list of Applications Received published in the FEDERAL REGISTER of December 10, 1974 (39 FR 43102).

EPA File Symbol 12456-ER. Aqua Chemical Corp., 1 Allen St., Springfield MA 01008. AQUAMAID ALGAECIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.2%; n-Dialkyl (60% C14, 30% C16, 5% C12, 5% C18) methyl benzyl ammonium chlorides 0.8%. Originally published as n-Dialkyl (60% C14, 30% C16, 5% C12, 5% C18) methyl benzyl ammonium chlorides.

Dated: December 13, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-29707 Filed 12-26-74;8:45 am]

[FRL 313-4]

SCIENCE ADVISORY BOARD, HAZARDOUS MATERIALS ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Hazardous Materials Advisory Committee of the Science Advisory Board will be held beginning at 8:30 a.m., January 13, 1975, in Room 3307, Waterside Mall, 401 M Street, SW., Washington, D.C. Individuals without an EPA Building Pass, must enter at the West Tower. This is a tentative meeting date. Persons planning to attend should contact the Acting Executive Secretary by January 8, 1975 (approximately 5 days prior to the meeting) for final confirmation.

This is a regularly scheduled meeting of the Committee. The agenda includes presentations and discussions on the Environmental Protection Agency's Environmental Sciences Research Programs—Health Effects and Ecological Processes and Effects; Pesticide Registration as related to the use of pesticides on minor crops; toxicology and the use of primates in research; developments in the utilization of solid waste; member items of interest; and comments by program liaison representatives.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain additional information should contact Dr. J. Frances Allen, Acting Executive Secretary, Hazardous Materials Advisory Committee, (703) 557-7720.

ALBERT C. TRAKOWSKI,
Acting Assistant Administrator for Research and Development.

DECEMBER 20, 1974.

[FR Doc.74-30140 Filed 12-26-74;8:45 am]

[FRL 313-3]

SCIENCE ADVISORY BOARD, NATIONAL AIR QUALITY CRITERIA ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the National Air Quality Criteria Advisory Committee of the Science Advisory Board will be held at 9 a.m. on January 16, 1975 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

The purpose of the meeting will be (1) to consult the committee regarding atmospheric suspended sulfates; (2) to brief the committee on and to discuss the preparation of scientific and technical assessment reports of the EPA Office of Research and Development; (3) to brief the committee on and to discuss the functions and activities of the EPA Science Advisory Board; and (4) to discuss the future role of the committee and ways of assuring its effectiveness. The agenda will also include (5) brief reports or informational items of current interest to the members.

The meeting will be open to the public. This is a tentative meeting date and any member of the public wishing to attend or submit a paper should contact the Executive Secretary, Mr. Ernst Linde, Scientist Administrator, National Environmental Research Center, Environmental Protection Agency, Research Triangle Park, North Carolina 27711 by January 9, 1975 for final confirmation.

The telephone number is (919) 549-8411, extension 2266.

ALBERT C. TRAKOWSKI,
Acting Assistant Administrator for Research and Development.

DECEMBER 20, 1974.

[FR Doc.74-30141 Filed 12-26-74;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[No. 74-1316]

FEDERAL ASSOCIATIONS IN ILLINOIS

Applications for Permission To Establish Branch Offices, Mobile Facilities and Satellite Offices; Policy Statement

DECEMBER 19, 1974.

Under its statement of policy set out in paragraph (b)(1) of § 556.5 of the rules and regulations for the Federal Savings and Loan System (12 CFR 556.5 (b)(1)), the Federal Home Loan Bank Board began processing and considering applications from Federal associations in Illinois for de novo branch offices, mobile facilities, and satellite offices of associations on February 1, 1973. In order to effect an orderly transition in Illinois, the Board has imposed certain limitations with respect to such applications as set forth in Resolution No. 73-178, dated February 7, 1973, as amended by Resolution No. 73-2035, dated December 28, 1973, and by Resolution No. 74-506, dated June 5, 1974. Effective January 1, 1975, those limitations are modified to read as follows:

1. Only one application may be on file at any one time during the period January 1, 1975 through June 30, 1975.

2. An application on file at December 31, 1974 may thereafter be approved by the Board.

3. Only one application filed after December 31, 1974 may be approved by the Board during the period January 1, 1975 through June 30, 1975.

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[FR Doc.74-30222 Filed 12-26-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP74-90]

CONSOLIDATED GAS SUPPLY CORP.

Order Granting Interventions

DECEMBER 18, 1974.

On May 16, 1974, Consolidated Gas Supply Corporation (Consolidated) tendered for filing proposed changes in its FPC Gas Tariff[1] to provide for a rate increase in jurisdictional revenues of approximately $24.9 million annually based upon claimed costs and revenues for twelve months ended January 31, 1974, as adjusted.

Letters of protest, comments or petitions to intervene were due on or before June 14, 1974. The following parties filed untimely interventions:

Transcontinental Gas Pipe Line Corporation
Public Utilities Commission of Ohio

The participation of the above-named Company and State Commission may be in the public interest and therefore, their untimely intervention shall be granted.

The Commission finds:

The participation of the above-named parties may be in the public interest.

The Commission orders:

(A) The above-named parties are permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission and the procedures set forth in the Commission Order of June 28, 1974: *Provided, however,* That participation of said intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions to intervene: *And Provided, further,* The admission of said intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered in this proceeding.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc. 74-30035 Filed 12-26-74;8:45 am]

[Docket No. CP74-169]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Amendment to Application

DECEMBER 18, 1974.

Take notice that on December 9, 1974, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), 300 North St. Joseph Avenue, Hastings, Nebraska 68901, filed in Docket No. CP74-169 an amendment to its application filed on December 13, 1973,[2] in said docket requesting a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act to reflect the cancellation of the original agreement which was the subject of this proceeding and replacement with a new agreement which differs to the extent that delivery points are changed and no purchase of gas by Applicant is contemplated, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

In its original application, Applicant proposed a gas exchange and purchase arrangement with Natural Gas Pipeline Company of America (Natural) whereby up to 25,000 Mcf of gas per day would be exchanged between the two companies. During the first year of said arrangement Applicant was to purchase 25 percent of the volumes delivered by Natural at a proposed price of 50.0 cents per Mcf and retain the remaining 75 percent for Natural's account. Applicant further proposed to contruct and operate certain facilities to effectuate the deliveries under the proposed exchange at an estimated cost of $20,100.

Applicant now proposes a new exchange arrangement pursuant to a contract dated August 15, 1974, which is substantially similar to the original agreement but differs in certain respects. The August 15, 1974, contract makes no provisions for the purchase of gas by Applicant but contemplates a gas-for-gas exchange with no monetary compensation. Delivery points are changed to different locations in the same counties. Applicant will not be required to install and operate the facilities proposed in the original application to effectuate the exchange. The application states that all facilities necessary to effectuate deliveries under the new exchange agreement will be installed and operated by Natural. The August 15, 1974, contract states that Applicant will be totally reimbursed by Natural for installation of any facilities on Applicant's system necessary to effect delivery pursuant to the agreement. No other substantial changes to the originally requested authorization are proposed.

Applicant states that it understands Natural has filed an amended application in Docket No. CP 74-166 to reflect the provisions of the August 15, 1974, exchange agreements.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 9, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-30036 Filed 12-26-74;8:45 am]

[Docket No. CP74-102]

TEXAS EASTERN TRANSMISSION CORP.

Amendment to Application

DECEMBER 18, 1974.

Take notice that on December 2, 1974, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP74-102 an amendment to its application, as amended, filed in said docket pursuant to section 7(c) of the Natural Gas Act by authorizing the construction and operation of certain natural gas transportation facilities in lieu of those facilities originally proposed, all as more fully set forth in the amendment, which is on file with the Commission and open to public inspection.

In its original application, notice of which was published in the FEDERAL REGISTER on November 11, 1973 (38 FR 31050), Applicant proposed to construct 70 miles of 24-inch pipeline from the Block 349 Field, Eugene Island Area, South Addition, to the terminus of its certificated offshore pipeline in Block 286, East Cameron Area, and 47 miles of 24-inch pipeline loop to its existing pipeline between Block 286 and Block 272, West Cameron Area, for the purpose of attaching volumes of natural gas from wells drilled in Block 349. In the first amendment to the application in the instant docket, notice of which was published in the FEDERAL REGISTER on February 6, 1974 (39 FR 4690), Applicant amended its original request to request authorization, in addition to those facilities already proposed, for facilities to enable the purchase and transportation of natural gas from Block 333, Eugene Island Area. These facilities consisted of 4.0 miles of 12-inch pipeline extending from Block 333 to the 24-inch pipeline proposed in the original application.

By the instant amendment Applicant proposes to construct a 30-inch pipeline with an initial maximum capacity of 192,000 Mcf per day instead of the 24-inch pipeline to Block 349 and to extend the pipeline from Block 333 to Block 286 instead of from Block 349 to Block 286. Applicant further proposes to eliminate the 24-inch loop in the original application and to add a 27,750 H.P. onshore compressor station, with appurtenant facilities, near Grand Chenier, Louisiana.

Applicant estimates the cost of the facilities now proposed in the instant proceeding at $92,192,075, as opposed to $87,645,000 for the facilities proposed in the original application and the first amendment.

Applicant states that the filing of this second amendment is necessitated by the recent filing by Applicant and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), in Docket No. CP75-127 of an application for authorization to construct and operate facilities connecting Block 349 with Tennessee's offshore pipeline system in Block 198, Ship Shoal Area, and connecting Applicant's offshore pipeline system in Block 245, East Cameron Area, to Block 201, East Cameron Area, and for authorization for Applicant and Tennessee to

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[1] See Order issued June 24, 1974 for listing of tariff sheets affected by the May 16, 1974, filing.

[2] Notice was published in the FEDERAL REGISTER on January 15, 1974 (39 FR 1661).

receive offshore and exchange onshore up to 140,000 Mcf per day of gas for each other. Therefore, according to the instant amendment, the 140,000 Mcf of gas which Applicant states is available from Block 349 would be delivered onshore to Applicant by an exchange with Tennessee, thus obviating the need for the originally proposed pipeline extending to Block 249.

Applicant further states, as a reason for requesting authorization for the increase in size of the originally proposed pipeline from 24 inches to 30 inches, that it needs additional capacity in its offshore system to enable it to take substantial additional gas supplies which it estimates will become available to Applicant from the Block 333 area and in blocks in the vicinity of Block 333 or in close proximity to the proposed pipeline. Applicant states that it has obtained rights to purchase gas from Mesa Petroleum Company and Mobil Oil Corporation (Mobil) in Block 333 and cites negotiations for purchase of gas in nearby blocks or in blocks in the vicinity of the proposed pipeline with Mobil, Exxon Corporation, Gulf Oil Corporation, Texaco, Inc., Pennzoil Marathon Oil Company (Operator), Conoco, Getty and Cities Service. Applicant asserts the need for construction of the pipeline proposed in the instant amendment for the purpose of placing Applicant in a position to negotiate with the successful lease bidders for the purchase of gas from the subject area. Applicant states that the route of the proposed pipeline overlies or is in close proximity to offshore blocks which were leased in the lease sale of March 1974 and that the route would be within five or ten miles of 26 other blocks leased in the lease sale of October 1974.

Applicant justifies the proposed compressor near Grand Chenier in lieu of the 24-inch loop pipeline originally proposed by the need to provide additional capacity for transporting gas involved in the exchange with Tennessee proposed in Docket No. CP75-127 and for transporting expected volumes of gas in the vicinity of the 30-inch line proposed in the instant amendment.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 9, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30033 Filed 12-26-74;8:45 am]

[Docket Nos. CI72-555, CI72-556; RI75-29, RI75-30]

TEXAS PACIFIC OIL CO., INC.

Order Consolidating Proceedings, Providing for Hearing, Setting Date for Prehearing Conference, Granting Interventions and Granting Motion to Amend

DECEMBER 18, 1974.

On September 9, 1974, Texas Pacific Oil Company, Inc. (Texas Pacific), filed two petitions for special relief in Docket Nos. RI75-29 and RI75-30, each seeking a rate above the applicable area ceiling under Opinion No. 586 and the nationwide rate under Opinion No. 699.[1] In Docket No. RI75-29, Texas Pacific seeks a rate of 55 cents per Mcf of natural gas with annual escalations of 1 cent per Mcf for the sale of gas to Panhandle Eastern Pipeline Company (Panhandle Eastern) and in Docket No. RI75-30, Texas Pacific seeks a similar rate for the sale of gas to Kansas-Nebraska Natural Gas Company (Kansas-Nebraska) with both sales to be made from currently producing wells and from future wells to be drilled on acreage within the Reydon Area located in Roger Mills County, Oklahoma and Hemphill County, Texas.

Notice of each petition was issued on September 18, 1974, and appeared in the FEDERAL REGISTER at 39 FR 34337, 34338 on September 24, 1974. Kansas-Nebraska filed a timely petition to intervene in Docket No. RI75-30 on October 7, 1974 and Panhandle Eastern filed an untimely petition to intervene in Docket No. RI75-29 on October 9, 1974.

On September 20, 1974, Texas Pacific filed a motion to amend its petition designated as Docket Nos. RI75-30 and CI72-556, to correct several errors in a footnote which do not substantively affect the petition and application.

Texas Pacific in both petitions states that it intends to commit an additional 9,563 acres of previously uncommitted acreage within the ultra-deep Reydon Area to Panhandle Eastern and Kansas-Nebraska on an equal basis and requests that its Temporary Certificates of Public Convenience and Necessity in Docket Nos. CI72-555 and CI72-556[2] be amended accordingly. Texas Pacific further states that its new contract requires it to drill or participate in at least five new wells on the total dedicated acreage in the Reydon Area within the next three years. The additional costs incurred by operating and drilling below 15,000 feet are cited by Texas Pacific as economic justification for the proposed higher rate.

As we stated in Opinion No. 699, we believe that it is important to state that applications for special relief or under the optional procedure from the national rate based upon well depths greater than 15,000 feet and increasing water depths will be considered on the total cost of the project including return on the invested capital.[3] All such applications will be decided on an ad hoc basis to insure that each project is fairly treated.[4]

The proper cost data and methodology necessary to support these petitions are issues in determining a just and reasonable rate and we deem it in the public interest to set a prehearing conference for discussion of these matters by the interested parties.

The Commission finds:

(1) It is in the public interest and convenience that Docket Nos. RI75-29, CI72-555 and RI75-30, CI72-556 be consolidated and set for hearing.

(2) It is desirable and in the public interest to allow Panhandle Eastern and Kansas-Nebraska to intervene in this proceeding.

(3) Good cause exists to allow the amendment in Docket Nos. CI72-556 and RI75-30.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14 and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter I) Docket Nos. RI75-29, CI72-555, RI75-30 and CI72-556 are consolidated and set for public hearing.

(B) Pursuant to the authority of Section 1.11 of the General Rules of the Federal Power Commission, Texas Pacific's motion to amend the petition designated as Docket Nos. CI72-556 and RI75-30 is hereby granted.

(C) On or before January 16, 1975, Texas Pacific, Panhandle Eastern and Kansas-Nebraska shall file their direct testimony and evidence in support of the petitions. All testimony and evidence filed herein shall be served upon the Presiding Administrative Law Judge, Commission Staff, and all other parties to the proceeding.

(D) On January 30, 1975, a prehearing conference shall be held in accordance with § 1.18 of the rules of practice and procedure to resolve the issues herein in a hearing room of the Federal Power Commission, Washington, D.C. 20426, at 10 a.m. (E.s.t.).

(E) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose shall convene the prehearing conference in the proceeding.

(F) The Administrative Law Judge may in his discretion grant recesses from time to time if he deems a settlement or submission of the issues upon stipulated facts to be possible. If no stipulation or settlement can be reached by the parties hereto after reasonable time and provisions have been made for the same, the Presiding Administrative Law Judge shall establish the time for the submission of other evidence by any party desiring so to do, and the commencement of the hearing, and shall prescribe rele-

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[1] Section 2.56(h)(6)(ii) of the Commission's General Policy and Interpretations.

[2] Texas Pacific's current certificate authorization for sale of gas to Panhandle Eastern is provided in Docket No. CI72-555 and its certificate authorization for sale of gas to Kansas-Nebraska is provided in Docket No. CI72-556.

[3] —— FPC ——, ——, Opinion No. 699 at 132-133.

[4] *Id.*, and also see Opinion No. 699-H at 59-60.

vant procedural matters not herein provided.

(G) Panhandle Eastern and Kansas-Nebraska are permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene: *And provided, further*, That the admission of such interests shall not be construed as recognition by the Commission that such intervenor might be aggrieved because of any order or orders of the Commission entered in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc. 74-30094 Filed 12-26-74;8:45 am]

[Docket No. CP74-88]

NORTH PENN GAS CO.

Notice of Conference on Rates and Charges

DECEMBER 18, 1974.

This will confirm the telephone call to the parties in the above proceedings that a conference will be held on December 20, 1974 with the Applicant, North Penn Gas Company (North Penn), and the Commission Staff in the Commission's Conference Room No. 8402, at 825 North Capitol Street, NE, Washington, D.C., at 10 a.m. (EST).

The conference will be held pursuant to § 1.18 (Conferences, Offers of Settlement) of the Commission's rules of practice and procedure (18 CFR 1.18). Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, such attendance at the conference will not be deemed to authorize such intervention as a party in the proceedings.

In accordance with the provisions of § 1.18 of the rules, all parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of North Penn's proposed rate increase, filed on May 15, 1974, and any procedural matters preparatory to a full evidentiary hearing, or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference. Failure to attend the conference shall constitute a waiver of all objections to stipulations and agreements reached by the parties in attendance at the conference.

Copies of this notice are being mailed this date to all jurisdictional customers and interested State commissions.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-30081 Filed 12-26-74;8:45 am]

NORTHWEST PIPELINE CORP.

Notice of Application

[Docket No. CP75-170]

DECEMBER 18, 1974.

Take notice that on December 9, 1974, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP75-170 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act and § 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, for the calendar year 1975, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which will not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment will not exceed $3,000,000 nor will the cost of any single project exceed $500,000. Applicant states that the proposed facilities will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 9, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-30082 Filed 12-26-74;8:45 am]

[Docket No. CP75-168]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Application

DECEMBER 19, 1974.

Take notice that on December 9, 1974, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), 300 North St. Joseph Avenue, Hastings, Nebraska 68901, filed in Docket No. CP75-168 an application pursuant to section 7 of the Natural Gas Act for authorization to abandon its present tap and metering facilities serving the alfalfa dehydration plant of Consolidated Blenders, Inc. (Consolidated), in Lexington, Dawson County, Nebraska, and to install a new tap and metering facilities so as to be able to serve Consolidated at the desired point of relocation of its plant facilities near Overton, Nebraska, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that it currently delivers gas to Consolidated pursuant to authority granted in Docket No. G-1180 at a point on Applicant's existing 6-inch transmission line in Lexington. The relocation of Consolidated's plant to Overton is said to be, in part, contingent upon applicant's obtaining Commission approval for the relocation of the existing plant delivery point to a point approximately 15.6 miles east of the existing delivery point. Applicant states that relocation of the delivery point will not alter the conditions of service or the quantities of gas delivered as provided in the existing service agreement between Applicant and Consolidated.

Applicant estimates the salvage value of the existing delivery point, which it proposes to abandon, at $1,900 and the cost of the proposed new facilities at $4,500.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 10, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the atural Gas Act (18 CFR N157.10). All protests filed with the Commission will be considered by it in

determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30233 Filed 12-26-74;8:45 am]

[Docket No. CP75-167]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

DECEMBER 19, 1974.

Take notice that on December 6, 1974, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP75-167 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate facilities for the reinforcement of its gathering systems in the Woodward and Laverne Areas of Oklahoma, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that it operates extensive natural gas gathering systems in the Laverne and Woodward Areas of Oklahoma incident to its purchase of gas in said areas. The gas sales contracts are said to obligate Applicant to operate its gathering systems at such line pressures as may be required to permit not less than 75 percent of all connected wells to flow at natural pressure into the gathering systems; and where the wellhead pressure is too low to permit gas to flow into Applicant's gathering systems, Applicant's right to purchase gas is subject to termination. Applicant further states that it has been purchasing gas in the Laverne Area since 1958 and in the Woodward Area since 1960 and that, as a result of these extended periods of production and the fact that numerous other pipeline companies which purchase gas in the same areas, in many instances from the same pools and wells as Applicant, have already reduced the pressures at which their gathering systems operate thereby draining Applicant's producers' reserves as gas flows into the lower pressure gathering systems, field pressures have steadily and predictably declined to a point where Applicant's ability to purchase gas with existing facilities will soon be severely restricted.

In order to enable it to meet its contractual obligations to its producers, to restore declining deliverability and to assure maximum recovery of committed gas reserves, Applicant proposes to construct and operate facilities which will enable it to reduce the operating pressures in its Laverne and Woodward gathering systems. The total estimated cost of the proposed facilities is $20,282,600 to be financed initially with treasury funds, retained earnings and other funds generated internally, together with borrowings from banks under short term lines of credit as required.

Specifically, Applicant proposes to construct in the Laverne Area three segments of 16-inch loop line with an aggregate length of 11.3 miles, one segment of 20-inch loop 3.9 miles in length, four new satellite compressor stations with an aggregate of 3,400 horsepower and a 12,000 horsepower compressor unit in its existing Laverne Compressor Station. Applicant states that it expects throughput increases in the Laverne system as a result of the proposed facilities from 152,900 Mcf to 214,400 Mcf per day. In the Woodward Area Applicant proposes to construct 5.6 miles of 6-inch loop, 12.5 miles of 10-inch loop, 6.2 miles of 12-inch loop, 27.4 miles of 16-inch loop, five new satellite compressor stations with an aggregate of 7,130 horsepower and an aggregate of 8,400 horsepower in three existing satellite stations. The Woodward facilities will result, according to Applicant, in an increase of throughput from 170,500 Mcf per day to 219,200 Mcf per day. Applicant states that the increase of throughput levels in the Laverne and Woodward systems merely restores throughput to historical levels.

Applicant further states that the proposed facilities will not result in any expansion of capacity but will permit Applicant to maximize recovery of dedicated gas reserves and continue to receive into its Laverne and Woodward gathering systems essentially the same volumes of gas as in prior years. Applicant proposes no new or additional sales.

Applicant states that the proposed loop lines will be constructed on, or immediately adjacent to, its existing rights-of-way, that compressor facilities will be installed either as additions to existing compressor stations or at new sites located on, or immediately adjacent to, its existing rights-of-way.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 8, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30232 Filed 12-26-74;8:45 am]

[Docket No. E-9063]

MISSOURI POWER AND LIGHT CO.

Notice of Supplemental Filing

DECEMBER 18, 1974.

Take notice that on December 2, 1974, Missouri Power and Light Company (Missouri) tendered for filing additional data intended to make complete its original filing on October 15, 1974 in this docket. The data is submitted in response to a deficiency letter issued by the Secretary.

In addition to an impact by the proposed changes upon the City of Centralia, Missouri, as noted in the Notice of Application for Rate Increase (issued October 29, 1974), Missouri now states that the proposed changes will specifically affect the Cities of Perry and Linneus, Missouri as well.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 26, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene or protest. Copies of this application are on file with

the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30229 Filed 12-26-74;8:45 am]

[Docket No. E-9161]

MONONGAHELA POWER CO., ET AL.

Filing of Rates and Charges for New Service

DECEMBER 18, 1974.

Take notice that Allegheny Power Service Corporation (APSC) on December 9, 1974, tendered for filing on behalf of its affiliates, Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (the APS Companies) an Agreement between the APS Companies and UGI Corporation (UGI) for the sale by the APS Companies and the purchase by UGI of 50,000 kw of electric power and energy to be sold from the APS Companies' Harrison Station (Harrison Power) for a period of six years commencing January 1, 1975. The Agreement provides, among other things, that Harrison Power will be sold to UGI at a rate of $3.95 per kw per month plus 110 percent of the out-of-pocket cost of energy delivered, including losses. Deliveries of energy to UGI will be scheduled for as many hours as UGI desires but not to exceed 50,000 kwh per hour, and such deliveries shall be made unless: (1) None of the three units of the Harrison Station is operating; (2) the APS Companies have received an order from an appropriate governmental body to curtail or for any other reason have curtailed the output of the Harrison Station as a result of a shortage of fuel; or (3) transmission of the energy is made impossible.

Applicants estimate that for the twelve months ended December 31, 1975 the demand charges will total $2,370,000 ($197,500 per month). Further, Applicants state that energy charges cannot be estimated at the present time since the cost of producing energy will vary and the number of kwh that UGI will take will vary from month to month.

Applicants state that no facilities need be constructed or acquired in connection with the sale and purchase of Harrison Power.

Applicants have requested the Commission to accept the Agreement for filing, to be effective on or before January 1, 1975, as they intend to commence the sale and purchase of Harrison Power as of that date. Accordingly, Applicants have requested waiver of any requirements of the Commission's rules and regulations deemed necessary and desirable by the Commission to grant the requested effective date.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure on or before December 30, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30230 Filed 12-26-74;8:45 am]

[Docket No. E-9046]

MONTAUP ELECTRIC CO.

Rate Changes and Other Proceedings

DECEMBER 18, 1974.

On October 1, 1974, Montaup Electric Company (Montaup) and its affiliated owner companies within the Eastern Utilities Associates System (EUA), Blackstone Valley Electric Company (Blackstone), Brockton Edison Company (Brockton), and Fall River Electric Light Company (Fall River), filed a series of documents[1] intended to effectuate a complete reorganization of their wholesale power supply arrangements. According to Montaup, the filings would make it responsible for wholesale bulk power supply service to its owner companies, as well as to non-affiliated wholesale customers now being served by those owner companies, and would provide for a new single rate for that service. Montaup further stated that the filing was intended to simplify and make more uniform the existing wholesale rate arrangements and enable the Federal Power Commission to consider changes in such arrangements in a single proceeding.

On November 18, 1974, Montaup tendered supplemental data intended to make complete its filing of October 1, 1974. This action was in response to a deficiency letter issued by the Secretary on October 29, 1974. At that time Montaup requested that the thirty day notice requirement of the Commission's regulations be waived to allow an effective date of December 1, 1974.

Timely petitions to intervene were filed by the Municipal Gas and Electric Department of Middleborough (Middleboro) on October 22, 1974, the Rhode Island Consumers' Council (Consumers Council) on October 22, 1974, and by the Narragansett Electric Company (Narragansett) on October 29, 1974. Both Middleboro and Narragansett included motions to reject as part of their filings, each claiming that the Mobile-Sierra[2] doctrine prohibits the proposed alteration of presently effective contracts.

Middleboro states that it is a partial requirements customer of Brockton under a contract dated April 26, 1965 and amended January 15, 1973, said amendment effective November 1, 1973. Under this amendment, Middleboro argues, the term of the entire contract is fixed as well as the price to be charged, thereby justifying the motion to reject. In the alternative, Middleboro requests that the Commission reject Montaup's petition for waiver and impose a five month suspension, citing, inter alia, what Middleboro states to be unreasonably high rate of return (9.33 percent) and return on common equity (14 percent).

Narragansett states that it is presently purchasing power from Fall River under a contract dated January 31, 1931.[3] Narragansett alleges that the contract, provides for unilateral changes in rates regulated by the Massachusetts Department of Public Utilities (MDPU) but not for unilateral changes in the rates not subject to the jurisdiction of the MDPU. Narragansett further states that the contract provides for changes in such rates only through a proceeding similar to a section 206 proceeding under the Federal Power Act.

Consumers Council states that the proposed changes will have an adverse effect on Rhode Island consumers and therefore requests a full five month suspension period.

Montaup's answer to the petitions of Middleboro and the Consumers Council was filed on October 25, 1974. Montaup states that it opposes the motion to reject of Middleboro as well as a similar motion expected from Narragansett. Montaup alleges that the most pertinent term of the 1965 Middleboro contract is a provision for general review, wherein the prices paid for electricity are subject to review and change by the Massachusetts Department of Public Utilities in any proceeding brought under Chapter 164 of the General Laws of Massachusetts, a procedure similar to a section 205 proceeding under the Federal Power Act. Montaup states that this provision indicates that the parties contemplated that the seller could unilaterally effect a change in rates, and cites City of Richmond v. F.P.C.[4] as support for this argument.

The term of the Middleboro contract, as provided in the November 1, 1973 amendment thereto, is for ten years from the date of the amendment with a provision for termination on November 1 by either party giving 24 months notice. No such notice has been given. The provision for general review in the 1965 contract between Middleboro and Brockton reads as follows:

Governmental Review. This agreement is made subject to present or future state or federal laws and to present and future regulations or orders properly issued by state or federal regulatory bodies having jurisdiction and in particular, the prices to be paid for electricity hereunder as set forth herein shall be subject to review and determination by the

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[1] Designated as shown on Appendix A, which is filed as part of the original document.

[2] United Gas Pipeline Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and F.P.C. v. Sierra Pacific Power Co., 350 U.S. 348 (1956).

[3] Parties to the original contract were Fall River and Tiverton Electric Light Company (Tiverton). By indenture of assignment dated August 4, 1936, Tiverton assigned its interest under this contract to Narragansett.

[4] 461 F.2d 490 (D.C. Cir. 1973); cert. denied 414 U.S. 1068 (1973).

Massachusetts Department of Public Utilities in any proceeding brought under Chapter 164 of the General Laws of Massachusetts, as amended, to the extent provided for and in accordance with the provisions of said Chapter so far as the same may be applicable in the premises.

Section 94 of Chapter 164 of the General Laws of Massachusetts required in 1965 that a filing "shall not become effective until the first day of the month next after the expiration of fourteen days from the filing thereof," and that the state agency had the authority to "suspend the taking thereof, from time to time, but not for a period longer than ten months beyond the time when such rate, price or charge would otherwise become effective." We agree with Montaup that this statute provides for a proceeding substantially similar to that in section 205 of the Federal Power Act. We therefore also concur that an intent was indicated (through the General Revise provision) by the parties to provide for unilaterally filed rate changes. The basic issue lies in whether the November 1, 1973 Amendment to the contract alters the General Review provision. The pertinent provision of the Amendment reads as follows:

Now therefore, both parties find it mutually desirable to redefine and amend said Power Contract by inserting the following provisions after the Governmental Review clause of said contract of April 26, 1965, it is further understood and agreed that in the event there are provisions of said Power Contract that are inconsistent or in conflict with the within Amendment that the provisions of this Agreement shall prevail over the original contract provisions.

We find that the Amendment does not reform the Governmental Review clause. We also find that there are no inconsistent or conflicting provisions within the Amendment indicating that the parties intended to revise or revoke the Governmental Review clause. We therefore find the intent of the parties to be that Montaup could unilaterally effect a rate change, and we will accordingly deny Middleboro's motion to reject.

Article I of the Narragansett contract states that the term of the contract shall commence on January 31, 1931 and shall continue until terminated by either party giving to the other six months written notice of the date of termination. No such notice has been given. The other pertinent provisions in the Narragansett contract are found in Articles III and VIII, which state:

ARTICLE III. PRICE

The CUSTOMER shall each month pay to the POWER COMPANY for electricity taken hereunder during the next preceding month at the rate set forth in the POWER COMPANY's Rate Schedule For Primary Power as filed with the Massachusetts Department of Public Utilities as M.D.P.U. No. 302 or at such rate as may be filed with said Department from time to time in supersession thereof. A copy of said rate as at present in force and filed with said Department is attached hereto for reference and marked "Exhibit B."

ARTICLE VIII. REVISION OF PUBLIC UTILITIES COMMISSION

If at any time either of the parties hereto shall make a written claim upon the other party that the rates herein, not then subject to regulation by the constituted authority of any state, are unjust or unreasonable and the said parties fail to agree upon new rates within six (6) months after the date of said written claim, then either party may file an application with the Commission having jurisdiction over Electric Utilites in Massachusetts or the Commission having jurisdiction over Electric Utilities in Rhode Island requesting that the disagreement between said parties shall be determined by the Commission of both said states acting jointly and if a majority of the Commission of each said state, after hearing the parties, shall determine in accordance with law that a modification of this contract in respect to the rates set forth herein shall be made, such determination shall, from and after the date fixed in such determination, act as an automatic revision of the rates and such revised rates shall remain in force for the remainder of the term of this contract.

We find that Article VIII, which sets forth the procedures to be followed in the event the M.D.P.U. lost its jurisdiction over the subject matter, is the controlling provision. The provisions of Article VIII require a written claim made upon the other party that the contractual rates are unjust and unreasonable and six months thereafter an application for a hearing and a prospective remedy similar to that provided under section 206 of the Federal Power Act. Therefore, to permit a unilaterally filed rate change as to Narragansett would violate the rule set forth in the Mobile-Sierra cases. Furthermore, we cannot accept the instant filing as proper under section 206 of the Federal Power Act as Montaup has not complied with the six months notice requirement of Article VIII of the contract. Accordingly, we shall reject the proposed changes as they apply to Narragansett.

Our review of Montaup's filing and the issues raised therein indicates that the proposed changes have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall reject Montaup's motion for waiver, suspend the proposal for five months, and establish hearing procedures to determine the justness and reasonableness of Montaup's filing.

The Commission finds.

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Montaup's revised rate schedule proposed in this docket and that the tendered rate schedules other than those applicable to Narragansett be suspended as hereinafter provided.

(2) Good cause exists to reject the proposed filings as to Narragansett.

(3) Good cause does not exist to grant Montaup's motion for waiver of the notice requirements of the Commission's regulations.

The Commission orders.

(A) Pending a hearing and a decision therein, Montaup's proposed changes in its rates and charges, other than those applicable to Narragansett, tendered on November 18, 1974, are accepted for filing, and suspended for five months, the use thereof deferred until May 19, 1975, subject to refund.

(B) Montaup's proposed filing as it applies to Narragansett is hereby rejected.

(C) Pursuant to the authority of the Federal Power Act, particularly section 205 thereof, and the Commission's rules and regulations, and the regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held on May 20, 1975, at 10:00 a.m., e.d.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, concerning the lawfulness of Montaup's proposed rate changes, other than those applicable to Narragansett, in Docket No. E-9046.

(D) On or before April 8, 1975, the Commission Staff shall serve its prepared testimony and exhibits. Any intervenor evidence will be filed on or before April 22, 1975. Any rebuttal evidence by company shall be served on or before May 6, 1975.

(E) The above-named petitioners to intervene are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in their petitions to intervene.

(F) The motion of Narragansett to reject is hereby granted.

(G) The motion of Middleboro to reject is hereby denied.

(H) The motion of Montaup for waiver of the notice requirements of the Commission's regulations is hereby denied.

(I) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(J) The Secretary of the Commission shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.*

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30237 Filed 12-26-74;8:45 am]

[Docket Nos. RP71-110, RP74-31-28]

PANHANDLE EASTERN PIPE LINE CO. AND ANCHOR HOCKING CORP.

Petition for Extraordinary Relief

DECEMBER 13, 1974.

Take notice that on December 12, 1974, Anchor Hocking Corporation ("Anchor Hocking") filed a petition for permanent extraordinary relief from the natural gas curtailments imposed by Panhandle Eastern Pipe Line Company

* Commissioner Brooke, dissenting, would prefer a one-day suspension.

("Panhandle") on Anchor Hocking's glass container plant located at Winchester, Indiana. Anchor Hocking, a direct sale customer of Panhandle, states that due to unexpected additional curtailments being imposed this winter season by Panhandle, Anchor Hocking could effectively lose delivery of the required 790 Mcf per average day necessary to fuel the feeders and annealing lehrs at the Winchester plant. If the minimum 790 Mcf of process gas per average day is curtailed, Anchor Hocking will not have sufficient gas to maintain full production and will as a result suffer irreparable injury. Without relief, the Winchester plant will have to shut down, at least in part. This will create a significant loss of employment in the town of Winchester, to which Anchor Hocking is by far the largest employer. Irreparable injury will also occur to Anchor Hocking itself and to its customers.

Accordingly, Anchor Hocking has moved for permanent extraordinary relief from curtailment through a Commission order requiring Panhandle to deliver to the Winchester plant 790 Mcf per average day, with a peak day of 875 Mcf. Any volume delivered pursuant to such extraordinary relief in excess of entitlements under the effective Panhandle curtailment plan would be subject to payback out of subsequent daily entitlements in excess of 790 Mcf per average day.

In order to avoid irreparable injury pending hearings on its request for permanent relief, Anchor Hocking has also moved for immediate temporary relief identical with the permanent relief requested. In this connection, Anchor Hocking requested and Panhandle has agreed to a grant of emergency relief from curtailments during the months of December and January.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said petition should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) on or before December 27, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30231 Filed 12-26-74;8:45 am]

[Docket No. E-8492; Project No. 1835]

SIERRA CLUB AND NEBRASKA PUBLIC POWER DISTRICT

Intervention Out of Time, Requiring the Filing of an Exhibit W, Denying Applications for Rehearing, Providing for Hearing, and Setting Dates

DECEMBER 18, 1974.

On October 25, 1974, we issued an Order to Cease and Desist Construction, To Show Cause, and Consolidating Proceedings, to Nebraska Public Power District (NPPD). This order required NPPD to show cause under oath, if any there be, on or before November 15, 1974, why:

(1) The use of project lands and waters for the construction of the steam electric generating plant and related facilities within the project boundary does not require Commission approval.

(2) Section 2.81 of the Commission's rules and regulations, 18 CFR § 2.81 (1974), does not require the filing of an Exhibit W prepared in accordance with the Commission's rulesand regulations.

NPPD was further ordered to cease and desist construction of steam electric generating facilities within the project boundary pending further order of the Commission.

On November 15, 1974, NPPD filed a response to that part of our Order which required NPPD to show cause. On November 18, 1974, NPPD filed an application for rehearing with respect to that part of our Order which required NPPD to cease and desist construction. We find nothing in these filings which would warrant any change in or modification of our Order of October 25, 1974.

This Commission has continuing authority over the use of project lands and waters under the Federal Power Act, particularly sections 4, 6, 10(a), 26 and 309 of the Act, and the license for Project No. 1835.

The gist of our concern was stated in our prior Order of October 25, 1974, as follows:

* * * We believe the time for effective environmental review of the use of project lands and waters for cooling a steam electric generating plant is before construction. We cannot allow the construction of this facility to continue when NPPD may not be allowed to use project waters to operate and maintain the steam electric generating plant pursuant to Article 12 * * *

Nothing in either NPPD's response of November 15, 1974 or its application for rehearing filed November 18, 1974 provides any new facts or arguments to cause us to be any less concerned over the unauthorized use of project lands and waters, actual and proposed, in this matter.

We, therefore, believe that the stay of construction should be continued while we resolve the issues involved through the means of an expedited public hearing. Among the issues to be tried will be the issue of the ecological impact on reservoir waters and lands of Project No. 1835, if used for cooling and what conditions must be imposed under section 10(a) to achieve comprehensive development if the proposed use of project waters and lands is to be permitted. In the interest of expediting the proceedings we are also requiring NPPD to file a report on environmental factors specified in § 2.80 of our regulations as part of its direct case. Commission Staff will be directed to prepare a draft environmental impact statement which, when finalized, is to be placed in the record with opportunity to further cross-examine witnesses upon it.

On November 25, 1974, Senators Hruska and Curtis and Representatives McCollister, Martin, and Thone of the Nebraska Congressional Delegation filed a petition to intervene and also filed a separate document entitled "Application of Senators and Representatives For Rehearing Of Order To Cease And Desist Steam-Electric Facilities And For Rehearing Of Denial Of Request For Approval Of Revised Project Boundary." On December 10, 1974, Sierra Club filed a response to the petition to intervene in which Sierra Club did not oppose intervention.

The petition to intervene recites that the Congressional Delegation was unaware of this proceeding until the Commission issued its Order of October 25, 1974. We believe the petition sets forth good cause for the late filing. We, therefore, accept the petition to intervene for filing and grant the intervention. For the reasons hereinbefore noted, we deny the application for rehearing.

The Commission finds.

(1) Although the above noted petition to intervene of the Nebraska Congressional Delegation was not timely filed, good cause exists for permitting such intervention.

(2) Participation by the Nebraska Congressional Delegation in these consolidated proceedings may be in the public interest.

(3) NPPD should be required to file a report on environmental factors specified in § 2.80 of our regulations.

(4) Upon receipt of NPPD's environmental report, Commission Staff shall prepare a draft environmental impact statement which, when finalized, shall be placed in the record of these proceedings with opportunity for cross-examination.

(5) The applications for rehearing of NPPD and the Nebraska Congressional Delegation presents no facts or legal arguments which require any change in or modification of our Order of October 25, 1974.

(6) It is appropriate and in the public interest that a public hearing be held respecting matters involved and issues presented in these consolidated proceedings.

The Commission orders.

(A) The Nebraska Congressional Delegation is hereby permitted to intervene in these consolidated proceedings subject to the rules and regulations of the Commission: *Provided*, That participation of the petitioner shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene: *Provided further*, That the admission of petitioner shall not be construed as recognition by the Commission that petitioner might be aggrieved by any order or orders entered in these proceedings.

(B) NPPD shall file a report on environmental factors specified in § 2.80 of our regulations.

(C) The applications for rehearing on NPPD and the Nebraska Congressional Delegation filed November 18, and November 25, 1974, in this proceeding are denied.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, and the Commission's rules of practice and procedure, a public hearing shall be held in a hearing room of the Federal Power Commission, 825 N. Capitol Street NE, Washington, D.C., respecting the matters involved and the issues presented in this proceeding.

(E) The following procedure is prescribed for this proceeding:

1. NPPD shall file by February 14, 1975, with the Secretary of the Commission an original and ten copies of all testimony, including qualifications of the witnesses, and exhibits, including the environmental report, to be presented in licensee's direct case. Copies of such testimony and exhibits shall be served on all participants.

2. All other participants, including the Commission Staff, shall file by March 7, 1975, with the Secretary direct testimony and exhibits including qualifications of witnesses with copies served on all participants.

3. In the interest of expediting these proceedings, Commission Staff shall prepare a draft environmental impact statement which, when finalized, shall be placed in the record with opportunity to cross-examine thereon. Because of the need for expeditious treatment, opening of the hearing shall not be delayed until a finalized environmental impact statement is completed.

4. All motions to strike prepared testimony and exhibits and replies to such motions shall be filed with the Administrative Law Judge by March 21 and March 31, 1975.

5. The first hearing session will commence at 10:00 a.m. on Tuesday, April 8, 1975, in a hearing room of the Federal Power Commission to be specified at a later time. Subsequent hearing sessions, as needed, shall be scheduled by the Administrative Law Judge.

6. All of the testimony, except exhibits, shall be in question and answer form.

7. No exhibits, except those of which official notice may properly be taken, shall contain narrative material other than brief explanatory notes.

8. Any party submitting more than one exhibit shall enclose a cover sheet listing the title of each exhibit in the sequence in which it is to be marked for identification.

9. The Administrative Law Judge will specify the order of cross-examination and time to be permitted for preparation of rebuttal evidence.

10. The Administrative Law Judge may direct that a public hearing session in the vicinity of the project be held for the purpose of receiving statements of position from interested members of the public if he finds that it will be in the public interest. Public notice of such public hearing session should be given in the vicinity of the project prior to such hearing session.

11. If it becomes apparent that a saving of time or money may be achieved in clarifying relevant issues to be tried, the Administrative Law Judge shall hold a prehearing conference, at which, among other matters, the admission into evidence of relevant but uncontroverted facts without the necessity of presenting a sponsoring witness therefor shall be considered. If a statement of facts can be agreed upon by the parties, the Administrative Law Judge shall provide a briefing schedule and submit his initial decision to be followed by the filing of exceptions in accordance with §§ 1.29, 1.30 and 1.31 of the Commission's rules of practice and procedure.

12. For good cause shown the Presiding Administrative Law Judge may change the procedural date provided for above.

(F) The Commission's rules of practice and procedure shall apply in this proceeding except to the extent they are modified or supplemented herein.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30236 Filed 12-26-74;8:45 am]

[Docket No. RP72-91 (Phase II), etc.]

SOUTHERN NATURAL GAS CO.

Extension of Procedural Dates

DECEMBER 18, 1974.

On December 17, 1974, Southern Natural Gas Company filed a motion to extend the procedural dates fixed by order issued October 9, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company Testimony, January 16, 1975.
Service of Staff's Testimony, February 13, 1975.
Service of Intervenor's Testimony, February 27, 1975.
Service of Company Rebuttal, March 13, 1975.
Hearing, March 25, 1975 (10:00 a.m.) e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30234 Filed 12-26-74;8:45 am]

[Docket No. RP75-24]

UNITED GAS PIPELINE CO. AND UTILITIES COMMISSION OF MONROE, LA.

Reduction of Time for Filing Answer

DECEMBER 18, 1974.

On December 16, 1974, Staff Counsel filed a motion requesting a reduction of the time for filing answers to Staff's motion of the same date "To Hold Proceedings in Abeyance, or in the Alternative, Motion to Dismiss Order to Show Cause Without Prejudice."

Upon consideration, notice is hereby given that pursuant to § 1.12(c) of Commission rules of practice and procedure the time for filing answers in the above matter is reduced to and including December 23, 1974.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30235 Filed 12-26-74;8:45 am]

FEDERAL RESERVE SYSTEM

CENTRAL STATES BANCOR, INC.

Formation of Bank Holding Company

Central States Bancor, Inc., Des Moines, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 93.01 percent of the voting shares of Capital City State Bank, Des Moines, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 13, 1975.

Board of Governors of the Federal Reserve System, December 18, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-30196 Filed 12-26-74;8:45 am]

CENTRAL BANCORPORATION, INC.

Order Approving Acquisition of Bank

The Central Bancorporation, Inc., Cincinnati, Ohio, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of The Newark Trust Company, Newark, Ohio ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1482(c)).

Applicant is the ninth largest banking organization in Ohio and controls eight

banks with aggregate deposits of $926.5 million, representing approximately 3.3 percent of total commercial bank deposits in the State.[1] Applicant's acquisition of Bank would increase Applicant's share of deposits by approximately .2 percent, while Applicant's rank among the State's banking organizations would remain unchanged.

Bank (with deposits of $63.9 million) is the second largest of six banking organizations in the Licking County banking market and controls approximately 25.5 percent of total commercial bank deposits in this market.[2] Bank is presently the sole banking subsidiary of Citizens Financial Corporation, Cleveland, Ohio ("Citizens"), a registered one-bank holding company. Citizens has filed an irrevocable declaration that it will cease to be a bank holding company by January 1, 1981, and this proposal represents its method of accomplishing that objective. Applicant's three subsidiaries nearest to Bank are approximately 15, 19 and 25 miles away, and there is no significant existing competition between Bank and any of these subsidiaries. In addition, none of Applicant's other subsidiary banks compete with Bank to any significant extent. Applicant seeks to acquire the second largest banking organization in a market in which the three largest banking organizations control, respectively, 45.5, 25.5 and 24.8 percent of total commercial bank deposits. Consummation of the proposed transaction would eliminate Applicant as a potential entrant into the relevant banking market. However, under the circumstances of this case, the Board does not regard the elimination of potential competition that would result from the consummation of this proposal as being significant. In particular, the Board notes that Bank's market position has been declining somewhat recently and that Applicant does not now occupy a significant position in either the State or in any of the banking markets adjacent to Licking County. Moreover, it appears unlikely that Applicant would attempt to enter the market either de novo or through the acquisition of one of the smaller banks in the market, none of which is located in Newark, the economic center of the market. Accordingly, on the basis of the facts of record, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and its subsidiary banks are regarded as generally satisfactory and consistent with approval. Bank's affiliation with Applicant should result in a strengthening of Bank's overall financial condition, as well as providing Bank with additional managerial expertise. Thus, the banking factors lend weight toward approval of the application.

In regard to considerations relating to convenience and needs, Applicant intends to supply Bank with access to Applicant's wide range of banking expertise, particularly in the areas of trust services and loan participations. In addition, Applicant proposes to direct Bank's loan funds into Bank's service area for residential, business, and personal loans. These considerations relating to the convenience and needs of the community to be served lend additional weight toward approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[3] effective December 16, 1974.

[SEAL] THEODORE E. ALLISON, *Secretary of the Board.*

[FR Doc.74-30247 Filed 12-26-74;8:45 am]

CENTRAL TEXAS FINANCIAL CORP.

Order Approving Acquisition of Banks

Central Texas Financial Corp., Brownwood, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of voting shares (less directors' qualifying shares) of the successors by merger to the Commercial National Bank of Brady, Brady, Texas ("Brady Bank") and Coleman Bank, Coleman, Texas ("Coleman Bank"). The banks into which Brady Bank and Coleman Bank are to be merged have no significance except as means to facilitate the acquisitions of the voting shares of Brady Bank and Coleman Bank. Accordingly, the proposed acquisitions of the successor organizations are treated herein as the proposed acquisitions of Brady Bank and Coleman Bank.

Notices of the applications affording opportunity for interested persons to submit comments and views have been given in accordance with section 3(b) of the Act. The times for filing comments and views have expired and none have been timely received. The Federal Reserve Bank of Dallas acting pursuant to delegated authority has considered the applications in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant currently controls one bank with aggregate deposits of $37.6 million representing 0.097 percent of the total commercial bank deposits in Texas.[2] Approval of the present acquisitions would cause Applicant to control aggregate deposits of $65.4 million or 0.17 percent of deposits in the State. Approval would not produce a significant increase in the concentration of banking resources in Texas.

Brady Bank is located within the banking market approximated by McCulloch County. Brady Bank is the largest of three banks in the market controlling deposits of $11.1 million or 46.8 percent of total market deposits. Applicant's nearest existing subsidiary is located in an adjacent county 47 miles from Brady Bank. Coleman Bank is situated within a banking market approximated by Coleman County. Coleman Bank is the largest of three banks in the market controlling deposits of $16.7 million or 46.8 percent of total market deposits. Applicant's nearest subsidiary is located in an adjacent county 30 miles from Coleman Bank. Brady Bank and Coleman Bank are separated by a distance of approximately 52 miles. Approval of these applications will have no adverse effect on competition in either banking market although both Brady Bank and Coleman Bank are each the largest bank in their respective banking markets. The second-ranked banks in each of the banking markets are nearly as large as Brady Bank and Coleman Bank respectively. Approval of these applications will have no adverse effect on potential competition in any relevant area because of the distance of Applicant's banking subsidiary from the banks, Texas' restrictive branching laws, and the unattractiveness of both markets to de novo entry.

The financial and managerial resources and future prospects of Applicant, its subsidiary bank, Brady Bank and Coleman Bank, are regarded as generally satisfactory and consistent with approval in view of the addition of equity capital in the amount of $75,000 to Coleman Bank. Although there is no evidence that the convenience and needs of the communities involved are not adequately being served, considerations of the convenience and needs of the communities to be served are consistent with approval. Applicant will be in a position to provide portfolio management advice, more complete trust services, credit investigation services, and computerized bookkeeping services. It is the judgment of the Federal Reserve Bank of Dallas that the proposed acquisitions serve the public interest and that the applications should be approved.

On the basis of the record, as summarized above, the Federal Reserve Bank of Dallas approves the applications, provided that the transactions shall not be consummated before the 30th calendar day following the effective date of this Order or later than three months after

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[1] All banking data are as of December 31, 1973, unless otherwise indicated.

[2] The relevant banking market includes all of Licking County, which is bordered on the west by Franklin County, the center of the Columbus, Ohio, banking market.

[3] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, Holland, Wallich and Coldwell. Absent and not voting: Chairman Burns.

[1] All deposit figures are as of December 31, 1973 and reflect bank holding company formations and acquisitions approved through October 1, 1974.

the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Federal Reserve Bank of Dallas, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective December 9, 1974.

[SEAL] ROBERT H. BOYKIN,
Secretary.

[FR Doc.74-30244 Filed 12-26-74;8:45 am]

DOMINION BANKSHARES CORP.

Order Approving Acquisition of Bank

Before the Federal Reserve Bank of Richmond acting under delegated authority by the Board of Governors of the Federal Reserve System.

Dominion Bankshares Corp., Roanoke, Virginia (Applicant), a bank holding company within the meaning of the Bank Holding Company Act (12 U.S.C. 1842), has applied for approval under section 3(a)(3) of the Act to acquire at least 80 percent of the voting shares of the Bank of Smithfield, Smithfield, Virginia (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, was given in accordance with section 3(b) of the Act and the time for filing all comments and views has expired. The Reserve Bank has considered the application and all comments received in the light of factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls ten banking affiliates operating 89 banking offices with aggregate deposits of $993.4 million,[1] an amount equivalent to 7.9 percent of total commercial bank deposits in Virginia. In terms of deposits it is the state's fifth largest banking organization. Acquisition of Bank with deposits of $14.2 million would increase Applicant's share of deposits in the state by approximately 0.1 percent. Consummation of the proposed transaction would not significantly increase the concentration of banking resources within the state.

Bank is one of three banking organizations located in the relevant geographic market, which is approximated by the Newport and Hardy Magisterial Districts of Isle of Wight County. Of these three, Bank ranks first, with 53.1 percent of the market's deposits, followed by the Smithfield branch of Virginia National Bank with 46.9 percent.[2] Although Applicant has ten offices representing three banks within 25 miles of Bank, no significant competition exists between Bank and any of Applicant's subsidiary banks and it is unlikely that any will develop in the future due to numerous legal, geographic and market barriers. It further appears that the market is not particularly attractive to de novo entry. Accordingly, on the basis of the record, it is concluded that consummation of the proposed acquisition would not have significant adverse effects on competition in any relevant area.

The financial and managerial resources of Applicant are generally satisfactory, and future prospects appear favorable. Considerations relating to convenience and needs of the community to be served lend some weight in support of approval since Applicant's acquisition of Bank will enable the latter to offer a wider range of banking and financial services and provide an alternate source within the market for these services. It is the Reserve Bank's judgment, therefore, that the proposed acquisition would be in the public interest and that the application may be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board of Governors of the Federal Reserve System or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Federal Reserve Bank of Richmond, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective December 13, 1974.

[SEAL] ROBERT P. BLACK,
President.

[FR Doc.74-30250 Filed 12-26-74;8:45 am]

DURANT BANCORPORATION, INC.

Formation of Bank Holding Company

Durant Bancorporation, Inc., Durant, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 81.07 percent or more of the voting shares of The Durant Bank & Trust Company, Durant, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than January 15, 1975.

Board of Governors of the Federal Reserve System, December 18, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-30245 Filed 12-26-74;8:45 am]

GEORGE MADISON CORP.

Formation of Bank Holding Company

The George Madison Corp., Pawnee, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of all of the voting shares (less directors' qualifying shares) of The First National Bank of Pawnee, Pawnee, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 13, 1975.

Board of Governors of the Federal Reserve System, December 18, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-30249 Filed 12-26-74;8:45 am]

MERCHANTS NATIONAL CORP.

Order Approving Acquisition of Pacific American Leasing Corp.

Merchants National Corp., Indianapolis, Indiana, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Pacific American Leasing Corp., Phoenix, Arizona ("Company"), a company that engages in the activity of full pay-out leasing. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(6)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (39 FR 37433 (1974)). The time for filing comments and views has expired, and none has been timely received.

Applicant controls one bank, Merchants National Bank & Trust Company of Indianapolis, Indianapolis, Indiana ("Bank"), with deposits of about $643 million, representing approximately 4 percent of the total amount of deposits in commercial banks in the State.[1] In addition to its banking subsidiary, Applicant has two wholly-owned nonbanking subsidiaries: Circle Leasing Corp., Indianapolis, Indiana ("Circle"), which engages in full pay-out leasing; and Merchants Investment Counseling, Inc., Indianapolis, Indiana, which engages in investment adviser activities from its sole office in Indianapolis. Circle has existing and proposed offices located in Indiana, Kentucky, Michigan, and Ohio. Upon consummation of the subject proposal, Company would become a wholly-owned subsidiary of Circle.

Company, with its home office located in Phoenix, Arizona and with branch offices in Burbank and Menlo Park, California, is engaged in leasing personal property on a full pay-out basis and acts as a broker in certain leasing transac-

[1] All data, unless otherwise noted, as of June 30, 1974.

[2] Market share as of June 30, 1973.

[1] All banking data are as of June 30, 1974.

tions, serving industrial, commercial and medical equipment leasing customers in its Arizona and California markets. Company's lease receivables on March 31, 1974, were $5.88 million. Approximately 45.2 percent of its gross receipts was accounted for by the Phoenix office, and 40.8 and 14 percent respectively from the Burbank and Menlo Park offices. Due to the wide geographic separation of Company and Circle, consummation of the subject proposal would not eliminate existing competition. Because of the distance involved, and the number and size of the firms engaging in full pay-out leasing in Arizona and California, it does not appear probable that Circle would enter *de novo* into the markets served by Company. Due to Company's small size, the presence of numerous competitors in the market, and the lack of competition between Company and Circle, no adverse competitive effects would result from this acquisition.

Over the past few years, Company has had a significant increase in its gross receivables. In the same period, earnings have also increased. The principal source of Applicant's income is derived from the operations of Bank. Operating statements indicate that based on net income, Bank's earnings are good and future prospects appear favorable. Circle's earnings are sufficient to serve its debt and provide for capital augmentation. Consummation of the subject proposal would result in added financial strength for Applicant, and in the Board's judgment, this proposal would not detract from Applicant's overall financial condition and reduce Applicant's ability to provide additional financial support to its subsidiary bank.

There is no evidence that consummation of the proposed transaction would result in undue concentration of resources, conflicts of interests, unsound banking practices, or decreased or unfair competition. Applicant intends to provide operating funds to Company through Circle, thereby removing Company's reliance on increasingly expensive bank lines of credit and assignment of lease receivables, and decreasing the costs of financing Company's activities. Some public benefit may be expected as these costs savings are passed on to Company's customers.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with section 4(c)(8) of the Act, that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to authority delegated hereby.

By order of the Board of Governors,* effective December 19, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-30248 Filed 12-26-74;8:45 am]

MORAMERICA FINANCIAL CORP.

Proposed Acquisition and Retention Through Merger With Bezanson Investments, Inc.

MorAmerica Financial Corp., Cedar Rapids, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire and retain certain insurance agency activities pursuant to its merger with Bezanson Investments, Inc., Cedar Rapids, Iowa. That merger has already been approved by the Board of Governors by order dated October 1, 1974 (39 FR 36391). Notice of the application was published on November 16, 1974 in The Cedar Rapids Gazette, a newspaper circulated in Cedar Rapids, Iowa.

Applicant states that the proposed subsidiary would engage in the activities of an agent for the sale of insurance for the Applicant and its subsidiaries, as well as for the sale of credit life, credit accident and credit health insurance. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 17, 1975.

Board of Governors of the Federal Reserve System, December 17, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-30246 Filed 12-26-74;8:45 am]

* Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Bucher, Holland, Wallich, and Coldwell.

GENERAL SERVICES ADMINISTRATION

[F.P.M.R. Temp. Reg. E-32; Supp 1]

ADP SCHEDULE CONTRACTS

Use for Acquisition of ADPE; Extension of Expiration Date

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation E-32.

2. *Effective date.* This regulation is effective December 27, 1974.

3. *Expiration date.* This regulation expires June 30, 1975, unless sooner superseded or revised.

4. *Revised date.* The expiration date shown in paragraph 3 of FPMR Temp. Reg. E-32 is extended to June 30, 1975, since its provisions address the use of fiscal year 1975 ADP Schedule contracts.

ARTHUR F. SAMPSON,
Administrator of General Services.

DECEMBER 18, 1974.

[FR Doc.74-30197 Filed 12-26-74;8:45 am]

[FPMR Temp. Reg. E-1]

ANNUAL REPORT ON FEDERAL ADVISORY COMMITTEES

Reporting Instructions

1. *Purpose.* This regulation sets forth the reporting instructions to be followed by agencies in the preparation and submission of the Annual Report on Federal Advisory Committees.

2. *Effective date.* This regulation is effective December 27, 1974.

3. *Expiration date.* This temporary regulation expires on March 31, 1975, unless sooner revised or superseded.

4. *Background.* The Federal Advisory Committee Act requires an annual report to the Congress on Federal advisory committees in existence during the preceding calendar year. The 1972 and 1973 reports were prepared according to instructions issued by the Office of Management and Budget (OMB). Executive Order 11769 of February 21, 1974, directed the Administrator of General Services to prepare this report for the consideration of the President.

5. *Authority.* The provisions of this regulation are issued pursuant to the Federal Advisory Committee Act (Public Law 92-463), 5 U.S.C. App. I, and Executive Order 11769 of February 21, 1974.

6. *Definitions.* The following definitions shall apply for the purposes of this report.

a. *Advisory committee.* The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group,

or any subcommittee or other subgroup thereof, which is:

(1) Established by statute or reorganization plan;

(2) Established or utilized by the President; or

(3) Established or utilized by one or more agencies, in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government; except that the term excludes (a) the Advisory Commission on Intergovernmental Relations; (b) the Commission on Government Procurement; and (c) any committee which is composed wholly of full-time officers or employees of the Federal Government.

b. *Agency*. The term "agency" has the same meaning as it does in 5 U.S.C. 551(1). That is, "agency" means each authority of the United States, whether or not it is within or subject to review by another agency, but does not include:

(1) The Congress;

(2) The courts of the United States;

(3) The governments of the territories or possessions of the United States;

(4) The government of the District of Columbia; and

(5) Other miscellaneous exclusions.

7. *Reports*. The reports prescribed by this regulation have been cleared in accordance with FPMR 101–11.11 and assigned interagency report control number 1121–GSA–AN. Agencies shall use the documents and procedures prescribed below when preparing and submitting the Annual Report on Federal Advisory Committees.

a. *Content of report*. The Annual Report on Federal Advisory Committees shall consist of the original and four copies of each of the following:

(1) SF 248–Test, Annual Report of Federal Advisory Committee;

(2) SF 249–Test, Membership List of Federal Advisory Committee;

(3) SF 250–Test, Annual Report of Federal Advisory Committees Summary Sheet; and

(4) A letter of transmittal for the report that includes the following information:

(a) A list of any statutory advisory committees (committees shown in block 5a, SF 248–Test) that the department or agency recommends be abolished and the reasons therefor;

(b) A summary estimate of the total cost to fund, supply, and maintain the agency's advisory committees in the calendar year following that covered by this report;

(c) A recapitulation of the exemptions in the Freedom of Information Act used as a basis for closing meetings;

(d) Comments in some detail on agency efforts and procedures to ensure balanced membership on its advisory committees; and

(e) Name, address, and telephone number of the agency Committee Management Officer and staff contact person.

b. *Preparation of the report*. It is suggested that SF 248–Test, Annual Report of Federal Advisory Committee, and SF 249–Test, Membership List of Federal Advisory Committee, be completed by the organizational element responsible for support of the individual committee. It is intended that SF 250–Test, Annual Report of Federal Advisory Committees Summary Sheet, and the letter of transmittal be completed at the department or agency level. Information for completion of SF 250–Test is compiled directly from data on appropriate Standard Forms 248.

c. *Due date*. This report is due on or before February 1, 1975. Submit the report to the Office of Records Management, National Archives and Records Service (mailing address: General Services Administration (NR), Washington, D.C. 20408).

8. *Availability of forms*. Standard Form 248–Test, Annual Report of Federal Advisory Committee; Standard Form 249–Test, Membership List of Federal Advisory Committee; and Standard Form 250–Test, Annual Report of Federal Advisory Committees Summary Sheet, and their instructions are illustrated in attachments A, B, and C. These forms should be requisitioned from the nearest GSA supply distribution facility.

9. *Inquiries*. Inquiries concerning these regulations, forms, or reporting procedures should be directed to the Office of Records Management, National Archives and Records Service (mailing address: General Services Administration (NR), Washington, D.C. 20408).

NOTE.—The forms listed in paragraph 8 are filed as part of the original document and do not appear in the FEDERAL REGISTER.

DWIGHT A. INK,
Acting Administrator of General Services.

DECEMBER 13, 1974.

[FR Doc.74-30199 Filed 12-26-74;8:45 am]

[FPMR Temp. Reg. F-316]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose*. This regulation delegates authority to the Secretary of Defense to represent the consumer interest of the executive agencies of the Federal Government in a proceeding involving the investigation of electric rate structures.

2. *Effective date*. This regulation is effective immediately.

3. *Delegation*.

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d), (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the California Public Utilities Commission in a proceeding involving the investigation of electric rate structures (Case No. 9804).

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
Administrator of General Services.

DECEMBER 19, 1974.

[FR Doc.74-30198 Filed 12-26-74;8:45 am]

ADVISORY COMMITTEE FOR PROTECTION OF ARCHIVES AND RECORDS CENTERS

Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that meetings of the Advisory Committee for Protection of Archives and Records Centers will be held at 9 a.m. on January 16 and at 9 a.m. on January 17, 1975, in the Departmental Auditorium, Conference Room B, 14th and Constitution Avenue NW., Washington, D.C.

The meeting on January 16 will be devoted to a report on the fire at the Military Personnel Records Center (MPRC) in Overland, Missouri, on July 12, 1973, and a review of current record storage requirements as developed by the National Archives and Records Service and the Public Buildings Service of the General Services Administration; the National Fire Protection Association; and other appropriate organizations.

The meeting on January 17 will be to hear reports on record storage test fires conducted by Factory Mutual Engineering Association, for the GSA Public Buildings Service, and to receive testimony from interested parties concerning the protection of archives and records from fire.

Individuals wishing to offer testimony are requested to submit, in advance, to the Advisory Committee Secretary, a one page outline of their testimony, and to limit their oral remarks to fifteen minutes. Written statements of any length will be accepted.

Further information with reference to these meetings can be obtained from Mr. D. Peter Lund, Advisory Committee Secretary, c/o Society of Fire Protection Engineers, 60 Batterymarch St., Boston, MA 02110, or call (617) 482–0686.

Dated: December 19, 1974.

W. A. MEISEN,
Acting Commissioner, Public Buildings Service.

[FR Doc.74-30200 Filed 12-26-74;8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

RESCHEDULED MEETING

DECEMBER 20, 1974.

Some details of the January meeting of the National Advisory Committee on Oceans and Atmosphere (NACOA) announced in the December 18, 1974 FEDERAL REGISTER have been changed. The agenda announced for January 20 will be rescheduled for a later date and the January 21 session has been moved up

to take its place. Accordingly, the meeting will consist of a one day informal working session on Monday, January 20, 1975 to consider NACOA work in progress on issues related to the coastal zone impact of Outer Continental Shelf development, the International Decade of Ocean Exploration (IDOE) and plans for NACOA's fourth Annual Report. This session will be held in Room 6802 of the U.S. Department of Commerce Building, 15th and Constitution Avenue, NW, Washington, D.C. beginning at 9 a.m. and ending about 4 p.m. This working session will be open to the public.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Room 5225, Department of Commerce Building, Washington, D.C. 20230. Telephone: (202) 967-3343.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc.74-30144 Filed 12-26-74;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

ARTISTS-IN-SCHOOLS ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Artists-in-Schools Advisory Panel to the National Endowment for the Arts will be held on January 22, 1975 from 9:30 a.m.-5:30 p.m. and on January 23, 1975 from 9:30 a.m.-5:30 p.m. in the 11th floor conference room, 2401 E Street, NW, Washington, D.C.

The purpose of this meeting is for a policy discussion. The meeting will be open to the public on a space available basis. Accommodations are limited. Further information can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6110.

EDWARD M. WOLFE,
Administrative Officer, National Foundation on the Arts and the Humanities.

[FR Doc.74-29902 Filed 12-26-74;8:45 am]

National Endowment for the Humanities

EDUCATION PANEL

Renewal

DECEMBER 23, 1974.

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4)); and paragraph 9 of OMB Circular A-63, notice is hereby given that renewal of the Education Panel has been approved by the Chairman of the National Endowment for the Humanities for a period of two years until January 5, 1977.

The Education Panel advises the National Council on the Humanities concerning the recommendations Council members should make on applications for financial support presented to the Education Division of the Endowment and to advise the Chairman of the National Endowment for the Humanities concerning the action he should take on applications for financial support presented to the Education Division. The Committee will report to the Chairman of the National Endowment for the Humanities and to the National Council on the Humanities.

The charter for the Education Panel will be filed with standing committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.74-30256 Filed 12-26-74;8:45 am]

FELLOWSHIPS PANEL

Renewal

DECEMBER 23, 1974.

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4)); and paragraph 9 of OMB Circular A-63, notice is hereby given that renewal of the Fellowships Panel has been approved by the Chairman of the National Endowment for the Humanities for a period of two years until January 5, 1977.

The Fellowships Panel advises the National Council on the Humanities concerning the recommendations Council members should make on applications for financial support presented to the Fellowships Division of the Endowment and to advise the Chairman of the National Endowment for the Humanities concerning the action he should take on applications for financial support presented to the Fellowships Division. The Committee will report to the Chairman of the National Endowment for the Humanities and to the National Council on the Humanities.

The charter for the Fellowships Panel will be filed with standing committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.74-30259 Filed 12-26-74;8:45 am]

PLANNING OFFICE PANEL

Renewal

DECEMBER 23, 1974.

In accordance with the provisions of the Federal Advisory Committee Act (P. L. 92-463); section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959 (a)(4)); and paragraph 9 of OMB Circular A-63, notice is hereby given that renewal of the Planning Office Panel has been approved by the Chairman of the National Endowment for the Humanities for a period of two years until January 5, 1977.

The Planning office Panel advises the National Council on the Humanities concerning the recommendations Council members should make on applications for financial support presented to the Office of Planning of the Endowment and to advise the Chairman of the National Endowment for the Humanities concerning the action he should take on applications for financial support presented to the Office of Planning. The Committee will report to the Chairman of the National Endowment for the Humanities and to the National Council on the Humanities.

The charter for the Planning Office Panel will be filed with standing committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.74-30257 Filed 12-26-74;8:45 am]

PUBLIC PROGRAMS PANEL

Renewal

DECEMBER 23, 1974.

In accordance with the provisions of the Federal Advisory Committee Act (P. L. 92-463); section 10 (a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959 (a)(4)); and paragraph 9 of OMB Circular A-63, notice is hereby given that renewal of the Public Programs Panel has been approved by the Chairman of the National Endowment for the Humanities for a period of two years until January 5, 1977.

The Public Programs Panel advises the National Council on the Humanities concerning the recommendations Council members should make on applications for financial support presented to the Public Programs Division of the Endowment and to advise the Chairman of the National Endowment for the Humanities concerning the action he should take on applications for financial support presented to the Public Programs Division. The Committee will report to the Chairman of the National Endowment for the Humanities and to the National Council on the Humanities.

The charter for the Public Programs Panel will be filed with standing committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.74-30260 Filed 12-26-74;8:45 am]

RESEARCH PANEL

Renewal

DECEMBER 23, 1974.

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4)); and paragraph 9 of OMB Circular A-63, notice is hereby given that renewal of the Research Panel has been approved by the Chairman of the National Endowment for the Humanities for a period of two years until January 5, 1977.

The Research Panel advists the National Council on the Humanities concerning the recommendations Council members should make on applications for financial support presented to the Research Division of the Endowment and to advise the Chairman of the National Endowment for the Humanities concerning the action he should take on applications for financial support presented to the Research Division. The Committee will report to the Chairman of the National Endowment for the Humanities and to the National Council on the Humanities.

The charter for the Research Panel will be filed with standing committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

JOHN W. JORDAN,
Advisory Committee Management Office.

[FR Doc.74-30250 Filed 12-26-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 12/20/74 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
Questionnaires for the Evaluation of Title IV of the Civil Rights Act of 1964, OE393-1, 2-8, Single-time, Project Directors and Staff Receiving Title IV Awards Community & Veterans Affairs Division, 395-3532.

Office of Education:
Follow Through Comprehensive Health Services Planning Questionnaire, OE 4535, Annually, Lea's, Caywood, D.P., 395-3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
Financial Status and Performance Reports for Environmental Education Projects, OE-387, Semi-Annually, Public and Private Non-Profit Agencies, Lowry, B.L., 395-3772.

NEW FORMS

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration: Motor Carrier Maintenance Survey and Supplemental Accident Data Survey Questionnaires, Single-Time, Drivers and Commercial Motor Carriers Lowry, R. L., 395-3772.

NATIONAL SCIENCE FOUNDATION

National Science Foundation: Questionnaires on Presidential Internships in Science and Engineering: Single-Time, Participants in Presidential Internships Program, Dennis Johnston, 395-3840.

REVISIONS

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service: Annual Report of Research Facility—Laboratory Animal Welfare, ANH 18-23, Annually, Users of Animals for Biomedical Research, Lowry, R. L., 395-3772.

DEPARTMENT OF DEFENSE

Departmental and Other Application Form, ROTC 4 Year Scholarship, DD-1293, On Occasion, High School Students, Lowry, R. L., 395-3772.

Department of the Navy: Progress Reports for Research and Development Equipment (MIL-STD-1602(AS)(RCS NAVAIR 3900-1), NAVAIR 3900), Monthly, Contractors, Caywood, D. P., 395-3443.

GENERAL SERVICES ADMINISTRATION

General Services Administration: Contractors Report of Orders Received (Card Format), GSA-72, 72-A, Monthly, Private Business Firms, Caywood, D. P., 395-3443.

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

New Communities: Personal financial statement—Sole proprietorship, HUD 6243A, on occasion, Community & Veterans Affairs Division, 395-3532.

New Communities: Request for verification of mortgage or deed of trust, HUD 6239, on occasion, Community & Veterans Affairs Division, 395-3532.

New Communities: Application for section 115 rehabilitation grant report on section 115 rehabilitation grant, HUD 6280, on occasion, Community & Veterans Affairs Division, 395-3532.

Community Planning and Development: Application for loan and grant (Urban renewal program), HUD-612, on occasion, Community & Veterans Affairs Division, 395-3532.

New Communities: Cancellation of approved RAA rehabilitation loan application for residential property and for mixed-use loan, HUD 6230-C, on occasion, Community & Veterans Affairs Division, 395-3532.

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration: Coal accident, injury and illness report, 6-347, on occasion, Evinger, S.K., 395-3648.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

National Aeronautics and Space Administration: Report on NASA subcontractors (geographic location—large and small business), NASA 667, on occasion, Evinger, S.K., 395-3648.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-30397 Filed 12-26-74;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 12/21/74 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (X) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service:
Evaluation of WIC program by state health agencies, single-time, State health agencies participating in WIC programs, Human Resources Division, 395-3532.

DEPARTMENT OF COMMERCE

Bureau of Domestic Commerce:
Appraisal of U.S. industrial outlook, DIB-982, single-time, selected small, medium and large businesses, Lowry, R. L., 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration:
Reply post card for public service announcements, FD 2911, on occasion, radio stations, Lowry, R. L., 395-3772.

Office of the Secretary:
Long-range projection for the provision of comprehensive service to handicapped individuals, CS-57-47, single-time, private agencies serving the handi-

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capped, Human Resources Division, 395-5332.

Social Security Administration:
Domiciliary Care Administrator, and resident questionnaires,
SSA 8965,
Single-time,
Facility administrators in seven states,
Sunderhauf, M.B., 395-4911.

1974 Survey of Institutionalized SSI Recipients,
SSA 8966,
Single-time,
Nursing home staff residents and families,
Sunderhauf, M.B., 395-4911.

DEPARTMENT OF THE INTERIOR

Bureau of Outdoor Recreation:
St. Marys River Winter Recreation Survey (interview),
BOR 8-201,
Single-time,
Winter outdoor recreation participants,
Pisrichon, P., 395-3254.

SMALL BUSINESS ADMINISTRATION

Small Business Administration:
Small business questionnaire,
Single-time,
Small business firms,
Economics and general government division, 395-5451.

REVISIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service:
Manufacturing grade milk price—Minnesota and Wisconsin monthly,
Manufacturing grade milk buyers,
Lowry, R.L., 395-3772.

Animal and Plant Health Inspection Service:
Application for inspection and dipping—imported livestock,
AMH 17-22,
On occasion,
Importer's agent,
Lowry, R.L., 395-3772.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-30329 Filed 12-26-74;8:45 am]

PRESIDENTIAL CLEMENCY BOARD

NOTICE OF MEETINGS

DECEMBER 18, 1974.

Notice is hereby given, pursuant to the provisions of the Federal Advisory Committee Act of 1972, that meetings of the Presidential Clemency Board will be held on January 9, 10, 11, 1975, at 9 a.m., in Room 459, Old Executive Office Building, Washington, D.C.

These meetings will not be open to the public since (1) the Board will discuss matters related solely to its internal personnel and practices under 5 U.S.C. 552-(b)(2) and (2) will examine personnel and similar files, disclosure of which would constitute an unwarranted invasion of privacy under (b)(6) of the same section.

CHARLES E. GOODELL,
Chairman.

[FR Doc.74-30330 Filed 12-26-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 18719; 37-60]

AMERICAN NATURAL GAS CO. AND AMERICAN NATURAL GAS SERVICE CO.

Proposal To Issue Notes to Holding Company and of Settlement of Interest Rate Matter

Notice is hereby given that American Natural Gas Company ("American Natural"), a registered holding company, and American Natural Gas Service Company ("Service Company"), One Woodward Avenue, Detroit, Michigan 48226, its wholly-owned subsidiary service company, have filed a joint-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 13 of the Act and rules 40(b), 42(b)(2), 43(b)(3), and 50(a)(3) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the joint declaration, which is summarized below, for a complete statement of the proposed transactions.

By Order dated January 14, 1966 (Holding Company Act Release No. 15174) Service Company was authorized, effective as of January 1, 1965, to include in its charges to associated companies for services rendered such amount of compensation for the use of capital equity as will, together with interest (at the rate of ¼ percent over the current prime rate) paid on its outstanding notes, provide Service Company with an overall return of 6½ percent per annum after taxes on its total capitalization and surplus. The Commission at that time reserved jurisdiction to determine whether the proposed interest rate and compensation for the use of equity capital are consistent with the provisions of rule 91 under the Act.

At September 30, 1974, Service Company's outstanding securities-all owned by American Natural—and its retained earnings, were as follows:

Notes due 1989	$450,000
Capital stock	250,000
Retained earnings	209,933
Total capitalization and retained earnings	909,933

It is stated that due to prevailing high interest rates, the return on Service Company's equity under the above formula has fallen to an average of $859 per month during 1974 (an annual rate of approximately 2 percent on equity of September 30, 1974). It is now proposed, in view of such negligible return on equity, that the formula be changed so as to include in Service Company's charges for services a return on equity (capital stock plus retained earnings) of 6½ percent per annum after taxes. The charge for interest costs on the $450,000 principal amount of outstanding notes due 1989 will continue at the prime rate plus ¼ of 1 percent. Service Company proposes to enter into a form of service agreement with each of its associate companies reflecting this change.

Pursuant to Commission requirements (see Holding Company Act Release No. 14974, December 5, 1963), Service Company has heretofore duly advised the Commission that it proposes, effective January 1, 1975, to transfer certain activities and functions from associated companies to Service Company, resulting in new and expanded activities for Service Company; and that Service Company would incur costs for additional equipment including equipment transferred from associated companies at depreciated cost. It is stated that Service Company's total 1975 budget for capital expenditures, including the above-mentioned equipment, is estimated at approximately $1,500,000, as follows:

	Additional and replacement	Transferred	Total
Furniture and equipment	$431,300	$101,800	$533,100
Transportation and work equipment	380,000	185,000	565,000
Medical equipment	25,000	.....	25,000
Audio/visual equipment	75,750	40,250	115,950
Drilling rig additions	297,300	.....	297,300
Laboratory equipment	86,250	282,950	369,200
Total	$1,295,600	$709,950	$2,005,550
Less: Estimated depreciation	.....	205,150	205,150
Net	$1,295,600	$414,800	$1,800,400

To cover these costs, Service Company proposes to issue and sell to American Natural from time to time during 1975, up to $1,500,000 principal amount of unsecured notes ("Notes"). The aggregate of Service Company's principal amount of notes outstanding and capital stock will at no time exceed an amount approximately equal to the sum of the depreciated cost of its fixed assets, two months operating expenses, and petty cash working funds.

The Notes will be dated the date of issuance, will mature December 31, 1994, will be prepayable at Service Company's option at any time without penalty, and will bear interest at an annual rate of 1 percent plus the prime rate (adjusted monthly for any changes thereof) in effect at First National City Bank, New York. The proposed interest rate is the same as the interest cost to American Natural in respect of its most recent bank borrowings (see Holding Company Act Release No. 18391, April 25, 1974). Service Company's interest costs on the Notes will be included in its service charges to associate companies.

It is stated that no State Commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. No fees, commissions or expenses will be incurred in connection with the proposed transaction.

Notice is further given that any interested person may, not later than January 13, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said joint-declaration which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the joint-declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30159 Filed 12-26-74;8:45 am]

[Rel. No. 18717; FO-5351]

APPALACHIAN POWER CO.

Notice of Proposed Increase in Aggregate Maximum Amount of Short-Term Indebtedness, Addition of Lending Banks, Increase in Bank Debt, and Exception from Competitive Bidding

Notice is hereby given that Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roanoke, Va. 24009, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed with this Commission an eighth post-effective amendment to the application previously filed in this matter, pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application as now amended, which is summarized below, for a complete statement of the proposed transaction.

By orders dated June 29, 1973, March 29, 1974, June 11, 1974, July 5, 1974 and August 23, 1974 (Holding Company Act Release Nos. 18015, 18348, 18448, 18480, and 18543), this Commission, among other things, authorized the issuance and sale of short-term notes and commercial paper by Appalachian. Appalachian has been authorized to incur such short-term indebtedness in an aggregate amount not to exceed $150,000,000.

It is now proposed that the maximum aggregate amount of such short-term indebtedness be increased to $175,000,000. It is further proposed that two additional banks be added to the list of 89 banks from which Appalachian was previously authorized to borrow funds and that the total maximum amount of borrowings from banks be increased from $152,423,000 to $163,423,000.

Each note payable to a bank to be issued by Appalachian will be dated as of the date of the borrowing which it evidences and will mature not more than 270 days after the date of issuance or renewal thereof. Each note will bear interest no greater than the prime rate of commercial banks at the time of issuance or in effect from time to time and will be prepayable at any time without premium or penalty. It is stated that Appalachian will not pay any fees or charges to any of the banks in connection with the issuance and sale of such notes. Sufficient bank balances to meet operating and financial needs are kept at such banks to satisfy any compensating balance requirements in connection with the borrowings. If the average of such bank balances were maintained solely in order to fulfill the prevailing compensating balance requirements of such banks, generally between 15 and 20 percent, the effective interest cost to Appalachian of the issuance and sale of such notes to banks would be approximately between 12.06 percent and 12.8 percent per annum, assuming a prime rate of 10¼ percent.

The commercial paper will be in the form of promissory notes in denominations of not less than $50,000 nor more than $5,000,000 and will be of varying maturities, with no maturity more than 270 days after the date of issue; none will be prepayable prior to maturity. The commercial paper notes of Appalachian will be sold directly to not more than two dealers at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest cost at which Appalachian could borrow from banks. The dealers will reoffer the commercial paper notes to not more than 100 of their customers identified and designated in a list (nonpublic) prepared in advance. It is expected that Appalachian's commercial paper notes will be held by each dealer's customers to maturity, but if the customers wish to resell prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase the notes and reoffer them to others in its group of 100 customers.

The proceeds from the issuance and sale of the notes will be used by Appalachian to reimburse its treasury for past expenditures made in connection with its construction program and to pay part of the cost of its future construction program. Such construction expenditures for the year 1974 is estimated to total $105,000,000. The application states that, unless otherwise authorized by the Commission, all of the short-term debt of Appalachian will be retired by June 30, 1975, from internal cash resources, debt or equity financing, or cash capital contributions.

Appalachian requests exception from the competitive bidding requirements of rule 50 for the proposed issuance and sale of its commercial paper pursuant to paragraph (a)(5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper. Appalachian also requests authority to file certificates under rule 24 with respect to the issuance and sale of commercial paper on a quarterly basis.

The Virginia State Corporation Commission has authorized the transaction proposed by Appalachian. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 30, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as now amended or as it may be further amended, may be granted as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30160 Filed 12-26-74;8:45 am]

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[File No. 500-1]

BIO-MEDICAL SCIENCES, INC.

Notice of Suspension of Trading

DECEMBER 19, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Bio-Medical Sciences, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 20, 1974 through December 29, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30161 Filed 12-26-74;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORPORATION OF AMERICA

Notice of Suspension of Trading

DECEMBER 17, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants to purchase the stock, 9½ percent debentures due 1990, 5½ percent convertible subordinated debentures due 1991, and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 18, 1974 through December 27, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30162 Filed 12-26-74;8:45 am]

[Rel. No. 19118; 70-5093]

GEORGIA POWER CO.

Notice of Proposed Charter Amendment Regarding Unsecured Debt Limitation and Solicitation of Proxies

Notice is hereby given that Georgia Power Company ("Georgia"), 270 Peachtree Street, NW., Atlanta, Georgia 30303, an electric utility subsidiary company of The Southern Company ("Southern"), a registered holding company, has filed a declaration and amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7 and 12(e) of the Act and rules 62 and 65 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, as amended, for a more complete statement of the proposed transactions.

Georgia states that the terms of its preferred stock, as set forth in its Charter, provide that, except for limited specified purposes or except with the affirmative vote in favor thereof of the holders of at least a majority of the shares of the preferred stock at the time outstanding, the amount of securities representing unsecured indebtedness having maturities of less than ten years as defined in the Charter ("short-term debt") which Georgia may issue or assume shall not exceed 10 percent of its other capitalization, namely the sum of (a) the total principal amount of all bonds and other securities representing secured indebtedness issued or assumed by Georgia and then to be outstanding and (b) the capital and surplus to Georgia (paid-in, earned and other, if any) as stated on its books of account.

Georgia states that on December 14, 1971, the holders of a majority of the outstanding preferred stock authorized Georgia, until July 1, 1975, to issue or assume unsecured short-term debt as above defined in excess of such 10 percent limitation, provided that (a) none of such additional short-term debt outstanding on July 1, 1975 shall mature on or after January 1, 1976, and (b) the company's total indebtedness represented by unsecured securities shall at no time exceed 20 percent of its other capitalization, as above defined. Such action was authorized by order of the Commission dated November 5, 1971 (HCAR No. 17345).

Georgia now proposes to submit to the holders of its outstanding preferred stock a proposal that Georgia be authorized, for a further period of 5 years, until July 1, 1980, to issue or assume unsecured short-term debt in excess of the 10 percent limitation, provided that (a) none of such additional short-term debt outstanding on July 1, 1980 shall mature on or after January 1, 1981, and (b) the company's total indebtedness represented by unsecured securities shall at no time exceed 20 percent of its other capitalization, as above defined.

Georgia intends to submit the above proposal to the holders of its preferred stock for their approval at a special meeting to be held on March 5, 1975. Georgia additionally proposes to solicit proxies regarding such matter from the holders of its preferred stock. The affirmative vote of at least a majority of the shares of preferred stock at the time outstanding is required by Georgia's Charter to adopt the proposal.

It has been the practice of Georgia to finance current construction expenditures in excess of available internally generated funds from the proceeds of short-term borrowings to be funded through the sale of additional first mortgage bonds and preferred stock and from capital contributions by its parent, Southern. Difficulty in achieving earnings sufficient to meet interest and dividend coverage requirements for the sale of bonds and preferred stock, as well as unstable market conditions, has forced Georgia to postpone part of its 1974 financing program. Georgia is uncertain as to when and in what amounts additional sales of its first mortgage bonds and preferred stock may be accomplished. Accordingly, it has been and may be required to rely on the continued availability to it of short-term borrowings to meet, in part, construction expenditures and maturing short-term obligations.

Based on the capitalization of Georgia as of September 30, 1974, the 10% Charter limitation on short-term debt is $286,318,200. Georgia estimates that its financing requirements in 1975 will necessitate the incurrence of short-term unsecured debt substantially in excess of the amount indicated by such 10 percent Charter limitation. While a favorable vote by the preferred stockholders would permit Georgia to incur short-term indebtedness in excess of that limitation, exercise of the privilege by Georgia would require prior approval of the Commission.

Georgia has filed with the Commission (File No. 70-5463) a request to increase the amount of its present short-term borrowing authorization (HCAR No. 18517, July 31, 1974) from $250,000,000 to a maximum aggregate principal amount of $450,000,000, at any one time outstanding through March 31, 1975.

By order dated December 5, 1974 (HCAR No. 18692), the Commission granted Georgia authority to make interim borrowings during the period expiring January 15, 1975, in a maximum amount not exceeding $350,000,000 at any one time outstanding. At that date, unless authorized by the Commission, Georgia's short-term borrowing authority will decrease to $250,000,000 through March 31, 1975.

Fees and expenses to be paid or incurred in connection with the proposed transactions are estimated at $63,000, including legal fees of $10,000. It is stated that no State or Federal commission, other than this Commission has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than January 10, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rule 20(a) and 100 thereof or take such other action as it

may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30163 Filed 12-26-74;8:45 am]

[File No. 500-1]

INDUSTRIES INTERNATIONAL, INC.

Notice of Suspension of Trading

DECEMBER 17, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 18, 1974 through December 27, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30164 Filed 12-26-74;8:45 am]

[Rel. No. 8618; 811-1606]

TMR APPRECIATION FUND, INC.

Notice of Proposal To Terminate Registration

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act") to declare by order on its own motion that TMR Appreciation Fund, Inc. ("Appreciation Fund"), 245 Park Avenue, New York, New York 10017, registered under the Act as an open-end investment company, has ceased to be an investment company as defined in the Act.

Appreciation Fund registered under the Act on February 20, 1968. It also filed a registration statement on Form S-5 (File No. 2-28266) under the Securities Act of 1933 which became effective on July 17, 1968. As of June 30, 1974, it had net assets of $7,240,809 and on July 26, 1974, it had outstanding 1,140,217 shares of common stock.

The Commission's records indicate that on September 19, 1974, shareholders of Appreciation Fund approved a plan of reorganization providing for the merger of Appreciation Fund with Manhattan Fund, Inc. ("Manhattan") under which Manhattan was to be the surviving corporation. The merger was made effective on the same date shareholders approved the Plan of Reorganization. Appropriate dissolution papers were filed with the States having jurisdiction and, thereafter, Appreciation Fund technically ceased to exist.

Section 8(f) of the Act provides, in pertinent part, that when the Commission on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given, that any interested person may, not later than January 13, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon TMR Appreciation Fund, Inc., at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the matter herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE R. FITZSIMMONS, *Secretary.*

[FR Doc.74-30165 Filed 12-26-74;8:45 am]

[File No. 500-1]

WESTGATE CALIFORNIA CORP.

Notice of Suspension of Trading

DECEMBER 17, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock (class A and B), the cumulative preferred stock (5 percent and 6 percent, the 6 percent subordinated debentures due 1979 and the 6½ percent convertible subordinated debentures due 1987 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 18, 1974 through December 27, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30166 Filed 12-26-74;8:45 am]

[File No. 500-1]

ZENITH DEVELOPMENT CORP.

Notice of Suspension of Trading

DECEMBER 17, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Zenith Development Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 18, 1974 through December 27, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30167 Filed 12-26-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0174]

AMERICAN-EURO INTERFUND CORPORATION

Issuance of a License to Operate as a Small Business Investment Company

On September 26, 1974, a notice was published in the FEDERAL REGISTER (39 FR 34611) stating that an application had been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing Small Business Investment Companies for a license to operate as a small business investment company by American-Euro Interfund Corp., 44 Montgomery Street, Suite 2870, San Francisco, California 94104.

Interested parties were invited to submit their written comments to SBA. No comments were received.

Notice is hereby given that pursuant to the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), after having considered the application and all other pertinent information and facts with regard thereto, SBA has issued License No. 09/09-0174 to American-Euro Interfund Corporation to operate as a small business investment company.

Dated: December 18, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-30218 Filed 12-26-74;8:45 am]

[License No. 08/73-0001]

SMALL BUSINESS IMPROVEMENT COMPANY

Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Small Business Improvement Co. (Small Business Improvement), 711 Central Avenue, Billings, Montana 59103, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application pursuant to § 107.1004(b) of the regulations governing small business investment companies (13 CFR 107.1004(1974)), for an exemption from the provisions of the conflict of interest regulations.

The exemption, if granted, will permit Small Business Improvement to provide financing in the amount of $25,000 to Mr. John O. Bonisteel, a former employee of Super Save Markets which are owned by a wholly owned subsidiary of Ryans, Inc., parent company of Small Business Improvement.

Information provided by the Applicant in connection with this application indicates that:

1. Mr. H. E. Bollinger owned Bud's IGA Foodliner (Foodstore), which was financed by Small Business Improvement. Mr. Bollinger died on September 1, 1972. The business passed to his estate, under the management of his widow, Mrs. Thelma B. Bollinger. Mrs. Bollinger now wishes to sell this store.

2. Mr. Bonisteel signed a Buy and Sell Agreement dated September 25, 1974. The Agreement hinges upon Mr. Bonisteel obtaining through the Western Bank of Chinook, Montana, a Small Business Administration (SBA) loan

3. Subject to SBA approval, Small Business Improvement agreed to make a loan to Mr. Bonisteel and to subordinate it to a bank participation loan, guaranteed by SBA in the amount of $50,000.

Pursuant to Paragraphs (b) and (c) of the definition of "Associate of a Licensee" in § 107.3 of the regulations, Mr. Bonisteel is considered to be an associate of Small Business Improvement. As such, the transaction will require an exemption pursuant to § 107.1004(b) of the regulations.

Notice is hereby given that any person may, no later than January 13, 1975, submit written comments on the proposed transaction to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Chinook, Montana.

Dated: December 18, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-30217 Filed 12-26-74;8:45 am]

TARIFF COMMISSION

[337-L-30]

CERTAIN ANGOLAN ROBUSTA COFFEE

Notice of Complaint Received

The United States Tariff Commission hereby gives notice of the receipt on November 26, 1974, of a complaint under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), filed by Cofinco Inc., Imperial Commodities Corporation, Mitsui & Co. (U.S.A.), Inc., S.F. Pellas Co., Inc., and Van Ekris & Stoett, Inc., each of New York, N.Y., alleging unfair methods of competition and unfair acts in the importation and sale of Angolan Robusta coffee of the grade "Ambriz 2BB", which unfair acts have the effect or tendency to restrain or monopolize trade and commerce in the United States. Complainants also allege that the effect or tendency of such acts injures a domestic coffee importing industry. The specific unfair acts are alleged to consist of illegal price-fixing arrangements for the sale of such coffee in the United States and boycotts and refusals to deal with United States importers and traders not participating in such price-fixing arrangements. The complaint names A.C. & Leon Israel Coffee Co., E. R. Camilleri & Co., Inc., Gill & Duffus, Inc., and Socomex Coffee, Inc., each of New York, N.Y., as engaging in the unfair acts with Cardoso & CIA, LDA, Jopedros, LDA, Van Caf Ltd., Madeira & Marques, LDA, Cooperative dos Proditores-Exportadores, E Commerciantes-Exportadores Do Cafe De Luanda, S.C.A.R.L., each of Luanda, Angola, Angola Coffee Company of Rotterdam, The Netherlands, and Pacol Limited, of London, England, among others.

In accordance with the provisions of § 203.3 of its rules of practice and procedure (19 CFR 203.3), the Commission has initiated a preliminary inquiry into the issues raised in the complaint for the purpose of determining whether there is good and sufficient reason for a full investigation and if so whether the Commission should recommend to the President the issuance of a temporary exclusion from entry under section 337(f) of the Tariff Act.

A copy of the complaint is available for public inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, NW, Washington, D.C., and at the New York City office of the Tariff Commission located at 6 World Trade Center.

Information submitted by interested persons which is pertinent to the aforementioned preliminary inquiry will be considered by the Commission if it is received not later than January 24, 1975. Extensions of time for submitting information will not be granted unless good and sufficient cause is shown therefor. Such information should be sent to the Secretary, United States Tariff Commission, 8th and E Streets, NW, Washington, D.C. 20436. A signed original and nineteen (19) true copies of each document must be filed.

Issued: December 23, 1974.

By order of the Commission:

(SEAL) KENNETH R. MASON,
Secretary.

[FR Doc.74-30281 Filed 12-26-74;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL; MANPOWER AND EMPLOYMENT COMMITTEE

Meeting

The BRAC Committee on Manpower and Employment will meet at 9:30 a.m., January 15, 1975, at the General Accounting Office Building, 441 G Street, NW, Room 2106, Washington, D.C. The agenda for the meeting is as follows:

1. Office of Manpower Structure and Trends.

A. Report on the recent benchmark revision of the establishment employment (790) series. This will include comment on the magnitude of the employment revisions, as well as explanation of recently discovered errors in certain hours and earnings series.

B. Discussion with regard to other questions associated with the 790 program.

I. The Bureau's present examination of the net spendable earnings series.

2. Consideration of the desirability and practicability of measuring separately, in the establishment survey, the number and earnings of part-time workers.

3. Recent research and contemplated developments as regards the separate measurement of hours worked and hours paid for, and the possible use of hours worked as the denominator for a measure of hourly earnings.

4. Special plans for reporting designed to measure the impact of changing energy supplies on industry.

C. Discussion of programs dealing with information concerning occupational requirements.

2. Office of Current Employment Analysis. Current Population Survey sample expansion and the status of local area employment and unemployment statistics.

It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on (Area Code 202) 961-2559.

Signed at Washington, D.C., this 18th day of December 1974.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.74-30068 Filed 12-26-74;8:45 am]

Occupational Safety and Health Administration

HAWAII STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Assistant Regional Directors for Occupational Safety and Health (hereinafter called Assistant Regional Director) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 4, 1974, notice was published in the FEDERAL REGISTER (39 FR 1010) of the approval of the Hawaii plan and the adoption of Subpart Y of Part 1952 containing the decision.

The Hawaii plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. State standards comparable to 29 CFR Part 1910, Subparts E, F, H, I, J, L, M, O and R were submitted with the State plan. However, the following State standards were determined to need additional revision (29 CFR Part 1910, Subparts D, G, K, N, P, Q and S and all of 29 CFR Part 1926). Accordingly Hawaii has revised these standards and promulgated them in accordance with applicable State procedures.

Section 1952.313 of Subpart Y sets forth the State's schedule for the adoption of at least as effective State standards. By letter dated April 3, 1974, from Robert K. Hasegawa, Director of the Department of Labor and Industrial Relations, to Gabriel J. Gillotti, Assistant Regional Director, and incorporated as part of the plan, the State submitted proof documents concerning 29 CFR Part 1910 Subparts D, G, K, N, P, Q and S and all Subparts of Part 1926, Title 29 Code of Federal Regulations. These standards, which are contained in Hawaii Occupational Safety and Health Standards—Rules and Regulations, were promulgated by the State after public hearings on the following dates: April 18, 22, 23, 24 and 25, 1974.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards. The State standards are more specific in several areas particularly with respect to Subpart I, 29 CFR 1910.135 "Occupational Head Protection" and Subpart K, 29 CFR 1910.151 "Medical and First Aid." The detailed standards comparison is available at the locations specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Assistant Regional Director, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 9470, San Francisco, California 94102; and the offices of the Department of Labor and Industrial Relations, Room 308, 825 Mililani Street, Honolulu, Hawaii 96313; and Office of the Associate Assistant Secretary for Regional Programs, Room 850, 1726 M Street NW., Washington, D.C. 20210.

4. *Public participation.* Under § 1953.2 (c) of 29 CFR Part 1953 the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Hawaii plan as a proposed change and making the Assistant Regional Director's approval effective upon publication for the following reason.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be unnecessary.

This decision is effective December 27, 1974.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at San Francisco, California this 3rd of December, 1974.

GABRIEL J. GILLOTTI,
Assistant Regional Director.

[FR Doc.74-30069 Filed 12-26-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 102]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

DECEMBER 20, 1974.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March

27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application, are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the methods—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

APPLICATION SET FOR HEARING

No. MC 125433 (Sub-No. 55), filed December 11, 1974. Applicant: F-B TRUCK LINE COMPANY, 1891 West 2100 South, Salt Lake City, Utah 84119. Applicant's representative: David J. Lister (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors, construction and mining machinery, equipment, materials, supplies, and parts* (except commodities in bulk), from Pocatello, Idaho, to points in Oregon, Washington, California, Idaho Nevada, Arizona, Utah, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Wisconsin, Iowa, Illinois, Missouri, Arkansas, and Louisiana.

NOTE.—Common control may be involved.

HEARING: January 16, 1975, for 2 days, at 9:30 Local Time, at Salt Lake City, Utah, in a room to be later designated.

No. MC 531 (Sub-No. 302), filed November 29, 1974. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Houston, Tex 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except anhydrous ammonia, aqua ammonia, and liquid fertilizer), in bulk, in tank vehicles, from the plantsite of Monsanto Company located at or near Muscatine, Iowa, to points in Arizona, California, Idaho, Nevada, Oregon, and Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 2229 (Sub-No. 188), filed December 4, 1974. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., P.O. Box 47407, Dallas, Tex. 75247. Applicant's representative: Douglas Anderson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, *commodities* in bulk, and those requiring special equipment): Serving points in Union County, Ark., as off-route points in connection with carrier's authorized regular-route operation from and to El Dorado, Ark.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either El Dorado or Little Rock, Ark.

No. MC 2229 (Sub-No. 189), filed December 4, 1974. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., P.O. Box 47407, Dallas, Tex. 75247. Applicant's representative: Douglas Anderson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, *commodities* in bulk, and those requiring special equipment): Serving all points in Hot Spring County, Ark., as off-route points in connection with carrier's authorized regular-route operation, from and to Little Rock, Ark.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Little Rock, Ark.

No. MC 20722 (Sub-No. 27), filed Nov. 25, 1974. Applicant: M & G CONVOY, INC., 590 Elk Street, Buffalo, N.Y. 14240. Applicant's representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomingfield Hills, Mich. 48013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, (1) from Chesapeake, Va., in initial and secondary movements; and (2) from Portsmouth, Va., in secondary movements, to points in the United States (including Alaska, but excluding Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 28478 (Sub-No. 43), filed November 21, 1974. Applicant: GREAT LAKES EXPRESS CO., a Corporation, 1150 North Niagara Street, Saginaw, Mich. 48602. Applicant's representative: LaVergne L. Adsit (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the village of Addison, Mich., located approximately 15 miles south of Jackson, Mich., on U.S. Highway 127, as an off-route point in connection with applicant's authorized regular route operations to and from Jackson, Mich.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Detroit or Lansing, Mich.

No. MC 29120 (Sub-No. 187) (Correction), filed November 6, 1974, published in the FEDERAL REGISTER issue of December 5, 1974, and republished as corrected, this issue. Applicant: ALL-AMERICAN, INC., 900 West Delaware, Sioux Falls, S. Dak. 57101. Applicant's representative: R. H. Jinks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those

of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Sioux Falls and Spearfish, S. Dak., serving no intermediate points: From Sioux Falls over Interstate Highway 90 to Spearfish, and return over the same route, as an alternate route for operating convenience only, in connection with carrier's authorized regular route operations.

NOTE.—The purpose of this republication is to indicate applicant seeks alternate route authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Sioux Falls, S. Dak.

No. MC 31389 (Sub-No. 191), filed Nov. 25, 1974. Applicant: MCLEAN TRUCKING COMPANY, a Corporation, 617 Waughtown Street, Winston-Salem, N.C. 27107. Applicant's representative: David F. Eshelman, P.O. Box 213, Winston-Salem, N.C. 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Serving Santa Claus, Ind., as an off-route point in conjunction with applicant's regular routes, to and from Evansville, Ind.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 43246 (Sub-No. 20), filed Nov. 27, 1974. Applicant: BUSKE LINES, INC., 123 W. Tyler Avenue, Litchfield, Ill. 62056. Applicant's representative: Harold Buske, 123 W. Tyler Avenue, Litchfield, Ill. 62056. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Hillsboro, Ill., to Schaefferstown, Pa., and Scobeyville, N.J., under contract with Hillsboro Glass Co.

NOTE.—Applicant holds common carrier authority in MC 15975 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 44735 (Sub-No. 20), filed December 2, 1974. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th Street, Kansas City, Mo. 64126. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral mixtures, dry animal and poultry feed and ingredients thereof, and dry fertilizer and ingredients thereof*, from the plantsites of Micro Lite, Inc., at or near Buffalo and Chanute, Kans., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Louisiana, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held on consolidated record with the similar applications filed by Dahlsten Truck Line, Inc., and Hofer, Inc.

No. MC 45736 (Sub-No. 46), filed November 21, 1974. Applicant: GUIGNARD FREIGHT LINES, INC., P.O. Box 26067, Highway 21 North, Charlotte, N.C. 28213. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, roofing materials, siding and siding materials*, from Charleston, S.C., to points in Duval County, Fla.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass., or Washington, D.C.

No. MC 51146 (Sub-No. 405), filed November 25, 1974. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter, publications, and exempted printed matter*, as described in Section 203(B)(7) of the Act, as amended, when transported at the same time and in the same vehicle with printed matter, and *materials, supplies, and equipment* used in the maintenance and operation of printing plants, between the plant site of the R. R. Donnelly & Sons Company at Dwight, Ill., on the one hand, and, on the other, points in New York, West Virginia, Missouri, Pennsylvania, Wisconsin, Michigan, Ohio, Indiana, and Illinois.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 51146 (Sub-No. 406), filed November 29, 1974. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Arts and crafts, games and toys*, from points in Maine, Vermont, New Hampshire, Delaware, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Michigan, Ohio, Indiana, Kentucky, Tennessee, Alabama, Mississippi, Louisiana, Arkansas, Texas, Oklahoma, Missouri, Illinois, Iowa, Minnesota, Kansas, Nebraska, North Dakota, and South Dakota, to points in Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 61592 (Sub-No. 331), filed November 25, 1974. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Rural Route 3, Jeffersonville, Ind. 47130. Applicant's representative: E. A. DeVine, P.O. Box 737, 101 First Avenue, Moline, Ill. 61265. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials, shakes, and shingles* (except commodities in bulk), from Santa Clara, Pittsburg, and Bakersfield, Calif., to points in Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 61592 (Sub-No. 332), filed November 29, 1974. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Rural Route 3, Jeffersonville, Ind. 47130. Applicant's representative: E. A. DeVine, P.O. Box 737, 101 First Avenue, Moline, Ill. 61265. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Granite, marble, slate, and stone, including precast stone and equipment, materials, and supplies*, used in the quarrying, manufacturing, and installation of granite, marble, slate, and stone, including precast stone (except commodities in bulk), between points in California, on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, Nevada, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Utah; (2) *granite, marble, slate, and stone, including precast stone and equipment, materials, and supplies*, used in the quarrying, manufacturing and installation of granite, marble, slate, and stone, including precast stone (except commodities in bulk), between points in Burnet, Gillespie, and Llano Counties, Tex., on the one hand, and, on the other, points in Arizona, California, Colorado, Nevada, New Mexico, and Utah; and (3) *granite, marble, slate, and stone, including precast stone and equipment, materials, and supplies*, used in the quarrying, manufacturing and installation of granite, marble, slate, and stone (except commodities in bulk), between points in Greer, Johnston, Kiowa, and Tillman Counties, Okla., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, South Carolina, Texas, and Utah.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 64932 (Sub-No. 541), filed November 18, 1974. Applicant: ROGERS CARTAGE CO., a Corporation, 10735 South Cicero Avenue, Oak Lawn, Ill. 60453. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from points in St. Charles County, Mo., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 67200 (Sub-No. 43), filed December 4, 1974. Applicant: THE FURNITURE TRANSPORT COMPANY, INC., P.O. Box 392, Furniture Row, Milford, Conn. 06460. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Organs*, from the warehouse, terminal and storage facilities of The Furniture Transport Company, Inc., located in the Commercial Zones of Milford, Conn.; Orlando, Fla.; and Atlanta, Ga., to points in Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, New York, New Jersey, Pennsylvania, Florida, Georgia, and Alabama.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 75320 (Sub-No. 176), filed December 4, 1974. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, Mo. 65801. Applicant's representative: P. E. Adams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Serving the plantsite and warehouse facilities of Federal-Mogul Corporation, at or near Jacksonville, Ala., as an off-route point in conjunction with applicant's regular-route operations between Birmingham, Ala., and Atlanta, Ga.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Birmingham, Ala., or Atlanta, Ga.

No. MC 89684 (Sub-No. 87), filed November 29, 1974. Applicant: WYCOFF COMPANY, INCORPORATED, 560 South 300 West, Salt Lake City, Utah 84110. Applicant's representative: Harry D. Pugsley, Suite 400, 315 East 2d South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Salt Lake City International Airport at Salt Lake City, Utah and Stapleton International Airport at Denver, Colo., restricted to shipments having a prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Salt Lake City, Utah, or Denver, Colo.

No. MC 95876 (Sub-No. 162), filed November 8, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrants, accessories, and parts*, from St. Paul, Minn., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 96876 (Sub-No. 164), filed November 29, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Equipment, materials, and supplies* used in the manufacturing and the distribution of cast iron products, between Council Bluffs, Iowa, Lynchburg, Va., and Florence, N.J.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 104004 (Sub-No. 195) (Correction), filed July 10, 1974, and published in the FEDERAL REGISTER issue of September 12, 1974, and republished as corrected this issue. Applicant: ASSOCIATED TRANSPORT, INC., 380 Madison Avenue, New York, N.Y. 10017. Applicant's Representative: John P. Tynan, 65–12 69th Place, Middle Village, N.Y. 11379. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, Classes A and B explosives, liquid commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), Between Columbia, S.C., and points in South Carolina within 150 miles of Charlotte, N.C., and Chattanooga, Tenn.: From Columbia over Interstate Highway 26 to junction U.S. Highway 276, thence over U.S. Highway 276 to junction Interstate Highway 85, thence over Interstate Highway 85 to junction Interstate Highway 75, thence over Interstate Highway 75 to Chattanooga, and return over the same route, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations, serving no intermediate points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 106433 (Sub-No. 6), filed December 2, 1974. Applicant: ANTRIM TRANSPORTATION CO., INC., 7–11 Suffern Place, Suffern, N.Y. 10901. Applicant's representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials*, from Radisson, N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont; and (2) *materials, supplies, and equipment* used in the manufacture, sale, and distribution of malt beverages, including empty containers and returned malt beverages, from points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, to Radisson, N.Y.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 107403 (Sub-No. 924), filed Nov. 22, 1974. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Harry C. Ames, Jr., 666 11th St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in bulk, in tank trailers, from the plantsite of Union Texas Petroleum Division of Allied Chemical Corporation, located at Baltimore, Md., to points in Maryland, Virginia, Delaware, Pennsylvania, and New Jersey, restricted to traffic originating at and destined to, the points named herein.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107496 (Sub-No. 975), filed November 29, 1974. Applicant: RUAN TRANSPORT CORPORATION, Third at Keosauqua Way, P.O. Box 855, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lube oil*, in bulk, from Wichita, Kans., to points in Illinois and Indiana; (2) *dry detergents*, in bulk, from the plantsite of Economics Laboratory, Inc., at or near Channahon, Ill., to points in Texas and New Jersey; (3) *liquid fertilizer*, in bulk, from points in Peoria County, and Peoria, Ill., to points in Iowa, Indiana, Missouri, Wisconsin, Ohio, Michigan, and Kentucky; (4) *barytes ore*, in bulk, from Pfizer, Inc., plantsites and facilities in Washington County, Mo., to points in Illinois; and (5) *liquid foundry facing*, in bulk, from Highland, Ind., to points in Alabama, and Missouri (excluding St. Louis, Mo.).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo., or Chicago, Ill.

No. MC 107515 (Sub-No. 966), filed November 21, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from Nashville, Tenn., to points in the United States on and east of U.S. Highway 85 (except points in Tennessee).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga., or Memphis, Tenn.

No. MC 107515 (Sub-No. 997), filed November 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Adairville, Ky., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at the above named origin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn. or Atlanta, Ga.

No. MC 108884 (Sub-No. 32), filed December 4, 1974. Applicant: ROGERS TRANSFER, INC., Route 46, P.O. Box 175, Great Meadows, N.J. 07838. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from Mount Airy, Md., to points in Minnesota, Iowa, Missouri, Arkansas, Louisiana and points in States east thereof. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 109533 (Sub-No. 68), filed November 25, 1974. Applicant: OVERNITE TRANSPORTATION COMPANY, a corporation, 1100 Commerce Road, Richmond, Va. 23224. Applicant's representative: C. H. Swanson, P.O. Box 1213, Richmond, Va. 23209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk and commodities requiring special equipment), serving the plantsite of The Firestone Tire and Rubber Company located at or near Nashville, Tenn., as an off-route point in connection with carrier's authorized regular-route operations.

NOTE.—If a hearing is deemed necessary, the applicant does not specify location.

No. MC 109633 (Sub-No. 19), filed November 15, 1974. Applicant: ARBET TRUCK LINES, INC., 222 East 135th Place, Chicago, Ill. 60627. Applicant's representative: Arnold L. Burke, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, liquid commodities in bulk, commodities requiring special equipment and household goods as defined by the Commission), between Indianapolis, Ind. and its Commercial Zone, on the one hand, and, on the other, Louisville, Ky.

NOTE.—Applicant states purpose of this application is to eliminate a Clinton County, Ind., gateway. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 111611 (Sub-No. 24), filed November 6, 1974. Applicant: NOERR MOTOR FREIGHT, INC., 205 Washington Ave., Lewistown, Pa. 17044. Applicant's representative: John E. Fullerton, 407 N. Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) (1) *Tractors* (except those with vehicle beds, bed frames, and fifth wheels); (2) *equipment* designed for use in conjunction with said tractors; (3) *agricultural, industrial, and construction machinery and equipment;* (4) *trailers*, designed for transportation of the afore-described commodities; (5) *attachments* for the afore-described commodities; (6) *internal combustion engines;* (7) *accessories, parts and supplies* used in the manufacture, repair and assembly of (1) through (6) above, from Belleville, Pa., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; and (B) (1) *equipment* designed for use in conjunction with tractors (except those with vehicle beds, bed frames, and fifth wheels); (2) *trailers* designed for transportation of the afore-described commodities; (3) *attachments* for the afore-described commodities; (4) *internal combustion engines;* (5) *accessories, parts and supplies* used in the manufacture, repair and assembly of (1) through (4) above, from points in the destination territory described in (A) above, to Belleville, Pa.

Note.—Applicant states that it presently holds the requested authority and that the purpose of this application is to clarify the commodity description as authorized. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112520 (Sub-No. 295), filed November 21, 1974. Applicant: McKENZIE TANK LINES, INC., Post Office Box 1200, Tallahassee, Fla. 32302. Applicant's representative: W. Guy McKenzie, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Port St. Joe, Fla., to points in Ohio and South Carolina.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 112822 (Sub-No. 358), filed November 25, 1974. Applicant: BRAY LINES INCORPORATED, 1401 N. Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: William W. Frick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fire logs*, manufactured with vegetable fiber and wax, and compressed with binder content; and (2) *flare up logs*, wood, impregnated with paraffin wax, from points in Georgia, to points in the United States (except Alaska, Hawaii, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, New York, Pennsylvania, Rhode Island, Delaware, New Jersey, Maryland, West Virginia, Virginia, North Carolina, South Carolina, and the District of Columbia).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga., or New Orleans, La.

No. MC 113300 (Sub-No. 6), filed December 2, 1974. Applicant: WILLIAM T. HERRON, Route 3, Marietta, Ohio 45750. Applicant's representative: Paul F. Beery, 9th Floor, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are usually transported in dump trucks, between points in Barbour, Lewis, Marion, Taylor, and Upshur Counties, W. Va., on the one hand, and, on the other, points in Washington County, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 113646 (Sub-No. 12), filed Nov. 25, 1974. Applicant: JEFFERSON TRUCKING COMPANY, a Corporation, P.O. Box 17, National City, Mich. 48748. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper, scrap and waste*, from points in Florida, Georgia, Illinois, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, to the plantsite and storage facilities of Gold Bond Building Products, Division of National Gypsum Company, at or near Anniston, in Calhoun County, Ala., under a continuing contract or contracts with National Gypsum Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich., Chicago, Ill., or Birmingham, Ala.

No. MC 113855 (Sub-No. 302), filed Nov. 29, 1974. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lifting, towing, hoisting, and material handling trucks;* and (2) *parts and accessories*, for the commodities described in (1) above, (a) between the plant, warehouse, and storage sites of Clark Equipment Co., located at or near Georgetown, Ky., on the one hand, and, on the other, points in Michigan; and (b) from the plant, warehouse, and storage sites of Clark Equipment Co., located at or near Georgetown, Ky., to points in Arizona, California, Idaho, Minnesota, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

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NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113666 (Sub-No. 329), filed Nov. 20, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverage bases, beverages, beverage concentrates, fruit emulsions, and fruit juices*, in bulk, from Chicago, Ill., and the Commercial Zone thereof (except points in Indiana), to Lawrence, Kans., and the Commercial Zone thereof.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., Chicago, Ill., or Washington, D.C.

No. MC 114369 (Sub-No. 18), filed Nov. 25, 1974. Applicant: GALE B. ALEXANDER, 120 S. Ward Street, Ottumwa, Iowa 52501. Applicant's representative: Kenneth P. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Articulated wheel loaders*, from Deerfield, Ill., and Topeka, Kans., to the plant site of Al-Jon, Incorporated, at or near Ottumwa, Iowa, under contract with Al-Jon, Incorporated.

NOTE.—Applicant holds common carrier authority in MC 136606 Sub 3, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Kansas City, Mo.

No. MC 115311 (Sub-No. 172), filed November 27, 1974. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* used in the manufacture and distribution of cast iron products and finished products thereof, from points in Kentucky, Tennessee, Alabama, Georgia, Louisiana, North Carolina, South Carolina, Mississippi, West Virginia, Virginia, Florida, Texas, and Ohio, to Lynchburg, Va.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Atlanta, Ga., or Chicago, Ill.

No. MC 115496 (Sub-No. 22), filed November 18, 1974. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, Ga. 31014. Applicant's representative: Virgil H. Smith, 1587 Phoenix Boulevard, Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the plantsites of Continental Can Company, Inc., located at or near Bulloch and Jeff Davis Counties, Ga., to points in Alabama, Indiana, Maryland, Mississippi, North Carolina, Ohio, South Carolina, and Shelby County, Tenn., Louisiana, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 116326 (Sub-No. 6), filed Nov. 25, 1974. Applicant: HENDRIE'S, INC., 131 Eliot Street, Milton, Mass. 02187. Applicant's representative: Kenneth B. Williams, 84 State Street, Boston, Mass. 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Connecticut and Rhode Island, to the plantsite of Hendrie's, Inc., at Milton, Mass., under continuing contract or contracts with The Stop & Shop Companies, Inc., at Boston, Mass.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 116915 (Sub-No. 16), filed December 3, 1974. Applicant: ECK MILLER TRANSPORTATION CORPORATION, P.O. Box 1279, Owensboro, Ky. 42301. Applicant's representative: William P. Sullivan, 1819 H St., NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor graders, roadmaking, construction and earth moving machinery and equipment, and components and parts*, for such commodities; and (2) *materials, equipment, and supplies*, used in the manufacture of the commodities in (1) above, between Owensboro, Ky., on the one hand, and, on the other, points in the United States including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Louisville, Ky.

No. MC 117851 (Sub-No. 16), filed November 18, 1974. Applicant: JOHN R. CHEESEMAN, 501 North First Street, Fort Recovery, Ohio 45846. Applicant's representative: Earl N. Merwin, 85 East Gay Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plumbing supplies and materials:* (a) From Delphi, Ind., to points in Virginia; (b) from Kokomo, Ind., to points in Connecticut, Delaware, District of Columbia, Louisville, Ky., and points in its commercial zone, Maine, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, Virginia, and Vermont; (c) from Frankfort, Ind., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, and Tennessee; (d) from Gadsden and Leighton, Ala., to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, North Carolina, New Jersey, New York, North Dakota, Ohio, Maine, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Vermont, West Virginia, and Wisconsin; (e) from Woodbridge, N.J., and Sheboygan Falls, Wis., to points in Alabama, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, North Carolina, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Tennessee, Virginia, Vermont, West Virginia, and Wisconsin; (f) from Addison, Ill., to points in Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, North Carolina, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Vermont, and Wisconsin; (g) from Pomona, Calif.; Elyria and Cleveland, Ohio; and Erie, Philadelphia, and Washington, Pa., to Gadsden, Ala.; Kokomo, Ind.; and Woodbridge, N.J.; (h) from Princeton, Ind. and Fowlerville, Mich., to Gadsden, Ala., and Woodbridge, N.J.; (i) from Bauxite, Ark., to Kokomo, Ind.; (j) from LaPorte, Ind. and Beaufort, S.C., to Woodbridge, N.J.; and (k) from Franklin, Ga.; Cincinnati, Cleveland, Delaware, Elyria, Mansfield, Marysville, and Mingo Junction, Ohio; and Farmington, Grand Rapids, and Port Huron, Mich., to Delphi, Ind.; (2) *feldspar*, from Kona and Spruce Pine, N.C. to Gadsden, Ala.; Kokomo, Ind.; and Woodbridge, N.J.; (3) *clay*, from Edgar, Fla.; McIntyre and Gordon, Ga.; Mayfield, Ky.; and Andrews, Bath, and Calico, S.C., to Gadsden, Ala.; Kokomo, Ind.; and Woodbridge, N.J.; (4) *petroleum, oil, and lubricants*, in barrels and boxes, from Bristol, Pa., to Gadsden, Ala.; Kokomo, Ind.; and Woodbridge, N.J.; (5) *plaster* (except in bulk): (a) from Niagara Falls, N.Y., and Pittsburgh, Pa., to Gadsden, Ala.; Kokomo, Ind.; and Woodbridge, N.J. and (b) from Southward, Okla., to Gadsden, Ala. and Woodbridge, N.J.; (6) *foundry compounds*, from Cincinnati, Ohio, and Sheboygan, Wis., to Delphi, Ind.; (7) *buffing compounds*, from Howell, Mich., to Delphi, Ind.; and (8) *fire brick:* (a) From New Castle, Pa., to Gadsden, Ala.; and (b) Tyler, Tex., to Kokomo, Ind.; Gadsden, Ala.; and Woodbridge, N.J., under a continuing contract or contracts with Gerber Plumbing Fixtures Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 118178 (Sub-No. 22), filed Nov. 29, 1974. Applicant: BILL MEEKER, 1632 North Mosley, P.O. Box 11184, Wichita, Kans. 67202. Applicant's representative: Bill Meeker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and

commodities in bulk), from Wichita, Kans., to points in Nebraska, Iowa, Illinois, Indiana, Ohio, Kentucky, Tennessee, Arkansas, Oklahoma, Texas, Louisiana, Colorado, New Mexico, Arizona, California, Pennsylvania, Michigan, Virginia, Wisconsin, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Missouri, restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—Applicant holds contract carrier authority in MC 11064, therefore dual operations may be involved.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans.

No. MC 118610 (Sub-No. 25), filed November 25, 1974. Applicant: L & B EXPRESS, INC., P.O. Box 137, Madisonville, Ky. 42431. Applicant's representative: Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lifting, towing, hoisting, and material handling trucks*; and (2) *parts and accessories*, for (1) above, between the plant, warehouse and storage site of Clark Equipment Company, at or near Georgetown, Ky., on the one hand, and, on the other, points in Kentucky, Tennessee, Indiana, Illinois, Alabama, Mississippi, Georgia, Pennsylvania, West Virginia, and Michigan.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Frankfort, or Louisville, Ky., or Cincinnati, Ohio.

No. MC 118959 (Sub-No. 122), filed Nov. 25, 1974. Applicant: JERRY LIPPS, INC., 130 South Frederick, Cape Girardeau, Mo. 63701. Applicant's representative: Edward G. Baselon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cellulose materials, and products, and paper and paper products, and materials, equipment and supplies*, used in their production and distribution, between the plantsite of Charmin Paper Products Company, near Neelys Landing, and St. Louis, Mo., restricted to traffic having an immediately prior or subsequent movement by rail or water.

NOTE.—Applicant holds contract carrier authority in MC 125664, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 119099 (Sub-No. 17), filed November 25, 1974. Applicant: BJORKLUND TRUCKING, INC., First Avenue N.E. & 8th Street, Buffalo, Minn. 55313. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Equipment, materials, and supplies* used in the manufacture of burial vaults and burial vault liners (except commodities in bulk and those requiring special equipment or special handling) between the plantsites and warehouse facilities of Wilbert, Inc., located at Little Hocking, Ohio, St. Paul, Minn., Broadview, Ill., and Springfield, Mo., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to shipments originating at or terminating at said named plantsites.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 119619 (Sub-No. 77), filed Nov. 22, 1974. Applicant: DISTRIBUTORS SERVICE CO., a Corporation, 2000 West 43rd Street, Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities of Circle "C" Beef Co., at or near Denver, Colo., to points in the United States (except Alaska and Hawaii); and (2) *meats, fresh and frozen, and materials and supplies*, used in the manufacturing, preparation, processing, selling, and distribution of the commodities shown in (1) above, from points in the United States (except Alaska and Hawaii), to the plantsites and storage facilities of Circle "C" Beef Co., at or near Denver, Colo. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 119726 (Sub-No. 46), filed November 26, 1974. Applicant: N.A.B. TRUCKING CO., INC., 3220 Bluff Road, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 E. Washington Street, Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground clay*, known as Fullers Earth (except in bulk), from the plantsite and warehouse facilities of Oil-Dri Corporation of America, at or near Ripley, Miss., to points in Minnesota, Wisconsin, Michigan, Iowa, Nebraska, Illinois, Indiana, Ohio, Pennsylvania, Kansas, Missouri, Kentucky, West Virginia, Virginia, Oklahoma, Texas, Arkansas, Tennessee, and Alabama.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 119726 (Sub-No. 47), filed Nov. 29, 1974. Applicant: N.A.B. TRUCKING CO., INC., 3220 Bluff Road, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 E. Washington Street, Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground clay*, Fullers Earth (except in bulk), from the plantsite and warehouse facilities of Oil-Dri Corporation of America, at or near Ochlocknee, Ga., to points in Florida, Texas, Louisiana, Mississippi, Alabama, South Carolina, North Carolina, Tennessee, Arkansas, Oklahoma, Kansas, Missouri, Kentucky, West Virginia, Nebraska, Iowa, Illinois, Indiana, Ohio, Pennsylvania, Minnesota, Wisconsin, Virginia, and Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 119777 (Sub-No. 310), filed November 6, 1974. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer "L", Madisonville, Ky. 42431. Applicant's representative: John B. Ratliff (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro-chrome, ferro-chrome silicon, ferro-silicon, silicon manganese, ferro-manganese, silicon metal, and scrap iron*, from Calvert City, Ky., to Woodstock, Nashville, and Memphis, Tenn., and points in Arizona, California, Colorado, Connecticut, Idaho, Maine, Massachusetts, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina (except Owen, Columbia, East Greenville, and Charleston, S.C.), South Dakota, Utah, Vermont, Washington, and Wyoming.

NOTE.—Applicant holds contract carrier authority in MC 126970, and subs 1 and 3 thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 119789 (Sub-No. 228), filed November 7, 1974. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in containers, *blood analysis instruments, supplies, and parts*, in mechanically refrigerated equipment, from Houston, Tex., to Chicago, Ill., Philadelphia, Pa., Los Angeles, Calif., and Tampa, Fla.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Houston or Dallas, Tex.

No. MC 119792 (Sub No. 47), filed November 18, 1974. Applicant: CHICAGO SOUTHERN TRANSPORTATION COMPANY, a Corporation, 3215 South Hamilton Avenue, Chicago, Ill. 60608. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulations under Section 203(b)(6) of the Act when transported in mixed shipments with bananas, from Gulfport, Miss., to points in Iowa, Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123048 (Sub No. 318), filed Nov. 29, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, Wis. 53406. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, agricultural implements and attachments, and accessories and parts*, from New Orleans, La., New York, N.Y., Newark, N.J., and Milwaukee, Wis., to points in Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, Tennessee, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123872 (Sub-No. 40), filed December 4, 1974. Applicant: W & L MOTOR LINES, INC., State Road 1148, P.O. Drawer 2607, Hickory, N.C. 28601. Applicant's representative: Theodore Polydoroff, Suite 606, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk, in tank vehicles), from Wichita, Kans., to points in North Carolina, South Carolina, Tennessee, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Hickory or Charlotte, N.C.

No. MC 124078 (Sub-No. 627), filed November 25, 1974. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: James R. Ziperski (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Nitric acid; and* (2) *fertilizer and fertilizer materials*, (1) from Atlas, Mo., to points in Alabama, Illinois, Indiana, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Nebraska, and New Mexico; and (2) from Atlas, Mo., to points in Alabama, Colorado, Indiana, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, New Mexico, Tennessee, and Wisconsin.

NOTE.—Common control may be involved. Applicant holds contract carrier authority in MC 113832 Sub 60, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Kansas City, Mo.

No. MC 125952 (Sub-No. 22), filed November 29, 1974. Applicant: INTER-STATE DISTRIBUTOR Co, a Corporation, 8311 Durango SW., Tacoma, Wash. 98499. Applicant's representative: George R. LaBissoniere, P.O. Box 98968, Tukwila Branch, Suite 101, 130 Andover Park East, Seattle, Wash. 98188. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, when moving in vehicles equipped with mechanical refrigeration (except commodities in bulk), from the plant-sites and storage facilities of H. J. Heinz Co. at Tracy and Stockton, Calif., to points in Oregon and Washington, under a continuing contract or contracts with H. J. Heinz Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 126582 (Sub-No. 3), filed November 29, 1974. Applicant: JOHN J. CANOVA, doing business as CANOVA MOVING & STORAGE CO., 1336 Woolner Avenue, Fairfield, Calif. 94533. Applicant's representative: Thomas M. Loughran, 100 Bush Street, 21st Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, (1) between points in Alameda, Amador, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Plumas, San Francisco San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Stanislaus, Tehama, and Tuolemne Counties, Calif.; and (2) between points in the above Counties, on the one hand, and, on the other, points in Sonoma, Napa, Solano, Contra Costa, Yolo, Sacramento, Sutter, Butte, Yuba, Nevada, and Placer Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 126715 (Sub-No. 8), filed November 18, 1974. Applicant: TRANSPORT SERVICE, 8101 N.E. 11th Street, Portland, Oreg. 97211. Applicant's representative: Jerry R. Woods, 620 Blue Cross Building, 100 S.W. Market Street, Portland, Oreg. 97211. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, between points in Whitman County, Wash., on the one hand, and, on the other, points in Washington.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority at Whitman County, Wash., to provide service between points in Washington, on the one hand, and, on the other, points in Oregon, Idaho, and Montana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Oregon, or Olympia, Wash.

No. MC 127476 (Sub-No. 5) filed December 2, 1974. Applicant: J. D. McCLYMONDS, INC., Portersville, Pa. 16051. Applicant's representative: Warren R. Keck III, 28 South Second Street, Greenville, Pa. 16125. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap grinding wheels*, in dump trucks, between the plant site of Bendix Corp., Westfield, Mass., on the one hand, and, on the other, the plant site of Detroit Abrasives at Chelsea, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Pittsburgh, Pa., or Washington, D.C.

No. MC 126007 (Sub-No. 72), filed November 25, 1974. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Yeast*, from Denver, Colo., to points in Kansas, Oklahoma, Missouri, Arkansas, and Nebraska; and (2) *feed ingredients*, from points in Harrison County, Tex., to points in Colorado, New Mexico, Oklahoma, Nebraska, Kansas, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Illinois, Indiana, Kentucky, Tennessee, and Alabama.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 128078 (Sub-No. 3), filed November 20, 1974. Applicant: MICHAEL VALIHORA, 3050 W. Fort Street, Detroit, Mich. 48216. Applicant's representative: James Tryand, 111 S. Main Street, Ann Arbor, Mich. 48108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, between points on the International Boundary line between the United States and Canada in Minnesota, Michigan, New York, Vermont, New Hampshire, and Maine, on the one hand, and, on the other, points in Connecticut, Illinois, Indiana, Iowa, Kentucky, Maryland, Maine, Massachusetts, Michigan (Lower Penninsula), Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Vermont, Virginia, West Virginia, Wisconsin; and (2) between points on the International Boundary line between the United States and Canada in Minnesota, Michigan, New York, Vermont, New Hampshire, and Maine on the one hand, and, on the other, points in Alabama, Arkansas, Delaware, Florida, Georgia, Kansas, Louisiana, Michigan (Upper Penninsula), Mississippi, Nebraska, North Carolina, North Dakota, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, and the District of Columbia.

NOTE.—Applicant states that the purpose of this application in (1) above is to extend its existing operations through all ports of entry on the International Boundary line. Applicant holds contract authority in MC

126878 Sub 2, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 129490 (Sub-No. 10), filed November 29, 1974. Applicant: ROBERT J. ERICKSON, doing business as BOB ERICKSON TRUCKING, Rush City, Minn. 55069. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fire protection sprinkler systems and materials and equipment and supplies* used in the installation thereof, (1) between Rush City, Minn., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Kansas, Louisiana, Mississippi, Missouri, Montana, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia; and (2) between Rush City, Minn., on the one hand, and, on the other, points in Illinois, Iowa, Kansas, Michigan, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, under contract with United Sprinkler Division of Waycross, Inc.

NOTE.—Applicant holds common carrier authority in MC 126478, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 128638 (Sub-No. 7) (Correction), filed November 8, 1974, published in the FEDERAL REGISTER, issue of December 12, 1974, as No. MC 128638 (Sub-No. 8), and republished as corrected this issue. Applicant: CENTRAL GRAIN HAULERS, INC., Route #1, Van Meter Road, Winchester, Ky. 40391. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Clay, Leslie, Harlan, Laurel, Breathitt, Knott, and Perry Counties, Ky., to points in Kentucky, Ohio, Indiana, West Virginia, and Tennessee.

NOTE.—The purpose of this republication is to indicate the correct docket number assigned to this proceeding. If a hearing is deemed necessary, the applicant requests it be held at either Lexington or Louisville, Ky.

No. MC 128645 (Sub-No. 10) (Correction), filed November 4, 1974, published in the FEDERAL REGISTER issue of December 12, 1974, as No. MC 128638 (Sub-No. 7) and republished as corrected this issue. Applicant: RAY L. KRALL, P.O. Box 336, Carson, Wash. 98610. Applicant's representative: David C. White, 2400 S.W. Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plywood*, from Astoria, Oreg., to Portland, Oreg., and Vancouver, Washougal, Centralia, and Tacoma, Wash., under a continuing contract or contracts with Astoria Plywood Corp.

NOTE.—The purpose of this republication is to indicate the correct docket number assigned to this proceeding. If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg.

No. MC 128657 (Sub-No. 8), filed November 29, 1974. Applicant: G. L. GIBBONS, doing business as GIBBONS TRUCKING SERVICE, P.O. Box 5861, Tucson, Ariz. 85703. Applicant's representative: A. Michael Bernstein, 1327 United Bank Bldg., Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, (1) from points in Arizona, to points in Nevada, Utah, and those points in California south of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties, Calif.; and (2) from points in Nevada, to points in Utah, and those points in California south of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties, Calif.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Phoenix or Tucson, Ariz.

No. MC 128951 (Sub-No. 13), filed November 25, 1974. Applicant: ROBERT H. DITTRICH, doing business as BOB DITTRICH TRUCKING, P.O. Box 432, New Ulm, Minn. 56073. Applicant's representative: Charles E. Nieman, 1110 Northwestern Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers and fertilizer ingredients*, between points on the International Boundary line between the United States and Canada in Montana, North Dakota, and Minnesota, on the one hand, and, on the other, points in Minnesota, Iowa, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 129625 (Sub-No. 6), filed October 21, 1974. Applicant: ROBERT COLE TRUCKING COMPANY, a Corporation, P.O. Box M, Falls Creek, Pa. 15840. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, (1) From points in Armstrong, Cameron, and McKean Counties, Pa., to points in New York, Massachusetts, and Connecticut; (2) from points in Jefferson, Cambria, Clarion, and Indiana Counties, Pa., to points in that part of New York east of Interstate Highway 81 and points in Massachusetts, Connecticut, and Delaware; (3) from points in Elk County, Pa., to points in that part of New York east of U.S. Highway 15 and points in Chautauqua County, N.Y., and points in Massachusetts, Connecticut, and Delaware; (4) from points in Clearfield County, Pa., to points in New York, Massachusetts, Connecticut, and Delaware; and (5) from points in Jefferson, Cambria, Clarion, Indiana, Elk, and Clearfield Counties, Pa., to the facilities of Diamond Alkali Company at Painesville, Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa.

No. MC 133095 (Sub-No. 70), filed November 25, 1974. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Rocky Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Human blood plasma, blood typing serums, and bovine serum*, from Arlington, Tex., to points in Raritan, N.J.

NOTE.—Applicant holds contract carrier authority in MC 136082, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 133106 (Sub-No. 48), filed November 25, 1974. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is manufactured and distributed by Warner-Lambert Company and *related advertising material*, from the plantsites and storage facilities utilized by Warner-Lambert Company, located at or near South Brunswick, N.J., and Philadelphia, Pa., to points in Milwaukie, Oreg., Anaheim, Calif., Grand Prairie, Tex., Rockford and Elk Grove Village, Ill., under a continuing contract with Warner-Lambert Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Kansas City, Mo.

No. MC 133119 (Sub-No. 60), filed November 20, 1974. Applicant: HEYL TRUCK LINES, INC., 235 Mill Street, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 So. 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass beads, glass spheres, and glass cullet*, from ports of entry on the International Boundary line between the United States and Canada, located in Montana, North Dakota, and Minnesota, to points in Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minot, N. Dak., or Omaha, Nebr.

No. MC 133490 (Sub-No. 9), filed November 27, 1974. Applicant: LEE'S TRUCKING, INC., Route 1, Box 223A, Wyoming, Minn. 55092. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a

contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Glassware*, from Burlington, Wis., Dunkirk, Ind., Huntington, W. Va., Mount Vernon and Zanesville, Ohio, Mundelein, Plainfield, and Streator Ill., Washington, Pa., and Brockport, N.Y., to Minneapolis, Minn.; (2) *plastic containers*, from Elyria, Ohio, Indianapolis, La Porte, and Ligonier, Ind., Kansas City, Mo., and its Commercial Zone, New York, N.Y., and its Commercial Zone Paterson, N.J., and Streamwood, Ill., to Minneapolis, Minn.; (3) *ceramic tile*, from New York, N.Y., and its Commercial Zone, and Hoboken and Paterson, N.J., to Minneapolis, Minn.; (4) *pottery*, from Scio, Ohio, to Minneapolis, Minn.; and (5) *metal containers*, from Chicago, Ill., and its Commercial Zone, and Joliet, Ill., to Minneapolis, Minn., under a continuing contract or contracts with Twin City Bottling Company.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 133870 (Sub-No. 2), filed November 29, 1974. Applicant: JOHN P. WEYER AND CAROLINE M. WEYER, a Partnership, doing business as WEYER TRUCK SERVICE, Route 1, Box 86B, Brownsville, Wis. 53006. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime and lime products*, from points in Dodge, Fond du Lac, and Brown Counties, Wis., to points in that part of Illinois, on and north of Illinois Highway 9, and those in Indiana, on and north of U.S. Highway 24, and those points on and west of Indiana Highway 19 and points in Michigan and Minnesota, under a continuing contract or contracts with Western Lime & Cement Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Milwaukee or Madison, Wis.

No. MC 134387 (Sub-No. 23), filed November 18, 1974. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, Calif. 90280. Applicant's representative: David P. Christianson, 606 South Olive Street, Suite 825, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty cans and can ends*, from points in Orange County, Calif., to points in Coconino County, Ariz.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 134755 (Sub-No. 43), filed November 29, 1974. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner Street, P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Lebanon and Springfield, Mo., to points in New York.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary the applicant requests it be held at Kansas City, Mo.

No. MC 135639 (Sub-No. 4), filed November 18, 1974. Applicant: QUEENSWAY, INC., 105 North Keyser Avenue, Old Forge, Pa. 18518. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Rochester, N.Y., and New York, N.Y.: From Rochester over New York Highway 96 to junction New York Highway 14, thence over New York Highway 14 to Elmira, N.Y., thence over New York Highway 17 to Binghamton, N.Y., thence over U.S. Highway 11 to Scranton, Pa., thence over U.S. Highway 611 (formerly portion Alternate U.S. Highway 611), to Portland, Pa., thence over U.S. Highway 46 to junction New Jersey Highway 31 (formerly New Jersey Highway 69), thence over New Jersey Highway 31 to junction U.S. Highway 22, thence over U.S. Highway 22 to Newark, N.J., thence over city streets to Jersey City, N.J., thence across the Hudson River (also via Holland Vehicular Tunnel) to New York, N.Y., and return over the same route, serving all intermediate points and serving Geneva, N.Y., and points in the New York, N.Y., Commercial Zone as defined by the Commission as off-route points, with operations authorized at Scranton and Wilkes-Barre, Pa., and Elmira and Syracuse, N.Y., restricted to the transportation of fresh fruits and vegetables.

NOTE.—Applicant contends that the authority sought herein is identical to the authority it holds in MC 135639 and by this application seeks to clarify the aforesaid authority. Should the Commission find for the existing authority, applicant has concurrently filed a Motion to Dismiss the above application. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Scranton, Pa.

No. MC 135797 (Sub-No. 31), filed Nov. 29, 1974. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, Ark. 72745. Applicant's representative: L. C. Cypert, 108 Terrace Drive, Lowell, Ark. 72745. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydro-pneumatic tanks, gas boiler heaters, and poultry brooders*, from Rogers, Ark., to points in Arizona, California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla., or Little Rock, Ark.

No. MC 135913 (Sub-No. 7), filed November 29, 1974. Applicant: BREEN TRUCKING, INC., 8469 Church Road, Grosse Ile, Mich. 48138. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal castings*, from Waupaca, Wis., to Detroit, Mich., under a continuing contract with Lillibridge Manufacturing, Inc.; (2) *machined metal castings*, from Detroit, Mich., to Salt Lake City, Utah, Boise, Idaho, and Chicago, Ill., under a continuing contract with Lillibridge Manufacturing, Inc.; and (3) *hot tops, foundry facings, insulating material, and aluminum bars*, from Newton Falls, Ohio, to points in Alabama, Illinois, Indiana, Michigan, and Wisconsin, under a continuing contract with C-E Cast Products.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 136115 (Sub-No. 4), filed November 18, 1974. Applicant: HOPKINS TRUCKING SERVICE, INC., Route 2, Box 428-1, Blue Springs, Mo. 64015. Applicant's representative: George A. Tyree, 103 Plaza Center, Blue Springs, Mo. 64015. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, in bulk, by dump truck, between points in Missouri, restricted to traffic having an immediate prior or subsequent movement by rail, under a continuing contract or contracts with Carey Salt Division of Interpace Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 136786 (Sub-No. 66), filed November 21, 1974. Applicant: ROBCO TRANSPORTATION, INC., 3033 Excelsior Blvd., Minneapolis, Minn. 55416. Applicant's representative: Val M. Higgins, 100 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen poultry stock*, from the plant site of Campbell Soup Company at Sumter, S.C., to the plant sites of Campbell Soup Company at Paris, Tex., and Napoleon, Ohio.

NOTE.—Applicant states it intends to file a petition to dismiss the instant application based on the belief that the commodity requested is exempt. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 138375 (Sub-No. 15), filed November 29, 1974. Applicant: J. H. WARE TRUCKING, INC., 909 Brown Street, P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa, 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over

irregular routes, transporting: *Pulpboard*, from Steubenville, Ohio, to Bristol, Va., under a continuing contract or contracts with Electrolux, Division of Consolidated Foods.

NOTE.—Applicant holds pending common carrier authority in MC 139978, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Louis or Kansas City, Mo.

No. MC 138415 (Sub-No. 10) (Correction), filed August 6, 1974, published in the FEDERAL REGISTER, issue of September 6, 1974, and republished as corrected this issue. Applicant: TRAILER EXPRESS, INC., Box 327, Topeka, Ind. 46571. Applicant's representative: Michael M. Yodar, Box 321, Topeka, Ind. 46571. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor homes and van conversion units* in driveaway service, and (2) *motor homes, folding camping trailers, travel trailers, fifth wheel travel trailers, and pick up campers* by truckaway service, from the plant site of Travel Equipment Corporation on U.S. Highway 33, located at or near Goshen, Ind., to points in the United States (except Alaska and Hawaii), under contract or contracts with Travel Equipment Corporation.

NOTE.—The purpose of this republication is to indicate applicant's correct name. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Chicago, Ill., or Indianapolis, Ind.

No. MC 139495 (Sub-No. 17), filed November 25, 1974. Applicant: NATIONAL CARRIERS, INC., 1501 E. 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from the plantsite and storage facility of Totino's Finer Foods, Inc., located at or near Fridley, Minn., to points in Georgia, South Carolina, North Carolina, Florida, Tennessee, Mississippi, and Alabama.

NOTE.—Applicant holds contract carrier authority in MC 133106 Sub 2 and other subs, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 18), filed November 25, 1974. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, from the plantsite and storage facilities of Lehigh Valley Chemical Company located at or near Easton, Pa., to points in Missouri, Kansas, and California.

NOTE.—Applicant holds contract carrier authority in MC 133106 Sub 2 and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 19), filed Decmeber 4, 1974. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Soap*, (a) from West Warwick, R.I., to points in Tennessee, Illinois, Texas, and Nevada; (b) from Memphis, Tenn., to points in Rhode Island, Illinois, Texas, and Nevada; and (2) *plastic articles*, from Leominster, Mass., to points in Tennessee.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 20), filed December 4, 1974. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Pickle products*, in containers, from the plantsite of Vlasic Foods, Inc., located at or near Greenville, Miss., to points in the United States (except Alaska and Hawaii); and (2) *supplies and materials* used in the manufacture and production of pickle products, from points in the United States (except Alaska and Hawaii), to the plantsite of Vlasic Foods, Inc., at or near Greenville, Miss.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139501 (Sub-No. 1), filed Nov. 29, 1974. Applicant: RICHARD W. BERNHARDT, 11916 N.E. 28th Street, Vancouver, Wash. 98662. Applicant's representative: Richard W. Bernhardt (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alfalfa pellets*, from Ephrata, Wash., to points in Oregon.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Vancouver, Wash., or Olympia, Wash.

No. MC 139741 (Sub-No. 2), filed Nov. 22, 1974. Applicant: D & D DISPOSAL SERVICES, LIMITED, Victoria Avenue, South Vineland, Regional Road 24, P.O. Box 402, Beamsville, Ontario, Canada LOR 1B0. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid waste and spent materials for reclamation;* and *articles reclaimed from waste and spent materials*, between ports of entry on the International Boundary line between the United States and Canada, on the one hand, and, on the other, points in the United States including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 139887 (Sub-No. 1), filed November 21, 1974. Applicant: G. E. BAXTER TRANSPORT, INC., 1521 Fifth Avenue, Los Angeles, Calif. 90019. Applicant's representative: David P. Christianson, 606 South Olive Street, Suite 825 Los Angeles, Calif. 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, other than those designed to be drawn by passenger automobiles, *chassis, cargo containers, and trailer parts and articles* used in the manufacture of trailers when moving in trailers of shippers, between points in California, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under contract with Strick Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

No. MC 139970 (Sub-No. 1), filed November 14, 1974. Applicant: D. L. FLEMING, R.D. 1, Shelocta, Pa. 15774. Applicant's representative: H. Ray Pope, 10 Grant Street, Clarion, Pa. 16214. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Barrel staves and barrel headings*, from points in Whitesburg, Kittanning, and Plumcreek Townships (Armstrong County), Pa., to Louisville, Ky., Baltimore, Md., Lebanon, Ky., and the port of entry on the International Boundary Line between the United States and Canada located in Buffalo, N.Y., under contract with Perry & Megnin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 139974, filed June 24, 1974. Applicant: LOUIE AUSTIN, doing business as AUSTIN TRUCK SERVICE, 151 South 33rd Street, Richmond, Calif. 94804. Applicant's representative: Donald Warden, 44 Montgomery Street, Suite 1366, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except in tank vehicles), from Richmond, Calif., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Los Angeles, Calif., or Seattle, Wash.

No. MC 139991 (Sub-No. 1), filed December 2, 1974. Applicant: JERRY COHEN, doing business as FASHION CARRIERS REG'D, 8085 Champ D'Eau, St. Leonard, Province of Quebec, Canada. Applicant's representative: Adrien R. Paquette, 200 St. Jacques St. West, Montreal, Province of Quebec, Canada H2Y 1M1. Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *Hanging garments and merchandise related thereto*, carried in trucks specially equipped with racks (except commodities in bulk), (1) from points on the International Boundary line between the United States and Canada at or near Derby Line, and Highgate Springs, Vermont, Rouses Point and Champlain, New York, on the one hand, and, on the other, points in New York, N.Y., and its Commercial Zone, and North Bergen, Secaucus, Jersey City, N. J., restricted to traffic having a prior or subsequent movement in foreign commerce; and (2) *hanging garments and merchandise related thereto*, from Sacco and Berwick, Maine, Newburry Park and Peabody, Mass., Merrimack, N.H., to points on the International Boundary line between the United States and Canada at or near Derby Line, and Highgate Springs, Vt., Rouses Point, and Champlain, N.Y., restricted to traffic moving in foreign commerce, and further restricted to traffic destined to Montreal, Province of Quebec, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Montpelier, Vt.

No. MC 140083 (Sub-No. 1), filed November 25, 1974. Applicant: FLORENCE N. SOBEL, a Proprietorship, doing business as GENTRY FORWARDING COMPANY, 194 County Ave., Secaucus, N.J. 07094. Applicant's representative: Lawrence E. Lindeman, Suite 1032, Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* (except those designed to be drawn by passenger automobiles), *containers*, and *trailer chassis*, between Middletown and Monticello, N.Y.; Fairless Hills and Berwick, Pa.; and Secaucus, N.J., on the one hand, and, on the other, points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Newark, N.J.

No. MC 140226 (Sub-No. 2), filed November 26, 1974. Applicant: T & J TRUCKING, INC., 2 Northwest 5th Street, Dilworth, Minn. 56529. Applicant's representative: Charles E. Johnson, 425 Gate City Building, Fargo, N.D. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crushed vehicles, scrap vehicle parts, scrap engines and scrap metal*, from points in North Dakota, South Dakota, and Minnesota to points in Illinois, Iowa, Minnesota, Nebraska, and Wisconsin, under a continuing contract or contracts with Tri-State Salvage, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Fargo, N.D., or Minneapolis, Minn.

No. MC 140260, filed November 21, 1974. Applicant: MERRY SHIPPING COMPANY, INC., 310 Bay Street, Savannah, Ga. 31402. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except automobiles), between points in the Savannah, Ga., Commercial Zone, including Savannah, Ga.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Savannah, Ga.

No. MC 140266 (Sub-No. 1), filed November 25, 1974. Applicant: BAKER TRUCK LINE, INC., 2906 29th Street North, P.O. Box 875, Lewiston, Idaho 83501. Applicant's representative: James W. Givens (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sawdust and woodchips*, between points in Idaho north of the Salmon River, under contract with Potlatch Corporation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Lewiston, Moscow, or Coeur d'Alene, Idaho, or Spokane, Wash.

No. MC 140271 (Sub No. 1), filed November 25, 1974. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acrylics* and *materials, equipment, and supplies* used in the manufacture thereof (except in bulk), between Hackensack, N.J., Stamford, Conn., and Dallas, Tex., on the one hand, and, on the other, points in and west of Texas, Oklahoma, Kansas, Nebraska, South Dakota, and North Dakota, restricted against the transportation of commodities which because of size or weight require the use of special equipment.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 140284 (Sub-No. 3), filed December 3, 1974. Applicant: JOSEPH D. HANNAH, doing business as HANNAH TRUCKING, 35 Rathburn Street, West Asheville, N.C. 28806. Applicant's representative: W. C. Mauldin, 417 Old Post Road, Cherryville, N.C. 28021. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Junked and scrap automobiles*, for reclamation of raw materials, from points in Haywood County, N.C., to Atlanta, Ga., Columbia, S.C., and Knoxville and Rockwood, Tenn., under contract with Schulhofer's, Inc., at Waynesville, N.C.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Asheville or Charlotte, N.C., or Atlanta, Ga.

No. MC 140430, filed November 18, 1974. Applicant: DELLON R. CAPPER AND ROBERT M. NAWFEL, doing business as B AND B LEASING COMPANY, Miami, Ark. 85539. Applicant's representative: Donald E. Fernaays, Suite 312, 4040 East McDowell Road, Phoenix, Ariz. 85008. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and accompanying advertising material*, between Van Nuys, Calif., on the one hand, and, on the other, Globe, Miami, and Safford, Ariz.; and *empty pallets and refillable bottles* on return, under a continuing contract or contracts with Cactus Liquor Sales, Inc., and Jim Hafer Distributor.

NOTE.—If a hearing is deemed necessary, aplicant requests it be held at Phoenix, Ariz.

No. MC 140337 (Sub-No. 1), filed November 29, 1974. Applicant: JESSE SHERMAN, doing business as SHERMAN TRAILER TRANSPORTATION, P.O. Box 3343, Cheyenne, Wyo. 82001. Applicant's representative: Robert S. Stuffer, 3539 Boston Road, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes*, between points in Wyoming, Colorado, Nebraska, North Dakota, South Dakota, Montana, Idaho, and Utah.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Phoenix, Cheyenne, Wyo., or Denver, Colo.

No. MC 140405 (Sub- No. 2), filed Nov. 22, 1974. Applicant: FLORIDA CRATING AND PACKING, INC., 1511 East 11th Ave., Hialeah, Fla. 33010. Applicant's representative: Richard B. Austin, 214 Palm Coast II Bldg., 5255 N.W. 87th Ave., Miami, Fla. 33166. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Broward, Collier, Dade, Martin, and Palm Beach Counties, Fla., restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pick-up and delivery services in connection with packing, crating, and containerization or unpacking, uncrating, or decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Miami, Fla.

No. MC 140429, filed November 21, 1974. Applicant: WILLIAM F. HOOPS, INC., 440 North Keyser Avenue, Deshler, Ohio 43516. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Anti-freeze, windshield washer fluid, radiator sealers, transmission sealers, starting fluids, tire cleaners, power steering sealers, carburetor cleaners, and undercoating materials*, from Pandora, Ohio, to points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Pennsylvania, Tennessee, Virginia, and West Virginia; and (B) *mactrials and supplies*, used in producing and packaging the commodities specified in (A) above (except commodities in bulk), from points in Delaware, Illinois, Indiana, Kentucky,

Maryland, Michigan, Missouri, New Jersey, New York, Pennsylvania, Tennessee, Virginia, and West Virginia, to Pandora, Ohio, under a continuing contract or contracts with Konalrad Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 140431, filed November 25, 1974. Applicant CRIDER TRUCK LEASING, INC., R.D. #4, Burtner Road, Butler, Pa. 16001. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Household and laundry cleaning compounds, automotive cleaning compounds, swimming pool disinfectants and deodorizers, laundry bleach, fabric softeners, detergents, carpet cleaners, windshield washer compounds, window cleaning compounds, containers, caps, and closures*, from the plant site of James Austin Company at Mars (Butler County), Pa., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, Virginia, West Virginia, Ohio, Kentucky, North Carolina, South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi, Michigan, Indiana, Wisconsin, Illinois, Minnesota, Iowa, Missouri, Arkansas, Louisiana, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas and (2) *cartons, containers, closures, labels, caps, caustic soda, alcohol detergents, and other materials and ingredients* for resale for manufacturing and packaging the aforesaid commodities on return, from the destination states named in (1) above, to the plant site of James Austin Company at Mars (Butler County), Pa., under a continuing contract with James Austin Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 140433, filed November 18, 1974. Applicant: CLARENCE H. GRATE, doing business as GRATES WRECKER SERVICE, 527 East Spring Street, LaGrange, Ind. 46761. Applicant's representative: Michael M. Yoder, Box 321, Topeka, Ind. 46571. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrecked or disabled motor vehicles*, from points in Alabama, Arkansas, Arizona, California, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, and Wisconsin, to points in LaGrange, Elkhart, Noble, and Steuben Counties, Ind.; and (2) *replacement vehicles for such wrecked vehicles*, from points in LaGrange, Elkhart, Steuben, and Noble Counties, Ind., to points in Alabama, Arkansas, Arizona, California, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Chicago, Ill., or Indianapolis, Ind.

No. MC 140437, filed November 27, 1974. Applicant: JOHN CHARLESTON, doing business as CHARLESTON'S EXPRESS, 216 North Maine Avenue, Atlantic City, N.J. 08401. Applicant's representative: Matthew Aaron, 204 Feinstein Building, Bridgeton, N.J. 08302. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, in tank vehicles, and those requiring special equipment), from Atlantic City, N.J., to points in Atlantic, Cape May, Cumberland, and Salem Counties, N.J., under a continuing contract or contracts with Lit Brothers.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Philadelphia, Pa., or Trenton, N.J.

No. MC 140438, filed Nov. 29, 1974. Applicant: HAROLD C. DAHL, P.O. Box 211, Lowell, Ind. 46356. Applicant's representative: Edwin J. Simcox, 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood pallets*, from Tefft, Ind., to Oregon, Ohio; and (2) *padding, synthetic and cotton*, from Oregon, Ohio, to Lowell, Ind., restricted to traffic originating at or destined to, the plant and warehouse sites of Globe Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 140454, filed November 22, 1974. Applicant: PERMA TRUCKING COMPANY, INC., 214 North Williamson Road, Blossburg, Pa. 16912. Applicant's representative: David A. Sutherlund, 2001 Mass. Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk in dump vehicles, from points in Lycoming, Sullivan, and Tioga Counties, Pa., to points in Broome, Chenango, Tioga, and Tompkins Counties, N.Y., under a continuing contract or contracts with P and M Coal Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

APPLICATION(S) OF PASSENGERS

No. MC 139343 (Sub-No. 4), filed November 22, 1974. Applicant: MEXICOACH, INC., 1050 Kettner Blvd., San Diego, Calif. 92101. Applicant's representative: Eric Rath, P.O. Box 226, La Jolla, Calif. 92037. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round trip, charter operations, from the International Boundary line between the United States and the Republic of Mexico at San Ysidro, Calif., and Tijuana, B.C., Mexico, to points in California, Nevada, and Arizona.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Diego, Calif.

BROKER APPLICATION(S)

No. MC 130274 (Correction), filed October 25, 1974, and published in the FEDERAL REGISTER, issue of November 27, 1974, and republished as corrected this issue. Applicant: WILLIAM S. PEPPER and ANN C. PEPPER, doing business as MOUNT DESERT TRAVEL, Box 407, Main Street, Northeast Harbor, Maine 04662. Applicant's representative: William S. Pepper (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Northeast Harbor, Maine, to sell or offer to sell the transportation of *Passengers and their baggage*, in round trip sightseeing or pleasure tours, between points in Hancock County, Maine, on the one hand, and, on the other, points in the United States, including Alaska, Hawaii, and points along the International Boundary line between the United States and Canada.

NOTE.—The purpose of this correction is to clarify the authority sought, and to modify the territorial description. If a hearing is deemed necessary, applicant requests it be held at Ellsworth, Bangor, or Portland, Maine.

No. MC 130281, filed November 22, 1974. Applicant: AL HOWARD ESPESETH AND C. J. ESPESETH, a Partnership, doing business as AL HOWARD PROPERTIES, 2118 Skeels Avenue, Eau Claire, Wis. 54701. Applicant's representative: James L. Nelson, 325 Cedar Street, St. Paul, Minn. 55101. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker*, at Eau Claire, Wis., to sell or offer to sell the transportation of *Groups of passengers and their baggage*, in special and charter operations, in all expense tours, by motor, rail, water, and air carriers, between Eau Claire, Wis., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul or Minneapolis, Minn.

FREIGHT FORWARDER APPLICATION(S)

No. FF 377 (Sub-No. 1), filed December 3, 1974. Applicant: PARAMOUNT FORWARDERS, INC., 3164 Springfield Road, P.O. Box 309, Lancaster, Tex. 75146. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facilities of common carriers by rail, motor, water, and express, in the transportation of (a) *Used household goods;* (b) *unaccompanied baggage;* and (c) *used automobiles*, between points in the United States, including Hawaii but excluding Alaska,

restricted in (b) above to the transportation of import-export traffic.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. FF 463, filed December 3, 1974. Applicant: INTERINTRA FORWARDING, INC., 6650 Hawaii Kai Drive, Honolulu, Hawaii 96825. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facilities of common carriers by rail, motor, water, and express, in the transportation of *Used household goods, unaccompanied baggage, and used automobiles*, between points in the United States including Hawaii but excluding Alaska, restricted to the transportation of import-export traffic.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Honolulu, Hawaii.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc. 74-30131 Filed 12-26-74;8:45 am]

[Notice No. 103]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

DECEMBER 20, 1974.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIER OF PROPERTY

No. MC 138435 (Sub-No. 2) (Republication), filed October 5, 1973, and published in the FEDERAL REGISTER issue of November 29, 1973, and republished this issue. Applicant: LORBER TRUCK SALES & SERVICE, INC., 1140 Military Road, Buffalo, N.Y. 14217. Applicant's representative: William J. Hirsch, 35 Court Street, Buffalo, N.Y. 14217. An Order of the Commission, Review Board Number 2, dated December 6, 1974, and served December 12, 1974, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, *of waste materials and recycled products* between points in Erie, Monroe, and Niagara Counties, N.Y., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted against the transportation of shipments originating at or destined to points in Canada, under a continuing contractor contracts with Chem-Trol Pollution Services, Inc., of Porter, N.Y., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate a modification to the territorial description. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted (January 27, 1975), during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC-5296 (Notice of filing of petition for modification of certificate), filed December 4, 1974. Petitioner: LACY'S EXPRESS, INC., 81 West Pitman Street, Penns Grove, N.J. 08069. Petitioner's representative: Martin Werner, 2 West 45th Street, New York, N.Y. 10036. Petitioner holds a motor *common carrier* certificate in No. MC 5296 issued November 29, 1965, authorizing transportation, over regular routes, of *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Philadelphia, Pa., and Salem, N.J., serving all intermediate points; and the off-route points of Woodbury, National Park, and Pedricktown, N.J.: From Philadelphia across the Delaware River to Camden, N.J., thence over New Jersey Highway 45 to junction U.S. Highway 130, and thence over U.S. Highway 130 to Pennsville, N.J., and thence over New Jersey Highway 49 to Salem, and return over the same route. By the instant petition, petitioner seeks to amend its certificate to read as follows: "*General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading): Between Philadelphia, Pa., and Salem, N.J., serving all intermediate points; and the off-route points of Woodbury, National Park, and Pedricktown, N.J., and those in Alloway, Quinton, and Lower Alloways Creek Townships, N.J., (1) from Philadelphia across the Delaware River to Camden, N.J., thence over New Jersey Highway 45 to junction U.S. Highway 130, and thence over U.S. Highway 130 to Pennsville, N.J., and thence over New Jersey Highway 49 to Salem, and return over the same route, and (2) from Philadelphia across the Delaware River to Camden, N.J., thence over New Jersey Highway 45 to Westville, N.J., thence over New Jersey Highway 44 to Bridgeport, N.J., thence over U.S. Highway 130 to Pennsville, N.J., and thence over New Jersey Highway 49 to Salem and return over the same route." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before January 27, 1975.

No. MC 107295 (Sub-No. 375) (Notice of Filing of Petition for Modification of Certificate), filed December 9, 1974. Petitioner: PRE-FAB TRANSIT CO., a Corporation, 100 S. Main Street, P.O. Box 146, Farmer City, Ill. 61842. Petitioner's representative: Mack Stephenson (same address as petitioner). Petitioner holds a motor *common carrier* certificate in No. MC 107295 (Sub-No. 375) issued October 18, 1973, authorizing transportation, as pertinent, over irregular routes, of *Insulated building panels*, from the plant site and storage facilities of Moncrief-Lenoir Manufacturing Company, at Houston, Tex., to points in the United States (except Alaska and Hawaii), with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein is restricted to the transportation of shipments originating at the above-described plant site or storage facilities. By the instant petition, petitioner seeks modification of the commodity description to read: "Building panels." Everything else will remain the same. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before January 27, 1975.

No. MC 114552 (Sub-No. 32) (Notice of Filing of Petition for Modification of Certificate), filed December 10, 1974. Petitioner: SENN TRUCKING COMPANY, a Corporation, P.O. Drawer 220, Newberry, S.C. 29108. Petitioner's representative: William P. Jackson, Jr., 919 Eighteenth Street NW., Washington, D.C. 20006. Petitioner holds a motor *common carrier* certificate in No. MC 114552 (Sub-No. 32), issued April 2, 1968, authorizing transportation, as pertinent, over irregular routes, of *Citrus pulp, citrus meal, and oyster shells*, (1) from points in Florida, to points in Alabama, South Carolina, those points in that part of North Carolina west of U.S. Highway 1, Georgia (except Atlanta, Macon, and Waycross, and points in their commercial zones as defined by the Commission), Tennessee (except Chattanooga

and Nashville and points in their commercial zones as defined by the Commission), with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted above is restricted against the transportation of oyster shells, crushed, from Jacksonville, Fla., to those points in that part of Georgia on and north of U.S. Highway 80, and (2) from points in Mobile county, Ala., to points in Georgia, North Carolina, South Carolina, and Tennessee, with no transportation for compensation on return except as otherwise authorized. By the instant petition, petitioner seeks modification of the commodity description to read: *"Citrus pulp, citrus meal, and shells or shell products."* Everything else will remain the same. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before January 27, 1975.

No. MC 124554 (Partial Correction of a Notice of Filing of Petition for Modification of Permit), filed November 21, 1974, published in the FEDERAL REGISTER issue of December 11, 1974, and republished as corrected in part this issue. Petitioner: HILARD F. LANG, VIOLA LANG, JOHN F. LANG, AND FRANK J. LANG, TRUSTEES AND MEDARD SCHMITZ, doing business as, LANG CARTAGE CORP., 338 S. 17th Street, Milwaukee, Wis. 53233. Petitioner's representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, Wis. 53203.

NOTE.—Petitioner holds a motor *contract carrier* permit in No. MC 124554 issued November 25, 1974. The purpose of this partial republication is to correctly state that parts (5) and (6) of the permit should read as follows: "(5) *such merchandise* as is dealt in by wholesale drug business houses, from La Crosse, Wis., to points in Mitchell, Howard, Winneshiek, Fayette, Clayton, and Allamakee Counties, Iowa, and Houston, Fillmore, Mower, Freeborn, Waseca, Steele, Dodge, Olmsted, Winona, Goodhue, and Wabasha Counties, Minn.; and (6) *refused and returned merchandise*, from points in the destination counties named next above, to La Crosse, Wis. Restriction: The operations authorized under the 2 routes next above are limited to a transportation service to be performed under a continuing contract, or contracts, with Yahr-Lange La Crosse Drug Company, Inc., of La Crosse, Wis." The rest of the notice remains as originally published. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before January 27, 1975.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

No. MC-F-12200 (Interstate Contract Carrier Corp.—Purchase (Portion)—SIEFERT BROS. TRUCKING CO.), published in the April 24, 1974, issue of the FEDERAL REGISTER. By amendment filed December 12, 1974, persons now in control of the transferee, are Transport Services, Inc., John C. Williams and Roger J. Furness.

No. MC-F-12386. Authority sought for merger by SMITH & SOLOMON TRUCKING COMPANY, How Lane, New Brunswick, NJ 08903, of the operating rights and property of EAST COAST FREIGHT LINES, 3005 W. Marshall St., Richmond, VA 23230, and for acquisition by LEON SMITH and IRVING SMITH, both also of New Brunswick, NJ 08903, of control of such rights and property through the transaction. Applicants' attorney: Herbert Burstein, 1 World Trade Center, New York, NY 10048. Operating rights sought to be merged: *General commodities*, excepting, among others, dangerous explosives, household goods, and commodities in bulk, as a *common carrier*, over regular routes, between Richmond, Va., and New York, N.Y., serving all intermediate points, and at off-route points in the New York, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 665, and those in New York, N.Y., and New Jersey within 25 miles of New York, N.Y., with restrictions. Service is not authorized between Washington, D.C., and Alexandria, Va., for the movement of traffic originating at either point designated to the other, between Richmond, Va., and Petersburg, Va., serving all intermediate points, and the off-route points of Hopewell, Va., and Federal Reformatory Camp, Petersburg, Va., over numerous alternate routes for operating convenience only; and *general commodities*, excepting, among others, classes A and B explosives, household goods and commodities in bulk, over irregular routes, between Richmond, Va., and the Richmond Deep Water Terminal near Richmond. SMITH & SOLOMON TRUCKING COMPANY is authorized to operate as a *common carrier* in New York, New Jersey, Maryland, Pennsylvania, Michigan, Texas, Wisconsin, Connecticut, Massachusetts, Rhode Island, Maine, Delaware, Virginia, North Carolina, South Carolina, Georgia, Indiana, Illinois, Florida, West Virginia, Tennessee, Kentucky, Alabama, Mississippi, Ohio, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

NOTE.—Pursuant to order dated December 29, 1970, in No. MC-F-10749, transferee acquired control of transferor.

No. MC-F-12387. Authority sought for purchase by CHARLES R. STROP, P.O. Box 1072, Hastings, NE 68901, of the operating rights of SHAW TRUCKING, INC., Juniata, NE 68955. Applicants' attorney: Arlyn L. Westergren, 530 Univac Bldg., 7100 West Center Rd., Omaha, NE 68106. Operating rights sought to be transferred: *Motor vehicle and recreational equipment, supplies*, and *accessories*, as a *contract carrier* over irregular routes, from Wahoo, Nebr., to points in the United States (except Alaska, Hawaii, and Nebraska), *equipment, materials, and supplies* with exceptions from points in the United States (except Alaska and Hawaii), to Wahoo, Nebr., *such commodities* as are normally dealt in by lumber, lumber products, and forest product yards, from points in that part of Montana on and west of U.S. Highway 91, and points in Judith Basin County, Mont., that part of Idaho on and north of U.S. Highway 12, points in Gem, Ada, Lemhi, and Bingham Counties, Idaho, Spokane, Snohomish, King, Pierce, and Grays Harbor Counties, Wash., and Baker, Wasco, Hood River, Clackamas, Polk, Benton, Linn, Lane, Douglas, Josephine, Washington, and Multnomah Counties, Oreg., to points in Kansas, Nebraska, and that part of Missouri lying on and west of U.S. Highway 65, from the plantsite of Mid-West Lumber Company at Lincoln, Nebr., to points in Kansas, Missouri, South Dakota, Minnesota, Iowa, and Illinois, with restrictions. Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a (b).

No. MC-F-12388. Authority sought for purchase by SOUTH BEND FREIGHT LINE, INC., 1200 South Olive St., P.O. Box 545, South Bend, IN 46624, of the operating rights of DELIA CARTAGE, INC., 9226 Golf Road, Des Plaines, IL 60016, and for acquisition by ABRAHAM MARCUS, 20069 Lark Drive, South Bend, IN, of control of such rights through the purchase. Applicants' attorney: Philip A. Lee, 120 W. Madison St., Suite 618, Chicago, IL 60602. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC 121255 (Sub-No. 1), covering the transportation of hardware, glassware, cosmetics, household furnishings, paper stock and office supplies; and also general commodities (except goods of unusual value, agricultural products, excavating in dumptrucks, liquid commodities in tank vehicles and heavy machinery), as a common carrier, in interstate commerce, within the State of Illinois. Vendee is authorized to operate as a *common carrier* in Illinois, Indiana, Iowa, Michigan, Kentucky, Ohio, and Wisconsin. Application has been filed for temporary authority under section 210a(b). Under the proposed transaction vendee proposes to tack or join the rights to be acquired at points in the Chicago, Ill., Commercial Zone. After the authority sought herein is authorized and the transaction consummated, vendee herein intends to file an application to eliminate any existing gateways.

NOTE.—MC 31533 (Sub-No. 13), is a matter directly related.

No. MC-F-12389. Authority sought for purchase by SOUTHWEST EQUIPMENT RENTAL, INC., doing business as

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SOUTHWEST MOTOR FREIGHT, 4284 Mission Blvd., Pomona, CA 91769, of a portion of the operating rights of COASTAL CONTRACT CARRIER CORPORATION, P.O. Box 261, Selmer, TN 38375, and for acquisition by MAX LEE FULLER, 2909 Hickory St., Chattanooga, TN 37407, of control of such rights through the purchase. Applicants' attorneys: Patrick E. Quinn, P.O. Box 82028, Lincoln, NE 68501, and R. Connor Wiggins, Jr., Suite 909, 100 North Main Bldg., Memphis, TN 38103. Operating rights sought to be transferred: *Such commodities* as are used by or dealt in by retail fabric stores, *supplies*, as a *contract carrier* over irregular routes, between the facilities of House of Fabrics of South Carolina, Inc., at Montclair, Calif., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); *such merchandise* as is sold by retail fabric stores, between the facilities of House of Fabrics of South Carolina, Inc., at or near Mauldin, S.C., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca and Koochiching Counties, Minn., to the United States-Canada Boundary line. Vendee is authorized to operate as a *contract carrier* in California, Arkansas, Colorado, Indiana, Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Pennsylvania, Wisconsin, and Nevada; and as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-12390. Authority sought for control by FRANK MARTZ COACH COMPANY, 239 Old River Rd., Wilkes-Barre, PA 18702, of ATWOOD'S TRANSPORT LINES, INC., 5500 Tuxedo Rd., Tuxedo, MD 20781, and for acquisition by FRANK M. HENRY, also of Wilkes-Barre, PA 18702, of control of ATWOOD'S TRANSPORT LINES, INC., through the acquisition by FRANK MARTZ COACH COMPANY. Applicants' attorneys: Robert H. Griswold, P.O. Box 1166, Harrisburg, PA 17108, L. C. Major, Jr., 301 Tavern Square, Alexandria, VA 22314, and William C. Chesnutt, 1776 F St. NW., Washington, DC 20006. Operating rights sought to be controlled: Passengers and their baggage, and express, mail, and newspapers in the same vehicle with passengers, as a common carrier over regular routes, between Washington, D.C., and Point Lookout, Md., between Jarboesville and Piney Point, Md., serving all intermediate points; passengers and their baggage, between Washington, D.C., and the site of the United States Atomic Energy Commission, near Germantown, Md., serving no intermediate points; passengers and their baggage, restricted to traffic originating at the point indicated, in charter operations, over irregular routes, from Washington, D.C., to Alexandria, Arlington National Cemetery, and Mt. Vernon, Va., and return. FRANK MARTZ COACH COMPANY is authorized to operate as a common carrier in New Jersey, New York, and Pennsylvania. Application has been filed for temporary authority under section 210 a(b).

Illinois Central Gulf Railroad Company, 233 North Michigan Avenue, Chicago, Illinois 60601, represented by Mr. Robert D. Kelly, filed application on December 4, 1974, under section 5(2) of the Interstate Commerce Act for authority to acquire trackage rights over approximately 0.7 mile of track of the Illinois Terminal Railroad Company located in Sangaman County, south of Springfield, Illinois. This application has been assigned Finance Docket No. 27805. On the same day, the Illinois Central Gulf Railroad Company filed an application under section 1(18) of the Interstate Commerce Act for authority to construct two segments of track on each end of the Illinois Terminal track totaling one mile for the purpose of connecting two existing lines of the Illinois Central Gulf Railroad Company for the more expeditious movement of trains between Chicago, Illinois, and St. Louis and Kansas City, Missouri. The construction application has been assigned Finance Docket No. 27806.

In the opinion of the applicant, the authority sought by these applications is not a major Federal action significantly affecting the quality of the human environment. In accordance with the Commission's regulations (49 CFR 1100.-250) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act of 1969*, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (b)(1)-(5), 340 I.C.C. 431, 461. The proceedings will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than January 27, 1975.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-30126 Filed 12-26-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

DECEMBER 23, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065 (a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before January 6, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 30280 (Sub-No. E31) (Correction), filed May 6, 1974, published in the FEDERAL REGISTER June 13, 1974. Applicant: WATKINS CAROLINA EXPRESS, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Paul Daniell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in that part of Georgia on and west of a line beginning at the Georgia-Florida State line, thence along U.S. Highway 221 to Hariem, thence along Georgia Highway 47 to Wrens, thence along Georgia Highway 80 to Waynesboro, thence along U.S. Highway 25 to Statesboro, thence along U.S. Highway 25/301 to Nahunta, thence along U.S. Highway 84 to Atkinson, thence along Georgia Highway 110 to Waverly, thence along U.S. Highway 17 to Kingsland, thence along Georgia Highway 40 to St. Marys, on the one hand, and, on the other, Charlotte, N.C. The purpose of this filing is to eliminate the gateway of Greenville, S.C. The purpose of this correction is to clarify the territorial description.

No. MC 60157 (Sub-No. E4) (correction), filed May 10, 1974, published in the FEDERAL REGISTER November 25, 1974. Applicant: C. A. WHITE TRUCKING CO., INC., 5327 N. Central Expressway, Suite 310, Dallas, Tex. 75205. Applicant's representative: Frank Crane (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products and *machinery, materials, equipment, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, between points in Montana west of a line beginning at the International Boundary line between the United States and

Canada and extending along Montana Highway 241 to Harlem, thence along U.S. Highway 2 to Ft. Belknap, thence along Montana Highway 376 to junction U.S. Highway 191, thence along U.S. Highway 191 to junction Montana Highway 19, thence along Montana Highway 19 to junction U.S. Highway 87, thence along U.S. Highway 87 to Billings, thence along Interstate Highway 10 to junction U.S. Highway 310, thence along U.S. Highway 310 to the Montana-Wyoming State line, and points in Kansas south of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 54 to junction U.S. Highway 154, thence along U.S. Highway 154 to Dodge City, thence along U.S. Highway 50 to the Kansas-Colorado State line. The purpose of this filing is to eliminate the gateway of points in Texas. The purpose of this correction is to clarify the commodity description.

No. MC 61057 (Sub-No. E5) (correction), filed May 10, 1974, published in the FEDERAL REGISTER November 25, 1974. Applicant: C. A. WHITE TRUCKING CO., INC., 5327 N. Central Expressway, Suite 310, Dallas, Tex. 75205. Applicant's representative: Frank Crane (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, between points in Wyoming and points in that part of Kansas south of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 160 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Kansas Highway 57, thence along Kansas Highway 57 to junction Kansas Highway 47, thence along Kansas Highway 47 to junction Kansas Highway 96, thence along Kansas Highway 96 to Wichita, thence along U.S. Highway 54 to junction U.S. Highway 154, thence along U.S. Highway 154 to Dodge City, thence along U.S. Highway 56 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of points in Texas. The purpose of this correction is to clarify the route description.

No. MC 60157 (Sub-No. E10) (Correction), filed May 10, 1974, published in the FEDERAL REGISTER November 25, 1974. Applicant: C. A. WHITE TRUCKING CO., INC., 5327 N. Central Expressway, Suite 310, Dallas, Tex. 75205. Applicant's representative: Frank Crane (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products, and byproducts, and *machinery, materials, equipment, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, between points in Louisiana, Oklahoma, Kansas, Colorado, Utah, Wyoming, and Montana. The purpose of this filing is to eliminate the gateway of points in Texas. The purpose of this correction is to clarify the territorial description.

No. MC 76177 (Sub-No. E78), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C explosives and blasting supplies*, between points in North Carolina, on the one hand, and, on the other, points in Kansas, Missouri, New Mexico, North Dakota, and South Dakota. The purpose of this filing is to eliminate the gateway of (1) points in Alabama, and (2) points which are both within 15 miles of Energy, Ill., and within 15 miles of Wolf Lake, Ill.

No. MC 76177 (Sub-No. E91), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Maryland to points in Arkansas. The purpose of this filing is to eliminate the gateways of (1) the storage magazine of the Trojan-U.S. Powder, Division of Commercial Solvents Corp., located at the junction of West Virginia Highway 62 and White Church Road near Point Pleasant (Mason County), W. Va., (2) Grafton, Ill., and points within 2 miles thereof; and (3) Wolf Lake, Ill., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E92), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives, and blasting supplies*, from points in Kentucky, Virginia, and West Virginia to points in Utah, Wyoming, and Colorado. The purpose of this filing is to eliminate the gateways of (1) Grafton, Ill., and points within 2 miles thereof, and (2) Atlas, Mo., and points within 6 miles of Carthage, Mo.

No. MC 76177 (Sub-No. E93), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Arizona, Colorado, Kansas, and Oklahoma, to points in Virginia and West Virginia. The purpose of this filing is to eliminate the gateway of Wolf Lake, Ill., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E95), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Maryland, New York and Pennsylvania to points in Kansas. The purpose of this filing is to eliminate the gateways of (1) the storage magazines of the Trojan-U.S. Powder, Division of Commercial Solvents Corp., located at the junction of West Virginia Highway 62 and White Church Road near Point Pleasant (Mason County), W. Va., and (2) Grafton, Ill., and points within 2 miles thereof.

No. MC 76177 (Sub-No. E96), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Texas to points in Ohio. The purpose of this filing is to eliminate the gateways of (1) Jasonville, Ind., and points within 15 miles thereof, and (2) those points which are both within 15 miles of Energy, Ill., and within 15 miles of Wolf Lake, Ill.

No. MC 76177 (Sub-No. E97), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Oklahoma to points in Maryland. The purpose of this filing is to eliminate the gateways of (1) points in West Virginia within 10 miles of Martinsburg, W. Va. (except Martinsburg), and (2) Wolf Lake, Ill., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E98), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Louisiana to points in West Virginia. The purpose of this filing

is to eliminate the gateway of McAdory, Ala., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E99), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in New Mexico to points in Virginia and West Virginia. The purpose of this filing is to eliminate the gateway of those points which are both within 15 miles of Wolf Lake, Ill., and within 15 miles of Energy, Ill.

No. MC 76177 (Sub-No. E100), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd Street, Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Texas to points in West Virginia. The purpose of this filing is to eliminate the gateway of those points which are both within 15 miles of Energy, Ill., and within 15 miles of Wolf Lake, Ill.

No. MC 76177 (Sub-No. E101), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives, and blasting supplies*, from points in Oklahoma and Arizona to points in Indiana. The purpose of this filing is to eliminate the gateway of Wolf Lake, Ill., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E102), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Montana to points in Virginia. The purpose of this filing is to eliminate the gateway of Wolf Lake, Ill., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E103), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Oklahoma and Minnesota to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of Wolf Lake, Ill., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E105), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Louisiana and Mississippi to points in Michigan. The purpose of this filing is to eliminate the gateway of the plant site of Trojan-U.S. Powder, Division of Commercial Solvents Corporation, at or near Ordill, Ill.

No. MC 76177 (Sub-No. E106), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T.C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Utah and Wyoming to points in Virginia and West Virginia. The purpose of this filing is to eliminate the gateway of (1) Atlas, Mo., or (2) those points which are both within 15 miles of Atlas, Mo., and within 6 miles of Carthage, Mo.

No. MC 76177 (Sub-No. E107), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T.C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives and blasting supplies*, from points in Pennsylvania to points in Texas. The purpose of this filing is to eliminate the gateway of (1) Jasonville, Ind., and points within 15 miles thereof, (2) Grafton, Ill., and points within 2 miles thereof, and (3) Wolf Lake, Ill., and points within 15 miles thereof.

No. MC 76177 (Sub-No. E111), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd St., Birmingham, Ala. 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives* and *blasting supplies*, from points in Indiana, Kentucky, Ohio, Virginia and West Virginia, to points in Kansas. The purpose of this filing is to eliminate the gateway of Grafton, Ill., or any point within 2 miles thereof.

No. MC 76177 (Sub-No. E108), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd St., Birmingham, Alabama 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives* and *blasting supplies*, between points in New Mexico and Missouri, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateways of (1) any point which is both within 15 miles of Wolf Lake, Ill., and within 15 miles of Energy, Ill., and (2) points in Alabama.

No. MC 76177 (Sub-No. E109), filed May 6, 1974. Applicant: BAGGETT TRANSPORTATION CO., 2 South 32nd St., Birmingham, Alabama 35233. Applicant's representative: T. C. Sinclair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B and C explosives*, and *blasting supplies*, between points in Georgia, on the one hand, and, on the other, points in Wisconsin. The purpose of this filing is to eliminate the gateway of (1) any point which is both within 15 miles of Energy, Ill., and within 15 miles of Wolf Lake, Ill., and (2) points in Alabama.

No. 32063 (Sub-No. E1), filed June 4, 1974. Applicant: KLIPSCH HAULING CO., 112 North Fourth St., St. Louis, Missouri 63102. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, (1) from Dupo, Ill., to points in Oklahoma and Texas (except points in Harris County, Tex.), Springfield, and Verona, Mo.*, (2) from Dupo, Ill., to points in Louisiana, Harris County, Texas, and those points in Alabama on and south of a line beginning at the Mississippi-Alabama State line and extending along Alabama Highway 56 to its junction with U.S. Highway 43, thence along U.S. Highway 43 to its junction with Interstate Highway 65, thence along Interstate Highway 65 to its junction with Alabama Highway 21, thence along Alabama Highway 21 to the Alabama-Florida State line, and those points in Mississippi on and south of a line beginning at the Arkansas-Mississippi State line, and extending along Mississippi Highway 8 to its junction with U.S. Highway 61 thence along U.S. Highway 61 to its junction with Mississippi Highway 12, thence along Mississippi Highway 12 to its junction with U.S. Highway 49, thence along U.S. Highway 49 to its junction with Interstate Highway 20, thence along Interstate Highway 20 to its junction with Mississippi Highway 18, thence along Mississippi Highway 18 to its junction with Mississippi Highway 15, thence along Mississippi Highway 15 to its junction with U.S. Highway 84, thence along U.S. Highway 84 to its junction with U.S. Highway 45, thence along U.S. Highway 45 to the Mississippi-Alabama State line (Pine Bluff, Ark.)*, from Dupo, Ill., to opoints, in Ohio (Mt. Carmel, Ill.)*. The purpose of this filing is to eliminate the gateways designated by asterisks above.

No. MC 83745 (Sub-No. E21), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery and such commodities*, generally requiring rigging, special equipment, or specialized

handling except articles requiring special vehicular equipment for over-the-road movements between points in Westmoreland County, Pa., within 25 miles of Pittsburgh, Pa., on and north of U.S. Highway 30, on the one hand, and, on the other, points in West Virginia except Marion, Preston, and Monongalia Counties. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC 83745 (Sub-No. E27), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and such commodities* generally requiring rigging, special equipment, or specialized handling except articles requiring special vehicular equipment for over the road movements, between Claysville, Pa., on the one hand, and, on the other, points in West Virginia on and south of U.S. Highway 50, points in Ohio on and west of Interstate Highway 75, and points in Maryland on and east of U.S. Highway 200.

No. MC 83835 (Sub-No. E12), filed May 14, 1974. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: William A. Cunningham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes; transporting: (A) *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities which are transported on trailers), and (B) *Commodities* which, because of their size or weight, require the use of special equipment; (a) between points in Missouri and Oklahoma, on the one hand, and, on the other, points in Montana, North Dakota, South Dakota, Utah, and Wyoming; (b) between points in Illinois, on the one hand, and, on the other, points in New Mexico and Utah; (c) between points in Texas, on the one hand, and, on the other, points in Nebraska; (d) between points in Nebraska, on the one hand, and, on the other, points in that part of New Mexico on and east of a line beginning at the New Mexico-Oklahoma State line, thence along New Mexico Highway 18 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with U.S. Highway 66, thence along U.S. Highway 66 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with U.S. Highway 60, thence along U.S. Highway 60 to its junction with U.S. Highway 85, thence along U.S. Highway 85 to its junction with New Mexico Highway 90, thence along New Mexico Highway 90 to its junction with U.S. Highway 80, thence along U.S. Highway 80 to the New Mexico-Arizona State line; (e) between points in Illinois, on the one hand, and, on the other, points in that part of Wyoming on and west of a line beginning at the Wyoming-Montana State line, thence along Interstate Highway 90 to its junction with Interstate Highway 25, thence along Interstate Highway 25 to the Wyoming-Colorado State line, and in that part of Montana on and west of a line beginning at the U.S.-Canada International Boundary line, thence along U.S. Highway 91 to its junction with U.S. Highway 89, thence along U.S. Highway 89 to its junction with U.S. Highway 10, thence along U.S. Highway 10 to its junction with U.S. Highway 212, thence along U.S. Highway 212 to the Montana-Wyoming State line;

(f) Between points in Utah, on the one hand, and, on the other, points in that part of Nebraska on and east of a line beginning at the Nebraska-Colorado State line, thence along Nebraska Highway 23 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with Nebraska Highway 70, thence along Nebraska Highway 70 to its junction with U.S. Highway 183, thence along U.S. Highway 183 to its junction with U.S Highway 20, thence along U.S. Highway 20 to its junction with U.S. Highway 281, thence along U.S. Highway 281 to the Nebraska-South Dakota State line, and in that part of Colorado on and east of a line beginning at the Nebraska-Colorado State line, thence along U.S. Highway 34 to its junction with U.S. Highway 385, thence along U.S. Highway 385 to the Colorado-Oklahoma State line; (g) between points in Wyoming, on the one hand, and, on the other, points in that part of Illinois on and south of a line beginning at the Illinois-Iowa State line, thence along Illinois Highway 2 to its junction with U.S. Highway 20, thence along U.S. Highway 20 to its junction with U.S. Highway 41, thence along U.S. Highway 41 to the Illinois-Wisconsin State line, and in that part of Colorado on and east of a line beginning at the Nebraska-Colorado State line, thence along U.S. Highway 34 to its junction with U.S. Highway 385, thence along U.S. Highway 385 to the Colorado-Oklahoma State line, and in that part of Nebraska on and south of a line beginning at the Nebraska-Iowa State line, thence along Nebraska Highway 2 to its junction with U.S. Highway 6, thence along U.S. Highway 6 to its junction with U.S. Highway 34, thence along U.S. Highway 34 to the Nebraska-Colorado State line; (h) between points in South Dakota, on the one hand, and, on the other, points in that part of Illinois on and south of a line beginning at the Illinois-Indiana State line, thence along Interstate Highway 70 to its junction with Illinois Highway 1, thence along Illinois Highway 1 to its junction with Illinois Highway 16, thence along Illinois Highway 16 to its junction with Illinois Highway 121, thence along Illinois Highway 121 to its junction with Interstate Highway 72, thence along Interstate Highway 72 to its junction with Illinois Highway 125, thence along Illinois Highway 125 to its junction with U.S. Highway 24, thence along U.S. Highway 24 to the Illinois-Missouri State line, and in that part of Colorado on and south of a line beginning at the Colorado-Kansas State line, thence along U.S. Highway 160 to its junction with Interstate Highway 25, thence along Interstate Highway 25 to the Colorado-New Mexico State line.

(i) Between points in North Dakota, on the one hand, and, on the other, points in that part of Nebraska on and south of a line beginning at the Nebraska-Colorado State line, thence along Nebraska Highway 23 to its junction with U.S. Highway 283, thence along U.S. Highway 283 to its junction with U.S. Highway 30, thence along U.S. Highway 30 to its junction with Nebraska Highway 10, thence along Nebraska Highway 10 to its junction with U.S. Highway 6, thence along U.S. Highway 6 to its junction with Nebraska Highway 33, thence along Nebraska Highway 33 to its junction with Nebraska Highway S–55F, thence along Nebraska Highway S–55F to its junction with Nebraska Highway 43, thence along Nebraska Highway 43 to its junction with Nebraska Highway 2, thence along Nebraska Highway 2 to the Nebraska-Missouri State line, and in that part of Illinois on and south of a line beginning at the Illinois-Indiana State line, thence along U.S. Highway 150 to its junction with Illinois Highway 16, thence along Illinois Highway 16 to its junction with Interstate Highway 57, thence along Interstate Highway 57 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with Illinois Highway 125, thence along Illinois Highway 125 to its junction with Illinois Highway 103, thence along Illinois Highway 103 to its junction with U.S. Highway 24, thence along U.S. Highway 24 to the Illinois-Missouri State line, and in that part of Colorado on and south of a line beginning at the Nebraska-Colorado State line, thence along U.S. Highway 34 to its junction with U.S. Highway 385, thence along U.S. Highway 385 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with Colorado Highway 71, thence along Colorado Highway 71 to its junction with U.S. Highway 24, thence along U.S. Highway 24 to its junction with Colorado Highway 115, thence along Colorado Highway 115 to its junction with U.S. Highway 50, thence along U.S. Highway 50 to its junction with U.S. Highway 285, thence along U.S. Highway 285 to its junction with U.S. Highway 160, thence along U.S. Highway 160 to the Colorado-Arizona State line; (j) between points in Montana, on the one hand, and, on the other, points in that part of Nebraska on and south of a line beginning at the Nebraska-Colorado State line, thence along U.S. Highway 6 to its junction with Nebraska Highway 2, thence along Nebraska Highway 2 to the Nebraska-Iowa State line, and in that part of Illinois on and south of a line beginning at the Illinois-Missouri State line, thence along U.S. Highway 34 to its junction with Illinois Highway 150, thence along Illinois Highway 150 to its junction with U.S. Highway 24, thence along U.S. Highway 24 to its junction with Interstate Highway 57, thence along Interstate Highway 57 to its junction with Illinois Highway 17, thence along

Illinois Highway 17 to its junction with Illinois Highway 1, thence along Illinois Highway 1 to its junction with U.S. Highway 52, thence along U.S. Highway 52 to its the Illinois-Indiana State line; (k) between points in that part of Nebraska on and south of a line beginning at the Nebraska-Iowa State line, thence along U.S. Highway 30 to its junction with U.S. Highway 283, thence along U.S. Highway 283 to its junction with U.S. Highway 6, thence along U.S. Highway 6 to the Nebraska-Colorado State line, on the one hand, and, on the other, points in that part of Wyoming on and west of a line beginning at the Wyoming-Colorado State line, thence along U.S. Highway 287 to its junction with U.S. Highway 30, thence along U.S. Highway 30 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its junction with Wyoming Highway 789, thence along Wyoming Highway 789 to its junction with Wyoming Highway 120, thence along Wyoming Highway 120 to the Wyoming-Montana State line.

(l) Between points in that part of Nebraska on and south of a line beginning at the Nebraska-Iowa State line, thence along U.S. Highway 6 to its junction with U.S. Highway 34, thence along U.S. Highway 34 to the Nebraska-Colorado State line, on the one hand, and, on the other, points in that part of Wyoming on and south of a line beginning at the Wyoming-Nebraska State line, thence along U.S. Highway 30 to its junction with Wyoming Highway 91, thence along Wyoming Highway 91 to its junction with Wyoming Highway 487, thence along Wyoming Highway 487 to its junction with Wyoming Highway 220, thence along Wyoming Highway 220 to its junction with U.S. Highway 20, thence along U.S. Highway 20 to its junction with Wyoming Highway 120, thence along Wyoming Highway 120 to its junction with Wyoming Highway 296, thence along Wyoming Highway 296 to the Wyoming-Montana State line; (m) between points in that part of Nebraska on and east of U.S. Highway 83, on the one hand, and, on the other, points in that part of Utah on and east of a line beginning at the Utah-Arizona State line, thence along U.S. Highway 91 to its junction with Utah Highway 4, thence along Utah Highway 4 to its junction with U.S. Highway 89, thence along U.S. Highway 89 to its junction with Utah Highway 4, thence along Utah Highway 4 to its junction with Utah Highway 10, thence along Utah Highway 10 to its junction with Utah Highway 33, thence along Utah Highway 33 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with Utah Highway 44, thence along Utah Highway 44 to the Utah-Wyoming State line.

(n) Between points in that part of Nebraska on and south of a line beginning at the Nebraska-Colorado State line, thence along U.S. Highway 34 to its junction with U.S. Highway 136, thence along U.S. Highway 136 to its junction with U.S. Highway 183, thence along U.S. Highway 183 to its junction with Nebraska Highway 4, thence along Nebraska Highway 4 to its junction with U.S. Highway 136, thence along U.S. Highway 136 to the Nebraska-Missouri State line, on the one hand, and, on the other, points in that part of South Dakota on and north of a line beginning at the South Dakota-Wyoming State line, thence along U.S. Highway 16 to its junction with South Dakota Highway 44, thence along South Dakota Highway 44 to its junction with U.S. Highway 77, thence along U.S. Highway 77 to its junction with U.S. Highway 18, thence along U.S. Highway 18 to the South Dakota-Iowa State line; (o) between points in that part of Nebraska on and east of a line beginning at the Nebraska-South Dakota State line, thence along U.S. Highway 385 to its junction with U.S. Highway 26, thence along U.S. Highway 26 to its junction with Nebraska Highway 27, thence along Nebraska Highway 27 to the Nebraska-Colorado State line, on the one hand, and, on the other, points in that part of New Mexico on and south of a line beginning at the New Mexico-Arizona State line, thence along New Mexico Highway 504 to its junction with U.S. Highway 550, thence along U.S. Highway 550 to its junction with New Mexico Highway 17, thence along New Mexico Highway 17 to its junction with New Mexico Highway 44, thence along New Mexico Highway 44 to its junction with New Mexico Highway 126, thence along New Mexico Highway 126 to its junction with New Mexico Highway 4, thence along New Mexico Highway 4 to its junction with U.S. Highway 85, thence along U.S. Highway 85 to its junction with U.S. Highway 56, thence along U.S. Highway 56 to its junction with New Mexico Highway 18, thence along New Mexico Highway 18 to the New Mexico-Oklahoma State line;

(p) Between points in that part of Montana on and west of a line beginning at the Montana-Idaho State line, thence along U.S. Highway 91 to its junction with Interstate Highway 15, thence along Interstate Highway 15 to its junction with U.S. Highway 87, thence along U.S. Highway 87 to its junction with Montana Highway 232, thence along Montana Highway 23 2to the U.S.-Canada International Boundary line, on the one hand, and, on the other, points in that part of Nebraska on and south of a line beginning at the Nebraska-Iowa State line, thence along U.S. Highway 30 to its junction with U.S. Highway 183, thence along U.S. Highway 183 to its junction with Nebraska Highway 23, thence along Nebraska Highway 23 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with U.S. Highway 30, thence along U.S. Highway 30 to the Nebraska-Colorado State line; (q) between points in that part of Illinois on and south of a line beginning at the Illinois-Indiana State line, thence along U.S. Highway 24 to its junction with U.S. Highway 52, thence along U.S. Highway 52 to its junction with Illinois Highway 116, thence along Illinois Highway 116 to its junction with U.S. Highway 34, thence along U.S. Highway 34 to the Illinois-Iowa State line, on the one hand, and, on the other, points in that part of South Dakota on and west of a line beginning at the South Dakota-North Dakota State line, thence along South Dakota Highway 63 to its junction with U.S. Highway 12, thence along U.S. Highway 12 to its junction with South Dakota Highway 47, thence along South Dakota Highway 47 to its junction with U.S. Highway 212, thence along U.S. Highway 212 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with Interstate Highway 90, thence along Interstate Highway 90 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with U.S. Highway 18, thence along U.S. Highway 18 to its junction with South Dakota Highway 73, thence along South Dakota Highway 73 to the South Dakota-Nebraska State line.

(r) Between points in that part of South Dakota on and west of a line beginning at the South Dakota-Wyoming State line, thence along U.S. Highway 18 to its junction with South Dakota Highway 71, thence along South Dakota Highway 71 to the South Dakota-Nebraska State line, on the one hand, and, on the other, points in that part of Illinois on and south of a line beginning at Lake Michigan, thence along U.S. Highway 66 to its junction with Interstate Highway 80, thence along Interstate Highway 80 to its junction with U.S. Highway 34, thence along U.S. Highway 34 to the Illinois-Iowa State line; (s) between points in that part of North Dakota on and west of a line beginning at the U.S.-Canada International Boundary line, thence along U.S. Highway 52 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with North Dakota Highway 23, thence along North Dakota Highway 23 to its junction with North Dakota Highway 22, thence along North Dakota Highway 22 to its junction with Interstate Highway 94, thence long Interstate Highway 94 to its junction with North Dakota Highway 8, thence along North Dakota Highway 8 to its junction with U.S. Highway 12, thence along U.S. Highway 12 to the North Dakota-South Dakota State line, on the one hand, and, on the other, points in that part of Illinois on and south of a line beginning at the Indiana-Illinois State line, thence along Interstate Highway 74 to its junction with Illinois Highway 116, thence along Illinois Highway 116 to its junction with U.S. Highway 34, thence along U.S. Highway 34 to the Illinois-Missouri State line.

(t) Between points in that part of Montana on and west of a line beginning at the U.S.-Canada International Boundary line, thence along Interstate Highway 15 to its junction with U.S. Highway 87, thence along U.S. Highway 87 to its junction with U.S. Highway 191, thence along U.S. Highway 191 to its junction with U.S. Highway 12, thence along U.S. Highway 12 to its junction with Montana Highway 3, thence along Montana Highway 3 to its junction with

U.S. Highway 10, thence along U.S. Highway 10 to its junction with U.S. Highway 212, thence along U.S. Highway 212 to the Montana-Wyoming State line, on the one hand, and, on the other, points in that part of Illinois on and south of a line beginning at Lake Michigan, thence along U.S. Highway 66 to its junction with Interstate Highway 80, thence along Interstate Highway 80 to the Illinois-Iowa State line; (u) between points in that part of Colorado on and south of a line beginning at the Utah-Colorado State line, thence along Interstate Highway 70 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with U.S. Highway 385, thence along U.S. Highway 385 to its junction with U.S. Highway 34, thence along U.S. Highway 34 to the Nebraska-Colorado State line, on the one hand, and, on the other, points in that part of South Dakota on and east of a line beginning at the North Dakota-South Dakota State line, thence along U.S. Highway 83 to its junction with Interstate Highway 90, thence along Interstate Highway 90 to its junction with U.S. Highway 183, thence U.S. Highway 183 to the South Dakota-Nebraska State line; (v) between points in that part of North Dakota on and east of U.S. Highway 83, on the one hand, and, on the other, points in that part of Colorado on and south of a line beginning at the Utah-Colorado State line, thence along Interstate Highway 70 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with U.S. Highway 385, thence along U.S. Highway 385 to its junction with U.S. Highway 34, thence along U.S. Highway 34 to the Nebraska-Colorado State line.

(w) Between points in Montana, on the one hand, and, on the other, points in that part of Colorado on and east of a line beginning at the Nebraska-Colorado State line, thence along U.S. Highway 34 to its junction with U.S. Highway 385, thence along U.S. Highway 385 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its junction with Colorado Highway 196, thence along Colorado Highway 196 to its junction with U.S. Highway 50, thence along U.S. Highway 50 to its junction with Colorado Highway 194, thence along Colorado Highway 194 to its junction with Colorado Highway 109, thence along Colorado Highway 109 to its junction with U.S. Highway 160, thence along U.S. Highway 160 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to the Colorado-Oklahoma State line; (x) between points in that part of Montana on and north of a line beginning at the North Dakota-Montana State line, thence along U.S. Highway 10 to its junction with Montana Highway 200S, thence along Montana Highway 200S to its junction with Montana Highway 200, thence along Montana Highway 200 to its junction with U.S. Highway 87, thence along U.S. Highway 87 to its junction with Interstate Highway 15, thence along Interstate Highway 15 to its junction with U.S. Highway 91, thence along U.S. Highway 91 to its junction with Interstate Highway 90, thence along Interstate Highway 90 to the Idaho-Montana State line, on the one hand, and, on the other, points in that part of Colorado on and east of a line beginning at the Nebraska-Colorado State line, thence along U.S. Highway 34 to its junction with U.S. Highway 385, thence along U.S. Highway 385 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with Colorado Highway 71, thence along Colorado Highway 71 to its junction with U.S. Highway 350, thence along U.S. Highway 350 to its junction with Interstate Highway 25, thence along Interstate Highway 25 to the New Mexico-Colorado State line. The purpose of this filing is to eliminate the gateways of points in Kansas.

No. MC 83835 (Sub-No. E17), filed May 14, 1974. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: William A. Cunningham (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' commodities*, which because of size or weight, require the use of special equipment, (a) between points in Wyoming, on the one hand, and, on the other, points in Indiana, Ohio, and Pennsylvania; (b) between points in Pennsylvania, on the one hand, and, on the other, points in Montana, Utah, and in that part of North Dakota on and west of a line beginning at the North Dakota-Montana State line, thence along U.S. Highway 2 to its junction with U.S. Highway 85, thence along U.S. Highway 85 to its junction with U.S. Highway 10, thence along U.S. Highway 10 to its junction with North Dakota Highway 22, thence along North Dakota Highway 22 to its junction with U.S. Highway 12, thence along U.S. Highway 12 to the North Dakota-South Dakota State line, and in that part of South Dakota on and west of a line beginning at the South Dakota-North Dakota State line, thence along South Dakota Highway 45 to its junction with South Dakota Highway 10, thence along South Dakota Highway 10 to its junction with South Dakota Highway 45, thence along South Dakota Highway 45 to its junction with U.S. Highway 12, thence along U.S. Highway 12 to its junction with South Dakota Highway 37, thence along South Dakota Highway 37 to its junction with U.S. Highway 12, thence along U.S. Highway 212 to its junction with South Dakota Highway 25, thence along South Dakota Highway 25 to its junction with U.S. Highway 14, thence along U.S. Highway 14 to the South Dakota-Minnesota State line; (c) between points in Indiana, on the one hand, and, on the other, points in Utah.

(d) Between points in South Dakota, on the one hand, and, on the other, points in that part of Indiana on and south of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 40 to its junction with Indiana Highway 46, thence along Indiana Highway 46 to its junction with Indiana Highway 37, thence along Indiana Highway 37 to its junction with U.S. Highway 150, thence along U.S. Highway 150 to the Indiana-Kentucky State line, and in that part of Pennsylvania on and south of a line beginning at the Pennsylvania-West Virginia State line, thence along U.S. Highway 40 to its junction with Interstate Highway 70, thence along Interstate Highway 70 to its junction with U.S. Highway 30, thence along U.S. Highway 30 to its junction with Pennsylvania Highway 271, thence along Pennsylvania Highway 271 to its junction with Pennsylvania Highway 63, thence along Pennsylvania Highway 63 to its junction with U.S. Highway 22, thence along U.S. Highway 22 to its junction with U.S. Highway 522, thence along U.S. Highway 522 to its junction with U.S. Highway 15, thence along U.S. Highway 15 to its junction with Pennsylvania Highway 45, thence along Pennsylvania Highway 45 to its junction with U.S. Highway 11, thence along U.S. Highway 11 to its junction with Pennsylvania Highway 590, thence along Pennsylvania Highway 590 to its junction with U.S. Highway 6, thence along U.S. Highway 6 to the Pennsylvania-New York State line; (e) between points in Ohio, on the one hand, and, on the other, points in that part of South Dakota on and south of a line beginning at the South Dakota-Wyoming State line, thence along U.S. Highway 212 to its junction with South Dakota Highway 34, thence along South Dakota Highway 34 to its junction with Interstate Highway 90, thence along Interstate Highway 90 to its junction with U.S. Highway 14, thence along U.S. Highway 14 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with Interstate Highway 90, thence along Interstate Highway 90 to its junction with U.S. Highway 183, thence along U.S. Highway 183 to its junction with U.S. Highway 18, thence along U.S. Highway 18 to the South Dakota-Nebraska State line.

(f) Between points in South Dakota, on the one hand, and, on the other, points in that part of Indiana on and south of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 40 to its junction with Indiana Highway 46, thence along Indiana Highway 46 to its junction with Indiana Highway 37, thence along Indiana Highway 37 to its junction with U.S. Highway 150, thence along U.S. Highway 150 to the Indiana-Kentucky State line; (g) between points in Montana, on the one hand, and, on the other, points in that part of Indiana on and south of a line beginning at the Indiana-Ohio State line, thence along U.S. Highway 40 to its junction with U.S. Highway 421, thence along U.S. Highway 421 to its junction with Indiana Highway 29, thence along Indiana Highway 29 to its junction with U.S. Highway 24, thence along U.S. Highway 24 to the Indiana-Illinois State

line; (h) between points in that part of North Dakota on and west of a line beginning at the North Dakota-Montana State line, thence along U.S. Highway 2 to its junction with U.S. Highway 85, thence along U.S. Highway 85 to its junction with U.S. Highway 10, thence along U.S. Highway 10 to its junction with North Dakota Highway 22, thence along North Dakota Highway 22 to its junction with U.S. Highway 12, thence along U.S. Highway 12 to the North Dakota-South Dakota State line, on the one hand, and, on the other, points in that part of Ohio on and south of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 36 to its junction with U.S. Highway 25, thence along U.S. Highway 25 to its junction with Ohio Highway 47, thence along Ohio Highway 47 to its junction with Ohio Highway 4, thence along Ohio Highway 4 to its junction with Ohio Highway 95, thence along Ohio Highway 95 to its junction with U.S. Highway 42, thence along U.S. Highway 42 to its junction with Interstate Highway 71, thence along Interstate Highway 71 to its junction with U.S. Highway 224, thence along U.S. Highway 224 to its junction with Interstate Highway 76, thence along Interstate Highway 76 to its junction with Ohio Highway 44, thence along Ohio Highway 44 to its junction with Ohio Highway 5, thence along Ohio Highway 5 to its junction with Ohio Highway 82, thence along Ohio Highway 82 to the Ohio-Pennsylvania State line.

(i) Between points in that part of Indiana on and south of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 52 to its junction with Indiana Highway 26, thence along Indiana Highway 26 to its junction with Indiana Highway 29, thence along Indiana Highway 29 to its junction with Indiana Highway 28, thence along Indiana Highway 28 to its junction with Indiana Highway 13, thence along Indiana Highway 13 to its junction with Indiana Highway 32, thence along Indiana Highway 32 to its junction with Indiana Highway 67, thence along Indiana Highway 67 to its junction with Indiana Highway 3, thence along Indiana Highway 3 to its junction with Indiana Highway 38, thence along Indiana Highway 38 to its junction with U.S. Highway 39, thence along U.S. Highway 35 to the Indiana-Ohio State line, on the one hand, and, on the other, points in that part of South Dakota on and west of a line beginning at the South Dakota-North Dakota State line, thence along South Dakota Highway 63, to its junction with U.S. Highway 12, thence along U.S. Highway 12 to its junction with South Dakota Highway 47, thence along South Dakota Highway 47 to its junction with U.S. Highway 212, thence along U.S. Highway 212 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with Interstate Highway 90, thence along Interstate Highway 90 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with U.S. Highway 18, thence along U.S. Highway 18 to its junction with South Dakota Highway 73, thence along South Dakota Highway 73 to the South Dakota-Nebraska State line; (j) between points in that part of Indiana on and south of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 20 to its junction with U.S. Highway 27, thence along U.S. Highway 27 to its junction with U.S. Highway 24, thence along U.S. Highway 24 to the Indiana-Illinois State line, on the one hand, and, on the other, points in that part of South Dakota on and west of a line beginning at the South Dakota-Wyoming State line, thence along U.S. Highway 212 to its junction with South Dakota Highway 34, thence along South Dakota Highway 34 to its junction with Interstate Highway 90, thence along Interstate Highway 90 to its junction with U.S. Highway 16, thence along U.S. Highway 16 to its junction with South Dakota Highway 79, thence along South Dakota Highway 79 to its junction with U.S. Highway 385, thence along U.S. Highway 385 to the South Dakota-Nebraska State line.

(k) Between points in that part of Indiana on and south of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 136 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Ohio State line, on the one hand, and, on the other, points in that part of North Dakota on and west of a line beginning at the U.S.-Canada International Boundary line, thence along U.S. Highway 52 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with North Dakota Highway 23, thence along North Dakota Highway 23 to its junction with North Dakota Highway 22, thence along North Dakota Highway 22 to its juction with Interstate Highway 94, thence along Interstate Highway 94 to its junction with North Dakota Highway 8, thence along North Dakota Highway 8 to its junction with U.S. Highway 12, thence along U.S. Highway 12 to the North Dakota-South Dakota State line; (l) between points in that part of Indiana on and south of a line beginning at the Indiana-Michigan State line, thence along Indiana Highway 15 to its junction with U.S. Highway 20, thence along U.S. Highway 20 to its junction with Indiana Highway 19, thence along Indiana Highway 19 to its junction with U.S. Highway 6, thence along U.S. Highway 6 to its junction with U.S. Highway 35, thence along U.S. Highway 35 to its junction with Indiana Highway 10, thence along Indiana Highway 10 to the Indiana-Illinois State line, on the one hand, and, on the other, points in that part of Montana on and west of a line beginning at the U.S.-Canada International Boundary line, thence along Montana Highway 232 to its junction with U.S. Highway 87, thence along U.S. Highway 87 to its junction with Montana Highway 236, thence along Montana Highway 236 to its junction with U.S. Highway 191, thence along U.S. Highway 191 to its junction with U.S. Highway 12, thence along U.S. Highway 12 to its junction with Montana Highway 3, thence along Montana Highway 3 to its junction with Interstate Highway 90, thence along Interstate Highway 90 to its junction with U.S. Highway 310, thence along U.S. Highway 310 to the Montana-Wyoming State line.

(m) Between points in that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Ohio State line, thence along Pennsylvania Highway 68 to its junction with Pennsylvania Highway 60, thence along Pennsylvania Highway 60 to its junction with U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-New York State line, on the one hand, and, on the other, points in that part of North Dakota on and west of a line beginning at the U.S.-Canada International Boundary line, thence along U.S. Highway 52 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with North Dakota Highway 1804, thence along North Dakota Highway 1804 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with North Dakota Highway 11, thence along North Dakota Highway 11 to its junction with North Dakota Highway 2, thence along North Dakota Highway 3 to the North Dakota-South Dakota State line; (n) between points in that part of North Dakota on and west of North Dakota Highway 1, on the one hand, and, on the other, points in that part of Pennsylvania on and south of a line beginning at the Pennsylvania-West Virginia State line, thence along U.S. Highway 119 to its junction with U.S. Highway 40, thence along U.S. Highway 40 to its junction with Pennsylvania Highway 281, thence along Pennsylvania Highway 281 to its junction with Interstate Highway 76, thence along Interstate Highway 76 to its junction with U.S. Highway 22, thence along U.S. Highway 22 to the Pennsylvania-New Jersey State line.

(o) Between points in that part of Ohio on and south of a line beginning at the Indiana-Ohio State line, thence along U.S. Highway 36 to its junction with Interstate Highway 75, thence along Interstate Highway 75 to its junction with Ohio Highway 47, thence along Ohio Highway 47 to its junction with Ohio Highway 31, thence along Ohio Highway 31 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with Ohio Highway 3, thence along Ohio Highway 3 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with U.S. Highway 62, thence along U.S. Highway 62 to its junction with U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Pennsylvania State line, on the one hand, and, on the other, points in that part of South Dakota on and south of a line beginning at the South Dakota-North Dakota State line, thence along South Dakota Highway 45 to its junction with South Dakota Highway 10, thence along South Dakota Highway 10 to its junction with U.S. Highway 281, thence along U.S. Highway 281 to its junction with U.S. Highway 12, thence along U.S.

Highway 12 to its junction with South Dakota Highway 37, thence along South Dakota Highway 37 to its junction with South Dakota Highway 20, thence along South Dakota Highway 20 to its junction with Interstate Highway 29, thence along Interstate Highway 29 to its junction with U.S. Highway 14, thence along U.S. Highway 14 to the South Dakota-Minnesota State line.

(p) Between points in that part of North Dakota on and west of a line beginning at the U.S.-Canada International Boundary line, thence along U.S. Highway 52 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with North Dakota Highway 1804, thence along North Dakota Highway 1804 to its junction with U.S. Highway 83, thence along U.S. Highway 83 to its junction with North Dakota Highway 11, thence along North Dakota Highway 11 to its junction with North Dakota Highway 3, thence along North Dakota Highway 3 to the North Dakota-South Dakota State line, on the one hand, and, on the other, points in that part of Ohio on and south of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 36 to its junction with Ohio Highway 3, thence along Ohio Highway 3 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with Ohio Highway 151, thence along Ohio Highway 151 to its junction with Ohio Highway 212, thence along Ohio Highway 212 to its junction with Ohio Highway 164, thence along Ohio Highway 164 to its junction with Ohio Highway 39, thence along Ohio Highway 39 to its junction with U.S. Highway 30, thence along U.S. Highway 30 to its junction with Ohio Highway 39, thence along Ohio Highway 39 to the Ohio-Pennsylvania State line, restricted against the transportation of iron and steel and iron and steel articles, but not mining or contractors' machinery and equipment, originating at points in Indiana which are within the Chicago, Ill., commercial zone, as defined by the Commission. The purpose of this filing is to eliminate the gateways of points in Illinois and Kansas.

No. MC 95540 (Sub-No. E812), filed November 11, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned Goods*, from South Edmeston, N.Y., to those points in Arkansas on and south of a line beginning at the Arkansas-Missouri State line and extending along U. S. Highway 25, to its junction with U. S. Highway 67, thence along U. S. Highway 67 to its junction with U. S. Highway 63, thence along U. S. Highway 63 to its junction with U. S. Highway 62, thence along U. S. Highway 62 to its junction with Arkansas Highway 201, thence along Arkansas Highway 201 to the Arkansas-Missouri State line. Restricted to the transportation of traffic destined to points in the named destination State. The purpose of this filing is to eliminate the gateway of Griffin, Ga.

No. MC 95540 (Sub-No. E819), filed December 5, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potato products*, from Caribou, Maine, to points in Washington, Oregon, Idaho, Nevada, Utah, Wyoming, Colorado, and those points in Montana on and west of a line beginning at the Montana-Wyoming State line and extending along U.S. Highway 87 to its junction with U.S. Highway 2, thence along U. S. Highway 2 to its junction with Montana Highway 233, thence along Montana Highway 233 to the U.S.-Canada International Boundary line. The purpose of this filing is to eliminate the gateway of Dyersburg, Tenn.

No. MC 95540 (Sub-No. E823), filed December 1, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dairy products, dessert puddings, and salads*, in vehicles equipped with mechanical refrigeration, from La Fargeville, Arkport, and Binghamton, N.Y., to those points in Arkansas on and south of a line beginning at the Arkansas-Tennessee State line and extending along U.S. Highway 82 to its junction with U.S. Highway 65, thence along U.S. Highway 65 to its junction with U.S. Highway 270, thence along U.S. Highway 270 to its junction with U.S. Highway 70, thence along U.S. Highway 70 to the Arkansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Doraville, Ga.

No. MC 95540 (Sub-No. E824), filed December 1, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (Same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dairy products*, in vehicles equipped with mechanical refrigeration, from Binghamton, N.Y., to points in Texas. The purpose of this filing is to eliminate the gateway of Doraville, Ga.

No. MC 95540 (Sub-No. E825), filed December 1, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dairy products*, from La Fargeville and Arkport, N.Y., to those points in Texas on and south of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 183 to its junction with U.S. Highway 287, thence along U.S. Highway 287 to its junction with U.S. Highway 70, thence along U.S. Highway 70 to the Texas-New Mexico State line. The purpose of this filing is to eliminate the gateway of Doraville, Ga.

No. MC 95540 (Sub-No. E826), filed December 1, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods, and meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from South Edmeston, N.Y., to points in Alabama. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC 95540 (Sub-No. E828), filed November 29, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61, M.C.C. 209, and 766 (except hides and commodities in bulk), from Eau Claire, Wis., to those points in Georgia on and south of a line beginning at the Georgia-Florida State line and extending along Georgia Highway 91 to its junction with U.S. Highway 82, thence along U.S. Highway 82 to its junction with Georgia Highway 257, thence along U.S. Highway 257 to its junction with Interstate Highway 75, thence along Interstate Highway 75 to its junction with Georgia Highway 22, thence along Georgia Highway 22 to its junction with Georgia Highway 16, thence along Georgia Highway 16 to its junction with U.S. Highway 78, thence along U.S. Highway 78 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Orangeburg, S.C.

No. MC 107515 (Sub No. E121), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Prattsville, N.Y., to points in Missouri and that part of Indiana on and south of a line beginning at the Indiana-Ohio State line, thence along Indiana Highway 46 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Illinois-Indiana State line, that part of Illinois on and south of a line beginning at the Illinois-Indiana State line, thence along Illinois Highway 125 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Illinois Highway 101, thence along Illinois Highway 101 to junction Illinois Highway 94, thence along Illinois Highway 94 to junction U.S. Highway 136, thence along U.S. Highway 136 to the Mississipi River, and

that part of Iowa on and south of a line beginning at the Illinois-Iowa State line, thence along U.S. Highway 218 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Iowa-Missouri State line. The purpose of this filing is to eliminate the gateway of the plant site of Food Specialties of Kentucky, at Jefferson County, Ky.

No. MC 107515 (Sub-No. E209), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat by-products* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles and hides), from Dalhart, Tex., to points in Pennsylvania, Virginia, West Virginia, that part of Indiana on and east of a line beginning at the Michigan-Indiana State line, thence along Indiana Highway 327 to junction Interstate Highway 69, thence along Interstate Highway 69 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Indiana Highway 9, thence along Indiana Highway 9 to junction Indiana Highway 46, thence along Indiana Highway 46 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 66, thence along Indiana Highway 66 to junction Interstate Highway 94, thence along Interstate Highway 94 to the Indiana-Illinois State line, and that part of Michigan on and east of a line beginning at the Michigan-Indiana State line, thence along Interstate Highway 69 to junction Michigan Highway 50, thence along Michigan Highway 50 to junction Michigan Highway 99, thence along Michigan Highway 99 to junction Interstate Highway 96, thence along Interstate Highway 96 to junction Michigan Highway 52, thence along Michigan Highway 52 to junction Michigan Highway 46, thence along Michigan Highway 46 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction U.S. Highway 23, thence along U.S. Highway 23 to Lake Huron, restricted against the transportation of traffic originating at Nashville, Tenn.

(2) *Meats, meat products, and meat by-products* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from Galveston, Tex., to points in Indiana, Michigan, Pennsylvania, Virginia, West Virginia and that part of Illinois on and east of a line beginning at Illinois-Kentucky State line, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 127, thence along Illinois Highway 127 to junction U.S. Highway 68, thence along U.S. Highway 68 to junction Illinois Highway 104, thence along Illinois Highway 104 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Illinois Highway 9, thence along Illinois Highway 9 to the Illinois-Iowa State line, that part of Iowa on and east of a line beginning at the Minnesota-Iowa State line, thence along Iowa Highway 76 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Iowa Highway 86, thence along Iowa Highway 86 to junction Iowa Highway 38, thence along Iowa Highway 38 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Iowa Highway 99, thence along Iowa Highway 99 to the Mississippi River, that part of Wisconsin on and east of a line beginning at the Minnesota-Wisconsin State line, thence along Wisconsin Highway 54 to junction Wisconsin Highway 35, thence along Wisconsin Highway 35 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 53, thence along U.S. Highway 53 to the Wisconsin-Minnesota State line, restricted against the transportation of traffic originating at Nashville, Tenn.

(3) *Meats, meat products, and meat by-products and articles*, distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), (a) from Hereford, the plant site of Missouri Beef Packers, Inc., at Friona, and Plainview, Tex., to points in Pennsylvania, West Virginia, Virginia, points in the Lower Peninsula of Michigan, and that part of Indiana on and east of a line beginning at the Illinois-Indiana State line, thence along Indiana Highway 64 to junction Indiana Highway 57, thence along Indiana Highway 57 to junction Indiana Highway 67, thence along Indiana Highway 67 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 25, thence along Indiana Highway 25 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 20, thence along U.S. Highway 20 to Lake Michigan, and (b) from Amarillo, Tex., to points in Pennsylvania, Ohio, West Virginia, Virginia, the Lower Peninsula of Michigan, (except St. Joseph, Mich.), and that part of Michigan on and east of a line beginning at the Illinois-Indiana State line, thence along Indiana Highway 64 to junction Indiana Highway 57, thence along Indiana Highway 57 to junction Indiana Highway 67, thence along Indiana Highway 67 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 25, thence along Indiana Highway 25 to junction U.S. Highway 35, thence along Indiana Highway 35 to junction U.S. Highway 20, thence along U.S. Highway 20 to Lake Michigan.

(4) *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 18 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from San Antonio, Tex., to points in Indiana, Michigan, Pennsylvania, West Virginia, that part of Illinois on and east of a line beginning at the Illinois-Kentucky State line, thence along U.S. Highway 45 to junction Illinois Highway 146, thence along Illinois Highway 146 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Illinois Highway 127, thence along Illinois Highway 127 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Illinois Highway 104, thence along Illinois Highway 104 to junction Illinois Highway 78, thence along Illinois Highway 78 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Illinois Highway 17, thence along Illinois Highway 17 to junction Interstate Highway 74, thence junction Interstate Highway 74, thence along Interstate Highway 74 to junction Illinois Highway 84, thence along Illinois Highway 84 to the Illinois-Wisconsin State line, that part of Iowa on and east of a line beginning at the Iowa-Illinois State line, thence along U.S. Highway 67 to junction U.S. Highway 52, thence along U.S. Highway 52 to the Illinois-Iowa State line, and that part of Wisconsin on and east of a line beginning at the Illinois-Wisconsin State line, thence along Wisconsin Highway 84 to junction Wisconsin Highway 80, thence along Wisconsin Highway 80 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction Wisconsin Highway 26, thence along Wisconsin Highway 26 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction Wisconsin Highway 78, thence along Wisconsin Highway 78 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Wisconsin Highway 80, thence along Wisconsin Highway 80 to junction Wisconsin Highway 73, thence along Wisconsin Highway 73 to junction U.S. Highway 8, thence along U.S. Highway 8 to Wisconsin Highway 13, thence along Wisconsin Highway 13 to junction Wisconsin Highway 169, thence along Wisconsin Highway 169 to the Wisconsin-Michigan State line, restricted against the transportation of shipments originating at Nashville, Tenn.

(5) *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), and vehicles equipped with mechanical refrigeration, from Austin and Luling, Tex., to points in Indiana, Michigan, Pennsylvania, Virginia, West Virginia, that part of Iowa on and east of a line beginning at the Illinois-Kentucky State line,

thence along U.S. Highway 641 to junction Illinois Highway 1, thence along Illinois Highway 1 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction Illinois Highway 29, thence along Illinois Highway 29 to junction Interstate Highway 74, thence along Interstate Highway 74 to junction Illinois Highway 78, thence along Illinois Highway 78 to the Illinois-Wisconsin State line, in that part of Wisconsin on and east of a line beginning at the Illinois-Wisconsin State line, thence along Wisconsin Highway 78 to junction Wisconsin Highway 11, thence along Wisconsin Highway 11 to junction Wisconsin Highway 23, thence along Wisconsin Highway 23 to junction Wisconsin Highway 82, thence along Wisconsin Highway 82 to junction Wisconsin Highway 63, thence along Wisconsin Highway 63 to Lake Superior, restricted against the transportation of traffic originating at Nashville, Tenn.: (7) *Meats, meat products, and meat by-products*, as described in Section A of Appendix I the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from San Angelo, Tex., to points in Indiana, Michigan, West Virginia, Virginia, Pennsylvania, that part of Wisconsin on and east of U.S. Highway 51, and that part of Illinois on and east of U.S. Highway 51, restricted against the transportation originating at Nashville, Tenn.

(5) *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from San Benito, Tex., to points in Indiana, Michigan, Pennsylvania, Virginia, West Virginia, and that part of Illinois on and east of a line beginning at the Illinois-Kentucky State line, thence along U.S. Highway 45 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction Illinois Highway 127, thence along Illinois Highway 127 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Illinois Highway 104, thence along Illinois Highway 104 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Illinois Highway 9, thence along Illinois Highway 9 to the Illinois-Iowa State line, that part of Iowa on and east of a line beginning at the Minnesota-Iowa State line, thence along Iowa Highway 76 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Iowa Highway B6, thence along Iowa Highway B6 to junction Iowa Highway 38, thence along Iowa Highway 38 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Iowa Highway 99, thence along Iowa Highway 99 to the Illinois-Iowa State line, in that part of Wisconsin on and east of a line beginning at the Minnesota-Wisconsin State line, thence along Wisconsin Highway 54 to junction Wisconsin Highway 35, thence along Wisconsin Highway 35 to junction U.S. Highway 63, thence along Wisconsin Highway 63 to junction U.S. Highway 53, thence along U.S. Highway 53 to the Wisconsin-Minnesota State line, restricted against the transportation of traffic originating at Nashville, Tenn.

(8) *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from Abilene, Tex., to points in Pennsylvania, Virginia, West Virginia, Indiana, the Lower Peninsula of Michigan, that part of Wisconsin on and east of a line beginning at the Wisconsin-Michigan State line, thence along U.S. Highway 45 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to junction Wisconsin Highway 49, thence along Wisconsin Highway 49 to junction Wisconsin Highway 23, thence along Wisconsin Highway 23 to junction Wisconsin Highway 73, thence along Wisconsin Highway 73 to junction Wisconsin Highway 59, thence along Wisconsin Highway 59 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Wisconsin-Illinois State line, in that part of Illinois on and east of a line beginning at the Wisconsin-Illinois State line, thence along U.S. Highway 51 to junction Interstate Highway 74, thence along Interstate Highway 74 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 1, thence along Illinois Highway 1 to the Illinois-Kentucky State line, restricted against the transportation of traffic originating at Nashville, Tenn.

(9) *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from Dallas and Ft. Worth, Tex., to points in Pennsylvania, West Virginia, Virginia, the Lower Peninsula of Michigan, Indiana, and points in that part of Illinois on and east of a line beginning at the Illinois-Wisconsin State line, thence along U.S. Highway 14 to junction Illinois Highway 47, thence along Illinois Highway 47 to junction Interstate Highway 74, thence along Interstate Highway 74 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 1, thence along Illinois Highway 1 to the Kentucky-Illinois State line, and that part of Wisconsin on and east of a line beginning at the Michigan-Wisconsin State line, thence along U.S. Highway 45 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Wisconsin Highway 33, thence along Wisconsin Highway 33 to junction Wisconsin Highway 175, thence along Wisconsin Highway 175 to junction Wisconsin Highway 83, thence along Wisconsin Highway 83 to junction Wisconsin Highway 11, thence along Wisconsin Highway 11 to junction Wisconsin Highway 67, thence along Wisconsin Highway 67 to junction U.S. Highway 14, thence along U.S. Highway 14 to the Wisconsin-Illinois State line, restricted against the transportation of traffic originating at Nashville, Tenn.

(10) *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from Houston, Tex., and the plant site of Armour & Co., near Houston, Tex., to points in Michigan, Indiana, Pennsylvania, Virginia, West Virginia, and points in that part of Illinois on and east of a line beginning at the Illinois-Indiana State line, thence along Interstate Highway 64 to junction Illinois Highway 1, thence along Illinois Highway 1 to junction Illinois Highway 130, thence along Illinois Highway 130 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 32, thence along Illinois Highway 32 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Illinois Highway 121, thence along Illinois Highway 121 to junction Illinois Highway 83, thence along Illinois Highway 83 to junction Illinois Highway 77, thence along Illinois Highway 77 to junction Illinois Highway 64, thence along Illinois Highway 64 to junction Illinois Highway 84, thence along Illinois Highway 84 to the Illinois-Wisconsin State line, and that part of Wisconsin on and east of a line beginning at the Wisconsin-Iowa State line, thence along Wisconsin Highway 82 to junction Wisconsin Highway 35, thence along Wisconsin Highway 35 to junction U.S. Highway 53, thence along U.S. Highway 53 to junction Wisconsin Highway 70, thence along Wisconsin Highway 70 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction Wisconsin Highway 27, thence along Wisconsin Highway 27 to junction Wisconsin Highway 13, thence along Wisconsin Highway 13 to Lake Superior, restricted against the transportation of traffic originating at Nashville, Tenn.

(11) *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in Descriptions in *Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from Paris, Tex., to points in the Lower Peninsula of Michigan, Indiana, Pennsylvania, Virginia, West Virginia, and points in that part of Illinois on and east of a line beginning at the Illinois-Indiana State line, thence along Interstate Highway 64 to junction Illinois Highway 130, thence along Illinois Highway 130 to junction Illinois Highway 133, thence along Illinois Highway 133 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction Interstate Highway 74, thence along Interstate Highway 74 to junction Illinois Highway 47, thence

along Illinois Highway 47 to the Illinois-Wisconsin State line, and that part of Wisconsin on and east of a line beginning at the Illinois-Wisconsin State line, thence along Wisconsin Highway 140 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Wisconsin Highway 89, thence along Wisconsin Highway 89 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction Wisconsin Highway 60, thence along Wisconsin Highway 60 to junction Wisconsin Highway 26, thence along Wisconsin Highway 26 to junction Wisconsin Highway 49, thence along Wisconsin Highway 49 to junction Wisconsin Highway 54, thence along Wisconsin Highway 54 to junction U.S. Highway 45, thence along U.S. Highway 45 to the Michigan-Wisconsin State line, restricted against the transportation of traffic originating at Nashville, Tenn.

(12) *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from Mt. Pleasant, Tex., to points in Indiana, Michigan, West Virginia, Virginia, Pennsylvania, in that part of Illinois on and east of a line beginning at the Illinois-Kentucky State line, thence along Illinois Highway 13 to junction Illinois Highway 1, thence along Illinois Highway 1 to junction Illinois Highway 130, thence along Illinois Highway 130 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction Interstate Highway 74, thence along Interstate Highway 74 to junction Illinois Highway 47, thence along Illinois Highway 47 to junction Illinois Highway 17, thence along Illinois Highway 17 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Illinois-Wisconsin State line, in that part of Wisconsin on and east of a line beginning at the Illinois-Wisconsin State line, thence along U.S. Highway 51 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Wisconsin Highway 13, thence along Wisconsin Highway 13 to Lake Superior; (except Ashland), restricted against the transportation of traffic originating at Nashville, Tenn.

(13) *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from Mt. Pleasant, Tex., to points in Indiana, Michigan, West Virginia, Virginia, Pennsylvania, that part of Illinois on and east of a line beginning at the Illinois-Kentucky State line, thence along Illinois Highway 13 to junction Illinois Highway 1, thence along Illinois Highway 1 to junction Illinois Highway 130, thence along Illinois Highway 130 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction of U.S. Highway 45, thence along U.S. Highway 45 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction Interstate Highway 74, thence along Interstate Highway 74 to junction Illinois Highway 47, thence along Illinois Highway 47 to junction Illinois Highway 17, thence along Illinois Highway 17 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Illinois-Wisconsin State line, in that part of Wisconsin on and east of a line beginning at the Illinois-Wisconsin State line, thence along U.S. Highway 51 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Wisconsin Highway 13, thence along Wisconsin Highway 13 to Lake Superior (except Ashland), restricted against the transportation of traffic originating at Nashville, Tenn. The purpose of this filing is to eliminate the gateway of Odom's Sausage Co., at Madison, Tenn.

No. MC 107515 (Sub-No. E314), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33060. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen edible meats, and frozen meat products*, from the plant site of Iowa Beef Packers at or near Emporia, Kans., to the District of Columbia and points in that part of Maryland on and east of Interstate Highway 95, that part of Virginia on and east of a line beginning at the North Carolina-Virginia State line, thence along U.S. Highway 29 to junction U.S. Highway 211, thence along U.S. Highway 29/211 to the Virginia-District of Columbia Border line, that part of Delaware on and south of Interstate Highway 95, that part of New Jersey on and south of U.S. Highway 1, that part of New York on and south of U.S. Highway 1, that part of Connecticut on and east of a line beginning at the New York-Connecticut State line, thence along U.S. Highway 1 to junction Interstate Highway 91, thence along Interstate Highway 91 to the Connecticut-Massachusetts State line, and that part of Massachusetts on and east of Interstate Highway 91. The purpose of this filing is to eliminate the gateway of Rocky Mount, N.C.

No. MC 107515 (Sub-No. E264), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Cook, Will, Lake, and DuPage Counties, Ill., and Lake County, Ind., to points in that part of Arkansas on and south of a line beginning at the Arkansas-Mississippi State line, thence along U.S. Highway 49 to junction Arkansas Highway 1, thence along Arkansas Highway 1 to junction Arkansas Highway 54, thence along Arkansas Highway 54 to junction Arkansas Highway 83, thence along Arkansas Highway 83 to junction Arkansas Highway 4, thence along Arkansas Highway 4 to junction U.S. Highway 79, thence along U.S. Highway 79 to the Arkansas-Louisiana State line, and that part of Texas on and south of a line beginning at the Louisiana-Texas State line, thence along Interstate Highway 20 to junction Interstate Highway 635, thence along Interstate Highway 635 to junction U.S. Highway 175, thence along U.S. Highway 175 to Seagonville, thence along an unnumbered county highway to junction Interstate Highway 45, thence along Interstate Highway 45 to junction Texas Highway 93, thence along Texas Highway 93 to junction Texas Highway 813, thence along Texas Highway 813 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Texas Highway 171, thence along Texas Highway 171 to junction Interstate Highway 20, thence along Interstate Highway 20 to junction Interstate Highway 10, thence along Interstate Highway 10 to the Texas-New Mexico State line, restricted against the transportation of shipments destined to points in Florida. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC 107515 (Sub-No. E402), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (1) from points in that part of Illinois on and north of U.S. Highway 136, to the District of Columbia, and to points in Massachusetts, Connecticut, Rhode Island, Delaware, Maryland, New Jersey, New York, and that part of Pennsylvania on and north of a line beginning at the Pennsylvania-West Virginia State line, thence along Interstate Highway 70 to junction U.S. Highway 119, thence along U.S. Highway 119 to the Pennsylvania-West Virginia State line, (2) from points in that part of Illinois on and north of Interstate Highway 80 to points in West Virginia, (3) from points in that part of Illinois on and north of a line beginning at the Illinois-Indiana State line, thence along U.S. Highway 50 to junction Interstate Highway 57, thence along Interstate 57 to junction U.S. Highway 13, thence along U.S. Highway 13 to junction Illinois Highway 149, thence along Illinois Highway 149 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction Illinois Highway 51, thence along Illinois Highway 51 to the Illinois-Missouri State line, to the District of Columbia and to points in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Maryland, and Delaware. The purpose of this filing is to eliminate the gateway of Mendon, Mich.

No. MC 107515 (Sub-No. E404), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P. O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from Detroit, Suttons Bay, Iona, Hart, and Lucington, Mich., to points in that part of South Carolina on and east of a line beginning at the Atlantic Ocean, thence along U.S. Highway 52 to junction U.S. Highway 521, thence along U.S. Highway 521 to the South Carolina-North Carolina State line, and that part of North Carolina on and east of North Carolina Highway 49. The purpose of this filing is to eliminate the gateways of (1) Detroit, Mich., and (2) Columbus, Ohio.

No. MC 107515 (Sub-No. E420), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and cured meats*, from Augusta, Ga., to points in Minnesota, Iowa, Wisconsin, that part of Missouri on and north of a line beginning at the Missouri-Oklahoma State line, thence along U.S. Highway 60 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Interstate Highway 44, thence along Interstate Highway 44 to junction Missouri Highway 8, thence along Missouri Highway 8 to junction Missouri Highway 32, thence along Missouri Highway 32 to the Missouri-Illinois State line, that part of Indiana on and west of a line beginning at the Illinois-Indiana State line, thence along Interstate Highway 74 to junction Indiana Highway 63, thence along Indiana Highway 63 to Terre Haute, thence along Interstate Highway 70 to the Indiana-Illinois State line, and that part of Illinois on, north, and west of a line beginning at the Mississippi River, thence along Illinois Highway 150 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Illinois-Indiana State line, thence northerly along the Illinois-Indiana State line to junction Illinois Highway 1, thence along Illinois Highway 1 to junction U.S. Highways 12/20, thence along U.S. Highways 12/20 to junction Illinois Highway 50, thence along Illinois Highway 50 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Illinois Highway 140, thence along Illinois Highway 140 to Lake Michigan. The purpose of this filing is to eliminate the gateways of (1) Columbus, Ga., and (2) the plant site of Odom's Sausage Co., at Madison, Tenn.

No. MC 113843 (Sub-No. E911) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER October 23, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Moosic, Penn., to points in that part of New York on, south, and west of a line beginning at Lake Erie and extending along New York Highway 17 to junction U.S. Highway 15, thence along U.S. Highway 15 to the New York-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Elmira, New York. The purpose of this correction is to clarify the territorial description.

No. MC 114211 (Sub-No. E337), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Farm machinery and parts* thereof, restricted against the transportation of commodities which, because of size or weight, require the use of special equipment, except where such transportation is performed on ordinary vehicular equipment, and special equipment is provided for loading and unloading and the loading and unloading is performed by the consignor or the consignee, or both, and (B) *Self propelled farm machinery*, each article weighing 15,000 pounds or more, and *related farm machinery* and parts thereof, moving in connection therewith, restricted to the transportation of commodities on trailers, between points in Wyoming, on the one hand, and, on the other, points in that part of Missouri on and east of a line beginning at the Iowa-Missouri State line thence along U.S. Highway 63 to junction Missouri Highway 17, thence along Missouri Highway 17 to the Missouri-Arkansas State line. The purpose of this filing is to eliminate the gateways of Council Bluffs, Iowa and Omaha, Nebr.

No. MC 115331 (Sub-No. E9), (Correction), filed May 6, 1974, published in the FEDERAL REGISTER November 21, 1974. Applicant: TRUCK TRANSPORT INCORPORATED, 230 Saint Clair Avenue, East St. Louis, Illinois 62201. Applicant's representative: R. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lime* and limestone products as defined as chemicals, in bulk, in dump vehicles, from points in Ste. Genevieve and St. Francois Counties, Mo., to points in Iowa, Kansas, Ohio, Oklahoma, Minnesota, Wisconsin, South Dakota, Michigan, Nebraska, Colorado, Montana, North Dakota, and Wyoming. The purpose of this filing is to eliminate the gateways of Chicago and East St. Louis, Ill., Davenport, Iowa, and Hannibal and Kansas City, Mo. The purpose of this correction is to clarify the origination points in Missouri.

No. MC 115603 (Sub-No. E31), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products and machinery, materials, equipment, and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof; (a) between points in that part of Missouri on and north of a line beginning at the Missouri-Illinois State line and extending along U.S. Highway 50 to its junction with Missouri Highway 5, thence along Missouri Highway 5 to its junction with Missouri Highway 52, thence along Missouri Highway 52 to the Missouri-Kansas State line, on the one hand, and, on the other, points in that part of Arkansas on and east of a line beginning at the Arkansas-Louisiana State line and extending along Arkansas Highway 29 to its junction with Arkansas Highway 4, thence along Arkansas Highway 4 to its junction with Arkansas Highway 27, thence along Arkansas Highway 27 to its junction with U.S. Highway 270, thence along U.S. Highway 270 to unnumbered highway 5 miles west of Pencil Bluff, thence along unnumbered highway to its junction with Arkansas Highway 28, thence along Arkansas Highway 28 to Gravelly, thence along unnumbered highway to its junction with Arkansas Highway 80, thence along Arkansas Highway 80 to its junction with unnumbered highway 6 miles west of Ollo, thence along unnumbered highway to its junction with Arkansas Highway 23, thence along Arkansas Highway 23 to Cass, thence along unnumbered highway to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with U.S. Highway 62, thence along U.S. Highway 62 to the Arkansas-Oklahoma State line.

(b) Between points in that part of Missouri on and west of a line beginning at the Missouri-Oklahoma State line and extending along Interstate Highway 44 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with Missouri Highway 291, thence along Missouri Highway 291 to its junction with U.S. Highway 169, thence along U.S. Highway 169 to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with Missouri Highway 148, thence along Missouri Highway 148 to the Missouri-Iowa State line, on the one hand, and, on the other, points in Arkansas; (c) between points in that part of Missouri on and west of a line beginning at the Missouri-Oklahoma State line and extending along Interstate Highway 44 to its junction with U.S. Highway BYP 50, thence along U.S. Highway BYP 50, to the Missouri-Illinois

State line, on the one hand, and, on the other, points in that part of Arkansas on and west of a line beginning at the Arkansas-Louisiana State line and extending along U.S. Highway 71 to its junction with Interstate Highway 40, thence along Interstate Highway 40 to the Arkansas-Oklahoma State line; and (d) between points in Missouri, on the one hand, and, on the other, points in that part of Arkansas on and west of a line beginning at the Arkansas-Oklahoma State line and extending along Arkansas Highway 26 to Island, thence along a straight line to its junction with U.S. Highway 71, thence along U.S. Highway 71 to its junction with Arkansas Highway 282, thence along Arkansas Highway 282 to its junction with Arkansas Highway 348, thence along Arkansas Highway 348 to its junction with Arkansas Highway 59, thence along Arkansas Highway 59 to its junction with Arkansas Highway 220, thence along Arkansas Highway 220 to the Arkansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E38), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, serving, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main or trunk pipelines, between points in that part of North Dakota on and west of a line beginning at the United States-Canada International Boundary line and extending along North Dakota Highway 30 to Lehr, thence along unnumbered highway to Ashley, and thence along North Dakota Highway 3 to the North Dakota-South Dakota State line, on the one hand, and, on the other, points in that part of Arkansas on and south of a line beginning at the Arkansas-Oklahoma State line and extending along U.S. Highway 62 to Prairie Grove, thence along unnumbered highway to its junction at West Fork with U.S. Highway 71, thence along U.S. Highway 71 to its junction with unnumbered highway, thence along unnumbered highway through Winfrey to junction with Arkansas Highway 16, thence along Arkansas Highway 16 to its junction with unnumbered highway at Pettigrew, thence along unnumbered highway through Yale to its junction with Arkansas Highway 103, thence along Arkansas Highway 103 to its junction with Interstate Highway 40, thence along Interstate Highway 40 to its junction with U.S. Highway 64, thence along U.S. Highway 64 to the Arkansas-Tennessee State line. The purpose of this filing is to eliminate the gateways of points in Texas and Oklahoma.

No. MC 115603 (Sub-No. E32), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof (except the stringing or picking up of pipe in connection with main or trunk pipelines); (2) *Machinery, equipment, materials, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and

(3) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe*, incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in that part of Missouri on and west of a line beginning at the Missouri-Arkansas State line and extending along Missouri Highway 37 to its junction with U.S. Highway 60, thence along U.S. Highway 60 to its junction with Missouri Highway 39, thence along Missouri Highway 39 to its junction with Missouri Highway 123, thence along Missouri Highway 123 to its junction with U.S. Highway 54, thence along U.S. Highway 54 to its junction with Missouri Highway 83, thence along Missouri Highway 83 to its junction with U.S. Highway 65, thence along U.S. Highway 65 to its junction with Missouri Highway 52, thence along Missouri Highway 52 to its junction with Missouri Highway 127, thence along Missouri Highway 127 to its junction with U.S. Highway 50, thence along U.S. Highway 50 to its junction with Missouri Highway 13, thence along Missouri Highway 13 to its junction with Missouri Highway 20, thence along Missouri Highway 20 to its junction with Missouri Highway 23, thence along Missouri Highway 23 to its junction with U.S. Highway 24, thence along U.S. Highway 24 to its junction with U.S. Highway 65, thence along U.S. 65 to its junction with U.S. Highway 36, thence along U.S. Highway 36 to its junction with Missouri Highway 139, thence along Missouri Highway 139 to the Missouri-Iowa State line, on the one hand, and, on the other, points in that part of Mississippi on and south of a line beginning at the Mississippi-Alabama State line, and extending along Mississippi Highway 388 to its junction with U.S. Alternate Highway 45, thence north along U.S. Alternate Highway 45 to its junction with U.S. Highway 82, thence along U.S. Highway 82 to the Mississippi-Arkansas State line. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E33), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, between points in Nebraska, on the one hand, and, on the other, points in Arkansas. The purpose of this filing is to eliminate the gateway of points in Oklahoma.

No. MC 115603 (Sub-No. E42), filed May 30, 1974. Applicant: TURNER BROS. TRUCKING CO., INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: Jack E. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, between points in Wyoming, on the one hand, and, on the other, points in Arkansas. The purpose of this filing is to eliminate the gateways of points in Oklahoma and Nebraska.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-30672 Filed 12-26-74;8:45 am]

[Notice No. 661]

ASSIGNMENT OF HEARINGS

DECEMBER 23, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after December 27, 1974.

MC 138276 Sub 2, J&G Transport LTD., now assigned January 14, 1975 is postponed to February 19, 1975, at Olympia, Washington, in the 6th Floor Conference Room, Washington Utilities and Transportation Commission, Highways Licenses Bldg.

MC-C-9448, Main Line Hauling Co., Inc.—Investigation and Revocation of Certificates, now assigned January 14, 1975 at St. Louis, Mo., will be held in Moot Court Room, St. Louis University Law School, 3642 Lindell Blvd., instead of in Courtroom No. 2, 5th floor, U.S. Courthouse, 1114 Market St.

MC 41406 Sub 38, Artim Transportation System, Inc., now assigned January 16, 1975, at St. Louis, Mo., will be held in Moot Court Room, St. Louis University Law School, 3642 Lindell Blvd., instead of in Courtroom No. 2, 5th floor, U.S. Courthouse, 1114 Market St.

MC 217 Subs 16 & 17, Point Transfer, Inc.; MC 13569 Subs 27 & 30, The Lake Shore Motor Freight Co.; MC 14552 Subs 50 & 58, J. V. McNicholas Transfer Company and MC 138286 Sub 2, John F. Scott Co., Continued to January 13, 1975 (2 weeks), in Room 5812, U.S. Steel Corporation Bldg., 600 Grant St., Pittsburgh, Pa. I&S M No. Increased Rates, September 1974, Alaska Carriers Association, now assigned January 14, 1975 at Anchorage, Alaska will be held at the Alaska Transportation Commission, 10th Floor McKay Bldg. 338 Denali St.

MC 119777 Sub 266, Ligon Specialized Hauler, Inc., now assigned January 20, 1975, at Seattle, Wash. will be held on the 28th Floor, New Federal Bldg. 915 Second Ave.

MC 136564 Sub 1, Shippers Leasing, Inc., now assigned January 23, 1975, at San Francisco, Calif., will be held in Room 13025 450 Golden Gate Ave.

MC 82965 Sub 3, Amador Stage Lines, Inc., now assigned January 27, 1975, at San Francisco, Calif., will be held in Room 13025 450 Golden Gate Ave.

MC-F-12140, Glennon Transports, Inc.—Purchase—J. W. Ward Transfer, Inc., now assigned January 20, 1975, at St. Louis, will be held in Moot Court Room, St. Louis University Law School, 3642 Lindell Blvd., instead of in Courtroom No. 2, 5th floor, U.S. Courthouse, 1114 Market St.

MC 18302 Sub 2, State Moving & Storage, Inc., now being assigned March 17, 1975 (2 weeks), at New York, N.Y., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-30274 Filed 12-26-74;8:45 am]

[Notice No. 206]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

DECEMBER 27, 1974.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before January 16, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75468. By order of December 13, 1974, the Motor Carrier Board approved the transfer to Northwest Transport, a corporation, Chino, Calif., of the operating rights in Certificate No. MC-136257 issued May 10, 1973, to Joe Edgeworth, doing business as Edgeworth Trucking, Tulare, Calif., authorizing the transportation of expanded plastic articles, from Fullerton, La Mirada, Pico Rivera, Santa Ana, and Torrance, Calif., to points in Arizona, New Mexico, and Nevada. *Dual operations were approved.* Jerry Solomon Berger, 9454 Wilshire Boulevard, Beverly Hills, Calif. 90212, Attorneys for applicants.

No. MC-FC-75471. By order of December 13, 1974, the Motor Carrier Board approved the transfer to Smith's Tank Service Corp., Philadelphia, Pa., of the operating rights in Certificate No. MC-29734 issued May 19, 1971, to Joseph H. Smith and William H. Smith, a partnership, doing business as Joseph H. Smith & Company, Philadelphia, Pa., authorizing the transportation of tallow and inedible animal grease, in tank vehicles, oil, in containers, empty oil containers, tallow, paper boxes, sugar, corn syrup, pineapples and pineapple juice, stationary wash tubs and drain boards, groceries and canned goods, between specified points in New York, New Jersey, Delaware, Pennsylvania, Maryland, and the District of Columbia. Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102, attorney for applicants.

No. MC-FC-75527. By order of December 12, 1974, the Motor Carrier Board approved the transfer to Willett Motor Coach Co., a corporation, Chicago, Ill., of the operating rights in Certificate No. MC-16073 issued April 24, 1942, to Willett Motor Coach Company, a corporation, Chicago, Ill., authorizing the transportation of passenger and their baggage, in charter operations, from Chicago, Ill., and points within 50 miles thereof, to points in Illinois, Indiana, Wisconsin, Michigan, Iowa, Kentucky, Missouri, Pennsylvania, Ohio, Kansas, South Dakota, New Jersey, Maryland, New York, and the District of Columbia. Daniel J. Sweeney, 1750 Pennsylvania Avenue NW., Washington, D.C. 20006, attorney for applicants.

No. MC-FC-75442. By order entered December 11, 1974, the Motor Carrier Board approved the transfer to V D M Van & Storage Company, Inc., Poughkeepsie, N.Y., of the operating rights set forth in Certificate No. MC-70550 (Sub-No. 2), issued March 11, 1952, to James R. Vandemark, doing business as Pioneer Van & Storage, Poughkeepsie, N.Y., authorizing the transportation of household goods, between Wappingers Falls, N.Y., and points within 12 miles of Wappingers Falls, on the one hand, and, on the other, points in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. Carl S. Wolfson, 11 Market St., Poughkeepsie, N.Y., attorney for applicants.

No. MC-FC-75553. By order of December 10, 1974 the Motor Carrier Board approved the transfer to Boonton Transport, a corporation, Butler, N.J., of the operating rights in Certificate No. MC-96098 issued September 12, 1958 to James A. Smith & Son, Inc., Newton, N.J., authorizing the transportation of passengers and their baggage, in charter service, and in special operations, from a specified area of New Jersey to specified points and areas in New York, Virginia, Pennsylvania, and the District of Columbia, and return. Edward F. Bowes, 744 Broad St., Newark, N.J. 07102, attorney for applicants.

No. MC-FC-75556. By order entered 12.11.74 the Motor Carrier Board approved the transfer to Red Arrow Trucking Co., Belleville, N.J., of that portion of the operating rights set forth in Certificate No. MC-62512, issued by the Commission November 15, 1949, to J. De Falco Trucking Co., Inc., Newark, N.J., authorizing the transportation of various specified commodities between New York, N.Y., on the one hand, and, on the other, points in Union, Essex, Hudson, Bergen, and Passaic Counties, N.J.; and general commodities, with the usual exceptions, between points in the New York, N.Y. Commercial Zone, on the one hand, and, on the other, points in Bergen, Essex, Ocean, Hudson, Monmouth, Middlesex, Morris, Passaic, Somerset, Union, and Sussex Counties, N.J. A., David Millner, 744 Broad St., Newark, N.J. 07102, and Bernard J. Flynn, York-Flynn Building, East Blackwell St., Dover, N.J. 07801, attorneys for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-30273 Filed 12-26-74;8:45 am]

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PART II



COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

■

TEXTILE AND APPAREL CATEGORIES

Correlation With Tariff Schedules of the U.S. Annotated

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COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

TEXTILE AND APPAREL CATEGORIES

Correlation With Tariff Schedules of United States Annotated

There is published below a list of the Tariff Schedules of the United States Annotated numbers specifying changes in the arrangement of the cotton, wool, and man-made fiber categories used by the United States in administering the textile trade agreements program. A full description of the textile and apparel products falling within each of the cotton, wool, and man-made fiber categories may be obtained by using the Tariff Schedules of the United States Annotated which also provides category placement for the item numbers covered by the program. The list of Tariff Schedules of the United States Annotated numbers published in the FEDERAL REGISTER on January 25, 1974 (39 FR 3430) is hereby amended effective January 1, 1975.

The complete, revised Correlation will appear in the FEDERAL REGISTER in early January 1975.

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

LIST OF THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED NUMBERS SPECIFYING CHANGES IN THE ARRANGEMENT OF TEXTILE CATEGORIES USED BY THE UNITED STATES IN ADMINISTERING THE TEXTILE TRADE AGREEMENTS PROGRAM

Cat.	Description	Origin [1] TSUSA	Current [1] TSUSA
	TOWEL, [illegible]		
39	Dish towels with fringe, ornamented	[illegible]	[illegible].7815
	GLOVES AND MITTENS—OF OTHER FIBER, CONTAINING COTTON		
39	Ornamented: Made from preexisting machine knit or woven fabric:		
	Woven	704.0870	704.0855
		704.0880	
		704.0890	
	Not woven	704.1070	704.1055
		704.1080	
		704.1090	
	Other	704.1570	704.1555
		704.1580	
		704.1590	
	Not ornamented: Made from preexisting machine knit or woven fabric:		
	Woven	704.4570	704.4555
		704.4580	
		704.4590	
	Not woven	704.4570	704.4555
		704.4580	
		704.4590	
	Other	704.5070	704.5055
		704.5080	
		704.5090	
	SWEATERS AND CARDIGANS—WOMEN'S, GIRLS' AND INFANTS'		
44	Of vegetable fiber, containing cotton	[illegible]	[illegible].3016
		382.3970	
		382.3990	
	Of silk, containing cotton	[illegible].3917	[illegible].3913
		382.3963	
		[illegible]	
	COATS, OTHER, NOT KNIT—OF VEGETABLE FIBER, CONTAINING COTTON		
40	Men's and boys':		
	Suit-type coats, including sports coats and jackets	[illegible].5110	[illegible].5104
		380.5150	
		[illegible].5185	
	Other separate coats	380.5145	[illegible].5106
		380.5156	
		380.5195	
	Women's, girls' and infants'	[illegible].4240	[illegible].4206
		[illegible].4250	
		382.4270	
	TROUSERS, SLACKS AND SHORTS (OUTER) MEN'S AND BOYS.		
59	Of vegetable fiber, containing cotton	380.5125	[illegible].5104
		[illegible].5175	
		[illegible].5185	
	TROUSERS, SLACKS AND SHORTS (OUTER) WOMEN'S, GIRLS, AND INFANTS		
51	Of vegetable fiber, containing cotton	382.4205	[illegible].4204
		[illegible].4250	
		382.4290	
	Of silk, containing cotton	[illegible].7205	[illegible].7215
		[illegible].7245	
		[illegible].7265	
	[illegible]		
59	Of vegetable fiber, containing cotton	[illegible].4205	[illegible].4204
		382.4250	
		[illegible].4270	
	Of silk, containing cotton	[illegible].7205	[illegible].7204
		[illegible].7245	
		382.7270	

LIST OF THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED NUMBERS SPECIFYING CHANGES IN THE ARRANGEMENT OF TEXTILE CATEGORIES USED BY THE UNITED STATES IN ADMINISTERING THE TEXTILE TRADE AGREEMENTS PROGRAM—Continued

Cat.	Description	Origin [1] TSUSA	Current [1] TSUSA
	DRESSES, NOT KNIT		
59	Of vegetable fiber, containing cotton	382.4215	382.4212
		382.4260	
		382.4290	
	Of silk, containing cotton	382.7210	382.7206
		382.7250	
		382.7270	
	PAJAMAS AND OTHER NIGHTWEAR		
60	Of silk, containing cotton	382.7225	382.7214
		382.7237	
		382.7267	
	WEARING APPAREL, NOT, N.E.S.		
	Men's and boys':		
	Ornamented:		
69	Of other fiber, containing cotton	380.0505	380.0501
		380.0515	
		380.0520	
	Not ornamented:		
	Of vegetable fiber, containing cotton	380.4510	380.4505
		380.4530	
		380.4560	
	Of silk, containing cotton	380.7210	380.7205
		380.7220	
		380.7230	
	Women's, girls' and infants':		
	Ornamented:		
	Of other fiber, containing cotton	382.0515	382.0509
		382.0525	
		382.0535	
	Not ornamented:		
	Of vegetable fiber, containing cotton:		
	Blouses, waists and shirts	382.3905	382.3904
		382.3950	
		382.3990	
	Dresses	382.3915	382.3908
		382.3960	
		382.3990	
	Skirts	382.3920	382.3911
		382.3960	
		382.3990	
	Trousers, slacks and shorts	382.3925	382.3923
		382.3960	
		382.3990	
	Other	382.3940	382.3936
		382.3965	
		382.3990	
	Of silk, containing cotton:		
	Blouses, waists, shirts	382.6905	382.6904
		382.6945	
		382.6973	
	Dresses	382.6910	382.6908
		382.6960	
		382.6977	
	Trousers, slacks and shorts	382.6920	382.6916
		382.6960	
		382.6980	
	Other	382.6935	382.6932
		382.6967	
		382.6987	
	WEARING APPAREL, NOT KNIT, N.E.S.		
	Men's and boys':		
	Ornamented:		
	Of other fiber, containing cotton	380.0545	380.0541
		380.0555	
		380.0560	
	Not ornamented:		
	Vest:		
	Valued not over $2 each	380.3200	380.3205
	Valued over $2 each	380.3400	380.3405
	Other:		
	Of vegetable fiber, containing cotton:		
	Shirts	380.5125	380.5112
		380.5165	
		380.5185	
	Women's, girls' and infants':		
	Not ornamented:		
	Vests:		
	Valued not over $2 each	382.3700	382.3705
	Valued over $2 each	382.3900	382.3905
	Other:		
	Of vegetable fiber, containing cotton:		
	Skirts	382.4250	382.4218
		382.4265	
		382.4290	
	Suits	382.4225	382.4208
		382.4275	
		382.4290	
	Other	382.4240	382.4206
		382.4265	
		382.4290	
	Of silk, containing cotton:		
	Dressing gowns, bathrobes, Etc	382.7215	382.7212
		382.7255	
		382.7285	
	Other	382.7220	382.7202
		382.7267	
		382.7287	

LIST OF THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED NUMBERS SPECIFYING CHANGES IN THE ARRANGEMENT OF TEXTILE CATEGORIES USED BY THE UNITED STATES IN ADMINISTERING THE TEXTILE TRADE AGREEMENTS PROGRAM—Continued

Cat.	Description	Origin [1] TSUSA	Current [1] TSUSA
	WEARING APPAREL, NOT KNIT, N.S.S.		
	Men's and boys': Not ornamented:		
	Of vegetable fiber, containing cotton:		
	Suits	[illegible]	[illegible]
		380.5170	
	Other	[illegible]	[illegible]
		380.5180	
		[illegible]	
	Of silk, containing cotton	380.7510	380.7505
		380.7520	
		380.7530	
	Of other fiber, containing cotton	380.9010	380.9005
		380.9020	
		380.9030	
	Women's, girls' and misses':		
	Ornamented:		
	Of other fiber, containing cotton	382.0545	382.0504
		382.0565	
		382.0585	
	Not ornamented:		
	Of other, containing cotton	[illegible]	382.0705
		382.0720	
		382.0730	
	ALL OTHER COTTON [illegible]		
	Fabrics:		
	Knit:		
64	Of vegetable fiber, containing cotton	345.1070	345.1005
		345.1080	
		[illegible]	
	Of silk, containing cotton	345.3510	345.3505
		[illegible]	
		345.3530	
	Pile:		
	Of vegetable fiber, containing cotton	[illegible]	345.5005
		345.5030	
		345.5050	
	Of silk, containing cotton	345.5610	345.5605
		345.5620	
		345.5630	
	Other fabrics:		
	Of vegetable fiber, containing cotton:		
	Woven	350.2025	350.2021
		350.2030	
		350.2035	
	Knit	350.2045	350.2041
		350.2050	
		350.2055	
	Lace or net sheets and pillowcases:		
	Pillowcases	360.0160	[illegible]
	Sheets		[illegible]
	Handmade lace furnishings: Valued not over $30 per pound	360.0000	[illegible]
	Other net furnishings, other than dish towels	360.7520	
	Ornamented:		
	Wall hangings		360.7525
	Other		360.7505
	Not ornamented: Other (not knit, not pile or tufted):		
	Plain woven	360.7720	360.7725
	Other	360.7960	
	Wall hangings		360.7925
	Other		360.7905
	PILE AND TUFTED FABRICS		
229	Of vegetable fiber, containing wool	[illegible]	845.3013
	Of silk, containing wool	845.5410	845.3013
	KNIT FABRICS, IN THE PIECE		
118	Of vegetable fiber, containing wool	845.1070	845.1075
	Of silk, containing wool	845.[illegible]	845.3013
	GLOVES AND MITTENS		
	Ornamented: Of vegetable fiber, containing wool: Made from pre-existing machine knit or woven fabrics:		
118	Woven	704.0570	704.[illegible]
	Knit	704.1070	704.1065
	Other	704.1570	704.1565
	Not ornamented: Of vegetable fiber, containing wool: Made from pre-existing machine knit or woven fabrics:		
	Woven	704.4070	704.4065
	Knit	704.4570	704.4565
	Other	704.5070	704.5065

LIST OF THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED NUMBERS SPECIFYING CHANGES IN THE ARRANGEMENT OF TEXTILE CATEGORIES USED BY THE UNITED STATES IN ADMINISTERING THE TEXTILE TRADE AGREEMENTS PROGRAM—Continued

Cat.	Description	Origin [1] TSUSA	Current [1] TSUSA
	KNIT WEARING APPAREL, N.E.S., VALUED OVER $6 PER POUND		
117	Men's and boys':		
	Ornamented:		
	Of other fiber, containing wool	380.0505	380.0505
	Not ornamented:		
	Of vegetable fiber, containing wool	380.4510	380.4515
	Of silk, containing wool	380.7210	380.7215
	Women's, girls' and infants':		
	Ornamented:		
	Of other fiber, containing wool	382.0515	382.0519
	Not ornamented:		
	Of vegetable fiber, containing wool:		
	Blouses, waists and shirts	382.3905	382.3934
	Dresses	382.3915	382.3938
	Sweaters	382.3930	382.3946
	Other	382.3940	382.3956
	Of silk, containing wool:		
	Blouses, waists and shirts	382.6905	382.6934
	Dresses	382.6910	382.6938
	Sweaters	382.6917	382.6942
	Other	382.6935	382.6943
	MEN'S AND BOYS' SUITS, NOT KNIT		
180	Of vegetable fiber, containing wool	380.5130	380.5144
	MEN'S AND BOYS' OUTER COATS, NOT KNIT		
181	Of vegetable fiber, containing cotton:		
	Suit-type coats, including suit-type jackets	380.5110	380.5134
	Other separate coats	380.5115	380.5138
	WOMEN'S, MISSES AND CHILDRENS' COATS AND SUITS		
186	Of vegetable fiber, containing wool:		
	Coats	383.4210	383.4238
	Suits	383.4225	383.4259
	WOMEN'S, MISSES AND CHILDREN'S SEPARATE SKIRTS		
187	Of vegetable fiber, containing wool:		
	Knit	382.3930	382.3943
	Not knit	382.4220	382.4246
	TROUSERS, SLACKS AND SHORTS		
184	Men's and boys':		
	Of vegetable fiber, containing wool	380.5125	380.5154
	Women's, girls' and infants':		
	Of vegetable fiber, containing wool:		
	Knit	382.3935	382.3943
	Not knit	382.4235	382.4256
	Of silk, containing wool:		
	Knit	382.6930	382.6958
	Not knit	382.7230	382.7258
	ARTICLES OF WEARING APPAREL, N.E.S.		
	Men's and boys':		
185	Ornamented:		
	Of vegetable fiber, containing wool	380.0545	380.0546
	Not ornamented:		
	Of vegetable fiber, containing wool:		
	Shirts	380.5125	380.5147
	Other	380.5145	380.5155
	Of silk, containing wool	380.7510	380.7515
	Of other fiber, containing wool	380.9010	380.9015
	Women's, girls' and infants':		
	Ornamented:		
	Of other fiber, containing wool	382.0545	382.0548
	Not ornamented:		
	Of vegetable fiber, containing wool:		
	Blouses, waists and shirts	382.4205	382.4234
	Dresses	382.4215	382.4243
	Other	382.4240	382.4263
	Of silk, containing wool:		
	Blouses, waists and shirts	382.7205	382.7234
	Dresses	382.7210	382.7238
	Dressing gowns, bathrobes, etc.	382.7215	382.7253
	Pajamas and other nightwear	382.7225	382.7254
	Other	382.7235	382.7263
	Of other fiber, containing wool	382.9710	382.9715
	LACE OR NET ARTICLES, INCL. VEILING		
	Other furnishings, ornamented:		
196	Wall hangings	365.8540	365.8525
	Other		365.8530
	MISC. WOOL MANUFACTURES		
	Textile fabrics:		
	Of vegetable fiber, containing wool:		
188	Woven	359.2025	359.2026
	Knit	359.2045	359.2046
	Other furnishings:		
	Wall hangings	367.3000	367.3025
	Other		367.3030

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LIST OF THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED NUMBERS SPECIFYING CHANGES IN THE ARRANGEMENT OF TEXTILE CATEGORIES USED BY THE UNITED STATES IN ADMINISTERING THE TEXTILE TRADE AGREEMENTS PROGRAM—Continued

Cat.	Description	Origin [1] TSUSA	Current [1] TSUSA
	TEXTURED YARNS		
	Singles:		
	Not over $1 per pound:		
200	Polyamide	310.0115	310.0108
	Polyester		310.0110
	Other		310.0112
	Over $1 per pound:		
	Polyamide	310.0215	310.0208
	Polyester		310.0210
	Other		310.0212
	Plied:		
	Valued over $1 per pound:		
	Polyamide	310.1115	310.1108
	Polyester		310.1110
	Other		310.1112
	YARN, WHOLLY OF CONTINUOUS FILAMENT, OTHER		
	Singles:		
	With twist not over 20 turns per inch:		
	Not over $1 per pound: wholly non-cellulosic:		
202	Polyamide	310.0145	310.0140
	Polyester		310.0150
	Other		310.0152
	Over $1 per pound: wholly non-cellulosic:		
	Polyamide	310.0245	310.0240
	Polyester		310.0250
	Other		310.0252
	WOVEN FABRICS, OTHER		
	Of silk, containing man-made fiber:		
	Not jacquard figured:		
210	Not degummed, not bleached or colored	337.6005	337.6005
	Degummed, bleached or colored	337.7005	337.7005
	Jacquard figured:		
	Not degummed, not bleached or colored	337.8005	337.8005
	Degummed, bleached or colored	337.9005	337.9005
	Of other:		
	Suitable for making typewriter ribbon cloth:		
	Slit, with fast edges	338.3012	338.3014
	Other		338.3016
	KNIT FABRICS		
211	Of vegetable fiber, containing man-made fiber	345.1080	345.1085
	Of silk, containing man-made fiber	345.3520	345.3525
	PILE AND TUFTED FABRICS		
	Pile:		
212	Of vegetable fiber, containing man-made fiber	346.5020	346.5025
	Of silk, containing man-made fiber	346.5620	346.5625
	UTILITY FABRICS		
	Of vegetable fiber, containing man-made fiber:		
213	Woven	359.2080	359.2081
	Knit	359.2060	359.2061
	GLOVES & MITTENS, KNIT		
	Ornamented: Of vegetable fiber, containing man-made fiber:		
	Made from a pre-existing machine knit or woven fabric:		
214	Woven	704.0360	704.0374
	Not woven	704.1060	704.1074
	Other	704.1560	704.1574
	Not ornamented: Of vegetable fiber, containing man-made fiber:		
	Made from pre-existing fabric:		
	Woven	704.4060	704.4074
	Not woven	704.4560	704.4574
	Other	704.5060	704.5074
	DRESSES, KNIT		
218	Of vegetable fiber, containing man-made fiber	382.3940	382.3945
	Of silk, containing man-made fiber	382.6950	382.6948
	SHIRTS, OTHER (INCL. BLOUSES) KNIT		
219	Of vegetable fiber, containing man-made fiber	382.3950	382.3954
	Of silk, containing man-made fiber	382.6945	382.6944
	SKIRTS, KNIT		
220	Of vegetable fiber, containing man-made fiber	382.3965	382.3971
	SWEATERS AND CARDIGANS, KNIT		
	Women's, girls' and infants':		
221	Ornamented	384.0450	384.0459
	Not ornamented:		
	Of vegetable fiber, containing man-made fiber	382.3070	382.3076
	Of silk containing man-made fiber	382.6963	382.6967
	Of man-made	382.7871	382.7878

LIST OF THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED NUMBERS SPECIFYING CHANGES IN THE ARRANGEMENT OF TEXTILE CATEGORIES USED BY THE UNITED STATES IN ADMINISTERING THE TEXTILE TRADE AGREEMENTS PROGRAM—Continued

Cat.	Description	Origin [1] TSUSA	Current [1] TSUSA
	TROUSERS, SLACKS AND SHORTS		
	Women's, girls' and infants':		
348	Ornamented	382.0457	382.0454
	Not ornamented:		
	Of vegetable fiber, containing man-made fiber	382.3060	382-3062
	Of silk, containing man-made fiber	382.0466	382.0[illegible]
	Of man-made fiber	382.7560	382.7[illegible]
	OTHER WEARING APPAREL		
	Men's and boys':		
314	Ornamented: of other fiber, containing man-made	380.0515	380.0516
	Not ornamented:		
	Of vegetable fiber, containing man-made	380.4520	380.4525
	Of silk, containing man-made	380.7220	380.7225
	Women's, girls' and infants':		
	Ornamented:		
	Infants' bootee sets	382.0462	382.0456
	Other	382.0457	382.0458
		382.0459	
	Of other fiber, containing man-made	382.0520	382.0527
	Not ornamented:		
	Of vegetable fiber, containing man-made	382.3965	382.3966
	Of silk, containing man-made	382.0967	382.0962
	Of man-made, other:		
	Infants' bootee sets	382.7871	382.7860
	Other	382.7880	382.7894
		382.7891	
	BLOUSES, NOT KNIT		
	Not ornamented:		
338	Of vegetable fiber, containing man-made	382.4250	382.4264
	Of silk, containing man-made	382.7240	382.7244
	COATS, NOT KNIT		
	Not ornamented:		
	Men's and boys': Of vegetable fiber, containing man-made:		
219	Suit-type coats, incl. suit-type jackets	380.5150	380.5164
	Other separate coats	380.5155	380.5168
	Women's, girls' & infants': Of vegetable fiber containing man-made	382.4255	382.4266
	DRESSES, NOT KNIT		
	Not ornamented:		
220	Of vegetable fiber, containing man-made	382.4260	382.4272
	Of silk, containing man-made	382.7250	382.7248
	DRESSING GOWNS, INCL. BATHROBES, BEACHROBES		
221	Women's, girls' & infants': Not ornamented: Of silk, containing man-made	382.7256	382.7252
	NAIGWAI AND OTHER UNDERWEAR		
222	Women's, girls' and infants': Not ornamented: Of silk, containing man-made	382.7257	382.7254
	SHIRTS, OTHER, NOT KNIT		
226	Not ornamented: Of vegetable fiber, containing man-made	380.5165	380.5172
	SHIRTS, NOT KNIT		
239	Not ornamented: Of vegetable fiber, containing man-made	382.4264	382.4276
	SUITS, NOT KNIT		
	Not ornamented: Of vegetable fiber containing man-made:		
237	Men's and boys'	380.5170	380.5176
	Women's, girls' and infants'	382.4274	382.4282
	TROUSERS, SLACKS, & SHORTS		
236	Mens and boys': Not ornamented: Of vegetable fiber, containing man-made	380.5175	380.5184
	Women's, girls' and infants': not ornamented:		
	Of vegetable fiber, containing man-made	382.4280	382.4286
	Of silk, containing man-made	382.7265	382.7256
	OTHER WEARING APPAREL, NOT KNIT		
	Men's and boys':		
240	Ornamented: Of silk, containing man-made	380.0555	380.0556
	Not ornamented:		
	Of vegetable fiber, containing man-made	380.5180	380.5188
	Of silk, containing man-made	380.7250	380.7525
	Of other fiber, containing man-made	380.9020	380.9025
	Women's, girls' and infants':		
	Ornamented: Of other fiber, containing man-made	382.0565	382.0572
	Not ornamented:		
	Of vegetable fiber, containing man-made	382.4285	382.4292
	Of silk, containing man-made	382.7267	382.7262
	Of other fiber, containing man-made	382.8720	382.8725
	OTHER FURNISHINGS		
	Lace or net bedding: Ornamented:		
242	Blankets	363.2560	363.2562
	Bedspreads		363.2564
	Other		363.2566
	Other furnishings, made on a lace, net or knitting machine:		
	Ornamented:		
	Wall hangings	365.6560	365.6565
	Other		365.6580
	Not ornamented: Other:		
	Wall hangings	367.6000	367.6025
	Other		367.6094

[1] Origin of TSUSA numbers transferred in part or whole to current TSUSA numbers.

[FR Doc.74-30092 Filed 12-26-74;8:45 am]

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FRIDAY, DECEMBER 27, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 250

PART III

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions, Modifications and Supersedeas Decisions

XUM

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payment since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

New Mexico	AR–1061
Oklahoma	AR–93

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State:

Illinois:	
AR–3055	Aug. 2, 1974
Indiana:	
AR–3081	Aug. 13, 1974
AR–3080; AR–3084; AR–3087; AR–3088; AR–3089; AR–3091.	Aug. 23, 1974
Kentucky:	
AR–4054	Nov. 8, 1974
Minnesota:	
AR–3053	July 12, 1974
Mississippi:	
AR–4041	Sept. 27, 1974
Nebraska:	
AR–77	Nov. 15, 1974
New York:	
AQ–2113	May 3, 1974
Oklahoma:	
AR–80	Sept. 22, 1974
AR–81	Nov. 22, 1974
Oregon:	
AR–1054	Dec. 13, 1974
Pennsylvania:	
AQ–2070	Mar. 15, 1974
AQ–2085	Apr. 19, 1974
AQ–2121	May 24, 1974
AR–2008	July 26, 1974
AR–2027; AR–2030; AR–2037; AR–2045.	Aug. 30, 1974
AR–2036	Sept. 20, 1974
AR–2045; AR–2046	Oct. 18, 1974
AR–2035	Nov. 15, 1974
Washington:	
AR–1051	Dec. 6, 1974
West Virginia:	
AR–2068	Oct. 4, 1974

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decision being superseded:

Arizona:	
AQ–1086(AR–1060)	Feb. 22, 1974
Florida:	
AQ–4067(AR–4068)	Feb. 8, 1974
Georgia:	
AQ–2039(AR–2100)	Jan. 25, 1974
Maryland:	
AQ–2039(AR–2100)	Do.
Nebraska:	
AR–13(AR–94)	Aug. 16, 1974
AR–87(AR–92)	Dec. 13, 1974
New York:	
AQ–2107(AR–2101)	Apr. 26, 1974
AR–2020(AR–2097)	Aug. 16, 1974
North Carolina:	
AQ–2039(AR–2100)	Jan. 25, 1974
Pennsylvania:	
AQ–2042(AR–2099)	Feb. 8, 1974
AQ–2123(AR–2098)	May 31, 1974
South Carolina:	
AQ–2039(AR–2100)	Jan. 25, 1974
Texas:	
AR–86(AR–91)	Dec. 13, 1974
Virginia:	
AQ–2039(AR–2100)	Jan. 25, 1974
Washington, D.C.:	
AQ–2039(AR–2100)	Do.

Signed at Washington, D.C. this 20th day of December 1974.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

NEW DECISION

STATE: New Mexico

COUNTIES: San Juan and McKinley (Navajo Indian Reservation Only)

DECISION NUMBER: AR-1061

DATE: Date of Publication

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos Workers	$7.50	.50	.72		.03
Bricklayers	8.52	.38	.40		.02
Carpenters:					
Dwelling houses and apartments not to exceed 2 stories					
Carpenters	7.44	.47	.45		.12
Dwelling houses and apartments over 2 stories					
Carpenters	7.94	.47	.45		.12
Cement Masons:					
Dwelling houses and apartments not to exceed 2 stories					
Cement Masons	5.62	.38	.20		
Dwelling houses and apartments over 2 stories					
Cement Masons	5.82	.38	.20		
Electricians:					
Electricians	9.18	.25	1%		.01
Cable Splicers	9.95	.25	1%		.01
Laborers:					
Dwelling houses and apartments not to exceed 2 stories					
Laborers, unskilled	4.12	.26	.20		
Dwelling houses and apartments over 2 stories					
Laborers, unskilled	4.57	.26	.20		
Painters, brush; Roller	5.67	.30	.20		.01
Plasterers	$6.50	.38	.20		.06
Plumbers	9.50	.42	.75		.09
Roofers	5.70				
Sheet Metal Workers	7.11	.31	.25		.02
Soft Floor Layers	5.75	.30			.02
Truck Drivers:					
Dwelling houses and apartments not to exceed 2 stories					
Pickup 3/4 ton and under	4.30	.38	.15		
Dwelling houses and apartments over 2 stories					
Pickup 3/4 tons and under	4.60	.38	.15		
Power Equipment Operators:					
Tractor, under 50 HP (w/o attachments)	5.18	.25	.20		.06
Air Compressor (300 CFM and over)	5.72	.25	.20		.06
Motor Graders	5.80	.25	.20		.06
Backhoes	6.30	.25	.20		.06

NEW DECISION

STATE: Oklahoma
DECISION NO.: AR-93
DESCRIPTION OF WORK: Building Construction, (exeluding single family homes and garden type apartments up to and including 4 stories)

COUNTY: Wagoner
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
ASBESTOS WORKERS	$8.65	.35	.35		.015
BOILERMAKERS	7.80	.30	.76		.03
BRICKLAYERS	7.48	.30	.40		.04
CARPENTERS:					
Carpenters	7.35				.01
Millwrights-Piledrivermen	7.85				.01
CEMENT MASONS:					
Zone I - That portion of Wagoner County on a diagonal line from the northeast corner of Okmulgee to the Southeast corner of Mayes	7.47		.40		.06
Zone II - Remainder of Wagoner Co.	7.05	-	-		
ELECTRICIANS:					
Zone I					
Electricians	7.93	.30	1%		1/2%
Cable splicers	8.53	.30	1%		1/2%
Zone II					
Electricians	8.23	.30	1%		1/2%
Cable splicers	8.63	.30	1%		1/2%
Zone III					
Electricians	7.65	.36	1%+.25	.30	.07
Cable splicers	7.90	.36	1%+.25	.30	.07

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITION

Blue Mount, Coweta, Gatesville, Shannon, Tullahassee, Porter and Stone Bluff Townships

Zone I - A 20 mile radius from the Post Office in Muskogee
Zone II - That area outside zone I
Zone III - Adams Creek, Lone Star and Shahan Townships Only

GLAZIERS	7.00	.40	.30		.01
IRONWORKERS	8.34	.30	.35		.08
LABORERS:					
Group I - Construction laborers	4.80	.25	.20		
Group II - Mason tenders, mortar mixers, sewer drain; tile layers; machine tool operators	5.10	.25	.20		
Group III - Powderman (make-up); water drill operator	5.30	.25	.20		

DECISION NO AR-93

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
LINE CONSTRUCTION:					
Linemen	$8.00		1%		1/2%
Cable splicers	8.48		1%		1/2%
Hole digger operator	7.26		1%		1/2%
Heavy equipment operator (or pole cat equivalent)	7.26		1%		1/2%
Line truck driver (winch operator)	6.57		1%		1/2%
Jack hammerman	5.99		1%		1/2%
Powderman	7.26		1%		1/2%
Groundman	5.34		1%		1/2%
Truck driver (flat bed, ton and half and under)	5.70		1%		1/2%
PAINTERS:					
Commercial brush and roller	5.35		.25	.20	
Spray; glove or dipping; sand-blaster; spray or sand pot tender (maximum two pots, two guns or nozzles); powder rollers; power equipment operators; bitumastic and like materials, applicators and kettle tenders	6.60		.25	.20	
Spray or sand pot tender (maximum, one pot, one nozzle or gun)	5.70		.25	.20	
Cooning steel, stage bosun chair, spiders, jack, roof work, skates, rolling scaffolds over 18 feet, suspend scaffolds and like equipment - fifty cents (50c) above basic hourly rate					
PLUMBERS-Steamfitters	8.55	.40	.80		.10
POWER EQUIPMENT OPERATORS:					
Group I	8.25	.35	.25		.12
Group II	8.00	.35	.25		.12
Group III	7.75	.35	.25		.12
Group IV	7.50	.35	.25		.12
Group V	7.00	.35	.25		.12
Group VI	7.10	.35	.25		.12
Group VII	6.50	.35	.25		.12
Group VIII	6.40	.35	.25		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITION

Group I
All crane type equipment with 100' of boom or over (including jib), all tower cranes and all crane type of 3 cu. yd. or more

Group II
Heavy duty mechanic; welder; crane hook and overhead monorail; whirley; panel board batch plant operator; derrick; piledriver; engineer; dragline; shovel; clamshell; backhoe; sideboom; gradall; hydro crane; cherry picker; hoists while operating 2 or more drums

Group III
Motor patrol (blade); dozer (engine h.p. 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; Tournapull, DW 10, 15, 16, 20, 21 and similar rubber-tired equipment; Euclid, TS-24 and similar; loader operator or hi-lift (engine h.p. 65 or over); power driven hole digger; trenching machine; concrete pump-boom type

Group IV
Locomotive engineer; boring machine, tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist when operating one drum; welding machine, 3 to 6; air compressor, 3 to 6, 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps; battery, 3 to 6; fork-lift; bobcat and similar equipment; generator plant engineer, Diesel electric; winch trucks with A-frame; rollers all types; outside elevator or building or personnel hoist; concrete buster or tamper; heater under jurisdiction of operators; engineers, fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling, screened operator; concrete pump; form grader; screening plant; well point pump operator; signal man on large whirleys when and if required, operator for rotary drilling machine when operated from console or machines

Group V
Permanant elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft.; air compressor 500 cu. ft. and under (1 or 2); welding machine (1 or 2) fuelman; conveyor operator-single continuous belt bulk handling

Group VI
Greaser, tilt top trailer operator

Group VII
Asphalt lay machine back end man helpers

Group VIII
Truck crane oiler driver or truck crane oiler

Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications.

Engineers on all classifications when working in caverns or tunnels shall receive 25¢ per hour above listed rates.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pension	Vacation	App Tr.
ROOFERS	$7.00	.25	.25		.04
SHEET METAL WORKERS	8.09	.45	.45		.06
SPRINKLER FITTERS	9.05	.50	.70		.08
TRUCK DRIVERS:					
Group I	5.20				
Group II	5.30				
Group III	5.40				
Group IV	5.35				
Group V	5.50				

TRUCK DRIVERS CLASSIFICATION DEFINITION

Group I
Pick-up, 1½ tons or 3½ yards and up to but not including 3 tons or 5 yards, such as dump trucks, flat beds, stake bodies and buses

Group II
3 tons or 4 yards and up to but not including 5 tons or 6 yards

Group III
5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, tournerpulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers

Group IV
Ready-mix concrete trucks up to but not including 8 yards

Group V
Ready-mix concrete trucks 8 yards and over

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
REVISION #AR-[illegible]55 - Mod. #2 (39 FR 28014 - August 2, 1974) Boone, DeKalb, DuPage, Kane, Kendall, Lake, McHenry & Will Counties, Illinois					
CHANGE:					
Carpenters & Piledrivermen:					
Boone & DeKalb Counties	$8.85	.25	.25		
Cement Masons:					
Kane, Kendall & McHenry Cos.	9.95	.45	.52		
Will County	9.87	.40	.65		.04
Ironworkers:					
Kane Co; DeKalb Co; (excl. S.R. 2/3 incl. Sycamore & Dekalb), DuPage Co; (excl. Argonne & Vic.) the No. ½ of Kendall Co; & the SE ¼ of McHenry County	10.89	.50	.525		.045
Lake Co; & in McHenry Co; (Hebron & Woodstock & East thereof	10.38	.84	.98		.05
Linemen:					
Remainder of District #1	9.25	.35	1%		.25%
Painters:					
Boone County					
Brush & Roller	7.80	.30			
Spray	8.70	.30			
DELETE:					
Laborers Schedule(Lake County)					
ADD:					
Laborers Schedule(Lake County)					

ILLINOIS-25-LABORERS-1-2-3

LAKE COUNTY

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 7.20	.57	.85		
CLASS II	7.525	.57	.85		
CLASS III	7.65	.57	.85		
CLASS IV	7.55	.57	.85		
CLASS V	7.30	.57	.85		
CLASS VI	7.50	.57	.85		
CLASS VII	7.20	.57	.85		
CLASS VIII	7.425	.57	.85		
CLASS IX	7.35	.57	.85		
STREET PAVING, GRADE SEPARATION, SEWER & WATER MAIN EXTENSIONS					
CLASS X	7.20	.57	.85		
CLASS XI	7.55	.57	.85		
CLASS XII	7.425	.57	.85		
CLASS XIII	7.275	.57	.85		
CLASS XIV	7.475	.57	.85		

CLASSIFICATIONS

LABORERS

CLASS I: Building Laborers, General Laborers, Wrecking and Demolition, Fireproofing & Fire Shop Laborers
CLASS II: Firebrick & boiler Setter Laborers
CLASS III: Boiler Setter Plastic Laborers, Stone Derrickmen & Handlers
CLASS IV: Caisson Diggers, Well Point System, Chimney Laborers on Firebrick
CLASS V: Chimney Laborers (over 40') Scaffold Laborers, Wall Men or Wreckers
CLASS VI: Windlass and Operator
CLASS VII: Plasters Laborers
CLASS VIII: Jackhammer Men, Power Driven Concrete Saws
CLASS IX: Cement Gun Nozzle Laborers (Gunnite)
CLASS X: General Laborers, Asphalt Plant Laborers, Flagmen, Asphalt Laborers, Top Laborers
CLASS XI: Form Setters, Well Point System, Jackhammermen & Bottom Men, Pipelayers on drain Catch Basin Diggers, Pipelayer Men, All Tunnel Work, Power Driven Concrete Saws
CLASS XII: Second Bottom Men
CLASS XIII: Tampers, Smoothers & Cement Gun Laborers
CLASS XIV: Rackers, Lutemen, Machine Screwmen & Mitre Box Spreaders

NOTICES

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AR-3080 - Mod. #2						
(39 FR 30698 - August 23, 1974)						
Allen County, Indiana						
CHANGE:						
Electricians	$ 8.90	.25	1%+.30		.04	
Ironworkers	9.70	.55	.55		.01	
Line Construction:						
North Indiana Exclusive of Calumet Area:						
Lineman	7.96	.35	1%	a	.5%	
Heavy Equipment Operators:						
Class "A"	7.18	.35	1%	a	.5%	
Class "B"	6.28	.35	1%	a	.5%	
Senior Groundman Truck Driver With Winch	5.26	.35	1%	a	.5%	
Groundman Truck Driver:						
With Winch	4.92	.35	1%	a	.5%	
Without Winch	4.33	.35	1%	a	.5%	
Groundman:						
0 to 12 Months	4.04	.35	1%	a	.5%	
After 12 Months	4.82	.35	1%	a	.5%	
Calumet Area						
Lineman	8.26	.35	1%	a	.5%	
Heavy Equipment Operators:						
Class "A"	7.25	.35	1%	a	.5%	
Class "B"	6.34	.35	1%	a	.5%	
Senior Groundman Truck Driver With Winch	5.37	.35	1%	a	.5%	
Groundman Truck Driver:						
With Winch	4.99	.35	1%	a	.5%	
Without Winch	4.40	.35	1%	a	.5%	
Groundman:						
0 to 12 Months	4.14	.35	1%	a	.5%	
After 12 Months	4.94	.35	1%	a	.5%	
Sprinkler fitters	9.40	.50	.70		.08	

FOOTNOTE:

a. 3 Paid Holidays: Thanksgiving Day, Christmas Day and New Year's Day, provided employee has been on payroll for a period of 30 working days prior to the holiday and works the work days immediately preceding and following the holiday.

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AR-3081 - Mod. #2						
(39 FR 30701 - August 13, 1974)						
Bartholomew County, Indiana						
CHANGE:						
Carpenters:						
Remainder of County:						
Carpenters & Soft floor layers	$ 7.90	.30	.35		.03	
Millwrights & Piledrivermen	8.17	.30	.35		.03	
Cement Masons	8.30					
Glaziers	9.89					
Line Construction:						
Linemen & Technician	8.18	.35	1%		.5%	
Heavy Equipment Operator "A"	7.77	.35	1%		.5%	
Heavy Equipment Operator "B"	6.40	.35	1%		.5%	
Powderman & Equipment Mechanic	6.25	.35	1%		.5%	
Senior Groundman Truck Driver W/Winch	5.35	.35	1%		.5%	
Groundman Truck Driver W/Winch	5.14	.35	1%		.5%	
Groundman Truck Driver WO/Winch	4.50	.35	1%		.5%	
Senior Groundman after 5 years	5.13	.35	1%		.5%	
Senior Groundman after 12 months	4.99	.35	1%		.5%	
Groundman 0-12 months	4.23	.35	1%		.5%	
Plasterers	9.10					
Sprinkler fitters	9.40	.50	.70		.08	
DECISION #AR-3084 - Mod. #2						
(39 FR 30708 - August 23, 1974)						
Delaware County, Indiana						
CHANGE:						
Glaziers	$ 9.89					
Line Construction:						
Linemen & Technician	8.18	.35	1%		.5%	
Heavy Equipment Operator "A"	7.77	.35	1%		.5%	
Heavy Equipment Operator "B"	6.40	.35	1%		.5%	
Powderman & Equipment Mechanic	6.25	.35	1%		.5%	
Senior Groundman Truck Driver W/Winch	5.35	.35	1%		.5%	
Groundman Truck Driver W/Winch	5.14	.35	1%		.5%	
Groundman Truck Driver WO/Winch	4.50	.35	1%		.5%	
Senior Groundman after 5 years	5.13	.35	1%		.5%	
Senior Groundman after 12 months	4.99	.35	1%		.5%	
Groundman 0-12 months	4.23	.35	1%		.5%	
Sprinkler Fitters	9.40	.50	.70		.08	

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AR-3087 - Mod. #2						
(39 FR 30717 - August 23, 1974)						
LaPorte County, Indiana						
CHANGE:						
Bricklayers:						
Bricklayers & Stonemasons	$ 9.67	.35	.35		.02	
Marble Setters	9.67	.35	.35		.02	
Tile Setters & Terrazzo Workers	9.67	.35	.35		.02	
Electricians	9.55	3½%	5½%	4%	.2%	
Line Construction:						
North Indiana Exclusion of Calumet Area						
Linemen	7.96	.35	1%	a	.5%	
Heavy Equipment Operators:						
Class "A"	7.18	.35	1%	a	.5%	
Class "B"	6.28	.35	1%	a	.5%	
Senior Groundman Truck Driver With Winch	5.26	.35	1%	a	.5%	
Groundman Truck Driver:						
With Winch	4.92	.35	1%	a	.5%	
Without Winch	4.33	.35	1%	a	.5%	
Groundman:						
0 to 12 Months	4.04	.35	1%	a	.5%	
After 12 Months	4.82	.35	1%	a	.5%	
Calumet Area						
Linemen	8.26	.35	1%	a	.5%	
Heavy Equipment Operators:						
Class "A"	7.25	.35	1%	a	.5%	
Class "B"	6.34	.35	1%	a	.5%	
Senior Groundman Truck Driver With Winch	5.37	.35	1%	a	.5%	
Groundman Truck Driver:						
With Winch	4.99	.35	1%	a	.5%	
Without Winch	4.40	.35	1%	a	.5%	
Groundman:						
0 to 12 Months	4.14	.35	1%	a	.5%	
After 12 Months	4.94	.35	1%	a	.5%	
Sprinkler Fitters	9.40	.50	.70		.08	

FOOTNOTE:

a. 3 Paid Holidays: Thanksgiving Day, Christmas Day and New Year's Day, provided employee has been on payroll for a period of 30 working days prior to the holiday and works the work days immediately preceding and following the holiday.

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AR-3088 - Mod. #2						
(39 FR 30721 - August 23, 1974)						
Marion County, Indiana						
CHANGE:						
Carpenters:						
Carpenters, Millwrights & Piledrivermen	$ 9.45	.47	.50		.06	
Soft Floor Layers	7.55	.47			.06	
Glaziers	9.89					
Ironworkers	9.45	.55	.65		.05	
Line Construction:						
Lineman & Technician	8.18	.35	1%		.5%	
Heavy Equipment Operator "A"	7.77	.35	1%		.5%	
Heavy Equipment Operator "B"	6.40	.35	1%		.5%	
Powderman & Equipment Mechanic	6.25	.35	1%		.5%	
Senior Groundman Truck Driver W/Winch	5.35	.35	1%		.5%	
Groundman Truck Driver W/Winch	5.14	.35	1%		.5%	
Groundman Truck Driver WO/Winch	4.50	.35	1%		.5%	
Senior Groundman after 5 years	5.13	.35	1%		.5%	
Senior Groundman after 12 months	4.99	.35	1%		.5%	
Sprinkler Fitters	9.40	.50	.70		.08	

DECISION #AR-3089 - Mod. #2
(39 FR 30723 - August 23, 1974)
Monroe County, Indiana

CHANGE:

Glaziers	$ 9.89					
Line Construction:						
Lineman & Technician	8.18	.35	1%		.5%	
Heavy Equipment Operator "A"	7.77	.35	1%		.5%	
Heavy Equipment Operator "B"	6.40	.35	1%		.5%	
Powderman & Equipment Mechanic	6.25	.35	1%		.5%	
Senior Groundman Truck Driver W/Winch	5.35	.35	1%		.5%	
Groundman Truck Driver W/Winch	5.14	.35	1%		.5%	
Groundman Truck Driver WO/Winch	4.50	.35	1%		.5%	
Senior Groundman after 5 years	5.13	.35	1%		.5%	
Senior Groundman after 12 months	4.99	.35	1%		.5%	
Groundman 0-12 months	4.23	.35	1%		.5%	
Painters:						
Brush and roller	7.15			.20		
Structural Steel	7.90			.20		
Spray and sandblasting	8.15			.20		
Plumbers & Steamfitters	8.90	.60	.55		.10	
Sprinkler Fitters	9.40	.50	.70		.08	

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AR-3090 - Mod. #2						
(39 FR 30725 - August 23, 1974)						
Porter County, Indiana						
CHANGE:						
Bricklayers:						
Bricklayers & Stonemasons	$ 9.67	.35	.35		.02	
Marble Setters	9.67	.35	.35		.02	
Tile Setters & Terrazzo Workers	9.67	.35	.35		.02	
Electricians	9.55	3½%	5½%	4%	.2%	
Line Construction:						
Lineman	8.26	.35	1%	a	.5%	
Heavy Equipment Operators:						
Class "A"	7.25	.35	1%	a	.5%	
Class "B"	6.34	.35	1%	a	.5%	
Senior Groundman Truck Driver With Winch	5.37	.35	1%	a	.5%	
Groundman Truck Driver:						
With Winch	4.99	.35	1%	a	.5%	
Without Winch	4.40	.35	1%	a	.5%	
Groundman:						
0 to 12 Months	4.14	.35	1%	a	.5%	
After 12 Months	4.94	.35	1%	a	.5%	
Sprinkler Fitters	9.40	.50	.70		.08	

FOOTNOTE:

a. 3 Paid Holidays: Thanksgiving Day, Christmas Day and New Year's Day, provided employee has been on payroll for a period of 30 working days prior to the holiday and works the work days immediately preceding and following the holiday.

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AR-3091 - Mod. #2						
(39 FR 30727 - August 23, 1974)						
Vanderburgh County, Indiana						
CHANGE:						
Bricklayers:						
Bricklayers & Stonemasons	$ 9.67	.35	.35		.02	
Marble Setters	9.67	.35	.35		.02	
Tile Setters & Terrazzo Workers	9.67	.35	.35		.02	
Electricians	9.55	3½%	5½%	4%	.2%	
Line Construction:						
Lineman	8.26	.35	1%	a	.5%	
Heavy Equipment Operators:						
Class "A"	7.25	.35	1%	a	.5%	
Class "B"	6.34	.35	1%	a	.5%	
Senior Groundman Truck Driver With Winch	5.37	.35	1%	a	.5%	
Groundman Truck Driver:						
With Winch	4.99	.35	1%	a	.5%	
Without Winch	4.40	.35	1%	a	.5%	
Groundman:						
0 to 12 Months	4.14	.35	1%	a	.5%	
After 12 Months	4.94	.35	1%	a	.5%	
Sprinkler Fitters	9.40	.50	.70		.08	

FOOTNOTE:

a. 3 Paid Holidays: Thanksgiving Day, Christmas Day and New Year's Day, provided employee has been on payroll for a period of 30 working days prior to the holiday and works the work days immediately preceding and following the holiday.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AR-3[illegible] - Mod. #1						
(39 FR 30736 - August 23, 1974)						
Vigo County, Indiana						
CHANGE:						
Carpenters:						
Carpenters & Soft Floor Layers	$ 7.93	.35	.40		.02	
Millwrights	8.58	.35	.40		.02	
Piledriverman	8.18	.35	.40		.02	
Electricians	9.40	.20	1%+.30		.02	
Glaziers	9.89	—	—			
Line Construction:						
Lineman & Technician	8.18	.35	1%		.5%	
Heavy Equipment Operator "A"	7.77	.35	1%		.5%	
Heavy Equipment Operator "B"	6.40	.35	1%		.5%	
Powdermen and Equipment Mechanic	6.25	.35	1%		.5%	
Senior Groundman Truck Driver W/Winch	5.35	.35	1%		.5%	
Groundman Truck Driver W/Winch	5.14	.35	1%		.5%	
Groundman Truck Driver WO/Winch	4.50	.35	1%		.5%	
Senior Groundman after 5 years	5.13	.35	1%		.5%	
Senior Groundman after 12 months	4.99	.35	1%		.5%	
Groundman 0-12 months	4.23	.35	1%		.5%	
Roofers and kettlemen	7.90	.40	.20			
Sheet Metal Workers	8.45	.26	.35		.02	
Sprinkler Fitters	9.40	.50	.70		.08	
Truck Drivers:						
Group I	6.66	.45	a13.00			
Group II	7.16	.45	a13.00			
Group III	7.36	.45	a13.00			
Group IV	7.51	.45	a13.00			

FOOTNOTE:
a. Per Week Per Employee

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App Tr
DECISION No. AR-4054 - Mod. #1					
(39 FR-39697- November 8,1974)					
Counties: Adair, Barren, Bell, Breathitt, Casey, Clay, Clinton Cumberland, Estill, Floyd, Garrard, Green, Harlan, Hart, Jackson Knott, Knox, Laurel. Lee, Leslie, Letcher, Lincoln. McCreary, Magoffin, Martin, Menifee Metcalfe, Monroe, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Russell, Taylor, Wayne, Whitley and Wolfe, Kentucky.					
Omit: Highway Construction Label on Laborers Schedule					
Add: Heavy & Highway Construction to the Laborers Schedule					

STATE: Oklahoma COUNTY: Wagoner
DECISION NO.: AR-93 DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
ASBESTOS WORKERS	$8.65	.35	.35		.015
BOILERMAKERS	7.80	.30	.75		.03
BRICKLAYERS	7.48	.30	.40		.04
CARPENTERS:					
Carpenters	7.35				.01
Millwright & Pile driver	7.85				.01
CEMENT MASONS:					
Zone I - That portion of said county on a straight line from the northeast corner of Okmulgee to the southeast corner of Mayes	7.47		.40		.06
Zone II - Remainder of county	7.05				
ELECTRICIANS:					
Zone I					
Electrician	7.93	.30	1%		1/2
Cable splicers	8.53	.30	1%		1/2
Zone II					
Electricians	8.23	.30	1%		1/2
Cable splicers	8.63	.30	1%		1/2
Zone III					
Electrician	7.65	.36	1%+.25	.30	.01
Cable splicers	7.90	.36	1%+.25	.30	.01

ELECTRICIANS -CABLE SPLICERS ZONE DEFINITIONS
Blue Mound, Coweta, Jaroesville, Shannon, Tullahassee, Porter & Stone Bluff Townships
Zone I - A 20 mile radius from the Post Office in Muskogee
Zone II - That area outside zone I
Zone III - Adams Creek, Lone Star and Chahan Townships Only

ELEVATOR CONSTRUCTORS	8.34	.3	.45	.08
LABORERS:				
Group I - Construction laborers	4.80	.2	.20	
Group II - Masonry tenders, mortar mixers, sewer trunk; tile layers; machine tool operators	5.10	.25	.20	
Group III - Powder men - wreckers;				

DECISION NO. AR-93

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
LINE CONSTRUCTION:					
Linemen	$8.00		1%		1/2%
Cable splicers	[illegible]		1.		1/2%
Pole climber operator	7.26		1.		1/2%
Heavy equipment operator pole car [illegible]	7.26		1.		1/2
Line truck driver [illegible]	6.67		1.		1/2
Jack hammer	5.94		1.		1/2%
Powder man	7.26		1.		1/2%
Groundman	5.34		1.		1/2%
Truck driver (flat bed, [illegible] half and under)	5.70		1%		1/2%
PAINTERS:					
Commercial brush & roller; spray; glaze or drywall; sand blaster, spray or steel (maximum two hoses, two nozzles); power tool operator; steel and like materials, application and kettle boilers	[illegible]		.25	.20	
Spray or sandblaster [illegible] man, one pot, one nozzle or [illegible]	[illegible]		.25	.20	
Complex steel, stage and [illegible] spiders, jacks or [illegible], swing, rolling scaffolds over 10 feet, suspend scaffolds and like equipment - fifty cents ($.50) above basic hourly rate					
PILEDRIVERMEN-Creosoters	5.55	.40	.40		.10
POWER EQUIPMENT [illegible]					
Group I	5.27	.35	.25		.12
Group II	[illegible]	[illegible]	[illegible]		.12
Group III	[illegible]	.35	.25		.12
Group IV	7.5	.35	.25		.12
Group V	7.0	.35	.25		.12
Group VI	5.1	.35	.25		.12
Group VII	6.5	.35	.25		.12
Group VIII	6.80	.35	.25		.12

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NOTICES

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITION

Group I
All crane type equipment with 100' of boom or over (incl. dits; jib), all tower cranes and all crane type of 3 cu. yd. or more

Group II
Heavy duty mechanic; welder; crane hook and overhead monorail; whirley; panel board batch plant operator; derrick; piledriver; engineer; dragline; shovel; clamshell; backhoe; sideboom; gradall; hydro crane; cherry picker; hoists while operating; 2 or more drums

Group III
Motor patrol (blade); dozer (engine h.p. 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; Tournapull, DW 10, 15, 16, 20, 21 and similar rubber-tired equipment; Euclid, TS-24 and similar; loader operator or hi-lift (engine h.p. 65 or over); power driven hole digger; trenching machine; concrete pump-boom type

Group IV
Locomotive engineer; boring machine, tug boat; mixer, 18 cu. ft. and over; sand barge; dredging; machine; tugger; hoist when operating; one drum; welding machine, 3 to 6; air compressor, 3 to 6, 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps; battery, 3 to 6; fork-lift; bobcat and similar equipment; generator plant engineer, Diesel electric; winch trucks with A-frame; rollers all types; outside elevator or building or personnel hoist; concrete buster or tamper; heater under jurisdiction of operators; engineers, fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling, screened operator; concrete pump; form grader; screening plant; well point pump operator; signal man on large whirleys when and if required, operator for rotary drilling machine when operated from console or machines

Group V
Permanant elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft.; air compressor 500 cu. ft. and under (1 or 2); welding machine (1 or 2) fuelman; conveyor operator-single continuous belt bulk handling

Group VI
Greaser, tilt top trailer operator

Group VII
Asphalt lay machine back end man helpers

Group VIII
Truck crane oiler driver or truck crane oiler

Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications.

Engineers on all classifications working in caissons or tunnels shall receive 25¢ per hour above listed rates.

DECISION No. AR-93

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pension	Vacation	Apprentice
ROOFERS	$7.00	.25	.25		.04
SHEET METAL WORKERS	8.60	.45	.45		.06
SPRINKLER FITTERS	9.05	.50	.70		.08
TRUCK DRIVERS					
Group I	5.20				
Group II	5.30				
Group III	5.40				
Group IV	5.35				
Group V	5.50				

TRUCK DRIVERS CLASSIFICATION DEFINITION

Group I
Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses

Group II
3 tons or 4 yards and up to but not including 4 tons or 6 yards

Group III
5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, tournerpulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers

Group IV
Ready-mix concrete trucks up to but not including 3 yards

Group V
Ready-mix concrete trucks 3 yards and over

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Education	App. Tr.
DECISION #AR-3055 - Mod. #2 (39 FR 28014 - August 2, 1974) Boone, DeKalb, DuPage, Kane, Kendall, Lake, McHenry & Will Counties, Illinois					
CHANGE:					
Carpenters & Piledrivermen:					
Boone & DeKalb Counties	$8.85	.25	.25		
Cement Masons:					
Kane, Kendall & McHenry Cos.	9.95	.45	.52		
Will County	9.87	.40	.65		.04
Ironworkers:					
Kane Co; DeKalb Co; (excl. S.E. 2/3 incl. Sycamore & Dekalb), DuPage Co; (excl. Argonne & Vic.) the No. ½ of Kendall Co; & the SE ¼ of McHenry County	10.89	.50	.575		.045
Lake Co; & in McHenry Co; (Nebron & Woodstock & East thereof	10.38	.84	.98		.05
Linemen:					
Remainder of District #1	9.25	.35	11%		.25%
Painters:					
Boone County					
Brush & Roller	7.80	.30			
Spray	8.70	.30			
OMIT:					
Laborers Schedule(Lake County)					
ADD:					
Laborers Schedule(Lake County)					

LAKE COUNTY

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Education	App. Tr.
CLASS I	$ 7.20	.57	.85		
CLASS II	7.525	.57	.85		
CLASS III	7.65	.57	.85		
CLASS IV	7.55	.57	.85		
CLASS V	7.30	.57	.85		
CLASS VI	7.50	.57	.85		
CLASS VII	7.20	.57	.85		
CLASS VIII	7.425	.57	.85		
CLASS IX	7.35	.57	.85		
STREET PAVING, GRADE SEPARATION, SEWER & WATER MAIN EXTENSIONS					
CLASS X	7.20	.57	.85		
CLASS XI	7.55	.57	.85		
CLASS XII	7.425	.57	.85		
CLASS XIII	7.275	.57	.85		
CLASS XIV	7.475	.57	.85		

CLASSIFICATIONS

LABORERS

CLASS I: Building Laborers, General Laborers, Wrecking and Demolition, Fireproofing & Fire Shop Laborers
CLASS II: Firebrick & boiler Setter Laborers
CLASS III: Boiler Setter Plastic Laborers, Stone Derrickmen & Handlers
CLASS IV: Caisson Diggers, Well Point System, Chimney Laborers on Firebrick
CLASS V: Chimney Laborers (over 40') Scaffold Laborers, Wall Men or Wreckers
CLASS VI: Windlass and Operator
CLASS VII: Plasters Laborers
CLASS VIII: Jackhammer Men, Power Driven Concrete Saws
CLASS IX: Cement Gun Nozzle Laborers (Gunnite)
CLASS X: General Laborers, Asphalt Plant Laborers, Flagmen, Asphalt Laborers, Top Laborers
CLASS XI: Form Setters, Well Point System, Jackhammermen & Bottom Men, Pipelayers on drain Catch Basin Diggers, Pipelayer Men, All Tunnel Work, Power Driven Concrete Saws
CLASS XII: Second Bottom Men
CLASS XIII: Tampers, Smoothers & Cement Gun Laborers
CLASS XIV: Rackers, Lutemen, Machine Screwmen & Mitre Box Spreaders

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AR-3080 - Mod. #2						
(39 FR 30698 - August 23, 1974)						
Allen County, Indiana						
CHANGE:						
Electricians	$ 8.90	.25	1%+.30		.04	
Ironworkers	9.70	.55	.55		.01	
Line Construction:						
North Indiana Exclusive of Calumet Area:						
Linemen	7.96	.35	1%	a	.5%	
Heavy Equipment Operators:						
Class "A"	7.18	.35	1%	a	.5%	
Class "B"	6.28	.35	1%	a	.5%	
Senior Groundman Truck Driver With Winch	5.26	.35	1%	a	.5%	
Groundman Truck Driver:						
With Winch	4.92	.35	1%	a	.5%	
Without Winch	4.33	.35	1%	a	.5%	
Groundman:						
0 to 12 Months	4.04	.35	1%	a	.5%	
After 12 Months	4.82	.35	1%	a	.5%	
Calumet Area						
Linemen	8.26	.35	1%	a	.5%	
Heavy Equipment Operators:						
Class "A"	7.29	.35	1%	a	.5%	
Class "B"	6.34	.35	1%	a	.5%	
Senior Groundman Truck Driver With Winch	5.37	.35	1%	a	.5%	
Groundman Truck Driver:						
With Winch	4.99	.35	1%	a	.5%	
Without Winch	4.40	.35	1%	a	.5%	
Groundman:						
0 to 12 Months	4.14	.35	1%	a	.5%	
After 12 Months	4.94	.35	1%	a	.5%	
Sprinkler fitters	9.40	.50	.70		.08	

FOOTNOTE:

a. 3 Paid Holidays: Thanksgiving Day, Christmas Day and New Year's Day, provided employee has been on payroll for a period of 30 working days prior to the holiday and works the work days immediately preceding and following the holiday.

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AR-3081 - Mod. #2						
(39 FR 30701 - August 13, 1974)						
Bartholomew County, Indiana						
CHANGE:						
Carpenters:						
Remainder of County:						
Carpenters & Soft floor layers	$ 7.90	.30	.35		.03	
Millwrights & Piledrivermen	8.17	.30	.35		.03	
Cement Masons	8.30					
Glaziers	9.89					
Line Construction:						
Linemen & Technician	8.18	.35	1%		.5%	
Heavy Equipment Operator "A"	7.77	.35	1%		.5%	
Heavy Equipment Operator "B"	6.40	.35	1%		.5%	
Powderman & Equipment Mechanic	6.25	.35	1%		.5%	
Senior Groundman Truck Driver W/Winch	5.35	.35	1%		.5%	
Groundman Truck Driver W/Winch	5.14	.35	1%		.5%	
Groundman Truck Driver WO/Winch	4.50	.35	1%		.5%	
Senior Groundman after 5 years	5.13	.35	1%		.5%	
Senior Groundman after 12 months	4.99	.35	1%		.5%	
Groundman 0-12 months	4.23	.35	1%		.5%	
Plasterers	9.10					
Sprinkler fitters	9.40	.50	.70		.08	
DECISION #AR-3084 - Mod. #2						
(39 FR 30708 - August 23, 1974)						
Delaware County, Indiana						
CHANGE:						
Glaziers	$ 9.89					
Line Construction:						
Linemen & Technician	8.18	.35	1%		.5%	
Heavy Equipment Operator "A"	7.77	.35	1%		.5%	
Heavy Equipment Operator "B"	6.40	.35	1%		.5%	
Powderman & Equipment Mechanic	6.25	.35	1%		.5%	
Senior Groundman Truck Driver W/Winch	5.35	.35	1%		.5%	
Groundman Truck Driver W/Winch	5.14	.35	1%		.5%	
Groundman Truck Driver WO/Winch	4.50	.35	1%		.5%	
Senior Groundman after 5 years	5.13	.35	1%		.5%	
Senior Groundman after 12 months	4.99	.35	1%		.5%	
Groundman 0-12 months	4.23	.35	1%		.5%	
Sprinkler Fitters	9.40	.50	.70		.08	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AR-3087 - Mod. #2						
(39 FR 30717 - August 23, 1974)						
LaPorte County, Indiana						
CHANGE:						
Bricklayers:						
Bricklayers & Stonemasons	$ 9.67	.35	.35		.02	
Marble Setters	9.67	.35	.35		.02	
Tile Setters & Terrazzo Workers	9.67	.35	.35		.02	
Electricians	9.55	3½%	5½%	4%	.2%	
Line Construction:						
North Indiana Exclusive of Calumet Area						
Linemen	7.98	.35	1%	a	.5%	
Heavy Equipment Operators:						
Class "A"	7.11	.31	1%	a	.5%	
Class "B"	6.28	.35	1%	a	.5%	
Senior Groundman Truck Driver With Winch	5.26	.35	1%	a	.5%	
Groundman Truck Driver:						
With Winch	4.92	.35	1%	a	.5%	
Without Winch	4.33	.35	1%	a	.5%	
Groundman :						
0 to 12 Months	4.04	.35	1%	a	.5%	
After 12 Months	4.82	.35	1%	a	.5%	
Calumet Area						
Linemen	8.26	.35	1%	a	.5%	
Heavy Equipment Operators:						
Class "A"	7.25	.35	1%	a	.5%	
Class "B"	6.34	.35	1%	a	.5%	
Senior Groundman Truck Driver With Winch	5.37	.35	1%	a	.5%	
Groundman Truck Driver:						
With Winch	4.99	.35	1%	a	.5%	
Without Winch	4.40	.35	1%	a	.5%	
Groundman:						
0 to 12 Months	4.14	.35	1%	a	.5%	
After 12 Months	4.94	.35	1%	a	.5%	
Sprinkler Fitters	9.40	.50	.7%		.08	

FOOTNOTE:
a. 3 Paid Holidays: Thanksgiving Day, Christmas Day and New Year's Day, provided employee has been on payroll for a period of 30 working days prior to the holiday and works the work days immediately preceding and following the holiday.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AR-3088 - Mod. #2						
(39 FR 30721 - August 23, 1974)						
Marion County, Indiana						
CHANGE:						
Carpenters:						
Carpenters, Millwrights & Piledrivermen	$ 9.45	.47	.50		.06	
Soft Floor Layers	7.55	.47			.06	
Glaziers	9.89					
Ironworkers	9.45	.55	.65		.05	
Line Construction:						
Lineman & Technician	8.18	.35	1%		.5%	
Heavy Equipment Operator "A"	7.77	.35	1%		.5%	
Heavy Equipment Operator "B"	6.40	.35	1%		.5%	
Powderman & Equipment Mechanic	6.25	.35	1%		.5%	
Senior Groundman Truck Driver W/Winch	5.35	.35	1%		.5%	
Groundman Truck Driver W/Winch	5.14	.35	1%		.5%	
Groundman Truck Driver WO/Winch	4.50	.35	1%		.5%	
Senior Groundman after 5 years	5.13	.36	1%		.5%	
Senior Groundman after 12 months	4.99	.35	1%		.5%	
Sprinkler Fitters	9.40	.50	.70		.08	

DECISION #AR-3089 - Mod. #2						
(39 FR 30723 - August 23, 1974)						
Monroe County, Indiana						
CHANGE:						
Glaziers	$ 9.89					
Line Construction:						
Lineman & Technician	8.18	.35	1%		.5%	
Heavy Equipment Operator "A"	7.77	.35	1%		.5%	
Heavy Equipment Operator "B"	6.40	.35	1%		.5%	
Powderman & Equipment Mechanic	6.25	.35	1%		.5%	
Senior Groundman Truck Driver W/Winch	5.35	.35	1%		.5%	
Groundman Truck Driver W/Winch	5.14	.35	1%		.5%	
Groundman Truck Driver WO/Winch	4.50	.35	1%		.5%	
Senior Groundman after 5 years	5.13	.35	1%		.5%	
Senior Groundman after 12 months	4.99	.35	1%		.5%	
Groundman 0-12 months	4.23	.35	1%		.5%	
Painters:						
Brush and roller	7.15			.20		
Structural Steel	7.90			.20		
Spray and sandblasting	8.15			.20		
Plumbers & Steamfitters	8.90	.40	.55		.10	
Sprinkler Fitters	9.40	.50	.70		.08	

MODIFICATIONS P. 7

DECISION #AR-3093 - Mod. #2
(39 FR 30736 - August 23, 1974)
Vigo County, Indiana

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Carpenters:						
Carpenters & Soft Floor Layers	$ 7.93	.35	.40		.02	
Millwrights	8.58	.35	.40		.02	
Piledrivermen	8.18	.35	.40		.02	
Electricians	9.40	.20	1%+.30		.02	
Glaziers	9.89					
Line Construction:						
Linemen & Technician	8.18	.35	1%		.5%	
Heavy Equipment Operator "A"	7.77	.35	1%		.5%	
Heavy Equipment Operator "B"	6.40	.35	1%		.5%	
Powdermen and Equipment Mechanic	6.25	.35	1%		.5%	
Senior Groundman Truck Driver W/Winch	5.35	.35	1%		.5%	
Groundman Truck Driver W/Winch	5.14	.35	1%		.5%	
Groundman Truck Driver WO/Winch	4.50	.35	1%		.5%	
Senior Groundman after 5 years	5.13	.35	1%		.5%	
Senior Groundman after 12 months	4.99	.35	1%		.5%	
Groundman 0-12 months	4.23	.35	1%		.5%	
Roofers and kettlemen	7.90	.40	.20			
Sheet Metal Workers	8.45	.26	.35		.02	
Sprinkler Fitters	9.40	.50	.70		.08	
Truck Drivers:						
Group I	6.66	.45	a13.00			
Group II	7.16	.45	a13.00			
Group III	7.36	.45	a13.00			
Group IV	7.51	.45	a13.00			

FOOTNOTE:
a. Per Week Per Employee

MODIFICATIONS P. 8

DECISION No. AR-4054 - Mod. #1
(39 FR-39697- November 8,1974)
Counties: Adair, Barren, Bell, Breathitt, Casey, Clay, Clinton Cumberland, Estill, Floyd, Garrard, Green, Harlan, Hart, Jackson Knott, Knox, Laurel, Lee, Leslie, Letcher, Lincoln, McCreary, Magoffin, Martin, Menifee Metcalfe, Monroe, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Russell, Taylor, Wyane, Whitley and Wolfe, Kentucky.

Omit:
Highway Construction Label on Laborers Schedule

Add:
Heavy & Highway Construction to the Laborers Schedule

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	App Tr

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
DECISION #AR-3851 - Mod. #1 (39 FR 25873 - July 12, 1974) Aitkin, Anoka, Benton, Blue Earth, Carlton, Carver, Chisago, Cook, Crow Wing, Dakota, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Itasca, Jackson, Kanabec, Koochiching, Lake, Le Sueur, Martin, Necker, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Nobles, Olmstead, Pine, Ramsey, Rice, Rock, Scott, Sherburne, Sibley, Stearns, Steele, St. Louis, Wabasha, Waseca, Washington, Winona & Wright Counties, Minnesota					
CHANGE:					
Carpenters & Piledrivermen:					
Zone 1	$8.21	.40	.30	.50	.02
Zone 2	8.28	.30		.30	
Zone 3	8.58	.30			
Zone 9	7.32	.30			
Cement Masons:					
Zone 2	8.88	.30			
Ironworkers:					
Zone 1	8.80	.55	.55		.02
Zone 2	8.95	.30	.55	.10	
Zone 3	8.205	.30	.14		.01
Linemen:					
Zone 1	8.89	4%	4%	11%	1.5%
Zone 2	8.89	4%	4%	11%	1.5%
Zone 3	8.90	6%	3%	10%	3/4 of 1%
Painters:					
Zone 1					
Brush	8.26	.30	.20		.05
Structural Steel	8.50	.30	.20		.05
Zone 2					
Brush	8.40				
Structural Steel	9.50				
Zone 3					
Brush	8.43	.45	.25		.06
Structural Steel	8.93	.45	.25		.08
Zone 4					
Brush	8.53	.35	.25		.04
Structural Steel	9.03	.35	.25		.04
Zone 6					
Brush	7.00				
Structural Steel	7.25				
Zone 7					
Brush	7.82	.35	.15		.02
Spray	8.32	.35	.15		.02
Zone 8					
Brush	7.80	.25			
Spray & High Work	8.30	.25			

MODIFICATIONS P. 10

DECISION #AR-4041-Mod. #2
(39 FR 34996-September 27 1974)
Harrison, Hancock, Jackson and Pearl River Counties, Miss.

Omit:
Highway, Sewer & Water Schedule originally issued

Add:
Highway, Sewer & Water Schedule attached.

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	App Tr

NOTICES

MODIFICATIONS P. 11

MODIFICATIONS P. 12

MODIFICATIONS P. 11

Highway, Sewer and Water Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
Air tool operator	3.00				
Asphalt raker	2.75				
Bricklayers	4.25				
Carpenters	3.75				
Cement masons (Finisher)	3.50				
Concrete saw operator	4.00				
Electricians	5.40				
Form setter	2.80				
Grade checker	2.25				
Ironworker, reinforcing	4.00				
Ironworker structural	3.30				
Laborer, unskilled	2.00				
Mason tender (Cement mason helper)	2.90				
Painter (Structural steel)	3.90				
Piledriverman	3.00				
Truck driver	2.75				
Tugboat operator	2.50				
Welder	3.70				
POWER EQUIPMENT OPERATORS:					
"A" frame truck (winch)	2.40				
Aggregate spreader operator	3.00				
Air compressor operator	2.60				
Asphalt distributor-spreader operator	3.00				
Asphalt plant	3.50				
Backhoe shovel operator	3.50				
Bulldozer operator	3.25				
Concrete batch plant operator	3.25				
Concrete Spreader machine operator	3.00				
Concrete finishing machine op.	3.50				
Concrete paving machine op.	3.30				
Crane, dragline operator	4.00				
Crusher feeder operator	3.00				
Curing machine operator	3.00				
Earth auger	2.75				
Fireman	3.00				
Guard rail post driver	2.75				
Joint filler	3.00				
Loader operator (all types)	3.50				
Mechanic	3.75				
Mixer operator (all types)	3.00				

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
Motor patrol operator	3.75				
Mud-jack operator					
Mulcher operator	2.50				
Oiler-greaser	2.75				
Piledriverman operator	4.00				
Pipelayer	2.80				
Roller operator (self-propelled)	2.75				
Scales (all types)	2.85				
Scraper operator	3.25				
Striping machine operator	4.00				
Sub grader machine operator	3.50				
Tractor operator (track type)	2.75				
Tractor operator (wheel type)	2.50				
Trenching machine	3.00				
DECISION NO. AR-77 - Mod. #2 (39 FR 40465 - November 15, 1974) Douglas and Sarpy Counties, Nebraska					
Omit:					
Plumbers; Steamfitters	[illegible].76	.35	.55		.10
Add:					
Plumbers	[illegible].76	.35	.55		.10
Steamfitters	[illegible].10	.35	.55		.10
DECISION NO. Ne-3112 Mod. #2 (39 FR 15673 - May 3, 1974) Suffolk County, New York					
Change:					
Asbestos workers	$9.45	13.7%	9%	12%	
Boilermakers	10.57	5%	5%+10%	7%	.02
Bricklayers: Center Moriches on the south shore and following Chichester Avenue, North of Walding River and areas east thereof including the off shore islands	10.40	.30	2.00	.30	
Electrician & lineman	10.90	6%	.135%		5/8 of 1%

MODIFICATIONS P. 13

DECISION NO AR-50 - Mod. #3
(39 FR 35046 - September 27, 1974)
Tulsa and Creek Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Change:					
PAINTERS:					
Brush	$7.50		.25	.35	.02
High work and stage	7.90		.25	.35	.02
Spray and sandblasting	8.15		.25	.35	.02
Hot or bituminous	8.80		.25	.35	.02
Sheetrock hand tools	8.00		.25	.35	.02
Sheetrock power tools	7.85		.25	.35	.02
Hazardous work	9.70		.25	.35	.02
Sprinkler fitters	9.05	.50	.70		.08

DECISION NO AR-81 - Mod. #2
(39 FR 41160 - November 22, 1974)
Oklahoma, Cleveland, Canadian, Lincoln, Pottawatomie, McClain and Seminole Counties, Oklahoma

CHANGE:					
CARPENTERS - Zone III					
Carpenters	$7.25	.20	.25		.04
Power saw operator	7.50	.20	.25		.04
Millwrights-Piledrivermen	7.50	.20	.25		.04
BRICKLAYERS-STONEMASONS:					
Oklahoma, Cleveland, Canadian and McClain Counties	8.37	.40	.35		.05
Glaziers	7.20				
Sprinkler fitters	9.05	.50	.70		.08

DECISION AAR-1054 - Mod. #1
(39 FR 43484-December 13, 1974)
Statewide, Oregon

MODIFICATIONS P. 14

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Change:					
Painters:					
Remaining Counties					
Brush	$7.62	.30	.35	.20	.03
Spray; High Towers, ground to 100'	7.87	.30	.35	.20	.03
High work over 100'; High Towers, ground to 300'	8.12	.30	.35	.20	.03
High Towers; ground to over 300'	8.62	.30	.35	.20	.03
Ironworkers:					
Structural, Reinforcing, Ornamental, Riggers, Fence Erectors, Signal Man	8.90	.48	.80	.25	.05
ADD:					
Truck Drivers (p. 14)					
See Below					

AR-1054 p. 14

TRUCK DRIVERS (Cont'd)

Group 9: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 40 cu. yds. and including 50 cu. yds.; Transit mix and wet or dry mix trucks, over 13 cu. yds. and including 15 cu. yds.

Group 10: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 50 cu. yds. and including 60 cu. yds.

Group 11: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 60 cu. yds. and including 70 cu. yds.

Group 12: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 70 cu. yds. and including 80 cu. yds.

Group 13: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 80 cu. yds. and including 90 cu. yds.

Group 14: Dump trucks, side, end and bottom dumps, including semi trucks and trains or combinations thereof: over 90 cu. yds. and including 100 cu. yds.

Drivers and Helpers (handling sacked cement add $.15 per hour)

Winch truck - takes classification of truck on which winch is mounted.

NOTICES

MODIFICATIONS P.15

MODIFICATIONS P. 16

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Decision #AR-2070 - Mod. #2 (39 FR 10870 - March 19, 1974) Sullivan County, Pennsylvania					
CHANGE:					
Asbestos Workers	$9.00	.50	.35		.01
CARPENTERS:					
Remainder of County	8.13	.25	.35		.02
ELECTRICIANS:					
Western Half of County	8.88	.28	1% + .10	.40	.02
Millwrights	9.18	.25	.35		.02
Plumbers & Steamfitters	8.31	.41	.35	.20	.03
Sprinkler Fitters	9.60	.50	.70		.08
DECISION AQ-2085 - Mod. #5 (39 FR 14115 - April 19, 1974 Warren County, Pennsylvania					
CHANGE:					
Bricklayers, Marble Setters, Terrazzo workers and tile setters	$8.25	.40	.50		.025
Sprinkler fitters	9.60	.50	.70		.08
ADD:					
Stonemasons	8.25	.40	.50		.025
DECISION #AR-2121 - Mod. #5 (39 FR 18398 - May 24, 1974) Forest & McKean Counties. Pennsylvania					
Change:					
Millwrights	$ 7.995	5%	3%+.25	26%	1%
Ironworkers:					
McKean County	9.08	.70	.81		.04
Piledrivermen	9.58	5%	8%		.50 of 1%
Sprinkler Fitters	9.60	.50	.70		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #AR-2008 - Mod. #1 (39 FR 27406 - July 26, 1974) Luzerne County, Pennsylvania					
CHANGE:					
Bricklayers & Stonemasons:					
Hazleton	$8.30	.35	.50		
Remainder of County	9.15	.35	.50		
Elevator Constructors	8.09	.39	.26	2½%+a&b	.02
Elevator Constructors Helpers	5.66	.39	.26	2½%+a&b	.02
Elevator Constructors Helpers (Prob.)	4.045				
Glaziers	8.25	.35	.40		
Lathers:					
Pittston, Avoca, Dupont & Duryla	8.79		.10		.01
Marble & Tile Setters (Hazleton)	7.80	.35	.50		
Millwrights	9.18	.25	.35		.02
Roofers Composition & Kettleman	8.20	.50	.40		
Sprinkler Fitters	9.60	.50	.70		.08
Terrazzo Workers (Hazleton)	8.05	.35	.50		
DECISION #AR-2027 - Mod. #1 (39 FR 31850 - August 30, 1974) Berks County, Pennsylvania					
CHANGE:					
Asbestos workers	$8.73	.30	.30		.01
Boilermakers	10.20	.65	1.00		.01
Carpenters	8.13	.52	.45		
Electricians	9.70	.30	1%		.01
Glaziers	8.14	.35	.10		.01
Elevator Constructors	8.69	.345	.23	2% + b&c	.015
Elevator Constructors' Helpers	6.08	.345	.23	2% + b&c	.015
Elevator Constructors' Helpers (prob.)	4.345				
Soft floor layers	8.13	.52	.45		
Sprinkler fitters	9.60	.50	.70		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
DECISION #AR-2030 - Mod. #2 (39 FR 31851 - August 30, 1974) Lancaster County, Pennsylvania					
CHANGE:					
Asbestos workers	$8.73	.30	.30		.01
Bricklayers	8.55	.25	.45		
Sprinkler fitters	9.60	.50	.70		.08
DECISION #AR-2035 - Mod. #1 (39 FR 40137 - November 15, 1974) Beaver County, Pennsylvania					
Change:					
Millwrights	$ 7.995	5%	3%+.25	26%	1%
Piledrivermen	9.58	5%	8%		.50 of 1%
Soft Floor Layers	8.96	5%	6%	6%	.5%
Sprinkler Fitters	9.60	.50	.70		.08
DECISION #AR-2036 - Mod. #2 (39 FR 33988 - September 20, 1974) Butler & Fayette Counties, Pennsylvania					
Change:					
Electricians:					
Fayette County	9.60	.35	.20+1%	.60	.05
Millwrights	7.995	5%	3%+.25	26%	1%
Piledrivermen	9.58	5%	8%		.50 of 1%
Soft Floor Layers	8.96	5%	6%	6%	.5%
DECISION #AR-2037 - Mod. #1 (39 FR 31853 - August 30, 1974) Indiana County, Pennsylvania					
Change:					
Bricklayers & Stonemasons:					
Banks, Brushvalley etc.	8.88	.45	.60		.01
Millwrights	7.995	5%	3%+.25	26%	1%
Piledrivermen	9.58	5%	8%		.50 of 1%
Sprinkler Fitters	9.60	.50	.70		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
DECISION #AR-2038 - Mod. #1 (39 FR 35054 - September 27, 1974) Washington County, Pennsylvania					
CHANGE:					
Lathers	$8.53	.45	1.10		.01
Millwrights	7.995	5%	3%+.25	26%	1%
Painters:					
Townships and Borough of Jefferson, Luzerne, Perry, Morgan, West Pike Run, West Bethlehem, East Bethlehem, Washington, Roustraver, Union, Nottingham, Carroll, Fallowfield, Somerset, North Bethlehem, Centerville Borough and California:					
Commercial	7.49	.35	.80		
Industrial	8.50	.30	.80		
Plumbers;					
Remainder of Co.	8.403	.60	.20		.1%
Sprinkler fitters	9.60	.50	.70		.08
Piledrivermen	9.58	5%	8%		.50 of 1%
Soft Floor Layers	8.96	5%	6%	6%	5%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #AR-203[illegible] - Mod. #1 (39 FR 31862 - August 30, 1974) Westmoreland County, Pennsylvania					
Change:					
Bricklayers & Stonemasons: Fairfield [illegible] St. Clair Twps.	$ 8.88	.45	.60		.01
Millwrights	7.995	5%	3%+.25	2%	1%
Plumbers	9.405	.60	.20		.12
Piledrivermen	9.58	5%	8%		.50 of 1%
Soft Floor Layers	8.96	5%	6%	6%	.5%
Sprinkler Fitters	9.60	.50	.70		.08
DECISION #AR-2045 - Mod. #1 (39 FR 37345 - October 18, 1974) Lawrence County, Pennsylvania					
Change:					
Millwrights	7.995	5%	3%+.25	2[illegible]	1%
Piledrivermen	9.58	5%	8%		.50 of 1%
Soft Floor Layers	8.96	5%	6%+d		.5%
Sprinkler Fitters	9.60	.50	.70		.08
DECISION #AR-2046 - Mod. #1 (39 FR 37349 - October 18, 1974) Mercer County, Pennsylvania					
Change:					
Carpenters	9.02	.40	.50		.02
Millwrights	9.76	.40	.50		.02
Piledrivermen	9.76	.40	.50		.02
Soft Floor Layers	8.63	.40	.50		.02
Sprinkler Fitters	9.60	.50	.70		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #AR-1051 - Mod. #2 (39 FR 42832 - December 6, 1974) Statewide, Washington					
Change:					
Painters: Clark, Cowlitz, Klickitat, Pacific (southern portion), Skamania and Wahkiakum Cos.					
Brush	$7.62	.30	.35	.20	.03
Spray; High Towers, ground to 100'	7.87	.30	.35	.20	.03
High work over 100'; High Towers, ground to 300'	8.12	.30	.35	.20	.03
High Towers; ground to over 300'	8.62	.30	.35	.20	.03
DECISION #AR-2058 - Mod. #1 (39 FR 35948 - October 4, 1974) Kanawha County, West Virginia					
Change:					
Sheet Metal Workers	$4.[illegible]	.34	.4[illegible]		.[illegible]4

VERIFIED DEC 27 74 XUM

SUPERSEDEAS DECISION

STATE: Arizona

COUNTIES: Apache, Coconino, Navajo (Navajo and Hopi Indian Reservations, Arizona Only)

DECISION NUMBER: [illegible]-1060

DATE: Date of Publication

Supersedes Decision No. AQ-1086 dated February 22, 1974, in 39 FR 6987.

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		[illegible]	[illegible]ensions	Vacation	Adj. Tr.
Asbestos Workers	$[illegible].9[illegible]	.5[illegible]	.65		.01
Bricklayers	11.7[illegible]	.5[illegible]	.45		.03
Carpenters	8.2[illegible]	.40	.[illegible]0		.[illegible]15
Cement Masons	[illegible].98[illegible]	.50	.[illegible]0		.[illegible]25
Electricians	[illegible].8[illegible]	.2[illegible]	1[illegible]		1/2%
Laborers, unskilled	5.0[illegible]				
[illegible]lumbers	9.85	.[illegible]0	1.[illegible]7	1.00	.1[illegible]
[illegible]nsfers	[illegible].35	.4[illegible]	.[illegible]0		.[illegible]0
Sheet [illegible]etal Workers	[illegible].5[illegible]	.17	.32		.02
Tile Layers, [illegible]eramic	[illegible].30	.50	.30		.01
Truck [illegible]rivers	5.50				
Power Equipment Operators: Grader, Bulldozer, Backhoe, Trencher	[illegible].01				

NOTICES

SUPERSEDEAS

SUPERSEDEAS

STATE: Florida
DECISION NUMBER: AM-4068
COUNTY: See Below*
DATE: Date of Publication
Supersedes Decision No. AO-4067 dated February 8, 1974 in 39 FR 5069
DESCRIPTION OF WORK: Dredging

*Atlantic Coast and Gulf Coast West to the Aucilla River and all Tributary Waterways, Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
HYDRAULIC DREDGES 20" AND OVER					
Leverman and engineer	6.42	.25	.25	a	
Mate	5.63	.25	.25	a	
Welder	5.86	.25	.25	a	
Derrick operator	6.13	.25	.25	a	
Spill barge operator	5.97	.25	.25	a	
Spider barge operator	5.97	.25	.25	a	
Tug master	5.57	.25	.25	a	
Carpenter	6.09	.25	.25	a	
Tug mate	5.25	.25	.25	a	
Electricians	6.26	.25	.25	a	
Machinist	6.02	.25	.25	a	
Steward	4.07	.25	.25	a	
Oiler and fireman	4.48	.25	.25	a	
Deckhand, tug deckhand	4.09	.25	.25	a	
Shoreman	3.98	.25	.25	a	
Second cook	4.09	.25	.25	a	
Messman	3.98	.25	.25	a	
HYDRAULIC DREDGES 16" UP TO BUT NOT INCLUDING 20"					
Leverman	5.82	.25	.25	a	
First engineer	5.45	.25	.25	a	
Second engineer	5.30	.25	.25	a	
Third engineer	5.14	.25	.25	a	
Welder	5.57	.25	.25	a	
Mate	4.79	.25	.25	a	
Oiler and fireman	4.41	.25	.25	a	
Deckhand	4.09	.25	.25	a	
Launchman	4.48	.25	.25	a	
Shoreman	3.98	.25	.25	a	
Spill and spider barge operator	4.95	.25	.25	a	
CLAMSHELL DREDGES					
Operator	6.26	.25	.25	a	
Craneman	6.09	.25	.25	a	
First engineer	5.25	.25	.25	a	
Second engineer	5.11	.25	.25	a	
Third engineer	4.79	.25	.25	a	
Welder	5.57	.25	.25	a	
Mate	5.17	.25	.25	a	
Fireman	4.47	.25	.25	a	
Deckhand	4.09	.25	.25	a	
Launchman	4.48	.25	.25	a	
Scowman	4.18	.25	.25	a	
Cook	4.41	.25	.25	a	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Mess cook	4.05	.25	.25	a	
Messman and janitor	3.95	.25	.25	a	
DIPPER DREDGES					
Operator	6.54	.25	.25	a	
Craneman	6.16	.25	.25	a	
Engineer	6.34	.25	.25	a	
Welder	5.86	.25	.25	a	
Mate	5.63	.25	.25	a	
Fireman-Oiler	4.48	.25	.25	a	
Deckhand	4.09	.25	.25	a	
Tug Master	5.57	.25	.25	a	
Tug Mate	5.25	.25	.25	a	
Scowman	4.18	.25	.25	a	
TUGS (TENDING DIPPER & CLAMSHELL DREDGES)					
Tug master	5.71	.25	.25	a	
Tug mate	5.32	.25	.25	a	
Engineer	5.71	.25	.25	a	
Assistant engineer	5.17	.25	.25	a	
Deckhand	4.01	.25	.25	a	
Cook	4.18	.25	.25	a	
ON DIPPER AND CLAMSHELL DREDGES & ON HYDRAULIC DREDGES 20" & UNDER)					
Cook	4.41	.25	.25	a	
Mess Cook	4.05	.25	.25	a	
Messmen and Janitor	3.95	.25	.25	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
A. Holidays: A through F, plus 5% of straight time pay.

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SUPERSEDEAS DECISION

STATE: Maryland, Georgia, North Carolina, South Carolina, Virginia and Washington, D. C.

DECISION NO.: AR-2100 DATE: Date of Publication

Supersedes Decision No. AQ-2039, dated January 25, 1974, in 39 FR 3395.

DESCRIPTION OF WORK: All dredging on the Atlantic Coast from the southern border of Maryland to the northern border of Florida, including the Chesapeake Bay but excluding the Chesapeake and Delaware Canal, Baltimore City and Baltimore County, Maryland.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
HYDRAULIC DREDGES 20" AND OVER					
Leverman and engineer	$ 6.42	.25	.25	a	
Mate	5.63	.25	.25	a	
Welder	5.86	.25	.25	a	
Derrick operator	6.13	.25	.25	a	
Spill barge operator	5.97	.25	.25	a	
Spider barge operator	5.97	.25	.25	a	
Tug master	5.57	.25	.25	a	
Carpenter	6.09	.25	.25	a	
Tug mate	5.25	.25	.25	a	
Electricians	6.26	.25	.25	a	
Machinist	6.02	.25	.25	a	
Steward	4.67	.25	.25	a	
Oiler and fireman	4.48	.25	.25	a	
Deckhand, tug deckhand	4.09	.25	.25	a	
Shoreman	3.98	.25	.25	a	
Second cook	4.09	.25	.25	a	
Messman	3.98	.25	.25	a	
HYDRAULIC DREDGES UNDER 20"					
Leverman	5.82	.25	.25	a	
First engineer	5.45	.25	.25	a	
Second engineer	5.30	.25	.25	a	
Third engineer	5.14	.25	.25	a	
Welder	5.75	.25	.25	a	
Mate	4.79	.25	.25	a	
Oiler and firemen	4.41	.25	.25	a	
Deckhand	4.09	.25	.25	a	
Launchman	4.48	.25	.25	a	
Shoreman	3.98	.25	.25	a	
Spill and spider barge operators	4.95	.25	.25	a	
Cook	4.51	.25	.25	a	
Mess cook	4.15	.25	.25	a	
Messman and janitor	4.05	.25	.25	a	
CLAMSHELL DREDGES					
Operator	6.25	.25	.25	a	
Craneman	6.09	.25	.25	a	
First engineer	5.25	.25	.25	a	
Second engineer	5.11	.25	.25	a	
Third engineer	4.79	.25	.25	a	
Welder	5.57	.25	.25	a	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
Mate	$ 5.17	.25	.25	a	
Fireman	4.47	.25	.25	a	
Deckhand	4.09	.25	.25	a	
Launchman	4.48	.25	.25	a	
Scowman	4.18	.25	.25	a	
Cook	4.51	.25	.25	a	
Mess cook	4.15	.25	.25	a	
Messman and janitor	4.05	.25	.25	a	
DIPPER DREDGES					
Operator	6.54	.25	.25	a	
Craneman	6.16	.25	.25	a	
Engineer	6.34	.25	.25	a	
Welder	5.86	.25	.25	a	
Mate	5.63	.25	.25	a	
Fireman-Oiler	4.48	.25	.25	a	
Deckhand	4.09	.25	.25	a	
Tug Master	5.57	.25	.25	a	
Tug Mate	5.25	.25	.25	a	
Scowman	4.18	.25	.25	a	
TUGS (TENDING DIPPER & CLAMSHELL DREDGES)					
Tug master	5.71	.25	.25	a	
Tug mate	5.32	.25	.25	a	
Engineer	5.71	.25	.25	a	
Assistant engineer	5.17	.25	.25	a	
Deckhand	4.01	.25	.25	a	
Cook	4.18	.25	.25	a	

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: A through F, plus 5% of straight time pay.

SUPERSEDEAS DECISION

DECISION NO. AR-92

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SUPERSEDEAS DECISION

DECISION NO. AR-92

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STATE: Nebraska

COUNTIES: Statewide (except Douglas, Cass, Sarpy, Washington and that portion of Saunders County East of Highway #109

DECISION NO.: AR-92

DATE: Date of Publication

Supersedes Decision No. AR-87 dated December 13, 1974 in 39 FR 43472

DESCRIPTION OF WORK: Heavy and Highway Construction (excluding bridges across navigable waterways).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Carpenter	$4.90				
Carpenter Helper	3.75				
Cement Finisher	4.45				
Concrete Saw Operator	3.65				
Form Setter (road)	4.55				
Form Setter (structures)	3.65				
Laborer	3.25				
Manhole Builder	3.60				
Painter	3.45				
Pile Driver Leadsman	3.45				
Power Equipment Operators:					
All Purpose Spreader	3.95				
Asphalt Distributor	3.95				
Asphalt Distributor Helper	3.40				
Asphalt Heaterman	3.65				
Asphalt Paving Machine	4.60				
Asphalt Paving Machine Screedman	3.75				
Stationary Pl. (base or aggregate)	3.95				
Stationary Pl. (asphalt or concrete)	4.75				
Beginner Operator	3.95				
Bulldozer:					
Less than 115 Drawbar H.P.	4.40				
115 Drawbar H.P. and over	4.90				
Cement Handler	3.50				
Clamshell, Dragline, Backhoe, Crane, Pile Driver or Shovel	5.00				
Concrete Mixer	3.45				
Concrete Paver	4.30				
Slip Form Paver	4.75				
Concrete Finishing Machine and Spreader	4.65				
Conveyor	3.45				
Crusher (incl. those with Integral screening plant)	4.50				
Dredge Pump Under 10"	3.80				
Dredge Pump 10" and over	4.30				
Fireman (boiler)	3.65				
Front End Loader:					
3½ cu. yds. or less	4.25				
Over 3½ cu. yds.	4.45				
Mechanic	5.00				
Mechanic Helper	4.20				
Motor Grader	$4.80				
Oiler or Greaser	4.10				
Roller, Self-Propelled (hot mix)	4.35				
Roller or Compactor, Self-Propelled (other	4.25				
Scraper Under 16 cu. yds.	4.45				
Scraper 16 cu. yds. and over	4.75				
Power Grade Machine (trimmer)	4.65				
Tractor:					
Farm Type (towing)	3.65				
Farm Type (With attachments)	3.95				
Less than 115 Drawbar H.P.	4.40				
115 Drawbar H.P. and over	4.50				
Traveling Plant (stabilization)	4.45				
Traveling Plant Helper (stabilization)	3.80				
Trenching Machine	4.00				
Truck Driver:					
Single Axle	3.50				
Tandem Axle	3.60				
Semi-Trailer	3.85				
Transit Mix	3.85				
Lowboy	3.85				
Welder	4.65				

SUPERSEDEAS DECISION

STATE: Nebraska
DECISION NUMBER: AR-94
Supersedes Decision No. AR-13 dated August 16, 1974 in 39 FR 29584
DESCRIPTION OF WORK: Residential Construction, single family homes and garden type apartments up to and including 4 stories.

COUNTY: Douglas, Sarpy
DATE: Date of Publication

DECISION NO.: AR-94

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr.
BRICKLAYERS, STONEMASONS	$8.375	.35	.30	.60	
CARPENTERS:					
Carpenters	7.88	.35	.30	.40	.05
Piledrivermen	8.005	.35	.30	.40	.05
Millwrights	8.13	.35	.30	.40	.05
CEMENT MASONS	8.34	.35	.30	.40	.05
ELECTRICIANS	10.08	.48	1%+.50		4%
GLAZIERS	6.75	.35	.20		.01
IRONWORKERS: Structural, Reinforcing, Ornamental	7.35	.25	.25	.30	
LABORERS:					
Common laborers	5.62	.25	.25		.02
Buggymobile operators; mortar mixers	5.765	.25	.25		
Mason tenders	5.765	.25	.25		
LATHERS	7.15	.25	.25	.40	
PAINTERS:					
Brush	7.65		.25		
Paperhangers	7.90		.25		
PLASTERERS	7.55	.25	.25		.02
Plasterer tenders	5.935	.25	.25		.02
PLUMBERS	9.76	.35	.55		.10
POWER EQUIPMENT OPERATORS:					
Group I	6.78	.35	.30		
Group II	6.88	.35	.30		
Group III	7.13	.35	.30		
Group IV	8.02	.35	.30		
Group V	8.12	.35	.30		
Group VI	8.37	.35	.30		

CLASSIFICATION DETAIL:
POWER EQUIPMENT OPERATORS

GROUP I - Oilers, greasers, mechanics helper
GROUP II - Oil burners (motor truck crane)
GROUP III - Conveyors, heaters, tractors, 35 hp or under, air compressor pump and welding machine operator
GROUP IV - Bulldozers, forklifts, concrete pumps, tractors over 35 hp, one drum hoist, trenching machines, spread oiler
GROUP V - Blade, and graders, self propelled scrapers
GROUP VI - Two drum hoists, trenching machines, pile drivers, dredges, heavy duty mechanics, shovels, draglines, clamshells, orange peels, cranes, derricks, backhoes, winch trucks and side booms or cat booms, locomotives, firemen used on high pressure boilers in construction work, economobile, electric hammers and extractors

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr.
ROOFERS:					
Composition	$6.88	.15	.20	.20	.01
Slate; tile	7.18	.15	.20	.20	.01
SHEET METAL WORKERS	8.86	.35	.20		.02
SOFT FLOOR LAYERS	8.00			a	
STEAMFITTERS	9.86	.35	.55		.10
TRUCK DRIVERS, single axle	6.145	.25	.25		

WELDERS - Receive rate prescribed for craft performing operation to which welding in incidental.

MAIN HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Christmas Eve; H-Day after Thanksgiving

FOOTNOTES:
a. Eight paid Holidays, A thru H; also employees w/one year's continous service with the same employer, but less than 4 years shall receive one week's paid vacation; after 4 year's continous service shall receive two weeks paid vacation.

SUPERSEDEAS DECISION

SUPERSEDEAS DECISION

STATE: NEW YORK
DECISION NO.: AR-2097
COUNTY: SARATOGA
DATE: DATE OF PUBLICATION

Supersedeas Decision No. AR-2020 dated August 16, 1974 in 39 FR 29903

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

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BUILDING, HVY. & HWY. CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos Workers	$ 8.93	.32	.18		.02
~~Boilermakers~~	~~9.08~~	~~.60~~	~~10%~~		~~.01~~
Bricklayers, cement masons, plasterers, and stone masons	9.29	.45	.30		.01
Carpenters, Building:					
Day, Hadley, Edinburg, Corinth & Moreau Twps.:					
Carpenters and soft floor layers	8.35	.40	.40	g	.005
Millwrights	8.60	.40	.40	g	.005
Piledrivermen	8.50	.40	.40	g	.005
Remainder of County:					
Carpenters and soft floor layers	8.70	.50	.50		.02
Millwrights	9.20	.50	.50		.02
Piledrivermen	9.36	.90	.83+.70	.56	.02
Carpenters, Heavy and Highway:					
Day, Hadley, Edinburg, Corinth & Moreau Twps:					
Carpenters and Piledrivermen	8.42	.40	.40		.025
Remainder of County:					
Carpenters	8.22	.50	.45		.025
Piledrivermen, Heavy	9.36	.90	.83+.70	.56	.02
Cement Masons, Hvy. & Hwy.	8.35	.45	.30		
Electricians:					
Ganseveen, Mt. Gregor, Schuylerville, Victory Mills Wayville, Still water Mechanicville, and Waterford	9.70	.50	1%+.55	a	h
Remainder of County	9.85	.35	1%+.20+i	j	.05
Elevator Constructors	8.73	.39	.26	2½+b+c	.02
Elevator Constructors' Helpers	6.11	.39	.26	2½+b+c	.02
Elevator Constructors' Helpers (Prob.)	4.365				
Ironworkers, structural	8.84	.55	.85		.04
Ironworkers, ornamental	8.84	.55	.85		.04
Ironworkers, reinforcing	8.84	.55	.85		.04
Laborers, Building:					
Twps. of Day, Hadley, Edinburg, Corinth, Moreau,					

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BUILDING, HVY. & HWY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Laborers, Building: (CONT'D)					
Providence, Greenfield, Wilton, Northampton, Galway Milton, Saratoga Springs, Charleston, Ballston Malta and Clifton Park:					
Laborers	$ 7.60	.55	.70		.02
Air Tool Operators (jackhammer, vibrator)	7.75	.55	.70		.02
Mortar mixers (hand or machine)	7.75	.55	.70		.02
Wagon drill	7.825	.55	.70		.02
Blasters	8.075	.55	.70		.02
Acetylene burners	7.875	.55	.70		.02
Remainder of County:					
Laborers	7.60	.55	.70		.02
Pipelayers (2 man team), hod carriers, mortar mixer (hand or machine), jackhammer op., well pointing, all air or gas driven tool vibrators, power driven buggies	7.75	.55	.70		.02
Demolition	7.85	.55	.70		.02
Form setters (curb)	7.775	.55	.70		.02
Wagon drill operator	7.825	.55	.70		.02
Acetylene burners	7.875	.55	.70		.02
Blasters	8.075	.55	.70		.02
Lead burners	9.25	.35		d	.01
Line Construction:					
Linemen	9.79	.50	1%+.50	e	3/8of1%
Cable Splicer	10.54	.50	1%+.50	e	3/8of1%
Groundman digging machine operator	8.81	.50	1%+.50	e	3/8of1%
Groundman mobile equipment operator	8.30	.50	1%+.50	e	3/8of1%
Groundman truck driver and mechanic	7.90	.50	1%+.50	e	3/8of1%
Groundman dynamite man	8.30	.50	1%+.50	e	3/8of1%

NOTICES 44921 44919 NOTICES

BUILDING, HVY & HWY. CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
Marble setters, terrazzo and workers and tile setters	$ 7.[illegible]	.[illegible]	.3[illegible]		
Painters:					
Clifton Park, Half Moon, Malta, Charlton, Galway, Milton & W. Milton:					
Brush	7.97		.[illegible]	.25	
Structural steel, bridge	8.72		.35	.25	
Spray	9.07		.35	.25	
Day, Hadley, Corinth					
Brush	7.28	.25	.20		
Structural steel, swing scaffold and bridge	7.6[illegible]	.25	.20		
Spray and sandblasting	7.93	.25	.20		
Remainder of County:					
Commercial work	6.[illegible]0				
Swing scaffold bosun chair, water towers, flag poles, window jacks	7.10				
Bridge, structural steel and sandblasting	7.35				
Plumbers and Steamfitters:					
Moreau Township	7.74	.35	.50		.03
South of a line drawn through the Outlet Rd., on R. 50, East & West to the Saratoga Co. Line; including the AEC and Malta Projects	9.50	.50	.75		.10
Remainder of County	6.60	.30	.25		
Roofers	8.30	.65	.30		.02
Sheet Metal Workers	8.85	.40	3%+.30		.05
Sprinkler Fitters	9.60	.50	.70		.05
Truck Drivers:					
Straight, winch, transit-mix on job site, road salters, dump, pick-up, panel, water and fuel trucks on site	7.09	.37	.37	f	.02
Euclids	7.34	.37	.37	f	.02
Lowboy or lowboy trailers	7.24	.37	.37	f	.02

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holiday: E, provided the employee works the day after the holiday.

b. Holidays: A thru F.

c. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Holidays: A thru F, Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 days prior to the holiday, and the regularly scheduled work days immediately preceeding and following the holiday.

e. Holidays: A thru F; Washington's Birthday, Election Day for the President of the United States and Election of Governor of New York (provided the employee works the day before and the day after the holiday).

f. One week vacation after one year's work; 2 weeks after 5 years work.

g. Holiday: D, providing employee was on the payroll the week before the holiday or on the payroll the week after the holiday.

h. Employer contributes $15.00 per year to an apprentice training program.

i. Employer contributes $.50 to an annuity fund.

j. Holidays: D & E, plus two hours on Election Day.

NY-27-LAB-2-3-G

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
LABORERS: Laborers and driller helpers Concrete aggregate bin, mortar mixer, hand or machine vibratoe gin buggy, mason tenders, concrete bootmen, chain saw, jackhammer, pavement breaker and all other gas, electric oil and air-tool operators, bull float tamper pipelayers	$6.75	.55	.70	a	
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator	6.95	.55	.7[illegible]	a	
Blasters, form setters, stone or granite curb setters	7.15	.55	.70	a	
	7.35	.55	.7[illegible]	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

[illegible]OOTNOTE:
[illegible]. Holidays A tnrough F, providing the employee works the day before and after the holiday.

N.Y. 3-PEO-1-J 1 of 1

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP 1: Oilers

GROUP 2: Firemen and heavy duty g[illegible], all boilers and steam generators

GROUP 3: Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines well points, two or more Herman Nelson and like heaters, batch and plant op., seed and mulching machines, generators, temporary light plants, concrete pump, beltcrete power pac (beltcrete system), electric submersible pump 4" and over

GROUT 4: Dinkey locomotives, Barber Greene loaders, loaders and conveyors, tractors, scoopmobiles, bulldozers, road rollers, form fine graders, power brooms and sweepers

[illegible]ROUP 5: Black top spreaders, black top rollers, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, traxcavators, core and well well drillers (one drum), economobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum)

[illegible]ROUP 6: L[illegible] graders or scr[illegible]ers, trenching machines, push cart

[illegible]ROUP 7: Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers, hoists two or more drums, three drum engines, hysters, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CH[illegible] Vibrotamp or similar, Murphy type diesel generator-beltcrete system, side booms, hydro hammer, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt, concrete central plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
GROUP 1	$8.60	.45	.45+.30	a	.10
GROUP 2	8.66	.45	.45+.30	a	.10
GROUP 3	8.76	.45	.45+.30	a	.10
GROUP 4	8.94	.45	.45+.30	a	.10
GROUP 5	9.24	.45	.45+.30	a	.10
GROUP 6	9.37	.45	.45+.30	a	.10
GROUP 7	9.54	.45	.45+.30	a	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F.

NOTICES
NOTICES

HEAVY & HIGHWAY CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP I: Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated), fork lift (factory rated 15 ft. and over), front end loader 4 c.y. and over), head tower (sauerman or equal), hoist (2 or 3 drum), mine hoist, mucking machine or mole, overhead crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is nuded, he shall be on oiler), tractor drawn belt type loader, truck crane, tunnel shovel

GROUP II: Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated) and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity, concrete paver (over 165), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over), hoist (one drum), Kolman plant loader and similar type loaders (if another man is required to clean screen or to mountain the equipment, he shall be on oiler), locomotive, maintenance/engineer/greaseman/ welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat

GROUP III: A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 900 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type or combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, homers (hydraulic-self propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, wilbre tamp, well point

GROUP IV: Aggregate plant, boiler (when in conjunction with production), cement and lime operator, compressors (3 or less not to exceed 1600 c.f.m. combined capacity), compressor (any size, bust subject to other provisions for compressors), dust collectors, generators pumps, welding machines (3 or less of any combination), concrete paver or mixer (165 and under), concrete saw (self propelled), fireman, form tamper, hydraulic pump (jacking system), lighting plants, mulching machine, oiler, parapet concrete or pavement grinder, power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor

HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacations	Apprentice
GROUP I	$8.70	.45	.45+a	b	.10
GROUP II	8.40	.45	.45+a	b	.10
GROUP III	7.85	.45	.45+a	b	.10
GROUP IV	7.15	.45	.45+a	b	.10

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $.30 per hour to an Supplemental Unemployment Benefit Fund.

b. Paid Holidays A through F; providing the works the day day before and after the holiday.

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N.Y. 1-TD-2-3 - H

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	Appr. Tr.	Others
TRUCK DRIVERS:						
Warehouse, yardmen, truck helpers, pick-ups, panel trucks, flatbody material trucks (straight jobs), single axle dump, dumpsters, material checkers and receivers, greasers, tireman, mechanic helpers and parts chaser	$6.90	.50	.45	a		
Tandems and batch trucks, mechanics dispatcher	6.95	.50	.45	a		
Semi-trailers, lowboy trucks asphalt distributor, agitator, mixer trucks and dumpcrete type vehicles	7.00	.50	.45	a		
Specialized earth moving equipment, Euclid type or similar off-highway equipment, where not self-loaded	7.15	.50	.45	a		
Off-highway tandem back dump, twin engine equipment and double hitched equipment where not self-loaded	7.30	.50	.45	a		

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F, provided employee has worked the working day before and the working day after the holiday.

SUPERSEDEAS DECISION

STATE: NEW YORK

COUNTIES: BRONX, KINGS, QUEENS, NEW YORK & RICHMOND

DECISION NO.: AR-2101

DATE: DATE OF PUBLICATION

Supersedeas Decision No. AQ-2107 dated April 26, 1974 in 39 FR 14887

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

3-24-31-41-43-New York-1-2-3-K 1 of 4

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Asbestos workers	$ 9.45	13.7%	0%	12%	
Boilermakers	10.57	5%	5%+10%	7%	.02
Bricklayers	9.40	.78	2.92	.30	
Carpenters, Building:					
Carpenters, soft floor layers	9.61	.95	1.53	.55	.02
Millwrights	9.61	.95	1.53	.55	.02
Dock builders & piledrivermen	9.61	.95	1.53	.55	.02
Carpenters, Heavy					
Carpenters	9.61	.95	1.53	.55	.02
Dock builders & piledrivermen	9.61	.95	1.53	.61	.02
Timbermen	8.74	.95	1.53	.55	.02
Cement masons	9.35	1.005	1.505	1.00	.01
Electricians and linemen	9.98	u	1%+a	v + b	
Elevator constructors	9.52	.445	.29+m	c + d	.02
Elevator constructors' helpers	7.14	.445	.29+m	c + d	.02
Elevator constructors' helpers (prob.)	4.76				
Elevator constructors modernization	8.75	.445	.29+m	c + d	.02
Elevator constructors modernization helpers	6.56	.445	.29+m	c + d	.02
Elevator constructors repair	7.90	.445	.29+m	c + e	.02
Elevator constructors repair's helpers	5.92	.445	.29+m	c + e	.02
Glaziers	8.75	.66	.46+1.20	.365	.03
Ironworkers:					
Structural	9.78	.80	2.08	1.13	.04
Ornamental finisher	8.40	.63	2.035	.76	.03
Reinforcing	9.10	.785	.655+1.10	.75	.01
Laborers:					
Asphalt rakers	8.17	1.05	.95	s	
Asphalt tampers	7.98	1.05	.95	s	
Asphalt laborers	7.98	1.05	.95	s	
Blasters (Hwy.)	8.59	.605	1.335	f + .65	
Cement concrete workers	7.45	.7025	.7025	1.20	
Curb setters, flangers (Hwy.)	10.16	1.05	.95	e	
Form setters (Hwy.)	9.01	1.05	.95	s	
Laborers, puddlers, concrete rakers (Hwy.)	8.02	1.05	.95	s	
Laborers, (Bldg., & Hvy.)	7.70	1.10	1.25	s	
Mason tenders	8.30	.80	.705+.50		
Pneumatic gas, electric tool op. (Hvy)	7.46	.805	1.335	.65+f	

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Laborers: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Pavers (Hwy.)	$10.16	1.05	.95	e	
Plasterers' helpers (Kings)	8.05	1.60		.80	
Plasterers' helpers (Queens)	7.05	1.25		1.00	
Plasterers' helpers (NY-Bronx-Richmond)	7.85	.95	.50		
Power carriers (Hvy.)	6.77	.805	1.335	.65+f	
Runners (Hwy.)	9.74	1.05	.95	e	
Wagon drills (Hvy.)	7.62	.805	1.335	.65+f	
Lathers, metallic	9.10	.785	.65+1.10	.75	.01
Lathers, nail-on (King & Queens)	8.40	.655	1.655	.70	.01
Lathers, nail-on (NY-Bronx-Richmond)	6.75		.25		.01
Lead burners	9.25	.35		6	.01
Marble setters:					
Carvers	7.55	.63	.66+w+x		
Cutters, setters	8.00	.63	.66+w+x		
Sawyers, rubbers, polishers	7.17	.63	.66+w+x		
Crane operators & derrickmen	6.93	.63	.66+w+x		
Crane operators helpers	6.93	.63	.66+w+x		
Painters:					
Brush	8.00	.60	.52+h	.24	
Spray, spray gun and scaffold work	9.71	.60	.52+h	.24	
Structural steel	7.50	8%	11%		
Structural steel spray	8.50	8%	11%		
Plasterers:					
Kings	8.05	.95		1.40	.01
Queens	8.10	1.00	.40	1.00	.01
Bronx-NY-Richmond	8.25	.85	.60	.90	.01
Plumbers:					
Manhattan and Bronx	9.25	1.00	1.00+.86	.72	.06
Kings-Queens	9.00	.65	1.10+j	.89	.11
Richmond	9.30	.55	1.45+k	1.02	.25
Roofers:					
Composition, damp & waterproofers	8.84	12%	2.20	.63	
Slate-tile (Kings-Queens)	6.45	8%	.50	5%	
Slate-tile helpers (Kings-Queens)	5.13	8%	.50	5%	
Slate-tile (bronx-NY-Richmond)	8.84	.50	2.20	.63	
Slate-tile helpers (Bronx-NY-Richmond)	7.10	.50	.80	.80	
Sheet metal workers	11.17	.595	.927	.387	.02
Sprinkler fitters	8.655	7%+1.55	13%	10%	.05
Steamfitters	8.655	7%+1.55	13%	10%	.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Stonemasons	$ 9.75	.50	1.00		
Stone derrickmen & riggers	10.28	7%+.01	7%+1.04		.01
Terrazzo workers	8.71	.62	1.19+.45		
Terrazzo workers' helpers	7.43	.925	.475		
Terrazzo workers, machine operator	7.68	.925	.475		
Tile setters	8.20	.60	1.50		
Tile setters' helpers	6.96	.40	.27+1.00		
Tuckpointers:					
Steam cleaners	8.97	.70	1.44	.50	.015
Waterproofers	8.72	.70	1.44	.50	.015
Sandblasters	9.72	.70	1.44	.50	.015
Truck Drivers:					
Ready-mix concrete, sand, gravel and asphalt	8.02	.73½	1.58½	n + o	
Euclids and turnapull operator	8.075	.73½	1.58½	n + o	
4 wheel trucks, hi-lo lift op.	6.775	.73½	1.58½	n + o	
Helpers & yardmen	6.525	.73½	1.58½	n + o	
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $.86 per hour to Annuity Fund.
b. Holidays: A through F; Election Day; Employee's Birthday.
c. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Columbus Day; Election Day; Armistice Day.
d. Employees with 6 months or more but less than 5 years service receive 2 weeks vacation, 5 or more years of service receive 3 weeks.
e. Employees with 6 months or more but less than 5 years service receive 2 weeks vacation, 5 or more years but less than 15 years receive 3 weeks, 15 or more years receive 4 weeks.
f. Holidays: A through F; Washington's Birthday; Columbus Day; Election Day; Armistice Day; Lincoln's Birthday.
g. Holidays: A through F; Washington's Birthday; Christmas Eve and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and regular schedule work days immediately preceding and following the holiday.

FOOTNOTES: (Cont'd)

h. $3.50 per day contribution for each men to a special annuity fund.
j. Employer contributes $.857 to a Security Benefit Fund.
k. Employer contributes $.43 per hour to a Security Benefit Fund.
m. Employer contributes $7.00 per day to an Annuity Fund.
n. Holidays: A through F, Lincoln's Birthday; Washington's Birthday; Columbus Day; Election Day; Veteran's Day, providing the employee works two days in the calendar week in which the holiday falls and each remaining work day during such calendar week.
o. For each 15 days worked within the contract year an employee will receive one day's vacation with pay, with a maximum vacation of three weeks per year.
s. Holidays: B, C, D & E, Election Day, Columbus Day, providing employee works at least 1 day in the week in which the holiday occurs.
t. Holidays: A through F.
u. Employer contributes $.70 per hour to a combined Health & Welfare and Pension Fund.
v. Employer contribution of $.61 per hour to a Vacation Fund.
w. Employers contribute $.60 per hour to a Trust Fund.
x. Employers contribute $.15 per hour to an Annuity Fund.
z. Paid Holidays: New Year's Day, Christmas Day provided the employee works a full half day preceding the holiday.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
POWER EQUIPMENT OPERATORS						
Double drum hoist	$10.41	5%	5%+a	.70 +b	.02	
Stone derrick, cranes, cherry picker	10.27	5%	5%+a	.70 +b	.02	
Hoist, fork lifts, house cars, plaster (platform machine), plaster bucket, plaster pumps, compressors-welding machines (cutting concrete-tank work), paint spraying, sand blasting, and all equipment used for hoisting material	8.86	5%	5%+a	.70 +b	.02	
Cranes: All types - crawler or truck						
100' to 149' boom	10.76	5%	5%+a	.70 +b	.02	
150' to 249' boom	11.01	5%	5%+a	.70 +b	.02	
250' to 349' boom	11.26	5%	5%+a	.70 +b	.02	
350' to 450' boom	11.76	5%	5%+a	.70 +b	.02	
Steel Erection:						
Three drum derricks	10.64	5%	5%+a	.70 +b	.02	
Cranes, 2 drum derricks, cherry pickers	10.27	5%	5%+a	.70 +b	.02	
Compressors, welding machines	9.32	5%	5%+a	.70 +b	.02	

FOOTNOTES:

a. Employer contributes $.90 per hour to an annuity fund.

b. Paid Holidays: New Year's Day; Lincoln's Birthday; Washington's Birthday; Good Friday (Iron League only); Decoration Day; Independence Day; Labor Day; Columbus Day; Election Day; Armistice Day; Thanksgiving Day; and Christmas Day providing the employee is employed during the payroll week in which the holiday falls.

POWER EQUIPMENT OPERATORS, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Machines, power shovels, steel erection	[illegible]	5%	5%	.75+a		
Mine Hoist & cranes	[illegible]	5%	5%	.75+a		
Gradalls, keystones, cranes (on land or water with digging buckets including sand rock cranes, bridge cranes, clamshells, draglines, trenching machines)	[illegible]	5%	5%	.75+a		
Piledriving cranes (when driving piles), piledriving rigs (when driving piles), cranes (under direction of a dockbuilder foreman), Derrick boats, tunnel shovels, concrete plants (on site only)	[illegible]	5%	5%	.75+a		
Cherrypickers (20 tons & over)	[illegible]	5%	5%	.75+a		
Tunnel mucking machines, back filling machines, cranes (including but not limited to those utilizing scale boxes and mucking buckets), paver dual drums	[illegible]	5%	[illegible]	.75+a		
Elevators (manually operated), pavers, cableways, land derricks, power houses (which contain low air pressure units), asphalt spreaders, autograders (C.M.I. and machines of similar nature)	[illegible]	5%	5%	.75+a		
Power houses (other than above), portable compressors (used for steel erection), compressors (3 or more in battery), driving of truck mounted compressors, double drum hoist, concrete pumps, well point pumps, tugger machines (compressed air caissons), drilled in caissons, soil solidification equipment, welding machines (used for steel erection)	8.71	5%	5%	.75+a		
Rollers (irrespective of motor power) [illegible] mixers	[illegible]	5%	5%	.75+a		
River cofferdam pumps, welding machines (1 op. 2 through 5 machines, 2 op. 6 through 10 machines except where ARC is operated by members of L-15), concrete breaking machines, portable compressors (1 or 2 in battery not over 100' apart), high pressure boilers, single						

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POWER EQUIPMENT OPERATORS, HEAVY & HIGHWAY CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
drum hoist, locomotives (over 10 tons), push-button machines, stationary engineers (care, operating and maintenance of conveyor roller and plant equipment in asphalt plants)	8.35	5%	5%	.75+a		
Long boom land cranes:						
100' - 149'	9.94	5%	5%	.75+a		
150' - 249'	10.19	5%	5%	.75+a		
250' - 349'	10.44	5%	5%	.75+a		
350' - 450'	10.94	5%	5%	.75+a		
Junior engineers (when operating loaders rubber-tired and/or tractor type with a manufacturer's minimum rated bucket capacity of 6 cubic yards and over)	9.35	5%	5%	.75+a		
Junior engineers (when operating the following equipment and attachments): scrapers, turn-a-pulls, tugger hoists (used exclusively for handling excavated material), tractors (rubber-tired and/or track type), hysters and roustabout cranes, back scratchers, cherrypickers (all capacities, including the crew requirement for a manufacturer's minimum rated capacity of cherrypicker twenty tons and over), austin western and machines of a similar nature, basin machines, stetco silent hoist and machines of a similar nature, vac-all, meyers machines, john beam and machines of a similar nature, bulldozers, loaders (rubber-tired and/or tractor type with a manufacturer's minimum rated bucket capacity of less than 6 cubic yards), conveyors, motor graders, curb and gutter pavers and machines of a similar nature, ross carriers and travel lifts and machines of a similar nature	9.10	5%	5%	.75+a		
Junior engineers when operating the following pieces of minor equipment: tractors, locomotives (10 tons and under), post hole diggers, ditch witch (walk behind), motor generators, road finishing machines, mixers (16S and under with or without loading devices) rollers (5 tons and under), tugger						

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POWER EQUIPMENT OPERATORS, HEAVY & HIGHWAY CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
hoists, dual purpose trucks, fork lifts, dempster dumpers, fireman (tending to): steam operated shovels, power boilers, steam operated pile drivers, steam operated derrick boats steam operated water rigs	8.94	5%	5%	.75+a		
Apprentice engineers & oilers (all gasoline, electric, diesel or air operated), shovels, cranes, draglines, backhoes, keystones, gradalls, pavers, trenching machines, concrete pumps, gunite machines, compressors (3 or more in battery), power houses, their duties shall be to assist the engineer in oiling, greasing and repairing of all machines, giving signals when necessary, chaining buckets and scale boxes, driving truck cranes, driving and operating fuel and grease truck	8.59	5%	5%	.75+a		

Footnotes:
New Year's Day; Lincoln's Birthday; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Election Day; Veterans' Day; Thanksgiving Day; Christmas Day, providing the employee works one day in the payroll week in which the holiday occurs.

NOTICES 44929 44927 NOTICES

SUPERSEDEAS DECISION

STATE: Pennsylvania — County: Crawford
DECISION NO.: AR-2098 — DATE: Date of Publication
Supersedes Decision No. AQ-2123, dated May 31, 1974, in 39 FR 19379.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$9.69	.30	.30		.04	
Boilermakers	10.03	.50	.85		.01	
Bricklayers	9.13	.30				
Carpenters & Soft floor layers:						
Titusville	9.40					
Remainder of County	8.26	5%	7%	6%	.4 of 1%	
Cement masons	9.13	.30				
Electricians	9.65	.40	1%		½ of 1%	
Glaziers	8.61	.30	.20			
Ironworkers	9.15	.78	.69		.13	
Laborers:						
Common laborers	7.37	.40	.40			
Mason tender, hod carriers, mortar mixers, scaffold builders	7.47	.40	.40			
Pipelayers (concrete & clay)	7.82	.40	.40			
Blaster, mechanical tampers, powered wheel-barrow, wagon drill operators	7.92	.40	.40			
Material buggy handler, blaster helper, all tool operators, wagon drill helpers & drill runner	7.67	.40	.40			
Burners	8.07	.40	.40			
When working in piers, tranches, open coffer dams & caissons at depths more than ten (10) feet below the lowest adjacent grade:						
Bottom man	7.67	.40	.40			
All power operators	7.92	.40	.40			
Drill man	7.92	.40	.40			
Line Construction:						
Lineman, dynamite man, heavy equipment operator	9.04	.20	1%			
Groundman, truck drive:	6.41	.20	1%			
Groundman	6.15	.20	1%			
Marble setters	9.13	.30				
Millwrights	7.995	5%	3%+.25	2½	1/2%	
Painters:						
Commercial:						
Brush	7.70	.40	.50		.01	
Roller	8.00	.40	.50		.01	
Spray	8.70	.40	.50		.01	
Industrial:						
Brush	8.40	.40	.50		.01	
Roller	8.70	.40	.50		.01	
Spray	9.05	.40	.50		.01	

20-PA-1- A — 2 of 2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Millwrights	$9.58	5%	8%		.50 of1%	
Masons	9.13	.30				
Plumbers & Steamfitters:						
Cambridge, Spring & Sparta	9.94	.30	.28		.04	
Remainder of County:						
Contract under $10,000	8.29	.44	.45		.04	
Contracts over $10,000	8.80	.44	.45		.04	
Roofers	7.20	.30	.30			
Sheet metal workers	8.425	.65	.85		.02	
Sprinkler fitters	9.60	.50	.70		.08	
Stone masons	9.13	.30				
Terrazzo workers	9.13	.30				
Tile setters	8.12	.30	.20			
Truck drivers	5.45	b	c	a		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

FOOTNOTE:

a. One week's vacation after one year's work; two weeks vacation after 5 years of service.

b. Employer agree to contribute $54.94 per month to Health and Welfare

c. Employer agree to contribute $12.00 per week to a pension fund.

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PA-42-PEO-1-H

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr.
CLASS 1	$9.925	.50	.50		.09
CLASS 1-A	10.175	.50	.50		.09
CLASS 1-B	10.425	.50	.50		.09
CLASS 1-C	10.675	.50	.50		.09
CLASS 2	9.775	.50	.50		.09
CLASS 2-A	9.30	.50	.50		.09
CLASS 3	8.80	.50	.50		.09
CLASS 4	8.40	.50	.50		.09
CLASS 5	7.50	.50	.50		.09
CLASS 6	7.65	.50	.50		.09
CLASS 6-A	7.75	.50	.50		.09
CLASS 6-B	7.90	.50	.50		.09

AR-2098 P.4

CLASS 1: Austin-Western or similar type up to 25 ton, auto grader (CMI or similar), backhoe, batch plant, cableway, caisson drill, central mix plant, cranes (excluding overhead), cranes tower (mobile), crane tower (stationary), crane tower (climbing type), derrick traveler (self-propelled), derrick (all types), derrick boats, dragline, dredge, engineer-maintenance franki or similar type pile driver, gradall (remote control or otherwise), helicopter & helicopter hoist when used for erection purposes), hi-lift 4 yds. or over, hoist-hod (2 cages up to 10 floors), hoist-single cage with Chicago boom attached, hoist (50 ft. or over), hoist (slipform jobs), hop-to or similar type with 180 swing, hop-to or similar type with 360 swing, kodal, koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobile or similar type, mucking machine (tunnel), mutiple bowl machines, pile driver (sonic or similar type), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete-mobile or similar type, Quad Nine, shovels (all type), slip form paver (CMI or similar), tractors-boom mounted (all types), tractors (all types with hydraulic backhole attached), tug boat, Whirley

CLASS 1A: Austin-Western or similar type up to 25 ton with jib, Austin-Western or similar type 25 tons or over with jib, cranes (boom or mast 100 ft. or over up to & including 150 ft.), cranes-mobile (any type 15 ton or over placed on any building structure

CLASS 1B: Cranes (boom or mast over 150 ft. up to & including 200 ft.) engineer-Insul

CLASS 1C: Cranes (boom or mast over 200 ft.)

CLASS 2: Asphalt plant op., athoy loader, auger-truck, truck or tractor mounted, back-filling machine, boat-material or personnel carrying (powered), boat-job work (inboard or outboard), bulldozer, cable layer, compactor with blade, compressors-2, compressor and air pump, compressor and air tugger, compressor & gunnite machine (combination), compressor & sandblasting machine (combination), concrete bolt placer, crane-overhead, crushing and screening plants, drillcore (truck or skid mounted) drill-Davey or similar type, drill-well & core (truck mounted), elevator euclid loader, excavating equipment (all other), grader, grader-elevating, greaser-equipment (hoad), hi-liftless than 4 yds., hoist-one drum (4 floors or over), hoist-hod (bldgs., 4 floors or more), hoist (2 drums or more in one unit), jumbo op., locomotive, lift slab machine (hydraulic), mixer-paving musking machine, pipe cleaning machine, refrigeration plant, ross carrier (or similar type), scoop (single bowl) self-powered & tractor drawn), spreader-concrete, asphalt and stone, tower mobile (hoisting or lowering material, trencher, welding machines (up to two small machines, grout pump (10 H.P. or over), paver op., asphalt (spreader), pumpkrete machine op., (stationary), tire repairman, welder (repairman)

CLASS 2A: Conveyors 4 units or more

CLASS 3: Oiler, compactor (ridden or silf-propelled) concrete finishing machine & spreader, crane, carry, curb builder (self-propelled), drill well and horizontal (self-propelled and self-contained, elevator, forklifts (ridden or self-propelled, hoist one drum (regardless of power used), pavement breaker (self propelled or ridden), pipe dream, roller saw concrete, soil stabilizer (pump type), stone crusher, stone spreader self-propelled tractors (when used for snaking and hauling), tube finisher C.M.I. or similar type, tugger, truck winch truck or hydraulic boom (when hoisting and placing), all other equipment

CLASS 4: Ballast regulator boring machines, broom power (except push type), compressor-single (regardless of power used), conveyor-over 1 and up to 3 units (regardless of power used), form line machine, generator (over 5KW) hoists monorail (regardless of power used), hoist roof (regardless of power used) hunk machine or similar type, mixer concrete (regardless of power used), mixer mortar-over 10 c.f. (regardless of power used) pump (over 1-½" discharge, regardless of power (used) spray cure machine (power driven) steam Jenny (or similar type) syphon (steam or air) welding machine single (300 Amp or over) plant, private or industrial air or stream valve

CLASS 5: Compressor - 65 c.f. or under (regardless of power used) conveyor 1 unit (regardless of power used) heat-up to & including 6, jack motor, hydraulic (single type) power driven, ladavator, mixer mortar (10 c.f. or under, mulching machine, pin puller (powered), pulverizer, pump-1½" discharge or less, seeding machine, spreader side delivery shoulder (attachment tie tamper (multiple heads), tractor farm (when used on landscaping) water blaster, oilertruck crane 50 ton or over

CLASS 6: Brake man, deck hand, helicopter, signalman, oiler, mechanical helper

CLASS 6A: Crane truck oiler and fireman

CLASS 6B: Oiler - truck crane 50 ton or over

STATE: Pennsylvania

SUPERSEDEAS DECISION:

COUNTIES: Adams & York

SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NO.: AR-2099
COUNTIES: Adams & York
DATE: Date of Publication
Supersedes Decision No. AQ-2042, dated February 8, 1974, in 39 FR 5044.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$8.73	.30	.30		.01	
Boilermakers	10.20	.65	1.00		.01	
Bricklayers & Stonemasons	8.55	.25	.45			
Carpenters & (York County)	8.09	.25	.40		.03	
Carpenters & (Adams County)	8.13	.25	.35		.02	
Cement Masons (Adams County)	8.315	.25	.25			
Cement Masons (York County)	7.44	.25	.25		.01	
Electricians	9.05	.25	1%+.15		.01	
Elevator Constructors	8.41	.39	.26	2½%+a+b	.02	
Elevator Constructors helpers	5.89	.39	.26	2½%+a+b	.02	
Elevator Constructors helpers (prob)	4.205					
Ironworkers	9.36	.64	1.06		.05	
Laborers:						
Laborers (unskilled), Window Cleaners & Fire watch	5.55	.35	.25			
Operators of jackhammers, paving breakers, WACO barko & air tampers, chipping hammers, vibrators & all other pneumatic & mechanical tools coming under the jurisdiction of laborers whether operated by air, electricity or any other means, & vacuum cleaner	5.75	.35	.25			
Wagon & track drill operators	5.85	.35	.25			
Handling of all materials used by masons, lathers, plasterers, cement finishers, cement mixers, gunniting, also mixing of all materials used by masons, plasterers & cement finishers whether done by hand or any other process, building of scaffold for staging for masons & plasterers, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same, handling & using of burning torches, laying of precast concrete slabs for flooring or roofing.	5.70	.35	.25			
Laborers assisting tile, marble setters & terrazzo workers	5.60	.35	.25			
Handling & using dynamite	5.88	.35	.25			
Mixer man (after 10 bricklayers on job)	5.95	.35	.25			
Caisson work(top man)	5.50	.35	.25			
(bottom man)	6.00	.35	.25			
Line Construction:						
Linemen, cable splicers	8.84	.30	1%		3/8%	
Winch truck operator	6.19	.30	1%		3/8%	
Groundman	5.30	.30	1%		3/8%	
Marble, tile & terrazzo workers	7.50	.25	.45			

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Millwrights (Adams County)	$8.18	.25	.35		.02	
Millwrights (York County)	8.59	.25	.40		.03	
Painters:						
Brush	6.25	.25	.15			
Steel & Spray	6.80	.25	.15			
Piledrivermen	9.92	1.28	.90	d	.07	
Plasterers (York County	7.15	.25	.25		.01	
Plasterers (Adams County)	9.30	.25	.25		.01	
Plumbers	9.30	.30	.40		.12	
Roofers:						
Composition	7.10	.25	.20	.05		
Slate, tile	7.50	.25	.20	.05		
Helpers	5.355	.25	.20	.05		
Sheet metal workers	9.18	.52	.50		.01	
Soft floor layers (Adams County)	7.79	.25	.35		.02	
Soft floor layers (York County)	8.09	.25	.30		.03	
Sprinkler fitters	9.60	.50	.70		.08	
Steamfitters	9.30	.30	.40		.12	
Welders- Receive rate for craft						

PAID HOLIDAYS (Where Applicable)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Paid Holidays: A through F.

c. Paid Holidays: Washington Birthday, Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veteran's Day and Thanksgiving Day.

d. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans' Day & Thanksgiving Day.

PA-22-FEO-1-A 1 of 2

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App Tr
GROUP 1	$10.19	4.6%	9.5%	a	1.2%
GROUP 2	9.90	4.6%	9.5%	a	1.2%
GROUP 3	9.02	4.6%	9.5%	a	1.2%
GROUP 4	8.25	4.6%	9.5%	a	1.2%
GROUP 5	7.77	4.6%	9.5%	a	1.2%
GROUP 6	6.85	4.6%	9.5%	a	1.2%
GROUP 7	10.44	4.6%	9.5%	a	1.2%
GROUP 7-A	10.69	4.6%	9.5%	a	1.2%
GROUP 7-B	10.94	4.6%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pappin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, greaser truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Kleberg & Nueces
DECISION NO.: AR-91 DATE: Date of Publication
Supersedes Decision No. AR-86, dated December 13, 1974, in 39 FR 43496.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See General Wage Determination AR-36 for Paving & Utilities Incidental to Building Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$7.64	.35	.30		
BOILERMAKERS	7.80	.30	.76		.02
BRICKLAYERS	6.98	.10	.15		.02
CARPENTERS:					
Carpenters	6.09	.27	.30		.02
Millwrights	7.05				
CEMENT MASONS	6.65				
ELECTRICIANS:					
Electricians	7.85	.35	1%		1/2%
Cable splicers	7.975	.35	1%		1/2%
GLAZIERS (excluding Kleberg Co.)	5.34		.20		
IRONWORKERS:					
Structural; Ornamental	5.89	.40	.40		.04
Reinforcing	5.84	.40	.40		.04
LABORERS:					
GROUP 1 - General laborer (any work not specifically defined herein)	3.85	.28	.10		
GROUP 2 - Craft tenders: Bricklayers, plasterers, tile setters, concrete & mortar mixers, pipelayers, lathers, finish carpenters, slip form operators, scaffolding water proofers, cement finishers; Power tool operators - Includes paving buster, jackhammer, chipping gun, air tamper, barie tamper, electric vibrator, air or gasoline driven vibrator or drills, sump pumps and any and all power driven equipment operated by laborers	4.05	.28	.10		
GROUP 3 - Pipe wrappers & dopers	4.20	.28	.10		
GROUP 4 - Gunnite nozzlemen; Powderman or blaster	4.30	.28	.10		
LATHERS	6.30	.30	.10	1.00	.01
LINE CONSTRUCTION:					
Lineman	7.92	.28	1%		1/2%
Cable splicer	8.045	.28	1%		1/2%
Groundman	5.23	.28	1%		1/2%

DECISION NO. AR-91

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
MARBLE SETTERS	$6.38				.02
MARBLE SETTERS' HELPERS	4.87				
PAINTERS:					
Brush	5.99	.25	.25		2/10%
Spray	6.39	.25	.25		2/10%
Sign	6.24	.25	.25		2/10%
PLASTERERS	7.75				.01
PLUMBERS & STEAMFITTERS	6.85	.15	.25		.035
POWER EQUIPMENT OPERATORS:					
Group 1	6.45	.18	.45		
Group 2	5.675	.18	.45		
Group 3	5.075	.18	.45		
Group 4	5.225	.18	.45		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Asphalt Plant Mixer; Back Filler; Back Hoe; Batch Plant (concrete); Blade Grader; Boring Machine (foundation, horizontal or waterwell); Bull Clam; Bull Dozer; Cableway; Clamshell; Crane, power operated, all types; Crusher; Derrick, power operated, all types; Dragline; Elevating Grader; Elevator, outside the building; Euclids and similar type machines; Forklift (on construction except in warehouses); Grade-All; Hi-Lift; Hoist (2 drums or more); Locomotive and Switch Engines; Mixer (paving); Mixer (concrete); Pile Driver; Pumps (2) over 3 inches; Pumperete Machine; Push Cat or Pull Cat; Roller (pneumatic, flatwheel); Scraper (all types); Shovel (power); Scoopmobile; Trench Machine; Tugboat (on Construction); Turn-a-pulls and similar machines; Welding Machines (7 to 13) other than electric; Wellpoint; Winch Truck; All other equipment of similar nature coming within Heavy Equipment Class when power operated; Mechanic; Lubrication Engineer (required on grease racks and service trucks)

GROUP 2 - Air Compressor (1 or 2) 125 CFM or less, gasoline or diesel powered; Blade Grader (towed); Conveyor; Elevator, inside the building, permanent type; Fireman (required on any boiler, steam locomotive, steam crane, etc.); Flexplane; Form Grader; Generator (gas, diesel over 1500 watts); Hoist (1 drum); Mixer (less than 14 cu. ft.); Pulsometer; Pumps (1) over 3 inches; Pumps (1 or 2) 3 inches or under; Roller (towed); Tractor (wheel type); Driver-oiler (required on tractors or truck cranes on which controls of crane and those of tractor or truck are operated from different seats or stations, mobile type grade all, etc.); Wagon drill; Welding Machines (3 to 6) other than electric; All other equipment of similar nature coming within Light Equipment Class when power operated

GROUP 3 - Oiler, 1st year

GROUP 4 - Oiler, 2nd year

DECISION NO. AR-91

	Basic Hourly Rates	Fringe Benefit Payments			
		H & W	Pension	Vacation	Trng. Fr.
ROOFERS:					
Roofers	$5.525		.15		
Kettlemen	5.525		.15		
Waterproofers	5.525		.15		
Deckmen	5.525		.15		
SHEET METAL WORKERS	6.52	.15	.25		.01
SOFT FLOOR LAYERS	6.09	.27	.30		.02
SPRINKLER FITTERS	9.05	.50	.70		.08
TERRAZZO WORKERS	6.38				.02
TERRAZZO WORKERS' HELPERS:					
Terrazzo helpers	4.87				
Floor machine operators	5.07				
Base machine operators	5.22				
TILE SETTERS	6.36				.03
TILE SETTERS' HELPERS	4.67				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

[FR Doc.74-30072 Filed 12-26-74;8:45 am]

Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of October 1, 1974)

Title 46—Shipping (Parts 110–139) $1.90

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federal register

MONDAY, DECEMBER 30, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 251

Pages 44935–45205

PART I

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Republication of Amendments

Due to the large number of amendments which have been published to Part 213 of Title 5 of the Code of Federal Regulations, it has been determined that a republication without change would serve to set forth all published amendments in one codified statement. There is no substantive change in the provisions of this part. It is merely republished for the convenience of the users of the FEDERAL REGISTER and the Code of Federal Regulations. Therefore, Part 213 is revised to read as follows:

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

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213.101 Definitions.
213.102 Identification of positions in Schedule A, B, or C.

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Subpart C—Excepted Schedules

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213.3138 [Reserved]
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213.3141 National Labor Relations Board.
213.3142 Export-Import Bank of the United States.
213.3143 Farm Credit Administration.
213.3146 Selective Service System.
213.3147 Federal Mediation and Conciliation Service.
213.3148 National Aeronautics and Space Administration.
213.3149 Panama Canal Company.
213.3152 U.S. Government Printing Office.
213.3153 District of Columbia Government.
213.3154 Federal Home Loan Bank Board.
213.3156 Commission on Civil Rights.
213.3157 National Credit Union Administration.
213.3158 Franklin Delano Roosevelt Memorial Commission.
213.3161 James Madison Memorial Commission.
213.3162 National Aeronautics and Space Council.

SCHEDULE B

Sec.
213.3165 President's Advisory Committee on Labor-Management Policy.
213.3170 Civil Service Commission.
213.3172 Administrative Office of the U.S. Courts.
213.3178 [Reserved]
213.3182 National Foundation on the Arts and the Humanities.
213.3184 [Reserved]
213.3187 District of Columbia Redevelopment Land Agency.
213.3190 [Reserved]
213.3194 Department of Transportation.
213.3195 President's Temporary Commission on Pennsylvania Avenue.
213.3199 Temporary boards and commissions.

SCHEDULE B

213.3301 Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination.
213.3302 Entire executive civil service.
213.3303 Executive Office of the President.
213.3304 Department of State.
213.3305 Department of the Treasury.
213.3306 Department of Defense.
213.3309 Department of the Air Force.
213.3310 Department of Justice.
213.3312 Department of the Interior.
213.3314 Department of Commerce.
213.3315 Department of Labor.
213.3316 Department of Health, Education, and Welfare.
213.3317 Overseas Private Investment Corporation.
213.3318 Environmental Protection Agency.
213.3319 Administrative Conference of the United States.
213.3320 Inter-American Foundation.
213.3322 Interstate Commerce Commission.
213.3325 The Tax Court of the United States.
213.3326 Office of Emergency Preparedness.
213.3327 Veterans Administration.
213.3328 U.S. Information Agency.
213.3329 Federal Power Commission.
213.3330 Securities and Exchange Commission.
213.3331 [Reserved]
213.3332 Small Business Administration.
213.3333 Federal Deposit Insurance Corporation.
213.3334 Federal Trade Commission.
213.3337 General Services Administration.
213.3338 Federal Communications Commission.
213.3339 U.S. Tariff Commission.
213.3340 Civil Aeronautics Board.
213.3341 National Labor Relations Board.
213.3342 Export-Import Bank of the United States.
213.3343 Farm Credit Administration.
213.3344 Occupational Safety and Health Review Commission.
213.3345 Indian Claims Commission.
213.3346 Selective Service System.
213.3348 National Aeronautics and Space Administration.
213.3349 Panama Canal Company.
213.3350 Foreign Claims Settlement Commission of the United States.
213.3351 [Reserved]
213.3354 Federal Home Loan Bank Board.
213.3355 The Renegotiation Board.
213.3356 Commission on Civil Rights.
213.3357 National Credit Union Administration.
213.3359 ACTION.
213.3360 Consumer Product Safety Commission.
213.3364 U.S. Arms Control and Disarmament Agency.
213.3367 Federal Maritime Commission.
213.3368 Agency for International Development.
213.3372 [Reserved]
213.3374 [Reserved]
213.3376 Appalachian Regional Commission.

Sec.
213.3377 Equal Employment Opportunity Commission.
213.3382 National Foundation on the Arts and the Humanities.
213.3384 Department of Housing and Urban Development.

Sec.
213.3389 Regional Commissions, Public Works and Economic Development Act of 1965.
213.3392 Federal Energy Administration.
213.3394 Department of Transportation.
213.3320 Temporary Boards and Commissions.

AUTHORITY: The provisions of this Part 213 issued under 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp. p. 218.

Subpart A—General Provisions

§ 213.101 Definitions.

In this chapter:

(a) Excepted service has the meaning given that term by section 2103 of title 5, United States Code, and includes all positions in the executive branch of the Federal Government which are specifically excepted from the competitive service by or pursuant to statute, by the President, or by the Commission under § 6.1 or § 9.20 of the civil service rules (Subchapter A of this chapter).

(b) "Excepted position" means a position in the excepted service.

§ 213.102 Identification of positions in Schedule A, B, or C.

The Commission shall decide whether the duties of any particular position are such that it may be filled as an excepted position under Schedule A, B, or C.

Subpart B—[Reserved]

Subpart C—Excepted Schedules

SCHEDULE A

§ 213.3101 Positions other than those of a confidential or policy-determining character for which it is not practicable to examine.

(a) The positions enumerated in §§ 213.3102 to 213.3199 are positions other than those of a confidential or policy-determining character for which it is not practicable to examine and which are excepted from the competitive service and constitute Schedule A.

(b) An agency (including a military department) may not appoint the son or daughter of a civilian employee of that agency, or the son or daughter of a member of its uniformed service, to a position listed in Schedule A for summer or student employment within the United States. This prohibition does not apply to the appointment of persons (1) who are eligible for placement assistance under the Commission's Displaced Employee (DE) Program, (2) who are employed to meet urgent needs resulting from an emergency posing an immediate threat to life or property, or (3) who are members of families which are eligible to receive financial assistance under a public welfare program or the total income of which in relation to family size does not exceed limits established by the Commission and published in the Federal Personnel Manual.

(c) An agency may appoint for summer employment within the United States in positions listed in Schedule A only in accordance with the terms of the Commission's summer employment program. This restriction does not apply to positions that are excepted only when filled by particular types of individuals.

(d) In this section "summer employment" means any employment beginning after May 12 which will end before October 1 of the same year. "Student employment" means the employment of persons who are enrolled or who have been accepted for enrollment, on a substantially full-time basis, as resident students of a secondary school or of an institution of higher learning; a resident student, for this purpose, is a student in actual physical attendance at a school as distinguished from a correspondence student.

§ 213.3102 Entire executive civil service.

(a) Positions of Chaplain and Chaplain's Assistant.

(b) Cooks, except at fixed locations such as hospitals, quarantine stations, and penal institutions.

(c) Positions to which appointments are made by the President without confirmation by the Senate.

(d) Attorneys.

(e) Law clerk trainee positions. Appointments under this paragraph shall be confined to graduates of recognized law schools or persons having equivalent experience and shall be for periods not to exceed 14 months pending admission to the bar. No person shall be given more than one appointment under this paragraph. However, an appointment which was initially made for less than 14 months may be extended for not to exceed 14 months in total duration.

(f) Chinese, Japanese, and Hindu interpreters.

(g) Any position the duties of which are part-time or intermittent in which the appointee will receive compensation during his service year that aggregates not more than 40 percent of the annual salary rate for the first step of GS–3. This limitation on compensation includes any premium pay such as for overtime, night, Sunday, or holiday work. It does not, however, include any mandatory within-grade salary increases to which the employee becomes entitled subsequent to appointment under this authority. Appointments under this authority shall not be for job employment. In the metropolitan area of Washington, D.C., appointments under this authority shall be subject to the prior approval of the Commission.

(h) Subject to prior approval by the Commission, positions in Federal mental institutions when filled by persons who have been patients of such institutions and been discharged and are certified by the medical head thereof as recovered sufficiently to be regularly employed but it is believed desirable and in the interest of the persons and the institution that they be employed at the institution.

(i) Subject to prior approval of the Commission, positions requiring temporary, part-time, or intermittent employment in wage board type occupations (i.e., position excluded from Classification Act coverage by section 202(7) of the Act) on construction or repair work, where the activity is carried on in localities where examination coverage for the positions has not been provided and where because of employment conditions there is a shortage of available candidates for the positions. Appointments under this paragraph shall not extend beyond 1 year, and the employment thereunder shall not exceed 180 working days a year. Seasonal employments of a recurring nature are not authorized under this paragraph.

(j) Subject to approval of the Director of Selective Service, positions for which in the opinion of the Commission a local recruiting shortage exists when filled by individuals performing reconciliation service pursuant to Presidential Proclamation No. 4313 of September 16, 1974. Initial appointments under this authority may not exceed 1 year, and an initial appointment may be extended for one or more periods to a total of not to exceed 1 year. Such appointment may be further extended for one or more periods not to exceed 1 additional year. No person may serve under this authority longer than 2 years. No new appointments may be made under this authority after June 30, 1977.

(k) Positions without compensation provided appointments thereto meet the requirements of applicable laws relating to compensation.

(l) Positions requiring the temporary or intermittent employment of professional, scientific, or technical experts for consultation purposes.

(m) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) in field establishments outside central office and regional office cities of the Commission where examination coverage has not been provided for the positions, as follows:

(1) For temporary, intermittent, or seasonal employment (exclusive of positions covered by paragraph (l) of this section) not to exceed 180 working days a year in the Departments of Agriculture, Commerce, and Interior, in the Federal Aviation Agency, and in the International Boundary and Water Commission; or

(2) When it is specifically held by the Commission that this authority is applicable, for employment in localities that are isolated with respect to labor supply and where there is a shortage of available candidates for the positions.

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis when, in the opinion of the Commission, appointment through competitive examination is impracticable.

(o) Positions of a scientific, professional, or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special qualifications for the positions to which appointed. Employments

under this provision shall not exceed 130 working days a year.

(p) Positions of a scientific, professional, or analytical nature when filled by bona fide graduate students at accredited colleges or universities provided that the work performed for the agency is to be used by the student as a basis for completing certain academic requirements toward a graduate degree. Employments under this provision may be continued only so long as the foregoing conditions are met, and the total period of such employment shall not exceed one year in any individual case: *Provided*, That such employment may, with the approval of the Commission, be extended for not to exceed an additional year.

(q) Postions at grade GS–7 and below when appointees are to assist scientific, professional, or technical employees. Persons employed under this provision shall be: (1) Bona fide high school science or mathematics teachers or (2) bona fide students at high schools or accredited colleges or universities who are pursuing courses related to the field in which employed. No person shall be employed under this provision in (i) positions of a routine clerical type or (ii) in excess of 1040 working hours a year; except that the 1040 working-hours-a-year limitation shall not apply to positions at grade GS–4 and below which are established in connection with associate degree cooperative education programs. Students enrolled in bachelor's degree cooperative education programs as defined in § 213.3202(a) of this Part shall not be employed under this provision. Appointments under this authority may be made only to positions for which qualification standards established under Part 302 of this chapter are consistent with the education and experience standards established for comparable positions in the competitive service.

(r) All positions of a project nature when filled by individuals the salaries for whom are paid out of funds allocated by the President under authority of Pub. L. 87–658, approved September 14, 1962, the Public Works Acceleration Act Employment under this authority shall be for a temporary period not to exceed one year.

(s) [Reserved]

(t) Positions when filled by mentally retarded persons in accordance with written agreements executed between an agency and the Commission. Provisions to be included in such agreements are specified in the Federal Personnel Manual.

(u) Subject to prior approval of the Commission, positions when filled by severely handicapped persons who (1) under temporary appointment, have demonstrated their ability to perform the duties satisfactorily; or (2) are certified by counselors of State Vocational Rehabilitation agencies or the Veterans Administration as likely to succeed in the performance of the duties.

(v) Temporary Summer Aid positions whose duties involve work of a routine nature not regularly covered under the General Schedule and requiring no specific knowledge or skills, when filled by youths appointed for summer employment under such economic or educational needs standards as the Commission may prescribe. A person may not be appointed unless he has reached his sixteenth but not his twenty-second birthday, or employed for more than 700 hours under this paragraph. This paragraph shall apply only to the positions whose pay is fixed at the equivalent of the highest minimum wage rate established by the Fair Labor Standards Act of 1938, as amended. However, during 1974 an agency shall not fix the pay at a rate less than that paid to Summer Aids by Federal agencies (other than the Postal Service) in the geographic area concerned in 1973.

(w) Part-time or intermittent positions the duties of which involve work of a routine nature when filled by students appointed in furtherance of the President's Youth Opportunity Stay-in-School Campaign and when the following conditions are met: (1) Appointees are enrolled in or accepted for enrollment in a resident secondary school or institution of higher learning, accredited by a recognized accrediting body; (2) employment does not exceed 16 hours in any calendar week (40 hours in any calendar week which falls within a vacation period); (3) while employed, appointees continue to maintain an acceptable school standing, although they need not attend school during the summer; (4) appointees need the earnings from the employment to continue in school; and (5) salaries are fixed by the agency head at a level commensurate with the duties assigned and the expected level of performance. Appointments under this authority may not extend beyond 1 year: *Provided*, That such appointments may be extended for additional periods of not to exceed 1 year each if the conditions for initial appointment are still met. A person may not be appointed under this authority unless he has reached his 16th but not his 22d birthday. No new appointments may be made under this authority between May 1 and August 31, inclusive.

(x) Subject to prior approval of the Commission, positions for which a local recruiting shortage exists when filled by inmates of Federal and District of Columbia penal and correctional institutions under work release programs authorized by the Prisoner Rehabilitation Act of 1965 and the District of Columbia Work Release Act. Initial appointments under this authority may not exceed one year. An initial appointment may be extended for one or more periods not to exceed one additional year each with the prior approval of the Commission upon a finding that the inmate is still in a work release status and that a local recruiting shortage still exists. No person may serve under this authority longer than one year beyond the date he is released from custody.

(y) Positions at grade GS–2 and below for summer employment, as defined in § 213.3101(d), of assistants to scientific, professional, and technical employees, when filled by finalists in national science contests under hiring programs approved by the Commission.

(z) Not to exceed 30 positions of assistants to top-level Federal officials when filled by persons designated by the President as White House Fellows.

(aa) Scientific and professional research associate positions at GS–11 and above when filled on a temporary basis by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and their agencies. Appointments are limited to persons referred by the National Research Council under its post-doctoral research associate program and may be made initially for 1 year only. An agency may extend an appointment made under this authority for up to 1 additional year when the program committee at the laboratory concerned determines that extension will benefit both the associate and the laboratory.

(bb) Subject to prior approval of the Commission, positions when filled by aliens in the absence of qualified citizens.

(cc) ositions at GS–15 and below when filled by persons identified as Interchange Executives by the President's Commission on Personnel Interchange. Appointments made under this authority may not extend beyond 2 years.

(dd) Positions at the grade GS–12 through GS–15 levels when filled by persons designated as Fellows under the Brookings Institution's Economic Policy Fellowship Program. Appointments made under this authority may not exceed 2 years in duration and no appointment may extend beyond June 30, 1975.

(ee) Positions in research and development facilities when filled for not to exceed 1 year by scientists and engineers appointed under a program of Presidential internships. No new appointments may be made under authority after December 31, 1975.

(ff) Not to exceed 25 positions when filled in accordance with an agreement between the Commission and the Department of Justice by persons in programs administered by the Attorney General of the United States under Pub. L. 91–452 and related statutes. A person appointed under this authority may continue to be employed under it after he ceases to be in a qualifying program only as long as he remains in the same agency without a break in service.

§ 213.3103 Executive Office of the President.

(a) *Office of Science and Technology.* (1) All professional positions on the Staff of the Office.

(b) [Reserved]

(c) *Council on Environmental Quality.* (1) Professional and technical positions in grades GS–13 through 15 on the staff of the Council.

(d) [Reserved]

(e) *Office of Telecommunications Policy.* (1) Professional positions in grades GS–13 through 15 on the staff of the Office.

(2) All positions assigned to the staff of the Domestic Council Committee on

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the Right of Privacy in grades GS–7 through GS–15.

(f) *Special Action Office for Drug Abuse Prevention.* (1) After December 1, 1973, all positions on the staff of the Special Action Office for Drug Abuse Prevention not filled in the competitive service or under another authority. No one may serve under this authority after June 30, 1975.

§ 213.3104 Department of State.

(a) *Office of the Secretary.* (1) Six physical science administration officers at GS–14 and above in International Scientific and Technological Affairs.

(2)–(4) [Reserved]

(5) Executive Officer, Executive Secretariat.

(b) [Reserved]

(c) *International Boundary and Water Commission, United States and Mexico.* (1) Gage readers employed part-time or intermittently at isolated localities when, in the opinion of the Commission, appointment through competitive examination is impracticable.

(d) *International Boundary Commission, United States and Canada.* (1) Temporary and intermittent field employees such as instrumentmen, foremen, recorders, packers, cooks, and axemen, for not to exceed 130 working days or 6 months within any 1 calendar year.

§ 213.3105 Department of the Treasury.

(a) [Reserved]

(b) *Bureau of Customs.* (1) Positions in foreign countries designated as "interpreter-translator" and "special employees," when filled by appointment of persons who are not citizens of the United States; and positions in foreign countries of messenger and janitor.

(2) [Reserved]

(3) Positions of part-time, intermittent, or temporary Customs Inspectors, and Port Directors in Alaska paid at a rate not above GS–9 and for not more than 130 working days in a service year.

(4) Positions of day "pickup" laborers whose assignments are to intermittent duties of short duration that must be performed without delay in field establishments where hiring of "pickup" laborers is authorized by the Bureau of Customs headquarters. Persons appointed under this authority may not be employed in this kind of work in the Bureau of Customs for more than 180 working days a year under this authority or under a combination of this authority and any other authority for excepted appointment that may be appropriate. This authority is not appropriate for job employment.

(5) Positions at GS–9 and below of Customs Enforcement Officer, Customs Inspector, Customs Marine Clerk/Officer, Customs Aid (sampling), Customs Warehouse Officer, Port Director, Interpreter, and Laborer, with duties of a continuing nature that require the part-time or intermittent service of an employee for not more than 700 hours in his service year. An individual appointed under this exception may not be employed in the Bureau of Customs under a combination of this and any other exception for more than 700 hours in his service year.

(6) Twenty-five positions of Criminal Investigator for special assignments.

(7) [Reserved]

(8) Staff assistant positions established to aid in the reorganization of the Bureau of Customs under Reorganization Plan No. 1 of 1965, when filled by persons with 1 year or more of current service as a Presidential appointee in a key position in the Bureau. No person may be employed under this paragraph in excess of 3 years.

(9) Not to exceed seven positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(c) *Office of Trade, Energy, and Financial Resources Policy Coordination.* (1) Not to exceed 10 positions at the equivalent of GS–13 through GS–17 to supplement the permanent staff in the study of complex problems relating to international trade and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(d) [Reserved]

(e) *Internal Revenue Service.* (1) Twenty positions of investigator for special assignments.

(f) *Office of the Assistant Secretary for International Affairs.* (1) Not to exceed 10 positions in the Research and Planning Office at the equivalent of GS–13 through GS–17 to supplement the permanent staff in the study of complex problems relating to international financial and economic policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(g) *Bureau of Alcohol, Tobacco, and Firearms.* (1) Thirty positions of investigator for special assignments.

§ 213.3106 Department of Defense.

(a) *Office of the Secretary.* (1) Five Special Advisers in the immediate office of the Secretary or Deputy Secretary with responsibility for studies and recommendations in broad program areas. These positions have advisory rather than operating duties, except as operating or administrative responsibility may be exercised in connection with pilot studies.

(2) Positions assigned exclusively to Communications Intelligence Activities.

(3) Positions assigned to or in support of special classified training activities.

(4) Three Staff Assistants.

(5) Director, Intelligence Resources and Programs, OASD (Administration).

(6) One Executive Secretary, US-USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force).* (1) Professional positions in Military Dependent School Systems overseas.

(2) Positions in attache systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the Staffs of the Chaplains in the military services.

(5) Positions under the program for utilization of alien scientists approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the Department of Defense when filled by dependents of military or civilian employees of the Department resident in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or the separation of a dependent's sponsor: *Provided*, That (i) a school employee may be permitted to complete the school year; and (ii) an employee other than a school employee may be permitted to serve up to 1 additional year when the military department concerned finds the additional employment is in the interest of management.

(7) Positions assigned to all Cryptologic Intelligence Activities/Functions of the Military Departments.

(8) The Dean, Associate Dean, faculty members, and teaching/research assistant positions on the staff of the Uniformed Services University of the Health Sciences.

(c) *Interdepartmental Activities.* (1) Positions in support of National Security Programs and Space Council Activities.

(d) *General.* (1) Positions concerned with advising, administering, supervising or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of the Commission, it is impracticable to examine. This authority does not apply to positions assigned to Cryptologic and Communications Intelligence Activities/Functions.

§ 213.3107 Department of the Army.

(a) *General.* (1) Positions the duties of which are of a quasi-military nature and involve the security of secret or confidential matter when, in the opinion of the

Commission, appointment through competitive examination is impractical. This authority does not apply to positions assigned to Cryptologic Intelligence Activities/Functions.

(2) Unskilled laborers and munitions handlers engaged in handling Ordnance materiel, including ammunition, where temporary or intermittent employment is necessary.

(3) Student occupational therapist positions in Army hospitals. Appointments to these positions will not extend beyond the training period applicable to each individual case, which is a minimum of 3 months' training and a maximum of 12 months' training, depending upon the individual's previous clinical training.

(4) [Reserved]

(5) Positions assigned exclusively to Army Communications Intelligence Activities.

(6) Trainee student medical technologist (intern) positions at the Rodriguez Army Hospital, Fort Brooke, Puerto Rico. Appointments to these positions will not extend beyond the training period applicable to each individual case, depending upon the individual's previous clinical training. Employment under this provision may not exceed 1 year in any individual case: *Provided*, That such employment may, with the approval of the Commission, be extended for not to exceed an additional year. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of section 3 of Pub. L. 90-350.

(7) [Reserved]

(8) Not to exceed 350 positions of members of treatment and counseling teams and related positions, such as those of ward attendants and occupational therapy assistants, to assist in the implementation of an alcohol and drug abuse prevention and control program, when filled by persons who have a history of alcoholism or drug addiction and who have been successfully treated.

(9) Positions of civilian technicians in an Army Reserve unit designated by the Department to participate in a special CONARC test program, when filled on a temporary basis by members of Reserve components who have military occupational specialties required for test purposes. No appointment may extend beyond September 30, 1974.

(b) *Transportation Corps.* (1) Longshoremen and stevedores employed at ports of embarkation in the United States; and all positions on vessels operated by the Transportation Corps.

(c) *Corps of Engineers.* (1) Land appraisers employed on a temporary basis for a period not to exceed 1 year on special projects where knowledge of local values or conditions or other specialized qualifications not possessed by appraisers regularly employed by the Corps of Engineers are required for successful results.

(2) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) on survey, construction, short-term maintenance, or floating-plant operations, where because of turnover, lack of housing facilities, mobility of work site, or remoteness of personnel servicing facilities, an adequate labor force can be recruited only by immediate gate hiring on a local basis. This authority can be used only when the Commission has determined that it is specifically applicable to a given situation; ordinarily, it will not be used for employment in Civil Service central office, regional, and branch office cities or in cities where there is a local Board of U.S. Civil Service Examiners to service the employing establishment.

(3) Positions of Academic Director, Department Head, and Instructor at the U.S. Military Academy Preparatory School, Fort Belvoir, Va.

(d) *U.S. Military Academy, West Point, N.Y.* (1) Civilian professors, instructors, teachers (except teachers at the Children's School), hostesses, chapel organist and choirmaster, librarian when filled by an officer of the Regular Army retired from active service, and military secretary to the Superintendent when filled by a Military Academy graduate retired as a regular commissioned officer for disability.

(e) *National War College, Washington, D.C.* (1) Civilian directors of studies for employment of not to exceed 1 year: *Provided*, That such employment may, with the prior approval of the Commission, be extended for not to exceed 2 additional years.

(f) *Joint Brazil-United States Defense Commission.* (1) One position of clerk-stenographer-translator or civilian aide requiring a knowledge of English, Portuguese, and Spanish.

(g) *Defense Language Institute.* (1) Positions of instructors whose duties require proficiency in the teaching of a foreign language, and supervisory instructors whose duties require a background in language teaching.

(2) Clerk-Typist positions (except at the English Language School) whose incumbents are required to have a foreign language knowledge and whose duties require rapid and accurate typing of foreign language materials in foreign language script and proofreading of the materials typed.

(3) [Reserved]

(4) Foreign language instructor positions at local Army language training facilities established pursuant to the Defense Language Program.

(5) Positions which require a native proficiency in a given foreign language and whose incumbents serve as foreign language subject matter specialists to assist in the development and evaluation of instructional material and methods directly related to the teaching of foreign languages. Appointments under this authority are made initially for not to exceed 1 year, but may be extended for no more than 1 additional year with the prior approval of the Director, Defense Language Institute.

(h) *Army War College, Carlisle Barracks, Pa.* (1) One position of Educational Specialist for employment of not to exceed 1 year: *Provided*, That such employment may, with the prior approval of the Commission, be extended for not to exceed 1 additional year.

(i) *Defense Systems Management School, Fort Belvoir, Va.* (1) The Deputy Commandant and professors in grades GS-13 through 15.

§ 213.3103 Department of the Navy.

(a) *General.* (1) Intelligence and counterintelligence positions assigned to Naval Intelligence Activities/Functions, except positions in Cryptologic Intelligence Activities/Functions. Use of this authority outside the Naval Intelligence Command requires prior certification by the Commander, Deputy Commander, or Assistant Deputy Commander that the incumbent will perform duties concerned with the specific function in carrying out assigned responsibilities.

(2) [Reserved]

(3) [Reserved]

(4) Not to exceed 50 positions of resident-in-training at U.S. naval regional medical centers, hospitals, and dispensaries which have residency training programs, when filled by residents assigned as affiliates for part of their training from non-Federal hospitals. Assignments shall be on a temporary (full-time or part-time) or intermittent basis, shall not amount to more than 6 months for any person, and shall be applied only to persons whose compensation is fixed under 5 U.S.C. 5351-54.

(5) One Staff Assistant to the Naval Aide to the President.

(6) [Reserved]

(7) Positions of student social worker for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by bona fide students enrolled in academic institutions: *Provided*, That the work performed in the agency is to be used by the student as a basis for completing certain academic requirements by such educational institution to qualify for a graduate degree in social work. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351-54.

(8) Positions of student practical nurse for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by trainees enrolled in a non-Federal institution in an approved program of educational and clinical training which meets the requirements for licensing as a practical nurse. This authority shall be applied only to trainees whose compensation is fixed under 5 U.S.C. 5351-54.

(9) One Personnel Security Specialist, Naval Personnel Program Support Activity, Bureau of Naval Personnel.

(10) Positions of medical technology intern in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by students enrolled in approved programs of training in non-Federal institutions. Employment under this authority may be filled on a full-time, part-time, or intermittent basis but may not exceed 1 year. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351-54.

(11) Positions of medical intern at U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are serving medical internships at participating non-Federal hospitals and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(12) Positions of student speech pathologist at U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are enrolled in participating non-Federal institutions and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(13) Positions of student dental assistant in U.S. naval dental centers, clinics, and departments, when filled by students who are enrolled in an approved dental assistant program in a participating non-Federal institution, and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(14) Not to exceed 100 positions of rehabilitation counselors and therapists in grades GS–3 through 11 to assist in the implementation of a drug rehabilitation program when filled by persons who have a history of drug addiction and who have been successfully treated. No new appointments may be made under this authority after July 31, 1973.

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(b) *Naval Academy, Naval Postgraduate School, and Naval War College.* (1) Professors, instructors, and teachers; and the librarian, organist-choirmaster, registrar, the dean of admissions, and social counselors at the Naval Academy.

(c) *Naval Home.* (1) Positions of orderly when filled by the appointment of beneficiaries of the Home.

(d) *Military Sealift Command.* (1) All positions on vessels operated by the Military Sealift Command.

(e) [Reserved]

(f) [Reserved]

(g) *Office of Naval Research.* (1) Not to exceed 5 positions of Liaison Scientist, GS–13/15, in the office of Naval Research Branch Office in Japan, when filled by research scientists who have specialized experience in scientific disciplines of current interest to the Department and who have a demonstrated ability to deal with the Japanese scientific community in their disciplines. An appointment under this authority may be made initially for a period not to exceed 2 years. With the prior approval of the Commission, total employment under this authority may be for as long as 3 years.

§ 213.3109 Department of the Air Force.

(a) *Office of the Secretary.* (1) Three Special Assistants in the Office of the Secretary of the Air Force. These positions have advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) [Reserved]

(c) [Reserved]

(d) *U.S. Air Force Academy, Colorado.* (1) Positions of Cadet Hostesses, Instructors in Physical Education, and two Instructors in Music (Choirmasters).

(e) *Air Force Systems Command.* (1) Not to exceed 12 positions of engineer, GS–14–15, at the Aeronautical Systems Division, Wright-Patterson Air Force Base, when filled on a temporary basis by persons serving under an agreement with aerospace contractors. Employment under this authority is limited to 4 years.

§ 213.3110 Department of Justice.

(a) *General.* (1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2) Positions of temporary deputy marshals in lieu of bailiff in the U.S. courts when employed on an intermittent basis.

(3) U.S. Marshal in the Virgin Islands.

(4) [Reserved]

(5) Thirty positions of Field Representative, GS–9 through GS–14, in the Community Relations Service for temporary or intermittent employment for not to exceed 130 working days a year.

(6) Not to exceed 20 positions of Field Representative Trainee, GS–5–7, in the Community Relations Service, for employment on college campuses for not to exceed 130 working days a year. Employment under this authority is limited to 1 year: *Provided*, That an appointment may be extended for one additional year with the prior approval of the Commission.

(b) *Immigration and Naturalization Service.* (1) Information Officer.

(2) Four positions of Regional Commissioner.

(c) *Drug Enforcement Administration.* (1) 154 special agent positions for undercover work.

§ 213.3112 Department of the Interior.

(a) *General.* (1) Temporary, intermittent, or seasonal positions in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of the Commission.

(4) Temporary, intermittent, or seasonal field assistants at GS–5, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority shall not exceed 180 working days a year for positions at GS–4 and below in survey parties in the Bureau of Land Management and Geological Survey and shall not exceed 130 working days a year for other positions authorized under this subparagraph. This authority shall not apply to positions of field assistants engaged in fishery management work in Alaska.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: *Provided*, That an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to the providing of services to Indians when filled by the appointment of Indians who are one-fourth or more Indian blood.

(8) Subject to prior approval of the Commission, temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers; and positions of field assistants engaged in fishery management work. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area, there is no Board of U.S. Civil Service Examiners to service the employing establishment, and there is a shortage of available candidates for the positions.

(9) Subject to prior approval of the Commission, temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work for not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area, there is no Board of U.S. Civil Service Examiners to service the employing establishment, and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(b) *Bureau of Indian Affairs.* (1) Housekeeper positions at a gross salary not in excess of the entrance rate of grade GS–4 or its equivalent when, because of isolation or lack of quarters, appointment through competitive examination is, in the opinion of the Commission, impracticable.

(2) Subject to prior approval of the Commission, assistants in Alaska native schools (not including teachers and instructors) at a salary rate not in excess

of that of GS–4 or its equivalent where the schools are in isolated or remote areas or lack suitable quarters.

(c) *Indian Arts and Crafts Board.* (1) The Executive Director.

(d) *Bonneville Power Administration.* (1) Five Area Managers.

(e) *Office of Territories.* (1) The Clerk of the High Court of American Samoa.

(2) and (3) [Reserved]

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his immediate staff.

(f) *National Park Service.* (1) Park Ranger positions (appropriate specializations) at salaries equivalent to GS–5 or GS–4 and those equivalent to grade GS–7 or GS–6 in which the duties are supervisory or are limited to a highly specialized part of the duties performed by career protective or interpretive personnel of the National Park Service. (The total number of Park Ranger and Park Technician positions at salaries equivalent to GS–7 and GS–6 excepted under this subparagraph and subparagraph (2) of this paragraph shall not exceed 200.) Employment under this subparagraph is limited to persons who meet the qualification standards for each salary level which have been agreed upon by the Commission and the Department. These standards include as a minimum the following number of previous seasons' experience in the National Park Service as a Park Ranger at a salary equivalent to the next lower grade:

(i) For IGS–7: Two seasons at IGS–6 level.

(ii) For IGS–6: Two seasons at IGS–5 level.

(iii) For IGS–5: One season at IGS–4 level.

Employment under this subparagraph shall be only for duty that is temporary, intermittent, or seasonal, and no person shall be employed by the same appointing office in the National Park Service under this subparagraph or a combination of this and any other excepting authorities in excess of 180 working days a year.

(2) Park Aid and Park Technician positions at salaries equivalent to GS–2 through GS–5 to perform technical and practical work supporting the management, conservation, interpretation, development, and use of park areas and resources; and positions at salaries equivalent to GS–7 and GS–6 in which the duties are supervisory or are limited to a highly specialized part of the duties performed by career resources management, interpretive or visitor service personnel of the National Park Service. (The total number of Park Technician and Park Ranger positions at salaries equivalent to GS–7 and GS–6 excepted under this subparagraph and subparagraph (1) of this paragraph shall not exceed 200.) Employment under this subparagraph is limited to persons who meet the qualification standards for each salary level which have been agreed upon by the Commission and the Department. These standards include as a minimum the following number of previous seasons' experience in the National Park Service as a Park Aid or Park Technician equivalent to the next lower grade:

(i) For IGS–7: Two seasons at IGS–6 level.

(ii) For IGS–6: Two seasons at IGS–5 level.

(iii) For IGS–5: One season at IGS–4 level.

(iv) For IGS–4: One season at IGS–3 level or its equivalent in experience.

(v) For IGS–3: One season at IGS–2 level or its equivalent in experience.

Employment under this subparagraph shall be only for duty that is temporary, intermittent, or seasonal, and no person shall be employed by the same appointing office in the National Park Service under this subparagraph or a combination of this and any other excepting authorities in excess of 180 working days a year.

(g) *Bureau of Reclamation.* (1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values or conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: *Provided*, That such employment may, with prior approval of the Commission, be extended for not to exceed an additional 50 working days in any single year.

(h) *Office of the Deputy Assistant Secretary for Territorial Affairs.* (1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

§ 213.3113 Department of Agriculture.

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agriculture Research Service, the Animal and Plant Health Inspection Service, or positions in the Statistical Reporting Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural Commodity grader (grain) and (meat), (poultry), and (dairy) agricultural commodity aid (grain), and tobacco inspection positions.

(2) Any local veterinarian employed on a fee basis or a part-time basis.

(3) Not to exceed 25 professional, scientific, or technical positions in grade GS–7 or higher to be filled on an exchange basis by qualified employees on the rolls of State governments, colleges, or universities, for a limited period not to exceed 1 year.

(4) [Reserved]

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for subprofessional services; caretakers at temporarily closed camps or improved areas; field enumerators and supervisors; forest workers engaged primarily for fire prevention or suppression activities and other forest workers employed at headquarters other than forest supervisor and regional offices; State performance assistants in the Agricultural Stabilization and Conservation Service; collectors of the Farmers Home Administration; agricultural commodity aids (cotton) in the Agricultural Marketing Service; agricultural helpers, helper-leaders, and workers in the Agricultural Research and the Animal and Plant Health Inspection Service; and, subject to prior Commission approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: *Provided*, That an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraphs (l) and (m) of § 213.3102.

(6) Not to exceed eight positions whose incumbents serve on an intermittent or temporary basis as field representatives of the Department of Agriculture and in this capacity represent the Department's Disaster Committee in conducting surveys and appraisals of conditions in areas whose status as "major disaster" areas under Pub. L. 81–875, is under consideration. Employment under this authority shall not exceed 130 working days a year.

(7) [Reserved]

(8) Not to exceed 10 positions directly concerned with programs of the Department for employment of Cuban refugees possessing college-level training appropriate for such positions. No new appointments may be made under this authority after December 31, 1968.

(9) Not to exceed 15 positions of Program Assistant GS–12 through 15 when filled by persons whose current service in agricultural programs of the Department at the State level has provided specialized knowledge and experience needed by the Department for the more efficient administration of its programs. No new appointments may be made under this authority after June 30, 1970.

(b) *Office of the Secretary.* (1) Special Livestock Loans Committeemen employed for not more than 180 working days a year, to approve and direct the servicing of emergency livestock loans.

(2) The positions of the two members and two alternate members of the Board of Forest Appeals which must be filled under departmental regulation by persons who have not been Federal employees for 2 years before appointment. Employment under this exception

shall be on a when-actually-employed basis.

(c) *Forest Service.* (1) Temporary, intermittent, or seasonal positions when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a national forest and as being dependent for livelihood primarily upon employment available within the national forest.

(2) Positions in Alaska of Laborers, Boat Operators, Mechanics, Equipment Operators, and Carpenters whose duties require the operation of boats in coastal waters and/or the establishment and maintenance of work camps in remote areas.

(d) *Agricultural Stabilization and Conservation Service.* (1) Six Area Directors above GS–14.

(2) Members of State Committees.

(3) State Executive Directors.

(e) *Farmers Home Administration.* (1) State committeemen to consider, recommend, and advise with respect to the Farmers Home Administration program.

(2) County committeemen to consider, recommend, and advise with respect to the Farmers Home Administration program.

(3) Temporary positions whose principal duties involve the making and servicing of emergency loans pursuant to current statutes authorizing emergency loans. Appointments under this provision shall not exceed 1 year unless extended with the prior approval of the Commission for additional periods not to exceed 1 year each.

(4) State Directors and not to exceed three positions of State Director-at-Large.

(5) Temporary positions in State and county offices of the Farmers Home Administration whose principal duties involve the making and servicing of loans pursuant to the Economic Opportunity Act of 1964. Appointments under this provision shall not exceed 1 year unless extended with prior Commission approval for not to exceed 1 additional year.

(f) *Agricultural Marketing Service.* (1) Positions of cotton classers GS–9 and below, clerks GS–2, supervisory clerks GS–3, and laborers, employed on a seasonal basis in cotton-classing offices outside the Washington, D.C. Metropolitan Area. Employment under this authority (or under a combination of this authority and any other excepting authority) shall not exceed 1,280 hours a year in the case of cotton classers and laborers, and 1,040 hours a year in the case of clerks; except that a GS–5 cotton classer may be employed as a trainee during his first appointment for an initial period of 6 months for training purposes without regard to the above time limitation.

(2) [Reserved]

(3) Milk Market Administrators.

(4) All positions on the staffs of Milk Market Administrators.

(5) Positions of agricultural commodity graders (processed fruits and vegetables), GS–9 and below, and of graders' aides (processed fruits and vegetables), GS–2–4, for temporary employment on a part-time or intermittent basis for not to exceed 1,280 hours a year.

(6) Temporary positions at GS–9 and below of agricultural commodity graders (poultry) and agricultural commodity graders (dairy). Employment under this authority may not exceed 1,280 hours a year.

(g) *Agricultural Research Service.* (1) Field employees on programs conducted under the terms of cooperative agreements or memorandums of understanding with States or other non-Federal cooperating organizations, provided the employees are jointly selected and their salary is supplied by the cooperators on the basis of not less than a 40-percent contribution by each of the cooperators.

(h) *Foreign Agricultural Service.* (1) Agricultural Attaché positions at grade GS–16 and above where the duties require that the major portion of the employee's time be spent in foreign countries.

(i) [Reserved]

(j) *Food and Nutrition Service.* (1) Temporary positions in grade GS–4 and below, and the wage system equivalents, whose principal duties involve the distribution of food to needy families at Federal Commodity Distribution Centers. After June 30, 1971, appointments under this authority may be made only to replace employees on the rolls as of that date, or their successors.

(k) *Animal and Plant Health Inspection Service.* (1) Field employees on programs conducted under the terms of cooperative agreements or memorandums of understanding with States or other non-Federal cooperating organizations, provided the employees are jointly selected and their salary is supplied by the cooperators on the basis of not less than a 40-percent contribution by each of the cooperators.

(2) Temporary field positions concerned with the control, suppression, and eradication of emergency livestock diseases. Persons appointed under this authority may not be employed in these positions in the Animal and Plant Health Inspection Service for longer than 1 year under this authority, or under a combination of this and any other authorities for excepted appointment that may be appropriate, without prior approval of the Commission. This authority shall be appropriate only in situations declared by the Secretary of Agriculture to be emergencies threatening the livestock industry of the country.

(3) Positions of meat and poultry inspectors (veterinarians at GS–11 and below and nonveterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

§ 213.3114 Department of Commerce.

(a) *General.* (1) Agents to take and transmit meteorological observations in connection with aviation who are employed on a part-time basis and whose compensation is based on a fee for each observation performed rather than on an hourly or per annum basis: *Provided*, That the number of observations shall not exceed a daily average of 12 during any calendar month.

(2) Employment of individuals, firms, or corporations for not to exceed 1 year for special statistical studies and statistical compilations, other than Personal Census Records Service, the compensation for which is derived from funds deposited with the United States under the Act of May 27, 1935 (49 Stat. 292): *Provided*, That such employments may, with the approval of the Commission, be extended for not to exceed an additional year.

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in continental United States for periods of orientation, training, analysis of data, and report writing.

(b) *Office of the Secretary.* (1) [Reserved]

(2) One Civil Aviation Specialist.

(3) One Advisor on Equal Employment Opportunity.

(c) *Coast and Geodetic Survey.* (1) All civilian positions on vessels operated by the Coast and Geodetic Survey.

(2) Temporary positions required in connection with the surveying operations of the field service of the Coast and Geodetic Survey. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

(d) *Bureau of the Census.* (1) Supervisors, assistant supervisors, supervisors' clerks, and enumerators in the field service, other than Current Program Interviewers, for temporary, part-time, or intermittent employment for not to exceed 1 year: *Provided*, That such appointments may be extended for additional periods of not to exceed 1 year each; but that prior Commission approval is required for extension for longer than 1 year.

(2) Current Program Interviewers employed on an intermittent basis in the field service.

(3) [Reserved]

(e)–(g) [Reserved]

(h) *Maritime Administration.* (1) Public Information Officer.

(2)–(4) [Reserved]

(5) The positions of Chief Investigator and Security Officer and Deputy Chief Investigator and Security Officer.

(6) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(7) [Reserved]

(8) One Special Assistant to the Administrator (Tanker Advisor).

(9) Two Special Assistants to the Deputy Administrator.

(10) U.S. Merchant Marine Academy, positions of: Professors, instructors, and teachers; including heads of the Departments of Physical Training and Athletics, Ships, Medicine, Ship Management, History and Languages, Mathematics and Science, Nautical Science and Engineering; the Regimental Officer; the Drill and Activities Officers; the

Band and Activities Officer; six Company Officers; and the Assistant Commandant of Cadets.

(11) U.S. Merchant Marine Academy, positions of: The Superintendent; the Executive Officer and Assistant Superintendent; Dean; Registrar and Educational Services Officer; Educational Specialist (Administration) (Assistant Dean); Alumni Records Officer and Placement Director; Librarian; the Special Assistant to the Superintendent; three Academy Training Representatives; and one Shipboard Training Assistant.

(i) *Office of the Assistant Secretary for Domestic and International Business.* (1) Thirty positions at GS–12 and above in specialized fields relating to international trade or commerce in the Bureau of International Commerce or in other units under the jurisdiction of the Assistant Secretary for Domestic and International Business. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for any individual appointee.

(2) Not to exceed 40 positions of Managers and Deputy Managers of International Trade Fairs and Exhibit Programs in foreign countries when the duties require a considerable portion of the employee's time to be spent in foreign countries.

(3) Not to exceed 30 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists, who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit practices applicable to one or more of the current segments of U.S. industry served by the Assistant Secretary for Domestic and International Business, and the subordinate components of his organization which are involved in Domestic Business matters. Appointments under this authority may be made for a period of not to exceed two years and may, with prior approval of the Commission, be extended for an additional period of two years.

(j) *Environmental Science Services Administration.* (1) Subject to prior approval of the Commission, which shall be contingent upon a showing of inadequate housing facilities, meteorological aid positions at the following stations in Alaska: Barrow, Bethal, Kotzebue, McGrath, Northway, and St. Paul Island.

(2) Cook positions on Swan Island.

§ 213.3115 Department of Labor.

(a) *Office of the Secretary.* (1) Chairman and two members, Employees' Compensation Appeals Board.

(2) Chairman and two members, Benefits Review Board.

(b) *Bureau of Labor Statistics.* (1) Part-time and intermittent employment for field survey and enumeration work in the Bureau of Labor Statistics. This authority is applicable to positions where the salary is equivalent to GS–5 and below. Employment within the Bureau of Labor Statistics under this authority, or a combination of this authority and any other authorities for excepted appointment, shall not exceed:

(i) 180 working days a year for positions at GS–5;

(ii) 130 working days a year for positions at GS–4 and below.

The total number of appointments at GS–5 shall not exceed 75. Appointments at the GS–3 and GS–4 grade levels are not limited in number.

(c) *Office of Federal Contract Compliance.* (1) All positions at GS–15 and below involving performance of the functions of the program known as "Plans for Progress."

(d) *Manpower Administration.* (1) Not to exceed 10 positions of Manpower Development Officer and Manpower Development Specialist in the Division of Indian Manpower Programs when filled by the appointment of persons one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities in the development and administration of comprehensive manpower training and employment programs.

§ 213.3116 Department of Health, Education, and Welfare.

(a) *National Center for Mental Health Services, Training and Research.* (1) Three Medical Officers (Surgical Resident).

(2) Student Medical Interns for temporary or part-time employment.

(3) Temporary positions of graduate nurses appointed as students for the purpose of receiving 12 weeks of training equivalent to psychiatric affiliation. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of section 3 of Pub. L. 80–330.

(4) Three positions of Medical Officers (Radiology Resident): *Provided,* That employment under this authority shall not exceed 1 year, except that selected residents may be nominated and reappointed for an additional year of training when the parent hospital determines that the supplemental training will meet the specialized needs of the individual resident.

(5) Eight positions of psychodrama trainees, including interns and first- and second-year residents. This authority shall be applied only to positions with compensation fixed under 5 U.S.C. 5351 and 5352.

(6) Two Medical Officers (Anatomical Pathology Resident) for not to exceed 2 years' employment in the case of any one individual.

(7) Three Medical Officers (Internal Medicine Resident) for not to exceed 3 months' employment in the case of any one individual.

(8) Four positions of Medical Officer (Physical Medicine and Rehabilitation Resident): *Provided,* That employment under this authority shall not exceed 1 year, except that selected residents may be nominated and reappointed for an additional year of training when the parent hospital determines that the supplemental training will meet the specialized needs of the individual resident. Initial appointments may be made at any level within the 3-year residency as approved by the American Medical Association.

(9) Positions of Chaplain Residents: *Provided,* That employment under this authority shall not exceed 39 months for any individual. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of 5 U.S.C. sections 5351 and 5352.

(10) One position of Medical Officer (Ophthalmology Resident) when filled by persons whose compensation is fixed under 5 U.S.C. 5351–5356. Employment under this authority may not exceed 4 months.

(b) *Public Health Service.* (1) Special escorts to accompany patients of the Public Health Service in accordance with existing laws and regulations. Employment under this subparagraph shall be only for the period of time necessary for the escort to deliver the patient to his destination and to return.

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) All positions in leprosy investigation stations.

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health, Education, and Welfare and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the cooperating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5) Medical and dental interns, externs, and residents; and student nurses.

(6) Positions of scientific, professional, or technical nature when filled by bona fide students enrolled in academic institutions: *Provided,* That the work performed in the agency is to be used by the student as a basis for completing certain academic requirements required by an educational institution to qualify for a scientific, professional, or technical field: *And provided further,* That appropriate exclusions of the positions under the authority of Pub. L. 80–330 have been approved by the Civil Service Commission.

(7) Student Dietitians and Resident Physicians at Freedman's Hospital.

(8) Positions directly and primarily related to the providing of services to Indians when filled by the appointment of Indians who are one-fourth or more Indian blood.

(9) Not to exceed 30 positions of clerical assistants employed on a part-time and intermittent basis to aid cooperating clinicians in non-Federal tuberculosis sanatoria in the keeping of records

(11) Until June 30, 1976, four Project

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and the preparation of reports in connection with research studies into the effectiveness of antimicrobial agents in the treatment of tuberculosis. Persons appointed under this authority may not be employed in this kind of work in the Public Health Service for more than 180 working days in a single year under this authority or under a combination of this and any other authority for excepted appointment that may be appropriate.

(c) *Office of Education.* (1) Positions concerned with problems in education financed and participated in by the Office of Education, Department of Health, Education, and Welfare, and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(d) *Social Security Administration.* (1) Six positions of social insurance representative in the district offices of the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(2) Seven positions of social insurance representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(3) Two positions of social insurance representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointment of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

(e) *General.* (1) Not to exceed 40 positions in medical and related occupations for employment under the Cuban refugee program. No new appointments may be made after December 31, 1968.

(f) *The President's Council on Physical Fitness.* (1) Three staff assistants, The President's Council on Physical Fitness.

(g) *Social and Rehabilitation Administration.* (1) Not to exceed 195 positions directly concerned with programs conducted by the Department in connection with the problems of Cuban refugees: *Provided,* That new appointments shall be limited to Cuban refugees.

(h) *National Institute of Mental Health—Health Services and Mental Health Administration.* (1) Positions in the National Institute of Mental Health involving performance of various therapeutic and service assignments under a rehabilitation program concerned with the treatment of drug addicts, when filled by persons who have a history of drug addiction and who have been successfully treated.

(i) *National Center for Health Statistics.* (1) Not to exceed 20 positions of Health Examination Representative, grades GS–7 and 9, serving on Health and Nutrition Examination Survey teams of the Division of Health Examination Statistics.

§ 213.3118 Environmental Protection Agency.

(a) Not to exceed 12 positions of Sanitation Facility Trainees, WG–1 through 5, to implement the Alaska Village Demonstration Projects under the Water Quality Improvement Act of 1970. Employment under this authority may not exceed 2 years.

§ 213.3121 National Security Council.

(a) All positions on the staff of the Council.

§ 213.3123 Cabinet Committee on Opportunities for Spanish-Speaking People.

(a) All positions on the committee staff.

§ 213.3124 Board of Governors, Federal Reserve System.

(a) All positions.

§ 213.3126 Office of Emergency Preparedness.

(a) One Field Representative, Resource Readiness Office.

§ 213.3127 Veterans Administration.

(a) *Construction Division.* (1) Temporary construction workers paid from "purchase and hire" funds and appointed for not to exceed the duration of a construction project.

(b) Not to exceed 300 positions of rehabilitation Counselors, GS–3 through GS–11, in drug and alcoholic treatment units when filled by former patients.

§ 213.3128 U.S. Information Agency.

(a) Two Liaison Officers (Congressional) in the Office of the General Counsel.

(b) One Chief of Religious Information.

§ 213.3129 Federal Power Commission.

(a) Three special assistants to the Commission.

§ 213.3130 Securities and Exchange Commission.

(a) Director, Division of Corporation Finance; Director, Division of Corporate Regulation; Director, Division of Trading and Markets.

(b) Nine positions of Regional Administrator.

(c) Positions of accountant and auditor, GS–13 through 15, when filled by persons selected under the SEC accounting fellow program. No more than two positions may be filled under this authority at any one time. An employee may not serve under this authority longer than 2 years.

§ 213.3132 Small Business Administration.

(a) When the President under 42 U.S.C. 1855–1855g, or the Secretary of Agriculture under 7 U.S.C. 1961 or the Small Business Administration under 15 U.S.C. 636(b)(1), declares an area to be a disaster area, positions filled by temporary appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended, for the duration of the disaster. Original appointments may not exceed 2 years and no employee may serve under this authority for longer than 2 years without the Commission's prior approval.

(b) [Reserved]

(c) Position of Community Economic-Industrial Planner, GS–7 through 12, when filled by local residents who represent the interest of the groups to be served by the Minority Enterpreneurship Teams of which they are members.

§ 213.3133 Federal Deposit Insurance Corporation.

(a) All field positions concerned with the work of liquidating the assets of closed banks or the liquidation of loans to banks, and all temporary field positions the work of which is concerned with paying the depositors of closed insured banks.

(b) One position of Chief Clerk in the San Juan, P.R., office.

§ 213.3135 National Capital Housing Authority.

(a) Executive Director.

(b) Positions of teachers engaged on a part-time or intermittent basis in the instruction of trainees enrolled in training programs on the maintenance and repair of buildings and grounds.

(c) Until December 31, 1975, one position of Chairman, Resident Involvement Workgroup, with responsibility for encouraging tenant participation in the development of a management system.

(d) Until March 1, 1976, seven positions, including two trainee positions, of Resident Housing Manager in an experimental demonstration program of public housing management improvement.

§ 213.3136 U.S. Soldiers' and Airmen's Home.

(a) All positions.

§ 213.3137 General Services Administration.

(a) *General.* (1) Custodians, guards, watchmen, laborers, and other employees engaged in the custody, care, and preservation of plants, warehouses, shipyards, airfields, and surplus facilities of a similar nature pending disposition of such facilities.

(b) *Public Buildings Service.* (1) One Receptionist—Guide, Region 9.

§ 213.3138 [Reserved]

§ 213.3139 U.S. Tariff Commission.

(a) The Secretary of the Commission.

§ 213.3141 National Labor Relations Board.

(a) Election Clerks and Election Examiners for temporary, part-time or intermittent employment in connection with elections under the Labor Management Relations Act.

§ 213.3142 Export-Import Bank of the United States.

(a) Three Special Assistants to the Board of Directors, grade GS–14 and above, with responsibility for carrying

out special overseas assignments for the Board.

§ 213.3143 Farm Credit Administration.

(a) Federal Land Bank Association receivers and conservators.

(b) Not to exceed seven positions in the Credit Services of the Farm Credit Administration in grades GS–13 or above, requiring technical or administrative experience in the field of agricultural credit: *Provided*, That this authority may be used only when making appointments of persons who have acquired such experience in the Farm Credit Administration or in one or more of the institutions supervised by the Farm Credit Administration.

§ 213.3146 Selective Service System.

(a) State Directors.

(b) Deputy or Assistant State Directors and State Medical Officers in State Headquarters.

(c) [Reserved]

(d) Executive Secretary, National Selective Service Appeal Board.

§ 213.3147 Federal Mediation and Conciliation Service.

(a) Executive Secretary of a Board of Inquiry appointed under section 206 of the Labor-Management Relations Act of 1947 (29 U.S.C. 176).

§ 213.3148 National Aeronautics and Space Administration.

(a) One hundred fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

(b) Forty scientific specialists to be engaged on special research projects.

(c) [Reserved]

(d) Ten medical officer positions for employment of third year medical residents in the field of aerospace medicine. An individual may not be employed more than one year under this exception.

§ 213.3149 Panama Canal Company.

(a) All positions on vessels operated by the Panama Canal Company.

§ 213.3152 U.S. Government Printing Office.

(a) One Umpire.

(b) Positions in the printing trades when filled by students majoring in printing technology employed under a cooperative education agreement with the Washington Technical Institute.

§ 213.3153 District of Columbia Government.

(a) Positions of noneducational employees of the Board of Higher Education, the Board of Vocational Education, the Federal City College, and the Washington Technical Institute.

§ 213.3154 Federal Home Loan Bank Board.

(a) One Secretary, Federal Home Loan Bank Board.

(b) [Reserved]

(c) All temporary field positions in the Federal Savings and Loan Insurance Corporation concerned with the work of liquidating the assets of closed insured institutions, or the liquidation of loans or the handling of contributions to insured institutions and the purchase of assets therefrom, and all temporary field positions of the Federal Savings and Loan Insurance Corporation the work of which is concerned with paying the depositors of closed insured institutions.

§ 213.3156 Commission on Civil Rights.

(a) Until June 30, 1976, 25 positions at grade GS–11 and above of employees who collect, study, and appraise civil rights information to carry out the national clearinghouse responsibilities of the Commission under Pub. L. 88–352, as amended.

§ 213.3157 National Credit Union Administration.

(a) Liquidation Agents employed on a temporary or intermittent basis in the field.

§ 213.3158 Franklin Delano Roosevelt Memorial Commission.

(a) All positions on the staff of the Commission.

§ 213.3161 James Madison Memorial Commission.

(a) One Executive Secretary.

§ 213.3162 National Aeronautics and Space Council.

(a) All positions.

§ 213.3165 President's Advisory Committee on Labor-Management Policy.

(a) One Assistant Executive Director.

§ 213.3170 Civil Service Commission.

(a) Persons employed on a WAE basis to serve as members of the International Organizations Employees Loyalty Board for the purpose of holding hearings overseas.

(b) Chairman, Federal Prevailing Rate Advisory Committee.

§ 213.3172 Administrative Office of the U.S. courts.

(a) Not to exceed five positions of Federal Probation System Administrator in the Division of Probation, when filled by Federal probation officers on active service in the U.S. courts.

§ 213.3178 [Reserved]

§ 213.3182 National Foundation on the Arts and the Humanities.

(a) *National Endowment for the Arts.* (1) Until June 30, 1976, one Special Assistant to the Chairman.

(2) Until June 30, 1976, Director of State and Community Operations, when filled at GS–15 and below.

(3) Until June 30, 1976, eight Program Directors.

(4) Until June 30, 1976, One Assistant Director for Theatre Programs.

(5) Until June 30, 1976, one Director of Folk Arts Programs.

(6)–(10) [Reserved]

(11) Until June 30, 1976, four Project Evaluators.

(12) Until June 30, 1976, one Director of Museum Programs.

(13) Until June 30, 1976, two Assistant Directors for State and Community Operations.

(14) Until June 30, 1976, one Assistant Director of Music Programs.

(15) Until June 30, 1976, one Director of Developing Arts Programs.

(16) Until June 30, 1976, one Director for Public Media Programs.

(17) Until June 30, 1976, one Assistant to the Chairman.

(18) [Reserved]

(19) Until June 30, 1976, one Director, Interdisciplinary Programs.

(20) Until June 30, 1976, one Director of Special Projects.

(21) Until June 30, 1976, one Assistant Director of Expansion Arts Programs.

(22) Until June 30, 1976, one Assistant Director of Public Media Programs.

(23) Until June 30, 1976, one Assistant Director of Architecture and Environment Arts Programs.

(24) Until June 30, 1976, one Assistant Director of Dance.

(25) Until June 30, 1976, one Assistant Director of Visual Arts.

(26) Until June 30, 1976, one Assistant Director of Museum.

(27) Until June 30, 1976, one Assistant Director of Special Projects.

(28) Until June 30, 1976, one Crafts Coordinator.

(b) *National Endowment for the Humanities.* (1) and (2) [Reserved]

(3) Until June 30, 1976, Director of Planning and Analysis, when filled at GS–15 and below.

(4) Until June 30, 1976, Director of Fellowships and Stipends.

(5) Until June 30, 1976, Director of Research and Grants.

(6) Until June 30, 1976, one Special Assistant to the Chairman.

(7) Until June 30, 1976, two Program Officers, Division of Education Programs.

(8) Until June 30, 1976, three Program Officers, Division of Fellowships and Stipends.

(9) Until June 30, 1976, two Program Officers, Division of Research and Grants.

(10) Until June 30, 1976, one Assistant to the Director of Planning and Analysis.

(11) Until June 30, 1976, Director of Education Programs.

(12) Until June 30, 1976, two Program Officers, Division of Public Programs.

(13) Until June 30, 1976, Director of Public Programs.

(14) Until June 30, 1976, five Program Officers, State-Based Programs, Division of Public Programs.

(15) [Reserved]

(16) [Reserved]

(17) Until June 30, 1976, one Program Officer, Special Projects, Division of Public Programs.

(18) Until June 30, 1976, two Program Officers, Museum Programs, Division of Public Programs.

(19) Until June 30, 1976, two Special Assistants to the Deputy Chairman.

(20) Until June 30, 1976, one Program Analyst, Office of Planning and Analysis.

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(21) Until June 30, 1976, one Media Programs Officer, Division of Public Programs.

(22) Until June 30, 1976, one Bicentennial Coordinator, Office of the Chairman.

(23) Until June 30, 1976, one Deputy Director of Public Programs.

(24) Until June 30, 1976, one Program Officer/Deputy Director, Division of Research Grants.

§ 213.3184 [Reserved]

§ 213.3187 District of Columbia Redevelopment Land Agency.

(a) Neighborhood Aide (Urban Renewal) positions when filled by residents of the urban renewal project area in which the Aides will serve. Employment under this authority may not exceed 2 years.

§ 213.3190 [Reserved]

§ 213.3194 Department of Transportation.

(a) *Coast Guard.* (1) Continuing positions at grade GS–9 and below whose incumbents are engaged in the admeasurement or documentation of merchant vessels on a part-time or intermittent basis not exceeding 700 hours in a service year. A person appointed under this authority may not be employed in the Coast Guard under a combination of this authority and any other authority for excepted appointment for more than 700 hours during his service year.

(2) Lamplighters.

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Conn.

(b) *The Alaska Railroad.* (1) Temporary, part-time, or intermittent positions of nonsupervisory laborers in Alaska, involving railroad construction or repair work at locations outside the Fairbanks and Anchorage commuting areas when there are no local housing facilities available except crew cars and examination is impracticable because of the mobility of the work site, the short-term nature of a maintenance project, or the immediate need for a temporary work force to cope with unexpected turnover or unexpected situations requiring augmentation of the regular work crew in remote or isolated locations. Employment under this authority shall not exceed 180 working days a year.

(2) The General Manager.

(3) The Assistant General Manager.

(c) *Federal Highway Administration.* (1) Temporary, intermittent, or seasonal employment in the field service of the Bureau of Public Roads at grades not higher than GS–5 for subprofessional engineering aide work on the highway surveys and constructions projects, for not to exceed 180 working days a year, when in the opinion of the Commission appointment through competitive examination is impracticable.

(d) *Federal Aviation Administration.* (1) Caretakers and Light Attendants employed on emergency fields and other air navigation facilities who are paid on a fee basis.

(2) Medical Officer positions on Wake Island.

(3) Laborer positions on Swan Island.

(e) *St. Lawrence Seaway Development Corporation.* (1) Assistant Manager, Seaway International Bridge.

(f) *Urban Mass Transportation Administration.* (1) Employment for not to exceed two years of up to six individuals in grades ranging from GS–11 through 15, for the international seminar on "The Role of Urban Transportation in Community Development."

§ 213.3195 President's Temporary Commission on Pennsylvania Avenue.

(a) Not to exceed six positions on the Temporary Comission staff.

§ 213.3199 Temporary boards and commissions.

(a)–(f) [Reserved]

(g) *The National Council on Indian Opportunity.* (1) Positions at GS–15 and below on the staff of the Council when filled by Indians who are of one-fourth or more Indian blood.

(h)–(j) [Reserved]

(k) *American Revolution Bicentennial Administration.* (1) Positions in grades GS–9 through 15, other than those primarily concerned with administrative and internal management matters.

(l) *Commission on American Shipbuilding.* (1) Until December 31, 1973, positions at GS–15 and below on the staff of the Commission.

(m) *Cost of Living Council and Related Organizations.* (1) Until April 30, 1974, not to exceed 50 positions in grades GS–12 and above when it is determined that existing registers are not appropriate or do not permit appointment expeditiously.

(n) *National Commission on Productivity.*

(1) Until June 30, 1975, positions in grade GS–15 and below on the staff of the Commission.

(o) *Marine Mammal Commission.*

(1) Until June 30, 1977, all positions on the staff of the Commission.

(p) *Micronesian Claims Commission.*

(1) Until October 15, 1976, 4 Legal Research Assistant positions on the staff of the Commission.

(q) *Alaska Native Claims Ad Hoc Appeals Board.*

(1) Members of this Board.

SCHEDULE B

§ 213.3201 Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination.

The positions enumerated in §§ 213.3202 to 213.3299 are positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination and which are excepted from the competitive service and constitute Schedule B. Appointments to these positions are subject to such noncompetitive examination as may be prescribed by the Commission.

§ 213.3202 Entire executive civil service.

(a) Student Trainee positions established in connection with a bachelor's degree cooperative education program which provides for a formally arranged schedule of periods of attendance at an institution of higher learning combined with periods of at least six months of study-related work in a Federal agency. The periods of work and study together must satisfy requirements for a bachelor's degree and provide experience necessary for career or career-conditional appointment to administrative, professional, or technical positions in the Federal Government upon the student's graduation. The Commission's determination on requirements relating to appointments under this paragraph will be published in the Federal Personnel Manual. Except for the requirement concerning competitive selection from a register, appointments under this paragraph are subject to all the requirements and conditions governing career-conditional appointment, including investigation by the Commission to establish an appointee's qualifications and suitability. Appointees may not continue to serve in Student Trainee positions more than 90 days after completion of or separation from the cooperative education program.

§ 213.3203 Executive Office of the President.

(a) *Office of Economic Opportunity.*

(1) Seven Regional Directors.

(2) Not to exceed 35 positions at GS–9 through GS–15 in new, experimental programs or special projects when it is determined that existing registers are not appropriate or do not permit appoint expeditiously. This authority may not be used after June 30, 1973.

(3) One Chief, Research and Plans Division.

§ 213.3204 Department of State.

(a) Persons formerly employed abroad in the Foreign Service of the United States (this means civilian employment in the executive branch) for a period of at least 4 years for service in executive and administrative positions, or for at least 2 years for professional positions, in grades GS–9 and above.

(b) Technical cryptographic positions in the Communications Security Division, Office of Communications.

(c) Director and Deputy Director, Foreign Buildings Operations.

§ 213.3205 Department of the Treasury.

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b) [Reserved]

(c) Not to exceed two positions of Accountant (Tax Specialist) at grades

GS–13 and above to serve as specialists on the accounting analysis and treatment of corporation taxes. Employments under this paragraph shall not exceed a period of 18 months in any individual case.

(d) Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by the Commission. Service under this authority may not exceed (1) a total of 4 years or (2) 120 days following completion of the service required for conversion under Executive Order 11203, whichever occurs first.

§ 213.3206 Department of Defense.

(a) *Office of the Secretary* (1) [Reserved]

(2) Professional positions at GS–11 through GS–15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3) [Reserved]

(4) One Assistant for Counter-Insurgency, Office of the Assistant Secretary (International Security Affairs).

§ 213.3209 Department of the Air Force.

(a) Positions assigned exclusively to Air Force Communications Intelligence Activities excluding positions in Cryptologic Intelligence Activities/Functions.

(b) Civilian Deans and Professors at the Air Force Institute of Technology, Wright-Patterson Air Force Base, Dayton, Ohio.

§ 213.3210 Department of Justice.

(a) [Reserved]

(b) Positions of Port Receptionist and Supervisory Port Receptionist, Immigration and Naturalization Service.

§ 213.3212 Department of the Interior.

(a) Any competitive position at an Indian school when filled by the spouse of a competitive employee of the school, when because of isolation or lack of quarters, the Commission deems appointment through competitive examination impracticable.

§ 213.3214 Department of Commerce.

(a) *Bureau of Census.* (1) Not to exceed 100 positions of interviewers, supervisors, and data collection specialists in the Census Bureau who conduct interviews in the hard-core poverty areas of large cities or who supervise the conduct of these interviews, when filled by residents of the areas served.

(b) *Economic Development Administration.* (1) Four Area Supervisors.

(2) Four Assistant Area Supervisors.

(c) *Office of Minority Business Enterprise.* (1) Until December 31, 1974, not to exceed 35 positions of Minority Business Opportunity Specialist at grades GS–9 through GS–15.

(d) *Office of Telecommunications.* (1) Not to exceed 10 positions of Telecommunications Policy Analysts, grades GS–11 through 18. Employment under this authority may not exceed 2 years.

§ 213.3215 Department of Labor.

(a) and (b) [Reserved]

(c) Not to exceed 35 positions of Manpower Development Specialist at grades GS–9 through GS–15 in the Manpower Administration. This authority may not be used after June 30, 1973.

§ 213.3216 Department of Health, Education, and Welfare.

(a) *Office of Education.* (1) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of the Civil Service Commission, be extended for an additional period of 1 year.

(b) [Reserved]

(c) Not to exceed 10 positions of HEW Fellows in grades GS–11 through 15. Employment under this authority may not extend beyond 1 year.

§ 213.3228 U.S. Information Agency.

(a) Persons formerly employed abroad in the Foreign Service of the United States or as Binational Center Grantees for a period of at least 4 years for service in executive and administrative positions, or for at least 3 years for professional positions, in grades GS–9 and above.

§ 213.3229 Federal Power Commission.

(a) A Chief Engineer.

§ 213.3242 Export-Import Bank of the United States.

(a) Not to exceed 24 positions of Loan Specialist GS–7 through 14 when occupied by persons selected jointly by commercial banks and the agency for participation in the Eximbank-Commercial Bank Orientation Program. Appointments under this authority may not exceed 15 months.

§ 213.3246 Selective Service System.

(a) Positions in the Selective Service System when filled by persons who as commissioned officer personnel in the Armed Forces have previously been trained for or have been on active military duty in the Selective Service program, and cannot, for some reason beyond their control, be brought to active military duty in the current Selective Service program.

§ 213.3253 District of Columbia Government.

(a) Chairman, Secretary and Members of the Board of Police and Fire Surgeons, District of Columbia.

§ 213.3259 Action.

(a) *Office of Domestic and Anti-Poverty Operations.* (1) Not to exceed 25 positions of Program Specialist at grades GS–9 through GS–15.

(2) Until December 31, 1975, not to exceed 10 positions of Regional Director, GS–15. Employment under this authority may not exceed 2 years: Provided, That the Director of ACTION may extend appointments made under this authority for up to 2 additional years if he deems such action essential to the accomplishment of agency goals.

§ 213.3268 Agency for International Development.

(a) Not to exceed 30 positions at GS–9 and above when filled by persons who have served overseas with the Agency for International Development for not less than 2 years.

§ 213.3276 Appalachian Regional Commission.

(a) Two Program Coordinators.

SCHEDULE C

§ 213.3301 Positions of a confidential or policy-determining character.

The positions enumerated in §§ 213.3302 to 213.3399 are positions of a confidential or policy-determining character which are excepted from the competitive service, to which appointments may be made without examination by the Commission and which constitute Schedule C.

§ 213.3301a Special revocation of exceptions.

The exception from the competitive service for each position in the executive branch listed in Schedule C which is classified in grade GS–16, GS–17, or GS–18, and is covered by Civil Service Rule IX (§ 9.1 of Subchapter A of this chapter) is revoked effective November 17, 1967. Each such position is removed from Schedule C effective November 17, 1967.

§ 213.3301b Revocation of exceptions.

(a) Except as provided by paragraph (b) of this section the exception from the competitive service for each position at GS–15 and below in the executive branch listed in schedule C is revoked when the position has been vacant for 60 calendar days or more.

(b) Notwithstanding the provisions of paragraph (a) of this section, the Commission may delay the revocation action for an additional 60 calendar days when the agency demonstrates that it: (1) Has been actively recruiting for the position; (2) has made a tentative selection; and (3) has set an appointment date within the additional 60-day period.

(c) An agency shall notify the Commission within 3 work days after a schedule C position at GS–15 and below has been vacated or filled.

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.*

(1) Four Secretaries to the Director.

(2) One Special Assistant to the Deputy Director.

(3) One Private Secretary to the Deputy Director.

(4) Associate Director.

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(5) [Reserved]
(6) One Secretary to each of four Associate Directors.
(7) Four Assistant Directors.
(8) One Private Secretary to each of two Assistant Directors.
(9) [Reserved]
(10) Associate Director for National Security and International Affairs.
(11) Associate Director for Human and Community Affairs.
(12) Associate Director for Economics and Government.
(13) Associate Director for Natural Resources, Energy and Science.
(14) One Secretary to the Assistant to the Director for Public Affairs.
(15) One Special Assistant to the Assistant Director for Operations.
(16) One Confidential Secretary to the Administrator, Office of Federal Procurement Policy.

(b) *Council of Economic Advisers.* (1) Three Private Secretaries to the Chairman and one to each of the other two members.

(c) *Office of Science and Technology.* (1) One Confidential and Secretarial Assistant to the Director.
(2) One Confidential and Secretarial Assistant to the Deputy Director.
(3) [Reserved]
(4) One Staff Assistant.
(5) [Reserved]
(6) One Confidential Secretary to the Director.
(7) One Confidential Secretary to the Deputy Director.

(d) *Office of the Special Representative for Trade Negotiations.*
(1)–(5) [Reserved]
(6) One Confidential Staff Assistant to the Deputy Special Trade Representative.

(e) *President's Commission on Personnel Interchange.* (1) The Executive Director.

(f) *President's Commission on White House Fellows.* (1) The Executive Director.
(2) The Associate Executive Director.

(g) *Council on Environmental Quality.* (1) One Special Assistant to the Chairman.
(2) One Confidential Assistant to each Member of the Council.
(h) [Reserved]

(i) *Office of Telecommunications Policy.* (1) [Reserved]
(2) [Reserved]
(3) One Confidential Assistant to the Deputy Director.
(4) One Courier.
(5) [Reserved]
(6) Confidential Secretary to the Director.
(7) One Confidential Secretary to the Deputy Director.

(j) *Special Action Office for Drug Abuse Prevention.*
(1)–(5) [Reserved]
(6) One Director, Congressional Liaison.

(k) *Office of Economic Opportunity.* (1) One Assistant Director for Plans, Research, and Evaluation.
(2) Two Special Assistants to the Director.
(3) One Confidential Assistant to one Special Assistant to the Director and one Confidential Secretary to the other Special Assistant to the Director.
(4) One Confidential Assistant to the Director.
(5) One Confidential Secretary and one Private Secretary (Steno) to the Director.
(6) One Confidential Secretary to the General Counsel.
(7) One Executive Assistant to the Director.
(8) One Deputy Associate Director for Human Rights.
(9) One Special Assistant to the Assistant Director for Operations.
(10) One Confidential Staff Assistant to the Assistant Director of Operations.
(11) One Chief, State and Local Government Division.
(12) One Coordinator, Youth Affairs Program.
(13)–(14) [Reserved]
(15) One Coordinator, Rural Affairs Program.
(16) One Planning and Review Advisor to the Associate Director for Program Review.
(17) One Chief, Private Resources Division.
(18) One Special Assistant to the Associated Director for Program Review.
(19) One Confidential Advisor to the Associate Director for Congressional Relations.
(20) One Congressional Relations Specialist.
(21) Two Confidential Assistants to the Associate Director for Public Affairs.
(22) One Deputy Associate Director for Congressional Relations.
(23) One Confidential Secretary to the Associate Director for Public Affairs.

§ 213.3304 Department of State.

(a) *Office of the Secretary.* (1) [Reserved]
(2) Four Private Secretaries to the Secretary.
(3)–(8) [Reserved]
(9) The Chief of Protocol.
(10) [Reserved]
(11) One Personal Assistant to the Under Secretary for Coordinating Security Assistance Programs.
(12) One Personal Assistant to the Ambassador at Large and Chief of Mission to the North Atlantic Treaty Organization.
(13)–(14) [Reserved]
(15) One Private Secretary to the Executive Assistant to the Secretary.
(16) One Secretary (Stenography) to the Deputy Under Secretary for Management.
(17) One Personal Assistant to the Ambassador-at-Large.
(18) One Assistant Chief of Protocol for Ceremonial Affairs.
(19) One Assistant Chief of Protocol for Visits.

(b) [Reserved]

(c) *Office of the Assistant Secretary for Congressional Relations.* (1) One Confidential Assistant to the Assistant Secretary.
(2) [Reserved]
(3) [Reserved]
(4) One Legislative Officer.
(d) [Reserved]

(e) *Bureau of Economic Affairs.* (1) One Private Secretary to the Assistant Secretary.

(f) *Bureau of Intelligence and Research.* (1) One Private Secretary.
(2) Director of Intelligence and Research.
(g) [Reserved]

(h) *Bureau of International Organization Affairs.*
(1) [Reserved]
(2) One Secretary and Personal Assistant to the U.S. Representative to the Council of the Organization of American States.
(i) [Reserved]
(j) [Reserved]

(k) *Bureau of Inter-American Affairs.* (1) One Private Secretary to the Assistant Secretary.

(l) *Office of the Legal Adviser.* (1) One Private Secretary to the Legal Adviser.
(m)–(p) [Reserved]

(q) *Office of the Under Secretary for Economic Affairs.* (1) [Reserved]
(2) One Confidential Assistant to the Under Secretary.
(r) [Reserved]

(s) *Bureau of Educational and Cultural Affairs.* (1) One Private Secretary to the Assistant Secretary for Educational and Cultural Affairs.
(2) [Reserved]

(t) *Office of the Inspector General, Foreign Assistance.* (1) One Private Secretary to the Inspector General, Foreign Assistance.
(2) One Private Secretary to the Deputy Inspector General, Foreign Assistance.

(u) *Office of the Counselor.*
(1) [Reserved]
(2) One Staff Assistant to the Counselor.

(v) *Bureau of Politico-Military Affairs.* (1) One Private Secretary to the Director.

(w) *Planning and Coordination Staff.* (1) One Personal Assistant to the Director.

(x) *Office of the Director, Bureau of International Scientific and Technological Affairs.* (1) One Secretary to the Director.

(y) *Office of the Assistant Secretary for Public Affairs.* (1) One Secretary and Personal Assistant to the Assistant Secretary for Public Affairs.

(z) *Office of the Assistant Secretary for Near Eastern and South Asian Affairs.* (1) Secretary to the Assistant Secretary.

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* (1) [Reserved]
(2) Special Assistant to the Secretary (National Security Affairs).
(3) [Reserved]
(4) One Public Information Officer.
(5) One Deputy Under Secretary for Monetary Affairs.
(6) One Staff Assistant to the Special Assistant to the Secretary (National Security Affairs).
(7) [Reserved]

(8) One Confidential Assistant to the Special Assistant to the Secretary (Public Affairs).
(9) Two Special Assistants to the Deputy Secretary.
(10) One Deputy Special Assistant to the Secretary (National Security Affairs).
(11) One Special Assistant to the Secretary (Organized Crime).
(12) One Staff Assistant to the Assistant Secretary (International Affairs).
(13) Two Secretaries to the Secretary.
(14) One Liaison Officer, Officer of the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations).
(15) One Confidential Assistant to the Deputy Secretary.
(16) One Confidential Secretary to the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations).
(17) One Confidential Assistant to the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations).
(18) One Confidential Secretary to the Assistant Secretary (Economic Policy).
(19) One Staff Assistant to the Assistant Secretary for Trade, Energy, and Financial Resources Policy Coordination.
(20) Deputy to the Assistant Secretary, Saudi Arabian Operations and Policies.
(21) [Reserved]
(22) One Confidential Staff Assistant to the Assistant Secretary for International Affairs.
(23) Assistant to the Secretary for Legislative Affairs.
(24) Two Liaison Officers.
(25) One Secretary to the Special Assistant to the Secretary (Public Affairs).
(26) [Reserved]
(27) [Reserved]
(28) One Special Assistant to the Assistant Secretary (International Affairs).
(29) One Deputy Assistant Secretary for Industrial Nations Finance (International Affairs).
(30) One Deputy Assistant Secretary for Trade and Investment Policy (International Affairs).
(31) One Deputy Assistant Secretary for Research and/or Director of Research (International Affairs).
(32) Deputy Assistant Secretary for Developing Nations Finance.
(33) One Staff Assistant to the Assistant to the Secretary for Legislative Affairs.
(34) [Reserved]
(35) One Special Assistant to the Under Secretary.
(36)–(37) [Reserved]
(38) One Secretary to the Deputy Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations).
(39) One Secretary to the Assistant Secretary for Administration.
(40) One Executive Assistant to the Deputy Secretary.
(41) One Staff Assistant to the Assistant Secretary (Legislative Affairs).
(42) [Reserved]
(43) One Confidential Assistant to the Deputy Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations).
(44) Special Assistant to the Secretary.
(45) Energy Adviser to the Deputy Secretary.
(46) Special Assistant to the Assistant Secretary for International Affairs.
(47) Three Staff Assistants to the Secretary.
(48) One Secretary to the Assistant Secretary (Legislative Affairs).
(49) [Reserved]
(50) Executive Assistant to the Deputy Secretary and Administrator, Federal Energy Office.
(51) Two Special Assistants to the Assistant Secretary (Legislative Affairs).
(52) Assistant to the Secretary and Director, Office of Revenue Sharing.
(53) One Confidential Assistant to the Treasurer of the United States.
(54) Special Assistant to the Secretary.
(55) One Confidential Assistant to the Secretary.
(56) Two Staff Assistants (Secretary) to the Secretary.
(b) [Reserved]
(c) *Bureau of Customs.* (1) Commissioner of Customs.
(2) [Reserved]
(3) [Reserved]
(4) One Confidential Staff Assistant to the Commissioner of Customs.
(d) [Reserved]
(e) [Reserved]
(f) *Bureau of the Mint.* (1) [Reserved]
(2) One Confidential Assistant to the Director of the Mint.
(3) One Confidential Secretary to the Director of the Mint.

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* (1) One Special Assistant and two Private Secretaries to the Secretary.
(2) One private secretary to the Deputy Secretary of Defense and one private secretary to each of the following: the Director of Defense Research and Engineering; the Principal Deputy Director of Defense Research and Engineering; the Deputy Directors of Defense Research and Engineering (Tactical Warfare Programs), (Strategic Systems), (Research and Technology), the Director, Advanced Research Projects Agency; the Assistant Secretaries of Defense (Manpower and Reserve Affairs), (International Security Affairs), (Public Affairs), (Installations and Logistics), (Comptroller), (Systems Analysis), (Intelligence), and (Legislative Affairs); the General Counsel; the Assistant to the Secretary of Defense (Atomic Energy); and the Military Assistants to the Secretary of Defense.
(3) One Chauffeur to the Secretary and one Chauffeur to the Deputy Secretary.
(4) One Confidential Assistant to the Assistant Secretary of Defense (International Security Affairs).
(5) The Defense Advisor to USNATO in Brussels, Belgium.
(6) Two Private Secretaries to the Defense Advisor to USNATO in Brussels, Belgium.
(7) [Reserved]
(8) One Assistant to the Secretary of Defense (Legislative Affairs).
(9) [Reserved]
(10) One Special Assistant to the Assistant Secretary of Defense (Legislative Affairs).
(11) One Personal Secretary to the Deputy Secretary of Defense.
(12) One Private Secretary to the Principal Deputy Assistant Secretary (International Security Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.
(13) One private secretary to the Special Assistant to the Secretary of Defense.
(14) [Reserved]
(15) One Staff Assistant to the Special Assistant to the Secretary of Defense.
(16) One Staff Assistant to the Director of Economic Utilization Policy, Office of the Assistant Secretary of Defense (Installations and Logistics).
(17)–(22) [Reserved]
(23) Four Deputy Directors of Defense Research and Engineering and the Director, Advanced Research Projects Agency.
(24) [Reserved]
(25) One Principal Deputy Director of Defense Research and Engineering.
(26)–(28) [Reserved]
(29) Principal Deputy Assistant Secretary of Defense (Comptroller).
(30) [Reserved]
(31) One Private Secretary to the Deputy Assistant Secretary (Reserve Affairs).
(32) [Reserved]
(33) One Private Secretary and Confidential Assistant to the Assistant to the Secretary.
(34) [Reserved]
(35) One Private Secretary to the Assistant Secretary (Health and Environment).
(36) [Reserved]
(37) One Personal Security Assistant to the Secretary.
(38) [Reserved]
(39) One Private Secretary to the Principal Deputy Assistant Secretary (Systems Analysis).
(40) One Confidential Assistant to the Deputy Director of Defense Research and Engineering (Test and Evaluation).
(41) One Personal and Confidential Assistant to the Assistant to the Secretary of Defense for Strategic Arms Limitation Talks.
(42) Special Assistant for Congressional Relations, Office of the Principal Deputy, Office of the Assistant Secretary of Defense (International Security Affairs).
(43) [Reserved]
(44) [Reserved]
(45) One Private Secretary to the Principal Deputy Assistant Secretary (Manpower and Reserve Affairs).
(46) One Confidential Assistant to the Special Assistant to the Secretary.
(47) One Personal and Confidential Assistant to the Secretary of Defense.
(48) One Private Secretary to the Principal Deputy Assistant Secretary (Public Affairs).

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(49) One Private Secretary to the Principal Deputy Assistant Secretary (Health and Environment).

(50)–(52) [Reserved]

(53) One Special Assistant for Accession Policy to the Assistant Secretary of Defense (Manpower and Reserve Affairs).

(54) One Private Secretary to the Secretary of Defense, Mutual and Balanced Force Representative.

(55) One Private Secretary to the Assistant to the Secretary and Deputy Secretary of Defense for Resource Utilization.

(56) One Personal and Confidential Assistant to the Director of Net Assessment.

(57) One Private Secretary to the Director of Net Assessment.

(58) One Special Assistant to the Director, Telecommunications and Command and Control Systems.

(59) One Private Secretary to the Director, Telecommunications and Command and Control Systems.

(60) One Special Assistant for Communication and Community Liaison to the Deputy Assistant Secretary (Equal Opportunity).

(61) Director of Telecommunications and Command and Control Systems.

(62) Principal Deputy Assistant Secretary of Defense (International Security Affairs).

(63) One Secretary to the President, Uniformed Services University of the Health Sciences.

(64) President of the Uniformed Services University of the Health Sciences.

(65) One Confidential Assistant to the Assistant Secretary of Defense (Health and Environment).

(66) One Special Assistant to the Principal Deputy Assistant Secretary (Comptroller).

(b) *Court of Military Appeals.* (1) One Private Secretary and one Technical Assistant to each Judge of the Court.

(c) *Interdepartmental Programs.* (1) [Reserved]

(2) Two Private Secretaries engaged in the interdepartmental activities of the office of the Secretary of Defense.

(3) [Reserved]

(4) [Reserved]

(d) [Reserved]

(e) *Defense Civil Preparedness Agency.* (1) The Director.

(2) One Special Assistant to the Director.

(3) One Labor Liaison Advisor to the Director.

§ 213.3307 Department of the Army.

(a) *Office of the Secretary.* (1) One Private Secretary or Confidential Assistant to the Secretary, to the Under Secretary, and to each Assistant Secretary of the Army.

(2) The General Counsel.

(3)–(7) [Reserved]

(b) [Reserved]

§ 213.3308 Department of the Navy.

(a) *Office of the Secretary.* (1) [Reserved]

(2) Two Private or Confidential Secretaries to the Secretary and one to the Under Secretary and to each Assistant Secretary of the Navy.

(3)–(8) [Reserved]

(9) Two Special Assistants to the Military Assistant to the President.

(10) [Reserved]

(11) [Reserved]

(12) General Counsel.

§ 213.3309 Department of the Air Force.

(a) *Office of the Secretary.* (1) Two Private Secretaries to the Secretary, one Private Secretary to the Undersecretary, and one Private Secretary each to each of the four Assistant Secretaries of the Air Force.

(2) The General Counsel.

(3) One Private Secretary to the General Counsel.

(4)–(6) [Reserved]

(7) One Administrative Assistant and one Private Secretary in the Office of the Military Aide to the Vice President.

(8) Two Private Secretaries in the Office of the Military Assistant to the President.

(9) One Secretary to the Deputy Assistant Secretary of the Air Force (Research and Development).

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.* (1) Three Private Secretaries to the Attorney General.

(2) [Reserved]

(3) [Reserved]

(4) One Confidential Assistant to the Attorney General.

(5) Four Secretaries for the Attorney General.

(6) One Receptionist for the Attorney General.

(7) [Reserved]

(8) Associate Attorney General.

(9) One Secretary to the Associate Attorney General.

(b) *Office of the Deputy Attorney General.* (1) One Confidential Assistant (Private Secretary) to the Deputy Attorney General.

(2) and (3) [Reserved]

(4) One Confidential Secretary to the Associate Deputy Attorney General.

(5) One Staff Assistant to the Deputy Attorney General.

(6) One Special Assistant to the Director, Office of Criminal Justice.

(7) One Staff Assistant to the Associate Deputy Attorney General.

(c) *Office of the Solicitor General.* (1) One Confidential Assistant (Private Secretary) to the Solicitor General.

(d) *Anti-Trust Division.* (1) One Chief, Field Office.

(2) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(e) *Civil Division.* (1) Chief, Admiralty and Shipping Section, New York.

(2) One position of Confidential Assistand (Private Secretary) to the Assistant Attorney General.

(3) [Reserved]

(f) *Criminal Division.* (1) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(g) *Tax Division.* (1) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(h) *Land and Natural Resources Division.* (1) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(i) *Drug Enforcement Administration.*

(1) One position of Staff Assistant to the Administrator.

(2) One Special Assistant to the Administrator.

(j) *Immigration and Naturalization Service.*

(1) One Public Information Officer.

(k) *Board of Immigration Appeals.* (1) Executive Assistant.

(2) Three Members of the Board.

(l) *Office of Legal Counsel.* (1) One Confidential Assistant (Private Secretary) to the Attorney General.

(m) *Bureau of Prisons.* (1) The Director.

(n) *Federal Prison Industries, Inc.* (1) The Commissioner of Industries.

(o) *Office of U.S. Attorney.* (1) Secretary and Confidential Assistant to the U.S. Attorney (23 positions).

(p) *Internal Security Division.* (1) [Reserved]

(2) [Reserved]

(3) Chief, Foreign Agents Registration section.

(4) [Reserved]

(5) [Reserved]

(q) *Civil Rights Division.* (1) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(2) [Reserved]

(3) [Reserved]

(r) *Community Relations Service.* (1) One Private Secretary to the Director.

(2) [Reserved]

(3) [Reserved]

(4) [Reserved]

(5) Three Special Assistants to the Director.

(6) One Special Assistant to the Deputy Director.

(7) One Staff Assistant to the Director.

(s) *Law Enforcement Assistance Administration.* (1) [Reserved]

(2) One Confidential Secretary to each of the two Associate Administrators.

(3) One Special Assistant to the Administrator.

(4) [Reserved]

(5) One Secretary to the Director, National Institute of Law Enforcement and Criminal Justice.

(6) One Deputy Director, National Institute of Law Enforcement and Criminal Justice.

(7) One Special Assistant to the Director, National Institute of Law Enforcement and Criminal Justice.

(8) One Special Assistant to the Deputy Administrator.

(9) One Secretary to the Deputy Administrator.

(10) One Special Assistant to the Deputy Administrator for Policy.

(t) *Office for Drug Abuse Law Enforcement.* (1) One Director.

(u) *Office of National Narcotics Intelligence.*

(1) One Director.

(2) One Confidential Assistant and Private Secretary to the Director.

(v) *Office of Legislative Affairs.*

(1) One Secretary to the Assistant Attorney General.

(2) [Reserved]

(w) *Watergate Special Prosecution Force.* (1) One Special Assistant for Public Information to the Special Prosecutor.

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* (1) Eight Confidential Assistants to the Secretary.

(2) Four Special Assistants to the Secretary.

(3) Six Special Assistants (Field Representatives).

(4) Chauffeur for the Secretary.

(5) Three Special Assistants to the Assistant Secretary for Fish and Wildlife and Parks and one Confidential Assistant (Administrative Assistant) to each of the four Assistant Secretaries for Energy and Minerals, Land and Water Resources, Fish and Wildlife and Parks, and Congressional and Public Affairs.

(6) One Assistant to the Assistant Secretary for Energy and Minerals (Congressional Liaison).

(7) [Reserved]

(8) One Private Secretary to the Under Secretary.

(9) One Secretarial Attendant to the Secretary.

(10) [Reserved]

(11) [Reserved]

(12) One Assistant and Science Adviser to the Secretary.

(13) One Confidential Assistant to the Assistant to the Secretary and Director of Communications.

(14) [Reserved]

(15) One Confidential Assistant to the Secretary (Interdepartmental Activities).

(16) [Reserved]

(17) One Special Assistant to the Assistant Secretary for Congressional and Legislative Affairs.

(18)–(21) [Reserved]

(22) One Confidential Assistant to the Director, Office of Hearings and Appeals.

(23) One Confidential Assistant to the Executive Assistant to the Secretary.

(24) [Reserved]

(25) [Reserved]

(26) Three Assistants to the Secretary (Congressional Liaison).

(27)–(29) [Reserved]

(30) One Special Assistant to the Assistant Secretary for Management.

(31) One Confidential Assistant to the Assistant Secretary for Management.

(32)–(33) [Reserved]

(34) Two Staff Assistants to the Assistant Secretary for Program Development and Budget.

(35)–(36) [Reserved]

(37) One Special Assistant to the Assistant Secretary for Energy and Minerals.

(38)–(41) [Reserved]

(42) One Assistant to the Assistant Secretary, Land and Water Resources.

(43) [Reserved]

(b) *Office of the Solicitor.* (1) One Confidential Assistant to the Solicitor.

(2) One Special Assistant to the Solicitor.

(3) One Confidential Assistant to the Deputy Solicitor.

(c) [Reserved]

(d) *Bureau of Mines.* (1) [Reserved]

(e) [Reserved]

(f) [Reserved]

(g) *Southeastern Power Administration.* (1) [Reserved]

(h) *National Park Service.* (1) Director.

(2) [Reserved]

(3) Three Special Assistants to the Director.

(4) One Executive Assistant to the Director.

(5) One Staff Assistant to the Director.

(6) One Special Program Assistant to the Director.

(i) *Bonneville Power Administration.* (1) Administrator.

(2) Confidential Assistant to the Administrator.

(3)–(4) [Reserved]

(j) [Reserved]

(k) *Southwestern Power Administration.* (1) Administrator.

(2) [Reserved]

(3) One Confidential Assistant to the Administrator.

(4) One Executive Assistant to the Administrator.

(l) *Office of the Director of Territorial Affairs.* (1) [Reserved]

(2) One Secretary of American Samoa.

(3) One Chief Justice of American Samoa.

(4)–(10) [Reserved]

(11) One Secretary to the High Commissioner of the Trust Territory.

(12) One Staff Assistant to the Director.

(m) *Bureau of Outdoor Recreation.* (1) The Director.

(2) [Reserved]

(3) [Reserved]

(4) One Associate Director for Programs.

(n) [Reserved]

(o) [Reserved]

§ 213.3313 Department of Agriculture

(a) *Office of the Secretary.* (1) One Administrative Assistant to the Secretary.

(2) One Assistant to the Secretary for Intergovernmental Affairs.

(3)–(4) [Reserved]

(5) Five Confidential Assistants to the Secretary.

(6) [Reserved]

(7) One Chauffeur for the Secretary.

(8) One Private Secretary and Administrative Assistant to the Executive Assistant to the Secretary.

(9) One Confidential Assistant to the Assistant Secretary for Marketing and Consumer Services.

(10) One Private Secretary to each of the four Assistant Secretaries other than the Administrative Assistant Secretary.

(11) One Confidential Assistant to the Assistant Secretary for Conservation, Research, and Education.

(12) One Confidential Assistant to the Assistant Secretary for International Affairs and Commodity Programs.

(13)–(19) [Reserved]

(20) One Confidential Assistant to the Assistant Secretary for Rural Development.

(21) [Reserved]

(22) [Reserved]

(23) [Reserved]

(24) One Private Secretary to the Assistant to the Secretary for Intergovernmental Affairs.

(25) One Private Secretary to the Assistant to the Secretary for Public Affairs.

(26) One Private Secretary to the Director of Equal Opportunity.

(27)–(31) [Reserved]

(32) One Private Secretary to the Deputy Assistant Secretary for Marketing and Consumer Service.

(33) One Private Secretary to the Deputy Assistant Secretary for Rural Development.

(34) One Special Assistant to the Secretary for Consumer Affairs.

(35) [Reserved]

(36) Deputy Assistant Secretary for Rural Development.

(b) *Rural Electrification Administration.* (1) One Private Secretary to the Administrator.

(2)–(3) [Reserved]

(4) One Assistant to the Administrator.

(c) *Office of the Under Secretary.* (1) One Administrative Officer and Private Secretary to the Under Secretary.

(2) and (3) [Reserved]

(4) One Private Secretary to the Deputy Under Secretary for Congressional Liaison.

(5) [Reserved]

(6) Three Confidential Assistants to the Deputy Under Secretary for Congressional Relations.

(7) Ten Federal Regional Council Representatives.

(d) *Office of the General Counsel.* (1)–(2) [Reserved]

(3) One Private Secretary to the General Counsel.

(e) *Foreign Agricultural Service.* (1) [Reserved]

(2) The Administrator.

(f) *Farmers Home Administration.* (1)–(2) [Reserved]

(3) One Assistant to the Administrator.

(4) Two Confidential Assistants to the Administrator.

(5) One Private Secretary to the Administrator.

(g) *Federal Crop Insurance Corporation.* (1) The Manager.

(2) Members of the Board of Directors.

(3) One Private Secretary to the Manager.

(4) [Reserved]

(h) *Agricultural Stabilization and Conservation Service.* (1) Administrator.

(2)–(3) [Reserved]

(4) Three Confidential Assistants to the Administrator.

(5) One Private Secretary to the Administrator.

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(6) Director, Tobacco Division.
(7) [Reserved]
(8) Director, Conservation and Land Use Programs Division.
(i) *Commodity Credit Corporation.* (1) The President.
(2) The Executive Vice-President.
(3) The Secretary.
(j) *Federal Extension Service.* (1)–(2) [Reserved]
(3) One Private Secretary to the Administrator.
(k) *Soil Conservation Service.* (1) Administrator.
(2) and (3) [Reserved]
(4) One Private Secretary to the Administrator.
(5) [Reserved]
(l) [Reserved]
(m) *Agricultural Marketing Service.* (1) The Administrator.
(2) One Private Secretary to the Administrator.
(3) Three Confidential Assistants to the Administrator.
(n) *Agricultural Economics.* (1) The Director.
(2) [Reserved]
(3) One Private Secretary to the Director.
(4) [Reserved]
(o) [Reserved]
(p) *Science and Education.* (1) The Director.
(2) [Reserved]
(q) *Food and Nutrition Service.* (1) Four Confidential Assistants to the Administrator.
(r) [Reserved]
(s) *Packers and Stockyards Administration.* (1) One Private Secretary to the Administrator.
(t) *Rural Development Administration.* (1) Three Confidential Assistants to the Administrator.
(2) One Private Secretary to the Administrator.

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* (1) Six Confidential Assistants to the Secretary.
(2) Two Private Secretaries to the Secretary.
(3) Two Confidential Assistants and one Private Secretary to the Under Secretary.
(4) One Private Secretary to the Assistant Secretary for Economic Affairs.
(5) One Confidential Assistant and one Private Secretary to the General Counsel.
(6) One Private Secretary to the Deputy General Counsel.
(7) One Chauffeur for the Secretary.
(8) Three Confidential Assistants to the Assistant Secretary for Administration.
(9) Two Congressional Liaison Officers.
(10) One Private Secretary to the Deputy Under Secretary for Legislative Affairs.
(11) One Special Assistant to the Assistant Secretary for Economic Affairs.
(12) One Private Secretary to the Assistant to the Under Secretary.
(13) and (14) [Reserved]
(15) One Private Secretary to the Assistant Secretary for Administration.
(16) One Confidential Assistant to the Director, Office of Foreign Direct Investments.
(17) Three Confidential Assistants to the Director, Office of Minority Business Enterprise.
(18) [Reserved]
(19) Special Assistant to the Secretary for Policy Development.
(20) [Reserved]
(21) Assistant to the Secretary.
(22) Three Confidential Assistants to the Special Assistants to the Secretary for Policy Development.
(23) [Reserved]
(24) [Reserved]
(25) One Private Secretary to the Assistant Secretary for Maritime Affairs.
(26) Deputy Under Secretary for Legislative Affairs.
(27) One private secretary to the Director, Office of Minority Business Enterprise.
(28) [Reserved]
(29) Two Special Assistants to the Assistant Secretary for Administration.
(30) One Private Secretary to the Deputy Under Secretary for Legislative Affairs.
(31) One Special Assistant to the Special Assistant to the Secretary for Public Affairs.
(b) [Reserved]
(c) [Reserved]
(d) *Bureau of the Census.* (1) [Reserved]
(2) One Confidential Research Assistant to the Director.
(3)–(6) [Reserved]
(e) [Reserved]
(f) *National Bureau of Standards.* (1) Administrative Officer.
(g) [Reserved]
(h) *Patent Office.* (1) One Private Secretary (Confidential Assistant) to the Commissioner of Patents.
(i)–(k) [Reserved]
(l) *U.S. Travel Service.* (1) One Confidential Assistant to the Director.
(2) [Reserved]
(3) One Private Secretary to the Assistant Secretary for Tourism.
(4) [Reserved]
(m) *Office of the Assistant Secretary for Domestic and International Business.* (1) One Private Secretary and one Confidential Assistant to the Assistant Secretary.
(2)–(6) [Reserved]
(7) National Export Expansion Coordinator.
(8) and (9) [Reserved]
(10) Two Confidential Assistants to the Director, Bureau of Competitive Assessment and Business Policy.
(11)–(14) [Reserved]
(15) Commissioner General of the International Exposition on the Environment.
(16) Deputy Assistant Secretary for Domestic and International Business.
(17) Deputy Assistant Secretary for Domestic Commerce.
(18) One Confidential Assistant to the Deputy Assistant Secretary for International Commerce.
(19) One Private Secretary to the Deputy Assistant Secretary for Domestic and International Business.
(n) *Office of the Assistant Secretary for Science and Technology.* (1) Two Special Assistants to the Assistant Secretary for Science and Technology.
(2) and (3) [Reserved]
(o) [Reserved]
(p) [Reserved]
(q) *Office of the Assistant Secretary for Economic Development.*
(1)–(5) [Reserved]
(6) One Special Assistant to the Deputy Assistant Secretary for Economic Development Operations.
(7) Director, Office of Congressional Relations.
(8) One Special Assistant to the Deputy Assistant Secretary for Economic Development.
(9) One Congressional Liaison Officer.
(10) Director, Office of Public Affairs.
(11) One Special Assistant to the Assistant Secretary.
(r) *National Oceanic and Atmospheric Administration.* (1) One Private Secretary to the Administrator.
(2) One Private Secretary (Confidential Assistant) to the Deputy Administrator.
(3) [Reserved]
(s) [Reserved]
(t) *Social and Economic Statistics Administration.*—(1) One Confidential Assistant to the Administrator.

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* (1) Two Special Assistants, and one Confidential Assistant to the Secretary of Labor.
(2) One Private Secretary to the Under Secretary.
(3) One Private Secretary to each Assistant Secretary of Labor who is appointed by the President.
(4) [Reserved]
(5) [Reserved]
(6) One Assistant to each Assistant Secretary of Labor appointed by the President except the Assistant Secretary for Manpower.
(7) One Private Secretary to the Executive Assistant to the Secretary.
(8) Three Assistants to the Deputy Under Secretary for Legislative Affairs.
(9) The Manpower Administrator.
(10)–(14) [Reserved]
(15) Deputy Under Secretary for International Labor Affairs.
(16) One Confidential Assistant to the Deputy Under Secretary for International Affairs.
(17)–(20) [Reserved]
(21) One Assistant to the Deputy Under Secretary.
(22) Three Special Assistants to the Assistant Secretary for Occupational Safety and Health Administration.
(23) One Assistant to the Deputy Assistant Secretary for Occupational Safety and Health.
(24) One Special Assistant to the Director, Office of Program Operations, Occupational Safety and Health Administration.
(25) One Secretary to the Deputy Manpower Administrator.
(26) One Secretary to the Public Affairs Director.
(27) Two Secretaries to the Secretary.
(28) [Reserved]

(29) Two Special Assistants to the Deputy Under Secretary for Legislative Affairs.
(30) [Reserved]
(31) Counselor to the Secretary.
(32) One Executive Assistant to the Counselor to the Secretary.
(33) Deputy Under Secretary for Legislative Affairs.
(34) One Office Management Assistant to the Counselor to the Secretary.
(35) One Executive Assistant to the Assistant Secretary for Occupational Safety and Health.
(36) One Special Assistant to the Deputy Assistant Secretary, Employment Standards Administration.
(37) One Special Assistant to the Associate Assistant Secretary for National Programs, Occupational Safety and Health Administration.

(b) *Office of the Solicitor.* (1) One Private Secretary to the Solicitor.
(2) [Reserved]
(c) [Reserved]

(d) *Manpower Administration.* (1) Not to exceed 10 positions of Manpower Development Officer and Manpower Development Specialist in the Division of Indian Manpower Programs when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities in the development and administration of comprehensive manpower training and employment programs.
(e) [Reserved]

(f) *Women's Bureau.* (1) One Private Secretary to the Director.
(2) Two Special Assistants to the Director.
(g) [Reserved]

(h) *Wage and Hour and Public Contracts Division.* (1) One Private Secretary to the Administrator.

(i) *Office of Federal Contract Compliance.* (1) One Special Assistant to the Director.

§ 218.3316 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* (1) [Reserved]
(2) Two Confidential Assistants to the Secretary.
(3) One Writer.
(4) [Reserved]
(5) One Confidential Secretary to the Under Secretary.
(6) Five Confidential Assistants to the Under Secretary.
(7)–(10) [Reserved]
(11) Five Assistants to the Secretary for Special Programs.
(12) [Reserved]
(13) Four Assistants to the Secretary.
(14) One Confidential Secretary to the Deputy Under Secretary.
(15) Two Private Secretaries to the Secretary.
(16) [Reserved]
(17) [Reserved]
(18) One Confidential Assistant for interdepartmental activities.
(19) Counselor.
(20) [Reserved]
(21) [Reserved]
(22) One Staff Assistant to the Assistant Secretary for Public Affairs.
(23)–(24) [Reserved]
(25) One Confidential Assistant to the Special Assistant to the Secretary for Health Policy.
(26)–(28) [Reserved]
(29) Four Special Assistants to the Assistant Secretary for Public Affairs.
(30) One confidential assistant to the Assistant Secretary for Public Affairs.
(31) Commissioner, Youth Development.
(32) Deputy Commissioner, Youth Development.
(33) One Confidential Secretary to the Deputy Under Secretary for Regional Affairs.

(b) [Reserved]

(c) *Office of Education.* (1) One Special Assistant to the Commissioner of Education.
(2)–(7) [Reserved]
(8) One Confidential Assistant to the Commissioner of Education.
(9)–(11) [Reserved]
(12) Assistant Commissioner for Public Affairs.
(d) [Reserved]
(e) [Reserved]

(f) *Office of the Assistant Secretary for Legislation.* (1) Two Special Assistants to the Assistant Secretary.
(2) One Confidential Secretary to the Deputy Assistant Secretary for Legislation.
(3) One Confidential Secretary to the Assistant Secretary.
(4) [Reserved]
(5) One Assistant to the Assistant Secretary.
(6) [Reserved]
(7) One Special Assistant to the Deputy Assistant Secretary for Legislation (Education).
(8) One Deputy Assistant Secretary for Legislation (Welfare).
(9) One Special Assistant to the Deputy Assistant Secretary for Legislation (Welfare).
(10) Four Special Assistants to the Deputy Assistant Secretary for Congressional Liaison.
(11) [Reserved]
(12) One Confidential Assistant to the Assistant Secretary.

(g) *Welfare Administration.* (1) The Commissioner.
(2) One Confidential Secretary to the Commissioner.

(h) *Office of the Assistant Secretary for Health and Scientific Affairs.*
(1)–(4) [Reserved]
(5) The Commissioner, Food and Drug Administration.
(6) Administrator, Health Services and Mental Health Administration.
(7) One Special Assistant to the Deputy Assistant Secretary for Population Affairs.
(8) One Special Assistant to the Administrator, Health Services Administration.
(9) [Reserved]
(10) [Reserved]
(11) Administrator, National Institutes of Health.

(i) *Administration on Aging.* (1) [Reserved]
(2) One Special Assistant to the Commissioner on Aging.
(j) [Reserved]

(k) *Office of the Assistant Secretary for Planning and Evaluation.* (1) One Confidential Secretary to the Assistant Secretary.
(2) [Reserved]
(3) [Reserved]
(4) One Special Assistant to the Assistant Secretary.
(5) One Assistant to the Assistant Secretary.
(6)–(9) [Reserved]
(10) One Special Assistant for Telecommunications.
(11)–(13) [Reserved]

(l) *Social Security Administration.* (1) One Deputy Commissioner.
(2) [Reserved]
(3) One Confidential Assistant (interdepartmental activities) to the Commissioner.

(m) *Office of Consumer Affairs.*
(1) One Public Affairs Officer.
(2) One Director for Communications.
(3) One Director for Consumer Education.
(4) One Writer-Editor.
(5) One Confidential Assistant to the Special Assistant to the President for Consumer Affairs.

(n) *Office of the Assistant Secretary for Human Development.* (1) [Reserved]
(2) Director, Planning and Evaluation.
(3) One Special Assistant for Juvenile Delinquency to the Deputy Assistant Secretary for Youth and Student Affairs.
(4)–(5) [Reserved]
(6) One Special Assistant to the Deputy Assistant Secretary for Youth and Student Affairs.
(7) One Special Assistant for Student Affairs to the Deputy Assistant Secretary for Youth and Student Affairs.
(8) [Reserved]
(9) One Assistant to the Deputy Assistant Secretary for Consumer Services.
(10)–(12) [Reserved]
(13) One Confidential Assistant to the Executive Director, President's Council on Physical Fitness and Sports.
(14) [Reserved]

(o) *Social and Rehabilitation Service.* (1) Administrator, Social and Rehabilitation Service.
(2) [Reserved]
(3) Two Confidential Assistants to the Administrator.
(4) Commissioner of Vocational Rehabilitation.
(5) One Confidential Assistant to the Commissioner of Vocational Rehabilitation.
(6) One Confidential Assistant to the Commissioner, Medical Services Administration.
(7) [Reserved]
(8) One Confidential Assistant (interdepartmental activities) to the Administrator.
(9) One Assistant Administrator for Policy Coordination.
(10) [Reserved]

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(11) One Confidential Assistant to the Commissioner, Assistance Payments Administration.

(p) *Office of the General Counsel.* (1) One Confidential Secretary to the General Counsel.

(2) [Reserved]

(3) One Special Assistant to the General Counsel.

(4) [Reserved]

(q) *Office of the Special Assistant to the Secretary for Civil Rights.* (1) One Special Assistant to the Special Assistant.

(2) One Confidential Secretary to the Special Assistant.

(3) One Assistant to the Special Assistant.

(4) Two Special Assistants for Special Groups.

(5) One Special Assistant for Public Affairs.

(6) [Reserved]

(7) Director, Office of Policy Communication.

(r) *Office of the Assistant Secretary for Education.*—(1) One Special Assistant to the Assistant Secretary.

(2) One Confidential Assistant to the Assistant Secretary.

(3) One Confidential Assistant to the Deputy Assistant Secretary for Education (Policy Communications).

(4) One Special Assistant to the Deputy Assistant Secretary for Education (Policy Communications).

(5) One Executive Assistant to the Assistant Secretary.

(6) One Staff Assistant for Special Projects to the Assistant Secretary.

§ 213.3317 Overseas Private Investment Corporation.

(a) One Chauffeur to the President.

(b) One Secretary to the President.

(c) [Reserved]

(d) [Reserved]

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.* (1) Seven Special Assistants to the Administrator.

(2) and (3) [Reserved]

(4) Two Staff Assistants to the Administrator.

(5) One Secretary to the Deputy Administrator.

(6)–(9) [Reserved]

(10) One Program Advisor to the Special Assistant to the Administrator.

(11) One Information Assistant to the Administrator.

(b) *Office of Legislation.* (1) One Assistant Director for Congressional Affairs.

(2) Two Congressional Liaison Representatives.

(3) Two Staff Assistants to the Director.

(4) and (5) [Reserved]

(c) *Office of Public Affairs.* (1) [Reserved]

(2)–(3) [Reserved]

(4) Two Public Information Specialists.

(5) One Special Assistant to the Director.

(d) *Office of the Assistant Administrator for Enforcement and General Counsel.* (1) One Special Assistant to the Assistant Administrator.

(2) One Secretary to the Assistant Administrator.

(e) [Reserved]

(f) *Office of the Assistant Administrator for Air and Water Programs.* (1) [Reserved]

(2) [Reserved]

(3) [Reserved]

(4) One Special Assistant to the Assistant Administrator (Intergovernmental Relations).

(g) [Reserved]

(h) [Reserved]

(i) [Reserved]

§ 213.3319 Administrative Conference of the United States.

(a) One Private Secretary to the Chairman.

§ 213.3320 Inter-American Foundation.

(a) Three Confidential Assistants to the President.

(b) [Reserved]

(c) One Private Secretary to the Vice President.

(d) [Reserved]

(e) One Administrative Aide to the President.

§ 213.3322 Interstate Commerce Commission.

(a) One Confidential Assistant to each Commissioner.

(b)–(c) [Reserved]

(d) One Confidential Assistant to the Managing Director.

(e) One Confidential Assistant to the Chairman.

(f) One Secretary to the Congressional Liaison Officer.

(g) [Reserved]

§ 213.3325 The Tax Court of the United States.

(a) One Private Secretary and one Technical Assistant for the Chief Judge and one Private Secretary and two Technical Assistants for each Judge.

§ 213.3326 Office of Emergency Preparedness.

(a) *Office of the Director.* (1) One Administrative Assistant to the Director.

(2) One Courier.

(3) Four Special Assistants to the Director.

(4) General Counsel.

(5) One Secretary to the Special Assistant to the Director (for oil and related energy problems).

(b) *Office of the Deputy Director.* (1) One Confidential Administrative Assistant to the Deputy Director.

(2) [Reserved]

(3) [Reserved]

(c)–(e) [Reserved]

(f) *Office of Liaison.* (1) [Reserved]

(2) Deputy Director.

§ 213.3327 Veterans Administration.

(a) *Office of the Administrator.*

(1) Four Confidential Assistants to the Special Assistant to the Administrator.

(2) The Deputy Administrator.

(3) The General Counsel.

(4) The Associate Deputy Administrator.

(5) [Reserved]

(6) Three Confidential Assistants to the Administrator.

(7) Three Confidential Assistants to the Executive Assistant to the Administrator.

(8) [Reserved]

(9) Director, National Cemetery System.

(10) Five Confidential Assistants to the Deputy Administrator.

(b) *Department of Veterans Benefits.* (1) The Chief Benefits Director.

(2) One Confidential Assistant to the Chief Benefits Director.

§ 213.3328 U.S. Information Agency.

(a) Two Secretarial Assistants to the Deputy Director.

(b) One Confidential Assistant to the General Counsel.

(c) One Secretarial Assistant to the Director.

(d) One Secretary to the Director.

(e) [Reserved]

(f) [Reserved]

(g) Deputy Director (Policy and Plans).

(h) Associate Director (Policy and Plans).

(i) One Congressional and Legal Liaison Officer, Office of the General Counsel.

(j) One Special Assistant to the Assistant Director (Press and Publications).

(k) One Special Assistant to the Associate Director (Policy and Plans).

(l) One Special Assistant to the Assistant Director (Motion Picture and Television Service).

§ 213.3329 Federal Power Commission.

(a) Five Private Secretaries in the Office of the Chairman, one Confidential Assistant to the Chairman, one Private Secretary to each of three Commissioners, and one Confidential Assistant to each Commissioner.

(b) [Reserved]

(c) One secretary to the Assistant Executive Director (Regulatory Information System and Administration).

(d) [Reserved]

(e) Two Private Secretaries to the Executive Director.

(f) Two Technical Assistants to each of four Commissioners.

(g)–(h) [Reserved]

(i) The Assistant Executive Director.

(j) [Reserved]

(k) One Private Secretary to the Assistant to the Chairman.

§ 213.3330 Securities and Exchange Commission.

(a)–(c) [Reserved]

(d) Two Confidential Assistants to the Chairman and one Confidential Assistant to each of the other four Members of the Commission.

(e) Two Administrative Aides to the Executive Director.

(f) One Secretary to the General Counsel.

(g) One Secretary to the Chief Accountant.

§ 213.3331 [Reserved]

§ 213.3332 Small Business Administration.

(a) One Deputy Administrator, Associate Administrator for Finance and Investment, Associate Administrator for Operations and the Associate Administrator for Procurement and Management Assistance.
(b) [Reserved]
(c) One Private Secretary to the Administrator.
(d) One Special Assistant and Director of Equal Opportunity and Compliance, Office of the Administrator.
(e) Three Congressional Relations Officers.
(f) Director, Office of Congressional Relations.
(g) One Advisory Councils Officer.
(h) [Reserved]
(i) One Confidential Assistant to the Deputy Administrator.
(j) One Special Assistant to the Associate Administrator for Procurement and Management Assistance.
(k) One Confidential Assistant to the Associate Administrator for Procurement and Management Assistance.
(l) [Reserved]
(m) One Executive Assistant to the Administrator.
(n) One Confidential Assistant to the Executive Assistant to the Administrator.
(o) One Congressional and Public Affairs Officer.
(p) Two positions of Special Assistant to the Assistant Administrator for Minority Enterprise.
(q) [Reserved]
(r) One Confidential Assistant (Secretary) to the Associate Administrator for Finance and Investment.
(s) One Confidential Assistant to the General Counsel.
(t) One Special Assistant to the Deputy Administrator.
(u) One Special Assistant to the Executive Assistant to the Administrator.
(v) One Staff Assistant to the Executive Assistant to the Administrator.

§ 213.3333 Federal Deposit Insurance Corporation.

(a) One Assistant to each member of the Board of Directors.
(b) One Confidential Assistant to the Board of Directors.
(c) General Counsel.
(d) One Special Assistant to the Chairman.
(e) Executive Assistant and Controller.
(f) [Reserved]
(g) One Special Assistant to the Director (Appointive).

§ 213.3334 Federal Trade Commission.

(a) Two Secretaries to the Chairman.
(b) Director of Information.
(c) One Secretary to the Director of Information.

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.* (1) [Reserved]
(2) The Deputy Administrator.
(3) The Assistant Administrator.
(4) Three Confidential Assistants to the Assistant Administrator.
(5) Two Confidential Assistants to the Deputy Administrator.
(6) Four Confidential Assistants to the Administrator.
(7) [Reserved]
(8) Two Special Assistants to the Assistant Administrator.
(9) [Reserved]
(10) [Reserved]
(11) One Confidential Assistant to the General Counsel.
(12) [Reserved]
(13) Associate Administrator for Federal Management Policy.
(14) One Special Assistant to the Deputy Administrator.
(15) Director, Office of Preparedness.
(16) One Confidential Assistant to the Associate Administrator for Federal Management Policy.
(17) One Special Assistant to the Administrator.
(b) *Public Buildings Service.* (1) The Commissioner.
(2) Four Confidential Assistants to the Commissioner.
(c) *Federal Supply Service.* (1) The Commissioner.
(2) Two Confidential Assistants to the Commissioner.
(d) *National Archives and Records Service.* (1) The Archivist of the United States.
(2) [Reserved]
(e) [Reserved]
(f) *Property Management and Disposal Service.* (1) Commissioner.
(2) [Reserved]
(3) One Special Assistant to the Commissioner.
(g) *National Advisory Council on Economic Opportunity.* (1) One Special Assistant to the Chairman.
(2) [Reserved]
(h) *Automated Data and Telecommunications Service.* (1) [Reserved]
(2) The Commissioner.

§ 213.3338 Federal Communications Commission.

(a) One Special Assistant to the Chairman.
(b) One Secretary to the Legal Assistant to the Chairman.
(c) One Special Assistant to a Commissioner.

§ 213.3339 U.S. Tariff Commission.

(a) One Confidential Assistant to each Commissioner.
(b) One Administrative Assistant to the Chairman.
(c) One Administrative Assistant to the Executive Director.
(d) One Secretary to the Chairman.
(e) [Reserved]

§ 213.3340 Civil Aeronautics Board.

(a) One Administrative Assistant to each Member of the Board.
(b) One Secretary to each Member of the Board.
(c) Director of Information.
(d) One Special Assistant to the Chairman.
(e) One Secretary to the Special Assistant to the Chairman.
(f) One Secretary to the Director, Bureau of International Affairs.

§ 213.3341 National Labor Relations Board.

(a) One Private Secretary to the Chairman of the Board.
(b) One Confidential Assistant to each Board Member.
(c) [Reserved]
(d) Two Confidential Assistants to the General Counsel.
(e)–(g) [Reserved]
(h) One Chief Counsel to a Board Member.

§ 213.3342 Export-Import Bank of the United States.

(a) One Confidential Assistant to the President and Chairman.
(b) One Private Secretary to the First Vice-President.
(c) One Private Secretary to each of the three members of the Board of Directors.
(d) [Reserved]
(e) One Private Secretary to the Senior Vice President for Planning and Export Expansion.
(f)–(h) [Reserved]
(i) One Private Secretary to the Senior Vice President for Exporter Credits, Guarantees and Insurance.
(j) [Reserved]
(k) One Confidential Assistant to the General Counsel.
(l) One Secretary to the Special Assistant to the President and Chairman.
(m) One Secretary to the General Counsel.

§ 213.3343 Farm Credit Administration.

(a) Three Directors of Credit Services.

§ 213.3344 Occupational Safety and Health Review Commission.

(a) One Special Assistant to the Chairman.
(b) [Reserved]
(c) One Confidential Assistant to each member of the Commission other than the Chairman.
(d) One Confidential Assistant to the Chief Counsel to the Chairman.
(e) [Reserved]

§ 213.3345 Indian Claims Commission.

(a) One Private Secretary to each Commissioner.

§ 213.3346 Selective Service System.

(a) [Reserved]
(b) One Private Secretary to the General Counsel.
(c) [Reserved]
(d) One Private Secretary to the Deputy Director of Selective Service.
(e) and (f) [Reserved]
(g) One Private Secretary to the Director of Selective Service.
(h) [Reserved]

§ 213.3348 National Aeronautics and Space Administration.

(a) One Secretary to the Administrator.
(b) One Secretary to the Deputy Administrator.
(c) One Secretary to each of the following: The Associate Administrator for Manned Space Flight, the Associate Ad-

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ministrator for Advanced Research and Technology.
(d) Associate Administrator.
(e) [Reserved]
(f) [Reserved]
(g) Associate Administrator for Manned Space Flight.
(h) Associate Deputy Administrator.
(i) Deputy Associate Administrator.
(j) General Counsel.
(k) One Staff Assistant to the Special Assistant to the Assistant Administrator for Institutional Management (Executive Recruiting).
(l) One Secretary to the Special Assistant to the Assistant Administrator for Institutional Management.
(m) One Secretary to the Associate Administrator.
(n) One Secretary to the Associate Administrator for Center Operations.
(o) One Special Assistant to the Director of the Occupational Medicine and Environmental Health Division.
(p) Associate Administrator for Aeronautics and Space Technology.
(q) Associate Administrator for Space Science.
(r) Associate Administrator for Applications.
(s) Associate Administrator for Tracking and Data Acquisition.
(t) Associate Administrator for Center Operations.

§ 213.3349 Panama Canal Company.

(a) Secretary.

§ 213.3350 Foreign Claims Settlement Commission of the United States.

(a) [Reserved]
(b) [Reserved]
(c) One Private Secretary to the Chairman.

§ 213.3351 [Reserved]

§ 213.3354 Federal Home Loan Bank Board.

(a) Two Secretaries to the Chairman of the Board.
(b) Two Secretaries to Board Members.
(c) One Assistant to a Board Member.
(d) [Reserved]
(e) Director, Office of Communications.
(f)–(g) [Reserved]
(h) One Secretary to the General Counsel.
(i) [Reserved]
(j) One Secretary to the Director, Office of Economic Research, and Adviser to the Board.

§ 213.3355 The Renegotiation Board.

(a) One Special Assistant to the Chairman and one Special Assistant to each of the other four Renegotiation Board Members.
(b) One Secretary to the Chairman.
(c) One Secretary to each of the four Board Members.

§ 213.3356 Commission on Civil Rights.

(a) One Confidential Secretary to the Staff Director.
(b) [Reserved]
(c) [Reserved]
(d) One Confidential Secretary to the Deputy Staff Director.
(e) One Special Assistant to the Staff Director.
(f) One Director, Congressional Liaison.

§ 213.3357 National Credit Union Administration.

(a) One Secretary to the Deputy Administrator.
(b) One Public Information Officer.

§ 213.3359 ACTION.

(a) Three Special Assistants to the Associate Director for Domestic and Anti-Poverty Operations.
(b) One Chauffeur to the Director.
(c) One Deputy Associate Director for Citizens Placement.
(d) One Deputy Associate Director for SCORE/ACE.
(e) One Deputy Associate Director for Older American Programs.
(f) One Executive Assistant to the Director.
(g) One Confidential Aide to the Director.
(h) One Staff Assistant to the Associate Director for Domestic and Anti-Poverty Operations.
(i) One Special Assistant for Communications to the Associate Director for Domestic and Antipoverty Operations.
(j) [Reserved]
(k) One Deputy Associate Director for ACTION Education Programs.
(l) [Reserved]
(m) Director, Evaluation Division, Office of Policy and Program Development.
(n) Director, Policy Management Division, Office of Policy and Program Development.
(o) [Reserved]
(p) One Confidential Secretary to the Deputy Associate Director (Domestic and Anti-Poverty Operations).
(q) One Staff Assistant to the Director.

§ 213.3360 Consumer Product Safety Commission.

(a) One Secretary (Stenography) to one Commissioner and one Staff Assistant to one Commissioner.
(b) One Special Assistant for External Affairs to each of three Commissioners.
(c) One Special Assistant for Internal Affairs to each member of the Commission.

§ 213.3364 U.S. Arms Control and Disarmament Agency.

(a) One Private Secretary to the Director.
(b) One Private Secretary to the Deputy Director.
(c) One Private Secretary to each Assistant Director appointed by the President (four positions).
(d) One Public Affairs Adviser.
(e) The General Counsel.
(f) One Private Secretary to the General Counsel.
(g) One Private Secretary to the Deputy Assistant Director, Economic Affairs Bureau.
(h) One Staff Assistant to the Special Assistant to the Director.
(i) One Congressional Assistant to the General Counsel.
(j) One Confidential Assistant to the General Counsel.
(k) One Private Secretary to the ACDA Representative to the Mutual and Balanced Force Reduction Talks.

§ 213.3367 Federal Maritime Commission.

(a) One Confidential Assistant to each of three Commissioners.
(b) One Private Secretary to the Chairman, one Private Secretary to each Commissioner, one Private Secretary to the General Counsel, and one private Secretary to the Managing Director.

§ 213.3368 Agency for International Development.

(a) *Office of the Administrator.* (1) [Reserved]
(2) One Confidential Assistant (Private Secretary) to the Administrator.
(3) One Chauffeur for the Administrator.
(4) One Private Secretary to the Deputy Administrator.
(b) [Reserved]
(c) *Office of the General Counsel.* (1) One Private Secretary to the General Counsel.
(2) The General Counsel.
(d) [Reserved]
(e) *Office of the Assistant Administrator for Legislative Affairs.*
(1)–(4) [Reserved]
(5) One Congressional Liaison Officer.
(f) [Reserved]

§ 213.3372 [Reserved]

§ 213.3374 [Reserved]

§ 213.3376 Appalachian Regional Commission.

(a) One Special Assistant to the Federal Cochairman and one Special Assistant to his Alternate.
(b) One Private Secretary to the Federal Cochairman and one Private Secretary to his alternate.

§ 213.3377 Equal Employment Opportunity Commission.

(a) Four Special Assistants to the Chairman.
(b) One Special Assistant and one Secretary to each Member of the Commission.
(c) Two Secretaries to the Chairman.
(d) One Secretary to each of two Special Assistants to the Chairman.
(e) One Public Information Officer.
(f) One Special Assistant to each of three members of the Commission.
(g) One Special Assistant to the Vice Chairman.

§ 213.3382 National Foundation on the Arts and the Humanities.

(a) One Executive Secretary to the Chairman, National Endowment for the Arts.
(b) One Assistant to the Chairman, National Endowment for the Arts.
(c) One Staff Assistant to the Chairman, National Endowment for the Arts.
(d) One Assistant for Cultural Affairs (interdepartmental activities).

(e) One Special Assistant to the Chairman of the National Endowment for the Humanities.

(f) One Director of Planning and Management, National Endowment for the Arts.

(g) One Special Assistant for Management Policy to the Director for Planning and Management, National Endowment for the Arts.

(h) One Congressional Liaison Officer, National Endowment for the Arts.

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* (1) [Reserved]

(2) One Executive Secretary to the Secretary.

(3)–(8) [Reserved]

(9) Three Special Assistants to the Under Secretary.

(10) One Private Secretary to the Assistant Secretary for Legislative Affairs.

(11) [Reserved]

(12) One Special Assistant to the Secretary.

(13)–(16) [Reserved]

(17) Federal Insurance Administrator.

(18) [Reserved]

(19) Two Special Assistants to the General Counsel.

(20) Deputy Assistant Secretary for Equal Opportunity.

(21) Deputy General Counsel.

(22) [Reserved]

(23) One Private Secretary to the Deputy Assistant Secretary for Legislative Affairs.

(24) One Staff Assistant to the Under Secretary.

(25) Two Staff Assistants to the Assistant to the Secretary (Public Affairs).

(26) Four Senior Assistants for Legislative Affairs.

(27) Eight Assistants for Legislative Affairs.

(28)–(30) [Reserved]

(31) One Special Assistant to the Secretary, one Administrative Aide and one Secretary to the Special Assistant.

(32)–(33) [Reserved]

(34) One Chauffeur to the Secretary.

(35) One Administrative Aide to the Executive Assistant to the Secretary.

(36) One Private Secretary to the Assistant to the Secretary (Public Affairs).

(37) One Private Secretary to the Deputy Under Secretary for Field Operations.

(38)–(41) [Reserved]

(42) One administrative aide to an Assistant Director, Urban Program Coordination.

(43) [Revoked]

(44) One Deputy Under Secretary for Field Operations.

(45) [Revoked]

(46) Four Public Information Officers, Office of the Assistant to the Secretary for Public Affairs.

(47) Three Public Information Specialists, Office of the Assistant to the Secretary for Public Affairs.

(48) One Special Assistant to the Deputy Under Secretary for Field Operations.

(49) One Director, Executive Secretariat.

(50) One secretary to the Secretary.

(51) One Staff Assistant to the Assistant to the Secretary for Programs for the Elderly and Handicapped.

(52) One Secretary to the Special Assistant to the Deputy Under Secretary for Field Operations.

(53) Assistant to the Secretary (Public Affairs).

(54) One Deputy Assistant to the Secretary for Programs for the Elderly and the Handicapped.

(55) One Staff Assistant to the Director, Executive Secretariat.

(56) One Special Assistant to the Assistant to the Secretary for Public Affairs.

(57) Deputy Under Secretary for Management.

(b) *Office of the Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Administration Commissioner.* (1) One Private Secretary to the Assistant Secretary–Commissioner.

(2) One Deputy Assistant Secretary–Commissioner.

(3) Two Assistants to the Commissioner (Special Projects).

(4) [Reserved]

(5) [Reserved]

(6) One Staff Assistant to the Assistant Secretary–Commissioner.

(7) [Reserved]

(8) [Reserved]

(9) President, Government National Mortgage Association.

(10) One Special Assistant to the President, Government National Mortgage Association.

(11) One Assistant (special projects) to the Assistant Secretary–Commissioner.

(12) One Special Assistant to the Assistant Secretary–Commissioner.

(13) One Private Secretary to the Deputy Assistant Secretary–Commissioner.

(14) One Private Secretary to the President, Government National Mortgage Association.

(c) *Office of Assistant Secretary for Housing Management.* (1) One Private Secretary to the Assistant Secretary.

(2)–(3) [Reserved]

(4) Four Special Assistants to the Assistant Secretary.

(5) Three Staff Assistants to the Assistant Secretary.

(6)–(8) [Reserved]

(d) *Office of Assistant Secretary for Community Planning and Management.* (1) One Private Secretary to the Assistant Secretary.

(2) [Reserved]

(3) Four Special Assistants to the Assistant Secretary.

(4)–(9) [Reserved]

(10) One Staff Assistant to the Deputy Assistant Secretary.

(11) Deputy Assistant Secretary for Community Planning and Development.

(e) [Reserved]

(f) *Office of the Assistant Secretary for Equal Opportunity.* (1) One Private Secretary to the Assistant Secretary.

(2) One Private Secretary to the Deputy Assistant Secretary.

(3) Two Special Assistants to the Assistant Secretary.

(4) One Staff Assistant to the Deputy Assistant Secretary.

(5) Two Confidential Assistants to the Assistant Secretary.

(6) One Executive Assistant to the Assistant Secretary.

(g) *Office of the Assistant Secretary for Research and Technology.* (1) One

(1) [Reserved]

(2) One Special Assistant to the Assistant Secretary.

(3) [Reserved]

(4) One Special Assistant for Research Dissemination.

(h) *Office of the Administrator, Federal Disaster Assistance Administrator.* (1) One Private Secretary to the Administrator.

(i) *Office of the Assistant Secretary for Policy Development and Research.*

(1) One Executive Assistant to the Assistant Secretary.

(2) One Secretary to the Deputy Assistant Secretary for Policy Development.

(3) One Special Assistant to the Assistant Secretary.

(4) One Deputy Assistant Secretary for Research and Demonstration.

(j) *Community Development Corporation.*

(1) Administrative Aide to the President/General Manager.

(2) One Staff Assistant to the General Manager.

(k) *Office of New Communities Administration.*

(1) Confidential Secretary to the Administrator.

(2) Special Assistant to the Administrator.

§ 213.3386 Regional Commissions, Public Works and Economic Development Act of 1965.

(a) One Special Assistant to the Federal Cochairman of each Regional Commission established under the Public Works and Economic Development Act of 1965.

(b) One Special Assistant to the Alternate Federal Cochairman of each Regional Commission established under the Public Works and Economic Development Act of 1965.

(c) One Private Secretary to the Federal Cochairman of each Regional Commission established under the Public Works and Economic Development Act of 1965.

(d) One Private Secretary to the Alternate Federal Cochairman of each Regional Commission established under the Public Works and Economic Development Act of 1965.

§ 213.3388 Federal Energy Administration.

(a) *Office of the Administrator.* (1) One Secretary to the Administrator.

(2) One Special Assistant to the Administrator.

(b) *Office of the Deputy Administrator.* (1) One Staff Assistant to the Deputy Administrator.

(c) *Office of Public Affairs.* (1) The Director.

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(2) [Reserved]

(d) *Office of Congressional Affairs.* (1) One Special Assistant, Congressional Affairs. (2) Four Staff Assistants, Congressional Affairs.

(e) *Office of the General Counsel.* (1) One Secretary to the Deputy General Counsel.

(f) [Reserved]

(g) *Office of the Assistant Administrator for Conservation and Environment.* (1) One Confidential Assistant (Secretary) to the Assistant Administrator.

(2) One Special Assistant to the Assistant Administrator.

(h) *Office of the Assistant Administrator for Management and Administration.* (1) Deputy Assistant Administrator.

(i) *Office of the Assistant Administrator for International Energy Affairs.*

(1) One Confidential Assistant (Secretary) to the Assistant Administrator.

(j) *Office of The Assistant Administrator for Energy Resource Development.*

(1) One Executive Assistant to the Assistant Administrator.

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* (1) [Reserved]

(2) One Special Assistant to the Secretary.

(3) Two Confidential Secretaries to the Secretary.

(4) [Reserved]

(5) [Reserved]

(6) One Confidential Secretary to the General Counsel.

(7) One Confidential Secretary to the Under Secretary of Transportation.

(8) [Reserved]

(9) One Confidential Secretary to the Assistant Secretary for Systems Development and Technology.

(10) Special Assistant for Special Projects.

(11) Two Special Assistants to the Under Secretary of Transportation.

(12) One Chauffeur to the Secretary.

(13) One Chauffeur to the Under Secretary.

(14) [Reserved]

(15) One Special Assistant to the Deputy Under Secretary of Transportation.

(16) [Reserved]

(17) Six Congressional Liaison Officers, Office of the Director of Congressional Affairs.

(18) Director, Office of Congressional Relations.

(19) One Deputy Director, Office of Congressional Relations.

(20) [Reserved]

(21) Two Special Assistants to the Assistant Secretary for Policy, Plans, and International Affairs.

(22) One Confidential Secretary to the Assistant Secretary for Safety and Consumer Affairs.

(23)–(25) [Reserved]

(26) One Public Information Assistant to the Director, Office of Public Affairs.

(27) [Reserved]

(28) One Confidential Secretary to the Director, Office of Congressional Relations.

(29) Director, Office of Public Affairs.

(30) One Special Assistant to the Assistant Secretary for Safety and Consumer Affairs.

(31)–(32) [Reserved]

(33) One Secretary to a Special Assistant to the Secretary.

(34) [Reserved]

(35) [Reserved]

(36) One Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs.

(37) [Revoked]

(38) One Staff Assistant to the Executive Secretary to the Secretary.

(39) One Secretary to the Assistant Secretary for Congressional and Intergovernmental Relations.

(40) One Secretary to the Deputy Assistant Secretary for Congressional and Intergovernmental Relations.

(41) One secretary to the Special Assistant to the Under Secretary.

(42) [Reserved]

(43) One Staff Assistant to the Under Secretary.

(44) Deputy Under Secretary.

(45) One Executive Resources Manager to the Deputy Under Secretary.

(46) [Reserved]

(47) One Intergovernmental Liaison Officer.

(b) *National Transportation Safety Board.* (1) One Administrative Assistant to each of two Board Members.

(2) One Confidential Secretary to each of the five Board members.

(3) One Confidential Secretary to the General Manager.

(4) One Legislative Affairs Officer, Office of the General Manager.

(5) One Program Analysis Officer.

(6) One Administrative Assistant to the Chairman.

(c) [Reserved]

(d) *Federal Highway Administration.* (1) Deputy Administrator.

(2) [Reserved]

(3) [Reserved]

(e) *Federal Railroad Administration.* (1) [Reserved]

(2) One Special Assistant to the Deputy Administrator.

(3) Deputy Administrator.

(4) One Confidential Secretary to the Administrator.

(5) One Public Information Officer.

(6) One Secretary to the Deputy Administrator.

(7) One Special Assistant to the Administrator.

(8) One Secretary to the Special Assistant to the Administrator.

(f) *Urban Mass Transportation Administration.* (1) [Reserved]

(2) One Confidential Secretary to the Administrator.

(3) Deputy Administrator.

(4) One Secretary to the Deputy Administrator.

(g) *St. Lawrence Seaway Development Corporation.* (1) One Special Assistant to the Administrator.

(2) One Confidential Secretary to the Administrator.

(3) One Confidential Secretary to the Assistant Administrator.

(h) *Federal Aviation Administration.* (1) One Private Secretary to the Administrator.

(2) One Special Assistant to the Administrator.

(3)–(6) [Reserved]

(7) General Counsel.

(i) *National Highway Traffic Safety Administration.* (1) Deputy Administrator.

(2) One Private Secretary to the Administrator.

(3) One Special Assistant to the Administrator.

(4) One Public Information Officer.

§ 213.3399 Temporary Boards and Commissions.

(a) *Cost-of-Living Council and Related Organizations.* (1) [Reserved]

(2) [Reserved]

(3) [Reserved]

(4) One Special Assistant to the Director, Cost of Living Council.

(b) *American Revolution Bicentennial Administration.* (1) Director.

(2) Deputy Executive Director for Program Development and Coordination.

(3) Deputy Executive Director for Communications and Field Services.

(4) Deputy Executive Director for Finance and Administration.

(5) One Staff Assistant (Secretary) to the Administrator.

[FR Doc.74-30091 Filed 12-27-74;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Areas Quarantined; Correction

In FR Doc. 74-29330 appearing at page 43611 in the issue of Tuesday, December 17, 1974, in the third column, third complete paragraph the third and fourth lines should be interchanged.

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

GRANT AND LOAN PROGRAM

Adoption of Proposed Regulations

On November 13, 1974, there was published in the FEDERAL REGISTER (39 FR 40122) a notice of proposed rulemaking amending Title 13 of the Code of Federal Regulations by amending Parts 301, 302, 303, 304, 305, 306, 307 as well as by adding Parts 308 and 312.

The purpose of these amendments and additions is to implement new program authorities and legislative amendments contained in Pub. L. 93-423 and to make technical changes to clarify existing language and procedures.

The amendments:

Change eligibility of title I areas to title IV.

Establish operating grants for health projects.

Allow economic development districts to contain one redevelopment area instead of requiring two.

Provide that a project benefiting a redevelopment area may be located in an economic development district outside of a redevelopment area.

Qualify uninhabited Indian reservations, trust or restricted Indian-owned land for designation as a redevelopment area.

Additionally, Part 306 is restated and includes procedures to make available working capital loans and working capital guarantees and lease guarantees as authorized under section 202 of the Act.

Part 307 is amended by adding a new Subpart D to expand economic development planning capabilities of States and sub-states as authorized under section 302 of the Act.

A new Part 308 is added which describes procedures by which eligible recipients may receive assistance under title IX of the Act pursuant to a plan to alleviate economic adversity. Grants may be used for public facilities, public services, business development, planning, unemployment compensation, rent supplements, mortgage payment assistance, research, technical assistance, training, relocation of individuals, and other appropriate assistance.

Part 312 is added and describes program as provided under section 304 of the Act which grants funds to States in accordance with a prescribed formula. Funds are authorized to supplement projects under titles I, II, and IV of the Act, and also may be used for "first-dollar" assistance when funds are unavailable under titles I, II, and IV of the Act for projects that comply with these titles.

Interested persons were invited to submit written comments on or before December 9, 1974. A number of comments were received from States and interested organizations. All comments were carefully considered and a number of changes were made in response thereto. The principal changes are discussed below.

The language of Part 307, Subpart D, § 307.52(d) and § 307.55(b) has been revised to indicate a distinction between the uses of funds under section 301(b) and section 302 of the Public Works and Economic Development Act. The language of § 307.54(b)(3) has been revised to clarify the intended cooperation between State planning and subetate planning efforts.

Part 308 § 308.6(a) has been amended to provide a requirement that plans under title IX of the Act shall be consistent with planning goals and objectives developed under section 302 of the Act. A definition for "public services" has been added to § 308.22. Section 308.26(a) has been modified to provide that the use of title IX assistance for unemployment compensation must be shown to have a significant relationship to the economic adjustment of the area and would only be available when unemployment compensation assistance is not otherwise available. Section 308.27(b) has been amended to provide that title IX assistance would not be available for relocation of unemployed workers and families unless such assistance is not available under the Comprehensive Employment and Training Act of 1973. Section 308.51 has been amended to reduce the period for program reporting following the conclusion of assistance from three years to one year.

Sections 312.5 and 312.6 have been amended to provide that the Assistant Secretary shall provide with respect to basic grant and loan assistance under section 304 of the Act the same determinations of compliance and the same services of construction management as applicable to supplementary grants under section 304 of the Act.

The Assistant Secretary for Economic Development has determined that the public interest would be best served by making these regulations effective immediately. Rising levels of unemployment and other problems of economic adjustment require in the national interest that the subject programs of assistance be implemented with minimum delay. Therefore, deferral of the effective date under 5 USC 553(d) is determined to be inapplicable and these regulations shall become effective on December 30, 1974.

Accordingly, with these changes and additions, the amendments to Chapter III of Title 13 of the Code of Federal Regulations are adopted as set forth below:

PART 301—ESTABLISHMENT AND ORGANIZATION

1. Section 301.2 is amended by deleting the definition of "Title I Area"; by changing the definitions of "Designated Area", "Disaster Area", "Economic Development District", and "Qualified Area"; and by adding a new definition "Section 302 Planning Grants".

§ 301.2 Definitions.

* * * * *

"Designated Area" means any area or center which has been determined by the Assistant Secretary pursuant to sections 401 or 403 of the Act as eligible to apply for financial assistance.

"Disaster Area" means areas designated under title IV of the Act and designated by the President under the Disaster Relief Act of 1970 (Pub. L. 91-606) or Disaster Relief Act of 1974 (Pub. L. 93-288). The disaster area shall remain such for as long a period as it retains both EDA and Disaster designations, and such concurrent designations have not exceeded 1 year in duration.

* * * * *

"Economic Development District" means a geographic area composed of adjoining and economically related areas which are of proper size to permit effective economic planning, including at least one redevelopment area and one or more economic growth center(s) and which has been designated by the Assistant Secretary.

* * * * *

"Qualified Area" means an area which meet the criteria of the Act for designation as "redevelopment area".

* * * * *

"Section 302 Planning Grants" means economic development planning grants authorized under section 302 of the Act.

* * * * *

2. Section 301.20 is amended by deleting the period at the end of paragraph (a)(1) and (b) and inserting "and parts of economic development districts.", and adding a new paragraph (c) to read as follows:

§ 301.20 Public works and development facility grants.

* * * * *

(c) Under section 304 of the Act the Secretary is authorized to make grants to the States for the purpose of supplementing or making grants and loans authorized under titles I, II, and IV of the Act.

3. Section 301.21 is revised to read as follows:

§ 301.21 Loans and guarantees.

(a) Loans are authorized for public works, public service, and development facility projects in redevelopment areas and parts of economic development districts.

(b) Loans are authorized for industrial and commercial purposes in redevelopment areas and parts of economic development districts.

(c) Guarantees are authorized for loans made to private borrowers by private lending institutions and for rental payments of loans in redevelopment areas and parts of economic development districts.

4. A new § 301.23 is added to read as follows:

§ 301.23 Special Economic Development and Adjustment Assistance.

Grants may be made to States, political subdivisions of States, redevelopment areas, economic development districts, and Indian tribes to meet special needs related to existing or threatened long term unemployment or low family income levels and arising from economic dislocation. Such grants may be used for public facilities, public services, business development, planning, unemployment compensation, rent supplements, mortgage payment assistance, research, technical assistance, training, relocation of individuals, and other appropriate assistance.

5. Section 301.42 is amended by amending paragraphs (b), (6) and (8) to read as follows:

§ 301.42 Economic Development Regional Offices.

* * * * *

(b) * * *

(6) The Public Works Division, subject to general guidance from the Director, Office of Public Works, advises Regional Office personnel, Economic Development Representatives, appropriate community officials and the public of

possible uses of public works and development facilities assistance to meet the objectives of the Act; • • •

• • • • • •

(8) The Technical Support Division, subject to general guidance by the Director of the Office of Public Works with respect to public works activities, provides the Public Works, Planning and Technical Assistance Divisions, and Economic Development Representatives, with financial and technical guidance needed to assist prospective applicants in the planning of acceptable applications; applies established criteria in the engineering and financial evaluation of proposed projects except Business Development projects); prepares special conditions for Public Works projects; initiates • • •

• • • • • •

PART 302—DESIGNATION OF AREAS

6. Section 302.4 is amended by adding a new paragraph (b)(1)(i) to read as follows:

§ 302.4 Standards for designation on the basis of Indian lands.

• • • • • •

(b) • • •

(1) • • •

(i) The Assistant Secretary upon consultation with the Secretary of Interior or an appropriate State agency may designate under this section uninhabited Federal or State Indian reservations or trust or restricted Indian-owned land areas where such designation would permit assistance to Indian tribes, with a direct beneficial effect on the economic well-being of Indians.

• • • • • •

7. Section 302.11 is redesignated § 302.12.

8. A new Section 302.11 is added to read as follows:

§ 302.11 Standards for designation on the basis of substantial unemployment.

The Assistant Secretary shall designate as redevelopment areas those areas which the Secretary of Labor determines, on the basis of average annual available unemployment statistics, were areas of substantial unemployment during the preceding calendar year. Substantial unemployment for the purpose of this section is defined as an annual average unemployment rate of 6 percent or more.

Subpart C [Deleted]

9. Subpart C in its entirety is deleted.

10. Subpart D in its entirety is redesignated Subpart C.

§ 302.40 [Amended]

11. Section 302.40 is amended by deleting the reference "§ 302.11 and § 302.30," and inserting "§ 302.12" in paragraph (a).

§ 302.41 [Amended]

12. Section 302.41 is amended by deleting the reference "§ 302.11" and inserting "§ 302.12" in paragraph (b)(3).

§ 302.50 [Amended]

13. Section 302.50 is amended by deleting the reference "§ 302.11" and inserting "§ 302.12" and by deleting the reference "and § 302.30" in paragraph (a)(1).

PART 303—ECONOMIC DEVELOPMENT DISTRICTS

14. Section 303.1 is amended to read as follows:

§ 303.1 Authorization of economic development districts.

(a) The Assistant Secretary may authorize, at the request of the Governor(s) of the State or States, the delineation of economic development district (hereinafter district) boundaries as a prerequisite to designation of an economic development district and as a prerequisite to the provision of planning grants, Subpart B of Part 307 of this Chapter.

(b) Authorization of delineation may be made:

(1) Where the State or States after analyzing economic and social relationships among the various redevelopment area counties proposed to EDA a district boundary delineation.

• • • • • •

15. Section 303.2 is amended by amending paragraph (b) to read as follows:

§ 303.2 Designation of economic development districts.

• • • • • •

(b) Where the proposed district contains at least one redevelopment area.

• • • • • •

16. A new § 303.9 is added to read as follows:

§ 303.9 Notice to Regional Commission.

Each economic development district designated by the Assistant Secretary under § 303.2 shall as soon as practicable after September 27, 1974, or after its designation provide a copy of the district OEDP to the appropriate regional commission established under title V of the Act, if any part of such district is located within such a region, or to the Appalachian Regional Commission established under the Appalachian Regional Development Act of 1965, if any part of such district is located within the Appalachian region.

17. Section 303.21 is amended by correcting the first sentence to read as follows:

§ 303.21 Economic development center project characteristics.

Projects in economic development centers shall have one or more of the following characteristics:

• • • • • •

PART 304—OVERALL ECONOMIC DEVELOPMENT PROGRAM

§ 304.1 [Amended]

18. Section 304.1 is amended by deleting the words ", title I area," in paragraph (a) and (b).

§ 304.8 [Amended]

19. Section 304.8 is amended by deleting the words "and title I" in paragraph (a) and by deleting the words ", or title I area" in paragraph (b).

PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

20. Section 305.3 is amended by adding a new paragraph (c) to read as follows:

§ 305.3 Direct grants for Public Works projects.

• • • • • •

(c) In the case of a project to be located in an economic development district pursuant to section 403(j) of the Act such project shall meet the requirements as would be applicable to the project if it were located wholly within the redevelopment area for which it is determined to be a direct and substantial benefit.

21. Section 305.5 is amended by deleting the words "Title I" in the first sentence of paragraphs (b)(3)(v), (vi), and (vii); by amending paragraph (b)(3)(iv); and by adding a new paragraph (d) to read as follows:

§ 305.5 Supplementary grants.

• • • • • •

(b) • • •

(3) • • •

(iv) Projects located in areas designated under title IV of the Act, which areas have been designated by the President of the United States under the Disaster Relief Act of 1970 (Public Law 91-606) or the Disaster Relief Act of 1974 (Public Law 91-288), provided: (a) Such areas retain both EDA and disaster designations, and (b) Such concurrent designation has not exceeded one year in duration..... 80

• • • • • •

(d) The applicable maximum grant rate for projects located in economic development districts pursuant to section 403(j) of the Act shall be the same as the grant rates for the redevelopment areas for which such projects are determined to be a direct and substantial benefit.

22. Section 305.6 is amended by designating the first paragraph "(a)", redesignating the second paragraph "(1)", redesignating the third paragraph "(2)", and by adding a new paragraph (b) to read as follows:

§ 305.6 Ten percent bonus supplemental grants.

• • • • • •

(b) Projects assisted in districts outside redevelopment areas pursuant to section 403(j) of the Act shall not be eligible for 10 percent bonus grants under this section.

23. A new § 305.7 is added to read as follows:

§ 305.7 Operating grants for health facilities.

(a) The Assistant Secretary pursuant to section 102 of the Act may make grants for the operation of any health

project approved for assistance under title I of the Act after the 27th day of September, 1974. Such assistance will be available only in the most needy circumstances.

(b) Grants made under this section may be made up to 100 per centum of the estimated cost of the first fiscal year of operation, and up to 100 per centum of the deficit in funds otherwise available for operation of the facility during the second fiscal year of operation. No grant shall be made under this section unless the operation of the facility will be conducted under efficient management practices designed to obviate operating deficits as determined by the Secretary of Health, Education, and Welfare. No grant shall be made for the second fiscal year of operation unless the operating agency has adopted a plan for the funding of operations on a permanent basis which is satisfactory to the Secretary of Health, Education, and Welfare.

24. Section 305.23 is amended by adding a new paragraph (f) to read as follows:

§ 305.23 Loan requirements.

* * * * *

(f) In the case of a project to be located in an economic development district pursuant to section 403(j) of the Act, such project shall meet the requirements as would be applicable to the project if it were located wholly within the redevelopment area for which it is determined to be a direct and substantial benefit.

25. Section 305.58 is redesignated § 305.59 and a new § 305.58 is added to read as follows:

§ 305.58 Architect/Engineer Agreements.

The architect/engineer agreement shall provide for all services required by the recipient for the planning, design and construction phase administration of the proposed project. Appropriate standards or guides developed by such professional organizations as the American Consulting Engineers Council (ACEC), American Society of Civil Engineers (ASCE), National Society of Professional Engineers (NSPE), and/or the American Institute of Architects (AIA), may be used where the grantee does not have standard procurement documents.

26. Section 305.68 is amended by numbering the first paragraph (a) and by adding a paragraph (b) to read as follows:

§ 305.68 Architect/engineer services as eligible project costs.

(a) * * *

(b) It is EDA policy to require the utilization of fixed price or cost-ceiling contracts. Agreements allowing compensation to the architect/engineer based on a percentage-of-construction-cost type of fee contract are generally not acceptable.

27. Part 306 is revised to read as follows:

PART 306—BUSINESS DEVELOPMENT PROGRAM

Subpart A—Financial Assistance for Industrial and Commercial Purposes

Sec.
306.1 Purpose.
306.2 Eligible applicants.
306.3 Types of financial assistance.
306.4 Location.
306.5 Limitations.
306.6 Requirement of approval by State or political subdivision.
306.7 Alleviation of unemployment.
306.8 Financing.
306.9 Repayment.
306.10 Term.
306.11 Interest and fees.
306.12 Allowable project costs for projects involving fixed assets.
306.13 Amount of assistance.
306.14 Equity capital requirements.
306.15 Required community share in direct fixed asset loan projects.
306.16 Indian tribes.
306.17 Waiver of community share.
306.18 EDA's security with respect to assets of the applicant.
306.19 Special considerations for projects located in economic development centers or in non-designated areas of economic development districts.
306.20 Project financing.
306.21 Financing information.
306.22 Restrictive convenants on operations.
306.23 Indian reservation projects.
306.24 Feasibility reports.

Subpart B—Project Closing and Servicing

306.31 Project closing.
306.32 Project servicing.
306.33 Liquidation and administration of loans, guarantees and evidences of indebtedness.

AUTHORITY: Sec. 701, Pub. L. 89-136 (August 26, 1965) (42 U.S.C. 3211), 79 Stat. 570 and Department of Commerce Organization Order 10-4, April 1, 1970 (35 FR 5970).

Subpart A—Financial Assistance for Industrial and Commercial Purposes

§ 306.1 Purpose.

(a) The purpose of this subpart is to set forth policies and procedures under which qualified applicants may obtain financial assistance under section 202 of the Act. The following types of financial assistance are available for business development projects:

(1) Direct loans or purchase of evidences of indebtedness to provide fixed assets.

(2) Direct loans to provide for working capital.

(3) Guarantees of loans to private borrowers by private lending institutions to provide fixed assets.

(4) Guarantees of loans to private borrowers by private lending institutions to provide working capital.

(5) Guarantees of rental payments of leases from qualified lessors for buildings (including the underlying land) and equipment.

(b) These programs are administered by EDA for the prime purpose of achieving the long-range economic development goals of the Act—creating jobs, increasing incomes, and diversifying local economies—and not to underwrite commercial ventures.

(c) Lease guaranty assistance is primarily available to increase the business development opportunities in distressed areas of large cities, particularly in special impact areas, where vacant buildings are available. This program is intended to be a supplement to, and not a duplication of, the Small Business Administration's lease guaranty program.

(d) Direct working capital loans will only be made if other sources of working capital are not available.

§ 306.2 Eligible Appplicants.

(a) Applications for loans shall be made by the borrower; ordinarily applications for lease guarantees shall be made by the lessee. Where a loan or lease guarantee is requested, additional information must be supplied by the lender or lessor. It is not the policy of EDA to approve a lease guaranty without a known lessee. However, the Assistant Secretary may waive this policy. In request for waiver, the Assistant Secretary will consider, among other things:

(1) The purpose for which the lease guaranty is sought.

(2) Whether the lessor is a public or quasi-public body.

(3) Whether the lessor is seeking the lease guarantee on a solely speculative basis.

(b) EDA may participate with commercial lease guarantors provided all provisions of the Act and Regulations are met.

(c) Private lending institutions include, but are not limited to, commercial banks, savings and loan institutions, insurance companies, factoring companies, investment banking organizations, and venture capital investment companies. Any of the following entities or enterprises may be eligible as an applicant:

(1) A business enterprise including sole proprietorship, partnership, or corporation.

(2) A non-profit organization or association.

(3) A State or political subdivision thereof including municipalities and all agencies, instrumentalities and quasi-public corporations or authorities created by a State or political subdivision thereof.

(4) Indian tribes.

§ 306.3 Types of Financial Assistance.

The Assistant Secretary is authorized to approve financial assistance, on terms and conditions he shall establish, to:

(a) Provide fixed assets for eligible applicants by either making direct loans or by guaranteeing loans or leases to enable the applicant to purchase, develop or lease commercial or industrial land and/or facilities.

(1) The following are the normal kinds of fixed asset costs allowed by EDA:

(i) Land acquisition and improvements.

(ii) Machinery and/or equipment (including also furniture and fixtures).

(iii) Construction costs for new buildings.

(iv) Rehabilitation costs for abandoned or unoccupied buildings.

(v) Alteration, conversion and enlargement costs for existing buildings.

(2) Where fixed assets are leased, lease costs cannot be included as an eligible item for a direct fixed asset loan. Under the lease guaranty program, lease rentals must be reasonable in relation-

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ship to the actual costs to the lessor.

(b) Provide working capital for eligible applicants by either making direct loans or by guaranteeing loans by qualified private lending institutions. The following are the normal kinds of working capital items for which EDA may make or guarantee a working capital loan:

(1) Start-up costs including employee training, pre-production sales efforts, and the acquisition of raw materials and supplies.

(2) Cash to meet the borrower's obligations to pay those costs and expenses incident to the conduct of current business such as wages, salaries, material purchases, rents, utilities, taxes, interest and the like and to pay current liabilities other than those incurred in the acquisition of non-current assets or in the reduction of shareholder's equity.

(c) EDA will not ordinarily guarantee revolving type or open-end working capital loans.

(d) The substance of all loan or lease agreements which EDA is being asked to guarantee must be approved by the Assistant Secretary prior to issuance of the guarantee.

(e) Guaranteed loans or leases may be assigned, but such assignments may only be made with the prior approval of the Assistant Secretary.

(f) Lease guarantees by EDA shall extend only to rental payments and not other obligations created under the lease.

§ 306.4 Location.

A business development project must be located within a redevelopment area or an economic development center. It may also be located within a non-eligible part of an economic development district provided it can be shown that the project will provide a substantial direct benefit to a redevelopment area within such district.

§ 306.5 Limitation.

The requirements stated in Part 309 of this chapter are pertinent to business development projects as appropriate.

§ 306.6 Requirement of approval by State or political subdivision.

No application for a business development project will be approved by EDA until such application is approved by an agency or instrumentality of the State or political subdivision in which the project is to be located.

(a) Such agency or instrumentality must be directly concerned with the problems of economic development in such State or political subdivision.

(b) Such approval must include a determination that the project is consistent with the redevelopment area's approved OEDP, except areas which will be designated under the criteria of Section 401(a)(4) of the Act. Redevelopment areas or economic development districts which do not have a currently approved OEDP will also be evaluated if:

(1) The area will be designated within a reasonable period of time, or

(2) Appropriate steps have been taken to secure the approval by EDA of an OEDP.

(c) Such approval of an agency or instrumentality shall be in a form satisfactory to EDA.

(d) Such approval may be waived by EDA if the application is to provide working capital for the operation of a commercial or industrial project whose land and/or facilities have been purchased, developed, or leased with the aid of EDA financial assistance.

§ 306.7 Alleviation of Unemployment.

A business development project must reasonably provide more than temporary alleviation of unemployment or underemployment within the area in which the project will be located.

§ 306.8 Financing.

A business development applicant must provide evidence that other financing is not available on terms and conditions which, in the opinion of the Assistant Secretary, would permit completion and/or the successful operation or accomplishment of the project. Such evidence will include:

(a) Letters from at least two qualified lending institutions declining to finance any part of the project or in the case of direct EDA loans, to participate in EDA's share of the financing.

(1) In the event only one qualified lending institution is located in the project area or lends in the project area, a letter from one qualified lending institution will be sufficient.

(2) In the event no qualified lending institutions are located in the project area or lend in the project area, applicant's certification to that effect will be sufficient.

(b) In the case of financial assistance involving direct EDA loans for fixed assets, the applicant must include evidence that no qualified lending institution will assist in the project financing other than on a first lien basis.

(c) In the case of guaranteed loans, the applicant must include evidence that no direct financing is available from private lending institutions, as above, and that the lending institution making the loan would not assist in the project financing without the EDA guaranty. In addition, no working capital loan will be guaranteed which is secured by a prior lien on the same assets which secure an EDA fixed asset loan or guarantee.

(d) Evidence that other Federal financial assistance is not available to the project.

(e) In the event that the applicant is a large corporation which would normally have its own funds available or appears to have access to non-Federal funds sufficient to finance the project, such corporation must certify that it would not locate the proposed project within the area if it were not for the benefits of EDA's financial assistance.

(f) In the case of financial assistance involving a direct loan by EDA, the applicant must also show that other lenders will not participate with EDA in its loan.

§ 306.9 Repayment.

No loan or loan guarantee application shall be approved unless the Assistant Secretary has determined there is a reasonable assurance that the borrower can repay such loan. It is the policy of EDA to determine that there is reasonable assurance of repayment of rents under a lease before approving a lease guarantee. However, in the event the prospective lessee is not known prior to approval of a lease guarantee, such prospective lessee must be approved by EDA. The approval of a lessee shall be based, but not limited to, a reasonable assurance that the lessee can repay the remaining rents under the lease.

(a) The applicant shall provide, at a minimum, the following financing information to permit the Assistant Secretary to make this determination unless the Assistant Secretary determines certain or all of such information is not necessary.

(1) Current audited financial statements of the applicant, including balance sheets, an income statement with auditors' footnotes, and supporting statements for applicant's three most recent fiscal years.

(2) Audited consolidated financial statements and income statements, with auditors' footnotes, of parent and subsidiaries for the three most recent fiscal years.

(3) Audited financial statements including balance sheets, income statements, and auditors' footnotes, of all affiliated companies for the three most recent fiscal years.

(4) Most recent interim financial statements of applicant, its parent and subsidiaries, certified to by officers of the respective companies and maintained current during EDA loan processing.

(5) Projected pro forma balance sheets, income statements, cash flows and supporting statements of the applicant quarterly from the date of the latest interim financial statements to the date of the commencement of project operations.

(6) Projected pro forma balance sheet at the commencement of project operations, and pro forma balance sheets, income statements, cash flow and supporting statements of the applicant monthly, for the first twelve months of project operations and annually for the three succeeding twelve-month periods. Such statements and balance sheets should reflect applicant's ability to repay debt principal out of earnings commencing within the first three years of operations.

(b) In addition, the applicant shall provide as much of the following non-financial information as EDA determines is necessary to allow the Assistant Secretary to substantiate the pro forma projections:

(1) Estimates, firm quotations, receipts, contracts, orders, invoices, leases, or equivalent documentation from architects, engineers, contractors, subcontractors, materialmen, suppliers, lessors

or others involved in the sale, lease or construction of fixed assets, if any, for applicant's project including schedules of implementation.

(2) Back-up information regarding applicant's operating costs, including projected employment by job category and applicable wage rates, cost and availability of raw materials and energy.

(c) Applicants are also required to provide EDA with general information about management capabilities, including resumes of top management, and marketing plans.

(d) Applicants will also supply such additional back-up information as EDA may require regarding other collateral securing EDA's financial assistance, such as appraisals and valuations of non-project assets and guarantees.

§ 306.10 Term.

The term of the financial assistance should be consistent with the purpose for which it will be used and the collateral position of EDA.

(a) The term of a fixed asset loan or guaranty or lease guaranty will ordinarily not be greater than the weighted average useful life of the project fixed assets.

(b) The term of a working capital loan, whether direct or guaranteed, generally should not exceed five (5) years and the loan should be amortized in full during its term.

(c) The term of a guaranty of a lease will generally not be less than five (5) years.

(d) No financial assistance including renewals or extensions may be made for a period exceeding twenty-five years from the date of the note evidencing a loan, the date of purchase of evidences of indebtedness, or the date of a guaranteed lease. In the case of lease guarantys, the lease itself may extend beyond twenty-five years but the Government's liability for guaranteed payments shall cease after the twenty-fifth year.

§ 306.11 Interest and Fees.

Financial assistance under this subpart shall bear interest or involve fees at the following rates:

(a) Direct fixed asset loans and evidences of indebtedness purchased by EDA will bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of one percent, plus such additional charge, if any, toward covering other costs of the program as the Assistant Secretary may determine to be consistent with its purpose.

(b) Interest charges for direct working capital loans shall be computed based on the interest rate for direct fixed asset loans and purchases of evidences of indebtedness, plus such additional charge as the Assistant Secretary determines is reasonable in view of the higher risk and more limited collateral associated with working capital loans.

(c) Interest on guaranteed loans by private lending institutions must be at not more than their prevailing rates, and must be reasonable with respect to the project.

(d) EDA may charge a fee on loan and loan and lease guarantees to be determined by the Assistant Secretary.

§ 306.12 Allowable project costs for projects involving fixed assets.

Allowable project costs for EDA fixed asset projects (loans, guaranteed loans, and lease guarantys) may include the cost of land, building, machinery and equipment, and reasonable contingency reserves to cover the possibility of cost increase during processing of the application and during construction, if applicable.

(a) In arriving at the total fixed asset cost of the project, EDA cannot, under the Act, include any item which is considered as properly allocable to working capital.

(b) Other types of costs which cannot be financed include: leasehold interests or lease-purchase obligations (except as such may be financed indirectly via an EDA lease guaranty), mineral reserves, patents, organization expenses, preproduction costs, research and development expenses, goodwill, trade or brand names, franchises and licenses.

(c) Land included in the total project cost may include the following:

(1) Land acquisition costs, including reasonable real estate commission if paid by borrower.

(2) Cost of engineering fees, surveys, plats, title insurance, recording fees and legal fees incurred in connection with acquisition of land.

(3) Costs of nondepreciable grading and site improvements, as well as costs of necessary depreciable land improvements.

(4) Costs of soil tests and test borings.

(5) Preparation of plans and specifications.

(d) Buildings included in total project cost may include the following:

(1) Building acquisition costs, including reasonable real estate commission if paid by purchaser.

(2) Cost of constructing, altering, converting, rehabilitating, or enlarging buildings.

(3) Engineering, architectural, and legal fees paid in connection with the preparation of plans and specifications and the acquisition, construction, etc., of buildings and building equipment.

(4) Insurance during construction, including hazard insurance, performance, labor and material bonds.

(e) Machinery and equipment included in total cost may include the following:

(1) Machinery acquisition costs including cost of delivery and reasonable costs of installation.

(2) Engineering, architectural and legal fees paid in connection with machinery selection, design, acquisition and installation.

(3) Insurance during installation including hazard insurance, performance, labor and material bonds.

(f) In projects involving EDA direct fixed asset loans, land, buildings, machinery and equipment already owned by the applicant lien-free may be included in project costs and be treated as an in-kind equity injection and credited against the 10 percent equity required by the Act; provided they will be an integral part of the expanded operation. However, such in-kind equity credit will generally be limited to the lesser of (1) appraised fair market value, or (2) net book value (cost less accumulated depreciation) in the hands of the applicant, its principals, parent, subsidiaries, or affiliates; provided, however, that such credit as may be allowed for fixed assets owned by the applicant may not be used to provide the 5 percent required by the Act to come from a local government or non-profit organization. In-kind injections of fixed assets owned by a local government or non-profit organization may be credited toward the required local participation (State, political subdivisions or agencies thereof, and community or area organizations) to the extent of appraised fair market value. If the local government or non-profit organization does not own fixed assets, its required 5 percent share must be put into the project in cash regardless of whether the community share is waived according to § 306.17 or not. The granting of in-kind equity credit for fixed assets does not apply to any form of EDA financial assistance other than the direct fixed asset loan program.

(g) Other eligible project costs may include:

(1) Interest on interim construction financing and other necessary costs of obtaining financing, with prior concurrence of EDA.

(2) Sales and use taxes incurred in the acquisition of project fixed assets.

(3) Other costs contributing directly to the value of project fixed assets, with prior concurrence of EDA, but not including the cost of feasibility studies.

(h) Adequate contingency reserves are a necessary part of the provision for project costs in order to avoid the problem of incurring an overrun in total expenditures for the project and thereby forcing a renegotiation of the loan commitment. The contingency amount should be established according to the anticipated length of time for project construction, terms of contract, type of machinery and equipment, and technological and other developments which might be expected to increase cost.

(1) Contingency reserves for building construction and machinery and equipment should be established at a reasonable figure and justified by the applicant, depending upon the characteristics of the specific project.

(2) Construction bids or estimates and machinery and equipment quotes should allow for sufficient time and remain valid during the estimated period of project

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processing or until execution of firm contracts. These quotes should not be over sixty days old when the application is submitted to EDA.

(3) Contingency reserves for land must be considered in the event an option to purchase, earnest money agreement, or real estate contract provides for a renegotiation of terms prior to project funding. The applicant will be required to provide evidence of ability to acquire the project land and any contractural arrangement therewith must be carefully reviewed in reference to establishment of a contingency for increased land costs above the project valuation at time of submission of the application.

(i) Allowable project costs for lease guaranty projects may include all reasonable rents, including attendant costs and taxes and other expenses as are customary with respect to comparable property.

§ 306.13 Amount of Assistance.

EDA financial assistance is limited to the following percentages of project cost:

(a) Direct fixed asset loan assistance shall never exceed 65 percent of the aggregate project cost. In the event other Federal aid is available and used to pay part of the project cost, such other Federal aid shall be subtracted from the aggregate project cost and the remainder shall be the aggregate cost for the purposes of business development fixed asset loan.

(b) Direct working capital loan assistance may be in an amount sufficient to include all of the applicant's allowable working capital needs.

(c) Lease guarantys shall never exceed 90 percent of the remaining rental payments required by the lease, provided no rental payments which accrue later than twenty-five years from the effective date of the guaranty shall be covered by the guaranty.

(d) No working capital guaranty shall at any time exceed 90 percent of the amount of the outstanding unpaid balance of the working capital loan by the private lending institution.

(e) No fixed asset loan guaranty shall at any time exceed 90 percent of the amount of the outstanding unpaid balance of the fixed asset loan by the private lending institution.

§ 306.14 Equity capital requirements.

The Act requires a minimum equity contribution only for direct fixed asset loan projects. However, all projects should be supported by equity capital to the following extent:

(a) Not less than 15 percent of the aggregate cost of a direct fixed asset loan project (which may include amounts required by § 306.15) shall be provided as equity capital or a standby loan.

(b) In projects involving EDA guarantys of fixed asset loans by a private lending institution, the guaranteed loan to applicant-beneficiary should not exceed 85 percent of the total cost of fixed assets to be purchased. The remaining 15 percent of the total project cost should be provided as equity capital. EDA's guaranty will be limited solely to the fixed asset loan; an EDA required standby loan is considered a form of equity capital.

(c) An application for either an EDA guaranteed working capital loan or an EDA direct working capital loan will not ordinarily be approved until the applicant is in operation of its facilities. In projects involving EDA direct fixed asset loans, guaranteed fixed asset loans or lease guarantys, all project financing including applicant's equity must ordinarily be disbursed before the guaranteed working capital loan may be disbursed by the lender. Working capital loans will be restricted to working capital needs and cannot be diverted into fixed or other noncurrent assets. Applicants should have existing net working capital equal to not less than 15 percent of its total working capital needs. The remaining working capital requirements can then be met with either an EDA guaranteed working capital loan or, where justified, with an EDA direct working capital loan. If the applicant is in a negative net working capital position or has less than 15 percent of its total working capital needs, it should bring its net working capital up to the required level by obtaining cash either from equity capital or a standby loan.

(d) In EDA lease or lease-purchase guaranty projects, the applicant should have expended an amount equal to not less than 15 percent of the value of the assets to be leased. Such expenditures shall be for either leasehold improvements or the types of fixed assets which can be allowable project costs under § 306.12. If applicant is not paying for needed leasehold improvements or fixed assets, its working capital should be augmented instead. Cash for the expenditures required by this subsection shall be obtained by applicant either from equity capital or a standby loan.

(e) Where funds are provided from a standby loan:

(1) Such loan shall be repayable in no shorter period of time and at no faster rate of amortization than the financial assistance provided by EDA and subordinate in rights of repayment to EDA.

(2) If such loan is secured, the security must be subordinate and inferior to the lien or liens securing the financial assistance provided by EDA.

§ 306.15 Required community share in direct fixed asset loan projects.

Not less than 5 percent of the aggregate cost of a direct fixed asset project shall be supplied by:

(a) State or any agency or instrumentality thereof.

(b) A political subdivision of a State or any agency or instrumentality thereof; or

(c) A community or area organization which is nongovernmental in character.

§ 306.16 Indian tribes.

Projects involving financial participation by Indian tribes are not required to meet the provisions of § 306.15. In such case, the 5 percent shall be supplied by the borrower as equity or by standby loan subject to the provision of § 306.14 (e).

§ 306.17 Waiver of community share.

The Assistant Secretary may waive all or part of the 5 percent community share of the aggregate cost of a direct fixed asset loan project which is required by § 306.15 if he determines that all or part of the community share is not reasonably available to the project because of the economic distress of the area or for other good cause. The portion of the community share thus waived may be supplied by the applicant or by such other non-Federal sources as may be reasonably available to the project.

(a) In determining whether all or part of the community share is not reasonably available because of the economic distress of the area, the Assistant Secretary may consider the following factors:

(1) The extent of economic distress of the redevelopment area or district, as measured by unemployment, underemployment and income levels.

(2) The nature and extent of the funds reasonably available to comprise the community share, as made known by the community.

(3) The extent of local support for the project, as manifested by previous bona fide community efforts to assist it financially.

(4) The extent of previous bona fide, broadly based efforts to obtain local financial support for community economic development activities generally.

(b) In determining whether all or part of the community share of the aggregate project cost is not reasonably available for other good cause, the Assistant Secretary may consider, in addition to the factors listed above, the following situations as representing sufficient good cause for waiver:

(1) Where the financial assistance is requested to replace, rehabilitate, or expand the facilities of an industrial or commercial enterprise already existing in the locality, and local investors can show a need to conserve their funds in order to encourage the establishment of new industry which will broaden the economic base of the community; or

(2) Where the Assistant Secretary determines that a bona fide community fund raising drive either has been made or, if made, would be unsuccessful in raising the necessary funds for the project, and provided that the total prior community investment in projects already assisted by either the Area Redevelopment Administration, Small Business Administration or EDA is equal to or exceeds the following amounts:

(i) Redevelopment areas eligible for 50 percent public works grants—$10 per area resident;

(ii) Redevelopment areas eligible for 60 percent public works grants—$7 per area resident;

(iii) Redevelopment areas eligible for 70 percent public works grants—$5 per area resident; or

(iv) Redevelopment areas eligible for 80 percent public works grants—$3 per area resident.

§ 306.18 EDA security with respect to assets of the applicant.

EDA's financial assistance will usually be secured either directly or indirectly by liens or assignments of rights in assets of the applicant as follows:

(a) In order to encourage financial participation in a direct fixed asset loan project by other lenders and investors and to the extent necessary, the EDA loan may be repayable only after other loans made in connection with the project have been repaid in full. The lien position of EDA may be subordinate and made inferior to lien or liens securing other loans made in connection with the project.

(b) In projects involving EDA direct working capital loans, EDA will normally obtain collateral such as liens on inventories, receivables and/or fixed assets. Such liens may be subordinate only to existing liens of record.

(c) In projects involving EDA guaranteed loans, the lending institution ordinarily will be required to maintain a collateral position, to which EDA is subrogated, in the assets of the borrower and/or principals of the borrower such as by taking liens on inventories, receivables, and/or fixed assets. However, such liens if taken on fixed assets will not be placed by EDA subordination into a prior position to liens securing loans previously made or guaranteed under the ARA or EDA programs.

(d) In lease guaranty projects and other projects involving leased assets, EDA will require such collateral as is appropriate.

(e) Regardless of the type of EDA financial assistance extended, full personal guarantees of principals of applicant and/or related corporate guarantees by closely held corporate applicants or by the parent corporation of subsidiary corporate applicants, secured by collateral where deemed necessary, will be ordinarily required. Likewise, cross guarantees of related corporations will be required when deemed necessary to properly support the EDA financial assistance.

(1) Guarantees should be understood to provide not only additional collateral benefits, but also to provide the necessary personal involvement of the principals required to provide assurance of continuity of job opportunities provided by the project.

(2) Applicants will provide, in the case of personal guarantors, current (not over ninety days old at the time of filing) personal financial statements signed by both husband and wife and disclosing community and individual assets and indebtedness.

(f) In addition to the above types of security, EDA may also require security in the form of assignment of patents and licenses, the acquisition of hazard and other forms of insurance, and such other additional security as the Assistant Secretary determines is necessary to support EDA's exposure.

(g) Applications submitted by closely held corporations, partnerships, or proprietorships dependent for their continuing success on certain individuals will ordinarily be expected to provide and assign to EDA life insurance on these key men.

(h) In projects involving EDA guarthe financial assistance (and assigned institutions or of leases, if the lender or lessor secured by the EDA guaranty is also secured by a third party with respect to its exposure remaining above the EDA guaranteed portion, the guaranty agreement shall be modified to provide that any interest which the secured party would receive in the collateral taken for the financial assistance (and assigned to EDA upon redemption) shall not be subrogated to the third party's interest if the third party is a principal or equity shareholder in the applicant until all of the applicant's indebtedness to EDA is paid in full. The purpose of this provision is to ensure that those persons responsible through ownership for the operation of a project do not share in the proceeds of collateral until EDA recovers fully against all its exposures.

(i) Nothing contained in this section shall affect the subordinate lien position required for standby loans under § 306.14.

§ 306.19 Special considerations for projects located in economic development centers or in non-designated areas of economic development districts.

(a) Financial assistance approved for projects located in economic development centers shall be subject to the following restrictions and limitations:

(1) The project must be consistent with a currently approved OEDP for the economic development district.

(2) The amount of the business development loan approved must be reasonably related to the size, population, and economic needs of such district.

(3) The project must enhance the economic growth potential in such district or result in additional long-term employment opportunities commensurate with the amount of financial assistance extended.

(b) Financial assistance approved for projects located in non-designated areas in economic development districts shall be subject to the following restrictions and limitations:

(1) The project will be of substantial direct benefit to a redevelopment area within the district.

(2) The project must be consistent with a currently approved OEDP for the district.

(3) A finding by the State(s), or any agency, instrumentality, or local political subdivision thereof that the project is consistent with the district OEDP.

§ 306.20 Project financing.

Each project will be evaluated with the intent of obtaining a financing structure which demonstrates a minimum EDA participation in project financing to accomplish the project with maximum reliance on equity and junior lenders. Moreover, an EDA participation of $10,000 per job will ordinarily be the maximum acceptable for any particular project. In calculating the EDA participation per job, indirect jobs created in other parts of the local economy will not be considered. Seasonal jobs will be converted into full time job equivalents.

§ 306.21 Financing information.

The following information shall be included with respect to all participants, other than EDA, in project financing:

(a) A written commitment or firm letter of intent from each participating lending institutions stating amount, interest rate, repayment terms, collateral and lien position it will require, or such other evidence as EDA may require to assure availability of funds. EDA requires that the proposed project financing upon which it bases a decision to lend remain firm, in order to obviate the lengthy reanalysis required by financing alterations after EDA acceptance of an application.

(b) A written commitment by the applicant to provide equity funds, stating both the source and actual availability of funds and/or assets to be injected, and the names of the principal shareholders or owners.

(c) Where applicable, a written commitment of the participating local development organization or public body, where applicable, stating amount of commitment, interest rate, repayment terms, collateral and lien position required.

(d) Where applicable a determination of the source and actual availability of local development organization funds or assets to be injected.

(e) A statement of any special conditions attaching to the financing arrangements proposed.

§ 306.22 Restrictive covenants on operations.

Conditions for the granting of EDA financial assistance for new ventures, closely held corporations and all marginally capitalized applicants shall include restrictive convenants similar to those required by private financial lending institutions except in cases in which modification or omission of one or more of them can be clearly shown not to jeopardize reasonable assurance of repayment of the financial assistance and the long-term continuity of the project's employment. Restrictive convenants for well-capitalized business expansion borrowers will be tailored to the financial status of individual companies.

§ 306.23 Indian reservation projects.

In view of the inherent problems of collateralizing financial assistance for projects to be located on Indian reservations due to the inability to obtain mortgages on such lands, project funding should afford EDA maximum collateral protection without undue hardship on the borrower. A lease agreement will enable EDA, in the event of a default, to reassign the right of occupancy to a third

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party and thereby improve the chances for continued operation of the project and the preservation of collateral value.

§ 306.24 Feasibility reports.

(a) All applications for financial assistance for new ventures involving a total project costing $1 million or more shall be accompanied by a technical and economic feasibility report from an acceptable independent consultant. New venture projects of less than $1 million must be accompanied by sufficient documentation to permit a determination by EDA of technical and economic feasibility.

(b) In projects which are expansions of a successful existing business or projects sponsored by a capable and financially sound parent organization, the requirement for a technical and economic feasibility report from an acceptable independent consultant may be waived by EDA. However, the prospective borrower shall provide all technical and economic information necessary for EDA to properly evaluate the application.

(c) An economic feasibility report from an acceptable independent consultant in connection with projects involving tourism and recreation facilities will be required if the cost of the proposed project exceeds $150,000. Evidence must be submitted that the proposed facility will provide services or have special attributes that tend to induce a net increase in tourist visits to the area and is part of a larger, area-wide program expected to attract tourists and provide jobs in the area. In cases where total project investment is less than the above minimums, sound judgment may require an independent feasibility study in light of the specific nature of the project.

Subpart B—Project Closing and Servicing

§ 306.31 Project closing.

EDA projects are closed and disbursed in accordance with detailed policies and procedures as set forth in the Office of Business Development Guide to Loan Closing. The major activities engaged in during this period are as follows:

(a) At the time an application for EDA financial assistance is approved by the Assistant Secretary, he also approves the primary document on which the financial assistance will be given; either a loan agreement or a guaranty agreement. The signed agreement is offered to the appropriate party for its acceptance, at which time a binding legal agreement between EDA and the applicant or guaranteed party takes effect. A preclosing conference will be arranged by the Regional Director, whenever the applicant requests one, to discuss the terms and conditions contained in the agreement and how these terms and conditions can be met.

(b) Immediately after acceptance, the Regional Office shall arrange with the applicant for the preparation, review, and signing of the promissory note, or lease, collateral documents, and other documents necessary for the financial assistance.

(c) Periodic inspections of construction of projects involving fixed assets will be made by the Regional Office to determine the satisfactory progress of the project and application of monies toward implementation of the project as set forth in the agreement. Particular attention will be paid to financial or management changes which might adversely affect the project. The Regional Office will, for example, determine whether there is: conformance with plans and specifications, proper installation of equipment, sufficiency of funds for the completion of the project, substantiation of costs incurred, proper labor costs for compliance with the Davis-Bacon Act, and EDA approval of contract change orders.

(d) Disbursements of direct EDA loans will be made after a request by the borrower, to the Regional Office, on EDA Form ED-270, "Borrower's Certification of Current Status and Request for EDA Action." The disbursement will be based on costs incurred as certified to EDA at such time or times as the Regional Office shall require. Certifications as to project costs are made on EDA Form ED-268 "Status of Payments on Project Accounts." Certifications as to the status of project construction for projects involving fixed assets are made on EDA Form ED-269, "Business Loan Project Inspection and Certification of Project Acceptability." Requests for disbursement shall be supported by such documents as the Regional Office may require; for example, but not limited to, copies of unpaid invoices to be paid from disbursement; copies of fully paid invoices together with lien waivers, where apropriate; and copies of cancelled checks. The Regional Office may withhold 10% of all requested disbursements on all project costs except land costs. When the Regional Office determines that the status of the project is such as would place EDA's interest in jeopardy, the Regional Office may withhold a greater percentage after stating in writing to the borrower the basis for such decision. The borrower shall, on EDA Form ED-265, "Disbursement of Business Loan Funds," acknowledge receipt of each disbursement made by EDA.

(e) Requests by an applicant for a modification of the terms on which its EDA financial assistance has been extended shall be submitted to the Regional Director, supported by such documentation and facts as would justify the requests.

§ 306.32 Project servicing.

EDA personnel will make periodic visits to projects until such time as the financial assistance has been fully repaid. Such personnel will consult with employees and officers of the applicant and obtain such information as is necessary to determine the employment levels as well as the soundness of its financial condition and management. Requests by an applicant for a modification of the terms on which its EDA financial assistance has been extended shall be submitted to the Regional Director, supported by such documentation and facts as would justify the requests.

§ 306.33 Liquidation and administration of loans, guarantees and evidences of indebtedness.

In the event that the Assistant Secretary determines it is necessary or desirable to take actions to protect or further the interests of EDA in connection with loans or guarantees made or evidences of indebtedness purchased under the Act, the Assistant Secretary may:

(a) Assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his discretion and upon such terms and conditions as he shall determine to be reasonable, any evidence of debt, contract, claim, personal or real property, or security assigned to or held by him in connection with financial assistance extended under the Act.

(b) Collect or compromise all obligations assigned to or held by him in connection with EDA financial assistance projects until such time as such obligations may be referred to the Attorney General for suit or collection.

(c) Take any and all other actions determined by him to be necessary or desirable in purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with or realizing on loans or guarantys made or evidences of indebtedness purchased under the Act.

PART 307—TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION

28. Part 307 is amended by adding a new Subpart D to read as follows:

Subpart D—State and Local Economic Development Planning Grants

Sec.

307.50 Purpose.
307.51 Objectives.
307.52 Eligible applicants.
307.53 Submission of applications.
307.54 Application requirements.
307.55 Grant limitations.
307.56 Annual reports.
307.57 Coordination.
307.58 Requirements.

Subpart D—State and Local Economic Development Planning Grants

§ 307.50 Purpose.

The purpose of this subpart is to set forth regulations pursuant to which eligible applicants may apply for and receive direct grants for economic development planning under section 302 of the Act.

§ 307.51 Objectives.

(a) A primary objective of planning grants is to provide and strengthen the economic development planning capabilities of States. Another objective of such grants is to strengthen the economic planning capabilities of substate level planning entities.

(b) The emphasis of economic development planning shall be directed toward the reduction of chronic unemployment and the enhancement of low income levels.

(c) Any overall State economic development planning shall be a part of a comprehensive planning process that involves public officials and private citizens in analyzing local economies, defining development goals, determining

project opportunities and formulating and implementing development programs. This planning process shall be conducted cooperatively by the State, cities and other political subdivisions and economic development organizations (including redevelopment areas and economic development districts) located in whole or in part within the State, and shall incorporate the goals and objectives of local and economic development district planning.

(d) Planning grants for cities, other political subdivisions, and sub-State planning and development organizations shall be used to develop plans to reduce unemployment and increase incomes.

(e) Additionally, grants may be made to economic development districts to enable them to:

(1) Provide technical assistance other than by grant to local governments within the districts.

(2) Carry out review procedures required under Title IV of the Intergovernmental Cooperation Act of 1968, if designated by the State to conduct this review.

§ 307.52 Eligible aplicants.

Eligible applicants are:

(a) The Governor of a State or an agency designated by him, and the Chief Executive Officer of the District of Columbia, Puerto Rico, Virgin Islands, Guam and American Samoa.

(b) Chief Officer of governing bodies of sub-State planning units, economic development districts, and redevelopment areas.

(c) Chief executive of cities and counties meeting EDA eligibility criteria and not located wholly within larger bulticounty planning and development organizations receiving planning funds under section 301 of the Act.

(d) Chief Executives of cities, counties, and redevelopment areas in multicounty organizations receiving funds under section 301 of the Act whose applications are endorsed by the Boards of the multi-county organizations, and who demonstrate exceptional need for planning assistance, beyond that provided through the multi-county organization, for planning activities other than on going administrative support, the preparation of original OEDP documents, updated OEDP documents or OEDP reports, and other activities usually funded under section 301(b) of the Act.

(e) Eligible applicants cited under this subpart, if the Secretary determines that planning assistance is necessary and other funds are not avaliable to develop a plan required by Title IX of the Act.

§ 307.53 Submission of applications.

An initial request for assistance shall be submitted to the Assistant Secretary. If the Assistant Secretary approves the initial request, the applicant may submit an application.

§ 307.54 Application requirements.

An application shall indicate the scope of the proposed planning activity, and provide evidence that the grantee will meet the following requirements:

(a) Where the grantee is a State:

(1) That the grant shall be administered by the Governor or by an agency he designates as responsible for the comprehensive economic development planning process.

(2) That an ongoing economic development process exists or will be established. This process shall incorporate the goals and objectives of sub-State planning programs and procedures to assure that State and sub-State development activities are not contradictory. This process shall allow for the expression of private views. While this planning process shall be concerned with all aspects of State economic development, emphasis shall be placed on the development of a meaningful, coordinated policy toward geographic areas with persistent unemployment and low incomes.

(3) That the results of the planning process shall be incorporated in the executive decisionmaking process in some formalized manner. The emphasis of the assistance, however, is on the planning process rather than the production of a plan.

(b) Where the grantee is a sub-State planning district or economic development district:

(1) That technical assistance provided by districts to local governments under section 302(b) of the Act shall increase their capabilities to participate in ongoing district planning programs.

(2) That A-95 review procedures funded under title III shall be consistent with the purpose of the Act.

(3) That districts funded under section 302(a) of the Act shall participate with the State in developing procedures for incorporating the goals of their on going economic development programs into the State's comprehensive planning process and for reflecting State goals and objectives as they impact on the district plans.

(c) Where the grantee is a city or county:

(1) That the grant shall be administered by the Chief executive officer of a unit of government which has authority to undertake broad planning activities and develop a continuous planning process.

(2) That planning shall involve both public officials and private citizens. If no procedure exists for this involvement, a special planning committee of public and private citizens broadly representative of the community should be established in the Office of the Mayor or county executive.

(3) That the primary emphasis of the planning process shall be on the formulation of a program to reduce unemployment and increase incomes.

(4) That a systematic approach shall be taken to analyze the local economy, define development goals, determine project opportunities, and formulate and implement a development program. OEDP or other guidelines for areas may be used in accomplishing this requirement.

(5) That, if a city or county is located in a larger economic development planning unit, activities funded with a planning grant shall be coordinated with the larger unit.

§ 307.55 Grant limitations.

Planning grants shall be made on terms established by the Assistant Secretary subject to the following limitations:

(a) Grants may not cover the costs of work already performed or of services already provided.

(b) Grants under section 302 may be provided in addition to assistance available under section 301(b) of the Act, but may neither suppiant this assistance nor fund activities usually funded under 301(b) including on going administrative support and the preparation of original OEDP documents, updated OEDP documents or OEDP reports.

(c) A planning grant may not exceed 75 percent of the total amount of funds required for the project.

(d) No Federal funds may be included in the 25 percent non-Federal share.

(e) In determining the amount of the non-Federal share, the Assistant Secretary shall give consideration to contributions both in cash and in-kind.

(f) This assistance shall be provided in accordance with the review procedure required under Title IV of the Intergovernmental Cooperation Act of 1968, as amended, and shall be used in conjunction with any other available Federal planning assistance to further the comprehensive nature of this planning program, and to assure the efficient utilization of all available planning resources in the achievement of the objectives of this grant.

(g) Grantees will conform to EDA financial requirements including those requirements promulgated in Federal Management Circular (FMC) 74-7 (OMB Circular A-102).

§ 307.56 Annual reports.

Grant recipients shall submit to the Assistant Secretary an annual report 60 days before the anniversary of their grants. The report shall include:

(a) States.

(1) How requirements in section 307.54 have been met.

(2) Review and evaluation of the planning process supported and program activities undertaken in relation to the specific goals and objectives described in the grant agreement.

(3) Policy, planning and development documents that have resulted from the assisted planning activities.

(b) Sub-State Planning Districts and Economic Development Districts.

(1) Cooperative procedures established to include district information in the State planning process, if funded for this purpose.

(2) Planning information exchanged with the State and other districts, and an evaluation of how this has affected

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the district's ability to achieve its development goals, if funded for this purpose.

(3) Review and evaluation of the planning process supported and program activities undertaken in relation to the specific goals and objectives described in the grant agreement.

(4) For grants under 302(b) of the Act, describe the nature of the technical assistance provided to local governments and document the results.

(5) Description of the A–95 review process funded under 302(b) of the Act, and improvements made in relating it to the State planning process.

(c) Cities and Counties. Review and evaluation of the planning process supported and program activities undertaken in relation to the specific goals and objectives described in the grant agreement.

§ 307.57 Coordination.

The Secretary through the Assistant Secretary for Economic Development shall coordinate his activities in making grants under this subpart with the Title V Regional Commissions and the Appalachian Regional Commission acting through the Federal and State Cochairman. Where a project is to be located wholly or partially within the boundaries of a Title V or the Appalachian region, or is of national or regional significance, the Federal and State Cochairman shall be furnished notice of project activity during the early phases of development and be kept advised of significant developments through the application review and final grant process.

§ 307.58 Requirements.

Part 309 of EDA's Rules and Regulations, as amended, apply to planning grants under this subpart.

29. A new Part 308 is added to read as follows:

PART 308—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE GRANTS

Subpart A—Requirements for Adjustment Grants Under Title IX

Sec.
308.1 Purpose.
308.2 Definitions.
308.3 Applications.
308.4 Award of Adjustment Grants.
308.5 Use of Adjustment Grants.
308.6 Planning Requirements.

Subpart B—Specific Uses of Grants to Carry Out Economic Adjustment

308.21 Purpose.
308.22 Definitions.
308.23 Public Facilities.
308.24 Business Development.
308.25 Planning, Research and Technical Assistance.
308.26 Unemployment Compensation.
308.27 Other Uses.
308.28 General Requirements.

Subpart C—Reports

308.50 Purpose.
308.51 Reports by Eligible Recipients.

AUTHORITY: Sec. 701, Pub. L. 89–136 (August 26, 1965); (42 U.S.C. 3211), 79 Stat. 570 and Department of Commerce Organization Order 10–4, April 1, 1970 (35 FR 5970).

Subpart A—Requirements for Adjustment Grants Under Title IX

§ 308.1 Purpose.

The purpose of this part is to set forth the requirements and procedures under which eligible recipients may receive grants under title IX of the Act.

§ 308.2 Definitions.

"Eligible recipient" as used in this part means a redevelopment area or economic development district established under title IV of this Act, an Indian tribe, the Governor of a State or a State agency designated by him, a city or other political subdivision of a State, or a consortium of such political subdivisions.

§ 308.3 Applicants.

Eligible recipients as defined in section 308.2 may apply for grants.

§ 308.4 Award of adjustment grants.

(a) The Assistant Secretary may make grants directly to an eligible recipient in an area which the Secretary determines has experienced, or may reasonably be foreseen to be about to experience, a special economic development need. This need may arise from actual or threatened severe unemployment caused by economic dislocation, including unemployment caused by actions of the Federal Government or by compliance with Federal regulations, and economic adjustment problems resulting from severe changes in economic conditions. Grants will not be made which would have the purpose and effect of replacing the efforts of the economic adjustment program of the Department of Defense.

(b) The Assistant Secretary may approve a plan or planning application if he finds that it meets the requirements of section 308.6, and is satisfied that the projects included in the plan will be properly and efficiently administered, operated, or maintained. The approval by the Assistant Secretary of a plan or the making of an adjustment grant depends on a number of factors which may include the following:

(1) The level of appropriations for title IX.

(2) The severity of the economic adjustment problem.

Preference will be given to situations where at least 500 jobs, or a significant percent of jobs in the planning area have been threatened or affected.

(3) The responsiveness of the plan to severe unemployment and adjustment problems.

(4) The degree to which the plan is anticipatory and innovative to meet either an abrupt or erosive change in economic conditions.

(5) The capability of the eligible recipient to solve these problems.

(6) The relation between the title IX funds needed to implement the plan and the degree to which the plan would carry out the purpose of title IX.

(7) The level of unemployment of the area.

(8) The element of joint involvement of State and sub-state entities in the projects.

(c) Approval of a plan or planning application is a prerequisite for a grant, but approval of a plan does not obligate the Assistant Secretary to make a grant, nor does approval of a plan require funding at the full level requested.

§ 308.5 Use of adjustment grants.

Grants shall be used to develop or carry out economic adjustment plans. Disbursement of grants by eligible recipients shall be in accordance with plans or planning applications submitted under § 308.6, and the following requirements;

(a) Adjustment grants received by eligible recipients to develop plans shall be used to develop plans that meet the requirements of section 308(a). The purpose of these grants is to assist eligible recipients to qualify for title IX grants to carry out their plans. The awarding of a grant to develop a plan, however, does not obligate the Assistant Secretary to make a subsequent grant to carry out the plan.

(b) An Adjustment grant received by an eligible recipient to carry out a plan may be used for one or more of the following purposes:

(1) Public facilities;
(2) Business Development;
(3) Planning;
(4) Research;
(5) Technical assistance;
(6) Public services;
(7) Rent supplements;
(8) Mortgage payment assistance;
(9) Relocation of individuals;
(10) Training;
(11) Unemployment compensation if the eligible recipient is a State; and
(12) Other appropriate assistance.

(c) Adjustment grants to carry out a plan may be disbursed by eligible recipients through direct expenditures or through redistribution by them to public and private entities in grants, loans guarantees, or other appropriate assistance. No grant, however, may be made by eligible recipients to a private profit-making entity.

§ 308.6 Planning requirement.

(a) Plans submitted by eligible recipients to the Assistant Secretary as a prerequisite for qualifying for a grant to carry out economic adjustment under title IX shall be consistent with planning goals and objectives which may have been developed under section 302 of the Act and shall contain the following:

(1) An identification of each economic development and adjustment need of the area for which assistance is sought. This should be an explanation of anticipated or existing economic problems and their impact on the eligible recipient.

(2) A description of each activity planned to meet each need. This explanation should include all activities that the eligible recipient has taken or plans to take regardless of whether funding is sought for them under title IX, and should indicate how each activity will contribute to the solution of economic problems.

(3) An explanation of the method of carrying out each planned activity. This should be an explanation for each activity of the amount of funds spent or

needed, how each activity was or will be financed and brought into operation, and how each activity is or will be operated. The costs for each activity proposed to be funded under title IX should be broken down into construction or start up costs, and operating costs. A plan should clearly indicate how a grant under title IX, if made by the Assistant Secretary, would be used.

(4) A statement regarding the goals of each planned activity. For example, a public health project might provide employment for 100 people, treat 3,000 people a year, and induce new industry to move into an area.

(5) Assurances, if an eligible recipient intends to redistribute funds provided in a title IX grant through loans, that the proceeds from the repayment of the loans will be used for economic adjustment in a manner consistent with title IX. Assurances shall include a contractual agreement between EDA and the eligible recipient describing how repayment proceeds will be used.

(6) Evidence that the plan was developed in cooperation with regional commissions, States, political subdivisions, Indian tribes, and economic development organizations (including redevelopment areas and economic development districts) that, based on reasonable expectations, may be affected by implementation of the plan.

(7) An identification and analysis of the potential environmental impacts of the planned activities, including identifiable projects.

(b) Planning applications submitted by eligible recipients to the Assistant Secretary as a prerequisite for a grant to develop a plan required under subsection (a) shall contain the following:

(1) An identification of each economic development and adjustment need of the area for which assistance is sought. This should be a detailed explanation of anticipated or existing economic problems and their impact on the eligible recipient. The amount of detail, however, does not have to be as great as in paragraph (a)(1), and may be altered in the subsequent plan.

(2) A description of each activity planned to meet each need. This may be a very tentative identification of activities that the eligible recipient has taken or may take to solve economic problems. This description may be brief, and may be altered in the subsequent plan.

(c) In submitting plans or planning applications, the review procedures of Office of Management and Budget Circular A-95, as amended, shall be followed. Eligible recipients shall also provide copies of their plans or planning applications to the State, and if applicable, the Regional Commission in which the eligible recipient is located. States and Regional Commissions may comment on plans and planning applications, and the Assistant Secretary shall give due consideration to their comments prior to awarding an adjustment grant.

Subpart B—Specific Uses of Grants To Carry Out Economic Adjustment

§ 308.21 Purpose.

The purpose of this Subpart is to elaborate upon the specific uses of grants to carry out economic adjustment § 308.5(b) listed how title IX grants may be used, and their Subpart states requirements regarding each specific use.

§ 308.22 Definitions.

As used in this Subpart, individual specific uses of grants have the following meanings.

(a) "Public facilities" means public works, and development facility projects of a nature that EDA assists under title I and section 201 of the Act.

(b) "Business development" means industrial and commercial projects of a nature that EDA assists under section 202 of the Act.

(c) "Planning, Research and Technical Assistance" means technical assistance and related activities of a nature that EDA undertakes under title III of the Act.

(d) "Unemployment compensation" means unemployment compensation provided by the Secretary of Labor.

(e) "Public services" means a program established to provide temporary employment in public service where such is a material part of the plan for economic adjustment assistance to the area.

§ 308.23 Public facilities.

(a) An adjustment grant may be used for a public facility if the public facility has a reasonable relation to the purpose of title IX. Grants may be used for the acquisition or development of land and improvements for public works or development facility usage; the acquisition, construction, rehabilitation, alteration, expansion, or improvement of these facilities, including related machinery and equipment; and the operation of these facilities.

(b) An eligible recipient may redistribute an adjustment grant by grant or loan to a private or public nonprofit organization or association, but not to a private profitmaking entity.

(c) Title IX grants may be used for part or all of the cost of the activities described in this section.

§ 308.24 Business development.

(a) An adjustment grant may be used for business development if the business development has a reasonable relation to the purpose of title IX. Grants may be used for the purchase, development and operation of land and facilities (including machinery and equipment) for industrial or commercial usage, including the contruction of new buildings, the rehabilitation of abandoned or unoccupied buildings, and the alteration, conversion, or enlargement of existing buildings by (A) purchasing evidences of indebtedness, (B) making loans and working capital loans (which may include participation in loans), (C) guaranteeing loans and working capital loans made to private borrowers by private lending institutions for any of the purposes of this subsection upon application by the lending institution, and (D) guaranteeing rental payments of leases for buildings and equipment.

(b) Title IX grants may be used for funding part or all of the cost of the activities described in this section.

§ 308.25 Planning, research and technical assistance.

(a) An adjustment grant may be used for planning, research and technical assistance if these activities have a reasonable relation to the purpose of title IX. Grants may be used for project planning; feasibility studies; management and operational assistance; administrative expenses; studies evaluating the needs of, and developing potentialities for, economic growth; and other related activities. This assistance is in addition to assistance available under title III of the Act.

(b) Title IX grants may be for part or all of the costs of the activities described in this section.

§ 308.26 Unemployment compensation.

(a) If the Assistant Secretary determines that payment of unemployment compensation will materially contribute to the economic adjustment of an area and such assistance is not otherwise available he may include as part of an adjustment grant an amount to be transferred to the Secretary of Labor for purposes of unemployment compensation in accordance with section 903(d) of the Act.

(b) Adjustment grant funds for unemployment compensation may be made available only to States. The eligible recipient, therefore, shall be a State, or obtain a prior agreement with the State to administer these funds.

§ 308.27 Other uses.

(a) Adjustment grants may be made available by the Assistant Secretary for public services, rent supplements, mortgage payment assistance, relocation of individuals, training, and for other appropriate purposes if reasonably related to the purposes of title IX, and if useful to carry out a plan.

(b) Grants may be used to assist in the relocation of unemployed workers and their families living with them when it is reasonably clear that alternative employment for them will not occur in their location during the process of long range economic adjustment and when such assistance is not available under the Comprehensive Employment and Training Act of 1973.

§ 308.28 General requirements.

(a) An eligible recipient shall agree that it will as a condition precedent to utilizing Title IX grant funds through direct expenditures, or through redistribution by grants, loans, loan guarantees or other appropriate assistance, determine with respect to the project or activity proposed to be assisted, and certify to the Assistant Secretary with supporting evidence that:

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(1) Such project or activity complies with the requirements and conditions set forth in §§ 309.1, 309.3, 309.4, 309.5, 309.6, 309.9, 309.14, 305.15 and Part 310 of these regulations, and section 702 of the Act, and that

(2) The recipients of the grant or loan or the beneficiaries of any guarantee (or "other parties" as defined in 15 CFR Subtitle A, Part 8) have executed assurances of compliance with Title VI of the Civil Rights Act of 1964, as amended; with Civil Rights Regulations of the Department of Commerce (15 CFR, Subtitle A, Part 8, as amended); and with Section 112 of Public Law 92–65 relating to discrimination on the basis of sex.

(b) In addition to the certification required by paragraphs (1) and (2) immediately above, an eligible recipient shall provide sufficient environmental data as required by the Assistant Secretary to assist him in determining that the requirements of the National Environmental Policy Act and the National Historic Preservation Act have been met with respect to the project or activity proposed to be assisted. Compliance with these requirements shall be a condition precedent to utilizing title IX grant funds. When the Agency's environmental review process reveals conditions or safeguards which should be implemented when the adjustment grant is to be undertaken in order to protect or enhance environmental quality, or minimize adverse environmental impacts, such conditions or safeguards shall be set forth in the Agency's environmental review record, shall be specified as requirements of the adjustment grant and in any applicable third party contract respecting the grant, and shall be implemented or caused to be implemented by the grantee.

(c) The retention and custodial requirements for records specified in Federal Management Circular 74–7 (Office of Management and Budget Circular A–102), as amended, shall be followed.

(d) After making an adjustment grant, the grantee must provide assurance satisfactory to the Secretary regarding each specific project to be funded under title IX that such project is consistent with title IX and the general purposes of the Act.

Subpart C—Reports

§ 308.50 Purpose.

The purpose of this subpart is to describe required reports.

§ 308.51 Reports by eligible recipients.

An eligible recipient which receives title IX assistance directly from the Assistant Secretary shall make a complete report each year that the assistance continues and for one year thereafter to the Assistant Secretary. The report shall include:

(a) Whether planned activities are completed and operational, and, if not completed, when it is anticipated they will be completed;

(b) The costs incurred for each activity partially completed, and completed;

(c) The operational costs of activities if operational;

(d) The degree to which activities have achieved their planned goals as described in the original plan;

(e) A general evaluation of the effectiveness of the title IX assistance provided to the recipient; and

(f) The compliance status and effectiveness of any conditions or safeguards specified as requirements of the adjustment grant.

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

30. Section 309.7 is amended by amending paragraph (a) to read as follows:

§ 309.7 Employment of expediters or administrative employees; compensation of persons engaged by or on behalf of applicants.

(a) No application or plan for financial assistance shall be approved by EDA under sections 101, 201, 202, 301, 403, or 903 of the Act unless the applicant:

* * * * *

31. Section 309.10 is amended by amending the first sentence to read as follows:

§ 309.10 Assurance of job opportunities for the unemployed.

(a) Applicants for business development loans under section 202 of the Act and direct and substantial beneficiaries of title IX grants and EDA assisted public works project * * *

* * * * *

32. A new Part 312 is added to read as follows:

PART 312—SUPPLEMENTAL AND BASIC ASSISTANCE UNDER SECTION 304 OF THE ACT

Sec.

312.1 Purpose.
312.2 Apportionment among States.
312.3 State Matching Share.
312.4 Selection and qualification of projects for supplementary assistance.
312.5 Selection and qualification of projects for basic grant or loan assistance.
312.6 Construction Management and Disbursement.
312.7 Conditions for disbursement of funds.

AUTHORITY: Sec. 701, Pub. L. 89–136 (August 26, 1965); (42 U.S.C. 3211), 79 Stat. 570 and Department of Commerce Organization Order 10–4, April 1, 1970 (35 FR 5970).

§ 312.1 Purpose.

The purpose of this subpart is to set forth the requirements and procedures governing the extension of assistance under Section 304 of the Act.

§ 312.2 Apportionment among States.

The Assistant Secretary shall determine as of the end of each fiscal year the total of all grants obligated for each State under Title I of the Act since August 26, 1965, and the total of all such grants obligated for all the States since August 26, 1965. Funds appropriated and made available for carrying out the purpose of Section 304 of the Act shall be obligated to the several States in the ratio that grants obligated in each State under Title I from August 26, 1965, to the end of the preceding fiscal year bear to the total of all such grants made to all States during the same period. The obligation of Section 304 funds to the States shall be effected by an agreement or acceptance setting forth or identifying the terms and conditions for the use and availability of such funds, which shall include the provisions of Section 304 of the Act and rules and regulations issued by the Assistant Secretary pursuant thereto.

§ 312.3 State matching share.

Funds obligated to a State shall be available for supplementing or making grants and loans authorized under Titles I, II and IV of the Act for projects within such States provided that the State makes a contribution which is equal to at least 25% of the funds being made available to a particular project from funds appropriated under Section 304 of the Act. Participations in or contributions to a project by local subdivisions of a State or private individuals or organizations shall not be deemed contributions by the State as required by this section.

§ 312.4 Selection and qualification of projects for supplementary assistance.

The selection of projects to be assisted by the use of funds in supplementing grants or loans made by EDA under Titles I, II or IV of the Act shall be made by the States and communicated to the Assistant Secretary on forms prescribed by the Assistant Secretary. Eligibility and compliance of a project for assistance shall be determined by the Assistant Secretary incident to the evaluation of the application for the underlying basic grant or loan assistance for such project.

§ 312.5 Selection and qualification of projects for basic grant or loan assistance.

(a) In those cases where the States propose to use funds for basic grant or loan assistance for projects meeting requirements for assistance under Titles I, II, or IV of the Act, and for which funds have been determined to be unavailable by the Assistant Secretary under Titles I, II, or IV, the States shall communicate the proposed use of the funds to the Assistant Secretary on forms prescribed by the Assistant Secretary. A proposal shall contain or be accompanied by documentation or certification evidencing compliance with the requirements, conditions, and limitations as would be applicable to such project if it were being considered for funding under Titles I, II, or IV of the Act. Eligibility and compliance of a project for assistance shall be determined by the Assistant Secretary in the same manner as applicable to projects receiving only supplementary assistance under section 304 of the Act.

(b) A proposal by a State for the use of funds for a basic grant or loan shall

be accompanied by evidence that the principal governing authorities for the area in which a project is to be located have approved the project.

(c) Requests for the disbursement of funds for basic loans by a State shall be accompanied by assurances that the proceeds from the repayment of the loans will be used for economic development in a manner consistent with the Act. Assurances shall include a contractual agreement between EDA and the State describing how repayment proceeds will be used.

(d) Funds may not be used by a State as a grant to a private profitmaking entity.

§ 312.6 Construction management and disbursement.

Projects assisted through the use of funds in supplementing EDA grants or loans under title I, II, or IV of the Act or in providing basic grants or loans shall be subject to the same procedures and requirements relating to post-approval compliances, construction management, and disbursement as applicable to projects funded under title I, II, and IV of the Act.

§ 312.7 Conditions for disbursement of funds.

(a) It shall be a condition for the disbursement of funds that a State shall conform to the requirements of the Act and provide acceptable evidence of compliance with requirements conditions and limitations applicable to projects assisted under titles I, II, and IV of the Act. States shall be promptly notified of proposals which do not meet requirements.

(b) Subsequent to July 1, 1975, it shall be a condition for the disbursement of funds for any project that the State must make a showing:

(1) That such funds will be used in a manner consistent with the State planning process assisted under Subpart D of Part 307 if such a planning process has been established; or

(2) That such State is not receiving planning assistance under Subpart D of Part 307 but has an economic development planning process meeting the standards required for assistance under Subpart D of Part 307 and that the proposed use of funds is consistent with such planning process; or

(3) that the project is clearly of such nature that the Assistant Secretary may conclude that its implementation would not impair the benefits intended to be derived from an orderly economic development planning process.

(Sec. 701, Public Law 89-136 (August 26, 1965); 42 U.S.C. 3211; 79 Stat. 570 and Department of Commerce Organization Order 10-4, April 1, 1970 (35 FR 5970))

Effective date: These regulations will become effective on December 27, 1974.

Dated: December 19, 1974.

WILLIAM W. BLUNT, JR.,
Assistant Secretary for Economic Development.

[FR Doc.74-30093 Filed 12-27-74;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7337]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Increase in Alternative Capital Gains Tax

By a notice of proposed rulemaking appearing in the FEDERAL REGISTER for March 16, 1971 (36 FR 4986), amendments to the Income Tax Regulations (26 CFR Part 1) were proposed in order to conform such regulations to amendments made to the Internal Revenue Code of 1954 by section 511 of the Tax Reform Act of 1969 (83 Stat. 635), which are effective for taxable years beginning after December 31, 1969. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments of the regulations as proposed are hereby adopted, subject to the changes set forth below.

Under the new rules, the alternative tax on the excess of the net long-term capital gain over the net short-term capital loss is gradually increased from 25 percent to a maximum of 35 percent (30 percent in the case of a corporation), except with respect to subsection (d) gain. The subsection (d) gain remains subject to an alternative tax of 25 percent. Subsection (d) gain, as defined in section 1201(d) of the Code, means the sum of the long-term capital gains for the taxable year arising (1) in the case of amounts received before January 1, 1975, from sales or dispositions (other than gain from a transaction described in section 631 or 1235 of the Code) pursuant to binding contracts entered into on or before October 9, 1969; (2) in respect of distributions from a corporation made prior to October 10, 1970, which are pursuant to a plan of complete liquidation adopted on or before October 9, 1969; and (3) in the case of a taxpayer other than a corporation, from any other source, but the amount taken into account from such other sources is limited to an amount equal to the excess (if any) of $50,000 ($25,000 in the case of a married individual filing a separate return) over the sum of the gains described in (1) and (2) above.

The changes included herein change the proposed amendments published with the notice by revising the format of § 1.852-4(c) to take into account the changes made thereto by T.D. 7187, which appeared in the Federal Register for July 6, 1972 (37 FR 13254); by revising § 1.1201-1(f)(2)(iii) to make a technical change in the interest of clarity; by deleting § 1.1201-1(g), which referred the reader only to a definition given elsewhere; by replacing references in § 1.1201-1 to deleted paragraph (g) with references to section 1222(11); by deleting the revision of section 1222(9) in § 1.1222, which was effected by T.D. 7301, which appeared in the Federal Register for January 4, 1974 (39 FR 962); and by revising § 1.1378-3(b), in the interest of clarity.

In view of the foregoing, the amendments of the regulations as proposed are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. The amendment to paragraph (c) of § 1.852-4, as contained in paragraph 5 of the notice of proposed rulemaking, is changed to read that, in lieu of the proposed revision of paragraph (c), a new paragraph (c)(3) is added to read as set forth below.

PARAGRAPH 2. Section 1.1201-1, as set forth in paragraph 11 of the notice of proposed rulemaking, is changed by revising paragraphs (a)(1)(i), (b)(1), (f)(1), and (f)(2)(iii), by deleting paragraph (g), and by redesignating paragraph (h) as paragraph (g), as set forth below.

PARAGRAPH 3. The amendment to § 1.1222, as set forth in paragraph 12 of the notice of proposed rulemaking, is changed to read as set forth below.

PARAGRAPH 4. Section 1.1378-3, as set forth in paragraph 16 of the notice of proposed rulemaking, is changed by revising paragraph (b)(2) to read as set forth below.

(Sec. 7805, Internal Revenue Code of 1954; 68A Stat. 917 (26 U.S.C. 7805).)

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 20, 1974.

ERNEST S. CHRISTIAN, JR.,
Acting Assistant Secretary of the Treasury.

PARAGRAPH 1. Section 1.802 is amended by revising section 802(a)(2) and the historical note to read as follows:

§ 1.802 Statutory provisions; life insurance companies; tax imposed; life insurance company taxable income defined.

SEC. 802. *Tax imposed*—(a) *Tax imposed.*

* * *

(2) *Alternative tax in case of capital gains.* If for any taxable year beginning after December 31, 1961, the net long-term capital gain of any life insurance company exceeds the net short-term capital loss, then, in lieu of the tax imposed by paragraph (1), there is hereby imposed a tax (if such tax is less than the tax imposed by such paragraph) which shall consist of the sum of—

(A) A partial tax, computed as provided by paragraph (1), on the life insurance company taxable income determined by reducing the taxable investment income, and the gain from operations, by the amount of such excess, and

(B) An amount determined as provided in section 1201(a) on such excess.

* * * * * *

[Sec. 802 as amended by sec. 2, Life Insurance Company Tax Act 1955 (70 Stat. 38); sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 115); sec. 3(b)(1), Act of Oct. 23, 1962 (Public Law 87-858, 76 Stat. 1136); sec. 235(c)(1), Rev. Act 1964 (78 Stat. 126); sec. 511(c)(1), Tax Reform Act 1969 (83 Stat. 637)]

PAR. 2. Section 1.802–3 is amended by revising paragraph (f)(2) to read as follows:

§ 1.802–3 Tax imposed on life insurance companies.

* * * * *

(f) *Tax imposed in case of certain capital gains.* * * *

(2) *Alternative tax in case of capital gains for taxable years beginning after December 31, 1961.* For taxable years beginning after December 31, 1961, if the net long-term capital gain (as defined in section 1222(7)) of any life insurance company exceeds its net short-term capital loss (as defined in section 1222(6)), section 802(a)(2) imposes an alternative tax in lieu of the tax imposed by section 802(a)(1), if and only if such alternative tax is less than the tax imposed by section 802(a)(1). The alternative tax is the sum of—

(i) A partial tax, computed as provided by section 802(a)(1), on the life insurance company taxable income determined by reducing the taxable investment income, and the gain from operations, by the amount of the excess of its net long-term capital gain over its net short-term capital loss, and

(ii)(*a*) In the case of a taxable year beginning before January 1, 1970, are amount equal to 25 percent of such excess, or

(*b*) In the case of a taxable year beginning after December 31, 1969, an amount determined as provided in section 1201(a) and paragraph (a)(3) of § 1.1201–1 on such excess.

In the computation of the partial tax, the deductions provided by sections 170 (as modified by section 809(a)(3)), 243, 244, 245 (as modified by sections 804(a)(5) and 809(d)(3)(B)), and the limitation provided by section 809(f), shall not be recomputed as a result of the reduction of taxable investment income, and gain from operations, by the amount of such excess. Except as modified by section 817 (rules relating to certain gains and losses), the general rules of the Code relating to gains and losses (such as the rules for determining the amount, characterization and treatment thereof) shall apply with respect to life insurance companies.

* * * * *

PAR. 3. Section 1.852 is amended by revising subparagraphs (A), (C), and (D)(ii) and (iii) of section 852(b)(3) and the historical note to read as follows:

§ 1.852 Statutory provisions; taxation of regulated investment companies and their shareholders.

SEC. 852. *Taxation of regulated investment companies and their shareholders.* * * *

(b) *Method of taxation of companies and shareholders.* * * *

(3) *Capital gains*—(A) *Imposition of tax.* There is hereby imposed for each taxable year in the case of every regulated investment company a tax, determined as provided in section 1201(a), on the excess, if any, of the net long-term capital gain over the sum of—

(i) The net short-term capital loss, and

(ii) The deduction for dividends paid (as defined in section 561) determined with reference to capital gains dividends only.

* * * * *

(C) *Definition of capital gain dividend.* For purposes of this part, a capital gain dividend is any dividend, or part thereof, which is designated by the company as a capital gain dividend in a written notice mailed to its shareholders not later than 45 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including capital gains dividends paid after the close of the taxable year described in section 855) is greater than the excess of the net long-term capital gain over the net short-term capital loss of the taxable year, the portion of each distribution which shall be a capital gain dividend shall be only that proportion of the amount so designated which such excess of the net long-term capital gain over the net short-term capital loss bears to the aggregate amount so designated. For purposes of subparagraph (A)(ii), the deduction for dividends paid shall, in the case of a taxable year beginning before January 1, 1975, first be made from the amount subject to tax in accordance with section 1201(a)(1)(B), to the extent thereof, and then from the amount subject to tax in accordance with section 1201(a)(1)(A).

(D) *Treatment by shareholders of undistributed capital gains.* * * *

(ii) For purposes of this title, every such shareholder shall be deemed to have paid, for his taxable year under clause (i), the tax imposed by subparagraph (A) on the amounts required by this subparagraph to be included in respect of such shares in computing his long-term capital gains for that year; and such shareholder shall be allowed credit or refund, as the case may be, for the tax so deemed to have been paid by him.

(iii) The adjusted basis of such shares in the hands of the shareholder shall be increased, with respect to the amounts required by this subparagraph to be included in computing his long-term capital gains, by 75 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)(1)(A) and by 70 percent (72 percent in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971) of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)(1)(B) or (2).

* * * * *

[Sec. 852 as amended by sec. 2(a), Act of July 11, 1956 (Public Law 700, 84th Cong., 70 Stat. 530); secs. 39(a), 101 (a) and (b), Technical Amendments Act 1958 (72 Stat. 1638, 1674); sec. 10(b) (2) and (3), Act of Sept. 14, 1960 (Public Law 86–779, 74 Stat. 1009); sec. 229 (a) and (b), Rev. Act 1964 (78 Stat. 99); sec. 511(c)(2), Tax Reform Act 1969 (83 Stat. 637)]

PAR. 4. Section 1.852–2 is amended by revising paragraph (b) (1) and (2)(ii) to read as follows:

§ 1.852–2 Method of taxation of regulated investment companies.

* * * * *

(b) *Taxation of capital gains*—(1) *In general.* Section 852(b)(3)(A) imposes (i) in the case of a taxable year beginning before January 1, 1970, a tax of 25 percent, or (ii) in the case of a taxable year beginning after December 31, 1969, a tax determined as provided in section 1201(a) and paragraph (a)(3) of § 1.1201–1, on the excess, if any, of the net long-term capital gain of a regulated investment company (subject to tax under part I, subchapter M, chapter 1 of the Code) over the sum of its net short-term capital loss and its deduction for dividends paid (as defined in section 561) determined with reference to capital gain dividends only. For the definition of capital gain dividend paid by a regulated investment company, see section 852(b)(3)(C) and paragraph (c) of § 1.852–4. In the case of a taxable year ending after December 31, 1969, and beginning before January 1, 1975, such deduction for dividends paid shall first be made from the amount subject to tax in accordance with section 1201(a)(1)(B), to the extent thereof, and then from the amount subject to tax in accordance with section 1201(a)(1)(A). See § 1.852–10, relating to certain distributions in redemption of interests in unit investment trusts which, for purposes of the deduction for dividends paid with reference to capital gain dividends only, are not considered preferential dividends under section 562(c). See section 855 and § 1.855–1, relating to dividends paid after the close of the taxable year.

(2) *Undistributed capital gains.* * * *

(ii) *Effect on earnings and profits of a regulated investment company.* If a regulated investment company designates an amount as undistributed capital gains for a taxable year, the earnings and profits of such regulated investment company for such taxable year shall be reduced by the total amount of the undistributed capital gains so designated. In such case, its capital account shall be increased—

(*a*) In the case of a taxable year ending before January 1, 1970, by 75 percent of the total amount designated,

(*b*) In the case of a taxable year ending after December 31, 1969, and beginning before January 1, 1975, by the total amount designated decreased by the amount of tax imposed by section 852(b)(3)(A) with respect to such amount, or

(*c*) In the case of a taxable year beginning after December 31, 1974, by 70 percent of the total amount designated. The earnings and profits of a regulated investment company shall not be reduced by the amount of tax which is imposed by section 852(b)(3)(A) on an amount designated as undistributed capital gains and which is paid by the corporation but deemed paid by the shareholder.

PAR. 5. Section 1.852–4 is amended by revising paragraph (b) (1) and (2) and paragraph (c)(3) to read as follows:

§ 1.852–4 Method of taxation of shareholders of regulated investment companies.

* * * * *

(b) *Capital gains*—(1) *In general.* Under section 852(b)(3)(B), shareholders of a regulated investment company who receive capital gain dividends (as defined in paragraph (c) of this section), in respect of the capital gains of an investment company for a taxable year for which it is taxable under part I, subchapter M, chapter 1 of the Code, as a regulated investment company, shall treat such capital gain dividends as gains from the sale or exchange of capital assets held for more than 6 months and realized in the taxable year of the shareholder in which the dividend was received. In the case of dividends with respect to any taxable year of a regulated

investment company ending after December 31, 1969, and beginning before January 1, 1975, the portion of a shareholder's capital gain dividend to which section 1201(d) (1) or (2) applies is the portion so designated by the regulated investment company pursuant to paragraph (c)(2) of this section.

(2) *Undistributed capital gains.* (i) A person who is a shareholder of a regulated investment company at the close of a taxable year of such company for which it is taxable under part I of subchapter M shall include in his gross income as a gain from the sale or exchange of a capital asset held for more than 6 months any amount of undistributed capital gains. The term "undistributed capital gains" means the amount designated as undistributed capital gains in accordance with paragraph (a) of § 1.852–9, but the amount so designated shall not exceed the shareholder's proportionate part of the amount subject to tax under section 852(b)(3)(A). Such amount shall be included in gross income for the taxable year of the shareholder in which falls the last day of the taxable year of the regulated investment company in respect of which the undistributed capital gains were designated. The amount of such gains designated under paragraph (a) of § 1.852–9 as gain described in section 1201(d) (1) or (2) shall be included in the shareholder's gross income as gain described in section 1201(d) (1) or (2). For certain administrative provisions relating to undistributed capital gains, see § 1.852–9.

(ii) Any shareholder required to include an amount of undistributed capital gains in gross income under section 852(b)(3)(D)(i) and subdivision (i) of this subparagraph shall be deemed to have paid for his taxable year for which such amount is so includible—

(*a*) In the case of an amount designated with respect to a taxable year of the company ending before January 1, 1970, a tax equal to 25 percent of such amount.

(*b*) In the case of a taxable year of the company ending after December 31, 1969, and beginning before January 1, 1975, a tax equal to the tax designated under paragraph (a)(1) of §1.852–9 by the regulated investment company as his proportionate share of the capital gains tax paid with respect to such amount, or

(*c*) In the case of an amount designated with respect to a taxable year of the company beginning after December 31, 1974, a tax equal to 30 percent of such amount.

Such shareholder is entitled to a credit or refund of the tax so deemed paid in accordance with the rules provided in paragraph (c)(2) of § 1.852–9.

(iii) Any shareholder required to include an amount of undistributed capital gains in gross income under section 852(b)(3)(D)(i) and subdivision (i) of this subparagraph shall increase the adjusted basis of the shares of stock with respect to which such amount is so includible—

(*a*) In the case of an amount designated with respect to a taxable year of the company ending before January 1, 1970, by 75 percent of such amount.

(*b*) In the case of an amount designated with respect to a taxable year of the company ending after December 31, 1969, and beginning before January 1, 1975, by the amount designated under paragraph (a)(1)(iv) of § 1.852–9 by the regulated investment company, or

(*c*) In the case of an amount designated with respect to a taxable year of the company beginning after December 31, 1974, by 70 percent of such amount.

* * * * *

(c) * * *

(3) *Subsection (d) gain for certain taxable years.* In the case of capital gain dividends with respect to any taxable year of a regulated investment company ending after December 31, 1969, and beginning before January 1, 1975 (including capital gain dividends paid after the close of the taxable year pursuant to an election under section 855), the company must include in its written notice under paragraph (c)(1) of this section a statement showing the shareholder's proportionate share of the capital gain dividend which is gain described in section 1201(d)(1) and his proportionate share of such dividend which is gain described in section 1201(d)(2). In determining the portion of the capital gain dividend which, in the hands of a shareholder, is gain described in section 1201(d) (1) or (2), the regulated investment company shall consider that capital gain dividends for a taxable year are first made from its long-term capital gains for such year which are not described in section 1201(d) (1) or (2), to the extent thereof, and then from its long-term capital gains for such year which are described in section 1201 (d) (1) or (2). A shareholder's proportionate share of gains which are described in section 1201(d)(1) is the amount which bears the same ratio to the amount paid to him as a capital gain dividend in respect of such year as (i) the aggregate amount of the company's gains which are described in section 1201(d)(1) and paid to all shareholders bears to (ii) the aggregate amount of the capital gain dividend paid to all shareholders in respect of such year. A shareholder's proportionate share of gains which are described in section 1201(d)(2) shall be determined in a similar manner. Every regulated investment company shall keep a record of the proportion of each capital gain dividend (to which this paragraph applies) which is gain described in section 1201(d) (1) or (2). If, for his taxable year, a shareholder must include in his gross income a captial gain dividend to which this paragraph applies, he shall attach to his income tax return for such taxable year a statement showing, with respect to the total of such dividends for such taxable year recieved from each regulated investment company, the name and address of the regulated investment company from which such dividends are received, the amount of such dividends, the portion of such dividends which was designated as gain described in section 1201(d)(1), and the portion of such dividends which was designated as gain described in section 1201(d)(2).

* * * * *

PAR. 6. Section 1.852–9 is amended by revising paragraph (a)(1) and adding subparagraph (3) to paragraph (c), as follows:

§ 1.852–9 Special procedural requirements applicable to designation under section 852(b)(3)(D).

(a) *Regulated investment company*—(1) *Notice to shareholders.* (i) A designation of undistributed capital gains under section 852(b)(3)(D) and paragraph (b)(2)(i) of §1.852–2 shall be made by notice on Form 2439 mailed by the regulated investment company to each person who is a shareholder of record of the company at the close of the company's taxable year. The notice on Form 2439 shall show the name, address, and employer identification number of the regulated investment company; the taxable year of the company for which the designation is made; the name, address, and identifying number of the shareholder; the amount designated by the company for inclusion by the shareholder in computing his long-term capital gains; and the tax paid with respect thereto by the company which is deemed to have been paid by the shareholder.

(ii) In the case of a designation of undistributed capital gains with respect to a taxable year of the regulated investment company ending after December 31, 1969, and beginning before January 1, 1975, Form 2439 shall also show the shareholder's proportionate share of such gains which is gain described in section 1201(d)(1), his proportionate share of such gains which is gain described in section 1201(d)(2), and the amount (determined pursuant to subdivision (iv) of this subparagraph) by which the shareholder's adjusted basis in his shares shall be increased.

(iii) In determining under subdivision (ii) of this subparagraph the portion of the undistributed capital gains which, in the hands of the shareholder, is gain described in section 1201(d) (1) or (2), the company shall consider that capital gain dividends for a taxable year are made first from its long-term capital gains for such year which are not described in section 1201(d) (1) or (2), to the extent thereof, and then from its long-term capital gains for such year which are described in section 1201(d) (1) or (2). A shareholder's proportionate share of undistributed capital gains for a taxable year which is gain described in section 1201(d)(1) is the amount which bears the same ratio to the amount included in his income as designated undistributed capital gains for such year as (*a*) the aggregate amount of the company's gains for such year which are described in section 1201(d)(1) and designated as undistributed capital gains bears to (*b*) the aggregate amount of the company's gains for such year

which are designated as undistributed capital gains. A shareholder's proportionate share of gains which are described in section 1201(d)(2) shall be determined in a similar manner. Every regulated investment company shall keep a record of the proportion of undistributed capital gains (to which this subdivision applies) which is gain described in section 1201(d) (1) or (2).

(iv) In the case of a designation of undistributed capital gains for any taxable year ending after December 31, 1969, and beginning before January 1, 1975, Form 2439 shall also show with respect to the undistributed capital gains of each shareholder the amount by which such shareholder's adjusted basis in his shares shall be increased under section 852(b)(3)(D)(iii). The amount by which each shareholders' adjusted basis in his shares shall be increased is the amount includible in his gross income with respect to such shares under section 852(b)(3)(D)(i) less the tax which the shareholder is deemed to have paid with respect to such shares. The tax which each shareholder is deemed to have paid with respect to such shares is the amount which bears the same ratio to the amount of the tax imposed by section 852(b)(3)(A) for such year with respect to the aggregate amount of the designated undistributed capital gains as the amount of such gains includible in the shareholder's gross income bears to the aggregate amount of such gains so designated.

(v) Form 2439 shall be prepared in triplicate, and copies B and C of the form shall be mailed to the shareholder on or before the 45th day (30th day for a taxable year ending before February 26, 1964) following the close of the company's taxable year. Copy A of each Form 2439 must be associated with the duplicate copy of the undistributed capital gains tax return of the company (Form 2438), as provided in subparagraph (2)(ii) of this paragraph.

* * * * *

(c) *Shareholders.* * * *

(3) *Records.* The shareholder is required to keep copy C of the Form 2439 furnished for the regulated investment copany's taxable years ending after December 31, 1969, and beginning before January 1, 1975, as part of his records to show increases in the adjusted basis of his shares in such company.

* * * * *

PAR. 7. Section 1.857 is amended by revising section 857(b)(3) (A) and (C) and the historical note to read as follows:

§ 1.857 Statutory provisions; taxation of real estate investment trusts and their beneficiaries.

SEC. 857. *Taxation of real estate investment trusts and their beneficiaries.* * * *

(b) *Method of taxation of real estate investment trusts and holders of shares or certificates of beneficial interest.* * * *

(3) *Capital gains*—(A) *Imposition of tax.* There is hereby imposed for each taxable year in the case of every real estate investment trust a tax, determined as provided in section 1201(a), on the excess, if any, of the net long-term capital gain over the sum of—

(i) The net short-term capital loss; and

(ii) The deduction for dividends paids (as defined in section 561) determined with reference to capital gains dividends only.

* * * * *

(C) *Definition of capital gain dividend.* For purposes of this part, a capital gain dividend is any dividend, or part thereof, which is designated by the real estate investment trust as a capital gain dividend in a written notice mailed to its shareholders or holders of beneficial interests at any time before the expiration of 30 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the trust (including capital gain dividends paid after the close of the taxable year described in section 858) is greater than the excess of the net long-term capital gain over the net short-term capital loss of the taxable year, the portion of each distribution which shall be a capital gain dividend shall be only that proportion of the amount so designated which such excess of the net long-term capital gain over the net short-term capital loss bears to the aggregate amount so designated. For purposes of subparagraph (A)(ii), in the case of a taxable year beginning before January 1, 1975, the deduction for dividends paid shall first be made from the amount subject to tax in accordance with section 1201(a)(1)(B), to the extent thereof, and then from the amount subject to tax in accordance with section 1201(a)(1)(A).

* * * * *

[Sec. 857 as added by sec. 10(a), Act of Sept. 14, 1960 (Public Law 86-779; 74 Stat. 1006); as amended by sec. 201(d)(11), Rev. Act 1964 (78 Stat. 33); sec. 511(c)(3), Tax Reform Act 1969 (83 Stat. 637)]

PAR. 8. Section 1.857-2 is amended by revising paragraph (b) to read as follows:

§ 1.857-2 Method of taxation of real estate investment trusts.

* * * * *

(b) *Taxation of capital gains.* Section 857(b)(3)(A) imposes (1) in the case of a taxable year beginning before January 1, 1970, a tax of 25 percent, or (2) in the case of a taxable year beginning after December 31, 1969, a tax determined as provided in section 1201(a) and paragraph (a)(3) of § 1.1201-1, on the excess, if any, of the net long-term capital gain of a qualified real estate investment trust over the sum of its net short-term capital loss and its deduction for dividends paid (as defined in section 561) determined with reference to capital gain dividends only. In the case of a taxable year ending after December 31, 1969, and beginning before January 1, 1975, the deduction for dividends paid as so determined shall first be made from the amount subject to tax in accordance with section 1201(a)(1)(B), to the extent thereof, and then from the amount subject to tax in accordance with section 1201(a)(1)(A). For the definition of capital gain dividend paid by a real estate investment trust, see section 857(b)(3)(C) and paragraph (c) of § 1.857-4. See section 858 and § 1.858-1 for rules relating to dividends paid after the close of the taxable year.

PAR. 9. Section 1.857-4 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1.857-4 Method of taxation of shareholders of real estate investment trusts.

* * * * *

(b) *Capital gains.* Under section 857(b)(3)(B), shareholders of a real estate investment trust who receive capital gain dividends (as defined in paragraph (c) of this section), in respect of the capital gains of an investment trust for a taxable year for which it is taxable under part II of subchapter M as a real estate investment trust, shall treat such capital gain dividends as gains from the sale or exchange of capital assets held for more than 6 months and realized in the taxable year of the shareholder in which the dividend was received. In the case of dividends with respect to any taxable year of a real estate investment trust ending after December 31, 1969, and beginning before January 1, 1975, the portion of a shareholder's capital gain dividend which in his hands is gain to which section 1201(d) (1) or (2) applies is the portion so designated by the real estate investment trust pursuant to paragraph (c)(2) of this section.

* * * * *

(c) *Definition of capital gain dividend.* (1) A capital gain dividend, as defined in section 857(b)(3)(C), is any dividend or part thereof which is designated by a real estate investment trust as a capital gain dividend in a written notice mailed to its shareholders not later than 30 days after the close of its taxable year. If the aggregate amount so designated with respect to the taxable year (including capital gain dividends paid after the close of the taxable year pursuant to an election under section 858) is greater than the excess of the net long-term capital gain over the net short-term capital loss of the taxable year, the portion of each distribution which shall be a capital gain dividend shall be only that proportion of the amount so designated which such excess of the net long-term capital gain over the net short-term capital loss bears to the aggregate of the amount so designated. For example, a real estate investment trust making its return on the calendar year basis advised its shareholders by written notice mailed December 30, 1961, that $200,000 of a distribution of $500,000 made December 15, 1961, constituted a capital gain dividend, amounting to $2 per share. It was later discovered that an error had been made in determining the excess of the net long-term capital gain over the net short-term capital loss of the taxable year and that such excess was $100,000 instead of $200,000. In such case, each shareholder would have received a capital gain dividend of $1 per share instead of $2 per share.

(2) In the case of capital gain dividends designated with respect to any taxable year of a real estate investment trust ending after December 31, 1969, and beginning before January 1, 1975 (including capital gain dividends paid after the close of the taxable year pursuant to an election under section 858),

the real estate investment trust must include in its written notice designating the capital gain dividend a statement showing the shareholder's proportionate share of such dividend which is gain described in section 1201(d)(1) and his proportionate share of such dividend which is gain described in section 1201(d)(2). In determining the portion of the capital gain dividend which, in the hands of a shareholder, is gain described in section 1201(d)(1) or (2), the real estate investment trust shall consider that capital gain dividends for a taxable year are first made from its long-term capital gains which are not described in section 1201(d)(1) or (2), to the extent thereof, and then from its long-term capital gains for such year which are described in section 1201(d)(1) or (2). A shareholder's proportionate share of gains which are described in section 1201(d)(1) is the amount which bears the same ratio to the amount paid to him as a capital gain dividend in respect of such year as (i) the aggregate amount of the trust's gains which are described in section 1201(d)(1) and paid to all shareholders bears to (ii) the aggregate amount of the capital gain dividend paid to all shareholders in respect of such year. A shareholder's proportionate share of gains which are described in section 1201(d)(2) shall be determined in a similar manner. Every real estate investment trust shall keep a record of the proportion of each capital dividend (to which this subparagraph applies) which is gain described in section 1201(d)(1) or (2).

PAR. 10. Section 1.1201 is amended by revising section 1201 and the historical note to read as follows:

§ 1.1201 Statutory provisions; alternative tax.

SEC. 1201. *Alternative tax*—(a) *Corporations.* If for any taxable year a corporation has a net section 1201 gain, then, in lieu of the tax imposed by sections 11, 511, 821 (a) or (c), and 831(a), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of a tax computed on the taxable income reduced by the amount of the net section 1201 gain, at the rates and in the manner as if this subsection had not been enacted, plus—

(1) In the case of a taxable year beginning before January 1, 1975—

(A) A tax of 25 percent of the lesser of—

(i) The amount of the subsection (d) gain, or

(ii) The amount of the net section 1201 gain, and

(B) A tax of 30 percent (28 percent in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971) of the excess (if any) of the net section 1201 gain over the subsection (d) gain; and

(2) In the case of a taxable year beginning after December 31, 1974, a tax of 30 percent of the net section 1201 gain.

(b) *Other taxpayers.* If for any taxable year a taxpayer other than a corporation has a net section 1201 gain, then, in lieu of the tax imposed by sections 1 and 511, there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

(1) A tax computed on the taxable income reduced by an amount equal to 50 percent of the net section 1201 gain, at the rates and in the manner as if this subsection had not been enacted,

(2) A tax of 25 percent of the lesser of—

(A) The amount of the subsection (d) gain, or

(B) The amount of the net section 1201 gain, and

(3) If the amount of the net section 1201 gain exceeds the amount of the subsection (d) gain, a tax computed as provided in subsection (c) on such excess.

(c) *Computation of tax on capital gain in excess of subsection (d) gain*—(1) *In general.* The tax computed for purposes of subsection (b)(3) shall be the amount by which a tax determined under section 1 or 511 on an amount equal to the taxable income (but not less than 50 percent of the net section 1201 gain) for the taxable year exceeds a tax determined under section 1 or 511 on an amount equal to the sum of (A) the amount subject to tax under subsection (b)(1) plus (B) an amount equal to 50 percent of the subsection (d) gain.

(2) *Limitation.* Notwithstanding paragraph (1), the tax computed for purposes of subsection (b)(3) shall not exceed an amount equal to the following percentage of the excess of the net section 1201 gain over the subsection (d) gain:

(A) 29½ percent, in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971, or

(B) 32½ percent, in the case of a taxable year beginning after December 31, 1970, and before January 1, 1972.

(d) *Subsection (d) gain defined.* For purposes of this section, the term "subsection (d) gain" means the sum of the long-term capital gains for the taxable year arising—

(1) In the case of amounts received before January 1, 1975, from sales or other dispositions pursuant to binding contracts (other than any gain from a transaction described in section 631 or 1235) entered into on or before October 9, 1969, including sales or other dispositions the income from which is returned on the basis and in the manner prescribed in section 453(a)(1),

(2) In respect of distributions from a corporation made prior to October 10, 1970, which are pursuant to a plan of complete liquidation adopted on or before October 9, 1969, and

(3) In the case of a taxpayer other than a corporation, from any other source, but the amount taken into account from such other sources for the purposes of this paragraph shall be limited to an amount equal to the excess (if any) of $50,000 ($25,000 in the case of a married individual filing a separate return) over the sum of the gains to which paragraphs (1) and (2) apply.

(e) *Cross references.* For computation of the alternative tax—

(1) In the case of life insurance companies, see section 802(a)(2);

(2) In the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D); and

(3) In the case of real estate investment trusts, see section 857(b)(3)(A).

[Sec. 1201 as amended by sec. 5(7), Life Insurance Company Tax Act 1955 (70 Stat. 49); sec. 3(f)(2), Life Insurance Company Income Tax Act 1959 (73 Stat. 140); sec. 8(g)(2), Rev. Act 1962 (76 Stat. 999); sec. 511(b), Tax Reform Act 1969 (83 Stat. 635)]

PAR. 11. Section 1.1201-1 is revised to read as follows:

§ 1.1201-1 Alternative tax.

(a) *Corporations*—(1) *In general.* (i) If for any taxable year a corporation has net section 1201 gain (as defined in section 1222(11)) section 1201(a) imposes an alternative tax in lieu of the tax imposed by sections 11 and 511, but only if such alternative tax is less than the tax imposed by sections 11 and 511. The alternative tax is not in lieu of the personal holding company tax imposed by section 541 or of any other tax not specifically set forth in section 1201(a).

(ii) In the case of an insurance company, the alternative tax imposed by section 1201(a) is also in lieu of the tax imposed by sections 821 (a) or (c) and 831(a), except that for taxable years beginning before January 1, 1963, the reference to section 821 (a) or (c) is to be read as reference to section 821 (a)(1) or (b). For taxable years beginning after December 31, 1954, and before January 1, 1958, the alternative tax imposed by section 1201(a) shall also be in lieu of the tax imposed by section 802(a), as amended by the Life Insurance Company Tax Act for 1955 (70 Stat. 38), if such alternative tax is less than the tax imposed by such section. See section 802(e), as added by the Life Insurance Company Tax Act for 1955 (70 Stat. 39). However, for taxable years beginning after December 31, 1958, and before January 1, 1962, section 802(a)(2), as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 115), imposes a separate tax equal to 25 percent of the amount by which the net long-term capital gain of any life insurance company (as defined in section 801(a) and paragraph (b) of § 1.801-3) exceeds its net short-term capital loss. See paragraph (f) of § 1.802-3. For alternative tax for life insurance companies in the case of taxable years beginning after December 31, 1961, see section 802(a)(2) and the regulations thereunder.

(iii) See section 56 and the regulations thereunder for provisions relating to the minimum tax for tax preferences.

(2) *Alternative tax.* The alternative tax is the sum of—

(i) A partial tax computed at the rates provided in sections 11, 511, 821 (a) or (c), and 831(a), on the taxable income of the taxpayer reduced by the amount of the net section 1201 gain, and

(ii) An amount equal to the tax determined under subparagraph (3) of this paragraph.

For taxable years beginning after December 31, 1954, and before January 1, 1958, the partial tax under subdivision (i) of this subparagraph shall also be computed at the rates provided in section 802(a). For taxable years beginning before January 1, 1963, the reference in such subdivision to section 821 (a) or (c) is to be read as a reference to section 821 (a) or (b).

(3) *Tax on capital gains.* For purposes of subparagraph (2)(ii) of this paragraph, the tax shall be—

(i) In the case of a taxable year beginning after December 31, 1974, a tax of 30 percent of the net section 1201 gain,

(ii) In the case of a taxable year beginning after December 31, 1969, and before January 1, 1975—

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(a) A tax of 25 percent of the lesser of the amount of the subsection (d) gain (as defined in section 1201(d) and paragraph (f) of this section) or the amount of the net section 1201 gain, plus

(b) A tax of 30 percent (28 percent in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971) of the excess, if any, of the net section 1201 gain over the subsection (d) gain,

(iii) In the case of a taxable year beginning before January 1, 1970, and after March 31, 1954, a tax of 25 percent of the net section 1201 gain, or

(iv) In the case of a taxable year beginning before April 1, 1954, a tax of 26 percent of the net section 1201 gain.

(4) *Determination of special deductions.* In the computation of the partial tax described in subparagraph (2)(i) of this paragraph the special deductions provided for in sections 243, 244, 245, 247, 922, and 941 shall not be recomputed as the result of the reduction of taxable income by the net section 1201 gain.

(b) *Other taxpayers*—(1) *In general.* If for any taxable year a taxpayer (other than a corporation) has net section 1201 gain (as defined in section 1222(ii)) section 1201(b) imposes an alternative tax in lieu of the tax imposed by sections 1 and 511, but only if such alternative tax is less than the tax imposed by sections 1 and 511. The alternative tax is not in lieu of any other tax not specifically set forth in section 1201(b). See section 56 and the regulations thereunder for provisions relating to the minimum tax for tax preferences.

(2) *Alternative tax.* The alternative tax is the sum of—

(i) A partial tax computed at the rates provided by sections 1 and 511 on the taxable income reduced by an amount equal to 50 percent of the net section 1201 gain, and

(ii) In the case of a taxable year beginning after December 31, 1969—

(a) A tax of 25 percent of the lesser of the amount of the subsection (d) gain (as defined in section 1201(d) and paragraph (f) of this section) or the amount of the net section 1201 gain, plus

(b) A tax computed as provided in section 1201(c) and paragraph (e) of this section on the excess, if any, of the net section 1201 gain over the subsection (d) gain, or

(iii) In the case of a taxable year beginning before January 1, 1970, a tax of 25 percent of the net section 1201 gain.

(3) *Cross references.* See § 1.1–2(a) for rule relating to the computation of the limitation on tax in cases where the alternative tax is imposed. See § 1.34–2(a) for rule relating to the computation of the dividend received credit under section 34 (for dividends received on or before December 31, 1964), and § 1.35–1(a) for rule relating to the computation of credit for partially tax-exempt interest under section 35 in cases where the alternative tax is imposed.

(c) *Tax-exempt trusts and organizations.* In applying section 1201 in the case of tax-exempt trusts or organizations subject to the tax imposed by section 511, the only amount which is taken into account as capital gain or loss is that which is taken into account in computing unrelated business taxable income under section 512. Under section 512, the only amount taken into account as capital gain or loss is that resulting from the application of section 631(a), relating to the election to treat the cutting of timber as a sale or exchange.

(d) *Joint returns.* In the case of a joint return, the excess of any net long-term capital gain over any net short-term capital loss is to be determined by combining the long-term capital gains and losses and the short-term capital gains and losses of the spouses.

(e) *Computation of tax on capital gain in excess of subsection (d) gain*—(1) *In general.* The tax computed for purposes of section 1201(b)(3) and paragraph (b)(2)(ii)(b) of this section shall be the amount by which a tax determined under section 1 or 511 on an amount equal to the taxable income (but not less than 50 percent of the net section 1201 gain) for the taxable year exceeds a tax determined under section 1 or 511 on an amount equal to the sum of (i) the amount subject to tax under section 1201(b)(1) and paragraph (b)(2)(i) of this section for such year plus (ii) an amount equal to 50 percent of the subsection (d) gain for such year.

(2) *Limitation.* Notwithstanding subparagraph (1) of this paragraph, the tax computed for purposes of section 1201(b)(3) and paragraph (b)(2)(ii)(b) of this section shall not exceed an amount equal to the following percentage of the excess of the net section 1201 gain over the subsection (d) gain for the taxable year:

(i) 29½ percent, in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971, or

(ii) 32½ percent, in the case of taxable year beginning after December 31, 1970, and before January 1, 1972.

(f) *Definition of subsection (d) gain*—(1) *In general.* For purposes of section 1201 and this section, the term "subsection (d) gain" means the sum of the long-term capital gains for the taxable year arising—

(i) In the case of amounts received or accrued, as the case may be, before January 1, 1975 (other than any gain from a transaction described in section 631 or 1235), from—

(a) Sales or other dispositions on or before October 9, 1969, including sales or other dispositions the income from which is returned as provided in section 453(a)(1) or (b)(1), or

(b) Sales or other dispositions after October 9, 1969, pursuant to binding contracts entered into on or before that date, including sales or other dispositions the income from which is returned as provided in section 453(a)(1) or (b)(1),

(ii) From liquidating distributions made by a corporation which are made (a) before October 10, 1970, and (b) pursuant to a plan of complete liquidation adopted on or before October 9, 1969, or

(iii) In the case of a taxpayer (other than a corporation), from any other source not described in subdivision (i) or (ii) of this subparagraph, but the amount taken into account from such other sources shall be limited to the amount, if any, by which $50,000 ($25,000 in the case of a married individual filing a separate return) exceeds the sum of the gains to which subdivisions (i) and (ii) of this subparagraph apply.

(2) *Special rules.* For purposes of subparagraph (1) of this paragraph—

(i) A binding contract entered into on or before October 9, 1969, means a contract, whether written or unwritten, which on or before that date was legally enforceable against the taxpayer under applicable law. If on or before October 9, 1969, a taxpayer grants an irrevocable option or irrevocable contractual right to another party to buy certain property and such other party exercises that option or right after October 9, 1969, the sale of such property is a sale pursuant to a binding contract entered into on or before October 9, 1969. The application of this subdivision may be illustrated by the following example:

Example. During 1964, A, B, and C formed a closely held corporation, and A was appointed as president of the organization. On July 1, 1964, A received for consideration 100 shares of common stock in the corporation subject to the agreement that, if A should retire from the management of the corporation or die, A or his estate would first offer his shares of stock to the corporation for purchase and that, if the corporation did not buy the stock within 60 days, the stock could be sold to any party other than the corporation. On September 1, 1970, A retired from the management of the corporation and offered his shares to the corporation for purchase. Pursuant to the agreement, the corporation purchased A's stock on September 30, 1970. A's sale of such stock was pursuant to a binding contract entered into on or before October 9, 1969.

(ii) A contract which pursuant to subdivision (i) of this subparagraph constitutes a binding contract entered into on or before October 9, 1969, does not cease to qualify as such a contract by reason of the fact that after October 9, 1969, there is a modification of the terms of the contract such as a change in the time of performance, or in the amount of the debt or in the terms and mode of payment, or in the rate of interest, or there is a change in the form or nature of the obligation or the character of the security, so long as the taxpayer is at all times on and after October 9, 1969, legally bound by such contract. The application of this subdivision may be illustrated by the following examples:

Example (1). On August 1, 1969, A sold certain capital assets to B on the installment plan and elected to return the gain therefrom under section 453, the agreement providing for payments over a period of 3 years. At the time of the sale these assets had been held by A for more than 6 months. On July 31, 1970, A and B agreed to a modification of the terms of payment under the sales agreement, the only change in the contract being that the installment payments due after July 31, 1970, would be paid over

a 3-year period. For purposes of this paragraph the payments received by A after July 31, 1970, are considered amounts received from the sale on August 1, 1969. (See section 483 for rules with respect to interest on deferred payments.)

Example (2). On April 1, 1969, A sold certain capital assets to B on the installment plan and elected to return the gain therefrom under section 453, the agreement providing for payments over a period of 3 years. At the time of the sale these assets had been held by A for more than 6 months. On March 31, 1970, C assumed B's obligation to pay the balance of the installments which were due after that date. For purposes of this paragraph any installment payments received by A after March 31, 1970, from C are considered amounts received from a sale made on or before October 9, 1969.

Example (3). On May 1, 1969, A offers to sell certain capital assets to B if B accepts the offer within 1 year, unless it is previously withdrawn by A. B accepts the offer on November 1, 1969, and the transaction is consummated shortly thereafter. For purposes of this paragraph, any payment received by A pursuant to the sale is not considered an amount received from a sale made on or before October 9, 1969, or from a sale pursuant to a binding contract entered into on or before that date.

(iii) An amount which is considered under section 402(a)(2) or 403(a)(2) as gain of the taxpayer from the sale or exchange of a capital asset held for more than 6 months shall be treated as gain subject to the provisions of section 1201(d)(1) and subdivision (i) of such subparagraph, but only if on or before October 9, 1969 (*a*) the employee with respect to whom such amount is distributed or paid or was otherwise separated from the service and (*b*) died or the employee the terms of the plan required, elected that total distributions or amount payable be paid to the taxpayer within 1 taxable year.

(iv) Gain described in section 1201(d)(1) or (2) with respect to a partnership, estate, or trust, which is required to be included in the gross income of a partner in such partnership, or of a beneficiary of such estate or trust, shall be treated as such gain with respect to such partner or beneficiary. Thus, for example, if during 1974 a partnership which uses the calendar year as its taxable year receives amounts which give rise to section 1201(d)(1) gain, a partner who uses the fiscal year ending June 30 as his taxable year shall treat his distributive share of such gain as subsection (d) gain for his taxable year ending June 30, 1975, even though such share is distributed to him after December 31, 1974. See § 1.706–1.

(v) An individual shall be considered married for purposes of subdivision (iii) of such subparagraph if for the taxable year he may elect with his spouse to make a joint return under section 6013(a).

(vi) In applying such subparagraph for purposes of section 21(a)(1) long-term capital gains arising from amounts received before January 1, 1970, shall be taken into account if such amounts are received during the taxable year.

(g) *Illustrations.* The application of this section may be illustrated by the following examples in which the assumption is made that section 56 (relating to minimum tax for tax preferences) does not apply:

Example (1). A, a single individual, has for the calendar year 1954 taxable income (exclusive of capital gains and losses) of $99,400. He realizes in 1954 a gain of $50,000 on the sale of a capital asset held for 19 months and sustains a loss of $20,000 on the sale of a capital asset held for 5 months. He has no other capital gains or losses. Since the alternative tax is less than the tax otherwise computed under section 1, the tax payable is the alternative tax, that is $74,298. The tax is computed as follows:

Tax Under Section 1

Taxable income exclusive of capital gains and losses		$99,400
Net long-term capital gain (100 percent of $50,000)	$50,000	
Net short-term capital loss (100 percent of $20,000)	20,000	
Excess of net long-term capital gain over the net short-term capital loss		30,000
		129,400
Deduction of 50 percent of excess of net long-term capital gain over the net short-term capital loss (section 1202)		15,000
Taxable income		114,400
Tax under section 1		30,136

Alternative Tax Under Section 1201(b)

Taxable income	$114,400
Less 50 percent of excess of net long-term capital gain over net short-term capital loss (section 1201(b)(1))	15,000
Taxable income exclusive of capital gains and losses	99,400
Partial tax (tax on $99,400)	66,798
Plus 25 percent of $30,000	7,500
Alternative tax under section 1201(b)	74,298

Example (2). A husband and wife, who file a joint return for the calendar year 1970, have taxable income (exclusive of capital gains and losses) of $100,000. In 1970 they realize $200,000 of net long-term capital gain in excess of net short-term capital loss, including long-term capital gains of $100,000 arising from sales consummated in 1968 the income from which is returned on the installment method under section 453, and long-term capital gains of $50,000, arising in respect of distributions from X corporation made before October 10, 1970, which were pursuant to a plan of complete liquidation adopted on October 9, 1969. Since the alternative tax under section 1201(b) is less than the tax otherwise computed under section 1, the tax payable for 1970 is the alternative tax, that is, $97,430 plus the tax surcharge under section 51. The tax (without regard to the tax surcharge) is computed as follows:

Tax Under Section 1

Taxable income exclusive of capital gains and losses		$100,000
Net section 1201 gain (excess of net long-term capital gain over the net short-term capital loss)		200,000
Total		300,000
Deduction of 50 percent of net section 1201 gain (section 1202)		100,000
Taxable income		200,000
Tax under section 1		110,980

Alternative Tax Under Section 1201(b)

(1) Net section 1201 gain		$200,000
(2) Subsection (d) gain:		
Section 1201(d)(1)		100,000
Section 1201(d)(2)		50,000
Total subsection (d) gain		150,000
(3) Net section 1201 gain in excess of subsection (d) gain ($200,000 less $150,000)		50,000
(4) Tax under section 1201(b)(1):		
(i) Taxable income	$200,000	
(ii) Less: 50% of item (1)	100,000	
(iii) Amount subject to tax under section 1201(b)(1)	100,000	
Partial tax (computed under section 1)		45,180
(5) Tax under section 1201(b)(2): (25% of item (1) or of item (3), whichever is lesser [25% of $150,000])		37,500
(6) Tax under section 1201(b)(3) on item (3):		
Tax under section 1 on taxable income ($200,000)	$110,980	
Less: Tax under section 1 on sum of item (4)(iii) $100,000 plus 50% of item (2) ($75,000) (Total $175,000)	93,780	
Tax under section 1201(c)(1)	17,200	
Limitation under section 1201(c)(2)(A) (29½% of item (3)	14,750	14,750
(7) Alternative tax under section 1201(b)		97,430

Example (3). A husband and wife, who file a joint return for the calender year 1971, have taxable income (exclusive of capital gains and losses) of $80,000. In 1971 they realize long-term capital gain of $90,000 arising from a sale consummated on July 1, 1969, the income from which is returned on the installment method under section 453. From securities transactions in 1971 they have long-term capital gains of $60,000 and a short-term capital loss of $10,000. Since the alternative tax under section 1201(b) is less than the tax otherwise computed under section 1, the tax payable is the alternative tax, that is, $55,140. The tax is computed as follows:

Tax Under Section 1

Taxable income exclusive of capital gains and losses		$80,000
Net long-term capital gains (100% of $90,000)	$90,000	
Net short-term capital loss (100% of $10,000)	10,000	
Net section 1201 gain		80,000
Total		160,000

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Deduction of 50% of net section 1201 gain (section 1202)		40,000
Taxable income		120,000
Tax under section 1		57,580
Alternative Tax Under Section 1201(b)		
(1) Net section 1201 gain		$80,000
(2) Subsection (d) gain:		
Section 1201(d)(1)	30,000	
Section 1201(d)(2)		
Section 1201(d)(3) ($50,000 less $30,000	20,000	
Total subsection (d) gain	50,000	
(3) Net section 1201 gain in excess of subsection (d) gain ($80,000 less $50,000)		30,000
(4) Tax under section 1201(b)(1):		
(i) Taxable income	$120,000	
(ii) Less: 50% of item (1)	40,000	
(iii) Amount subject to tax under section 1201(b)(1)	80,000	
Partial tax (computed under section 1)		33,340
(5) Tax under section 1201(b)(2): (25% of item (1) or of item (2), whichever is lesser [25% of $50,000])		12,500
(6) Tax under sec. 1201(b)(3) on item (3):		
Tax under sec. 1 on taxable income ($120,000)	$57,580	
Less: Tax under sec. 1 on sum of item (4) (iii) ($80,000) plus 50% of item (2) ($25,000) (Total $105,000)	48,280	
Tax under section 1201(c)(1)	5,300	
Limitation under section 1201(c)(2)(B) (32½% of item (3))	9,750	9,300
(7) Alternative tax under section 1201(b)		55,140

Example (4). A husband and wife, who file a joint return for the calendar year 1973, have taxable income (exclusive of capital gains and losses) of $250,000. In 1973 they realize long-term capital gains (not described in section 1201(d) (1) or (2)) of $140,000 and a short-term capital loss of $50,000. Since the alternative tax under section 1201(b) is less than the tax otherwise computed under section 1, the tax payable is the alternative tax, that is, $172,480. The tax is computed as follows:

Tax Under Section 1

Taxable income exclusive of capital gains and losses		$250,000
Net long-term capital gains (100% of $140,000)	$140,000	
Net short-term capital loss (100% of $50,000)	50,000	
Net section 1201 gain		90,000
Total		340,000
Deduction of 50% of net section 1201 gain (section 1202)		45,000
Taxable income		295,000
Tax under section 1		177,480
Alternative Tax Under Section 1201(b)		
(1) Net section 1201 gain		$90,000
(2) Subsection (d) gain:		
Section 1201(d)(1)		
Section 1201(d)(2)		
Section 1201(d)(3)	80,000	
Total subsection (d) gain	80,000	
(3) Net section 1201 gain in excess of subsection (d) gain ($90,000 less, $50,000)		40,000
(4) Tax under section 1201(b)(1):		
(i) Taxable income	$295,000	
(ii) Less: 50% of item (1)	45,000	
(iii) Amount subject to tax under section 1201(b)(1)	250,000	
Partial tax (computed under section 1)		148,980
(5) Tax under section 1201(b)(2): (25% of item (1) or of item (2), whichever is lesser [25% of $50,000])		12,500
(6) Tax under section 1201(b)(3) on item (3):		
Tax under section 1 on taxable income ($295,000)	$177,480	
Less: Tax under section 1 on sum of item (4) (iii) ($250,000) plus 50% of item (2) $25,000) (Total $275,000)	163,480	14,000
(7) Alternative tax under section 1201(b)		172,480

PAR. 12. Section 1.1222 is amended by adding paragraph (11) to section 1222, and by revising the historical note, to read as follows:

§ 1.1222 Statutory provisions; other terms relating to capital gains and losses.

SEC. 1222. *Other terms relating to capital gains and losses.* * * *

(11) *Net section 1201 gain.* The term "net section 1201 gain" means the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year.

[Sec. 1222 as amended by sec. 230(b), Rev. Act 1964 (78 Stat. 100); sec. 511(a) and 513(c), Tax Reform Act 1969 (83 Stat. 635, 643)]

PAR. 13. Section 1.1222–1 is amended by adding a new paragraph (h) to read as follows:

§ 1.1222–1 Other terms relating to capital gains and losses.

* * * * *

(h) The term "net section 1201 gain" means the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year.

PAR. 14. Section 1.1375–1 is amended by redesignating paragraph (e) as (f), by adding example (5) to paragraph (f) as so redesignated, and by inserting a new paragraph (e), as follows:

§ 1.1375–1 Special rules applicable to capital gains.

* * * * *

(e) *Shareholder's pro rata share of subsection (d) gain.* Long-term capital gains of an electing small business corporation for any taxable year which are gains described in section 1201(d) (1) or (2) with respect to such corporation shall be treated as gains which are gains described in section 1201(a) (1) or (2) with respect to a shareholder to the extent of his pro rata share of such gains. A shareholder's pro rata share of such gains is the amount which bears the same ratio to the shareholder's pro rata share of long-term capital gain (as determined under paragraph (b) of this section) for such year as the corporation's long-term capital gains for such year which are described in section 1201 (d) (1) or (2) bear to the excess of the corporation's net long-term capital gain over its net short-term capital loss for the taxable year. If such ratio is one or greater, the shareholder's pro rata share of gains described in section 1201(d) (1) or (2) shall be equal to his pro rata share of long-term capital gain for such taxable year.

(f) *Examples.* The application of this section may be illustrated by the following examples:

* * * * *

Example (5). An electing small business corporation which has three equal shareholders has net long-term capital gains in excess of net short-term capital loss of $60,000 for its taxable year 1971. The corporation has long-term capital gain described in section 1201(d)(1) of $15,000. The corporation has taxable income and current earnings and profits of $90,000 (including such net capital gain of $60,000). During the taxable year, the corporation pays cash dividends of $90,000 ($30,000 to each shareholder). With respect to such distributions each shareholder will be deemed to have received long-term capital gain of $20,000 ($30,000/$90,000 of $60,000) and ordinary income of $10,000. In the case of such distributions, each shareholder will be deemed to have received $5,000 ($15,000/$60,000 × $20,000) of gain described in section 1201(d)(1).

PAR. 15. Section 1.1378 is amended by revising section 1378 (b) and (c)(3), and the historical note, to read as follows:

§ 1.1378 Statutory provisions; tax imposed on certain capital gains.

SEC. 1378. *Tax imposed on certain capital gains.* * * *

(b) *Amount of tax.* The tax imposed by subsection (a) shall be the lower of—

(1) An amount equal to the tax, determined as provided in section 1201(a), on the amount by which the excess of the net long-term capital gain over the net short-term capital loss of the corporation for the taxable year exceeds $25,000, or

(2) An amount equal to the tax which would be imposed by section 11 on the taxable income (computed as provided in section 1373(d)) of the corporation for the taxable year if the corporation was not an electing small business corporation.

No credit shall be allowable under part IV of subchapter A of this chapter (other than under section 39) against the tax imposed by subsection (a). In applying section 1201 (a)(1) (A) and (B) for purposes of paragraph (1), the $25,000 limitation shall first

be deducted from the amount (determined without regard to this subsection) subject to tax in accordance with section 1201(a)(1)(B), to the extent thereof, and then from the amount (determined without regard to this subsection) subject to tax in accordance with section 1201(a)(1)(A).

(c) *Exceptions.* * * *

(3) *Property with substituted basis.* If—

(A) But for paragraph (1) or (2), subsection (a) would apply for the taxable year,

(B) Any long-term capital gain is attributable to property acquired by the electing small business corporation during the period beginning 3 years before the first day of the taxable year and ending on the last day of the taxable year, and

(C) The basis of such property is determined in whole or in part by reference to the basis of any property in the hands of another corporation which was not an electing small business corporation throughout all of the period described in subparagraph (B) before the transfer by such other corporation and during which such other corporation was in existence;

then subsection (a) shall apply for the taxable year, but the amount of the tax determined under subsection (b) shall not exceed a tax, determined as provided in section 1201(a), on the excess of the net long-term capital gain over the net short-term capital loss attributable to property acquired as provided in subparagraph (B) and having a basis described in subparagraph (C).

[Sec. 1378 as added by sec. 2(a), Act of April 14, 1966 (Public Law 89-389, 80 Stat. 113); as amended by sec. 511(c)(4), Tax Reform Act 1969 (83 Stat. 638)]

PAR. 16. Section 1.1378-3 is amended by revising pararaphs (a) and (b) to read as follows:

§ 1.1378-3 Amount of tax.

(a) *In general.* If an electing small business corporation is subject to the tax imposed by section 1378 for a taxable year, the amount of such tax for such year is, except as provided in paragraph (b) of this section, the lower of—

(1) An amount equal to the tax, determined as provided in section 1201(a), on the amount (25 percent of such amount in the case of a taxable year beginning before January 1, 1970) by which the excess of the net long-term capital gain over the net short-term capital loss of the corporation for the taxable year exceeds $25,000 or

(2) An amount equal to the amount of tax which would be imposed by section 11 on the taxable income of the corporation for the taxable year (computed under section 1373(d)) if the corporation were not an electing small business corporation.

In applying section 1201(a)(1)(A) and (B) for purposes of subparagraph (1) of this paragraph for any taxable year ending after December 31, 1969, and beginning before January 1, 1975, the $25,000 limitation shall first be deducted from the amount (determined without regard to this paragraph and section 1378(b)) subject to tax in accordance with section 1201(a)(1)(B), to the extent thereof, and then from the amount (determined without regard to this paragraph and section 1378(b)) subject to tax in accordance to section 1201(a)(1)(A).

(b) *Exception.* If an electing small business corporation is subject to the tax imposed by section 1378 for a taxable year, and

(1) The election under section 1372(a) which is in effect with respect to such corporation for such year has been in effect for the corporation's three immediately preceding taxable years, or

(2) An election under section 1732(a) has been in effect with respect to such corporation for each of its taxable years for which it has been in existence,

the amount of such tax for such year shall not exceed a tax, determined as provided in section 1201(a), on the excess of the net long-term capital gain over the net short-term capital loss attributable to property with a substituted basis (see section 1378(c)(3) and paragraph (b) of § 1.1378-2). In the case of a taxable year beginning before January 1, 1970, the amount of such tax for such year shall not exceed 25 percent of such excess.

* * * * *

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Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74-241]

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT AREAS

Eleventh Coast Guard District

These amendments revise the description of the two Captain of the Port Areas and the two Marine Inspection Zones of the Eleventh Coast Guard District in Part 3 of Title 33, Code of Federal Regulations.

The boundary of the Los Angeles Captain of the Port Area that is described in § 3.55-60 is revised to coincide with the Los Angeles-Long Beach Marine Inspection Zone that is described in § 3.55-10. The boundary of the San Diego Captain of the Port Area that is described in § 3.55-55 is revised to coincide with the San Diego Marine Inspection Zone that is described in § 3.55-15. The revision retains the inland boundary description of the two Marine Inspection Zones, but divides the coastal islands by a new line. The descriptions of the two Captain of the Port Areas, as amended by this document, are transferred to §§ 3.55-10 and 3.55-15. Accordingly, § 3.55-55 and 3.55-60, which contain the present descriptions of the areas, are deleted.

Since these amendments are matters relating to agency organization, they are exempt from the notice of proposed rule making requirements in 5 U.S.C. 553(b)(3)(A), and since these amendments announce an existing change in Coast Guard organization, they are effective immediately under 5 U.S.C. 553(d)(3).

In accordance with the foregoing, Part 3 of Chapter I of Title 33 of the Code of Federal Regulations is amended as follows:

1. Section 3.55-10 is revised to read as follows:

§ 3.55-10 Los Angeles-Long Beach Marine Inspection Zone and Captain of the Port Area.

(a) The Los Angeles-Long Beach Marine Inspection Office is located in Wilmington, California. The Los Angeles-Long Beach Captain of the Port Office is located in Long Beach, California.

(b) The boundary of the Los Angeles-Long Beach Marine Inspection Zone and Captain of the Port Area starts in California at the intersection of the San Luis Obispo County-Santa Barbara County boundary and the sea and follows this boundary to the Kern County line; thence north and west along the Kern County-San Luis Obispo County boundary to the Kings County line; thence eastward along Kings County-Kern County boundary to the Tulare County line; thence eastward along the Tulare County-Kern County boundary to the Inyo County line; thence eastward along the Kern County-Inyo County boundary to the San Bernadino County line; thence eastward along the Inyo County-San Bernadino County boundary to the Nevada State line; thence northwest along the California-Nevada boundary to its intersection with the Nye County-Clark County, Nevada boundary; thence north along this boundary to the Lincoln County line; thence east along the Clark County-Lincoln County boundary to the Arizona State line thence north along the Nevada-Arizona boundary to the Utah State line; thence north along the Nevada-Utah boundary to its intersection with the Iron County-Washington County, Utah boundary; thence eastward along this boundary to the Kane County line; thence north and east along the Kane County-Iron County boundary to the Garfield County line; thence northeast along the Garfield County-Iron County boundary to the Beaver County line; thence east along the Beaver County-Garfield County boundary to the Piute County line; thence east along the Piute County-Garfield County boundary to the Wayne County line; thence east along the Garfield County-Wayne County boundary to the San Juan County line; thence northward along the San Juan County-Wayne County boundary to the Grand County line; thence east along the San Juan County-Grand County boundary to the Colorado State line; thence south along the Utah-Colorado boundary to the Arizona State line; thence south along the Arizona-New Mexico boundary to the International boundary; thence west along the International boundary to its intersection with the Imperial County-San Diego County, California boundary; thence north along this boundary to the Riverside County line; thence west along the Riverside County-San Diego County boundary to the Orange County line; thence southwest along the Orange County-San Diego County boundary to the sea. The Los Angeles-Long Beach Marine Inspection Zone and Captain of the Port Area also includes the California islands south and east of the

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northern boundary of the Eleventh Coast Guard District, that is described in section 3.55–1 of this part (a line drawn from the intersection of latitude 34°58' N. and the California coastline southwesterly, bearing approximately 229° T), and north and west of a line drawn 255° T from latitude 32°22.5' N, longitude 117°35.7' W (San Mateo Point).

2. Section 3.55–15 is revised to read as follows:

§ 3.55–15 San Diego Marine Inspection Zone and Captain of the Port Area.

(a) The San Diego Marine Inspection Office and San Diego Captain of the Port Office are located in San Diego, California.

(b) The boundary of the San Diego Marine Inspection Zone and Captain of the Port Area is the boundary of San Diego County, California, starting and ending at the sea, but also including the California islands south and east of a line that is drawn 255° T from latitude 32°22.5' N, longitude 117°35.7' W (San Mateo Point).

§ 3.55–55 [Removed]

§ 3.55–60 [Removed]

3. Sections 3.55–55 and 3.55–60 are deleted.

(5 U.S.C. 552; 14 U.S.C. 633; 80 Stat. 937 (49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Effective date: These amendments are effective December 31, 1974.

Dated: December 23, 1974.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.74-30337 Filed 12-27-74;8:45 am]

[CGD 74-291]

PART 26—VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE REGULATIONS

Great Lakes Exemptions

The purpose of this amendment to the vessel bridge-to-bridge radiotelephone regulations is to extend the termination date of the exemption in the regulations that applies to vessels navigating on the Great Lakes.

The exemption was proposed in the FEDERAL REGISTER on November 11, 1972 (CGD 72-223P; 37 FR 24043) and issued on December 22, 1972 (CGD 72-223R; 37 FR 28092).

Because there was a need to evaluate actual operational results of the use of bridge-to-bridge radiotelephone by vessels in all U.S. waters and a possible resulting need to amend this exemption based on that evaluation, the exemption specified a termination date—January 1, 1975. This early termination date in 1975 was selected because an amendment to the United States-Canadian agreement for the promotion of safety on the Great Lakes by means of radio was expected to become effective sometime in 1975. That amendment has been ratified and becomes effective May 6, 1975.

By letter dated September 6, 1974, the Lake Carriers' Association has requested that the Coast Guard permanently exclude the Great Lakes from the applicability of the bridge-to-bridge radiotelephone regulations. Pending final determination of this request and the commencement of operations on the Great Lakes under the amended radiotelephone agreement, the termination date for the present exemption is extended by this document to May 6, 1975. I find that notice and public procedure on this amendment is impracticable, unnecessary and contrary to the public interest because evaluation of operations on the Great Lakes and their connecting and tributary waters has shown an excellent safety record attributable to the voice radio system in use. Termination of the exemption without adequate opportunity for vessels on the Great Lakes to prepare to comply with the regulations may disrupt commerce or adversely affect marine navigation safety. This amendment is effective in less than 30 days from its publication in the Federal Register because it grants or recognizes an exemption or relieves a restriction.

In consideration of the foregoing, Part 26 of Title 33 of the Code of Federal Regulations is amended by striking out the date "January 1, 1975" in § 26.09 and inserting the date "May 6, 1975" in place thereof.

This amendment becomes effective December 31, 1974.

(Vessel Bridge-to-Bridge Radiotelephone Act, 85 Stat. 164; 33 U.S.C. 1201–1208; 49 CFR 1.46(c)(2))

Dated: December 23, 1974.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 74-30336 Filed 12-27-74; 8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 4—DEPARTMENT OF AGRICULTURE

PART 4-50—DISPUTES AND APPEALS

Procurement; Miscellaneous Amendments

Correction

In FR Doc. 74-29847, appearing at page 44203 in the issue of Monday, December 23, 1974, the effective date should be changed to read, "December 23, 1974".

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-3—PROCUREMENT BY NEGOTIATION

Determinations and Findings

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, Part 14-3 of Chapter 14 of Title 41 of the Code of Federal Regulations is hereby amended as stated herein.

It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the amendments herein are administrative procedures for preparing and processing determinations and findings justifying negotiation and other determinations which are required to be made. Because the amendments are entirely administrative in nature, the public rulemaking process is waived in this instance. Part 14-3 is amended to read as stated below effective immediately.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

DECEMBER 10, 1974.

1. 41 CFR, Part 14-3 (Interior Procurement Regulations) is amended by adding the following to the table of contents:

Subpart 14-3.3—Determinations, Findings, and Authorities

Sec.	
14-3.305	Form and requirements of determinations and findings
14-3.305-50	Preparation of determinations and findings
14-3.305-51	Summary of required determinations and findings

AUTHORITY: (sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

2. 41 CFR, 14-3 (Interior Procurement Regulations) is amended by adding the following:

Subpart 14-3.3—Determinations, Findings, and Authorities

§ 14-3.305 Form and requirements of determinations and findings.

§ 14-3.305-50 Preparation of determinations and findings.

(a) Determination and findings required by statute or regulation shall be prepared in accordance with §§ 14-3.305-50 and 14-3.305-51 of this chapter.

(b) Determinations and findings shall state the name of the bureau or office and location, identify the document as a "Determination and Findings," and state the purpose, such as "To Negotiate an Individual Contract under 41 U.S.C. 252(c)(2)." It must be dated and signed by the appropriate official.

(c) A determination and findings made by the Secretariat under section 302(c) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 252(c)) shall not constitute approval of a program or of specific procurements. It will authorize procurement by negotiation, in lieu of formal advertising, of the property or services described only when, in accordance with established regulations and procedures, it is determined that the procurement has been authorized and funds have been made available for the purpose.

(d) The "findings" are a series of factual statements in logical order which lead to the conclusion and justify the determination that the proposed action falls within the purview of statutory or regulatory authority. The purpose of the procurement action and its estimated cost are usually stated in the first paragraph of the findings. The other stated facts and circumstances shall clearly justify the determination.

(e) The "determination" is a statement that the proposed action falls within the purview of statute or regulation. The language of the determination is usually stated verbatim from the source of authority.

(f) The "authorization" constitutes the last paragraph of the determination and findings. It is a statement that the procuring activity is authorized to proceed with the proposed contract action and cites the authority under which the authorization is made.

(g) When practicable, all determinations pertaining to a single procurement should be consolidated in one determination and findings.

(h) In special cases determinations may be made for classes of procurements or contracts. Class determinations and findings shall be restricted to circumstances where greater operational flexibility in the processing of determinations and findings is necessary to minimize delays where several contracts may be issued. Each class determination and findings shall specify an effective period which shall not exceed one year. Before negotiating a contract under the authority of a class determination and findings, the contracting officer shall establish for each contract that procurement by formal advertising is not feasible and practicable.

(i) Determinations and findings for signature of or approval by the Secretariat shall be transmitted to the Assistant Secretary—Management by memorandum giving an explanation of the proposed transaction. The memorandum ordinarily should be brief; however, it should be sufficient, when read with the determination and findings, to fully explain the proposed transaction. All such submissions shall be routed through the Office of Management Services for review and approval.

§ 14.3.305–51 Summary of required determinations and findings.

This section is designed to serve as a guide to determinations and findings required in specific circumstances.

(a) *Rejection of all bids.* The determination to reject all bids and readvertise, pursuant to section 303(b) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 253), requires a determination and findings signed by the contracting officer. A list of circumstances justifying rejection and cancellation is found in § 1–2.404–1(b) of this title. (See also § 14–3.305–51(c)(14) of this chapter.)

(b) *Award prior to resolution of a protest.* The determination to make award prior to resolution of a protest by the General Accounting Office (GAO) requires advance approval by the Director of Management Services and a determination and findings signed by the contracting officer pursuant to § 14–2.407–8 of this chapter. The determination shall specify those factors which will not permit a delay in award until issuance of a ruling by the GAO.

(c) *Circumstances permitting negotiation.* These circumstances are numbered in the same sequence as section 302(c) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 252(c)), and Subpart 1–3.2 of this title. Subparts 1–3.2 of this title and 14–3.2 of this chapter contain authorizations and limitations which generally are not repeated in this § 14–3.305–51.

(1) National emergency. Covers contracts to assist labor surplus areas, unilateral set-asides for small business concerns and to further the Balance of Payments program. The Secretary has made a blanket determination concerning all such contracts in § 14–3.201(a) of this chapter.

(2) Public exigency. The determination and findings will be signed by the contracting officer. A typical format is contained in Appendix A of this Subpart 14–3.3.

(3) Purchases not in excess of $10,000. A determination and findings is not required.

(4) Personal or professional services. A determination and findings is not required; however, certain contracts for services require advance Departmental approval in accordance with Part 14–55 of this chapter.

(5) Services of educational institutions. A determination and findings is not required.

(6) Purchases outside United States. A determination and findings is not required.

(7) Medicines or medical supplies. The determination and findings will be signed by the contracting officer.

(8) Property purchased for authorized resale. The determination and findings will be signed by the contracting officer.

(9) Subsistence supplies. A determination and findings is not required.

(10) Impracticable to secure competition by formal advertising. The determination and findings will be signed by the contracting officer. (Special requirements pertaining to unsolicited proposals involving noncompetitive procurement are contained in § 14–4.5101–3(f) of this chapter.) A typical format is contained in Appendix B of this Subpart 14–3.3.

(11) Property or services for experimental, developmental, or research work. The determination and findings will be signed by heads of bureaus and offices for contracts not exceeding $25,000. Determinations and findings will be signed by the Assistant Secretary—Management for contracts which exceed $25,000. Determination and findings shall state whether the contract will be for research, development, testing or experimentation; or the making or furnishing of property or supplies for research, development, testing or experimentation; or for a combination of these. The format for a class determination and findings contained in Appendix C of this Subpart 14–3.3 may be modified to state the specific purpose.

(12) Purchases not to be publicly disclosed. The determination and findings will be signed by the Secretary.

(13) Standardization and interchangeability of technical equipment. The determination and findings will be signed by the Secretary.

(14) Negotiation after advertising. The authority to negotiate contained in § 1–3.214 of this title involves two separate circumstances.

(i) The determination and findings may be signed by the contracting officer when it is determined that bid prices after advertising therefor are not reasonable (either as to all or some part of the requirement).

(ii) The determination and findings that bid prices after advertising therefor have not been independently arrived at in open competition will be signed by the head of the bureau or office or his delegate.

(iii) When it is considered desirable, the determination normally made by the contracting officer to reject all bids because the bid prices are unreasonable (see § 14–3.305–51(a) of this chapter) may be combined with the determination and findings under this § 14–3.305–51 (c)(14).

(iv) A recommended format for such determinations and findings is contained in Appendix D of this Subpart 14–3.3.

(15) Otherwise authorized by law. As needed under other law.

(d) *Fixed-price contracts.* Generally, determinations and findings are not required to use fixed-price type contracts except as set forth in this § 14–3.305–51(d).

(1) Fixed-price incentive contracts. Determinations and findings will be signed by the head of the bureau or office or his delegate. Determination requirements are set forth in §§ 1–3.302(b) and 1–3.404–4(c) of this title.

(2) Retroactive price redetermination after completion. A determination and findings is not required; however, such contracts must be approved in writing by the head of the bureau or office prior to execution. (See § 1–3.404–7(c) of this title.)

(e) *Cost-type contracts.* The following determinations and findings are required pursuant to Section 304(b) of the Federal Property and Administrative Services Act of 1949, as amended, (41 U.S.C. 254(b)) prior to entering into cost-type contracts:

(1) Cost reimbursement contracts. The determination and findings will be signed by the head of the bureau or office or his delegate. Determination requirements are set forth in §§ 1–3.302(b) and 1–3.405–1(c) of this title.

(2) Cost-plus-a-fixed-fee contracts and cost-plus-incentive-fee contracts. In addition to the determination and findings set forth in § 14–3.305–51(e)(1), these types of contracts require a determination and findings signed by the head of the bureau or office or his delegate that statutory fee limitations will not be exceeded as set forth in § 1–3.405–5(c) of this title.

(f) *Use of letter contracts.* Letter contracts may be used only upon a determination and findings by the head of a bureau or office that no other type of contract is suitable pursuant to § 1–3.408 of this title. Determinations and findings and related contractual material must be

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submitted to the Assistant Secretary—Management for approval prior to use of a letter contract in accordance with § 14–3.408 of this chapter.

(g) *Other types of contracts.* The use of a time and materials contract or a labor-hour contract pursuant to §§ 1–3.406–1 and 1–3.406–2 of this title requires a determination and findings signed by the contracting officer.

(h) *Waiver of cost or pricing data provisions.* The determination that the price negotiated is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law (see § 1–3.807–3(b) of this title) will be signed by the contracting officer. The determination and findings required to waive the requirements for cost or pricing data and certification thereof pursuant to § 1–3.807–3(b) of this title will be signed by the Assistant Secretary—Management.

(i) *Waiver of audit of proposals.* The determination and findings required to waive the audit of proposals which exceed $100,000 pursuant to § 1–3.809(b) of this title shall be submitted to the Director of Management Services for approval as required by § 14–63.106 of this chapter.

(j) *Rejection of foreign bids.* Rejection of a foreign bid for reasons of the national interest requires a determination and findings signed by the Secretary pursuant to Section 10a of the Buy American Act (41 U.S.C. 10a–d) as implemented by §§ 1–6.103–3 and 1–6.104 of this title. (See §§ 14–6.105 and 14–18.604 of this chapter for excepted commodities.)

(k) *Balance of payments program.* Any determination and findings required for deviations, exceptions, and restrictions pertaining to contracts involving the Balance of Payments Program pursuant to §§ 1–6.803, 1–6.805, and 1–6.806 of this title will be made by the heads of bureaus and offices.

(l) *Waiver of Examination of Records clause.* Omission of the Examination of Records clause in contracts and subcontracts with foreign contracts and subcontractors requires a determination and findings signed by the Assistant Secretary—Management. The required determinations are found in paragraphs (a)(1) and (a)(2) of § 1–6.1001 of this title.

(m) *Advance payments.* (1) The determination, findings, and authorization required to make advance payments pursuant to § 1–30.405 of this title will be signed by the contracting officer after the determination, findings and authorization and the contract provisions relating to advance payments are approved by the Assistant Secretary—Management as set forth in § 14–30.406 of this chapter. (See also §§ 1–30.410 and 1–30.414–2 of this title.)

(2) The class determination and findings contained in § 14–30.410 of this chapter authorizes the making of advance payments to educational institutions for research projects in accordance with FMC 73–7 (formerly OMB Circular No. 101).

(n) *Nonresponsible prospective contractor.* The determination of nonresponsibility of a prospective contractor pursuant to § 1–1.1204–1 of this title will be made by the contracting officer.

Appendix A—Determinations and Findings To Negotiate an Individual Contract Under 41 U.S.C. 252(c)(2)

FINDINGS

1. The [bureau or office] has requirements for the repair or correction of misfabricated transmission tower steel furnished under Contract No. _____ and being erected on line A to B under Contract No. _____. The estimated cost of repairs is $15,000.

2. Immediate completion of line A to B is critical to meet scheduled energization dates and to avoid payment of delay damages under the construction contract's Suspension of Work clause.

3. The use of formal advertising to procure the above described services would require the preparation of detail specifications and drawings. This would unduly delay the construction and operation of line A to B and would render the Government responsible for additional costs of construction.

DETERMINATION

Based upon the foregoing findings, I hereby determine within the meaning of Section 302(c)(2) of Federal Property and Administrative Services Act of 1949, as amended, (41 U.S.C. 252(c)(2)), as implemented by FPR 1–3.202, that the proposed contract is for services for which the public exigency will not permit the delay incident to formal advertising.

Based on the foregoing findings and determination, procurement by negotiation of the work described herein is authorized.

_____
Contracting Officer

_____
Date

Appendix B—Determinations and Findings To Negotiate an Individual Contract Under 41 U.S.C. 252(c)(10)

FINDINGS

1. The [bureau or office] has a requirement for specialized support equipment for the maintenance of its AMCO control operation. The estimated cost of the equipment is $75,000.

2. The equipment to be purchased must be specifically designed for compatibility with the existing AMCO system to assure proper operation of the system.

3. It is impossible to draft for an invitation for bids adequate specifications or any other adequately detailed description of the required specialized equipment.

4. The use of formal advertising to procure the above described equipment would be impracticable. The market has been surveyed and only ABC Company, manufacturer and designer of the AMCO system, was found to have sufficient familiarity with the design and operational characteristics of the basic equipment to furnish the support equipment required.

DETERMINATION

Based on the foregoing findings, I hereby determine within the meaning of section 302(c)(10) of the Federal Property and Administrative Services Act of 1949, as amended, (41 U.S.C. 252(c)(10)), as implemented by FPR 1–3.210, that the proposed contract is for equipment for which it is impracticable to secure competition.

_____
Contracting Officer

_____
Date

Appendix C—Determination and Findings To Negotiate a Class of Cost-Type Contracts for Experimental, Developmental and Research Work Under 41 U.S.C. 252(c)(11), 254, and 257

FINDINGS

1. Under the authorized program of the [Bureau of Office] contracts will be required for research, development, testing and experimentation associated with [conservation of water and development of water resources projects; development of new and more efficient methods of mining, preparing and utilizing coal] in the following program activities:

a. [List specific program activities in appropriate paragraphs]

2. The programs are authorized under [site statutory authority and/or appropriation acts].

3. The contracts contemplated under this authorization relate to theoretical analysis, exploratory studies and experimentation, developmental work and the practical application of investigative findings and theories of a scientific or technical nature; as well as services, tests, evaluations and reports necessary or incidental to experimental, developmental, or research work.

4. The proposed contracts may be entered into with profit or nonprofit organizations that are technically and scientifically qualified in the respective fields and which are prepared to furnish personnel, materials, and supplies necessary to perform the work required.

5. The use of formal advertising would not be feasible nor practical because no reliable specifications exist nor is it possible to properly prepare such specifications that would adequately allow competition on a formally advertised basis.

6. The exact nature and extent of the work covered by the proposed contracts and the precise method of performing that work cannot be established in advance but must be freely subject to improvisation and change as the work progresses. The cost of performing the work cannot be accurately forecast so as to permit the undertaking of such work for a fixed price without inclusion of excessive amounts to cover risk factors.

DETERMINATIONS

Based upon the foregoing findings, I hereby determine within the meaning of section 302(c)(11), 304, and 307 of the Federal Property and Administrative Services Act of 1949, as amended, that:

1. The proposed contracts are for research, development, testing, or experimentation pursuant to the authorized program cited above.

2. The proposed contracts are for research, development, testing, or experimentation within the meaning of section 302(c)(11) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 252(c)(11)).

3. It is impractical to obtain such contemplated research, development, testing, and experimentation efforts by means of formally advertised contracting procedures.

4. In accordance with section 304(a) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 254(a)), the type of contracts contemplated will promote the best interests of the Government.

5. In accordance with section 304(b) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 254(b)), it is impractical to secure property or services of the kind or quality required without the use of cost, cost-plus-fixed fee or incentive type contracts and these methods of contracting are likely to be less costly to the Government than other methods of contracting.

Upon the basis of these findings and determinations, I hereby authorize the negotiation of a class of cost, cost-plus-fixed fee or incentive type contracts for the procurement of the research, development, testing, or experimentation efforts described above pursuant to [cite statutory authorization] and sections 302(c)(11), 304, and 307 of the Federal Property and Administrative Services Act of 1949, as amended [41 U.S.C. 252(c)(11), 254, and 257].

This authorization to enter into a class of contracts: (a) does not foreclose requirements for other findings and determinations that are necessary in connection with procurement by negotiation; and (b) does not authorize the procurement by negotiation of supplies or services within the class which feasibly and practically could be procured through formal advertising.

Negotiated contracts involving construction as a major part of the scope of work shall not be awarded under this determination and findings without review and approval by the Office of the Assistant Secretary—Management.

This class authorization will expire [on June 30, 19--; one year from the date of execution hereof].

Assistant Secretary—
Management

Date

Appendix D—Determination and Findings To Negotiate a Contract After Advertising Under 41 U.S.C. 302(c)(14) and 307

FINDINGS

1. The [procuring activity] solicited bids under IFB No. ------ dated ---------- for [describe and state location or delivery point]. Low bids were received from the following:

[List the bidders and bid amounts of the three lowest responsive bids.]

2. The Government estimate for the work was $------ [The Architect-Engineer estimate was $------].

3. Since the bids received under this solicitation significantly exceeded the cost estimates, there is reason to believe that the bidders which responded did not fully comprehend the scope of the work as defined in the specifications of the IFB.

4. All bids have been rejected and the IFB cancelled, pursuant to sections 303(b) and 307 of the Federal Property and Administrative Services Act of 1949, as amended, after determining it to be in the public interest. [Delete this paragraph when paragraph 1 of Determinations is used.]

5. The requirement for the [product; work; service] continues to exist.

DETERMINATIONS

Based upon the foregoing findings, I hereby determine that:

1. Within the meaning of section 302(b) of the Federal Property and Administrative Services Act of 1949, as amended, and as implemented by FPR 1-2.404-1(b)(5) and FPR 1-3.302(c), the otherwise acceptable bids received are unreasonable as to price and that it is in the public interest to reject all bids; and [Delete this paragraph when paragraph 4 of Findings is used.]

2. Within the meaning of section 302(c)(14) of the Federal Property and Administrative Services Act of 1949, as amended, and as implemented by FPR 1-3.214 and FPR 1-3.301, negotiation of a contract (or contracts) is justified.

Upon the basis of these findings and determinations, I hereby authorize:

1. Rejection of all bids and cancellation of IFB No. ------ [Delete this paragraph when paragraph 4 of the Findings is used.]

2. Negotiation of a contract (or contracts) for procurement of the [product; work; services] described above pursuant to section 302(c)(14) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 252(c)(14)).

Contracting Officer

Date

[FR Doc.74-30119 Filed 12-27-74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19909; FCC 74-1351]

ALASKAN FREQUENCY ASSIGNMENTS

Single Sideband High Frequency Stations

Report and order. In the matter of amendment of Parts 81, 83, 87, 89, 91, 93, and 97 of the Commission's rules to provide a common emergency frequency for use by single sideband high frequency stations licensed under these Parts in the State of Alaska; amendment of Part 2 to provide for such operations in the Table of Frequency Allocations. (RM-2164)

1. In response to the petition for Rule Making filed by the State of Alaska, a notice of proposed rule making in the above-captioned matter was released on January 4, 1974, and published in the FEDERAL REGISTER on January 7, 1974 (39 FR 1280). The dates for filing comments and reply comments thereto have passed.

2. Comments were filed by:

Alaska Aviation Radio, Inc. (AARI)
American Radio Relay League (ARRL)
Central Committee for Communications Facilities of the American Petroleum Institute (API)
Civil Air Patrol (CAP)
Defense Civil Preparedness Agency (DCPA)
North Pacific Marine Radio Council (NPMRC)
State of Alaska, Department of Public Works, Division of Communications (DIVISION)
U.S. Citizens Radio Council (CRC).

Reply comments were filed by:

DIVISION—Associated Public-Safety Communications Officers (APCO)

All of the commentators supported the Commission's proposal for an emergency frequency for the State of Alaska.

3. *Definition of emergency:* ARRL suggested that the emergency be interpreted very broadly since the conditions in Alaska are variable and what constitutes an emergency in sparsely populated areas would not be an emergency in densely populated areas. CAP stated that any station in Alaska should be able to use the emergency frequency. API and APCO suggested that emergency communications be limited to the safety of life and property. Our intent is to make this emergency frequency available to as many stations as possible with minimum operational restrictions. The vast area of the State of Alaska, the unusual and hazardous conditions, and the differences in climate, make a precise definition of emergency impractical and undesirable. Division has proposed to exercise operational control over the network, and can determine where abuses to the system are prevalent. Should abuses occur which degrade the system, remedial action can be taken by the Commission.

4. *Frequencies for emergency:* API has stated that 4383.8 kHz will only provide for short range coverage during daylight hours and does not provide a thoroughly reliable HF emergency communication. API further states that a member has monitored 5167.5 kHz for several years and that experience indicates that this would be a better frequency for an emergency channel than the frequency proposed. DCPA suggested that another frequency between 7,000–8,000 kHz be selected and simultaneous transmission on both frequencies be made for complete coverage. APCO also commented on the need for additional frequencies. ARRL suggested selection of a frequency between 3,500–4,000 kHz, near the high end of the amateur band, in order that amateurs may use existing equipment. The Commission, in this matter, originally addressed itself to providing a single short range frequency for use by individuals under emergency situations. The selection of an HF frequency was made to obtain ground wave propagation where line of sight (VHF) propagation would be inadequate due to geographic obstructions. DIVISION petitioned the Commission to designate a single frequency for this purpose and to make the frequency available to all stations operating in this band, except public correspondence stations, to increase the number of stations monitoring the frequency and thereby improve the probability of the emergency communications being received. We recognized that additional frequencies would be required to provide reliable communications over long distances, however, clearance of a complement of HF frequencies would require an extensive period of time in view of the extreme congestion in the HF band, particularly in the 4–12 MHz portion of the spectrum. We believe that DIVISION will develop an experience factor after operating the emergency network which will assist the Commission in selection and clearance of additional frequencies. We are, therefore, not terminating this proceeding at this time.

5. *Deletion of 4383.8 KHZ from Alaska public fixed stations:* API and CAP did not believe that deletion of this frequency was necessary, provided that the station would cease operation on this frequency when an emergency was in progress. DCPA, APCO and DIVISION believe that it is necessary to delete the frequency. We are not persuaded that deletion of the frequency from the Alaska Public Fixed Service is necessary at this time, in view of our intent to make the frequency available to as many stations as

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possible and have as many stations as possible maintain a watch on the emergency frequency. In this regard it is noted that some Federal Government stations wish to participate in the emergency network and that Federal agencies will cooperate toward making the frequency useful. However, they intend to continue their use of their own assignments on a day-to-day basis. In the event that experience shows that continued use of the frequency for public correspondence derogates the emergency frequency, the Commission will take necessary steps to rectify the situation.

6. *Exclusion of all services requiring the purchase of equipment:* NPMRC has stated that reliable communications intra Alaska are rapidly being developed, and will undoubtedly meet the need for emergency services in the near future. For this reason, any service not presently equipped for use of SSB HF frequencies should be excluded. Participation in the emergency system is purely voluntary. Some stations in these services, Part 83, may have a need for an emergency communications capability and should not be prohibited from participating. Any station not desiring to participate, simply does not purchase the equipment. The entire system is predicated on the premise that a maximum number of stations in all services provide a voluntary monitoring of the emergency frequency for safety of life and property in Alaska.

7. *Exclusion of CB:* CRC stated that the Commission's remarks concerning CB in the Notice of Proposed Rule Making, reflect a bad light on all CB users, whereas much of the rule violations cited in the NPRM were perpetrated by unlicensed users of the citizens service. Citizens Radio Service users have worked hard in emergency communications with such fine groups as ALERT and REACT. For the above reasons, CRC requests the Commission to remove all reference to rule violations by CB and include CB in the emergency service in Alaska. ARRL supported the Commission in deleting CB from the NPRM and stated that any service not authorized SSB HF equipment be deleted. DIVISION reconsidered its inclusion of CB stating as follows: "Recognizing the necessity for network discipline, the State reconsiders the inclusion of the Citizens Radio Service in the emergency network. The feeling is that this service should not be included, as it could jeopardize the success of the network, based on past operating rule violations." The Commission acknowledges the contribution of CB in ALERT and REACT, however, CB is basically an undisciplined service. Past experience at 27 MHz has shown that a large number of persons operate outside of the authorized frequency band in violation of the Commission's rules. A transmitter authorized to operate on 4383.8 kHz would probably be capable of operation on frequencies from 3 to 6 MHz. Unauthorized operation on these frequencies would present a severe interference potential to other authorized stations; therefore, the Commission is not including CB in the Alaska emergency system.

8. *Operator licenses:* ARRL stated that all licensed operators should be permitted to participate and that no special endorsement be required. The Commission does not propose to require any special operator endorsement or license. The license requirements for the particular service will be adequate for operation on the emergency frequency.

9. *Requirement for an operational plan:* DIVISION has submitted an operational plan and proposes to provide State and regional net control of the Alaska emergency frequency to assure receipt and transmission of all traffic deemed to be necessary for the protection of life and property. The operational plan is endorsed by the Commission in its entirety and is included as Attachment I to this Report and Order. The State of Alaska will maintain adequate logs to evaluate the emergency network and determine the need for additional frequencies and either addition or deletion of additional services authorized to use the emergency frequency. This plan makes adequate provisions for monitoring, practice drills and net control and there is no requirement to make specific provisions for these items in the Commission's rules. ARRL, API and CAP have all stated the desirability of establishing net control stations. The operational plan of the State of Alaska includes most of these suggestions and any changes to this plan should be submitted to the State of Alaska for their comments or inclusion in the plan.

10. *Further notice of proposed rule making:* API recommends that the Commission review all comments submitted in response, prepare the appropriate rule amendments and then solicit further comments by a Further Notice of Proposed Rule Making. DIVISION, in their reply comments, believes that the Commission has adequate information to act on the single emergency frequency 4383.8 kHz. The Commission is not persuaded that any benefits would accrue from a Further Notice of Proposed Rule Making. It would be more desirable to initiate operation on a single frequency and observe any additional requirements necessary to satisfy specific operating problems experienced.

11. The State of Alaska will submit a report on the operation of the Alaska Emergency System after a period of one year. In this report, any additional frequency requirements, addition or deletion of stations in any service and any other operational problems will be reported. After analysis of this report, the Commission will issue a Further Notice of Proposed Rule Making or other appropriate Order to improve the system herein adopted or to terminate this proceeding.

12. Accordingly, it is ordered, That, pursuant to the authority contained in section 4(i) and 303 (c), (h), and (r) of the Communications Act of 1934, as amended, Parts 2, 81, 83, 87, 89, 91, 93, and 97 of the Commission's rules are amended effective January 27, 1975, as set forth in the attached Appendix.

Adopted: December 10, 1974.

Released: December 20, 1974.

(Secs. 4, 303, 48 Stat., as amended 1068, 1082; 47 U.S.C. 154, 303)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Parts 2, 81, 83, 87, 89, 91, 93, and 97 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. Section 2.106 is amended by adding a new footnote US 212 as follows:

§ 2.106 Table of Frequency Allocations.

FEDERAL COMMUNICATIONS COMMISSION

Band (kHz)	Service	Class of station	Frequency (kHz)	Nature of services of stations
(7)	[8]	[9]	(10)	(11)
• •	•	•	•	• • • •
4361–4438 (US212).....	Maritime mobile.	Coast.....	4383.8	Coast (telephony) (Alaska emergency frequency).
• •	•	•	•	• • • •

US Footnotes

• • • • • • • •

US212 The use of the carrier frequency 4383.8 kHz (assigned frequency 4386.2 kHz), maximum power 150 watts peak envelope power, may be authorized to non-government stations in the amateur, fixed and mobile services and to Government stations, in the State of Alaska for emergency communications. No airborne operations will be permitted on this frequency. Additionally, all stations operating on this frequency must be located in or within 50 nautical miles of the State of Alaska.

• • • • • • •

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

2. Section 81.304(a) table is amended by adding a condition of use and new paragraph (b)(9) added to read as follows:

§ 81.304 Frequencies available.

(a) • • •

Carrier frequency (kHz)	See section	Conditions of use
•	• •	• • •
4383.8.....	81.107	9, 11, 20, 46, 51, 61
•	• •	• • •

(b) • • •

(9) The frequency 4383.8 kHz, maximum power 150 watts PEP, may be used

by any station authorized under this part to communicate with any other station authorized in the State of Alaska for emergency communications.

• • • • •

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

3. Section 83.351(a) table is amended by adding a condition of use and new paragraph (b)(6) added to read as follows:

§ 83.351 Frequencies available.

(a) • • •

Carrier frequency (kHz)	See section	Conditions of use
•	•	•
4383.8	83.370	6, 15, 17

(b) • • •

(6) The frequency 4383.8 kHz, maximum power 150 watts PEP, may be used by any station authorized under this part, within 50 nautical miles of the State of Alaska, to communicate with any other station authorized in the State of Alaska for emergency communications.

• • • • •

PART 87—AVIATION SERVICES

4. Section 87.297(a) is amended by adding the frequency 4383.8 kHz and a new footnote, as follows:

§ 87.297 Alaska.

(a) • • •

Frequencies available:

kHz	kHz
3411	[2] 4383.8
4668	[1] 4696

[1] Daytime only.

[2] The frequency 4383.8 kHz, maximum power 150 watts PEP, may be used by any station authorized under this part to communicate with any other station authorized in the State of Alaska for emergency communications. No airborne operations will be permitted on this frequency.

• • • • •

PART 89—PUBLIC SAFETY RADIO SERVICE

5. Section 89.101 is amended by designating present paragraph (b) as paragraph (b)(1) and adding a new paragraph (b)(2) as follows:

§ 89.101 Frequencies.

• • • • •

(b) (1) • • •

(2) The frequency 4383.8 kHz, maximum power 150 watts PEP, may be authorized to any station in the Public Safety Radio Services for emergency communications in the State of Alaska. No airborne operations will be permitted on this frequency. Additionally, all stations operating on this frequency must be located in or within 50 nautical miles of the State of Alaska.

• • • • •

6. Section 89.161 is amended by designating the existing paragraph as (a) and adding paragraph (b) as follows:

§ 89.161 Communication with other stations.

(a) In those cases which require cooperation or coordination of activities, stations in the Public Safety Radio Services may communicate with stations in other services and U.S. Government stations.

(b) The frequency 4383.8 kHz may be used by stations in the Public Radio Services to communicate with any station authorized in the State of Alaska for emergency communications. No airborne operations will be permitted on this frequency. Additionally, all stations operating on this frequency must be located in or within 50 nautical miles of the State of Alaska.

PART 91—INDUSTRIAL RADIO SERVICES

7. Section 91.101 is amended by designating the present paragraph as paragraph (a) and adding new subparagraph (b) as follows:

§ 91.101 Frequencies.

(a) • • •

(b) The frequency 4383.8 kHz, maximum power 150 watts PEP, may be authorized to any station in the Industrial Radio Services for emergency communications in the State of Alaska. No airborne operations will be permitted on this frequency. Additionally, all stations operating on this frequency must be located in or within 50 nautical miles of the State of Alaska.

8. Section 91.151 is amended by adding a footnote to § 91.151(a)(1) as follows:

§ 91.151 Permissible communications.

(a) • • •

(1) Any communication related directly to the safety of life or the protection of property[1];

• • • • •

PART 93—LAND TRANSPORTATION RADIO SERVICES

9. Section 93.101 is amended by designating the present paragraph (a) as paragraph (a)(1) and adding a new paragraph (2) as follows:

§ 93.101 Frequencies.

(a) (1) • • •

(2) The frequency 4383.8 kHz, maximum power 150 watts PEP, may be authorized to any station in the Land Transportation Radio Services for emergency communications in the State of Alaska. No airborne operations will be permitted on this frequency. Additionally, all stations operating on this frequency must be located in or within 50 nautical miles of the State of Alaska.

• • • • •

[1] The frequency 4383.8 kHz may be used by any station authorized under this part to communicate with any other station in the State of Alaska for emergency communications. No airborne operations will be permitted on this frequency. Additionally, all stations operating on this frequency must be located in or within 50 nautical miles of the State of Alaska.

10. Section 93.151 is amended by adding a footnote to § 93.151 (a)(1) as follows:

§ 93.151 Permissible communications.

(a) • • •

(1) Any communication relating directly to the safety of life or the protection of important property [1];

• • • • •

PART 97—AMATEUR RADIO SERVICES

11. § 97.61 is amended by adding a new frequency and limitation of use in paragraph (a) and adding new limitation (b)(13) as follows:

§ 97.61 Authorized frequencies and emissions.

(a) • • •

Frequency band	Emissions	Limitations (see paragraph (b))
kHz		
•	•	•
4383.8	A3J/A3A	13
•	•	•

(b) Limitations:

• • • • •

(13) The frequency 4383.8 kHz, maximum power 150 watts, may be used by any station authorized under this part to communicate with any other station authorized in the State of Alaska for emergency communications. No airborne operations will be permitted on this frequency. Additionally, all stations operating on this frequency must be located in or within 50 nautical miles of the State of Alaska.

• • • • •

12. Section 97.107 is amended by adding a footnote to § 97.107(a) as follows:

§ 97.107 Operation in emergencies.

• • • • •

(a) All transmissions within all designated amateur communications bands [1] other than communications relating directly to relief work, emergency service, or the establishment and maintenance of efficient amateur radio networks for the handling of such communications shall be suspended. Incidental calling, answering, testing or working (including casual conversations, remarks or messages) not pertinent to constructive handling of the emergency situation shall be prohibited within these bands.

• • • • •

[1] The frequency 4383.8 kHz may be used by any station authorized under this part to communicate with any other station in the State of Alaska for emergency communications. No airborne operations will be permitted on this frequency. Additionally, all stations operating on this frequency must be located in or within 50 nautical miles of the State of Alaska.

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STATE OF ALASKA
ALASKA DISASTER OFFICE

COMMUNICATIONS PLAN: STATE AND REGIONAL NET CONTROL ALASKA EMERGENCY FREQUENCY 4383.8 KILOHERTZ

I. *Mission.*

To provide for the State and Regional Net Control of the Alaska Emergency Frequency to assure the receipt and transmission of all traffic deemed immediately essential for the safety of life and property; for alleviation of human suffering and hardship and the general welfare of the public.

II. *Situation and assumptions.*

A. There are many remote villages and other communities within the State that are totally dependent on radio communications.

B. These communities rely on radio as the only source of receiving and transmitting emergency traffic.

C. Emergency communications among the various stations licensed to individuals, companies, and governmental agencies are difficult and often impossible due to the previous lack of a common emergency frequency.

D. Communities which have land line facilities for emergency communications often lose those capabilities due to disruptions caused by storms, floods, fires, earthquakes, and other forces of man and nature. These communities require a backup communications system on a frequency which is monitored 24-hours a day.

E. The State of Alaska and other governmental agencies have responsibilities of providing warning information to all communities in Alaska in the event storms, tsunamis, fires, and other threats to life and property occur. This warning information must be transmitted over the most rapid and immediately available commnunications systems that exist.

F. The State of Alaska and other governmental agencies have requirements to respond to emergency requests for assistance and to relay this information to the appropriate agencies for prompt response.

G. Because of these factors, the State has applied to the Federal Communications Commission for a single sideband high frequency of 4383.8 Kilohertz as a common emergency frequency for use by individuals, companies, radio amateurs, and governmental agencies.

III. *Organization and responsibilities.*

A. *State.*—1. *Alaska Disaster Office.* The Alaska Disaster Office headquarters in Anchorage will function as State Net Control. The Alaska Disaster Office will, through cooperation with the State Division of Communications and the Division of Alaska State Troopers, establish regional net control stations; conduct tests of the State and regional net control stations exercise its authority to shut down stations in the event that two or more stations respond simultaneously to an emergency call; and regulate traffic in the event of two or more simultaneous emergency calls.

As with the National and Alaska Warning System, the Alaska Disaster Office will be State Control during normal working hours and transfer State Control to the Alaska State Troopers during non-working hours.

2. *Alaska State Troopers.* The Alaska State Troopers at Anchorage, by agreement, will operate the State Net Control of the Alaska Emergency Frequency during Alaska Disaster Office non-duty hours and regulate any and all emergency traffic.

The Alaska State Troopers will monitor and regulate traffic from the regional net controls at Fairbanks, Nome, Kodiak, and Juneau.

3. *Division of communications.* The Division of Communications will establish the emergency frequency and license the State Control Station in Anchorage and the regional net control stations at Fairbanks, Nome, Kodiak, and Juneau. The Division of Communications will maintain the equipment and antenna systems at these locations and future sites as deemed necessary.

The Division of Communications will establish the Alaska Emergency Frequency in selected State radio systems in the cities and villages throughout the State.

The Division of Communications will provide the State Net Control with information concerning the regional net control stations, call signs, locations and addresses, and operating schedules.

4. *Other stations.* Individuals, including amateur radio operators (but excluding citizens band radio), businesses, industry, and governmental agencies are encouraged to establish the Alaska Emergency Frequency in their single sideband equipment so that they may receive and transmit warning and other emergency traffic to or from a regional on the State Net Control.

IV. *CONCEPT OF OPERATIONS*

A. *STATE NET CONTROL.*—1. *Monitoring.* The Alaska Disaster Office in Anchorage will monitor the Alaska Emergency Frequency during normal hours of operation (8 a.m. to 4:30 p.m. Monday through Friday, excluding weekends and holidays). The Alaska State Troopers will monitor the Alaska Emergency Frequency during Alaska Disaster Office non-working hours.

2. *Tests.* The Alaska Disaster Office will initiate tests of the regional monitor stations to assure operational readiness of the Statewide system and for disseminating information to monitoring systems and the public.

3. *Authority to shut down stations.* The Alaska Disaster Office/Alaska State Troopers will exercise their authority as State Net Control to shut down stations in the event two or more stations respond simultaneously to an emergency call to assure the message is delivered to the net control station nearest the originating call.

4. *Regulation of traffic.* The Alaska Disaster Office/Alaska State Troopers, as State Net Control, will regulate the traffic over the Alaska Emergency Frequency in the event two or more stations transmit simultaneous emergency calls by assigning a priority according to the urgency of the calls.

5. *Warning.* The Alaska Disaster Office/Alaska State Troopers will utilize the Alaska Emergency Frequency for warning to communities, governmental agencies, and the public in the event of threats to life and property. These threats include, but are not limited to, storms, tsunami watch and warning, floods, fires, and other factors that could affect the safety and well-being of Alaskan residents.

6. *Receipt of Emergency Calls.* The Alaska Disaster Office/Alaska State Troopers will relay emergency calls and traffic to the appropriate agency responsible for handling the particular assistance requested in accordance to existing emergency plans and authorities.

7. *Records.* The Alaska Disaster Office/Alaska State Troopers will maintain a record/log, including time and date, of all incoming and outgoing calls. All requests for assistance will contain a brief insert as to the action taken.

B. *REGIONAL NET CONTROLS*—1. *Monitoring.* The regional net control stations will monitor the Alaska Emergency Frequency 24-hours a day.

2. *Tests.* The regional net control stations will respond to State Control tests, and so far as practicable, conduct regional tests within their region with others who have the emergency frequency.

3. *Authority to shut down stations.* The regional net control stations have the authority to shut down other stations operating on the Alaska Emergency Frequency in the event traffic within their area interferes with the receipt or dissemination of emergency information.

4. *Regulation of traffic.* The regional net control stations will regulate traffic within their area in the event two or more stations transmit simultaneous emergency calls by assigning a priority according to the urgency of the calls.

5. *Warning.* The regional net controls will utilize the Alaska Emergency Frequency for the receipt and transmission of warning information that poses a threat to life and/or property.

6. *Receipt of emergency calls.* The regional net control stations will relay emergency calls and traffic to the appropriate agency responsible for handling the type of emergency assistance requested in accordance with existing emergency plans and authorities.

7. *Records.* The regional net control stations will maintain a record/log, including time and date, of all calls received and transmitted. A brief notation of the action taken will be included on requests for assistance.

[FR Doc.74-30074 Filed 12-27-74;8:45 am]

[Docket No. 20020]

PART 76—CABLE TELEVISION SERVICES

Line Extension Provisions in Franchises

1. On April 15, 1974, the Commission adopted its clarification of rules and notice of proposed rulemaking, FCC 74-384, 46 FCC 2d 175 (1974), in which we proposed, among other things, to clarify certain references in section 76.31 (a) (1) and (2) of the Rules. Specifically, we were concerned with the "* * * adequacy and feasibility of * * * construction arrangements" and the requirement that the cable operator must "* * * equitably and reasonably extend energized trunk cable * * *." We stated that ideally the entire franchise area should be wired. However, we acknowledged that this goal is not always reasonably attainable and that, as a result, many franchises contain "line extension" clauses or other provisions limiting the area in which the system operator is required to provide service. As stated in the Clarification, supra at paragraph 63, our experience has revealed that:

> [I]n many cases line extension policies were set without any consultation with the citizens involved, and at least a few instances have been found where even the franchising authority did not fully comprehend the effect of its actions.

Also, the Commission has received numerous complaints from persons affected by line extension policies who request Commission relief. Therefore, we adopted, as part of the Clarification, a notice of proposed rulemaking in Docket No. 20020, proposing that § 76.31(a) (1) and (2) be amended to require a showing that any line extension policy was developed knowledgeably and publicly. In so doing, we stated that unique problems were involved in determining an appropriate approach to the question of cable system construction requirements. Therefore, we recognized that local involvement was essential and that, "* * * it would be a mistake to attempt to specify a nation-wide rule on this point. Indeed, it might be very difficult to create any such rule even on a state by state level." Delineation of the franchise area has been a matter of local, rather

than federal, control. The purpose of this proceeding is to reassert our position in this regard and to make franchising authorities explicitly aware of their responsibility to knowledgeably and publicly determine the appropriate franchise area.[1]

2. We are now in receipt of comments and replies from a number of parties, which can be classified generally into the following groups: the cable television industry, the broadcast industry, municipalities, regulatory commissions, and public interest organizations. Comments between and within groups varied as to the amount and type of federal and local control to be asserted. However, a majority of the parties expressed agreement with our position that there should be primarily local control over line extension policy.

3. The cable television industry's comments generally favored a position that allows local franchising authorities to determine whether a line extension policy is necessary. Most comments acknowledged that familiarity with unique local conditions is essential to a well-reasoned policy. Granville Cablevision and Emco CATV stated that the subject of this proceeding presents a national problem but that a uniform policy would be disastrous. While many parties were willing to leave factors to be considered to the franchising authority, several parties advocated adoption of a federal "bottom line" standard to gauge the reasonableness of local policies. The primary concern in this regard was that a policy be fully compensatory to the system on an individual area basis. These standards would be applicable to systems already in operation. New systems, of course, would be required to comply with the guidelines in the franchising process. Buckeye Cablevision et al. explained that the cable system should recover return cost plus a reasonable profit for all areas served. In reply comments, TM Communications maintained that the relevant factors to be considered are costs vs. revenues derived, rather than other criteria such as density formulas based on homes per square mile. In this connection, several parties contended that development of a line extension policy is closely related to subscriber rates, and thus best considered by the franchising authority which also deals with that subject. The cable industry comments uniformly endorsed a position that the Commission not adopt a policy imposing specific public notification guidelines on franchising authorities. A group of 82 cable television companies emphasized that local authorities' experience in promulgating public notice requirements for zoning, public works, and highway improvement projects makes them eminently qualified to determine a suitable notice requirement for their constituency. The National Cable Television Association maintained that the Commission should only require an assurance from the franchising authority and the cable company that the public and those citizens affected were adequately informed of the policy before it was adopted. Following this position, several parties suggested that § 76.31(a) be amended to require that any construction arrangements and line extension policy be adopted "knowledgeably and publicly."

4. The majority of municipalities commenting opposed the establishment of a federal standard for line extension policies. They asserted that localities are best suited to determine whether an entire francise area should be constructed, and if not, what criteria should be considered in promulgating a line extension policy. A uniform policy, the City of Eugene, Oregon maintained, would be contrary to the spirit of the current cable television rules of experimentation, would prohibit cities with experience in this area from developing their own policy, and could be based on inaccurate assumptions. The City of Dallas, Texas argued that not only should there be no federal standard, but also there should be no Commission requirement for inclusion or exclusion of a line extension policy in a franchise. On the other hand, a small number of municipalities urged Commission adoption of their own line extension policies. The City of Knoxville, Tennessee requires that,

> • • • the franchisee construct and operate a system to provide service to all parts of the city having a density of at least fifty (50) residential dwelling units per mile. At his option the franchisee may wire areas with a lesser density. Whenever the franchisee receives a request for service from at least ten (10) subscribers within fifteen hundred (1500) feet of its system he shall extend his system to them at no cost other than his usual connection fee. The 1500 feet is measured along the public way or easement and does not include the necessary service drop to the subscriber's residence.

For semi-rural, suburban areas, the City of San Diego, California directed attention to California's line extension rules for electric utilities. Several municipalities, as well as the National League of Cities, agreed that the Commission's ideal of cable service to the entire franchise area should be achieved whenever possible. The City of Burbank, California suggested that a franchisee is adhering to this goal if he has a long range plan to serve as much of the franchise area as possible and his present activities have been adopted in a public proceeding. Many of the commenting municipalities contended that the present "full public proceeding" requirement of § 76.31(a)(1) of the rules is sufficient to assure that all interested parties are given the opportunity to participate in the formulation of any construction arrangements and line extension policies. Several parties, including the Metropolitan Council of Governments, the City of Los Angeles, and the City of New York, stated that the addition of specific Commission requirements for public notification would duplicate and even conflict with existing local or state provisions for due process. To require specific notice to parties affected by a line extension policy is preferential and may violate due process considerations, the National League of Cities warned. The League of Wisconsin Municipalities suggested that the Commission recognize state statutes embodying due process requirements. While these parties opposed implementation of additional public notice criteria, several municipalities advocated that the Commission require assurances in the certificating process that any line extension policy was adopted knowledgeably and publicly.

5. The New York State Commission on Cable Television argued that federal requirements for construction and line extension policies should not be imposed. Formulation of this policy should be left to the franchising authority in the first instance. However, the New York Commission maintained that it is opposed to any rule which would preclude exercise of its authority to impose requirements over line extension policy development. It claimed that it could take into account differing local situations and play a constructive role in resolving disputes. The New York Commission agreed that local governments should be subject to procedural safeguards as alluded to in this proceeding. However, the State Commission did not suggest that specific criteria be imposed by this Commission, but rather maintained that assurances would be sufficient. Several parties expressed agreement with the Federal/State-Local Advisory Committee Report discussion of Issue 14 that in the great majority of cities, the uneconomic area of the community is sufficiently small to allow its inclusion in the service area and to be served at uniform rates. When the entire area cannot be served, the policy should be determined in an informed and fair manner. When the variation in costs is too substantial to justify an "averaging in" approach, the parties suggested that a line extension policy be developed. The Cable Television Rates and Service Committee of the Texas Utility Advisory Council agreed with the Commission that promulgation of any necessary line extension policy should be left to the municipality, provided that adequate public notification procedures are followed.

6. The only comments received from the broadcast industry were from the National Association of Educational Broadcasters. This Association recognized that the ideal of service to the entire franchise area is not always possible, and suggested that the Rules be amended to require assurances from the franchisee and franchisor that adequate public notice is given of the policy before adoption and the proceeding include participation by representatives from the affected area. The Association expressed the hope that Commission guidelines in this area would lead to more specific criteria and a "national grid system." The National News-

[1] We take this opportunity to emphasize that the franchise requires cable systems to accomplish significant construction within one year of the issuance of the certificate of compliance, and that thereafter, cable service be made available to a substantial percentage of the franchise area each year. We consider as reasonable a clause requiring that cable service be extended to 20 percent of the franchise area annually.

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paper Association filed comments urging the establishment of Commission standards to insure adequate notification of governments' line extension policies. These requirements should provide for newspaper public notices, including maps delineating the areas to be served.[3]

7. Commenting public interest groups unanimously expressed the opinion that either federal or state guidelines or procedures should be imposed to govern line extension policy adoption. While the Civil Liberties Union of Alabama suggested specific Commission criteria, the National Citizens Committee for Broadcasting advocated only federal guidelines. The Philadelphia Community Cable Coalition supported regional franchising and state-wide planning for cable development. Several parties stressed the importance of system interconnection capabilities, especially in the case of multiple franchises. Continued concern was expressed for insurance of service to the center city. The Philadelphia Coalition urged the Commission to establish guidelines for permissible rate charges based on line extension policies, and suggested that profitable, existing systems be required to extend service to outlying areas at normal rates. The public interest groups recommended adoption of a public notice requirement, and many suggested that more stringent criteria than those proposed be adopted. The National Black Media Coalition maintained that each person affected by a proposal be sent a certified letter regarding the public proceeding.

8. The Cable Television Information Center found value in the instant proceeding's objective of delineating the cable operators' and franchising authorities' roles in promulgating line extension policies. However, CTIC suggested that confusion results from use of the phrase "equitably and reasonably extend energized trunk cable" in § 76.31(a)(2). It recommends the substitution of the phrase "make cable service available." Although it has a recommended approach for franchising authorities to follow in making delineations, CTIC does not recommend that the Commission adopt its guidelines.

9. An important underlying purpose of this proceeding was to highlight for franchising authorities the importance of a well-conceived cable line extension policy and to impress upon them that their decision in this regard is a very crucial one. It is for this reason that the question of construction arrangements must be fully explored in the franchising process. The implications of the decisions reached by the municipalities are far-reaching, as evidenced by the substantial number of public inquiries and complaints received by the Commission on this subject. Substantively, we are concerned that the ideal of service to the entire franchise area has been fully considered by the franchising authority. If such an arrangement has been found to be feasible, it should be provided for in the franchise. If extension of service to the entire area has been found to be impractical by rational, logical standards, a line extension policy should then be established. The various comments have illustrated that local conditions and needs very substantially and we note that several approaches have been implemented depending on those factors. For example, some cities grant multiple franchises to different franchisees for discrete sections of the franchise area to accomplish the result of complete coverage of the area. Other municipalities find it necessary to adopt line extension policies. Such delineations of the area to be served are based on some stated formula. These policies also take economic factors into consideration. Cable systems may be required to serve areas which overall are capable of maintaining the system's economic viability, may be subject to line extension requirements to serve only areas which can be reasonably expected to be viable, or may be required to serve outlying areas but with authorization charge subscribers the additional costs involved in extension of service. These various approaches seem to be adequate and they exemplify how different solutions to the problem of service are necessary depending on the local circumstances. To attempt to prescribe a federal standard that would encompass all of these factors would be impossible. Likewise, we do not find a present need to issue specific Commission guidelines in this regard. While concern was expressed that local franchising authorities may not possess or acquire the necessary expertise in this area to adopt an appropriate line extension policy, we have confidence that they will be assisted by a knowledgeable public and the forces of the market place. In addition, localities are at liberty to seek advice from a wealth of outside sources, including this Commission.

10. Procedurally, we wish to assure that the franchising authority has given the citizens of the entire area, particularly those directly affected by the policy considered, an opportunity to participate in the decision-making process. This, of course, requires that citizens be given adequate public notification. We note that several parties have advocated specific Commission requirements in this regard, while others recommended that the method of notification be left to the franchising authorities. Still others felt that the present Commission due process requirements in § 76.31(a)(1) were sufficient. We agree with those advocating a posture leaving the specifics of notice requirements to the franchising authorities. In so doing, we recognize that municipalities have existing procedures for insuring public participation in other areas of local concern. We would suggest that like procedures may be appropriate in this instance. Again, however, this is a matter for the franchising authority to decide. It should be noted that, while we are not here requiring a specific type of notification relating to line extension, in a separate rulemaking (Docket No. 20018) we are looking into the necessity for general requirements relating to public notice of the entire franchising process. Nevertheless, we are adopting a minor amendment of § 76.31(a)(2) to insure that the public is specifically notified of and given the opportunity to participate in public proceedings developing line extension policies. This amendment will be applicable to those franchises granted or renewed subsequent to the effective date of this rule change.

11. In addition, we find merit in the suggestion that the requirement in § 76.31(a)(2) of the rules for extension of energized trunk cable "equitably and reasonably" be changed to provide that cable service be made available. This recommendation will be incorporated in our amendment.

12. Since we deem the issue of construction arrangements and service to the franchise area to be crucial, this subject is expected to be fully considered in the franchising process. Any alteration in an existing franchise, reducing the service area, would constitute a significant amendment to the franchise area which, in turn, would require a new certificate of compliance or the first-time filing for such a certificate (if a pre-March 31, 1972 franchise is involved). Therefore, compliance with the requirements contained in this amendment will be considered by the Commission in the normal certificating process, as prescribed in § 76.31(a) of the rules. We will require assurances that the public was informed of any possible exclusions or conditional wiring provisions before their adoption and was permitted to participate in the proceedings.

13. The Commission discussed several problems with regard to cable service in unincorporated areas of a county in paragraphs 65 and 66 of the Clarification, supra. The question of line extension becomes most acute in unincorporated areas surrounding a municipality. Oftentimes, it is logical for the cable system serving the city to extend its service to these outlying areas. In fact, many times these areas can only be served practically by the cable system operating in the city. In such instances, the county or other franchising authority may not find it necessary to conduct a complete county franchise proceeding to permit an existing cable system to extend service to the areas in question. In many such instances the existing cable operator is practically and economically the sole source from which service can be obtained. And its obligations to the public and to subscribers as well as its qualifications to operate have already been passed on when it was franchised by the municipality. In such instances where county authorization is required for line extension to small areas immediately contiguous to a municipality and the existing operator is the only feasible source of service, we see no need for the county to conduct a full franchise proceeding of the type our rules would otherwise require. It should be sufficient in the certification process for the county

[3] The Newspaper Association cited the State and Local Fiscal Assistance Act of 1972, Pub. L. 92-512, 92nd Cong., 2d Sess., and the implementing regulations, 31 CFR § 51.13(a), as precedent for such a requirement.

franchise authority to assure us that the line extension involved has its approval. Such approval should include a specific indication of the area to be served.

14. Our amendment will require that the adoption of any policy requiring less than complete service to the franchise area be adopted only after full public proceedings, which includes notice of consideration of such a policy. This amendment is being promulgated to assure adequate consideration in the franchising process of the vital question of service to the franchise area. We are not, however, prescribing a specific Commission standard to be followed in every instance. Rather, the criteria considered and the type of public notification procedures followed will continue to be left to the franchising authority. As stated earlier, an important purpose of this proceeding was to highlight the importance of decisions being made on line extension policies. We feel that the amendment we are adopting today accomplishes that result.

15. The amendment adopted will be applicable only to franchises granted after August 1, 1975. We have chosen this date to allow sufficient time for local authorities to become aware of the amendment, and with a view toward using it in connection with any other rule changes that may result from the other pending proceedings relating to the Clarification, supra.

Authority for the rule amendment adopted herein is contained in sections 2, 4 (i) and (j), 303, 307, 308, and 309 of the Communications Act of 1934, as amended.

Accordingly, *it is ordered*, That effective August 1, 1975, Part 76 of the Commission's Rules and Regulations is amended as set forth below.

It is further ordered, That this proceeding is terminated.

Adopted: December 17, 1974.

Released: December 20, 1974

Secs. 2, 4, 303, 307, 308, 309, 48 Stat. as amended, 1064, 1066, 1082, 1083, 47 U.S.C. 152, 154, 303, 307, 308, 309.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 76.31(a), subparagraph (2) is amended to read as follows:

§ 76.31 Franchise standards.

(a) • • •

(2) The franchisee shall accomplish significant construction within one (1) year after receiving Commission certification, and shall thereafter reasonably make cable service available to a substantial percentage of its franchise area each year, such percentage to be determined by the franchising authority; *Provided, however*, That where a franchise contains a policy of construction requiring less than complete wiring of the franchise area, such policy shall be adopted only after a full public proceeding (as contemplated by paragraph (a) (1) of this section) which includes specific notice of the consideration of such a policy.

NOTE: The proviso to this paragraph is applicable only to franchises granted after August 1, 1975.

[FR Doc.74-30311 Filed 12-27-74;8:45 am]

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-106; Amdt. No. 173-81]

PART 173—SHIPPERS

Fire Extinguishers

On May 15, 1974, the Hazardous Materials Regulations Board ("The Board") published Amendment No. 173-81 under Docket HM-106 (39 FR 17313). One portion of the amendment pertained to the construction of fire extinguishers under a provision for partial exemption from the regulations found in § 173.306(c). The amendment becomes effective on January 31, 1975.

Two petitions have been received by the Board, both containing requests that a one-year extension of effective date be granted to deplete existing stocks of rods, slugs, and partially completed fire extinguishers. The petitioners stated that a combined total of 709,882 pounds of aluminum in various stages of processing could not produce cylinders having a burst pressure of six times the charged pressure at 70° F., and would have to be scrapped in order to comply with the amended regulation. They also state they are presently shipping fire extinguishers that are manufactured in accordance with the regulations in effect at this time. The Board has carefully considered the petitions and has decided that a grant of additional time to achieve compliance with the burst pressure requirements is warranted. Also, the Board has reconsidered the amendment in its entirety and is making certain changes to clarify its application and to simplify the marking requirements.

Paragraph (c) (4) of the amendment is being revised to make it clear that the "six times burst" requirement does not apply to fire extinguishers manufactured before January 1, 1976.

Paragraph (c) (6) is being revised to remove the words "filled and shipped" since they are unnecessary to establish the Department's jurisdiction. The words "Meets DOT requirements" are being substituted for the words "This extinguisher meets all requirements of 49 CFR 173.306(c)" to simplify the marking requirements. Added is a sentence explaining the meaning of the revised marking when it is placed on a fire extinguisher by its manufacturer. Added also is a requirement that the year of original test be displayed on each fire extinguisher. This marking will establish whether an extinguisher was manufactured in accordance with the existing regulations or the amended regulations. For this reason, the Board has decided to grant an extension of the effective date of the burst pressure requirement to January 1, 1976 rather than the full year requested by the petitioners. A note is being added to permit continued use of the markings prescribed in the original amendment until January 1, 1976.

In consideration of the foregoing, a portion of Amendment No. 173-81 in Docket No. HM-106 is revised as follows:

In § 173.306, paragraphs (c) (4) and (c) (6) are revised and a note is added following paragraph (c) (6) to read as follows:

§ 173.306 Exemptions from compliance with regulations for shipping compressed gas.

• • • • • •

(c) • • •

(4) Each fire extinguisher manufactured on and after January 1, 1976, must be designed and fabricated with a burst pressure of not less than six times its charged pressure at 70° F. when shipped.

• • • • • •

(6) Each fire extinguisher must be marked to indicate the year of its original test and "MEETS DOT REQUIREMENTS." This marking will be considered a certification that the fire extinguisher was manufactured in accordance with the requirements of this section.

NOTE: The words "This extinguisher meets all requirements of 49 CFR 173.306(c)" may be displayed in place of "MEETS DOT REQUIREMENTS" on extinguishers manufactured prior to January 1, 1976.

Amendment 173-81 in Docket No. HM-106, including the revisions contained herein, is effective on January 31, 1975. However immediate compliance is authorized.

AUTHORITY: Transportation of Explosives Act (18 U.S.C. 831-835) section 6 of the Department of Transportation Act (49 U.S.C. 1655) Title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430, 1472(h), and 1655(c)).

Issued in Washington, D.C. on December 20, 1974.

C. R. MELUGIN, Jr.,
Board Member, for the Federal Aviation Administration.

ROBERT A. KAYE,
Board Member, for the Federal Highway Administration.

MAC. E. ROGERS,
Board Member, for the Federal Railroad Administration.

W. M. BENKERT,
Board Member, for the United States Coast Guard.

[FR Doc.74-30288 Filed 12-27-74;8:45 am]

[Docket No. HM-121; Amdt. 178-38]

PART 178—SHIPPING CONTAINER SPECIFICATIONS

I-Bars on Steel Drums

On October 11, 1974, the Hazardous Materials Regulations Board published a

notice of proposed rulemaking, Docket No. HM–121; Notice No. 74–12 (39 FR 36596), which proposed numerous miscellaneous amendments. Comments on one group of proposed changes concerning I-bars on steel drums were requested by November 12, 1974. Comments on all other proposed changes were requested by January 21, 1975. These amendments concern only those proposed changes to the regulations concerning the size of I-bars on steel drums. Two comments were received. Both comments agreed with the proposals and urged their adoption.

In consideration of the foregoing, 49 CFR Part 178 is amended as follows:

§§ 178.81–7, 178.83–7, 178.84–7, 178.87–7, 178.88–6, 178.90–6, 178.91–7, 178.97–5, 178.98–5, and 178.99–5 [Amended]

(A) In the following sections under the columns entitled "Rolling hoops" and "Size (gauge or inch)," the dimension "1 1½" is revised to read "¾ x 1¼." wherever it appears:

§ 178.107–6 [Amended]

(B) In § 178.107–6(a), in the third column of the table, the dimension "1 x 1½" is revised to read "¾ x 1¼."

§ 178.108–6 [Amended]

(C) In § 178.108–6(a), in the fourth column of the table, the dimension "1 x 1½" is revised to read "¾ x 1¼."

§ 178.109–6 [Amended]

(D) In § 178.109–6(a), in the third column of the table, the dimension "1 x 1½" is revised to read "¾ x 1¼."

This Amendment is effective March 31, 1975. However, immediate compliance with the regulations, as amended herein, is authorized.

(Transportation of Explosives Act (18 U.S.C. 831–835); sec. 6, Department of Transportation Act (49 U.S.C. 1655); Title VI; sec. 902 (h), Federal Aviation Act of 1958 (49 U.S.C. 1421–1430, 1472(h), and 1655(c)).)

Issued in Washington, D.C. on December 23, 1974.

R. P. SKULLY,
Board/member,
Federal Aviation Administration.
KENNETH L. PIERSON,
Alternate Board Member,
Federal Highway Administration.
MAC E. ROGERS,
Board Member,
Federal Railroad Administration.
W. M. BENKERT,
Rear Admiral,
Board Member, Coast Guard.

[FR Doc.74-30368 Filed 12-27-74;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 17—ENDANGERED AND THREATENED WILDLIFE

Miscellaneous Amendments

By notice of proposed rulemaking published in the FEDERAL REGISTER on April 1, 1974 (39 FR 11903–11904), notice was given to amend the Code of Federal Regulations, Title 50, Part 17—*Endangered Wildlife*, by adding three species of kangaroo—Red (*Megaleia rufa*), Eastern Gray (*Macropus giganteus*), and Western Gray (*Macropus fuliginosus*)—to the list of endangered fauna, pursuant to the authority contained in the Endangered Species Act of 1973 (87 Stat. 884).

During the ensuing 60-day comment period and since then, the U.S. Fish and Wildlife Service continued to seek and to examine additional information concerning the status of the three species of kangaroo in question. Interested persons were invited to submit written comments, suggestions, support data, views, or arguments concerning this proposed amendment to the Director, U.S. Fish and Wildlife Service, Washington, D.C. 20240, prior to June 4, 1974. Two biologists of the U.S. Fish and Wildlife Service spent five weeks in Australia gathering information and data from Federal and State officials there, and from graziers, private businessmen, and conservationists. The office of Endangered Species (U.S. Fish and Wildlife Service) has had the task of reviewing and evaluating all the information obtained during the interim period. Other priorities have delayed the final decision and publication of this rulemaking, but the delay in no way has affected the status of the three kangaroo, because the Australian government has continued to maintain a strict ban on the exportation of these animals. The most stringent prohibition that the United States could invoke would be to ban their importation into this country.

A thorough review of all information obtained relative to the status of the three kangaroo species in question (Red, Eastern Gray, and Western Gray), and to the threats on their continued existence, indicates that none presently can be considered in danger of extinction. Hence, none qualifies for classification as "Endangered" within the meaning of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543). Section 4(a) of that act includes the following statement:

The Secretary shall by regulation determine whether any species is an endangered species or threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence.

Evidence on hand at the time of the proposed rulemaking (April 1, 1974) suggested that Factors (1), (2), (4), and (5) were pertinent, and the discussion outlined some specific problems. In light of the more detailed knowledge now available, a further discussion is desirable to qualify the statements made at that time with regard to each of the four factors.

FACTOR (1) PRESENT OR THREATENED DESTRUCTION, MODIFICATION, OR CURTAILMENT OF HABITAT OR RANGE

The three problems identified in the proposed rulemaking for loss of kangaroo habitat in Australia are indeed present and are cause for concern. However, these losses, while substantial in total acreage, are small relative to the total kangaroo habitat and range. Greatest concern for habitat loss is evident for the Western Gray (*Macropus fuliginosus*) due to ever increasing expansion of agricultural interests in Western Australia. Although this loss poses a threat to the species and may result in its endangerment, it does not imply extinction within the foreseeable future. The various State governments are well aware of the habitat destruction and change that is taking place in parts of Australia and are taking steps to control the degradation occurring.

FACTOR (2) OVERUTILIZATION FOR COMMERCIAL, SPORTING, SCIENTIFIC, OR EDUCATIONAL PURPOSES

Once again the statements made in the proposed rulemaking are valid ones, yet there is no evidence to suggest "overutilization" on a species population basis nationwide. The combined effects of drought and commercial harvest reduced kangaroo populations to low levels in some regions during the late 1960's, but the wet conditions prevailing during the past three years have benefited the kangaroo. The animal is considered a pest by many graziers.

A few would prefer not having any kangaroo on their stations, yet most recognize the animal as a part of their country's heritage and have no desire to cause the animal's extinction. There seems to be an ever increasing number of graziers prohibiting all but controlled hunting of kangaroo on their properties. All States now have established quotas on the annual harvest of kangaroo (Queensland is about to do so). Western Australia intends to remove the Red Kangaroo from its "vermin" classification. The trend throughout Australia is for better regulation of kangaroo harvests. Nevertheless, species such as kangaroo, which have high commercial value and which have been and are being exploited heavily, must be regarded as species that are apt to become endangered unless adequate controls exist. Such species should be considered "Threatened" species as defined by the Endangered Species Act of 1973.

FACTOR (4) INADEQUACY OF EXISTING REGULATORY MECHANISMS

There remain many deficiencies in the gathering of population data that would be desirable for the setting of better control regulations, as is the case with many of the exploited animals throughout the world. The difficulties and expense of gathering such data, however, are well known to biologists and wildlife managers, and no management agency can do more than its best under existing restrictions on money and personnel to gather the information needed. All of the States have the necessary regulatory

power to adequately control the harvest of kangaroo; all have competent resource managers and biologists who are attempting to obtain the data needed for proper management; and none wishes to see any of the kangaroo exterminated. Regulations and management policy concerning kangaroo are not uniform between the States; many of the differences simply reflect different attitudes and environmental conditions; nevertheless, nationwide coordination is necessary. The current lack of coordination will not result in the extinction of the species within the foreseeable future, but does pose a threat that could lead to endangerment if not corrected.

FACTOR (5) OTHER NATURAL OR MANMADE FACTORS AFFECTING ITS CONTINUED EXISTENCE

All five problems mentioned in the proposed rulemaking exist, yet not to the extent of causing the three kangaroo to become extinct within the foreseeable future. There are valid indications that the kangaroo-hide industry will expand in future years, given the opportunity. Such commercial exploitation need not be detrimental, provided adequate controls exist; there is reason to believe that Australia is developing such controls. Preserves for sustaining kangaroo populations are lacking in number, but additional ones are being gazetted each year. Also, while not specifically classed as "preserves," there is substantial acreage in each State where hunting is prohibited or strictly controlled. Admittedly, law enforcement efforts are difficult because of funding and staffing lacks; and this problem, if uncorrected, poses a threat to the kangaroo that might lead to their endangerment.

Supporting evidence for the above statements is on file with the Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. Interested persons are invited to examine and discuss this information at the Office if they desire.

It is hereby determined that the three kangaroo in question are not "Endangered" at present, within the meaning of the Endangered Species Act of 1973. Because of the heavy commercial exploitation and harvest of these kangaroo, however, in conjunction with potentially inadequate export controls, difficult enforcement problems, and the expressed concern of the Australian government, there is ample justification for classifying the three animals as "Threatened." Additionally, all of the factors discussed earlier are pertinent and in consort do represent "threats" to the maintenance of these species as viable components of their ecosystems. Current efforts by the Federal government in Australia and by each of the State governments there, however, emphasize the desire to assure adequate protection for the three kangaroo in future years. In view of the expressed concern of the Australian government regarding kangaroo management and harvest in that country, as reflected by its total ban at present on kangaroo exports and its intent to add the three species in question to Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Secretary of the Interior supports the Australian government in its present stand.

Accordingly, it is hereby determined that the Red (*Megaleia rufa*), Eastern Gray (*Macropus giganteus*), and Western Gray (*Macropus fuliginosus*) kangaroo are "Threatened" species. The following regulations are deemed necessary and advisable for the protection of these species.

The regulations in Part 17, Title 50, Code of Federal Regulations, presently are being revised. A proposed rulemaking will be retitled "Endangered and Threatened Wildlife" and the designation of threatened species and the promulgation of rules applying to such species will be placed in a new "Subpart D."

Accordingly, Part 17 of Title 50, Code of Federal Regulations, Chapter I, is amended as set forth below:

Effective: January 29, 1975.

Dated: December 16, 1974.

LYNN A. GREENWALT,
Director,
U.S. Fish and Wildlife Service.

1. Part 17 of subchapter B of 50 CFR, Chapter I, is retitled as set forth above.

2. In the Table of sections, a new subpart D consisting of §§ 17.31 and 17.32 are added to read:

Subpart D—Threatened Wildlife

Sec.
17.31 General.
17.32 Threatened wildlife list.

3. Sections 17.31 and 17.32 read as follows:

§ 17.31 General.

(a) This subpart contains the list of species determined to be "threatened" pursuant to section 4 of the Endangered Species Act of 1973.

(b) The prohibitions which apply to each listed species or related group of species are shown immediately below the entry to which they apply.

(c) In the "Threatened Wildlife" list of § 17.32, the "Scientific Name" constitutes the official identification of the species. The "Common Name" identifies the species by the English language names currently in common usage. Common names can vary greatly in local usage, and therefore they are provided for convenience only, but do not provide official identification of the species.

(d) In the "Threatened Wildlife" list of § 17.32, the column "Portion of range where threatened" designates the geographic area within which the species in question actually is determined to be threatened. The identified prohibitions apply only to wildlife of that species which live or occur in the designated geographic area, or which originated there. The "Range" column is shown for reference only, and indicates the present general distribution of the species. Example:

Common name	Scientific name	Range	Portion of range where threatened
XYZ Parrot	*Xyzus xyzus*	South America	Colombia.

This means that although the XYZ parrot occurs throughout South America, it has been determined to be threatened only in Colombia. Elsewhere in its range the parrot might be listed as endangered or perhaps not be listed at all. In the latter case, the prohibitions would apply only to XYZ birds occurring or originating in Colombia.

(e) The listing of a particular taxonomic group includes all lower taxonomic groups. Example:

(1) If the genus *Felis* was listed, all species, subspecies, races, and populations of that genus are considered to be listed.

(2) If the species *Felis concolor* was listed, all subspecies, races, and populations of that species are considered to be listed.

§ 17.32 Threatened Wildlife List.

Common name	Scientific name	Range	Portion of range where threatened
(a) Mammals:			
(1) Red Kangaroo.	*Megaleia rufa.*	Australia	Entire range.
(2) Eastern Gray Kangaroo.	*Macropus giganteus.*	...do	Do.
(3) Western Gray Kangaroo.	*Macropus fuliginosus.*	...do	Do.

(i) *Prohibitions.* These prohibitions apply to the *Megaleia rufa*, *Macropus giganteus*, and *Macropus fuliginosus* listed above.

(A) Except as permitted by the Director pursuant to paragraph (a)(3) (i) or (ii), of this section, it shall be unlawful to import for commercial purposes any such wildlife.

(B) It shall be unlawful, in the course of a commercial activity, to deliver, receive, carry, transport, or ship in interstate or foreign commerce any such wildlife imported unlawfully.

(C) It shall be unlawful to sell or offer for sale in interstate or foreign commerce any such wildlife imported unlawfully.

(D) Upon receiving from the Australian Government a certificate that (*1*) a particular Australian State has developed an effective sustained-yield program for such wildlife, and (2) the taking of such wildlife in that State will not be detrimental to the survival of the species or subspecies of which such wildlife is a part, the Director may, consistent with the purposes of the act, permit by publication of a notice in the FEDERAL REGISTER the commercial importation of any such wildlife originating from that State, upon proof that such wildlife is lawfully taken and exported from that State: *Provided*, That if the Director determines from all the evidence that a previously certified Australian State no longer maintains an effective sustained-yield program for such wildlife, he may

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by regulation prohibit any further commercial importation of such wildlife from that State.

(ii) *Exceptions.* This exception applies to the *Megaleia rufa*, *Macropus giganteus*, and *Macropus fuliginosus*, listed above.

(A) The Director may grant permits for the importation of such wildlife to prevent economic hardship. The provisions of § 17.22 (with the exception of §§ 17.22(c)(3), 17.22(c)(4), 17.22(c)(5), and 17.22(d)), shall apply to the issuance of such permits. In addition, the requirements of section 10(b) of the Endangered Species Act of 1973 (16 U.S.C. 1539(b)) regarding hardship exemptions for endangered species shall apply to applications for hardship exemptions under this section as if such wildlife were classified "endangered:" and the applicant for an exemption under this section must submit all information required by section 10(b).

(B) The tenure of any economic hardship permit issued for such wildlife under this provision will be limited by section 10(b) of the Endangered Species Act of 1973 as if those species were listed as "endangered" under the act.

[FR Doc.74-30369 Filed 12-27-74;8:45 am]

Title 7—Agriculture

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Citrus Blackfly Regulated Area

This document amends the supplemental regulation which sets forth the regulated area for purposes of the Federal Citrus Blackfly Quarantine by adding to the suppressive regulated area all of Hidalgo County, Texas, and by designating as generally infested a part of Cameron County, Texas, which was previously designated as suppressive.

Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), and § 301.86-2 of the Citrus Blackfly Quarantine regulations (7 CFR 301.86-2), a supplemental regulation designating the regulated area is hereby amended to read in 7 CFR 301.86-2a as follows:

§ 301.86-2a Regulated area; suppressive and generally infested areas.

(a) The civil divisions and parts of civil divisions described below are designated as citrus blackfly regulated areas within the meaning of the provisions of this subpart and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below:

(1) *Generally infested area—Cameron County.* That portion of Cameron County bounded by a line beginning at a point on the Rio Grande River directly south of the junction of Farm to Market Road 802 and U.S. Highway 281; thence due north along an imaginary line from said point on the Rio Grande River to the point of juncture of Farm to Market Road 802 and U.S. Highway 281; thence northerly and easterly along Farm to Market Road 802 to its junction with Farm to Market Road 511; thence southerly along said road to its junction with Farm to Market Road 3068; thence southerly along said road to its junction with Farm to Market Road 1419; thence directly south along an imaginary line from said junction to the Rio Grande River; thence northwesterly along said river to the point of beginning.

(2) *Suppressive area—Cameron County.* The entire County except the portion designated generally infested.

Hidalgo County. The entire county.

(Secs. 8 and 9, 37 Stat. 318, as amended; sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477, as amended; 38 FR 19140, 7 CFR 301.86-2, 39 FR 9653)

The Deputy Administrator of the Plant Protection and Quarantine Programs has determined that the citrus blackfly has been found or there is reason to believe it is present in the civil divisions and parts of civil divisions listed as regulated areas, or that it is necessary to regulate such areas because of their proximity to citrus blackfly infestion or their inseparability for quarantine enforcement purposes from citrus blackfly infested localities. Further, he has determined that the areas designated as suppressive and generally infested areas are eligible for such designation under § 301.86-1.

The Deputy Administrator has also determined that the quarantined State, wherein only portions of the State are designated as regulated areas, has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under the quarantine and regulations in this subpart and that the designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the citrus blackfly. Therefore, the civil divisions and parts of civil divisions listed above are designated as citrus blackfly regulated areas.

This document imposes restrictions that are necessary in order to prevent the dissemination of the citrus blackfly and should be made effective promptly to accomplish its purpose in the public interest. Accordingly, it is found upon good cause, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the foregoing amendment are impracticable and unnecessary and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

This amendment shall become effective December 30, 1974.

Done at Washington, D.C., this 24th day of December, 1974.

LEO G. K. IVERSON,
Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.74-30365 Filed 12-27-74;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.1]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

REVISION OF SUBPART

Subpart A of Part 1822 of Title 7, Code of Federal Regulations (35 FR 14901; 38 FR 4383; 38 FR 7123; 38 FR 30998; 39 FR 14714) is revised to expedite and further improve the operation and administration of the section 502 Rural Housing Loan Program. This revision makes the following changes and additions:

(1) Subpart M of this Part, "sections 502 and 504 Rural Housing Loans on Leasehold Interests on Nonfarm Tracts," is incorporated in the revised procedure.

(2) Part 1890 n of this Chapter, "Servicing of Interest Credits for section 502 RH Borrowers," and the existing special notices and FmHA Bulletins concenring the granting and servicing of interest credits for section 502 RH loans are incorporated as Exhibit E of this Subpart.

(3) The provisions of Part 1890 f of this Chapter, "Farmers Home Administration Loans to Indians Secured by Trust or Restricted Land," is incorporated in this revised Subpart.

(4) Section 1822.2 is revised to remove that portion which allows Section 502 RH loans to finance farm service buildings.

(5) Section 1822.3(c) is revised to define "rural area" in accordance with the provisions of the Housing and Community Development Act of 1974.

(6) Section 1822.3(n) is revised to liberalize the types of deductions that may be made in determining a family's eligibility for a Rural Housing (RH) loan.

(7) Section 1822.7(c) is revised to provide for the refinancing of debts as authorized by the Housing and Community Development Act of 1974.

(8) Section 1822.7(1) is revised to clarify that group service participation loans are made only to finance a domestic water or waste disposal system which is related to the borrower's dwelling.

(9) Section 1822.7(o), added by 39 FR 14714 dated April 26, 1974, is now contained in Exhibit E of this Subpart.

(10) Section 1822.9(c) is revised to provide that an appraisal of the security property will be made when a mortgage will be taken on real estate securing a loan of $5,000 or more.

(11) Section 1822.10 is revised to permit, in certain cases, loans of $2,500 or less scheduled for repayment in not more than 10 years from the date of the note to be made on the basis of a promissory note only and loans of not more than $5,000 scheduled for repayment in not more than 15 years from the date of the note to be secured by the best real estate mortgage obtainable on the property.

(12) Section 1822.11(b) is revised to clarify the conditions under which the county committee may be used to determine the eligibility of an RH applicant in accordance with the provisions of the Housing and Community Development Act of 1974.

(13) Section 1822.15(a) is revised to authorize the closing of an RH loan, under certain conditions, based on the applicant's circumstances at the time of loan approval.

(14) Section 1822.16 is revised to clarify the types of circumstances under which Rural Housing Disaster (RHD) loans may be made and to provide for an interest rate of 5 percent.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553(a)(2) with respect to such rules. See the Secretary of Agriculture's statement setting forth the policy on public participation in rulemaking 36 FR 13804, dated July 24, 1971. These regulations, however, are not published for proposed rulemaking because certain of the changes implement provisions of the Housing and Community Development Act of 1974, and for that reason publication for comments is unnecessary, as in the case with other changes which affect only internal agency procedure and clarify existing regulations. Other changes made will enable the agency to expedite needed benefits of the Act to the public and to delay issuance of such regulations by publishing for public comment would be contrary to the public interest. In accordance with the spirit of the Secretary's policy, interested persons may submit written comments, suggestions, data or arguments to the Office of the Deputy Administrator Comptroller, Farmers Home Administration, United States Department of Agriculture, Room 5007, South Building, Washington, D.C. 20250, on or before January 29, 1975. Material thus submitted will be avaluated and acted upon in the same manner as if this document were a proposal. However, this Subpart A of Part 1822 shall remain effective until it is amended in order to permit the public business to proceed expeditiously. Subpart A, as revised, will read as follows:

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

Sec.

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Exhibit A—Mutual Self-Help Housing Guidelines. (Available at any FmHA office)
Exhibit B—Information Required to Package Applications for Section 502 Rural Housing Loans.
Exhibit C—Maximum Adjusted Income for Low-Income Families.
Exhibit D—Maximum Adjusted Income for Moderate-Income Families.
Exhibit E—Interest Credits.
Exhibit E-1—(Internal Agency Procedure.)
Exhibit E-2—Interest Credit Agreement Renewal.

AUTHORITY: 42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

§ 1822.1 General.

This subpart sets forth the policies and procedures, and delegates authority, for making section 502 Rural Housing (RH) loans to individuals under Title V of the Housing Act of 1949, as amended.

§ 1822.2 Objectives.

The basic objective of the Farmers Home Administration (FmHA) in making section 502 loans is to assist farmowners and other persons who will live in rural areas to obtain decent, safe, and sanitary dwellings and related facilities. The purpose of these loans is to give families, who do not have sufficient resources to provide such dwellings and related facilities on their own account and cannot obtain the necessary credit from other sources on terms and conditions they reasonably can be expected to meet, an opportunity to have adequate homes.

§ 1822.3 Definitions.

For the purposes of this Subpart, the following definitions will apply:

(a) *Farm.* A "farm" includes the total acreage of one or more tracts of land which is owned by the applicant; is operated as a single unit; is in agricultural production; and annually will produce agricultural commodities for sale and home use with a gross value of at least $400 based on 1944 prices. To aid in estimating the gross annual value of agricultural commodities produced on a particular farm, each state will issue a list of the 1944 prices for the principal farm commodities in the state.

(b) *Nonfarm tract.* A "nonfarm tract" is a parcel of land that is not a farm and is located in a rural area. A building site that is part of a farm as defined in paragraph (a) of this section, and which secures an RH loan in accordance with § 1822.10(b)(6), will be considered a nonfarm tract.

(c) *Rural area.* (1) Any place which is not part of or associated with a nonrural area, is rural in character, and has a population not in excess of 10,000, or has a population in excess of 10,000 but not in excess of 20,000 and is not contained within a Standard Metropolitan Statistical Area (SMSA), and has a serious lack of mortgage credit, as determined by the Secretary of Agriculture and the Secretary of Housing and Urban Development. Population count will be based on the latest official figures.

(2) Open country, including sparsely populated areas, which are not part of or associated with a nonrural area and are strictly rural in character.

(3) In determining whether a place or open country is part of or associated with a nonrural area, the following intervening factors will be disregarded.

(i) Minor open spaces due to physical barriers.

(ii) Commercial or industrial developments.

(iii) Public parks and similar open spaces.

(iv) Areas reserved for recreational purposes.

(v) Intervening tracts suitable for development.

(4) The State Director, through appropriate State regulations, shall identify by list and maps the places and open country that are "rural areas" for the purposes of this Subpart, *Provided, however*. That no list or map of places in excess of 10,000 but not in excess of 20,000 that are to be characterized as "rural areas" will be identified in said State regulation without the prior authorization of the National Office.

(d) *Place.* A "place" consists of all the land lying within the official boundaries of any village, town, or city plus all the land lying within any densely settled incorporated or unincorporated areas near or associated with it. "Town" means a municipality similar to a city but not a New England-type town which resembles a township or county in most states.

(e) *Owner.* An "owner" includes the following in addition to the owner of full marketable title:

(1) A lessee of a farm or nonfarm tract which meets the requirements of § 1822.7 (j) or (k).

(2) The owner of an undivided interest in land who is otherwise eligible.

(3) The purchaser of land under a purchase contract which obligates him to pay the purchase price, gives him the rights of present possession, control and beneficial use of the property, and entitles him to a deed upon paying all or a specific part of the purchase price.

(4) The holder of a life estate having the usual rights of present possession, control and beneficial use of the property. A remainderman is not an owner, but will be required to join in executing the mortgage, where a mortgage is required as security, and may be required to sign the note if necessary for a sound loan.

(5) Indians owning land in a trust or restricted status as described in § 1822.7 (o).

(f) *Mortgage.* A "mortgage" includes any form of security interest or lien upon any rights or interest in property of any kind.

(g) *Security.* "Security" includes any rights or interests in property of any kind subject to a mortgage.

(h) *Real estate.* "Real estate" includes the rights and interests of an

owner, as defined in paragraph (e) of this section, in a farm or nonfarm tract.

(i) *Existing dwelling.* An "existing dwelling" is one which is more than 1 year old or previously occupied as a residence.

(j) *Minimum adequate site.* A "minimum adequate site" is the smallest area sufficient for the dwelling and related facilities to be built, purchased, or refinanced; and a yard.

(1) In case of purchase of a site on which to construct a dwelling or purchase of a new dwelling and site, the site should be not more than one acre of nonincome-producing land, unless more than one acre is needed to comply with local code requirements or to provide for a safe and adequate water supply or waste disposal system.

(2) In case an existing dwelling and site is being purchased or debts are being refinanced, the site may, under the following conditions, include more than one acre but not more than a few acres of nonincome-producing land:

(i) In a case where an existing dwelling is being purchased, the seller will sell the dwelling only with the entire site on which it is located and the cost of extra land is not a substantial portion of the loan.

(ii) In a refinancing case, the extra land cannot be sold for a significant amount.

(3) In all cases, the buying of a site of more than one acre must be fully justified and the reasons recorded in the loan docket.

(k) *Senior citizen.* A "senior citizen" is a person who is 62 years of age or older and either is a citizen of the United States or resides in the United States after being legally admitted for permanent residence.

(l) *Cosigner.* A "cosigner" is a party who joins in the execution of a promissory note to guarantee its repayment by the borrower. The cosigner becomes jointly and severally liable to comply with the terms of the note in the event of the borrower's default.

(m) *Leasehold acquisition cost.* The cost of acquiring a leasehold interest on a nonfarm tract exclusive of any monthly or annual rental charges.

(n) *Current annual family income.* This consists of net farm and nonfarm business income plus all recurring dependably available income from salary, wages, pensions, social security, welfare payments, or other sources received by the husband and wife, and any other members of the family who have reached the legal age of majority in the State and reside in the home. Welfare, social security, child support payments, and other payments made on behalf of minors will be included as current family income. It does not, however, include nonrecurring income not normally received every year, such as gifts, unusual pay, pay earned from clearly temporary employment, payments received for the care of foster children, income received from GI Bill, fellowships, scholarships, et cetera, for schooling or earnings from employment of a full-time student when other than the applicant and spouse, proceeds from the sale of equipment, mineral rights, timber, or real estate not sold under a long-term contract, cash value of food stamps or similar types of income. In determining current annual family income, the following deductions may be made:

(1) *Depreciation of income-producing property.* A deduction may be made in the same manner as outlined in Internal Revenue Service (IRS) regulations for the exhaustion, wear and tear, and obsolescence of depreciable property used in the applicant's trade, business, or farming operation. The applicant must provide an itemized schedule showing the depreciation claimed, and this schedule should be consistent with the amount of depreciation actually claimed for these items for Federal income tax purposes.

(2) *Employee business expenses.* A deduction may be made in the same manner as outlined in IRS regulations for necessary business expenses actually paid by the employee in excess of the amount reimbursed by the employer. The deduction must be reasonable and in the judgment of the approving officials, should be deducted from an employee's income to reflect current annual family income on an equal basis with other employed persons. Deductions are not permitted for the following:

(i) Transportation to and from work;

(ii) Cost of meals incurred on one-day business trips;

(iii) Educational expenses incurred to meet minimum requirements of a profession or to qualify for a new profession, trade, or business; or

(iv) Fines and penalties for violation of laws.

(3) *Child care, disabled dependent care, or incapacitated husband or wife care.* Income deductions may be made for expenditures actually paid to enable the husband or wife to be gainfully employed. The basis for any deduction must be recorded in detail in the applicant's loan docket. The deductions are authorized only if all of the following conditions are met:

(i) For dependent children under the age of 15 cared for outside the home, the maximum deduction will not exceed the following each month:

(A) One child $200;

(B) Two children $300;

(C) Three or more children $400.

(ii) Expenses for child care services performed in the home are not limited to the above, but are subject to the $400 maximum deduction each month.

(iii) A deduction not to exceed $400 each month, for incapacitated husband or wife care, or disabled dependents age 15 or over who are incapable of self care is authorized only when service is performed in the home.

(iv) In no case will the aggregate of all deductions for child care, disabled dependent care, or incapacitated husband or wife care exceed $400 per month.

(v) Payments for these services must have been to other than close relatives or dependent members of the applicant's household. Close relatives include: son or daughter and their descendants; stepson or stepdaughter; brother or sister; stepbrother or stepsister; father or mother and their ancestors; stepfather or stepmother; nephew or niece; uncle or aunt; son-in-law or daughter-in-law; father-in-law or mother-in-law; and brother-in-law or sister-in-law.

(o) *Adjusted annual family income.* This is a family income as defined in § 1822.3(n) less 5 percent thereof, and less $300 for each minor person, as defined by State law, excluding the husband and wife, who is a member of the immediate family and lives in the home. The immediate family includes those persons related to the applicant by blood marriage, or operation of law, such as adoption or legal guardianship.

(p) *Low income.* This is an adjusted annual family income that does not exceed the maximum limit for low-income families for the State as provided in Exhibit C of this Subpart.

(q) *Moderate income.* This is an adjusted annual family income that does not exceed the maximum limit for moderate-income families for the State as provided in Exhibit D of this Subpart.

(r) *Above-moderate income.* This is an adjusted family income that exceeds the income limits to qualify as a moderate-income applicant.

(s) *Rehabilitation.* This means major repairs and improvements to existing dwellings such as the installation or completion of bathroom facilities, installation of major items of equipment, additions, or structural changes which are financed with RH loan funds or performed by the seller immediately prior to offering the dwelling for sale.

§ 1822.4 Eligibility requirements.

To be eligible for a Section 502 loan, the applicant must meet all of the following requirements:

(a) Be one of the following:

(1) A person who does not own an adequate dwelling and who will become the owner and will permanently occupy the dwelling in a rural area after the loan is closed.

(2) A farmowner without decent, safe, and sanitary housing for his own use or for the use of his tenants, sharecroppers, farm laborers, or farm manager.

(b) Be without sufficient resources to provide on his own account the necessary housing, or related facilities, and be unable to secure the necessary credit from other sources upon terms and conditions which he reasonably could be expected to fulfill. If the applicant has only an undivided interest in the land to be improved, the applicant and co-owners, other than those whose execution of the mortgage is not required in accordance with § 1822.7(l)(5) or § 1822.10(b)(4) must, individually and jointly, be unable to provide the improvements with their own resources or obtain the necessary credit elsewhere.

(c) Be a natural person (individual) who is a citizen of the United States or resides in the United States after being legally admitted for permanent residence.

(d) Have adequate and dependably available income to meet family living expenses, pay taxes, insurance, and maintenance cost, and repayment on debts including the proposed loan. However, an applicant whose income is not sufficient to fully meet the loan payments may obtain as a cosigner(s), a person(s) or corporation(s), with income which, when added to the applicant's income, will be sufficient to repay the loan.

(e) Possess the ability necessary to carry out the undertaking and obligations required in connection with the loan.

(f) Possess legal capacity to incur the obligations of the loan.

(g) Be a low- or moderate-income family with an adjusted family income that does not exceed the maximum limit for low- or moderate-income families, as appropriate, for the State as provided in Exhibits C and D of this Subpart, unless exceptions are authorized by the State Director in accordance with § 1822.15(a), or by the National Office.

§ 1822.5 Veterans' preference.

Applications received from veterans and from spouses and children of deceased servicemen, as defined in § 1801.6 of this Chapter, will be given preference.

§ 1822.6 Loan purposes.

(a) A loan may be made to any eligible applicant to:

(1) Buy, build, rehabilitate, improve, or relocate a dwelling and provide related facilities to be used as his permanent residence on his farm or on a nonfarm tract he owns or will own after the loan is closed.

(2) Purchase and move to such farm or nonfarm tract an existing dwelling to be used as his permanent residence.

(3) Purchase or install essential equipment which upon installation becomes part of the real estate.

(4) Purchase and install in the dwelling a range, refrigerator, clothes washer, or clothes dryer when the loan is being made primarily for other purposes, and provided these items are normally sold with the dwellings in the area. Approved space heaters also may be purchased with loan funds.

(5) Provide fallout shelters, storm cellars and similar protective structures.

(6) Provide an adequate and safe water supply for the applicant and his family.

(7) Provide an adequate sewage disposal facility for the applicant and his family.

(8) Buy for his own use an existing dwelling on a minimum adequate site.

(9) Buy a minimum adequate site on which to place a dwelling for his own use provided he does not already own an adequate site.

(10) Pay reasonable acquisition cost for a leasehold interest in a nonfarm tract at the time of making the initial RH loan in areas where lease acquisition is customary.

(11) Purchase, in fee title, a minimum adequate site on which an RH loan was or is being made on a leasehold interest in a nonfarm tract.

(12) Provide site preparation, foundation plantings, seeding or sodding of lawns and other facilities related to dwellings, such as walks, yard fences and driveways, to building sites located adjacent to a road or street.

(13) For initial loans, pay real estate taxes that are due and payable at the time of loan closing on the buildings and building site to be given as security when a loan is being made primarily for other purposes and the amount to be used for taxes is not a substantial part of the loan.

(14) Pay expenses incident to obtaining plans and making the loan, such as fees for credit reports, tax monitoring service, legal, architectural, surveying, and other technical services, and reasonable connection fees for utilities such as water, sewerage, electricity, or gas, which are required to be paid by the borrower and which he cannot pay from other funds. Loan funds also may be used to pay the borrower's share of social security taxes for labor hired by the borrower in connection with making planned improvements. Loan funds may not be used to pay fees, charges, or commissions, such as finders' fees, fees for packaging the application, or placement fees for the referral of prospective applicants to the FmHA.

(b) A loan may be made to a farmowner for the purposes specified in § 1822.6(a) and to buy, build, rehabilitate, improve, or relocate a dwelling and provide related facilities for use by the farmowner or his farm manager, tenant, sharecropper or farm laborers.

(c) Improvements financed with loan funds must be on land which, after the loan is closed, is part of a farm or nonfarm tract owned by the borrower or on an easement appurtenant to such farm or nonfarm tract.

(d) A loan may be made to the owner of a farm or nonfarm tract to refinance secured or unsecured debts, as provided in § 1822.7(c).

§ 1822.7 Special requirements.

(a) *Supervisory assistance.* Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government in accordance with Subpart A of Part 1802 of this Chapter.

(b) *Building limitations.* (1) A dwelling financed for a family with a low or moderate income must be modest in size, design, and cost. Adequate housing ordinarily can be provided for such families within less than 1,300 square feet of living area. Living area does not include space such as a patio, carport, garage, porch not suitable for year-round use, unfinished basement, and, if the dwelling does not have a basement, space for utilities such as furnace and hot water heater; however, such space must be kept within reasonable limits and not expanded to circumvent the limitations of this paragraph. When such an applicant has an unusually large family, a somewhat larger house may be justified to provide adequate sleeping space. Furthermore, particular design features or items should not be included in homes of families with low or moderate incomes if such features or items are customarily not included in other adequate but modest homes being built in the area by families with similar incomes. Items that are desirable but not necessary, such as extra baths and four bedrooms for small families, extravagant or costly bathroom fixtures and kitchen equipment, expensive kitchen cabinets, floor covering of short-term duration, et cetera, are not authorized. Furthermore, items such as 2-car garages or 2-car carports and fireplaces will be authorized only when justified for the individual family and then only on a case by case basis.

(2) Any buildings purchased with RH funds must be structurally sound, functionally adequate, and either be in good repair or placed in that condition with loan funds. Newly constructed dwellings must comply with the policies stated in paragraph (b)(1) of this section. Good judgment must be used in applying these policies to existing dwellings.

(3) Any dwelling repaired with RH funds must be structurally sound, functionally adequate, and be placed in good repair with loan funds. However, if a loan of not more than $5,000, scheduled for repayment in not more than 15 years from the date of the note, is made to repair a dwelling which is owned by the applicant and occupied by him or his farm manager, tenant, sharecropper, or farm laborers, the dwelling may lack some equipment or features such as a complete bath, kitchen cabinets, closets, or completely finished interior in some rooms. Such dwellings, however, must meet the basic housing needs of the family and provide decent, safe and sanitary living conditions when the improvements financed with the loan are completed.

(c) *Refinancing debts.* (1) When an applicant's request includes the use of loan funds for refinancing debts, it must be determined before a loan is made that his present creditors will not give him rates and terms on the existing debts that he reasonably could be expected to meet. Before refinancing any debt, the County Supervisor will:

(i) Determine that the applicant is so seriously delinquent that he is likely to lose his necessary dwelling at an early date if the debt is not refinanced; or that the applicant will experience a financial hardship in repaying the existing debt(s) and the FmHA loan in cases where a loan is being made for improvement, rehabilitation, or repairs of the applicant's dwelling or related facilities.

(ii) Determine that the debts were incurred for purposes for which a section 502 RH loan could have been made, or are items covered by the mortgage to be refinanced, such as accrued interest, insurance premium or real estate tax advances and preliminary foreclosure costs.

(iii) Discuss with the applicant the possibility of obtaining the needed credit from the applicant's present creditors or other sources. He will request the applicant to contact his present creditors to explain his credit needs and to determine if the creditor will renew, extend, change, or reduce the present debts as appropriate. He will also advise the applicant of other credit sources available in the area which might assist him with his credit needs and request that he contact such credit sources. If the applicant is unsuccessful in his efforts to obtain credit or to get a revision of the rates and terms of his indebtedness, the County Supervisor will obtain from the applicant the reason given by the present creditors and other sources for not assisting the applicant, and document such information in the running record.

(iv) After obtaining the information from the borrower, the County Supervisor should determine the necessity for refinancing. If the loan is to be processed, a statement of each debt showing the purpose for which the debt was incurred, the date on which it was incurred, the final due date, interest rate, annual installment, amount of principal and interest delinquent, unpaid principal and accrued interest will be obtained. If all or any part of any debt is to be refinanced, the amount necessary to settle the account in full or to bring the account current will be ascertained. In any case in which the RH loan is to be secured by a junior mortgage, the County Supervisor will obtain early in the loan processing the first mortgagee's determination that he cannot furnish the applicant the additional credit that he needs.

(2) Debts secured by real estate liens will not be refinanced unless the liens are against the property on which a mortgage will be taken to secure the RH loan.

(3) Loans ordinarily will not be made to refinance long-term real estate loans guaranteed or insured by the Federal Housing Administration (FHA) or the Veterans Administration (VA) or of the type generally made by lenders such as the Federal Land Banks (FLB) or insurance companies. When it is necessary to refinance such debts, the total debt will not be refinanced if a part of the debt can be refinanced on a sound basis with the lender's agreement. In such a case, that part of the debt to be refinanced will not include more than existing delinquencies plus the next installment to become due that the borrower will be unable to pay.

(4) Debts incurred less than 5 years prior to the date of the application will not be refinanced.

(5) To develop a sound basis for a loan, a reduction of existing debts may be necessary.

(d) *Refinancing of RH loans.* If, at any time, it appears that the borrower may be able to obtain a refinancing loan from a cooperative or private credit source at rates and terms for loans for similar purposes and periods of time prevailing in the area, the borrower will, upon request, apply for and accept such refinancing. Graduation reviews for RH borrowers will be conducted in accordance with Part 1865 of this Chapter.

(e) *Loan limitations.* (1) An RH loan to buy or build a dwelling may be made up to the market value of the security less the unpaid balance plus past-due interest of any other liens against the property for:

(i) A new dwelling on which:

(A) A conditional commitment was issued in accordance with Subpart H of this Part; or

(B) The RH loan will be closed prior to the start of construction; or

(C) Construction is financed in accordance with § 1822.19; or

(D) The required construction inspections were made by the FHA or the VA and there is evidence that the dwelling has been completed in accordance with the approved plans and specifications. Evidence may consist of copies of the FHA or VA final inspection report showing no exceptions or a letter from the FHA or VA stating that the dwelling was built in accordance with approved plans and specifications.

(ii) An existing dwelling which is more than a year old.

(2) An RH loan will be limited to 90 percent of the market value of the security for any dwelling that does not meet the requirements of paragraph (e) (1) (i) or (ii) of this section.

(3) Ordinarily, a loan docket will not be developed or approved when a loan plus any other liens against the security would be in excess of the value of the security as recommended by the appraiser or 90 percent of such value, whichever is appropriate, except:

(i) In unusual cases, when the amount of a loan plus any other liens that will be against the security is slightly above its recommended value and the County Supervisor believes that the loan should be made, the completed loan docket will be submitted to the State Office for a determination as to whether it is justifiable to establish the market value of the security above the appraiser's recommended value. If the State Director determines that the market value is in excess of the appraiser's recommended value, he will record his determination of the market value of the security on Form FmHA 440–3, "Record of Actions," before approving the loan. This authority will not be redelegated below the State Office level.

(ii) When the market value is exceeded by all or part of a lien held by a public body, hospital or welfare institution for advances made for medical bills, welfare payments or state motor vehicle judgments, provided:

(A) The borrower is unable to settle or compromise such lien sufficiently to avoid exceeding the market value; and

(B) The lien securing the excess amount will at all times be inferior to the FmHA mortgage securing the initial loan and any subsequent loan or advances determined by the FmHA to be reasonably necessary to carry out the purpose of the initial loan or to protect the Government's financial interest; and

(C) The existence of the excess lien will not jeopardize the security or servicing so as to preclude the making of a sound RH loan; and

(D) The borrower has the ability to meet any payments on the excess debt as they become due or are likely to become due.

(f) *Conditional commitments.* Conditional commitments shall be made in accordance with Supart H of this Part.

(g) *Construction financing.* Builders or sellers will, in all cases possible, complete construction or repair of buildings before section 502 RH loans are closed. Assistance in obtaining construction financing may be provided in accordance with § 1822.19.

(h) *Liens junior to FmHA lien.* A loan will not be made if a lien junior to the RH mortgage likely will be taken simultaneously with or immediately subsequent to closing of the loan to secure any debts he may incur in connection with the RH loan purposes, such as debts for a portion of the purchase price of the land or for money borrowed from others for payments on debts against the property or for part of the construction cost, unless such a lien plus the RH loan and any prior lien will not interfere with the purposes of the loan or repayment thereof and either will be entirely within the market value of the security or will exceed such market value only by an amount which will meet the requirements of paragraph (e) (3) of this Section.

(i) *Restrictions on loans.* Loans will not be made to:

(1) A corporation or cooperative association.

(2) A homestead entryman or desert entryman to improve the entry prior to receipt of patent.

(3) Refinance except in accordance with paragraph (c) of this Section or to pay costs incurred prior to the closing of a loan except fees for credit reports, legal, architectural, and other technical services. The County Supervisor, not later than the time of planning improvements, will advise each applicant that a building site must not be purchased, construction work must not be started, materials must not be ordered nor delivered, and costs for such purposes must not be incurred before loan closing if loan funds are to be used to pay such costs. If, nevertheless, the applicant incurs costs for materials or construction or site acquisition before the loan is closed, the County Supervisor, or the Assistant County Supervisor in connection with loans within their respective approval authorizations, may authorize the use of RH funds to pay such costs only when, after documenting the facts, he finds that all of the following conditions exist: (In a questionable case, the County Supervisor will submit the complete facts to the State Director for advice before taking action.)

(i) The costs were incurred after the applicant filed a written application for a loan, except that in the case of a subsequent loan to complete improvements

previously planned, the costs were incurred after the initial loan was closed.

(ii) The applicant is unable to pay such costs from his own resources or to obtain credit from other sources and failure to authorize the use of RH funds to pay such costs would jeopardize the applicant's capability of repaying the loan.

(iii) The construction or repair work conforms to that shown on the building plans and specifications or Form FmHA 424–1, "Development Plan," when applicable. The costs were incurred for authorized Section 502 loan purposes, and the total costs necessary for a sound loan can be paid from funds available.

(4) Buy income-producing land or income-producing buildings.

(5) An applicant whose debts have been settled pursuant to Part 1864 of this Chapter, or by release from personal liability under Subpart A of Part 1872 of this Chapter, as reflected by the county office records, or where settlement under Subpart A of Part 1872 or Part 1864 of this Chapter is contemplated, unless: The applicant's failure to pay his loan indebtedness was the result of circumstances beyond his control; the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been or will be removed by making the loan; and the applicant's operations will be sound and afford him a reasonable prospect for repaying the proposed loan and meeting his other obligations. Before approving the property or causing such an applicant to incur any expenses in connection with the loan, the County Supervisor, if he determines that the applicant should be considered for a loan, should complete Form FmHA 431–2, "Farm and Home Plan," or Form FmHA 431–3, "Family Budget," when applicable, and send it, together with the application, any available case folders, and his recommendations to the State Office for a determination as to whether to proceed with the development of the loan docket.

(6) Purchase land upon which to construct a building, when the applicant already owns land suitable for the purpose.

(7) Refinance a portion of a prior lien in order to obtain the release of a building site from an existing mortgage unless the refinancing meets the requirements of paragraph (c) of this section.

(8) A family who will likely be unable to personally occupy the home on a permanent basis. To illustrate, military personnel on active duty and full-time students, because of the probability of their being transferred or moving to another location after graduation, will not be granted loans unless:

(i) The applicant, if military personnel, will be discharged at an early date (usually within 1 year). The family must continue to occupy the home in case the borrower is transferred to another duty station before discharge; and

(ii) The family intends to make the home their permanent residence and there are reasonable prospects that employment will be available in the area after graduation or discharge; and

(iii) Either the applicant or spouse will be available to make inspections if the home is being constructed and to sign checks for work performed.

(j) *Loans on leasehold interest in farms.* A loan secured by a mortgage upon a farm leasehold, if otherwise proper, may be made when the lessor owns the fee simple title marketable in fact and neither the leasehold nor the fee simple title is subject to a prior lien. If, in any case involving a prior lien, the County Supervisor concludes that a sound loan can be made upon a leasehold, he will submit complete information to the State Director for review and authorization prior to approval of the loan.

(1) The lease must contain provisions as are necessary to enable the lessee to achieve the purposes for which the loan was made, and the Government as holder of a mortgage on the lease or leasehold interest to obtain adequate security, service the loan, and enforce the security instruments as necessary to protect the Government's interest. This includes, besides the lessor's written consent to the RH mortgage, such matters as:

(i) Reasonable security of tenure. The borrower's interest will not be subject to summary forfeiture or cancellation. In fact, the lease must contain a provision or an agreement must be executed by the lessor and the lessee and made a part of the lease indicating that any renewal provided for in the lease will be automatic as long as there is an FmHA lien on the property, unless otherwise authorized by the FmHA.

(ii) The right to foreclose the RH mortgage and sell without restrictions that would adversely affect the salability of the security. Any effect on market value should be shown in the appraisal.

(iii) Right of FmHA to bid at foreclosure sale or to accept voluntary conveyance of the security in lieu of foreclosure.

(iv) The right of FmHA, after acquiring the leasehold through foreclosure or voluntary conveyance in lieu of foreclosure, or in event of abandonment by the borrower, to occupy the property or sublet it, and to sell for cash or credit. In case of a credit sale, the FmHA will take a vendor's mortgage with rights similar to those under the original RH mortgage.

(v) The right of the borrower, in the event of default or inability to continue with the lease and the RH loan, to transfer the leasehold, subject to the RH mortgage, to an eligible transferee with assumption of the RH debt.

(vi) Advance notice to FmHA of lessor's intention to cancel or terminate the lease. Such advance notice will be long enough to permit FmHA to ascertain the amount of delinquencies, the total amount of the lessor's and any other prior interest, the market value of the leasehold interest, and if litigation is involved, to refer the case with a report of the facts to the United States Attorney and permit him to take appropriate action.

(vii) Express provisions concerning the question of liability of FmHA for unpaid rentals or other charges accrued at the time it acquires possession of the property or title to the leasehold, and those which become due during FmHA's occupancy or ownership, pending further servicing or liquidation.

(viii) Any necessary provisions to assure fair compensation to the lessee for any part of the premises taken by condemnation.

(2) The lease must have an unexpired term, from the date of loan approval, of at least 50 years (a lease for 25 years with an option to the lessee to renew for an additional 25 years would be considered a 50-year lease), except where:

(i) A lease is granted for the purpose of permitting a family to obtain an RH loan and the time required to process and approve the loan results in the unexpired term of the lease being not less than 49 years; or

(ii) A lease is in existence at least 1 year prior to the date of loan approval. An RH loan may be made provided the unexpired term of the lease is at least 50 percent longer than the repayment period of the loan. In no case will the unexpired term of the lease be less than 15 years.

(3) In any State in which real estate or chattel mortgages may be taken on leasehold interest in farmland running for terms of 15 years or more and be recorded so as to protect the mortgagee, a State regulation will be issued in regard to making loans to holders of such interests.

(k) *Loans on leasehold interest in nonfarm tracts.* Loans may be made on leaseholds on land owned by a State, political subdivision, public body, or public agency, on Indian tribal lands which are not available for purchase or on land where the State Director determines that long-term leasing of homesites by nonpublic bodies is a well established practice and such leaseholds are freely marketable in the area, provided:

(1) The applicant is unable to obtain fee title to the property.

(2) A recorded mortgage constituting a valid and enforceable lien on the applicant's leasehold will be given as security unless the loan is made on the basis of a Promissory Note only.

(3) The amount of the RH loan plus any prior liens against the property will not exceed the maximum security value determined in accordance with Part 1809 of this Chapter.

(4) The terms of the lease meet the requirements as outlined in paragraph (j) (1) and (2) of this section, and

(i) The rental charged for the lease should not exceed the rate being paid for similar leases.

(ii) The lease forms used by the FHA and the VA in the area, the Bureau of Indian Affairs (BIA) lease Form No. 5–184, "Lease," and the lease forms used in cases of RH loans on farm leaseholds, should be used by the State Director as guides in developing a lease. The services of the Office of the General Counsel (OGC) are available for this purpose.

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The lease may include a provision permitting the lessor the option of paying the RH debt in full in case the borrower defaults.

(l) *Group service participation loans.* A loan to an eligible applicant in accordance with §§ 1822.4 and 1822.6 may include funds to enable him to furnish his part of the cost of constructing, remodeling, repairing or buying a domestic water system or waste disposal system which is related to his dwelling, provided the following conditions are met or unless exceptions are authorized by the National Office:

(1) The facility must be jointly owned and used by not more than 10 participants.

(2) The domestic water or waste disposal system cannot be provided with a Soil and Water (SW) association loan.

(3) The group must act as individuals and not as a legal entity such as a partnership, corporation or association.

(4) The facility will be located in a rural area and will be used for normal home use by families of the applicants.

(5) The applicant will give FmHA a mortgage as required in § 1822.10(b), including his interest in the property to be improved with the loan provided it is practical to mortgage the property. The interest of any co-owners of the jointly-owned facility who are not applicants may be excluded from the mortgage on prior approval by the State Director, as provided in § 1822.10(b)(4).

(6) The owners have written agreements as to the construction, use, maintenance, and repair of the facility and obtain necessary jointly-owned easements.

(7) The facility will not cost more than $50,000 or have a depreciated replacement value that exceeds $50,000 if such facility is being purchased, enlarged or improved.

(8) All funds to be used to finance construction or installation of the joint facility will be deposited in a supervised bank account.

(m) *Section 502 loans to Farm Ownership (FO), individual soil and water (SW) and recreation (RL) borrowers and applicants.* (1) A Section 502 loan may be made to an FO, SW, or RL borrower or simultaneously with an FO loan and another lender, provided they meet the following conditions:

(i) RH loan funds are used only to buy, build or improve a dwelling to be used as the permanent residence of the owner or for his farm tenant, sharecropper, farm laborer, or farm manager.

(ii) In cases when an RH loan is being made simultaneously with an FO loan, an RH loan of $1,500 or more is needed to buy, build, or improve a dwelling, or provide needed facilities related to the dwelling.

(iii) The dwelling constructed or improved must meet Section 502 RH loan requirements, being modest in size, design and cost.

(iv) The applicant must meet the eligibility requirements for the Section 502 RH loan and FO, SW, or RL loan.

(2) An RH loan may be made to an FO borrower to build or improve a dwelling and related facilities, who because of age, physical disability, or death of the spouse, is unable to operate the farm or carry on farming operations provided a decision has been made to continue with the FO loan.

(3) The Section 502 loan, when added to the unpaid principal balance plus past due interest of any FO, SW, RL, RH, or LH loan, plus other debts against the security given for an FmHA real estate loan or to be given for the Section 502 loan, will not exceed $225,000 or the market value of the security for the loan, whichever is less. The $225,000 limitation will not apply when an RH loan is necessary to repair or replace a dwelling or a domestic water system damaged or destroyed by fire, flood, windstorm or other casualty, and the RH loan will be used only to supplement the applicant's available assets or funds that are available from insurance loss payments or other sources.

(4) A loan may be made to an FO, SW, or RL applicant or borrower on the basis of real estate security or a Promissory Note only if the conditions of § 1822.10(c) are met.

(5) If a mortgage on the farm will be taken as security, a new appraisal will be prepared when the circumstances outlined in § 1822.17(a) exist.

(6) In determining the market value of the FO, SW, or RL farm in connection with a section 502 loan, when a new appraisal report is not required under § 1822.9 (c), the loan approval official will consider the previous appraisal report, if one is available, and the definition of market value in Subpart A of Part 1809 of this Chapter. The loan approval official's determination of market value of the farm or nonreal estate assets will be recorded on Form FmHA 440–3.

(n) *Mutual self-help housing loans.* Applicants who are unable to build modest dwellings by customary methods, because of limited income and repayment ability, may build their homes by participating in a mutual self-help housing project. The County Supervisor will not approve RH loans or proceed in the development of a self-help project without prior approval of the State Director. He will, therefore, submit complete information about each family in the proposed self-help project to the State Office for review and request authority to proceed. Information submitted will include items such as the family's size, income, age of family members who will work on the dwelling, the size and cost of the planned dwelling, estimated savings and the amount of the needed loan. Exhibit A, "Mutual Self-Help Housing Guidelines," available in all FmHA offices, will be used as a guide for developing self-help projects and counseling with participating families. The County Supervisor, in counseling with families participating in self-help housing projects, will determine the anticipated time required for construction and the extent to which the borrower will be able to meet loan payments during this period. If the applicants will not have enough income to meet the scheduled loan payments during the construction period, funds may be included in the loan to pay that part of the installments that the borrower is unable to pay during the construction period. In these cases, the amount of the installments will be the same as for any other 502 RH loan.

(o) *RH loans to Indians secured by trust or restricted land.* The Department of Agriculture and the Department of Interior have mutually agreed that FmHA loans which are to be secured by real estate liens may be made to Indians holding land in severalty under trust patents or deeds containing restriction against alienation subject to statutes under which they may, with the approval of the Secretary of the Interior, give mortgages on their land which are valid and enforceable. These statutes include, but may not be limited to, the Act of March 29, 1956 (70 Stat. 62,63). Land in trust or restricted status purchased with FmHA loan funds may be acquired and held by the Indian in trust or restricted status.

(1) When a lien is to be taken on trust or restricted property in connection with a loan to be made or insured by FmHA the local representatives of the BIA will furnish requested advice and information with respect to the property and each applicant. The request will indicate the specific information needed.

(2) The FmHA State Director should arrange with the Area Director or other appropriate local official of the BIA as to the manner in which the information will be requested and furnished. A State regulation will be issued to prescribe the actions to be taken by FmHA personnel to implement the making of loans under such conditions.

(p) *Interest credits.* Interest credits will be granted and serviced in accordance with Exhibit E of this Subpart.

(q) *National flood insurance.* Loans made to buy, build or repair dwellings located in an area having special flood or mudslide hazards are subject to the conditions of Subpart B of Part 1806 of this Chapter.

§ 1822.8 Source of funds and rates and terms.

(a) *Source of funds.* Insured loan funds from the Rural Housing Insurance Fund (RHIF) will be used for all section 502 loans.

(b) *Interest rate per annum on unpaid principal.* Loans will be made at interest rates specified in Subpart A of Part 1810 of this Chapter.

(c) *Amortization period.* Each loan will be scheduled for repayment over a period not to exceed 33 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security. A loan not secured by a real estate mortgage will be scheduled for repayment over a period not to exceed 10 years from the date of the note.

§ 1822.9 Technical service.

(a) *Planning and performing construction work.* Any construction work will be planned and completed in accordance with Subpart A of Part 1804 of this Chapter.

(b) *Planning and performing site development work.* Any site development will be planned and completed in accordance with Subpart D of Part 1804 of this Chapter.

(c) *Appraisal.* The value of property securing RH loans will be determined as follows:

(1) When a mortgage will be taken on a nonfarm tract or small farm or leasehold interest in a nonfarm tract or small farm to secure a loan of $5,000 or more, an appraisal of the security property will be made in accordance with Part 1809 of this Chapter. A small farm for the purposes of this Subpart is a farm as defined in § 1822.3(a) which has value primarily as a residence rather than for the production of agricultural commodities. Repayment of the RH loan will not be primarily dependent on farm income.

(2) An appraisal of the security property will be made in accordance with Subpart A of Part 1809 of this Chapter when a mortgage will be taken on a farm tract or leasehold interest in a farm tract to secure a loan of $5,000 or more.

(3) An appraisal of the real estate or leasehold interest is not required unless the County Supervisor or loan approval official is uncertain as to the adequacy of the security for loans of less than the amounts described in paragraphs (c)(1) and (2) of this section or when an RH loan is being made to an FmHA real estate borrower and the appraisal report in the borrower's case folder indicates the value of the security property is adequate to secure the total real estate indebtedness including the planned loan.

(4) Real estate mortgaged as additional security will be appraised when it represents a substantial portion of the security for the loan or when requested by the loan approving official.

(5) When real estate is to be given as security and an appraisal is not made, the County Supervisor will indicate on a separate sheet his estimate of the market value of the property.

(d) *Title clearance and legal services.* (1) When real estate will be taken as security (including a mortgage on a leasehold), title clearance and legal services for making and closing the loan will be provided in accordance with Part 1807 of this Chapter. Except for property to be purchased, the applicant will be requested to furnish title evidence at any time during the loan processing period after the County Supervisor determines that the loan probably will be made. If the County Supervisor is uncertain as to whether the loan will be approved, he will not require the applicant to furnish title evidence until after loan approval. For property to be acquired, title clearance and legal services will not be requested until the loan is approved.

(2) When real estate will not be mortgaged or when the best real estate mortgage obtainable is take as security without title clearance or use of legal services in accordance with § 1822.10(a)(2), each applicant will be required to submit evidence of ownership of his farm or nonfarm tract. This may be the original or a certified or photostatic copy of his deed, purchase contract, or other instrument evidencing ownership. When the County Supervisor is uncertain as to whether or not the applicant is a qualified owner, he will take such actions as he considers necessary, such as requiring the applicant to furnish additional information or obtaining the advice of the OGC regarding the evidence of ownership submitted and any further information or action that may be needed. Proof of ownership need not be as much as that required by Part 1807 of this Chapter. It may consist of evidence which, considered all together, would be sufficient to convince a reasonably well informed and prudent person that the applicant is the owner. It may include, for example, such evidence as the levy and payment in the applicant's name of taxes on the real estate and affidavits by others in the community to the effect that the applicant has occupied the property as the apparent owner for a given length of time and is believed and generally reputed to be the owner. No loan will be made if the County Supervisor has actual knowledge that the applicant does not have a marketable title to the property.

§ 1822.10 Security.

(a) *General.* Loans other than those excepted under paragraph (c) of this section will be adequately secured to protect the interest of the FmHA during the scheduled repayment period.

(1) Any loan of more than $5,000 and any loan scheduled for repayment in more than 15 years from the date of the note will be secured by a real estate mortgage as provided in paragraph (b) of this section.

(2) A loan of not more than $5,000 scheduled for repayment in not more than 15 years from the date of the note may be secured by the best real estate mortgage obtainable on the property as provided in paragraph (b)(7) of this section.

(3) Loans of $2,500 or less scheduled for repayment in not more than 10 years from the date of the note may be made on the basis of a Promissory Note in accordance with paragraph (c) of this section.

(b) *Real estate.* When a real estate mortgage is required, a mortgage will be obtained on all interest in the entire farm or nonfarm tract on which the loan is made, except as provided in this paragraph and subject to the exceptions and reservations waived under § 1807.2(d) of this Chapter. When necessary to supplement the applicant's equity in the farm or nonfarm tract to be mortgaged, or to facilitate servicing the loan, a mortgage may also be taken on other real estate owned by the applicant.

(1) If the applicant's title to any part of the farm or nonfarm tract is defective (in the sense that it is not good title marketable in fact as defined in Part 1807 of this Chapter or that the State law will not recognize a recordable mortgage upon it) and the defect cannot be cured at a reasonable cost, the loan may be made subject to the following conditions:

(i) No security value will be accorded to the parcel of real property to which title is defective.

(ii) No improvements to be constructed or repaired with loan funds will be located on the parcel to which title is defective.

(iii) A real estate parcel to which title is defective will be included in the mortgage unless the loan approval official, with the advice of the OGC determines that the applicant's interest cannot be subjected to a recordable mortgage recognized by the State law, or to include the parcel would unduly complicate loan servicing or liquidation.

(2) A junior mortgage may be taken as security for a loan provided:

(i) The prior mortgage as affected by the State law does not contain provisions for future advances, forfeiture or cancellation, foreclosure without adequate notice to junior lienholders, or other matters that may jeopardize FmHA's security position or the borrower's ability to pay the loan; or

(ii) Such provisions are satisfactorily limited, modified, waived, or subordinated.

(3) When a mortgage is required by paragraph (a)(1) of this section to secure a loan to an applicant as lessee of a farm or nonfarm tract, a valid and enforceable mortgage on his leasehold interest will be required. The term of the lease will be as required in § 1822.7(j)(2). Special provisions necessary to protect the interest of the Government, such as items enumerated in § 1822.7(j)(1), will be included in the lease, a consent to mortgage, a subordination, or other appropriate instrument executed by the lessor and the borrower.

(4) For a loan on a farm or nonfarm tract in which the applicant owns or will own an undivided interest, the interests of all the co-owners will be included in the mortgage, with the following exceptions:

(i) When not required under § 1822.7(1)(5).

(ii) When one or more of the co-owners are not legally competent or cannot be located or the ownership rights are divided among such a large number of co-owners that it is not practical for all their interests to be mortgaged, the mortgaging of interests not exceeding 50 percent may be excluded from the security requirements upon prior approval by the State Director of the County Supervisor's recommendation accompanied by a full statement of ownership and conditions which justify the exclusion. In such a case the loan may not exceed the market value of the equity

represented by the interests of the owners who sign the mortgage. In determining such value, consideration will be given to any adverse effect which might result from sale of the mortgaged interests separately from the nonmortgaged interests and from rights of partition accruing to the owners of the nonmortgaged interests. All legally competent coowners using or occupying the property will be required to sign the mortgage.

(iii) Where the applicant owns only an undivided interest in part of the farm and seeks a loan to build or improve a dwelling or related facilities on another part in which he owns the entire interest, or owns only an undivided interest in a farm and seeks a loan to purchase the entire interest in a building site, with or without a building which will be part of the farm, the interests of the applicant's co-owners may be excluded from the security requirements upon approval by the State Director, if he finds that the loan will be adequately secured by the applicant's equity in the wholly owned tract; the market value of the jointly-owned tract is at least equal to the debts against it; the joint ownership of part of the farm and its operation by the applicant, or the applicant's participation in its operation have been and are likely to continue to be successful; and all other requirements for a sound loan are met; *Provided*, That if in such a case debts against the jointly-owned land are liens on the wholly-owned tract or on land in which the applicant owns no interest, no loan may be made without prior approval by the State Director after review of the County Supervisor's and District Director's recommendation accompanied by full information, including a statement regarding the ownership of all the lands involved, the nature and permanency of the joint operation, and the nature, amount and holder of such debts. In cases within this Subparagraph, whether undivided interests may be omitted from the RH mortgage securing a loan which includes refinancing will be determined by the State Director after review of the County Supervisor's and District Director's recommendation supported by full information.

(5) When the holder of a life estate qualifies as an owner, as defined in § 1822.3 of this Subpart, the remaindermen will be required to join in executing the mortgage with the following exception: When one or more of the remaindermen are not legally competent or cannot be located or the remainder rights are divided among such a large number of remaindermen that it is not practicable to obtain the signatures of all the remaindermen, the mortgaging of remainder interests not exceeding 50 percent of the total remainder interest may be excluded from the security requirements upon prior approval by the State Director after review of the County Supervisor's and District Director's recommendations accompanied by a memorandum stating complete ownership information and circumstances which justify the exclusion. In such cases, the loan may not exceed the market value of the equity represented by the interests of those who sign the mortgage, determined with due regard to all adverse factors involved. Remaindermen will be required to sign the note when necessary for a sound loan or to obtain the required security.

(6) When the applicant is the owner of a farm, a mortgage will be taken only on the dwelling and dwelling site provided the following conditions can be met:

(i) The tract to be mortgaged must not include or be close to farm service buildings, be in a good residential location, be otherwise suitable as a residential type of nonfarm tract, provide adequate security for the loan, and be contiguous to a public road.

(ii) In all other cases, not complying with paragraph (b)(6)(i) of this section, the tract to be mortgaged must contain at least enough land to clearly provide adequate security for the loan and to make the tract readily saleable in the area.

(iii) If the tract to be mortgaged is covered by a prior lien which also applied to other land, the tract to be given as security must either:

(A) Be released from the prior lien to permit a first lien for the RH loan; or

(B) Provide adequate security for the entire prior lien debt and the RH loan, as well as comply with paragraph (b)(2) of this section.

(iv) All other requirements for a sound loan are met.

(7) For a loan of $5,000 or less and scheduled for repayment in not more than 15 years as provided in paragraph (a) of this section, the best real estate mortgage obtainable may provide security. The title requirements of Part 1809 of this Chapter will not be applicable. Applicants, however, must be owners and in no case may a loan be secured in this manner when the County Supervisor has actual knowledge that the applicant does not have mortgageable title to the property. Evidence of ownership must comply with § 1822.9(d)(2). Neither a designated loan closing attorney nor title insurance company will be used unless the loan approval official determines that the requirements of Part 1809 of this Chapter should be met to assure repayment or to accomplish the objective of the loan.

(c) *Promissory note.* A loan of not more than $2,500 scheduled for repayment in not more than 10 years from the date of the note may be made on the basis of the borrower's Promissory Note without taking other security when the County Supervisor determines after objectively evaluating all the facts that:

(1) The applicant has a good reputation for paying his debts promptly;

(2) The applicant is in a strong financial position and will have sufficient income to readily meet all his obligations; and

(3) The applicant clearly has equity in the real estate being improved with loan funds at least equal to the amount of the proposed loan.

§ 1822.11 Processing applications and county committee certification.

(a) *Applications.* Applications for section 502 RH loans will be taken on Form FmHA 410-4, "Application for Rural Housing Loan (Nonfarm Tract)," or Form FmHA 410-1, "Application for FmHA Services," and processed in accordance with Subpart A of Part 1801 of this Chapter.

(1) Builders, brokers, contractors, and others including organizations such as those providing self-help assistance who can provide complete information on the applicant and the house that is to be purchased may assist in the assembly and processing of loan applications. Builders or sellers who received conditional commitments may also assist applicants in applying for an RH loan to buy a house for which a conditional commitment was issued in accordance with Subpart H of Part 1822 of this Chapter. The County Supervisor will meet with such interested parties to explain the eligibility requirements of RH loans, the size, design, cost and location of homes that can be financed; how applications will be handled; and the type of information that must be submitted. The information to be submitted is listed in Exhibit B of this Subpart.

(2) In any case in which there may be any likelihood that the applicant could obtain the credit he needs to supplement his available resources to provide an adequate dwelling, the County Supervisor will require the applicant to make a diligent effort to obtain credit from other sources.

(i) Applicants will be expected to apply for credit from lenders engaged in extending long-term housing credit in the area.

(ii) Applicants should be advised to request lenders to indicate the amount, interest rate, and terms of housing credit they would be willing to extend to the applicant.

(iii) When appropriate, the County Supervisor should verify evidence presented by an applicant that he cannot obtain adequate credit elsewhere.

(iv) Letters from the lenders and any other evidence indicating that the applicant is unable to obtain credit elsewhere will be included in the loan docket.

(v) In no case will a loan be made to an applicant who is able to obtain the credit he needs to supplement his available assets at terms he can reasonably be expected to pay.

(3) In any case in which a County Supervisor determines there is no possibility of the applicant's obtaining adequate housing credit elsewhere and, therefore, does not require the applicant to provide evidence that he has made an effort to obtain such credit, the County Supervisor will record his conclusion and the basis for it in the loan docket.

(b) *County committee certification.* The county committee will not be used to determine the eligibility of nonfarm applicants. However, in cases where repayment of the requested loan depends

on the successful operation of a farm, the county committee will be used to determine the eligibility of the applicant, the amount of the RH loan, and whether the farm with respect to which the application is made is of such character that there is a reasonable likelihood that the purpose of the loan will be accomplished, unless use of the county committee is waived by a State regulation.

(c) *Optioning of real estate.* The County Supervisor should, if possible, prior to the applicant's selection of property he desires to purchase, advise him with respect to the size, design, quality, cost and location of the dwellings and dwelling sites suitable for the RH program. Generally, Form FmHA 440–34, "Option to Purchase Real Property," should be used; however, other option forms may be used if their provisions are acceptable.

§ 1822.12 Preparation of loan docket.

(a) *Farm and home plans or family budget forms.* Applicants who complete an application on:

(1) Form FmHA 410–4, "Application for Rural Housing Loan (Nonfarm Tract)," will also complete Form FmHA 431–3, "Family Budget," only when the following conditions exist:

(i) The family needs supervisory assistance in financial management;

(ii) The financial statement on the application is inadequate.

(2) Form FmHA 410–1, "Application for FmHA Services," will complete:

(i) Form FmHA 431–2 as prescribed in Subpart B of Part 1802 of this Chapter. When a loan is to be made to a nonoperator farmowner, the columns in Table B, "Crops, Pasture, Etc.—Production and Sales," and Table C, "Livestock and Products—Production and Sales," of Form FmHA 431–2 pertaining to the operator's share will be changed to owner's share. If an application is being considered early in the crop year for a borrower who has a current Form FmHA 431–2, such form will be revised to show changes in the financial statement and significant changes in the planned operation; however, if the crop year is well advanced or completed, a farm and home plan will be developed for the ensuing year; and

(ii) Form FmHA 431–1 will also be prepared whenever needed in accordance with Subpart B of Part 1802 of this Chapter.

(b) *Agreements from prior lienholders.* When the loan is to be secured by a junior real estate mortgage, agreements will be obtained from prior lienholders to any extent necessary to comply with § 1822.10 (b) (2), including foreclosure or assignment notice agreements in States in which they are required by a State regulation issued under § 1807.2(f) of this Chapter.

(c) *Information concerning prior mortgage.* The applicant for a loan to be secured by a junior real estate mortgage will be required to furnish the County Supervisor, before the docket is assembled, a copy of each mortgage held by a prior lienholder and, if available, a copy of each secured note or other obligation. In addition, the County Supervisor will be furnished a current statement signed by the mortgagee showing the amount of unpaid principal secured by the mortgage; the amount of any accrued interest; whether the account is current or the amount of any delinquency, with interest and principal shown separately; and, if a copy of the note is not furnished, its maturity date, payment schedule, interest rate, and a summary of any other provisions of the note. All these documents will be included in the docket for the information of the loan approval official and any cost incident to obtaining them will be paid by the applicant.

(d) *Information about cosigner.* When the note of a borrower will be cosigned by an individual or a corporation, information obtained from the cosigner will include a current financial statement, a statement of income and expenses, the nature of the cosigner's employment or business and a brief statement as to the cosigner's employment of business history. The information required from the cosigner will be supplemented by a statement by the County Supervisor as to the cosigner's financial condition and reputation for paying debts and any other information, such as a credit report, that will be of assistance to the loan approval official in determining the soundness of the loan. This information will be included in the docket.

(e) *Loan docket.* The loan docket will consist of the following properly prepared and executed forms as appropriate: Form FmHA 444–12, "Check Sheet for Rural Housing Loan Package;" Form FmHA 410–1, "Application for FmHA Services;" Form FmHA 410–4, "Application for Rural Housing Loan (Nonfarm Tract);" Form FmHA 410–5, "Request for Verification of Employment;" Form FmHA 410–6, "Applicant Reference Letter;" Form FmHA 431–2, "Farm and Home Plan;" Form FmHA 431–1, "Long-Time Farm and Home Plan;" Form FmHA 431–3, "Family Budget;" Form FmHA 440–2, "County Committee Certification or Recommendation;" Form FmHA 427–8, "Agreement with Prior Lienholder," (or similar form); Form FmHA 440–34, "Option to Purchase Real Property;" Form FmHA 424–1, "Development Plan," (including any plans, specifications, and cost estimates); Form FmHA 422–6, "Property Information and Appraisal Report (Rural Housing Nonfarm Tract);" Form FmHA 422–1, "Appraisal Report (Farm Tract)," (with attachments); Form FmHA 426–1, "Valuation of Buildings;" Form FmHA 444–6, "Interest Credit Agreement (Section 502 RH Loans);" Form FmHA 440–1, "Payment Authorization;" Form FmHA 440–3, "Record of Actions;" Form FmHA 444–2, "Housing Fund Analysis;" Form FmHA 440–35, "Acceptance of Option;" Form FmHA 440–41, "Disclosure Statement for Loans Secured by Real Estate;" Form FmHA 440–42, "Credit Sale Disclosure Statement;" Form FmHA 440–43, "Notice of Right to Rescind;" Form FmHA 400–3, "Notice to Contractors and Applicants;" Form FmHA 400–6, "Compliance Statement;" Form FmHA 440–9, "Supplementary Payment Agreement;" Form FmHA 440–45, "Nondiscrimination Certificate (Individual Housing)." Other loan docket items: Title opinion, mortgage, title policy or report of lien search, if available, foreclosure notice agreement, original or certified copy of deed, purchase contract, lease, or other instrument of ownership, information on prior mortgage and information on cosigner. When the County Supervisor is the loan approval official, he may, in lieu of including the document evidencing ownership, include a statement in the docket indicating that he has seen and reviewed the document. Estimate of the value of any security not appraised on Form FmHA 422–1 or Form FmHA 422–8.

§ 1822.13 Loan approval.

(a) *Application of authority.* The State Director, District Director, and County and Assistant County Supervisors are authorized to approve or disapprove loans in accordance with Subpart B of Part 1810 of this Chapter. However, no initial or subsequent RH loan may be approved by the State Director without the consent of the National Office if the amount of the loan plus the unpaid principal balance and any past-due interest on liens against the security for the loan would exceed $225,000. The loan docket and the State Director's recommendation should be submitted with any request for authority to approve a loan in excess of this limitation.

(b) *Limitations.* The authority as shown in Subpart B of Part 1810 of this Chapter is limited to cases in which:

(1) The proposed loan plus the total unpaid principal balance and any past-due interest on debts against the security for the loan will not exceed the prescribed loan limitation on RH loan approval authorities of various officials of the FmHA.

(2) The debt against any property taken as security for the loan will not exceed the appraiser's recommended market value of the property except in accordance with § 1822.7(e) (3).

(3) No significant changes have been made in the planned development considered by the appraiser when real estate will be taken as security.

(c) *Loan approval action*—(1) *Examination of loan.* The loan approval official is responsible for reviewing the docket to determine that the proposed loan complies with established policies and all pertinent regulations and that funds are available for the loan. In making this review, the loan approval official will determine that the applicant is eligible; funds are requested for authorized purposes only; the proposed development does not exceed authorized limitations; the proposed loan is sound; the site is suitable for the intended purpose and meets the requirements of applicable FmHA regulations; and all other pertinent requirements are met.

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(2) *Approval or disapproval of a loan.* When a loan is approved, the loan approval official will:

(i) Indicate on all copies of Form FmHA 440–3 any condition that must be met before the loan is closed and specify the security requirement that the applicant will need to meet, such as a first real estate lien or a junior lien subject to certain liens and so forth. If title evidence is required in accordance with Part 1807 of this Chapter or in accordance with any special requirements for the loan but is not included in the docket, the loan may be approved subject to the applicant's furnishing the required title evidence. When the applicant furnishes satisfactory title evidence, the County Supervisor will proceed with processing the loan, except that in those cases in which the title evidence does not comply with the conditions specified by the approval official, the docket will be reconsidered by the loan approval official.

(ii) Sign the approval certification on the original only and conform all copies of Form FmHA 440–3 and insert his title in the space provided.

(iii) Sign the original and one copy of Form FmHA 440–1 and insert his title in the space provided.

(iv) If a loan is not approved after the docket has been developed, the reasons for such action will be shown on the original Form FmHA 440–3; it will be initialed and dated, and the County Supervisor will notify the applicant of the disapproval and the reasons. If the notice was not in writing, the County Supervisor will record in the running record a brief summary of the discussion with the applicant.

(3) *Distribution of docket forms.* The applicable docket forms will be distributed as outlined below by the loan approval official after a loan is approved:

(i) *To the Finance Office:*

(A) Form FmHA 440–3 (original and one copy). After being processed in the Finance Office, a conformed copy will be returned to the County Office.

(B) Form FmHA 444–2 (original).

(C) Form FmHA 440–1 (original and copy).

(ii) *To the State Office.* If the loan is approved by the County Supervisor, an unsigned copy of Form FmHA 440–3 and a copy of Form FmHA 444–2. If the loan is approved in the State Office, an unsigned copy of Form FmHA 440–3 and a copy of Form FmHA 444–2 will be retained in the State Office.

(iii) *To the borrower.* A signed copy of Form FmHA 440–1, the original of Form FmHA 440–41, and, if applicable, the original and copy of Form FmHA 440–43 and a copy of Form FmHA 440–34.

§ 1822.14 Actions subsequent to loan approval.

(a) *Requesting check.* When the loan has been approved, approval conditions can be met, any necessary curative actions have been taken to provide a satisfactory title to any real estate security, and a tentative date has been set for loan closing, the County Supervisor or his delegate will check the "Check is Hereby Requested" block of the copy of Form FmHA 440–3 for issuance of the check, sign and date the portion of the form to request the check, and send it to the Finance Office. If a real estate will not be taken as security or if real estate is taken as security and satisfactory title evidence is obtained prior to loan approval, or when the County Supervisor is reasonably certain that satisfactory title evidence can be obtained so the loan can be closed within 30 days from the date of the check, the loan check may be requested at the time of loan approval by checking the "Check is Hereby Requested" block of the original of Form FmHA 440–3 and signing and dating the portion of the form to request the check.

(b) *Handling loan checks.* (1) When the loan check or borrower's personal funds are to be deposited in the designated loan closing agent's escrow account, this will be done no later than the date of loan closing. If loan funds or borrower's personal funds are to be deposited in a supervised bank account, this will be done in accordance with Part 1803 of this Chapter as soon as possible, but in no case later than the first banking day following the date of loan closing.

(2) If a loan treasury check is received and the loan cannot be closed within 45 days from the date of the check, the County Supervisor will take appropriate action in accordance with FmHA regulations.

(c) *Cancellation of loan.* Loans may be canceled before loan closing by the use of Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation," prepared in accordance with guidelines for preparation of this Form available in all FmHA offices.

(1) When a check is received in the County Office, the County Supervisor will return it, with a copy of Form FmHA 440–10 to the Regional Disbursing Center, U.S. Treasury Department, Kansas City, Missouri 64142.

(2) Interested parties will be notified of the cancellation as provided in Part 1807 of this Chapter.

(d) *Increase or decrease in amount of loan.* If it becomes necessary that the amount of the loan be increased or decreased prior to loan closing, the County Supervisor will request that all distributed docket forms be returned to the County Office. The loan docket will be revised accordingly and reprocessed.

(e) *Property insurance.* Buildings on the property which is to be taken as security for the loan will be insured in accordance with Part 1806 of this Chapter.

§ 1822.15 Loan closing actions.

(a) *Review of financial status.* The loan will be closed, based on the applicant's financial circumstances at the time of loan approval, provided the loan is closed within 90 days after approval and the County Supervisor has no knowledge of a significant change in the applicant's financial status. Further review of the applicant's financial status, therefore, is not required at the time of loan closing unless the loan is closed more than 90 days after the date of loan approval or evidence is brought to the attention of the County Supervisor or other loan closing official which indicates that the applicant's financial status has changed significantly. In cases where the County Supervisor finds that, prior to loan closing, the adjusted annual family income increased and exceeds by not more than $1,000 the limit for loans to moderate-income families for the state, as provided in Exhibit D of this Subpart, the loan may be closed provided the State Director so authorizes after he finds that the dwelling was or is being built or repaired for the specific applicant or a binding construction or sales contract for a specific dwelling has been executed by the applicant and an acceptable contractor or seller; other credit is not available for financing the property; and failure to close the loan would result in a financial hardship for the applicant. Furthermore, in cases where the loan was approved on the basis of interest credits and the County Supervisor finds that, prior to loan closing, the adjusted annual family income increased and exceeds by not more than $1,000 the limit for loans to low-income families for the state, as provided in Exhibit C of this Subpart, the loan may be closed and interest credits granted on the basis of the family's new circumstances (e.g., appropriate reduction in amount of interest credit) provided the State Director so authorizes after he determines that interest credits are necessary to enable the applicant to repay the proposed RH loan.

(b) *Preparation of note, mortgage and loan closing procedure.* Any changes made in the printed or typewritten text of any instrument by deletion, substitution, or addition (excluding filling in blanks) will be initialed in the margin by all persons signing the instrument.

(1) *Real estate mortgage.* A loan secured by a real estate mortgage (including a mortgage on a leasehold) will be closed in accordance with Part 1807 of this Chapter. Form FmHA 427–1, "Real Estate Mortgage for _____ State," will be used.

(i) For a loan secured by a mortgage on a leasehold, the following language, or similar language which in the opinion of the OGC is legally adequate, will be inserted in the mortgage just before the legal description of the real estate: "All Borrower's right, title, and interest in and to the leasehold estate for a term of __ years beginning on _____, 19__, created, executed and established by certain Lease dated _____, 19__, by _____ as lessor(s), in Book _____, Page ____, of the _____ Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in

and to said Lease, covering the following real estate:"

(ii) For a loan secured by a mortgage on a leasehold, an additional covenant will be inserted in the mortgage to read as follows:

Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish, without the Government's written consent, any of Borrower's right, title or interest in or to said leasehold estate or under said Lease while this instrument remains in effect.

(2) *Promissory note.* Form FmHA 440–16, "Promissory Note," will be used for loans made under this Subpart. The note will be prepared and signed in accordance with Part 1807 of this Chapter, the provisions of this Subpart concerning cosigners, § 1822.10(b)(5) of this Subpart, and the guidelines for preparation of this Form available in all FmHA offices. The payment provisions of the note will be completed in accordance with these guidelines and as follows:

(i) The monthly payment provision will be used for all borrowers who regularly receive monthly income and who can repay the loan in 12 equal monthly payments.

(ii) The annual payment provision will be used only for borrowers who do not regularly receive monthly income.

(A) The amount of the first installment will be determined by the County Supervisor after considering the immediate debt-paying ability of the borrower. The amount of the first installment may be less, but not more than a regular annual installment.

(B) The amount of the first installment may not be less than the amount equal to interest on the loan from the date of loan closing to January 1 of the calendar year following the calendar year in which the loan is closed.

(C) Form FmHA 440–9 should be used to supplement this payment provision to facilitate servicing of loans for borrowers who pay more than one time a year.

(3) *Collection of first installment.* If the annual payment provision of the note is used, the first installment of a loan closed during December will be collected at the time of loan closing. Also, for a loan to an applicant involved in an authorized mutual self-help project, the entire amount of any funds included in the loan for paying installments due during the first and second years after the loan is closed will be collected and applied as a regular payment at the time of loan closing.

(4) *Direct payments.* New borrowers, including transferees, will be provided direct payment cards and will make payments directly to the Finance Office. Borrowers incapable of making direct payments to the Finance Office will have their payments cards retained in the County Office. Payments made will be forwarded to the Finance Office with the appropriate direct payment card in the Finance Office mail. Cash payments, refunds, and extra payments made by borrowers will be handled in accordance with Part 1862 of this Chapter.

(5) *Real estate mortgage after filing* When the real estate mortgage is returned by the filing official or loan closing official, the original will be filed in the borrower's case folder. If the original is retained by the filing official in his official records, a copy conformed to show the recording data including the date and place of recording and the book and page number will be filed in the borrower's case folder. A copy of the mortgage will be delivered to the borrower.

(c) *Other actions*—(1) *Assignment of income from real estate to be mortgaged.* Unless otherwise authorized by the State Director in an individual case, income to be received by the borrower from royalties, leases, or other existing agreements under which the value of the real estate security will be depreciated will be assigned and disposed of in accordance with Subpart A of Part 1872 of this Chapter, including provisions for written consent of any prior lienholder. However, in small nonfarm tract cases, the State Director may, by State regulation, authorize withholding transmittal of assignments to lessees for execution until production is obtained. The State Director may also, by issuing a State regulation, eliminate the requirement of taking an assignment if the security is otherwise adequate; payment of the loan is reasonably assured from other sources; and the income has already been committed for other purposes or must be relied on by the applicant for essential living or operating expenses, or is so small that in the opinion of the County Supervisor the execution of an assignment is not justified. When the County Supervisor deems it advisable, in other than small nonfarm tract cases, assignments may also be taken on all or a portion of income to be derived from nondepleting transactions such as income from bonus payments or annual delay rentals which will be assigned and disposed of in accordance with Subpart A of Part 1872 of this Chapter.

(i) For assignment of income, Form FmHA 443–16, "Assignment of Income from Real Estate Security," will be used except that if the form is legally inadequate in a particular State it may be revised as needed with the approval of the OGC.

(ii) The County Supervisor, upon advice of the designated attorney, title insurance company, or the OGC, as appropriate, may require acknowledgement and recordation of the assignment. Any cost incident thereto will be paid by the borrower.

(iii) At the time Form FmHA 443–16 is executed, appropriate notations will be made on Form FmHA 405–1, "Management Systems Card—Individual (Rural Housing Only," to insure that the proceeds, or the specified portion of the proceeds, assigned to FmHA from the transactions are remitted at the proper time.

(2) *Owner's policy of title insurance.* If an owner's policy of title insurance is obtained, it will be delivered to the borrower as soon as it is received from the title insurance company.

(3) *Effective date of loan closing.* A loan secured by a real estate mortgage is closed when the mortgage is filed for record. In other cases a loan is closed when the borrower executes the note and any other required instruments.

(4) *Water stock certificates or other such collateral.* When water stock certificates or other such collateral are part of the security, they will be retained in the County Office. A notation will be made on Form FmHA 405–1 or Form FmHA 405–5, as appropriate, showing that such security has been retained.

(5) *Account record and case folder.* The account and case folder will be established in accordance with FmHA regulations.

§ 1822.16 Rural Housing Disaster loans.

(a) Rural Housing Disaster (RHD) loans may be made to applicants meeting the eligibility requirements of § 1822.4 to repair or replace dwellings which were damaged or destroyed by a natural disaster such as earthquake, flood, forest fire, severe windstorm, or lightning which occurred after November 1, 1974, as follows:

(1) Loans may be made to eligible nonfarm families who owned and personally occupied the dwelling as their permanent residence provided the loss was not the result of a major disaster designated by the President or a natural disaster designated by the Administrator of the Small Business Administration.

(2) Loans may be made to eligible farmers to repair or replace their dwellings provided the loss was not the result of a major disaster designated by the President or natural disaster designated by the Secretary of Agriculture.

(b) *Repair or replacement of buildings.* Repair or replacement of any damaged or destroyed building must be consistent with the basic Section 502 loan policies. Changes may be made in the building, but in any case the repaired or replaced building should not be significantly larger or more costly than the original building except as necessary to provide a building which is adequate but modest. No new dwelling constructed will exceed the limit established by § 1822.7 (b)(1) of this Subpart.

(c) *Interest rate and source of funds*—(1) *Interest rate.* RHD loans will be made at an interest rate of 5 percent.

(2) *Source of funds.* Insured loan funds will be used for RHD loans.

(d) *Approval authorization.* The State Director, County and Assistant County Supervisors are authorized to approve RHD loans in accordance with Subpart B of Part 1810 of this Chapter for section 502 RH loans. A disaster loan will be approved only after the loan approval official determines that the loss or damage was due to a natural disaster which occurred after November 1, 1974; the disaster loan application was filed within

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12 months after the date the loss occurred; the applicant is using his available assets, including insurance loss payments, and other assistance to the extent available to repair or replace the damaged or destroyed buildings.

(e) *Nature of loss.* On Form FmHA 440–3, each case will be identified by checking "other" in the "Type of Assistance" block and inserting "RHD" in the space provided.

(f) *Deferred payments.* The initial payments of principal but not interest may be deferred so as not to become due until as late as the third January 1 after the date of loan closing subject to all of the following conditions:

(1) The applicant, as a result of the loss suffered from the disaster, has had a substantial loss of income; or his necessary debts, including the proposed RHD loan, have increased substantially as a result of the disaster.

(2) The income loss or increase in debts must be sufficiently great so that the applicant will not likely be able to pay in full the installments that ordinarily would be due during the proposed deferment period and also meet his other necessary obligations.

(3) The applicant's other debts have been adjusted by reduction, reamortization, extension, or other means to the extent possible by negotiation with other creditors.

(4) The applicant's income will be sufficient after the deferment period to enable him to meet the payments on the RHD loan and all his other obligations.

§ 1822.17 Subsequent Section 502 loans.

A subsequent Section 502 loan is a Section 502 loan made to a borrower who has an existing Section 502 RH loan. Subsequent loans may be made for the same purposes and under the same conditions and limitations as initial loans, except as provided in this Section.

(a) The subsequent loan will be processed in the same manner as initial loans, except that a new appraisal report will be required only when real estate will be taken as security and at least one of the following exists:

(1) The property was not appraised in connection with the initial loan.

(2) The latest appraisal report of the real estate is over 2 years old.

(3) The physical characteristics of the property have changed significantly.

(4) The County Supervisor or loan approval official requests a new appraisal report.

(b) A subsequent RH loan made on a note-only basis, provided the amount of the subsequent loan plus the unpaid principal balance of any prior note-only RH loan or loans, does not exceed $2,500.

(c) When a real estate mortgage is required in connection with a subsequent RH loan, any outstanding RH notes will be described in the mortgage.

(d) The subsequent loan will bear interest at a rate determined in accordance with Subpart A of Part 1810 of this Chapter. It will not necessarily be the same rate as charged on the initial loan.

§ 1822.18 Reamortization of existing FmHA debt(s).

In connection with making an RH loan to a borrower currently indebted for an FO, RH, RL or SW loan, such loans may be reamortized with the prior authorization of the District Director. Authority to reamortize an account will be granted in those cases in which it is determined the borrower cannot reasonably be expected to meet the installments due unless the account is reamortized. When a loan is reamortized, it will be processed in accordance with § 1861.9(e) (i) of this Chapter.

EXHIBIT B—INFORMATION REQUIRED TO PACKAGE APPLICATIONS FOR SECTION 502 RURAL HOUSING LOANS

1. *General Information.* Persons or organizations that want to assist applicants in submitting applications to the Farmers Home Administration (FmHA) should first meet with the County Supervisor. If these discussions indicate that the person or organization is capable of satisfactorily delivering complete information about applicants and houses that are likely to qualify for Rural Housing (RH) loans, the County Supervisor will review in detail the information that is needed and the processing steps required in completing an RH loan. The County Supervisor will provide assistance and guidance to all packagers in obtaining the required information. The guide "Packaging Applications for Rural Housing Loans" and the following FmHA Forms and regulations may be provided to prospective packagers as needed:

(a) Form FmHA 444–12, "Check Sheet for Rural Housing Loan Package."

(b) Form FmHA 410–4, "Application for Rural Housing Loans (Nonfarm Tract)."

(c) Form FmHA 410–1, "Application for FHA Services."

(d) Form FmHA 410–5, "Request for Verification of Employment."

(e) Form FmHA 422–6, "Property Information and Appraisal Report—Rural Housing Nonfarm Tract."

(f) Form FmHA 424–2, "Dwelling Specifications."

(g) Form FmHA 440–34, "Option to Purchase Real Property."

(h) Subpart L of this Part, "Fair Housing Marketing."

2. *Information packager or applicant must provide.* (a) *Information to be submitted for all applicants.* (1) The applicant family should complete the appropriate application form as prescribed in Subpart A of Part 1801 of this Chapter.

(i) All information on the form must be complete and accurate.

(ii) If the applicant obtains income from his own business, the current operating statement must be attached.

(iii) The application form must be dated and signed by the applicant.

(2) Form FmHA 410–5 will be used to check employment and income on applicants. The Form should be mailed to the employer to be completed and returned directly to the County Office. FmHA will not provide franked envelopes for this purpose unless the form is sent to the employer directly by the County Supervisor.

(3) In cases where it appears that the applicant has sufficient income or assets to qualify for housing credit from another source, he must make a diligent effort to obtain such credit from at least two lenders who customarily make long-term housing loans in the area. If such lenders are unable to provide the credit needed, their written response stating why they cannot assist the applicant should be included in the loan package.

(4) The information specified in paragraph 2.(b) or 2.(c), whichever is applicable, will be submitted. In case FmHA has issued a conditional commitment on the property, information on the house will be on file in the County Office and need not be resubmitted.

(5) If a house to be purchased is under construction, the loan will not be closed until it is completed. In a such a case the information in paragraph 2(c) will be submitted.

(b) *Information to be submitted for loans to build or rehabilitate homes.* The information requested on the front page of Form FmHA 422–6 will be submitted along with the completed Form. This applies regardless of whether a conditional commitment is being requested in connection with the package. When Form FmHA 424–2 is completed, item 31 of the Form should include a complete description of the foundation plantings, trees, seeding or sodding that are included in the contract.

(c) *Information to be submitted for loans to buy existing homes.* (1) A signed or certified copy of an option on the property. The option must provide that any payments made by the applicant will be refunded if the loan is not made. From FmHA 440–34 may be used for this purpose.

(2) A termite certification whenever required.

(3) In case major improvements are involved, submit three sets of complete drawings and specifications of the work that must be done, and a contractor's bid or a reliable cost estimate.

(4) If the house is under construction or less than a year old and an individual water or sewage system is involved, include a certification by the builder that the house and any water and waste disposal system have been or will be built or installed in accordance with the local building codes and plans and specifications. Such plans and specifications will also be submitted. Evidence of approval by health authorities having jurisdiction in the area also will be included. If the house is a year or more old, the County Supervisor will satisfy himself that the water and/or sewage system is functionally adequate.

(5) Form FmHA 422–6 with Part I completed. Also the information concerning the applicant's name and address on the bottom of the first page should be completed.

(6) Direction map to the property.

(7) Plot plan drawn to scale showing house location and related facilities.

3. *Review and acceptance of completed package.* During the initial discussions an agreement should be reached with packagers that loan packages will be delivered to the County Office assembled in the order shown on Form FmHA 444–12. This form must be signed by the packager and be attached; otherwise, the packaged application will not be accepted. The County Supervisor should review each loan package when it is submitted and request any additional information needed. If the applicant is not present when the application is presented, the County Supervisor ordinarily will not proceed with the processing of the loan until the applicant family has been interviewed. The County Supervisor, however, will in all cases, interview the applicant prior to approving the requested loan in order to reach a proper understanding with the applicant as to the basic loan making and servicing policies, the responsibilities of borrowers, and the benefits which may be expected from FmHA assistance.

(a) If the applicant appears to be qualified and all needed material is available, the County Supervisor will complete an appraisal

of the property and the processing of the application.

(b) If a loan can be approved, the County Supervisor will notify the applicant and inform him of any requirements that must be met prior to closing the loan. If for any reason a loan cannot be made, the County Supervisor will notify the applicant and the packager. Applicants should also be informed that in these cases, they should visit the County Office if they have any questions about the actions taken on their loan applications.

4. *Packagers' responsibilities.* Packagers should fully understand their responsibilities in helping applicants to assemble their RH loan applications. They should also understand that no fees may be charged for providing this service.

5. *District directors' review of loans originated by application packers.* District Directors are responsible for reviewing the file of a representative number of borrowers whose RH application was submitted to the County Office by a packager. At least 5 percent of the cases packaged by each packager working in the county will be reviewed. The folders reviewed will be randomly selected and reviewed at scheduled office visits throughout the year. The review will be made to determine whether: The applicant's income was properly verified; any credit report received was mailed from the Credit Reporting firm directly to the County Supervisor; the County Supervisor interviewed and counseled with the applicant prior to loan approval; the applicant was eligible for the RH assistance granted; and the loan was in accordance with FmHA procedures. Any incidence of unethical activity by a packager or the approval of improper loans by a County Supervisor will be reported promptly to the State Director for appropriate handling.

(a) A report on packaging activity will be submitted annually for each County Office with Form FmHA 401-1, "Operations Review Questionnaire." The report will indicate:

(1) The number of packagers submitting loan dockets; and

(2) The number of loan dockets reviewed; and

(3) The number of cases where the packagers submitted inaccurate information about a loan applicant, and

(4) The action taken to further train packagers or to suspend, or debar packagers from further participation in FmHA programs because of repeated failure to provide accurate information about loan applicants, or because a packager falsified information he submitted for an applicant.

(b) The State Office will prepare a summary for the State and include it with the operation review summary.

EXHIBIT C—MAXIMUM ADJUSTED INCOME FOR LOW-INCOME FAMILIES

State:	Maximum adjusted income
Alabama	$ 8,500
Arizona	8,500
Arkansas	8,500
California	8,500
Colorado	8,500
Connecticut	8,500
Delaware	8,500
Florida	8,500
Georgia	8,500
Idaho	8,500
Illinois	8,500
Indiana	8,500
Iowa	8,500
Kansas	8,500
Kentucky	8,500
Louisiana	8,500
Maine	8,500
Maryland	8,500
Massachusetts	8,500
Michigan	8,500
Minnesota	8,500
Mississippi	8,500
Missouri	8,500
Montana	8,500
Nebraska	8,500
Hawaii	10,000
Nevada	8,500
New Hampshire	8,500
New Jersey	8,500
New Mexico	8,500
New York	8,500
North Carolina	8,500
North Dakota	8,500
Ohio	8,500
Oklahoma	8,500
Oregon	8,500
Pennsylvania	8,500
Puerto Rico	8,500
Rhode Island	8,500
South Carolina	8,500
South Dakota	8,500
Tennessee	8,500
Texas	8,500
Utah	8,500
Vermont	8,500
Virginia	8,500
Virgin Islands	8,500
Washington	8,500
West Virginia	8,500
Wisconsin	8,500
Wyoming	8,500
Alaska	12,600

EXHIBIT D—MAXIMUM ADJUSTED INCOME FOR MODERATE-INCOME FAMILIES

State:	Maximum adjusted income
Alabama	$10,300
Arizona	12,800
Arkansas	10,200
California	12,900
Hawaii	13,500
Nevada	12,900
Colorado	12,900
Florida	11,700
Georgia	11,600
Idaho	12,300
Illinois	12,900
Indiana	12,900
Iowa	12,800
Kansas	11,900
Kentucky	10,200
Louisiana	10,800
Maine	12,200
Michigan	12,900
Minnesota	12,500
Mississippi	10,200
Missouri	11,500
Montana	12,700
Nebraska	11,500
Delaware	12,900
New Jersey	12,900
Maryland	12,900
New Mexico	10,900
New York	12,900
North Carolina	11,500
North Dakota	11,500
Ohio	12,900
Oklahoma	10,300
Oregon	12,900
Alaska	16,500
Pennsylvania	12,900
South Carolina	11,500
South Dakota	11,000
Tennessee	10,400
Texas	11,400
Utah	12,600
Vermont	12,900
Connecticut	12,900
Massachusetts	12,900
New Hampshire	12,900
Rhode Island	12,900
Virginia	12,100
Washington	12,900
West Virginia	10,700
Wisconsin	12,900
Wyoming	12,900
Puerto Rico	10,200
Virgin Islands	12,900

EXHIBIT E—INTEREST CREDITS

1. *Purpose.* This Exhibit outlines the policies and conditions under which interest credits will be allowed on section 502 RH loans.

2. *Definitions.* As used in this Exhibit:

(a) "Borrower" means an RH borrower who has a low income and is indebted for a section 502 insured loan that was approved on or after August 1, 1968.

(b) "Interest Credit Agreement" means an agreement between Farmers Home Administration (FmHA) and the borrower executed on Form FmHA 444-6 of Form FmHA 444-A6, "Interest Credit Agreement (Section 502 RH Loans)," which provides for interest credits on his loan.

(c) "Review period" means the months of August, September, and October for all borrowers who signed annual installment Promissory Notes and are not now receiving interest credit or whose Interest Credit Agreement expires December 31. The "review period" for borrowers who signed monthly installment Promissory Notes will be the third, fourth, and fifth months prior to the expiration date of the existing Interest Credit Agreement or the anniversary date of the initial loan if the borrower is not now receiving interest credits.

(d) "Substantial change" means a change in a borrower's circumstances that warrants a review of his situation before the next scheduled review period. A change includes, but is not limited to, events such as:

(1) Either his current family income has been significantly reduced or increased; or his family size has changed; and

(2) As a result of either change in income or family size or both, the annual interest credit to which he would be entitled has been increased or decreased by at least $100. "Substantial change" does not apply to circumstances that warrant cancellation of an agreement in accordance with paragraph 8. (a) of this Exhibit.

(e) "Real estate taxes" for interest credit purposes means the amount of real estate taxes and assessments that will be actually due and payable on the dwelling and the dwelling site reduced by the amount of any tax exemptions available to the borrower regardless of whether such exemptions are actually claimed and received. Tax exemptions may include such things as homestead exemptions, special exemptions for low-income families, senior citizens, veterans and others.

(f) "Monthly payment borrowers" are those who have signed monthly payment notes and should receive monthly Interest Credit Agreements.

(g) "Annual payment borrowers" are those who have signed annual installment notes and should receive annual interest credit. This includes borrowers converted to monthly payments.

3. *Eligibility for interest credits.*—(a) *Initial loans.* An interest credit may be granted to a qualified borrower provided:

(1) He meets the eligibility requirements of a section 502 RH loan, can qualify for an interest credit under this Exhibit, and, as a general rule, has a low income and a low net worth. Interest credits for applicants with incomes or net worths somewhat above the low level may be justified under subdivisions (i) and (ii) of this subparagraph. In determining whether an applicant is entitled to an interest credit, the current family income information must be correct,

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the computations must be accurate, and care must be taken to exercise good judgment.

(i) In no case will an interest credit be made to a borrower whose adjusted annual family income exceeds the limit established for the State as indicated in Exhibit C of this Subpart, unless exceptions are authorized by the State Director in accordance with § 1822.15(a) or by the National Office.

(ii) No Interest Credit Agreement may be entered into with an applicant who has a net worth of more than $5,000, excluding the value of household goods and the debts against them, without prior authorizations from the State Director. For the purpose of determining whether exceptions are justified, the State Director will consider the nature of assets, particularly whether they are assets upon which an applicant, such as a farmer, is currently dependent for a livelihood or which could be used to reduce or eliminate the need for an interest credit. Elderly families will be permitted to retain a reasonable reserve for necessary health and maintenance expenses.

(2) The loan is approved on or after August 1, 1968.

(3) The loan is to buy, build or improve a home and related facilities, including a building site, or to refinance debts as authorized in § 1822.7(c).

(4) The home will be personally occupied by the borrower and his family.

(5) The home is modest in size, design and cost. A family with an income so low that it is unable to make the monthly or annual installments on an RH loan without interest credit assistance cannot afford a large or elaborate home. The interest credit assistance is designed to help a family have a decent home but it must not be used to finance housing in excess of the actual basic needs of the family nor should it include desirable but unnecessary features or amenities.

(6) The loan will be amortized over 33 years unless authorized otherwise by the State Director based on complete documents of the justifiable reasons on individual case basis. In no case will interest credits be granted on a loan being made which is amortized for less than 25 years.

(7) The amount of the interest credit will exceed $60 annually or $5 monthly.

(b) *Subsequent loans.* For subsequent loans, interest credits are authorized in the following types of situations:

(1) For a borrower who has an initial loan with or without interest credits, an Interest Credit Agreement can be executed at the time the subsequent loan is closed and will be prorated to both loans. In such cases, any existing Interest Credit Agreement will be canceled and the new Interest Credit Agreement will become effective on the date the subsequent loan is closed. The expiration date of the new Interest Credit Agreement will be:

(i) The second December 31 after the date of the agreement for annual installment notes.

(ii) The second yearly anniversary date of the initial loan after the date of the agreement for monthly installment notes.

(2) For an eligible applicant buying a house out of inventory, a transferee eligible for interest credits who is assuming a loan made to a low- or moderate-income borrower which was initially approved on or after August 1, 1968, and for a transferee eligible for interest credits who is assuming a loan made to a low- or moderate-income borrower which was initially approved prior to August 1, 1968, provided the assumption is being made on new terms, interest credit assistance may be provided, at the time of loan closing on both the credit sale loan or loan being assumed and the subsequent loan.

(3) For a borrower who has an initial loan approved prior to August 1, 1968, interest credit assistance may be provided only on the subsequent loan.

4. *Interest credits for existing loans*—(a) *Review of outstanding interest credit agreements expiring during the current calendar year.* A new Interest Credit Agreement may be executed during the review period for a borrower whose Interest Credit Agreement is expiring provided:

(1) The borrower meets the eligibility requirements outlined in paragraph 3. of this Exhibit, except that:

(i) The amount of a borrower's net worth will not be considered unless the County Supervisor has knowledge that the family's net worth has increased sufficiently to enable him to graduate to other sources of credit.

(ii) For a family whose adjusted income exceeds the limit established for the State as indicated in Exhibit C of this Subpart:

(A) The amount of interest credit for which the family qualifies exceeds $100 annually; and

(B) Their adjusted family income does not exceed the maximum moderate-income limit established for the State.

(iii) The provisions of paragraph 4.(a)(1)(ii) also apply to borrowers whose Interest Credit Agreements were previously terminated because their adjusted family incomes exceeded income limits for interest credits provided the borrower is experiencing difficulty in meeting payments due and requests further interest credit assistance.

(2) Current and accurate information is obtained about the borrower's family income. Verification of income from salary or wages will be obtained by using Form FmHA 410–5, "Request for Verification of Employment."

(3) None of the conditions outlined in paragraph 8. (a) of this Exhibit exist.

(b) *Substantial change during first year of Interest Credit Agreement.* The County Supervisor will not be responsible for checking to see if a substantial change has occurred. If, however, it comes to his attention that a borrower has had a substantial increase in income but less than that described in paragraph 9. (a)(4) of this Exhibit, the borrower's situation will be reviewed at the next review period and the Interest Credit Agreement canceled or, if the borrower is still eligible for interest credit in accordance with paragraph 4. (a)(1)(ii), a new agreement will be executed. For borrowers who have experienced a reduction in income as defined in paragraph 2. (d) of this Exhibit, a new agreement may be executed during the next review period if the borrower is experiencing difficulty in meeting payments due and requests that a new Interest Credit Agreement be authorized. When a new Interest Credit Agreement is processed because of substantial change as defined in paragraph 2. (d) of this Exhibit, the old agreement will be canceled as of December 31 for annual installment note borrowers and 1 day prior to the anniversary date of the initial loan for monthly installment note borrowers. For annual installment note borrowers, the new agreement will be effective on January 1. For monthly installment note borrowers, the new agreement will be effective on the anniversary date of the initial loan.

(c) *Use of interest credits in servicing loans.* Interest credits may be authorized by the State Director at any time when necessary to avoid liquidation of the loan, provided he determines that:

(1) The borrower is likely to repay the loan and correct any other defaults that may exist if interest credits are granted;

(2) The loan and borrower qualify for interest credits in accordance with the conditions of paragraph 3. of this Exhibit for borrowers receiving an initial or subsequent loan; and

(3) In cases where a borrower's spouse has abandoned the family and no separation or divorce proceedings have been stated but his or her whereabouts has been unknown for at least 1 year, interest credits may be granted on the loan provided the remaining spouse is occupying the dwelling, owns a legal interest in the property and is liable for the unpaid RH debt; has had the RH loan account put in his or her name only, and is otherwise eligible for interest credits.

(d) *Interest credits for borrowers not presently receiving such assistance.* A borrower who is not now receiving interest credits because he was ineligible at the time of receiving his initial loan or because his agreement was canceled may be granted interest credits during the review period described in paragraph 2. (c) of this Exhibit if he is eligible for such assistance.

(e) *Other renewal of existing Interest Credit Agreements.* Renewals of Interest Credit Agreements may be authorized by the State Director when, for some reason beyond the control of the borrower or County Supervisor the processing of the agreement was not completed during the review period.

5. *Processing interest credits.*—(a) *Preparation of Form FmHA 444–6 or 444–A6.* Form FmHA 444–6 or Form FmHA 444–A6 will be completed in accordance with guidelines for preparation of these forms available in all FmHA offices.

(b) *Effective period.* The Interest Credit Agreements for borrowers whose loans are made on the basis of monthly installments will be effective for 2 years from the date of loan closing. The Interest Credit Agreements for borrowers whose loans are made on the basis of annual installments will be effective through the second December 31 after the loan closing.

(c) *Submission of Interest Credit Agreement to the Finance Office.* The executed original of Form FmHA 444–6 should be submitted to the Finance Office immediately after the loan is closed and Form FmHA 444–A6 should be submitted not later than the date the review period for the existing Interest Credit Agreement expires.

(d) *Preparation of transaction record.* For borrowers who have an Interest Credit Agreement in effect, the following changes will be shown on Form FmHA 451–26, "Transaction Record," or Form FmHA 451–31, "Borrowers Transaction Record," when prepared by the Finance Office:

(1) Interest rate field. The interest rate field of the form will continue to show the interest rate on the note. The Finance Office will compute the effective interest rate charged the borrower based on the amount of interest credit granted. The computed rate, rounded to the nearest ⅛ of a percent, will be shown as a footnote on the form as "Interest Rate Reduced to ____%." Subsequent transactions will be applied by the Finance Office to the loan at the reduced interest rate until such time as renewal or cancellation occurs.

(2) Daily interest accrual field. The daily interest accrual will be shown at the reduced interest rate and interest will accrue at the same rate until such time as the agreement is renewed or canceled.

(3) Application of credit field. The initial transaction record form will not have an entry in the "application of credit" field. The Interest Credit Transaction Code for this method of processing interest credits will be 4 Z.

(4) Payment status field. The payment status field will not reflect the dollar amount of the interest credit granted.

(5) Minimum amount due by date shown field. The amount of the installment, reduced by the amount of interest credit granted as indicated on the Forms FmHA 444–5 or FmHA 444–A6 will be shown.

(e) *Advance from insurance fund.* The repayment schedule for advances made from the rural housing insurance fund will be computed at the interest rate shown on the Promissory Note. However, interest will accrue and payments will be applied on the amount advanced at the reduced interest rate in effect at time of payment.

6. *Processing interest credit renewals*—(a) *Finance Office actions.* At the beginning of the review period, the Finance Office will mail to the County Offices a list of borrowers whose Interest Credit Agreements are expiring, together with a package to be mailed by the County Supervisor to the borrowers. The package will contain the following:

(1) A letter of explanation and instructions for completing the Interests Credit Agreement (Exhibit E–2);

(2) Form FmHA 444–A6 (3 parts with carbon interleaved);

(3) Two Forms FmHA 410–5 (The County Office name and address will be preprinted in the space provided.); and

(4) Three window envelopes (to be used by the borrower in mailing Interest Credit Agreements to the County Offices and for the employer to mail the Verification of Employment forms to the County Office).

(b) *Form preparation.* The Interest Credit Agreement will have the following information preprinted by the computer:

(1) Borrower's name and address;

(2) County Office name and address;

(3) Borrower's case number;

(4) Amount of loan(s) and date of loan(s);

(5) Amount of annual or monthly installment at note interest rate;

(6) Amount of installment to show payment if the loan had been amortized at 1 percent interest rate; and

(7) Amount of the difference between installments at note interest rate and 1 percent rate.

(c) *Borrower responsibility.* Upon receipt of the package, the borrower will give one copy of the Verification of Employment form to the employer or employers of each member of the family who has income to be considered. A window envelope will be provided each employer to facilitate the mailing of the Verification of Employment form directly to the County Office. The borrower will also complete part 2 of the Interest Credit Agreement form (leaving carbon intact), sign the original form and mail the original and all copies to the County Office. After receiving the executed Interest Credit Agreement from the borrower and the Verification of Employment form from the employer, the County Supervisor will complete the Interest Credit Agreement and, if the borrower is eligible for interest credits, the County Supervisor will send the original of the Interest Credit Agreement to the Finance Office, retain one copy in the County Office, and return the other copy to the borrower. Borrowers not eligible to continue to receive interest credits will be notified and informed of the amount of their revised payments. A new Supplementary Payment Agreement will be obtained when needed.

(d) *Notice of interest credits not received.* Prior to the end of the review period, the Finance Office will send to the County Office a list of borrowers for whom a renewal Interest Credit Agreement has not been received. The County Office staff will place a checkmark in the appropriate column of the list to indicate those borrowers who are no longer eligible for interest credits or whose agreement will not be renewed. A renewal Interest Credit Agreement for all other borrowers whose names appear on the list should be completed and mailed to the Finance Office by the end of the review period. The original of the completed list will be retained in the County Office and a copy returned to the Finance Office.

(e) *Processing Interest Credit Agreements not received during the review period.* Interest Credit Agreements not received during the appropriate review period will be processed by the Finance Office as follows:

(1) The effective date of the adjusted interest rate will be the date of the latest credit or charge to the account prior to the time the agreement is received or the effective date of the agreement, whichever is later. Loan account transactions processed prior to this effective date will not be reversed and reapplied.

(2) The monthly or annual installment will be increased or decreased by the amount of the interest credit granted.

(3) Transactions processed to the account subsequent to the effective date will be applied at the adjusted rate of interest.

7. *Interest credits on loans made to repair or rehabilitate a dwelling (Incentive Program).*

(a) *Incentive interest credits.* To encourage the repairing or rehabilitation of existing dwellings, an eligible applicant may receive interest credits to reduce the effective interest rate on section 502 RH loans made to repair or rehabilitate a dwelling already owned by the applicant provided the following conditions are met:

(1) The loan is approved after April 29, 1974;

(2) The dwelling is occupied or will be occupied by an eligible borrower after the loan is made;

(3) The amount of the loan may not exceed $7,000 or be amortized for more than 25 years;

(4) The repair will be made to bring a substandard dwelling up to the minimum property standards for a section 502 RH loan; and

(5) The applicant's net worth, excluding the value of the site and dwelling being improved, household goods and the debts against them, does not exceed $5,000 unless prior authorization is received from the State Director. In making such determinations, the State Director will consider the nature of assets such as a farm, business, etc., from which the applicant is dependent for a livelihood.

(b) *Interest rate.* Interest credits granted and the effective interest rate charged on loans made under this paragraph will be based on the applicant's adjusted family income as determined in accordance with § 1822.15(a) of this Subpart. All parts of Form FmHA 444–6, "Interest Credit Agreement," will be completed, except for the two interest credit computation blocks in section 3 of the form. The letters "RR" will be entered in the blank space immediately above the case number block on the form. The amount of interest credits granted and shown in section 4 of the Interest Credit Agreement will be the difference between the Promissory Note installment and the installment for the loan at the reduced interest rate. The reduced interest rate will be as follows:

(1) For applicants whose adjusted family income is not more than $3,000, interest will be charged at the rate of 1 percent.

(2) For applicants whose adjusted family income is more than $3,000 but not more than $5,000, interest will be charged at the rate of 2 percent.

(3) For applicants whose adjusted family income is more than $5,000 but not more than $7,000, interest will be charged at the rate of 3 percent.

(c) *Limitations.* Borrowers qualifying for interest credit assistance under both paragraphs 3. and 7. of this Exhibit will be granted only the one type of interest credit assistance that is most beneficial to them. Interest credits on initial and subsequent loans will always be the same type. There is no provision for switching from one type of interest credit assistance to the other. Presently indebted section 502 RH borrowers who qualify may receive interest credits on subsequent loans for repair or rehabilitation even though the borrower may not now be receiving interest credit assistance.

(d) *Review of Interest Credit Agreements.* Interest Credit Agreements approved under this paragraph 7. will be reviewed during the same scheduled review period as for other Interest Credit Agreements. Renewal agreements will be completed in accordance with paragraph 7. (b) for those families who qualify for additional interest credit assistance.

(e) *Notation of Form FmHA 444–2, "Housing Fund Analysis."* The notation "8–RR" will be entered after line 1 in the "type of assistance" block on Form FmHA 444–2, for applicants who will receive interest credits under this authority.

8. *Improper Interest Credit Agreements.* Servicing actions under this paragraph will be taken when incorrect information provided by a borrower or an error by the County Supervisor or other FmHA employee resulted in the borrower receiving excessive interest credits of more than $60 annually.

(a) *Determining improper interest credits.* Whenever there is a reason to believe that a borrower received more interest credit than he was entitled to because an improper Interest Credit Agreement may have been executed, the information on which the agreement was based will be verified immediately. A report on the case will be sent to the State Director. The State Director is responsible for taking the necessary action to correct improper interest credits subject to the following:

(1) If there is any indication of fraud or fiscal irregularity, he will refer the case to the Director of the Regional Office of Investigation for a determination as to whether it warrants an investigation. If the Regional Director determines that his office should investigate the case, Farmers Home Administration personnel will assist in any way requested.

(2) If the Regional Director determines that his office should not handle the investigation, he will inform the State Director of this decision. The State Director will then have a detailed review made by a member of his staff. He will review the findings and determine whether fraud or fiscal irregularities have occurred. If so, he will take the actions prescribed in § 1871.22 of this Chapter and other appropriate regulations.

(b) *Falsification or error by borrowers.* When an excessive interest credit has been granted because the borrower intentionally or otherwise provided incorrect information, the following actions will be taken:

(1) The State Director will request the Finance Office to cancel the Interest Credit Agreement as of the effective date of the current Form FmHA 444–6, "Interest Credit Agreement (Section 502 RH Loans)," or earlier FmHA 444–6 involved in the review or investigation. The Finance Office will then reapply any payments to the account at the note rate of interest or at the rate of the corrected Interest Credit Agreement and will notify the County Supervisor and borrower of any adjustment made in the account.

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(2) The State Director will inform the borrower by certified mail (return receipt requested) of his findings and that the interest credit will be canceled. He also will inform him of any other action being taken or planned.

(3) Further handling of the case will be one of the following:

(i) If there is evidence of a criminal violation by the borrower, the case will be handled in accordance with § 1871.22(c) of this Chapter.

(ii) If the borrower's action appears to have been deliberate and a major error occurred, liquidation action may be warranted. Such actions may be taken, for example, if the information obtained indicates that the borrower was not eligible for an RH loan. Such a borrower would be asked to repay promptly the RH loan by refinancing or otherwise satisfy the account. In other cases, the borrower may already be in default and the fact that he had not correctly reported his income may justify liquidation of the loan. If immediate liquidation is likely to be detrimental to the financial interest of the Government, the State Director may arrange to have the borrower repay the loan in not more than 5 or 10 years, as appropriate, in accordance with § 1872.17(g) of this Chapter.

(iii) In all other cases, if the borrower cannot or will not reimburse the FmHA for the improper advance and immediate liquidation action is not warranted, the State Director may decide to continue with the loan. In such a case, he will cancel the amount of improper interest credit that we advanced. The amount of improper interest credit will be charged to the borrower's account and become immediately due and payable. The borrower must be advised by letter that he will be charged interest at the note rate on the amount until it is repaid.

(c) *Error by County Supervisor or other FmHA employee.* Where the borrower presented correct information and an FmHA employee erroneously granted the interest credit, the following actions will be taken:

(1) The State Director will request the Finance Office to cancel the Interest Credit Agreement as of the effective date of the current Form FmHA 444–6 or any earlier Form FmHA 444–6 involved in the review or investigation. The Finance Office will then reapply any payments made on the account during the period covered by the erroneous Interest Credit Agreement or agreements under review at the note rate of interest or at the rate of the corrected Interest Credit Agreement. The County Supervisor and borrower will be notified of adjustments made in the account.

(2) The County Supervisor will make a diligent effort to obtain restitution of the improperly advanced interest credit from the borrower. If this cannot be done, the County Supervisor will so inform the Finance Office by letter as soon as possible and in no case later than the end of the next interest credit review period for the loan. The Finance Office will then prepare Form FmHA 451–26, "Transaction Record," showing a loan schedule status adjustment for the improperly advanced interest credit. The borrower's account will be reported as current as of the last installment date unless the case is delinquent prior to the loan schedule status adjustment. The adjustment will only be for the amount of the improperly granted interest credit and other past due installments will continue to be reported as delinquent. The borrower will then repay the improperly advanced interest credits by increasing his monthly payment within his ability. The State Director will inform the borrower by letter that he will be charged interest at the note rate on this amount until it is repaid. A copy of such letter will be sent to the County Office.

(3) If, for any reason, the FmHA cannot continue with the loan, liquidation action will be promptly taken.

(d) *When the borrower is entitled to a lower amount of interest credit.* A corrected Interest Credit Agreement showing the proper amount of interest credit to which the borrower was entitled will be submitted to the Finance Office to replace the improper Interest Credit Agreement. The notation "corrected in accordance with Exhibit E of Subpart A of Part 1822" will be entered in the blank space next to the title line of the corrected Form FmHA 444–6. The improper Interest Credit Agreement will be canceled as of its effective date. Other cancellations of Interest Credit Agreements will be accomplished in accordance with paragraph 9., of this Exhibit.

9. *Cancellation of existing Interest Credit Agreements.*

(a) *Reasons for cancellation.* An existing Interest Credit Agreement will be canceled whenever:

(1) The borrower has never occupied the dwelling and the FmHA will not continue with the loan;

(2) The borrower ceases to occupy the dwelling;

(3) The borrower sells or conveys title to the property;

(4) The borrower has had a substantial increase in income and is clearly able to repay the loan without interest credits.

(b) *Effective date of cancellation.* The effective date of cancellation for paragraph 9. (a)(1) will be date of loan closing. The effective date of cancellation for paragraph 9. (a) (2), (3), and (4) will be the date on which the earliest action occurs which causes the cancellation. If the date cannot be determined, the date on which the County Supervisor became aware of the situation will be used. In cases where foreclosure action is being taken against a borrower and none of the conditions outlined in paragraph 9. (a) (1), (2), (3), and (4) exist, the Interest Credit Agreement will remain in effect until the final foreclosure action is completed. However, if the existing Interest Credit Agreement expires before foreclosure action is completed, further interest credits will not be granted.

(c) *Notification to the Finance Office.* The County Supervisor will determine the date of cancellation and notify the Finance Office on Form FmHA 444–15, "Interest Credit Agreement Cancellation." The Finance Office will process the cancellation and will accrue interest from the date of cancellation at the rate of interest shown in the Promissory Note. Prompt notification to the Finance Office, using Form FmHA 444–15, is extremely important as any transaction affecting the borrower's account subsequent to cancellation will be incorrect if cancellation action has not been completed by the Finance Office.

EXHIBIT E–2—INTEREST CREDIT AGREEMENT RENEWAL

DEAR (FmHA Borrower): The Interest Credit Agreement you signed, reducing the effective interest rate on your Rural Housing loan, expires soon. In order to determine whether you are eligible to continue to receive a reduction in your housing loan payment, we will need information about:

1. Your income and the incomes of others living in your home.

2. The ages and relationship to you of others in the household.

3. The amount of real estate taxes paid by you on your home each year reduced by any tax exemptions available but not taken.

4. The amount of fire or hazard insurance you pay each year on your home.

This information must be provided promptly to the Farmers Home Administration by completing the enclosed Interest Credit Agreement and, when applicable, the enclosed Request for Verification of Employment should also be completed.

1. Interest Credit Agreement: This form must be completed correctly and fully. If you are self-employed or a farmer, contact the County Supervisor for an appointment so that he may assist you in providing the required information. Otherwise, provide complete information in section 2 of the agreement, sign the form in the space provided and send all copies of the form to the Farmers Home Administration County Office using one of the enclosed envelopes.

2. Request For Verification of Employment: If you are not self-employed or are not a farmer, you should have your employer complete this form. Furthermore, a form should be prepared for each member of your family who has reached the legal age of majority in the state and receives income from salary or wages. You and other employed members of your family should each complete items 1, 2 and 3 of a Request for Verification of Employment form, sign it in block 4 and send or give it, with one of the enclosed envelopes, to each employer with a request that the form be completed within 10 days and sent to the Farmers Home Administration County Office. To ensure that the form is returned to the County Office, you should place a stamp on the envelope before giving it to the employer. If more than two members of your family receive a salary, additional copies of the form should be obtained from the FmHA County Supervisor.

After the County Supervisor has received all of the required information, he will return a copy of the Interest Credit Agreement form to you. The agreement will show the amount of interest credit, if any, that will be credited to your loan account.

Failure to provide complete and accurate information or to return the forms promptly to the Farmers Home Administration may result in your not receiving additional interest credits and the payments on your loan being increased.

If you have any questions, contact the local County Supervisor immediately.

Effective date. This revision is effective December 30, 1974.

Dated: December 19, 1974.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.74–30342 Filed 12–27–74;8:45 am]

Title 14—Aeronautics and Space

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 13883; Amdt. SFAR 27–1]

PART 11—GENERAL RULEMAKING PROCEDURES

EPA FUEL VENTING EMISSION STANDARDS EFFECTIVE JANUARY 1, 1975

Compliance

Special Federal Aviation Regulation (SFAR) No. 27 is to require compliance with Environmental Protection Agency (EPA) fuel venting emission standards that are effective beginning January 1, 1975. These EPA standards, specified in 40 CFR Part 87, apply to new and in-use aircraft turbofan or turbojet engines of less than 8,000 pounds thrust, to new and in-use aircraft turbopropeller engines,

and to airplanes powered by those engines. The primary basis for this amendment is section 232 of the Clean Air Act, as amended. Editorial improvements are also made.

Notice No. 74-23 was published in the FEDERAL REGISTER on June 27, 1974 (39 FR 23271), stating that the Federal Aviation Administration was considering amending SFAR 27 to require compliance with certain EPA fuel venting emission standards made effective by that Agency on January 1, 1975. Interested persons were afforded an opportunity to participate in the proposed rule making. Due consideration was given to all relevant matter presented.

Five comments were received in response to the notice with two commentators objecting. One commentator stated that the proposed regulation would have no marked effect on the environment and was merely "regulation for regulation's sake." According to the commentator, the great majority of aircraft affected by the proposal are already in compliance with the proposed standards. In addition, the commentator objected to one of the means of complying with the regulation, that is, manually draining the fuel from a holding tank into a container. The commentator stated that this means of compliance did not control how the drained fuel is disposed of.

With respect to the environmental benefits of the substantive standards of EPA Part 87 that are added to SFAR 27 by this amendment, this factor was considered by EPA in its promulgation of Part 87. Regarding the ground handling of fuel after it is drained into a container, this issue involves airport fuel storage and ground fuel management practices that may justify future study. The FAA invites comments concerning the contribution of specific ground fuel handling practices to air quality deterioration, including suggestions concerning means of ensuring that drained fuels are not later evaporated into the atmosphere, thus defeating the intent of the fuel venting emissions regulations.

One commentator addressed the applicability of this amendment to foreign registered aircraft operated in the United States. This commentator stated that "unilateral regulations such as those proposed would be contrary to certain obligations assumed by the United States as a party to the Chicago Convention and to a number of bilateral air transport agreements." The commentator referred to § 1 of the SFAR which, pursuant to § 87.3 of EPA Part 87, provides that the SFAR "does not apply where inconsistent with an obligation assumed by the United States to a foreign country in a treaty, convention, or agreement." The commentator suggested that standards, such as those in this amendment, should be developed internationally through the International Civil Aviation Organization. The FAA agrees that it is most desirable that the introduction of standards affecting international civil aviation be accomplished in an orderly fashion through the development of international standards. However, it is the position of the U.S. that no international treaties, conventions, or agreements currently prevent the FAA from exercising its duties under the Clean Air Act Amendments of 1970 and EPA Part 87. Therefore, SFAR 27, including this and subsequent amendments, must be applied to foreign airplanes as prescribed in section 1 of the SFAR.

In response to the fuel venting emissions provisions of EPA Part 87 that become effective on January 1, 1975 (namely Subpart B of EPA Part 87), this amendment adds definitions of "Class T1," and "Class P2" engines that are identical to those in § 87.1 of EPA Part 87, and adds references to those engine classes, and to the compliance date (January 1, 1975) in the appropriate sections of the SFAR.

Finally, editorial changes are made to the regulation. One editorial change restructures the paragraphs containing the references to the incorporated provisions of EPA Part 87 in order to standardize the form of those references where possible.

Another editorial change eliminates possible confusion concerning the effect of section 14(a) on the fuel venting emissions requirements of the SFAR. Section 14(a) states that compliance with the applicable fuel venting provisions "may be shown by any means of compliance, applied to the airframe or engine, that prevents * * *" However, the subsequent sections of the SFAR could be individually read as requiring that fuel venting emissions compliance must be shown for the engine (and may not be shown for the airframe alone). This is not intended. To ensure that there is no question that the required means of showing compliance with the applicable fuel venting emissions requirements may be applied to the airframe or engine, the words "airframe or engine" are added to the fuel venting emissions requirements. Consistent with this intent, the requirement in section 19 of the SFAR that fuel venting emissions requirements be met as a condition to the issuance of an airworthiness approval tag (FAA Form 8130-3) is deleted for two reasons: First, it is meaningless as a general requirement since section 14(a) provides that fuel venting emissions requirements need not be met by engines if airframe modifications show compliance. Second, it is redundant since, under section 25 of the SFAR, if the airframe does not comply with fuel venting emissions requirements, and the engine also does not comply, the airplane may not be operated. There is, thus, no need to apply the fuel venting emissions requirement at the engine airworthiness approval tag stage. Similarly, since, as stated above, the effect of section 14(a) is that an engine need not comply with any of the fuel venting emissions requirements of the SFAR if the airframe complies, and since airplane type certification approves the complete airplane (including its engines), the lead-in paragraphs of sections 15 and 17 (concerning the issuance of type certificates, amended type certificates and supplemental type certificates) have been revised to refer only to certification of the airplane. No substantive change in practice results from these changes to sections 15, 17, and 19 since they merely bring those sections into closer conformity with the intent of section 14(a), which already applies throughout the SFAR. Further notice and public procedure on these changes is, therefore, unnecessary.

As stated above, the requirements of 40 CFR Part 87 that are incorporated in this amendment become effective beginning on January 1, 1975. Section 232 of the Clean Air Act, as amended (42 U.S.C. 1857f-10) requires the Secretary of Transportation to prescribe regulations to insure compliance with all standards prescribed under § 231 of that Act (42 U.S.C. 1857f-9), which include the newly incorporated provisions of Part 87. Accordingly, this amendment must be effective no later than January 1, 1975. Good cause, therefore, exists for making this amendment effective in less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 232, Clean Air Act, as amended December 31, 1970, Pub. L. 91-604 (42 U.S.C. 1857 f-10), as delegated (36 FR 8733); 40 CFR Part 87 (39 FR 19068); secs. 307(c), 313(a), 601, and 603, Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

In consideration of the foregoing, SFAR 27 is amended, effective January 1, 1975, as follows:

1. Section 13 is amended by adding the following new paragraphs (a)(6) and (a)(7).

Section 13 Engine classes and test conditions. (a) * * *

(6) "Class T1" means all aircraft turbofan or turbojet engines (except engines of Class T5) of rated power less than 8,000 pounds thrust.

(7) "Class P2" means all aircraft turboprop engines.

* * * * * *

2. Section 14(a) is amended by inserting the words "and beginning on January 1, 1975" after the words "February 1, 1974."

3. Section 15 is amended to read as follows:

Section 15 Type certificates. Notwithstanding Part 21 of the Federal Aviation Regulations and irrespective of the date of application, no type certificate is issued, on and after the dates specified in paragraphs (a) through (c) of this section, for the airplanes specified therein, unless—

(a) For airplanes powered by engines of Class T2, Class T3, Class T4, or Class T5, the airframe or engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974;

(b) For airplanes powered by engines of Class T4, each engine complies with the exhaust emission requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974; and

(c) For airplanes powered by engines of Class T1 or Class P2, the airframe or engine complies with the fuel venting emissions requirements and related test procedures of 40

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CFR Part 87 that apply beginning January 1, 1975.

4. Section 17 is amended to read as follows:

Section 17 Supplemental or amended type certificates. Notwithstanding Part 21 of the Federal Aviation Regulations and irrespective of date of application, no supplemental or amended type certificate is issued, on and after the date specified in paragraphs (a) through (c) of this section, for the airplanes specified therein, unless—

(a) For airplanes powered by engines of Class T2, Class T3, Class T4, or Class T5, the airframe or engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974;

(b) For airplanes powered by engines of Class T4, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974; and

(c) For airplanes powered by engines of Class T1 or Class P2, the airframe or engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1975.

5. Section 19 is amended to read as follows:

Section 19 Airworthiness approval tags. Notwithstanding Part 21 of the Federal Aviation Regulations, no airworthiness approval tag (FAA Form 8130–3) is issued on and after February 1, 1974, for an engine of Class T4 unless the engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974.

6. Section 21 is amended to read as follows:

Section 21 Standard airworthiness certificates. Notwithstanding Part 21 of the Federal Aviation Regulations and irrespective of the date of application, no standard airworthiness certificate is issued, on and after the dates specified in paragraph (a) through (c) of this section, for the airplanes specified therein, unless—

(a) For airplanes powered by engines of Class T2, Class T3, Class T4, or Class T5, the airframe or engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974;

(b) For airplanes powered by engines of Class T4, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974; and

(c) For airplanes powered by engines of Class T1 or Class P2, the airframe or engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1975.

7. Paragraph (a) of § 25 is amended to read as follows:

Section 25 Operation. On and after the dates specified in paragraphs (a) through (c) of this section, no person may, within the United States, operate an airplane specified in those paragraphs unless—

(a) For airplanes powered by engines of Class T2, Class T3, Class T4, or Class T5, the airframe or the engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974;

(b) For airplanes powered by engines of Class T4, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974; and

(c) For airplanes powered by engines of Class T1 or Class P2, the airframe or engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1975.

Issued in Washington, D.C., on December 23, 1974.

ALEXANDER P. BUTTERFIELD,
Administrator.

[FR Doc.74-30361 Filed 12-27-74;8:45 am]

[Docket No. 74-EA-81; Amdt. 39-2057]

PART 39—AIRWORTHINESS DIRECTIVE

Fairchild Aircraft

The Federal Aviation Administration is amending section 39.13 of Part 39 of the Federal Aviation Regulations so as to amend, revise and redesignate AD 73–20–1 applicable to Fairchild F–27 and FH–227 type airplanes.

Since the promulgation of AD 73–20–1, it has appeared that some of the affected airplanes are in storage, with the possibility of their reactivation in air commerce. Since the deficiency is one of corrosion which is correlated to time, the AD is being amended to include a calendar time criterion for the inspection. The airworthiness directive is also being revised to present the substance in a clearer manner.

In view of the foregoing and because the deficiency is one which affects air safety, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] section 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending, revising and redesignating AD 73–20–1 as follows:

Fairchild. Applies to all Fairchild F–27 and FH–227 Type Aircraft Certificated in all categories.
Compliance required as indicated:

1. Affects front and rear horizontal stabilizer spar fittings, P/N's 27–213003–11, –12 and 27–213002–11 which have accumulated 3500 hours or more in service.

a. Within the next 30 days unless accomplished within the last 11 months, inspect stabilizer spar fittings in accordance with Section 2 of Fairchild Service Bulletins F–27–55–21 and FH–227–55–12, or inspect in accordance with an approved equivalent procedure.

b. The inspections specified in "a" above, shall be repeated at intervals not to exceed 12 calendar months or 2500 hours in service from the last inspection, whichever occurs first.

2. Corroded or cracked parts shall be replaced prior to further flight.

a. Parts replacement shall be in accordance with Section 2 of Fairchild Service Bulletins F–27–55–21 and FH–227–55–12, and shall be of the same part number or approved equivalent parts.

3. The aircraft may be flown in accordance with FAR 21.197 to a base where the inspections or repairs can be performed.

4. Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the inspection interval specified in this AD. Equivalent inspections or parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(Fairchild Service Bulletins F–27–55–21 and FH–227–55–12 pertain to this subject.)

This amendment is effective December 31, 1974.

This amendment is made under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 [49 U.S.C. 1354(a), 1421 and 1423], and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Jamaica, N.Y., on December 17, 1974.

JAMES BIEPO,
Deputy Director,
Eastern Region.

[FR Doc.74-30304 Filed 12-27-74;8:45 am]

[Airspace Docket No. 74-SW-33]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

On October 15, 1974, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (39 FR 36863) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 73 of the Federal Aviation Administration that would change the time designation of R–3803, Fort Polk, La., to continuous.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 GMT, February 27, 1975, as hereinafter set forth.

In § 73.38 (40 FR 676) the description of the time of designation for R–3803 Fort Polk, La., is changed from "continuous from June 1 through August 31; other times as activated by NOTAM issued by the using agency at least 24 hours in advance." to "Continuous."

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C. on December 23, 1974.

GORDON E. KEWER,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-30306 Filed 12-27-74;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER-893, Amdt. 28]

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Amendment To Reduce Reporting Requirements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. December 17, 1974.

By ER–863, adopted May 20, 1974, the Board amended Part 298 of its Economic Regulations to require, inter alia, all air taxi operators—including commuter air carriers—to report annual data with respect to their overall revenue operations on a new prescribed CAB Form 298–D.

In adopting this rule, the Board indicated that the regulatory basis for the somewhat expanded quarterly reporting of statistical data by commuter air carriers and for the new annual reporting requirements by all air taxis was based partly on the needs of the National Transportation Safety Board (NTSB) and partly on the Board's own needs in fulfilling our respective regulatory responsibilities.

To the extent that the Board at that time rejected comments urging that helicopter operations be excluded from the annual reporting requirements imposed on air taxis, our action reflected deference to the regulatory needs of NTSB, which had made no distinction between fixed-wing and rotary-wing operations in requesting the Board to obtain the data. We believed that, instead of completely excluding data as to rotary-wing operations, we could better accommodate the apparent needs of NTSB by advising concerned air taxis of our readiness to grant individual waivers upon a showing of particular hardship in reporting such operations.

Since the adoption of ER–863, the Board's Bureau of Accounts and Statistics has received numerous letters from air taxi operators requesting such waivers. In support of these requests, the air taxi operators argue that the peculiarities of rotary-wing operations make it extremely difficult and burdensome to compute data pertinent to a Form 298–D report. These operations sometimes consist of many landings and takeoffs each day, including flights of only a few minutes' duration, and frequently involve flights of external load type carrying a variety of cargo and weights. It is also contended that, even if rotary-wing statistics could be readily compiled, they would be of dubious value since they would provide no meaningful comparison with other "demand-type" operations.

In light of these numerous requests, we have consulted with NTSB in considering whether to amend the rule itself, rather than to rely on individual hardship waiver procedures, in order to exclude reports on rotary-wing air taxi operations. NTSB has now advised us that its need for these data is not so great as to justify the demonstrated widespread burden which their reporting entails for air taxi operators. Accordingly, since we continue to perceive no adequate need of our own to require the inclusion of rotary-wing operations we have determined to exclude these operations from those required to be reported in the annual reports of air taxis on CAB Form 298–D.

We have also taken this occasion to reexamine our need for data related to all-cargo flights of air taxis, which are encompassed by the present rule's coverage of "all" revenue operations. Similarly, we have requested NTSB to reexamine its regulatory need for these data. Since we have concluded that the Board has no adequate need for these data and NTSB has advised us that it is primarily concerned with passenger operations so that it has no objection to the elimination of all-cargo reporting by air taxis, we are excluding such operations from those required to be reported annually on CAB Form 298–D.

To reflect the foregoing, appropriate changes are also being made to CAB Form 298–D itself.

In addition to the amendments which we are hereby making to the rule and the reporting form, we also take this opportunity to provide certain clarifications of reporting requirements imposed by ER–863, in response to various inquiries which we have received.

1. *Fuel Stops.* The regulation and the instructions for reporting on CAB Form 298–D are not intended to treat fuel stops as traffic stops. Thus, for example, an air taxi operator carrying three passengers from A to C with a fuel stop at B would report only three passengers carried and one departure performed.

2. *Passenger Travels One Way but Pays for Contracted Round Trip.* It appears to be a common practice for charterers of air taxis requiring only one-way transportation, to pay a round-trip charge which includes payment for the empty aircraft's return flight to the point of origin. In this case, both legs of the flight should be reported, since both are revenue-producing, but the number of passengers carried is only the number carried one way. Thus, for example, a passenger traveling from A to B, but paying for the contracted rate A to B to A, would be reported as follows:

Item 1. Number of Passengers Carried—1.
Item 2. Aircraft Hours Flown—(Hours from A to B and B to A).
Item 3. Aircraft Miles Flown—(Miles from A to B and B to A).
Item 4. Number of Departures Performed—2.

3. *Reporting by Commuter Air Carriers on CAB Form 298–D.* There is an apparent misunderstanding by some commuter air carriers as to whether or not they are to include, as "revenue operations" reported annually on CAB Form 298–D, the scheduled revenue operations which they are required to report quarterly on CAB Form 298–C. As indicated in § 298.67(c), the data to be reported on Form 298–D by commuter air carriers, as well as all other air taxi operators, include both scheduled and nonscheduled revenue operations.

Since the within amendment reduces reporting requirements, and thereby relieves a burden, the Civil Aeronautics Board finds that notice and public procedure hereon are not required and that the rule may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 298 of the Economic Regulations (14 CFR Part 298), effective December 31, 1974, as follows:

1. Amend paragraph (a) of § 298.67, the revised paragraph to read as follows:

§ 298.67 Reporting instructions.

(a) Each air taxi operator (including commuter air carriers) shall file CAB Form 298–D,[1] entitled "Report of All Revenue Operations (Excluding Rotary-Wing and All-Cargo Operations) Performed by Air Taxi Operators, Including Commuter Air Carriers," in accordance with the provisions of this Part and in the manner set forth in said form which is made a part hereof and annexed hereto.

* * * * *

2. To reflect its revised title in § 298.67(a), as amended herein, amend CAB Form 298–D,[1] as attached hereto and made a part hereof.

(Secs. 204(a) and 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 766; (49 U.S.C. 1324 and 1377.))

By the Civil Aeronautics Board.

Effective: December 31, 1974.

Adopted: December 17, 1974.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.74-30364 Filed 12-27-74;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[FRL 313-8]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

BENZENE HEXACHLORIDE; REVOCATION

An order was published in the FEDERAL REGISTER of September 28, 1973 (38 FR 27046), in response to Food Additive Petition No. 4H5042, establishing an interim tolerance of 7 parts per million for residues of the insecticide BHC (benzene hexachloride) in imported paprika. This interim tolerance expires December 31, 1974.

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 FR 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348).

Therefore, pursuant to provisions of the act (sec. 409(h), 72 Stat. 1788; 21 U.S.C. 348(h)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805), Part 121 is amended by revoking § 121.1255 BHC.

§ 121.1255 [Revoked]

Since this revocation is merely affirmatory and is noncontroversial in nature, notice and public procedure are not prerequisites to the promulgation of this order.

[1] CAB Form 298–D filed as part of original document.

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Effective date. This order shall become effective on December 31, 1974.

(Sec. 409(h), 72 Stat. 1786; (21 U.S.C. 348 (h)))

Dated: December 20, 1974.

LOWELL E. MILLER,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-30330 Filed 12-27-74;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

SUBCHAPTER C—DRUGS

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Robenidine Hydrochloride With Roxarsone

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (96-546V) filed by American Cyanamid Co., Princeton, NJ 08540, proposing the safe and effective use of robenidine hydrochloride with additional levels of roxarsone in medicated broiler and fryer feeds. This application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. In Part 121, § 121.262(c) is amended in item 1.24 in table 1 by revising the "Grams per ton" entry in the second column to read as follows:

§ 121.262 3-nitro-4-hydroxyphenylarsonic acid.

* * * * *

(c) * * *

TABLE 1.—*3-Nitro-4-Hydroxyphenylarsonic Acid In Complete Chicken and Turkey Feed*

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
*	*	*	*	*	*
1.24 3-Nitro-4-hydroxyphenylarsonic acid (roxarsone).	22.5–45.4 (0.0025–0.005 percent).	Robenidine hydrochloride.	30 (0.0033 percent).	For broiler or fryer chickens only; do not feed to layers; feed continuously as the sole ration; withdraw 5 days prior to slaughter; use as sole source of organic arsenic; roxarsone provided by sponsor No. 061; see § 135.501(c) of this chapter.	As an aid in the prevention of coccidiosis caused by *Eimeria tenella*, *E. brunetti*, *E. necatrix*, and increased rate of weight gain.
*	*	*	*	*	*

2. In Part 135e, § 135e.66(f) is amended in item 2 of the table by revising the entry in the fourth column, "Grams per ton," to read as follows:

§ 135e.66 Robenidine hydrochloride.

* * * * *

(f) * * *

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
*	*	*	*	*	*
2. Robenidine hydrochloride.	30 (0.0033 percent)	Roxarsone (3-nitro-4-hydroxyphenylarsonic acid).	22.5–45.4 (0.0025–0.005 percent)	For broiler or fryer chickens only; do not feed to layers; feed continuously as the sole ration; withdraw 5 days prior to slaughter; as sole source of organic arsenic. Roxarsone provided by sponsor No. 061, see §135.501(c) of this chapter.	As an aid in the prevention of coccidiosis caused by *Eimeria tenella*, *E. brunetti*, *E. necatrix*, and increased rate of weight gain.
*	*	*	*	*	*

Effective date. This order shall be effective on December 30, 1974.

(Sec. 512(i), 82 Stat. 347; (21 U.S.C. 360b (i)).

Dated: December 20, 1974.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.74-30333 Filed 12-27-74;8:45 am]

Title 30—Mineral Resources

CHAPTER I—MINING ENFORCEMENT AND SAFETY ADMINISTRATION, DEPARTMENT OF THE INTERIOR

PART 11—RESPIRATORY PROTECTIVE DEVICES; TESTS FOR PERMISSIBILITY; FEES

Respiratory Protection Against Exposure to Vinyl Chloride

The Secretary of the Interior, through the Mining Enforcement and Safety Administration, and the Secretary of Health, Education, and Welfare, through the National Institute for Occupational Safety and Health, conduct a testing and approval program for respirators used in occupationally hazardous atmospheres pursuant to regulation contained in this part.

On October 4, 1974, the Occupational Safety and Health Administration, following a public hearing on the matter, promulgated a standard for the control of employee exposure to vinyl chloride. The standard provides that respiratory protection shall be provided at the request of employees exposed to 25 ppm or less vinyl chloride and requires that respirators shall be selected from those approved under Part 11. Specifically, the standard requires, among other things, that where the atmospheric concentration of vinyl chloride is not over 25 ppm, any gas mask with front- or back-mounted canister or powered air-purifying respirator with canister which provides a service life of at least four hours may be used, and where the concentration is not over 10 ppm, any chemical cartridge respirator with an organic vapor cartridge which provides a service life of at least one hour may be used. The standard further requires a program to assure timely replacement of canisters or cartridges.

The purpose of the amendments set forth below is to establish special procedures for testing vinyl chloride respirators and to adopt a requirement that any canister or cartridge used to protect employees against exposure to vinyl chloride, have an end-of-service-life indicator. Unlike many other gases, vinyl chloride has no inherent warning properties. Where a gas has an odor and

where a canister or cartridge is nearing or is at the end of its useful life, the worker is aware because he can smell the gas. Vinyl chloride is odorless and colorless. Thus, with due regard for the wearer's health, any cartridge or canister should possess an end-of-service-life indicator. Section 11.205 provides that after June 30, 1975, each canister or cartridge submitted for approval must have an end-of-service-life indicator. The delay in this requirement is to give the Institute an opportunity to test the effectiveness of the indicators. Section 11.205 further provides that after December 31, 1975—when respiratory protection at 25 ppm or less becomes mandatory—respirators without an end-of-service-life indicator will not be considered approved for use by employees exposed to vinyl chloride. There is no delay in the effective date for the special tests adopted for vinyl chloride respirators.

Since it is essential that there are available approved respiratory devices for protection against exposure to vinyl chloride the Departments find that good cause exists for omitting notice of proposed amendments to Part II. Accordingly, these amendments, as set forth below, will be effective on December 30, 1974.

Dated: December 24, 1974.

JACK W. CARLSON,
Secretary of the Interior.

Dated: December 10, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

In Part II a new Subpart N for special use respirators is established and Sections 11.200–11.208 applicable to vinyl chloride respirators are added to read as follows:

Subpart N—Special Use Respirators

Sec.
11.200 Vinyl chloride respirators; description.
11.201 Required components.
11.202 Gas masks; requirements and tests.
11.203 Chemical-cartridge respirators; requirements and tests.
11.204 Powered air-purifying respirators; requirements and tests.
11.205 Requirements for end-of-service-life indicator.
11.206 Quality control requirements.
11.207 Labeling requirements.
11.208 Fees.

AUTHORITY: Secs. 202(h), 204, 508, 83 Stat. 763, 764, 803 (30 U.S.C. 842(h), 844, 957); secs. 2, 3, 5, 36 Stat. 370, as amended 87 Stat. 681 (30 U.S.C. 3, 5, 7); sec. 3(g), 84 Stat. 1600 (29 U.S.C. 657(g)).

§ 11.200 Vinyl chloride respirators; description.

Vinyl chloride respirators, including all completely assembled respirators which are designed for use as respiratory protection during entry into and escape from vinyl chloride atmospheres containing adequate oxygen to support life, are described according to their construction as follows:

(a) Front-mounted or back-mounted gas masks;
(b) Chin-style gas masks;
(c) Chemical-cartridge respirators;
(d) Powered air-purifying respirators; and,
(e) Other devices, including combination respirators.

11.201 Required components.

(a) Each vinyl chloride respirator described in 11.200 shall, where its design requires, contain the following component parts:
(1) Facepiece;
(2) Canister with end-of-service-life indicator;
(3) Cartridge with end-of-service-life indicator;
(4) Harness;
(5) Attached blower; and,
(6) Breathing tube.

(b) The components of each vinyl chloride respirator shall meet the minimum construction requirements set forth in Subpart G of this part.

§ 11.202 Gas masks; requirements and tests.

(a) Except for the tests prescribed in 11.102–5, the minimum requirements and performance tests for gas masks, prescribed in Subpart I of this part, are applicable to vinyl chloride gas masks.

(b) The following bench tests are applicable to canisters designed for use with gas masks for entry into and escape from vinyl chloride atmospheres containing adequate oxygen to support life:
(1) Four canisters will be equilibrated at 25±5° C by passing 85±5 percent relative humidity air through them at 64 liters per minute for six hours.
(2) The equilibrated canisters will be resealed, kept in an upright position at room temperature, and tested according to subparagraph (3) of this paragraph within 18 hours.
(3) The canisters equilibrated and stored as described in subparagraphs (1) and (2) of this paragraph will be tested on an apparatus that allows the test atmosphere at 85±5 percent relative humidity and 25±5° C to enter the canister continuously at a concentration of 25 ppm vinyl chloride monomer at a total flow rate of 64 liters per minute.
(4) The maximum allowable penetration after six hours of testing according to subparagraph (3) of this paragraph shall not exceed 1 ppm vinyl chloride.
(c) Where canisters are submitted for testing and approval with a service life of more than four hours, the period of time for testing for vinyl chloride penetration will be performed at 150% of the service life specified in the manufacturer's application. Example: If a manufacturer requests approval of a respirator for six hours use against exposure to vinyl chloride, the maximum allowable penetration after nine hours of testing shall not exceed 1 ppm vinyl chloride.

11.203 Chemical-cartridge respirators; requirements and tests.

(a) Except for the tests prescribed in 11.162–8, the minimum requirements and performance tests for chemical-cartridge respirators prescribed in Subpart L of this part are applicable to vinyl chloride chemical-cartridge respirators.

(b) The following bench tests are applicable to cartridges designed for use with chemical-cartridge respirators for entry into and escape from vinyl chloride atmospheres containing adequate oxygen to support life:
(1) Where two cartridges are used in parallel on a chemical-cartridge respirator, the bench test requirements will apply to the combination rather than the individual cartridges.
(2) Four cartridges or pairs of cartridges will be equilibrated at 25±5° C by passing 85±5 percent relative humidity air through them at 25 liters per minute for six hours.
(3) The equilibrated cartridges will be resealed, kept in an upright position, at room temperature, and tested according to subparagraph (4) of this paragraph within 18 hours.
(4) The cartridges equilibrated and stored as described in subparagraphs (1), (2), and (3) of this paragraph will be tested on an apparatus that allows the test atmosphere at 85±5 percent relative humidity and 25±5° C, to enter the cartridges or pairs of cartridges continuously at a concentration of 10 ppm vinyl chloride monomer at a total flow rate of 64 liters per minute.
(5) The maximum allowable penetration after two hours of testing according to subparagraph (4) of this paragraph shall not exceed 1 ppm vinyl chloride.

11.204 Powered air-purifying respirators; requirements and tests.

(a) Except for the tests prescribed in 11.162–8, the minimum requirements and performance tests for powered air-purifying respirators prescribed in Subpart L of this part are applicable to vinyl chloride powered air-purifying respirators.

(b) The following bench tests are applicable to cartridges designed for use with powered air-purifying respirators for entry into and escape from vinyl chloride atmospheres containing adequate oxygen to support life.
(1) Four cartridges will be equilibrated at 25±5° C by passing 85±5 percent relative humidity air through them at 115 liters per minute for tight-fitting facepieces and 170 liters per minute for loose-fitting hoods and helmets, for six hours.
(2) The equilibrated cartridges will be resealed, kept in an upright position at room temperature and tested according to subparagraph (3) of this paragraph within 18 hours.
(3) The cartridges equilibrated and stored as described in subparagraphs (1) and (2) of this paragraph will be tested on an apparatus that allows the test atmosphere at 85±5 percent relative humidity and 25±5° C to enter the cartridge continuously at a concentration of 25 ppm vinyl chloride monomer at a total flow rate of 115 liters per minute for tight-fitting facepieces and 170 liters per minute for loose-fitting hoods and helmets.

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(4) The maximum allowable penetration after six hours of testing according to subparagraph (3) of this paragraph shall not exceed 1 ppm vinyl chloride.

§ 11.205 Requirements for end-of-service-life indicator.

(a) After June 30, 1975, each canister or cartridge submitted for testing and approval in accordance with §§ 11.202, and 11.203, and 11.204 shall be equipped with a canister or cartridge end-of-service-life indicator which shows a satisfactory indicator change or other obvious warning before 1 ppm vinyl chloride penetration occurs. The indicator shall show such change or afford such warning at 80±10 percent of the total service life to 1 ppm leakage, as determined by continuing each test described in paragraphs (b) of each of §§ 11.202, 11.203, and 11.204 of this Subpart until a 1 ppm leakage of vinyl chloride occurs. After December 31, 1975, a cartridge or canister without an end-of-service-life indicator will not be considered approved for use by employees exposed to vinyl chloride.

(b) The applicant shall provide sufficient pretest data to verify the performance of the end-of-service-life indicator required in paragraph (a) of this Section.

§ 11.206 Quality control requirements.

(a) In addition to the construction and performance requirements specified in Sections 11.201, 11.202, 11.203, 11.204, and 11.205 of this Subpart, the quality control requirements in paragraphs (b), (c), and (d) of this section apply to approval of gas masks, chemical cartridge respirators, and powered air-purifying respirators for entry into and escape from vinyl chloride atmospheres containing adequate oxygen to support life.

(b) The respirators submitted for approval as described in paragraph (a) of this Section shall be accompanied by a complete quality control plan meeting the requirements of Subpart E of this Part.

(c) The applicant shall specify in the plan that a sufficient number of samples will be drawn from each bulk container of sorbent material and that where activated carbon is used, the following specific tests will be performed:

1. Apparent density,
2. Iodine number,
3. Moisture content,
4. Carbon tetrachloride number, and,
5. Mesh size.

Such tests shall be performed in a quantity necessary to assure continued satisfactory conformance of the canisters and cartridges to the requirements of this Subpart.

(d) Final performance quality control tests on the complete canisters and cartridges shall be accomplished using the bench tests and procedures prescribed in §§ 11.202, 11.203, 11.204, and 11.205 of this Subpart.

11.207 Labeling requirements.

A warning shall be placed on the label of each gas mask, chemical-cartridge respirator, and powered air-purifying respirator, and on the label of each canister and cartridge, alerting the wearer to the need for a fitting test in accordance with the manufacturer's facepiece fitting instructions, providing service life information, providing specific instructions for disposal, and advising that the wearer may communicate to NIOSH any difficulties that may be experienced in the design and performance of any gas mask, chemical-cartridge respirator, or powered air-purifying respirator approved under the requirements of this Subpart. The service lives of respirators meeting the test requirements of this Subpart shall be specified as follows:

(a) Chemical-cartridge respirator.	1 hour
(b) Gas mask	4 hours
(c) Powered air-purifying respirator.	4 hours

(d) Where the service life of a respirator is approved for more than four hours, the service life for which the respirator has been approved will be specified.

11.208 Fees.

The following fees shall be charged for the examination, inspection, and testing of complete assemblies and components of respirators described in §§ 11.200 and 11.201 of this Subpart.

(a) Complete gas mask	$1,100
(b) Complete chemical-cartridge respirator.	1,150
(c) Complete powered air-purifying respirator.	1,500
(d) Canister or cartridge only.	750

[FR Doc.74-30352 Filed 12-27-8:45 am]

CHAPTER II—GEOLOGICAL SURVEY

PART 250—OIL AND GAS AND SULPHUR

Operation in the Outer Continental Shelf Helicopter Refueling Facilities

On April 15, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 13551) which proposed to amend § 259.19(a) of the Outer Continental Shelf Operating Regulations. The proposed amendment provided that the Area Oil and Gas Supervisor of the Geological Survey could require that oil and gas lessees on the Outer Continental Shelf provide the use of helicopter refueling sites maintained on platforms, fixed structures or artificial islands for helicopters employed by the Department of the Interior in connection with OCS lease management activities.

After reviewing all the comments received, it was decided that the intent of the amendment needed clarification on two items. First, it was not intended that offshore helicopter refueling sites would be required to be constructed solely for the use of helicopters employed by the Department of the Interior, but that any established refueling site would be accessible to helicopters used by the Department of the Interior during the inspection of OCS operations. Second, it is not intended that expenses incurred by the lessee as a result of the Government's use of the refueling site not be reimbursed. As a result, § 250.19(a) is revised to reflect these changes.

Effective date: This amendment shall be effective January 1, 1975.

Dated: December 23, 1974.

C. K. MALLORY,
Deputy Assistant Secretary of the Interior.

Paragraph (a) of § 250.19 is revised to read as follows:

§ 250.19 Platforms and pipelines.

(a) The supervisor is authorized to approve the design, other features, and plan of installation of all platforms, fixed structures, and artificial islands as a condition of the granting of a right of use or easement under paragraphs (a) and (b) of § 250.18 or authorized under any lease issued or maintained under the act. The Supervisor is authorized to require that lessees maintaining existing platforms, fixed structures and artificial islands equipped with helicopter landing sites and refueling facilities provide the use of such facilities for helicopters employed by the Department of the Interior in inspection operations on the Outer Continental Shelf. The Supervisor is further authorized, in approving the design of any new platform, fixed structure, or artificial island which includes a helicopter landing site and refueling facilities to require that the lessee provide the use of such facilities for helicopters employed by the Department of the Interior in inspection operations on the Outer Continental Shelf. As determined by the Supervisor, the lessee shall be reimbursed for reasonable costs incurred in connection with the use of such facilities by helicopters employed by the Department.

[FR Doc.74-30361 Filed 12-27-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL-313-7]

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Review of Indirect Sources

On February 25, 1974 (39 FR 7270), the Administrator of the Environmental Protection Agency (EPA) promulgated an indirect source review regulation (40 CFR 52.22(b)) to be incorporated into the Clean Air Act implementation plans for 52 states and territories. The regulation was repromulgated with clarifying amendments on July 9, 1974 (39 FR 25292). As currently promulgated, the regulation requires affected facilities which commence construction after December 31, 1974 to secure a permit from EPA before proceeding with construction. 40 CFR 52.22(b)(3). The regulation has been effective for purposes of processing applications since July 1, 1974.

The Administrator is today suspending implementation of the review procedures under the regulation pending further notice. No facility which commences construction or modification prior to July 1, 1975 will be subject to the Federal indirect source regulation. Certain other questions relating to the regulation are now being reviewed by EPA. EPA expects to formulate its plans and make its intentions known on these matters within the next few weeks.

This suspension will have no effect on the applicability or validity of existing state indirect source laws or regulations, nor will it affect state indirect source laws or regulations which may be adopted hereafter, whether or not submitted to EPA for approval.

(Sections 110(a)(2)(B), 110(c) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857c-5(a)(2)(B), 1857c-5(c), and 1857g(a)).

Dated: December 23, 1974.

RUSSELL E. TRAIN,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is hereby amended by adding the following new paragraph (b)(16) to § 52.22:

§ 52.22 Maintenance of standards.

* * * * * *

(b) *Regulation for review of new or modified indirect sources.* * * *

(16) Notwithstanding the provisions of any other portion of this paragraph to the contrary, implementation of the review procedures under this paragraph is hereby suspended pending further notice. No owner or operator of an indirect source for which construction or modification commences prior to July 1, 1975 shall be subject to the requirements of this paragraph.

[FR Doc.74-30329 Filed 12-27-74;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Parts 1780, 4110]

ADVISORY BOARDS

Establishment and Composition Guidelines

The purpose of this amendment is to provide additional regulations to implement the requirements of the Federal Advisory Committee Act (86 Stat. 770; 5 U.S.C. App. I (1970)) through guidelines for the establishment and composition of advisory boards created to advise the Director, State Directors, and District Managers of the Bureau of Land Management on matters pertaining to resources and uses of the public lands under the jurisdiction of the Bureau of Land Management. This proposal supplements rules dealing with advisory boards published in the FEDERAL REGISTER on October 4, 1974. Both proposals would amend Group 1700 of Chapter II, Title 43 of the Code of Federal Regulations.

The proposed amendment would permit creation of a tri-level system of National, State or regional, and district multiple-use advisory boards to replace the present advisory board system which will terminate January 5, 1975, under the terms of section 14(a)(1) of the Federal Advisory Committee Act.

The proposed regulations do not prescribe the specific composition of State and district advisory boards. Subject to the requirements of the Federal Advisory Committee Act and these regulations, the composition of these boards would be determined on an individual basis during the development of the board charters required by Section 9(c) of the Federal Advisory Committee Act. This would permit balancing of the membership of State and district boards, at the time of chartering, to reflect the extent, intensity, and interaction of the various programs in each State or district. Under the Federal Advisory Committee Act, all advisory boards must be reviewed biennially to determine their future. Board charters are also re-examined at this time.

This proposal would also change the manner in which grazing applications are handled. All applications would no longer be routinely considered by the district advisory board. However, under this proposal, District Multiple Use Boards could be called upon by District Managers for advice and recommendations concerning protests to proposed adverse decisions on grazing applications.

The principal changes from the present advisory system are outlined below:

National Advisory Board Council is being carried forward without change from the restructure completed in December 1973, except for a procedural change in the appointment of members other than livestock and wildlife members, and a shortening of the name to "National Advisory Board."

State Multiple Use Boards are currently composed of two livestock members from each grazing district within a State, one wildlife representative, plus others not to exceed seven representing such interests as forestry, minerals, soil conservation, outdoor recreation, urban and suburban development, and county government. The proposed regulations would limit membership to twelve. The exact composition for each State board would be specified in its charter.

Oregon and California Revested Lands Advisory Board, generally called the O. and C. Board, consists of 18 members. In 1973 it had the following interests represented by the indicated number: Forestry and timber management (6); public (3); State government (1); land use (1); labor (1); ecology (1); mining (1); outdoor recreation (1); agriculture (1); resource management (1); and county government (1). The proposed regulations would reduce the overall number to twelve. The exact composition would be specified in its charter.

District Boards under the present system fall into two categories: advisory boards for grazing districts, and district O. and C. Boards for the Oregon and California Revested lands in Western Oregon. The present grazing district advisory boards are composed of five to twelve livestock members plus one wildlife representative. The O. and C. district boards are composed of twelve to fifteen members similar to the listing for the O. and C. Advisory Board in the preceding paragraph. Eleven BLM administrative districts do not have advisory boards under present regulations. Swen BLM administrative districts encompass two grazing districts, and therefore have two district advisory boards. The proposed regulations would authorize one multiple use advisory board of not more than ten members for each BLM administrative district. Exact composition would be specified in each charter.

The National Advisory Board for Wild Free-Roaming Horses and Burros will be the subject of separate rulemaking.

In accordance with the Department's policy on public participation in rulemaking (36 FR 8336), interested parties may submit written comments, suggestions, or objections with respect to the proposed rules to the Director (210), Bureau of Land Management, Washington, D.C. 20240 until February 10, 1975.

Copies of comments, suggestions, or objections made pursuant to this notice will be available for public inspection in the Division of Legislation and Regulatory Management, Bureau of Land Management, Room 5555, Interior Building, Washington, D.C., during regular business hours (7:45 a.m.—4:15 p.m.).

It is hereby determined that the publication of this amendment is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

Chapter II, Title 43 of the Code of Federal Regulations is amended as follows:

1. Subpart 1784 is amended by adding § 1784.5 through 1784.7 to read as follows:

Subpart 1784—Advisory Boards

Sec.

1784.5 National Advisory Boards.
1784.6 State and Regional Advisory Boards.
1784.7 District Advisory Boards.

• • • • •

§ 1784.5 National Advisory Boards.

(a) *National Advisory Board.* (1) *Functions and duties.* The National Advisory Board shall consider and make recommendations on policies and problems of a national scope related to resources and uses of the public lands under the jurisdiction of the Bureau of Land Management.

(2) *Membership.* The livestock members of each State Multiple Use Advisory Board shall select from its members, at a meeting of each new term, one member to represent livestock on the National Advisory Board. The wildlife member on each State Multiple Use Advisory Board will serve on the National Advisory Board representing wildlife interests as follows: in odd numbered calendar years, members from Arizona, Colorado, Idaho, Montana, California, and Alaska; in even numbered years, members from New Mexico, Utah, Wyoming, Oregon, Nevada, and Alaska. The State Directors for the Bureau of Land Management shall submit to the Director of the Bureau of Land Management a list of nominees selected from nonlivestock and nonwildlife interests in their States. From this list and from other sources as he may determine, the Director, with the concurrence of the Secretary of the Interior, shall appoint 20 members to the National Advisory Board as follows: 1 representative from the State of Washington, 1 representative from the State of Alaska, 2 mining representatives, 2 forestry representatives, 2 leasable mineral representatives, 3 outdoor recreation representatives, 2 urban-suburban representatives (including real estate

development), 1 environmental quality representative, 1 public information representative, 2 county government representatives, 1 State government representative, 1 soil and water conservation representative, and 1 public utilities representative.

(3) *Meetings.* The Board shall meet at the call of the Director, Bureau of Land Management, and shall elect its own officers. The Federal representative at all meetings shall be the Director, Bureau of Land Management, or his authorized representative.

(4) *Administrative Support.* Administrative support of the Board shall be the responsibility of the Director, Bureau of Land Management.

§ 1784.6 State and Regional Advisory Boards.

(a) *State Multiple Use Advisory Boards.* (1) *Functions and duties.* The State Multiple Use Advisory Boards shall consider and make recommendations to the State Director to whom they report on policies and problems of State or regional scope related to resources and uses of lands administered by the Bureau of Land Management in the State or States within their respective areas of jurisdiction.

(2) Areas of jurisdiction:

Board:	*States of jurisdiction*
Alaska	Alaska.
Arizona	Arizona.
California	California.
Colorado	Colorado.
Idaho	Idaho.
Montana	Montana, North Dakota, South Dakota.
Nevada	Nevada.
New Mexico	New Mexico, Oklahoma, Texas.
Oregon	Oregon, Washington.
Utah	Utah.
Wyoming	Wyoming, Kansas, Nebraska.
Eastern States	Arkansas, Iowa, Louisiana, Minnesota, Missouri, and all States east of the Mississippi River.

(3) *Membership.* From recommendations by District Managers, statewide or regional organizations and associations, and from other sources as he may determine, the State Director to whom the Board will report shall nominate no more than 12 individuals to the Director who shall, with concurrence of the Secretary, appoint a board that is balanced in terms of the points of view represented and the functions to be performed by the Board.

(4) *Meetings.* State multiple use advisory boards shall meet at the call of the State Director to whom the board reports and shall elect their own officers. The Federal representative at all meetings shall be that State Director or his authorized representative.

(5) *Administrative Support.* The administrative support of a State multiple use advisory board shall be the responsibility of the State Director to whom it reports.

(b) *O. and C. Multiple Use Advisory Board (Oregon).* (1) *Functions and duties.* The O. and C. Multiple Use Advisory Board shall consider and make recommendations to the Oregon State Director on policies and problems related to resources and uses of the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grants Lands administered by the Bureau of Land Management.

(2) *Membership.* From recommendations by District Managers, statewide or regional organizations and associations, and from other sources as he may determine, the Oregon State Director shall nominate no more than 12 individuals to the Director who shall, with concurrence of the Secretary, appoint a board that is balanced in terms of the points of view represented and the functions to be performed by the board.

(3) *Meetings.* The O. and C. Multiple Use Advisory Board shall meet at the call of the Oregon State Director and shall elect its own officers. The Federal representative at all meetings shall be the Oregon State Director or his authorized representative.

(4) *Administrative Support.* The administrative support of the O. and C. Multiple Use Advisory Board shall be the responsibility of Oregon State Director.

§ 1784.7 District Advisory Boards.

(a) *District Multiple Use Advisory Boards.* (1) *Functions and duties.* A District Multiple Use Advisory Board shall consider and make recommendations to the District Manager to whom it reports on policies and problems of District scope related to resources and uses of lands administered by that District Manager.

(2) *Membership.* The District Manager to whom the board reports shall, with the concurrence of the State Director, appoint to the board such members resulting in a total membership that is balanced in terms of the points of view represented and the functions to be performed by the board. The membership of each District Multiple Use Advisory Board shall not exceed ten.

(3) *Meetings.* District Multiple Use Advisory Boards shall meet at the call of the District Manager to whom the board reports and shall elect their own officers. The Federal representative at all meetings shall be that District Manager or his authorized representative.

(4) *Administrative support.* The administrative support of a District Multiple Use Advisory Board shall be the responsibility of the District Manager to whom it reports.

A. In subpart 4114, the heading is revised to read:

Subpart 4114—Local Associations of Stockmen

§§ 4114.3–1—4114.3–4 [Deleted]

§ 4114.4–3 [Amended]

B. Sections 4114.1 through 4114.3–4 and paragraph (c) of § 4114.4–3 are deleted.

§ 4115.2–1 [Amended]

3. Section 4115.2–1 is amended as follows: (a), (b), and (c) are revised to read as follows:

(a) *Filing of applications; consideration of annual changes in grazing use.* Each year a date will be set by the authorized officer prior to which all annual applications for grazing use must be filed; applications filed after such date may be rejected for that year on the basis of late filing. When grazing is approved, a bill will be issued and payment of fees due will be made in accordance with paragraph 4115.2–1(k).

(b) *Proposed decisions; protests.* If the authorized officer's decision on an application for grazing use is to any extent adverse, a proposed decision will be served upon the applicant setting forth the reasons for the action, including reference to the pertinent provisions of the regulations. Such proposed decision shall allow a period of 15 days after receipt for the filing of a protest in person or in writing with the authorized officer. In the absence of a protest, the proposed decision shall become the final decision of the authorized officer without further notice.

(c) *Final decision on protests.* Upon the timely filing of a protest, the authorized officer will reconsider the application for grazing use in the light of such protest. In so doing, he is authorized to seek advice and recommendations from the District Multiple Use Advisory Board. At the conclusion of his review of the protest, the authorized officer will issue a final decision which shall be served on the applicant and all known parties of interest.

* * * * * *

B. In (e)(8)(ii) the words "after recommendation by the advisory board" are deleted.

C. In paragraphs (e)(10) and (e)(11) the words "after reference to the advisory board" are deleted.

§ 4115.2–2 [Amended]

6. Section 4115.2–2 is amended in paragraphs (a)(2) and (b)(3) by deleting the words "after reference to the advisory board".

§ 4115.2–5 [Amended]

7. Section 4115.2–5(a)(3) is amended by deleting the words "after reference to the advisory board".

JACK HORTON,
Assistant Secretary of the Interior.

DECEMBER 24, 1974.

[FR Doc.74–30425 Filed 12–27–74;8:45 am]

Bureau of Indian Affairs

[25 CFR Part 221]

IRRIGATION OPERATION AND MAINTENANCE CHARGES

Fort Hall Irrigation Project

Correction

In FR Doc. 74–27824, on page 41534 of the issue of Friday, November 29, 1974, the fifth and sixth lines of § 221.33 should be changed to read "Indian ownership, and against lands in Indian ownership which do not qualify".

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 26]

GRAIN STANDARDS

Proposed Effective Date of Regulations

Statement of considerations. Section 12 of the U.S. Grain Standards Act (7 U.S.C. 87a) prescribes the retention of file samples by official inspection agencies. It further prescribes that file samples shall be required to be retained for such period as the Secretary, after consultation and due consideration, shall prescribe. Section 26.57 of the regulations (7 CFR 26.57) under the Act prescribes applicable retention periods.

On August 28, 1969, there was published in the FEDERAL REGISTER (34 FR 13729) a notice announcing that the effective date of §§ 26.55(b)(2) and 26.57 of the regulations (7 CFR 26.55(b)(2) and 26.57) under the U.S. Grain Standards Act (7 U.S.C. 71 *et seq.*) regarding the retention of official file samples of grain was delayed until further notice to provide additional time for carrying out the provisions of the sections.

Official inspection agencies and the Department have now had time to develop and try various types of maintenance systems for file samples and for the Department to develop and issue needed instructions for the retention and issue needed instructions for the retention and use of file samples on a nationwide basis. Many official inspection agencies are presently retaining file samples on a voluntary basis, and suitable containers are readily available at a nominal cost.

File samples are needed and are being used in increasing numbers for reinspections and appeal inspections at substantial savings to applicants for inspection. They are also of substantial use in performing supervision inspections, resolving intermarket grade complaints, and for handling special requests for applicants.

Accordingly, the Agricultural Marketing Service now proposes to implement section 12 of the U.S. Grain Standards Act (7 U.S.C. 87a) and §§ 26.55(b)(2) and 26.57 of the regulations thereunder (7 CFR 26.55(b)(2) and 26.57) by requiring, effective March 1, 1975, the mandatory retention by official inspection agencies of file samples of gain inspections in accordance with the provisions of section 26.57 of the regulations. Sections 26.55(b)(2) and 26.57 will be implemented as originally published without change as follows:

§ 26.55 Maintenance and availability of records.

* * * * *

(b) *Records on inspection activities.* The complete record shall include (1) detailed work records, (2) official file samples, and (3) official certificates, as prescribed in §§ 26.56, 26.57, and 26.58. The record for each inspection shall be kept in such manner as to permit comparison with the record for other inspections on the same identified grain.

* * * * *

§ 26.57 File samples.

(a) *General.* For each official inspection, an official file sample shall be maintained in accordance with paragraphs (b) through (h) in this section: *Provided,* That no file sample need be maintained for checkweighing and other types of inspections which are not based on an examination of the grain in a sample.

(b) *Who shall maintain samples.* File samples shall be maintained by the official inspection personnel who performed the inspection or by the official inspection agency that conducted the inspection: *Provided,* That no file sample need be maintained by a licensed employee of a grain elevator or warehouse: *And provided further,* That if a file sample maintained by an official inspection agency is used for an appeal or review inspection, the field office which conducted the appeal or review inspection shall thereafter have the responsibility for maintaining the sample.

(c) *Size of sample.* Each file sample shall consist of a worked portion and an unworked portion: *Provided,* That if the inspection does not require the use or examination of the grain in both portions, and if the applicant will not desire a portion of the sample during the prescribed retention period, only one portion is required to be maintained. Each file sample shall be of such size as will permit a reinspection, an appeal inspection, or a review inspection for the kind (scope) of inspection for which the sample was obtained. (In the case of a submitted sample inspection, if an undersized sample is received, the entire sample shall be retained.)

(d) *Containers.* Each sample shall be retained in such container and in such manner as will retain the representativeness of the sample from the time it is obtained or received by the official inspection personnel until it is discarded. High moisture samples, infested samples, and other problem samples shall be retained in accordance with the instructions.

(e) *File system.* To facilitate the full use of file samples, each official inspection agency and each field office shall establish and maintain, in accordance with the instructions, a uniform file sample system which has been approved by the Administrator. The instructions may prescribe the kind and size of the file sample containers, the method of identification, and methods for retaining the representativeness of the samples.

(f) *Retention periods.* (1) Each file sample shall be retained for the following applicable period of time which is necessary for the handling of a reinspection, an appeal inspection, or a trade complaint:

Type of carrier (or container)	*Retention period (calendar days)*
Rail cars:	
In (other than en route) [1]	[2] 5–7
Out	15
Trucks:	
In (other than en route) [1]	[3] 2–4
Out	7
Barges:	
In (other than enroute) [1]	10
Out	30
Bins and tanks	[3] 2–4
Submitted samples	[4] [5] 2–4

	Composite samples	*Sublot samples*
Ships:		
In	[6]	7
Out (domestic)	[6]	15
Out (export)	90	30

[1] The retention period for an "IN" (en route) movement shall be the same as for an "OUT" movement in the identified carrier.

[2] 5 calendar days if applicant, or his agent, receives notice of inspection results on the date of inspection, otherwise 7 calendar days.

[3] 2 calendar days if applicant, or his agent, receives notice of inspection results on the date of inspection, otherwise 4 calendar days.

[4] If the identification of an unofficial sample is the same as the identification of a carrier, the retention period for the sample shall be the same as for an "OUT" movement in the identified carrier.

[5] The retention of composite samples for "IN" and for "OUT (Domestic)" ship lots shall be optional with the official inspection personnel and the official inspection agency.

Samples may be kept for longer periods of time as desired at the option of the persons or agency maintaining the samples.

(2) For good cause shown, and upon request by the official inspection personnel or the official inspection agency, and with the approval of the Administrator, specified samples or classes of samples may be retained for agreed shorter periods of time.

(3) In determining the retention period, the time period shall begin on the date of the inspection involved.

(g) *Furnishing file samples to field offices.* (1) Upon request by a field office, a file sample retained by official inspection personnel or by an official inspection agency shall be furnished to the field office for an appeal inspection or a review inspection.

(2) If a sample is furnished to a field office, no portion of the sample need be retained by the official inspection personnel or the official inspection agency.

(3) Official inspection agencies furnishing file samples to a field office for appeal inspections may, upon request, be reimbursed at the rate prescribed in § 26.72, by the Grain Division for the cost of locating and sending the samples.

(h) After official file samples have been retained the prescribed period of time, they may be disposed of in accordance with the provisions of § 26.19.

Opportunity is hereby afforded all interested persons to submit written views and comments with respect to this matter to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C.

20250. All material submitted should be in duplicate and mailed to the Hearing Clerk not later than January 27, 1975. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

(Sec. 12 and 16, 52 Stat. 766 and 768; 7 U.S.C. 87a and 87e; 37 FR 28464 and 28476.)

Done in Washington, D.C. on: December 23, 1974.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.74-30290 Filed 12-27-74;8:45 am]

[7 CFR Part 907]

HANDLING OF NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Expenses and Rate of Assessment for the 1974–75 Fiscal Year and Carryover of Unexpended Funds

This notice invites written comment relative to proposed expenses of $433,850 and a rate of assessment of $0.0125 per carton of oranges to support the activities of the Navel Orange Administrative Committee for the 1974–75 fiscal year under Marketing Order No. 907.

Consideration is being given to the following proposals submitted by the Navel Orange Administrative Committee, established under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That the expenses that are reasonable and likely to be incurred by the Navel Orange Administrative Committee during the period November 1, 1974, through October 31, 1975, will amount to $433,850.

(2) That there be fixed, at $0.0125 per carton of oranges, the rate of assessment payable by each handler in accordance with § 907.41 of the aforesaid marketing agreement and order.

(3) That unexpended funds in excess of expenses incurred during the fiscal year ended October 31, 1974, in the amount of $50,000, be carried over as a reserve in accordance with § 907.42 of said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file same in quadruplicate with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than January 13, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: December 23, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-30341 Filed 12-27-74;8:45 am]

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Proposed Amendment of Rules and Regulations

This notice invites written comments relative to reapportioning the grower representation on the Pear Commodity Committee under Marketing Order No. 917. The principal function of the committee is to analyze supply and demand conditions and recommend, to the Secretary of Agriculture, seasonal grade, size, quality, maturity, or pack regulation of fresh shipments of California Bartlett pears. The committee also establishes marketing research and development projects and production research on pears.

The production area is geographically divided into six representation areas comprised of one or more Districts, as defined in the marketing order, for purposes of representation on the 12-member committee. The number of members from each representation area is based, insofar as practicable, upon the proportionate quantity of pears shipped from the respective representation areas during the preceding three fiscal years.

During the 1972-through-1974 shipping seasons the proportional increase in total shipments from representation area (b), as hereinafter designated, and the proportional decrease in total shipments from representation area (f) were such that the committee originated a proposal to reapportion membership from the two areas. Specifically, it is proposed that a membership from representation area (f) be transferred to representation area (b). Such a transfer would result in one member from representation area (f) and four members from representation area (b).

Accordingly, notice is hereby given that the Department is considering proposed amendment, as hereinafter set forth, of the rules and regulations *Subpart—Rules and Regulations; 7 CFR 919.100 et seq.* currently in effect pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The amendment of said rules and regulations was proposed by the Control Committee, established under said amended marketing agreement and order as the agency to administer the terms and provisions thereof.

The amendment would add a new § 917.121 reading as follows:

§ 917.121 Changes in nomination of Pear Commodity Committee members.

Nominations for membership on the Pear Commodity Committee shall be made by the growers of pears in the respective representation areas as follows:

(a) North Sacramento Valley District and the Central Sacramento Valley District one nominee.

(b) Sacramento River District, Stockton District, Contra Costa District, Santa Clara District, and Solano District four nominees.

(c) Placer-Colfax District one nominee.

(d) Lake District four nominees.

(e) Mendocino District and the North Bay District one nominee.

(f) El Dorado District and all of the area not included in the North Sacramento Valley District, Central Sacramento Valley District, Placer-Colfax District, Sacramento River District, Stockton District, Solano District, Contra Costa District, Santa Clara District, Lake District, Mendocino District, and North Bay District one nominee.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than January 17, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: December 23, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-30340 Filed 12-27-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 118]

FINANCIAL ASSISTANCE FOR SUPPLEMENTARY CENTERS AND SERVICES, GUIDANCE, COUNSELING, AND TESTING PROGRAMS

Notice of Proposed Rule Making

In accordance with section 503 of the Education Amendments of 1972 (Pub. L. 92–318) and pursuant to the authority contained in Title III of the Elementary and Secondary Education Act, is amended (20 U.S.C. 841–8), the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 45, Part 118 of the Code of Federal Regulations to read as set forth below. The

Commissioner also proposes to establish guidelines for this program, which are set forth following the text of the proposed regulation. Separate regulations containing provisions governing grants to local educational agencies for special programs and projects and section 306 of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 844b) are being proposed for inclusion in Part 126 of Title 45 of the Code of Federal Regulations.

1. *Program purpose.* Title III of the Elementary and Secondary Education Act, as amended, provides for assistance to States for planning and establishing supplementary educational centers and services and guidance, counseling, and testing programs.

2. *Section 503 procedures and effect.* Section 503 of the Education Amendments of 1972 requires the Commissioner to study all rules, regulations, guidelines, or other published interpretations or orders issued by him or by the Secretary after June 30, 1965, in connection with, or affecting, the administration of Office of Education programs; to report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives concerning such study; and to publish in the FEDERAL REGISTER such rules, regulations, guidelines, interpretations, and orders, with an opportunity for public hearing on the matters so published. The regulations and guidelines proposed below reflect the results of this study as it pertains to the program under Title III of the Elementary and Secondary Education Act, as amended. Upon publication of revised Part 118 in final form, and after comments and hearing, all preceding rules regulations, guidelines, interpretations, and orders issued in connection with or affecting Part 118 will be superseded effective thirty days after such publication.

3. *Effect of Office of Education general provisions regulations.* The proposed regulations differ from the current regulations in that provisions have been deleted relating to general fiscal and administrative matters which are presently covered in 45 CFR Part 116 and which are covered by the overall Office of Education general provisions regulations, published in the FEDERAL REGISTER at 38 FR 30654 (November 6, 1973), in connection with the same study under section 503 of the Education Amendments of 1972 of which this publication is a part. (Reference is made in particular to the provisions of proposed Part 100b of Title 45 CFR, containing general provisions for State-administered programs which are applicable to the program under Title III of the Elementary and Secondary Education Act, as amended.)

4. *Guidelines.* Guidelines for the program have not previously been published in the FEDERAL REGISTER. The guidelines proposed below essentially contain recommendations and suggestions for program management and operation and are designed to incorporate all materials covered by section 503 of the Education Amendments of 1972 not otherwise reflected in the regulations. When finally published in the FEDERAL REGISTER in accordance with section 503(d), the guidelines will be stated separately in the general notice section of the FEDERAL REGISTER.

5. *Citations of legal authority.* As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232 (a)) and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section of the regulations and guidelines has been placed in parentheses on the line following the text of the section.

On occasion, a citation appears at the end of a subdivision of the section. In that case the citation is to all that appears in that section above the citation and following the last preceding citation. When the citation appears only at the end of the section, it applies to the entire section.

6. *Opportunity for public hearing.* Pursuant to section 503(c) of the Education Amendments of 1972, the Commissioner will provide interested parties an opportunity for a public hearing on these regulations and guidelines, as follows:

A hearing will take place at the U.S. Office of Education on March 5, 1975, in the auditorium of the Regional Office Building Three (ROB–3) located at 7th and D Streets SW., Washington, D.C. 20202, beginning at 10:00 a.m.

The purpose of the hearing is to receive comments and suggestions on the published materials. Parties interested in attending the hearing should notify the Office of Education, Attention: Chairman, Office of Education Task Force on Section 503, Room 2085, 400 Maryland Avenue SW., Washington, D.C. 20202, and are urged to submit a written copy of their comments at the hearing is urged to limit his presentation to a maximum of fifteen minutes.

Interested parties may also submit written comments and recommendations to the above address. All relevant material received prior to the date of the hearing will be considered. Comments and suggestions submitted in writing will be available for review in the above office between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week.

(Catalog of Federal Domestic Assistance No. 13.519, Supplementary Educational Centers and Services, Guidance, Counseling, and Testing (PACE (Projects to Advance Creativity in Education)))

Dated: August 27, 1974.

T. H. BELL,
U.S. Commissioner of Education.

Approved: December 16, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

PART 118—SUPPLEMENTARY CENTERS AND SERVICES; GUIDANCE, COUNSELING AND TESTING PROGRAMS

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118.41 Recovery of payments.
118.42–118.50 [Reserved.]

Subpart G—General Provisions

118.51 Payment of funds.
118.52 Reallotment.
118.53 Annual and other reports.
118.54–118.56 [Reserved.]

AUTHORITY: The provisions of this Part 118 are issued under 20 U.S.C. 841–846a, 846–847a. Interpret or apply 20 U.S.C. 841–847a, 881, 885, and 1232–1232c.

Subpart A—Scope of Regulations; Definitions

§ 118.1 Scope of regulations.

The regulations published in this part are applicable to grants to States for planning and establishing supplementary educational centers and services and guidance, counseling, and testing programs. Regulations applicable to grants for such purposes by the U.S. Commissioner of Education directly to local educational agencies pursuant to section 306 of Title III of the Elementary and Secondary Education Act of 1965, as

amended (20 U.S.C. 844b), will be published in Part 126 of this title. Allotments of Federal funds under Title III of the Act to the Departments of Interior and Defense pursuant to section 302(a)(1) of the Act (20 U.S.C. 842(c)(1)) shall be governed by such terms and conditions consistent with the Act as may be mutually agreed upon by these Departments and the Commissioner. Assistance provided under this part is also subject to applicable provisions contained in subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters).

(20 U.S.C. 842(a)(1))

§ 118.2 Definitions.

As used in this part:

"Act" means the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, as amended.

(20 U.S.C. 841-844a, 845-863)

"Children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental disadvantage.

(20 U.S.C. 842(b)(3))

"Construction" means (a) the erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; (b) the acquisition of existing structures not owned by the agency making application for assistance under Title III of the Act; (c) the remodeling or alteration (including the acquisition installation, modernization, or replacement of equipment) of existing structures; or (d) a combination of any two or more of the foregoing.

(20 U.S.C. 881(b))

"Cultural and educational resources" includes State educational agencies, institutions of higher education, private schools, public and nonprofit private agencies such as libraries, museums, musicial and artistic organizations, educational radio and television, and other cultural and educational resources.

(20 U.S.C. 844(a))

"Dissemination" means communications with people about the operations and outcomes of demonstrations of exemplary practices in education in order to facilitate the adoption and replication of tested educational innovations in the host school system and other school systems in the State.

(20 U.S.C. 843(c)(3))

"Exemplary," as applied to an educational program, project, service, or activity, means one designed to serve as a model for a regular school program.

(20 U.S.C. 843(b)(2))

"Free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State. Elementary education may include kindergarten education meeting the above criteria.

(20 U.S.C. 845)

"Guidance and counseling," in relation to activities undertaken pursuant to section 303(b)(4) of the Act (20 U.S.C. 843(b)(4)), refers to (a) services to pupils to assist them in assessing and understanding their particular abilities, educational needs, and career and vocational interests in light of all applicable environmental factors and (b) assistance in personal and social development, including the development of a positive self-concept when related to career and vocational guidance and counseling.

(20 U.S.C. 843(a), (b)(4))

"Handicapped children" means those children who are mentally retarded, hard of hearing, deaf, speech-impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health-impaired, who by reason thereof require special education and related services. The term includes children with specific learning disabilities to the extent that such children are health-impaired children who by reason thereof require special education and related services.

(20 U.S.C. 842(b)(3))

"Innovative," as applied to an educational program, project, service or activity, means new or improved ideas, practices, or techniques.

(20 U.S.C. 843(b)(3))

"Junior college" means an institution of higher education which (a) is organized and administered principally to provide a one-year or two-year program which is acceptable for full credit toward a bachelor's degree; (b) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; (c) is legally authorized within the State to provide a program of education beyond secondary education; (d) is a public or other nonprofit institution; (e) is accredited by a nationally recognized accrediting agency or association, or, if not so accredited (1) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance—considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made—that the institution will meet the accreditation standards of such an agency within a reasonable period of time, or (2) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; (f) if a branch of an institution of higher education offering four or more years of higher education, is located in a community different from, and beyond a reasonable commuting distance from, the community in which the main campus of the parent institution is located.

(20 U.S.C. 844a(b)(1)(B))

"Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as is recognized in a State as an administrative agency for its public elementary or secondary schools. The term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school such as State-operated schools for deaf, blind, mentally retarded, emotionally disturbed or crippled. "Service function," as used in this paragraph means an educational service which is performed by a legal entity—such as an intermediate agency—whose jurisdiction does not extend to the whole of the State and which is authorized to provide consultative, advisory, or educational program services to public elementary or secondary schools, or which has regulatory functions over agencies having administrative control or direction of public elementary or secondary schools, rather than a service which is performed by a cultural or educational resource.

(20 U.S.C. 881(f))

"Private school" means a nonprofit school which is operated or controlled by other than a public authority, and which complies with State compulsory school attendance laws or is otherwise recognized or accredited by some procedure customarily used in the State, as having curricula similar to that required of comparable public schools.

(20 U.S.C. 843(b)(4), 844(b)(2)(B), 845(f))

"Seriously emotionally disturbed children" means

(a) Those children who exhibit one or more of the following characteristics over a long period of time and to a marked degree:

(1) An inability to learn that which cannot be explained by intellectual, sensory, or health factors;

(2) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(3) Inappropriate types of behavior or feelings under normal circumstances;

(4) General pervasive mood of unhappiness or depression; and/or

(5) A tendency to develop physical symptoms, pains, or fears associated with personal or school problems.

(d) This term does not include those children who are socially maladjusted.

(20 U.S.C. 843(b)(3))

"State aid" means any contribution by a State made to or on behalf of a local educational agency within the State for the support of free public elementary and secondary education, for which no repayment is expected.

(20 U.S.C. 845(c))

"State educational agency" means the State board of education or other agency or officer primarily responsible for the supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(20 U.S.C. 881(k))

"Technical institute" means an institution of higher education which (1) meets the requirements of subparagraphs (b) through (f) of the definition of "junior college" set forth in this section, and (2) is organized and administered principally to provide a 2-year program in engineering, mathematics, or the physical or biological sciences which program is designed to prepare the student to work as a technician at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge.

(20 U.S.C. 843(b)(4))

"Testing," in relation to activities undertaken pursuant to Section 303(b)(4) of the Act, means the use of tests which measure abilities from which aptitudes for an individual's educational or career development may be validly inferred.

(20 U.S.C. 844a(b)(1)(B))

Subpart B—State Advisory Council

§ 118.3 Establishment and certification.

(a) Each State desiring to receive payments under title III of the Act and the regulations in this part for any fiscal year shall establish a State advisory council which is appointed by the State educational agency, and is broadly representative of the cultural and educational resources (as defined in § 118.2 of this part) of the State and of the public, including persons representative of: (1) Elementary and secondary schools; (2) institutions of higher education; (3) areas of professional competence in dealing with children needing special education because of physical or mental handicaps; (4) areas of professional competence in guidance, counseling, and testing; (5) children from low-income families and other low-income individuals; and (6) other cultural and educational resources including State agencies, institutions of higher education, nonprofit private schools, and nonprofit private agencies such as libraries, museums, musical and artistic organizations, and educational radio and television.

(b) The Chief State School Officer or any member of the State educational agency shall be ineligible to serve on the State advisory council either as a chairman or as a voting member.

(c) The State educational agency shall certify the establishment of, and membership of, its State advisory council to the Commissioner at least 90 days prior to the beginning of any fiscal year in which the State desires to receive a grant under Title III of the Act and the regulations in this part. The certification shall include the name, education, experience, and current position of each person serving on the State advisory council and shall specify which interest under paragraph (a) of this section each person represents.

(20 U.S.C. 844a(a))

§ 118.4 Functions.

(a) The functions of the State advisory council shall include: (1) Advising the State educational agency on the preparation of, and policy matters arising in the administration of the State plan and in the development of the policies and procedures required by these regulations, including the criteria for approval of applications under the State plan; (2) reviewing and making recommendations to the State educational agency on the action to be taken with respect to each application for a grant under the State plan; (3) evaluating programs and projects assisted under Title III of the Act; and (4) preparing and submitting through the State educational agency annual reports of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and to the National Advisory Council on Supplementary Centers and Services which was established pursuant to section 309 of the Act. These reports shall be submitted at the time and in the format prescribed by the Commissioner.

(b) The State advisory council shall meet and select a chairman from its membership within 30 days after certification under § 118.3 of this part has been accepted by the Commissioner, and shall meet at such other times throughout the year as may be necessary to fulfill its functions under paragraph (a) of this section. The time, place, and manner of such meetings shall be determined by the council, except that it shall hold not less than one public meeting each year at which the public is given opportunity to express views concerning the administration and operation of the Act.

(c) The State advisory council shall be authorized to obtain (with funds paid to the State under Section 307(b) of the Act) the services of such professional, technical and clerical personnel as may be necessary to enable it to carry out its functions under paragraph (a) of this section, and to contract for such services as may be necessary to enable it to carry out its evaluation functions.

(20 U.S.C. 843(c), 844a(a), 845(b))

§ 118.5 [Reserved]

Subpart C—The State Plan

§ 118.6 Preparation of plan.

(a) *General.* Any State desiring to receive funds under the Act for any fiscal year shall, as a condition to the receipt of such funds, submit a State plan to the Commissioner, using such forms as will be provided by the Commissioner and which will meet the requirements of the Act and these regulations.

(b) *Submission.* The State plan shall be submitted annually. It shall be developed in the light of all relevant information obtained in the prior year from reassessments of educational needs, evaluations of programs and projects funded under the Act, and reports and recommendations of the State advisory council.

(c) *Certifications.*—(1) *By State educational agency.* The State plan and each amendment thereto shall include as an attachment a certificate signed by an officer of the State educational agency authorized to submit the plan to the effect that the State plan or amendment thereto has been adopted by the State educational agency and that the State plan, or plan amended, will constitute the basis for operation and administration of the Title III program.

(2) *By the State Attorney General.* The State plan and each amendment thereto as described in § 118.6(e) of this part shall include as an attachment a certificate signed by the State Attorney General or other appropriate State legal officer to the effect that the State educational agency named in the plan is a "State educational agency" as defined in § 118.2 of this part, that has the legal authority ascribed to it in the State plan pursuant to § 118.7 of this part, and that all the provisions of the State plan may be carried out in the State.

(d) *Review by the State Governor.* In accordance with § 118.22(b)(2) of this part, the State plan and each amendment thereto shall include as an attachment the comments, if any, of the Governor of the State concerning coordination of Title III programs and projects under the State plan with other State and Federal programs and projects, or a statement from the Chief State School Officer that the Governor has reviewed the plan but no comments were made.

(e) *Amendments.* Whenever there is any change in the content or administration of the program set forth in the approved State plan, or whenever there is any change in pertinent State law or in the organization, policies, or operations of the State educational agency which materially affects the program under the plan, the State plan shall be appropriately amended and such amendment shall be submitted to the Commissioner for his approval. Any amendment shall be accompanied by a certificate of the State Attorney General or other State legal officer.

(20 U.S.C. 844a(a)(1), (b))

§ 118.7 State educational agency.

(a) *Designation.* The State plan shall give the official name of the State educational agency which will be, either directly or through arrangements with other State or local public agencies, the sole agency responsible for administering the plan.

(b) *Authority.* The State plan shall set forth the authority of the State educational agency under State law to submit the plan and to administer and supervise the programs set forth therein pursuant to § 118.6(c)(2) of this part.

(c) *Organization.* The State plan shall set forth the administrative organization, the qualifications of all staff members involved, and the procedures of the State educational agency for administration of the State plan. Staffing shall be sufficient to carry out the following Title III functions: (1) program coordination; (2) program development; (3) project proposal review; (4) program operations; (5) program evaluation; (6) dissemination; and (7) grants management and finance.

(20 U.S.C. 844a(a)(1)(C), 1232c(b))

(d) *Fiscal control.* The State plan shall designate the officer or officers of the State educational agency who will have legal authority to receive all funds granted to the State and to authorize their expenditure or transfer to local educational agencies in accordance with § 100b.257 of this chapter. The State plan shall also set forth the fiscal control and fund accounting procedures (consistent with subpart E of the regulations in this part and part 100b of this chapter) under which the designated officer or officers will assure proper disbursement of and accounting for Federal funds paid to the State under Title III of the Act.

(20 U.S.C. 844a(a)(1)(C), (b)(2), and (10))

§ 118.8 General plan provisions.

(a) *Assessment of educational needs.* The State plan shall identify the critical educational needs of the State as a whole and the critical educational needs of the various geographic areas and population groups within the State, and shall describe the process by which such needs were identified. This process shall be based upon the use of objective criteria and measurements and shall include procedures for collecting, analyzing, and validating relevant data and translating such data into determinations of critical educational needs. These determinations and the data upon which they are based shall be periodically reviewed and updated, and the State plan shall indicate the most recent date of such review and updating.

(20 U.S.C. 844a(b)(1)(A), (b)(3), 1232c(b))

(b) *Developing evaluation strategies.* The State plan shall provide for, and describe the objectives of, and the procedures to be used in the evaluation by the State advisory council, at least annually, of the effectiveness of the programs and projects funded under the State plan in meeting the purposes of the Act.

(20 U.S.C. 844a(a)(2)(D))

(c) *Dissemination of information.* The State plan shall provide for, and describe the objectives of, and procedures to be used in, the statewide dissemination of the results of evaluations performed under paragraph (b) of this section and of other information concerning those programs and projects which are determined through such evaluations to be innovative, exemplary, and of high quality.

(d) *Adoption and adaptation of promising practices.* The State plan shall provide for, and describe the objectives of, and the procedures to be used in, the adoption and adaptation within the State of promising educational practices developed through programs or projects funded under the Act.

(20 U.S.C. 844a(b)(6))

(e) *Professional development activities.* The State plan shall set forth procedures which will be utilized for professional staff development of State and local administrative, instructional, and supporting personnel involved in developing, conducting, or monitoring programs or projects under Title III of the Act.

(20 U.S.C. 1232c(b))

(f) *Reviewing local project applications.* The State plan shall (1) list and describe any criteria, required by § 118.24(a) of this part, which the State educational agency will use in reviewing local project applications (including applications for guidance, counseling, and testing projects) submitted under § 118.23 of this part; (2) describe the procedures which the panel of experts, State educational agency, and State advisory council will use in the review process with the results of their separate reviews forming the basis for a recommendation to the Chief State School Officer; and (3) provide that final action regarding the proposed final disposition of any local project application (or amendment thereof) shall not be taken without first affording the local educational agency or agencies submitting such application reasonable notice and opportunity for a hearing before a board or official designated by the State educational agency for such purpose, and specified in the State plan.

(20 U.S.C. 844a(a)(1)(C), (b)(12), 1232c(b))

(g) *Commingling of funds.* The State plan shall set forth policies and procedures which assure that funds made available under the Act for programs and projects for any fiscal year will not be so commingled with State or local funds as to lose their identity as Title III funds.

(20 U.S.C. 844a(b)(9)(A))

(h) *State aid.* The State plan shall contain adequate assurance that, in determining the eligibility of any local educational agency for State aid or the amount of such aid, grants to that agency under the Act will not be taken into consideration.

(20 U.S.C. 844a(b)(13))

§ 118.9 Supplementary educational centers and services.

The State plan shall set forth a program for improving education in the State through grants to local educational agencies to carry out the purposes of the Act as set forth in section 301(a) of the Act. The program shall be based upon an assessment of, and be designed to meet, the critical educational needs of the State as determined under § 118.8(a). Such program shall be related to and coordinated with the program for testing under § 118.10 and the program of guidance and counseling under § 118.11.

(20 U.S.C. 841(a), 844a(b)(1)(A))

§ 118.10 Testing.

(a) If a State wishes to conduct a testing program with Title III funds, the State plan shall set forth a program for testing students in the public and private elementary and secondary schools of the State or in the public and private junior colleges and technical institutes of the State. In so doing, the plan shall (1) describe the primary objectives of the program, (2) identify the grade levels of students to be tested, and (3) describe the types of tests to be utilized for the measurement of aptitudes and abilities.

(b) The testing program set forth in paragraph (a) of this section shall include at least one test for students not beyond grade 12, and shall be utilized to (1) identify students with outstanding aptitudes and abilities; (2) provide such information about the aptitudes and abilities of students as may be needed in connection with the guidance and counseling program required by § 118.11 of this part and (3) provide such information as may be needed to assist other educational or training institutions and prospective employers in assessing the educational and occupational potential of students seeking admission to educational or training institutions or employment.

(c) Consistent with the applicable provisions of part 100b of this chapter, to the extent that the following items of cost are attributable to the programs approved under the State plan, the cost of supervisory and related services in testing programs in which Federal participation may be claimed include such categories of expense as:

(1) The purchase or rental of tests, answer sheets, cumulative record forms, and such other materials needed under the plan; and

(2) The rental of equipment for scoring, processing and reporting the results of tests administered under the plan, or, if such equipment is owned by State or local agencies, the pro-rata share of the cost of maintaining and operating such equipment.

(d) In fulfilling the requirements of this section, the State educational agency may provide services at the State level,

make arrangements with local educational agencies or other appropriate local or State agencies, or contract with public or private nonprofit institutions, agencies, or individuals, for the provision of services consistent with the State's responsibilities under these regulations.

(20 U.S.C. 843(b)(4), 844a(b)(1)(B)(i), 1224, 1232c(b), Section 131(b) of P.L. 91-230)

§ 118.11 Guidance and counseling.

(a) If a State wishes to conduct a guidance and counseling program with Title III funds, the State plan shall set forth a program of guidance and counseling designed to improve such existing services at the appropriate levels in the public elementary and secondary schools or public junior colleges and technical institutes of the State and, to the extent required by § 118.15 of this part, in the private elementary and secondary schools of the State. Such program shall serve to advise students regarding courses of study best suited to their abilities, aptitudes and skills, the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields. Also, it will encourage students with outstanding aptitudes and abilities to complete their secondary school education, take the necessary courses for admission to institutions of higher education, and enter such institutions. Such programs shall include occupational information and counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education, and may include short-term training sessions for persons engaged in guidance and counseling in elementary and secondary schools, junior colleges, and technical institutes in the State.

(b) Guidance and counseling services under the State plan shall be provided by qualified counselors through appropriate individual and group processes. Such processes shall be coordinated with other pupil personnel services and guidance and counseling resources both within and outside the school setting, and shall include referral assistance, working with other staff members in planning curriculum content and changes, and consulting both teachers and parents with regard to the learning and developmental needs of pupils.

(c) The program set forth under paragraph (a) of this section shall make provision for supervision and leadership activities by the State educational agency with regard to the establishment, maintenance, and improvement of guidance and counseling services. Such activities shall include the assessment of other Federal and State programs (such as Titles I and V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241 *et. seq.*) and (20 U.S.C. 862-869a), Part B of the Education of the Handicapped Act (20 U.S.C. 1411-14), and the Vocational Education Act of 1963 (20 U.S.C. 1241 *et. seq.*)) where there may be need for State-level supervision and leadership with respect to guidance and counseling, and the development of procedures for determining how these various programs and sources of funds can be coordinated to provide for strong leadership in the area of guidance and counseling.

(d) In addition to the activities set forth in paragraph (c) of this section, the program set forth under paragraph (a) of this section may also include the provision for services at the State level, through arrangements (including project grants under paragraph (e) of this section) with local educational agencies or other appropriate local or State agencies, or through contracts with public or private nonprofit institutions, agencies, or individuals, which are consistent with the State's responsibilities under these regulations.

(e) Project grants under an approved State plan may be made to local educational agencies under this section for the following purposes: (1) Planning programs and projects designed to provide the services and activities described in (c)(2) and (3) of this section, including pilot projects designed to test the effectiveness of such plans; (2) establishing or expanding innovative and exemplary guidance and counseling programs and projects for the purpose of stimulating the adoption of new programs; and (3) establishing, maintaining, and improving guidance and counseling services and activities, especially through new and improved approaches consistent with the purposes of the Act.

(20 U.S.C. 843(b)(4), 844a(b)(1)(B)(ii), 1232c(b))

§ 118.12 Equitable distribution of assistance.

The State plan shall set forth criteria for achieving equitable distribution of assistance made available under the Act and these regulations. Such criteria shall be based on a consideration of (a) the size and population of the State, (b) the geographical distribution and density of the population within the State, (c) the relative need of persons in different geographic areas and in different population groups within the State for the kinds of services and activities to be provided under the plan, and (d) the relative financial abilities of local educational agencies within the State to provide such services and activities. Application of the factors set forth in this section shall not result in the approval by the State educational agency of programs or projects which fail to meet any of the requirements contained in this part.

(20 U.S.C. 844a(b)(3))

§ 118.13 Special consideration for certain local educational agencies.

The State plan shall provide for giving special consideration in those cases in which it is determined that two or more proposals are judged to be of substantially the same high quality, for approving applications, for Title III programs and projects, submitted by local educational agencies (a) that are making a reasonable tax effort but are unable to meet critical educational needs (including preschool and bilingual education) because some or all of their schools are seriously overcrowded, obsolete, or unsafe; or (b) whose proposed programs or projects were planned with funds made available under the Act. Application of the factors set forth in this section shall not result in the approval by the State educational agency of programs or projects which fail to meet any of the requirements contained in this part.

(20 U.S.C. 844a(b)(4) and (5))

§ 118.14 Percentage requirements regarding uses of funds.

The State plan shall provide that, of the funds made available under the Act for any fiscal year to carry out the State plan:

(a) An amount equal to at least 50 percent of such funds shall be expended for planning, establishing, and expanding innovative and exemplary programs and activities in accordance with § 118.25 of this part;

(b) An amount equal to at least 15 percent of such funds shall be expended for special programs or projects for the education of handicapped children in accordance with § 118.26 of this part; and

(c) Pursuant to section 131(b) of Pub. L. 91-230, an amount equal to at least 50 percent of the amount expended by the State under Title V-A of the National Defense Education Act of 1958 (20 U.S.C. 401 *et seq.*) from funds appropriated under such title for fiscal year 1970 shall be expended for guidance, counseling, or testing programs of the types set forth in §§ 118.10 and 118.11 of this part. Only projects which are predominantly or primarily of a guidance, counseling, or testing nature shall be considered in determining the total amount expended by a State from Title III funds for guidance, counseling or testing. Funds expended for the continuation of guidance, counseling, or testing projects initiated under the Act (but not under Title V-A of the National Defense Education Act of 1958) prior to fiscal year 1971 shall not be considered in computing the amount of funds which are required to be expended for such purposes under this paragraph.

(20 U.S.C. 844a(b) (7) and (8); (section 131 (b) of Pub. L. 91-230))

§ 118.15 Participation by private school children.

(a) The State plan shall contain satisfactory assurances that each local educational agency receiving funds under the Act will provide for the effective participation in its Title III program or project, on an equitable basis, of children enrolled in private schools in the areas to be served whose educational needs are of the type which the program or project is designed to meet. The number of such children to be served, in relation to the total number of such children with educational needs of the type the project is designed to meet, shall be consistent with the number of public school children to be served in relation to the total number of public school children

in the area served with educational needs of the type the program or project is designed to meet.

(b) Whenever practicable, educational services shall be provided to private school children on publicly controlled premises. Any project to be carried out in public facilities which involves joint participation by children enrolled in private schools and children enrolled in public schools shall include such provisions as are necessary to avoid the separation of participating children by school enrollment or religious affiliation.

(c) Provisions for serving private school children shall not include: (1) The payment of salaries to teachers or other employees of private schools except for services performed outside regular hours of duty and under public supervision and control; (2) financing of the existing level of instruction in private schools; (3) the placement of equipment on private school premises other than portable or mobile equipment which is capable of being removed from the premises each day and is used solely for Title III purposes; (4) the construction of facilities for private schools; or (5) the use of funds for religious worship or instruction.

(d) The State educational agency shall require that every project application submitted to it by a local educational agency under § 118.23 of this part shall describe how the local educational agency will fulfill the requirements of paragraphs (a), (b), and (c) of this section. This description shall contain information indicating: (1) The number of private schools in the area to be served by the project and the number of children enrolled in such schools in the grades to be served by the project and the number of such children who have the needs to be served by the project; (2) the existence of any factors which limit the appropriateness of the project for private school children; (3) the manner in which and extent to which representatives of private school children participated in the development of the project proposal (including participation in the determinations required under paragraph (2) of the paragraph); (4) the provisions which have been made for effective liaison with representatives of private school children in regard to operation and review of the project; (5) the places at which and methods by which private school children will be served in accordance with the requirements of paragraph (b) and (c) of this section; and (6) the differences, if any, in the kind and extent of services to be provided private school children as compared with those to be provided public school children, and the reasons for such differences. Services provided to children on private school premises must not inure to the benefit or enrichment of the institution.

(20 U.S.C. 844(b)(2)(B), 845 (f)(1), 885)

§ 118.16 Reports and records.

The State plan shall provide that the State educational agency will submit to the Commissioner reports in accordance with § 118.53 of this part and Part 100b of this chapter and keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports required by § 100b.477 of this chapter.

(20 U.S.C. 844a(b)(11))

§ 118.17 Supplementary nature of projects.

(a) The State plan shall set forth policies and procedures for assuring that funds made available under the Act for any fiscal year will be used to supplement and, to the extent practical, increase (1) the fiscal effort which each local educational agency receiving Title III funds would have made in the absence of such funds for that fiscal year for educational purposes, as required by Section 305(b)(9) of the Act, and (2) the level of funds which each local educational agency receiving Title III funds would have made available in the absence of such funds for that fiscal year for the purposes described in Section 303(b) of the Act as required by Section 304(a)(3) of the Act.

(b) The State plan shall set forth policies and procedures for assuring that funds will not be used to supplant programs that would have been carried out with State or local funds in the absence of Title III funds.

(c) For the purposes of paragraph (a)(1) of this section, fiscal effort of a local educational agency for educational purposes shall be determined by the State educational agency on the basis of the amount of expenditures per pupil of the local educational agency from State and local funds; or in the event of a decrease of such expenditures, on the basis of the ratio between the total expenditures of the local educational agency from State and local funds and the wealth of the local educational agency as measured by the equalized assessed valuation of taxable property, per capita income, or other such indices as appropriate.

(20 U.S.C. 844(a)(3), 844a(b)(9)(B), 844a(b)(13))

§ 118.18 Approval of State plans.

(a) *Full approval or disapproval.* The Commissioner will review each State plan or amendment thereto submitted under § 118.6 of this part and approve those plans and amendments which he determines to meet the requirements of the Act and the regulations in this part. Except as provided in paragraph (b) of this section, the Commissioner will disapprove a plan which fails to comply with such requirements.

(b) *Partial approval.* If the Commissioner finds that a State plan submitted under § 118.6 of this part, pursuant to section 305(c) of the Act, is in substantial compliance with the Act and the regulations in this part, but fails to adequately provide for one of the programs required by section 305(b) of the Act, or is otherwise unapprovable in any other identifiable part, he may approve that part of the plan which he determines to be in compliance with the Act and the regulations in this part. In such a case, the Commissioner will make available to the State that part of its allotment which he determines to be necessary to carry out the approved part of its State plan. The remainder of the amount the State is eligible to receive may be made available to the State only when the unapproved portion of its State plan is so modified as to bring the plan into compliance with the Act and the regulations in this part. The amount made available to a State pursuant to this subsection may not be less than 50 percent of the maximum amount which the State is eligible to receive under paragraph (c) of this section.

(20 U.S.C. 844a(b), (c))

(c) *Effect of State plan.* The State plan, as approved by the Commissioner under this section, will constitute the basis on which Federal grants are made, and the basis for determining the propriety of expenditures of grant funds. The administration of the Title III program shall be kept in conformity with the approved plan.

(20 U.S.C. 844a, 845(a))

(d) *Notice and opportunity for hearing.* No final action under this section other than one of full approval will be taken by the Commissioner until he first notifies the State educational agency of his proposed action and affords the State educational agency a reasonable opportunity for a hearing.

(20 U.S.C. 844a(c)(1))

(e) *Maximum funding level.* A State whose State plan has been approved under this section for any fiscal year may receive for the purpose of carrying out such plan an amount not in excess of 85 percent of its allotment under Section 302 of the Act.

(20 U.S.C. 844a(d))

§ 118.19 Inability or failure to serve private school children.

(a) If the Commissioner determines under § 118.18(b) that a State plan is approvable, except that no State agency is authorized by law to provide, or there is a substantial failure to provide, for effective participation on an equitable basis by private school children enrolled in any one or more private elementary or secondary schools in the areas served by programs or projects funded under the Act, as required by §§ 118.10(a), 118.11(a), or 118.15 of this part, the Commissioner shall arrange through contracts with institutions of higher education or other competent nonprofit institutions or organizations for the provision of Title III services to such children on an equitable basis.

(b) The costs of services provided in any fiscal year under paragraph (a) of this section will be paid out of the affected State's allotment. In determining the amount to be withheld, the Commissioner will take into account (1) the number of private school children in the affected area or areas who are excluded

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from effective participation in Title III programs or projects and who, except for such exclusion, might reasonably have been expected to participate; (2) the number of teachers that would reasonably have been required to serve such children; and (3) the nature and extent of services being provided to public school children in the affected area or areas by the programs or projects in which private school children are denied effective participation.

(c) In any case where the State alleges that no State agency is authorized by law to provide for the effective participation of private school children as required by §§ 118.10(a), 118.11(a), or 118.15 of this part, the State shall provide the Commissioner with a written statement signed by the State Attorney General or other appropriate State legal officer setting forth the constitutional and statutory provisions, and case law, which in his opinion prevent the State from so serving private school children.

(d) Any organization or individual acting on behalf of an eligible private school child (or children) may file a written complaint with the Commissioner if: (1) There is a Title III program or project being conducted, or one has been approved to be conducted, in the given area or district; (2) there is a child (or children) enrolled in a private school(s) in the area to be served by the program or project whose educational needs are of the type to be met by that program or project; and (3) there is a substantial reason to believe that as a result of specified acts or omissions by the responsible State educational agency or local educational agency(ies), or both, the child (or children) identified in the complaint cannot effectively participate in said program or project on an equitable basis. The Commissioner will determine whether there is a "substantial failure" under paragraph (a) of this section by using the process set forth in paragraph (e) of this section, and inform the complainant of this determination in writing.

(e) In determining whether there has been a "substantial failure" under paragraphs (a) and (d) of this section, the Commissioner will: (1) First consult the affected State educational agency and ask it to provide information concerning the alleged failure, and (2) consider all acts or omissions of the State, or a local educational agency, or other political subdivision thereof, or of any individual acting for or on behalf of such entities, in the process of assessing educational needs and planning, approving, conducting, and monitoring programs and projects under the Act and these regulations which have the effect of (i) preventing, discouraging, or otherwise limiting in any manner the effective participation by any eligible private school child in the operation of the program or project serving the area in which his private school is located, or (ii) not affording private school representatives the opportunity for effective participation in the planning and development of any program or project in which private school children are eligible to participate.

(20 U.S.C. 844(b)(2)(B), 845(f))

§ 118.20 Operational noncompliance.

Whenever the Commissioner, after affording the State educational agency reasonable notice and opportunity for a hearing, finds that in the operation or administration of its State plan there has been a failure to comply substantially with: (a) any provision of the Act and the regulations in this part, (b) any provision set forth in the plan of that State as approved under § 118.18 of this part, or (c) any provision set forth in an application of one of the State's local educational agencies as approved under § 118.23 of this part, he will notify the State educational agency that further payments will not be made to the State under the Act, or that the State educational agency may not make further payments under the Act to specified local educational agencies affected by the failure, until he is satisfied that there is no longer any such failure to comply.

(20 U.S.C. 844a(e)(2))

Subpart D—Program Requirements

§ 118.21 Purpose.

This subpart sets forth various program requirements to which each State educational agency shall adhere in administering the educational programs described in its approved State plan and in implementing the provisions of such plan. The policies, procedures, and criteria developed by the State under this subpart shall be set forth in writing and shall be available for inspection at reasonable times and places by the Commissioner or his delegate and by interested parties in the general public.

(20 U.S.C. 843, 844, 844a(a)(1) and (b), 1232c(b))

§ 118.22 General requirements.

The State plan shall provide assurances that the following are formulated and maintained:

(a) *Long-range strategy for advancing education.* The State shall develop a long-range strategy for advancing education in the State in ensuing years through programs and projects funded under the Act. Such strategy shall be directed toward the critical educational needs of the State as periodically assessed under § 118.8(a) of this part, and shall provide for the coordination of Title III programs and projects with other public and private programs and projects as required by paragraph (b) of this section.

(b) *Coordination with other aid programs.* (1) To the extent not inconsistent with the prohibition against commingling of funds in § 118.8(g) of this part, the State shall establish effective procedures for coordinating the development and operation of programs and projects carried out under the Act and these regulations with other public and private programs having the same or similar purposes in accordance with § 100b.275 of this chapter. (2) The State plan and amendments thereto which the State educational agency submits to the Commissioner under §118.6 of this part, and the periodic reports which it submits to the Commissioner under § 118.53 of this part and Part 100b of this chapter shall first be submitted to the Governor of the State for his review and comments (if any) on the relationship of Title III programs and projects to, and coordination with, State comprehensive plans and State plans in related Federal programs in accordance with § 100b.15 of this chapter.

(c) *State leadership.* The State educational agency shall establish policies and procedures for appropriate professional staff development of State and local administrative, supervisory, instructional, and supporting personnel involved in developing, conducting, or monitoring programs or projects under the Act, including those personnel involved in programs or projects for handicapped children.

(d) *On-site evaluation of projects.* The State educational agency shall develop procedures and criteria for the on-site evaluation, at least annually, of all Title III projects in the State. Such procedures shall indicate the role of the State educational agency staff in the evaluation process and the relationship between its functions under this subsection and the functions of the State advisory council under §§ 118.4(a)(3) and 118.8(b) of this part. Such procedures shall also provide for incorporation of recommendations made as a result of on-site evaluations and for follow-up methods to ensure proper implementation.

(e) *Construction.* The State educational agency shall establish criteria for determining the conditions under which the construction of facilities for use in a Title III program or project is consistent with the educational programs set forth in the State plan and necessary to the efficient operation of the program or project.

(f) *List of projects funded.* The State educational agency shall maintain a list identifying each local project it is funding under the Act, which shall include for each such project: (1) The project number, (2) a title or description by which the project may be easily identified, (3) the amount of the current grant, (4) the proposed level of funding for the portion of the project period remaining after expiration of the current grant, (5) the amount of grant funds to be expended in each project for guidance and counseling under § 118.11 of this part or for testing under § 118.10 of this part, and (6) the amount of grant funds to be expended in each project for the education of handicapped children under § 118.26 of this part, broken down by type of handicap.

(g) *Participation of students in junior colleges and technical institutes.* Participation in Title III programs or projects by students enrolled in junior colleges and technical institutes in a State shall be limited to participation in guidance,

counseling, and testing programs or projects established under §§ 118.10 and 118.11 of this part.

(20 U.S.C. 843(b), 844a(a)(1) and (b)(1)(B)(i) and (ii), (b)(2), (b)(10), 883, 1232c(b), (45 CFR 100b.15))

§ 118.23 Applications for grants.

(a) *Eligible applicants.* A grant may only be made to a legally constituted public local educational agency as defined in § 118.2 of this part and may not be made to an individual, private school, or private nonprofit corporation. Universities and colleges are considered as local educational agencies for this purpose when the following conditions are met: (1) The college or university has administrative control and direction of a public elementary and secondary school as determined under State law; (2) the college or university is a public agency as defined in § 100.1 of this chapter; and (3) the elementary and secondary school draws its students from the general public and not from a restricted group such as children of the faculty or other employees of the college or university.

(20 U.S.C. 881(f))

(b) *Solicitation and submission.* The State educational agency shall establish procedures to stimulate the submission of applications for funds under the Act by all local educational agencies in the State that have educational needs of the type which the State has identified under § 118.8 of this part. Such procedures shall include (1) the statewide dissemination of information concerning the purposes and provisions of the Act and these regulations, and of the educational program which the State proposes to conduct under its State plan; (2) the establishment of cutoff dates for submission of applications and notifications to all local educational agencies of such dates; and (3) the development of solicitation techniques designed to ensure that Title III funds are equitably distributed as required by § 118.12 of this part, and that applications are submitted by local educational agencies entitled to special consideration under the criteria developed pursuant to § 118.13 of this part. The State shall not establish methods or procedures which have the effect of excluding the eligibility of any otherwise eligible local educational agency to apply for and receive grants under this part, other than those specifically required by this paragraph.

(c) *Content of application.* Each project application submitted to the State educational agency shall set forth a proposal for carrying out one or more of the purposes described in Section 303(b) of the Act in accordance with the provisions of the Act and the regulations in this part. Such applications shall:

(1) Provide that the services and activities for which Title III funds are sought will be administered by or under the supervision of the applicant;

(2) Set forth (i) such methods of administration as are necessary for the proper and efficient operation of the project, and (ii) such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for Title III funds paid to the applicant;

(3) Set forth policies and procedures which assure that funds made available for the project for any fiscal year will supplement and not supplant State and local funds as required by § 118.17(a) of this part;

(4) Set forth, in the case of an application which includes construction as part of the proposed project, the necessary assurances and such other information as the State educational agency shall require in fulfilling the requirements of § 118.22(e) of this part;

(5) Provide for making such financial reports, annual reports, and other reports, and for keeping and allowing access to such records relating thereto, as the State educational agency may reasonably require to assure compliance with the reports and records requirements in §§ 118.53 of this part and part 100b of this chapter and to otherwise carry out its functions under the Act and these regulations;

(6) Set forth the information regarding participation of private school children which is required by § 118.15(d) of this part;

(7) Contain such other information as the State educational agency may reasonably require to apply the criteria for reviewing project applications set forth in § 118.24 of this part.

(d) *Panel of experts.* The State educational agency shall establish a panel of experts, consisting of persons who are not officers or employees of the State educational agency or the State advisory council, to review all local project applications prior to their approval or other disposition. The State educational agency shall determine the number of experts to be utilized and the qualifications to be required of such experts (including one or more experts in the education of handicapped children and one or more experts in guidance, counseling, and testing) and shall establish procedures for selecting the panel.

(e) *Approval of applications.* The State educational agency shall establish procedures for review and disposition of local project applications in accordance with the requirements of the Act and these regulations. Such procedures shall provide for coordination of the roles of the State advisory council (under § 118.4(a)(2) of this part) and the panel of experts (under paragraph (d) of this section) with the role of the State educational agency. Such procedures shall also assure that no application will be approved or renewed by the State educational agency unless it is specifically found to meet the requirements for participation of private school children under § 118.15 of this part, and each of the requirements of paragraph (c) of this section, and has been evaluated in terms of the criteria set forth in § 118.24 of this part.

(20 U.S.C. 844)

(f) *Hearings.* The State educational agency shall develop procedures for a hearing in accordance with § 118.8(f)(3) of this part, for any applicant whose application (or amendment thereto) the State educational agency proposes not to approve.

(20 U.S.C. 844 (a), (b), 844a(b)(12), 1232c(b))

§ 118.24 Criteria for review of project applications.

(a) *Supplementary educational centers and services.* The State educational agency shall establish the criteria to be used in reviewing project applications from local educational agencies under § 118.9 of this part. Such criteria shall be applied in conjunction with the special criteria developed by the State educational agency under §§ 118.12 and 118.13 of this part and shall include criteria for determining the extent to which the proposal involves or contains:

(1) Evidence that it is designed to demonstrate solutions to identified critical educational needs and will substantially increase the educational opportunities of children in the area of the State to be served;

(2) Provisions for the development of concepts, practices, and techniques which can be adapted or adopted elsewhere;

(3) Promising concepts or practices recognized as unique, original, unusual, innovative, or exemplary;

(4) Concepts or practices which are economically feasible and effective;

(5) Evaluation strategies and procedures based on valid methodology which will provide evidence of the extent to which performance of the participants is improved;

(6) Performance objectives which are measurable, and appropriate activities which facilitate achieving them;

(7) An awareness of information concerning similar programs, relevant research findings, and views of recognized experts;

(8) Provisions for staff members with professional qualifications adequate to achieve the stated objectives of the project;

(9) Provisions for budgeted expenditures for adequate and appropriate facilities, equipment, and materials which make a direct contribution to facilitating the achievement of the stated objectives;

(10) Documentation that in the planning of the project there has been, and in the operation and evaluation of the project there will be (i) utilization of the best available talents and resources and (ii) participation of students, teachers, parents, school administrative personnel, private nonprofit school representatives, and other persons including those with low income, broadly representative of the cultural and educational resources of the area to be served; and

(11) Provisions for dissemination of information about the proposed project which are appropriate and adequate for the area to be served.

(b) *Guidance and counseling.* The State educational agency shall establish the criteria to be used in reviewing applications for guidance and counseling programs and projects under § 118.11 of this

part. A State educational agency may elect to apply all criteria in paragraph (a) of this section to guidance and counseling programs and projects. However, at least those criteria set forth in §§ 118.12 and 118.13 of this part and those required by paragraph (a)(4) through (11) of this section shall be applicable to all such programs or projects.

(c) *Additional criteria.* If the State educational agency establishes criteria for the review of project applications in addition to those specified in paragraphs (a) and (b) of this section, it shall list such additional criteria in its State plan in accordance with § 118.8(f) of this part.

(20 U.S.C. 844, 844a(a)(1), 1232c(b))

§ 118.25 Innovative and exemplary projects.

The State educational agency shall establish policies and procedures under which it will use at least 50 percent of the funds that it receives to carry out its State plan in each fiscal year to plan for and take other steps leading to the development of innovative and exemplary programs and projects such as those described in section 303(b) (1), (2), and (3) of the Act, including pilot projects designed to test the effectiveness of such plans.

(20 U.S.C. 844a(b)(7))

§ 118.26 Projects for handicapped children.

(a) The State educational agency shall establish policies and procedures which are to be set forth in the State plan under which it will use at least 15 percent of the funds that it receives to carry out its State plan in each fiscal year for: (1) Planning programs or projects referred to in paragraphs (b) and (c) of this section; (2) establishing or expanding innovative and exemplary educational programs for the purpose of stimulating the adoption of new educational programs to demonstrate ways to meet the special needs of handicapped children; or (3) establishing, maintaining, operating, or expanding services or activities which utilize new and improved approaches which demonstrate ways to meet the special educational needs of handicapped children.

(b) The State educational agency shall also establish procedures which assure that such activities will be coordinated with other Federal, State, and local programs and projects for the education of handicapped children, such as Title I of the Elementary and Secondary Education Act (20 U.S.C. 241 *et seq.*), the Education of the Handicapped Act (20 U.S.C. 1401 *et seq.*), the Developmental Disabilities Services and Facilities Construction Act (42 U.S.C. 2661 *et seq.*), and

(c) The State shall also establish procedures whereby appropriate State educational agency personnel responsible for the education of handicapped children shall review and make recommendations relating to all parts of the State plan and to all project applications which pertain to handicapped children.

(20 U.S.C. 844a(b)(8), 1232c(b)(1))

§ 118.27 Project period, amendment, continuation costs, and termination of projects.

(a) *Project period.* Subject to § 100b.55 of this chapter, the State educational agency shall establish a project period for projects funded under the Act and shall establish procedures for continuing the funding of promising projects throughout the project period, subject to the availability of Title III funds, on the basis of evaluations under § 118.22 (d) of this part, and other periodic reviews which demonstrate that the project is being operated in compliance with all the requirements of the Act and these regulations. The project period and the procedures shall be set forth in the State plan.

(b) *Amendment of project applications.* The State educational agency shall establish procedures for reviewing requests from grantees to amend project applications and alter projects during the project period and for assuring that such amendments and alterations are fully consistent with the requirements of the Act, the regulations in this part, and § 100b.29 of this chapter. Whenever the proposed amendment or alteration would involve significant changes in the content, design, or funding level of the project, the review procedures utilized shall conform to the requirements of §118.23 (e) of this part.

(c) *Costs of continuation.* If the costs to the State for any fiscal year of continuing projects under this section would exceed the amount of funds available to the State to carry out its State plan for that fiscal year, the State educational agency may request that the Commissioner provide funds to meet such excess costs under Section 306 of the Elementary and Secondary Education Act (20 U.S.C. 844b) and Part 126 of this chapter. The Commissioner will consider such a request only if he specifically determines that the project requiring funds is worthy of continuation and holds promise of making a substantial contribution to the solution of critical education problems common to all or several States.

(d) *Termination of projects.* The State educational agency shall establish procedures for termination, during the project period, of programs and projects which are not operating in substantial compliance with (1) any provision of the Act and regulations of this part, or (2) any requirement set forth in the approved State plan or in the approved project application. In the event of such termination the grantee shall be afforded reasonable notice of the proposed action and opportunity for a hearing.

(20 U.S.C. 844, 844a(b)(12))

§§ 118.28–118.31 [Reserved]

Subpart E—Fiscal Procedures

§ 118.32 Grant awards.

In all cases where the State educational agency makes grants under the Act to local educational agencies, it shall award such grants for specified grant periods on the basis of applications which have been approved in accordance with § 118.23 of this part. All grant awards shall be in writing and shall set forth the amount of funds granted and the period during which such funds are available for obligation and expenditure, and shall specify the anticipated length of the project period.

(20 U.S.C. 844(a), 1232c(d))

§§ 118.33–118.40 [Reserved]

Subpart F—Equipment and Construction

§ 118.41 Recovery of payments.

If within 20 years after the completion of any construction undertaken pursuant to a grant under the Act (a) the owner of the facility shall cease to be a State or local educational agency, or (b) the facility shall cease to be used for the educational and related purposes for which it was constructed, the United States shall be entitled to recover all or a portion of the Federal funds used to pay for such construction in accordance with the provisions of section 308 of the Act.

(20 U.S.C. 847)

§§ 118.42–118.50 [Reserved]

Subpart G—General Provisions

§ 118.51 Payment of funds.

(a) From its allotment under section 302 of the Act for any fiscal year, and in accordance with § 100b.53 of this chapter, the Commissioner will pay to each State, either in advance or by way of reimbursement, amounts equal to the sums necessary for current expenditures by the State under an approved State plan for (1) grants to local educational agencies for supplementary educational centers and services and (2) guidance, counseling, and testing programs.

(20 U.S.C. 845(a), 1232d)

(b) The payment of funds under Title II of the Act will be limited to the maximum funding level established by section 305(d) of the Act as described in § 118.18 of this part and the funding of partially approved State plans is further subject to the limitations set forth in § 118.18(b) of this part.

(20 U.S.C. 844a(c), (d))

(c) The Commissioner will pay additional sums to each State receiving funds under paragraph (a) of this section for administration of the State plan; administration of guidance, counseling and testing programs; activities of the State advisory council, and evaluation and dissemination activities. In no case will the amount paid to a State for such activities for any fiscal year exceed an amount equal to 7.5 percent of its allotment for that fiscal year or $150,000 ($50,000 in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater. All allowable expenses for administering guidance, counseling, and testing programs or projects under the State plan can only be reimbursed with funds under this paragraph.

(d) Subject to applicable provisions of law, no payment will be made by the Commissioner to a State under the Act for any fiscal year unless the Commissioner determines that the amount of State aid per pupil with respect to the provision of free public education in that State for the preceding fiscal year was not less than the amount of such State aid per pupil for the second preceding fiscal year.

(20 U.S.C. 845(b), (e), 1232d)

§ 118.52 Reallotment.

(a) *General.* The amount of any State's allotment under Title III of the Act for any fiscal year which the Commissioner determines will not be required by such State for the period for which that amount is available shall be available for grants pursuant to section 306 of the Elementary and Secondary Education Act (20 U.S.C. 844b) and Part 126 of this title (special grants made directly by the Commissioner) in such State. If the Commissioner further determines that the amount is not needed in such State for grants pursuant to section 306, that amount may, at the Commissioner's discretion, either be used for grants pursuant to section 306 in other States or realloted to other States. Funds may be reallotted from time to time, during the period for which they are available, on such dates as the Commissioner may determine, among other States in proportion to the amounts of their respective original allotments for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the respective State needs and will be able to use during the period for which the funds are available. Funds available due to such reductions may be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State from funds appropriated pursuant to Section 301 of the Act for any fiscal year will be deemed to be a part of the amount allotted to it under Section 302 of the Act for that year.

(b) *Statements of anticipated need.* In order to provide a basis for reallotment of funds by the Commissioner pursuant to this section, each State agency shall, if requested, submit to the Commissioner, by such date or dates as he may specify, a statement or statements showing the anticipated need for the funds previously allotted during the period for which such funds are available, or any amount needed to be added thereto by reallotment. Such further information as the Commissioner may request for the purpose of making reallotments shall be reflected in such statements.

(20 U.S.C. 842c)

§ 118.53 Annual and other reports.

Pursuant to the provisions required for approval of the State plan under section 305(b)(11) of the Act and § 118.16 of this Part, the State educational agency shall make an annual report and such other reports containing such information as the Commissioner may reasonably require to carry out his functions under the Act and to determine the extent to which funds provided under the Act have been effective in improving the educational opportunities of persons in the areas served by programs or projects supported under the State plan and in the State-as-a-whole. The annual report shall include an evaluation made in accordance with objective measurements to determine the extent to which critical educational needs identified in the State plan have been met and an evaluation of the effectiveness of projects funded for that fiscal year under the Act. The State shall also keep such records and afford access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(20 U.S.C. 844a(b)(11))

§§ 118.54–118.58 [Reserved]

GUIDELINES—ESEA, TITLE III, SECTIONS 301–05, 307–08

FINANCIAL ASSISTANCE FOR SUPPLEMENTARY CENTERS AND SERVICES, GUIDANCE, COUNSELING, AND TESTING PROGRAMS

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CHAPTER I—INTRODUCTION

PART 1—GUIDELINES

§ 1.1 *Scope of guidelines.*

(a) The guidelines contained in this document are recommendations and suggestions for meeting the legal requirements which apply to Federal assistance under the Elementary and Secondary Education Act, Title III, sections 301–308 (excluding Section 306). The legal requirements include the Act (20 U.S.C. 841–844a, 845–49) and the regulations (45 CFR 118). The guidelines are not to be construed as requirements. However, where the guidelines set forth a permissible means of meeting a legal requirement, the guidelines may be relied upon. Projects are not subject to termination proceedings or audit exceptions for conduct which is recommended or suggested in the guidelines.

(20 U.S.C. 1441; 113 Cong. Rec. 5036, 5039 (daily ed. May 23, 1967); *United States v. Jefferson County Board of Education*, 372 F. 2nd 836, 857 (1966))

(b) Where a guideline is issued in connection with or affecting a provision in the regulations, the pertinent regulation will be cited after the citation of legal authority for the guideline, in the parentheses following the guideline. For example, if the legal authority for the guideline is Section 305(b)(11) of the Act (20 U.S.C. 844a(b)(11)), and the guideline affects § 118.16 of the regulations (45 CFR 118.16), the following citation

will be placed on the line immediately following the guideline: (20 U.S.C. 844a(b)(11)); (45 CFR 118.16). If no particular section of the regulations is affected, no citation to the Code of Federal Regulations (CFR) will be made.

(20 U.S.C. 1232(a))

PART 2—THE PURPOSE AND PROGRAMS OF TITLE

§ 2.1 *Objectives.*

The role of Title III of the Act in the improvement of American education is that of demonstrating the feasibility of innovations in a local context. These demonstrations should meet the criteria of having been field tested following research and development phases, usually under the auspices of State educational agencies, universities, foundations, or educational laboratories. They should be exemplary in that they will serve as models for other school systems that may wish to visit or replicate them, and they should hold promise of being economically feasible. In this manner, the Title III project bridges the research-to-practice gap by filling the diffusion role in the change continuum of research, development, diffusion, and adoption.

(20 U.S.C. 841(a))

§ 2.2 *Types of programs.*

State educational agencies are authorized to make grants to local educational agencies for innovative and exemplary programs and projects which are designed to demonstrate ways of making a substantial contribution to the solution of critical educational problems. Title III grants should be made only to programs or projects which can be replicated elsewhere if evaluation proves them to be an effective approach to solving educational problems.

(20 U.S.C. 841(a))

§ 2.3 *Program emphases.*

(a) The flexibility of Title III of the Act allows its resources to be focused on virtually any major educational need. Title III can be used as an effective agent to develop strategies for demonstrating exemplary programs to meet assessed needs and for designing innovative approaches that can be replicated by local educational agencies. Title III of the Act furnishes the seed money to produce innovative solutions to critical problems which are of concern to all or several States. In effect, this program offers money to plan and develop new programs, and test their feasibility for innovations as model programs which may be adapted throughout the Nation to meet critical needs of public and private school children.

(b) In making long-range plans for improving education, States have the responsibility for identifying their most critical educational needs with local educational agencies and for encouraging the development of projects which demonstrate highly creative approaches to meeting these needs, with the ultimate aim of promoting widespread adaptation, through other funding sources, of those programs which are judged to be the most promising. Therefore, the aim of Title III is to design and demonstrate creative solutions of major educational problems which affect various States and the entire Nation, rather than to provide direct aid on a massive scale.

(20 U.S.C. 843(b), 844a(b)(1)(A)); (45 CFR 118.9, 118.22, 118.25)

CHAPTER II—STATE PLAN ADMINISTRATION

PART 1—ELIGIBILITY FOR PAYMENTS

§ 1.1 *Submission of State plans.*

The Title III program in recent years has placed less emphasis on the State's preparing, and the Office of Education's approving a detailed description of the manner in which the program is to be conducted. More emphasis has been placed upon the State's developing a contemporary dynamic process for planning, evaluating, and managing federally supported educational programs. The State plan becomes a set of assurances; except when otherwise required by law, certain provisions which a State is legally bound to follow in the administration of a program must be set forth in the plan on an annual basis. It does not reduce the requirement for a State to develop a thorough and complete plan or to present such a plan in writing. The plan serves as a guide in the administration of any federally supported program. This State-developed management plan should be made available and on file for any person to review.

§ 1.2 *Calendar of suggested dates for submitting material to Office of Education.*

Name of report	Number of copies	Suggested date due in USOE
Certification of State Advisory Council (20 U.S.C. 844a(a)) (45 CFR 118.3(c)).	1	April 1 of each year.
State Plan (20 U.S.C. 844a(a)(1)(c)) (45 CFR 118.6).	4	May 1 of each year.
State Plan Amendment (20 U.S.C. 844a(a)(1)(c)) (45 CFR 118.6(e)).	4	Allow 30 days for OE to process.
Annual Report (20 U.S.C. 844a(b)(11)) (45 CFR 118.53).	4	October 1, after the end of each fiscal year.

PART 2—STATE ORGANIZATION AND FUNCTIONS

§ 2.1 *State advisory council support staff.*

Staff members made available to assist the State advisory council may be employed on a full- or part-time basis and may include consultants highly trained in educational areas such as evaluation and statistics. Other support staff may include administrative assistants trained in data collection, editorial assistants, and clerical help. Council members ordinarily will serve on a part-time basis; however, a full-time person may be employed to serve in the capacity of Executive Secretary.

(20 U.S.C. 843(c), 844a(a)); (45 CFR 118.4(c))

§ 2.2 *State agency staffing and functions.*

(a) *Staff needs.* The State educational agency staffing patterns for the administration of the Title III State plan may vary from State to State. The number of additional staff members needed will, of course, depend upon the amount of the allotment, the competencies of the present staff, and the kind of program to be developed within the State. In States where small numbers of projects are to be administered, additional staff members may be recruited on a part-time basis, and regular staff members in the agency may be called upon both for service functions and for administration, depending upon the need for their particular proficiencies.

(b) *Staff functions.* In determining staff patterns for the Title III State plan program required by § 118.7(d) of the regulations, the State educational agency should consider carefully the following:

(1) *Program coordination.* A staff member to oversee the total program and to coordinate the activities of the advisory council and the panel of experts with those of the State educational agency staff will be needed. This person will be responsible for the establishment and management of the staff serving the State advisory council as well as the Title III State educational agency staff, and for coordinating their activities in behalf of the program in the State.

(2) *Program development.* Personnel with expertise in such areas as early childhood education, education of children from minority groups, education of children from rural areas, education in inner cities, treatment of potential and actual dropouts, education of the handicapped, language arts, reading, bilingual education, individualized instruction, curriculum development, and other areas identified by the Statewide assessment of needs will be needed. Such experts may already be on the staff of the State educational agency and, if so, may be called upon as appropriate. Such persons may be employed as full-time staff members to serve the Title III program, or may be employed on a part-time basis as needed. Their assignments might include providing consultation to local educational agencies in the development of projects; planning, developing, and conducting inservice training programs; gathering and disseminating information concerning research and innovation in their field; and serving in an advisory capacity to projects in operation;

(3) *Project proposal review.* Project proposals should be reviewed by persons having recognized expertise in the educational areas proposed for support. Reviewers should be able to judge, in their areas of specialization, whether: (i) a project is an innovation in the field, (ii) the available research has been studied, (iii) the idea is basically sound, (iv) the consultants named are competent in this field, and (v) the project is economically feasible;

(4) *Program operation.* Personnel are important to monitor and supervise the operation of approved projects. Projects may be assigned to personnel on the basis of area of specialization or, in the case of large States, on a regional basis. Such personnel should assist project directors in carrying out the proposed program;

(5) *Evaluation.* The requirements for evaluation both of local project design and of the program at the State level as set forth in § 118.22(d) of the regulations call for staff with expertise in this area. Evaluation specialists may be contracted on a team basis, or they may be a part of the staff. Their functions should be to assist local educational agencies in preparing evaluation designs and in evaluating projects at regular intervals. In addition, they should be called upon to evaluate the effectiveness of the total State Title III program;

(6) *Dissemination.* Personnel with experience in communications are important members of a staff. It should be their responsibility to disseminate information about the preparation and submission of projects, keep the local school districts informed concerning innovations in education, serve as a clearinghouse of educational information, assist local educational agencies in their dissemination efforts, inform school districts and other audiences in the State of successful programs, and maintain an internal communications system in the State educational agency;

(7) *Grants management and finance.* Grants administration personnel who can

maintain such fiscal control and accounting procedures as may be necessary are important to assure proper disbursement of and accounting for Title III funds paid to the State. Their functions include working with program officers to examine items of the project budget and providing technical advice and assistance to local educational agencies in the areas of budgeting, fiscal control, and accounting. Grants administration personnel should also develop a system to ensure that fiscal data are accessible to appropriate units in the State educational agency; and

(8) *Clerical.* A staff sufficient to file and handle all records concerning each project is important. Other assignments including mailing of projects to reviewers, transmitting routine notifications, and handling correspondence and schedules for various staff members.

(20 U.S.C. 844a(a)(1), (b)(2) and (10)); (45 CFR 118.7(d), 118.23)

§ 2.3 *Professional development activities.*

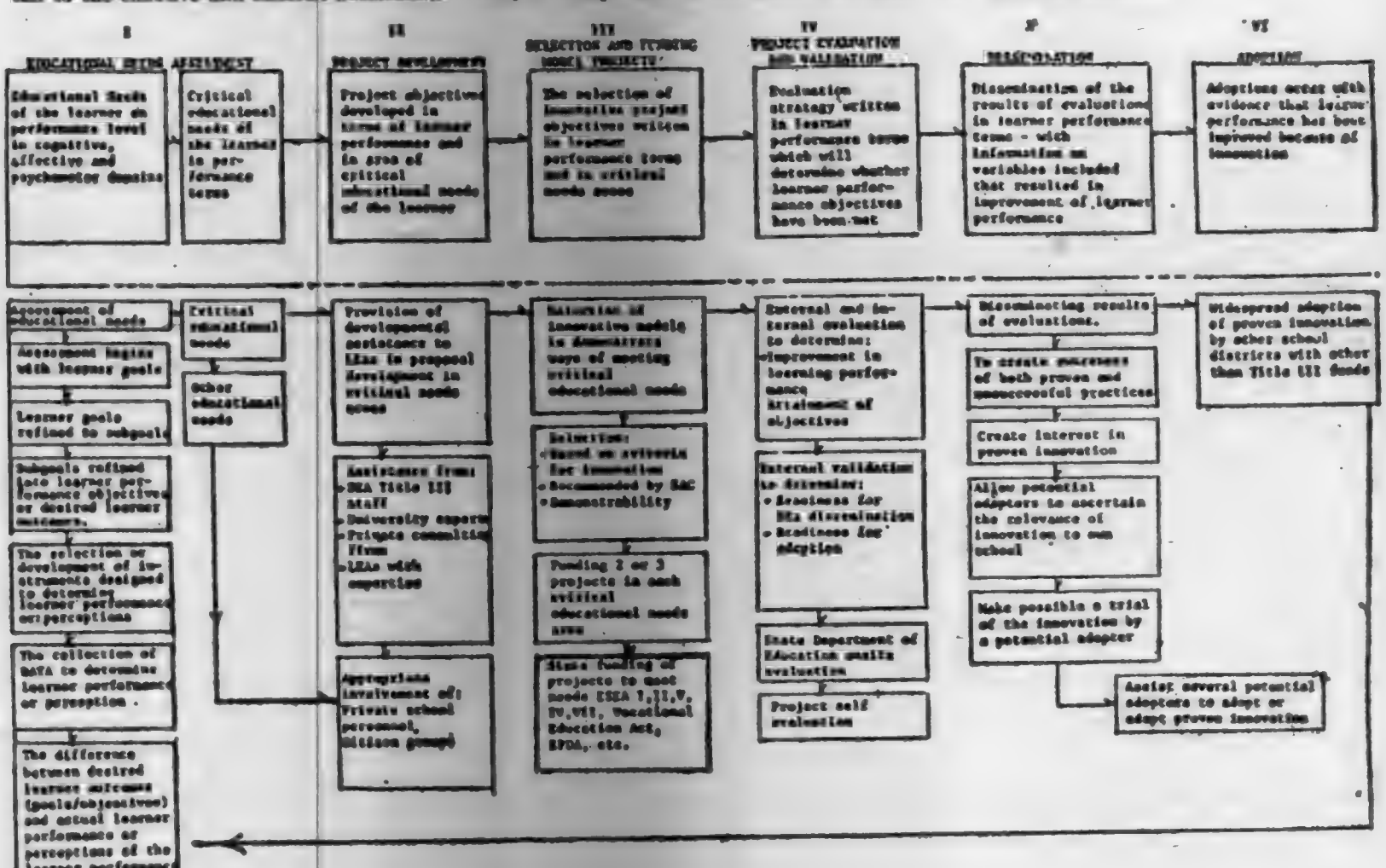
(a) Staff development programs are essential to the effective and efficient administration of the Title III program as set forth in § 118.8(e) of the regulations. Although the specific activities are dependent on individual State staff training needs, the following are examples of criteria that could be used to determine the adequacy of professional staff development activities at the State level under Title III: (1) The extent to which the State educational agency is already committed to providing the staff with development opportunities; (2) the extent to which development opportunities show clearly stated objectives which are directed toward the needs of the staff; (3) the adequacy of the total staff development program; (4) the extent to which the development program is evaluated to determine its effectiveness; and (5) the extent to which the development program involves appropriate State staff in addition to those working under Title III.

(20 U.S.C. 844a(b)(2)); (45 CFR 118.8(e))

(b) Since substantial consultant costs have been incurred by many Title III projects, it is important in the interest of effective control and better evaluation of consultant services that reports of such consultations be prepared and that results of consultations be documented in the grantee's project records. It is recognized that the selection of consultants by grantees may vary by purpose as well as by the length of time a consultant is hired, and that these matters have a bearing on the extent to which the consultations can be documented. For example, one consultant may be hired for the evaluation of a Title III project and receive fees for several days' work; whereas another consultant may visit a project for one day only to discuss strategy and problems with staff members. In the first example, the grant records should include a formal written report from the consultant (an evaluation). In the second example, the grantee should prepare a memorandum concerning matters discussed with the consultant and should file the memorandum for the record.

(20 U.S.C. 844(a)(5)); (45 CFR 118.23(c)(5))

2.4 *Model of operation.*



(20 U.S.C. 843(b), 844a(b)(1)(A),(6)); (45 CFR 118.8)

PART 3—THE STATE EDUCATIONAL AGENCY AS FACILITATOR OF EDUCATIONAL CHANGE UNDER TITLE III.

§ 3.1 *Change and the role of the State agency.*

(a) One of the primary functions of the State educational agency under Title III of the Act is to effect change in education which is relevant to valid educational and social goals. The Title III program is a vital part of the State educational agency's effort to effect such change in schools throughout the State.

(b) Most educational changes are not simple adoptions of a solution developed elsewhere, but are adaptations of the school to the innovation and of the innovation to the school. This means that it is vital to know both the essential conditions for the innovation to succeed and the unchangeable constraints within the school, so that any adaptation made in the innovation may actually result in educational improvement, rather than in maladaptation.

(c) In examining school districts to see which will be the most responsive to innovations, the State educational agency may wish to use the following criteria:

(1) *Initiating mechanisms*, the continuing flow of new knowledge into the school district from outside sources. This new knowledge may flow through print or other mass media, through training programs, through professional meetings, or through interpersonal communication with persons outside the school district;

(2) *Sustaining mechanisms*, or the capability of the school district to respond to and act upon such new knowledge. These mechanisms are within the school district, itself, and are relatively impervious to manipulation by outsiders. Among the internal conditions which will influence the ability of

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the school district to change are (i) the degree of commitment and support for high quality educational programs within the community, (ii) the degree to which the school district demonstrates "openness," or willingness to perceive problems and to make use of information from outside sources, (iii) the degree to which there is open communication between administrators and teachers about task-related matters, and (iv) the degree of flexibility there is in school budget; and

(3) *Performance feedback transmissions*, which are dependent on the clarity and measurability of objectives of the school district and the nature and degree of communication concerning desired goal attainment within the schools. Clearly related to this, of course, are similar communications about the effect of any trial innovation on goal attainment;

(d) Adopters of innovations tend to go through a series of five stages culminating in adoption. Rejection of an innovation may occur at any point in the process. These stages are as follows:

(1) *Awareness*, the point where the potential adopter learns of an innovation, or of some alternative to his current practice;

(2) *Interest*, the stage in which the more innovative of the potential adopters seek out additional, more technical information about the innovation;

(3) *Evaluation*, the stage during which the potential adopter makes an "in-the-head" assessment of the relevance of the innovation to needs, to apparent advantages, and to potential problems for him. Most potential adopters at this stage rely heavily on interpersonal communication with program developers and/or earlier adopters;

(4) *Trial*, the stage in which the potential adopter makes an actual field test of the innovation on a limited basis. The late adopters are likely to omit this stage, since they can see the benefits that adopting the innovation have brought to the majority of their peers who have already adopted the innovation; and

(5) *Adoption*, the final stage, when the adopter decides to make full-scale continuing use of the innovation until it is replaced by a better program. In both trial and adoption stages, the direct, first-hand experience of an adopter and the advice, assistance, and encouragement of expert consultants or even earlier adopters are the most important information sources.

(e) To facilitate change, the adopter should seek more information about the innovation, then turn toward more technical information sources which provide more detailed information, such as government bulletins, integrative reports, or expert advice. The more innovative the adopter, the more likely he is to use technical information sources; the less innovative, the more heavily he will rely on interpersonal communication, particularly with individuals he knows and believes to have more expert knowledge.

(f) Innovators should not rely on attractive color brochures or individual reports of Title III projects which are so popular among most educational dissemination personnel. They are useful for little more than making others aware of the existence of an innovation. Such information is unconvincing for those same potential adopters as they move closer to evaluation, trial, and adoption of the new practice, and may even be misleading.

(g) If a State educational agency is to facilitate the spread of improved educational practices, it is important that it tailor its strategy and activities to the actual conditions and constraints in the local school districts. The following are constraints that the State educational agency may face:

(1) *The pluralistic nature of the decision-making process in American public education.* The pluralistic system of decision-making in American government reflects American values, but it does make the problem of system-wide educational change slower and more difficult; there is no single locus for making and implementing educational decisions. An innovation is likely to be adopted if the adopting unit—be it a person or an organization—perceives greater relative advantage through adoption of the innovation than in continuing current practice. Most changes of any significance involve a number of congruent decisions in different loci: Policy decisions by the school board, management decisions by superintendents and principals, subject matter decisions by supervisors, and implementing decisions by each classroom teacher involved. However, one fact stands out: unless the superintendent, who can allocate resources and influence behavior, is supportive of innovation, it probably will not occur. It is important, therefore, that superintendents of schools continuously encourage activities which will better meet local needs. Every effort should be made to provide them with information and assistance which will help them make informed decisions regarding the allocation of resources. Efforts should also be made, of course, to communicate with and assist the decision-makers and implementers at other levels, who are necessary participants in the adoption process.

(2) *The statement of educational goals.* Educational goals, like many others, are often stated in unmeasurable terms. In determining whether an innovation should be adopted, the relative advantage of the innovation is compared to current practice in terms of the goals of an organization. When the goals are not stated in clear, measurable terms and when there are conflicts among goals, it becomes difficult to identify any clear advantage in any single practice over any other. This condition suggests the need for the formulation of more precise, operational, and attainable educational goals if educational improvement is to be determined. It should be recognized that explicit goal definition is, in itself, an educational innovation.

§ 3.3 *The unique resources of the State educational agency.*

(a) The State educational agency possesses certain capabilities which assist the agency in facilitating educational change. Underlying all other consideration, the statutory position of the State as the responsible agent for education in the United States mandates a leadership role in educational improvement by the State educational agency.

and the job opportunities in the various fields. Also, it will encourage students with outstanding aptitudes and abilities to complete their secondary school education, take the necessary courses for admission to institutions of higher education, and enter such institutions. Such programs shall include occupational information and counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education, and may include short-term training sessions for persons engaged in guidance and counseling in elementary and secondary schools, junior colleges, and technical institutes in the State.

(b) Guidance and counseling services under the State plan shall be provided by qualified counselors through appropriate individual and group processes. Such processes shall be coordinated with other pupil personnel services and guidance and counseling resources both within and outside the school setting, and shall include referral assistance, working with other staff members in planning curriculum content and changes, and consulting both teachers and parents with regard to the learning and developmental needs of pupils.

(c) The program set forth under paragraph (a) of this section shall make provision for supervision and leadership activities by the State educational agency with regard to the establishment, maintenance, and improvement of guidance and counseling services. Such activities shall include the assessment of other Federal and State programs (such as Titles I and V of the Elementary and Secondary Education Act the State educational agency in many cases, as the major source of assistance in formulating educational policy. Through the types of communications it provides to the Governor and the State Legislature, the State educational agency can assure the development of sound, rational State policy on education and provide the intellectual basis for the policy-makers to make fiscal and other decisions which permit implementation of that policy.

(2) The State educational agency may use its regulatory function to facilitate change. Although the regulatory function can be performed in a manner which is deadening and inhibiting, it can also be used as a means of encouraging educational improvement. Assuring the presence of qualified teachers is a regulatory function, but one that should assure better, not worse, education. If certification requirements are used as a means of preventing trial and assessment of staff differentiation in the schools, this can inhibit educational change. However, such inhibition results more from the way the regulation is implemented than from the standard, itself. The regulatory function can also be used to encourage more explicit statements of educational goals at the local level and to assure justification of proposed new courses of action. If exercised in this way, it is possible to develop procedures for regulating educational improvement rather than for blocking it and to have guidelines for further waiving of regulations under appropriate conditions, or even for amendment of regulations in a manner consonant with changing educational needs under Title III of the Act.

(4) The role of the State educational agency in educational finance should be a powerful instrument. The State's financial authority will not foster educational change, however, if all financial transactions between State and local educational agencies are based on formula grants. Most Title III innovations involve some degree of risk taking. It requires the potential for acquiring or reallocating money for trial and installation of changes. The State can facilitate change by providing risk capital and fiscal flexibility, as well as incentives for local schools to seek changes which lead to educational improvement. In such programs, it is highly advisable to require commitment of local funds to the innovative effort from the very beginning, with increasing allocation of local resources as the project progresses. Data in both education and other fields show that an innovative program which involves the use of local monies from the beginning is more likely to be installed than one which receives full funding from outside sources.

(5) Because of the State educational agency's intermediate position between local and national resources, it can have a great impact on local change processes through the information regarding innovation which it transmits to local schools, and its role as a linker agent in matching needs and resources. To

perform this function effectively at intervals and in forms which are timely and useful, the State education agency should continuously keep abreast of proven practices in education. The agency's linker role can be established through a State educational agency information center which links distant resources to local needs. Without such a center, State dissemination efforts are likely to be intermittent, unfocused, and only partially effective. The State agency should set up an information system under Title III of the Act which provides for:

(i) Comprehensive, up-to-date, practical, and accessible information. Often, information seekers make first and most frequent use of the most accessible information source, even when that source may not provide the best information.

(ii) Information tailored in format and content to the requirements of persons who have different educational roles and who are at different stages of the adoption process. Unless the State's information program is based upon continuing assessment of the characteristics and needs of its users, it will be a waste of money and effort. The following table suggests information relevant to each stage of the adoption process:

Stage	Questions	Needed information
Diagnosis	How am I doing?	Current performance data.
Awareness	How can I do better?	Alternative solutions to my problem.
Evaluation (pretrial.)	Will it work for me?	Settings and conditions where the innovation succeeded or failed.
Trial	How can I do it?	Sources of expert assistance. How to adapt to local conditions.
Evaluation (posttrial.)	How did I do?	Comparative effectiveness of old and new practices.
Installation	How must I change?	Needed readiness and actions to make the innovation work operationally.
Maintenance	How do I continue?	Resources and actions needed to continue and modify the innovation.

(iii) Effective two-way communication between the school and the community and in time looks toward regulations which mandate increased efforts toward such communication. Since community concern for and participation in educational dialogue enhances the innovativeness and responsiveness of schools, the State educational agency, in its leadership role and in its provision of staff services to elected State officials, should emphasize this dialog.

(iv) In its leadership its regulatory role, the enhancement of improved performance feedback transmissions within and between school districts. As part of its leadership role, the State educational agency should communicate to local districts means of defining goals operationally and methods of assessing the degree of their attainment. In some cases, it may even be possible to stimulate statewide participation in development of model educational objectives. As a regulator, the State educational agency may require operational specification of objectives in proposals for Federal or discretionary State funds; it may require by regulation that participation in certain State programs be based upon operationally stated objectives, or it may offer incentives for provision of undisputable evidence of satisfactory performance.

(v) Communications to the State legislature in performance-oriented terms whenever possible and offers assistance in formulation of legislative proposals for improved goal definition and performance assessment in education.

(20 U.S.C. 843(b)(4), 844a(a)(1), (b)(1)(B)(i) and (ii), 883); (45 CFR 116.22)

PART 4—ASSESSMENT OF EDUCATIONAL NEEDS

§ 4.1 *Planning for a needs assessment.*

(a) An educational needs assessment under Title III of the Act is a technique for identifying those educational objectives which most need to be accomplished in a given instructional situation. This concept of educational needs assessment provides for (a) the identifying of a desired learner outcome and (b) the ascertaining of the learner's current status with respect to that outcome. The educational needs constitute the difference between the current status and the desired status. The following illustration represents this concept:

DESIRED LEARNER OUTCOMES	minus	CURRENT LEARNER STATUS	equals	AN EDUCATIONAL NEED

(b) The assessing of educational needs should be learner-oriented, focusing on the behavioral needs of children in the cognitive, affective, and psychomotor domains. Such needs assessment is important for making any significant improvement in educational outcomes and should be carefully planned and implemented with both short- and long-range objectives.

(c) Planning for a needs assessment is a departmentwide effort. The Title III monies may be combined with State and local monies to finance a needs assessment representative of all groups of persons who will be users of the needs assessment results and all persons whose specific skills will be useful in conducting the needs assessment studies should participate in the planning. It is suggested that they include:

(1) Appropriate representatives of State educational agencies, including persons responsible for administering State and federally supported programs, and those responsible for administering programs in the education of the handicapped; (2) appropriate representatives of the U.S. Office of Education; (3) appropriate representatives of local educational agencies; (4) representatives of professional organizations; (5) appropriate consultants (e.g., university-based evaluation specialists); (6) representatives of school boards of education; (7) representatives of State advisory councils for Title III; (8) representatives of State boards of education; (9) appropriate legislators and their staff consultants; and (10) representatives from private nonprofit elementary and secondary schools.

(d) Sufficient funds should be allocated to adequately accomplish a comprehensive educational needs assessment, and lines of communication and responsibility should be clearly established. Financial resources necessary for planning and implementing a needs assessment might come from a variety of State and Federal sources in addition to Title III funds. The possibility of a cooperative effort among State educational agencies in planning for needs assessments, including a pooling of financial resources, should be explored.

(e) Other resources contributing to the planning and implementing of a needs assessment should include personnel from various agencies, and representatives of private nonprofit elementary and secondary schools, and special ad hoc groups which in the past had been especially concerned with needs assessments, existing strategies used in needs assessments, literature related to the subject, both technical and popular, and existing sources of data. A needs assessment should refer to a variety of data sources with special attention given to timeliness, accuracy, and manageability (accessibility and usefulness) of data.

(f) Special competencies in system design, survey research design, statistics and measurement theory, sampling, and data processing is important in the planning stages. Special competencies in developing behavioral objectives, survey research, statistics, sampling, and data processing is also important in conducting the assessment.

(g) A commitment to the needs assessment and its potential results should be obtained from the Department, the Chief State School Officer, the Title III State Advisory Council, the State Board of Education, and appropriate representatives of private nonprofit elementary and secondary schools. It might be desirable to have a needs assessment steering committee to monitor, review, and revise strategies on a regular basis. Planning should include the means to facilitate reliability and validity checks of data collected and the means to make these data available to decision makers.

(h) A strategy for a needs assessment should be sufficiently constructed so as to consider all of the important elements and should include development and/or selection of learner goals and objectives, design of instruments for data collection, and determination of a means for precise analysis of data. The entire range of the student's achievement in all areas of learning should be included in the assessment of student needs. This would provide for student success as well as student deficiencies. The overall concept of the assessment of the students' educational needs would then consummate the difference between the current status of the learner and the desired learner outcomes. If particularly successful programs can be identified, the assessment strategy might provide alternatives to meet particular needs in a diffusion adoption process.

(i) The assessment strategy should include both long- and short-range goals and objectives that are behavioral, measurable, and representative of cognitive, affective, and psychomotor domains. A specification of the length of time required to achieve a specific goal or to reach a given objective and a set of objectives for each activity (time-frame) should be stated. Specific activities should be designed for the achievement of each goal and objective which are sufficiently refined to measure student learning.

(j) State educational agencies that have already established learner goals for their educational needs assessment should use these goals as a basis for developing subgoals and then use learning objectives as a basis against which needs can be delivered. Other States that do not have established learner goals should first establish goals before proceeding with the needs assessment effort. An example of the education goals and the related general objectives of one State educational agency include:

(1) *To accumulate knowledge.*

(i) *Subgoals:* (a) Develop a general education background in oral and written English, in the use of numbers, natural sciences, reading, mathematics, and social sciences; (b) develop a fund of information and concepts; (c) develop a knowledge of political principles and their evolution; and (d) develop special interests and abilities.

(ii) *Learning Objectives:* To develop fundamental intellectual skills: (a) By learning to get adequate meaning with reasonable speed from printed materials; (b) by learning to spell correctly the commonly used

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words; (c) by learning to express facts in reasonably correct and clear language, orally and in writing; (d) by developing habits and skills in clear thinking; and (e) by acquiring reasonable speed and accuracy in fundamental arithmetical processes and in the ability to solve quantitative problems.

(2) *To better the interrelationships of peoples.*

(i) *Subgoals:* (a) Developing respect for cultural heritages of other peoples of the world; (b) develop an appreciation for and an understanding of other people and other cultures; (c) develop an understanding of political, economic, and social patterns of the rest of the world; (d) develop awareness of the interpendence of races, creeds, nations, and cultures; and (e) develop an awareness of the processes of group relationships.

(ii) *Learning Objectives:* To lay the basis for intelligent citizenship: (a) By developing ideals and attitudes favorable to political, economic, and social democracy; (b) by developing appreciative cooperative attitudes toward others of different national and racial origins and to other countries; (c) by gaining an understanding of the simpler facts and an appreciation of community, city, State, and national governments; and (d) by acquiring familiarity with and appreciation of the more important facts and lines of development in the history of our nation.

(3) *To develop character.*

(i) *Subgoals:* (a) Developing moral responsibility and a sound ethical and moral structure; (b) develop an understanding of moral behavior; (c) develop the student's capacity to discipline himself to work, study, and play constructively; (d) develop a moral and ethical sense of values, goals and processes of free society; and (e) develop standards of personal character and ideals.

(ii) *Learning Objective:* To assist in the formation of a high degree of social character and responsibility including moral and ethical concepts, attitudes, and habits: (a) by developing ideals, habits, and attitudes of fair dealing, cooperation, responsibility, respect for the rights of others, and self-reliance; and (b) by developing prejudices against such attitudes and habits as lack of cooperativeness, excessive selfishness, dishonesty, unwillingness to assume responsibility, etc.

(k) Learner goals can also be developed along more general lines such as those of another State educational agency which include the following: (1) The inquiring mind exemplified by a continuing desire for knowledge, a continuing interest in current problems, and the habit of weighing alternatives and creatively applying them to the solution of these problems; (2) a knowledge of fundamental concepts about the world environment and man's relationship to it; (3) proficiency in the use of modes of communication; (4) a dedication to the task of improving America, striving for solutions to its continuing domestic and world problems and upgrading the lives of all people; (5) maintenance of health, achievement of a high level of personal fitness, and the acquisition of wholesome leisure skills; (6) an emotionally stable person; (7) a moral standard of behavior; (8) a knowledge of the inter-relationships of nature and the cultural arts and the ability to utilize all of the senses to make aesthetic judgments about the total environment and to enrich his own life; and (9) information and guidance for wise occupational choice.

(l) The needs assessment strategy should include provisions for collecting appropriate information on specific subpopulations about student learning objectives in three categories: (1) Perceptions of the community (including business and industry) educators, and the learner, with regard to the relevance and importance of these objectives; (2) criterion-based test instruments to determine the extent to which student learning objectives have been achieved; and (3) relevant demographic data about the learner.

§ 4.2 *Collecting data.*

(a) The assessment should provide for instruments to collect data of three different types: The statements of objectives themselves; the criterion-referenced tests designed to measure the extent to which the objectives have already been achieved; and instruments designed to measure the perceptions of relevance and importance by different groupings of students and so-called consumers. In addition, the needs assessment strategy should include provisions for collecting appropriate information on specific subpopulations rather than for all respondents, regardless of background. Where it is appropriate to do so, data collection instruments should be field tested thoroughly on a pilot basis prior to actual use. The procedures for analyzing data should be thoroughly tested to determine if all data collected can be appropriately utilized and treated. Both reliability and validity should be built into the strategy design for assessing needs to aid in determining if the State is accurately and consistently measuring what it purports to measure in the needs assessment strategy.

(b) In collecting data, the specifications of actual procedures used must wait upon adoption of an overall strategy. The analyzing of such data is a highly technical function in statistics and data processing which can be spelled out only after comprehensive plans have been adopted for the needs assessment. Provisions should be made to assure that data collected are manageable and current, and that conclusions drawn from the interpretation of data can be supported.

(c) The translation of information into critical educational needs requires a distinction to be made between collecting information to be used in making decisions and between the decision making process itself. Logical and defensible procedures should be established for determining the criticalness of educational needs identified by data for the State as a whole and for each school district of the State. It may be that to the development of a strategy for making a needs assessment should be added a strategy for increasing the likelihood that the information will, in fact, be used. In addition to using the data for planning the Title III program, a State agency may determine that other institutions and agencies are potential users of the assessment results and, therefore, it is desirable to determine which are responsible for meeting various needs. At the State level, the State educational agency should be responsible for providing statewide results to the State Board of Education and, perhaps, for recommending courses of action based on an interpretation of results.

§ 4.3 *Criteria for determining adequacy of needs assessment.*

(a) The following criteria are suggested for use in determining adequacy of State provisions for the educational assessment of learning needs under the Title III program:

(1) *Planning, Management, and Resources*

(i) The personnel involved in the program are knowledgeable about evaluation, systems design, survey research, statistics and measurement theory, sampling and data processing techniques.

(ii) Sufficient funds have been allotted to adequately accomplish a comprehensive educational needs assessment.

(iii) There has been departmentwide involvement in the planning.

(iv) Lines of communication and responsibility are clearly established within the State educational agency and with representatives of private nonprofit elementary and secondary schools of the State.

(v) The Department, the Chief State School Officer, the Title III State Advisory Council, and the State Board of Education are committed to the needs assessment and its potential results.

(2) *Strategy.*

(i) The overall concept of educational needs assessment defines an educational need as the difference between the current status of the learner and the desired learner outcomes.

(ii) The assessment strategy includes both long- and short-range goals.

(iii) The strategy includes specific activities which have been designed to achieve each objective included in the strategy.

(iv) The strategy includes a time frame for accomplishing each activity.

(v) The strategy is sufficiently constructed so as to consider all the required elements.

(vi) Student learning goals are established for the purpose of determining children's needs through the educational needs assessment.

(vii) The student learning goals are behaviorally stated and representative of cognitive, affective, and psychomotor learning.

(viii) The student learning goals are sufficiently definitive to make them measurable objectives for student learning.

(ix) The strategy includes the elementary and secondary grade levels which will be assessed.

(x) The strategy (includes provision afor

(x) The strategy includes provisions for collecting data about student learning objectives into three categories:

(a) *Perceptions* of the community (including business and industry) educators, and the learner, with regard to the relevance and importance of these objectives;

(b) *criterion*-based test instruments to determine the extent to which student learning objectives have been achieved; and

(c) relevant *demographic* data about the learner.

(xi) The strategy includes provisions for a data sample from which validity can be determined; i.e., we are measuring what we purport to measure.

(xii) The strategy includes provisions for a data sample from which reliability can be determined; i.e., we are measuring accurately and consistently.

(xiii) The needs assessment strategy includes provisions for collecting appropriate information on specific subpopulations.

(xiv) The strategy includes provisions to assure that the data collected are manageable and current.

(xv) The instruments which are designed to collect data have been tested thoroughly on a pilot basis.

(xvi) Procedures for analyzing data have been thoroughly tested to determine if all data collected can be appropriately utilized and treated.

(xvii) The conclusions drawn from the interpretation of data can be supported.

(xviii) There are logical and defensible procedures established for determining the criticalness of educational needs identified by data for the State as a whole and for each distinct area of the State.

(xix) A listing of critical educational learner needs which are representative of cognitive, affective, and psychomotor learning is given.

(20 U.S.C. 844a(b)(1)(A)); (45 CFR 116.8)

PART 5—PROJECT DEVELOPMENT

§ 5.1 *State assistance to local project development.*

(a) In the Title III programs, the State educational agency provides leadership in developing school programs within its State. So it is logical that the State educational agency, seeing areas of need and potential areas of development within its State, would encourage local educational agencies to initiate innovative Title III project proposals.

(b) In its role as stimulator, organizer, and coordinator, the State educational agency may provide staff, including specialists in all curriculum and service areas, to help local schools develop sound proposals. Title V of the Elementary and Secondary Education Act can help provide the necessary funds if they are requested as part of a general effort to strengthen the curriculum program of the State.

(c) Since some local school districts have full-time personnel with expertise in educational research who may devote their entire efforts to the study and to the development of proposals, these districts would be likely to submit high quality proposals. To help local educational agencies that do not have staffs with needed capabilities, States might wish to implement procedures such as the following:

(1) Provide a team of consultants either from within the State educational agency or from some other agency to help local educational agencies in particular regions; and

(2) Fund planning grants which would provide local educational agencies with research teams that could offer intensive in-service training in new educational ideas to local staff members.

(d) Conduct local and regional workshops at frequent intervals for school personnel on such topics as translating educational research into practice, solving problems in curriculum change, examining successes and failures in initiating innovations, and studying evaluation designs and methods.

(20 U.S.C. 844a(b)(7)); (45 CFR 116.25)

PART 6—EVALUATION

§ 6.1 *Overview of evaluation.*

The most successful management of a title III project by a director and a team of specialists involves an evaluation which is the process of gaining and interpreting specific information to assess the degree to which the project objectives have been achieved. The task of designing the evaluation plan is both complex and multifaceted. Each component and the total project should include the evaluation of the product, the operational process, and management process goals.

§ 6.2 *Purpose of evaluation.*

The purpose of such evaluation is to determine how well each component and the entire project function within the established framework of time, cost, and objectives. A well-planned and -operated evaluation system should result in information which communicates clearly whether the standards of performance specified in the objectives have been met to a degree greater than, equal to, or less than the predetermined standards and why. This process enables the project staff to make the most effective and relevant decisions, and thus to provide the best possible assurances for project success by obtaining, maintaining, and interpreting accurate, up-to-date bodies of information relevant to project development, project implementation, and project successes and/or failures.

§ 6.3 *Staffing of evaluation.*

One primary management responsibility is that the project director oversee the design and implementation of the evaluation plan. Many local educational agencies will find it necessary to hire consultants or to seek the help of an outside technical assistance group for the planning, installation, or operation of the evaluation system, particularly if the program requires newly developed instruments and/or techniques.

§ 6.4 *The evaluation process.*

Evaluation may include delineating, collecting, and interpreting information for distribution to those involved in the decision-making process. In delineating information, one should clearly outline and specify the kinds of data being sought in terms of content, scope, reliability, validity, and appropriateness and relevancy of source; in collecting information one should gather and compile all available data from established parameters with precision and put in usable form; the interpreting of information gathered involves explaining the statistical and educational significance in a form that is understandable by those to whom the report is directed. Distributing this information entails providing appropriate and necessary written reports to those involved in the decision making process.

§ 6.5 *Elements of evaluation.*

(a) *Stating goals.* Stating major project goals in objective measurable terms is often the most difficult part of an evaluation design. Each major project goal should be broken down into more specific objectives. Specific objectives should be stated for each major project goal and might include: concepts or ideas to be learned; sensitivities and feelings to be developed; ways of thinking to be reinforced, strengthened, or initiated; or habits and skills to be mastered. It is suggested that applicants follow the generally accepted practice of stating specific objectives at the cognitive, affective, and psychomotor levels. Cognitive objectives relate to knowing, comprehending, applying, analyzing, synthesizing and evaluating; affective objectives relate to feeling, valuing, organizing, responding, etc., and psychomotor objectives relate to initiating, manipulating and articulating in a precise manner.

(b) *Standards for evaluation.* An important aspect of an evaluation design is the identification of specific activities, procedures, or techniques which will be used to attain each specific objective. Techniques should, to the extent possible, be varied, innovative, and in keeping with the objectives of the proposal. The specific method and standards for each specific objective to be used in evaluating that objective should also be stated. Examples of evaluative criteria might be: pupil attainment on questionnaires and surveys; teacher attitudes on questionnaires and surveys; pupil scores on paper-and-pencil tests of either the teacher-made variety or the standardized subject matter variety; direct observation of learners; random questioning of students; and pre-post testing.

(c) *Collection of data:*

(1) *Baseline Data:*

(i) The first steps in collecting information are to obtain the data needed to identify a need, define the problem and suggest directions in which solutions might be sought. The evaluator should indicate whether data currently available in the school system, such as school attendance figures for the previous year, will be used or whether data will be provided through the first administration of the measurement instrument. This data can become part of the baseline data needed for comparisons after the new program has been implemented. (ii) An important step in the baseline data collecting process is an analysis of the basic environmental factors involved, such as: (*a*) The environment in which the present problem occurs and that in which the proposed solution will operate; (*b*) the significant elements or variables in the environment or in the program which show promise of producing educational change; and (*c*) the direction in which the anticipated changes will occur. (iii) The process of establishing baseline data is a task of some magnitude and requires skill on the part of project planners. Questions of appropriateness of objectives, recency of collection, sensitivity or responsiveness to short-term change, reliability and objectivity of data, and comparability of data-gathering situations are some of the considerations which program planners must take into account as they formulate their evaluation designs.

(2) *Procedures for collecting data.* (i) The specific activities, procedures, or techniques designed to attain each specific objective should be stated. The formation of the evaluation design is inextricably linked to the development of performance objectives. If performance objectives have been developed properly both for product outcomes and for operational and management processes, a major part of the task has been accomplished. The conditions of measurement and the minimum levels of acceptable performance will have been specified within the objectives. (ii) The plan for the collection of evaluation data should cover the appropriate budget period and should include the complete evaluation schedule, the target populations to be measured, those responsible for arranging and administering the measurements, and any conditions of measurement not specified in the objectives. Procedures for the selection and training of testers, observers, or interviewers should be described. Charts and diagrams may prove to be helpful tools in the planning and organization of data collection procedures and in the coordination of these procedures with the plans for periodic reviews of the data by the independent educational auditor.

(3) *Instruments for data collection and the baseline data needed.*

(i) The evaluation instrument for each objective should be identified and described briefly. Standardized tests, questionnaires, rating scales, interviews, observation schedules, and interest inventories may be among the instruments selected. It is of critical importance that the instruments be matched as closely as possible to the objectives and that the validity and reliability of each instrument have been ascertained prior to its use. If new instruments are to be developed, a plan for their design and pretesting should be included. (ii) The baseline data requirements should be considered as the instruments are selected, since the validity of the evaluation process may be affected if the appropriate prerequisite data on the target population are not secured or available at the beginning of the program. Baseline data on ability and achievement levels, socio-economic status, attitudes, and other characteristics of project participants will be needed in most cases for accurate measurement of the attainment of project performance objectives.

(4) *Time lines for data collection.*

A calendar should be developed for the evaluation schema that would include the following elements: (i) *Evaluator's report date.* The completion date for the evaluation report for each objective should be given; (ii) *Date instrument will be completed.* If the instrument is to be developed locally, the projected date of completion should be provided; (iii) *Scheduled dates.* The dates for the administration of evaluation instruments should be specified; (iv) *Schedule.* Projected dates of dissemination activities, of evaluation findings, and/or frequency of

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activities should be indicated; and (v) *Recipient/audience.* Projected recipients of the evaluation findings (residents of the target area, school district, professional educational groups, etc.) should be indicated.

§ 6.6 *Stages of the evaluation process.*

The stages of the evaluation process should include: Baseline evaluation, process evaluation, and product evaluation.

(a) *Baseline evaluation* may be defined as the delineation, collection, interpretation, and distribution of all information needed (1) to establish data bases which provide input into needs assessment activities (those activities which result in a clear knowledge of the educational needs of the agency in which a Title III project will be developed); (2) to provide a benchmark against which to measure future successes and/or failures of project activities; and (3) to furnish data for identifying, describing, and defining the context within which change is expected to occur as a result of project activities. In effect, baseline evaluation provides that kind of information without which it would be impossible to measure any progress made toward meeting project objectives. Such information describes conditions as they exist before project treatment; and unless these conditions are accurately described before project implementation, it will be impossible to describe changes effected by project implementation. Baseline evaluation is, therefore, essential to the overall evaluation process; and every care should be taken to ensure that information gained during the baseline evaluation process is valid, appropriate and well-documented.

(b) *Process evaluation* aids management in making day-to-day operational decisions. Essentially, process evaluation may be defined as the delineation, collection, interpretation, and distribution of information needed to make decisions which will keep project resources and activities directed toward fulfilling project objectives. Thus, process evaluation assesses the fulfillment or nonfulfillment of those key steps which, having been carefully planned during project development, are being taken to meet project objectives. The result of such assessment should be information which will permit project management to make decisions regarding subsequent courses of action to be taken, and resources to be used, toward fulfillment of project objectives.

(c) *Product evaluation* may be defined as the delineation, collection, interpretation, and distribution of information needed to determine (1) whether or not a project objective or set of objectives has been met and (2) the extent to which a project objective or set of objectives has been met. Information resulting from product evaluation should permit project management to gain a clear overview of project progress in terms of project objectives. For this reason, due consideration from the very outset of project development should be given to stating project objectives in measurable terms. The less measurable project objectives are, the less probable it will be that effective product evaluation can take place, and, unless effective product evaluation can take place, project management will have no rational foundation on which to base those key decisions which will affect the success or failure of the project as a whole, as well as the continuation of the project, either in part, or as a whole.

§ 6.7 *Criteria for determination of the adequacy of State provisions for evaluation.*

The following criteria should be used to determine the adequacy of State provisions for evaluation of the Title III program and are included here as a guide to States in their development of an effective evaluation program.

(a) *State evaluation objectives:*

(1) The State evaluation strategy begins with clear statements of performance objectives, i.e., what is to be evaluated, why, and to what extent;

(2) The list of performance objectives should include at least the following commitments:

(i) To collect and report annually to the U.S. Office of Education the effectiveness of Title III projects on the persons served;

(ii) to collect and report annually to the U.S. Office of Education the effectiveness of the Title III program on the State-as-a-whole; and

(iii) to identify the kinds of evaluative information needed for State management of Title III programs and to collect, process, and distribute such information in an accurate, timely, and usable manner.

(b) *Organizing for State evaluation:*

(1) The evaluation strategy shows evidence of active participation by State staff, advisory council members, and representatives from local projects in the planning and development of the strategy;

(2) The strategy includes appropriate activities and provision for adequate staff to achieve each of the stated evaluation objectives;

(3) The strategy includes specific plans for training State and local project personnel in evaluation;

(4) The amount of funds budgeted and time allocated for evaluation activities are adequate to implement the State evaluation strategy;

(5) The strategy shows evidence that Title III evaluation strategy is coordinated with the State's comprehensive plan for State evaluation of education;

(6) The strategy shows evidence of utilization of appropriate non-Title III State resources such as State instructional supervisors, State planning and research units and State statistical and data processing units for the evaluation of Title III;

(7) The State strategy for evaluation defines the responsibilities of the State advisory council for evaluation including its line of communication and working relationships with the State Title III staff, local project staff, and National Advisory Council and provides adequate technical, financial, and clerical assistance to the State advisory council to carry out this function; and

(8) The State evaluation strategy has a built-in provision for the evaluation of its own operation including control points to assess the effectiveness and efficiency of State and local evaluation activities.

§ 6.8 *State strategy to evaluate the effectiveness of Title III projects on persons served and on the State-as-a-whole.*

(a) *Evaluating the effectiveness on persons served.*

The State strategy to document the effectiveness of Title III projects on persons served should include at least the following:

(1) A requirement that the local project's annual evaluation report be submitted to the State and include the following:

(i) Performance objectives stated in terms of what the learner is able to do, how he is to demonstrate what he can do, and the minimum acceptable standard of that performance whether it be in the cognitive, effective, or psychomotor domains;

(ii) Identification of the variables that might affect the project outcomes such as: (a) age, sex, socio-economic background of the learner; (b) age, amount of training, amount of experience, enthusiasm, and sex of project staff members; and (c) the learning environment of school, home, and community.

(iii) Identification of process variables such as learner and teacher performance requirements, curriculum, instructional materials and equipment, school facilities, and duration and sequence of learner and teacher activities;

(iv) Identification of the major outcomes and explanation of reasons for such outcomes; and

(v) Identification of other factors that are crucial to the successful replication of the project.

(2) A plan for annual State on-site visits to monitor and audit the project's effectiveness on persons served; and a procedure for the collection and validation of such evaluation data that will include the following:

(i) The strategy includes a comprehensive plan for data collection including a time schedule, identification of sources of information, and a copy of each instrument used, if any.

(ii) The kinds of information to be collected on on-site visits are identified including procedures for data collection and validation, and a copy of each instrument to be used.

(3) A plan for processing, analyzing, interpreting, and distributing such information that will include the following:

(i) A systematic routine for data processing and verification of data;

(ii) A comprehensive analysis plan including statistical treatments, if appropriate; and

(iii) An identification of the users of evaluation information and when and in what form the information is requested.

(b) *Evaluating the effectiveness on the State-as-a-whole.*

Title III makes possible a limited but concentrated attack on the State's selected critical educational problems by funding projects in order to demonstrate possible solution strategies. The effectiveness of Title III on the State-as-a-whole is largely determined by: how effectively and efficiently each project achieved its own objectives; how extensively the demonstration was institutionalized in the school district in which it was demonstrated; and how extensively the demonstration benefited other State school districts in solving similar educational problems.

(20 U.S.C. 844a(b)(6)); (45 CFR 116.8)

PART 7—VALIDATION OF EDUCATIONAL PRACTICES

§ 7.1 *An overview of validation.*

Each State educational agency is encouraged to bring about greater accountability in education through the validation of their Title III projects. Validation of Title III projects is a process of reviewing a practice to verify its credibility as an exemplary program through official and/or expert appraisal. The entire process of educational reform through diffusion can be accelerated through this process and the cost of change substantially reduced. Consequently, each State plan program should be effectively structured so as to increase the adoption and replication rate of projects funded under the Title III State Plan program.

§ 7.2 *The validation process.*

State educational agencies should develop validation procedures and criteria for selecting and training the validation team and conducting the on-site visit, and for preparing the validation report through such procedures as: (a) Developing the format for preparing the validation report; (b) developing the procedures for assessing the effectiveness and efficiency of the validation procedures; (c) developing a listing of successful activties for bringing about the adoption of validated practices; (d) developing criteria and procedures for identifying potential adopters of validated practices; and

(e) developing a listing of alternative ways of organizing and coordinating the identification, validation, and dissemination of validated practices among various units of the State educational agency.

(20 U.S.C. 844a(b)(6)); (45 CFR 118.8)

PART 8—DISSEMINATION

§ 8.1 *The purpose of dissemination activities.*

(a) The purpose of the dissemination process in a State Title III program is to develop an awareness of, stimulate interest in, and provide opportunities for personal evaluations of Title III innovations. Its long-term goal is to facilitate the adoption and replication of tested educational innovations in the host school system and in other school systems throughout the State and Nation. Therefore, the local educational agencies, the State educational agencies, and the U.S. Office of Education should have distinct but complementary roles in dissemination.

(b) In planning State dissemination activities, distinction should be made between the needs of educational practitioners and those of the general public. Information for the public is designed primarily to cause citizen awareness and knowledge of new educational programs, while information for educators provides technical data to make it possible for educators to assess alternative solutions to local educational problems. The latter will rely more heavily upon interactions among professionals and less upon publicity and public relations programs. Though the two information streams may have common data sources and will often intermingle, their form and final destinations must remain distinct in order for each audience to receive the kinds of information needed in forms that are understood.

(c) Section 303 of the Act specifies that the objective of State Title III dissemination activities shall be the adoption of exemplary educational practices demonstrated by the Title III projects. This means that States should assume an active policy of identification of exemplary innovative projects, or components of them, and undertake a comprehensive program of diffusing the evaluation findings from these programs to other school systems. Thus the success of the State's dissemination activities will determine the success of the Title III program as a whole.

(d) Accountability has been built into a dissemination program. Such accountability makes evaluation not only important in terms of its own role in program operation, but changes the emphasis in evaluation from the conventional research-design type studies of project outcomes to inclusion of evaluative data covering the context, process, and management of the project.

§ 8.2 *The role of the State and local educational agencies, and the U.S. Office of Education.*

Section 303(c) of the Act provides funds for dissemination and Section 305(b)(6) of the Act gives the primary responsibility for the evaluation of Title III programs and projects, and the dissemination of the results of such evaluations and other information pertaining to such programs or projects to the State educational agency.

(a) *The role of the local educational agency.*

Local educational agencies should disseminate, locally, information which facilitates the adoption and adaptation of the innovation. They should not develop newsletters, filmstrips, films, and similar materials for audiences outside their project area. These dissemination materials should be mailed to local project constituents only. This is not meant to preclude local educational agencies from having some dissemination contacts with audiences outside the project area. Local educational agencies may address audiences larger than their own constituencies through professional journals and the established public media. They may also, upon request, loan films and other materials to agencies outside the project area and may develop descriptive materials on a project in order to answer inquiries from other agencies.

(b) *The role of the State educational agency.*

(1) It is desirable that State educational agencies develop procedures to assure that local project funds are not used for dissemination of information beyond the local project area which is defined as the geographic region where the persons served by the project reside. In approving project proposals for initial funding and for continuation, State educational agencies should review the local educational agencies' dissemination activities to ensure that they are consistent with State dissemination objectives and do not duplicate statewide dissemination efforts which should be included in the State plan.

(2) If, following an evaluation of a project, the State educational agency determines that an innovation is of such significance that broader adaptation or adoption of it should be encouraged, the State should use State administration funds authorized by Section 303(c) of the Act to disseminate the promising educational practices to other local educational agencies in the State.

(3) The amount of the project budget devoted to dissemination activities should bear a reasonable relationship to the size and progress of the project. For example, it may be desirable that the dissemination budget increase in amount during the second and third years as the project generates evaluation data supporting the project's effectiveness. It is the responsibility of States to establish procedures to improve the quality of dissemination activities and materials.

(4) The State educational agency should advise the U.S. Office of Education annually of those demonstration projects which it determines could have nationwide significance. The U.S. Office of Education's role will be to provide national dissemination of the identified innovations.

(c) *U.S. Office of Education dissemination program.*

(1) *National dissemination activities.*

The U.S. Office of Education in cooperation with the State educational agencies is modifying and expanding its responsibilities for national dissemination of the Title III program. Plans for national dissemination activities include the following:

(i) With the help of the States, the Office of Education will identify, validate, and encourage the adoption, as appropriate, of innovative and exemplary programs which hold promise of demonstrating ways of meeting critical national needs. This may include publications, films, conferences, and a variety of interpersonal activities;

(ii) As part of a continuing effort, the Office ofd Euacjfin-
Office of Education will seek State educational agency cooperation to establish a repository of instructional and curricular materials developed by Title III projects. These include publications, films, and other print and nonprint educational materials. Annotated bibliographies of these materials will be revised annually and distributed to all State educational agencies and other appropriate agencies; and

(iii) Through the joint efforts of the U.S. Office of Education and the National Institute for Education pertinent information will be published regarding exemplary Title III projects.

(2) *Technical assistance to State and local educational agencies.* In addition to these activities, the U.S. Office of Education will, whenever possible, provide technical assistance to State and local educational agencies to aid them in improving their evaluation and dissemination programs. Technical assistance may be provided through the following activities:

(i) Whenever possible, Office of Education personnel will conduct and participate in State and regional conferences held in cooperation with local and State educational agencies, universities, and other educational and cultural organizations to encourage the development and implementation of effective dissemination strategies at State and local levels; and

(ii) Wherever possible, the Office of Education will provide consultative services and conduct workshops to encourage the development of process as well as product evaluation techniques which will provide validated information on project findings for effective dissemination.

(iii) The Office of Education will also continue to assist State educational agencies in their dissemination efforts by working to improve State dissemination plans.

§ 8.3 *Management implications.*

The stress on accountability for the outcomes of the dissemination activities has several important implications for management of the Title III program and the dissemination efforts at the State level.

(a) *Organizational position of Title III program.* The location of the Title III program in the organizational structure of the State educational agency should enhance access by program personnel to central administrative personnel and to the various educational specialists throughout the State educational agency.

(b) *Dissemination personnel.* State educational agency personnel charged with dissemination responsibilities for Title III of the Act should have a broad knowledge of innovations in education, an understanding of the total educative process, and a sensitivity to the intricacies of the change process. They should be educators as well as information specialists.

(c) *Dissemination objectives.* The Title III mandate to disseminate information about and cause the adoption of promising programs requires close attention to the formulation of performance objectives for dissemination activities. Publications, films, meetings, visits, or other activities should be undertaken only when the disseminator has a preconceived idea as to what the behavior of participants should be in relation to causing the adoption of some new practice. Moreover, the disseminator should have in mind an acceptable level of response as a result of such activities. For example, if 100 persons are to be given a demonstration of a successful innovation, an acceptable level of response might be 10 persons requesting further assistance to introduce some aspect of the program in their own schools. Specificity of dissemination objectives also makes evaluation of the dissemination activities easier.

(d) *Relationship of State needs assessment and dissemination.* The Title III dissemination activities should relate directly to the State's critical educational needs including those in special education as identified by the Title III needs assessment. These needs will help dictate the priority ranking of dissemination objectives.

(e) *Dissemination strategies.* When developing educational change strategies, dissemination planners need to be aware of the

several stages of the change process. As stated in § 3.1 of Chapter II of these guidelines, these stages are awareness, interest, evaluation, trial, and adoption. Most superintendents of schools do not attempt to introduce an innovation unless they have some opportunity for person-to-person or on-site evaluation of the new practice. It is, therefore, important that the State disseminator accept the responsibility not only to develop an awareness and interest in innovations, but also to provide personalized opportunities for educators to examine and evaluate innovations on-site and in operation.

(f) *Linkage of evaluation and dissemination.* A linkage between State evaluation and dissemination efforts should be given management consideration. Since the primary dissemination objective is the replication of exemplary practices, the disseminator needs to utilize information collected by evaluators and to understand the level of validity of that information. Since evaluation findings are useful to the educational community only if they contain the kinds of information practitioners need in order to make decisions about their feasibility for their own schools, planning for evaluation should be coordinated with the planning for dissemination.

§ 3.4 *Nature and assignment of dissemination responsibilities.*

Although the organizational structures for administering the Title III program vary among the different States, attention should be given to the following responsibilities when planning Title III dissemination activities:

(a) *Organization.* If the public information component of the State educational agency is committed primarily to handling the necessary press and speech activities of the Chief State School Officer, the Governor, or the State legislative body, consideration should be given to establishing a separate unit for program dissemination activities. Such a unit might have responsibilities for coordinating all technical information activities in the State, including that of Title III.

(b) *Information retrieval.* Rapid retrieval of information about research and practice is important to the process of innovating. Therefore, the State should take the initiative to activate a service for Title III applicants and others in the State agency and in school districts who may need information about promising new ideas. Each State should have, in a central location, the Educational Research Information Center of the U.S. Office of Education and the National Institute for Education (hereinafter referred to as ERIC) collection of microfiche and other documents, with personnel assigned to conduct searches on demand. Provision should be made to have access to other information services in the State, some of which are found in regional centers and on campuses of colleges or universities.

(c) *Dissemination of project materials.* Teaching and curricular materials and films developed through Title III projects should be identified, collected, and evaluated systematically by the State educational agency. Strategies should also be developed to promote usage of such materials by other school districts in the State. Promoting and facilitating usage may include developing limiting copyright arrangements with educational publishers, reprinting by the State educational agency, and other appropriate means such as providing a copy to a nonprofit organization (such as Xerox's University Microfilm Division in Ann Arbor, Michigan) for promotion and reproduction.

(d) *Dissemination of evaluation findings.* Coordination of evaluation and dissemination efforts should be maintained in order to provide the disseminators with validated findings about exemplary programs for further dissemination within the State and for reporting to the U.S. Office of Education.

(e) *Technical assistance to local educational agencies.* The State has the responsibility for monitoring all local project dissemination activities to assure that project funds expended for dissemination are used mainly for dissemination in the project area and not, unless authorized by the State, for statewide or national dissemination. The State also should provide technical assistance to the local educational agencies to assist them in developing dissemination objectives and designing change strategies at the local level so as to influence local adoption of the Title III project at the end of the project period.

§ 3.5 *Criteria for determining adequacy of State plan provisions for dissemination.*

The following criteria should be used to determine the adequacy of State provisions for dissemination of the Title III programs and are included here as a guide to States in their development of an effective dissemination program:

(a) *The adequacy of the underlying principles:*

(1) The dissemination program facilitates desirable educational change through identifying, validating, and promoting the adoption or adaptation of promising and exemplary practices operating in Title III of the Act.

(2) The dissemination program is predicated on the availability and validity of evaluation findings concerning the projects operations and outcomes.

(3) Dissemination activities are related to written performance objectives for selected audiences according to expressed or known needs for information.

(4) Both State and local dissemination programs are based on a knowledge of the kinds of communication channels available and their area of impact (including public media, technical journals or house organs, and other communication channels or decisionmakers).

(b) *The adequacy of administrative considerations.*

(1) Personnel engaged in the State dissemination process have (i) understanding and experience with the educational process, (ii) experience and skills in communication, and (iii) knowledge of the complexities of the change process.

(2) The amount of dissemination budget reflects the high priority given this activity by the legislation.

(3) In organizing the dissemination program, the public information activities and the technical or program information activities are adequately distinct but carefully coordinated.

(c) *The adequacy of objectives and activities.*

(1) Activities are planned which will retrieve, analyze, and make accessible descriptions and evaluations of project operations and outcomes.

(2) Activities are planned which will cause an awareness and interest in projects on the part of appropriate educators in the State.

(3) Activities are planned which will provide opportunities for educators to examine and evaluate the operating qualities of the innovations in projects.

(4) Activities are planned which provide technical assistance to those who show a desire to install the innovation in their school.

(5) Activities are planned which will inform the general public about innovations being demonstrated through Title III in the State.

(6) Activities are planned which will retrieve and evaluate instructional materials produced by projects, forward significant materials to the U.S. Office of Education for ERIC and other systems, and which will disseminate them appropriately within the State.

(d) *The adequacy of evaluating dissemination efforts.*

(1) Dissemination plans include provisions for receiving feedback from communications for purposes of evaluating their impact.

(2) There is evidence that activities are planned to ensure that evaluation designs of local projects will produce information needed for dissemination locally and statewide.

(20 U.S.C. 844a(b)(6)); (45 CFR 116.8)

§ 3.6 *Criteria for an effective dissemination program at the local level.*

The following criteria should serve as a guide for State agency personnel as they work with local projects in developing and monitoring dissemination components in Title III projects.

(a) *Planning and managing the dissemination program.*

(1) Provision is made for substantive involvement of potential information users in the planning of the dissemination program.

(2) Provision is made for continuing internal communication among project staff about the project.

(3) Provision is made to conduct studies to determine mores, economic status, political processes, and social structure of the community.

(4) There is a commitment to dissemination, as evidenced by identifiable items in the project budget.

(5) Provision is made for coordination and cooperation with other information services in the school system and the community, including appropriate public media.

(6) Consideration is given to the means of handling audience responses to communications being planned.

(7) Consideration is given to the possible conflict between the project objectives and the values and objectives of the school and community.

(b) *Dissemination objectives.*

(1) The dissemination objectives relate well to project objectives.

(2) The dissemination objectives should be written and available.

(3) The dissemination objectives specify desired audience reactions to the dissemination activites.

(4) The dissemination objectives include performance criteria and time constraints and are feasible in terms of available funds.

(5) The dissemination objectives reflect knowledge of the adoption stages (awareness, interest, evaluation, trial, and adoption) and of the characteristics of the potential adopters (innovators, early adopters, early majority adopters, late majority adopters, and laggards).

(c) *Dissemination personnel.*

(1) The project dissemination staff should be knowledgeable about the change process and understand the administrative and instructional processes of education.

(2) This staff should possess writing and oral communication skills and be skilled in interpersonal relations.

(d) *The dissemination strategies and approach.*

(1) The approach should be that of tact, "soft sell," and objectivity.

(2) The approach should be flexible, reflecting various strategies, viz, research-centered, and cost-benefit.

(3) The approach should consider all those who are involved in the education decisionmaking process.

(4) The approach should be that of problem-solving and removing blocks to change.

(5) The techniques should be appropriate to the times and conditions, as shown by variability and creativity in the use of committees, conferences, demonstrations, administrative edicts, media and the like.

(e) *The use of communications for dissemination purposes.*

(1) Communications are based on verified needs for information by clients.

(2) The selected medium or media are appropriate for the message and for the intended audiences.

(3) The messages are adapted to the various stages in the change or adoption process.

(4) Wherever possible, the messages are designed to solicit feedback.

(5) The messages are of good technical quality.

(6) The messages relate to decision-making time lines of the project and the school system.

(7) The messages have been pre-tested with appropriate audiences to determine their relevance, clarity, validity, timeliness, and practicality.

(8) The messages are in a considered order according to priorities as to who should receive them first, second, etc.

(f) *Evaluation in the dissemination process.*

(1) Provision is made to determine and record relative effectiveness of various strategies and communications in order to alter strategies as the situation changes.

(2) Dissemination designed to encourage the adoption of innovation is based upon objective evaluation data.

(20 U.S.C. 844a(b)(6)); (45 CFR 118.8(c))

PART 9—ADOPTION

§ 9.1 *The importance of adoption.*

A major objective for Title III of the Act is accomplished when it can be shown that a significant number of adaptations and replications of programs demonstrated by Title III have taken place in the State. In addition, it is hoped that a high proportion of the programs will be continued in substantially the same form by the applicant local educational agency after the period of Federal funding ends. The State therefore, should plan activities to facilitate the adoption of validated projects.

§ 9.2 *Criteria for an effective adoption program.*

The following criteria should serve as a guide for State educational agency personnel as they work with local projects in developing and monitoring adoption components in Title III projects.

(a) Activities are planned which orient project personnel to their demonstration function and to their role as catalysts for change in their community and State.

(b) The data collection plan includes practitioner-oriented information, such as cost effectiveness data and context and process information.

(c) Activities are planned which use project personnel to teach and train potential adopters.

(d) Activities are planned which identify the potential adopters of projects being demonstrated.

(e) Activities are planned which identify and describe the formal and informal communications network which passes on information concerning innovations in the State.

(f) The dissemination activities of projects are reviewed to assure credibility so as to not promise more than the project can deliver.

(20 U.S.C. 844a(b)(6)); (45 CFR 118.8(d))

PART 10—GUIDANCE, COUNSELING AND TESTING PROGRAMS

§ 10.1 *Purposes.*

(a) The purposes of guidance, counseling, and testing programs under the Act are to: (1) Advise students in public and private elementary and secondary schools or public junior colleges and technical institutes regarding courses of study best suited to their ability, aptitudes, and skills; (2) advise students as to the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields; and (3) encourage students with outstanding aptitudes and abilities to complete their secondary school education, take the necessary courses for admission to institutions of higher education and enter such institutions.

(b) All programs or projects under Title III of the Act should, in some justifiable way, be related to one of the purposes as stated above. These purposes are primarily educational-vocational in nature. However, personal-social areas of development are also important to success in educational-vocational planning and achievement. The definition of "guidance and counseling" in § 118.8 of the regulations includes assistance in personal-social development, including the development of a positive self-concept. This is particularly necessary in relation to elementary school guidance programs. Projects in the areas of school health, psychological and social work services might be combined with guidance and counseling programs or projects to provide comprehensive programs of guidance, counseling, and other pupil personnel services.

(20 U.S.C. 843); (45 CFR 118.2, 118.8, 118.11, 118.14)

§ 10.2 *Division of staff.*

It is suggested that staff responsibilities and functions be divided into administrative and supervision and leadership activities:

(a) *Administration activities.*

Activities pertaining to "administration" would include, but would not necessarily be limited to, State plan review, project review, Title III fiscal activities, project approval, the mechanics of project management and policy development. Conversely, activities which would likely not pertain to "administration" would include, but would not necessarily be limited to, supervisory activities, supervisory staff development, leadership activities, and project development.

(b) *Supervision and leadership activities.*

Programs of State supervision and leadership may include the following activities: (1) Organization, general direction, and coordination of the guidance, counseling, and testing programs established under the plan; (2) planning State programs and assisting in the planning of local programs; (3) assisting local guidance personnel in establishing, maintaining, or improving programs; (4) planning and preparing materials and information for State and local programs; (5) planning innovative or exemplary guidance, counseling, and testing programs; (6) demonstrating through pilot programs, or otherwise, guidance, counseling, and testing procedures and techniques; (7) evaluating the results of guidance, counseling, and testing programs; and (8) such other related activities as may be necessary for the organization, maintenance, and improvement of programs or projects established under the plan.

(20 U.S.C. 843(b)(4), 844a(b)(1)(E)(ii), (b)(7) and (8), Section 131(b) of P.L. 91-230); (45 CFR 118.10, 118.11, 118.14)

§ 10.3 *Program content.*

Guidance, counseling, and testing programs may include the following activities to the extent that they are carried out by utilizing procedures and techniques appropriate to the educational levels of the students:

(a) Collecting, organizing, and interpreting such information as may be appropriate to the understanding of the student's abilities, aptitudes, interests, and other personal assets and liabilities related to educational readiness and progress and to career planning and development;

(b) Making available to the student and his parents such educational and career information as may be essential for them to understand the educational process and the various educational and career opportunities and requirements related to the choice of an educational program and a career;

(c) Providing individual counseling (1) to help the student and his parents develop a better understanding of the student's educational and occupational strengths and weaknesses; (2) to help the student and his parents relate his abilities and aptitudes to educational and career opportunities and requirements; (3) to help the student, with the assistance of his parents, make appropriate educational plans, including the choice of courses and the choice of an institution of higher education; (4) to stimulate desires in the student to utilize his abilities in attaining appropriate educational and career goals; and (5) to provide the student, directly or through arrangements with other appropriate resources, with such assistance as may be needed for the development of his aptitudes and the full utilization of his abilities;

(d) Providing services to encourage and assist students in making educational transitions, such as placement in the next educational level, and in securing appropriate employment during and upon completion of the educational program;

(e) Providing such group activities as may be necessary to orient students and their parents to the (1) school program including its offerings, services, and requirements; (2) educational opportunities and requirements at the next level; and (3) career opportunities and requirements;

(f) Providing to teachers and school administrators such assistance and information about individual students or groups of students as may be necessary to enable them to plan and implement curricular and instructional programs and services which will afford students maximum and equal opportunity for educational development and which will be consistent with the manpower needs of the State and the Nation; and

(g) Collecting and analyzing such information as may be needed to evaluate the guidance and counseling program and to provide such guidance information as may be available and needed to evaluate the school's program in terms of the educational needs of the students and of the State and the Nation.

§ 10.4 *Additional criteria for the approval of guidance and counseling projects.*

In addition to the criteria listed in § 118.24 of the regulations, the State may wish to consider the following criteria in approving guidance and counseling projects: (a) the guidance and counseling activities to be provided and the grade levels of students who are to be the participants in such activities; (b) the duties of and qualifications for local guidance and counseling positions; (c) the ratio of students to each full-time local guidance and counseling position or its equivalent; (d) the physical facilities,

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equipment, and materials to be available for the conduct of guidance and counseling activities under the plan; (e) supervisory methods and procedures to be employed in local guidance and counseling projects; and (f) coordination methods and procedures to provide assurance of appropriate relationships between the local guidance and counseling program under the plan and other related services available to students.

§ 10.5 *State Advisory committee.*

A State may choose to establish a guidance, counseling, and testing advisory committee either on an ad hoc or continuing basis to deal more fully and explicitly with advisory matters relating to guidance, counseling, and testing program development. A liaison relationship, however, should be maintained with the State's Title III advisory council to coordinate and relate the State's overall program development strategy to the total resources under Title III of the Act.

(20 U.S.C. 843(b)(4), 844a(b)(1)(B)(ii)); (45 CFR 116.10, 116.11, 116.24)

PART 11—OTHER PROGRAM CONSIDERATIONS

§ 11.1 *Handicapped children.*

(a) *Funding decisions.*

Determination of the percentage of program dollars used for the handicapped under each Title III project should be the joint responsibility of the State department of education's unit on education of the handicapped and the State department of education's unit on Title III. Whatever the level, it should be mutually determined and evidence to this effect should be presented in the State plan.

(b) *Types of projects which can be designed.*

Projects providing services for the handicapped under the Title III State plan programs may or may not be a part of the larger Title III project and in either situation may serve one or more types of handicapped children, as explained in the following:

(1) Title III projects should not emphasize "meeting the needs of handicapped children" but rather demonstrate the solution to critical educational problems of the handicapped in the State. Once an acceptable and proven practice has been demonstrated, efforts should be made to encourage its adoption throughout the State and its operation with funding from sources other than Title III.

(2) The total Federal effort in behalf of the handicapped is to provide through mutuality of planning at the local, State, and Federal levels a continuum of services for this segment of our population. Title III programs for the handicapped should be seen as a means to ensure this continuum, but they must be seen as a demonstrative and catalytic part and not as a basic support effort. The mutuality of planning between the Title III coordinators and the State special education personnel should also lead to the development of large, easily identifiable projects and programs which are designed to demonstrate ways to solve one or more critical problems in the field of education of handicapped children. It is more desirable to have one or two well-conceived projects seeking to demonstrate solutions in critical problem areas within a State as defined by the Title III coordinators, the State's needs assessment, or the State Title III advisory council, and/or the State special education units, than to have many projects or programs which will not be exemplary or innovative. With this type of provision of services the concern for percentages of funds set aside for the handicapped will be lessened and the dedication to solving mutually identifiable problems through model education approaches for the handicapped will be increased.

(c) *Bureau of Education for the Handicapped; Assistance to State and local educational agencies.* Staff from the Bureau of Education for the Handicapped of the U.S. Office of Education, when requested, will assist local and State educational agencies in cooperation with the Bureau of School Systems of the U.S. Office of Education in developing projects and State plans by making available staff, when possible, or by locating in the State or region competent personnel for such assistance. In the event staff are not available, States may arrange to send their personnel to Washington for consultation.

(20 U.S.C. 844a(b)(3)); (45 CFR 116.26)

§ 11.2 *Local project administration.*

(a) *Continuation and discontinuation of projects.* To accomplish the objectives of Title III of the Act, provisions should be made to continue the support of promising projects as well as to terminate those projects which prove to be ineffective or unsuccessful as set forth in § 116.27 of the regulations. Only those projects which have been evaluated and can provide objective data which demonstrate that they are successfully meeting their objectives should be continued. These projects should continue to serve as models so that other school districts can adopt or adapt those practices which have been validated as being successful.

(b) *Extension of project or budget period.* When progress under the grant is delayed and circumstances make it necessary to request an extension of either the project period or the budget period, or both, without additional funds, the local educational agency should make a written request to the State educational agency. (Where it appears that the activity to be accomplished within the project period or the budget period, or both, will be completed within three (3) months after the expiration date, it will not be necessary to request an extension. However, if it appears that the time required will exceed three (3) months, the Title III coordinator should be informed and an extension requested).

(20 U.S.C. 844); (45 CFR 116.27)

§ 11.3 *Participation of children from private nonprofit schools.*

(a) *Providing information.* State educational agencies should assure that private school children receive the Title III benefits to which they are entitled under the legislation, by taking action to:

(1) Provide information to local educational agencies through workshops and other means concerning the organizational structure of private schools in the State and providing the names of appropriate persons to contact in the private school structure; and

(2) Provide information to representatives of private school children in the State concerning eligibility of and provisions for voluntary participation by private school children in Title III programs and projects.

(b) *Extent of involvement.* Whenever private school children are eligible, the local educational agency should ask the representatives of the eligible private school children whether they desire to participate in the planning of the project. Where it is appropriate, representatives of private school children should be involved in the local needs assessment and in the planning of projects at the very beginning, so that the needs of private school children are considered in conjunction with the needs of public school children to the development of a proposal. In addition, it is suggested that these representatives be asked to participate in the evaluation process.

(c) *Monitoring projects.* The State educational agencies should monitor each approved Title III project which involves private school children and assure that it benefits eligible private school children in the project area who desire to participate on an equitable basis with public school children benefited by the project. If a local educational agency is serving more than one need through separate components of a coordinated project proposal, each component should be open to all eligible children in both the public and nonpublic schools.

(d) *Approval of projects.* Project proposals that benefit only public school children should not be approved if there are private school children attending school in the area to be served unless the representatives of eligible private school children in the project area have formally indicated that the eligible private school children do not wish to participate or do not have the needs served by the proposed project.

(e) *Types of services.* During the operational phase of the project, many different types of arrangements for providing services might be made. For example, dual enrollment programs, mobile units, visiting personnel, after-school activities, central libraries, or museums could provide educational opportunities to children and teachers in private nonprofit schools.

(f) *Facilities.* In many communities, public facilities will not be equipped to receive a large influx of private school students, nor will sufficient resources be available to construct or lease a facility. Services may be provided on private school premises when it is not feasible or practical to provide such services on public premises.

(g) *Salaries.* Section 116.15(c)(1) of Title 45 CFR prohibits the payment of salaries to private school teachers; however, stipends are of a different nature and may be paid to private school personnel attending Title III inservice training programs. Further, that section of the regulations should be interpreted to prohibit the payment of the salary of a teacher who is teaching in the regular school program of a private school as a substitute for a private school teacher receiving inservice training supported under Title III of the Act. Private school teachers may receive payments with Title III funds for travel allowances, luncheon expenses, and similar costs when attending approved Title III inservice training programs. However, State educational agencies should not pay a fee to a private school teacher where such fee is not a normal training stipend but is for the specific purpose of paying for a substitute for the regular classroom duties of a trainee teacher.

(h) *Equipment.* Equipment purchased with Title III funds may not be permanently assigned to or placed on private school premises; however, project personnel performing services on private school premises may bring on the private school premises those necessary "tools of their trade" which are capable of being removed from the premises each day. Such equipment may be left on private nonprofit school premises for short periods of time as necessary to conduct particular Title III activities.

(20 U.S.C. 844(b)(3)(B), 845(f)(1), 855); (45 CFR 116.15)

§ 11.4 *Suggested project numbering system.*

It is suggested that the following system be used for numbering Title III projects to bring about uniformity among the States:

State No.	Year project submitted	Project No.	Initial grant (0) continuations (1, 2)
25.....	1974	[illegible]	1

The numbers assigned to each of the States are as follows:

10 Alabama	40 New Jersey
11 Alaska	41 New Mexico
12 Arizona	42 New York
13 Arkansas	43 North Carolina
14 California	44 North Dakota
15 Colorado	45 Ohio
16 Connecticut	46 Oklahoma
17 Delaware	47 Oregon
18 District of Columbia	48 Pennsylvania
19 Florida	49 Rhode Island
20 Georgia	50 South Carolina
21 Hawaii	51 South Dakota
22 Idaho	52 Tennessee
23 Illinois	53 Texas
24 Indiana	54 Utah
25 Iowa	55 Vermont
26 Kansas	56 Virginia
27 Kentucky	57 Washington
28 Louisiana	58 West Virginia
29 Maine	59 Wisconsin
30 Maryland	60 Wyoming
31 Massachusetts	61 American Samoa
32 Michigan	62 Canal Zone
33 Minnesota	63 Guam
34 Mississippi	64 Puerto Rico
35 Missouri	65 Virgin Islands
36 Montana	66 Bureau of Indian Affairs
37 Nebraska	67 Trust Territory of the Pacific Islands
38 Nevada	
39 New Hampshire	

(20 U.S.C. 844a(b)(11)); (45 CFR 118.16)

CHAPTER III—LOCAL PROGRAM DEVELOPMENT AND OPERATION

PART 1—PROJECT PROPOSAL SUBMISSION PROCESS

§ 1.1 *Dates of submission.*

(a) The State may wish to establish several submission dates during the year for the submission of project applications by local educational agencies or to limit dates to one or two per year. Before establishing submission dates, the State agency should give consideration to the funding and fiscal policies of the State, the school year calendar, the State's fiscal year, and the anticipated funding level.

(b) States may wish to consider using January or February as periods for submission of project applications from local educational agencies for the following reasons: information regarding appropriations is more likely to be available; considering time necessary for review, approval, and negotiation, the budget periods would then more nearly parallel budget development and staff recruitment in the local school district; funding near the end of a fiscal year would allow program administrators at the State level more latitude in funding from the prior fiscal year or the new fiscal year; and mid-year project termination, with its concomitant staff release problems would be alleviated.

§ 1.2 *Letter of intent.*

A State may wish to use the "letter of intent" system which permits the local educational agency to submit a letter indicating its intent to submit a formal proposal. The letter should include an abstract of the intended proposal.

(20 U.S.C. 844); (45 CFR 118.23(b))

PART 2—FUNDING PROCESS

§ 2.1 *Project period.*

(a) Under § 118.27(a) of the regulations the State educational agency is required to formulate a general policy concerning the total period of time for which a project may be supported with funds under Title III (project period). In order to conserve funds for new projects, the State would want the project period generally not to exceed three (3) years. The State's policy on project periods should emphasize the necessity for phasing out Federal support of local projects and for gradual incorporation of project activities into the regular school program.

(b) It is recommended that the project period exceed three years only in two situations:

(1) For those projects which have been evaluated and validated by the State educational agency as successfully meeting their objectives and actually demonstrating a solution to one of the critical educational needs of the State, and upon recommendation of the State advisory council, a grant for an additional period of time for purposes of serving as a demonstration site for potential adopters may be approved as part of the State educational agency dissemination program; and

(2) In cases where it is determined that a time extension is required to assure adequate completion of the project, and when an extension is requested in writing at least sixty (60) days prior to the end of the project period, the project may be extended for a period not to exceed ninety (90) days utilizing unexpended project funds.

§ 2.2 *Grant terms and conditions.*

Each grant document used by a State educational agency should have specific terms and conditions which are attached to the grant document to assist the State in the development of the grant document.

(20 U.S.C. 844); (45 CFR 118.27)

PART 3—PROJECT DESIGN AND ACTIVITIES

§ 3.1 *Project design.*

(a) *The proposal.* The project proposal should define the entire scope of work that the applicant wishes to accomplish during the project period. A project may consist of one or a combination of the following major activities: planning programs, conducting one or more pilot programs, or conducting operational activities. If groups of students within a school district have demonstrably different but similarly pressing needs, the local educational agency may, through an innovative or exemplary demonstration project, serve more than one need as separate components of a coordinated project proposal.

(b) *Project functions.* Project functions may be categorized in general terms—planning programs, conducting pilot programs, conducting operational programs—and described as follows:

(1) *Planning programs.* In formulating a solution to a problem or in designing a new program, adequate planning is a vitally important function and a proper objective under Title III of the Act. Planning normally involves utilization of persons with expertise in the areas involved, including representatives from public and private nonprofit elementary and secondary schools and the best material resources available to assist in the design of pilot and operational activities. For example, since the primary educational resource is the local educational agency, representative teachers and other school personnel whose professional activities would be affected by a particular project should be directly involved in all stages of its development.

(2) *Pilot programs.* Conducting pilot programs to test the feasibility of innovative designs on a small scale can be a valuable part of development, provided that objectives and procedures are clearly stated and that results of the effort will give definite direction to a later demonstration of the innovation if it proves to have promise.

(3) *Operational programs.* An operational program is a full-scale demonstration of an educational innovation which should include measurable objectives, a comprehensive evaluation system, an effective management system, staff development activities, provisions for community involvement, and an adequate dissemination program. It should emphasize effective use of technology combined with new and better utilization of manpower rather than the acquisition of hardware or the extensive construction of new facilities. For example, feasible alternatives to building new facilities might be the more effective use of existing facilities, the remodeling of existing structures, or the leasing of facilities.

(20 U.S.C. 844a(b)(7)); (45 CFR 118.23, 11625.)

§ 3.2. *Project activities.*

(a) *Professional staff development.*

(1) Professional staff development programs or inservice education activities involving Title III staff members and other appropriate school personnel are important in meeting project objectives. Staff development programs should be directly related to enhancing those staff competencies and attitudes which will contribute to the attainment of project goals.

(2) Title III project funds can be used for the employment of consultants, payment of stipends to participants, employment of substitute teachers, essential travel, and other direct costs necessary for the effective conduct of staff development programs.

(3) The following are examples of criteria that could be used to determine the adequacy of professional staff development activities in a local project: (i) Extent to which the activities are part of an organized, continuing process with definitive objectives; (ii) extent to which the activities are based on the assessed needs of the local educational agency; (iii) extent to which plans for staff development activities involve training of personnel at each level in the local educational agency, i.e., decision-makers, project staff, and teachers cooperating in projects; and (iv) extent to which staff development activities include provisions for determining effectiveness of those activities.

(20 U.S.C. 843(b)(4), 844a(a)(1) and (b)(1)(B)(i) and (ii)); (45 CFR 118.22(c))

(b) *Educational accountability.*

In an effort to assure the quality of the Title III projects, an accountability system should be instituted at the local agency level which will include the following twelve (12) factors:

(1) *Community involvement:* The utilization of members of concerned community groups in appropriate phases of project activity to facilitate: project access to community resources; community understanding of project objectives, procedures, and accomplishments; and the discharge of project responsibilities to relevant community client, service, and support groups;

(2) *Developmental assistance:* The means for providing adequate resources in project planning, implementation, operation, and evaluation by drawing upon community, business, industrial, labor, educational, scientific, artistic, social/welfare, and governmental agencies for expertise and services necessary to effective operations;

(3) *Needs assessment:* The identification of the educational needs of children in the cognitive, effective, and psychomotor domains of learning;

(4) *Change strategies:* The development of effective strategies for systematic change in

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the educational enterprise and the incorporation of the strategies in project operations;

(5) *Management systems:* The adaptation of the systems approach, through such techniques as Management by Objectives (MBO), Program Planning and Budget System (PPBS), Program Evaluation and Review Techniques (PERT), and Critical Path Method (CPM), to educational project management at the local, State, and Federal levels;

(6) *Performance objectives:* The specification of project objectives in a comprehensive, precise manner which indicates measures and means for assessing the degree of attainment of predetermined standards;

(7) *Performance budgeting:* The allocation of fiscal resources in accordance with project objectives to be realized, rather than by objects or functions to be supported;

(8) *Performance contracting:* The arrangement for technical assistance in project operations through contracts which condition compensation upon the accomplishment of specified performance objectives;

(9) *Staff development:* The determination of the nature and extent of staff development needed for the successful implementation of the accountability concept at the local, State, and Federal levels, and the design and conduct of indicated development activities;

(10) *Comprehensive evaluation:* The establishment of systems of performance control based on the continuous assessment of project operational and management processes and resultant products;

(11) *Cost effectiveness:* The analysis of unit results obtained in relation to unit resources consumed under alternative approaches to project operation, as a determinant in continued project planning; and

(12) *Program auditing:* A performance control system based upon external reviews conducted by qualified outside technical assistance, designed to verify the results of the evaluation of an educational project and to assess the appropriateness of evaluation procedures for determining the effectiveness of project operation and management.

(20 U.S.C. 844a(b)(1), (2)(6))

[FR Doc.74-30282 Filed 12-27-74;8:45 am]

Public Health Service

[42 CFR Part 52c]

MINORITY BIOMEDICAL SUPPORT PROGRAM

Notice of Proposed Rule Making

Notice is hereby given that the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposes to adopt the regulations set forth in tentative form below. The proposed regulations amend Title 42 of the Code of Federal Regulations by adding a new part 52c prescribing rules applicable to grants under the Minority Biomedical Support Program for the general support of biomedical research, authorized by section 301(c) of the Public Health Service Act, as amended (42 U.S.C. 241(c)).

Written comments concerning the proposed regulations are invited from interested persons. Inquiries may be addressed, and data, views, and arguments relating to the regulations may be presented in writing, in triplicate, to the Office of the Director, Division of Research Resources, Building 31, Room 5B-03, 9000 Rockville Pike, Bethesda, Maryland 20014. All comments received will be available for public inspection at said Office on weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m. All relevant material received not later than January 29, 1975 will be considered.

Notice is also given that it is proposed to make any amendments that are adopted effective on December 30, 1974.

Dated: November 19, 1974.

CHARLES C. EDWARDS,
Assistant Secretary for Health.

Approved: December 20, 1974.

CASPAR W. WEINBERGER,
Secretary.

It is therefore proposed to amend Title 42 of the Code of Federal Regulations by adding the following new Part 52c:

PART 52c—MINORITY BIOMEDICAL SUPPORT PROGRAM

Sec.

52c.1 Applicability.
52c.2 Definitions.
52c.3 Eligibility.
52c.4 Application.
52c.5 Grant awards.
52c.6 Payment.
52c.7 Expenditure of grant funds.
52c.8 Nondiscrimination.
52c.9 Human subjects; animal welfare.
52c.10 Applicability of 45 CFR Part 74.
52c.11 Progress and fiscal records and reports.
52c.12 Grantee accountability.
52c.13 Publications and copyright.
52c.14 Additional conditions.

AUTHORITY: Sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216); sec. 301(c), 74 Stat. 1063 (42 U.S.C. 241(c)).

§ 52c.1 Applicability.

The regulations in this part apply to grants (under the Minority Biomedical Support Program) awarded pursuant to section 301(c) of the Public Health Service Act (42 U.S.C. 241(c)) to increase the numbers of ethnic minority faculty, students, and investigators engaged in biomedical research and to broaden the opportunities for participation in biomedical research of ethnic minority faculty, students, and investigators, by providing general support for biomedical research programs at eligible institutions.

§ 52c.2 Definitions.

(a) "Act" means the Public Health Service Act, as amended.

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(c) "Nonprofit" as applied to any institution means an institution which is a corporation or association no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

(d) "Ethnic minorities" includes but is not limited to such groups as blacks, Spanish-speaking Americans, and American Indians.

(e) "Program director" means a single individual, designated in the grant application, who is scientifically trained and has research experience and who is responsible for the overall execution of the program supported under this part at the grantee institution.

§ 52c.3 Eligibility.

To be eligible for a grant under this Program, an applicant must be:

(a) One of the following:

(1) A public or private nonprofit university, four year college, or other institution offering undergraduate, graduate, or health professional degrees, with a student enrollment derived primarily from ethnic minorities;

(2) A public or private nonprofit two year college, with a student enrollment derived primarily from ethnic minorities;

(3) A public or private nonprofit university, four year college, or other institution offering undergraduate, graduate, or health professional degrees, with a student enrollment a significant proportion (but not necessarily a majority) of which is derived from ethnic minorities, provided the Secretary determines that said institution has a demonstrated commitment to the special encouragement of and assistance to ethnic minority faculty, students, and investigators; or

(4) A Native American Indian Tribal Council; and

(b) Located in a State, the District of Columbia, Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

§ 52c.4 Application.

(a) Each institution desiring a grant under this part shall submit an application in such form and manner and on or before such dates as the Secretary may from time to time require.[1] Such application shall be executed by an individual authorized to act for the institution and to assume on behalf of the institution the obligations imposed by the terms and conditions of any award, including the regulations of this part.

(b) In accordance with section 1-00-30 of the Department of Health, Education, and Welfare Grants Administration Manual,[2] each private institution, which does not already have on file with the National Institutes of Health evidence of nonprofit status, must submit with its application acceptable proof of such status.

(c) Each application shall contain a narrative description of the institution's present biomedical research program; the nature and purpose of the proposed

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[1] Applications and instructions are available from the Minority Biomedical Support Program, General Research Support Branch, Division of Research Resources, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014.

[2] The Department of Health, Education, and Welfare Grants Administration Manual is available for public inspection and copying at the Department's and Regional Offices' information centers listed in 45 CFR § 5.31 and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

biomedical research program; the manner in which the institution intends to conduct said program in conformity with this part; and the value of the program to the overall mission and objectives of the institution. The application shall also set forth the proposed support period (not to exceed five years), a detailed budget, a justification for the amount of grant funds requested, the names and qualifications of the program director and the directors of individual projects within the program, the total facilities and resources that will be available (including where necessary collaborative arrangements with other institutions), and such other pertinent information as the Secretary may require.

§ 52c.5 Grant awards.

(a) Within the limits of funds available, and upon such recommendation as may be required by law, the Secretary shall award grants to those applications with proposed biomedical research programs which will, in his judgment, best promote the purposes of this part, taking into consideration among other pertinent factors:

(1) the benefits that can be expected to accrue to the national effort in biomedical research;

(2) the institution's capability, from a scientific and technical standpoint, to engage in biomedical research;

(3) the benefits that can be expected to accrue to the institution and its students;

(4) the administrative and managerial capability and competence of the applicant;

(5) the availability of the facilities and resources (including where necessary collaborative arrangements with other institutions) to engage in biomedical research;

(6) the applicant's relative need for funding; and

(7) the overall significance of the proposal in terms of numbers of ethnic minority persons benefited thereby.

(b) The amount of any grant award shall be determined by the Secretary on the basis of his estimate of the sum necessary for the cost of the applicant's approved plan.

(c) All grant awards shall be in writing and shall specify the support period, the total recommended amount of funds for the entire support period, the approved budget for the initial budget period, and the amount awarded for the initial budget period.

(d) Neither the approval of any application nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion thereof. For continuation support, grantees must submit separate applications annually, at such times and in such form and manner as the Secretary may direct.

§ 52c.6 Payment.

The Secretary from time to time may make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses incurred or to be incurred in accordance with its approved application.

§ 52c.7 Expenditure of grant funds.

(a) Any funds granted pursuant to this part shall be expended solely for the purposes for which the funds were granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, and the applicable cost principles prescribed by subpart Q of 45 CFR Part 74, provided that only direct costs of biomedical research may be charged to a grant under this part.

(b) Any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during the succeeding budget period. The amount of any subsequent award will take into consideration unobligated grant funds remaining in the grant account. At the end of the final budget period any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

§ 52c.8 Nondiscrimination.

(a) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this part, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(b) Attention is also called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

(c) Grant funds used for alterations and renovations shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 FR 12319 (Sept. 24, 1965), as amended, and with the applicable rules, regulations, and procedures prescribed pursuant thereto.

§ 52c.9 Human subjects; animal welfare.

No award may be made under this part unless the applicant has complied with:

(a) 45 CFR Part 46 and any other applicable requirements pertaining to the protection of human subjects.

(b) Chapter 1-43 of the Department of Health, Education, and Welfare Grants Administration Manual and any other applicable requirements concerning animal welfare.

§ 52c.10 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as those terms are defined in Subpart A of Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this part:

45 CFR PART 74

Subpart
- A General.
- B Cash Depositories.
- C Bonding and Insurance.
- D Retention and Custodial Requirements for Records.
- F Grant-Related Income.
- G Matching and Cost Sharing.
- K Grant Payment Requirements.
- M Grant Closeout, Suspension, and Termination.
- O Property.
- Q Cost Principles.

§ 52c.11 Progress and fiscal records and reports.

Each grant award shall require that the grantee maintain such progress and fiscal records and file with the Secretary such progress and fiscal reports relating to the conduct and results of the approved grant and the use of grant funds as the Secretary may find necessary to carry out the purposes of this part.

§ 52c.12 Grantee accountability.

(a) All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other grant funds, including funds derived from other grant awards. With respect to each grant, the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available to the Secretary satisfactory evidence of expenditures for costs meeting the requirements of this part.

(b) *Accounting for royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant, or from patents or inventions conceived or first actually reduced to practice in the course of or under such grant, shall be accounted for as follows:

(1) *State and local governments.* Where the grantee is a State or local government as those terms are defined in subpart A of 45 CFR Part 74, royalties shall be accounted for as provided in 45 CFR Part 74.

(2) *Grantees other than State and local governments.* Where the grantee is not a State or local government as those terms are defined in subpart A of 45 CFR Part 74, royalties shall be accounted for as follows:

(A) Patent royalties, whether received during or after the grant period, shall be governed by agreements between the Assistant Secretary for Health, Department of Health, Education, and Welfare, and the grantee, pursuant to the Department's patent regulations (45 CFR Parts 6 and 8).

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(B) Copyright royalties, whether received during or after the grant period, shall first be used to reduce the Federal share of the grant to cover the costs of publishing or producing the materials, and any royalties in excess of the costs of publishing or producing the materials shall be distributed in accordance with Chapter 1–420 of the Department of Health, Education, and Welfare Grants Administration Manual.

§ 52c.13 Publications and copyright.

(a) *State and local governments.* Where the grantee is a State or local government as those terms are defined in subpart A of 45 CFR Part 74, the Department of Health, Education, and Welfare copyright requirement set forth in 45 CFR 74.140 shall apply with respect to any book or other copyrightable materials developed or resulting from an activity supported by a grant under this part.

(b) *Grantees other than State and local governments.* Where the grantee is not a State or local government as those terms are defined in subpart A of 45 CFR Part 74, except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from an activity supported by a grant under this part, subject to a royalty-free, non-exclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials, and to authorize others to do so.

§ 52c.14 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved program, the interests of the public health, or the conservation of grant funds.

[FR Doc.74-28263 Filed 12-27-74;8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 25]

[Docket No. 14230; Notice 74-38]

COMPARTMENT INTERIOR MATERIALS TOXIC GAS EMISSION

Proposed Standards

The FAA is considering rule making to establish standards governing the toxic gas emission characteristics of compartment interior materials used in transport category airplanes when subjected to fire conditions. In view of evidence developed during recent accident investigations to the effect that toxic gases emitted from cabin materials during post crash fires may have significant effects on occupant survival, the FAA believes the establishment of such standards is appropriate.

This advance notice of proposed rule making is being issued in accordance with the FAA's policy for the early institution of public proceedings in actions related to rule making. An "advance" notice is issued to invite early public participation in the identification and selection of a course or alternate courses of action with respect to a particular rule making problem.

Interested persons are invited to participate in the rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue S.W., Washington, D.C. 20591. Communications should be received on or before March 31, 1975, to assure proper consideration. All comments submitted will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested persons. The FAA intends to expedite consideration of all comments received in response to this Notice, and, if it is determined that further research and study is not required to develop the technical aspects of such standards, the FAA will expedite the issuance of a NPRM. However, it should be noted that a final rule establishing such standards is not anticipated for some time.

The FAA has conducted preliminary research on the characteristics of toxic gas emissions from cabin materials, and on the expected effects of such gases on humans. Although this research indicates that the state-of-the-art may have progressed to the point where material toxicity standards can be established, the information presently available to the FAA does not provide an adequate data base and considerably more data are necessary to develop the technical aspects of such standards. For instance, there is a lack of information on time history characteristics of toxic gas emissions from cabin interior materials.

The overall objective of protecting occupants from the effects of crash fires is addressed in the FAA's existing program of updating airworthiness standards. The development and implementation of toxicity standards must be considered within the framework of the total program. Such standards must be feasible for airplane design and at the same time yield improvements in safety commensurate with necessary implementation efforts.

The FAA recognizes that there are presently no materials toxicity standards, test equipment, or test methods in common use in the aviation industry. However, recent FAA research into materials smoke emission characteristics using the National Bureau of Standards (NBS) flaming and nonflaming smoke generation tests has demonstrated that the NBS test apparatus adequately serves as a repeatable means of subjecting material specimens to a controlled fire environment for test purposes. The NBS, at the request of the FAA, has conducted toxicity analyses of materials specimens with the NBS test apparatus by use of commercially available colorimeter tubes.

The FAA desires to review the technical and cost situations before determining the form of a toxicity standard, and believes it important in this regard to have available all relevant information that can be provided by the public. To this end, the FAA welcomes the participation of aircraft manufacturers and operators, materials producers, testing laboratories, medical authorities, government agencies, and other interested persons and, by means of this advance notice, solicits the views of all interested persons on the following questions:

1. What general form should a toxicity standard have in order to most effectively complement existing regulations that deal with crashworthiness? Should the standard, for example, pertain to the chemical makeup of the materials, should it be based on the testing of materials in the presence of fire, or is some other standard appropriate? Data substantiating the reasoning behind any suggested approach should be submitted to aid in evaluation.

2. What specific toxic gases or sources of toxic gases should be taken into consideration in the standard? What limits should be specified?

3. Are there readily available test methods that can be used to accurately and consistently measure the toxic gas emission characteristics of materials in the presence of fire? Are such methods compatible with aircraft manufacturing and maintenance procedures? Would it be feasible to standardize on one of these methods in implementing the suggested standard? Data relating to test costs is solicited.

4. How would the availability of currently used materials that meet the flammability standards of current § 25.853 be affected by the adoption of any suggested toxicity standard? Would this availability provide a sufficient variety and quantity of materials to meet the needs of aircraft manufacturers and operators, especially with regard to seat cushions and insulation materials? Data relating to the cost of developing and producing new materials is solicited.

5. Should all airplanes operating under FAR 121 be required to meet the new standard regardless of when they were certificated? What period of time should be permitted for accomplishing the necessary retrofitting? Data substantiating the reasonableness of suggested time periods is solicited. Data relating to the cost of retrofit is also solicited.

6. Is there an interim measure that could be adopted to provide some measure of protection pending development of toxicity standards?

This advance notice of proposed rule making is issued under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on December 19, 1974.

R. P. SKULLY,
Director,
Flight Standards Service.

[FR Doc.74-30303 Filed 12-27-74;8:45 a.m.]

[14 CFR Part 39]

[Docket No. 74-NW-36-AD]

BOEING MODEL 747-100 AND -200 SERIES AIRPLANES

Proposed Airworthiness Directives

A proposal (NPRM) to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the installation of an additional warning system or systems with respect to the position of leading edge flaps on 747 airplanes was published in the FEDERAL REGISTER on December 10, 1974, 39 FR 43, 849.

Subsequent to issuing the NPRM, The Boeing Company has presented a design concept which would provide leading edge flap logic inputs to the takeoff aural warning system and to the pilots' annunciator panel. This concept has been discussed with representatives of the FAA, ATA and ALPA and tentatively appears to be a satisfactory means of compliance with the intent of the FAA proposal. The Boeing design will, in turn, be distributed to all domestic 747 operators for comment to be considered in this docket, and will be available from the manufacturer to all interested persons.

In consideration of the foregoing, it has been determined that the 60 day period allowed in the FAA proposal for comments is no longer needed; instead, a period of 50 days is considered adequate for public participation.

Accordingly, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), the notice of proposed rulemaking in this docket (39 FR 43, 849) is hereby amended by changing the date of February 11, 1975 to February 1, 1975.

This amendment is made under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Washington, December 20, 1974.

C. B. WALK, Jr.,
Director,
Northwest Region.

[FR Doc.74-30305 Filed 12-27-74;8:45 am]

[14 CFR Parts 71, 73]

[Airspace Docket No. 74-SO-91]

TEMPORARY RESTRICTED AREAS

Proposed Designation

The Federal Aviation Administration (FAA) is considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would designate several temporary restricted areas in the vicinity of Fayetteville, Wilmington, Beaufort and Washington, N.C., to contain a joint military training exercise SOLID SHIELD 75. The exercise would extend from May 25, 1975, through June 6, 1975. Those areas encompassing airspace at or above 14,500 feet MSL would also be included in the continental control area for the duration of their time of designation.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P. O. Box 20636, Atlanta, Ga. 30320. All communications received on or before January 29, 1975, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW, Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendments would designate the following temporary restricted areas:

R-5309D SOLID SHIELD 75, N. C.

BOUNDARIES

Beginning at Lat. 35°22'00" N., Long. 78°31'30" W.; to Lat. 35°20'30" N., Long. 78°10'00" W.; thence counterclockwise along a 10-nautical mile radius arc centered on Seymour Johnson AFB (Lat. 35°20'20" N., Long. 77°57'50" W.) to Lat. 35°10'30" N., Long. 77°59'00" W.; to Lat. 34°57'30" N., Long. 78°02'30" W.; to Lat. 35°02'00" N., Long. 78°40'00" W.; to point of beginning.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. Continuous, May 25-June 6, 1975, inclusive.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. United States Atlantic Command, Norfolk, Va.

R-5309E SOLID SHIELD 75, N. C.

BOUNDARIES

Beginning at Lat. 34°53'45" N., Long. 78°42'00" W.; to Lat. 34°49'20" N., Long. 78°07'20" W.; to Lat. 34°24'00" N., Long. 78°24'00" W.; to Lat. 34°24'00" N., Long. 78°42'30" W; to Lat. 34°50'30" N., Long. 78°46'00" W.; to point of beginning.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. Continuous, May 25-June 6, 1975, inclusive.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. United States Atlantic Command, Norfolk, Va.

R-5309F SOLID SHIELD 75, N.C.

BOUNDARIES

Beginning at Lat. 34°24'00" N., Long. 78°42'30" W.; to Lat. 34°24'00" N., Long. 78°24'00" W.; to Lat. 34°09'30" N., Long. 78°34'30" W.; to Lat. 34°10'00" N., Long. 78°41'00" W.; to point of beginning.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. Continuous, May 25-June 6, 1975, inclusive.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. United States Atlantic Command, Norfolk, Va.

R-5309A SOLID SHIELD 75, N.C.

BOUNDARIES

Beginning at Lat. 35°15'00" N., Long. 77°30'00" W.; to Lat. 34°57'30" N., Long 77°02'00" W.; thence southwest along the boundary of R-5306B, C and D to Lat. 34° 42'00" N., Long. 77°17'30" W.; thence counterclockwise along connecting arcs of 8.5-mile radius circles centered on the New River MCAS (Lat. 34°42'25" N., Long. 77° 26'35" W.) and the Albert J. Ellis Airport (Lat. 34°49' 49" N., Long. 77°36'42" W.) to Lat. 34°55'30" N., Long. 77°42'00" W.; to Lat. 34°56'00" N., Long. 77°48'30" W.; to Lat. 35°12'15" N., Long. 77°35'00" W.; to point of beginning.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. Continuous, May 25-June 6, 1975, inclusive.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. United States Atlantic Command, Norfolk, Va.

R-5309B SOLID SHIELD 75, N.C.

BOUNDARIES

Beginning at Lat. 34°56'00" N., Long. 77° 48'30" W.; to Lat. 34°55'30" N., Long. 77°42' 00" W.; thence clockwise along an arc of 8.5-mile radius centered on Albert J. Ellis Airport (Lat. 34°49'49" N., Long. 77°36'42" W.) to Lat. 34°49'30" N., Long. 77°27'45" W.; to Lat. 34°33'00" N., Long. 77°46'30" W.; to Lat. 34°33'30" N., Long. 77°49'00" W.; to Lat. 34°51'30" N., Long. 77°52'00" W.; to point of beginning.

Designated altitudes. 5,000 feet MSL to 10,000 feet MSL, May 25-May 29, 1975 inclusive, and surface to 10,000 feet MSL, May 30-June 6, 1975, inclusive.

Time of designation. Continuous, May 25-June 6, 1975, inclusive.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. United States Atlantic Command, Norfolk, Va.

R-5309C SOLID SHIELD 75, N.C.

BOUNDARIES

Beginning at Lat. 34°49'30" N., Long. 77° 27'45" W.; thence clockwise along an arc of 8.5-mile radius centered on the New River MCAS (Lat. 34°42'25" N., Long. 77°26'35" W.) to Lat. 34°42'00" N., Long. 77°17'30" W.; thence south and east along R-5306D and E to Lat. 34°30'20" N., Long. 77°15'50" W.; thence 3-nautical miles from and parallel to the shoreline to Lat. 34°18'00" N., Long. 77° 37'30" W.; thence counterclockwise along a 13-nautical mile radius arc centered on the Wilmington VORTAC (Lat. 34°21'05" N., Long. 77°52'29" W.) to Lat. 34°33'00" N., Long. 77°46'30" W.; to point of beginning.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. Continuous, May 25-June 6, 1975, inclusive.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. United States Atlantic Command, Norfolk, Va.

R-5309G SOLID SHIELD 75, N.C.

BOUNDARIES

Beginning at Lat. 34°57'30" N., Long. 77°02'00" W.; to Lat. 34°43'15" N., Long. 76°47'30" W.; to Lat. 34°41'30" N., Long. 76°54'30" W.; to Lat. 34°50'30" N., Long. 77°05'00" W.; to Lat. 34°49'30" N., Long. 77°10'00" W.; to point of beginning.

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Designated altitudes. Surface to 3,000 feet MSL.

Time of designation. Continuous, May 25–June 6, 1975, inclusive.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. United States Atlantic Command, Norfolk, Va.

R–5309H SOLID SHIELD 75, N.C.

BOUNDARIES

Beginning at Lat. 34°43'15" N., Long. 76°47'30" W.; to Lat. 34°38'15" N., Long. 76°42'00" W.; thence west along a line 3-nautical miles from and parallel to the shore line at Lat. 34°37'30" N., Long. 76°36'00" W.; thence north and east along R–5306C and B to point of beginning.

Designated altitudes. 1,000 feet MSL to FL 180.

Time of designation. Continuous, May 25–June 6, 1975, inclusive.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. United States Atlantic Command, Norfolk, Va.

R–5309I SOLID SHIELD 75, N.C.

BOUNDARIES

Beginning at Lat. 35°04'30" N., Long. 76°04'30" W.; to Lat. 35°00'30" N., Long. 76°00'30" W.; thence south and west along a line 3-nautical miles from and parallel to the shoreline to Lat. 34°38'15" N., Long. 76°42'00" W.; to Lat. 34°43'15" N., Long. 76°47'30" W.; thence east and north along R–5306 B and A to point of beginning.

Designated altitudes. 10,000 feet MSL to FL 180.

Time of designation. Continuous, May 25–June 6, 1975, inclusive.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. United States Atlantic Command, Norfolk, Va.

R–5309J SOLID SHIELD 75, N. C.

BOUNDARIES

Beginning at Lat. 35°16'10" N., Long. 79°14'00" W.; to Lat. 35°18'10" N., Long. 79°02'30" W.; to Lat. 35°10'30" N., Long. 79°02'30" W.; thence west along R–5311A to Lat. 35°12'30" N., Long. 79°14'00" W.; to point of beginning.

Designated altitudes. Surface to FL 180.

Time of designation. Continuous, May 25–June 6, 1975, inclusive.

Controlling agency. Federal Aviation Administration, Washington, ARTC Center.

Using agency. United States Atlantic Command, Norfolk, Va.

R–5309K SOLID SHIELD, 75, N.C.

BOUNDARIES

Beginning at Lat. 35°18'10" N., Long. 79°02'30" W.; to Lat. 35°22'00" N., Long. 78°31'00" W.; to Lat. 35°20'30" N., Long. 78°10'10" W.; thence counterclockwise along a 10-nautical mile radius arc centered on Seymour Johnson AFB (Lat. 35°20'20" N., Long. 77°57'50" W.), to Lat. 35°10'30" N., Long. 77°59'00" W.; to Lat. 34°57'30" N., Long. 78°02'30" W.; to Lat. 34°24'00" N., Long. 78°24'00" W.; to Lat. 34°08'15" N., Long. 78°34'30" W.; to Lat. 34°10'00" N., Long. 78°41'00" W.; to Lat. 34°50'20" N., Long. 78°46'00" W.; thence clockwise along a 10-nautical mile radius arc centered on Fayetteville Municipal Airport (Lat. 34°59'35" N., Long. 78°52'50" W.;) to Lat. 35°00'00" N., Long. 79°04'00" W.; to Lat. 35°02'30" N., Long. 79°05'30" W.; thence north and west along R–5311A to Lat. 35°10'30" N., Long. 79°02'30" W.; to point of beginning.

Designated altitudes. 10,000 feet MSL to FL 180.

Time of designation. Continuous, May 25–June 6, 1975, inclusive.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. United States Atlantic Command, Norfolk, Va.

R–5309L SOLID SHIELD 75, N. C.

BOUNDARIES

Beginning at Lat. 35°10'30" N., Long. 77°59'00" W.; to Lat. 35°12'15" N., Long. 77°35'00" W.; to Lat. 34°51'30" N., Long. 77°52'00" W.; to Lat. 34°16'00" N., Long. 77°45'30" W.; to Lat. 34°09'00" N., Long. 78°20'00" W.; to Lat. 34°09'30" N., Long. 78°34'30" W.; to Lat. 34°24'00" N., Long. 78°24'00" W.; to Lat. 34°37'30" N., Long. 78°02'30" W.; to point of beginning.

Designated altitudes. 10,000 feet MSL to FL 180.

Time of designation. Continuous, May 25–June 6, 1975, inclusive.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. United States Atlantic Command, Norfolk, Va.

R–5309M SOLID SHIELD 75, N. C.

BOUNDARIES

Beginning at Lat. 35°33'30" N., Long. 77°09'00" W.; to Lat. 35°23'00" N., Long. 76°34'30" W.; thence southwest along R–5306A, B, C, D and E to Lat. 34°30'20" N., Long. 77°15'50" W.; thence southwesterly along a line 3-nautical miles from and parallel to the shoreline to Lat. 34°18'00" N., Long. 77°37'00" W.; to Lat. 34°16'30" N., Long. 77°45'30" W.; to Lat. 34°31'30" N., Long. 77°32'00" W.; to Lat. 35°12'15" N., Long. 77°35'00" W.; thence counterclockwise along an 8.5-mile radius are centered on Stallings Field (Lat. 35°19'36" N., Long. 77°37'02" W.) to Lat. 35°20'00" N., Long. 77°27'00" W.; to point of beginning.

Designated altitudes. 10,000 feet MSL to FL 180.

Time of designation. Continuous, May 25–June 6, 1975, inclusive.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using Agency. United States Atlantic Command, Norfolk, Va.

Temporary Restricted Areas R–5309H, I, J, K, L and M, defined above would also be included in the continental control area for the duration of their time of designation.

The proposed restricted areas would be used to contain a joint military training exercise, "SOLID SHIELD 75", involving coordinated amphibious/airborne assault operations. Several military units would participate; however, no ordnance would be expended (within the areas herein proposed) and also supersonic flight would be prohibited. Similar exercises have been conducted annually in the same general area for several years. As with the previous exercise, "SOLID SHIELD 75" would provide the military services with an opportunity to test and evaluate the coordination procedures used during complex joint military operations. The proposed restricted areas would be required for safety to separate nonparticipating aircraft from the extensive air activity of the participating military forces.

The Corps of Engineers has obtained, covering the period during which this exercise would be held, land use rights for approximately 1,700,000 acres within the total area involved in this proposal. However, it contains numerous towns and privately owned buildings and other property. Although restricted areas R–5309A, B, C, D, E, F, G and J would be designated from the surface upward, the users understand that they are obligated to observe the minimum safe altitudes prescribed in § 91.79 of the Federal Aviation Regulations that are applicable to all nonparticipating persons and property on the surface.

Throughout the exercise the using agency would allow scheduled air carrier flights and other nonparticipating aircraft into or through the temporary restricted areas when exercise operations permit. The using agency would provide all necessary communication lines required by the Federal Aviation Administration and it would also provide a wide area telecommunications service number so that nonparticipating pilots can obtain clearances on an individual basis without charge to themselves. This number would be published in Part 3 of the Airman's Information Manual (AIM) effective during the exercise period. The Federal Aviation Administration would establish temporary routing to reroute air carrier and other nonparticipating aircraft around the restricted areas when clearance through the areas cannot be approved.

These amendments are proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 2348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on December 20, 1974.

HOWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74–30080 Filed 12–27–74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74–GL–48]

TERMINAL CONTROL AREA DETROIT, MICH.

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Detroit, Mich., Terminal Control Area (TCA) by redefining certain lateral boundaries and floor altitudes in the vicinity of the Detroit River.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018. All communications received on or before January 29, 1975 will be considered before action is taken on the proposed amendment. The

proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, 800 Independence Avenue, SW, Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Flight beneath the 2,300-foot floor of the TCA along the Detroit River has proven restrictive to VFR flight due to obstructions along the west side of the river.

It is proposed to adjust the floor altitude from 2,300 feet to 3,000 feet in this area. This adjustment will benefit the VFR user by giving him additional space for VFR flight along the river.

This action is a result of continuous monitoring of the TCA program seeking to provide the best possible service for the airspace user.

In consideration of the foregoing, it is proposed to amend the Detroit, Mich., TCA in § 71.401 of Part 71 of the Federal Aviation Regulations to read as follows:

Area B: That airspace extending upward from 2,300 feet MSL to and including 8,000 feet MSL within a ten-mile radius of the Detroit Metropolitan Wayne County Airport excluding Area "A" previously described, that airspace east of the west edge of the Detroit River, and the Detroit, Mich., (Willow Run Airport) Control Zone.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on December 23, 1974.

GORDON E. KEWER,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-30307 Filed 12-27-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-SW-53]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Marksville, La.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before January 29, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In Section 71.181 (39 FR 440), the following transition area is added:

MARKSVILLE, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Marksville NDB (latitude 31°05'39" N., longitude 92°04'17" W.); within 3.5 miles each side of a 206° bearing from the Marksville NDB extending from the 5-mile radius area to 11.5 miles southwest of the NDB.

The proposed transition area will provide controlled airspace for aircraft executing the proposed NDB RWY 4 instrument approach procedure.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, TX., on December 19, 1974.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.74-30306 Filed 12-27-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 311-7]

IOWA

Approval of Compliance Schedules

On May 31, 1972 (37 FR § 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of State plans for implementation of the national ambient air quality standards. The State of Iowa submitted to the Environmental Protection Agency compliance schedules to be considered as proposed revisions to the approved plans pursuant to 40 CFR 51.6. 40 CFR 51.8 requires the Administrator to approve or disapprove compliance schedules submitted by the states. Therefore, the Administrator proposes the approval of the compliance schedules listed below.

The approvable schedules were adopted by the State and submitted to the Environmental Protection Agency after notice and public hearings in accordance with the procedural requirements of 40 CFR 51.4 and 51.6 and the substantive requirements of 40 CFR 51.15 pertaining to compliance schedules. The compliance schedules have been reviewed and determined to be consistent with the approved control strategies of Iowa. Each approved revision establishes a new date by which the individual source must comply with the applicable emission limitation in the federally-approved State Implementation Plan. This date is indicated in the table below, under the heading "Final Compliance Date." In all cases, the schedules include incremental steps toward compliance with the applicable emission limitations. While the tables below do not include these interim dates, the actual compliance schedules do.

Under Iowa law, the compliance schedule is not enforceable after the date on which the associated variance expires and variances cannot extend for more than one year. Therefore, to the extent that the schedules extend past the variance expiration date, they are not legally enforceable at this time. For this reason, EPA's approval of each compliance schedule will be unconditional only as to that part of the schedule covered by the initial variance. Approval of the remainder of the schedule will be conditioned upon the State's renewal of the variance in identical form and substance to that included in the schedule submitted to the Environmental Protection Agency and approved herein. If the variance is renewed in this manner, the condition precedent will be satisfied and the approval of the next segment of the schedule would not require further action by the State or this Agency. If the variance is not renewed, or is modified from the version that had been federally-approved, the condition will not be fulfilled, the approval of the remainder of the schedule would not be effective, and the State's immediately-effective regulation would again become federally enforceable.

Provisional approval of final compliance dates and extensions of variances is justifiable only because of the one-year variance limitation in the law of Iowa. Since there will be no substantive changes in the schedules set forth below and public hearings were held on the complete schedule, there is no reason to require compliance with 40 CFR 51.6 procedures at the time Iowa renews each variance. The schedules were immediately effective on the date of adoption. An Effective Date is not indicated on the table. The Variance Expiration Date is included instead.

The following compliance schedules for Clinton Corn Processing Company, Clinton, which appeared in the FEDERAL REGISTER of September 23, 1974 (39 FR 30465), are hereby withdrawn. The new Final Compliance Dates extend beyond the July 31, 1975, attainment date and cannot be approved. The Environmental Protection Agency, Region VII, has issued an Administrative Order for these sources. The sources are: Raymond Dryers Nos. 1 and 2, and Heil Dryers Nos. 1, 2, 3, 4, and 5.

The Variance Expiration Date for Hawkeye Chemical Company, Clinton, shown in the FEDERAL REGISTER of September 24, 1974 (39 FR 34300), was in-

correct. The schedule is reproposed in this FEDERAL REGISTER.

In the indication of proposed approval of individual compliance schedules, the individual schedules are included by reference only. In addition, since the large number of compliance schedules preclude setting forth detailed reasons for approval of individual schedules in the FEDERAL REGISTER, an evaluation report has been prepared for each individual compliance schedule. Copies of these evaluation reports are available for public inspection at the Environmental Protection Agency Regional Office, 1735 Baltimore, Kansas City, Missouri. The compliance schedules and the State Implementation Plans are available for public inspection at the Environmental Protection Agency Regional Office; Environmental Protection Agency, Division of Stationary Source Enforcement, 401 M Street, Washington, D.C.; and the Iowa Department of Environmental Quality, 3920 Delaware, Des Moines, Iowa.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the Region VII office at the above address. All comments submitted on or before January 29, 1975, will be considered. Receipt of comments will be acknowledged but substantive responses will not be provided. All comments received, as well as copies of the applicable implementation plans, will be available for inspection during normal business hours at the Regional Office.

The proposed rulemaking is issued under authority of section 110(a) of the Clean Air Act, as amended, (42 U.S.C. 1857c–5).

Dated: December 6, 1974.

EARL J. STEPHENSON,
Acting Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart Q—Iowa

1. In § 52.825, the table in paragraph (c) is amended as follows:

§ 52.825 Compliance Schedules.

* * * * *

(c) * * *

Iowa

Source	Location	Regulation involved	Date adopted	Variance expiration date	Final compliance date
*	*	*	*	*	*
Farmers Elevator Co.: Cyclone on feed mill.	Walcott	4.4(6)	Sept. 12, 1974	Dec. 28, 1974	Dec. 28, 1974
Clinton Corn Processing Co.: Louisville dryers Nos. 12, 13, 14, and 15.	Clinton	4.4(7)	do	Dec. 31, 1974	Dec. 31, 1974
Delta Asphalt Paving, Inc.: Asphaltic concrete plant.	Crescent	4.4(2)	do	July 1, 1975	July 1, 1975
Ralston Purina Co.: Bean cleaner	Iowa Falls	4.4(7)	do	Apr. 18, 1975	Apr. 18, 1975
Northwestern States Portland Cement Co.:					
(a) Kiln No. 1 baghouse bypass.	Mason City	4.4(3)	do	June 20, 1975	July 18, 1975
(b) Silo dust vent	do	4.3(2)a	do	do	Do.
(c) No. 5 cement storage vent	do	4.3(2)a	do	do	Do.
Associated Sanitarians, Inc.: Asphaltic concrete plant.	Denison	4.4(2)	do	June 30, 1975	June 30, 1975
Jack Stanley Co.: Asphaltic concrete plant.	Glenwood	4.4(2)	Sept. 12, 1974	July 1, 1975	July 1, 1975
Cargill, Inc.:					
(a) Cyclone on head house	Council Bluffs	4.4(6), 4.4(7)	Nov. 14, 1974	June 15, 1975	June 15, 1975
(b) Cyclone on truck loading	do	4.4(6), 4.4(7)	do	do	Do.
Farmers Union Grain Terminal Association: Cyclones on head house.	Sioux City	4.4(7)	Sept. 12, 1974	July 15, 1975	July 15, 1975
Deere and Co.: Boiler No. 8	Ottumwa	4.3(2)d	do	Apr. 1, 1975	Apr. 1, 1975
Central Soya Co., Inc.:					
(a) Tunnel aspiration system	Belmond	4.4(6), 4.4(7)	Nov. 14, 1974	July 31, 1975	July 31, 1975
(b) Garner bin vents	do	4.4(6), 4.4(7)	do	do	Do.
(c) Bulk meal conveying system.	do	4.4(6), 4.4(7)	do	do	Do.
(d) Upper house aspiration system.	do	4.4(6), 4.4(7)	do	do	Do.
Land O'Lakes:					
(a) Cyclone from legs and belts of elevator	Fort Dodge	4.4(6), 4.4(7)	Nov. 14, 1974	June 1, 1975	June 1, 1975
(b) Pod grinder cyclone	do	4.4(6), 4.4(7)	do	do	Do.
(c) Elevator scrubber cyclone	do	4.4(6), 4.4(7)	do	do	Do.
Norris Construction Co.: Asphaltic concrete plant No. 201.	Ottumwa	4.4(2)	do	do	Do.
Iowa Steel and Wire Co.: Ladle loading.	Centerville	4.3(2)a	do	do	Do.
Cantord Construction Co.: Asphaltic concrete plant.	LeGrand	4.4(2)	do	do	Do.
Perry Asphalt Co., Inc.: Asphaltic concrete plant.	Perry	4.4-2)	do	do	Do.
Kelsey-Hayes—French & Hecht division: boilers Nos. 1 and 2.	Davenport (Bettendorf)	4.3(2)b	Sept. 12, 1974	July 15, 1975	July 15, 1975
Eastern Iowa Light & Power Co.: Boilers Nos. 1 and 2.	Wilton Junction	4.3(2)b	Nov. 14, 1974	May 15, 1975	May 15, 1975
Aluminum Co. of America:					
(a) A–3 ingot plant—rotary barrels.	Davenport	4.3(2)a	do	May 31, 1975	May 31, 1975
(b) A–3 ingot plant—skim house	do	4.3(2)a	do	do	Do.
Iowa Electric Light & Power Co.:					
(a) Boiler No. 3	Iowa Falls	4.3(2)b	Sept. 12, 1974	Jan. 1, 1975	Jan. 1, 1975
(b) Boiler No. 4	do	4.3(2)b	do	June 30, 1975	June 30, 1975
The Dexter Co.: Cupola	Fairfield	4.4(4)	Nov. 14, 1974	Dec. 14, 1974	Dec. 14, 1974
L. Benac & Sons: Cupola	Centerville	4.4(4)	do	Apr. 1, 1975	Apr. 1, 1975
Newton Foundry Co.: Cupola	Newton	4.4(4)	do	June 14, 1975	June 14, 1975
Clow Corp.: Cupola	Oskaloosa	4.4(4)	do	Jan. 1, 1975	Jan. 1, 1975
Hawkeye Chemical Co.:					
(a) Neutralizer	Clinton	4.3(2)a, 4.3(2)d	June 30, 1974	Mar. 14, 1975	May 31, 1975
(b) Prill tower	do	4.3(2)a, 4.3(2)d	do	do	Do.
(c) Evaporator at prill tower	do	4.3(2)a, 4.3(2)d	do	do	Mar. 14, 1975

[FR Doc.74–30013 Filed 12–27–74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20315]

CALIBRATION OF REMOTE CONTROL INSTRUMENTS

Order Extending Time for Filing Reply Comments

1. On October 22, 1974, the Commission adopted a notice of proposed rulemaking in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on November 1, 1974, 39 F.R. 38668. The time for filing comments has expired and the date for filing reply comments is December 16, 1974.

2. On December 16, 1974, A. Earl Cullum, Jr. and Associates (A. Earl Cullum), requested that the time for filing reply comments be extended. A. Earl Cullum states that it has made a request of the Commission's contractor for a list of the parties who may have filed comments in the proceeding and requested expedited action on the order but as of December 13 they have had no response to their request. They are therefore requesting additional time so that they may file reply comments after receiving the requested information.

3. We are of the view that the public interest would be served by extending the time in this proceeding. Accordingly, It is ordered, That the date for filing reply comments is extended to and including January 3, 1975.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's rules.

Adopted: December 19, 1974.

Released: December 20, 1974.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] HAROLD L. KASSENS,
Acting Chief,
Broadcast Bureau.

[FR Doc.74–30314 Filed 12–27–74;8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210]

[No. 36057]

ACCOUNTING FOR TREASURY STOCK AT COST, TRANSACTIONS WITH AFFILIATES AND CHARGES TO BE JUST AND REASONABLE

Notice of Proposed Rulemaking

DECEMBER 23, 1974.

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C. on 5th day of November, 1974.

This proceeding is being instituted on our own motion to consider revisions to each of the uniform systems of accounts in three areas: (1) Accounting for treasury stock, (2) instructions for transactions with affiliates, and (3) instruction for charges to be just and reasonable. If

these proposals are adopted, the substance of all ten uniform systems of accounts prescribed by the Commission will be consistent in these three areas. While the three subject areas differ, we are proposing that they be considered in the same proceeding. This facilitates making accounting changes in a more timely manner which we feel is beneficial to all interested parties.

Under the present regulations most modes use the par value method of accounting for treasury stock. Only the uniform system of accounts for freight forwarders prescribes the cost method. The cost method of accounting for treasury stock is more widely used than the par value method by the accounting profession and other regulatory agencies. It is our intent that if the cost method of accounting for treasury stock is adopted, all treasury stock presently held shall be reaccounted for under the cost method provided that it has not been constructively retired.

The instruction for transactions with affiliated companies is presently in the uniform system of accounts for Railroad Companies and the uniform system of accounts for Motor Carriers of Property.

The instruction for charges to be just and reasonable is in the system of accounts for Motor Carriers of Property.

The intent of these proposals is to add more definitive guidelines to the uniform system of accounts, and to prescribe consistent guidelines in these three areas for all modes of surface transportation. In addition, the adoption of these proposals would bring us closer in aligning the Commission's accounting rules for financial reporting purposes with generally accepted accounting principles.

Our intent is that the proposed revisions to the accounting regulations become effective immediately upon adoption by the Commission and would be reflected in the books of accounts for the year beginning January 1, 1975.

Upon consideration of the above described matters and good cause appearing therefor:

It is ordered, That a proceeding be, and it is hereby, instituted under the authority of sections 20, 204, 313 and 412 of the Interstate Commerce Act and pursuant to sections 553 and 559 of the Administrative Procedure Act with a view to adopting the proposed regulations set forth in Appendices A through J of this Notice, and for the purpose of taking such other and further action as the facts and circumstances may justify and require.

It is further ordered, That all carriers subject to the Interstate Commerce Act be, and they are hereby, made respondents in this proceeding.

It is further ordered, That no oral hearing be scheduled for the receiving of testimony in this proceeding unless a need therefor should later appear, but that respondents or any other interested parties may participate in this proceeding by submitting for consideration written statements of fact, views, and arguments on the subjects mentioned above, or any other subjects pertaining to this proceeding.

It is further ordered, That any interested persons wishing to submit written statements of fact, views, or arguments shall file an original (and, if possible, 15 copies) of such representations with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, by January 27, 1975, and that all such statements will be considered as evidence and as a part of the record in this proceeding.

It is further ordered, That written material or suggestions submitted shall be made available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C., during regular business hours.

And it is further ordered, That service of this notice shall be made on all affected carriers; and to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation; and that notice of this proceeding shall be given to the general public by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and by delivering a copy thereof to the Director, Division of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

NOTE: This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

PART 1201—UNIFORM SYSTEM OF ACCOUNTS FOR RAILROAD COMPANIES

LIST OF INSTRUCTIONS AND ACCOUNTS

In the table of contents under "General Instructions" add the following immediately after line item "1–21 *Submission of questions*":

1–22 Charges to be just and reasonable.

Under "General Balance Sheet Accounts" add the following immediately after line item "798 *Retained income; unappropriated*":

798.5 Treasury stock.

GENERAL INSTRUCTIONS

The text of instruction 1–10, "Transactions with affiliated companies" is revised to read:

1–10 Transactions with affiliated companies. (a) The records and supporting data of all transactions with affiliated companies shall be maintained in a separate file. The types of transactions referred to in this paragraph are for management services or any other type of services rendered, sale or use of facilities or any other type of assets or property. The file shall be maintained so as to enable the carrier, upon a Commission request, to furnish accurate information with supporting documentation about particular transactions within 15 days of the request. We do not intend the file to include data relating to ordinary carrier operations (e.g. lawful tariff charges or interchange of equipment).

(b) Each bill rendered by an affiliated company shall state specifically the basis used for determining charges.

(c) Punched cards, magnetic tapes, discs, or other machine-sensible device used for recording, consolidating, and summarizing accounting transactions and records with a carrier's electronic or automatic data processing system may constitute a file within the meaning of this instruction.

(d) The carrier shall record, as the cost of assets or services received from an affiliated supplier, their invoice price (plus any incidental costs related to those transactions) in those cases where the invoice price can be determined from a prevailing price list of the affiliated supplier available to the general public in the normal course of business. If no such price list exists, the charges shall be recorded at the lower of their cost to the originating affiliated supplier (less all applicable valuation reserves in case of asset sales), or their estimated fair market value determined on the basis of a representative study of similar competitive and arm's-length or bargained transaction.

Any differences between actual transaction price and the above, as well as charges that are not transportation related, shall be considered of a financing nature, and shall be recorded, accordingly, as nonoperating charges or credits. (See Instruction 1–22).

(e) Nothing contained herein shall be construed as restraining the carrier from subdividing accounts (see Instruction 1–3(d)) for the purpose of recording separately transactions with affiliated companies.

After general instruction 1–21 *"Submission of Questions"*, add new instruction 1–22 *"Charges to be just and reasonable"* to read as follows:

1–22 Charges to be just and reasonable. All charges to the accounts prescribed in this system of accounts for carrier property, operating revenues, operating and maintenance expenses, and other carrier expenses, shall be just, reasonable and necessary to the honest and efficient operations and management of the carrier business. Payments should not exceed the fair market value of goods and services acquired in an arm's-length transaction. Any payments in excess of such just and reasonable charges shall be included in account 551, "Miscellaneous income charges".

INSTRUCTIONS FOR INCOME AND BALANCE SHEET ACCOUNTS

The instruction 6–4, "Discount, premium, and assessment on capital stock" is amended by revising paragraphs (e) through (g). As amended the text reads as follows:

Discount, premium, and assessment on capital stock. • • •

• • •

• • • • • •

(e) When capital stock is reacquired, either by purchase or donation, and is retired or cancelled, the par value shall be charged to account 791, "Capital Stock Issued". Any difference between par value and the reacquisition cost, including commission, other expenses incurred in the purchase, and any premium or discount applicable to the original sale, shall be included in account 795, "Paid-In Surplus". However, the excess of a debit over the balance carried in account 795, "Paid-In Surplus", with respect to the particular class of stock, shall be charged to account 616, "Other Debits to Retained Income".

(f) When capital stock is reacquired, either by purchase or donation, and is not retired or cancelled, nor property includible in sinking or other funds, the reacquisition cost shall be charged to account 798.5, "Treasury Stock".

(g) When Treasury Stock is resold, account 798.5, "Treasury Stock", will be credited with the cost paid for it. Any difference between the total amount realized from the sale of treasury stock (less commission and expenses incident thereto), and the amount credited to account 798.5, "Treasury Stock", shall be debited or credited as appropriate to account 795, "Paid-In Surplus". (See paragraph (e) above).

GENERAL BALANCE SHEET ACCOUNTS

The text of account 791 "Capital Stock Issued" paragraph (a) is revised and Note E deleted. As amended the text reads:

791 Capital Stock Issued.

(a) This account shall include the total par value of par value stock, and the total amount paid in or the amount approved by the Commission for stock without par value, for all shares of capital stock or other form of proprietary interest in the accounting company which have been issued to bona fide purchasers and have not been reacquired and canceled, also shares of stock nominally issued.

• • • • •

After the text of account 798, "Retained Income; Unappropriated", the following new account number, title and text are added:

798.5 Treasury Stock.

(a) This account shall include in subdivisions for each class the reacquisition cost of capital stock which has been actually issued or assumed by the carrier then reacquired, and is neither retired or cancelled, nor properly includible in sinking or other funds.

(b) This account shall be maintained to reflect separately securities pledged and unpledged.

(c) This account shall be shown on the Balance Sheet as a deduction in arriving at Stockholders' Equity.

NOTE A: The accounting for the reacquisition of capital stock and resale thereof shall be in accordance with Instruction 6-4, paragraphs (e) through (g).

Account 799, "Form of General Balance Sheet Statement", is revised by adding the following new account number and title:

799 Form of General Balance Sheet Statement.

• • • • •

798 • • •

• • • • •

798.5 Treasury stock

• • • • •

PART 1202—UNIFORM SYSTEM OF ACCOUNTS FOR ELECTRIC RAILWAYS

LIST OF INSTRUCTIONS AND ACCOUNTS

In table of contents under "Operating Expenses" add the following after line item 01-16 *Accounting for income taxes:*

01-17 Transactions with affiliated companies.

01-18 Charges to be just and reasonable.

Under "General Balance Sheet Accounts" add the following immediately after line item "425 Premium on capital stock."

426 Treasury stock.

OPERATING EXPENSES, GENERAL INSTRUCTIONS

After the text of instruction 01-16 "Accounting for Income Taxes", new instructions 01-17 and 01-18 are added to read as follows:

01-17 Transactions with affiliated companies.

(a) The records and supporting data of all transactions with affiliated companies shall be maintained in a separate file. The types of transactions referred to in this paragraph are for management services or any other type of services rendered, sale or use of facilities or any other type of assets or property. The file shall be maintained so as to enable the carrier upon, a Commission request, to furnish accurate information with supporting documentation about particular transactions within 15 day of the request. We do not intend the file to include data relating to ordinary carrier operations (e.g. lawful tariff charges or interchange of equipment).

(b) Each bill rendered by an affiliated company shall state specifically the basis used for determining charges.

(c) Punched cards, magnetic tapes, discs, or other machine-sensible device used for recording, consolidating, and summarizing accounting transactions and records with a carrier's electronic or automatic data processing system may constitute a file within the meaning of this instruction.

(d) The carrier shall record as the cost of assets or services received from an affiliated supplier, their invoice price (plus any incidental costs related to those transactions) in those cases where the invoice price can be determined from a prevailing price list of the affiliated supplier available to the general public in the normal course of business. If no such price list exists, the charges shall be recorded at the lower of their cost to the originating affiliated supplier (less all applicable valuation reserves in case of asset sales), or their estimated fair market value determined on the basis of a representative study of similar competitive and arm's-length or bargained transactions.

Any differences between actual transaction price and the above, as well as charges that are not transportation related, shall be considered of a financing nature and shall be recorded, accordingly, as nonoperating charges or credits. (See Instruction 1-18).

(e) Nothing contained herein shall be construed as restraining the carrier from subdividing accounts for the purpose of recording separately transactions with affiliated companies.

01-18 Charges to be just and reasonable.

All charges to the accounts prescribed in this system of accounts for carrier property, operating revenues, operating and maintenance expenses, and other carrier expenses, shall be just, reasonable and necessary to the honest and efficient operations and management of the carrier business. Payments should not exceed the fair market value of goods and services acquired in an arm's length transaction. Any payments in excess of such just and reasonable charges shall be included in account 225, "Miscellaneous Debits".

GENERAL BALANCE SHEET

The instruction 05-2 "Discount and premium on capital stock" is amended by revising the last three paragraphs and designating the first three paragraphs as (a), (b) and (c), respectively. As amended the text reads:

05-2 Discount and premium on capital stock.

• • • • •

(d) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is retired or cancelled, the par value shall be charged to account 423, "Capital stock". Any difference between par value and the reacquisition cost, including commission, other expenses incurred in the purchase, and any premium or discount applicable to the original sale, shall be included in account 448(a), "Paid-In Surplus". However, the excess of a debit over the balance carried in account 448(a), "Paid-In Surplus", with respect to the particular class of stock, shall be charged to account 420, "Other unadjusted debits".

(e) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is not retired or cancelled, nor properly includible in sinking or other funds, the reacquisition cost shall be charged to account 420, "Treasury Stock".

(f) When Treasury Stock is resold, account 426, "Treasury Stock", will be credited with the cost paid for it. Any

difference between the total amount realized from the sale of treasury stock (less commission and expenses incident thereto), and the amount credited to account 426, "Treasury Stock", shall be debited or credited as appropriate to account 448(a), "Paid-In Surplus". (See paragraph (d) above).

Instruction "05–7 Form of general balance sheet statements" is revised by adding the following line items:

* * * * *

425 * * *
426 Treasury Stock
Total

* * * * *

GENERAL BALANCE SHEET ACCOUNTS

Account 425 "Premium on capital stock" is revised to read:

425 Premium on capital stock.

(a) This account shall include the excess of the actual cash value (at the time of sale of the stock) of the consideration received over the amount recorded in account 423, "Capital stock," for par value stock plus accrued dividends, if any; also subsequent assessments against stockholders for payments required in excess of the par value or other amount recorded in account 423, "Capital stock."

(b) When capital stock is retired and canceled, the amount in this account with respect to the shares of such stock retired and canceled shall be charged hereto.

After the text of account 426, "Premium on capital stock" the following new account number, title and text are added:

426 Treasury Stock.

(a) This account shall include in subdivisions for each class the reacquisition cost of capital stock which has been actually issued or assumed by the carrier then reacquired, and is neither retired or cancelled, nor properly includible in sinking or other funds.

(b) This account shall be maintained to reflect separately securities pledged and unpledged.

(c) This account shall be shown on the Balance Sheet as a deduction in arriving at Total stock.

NOTE A: The accounting for the reacquisition of capital stock and resale thereof shall be in accordance with Instruction 05–2, paragraphs (d) through (f).

1203—UNIFORM SYSTEM OF ACCOUNTS FOR EXPRESS COMPANIES

LIST OF INSTRUCTIONS AND ACCOUNTS

In Table of Contents under "General Instructions" add the following immediately after line item 1–18 "Accounting for Income taxes".

1–19 Transactions with affiliated companies.
1–20 Charges to be just and reasonable.

Under "Balance Sheet Account Classifications" add the following immediately after line item "255 Retained income":

256 Treasury stock.

GENERAL INSTRUCTIONS

Instruction "1–2 Accounting scope", paragraph (d), is amended by adding line item "256 Treasury stock" in proper sequence.

* * * * *

256 Treasury stock.

* * * * *

After general instruction 1–18 "Accounting for income taxes", add the new instructions 1–19 "Transactions with affiliated companies" and 1–20 "Charges to be just and reasonable" to read as follows:

1–19 Transactions with affiliated companies.

(a) The records and supporting data of all transactions with affiliated companies shall be maintained in a separate file. The types of transactions referred to in this paragraph are for management services or any other type of services rendered, sale or use of facilities or any other type of assets or property. The file shall be maintained so as to enable the carrier, upon a Commission request, to furnish accurate information with supporting documentation about particular transactions within 15 days of the request. We do not intend the file to include data relating to ordinary carrier operations (e.g. lawful tariff charges or interchange of equipment).

(b) Each bill rendered by an affiliated company shall state specifically the basis used for determining charges.

(c) Punched cards, magnetic tapes, discs, or other machine-sensible device used for recording, consolidating, and summarizing accounting transactions and records with a carrier's electronic or automatic data processing system may constitute a file within the meaning of this instruction.

(d) The carrier shall record as the cost of assets or services received from an affiliated supplier, their invoice price (plus any incidental costs related to those transactions) in those cases where the invoice price can be determined from a prevailing price list of the affiliated supplier available to the general public in the normal course of business. If no such price list exists, the charges shall be recorded at the lower of their cost to the originating affiliated supplier (less all applicable valuation reserves in case of asset sales), or their estimated fair market value determined on the basis of a representative study of similar competitive and arm's-length or bargained transactions.

Any differences between actual transaction price and the above, as well as charges that are not transportation related, shall be considered of a financing nature and shall be recorded, accordingly, as nonoperating charges or credits. (See Instruction 1–20.)

(e) Nothing contained herein shall be construed as restraining the carrier from subdividing accounts (see Instruction 1–3(a)) for the purpose of recording separately transactions with affiliated companies.

1–20 Charges to be just and reasonable.

All charges to the accounts prescribed in this system of accounts for carrier property, operating revenues, operating and maintenance expenses, and other carrier expenses, shall be just, reasonable and necessary to the honest and efficient operations and management of the carrier business. Payments should not exceed the fair market value of goods and services acquired in arm's length transaction. Any payments in excess of such just and reasonable charges shall be included in account 731 "Miscellaneous expenses."

BALANCE SHEET ACCOUNT CLASSIFICATIONS

The text of account 251 "Preferred stocks" paragraphs (a) and (b) is revised to read:

251 Preferred stock.

(a) This account shall include the par value of par value stock, stated value of no-par value stock and the amount received for no-par value stock without stated value, which have been issued to bona fide purchasers and have not been reacquired and cancelled. When other than cash is received for no-par value stock without stated value, the fair market value of the consideration shall be entered in the account.

(b) This account shall be divided so as to show separately each class of stock issued, subdivided between issued and actually outstanding, nominally issued be entered in this account.

* * * * *

The text of account 252 "Common stock", paragraphs (a) and (b) is revised to read:

252 Common stock.

(a) This account, as subdivided below, shall include the par value of par value stock, stated value of no-par value stock and the amount received for no-par value stock without stated value, which have been issued to bona fide purchasers and have not been reacquired and cancelled. When other than cash is received for no-par value stock without stated value, the fair market value of the consideration shall be entered in this account.

(b) This account shall be divided so as to show separately each class of stock issued, subdivided between issued and actually outstanding, nominally issued and nominally outstanding.

* * * * *

The text of account 254 "Capital surplus", paragraph (c) is revised: As amended the paragraph reads:

254 Capital surplus.

* * * * *

(c) *02 Other capital surplus.* (1) When an issue of capital stock or any part thereof is required, either by purchase

or donation, and is retired or cancelled, the par value shall be charged to account 251 "Preferred stock" or 252 "Common stock". Any difference between par value and the reacquisition cost, including commission, other expenses incurred in the purchase, and any premium or discount applicable to the original sale, shall be included in this account. However, the excess of a debit over the balance carried in this account, with respect to the particular class of stock, shall be charged to account 255–08—other debits.

(2) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is not retired or cancelled, nor properly includible in sinking or other funds, the reacquisition cost shall be charged to account 256-Treasury stock.

(3) When Treasury stock is resold, account 256-Treasury stock, will be credited with the cost paid for it. Any difference between the total amount realized from the sale of treasury stock (less commission and expenses incident thereto), and the amount credited to account 256-Treasury stock, shall be debited or credited as appropriate to this account. (See paragraph (1) above.)

• • • • •

After the text of account 255 "Retained income", the following new account number, title and text are added:

256 Treasury stock.

(a) This account shall include in subdivisions for each class the reacquisition cost of capital stock which has been actually issued or assumed by the carrier then reacquired, and is neither retired or cancelled, nor properly includible in sinking or other funds.

(b) This account shall be maintained to reflect separately securities pledged and unpledged.

(c) This account shall be shown on the Balance Sheet as a deduction in arriving at Stockholders' Equity.

NOTE A: The accounting for the reacquisition of capital stock and resale thereof shall be in accordance with Balance sheet account classification 254–(c)–02, paragraphs (1) through (3).

Account 299 "Form of balance sheet" is revised by adding the following:

299 Form of balance sheet.

• • • • •

256 Treasury stock.....( )
Total Shareholders' Equity.....

PART 1204—UNIFORM SYSTEM OF ACCOUNTS FOR PIPELINE COMPANIES

LIST OF INSTRUCTIONS AND ACCOUNTS

In table of contents under "General Instructions", add the following after line item 1–12 "Accounting for income taxes".

1–13 Transactions with affiliated companies.
1–14 Charges to be just and reasonable.

Under "Balance Sheet Accounts" add the following immediately after line item 75 "Unappropriated retained income".

76 Treasury stock.

GENERAL INSTRUCTIONS

After general instruction 1–12 "Accounting for income taxes", add the new instruction 1–13 "Transactions with affiliated companies" and 1–14 "Charges to be just and reasonable" to read as follows:

1–13 Transactions with affiliated companies.

(a) The records and supporting data of all transactions with affiliated companies shall be maintained in a separate file. The types of transactions referred to in this paragraph are for management services or any other type of services rendered, sale or use of facilities or any other type of assets or property. The file shall be maintained so as to enable the carrier, to furnish accurate information with supporting documentation about particular transactions within 15 days of the request. We do not intend the file to include data relating to ordinary carrier operations (e.g. lawful tariff charges or interchange of equipment).

(b) Each bill rendered by an affiliated company shall state specifically the basis used for determining charges.

(c) Punched cards, magnetic tapes, discs, or other machine-sensible device used for recording, consolidating, and summarizing accounting transactions and records with a carrier's electronic or automatic data processing system may constitute a file within the meaning of this instruction.

(d) The carrier shall record, as the cost of assets or services received from an affiliated supplier, their invoice price (plus any incidental costs related to those transactions) in those cases where the invoice price can be determined from a prevailing price list of the affiliated supplier available to the general public in the normal course of business. If no such price list exists, the charges shall be recorded at the lower of their cost to the originating affiliated supplier (less all applicable valuation reserves in case of asset sales), or their estimated fair market value determined on the basis of a representative study of similar competitive and arm's-length or bargained transactions.

Any differences between actual transaction price and the above, as well as charges that are not transportation related, shall be considered of a financing nature and shall be recorded, accordingly, as nonoperating charges or credits. (See Instruction 1–14.)

(e) Nothing contained herein shall be construed as restraining the carrier from subdividing accounts (see Instruction 1–2(a)) for the purpose of recording separately transactions with affiliated companies.

1–14 Charges to be just and reasonable.

All charges to the accounts prescribed in this system of accounts for carrier property, operating revenues, operating and maintenance expenses, and other carrier expenses, shall be just, reasonable and necessary to the honest and efficient operations and management of the carrier business. Payments should not exceed the fair market value of goods and services acquired in an arm's length transaction. Any payments in excess of such just and reasonable charges shall be included in account 660, Miscellaneous Income Charges.

BALANCE SHEET ACCOUNTS

The text of account 70 "Capital stock" is revised to read:

70 Capital stock.

(a) This account shall include the par value of par value stock, stated value of no-par stock, and the amount received for no-par stock without stated value, which have been issued to bona fide purchasers and have not been reacquired and canceled, also shares of stock nominally issued. When other than cash is received for no-par value stock, the fair market value of the consideration shall be entered in this account.

(b) This account shall be divided so as to show separately each class of stock issued, subdivided between (1) issued and actually outstanding, and (2) nominally issued and nominally outstanding.

(c) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is retired or cancelled, the par value shall be charged to this account. Any difference between par value and the reacquisition cost, including commission, other expenses incurred in the purchase, and any premium or discount applicable to the original sale, shall be included in account 73, Additional Paid-In Capital. However, the excess of a debit over the balance carried in account 73 with respect to the particular class of stock, shall be charged to account 720, Other Debits to Retained Income.

(d) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is not retired or cancelled, nor properly includible in sinking or other funds, the reacquisition cost shall be charged to account 76, Treasury Stock.

(e) When Treasury Stock is resold, account 76, Treasury Stock, will be credited with the cost paid for it. Any difference between the total amount realized from the sale of treasury stock (less commission and expenses incident thereto), and the amount credited to account 76, shall be debited or credited as appropriate to account 73, Additional Paid-In Capital. (See paragraph (c) above.)

After the text of account 75 "Unappropriated retained income" the following new account number, title and text are added:

76 Treasury stock.

(a) This account shall include in subdivisions for each class the reacquisition cost of capital stock which has been actually issued or assumed by the carrier then reacquired, and is neither retired or cancelled, nor properly includible in sinking or other funds.

(b) This account shall be maintained to reflect separately securities pledged or unpledged.

(c) This account shall be shown on the Balance Sheet as a deduction in arriving at Stockholders' Equity.

NOTE A: The accounting for the reacquisition of capital stock and resale thereof shall be in accordance with Balance sheet account 70, paragraphs (c) through (e).

Account 797 "Form of general balance sheet" is revised by adding the following:

797 Form of general balance sheet.

* * * * *

76 Treasury stock.
Total Stockholders' Equity

AMEND PART 1205—UNIFORM SYSTEM OF ACCOUNTS FOR REFRIGERATOR CARLINES

LIST OF INSTRUCTIONS AND ACCOUNTS

In table of contents under "Income and Balance Sheet Accounts Instructions" add the following immediately after line item 42 "Accounting for Income taxes".

43 Transactions with affiliated companies.
44 Charges to be just and reasonable.

Under "General Balance Sheet Accounts Text" add the following immediately after line item 798 "Retained income—Unappropriated".

798.5 Treasury stock.

INCOME AND BALANCE SHEET ACCOUNT INSTRUCTIONS

Instruction 39 "Discount, premium, and assessment in capital stock" is amended by designating the present paragraphs, paragraphs (a) through (g) and by revising the last three paragraphs. As amended the text reads:

39 Discount, premium, and assessment on capital stock.

* * * * *

(e) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is retired or cancelled, the par value shall be charged to account 791, "Capital stock issued". Any difference between par value and the reacquisition cost, including commission, other expenses incurred in the purchase, and any premium or discount applicable to the original sale, shall be included in account 795, "Paid-in surplus". However, the excess of a debit over the balance carried in account 795, "Paid-in surplus", with respect to the particular class of stock, shall be charged to account 616, "Other debits to retained income".

(f) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is not retired or cancelled, nor properly includible in sinking or other funds, the reacquisition cost shall be charged to account 798.5, "Treasury stock".

(g) When Treasury Stock is resold, account 798.5, "Treasury stock", will be credited with the cost paid for it. Any difference between the total amount realized from the sale of treasury stock (less commission and expenses incident thereto), and the amount credited to account 798.5, "Treasury stock", shall be debited or credited as appropriate to account 795, "Paid-in surplus". (See paragraph (e) above).

After instruction 42 "Accounting for Income taxes", add the new instruction 43 "Transactions with affiliated companies" and instruction 44 "Charges to be just and reasonable" to read as follows:

43 Transactions with affiliated companies.

(a) The records and supporting data of all transactions with affiliated companies shall be maintained in a separate file. The types of transactions referred to in this paragraph are for management services or any other type of services rendered, sale or use of facilities or any other type of assets or property. The file shall be maintained so as to enable the carrier, upon a Commission request, to furnish accurate information with supporting documentation about particular transactions within 15 days of the request. We do not intend the file to include data relating to ordinary carrier operations (e.g. lawful tariff charges or interchange of equipment).

(b) Each bill rendered by an affiliated company shall state specifically the basis used for determining charges.

(c) Punched cards, magnetic tapes, discs, or other machine-sensible device used for recording, consolidating, and summarizing accounting transactions and records with a carrier's electronic or automatic data processing system may constitute a file within the meaning of this instruction.

(d) The carrier shall record, as the cost of assets or services received from an affiliated supplier, their invoice price (plus any incidental costs related to those transactions) in those cases where the invoice price can be determined from a prevailing price list of the affiliated supplier available to the general public in the normal course of business. If no such price list exists, the charges shall be recorded at the lower of their cost to the originating affiliated supplier (less all applicable valuation reserves in case of asset sales), or their estimated fair market value determined on the basis of a representative study of similar competitive and arm's-length or bargained transactions.

Any differences between actual transaction price and the above, as well as charges that are not transportation related, shall be considered of a financing nature and shall be recorded, accordingly, as nonoperating charges or credits. (See Instruction 44.)

(e) Nothing contained herein shall be construed as restraining the carrier from subdividing accounts (see Instruction 4(b)) for the purpose of recording separately transactions with affiliated companies.

44 Charges to be just and reasonable.

All charges to the accounts prescribed in this system of accounts for carrier property, operating revenues, operating and maintenance expenses, and other carrier expenses, shall be just, reasonable and necessary to the honest and efficient operations and management of the carrier business. Payments should not exceed the fair market value of goods and services acquired in an arm's length transaction. Any payments in excess of such just and reasonable charges shall be included in account 551, "Miscellaneous income charges".

GENERAL BALANCE SHEET ACCOUNTS

The text of accounts 791 "Capital Stock Issued" is amended by revising the first paragraph and deleting note E. As amended the text reads:

791 Capital stock issued.

This account shall include the total par value of par value stock, and the total amount paid in for stock without par value, for all shares of capital stock or other form of proprietary interest in the accounting company which have been issued to bona fide purchasers and have not been reacquired and cancelled, also shares of stock nominally issued.

* * * * *

After the text of account 798 "Retained income—Unappropriated", the following new account number, title and text are added:

798.5 Treasury Stock.

(a) This account shall include in subdivisions for each class the reacquisition cost of capital stock which has been actually issued or assumed by the carrier then reacquired, and is neither retired or cancelled, nor properly includible in sinking or other funds.

(b) This account shall be maintained to reflect separately securities pledged and unpledged.

(c) This account shall be shown on the Balance Sheet as a deduction in arriving at Stockholders' Equity.

NOTE A: The accounting for the reacquisition of capital stock and resale thereof shall be in accordance with Instruction 39, paragraphs (5) through (7).

Account 799 "Form of general balance sheet statement", is revised by adding the following:

799 Form of general balance sheet statement.

Total retained income ---- --------
798.5 Treasury stock ----------( )
Total shareholders' equity --------

PART 1206—UNIFORM SYSTEM OF ACCOUNTS FOR COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

LIST OF DEFINITIONS, INSTRUCTIONS, AND ACCOUNTS

In Table of Contexts under "Instructions" add the following immediately after line item 2-32 "Accounting for the Income taxes":

2-33 Transactions with affiliated companies.
2-34 Charges to be just and reasonable.

Under "Balance Sheet Accounts" add the following immediately after line 2946 "Other debits to surplus":

2947 Treasury stock.

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INSTRUCTIONS

The text of instruction 2–14 "Company securities owned" is amended by revising paragraph (a) to read:

2–14 Company securities owned.

(a) *Capital stock.* (1) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is retired or cancelled, the par value shall be charged to account 2700, Preferred Capital Stock, or account 2710, Common Capital Stock. Any difference between par value and the reacquisition cost, including commission, other expenses incurred in the purchase, and any premium or discount applicable to the original sale, shall be included in account 2900, Unearned Surplus. However, the excess of a debit over the balance carried in account 2900, with respect to the particular class of stock, shall be charged to account 2946, Other Debits to Surplus.

(2) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is not retired or cancelled, nor properly includible in sinking or other funds, the reacquisition cost shall be charged to account 2947, Treasury Stock.

(3) When Treasury Stock is resold, account 2947, Treasury Stock, will be credited with the cost paid for it. Any difference between the total amount realized from the sale of treasury stock (less commission and expenses incident thereto), and the amount credited to account 2947, shall be debited or credited as appropriate to account 2900, Unearned Surplus. (See paragraph (1) above).

• • • • •

After instruction 2–32 "Accounting for Income taxes", add the new instructions 2–33 "Transactions with affiliated companies" and 2–34 "Charges to be just and reasonable" to read as follows:

2–33 Transactions with affiliated companies.

(a) The records and supporting data of all transactions with affiliated companies shall be maintained in a separate file. The types of transactions referred to in this paragraph are for management services or any other type of services rendered, sale or use of facilities or any other type of assets or property. The file shall be maintained so as to enable the carrier, upon a Commission request, to furnish accurate information with supporting documentation about particular transactions within 15 days of the request. We do not intend the file to include data relating to ordinary carrier operations (e.g. lawful tariff charges or interchange of equipment).

(b) Each bill rendered by an affiliated company shall state specifically the basis used for determining charges.

(c) Punched cards, magnetic tapes, discs, or other machine-sensible device used for recording, consolidating, and summarizing accounting transactions and records with a carrier's electronic or automatic data processing system may constitute a file within the meaning of this instruction.

(d) The carrier shall record, as the cost of assets or services received from an affiliated supplier, their invoice price (plus any incidental costs related to those transactions) in those cases where the invoice price can be determined from a prevailing price list of the affiliated supplier available to the general public in the normal course of business. If no such price list exists, the charges shall be recorded at the lower of their cost to the originating affiliated supplier (less all applicable valuation reserves in case of asset sales), or their estimated fair market value determined on the basis of a representative study of similar competitive and arm's-length or bargained transactions.

Any differences between actual transaction price and the above, as well as charges that are not transportation related, shall be considered of a financing nature and shall be recorded, accordingly, as nonoperating charges or credits. (See Instruction 2–34.)

(e) Nothing contained herein shall be construed as restraining the carrier from subdividing accounts (see Instruction 2–2(d)) for the purpose of recording separately transactions with affiliated companies.

2–34 Charges to be just and reasonable.

All charges to the accounts prescribed in this system of accounts for carrier property, operating revenues, operating and maintenance expenses, and other carrier expenses, shall be just, reasonable and necessary to the honest and efficient operations and management of the carrier business. Payments should not exceed the fair market value of goods and services acquired in an arm's length transaction. Any payments in excess of such just and reasonable charges shall be included in account 7500, Other Deductions.

BALANCE SHEET ACCOUNTS

The text of account 1920 "Reacquired securities" is revised to read:

1920 Reacquired securities.

This account shall include in subdivisions for each class, the face, par, or stated value of bonds, and other forms of securities which have been actually issued or assumed by the carrier, and reacquired and are neither retired nor properly included in sinking or other funds.

• • • • •

After the text of account 2946 "Other debits to surplus," the following new account number, title, and text are added:

2947 Treasury stock.

(a) This account shall include in subdivisions for each class the reacquisition cost of capital stock which has been actually issued or assumed by the carrier then reacquired, and is neither retired or cancelled, nor properly includible in sinking or other funds.

(b) This account shall be maintained to reflect separately securities pledged and unpledged.

(c) This account shall be shown on the Balance Sheet as a deduction in arriving at Stockholders' Equity.

NOTE A: The accounting for the reacquisition of capital stock and resale thereof shall be in accordance with Instruction 2–14, paragraph (a).

Account 2999 "Form for balance sheet statement" is amended to read:

2999 Form for balance sheet statement.

• • • • •

Capital Stock:			
2700	Preferred Capital Stock	$	---------
	Less: Nominally Issued		---------
2710	Common Capital Stock		---------
	Less: Nominally Issued		---------
2720	• • •		
•	• • • •		
	Total Unappropriated Surplus		---------
2947	Treasury Stock		(---------)
	Total Liabilities		---------

• • • • •

PART 1207—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

LIST OF INSTRUCTIONS

In table of contents under "Instructions" amend line item 34 "Transaction with affiliates" to read:

34 Transactions with affiliated companies.

CLASS I AND CLASS II MOTOR CARRIER INSTRUCTIONS

The text of instruction 4 "Charges to be just and reasonable" is amended to read as follows:

4 Charges to be just and reasonable.

All charges to the accounts prescribed in this system of accounts for carrier property, operating revenues, operating and maintenance expenses, and other carrier expenses, shall be just, reasonable and necessary to the honest and efficient operations and management of the carrier business. Payments should not exceed the fair market value of goods and services acquired in an arm's length transaction. Any payments in excess of such just and reasonable charges shall be included in Account Series 8400—Other Nonoperating Income (Net) (Class II), and Account 8420—Other Nonoperating Deductions (Class I).

The instruction 16 "Capital Stock" is amended by revising paragraphs (d) and (e). As amended the text reads as follows:

16 Capital Stock.

• • • • •

(d) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is retired or cancelled, the par value shall be charged to account 2610, Capital Stock (Class II), and account 2611—Capital Stock-Preferred; or 2612—Capital Stock-Common (Class I); if cancelled. Any difference between par value and the reacquisition cost, including commission, other expenses incurred in the purchase,

and any premium or discount applicable to the original sale, shall be included in account 2641—Other Capital in Excess of Par or Stated Value (Class I and II). However, the excess of a debit over the balance carried in account 2641 with respect to the particular class of stock, shall be charged to account 2961—Other Debits to Retained (Classes I and II).

(c) (1) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is not retired or cancelled, nor properly includible in sinking or other funds, the reacquisition cost shall be charged to account 2661—Treasury Stock (Classes I and II).

(2) When Treasury Stock is resold, account 2661—Treasury Stock (Classes I and II), will be credited with the cost paid for it. Any difference between the total amount realized from the sale of treasury stock (less commission and expenses incident thereto), and the amount credited to account 2661, shall be debited or credited as appropriate to account 2641—Other Capital in Excess of Par or Stated Value (Classes I and II). See paragraph (d) above.

The title and text of instruction 34 "Transactions with affiliates" are amended to read as follows:

34 Transactions with affiliated companies.

(a) The records and supporting data of all transactions with affiliated companies shall be maintained in a separate file. The types of transactions referred to in this paragraph are for management services or any type of services rendered, sale or use of facilities or any other type of assets or property. The file shall be maintained so as to enable the carrier, upon a Commission request, to furnish accurate information with supporting documentation about particular transactions within 15 days of the request. We do not intend the file to include data relating to ordinary carrier operations (e.g. lawful traiff charges or interchange of equipment).

(b) Each bill rendered by an affiliated company shall state specifically the basis used for determining charges.

(c) Punched cards, magnetic tapes, discs, or other machine-sensible device used for recording, consolidating, and summarizing accounting transactions and records with a carrier's electronic or automatic data processing system may constitute a file within the meaning of this instruction.

(d) The carrier shall record, as the cost of assets or services received from an affiliated supplier, their invoice price (plus any incidental costs related to those transactions) in those cases where the invoice price can be determined from a prevailing price list of the affiliated supplier available to the general public in the normal course of business. If no such price list exists, the charges shall be recorded at the lower of their cost to the originating affiliated supplier (less all applicable valuation reserves in case of asset sales), or their estimated fair market value determined on the basis of a representative study of similar competitive and arm's-length or bargained transactions.

Any differences between actual transaction price and the above, as well as charges that are not transportation related, shall be considered of a financing nature and shall be recorded, accordingly, as nonoperating charges or credits. (See Instruction 4).

(e) Nothing contained herein shall be construed as restraining the carrier from subdividing accounts (see Instruction 2(e)) for the purpose of recording separately transactions with affiliated companies.

CLASS I AND CLASS II MOTOR CARRIERS BALANCE SHEET ACCOUNTS EXPLANATIONS

Account 2612 "Capital Stock—Common (class I)" is amended by revising paragraph (a). As amended the text reads:

2612 Capital Stock—Common (class I).

(a) These accounts 2611 and 2612, shall include the par value of stock with par value; the stated value of nonpar stock having a stated value; and the case value of the consideration received, including assessments, or the amount approved by the Commission, for nonpar stocks without stated value, which have been issued to bona fide purchasers and have not been reacquired and canceled; also shares of stock nominally issued (see definition 29). The cash consideration received from the sale of par value stock and of nonpar stock having a stated value in excess of the amount credited to this account, shall be credited to account 2631—Premiums and Assessments on Capital Stock. (See Instruction 16).

• • • • •

Account 2631 "Premiums and Assessments on Capital Stock (class I and II)", is amended by revising paragraph (d). As amended the text reads:

2631 Premiums and Assessments on Capital Stock (classes I and II).

• • • • •

(d) When capital stock is retired and canceled, the amount in this account with respect to the shares of such stock retired and canceled shall be charged hereto.

• • • • •

Account 2661 "Treasury Stock (classes I and II)", is revised to read as follows:

2661 Treasury Stock (classes I and II).

(a) This account shall include in subdivisions for each class the reacquisition cost of capital stock which has been actually issued or assumed by the carrier then reacquired, and is neither retired or cancelled, nor properly includible in sinking or other funds.

(b) This account shall be maintained to reflect separately securities pledged and unpledged.

(c) This account shall be shown on the Balance Sheet as a deduction in arriving at Stockholders' Equity.

NOTE A: The accounting for the reacquisition of capital stock and resale thereof shall be in accordance with Instruction 16, paragraph (d) through (e)(2).

PART 1209—UNIFORM SYSTEM OF ACCOUNTS FOR INLAND AND COASTAL WATERWAYS CARRIERS

LIST OF INSTRUCTIONS AND ACCOUNTS

In Table of Contents under "General Instructions" the following new line items are added:

• • • • •

14 Transactions with affiliated companies.
15 Charges to be just and reasonable.

Under "Balance Sheet Accounts" the following new line item is added:

• • • • •

200-1 Treasury stock.

GENERAL INSTRUCTION

After the text of instruction 13 "Accounting for Income taxes," the following new account numbers, titles and texts are added:

14 Transactions with affiliated companies.

(a) The records and supporting data of all transactions with affiliated companies shall be maintained in a separate file. The types of transactions referred to in this paragraph are for management services or any other type of services rendered, sale or use of facilities or any other type of assets or property. The file shall be maintained so as to enable the carrier, upon a Commission request, to furnish accurate information with supporting documentation about particular transactions within 15 days of the request. We do not intend the file to include data relating to ordinary carrier operations (e.g. lawful tariff charges or interchange of equipment).

(b) Each bill rendered by an affiliated company shall state specifically the basis used for determining charges.

(c) Punched cards, magnetic tapes, discs, or other machine-sensible device used for recording, consolidating, and summarizing accounting transactions and records with a carrier's electronic or automatic data processing system may constitute a file within the meaning of this instruction.

(d) The carrier shall record, as the cost of assets or services received from an affiliated supplier, their invoice price (plus any incidental cost related to those transactions) in those cases where the invoice price can be determined from a prevailing price list of the affiliated supplier available to the general public in the normal course of business. If no such price list exists, the charges shall be recorded at the lower of their cost to the originating affiliated supplier (less all applicable valuation reserves in case of asset sales), or their estimated fair market value determined on the basis of a representative study of similar competitive and arm's-length or bargained transactions.

Any differences between actual transaction price and the above, as well as

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charges that are not transportation related, shall be considered of a financing nature and shall be recorded, accordingly, as nonoperating charges or credits. (See Instruction 15).

(e) Nothing contained herein shall be construed as restraining the carrier from subdividing accounts (see Instruction 1(e) 1) for the purpose of recording separately transactions with affiliated companies.

15 Charges to be just and reasonable.

All charges to the accounts prescribed in this system of accounts for carrier property, operating revenues, operating and maintenance expenses, and other carrier expenses, shall be just, reasonable and necessary to the honest and efficient operations and management of the carrier business. Payments should not exceed the fair market value of goods and services acquired in an arm's-length transaction. Any payments in excess of such just and reasonable charges shall be included in account 527, "Miscellaneous income charges."

BALANCE SHEET INSTRUCTIONS

Balance sheet instruction 24 "Company securities owned," is revised to read as follows:

24 Company securities owned.

Securities actually issued or assumed by the carrier which have been reacquired shall be either retired or if not retired, carried in accounts 280–1, "Treasury stock" or 190, "Reacquired and nominally issued long-term debt," unless it is required by provisions of a mortgage or by decision of a trustee, not subject to control by the carrier, that funded debt securities be retained alive in sinking or other special funds. Reacquired securities not retired shall be shown at the amount paid for such stock.

Balance sheet instruction 26 "Discount, expense, and premium on capital stock" is amended by revising paragraphs (d) and (e) and adding (f). As amended the text reads:

26 Discount, expense, and premium on capital stock.

• • • • •

(d) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is retired or cancelled, the par value shall be charged to account 240, "Capital Stock". Any difference between par value and the reacquisition cost, including commission, other expenses incurred in the purchase, and any premium or discount applicable to the original sale, shall be included in account 250–2, "Paid-in surplus". However, the excess of a debit over the balance carried in account 250–2, "Paid-in surplus", with respect to the particular class of stock, shall be charged to account 285, "Miscellaneous debits".

(e) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is not retired or cancelled, nor properly includible in sinking or other funds, the reacquisition cost shall be charged to account 280–1, "Treasury stock".

(f) When Treasury stock is resold, account 280–1, "Treasury stock", will be credited with the cost paid for it. Any difference between the total amount realized from the sale of treasury stock (less commission and expenses incident thereto), and the amount credited to account 280–1, "Treasury stock", shall be debited or credited as appropriate to account 250–2, "Paid-in surplus". (See paragraph (d) above).

BALANCE SHEET ACCOUNTS

The title, text, and note of account 191 "Reacquired and nominally issued capital stock", is revised to read as follows:

191 Nominally issued capital stock.

This account shall include the par value of capital stock of the carrier nominally issued. If no par stock, it shall be charged at the pro rata proportion at which it is credited to account 240, "Capital stock". Stock having no par value classifiable as nominally issued shall be recorded by the number of shares.

NOTE: The accounting for the reacquisition and resale of capital stock actually issued or assumed by the company shall be in accordance with instruction 26 (d) through (f).

Account 240, "Capital stock" will be amended by revising paragraph (e). As amended the text reads:

240 Capital stock.

• • • • •

(e) In case capital stock is reacquired and held in the treasury such stock shall be included in the appropriate accounts in accordance with paragraphs (d) through (f) of instruction 26.

Account 243 "Discount and expense on capital stock", is amended by revising paragraph (b). As amended the text reads:

243 Discount and expense on capital stock.

• • • • •

(b) When capital stock is retired and canceled, the amount in this account with respect to the shares of such stock retired and canceled shall be credited hereto.

Account 250–1 "Premiums and assessments on capital stock", is amended by revising paragraph (b). As amended the text reads:

250–1 Premiums and assessments on capital stock.

• • • • •

(b) When capital stock is retired and canceled, the amount in this account with respect to the shares of such stock retired and canceled shall be charged hereto.

After the text of account 280 "Retained income—Unappropriated", the following new account number, title, and text are added:

280–1 Treasury stock.

(a) This account shall include in subdivisions for each class the reacquisition cost of capital stock which has been actually issued or assumed by the carrier then reacquired, and is neither retired or cancelled, nor properly includible in sinking or other funds.

(b) This account shall be maintained to reflect separately securities pledged and unpledged.

(c) This account shall be shown on the Balance Sheet as a deduction in arriving at Stockholders' Equity.

NOTE A: The accounting for the reacquisition of capital stock and resale thereof shall be in accordance with instruction 26, paragraph (d) through (f).

Account 299 "Form of balance sheet statement", is revised as follows:

299 Form of balance sheet statement.

• • • • •

191 Nominally issued capital stock.

• • • • •

280 • • •

Total retained income.....

280–1 Treasury stock.....( )

Total capital and surplus.....

• • • • •

PART 1210—UNIFORM SYSTEM OF ACCOUNTS FOR FREIGHT FORWARDERS

LIST OF INSTRUCTIONS AND ACCOUNTS

In table of contents under "General Instructions" the following new line items are added:

• • • • •

9 Transactions with affiliated companies.
10 Charges to be just and reasonable.

Under "General Balance Sheet Accounts", the line item 280 "Reacquired capital stock" is revised to read:

280 Treasury stock.

GENERAL INSTRUCTIONS

After the text of instruction 8 "Accounting for Income taxes", the following new account numbers, titles and texts are added:

9 Transactions with affiliated companies.

(a) The records and supporting data of all transactions with affiliated companies shall be maintained in a separate file. The types of transactions referred to in this paragraph are for management services or any other type of services rendered, sale or use of facilities or any other type of assets or property. The file shall be maintained so as to enable the carrier, upon a Commission request, to furnish accurate information with supporting documentation about particular transactions within 15 days of the request. We do not intend the file to include data relating to ordinary carrier operations (e.g., lawful tariff charges or interchange of equipment).

(b) Each bill rendered by an affiliated company shall state specifically the basis used for determining charges.

(c) Punched cards, magnetic tapes, discs, or other machine-sensible device used for recording, consolidating, and summarizing accounting transactions and records with a carrier's electronic or automatic data processing system may

constitute a file within the meaning of this instruction.

(d) The carrier shall record as the cost of assets or services received from an affiliated supplier, their invoice price (plus any incidental costs related to those transactions) in those cases where the invoice price can be determined from a prevailing price list of the affiliated supplier available to the general public in the normal course of business. If no such price list exists, the charges shall be recorded at the lower of their cost to the originating affiliated supplier (less all applicable valuation reserves in case of asset sales), or their estimated fair market value determined on the basis of a representative study of similar competitive and arm's-length or bargained transactions.

Any differences between actual transaction price and the above, as well as charges that are not transportation related, shall be considered of a financing nature and shall be recorded, accordingly, as nonoperating charges or credits. (See Instruction 10).

(e) Nothing contained herein shall be construed as restraining the carrier from subdividing accounts (see Instruction 1 (e) 1). for the purposes of recording separately transactions with affiliated companies.

10 Charges to be just and reasonable.

All charges to the accounts prescribed in this system of accounts for carrier property, operating revenues, operating and maintenance expenses, and other carrier expenses, shall be just, reasonable and necessary to the honest and efficient operations and management of the carrier business. Payments should not exceed the fair market value of goods and services acquired in an arm's-length transaction. Any payments in excess of such just and reasonable charges shall be included in account 414, "Miscellaneous income charges".

GENERAL BALANCE SHEET INSTRUCTIONS

The text of instruction 23 "Company securities owned", is revised to read as follows:

23 Company securities owned.

Securities actually issued or assumed by the company which have been reacquired and not retired, shall be carried in account 280, "Treasury stock" or 190, "Reacquired and nominally issued long-term debt", unless it is required by provisions of a mortgage or by decision of a trustee not subject to control by the company, that such securities be retained alive in sinking or other special funds. Reacquired long-term debt not retired shall be shown at par or face value, and reacquired capital stock not retired shall be shown at the amount paid for such stock.

Instruction 24 "Discount, premium, and expense on capital stock" is amended by revising paragraphs (d), (e) and adding (f). As amended the text reads:

24 Discount, premium, and expense on capital stock.

* * * * * * *

(d) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is retired or cancelled, the par value shall be charged to account 240, "Capital stock". Any difference between par value and the reacquisition cost, including commission, other expenses incurred in the purchase, and any premium or discount applicable to the original sale, shall be included in account 250–1, "Paid-in surplus". However, the excess of a debit over the balance carried in account 250–1, "Paid-in surplus", with respect to the particular class of stock, shall be charged to account 310, "Miscellaneous debits".

(e) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is not retired or cancelled, nor properly includible in sinking or other funds, the reacquisition cost shall be charged to account 280, "Treasury stock".

(f) When Treasury Stock is resold, account 280, "Treasury stock", will be credited with the cost paid for it. Any difference between the total amount realized from the sale of treasury stock (less commission and expenses incident thereto), and the amount credited to account 280, "Treasury stock", shall be debited or credited as appropriate to account 250–1, "Paid-in surplus". (See paragraph (d) (above).

Instruction 28, "Form of general balance sheet statement", is amended as follows:

28 Form of general balance sheet statement.

* * * * * * *

270 * * *
Surplus prior to January 1, 1943:
---- balance
280 Treasury stock
Pledged
Unpledged

* * * * * * *

The text of account 191 "Nominally issued capital stock", is amended to read:

191 Nominally issued capital stock.

This account shall include the par value, or with respect to no par stock, the amounts recorded in account 240, "Capital stock", relating thereto, of nominally issued capital stock.

NOTE: The amount paid for capital stock actually issued or assumed by the company and reacquired by it and held uncanceled shall be included in account 280, "Treasury stock".

Account 280, "Reacquired capital stock", is amended by revising the title and text to read:

280 Treasury stock.

(a) This account shall include in subdivisions for each class the reacquisition cost of capital stock which has been actually issued or assumed by the carrier then reacquired, and is neither retired or cancelled, nor properly includible in sinking or other funds.

(b) This account shall be maintained to reflect separately securities pledged and unpledged.

(c) This account shall be shown on the Balance Sheet as a deduction in arriving at Stockholders' Equity.

NOTE A: The accounting for the reacquisition of capital stock and resale thereof shall be in accordance with Instruction 24, paragraphs (d) through (f).

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Legal Division Order No. 1]

LEGAL DIVISION

Organization and Functions

DECEMBER 19, 1974.

Under the authority granted to me as General Counsel of the Department of the Treasury by 31 U.S.C. 1009 and 26 U.S.C. 7801, by Department Circulars 519 of June 30, 1934, and 595 of September 13, 1938, and by Treasury Department Orders No. 120, No. 173–2, No. 175, No. 175–2, No. 190 (Revised), and No. 221, I hereby define and prescribe the organization and functions of the Legal Division of the Treasury Department.

1. The Legal Division consists of a consolidated legal staff headed by the General Counsel, who is by statute the chief law officer of the Department of the Treasury, and is composed of all attorneys providing legal service in all offices and bureaus of the Treasury Department. The legal staff provides legal advice to the Secretary of the Treasury and to the officers, offices and bureaus of the Department in accordance with the designations made by this Order. The General Counsel operates principally through a Deputy General Counsel, the Assistant General Counsels, the Chief Counsels, and the Legal Counsels listed herein, to whom delegations of specific authority are made by Legal Division Orders.

2. The General Counsel provides legal advice to the Secretary of the Treasury, the Deputy Secretary, the Under Secretaries, and the Assistant Secretaries on any legal matter which may arise within the Department. He supervises the Legal Division and establishes the policies, procedures, and standards governing its functioning.

3. The Deputy General Counsel is an Assistant General Counsel designated to serve as deputy and act as General Counsel in the absence of the General Counsel. The Deputy General Counsel reviews work prepared for the General Counsel and supervises the day-to-day operation of the Legal Division. He receives on behalf of the General Counsel reports from the Assistant General Counsels and Chief Counsels, excepting the Assistant General Counsel who is the Chief Counsel of the Internal Revenue Service, the Assistant General Counsel—Tax Legislative Counsel, and the Chief Counsel of the Office of the Comptroller of the Currency, who report directly to the General Counsel.

4. The Assistant General Counsel—Chief Counsel, Internal Revenue Service, is the legal adviser to the Commissioner of the Internal Revenue Service and supervises and directs the legal staff advising the Internal Revenue Service. He reports directly to the General Counsel.

5. The Assistant General Counsel—Tax Legislative Counsel is the legal adviser to the Assistant Secretary (Tax Policy) and provides advice concerning tax legislation, tax policy, and tax treaties. He reports directly to the General Counsel.

6. The Assistant General Counsel (International Affairs) provides legal advice to the Under Secretary (Monetary Affairs), the Assistant Secretary (International Affairs), the Assistant Secretary (Trade, Energy, and Financial Resources Policy Coordination), the Assistant Secretary (Economic Policy), and the Special Assistant to the Secretary (National Security). He reports to the General Counsel through the Deputy General Counsel.

7. The Assistant General Counsel (Administration, Legislation, and Fiscal Operations) provides legal advice to the Assistant Secretary (Administration), the Fiscal Assistant Secretary, the Assistant Secretary (Legislative Affairs), and to the Office of the Secretary generally with respect to administrative procedure and Department administration. He also serves as legal adviser to the Treasurer of the United States, the Special Assistants to the Secretary (Debt Management) and (Public Affairs), and to the U.S. Savings Bonds Division. He is in charge of the nontax legislative activities of the Department. He supervises the Chief Counsel, Bureau of the Public Debt, the Chief Counsel, Office of Revenue Sharing, and the legal functions of the Director, Office of the Director of Practice. He reports to the General Counsel through the Deputy General Counsel.

8. The Assistant General Counsel (Enforcement, Operations, and Tariff Affairs) provides legal advice to the Assistant Secretary (Enforcement, Operations, and Tariff Affairs). He acts for the General Counsel in the supervision of all nontax litigation matters and tax litigation matters which arise out of the activities of the Bureau of Alcohol, Tobacco and Firearms requiring General Counsel action. He supervises the Chief Counsel, U.S. Customs Service, the Chief Counsel of the Bureau of Alcohol, Tobacco and Firearms, the Chief Counsel of the Office of Foreign Assets Control, the Legal Counsel, Bureau of the Mint, and the Legal Counsel, U.S. Secret Service. He reports to the General Counsel through the Deputy General Counsel.

9. The Senior Counselor to the General Counsel assists the General Counsel and the Deputy General Counsel by undertaking special assignments pertaining to any area of responsibility in the Office of the General Counsel. He supervises the Chief, Legal Opinion Section, and reports directly to the General Counsel.

10. The Chief, Legal Opinion Section, prepares formal General Counsel Opinions and, as requested by the General Counsel, Deputy General Counsel or Senior Counselor, provides research on questions concerning any aspect of the Department's activities, and serves as a coordinating repository for significant decisions made in the General Counsel's office. He reports to the Senior Counselor.

11. The Chief Counsel, Bureau of Alcohol, Tobacco and Firearms, is the chief law officer for that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement, Operations, and Tariff Affairs) and the Deputy General Counsel.

12. The Chief Counsel, Office of the Comptroller of the Currency, is the chief law officer for that office and reports directly to the General Counsel.

13. The Chief Counsel, United States Customs Service, is the chief law officer for that Service and reports to the General Counsel through the Assistant General Counsel (Enforcement, Operations, and Tariff Affairs) and the Deputy General Counsel.

14. The Chief Counsel, Foreign Assets Control, is the chief law officer for that office and reports to the General Counsel through the Assistant General Counsel (Enforcement, Operations, and Tariff Affairs) and the Deputy General Counsel.

15. The Chief Counsel, Bureau of the Public Debt, is the chief law officer for that Bureau, and reports to the General Counsel through the Assistant General Counsel (Administration, Legislation, and Fiscal Operations) and the Deputy General Counsel.

16. The Chief Counsel, Office of Revenue Sharing, is the chief law officer for that Office, and reports to the General Counsel through the Assistant General Counsel (Administration, Legislation, and Fiscal Operations) and the Deputy General Counsel.

17. The Legal Counsel, Bureau of the Mint, provides legal advice to that Bureau and reports to the General Counsel

through the Assistant General Counsel (Enforcement, Operations, and Tariff Affairs) and the Deputy General Counsel.

18. The Legal Counsel, United States Secret Service, provides legal advice to that Service and reports to the General Counsel through the Assistant General Counsel (Enforcement, Operations, and Tariff Affairs) and the Deputy General Counsel.

19. The Director of Practice (1) directs the legal functions performed in his office and reports with respect to those functions to the General Counsel through the Assistant General Counsel (Administration, Legislation, and Fiscal Operations) and the Deputy General Counsel; and (2) makes operating decisions in carrying out the responsibilities placed on him under 31 U.S.C. 1026 and by 31 CFR Part 10 under the administrative supervision of the General Counsel exercised by the General Counsel or the Deputy General Counsel.

A change in title of any official in the Office of the Secretary shall not affect the foregoing assignments unless the change includes a change of function. The General Counsel may, without formal Order, reassign on a temporary basis a function of an Assistant General Counsel or the Senior Counselor.

Effective: January 1, 1975.

[SEAL] RICHARD R. ALBRECHT,
General Counsel.

[FR Doc.74-30367 Filed 12-27-74;8:45 am]

[Supplement to Dept. Circular; Public Debt Series—No. 16-74]

SERIES K-1976 TREASURY NOTES

Rates of Percent Per Annum

The Secretary of the Treasury announced on December 23, 1974, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 16-74, dated December 16, 1974, will be 7¼ percent per annum. Accordingly, the notes are hereby redesignated 7¼ percent Treasury Notes of Series K-1976. Interest on the notes will be payable at the rate of 7¼ percent per annum.

JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.74-30353 Filed 12-27-74;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON SPACE SHUTTLE UTILIZATION

Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Department of Defense Space Shuttle Utilization will meet in closed session on 15 and 16 January 1975, at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will examine how the Space Shuttle with its new capabilities can lead to more effective military space operations in the future.

In accordance with Public Law 92-463, section 10, Paragraph (d), it has been determined that Defense Science Board meetings concern matters listed in Section 552(b) of Title 5 of the United States code, particularly Subparagraph (1) thereof, and that the public interest requires such meetings to be closed insofar as the requirements of subsections (a)(1) and (a)(3) of section 10, Public Law 92-463 are concerned.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

DECEMBER 24, 1974.

[FR Doc.74-30343 Filed 12-27-74;8:45 am]

DEPARTMENT OF JUSTICE

FEDERAL ADVISORY COMMITTEE ON FALSE IDENTIFICATION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. Appendix I) that the third meeting of the Federal Advisory Committee on False Identification will be held at 10 a.m., Thursday, January 16, 1975, at the Department of Justice Briefing and Conference Center, Department of Justice, 10th and Constitution Avenues NW., Washington, D.C.

The Committee was established by the Attorney General to study the criminal use of false identification at Federal, state and local levels and to recommend measures to prevent the criminal use of false identification and the obtaining of fraudulent identification documents.

At the third meeting Committee Task Forces will continue to examine the false identification problem in the following areas: Government payments; commercial transactions; fugitives; Federal identification documents; and state and local identification documents. The meeting, open to the public, will adjourn at approximately 3:30 p.m.

Further information concerning this meeting may be obtained from David J. Muchow, General Crimes Section, Criminal Division, Department of Justice, Room 402 Federal Triangle Building, 315 9th Street NW., Washington, D.C., 20530, telephone, area code 202-739-2745. Minutes of the meeting will be available for public inspection two weeks after the meeting in Room 402, Federal Triangle Building.

HENRY E. PETERSEN,
Assistant Attorney General.

[FR Doc.74-30359 Filed 12-27-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

PUBLIC INSPECTION OF RECORDS

OCS Order No. 12, Pacific Area

Correction

In FR Doc. 74-27833 appearing at 39 FR 41560 in the issue of Friday, November 29, 1974, in the first column on page 41561 the third paragraph is corrected to read "This Order will be effective December 1, 1974.".

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ADVISORY COMMITTEE ON THE EDUCATION OF BILINGUAL CHILDREN

Notice of Public Meeting

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that a meeting of the Advisory Committee on the Education of Bilingual Children will be held from 8:30 A.M. to 5:00 P.M. on Wednesday, January 22, and on Thursday, January 23, 1975 from 8:30 A.M. to 5 P.M. The Committee will meet in a conference room at Vacation Village, Mission Bay, San Diego, California.

The meeting shall be opened to the public. The proposed agenda for the Committee meeting is:

1. Committee report on position paper and draft.
2. Committee input on rules and regulations.
3. New Business.

Records shall be kept of all proceedings, and shall be available for public inspection at Room 3600, Regional Office Building #3, 7th and D Streets SW., Washington, D.C. 20202

Signed at Washington, D.C., on December 18, 1974.

JOHN C. MOLINA,
Director, Division of Bilingual Education.

[FR Doc.74-30292 Filed 12-27-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

(OGD 74 301)

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be

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of type approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described. These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant; U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160. to 164.

3. FEDERAL REGISTER, Vol. 39 No. 50 dated March 13, 1974 contained changes to Title 45 CFR Subpart 160.051 concerning inflation standards for inflatable liferafts. The preamble to that document established effective dates of the changes as they apply to new construction and in-service rafts.

New approvals were required to meet the new standards on and after April 12, 1974; manufacturing under existing approvals was permitted to continue until January 1, 1975; and existing in-service rafts were to be permitted to be carried until January 1, 1980 except for rafts on Great Lakes Vessels which were to be permitted to be carried until January 1, 1975. That document further indicated that tests would be conducted to determine if existing in-service rafts complied with new standards and if not, raft retrofitting would be permitted and the rafts could remain in-service so long as they remain in good and serviceable condition.

The purpose of this document is to terminate approvals of all inflatable rafts now manufactured which do not comply with the new inflation standards and to state the conditions under which inflatable liferafts manufactured under these approvals may continue in-service.

The testing referenced in the document noted above has been completed and none of the existing rafts were found to comply with the new higher standard. It was determined that fitting a new larger inflation system would bring the existing rafts into compliance.

Since the publication of the new standard on March 3, 1974 supply problems, particularly a shortage of steel used in the manufacturing of gas supply cylinders, has caused the Coast Guard to reconsider the January 1, 1975, effective date for completion of the phaseover period of rafts installed on vessels operating in very cold regions for extended periods of time.

In-service rafts which are retro-fitted to meet the new requirements will show compliance with the new regulations by inclusion of the words "MOD TEMP", the inspector's initials and the date of retrofitting on the identification plate. A Navigation and Vessel Inspection Circular will be published for clarification and setting up of procedures to be followed by manufacturers, servicing facilities and Coast Guard Marine Inspectors for marking of identification plates.

4. In consideration of the above and notwithstanding the termination of approvals listed in this document, inflatable rafts affected may be used on vessels operating on the Great Lakes until January 1, 1976 and on all other vessels until January 1, 1980. Inflatable rafts affected by this document which are retro-fitted in accordance with procedures established by the manufacturer and approved by the Commandant and the Coast Guard and marked to show that they have been upgraded are not subject to the dates listed above and may be used as long as they remain in good and serviceable condition.

INFLATABLE LIFE RAFTS

The C. J. Hendry Company, 139 Townsend Street, San Francisco, California 94107, Approval Nos. 160.051/1/1, 160.051/2/3, 160.051/3/3, 160.051/4/3, 160.051/5/3, 160.051/6/3, 160.051/10/3 and 160.051/11/3 are terminated effective January 1, 1975, due to change in specifications.

The Switlik Parachute Company, Inc., 1325 East State Street, Trenton, New Jersey 08607, Approval Nos. 160.051/13/3, 160.051/14/3, 160.051/15/4, 160.051/16/4, 160.051/18/4, 160.051/19/4 and 160.051/20/4 are terminated effective January 1, 1975, due to change in specifications.

The Uniroyal, Inc., Plastic Products Division, Providence, Rhode Island 02901, Approval No. 160.051/28/3 is terminated effective January 1, 1975, due to change in specifications.

The R.F.D., Inc., Richwood, West Virginia 26685, Approval Nos. 160.051/22/0, 160.051/24/0, 160.051/25/0, 160.051/26/0, 160.051/27/0 and 160.051/33/0 are terminated effective January 1, 1975, due to change in specifications.

Dated: December 23, 1974.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.74-30335 Filed 12-27-74;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50-440 and 50-441]

CLEVELAND ELECTRIC ILLUMINATING CO.

Availability of Partial Initial Decision and Supplemental Partial Initial Decision on Environmental Matters and Site Suitability

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulation in § 50.10(e)(2) and Appendix D, Section A.9 and A.11 of 10 CFR Part 50, notice is hereby given that a Partial Initial Decision on Environmental and Site Suitability dated September 18, 1974, and a Supplemental Partial Initial Decision on Site Suitability and Environmental Matters dated October 20, 1974, by the Atomic Safety and Licensing Board, in the above captioned proceedings involving an application by the Cleveland Electric Illuminating Company for construction permits for the Perry Nuclear Power Plant, Units 1 and 2, to be located in Lake County, Ohio, are available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW, Washington, D.C., and in the Perry Public Library, 3753 Main Street, Perry Township, Ohio 44081.

The Partial Initial Decision and Supplemental Partial Initial Decision are also being made available at the Office of the Governor, State Clearinghouse, 62 East Broad Street—2nd Floor, Columbus, Ohio 43215.

Based on the record developed in the public hearings in the above captioned matter, the Partial Initial Decision and Supplemental Partial Initial Decision on Environmental Matters and Site Suitability of the Atomic Safety and Licensing Board supplement and modify the Final Environmental Statement prepared by the Commission's Directorate of Licensing relating to the construction of the Perry Nuclear Power Plant, Units 1 and 2. A copy of this Final Environmental Statement is also available for public inspection at the above designated locations.

Pursuant to the provisions of 10 CFR Part 50, Appendix D, section A.11, the Final Environmental Statement is deemed modified to include pertinent portions of the hearing record. As required by Section A.11 of Appendix D, copies of the Partial Initial Decision and the Supplemental Partial Initial Decision by the Atomic Safety and Licensing Board and the Final Environmental Statement have been transmitted to the Council on Environmental Quality and made available to the public as noted herein.

The Partial Initial Decision and the Supplemental Partial Initial Decision are subject to review by an Atomic Safety and Licensing Appeal Board prior to becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Partial Initial Decision and Supplemental Partial Initial Decision may be reviewed by the Commission.

Single copies of the Partial Initial Decision on Environmental and Site Suitability and the Supplemental Partial Initial Decision on Site Suitability and Environmental Matters, both by the Atomic Safety and Licensing Board, and the Final Environmental Statement may be obtained by writing the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Rockville, Maryland this 23rd of December, 1974.

For the Atomic Energy Commission.

WM. H. REGAN, JR.,
Chief, Environmental Projects Branch 4, Directorate of Licensing.

[FR Doc.74-30322 Filed 12-27-74;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Atomic Energy Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the AEC Regulatory staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.24, "Guidance on the License Application, Siting, Design, and Plant Protection for an Independent Spent Fuel Storage Installation," (1) identifies the parts of Title 10 of the Code of Federal Regulations applicable to an independent spent fuel storage installation (ISFSI); (2) describes the content of a license application; (3) presents siting considerations; (4) endorses a draft ANSI standard N305, "Design Objectives for Highly Radioactive Solid Material Handling and Storage Facilities in a Reprocessing Plant," and provides additional design recommendations for an ISFSI; and (5) describes plant protection guidelines.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed (listed below) or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 3.24 will, however, be particularly useful in evaluating the need for an early revision if received by March 3, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 3 Regulatory Guides currently being developed include the following:

Control of Stainless Steel Welding for Safety-Related Components of Fuel Reprocessing Plants.

Corrosion Testing and Evaluation of Metals for Application in Fuel Reprocessing Plants.

Standard Format and Content of Safety Analysis Reports for Enrichment Facilities.

Nondestructive Examination of Tubular Products for Use in Fuel Reprocessing and Fuel Fabrication Plants.

Control of the Use of Sensitized Stainless Steel for Components of Fuel Reprocessing Plants.

Control of Preheat Temperature for the Welding of Low-Alloy Steel for Use in Fuel Cycle Facilities.

Welder Qualifications for Welding in Areas of Limited Accessibility of Fuel Reprocessing and of Plutonium Processing and Fuel Fabrication Plants.

Nondestructive Examination of Liner Welds in Structures and Components of Fuel Reprocessing Plants.

General Design Guide for Process Building Ventilation Systems for Fuel Reprocessing Plants.

General Fire Protection Guide for Fuel Reprocessing Plants.

Standard Format and Content of License Applications for Fuel Reprocessing Plants.

Standard Format and Content of License Applications for Plutonium Fuel Fabrication and Recovery Plants.

Standard Format and Content of License Applications for Commercial Waste Burial Facilities.

Standard Format and Content of License Applications for UO_2 Fuel Fabrication Plants.

Quality Assurance for the Design, Construction, and Operation of Fuel Reprocessing Facilities.

Guide for Design, Construction, and Operation of Ventilation Systems for Plutonium Fuel Manufacturing Plants.

Criteria for Siting, Design, and Operation of Plants for the Manufacture of Mixed Oxide (U-Pu) Fuels.

Protective Coatings (Paints) for the Nuclear Industry.

Guide to the Preparation of Emergency Plans for Uranium and Plutonium Processing and Fuel Fabrication Plants.

Design Criteria for Spent Fuel Storage Facilities at HTGR Sites.

Guide for Design of Irradiated Fuel Receiving and Storage Facilities.

Assumptions Used for Evaluating the Consequences of a Criticality Accident in an LWR Fuel Fabrication Plant.

Selection, Training, and Qualification of Personnel for Fuel Reprocessing Plants.

Temporary Storage of High-Level Liquid Waste at Fuel Reprocessing Plants.

Assumptions Acceptable for Evaluating the Consequences of Accidental Nuclear Criticality in a Fuel Reprocessing Plant.

Assumptions Acceptable for Evaluating the Consequences of Accidental Nuclear Criticality in a Plutonium Processing or Fuel Fabrication Plant.

Confinement Structures and Systems for Plutonium Processing and Fuel Fabrication Facilities.

Emergency Water Systems for Fuel Reprocessing Plants and Plutonium Processing and Fuel Fabrication Plants.

Protection Systems for Fuel Reprocessing Plants and for Plutonium Processing and Fuel Fabrication Plants.

Design Basis Floods for Fuel Reprocessing Plants.

Criteria for Gaseous Radioactive Effluent Systems at Fuel Reprocessing Plants.

Design Criteria for Decommissioning of Nuclear Fuel Reprocessing Plants.

Definition of Radioactive Waste Categories.

Codes Applicable to Quality Control and Fabrication of Metallic Structures, Systems, and Components for Fuel Reprocessing Plants.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 19th day of December 1974.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.74-30326 Filed 12-27-74;8:45 am]

[DOCKET NO. 50-206]

SOUTHERN CALIFORNIA EDISON CO.

Issuance of Amendment To Provisional Operating License

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 7 to Provisional Operating License No. DPR-13 issued to Southern California Edison Company which revised Technical Specifications for operations of the San Onofre Nuclear Generating Station, Unit 1, located in San Diego, California. The amendment is effective as of its date of issuance.

This amendment incorporates limiting conditions for operation and surveillance requirements for the new axial offset monitoring system which replace the previously existing hold band requirement for control group movement.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment dated July 12, 1974, (2) Amendment No. 7 to License No. DPR-13, with any attachments, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the San Clemente Public Library, 233 Granada Street, San Clemente, California.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S., Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 20th day of December 1974.

For the Atomic Energy Commission.

ROBERT A. PURPLE, *Chief,*
Operating Reactors Branch, No. 1,
Directorate of Licensing.

[FR Doc.74-30328 Filed 12-27-74;8:45 am]

[Docket No. 50-255]

CONSUMERS POWER CO.

Corrected Notice of Receipt of Application of Facility Operating License and Availability of Licensee's Environmental Report

This is a correction to the Notice of Receipt of Application of Facility Operating Licensee and Availability of Licensee's Environmental Report: Notice of Consideration of Conversion of Provisional Operating License to Full-Term Operating License: Notice of Opportunity for Hearing, originally published in the FEDERAL REGISTER on December 18, 1974. The notice, as originally published,

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inadvertently omitted a portion of the description of the required content of petitions for leave to intervene. Accordingly, the date by which timely petitions for leave to intervene must be filed is extended beyond the original date of January 17, 1975, to January 29, 1975, as indicated in this corrected notice.

Notice is hereby given that the Atomic Energy Commission (the Commission) has received an application for a full-term facility operating license from the Consumers Power Company (the licensee) to possess, use, and operate the Palisades Plant (the facility), located in Covert Township on the licensee's site in Van Buren County, Michigan, at an increased power level of up to 2638 megawatts thermal. The currently authorized full-power level is up to 2200 megawatts thermal.

The licensee has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, a special environmental report which discusses environmental considerations related to the proposed operation of the facility.

The Commission will consider the licensee's special environmental report in accordance with the provisions of 10 CFR Part 51.

The Commission will consider the issuance of a full-term facility operating license to the Consumers Power Company which would authorize the licensee to possess, use, and operate the Palisades Plant in accordance with the provisions of the license and the technical specifications appended thereto upon: (1) the completion of a favorable safety evaluation on the application by the Commission's Directorate of Licensing; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51; (3) the receipt of a report on the licensee's application by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for a full-term facility operating license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I. Construction of the facility was authorized by Construction Permit No. CPPR–25, issued by the Commission on March 13, 1967. The facility is presently being operated in accordance with Provisional Operating License No. DPR–20, as amended.

The full-term facility operating license will not be issued until the Commission has made the findings, reflecting its review of the application under the Act, which will be set forth in the proposed license and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. The licensee has satisfied its obligation concerning indemnification as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

On or before January 29, 1975, the licensee may file a request for a hearing with respect to issuance of the full-term facility operating license and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rule of Practice" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR § 2.714. As required in 10 CFR § 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner, including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Docketing and Service Section or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by January 29, 1975.

A copy of the petition and/or request should also be sent to the Chief Hearing Counsel, Office of the General Counsel, Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545 and to Judd L. Bacon, Senior Attorney, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201 and R. Rex Renfrow, III, Esquire, Isham, Lincoln & Beale, One First National Plaza, Chicago, Illinois 60670, attorneys for the licensee.

A petition for leave to intervene which is not timely will not be granted unless the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition determines that the petitioner has made a substantial showing of good cause for failure to file on time and after considering those factors specified in 10 CFR § 2.714(a)(1)–(4) and § 7.14(d).

For further details with respect to the matters under consideration, see the licensee's application dated January 22, 1974, which also contains the licensee's special environmental report (section 7), which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan. The Commission's Final Environmental Statement issued June 1972 is available for public inspection at the above locations, and as they become available, the following documents may be inspected at the above locations: (1) the safety evaluation report prepared by the Directorate of Licensing; (2) the Commission's consideration of the licensee's special environmental report pursuant to 10 CFR Part 51; and (3) the report of the Advisory Committee on Reactor Safeguards on the application for a full-term facility operating license.

Copies of the Commission's Final Environmental Statement issued June 1972 and copies of items (1) through (3), when available, may be obtained upon request addressed to the United States Atomic Energy Commission, Washington, D.C. 20545. Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this December 23, 1974.

For the Atomic Energy Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch, #1, Directorate of Licensing.

[FR Doc.74-30168 Filed 12-27-74;8:45 am]

[Docket Nos. 50-514, 50-515]

PORTLAND GENERAL ELECTRIC CO.

Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report: Time for Submission of Views on Antitrust Matters

Portland General Electric Company (the applicant), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, which was docketed August 6, 1974 for authorization to construct and operate two generating units utilizing two pressurized water reactors. The Environmental Report and Site Suitability Report were tendered on June 7, 1974. Following a preliminary review for completeness, the Environmental Report and Site Suitability Report were, on August 6, 1974, found to be acceptable for docketing. The applicant submitted the PSAR August 6, 1974 and it was found to be acceptable on October 18, 1974. Docket Nos. 50–514 and 50–515 have been assigned to the ap-

plication and should be referenced in any correspondence relating to the application.

The proposed nuclear facilities, designated by the applicant as the Pebble Springs Nuclear Plant, Units 1 and 2 are located in Gilliam County, Oregon. Each unit is designed for initial operation at 3600 megawatts (thermal), with a net electrical output of 1260 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before February 7, 1975. The request should be filed in connection with Docket Nos. 50-514-A and 50-515-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the Arlington Public School, District 3, P.O. Box 10, Arlington, Oregon 97812.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, an environmental report dated June 7, 1974. The report, which discusses environmental considerations related to the construction and operation of the proposed facility is being made available for public inspection at the aforementioned locations and at the Federal Aid Coordination Section, Local Government Relations Division, Executive Department, 301 Public Service Building, Salem, Oregon 97310 and the East Central Oregon Association of Counties, Umatilla County Court House, Pendleton, Oregon 97801.

After the environmental report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission's Regulatory staff. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER, a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Md., this 22d day of November 1974.

For the Atomic Energy Commission.

A. SCHWENCER,
Chief, Light Water Reactors, Branch 2-3, Directorate of Licensing.

[FR Doc.74-28271 Filed 12-6-74;8:45 am]

[Docket Nos. 50-346A, 50-440A, 50-441A]

TOLEDO EDISON CO. ET AL.

Notice of Oral Argument

In the Matter of The Toledo Edison Company and The Cleveland Electric Illuminating Company (Davis-Besse Nuclear Power Station, Unit 1) The Cleveland Electric Illuminating Company, et al. (Perry Nuclear Power Plant, Units 1 and 2).

By motion dated December 20, 1974, the AEC Regulatory Staff requested oral argument on its December 5, "Motion for an Order Compelling Production and Delivery of Documents Requested of Applicants". The request was made following an informal meeting among the parties[1] and the Board Chairman on December 17, 1974, and a subsequent telephone conference call among the parties and the Chairman on December 20, 1974.[2]

The Department of Justice joined in the motion for oral argument.

The matter at issue is whether delivery of the discovery documents produced by the Applicant should be made available in Washington, D.C. rather than the home office of each Applicant. The City of Cleveland has similarly filed a motion seeking to have all Applicants' documents produced through discovery placed in a central depository in Washington, D.C.

At the telephone conference call of December 20, it was agreed that oral argument would be held on January 3, 1975. Briefs or legal memorandums may be filed by any party on or before January 2, 1975. Supplementary briefs or memorandums may be filed on or before January 7, 1975. Oral argument will commence at 9:30 a.m. January 3, at the Postal Rate Commission, 2000 L Street NW., Washington, D.C., Suite 500.

Pending decision by the Board on this matter, depositions by all parties will be held in abeyance. Likewise, the motions to quash subpoenas issued at Applicants' request will be held in abeyance. In addition all "motions to compel" will likewise be held in abeyance, except that as agreed between Applicant and Department of Justice at the December 17th informal meeting with the Chairman, DOJ may submit additional interrogatories and document requests as refined from their initial requests.

It is so ordered.

Issued at Bethesda, Maryland, December 23, 1974.

THE ATOMIC SAFETY AND LICENSING BOARD,
JOHN B. FARMAKIDES,
Chairman.

[FR Doc.74-30824 Filed 12-27-74;8:45 am]

[1] All parties attended except AMP-O and State of Ohio.

[2] All parties participating except AMP-O and State of Ohio.

[Docket Nos. 50-338-OL, 50-339-OL]

VIRGINIA ELECTRIC AND POWER CO.

Reconstitution of Board

In the Matter of Virginia Electric and Power Co. (North Anna Power Station, Units 1 and 2).

John B. Farmakides, Esq., was Chairman of the Atomic Safety and Licensing Board established to consider the above applications. Because of a schedule conflict, Mr. Farmakides is unable to continue in his duties as Chairman of this Board.

Accordingly, Frederic J. Coufal, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with Section 2.721 of the Rules of Practice, as amended.

Dated at Bethesda, Maryland, December 23, 1974.

The Atomic Safety and Licensing Board Panel.

NATHANIEL H. GOODRICH,
Chairman.

[FR Doc.74-30825 Filed 12-27-74;8:45 am]

[Docket No. 27067; Order 74-12-89]

CIVIL AERONAUTICS BOARD

ALLEGHENY AIRLINES, INC., ET AL.

Order Authorizing Discussions Regarding Pricing Policies and Practices of Fuel Suppliers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23rd day of December, 1974.

On October 2, 1974, various U.S. air carriers[1] filed in Docket 27067, an application for permission authorizing them and all other U.S. certificated air carriers to conduct multicarrier discussions concerning the pricing policies and related practices of fuel suppliers for a

[1] The joint applicants are Allegheny Airlines, Inc., Continental Air Lines, Inc., Frontier Airlines, Inc., National Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Piedmont Airlines, Trans World Airlines, Inc., Western Air Lines, Inc., and World Airlines, Inc.

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period of 120 days from the date of the Board's authorization.

Answers in support of the application and requests for joining in the discussions have been filed by The Flying Tiger Line Inc. (FTL), Johnson Flying Service, Inc. (JFS) and various foreign air carriers.[2] Also by letter of October 16, 1974, Air New England requests that it be permitted to join in any discussions.[3] No others answers or comments have been received.[4]

In support of their request the applicants state that they, like other certificated carriers, are seriously concerned about the long-term impact of fuel prices on their cost of doing business; that the recent fuel shortage seems to have triggered fundamental and possibly permanent changes in the relationships between airlines and their fuel suppliers; that some suppliers have sought to change existing airline fuel contracts unilaterally or to negotiate changes which unbalance those contracts heavily in their favor; and that indications appear that in negotiating new contracts, airlines are finding fuel suppliers insisting not only on substantially higher prices but also on terms and conditions which are onerous if not totally unreasonable.

The applicants further state their belief that these developments require a reexamination of the traditional means of doing business between airlines and their fuel suppliers, since the strength of individual airlines in fuel negotiations may not in the future be adequate to produce reasonable contracts with reasonable prices and reasonable terms, and individual airlines may find themselves forced to accept contract terms which fuel suppliers could not in conscience demand publicly from the entire industry. Applicants also believe that this situation is serious enough to require that carriers be permitted to explore possible methods of collective action aimed at better preserving a reasonable balance of rights in future fuel contracts, as for example, retaining a joint staff of experts to assist carriers in purchasing fuel, or themselves entering into joint bargaining. Applicants also state that it would be advantageous for all certificated air carriers to enter into discussions to meet the situation, since with every passing month new contracts are being negotiated involving unprecedented terms and conditions, and since the longer this process goes on, the more difficult it will be to restore balance in the bargaining process.

FTL, a certificated all-cargo air carrier, states that the discussions will permit air carriers to engage in a unified effort comparable to that enjoyed by most of their fuel suppliers which have engaged for many years in joint ventures, consortia, etc., providing a potent and substantial means of exchanging information as to the availability of supply, price, etc. JFS, a supplemental air carrier, states that the discussions could be of some benefit in terms of achieving a less unreasonable balance in the fuel supply bargaining process, particularly for the smaller carriers in the industry. The foreign air carriers allege that they deal with the same fuel suppliers as some of the joint applicants and have encountered the same problems in fuel negotiations with their suppliers, and assert their right to join in the discussions pursuant to their respective bilateral air transport agreements with the U.S., or on the basis of comity and reciprocity.

Upon consideration, the Board has decided to grant applicants' request to hold multicarrier discussions concerning pricing policies and related practices of fuel suppliers, subject to various modifications and conditions. The recent precipitous increases in the price of fuel, as well as the shortfall in fuel supplies, have undoubtedly presented serious problems to the carriers, and have also had an impact on the traveling public both through fuel-related fare increases and through fuel-related schedule cutbacks.[5] The Board has also noted the potential threat of further disruption of fuel supplies resulting from increased instability in the fuel-producing areas of the world.[6] Further, the Board notes the recent controversy among the major petroleum exporting countries of the world regarding new fuel pricing policies, and its potential impact upon the pricing policies of the world's major fuel suppliers in their sales to customers in the aviation industry.[7] Based upon the application and answers filed with the Board, it appears that the fuel problem created by the concerted action of the fuel exporting countries is compounded by the pricing policies of major fuel suppliers, which are relatively few in number and, according to FTL, are engaged in some forms of unified action with respect to their fuel pricing policies.

While the Board is not prepared to reach any determination at this time as to whether any agreements arising from the multicarrier discussions and directed toward the resolution of the fuel-pricing problem would be consistent with the public interest, we note that the application is unopposed, and that the allegations therein and the answers thereto are uncontroverted. In our view, the carriers should be given the opportunity to conduct discussions concerning pricing policies of the fuel suppliers and related matters in order to determine for themselves, and to present to the Board, their position as to whether a genuine contribution in this respect can be rendered by any appropriate collective action. We will expect that any agreement submitted to the Board as a result of the discussions will be fully justified, in terms of the necessity therefor, by detailed evidentiary material.

The applicants request that the participants in the discussions include all U.S.-certificated air carriers. However, the answers filed by various foreign air carriers request that the authorization to participate in the discussions be extended to foreign air carriers. We have decided to include foreign air carriers among the participants in the discussions, since they are confronted essentially with the same problem.[8]

The approval herein will be granted, subject to the customary conditions we have recently imposed in discussion authorizations,[9] except that we will require that all meetings be held in Washington, D.C.

Accordingly, it is ordered, that:

1. The application herein for authorization of multicarrier discussions concerning the pricing policies and related practices of fuel suppliers be and it hereby is granted, subject to the following conditions:

(a) All U.S. certificated air carriers and foreign air carriers shall be given an opportunity to participate in all discussions and activities held pursuant to this order, to include such items as the planning of any discussion guidelines, the establishment of objectives for the study, the conduct of technical team work, or the decisions on study proposals;

(b) The discussion meetings and other study activities authorized by this order shall take place in Washington, D.C., at dates and times determined by the participants;

(c) Representatives of the Board, the Departments of Justice, State and Transportation, and the Federal Energy Administration shall be permitted to attend each of these discussion meetings as observers;

(d) Notices, agenda, ground rules for the oral presentation by interested persons of their views, suggestions, and requests to the discussants, as well as an address to which written comments for consideration by the discussants can be sent, pertaining to each noncontinuous meeting[10] authorized herein shall be sent

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[2] Aeronaves de Mexico s/k/a Aeromexico, (Aeromexico), and British Airways have each filed separate answers. A joint answer has been filed on behalf of Cayman Airways, Ltd. (Cayman), Lineas Aereas Costarricenses, S.A. (LACSA), Compania Mexicana de Aviacion, S.A. (CMA), and Venezolana Internacional de Aviacion, S.A. (VIASA).

[3] By Order 74-10-69, October 11, 1974, the Board postponed the effective date of Air New England's certificate, as requested by the air carrier, until January 1, 1975.

[4] A list of fuel suppliers, who have been served with a copy of the application is attached as an appendix hereto, and is filed as part of the original document.

[5] On this basis the Board has authorized inter-carrier discussions among U.S. flag carriers and foreign air carriers looking toward agreements on capacity limitations and related matters as necessary to meet continuing critical fuel problems. Orders 74-7-33, July 8, 1974; 74-11-132, November 25, 1974.

[6] See Order 74-11-35, November 7, 1974, authorizing inter-carrier discussions concerning extensions of fuel-related capacity limitation agreements.

[7] Washington Post, December 14, 1974.

[8] In addition, we shall authorize the inclusion of Air New England as a participating party to the discussions. (See footnote 3 above.)

[9] Order 74-11-37, November 8, 1974.

[10] By noncontinuous meeting, we mean a meeting beginning 5 or more business days after conclusion of the previous meeting.

to (1) all carriers participating in these discussions, (2) the Board's Docket Section, (3) all persons who filed documents in this docket, and (4) all other persons who so request; such items are to be filed with the Board and sent to the other persons enumerated not later than 5 business days before each meeting; further, the airlines shall provide for the consideration of oral and written presentations by interested persons (i) before the start of, or during each noncontinuous meeting authorized herein,[11] and (ii) after an oral presentation by discussants of the tentative conclusions reached in their executive sessions, if any;

(e) Complete and detailed minutes of these discussions[12] shall be maintained by the participants, including a summary of each item discussed and the opinions expressed by the discussants on each point (but without identification of the airline or airline representative making each point); such minutes shall be filed with the Board's docket section, and sent to all other persons who so request,[13] within 5 business days after the date of each meeting;

(f) Any agreement or agreements reached as a result of the discussions authorized herein shall be filed with the Board, pursuant to the requirements of section 412(a) of the Act (49 U.S.C. 1382) and Part 261 of the Board's Economic Regulations (14 CFR Part 261) and Subpart P of the Board's Rules of Practice (14 CFR 302.1608) and shall not become effective unless and until approved by the Board pursuant to section 412(b) of the Act; the airlines filing the agreement shall accompany their application with a detailed justification for each aspect of it, including the reasons for the denial of material requests or suggestions made at the oral presentation or in writing by interested persons to the airlines; [14]

(g) The authorization granted herein shall expire 120 days from the date of this order;

(h) The authorization granted herein may be extended, modified, clarified, or revoked at any time by the Board or by the Director of its Bureau of Operating Rights (action by the Director of the Bureau of Operating Rights to be subject to the procedures for review of staff action contained in Subpart C of 14 CFR Part 384); and

2. Except to the extent granted herein, all other outstanding requests in this docket be and they hereby are denied.

This order shall be served on all U.S. certificated air carriers, including supplemental air carriers; on all other persons who responded to the application herein; on all persons upon whom the application has been served; on the United States Departments of Justice, State and Transportation; and on the Federal Energy Administration.

This order shall also be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc. 74-30366 Filed 12-27-74; 8:45 am]

[Docket No. 27289; Order 74-12-86]

DATA AIR DISTRIBUTON SYSTEM CO., INC.

Order of Suspension and Investigation Regarding Certain Shipments and Reduced Time Limit for Reporting Claims

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23rd day of December, 1974.

By tariff revisions[1] bearing the issue date of November 27 and marked to become effective December 27, 1974, Data Air Distribution System Co., Inc. (Data Air), an air freight forwarder, proposes (1) that a shipment with a declared value in excess of $0.50 per pound or $50.00 (whichever is higher) would not be acceptable for transportation; and (2) that claims involving loss or damage discovered after delivery of the shipment be reported in writing to Data Air within 10 days after delivery.

In support of its proposals, the forwarder asserts, inter alia, that it is placed in a position beyond the normal bounds of common carrier liability because it handles only shipments of computers and electronic machines of very high declared values; that the revised declared value rule does not change the maximum limit of its liability—the carrier would continue to accept shipments up to $25,000 in value, based on $0.50 per pound without advance notice, and over $25,000 with advance notice; and that the 10-day claim time limit is necessary in order to comply with timely reporting of loss in writing to direct carriers within their required 15-day period.

Upon consideration of all relevant matters, the Board finds that the proposed rules may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposals should be suspended pending investigation.

By proposing to limit the acceptance of shipments to those having a declared value not exceeding $0.50 per pound, the forwarder would place limitations on its liability without offering the shipper a choice of higher liability at additional rates. This would be contrary to the common law concept of common carrier responsibility, as pointed out by the Board in previous orders. For example, in Order 72-8-55, the Board suspended a proposal limiting liability by CF Air Freight, Inc., another forwarder, stating, *inter alia* "This is contrary to the common law concept that the validity of a limitation on liability (or a released rate) is dependent upon the shipper having an option for greater liability at greater rates." (See also Orders 70-1-34, 71-2-36, and 74-4-156.)

Although the forwarder will still continue to accept shipments valued below $25,000 based on $0.50 per pound without advance notice and shipments exceeding $25,000 with advance notice, shippers would not be permitted, under the proposal, to declare a value based on an amount in excess of $0.50 per pound.

The proposed provision requiring that concealed loss or damage reporting be submitted in writing within 10 days appears to be unnecessarily stringent, placing an undue burden upon shippers. The 10-day claim time limit is significantly lower than that in effect for other forwarders, based upon a sample survey by our staff, and represents a significant lowering of the claim time limit.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly Sections 204(a), 403, 404, and 1002 thereof.

It is ordered, That: 1. An investigation is instituted to determine whether the provisions proposed in Rule No. 10 on 4th Revised Page 5, Rule No. 60(A) on 7th Revised Page 9, Rule No. 65 and Rule No. 70 on 7th Revised Page 9-A of Data Air Distribution System Co., Inc.'s C.A.B. No. 1 (Data Trans Air Co., Inc. series), and rules, regulations, or practices affecting such provisions are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions and rules, regulations, and practices affecting such provisions;

2. Pending hearing and decision by the Board, the provisions proposed in Rule No. 10 on 4th Revised Page 5, Rule No. 60(A) on 7th Revised Page 9, Rule No. 65 and Rule No. 70 on 7th Revised Page 9-A of Data Air Distribution System Co., Inc.'s C.A.B. No. 1 (Data Trans Air Co., Inc. series), are suspended and their use deferred to and including March 26, 1975, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein, designated Docket 27289, be assigned before an Administrative Law Judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariffs and served upon Data

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[11] The discussants may, if necessary, limit the time available to those requesting an opportunity to make oral presentations, if that is done on a fair and equitable basis.

[12] While technical working subcommittee discussions are relieved from this condition, it is expected that in the conduct of the study, this work of the subcommittee will be periodically reported to a parent group for review and approval. The requirements involving the maintenance of minutes and presentations by interested parties will also be in effect at such meetings.

[13] The discussants are not precluded from setting a nominal charge to be paid for those requesting copies of the minutes; such charge should not exceed the cost of duplicating and sending such copies.

[14] Formal requests or suggestions of a similar nature can be grouped together and answered collectively.

[1] Revisions to Data Trans Air Co., Inc. series, Tariff C.A.B. No. 1.

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Air Distribution System Co., Inc., which is hereby made a party to Docket 27289.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.74-30965 Filed 12-27-74;8:45 am]

[Docket No. 28479]

DELTA AIR LINES AND TRANS WORLD AIRLINES

Oral Argument Regarding Route Transfer Agreement

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on January 22, 1975, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., December 20, 1974.

[SEAL] ROBERT L. PARK, *Chief Administrative Law Judge.*

[FR Doc.74-30963 Filed 12-27-74;8:45 am]

[Docket No. 28681]

TRANS INTERNATIONAL AIRLINES, INC., ET AL.

Hearing Regarding Acquisition Agreement

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on January 21, 1975, at 10 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned Administrative Law Judge.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served on November 5, 1974, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 23, 1974.

[SEAL] WILLIAM H. DAPPER, *Administrative Law Judge.*

[FR Doc.74-30969 Filed 12-27-74;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

Environmental impact statements received by the Council on Environmental Quality from December 16 through December 20, 1974. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (February 10, 1975) The thirty (30) day period for each final statement begins on the date that the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available, at cost, from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E Administration Building, Washington, D.C. 20250, (202) 447-3965.

FOREST SERVICE

Draft

Grand Mesa—Uncompahgre Timber Management Plan, Colorado, December 16: The statement refers to the revision of the 1961 Timber Management Plan for the Grand Mesa-Uncompahgre N.F. in west central Colorado. The proposed application of silvicultural management on 45,000 acres of forest land will result in the harvest of 211,000 Cunits of wood, including 152 million board feet of sawtimber. Adverse impacts reduction of wilderness character on inventoried roadless areas, and changes in the way the landscape looks. (ELR Order No. 41883.)

Land Exchange, Cibola, Carson N.F. New Mexico, December 16: The statement refers to a proposal by the Sandia Peak Tram Company to exchange land with the Cibola and Carson National Forests. The Tram Company has offered land in Embudo Canyon in the Sandia Mountains, Cibola N.F., and land on the Rio Antonio Creek, northwest of Tres Piedras, Carson N.F. The tract in the Sandia Mountains is about 5 miles northwest of Albuquerque and borders on three other tracts which the company is presently developing. There are 159.89 acres in the tract of National Forest land. Adverse impacts are elimination of recreational activities on land given up, and economic gains from summer homes development that would be lost. (ELR Order No. 41886.)

Rolling Prairie Planning Unit, Custer N.F., North Dakota, December 16: The action is the implementation of a Multiple Use Plan for the Rolling Prairie Planning Unit, Little Missouri River National Grasslands, Custer National Forest. The Planning Unit is located in McKenzie, Golden Valley, Billings, and Slope Counties and contains 882,680 acres of land. The plan provides for oil and gas extraction, beef production, and the protection of historical, archeological, and paleontological sites. Adverse impacts range from low to moderate for most of the 18 activities considered. (ELR Order No. 41891.)

Final

Horseshoe Meadows, Inyo National Forest, Inyo County, California, December 16: The statement refers to a land use plan which would involve the construction of year round recreational facilities near Horseshoe Meadows, within the Cottonwood Basin of the Inyo National Forest. The plan calls for a 100 unit overnight campground, a program interpreting the Golden Trout and its High Sierra environs, trail facilities for the Pacific Crest Trail, a pack station, and limited development for cross-country skiing. Adverse environmental impacts will include the removal of some vegetation and the disturbance of soil during construction activities. Comments made by: USDA, COE, EPA, FPC, HEW, DOI, DOT, state and local agencies, and concerned citizens (ELR Order No. 41877.)

Juniper Unit, Ocala National Forest, Marion and Lake Counties, Florida, December 19: The statement refers to the proposed management of the 20,000 acre Juniper-Hughes and Fat Islands Units Ocala National Forest. Management activities will be directed towards such functions as timber production, recreational uses, wildlife and endangered species protection, and quality control (soil, water, and solid waste). There will be road construction, and adverse impact from timber harvest activities and prescribed burning (192 pages). Comments made by: DOI, EPA, COE, USDA, FPC, AHP, state and local agencies, and concerned citizens. (ELR Order No. 41904.)

Whitewater and Cullasaja River Units, Nantahala N., Transylvania, Jackson, Macon Counties, North Carolina, December 16: Proposed is a ten year management plan for the Cullasaja and Whitewater River Units of the Nantahala National Forest. The two units total 20,000 acres of National Forest lands. Management will be for timber, wildlife habitat, recreation, and water quality values. There will be adverse impact to scenic values, soils, and streams from timber harvesting and road construction (174 pages). Comments made by: DOT, EPA, TVA, COE, HUD, AHP, State and local agencies, and concerned citizens. (ELR Order No. 41885.)

Pisgah National Forest, North Carolina, December 16: The statement refers to a proposed 10 year management plan for the North and West Fork French Broad Unit and the Davidson River Unit of the Pisgah National Forest. The 61,360 acres of National Forest land will be managed for wildlife, timber harvest, and recreational values. There will be impact upon scenic values, soils and water quality, and wildlife habitat. (228 pages) Comments made by: DOC, DOI, EPA, HUD, TVA, COE, State agencies. (ELR Order No. 41882.)

SOIL CONSERVATION SERVICE

Draft

Sand Creek Watershed, Harvey and Marion Counties, Kansas, December 16: The statement refers to a project for watershed protection, flood prevention, and recreation in Harvey and Marion Counties. Floodwater and sedimentation damages will be reduced on 4,619 acres of flood plain land. There will be 1,195 acres for recreation and wildlife management area, including a 195-acre reservoir for water-based recreation and warm-water fishing. Adverse impacts include the use of land for project purposes, displacement of people, and traffic, litter, and noise will increase around the recreation area of the multiple-purpose reservoir (163 pages). (ELR Order No. 41868.)

East Franklin Watershed, Franklin, Catahoula, Richland Counties, Louisiana, December 16: The statement refers to the construction of the East Franklin Watershed Project. The project is for watershed protection, flood prevention, and drainage in Franklin, Catahoula, and Richland Parishes, Louisiana. Approximately 186 miles of channel work with appurtenant measures, construction of 28 structures for water control, and measures to minimize adverse effects to fish and wildlife will be installed. Adverse impacts are loss of wildlife habitat, sedimentation and turbidity during construction, and increased temperatures in ponded areas. (ELR Order No. 41883.)

Final

Leona River Watershed Project, Uvalde County, Texas, December 20: Proposed is a watershed protection and flood protection project on the 39-180 acre Leonas River Watershed Project. Project measures will include the use of land treatment and channel

work on 3.47 miles of stream, and the construction of 4 single purpose floodwater retarding structures. Nineteen hundred and thirty acres, some of it wildlife habitat, will be committed to the project. (37 pages) Comments made by: COE, HEW, DOI, EPA, State agencies. (ELR Order No. 41906.)

Draft

Rock Creek Watershed, Oregon, December 16.

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Mr. W. Herbert Pennington, Office of Assistant General Manager, E-201, AEC, Washington, D.C. 20545, (301) 973-4241. For Regulatory Matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, F-722, AEC, Washington, D.C. 20545, (301) 973-7373.

Final

Joseph M. Farley Nuclear Plant, Houston County, Alabama, December 16: Proposed is the issuance of operating licenses to the Alabama Power Co. for the two unit Joseph M. Farley Plant. Each unit employs pressurized water reactors to produce up to 2774 MWt, which will be used to provide 844 MWe (net). Cooling will be with a closed-loop cooling tower system, with water drawn from and discharged to the Chattahoochee River, at a consumptive loss of 25,400 gpm. Comments made by: AHP, USDA, COE, DOC, HEW, DOI, DOT, EPA, agencies of Alabama, Florida, and Georgia. (ELR Order No. 41871.)

Shirley Basin Uranium Mill, Carbon County, Wyoming, December 20: Proposed is the construction of Source Material License SUA-442, issued to Utah International Co., for the operation of a uranium mill in the Shirley Basin area. The mill is designed as an acid-leach, resin ion-exchange uranium ore processing plant with a design capacity of 1500-1800 tons/day. Although the licensing action does not extend to mining, the environmental impact of that activity is included in the statement. (85 pages) Comments made by: USDA, AHP, COE, HEW, FPC, DOI, EPA, concerned citizens. (ELR Order No. 41909.)

CANAL ZONE GOVERNMENT

Final

Transmission Lines, Panama Canal Zone, December 19: Proposed is the granting of a license by the Canal Zone Government to the Instituto de Recursos Hidraulicos y Electrificacion, an autonomous agency of the Republic of Panama, for the construction and operation of two 230 kV transmission lines across the Canal Zone. The lines are part of a hydroelectric development which will deliver power from the mountainous western end of the country to the urban and industrial center of Panama City. The action will result in the use of 580 acres for right-of-way, and the loss of some tropical forest (40 pages). Comments made by: FPC, EPA, DOT, STAT. (ELR Order No. 41905.)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, (202) 693-7168.

Draft

Rend Lake, Operation and Maintenance, Franklin and Jefferson Counties, Illinois, December 16: The statement refers to the operation and maintenance of Rend Lake in Franklin and Jefferson Counties, Illinois. The lake is an 18,900 acre multi-purpose reservoir completed in 1972. This statement describes and reviews the environmental, economic, and social impacts created by the operation; the impacts or effects which will enhance or impair the project purposes; the effects of the reservoir upon the surrounding environment; and, the effects of the changing environment on the lake and its future operations. (ELR Order No. 41864.)

Maintenance Dredging, several counties, Michigan, December 20: proposed is the maintenance dredging of 14 unpolluted harbors in the State of Michigan. There will be some adverse impact to aquatic biota (Detroit District). (ELR Order No. 41907.)

Columbia and Lower Willamette River maintenance, Oregon and Washington, Dec. 16: The statement refers to the maintenance dredging to 40 ft. deep of the Columbia River navigation channel from 2 miles seaward of its mouth to Columbia River mile 106.5 and Willamette River from mouth to Broadway Bridge to provide the depth required for deep-draft vessels. Included is maintenance of designated side channel projects, pile dikes and training dikes and initial rock removal projects. Adverse impacts include: disruption and removal of river bottom habitat and organisms; resuspension of bottom materials; temporary increases in turbidity; smothering of aquatic and terrestrial habitat and organisms during disposal (Portland District). (ELR Order No. 41876.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630 Waterside Mall, Washington, D.C. 20460, (202) 755-0940.

Draft

Sacramento Regional Wastewater Treatment, California, December 16: The statement refers to the Sacramento Regional Wastewater Management Program. The plan provides for a regionwide interceptor system to deliver raw wastes to a single advanced treatment plant located south of the city at the site of the existing plant. A disposal system would transport treated effluent to the Sacramento River for discharge near Freeport via a multipart diffuser system. There will be normal construction disruption from the project. (ELR Order No. 41904.)

Final

Wastewater Facilities, Houston, Texas, December 16: The proposed project involves the construction of a 20 million gallons per day (mgd) activated sludge treatment facility in the existing 1 mgd Alameda-Sims Facility Site. The expanded facility has been designed to treat the waste water in three areas through the year 1990. Adverse impacts are increased noise and odor levels, and construction disruptions. Comments made by: USDA, COE, HEW, DOT, State and local agencies. (ELR Order No. 41890.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director of Environmental Affairs, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, (202) 343-4161.

Draft

Federal Office Building, Anchorage, Alaska, December 17: The statement refers to the proposed construction of a Federal Office Building, Courthouse, and Parking Facility Complex in Anchorage. The facility would consolidate 23 federal agencies which are presently housed throughout the Greater Anchorage area. The complex will contain 462,000 sq. ft. of net useable space, and parking space for 725 vehicles. Adverse impact includes the displacement of individuals and businesses, and construction disruption (202 pages). (ELR Order No. 41898.)

Denver Federal Center, Lakewood, Jefferson County, Colorado, December 16: The proposed project provides for major repairs and alterations which will be undertaken at the Denver Federal Center, Lakewood, Jefferson County, for its continued use in providing adequate housing for Federal agencies. There will be construction inconveniences (25 pages). (ELR Order No. 41889.)

Final

Federal Youth Center, San Diego, California, December 16: The statement refers to the proposed construction of a 104,000 sq. ft. Federal Youth Center, which will be operated by the Bureau of Prisons. The facility which will be constructed in the Elliott Community of San Diego, will house up to 250 youthful offenders serving short term sentences. The center will have social and economic impacts on the surrounding community; the project is in conflict with the proposed land use of the Elliott Community and San Diego General plans (150 pages). Comments made by: AHP, USDA, COE, HEW, HUD, DOI, DOT, EPA, State and local agencies, and concerned individuals. (ELR Order No. 41899.)

Peace Arch and Pacific Highway Border Stations, Whatcom County, Washington, December 16: Proposed is the construction of two new border stations in order to replace two existing, inadequate facilities. The major environmental impacts will result from heavy vehicular traffic routed through the stations over I 5 and State Highway 543 from Canada. Comments made by: AHP, EPA, HUD, COE, USDA, DOI, TREA, State and local agencies. (ELR Order No. 41893.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Acting Director, Office of Community and Environmental Standards, Room 7206, 451 7th Street SW., Washington, D.C. 20410 (202) 755-5980.

Draft

Urban Renewal, Newburyport, Massachusetts, December 20: The statement refers to waterfront parcels 2, 2a, 3, 3a, 5, 6, and 8 of the Newburyport Urban Renewal Project. (ELR Order No. 41910.)

Final

"The Colony" Denton County, Texas, December 16: The statement refers to the review and acceptance of an application for approval of a housing subdivision. The project encompasses 3698 acres in southeastern Denton County. A total of 8950 units, including 6958 single family detached units, will be constructed. Among project impacts will be the expansion of urban land development into an area where little experienced urban planning has been practiced, and the creation of pressures on the Garza-Little Elm Recreation Reservoir, an under-developed and under-planned recreation resources. Comments made by: USDA, COE, DOC, HEW, DOI, EPA, DOT, State and local agencies. (ELR Order No. 41887.)

INTERSTATE COMMERCE COMMISSION

Draft

Transportation of Waste Products, December 16: The statement refers to the Transportation of "Waste" Products for Reuse and Recycling (General Motor Carrier Licensing). The proposed rules would permit the Commission to issue special certificates of public convenience and necessity for the transportation control program. The new rules are designed to simplify regulatory procedures to enhance the transportation of waste products in order to make a significant contribution to the national recycling program. The project will create additional traffic for backhaul movements. (ELR Order No. 41875.)

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DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, (202) 343-3891. Bureau of Sports Fisheries and Wildlife

Final

Proposed Yukon Flats National Wildlife Refuge, Alaska, December 18: The statement refers to the proposal that 3.8 million acres of public lands be designated by Congress as the Yukon Flats National Wildlife Refuge. The Secretary of the Interior would have the authority to acquire lands and interests within the Refuge boundary should they become available. The lands would be withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws. The Yukon Refuge would be studied for possible inclusion in the National Wilderness Preservation System. Overall impact of the proposal is the protection of the area's fish and wildlife resources (646 pages). Comments made by: USDA, COE, DOC, EPA, DOT, DOI, State agencies. (ELR Order No. 41900.)

Valentine National Wildlife Refuge, Cherry County, Nebraska, December 18: The statement refers to a legislative proposal that 16,317 acres of the Wildlife Refuge be designated as wilderness within the National Wilderness Preservation System. Such designation would commit the area to the forces of nature, and remove some future management options. The refuge provides breeding grounds for migratory birds and other wildlife (52 pages). Comments made by: USDA, COE, DOI, DOT, EPA, state agencies. (ELR Order No. 41901.)

Crescent Lake National Wildlife Refuge, Garden County, Nebraska, December 18: The statement refers to the proposed legislative designation of 24,502 acres of the Refuge as wilderness within the National Wilderness Preservation System. The Refuge is a significant breeding ground and resting area for migratory waterfowl. Wilderness designation would commit the area to the forces of nature and remove options for future development and intensified management (41 pages). Comments made by: USDA, DOI. (ELR Order No. 41902.)

Chase Lake Wilderness Area, Stutsman County, North Dakota, December 19: The statement refers to recommendation that approximately 4,155 acres of the Chase Lake National Wildlife Refuge in Stutsman County, be designated as wilderness within the National Wilderness Preservation System. A wilderness designation will commit the area to the forces of nature and remove some future management options (26 pages). Comments made by: USDA, DOI, EPA. (ELR Order No. 41873.)

NATIONAL PARK SERVICE

Draft

Guadalupe Mountains N.P., Master Plan (2), Culberson and Hudspeth Counties, Texas, December. This revised draft discusses the National Park Service's proposal of a master plan for Guadalupe Mountains National Park in Culberson and Hudspeth Counties, Texas. The master plan is a document to guide the development, public use, and management of this national park for an estimated period of at least 5 years. Adverse impacts are principally some future disturbance of natural vegetation, surface rock and soil around principal development sites, proposed road alignments, and the problems associated with increased use of this park by visitors. (ELR Order No. 41870.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590 (202) 426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Petersburg to Kake Highway, Alaska, December 16: Proposed is the construction of a new gravel roadway connecting Kake and Petersburg, Alaska. Depending upon the route chosen, the Wrangell Narrows will be crossed either by a bridge or by ferry. The project will contribute to the loss of wilderness area through increased tourism as well as through the construction itself (236 pages). (ELR Order No. 41869.)

Moscow Couplet, U.S. 95, Latah County, Idaho, December 16: The proposed highway project is the improvement of congested traffic conditions on U.S. 95 through the city of Moscow in Latah County, Idaho, by the use of one-way couplet system. Total length of the project would be approximately 1 mile, with provision for curbs and gutters and on-street parking where feasible. Adverse impacts vary by alternative. (ELR Order No. 41874.)

North-South Arterial, Jamestown, Chautauqua County, New York, December 16: The statement refers to the proposed construction of a North-South Arterial in Jamestown from the South city line to South Main and Allen Streets. The 4-lane facility will have a total length of 1.3 miles. Adverse impacts are the demolition of 53 residential and 14 commercial buildings and the relocation of the occupants, and construction disruptions (205 pages). (ELR Order No. 41888.)

U.S. 101, Elk River-Port Orford Section, Curry County, Oregon, December 16: The statement refers to the proposed construction of the Elk River-Port Orford Section of U.S. 101 in Curry County, Oregon. The proposed project consists of a two-mile segment of highway on new location. Adverse impacts will result principally from construction activity and will particularly concern aquatic resources. (ELR Order No. 41876.)

F.M. 1765, Galveston County, Texas, December 17: The statement refers to the construction of 2.19 miles of F.M. 1765 from I-45 east to SR-3 adjacent to and representing the common city limits of Texas City and La Marque. The facility will provide a 6-lane roadway with curbs and gutters and a 14 ft. flush median for continuous left-turn lanes. There will be construction inconveniences caused by the project. (ELR Order No. 41894.)

U.S. 59, Fort Bend County, Texas, December 17: The proposed project consists of reconstructing a segment of U.S. 59 as a controlled-access facility along a route adjacent to and including the existing right-of-way. The total project length is 11.7 miles of which approximately 4.9 miles are on entirely new location. There will be the normal construction disruptions caused by the project (107 pages). (ELR Order No. 41897.)

Final

State Highway Route 49, Placer County, California, December 16: Proposed is the widening and improvement of 2.2 miles of SH 49 between the north Auburn underpass and Dry-Creek Road. Construction consists of widening the existing highway from two lanes to four lanes with left-turn channelization and includes the relocation of a railroad underpass. Section 4(f) land from the Auburn Recreation Area and Park District Regional Park may be affected. Two mobile homes and one business may be displaced (two volumes). Comments made by: DOI, EPA, State and local agencies. (ELR Order No. 41879.)

Doolittle Drive (Route 61), Alameda County, California, December 16: The proposed project consists of widening a mile long portion of Route 61, Doolittle Drive from two lanes to four lanes with parking. Increases in the peak noise level will occur. Comments made by: EPA, AHP, DOI, USDA, COE, HEW, HUD, local agencies, and concerned citizens. (ELR Order No. 41881.)

Shoreline Parkway, Escambia County, Florida, December 17: The statement refers to the construction of the proposed Shoreline Parkway from Barrancas Street to Pensacola Bay Bridge on U.S. 98. Project length is 2.9 miles. Four families and one business will be displaced. A section 4(f) determination has been filed to acquire land from the Pensacola Historic District (145 pages). Comments made by: EPA, DOI, HUD, HEW, USDA, DOC, State agencies. (ELR Order No. 41896.)

N-15, and U.S. 6, Saline and Seward Counties, Nebraska, December 16: The project involves the reconstruction of 8.8 miles of U.S. 6 and N-15. The project will require 86 acres of land. Two bridges will be replaced, one over Johnson Creek and one over the west fork of the Big Blue River. A 4(f) review has been filed to obtain land from the Blue River State Wayside Area, for right of way. Adverse impacts are: loss of land and wildlife habitat, and increased water pollution due to the bridge crossings. Comments made by: DOT, COE, USDA, HUD, DOI, EPA, State agencies. (ELR Order No. 41880.)

Interstate 35, Oklahoma County, Oklahoma, December 17: The statement refers to the proposed improvement and reconstruction of Interstate 35 from I-440 in Oklahoma City north to U.S. 66 in Edmond, a distance of 8.8 miles. Adverse impacts are the loss of 280 acres of agricultural land and the displacement of 26 families and 16 businesses (68 pages). Comments made by: EPA, DOI, HUD, USDA, HEW, COE, State and local agencies. (ELR Order No. 41895.)

GARY L. WIDMAN,
General Counsel.

[FR Doc.74-30851 Filed 12-27-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

AVAILABILITY OF ENVIRONMENTAL PROTECTION

[FRL 310-3]

Environmental Impact Statements and Other Agency Actions

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of November 1, 1974 and November 30, 1974.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix V.

Appendix II contains the definition of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this reviewing period. The listing will include the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix V.

Appendix IV contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in Appendix V.

Appendix V contains a listing of the names and addresses of the sources for copies of EPA comments listed in Appendices I, III, and IV.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Inquiries Branch, Office of Public Affairs, Environmental Protection Agency, Washington, D.C. 20460. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: December 11, 1974.

SHELDON MEYERS,
Director,
Office of Federal Activities.

APPENDIX I—DRAFT ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN NOV. 1 AND NOV. 30, 1974

Identifying No.	Title	General nature of comments	Source for copies of comments
Atomic Energy Commission:			
D-AEC-A00107-00	Management of commercial high level and transuranium, contaminated radioactive wastes.	S	A
D-AEC-A00015-00	Use of mixed oxide fuels in light water-cooling reactors, gesmo, recycle plutonium in light water-cooled reactors.	ER-2	A
Department of Agriculture:			
D-AFS-J65004-MT	Multiple use plan for the Ward-Eagle planning unit, Mont.	ER-1	I
D-AFS-K08001-00	Cholla project, power plant expansion, coal mine expansion transmission line, Albuquerque, N. Mex., and Arizona.	ER-2	J
D-AFS-L61007-OR	The Oregon Dunes National Recreation Area, management plan, Oreg.	LO-2	K
D-AFS-L61008-OR	Drift Creek management unit, Siuslaw National Forest, Oreg.	LO-1	K
D-AFS-L61009-OR	Wilderness suitability report, Oregon Dunes National Recreation Area, Siuslaw National Forest, Coos, Douglas, Lane Counties, Oreg.	LO-1	K
D-AFS-L65002-AK	Portage-Twelve Mile timber sale, Tongass National Forest, Alaska.	LO-2	K
D-REA-F08002-MN	230 kV transmission line, Canadian border to Hibbing, St. Louis County, Minn.	ER-2	F
D-REA-J08000-CO	Transmission lines, Bayfield to Pagosa Springs, 115 kV, Basalt to Aspen and Snowmass Tapline, Colo.	ER-1	I
D-SCS-C36006-NY	Oak Orchard Creek watershed, Genesee and Orleans Counties, N.Y.	ER-2	C
D-SCS-F36003-IN	Lye Creek Drain watershed, Montgomery County, Ind.	LO-2	F
D-SCS-H36003-IA	Pierce Creek No. 2 watershed, Page and Montgomery Counties, Iowa.	LO-2	H
D-SCS-J38000-SD	Mission Hill watershed protection plan, S. Dak.	LO-2	I
Corps of Engineers:			
D-COE-B36001-ME	St. John River Flood Protection, Fort Kent, Aroostook County, Maine.	ER-2	B
D-COE-D28001-VA	Little Creek water supply reservoir, James City County, Newport News, Va.	ER-2	D
D-COE-D35001-VA	Replacement study for Craney Island disposal area, Port of Hampton Roads, Va.	ER-2	D
D-COE-D35002-PA	Diked disposal site No. 2, Erie County, Erie Harbor, Pa.	LO-1	D
D-COE-D36004-VA	Flood protection measures at Richmond, Va.	ER-2	D
D-COE-E32002-SC	Charleston Harbor deepening project, Charleston Harbor and Shipyard River, S.C.	ER-2	E
D-COE-E32003-FL	Breakwater at Eastpoint, Apalachicola Bay, Fla.	ER-2	E
D-COE-E35002-AL	Mobile Harbor, maintenance dredging, Mobile County, Ala.	ER-2	E
D-COE-E36005-00	West Point Lake, Chattahoochee River, Alabama and Georgia.	ER-2	E
D-COE-E36007-00	Nonconnah Creek, watershed protection and flood control, Tennessee and Mississippi.	ER-2	E
D-COE-F07002-IL	Collins Generating Station, Grundy County, Ill.	EU-1	F
D-COE-G32004-TX	Maintenance and Dredging, Brazos Island, Tex.	LO-2	G
D-COE-G32007-OK	Operation and maintenance program, Great Salt Plains Lake, Salt Fork of Arkansas River, Oklahoma Canton Lake, North Canadian River, Fort Supply Lake, Wolf Creek, Alfalfa County, Okla.	LO-2	G
D-COE-G34002-TX	Lake Brownwood modification, Pecan Bayou Watershed, Colorado River, Tex.	LO-2	G
D-COE-G36002-TX	Burnett, Crystal, and Scott Bays and vicinity, Baytown, Harris County, Tex.	LO-1	G
D-COE-K36000-CA	Maintenance and dredging, Petaluma River, Sonoma and Marin Counties, Calif.	LO-1	J
D-COE-K36002-CA	Sacramento River, major and minor tributaries, Calif.	LO-1	J
D-COE-L36006-WA	Shelton Creek flood control and storm drainage project, Shelton, Wash.	LO-2	K
D-COE-L36007-OR	Monary second powerhouse, lock and dam, Columbia River, Oreg.	LO-2	K
Department of Commerce:			
D-NOA-E61006-NC	Designation of U.S.S. *Monitor* site as a unique and research marine sanctuary, 16.10 miles south to southeast of Cape Hatteras, N.C.	LO-1	E
Federal Power Commission:			
D-FPC-K05001-CA	Escondido project No. 176, Escondido and Vista, Calif.	S	J

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APPENDIX 1—DRAFT ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN NOV. 1 AND NOV. 30, 1974—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
General Services Administration:			
D-GSA-J81000-MT	Federal Office Building and Courthouse, Helena, Mont.	LO-1	I
Department of Housing and Urban Development:			
D-HUD-B80001-MA	Downtown Malden general neighborhood renewal plan area and the industrial park urban renewal area, Middlesex County, Malden, Mass.	LO-2	B
D-HUD-C60001-PR	Disposition of the San Patricio surplus Federal real property area, San Juan, P.R.	LO-2	C
Department of the Interior:			
D-BLM-A02062-TX	Outer Continental Shelf oil and gas general lease sale, No. 37, 551 tracts of submerged lands offshore Texas.	ER-2	A
Department of State:			
D-STA-A29102-00	Colorado River international salinity control project, Department of State, Department of the Interior, Bureau of Reclamation and Office of Saline Water, and the International Boundary and Water Commission.	ER-2	J
DS STA-A29102 00	Colorado River international salinity control project, supplement, Department of State, Department of the Interior, Bureau of Reclamation and Office of Saline Water, and the International Boundary and Water Commission.	ER-2	J
Department of Transportation:			
D-CGD-K11004-CA	Coast Guard air station, Arcata, Humboldt County, Calif	LO-1	J
D-FAA-D51001-WV	Raleigh County Memorial Airport, Beckley, W. Va	LO-2	D
D-FAA-E51002-AL	Albertville Municipal Airport, expansion of an existing airport, Albertville, Ala.	LO-1	E
D-FAA-E51004-MS	Roscoe Turner Field, Corinth, Miss.	LO-2	E
D-FAA-H51004-MO	Sikeston Memorial Airport, Mo.	ER-2	H
D-FAA-H51005-MO	Cassville Municipal Airport, Barry County, Cassville, Mo.	LO-2	H
D-FAA-H51006-IA	Eldora Municipal Airport, Eldora, Iowa	LO-2	H
D-FHW-B40004-MA	Route 25, Wareham, Plymouth, Bourne, Plymouth and Barnstable Counties, highway extension, Mass.	ER-2	B
D-FHW-B40005-MA	I-95, Route 128 interchange and Route 128 improvements, Essex County, Lynnfield, Peabody, Mass.	ER-2	B
D-FHW-C40005-PR	Reconstruction and location of Route 20, Guaynabo Freeway, San Juan, P.R.	ER-2	C
D-FHW-C40006-NY	Newburgh-Beacon bridge expansion, I-84, Orange and Dutchess Counties, N.Y.	LO-2	C
D-FHW-C40007-NY	Genesee Expressway, thruway to outer loop, arterial extension, Monroe County, N.Y.	ER-2	C
D-FHW-D40003-WV	US 60, Diamond to Hughesston, Kanawha City, W. Va.	LO-2	D
D-FHW-D40004-WV	Relocation of US 50 and WV-20 to Joyce St., Clarksburg, Harrison County, W. Va.	ER-2	D
D-FHW-E09003-FL	City of Tallahassee, high voltage electric transmission line from Arvah B. Hopkins generating station to bulk power substation No. 7, Fla.	LO-1	E
D-FHW-E40011-TN	Loudon and Blount Counties, TN-95 extending from just west of county line to the intersection of TN-95 and O'Dell Rd., Tenn.	ER-2	E
D-FHW-E40014-TN	Dyer County, I-155 from 1 mile east of Lenox Road to interchange with proposed relocated TN-3 and US 51, Tenn.	LO-2	E
DS-FHW-E40015-NC	Mecklenburg County, Charlotte inner loop from NC-49 to I-85 connector to Douglas Municipal Airport, N.C.	LO-2	E
D-FHW-E40019-MS	Project 257, Bailey Ave. overpass, Jackson, Hinds County, Miss.	LO-2	E
D-FHW-F40014-IL	FAL-474, FAL 74 west of Peoria to FAL 74 northwest of Morton, Peoria and Tazewell Counties, Ill.	LO-2	F
D-FHW-F40015-IL	Federal aid I-55, Lawndale to McLean, Logan and McLean Counties, Ill.	LO-2	F
D-FHW-F40018-IL	FA 7, IL-38, widening, city of DeKalb, DeKalb County, Ill.	LO-2	F
D-FHW-G40014-TX	FM 1382 and northeast Eight St. from spur 303 north to the Dallas-Fort Worth Turnpike in the city of Grand Prairie, Dallas County, Tex.	LO-1	G
D-FHW-H40008-IA	Iowa 2, Lee County, Iowa	LO-2	H
D-FHW-H40009-IA	Freeway 520, Webster and Hamilton Counties, Iowa	E	H
D-FHW-H40010-NB	NB-11, Scotia-South, Howard and Greeley Counties, Nebr.	LO-2	H
D-FHW-J40004-CO	Project No. F-019-2(14) SH 160-550, Durango South, LaPlata County, Colo.	3	I
D-FHW-J40008-MT	Reconstruction of Forest Highway 12, US 2, Glacier National Park, Mont.	LO-1	I
D-FHW-K40008-CA	Improvement of State Highway Route 1, San Luis Obispo County, Calif.	LO-1	J
Tennessee Valley Authority:			
D-TVA-E05002-TN	Gallatin Steam Plant, 4-unit gas turbine peaking plant addition, Sumner County, Tenn.	ER-1	E
D-TVA-E05003-TN	Raccoon Mountain pumped storage project, Marion County, Tenn.	ER-1	E

APPENDIX II—DEFINITION OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS.

ENVIRONMENTAL IMPACT OF THE ACTION

LO—Lack of Objection

EPA has no objection to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

ADEQUACY OF THE IMPACT STATEMENT

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

APPENDIX III—FINAL ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN NOV. 1, AND NOV. 30, 1974

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of Agriculture:			
F-AFS-A08023-FL	Apalachicola National Forest, 230 kV transmission line right-of-way, Fla.	EPA had no objections to the project as proposed.	E
F-AFS-A61285-CA	Silver Basin winter sports development, Amador and El Dorado Counties, Calif.	EPA reserved any final comment on this proposed action until such time as the forest Service's air quality study is completed. The Forest Service estimates that this study will be completed in March 1975.	J
D-REA-A08024-KY	Addition of a new 66 MW combustion turbine to the Sebree generating power plant in Henderson and Webster Counties, Ky.	EPA expressed no objections to the proposed project.	E
F-SCS-A36353-MN	Canby Creek Watershed project, Lincoln and Yellow Medicine Counties, Minn.	EPA generally had no objections to the project as proposed.	F
Corps of Engineers:			
F-COE-A07083-WI	Columbia generating station, Wisconsin Power & Light Co., Columbia County, Wis.	EPA had no objections to the proposed project as long as the proposed mitigating measures are undertaken by the Applicant.	F
F-COE-A36078-KY	Red River Lake project, Kentucky River basin, Ky.	EPA expressed severe environmental reservations about the proposed action based on these principal issues: (1) Violation of dissolved oxygen standards during summer months in the hypolimnion due to temperature stratification; (2) Grave concern for eutrophication problems accelerated by agricultural activities and increased urban runoff from Lake-Inspired development; (3) Elimination of at least three species of cool water fish from the project area; and (4) Violation of the National Technical Advisory Committee drinking water criteria for iron and manganese during Autumn or overturn months.	E
F-COE-A36098-AL	Claiborne lock and dam, Alabama River, Ala.	EPA generally had no objections to the project as proposed.	E
F-COE-A36043-OH	Local protection project, Berwick, Ohio.	....do....	E
Department of Defense:			
F-USAF-A35017-FL	180 military family housing units for fiscal year 1974, Okaloosa County, Eglin Air Force Base, Fla.	....do....	E
Federal Power Commission:			
F-FPC-A36027-WA	Ross development of project No. 553, Skagit River, Wash.	EPA had no objections to the proposed project.	E

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APPENDIX III—FINAL ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN NOV. 1, AND NOV. 30, 1974—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of Health, Education, and Welfare:			
F-HEW-A81094-IL....	Grant Hospital modernization and expansion, Chicago, Cook County, Ill.	EPA had no objections to the proposed project.	F
Department of Housing and Urban Development:			
F-HUD-A80134-PA...	Lock Haven urban renewal plan, Lock Haven, Pa.	EPA expressed no objections to the project but suggested continued study of flooding characteristics of the West Branch Susquehanna River. This would allow appropriate modifications in Lock Haven's evolving flood management programs to meet any possible changes of flooding conditions related either to increased runoff due to changes in upstream conditions or increased flow velocity and higher river staging due to local landfill activities and levee construction.	D
F-HUD-A85018-MO..	Demolition of Pruitt-Igoe public housing complex, St. Louis, Mo.	EPA expressed environmental reservations with regard to the proposed action. EPA requested that the final EIS (1) Identify solid waste disposal sites for an estimated 270,000 cubic yards of rubble and evaluate the environmental impacts of disposal; (2) Provide information on future use of the project land; (3) Assess the noise impacts of the demolition; (4) Identify and evaluate the impacts of solid waste transport routes; (5) Provide information and evaluate the impacts of the alternatives to the action; and (6) Provide estimates of cost of the proposed action.	H
Department of the Interior:			
F-BLM-K60060-00....	Proposed motorcycle race between Yermo, Calif., and Las Vegas, Nev.	EPA believes that the final statement adequately assesses the environmental impact of the proposed action. However, EPA recognizes that the actual environmental damage that may result from the race depends on the success of mitigating measures. EPA recommends a post-race survey to determine success of mitigation.	K
F-DOI-C64001-NJ....	White-tailed deer hunting program, Great Swamp National Wildlife Refuge, N.J.	EPA had no objections to the project as proposed.	C
Department of Transportation:			
F-CGD-A80061-MI....	Coast Guard icebreaking activity on the Great Lakes, Mich.	EPA generally had no objections to the project as proposed.	F
F-FAA-A51208-AZ....	Phoenix Sky Harbor International Airport, Phoenix, Ariz.	The final environmental statement did not contain sufficient information and analysis on the air quality impact of the proposed improvement program of Sky Harbor to enable EPA to carry out its section 309 responsibilities. EPA requested that further information be provided.	I
F-FAA-A51225-MS....	Union Municipal Airport, construction of new airport, Neshoba County, Union, Miss.	EPA had no objections to the proposed project.	E
F-FAA-A51237-AL....	Thomas C. Russell Field, Alexander City, improvement and enlargement, Ala.	EPA generally had no objections to the project as proposed.	E
F-FAA-A51249-NC....	Johnston County Airport, Smithfield, N. C.	EPA had no objections to the project as proposed.	E
F-FAA-A52057-00....	Proposed noise standards, propeller-driven small airplanes.	EPA reaffirmed the strong environmental reservations previously expressed to the Federal Aviation Administration (FAA) concerning the proposed standard. The reservations expressed in this letter centered primarily on the proposed noise compliance levels and the proposed noise evaluation measure. Also of serious concern were the simplified flight procedures and the proposed aircraft performance correction concept.	A
F-FHW-A41562-CA....	State Highway Route 49, improvement project Placer County, Calif.	EPA had no objections to the proposed project.	E
F-FHW-A41603-MI....	US 131 freeway from MI-46 to 20 Mile Road in Montcalm and Mecosta Counties, Mich.	....do....	F
F-FHW-A41676-MI....	East Boulevard extension, South Blvd. to Woodward Ave., Pontiac, Oakland County, Mich.	....do....	F
F-FHW-A41787-GA....	Cobb County, project S-1385(2), 4-lane urban road, Lee Industrial Blvd. to Oakdale Rd., Ga.	....do....	E
F-FHW-A41867-AL....	Macon and Elmore Counties, project Nos. S-4418 and S-2020, State 1300-E, AL-229, Ala.	EPA had no objections to the project as proposed.	E

APPENDIX III—FINAL ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN NOV. 1, AND NOV. 30, 1974—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
F-FHW-A41780-NY..	Hornell, north-south arterial, north section, Steuben County, N.Y.	EPA requested that FHWA provide additional information to enable a complete review of the impact statement and to facilitate the consideration of an indirect source permit. The follwing deficiencies were noted: (1) Secondary effects such as development were not adequately discussed; (2) Alterations to the Corps of Engineers flood control project were discussed but the extent or effects of the alterations were not indicated; and (3) The air quality diffusion analysis did not include enough information for a complete agency evaluation.	C
F-FHW-A41993-AL...	Tuscaloosa County, project No. APL 1296(002) and SG-6317(102), Holt-Peterson Rd., Ala.	EPA had no objections to the project as proposed.	E
F-FHW-A42341-MI...	Reconstruction of the Scottdale Bridge, US 31, Berrien County, Mich.	....do.....	F
F-FHW-E40016-AL...	Mobile County, project F-277(2), Range Line Rd., Ala.	EPA generally had no objections to the proposed project.	E
F-FHW-E40017-NC...	Rockingham and Caswell Counties, R-39, US 29, Ruffin to Virginia, North Carolina.	EPA generally had no objections to the proposed project. However, EPA recommended that a supplement be prepared to provide: (1) Clarification of the effects of open burning and identification of measures to minimize such effects; (2) Average daily traffic for project 10 years after completion; and (3) Prediction of 8-hour concentrations and comparison with 8-hour standards.	E
F-FHW-E40020-AL...	I-20-1(30), Irondale to relocated Old Leeds Rd., Ala.	EPA generally had no objections to the proposed project.	E

APPENDIX IV—REGULATIONS, LEGISLATION AND OTHER FEDERAL AGENCY ACTIONS FOR WHICH COMMENTS WERE ISSUED BETWEEN NOV. 1, AND NOV. 30, 1974

Identifying No.	Title	General nature of comments	Source for copies of comments
Atomic Energy Commission:			
R-AEC-A09021-00....	10 CFR Part 20, transuranic waste disposal, proposed standards for protection against radiation.	EPA deferred commenting until the draft environmental impact statement relating to this proposed rule is issued.	A
R-AEC-A09022-00....	10 CFR Part 150, transuranic waste disposal, exemptions and continued regulatory authority.	EPA deferred commenting until the draft environmental impact statement relating to this proposed rule is issued.	A
Corps of Engineers:			
R-COE-A24058-00....	33 CFR Part 209, review of NPDES permits, proposed policy, practice, and procedures.	EPA commended the regulations for recognizing that in most cases substantial impairment to navigation and anchorage will cease with installation of necessary treatment facilities and urged that the timetables contained in the regulations for permit review be followed so that substantial delays in permit issuance will be avoided.	A
Department of Commerce			
R-NOA-A99003-00....	15 CFR Part 923, coastal zone management program approval regulations, criteria and procedures.	In EPA's view the regulations are generally adequate; however, modifications to several sections were suggested in an effort to strengthen the regulations from an environmental point of view. The major portion of the comments were in the form of suggested wording to more closely integrate the planning approaches of EPA and NOAA.	A
Federal Energy Administration			
R-FEA-A04013-00....	10 CFR Parts 211 and 212, old oil, proportionate allocation among refiners.	EPA supported FEA's procedure whereby the number of entitlements to importers of residual fuel oil and No. 2 fuel oil would be based on the prevailing differential between each products' low-sulfur domestic and low-sulfur imported prices. Such a procedure appears to remove a major disincentive to the importation of low-sulfur products and we encourage its adoption.	A
Federal Trade Commission			
R-FTC-A86071-00....	16 CFR Chapter 1, automobile fuel economy claims, notice of public hearing and opportunity to submit data, views or arguments concerning rulemaking.	At the request of the FTC, EPA will present testimony at a public hearing scheduled for Dec. 6, 1974.	A

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APPENDIX III—FINAL ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN NOV. 1, AND NOV. 30, 1974—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of Housing and Urban Development:			
R-HUD-A[illegible]-00.....	24 CFR Part 570, community block grants.	EPA expressed significant reservations to the proposed regulations. EPA provided HUD with comments on the five following areas of concern: (1) The number and classes of applicants to whom the NEPA responsibility would be delegated; (2) The determination of an applicant's capacity for discharging the NEPA responsibility; (3) The monitoring and overview of an applicant's performance in discharging the NEPA responsibilities; (4) Critical definitions and assumptions; and (5) Procedural items such as adequate notice and public hearings.	A
R-HUD-A[illegible]-00.....	24 CFR Part 58, environmental review procedures, proposed policies and procedures.		
Department of the Interior:			
R-IOS-A[illegible]-00....	Notice, Atlantic area, intention to develop outer Continental Shelf.	EPA has consistently pointed out the need for consolidating requirements for discreet operations within the appropriately titled order. This concern has focused on orders No. 7 and No. 8, in which are found various pollution control standards. In conformance with prior recommendations for the Alaskan OCS, EPA continues to urge proper organization and clarification of pollution control requirements that will reflect latest legislation, regulation, and prevention engineering, as well as EPA discharge permitting authority. OCS operating orders should be in agreement with EPA effluent limitations for the oil and gas extraction industry.	A
Department of Transportation:			
R-DOT-A[illegible]-00....	49 CFR Part 195, offshore pipeline facilities, proposed standards.	EPA recommended that the proposed regulation address equally the goals of human safety and pollution prevention. As currently written, the regulation is concerned with human safety to a much greater extent than with pollution prevention.	A
R-FAA-A[illegible]-00....	14 CFR Part 36, Noise standards, aircraft type and airworthiness certification.	EPA expressed no objections to the FAA regulation as presently written.	A
R-FHW-A[illegible]-00....	23 CFR Part 470, Urban area boundaries.	In EPA's view the regulations were generally adequate; however, modifications were suggested in an effort to strengthen the regulations from an environmental point of view.	A
R-FHW-A[illegible]-00....	23 CFR Part 750, highway beautification, proposed outdoor advertising controls.	EPA recommended that criteria adopted by States and/or local zoning authorities relative to size, lighting, and/or spacing of signs be no less restrictive than the criteria presently contained in agreements between the State(s) and the Secretary of Transportation. In addition, EPA recommended there be a maximum period of time a "grandfather clause" sign be allowed to remain in use.	A

APPENDIX V—SOURCE FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

B. Director of Public Affairs, Region I, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

C. Director of Public Affairs, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, 1421 Peachtree Street NE., Atlanta, Georgia 30309.

F. Director of Public Affairs, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, Texas 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, California 94111.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington, 98101.

[FR Doc.74-30012 Filed 12-27-74;8:45 am]

[FRL 310-2; OPP—32000/162]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before February 28, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division, (WH-569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60-day period has expired. If no claims are received within the 60-day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60-day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after February 28, 1975.

APPLICATIONS RECEIVED

EPA File Symbol 8419-RT. The Andersons, PO Box 119, Maumee OH 43537. THE ANDERSONS CRABGRASS PREVENTER WITH BALFIN. Active Ingredients: N-butyl-N-ethyl-a,a,a-trifluoro-2,6-dinitro-p-toluidine 0.58%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10445-RL. Calgon Corp., PO Box 1346, Pittsburgh PA 15230. H-204A MICROBIOCIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 19.5%; Bis (Tri-n-Butyltin) Oxide 7.5%. Method of Support: Application Proceeds under 2(c) of interim policy.

EPA Reg. No. 239-2358. Chevron Chem. Co., Ortho Div., 940 Hensley St., Richmond CA 94801. ORTHO CRAB GRASS & DANDELION KILLER. Active Ingredients: Dodecylammonium Methanearsonate 8.0%; Octylammonium Methanearsonate 8.0%; Octylammonium Salt of 2,4-Dichlorophenoxyacetic Acid 8.16%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 100-LTE. Ciba-Geigy Corp., Agricultural Div., PO Box 11422, Greensboro NC 27409. CIBA-GEIGY AATREX 90WP. Active Ingredients: Atrazine: 2-chloro-4-ethylamino-6-isopropylamino s-triazine 85.5%; Related compounds 4.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7273-RUL. Crown Chemicals, 4905 N Main St., Rockford IL 61101. CROWN ALL PURPOSE LIVESTOCK AND POULTRY DUST WITH RABON. Active Ingredients: 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate 3.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 279-EOOT. FMC Corp., 100 Niagara St., Middleport NY 14105. PYRENONE FOOD PLANT FOGGING INSECTICIDE. Active Ingredients: Pyrethrins 0.5%; Piperonyl Butoxide, Technical 5.0%; Petroleum Distillate 94.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 35609-R. General Ecology, Inc., General Ecology Bldg., 685 Kromer Ave., Berwyn PA 19312. CARE-FREE! POOLIFIER. Active Ingredients: Silver 0.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 869-RLR. Green Light Co., PO Box 16192, San Antonio TX 78246. GREEN LIGHT KELTHANE SPRAY. Active Ingredients: 1,1-bis(chlorophenyl)-2,2,2-trichloroethanol 18.5%; Xylene 73.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 35611-R. Hollis Applied Sciences Co., PO Box 38245, Memphis TN 38138. HASCOCIDE 45. Active Ingredients: Poly[oxyethylene(dimethyliminio)-ethylene(dimethyliminio)ethylene dichloride] 20.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 3837-UG. LuBar Co., 1708 Campbell, Kansas City MO 64108. 123 ALGAECIDE. Active Ingredients: Poly-[oxyethylene(dimethyliminio)ethylene(dimethyliminio)ethylene dichloride] 1.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 3837-UE. LuBar Co., 1708 Campbell, Kansas City MO 64108. SPT. Active Ingredients: Poly[oxyethylene(dimethyliminio)ethylene (dimethyliminio)-ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1706-RUE. Nalco Chemical Co., 6216 W 66th Pl., Chicago IL 60638. NALCO 4WC264 MICROORGANISM CONTROL CHEMICAL. Active Ingredients: Sodium dichloro-s-triazinetrione dihydrate 18.0%. Method of Support. Application proceeds under 2(a) of interim policy.

EPA File Symbol 33576-EO. Olin Water Services, Olin Corp., 120 Long Ridge Rd., Stamford CT 06904. OLIN 3301. Active Ingredients: Methylene Bis Thiocyanate 10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 7256-1. Mathesod Gas Products, A Div. of Will Ross, Inc., 2727 W Good Hope Rd., PO Box 2012, Milwaukee WI 53201. "ETHYLENE 95%". Active Ingredients: Ethylene 95%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4876-LA. Seedkem, 526 NW 4th, Evansville IN 47708. DOUBLE DUTY GARDEN DUST. Active Ingredients: Carbaryl (1-Naphthyl N-Methylcarbamate) 4.00%; Maneb (Manganese Ethylene Bisdithiocarbamate) 5.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 12042-A. Verax Chemical Co., 3753 Brooklyn Ave., NE, Seattle WA 98105. HYCO DISINFECTANT-SANITIZER-DEODORIZER. Active Ingredients: n-Alkyl (60%, C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34810-R. Wexford Labs., Inc., 1635 S Vandeventer Ave., St. Louis MO 63110. WEX-SAN. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium Carbonate 4.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34810-G. Wexford Labs., Inc. WEX-SAN-M. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.50%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34810-E. Wexford Labs., Inc. SUPER WEX-SAN. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 6.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl amonium chlorides rides 6.25%; Tetrasodium ethylenediamine tetraacetate 3.60%; Sodium Carbonate 3.00%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 662-LO. Wyandotte Chemical Co., J. B. Ford Div., Wyandotte MI 48192. WYANDOTTE STERI-CHLOR C HIGHLY-SOLUBLE CHLORINE SANITIZER. Active Ingredients: Sodium dichloro-s-triazinetrione dihydrate 7.2%. Method of Support: Application proceeds under 2(c) of interim policy.

Dated December 13, 1974.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.74-29708 Filed 12-27-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 20252, 20253; File Nos. BP19550, 19595]

JULIE P. MINER (KDXU) AND ALBERT L. CRAIN

Order Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of JULIE P. MINER (KDXU) St. George, Utah. Requests: 890 kHz, 10 kW, DA-N, U, Docket No. 20252, File No. BP-19550. ALBERT L. CRAIN St. George, Utah. Requests: 890 kHz, 10 kW, 50 kW-LS, DA-N, U, Docket No. 20253, File No. BP-19595, For Construction Permits.

1. The Commission, by the Chief of the Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned applications, which are mutually exclusive in that they seek the same frequency in St. George, Utah.

2. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive daytime service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive primary daytime service, together with the availability of other primary aural daytime services (1 mV/m or greater in the case of FM) in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

3. Albert Crain indicates, in an amendment, that a random general public survey was conducted. However, he has failed to identify the person or persons who conducted these interviews. In light of question and answer 11(b) of the Commission's Primer on the Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650 (1971), an appropriate issue will be included.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, *it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the efforts made by Albert Crain to ascertain the community problems of the area to be served and the means by which the applicant proposes to meet these problems.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

6. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to section 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

7. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as rquired by § 1.594(g) of the rules.

Adopted: December 9, 1974.

Released: December 13, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 74-30315 Filed 12-27-74; 8:45 a.m.]

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[Docket Nos. 20283, 20284; File Nos. BPH-3433, BPH-9053]

PELLA COMMUNICATIONS, INC. AND TULIP CITY BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of: PELLA COMMUNCIATIONS, INC., Pella, Iowa, Requests: 103.3 MHz, No. 277; 100 kW (H&V); 451 feet, Docket No. 20283, File No. BPH-3433.

Joseph L. Stone and Earl W. Fessler, d/b as TULIP CITY BROADCASTING CO., Pella, Iowa, Requests: 103.3 MHz, No. 277; 58.77 kW (H&V); 339 feet, Docket No. 20284, File No. BPH-9053, For Construction Permits.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned applications which must be designated for comparative hearing since they seek the same channel in the same community.

2. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive primary service, together with the availability of other primary aural services (1 mV/m or greater in the case of FM) in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

3. Tulip City Broadcasting Co. (Tulip), intends to locate its studio 4½ miles northwest of the city of Pella on Highway 163, at its transmitter site. Section 73.210 of the Commission's rules requires that the main studio of a commercial FM station be located in the proposed city of license, or that good cause be shown for locating the main studio outside that community. Tulip states that the proposed studio site is owned by the applicant, and provides better access and better parking facilities for employees and visitors than would be a leased facility within the city limits. In addition, the applicant states that a better quality signal can be generated from the transmitter site by having a direct link between the audio equipment and the transmitter. Finally, the applicant claims that having the same location for the studio and transmitter is more economical, and that suitable facilities within the corporate limits of Pella, which would be available for leasing, are limited. In view of the foregoing, we find that good cause to locate the studio at the proposed site has shown in this instance.

4. Tulip City Broadcasting Co., will require $73,200 to construct and operate the proposed facility for a period of one year, without revenue, itemized as follows:

Equipment	$32,600
Land	2,200
Buildings	1,500
Miscellaneous	10,900
Working capital requirement	20,000
Interest on bank loan	6,000
Total	73,200

To meet this requirement, the applicant relies upon existing capital ($3,500), new capital ($35,450), and a $50,000 bank loan. However, the bank loan fails to state the terms of repayment and collateral as required by section III, page 3, paragraph 4(e) of the application form. As a result, an issue will be specified to determine its availability.

5. Pella Communications' community survey failed to state whether any significant labor unions exist in Pella, and no labor union leaders were included in the list of interviews with community leaders. In addition, the applicant failed to state the specific method by which members of the general public were selected for interview. As a result, no determination can be made as to whether the survey was truly random. Finally, since no statement was made as to precisely who conducted the surveys, it cannot be determined whether the requirements of question and answer 11 of the Primer on the Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650 (1971), have been met. As a result, an appropriate issue will be specified.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, *It is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. With respect to the application of Tulip City Broadcasting Co., to determine:

(a) The terms of repayment and collateral for the $50,000 bank loan and its availability to the applicant; and

(b) Whether, in light of the evidence adduced pursuant to (a), above, the applicant is financially qualified to construct and operate as proposed.

2. To determine the efforts made by Pella Communications to ascertain the community problems of the area to be served and the means by which the applicant proposes to meet those problems.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

8. *It is further ordered*, That, Tulip City Broadcasting Co., having demonstrated that good cause exists for the location of the main studio outside the city limits of Pella, Iowa, and that the location is consistent with operation of the station in the public interest, permission to so locate the main studio IS GRANTED.

9. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to section 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

10. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and section 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by section 1.594(g) of the rules.

Adopted: December 13, 1974.

Released: December 20, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-30316 Filed 12-27-74;8:45 am]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," Radio Technical Commission for Marine Services (RTCM) meetings scheduled for the future are as follows:

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary

Special Committee No. 65

"SHIP RADAR"
Notice of 94th Meeting
Wednesday, January 15, 1975—1:30 p.m.
Conference Room 6010
2025 M Street NW.
Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Adoption of Agenda; Appointment of Rapporteur.
3. Acceptance of SC-65 Summary Records.
4. Progress Report of Collision Avoidance Working Group.
5. Small Boat Radar Specifications.
6. Other business.
7. Establishment of next meeting date.

Collision Avoidance Working Group: The Collision Avoidance Working Group

will hold a meeting on Wednesday, January 15, 1975, beginnnig at 9:30 a.m., in Conference Room 8210, 2025 M Street NW., Washington, D.C.

Irvin Hurwitz, Chairman SC-66
Federal Communications Commission
Washington, D.C. 20554
Phone: (202) 632-7197.

Special Committee No. 66

"Receiver Standards for the Maritime Mobile Service"
Notice of 27th Meeting
Wednesday, January 15, 1975—9 a.m. (all-day meeting)
Conference Room A205
1229-20th Street, NW.
Washington, D.C.

AGENDA

1. Call to Order; Chairman's report.
2. Adoption of Agenda.
3. Acceptance of Summary Records.
4. Reports on Work Assignments.
5. Approval of submitted papers.
6. Discussion of problem areas.
7. Solicitation of Work Assignments.
8. Other business.
9. Establishment of next meeting date.

H. R. Smith, Chairman, SC-66
ITT Mackay Marine
441 U.S. Highway # 1
Elizabeth, N.J. 07202
Phone: (201) 527-0300.

RTCM Executive Committee

Notice of January meeting
Thursday, January 16, 1975—9:30 a.m.
Conference Room 847
1919 M Street, NW.
Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Approval of Minutes.
4. Committee Reports.
5. Status report on "Federal Advisory Committee Act".
6. Discussion on draft papers.
7. Assembly Meeting Report.
8. Reports on other meetings.
9. Summary reports and announcements.
10. New business.
11. Establishment of next meeting date.

To comply with the advance meeting notice requirements of Public Law 92-463, a comparatively long interval of time occurs between publication of this notice and the actual meetings. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend any of the preceding listed meetings should report to the room number given in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for each committee meeting are available at that meeting. Those desiring more specific information may contact either the designated Committee Chairman or the RTCM Secretariat. (Phone: (202) 632-6490)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final reports are approved by the RTCM Executive Committee. All RTCM meetings are open to the public.

[FR Doc.74-30313 Filed 12-27-74;8:45 am]

[Docket Nos. 20179, 20180, File Nos. BPH-8622, BPH-8782; FCC 74R-450]

TRI-COUNTY STEREO, INC. AND MORISON ENTERPRISES, INC. OF POLK COUNTY

Memorandum Opinion and Order Regarding Construction Permit

1. By Order, 39 FR 34103, published September 23, 1974, the Chief of the Broadcast Bureau, acting pursuant to delegated authority, designated the above-captioned applications for hearing. Presently before the Review Board is a petition to enlarge issues, filed November 1, 1974, by Tri-County Stereo, Inc. (Tri-County), requesting addition of site availability and Rule 1.526 (public inspection file) issues against Morison Enterprises, Inc. of Polk County (Morison).[1]

2. Tri-County concedes that its petition is late filed,[2] but, citing The Edgefield-Saluda Radio Co. (WJES), 5 FCC 2d 148, 8 RR 2d 611 (1966), asserts that it has raised "matters of great significance" which warrant evidentiary inquiry on the merits. Tri-County also asserts that "many of the events only recently occurred and petitioner has proceeded with due diligence to file this petition upon learning of them." The Review Board agrees with the Broadcast Bureau that good cause does not exist because Tri-County has not shown that the information relied upon in support of its petition could not have been obtained earlier. However, the petition does raise serious public interest questions. Thus, consistent with our usual practice, we will consider the petition on its merits.

SITE AVAILABILITY ISSUE

3. In support of its request for a transmitter site availability issue, Tri-County submits a letter and affidavit from the president of Ben Hill Griffin, Inc., the owner of the land Morison has specified as its site, which state that his permission for Morison's utilization of the site has been withdrawn. Petitioner, therefore, asserts that the proposed site is unavailable. The Bureau supports addition of the requested issue. Opposing enlargement, Morison contends that addition of such an issue would be premature because it is presently negotiating for a new site, and it intends to file a petition to amend to reflect this purchase shortly.

4. Morison does not dispute that its originally specified site is apparently unavailable and no petition to amend specifying a new site has been acted upon by the Administrative Law Judge. Accordingly, a site availability issue will be added against Morison. See Community Broadcasting Co., Inc., 43 FCC 2d 489, 31 RR 2d 164 (1974).

PUBLIC INSPECTION FILE ISSUE

5. Petitioner, in support of its request for the addition of a Rule 1.526 issue against Morison, alleges that the Morison public file does not contain two pieces of Commission correspondence and two amendments to the Morison application. In support of its allegations, Tri-County attaches the affidavits of W. Bruce Strenth and Francis J. Matrangola, each of whom states that he reviewed the Morison file, and that the file contained only the unamended Morison application, dated December 26, 1973. Both the Bureau and Morison oppose the requested issue. Morison submits that it is currently "in substantial compliance with the Commission's Rules" because the omitted documents have either been placed in the file or will be added shortly.

6. The Review Board will add the requested issue. Substantial compliance with Rule 1.526, as suggested by Morison, is not the correct criterion—"an applicant has either complied or not complied." Media, Inc., 22 FCC 2d 875, 876, 18 RR 2d 1175, 1178 (1970). It appears that Morison has not complied with the requirements of Rule 1.526, and it has offered no explanation for its failure to do so. However, in the absence of any indication or allegation of intentional misconduct or prejudice to the parties or to the public, we will add the issue on a comparative basis only. Cf. Edward G. Atsinger, III, 29 FCC 2d 443, 21 RR 2d 1039 (1971).

7. Accordingly, *it is ordered*, That the petition to enlarge issues, filed November 1, 1974, by Tri-County Stereo, Inc., is granted to the extent indicated herein, and IS DENIED in all other respects; and

8. *It is further ordered*, That the issues in this proceeding are enlarged by the addition of the following issues:

(a) To determine whether Morison Enterprises, Inc. of Polk County has reasonable assurance of the transmitter site specified in its application;

(b) To determine whether Morison Enterprises, Inc. of Polk County has complied with Section 1.526 of the Commission's Rules, and, if not, the effect thereof on its comparative qualifications to be a Commission licensee.

9. *It is further ordered*, That the burdens of proceeding and proof under issue (a) added herein shall be on Morison Enterprises, Inc. of Polk County.

Adopted: December 16, 1974.

Released: December 20, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.74-30312 Filed 12-27-74;8:45 am]

[1] Also before the Review Board are: (a) comments, filed November 14, 1974, by the Broadcast Bureau; (b) opposition, filed November 18, 1974, by Morison; and (c) reply, filed November 22, 1974, by Tri-County.

[2] The petition was filed approximately three weeks after the time for filing had expired. See section 1.229 of the rules.

FEDERAL ENERGY ADMINISTRATION

CONSUMER AFFAIRS AND SPECIAL IMPACT ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given

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that the Consumer Affairs and Special Impact Advisory Committee will meet from 7 p.m. until 9 p.m., Wednesday, January 15, 1975, and reconvene at 9 a.m., Thursday, January 16, 1975, in Room 3400, 12th & Pennsylvania Avenue NW., Washington, D.C.

This Committee was established to provide the Federal Energy Administration with diversified knowledge and experiences possessed by a wide range of highly qualified individuals who have been extensively involved in planning, development, and implementation of programs to remedy the problems of the consumer, the poor, the elderly, and the handicapped persons in rural and urban America.

The Agenda for the meeting is as follows:

1. Oil Pricing Policy Issues—Impact on Consumers.
2. Oil Pricing Regulations.
3. FEA Allocation Program and FEA Compliance Program.
4. Discussion of Coal Price Increases—Consumer Cost vs. Industrial Cost.
5. Progress Report on Resolutions Regarding Emergency Social Programs for this Winter.

The meeting is open to the public; however, space and facilities are limited.

The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Advisory Committee Management Office (202) 961-7022 at least 5 days before the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection at the Federal Energy Administration, Washington, D.C.

Issued at Washington, D.C. on December 24, 1974.

ROBERT E. MONTGOMERY, JR.,
General Counsel.

[FR Doc.74-30334 Filed 12-27-74;8:45 am]

FEDERAL MARITIME COMMISSION

[INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE NO. 1056]

BEVON INTERNATIONAL, INC.

Order of Revocation

Bevon International, Inc., 196 East Bay Street, Charleston, South Carolina 29402 voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1056 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(f) (dated 9/15/73);

It is ordered, that Independent Ocean Freight Forwarder License No. 1056 be and is hereby revoked effective December 13, 1974, without prejudice to reapply for a license at a future date.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Bevon International, Inc.

WM. JARRELL SMITH, JR.,
Deputy Managing Director.

[FR Doc.74-30320 Filed 12-27-74;8:45 am]

[INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE NO. 391]

ERRION COMPANY, INC.

Order of Revocation

Errion Company, Inc., 200 Chestnut Avenue, Bogota, New Jersey 07603 voluntarily surrendered its Independent Ocean Freight Forwarder License No. 391 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(f) (dated 9/15/73);

It is Ordered, that Independent Ocean Freight Forwarder License No. 391 be and is hereby revoked effective December 12, 1974, without prejudice to reapply for a license at a later date.

It is Further Ordered, that a copy of this Order be published in the FEDERAL REGISTER and served upon Errion Company, Inc.

WM. JARRELL SMITH, JR.,
Deputy Managing Director.

[FR Doc.74-30321 Filed 12-27-74;8:15 am]

PORT OF OAKLAND AND MARINE TERMINALS CORP.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 19, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

J. Kerwin Rooney, Esquire
Port Attorney
Port of Oakland
66 Jack London Square
P.O. Box 2064
Oakland, California 94607

Agreement No. T-2913-1 between the City of Oakland (City) and Marine Terminals Corporation (MTC) amends the basic agreement which provides for the two-year nonexclusive preferential assignment by City of MTC of certain premises in the Port of Oakland, California, for the purpose of docking, unloading and loading vessels. The purpose of the amendment is to delete Parcel Two from the Agreement without any change in compensation and to make other appropriate changes related thereto.

By Order of the Federal Maritime Commission.

Dated: December 20, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-30318 Filed 12-27-74;8:45 am]

PUERTO RICO TRADES AGREEMENT NO. DC-8, AS AMENDED

Request for Cancellation

Notice of Request for Cancellation of Agreement Filed By:

John Mason, Esq.
Ragan & Mason
The Farragut Building
900 Seventeenth Street, NW.
Washington, D.C. 20006

Agreement No. DC-8, as amended, between Sea-Land Service, Inc., Seatrain Lines, Inc., Transamerican Trailer Transport, Inc., Trailer Marine Transport, Inc. (TMT), and Gulf Puerto Rico Lines, Inc., permits the parties to exchange information relative to cost of service, rates and rationalization of sailings[1] in the trades between United States Atlantic, Gulf and Pacific ports and ports in Puerto Rico. The basic agreement was approved by the Commission on January 17, 1964.

The parties to Agreement No. DC-8 no longer operate in trades between the United States East and Gulf Coasts and Puerto Rico and, therefore, have requested the Commission to issue an order terminating Agreement No. DC-8, as amended, and the rights and obligations of the parties thereunder.

Interested parties desiring to comment on this matter may file such comments with the Secretary, Federal Maritime Commission, Washington, D.C.

[1] TMT chose not to participate in amendment DC-8-3 which permitted agreement on the rationalization of sailings.

20573, on or before January 9, 1975.

A copy of any such statement should also be forwarded to the party filing the request for cancellation of the agreement and the statement should indicate that this has been done.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

Dated: December 23, 1974.

[FR Doc.74-30919 Filed 12-27-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. G-18352, *et al.*]

CITIES SERVICE OIL CO. ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

DECEMBER 17, 1974.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 6, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-18352 D 11-20-74	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Natural Gas Pipeline Co. of America, Camrick Unit, Texas and Beaver Counties, Okla.	Uneconomical	
CI73-513 C 11-12-74[1]	Pacific Lighting Gas Development Co., 720 West Eight St., Los Angeles, Calif. 90017.	Transwestern Pipeline Co., South Vici Field, Dewey County, Okla.	[2] 21.315	14.65
CI75-155 A 9-11-74[3]	Cities Service Oil Co.	Pacific Lighting Service Co., Federal lease OCS P-1606, offshore Santa Barbara County, Calif.	[2] 65.0	14.73
CI75-226 (G-7009) (G-12487) (CI65-[illegible]) F 11-15-74	R.S.V. Co., Inc. (successor to Cities Service Oil Co.), P.O. Box 2290, Pikeville, Ky. 41501.	Columbia Gas Transmission Corp., Appalachian Field, Floyd and Pike Counties, Ky.	20.0	14.7
CI75-234 (CI65-[illegible]) B 11-18-74	Cities Service Oil Co.	United Gas Pipe Line Co., State Tract 38 and State Tract 446, offshore Nueces and San Patricio Counties, Tex.	Non-productive	
CI75-235 (CS71-364) B 11-21-74	Edwin M. Jones Oil Co., 304 Milam Bldg., San Antonio, Tex. 78205.	Natural Gas Pipeline Co. of America, Clayton Field, Live Oak and McMullen Counties, Tex.	Depleted	
CI75-236 (CS71-51) F 11-21-74	Sun Calvert Co. (successor to Calvert Exploration Co.), P.O. Box 2880, Dallas, Tex. 75221.	Transcontinental Gas Pipe Line Corp., South Tilden Field, McMullen County, Tex.	[2] 16.06	14.65
CI75-237 (CS73-499) B 11-22-74	Tara Petroleum Corp., 706 Amarillo National Bank Bldg., Amarillo, Tex. 79101.	Kansas-Nebraska Natural Gas Co., Inc., Syracuse Field, Hamilton County, Kans.	Depleted	
CI75-238 E 11-22-74	American Petrofina Co. of Texas (Operator), *et al.* (successor to Duer Wagner & Co.), P.O. Box 2159, Dallas, Tex. 75221.	Transcontinental Gas Pipe Line Corp., Greta Field, Refugio County, Tex.	[2] 26.0 [2] 46.285	14.65 14.65
CI75-239 A 11-22-74	Sun Oil Co., P.O. Box 2880, Dallas, Tex. 75221.	Transcontinental Gas Pipe Line Corp., Sorrento Field, Ascension Parish, La.	[2] 52.35	15.025
CI75-241 A 11-23-74	Placid Oil Co., 2500 First National Bank Bldg., Dallas, Tex. 75283.	Natural Gas Pipeline Co. of America, Franks Northwest Field, Galveston County, Tex.	[2] 42.0	14.73
CI75-242 (CI72-499) B 11-25-74	Texas Pacific Oil Co., Inc., 1700 One Main Place, Dallas, Tex. 75250.	Cities Service Gas Co., Southeast Nash area, Grant County, Okla.	Depleted	
CI75-246 A 11-26-74	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Mountain Fuel Supply Co., Spearhead area, Converse County, Wyo.	[2] 53.0	15.025
CI75-248 F 11-15-74	Union Texas Petroleum, a division of Allied Chemical Corp. (successor to (*)), P.O. Box 2120, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, Caprito Field, Ward County, Tex.	[2] 45.9725	14.65
CI75-249 A 11-27-74[4]	Pinto, Inc., 909 The Main Building, Houston, Tex. 77002.	Sea Robin Pipeline Co., Block 270, East Cameron area, south addition, and Block 330, Eugene Island area, south addition, offshore Louisiana.	[5] 44.123	15.025
CI75-250 A 11-27-74[4]	Texas Production Co., 909 The Main Building, Houston, Tex. 77002.	Sea Robin Pipeline Co., Block 270, East Cameron area, south addition, and block 330, Eugene Island area, south addition, offshore Louisiana.	[5] 44.123	15.025
CI75-251 A 11-27-74[4]	Ecos, Inc., 909 The Main Building, Houston, Tex. 77002.	....do	[5] 44.138	15.025
CI75-252 A 11-25-74[4]	Tennneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a division of Tennneco Inc., Eugene Island Block 330 Field, offshore Louisiana.	[5] 45.0225	15.025
CI75-253 A 11-27-74	Sun Oil Co., P.O. Box 2880, Dallas, Tex. 75221.	Transcontinental Gas Pipe Line Corp., Live Oak Field, Vermilion Parish, La.	[5] 35.025	15.025
CI75-254 A 11-27-74	Sun Oil Co.	United Gas Pipe Line Co., Abbeville Field, Vermilion Parish, La.	[5] 38.025	15.025
CI75-255 A 11-29-74	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Patrick Draw area field, Sweetwater County, Wyo.	[5] 49.7665	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[1] Being renoticed, because by filing of 12-6-74, Applicant now requests a certificate at the rate of 21.916¢ per Mcf established under Opinion No. 598.
[2] Being renoticed, because by letter filed 11-15-74, Applicant states its willingness to accept a certificate in accordance with Opinion No. 699.
[3] Gas well gas only and subject to upward and downward Btu adjustment.
[4] Subject to downward Btu adjustment and includes 0.08¢ per Mcf tax reimbursement.
[5] Rate for gas from wells drilled prior to 1-1-73; subject to downward Btu adjustment.
[6] Rate for gas from wells drilled after 1-1-73; subject to downward Btu adjustment.
[7] Includes 3.85¢ per Mcf tax reimbursement; subject to downward Btu adjustment.
[8] Subject to upward and downward Btu adjustment.
[9] Applicant is willing to accept a certificate in accordance with Opinion No. 699.
[10] Atlantic Richfield Company (C168-691), HNG Oil Company (C168-1199), J. N. Gifford (C871-189), The Midland National Bank, Trustee (C868-49) and Texas American Oil Corporation (C867-36).
[11] Applicant proposes to continue the sale for which a certificate was issued in Docket No. CI72-455 within Section 2.75 of the Commission's General Policy and Interpretations, 18 CFR 2.75.
[12] Subject to upward and downward Btu adjustment; estimated upward adjustment in 0.288¢ per Mcf.
[13] Applicant proposes to continue the sale for which a certificate was issued in Docket No. CI72-464 within Section 2.75 of the Commission's General Policy and Interpretations, 18 CFR 2.75.
[14] Applicant proposes to continue the sale for which a certificate was issued in Docket No. CI72-456 within Section 2.75 of the Commission's General Policy and Interpretations, 18 CFR 2.75.
[15] Applicant states that it has committed and will sell 75% of its reserves to Tennessee, and will retain 25% for its own use after transportation onshore by Tennessee under other arrangements to be made later.
[16] Includes 4.922¢ per Mcf upward Btu adjustment.
[17] Subject to downward Btu adjustment.
[18] Includes 2.775¢ per Mcf tax reimbursement.
[19] Subject to upward and downward Btu adjustment and subject to a 1.0¢ per Mcf adjustment for gathering.

[FR Doc.74-30038 Filed 12-27-74;8:45 am]

[Docket No. RI75-76]

EXXON CORP.

Determination on Rate Changes [1]

DECEMBER 18, 1974.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and section 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI75-76	Exxon Corp.	267	[2]	Columbia Gas Transmission Corp. (Garden City et al. Fields, Vermilion Parishes) (Onshore and Offshore Southern Louisiana).	[3]	11-18-74	[3]	11-19-74			
			[4]	do	[5]	11-18-74		1-22-75	[6] 24.7375	[6] 26.9675	
						11-18-74		1-22-75	[6] 24.7375	[7] 31.1125	RI75-46
						11-18-74		11-19-74	[6] 24.7375	[8] 51.47	RI75-46
						11-18-74		1-22-75	[9] 20.625	[10] 23.975	RI75-46
						11-18-74		1-22-75	[6] 20.625	[7] 28.0	RI75-46
						11-18-74		11-19-74	[6] 20.625	[8] 46.2	RI75-46

[1] Unless otherwise stated, the pressure base is 15.025 lb/in²a.
[2] Contract agreement dated Oct. 28, 1974.
[3] Onshore gas.
[4] Offshore gas.
[5] Subject to adjustment with respect to supplemental gas.
[6] The weighted average prices inclusive of price adjustment factors is 27.2516 cents (onshore) and 23.0208 cents (offshore).
[7] Flowing gas. Gas from reservoirs discovered prior to Oct. 1, 1968.
[8] New gas. Gas that qualifies under Opinion No. 567, i.e., from reservoirs discovered from Oct. 1, 1968 to Jan. 1, 1973.
[9] Includes 1.0 cent transportation allowance for offshore gas delivered onshore.
[10] Gas qualifying for national rate. Reflects rate prior to issuance of Opinion No. 699-H.
[11] Increase to area rate established in Opinion No. 598 and national rate established in Opinion No. 699.
[12] No increase in annual revenues from the underlying rates reflected in the filing.
[13] Includes documents showing the reservoirs which were discovered between Oct. 1, 1968, and Jan. 1, 1973, and documents prior to Jan. 31, 1954.

The proposed rates do not exceed the applicable ceiling rates established by this Commission. There is a question, however, as to whether Exxon is entitled to amend its basic contract, as it has done in its October 28, 1974, agreement, in light of the permanent certificate issued to it on November 15, 1963, in Docket No. CI64-5, 30 FPC 1297. Since Exxon's proposed increases are based on the subject contract amendment, we shall suspend the use of the proposed increases as well as the contract amendment for one day from the dates they would otherwise become effective, pending resolution of the issue presented here.

Any action herein is expressly subject to the condition that it is without prejudice to the requirements of Section 7 of the Natural Gas Act.

[FR Doc. 74-30236 Filed 12-27-74; 8:45 am]

[Docket No. E-9117]

MONTAUP ELECTRIC CO.

Order Rejecting Proposed Change in Rate, and Setting Matters for Hearing

DECEMBER 18, 1974.

On November 18, 1974, Montaup Electric Company (Montaup) submitted for filing a proposed fuel adjustment clause as a change in rate applicable to sales of capacity and energy to the City of Taunton, Massachusetts (Taunton). The proposed rate schedule [1] would apply to sales pursuant to Section 5.2—*Scheduled Purchase Capacity*—of the July 21, 1970 Interconnection Agreement (FPC No. 15) between Montaup and Taunton. Montaup requests that the new rate be effective December 19, 1974, for a term not to

[1] Supplement No. 2 to FPC No. 15 (Scheduled Purchase Capacity).

extend beyond the date of regular operation of Taunton's Cleary Unit 9 (hereafter referred to as Unit 9).

Notice of the proposed rate increase was issued December 4, 1974 with responses due on or before December 17, 1974. On that later date, December 17, Taunton filed a Protest, Petition to Intervene and Motion to Reject the filing (Petition). Although the letter transmitting Montaup's filing states that a copy thereof was sent to Taunton on November 18, 1974 (as required by § 35.3 (a) of the Commission's regulations under the Federal Power Act), in its Petition Taunton maintains that it had no notice whatever of the filing prior to receipt of the Commission's December 4, 1974 Notice.

Montaup is presently providing service to Taunton under Section 5.1—*Interim Capacity Purchase*—of the July 31, 1970 Interconnection Agreement. *The Interim Capacity Purchase* is provided from Montaup's Somerset Unit No. 6 at the rate $2.10 per kilowatt-month, plus 4.4 mills per kilowatt-hour for the first 300 kilowatt-hours per month per kilowatt of demand and 3.8 mills per kilowatt-hour for additional kilowatt-hours per month, as set forth in Appendix A to the Interconnection Agreement. Under the proposed rate change, service would be billed at the rate for the *Interim Capacity Purchase* set out in Appendix A, with the exception that the following fuel adjustment clause would be added:

> For any month in which the alongside cost of fuel at the Somerset Plant of Montaup Electric Company is greater or less than 42.64c per million British Thermal Units (BTU), the energy charge as set forth in Appendix A will be increased or decreased respectively by 96.875/10,000 mills ($0.00000968) per kilowatt-hours delivered for each mill of excess or deficit from the 42.64c base.

Data submitted by Montaup indicate that under the proposed rate increase, revenues collected during the twelve-month period ending December 31, 1975 would be $1,528,560. That is more than twice the revenues that would be received during the same period if the present rate were applied, $734,160.

In analyzing the proposed filing, it is necessary to consider several provisions in the Interconnection Agreement. In pertinent part Section 7.1 states:

> TAUNTON shall proceed to design, construct and install on its own system (sic), at its own expense and with a target date for regular operation of July 1, 1973, a new unit of approximately 100 megawatts capacity, capable of cycling operation, to be known as UNIT 9.

Section 7.2 obligates Montaup to purchase that portion of Unit 9's capacity not required by Taunton to meet its peak load. As set forth in Sections 2.2 and 5.1—*Interim Capacity Purchase*—during "the period August 1, 1969, through June 30, 1973, or until regular operation of Unit 9, whichever is later" (emphasis added), Montaup will purchase capacity in the amounts and at the rate set forth in Exhibit A to the Interconnection Agreement. The rate remains constant during the period of *Interim Capacity Purchase*, and does not contain a fuel adjustment clause. The quantity sold was initially, as of August 1, 1969, 1600 kw and reached a level of 13,000 kw on November 1, 1972.

After the period of *Interim Capacity Purchase* is at an end, Section 5.2—*Scheduled Purchase Capacity*—becomes operative. In the latter situation Montaup will make available to Taunton such capacity, in excess of Montaup's estimated peak load, which Montaup has or can procure from another electric utility. Unless otherwise agreed, the rate for *Scheduled Purchase Capacity* "shall be at the seller's (Montaup's) costs, including, when applicable, the cost of capital or fair return."

As described below, Montaup asserts that the period for service under Section 5.1—*Interim Capacity Purchase* and the rate applicable thereto, terminates as of December 19, 1974. Montaup proposes to continue service pursuant to Section 5.2—*Scheduled Purchase Capacity*—at 13,000 kw. As indicated on Sheets 2 and 3 of the proposed filing, the rate, terms and conditions applicable to Scheduled Purchase Capacity under Section 5.2 are identical to those for Interim Purchase Capacity under Section 5.1 with the exception of the proposed fuel adjustment clause.

The instant filing is premised upon Montaup's argument that the Interconnection Agreement contemplated that the period for Interim Capacity Purchase would not continue more than a reasonable period of time beyond the July 1, 1973 target date for completion of Taunton's Unit 9. Montaup suggests that the effective date of the proposed rate change, December 19, 1974, marks the end of that "reasonable further period". In support of its position Montaup states that although 16 months have passed since Taunton's Unit 9 was to commence regular operation, "construction of the unit is not complete, and Montaup has not been able to obtain any assurance from Taunton as to when regular operation will commence". Montaup also notes that its fuel costs have been "skyrocketing" and that the monthly "cost for fuel at Unit 6 (Somerset) for energy sold to Taunton exceeds its (Montaup's) energy revenues from the sale by approximately $120,000".[1]

Taunton counters that operation of Unit 9 has been impeded due to labor strikes, late delivery of necessary parts, and regulatory lag due to a variety of environmental matters. Tauton characterizes as "nonsense" Montaup's suggestion that Unit 9 has been delayed because of the favorable rate for Interim Capacity Purchase under Section 5.1 of the Interconnection Agreement. On the contrary, Taunton asserts that this delay is injurious to it due to mounting financing costs and increases in construction costs.

Taunton maintains that Sections 5.1 and 2.2 of the Interconnection Agreement are clear and explicit in stating that the rate for Interim Capacity Purchase as set forth in Appendix A will remain in effect until Taunton's Unit 9 is operational. Taunton also points out that Section 1.1 of the Interconnection Agreement indicates that even if construction of Unit 9 had not begun prior to June 30, 1973, the contract would remain in full force and effect. It is difficult to reconcile Montaup's argument that the parties did not intend that the rate in Appendix A would remain in effect for more than 16 months beyond the July 1, 1973 target date for operation of Unit 9, with the fact that the parties apparently contemplated that construction of the 100 mw unit might not even begin until June 30, 1973.

As previously noted the rate set forth for service under Section 5.1—*Interim Capacity Purchase*—commenced on August 1, 1969 and was to continue through June 30, 1973, or until regular operation of Taunton's Unit 9, whichever was later. The language of the contract is clear: the rate will continue in effect until Taunton's Unit 9 becomes operational, and the contract's term is fixed to that event. While the language of the contract might lead to inequitable results, during the term of the contract Montaup cannot unilaterally file for a change in rate, "F.P.C. v. Sierra Pacific Power Co.", 350 U.S. 348 (1956) and "United Gas Pipe Line Co. vs. Mobile Gas Service Corp.", 350 U.S. 332 (1956).

Montaup's instant submittal, tendered as a change in rate, is rejected as such. However, we will treat it as a complaint or petition for relief pursuant to section 206 of the Federal Power Act, and set for hearing the question of whether the present rate for service to Taunton is inconsistent with the public interest.

The Commission finds

(1) It is necessary and appropriate in carrying out its responsibilities under the Federal Power Act that the Commission reject Montaup's proposed unilateral rate increase to Taunton, and set for hearing the question of whether the presently effective rate is inconsistent with the public interest.

(2) It appears that Taunton's interests, which are not adequately represented by existing parties, may be directly affected by the Commission's action in this proceeding, and accordingly, Taunton's intervention would be in the public interest.

The Commission orders

(A) Montaup Electric Company's proposed change in rate, described herein, for service to the City of Taunton, Massachusetts, is hereby rejected.

(B) The City of Taunton, Massachusetts is hereby permitted to intervene in this proceeding, subject to the Commission's Rules and Regulations. Provided, however, that such intervention shall not be construed as recognition by the Commission that the City of Taunton might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) Pursuant to the authority of the Federal Power Act, particularly sections

[1] See page 2 of the letter transmitting the proposed rate schedule.

DEC 30 1974 V 39 N 251 XUM

206, 308 and 309 thereof, and the Commission's Rules and Regulations, a public hearing shall be held commencing on April 15, 1975, in a hearing room of the Federal Power Commission, Washington, D.C., to determine whether the presently effective rate for electric service from Montaup Electric Company to the City of Taunton, Massachusetts, as described herein, is inconsistent with the public interest.

(D) On or before March 4, 1975, the intervenor, City of Taunton, Massachusetts shall serve its prepared testimony and exhibits in this proceeding. The prepared testimony and exhibits of the Commission Staff shall be served on or before March 13, 1975. Any rebuttal evidence by Montaup Electric Company shall be served on or before April 1, 1975.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30331 Filed 12-27-74;8:45 am]

PLANNING RESEARCH CORP.

Notice To Show Cause

DECEMBER 23, 1974.

On November 5, 1974, the Associated Press (AP) filed a formal request under the Freedom of Information Act, 5 U.S.C. 552, for disclosure of the contract dated June 29, 1974, between the Federal Power Commission and Planning Research Corporation (PRC) announced by the Commission on July 11, 1974, or in the alternative, if certain portions of the contract are exempted from disclosure by the provisions of the Act, release of those portions which are not so exempted. The AP request of November 5, 1974, was submitted and considered by the Commission on November 6, 1974. In accordance with 28 CFR 50.9, the Commission directed that the matter be reviewed by the U.S. Department of Justice, and by November 22, 1974, all of the materials required for such review had been submitted to the Justice Department.

On December 4, 1974, the Justice Department responded to the Commission's request by recommending as a basis for making a determination as to the material which should be publicly disclosed and that which should be withheld from public disclosure, the following criteria:

(a) From the entire contract, the Commission should extract the "essence of the contract"; that is, all of the provisions which, upon the execution of the contract, create a contract obligation on the part of PRC (failure of performance of which would constitute contract default). These provisions should be made available to the requester (AP).

(b) From the remainder of the contract, delete all material which is exempt from disclosure as constituting trade secrets, and commercial or financial information obtained from a person which is privileged or confidential under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4).[1]

[1] 5 U.S.C. 552(b)(4) exempts from the disclosure requirements of the Act. "Trade secrets and commercial or financial information obtained from a person and privileged or confidential;"

The material extracted under (a) above, and whatever remains following the deletions as described in (b) above should be released to the AP, as well as to any other interested parties upon request.

Employing these standards, the Commission Staff identified that material which it considers to be exempt from disclosure under the provisions of the Act. Because value judgments are involved in making such determination, the Commission requested the Justice Department to review Staff's application of the aforementioned criteria in determining that certain portions of the contract are exempt from public disclosure. The Justice Department has advised that it would not review Staff's determinations.

Accordingly, the Commission has concluded that the fairest method of determining the validity of Staff's determinations relating to the material to be disclosed or to be withheld from public disclosure is to afford PRC and any other interested party an opportunity to show cause why the entire contract should not be released or, in the alternative, why it should not be released except for those portions thereof which are determined ments of the Freedom of Information to be exempt from the disclosure require- Act, unless otherwise required to be kept confidential by Federal procurement regulations, 41 CFR 1-3.103(b).[2]

Attached to this notice as an appendix [3] is a list of the portions of the contract which have been determined by the FPC Staff to be matters which are exempt from the disclosure requirements of the Freedom of Information Act.

We recognize the need for maintaining the delicate balance between the competing interests of the public's right to know and the protection of private interest and property rights. Our regulations (18 CFR 1.36) implementing the provisions of the Freedom of Information Act, in our opinion, achieve a fair balance of these opposing interests. Section 1.36 (b) makes the Commission's public records available for inspection and copying in the public reference room maintained by the Office of Public Information. With relatively few exceptions [18 CFR 1.36(c)(14)], virtually all records of the Commission are available to the public. Exemption 4 of the Freedom of Information Act is implemented by the Commission's regulations [18 CFR 1.36 (c)(14)(iv)] which exclude from public disclosure:

"Trade secrets and commercial or financial information obtained from a person and privileged or confidential;"

On the basis of the foregoing statutory and regulatory requirements and provisions, the FPC Staff has determined that the material identified in the appendix hereto falls within the scope of section 552(b)(4) of the Freedom of Information Act exemption and is otherwise required to be withheld from public disclosure by the Federal procurement regulations, 41 CFR 1-3.103(b).

It is the intent of this Commission to grant all lawful requests for access to its records consistent with the provisions of the Freedom of Information Act, applicable Federal Procurement Regulations, and the terms of the Commission's own rules and regulations, without impairing legitimate proprietary interests. A full and open hearing will afford the opportunity to all parties to present relevant evidence and argument in support of their respective positions so as to enable the Commission to resolve all legitimate areas of conflict between public and private interests compatibly with the overall public interest.

The Commission finds:

It is in the public interest and in accordance with due process to afford PRC, AP and any other interested parties an opportunity to show cause why all or any portion of the contract should not be disclosed to the public.

The Commission orders:

(A) PRC, AP and all other interested parties are invited to show cause why the entire contract should not be released or, in the alternative, why it should not be released except for those portions thereof which are determined to be exempt from the disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552(b)(4), unless otherwise required to be kept confidential by Federal procurement regulations, 41 CFR 1-3.103 (b).

(B) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose [See Delegation of Authority, 18 CFR 3.5(d)], shall preside at a hearing under Part 1, Chapter 1 of our rules of practice and procedure, such hearing to commence January 2, 1975, at 10:00 a.m. The Administrative Law Judge shall prescribe relevant procedural matters not herein provided.

(C) Any examination by the Administrative Law Judge of portions of the contract alleged by a party to be exempt from disclosure shall be in camera, and these portions shall not be reproduced in the transcript of the hearing that may be held.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30332 Filed 12-27-74;8:45 am]

[2] Section 1-3.103(b) of the Federal Procurement Regulations promulgated by the General Services Administration provides: "Promptly after making awards in any procurement in excess of $10,000, the contracting officer normally shall give written notice to the unsuccessful offerors that their proposals were not accepted. Upon request, unsuccessful offerors whose offered prices were lower than those of the contractor which received the award shall be furnished the reasons why their proposals were not accepted; but in no event will an offeror's cost breakdown, profit, overhead rates, trade secrets, or other confidential business information be disclosed to any other offeror."

[3] Appendix filed as part of original document.

NATIONAL GAS SURVEY

Determination and Certification With Respect to Renewal of Certain Committees

DECEMBER 23, 1974.

The Chairman of the Federal Power Commission has determined that renewal of the terms of the National Gas Survey's Executive Advisory Committee, Coordinating Committee, Coordinating Task Force, Technical Advisory Committee—Supply, Technical Advisory Committee—Transmission, and Technical Advisory Committee—Distribution, from and after December 31, 1974, to and including a date not later than December 31, 1975, is necessary in the public interest in connection with the performance of duties imposed by law upon the Commission.

This notice is published pursuant to Commission General Order No. 464, issued December 19, 1972, 38 FR 1083, as amended by Commission General Order No. 464–A, issued August 2, 1974, paragraph 5(e) and authorities referred to therein, 39 FR 28929. See also Office of Management and Budget, Advisory Commitee Management, Circular A–63 Revised, March 27, 1974, 39 FR 12389, as amended July 19, 1974.

The four advisory committees to be renewed were established by Commission orders issued April 6, 1971: Order Establishing National Gas Survey Executive Advisory Committee and Designating Its Membership and Chairmanship, 36 FR 6922; Order Establishing National Gas Survey Technical Advisory Committees and Designating Initial Membership, 36 FR 6922. The Coordinating Committee to be renewed was initially established by Commission order issued May 10, 1971, Order Establishing National Gas Survey Coordinating Committee and Designating Its Membership and Chairmanship, 36 FR 8910. The Coordinating Task Force was initially established by Commission Order issued December 21, 1971, Order Establishing Technical Advisory and Coordinating Committee Task Forces and Designating Membership, 36 FR 25183. The aforementioned orders all referred to an earlier order of the Commission issued February 23, 1971, Order Authorizing the Establishment of National Gas Survey Advisory Committees and Prescribing Procedures, 36 FR 3851.

Each of the foregoing orders have been amended by subsequent Commission orders of April 25, 1972, 37 FR 8578, Order Amending National Gas Survey Orders Issued February 23, 1971, and April 6, 1971; of June 27, 1972, 37 FR 13306, Amending National Gas Survey Orders; and of December 19, 1972, 37 FR 28658, Amending National Gas Survey Orders.

The terms of the four advisory committees were extended by Commission order issued December 28, 1973, Order Renewing National Gas Survey Technical Advisory Committees and Coordinating Committees, 39 FR 1540. The term of the Coordinating Task Force was extended by Commission order issued December 28, 1973, Order Renewing National Gas Survey Technical Advisory and Coordinating Committee Task Forces, 39 FR 1482.

The aforementioned committees are presently scheduled to expire on December 31, 1974. As renewed, the subject committees and task force would function as set forth in the aforementioned orders for the additional period of time set forth above—from and after December 31, 1974, to and including a date not later than December 31, 1975.

It is intended that these committees will provide a framework for a continuing National Gas Survey and that from time to time the Commission shall request the establishment of task forces subordinate to the technical advisory committees. The persistent and critical problems facing the nation's gas industry require continuation of the Survey's work. The purpose of the proposed committees will be to determine in each segment of the gas industry (supply, transmission and distribution) the conservation and energy management options available and to analyze and evaluate the potential costs and benefits of each and to suggest strategies for implementing these options. These committees are also expected to consider the matter of environmental trade-offs.

The Office of Management and Budget, Advisory Committee Management, has ascertained that renewal of the subject committees as set forth above is in accord with the requirements of the Federal Advisory Committee Act, 86 Stat. 770. Renewal of these committees shall be reflected in appropriate Commission orders to be issued after December 26, 1974.

JOHN N. NASSIKAS,
Chairman.

[FR Doc.74-30432 Filed 12-27-74;8:45 am]

[Docket No. RP75-44-1]

ALABAMA TENNESSEE NATURAL GAS CO. AND NORTH ALABAMA GAS DISTRICT GLASSROCK PRODUCTS CORP.

Order Granting Interim Extraordinary Relief and Setting Matter for Formal Hearing and Prescribing Procedures

DECEMBER 26, 1974.

North Alabama Gas District (North Alabama) on behalf of Glassrock Products Corporation (Glassrock) requests emergency relief in order to maintain production and forestall a plant closure. Petitioner, a customer of Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), requires up to 120 Mcf per day in order to supply Glassrock's needs for process use in its manufacture of electrical components. A direct fired small rotary kiln is utilized in the operation. According to the company, fuel oil can not be utilized because of its sulfur content which contaminates the product. An allocation of propane has now been requested, but because of the assurance by Alabama-Tennessee of an adequate gas supply a number one priority for propane had not been pursued previously. The plant is currently shut down with 28 employees laid off.

Alabama-Tennessee is currently being curtailed by its sole supplier, Tennessee Gas Pipeline Company, and North Alabama advises that it has been reduced to only 42 percent of its requirements adequate to serve approximately two-thirds of its Priority 2 service. In view of this North Alabama alleges that it cannot offer any relief unilaterally from within its system.

We shall grant emergency relief for a period of up to 30 days in which time Glassrock may be able to secure an alternate fuel or in the event that relief is required beyond this period Petitioner may supplement the request for additional relief pursuant to the requirements of Order No. 467–C. Such grant shall be subject to payback and upon the condition that such relief will not jeopardize service to residential or small commercial customers served indirectly from the Alabama-Tennessee system. Additionally, we shall set this matter for an expedited formal hearing.

The Commission finds:

That Alabama-Tennessee should be authorized and directed to deliver to North Alabama for the account of Glassrock Products Corporation, 120 Mcf per day for 30 days subject to the conditions herein ordered and that this matter be set for expedited formal hearing as hereinafter ordered.

The Commission orders:

(A) Alabama-Tennessee is hereby authorized and directed subject to payback to deliver to North Alabama for the account of Glassrock Products Corporation, 120 Mcf per day for 30 days, and upon condition that such relief will not jeopardize service to residential and small commercial customers served indirectly from the Alabama-Tennessee system.

(B) Pursuant to sections 4, 15, and 16 of the Natural Gas Act, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act, a public hearing will be held at 10:00 a.m. e.s.t. on December 30, 1974, in a hearing room at the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 concerning the request for extraordinary relief filed by North Alabama.

(C) At the hearing established by Paragraph (B) above, North Alabama shall present evidence in the form of testimony and exhibits showing, inter alia, the requirements set forth in Order No. 467–C, 18 CFR 2.78(a)(ii) particularly subparagraph (k) thereof.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for this purpose [see, Delegation of Authority, 18 CFR 3.5 (d)] shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(E) All parties desiring to intervene shall file their notices and petitions in accordance with the Commission's Rules of Practice and Procedure particularly § 1.18 on or before December 30, 1974, and the Presiding Administrative Law Judge shall allow all such petitioners to

participate conditionally in the hearing herein ordered.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-30467 Filed 12-27-74;10:18 am]

[Docket No. RP75-45]

TENNESSEE GAS PIPELINE CO.

Order Instituting Investigation and Order To Show Cause, Setting Hearing, and Establishing Procedures

DECEMBER 24, 1974.

With the advent of a natural gas supply shortage on interstate pipeline systems, the Commission has requested, among other things, jurisdictional pipelines to file semi-annual projections of curtailment levels anticipated for forthcoming winter heating seasons. In compliance with our requirements, Tennessee Gas Pipeline Company (Tennessee) filed its Form 16 reflecting projected curtailment for the 1974–75 season to be at an approximate level of 6%. Recent submittals in the form of petitions for relief and complaints indicate a system-wide curtailment in excess of twice the amount projected by Tennessee.[1] This sharp and inordinate increase compels us to institute an immediate investigation as to the severity and causes on the Tennessee system inclusive of the allegations set forth in the Knoxville complaint, supra:

> Said curtailment is in addition to an earlier curtailment invoked by Tennessee in October, 1974, which was allegedly based upon losses in production sustained by the hurricane Carmen, a failure to bring production on the line which had earlier been relied upon by Tennessee, and a drop in pressures in wells presently attached. [page 2] • • •.
>
> Such hasty, ill-considered action by Tennessee has led to numerous assertions being made that this action is a "power play" to accomplish a result of (a) increasing the chances of de-regulation of natural gas in Congress, (b) preventing the passage of a depletion allowance restriction by Congress, (c) to aid Tennessee in its rate case now pending before this Commission to prove that its depreciation allowance should be substantially increased, and numerous other similar assertions and charges [page 7].

The Commission finds:

It is necessary and proper to institute a formal investigation and proceeding pursuant to Section 14 of the Natural Gas Act into the matters set forth above and for the procedures hereinafter ordered.

The Commission orders:

(A) Pursuant to sections 14, 15, and 16 of the Natural Gas Act and the Commission Rules and Regulations promulgated thereunder, the Commission institutes an investigation of the circumstances for the increased curtailment, beyond the Form 16 projections, on the system of Tennessee Gas Pipeline Company and a determination as to the current projections of curtailment for said system.

(B) Tennessee Gas Pipeline Company is hereby ordered to appear at a formal hearing to convene on January 7, 1975, at 10:00 a.m. e.s.t. in a hearing room of the Federal Power Commission, 825 North Capitol, NE., Washington, D.C., 20426, and submit testimony and documentary evidence in explanation of the causes for the increased curtailment beyond the levels projected in the Form 16 filing. Such evidence shall include, inter alia, the adequacy of the gas reserves held or controlled by it or dedicated to it, the change, if any, in the level of production from such reserves, the effect on deliverability of gas from reserves affected by adverse weather such as hurricanes, tornadoes, etc., and the actions taken to fully reactivate the production from those reserves. In addition, Tennessee shall show its storage inventories (inclusive of that stored by others), injections and withdrawals, for the immediate past 12-month period on a monthly basis.

(C) Immediately following Tennessee's presentation, the parties, to the extent that they are able, shall commence cross-examination of Tennessee's witnesses. The Presiding Administrative Law Judge may permit, if needed, a short recess to permit the parties to prepare for such cross-examination.

(D) The Presiding Administrative Law Judge designated by the Chief Administrative Law Judge for that purpose [see Delegation of Authority, 18 CFR section 3.5(d)] shall prescribe such further procedures as may be warranted to expedite consideration of the matters involved in this investigation.

(E) Notices of intervention and petitions to intervene in this proceeding may be filed with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, on or before January 3, 1975, in accordance with the Commission's Rules of Practice and Procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-30466 Filed 12-27-74;10:18 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals; Federal Energy Administration

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 23, 1974. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this list in the Federal Register is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments must be received on or before January 15, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street, NW., Washington, D.C. 20548.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202–376–5425.

FEDERAL ENERGY ADMINISTRATION

Request for clearance of a single time FEA Form-P308-S-O entitled: Historical Survey of Propane, Distillate Fuel Oil and Residual Fuel Oil Sales to Ultimate Consumers. This form will be sent to the parent organization of all retailers of propane, distillate fuel oil and residual fuel oil, and it will request volume information on a monthly basis over the period January 1972 through December 1974. An annual percentage estimate by end use categories for 1973 is requested as well as quarterly percentage estimates for 1974. There are 15,000 potential respondents; respondent burden is estimated to be 24 man-hours.

NORMAN F. HEYL, *Regulatory Reports Review Officer.*

[FR Doc.74-30355 Filed 12-27-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

FEDERAL PROPERTY MANAGEMENT REGULATIONS

[TEMPORARY REGULATION E-36]

Supplement to the Supply Activity Report

1. *Purpose.* This regulation requires agencies to submit a supplement to the Supply Activity Report which will enable GSA to more effectively perform its role as a major procurement source for Federal executive agencies.

2. *Effective date.* This regulation is effective December 30, 1974.

3. *Expiration date.* This regulation expires June 30, 1976, unless sooner revised or superseded.

4. *Applicability.* The provisions of this regulation apply to all executive agencies except the Department of Defense.

5. *Background.* Data on the types of items purchased, the source of the items, and the funds expended are required to provide a means for GSA to evaluate the effectiveness of its procurement program in terms of supply responsiveness to Federal agency needs. The data will be screened to determine the extent to which agency requirements are being met and to effect modifications in the supply support program to achieve further improvements.

[1] See for example complaint filed on December 23, 1974, by Knoxville Utilities Board, et al. in Docket No. RP75-45.

6. *General policy.* (a) To achieve the objective stated in paragraph 5, each civil executive agency shall submit procurement activity data to GSA covering the semiannual periods July 1, 1975, through December 31, 1975, and January 1, 1976, through June 30, 1976, in accordance with the instructions contained in attachment A. (The report required by this regulation is in conformance with FPMR 101–11.11, and has been assigned Interagency Reports Control Number 0040–GSA–SA.)

(b) This report shall be submitted within 45 calendar days after the end of each reporting period to the General Services Administration (FF), Washington, D.C. 20406.

7. *Assistance.* Agencies may obtain additional information concerning the provisions of this regulation by contacting the General Services Administration (FFMR), Washington, D.C. 20406, telephone (703) 557–8490.

8. *Effect on other issuances.* This regulation augments the policy in FPMR 101–25.4801 by expanding the procurement reporting requirements specified therein.

9. *Agency comments.* Comments concerning the effect or impact of this regulation on agency operations should be submitted to the General Services Administration (FF), Washington, D.C. 20406, no later than June 30, 1975, for possible incorporation into the permanent regulation.

Dated: December 19, 1974.

ARTHUR F. SAMPSON,
Administrator of General Services.

ATTACHMENT A.—*Supply Activity Report (Procurement Activity)*

Agency:..... Address:..... Prepared by:.....

Activities covered:..... Personnel involved:..... Annual salaries:..... Period:.....

FSC commodity group No.	GSA		Federal supply schedules		Other Government agencies		Agency/local activity contractor (over $10,000)		Open market purchases (under $10,000)		Grand total	
	Number of transactions	Value in thousands of dollars	Number of transactions	Value in thousands of dollars	Number of transactions	Value in thousands of dollars	Number of transactions	Value in thousands of dollars	Number of transactions	Value in thousands of dollars	Number of transactions	Value in thousands of dollars
Total												

A. *General instructions.* The procurement data required is restricted to expendable supplies (object class 26) and nonexpendable equipment (object class 31). Excluded are professional services, construction contracts, grants, research and development contracts, costs for labor and material for all kinds of repair or maintenance services, and rental or lease agreements.

B. *Entries.*

Heading.

Agency.

Insert name of the department or independent executive agency. Procurement data should be submitted for each bureau or agency operating under a department. For example, a departmental report should reflect a consolidation of the individual reports submitted by subordinate agencies, bureaus, regional offices, or other procurement activities which will be appended to the departmental data.

Address. Self explanatory.

Prepared by. Name of official to contact for information on the statistical data provided.

Activities covered. Number of bureaus and/or activities covered by the department, agency, bureau, or activity submitting data.

Personnel involved. Number of procurement and purchasing and contracting personnel, GS–5 and above, but excluding clerical support.

Annual salaries. Annual salary costs of all procurement personnel involved in purchasing activities.

Period. Enter the dates of the semiannual period covered.

Column headings. (1) *FSC Commodity Group No.* Insert the appropriate commodity group number as described in the Cataloging Handbook, H 2–1, Federal Supply Classification, Part I, Groups and Classes, as described in FPMR 101–30.2.

(2) *GSA.* A number of FEDSTRIP requisitions submitted and total dollar volume involved.

(3) *Federal Supply Schedules.* Number of purchase or delivery orders and total dollar volume placed with Federal Supply Schedule contractors.

(4) *Other Government Agencies.* Number of orders or requisitions (not line. items) and total dollar volume placed with other Government supply sources such as the Defense Supply Agency, the Veterans Administration, or the Federal Prison Industries.

(5) *Agency/Local Activity Contracts (over $10,000).* Number of orders and dollar volume placed against your agency and/or local activity contracts issued as a result of formal advertising or negotiated contracts for over $10,000 for each transaction.

(6) *Open market (under $10,000).* Number of orders and total dollar volume of purchases made for under $10,000 per transaction. Exclude purchases against imprest funds.

(7) *Grand Total.* Total number of transactions and dollar volume for each FSC commodity group and a grand total figure for the number of transactions and dollar volume for all commodity groups reported.

[FR Doc.74–30302 Filed 12–27–74;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

DECEMBER 23, 1974.

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 6, January 13, 1975, from 10 A.M. to 4 P.M., Room 274B, Federal Building, 1500 East Bannister Road, Kansas City, MO. The meeting will be concerned with the review of the conceptual design for the CT–FOB–PF, Topeka, KS. Frank and open critical analysis of the proposed design is essential to insure that the design approach produces the best possible design solution. Accordingly, pursuant to a determination that it will be concerned with a matter listed in 5 U.S.C. 552(b)(5) the meeting will not be open to the public.

DAVID W. PANSING,
Acting Regional Administrator.

[FR Doc.74–30344 Filed 12–27–74;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice No. 74–78]

JAPAN ENGINEERING DEVELOPMENT CO.

Intent to Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 CFR 1245.405 (e), the National Aeronautics and Space Administration announces its intention to grant to the Japan Engineering Development Company, Tokyo, Japan, an exclusive license for the manufacture in Japan of the invention described in Japanese Patent Application, Serial No. 136,277/73, for "Water Purification Membrances and Method of Preparation" filed in the Japanese Patent Office by NASA on December 7, 1973. A copy of the corresponding U.S. patent application, Serial No. 313,389, filed December 8, 1972, can be purchased from the National Technical Information Service, Springfield, Virginia, at a cost of $4.00. Interested parties should submit written inquiries or comments within 60 days to the Assistant General Counsel for Patent Matters, Code GP, National Aeronautics and Space Administration, Washington, D.C., 20546.

Dated: December 20, 1974.

R. TENNEY JOHNSON,
General Counsel.

[FR Doc.74–30354 Filed 12–27–74;8:45 am]

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OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 12/23/74 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

New Forms

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration:

Factors affecting training and employment demands for physician's assistants. Part one: Factors affecting demand for training, BHRC 1114, other (see SF–83), physician's assistants, Strasser, A., 395–3880.

National Institute of Education:

Evaluation design for interpersonal influence, NIE 85, on occasion, public school teachers and administrators, human resources division, 395–3532.

Office of Education:

Vocational education curriculum specialist project—Washington State University, OE 389, 389–1, single-time, vocational educators, Planchon, P., 395–3898.

Office of the Secretary:

Nutrition site survey questionnair, aging, CS–56–74, single-time, site directors of nutrition programs, Reese, B. F., 395–5930.

Field data collection instruments regarding exploratory study of women in health professions schools, CS–58–74, single-time health professions schools administrators, & faculty, Collins, L., 395–3756.

Health Resources Administration: A study of State policies for temporary and limited licensure of foreign medical graduates, BHSR 1126, single-time, hospitals and professional associations, human resources division, 395–3532.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration: Request for partial payment, HUD 489.1, on occasion, State and local governments in disaster areas, community & veterans affairs division, 395–3531.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration: Construction foreman/supervisor survey, OSHA 26, single-time, foreman/supervisors in construction firms, Eliett, C.A., 395–6172.

Construction safety authorities survey, OSHA 26, single-time, authorities/industry leaders in construction safety, Eliett, C.A., 395–6172.

DEPARTMENT OF THE INTERIOR

Bureau of Mines: Gold, 6–0930–CA, quarterly, refinery producers and consumers of gold, Weiner, N., 395–4890.

Small Business Administration: Evaluation of Small Business Loan Program: Financial institution questionnaire, single-time, commercial banks with 10 or more 7(A) loans, Economics & General Government Division, 395–3451.

Revisions

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse and Mental Health Administration: Universe IV component of drug abuse prevention, resource units (CAPRU), NIDA 1206, semi-annually, drug abuse prevention resource units, Reese, B.F., 395–5930.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration: Request for advance of funds, HUD 489, on occasion, State and local governments in disaster areas, Community & Veterans Affairs Division, 395–3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–30309 Filed 12–27–74;8:45 am]

OFFICE OF TELECOMMUNICATIONS POLICY

FREQUENCY MANAGEMENT ADVISORY COUNCIL AND ELECTROMAGNETIC RADIATION MANAGEMENT ADVISORY COUNCIL

Notice of Renewal

The Office of Telecommunications Policy has two advisory committees, the Frequency Management Advisory Council (FMAC) and the Electromagnetic Radiation Management Advisory Council (ERMAC). Each is scheduled to terminate December 31, 1974.

The Frequency Managament Advisory Council was established July 19, 1965. Its purpose is to advise the Director of the Office of Telecommunications Policy on radio frequency spectrum allocation matters and means by which the effectiveness of Federal Government frequency management may be enhanced. The scope of FMAC's activities are advisory, and include the review, as appropriate, of recommendations of the Interdepartment Radio Advisory Committee (IRAC), the review of the progress of electromagnetic compatibility programs, and the development of proposed United States positions on spectrum matters with respect to International Telecommunication Union (ITU) Conferences.

The Electromagnetic Radiation Management Advisory Council (ERMAC) was established on December 11, 1968, to advise and make recommendations to the Director of Telecommunications Policy on side effects and the adequacy of control of electromagnetic radiation arising from communication activities. It reviews, evaluates and recommends potential measures to investigate and mitigate possible undesirable effects on the environment, biological and physical, including equipment and materials, and develops recommended policy guidance in these areas. Effects in any region of the spectrum are analyzed from electrostatic and constant magnetic fields through the radio frequency spectrum to the optical spectrum, including coherent optical radiation (lasers).

The Council is comprised of experts in various related disciplines, including electronics, engineering, physics, and the biological and medical sciences and has observers from cognizant Government agencies and departments.

I have reviewed the activities and accomplishments of these committees, and find that each has provided needed and useful advice of continuing benefit to the Office of Telecommunications Policy. As a result of my review I determine, pursuant to section 7(a) of OMB Circular No. A–63, Revised, that it is in the public interest for each committee to be renewed for a two-year period, and they are hereby renewed.

JOHN EGER,
Acting Director.

DECEMBER 24, 1974.

[FR Doc.74–30345 Filed 12–27–74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

ADVISORY COMMITTEE ON THE IMPLEMENTATION OF A CENTRAL MARKET SYSTEM

Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I 10(a), that the Securities and Exchange Commission Advisory Committee on the Implementation of a Central Market System will conduct open meetings on January 9 and 10, 1975 at 500 North Capitol Street, Washington, D.C. 20549 in Room 776 beginning at 9:00 a.m. The summarized agenda for the meetings is as follows:

1. Review of written comments received in response to the Committee's Preliminary Statement (Securities Exchange Act Release No. 11131, December 11, 1974).

2. Review of statements presented before hearings of the Securities and Exchange Commission regarding its proposed Rules 19b–3 and 10b–22 under the Securities Exchange Act of 1934.

3. Oral presentations in response to the Committee's Preliminary Statement by those

members of the public having previously requested in writing to the Executive Secretary of the Committee the opportunity to make such presentations.

4. Discussion of plans for future meetings.

Further information may be obtained by writing: Andrew P. Steffan, Executive Secretary of the Committee and Director, Office of Policy Planning, United States Securities and Exchange Commission, Washington, D.C. 20549.

Dated: December 24, 1974.

[SEAL] GEORGE A. FITZSIMMONS,
Advisory Committee Management Officer.

[FR Doc.74-30895 Filed 12-27-74;8:45 am]

[File No. 81-159]

ACCRUED EQUITIES, INC.

Application and Opportunity for Hearing

DECEMBER 17, 1974.

Notice is hereby given that Accrued Equities, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") that Applicant be granted an exemption from the provisions of section 15(d) of the 1934 Act.

Section 15(d) of the 1934 Act provides that each issuer which shall file a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents and reports as may be required pursuant to Section 13 of the 1934 Act in respect of a security registered pursuant to Section 12 of the 1934 Act.

Section 12(h) of the 1934 Act empowers the Commission to exempt, in whole, or in part, any issuer or class of issuers from the provisions of Section 15(d), if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Applicant states, in part:

1. Applicant, a New York corporation formed on September 21, 1954, is a Scotch whiskey broker.

2. During 1971, Applicant issued units in the aggregate amount of $1 million consisting of various ages and gallonages of Scotch whiskey together with certain ancillary services intended for sale to United States investors, pursuant to an effective registration statement (File No. 2-39369).

3. The ancillary services performed by Applicant consist of furnishing market letters, advising the investor about the availability of insurance, advising the investor as to the relative merits in investing in various ages and types of malts and grains, and advising the investor as to the market conditions in resales.

4. Applicant has no obligations or commitments to repurchase the Scotch whiskey.

In the absence of an exemption, Applicant is required to file certain periodic reports with the Commission pursuant to section 15(d) of the 1934 Act.

Applicant argues that the exemption order requested by it is appropriate in view of the fact that the requirements of section 15(d) of the 1934 Act were not intended for a company where no class of person, excepting the principal, has a claim upon the company's assets or income and that there is no knowledge on the part of the Applicant as to whether or not there is any definable class of security holders exceeding 300 persons.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than January 13, 1975 may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549 and should state briefly the nature of the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-30800 Filed 12-27-74;8:45 am]

AMERICAN STOCK EXCHANGE, INC. AND CHICAGO BOARD OPTIONS EXCHANGE, INC.

Rules for a Common Clearing Corporation

Notice is hereby given that the American Stock Exchange, Inc. (Amex) and the Chicago Board Options Exchange, Inc. (CBOE) have each filed pursuant to Rule 9b-1 under the Securities Exchange Act of 1934 (17 CFR 240.9b-1) amendments to the proposed charter, by-laws and rules of the Options Clearing Corporation (OCC). The proposed Rules were originally published at 39 FR 39615 on November 8, 1974.

The amendments comprise amendments to OCC's certificate of incorporation, by-laws and rules, and a draft stockholders agreement and participation exchange agreement among the OCC, the CBOE, the Amex and such other options exchanges as may become parties to either thereof.

All interested persons are invited to submit their views and comments on the proposed OCC charter, by-laws and rules either before or after they have become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 10-54. All amendments that have been made to the Amex's plans have been placed in their respective option files under file number S7-505. The proposed rules are, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street NW, Washington, D.C.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 16, 1974.

[FR Doc.74-30898 Filed 12-27-74;8:45 am]

BOSTON STOCK EXCHANGE

Applications for Unlisted Trading Privileges in Certain Securities

December 19, 1974.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Auto-Train Corp.	7-4704
Capital Holding Corp.	7-4705
Hammermill Paper Co.	7-4706
Quaker Oats Co.	7-4707
The Southern New England Telephone Co.	7-4708
US Life Corp.	7-4709
Vetco Offshore Industries, Inc.	7-4710
Moore & McCormack Resources, Inc.	7-4711

Upon receipt of a request, on or before January 5, 1975 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C., 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

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For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30301 Filed 12-27-74;8:45 am]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Non-disapproval of Amendments to Option Plan

Notice is hereby given that on December 18, 1974, the Commission considered and did not disapprove proposed amendments to the Option Plan of the Chicago Board Options Exchange, Inc. (CBOE) pursuant to Rule 9b-1 under Securities Exchange Act of 1934 (17 CFR 240.9b-1). The CBOE proposed to amend Rules 12.3(a)(5), 12.3(b), 12.3(c), and 12.5; and delete Rules 12.4 and 12.6 (the "Margin Amendments"). The proposed changes were originally noticed at 39 FR 40203 on November 14, 1974.

CBOE has deemed it appropriate to amend its margin rules at this time to reflect both the initiation of trading on other exchanges and the adoption of uniform rules by the New York Stock Exchange and CBOE.

All interested persons are invited to submit their views and comments on the rules amendments and deletions to CBOE's plan either before or after they have become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 10-54. The rules amendments and deletions are, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street NW., Washington, D.C.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

DECEMBER 19, 1974.

[FR Doc.74-30299 Filed 12-27-74;8:45 am]

[File No. 500-1]

DATA LEASE FINANCIAL CORP.

Suspension of Trading

DECEMBER 19, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 7 percent convertible debentures due May, 1989 and units consisting of $1000 of debentures, 37 shares of common stock and 25 warrants of Data Lease Financial Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 1 P.M. (EST) on December 19, 1974 through midnight (EST) on December 28, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30293 Filed 12-27-74;8:45 am]

[File No. 500-1]

DISPOSABLE RESEARCH INDUSTRIES

Suspension of Trading

DECEMBER 19, 1974

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Disposable Research Industries being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 1 P.M. (EST) on December 19, 1974 through midnight (EST) on December 28, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30296 Filed 12-27-74;8:45 am]

[File No. 500-1]

POTTER INSTRUMENT CO.

Suspension of Trading

DECEMBER 19, 1974.

The common stock of Potter Instrument Company, Inc. being traded on the American and Philadelphia-Baltimore-Washington Stock Exchanges pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Potter Instrument Company, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from 1 P.M. (EST) on December 19, 1974 through midnight (EST) on December 28, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30294 Filed 12-27-74;8:45 am]

SEC REPORT COORDINATING GROUP (ADVISORY)

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, the Securities and Exchange Commission announces a public advisory committee meeting.

The Commission's Report Coordinating Group (Advisory), will hold a meeting on January 10, 1975 at the Securities and Exchange Commission, 500 North Capitol Street, Room 858, Washington, D.C. The meeting will commence at 10 a.m. local time and will be for the purpose of discussing the FOCUS Report of financial and operational information.

The Group's meetings are open to the public. Any interested person may attend and appear before or file statements with the advisory committee. Said statements, if in written form may be filed before or after the meeting. Oral statements shall be made at the time and in the manner permitted by the Report Coordinating Group.

The Report Coordinating Group was formed to assist the Commission in developing a coherent, industry-wide, coordinated reporting system. In carrying out this objective, the Report Coordinating Group is to review all reports, forms and similar materials required of broker-dealers by the Commission, the self-regulatory community and others. The Group is expected to advise the Commission on such matters as eliminating unnecessary duplication in reporting, reducing reporting requirements where feasible, and developing the FOCUS Report of financial and operational information. (Securities Exchange Act Release No. 10612; Securities Exchange Act Release No. 10969).

Information concerning the meeting, including the procedures for submitting statements to the Group, may be obtained by contacting: Mr. Daniel J. Piliero II, Secretary, SEC Report Coordinating Group, Securities and Exchange Commission, Washington, D.C. 20549.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30297 Filed 12-27-74;8:45 am]

[File No. 500-1]

STELBER INDUSTRIES, INC.

Suspension of Trading

DECEMBER 19, 1974

The common stock of Stelber Industries, Inc. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Stelber Industries, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on

a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from 1 P.M. (EST) on December 19, 1974 through midnight (EST) on December 28, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30295 Filed 12-27-74;8:45 am]

TARIFF COMMISSION

[TEA-W-257]

ANDREW MANUFACTURING CORP., N.Y.

Workers' Petition for a Determination

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of Andrew Manufacturing Corporation, New York, New York, the United States Tariff Commission, on December 23, 1974, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the type provided for in item 700.45 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioner. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed by January 9, 1975.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission at 6 World Trade Center.

Issued: December 24, 1974.

By Order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.74-30360 Filed 12-27-74;8:45 am]

VETERANS ADMINISTRATION

ADVISORY COMMITTEE ON STRUCTURAL SAFETY OF VETERANS ADMINISTRATION FACILITIES

Notice of Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration Facilities will be held in Room 442 at the Veterans Administration Central Office, 811 Vermont Avenue, NW., Washington, D.C., on January 17, 1975 at 10 am. The Committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake, and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. James Lefter, Director, Civil Engineering Service, Office of Construction, Veterans Administration Central Office (phone 202-389-2368), prior to January 15, 1975.

Dated: December 20, 1974.

By direction of the Administrator.

[SEAL] R. L. ROUDEBUSH, *Administrator.*

[FR Doc.30310 Filed 12-27-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 662]

Assignment of Hearings

DECEMBER 24, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after December 30, 1974.

MC-C-7996, Film Transit, Inc., et al.-v-Cape Air Freight, Inc., now assigned January 20, 1975, at Kansas City, Mo. is postponed to March 10, 1975.

MC 41406 Sub 40, Artim Transportation System, Inc., now assigned January 28, 1975, at Columbus, Ohio, is postponed indefinitely.

MC 107295 Sub 695, Pre-Fab Transit Co., now assigned January 28, 1975, at Washington, D.C., is cancelled and application is dismissed.

MC 1838 Sub 10, Alex Smith, Inc., now assigned February 19, 1975, at Washington, D.C., is cancelled and application is dismissed.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-30349 Filed 12-27-74;8:45 am]

[Notice No. 209]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

DECEMBER 30, 1974.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before January 20, 1975. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74886. By supplemental order of 12.13.74 the Motor Carrier Board approved the transfer to Dahlsten Truck Line, Inc., Clay Center, Nebraska, of Certificate No. MC-115669 (Sub-No. 134) issued January 16, 1974, to Howard N. Dahlsten, doing business as Dahlsten Truck Line, Clay Center, Nebraska, which certificate inadvertently was not included in the order entered January 14, 1974, in the subject proceeding, approving the transfer to transferee of all of the outstanding certificates of transferor. The certificate approved for transfer by this supplemental order authorizes the transportation of: Dry feed ingredients from Van Buren, Ark., to points in Arkansas, Colorado, Kansas, Iowa, Minnesota, Missouri (except St. Louis and those points in Missouri which are located in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone as defined by the Commission), Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming. Mr. Donald L. Stern, Attorney at Law, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106.

No. MC-FC-75474. By order of December 13, 1974, the Motor Carrier Board approved the transfer to Peter R. Jacobs, doing business as Central Banana Carriers, Ashland, Va., of the operating rights in Certificate No. MC-117743 issued October 17, 1972, to RPM Distributors, Inc., doing business as Central Banana Carriers, Doswell, Va., authorizing the transportation of bananas, from Norfolk, Va., to Boston, Mass., Chicago, Ill., Indianapolis, Ind., Louisville, Ky., Huntington and Wheeling, W. Va., Richmond, Va., and the District of Columbia, and points in Michigan, Ohio, and Pennsylvania; from Baltimore, Md., and Charleston, S.C., to Norfolk and Richmond, Va.; from Philadelphia, Pa., to Norfolk, Va., and from New York, N.Y., to Richmond, Va. Stanley I. Goldman, 1700 K Street NW., Washington, D.C. 20006, attorney for applicants.

No. MC-FC-75480. By order of December 13, 1974, the Motor Carrier Board

approved the transfer to Lee's Towing Service, Inc., Chicago, Ill., of the operating rights in Certificate No. MC–117064 issued September 10, 1974, to Hi-Way Towing Service, Inc., Worth, Ill., authorizing the transportation of tractors and trailers (to be used as replacement vehicles) and disabled tractors, trailers, automobiles, buses, and trailers (except those designed to be drawn by passenger automobiles), in wrecker-type service, between points in Illinois, Iowa, Indiana, Michigan, and Wisconsin (except points in Milwaukee County). William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080, attorney for applicants.

No. MC–FC–75486. By order of December 16, 1974, the Motor Carrier Board approved the transfer to Tompkinsville Transfer Co., Inc., Tompkinsville, Ky., of the Certificate of Registration in No. MC–98438 (Sub-No. 2) issued March 28, 1972, to Truman Hollinsworth, doing business as Tompkinsville Transfer Company, Tompkinsville, Ky., evidencing the right of the holder to engage in operations as a motor vehicle in interstate or foreign commerce corresponding in scope to the grant of authority in Certificates of Convenience and Necessity No. 358 and No. 465 transferred to transferor June 5, 1962, as issued by the Department of Motor Transportation of Kentucky. Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101, attorney for applicants.

No. MC–FC–75492. By order of December 16, 1974, the Motor Carrier Board approved the transfer to Calvin P. Boer, doing business as Boer's Transfer and Storage, Holland, Mich., of the operating rights in Certificates Nos. MC–45974 and MC–35974 (Sub-No. 1) issued December 29, 1950, to Amy Boer, doing business as Boer's Transfer, Holland, Mich., authorizing the transportation of household goods as defined by the Commission, between Holland, Mich., and points within 30 miles thereof, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Wisconsin, Michigan, Ohio, Pennsylvania, and New Jersey. Ronald L. Dalman, 272–274 East 8th Street, Holland, Mich. 49423, attorney for applicants.

No. MC–FC–75494. By order of December 13, 1974, the Motor Carrier Board approved the transfer to Bud's Wrecker Service, Inc., South Bend, Ind., of the operating rights in Certificate No. MC–123247 issued March 29, 1962, to Marilyn J. Odle, doing business as Bud's Wrecker Service, South Bend, Ind., authorizing the transportation of used tractors, in secondary movements, in truckaway service, and used trailers to be used as replacement vehicles for wrecked, damaged or disabled tractors, trailers, or semi-trailers, wrecked or disabled motor vehicles, including wrecked or disabled trailers and semi-trailers, and motor vehicle parts, accessories, supplies, and materials, moving in wrecker equipment, between points in Indiana, Michigan, Ohio, Illinois, Wisconsin, and Kentucky. Harry J. Harman, 2120 South Meridian, Indianapolis, Ind. 46217, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-30348 Filed 12-27-74;8:45 am]

[Notice No. 169]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 19, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a (a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, by January 14, 1975. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D. C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 63417 (Sub-No. 72 TA) (amendment), filed November 4, 1974, published in the FEDERAL REGISTER issue of November 18, 1974, and republished as amended this issue. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, 1814 Hollins Road NE., P.O. Box 13447, Roanoke, Va. 24012. Applicant's representative: William E. Bain (same address as applicant).

NOTE.—The purpose of this republication is to add some more supporting shippers. These supporting shippers are: (1) Shector Bros., Hancock & Huntington Street, Philadelphia, Pa. 19133; and (2) Acme Manufacturing Co., 7500 State Road, Philadelphia, Pa. 19136. The rest of the application will remain the same.

No. MC 102567 (Sub-No. 180 TA), filed December 12, 1974. Applicant: MCNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Donald W. English (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid caustic soda*, in bulk, in tank vehicles, from Natchitoches, La., to points in Texas, Mississippi, Oklahoma, and Arkansas, for 180 days. Supporting shipper: Thompson Hayward Chemical Company, 1011 Jacks Wells Blvd., Shreveport, La. 71107. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Bldg., 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 103051 (Sub-No. 331 TA), filed December 10, 1974. Applicant: FLEET TRANSPORT COMPANY, INC., 934–44th Avenue, North, Nashville, Tenn. 37209. Applicant's representative: William G. North (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar*, in bulk, in tank vehicles, from Belle Glade, Fla., to Athens and Savannah, Ga., and Elkin, Greensboro and Winston-Salem, N.C., for 180 days. Supporting shipper: GCC Beverages, Inc., P.O. Box 593577 AMF, Miami, Fla. 33159. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite A–422–Federal Building, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 107002 (Sub-No. 464 TA), filed December 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80 West, Jackson, Miss. 39206. Applicant's representative: John J. Borth (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tung oil*, in bulk, in tank vehicles, from Chason, Fla., to International Falls, Minn. for 180 days. Supporting shipper(s): Alnor Oil Company, Inc. P.O. Box 83, Valley Stream, New York 11582. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 107515 (Sub-No. 969 TA), filed December 11, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from plantsite of Odom's Sausage Company, Adairville, Ky., to points in the United States (except Alaska, Hawaii, Montana, Idaho, Wyoming and Utah), for 180 days. Supporting shipper: Odom's Sausage Company, 910 Neeley's Bend Road, Madison, Tenn. 37115. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 108207 (Sub-No. 412 TA), filed December 13, 1974. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*,

by motor vehicle, over irregular routes, transporting: *Fresh and frozen boned meat products*, from Ames, Iowa, to Wichita, Kans., for 180 days. Supporting shipper: Carriage House Meat & Provision Co., Inc., 1131 Dayton, Ames, Iowa 50010. Send protests to: Gerald T. Holland, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 112588 (Sub-No. 21 TA), filed December 13, 1974. Applicant: RUSSELL TRUCKING LINE, INC., 2011 Cleveland Road, Sandusky, Ohio 44870. Applicant's representative: Peter H. Hanley, President (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Portland Cement*, from the plantsite of Medusa Cement Co. at Baybridge, Ohio, to Rochester and Buffalo, New York, Erie, Pittsburgh, Wampum, Indiana, and Josephine, Pennsylvania, for 90 days. Supporting shipper(s): Medusa Cement Co., P.O. Box 5668 Cleveland, Ohio 44101. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Summit Street, Toledo, Ohio 43604.

No. MC 113666 (Sub-No. 89 TA), filed December 16, 1974. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium carbide*, in bulk, in specially designed hopper-type trailers, from Ashtabula, Ohio, to points in Pennsylvania and New Jersey, for 180 days. Supporting shipper: Shawinigan Products Corp., P.O. Box 1156, Englewood Cliffs, N.J. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 113908 (Sub-No. 330 TA), filed December 12, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and de-icer* in bags, cartons, drums and in bulk, from Viroqua, Wis., to points in Indiana, Kansas, Nebraska, North Dakota, Ohio, and South Dakota, for 180 days. Supporting shipper: Howard B. Johnson Enterprises, Inc., P.O. Box 67, Viroqua, Wis. 54665. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 125950 (Sub-No. 8 TA) (Correction) filed December 9, 1974, published in the FEDERAL REGISTER issue of December 18, 1974, and republished as corrected this issue. Applicant: C.B.S. TRANSPORTATION, INC., 1207 Columbus Circle, Wilmington, N.C. 28401. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit and vegetable containers*, from the plantsite of the Talley-Corbett Box Company at Adel, Ga. and Springfield, S.C., to points in Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, and New York, for 180 days. SUPPORTING SHIPPER: Talley-Corbett Box Company, Inc., P.O. Box 89, Adel, Ga. 31620. SEND PROTESTS TO: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 26896, Raleigh, N.C. 27611. Note: The purpose of this republication is to show that the origin is Springfield, S.C., in lieu of Springfield, N.C., which was published in the Federal Register in error.

No. MC 126458 (Sub-No. 6 TA), filed December 12, 1974. Applicant: ASCENZO & SONS, INC., 535 Brush Avenue, Bronx, New York 10465. Applicant's representative: Bert Collins, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Treated and untreated piling* on special equipment, from Hollywood, Salisbury and Baltimore, Md., Williamston, N.C., to New York, N.Y., Nassau, Suffolk, Westchester, Rockland and Orange Counties, N.Y., Bergen, Hudson, Essex, Union, Middlesex and Morris Counties, N.J. for 180 days. Supporting shipper(s): C. K. Forest Products, Inc., 2938 Hempstead Turnpike, New York, N.Y. 11756. Send protests to: Marvin Kampel, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza Room 1807, New York, N.Y. 10007.

No. MC 127355 (Sub-No. 16 TA), filed December 9, 1974. Applicant: M & N GRAIN COMPANY, a Corporation, P.O. Box "P", Nevada, Mo. 64772. Applicant's representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, Mo. 64105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cottonseed meal and hulls, fish meal, meat and bone meal, tankage, blood meal, bone meal, linseed oil meal, hominy meal, gluten feed, gluten meal, dehydrated alfalfa* (ground or pellets), *beet pulp, brewer's grains, malt sprouts, grain screenings* (pallets), *mill feed* (bran, middlings, red dog, shorts germ, and millrun), *ground corn cobs, potato meal, oat meal, feather meal, poultry by-products, peanut meal and hulls, soybean meal, sunflower meal, rapeseed meal, pallet binder* (ammonium lignin sulfonate), *corn screenings* (pallets), *suncured alfalfa and distillers grains*, between points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Virginia, for 90 days.

NOTE.—Applicant presently holds the sought authority in all states (except North Carolina, South Carolina, and Virginia). Supporting shipper: The Pillsbury Company, 608 Second Avenue South, Minneapolis, Minn. 55402. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 127668 (Sub-No. 6 TA), filed December 16, 1974. Applicant: WILLIAM WELCH AND JOHN WELCH, doing business as WELCH TRUCKING COMPANY, 1105 South Boulder, Portales, N. Mex. 88130. Applicant's representative: Edwin E. Piper, Jr., 1115 Sandia Savings Building, Albuquerque, N. Mex. 87101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hides, pelts, skins, hair, tails, switches and bone meal*, (1) from points in Texas, and New Mexico, to points in Arizona; (2) between points in Texas; and (3) from points in New Mexico, to points in Texas, for the account of Southwest Hide Co., Phoenix, Ariz., for 180 days. Supporting shipper: Southwest Hide Co., 3009 North 49th Street, Phoenix, Ariz. 85018. SEND PROTESTS TO: John H. Kirkemo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue, SW, Albuquerque, N. Mex. 87101. Note: Applicant states it will tack.

No. MC 133655 (Sub-No. 81 TA), filed December 13, 1974. Applicant: TRANSNATIONAL TRUCK, INC., P.O. Box 4168, Amarillo, Tex. 79105. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery blends*, from Pickerington, Ohio, to points in Texas, for 150 days. Supporting shipper: Ronald J. Schuckmann, Traffic Manager, DMI Inc., 303 E. Caldwell St., Louisville, Ky. 40203. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 134819 (Sub-No. 2TA), filed December 12, 1974. Applicant: RALPH W. KING, doing business as R. W. KING TRUCKING, 9842 East Belmont Avenue, Sanger, Calif. 93657. Applicant's representative: William H. Kessler, 638 Divisadero Street, Fresno, Calif. 93721. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fence palings, ridge, shakes, and shingles*, from points in Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties, Oreg. and points in Clark, Cowlitz, Grays Harbor, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum Counties, Wash., to points in Fresno County, Calif., for 180 days. Supporting shippers: (1) Altamont Cedar Shake and Shingle Co., 1950 East Tyler Avenue,

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Fresno, Calif. 93701; (2) Long's Building Supply, 2380 North Clovis Avenue, Clovis, Calif. 93612; and (3) Zumwalt Roofing Co., 4683 East Hammond Avenue, Fresno, Calif. 93726. Send protests to: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 134922 (Sub-No. 108TA), filed December 12, 1974. Applicant: B. J. McADAMS, INC., Rt. 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Don Garrison (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recreational vehicles; parts, equipment and supplies* used in the manufacture thereof, restricted against the transportation of commodities which by reason of size or weight require the use of special equipment, from Mansfield, Ohio, to points in California, Florida, Georgia, Idaho, Montana, Texas, and Washington, for 180 days. Supporting shipper: Rupp Industries, Inc., 1776 Airport Road, Mansfield, Ohio 44903. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201. Note: Applicant states it will tack at Mansfield, Ohio.

No. MC 138164 (Sub-No. 7 TA), filed December 12, 1974. Applicant: CAN-AM MARINE TRANSIT LTD., P.O. Box 790, Hudson, Quebec, Canada JOP 1HO. Applicant's representative: J. P. Vermette, 250 Napoleon-Provost Street, Repentigny, Quebec, Canada J6A 1H5. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sailboats*, from all ports of entry on the International Boundary line between the United States and Canada located in North Dakota, Minnesota, Michigan, New York, Vermont, and Maine, to points in Alabama, Arkansas, Colorado, Florida, Georgia, Iowa, Kansas, Louisiana, Missouri, Mississippi, Nebraska, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, and West Virginia, for 180 days. Restriction: Restricted to the transportation of traffic having an immediate prior movement in foreign commerce originating from the Province of Quebec, Canada. Supporting shippers: Performance Sailcraft, Inc., 91 Hymus Blvd., Pointe Claire, Quebec, Canada and Tanzer Industries Ltd., P.O. Box 105, Dorion (Montreal), Quebec, Canada. Send protests to: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, P.O. Box 548, 87 State Street, Montpelier, Vt. 05602.

No. MC 139570 (Sub-No. 1 TA), filed December 13, 1974. Applicant: LEASE-CON INC., 5 High Street, West Nyack, N.Y. 10994. Applicant's representative: Bert Collins, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, other than those designed to be drawn by passenger automobiles, *containers, truck chassis and trailer chassis and trailer parts*, from Middletown, N.Y., to points in Hudson, Middlesex, Hudson, Essex and Union Counties, N.J., New York, N.Y. Commercial Zone and Boston, Mass. Commercial Zone; and (2) *Returned, rejected or damaged trailers, containers*, etc., and *materials, supplies and equipment* used or useful in connection with the manufacture, sale or distribution of said commodities, from the destination territory above referred to, to Middletown, N.Y., for 180 days. Restriction: The proposed service to be under contract with Strick Corp. Supporting shipper: Strick Corporation, Manager of Physical Distribution, U.S. Highway #1, Fairless Hills, Pa. 19030. Send protests to: Stephen P. Tomany, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 140413 (Sub-No. 1 TA), filed December 13, 1974. Applicant: JOE L. RABUN, doing business as RABUN TRUCKING CO., Route No. 2, Stapleton, Ga. 30823. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree Street, Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural lime*, in bulk, from points in Blount, Jefferson and Knox Counties, Tenn., to points in Georgia (except points in Jefferson County, Ga., south of Georgia Highway 24) and points in South Carolina, for 180 days. Supporting shipper: Gold Kist, Inc., 3348 Peachtree Road NE., Atlanta, Ga. 30326. Send protests to: William L. Scroogs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1252 West Peachtree Street, N.W., Room 546, Atlanta, Ga. 30309.

No. MC 140419 (Sub-No. 1 TA), filed December 13, 1974. Applicant: RUSSELL HALVERSON, doing business as M. R. TRUX, P.O. Box 1794, Sioux Falls, S. Dak. 57101. Applicant's representative: F. H. Kroeger, 1745 University Avenue, St. Paul, Minn. 55104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conveyors and conveyor parts*, from Sioux Falls, S. Dak., to Fairbanks, Alaska, for 180 days. Supporting shipper: Kolman Div./Athey Products Corp., 5100 West 12th Street, Sioux Falls, S. Dak. 57107, Gary L. Woessner, Traffic Mgr. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 140463 TA, filed December 11, 1974. Applicant: ORREN J. LEE, 2312 Braemer Drive, Sioux Falls, S. Dak. 57105. Applicant's representative: M. Mark Menard, 307 West Fourteenth, Sioux Falls, S. Dak. 57105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as described in Group B of Appendix I to the Description case 61 M.C.C. 209, from Sioux Falls, S. Dak., to points in South Dakota, Minnesota, Iowa, and that part of Nebraska lying east of Highway 81, for 180 days. Supporting shipper: Terrace Park Dairy, 1501 West 10th, Sioux Falls, S. Dak., Oswald E. Schock, Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 140464 TA, filed December 13, 1974. Applicant: D–X TRUCKING, INC., 2432 Sylvania Avenue, Toledo, Ohio 43613. Applicant's representative: Jack K. Rau (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and glassware*, as described in Appendix IX, to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between Upper Sandusky, Ohio and Atlanta, Ga.; S. Holland, Ill.; Wichita, Kans.; S. Boston, Mass.; Carleton, Detroit, Oak Park, and Southfield, Mich.; Kearney, N.J.; Bronx, N.Y.; Memphis, Tenn.; Dallas, Tex.; and points in the District of Columbia, for 180 days. Supporting shipper: Guardian Industries Corp., 14600 Romine Road, Carleton, Mich. 48117. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

MOTOR CARRIERS OF PASSENGERS

No. MC 2832 (Sub-No. 10 TA), filed December 2, 1974. Applicant: THE KELLEY TRANSIT COMPANY, INC., 30 Railroad Square, Torrington, Conn. 06790. Applicant's representative: Thomas A. Kelley, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in round trip, special operations, (1) beginning and ending at points in Litchfield County, Conn. and Millerton, N.Y.; and extending to Boston, Fall River, Foxboro, Gloucester, Hyannis, New Bedford, Newburyport, Orleans, Plymouth, Provincetown, Salem, Springfield, Sturbridge, and West Springfield, Mass., and Newport and Providence, R.I.; and (2) beginning and ending at points in Litchfield County, Conn. and Millerton, N.Y. and extending to Westfield, Easthampton, Northampton, South Deerfield, Greenfield, Northfield, Shelburne Falls, North Adams, Williamstown, Pittsfield, Lenox, Great Barrington, Sheffield, Hancock, Mass., and New Lebanon, Green River, and Hillsdale, N.Y., for 180 days. Supporting shippers: There are approximately 12 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at field office named below. Send protests to: District Supervisor Davis J. Kiernan, Interstate Commerce Commission, Bureau of Operations, 324 U.S. Post Office Building, 135 High Street, Hartford, Conn. 06101.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.74–30346 Filed 12–27–74;8:45 am]

federal register

TUESDAY, DECEMBER 24, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 248

PART II

HOUSING AND URBAN DEVELOPMENT

■

HOUSING ASSISTANCE PAYMENTS PROGRAM

New Construction

XUM V 39 N 251 DEC 30 74 XUM

Title 24—Housing and Urban Development

CHAPTER VIII—LOW RENT PUBLIC HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-74-305]

PART 1277—HOUSING ASSISTANCE PAYMENTS PROGRAM—SUBSTANTIAL REHABILITATION

Notice was given on November 22, 1974 at 39 FR 41063 that the Department of Housing and Urban Development (HUD) was proposing to amend Title 24 of the Code of Federal Regulations by adding a new Part 1277 to Chapter VIII.

The purpose of Part 1277 is to set forth the essential elements of the Housing Assistance Payments Program—Substantial Rehabilitation, including among other things, the roles and responsibilities of HUD, public housing agencies (PHAs), rehabilitators, owners, and eligible lower- and very low-income families, the basis for determining the amount of housing assistance payments, and the prescribed forms of contracts.

HUD has received more than 115 responses to the November 22, 1974 publication. All of these comments were seriously considered and many changes have been incorporated in these regulations as a result. The principal changes are set forth below.

1. § 1277.101(b) has been modified so as to provide that projects already being rehabilitated may be eligible for participation under this Part if certain specified conditions are satisfied.

2. Provision is made for the PHA to make the determination with respect to Allowances for Utilities and Other Services, as set forth in §§ 1277.102(b) and 1277.218(l), respectively, in the case of a Private-Owner/PHA Project (as defined in § 1277.102(x)).

3. The definition of "Eligible Family," as set forth in § 1277.102(f), has been modified to clarify that disabled persons are included within this definition.

4. A definition of the term "HUD" has been added in a new § 1277.102(n) to include HUD's designee.

5. The procedures for inviting, ranking and selecting Preliminary Proposals (as defined in 1277.102(w)) as set forth in §§ 1277.103(b), 1277.203, 1277.204(b) and 1273.208 have been clarified.

6. §§ 1277.103(e)(2) and 1277.103(e)(3) have been modified to increase the percent of Contract Rent payable in the event of vacancies from 70 to 80.

7. In § 1277.103(f) the provisions concerning approval of Contract Rents in excess Fair Market Rents have been clarified.

8. § 1277.103(h)(3), the provision authorizing special additional adjustments under limited circumstances, has been clarified.

9. §§ 1277.103(q)(1), 1277.103(q)(2), 1277.204(c)(10), 1277.205(o), 1277.209(a)(13), respectively, have been clarified with respect to situations where the Agreement or Contract is pledged as security for financing.

10. A new § 1277.103(q)(3) has been added to clarify the status of the Housing Assistance Payments Contract in the event of foreclosure, assignment or sale.

11. § 1277.103(r) has been modified to permit the owner to require each Family to make a security deposit in the amount of one month's Gross Family Contribution.

12. The provision precluding a PHA from being the Contract administrator where it is also the lender has been replaced by a provision permitting the PHA to administer the Contract in such cases subject to an express provision in the Contract giving HUD the right to take unilateral action in default situations (see § 1277.103(v)).

13. § 1277.208(a) has been clarified to give the owner opportunity to supply omissions to the proposal.

14. § 1277.210 has been modified to provide for notification to the unit of general local government as to HUD's final action with respect to Final Proposals (as defined in § 1277.102(h)).

15. §§ 1277.211(b)(2) and 1277.216(b)(4)(iv), respecting the certifications (if applicable) of the design architect and the inspecting architect have been clarified; and § 1277.216(c), regarding the scope and nature of the inspection and determination to be made by HUD upon completion of the project, has been clarified.

16. § 1277.216(d), which sets forth the criteria for acceptance of a project, has been modified.

17. § 1277.218(l), which provides for the reduction of Contract units utilized by an owner over a substantial period of time for other than Eligible Families, has been modified to provide for restoration of the withdrawn units under certain circumstances.

In view of the necessity to limit the comment period to fifteen days because of the statutory requirement that these regulations be made effective by January 1, 1975, comments will be received by HUD for a period of 30 days from the date of publication of these regulations, and HUD promptly at the end of the 30 day period will make such modifications in these regulations as it deems appropriate.

In order to comply with the aforementioned statutory requirement, the Assistant Secretary for Housing Production and Mortgage Credit/FHA Commissioner has determined that these regulations be made effective January 1, 1975.

Effective date. These regulations shall become effective January 1, 1975. Accordingly, Title 24 is amended as follows:

A new Part 1277, Section 8 Housing Assistance Payments—Substantial Rehabilitation, is added to Chapter VIII to read as set forth below.

PART 1277—HOUSING ASSISTANCE PAYMENTS PROGRAM—SUBSTANTIAL REHABILITATION

Subpart A—Applicability, Scope and Basic Policies

Sec.
1277.101 Applicability and scope.
1277.102 Definitions.
1277.103 Basic policies.

Subpart B—Project Development and Operation

1277.201 Allocations of contract authority to field offices.
1277.202 Program mix (new construction substantial rehabilitation, existing housing).
1277.203 Invitations for preliminary proposals.
1277.204 Contents of rehabilitation program packet.
1277.205 Contents of preliminary proposal.
1277.206 Submission of preliminary proposals.
1277.207 Proposal involving HUD-FHA mortgage insurance.
1277.208 Screening and evaluation of preliminary proposals.
1277.209 Final proposals.
1277.210 Evaluation of final proposals.
1277.211 Owner's acceptance of notification and submission of architect's certification.
1277.212 Annual contributions contract and agreement (private-owner/PHA projects).
1277.213 Submission of estimates of required annual contributions (private-owner/PHA projects).
1277.214 Preparation and execution of agreement (private-owner and PHA-owner projects).
1277.215 Rehabilitation period.
1277.216 Project completion.
1277.217 Execution of housing assistance payments contract.
1277.218 Project operation.
1277.219 HUD review contract compliance.
1277.220 PHA reporting requirements [Reserved]

Appendices

Note—Various prescribed forms which relate to internal HUD processing procedures are not included herein, but will appear in the HUD Substantial Rehabilitation Handbook.

I. Agreement to enter into housing assistance payments contract—private-owner or PHA-owner project.

II. Housing assistance payments contract—private-owner or PHA-owner project.

III. Annual contributions contract—private-owner/PHA project.

IV. Agreement to enter into housing assistance payments contract—private-owner/PHA project.

V. Housing assistance payments contract—private-owner/PHA project.

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); sec. 5(b) of the U.S. Housing Act of 1937 (42 U.S.C. 1437c(b); sec. 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f).

Subpart A—Applicability, Scope and Basic Policies

§ 1277.101 Applicability and scope.

(a) The policies and procedures contained herein are applicable to the making of housing assistance payments on behalf of Eligible Families leasing substantially rehabilitated housing pursuant to the provisions of Section 8 of the U.S. Housing Act of 1937 ("Act").

(b) For the purpose of this Part, "substantially rehabilitated housing" shall mean housing requiring substantial rehabilitation (See Sec. 1277.102(bb)) for which, prior to the start of rehabilitation, an Agreement to Enter into Housing Assistance Payments Contract is executed between the Owner and the Department of Housing and Urban Development ("HUD") or the Public Housing Agency. However, housing already undergoing

rehabilitation may be eligible for participation if all subsequent actions are in compliance with this Part and if the Owner certifies and demonstrates to the satisfaction of HUD that:

(1) At the date of application to HUD, a substantial amount of rehabilitation (generally at least 25 percent) remains to be completed; and

(2) At the date of application to HUD, the project cannot be completed without a commitment for assistance under this Part; and

(3) At the time rehabilitation was initiated, all of the parties reasonably expected that the project would be completed without assistance under this Part.

(c) Conversions of Section 23 projects to the Section 8 program will be permitted where appropriate, provided that all parties (including HUD) agree to the terms and conditions.

§ 1277.102 Definitions.

(a) *Agreement to Enter into Housing Assistance Payments Contract ("Agreement")*. (1) In the case of a Private-Owner Project or a PHA-Owner Project, a written agreement between the Owner and HUD that, upon satisfactory completion of the rehabilitation in accordance with the HUD-approved Final Proposal, HUD will enter into a Housing Assistance Payments Contract with the Owner. (See Appendix I.)

(2) In the case of a Private-Owner/PHA Project, a written agreement between the private Owner and the PHA, approved by HUD, that, upon satisfactory completion of the rehabilitation in accordance with the HUD-approved Final Proposal, the PHA will enter into a Housing Assistance Payments Contract with the private Owner. (See Appendix IV.)

(b) *Allowance for Utilities and Other Services ("Allowance")*. An amount determined or approved by HUD as an allowance for the cost of utilities (except telephone) and charges for other services payable directly by the Family. In the case of a proposal under which the Families must pay directly for one or more utilities or services, the amount of the Allowance is deducted from the Gross Rent in determining the Contract Rent and is included in the Gross Family Contribution.

(c) *Annual Contributions Contract ("ACC")*. In the case of a Private-Owner/PHA Project, a written agreement between HUD and the PHA to provide annual contributions to the PHA with respect to the project. (See Appendix III.)

(d) *Contract Rent*. The rent payable to the Owner under his Contract including the portion of the rent payable by the Family in the case of a cooperative, the term "Contract Rent" means charges under the occupancy agreements between the members and the cooperative.

(e) *Decent, Safe, and Sanitary*. Housing is Decent, Safe, and Sanitary at completion of rehabilitation if the dwelling units and related facilities are accepted by HUD as meeting the requirements of the Agreement. (See Sec. 1277.216.) Housing continues to be Decent, Safe, and Sanitary if it is being maintained in a condition substantially the same as that on acceptance in all pertinent respects, including the following:

(1) Condition of the exterior (including the grounds) and the interior of the structure and of the housing unit;

(2) Operating condition of sanitary facilities and of solid and liquid waste disposal facilities;

(3) Operating condition of kitchen facilities, including range and refrigerator, sink, and space for storage of food and for storage of utensils and dishes;

(4) Operating condition of heating, lighting and ventilating equipment and/or other facilities; and

(5) Size, number of rooms, and furnishability in relation to the size and type of Family in occupancy in accordance with any applicable State or local codes.

(f) *Eligible Family ("Family")*. A Family which qualifies as a Lower-Income Family and which meets the other requirements of the Act and this Part. The term Family includes an elderly, disabled, handicapped, or displaced person and the remaining member of a tenant family as defined in section 3(2) of the Act. A Family's housing assistance payment may continue until its Gross Family Contribution equals the Gross Rent for the dwelling unit it occupies, but the termination of housing assistance payments at such point shall not affect the family's other rights under its Lease nor shall such termination preclude resumption of payments as a result of subsequent changes in income or other relevant circumstances during the term of the Contract.

(g) *Fair market rent*. (1) The rent which is determined by HUD as the Fair Market Rent for new construction projects under Section 8 of Act. This Fair Market Rent is the rent, including utilities (except telephone), ranges and refrigerators, parking, and all maintenance, management and other services, which, as determined at least annually by HUD, would be required to be paid in order to obtain privately developed and owned, newly constructed rental housing of modest (non-luxury) nature with suitable amenities and sound architectural design meeting the objectives of the HUD Minimum Property Standards.

(2) Separate Fair Market Rents will be established for dwelling units by various sizes (number of bedrooms) and types (e.g., elevator, row, detached; housing designed for the elderly or handicapped shall be a separate type for this purpose).

(3) The Fair Market Rents will be published in the FEDERAL REGISTER, and, in order to allow for the period of rehabilitation, computation of the published Fair Market Rents will include HUD's estimate of anticipated rent increases during an appropriate future period as stated in the publication. Accordingly, for any given project for which the scheduled time for rehabilitation will be less than such future period, an appropriate reduction will be made in determining the approvable Contract Rent.

(4) The Fair Market Rent, minus the amount of any applicable Allowance for Utilities and Other Services payable directly by the Family, shall be the maximum amount that can be approved as the Contract Rent, except that the maximum approvable amount may be lower as stated in paragraph (g)(3) of this Section and may be higher or lower as provided in Sec. 1277.103(f).

(h) *Final proposal*. A proposal to provide substantially rehabilitated housing submitted in response to a HUD notification of section of Preliminary Proposal. (See Secs. 1277.204 and 1277.208-1277.210.)

(i) *Gross family contribution*. The portion of the Gross Rent payable by an Eligible Family, i.e., the difference between the amount of the housing assistance payment payable on behalf of the Family and the Gross Rent.

(j) *Gross rent*. The Contract Rent plus any Allowance for Utilities and Other Services.

(k) *HCD Act*. The Housing and Community Development Act of 1974.

(l) *Housing Assistance Payments Contract ("Contract")*. (1) In the case of a Private-Owner Project or a PHA-Owner Project, a written contract between the Owner and HUD for the purpose of providing housing assistance payments to the Owner on behalf of Eligible Families. (See Appendix II.)

(2) In the case of a Private-Owner/PHA Project, a written contract between the private Owner and the PHA, approved by HUD, for the purpose of providing housing assistance payments to the Owner on behalf of Eligible Families. (See Appendix V.)

(m) *Housing assistance payments on behalf of eligible family*. The amount of housing assistance payment on behalf of an Eligible Family determined in accordance with schedules and criteria established by HUD. (See Sec. 1277.103(t).)

(n) *HUD*. The Department of Housing and Urban Development or its designee.

(o) *Income*. Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

(p) *Invitation for preliminary proposals—substantial rehabilitation* ("Invitation for Preliminary Proposals"). A notice published by HUD inviting the submission of Preliminary Proposals in accordance with this Part. (See Sec. 1277.203.)

(q) *Lease*. A written agreement between an Owner and an Eligible Family for the leasing of a Decent, Safe, and Sanitary dwelling unit in accordance with the applicable Contract, which agreement is in compliance with the provisions of this Part.

(r) *Local Housing Assistance Plan*. A housing assistance plan submitted by a unit of general local government and approved by HUD under section 104 of the HCD Act or, in the case of a unit of general local government not participating under Title I of the HCD Act, a

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housing plan which contains the elements set forth in section 104(a)(4) of the HCD Act and which is approved by the Secretary as meeting the requirements of section 213 of that Act.

(s) *Lower-income family.* A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs, unusually high or low incomes, or other factors.

(t) *New communities.* New community developments approved under Title IV of the Housing and Urban Development Act of 1968 and Title VII of the Housing and Urban Development Act of 1970.

(u) *Owner.* Any private person or entity, including a cooperative, or a PHA, having the legal right to lease or sublease substantially rehabilitated dwelling units.

(v) *PHA-Owner Proposal and PHA-Owner Project.* A proposal for a project under this Part (and the resulting project) to be owned by a PHA throughout the term of the Agreement and Contract where such Agreement and Contract are to be entered into between the PHA and HUD.

(w) *Preliminary proposal.* A proposal to provide substantially rehabilitated housing submitted in response to a HUD Invitation for Preliminary Proposals. (See Secs. 1277.203–1277.208.)

(x) *Private-Owner/PHA Proposal and Private-Owner/PHA Project.* A proposal for a project under this Part (and the resulting project) to be owned by a private Owner throughout the term of the Agreement and Contract where such Agreement and Contract are to be entered into between the private Owner and the PHA pursuant to an ACC between the PHA and HUD.

(y) *Private-Owner Proposal and Private-Owner Project.* A proposal for a project under this Part (and the resulting project) to be owned by a private Owner throughout the term of the Agreement and Contract where such Agreement and Contract are to be entered into between the private Owner and HUD.

(z) *Public Housing Agency ("PHA").* Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of housing for low-income Families.

(aa) *Secretary.* The Secretary of Housing and Urban Development.

(bb) *Substantial Rehabilitation.* (1) The improvement of a property to Decent, Safe, and Sanitary condition and in accord with HUD requirements from a condition requiring more than routine or minor repairs or improvements of such extent as to necessitate execution of an Agreement prior to the performance of the work. Substantial Rehabilitation may vary in degree from gutting and extensive reconstruction to cosmetic improvements coupled with cure of substantial accumulation of deferred maintenance. Cosmetic improvements alone do not qualify as Substantial Rehabilitation under this definition.

(2) Substantial rehabilitation also includes renovation, alteration or remodeling for the conversion or adaptation of structurally sound property to the design and condition required for use under this Part (e.g., conversion of a hotel to housing for the elderly).

(cc) *Very low-income family.* A family whose income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families.

§ 1277.103 Basic policies.

(a) *Limitation on Use of Substantially Rehabilitated Housing.* (1) No proposal for housing to be rehabilitated may be approved by HUD unless HUD requirements implementing the provisions of sections 213(a), (b), and (c) of the HCD Act regarding review by the unit of general local government have been satisfied.

(2) Substantial Rehabilitated projects shall be permitted only where: (i) HUD determines that there is not and there is not likely soon to be an adequate supply of, existing housing which, with the aid of housing assistance payments provided under the Section 8 Housing Assistance Payments Program—Existing Housing, can meet the needs of Eligible Families, or (ii) the proposed project is specifically approved by HUD in accordance with priorities established from time to time by the Secretary including priorities for New Communities which involve substantial rehabilitation.

(b) *Preference for Certain Types of Projects.* (1) *20 percent projects.* Assistance payments may be made with respect to up to 100 percent of the dwelling units in any structure or project. However, within the category of projects that are not designed for use primarily by the elderly and the handicapped and which involve the rehabilitation of more than 50 units, a preference will be provided for projects in which housing assistance will be limited to 20 percent or less of the units. (See Sec. 1277.208(e)(1).)

(2) *Three or more bedroom projects.* Where the need for dwelling units of three or more bedroom size ("large dwelling units") is shown, each HUD field office shall be responsible, to the extent feasible, for inviting and selecting proposals which in the aggregate will achieve the goal of providing a number of large dwelling units equal to at least 20 percent of all the assisted units approved under the section 8 Housing Assistance Payments Program, without undue concentration of such large dwelling units in any one location.

(c) *Maximum Total Annual Housing Assistance Payments (Private-Owner or PHA-Owner Projects).* (1) The maximum total annual housing assistance payments that may be committed under the Contract shall be the total of the Gross Rents for all the Contract units in the project.

(2) A project account will be established and maintained, in an amount as determined by the Secretary consistent with his responsibilities under section 8(c)(6) of the Act, out of amounts by which the maximum Contract commitment per year exceeds amounts paid under the Contract for any year. This account will be established and maintained by HUD as a specifically identified and segregated account, and payment shall be made therefrom only for the following purposes:

(i) Increases in housing assistance payments; and

(ii) Other costs specifically authorized or approved by the Secretary.

Any balance in this account after payment of the last housing assistance payment shall be applied by HUD as a receipt under section 10(b) of the Act.

(d) *Annual contributions (private-owner/PHA projects).* (1) The maximum total annual contributions that may be contracted for in the ACC for a project shall be: (i) the total of the Gross Rents for all the Contract Units in the project plus (ii) a fee for the regular costs of PHA administration. HUD-approved preliminary costs for administration (including administrative costs in connection with PHA activities related to relocation of occupants) shall be payable out of this total.

(2) A project account will be established and maintained, in an amount as determined by the Secretary consistent with his responsibilities under section 8(c)(6) of the Act, out of amounts by which the maximum ACC commitment per year exceeds amounts paid under the ACC for any year. This account shall be established and maintained by HUD as a specifically identified and segregated account, and payment shall be made therefrom only for the following purposes:

(i) Increases in housing assistance payments;

(ii) Increases in the amount of the fee for regular PHA costs of administration; and

(iii) Other costs specifically authorized or approved by the Secretary.

Any balance in this account after payment of the last annual contribution for the project shall be applied by HUD in accordance with law.

(e) *Housing assistance payments to owners.*—(1) *General.* Housing assistance payments shall be paid to Owners for units under lease by Eligible Families, in accordance with the Contract and as provided in this paragraph (e). The housing assistance payment will pay the Owner the difference between the Contract Rent and the portion of said rent payable by the Family as determined in accordance with the HUD-established schedules and criteria.

(2) *Vacancies during rent-up.* If a Contract unit is not leased as of the effective date of the Contract, the Owner shall be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract, provided that the Owner (i) commenced

marketing and otherwise complied with Sec. 1277.215, (ii) has taken and continues to take all feasible actions to fill the vacancy, including, but not limited to, contacting applicants on his waiting list, requesting the PHA and other appropriate sources to refer eligible applicants, and advertising the availability of the unit, and (iii) has not rejected any eligible applicant, except for good cause acceptable to HUD or the PHA, as the case may be.

(3) *Vacancies After Rent-up.* (i) If an Eligible Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days; provided, however, that if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to HUD or as HUD may direct. (See also Sec. 1277.103(a).) The Owner shall not be entitled to any payment under this paragraph (e)(3)(i) unless he: (A) immediately upon learning of the vacancy, has notified HUD or the PHA, as the case may be, of the vacancy or prospective vacancy and the reasons for the vacancy, and (B) has taken and continues to take the actions specified in paragraphs (e)(2)(ii) and (e)(2)(iii) of this section.

(ii) If the Owner evicts an Eligible Family, he shall not be entitled to any payment under paragraph (e)(3)(i) of this section unless the request for such payment is supported by a certification that (A) he gave such Family a written notice of the proposed eviction, stating the grounds and advising the Family that it had 10 days within which to present its objections to the Owner in writing or in person and (B) the proposed eviction was not in violation of the Lease or the Contract or any applicable law.

(4) The Owner shall not be entitled to housing assistance payments with respect to vacant units under this paragraph (e) to the extent he is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the HCD Act or payments under § 1277.103(r).)

(f) *Initial maximum rents to Owners.* (1) The sum of the initial Contract Rents and any Allowances for Utilities and Other Services shall not exceed the Fair Market Rents for newly constructed rental housing, except that such Fair Market Rents may be exceeded (i) by up to 10 percent if the field office director determines that special circumstances warrant such higher rents and the higher rents meet the test of reasonableness in paragraph (f)(2) of this section, or (ii) by up to 20 percent, where the Assistant Secretary for Housing Production and Mortgage Credit determines that special circumstances warrant such higher rents, or that such higher rents are necessary to the implementation of a local Housing Assistance Plan, or that such higher rents meet the test of reasonableness in paragraph (f)(2) of this section.

(2) The Contract Rents as proposed must be determined by HUD to be reasonable in relation to the quality, location, amenities, methods and terms of financing, and management and maintenance services of the project, and proposed rents shall be subject to reduction if they are found to be higher than such reasonable rents.

(3) In addition, for projects financed with HUD-insured mortgages, initial Contract Rents for units assisted under this Contract shall not exceed the rents approved by HUD in connection with the mortgage insurance for such projects.

(g) *Term of housing assistance payments contract.* (1) A Contract may be for an initial term of not more than five years, with an option solely in the Owner to renew for additional terms of not more than five years each, provided that the total Contract term, including renewals, shall not exceed 20 years for any dwelling unit.

(2) In the case of a Contract under which housing assistance payments are made with respect to a project owned by, or financed by a loan or loan guarantee from, a State or local agency, the total Contract term may not exceed 40 years for any dwelling unit.

(3) Notwithstanding the maximum total allowable term per unit stated in paragraph (g)(1) or (g)(2) of this section, a shorter term shall be determined by HUD where appropriate, taking into account the nature and extent of the required rehabilitation, the amount of the capital expenditures reasonably required under the proposal, the reasonable period and rate of amortization for the financing, and the approved rents to the Owner.

(4) If the project is accepted in stages, the dates for the initial and the renewal terms shall be separately related to the units in each stage; provided, however, that the total Contract term for the units in all the stages, counting from the effective date of the Contract with respect to the first stage, may not exceed the overall maximum term allowable for any one unit, plus two years.

(h) *Rent Adjustments.*—(1) *funding of adjustments.* Housing assistance payments will be made in increased amounts commensurate with Contract Rent adjustments under this paragraph, up to the maximum total annual housing assistance payments committed under the Contract. The provisions of the Contract or the ACC, as the case may be, are designed (by providing for maximum total annual commitments in excess of the amounts required at the time of the initial rental of dwelling units and by setting aside such excess amounts in a project reserve) to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family incomes. In addition, the Contract or the ACC, as the case may be, will provide that HUD will take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

(2) *Automatic annual adjustments.* (i) Automatic Annual Adjustment Factors will be determined by HUD at least annually; interim revisions may be made as market conditions warrant. Such Factors and the basis for their determination will be published in the FEDERAL REGISTER. These published Factors will be reduced appropriately by HUD where utilities are paid directly by Families.

(ii) On each anniversary date of the Contract, the Contract Rents shall be adjusted by applying the applicable Automatic Annual Adjustment Factor most recently published by HUD. Contract Rents may be adjusted upward or downward, as may be appropriate; however, in no case shall the adjusted rents be less than the Contract Rents on the effective date of the Contract.

(3) *Special additional adjustments.* Special additional adjustments may be granted, when approved by HUD, to reflect increases in the actual and necessary expenses of owning and maintaining the Contract units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the Owner clearly demonstrates that such general increases have caused increases in the Owner's operating costs which are not adequately compensated for by automatic annual adjustments. The Owner shall submit to HUD financial statements which clearly suport the increase.

(4) *Overall limitation.* Notwithstanding any other provisions of this Part, adjustments as provided in this paragraph (h) shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by HUD.

(i) *Types of housing and property standards.* (1) Existing structures of various types may be appropriate for this program including apartment hotels, single-family houses, or multi-family structures. Hotels or office buildings may be suitable for conversion under this program to housing designed for elderly or handicapped families and individuals, including congregate housing. Single room occupant housing planned specifically as a relocation resource for eligible single persons may also be developed. Units in highrise elevator buildings may not be used for Families with children unless HUD determines there is no practical alternative. Mobile homes may not be utilized in this program.

(2) No section 8 assistance may be provided for any unit occupied by an Owner; however, cooperatives are considered rental housing for this purpose.

(3) Participation in this program requires compliance with (i) HUD Mini-

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mum Design Standards for Rehabilitation for Residential Properties, (ii) in the case of congregate or single room occupant housing, the appropriate HUD guidelines and standards, (iii) HUD requirements pursuant to section 209 of the HCD Act for projects for the elderly or the handicapped, (iv) HUD requirements pertaining to noise abatement and control, (v) HUD regulations issued pursuant to the Lead Base Paint Poisoning Prevention Act, 42 USC 4801, and (vi) applicable State and local laws, codes, ordinances, and regulations.

(j) *Site and neighborhood standards.* Proposed sites for substantial rehabilitation projects must be approved by HUD as meeting the following standards:

(1) Adequate utilities (water, sewer, gas and electricity) and streets shall be available to service the site.

(2) The site and neighborhood shall be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto.

(3) The site shall promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of lower-income persons.

(4) The site shall be free from serious adverse environmental conditions, or there shall be evidence that any such conditions will be corrected by the time the rehabilitation is completed.

(5) The site shall comply with any applicable conditions in the Local Housing Assistance Plan, approved by HUD.

(6) The housing shall be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unsubsidized, standard housing of similar market rents.

(7) Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, shall not be excessive. (While it is important that elderly housing not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.)

(8) If the housing to be rehabilitated has occupants, the relocation requirements referred to in Sec. 1277.103(k), must be met.

(9) Housing may not be rehabilitated in an area that has been identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, unless the project is covered by flood insurance as required by the Flood Disaster Protection Act of 1973, and it meets any relevant HUD standards and local requirements.

(k) *Relocation.* (1) In the evaluation or selection of Preliminary Proposals, consideration shall be given to whether there are occupants who would have to be displaced, whether there is a feasible plan for relocation of such occupants, the degree of hardship which displacement might cause, and the availability of funding for relocation payments. Greater weight shall be given to proposals which do not require displacement, or, where displacement is required, which will involve the least amount of hardship.

(2) In the case of a PHA-Owner Project, no Agreement shall be executed with respect to occupied units which involve substantial rehabilitation requiring that the units be vacated unless the Agreement provides (i) the PHA undertakes liability for and provides the funding of all relocation payments under section 202, 203, and 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, or (ii) other commitments, satisfactory to HUD, have been made for the funding of such payments. (In the case of a Private-Owner Project or a Private-Owner/PHA Project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is inapplicable.)

(l) *Equal opportunity requirements.* Participation in this program requires compliance with (1) Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Orders 11063 and 11246, and section 3 of the Housing and Urban Development Act of 1968; and (2) all rules, regulations, and requirements issued pursuant thereto.

(m) *National Environmental Policy Act.* Participation in this program requires compliance with the National Environmental Policy Act and all rules, regulations, and requirements issued pursuant thereto.

(n) *Clean Air Act and Federal Water Pollution Control Act.* Participation in this program requires compliance with the Clean Air Act and the Federal Water Pollution Control Act and all rules, regulations, and requirements issued pursuant thereto.

(o) *Davis-Bacon Wage Rates.* Not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 Stat. 1011), shall be paid to all laborers and mechanics employed in the development of any substantial rehabilitation project with nine or more assisted units.

(p) *Types of financing.* Any type of financing may be utilized, including, but not limited to, the types listed below.

(1) Conventional loans from commercial banks, savings banks, savings and loan associations, pension funds, insurance companies or other financial institutions.

(2) Mortgage insurance programs under the National Housing Act (see Sec. 1277.207). (With respect to any obligation secured by a mortgage insured under section 221(d)(3) of the National Housing Act and issued by a public agency as mortgagor in connection with the financing of a project assisted under Section 8, the interest paid on such obligation shall be included in gross income for purposes of Chapter I of the Internal Revenue Code of 1954.)

(3) Home Improvement Loans under Title I of the National Housing Act.

(4) Section 202 of the Housing Act of 1959.

(5) Title V of the Housing Act of 1949.

(6) Financing by tax-exempt bonds or other obligations. Where the financing is by a non-profit corporation which is an agency or instrumentality of a PHA, the project will be considered a PHA-Owner Project.

(q) *Use of contract as security for financing.* (1) An Owner may pledge, or offer as security for any loan or obligation, an Agreement or Contract entered into pursuant to this Part; provided, however, that such security is in connection with a project rehabilitated pursuant to this Part, and the terms of the financing or any refinancing have been approved by HUD. It is the Owner's responsibility to request such approval in sufficient time before he needs the financing to permit review of the method and terms of the financing and the instrument of pledge, offer or other assignment that HUD is requested to approve. Where the methods and terms of financing require, the Contract Rents may be reduced in accordance with Sec. 1277.103(f)(2).

(2) Any pledge of the Agreement, Contract, or ACC, or payments thereunder, shall be limited to the amounts payable under the Contract or ACC in accordance with its terms.

(3) In the event of foreclosure, including foreclosure by HUD, and in the event of assignment or sale agreed to by HUD or made to HUD, housing assistance payments shall continue in accordance with the terms of the Contract.

(r) *Security and utility deposits.* (1) An Owner may require Families to pay a security deposit in an amount equal to one month's Gross Family Contribution. If a Family vacates the unit, the Owner may utilize the deposit as reimbursement for any unpaid rent or damage caused by the Family. If the Family has provided a security deposit, and it is insufficient for such reimbursement, the Owner may claim reimbursement from HUD or the PHA, as appropriate, not to exceed an amount equal to the remainder of one month's Contract Rent. If a Family vacates the unit owing no rent and causing no damage to the unit or if the amount of unpaid rent and/or damage is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

(2) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include such interest. All security deposit funds shall be deposited by the Owner in a segregated bank account, and the balance of this account, at all times, shall be equal to the total amount collected from tenants then in occupancy, plus any accrued interest. The Owner must comply with all State and local laws re-

garding interest payments on security deposits.

(3) Families shall be expected to obtain the funds to pay security and utility deposits, if required, from their own resources and/or other private or public sources.

(s) *Establishment of income limit schedules; 30 percent occupancy by very low-income families.* (1) HUD will establish schedules of income limits for defining Lower-Income Families and Very Low-Income Families.

(2) In the initial renting of Contract units, the Owner shall lease at least 30 percent to Very Low-Income Families and shall thereafter exercise his best efforts to maintain at least 30 percent occupancy of Contract units by Very Low-Income Families, provided that if this requirement cannot be met because of Families already residing in the property to be rehabilitated, HUD may adjust the percentage of Very Low-Income Families to the extent that it is compensated for by higher than 30 percent provision for such Families in other projects.

(t) *Establishment of amount of housing assistance payments.* The amount of housing assistance payment on behalf of an Eligible Family, to be determined in accordance with schedules and criteria established by HUD, will equal the difference between (1) not less than 15 percent nor more than 25 percent of the Family's gross income and (2) the Gross Rent, taking into consideration the income of the Family, the number of minor children in the household, and the extent of medical or other unusual expenses incurred by the Family, except that, in the case of a large (6 or more minors) Very Low-Income Family or a very large (8 or more minors) Lower-Income Family or a Family with exceptional medical or other expenses, the amount of the housing assistance payment shall be the difference between 15 percent of the Family's gross income and the Gross Rent.

(u) *Responsibilities of the Owner.* The Owner shall be responsible (subject to post-review or audit by HUD or the PHA, as the case may be) for management and maintenance of the project. These responsibilities shall include but not be limited to:

(1) Payment for utilities and services (unless paid directly by the Family), insurance and taxes;

(2) Performance of all ordinary and extraordinary maintenance;

(3) Performance of all management functions including the taking of applications, selection of Families including verification of income and other pertinent requirements, and determination of eligibility and amount of Family contribution in accordance with HUD-established schedules and criteria;

(4) Collection of Family rents;

(5) Termination of tenancies, including evictions;

(6) Preparation and furnishing of information required under the Contract;

(7) Reexaminations of Family income, composition, and extent of exceptional medical or other unusual expenses, and redeterminations, as appropriate, of the amount of Family contribution and amount of housing assistance payment in accordance with HUD-established schedules and criteria;

(8) Redeterminations of amount of Family contribution and amount of housing assistance payment as a result of an adjustment by HUD of any applicable Allowance for Utilities and Other Services in accordance with HUD-established schedules and criteria; and

(9) Compliance with equal opportunity requirements.

Subject to HUD approval, any private Owner may contract with any private or public entity to perform such services for a prescribed fee, provided that such contract shall not shift any of the Owner's responsibilities or obligations. However, no entity which is responsible for administration of the Contract (for example, a PHA in the case of a Private-Owner/PHA Project) may contract to perform management and maintenance of the project. (See, however, Sec. 1277.103(y) which permits conversion of a Private-Owner/PHA Project to a Private-Owner Project.)

(v) *Responsibility for Administration of Contract.* (1) In the case of a Private-Owner Project or a PHA-Owner Project, HUD is responsible for administration of the Contract. HUD may contract with another entity for the performance of some or all of its Contract administration functions.

(2) In the case of a Private-Owner/PHA Project, the PHA is primarily responsible for administration of the Contract. However, if the PHA is the lender, the following shall apply:

(i) HUD shall have the right to make independent audits, reviews, and determinations as to compliance by the Owner with any or all of his obligations under the Contract; and

(ii) In the event HUD determines that the Owner is in default with respect to any or all of his obligations, HUD shall have the right to take direct action (as if HUD were the party to the Contract primarily responsible for its administration) to enforce any or all available remedies, including, but not limited to, abatement of housing assistance payments, collection of payments previously made in violation of the Contract, and termination of the Contract in whole or in part.

(w) *Separate project requirement.* (1) In the case of a Private-Owner Project or a PHA-Owner Project, each Agreement and Contract shall constitute a separate project.

(2) In the case of a Private-Owner/PHA Project, such project may not include any other type of Section 8 assistance, shall be processed with a separate ACC List and ACC Part I and shall be assigned a separate project number. All substantial rehabilitation units to be placed under a single Contract shall comprise a separate project. However, the field office director may designate as a single project the units to be covered by two or more such Contracts for substantial rehabilitation projects where:

(i) The units are placed under ACC on the same date; and

(ii) Such consolidation is necessary in the interest of administrative efficiency.

(x) *Conversion of Private-Owner Project to Private-Owner/PHA Project.* HUD may request the Owner of a Private-Owner Project and an appropriate PHA to agree, if they are willing, to a conversion of any such project to a Private-Owner/PHA Project if HUD determines that such conversion would promote efficient project administration.

(y) *Conversion of Private-Owner/PHA Project to Private-Owner Project.* The private Owner and the PHA, in the case of a Private-Owner/PHA Project, may request HUD to agree to a conversion of any such project to a Private-Owner Project. HUD shall agree to such conversion if it determines it to be in the best interest of the project.

Subpart B—Project Development and Operation

§ 1277.201 Allocations of contract authority to field offices.

HUD will allocate to field offices contract authority for the section 8 Housing Assistance Payments Program for metropolitan areas and for non-metropolitan areas in conformance with section 213(d) of the HCD Act.

§ 1277.202 Program mix (new construction, substantial rehabilitation existing housing).

Each field office shall, after considering the contents of any Local Housing Assistance Plans and any other pertinent information which it has or which is brought to its attention, in relation to the factors set forth in section 213(d) of the HCD Act, determine the number and types of units to be advertised for new construction and for substantial rehabilitation, and to be made available for existing housing. The field office will also determine an appropriate schedule for advertising for Preliminary Proposals—Substantial Rehabilitation.

§ 1277.203 Invitations for preliminary proposals.

(a) *Publication.* The HUD field office shall initiate implementation of its program with respect to substantial rehabilitation by publishing Invitations for Preliminary Proposals—Substantial Rehabilitation in accordance with the schedule established by the field office. Such publications shall be at least once a week on the same day or days of each of two consecutive weeks in a newspaper(s) of general circulation serving the area(s) for which proposals are desired. As promptly as possible, HUD will also notify minority media, business concerns included in HUD's registry of section 3 businesses for the applicable political jurisdictions, minority organizations involved in housing and community development and fair housing groups. In addition, to the extent feasible, HUD will notify appropriate PHA's, the chief executive officer of the appropriate

unit(s) of general local government, trade journals, and other non-minority media. Copies of each Invitation shall be available in the HUD field office.

(b) *Contents of invitation.* The Invitation shall state the geographic area or areas in which the housing is to be rehabilitated; the number of units in each area; the deadline for receipt of Preliminary Proposals by HUD; such other basic information as the field office may wish to specify; and the fact that detailed information, guidelines, standards and procedures are contained in a Rehabilitation Program Packet which may be obtained by interested parties from the field office. The Invitation shall also state that Preliminary Proposals may be submitted by private Owners or PHA Owners for direct contracting with HUD, or by PHAs on behalf of private Owners with whom the PHA proposes to contract pursuant to an ACC with HUD.

(c) *Deadline for receipt of preliminary proposals.* The deadline (date and time) for receipt of Preliminary Proposals by HUD shall allow a reasonable time but, in any event, no less than 35 calendar days after the date of the first publication in a newspaper of general circulation.

§ 1277.204 Contents of rehabilitation program packet.

The Rehabilitation Program Packet shall:

(a) Include a copy of the applicable regulations, required HUD forms, and HUD standards.

(b) Include the following information for each geographic area specified in the Invitation.

(1) The number of units for elderly and nonelderly occupancy and the number to be specially designed for elderly (including handicapped) occupancy.

(2) The number of units by unit size (bedrooms per unit) and the fact that a proposal may be for any number of units up to that amount.

(3) The type of housing, if any, which is unacceptable (e.g., high-rise elevator structures for Families with children, where HUD has determined that such housing is inappropriate).

(4) Special requirements, if any, as to location and density; and as to New Communities were substantial rehabilitation is involved.

(5) Any special requirements for housing for the elderly (including the handicapped) pursuant to section 209 of the HCD Act, and any special requirements for the handicapped pursuant to the standards established by HUD under Public Law 90–480.

(6) Any special requirements or restrictions that may be necessary for compliance with provisions of the Local Housing Assistance Plan, if any, and the name, address, and title of the official of the unit of general local government to whom inquiries may be made concerning such Plan.

(7) The specific management and maintenance services required to be provided by the Owner. Such services shall include all services typically provided in the area for the type of housing contemplated.

(8) The Fair Market Rents and the fact that rents requested by the Owner must be determined by HUD to be reasonable in accordance with sec. 1277.103(f).

(9) The maximum initial term of the Contract and the fact that the maximum approvable term, including renewals, will be determined in accordance with sec. 1277.103(g).

(c) Include statements as to:

(1) Equal opportunity requirements, which include the submission of an Affirmative Fair Housing Marketing Plan (if the proposal is for five or more units); an assurance of compliance with Title VI of the Civil Rights Act of 1964; compliance with Executive Order 11063 and Title VIII of the Civil Rights Act of 1968, including regulations and guidelines pursuant thereto; and certifications required pursuant to Executive Order 11246.

(2) HUD regulations and other requirements implementing section 3 of the Housing and Urban Development Act of 1968, requiring that, to the greatest extent feasible, opportunities for training and employment be given to lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

(3) HUD relocation requirements.

(4) HUD requirements implementing the National Environmental Policy Act.

(5) Governmental requirements implementing the Clean Air Act and the Federal Water Pollution Control Act.

(6) HUD requirements implementing the Flood Disaster Protection Act of 1973.

(7) The requirement, if a project will contain nine or more Contract units, that all laborers and mechanics employed in the development of the project shall be paid not less than the wages prevailing in the locality as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act.

(8) The prescribed HUD form showing the identity of the Owner, the rehabilitator, the architect (if any), and the managing agent (if any); the qualifications and experience of each; and the names of officials and principal members, shareholders and investors, and other parties having substantial interest.

(9) The requirement that the Owner submit evidence of capability to provide the required management and maintenance services or, if the proposal is for 15 or more units, evidence of management capability and a proposed management plan and a certification by the Owner and the management agent, if any, in a format acceptable to HUD.

(10) The fact that if the Owner intends to pledge, or offer as security for any loan or obligation, an Agreement or Contract, he is responsible for submitting to HUD a request for such approval in sufficient time before he needs the financing to permit review of the method and terms of the financing and the instrument of pledge, offer or other assignment; and that if the request is made after approval of the Final Proposal, the Contract Rents may be reduced where the methods and terms of financing require. (See § 1277.103(q).)

(11) Other requirements which the HUD field Office determines to be necessary.

(12) Where copies of HUD Minimum Design Standards for Rehabilitation for Residential Properties and any other applicable standards, guidelines and criteria may be obtained.

(13) The number of copies of the Preliminary Proposal to be submitted to HUD.

(14) The fact that HUD may determine not to select or approve any or all Preliminary Proposals submitted.

§ 1277.205 Contents of preliminary proposal.

Each Preliminary Proposal shall include or indicate the following:

(a) The address(es) of the housing proposed to be rehabilitated and a neighborhood map showing the location(s) of the housing and the racial composition of the neighborhoods(s).

(b) A copy of the option agreement(s), contract(s) of sale, or other document(s) which evidence(s) the proposer's effective control of the property to be rehabilitated (however, only the proposed price is required for a New Communities project).

(c) A description of the housing as is, including number and type of structures, number of stories, structural system, exterior finish, heating-air conditioning system, number of units by size (number of bedrooms), living area and composition for each size of unit, and special amenities or features, if any; exterior and interior photos; and sketches of the interior showing dimensions.

(d) A description of the proposed rehabilitation covering each basic element (e.g., roof, exterior walls, porches and steps; interior walls, ceilings and floors; kitchen and bathroom facilities and equipment; plumbing, heating and electrical equipment; landscaping; etc.) indicating the nature of the work to be done on each element. If alteration, renovation or remodeling is indicated, a description of such work and sketches showing layout after completion of rehabilitation.

(e) A statement as to whether or not the services of a registered architect will be utilized for preparation of final working drawings and specifications.

(f) The Contract Rent per unit, by size and structure type.

(g) The equipment to be included in the Contract Rent.

(h) The utilities and services to be included in the Contract Rent and those utilities and services not so included. For each utility and service not included in the Contract Rent, an estimate of the average monthly cost (for the first year of occupancy) to the occupants by unit size and structure type.

(i) The proposed term of the Contract (including all renewals) and justification for such term in accordance with Sec. 1277.103(g).

(j) A showing that the proposal meets any special requirements or restrictions necessary for compliance with the provisions of the Local Housing Assistance Plan, if any.

(k) Whether the proposed rehabilitation will displace site occupants. If so, the proposal shall state the number of families, individuals, and business concerns to be displaced (identified by race or minority group status, and whether they are owners or renters), and shall show that there is a feasible plan for relocation and how necessary relocation payments, if any, will be funded.

(l) Equal Employment Opportunity Certification using the prescribed form.

(m) The identity of the Owner, rehabilitator (if known) and architect (if applicable and identity is known; the qualifications and experiences of each; and the names of officials and principal members, shareholders and investors, and other parties having substantial interest, and the prior participation of each in HUD programs, using the prescribed form.

(n) Whether the Owner intends to provide management services or to contract with a managing agent. In the latter case, provide the identity of the managing agent, if known, and the other information as specified in paragraph (m) of this section.

(o) The proposed method of financing and whether the Owner intends to pledge or offer the Agreement and/or Contract as security for any loan or obligation (see Sec. 1277.103(q)). If the Owner proposes to utilize FHA mortgage insurance, the prescribed FHA form should be completed and submitted with the Preliminary Proposal.

(p) Whether the Owner proposes to limit the number of assisted units to 20 percent of the dwelling units in the project.

§ 1277.206 Submission of preliminary proposals.

(a) Preliminary Proposals shall be submitted to HUD on or before the published deadline date and time for opening, in the number of copies specified in the Rehabilitation Program Packet. Proposal documents shall be sealed in an inner envelope marked "Sealed Proposal—Open on (date and time specified in the Invitation)". This sealed proposal shall be submitted in an outer envelope or package which shall show the name of the locality, be addressed to the HUD field office, and be clearly and distinctively marked "Section 8 Housing Assistance Payments Program—Substantial Rehabilitation Preliminary Proposal".

(b) Submission of Preliminary Proposals shall be by hand delivery or certified mail. Any Preliminary Proposal received by HUD after the deadline date and time shall not be accepted but shall be returned unopened. No Preliminary Proposal shall be opened by HUD until the deadline.

§ 1277.207 Proposals involving HUD-FHA mortgage insurance.

(a) *Advance mortgage insurance processing.* This paragraph (a) applies to Owners who apply for HUD–FHA mortgage insurance prior to the submission of a Preliminary Proposal under this Part. Such an Owner may apply for a Feasibility Letter, a Conditional Commitment, or a Firm Commitment for mortgage insurance by submitting an application on the prescribed form with supporting exhibits and the required fee. Such an application will have to meet the marketability test without reliance upon housing assistance payments under this Part, or, in the alternative, approval for mortgage insurance shall be conditioned upon subsequent approval of a section 8 proposal for the same project. If a Feasibility Letter, Conditional Commitment, or Firm Commitment, whichever is applicable, is issued, and if prior to expiration thereof the Owner submits a Preliminary Proposal under this Part which is consistent with the proposal as approved for mortgage insurance, such proposal will nevertheless be subject to review and evaluation in accordance with the procedures under this Part; however, if the Preliminary Proposal is selected in accordance with the procedures under this Part, further processing will be coordinated in accordance with paragraph (b) of this section to the extent applicable, and the rents which were approved for mortgage insurance purposes will be accepted for purposes of such Preliminary Proposal provided that they are otherwise approvable in accordance with this Part.

(b) *Concurrent processing.* The provisions of this paragraph (b) apply where the Preliminary Proposal indicates an intention to finance a project with a HUD–FHA insured mortgage. Such a Preliminary Proposal will not be selected under this Part unless it meets the market and site acceptability criteria of the applicable mortgage insurance program except as modified by this paragraph. The processing of such a proposal for mortgage insurance will be integrated with the section 8 review and evaluation process. Selection by HUD of such a Preliminary Proposal for preparation of a Final Proposal will be made only where HUD has also determined that the proposal will qualify for mortgage insurance subject to a satisfactory demonstration by the Owner of his capability to complete the projects and subject to subsequent determinations of "as is" value, the loan amount and credit approval. A proposed project which qualified as "substantial rehabilitation" under section 8 may fail to qualify as substantial rehabilitation under mortgage insurance programs (because of the different definition of "substantial rehabilitation"); nevertheless, such a proposal would qualify for mortgage insurance as "existing construction," and mortgage insurance commitments will be conditioned upon the satisfactory completion of all rehabilitation work.

(1) A section 8/HUD–FHA mortgage insurance project will be required to meet the marketability test of the applicable mortgage insurance program; provided, however, that the number of units in the proposal for which housing assistance payments are to be made available will be considered as an addition to the effective demand for unassisted rental units. As in the case of any other market analysis for market rate unassisted mortgage insurance programs, the supply of suitable vacant existing units, units under construction, and units in process must be subtracted from the estimate of total effective demand. Consequently, section 8/HUD–FHA insured units could be added to a market in which supply and demand are in equilibrium or in which there is an undersupply of rental units, but could not be added to a market in which there is an oversupply of rental units in the same competitive range of market rents as the proposed section 8/HUD–FHA insured project.

(2) After selection of a Preliminary Proposal which involves HUD–FHA mortgage insurance the Owner will be required to submit, with the Final Proposal, an application for HUD–FHA Conditional Commitment with fee (two dollars per thousand dollars of mortgage requested) under the applicable mortgage insurance program. Such Final Proposals will not be approved under Section 8 unless they also qualify for issuance of a HUD–FHA Conditional Commitment under the applicable mortgage insurance program. The HUD notification of approval of the Final Proposal will be accompanied by a HUD–FHA Conditional Commitment for HUD–FHA mortgage insurance. The Owner's acceptance of HUD's notification of approval of the Final Proposal will constitute concurrent acceptance of the conditions and terms of the HUD–FHA Conditional Commitment for mortgage insurance.

(3) The rents of those units scheduled for assisted occupancy, when projected for purpose of determining a mortgage limitation based on the debt service criterion, shall be the Contract Rents set forth in the approved Final Proposal.

(4) Prior to the execution of the Agreement, the Owner will be required to obtain a Firm Commitment for HUD–FHA mortgage insurance. This will require the submission of an application for a Firm Commitment, with an additional fee (one dollar per thousand dollars of the mortgage requested), upon acceptance of HUD's notification of approval or the submission of the architect's certification accompanying the working drawings and specifications in accord with § 1277.211.

(c) *Delayed Mortgage Insurance Processing.* Where an Owner does not indicate in his Preliminary Proposal that he intends to utilize HUD–FHA mortgage insurance and applies for HUD–FHA mortgage insurance after HUD approval of the Preliminary Proposal under this Part, he risks (1) having his approved proposal rejected for HUD–FHA mortgage insurance and (2) having lower rents approved under the mortgage insurance program than the rents set forth in the approved proposal under this Part.

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§ 1277.208 Screening and evaluation of preliminary proposals.

(a) *Initial Screening.* Promptly after the deadline date for receipt of Preliminary Proposals, HUD will screen all the proposals to determine which are complete and responsive and eligible for further processing. Where a proposal lacks one or more of the required elements (see Sec. 1277.205), or is clearly not responsive to the conditions of the Invitation and the Rehabilitation Program Packet, the HUD field office shall give the Owner the shortest reasonable time (generally not to exceed 10 days) to remedy the deficiency.

(b) *A–95 Clearance: Notice to Unit of General Local Government.* (1) Promptly after the deadline date for receipt of proposals (or after the appropriate later date for proposals completed pursuant to paragraph (a) of this section), the HUD field office will, for each complete and responsive Preliminary Proposal which is subject to A–95 clearance, send a copy of the proposal to the appropriate A–95 Clearinghouse for review, inviting a response within 34 days from the date of the letter of transmittal.

(2) Within 10 working days after the deadline date for receipt of proposals (or after the appropriate later date for proposals completed pursuant to paragraph (a) of this section), the HUD field office will forward, under cover of a letter on the appropriate prescribed form, a copy of each complete and responsive Preliminary Proposal to the chief executive officer (or such designee as such officer may designate in writing to the HUD field office) of the unit of general local government in which the proposed housing is to be located. The cover letter will invite a response within 30 days from the date the letter and copy of the proposal are received.

(c) *Evaluation of preliminary proposals by HUD.* HUD may begin its evaluation promptly after the deadline date, but no selection or ranking may be completed until the response periods referred to in paragraph (b) of this section have ended. Each Preliminary Proposal will be evaluated and ranked by HUD on the basis of all pertinent factors under this Part including, the best combination of rent, site, design and previous experience of the proposed Owner and on the basis of comments, if any, received during the response periods from the appropriate A–95 Clearinghouse and the unit of general local government.

(d) *Selection (where approvable proposals do not exceed number by size) of units advertised.* For each geographic area HUD will determine which Preliminary Proposals, in its judgment, can be developed into Final Proposals meeting the requirements of the Rehabilitation Program Packet. If the units covered by such Preliminary Proposals could all be accommodated in the number of units (by unit size) specified in the Invitation, HUD will request all Owners of acceptable Preliminary Proposals to prepare Final Proposals in accordance with § 1277.209.

(e) *Selection where approvable proposals exceed number (by size) of units advertised.* If the units covered by acceptable Preliminary Proposals cannot all be accommodated by the number of units (by unit size) specified in the Invitation, HUD will proceed as follows:

(1) Proposals consisting of projects to be developed entirely or predominantly for the elderly shall be listed in rank order and a second rank listing shall be established for projects to be developed entirely or predominantly for family housing.

(2) With respect to the listing of proposals for elderly housing, the HUD field office will identify for selection the highest ranking proposals in descending order which will most nearly provide the number of units of elderly housing called for in the Invitation.

(3) With respect to the listing of proposals for family housing, the HUD field office will identify for selection the highest ranking proposals in descending order which collectively will most nearly provide the number and sizes of units of family housing called for in the Invitation; provided however that if there is a Preliminary Proposal for the rehabilitation of more than 50 units of family housing which indicates that assistance will be limited to 20 percent or less of the units to be rehabilitated, this proposal shall be given priority over the lowest ranking proposal(s) identified for selection which is for more than 50 units and which is for generally the same number and sizes of units.

(4) The field office shall determine whether the combined results of the tentative selections from both listings would exceed the number and sizes of units called for in the Invitation. If so, the field office shall make such revisions in the tentative selections as it may determine to be necessary.

(f) *Use of residual units.* For any residual number of units, HUD may publish another Invitation for Proposals, but this shall not delay the further processing of those Preliminary Proposals submitted in response to the prior Invitation that have been selected as a result of the prior Invitation.

(g) *Notification of selection.* (1) With respect to those Preliminary Proposals which have been selected in accordance with this section, HUD will notify the Owners, on a prescribed form, and request them to submit within a reasonable time (to be specified in the notification) a Final Proposal in accordance with the requirements of the provisions of § 1277.209. The notification shall specify:

(i) The Contract Rents that will be acceptable to HUD where these are lower than the Contract Rents proposed by the Owner, and the reason for the reduction;

(ii) The term of the Contract that will be acceptable to HUD where it is shorter than the term proposed by the Owner, and the reason for the shorter term;

(iii) That the services of a registered architect must be utilized where HUD has determined that the nature and extent of the rehabilitation requires the utilization of such services;

(iv) The estimate of the amount of relocation payments, where applicable; and

(v) Other special conditions or requirements, if any.

(2) The notification will request the Owner to return a copy of the notification with an indication of his acceptance thereof by a specified date. If the Owner does not accept the notification by the date specified, HUD may rescind the notification and select another approvable proposal.

(h) *Notification of nonselection.* Owners whose Preliminary Proposals were not selected by HUD shall be sent a letter notifying them of such determination.

§ 1277.209 Final proposals.

(a) *Contents of Final Proposal.* Each Final Proposal shall indicate or include the following:

(1) A copy of the site option agreement(s), contract(s) of sale, or other document(s) which evidence(s) the proposer's effective control of the property to be rehabilitated (however, only the proposed price is required for a New Communities project).

(2) A description of the proposed rehabilitation covering each basic element (e.g., roof, exterior walls, porches and steps; interior walls, ceilings, and floors; kitchen and bathroom facilities and equipment; plumbing, heating and electrical equipment; landscaping; etc.) indicating the nature of the work to be done on each element and the grade and quality of the work, materials and equipment. If alteration, renovation or remodeling are indicated, preliminary drawings and plans and outline specifications on the prescribed form.

(3) The Contract Rent per unit, by size and structure type.

(4) The equipment to be included in the Contract Rent.

(5) The utilities and services to be included in the Contract Rent and those utilities and services not so included. For each utility and service not so included, an estimate of the average monthly cost (for the first year of occupancy) to the occupants by unit size and structure type.

(6) In the case of a PHA-Owner Project, a statement that (i) the PHA will undertake liability for and provide the funding of all relocation payments under sections 202, 203, and 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, or (ii) other commitments, which the Owner believes to be satisfactory to HUD, have been made for the funding of such payments. In the latter case, the PHA shall specify such other commitments. (In the case of a Private-Owner Project or a Private-Owner/PHA Project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is inapplicable.)

(7) The proposed term of the Contract (including all renewals) and justification for such term in accordance with § 1277.103(g).

(8) Submission of an Affirmative Fair Housing Marketing Plan (if the proposal is for five or more units), a signed assurance of compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and certifications required pursuant to Executive Order 11246.

(9) Submissions as required by HUD regulations and other requirements pursuant to section 3 of the Housing and Urban Development Act of 1968.

(10) The identity of the Owner, rehabilitator, architect (if applicable) and managing agent (if known); the qualifications and experience of each; and the names of officials and principal members, shareholders and investors, and other parties having substantial interest, and the prior participation of each in HUD programs, using the prescribed form.

(11) Submission of evidence of management capability and a proposed management plan and a certification by the Owner and the management agent, if any, in a format acceptable to HUD; or, if the proposal is for less than 15 units, evidence of capability of providing the required management and maintenance services. If the Owner proposes to contract with another entity, including a PHA, for management and/or maintenance services for the project, he shall include a copy of the proposed contract(s).

(12) Submission of the form of Lease the Owner proposes to use, which shall be in accordance with § 1277.218(c).

(13) The proposed method of financing and whether the Owner intends to pledge or offer the Agreement and/or Contract as security for any loan or obligation (see Sec. 1277.103(q)). If the Owner intends to utilize FHA mortgage insurance, an application for a Conditional Commitment on the prescribed form shall be completed and submitted with the prescribed fee with the Final Proposal.

(14) Evidence that the proposed rehabilitation is permissible under the applicable zoning, building, housing and other codes, ordinances or regulations; or a statement of the proposed action to make the rehabilitation permissible and that such action will be successfully completed prior to the Owner's acceptance or the architect's certification (if required) pursuant to § 1277.211(b).

(15) The anticipated time required for completion of the rehabilitation after the Agreement is signed (If the project is to be completed in stages, identification of the units comprising each stage and the estimated dates for commencement and completion of each stage).

(b) *Consistency with preliminary proposal.* The Final Proposal shall be consistent with the Preliminary Proposal. Any material deviations from the Preliminary Proposal in the Final Proposal will cause reconsideration by HUD of such Final Proposal and may result in its rejection.

§ 1277.210 Evaluation of final proposals.

(a) *Evaluation of final proposals by HUD.* Each Final Proposal will be evaluated by HUD to determine that the provisions of this Part have been complied with and that such Final Proposal is consistent with the Preliminary Proposal.

(b) *Clarifications or modifications.* HUD may request clarification of individual items, additional information, or modifications of the Final Proposal.

(c) *HUD determination.* HUD shall notify the Owner (and the PHA, if applicable) as to whether the Final Proposal is:

(1) Approved.

(2) Approvable only if specified deficiencies are corrected and that HUD will approve the Final Proposal if it receives within a specified time evidence of such necessary corrections.

(3) Not approved. If a Final Proposal is not approved or if the conditions for approval under paragraph (c)(2) of this section are not met, HUD shall so advise the Owner and may request the preparation of a Final Proposal(s) with respect to the highest ranking Preliminary Proposal(s) not previously selected, or may issue another Invitation for Preliminary Proposals.

(d) *Notification.* The appropriate A–95 Clearinghouses and the unit of general local government shall be notified by HUD of its final action.

§ 1277.211 Owner's acceptance of notification and submission of architect's certification.

(a) *Owner's acceptance.* Upon receipt by the Owner of the notification of approval of the Final Proposal, the Owner shall return to HUD a copy indicating his acceptance within the time prescribed in such notification (copy to the PHA, if applicable). If the Owner does not accept the notification by the date specified, HUD may rescind the notification and proceed in accordance with § 1277.210(c)(3).

(b) *Architect's certification.* (1) If the services of a registered architect are to be used, HUD may not enter into an Agreement (or, where applicable, an ACC and an Agreement) until after the Owner has submitted to HUD the architect's certification on the prescribed form. Such certification shall be made by the architect responsible for the preparation of the working drawings and specifications.

(2) The architect's certification shall state that, to the best of the architect's knowledge, belief, and professional judgment, (i) the working drawings and specifications are consistent with the approved Final Proposal (including any modifications required by HUD in its review of the Final Proposal), and (ii) the proposed rehabilitation in accordance with these plans and specifications is permissible under the applicable zoning, building, housing, and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials. This certification shall also cover compliance with the appropriate HUD Minimum Designed Standards for Rehabilitation for Residential Properties and other standards, guidelines and criteria applicable under this Part.

(3) One copy of the certified working drawings and specifications shall be submitted with the architect's certification to HUD, which shall retain it and any changes approved by HUD for at least three years from the date of acceptance of the project; provided, however, that receipt and retention by HUD of these working drawings and specifications shall not denote or constitute HUD review or approval of such drawings or specifications.

(4) If the Owner fails to submit the certification by the date specified in the notification, HUD shall rescind the notification (and may proceed in accordance with § 1277.210(c)(3)) unless it determines that a reasonable extension of time should be granted.

§ 1277.212 Annual contributions contract and agreement (private-owner/PHA projects).

(a) *Preparation of ACC.* After receipt of the accepted notification (and, where required, the architect's certification with the working drawings and specifications), the HUD field office shall prepare the ACC, shown as Appendix III. The ACC shall be transmitted to the PHA for execution and returned to HUD. This transmittal shall advise the PHA that it must simultaneously submit for HUD approval its Initial Estimate of Required Annual Contributions (Preliminary Costs) and an Estimate of Total Required Annual Contributions (see § 1277.213).

(b) *Preparation of Agreement.* The Agreement shall be prepared by the HUD field office at the time the ACC is prepared (see § 1277.214), and shall conform to the prescribed form shown as Appendix IV. The Agreement shall include all required information and required attachments.

(c) *Execution of ACC and Agreement.* After receipt of the PHA-executed ACC, accompanied by the Estimates of Required Annual Contributions, HUD shall review the Estimates and, if approved, execute the ACC, HUD shall then transmit a fully executed copy of the ACC to the PHA, together with four copies of the unexecuted Agreement. After execution of the Agreement by the PHA and the Owner, all copies shall be returned by the PHA to HUD for approval. HUD shall return three copies to the PHA, retaining one for its records.

§ 1277.213 Submission of estimates of required annual contributions (private-owner/PHA projects).

(a) *Initial submission.* An allowance may be provided for preliminary costs incurred by the PHA prior to the beginning of the first fiscal year. When the ACC is executed by the PHA, it shall sub-

mit an Initial Estimate of Required Annual Contributions (Preliminary Costs) together with an Estimate of Total Required Annual Contributions on the prescribed forms. This submission includes estimates of costs of administration and non-expendable equipment up to the beginning of the first fiscal year.

(b) *First fiscal year submission.* Not earlier than 150 and not later than 90 days prior to the estimated date of the beginning of the first fiscal year, the PHA shall submit an Estimate of Required Annual Contributions (Housing Assistance and Administration) covering the estimated amount required for the first fiscal year for housing assistance payments and for the fee for administration together with an Estimate of Total Required Annual Contributions.

(c) *Subsequent fiscal year submissions.* Not earlier than 150 and not later than 90 days prior to the beginning of each subsequent fiscal year, the PHA shall submit an Estimate of Required Annual Contributions (Housing Assistance and Administration) and an Estimate of Total Required Annual Contributions, with supporting documentation, for any requested changes in the amount of housing assistance payments and the fee for administration.

(d) *Revisions of estimates.* Any of the above Estimates may be revised to reflect changes in circumstances and available data.

(e) *HUD approval.* All Estimates of Required Annual Contributions and any revisions thereto submitted by the PHA shall be subject to HUD approval.

§ 1277.214 Preparation and Execution of agreement (private-owner and PHA-owner projects).

After receipt of a copy of the accepted notification (and, where required, the architect's certification and the working drawings and specifications), the HUD field office shall prepare the Agreement in the prescribed form shown as Appendix I. The Agreement shall include all required information and required attachments. HUD shall transmit to the Owner three copies of the unexecuted Agreement. After the Owner executes all copies of the Agreement, he shall return them to HUD. HUD shall execute the Agreement, returning one copy to the Owner and retaining two for its records.

§ 1277.215 Rehabilitation period.

(a) *Timely performance of work.* After execution of the Agreement, the Owner shall promptly proceed with the rehabilitation work as provided in the Agreement. In the event the work is not so commenced, diligently continued, and/or completed, HUD (or the PHA with HUD approval, as appropriate) reserves the right to rescind the Agreement, or take other appropriate action.

(b) *Delays.* Although extensions of time may be granted for the reasons specified in the Agreement, no increases in Contract Rents may be granted on that account.

(c) *Changes.* The Owner shall submit for HUD approval any changes from the approved Final Proposal which will materially reduce or alter his obligations or any changes which alter the design or materially reduce the quality or amenities of the project. HUD may condition its approval of such changes on a reduction of Contract Rents. If such changes are made without prior HUD approval, HUD may determine that Contract Rents shall be reduced or that the Owner shall remedy the deficiency as a condition for acceptance of the project. Contract Rents may not be increased by reason of any changes or modifications.

(d) *Inspection of HUD–FHA insured projects.* For projects financed with HUD–FHA insured mortgages, required HUD inspection procedures shall be followed including compliance with equal opportunity requirements.

(e) *Equal opportunity review.* Equal opportunity review may be conducted with any scheduled HUD inspection or at any other time deemed advisable by HUD.

(f) *Commencement of marketing.* The Owner shall commence and diligently continue marketing as soon as possible, but in any event no later than 60 days prior to the estimated completion date. The Owner shall notify HUD (or the PHA in the case of a Private-Owner/PHA Project) of the date of the commencement of marketing. The Owner shall also comply with all reporting requirements under the Affirmative Fair Housing Marketing Regulations. Not later than 30 days prior to the estimated completion date and periodically thereafter, the Owner shall notify HUD (or the PHA in the case of a Private-Owner/PHA Project) of any units which he anticipates will be vacant on the effective date of the Contract. At the time the Contract is executed (see § 1277.217), the Owner will be required to submit a list of the dwelling units leased as of the effective date of the Contract and a list of the units not so leased, if any. The Owner will be entitled to housing assistance payments for any unleased units, pursuant to § 1277.103(e)(2), only if he has fully complied with the requirements of that section and of this paragraph.

(g) *Management certification.* Prior to acceptance of the project by HUD, the Owner must certify in writing that there has been no change in the evidence of management capability or in the proposed management program (if one was required) specified in his Final Proposal other than changes approved in writing by HUD in accordance with the Agreement.

(h) *Labor standards certification.* Prior to acceptance by HUD of any project consisting of nine or more Contract units, the Owner must certify in writing that he has complied with the provisions of the Agreement relating to the payment of not less than prevailing wage-rates and that to the best of his knowledge and belief there are no claims of underpayment in alleged violation of said provisions of the Agreement. In the event there are any such pending claims to the knowledge of the Owner, HUD, or the PHA (if applicable), the Owner shall be required to place a sufficient amount in escrow, as determined by HUD, to assure such payments.

§ 1277.216 Project completion.

(a) *Notification of completion.* The Owner shall notify HUD (with a copy to the PHA in the case of a Private-Owner/PHA Project) when the work is completed and shall submit to HUD the evidence of completion described in paragraph (b) of this section.

(b) *Evidence of completion.* Completion of the project shall be evidenced by furnishing HUD with all of the following:

(1) A certification by the Owner that (i) the property was treated and is in compliance with applicable HUD Lead Based Paint regulations 24 CFR 35, (ii) if the property was constructed prior to 1950, the Family upon occupancy will receive the notice required by HUD Lead Based Paint regulations and procedures regarding the hazards of lead based paint poisoning, the symptoms and treatment of lead poisoning and the precautions to be taken against lead poisoning and that records showing receipt of such notice by each tenant will be maintained.

(2) A certificate of occupancy and/or other official approvals necessary for occupancy.

(3) A certification by the Owner, which will be supported by the Owner's warranty in the Contract, that:

(i) All work has been completed in accordance with the requirements of the Agreement;

(ii) The project is in good and tenantable condition; and

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified).

(iv) The project has been rehabilitated in accordance with applicable zoning, building, housing and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials.

(4) A certification (if working drawings and specifications were prepared and certified to by a registered architect) by the registered architect responsible for inspection of construction that such inspection was performed by him or under his supervision with the frequency and thoroughness required by the generally accepted standards of professional care and judgment, and that to the best of his knowledge, belief, and professional judgment:

(i) All work has been completed in conformance with the certified working drawings and specifications for the project or approved changes thereto (such changes to be listed);

(ii) The project is in good and tenantable condition; and

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified by the architect).

(iv) The project has been rehabilitated in accordance with applicable zon-

ing, building, housing and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials.

(c) *Inspection.* (1) Within ten working days of the receipt of the Owner's notification of project completion, a HUD representative (accompanied by a PHA representative, if applicable) shall inspect the project and review the evidence of completion listed in paragraph (b) of this section. Such inspection shall be sufficient to enable the HUD inspector to state in his inspection report that he has inspected the observable elements and features of the project in accordance with professional standards of care and judgment and that, in the basis of such inspection, the project has been completed in accordance with the Agreement and, in particular, that there are no observable conditions inconsistent with the certification of the Owner or the design architect or the inspecting architect. As promptly as possible, HUD shall notify the Owner in writing as to whether or not the project has been completed in an acceptable manner.

(2) In the event the Owner disputes HUD's determinations, he may submit the controversy to third-party arbitration, at his expense, provided that the arbitration is advisory only.

(d) *Acceptance of project.* If HUD determines that the project is not acceptable under paragraph (c) (1) of this section, the following shall apply:

(1) If the defects or deficiencies are only punchlist items or incomplete items awaiting seasonal opportunity, the project may be accepted and the Contract executed. If the Owner fails to complete such items within a reasonable time to the satisfaction of HUD, HUD may, upon 30 days notice, terminate or require termination of the Contract or exercise its other rights under the Contract.

(2) If the defects or deficiencies are other than punchlist items or incomplete work awaiting seasonal opportunity, but HUD determines that: (i) a certificate of occupancy and/or other official approvals necessary for occupancy has been issued, (ii) the project is in good and tenantable condition, and (iii) the project has been rehabilitated in accordance with the applicable zoning, building, housing and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials, the project may be accepted after the Owner corrects the defects or deficiencies or the project may be accepted subject to a specified reduction of the Contract Rents as determined by HUD.

(3) If HUD determines that the project is not acceptable under paragraphs (d) (1) or (d) (2) of this section, HUD shall determine: (i) whether the defects or deficiencies can be corrected, and (ii) whether a reduction in Contract Rents will be required as a condition to acceptance of the project. If it is determined that the defects or deficiencies can be corrected, the Owner thereupon shall be notified of HUD's determinations under paragraphs (d) (3) (i) and (d) (3) (ii) of this section, and, if he agrees to comply with the conditions, an agreement shall be entered into pursuant to which the defects or deficiencies will be corrected and the project then accepted. If the Owner is unwilling to enter into such agreement or if he fails to perform the agreement, the project shall not be accepted.

(e) *Completion in stages.* If the project is to be completed in stages, the procedures of this section shall apply to each stage.

§ 1277.217 Execution of Housing Assistance payments contract.

(a) Upon acceptance of the project by the Government pursuant to §§ 1277.215 and 1277.216, the Contract shall be executed first by the Owner and then by HUD, or, in the case of a Private-Owner/PHA Project, executed by the Owner and the PHA and then approved by HUD.

(b) At the time of execution of the Contract, HUD (or the PHA, as appropriate) shall examine the lists of dwelling units leased and not leased, referred to in § 1277.215(f), and shall determine whether or not the Owner has met his obligations under that section with respect to any unleased units. HUD (or the PHA, as appropriate) shall state in writing its determination with respect to the unleased units and for which of those units it will make housing assistance payments. The Owner shall indicate in writing his concurrence with this determination or his disagreement, reserving his rights to claim housing assistance payments for the unleased units pursuant to the Contract, without prejudice by reason of his signing the Contract. Copies of all documents referred to in this paragraph shall be furnished HUD in the case of a Private-Owner/PHA project.

§ 1277.218 Project operation.

(a) *Compliance with Equal Opportunity requirements.* Marketing of units and selection of Families by the Owner shall be in accordance with the Owner's HUD-approved Affirmative Fair Housing Marketing Plan, if required, and with all regulations relating to fair housing advertising including use of the equal opportunity logotype, statement, and slogan in all advertising. Projects shall be managed and operated without regard to race, color, creed, religion, sex, or national origin.

(b) *Eligiblity, selection and admission of families.* (1) The Owner shall be responsible for determination of eligibility of applicants, selection of families from among those determined to be eligible, and computation of the amount of housing assistance payments on behalf of each selected Family, in accordance with schedules and criteria established by HUD.

(2) For every family that wishes to apply for admission, the Owner and the applicant shall complete and sign the form of application prescribed by HUD, except that if there are no vacant units and the Owner's waiting list is such that there would be an unreasonable length of time before the applicant could be admitted, the Owner may advise the applicant that the Owner is not accepting applications for that reason. The Owner shall retain copies of all completed applications together with any related correspondence for three years. For each Family selected for admission, the Owner shall submit one copy of the completed and signed application to the HUD field office (in the case of Private-Owner/PHA Projects, the Owner simultaneously shall send a copy of the form to the PHA). Housing assistance payments will not be made on behalf of an admitted Family until after this copy has been received by the HUD field office.

(3) If the Owner determines that the applicant is eligible on the basis of income and family composition and is otherwise acceptable but the Owner does not have a suitable unit to offer, the Owner shall place such Family on his waiting list and so advise the Family.

(4) If the Owner determines that the applicant is eligible on the basis of income and family composition and is otherwise acceptable and if the Owner has a suitable unit, the Owner and the Family shall enter into a Lease. Such Lease shall be on the form of Lease included in the Owner's approved Final Proposal and shall otherwise be in conformity with the provisions of this Part.

(5) Records on applicant families and approved Families shall be maintained by the Owner so as to provide HUD with racial, ethnic and gender data and shall be retained by the Owner for three years.

(6) In the case of a PHA-Owner project, (i) if the PHA places a Family on its waiting list, it shall notify the Family of the approximate date of availability of a suitable unit insofar as such date can be reasonably determined, and (ii) if the PHA determines that an applicant is ineligible on the basis of income or family composition, or that the PHA is not selecting the applicant for other reasons, the PHA shall send the applicant a letter notifying him of the determination and the reasons and that the applicant has the right within a reasonable time (specified in the letter) to request an informal hearing. If, after conducting such an informal hearing, the PHA determines that the applicant shall not be admitted, the PHA shall so notify the applicant in writing and such notice shall inform the applicant that he has the right to request a review by HUD of the PHA's determination. The procedures of this subparagraph do not preclude the applicant from exercising his other rights if he believes he is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. The PHA shall retain for three years a copy of the application, the letter, the applicant's response if any, the record of any informal hearing, and a statement of final disposition.

(c) *Lease requirements.* The Lease shall contain all required provisions specified in paragraph (c) (2) of this section and none of the prohibited provisions listed in paragraph (c) (3) of this section and shall otherwise conform to

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the form of Lease included with the Owner's approved Final Proposal.

(1) *Term of lease.* The term of the Lease shall be generally for not less than one year. The Lease may (or, in the case of a Lease for a term of more than one year, shall) contain a provision permitting termination upon 30 days advance written notice by either party.

(2) *Required provisions.* The Lease between the Owner (Lessor) and the Family (Lessee) shall contain the following provisions:

"[ADDITIONS TO LEASE]

"The following additional Lease provisions are incorporated in full in the Lease between _____ (Lessor) and _____ (Lessee) for the following dwelling unit: _____. In case of any conflict between these and any other provisions of the Lease, these provisions shall prevail.

"a. The total rent shall be $_____ per month.

"b. Of the total rent, $_____ shall be payable by or at the direction of the Department of Housing and Urban Development ("HUD") as housing assistance payments on behalf of the Lessee and $_____ shall be payable by the Lessee. These amounts shall be subject to change by reason of changes in the Lessee's family income, family composition, or extent of exceptional medical or other unusual expenses, or by reason of adjustment by HUD of any applicable Allowance for Utilities and Other Services. Any such change shall be determined in accordance with HUD-established schedules and criteria and shall be effective as of the date stated in a notification to the Lessee.

"c. The Lessor shall not discriminate against the Lessee in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

"d. The Lessor shall provide the following services and maintenance: [Here insert the complete list as contained in the approved Final Proposal.]

"Lessor _____
By _____
Date _____
Lessee _____
Date _____"

(3) *Prohibited provisions.* Lease clauses which fall within the classifications listed below shall not be included in any Lease.

(i) *Confession of judgment.* Prior consent by tenant to any lawsuit the landlord may bring against him in connection with the Lease and to a judgment in favor of the landlord.

(ii) *Distraint for rent or other charges.* Authorization to the landlord to take property of the tenant and hold it as a pledge until the tenant performs any obligation which the landlord has determined the tenant has failed to perform.

(iii) *Exculpatory clause.* Agreement by tenant not to hold the landlord or landlord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representative or agents.

(iv) *Waiver of legal notice by tenant prior to actions for eviction or money judgments.* Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed.

(v) *Waiver of legal proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred, without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

(vi) *Waiver of jury trial.* Authorization to the landlord's lawyer to appear in court for the tenant and to waive the tenant's right to a trial by jury.

(vii) *Waiver of right to appeal judicial error in legal proceedings.* Authorization to the landlord's lawyer to waive the tenant's right to appeal on the ground of judicial error in any suit or the tenant's right to file a suit in equity to prevent the execution of a judgment.

(viii) *Tenant chargeable with costs of legal actions regardless of outcome.* Agreement by the tenant to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court finds in favor of the tenant. (Omission of such clause does not mean that the tenant as a party to a lawsuit may not be obligated to pay attorney's fees or other costs if he loses the suit.)

(d) *Termination of tenancy.* The Owner shall be responsible for termination of tenancies, including evictions. However, conditions for payment of housing assistance payments for any resulting vacancies shall be as set forth in § 1277.103 (e) (3) (ii).

(e) *Maintenance, operation and inspections.*—(1) *Maintenance and operation.* The Owner shall maintain and operate the project so as to provide Decent, Safe, and Sanitary housing and he shall provide all the services, maintenance and utilities which he agrees to provide under the Contract, subject to abatement of housing assistance payments or other applicable remedies if he fails to meet these obligations.

(2) *Inspection.* Prior to occupancy of any unit by a Family, the Owner and the Family shall inspect the unit and both shall certify, on the form prescribed by HUD, that they have inspected the unit and have determined it to be Decent, Safe, and Sanitary in accordance with the criteria provided in the prescribed form. HUD (or the PHA, as appropriate) will inspect or cause to be inspected each Contract unit and related facilities at least annually and at such other times (including prior to initial occupancy of any unit) as HUD (or the PHA) may determine to be necessary to assure that the Owner is meeting his obligation to maintain the units in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. HUD (or the PHA) will take into account complaints by occupants and any other information coming to its attention in scheduling inspections.

(f) *Units not decent, safe, and sanitary.* If HUD (or the PHA, as appropriate) notifies the Owner that he has failed to maintain a dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, HUD (or the PHA) may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments, even if the Family continues to occupy the unit. If, however, the Family wishes to be rehoused in another dwelling unit with Section 8 assistance and HUD (or the PHA) does not have other Section 8 funds for such purposes, HUD (or the PHA) may use the abated housing assistance payments for the purpose of rehousing the Family in another dwelling unit. Where this is done, the Owner shall be notified that he will be entitled to resumption of housing assistance payments for the vacated dwelling unit if:

(1) The unit is restored to Decent, Safe, and Sanitary condition;

(2) The Family is willing to and does move back to the restored dwelling unit; and

(3) A deduction is made for the expenses incurred by the Family for both moves.

(g) *Reexamination of family income, composition, and extent of exceptional medical or other unusual expenses.* Reexamination of Family income, composition, and the extent of medical or other unusual expenses incurred by the Family shall be made by the Owner at least annually (except that such reviews may be made at intervals no longer than two years in the case of elderly Families), and appropriate redeterminations shall be made by the Owner of the amount of the Family contribution and the amount of the housing assistance payment, all in accordance with schedules and criteria established by HUD.

(h) *Overcrowded and underoccupied units.* If HUD or the PHA, as the case may be, determines that a Contract unit assisted under this Part is not Decent, Safe, and Sanitary by reason of overcrowding, or that a Contract unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to such unit will not be abated, unless the Owner fails to offer the Family a suitable unit as soon as one becomes vacant and ready for occupancy. In the case of an overcrowded unit, if the Owner does not have any suitable units or if no vacancy of a suitable unit occurs within a reasonable time, HUD (or the PHA) will assist the Family in finding a suitable dwelling unit and require the Family to move to such a unit as soon as possible. The Owner may receive housing assistance payments for the vacated unit if he complies with the requirements of § 1277.103(e)(3)(i).

(i) *Adjustment of allowance for utilities and other services.* HUD or the PHA, as the case may be, shall determine, as part of its annual inspection and at such other times as it deems appropriate, whether an adjustment is required in the Allowance for Utilities and Other Services applicable to the dwelling units in the project, on grounds of changes in utility rates or other change of general applicability to all units in the project. If HUD determines that an adjustment should be made, HUD shall prescribe the amount of the adjustment and direct the Owner to make promptly a correspond-

ing adjustment in the amount of rent to be paid by the affected Families and the amount of housing assistance payment.

(j) *Continued family participation.* A Family must continue to occupy its approved unit to remain eligible for participation in the Housing Assistance Payments Program except that if the Family (1) wishes to vacate its unit at the end of the Lease term (or prior thereto but in accordance with the provisions of the Lease), or (2) is required to move for reasons other than violation of the Lease on the part of the Family, and if the Family wishes to receive the benefit of housing assistance payments in another approvable unit, the Family should give reasonable notice of the circumstances to HUD or to the PHA, as appropriate, so that HUD or the PHA may have the opportunity to consider the Family's request.

(k) *Inapplicability of low-rent public housing model lease and grievance procedures.* Model lease and grievance procedures established by HUD for PHA-owned low-rent public housing are applicable only to PHA-Owner Projects under the section 8 Housing Assistance Payments Program.

(l) *Reduction of number of contract units for failure to lease to eligible families.* (1) If at any time, beginning six months after the effective date of the Contract, the Owner fails for a continuous period of six months to have at least 80 percent of the Contract units leased or available for leasing by Eligible Families, HUD (or the PHA at the direction of HUD, as appropriate) may on 30 days notice reduce the number of Contract units to not less than the number of units under lease or available for leasing by Eligible Families, plus 10 percent of such number, if the number is 10 or more, rounded to the next highest number.

(2) At the end of the initial term of the Contract and of each renewal term, HUD (or the PHA at the direction of HUD, as appropriate) may, by notice to the Owner, reduce the number of Contract units to not less than (i) the number of units under lease or available for leasing by Eligible Families at that time or (ii) the average number of units so leased or available for leasing during the last year, whichever is the greatest number, plus 10 percent of such number, if the number is 10 or more, rounded to the next highest number.

(3) Any reduction pursuant to paragraphs (l)(1) or (l)(2) of this section shall not preclude subsequent restoration of contract units if contract authority is available and if HUD determines that the restoration is justified as a result of changes in demand and in the light of the Owner's record of compliance with his obligations under the contract.

§ 1277.219 HUD review of contract compliance.

HUD will review project operation at such intervals as it deems necessary to ensure that the Owner is in full compliance with the terms and conditions of the Contract. Equal Opportunity review may be conducted with the scheduled HUD review or at any time deemed appropriate by HUD.

§ 1277.220 PHA reporting requirements. [Reserved]

APPENDIX I—AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT SUBSTANTIAL REHABILITATION PRIVATE-OWNER OR PHA-OWNER PROJECT

Part I

This Agreement to Enter into Housing Assistance Payments Contract ("Agreement") is made and entered into by and between the United States of America acting through the Department of Housing and Urban Development ("Government") and _____ ("Owner").

Whereas, the Owner proposes to complete a housing project consisting of the substantial rehabilitation of certain projects and land as described in the approved Final Proposal; and

Whereas, the Owner and the Government propose to enter into a Housing Assistance Payments Contract ("Contract") upon the completion of said project for the purpose of making housing assistance payments to enable eligible lower-income families ("Families") to occupy units in said project; and

Whereas, the Owner is also the rehabilitator, or, if the rehabilitator is other than the Owner, the rehabilitator's name is _____.

Now Therefore, the parties hereto agree as follows:

1.1 *Significant dates: Contents of Agreement.* a. *Time for Completion of Project.* The time for completion of the project (see Section 1.2a) is _____ calendar days after the effective date of this Agreement.

b. *Date for Commencement of Work.* The date for commencement of work (see Section 1.2b) is _____, 19__.

c. *Contents of Agreement.* This Agreement consists of Part I, Part II, and the following exhibits:

Exhibit A: The approved Final Proposal, including, among other things, evidence of management capability, and, if required, the architect's certification, the Affirmative Fair Housing Marketing Plan, and management program;

Exhibit B: The Housing Assistance Payments Contract ("Contract") to be executed upon acceptable completion of the project;

Exhibit C: The schedule of completion in stages, if applicable;

Exhibit D: The schedule of minimum rates of wages, if applicable; and

Additional exhibits: [Specify additional exhibits, if any. If none, insert "None."]

This Agreement, including said exhibits, comprises the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as contained herein. Nothing contained in this Agreement shall create or affect any relationship between the Government and the lender or any contractors or subcontractors employed by the Owner in the completion of the project.

1.2 *Schedule of Completion.* a. *Time for Completion.* The project shall be completed in accordance with Section 1.4 no later than the end of the period stated in Section 1.1a, or in stages as provided for in Exhibit C which identifies the units comprising each stage and the date of commencement and time for completion of each stage. Where completion in stages is provided for, all references to project completion shall be deemed to refer to project completion and/or completion of any stage, as appropriate.

b. *Timely Performance of Work.* The Owner agrees that no later than the date stated in Section 1.1b the work will be commenced and diligently continued. In the event the work is not commenced, diligently continued, and/or completed as aforesaid, the Government reserves the right to rescind this Agreement or take other appropriate action. The Owner shall report to the Government the date work was commenced and shall thereafter furnish the Government with periodic progress reports (quarterly unless more frequent reporting is required by the Government).

c. *Delays.* In the event there is delay in the completion due to strikes, lockouts, labor union disputes, fire, unusual delays in transportation, unavoidable casualties, weather, acts of God, or any other causes beyond the Owner's control, or by delay authorized by the Government, the time for completion shall be extended to the extent that completion is delayed due to one or more of these causes. No increase in the rents set forth in Exhibit B ("Contract Rents") may be granted on account of any such delays.

1.3 *Rehabilitation period.* a. *Changes.* The Owner shall submit for Government approval any changes from Exhibit A which will materially reduce or alter his obligations or any changes which alter the design or materially reduce the quality or amenities of the project. The Government may condition its approval of such changes on a reduction of Contract Rents. If such changes are made without prior Government approval, the Government may determine that Contract Rents shall be reduced or that the Owner shall remedy the defects or deficiencies as a condition for acceptance of the project. Contract Rents may not be increased by reason of any changes or modifications.

b. *Commencement of Marketing.* The Owner shall commence and diligently continue marketing as soon as possible, but in any event no later than 60 days prior to the estimated completion date. The Owner shall notify the Government of the date of commencement of marketing. The Owner shall also comply with all reporting requirements under the Affirmative Fair Housing Marketing Regulations. Not later than 30 days prior to the estimated completion date and periodically thereafter, the Owner shall notify the Government of any units which he anticipates will be vacant on the effective date of the Contract. At the time the Contract is executed, the Owner shall submit a list of the dwelling units leased as of the effective date of the Contract and a list of the units not so leased, if any. The Owner will be entitled to housing assistance payments for any unleased units pursuant to Section 1.6b of the Contract only if he has fully complied with the requirements of this paragraph and the provisions of that Section.

c. *Management Certification.* Prior to acceptance of the project by the Government, the Owner shall certify in writing that there has been no change in the evidence of management capability or in the proposed management program (if one was required) specified in his Final Proposal other than changes approved in writing by the Government in accordance with paragraph a of this Section.

d. *Labor Standards Certification.*[1] Prior to acceptance of the project by the Government, the Owner shall certify in writing that he has complied with the provisions of Sections 2.6 through 2.11 of this Agreement, and that to the best of his knowledge and belief there are no claims of underpayment to laborers or mechanics in alleged violation of said provisions of the Agreement. In the event there are any such pending claims to the knowledge

[1] Strike this paragraph if the project involves fewer than nine Contract units.

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of the Owner or the Government, the Owner shall be required to place a sufficient amount in escrow as determined by the Government to assure payment thereof.

1.4 *Project completion.* a. *Conformance to Final Proposal.* The completed project shall be in accordance with Exhibit A. The Owner shall be solely responsible for completion of the project.

b. *Notification of Completion.* The Owner shall notify the Government when the work is completed and shall submit to the Government the evidence of completion described in paragraph c of this Section.

c. *Evidence of Completion.* Completion of the project shall be evidence by furnishing the Government with all of the following:

(1) A certification by the Owner that:

(i) The property was treated and is in compliance with applicable HUD Lead Based Paint regulations 24 CFR 35,

(ii) If the property was constructed prior to 1950, the Family upon occupancy will receive the notice required by HUD Lead Based Paint regulations and procedures regarding the hazards of lead based paint poisoning, the symptoms and treatment of lead poisoning and the precautions to be taken against lead poisoning and that records showing receipt of such notice by each tenant will be maintained.

(2) A certificate of occupancy and/or other official approvals necessary for occupancy.

(3) A certification by the Owner, which will be supported by the Owner's warranty in the Contract, that:

(i) All work has been completed in accordance with the requirements of this Agreement;

(ii) The project is in good and tenantable condition; and

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified).

(iv) The project has been constructed in accordance with applicable zoning, building, housing, and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials.

(4) [1] A certification by the registered architect responsible for inspection of the work that such inspection was performed by him or under his supervision with the frequency and thoroughness required by the generally accepted standards of professional care and judgment, and that to the best of his knowledge, belief, and professional judgment:

(i) All work has been completed in conformance with the certified working drawings and specifications for the project or approved changes thereto (such changes to be listed);

(ii) The project is in good and tenantable condition; and

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified).

(iv) The project has been constructed in accordance with applicable zoning, building, housing, and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials.

d. *Inspection.* (1) Within ten working days of the receipt of the Owner's notification of project completion, the Government representative shall inspect the project and review the evidence of completion listed in paragraph c of this Section. Such inspection shall be sufficient to enable the Government inspector to state in his inspection report that he has inspected the observable elements and features of the project in accordance with professional standards of care and judgment and that, on the basis of such inspection, the project has been completed in accordance with the Agreement and, in particular, that there are no observable conditions inconsistent with the certifications of the Owner or the design architect (if required) or the inspecting architect (if required). As promptly as possible, the Government shall notify the Owner in writing as to whether or not the project has been completed in an acceptable manner.

(2) In the event the Owner disputes the Government's determinations, he may submit the controversy to third-party arbitration, at his expense, provided that the arbitration is advisory only.

e. *Acceptance of Project.* If the Government determines that the project is not acceptable under paragraph d(1) of this Section, the following shall apply:

(1) If the defects or deficiencies are only punchlist items or incomplete items awaiting seasonal opportunity, the project may be accepted and the Contract executed. If the Owner fails to complete such items within a reasonable time to the satisfaction of the Government, the Government may, upon 30 days notice, terminate the Contract or exercise its other rights under the Contract.

(2) If the defects or deficiencies are other than punchlist items or incomplete work awaiting seasonal opportunity, but the Government determines that (i) a certificate of occupancy and/or other official approvals necessary for occupancy has been issued (ii) the project is in good and tenantable condition, and (iii) the project has been rehabilitated in accordance with the applicable zoning, building, housing and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials, the project may be accepted after the Owner corrects the defects or deficiencies or the project may be accepted subject to a specified reduction of the Contract Rents as determined by the Government.

(3) If the Government determines that the project is not acceptable under paragraphs e(1) or e(2) of this Section, the Government shall determine: (i) whether the defects or deficiencies can be corrected and (ii) whether a reduction in Contract Rents will be required as a condition to acceptance of the project. If it is determined that the defects or deficiences can be corrected, the Owner shall be notified of the Government's determination under (i) and (ii) of this subparagraph and, if he agrees to comply with the conditions, an agreement shall be entered into pursuant to which the defects or deficiencies will be corrected and the project then accepted. If the Owner is unwilling to enter into such agreement or if he fails to perform the agreement, the project shall not be accepted. Prior to execution of the Contract, the Government will verify that appropriate corrective action has been taken.

f. *Completion in Stages.* If the project is to be completed in stages, the procedures of this Section shall apply to each stage.

1.5 *Execution of housing assistance payments contract.* a. *Time of Execution.* Upon acceptance of the project by the Government pursuant to Sections 1.3 and 1.4, the Contract shall be executed first by the Owner and then by the Government.

b. *Completion in Stages.* If completion is in stages, the Contract shall be executed upon completion of the first stage, and the number and types of completed units and their Contract Rents shall be shown in Exhibit A–1 of the Contract. Thereafter, upon completion of each successive stage, the signature block provided in the Contract for that stage shall be executed by the Owner and the Government, and Exhibits A–2, A–3, etc., covering the additional units, shall become part of the Contract.

c. *Unleased Units at Time of Execution.* At the time of execution of the Contract, the Government shall examine the lists of dwelling units leased and not leased, referred to in Section 1.3b, and shall determine whether or not the Owner has met his obligations under that Section with respect to any unleased units. The Government shall state in writing its determination with respect to the unleased units and for which of those units it will make housing assistance payments pursuant to the Contract. The Owner shall indicate in writing his concurrence with this determination or his disagreement, reserving his rights to claim housing assistance payments for the unleased units pursuant to the Contract, without prejudice by reason of his signing the Contract.

d. *Contract Rents.* The Contract Rents by unit size, amounts of housing assistance payments, and all other applicable terms and conditions shall be as specified in the proposed Housing Assistance Payments Contract, except that in no case may the initial Contract Rents for units in projects financed with mortgages insured under the National Housing Act exceed the rents approved by the Government in connection with the mortgage insurance for such projects.

e. *No Changes in Contract.* Each party has read or is presumed to have read the proposed Contract. It is expressly agreed that there shall be no change in the terms and conditions of the Contract other than in accordance with Section 1.3a and paragraph d of this Section.

1.6 *Government Assurance To Owner.* The execution of this Agreement by the Government signifies that the faith of the United States is solemnly pledged to the payment of housing assistance payments pursuant to the Contract and that funds have been obligated by the Government for such payments.

1.7 *Relocation requirements.*[2]

[Alternative provisions—incorporate alternative 1 or 2, as applicable.]

Alternative 1—For projects which were without site occupants as of the date indicated in this alternative.

The Owner hereby certifies that the site of the project was without occupants as of the date of the Government notification to the Owner requesting the Owner to submit a Final Proposal.

Alternative 2—For projects which do not qualify for alternative 1.

a. *Owner Compliance with Relocation Act.* The Owner agrees to comply with the provisions of sections 202, 203, and 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and applicable Government regulations and requirements issued pursuant thereto.

b. *Relocation Payments Other than by Owner.* The Government has determined that satisfactory commitments have been made for the funding of relocation payments required by sections 202, 203, and 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as follows:

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c. *Relocation Payments by Owner.* If paragraph b is inapplicable, the following shall apply:

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[1] Strike this subparagraph (4) if the work is to be done other than in accordance with working drawings and specifications prepared and certified to by a registered architect.

[2] Strike this Section in the case of a Private-Owner Project.

(1) The maximum potential amount of all relocation payments as estimated by the Government is $_____.

(2) The Owner has deposited this amount in an escrow account under the terms of which payments may be made only upon presentation of written authorization by the Government for the purpose of meeting relocation payments.

(3) The Owner hereby voluntarily undertakes liability for all relocation payments and agrees that if the funds in the escrow account shall prove to be insufficient to meet all such relocation payments he will deposit such additional amounts as the Government determines to be necessary for such purpose.

(4) When the Government determines that there is no longer any potential liability for relocation payments, any balance in the escrow account shall be paid to the Owner.

(5) The Owner agrees to hold harmless and to indemnify the Government for any costs incurred under sections 202, 203, and 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 in connection with the relocation of site occupants, and the Owner further agrees that the Government shall have the right to be reimbursed for any such costs by withholding from housing assistance payments payable to the Owner.

EFFECTIVE DATE. This Agreement shall be effective as of the date of execution by the Government.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in in four original counterparts.

WARNING: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

United States of America
Secretary of Housing and Urban Development

By _____
_____
(Official Title)

Date _____, 19__

OWNER _____

By _____
(Official Title)

Date _____, 19__

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT SUBSTANTIAL REHABILITATION PRIVATE-OWNER OR PHA-OWNER PROJECT

PART II

2.1 *Training, employment, and contracting opportunities for businesses and lower-income persons.*[4] a. The project assisted under this Agreement is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

b. Notwithstanding any other provision of this Agreement, the Owner shall carry out the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135 (published in 38 Federal Register 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this Agreement. The requirements of said regulations include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by section 135.20(b) of the regulations and paragraph d of this Section in all contracts for work in connection with the project. The Owner certifies and agrees that he is under no contractual or other disability which would prevent him from complying with these requirements.

c. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this Agreement, shall be a condition of the Federal financial assistance provided to the project, binding upon the Owner, his successors and assigns. Failures to fulfill these requirements shall subject the Owner, his contractors and subcontractors, his successors, and assigns to the sanction specified by this Agreement, and to such sanctions as are specified by 24 CFR Section 135.135.

d. The Owner shall incorporate or cause to be incorporated into any contract or subcontract for work pursuant to this Agreement in excess of $50,000 cost, the following clause:

"EMPLOYMENT OF PROJECT AREA RESIDENTS AND CONTRACTORS

"A. The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 170lu. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

"B. The parties to this Agreement will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

"C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

"D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR, Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR, Part 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

"E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Section 135.135."

e. The Owner agrees that he will be bound by the above Employment of Project Area Residents and Contractors clause with respect to his own employment practices when he participates in federally assisted work.

2.2 *Equal employment opportunity.*[5] a. The Owner shall incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is to be performed pursuant to this Agreement, the following Equal Opportunity clause:

"EQUAL EMPLOYMENT OPPORTUNITY

"During the performance of this contract, the contractor agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by or at the direction of the Government setting forth the provisions of this Equal Opportunity clause.

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, or national origin.

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or

[4] Strike this Section if the Contract Rents under the proposed Housing Assistance Payments Contract, over the maximum term of said Contract, are $500,000 or less.

[5] As used in Section 2.2, "HUD" means the United States of America acting through the Department of Housing and Urban Development.

other contract or understanding, a notice to be provided by or at the direction of the Government advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(6) In the event of the contractor's noncompliance with the Equal Opportunity clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

"(7) The contractor will include the portion of the sentence immediately preceding Paragraph (1) and the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance; Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interest of the United States."

b. The Owner agrees that he will be bound by the above Equal Opportunity clause with respect to his own employment practices when he participates in federally assisted construction work.

c. The Owner agrees that he will assist and cooperate actively with HUD and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that he will furnish HUD and the Secretary of Labor such information as they may require for the supervision of such compliance, and that he will otherwise assist HUD in the discharge of HUD's primary responsibility for securing compliance.

d. The Owner further agrees that he will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by HUD or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

2.3 *Cooperation in equal opportunity compliance reviews.* The Owner shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.4 *Flood insurance.* If the project is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

2.5 *Clean Air Act and Federal Water Pollution Control Act.*[8] In compliance with regulations issued by the Environmental Protection Agency ("EPA"), 40 CFR, Part 15, 39 F.R. 11099, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 1857, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Owner agrees that:

a. Any facility to be utilized in the performance of this Agreement or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to section 15.20 of said regulations;

b. He will promptly notify the Department of Housing and Urban Development field office director of the receipt of any communication from the EPA indicating that a facility to be utilized for the Agreement is under consideration to be listed on the EPA List of Violating Facilities;

c. He will comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder; and

d. He will include or cause to be included the provisions of this Section in every nonexempt subcontract, and that he will take such action as the Government may direct as a means of enforcing such provisions.

2.6 *Prevailing wage rates.*[9] a. Attached hereto and incorporated herein as Exhibit D is a schedule of minimum rates of wages applicable to this Agreement.

b. All laborers and mechanics employed in the construction of the project shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the regulations issued by the Secretary of Labor under the Copeland Act (29 CFR, Part 3)), the full amounts due at the time of payment computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor of the United States, which is incorporated herein, regardless of any contractual relationship which may be alleged to exist between the Owner or any subcontractor and such laborers and mechanics; and the wage determination decision and the Department of Labor Wage Rate Information Poster shall be posted by the Owner at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics subject to the provisions of paragraph e of this Section. Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

c. The Owner may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, or any bona fide fringe benefits not expressly listed in section 1(b)(2) of the Davis-Bacon Act or otherwise not listed in the wage determination decision of the Secretary of Labor which is included in this Agreement, only when the Secretary of Labor has found, upon the written request of the Owner, that the applicable standards of the Davis-Bacon Act have been met. Whenever practicable, the Owner should request the Secretary of Labor to make such findings before the making of the Agreement. In the case of unfunded plans and programs, the Secretary of Labor may require the Owner to set aside in a separate account assets for the meeting of obligations under the plan or program.

d. The Owner shall comply with the Copeland (Anti-Kickback) Regulations (29 CFR, Part 3) of the Secretary of Labor which are herein incorporated by reference.

e. Any class of laborers or mechanics (including apprentices and trainees) which is not listed in the wage determination and which is to be employed under the Agreement shall be classified or reclassified conformably to the wage determination. In the event that agreement cannot be reached on the proper classification or reclassification of a particular class of laborers and mechanics (including apprentices and trainees) to be used, the question will be referred by HUD to the Secretary of Labor for final determination.

f. Whenever the minimum wage rate prescribed in the Agreement for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the Owner is obligated to pay a cash equivalent of such fringe benefit, an hourly cash equivalent thereof shall be established. In the event that agreement cannot be reached upon a cash equivalent of the fringe benefit, the question will be referred by HUD to the Secretary of Labor for final determination.

g. (1)(i) Apprentices will be permitted to work as such only when they are registered individually under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor; or, if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Owner as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage

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[8] Strike this Section if the Contract Rents under the proposed Housing Assistance Payments Contract, over the maximum term of said Contract, are $100,000 or less.

[9] As used in Sections 2.6 through 2.11, "HUD" means the United States of America acting through the Department of Housing and Urban Development. Strike Sections 2.6 through 2.11 if the project involves fewer than nine Contract units.

rate, who is not a trainee as defined in subsection (b) immediately following or is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Owner will be required to furnish to the other party to this Agreement written evidence of the registration of his program and apprentices, as well as of the appropriate ratios and wage rates for the area of construction prior to using any apprentices on the contract work.

(ii) Trainees will be permitted to work as such when they are bona fide trainees employed pursuant to a program approved by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, and where subsection (c) immediately following is applicable, in accordance with the provisions of paragraph g(2) of this Section.

(iii) On contracts in excess of $10,000 the employment of all laborers and mechanics, including apprentices and trainees, as defined in 29 CFR Section 5.2(c) shall also be subject to the provisions of paragraph g(2) of this Section. Apprentices and trainees shall be hired in accordance with the provisions of paragraph g(2).

(2) The Owner agrees that:

(i) He will make a diligent effort to hire for the performance of the Agreement a number of apprentices or trainees, or both, in each occupation, which bears to the average number of the journeymen in that occupation to be employed in the performance of the Agreement the applicable ratio as determined by the Secretary of Labor;

(ii) He will assure that 25 percent of such apprentices or trainees in such occupation are in their first year of training, where feasible. Feasibility here involves a consideration of (A) the availability of training opportunities for first year apprentices, (B) the hazardous nature of the work for beginning workers, (C) excessive unemployment of apprentices in their second and subsequent years of training;

(iii) During the performance of the Agreement he will, to the greatest extent possible, employ the number of apprentices or trainees necessary to meet currently the requirements of (i) and (ii) immediately preceding;

(iv) He will maintain records of employment by trade of the number of apprentices and trainees, apprentices and trainees by first year of training, and of journeymen, and the wages paid and hours of work of such apprentices, trainees and journeymen; and he will make these records available for inspection upon request of the Department of Labor and HUD;

(v) If he claims compliance based on the criterion stated in 29 CFR Section 5a.4(b), he will maintain records of employment, as described in the immediately preceding paragraph, on non-Federal and nonfederally assisted construction work done during the performance of the contract in the same labor market area; and he will make these records available for inspection upon request of the Department of Labor and HUD;

(vi) He will supply one copy of the written notices required in accordance with 29 CFR Section 5a.4(c) at the request of Government compliance officers, and will supply at three-month intervals during the performance of the Agreement and after completion of Agreement performance a statement describing steps taken toward making a diligent effort and containing a breakdown by craft, of hours worked and wages paid for first year apprentices and trainees, other apprentices and trainees, and journeymen. One copy of the statement will be sent to HUD and one to the Secretary of Labor.

2.7 *Submittal of payrolls and related reports.* a. Payrolls and basic records relating thereto shall be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics employed in the construction of the project. Such records shall contain the name and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under Section 2.6c that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Owner shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

b. The Owner shall submit weekly to the other party to this Agreement such copies and summaries of all his payrolls and those of each of his subcontractors as such other party may require. Each payroll and summary shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic conform with the work he performed. A submission of a "Weekly Statement of Compliance," which is required under this Agreement and the Copeland Regulations of the Secretary of Labor (29 CFR, Part 3), and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor under Section 2.6c shall satisfy this requirement. The Owner shall make the records required under the labor standards clauses of this Agreement available for inspection by authorized representatives of HUD and the Department of Labor, and will permit such representatives to interview employees during working hours on the job.

c. The Owner shall also furnish to the other parties to this Agreement any other information or certifications relating to employees in such form as such other party may request.

2.8 *Disputes concerning wage rates and classifications of labor.* a. All disputes concerning prevailing wage rates or classifications arising under this Agreement involving (1) significant sums of money, (2) large groups of employees, or (3) novel or unusual situations shall be promptly reported to HUD for decision or, at the option of HUD, referral to the Secretary of Labor of the United States. The decision of HUD or the Secretary of Labor, as the case may be, shall be final.

b. All questions arising under this Agreement relating to the application or interpretation of the Copeland (Anti-Kickback) Act shall be referred to the Secretary of Labor of the United States for rulings or interpretation, and such ruling or interpretation shall be final.

2.9 *Wage claims and adjustments.* In cases of underpayment of salaries or wages to any laborers or mechanics (including apprentices and trainees) by the Owner (or any of his subcontractors), the Owner shall be required to place an amount in escrow, as determined by HUD, sufficient to pay persons employed on the work covered by the Agreement the difference between the salaries or wages actually paid such employees for the total number of hours worked, and the amounts withheld may be disbursed by HUD for and on account of the Owner or the subcontractor to the respective employees to whom they are due.

2.10 *Contract Work Hours and Safety Standards Act—overtime compensation.* a. Neither the Owner nor any subcontractor contracting for any part of the work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in any such workweek, as the case may be.

b. In the event of any violation of the clause set forth in paragraph a of this Section, the Owner and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Owner and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed, with respect to each individual laborer or mechanic employed in violation of the clause set forth in paragraph a of this Section, in the sum of $10 for each calendar day on which such employee was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph a.

c. The Owner shall deposit in escrow such amounts determined by HUD to be necessary to satisfy and liability of the Owner or any subcontractor for liquidated damages as provided in paragraph b of this Section.

2.11 *Termination; debarment; subcontracts.* a. A breach of the provisions of the foregoing Sections 2.6, 2.7, 2.8, 2.9, and 2.10 may be grounds for termination of this Agreement and for debarment as provided in 29 CFR Section 5.6.

b. The Owner shall insert in any subcontracts Sections 2.6 (and with respect to Section 2.6g(2), copies of 29 CFR Sections 5a.4, 5a.5, 5a.6 and 5a.7 shall be attached), 2.7, 2.8, 2.9, 2.10, and 2.11a, and also a clause requiring the subcontractors to include these Sections in any lower tier subcontract which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

2.12 *Disputes.* a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement between the Department of Housing and Urban Development field office and the Owner may be submitted by the Owner to the Secretary of Housing and Urban Development. The decision of the Secretary or his duly authorized representative for the resolution of such disputes shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as

necessarily to imply bad faith, or not supported by substantial evidence. In connection with any proceeding under this Section, the Owner shall be afforded an opportunity to be heard and to offer evidence in support of his position.

b. This Section does not preclude consideration of questions of law in connection with the decision rendered under paragraph a of this Section; Provided, however, that nothing herein shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

2.13 *Interest of members, officers, or employees of Public Housing Agency, members of local governing body, or other public officials.* No member, officer, or employee of the Public Housing Agency ("PHA"), no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or in any proceeds or benefits arising therefrom.

2.14 *Interest of member of or delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Agreement or to any benefits which may arise therefrom.

2.15 *Nonassignability.* a. The Owner agrees that he has not made and will not make any sale, assignment, or conveyance or transfer in any other form, of this Agreement or the project or any part thereof or any of his interest therein, without the prior consent of the Government; *Provided, however,* That in the case of an assignment as security for the purpose of obtaining financing of the project, the Government shall consent in writing if the terms of the financing have been approved by the Government. An assignment by the Owner to a limited partnership of which the Owner is the sole general partner shall not be considered an assignment herein.

b. The Owner agrees that he will not change to a different rehabilitator from the one named in the preamble of this Agreement, except with the prior consent of the Government.

c. The Owner agrees that the approved rehabilitator has not made, and will not make, except with the prior consent of the Government, any assignment or transfer in any form of the rehabilitator's contract to construct the project, or of any part thereof, or any of the rehabilitator's interests therein.

d. The Owner agrees to notify the Government promptly of any proposed action covered by paragraph a or b or c of this Section. The Owner further agrees to request the written consent of the Government in regard thereto, except in the case of an assignment as security as provided in paragraph a of this Section.

e. For the purpose of this Section, a transfer of stock in the Owner or rehabilitator in whole or in part, by a party holding ten percent or more of the stock of said Owner or rehabilitator, or a transfer by more than one stockholder or the owner of 10 percent or more of the stock of said Owner, or any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to the parties in control of the Owner or rehabilitator or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Agreement, the project or the rehabilitation contract. With respect to this provision, the Owner, and the party signing this Agreement on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect thereto.

APPENDIX II—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—HOUSING ASSISTANCE PAYMENTS CONTRACT—SUBSTANTIAL REHABILITATION—PRIVATE-OWNER OR PHA-OWNER PROJECT

PART I

This Housing Assistance Payments Contract ("Contract") is entered into by and between the United States of America acting through the Department of Housing and Urban Development ("Government"), and ---------- ("Owner"), pursuant to the United States Housing Act of 1937 ("Act"), 42 U.S.C. 1437, et seq., and the Department of Housing and Urban Development Act, 42 U.S.C. 3531, et seq.

The parties hereto agree as follows:

1.1 *Significant dates and other items; contents of contract.* a. *Effective Date of Contract.* The effective date of this Contract is ----------, 19----. [This date shall be no earlier than the date of approval by the Government.]

b. *Initial Term of Contract.* The initial term of this Contract (see Section 1.4a) shall be ---- years [not to exceed five years], beginning with the effective date of this Contract and ending ----------, 19--.

c. *Number and Length of Optional Additional Terms.* The number and length of optional additional terms (see Section 1.4a) shall be ---- terms of -- year each [not to exceed five years each].

d. *Maximum Total Term of Contract.* The maximum total term of this Contract, including renewals (see Section 1.4a) shall be ---- years. [Insert 20 years, or 40 years in the case of a project owned by, or financed by a loan or loan guarantee from, a State or local agency.]

e. *Fiscal Year.* The ending date of each Fiscal Year (see Section 1.4b) shall be ---------- [insert March 31, June 30, September 30, or December 31, as determined by the Government].

f. *Maximum Housing Assistance Commitment.* The maximum amount of the commitment for housing assistance payments under this Contract (see Section 1.5a) is $------ per annum.

g. *Contents of Contract.* This Contract consists of Part I, Part II, and the following exhibits:

Exhibit A: The schedule showing the number of units by size ("Contract Units") and their applicable rents ("Contract Rents");

Exhibit B: The Project Description;

Exhibit C: The statement of services, maintenance and utilities to be provided by Owner;

Exhibit D: The Affirmative Fair Housing Marketing Plan, if applicable; and

Additional exhibits: [Specify additional exhibits, if any. If none, insert "None."]

This Contract, including said exhibits, comprises the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as contained herein.

1.2 *Owner's warranties.* a. *Legal Capacity.* The Owner warrants that he has the legal right to execute this Contract and to lease dwelling units covered by this Contract.

b. *Completion of Work.* The Owner warrants that the project as described in Exhibit B is in good and tenantable condition and that all work has been completed in accordance with the terms and conditions of the Agreement to Enter into Housing Assistance Payments Contract ("Agreement") or will be completed in accordance with the terms on which the project was accepted. The Owner further warrants that he will remedy any defects or omissions covered by this warranty if called to his attention within 12 months of the effective date of the Contract.

1.3 *Families to be housed; Government assistance.* a. *Families To Be Housed.* The Contract Units are to be leased by the Owner to eligible lower-income families ("Families") for use and occupancy by such Families solely as private dwellings.

b. *Government Assistance.* (1) The Government hereby agrees to make housing assistance payments on behalf of Families for the Contract Units, to enable such Families to lease Decent, Safe, and Sanitary housing pursuant to section 8 of the Act. Such housing assistance payments shall equal the difference between the Contract Rents for units leased by Families and the portion of such rents payable by Families as determined by the Owner in accordance with schedules and criteria established by the Government.

(2) If there is an Allowance for Utilities and Other Services and if such Allowance exceeds the Gross Family Contribution, the Owner shall pay the Family the amount of such excess on behalf of the Government upon receipt of funds from the Government for that purpose.

1.4 *Term of Contract; fiscal year.* a. *Term of Contract.* The initial term of this Contract shall be as stated in Section 1.1b. This Contract may be renewed, at the sole option of the Owner, for the number and length of additional terms stated in Section 1.1c, provided that the total Contract term for any unit, including renewals, shall not exceed the number of years stated in Section 1.1d. Renewal shall be automatic unless the Owner notifies the Government, no later than 60 days prior to the expiration of the current term, of his intention not to renew. If the project is accepted in stages, the dates for the initial term and renewal terms shall be separately related to the units in each stage; *Provided, however,* that the total Contract term for the units in all the stages, counting from the effective date of the Contract with respect to the first stage, shall not exceed the total Contract term stated in Section 1.1d, plus two years.

b. *Fiscal Year.* The Fiscal Year for the project shall be the 12-month period ending on the date stated in Section 1.1e; *Provided, however,* that the first Fiscal Year for the project shall be the period beginning with the effective date of the Contract and ending on the last day of said established Fiscal Year which is not less than 12 months after such effective date. If the first Fiscal Year exceeds 12 months, the maximum total annual housing assistance payment in Section 1.5a may be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.

1.5 *Maximum housing assistance commitment; project reserve.* a. *Maximum Housing Assistance Commitment.* Notwithstanding any other provisions of this Contract (other than paragraph b of this Section) or any provisions of any other contract between the Government and the Owner, the Government shall not be obligated to make and shall not make any housing assistance payments under this Contract in excess of the amount per annum stated in Section 1.1f; *Provided, however,* that this amount shall be reduced commensurate with any reduction in the number of units under this Contract.

b. *Project Reserve.* A project account shall be established and maintained, in an amount as determined by the Government consistent with its responsibilities under section 8(c)

(6) of the Act, out of amounts by which the maximum Contract commitment stated in paragraph a of this Section exceeds amounts paid under this Contract for any Fiscal Year. This account shall be established and maintained by the Government as a specifically identified and segregated account. To the extent funds are available in said account, the maximum total annual housing assistance payments for any Fiscal Year may exceed the maximum amount stated in paragraph a of this Section to cover increases in Contract Rents or decreases in Family incomes (see Section 1.8). Any amount remaining in said account after payment of the last housing assistance payment with respect to the project shall be applied by the Government in accordance with law.

1.6 *Housing assistance payments to owners.* a. *General.* (1) Housing assistance payments shall be paid to the Owner for units under lease by Families in accordance with the Contract. The housing assistance payment will pay the Owner the difference between the Contract Rent and that portion of said rent payable by the Family as determined in accordance with the Government-established schedules and criteria.

(2) The Owner shall be entitled to Contract Rents in accordance with the terms of this Contract. The amount of housing assistance payment payable on behalf of a Family and the amount of rent payable by such Family shall be subject to change by reason of changes in Family income, Family composition, extent of exceptional medical or other unusual expenses, or by reason of adjustment by the Government of any applicable Allowance for Utilities and Other Services. Any such change shall be determined in accordance with the Government-established schedules and criteria, and shall be effective as of the date stated in a notification of such change to the Family.

b. *Vacancies During Rent-up.* If a Contract Unit is not leased as of the effective date of the Contract, the Owner shall be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract, provided that the Owner (1) commenced marketing and otherwise complied with Section 1.3b of the Agreement, (2) has taken and continues to take all feasible actions to fill the vacancy, including, but not limited to, contacting applicants on his waiting list, requesting the Public Housing Agency ("PHA") and other appropriate sources to refer eligible applicants, and advertising the availability of the units, and (3) has not rejected any eligible applicant, except for good cause acceptable to the Government.

c. *Vacancies After Rent-up.* (1) If a Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days; Provided, however, that if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to the Government or as the Government may direct. (See also Section 1.9b.) The Owner shall not be entitled to any payment under this subparagraph unless he: (i) immediately upon learning of the vacancy, has notified the Government of the vacancy or prospective vacancy and the reasons for the vacancy, and (ii) has taken and continues to take the actions specified in paragraphs b(2) and b(3) of this Section.

(2) If the Owner proposes to evict a Family, he shall not be entitled to any payment under paragraph c(1) of this Section unless the request for such payment is supported by a certification that (i) he has given such Family a written notice of the proposed eviction, stating the grounds and advising the Family that it has 10 days within which to present its objections to the Owner in writing or in person and (ii) the proposed eviction is not in violation of the Lease or the Contract or any applicable law.

d. *Limitation on Payments for Vacant Units.* The Owner shall not be entitled to housing assistance payments with respect to vacant units under this Section to the extent he is entitled to payments from other sources (e.g., payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the Housing and Community Development Act of 1974 or payments under Section 1.9b of this Contract).

e. *Government Not Obligated for Family Rent.* The Government has not assumed any obligation for the amount of rent payable by any Family or the satisfaction of any claim by the Owner against any Family other than in accordance with Section 1.9b of this Contract. The financial obligation of the Government is limited to making housing assistance payments on behalf of Families in accordance with this Contract.

f. *Owner's Monthly Requests for Payments.* (1) The Owner shall submit monthly requests to the Government for housing assistance payments. Each such request shall set forth: (i) the name of each family and the address and/or number of the unit leased by the Family; (ii) the address and/or the number of units, if any, not leased to Families for which the Owner is claiming payments; (iii) the Contract Rent as set forth in Exhibit A for each unit for which the Owner is claiming payments; (iv) the amount of rent payable by the Family leasing the unit; and (v) the total amount of housing assistance payments requested by the Owner.

(2) Each of the Owner's monthly requests shall contain a certification by him that to the best of his knowledge and belief (i) the dwelling unit is in Decent, Safe, and Sanitary condition, (ii) all the other facts and data on which the request for funds is based are true and correct, (iii) the amount requested has been calculated in accordance with the provisions of this Contract and is payable under the Contract, and (iv) none of the amount claimed has been previously claimed or paid.

(3) If the Owner has received an excessive payment, the Government, in addition to any other rights to recovery, may deduct the amount from any subsequent payment or payments.

(4) The Owner's monthly requests for housing assistance payments shall be made subject to penalty under 18 U.S.C. 1001, which provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

1.7 *Maintenance, operation and inspection.* a. *Maintenance and Operation.* The Owner agrees (1) to maintain and operate the Contract Units and related facilities so as to provide Decent, Safe, and Sanitary housing, and (2) to provide all the services, maintenance and utilities set forth in Exhibit C. If the Government determines that the Owner is not meeting any of these obligations, the Government shall have the right, in addition to its other rights and remedies under this Contract, to abate housing assistance payments in whole or in part.

b. *Inspection.* (1) Prior to occupancy of any unit by a Family, the Owner and the Family shall inspect the unit and both shall certify, on the form prescribed by the Government, that they have inspected the unit and have determined it to be Decent, Safe, and Sanitary in accordance with the criteria provided in the prescribed form.

(2) The Government shall inspect or cause to be inspected each Contract Unit and related facilities at least annually and at such other times (including prior to initial occupancy of any unit) as the Government may determine to be necessary to assure that the Owner is meeting his obligation to maintain the units in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. The Government shall take into account complaints by occupants and any other information coming to its attention in scheduling inspections.

c. *Units Not Decent, Safe, and Sanitary.* If the Government notifies the Owner that he has failed to maintain a dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, the Government may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments, even if the Family continues to occupy the unit. If, however, the Family wishes to be rehoused in another dwelling unit with Section 8 assistance and the Government does not have other Section 8 funds for such purposes, the Government may use the abated housing assistance payments for the purpose of rehousing the Family in another dwelling unit. Where this is done, the Owner shall be notified that he will be entitled to resumption of housing assistance payments for the vacated dwelling unit if (1) the unit is restored to Decent, Safe, and Sanitary condition, (2) the Family is willing to and does move back into the restored unit, and (3) a deduction is made for the expenses incurred by the Family for both moves.

d. *Notification of Abatement.* Any abatement of housing assistance payments shall be effective as provided in written notification to the Owner. The Government shall promptly notify the Family of any such abatement.

e. *Overcrowded and Underoccupied Units.* If the Government determines that a Contract Unit is not Decent, Safe, and Sanitary by reason of overcrowding, or that a Contract unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to such unit will not be abated, unless the Owner fails to offer the Family a suitable unit as soon as one becomes vacant and ready for occupancy. In the case of an overcrowded unit, if the Owner does not have any suitable units or if no vacancy of a suitable unit occurs within a reasonable time, the Government will assist the Family in finding a suitable dwelling unit and require the Family to move to such a unit as soon as possible. The Owner may receive housing assistance payments for the vacated unit if he complies with the requirements of Section 1.6c(1).

1.8 *Rent adjustments.* a. *Funding of Adjustments.* Housing assistance payments will be made in increased amounts commensurate with Contract Rent adjustments under this Section up to the maximum total annual housing assistance payments committed under Section 1.5a of this Contract. The provisions of this Contract are designed (by providing for maximum total annual commitments in excess of the amounts required at the time of the initial rental of dwelling units and by setting aside such excess amounts in a project reserve) to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family incomes. The Government will take such addi-

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tional steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

b. *Automatic Annual Adjustments.* (1) Automatic Annual Adjustment Factors will be determined by the Government at least annually; interim revisions may be made as market conditions warrant. Such Factors and the basis for their determination will be published in the Federal Register. These published Factors will be reduced appropriately by the Government where utilities are paid directly by the Families.

(2) On each anniversary date of the Contract, the Contract Rents shall be adjusted by applying the applicable Automatic Annual Adjustment Factor most recently published by the Government. Contract Rents may be adjusted upward or downward, as may be appropriate; however, in no case shall the adjusted Contract Rents be less than the Contract Rents on the effective date of the Contract.

c. *Special Additional Adjustments.* Special additional adjustments may be granted, when approved by the Government, to reflect increases in the actual and necessary expenses of owning and maintaining the Contract Units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the Owner clearly demonstrates that such general increases in the Owner's operating costs demonstrates that such general increase are not adequately compensated for by automatic annual adjustments. The Owner shall submit to the Government financial statements which clearly support the increase.

d. *Overall Limitation.* Notwithstanding any other provisions of this Contract, adjustments as provided in this Section shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by the Government.

e. *Incorporation of Rent Adjustment.* Any adjustment in Contract Rents shall be incorporated into Exhibit A by a dated addendum to the exhibit.

1.9 *Marketing and leasing of units.* a. *Compliance with Equal Opportunity.* Marketing of units and selection of Families by the Owner shall be in accordance with the Owner's Government-approved Affirmative Fair Housing Marketing Plan, shown as Exhibit D, and with all regulations relating to fair housing advertising.

b. *Security and Utility Deposits.* (1) The Owner may require Families to pay a security deposit in an amount equal to one month's Gross Family Contribution. If a Family vacates the unit, the Owner may utilize the deposit as reimbursement for any unpaid rent or damage caused by the Family. If the Family has provided a security deposit, and it is insufficient for such reimbursement, the Owner may claim reimbursement from HUD, not to exceed an amount equal to the remainder of one month's Contract Rent. If a Family vacates the unit owing no rent and causing no damage to the unit or if the amount of unpaid rent and/or damage is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

(2) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include such interest. All security deposit funds shall be deposited by the Owner in a segregated bank account, and the balance of this account, at all times, shall be equal to the total amount collected from tenants then in occupancy, plus any accrued interest. The Owner must comply with all State and local laws regarding interest payments on security deposits.

(3) Families shall be expected to obtain the funds to pay security and utility deposits, if required, from their own resources and/or other private or public sources.

c. *Eligibility, Selection and Admission of Families.* (1) The Owner shall be responsible for determination of eligibility of applicants, selection of families from among those determined to be eligible, and computation of the amount of housing assistance payments on behalf of each selected Family in accordance with schedules and criteria established by the Government. In the initial renting of the Contract Units, the Owner shall lease at least 90 percent to Very Low-Income Families (determined in accordance with the Government-established schedules and criteria) and shall thereafter exercise his best efforts to maintain at least 90 percent occupancy of the Contract Units by Very Low-Income Families as determined in accordance with such schedules and criteria.

(2) The Lease entered into between the Owner and each selected Family shall be on the form of Lease approved by the Government.

(3) The Owner shall make a reexamination of Family income, composition, and the extent of medical or other unusual expenses incurred by the Family, at least annually (except that such reviews may be made at intervals of no longer than two years in the case of elderly Families), and appropriate redeterminations shall be made by the Owner of the amount of Family contribution and the amount of housing assistance payment, all in accordance with schedules and criteria established by the Government. In connection with the reexamination, the Owner shall determine what percentage of Families in occupancy are Very Low-Income Families. If there are fewer than 90 percent Very Low-Income Families in occupancy, the Owner shall report the fact to the Government and shall adopt changes in his admission policies to achieve, as soon as possible, at least 90 percent occupancy by such Families.

d. *Rent Redetermination after Adjustment in Allowance for Utilities and Other Services.* In the event that the Owner is notified of a Government determination making an adjustment in the Allowance for Utilities and Other Services applicable to any of the Contract Units, the Owner shall promptly make a corresponding adjustment in the amount of rent to be paid by the affected Families and the amount of housing assistance payments.

e. *Processing of Applications and Complaints.* The Owner shall process applications for admission, notifications to applicants, and complaints by applicants in accordance with applicable Government requirements and shall maintain records and furnish such copies or other information as may be required by the Government.

f. *Government Review; Incorrect Payments.* In making housing assistance payments to Owners, the Government will review the Owner's determinations under this Section. If as a result of this review, or other reviews, audits or information received by the Government at any time, it is determined that the Owner has received improper or excessive housing assistance payments, the Government shall have the right to deduct the amount of such overpayments from any amounts otherwise due the Owner, or otherwise effect recovery thereof.

1.10 *TERMINATION OF TENANCY.* The Owner shall be responsible for termination of tenancies, including evictions. However, conditions for payment of housing assistance payments for any resulting vacancies shall be as set forth in Section 1.6c.

1.11 *REDUCTION OF NUMBER OF CONTRACT UNITS FOR FAILURE TO LEASE TO ELIGIBLE FAMILIES.*

a. *Twelve Months after Effective Date of Contract.* If at any time, beginning six months after the effective date of this Contract, the Owner fails for a continuous period of six months to have at least 80 percent of the Contract Units leased or available for leasing by Families, the Government may on 30 days notice reduce the number of Contract Units to not less than the number of units under lease or available for leasing by Families, plus 10 percent of such number, if that number is 10 or more, rounded to the next highest number.

b. *At End of Initial and Each Renewal Term.* At the end of the initial term of the Contract and of each renewal term, the Government may, by notice to the Owner, reduce the number of Contract Units to not less than (1) the number of units under lease or available for leasing by Families at that time or (2) the average number of units so leased or available for leasing during the last year, whichever is the greater number, plus 10 percent of such number, if the number is 10 or more, rounded to the next highest number.

c. *Restoration of Units.* Any reduction pursuant to paragraphs a or b of this Section shall not preclude subsequent restoration of Contract units if contract authority is available and if the Government determines that the restoration is justified as a result of changes in demand and in the light of the Owner's record of compliance with his obligations under the Contract.

WARNING: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

Owner _____
By _____
(Official Title)

Date _____, 19__
United States of America and Secretary of Housing and Urban Development
By _____
(Official Title)

Date _____, 19__

[If the project is to be completed and accepted in stages, execution of the Contract with respect to the several stages appears on the following pages of this Contract.]

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 1

This Contract is hereby executed with respect to the units described in Exhibit A–1.

EFFECTIVE DATE. The effective date of this Contract is _____, 19__ [Insert date which shall be no earlier than the date of execution by the Government.]

OWNER _____
By _____
(Official Title)

Date _____, 19__
United States of America Secretary of Housing and Urban Development
By _____
(Official Title)

Date _____, 19__

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 2

This Contract is hereby executed with respect to the units described in Exhibit A–2.

EFFECTIVE DATE. The effective date of this Contract is_____, 19__. [Insert date which shall be no earlier than the date of execution by the Government.]

OWNER _____
By _____
(Official Title)

Date_____, 19__

United States of America
Secretary of Housing and Urban Development
By _____
(Official Title)

Date_____, 19__

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 3

This Contract is hereby executed with respect to the units described in Exhibit A–3.

Effective Date. The effective date of this Contract is _____, 19__; [Insert date which shall be no earlier than the date of execution by the Government.]

Owner _____
By _____
(Official Title)

Date _____, 19__

United States of America, Secretary of Housing and Urban Development.
By _____
(Official Title)

Date _____, 19__

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

HOUSING ASSISTANCE PAYMENTS CONTRACT

SUBSTANTIAL REHABILITATION

PRIVATE-OWNER OR PHA-OWNER PROJECT

PART II

2.1 *NONDISCRIMINATION IN HOUSING.*

a. The Owner shall not in the selection of Families, in the provision of services, or in any other manner, discriminate against any person on the grounds of race, color, creed, religion, sex, or national origin. No person shall be *automatically* excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.

b. The Owner shall comply with all requirements imposed by Title VIII of the Civil Rights Act of 1968, and any rules and regulations pursuant thereto.

c. The Owner shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88–352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, *et seq.*; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act, the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the grounds of race, color, creed, religion or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program, or be otherwise subjected to discrimination. This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, *et seq.*; issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the Owner to comply therewith inures to the benefit of the Government and the said Department, either of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the Owner.

2.2 *Training, employment, and contracting opportunities for businesses and lower-income persons.*[1]

a. The project assisted under this Contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

b. Notwithstanding any other provision of this Contract, the Owner shall carry out the provisions of said section 3 and the regulation issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135 (published in 38 Federal Register 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this Contract. The requirements of said regulations include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by section 135.20(b) of the regulations and paragraph d of this Section in all contracts for work in connection with the project. The Owner certifies and agrees that he is under no contractual or other disability which would prevent him from complying with these requirements.

c. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the Owner, his successors and assigns. Failure to fulfill these requirements shall subject the Owner, his contractors and subcontractors, his successors, and assigns to the sanction specified by this Contract, and to such sanctions as are specified by 24 CFR Section 135.135.

d. The Owner shall incorporate or cause to be incorporated into any contract or subcontract for work pursuant to this Contract in excess of $50,000 cost, the following clause:

[1] Strike this Section if the Contract Rents on the effective date of this Contract, over the maximum term of this Contract, are $500,000 or less.

Employment of project area residents and contractors

A. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

B. The parties to this Contract will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontract is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR, Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR, Part 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Section 135.135.

e. The Owner agrees that he will be bound by the above Employment of Project Area Residents and Contractors clause with respect to his own employment practices when he participates in federally assisted work.

2.3 *COOPERATION IN EQUAL OPPORTUNITY COMPLIANCE REVIEWS.* The Owner shall cooperate with the Government

in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.4 *FLOOD INSURANCE.* If the project is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

2.5 *CLEAN AIR ACT AND FEDERAL WATER POLLUTION ACT.*[3] In compliance with regulations issued by the Environmental Protection Agency ("EPA"), 40 CFR, Part 15, 39 F.R. 11099, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 1857, *et seq.*, the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, *et seq.*, and Executive Order 11738, the Owner agrees that:

a. Any facility to be utilized in the performance of this Contract or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to section 15.20 of said regulations;

b. He will promptly notify the Department of Housing and Urban Development field office director of the receipt of any communication from the EPA indicating that a facility to be utilized for the Contract is under consideration to be listed on the EPA List of Violating Facilities;

c. He will comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder; and

d. He will include or cause to be included the provisions of this Section in every nonexempt subcontract, and that he will take such action as the Government may direct as a means of enforcing such provisions.

2.6 Reports and access to premises and records.

a. The Owner shall furnish such information and reports pertinent to the Contract as reasonably may be required from time to time by the Government.

b. The Owner shall permit the Government or any of its duly authorized representatives to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the monthly requests for housing assistance payments.

2.7 *DEFAULT BY THE OWNER.*

a. A default by the Owner under this Contract shall result if:

(1) The Owner has violated or failed to comply with any provision of, or obligation under, this Contract or of any Lease; or

(2) The Owner has asserted or demonstrated an intention not to perform some or all of his obligations under this Contract or under any Lease.

b. Upon a determination by the Government that a default has occurred, the Government shall notify the Owner of the nature of the default, of the actions required to be taken on account of the default (including the curing of the default by the Owner, the abatement of housing assistance payments in whole or in part, where appropriate, or any combination of actions), and of the time within which the Owner shall respond with a showing that he has taken all the actions required of him. If the Owner fails to respond or take action to the satisfaction of the Government, the Government shall take appropriate actions to achieve compliance or to terminate the Contract in whole or in part.

c. The availability of any remedy under this Contract shall not preclude the exercise of any other remedy available under this Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

2.8 *DISPUTES*

a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement between the Department of Housing and Urban Development field office and the Owner may be submitted by the Owner to the Secretary of Housing and Urban Development. The decision of the Secretary or his duly authorized representative for the resolution of such disputes shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any proceeding under this Section, the Owner shall be afforded an opportunity to be heard and to offer evidence in support of his position.

b. This section does not preclude consideration of questions of law in connection with the decision rendered under paragraph a of this Section; Provided, however, that nothing herein shall be construed as making final the decision of any administrative official, representative, or board, on a question of law.

2.9 *INTEREST OF MEMBERS, OFFICERS, OR EMPLOYEES OF PHA, MEMBERS OF LOCAL GOVERNING BODY OR OTHER PUBLIC OFFICIALS.* No member, officer, or employee of the PHA, no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or in any proceeds or benefits arising therefrom.

2.10 *INTEREST OF MEMBER OF OR DELEGATE TO CONGRESS.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise therefrom.

2.11 *Nonassignability.*

a. The Owner agrees that he has not made and will not make any sale, assignment, or conveyance or transfer in any other form, of this Contract or the project or any part thereof or any of his interest therein, without the prior consent of the Government; Provided, however, That in the case of an assignment as security for the purpose of obtaining financing of the project, the Government shall consent in writing if the terms of the financing have been approved by the Government. An assignment by the Owner to a limited partnership of which the Owner is the sole general partner shall not be considered an assignment herein.

b. The Owner agrees to notify the Government promptly of any proposed action covered by paragraph a of this Section. The Owner further agrees to request the written consent of the Government in regard thereto, except in the case of an assignment as security as provided in paragraph a of this Section.

c. For the purpose of this Section, a transfer of stock in the Owner in whole or in part, by a party holding ten percent or more of the stock of said Owner, or a transfer by more than one stockholder or the Owner of ten percent or more of the stock of said Owner, or any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to the parties in control of the Owner or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Contract or the project. With respect to this provision, the Owner and the party signing this Contract on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect hereto.

APPENDIX III—U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM MASTER SECTION 8 ANNUAL CONTRIBUTIONS CONTRACT

This Annual Contributions Contract (ACC) is entered into on ____ day of _____, 19__ (the date of execution by the Government) by and between the United States of America (herein called the "Government"), pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437, *et seq.*), which Act as amended to the date of this ACC is herein called the "Act" and the Department of Housing and Urban Development Act (42 U.S.C. 3531), and _____ (herein called the "PHA"), which is a "public housing agency" as defined in the Act. In consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

0.1 *Project or Projects.* The PHA is undertaking to provide Decent, Safe, and Sanitary housing for Families (as defined in Section 2.1) pursuant to Section 8 of the Act by means of Housing Assistance Payments Contracts ("Contracts") with Owners (as defined in Section 2.1). Such undertaking may involve an agreement for the use of housing to be constructed ("New Construction"), an agreement for the use of existing housing to be substantially rehabilitated ("Substantial Rehabilitation"), or the use of existing housing without substantial rehabilitation ("Existing Housing"). In each instance, the numbers and sizes of dwelling units with respect to which a certain maximum Annual Contributions commitment is made shall constitute a Project hereunder and shall be identified by a stated Project number.

0.2 *Part I and Part II of this Annual Contributions Contract.*

(a) Certain provisions of this ACC, principally those which are specifically applicable to a designated Project, are contained in Part I. Separate forms of Part I are used for different types of Projects (i.e., New Construction, Substantial Rehabilitation, and Existing Housing). A separate Part I,

[3] Strike this Section if the Contract Rents on the effective date of this Contract, over the maximum total term of this Contract, are $100,000 or less.

on the applicable form thereof, has been executed with respect to each Project hereunder, and each such Part I, so executed, constitutes a part of this ACC.

(b) The remaining provisions of this ACC, which are applicable to all Projects hereunder, are contained in Part II, which, although not separately executed, constitutes a part of this ACC.

0.3 *Fiscal Year.* Except for the first Fiscal Year of each Project, there shall be one Fiscal Year for all Projects hereunder. Each established Fiscal Year shall be the 12-month period ending _____ of each calendar year. The first Fiscal Year for each Project shall be as provided in the Part I applicable to such Project.

0.4 *Schedule of Projects.* Attached to this Master Section 8 ACC, as Attachment A, is a list identifying each ACC Part I and ACC Part I amendment by project number, date, and ACC List number and date.

PHA _____
By _____
Date _____

The Government

By _____
Date _____

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM ANNUAL CONTRIBUTIONS CONTRACT

PART I

Substantial Rehabilitation Project No. _____

Effective Date _____

[Date of execution by the Government of this ACC Part I]

ACC List Number and Date _____

1.1 *The Project.* The PHA proposes to enter into a Housing Assistance Payments Contract ("Contract") with respect to substantially rehabilitated dwelling units pursuant to an Agreement to Enter into Housing Assistance Payments Contract ("Agreement") executed prior to the commencement of rehabilitation. The numbers and sizes of units will be as follows:

Size of Unit	*Number of Units*

The PH shall enter into an Agreement and Contract in accordance with the numbers and sizes of units specified above. The PHA shall not enter into any Agreement or Contract or take any other action which will result in a claim for a total Annual Contributions in respect to the Project in excess of the maximum amounts stated in Section 1.4(a).

1.2 *Authorization of Actions by PHA.* In order to carry out the Project, the PHA is authorized to (a) enter into an Agreement, (b) enter into a Contract, (c) make housing assistance payments on behalf of Families, and (d) take all other necessary actions all in accordance with the forms, conditions and requirements prescribed or approved by the Government; Provided, however, that neither the PHA nor the Government shall assume any obligation beyond that provided in the Government-approved Agreement and Contract.

1.3 *Term of ACC and Contract.* (a) This ACC shall remain in effect as long as the Contract is in effect but in no event shall the term of the ACC exceed ____ years from the beginning of the first fiscal year. [Insert number specified in the first sentence of paragraph (b) of this Section plus two years.]

(b) The total Contract term for any unit, including all renewals, shall not exceed ____ years. [Insert number as specifically authorized by the Government, but in no event more than 20 years, or 40 years in the case of a project owned by, or financed by a loan or loan guarantee from, a State or local agency]: *Provided, however,* That if the project is accepted in stages, the total Contract term for the units in all stages counting from the effective date of the Contract with respect to the first stage, shall not exceed the total Contract term specified in the first sentence of this paragraph (b), plus 2 years.

1.4 *Annual Contributions.* (a) Notwithstanding any other provisions of this ACC (other than paragraph (c) of this Section) or any provisions of any other contract between the Government and the PHA, the Government shall not be obligated to make any Annual Contributions or any other payment in excess of:

(1) $_____ for housing assistance payments under the Contract; or

(2) $_____ for other Project Expenditures; or

(3) a total of $_____ for all Project Expenditures in respect to the Project.

Provided, However, That these amounts shall be reduced commensurate with any reduction in the number of units under the Contract or pursuant to any other provision of this ACC.

(b) Subject to the maximum dollar limitations in paragraph (a) of this Section, the Government shall pay Annual Contributions to the PHA in respect to the Project in an amount equal to the sum of the following (subject to reduction by the amount of any Project Receipts other than Annual Contributions, which Receipts shall be available for Project Expenditures):

(1) The amount of housing assistance payments payable during the Fiscal Year (see Section 1.5) by the PHA pursuant to the Contract, as authorized in Section 1.2.

(2) The allowance, in the amount approved by the Government, for preliminary costs of administration.

(3) The allowance, in the amount approved by the Government, for the regular costs of administration.

(c) Subject to the maximum amount stated in paragraph (a)(3) of this Section, the Annual Contribution for any Fiscal Year may include such amount as the Government may determine to be necessary to assure that the lower-income character of the Project will be maintained, which amount shall be credited to an account maintained by the PHA or the Government as determined by the Government. To the extent funds are available in said account, the Annual Contribution for any Fiscal Year may exceed the maximum amounts stated in paragraph (a) of this Section by such amount, if any, as may be required for increases reflected in the estimates of required Annual Contributions applicable to such Fiscal Year as approved by the Government in accordance with Section 2.11 below. Any amount remaining in said account after payment of the last Annual Contribution with respect to the Project shall be applied by the Government in accordance with law.

(d) The Government will make periodic payments on account of the Annual Contributions upon requisition therefor by the PHA in the form prescribed by the Government. Each requisition shall include certifications by the PHA that housing assistance payments have been or will be made only:

(1) In accordance with the provisions of the Contract as such provisions apply respectively to (a) units under lease by Families and (b) units not under lease by Families; and

(2) With respect to units which the PHA has inspected or caused to be inspected, pursuant to Section 2.4 of Part II of this ACC, within one year prior to the making of such housing assistance payments.

(e) Following the end of each Fiscal Year, the PHA shall promptly pay to the Government, unless other disposition is approved by the Government, the amount, if any, by which the total amount of the periodic payments during the Fiscal Year exceeds the total amount of the Annual Contribution payable for such Fiscal Year in accordance with this Section.

1.5 *Fiscal Year.* The Fiscal Year for the Project shall be the Fiscal Year established by Section 0.3 of this ACC; Provided, however, that the first Fiscal Year for the Project shall be the period beginning with the effective date of the Contract and ending on the last day of said established Fiscal Year which is not less than 12 months after such effective date. If the first Fiscal Year exceeds 12 months, the maximum Annual Contribution in Section 1.4(a) may be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.

1.6 *Periodic Adjustment of Contract Rents.* (a) The Contract may provide for periodic adjustments in the Contract rents chargeable by the Owner and commensurate increases in amounts of housing assistance payments up to the total annual housing assistance payments committed under Section 1.4(a)(1) of this ACC.

(b) The provisions of Section 1.4(c) of this ACC are designed (by providing for maximum total annual commitments in excess of the amounts required at the time of the initial rental of dwelling units and by setting aside such excess amounts in a project reserve) to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract rents or decreases in Family incomes. The Government shall take such additional steps authorized by Section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

1.7 *Affirmative Fair Housing Marketing Regulation.* The PHA shall require the Owner to comply with the Affirmative Fair Housing Marketing Regulation (subject to any exceptions therein) including the submission for Government approval of an Affirmative Fair Housing Marketing Plan and compliance with such approved Plan, as if the Owner were expressly subject to said Regulation.

1.8 *Expeditious Carrying Out of Project.* The PHA shall proceed expeditiously with the Project. If the PHA fails to proceed expeditiously, and no Agreement with the Owner has yet been entered into, the Government by notice to the PHA, may terminate or reduce its obligation hereunder with respect to the Project. If an Agreement has been entered into, and the PHA or the Owner is not proceeding expeditiously with the Project, the Government will take appropriate action, including the Governmental action provided for in the Agreement.

1.9 *Responsibility for Administration of Contract.* The PHA is primarily responsible for administration of the Contract. However, if the PHA is the lender, the following provisions shall be included in the Contract:

"(1) The Government shall have the right to make independent audits, reviews, and determinations as to compliance by the Owner with any or all of his obligations under the Contract;

"(2) In the event the Government determines that the Owner is in default with respect to any or all of his obligations, the Government shall have the right to take direct action (as if the Government were the party to the Contract primarily responsible for its administration) to enforce any or all

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available remedies, including, but not limited to, abatement of housing assistance payments, collection of payments previously made in violation of the Contract, and termination of the Contract in whole or in part; and

"(3) The Owner hereby expressly agrees to recognize the rights of the Government in the event it takes any action under this Section in the same manner and to the same extent as if the action were taken by the PHA."

PHA ----------
By ----------
Date ----------

THE GOVERNMENT

By ----------
Date ----------

SECTION 2. HOUSING ASSISTANCE PAYMENTS PROGRAM TERMS AND CONDITIONS CONSTITUTING PART II OF AN ANNUAL CONTRIBUTIONS CONTRACT BETWEEN PUBLIC HOUSING AGENCY AND THE UNITED STATES OF AMERICA

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

2.1 *Definitions.* (a) "Families" means "Lower-Income Families (including "Very Low-Income Families") and includes Families consisting of a single person in the case of Elderly Families and Displaced Families and includes the remaining member of a tenant family.

(b) "Elderly Families" means Families whose heads (or their spouses), or whose sole members, are persons who are at least 62 years of age or are under a disability as defined in Section 223 of the Social Security Act or in Section 102(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1970, or are handicapped. The term Elderly Families includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living together with another person who is determined under regulations of the Secretary to be a person essential to their care or well being.

(c) "Displaced Families" means Families displaced by governmental action, or Families whose dwellings have been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(d) "Lower-Income Families" means Families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income limits higher or lower than 80 percent of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors.

(e) "Very Low-Income Families" means Families whose incomes do not exceed 50 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(f) "Income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary.

(g) "Owner" means the person or entity, including a cooperative, with which the Agreement and Contract are entered into.

(h) "Rent" or "rental" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

(i) "Project Receipts" with respect to each Project means the Annual Contributions payable hereunder and all other receipts, if any, accruing to the PHA from, out of, or in connection with such Project.

(j) "Project Expenditures" with respect to each Project means all costs allowable under Section 1.4(b), Part I of this ACC with respect to such Project.

(k) "Substantial Default" means the occurrence of any of the events listed in Section 2.16.

2.2 *Lower-Income Housing Use; Compliance with Act and Regulations.* The PHA shall use the Annual Contributions solely for the purpose of providing Decent, Safe, and Sanitary dwellings for Families in compliance with all applicable provisions of the Act and all regulations issued pursuant thereto.

2.3 *Eligibility and Amount of Housing Assistance Payments.* (a) The PHA shall comply with the income limits established by the Government and with the requirements of the Government pursuant to section 8(c)(7) of the Act concerning the leasing of at least 20 percent of assisted units to Very Low-Income Families.

(b) The PHA shall comply or assure compliance with the schedules and criteria established by the Government with respect to the amounts of housing assistance payments made on behalf of Families.

(c) The PHA shall make or cause to be made periodic reexaminations of the income, composition, and extent of exceptional medical or other unusual expenses of Families for whom housing assistance payments are being made for the purpose of confirming or adjusting, in accordance with the applicable schedules established by the Government, the amount of rent payable by the Family and the amount of housing assistance payment.

(d) Prior to the approval of eligibility of a Family, and thereafter on the date established for each reexamination of the status of such Family, the PHA shall review or cause to be reviewed a written application, signed by a responsible member of such Family, which application shall set forth all data and information necessary for a determination of the amount, if any, of housing assistance payment which can be made with respect to the Family.

2.4. *Inspections.* (a) The PHA shall require, as a condition for the making of housing assistance payments, that the Owner maintain the assisted dwelling units and related facilities in Decent, Safe, and Sanitary condition.

(b) The PHA shall inspect or cause to be inspected dwelling units and related facilities prior to commencement of occupancy by Families and shall make or cause to be made subsequent inspections at least annually, adequate to assure that Decent, Safe, and Sanitary housing accommodations are being provided and that the agreed-to services are being furnished.

2.5. *Nondiscrimination in Housing.* (a) The PHA shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act and the regulations and requirements of said Department thereunder, said Executive Order, no person in the United States shall, on the ground of race, color, creed, religion, or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program or be otherwise subjected to discrimination. The PHA shall, by contractual requirement, covenant, or other binding commitment, assure the same compliance on the part of any subgrantee, contractor, subcontractor, transferee, successor in interest, or other participant in the program or activity, such commitment to include the following clause:

"This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the [contractor or other] to comply therewith inures to the benefit of the United States, the said Department, and the PHA, any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the [contractor or other.]"

(b) The PHA shall incorporate or cause to be incorporated into all Housing Assistance Payments Contracts a provision requiring compliance with all requirements imposed by Title VIII of the Civil Rights Act of 1968, and any rules and regulations issued pursuant thereto.

(c) The PHA shall not, on account of creed or sex, discriminate in the sale, leasing, rental, or other disposition of housing or related facilities (including land) included in any Project or in the use of occupancy thereof, nor deny to any Family the opportunity to apply for such housing, nor deny to any eligible applicant the opportunity to lease or rent any dwelling in any such housing suitable to its needs. No person shall automatically be excluded from participation in or be denied the benefits of the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.

2.6. *Equal Employment Opportunity.* (a) The PHA shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The PHA shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, creed, religon, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b)(1) The PHA shall incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is to be performed pursuant to this contract, the following Equal Opportunity clause:

"EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

(A) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, creed, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the PHA setting forth the provisions of this Equal Opportunity clause.

(B) The contractor will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race,

color, religion, creed, sex, or national origin.

(C) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the PHA advising the said labor union or workers' representative of the contractor's commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(D) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(E) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Government and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(F) In the event of the contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(G) The contractor will include the portion of the sentence immediately preceding Paragraph (A) and the provisions of Paragraphs (A) through (G) in every subcontractor or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance; *Provided, however,* that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontactor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(2) The PHA agrees that it will assist and cooperate actively with the Government and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the Government and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the Government in the discharge of the Government's primary responsibility for securing compliance.

(3) The PHA further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by the Government or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

2.7. *Training, Employment, and Contracting Opportunities for Businesses and Lower Income Persons.*

(a) The project assisted under this ACC is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the Project.

(b) Notwithstanding any other provision of this ACC the PHA shall carry out the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary set forth in 24 CFR Part 135 (published in 38 Federal Register 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this ACC. The requirements of said regulations include but are not limited to development and implementation of an affirmative action plan for utilizing business concerns located within or owned in substantial part by persons residing in the area of the Project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by Section 3; and incorporation of the "Section 3 clause" specified by Section 135.20(b) of the regulations in all contracts for work in connection with the Project. The PHA certifies and agrees that it is under no contractual or other disability which would prevent it from complying with these requirements.

(c) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to appoval by the Government of the application for this ACC shall be a condition of the Federal financial assistance provided to the Project, binding upon the PHA, its successors and assigns. Failure to fulfill these requirements shall subject the PHA, its contractors and subcontractors, its successors, and assigns to the sanction specified by this ACC and to such sanctions as are specified by 24 CFR Section 135.135.

(d) The PHA shall incorporate or cause to be incorporated into any contract pursuant to this contract such clause or clauses as are required by the Government for compliance with its regulations issued pursuant to the Housing and Urban Development Act, as amended. The PHA shall cooperate with the Government in the conducting of compliance reviews pursuant to said Acts and Regulations.

2.8. *Cooperation In Equal Opportunity Compliance Reviews.* The PHA shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.9. *Clean Air Act and Federal Water Pollution Control Act.* The PHA shall incorporate or cause to be incorporated into any contract for construction or substantial rehabilitation, such clause or clauses as are required by the Government for compliance with the regulations issued by the Environmental Protection Agency pursuant to the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, and Executive Order 11738. The PHA shall cooperate with the Government in the conducting of compliance reviews pursuant to said Acts and Regulations.

2.10. *Labor Standards.* The PHA shall incorporate or cause to be incorporated into any contract for construction or substantial rehabilitation of nine or more dwelling units, such clause or clauses as are required by the Government for compliance with its regulations issued pursuant to the Copeland Act, the Davis-Bacon Act, and the Contract Work Hours and Safety Standards Act. The PHA shall cooperate with the Government in the conducting of compliance reviews pursuant to said Acts and Regulations.

2.11. *Estimates of Required Annual Contributions.* The PHA shall from time to time submit to the Government estimates of required annual contributions at such times and in such form as the Government may require. All estimates and any revisions thereof submitted under this Section shall be subject to Government approval.

2.12. *Insurance and Fidelity Bond Coverage.* For purposes of protection against hazards arising out of or in connection with the administrative activities of the PHA in carrying out the Project, the PHA shall carry adequate (1) comprehensive general liability insurance, (2) workmen's compensation coverage (statutory or voluntary), (3) automobile liability insurance against property damage and bodily injury (owned and non-owned), and (4) fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

2.13. *Books of Account and Records; Reports.*

(a) The PHA shall maintain complete and accurate books of account and records, as may be prescribed from time to time by the Government, in connection with the Projects, including records which permit a speedy and effective audit, and will among other things fully disclose the amount and the disposition by the PHA of the Annual Contributions and other Project Receipts, if any.

(b) The books of account and records of the PHA shall be maintained for each Project as separate and distinct from all other Projects and undertakings of the PHA, except as authorized or approved by the Government.

(c) The PHA shall furnish the Government such financial, operating, and statistical reports, statements, and documents at such times, in such form, and accompanied by such supporting data, all as may reasonably be required from time to time by the Government.

(d) The Government and the Comptroller General of the United States, or his duly authorized representatives, shall have full and free access to the Projects and to all the books, documents, papers, and records of the PHA that are pertinent to its operations with respect to financial assistance under the Act, including the right to audit, and to make excerpts and transcripts from such books and records.

(e) The PHA shall incorporate or cause to be incorporated in all Contracts the following clauses:

REPORTS, ACCESS TO PREMISES AND RECORDS

(1) The Owner shall furnish such information and reports pertinent to the Contract as reasonably may be required from time to time by the PHA and the Government.

(2) The Owner shall permit the PHA and the Government or any of their duly authorized representatives, to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the monthly requests to the PHA for housing assistance payments.

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(f) Audits required by the Government will be performed or paid for by the Government.

2.14. *General Depositary Agreement and General Fund.*

(a) The PHA shall maintain one or more agreements, which are herein collectively called the "General Depositary Agreement," in form prescribed by the Government, with one or more banks (each of which shall be, and continue to be, a member of the Federal Deposit Insurance Corporation) selected as depositary by the PHA. Immediately upon the execution of any General Depositary Agreement, the PHA shall furnish to the Government such executed or conformed copies thereof as the Government may require. No such General Depositary Agreement shall be terminated except after 30 days notice to the Government.

(b) All monies received by or held for account of the PHA in connection with the Projects shall constitute the General Fund.

(c) The PHA shall, except as otherwise provided in this ACC, deposit promptly with such bank or banks, under the terms of the General Depositary Agreement, all monies constituting the General Fund.

(d) The PHA may withdraw monies from the General Fund only for (1) the payment of Project Expenditures, and (2) other purposes specifically approved by the Government. No withdrawals shall be made except in accordance with a voucher or vouchers then on file in the office of the PHA stating in proper detail the purpose for which such withdrawal is made.

(e) If the PHA (1) in the determination of the Government is in Substantial Default, or (2) makes or has made any fraudulent or willful misrepresentation of any material fact, in any of the documents or data submitted to the Government pursuant to this ACC or in any document or data submitted to the Government as a basis for this ACC or as an inducement to the Government to enter into this ACC, the Government shall have the right to require any bank or other depositary which holds any monies of the General Fund to refuse to permit any withdrawals of such monies; Provided, however, that upon the curing of such Default the Government shall promptly rescind such requirement.

2.15. *Pooling of Funds under Special Conditions and Revolving Fund.*

(a) The PHA may deposit under the terms of the General Depositary Agreement monies received or held by the PHA in connection with any other housing project developed or operated by the PHA pursuant to the provisions of any contract for annual contributions, administration, or lease between the PHA and the Government.

(b) The PHA may also deposit under the terms of the General Depositary Agreement amounts necessary for current expenditures of any other project or enterprise of the PHA, including any project or enterprise in which the Government has no financial interest; Provided, however, that such deposits shall be lump-sum transfers from the depositaries of such other projects or enterprises, and shall in no event be deposits of the direct revenues or receipts of such other projects or enterprises.

(c) If the PHA operates other projects or enterprises in which the Government has no financial interest it may, from time to time, withdraw such amounts as the Government may approve from monies on deposit under the General Depositary Agreement for deposit in and disbursement from a revolving fund provided for the payment of items chargeable in part to the Projects and in part to other projects or enterprises of the PHA; Provided, however, that all deposits in such revolving fund shall be lump-sum transfers from the depositaries of the related projects or enterprises and shall in no event be deposits of the direct revenues or receipts.

(d) The PHA may establish petty cash or change funds in reasonable amounts, from monies on deposit under the General Depositary Agreement.

(e) In no event shall the PHA withdraw from any of the funds or accounts authorized under this Section 2.15 amounts for the Projects or for any other project or enterprise in excess of the amount then on deposit in respect thereto.

2.16. *Default.* (a) *Failure or Inability of PHA to Comply with Agreement.* In the event the Government determines that the PHA is in default as provided in the Agreement with the Owner, or if such Agreement is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Agreement is drawn into question in any legal proceedings, or if the PHA asserts or claims that such Agreement is not binding upon the PHA for any such reason, the Government may, after reasonable notice to the the PHA, determine that the occurrence of any such event, if the Owner is not in default, constitutes a Substantial Default hereunder as to the Project. In such case, the Government will assume the PHA's rights and obligations under the Agreement and carry out the obligations of the PHA under the Agreement, including the obligation to enter into the Contract.

(b) *Failure or Inability of PHA to Comply with Contract.* In the event of failure of the PHA to comply with the Contract with the Owner, or if such Contract is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Contract is drawn into question in any legal proceeding, or if the PHA asserts or claims that such Contract is not binding upon the PHA for any such reason, the Government may, after reasonable notice to the PHA, determine that the occurrence of any such event, if the Owner is not in default, constitutes a Substantial Default hereunder. In such case, the Government will assume the PHA's rights and obligations under such Contract, and the Government shall, for the duration of such Contract, continue to pay Annual Contributions for the purpose of making housing assistance payments with respect to dwelling units under such Contract, shall perform the obligations and enforce the rights of the PHA, and shall exercise such other powers as the Government may have to cure the Default.

(c) *Other Defaults by the PHA.* If the PHA defaults in the observance or performance of the provisions of Section 2.4; fails to comply with its obligations under any duly issued Certificate of Family Participation in accordance with its terms; fails to comply with the requirements of Sections 2.5, 2.6, 2.7 or 2.8; defaults in the performance or observance of any term, covenant, or condition of this ACC other than the defaults enumerated in this paragraph, and if such defaults have not been remedied within a reasonable time, not to exceed 30 days, after the Government has notified the PHA thereof; or fails to comply with the applicable provisions of the Act and all regulations issued pursuant thereto; the Government may, after reasonable notice to the PHA, determine that the occurrence of any such event, if the Owner is not in default, constitutes a Substantial Default hereunder as to the Project. Upon the occurrence of a Substantial Default with respect to any Project, the PHA shall, if the Government so requires, assign to the Government all of its rights and interests in and to the project, or such part thereof as the Government may specify, and the Government shall continue to pay Annual Contributions with respect to dwelling units covered by Housing Assistance Payments Contracts in accordance with the terms of this ACC until reassigned to the PHA.

(d) *Return of Rights and Obligations to PHA.* All rights and obligations of the PHA assumed by the Government pursuant to this Section 2.16 will be returned as constituted at the time of such return (i) when the Government is satisfied that all defaults have been cured and that the Project will thereafter be administered in accordance with all applicable requirements or (ii) when the Housing Assistance Payments Contract is at an end, whichever occurs sooner.

(e) *Rights of Owner.* The provisions of this Section 2.16 are made with, and for the benefit of, the Owner or his assignees who will have been specifically approved by the Government prior to such assignment. To enforce the performance of this provision the Owner and such assignees, as well as the PHA, shall have the right to proceed against the Government by suit at law or in equity.

2.17 *Remedies Not Exclusive and Non-Waivers of Remedies.* Any remedy provided for herein shall not be exclusive or preclude the Owner, PHA and/or the Government from exercising any other remedy available under this ACC or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies available to such parties. Failure on the part of any such party to exercise any right or remedy shall not constitute a waiver of that or any other right or remedy, nor operate to deprive the party of the right thereafter to make any remedial action for the same or any subsequent default.

2.18. *Interest of Members, Officers, or Employees of PHA, Members of Local Governing Body, or Other Public Officials.*

(a) Neither the PHA nor any of its contractors or their subcontractors shall enter into any contract, subcontract, or arrangement, in connection with any Project, in which any member, officer, or employee of the PHA, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the PHA was activated, or any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the PHA, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, and if such interest is immediately disclosed to the PHA and such disclosure is entered upon the minutes of the PHA, the PHA, with the prior approval of the Government, may waive the prohibition contained in this subsection; Provided, however, that any such present member, officer, or employee of the PHA shall not participate in any action by the PHA relating to such contract, subcontract, or arrangement.

(b) The PHA shall insert in all contracts entered into in connection with any Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of its subcontracts, the following provisions:

"No member, officer, or employee of the PHA, no member of the governing body of the locality in which the Project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project, during his tenure or for one year thereafter,

shall have any interest, direct or indirect, in this contract or the proceeds thereof."

(c) The provisions of the foregoing subsections (a) and (b) of this Section 2 shall not be applicable to the General Depositary Agreement, or utility service the rates for which are fixed or controlled by a governmental agency.

2.10. *Interest of Member of or Delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this ACC or to any benefits which may arise therefrom.

APPENDIX IV

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT SUBSTANTIAL REHABILITATION

PRIVATE-OWNER/PHA PROJECT

PART I

This Agreement to Enter into Housing Assistance Payments Contract ("Agreement") is made and entered into by and between the ------- ("PHA"), which is a public housing agency as defined in the United States Housing Act of 1937, 42 U.S.C. 1437, *et seq.* ("Act"), at section 1437a(6), and ------- ("Owner").

Whereas, the Owner proposes to complete a housing project consisting of the substantial rehabilitation of certain projects and land as described Final Proposal; and

Whereas, the Owner and the PHA propose to enter into a Housing Assistance Payments Contract ("Contract") upon the completion of said project for the purpose of making housing assistance payments to enable eligible lower-income families ("Families") to occupy units in said project; and

Whereas, the PHA has entered into an Annual Contributions Contract dated -------, 19--, with the United States of America acting through the Department of Housing and Urban Development ("Government") with respect to Project No. ------- ("ACC"), under which the Government will provide financial assistance to the PHA pursuant to section 8 of the Act for the purpose of making housing assistance payments; and

Whereas, the Owner is also the rehabilitator, or, if the rehabilitator is other than the Owner, the rehabilitator's name is -------

Now therefore, the parties hereto agree as follows:

1.1 *SIGNIFICANT DATES; CONTENTS OF AGREEMENT.*

a. *Time for Completion of Project.* The time for completion of the project (see Section 1.2a) is ------ calendar days after the effective date of this Agreement.

b. *Date for Commencement of Work.* The date for commencement of work (see Section 1.2b) is -------, 19--.

c. *Contents of Agreement.* This Agreement consists of Part I, Part II, and the following exhibits:

Exhibit A: The approved Final Proposal including, among other things, evidence of management capability, and, if required, the architect's certification, the Affirmative Fair Housing Marketing Plan, and management program.

Exhibit B: The Housing Assistance Payments Contract ("Contract") to be executed upon acceptable completion of the project;

Exhibit C: The Annual Contributions Contract;

Exhibit D: The schedule of completion in stages, if applicable;

Exhibit E: The schedule of minimum rates of wages, if applicable; and

Additional exhibits: [Specify additional exhibits, if any. If none, insert "None."]

This Agreement, including said exhibits, comprises the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as contained herein. Nothing contained in this Agreement shall create or affect any relationship between the PHA and the lender or any contractors or subcontractors employed by the Owner in the completion of the project.

1.2 *Schedule of Completion.*

a. *Time for Completion.* The project shall be completed in accordance with Section 1.4 no later than the end of the period stated in Section 1.1a, or in stages as provided for in Exhibit D which identifies the units comprising each stage and the date of commencement and time for completion of each stage. Where completion in stages is provided for, all references to project completion shall be deemed to refer to project completion and/or completion of any stage, as appropriate.

b. *Timely Performance of Work.* The Owner agrees that no later than the date stated in Section 1.1b the work will be commenced and diligently continued. In the event the work is not commenced, diligently continued, and/or completed as aforesaid, the PHA reserves the right, subject to Government approval, to rescind this Agreement or take other appropriate action. The Owner shall report to the PHA the date work was commenced and shall thereafter furnish the PHA with periodic progress reports (quarterly unless more frequent reporting is required by the PHA).

c. *Delays.* In the event there is delay in the completion due to strikes, lockouts, labor union disputes, fire, unusual delays in transportation, unavoidable casualties, weather, acts of God, or any other causes beyond the Owner's control, or by delay authorized by the PHA, the time for completion shall be extended to the extent that completion is delayed due to one or more of these causes. No increases in the rents set forth in Exhibit B ("Contract Rents") may be granted on account of any such delays.

1.3 *CONSTRUCTION PERIOD.*

a. *Changes.* The Owner shall submit for PHA and Government approval any changes from Exhibit A which will materially reduce or alter his obligations, or any changes which alter the design or materially reduce the quality or amenities of the project. Approval of such changes may be conditioned on a reduction of Contract Rents. If such changes are made without prior approval by the PHA and the Government, the Owner may be required to reduce the Contract Rents or remedy the defects or deficiencies as a condition for acceptance of the project. Contract Rents may not be increased by reason of any changes or modifications.

b. *Commencement of Marketing.* The Owner shall commence and diligently continue marketing as soon as possible, but in any event no later than 60 days prior to the estimated completion date. The Owner shall notify the PHA of the date of commencement of marketing. The Owner shall also comply with all reporting requirements under the Affirmative Fair Housing Marketing Regulations. Not later than 30 days prior to the estimated completion date and periodically thereafter, the Owner shall notify the PHA of any units which he anticipates will be vacant on the effective date of the Contract. At the time the Contract is executed, the Owner shall submit a list of the dwelling units leased as of the effective date of the Contract and a list of the units not so leased, if any. The Owner will be entitled to housing assistance payments for any unleased units pursuant to Section 1.7b of the Contract only if he has fully complied with the requirements of this paragraph and the provisions of that Section.

c. *Management Certification.* Prior to acceptance of the project by the Government, the Owner shall certify in writing that there has been no change in the evidence of management capability or in the proposed management program (if one was required) specified in his Final Proposal other than changes approved in writing by the PHA and the Government in accordance with paragraph a of this Section.

d. *Labor Standards Certification.*[1] Prior to acceptance of the project by the Government, the Owner shall certify in writing that he has complied with the provisions of Sections 2.6 through 2.11 of this Agreement, and that to the best of his knowledge and belief there are no claims of underpayment to laborers or mechanics in alleged violation of said provisions of the Agreement in the event there are any such pending claims to the knowledge of the Owner or the PHA or the Government, the Owner shall be required to place a sufficient amount in escrow as determined by the Government to assure payment thereof.

1.4 *PROJECT COMPLETION.*

a. *Conformance to Final Proposal.* The completed project shall be in accordance with Exhibit A. The Owner shall be solely responsible for completion of the project.

b. *Notification of Completion.* The Owner shall notify the Government, with a copy to the PHA, when the work is completed and shall submit to the Government the evidence of completion described in paragraph c of this Section.

c. *Evidence of Completion.* Completion of the project shall be evidenced by furnishing the Government with all of the following:

(1) A certification by the Owner that:

(i) The property was treated and is in compliance with applicable HUD Lead Based Paint regulations 24 CFR 39,

(ii) If the property was constructed prior to 1950, the Family upon occupancy will receive the notice required by HUD Lead Based Paint regulations and procedures regarding the hazards of lead based paint poisoning, the symptoms and treatment of lead poisoning and the precautions to be taken against lead poisoning and that records showing receipt of such notice by each tenant will be maintained.

(2) A certificate of occupancy and/or other official approvals necessary for occupancy.

(3) A certification by the Owner, which will be supported by the Owner's warranty in the Contract, that:

(i) All work has been completed in accordance with the requirements of this Agreement;

(ii) The project is in good and tenantable condition;

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such expected items to be specified);

(iv) The project has been constructed in accordance with applicable zoning building, housing, and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials.

(4)[2] A certification by the registered architect responsible for inspection of construction that such inspection was performed by him or under his supervision with the frequency and thoroughness required by the generally accepted standards of professional care and judgment, and that to the best of his knowledge, belief, and professional judgment:

(i) All work has been completed in conformance with the certified working draw-

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[1] Strike this paragraph if the project involves fewer than nine Contract units.

[2] Strike this subparagraph (4) if the work is to be done other than in accordance with working drawings and specifications prepared and certified to by a registered architect.

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ings and specifications for the project or approved changes thereto (such changes to be listed);

(ii) The project is in good and tenantable condition; and

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified).

(iv) The project has been constructed in accordance with applicable zoning, building, housing, and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials.

d. *Inspection.*

(1) Within ten working days of the receipt of the Owner's notification of project completion, the Government representative, accompanied by a PHA representative, shall inspect the project and review the evidence of completion listed in paragraph c of this Section. Such inspection shall be sufficient to enable the Government inspector to state in his inspection report that he has inspected the observable elements and features of the project in accordance with professional standards of care and judgment and that, on the basis of such inspection, the project has been completed in accordance with the Agreement and, in particular, that there are no observable conditions inconsistent with the certifications of the Owner or the design architect (if required) or the inspecting architect (if required). As promptly as possible, the Government shall notify the Owner in writing as to whether or not the project has been completed in an acceptable manner.

(2) In the event the Owner disputes the Government's determinations, he may submit the controversy to third-party arbitration, at his expense, provided that the arbitration is advisory only.

e. *Acceptance of Project.* If the Government determines that the project is not acceptable under paragraph d(1) of this Section, the following shall apply:

(1) If the defects or deficiencies are only punchlist items or incomplete items awaiting seasonal opportunity, the project may be accepted and the Contract executed. If the Owner fails to complete such items within a reasonable time to the satisfaction of the PHA and the Government, the PHA may, upon 30 days notice, as directed by the Government, terminate the Contract or exercise the PHA's other rights under the Contract.

(2) If the defects or deficiencies are other than punchlist items or incomplete work awaiting seasonal opportunity, but the Government determines that (i) a certificate of occupancy and/or other official approvals necessary for occupancy has been issued, (ii) the project is in good and tenantable condition, and (iii) the project has been rehabilitated in accordance with the applicable zoning, building, housing and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials, the project may be accepted after the Owner corrects the defects or deficiencies or the project may be accepted subject to a specified reduction of the Contract Rents as determined by the Government.

(3) If the Government determines that the project is not acceptable under paragraphs e(1) or e(2) of this Section, the Government shall determine: (i) whether the defects or deficiencies can be corrected and (ii) whether a reduction in Contract Rents will be required as a condition to acceptance of the project. If it is determined that the defects or deficiencies can be corrected, the Owner shall be notified of the Government's determinations under (i) and (ii) of this subparagraph, and, if he agrees to comply with the conditions, an agreement shall be entered into pursuant to which the defects or deficiencies will be corrected and the project then accepted. If the Owner is unwilling to enter into such agreement or if he fails to perform the agreement, the project shall not be accepted. Prior to authorizing execution of the Contract, the Government will verify that appropriate corrective action has been taken.

f. *Completion in Stages.* If the project is to be completed in stages, the procedures of this Section shall apply to each stage.

1.5 *EXECUTION OF HOUSING ASSISTANCE PAYMENTS CONTRACT.*

a. *Time of Execution.* Upon acceptance of the project by the Government pursuant to Sections 1.3 and 1.4, the Contract shall be executed by the Owner and the PHA and shall then be approved by the Government.

b. *Completion in Stages.* If completion is in stages, the Contract shall be executed upon completion of the first stage, and the number and types of completed units and their Contract Rents shall be shown in Exhibit A-1 of the Contract. Thereafter, upon completion of each successive stage, the signature block provided in the Contract for that stage shall be executed by the Owner and the PHA and approved by the Government, and Exhibits A-2, A-3, etc., covering the additional units, shall become part of the Contract.

c. *Unleased Units at Time of Execution.* At the time of execution of the Contract, the PHA shall examine the lists of dwelling units leased and not leased, referred to in Section 1.2b, and shall determine whether or not the Owner has met his obligations under that Section with respect to any unleased units. The PHA shall state in writing its determination with respect to the unleased units and for which of those units it will make housing assistance payments pursuant to the Contract. The Owner shall indicate in writing his concurrence with this determination or his disagreement, reserving his rights to claim housing assistance payments for the unleased units pursuant to the Contract, without prejudice by reason of his signing the Contract. Copies of all documents referred to in this paragraph shall be furnished to the Government.

d. *Contract Rents.* The Contract Rents by unit size, amounts of housing assistance payments, and all other applicable terms and conditions shall be as specified in the proposed Housing Assistance Payments Contract, except that in no case may the initial Contract Rents for units in projects financed with mortgages insured under the National Housing Act exceed the rents approved by the Government in connection with the mortgage insurance for such projects.

e. *No Changes in Contract.* Each party has read or is presumed to have read the proposed Contract. It is expressly agreed that there shall be no change in the terms and conditions of the Contract other than in accordance with Section 1.3a and paragraph d of this Section.

1.6 *GOVERNMENT ASSURANCE TO OWNER.*

a. The approval of this Agreement by the Government signifies that the Government has executed the ACC and that the ACC has been properly authorized; that the faith of the United States is solemnly pledged to the payment of annual contributions pursuant to said ACC; and that funds have been obligated by the Government for such payments to assist the PHA in the performance of its obligations under the Contract. The Government and the PHA shall not, without the consent of the Owner, amend or modify the ACC in any manner which would reduce the amount of annual contributions payable thereunder for housing assistance payments except as authorized in the ACC and the Contract.

b. The ACC states that the ACC provisions quoted below in this paragraph are made for the benefit of the Owner, or his assignees who will have been specifically approved by the Government prior to such assignment, and that to enforce the performance of these provisions, the Owner and such assignees shall have the right to proceed against the Government by suit at law or in equity. Upon the determination by the Government that a default by the PHA has occurred, the following provisions of the ACC (which are hereby made a part of this Agreement), shall be applicable:

(a) *Failure or Inability of PHA to Comply with Agreement.* In the event the Government determines that the PHA is in default of its obligation under the Agreement with the Owner, or if such Agreement is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Agreement is drawn into question in any legal proceeding, or if the PHA asserts or claims that such Agreement is not binding upon the PHA for any such reason, the Government may, after reasonable notice to the PHA, determine that the occurrence of any such event, if the Owner is not in default, constitutes a Substantial Default hereunder as to the project. In such case, the Government will assume the PHA's rights and obligations under the Agreement and carry out the obligations of the PHA under the Agreement, including the obligation to enter into the Contract.

* * * * *

(d) *Return of Rights and Obligations to PHA.* All rights and obligations of the PHA assumed by the Government pursuant to this Section 2.17 will be returned as constituted at the time of such return (1) when the Government is satisfied that all defaults have been cured and that the project will thereafter be administered in accordance with all applicable requirements or (2) when the Housing Assistance Payments Contract is at an end, whichever occurs sooner.

1.7 *Authority of the PHA.* The PHA warrants that it is a "public housing agency" as defined in section 3(6) of the Act and that it is in fact and in law authorized to execute this Agreement.

Effective date. This Agreement shall be effective as of the date of execution by the Government.

In witness whereof, the parties hereto have executed this Agreement in four original counterparts.

Warning: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

Approved:	PHA ----------
United States of America Secretary of Housing and Urban Development	By ----------
	----------
	(Official Title)
	Date ----------, 19--
	OWNER ----------
By ----------	By ----------
----------	----------
(Official Title)	(Official Title)
Date ----------, 19--	Date ----------, 19--

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT—SUBSTANTIAL REHABILITATION—PRIVATE-OWNER/PHA PROJECT

PART II

2.1 *Training, Employment, and Contracting opportunities for Businesses and lower-income persons.*[3] a. The project assisted under this Agreement is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

b. Notwithstanding any other provision of this Agreement, the Owner shall carry out the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135 (published in 38 Federal Register 29220, October 22, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this Agreement. The requirements of said regulations include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by section 135.20(b) of the regulations and paragraph d of this Section in all contracts for work in connection with the project. The Owner certifies and agrees that he is under no contractual or other disability which would prevent him from complying with these requirements.

c. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this Agreement, shall be a condition of the Federal financial assistance provided to the project, binding upon the Owner, his successors and assigns. Failure to fulfill these requirements shall subject the Owner, his contractors and subcontractors, his successors, and assigns to the sanction specified by this Agreement, and to such sanctions as are specified by 24 CFR Section 135.135.

d. The Owner shall incorporate or cause to be incorporated into any contract or subcontract for work pursuant to this Agreement in excess of $50,000 cost, the following clause:

"EMPLOYMENT OF PROJECT AREA RESIDENTS AND CONTRACTORS

"A. The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

"B. The parties to this Agreement will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

"C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

"D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR, Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR, Part 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

"E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Section 135.135."

e. The Owner agrees that he will be bound by the above Employment of Project Area Residents and Contractors clause with respect to his own employment practices when he participates in federally assisted work.

2.2 *Equal employment opportunity.*[4] a. The Owner shall incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is to be performed pursuant to this Agreement, the following Equal Opportunity clause:

"EQUAL EMPLOYMENT OPPORTUNITY

"During the performance of this contract, the contractor agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by or at the direction of the Government setting forth the provisions of this Equal Opportunity clause.

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, or national origin.

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by or at the direction of the Government advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(6) In the event of the contractor's noncompliance with the Equal Opportunity clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

"(7) The contractor will include the portion of the sectence immediately preceding Paragraph (1) and the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance; Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interest of the United States."

[3] Strike this Section if the Contract Rents under the proposed Housing Assistance Payments Contract, over the maximum term of said Contract, are $500,000 or less.

[4] As used in Section 2.2, "HUD" means the United States of America acting through the Department of Housing and Urban Development.

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b. The Owner agrees that he will be bound by the above Equal Opportunity clause with respect to his own employment practices when he participates in federally assisted construction work.

c. The Owner agrees that he will assist and cooperate actively with HUD and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that he will furnish HUD and the Secretary of Labor such information as they may require for the supervision of such compliance, and that he will otherwise assist HUD in the discharge of HUD's primary responsibility for securing compliance.

d. The Owner further agrees that he will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by HUD or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

2.3 *Cooperation in equal opportunity compliance reviews.* The PHA and the Owner shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.4 *Flood insurance.* If the project is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

2.5 *Clean Air Act and Federal Water Pollution Control Act.*[5] In compliance with regulations issued by the Environmental Protection Agency ("EPA"), 40 CFR, Part 15, 39 F.R. 11099, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 1857, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Owner agrees that:

a. Any facility to be utilized in the performance of this Agreement or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to section 15.20 of said regulations;

b. He will promptly notify the PHA of the receipt of any communication from the EPA indicating that a facility to be utilized for the Agreement is under consideration to be listed on the EPA List of Violating Facilities;

c. He will comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder; and

d. He will include or cause to be included the provisions of this Section in every nonexempt subcontract, and that he will take such action as the Government may direct as a means of enforcing such provisions.

2.6 *Prevailing wage rates.*[6] a. Attached hereto and incorporated herein as Exhibit D is a schedule of minimum rates of wages applicable to this Agreement.

b. All laborers and mechanics employed in the construction of the project shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the regulations issued by the Secretary of Labor under the Copeland Act (29 CFR, Part 3)), the full amounts due at the time of payment computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor of the United States, which is incorporated herein, regardless of any contractual relationship which may be alleged to exist between the Owner or any subcontractor and such laborers and mechanics; and the wage determination decision and the Department of Labor Wage Rate Information Poster shall be posted by the Owner at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics subject to the provisions of paragraph c of this Section. Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

c. The Owner may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, or any bona fide fringe benefits not expressly listed in section 1(b)(2) of the Davis-Bacon Act or otherwise not listed in the wage determination decision of the Secretary of Labor which is included in this Agreement, only when the Secretary of Labor has found, upon the written request of the Owner, that the applicable standards of the Davis-Bacon Act have been met. Whenever practicable, the Owner should request the Secretary of Labor to make such findings before the making of the Agreement. In the case of unfunded plans and programs, the Secretary of Labor may require the Owner to set aside in a separate account assets for the meeting of obligations under the plan or program.

d. The Owner shall comply with the Copeland (Anti-Kickback) Regulations (29 CFR, Part 3) of the Secretary of Labor which are herein incorporated by reference.

e. Any class of laborers or mechanics (including apprentices and trainees) which is not listed in the wage determination and which is to be employed under the Agreement shall be classified or reclassified conformally to the wage determination. In the event that agreement cannot be reached on the proper classification or reclassification of a particular class of laborers and mechanics (including apprentices and trainees) to be used, the question will be referred by HUD to the Secretary of Labor for final determination.

f. Whenever the minimum wage rate prescribed in the Agreement for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the Owner is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof shall be established. In the event that agreement cannot be reached upon a cash equivalent of the fringe benefit, the question will be referred by HUD to the Secretary of Labor for final determination.

g. (1) (i) Apprentices will be permitted to work as such only when they are registered individually under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor; or, if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Owner as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subsection (b) immediately following or is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Owner will be required to furnish to the other party to this Agreement written evidence of the registration of his program and apprentices, as well as the appropriate ratios and wage rates for the area of construction prior to using any apprentices on the contract work.

(ii) Trainees will be permitted to work as such when they are bona fide trainees employed pursuant to a program approved by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, and where subsection (c) immediately following is applicable, in accordance with the provisions of paragraph g(2) of this Section.

(iii) On contracts in excess of $10,000 the employment of all laborers and mechanics, including apprentices and trainees, as defined in 29 CFR Section 5.2(c) shall also be subject to the provisions of paragraph g(2) of this Section. Apprentices and trainees shall be hired in accordance with the provisions of paragraph g(2).

(2) The Owner agrees that:

(i) He will make a diligent effort to hire for the performance of the Agreement a number of apprentices or trainees, or both, in each occupation, which bears to the average number of the journeymen in that occupation to be employed in the performance of the Agreement the applicable ratio as determined by the Secretary of Labor;

(ii) He will assure that 25 percent of such apprentices or trainees in such occupation are in their first year of training, where feasible. Feasibility here involves a consideration of (A) the availability of training opportunities for first year apprentices, (B) the hazardous nature of the work for beginning workers, (C) excessive unemployment of apprentices in their second and subsequent years of training;

(iii) During the performance of the Agreement he will, to the greatest extent possible, employ the number of apprentices or trainees necessary to meet currently the requirements of (i) and (ii) immediately preceding;

(iv) He will maintain records of employment by trade of the number of apprentices and trainees, apprentices and trainees by first year of training, and of journeymen, and the wages paid and hours of work of such apprentices, trainees and journeymen; and he will make these records available for inspec-

[5] Strike this Section if the Contract Rents under the proposed Housing Assistance Payments Contract, over the maximum term of said Contract, are $100,000 or less.

[6] As used in Sections 2.6 through 2.11, "HUD" means the United States of America acting through the Department of Housing and Urban Development. Strike Sections 2.6 through 2.11 if the project involves fewer than nine Contract units.

tion upon request of the Department of Labor and HUD;

(v) If he claims compliance based on the criterion stated in 29 CFR Section 5a.4(b), he will maintain records of employment, as described in the immediately preceding paragraph, on non-Federal and nonfederally assisted construction work done during the performance of the contract in the same labor market area; and he will make these records available for inspection upon request of the Department of Labor and HUD;

(vi) He will supply one copy of the written notices required in accordance with 29 CFR Section 5a.4(c) at the request of Government compliance officers, and will supply at three-month intervals during the performance of the Agreement and after completion of Agreement performance a statement describing steps taken toward making a diligent effort and containing a breakdown by craft, of hours worked and wages paid for first year apprentices and trainees, other apprentices and trainees, and journeymen. One copy of the statement will be sent to HUD and one to the Secretary of Labor.

2.7 *Submittal of payrolls and related reports.* a. Payrolls and basic records relating thereto shall be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics employed in the construction of the project. Such records shall contain the name and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under Section 2.6c that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Owner shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

b. The Owner shall submit weekly to the other party to this Agreement such copies and summaries of all his payrolls and those of each of his subcontractors as such other party may require. Each payroll and summary shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic conform with the work he performed. A submission of a "Weekly Statement of Compliance," which is required under this Agreement and the Copeland Regulations of the Secretary of Labor (29 CFR, Part 3), and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor under Section 2.6c shall satisfy this requirement. The Owner shall make the records required under the labor standards clauses of this Agreement available for inspection by authorized representatives of HUD and the Department of Labor, and will permit such representatives to interview employees during working hours on the job.

c. The Owner shall also furnish to the other parties to this Agreement any other information or certifications relating to employees in such form as such other party may request.

2.8 *Disputes Concerning Wage Rates and Classifications of Labor.* a. All disputes concerning prevailing wage rates or classifications arising under this Agreement involving (1) significant sums of money, (2) large groups of employees, or (3) novel or unusual situations shall be promptly reported to HUD for decision or, at the option of HUD, referral to the Secretary of Labor of the United States. The decision of HUD or the Secretary of Labor, as the case may be, shall be final.

b. All questions arising under this Agreement relating to the application or interpretation of the Copeland (Anti-Kickback) Act shall be referred to the Secretary of Labor of the United States for ruling or interpretation, and such ruling or interpretation shall be final.

2.9 *Wage claims and adjustments.* In cases of underpayment of salaries or wages to any laborers or mechanics (including apprentices and trainees) by the Owner (or any of his subcontractors), the Owner shall be required to place an amount in escrow, as determined by HUD, sufficient to pay persons employed on the work covered by the Agreement the difference between the salaries or wages actually paid such employees for the total number of hours worked, and the amounts withheld may be disbursed by HUD for and on account of the Owner or the subcontractor to the respective employees to whom they are due.

2.10 *Contract Work Hours and Safety Standards Act—overtime compensation.* a. Neither the Owner nor any subcontractor contracting for any part of the work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in any such workweek, as the case may be.

b. In the event of any violation of the clause set forth in paragraph a of this Section, the Owner and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Owner and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed, with respect to each individual laborer or mechanic employed in violation of the clause set forth in paragraph a of this Section, in the sum of $10 for each calendar day on which such employee was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph a.

c. The Owner shall deposit in escrow such amounts determined by HUD to be necessary to satisfy any liability of the Owner or any subcontractor for liquidated damages as provided in paragraph b of this Section.

2.11 *Termination; debarment; subcontracts.* a. A breach of the provisions of the foregoing Sections 2.6, 2.7, 2.8, 2.9, and 2.10 may be grounds for termination of this Agreement and for debarment as provided in 29 CFR Section 5.6.

b. The Owner shall insert in any subcontracts Section 2.6 (and with respect to Section 2.6g(3), copies of 29 CFR Sections 5a.4, 5a.5, 5a.6 and 5a.7 shall be attached), 2.7, 2.8, 2.9, 2.10, and 2.11a, and also a clause requiring the subcontractors to include these Sections in any lower tier subcontract which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

2.12 *Disputes.* a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement of the PHA and the Owner may be submitted by either party to the Department of Housing and Urban Development field office director who shall make a decision and shall mail or otherwise furnish a written copy thereof to the Owner and the PHA.

b. The decision of the field office director shall be final and conclusive unless, within 30 days from the date of receipt of such copy, either party mails or otherwise furnishes to the Government a written appeal addressed to the Secretary of Housing and Urban Development. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this Section, the appellant shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, both parties shall proceed diligently with the performance of the Agreement and in accordance with the decision of the field office director.

c. This Section does not preclude consideration of questions of law in connection with decisions rendered under paragraphs a and b of this Section; *Provided, however,* That nothing herein shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

2.13 *Interest of members, officers, or employees of PHA, members of local governing body, or other public officials.* No member, officer, or employee of the PHA, no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or in any proceeds or benefits arising therefrom.

2.14 *Interest of member of or delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Agreement or to any benefits which may arise therefrom.

2.15 *Nonassignability.* a. The Owner agrees that he has not made and will not make any sale, assignment, or conveyance or transfer in any other form, of this Agreement or the project or any part thereof or any of his interest therein, without the prior consent of the PHA and the Government; Provided, however, that in the case of an assignment as security for the purpose of obtaining financing of the project, the PHA and the Government shall consent in writing if the terms of the financing have been approved by the Government. An assignment by the Owner to a limited partnership of which the Owner is the sole general partner shall not be considered an assignment herein.

b. The Owner agrees that he will not change to a different rehabilitator from the one named in the preamble of this Agreement, except with the prior consent of the PHA and the Government.

c. The Owner agrees that the approved developer has not made, and will not make, except with the prior consent of the PHA and the Government, any assignment or transfer in any form of the rehabilitator's

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contract to construct the project, or of any part thereof, or any of the rehabilitator's interests therein.

d. The Owner agrees to notify the PHA and the Government promptly of any proposed action covered by paragraph a or b or c of this Section. The Owner further agrees to request the written consent of the PHA and the Government in regard thereto, except in the case of an assignment as security as provided in paragraph a of this Section.

e. For the purpose of this Section, a transfer of stock in the Owner or rehabitation in whole or in part, by a party holding rehabitation ten percent or more of the stock of said Owner or developer, or a transfer by more than one stockholder or the owner of 10 percent or more of the stock of said Owner, or any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to the parties in control of the Owner or rehabitation of the degree thereof, by any other method or means, whether by increasd capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Agreement, the project or the rehabitation contract. With respect to this provision, the Owner, and the party signing this Agreement on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect thereto.

[illegible]

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—HOUSING ASSISTANCE PAYMENTS CONTRACT—SUBSTANTIAL REHABILITATION—PRIVATE-OWNER/PHA PROJECT

[illegible]

This Housing Assistance Payments Contract ("Contract") is entered into by and between the _____-("PHA"), which is a public housing agency as defined in the United States Housing Act of 1937, 42 U.S.C. 1437, et seq. ("Act"), at section 1437a(6), and _____ ("Owner"), and approved by the United States of America acting through the Department of Housing and Urban Development ("Government"), pursuant to the Act and the Department of Housing and Urban Development Act, 42 U.S.C. 3531, et seq.

The parties hereto agree as follows:

1.1 *Significant dates and other items; contents of contract.* a. *Effective Date of Contract.* The effective date of this Contract is _____, 19__. [This date shall be no earlier than the date of approval by the Government.]

b. *Initial Term of Contract.* The initial term of this Contract (see Section 1.4a) shall be ____ years [not to exceed five years], beginning with the effective date of this Contract and ending _____, 19__.

c. *Number and Length of Optional Additional Terms.* The number and length of optional additional terms (see Section 1.4a) shall be ____ terms of __ year each [not to exceed five years each].

d. *Maximum Total Term of Contract.* The maximum total term of this Contract, including renewals (see Section 1.4a) shall be __ years. [Insert 20 years, or 40 years in the case of a project owned by or financed by a loan or loan guarantee from a State or local agency.]

e. *Fiscal Year.* The ending date of each Fiscal Year (see Section 1.4b) shall be _____ [insert March 31, June 30, September 30, or December 31, as determined by the Government].

f. *Annual Contributions Contract.* The Annual Contributions Contract applicable to this Contract ("ACC") (see Section 1.5a) is the ACC dated _____ with respect to Project No. _____.

g. *Maximum Housing Assistance Commitment.* The maximum amount of the commitment for housing assistance payments under this Contract (see Section 1.6a) is $_____ per annum. [Enter amount specified in the ACC for housing assistance payments.]

h. *Contents of Contract.* This Contract consists of Part I, Part II, and the following exhibits:

Exhibit A: The schedule showing the number of units by size ("Contract Units") and their applicable rents ("Contract Rents");

Exhibit B: The Project Description;

Exhibit C: The statement of services, maintenance and utilities to be provided by Owner;

Exhibit D: The Affirmative Fair Housing Marketing Plan, if applicable; and

Additional exhibits: [Specify additional exhibits, if any. If none, insert "None."]

This Contract, including said exhibits, comprises the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as contained herein.

1.2 *Owner's warranties.* a. *Legal Capacity.* The Owner warrants that he has the legal right to execute this Contract and to lease dwelling units covered by this Contract.

b. *Completion of Work.* The Owner warrants that the project as described in Exhibit B is in good and tenantable condition and that all work has been completed in accordance with the terms and conditions of the Agreement to Enter into Housing Assistance Payments Contract ("Agreement") or will be completed in accordance with the terms on which the project was accepted. The Owner further warrants that he will remedy any defects or omissions covered by this warranty if called to his attention within 12 months of the effective date of this Contract.

1.3 *Families to be housed; PHA assistance.* a. *Families To Be Housed.* The Contract Units are to be leased by the Owner to eligible lower-income families ("Families") for use and occupancy by such Families solely as private dwellings.

b. *PHA Assistance.* (1) The PHA hereby agrees to make housing assistance payments on behalf of Families for the Contract Units, to enable such Families to lease decent, safe, and sanitary housing pursuant to section 8 of the Act. Such housing assistance payments shall equal the difference between the Contract Rents for units leased by Families and the portion of such rents payable by Families as determined by the Owner in accordance with schedules and criteria established by the Government.

(2) If there is an Allowance for Utilities and Other Services and if such Allowance exceeds the Gross Family Contribution, the Owner shall pay the Family the amount of such excess on behalf of the PHA upon receipt of funds from the PHA for that purpose.

1.4 *Term of contract; fiscal year.* a. *Term of Contract.* The initial term of this Contract shall be stated in Section 1.1b. This Contract may be renewed, at the sole option of the Owner, for the number and length of additional terms stated in Section 1.1c, provided that the total Contract term for any unit, including renewals, shall not exceed the number of years stated in Section 1.1d. Renewal shall be automatic unless the Owner notifies the PHA, no later than 60 days prior to the expiration of the current term, of his intention not to renew. If the project is accepted in stages, the dates for the Initial term and renewal terms shall be separately related to the units in each stage; Provided, however, that the total Contract term for the units in all the stages, counting from the effective date of the Contract with respect to the first stage, shall not exceed the total Contract terms stated in Section 1.1d, plus two years.

b. *Fiscal Year.* The Fiscal Year for the project shall be the 12-month period ending on the date stated in Section 1.1e: Provided, however that the first Fiscal Year for the project shall be the period beginning with the effective date of the Contract and ending on the last day of said established Fiscal Year which is not less than 12 months after such effective date. If the first Fiscal Year exceeds 12 months, the maximum total annual housing assistance payment in Section 1.6a may be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.

1.5 *Annual contributions contract.* a. *Identification of Annual Contributions Contract.* The PHA has entered into an Annual Contributions Contract with the Government as identified in Section 1.1f, under which the Government will provide financial assistance to the PHA pursuant to section 8 of the Act, for the purpose of making housing assistance payments. A copy of the ACC shall be provided upon request.

b. *PHA Pledge of Certain ACC Payments.* The PHA hereby pledges to the payment of housing assistance payments pursuant to this Contract the portion of annual contributions payable under the ACC for such housing assistance payments. The PHA shall not, without the consent of the Owner, amend or modify the ACC in any manner which would reduce the amount of such annual contributions, except as authorized in the ACC and this Contract.

c. *Government Approval of Housing Assistance Payments Contract.* The approval of this Contract by the Government signifies that the Government has executed the ACC and that the ACC has been properly authorized; that the faith of the United States is solemnly pledged to the payment of annual contributions pursuant to said ACC; and that funds have been obligated by the Government for such payments to assist the PHA in the performance of its obligations under the Contract.

1.6 *Maximum housing assistance commitment; Project reserve.* a. *Maximum Housing Assistance Commitment.* Notwithstanding any other provisions of this Contract (other than paragraph b of this Section) or any provisions of any other contract between the PHA and the Owner, the PHA shall not be obligated to make and shall not make any housing assistance payments under this Contract in excess of the amount per annum stated in Section 1.1g: Provided, however, that this amount shall be reduced commensurate with any reduction in the number of units under this Contract.

b. *Project Reserve.* As provided in the ACC, a project account shall be established and maintained, in an amount as determined by the Government consistent with its responsibilities under section 8(c)(6) of the Act, out of amounts by which the maximum annual ACC commitment exceeds amounts paid under the ACC for any Fiscal Year. This account shall be established and maintained by the Government as a specifically identified and segregated account. To the extent funds are available in said account, the maximum total annual housing assistance payments for any Fiscal Year may exceed the maximum amount stated in paragraph a of this Section to cover increases in Contract Rents or decreases in Family incomes (see Section 1.9). Any amount remaining in said account after payment of the last housing assistance payment with respect to the project shall be applied by the Government in accordance with law.

1.7 *Housing assistance payments to owners.* a. *General.* (1) Housing assistance payments shall be paid to the Owner for units under lease by Families in accordance with

the Contract. The housing assistance payment will pay the Owner the difference between the Contract Rent and that portion of said rent payable by the Family as determined in accordance with the Government-established schedules and criteria.

(3) The Owner shall be entitled to Contract Rents in accordance with the terms of this Contract. The amount of housing assistance payment payable on behalf of a Family and the amount of rent payable by such Family shall be subject to change by reason of changes in Family income, Family composition, extent of exceptional medical or other unusual expenses, or by reason of adjustment by the Government of any applicable Allowance for Utilities and Other Services. Any such change shall be determined in accordance with the Government-established schedules and criteria, and shall be effective as of the date stated in a notification of such change to the Family.

b. *Vacancies During Rent-up.* If a Contract Unit is not leased as of the effective date of the Contract, the Owner shall be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract, provided that the Owner (1) commenced marketing and otherwise complied with Section 1.2b of the Agreement, (2) has taken and continues to take all feasible actions to fill the vacancy, including, but not limited to, contacting applicants on his waiting list, requesting the PHA and other appropriate sources to refer eligible applicants, and advertising the availability of the unit, and (3) has not rejected any eligible applicant, except for good cause acceptable to the PHA.

c. *Vacancies After Rent-up.* (1) If a Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days; Provided, however, that if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to the Government or as the Government may direct. (See also Section 1.10b.) The Owner shall not be entitled to any payment under this subparagraph unless he: (i) immediately upon learning of the vacancy, has notified the PHA of the vacancy or prospective vacancy and the reasons for the vacancy, and (ii) has taken and continues to take the actions specified in paragraphs b(2) and b(3) of this Section.

(2) If the Owner proposes to evict a Family, he shall not be entitled to any payment under paragraph c(1) of this Section unless the request for such payment is supported by a certification that (i) he has given such Family a written notice of the proposed eviction, stating the grounds and advising the Family that it has 10 days within which to present its objections to the Owner in writing or in person and (ii) the proposed eviction is not in violation of the Lease or the Contract or any applicable law.

d. *Limitation on Payments for Vacant Units.* The Owner shall not be entitled to housing assistance payments with respect to vacant units under this Section to the extent he is entitled to payments from other sources (e.g., payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the Housing and Community Development Act of 1974 or payments under Section 1.10b of this Contract.

e. *PHA Not Obligated for Family Rent.* The PHA has not assumed any obligation for the amount of rent payable by any Family or the satisfaction on any claim by the Owner against any Family other than in accordance with Section 1.10b of this Contract. The financial obligation of the PHA is limited to making housing assistance payments on behalf of Families in accordance with this contract.

f. *Owner's Monthly Requests for Payments.* (1) The Owner shall submit monthly requests to the PHA or as directed by the PHA for housing assistance payments. Each such request set forth: (i) the name of each Family and the address and/or number of the unit leased by the Family; (ii) the address and/or the number of units, if any, not leased to Families for which the Owner is claiming payments; (iii) the Contract Rent as set forth in Exhibit A for each unit for which the Owner is claiming payments; (iv) the amount of rent payable by the Family leasing the unit; and (v) the total amount of housing assistance payments requested by the Owner.

(2) Each of the Owner's monthly requests shall contain a certification by him that to the best of his knowledge and belief (i) the dwelling unit is in Decent, Safe, and Sanitary condition, (ii) all the other facts and data on which the request for funds is based are true and correct, (iii) the amount requested has been calculated in accordance with the provisions of this Contract and is payable under the Contract, and (iv) none of the amount claimed has been previously claimed or paid.

(3) If the Owner has received an excessive payment, the PHA or the Government, in addition to any other rights to recovery, may deduct the amount from any subsequent payment or payments.

(4) The Owner's monthly requests for housing assistance payments shall be made subject to penalty under 18 U.S.C. 1001, which provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

1.8 *Maintenance, operation and inspection.* a. *Maintenance and Operation.* The Owner agrees (1) to maintain and operate the Contract Units and related facilities so as to provide Decent, Safe, and Sanitary housing, and (2) to provide all the services, maintenance and utilities set forth in Exhibit C. If the PHA determines that the Owner is not meeting any of these obligations, the PHA shall have the right, in

b. *Inspection.* (1) Prior to occupancy of any unit by a Family, the Owner and the Family shall inspect the unit and both shall certify, on the form prescribed by the Government, that they have inspected the unit and have determined it to be Decent, Safe, and Sanitary in accordance with the criteria provided in the prescribed form.

(2) The PHA shall inspect or cause to be inspected each Contract Unit and related facilities at least annually and at such other times (including prior to initial occupancy of any unit) as the PHA may determine to be necessary to assure that the Owner is meeting his obligation to maintain the units in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. The PHA shall take into account complaints by occupants and any other information coming to its attention in scheduling inspections.

c. *Units Not Decent, Safe, and Sanitary.* If the PHA notifies the Owner that he has failed to maintain a dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action with the time prescribed in the notice, the PHA may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments, even if the Family continues to occupy the unit. If, however, the Family wishes to be rehoused in another dwelling unit with Section 8 assistance and the PHA does not have other Section 8 funds for such purposes, the PHA may use the abated housing assistance payments for the purpose of rehousing the Family in another dwelling unit. Where this is done, the Owner shall be notified that he will be entitled to resumption of housing assistance payments for the vacated dwelling unit if (1) the unit is restored to Decent, Safe, and Sanitary condition, (2) the Family is willing to and does move back into the restored unit, and (3) a deduction is made for the expenses incurred by the Family for both moves.

d. *Notification of Abatement.* Any abatement of housing assistance payments shall be effective as provided in written notification to the Owner. The PHA shall promptly notify the Family of any such abatement.

e. *Overcrowded and Undercoccupied Units.* If the PHA determines that a Contract Unit is not Decent, Safe, and Sanitary by reason of overcrowding, or that a Contract unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to such unit will not be abated, unless the Owner fails to offer the Family a suitable unit as soon as one becomes vacant and ready for occupancy. In the case of an overcrowded unit, if the Owner does not have any suitable units or if no vacancy of a suitable unit occurs within a reasonable time, the PHA will assist the Family in finding a suitable dwelling unit and require the Family to move to such a unit as soon as possible. The Owner may receive housing assistance payments for the vacated unit if he complies with the requirements of Section 1.7c(1).

1.9 *Rent adjustments.* a. *Funding of Adjustments.* Housing assistance payments will be made in increased amounts commensurate with Contract Rent adjustments under this Section up to the maximum total annual housing assistance payments committed under Section 1.6a of this Contract. The provisions of the ACC which are referred to in Section 1.6b of this Contract are designed (by providing for maximum total annual commitments in excess of the amounts required at the time of the initial rental of dwelling units and by setting aside such excess amounts in a project reserve) to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family incomes. The ACC further provides that the Government will take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

b. *Automatic Annual Adjustments.* (1) Automatic Annual Adjustment Factors will be determined by the Government at least annually; interim revisions may be made as market conditions warrant. Such Factors and the basis for their determination will be published in the Federal Register. These published Factors will be reduced appropriately by the Government where utilities are paid directly by the Families.

(2) On each anniversary date of the Contract, the Contract Rents shall be adjusted

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by applying the applicable Automatic Annual Adjustment Factor most recently published by the Government. Contract Rents may be adjusted upward or downward, as may be appropriate; however, in no case shall the adjusted Contract Rents be less than the Contract Rents on the effective date of the Contract.

c. *Special Additional Adjustments.* Special additional adjustments may be granted, when approved by the Government, to reflect increases in the actual and necessary expenses of owning and maintaining the Contract Units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the Owner clearly demonstrates that such general increases have caused increases in the Owner's operating costs which are not adequately compensated for by automatic annual adjustments. The Owner shall submit to the Government financial statements which clearly support the increase.

d. *Overall Limitation.* Notwithstanding any other provisions of this Contract, adjustments as provided in this Section shall not result in material differences between the rents charged for assisted and comparable unassisted units as determined by the Government.

e. *Incorporation of Rent Adjustment.* Any adjustment in Contract Rents shall be incorporated into Exhibit A by a dated addendum to the exhibit.

1.10 *Marketing and leasing of units; a. Compliance with Equal Opportunity.* Marketing of units and selection of Families by the Owner shall be in accordance with the Owner's Government-approved Affirmative Fair Housing Marketing Plan, shown as Exhibit D, and with all regulations relating to fair housing advertising.

b. *Security and Utility Deposits.* (1) The Owner may require Families to pay a security deposit in an amount equal to one month's Gross Family Contribution. If a Family vacates the unit, the Owner may utilize the deposit as reimbursement for any unpaid rent or damage caused by the Family. If the Family has provided a security deposit, and it is insufficient for such reimbursement, the Owner may claim reimbursement from HUD or the PHA, as appropriate, not to exceed an amount equal to the remainder of one month's Contract Rent. If a Family vacates the unit owing no rent and causing no damage to the unit or if the amount of unpaid rent and/or damage is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

(2) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include such interest. All security deposit funds shall be deposited by the Owner in a segregated bank account, and the balance of this account at all times, shall be equal to the total amount collected from tenants then in occupancy, plus any accrued interest. The Owner must comply with all State and local laws regarding interest payments on security deposits.

(3) Families shall be expected to obtain the funds to pay security and utility deposits, if required, from their own resources and/or other private or public sources.

c. *Eligibility, Selection and Admission of Families.* (1) The Owner shall be responsible for determination of eligibility of applicants, selection of families from among those determined to be eligible, and computation of the amount of housing assistance payments on behalf of each selected Family in accordance with schedules and criteria established by the Government. In the initial renting of the Contract Units, the Owner shall lease at least 20 percent to Very Low-Income Families (determined in accordance with the Government-established schedules and criteria) and shall thereafter exercise his best efforts to maintain at least 20 percent occupancy of the Contract Units by Very Low-Income Families as determined in accordance with such schedules and criteria.

(2) The lease entered into between the Owner and each selected Family shall be on the form of Lease approved by the Government.

(3) The Owner shall make a reexamination of Family income, composition, and the extent of medical or other unusual expenses incurred by the Family, at least annually (except that such reviews may be made at intervals of no longer than two years in the case of elderly Families), and appropriate redeterminations shall be made by the Owner of the amount of Family contribution and the amount of housing assistance payment, all in accordance with schedules and criteria established by the Government. In connection with the reexamination, the Owner shall determine what percentage of Families in occupancy are Very Low-Income Families. If there are fewer than 20 percent Very Low-Income Families in occupancy, the Owner shall report the fact to the Government and shall adopt changes in his admission policies to achieve, as soon as possible, at least 20 percent occupancy by such Families.

d. *Rent Redetermination after Adjustment in Allowance for Utilities and Other Services.* In the event that the Owner is notified of a Government determination making an adjustment in the Allowance for Utilities and Other Services applicable to any of the Contract Units, the Owner shall promptly make a corresponding adjustment in the amount of rent to be paid by the affected Families and the amount of housing assistance payments.

e. *Processing of Applications and Complaints.* The Owner shall process applications for admission, notifications to applicants, and complaints by applicants in accordance with applicable Government requirements and shall maintain records and furnish such copies or other information as may be required by the Government.

f. *Review; Incorrect Payments.* In making housing assistance payments to Owners, the PHA or the Government will review the Owner's determinations under this Section. If as a result of this review, or other reviews, audits or information received by the PHA or the Government at any time, it is determined that the Owner has received improper or excessive housing assistance payments, the PHA or the Government shall have the right to deduct the amount of such overpayments from any amounts otherwise due the Owner, or otherwise effect recovery thereof.

1.11 *Termination of tenancy.* The Owner shall be responsible for termination of tenancies, including evictions. However, conditions for payment of housing assistance payments for any resulting vacancies shall be as set forth in Section 1.7c.

1.12 *Reduction of number of contract units for failure to lease to eligible families.* a. *Twelve Months after Effective Date of Contract.* If at any time, beginning six months after the effective date of this Contract, the Owner fails for a continuous period of six months to have at least 80 percent of the Contract Units leased or available for leasing by Families, the PHA, with Government approval, may on 30 days notice reduce the number of Contract Units to not less than the number of units under lease or available for leasing by Families, plus 10 percent of such number, if that number is 10 or more, rounded to the next highest number.

b. *At End of Initial and Each Renewal Term.* At the end of the initial term of the Contract and of each renewal term, the PHA, with Government approval, may, by notice to the Owner, reduce the number of Contract Units to not less than (1) the number of units under lease or available for leasing by Families at that time or (2) the average number of units so leased or available for leasing during the last year, whichever is the greater number, plus 10 percent of such number, if the number is 10 or more, rounded to the next highest number.

(c) *Restoration of Units.* Any reduction pursuant to paragraphs a or b of this Section shall not preclude subsequent restoration of Contract units if contract authority is available and if the Government determines that the restoration is justified as a result of changes in demand and in the light of the Owner's record of compliance with his obligations under the Contract.

1.13. *RESPONSIBILITY FOR ADMINISTRATION OF CONTRACT.* The PHA is primarily responsible for administration of the Contract. However, if the PHA is the lender, the following shall apply:

(a) The Government shall have the right to make independent audits, reviews, and determinations as to compliance by the Owner with any or all of his obligations under the Contract.

(b) In the event the Government determines that the Owner is in default with respect to any or all of his obligations, the Government shall have the right to take direct action (as if the Government were the party to the Contract primarily responsible for its administration) to enforce any or all available remedies, including, but not limited to, abatement of housing assistance payments, collection of payments previously made in violation of the Contract, and termination of the Contract in whole or in part.

(c) The Owner hereby expressly agrees to recognize the rights of the Government in the event it takes any action under this Section in the same manner and to the same extent as if the action were taken by the PHA.

(d) The Owner hereby expressly agrees to recognize the rights of the Government in the event it takes any action under this Section in the same manner and to the same extent as if the action were taken by the PHA.

WARNING: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

APPROVED:	OWNER ----------
United States of America	By ---------- (Official Title)
Secretary of Housing and Urban Development	Date ----------, 19--
By ----------	PHA ----------
---------- (Official Title)	By ---------- (Official Title)
Date ----------, 19--	Date ----------, 19--

[If the project is to be completed and accepted in stages, execution of the Contract with respect to the several stages appears on the following pages of this Contract.]

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 1

This Contract is hereby executed with respect to the units described in Exhibit A–1.

EFFECTIVE DATE. The effective date of this Contract with respect to the units described in Exhibit A–1 is ----------, 19--.

[Insert date which shall be no earlier than the date of approval by the Government.]

APPROVED:
United States of America
Secretary of Housing and Urban Development
By _____
_____
_____
(Official Title)
Date _____, 19__

OWNER _____
By _____
(Official Title)
Date _____, 19__
PHA _____
By _____
(Official Title)
Date _____, 19__

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 2

This Contract is hereby executed with respect to the units described in Exhibit A–2.

Effective date. The effective date of this Contract with respect to the units described in Exhibit A–2 is _____, 19__. [Insert date which shall be no earlier than the date of approval by the Government.]

APPROVED:
United States of America Secretary of Housing and Urban Development
By _____
_____
_____
(Official Title)
Date _____, 19__

OWNER _____
By _____
(Official Title)
Date _____, 19__
PHA _____
By _____
(Official Title)
Date _____, 19__

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 3

This Contract is hereby executed with respect to the units described in Exhibit A–3.

EFFECTIVE DATE. The effective date of this Contract with respect to the units described in Exhibit A–3 is_____, 19__. [Insert date which shall be no earlier than the date of approval by the Government.]

APPROVED:
United States of America Secretary of Housing and Urban Development
By _____
_____
_____
(Official Title)
Date _____, 19__

OWNER _____
By _____
(Official Title)
Date _____, 19__
PHA _____
By _____
(Official Title)
Date _____, 19__

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—HOUSING ASSISTANCE PAYMENTS CONTRACT—SUBSTANTIAL REHABILITATION—PRIVATE-OWNER/PHA PROJECT

PART II

2.1 *Nondiscrimination in housing.* a. The Owner shall not in the selection of Families, in the provision of services, or in any other manner, discriminate against any person on the grounds of race, color, creed, religion, sex, or national origin. No person shall be automatically excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.

b. The Owner shall comply with all requirements imposed by Title VIII of the Civil Rights Act of 1968, and any rules and regulations pursuant thereto.

c. The Owner shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88–352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, *et seq.*; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act, the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the grounds of race, color, creed, religion or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program, or be otherwise subjected to discrimination. This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, *et seq.*; issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the Owner to comply therewith inures to the benefit of the Government, of the said Department, and the PHA any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the Owner.

2.2 *Training, employment, and contracting opportunities for businesses and lower-income persons.*[1] a. The project assisted under this Contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

b. Notwithstanding any other provision of this Contract, the Owner shall carry out the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135 (published in 38 Federal Register 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this Contract. The requirements of said regulations include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by section 135.20(b) of the regulations and paragraph d of this Section in all contracts for work in connection with the project. The Owner certifies and agrees that he is under no contractual or other disability which would prevent him from complying with these requirements.

c. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the Owner, his successors and assigns. Failure to fulfill these requirements shall subject the Owner, his contractors and subcontractors, his successors, and assigns to the sanction specified by this Contract, and to such sanctions as are specified by 24 CFR Section 135.135.

d. The Owner shall incorporate or cause to be incorporated into any contract or subcontract for work pursuant to this Contract in excess of $50,000 cost, the following clause:

"EMPLOYMENT OF PROJECT AREA RESIDENTS AND CONTRACTORS

"A. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C., 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

"B. The parties to this Contract will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

"C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

"D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontract is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR, Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR, Part 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

"E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Section 135.135."

e. The Owner agrees that he will be bound by the above Employment of Project Area Residents and Contractors clause with respect to his own employment practices when he participates in federally assisted work.

2.3 *Cooperation in equal opportunity compliance reviews.* The PHA and the Owner shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

[1] Strike this Section if the Contract Rents on the effective date of this Contract, over the maximum term of this Contract, are $250,000 or less.

2.4 *Flood insurance.* If the project is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

2.5 *Clean Air Act and Federal Water Pollution Control Act.*[1] In compliance with regulations issued by the Environmental Protection Agency ("EPA"), 40 CFR, Part 15, 39 F.R. 11099, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 1857, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Owner agrees that:

a. Any facility to be utilized in the performance of this Contract or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to section 15.20 of said regulations;

b. He will promptly notify the PHA of the receipt of any communication from the EPA indicating that a facility to be utilized for the Contract is under consideration to be listed on the EPA List of Violating Facilities;

c. He will comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder; and

d. He will include or cause to be included the provisions of this Section in every nonexempt subcontract, and that he will take such action as the Government may direct as a means of enforcing such provisions.

2.6 *Reports and access to premises and records.* a. The Owner shall furnish such information and reports pertinent to the Contract as reasonably may be required from time to time by the PHA or the Government.

b. The Owner shall permit the PHA or the Government or any of their duly authorized representatives to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the monthly requests for housing assistance payments.

2.7 *Default by the owner.* a. A default by the Owner under this Contract shall result if:

(1) The Owner has violated or failed to comply with any provision of, or obligation under, this Contract or of any Lease; or

(2) The Owner has asserted or demonstrated an intention not to perform some or all of his obligations under this Contract or under any Lease.

b. Upon a determination by the PHA that a default has occurred, the PHA, with approval of the Government, shall notify the Owner of the nature of the default, of the actions required to be taken on account of the default (including the curing of the default by the Owner, the abatement of housing assistance payments in whole or in part, where appropriate, or any combination of actions), and of the time within which the Owner shall respond with a showing that he has taken all the actions required of him. If the Owner fails to respond or take action to the satisfaction of the PHA and the Government, the PHA shall take appropriate actions as directed or approved by the Government, to achieve compliance or to terminate the Contract in whole or in part.

2.8 *Default by the PHA.* The ACC states that the ACC provisions quoted in this Section are made with, and for the benefit of, the Owner or his assignees who will have been specifically approved by the Government prior to such assignment, and that to enforce the performance of these provisions, the Owner and such assignees shall have the right to proceed against the Government by suit at law or in equity. Upon the determination by the Government that a default by the PHA has occurred, the following provisions of the ACC (which is hereby made a part of this Contract), shall be applicable:

"(b) *Failure or Inability of PHA to Comply with Contract.* In the event of failure of the PHA to comply with the Contract with the Owner, or if such Contract is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Contract is drawn into question in any legal proceeding, or if the PHA asserts or claims that such Contract is not binding upon the PHA for any such reason, the Government may, after reasonable notice to the PHA, determine that the occurrence of any such event, if the Owner is not in default, constitutes a Substantial Default hereunder. In such case, the Government will assume the PHA's rights and obligations under such Contract, and the Government shall, for the duration of such Contract, continue to pay Annual Contributions for the purpose of making housing assistance payments with respect to dwelling units under such Contract, shall perform the obligations and enforce the rights of the PHA, and shall exercise such other powers as the Government may have to cure the Default.

* * * * *

"(d) *Return of Rights and Obligations to PHA.* All rights and obligations of the PHA assumed by the Government pursuant to this Section 2.17 will be returned as constituted at the time of such return (1) when the Government is satisfied that all defaults have been cured and that the Project will thereafter be administered in accordance with all applicable requirements or (2) when the Housing Assistance Payments Contract is at an end, whichever occurs sooner."

2.9 *Remedies not exclusive and non-waiver of remedies.* The availability of any remedy under this Contract shall not preclude the exercise of any other remedy under this Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

2.10 *Disputes.* a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement of the PHA and the Owner may be submitted by either party to the Department of Housing and Urban Development field office director who shall make a decision and shall mail or otherwise furnish a written copy thereof to the Owner and the PHA.

b. The decision of the field office director shall be final and conclusive unless, within 30 days from the date of receipt of such copy, either party mails or otherwise furnishes to the Government a written appeal addressed to the Secretary of Housing and Urban Development. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this Section, the appellant shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, both parties shall proceed diligently with the performance of the Contract and in accordance with the decision of the field office director.

c. This Section does not preclude consideration of questions of law in connection with the decisions rendered under paragraphs a and b of this Section; Provided, however, that nothing herein shall be construed as making final the decision of any administrative official, representative, or board, on a question of law.

2.11 *Interest of members, officers, or employees of PHA, members of local governing body or other public officials.* No member, officer, or employee of the PHA, no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or in any proceeds or benefits arising therefrom.

2.12 *Interest of member of or delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise therefrom.

21.13 *Nonassignability.* a. The Owner agrees that he has not made and will not make any sale, assignment, or conveyance or transfer in any other form, of this Contract or the project or any part thereof or any of his interest therein, without the prior consent of the PHA and the Government; Provided, however, that in the case of an assignment as security for the purpose of obtaining financing of the project, the PHA and the Government shall consent in writing if the terms of the financing have been approved by the Government. An assignment by the Owner to a limited partnership of which the Owner is the sole general partner shall not be considered an assignment herein.

b. The Owner agrees to notify the PHA and the Government promptly of any proposed action covered by paragraph a of this Section. The Owner further agrees to request the written consent of the PHA and the Government in regard thereto, except in the case of an assignment as security as provided in paragraph a of this Section.

c. For the purpose of this Section, a transfer of stock in the Owner in whole or in part, by a party holding ten percent or more of the stock of said Owner, or a transfer by more than one stockholder or the Owner of ten percent or more of the stock of said Owner, or any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to the parties in control of the Owner or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Contract on the project. With respect to this provision, the Owner and the party signing this Contract on behalf of said Owner, rep-

[1] Strike this Section if the Contract Funds on the effective date of this Contract, over the maximum total term of this Contract, are $100,000 or less.

resent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect thereto.

DAVID M. DEWILDE,
Acting Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner.

[FR Doc. 74-30358 Filed 12-27-74; 8:45 am]

[Docket No. R-74-304]

PART 1273—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—NEW CONSTRUCTION

Notice was given on November 19, 1974 at 39 FR 40667 that the Department of Housing and Urban Development (HUD) was proposing to amend Title 24 of the Code of Federal Regulations by adding a new Part 1273 to Chapter VIII.

The purpose of Part 1273 is to set forth the essential elements of the Housing Assistance Payments Program—New Construction, including, among other things, the roles and responsibilities of HUD, public housing agencies (PHAs), developers, owners, and eligible lower- and very low-income families, the basis for determining the amount of housing assistance payments, and the prescribed forms of contracts.

HUD has received more than 115 responses to the November 19, 1974 publication. All of these comments were seriously considered and many changes have been incorporated in these regulations as a result. The principal changes are set forth below.

1. § 1273.101(b) has been modified so as to provide that housing already under construction may be eligible for participation under this Part if certain specified conditions are satisfied.

2. Provision is made for the PHA to make the determination with respect to Allowances for Utilities and Other Services, as set forth in §§ 1273.102(h) and 1273.218(i), respectively, in the case of a Private-Owner/PHA Project (as defined in § 1273.102(x)).

3. The definition of "Eligible Family" as set forth in § 1273.102(f), has been modified to clarify that disabled persons are included within this definition.

4. A definition of the term "HUD" has been added in a new § 1273.102(m) to include HUD's designee.

5. The procedures for inviting, ranking and selecting Preliminary Proposals (as defined in § 1273.102(w)) as set forth in §§ 1273.103(b), 1273.203, 1273.204(b) and 1273.208 have been clarified.

6. §§ 1273.103(e)(2) and 1273.103(e)(3) have been modified to increase the percent of Contract Rent payable in the event of vacancies from 70 to 80.

7. In § 1273.103(f) the provisions concerning approval of Contract Rights in excess of Fair Market Rents have been clarified.

8. § 1273.103(h)(3), the provision authorizing special additional adjustments under limited circumstances, has been clarified.

9. §§ 1273.103(q)(1), 1273.103(q)(2), 1273.204(c)(10), 1273.205(1) and 1273.209(a)(12), respectively, have been clarified with respect to situations where the Agreement or Contract is pledged as security for financing.

10. A new § 1273.103(q)(3) has been added to clarify the status of the Housing Assistance Payments Contract in the event of foreclosure, assignment or sale.

11. § 1273.103(r) has been modified to permit the owner to require each family to make a security deposit in the amount of one month's Gross Family Contribution.

12. §§ 1273.204(a) and 1273.204(b)(3), respectively, have been modified to permit special requirements and procedures with respect to proposals for mobile homes.

13. The provision precluding a PHA from being the Contract administrator where it is also the lender has been replaced by a provision permitting the PHA to administer the Contract in such cases subject to an express provision in the Contract giving HUD the right to take unilateral action in default situations. (see § 1273.103(v)).

14. § 1273.208(a) has been clarified to give the owner opportunity to supply omissions to the proposals.

15. § 1273.210(d) has been modified to provide for notification to the unit of general local government as to HUD's final action with respect to Final Proposals (as defined in § 1273.102(h)).

16. §§ 1273.211(b)(2) and 1273.216(b)(4)(iv), respecting the certifications of the design architect and the inspecting architect, have been clarified; and § 1273.216(c), regarding the scope and nature of the inspection and determination to be made by HUD upon completion of the project has been clarified.

17. § 1273.216(d), which sets forth the criteria for acceptance of a project, has been modified.

18. § 1273.218(l), which provides for the reduction of Contract units utilized by an owner over a substantial period of time for other than Eligible Families has been modified to provide for restoration of the withdrawn units under certain circumstances.

In view of the necessity to limit the comment period of fifteen days because of the statutory requirement that these regulations be made effective by January 1, 1975, comments will be received by HUD for a period of 30 days from the date of publication of these regulations, and HUD promptly at the end of the 30 day period, will make such modifications in these regulations as it deems appropriate.

In order to comply with the aforementioned statutory requirement, the Assistant Secretary for Housing Production and Mortgage Credit/FHA Commissioner has determined that these regulations be made effective January 1, 1975.

Effective date. These regulations shall become effective January 1, 1975.

Accordingly, Title 24 is amended as follows:

A new Part 1273, section 8 Housing Assistance Payments Program—New Construction, is added to Chapter VIII to read as set forth below.

Subpart A—Applicability, Scope and Basic Policies

Sec.
1273.101 Applicability and scope.
1273.102 Definitions.
1273.103 Basic policies.

Subpart B—Project Development and Operation

1273.201 Allocations of contract authority to field offices.
1273.202 Program mix (new construction, substantial rehabilitation, existing housing).
1273.203 Invitations for preliminary proposals.
1273.204 Contents of developers packet.
1273.205 Contents of preliminary proposal.
1273.206 Submission of preliminary proposals.
1273.207 Proposals involving HUD-FHA mortgage insurance.
1273.208 Screening and evaluation of preliminary proposals.
1273.209 Final proposals.
1273.210 Evaluation of final proposals.
1273.211 Owner's acceptance of notification and submission of architect's certification.
1273.212 Annual contributions contract and agreement (private-owner/PHA projects).
1273.213 Submission of estimates of required annual contributions (private-owner/PHA projects).
1273.214 Preparation and execution of agreement (private-owner and PHA-owner projects).
1273.215 Construction period.
1273.216 Project completion.
1273.217 Execution of housing assistance payments contract.
1273.218 Project operation.
1273.219 HUD review of contract compliance.
1273.220 PHA reporting requirements. [Reserved]

APPENDICES

I. Agreement to enter into housing assistance payments contract—Private-owner or PHA-owner project.

II. Housing assistance payments contract—private-owner or PHA-owner project.

NOTE—Various prescribed forms which relate to internal HUD processing procedures are not included herein, but will appear in the HUD New Construction Handbook.

III. Annual contributions contract—private-owner/PHA project.

IV. Agreement to enter into housing assistance payments contract—private-owner/PHA project.

V. Housing assistance payments contract—private-owner/PHA project.

AUTHORITY: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); sec. 5(b) of the U.S. Housing Act of 1937 (42 U.S.C. 1437c(b); sec. 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f).

Subpart A—Applicability, Scope and Basic Policies

§ 1273.101 Applicability and scope.

(a) The policies and procedures contained herein are applicable to the making of housing assistance payments on

behalf of Eligible Families leasing newly constructed housing pursuant to the provisions of Section 8 of the U.S. Housing Act of 1937 ("Act").

(b) For the purpose of this Part, "new construction" shall mean newly constructed housing for which, prior to the start of construction, an Agreement to Enter into Housing Assistance Payments Contract is executed between the Owner and the Department of Housing and Urban Development ("HUD") or the Public Housing Agency. However, housing already under construction may be eligible for participation if all subsequent actions are in compliance with this Part and if the Owner certifies and demonstrates to the satisfaction of HUD that:

(1) At the date of application to HUD, a substantial amount of construction (generally at least 25 percent) remains to be completed; and

(2) At the date of application to HUD, the project cannot be completed without a commitment for assistance under this Part; and

(3) At the time construction was initiated, all of the parties reasonably expected that the project would be completed without assistance under this Part.

(c) Conversions of section 23 projects to the Section 8 program will be permitted where appropriate, provided that all parties (including HUD) agree to the terms and conditions.

§ 1273.102 Definitions.

(a) *Agreement to enter into housing assistance payments contract ("Agreement").* (1) In the case of a Private-Owner Project or a PHA-Owner Project, a written agreement between the Owner and HUD that, upon satisfactory completion of the housing in accordance with the HUD-approved Final Proposal, HUD will enter into a Housing Assistance Payments Contract with the Owner. (See Appendix I of this part.)

(2) In the case of a Private-Owner/PHA Project, a written agreement between the private Owner and the PHA, approved by HUD, that, upon satisfactory completion of the housing in accordance with the HUD-approved Final Proposal, the PHA will enter into a Housing Assistance Payments Contract with the private Owner. (See Appendix IV of this part.)

(b) *Allowance for utilities and other services ("Allowance").* An amount determined or approved by HUD as an allowance for the cost of utilities (except telephone) and charges for other services payable directly by the Family. In the case of a proposal under which the Families must pay directly for one or more utilities or services, the amount of the Allowance is deducted from the Gross Rent in determining the Contract Rent and is included in the Gross Family Contribution.

(c) *Annual contributions contract ("ACC").* In the case of a Private-Owner/PHA Project, a written agreement between HUD and the PHA to provide annual contributions to the PHA with respect to the project. (See Appendix III of this part.)

(d) *Contract rent.* The rent payable to the Owner under his Contract including the portion of the rent payable by the Family. In the case of a cooperative, the term "Contract Rent" means charges under the occupancy agreements between the members and the cooperative.

(e) *Decent, safe, and sanitary.* Housing is Decent, Safe, and Sanitary at project completion if the dwelling units and related facilities are accepted by HUD as meeting the requirements of the Agreement. (See § 1273.216.) Housing continues to be Decent, Safe, and Sanitary if it is being maintained in a condition substantially the same as that on acceptance, in all pertinent respects, including the following:

(1) Condition of the exterior (including the grounds) and the interior of the structure and of the housing unit;

(2) Operating condition of sanitary facilities and of solid and liquid waste disposal facilities;

(3) Operating condition of kitchen facilities, including range and refrigerator, sink, and space for storage of food and for storage of utensils and dishes;

(4) Operating condition of heating, lighting and ventilating equipment and/or other facilities; and

(5) Size, number of rooms, and furnishability in relation to the size and type of Family in occupancy in accordance with any applicable State or local codes.

(f) *Eligible family ("Family").* A Family which qualifies as a Lower-Income Family and which meets the other requirements of the Act and this Part. The term Family includes an elderly, disabled, handicapped, or displaced person and the remaining member of a tenant family as defined in section 3(2) of the Act. A Family's housing assistance payment may continue until its Gross Family Contribution equals the Gross Rent for the dwelling unit it occupies, but the termination of housing assistance payments at such point shall not affect the family's other rights under its Lease nor shall such termination preclude resumption of payments as a result of subsequent changes in income or other relevant circumstances during the term of the Contract.

(g) *Fair market rent.* (1) The rent, including utilities (except telephone), ranges and refrigerators, parking, and all maintenance, management and other services, which, as determined at least annually by HUD, would be required to be paid in order to obtain privately developed and owned, newly constructed rental housing of modest (non-luxury) nature with suitable amenities and sound architectural design meeting the objectives of the HUD Minimum Property Standards.

(2) Separate Fair Market Rents will be established for dwelling units by various sizes (number of bedrooms) and types (e.g., elevator, row, detached, mobile homes; housing designed for the elderly or handicapped shall be a separate type for this purpose).

(3) The Fair Market Rents will be published in the FEDERAL REGISTER, and, in order to allow for the period of construction, computation of the published Fair Market Rents will include HUD's estimate of anticipated rent increases during an appropriate future period as stated in the publication. Accordingly, for any given project for which the scheduled construction time will be less than such future period, an appropriate reduction will be made in determining the approvable Contract Rent.

(4) The Fair Market Rent, minus the amount of any applicable Allowance for Utilities and Other Services payable directly by the Family, shall be the maximum amount that can be approved as the Contract Rent, except that the maximum approvable amount may be lower as stated in paragraph (g)(3) of this section and may be higher or lower as provided in § 1273.103(f).

(h) *Final proposal.* A proposal to provide newly constructed housing submitted in response to a HUD notification of selection of Preliminary Proposal. (See § 1273.204 and §§ 1273.208–1273.210.)

(i) *Gross family contribution.* The portion of the Gross Rent payable by an Eligible Family, i.e., the difference between the amount of the housing assistance payment payable on behalf of the Family and the Gross Rent.

(j) *Gross rent.* The Contract Rent plus any Allowance for Utilities and Other Services.

(k) *HCD act.* The Housing and Community Development Act of 1974.

(l) *Housing assistance payments contract ("Contract").*

(1) In the case of a Private-Owner Project or a PHA-Owner Project, a written contract between the Owner and HUD for the purpose of providing housing assistance payments to the Owner on behalf of Eligible Families. (See Appendix II of this part.)

(2) In the case of a Private-Owner/PHA Project, a written contract between the private Owner and the PHA, approved by HUD, for the purpose of providing housing assistance payments to the Owner on behalf of Eligible Families. (See Appendix V of this part.)

(m) *Housing assistance payments on behalf of eligible family.* The amount of housing assistance payment on behalf of an Eligible Family determined in accordance with schedules and criteria established by HUD. (See § 1273.103(t).)

(n) *HUD.* The Department of Housing and Urban Development or its designee.

(o) *Income.* Income from all sources of each member of the household as determined in accordance with criteria established by HUD.

(p) *Invitation for preliminary proposals—new construction ("invitation for preliminary proposals").* A notice published by HUD inviting the submission of Preliminary Proposals in accordance with this Part. (See § 1273.203.)

(q) *Lease.* A written agreement between an Owner and an Eligible Family for the leasing of a decent, safe, and sanitary dwelling unit in accordance with the applicable Contract, which agreement is in compliance with the provisions of this Part.

(r) *Local housing assistance plan.* A housing assistance plan submitted by a unit of general local government and approved by HUD under section 104 of the HCD Act or, in the case of a unit of general local government not participating under Title I of the HCD Act, a housing plan which contains the elements set forth in section 104(a)(4) of the HCD Act and which is approved by the Secretary as meeting the requirements of section 213 of that Act.

(s) *Lower-income family.* A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent on the basis of its findings that such variations are necessary because of the prevailing levels of construction costs, unusually high or low incomes, or other factors.

(t) *New communities.* New community developments approved under Title IV of the Housing and Urban Development Act of 1968 and Title VII of the Housing and Urban Development Act of 1970.

(u) *Owner.* Any private person or entity, including a cooperative, or a PHA, having the legal right to lease or sublease newly constructed dwelling units.

(v) *PHA-owner proposal and PHA-owner project.* A proposal for a project under this Part (and the resulting project) to be owned by a PHA throughout the term of the Agreement and Contract where such Agreement and Contract are to be entered into between the PHA and HUD.

(w) *Preliminary proposal.* A proposal to provide newly constructed housing submitted in response to a HUD Invitation for Preliminary Proposals. (See §§ 1273.203–1273.208.)

(x) *Private-owner/PHA proposal and private-owner/PHA project.* A proposal for a project under this Part (and the resulting project) to be owned by a private Owner throughout the term of the Agreement and Contract where such Agreement and Contract are to be entered into between the private Owner and the PHA pursuant to an ACC between the PHA and HUD.

(y) *Private-owner proposal and Private-owner project.* A proposal for a project under this Part (and the resulting project) to be owned by a private Owner throughout the term of the Agreement and Contract where such Agreement and Contract are to be entered into between the private Owner and HUD.

(z) *Public housing agency ("PHA").* Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of housing for low-income Families.

(aa) *Secretary.* The Secretary of Housing and Urban Development.

(bb) *Very low-income family.* A family whose income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families.

§ 1273.103 Basic policies.

(a) *Limitation on use of newly constructed housing.* (1) No proposal for housing to be constructed may be approved by HUD unless HUD requirements implementing the provisions of sections 213(a), (b), and (c) of the HCD Act regarding review by the unit of general local government have been satisfied.

(2) New construction projects shall be permitted only where: (i) HUD determines that there is not and there is not likely soon to be an adequate supply of existing housing which, with the aid of housing assistance payments provided under the Section 8 Housing Assistance Payments Program—Existing Housing, can meet the needs of Eligible Families, or (ii) the proposed project is specifically approved by HUD in accordance with priorities established from time to time by the Secretary including priorities for New Communities.

(b) *Preference for certain types of projects*—(1) *20 percent projects.* Assistance payments may be made with respect to up to 100 percent of the dwelling units in any structure or project. However, within the category of projects that are not designed for use primarily by the elderly and the handicapped and which involve the construction of more than 50 units, a preference will be provided for projects in which housing assistance will be limited to 20 percent or less of the units. (See § 1273.208(e)(1).)

(2) *Three or more bedroom projects.* Where the need for dwelling units of three or more bedroom size ("large dwelling units") is shown, each HUD field office shall be responsible, to the extent feasible, for inviting and selecting proposals which in the aggregate will achieve the goal of providing a number of large dwelling units equal to at least 20 percent of all the assisted units approved under the Section 8 Housing Assistance Payments Program, without undue concentration of such large dwelling units in any one location.

(c) *Maximum total annual housing assistance payments (private-owner or PHA-owner projects).* (1) The maximum total annual housing assistance payments that may be committed under the Contract shall be the total of the Gross Rents for all the Contract units in the project.

(2) A project account will be established and maintained, in an amount as determined by the Secretary consistent with his responsibilities under section 8(c)(6) of the Act, out of amounts by which the maximum Contract commitment per year exceeds amounts paid under the Contract for any year. This account will be established and maintained by HUD as a specifically identified and segregated account, and payment shall be made therefrom only for the following purposes:

(i) Increases in housing assistance payments; and

(ii) Other costs specifically authorized or approved by the Secretary.

Any balance in this account after payment of the last housing assistance payment shall be applied by HUD in accordance with law.

(d) *Annual contributions (private-owner/PHA projects).*

(1) The maximum total annual contributions that may be contracted for in the ACC for a project shall be: (i) The total of the Gross Rents for all the Contract Units in the project plus (ii) a fee for the regular costs of PHA administration. HUD-approved preliminary costs for administration (including administrative costs in connection with PHA activities related to relocation of occupants) shall be payable out of this total.

(2) A project account will be established and maintained, in an amount as determined by the Secretary consistent with his responsibilities under section 8(c)(6) of the Act, out of amounts by which the maximum ACC commitment per year exceeds amounts paid under the ACC for any year. This account shall be established and maintained by HUD as a specifically identified and segregated account, and payment shall be made therefrom only for the following purposes:

(i) Increases in housing assistance payments;

(ii) Increases in the amount of the fee for regular PHA costs of administration; and

(iii) Other costs specifically authorized or approved by the Secretary.

Any balance in this account after payment of the last annual contribution for the project shall be applied by HUD in accordance with law.

(e) *Housing assistance payments to owners.*—(1) *General.* Housing assistance payments shall be paid to Owners for units under lease by Eligible Families, in accordance with the Contract and as provided in this paragraph (e). The housing assistance payment will pay the Owner the difference between the Contract Rent and the portion of said rent payable by the Family as determined in accordance with the HUD-established schedules and criteria.

(2) *Vacancies during rent-up.* If a Contract unit is not leased as of the effective date of the Contract, the Owner shall be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract, provided that the Owner (i) commenced marketing and otherwise complied with § 1273.215, (ii) has taken and continues to take all feasible actions to fill the vacancy, including, but not limited to, contacting applicants on his waiting list, requesting the PHA and other appropriate sources to refer eligible applicants, and advertising the availability of the unit, and (iii) has not rejected any eligible applicant, except for good cause acceptable to HUD or the PHA, as the case may be.

(3) *Vacancies after rent-up.* (i) If an Eligible Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner shall receive housing assistance

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payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days; *Provided, however,* That if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to HUD or as HUD may direct. (See also § 1273.103(r).) The Owner shall not be entitled to any payment under paragraph (e)(3)(i) of this section unless he: (A) Immediately upon learning of the vacancy, has notified HUD or the PHA, as the case may be, of the vacancy or prospective vacancy and the reasons for the vacancy, and (B) has taken and continues to take the actions specified in paragraphs (e)(2)(ii) and (e)(2)(iii) of this section.

(ii) If the Owner evicts an Eligible Family, he shall not be entitled to any payment under paragraph (e)(3)(i) of this section unless the request for such payment is supported by a certification that (A) he gave such Family a written notice of the proposed eviction, stating the grounds and advising the Family that it had 10 days within which to present its objections to the Owner in writing or in person and (B) the proposed eviction was not in violation of the Lease or the Contract or any applicable law.

(4) The Owner shall not be entitled to housing assistance payments with respect to vacant units under this paragraph (e) to the extent he is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the HCD Act or payments under § 1273.103(r).)

(f) *Initial maximum rents to owners.* (1) The sum of the initial Contract Rents and any Allowances for Utilities and Other Services shall not exceed the Fair Market Rents for newly constructed rental housing, except that such Fair Market Rents may be exceeded (i) by up to 10 percent if the field office director determines that special circumstances warrant such higher rents and the higher rents meet the test of reasonableness in paragraph (f)(2) of this section, or (ii) by up to 20 percent, where the Assistant Secretary for Housing Production and Mortgage Credit determines that special circumstances warrant such higher rents or determines that such higher rents are necessary to the implementation of a Local Housing Assistance Plan, or that such higher rents meet the test of reasonableness in paragraph (f)(2) of this section.

(2) The Contract Rents as proposed must be determined by HUD to be reasonable in relation to the quality, location, amenities, methods and terms of financing, and management and maintenance services of the project, and proposed rents shall be subject to reduction if they are found to be higher than such reasonable rents.

(3) In addition, for projects financed with HUD-insured mortgages, initial Contract Rents for units assisted under this Contract shall not exceed the rents approved by HUD in connection with the mortgage insurance for such projects.

(g) *Term of housing assistance payments contract.* (1) A Contract may be for an initial term of not more than five years, with an option solely in the Owner to renew for additional terms of not more than five years each, provided that the total Contract term, including renewals, shall not exceed 20 years for any dwelling unit.

(2) In the case of a Contract under which housing assistance payments are made with respect to a project owned by, or financed by a loan or loan guarantee from, a State or local agency, the total Contract term may not exceed 40 years for any dwelling unit.

(3) In the case of mobile homes, the initial Contract term for any mobile home shall be for not more than five years, subject to renewal for additional terms of not more than five years each, as may be mutually agreed upon by the Owner and HUD or, in the case of a Private-Owner/PHA Project, by the Owner and the PHA with the approval of HUD; provided that the total Contract term for any mobile home shall not exceed 20 years. For purposes of paragraph (g)(3) of this section, the term "mobile home" means the original mobile home and any replacement(s), combined.

(4) In the case of any project under paragraph (g)(2) or (g)(3) of this section, notwithstanding the maximum total allowable term per unit stated therein, a shorter term shall be determined by HUD where appropriate, taking into account the amount of the capital expenditures reasonably required for the project, the reasonable period and rate of amortization for the financing, and the approved rents to the Owner.

(5) If the project is accepted in stages, the dates for the initial and the renewal terms shall be separately related to the units in each stage; provided, however, that the total Contract term for the units in all the stages, counting from the effective date of the Contract with respect to the first stage, may not exceed the overall maximum term allowable for any one unit, plus two years.

(h) *Rent adjustments.*—(1) *Funding of adjustments.* Housing assistance payments will be made in increased amounts commensurate with Contract Rent adjustments under this paragraph, up to the maximum total annual housing assistance payments committed under the Contract. The provisions of the Contract or the ACC, as the case may be, are designed (by providing for maximum total annual commitments in excess of the amounts required at the time of the initial rental of dwelling units and by setting aside such excess amounts in a project reserve) to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family incomes. In addition, the Contract or the ACC, as the case may be, will provide that HUD will take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance, including as provided in that section) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

(2) *Automatic annual adjustments.* (i) Automatic Annual Adjustment Factors will be determined by HUD at least annually; interim revisions may be made as market conditions warrant. Such Factors and the basis for their determination will be published in the Federal Register. These published Factors will be reduced appropriately by HUD where utilities are paid directly by Families.

(ii) On each anniversary date of the Contract, the Contract Rents shall be adjusted by applying the applicable Automatic Annual Adjustment Factor most recently published by HUD. Contract Rents may be adjusted upward or downward, as may be appropriate; however, in no case shall the adjusted rents be less than the Contract Rents on the effective date of the Contract.

(3) *Special additional adjustments.* Special additional adjustments may be granted, when approved by HUD, to reflect increases in the actual and necessary expenses of owning and maintaining the Contract units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the Owner clearly demonstrates that such general increases in the Owner's operating costs are not adequately compensated for by automatic annual adjustments. The Owner shall submit to HUD financial statements which clearly support the increase.

(4) *Overall limitation.* Notwithstanding any other provisions of this Part, adjustments as provided in paragraph (h) of this section shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by HUD.

(i) *Types of housing and property standards.* (1) Newly constructed single-family houses, mobile homes or multi-family structures may be utilized in this program. Congregate housing may be developed for elderly or handicapped Families and individuals. Single room occupant housing planned specifically as a relocation resource for eligible single persons may also be developed. High-rise elevator projects for Families with children may not be utilized unless HUD determines there is no practical alternative. Generally, housing to be developed for use in this program should correspond to the predominant housing patterns of the locality in terms of structure type and density.

(2) No section 8 assistance may be provided for any unit occupied by an Owner; however, cooperatives are considered rental housing for this purpose.

(3) Participation in this program requires compliance with (i) HUD Minimum Property Standards, (ii) in the case of mobile homes, the American National Standards Institute Standard No. A-119.1, as amended and adopted by HUD

under Title I of the National Housing Act, (iii) in the case of congregate or single room occupant housing, the appropriate HUD guidelines and standards, (iv) HUD requirements pursuant to section 209 of the HCD Act for projects for the elderly or the handicapped, (v) HUD requirements pertaining to noise abatement and control, and (vi) applicable State and local laws, codes, ordinances, and regulations.

(j) *Site and neighborhood standards.* Proposed sites for new construction projects must be approved by HUD as meeting the following standards:

(1) The site shall be adequate in size, exposure and contour to accommodate the number and type of units proposed; and adequate utilities (water, sewer, gas and electricity) and streets shall be available to service the site.

(2) The site and neighborhood shall be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto.

(3) The site shall not be located in:

(i) An area of minority concentration unless (A) sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration, or (B) the project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in that housing market area. (An "overriding need" may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise feasibly be met is that discrimination on the basis of race, color, religion, creed, sex, or national origin renders sites outside areas of minority concentration unavailable.)

(ii) A racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

(4) The site shall promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of lower-income persons.

(5) The site shall be free from adverse environmental conditions, natural or manmade, such as instability, flooding, septic tank back-ups, sewage hazards, or mudslides; harmful air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; rodent or vermin infestation; or fire hazards. The neighborhood must not be one which is seriously detrimental to family life or in which substandard dwellings or other undesirable elements predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions.

(6) The site shall comply with any applicable conditions in the Local Housing Assistance Plan, approved by HUD.

(7) The housing shall be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unsubsidized, standard housing of similar market rents.

(8) Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, shall not be excessive. (While it is important that elderly housing not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.)

(9) The project may not be built on a site which has occupants unless the relocation requirements referred to in § 1273.103(k) are met.

(10) The project may not be built in an area that has been identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, unless the project is covered by flood insurance as required by the Flood Disaster Protection Act of 1973, and it meets any relevant HUD standards and local requirements.

(k) *Relocation.* (1) In the evaluation or selection of Preliminary Proposals, consideration shall be given to whether there are site occupants who would have to be displaced, whether there is a feasible plan for relocation of site occupants, the degree of hardship which displacement might cause, and the availability of funding for relocation payments. Greater weight shall be given to proposals which do not require displacement, or, where displacement is required, which will involve the least amount of hardship.

(2) In the case of a PHA-Owner Project, no Agreement shall be executed for housing which is to be constructed on a site which has occupants unless the Agreement provides (i) the PHA undertakes liability for and provides the funding of all relocation payments under sections 202, 203, and 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, or (ii) other commitments satisfactory to HUD, have been made for the funding of such payments. (In the case of a Private-Owner Project or a Private-Owner/PHA Project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is inapplicable.)

(l) *Equal opportunity requirements.* Participation in this program requires compliance with (1) Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Orders 11063 and 11246, and section 3 of the Housing and Urban Development Act of 1968; and (2) all rules, regulations, and requirements issued pursuant thereto.

(m) *National Environmental Policy Act.* Participation in this program requires compliance with the National Environmental Policy Act and all rules, regulations, and requirements issued pursuant thereto.

(n) *Clean Air Act and Federal Water Pollution Control Act.* Participation in this program requires compliance with the Clean Air Act and the Federal Water Pollution Control Act and all rules, regulations, and requirements issued pursuant thereto.

(o) *Davis-Bacon Wage Rates.* Not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (49 Stat. 1011), shall be paid to all laborers and mechanics employed in the development of any new construction project with nine or more assisted units.

(p) *Types of financing.* Any type of financing may be utilized, including, but not limited to, the types listed below.

(1) Conventional loans from commercial banks, savings banks, savings and loan associations, pension funds, insurance companies or other financial institutions.

(2) Mortgage insurance programs under the National Housing Act (see § 1273.207). (With respect to any obligation secured by a mortgage insured under section 221(d)(3) of the National Housing Act and issued by a public agency as mortgagor in connection with the financing of a project assisted under section 8, the interest paid on such obligation shall be included in gross income for purposes of Chapter I of the Internal Revenue Code of 1954.)

(3) Section 202 of the Housing Act of 1959.

(4) Title V of the Housing Act of 1949.

(5) Financing by tax-exempt bonds or other obligations. Where the financing is by a non-profit corporation which is an agency or instrumentality of a PHA, the project will be considered a PHA-Owner Project.

(q) *Use of contract as security for financing.* (1) An Owner may pledge, or offer as security for any loan or obligation, an Agreement or Contract entered into pursuant to this Part; provided, however, that such security is in connection with a project constructed pursuant to this Part, and the terms of the financing or any refinancing have been approved by HUD. It is the Owner's responsibility to request such approval in sufficient time before he needs the financing to permit review of the method and terms of the financing and the instrument of pledge, offer or other assignment that HUD is requested to approve. Where the methods and terms of financing require, the Contract Rents may be reduced in accordance with §§ 1273.103 (f)(2).

(2) Any pledge of the Agreement, Contract, or ACC, or payments thereunder, shall be limited to the amounts payable under the Contract or ACC in accordance with its terms.

(3) In the event of foreclosure, including foreclosure by HUD, and in the event of assignment or sale agreed to by HUD or made to HUD, housing assistance payments shall continue in accordance with the terms of the Contract.

(r) *Security and utility deposits.* (1) An Owner may require Families to pay a security deposit in an amount equal to one month's Gross Family Contribution. If a Family vacates the unit, the Owner may utilize the deposit as reimbursement for any unpaid rent or damage caused

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by the Family. If the Family has provided a security deposit, and it is insufficient for such reimbursement, the Owner may claim reimbursement from HUD or the PHA, as appropriate, not to exceed an amount equal to the remainder of one month's Contract Rent. If a Family vacates the unit owing no rent and causing no damage to the unit or if the amount of unpaid rent and/or damage is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

(2) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include such interest. All security deposit funds shall be deposited by the Owner in a segregated bank account, and the balance of this account, at all times, shall be equal to the total amount collected from tenants then in occupancy, plus any accrued interest. The Owner must comply with all State and local laws regarding interest payments on security deposits.

(3) Families shall be expected to obtain the funds to pay security and utility deposits, if required, from their own resources and/or other private or public sources.

(s) *Establishment of income limit schedules; 30 percent occupancy by very low-income families.* (1) HUD will establish schedules of income limits for defining Lower-Income Families and Very Low-Income Families.

(2) In the initial renting of Contract units, the Owner shall lease at least 30 percent to Very Low-Income Families and shall thereafter exercise his best efforts to maintain at least 30 percent occupancy of Contract units by Very Low-Income Families.

(t) *Establishment of amount of housing assistance payments.* The amount of housing assistance payment on behalf of an Eligible Family, to be determined in accordance with schedules and criteria established by HUD, will equal the difference between (1) not less than 15 percent nor more than 25 percent of the Family's gross income and (2) the Gross Rent, taking into consideration the income of the Family, the number of minor children in the household, and the extent of medical or other unusual expenses incurred by the Family, except that, in the case of a large (6 or more minors) Very Low-Income Family or a very large (8 or more minors) Lower-Income Family or a Family with exceptional medical or other expenses, the amount of the housing assistance payment shall be the difference between 15 percent of the Family's gross income and the Gross Rent.

(u) *Responsibilities of the owner.* The Owner shall be responsible (subject to post-review or audit by HUD or the PHA, as the case may be) for management and maintenance of the project. These responsibilities shall include but not be limited to:

(1) Payment for utilities and services (unless paid directly by the Family), insurance and taxes;

(2) Performance of all ordinary and extraordinary maintenance;

(3) Performance of all management functions including the taking of applications, selection of Families including verification of income and other pertinent requirements, and determination of eligibility and amount of Family contribution in accordance with HUD-established schedules and criteria;

(4) Collection of Family rents;

(5) Termination of tenancies, including evictions;

(6) Preparation and furnishing of information required under the Contract;

(7) Reexaminations of Family income, composition, and extent of exceptional medical or other unusual expenses, and redeterminations, as appropriate, of the amount of Family contribution and amount of housing assistance payment in accordance with HUD-established schedules and criteria;

(8) Redeterminations of amounts of Family contribution and amount of housing assistance payment as a result of an adjustment by HUD of any applicable Allowance for Utilities and Other Services in accordance with HUD-established schedules and criteria; and

(9) Compliance with equal opportunity requirements.

Subject to HUD approval, any private Owner may contract with any private or public entity to perform such services for a prescribed fee, provided that such contract shall not shift any of the Owner's responsibilities or obligations. However, no entity which is responsible for administration of the Contract (for example, a PHA in the case of a Private-Owner PHA Project) may contract to perform management and maintenance of the project. See. 1273.-153(y) with conversion of a Private-Owner Project to a Private-Owner Project.)

(v) *Responsibility for administration of contract.* (1) In the case of a Private-Owner Project or a PHA-Owner Project, HUD is responsible for administration of the Contract. HUD may contract with another entity for the performance of some or all of its Contract administration functions.

(2) In the case of a Private-Owner/PHA Project, the PHA is primarily responsible for administration of the Contract. However, if the PHA is the lender, the following shall apply:

(i) HUD shall have the right to make independent audits, reviews, and determinations as to compliance by the Owner with any or all of his obligations under the Contract; and

(ii) In the event HUD determines that the Owner is in default with respect to any or all of his obligations, HUD shall have the right to take direct action (as if HUD were the party to the Contract primarily responsible for its administration) to enforce any or al available remedies, including, but not limited to, abatement of housing assistance payments, collection of payments previously made in violation of the Contract, and termination of the Contract in whole or in part.

(w) *Separate project requirement.* (1) In the case of a Private-Owner Project or a PHA-Owner Project, each Agreement and Contract shall constitute a separate project.

(2) In the case of a Private-Owner/PHA Project, such project may not include any other type of section 8 assistance, shall be processed with a separate ACC List and ACC Part I and shall be assigned a separate project number. All new construction units to be placed under a single Contract shall comprise a separate project. However, the field office director may designate as a single project the units to be covered by two or more such Contracts for new construction projects where:

(i) The units are placed under ACC on the same date; and

(ii) Such consolidation is necessary in the interest of administrative efficiency.

(x) *Conversion of private-owner project to private-owner/PHA project.* HUD may request the Owner of a Private-Owner Project and an appropriate PHA to agree, if they are willing, to a conversion of any such project to a Private-Owner/PHA Project if HUD determines that such conversion would promote efficient project administration.

(y) *Conversion of private-owner/PHA project to private-owner project.* The private Owner and the PHA, in the case of a Private-Owner/PHA Project, may request HUD to agree to a conversion of any such project to a Private-Owner Project. HUD shall agree to such conversion if it determines it to be in the best interest of the project.

Subpart B—Project Development and Operation

§ 1273.201 Allocations of contract authority to field offices.

HUD will allocate to field offices contract authority for the Section 8 Housing Assistance Payments Program for metropolitan areas and for nonmetropolitan areas in conformance with section 213 (d) of the HCD Act.

§1273.202 Program mix (new construction, substantial rehabilitation, existing housing).

Each field office shall, after considering the contents of any Local Housing Assistance Plans and any other pertinent information which it has or which is brought to its attention, in relation to the factors set forth in section 213(d) of the HCD Act, determine the number and types of units to be advertised for new construction and for substantial rehabilitation, and to be made available for existing housing. The field office will also determine an appropriate schedule for advertising for Preliminary Proposals—New Construction.

§ 1273.203 Invitations for preliminary proposals.

(a) *Publication.* The HUD field office shall initiate implementation of its program with respect to new construction by publishing Invitations for Preliminary Proposals—New Construction in accordance with the schedule established by the field office. Such publications shall be at least once a week on the same day or days of each of two consecutive weeks in a newspaper(s) of general circulation serving the area(s) for which proposals

are desired. As promptly as possible, HUD will also notify minority media, business concerns included in HUD's registry of Section 3 businesses for the applicable political jurisdictions, minority organizations involved in housing and community development, and fair housing groups. In addition, to the extent feasible, HUD may notify appropriate PHAs, the chief executive officer of the appropriate unit(s) of general local government, trade journals, and other nonminority media. Copies of each Invitation shall be available in the HUD field office.

(b) *Contents of invitation.* The Invitation shall state the geographic area or areas in which the housing is to be constructed; the number of units in each area; the deadline for receipt of Preliminary Proposals by HUD; such other basic information as the field office may wish to specify; and the fact that detailed information, guidelines, standards and procedures are contained in a Developer's Packet which may be obtained by interested parties from the field office. The Invitation shall also state that Preliminary Proposals may be submitted by private Owners or PHA Owners for direct contracting with HUD, or by PHAs on behalf of private Owners with whom the PHA proposes to contract pursuant to an ACC with HUD.

(c) *Deadline for receipt of preliminary proposals.* The deadline (date and time) for receipt of Preliminary Proposals by HUD shall allow a reasonable time but, in any event, no less than 35 calendar days after the date of the first publication in a newspaper of general circulation.

§ 1273.204 Contents of developer's packet.

The Developer's Packet shall:

(a) Include a copy of the applicable regulations, required HUD forms, and HUD standards. Where the field office determines that mobile homes are appropriate or that there is an interest on the part of developers to utilize mobile homes, the Developer's Packet shall include the appropriate HUD standards and guidelines and shall indicate any modifications of the HUD requirements and procedures under this Part, including those relating to the site and site improvments, the type or types of units, and the special Fair Market Rents published for the area involved.

(b) Include the following information for each geographic area specified in the Invitation.

(1) The number of units for elderly and nonelderly occupancy and the number to be specially designed for elderly (including handicapped) occupancy.

(2) The number of units by unit size (bedrooms per unit) and the fact that a proposal my be for any number of units up to that amount.

(3) The type of housing, if any, which is unacceptable (e.g., high-rise elevator structures for Families with children, mobile homes where HUD has determined that such housing is inappropriate).

(4) Special requirements, if any, as to location, density, and site planning; in the case of New Communities, identification of the proposed site, including location map, dimensions, unusual site features, if any, zoning, and the minimum price for the site.

(5) Any special requirements for housing for the elderly (including the handicapped) pursuant to section 209 of the HCD Act, and any special requirements for the handicapped pursuant to the standards established by HUD under Pub. L. 90-480.

(6) Any special requirements or restrictions that may be necessary for compliance with provisions of the Local Housing Assistance Plan, if any, and the name, address, and title of the official of the unit of general local government to whom inquiries may be made concerning such Plan.

(7) The specific type(s) of utility and method(s) of distribution (utility combination) required.

(8) The specific management and maintenance services required to be provided by the Owner. Such services shall include all services typically provided in the area for the type of housing contemplated.

(9) The Fair Market Rents for newly constructed rental housing applicable to the structure types and unit sizes requested.

(10) Initial term of the Contract, and number of renewal options, if any.

(c) Include statements as to:

(1) Equal opportunity requirements, which include the submission of an Affirmative Fair Housing Marketing Plan (if the proposal is for five or more units); an assurance of compliance with Title VI of the Civil Rights Act of 1964; compliance with Executive Order 11063 and Title VIII of the Civil Rights Act of 1968, including regulations and guidelines pursuant thereto; and certifications required pursuant to Executive Order 11246.

(2) HUD regulations and other requirements implementing section 3 of the Housing and Urban Development Act of 1968, requiring that, to the greatest extent feasible, opportunities for training and employment be given to lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

(3) HUD relocation requirements.

(4) HUD requirements implementing the National Environmental Policy Act.

(5) Governmental requirements implementing the Clean Air Act and the Federal Water Pollution Control Act.

(6) HUD requirements implementing the Flood Disaster Protection Act of 1973.

(7) The requirement, if a project will contain nine or more Contract units, that all laborers and mechanics employed in the development of the project shall be paid not less than the wages prevailing in the locality as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act.

(8) The prescribed HUD form showing the identity of the Owner, the developer, the builder, the architect, and the managing agent (if any); the qualifications and experience of each; and the names of officials and principal members, shareholders and investors, and other parties having substantial interest.

(9) The requirement that the Owner submit evidence of capability to provide the required management and maintenance services or, if the proposal is for 15 or more units, evidence of management capability and a proposed management plan and a certification by the Owner and the management agent, if any, in a format acceptable to HUD.

(10) The fact that if the Owner intends to pledge, or offer as security for any loan or obligation, an Agreement or Contract, he is responsible for submitting to HUD a request for such approval in sufficient time before he needs the financing to permit review of the method and terms of the financing and the instrument of pledge, offer or other assignment; and that if the request is made after approval of the Final Proposal, the Contract Rents may be reduced where the methods and terms of financing require. (See § 1273.103(q).)

(11) Other requirements which the HUD field office determines to be necessary.

(12) Where copies of HUD Minimum Property Standards and any other applicable standards, guidelines and criteria may be obtained.

(13) The number of copies of the Preliminary Proposal to be submitted to HUD.

(14) The fact that HUD may determine not to select or approve any or all Preliminary Proposals submitted.

§ 1273.205 Contents of preliminary proposal.

Each Preliminary Proposal shall include or indicate the following:

(a) Identification of the proposed site, including a map showing the location of the site and the racial composition of the neighborhood, sketch of site plan, dimensions, unusual site features, if any, and zoning (however, only a sketch of the site plan is required for a New Communities project).

(b) A copy of the site option agreement(s), contract(s) of sale, or other document(s) which evidence(s) the proposer's effective control of the site(s) (however, only the proposed price is required for a New Communities project).

(c) A description of the proposed housing including number and type of structures, number of stories, structural system, exterior finish, heating-air conditioning system, number of units by size (number of bedrooms), living area and composition for each size of unit, and special amenities or features, if any; and sketches of the buildings and unit plans.

(d) The Contract Rent per unit, by size and structure type.

(e) The equipment to be included in the Contract Rent.

(f) The utilities and services to be included in the Contract Rent and those utilities and services not so included. For each utility and service not included in the Contract Rent, an estimate of the average monthly cost (for the first

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year of occupancy) to the occupants by unit size and structure type.

(g) A showing that the proposal meets any special requirements or restrictions necessary for compliance with the provisions of the Local Housing Assistance Plan, if any.

(h) Whether the proposed project will displace site occupants. If so the proposal shall state the number of families, individuals, and business concerns to be displaced (identified by race or minority group status, and whether they are owners or renters), and shall show that there is a feasible plan for relocation and how necessary relocation payments, if any, will be funded.

(i) Equal Employment Opportunity Certification, using the prescribed form.

(j) The identity of the Owner, developer, builder (if known), and architect (if known); the qualifications and experience of each; and the names of officials and principal members, shareholders and investors, and other parties having substantial interest, and the prior participation of each in HUD programs, using the prescribed form.

(k) Whether the Owner intends to provide management services or to contract with a managing agent. In the latter case, provide the identity of the managing agent, if known, and the other information as specified in paragraph (j) of this section.

(l) The proposed method of financing and whether the Owner intends to pledge or offer the Agreeemnt and/or Contract as security for any loan or obligation (see § 1273.103(q)). If the Owner proposes to utilize FHA mortgage insurance, the prescribed FHA form should be completed and submitted with the Preliminary Proposal.

(m) Whether the Owner proposes to limit the number of assisted units to 20 percent of the dwelling units in the project.

§ 1273.206 Submission of preliminary proposals.

(a) Preliminary Proposals shall be submitted to HUD on or before the published deadline date and time for opening, in the number of copies specified in the Developer's Packet. Proposal documents shall be sealed in an inner envelope marked "Sealed Proposal—Open on [date and time specified in the Invitation]." This sealed proposal shall be submitted in an outer envelope or package which shall show the name of the locality, be addressed to the HUD field office, and be clearly and distinctively marked "Section 8 Housing Assistance Payments Program—New Construction Preliminary Proposal."

(b) Submission of Preliminary Proposals shall be by hand delivery or certified mail. Any Preliminary Proposal received by HUD after the deadline date and time shall not be accepted but shall be returned unopened. No Preliminary Proposal shall be opened by HUD until the deadline.

§ 1273.207 Proposals involving HUD-FHA mortgage insurance.

(a) *Advance mortgage insurance processing.* This paragraph (a) applies to Owners who apply for HUD-FHA mortgage insurance prior to the submission of a Preliminary Proposal under this Part. Such an Owner may apply for a Site Appraisal and Market Analysis Letter (SAMA Letter), a Conditional Commitment, or a Firm Commitment for mortgage insurance by submitting an application on the prescribed form with supporting exhibits and the required fee. Such an application will have to meet the marketability test without reliance upon housing assistance payments under this Part, or, in the alternative, approval for mortgage insurance shall be conditioned upon subsequent approval of a section 8 proposal for the same project. If a SAMA Letter, Conditional Commitment, or Firm Commitment, whichever is applicable, is issued, and if prior to expiration thereof the Owner submits a Preliminary Proposal under this Part which is consistent with the proposal as approved for mortgage insurance, such proposal will nevertheless be subject to review and evaluation in accordance with the procedures under this Part; however, if the Preliminary Proposal is selected in accordance with the procedures under this Part, further processing will be coordinated in accordance with paragraph (b) of this section to the extent applicable, and the rents which were approved for mortgage insurance purposes will be accepted for purposes of such Preliminary Proposal provided that they are otherwise approvable in accordance with this Part.

(b) *Concurrent processing.* The provisions of this paragraph (b) apply where the Preliminary Proposal indicates an intention to finance a project with a HUD-FHA insured mortgage. Such a Preliminary Proposal will not be selected under this Part unless it meets the market and site acceptability criteria of the applicable mortgage insurance program except as modified by this paragraph. The processing of such a proposal for mortgage insurance will be integrated with the Section 8 review and evaluation process. Selection by HUD of such a Preliminary Proposal for preparation of a Final Proposal will be made only where HUD has also determined that the proposal will qualify for mortgage insurance subject to a satisfactory demonstration by the Owner of his capability to complete the project, and subject to subsequent determinations of site value, the loan amount and credit approval.

(1) A section 8/HUD-FHA mortgage insurance project will be required to meet the marketability test of the applicable mortgage insurance program; provided, however, that the number of units in the proposal for which housing assistance payments are to be made available will be considered as an addition to the effective demand for unassisted rental units. As in the case of any other market analysis for market rate unassisted mortgage insurance programs, the supply of suitable vacant existing units, units under construction, and units in process must be subtracted from the estimate of total effective demand. Consequently, section 8/HUD-FHA insured units could be added to a market in which supply and demand are in equilibrium or in which there is an undersupply of rental units, but could not be added to a market in which there is an oversupply of rental units in the same competitive range of market rents as the proposed section 8/HUD-FHA insured project.

(2) After selection of a Preliminary Proposal which involves HUD-FHA mortgage insurance the Owner will be required to submit, with the Final Proposal, an application for HUD-FHA Conditional Commitment with fee (two dollars per thousand dollars of mortgage requested) under the applicable mortgage insurance program. Such Final Proposals will not be approved under Section 8 unless they also qualify for issuance of a HUD-FHA Conditional Commitment under the applicable mortgage insurance program. The HUD notification of approval of the Final Proposal will be accompanied by a HUD-FHA Conditional Commitment for HUD-FHA mortgage insurance. The Owner's acceptance of HUD's notification of approval of the Final Proposal will constitute concurrent acceptance of the conditions and terms of the HUD-FHA Conditional Commitment for mortgage insurance.

(3) The rents of those units scheduled for assisted occupancy, when projected for purpose of determining a mortgage limitation based on the debt service criterion, shall be the Contract Rents set forth in the approved Final Proposal.

(4) Prior to the execution of the Agreement, the Owner will be required to obtain a Firm Commitment for HUD-FHA mortgage insurance. This will require the submission of an application for a Firm Commitment, with an additional fee (one dollar per thousand dollars of the mortgage requested), upon submission of the architect's certificate accompanying the working drawings and specifications in accord with § 1273.211.

(c) *Delayed mortgage insurance processing.* Where an Owner does not indicate in his Preliminary Proposal that he intends to utilize HUD-FHA mortgage insurance and applies for HUD-FHA mortgage insurance after HUD approval of the Preliminary Proposal under this Part, he risks (1) having his approved proposal rejected for HUD-FHA mortgage insurance and (2) having lower rents approved under the mortgage insurance program than the rents set forth in the approved proposal under this Part.

§ 1273.208 Screening and evaluation of preliminary proposals

(a) *Initial screening.* Promptly after the deadline date for receipt of Preliminary Proposals, HUD will screen all

the proposals to determine which are complete and responsive and eligible for further processing. Where a proposal lacks one or more of the required element (see § 1273.205), or is clearly not responsive to the conditions of the Invitation and the Developers Packet, the HUD field office shall give the Owner the shortest reasonable time (generally not to exceed 10 days) to remedy the deficiency.

(b) *A–95 Clearance; notice to unit of general local government.* (1) Promptly after the deadline date for receipt of proposals (or after the appropriate later date for proposals completed pursuant to paragraph (a) of this section), the HUD field office will, for each complete and responsive Preliminary Proposal which is subject to A–95 clearance, send a copy of the proposal to the appropriate A–95 Clearinghouse for review, inviting a response within 34 days from the date of the letter of transmittal.

(2) Within 10 working days after the deadline date for receipt of proposals (or after the appropriate later date for proposals completed pursuant to paragraph (a) of this section), the HUD field office will forward, under cover of a letter in the appropriate prescribed form, a copy of each complete and responsive Preliminary Proposal to the chief executive officer (or such designee as such officer may designate in writing to the HUD field office) of the unit of general local government in which the proposed housing is to be located. The cover letter will invite a response within 30 days from the date the letter and copy of the proposal are received.

(c) *Evaluation of preliminary proposals by HUD.* HUD may begin its evaluation promptly after the deadline date, but no selection or ranking may be completed until the response periods referred to in paragraph (b) of this section have ended. Each Preliminary Proposal will be evaluated and ranked by HUD on the basis of all pertinent factors under this Part including the best combination of rent, site, design and previous experience of the proposed Owner and on the basis of comments, if any, received during the response periods from the appropriate A–95 Clearinghouse and the unit of general local government.

(d) *Selection where approvable proposals do not exceed number (by size) of units advertised.* For each geographic area HUD will determine which Preliminary Proposals, in its judgment, can be developed into Final Proposals meeting the requirements of the Developer's Packet. If the units covered by such Preliminary Proposals could all be accommodated in the number of units (by unit size) specified in the Invitation, HUD will request all Owners of acceptable Preliminary Proposals to prepare Final Proposals in accordance with § 1273.209.

(e) *Selection where approvable proposals exceed number (by size of units advertised).* If the units covered by acceptable Preliminary Proposals cannot all be accommodated by the number of units (by unit size) specified in the Invitation, HUD will proceed as follows:

(1) Proposals consisting of projects to be developed entirely or predominantly for the elderly shall be listed in rank order and a second rank listing shall be established for projects to be developed entirely or predominantly for family housing.

(2) With respect to the listing of proposals for elderly housing, the HUD field office will identify for selection the highest ranking proposals in descending order which will most nearly provide the number of units of elderly housing called for in the Invitation.

(3) With respect to the listing of proposals for family housing, the HUD field office will identify for selection the highest ranking proposals in descending order which collectively will most nearly provide the number and sizes of units of family housing called for in the Invitation; provided however that if there is a Preliminary Proposal for construction of more than 50 units of family housing which indicates that assistance will be limited to 20 percent or less of the units to be constructed, this proposal shall be given priority over the lowest ranking proposal(s) identified for selection which is for more than 50 units and which is for generally the same number and sizes of units.

(4) The field office shall determine whether the combined results of the tentative selections from both listings would exceed the number and sizes of units called for in the Invitation. If so, the field office shall make such revisions in the tentative selections as it may determine to be necessary.

(f) *Use of residual units.* For any residual number of units, HUD may publish another Invitation for Proposals, but this shall not delay the further processing of those Preliminary Proposals submitted in response to the prior Invitation that have been selected as a result of the prior Invitation.

(g) *Notification of selection.* (1) With respect to those Preliminary Proposals which have been selected in accordance with this section, HUD will notify the Owners, on a prescribed form, and request them to submit within a reasonable time (to be specified in the notification) a Final Proposal in accordance with the requirements of the provisions of § 1273.–209. The notification shall specify:

(i) The Contract Rents that will be acceptable to HUD where these are lower than the Contract Rents proposed by the Owner, and the reason for the reduction;

(ii) The estimate of the amount of relocation payments, where applicable; and

(iii) Other special conditions or requirements, if any.

(2) The notification will request the Owner to return a copy of the notification with an indication of his acceptance thereof by a specified date. If the Owner does not accept the notification by the date specified, HUD may rescind the notification and select another approvable proposal.

(h) *Notification of nonselection.* Owners whose Preliminary Proposals were not selected by HUD shall be sent a letter notifying them of such determination.

§1273.209 Final proposals.

(a) *Contents of final proposal.* Each Final Proposal shall indicate or include the following:

(1) A copy of the site option agreement(s), contract(s) of sale, or other document(s) which evidence(s) the proposer's effective control of the site(s) (however, only the proposed price is required for a New Communities project).

(2) A description of the proposed housing together with preliminary drawings and plans, and the outline specifications on the prescribed form. Preliminary drawings and plans shall include: site layout based on the topographical information available from existing records and the known subsurface soil conditions; landscape plans; general floor plans and unit plans, at the scale of ¼ inch equals one foot; and elevation drawings for each typical building at the same scale.

(3) The Contract Rent per unit, by size and structure type.

(4) The equipment to be included in the Contract Rent.

(5) The utilities and services to be included in the Contract Rent and those utilities and services not so included. For each utility and service not so included, an estimate of the average monthly cost (for the first year of occupancy) to the occupants by unit size and structure type.

(6) In the case of a PHA-Owner Project, a statement that (i) the PHA will undertake liability for and provide the funding of all relocation payments under sections 202, 203, and 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, or (ii) other commitments, which the Owner believes to be satisfactory to HUD, have been made for the funding of such payments. In the latter case, the PHA shall specify such other commitments. (In the case of a Private-Owner Project or a Private-Owner/PHA Project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is inapplicable.)

(7) Submission of an Affirmative Fair Housing Marketing Plan (if the proposal is for five or more units), a signed assurance of compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and certifications required pursuant to Executive Order 11246.

(8) Submissions as required by HUD regulations and other requirements pursuant to section 3 of the Housing and Urban Development Act of 1968.

(9) The identity of the Owner, developer, builder, architect, and managing agent (if known); the qualifications and experience of each; and the names of officials and principal members, shareholders and investors, and other parties having substantial interest, and the prior participation of each in HUD programs, using the prescribed form.

(10) Submission of evidence of management capability and a proposed manner intends to utilize FHA mortgage in-

agreement plus proof a certification by the Owner and the management agent, if any, in a format acceptable to HUD; or, if the proposal is for less than 15 units, evidence of capability of providing the required management and maintenance services. If the Owner proposes to contract with another entity, including a PHA for management and/or maintenance services for the project, he shall include a copy of the proposed contract(s).

(11) Submission of the form of Lease the Owner proposes to use, which shall be in accordance with § 1273.213(c).

(12) The proposed method of financing and whether the Owner intends to pledge or offer the Agreement and/or Contract as security for any loan or obligation (see § 1273.103(q)). If the Owner intends to utilize FHA mortgage insurance, an application for a Conditional Commitment on the prescribed form shall be completed and submitted with the prescribed fee with the Final Proposal.

(13) Evidence that the proposed construction is permissible under the applicable zoning, building, housing and other codes, ordinances or regulations; or a statement of the proposed action to make the construction permissible and that such action will be successfully completed prior to the architect's certification pursuant to § 1273.211(b).

(14) The anticipated time required for completion of the project after the Agreement is signed (if the project is to be completed in stages, identification of the units comprising each stage and the estimated dates for commencement and completion of each stage).

(b) *Consistency with preliminary proposal.* The Final Proposal shall be consistent with the Preliminary Proposal. Any material deviations from the Preliminary Proposal in the Final Proposal will cause reconsideration by HUD of such Final Proposal and may result in its rejection.

§ 1273.210 Evaluation of final proposals.

(a) *Evaluation of final proposals by HUD.* Each Final Proposal will be evaluated by HUD to determine that the provisions of this Part have been complied with and that such Final Proposal is consistent with the Preliminary Proposal.

(b) *Clarifications or modifications.* HUD may request clarification of individual items, additional information, or modifications of the Final Proposal.

(c) *HUD determination.* HUD shall notify the Owner (and the PHA, if applicable) as to whether the Final Proposal is:

(1) Approved.

(2) Approvable only if specified deficiencies are corrected and that HUD will approve the Final Proposal if it receives within a specified time evidence of such necessary corrections.

(3) Not approved. If a Final Proposal is not approved or if the conditions for approval under paragraph (c)(2) of this section are not met, HUD shall so advise the Owner and may request the preparation of a Final Proposal(s) with respect to the highest ranking Preliminary Proposal(s) not previously selected or may issue another Invitation for Preliminary Proposals.

(d) *Notification.* The appropriate A–95 Clearinghouses and the unit of general local government shall be notified by HUD of its final action.

§ 1273.211 Owner's acceptance of notification and submission of architect's certification.

(a) *Owner's Acceptance.* Upon receipt by the Owner of the notification of approval of the Final Proposal, the Owner shall return to HUD a copy indicating his acceptance within the time prescribed in such notification (copy to the PHA, if applicable). If the Owner does not accept the notification by the date specified, HUD may rescind the notification and proceed in accordance with § 1273.210(c)(3).

(b) *Architect's certification.* (1) Before HUD may enter into an Agreement (or, where applicable, an ACC and an Agreement) the Owner shall submit to HUD the architect's certification on the prescribed form. Such certification shall be made by the architect responsible for the preparation of the working drawings and specifications.

(2) The architect's certification shall state that, to the best of the architect's knowledge, belief, and professional judgment, (i) the working drawings and specifications are consistent with the approved Final Proposal (including any modifications required by HUD in its review of the Final Proposal), and (ii) the proposed construction in accordance with these plans and specifications is permissible under the applicable zoning, building, housing, and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials. This certification shall also cover compliance with the appropriate HUD Minimum Property Standards and other standards, guidelines and criteria applicable under this Part, except that in the case of mobile homes the manufacturer shall certify that the mobile homes will comply with the American National Standards Institute Standard No. A–119.1, as amended and adopted by HUD under Title I of the National Housing Act.

(3) One copy of the certified working drawings and specifications shall be submitted with the architect's certification to HUD, which shall retain it and any changes approved by HUD for at least three years from the date of acceptance of the project; provided, however, that receipt and retention by HUD of these working drawings and specifications shall not denote or constitute HUD review or approval of such drawings or specifications.

(4) If the Owner fails to submit the certification by the date specified in the notification, HUD shall rescind the notification (and may proceed in accordance with § 1273.210(c)(3)) unless it determines that a reasonable extension of time should be granted.

§ 1273.212 Annual contributions contract and agreement (private-owner/PHA projects).

(a) *Preparation of ACC.* After receipt of the architect's certification with the working drawings and specifications, the HUD field office shall prepare the ACC, shown as Appendix III. The ACC shall be transmitted to the PHA for execution and returned to HUD. This transmittal shall advise the PHA that it must simultaneously submit for HUD approval its Initial Estimate of Required Annual Contributions (Preliminary Costs) and an Estimate of Total Required Annual Contributions (see § 1273.213).

(b) *Preparation of agreement.* The Agreement shall be prepared by the HUD field office at the time the ACC is prepared (see § 1273.214), and shall conform to the prescribed shell include all required information and required attachments.

(c) *Execution of ACC and agreement.* After receipt of the PHA-executed ACC, accompanied by the Estimates of Required Annual Contributions, HUD shall review the Estimates and, if approved, execute the ACC. HUD shall then transmit a fully executed copy of the ACC to the PHA, together with four copies of the unexecuted Agreement. After execution of the Agreement by the PHA and the Owner, all copies shall be returned by the PHA to HUD for approval. HUD shall return three copies to the PHA, retaining one for its records.

§ 1273.213 Submission of estimates of required annual contributions (private-owner/PHA projects).

(a) *Initial submission.* An allowance may be provided for preliminary costs incurred by the PHA prior to the beginning of the first fiscal year. When the ACC is executed by the PHA, it shall submit an Initial Estimate of Required Annual Contributions (Preliminary Costs) together with an Estimate of Total Required Annual Contributions on the prescribed forms. This submission includes estimates of costs of administration and non-expendable equipment up to the beginning of the first fiscal year.

(b) *First fiscal year submission.* Not earlier than 150 and not later than 90 days prior to the estimated date of the beginning of the first fiscal year, the PHA shall submit an Estimate of Required Annual Contributions (Housing Assistance and Administration) covering the estimated amount required for the first fiscal year for housing assistance payments and for the fee for administration together with an Estimate of Total Required Annual Contributions.

(c) *Subsequent fiscal year submissions.* Not earlier than 150 and not later than 90 days prior to the beginning of each subsequent fiscal year, the PHA shall submit an Estimate of Required Annual Contributions (Housing Assistance and Administration) and an Estimate of Total Required Annual Contributions, with supporting documentation, for any requested changes in the amount of housing assistance payments and the fee for administration.

(d) *Revisions of Estimates.* Any of the above Estimates may be revised to reflect

changes in circumstances and available data.

(e) *HUD Approval.* All Estimates of Required Annual Contributions and any revisions thereto submitted by the PHA shall be subject to HUD approval.

§ 1273.214 Preparation and execution of agreement (private-owner and PHA-owner projects).

After receipt of a copy of the accepted notification, the architect's certification and the working drawings and specifications, the HUD field office shall prepare the Agreement in the prescribed form shown as Appendix 2. The Agreement shall include all required information and required attachments. HUD shall transmit to the Owner three copies of the unexecuted Agreement. After the Owner executes all copies of the Agreement, he shall return them to HUD. HUD shall execute the Agreement, returning one copy to the Owner and retaining two for its records.

§ 1273.215 Construction period.

(a) *Timely performance of work.* After execution of the Agreement, the Owner shall promptly proceed with construction as provided in the Agreement. In the event the work is not so commenced, diligently continued, and/or completed, HUD (or the PHA with HUD approval, as appropriate) reserves the right to rescind the Agreement, or take other appropriate action.

(b) *Delays.* Although extensions of time may be granted for the reasons specified in the Agreement, no increases in Contract Rents may be granted on that account.

(c) *Changes.* The Owner shall submit for HUD approval any changes from the approved Final Proposal which will materially reduce or alter his obligations or any changes which alter the design or materially reduce the quality or amenities of the project. HUD may condition its approval of such changes on a reduction of Contract Rents. If such changes are made without prior HUD approval, HUD may determine that Contract Rents shall be reduced or that the Owner shall remedy the deficiency as a condition for acceptance of the project. Contract Rents may not be increased by reason of any changes or modifications.

(d) *Inspection of HUD-FHA insured projects.* For projects financed with HUD-FHA insured mortgages, required HUD inspection procedures shall be followed including compliance with equal opportunity requirements.

(e) *Equal opportunity review.* Equal opportunity review may be conducted with any scheduled HUD inspection or at any other time deemed advisable by HUD.

(f) *Commencement of marketing.* The Owner shall commence and diligently continue marketing as soon as possible, but in any event no later than 90 days prior to the estimated completion date. The Owner shall notify HUD (or the PHA in the case of a Private-Owner/PHA Project) of the date of commencement of marketing. The Owner shall also comply with all reporting requirements under the Affirmative Fair Housing Marketing Regulations. Not later than 30 days prior to the estimated completion date and periodically thereafter, the Owner shall notify HUD (or the PHA in the case of a Private-Owner/PHA Project) of any units which he anticipates will be vacant on the effective date of the Contract. At the time the Contract is executed (see § 1273.217), the Owner will be required to submit a list of the dwelling units leased as of the effective date of the Contract and a list of the units not so leased, if any. The Owner will be entitled to housing assistance payments for any unleased units, pursuant to § 1273.103(e)(2), only if he has fully complied with the requirements of that section and of this paragraph.

(g) *Management certification.* Prior to acceptance of the project by HUD, the Owner must certify in writing that there has been no change in the evidence of management capability or in the proposed management program (if one was required) specified in his Final Proposal other than changes approved in writing by HUD in accordance with the Agreement.

(h) *Labor standards certification.* Prior to acceptance by HUD of any project consisting of nine or more Contract units, the Owner must certify in writing that he has complied with the provisions of the Agreement relating to the payment of not less than prevailing wage rates and that to the best of his knowledge and belief there are no claims of underpayment in the alleged violation of said provisions of the Agreement. In the event there are any such pending claims to the knowledge of the Owner, HUD, or the PHA (if applicable), the Owner shall be required to place a sufficient amount in escrow, as determined by HUD, to assure such payments.

§ 1273.216 Project completion.

(a) *Notification of completion.* The Owner shall notify HUD (with a copy to the PHA in the case of a Private-Owner/PHA Project) when the work is completed and shall submit to HUD the evidence of completion described in paragraph (b) of this section.

(b) *Evidence of completion.* Completion of the project shall be evidenced by furnishing HUD with all of the following:

(1) A set of as-built drawings.

(2) A certificate of occupancy and/or other official approvals necessary for occupancy.

(3) A certification by the Owner, which will be supported by the Owner's warranty in the Contract, that:

(i) All work has been completed in accordance with the requirements of the Agreement;

(ii) The project is in good and tenantable condition; and

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified).

(4) A certification by the registered architect responsible for inspection of construction that such inspection was performed by him or under his supervision with the frequency and thoroughness required by the generally accepted standards of professional care and judgment, and that to the best of his knowledge, belief, and professional judgment:

(i) All work has been completed in conformance with the certified working drawings and specifications for the project or approved changes thereto (such changes to be listed);

(ii) The project is in good and tenantable condition; and

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified by the architect).

(iv) The project has been constructed in accordance with applicable zoning, building, housing, and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials.

(c) *Inspection.* (1) Within ten working days of the receipt of the Owner's notification of project completion, a HUD representative (accompanied by a PHA representative, if applicable) shall inspect the project and review the evidence of completion listed in paragraph (b) of this section. Such inspection shall be sufficient to enable the HUD inspector to state in his inspection report that he has inspected the observable elements and features of the project in accordance with professional standards of care and judgment and that, on the basis of such inspection, the project has been completed in accordance with the Agreement and, in particular, that there are no observable conditions inconsistent with the certifications of the Owner or the design architect or the inspecting architect. As promptly as possible, HUD shall notify the Owner in writing as to whether or not the project has been completed in an acceptable manner.

(2) In the event the Owner disputes HUD's determinations, he may submit the controversy to third-party arbitration, at his expense, provided that the arbitration is advisory only.

(d) *Acceptance of project.* If HUD determines that the project is not acceptable under paragraph (c)(1) of this section, the following shall apply:

(1) If the defects or deficiencies are only punchlist items or incomplete items awaiting seasonal opportunity, the project may be accepted and the Contract executed. If the Owner fails to complete such items within a reasonable time to the satisfaction of HUD, HUD may, upon 30 days notice, terminate or require termination of the Contract or exercise its other rights under the Contract.

(2) If the defects or deficiencies are other than punchlist items or incomplete work awaiting seasonal opportunity, but HUD determines that: (i) a certificate of occupancy and/or other official approvals necessary for occupancy has been issued, (ii) the project is in good and tenantable condition, and (iii) the project has been constructed in accordance with the applicable zoning, building, housing, and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials, the project may be accepted after the Owner corrects the defects or deficiencies

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or the project may be accepted subject to a specified reduction of the Contract Rents as determined by HUD.

(3) If HUD determines that the project is not acceptable under paragraphs (d)(1) or (d)(2) of this section, HUD shall determine: (i) whether the defects or deficiencies can be corrected, and (ii) whether a reduction in Contract Rents will be required as a condition to acceptance of the project. If it is determined that the defects or deficiencies can be corrected, the Owner thereupon shall be notified of HUD's determinations under paragraph (d)(3)(i) and (d)(3)(ii) of this section, and, if he agrees to comply with the conditions, an agreement shall be entered into pursuant to which the defects or deficiencies will be corrected and the project then accepted. If the Owner is unwilling to enter into such agreement or if he fails to perform the agreement, the project shall not be accepted.

(e) *Completion in stages.* If the project is to be completed in stages, the procedures of this section shall apply to each stage.

§ 1273.217 Execution of housing assistance payments contract.

(a) Upon acceptance of the project by the Government pursuant to §§ 1273.215 and 1273.216, the Contract shall be executed first by the Owner and then by HUD, or, in the case of a Private-Owner/PHA Project, executed by the Owner and the PHA and then approved by HUD.

(b) At the time of execution of the Contract, HUD (or the PHA, as appropriate) shall examine the lists of dwelling units leased and not leased, referred to in § 1273.215(f), and shall determine whether or not the Owner has met his obligations under that section with respect to any unleased units. HUD (or the PHA, as appropriate) shall state in writing its determination with respect to the unleased units and for which of those units it will make housing assistance payments. The Owner shall indicate in writing his concurrence with this determination or his disagreement, reserving his rights to claim housing assistance payments for the unleased units pursuant to the Contract, without prejudice by reason of his signing the Contract. Copies of all documents referred to in this paragraph shall be furnished HUD in the case of a Private-Owner/PHA Project.

§ 1273.218 Project operation.

(a) *Compliance with equal opportunity requirements.* Marketing of units and selection of Families by the Owner shall be in accordance with the Owner's HUD-approved Affirmative Fair Housing Marketing Plan, if required, and with all regulations relating to fair housing advertising including use of the equal opportunity logotype, statement, and slogan in all advertising. Projects shall be managed and operated without regard to race, color, creed, religion, sex, or national origin.

(b) *Eligibility, selection and admission of families.* (1) The Owner shall be responsible for determination of eligibility of applicants, selection of families from among those determined to be eligible, and computation of the amount of housing assistance payments on behalf of each selected Family, in accordance with schedules and criteria established by HUD.

(2) For every family that wishes to apply for admission, the Owner and the applicant shall complete and sign the form of application prescribed by HUD, except that if there are no vacant units and the Owner's waiting list is such that there would be an unreasonable length of time before the applicant could be admitted, the Owner may advise the applicant that the Owner is not accepting applications for that reason. The Owner shall retain copies of all completed applications together with any related correspondence for three years. For each Family selected for admission, the Owner shall submit one copy of the completed and signed application to the HUD field office (in the case of Private-Owner/PHA Projects, the Owner simultaneously shall send a copy of the form to the PHA). Housing assistance payments will not be made on behalf of an admitted Family until after this copy has been received by the HUD field office.

(3) If the Owner determines that the applicant is eligible on the basis of income and family composition and is otherwise acceptable but the Owner does not have a suitable unit to offer, the Owner shall place such Family on his waiting list and so advise the Family.

(4) If the Owner determines that the applicant is eligible on the basis of income and family composition and is otherwise acceptable and if the Owner has a suitable unit, the Owner and the Family shall enter into a Lease. Such Lease shall be on the form of Lease included in the Owner's approved Final Proposal and shall otherwise be in conformity with the provisions of this Part.

(5) Records on application families and approved Families shall be maintained by the Owner so as to provide HUD with racial, ethnic and gender data and shall be retained by the Owner for three years.

(6) In the case of a PHA-Owner project, (i) if the PHA places a Family on its waiting list, it shall notify the Family of the approximate date of availability of a suitable unit insofar as such date can be reasonably determined, and (ii) if the PHA determines that an applicant is ineligible on the basis of income or family composition, or that the PHA is not selecting the applicant for other reasons, the PHA shall send the applicant a letter notifying him of the determination and the reasons and that the applicant has the right within a reasonable time (specified in the letter) to request an informal hearing. If, after conducting such an informal hearing, the PHA determines that the applicant shall not be admitted, the PHA shall so notify the applicant in writing and such notice shall inform the applicant that he has the right to request a review by HUD of the PHA's determination. The procedures of this subparagraph do not preclude the applicant from exercising his other rights if he believes he is being discriminated against on the basis of race, color, creed, religion, sex, or national origin. The PHA shall retain for three years a copy of the application, the letter, the applicant's response if any, the record of any informal hearing, and a statement of final disposition.

(c) *Lease requirements.* The Lease shall contain all required provisions specified in paragraph (c)(2) of this section and none of the prohibited provisions listed in paragraph (c)(3) of this section and shall otherwise conform to the form of Lease included with the Owner's approved Final Proposal.

(1) *Term of lease.* The term of the Lease shall be generally for not less than one year. The Lease may (or, in the case of a Lease for a term of more than one year, shall) contain a provision permitting termination upon 30 days advance written notice by either party.

(2) *Required provisions.* The Lease between the Owner (Lessor) and the Family (Lessee) shall contain the following provisions:

ADDENDUM TO LEASE

The following additional Lease provisions are incorporated in full in the Lease between _____ (Lessor) and _____ (Lessee) for the following dwelling unit: _____. In case of any conflict between these and any other provisions of the Lease, these provisions shall prevail.

a. The total rent shall be $_____ per month.

b. Of the total rent, $_____ shall be payable by or at the direction of the Department of Housing and Urban Development ("HUD") as housing assistance payments on behalf of the Lessee and $_____ shall be payable by the Lessee. These amounts shall be subject to change by reason of changes in the Lessee's family income, family composition, or extent of exceptional medical or other unusual expenses, or by reason of adjustment by HUD of any applicable Allowance for Utilities and Other Services. Any such change shall be determined in accordance with HUD-established schedules and criteria and shall be effective as of the date stated in a notification to the Lessee.

c. The Lessor shall not discriminate against the Lessee in the provision of services, or in any other manner, on the grounds of race, color, creed, religion, sex, or national origin.

d. The Lessor shall provide the following services and maintenance: [Here insert the complete list as contained in the approved Final Proposal.]

Lessor _____
By _____
Date _____
Lessee _____
Date _____

(3) *Prohibited provisions.* Lease clauses which fall within the classifications listed below shall not be included in any Lease.

(i) *Confession of judgment.* Prior consent by tenant to any lawsuit the landlord may bring against him in connection with the Lease and to a judgment in favor of the landlord.

(ii) *Distraint for rent or other charges.* Authorization to the landlord to take property of the tenant and hold it as a pledge until the tenant performs any obligation which the landlord has determined the tenant has failed to perform.

(iii) *Exculpatory clause.* Agreement by tenant not to hold the landlord or land-

lord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representative or agents.

(iv) *Waiver of legal notice by tenant prior to actions for eviction or money judgments.* Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed.

(v) *Waiver of legal proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred, without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

(vi) *Waiver of jury trial.* Authorization to the landlord's lawyer to appear in court for the tenant and to waive the tenant's rights to a trial by jury.

(vii) *Waiver of right to appeal judicial error in legal proceedings.* Authorization to the landlord's lawyer to waive the tenant's right to appeal on the ground of judicial error in any suit or the tenant's right to file a suit in equity to prevent the execution of a judgment.

(viii) *Tenant chargeable with costs of legal actions regardless of outcome.* Agreement by the tenant to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court finds in favor of the tenant. (Omission of such clause does not mean that the tenant as a party to a lawsuit may not be obligated to pay attorney's fees or other costs if he loses the suit.)

(d) *Termination of tenancy.* The Owner shall be responsible for termination of tenancies, including evictions. However, conditions for payment of housing assistance payments for any resulting vacancies shall be as set forth in § 1278.103 (g) (3) (ii).

(e) *Maintenance, operation and inspections.* (1) *Maintenance and operation.* The Owner shall maintain and operate the project so as to provide Decent, Safe, and Sanitary housing and he shall provide all the services, maintenance and utilities which he agrees to provide under the Contract, subject to abatement of housing assistance payments or other applicable remedies if he fails to meet these obligations.

(2) *Inspection.* Prior to occupancy of any unit by a Family, the Owner and the Family shall inspect the unit and both shall certify, on the form prescribed by HUD, that they have inspected the unit and have determined it to be Decent, Safe, and Sanitary in accordance with the criteria provided in the prescribed form. HUD (or the PHA, as appropriate) will inspect or cause to be inspected each Contract unit and related facilities at least annually and at such other times (including prior to initial occupancy of any unit) as HUD (or the PHA) may determine to be necessary to assure that the Owner is meeting his obligation to maintain the units in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. HUD (or the PHA) will take into account complaints by occupants and any other information coming to its attention in scheduling inspections.

(f) *Units not decent, safe, and sanitary. If HUD* (or the PHA, as appropriate) notifies the Owner that he has failed to maintain a dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, HUD (or the PHA) may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments, even if the Family continues to occupy the unit. If, however, the Family wishes to be rehoused in another dwelling unit with section 8 assistance and HUD (or the PHA) does not have other section 8 funds for such purposes, HUD (or the PHA) may use the abated housing assistance payments for the purpose of rehousing the Family in another dwelling unit. Where this is done, the Owner shall be notified that he will be entitled to resumption of housing assistance payments for the vacated dwelling unit if:

(1) The unit is restored to Decent, Safe, and Sanitary condition;

(2) The Family is willing to and does move back to the restored dwelling unit; and

(3) A deduction is made for the expenses incurred by the Family for both moves.

(g) *Reexamination of family income, composition, and extent of exceptional medical or other unusual expenses.* Reexamination of Family income, composition, and the extent of medical or other unusual expenses incurred by the Family shall be made by the Owner at least annually (except that such reviews may be made at intervals no longer than two years in the case of elderly Families), and appropriate redeterminations shall be made by the Owner of the amount of the Family contribution and the amount of the housing assistance payment, all in accordance with schedules and criteria established by HUD.

(h) *Overcrowded and underoccupied units.* If HUD or the PHA, as the case may be, determines that a Contract unit assisted under this Part is not Decent, Safe, and Sanitary by reason of overcrowding, or that a Contract unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to such unit will not be abated, unless the Owner fails to offer the Family a suitable unit as soon as one becomes vacant and ready for occupancy. In the case of an overcrowded unit, if the Owner does not have any suitable units or if no vacancy of a suitable unit occurs within a reasonable time, HUD (or the PHA) will assist the Family in finding a suitable dwelling unit and require the Family to move to such a unit as soon as possible. The Owner may receive housing assistance payments for the vacated unit if he complies with the requirements of § 1273.103 (e) (3) (i).

(i) *Adjustment of allowance for utilities and other services.* HUD or the PHA, as the case may be, shall determine, as part of its annual inspection and at such other times as it deems appropriate, whether an adjustment is required in the Allowance for Utilities and Other Services applicable to the dwelling units in the project, on grounds of changes in utility rates or other change of general applicability to all units in the project. If HUD determines that an adjustment should be made, HUD shall prescribe the amount of the adjustment and direct the Owner to make promptly a corresponding adjustment in the amount of rent to be paid by the affected Families and the amount of housing assistance payment.

(j) *Continued family participation.* A Family must continue to occupy its approved unit to remain eligible for participation in the Housing Assistance Payments Program except that if the Family (1) wishes to vacate its unit at the end of the Lease term (or prior thereto but in accordance with the provisions of the Lease), or (2) is required to move for reasons other than violation of the Lease on the part of the Family, and if the Family wishes to receive the benefit of housing assistance payments in another approvable unit, the Family should give reasonable notice of the circumstances to HUD or to the PHA, as appropriate, so that HUD or the PHA may have the opportunity to consider the Family's request.

(k) *Inapplicability of low-rent public housing model lease and grievance procedures.* Model lease and grievance procedures established by HUD for PHA-owned low-rent public housing are applicable only to PHA-Owner Projects under the section 8 Housing Assistance Payments Program.

(l) *Reduction of number of contract units for failure to lease to eligible families.* (1) If at any time, beginning six months after the effective date of the Contract, the Owner fails for a continuous period of six months to have at least 80 percent of the Contract units leased or available for leasing by Eligible Families, HUD (or the PHA at the direction of HUD, as appropriate) may on 30 days notice reduce the number of Contract units to not less than the number of units under lease or available for leasing by Eligible Families, plus 10 percent of such number, if the number is 10 or more, rounded to the next highest number.

(2) At the end of the initial term of the Contract and of each renewal term, HUD (or the PHA at the direction of HUD, as appropriate) may, by notice to the Owner, reduce the number of Contract units to not less than (i) the number of units under lease or available for leasing by Eligible Families at that time or (ii) the average number of units so leased or available for leasing during the last year, whichever is the greatest number, plus 10 percent of such number, if the number is 10 or more, rounded to the next highest number.

(3) Any reduction pursuant to paragraphs (l) (1) or (l) (2) of this section shall not preclude subsequent restoration of Contract units if contract author-

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ity is available and if HUD determines that the restoration is justified as a result of changes in demand and in the light of the Owner's record of compliance with his obligations under the Contract.

§1273.219 HUD review of contract compliance.

HUD will review project operation at such intervals as it deems necessary to ensure that the Owner is in full compliance with the terms and conditions of the Contract. Equal Opportunity review may be conducted with the scheduled HUD review or at any time deemed appropriate by HUD.

§ 1273.220 PHA reporting requirements. [Reserved]

APPENDIX I—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT—NEW CONSTRUCTION—PRIVATE-OWNER OR PHA-OWNER PROJECT

PART I

This Agreement to Enter into Housing Assistance Payments Contract ("Agreement") is made and entered into by and between the United States of America acting through the Department of Housing and Urban Development ("Government") and_____ ("Owner").

Whereas, the Owner proposes to complete a housing project consisting of improvements and land as described in the approved Final Proposal; and

Whereas, the Owner and the Government propose to enter into a Housing Assistance Payments Contract ("Contract") upon the completion of said project for the purpose of making housing assistance payments to enable eligible lower-income families ("Families") to occupy units in said project; and

Whereas, the Owner is also the developer, or, if the developer is other than the Owner, the developer's name is_____.

Now therefore, the parties hereto agree as follows:

1.1 *Significant dates: Contents of agreement.*

a. *Time for completion of project.* The time for completion of the project (see Section 1.2a) is_____calendar days after the effective date of this Agreement.

b. *Date for commencement of work.* The date for commencement of work (see Section 1.2b) is_____, 19__.

c. *Contents of agreement.* This agreement consists of Part I, Part II, and the following exhibits:

Exhibit A: The approved Final Proposal including, among other things, the architect's certification, the Affirmative Fair Housing Marketing Plan (if required), evidence of management capability, and management program (if required);

Exhibit B: The Housing Assistance Payments Contract ("Contract") to be executed upon acceptable completion of the project;

Exhibit C: The schedule of completion in stages, if applicable;

Exhibit D: The schedule of minimum rates of wages, if applicable; and

Additional exhibits: [Specify additional exhibits, if any. If none, insert "None."]

This Agreement, including said exhibits, comprises the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as contained herein. Nothing contained in this Agreement shall create or affect any relationship between the Government and the lender or any contractors or subcontractors employed by the Owner in the completion of the project.

1.2 *Schedule of completion.*

a. *Time for Completion.* The project shall be completed in accordance with Section 1.4 no later than the end of the period stated in Section 1.1a, or in stages as provided for in Exhibit C which identifies the units comprising each stage and the date of commencement and time for completion of each stage. Where completion in stages is provided for, all references to project completion shall be deemed to refer to project completion and/or completion of any stage, as appropriate.

b. *Timely Performance of Work.* The Owner agrees that no later than the date stated in Section 1.1b the work will be commenced and diligently continued. In the event the work is not commenced, diligently continued, and/or completed as aforesaid, the Government reserves the right to rescind this Agreement or take other appropriate action. The Owner shall report to the Government the date work was commenced and shall thereafter furnish the Government with periodic progress reports (quarterly unless more frequent reporting is required by the Government).

c. *Delays.* In the event there is delay in the completion due to strikes, lockouts, labor union disputes, fire, unusual delays in transportation, unavoidable casualties, weather, acts of God, or any other causes beyond the Owner's control, or by delay authorized by the Government, the time for completion shall be extended to the extent that completion is delayed due to one or more of these causes. No increase in the rents set forth in Exhibit B ("Contract Rents") may be granted on account of any such delays.

1.3 *Construction period.*

a. *Changes.* The Owner shall submit for Government approval any changes from Exhibit A which will materially reduce or alter his obligations or any changes which alter the design or materially reduce the quality or amenities of the project. The Government may condition its approval of such changes on a reduction of Contract Rents. If such changes are made without prior Government approval, the Government may determine that Contract Rents shall be reduced or that the Owner shall remedy the defects or deficiencies as a condition for acceptance of the project. Contract Rents may not be increased by reason of any changes or modifications.

b. *Commencement of Marketing.* The Owner shall commence and diligently continue marketing as soon as possible, but in any event no later than 90 days prior to the estimated completion date. The Owner shall notify the Government of the date of commencement of marketing. The Owner shall also comply with all reporting requirements under the Affirmative Fair Housing Marketing Regulations. Not later than 30 days prior to the estimated completion date and periodically thereafter, the Owner shall notify the Government of any units which he anticipates will be vacant on the effective date of the Contract. At the time the Contract is executed, the Owner shall submit a list of the dwelling units leased as of the effective date of the Contract and a list of the units not so leased, if any. The Owner will be entitled to housing assistance payments for any unleased units pursuant to Section 1.6b of the Contract only if he has fully complied with the requirements of this paragraph and the provisions of that Section.

c. *Management Certification.* Prior to acceptance of the project by the Government, the Owner shall certify in writing that there has been no change in the evidence of management capability or in the proposed management program (if one was required) specified in his Final Proposal other than changes approved in writing by the Government in accordance with paragraph a of this Section.

d. *Labor Standards Certification.*[1] Prior to acceptance of the project by the Government, the Owner shall certify in writing that he has complied with the provisions of Sections 2.6 through 2.11 of this Agreement, and that to the best of his knowledge and belief there are no claims of underpayment to laborers or mechanics in alleged violation of said provisions of the Agreement. In the event there are any such pending claims to the knowledge of the Owner or the Government, the Owner shall be required to place a sufficient amount in escrow as determined by the Government to assure payment thereof.

1.4 *Project completion.*

a. *Conformance to Final Proposal.* The completed project shall be in accordance with Exhibit A. The Owner shall be solely responsible for completion of the project.

b. *Notification of Completion.* The Owner shall notify the Government when the work is completed and shall submit to the Government the evidence of completion described in paragraph c of this Section.

c. *Evidence of Completion.* Completion of the project shall be evidenced by furnishing the Government with all of the following:

(1) A set of as-built drawings.

(2) A certificate for occupancy and/or other official approvals necessary for occupancy.

(3) A certification by the Owner, which will be supported by the Owner's warranty in the Contract, that:

(i) All work has been completed in accordance with the requirements of this Agreement;

(ii) The project is in good and tenantable condition; and

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified).

(4) A certification by the registered architect responsible for inspection of construction that such inspection was performed by him or under his supervision with the frequency and thoroughness required by the generally accepted standards of professional care and judgment, and that to the best of his knowledge, belief, and professional judgment:

(i) All work has been completed in conformance with the certified working drawings and specifications for the project or approved changes thereto (such changes to be listed);

(ii) The project is in good and tenantable condition; and

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified).

(iv) The project has been constructed in accordance with applicable zoning, building, housing, and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials.

d. *Inspection.*

(1) Within ten working days of the receipt of the Owner's notification of project completion, the Government representative shall inspect the project and review the evidence of completion listed in paragraph c of this Section. Such inspection shall be sufficient to enable the Government inspector to state in his inspection report that he has inspected the observable elements and features of the project in accordance with professional standards of care and judgment and that, on the basis of such inspection, the project has

[1] Strike this paragraph if the project involves fewer than nine Contract units.

been completed in accordance with the Agreement and, in particular, that there are no observable conditions inconsistent with the certifications of the Owner or the design architect or the inspecting architect. As promptly as possible, the Government shall notify the Owner in writing as to whether or not the project has been completed in an acceptable manner.

(2) In the event the Owner disputes the Government's determinations, he may submit the controversy to third-party arbitration, at his expense, provided that the arbitration is advisory only.

e. *Acceptance of project.* If the Government determines that the project is not acceptable under paragraph d(1) of this Section, the following shall apply:

(1) If the defects or deficiencies are only punchlist items or incomplete items awaiting seasonal opportunity, the project may be accepted and the Contract executed. If the Owner fails to complete such items within a reasonable time to the satisfaction of the Government, the Government may, upon 30 days notice, terminate the Contract or exercise its other rights under the Contract.

(2) If the defects or deficiencies are other than punchlist items or incomplete work awaiting seasonal opportunity, but the Government determines that (i) a certificate of occupancy and/or other official approvals necessary for occupancy has been issued (ii) the project is in good and tenantable condition, and (iii) the project has been constructed in accordance with the applicable zoning, building, housing and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials, the project may be accepted after the Owner corrects the defects or deficiencies or the project may be accepted subject to a specified reduction of the Contract Rents as determined by the Government.

(3) If the Government determines that the project is not acceptable under paragraphs e(1) or e(2) of this Section, the Government shall determine: (i) whether the defects or deficiencies can be corrected and (ii) whether a reduction in Contract Rents will be required as a condition to acceptance of the project. If it is determined that the defects or deficiencies can be corrected, the Owner shall be notified of the Government's determination under (i) and (ii) of this subparagraph and, if he agrees to comply with the conditions, an agreement shall be entered into pursuant to which the defects or deficiencies will be corrected and the project then accepted. If the Owner is unwilling to enter into such agreement or if he fails to perform the agreement, the project shall not be accepted. Prior to execution of the Contract, the Government will verify that appropriate corrective action has been taken.

f. *Completion in Stages.* If the project is to be completed in stages, the procedures of this Section shall apply to each stage.

1.5 *Execution of housing assistance payments contract.*

a. *Time of Execution.* Upon acceptance of the project by the Government pursuant to Sections 1.3 and 1.4, the Contract shall be executed first by the Owner and then by the Government.

b. *Completion in Stages.* If completion is in stages, the Contract shall be executed upon completion of the first stage, and the number and types of completed units and their Contract Rents shall be shown in Exhibit A–1 of the Contract. Thereafter, upon completion of each successive stage, the signature block provided in the Contract for that stage shall be executed by the Owner and the Government, and Exhibits A–2, A–3, etc., covering the additional units, shall become part of the Contract.

c. *Unleased Units at Time of Execution.* At the time of execution of the Contract, the Government shall examine the lists of dwelling units leased and not leased, referred to in Section 1.3b, and shall determine whether or not the Owner has met his obligations under that Section with respect to any unleased units. The Government shall state in writing its determination with respect to the unleased units and for which of those units it will make housing assistance payments pursuant to the Contract. The Owner shall indicate in writing his concurrence with this determination or his disagreement, reserving his rights to claim housing assistance payments for the unleased units pursuant to the Contract, without prejudice by reason of his signing the Contract.

d. *Contract Rents.* The Contract Rents by unit size, amounts of housing assistance payments, and all other applicable terms and conditions shall be as specified in the proposed Housing Assistance Payments Contract, except that in no case may the initial Contract Rents for units in projects financed with mortgages insured under the National Housing Act exceed the rents approved by the Government in connection with the mortgage insurance for such projects.

e. *No Changes in Contract.* Each party has read or is presumed to have read the proposed Contract. It is expressly agreed that there shall be no change in the terms and conditions of the Contract other than in accordance with Section 1.3a and paragraph d of this Section.

1.6. *Government assurance to owner.* The execution of this Agreement by the Government signifies that the faith of the United States is solemnly pledged to the payment of housing assistance payments pursuant to the Contract and that funds have been obligated by the Government for such payments.

1.7 *Relocation requirements.*[2]

[Alternative provisions—incorporate alternative 1 or 2, as applicable.]

Alternative 1—For projects which were without site occupants as of the date indicated in this alternative.

The Owner hereby certifies that the site of the project was without occupants as of the date of the Government notification to the Owner requesting the Owner to submit a Final Proposal.

Alternative 2—For projects which do not qualify for alternative 1.

a. *Owner Compliance with Relocation Act.* The Owner agrees to comply with the provisions of sections 202, 203, and 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and applicable Government regulations and requirements issued pursuant thereto.

b. *Relocation Payments Other than by Owner.* The Government has determined that satisfactory commitments have been made for the funding of relocation payments required by sections 202, 203, and 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as follows:

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c. *Relocation Payments by Owner.* If paragraph b is inapplicable, the following shall apply:

(1) The maximum potential amount of all relocation payments as estimated by the Government is $_____.

(2) The Owner has deposited this amount in an escrow account under the terms of which payments may be made only upon presentation of written authorization by the Government for the purpose of meeting relocation payments.

(3) The Owner hereby voluntarily undertakes liability for all relocation payments and agrees that if the funds in the escrow account shall prove to be insufficient to meet all such relocation payments he will deposit such additional amounts as the Government determines to be necessary for such purpose.

(4) When the Government determines that there is no longer any potential liability for relocation payments, any balance in the escrow account shall be paid to the Owner.

(5) The Owner agrees to hold harmless and to indemnify the Government for any costs incurred under sections 202, 203, and 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 in connection with the relocation of site occupants, and the Owner further agrees that the Government shall have the right to be reimbursed for any such costs by withholding from housing assistance payments payable to the Owner.

Effective date. This Agreement shall be effective as of the date of execution by the Government.

In witness whereof, the parties hereto have executed this Agreement in four original counterparts.

Warning: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

United States of America
Secretary of Housing and Urban Development
By _____
_____
(Official title)
Date _____, 19__

Owner _____
By _____
(Official title)
Date _____, 19__

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT—NEW CONSTRUCTION—PRIVATE-OWNER OR PHA-OWNER PROJECT

PART II

2.1 *Training, employment, and contracting opportunities for businesses and lower-income persons.*[3]

a. The project assisted under this Agreement is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

b. Notwithstanding any other provision of this Agreement, the Owner shall carry out the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135 (published in 38 FR 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this Agreement. The requirements of said regulations include, but are not limited to,

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[2] Strike this Section in the case of a Private-Owner Project.

[3] Strike this Section if the Contract Rents under the proposed Housing Assistance Payments Contract, over the maximum term of said Contract, are $500,000 or less.

development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by § 135.20(b) of the regulations and paragraph d of this Section in all contracts for work in connection with the project. The Owner certifies and agrees that he is under no contractual or other disability which would prevent him from complying with these requirements.

c. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this Agreement, shall be a condition of the Federal financial assistance provided to the project, binding upon the Owner, his successors and assigns. Failure to fulfill these requirements shall subject the Owner, his contractors and subcontractors, his successors, and assigns to the sanction specified by this Agreement, and to such sanctions as are specified by 24 CFR 135.135.

d. The Owner shall incorporate or cause to be incorporated into any contract or subcontract for work pursuant to this Agreement in excess of $50,000 cost, the following clause:

EMPLOYMENT OF PROJECT AREA RESIDENTS AND CONTRACTORS

A. The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

B. The parties to this Agreement will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR, Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR, Part 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.135.

e. The Owner agrees that he will be bound by the above Employment of Project Area Residents and Contractors clause with respect to his own employment practices when he participates in federally assisted work.

2.2 *Equal employment opportunity.*[1]

a. The Owner shall incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is to be performed pursuant to this Agreement, the following Equal Opportunity clause:

EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising, lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by or at the direction of the Government setting forth the provisions of this Equal Opportunity clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by or at the direction of the Government advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the Equal Opportunity clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding Paragraph (1) and the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance; Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

b. The Owner agrees that he will be bound by the above Equal Opportunity clause with respect to his own employment practices when he participates in federally assisted construction work.

c. The Owner agrees that he will assist and cooperate actively with HUD and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that he will furnish HUD and the Secretary of Labor such information as they may require for the supervision of such compliance, and that he will otherwise assist HUD in the discharge of HUD's primary responsibility for securing compliance.

d. The Owner further agrees that he will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by HUD or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

2.3 *Cooperation in equal opportunity compliance reviews.* The Owner shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

[1] As used in Section 2.2, "HUD" means the United States of American acting through the Department of Housing and Urban Development.

2.4 *Flood insurance.* If the project is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

2.5 *Clean air act and federal water pollution control act.*[5] In compliance with regulations issued by the Environmental Protection Agency ("EPA"), 40 CFR, Part 15, 39 FR 11099, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 1857, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Owner agrees that:

a. Any facility to be utilized in the performance of this Agreement or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to § 15.20 of said regulations;

b. He will promptly notify the Department of Housing and Urban Development field office director of the receipt of any communication from the EPA indicating that a facility to be utilized for the Agreement is under consideration to be listed on the EPA List of Violating Facilities;

c. He will comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder; and

d. He will include or cause to be included the provisions of this Section in every nonexempt subcontract, and that he will take such action as the Government may direct as a means of enforcing such provisions.

2.6 *Prevailing wage rates.*[6]

a. Attached hereto and incorporated herein as Exhibit D is a schedule of minimum rates of wages applicable to this Agreement.

b. All laborers and mechanics employed in the construction of the project shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the regulations issued by the Secretary of Labor under the Copeland Act (29 CFR, Part 3)), the full amounts due at the time of payment computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor of the United States, which is incorporated herein, regardless of any contractual relationship which may be alleged to exist between the Owner or any subcontractor and such laborers and mechanics; and the wage determination decision and the Department of Labor Wage Rate Information Poster shall be posted by the Owner at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics subject to the provisions of paragraph c of this Section. Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

c. The Owner may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, or any bona fide fringe benefits not expressly listed in section 1(b)(2) of the Davis-Bacon Act or otherwise not listed in the wage determination decision of the Secretary of Labor which is included in this Agreement, only when the Secretary of Labor has found, upon the written request of the Owner, that the applicable standards of the Davis-Bacon Act have been met. Whenever practicable, the Owner should request the Secretary of Labor to make such findings before the making of the Agreement. In the case of unfunded plans and programs, the Secretary of Labor may require the Owner to set aside in a separate account assets for the meeting of obligations under the plan or program.

d. The Owner shall comply with the Copeland (Anti-Kickback) Regulations (29 CFR, Part 3) of the Secretary of Labor which are herein incorporated by reference.

e. Any class of laborers or mechanics (including apprentices and trainees) which is not listed in the wage determination and which is to be employed under the Agreement shall be classified or reclassified conformably to the wage determination. In the event that agreement cannot be reached on the proper classification or reclassification of a particular class of laborers and mechanics (including apprentices and trainees) to be used, the question will be referred by HUD to the Secretary of Labor for final determination.

f. Whenever the minimum wage rate prescribed in the Agreement for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the Owner is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof shall be established. In the event that agreement cannot be reached upon a cash equivalent of the fringe benefit, the question will be referred by HUD to the Secretary of Labor for final determination.

g. (1)(i) Apprentices will be permitted to work as such only when they are registered individually under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor; or, if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Owner as to his entire work force under the registered program. And employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subsection (b) immediately following or is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Owner will be required to furnish to the other party to this Agreement written evidence of the registration of his program and apprentices, as well as of the appropriate ratios and wage rates for the area of construction prior to using any apprentices on the contract work.

(ii) Trainees will be permitted to work as such when they are bona fide trainees employed pursuant to a program approved by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, and where subsection (c) immediately following is applicable, in accordance with the provisions of paragraph g(2) of this Section.

(iii) On contracts in excess of $10,000 the employment of all laborers and mechanics, including apprentices and trainees, as defined in 29 CFR Section 5.2(c) shall also be subject to the provisions of paragraph g(2) of this Section. Apprentices and trainees shall be hired in accordance with the provisions of paragraph g(2).

(2) The Owner agrees that:

(i) He will make a diligent effort to hire for the performance of the Agreement a number of apprentices or trainees, or both, in each occupation, which bears to the average number of the journeymen in that occupation to be employed in the performance of the Agreement the applicable ratio as determined by the Secretary of Labor;

(ii) He will assure that 25 percent of such apprentices or trainees in such occupation are in their first year of training, where feasible. Feasibility here involves a consideration of (A) the availability of training opportunities for first year apprentices, (B) the hazardous nature of the work for beginning workers, (C) excessive unemployment of apprentices in their second and subsequent years of training;

(iii) During the performance of the Agreement he will, to the greatest extent possible, employ the number of apprentices or trainees necessary to meet currently the requirements of (i) and (ii) immediately preceding;

(iv) He will maintain records of employment by trade of the number of apprentices and trainees, apprentices and trainees by first year of training, and of journeymen, and the wages paid and hours of work of such apprentices, trainees and journeymen; and he will make these records available for inspection upon request of the Department of Labor and HUD;

(v) If he claims compliance based on the criterion stated in 29 CFR § 5a.4(b), he will maintain records of employment as described in the immediately preceding paragraph, on non-Federal and nonfederally assisted construction work done during the performance of the contract in the same labor market area; and he will make these records available for inspection upon request of the Department of Labor and HUD;

(vi) He will supply one copy of the written notices required in accordance with 29 CFR § 5a.4(c) at the request of Government compliance officers, and will supply at three-month intervals during the performance of the Agreement and after completion of Agreement performance a statement describing steps taken toward making a diligent effort and containing a breakdown by craft, of hours worked and wages paid for first year apprentices and trainees, other apprentices and trainees, and journeymen. One copy of the statement will be sent to HUD and one to the Secretary of Labor.

2.7 *Submittal of payrolls and related reports.*

a. Payrolls and basic records relating thereto shall be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics employed in the construction of the project. Such records shall contain the name and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the

[5] Strike this Section if the Contract Rents under the proposed Housing Assistance Payments Contract, over the maximum term of said Contract, are $100,000 or less.

[6] As used in Sections 2.6 through 2.11, "HUD" means the United States of America acting through the Department of Housing and Urban Development. Strike Sections 2.6 through 2.11 if the project involves fewer than nine Contract units.

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Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under § 2.6c that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Owner shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

b. The Owner shall submit weekly to the other party to this Agreement such copies and summaries of all his payrolls and those of each of his subcontractors as such other party may require. Each payroll and summary shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic conform with the work he performed. A submission of a "Weekly Statement of Compliance," which is required under this Agreement and the Copeland Regulations of the Secretary of Labor (29 CFR, Part 3), and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor under § 2.6c shall satisfy this requirement. The Owner shall make the records required under the labor standards clauses of this Agreement available for inspection by authorized representatives of HUD and the Department of Labor, and will permit such representatives to interview employees during working hours on the job.

c. The Owner shall also furnish to the other parties to this Agreement any other information or certifications relating to employees in such form as such other party may request.

2.8 *Disputes concerning wage rates and classifications of labor.*

a. All disputes concerning prevailing wage rates or classifications arising under this Agreement involving (1) significant sums of money, (2) large groups of employees, or (3) novel or unusual situations shall be promptly reported to HUD for decision or, at the option of HUD, referral to the Secretary of Labor of the United States. The decision of HUD or the Secretary of Labor, as the case may be, shall be final.

b. All questions arising under this Agreement relating to the application or interpretation of the Copeland (Anti-Kickback) Act shall be referred to the Secretary of Labor of the United States for ruling or interpretation, and such ruling or interpretation shall be final.

2.9 *Wage claims and adjustments.* In cases of underpayment of salaries or wages to any laborers or mechanics (including apprentices and trainees) by the Owner (or any of his subcontractors), the Owner shall be required to place an amount in escrow, as determined by HUD, sufficient to pay persons employed on the work covered by the Agreement the difference between the salaries or wages actually paid such employees for the total number of hours worked, and the amounts withheld may be disbursed by HUD for and on account of the Owner or the subcontractor to the respective employees to whom they are due.

2.10 *Contract work hours and safety standards act—overtime compensation.*

a. Neither the Owner nor any subcontractor contracting for any part of the work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in any such workweek, as the case may be.

b. In the event of any violation of the clause set forth in paragraph a of this Section, the Owner and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Owner and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed, with respect to each individual laborer or mechanic employed in violation of the clause set forth in paragraph a of this Section, in the sum of $10 for each calendar day on which such employee was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph a.

c. The Owner shall deposit in escrow such amounts determined by HUD to be necessary to satisfy any liability of the Owner or any subcontractor for liquidated damages as provided in paragraph b of this section.

2.11 *Termination; debarment; subcontracts.*

a. A breach of the provisions of the foregoing §§ 2.6, 2.7, 2.8, 2.9, and 2.10 may be grounds for termination of this Agreement and for debarment as provided in 29 CFR 5.6.

b. The Owner shall insert in any subcontracts Sections 2.6 (and with respect to § 2.6g (2), copies of 29 CFR 5a.4, 5a.5, 5a.6 and 5a.7 shall be attached), 2.7, 2.8, 2.9, 2.10, and 2.11a, and also a clause requiring the subcontractors to include these sections in any lower tier subcontract which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

2.12 *Disputes.*

a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement between the Department of Housing and Urban Development field office and the Owner may be submitted by the Owner to the Secretary of Housing and Urban Development. The decision of the Secretary or his duly authorized representative for the resolution of such disputes shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any proceeding under this Section, the Owner shall be afforded an opportunity to be heard and to offer evidence in support of his position.

b. This Section does not preclude consideration of questions of law in connection with the decision rendered under paragraph a of this Section; Provided, however, that nothing herein shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

2.13 *Interest of members, officers, or employees of public housing agency, members of local governing body, or other public officials.* No member, officer, or employee of the Public Housing Agency ("PHA"), no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions of responsibilities with respect to the project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or in any proceeds or benefits arising therefrom.

2.14 *Interest of member of or delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Agreement or to any benefits which may arise therefrom.

2.15 *Nonassignability.*

a. The Owner agrees that he has not made and will not make any sale, assignment, or conveyance or transfer in any other form, of this Agreement or the project or any part thereof or any of his interest therein, without the prior consent of the Government; Provided, however, that in the case of an assignment as security for the purpose of obtaining financing of the project, the Government shall consent in writing if the terms of the financing have been approved by the Government. An assignment by the Owner to a limited partnership of which the Owner is the sole general partner shall not be considered an assignment herein.

b. The Owner agrees that he will not change to a different developer from the one named in the preamble of this Agreement, except with the prior consent of the Government.

c. The Owner agrees that the approved developer has not made, and will not make, except with the prior consent of the Government, any assignment or transfer in any form of the developer's contract to construct the project, or of any part thereof, or any of the developer's interests therein.

d. The Owner agrees to notify the Government promptly of any proposed action covered by paragraph a or b or c of this Section. The Owner further agrees to request the written consent of the Government in regard thereto, except in the case of an assignment as security as provided in paragraph a of this section.

e. For the purpose of this section, a transfer of stock in the Owner or developer in whole or in part, by a party holding ten percent or more of the stock of said Owner or developer, or a transfer by more than one stockholder or the owner of 10 percent or more of the stock of said Owner, or any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to the parties in control of the Owner or developer or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Agreement, the project or the construction contract. With respect to this provision, the Owner, and the party signing this Agreement on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect thereto.

APPENDIX II—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—HOUSING ASSISTANCE PAYMENTS CONTRACT—NEW CONSTRUCTION—PRIVATE-OWNER OR PHA-OWNER PROJECT

PART I

This Housing Assistance Payments Contract ("Contract") is entered into by and between the United States of America acting through the Department of Housing and Urban Development ("Government"), and ---------- ("Owner"), pursuant to the United States Housing Act of 1937 ("Act"),

42 U.S.C. 1437, et seq., and the Department of Housing and Urban Development Act, 42 U.S.C. 3531, et seq.

The parties hereto agree as follows:

1.1 *Significant dates and other items; contents of contract.*

a. *Effective Date of Contract.* The effective date of this Contract is _____, 19__. [This date shall be no earlier than the date of approval by the Government.]

b. *Initial Term of Contract.* The initial term of this Contract (see Section 1.4a) shall be __ years [not to exceed five years], beginning with the effective date of this Contract and ending _____, 19__.

c. *Number and Length of Optional Additional Terms.* The number and length of optional additional terms (see § 1.4a) shall be _____ terms of __ year each [not to exceed five years each].

d. *Maximum Total Term of Contract.* The maximum total term of this Contract, including renewals (see Section 1.4a) shall be __ years. [Insert 20, except in the case of (1) a project owned by, or financed by a loan or loan guarantee from, a State or local agency or (2) a mobile homes project. Under either of these exceptions, insert number as specifically authorized by the Government pursuant to 24 CFR § 1278.103(g), not to exceed 40 in the case of exception (1) or 20 in the case of exception (2).]

e. *Fiscal year.* The ending date of each Fiscal Year (see Section 1.4b) shall be _____ [insert March 31, June 30, September 30, or December 31, as determined by the Government].

f. *Maximum Housing Assistance Commitment.* The maximum amount of the commitment for housing assistance payments under this Contract (see Section 1.5a) is $_____ per annum.

g. *Contents of contract.* This contract consists of Part I, Part II, and the following exhibits:

Exhibit A: The schedule showing the number of units by size ("Contract Units") and their applicable rents ("Contract Rents").

Exhibit B: The Project Description;

Exhibit C: The statement of services, maintenance and utilities to be provided by Owner;

Exhibit D: The Affirmative Fair Housing Marketing Plan, if applicable; and

Additional exhibits: [Specify additional exhibits, if any. If none, insert "None."]

This Contract, including said exhibits, comprises the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as contained herein.

1.2 *Owner's warranties.*

a. *Legal capacity.* The Owner warrants that he has the legal right to execute this Contract and to lease dwelling units covered by this Contract.

b. *Completion of work.* The Owner warrants that the project as described in Exhibit B is in good and tenantable condition and that all work has been completed in accordance with the terms and conditions of the Agreement to Enter into Housing Assistance Payments Contract ("Agreement") or will be completed in accordance with the terms on which the project was accepted. The Owner further warrants that he will remedy any defects or omissions covered by this warranty if called to his attention within 12 months of the effective date of the Contract.

1.3 *Families to be housed; government assistance.*

a. *Families to be housed.* The Contract Units are to be leased by the Owner to eligible lower-income families ("Families") for use and occupancy by such Families solely as private dwellings.

b. *Government assistance.*

(1) The Government hereby agrees to make housing assistance payments on behalf of Families for the Contract Units, to enable such Families to lease Decent, Safe, and Sanitary housing pursuant to section 8 of the Act. Such housing assistance payments shall equal the difference between the Contract Rents for units leased by Families and the portion of such rents payable by Families as determined by the Owner in accordance with schedules and criteria established by the Government.

(2) If there is an Allowance for Utilities and Other Services and if such Allowance exceeds the Gross Family Contribution, the Owner shall pay the Family the amount of such excess on behalf of the Government upon receipt of funds from the Government for that purpose.

1.4 *Term of contract: Fiscal year.*

a. *Term of Contract.*

[Alternative provisions—incorporate alternative 1, 2, or 3, as applicable.]

Alternative 1—General:

The initial term of this Contract shall be as stated in section 1.1b. This Contract may be renewed, at the sole option of the Owner, for the number and length of additional terms stated in section 1.1c, provided that the total Contract term for any unit, including renewals, shall not exceed the number of years stated in section 1.1d. Renewal shall be automatic unless the Owner notifies the Government, no later than 60 days prior to the expiration of the current term, of his intention not to renew. If the project is accepted in stages, the dates for the initial term and renewal terms shall be separately related to the units in each stage; *Provided, however,* that the total Contract term for the units in all the stages, counting from the effective date of the Contract with respect to the first stage, shall not exceed the total Contract term stated in section 1.1d, plus two years.

Alternative 2—For mobile homes project:

In the case of mobile homes, the initial term of this Contract for each mobile home shall be as stated in section 1.1b. This Contract shall be renewed, as may be mutually agreed upon by the Owner and the Government, with respect to any mobile home, for the number and length of additional terms as stated in section 1.1c, provided that the total Contract term for any mobile home, including renewals, shall not exceed the number of years stated in section 1.1d. Renewals shall become effective only if either party gives written notice, no later than 60 days prior to the expiration of the current term, of his desire to renew, and the other party concurs or fails to object before the expiration of the current term. If the project is accepted in stages, the dates for the initial term and renewal terms shall be separately related to the mobile homes in each stage; *Provided, however,* that the total Contract term for the mobile homes in all stages, counting from the effective date of the Contract with respect to the first stage, shall not exceed the total Contract term stated in section 1.1d, plus two years. For purposes of this paragraph a, the term "mobile home" means the original mobile home and any replacement(s), combined.

b. *Fiscal Year.* The Fiscal Year for the project shall be the 12-month period ending on the date stated in section 1.1e; Provided, however, that the first Fiscal Year for the project shall be the period beginning with the effective date of the Contract and ending on the last day of said established Fiscal Year which is not less than 12 months after such effective date. If the first Fiscal Year exceeds 12 months, the maximum total annual housing assistance payment in Section 1.5a may be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.

1.5 *Maximum housing assistance commitment; project reserve.*

a. *Maximum housing assistance commitment.* Notwithstanding any other provisions of this Contract (other than paragraph b of this Section) or any provisions of any other contract between the Government and the Owner, the Government shall not be obligated to make and shall not make any housing assistance payments under this Contract in excess of the amount per annum stated in Section 1.1f; Provided, however, that this amount shall be reduced commensurate with any reduction in the number of units under this Contract.

b. *Project Reserve.* A project account shall be established and maintained, in an amount as determined by the Government consistent with its responsibilities under section 8(c)(6) of the Act, out of amounts by which the maximum Contract commitment stated in paragraph a of this Section exceeds amounts paid under this Contract for any Fiscal Year. This account shall be established and maintained by the Government as a specifically identified and segregated account. To the extent funds are available in said account, the maximum total annual housing assistance payments for any Fiscal Year may exceed the maximum amount stated in paragraph a of this Section to cover increases in Contract Rents or decreases in Family incomes (see § 1.3). Any amount remaining in said account after payment of the last housing assistance payment with respect to the project shall be applied by the Government as a receipt in accordance with law.

1.6 *Housing assistance payments to owners.*

a. *General.*

(1) Housing assistance payments shall be paid to the Owner for units under lease by Families in accordance with the Contract. The housing assistance payment will pay the Owner the difference between the Contract Rent and that portion of said rent payable by the Family as determined in accordance with the Government-established schedules and criteria.

(2) The Owner shall be entitled to Contract Rents in accordance with the terms of this Contract. The amount of housing assistance payment payable on behalf of a Family and the amount of rent payable by such Family shall be subject to change by reason of changes in Family income, Family composition, extent of exceptional medical or other unusual expenses, or by reason of adjustment by the Government of any applicable Allowance for Utilities and Other Services. Any such change shall be determined in accordance with the Government-established schedules and criteria, and shall be effective as of the date stated in a notification of such change to the Family.

b. *Vacancies During Rent-up.* If a Contract Unit is not leased as of the effective date of the Contract, the Owner shall be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract, provided that the Owner (1) commenced marketing and otherwise complied with section 1.3b of the Agreement, (2) has taken and continues to take all feasible actions to fill the vacancy, including, but not limited to, contacting applicants on his waiting list, requesting the Public Housing Agency ("PHA") and other appropriate sources to refer eligible applicants, and advertising the availability of the units, and (3) has not rejected any eligible applicant, except for good cause acceptable to the Government.

c. *Vacancies After Rent-up.*

(1) If a Family vacates its unit (other than as a result of action by the Owner

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which is in violation of the Lease or the Contract or any applicable law), the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days: Provided, however, that if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to the Government or as the Government may direct. (See also § 1.9b.) The Owner shall not be entitled to any payment under this subparagraph unless he: (i) immediately upon learning of the vacancy, has notified the Government of the vacancy or prospective vacancy and the reasons for the vacancy, and (ii) has taken and continues to take the actions specified in paragraphs b(2) and b(3) of this Section.

(2) If the Owner proposes to evict a Family, he shall not be entitled to any payment under pargaraph c(1) of this Section unless the request for such payment is supported by a certification that (i) he has given such Family a written notice of the proposed eviction, stating the grounds and advising the Family that it has 10 days within which to present its objections to the Owner in writing or in person and (ii) the proposed eviction is not in violation of the Lease or the Contract or any applicable law.

d. *Limitation on Payments for Vacant Units.* The Owner shall not be entitled to housing assistance payments with respect to vacant units under this section to the extent he is entitled to payments from other sources (e.g., payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the Housing and Community Development Act of 1974 or payments under section 1.9b of this Contract).

e. *Government Not Obligated for Family Rent.* The Government has not assumed any obligation for the amount of rent payable by any Family or the satisfaction of any claim by the Owner against any Family other than in accordance with Section 1.9b of this Contract. The financial obligation of the Government is limited to making housing assistance payments on behalf of Families in accordance with this Contract.

f. *Owner's Monthly Requests for Payments.*

(1) The Owner shall submit monthly requests to the Government for housing assistance payments. Each such request shall set forth: (i) the name of each Family and the address and/or number of the unit leased by the Family; (ii) the address and/or the number of units, if any, not leased to Families for which the Owner is claiming payments; (iii) the Contract Rent as set forth in Exhibit A for each unit for which the Owner is claiming payments; (iv) the amount of rent payable by the Family leasing the unit; and (v) the total amount of housing assistance payments requested by the Owner.

(2) Each of the Owner's monthly requests shall contain a certification by him that to the best of his knowledge and belief (i) the dwelling unit is in Decent, Safe, and Sanitary condition, (ii) all the other facts and data on which the request for funds is based are true and correct, (iii) the amount requested has been calculated in accordance with the provisions of this Contract and is payable under the Contract, and (iv) none of the amount claimed had been previously claimed or paid.

(3) If the Owner has received an excessive payment, the Government, in addition to any other rights to recovery, may deduct the amount from any subsequent payment or payments.

(4) The Owner's monthly requests for housing assistance payments shall be made subject to penalty under 18 U.S.C. 1001, which provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

1.7 *Maintenance, operation and inspection.*

a. *Maintenance and Operation.* The Owner agrees (1) to maintain and operate the Contract Units and related facilities so as to provide Decent, Safe, and Sanitary housing, and (2) to provide all the services, maintenance and utilities set forth in Exhibit C. If the Government determines that the Owner is not meeting any of these obligations, the Government shall have the right, in addition to its other rights and remedies under this Contract, to abate housing assistance payments in whole or in part.

b. *Inspection.*

(1) Prior to occupancy of any unit by a Family, the Owner and the Family shall inspect the unit and both shall certify, on the form prescribed by the Government, that they have inspected the unit and have determined it to be Decent, Safe, and Sanitary in accordance with the criteria provided in the prescribed form.

(2) The Government shall inspect or cause to be inspected each Contract Unit and related facilities at least annually and at such other times (including prior to initial occupancy of any unit) as the Government may determine to be necessary to assure that the Owner is meeting his obligation to maintain the units in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. The Government shall take into account complaints by occupants and any other information coming to its attention in scheduling inspections.

c. *Units Not Decent, Safe, and Sanitary.* If the Government notifies the Owner that he has failed to maintain a dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, the Government may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments, even if the Family continues to occupy the unit. If, however, the Family wishes to be rehoused in another dwelling unit with Section 8 assistance and the Government does not have other Section 8 funds for such purposes, the Government may use the abated housing assistance payments for the purpose of rehousing the Family in another dwelling unit. Where this is done, the Owner shall be notified that he will be entitled to resumption of housing assistance payments for the vacated dwelling unit if (1) the unit is restored to Decent, Safe, and Sanitary condition, (2) the Family is willing to and does move back into the restored unit, and (3) a deduction is made for the expenses incurred by the Family for both moves.

d. *Notification of Abatement.* Any abatement of housing assistance payments shall be effective as provided in written notification to the Owner. The Government shall promptly notify the Family of any such abatement.

e. *Overcrowded and Undersoccupied Units.* If the Government determines that a Contract Unit is not Decent, Safe, and Sanitary by reason of overcrowding, or that a Contract unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to such unit will not be abated, unless the Owner fails to offer the Family a suitable unit as soon as one becomes vacant and ready for occupancy. In the case of an overcrowded unit, if the Owner does not have any suitable units or if no vacancy of a suitable unit occurs within a reasonable time, the Government will assist the Family in finding a suitable dwelling unit and require the Family to move to such a unit as soon as possible. The Owner may receive housing assistance payments for the vacated unit if he complies with the requirements of § 1.5c (1).

1.8 *Rent adjustments.*

a. *Funding of Adjustments.* Housing assistance payments will be made in increased amounts commensurate with Contract Rent adjustments under this Section up to the maximum total annual housing assistance payments committed under § 1.5a of this Contract. The provisions of this Contract are designed (by providing for maximum total annual commitments in excess of the amounts required at the time of the initial rental of dwelling units and by setting aside such excess amounts in a project (reserve) to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family incomes. The Government will take such additional steps authorized by section 8(c)(8) of the Act as may be necessary to carry out this assurance, including (as provided in that section) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

b. *Automatic Annual Adjustments.*

(1) Automatic Annual Adjustment Factors will be determined by the Government at least annually; interim revisions may be made as market conditions warrant. Such Factors and the basis for their determination will be published in the Federal Register. These published Factors will be reduced appropriately by the Government where utilities are paid directly by the Families.

(2) On each anniversary date of the Contract, the Contract Rents shall be adjusted by applying the applicable Automatic Annual Adjustment Factor most recently published by the Government. Contract Rents may be adjusted upward or downward, as may be appropriate; however, in no case shall the adjusted Contract Rents be less than the Contract Rents on the effective date of the Contract.

c. *Special additional adjustments.* Special additional adjustments may be granted, when approved by the Government, to reflect increases in the actual and necessary expenses of owning and maintaining the Contract Units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the Owner clearly demonstrates that such general increases have caused increases in the Owner's operating costs which are not adequately compensated for by automatic annual adjustments. The Owner shall submit to the Government financial statements which clearly support the increase.

d. *Overall limitation.* Notwithstanding any other provisions of this Contract, adjustments as provided in this Section shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by the Government.

e. *Incorporation of rent adjustment.* Any adjustment in Contract Rents shall be incorporated into Exhibit A by a dated addendum to the exhibit.

1.9 *Marketing and leasing of units.*

a. *Compliance with equal opportunity.* Marketing of units and selection of Families by the Owner shall be in accordance with the Owner's Government-approved Affirma-

tive Fair Housing Marketing Plan, shown as Exhibit B, and with all regulations relating to fair housing advertising.

b. *Security and Utility Deposits.*

(1) The Owner may require Families to pay a security deposit in an amount equal to one month's Gross Family Contribution. If a Family vacates the unit, the Owner may utilize the deposit as reimbursement for any unpaid rent or damage caused by the Family. If the Family has provided a security deposit, and it is insufficient for such reimbursement, the Owner may claim reimbursement from HUD, not to exceed an amount equal to the remainder of one month's Contract Rent. If a Family vacates the unit owing no rent and causing no damage to the unit or if the amount of unpaid rent and/or damage is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

(2) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include such interest. All security deposit funds shall be deposited by the Owner in a segregated bank account, and the balance of this account, at all times, shall be equal to the total amount collected from tenants than is occupancy, plus any accrued interest. The Owner must comply with all State and local laws regarding interest payments on security deposits.

(3) Families shall be expected to obtain the funds to pay security and utility deposits, if required, from their own resources and/or other private or public sources.

c. *Eligibility, selection and admission of families.*

(1) The Owner shall be responsible for determination of eligibility of applicants, selection of families from among those determined to be eligible, and computation of the amount of housing assistance payments on behalf of each selected Family in accordance with schedules and criteria established by the Government. In the initial renting of the Contract Units, the Owner shall lease at least 30 percent to Very Low-Income Families (determined in accordance with the Government-established schedules and criteria) and shall thereafter exercise his best efforts to maintain at least 30 percent occupancy of the Contract Units by Very Low-Income Families as determined in accordance with such schedules and criteria.

(2) The Lease entered into between the Owner and each selected Family shall be on the form of Lease approved by the Government.

(3) The Owner shall make a reexamination of Family income, composition, and the extent of medical or other unusual expenses incurred by the Family, at least annually (except that such reviews may be made at intervals of no longer than two years in the case of elderly Families), and appropriate redeterminations shall be made by the Owner of the amount of Family contribution and the amount of housing assistance payment, all in accordance with schedules and criteria established by the Government. In connection with the reexamination, the Owner shall determine what percentage of Families in occupancy are Very Low-Income Families. If there are fewer than 30 percent Very Low-Income Families in occupancy, the Owner shall report the fact to the Government and shall adopt changes in his admission policies to achieve, as soon as possible, at least 30 percent occupancy by such Families.

d. *Rent Redetermination after Adjustment in Allowance for Utilities and Other Services.* In the event that the Owner is notified of a Government determination making an adjustment in the Allowance for Utilities and Other Services applicable to any of the Contract Units, the Owner shall promptly make a corresponding adjustment in the amount of housing assistance payments.

e. *Processing of Applications and Complaints.* The Owner shall process applications for admission, notifications to applicants, and complaints by applicants in accordance with applicable Government requirements and shall maintain records and furnish such copies or other information as may be required by the Government.

f. *Government Review; Incorrect Payments.* In making housing assistance payments to Owners, the Government will review the Owner's determinations under this Section. If as a result of this review, or other reviews, audits or information received by the Government at any time, it is determined that the Owner has received improper or excessive housing assistance payments, the Government shall have the right to deduct the amount of such overpayments from any amounts otherwise due the Owner, or otherwise effect recovery thereof.

1.10 *Termination of Tenancy.* The Owner shall be responsible for termination of tenancies, including evictions. However, conditions for payment of housing assistance payments for any resulting vacancies shall be as set forth in section 1.8c.

1.11 *Reduction of number of contract units for failure to lease to eligible families.*

a. *Twelve Months after Effective Date of Contract.* If at any time, beginning six months after the effective date of this Contract, the Owner fails for a continuous period of six months to have at least 80 percent of the Contract Units leased or available for leasing by Families, the Government may on 30 days notice reduce the number of Contract Units to not less than the number of units under lease or available for leasing by Families, plus 10 percent of such number, if that number is 10 or more, rounded to the next highest number.

b. *At End of Initial and Each Renewal Term.* At the end of the initial term of the Contract and of each renewal term, the Government may, by notice to the Owner, reduce the number of Contract Units to not less than (1) the number of units under lease or available for leasing by Families at that time or (2) the average number of units so leased or available for leasing during the last year, whichever is the greatest number, plus 10 percent of such number, if the number is 10 or more, rounded to the next highest number.

c. *Restoration of units.* Any reduction pursuant to paragraphs a or b of this Section shall not preclude subsequent restoration of Contract units if contract authority is available and if the Government determines that the restoration is justified as a result of changes in demand and in the light of the Owner's record of compliance with his obligations under the Contract.

Warning: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

Owner _____
By _____
(Official Title)
Date _____, 19__
United States of America and Urban Development
By _____
(Official Title)
Date _____, 19__

[If the project is to be completed and accepted in stages, execution of the Contract with respect to the several stages appears on the following pages of this Contract.]

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 1

This Contract is hereby executed with respect to the units described in Exhibit A–1.

Effective date. The effective date of this Contract is _____, 19__ [Insert date which shall be no earlier than the date of execution by the Government.]

Owner _____
By _____
(Official Title)
Date _____, 19__
United States of America
Secretary of Housing and Urban Development
By _____
(Official Title)
Date _____, 19__

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 2

This Contract is hereby executed with respect to the units described in Exhibit A–2.

Effective date. The effective date of this Contract is_____, 19 __ [Insert date which shall be no earlier than the date of execution by the Government.]

Owner _____
By _____
(Official Title)
Date _____, 19__
United States of America Secretary of Housing and Urban Development
By _____
(Official Title)
Date _____, 19__

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 3

This Contract is hereby executed with respect to the units described in Exhibit A–3.

Effective Date. The effective date of this Contract is _____, 19__ [Insert date which shall be no earlier than the date of execution by the Government.]

Owner _____
By _____
(Official Title)
Date _____, 19__
United States of America
Secretary of Housing and Urban Development
By _____
(Official Title)
Date _____, 19__

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—HOUSING ASSISTANCE PAYMENTS CONTRACT—NEW CONSTRUCTION—PRIVATE-OWNER OR PHA-OWNER PROJECT

PART II

2.1 *Nondiscrimination in housing.*

a. The Owner shall not in the selection of Families, in the provision of services, or in any other manner, discriminate against any person on the grounds of race, color, creed, religion, sex, or national origin. No person shall be *automatically* excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.

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b. The Owner shall comply with all requirements imposed by Title VIII of the Civil Rights Act of 1968, and any rules and regulations pursuant thereto.

c. The Owner shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, § 1.1, et seq.; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act, the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the grounds of race, color, creed, religion or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program, or be otherwise subjected to discrimination. This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, § 1.1, et seq.; issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the Owner to comply therewith inures to the benefit of the Government and the said Department, either of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the Owner.

2.2 *Training, employment, and contracting opportunities for businesses and lower-income persons.*[1]

a. The project assisted under this Contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

b. Notwithstanding any other provision of this Contract, the Owner shall carry out the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135 (published in 38 FR 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this Contract. The requirements of said regulations include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by § 135.20(b) of the regulations and paragraph d of this section in all contracts for work in connection with the project. The Owner certifies and agrees that he is under no contractual or other disability which would prevent him from complying with these requirements.

c. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the Owner, his successors and assigns. Failure to fulfill these requirements shall subject the Owner, his contractors and subcontractors, his successors, and assigns to the sanction specified by this Contract, and to such sanctions as are specified by 24 CFR 135.135.

d. The Owner shall incorporate or cause to be incorporated into any contract or subcontract for work pursuant to this Contract in excess of $50,000 cost, the following clause:

EMPLOYMENT OF PROJECT AREA RESIDENTS AND CONTRACTORS

A. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

B. The parties to this Contract will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontract is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR, Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR, Part 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assign. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.135."

e. The Owner agrees that he will be bound by the above Employment of Project Area Residents and Contractors clause with respect to his own employment practices when he participates in federally assisted work.

2.3 *Cooperation in equal opportunity compliance reviews.* The Owner shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.4 *Flood insurance.* If the project is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

2.5 *Clean air act and federal water pollution control act.*[2] In compliance with regulations issued by the Environmental Protection Agency ("EPA"), 40 CFR, Part 15, 39 F.R. 11099, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 1857, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Owner agrees that:

a. Any facility to be utilized in the performance of this Contract or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to § 15.20 of said regulations;

b. He will promptly notify the Department of Housing and Urban Development field office director of the receipt of any communication from the EPA indicating that a facility to be utilized for the Contract is under consideration to be listed on the EPA List of Violating Facilities;

c. He will comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder; and

d. He will include or cause to be included the provisions of this Section in every nonexempt subcontract, and that he will take such action as the Government may direct as a means of enforcing such provisions.

2.6 *Reports and access to premises and records.*

a. The Owner shall furnish such information and reports pertinent to the Contract as reasonably may be required from time to time by the Government.

b. The Owner shall permit the Government or any of its duly authorized representatives to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the monthly requests for housing assistance payments.

2.7 *Default by the owner.*

a. A default by the Owner under this Contract shall result if:

(1) The Owner has violated or failed to comply with any provision of, or obligation under, this Contract or of any Lease; or

(2) The Owner has asserted or demonstrated an intention not to perform some or all of his obligations under this Contract or under any Lease.

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[1] Strike this section if the Contract Rents on the effective date of this Contract, over the maximum term of this Contract, are $500,000 or less.

[2] Strike this Section if the Contract Rents on the effective date of this Contract, over the maximum total term of this Contract, are $100,000 or less.

b. Upon a determination by the Government that a default has occurred, the Government shall notify the Owner of the nature of the default, or the actions required to be taken on account of the default (including the curing of the default by the Owner, the abatement of housing assistance payments in whole or in part, where appropriate, or any combination of actions), and of the time within which the Owner shall respond with a showing that he has taken all the actions required of him. If the Owner fails to respond or take action to the satisfaction of the Government, the Government shall take appropriate actions to achieve compliance or to terminate the Contract in whole or in part.

c. The availability of any remedy under this Contract shall not preclude the exercise of any other remedy available under this Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

2.8 *DISPUTES.*

a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement between the Department of Housing and Urban Development field office and the Owner may be submitted by the Owner to the Secretary of Housing and Urban Development. The decision of the Secretary or his duly authorized representative for the resolution of such disputes shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any proceeding under this Section, the Owner shall be afforded an opportunity to be heard and to offer evidence in support of his position.

b. This section does not preclude consideration of questions of law in connection with the decision rendered under paragraph a of this Section; Provided, however, that nothing herein shall be construed as making final the decision of any administrative official, representative, or board, on a question of law.

2.9 *Interest of members, officers, or employees of PHA, members of local governing body or other public officials.* No member, officer, or employee of the PHA, no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or in any proceeds or benefits arising therefrom.

2.10 *Interest of member of or delegate to congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise therefrom.

2.11 *Nonassignability.*

a. The Owner agrees that he has not made and will not make any sale, assignment, or conveyance or transfer in any other form, of this Contract or the project or any part thereof or any of his interest therein, without the prior consent of the Government; Provided, however, that in the case of an assignment as security for the purpose of obtaining financing of the project, the Government shall consent in writing if the terms of the financing have been approved by the Government. An assignment by the Owner to a limited partnership of which the Owner is the sole general partner shall not be considered an assignment herein.

b. The Owner agrees to notify the Government promptly of any proposed action covered by paragraph a of this Section. The Owner further agrees to request the written consent of the Government in regard thereto, except in the case of an assignment as security as provided in paragraph a of this Section.

c. For the purpose of this Section, a transfer of stock in the Owner in whole or in part, by a party holding ten percent or more of the stock of said Owner, or a transfer by more than one stockholder or the Owner of ten percent or more of the stock of said Owner, or any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to the parties in control of the Owner or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Contract or the project. With respect to this provision, the Owner and the party signing this Contract on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect thereto.

APPENDIX III

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM, MASTER SECTION 8 ANNUAL CONTRIBUTIONS CONTRACT NO. ——

This Annual Contributions Contract (ACC) is entered into on ——— day of ———, 19 —— (the date of execution by the Government) by and between the United States of America (herein called the "Government"), pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437, *et seq.*), which Act as amended to the date of this ACC is herein called the "Act" and the Department of Housing and Urban Development Act (42 U.S.C. 3531), and ——— (herein called the "PHA"), which is a "public housing agency" as defined in the Act. In consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

0.1 *Project or Projects.* The PHA is undertaking to provide Decent, Safe, and Sanitary housing for Families (as defined in Section 2.1) pursuant to Section 8 of the Act by means of Housing Assistance Payments Contracts ("Contracts") with Owners (as defined in Section 2.1). Such undertaking may involve an agreement for the use of housing to be constructed ("New Construction"), an agreement for the use of existing housing to be substantially rehabilitated ("Substantial Rehabilitation"), or the use of existing housing without substantial rehabilitation ("Existing Housing"). In each instance, the numbers and sizes of dwelling units with respect to which a certain maximum Annual Contributions commitment is made shall constitute a Project hereunder and shall be identified by a stated Project number.

0.2 *Part I and Part II of this Annual Contributions Contract.*

(a) Certain provisions of this ACC, principally those which are specifically applicable to a designated Project, are contained in Part I. Separate forms of Part I are used for different types of Projects (i.e., New Construction, Substantial Rehabilitation, and Existing Housing). A separate Part I, on the applicable form thereof, has been executed with respect to each Project hereunder, and each such Part I, so executed, constitutes a part of this ACC.

(b) The remaining provisions of this ACC, which are applicable to all Projects hereunder, are contained in Part II, which, although not separately executed, constitutes a part of this ACC.

0.3 *Fiscal Year.* Except for the first Fiscal Year of each Project, there shall be one Fiscal Year for all Projects hereunder. Such established Fiscal Year shall be the 12-month period ending ——— of each calendar year. The first Fiscal Year for each Project shall be as provided in the Part I applicable to such Project.

0.4 *Schedule of Projects.* Attached to this Master Section 8 ACC, as Attachment A, is a list identifying each ACC Part I and ACC Part I amendment by project number, date, and ACC List number and date.

PHA ———
By ———
Date ———

The Government

By ———
Date ———

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—ANNUAL CONTRIBUTIONS CONTRACT

PART I

NEW CONSTRUCTION PROJECT NO. ———

Effective Date ———

[Date of execution by the Government of this ACC Part I]

ACC List Number and Date ———

1.1. *The project.* The PHA proposes to enter into a Housing Assistance Payments Contract ("Contract") with respect to newly constructed dwelling units pursuant to an Agreement to Enter into Housing Assistance Payments Contract ("Agreement") executed prior to the commencement of construction. The numbers and sizes of units will be as follows:

Size of Unit	*Number of Units*

The PHA shall enter into an Agreement and Contract in accordance with the numbers and sizes of units specified above. The PHA shall not enter into any Agreement or Contract or take any other action which will result in a claim for a total Annual Contributions in respect to the Project in excess of the maximum amounts stated in § 1.4(a).

1.2. *Authorization of actions by PHA.* In order to carry out the Project, the PHA is authorized to (a) enter into an Agreement, (b) enter into a Contract, (c) make housing assistance payments on behalf of Families, and (d) take all other necessary actions all in accordance with the forms, conditions and requirements prescribed or approved by the Government; Provided, however, that neither the PHA nor the Government shall assume any obligation beyond that provided in the Government-approved Agreement and Contract.

1.3. *Terms of ACC and contract.*

(a) This ACC shall remain in effect so long as the Contract is in effect but in no event shall the term of the ACC exceed ——— years from the beginning of the first Fiscal Year. [Insert number specified in the first sentence of paragraph (b) of this Section plus two years.]

(b) [Alternative provisions—incorporate alternative 1 or 2, as applicable.]

Alternative 1—General

The total Contract term for any unit, including all renewals, shall not exceed ——— years. [Insert 20 unless the project is owned by, or financed by, a loan or loan guarantee from, a State or local agency. In the latter case, insert number as specifically authorized by the Government, but in no event more

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than 40.] If the Project is accepted in stages, the total Contract term for the units in all stages, counting from the effective date of the Contract with respect to the first stage, shall not exceed the total Contract term specified in the first sentence of this paragraph (b), plus 2 years.

Alternative 2—For mobile homes project

The total Contract term for any mobile home unit, including all renewals, shall not exceed ____ years. [Insert number as specifically authorized by the Government, but in no event more than 20.] If the Project is accepted in stages, the total Contract term for the mobile home units in all stages, counting from the effective date of the Contract with respect to the first stage, shall not exceed the total Contract term specified in the first sentence of this paragraph (b), plus 2 years. For purposes of this paragraph (b), the term "mobile home" means the original mobile home and any replacement(s), combined.

1.4. *Annual contributions.*

(a) Notwithstanding any other provisions of this ACC (other than paragraph (c) of this Section) or any provisions of any other contract between the Government and the PHA, the Government shall not be obligated to make any Annual Contributions or any other payment in excess of:

APPENDIX III—U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM MASTER SECTION 8 ANNUAL CONTRIBUTIONS CONTRACT #----------

This Annual Contributions Contract (ACC) is entered into on ____ day of ----------, 19__, (the date of execution by the Government) by and between the United States of America (herein called the "Government"), pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437, et seq.), which Act as amended to the date of this ACC is herein called the "Act" and the Department of Housing and Urban Development Act (42 U.S.C. 3531), and ---------- (herein called the "PHA"), which is a "public housing agency" as defined in the Act. In consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

0.1 *Project or projects.* The PHA is undertaking to provide Decent, Safe, and Sanitary housing for Families (as defined in § 2.1) pursuant to Section 8 of the Act by means of Housing Assistance Payments Contracts ("Contracts") with Owners (as defined in § 2.1). Such undertaking may involve an agreement for the use of housing to be constructed ("New Construction"), an agreement for the use of existing housing to be substantially rehabilitated ("Substantial Rehabilitation"), or the use of existing housing without substantial rehabilitation ("Existing Housing"). In each instance, the numbers and sizes of dwelling units with respect to which a certain maximum Annual Contributions commitment is made shall constitute a Project hereunder and shall be identified by a stated Project number.

0.2 *Part I and Part II of this annual contributions contract.*

(a) Certain provisions of this ACC, principally those which are specifically applicable to a designated Project, are contained in Part I. Separate forms of Part I are used for different types of Projects (i.e., New Construction, Substantial Rehabilitation, and Existing Housing). A separate Part I, on the applicable form thereof, has been executed with respect to each Project hereunder, and each such Part I, so executed, constitutes a part of this ACC.

(1) $_____ for housing assistance payments under the Contract; or

(2) $_____ for other Project Expenditures; or

(3) a total of $_____ for all Project Expenditures in respect to the Project.

Provided, however, that these amounts shall be reduced commensurate with any reduction in the number of units under the Contract or pursuant to any other provision of this ACC.

(b) Subject to the maximum dollar limitations in paragraph (a) of this Section, the Government shall pay Annual Contributions to the PHA in respect to the Project in an amount equal to the sum of the following (subject to reduction by the amount of any Project Receipts other than Annual Contributions, which Receipts shall be available for Project Expenditures):

(1) The amount of housing assistance payments payable during the Fiscal Year (see § 1.5) by the PHA pursuant to the Contract, as authorized in Section 1.2.

(2) The allowance, in the amount approved by the Government, for preliminary costs of administration.

(3) The allowance, in the amount approved by the Government, for the regular costs of administration.

(c) Subject to the maximum amount stated in paragraph (a)(3) of this Section, the Annual Contribution for any Fiscal Year may include such amount as the Government may determine to be necessary to assure that the lower-income character of the Project will be maintained, which amount shall be credited to an account maintained by the PHA or the Government as determined by the Government. To the extent funds are available in said account, the Annual Contribution for any Fiscal Year may exceed the maximum amounts stated in paragraph (a) of this Section by such amount, if any, as may be required for increases reflected in the estimates of required Annual Contributions applicable to such Fiscal Year as approved by the Government in accordance with Section 2.11 below. Any amount remaining in said account after payment of the last Annual Contribution with respect to the Project shall be applied by the Government in accordance with law.

(d) The Government will make periodic payments on account of the Annual Contributions upon requisition therefor by the PHA in the form prescribed by the Government. Each requisition shall include certifications by the PHA that housing assistance payments have been or will be made only:

(1) In accordance with the provisions of the Contract as such provisions apply respectively to (a) units under lease by Families and (b) units not under lease by Families; and

(2) With respect to units which the PHA has inspected or caused to be inspected, pursuant to Section 2.4 of Part II of this ACC, within one year prior to the making of such housing assistance payments.

(e) Following the end of each Fiscal Year, the PHA shall promptly pay to the Government, unless other disposition is approved by the Government, the amount, if any, by which the total amount of the periodic payments during the Fiscal Year exceeds the total amount of the Annual Contribution payable for such Fiscal Year in accordance with this Section.

1.5. *Fiscal Year.* The Fiscal Year for the Project shall be the Fiscal Year established by Section 0.3 of this ACC; Provided, however, that the first Fiscal Year for the Project shall be the period beginning with the effective date of the Contract and ending on the last day of said established Fiscal Year which is not less than 12 months after such effective date. If the first Fiscal Year exceeds 12 months, the maximum Annual Contribution in Section 1.4(a) may be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.

1.6. *Periodic adjustment of contract rents.*

(a) The Contract may provide for periodic adjustments in the Contract rents chargeable by the Owner and commensurate increases in amounts of housing assistance payments up to the total annual housing assistance payments committed under Section 1.4(a)(1) of this ACC.

(b) The provisions of Section 1.4(c) of this ACC are designed (by providing for maximum total annual commitments in excess of the amounts required at the time of the initial rental of dwelling units and by setting aside such excess amounts in a project reserve) to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract rents or decreases in Family incomes. The Government shall take such additional steps authorized by Section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

1.7. *Affirmative fair housing marketing regulation.* The PHA shall require the Owner to comply with the Affirmative Fair Housing Marketing Regulation (subject to any exceptions therein) including the submission for Government approval of an Affirmative Fair Housing Marketing Plan and compliance with such approved Plan, as if the Owner were expressly subject to said Regulation.

1.8 *Expeditious carrying out of project.* The PHA shall proceed expeditiously with the Project. If the PHA fails to proceed expeditiously, and no Agreement with the Owner has yet been entered into, the Government by notice to the PHA, may terminate or reduce its obligation hereunder with respect to the Project. If an Agreement has been entered into, and the PHA or the Owner is not proceeding expeditiously with the Project, the Government will take appropriate action, including the Governmental action provided for in the Agreement.

1.9. *Responsibility for administration of contract.* The PHA is primarily responsible for administration of the Contract. However, if the PHA is the lender, the following provisions shall be included in the Contract:

(1) The Government shall have the right to make independent audits, reviews, and determinations as to compliance by the Owner with any or all of his obligations under the Contract;

(2) In the event the Government determines that the Owner is in default with respect to any or all of his obligations, the Government shall have the right to take direct action (as if the Government were the party to the Contract primarily responsible for its administration) to enforce any or all available remedies, including, but not limited to, abatement of housing assistance payments, collection of payments previously made in violation of the Contract, and termination of the Contract in whole or in part; and

(3) The Owner hereby expressly agrees to recognize the rights of the Government in the event it takes any action under this Section in the same manner and to the same extent as if the action were taken by the PHA.

PHA ----------
By ----------
Date ----------
The Government
By ----------
Date ----------

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—TERMS AND CONDITIONS CONSTITUTING PART II OF AN ANNUAL CONTRIBUTIONS CONTRACT BETWEEN PUBLIC HOUSING AGENCY AND THE UNITED STATES OF AMERICA

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

2.1. *Definitions.*

(a) "Families" means Lower-Income Families (including "Very Low-Income Families") and includes Families consisting of a single person in the case of Elderly Families and Displaced Families and includes the remaining member of a tenant family.

(b) "Elderly Families" means Families whose heads (or their spouses), or whose sole members, are persons who are at least 62 years of age or are under a disability as defined in section 223 of the Social Security Act or in section 102(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1970, or are handicapped. The term Elderly Families includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living together with another person who is determined under regulations of the Secretary to be a person essential to their care or well being.

(c) "Displaced Families" means Families displaced by governmental action, or Families whose dwellings have been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(d) "Lower-Income Families" means Families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income limits higher or lower than 80 percent of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors.

(e) "Very Low-Income Families" means Families whose incomes do not exceed 50 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(f) "Income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary.

(g) "Owner" means the person or entity, including a cooperative, with which the Agreement and Contract are entered into.

(h) "Rent" or "rental" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

(i) "Project Receipts" with respect to each Project means the Annual Contributions payable hereunder and all other receipts, if any, accruing to the PHA from, out of, or in connection with such Project.

(j) "Project Expenditures" with respect to each Project means all costs allowable under Section 1.4(b), Part I of this ACC with respect to such Project.

(k) "Substantial Default" means the occurrence of any of the events listed in Section 2.17.

2.2. *Lower-income housing use; compliance with act and regulations.* The PHA shall use the Annual Contributions solely for the purpose of providing Decent, Safe, and Sanitary dwellings for Families in compliance with all applicable provisions of the Act and all regulations issued pursuant thereto.

2.3. *Eligibility and amount of housing assistance payments.*

(a) The PHA, shall comply with the income limits established by the Government and the requirements of the Government pursuant to section 8(c)(7) of the Act concerning the leasing of at least 30 percent of assisted units to Very Low-Income Families.

(b) The PHA, shall comply or assure compliance with the schedules and criteria established by the Government with respect to the amounts of housing assistance payments made on behalf of Families.

(c) The PHA shall make or cause to be made periodic reexaminations of the income, composition, and extent of exceptional medical or other unusual expenses of Families for whom housing assistance payments are being made for the purpose of confirming or adjusting, in accordance with the applicable schedules established by the Government, the amount of rent payable by the Family and the amount of housing assistance payment.

(d) Prior to the approval of eligibility of a Family, and thereafter on the date established for each reexamination of the status of such Family, the PHA shall review or cause to be reviewed a written application, signed by a responsible member of such Family, which application shall set forth all data and information necessary for a determination of the amount, if any, of housing assistance payment which can be made with respect to the Family.

2.4 *Inspections.*

(a) The PHA shall require, as a condition for the making of housing assistance payments, that the Owner maintain the assisted dwelling units and related facilities in Decent, Safe, and Sanitary Condition.

(b) The PHA shall inspect or cause to be inspected dwelling units and related facilities prior to commencement of occupancy by Families and shall make or cause to be made subsequent inspections at least annually, adequate to assure that Decent, Safe, and Sanitary housing accommodations are being provided and that the agreed-to services are being furnished.

2.5. *Nondiscrimination in housing.*

(a) The PHA shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act and the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the ground of race, color, creed, religion, or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program or be otherwise subjected to discrimination. The PHA shall, by contractual requirement, convenant, or other binding commitment, assure the same compliance on the part of any subgrantee, contractor, subcontractor, transferee, successor in interest, or other participant in the program or activity, such commitment to include the following clause:

This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the [contractor or other] to comply therewith inures to the benefit of the United States, the said Department, and the PHA, any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by [contractor or other].

(b) The PHA shall incorporate or cause to be incorporated into all Housing Assistance Payments Contracts a provision requiring compliance with all requirements imposed by Title VIII of the Civil Rights Act of 1968, and any rules and regulations issued pursuant thereto.

(c) The PHA shall not, on account of creed or sex, discriminate in the sale, leasing, rental, or other disposition of housing or related facilities (including land) included in any Project or in the use of occupancy thereof, nor deny to any Family the opportunity to apply for such housing, nor deny to any eligible applicant the opportunity to lease or rent any dwelling in any such housing suitable to its needs. No person shall *automatically* be excluded from participation in or be denied the benefits of the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.

2.6. *Equal employment opportunity.*

(a) The PHA shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The PHA shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, creed, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b)(1) The PHA shall incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is to be performed pursuant to this contract, the following Equal Opportunity clause:

EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

(A) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, creed, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the PHA setting forth the provisions of this Equal Opportunity clause.

(B) The contractor will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, or national origin.

(C) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the PHA advising the said labor union or workers' representative of the contractor's commitments under this Section, and shall post copies of the notice inconspicuous places available to employees and applicants for employment.

(D) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(E) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and

will permit access to his books, records, and accounts by the Government and the Secretary of labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(F) In the event of the contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders this contract may be cancelled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(G) The contractor will include the portion of the sentence immediately preceding Paragraph (A) and the provisions of Paragraphs (A) through (G) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance; Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(2) The PHA agrees that it will assist and cooperate actively with the Government and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the Government and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the Government in the discharge of the Government's primary responsibility for securing compliance.

(3) The PHA further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by the Government or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

2.7. *Training, employment, and contracting opportunities for businesses and lower income persons.*

(a) The project assisted under this ACC is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the Project.

(b) Notwithstanding any other provisions of this ACC the PHA shall carry out the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary set forth in 24 CFR Part 135 (published in 38 Federal Register 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this ACC. The requirements of said regulations include but are not limited to development and implementation of an affirmative action plan for utilizing business concerns located within or owned in substantial part by persons residing in the area of the Project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by Section 3; and incorporation of the "Section 3 clause" specified by § 135.20(b) of the regulations in all contracts for work in connection with the Project. The PHA certifies and agrees that it is under no contractual or other disability which would prevent it from complying with these requirements.

(c) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this ACC shall be a condition of the Federal financial assistance provided to the Project, binding upon the PHA, its successors and assigns. Failure to fulfill these requirements shall subject the PHA, its contractors and subcontractors, its successors, and assigns to the sanction specified by this ACC and to such sanctions as are specified by 24 CFR 135.135.

(d) The PHA shall incorporate or cause to be incorporated into any contract pursuant to this contract such clause or clauses as are required by the Government for compliance with its regulations issued pursuant to the Housing and Urban Development Act, as amended. The PHA shall cooperate with the Government in the conducting of compliance reviews pursuant to said Acts and Regulations.

2.8. *Cooperation in equal opportunity compliance reviews.* The PHA shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.9. *Clean air act and Federal water pollution control act.* The PHA shall incorporate or cause to be incorporated into any contract for construction or substantial rehabilitation, such clause or clauses as are required by the Government for compliance with the regulations issued by the Environmental Protection Agency pursuant to the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, and Executive Order 11738. The PHA shall cooperate with the Government in the conducting of compliance reviews pursuant to said Acts and Regulations.

2.10. *Labor standards.* The PHA shall incorporate or cause to be incorporated into any contract for construction or substantial rehabilitation of nine or more dwelling units, such clause or clauses as are required by the Government for compliance with its regulations issued pursuant to the Copeland Act, the Davis-Bacon Act, and the Contract Work Hours and Safety Standards Act. The PHA shall cooperate with the Government in the conducting of compliance reviews pursuant to said Acts and Regulations.

2.11. *Estimates of required annual contributions.* The PHA shall from time to time submit to the Government estimates of required annual contributions at such times and in such form as the Government may require. All estimates and any revisions thereof submitted under this Section shall be subject to Government approval.

2.12. *Insurance and fidelity bond coverage.* For purposes of protection against hazards arising out of or in connection with the administrative activities of the PHA in carrying out the Project, the PHA shall carry adequate (1) comprehensive general liability insurance, (2) workmen's compensation coverage (statutory or voluntary), (3) automobile liability insurance against property damage and bodily injury (owned and non-owned), and (4) fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

2.13. *Books of account and records; reports.*

(a) The PHA shall maintain complete and accurate books of account and records, as may be prescribed from time to time by the Government, in connection with the Projects, including records which permit a speedy and effective audit, and will among other things fully disclose the amount and the disposition by the PHA of the Annual Contributions and other Project Receipts, if any.

(b) The books of account and records of the PHA shall be maintained for each Project as separate and distinct from all other Projects and undertakings of the PHA, except as authorized or approved by the Government.

(c) The PHA shall furnish the Government such financial, operating, and statistical reports, records, statements, and documents at such times, in such form, and accompanied by such supporting data, all as may reasonably be required from time to time by the Government.

(d) The Government and the Comptroller General of the United States, or his duly authorized representatives, shall have full and free access to the Projects and to all the books, documents, papers, and records of the PHA that are pertinent to its operations with respect to financial assistance under the Act, including the right to audit, and to make excerpts and transcripts from such books and records.

(e) The PHA shall incorporate or cause to be incorporated in all Contracts the following clauses:

REPORTS, ACCESS TO PREMISES AND RECORDS

(1) The Owner shall furnish such information and reports pertinent to the Contract as reasonably may be required from time to time by the PHA and the Government.

(2) The Owner shall permit the PHA and the Government or any of their duly authorized representatives, to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the monthly requests to the PHA for housing assistance payments.

(f) Audits required by the Government will be performed or paid for by the Government.

2.14. *General depositary agreement and general fund.*

(a) The PHA shall maintain one or more agreements, which are herein collectively called the "General Depositary Agreement," in form prescribed by the Government, with one or more banks (each of which shall be, and continue to be, a member of the Federal Deposit Insurance Corporation) selected as depositary by the PHA. Immediately upon the execution of any General Depositary Agreement, the PHA shall furnish to the Government such executed or conformed copies thereof as the Government may require. No such General Depositary Agreement shall be terminated except after 30 days notice to the Government.

(b) All monies received by or held for account of the PHA in connection with the Projects shall constitute the General Fund.

(c) The PHA shall, except as otherwise provided in this ACC, deposit promptly with such bank or banks, under the terms of the General Depositary Agreement, all monies constituting the General Fund.

(d) The PHA may withdraw monies from the General Fund only for (1) the payment of Project Expenditures, and (2) other purposes specifically approved by the Government. No withdrawals shall be made except in accordance with a voucher or vouchers then on file in the office of the PHA

stating in proper detail the purpose for which such withdrawal is made.

(c) If the PHA (1) in the determination of the Government, is in Substantial Default, or (2) makes or has made any fraudulent or willful misrepresentation of any material fact in any of the documents or data submitted to the Government pursuant to this ACC or in any document or data submitted to the Government as a basis for this ACC or as an inducement to the Government to enter into this ACC, the Government shall have the right to require any bank or other depositary which holds any monies of the General Fund, to refuse to permit any withdrawals of such monies; Provided, however, that upon the curing of such Default the Government shall promptly rescind such requirement.

2.15. *Pooling of funds under special conditions and revolving fund.* (a) The PHA may deposit under the terms of the General Depositary Agreement monies received or held by the PHA in connection with any other housing project developed or operated by the PHA pursuant to the provisions of any contract for annual contributions, administration, or lease between the PHA and the Government.

(b) The PHA may also deposit under the terms of the General Depositary Agreement amounts necessary for current expenditures of any other project or enterprise of the PHA, including any project or enterprise in which the Government has no financial interest; Provided, however, that such deposits shall be lump-sum transfers from the depositaries of such other projects or enterprises, and shall in no event be deposits of the direct revenues or receipts of such other projects or enterprises.

(c) If the PHA operates other projects or enterprises in which the Government has no financial interest it may, from time to time, withdraw such amounts as the Government may approve from monies on deposit under the General Depositary Agreement for deposit in and disbursement from a revolving fund provided for the payment of items chargeable in part to the Projects and in part to other projects or enterprises of the PHA; Provided, however, that all deposits in such revolving fund shall be lump-sum transfers from the depositaries of the related projects or enterprises and shall in no event be deposits of the direct revenues or receipts.

(d) The PHA may establish petty cash or change funds in reasonable amounts, from monies on deposit under the General Depositary Agreement.

(e) In no event shall the PHA withdraw from any of the funds or accounts authorized under this Section 2.15 amounts for the Projects or for any other project or enterprise in excess of the amount then on deposit in respect thereto.

2.16. *Default.*

(a) *Failure or Inability of PHA to Comply with Agreement.* In the event the Government determines that the PHA is in default as provided in the Agreement with the Owner, or if such Agreement is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Agreement is drawn into question in any legal proceedings, or if the PHA asserts or claims that such Agreement is not binding upon the PHA for any such reason, the Government, may, after reasonable notice to the PHA, determine that the occurrence of any such event, if the Owner is not in default, constitutes a Substantial Default hereunder as to the Project. In such case, the Government will assume the PHA's rights and obligations under the Agreement and carry out the obligations of the PHA under the Agreement, including the obligation to enter into the Contract.

(b) *Failure or Inability of PHA to Comply with Contract.* In the event of failure of the PHA to comply with the Contract with the Owner, or if such Contract is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Contract is drawn into question in any legal proceeding, or if the PHA asserts or claims that such Contract is not binding upon the PHA for any such reason, the Government may, after reasonable notice to the PHA, determine that the occurrence of any such event, if the Owner is not in default, constitutes a Substantial Default hereunder. In such case, the Government will assume the PHA's rights and obligations under such Contract, and the Government shall, for the duration of such Contract, continue to pay Annual Contributions for the purpose of making housing assistance payments with respect to dwelling units under such Contract, shall perform the obligations and enforce the rights of the PHA, and shall exercise such other powers as the Government may have to cure the Default.

(c) *Other Defaults by the PHA.* If the PHA defaults in the observance or performance of the provisions of Section 2.4; fails to comply with its obligations under any duly issued Certificate of Family Participation in accordance with its terms; fails to comply with the requirements of Sections 2.5, 2.6, 2.7 or 2.8; defaults in the performance or observance of any term, covenant, or condition of this ACC other than the defaults enumerated in this paragraph, and if such defaults have not been remedied within a reasonable time, not to exceed 30 days, after the Government has notified the PHA thereof; or fails to comply with the applicable provisions of the Act and all regulations issued pursuant thereto; the Government may, after reasonable notice to the PHA, determine that the occurrence of any such event, if the Owner is not in default, constitutes a Substantial Default hereunder as to the Project. Upon the occurrence of a Substantial Default with respect to any Project, the PHA shall, if the Government so requires, assign to the Government all of its rights and interests in and to the project, or such part thereof as the Government may specify, and the Government shall continue to pay Annual Contributions with respect to dwelling units covered by Housing Assistance Payments Contracts in accordance with the terms of this ACC until reassigned to the PHA.

(d) *Return of Rights and Obligations to PHA.* All rights and obligations of the PHA assumed by the Government pursuant to this Section 2.16 will be returned as constituted at the time of such return (i) when the Government is satisfied that all defaults have been cured and that the Project will thereafter be administered in accordance with all applicable requirements or (ii) when the Housing Assistance Payments Contract is at an end, whichever occurs sooner.

(e) *Rights of Owner.* The provisions of this Section 2.16 are made with, and for the benefit of, the Owner or his assignees who will have been specifically approved by the Government prior to such assignment. To enforce the performance of this provision the Owner and such assignees, as well as the PHA, shall have the right to proceed against the Government by suit at law or in equity.

2.17. *Remedies Not Exclusive and Non-Waivers of Remedies.* Any remedy provided for herein shall not be exclusive or preclude the Owner, PHA and/or the Government from exercising any other remedy available under this ACC or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies available to such parties. Failure on the part of any such party to exercise any right or remedy shall not constitute a waiver of that or any other right or remedy, nor operate to deprive the party of the right thereafter to take any remedial action for the same or any subsequent default.

2.18. *Interest of Members, Officers, or Employees of PHA, Members of Local Governing Body, or Other Public Officials.* (a) Neither the PHA nor any of its contractors or their subcontractors shall enter into any contract, subcontract, or arrangement, in connection with any Project, in which any member, officer, or employee of the PHA, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the PHA was activated, or any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the PHA, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his tenure any such interest, and if such interest is immediately disclosed to the PHA and such disclosure is entered upon the minutes of the PHA, the PHA, with the prior approval of the Government, may waive the prohibition contained in this subsection; Provided, however, that any such present member, officer, or employee of the PHA shall not participate in any action by the PHA relating to such contract, subcontract, or arrangement.

(b) The PHA shall insert in all contracts entered into in connection with any Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of its subcontracts, the following provisions:

No member, officer, or employee of the PHA, no member of the governing body of the locality in which the Project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof.

(c) The provisions of the foregoing subsections (a) and (b) of this section 2, shall not be applicable to the General Depositary Agreement, or utility service the rates for which are fixed or controlled by a governmental agency.

2.19. *Interest of Member of or Delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this ACC or to any benefits which may arise therefrom.

APPENDIX IV—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT—NEW CONSTRUCTION—PRIVATE-OWNER/PHA PROJECT

PART I

This Agreement to Enter into Housing Assistance Payments Contract ("Agreement") is made and entered into by and between the _____ ("PHA"), which is a public housing agency as defined in the United States Housing Act of 1937, 42 U.S.C. 1437, *et seq.* ("Act"), at section 1437a(6), and _____("Owner").

Whereas, the Owner proposes to complete a housing project consisting of improvements and land as described in the approved Final Proposal; and

Whereas, the Owner and the PHA propose to enter into a Housing Assistance Payments Contract ("Contract") upon the completion of said project for the purpose of making housing assistance payments to enable eligible lower-income families ("Families") to occupy units in said project; and

Whereas, the PHA has entered into an Annual Contributions Contract dated _____ _____, 19__, with the United States of America acting through the Department of Housing and Urban Development ("Government") with respect to Project No. _____ ("ACC"), under which the Government will provide financial assistance to the PHA pursuant to section 8 of the Act for the purpose of making housing assistance payments; and

Whereas, the Owner is also the developer, or, if the developer is other than the Owner, the developer's name is _____

Now therefore, the parties hereto agree as follows:

1.1 Significant dates: Contents of agreement.

a. *Time for Completion of Project.* The time for completion of the project (see Section 1.2a) is _____ calendar days after the effective date of this Agreement.

b. *Date for Commencement of Work.* The date for commencement of work (see Section 1.2b) is _____, 19__.

c. *Contents of Agreement.* This Agreement consists of Part I, Part II, and the following exhibits:

Exhibit A: The approved Final Proposal including, among other things, the architect's certification, the Affirmative Fair Housing Marketing Plan (if required), evidence of management capability, and management program (if required);

Exhibit B: The Housing Assistance Payments Contract ("Contract") to be executed upon acceptable completion of the project;

Exhibit C: The Annual Contributions Contract;

Exhibit D: The schedule of completion in stages, if applicable;

Exhibit E: The schedule of minimum rates of wages, if applicable; and

Additional exhibits: [Specify additional exhibits, if any. If none, insert "None."]

This Agreement, including said exhibits, comprises the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as contained herein. Nothing contained in this Agreement shall create or affect any relationship between the PHA and the lender or any contractors or subcontractors employed by the Owner in the completion of the project.

1.2 *Schedule of completion.*

a. *Time for Completion.* The project shall be completed in accordance with Section 1.4 no later than the end of the period stated in Section 1.1a, or in stages as provided for in Exhibit D which identifies the units comprising each stage and the date of commencement and time for completion of each stage. Where completion in stages is provided for, all references to project completion shall be deemed to refer to project completion and/or completion of any stage, as appropriate.

b. *Timely Performance of Work.* The Owner agrees that no later than the date stated in Section 1.1b the work will be commenced and diligently continued. In the event the work is not commenced, diligently continued, and/or completed as aforesaid, the PHA reserves the right, subject to Government approval, to rescind this Agreement or take other appropriate action. The Owner shall report to the PHA the date work was commenced and shall thereafter furnish the PHA with periodic progress reports (quarterly unless more frequent reporting is required by the PHA).

c. *Delays.* In the event there is delay in the completion due to strikes, lockouts, labor union disputes, fire, unusual delays in transportation, unavoidable casualties, weather, acts of God, or any other causes beyond the Owner's control, or by delay authorized by the PHA, the time for completion shall be extended to the extent that completion is delayed due to one or more of these causes. No increases in the rents set forth in Exhibit B ("Contract Rents") may be granted on account of any such delays.

1.3 *Construction period.*

a. *Changes.* The Owner shall submit for PHA and Government approval any changes from Exhibit A which will materially reduce or alter his obligations or any changes which alter the design or materially reduce the quality or amenities of the project. Approval of such changes may be conditioned on a reduction of Contract Rents. If such changes are made without prior approval by the PHA and the Government, the Owner may be required to reduce the Contract Rents or remedy the defects or deficiencies as a condition for acceptance of the project. Contract Rents may not be increased by reason of any changes or modifications.

b. *Commencement of marketing.* The Owner shall commence and diligently continue marketing as soon as possible, but in any event no later than 90 days prior to the estimated completion date. The Owner shall notify the PHA of the date of commencement of marketing. The Owner shall also comply with all reporting requirements under the Affirmative Fair Housing Marketing Regulations. Not later than 30 days prior to the estimated completion date and periodically thereafter, the Owner shall notify the PHA of any units which he anticipates will be vacant on the effective date of the Contract. At the time the Contract is executed, the Owner shall submit a list of the dwelling units leased as of the effective date of the Contract and a list of the units not so leased, if any. The Owner will be entitled to housing assistance payments for any unleased units pursuant to Section 1.7b of the Contract only if he has fully complied with the requirements of this paragraph and the provisions of that Section.

c. *Management certification.* Prior to acceptance of the project by the Government, the Owner shall certify in writing that there has been on change in the evidence of management capability or in the proposed management program (if one was required) specified in his Final Proposal other than changes approved in writing by the PHA and the Government in accordance with paragraph a of this Section.

d. *Labor Standards Certification.*[1] Prior to acceptance of the project by the Government, the Owner shall certify in writing that he has complied with the provisions of Sections 2.6 through 2.11 of this Agreement, and that to the best of his knowledge and belief there are no claims of underpayment to laborers or mechanics in alleged violation of said provisions of the Agreement. In the event there are any such pending claims to the knowledge of the Owner or the PHA or the Government, the Owner shall be required to place a sufficient amount in escrow as determined by the Government to assure payment thereof.

1.4 *Project completion.*

a. *Conformance to Final Proposal.* The completed project shall be in accordance with Exhibit A. The Owner shall be solely responsible for completion of the project.

b. *Notification of Completion.* The Owner shall notify the Government, with a copy to the PHA, when the work is completed and shall submit to the Government the evidence of completion described in paragraph c of this Section.

c. *Evidence of Completion.* Completion of the project shall be evidenced by furnishing the Government with all of the following:

(1) A set of as-built drawings.

(2) A certificate of occupancy and/or other official approvals necessary for occupancy.

(3) A certification by the Owner, which will be supported by the Owner's warranty in the Contract, that:

(i) All work has been completed in accordance with the requirements of this Agreement;

(ii) The project is in good and tenantable condition; and

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified).

(4) A certification by the registered architect responsible for inspection of construction that such inspection was performed by him or under his supervision with the frequency and thoroughness required by the generally accepted standards for professional care and judgment, and that to the best of his knowledge, belief, and professional judgment:

(i) All work has been completed in conformance with the certified working drawings and specifications for the project or approved changes thereto (such changes to be listed);

(ii) The project is in good and tenantable condition; and

(iii) There are no defects or deficiencies in the project except for ordinary punchlist items, or incomplete work awaiting seasonal opportunity such as landscaping and heating system test (such excepted items to be specified).

(iv) The project has been constructed in accordance with applicable zoning, building, housing, and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials.

d. *Inspection.*

(1) Within ten working days of the receipt of the Owner's notification of project completion, the Government representative, accompanied by a PHA representative, shall inspect the project and review the evidence of completion listed in paragraph c of this Section. Such inspection shall be sufficient to enable the Government inspector to state in his inspection report that he has inspected the observable elements and features of the project in accordance with professional standards of care and judgment and that, on the basis of such inspection, the project has been completed in accordance with the Agreement and, in particular, that there are no observable conditions inconsistent with the certifications of the Owner or the design architect or the inspecting architect. As promptly as possible, the Government shall notify the Owner in writing as to whether or not the project has been completed in an acceptable manner.

(2) In the event the Owner disputes the Government's determinations, he may submit the controversy to third-party arbitration, at his expense, provided that the arbitration is advisory only.

e. *Acceptance of Project.* If the Government determines that the project is not acceptable under paragraph d(1) of this Section, the following shall apply:

(1) If the defects or deficiencies are only punchlist items or incomplete items awaiting seasonal opportunity, the project may be accepted and the Contract executed. If the Owner fails to complete such items within a reasonable time to the satisfaction of the PHA and the Government, the PHA may, upon 30 days notice, as directed by the Government, terminate the Contract or exercise the PHA's other rights under the Contract.

(2) If the defects or deficiencies are other than punchlist items or incomplete work awaiting seasonal opportunity, but the Government determines that (i) a certificate of occupancy and/or other official approvals necessary for occupancy has been issued, (ii) the project is in good and tenantable condition, and (iii) the project has been constructed in accordance with the applicable

[1] Strike this paragraph if the project involves fewer than nine Contract units.

soning, building, housing and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials, the project may be accepted after the Owner corrects the defects or deficiencies or the project may be accepted subject to a specified reduction of the Contract Rents as determined by the Government.

(3) If the Government determines that the project is not acceptable under paragraphs e(1) or e(2) of this Section, the Government shall determine: (i) whether the defects or deficiencies can be corrected and (ii) whether a reduction in Contract Rents will be required as a condition to acceptance of the project. If it is determined that the defects or deficiencies can be corrected, the Owner shall be notified of the Government's determinations under (i) and (ii) of this subparagraph, and, if he agrees to comply with the conditions, an agreement shall be entered into pursuant to which the defects or deficiencies will be corrected and the project then accepted. If the Owner is unwilling to enter into such agreement or if he fails to perform the agreement, the project shall not be accepted. Prior to authorizing execution of the Contract, the Government will verify that appropriate corrective action has been taken.

f. *Completion in Stages.* If the project is to be completed in stages, the procedures of this Section shall apply to each stage.

1.5 *Execution of housing assistance payments contract.*

a. *Time of Execution.* Upon acceptance of the project by the Government pursuant to Sections 1.3 and 1.4, the Contract shall be executed by the Owner and the PHA and shall then be approved by the Government.

b. *Completion in Stages.* If completion is in stages, the Contract shall be executed upon completion of the first stage, and the number and types of completed units and their Contract Rents shall be shown in Exhibit A–1 of the Contract. Thereafter, upon completion of each successive stage, the signature block provided in the Contract for that stage shall be executed by the Owner and the PHA and approved by the Government, and Exhibits A–2, A–3, etc., covering the additional units, shall become part of the Contract.

c. *Unleased Units at Time of Execution.* At the time of execution of the Contract, the PHA shall examine the lists of dwelling units leased and not leased, referred to in Section 1.3b, and shall determine whether or not the Owner has met his obligations under that Section with respect to any unleased units.

The PHA shall state in writing its determination with respect to the unleased units and for which of those units it will make housing assistance payments pursuant to the Contract. The Owner shall indicate in writing his concurrence with this determination or his disagreement, reserving his rights to claim housing assistance payments for the unleased units pursuant to the Contract, without prejudice by reason of his signing the Contract. Copies of all documents referred to in this paragraph shall be furnished to the Government.

d. *Contract Rents.* The Contract Rents by unit size, amounts of housing assistance payments, and all other applicable terms and conditions shall be as specified in the proposed Housing Assistance Payments Contract, except that in no case may the initial Contract Rents for units in projects financed with mortgages insured under the National Housing Act exceed the rents approved by the Government in connection with the mortgage insurance for such projects.

e. *No Changes in Contract.* Each party has read or is presumed to have read the proposed Contract. It is expressly agreed that there shall be no change in the terms and conditions of the Contract other than in accordance with Section 1.3a and paragraph d of this Section.

1.6 *Government assurance to owner.*

a. The approval of this Agreement by the Government signifies that the Government has executed the ACC and that the ACC has been properly authorized; that the faith of the United States is solemnly pledged to the payment of annual contributions pursuant to said ACC; and that funds have been obligated by the Government for such payments to assist the PHA in the performance of its obligations under the Contract. The Government and the PHA shall not, without the consent of the Owner, amend or modify the ACC in any manner which would reduce the amount of annual contributions payable thereunder for housing assistance payments except as authorized in the ACC and the Contract.

b. The ACC states that the ACC provisions quoted below in this paragraph are made for the benefit of the Owner, or his assignees who will have been specifically approved by the Government prior to such assignment, and that to enforce the performance of these provisions, the Owner and such assignees shall have the right to proceed against the Government by suit at law or in equity. Upon the determination by the Government that a default by the PHA has occurred, the following provisions of the ACC (which are hereby made a part of this Agreement), shall be applicable:

"(a) *Failure or inability of PHA to comply with agreement.* In the event the Government determines that the PHA is in default of its obligation under the Agreement with the Owner, or if such Agreement is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Agreement is drawn into question in any legal proceeding, or if the PHA asserts or claims that such Agreement is not binding upon the PHA for any such reason, the Government may, after reasonable notice to the PHA, determine that the occurrence of any such event, if the Owner is not in default, constitutes a Substantial Default hereunder as to the project. In such case, the Government will assume the PHA's rights and obligations under the Agreement and carry out the obligations of the PHA under the Agreement, including the obligation to enter into the Contract.

* * * * *

"(d) *Return of Rights and Obligations to PHA.* All rights and obligations of the PHA assumed by the Government pursuant to this Section 2.17 will be returned as constituted at the time of such return (1) when the Government is satisfied that all defaults have been cured and that the project will thereafter be administered in accordance with all applicable requirements or (2) when the Housing Assistance Payments Contract is at an end, whichever occurs sooner."

1.7 *Authority of the PHA.* The PHA warrants that it is a "public housing agency" as defined in section 3(6) of the Act and that it is in fact and in law authorized to execute this Agreement.

Effective date. This Agreement shall be effective as of the date of execution by the Government.

In witness whereof, the parties hereto have executed this Agreement in four original counterparts.

Warning: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully make or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

APPROVED:
United States of America Secretary of Housing and Urban Development

By _____
_____
(Official Title)
Date _____, 19___

PHA _____
By _____
_____
(Official Title)
Date _____, 19___
OWNER _____
By _____
_____
(Official Title)
Date _____, 19___

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—AGREEMENT TO ENTER INTO HOUSING ASSISTANCE PAYMENTS CONTRACT—NEW CONSTRUCTION—PRIVATE-OWNER/FHA PROJECT

PART II

2.10 *Training, employment, and contracting opportunities for businesses and lower-income persons.*[2]

a. The project assisted under this Agreement is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

b. Notwithstanding any other provision of this Agreement, the Owner shall carry out the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135 (published in 38 FR 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this Agreement. The requirements of said regulations include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by § 135.20(b) of the regulations and paragraph d of this Section in all contracts for work in connection with the project. The Owner certifies and agrees that he is under no contractual or other disability which would prevent him from complying with these requirements.

c. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this Agreement, shall be a condition of the Federal financial assistance provided to the project, binding upon the Owner, his successors and assigns. Failure to fulfill these requirements shall subject the Owner, his contractors and subcontractors, his successors, and assigns to the sanction specified by this Agreement, and to such sanctions as are specified by 24 CFR 135.135.

d. The Owner shall incorporate or cause to be incorporated into any contract or subcontract for work pursuant to this Agreement in excess of $50,000 cost, the following clause:

EMPLOYMENT OF PROJECT AREA RESIDENTS AND CONTRACTORS

"A. The work to be performed under this Agreement is on a project assisted under a program dividing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and

[2] Strike this Section if the Contract Rents under the proposed Housing Assistance Payments Contract, over the maximum term of said Contract, are $500,000 or less.

Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

"B. The parties to this Agreement will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

"C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

"D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR, Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR, Part 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

"E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Section 135.135."

e. The Owner agrees that he will be bound by the above Employment of Project Area Residents and Contractors clause with respect to his own employment practices when he participates in federally assisted work.

2.2 *Equal employment opportunity.*[3]

a. The Owner shall incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is to be performed pursuant to this Agreement, the following Equal Opportunity clause:

"EQUAL EMPLOYMENT OPPORTUNITY

"During the performance of this contract, the contractor agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising, lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by or at the direction of the Government setting forth the provisions of this Equal Opportunity clause.

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, or national origin.

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by or at the direction of the Government advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(6) In the event of the contractor's noncompliance with the Equal Opportunity clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

"(7) The contractor will include the portion of the sentence immediately preceding Paragraph (1) and the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Government may direct as a means of enforcing such provisions including sanctions for noncompliance; Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Government, the contractor may request the United States to enter into such litigation to protect the interest of the United States."

b. The Owner agrees that he will be bound by the above Equal Opportunity clause with respect to his own employment practices when he participates in federally assisted construction work.

c. The Owner agrees that he will assist and cooperate actively with HUD and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the Equal Opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that he will furnish HUD and the Secretary of Labor such information as they may require for the supervision of such compliance, and that he will otherwise assist HUD in the discharge of HUD's primary responsibility for securing compliance.

d. The Owner further agrees that he will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon contractors and subcontractors by HUD or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

2.3 *Cooperation in equal opportunity compliance reviews.* The PHA and the Owner shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.4 *Flood insurance.* If the project is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

2.5 *Clean air act and federal water pollution control act.*[4] In compliance with regulations issued by the Environmental Protection Agency ("EPA"), 40 CFR, Part 15, 39 FR 11099, pursuant to the Clean Air Act, as amended ("Water Act"), 33 U.S.C. 1251, *et* the Federal Water Pollution Control Act, as amended ("water act"), 33 U.S.C. 1251, *et seq.*, and Executive Order 11738, the Owner agrees that:

a. Any facility to be utilized in the performance of this Agreement or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to § 15.20 of said regulations;

b. He will promptly notify the PHA of the receipt of any communication from the EPA indicating that a facility to be utilized for the Agreement is under consideration to be listed on the EPA List of Violating Facilities;

c. He will comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder; and

d. He will include or cause to be included the provisions of this Section in every nonexempt subcontract, and that he will take such action as the Government may direct as a means of enforcing such provisions.

[3] As used in Section 2.2, "HUD" means the United States of America acting through the Department of Housing and Urban Development.

[4] Strike this Section if the Contract Rents under the proposed Housing Assistance Payments Contract, over the maximum term of said Contract, are $100,000 or less.

2.6 *Prevailing wage rates.*[1]

a. Attached hereto and incorporated herein as Exhibit D is a schedule of minimum rates of wages applicable to this Agreement.

b. All laborers and mechanics employed in the construction of the project shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the regulations issued by the Secretary of Labor under the Copeland Act (29 CFR, Part 3)), the full amounts due at the time of payment computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor of the United States, which is incorporated herein, regardless of any contractual relationship which may be alleged to exist between the Owner or any subcontractor and such laborers and mechanics; and the wage determination decision and the Department of Labor Wage Rate Information Poster shall be posted by the Owner at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics subject to the provisions of paragraph e of this Section. Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

c. The Owner may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, or any bona fide fringe benefits not expressly listed in section 1(b)(2) of the Davis-Bacon Act or otherwise not listed in the wage determination decision of the Secretary of Labor which is included in this Agreement, only when the Secretary of Labor has found, upon the written request of the Owner, that the applicable standards of the Davis-Bacon Act have been met. Whenever practicable, the Owner should request the Secretary of Labor to make such findings before the making of the Agreement. In the case of unfunded plans and programs, the Secretary of Labor may require the Owner to set aside in a separate account assets for the meeting of obligations under the plan or program.

d. The Owner shall comply with the Copeland (Anti-Kickback) Regulations (29 CFR, Part 3) of the Secretary of Labor which are herein incorporated by reference.

e. Any class of laborers or mechanics (including apprentices and trainees) which is not listed in the wage determination and which is to be employed under the Agreement shall be classified or reclassified conformably to the wage determination. In the event that agreement cannot be reached on the proper classification or reclassification of a particular class of laborers and mechanics (including apprentices and trainees) to be used, the question will be referred by HUD to the Secretary of Labor for final determination.

f. Whenever the minimum wage rate prescribed in the Agreement for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the Owner is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof shall be established. In the event that agreement cannot be reached upon a cash equivalent of the fringe benefit, the question will be referred by HUD to the Secretary of Labor for final determination.

g. (1)(i) Apprentices will be permitted to work as such only when they are registered individually under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor; or, if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Owner as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subsection (b) immediately following or is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Owner will be required to furnish to the other party to this Agreement written evidence of the registration of his program and apprentices, as well as of the appropriate ratios and wage rates for the area of construction prior to using any apprentices on the contract work.

(ii) Trainees will be permitted to work as such when they are bona fide trainees employed pursuant to a program approved by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, and where subsection (c) immediately following is applicable, in accordance with the provisions of paragraph g(2) of this Section.

(iii) On contracts in excess of $10,000 the employment of all laborers and mechanics, including apprentices and trainees, as defined in 29 CFR Section 5.2(c) shall also be subject to the provisions of paragraph g(2) of this Section. Apprentices and trainees shall be hired in accordance with the provisions of paragraph g(2).

(2) The Owner agrees that:

(i) He will make a diligent effort to hire for the performance of the Agreement a number of apprentices or trainees, or both, in each occupation, which bears to the average number of the journeymen in that occupation to be employed in the performance of the Agreement the applicable ratio as determined by the Secretary of Labor;

(ii) He will assure that 25 percent of such apprentices or trainees in such occupation are in their first year of training, where feasible. Feasibility here involves a consideration of (A) the availability of training opportunities for first year apprentices, (B) the hazardous nature of the work for beginning workers, (C) excessive unemployment of apprentices in their second and subsequent years of training;

(iii) During the performance of the Agreement he will, to the greatest extent possible, employ the number of apprentices or trainees necessary to meet currently the requirements of (i) and (ii) immediately preceding;

(iv) He will maintain records of employment by trade of the number of apprentices and trainees, apprentices and trainees by first year of training, and of journeymen, and the wages paid and hours of work of such apprentices, trainees and journeymen; and he will make these records available for inspection upon request of the Department of Labor and HUD;

(v) If he claims compliance based on the criterion stated in 29 CFR Section 5a.4(b), he will maintain records of employment, as described in the immediately preceding paragraph, on non-Federal and nonfederally assisted construction work done during the performance of the contract in the same labor market area; and he will make these records available for inspection upon request of the Department of Labor and HUD;

(vi) He will supply one copy of the written notices required in accordance with 29 CFR Section 5a.4(c) at the request of Government compliance officers, and will supply at three-month intervals during the performance of the Agreement and after completion of Agreement performance a statement describing steps taken toward making a diligent effort and containing a breakdown by craft, of hours worked and wages paid for first year apprentices and trainees, other apprentices and trainees, and journeymen. One copy of the statement will be sent to HUD and one to the Secretary of Labor.

2.7 *Submittal of payrolls and related reports.*

a. Payrolls and basic records relating thereto shall be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics employed in the construction of the project. Such records shall contain the name and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under Section 2.6c that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Owner shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost curred in providing such benefits.

b. The Owner shall submit weekly to the other party to this Agreement such copies and summaries of all his payrolls and those of each of his subcontractors as such other party may require. Each payroll and summary shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic conform with the work he performed. A submission of a "Weekly Statement of Compliance," which is required under this Agreement and the Copeland Regulations of the Secretary of Labor (29 CFR, Part 3), and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor under Section 2.6c shall satisfy this requirement. The Owner shall make the records required under the labor standards clauses of this Agreement available for inspection by authorized representatives of HUD and the Department of Labor, and will permit such representatives to interview employees during working hours on the job.

c. The Owner shall also furnish to the other parties to this Agreement any other information or certifications relating to employees in such form as such other party may request.

2.8 *Disputes concerning wage rates and classifications of labor.*

a. All disputes concerning prevailing wage rates or classifications arising under this Agreement involving (1) significant sums of money, (2) large groups of employees, or (3) novel or unusual situations shall be promptly reported to HUD for decision or, at the option of HUD, referral to the Secretary of Labor of the United States. The deci-

[1] As used in Sections 2.6 through 2.11, "HUD" means the United States of America acting through the Department of Housing and Urban Development. Strike Sections 2.6 through 2.11 if the project involves fewer than nine Contract units.

sion of HUD or the Secretary of Labor, as the case may be, shall be final.

b. All questions arising under this Agreement relating to the application or interpretation of the Copeland (Anti-Kickback) Act shall be referred to the Secretary of Labor of the United States for ruling or interpretation, and such ruling or interpretation shall be final.

2.9 *Wage claims and adjustments.* In cases of underpayment of salaries or wages to any laborers or mechanics (including apprentices and trainees) by the Owner (or any of his subcontractors), the Owner shall be required to place an amount in escrow, as determined by HUD, sufficient to pay persons employed on the work covered by the Agreement the difference between the salaries or wages actually paid such employees for the total number of hours worked, and the amounts withheld may be disbursed by HUD for and on account of the Owner or the subcontractor to the respective employees to whom they are due.

2.10 *Contract work hours and safety standards act—overtime compensation.*

a. Neither the Owner nor any subcontractor contracting for any part of the work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in any such workweek, as the case may be.

b. In the event of any violation of the clause set forth in paragraph a of this Section, the Owner and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Owner and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed, with respect to each individual laborer or mechanic employed in violation of the clause set forth in paragraph a of this Section, in the sum of $10 for each calendar day on which such employee was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph a.

c. The Owner shall deposit in escrow such amounts determined by HUD to be necessary to satisfy any liability of the Owner or any subcontractor for liquidated damages as provided in paragraph b of this Section.

2.11 *Termination; debarment; subcontracts.*

a. A breach of the provisions of the foregoing Sections 2.6, 2.7, 2.8, 2.9, and 2.10 may be grounds for termination of this Agreement and for debarment as provided in 29 CFR Section 5.6.

b. The Owner shall insert in any subcontracts Sections 2.6 (and with respect to Section 2.6g(2), copies of 29 CFR Sections 5a.4, 5a.5, 5a.6 and 5a.7 shall be attached), 2.7, 2.8, 2.9, 2.10, and 2.11a. and also a clause requiring the subcontractors to include these Sections in any lower tier subcontract which they may enter into, together with a clause requiring this insertion in any further subcontracts has may in turn be made.

2.12 *Disputes.*

a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement of the PHA and the Owner may be submitted by either party to the Department of Housing and Urban Development field office director who shall make a decision and shall mail or otherwise furnish a written copy thereof to the Owner and the PHA.

b. The decision of the field office director shall be final and conclusive unless, within 30 days from the date of receipt of such copy, either party mails or otherwise furnishes to the Government a written appeal addressed to the Secretary of Housing and Urban Development. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this Section, the appellant shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, both parties shall proceed diligently with the performance of the Agreement and in accordance with the decision of the field office director.

c. This Section does not preclude consideration of questions of law in connection with decisions rendered under paragraphs a and b of this Section: Provided, however, that nothing herein shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

2.13 *Interest of members, officers, or employees of PHA, members of local governing body, or other public officials.* No member, officer or employee of the PHA, no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or in any proceeds or benefits arising therefrom.

2.14 *Interest of member of or delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Agreement or to any benefits which may arise therefrom.

2.15 *Nonassignability.*

a. The Owner agrees that he has not made and will not make any sale, assignment, or conveyance or transfer in any other form, of this Agreement or the project or any part thereof or any of his interest therein, without the prior consent of the PHA and the Government; Provided, however, that in the case of an assignment as security for the purpose of obtaining financing of the project, the PHA and the Government shall consent in writing if the terms of the financing have been approved by the Government. An assignment by the Owner to a limited partnership of which the Owner is the sole general partner shall not be considered an assignment herein.

b. The Owner agrees that he will not change to a different developer from the one named in the preamble of this Agreement, except with the prior consent of the PHA and the Government.

c. The Owner agrees that the approved developer has not made, and will not make, except with the prior consent of the PHA and the Government, any assignment or transfer in any form of the developer's contract to construct the project, or of any part thereof, or any of the developer's interests therein.

d. The Owner agrees to notify the PHA and the Government promptly of any proposed action covered by paragraph a or b or c of this Section. The Owner further agrees to request the written consent of the PHA and the Government in regard thereto, except in the case of an assignment as security as provided in paragraph a of this Section.

e. For the purpose of this Section, a transfer of stock in the Owner or developer in whole or in part, by a party holding ten percent or more of the stock of said Owner or developer, or a transfer by more than one stockholder or the owner of 10 percent or more of the stock of said Owner, or any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to the parties in control of the Owner or developer or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Agreement, the project or the construction contract. With respect to this provision, the Owner, and the party signing this Agreement on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect thereto.

APPENDIX V—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—HOUSING ASSISTANCE PAYMENTS CONTRACT—NEW CONSTRUCTION—PRIVATE-OWNER/PHA PROJECT

PART I

This Housing Assistance Payments Contract ("Contract") is entered into by and between the _____ ("PHA"), which is a public housing agency as defined in the United States Housing Act of 1937, 42 U.S.C. 1437, et seq. ("Act"), at section 1437a(6), and _____ ("Owner"), and approved by the United States of America acting through the Department of Housing and Urban Development ("Government"), pursuant to the Act and the Department of Housing and Urban Development Act, 42 U.S.C. 3531, et seq.

The parties hereto agree as follows:

1.1 Significant dates and other items; contents of contract. a. *Effective Date of Contract.* The effective date of this Contract is _____, 19___. [This date shall be no earlier than the date of approval by the Government.]

b. *Initial Term of Contract.* The initial term of this Contract (see Section 1.4a) shall be ___ years [not to exceed five years], beginning with the effective date of this Contract and ending _____, 19___.

c. *Number and Length of Optional Additional Terms.* The number and length of optional additional terms (see Section 1.4a) shall be _____ terms of ___ year each [not to exceed five years each].

d. *Maximum Total Term of Contract.* The maximum total term of this Contract, including renewals (see Section 1.4a) shall be ___ years. [Insert 20, except in the case of (1) a project owned by, or financed by a loan or loan guarantee from, a State or local agency or (2) a mobile homes project. Under either of these exceptions, insert number as specifically authorized by the Government pursuant to 24 CFR Section 1273.103(g), not to exceed 40 in the case of exception (1) or 20 in the case of exception (2).]

e. *Fiscal Year.* The ending date of each Fiscal Year (see Section 1.4b) shall be _____ [insert March 31, June 30, September 30, or December 31, as determined by the Government].

f. *Annual Contributions Contract.* The Annual Contributions Contract applicable to this Contract ("ACC") (see Section 1.5a) is the ACC dated _____ with respect to Project No. _____.

g. *Maximum Housing Assistance Commitment.* The maximum amount of the commitment for housing assistance payments under this Contract (see Section 1.6a) is $_____ per annum. [Enter amount specified in the ACC for housing assistance payments.]

h. *Contents of Contract.* This Contract consists of Part I, Part II, and the following exhibits:

Exhibit A: The schedule showing the number of units by size ("Contract Units") and their applicable rents ("Contract Rents");

Exhibit B: The Project Description;

Exhibit C: The statement of services, maintenance and utilities to be provided by Owner;

Exhibit D: The Affirmative Fair Housing Marketing Plan, if applicable; and

Additional exhibits: [Specify additional exhibits, if any. If none, insert "None."]

This Contract, including said exhibits, comprises the entire agreement between the parties hereto, and neither party is bound by any representations or agreements of any kind except as contained herein.

1.2 *Owner's warranties.* a. *Legal Capacity.* The Owner warrants that he has the legal right to execute this Contract and to lease dwelling units covered by this Contract.

b. *Completion of Work.* The Owner warrants that the project as described in Exhibit B is in good and tenantable condition and that all work has been completed in accordance with the terms and conditions of the Agreement to Enter into Housing Assistance Payments Contract ("Agreement") or will be completed in accordance with the terms on which the project was accepted. The Owner further warrants that he will remedy any defects or omissions covered by this warranty if called to his attention within 12 months of the effective date of this Contract.

1.3 *Families to be housed; PHA assistance.* a. *Families To Be Housed.* The Contract Units are to be leased by the Owner to eligible lower-income families ("Families") for use and occupancy by such Families solely as private dwellings.

b. *PHA Assistance.* (1) The PHA hereby agrees to make housing assistance payments on behalf of Families for the Contract Units, to enable such Families to lease Decent, Safe, and Sanitary housing pursuant to section 8 of the Act. Such housing assistance payments shall equal the difference between the Contract Rents for units leased by Families and the portion of such rents payable by Families as determined by the Owner in accordance with schedules and criteria established by the Government.

(2) If there is an Allowance for Utilities and Other Services and if such Allowance exceeds the Gross Family Contribution, the Owner shall pay the Family the amount of such excess on behalf of the PHA upon receipt of funds from the PHA for that purpose.

1.4 *Term of contract; fiscal year.* a. *Term of Contract.*

[Alternative provisions—incorporate alternative 1, 2, or 3, as applicable.]

Alternative 1—General: The initial term of this Contract shall be as stated in Section 1.1b. This Contract may be renewed, at the sole option of the Owner, for the number and length of additional terms stated in Section 1.1c, provided that the total Contract term for any unit, including renewals, shall not exceed the number of years stated in Section 1.1d. Renewal shall be automatic unless the Owner notifies the PHA, no later than 60 days prior to the expiration of the current term, of his intention not to renew. If the project is accepted in stages, the dates for the Initial term and renewal terms shall be separately related to the units in each stage: *Provided, however,* That the total Contract term for the units in all the stages, counting from the effective date of the Contract with respect to the first stage, shall not exceed the total Contract terms stated in Section 1.1d, plus two years.

Alternative 2—For mobile homes project: In the case of mobile homes, the initial term of this Contract for each mobile home shall be as stated in Section 1.1b. This Contract shall be renewed, as may be mutually agreed upon by the Owner and the PHA with the approval of the Government, with respect to any mobile home, for the number and length of additional terms as stated in Section 1.1c, provided that the total Contract term for any mobile home, including renewals, shall not exceed the number of years stated in Section 1.1d. Renewals shall become effective only if either party gives written notice, no later than 60 days prior to the expiration of the current term, of his desire to renew, and the other party concurs or fails to object before the expiration of the current term. If the project is accepted in stages, the dates for the initial term and renewal terms shall be separately related to the mobile homes in each stage; *Provided, however,* That the total Contract term for the mobile homes in all the stages, counting from the effective date of the Contract with respect to the first stage, shall not exceed the total Contract term stated in Section 1.1d, plus two years. For purposes of this paragraph a, the term "mobile home" means the original mobile home and any replacement(s), combined.

b. *Fiscal Year.* The Fiscal Year for the project shall be the 12-month period ending on the date stated in Section 1.1e; Provided, however that the first Fiscal Year for the project shall be the period beginning with the effective date of the Contract and ending on the last day of said established Fiscal Year which is not less than 12 months after such effective date. If the first Fiscal Year exceeds 12 months, the maximum total annual housing assistance payment in Section 1.6a may be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.

1.5 *Annual contributions contract.* a. *Identification of Annual Contributions Contract.* The PHA has entered into an Annual Contributions Contract with the Government as identified in Section 1.1f, under which the Government will provide financial assistance to the PHA pursuant to section 8 of the Act, for the purpose of making housing assistance payments. A copy of the ACC shall be provided upon request.

b. *PHA Pledge of Certain ACC Payments.* The PHA hereby pledges to the payment of housing assistance payments pursuant to this Contract the portion of annual contributions payable under the ACC for such housing assistance payments. The PHA shall not, without the consent of the Owner, amend or modify the ACC in any manner which would reduce the amount of such annual contributions, except as authorized in the ACC and this Contract.

c. *Government Approval of Housing Assistance Payments Contract.* The approval of this Contract by the Government signifies that the Government has executed the ACC and that the ACC has been properly authorized; that the faith of the United States is solemnly pledged to the payment of annual contributions pursuant to said ACC; and that funds have been obligated by the Government for such payments to assist the PHA in the performance of its obligations under the Contract.

1.6 *Maximum housing assistance commitment; project reserve.* a. *Maximum Housing Assistance Commitment.* Notwithstanding any other provisions of this Contract (other than paragraph b of this Section) or any provisions of any other contract between the PHA and the Owner, the PHA shall not be obligated to make and shall not make any housing assistance payments under this Contract in excess of the amount per annum stated in Section 1.1g; *Provided, however,* That this amount shall be reduced commensurate with any reduction in the number of units under this Contract.

b. *Project Reserve.* As provided in the ACC, a project account shall be established and maintained, in an amount as determined by the Government consistent with its responsibilities under section 8(c)(6) of the Act, out of amounts by which the maximum annual ACC commitment exceeds amounts paid under the ACC for any Fiscal Year. This account shall be established and maintained by the Government as a specifically identified and segregated account. To the extent funds are available in said account, the maximum total annual housing assistance payments for any Fiscal Year may exceed the maximum amount stated in paragraph a of this Section to cover increases in Contract Rents or decreases in Family incomes (see Section 1.9). Any amount remaining in said account after payment of the last housing assistance payment with respect to the project shall be applied by the Government in accordance with law.

1.7 *Housing assistance payments to owners.* a. *General.* (1) Housing assistance payments shall be paid to the Owner for units under lease by Families in accordance with the Contract. The housing assistance payment will pay the Owner the difference between the Contract Rent and that portion of said rent payable by the Family as determined in accordance with the Government-established schedules and criteria.

(2) The Owner shall be entitled to Contract Rents in accordance with the terms of this Contract. The amount of housing assistance payment payable on behalf of a Family and the amount of rent payable by such Family shall be subject to change by reason of changes in Family income, Family composition, extent of exceptional medical or other unusual expenses, or by reason of adjustment by the Government of any applicable Allowance for Utilities and Other Services. Any such change shall be determined in accordance with the Government-established schedules and criteria, and shall be effective as of the date stated in a notification of such change to the Family.

b. *Vacancies During Rent-up.* If a Contract Unit is not leased as of the effective date of the Contract, the Owner shall be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract, provided that the Owner (1) commenced marketing and otherwise complied with Section 1.3b of the Agreement, (2) has taken and continues to take all feasible actions to fill the vacancy, including, but not limited to, contacting applicants on his waiting list, requesting the PHA and other appropriate sources to refer eligible applicants, and advertising the availability of the unit, and (3) has not rejected any eligible applicant, except for good cause acceptable to the PHA.

c. *Vacancies After Rent-Up.* (1) If a Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days; *Provided, however,* That if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to the Government or as the Government may direct. (See also Section 1.10b.) The Owner shall not be entitled to any payment under this subparagraph unless he: (i) immediately upon learning of the vacancy, has notified the PHA of the vacancy or prospective vacancy and the reasons for the vacancy, and (ii) has taken and continues to take the actions specified in paragraphs b(2) and b(3) of this Section.

(2) If the Owner proposes to evict a Family, he shall not be entitled to any payment under paragraph c(1) of this Section unless the request for such payment is supported

[If the project is to be completed and ac-

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by a certification that (1) he has given such Family a written notice of the proposed eviction, stating the grounds and advising the Family that it has 10 days within which to present its objections to the Owner in writing or in person and (ii) the proposed eviction is not in violation of the Lease or the Contract or any applicable law.

d. *Limitation on Payments for Vacant Units.* The Owner shall not be entitled to housing assistance payments with respect to vacant units under this Section to the extent he is entitled to payments from other sources (e.g., payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the Housing and Community Development Act of 1974 or payments under Section 1.10b of this Contract.

(e) *PHA Not Obligated for Family Rent.* The PHA has not assumed any obligation for the amount of rent payable by any Family or the satisfaction of any claim by the Owner against any Family other than in accordance with Section 1.10b of this Contract. The financial obligation of the PHA is limited to making housing assistance payments on behalf of Families in accordance with this Contract.

f. *Owner's Monthly Requests for Payments.* (1) The Owner shall submit monthly requests to the PHA or as directed by the PHA for housing assistance payments. Each such request shall set forth: (i) the name of each Family and the address and/or number of the unit leased by the Family; (ii) the address and/or the number of units, if any, not leased to Families for which the Owner is claiming payments; (iii) the Contract Rent as set forth in Exhibit A for each unit for which the Owner is claiming payments; (iv) the amount of rent payable by the Family leasing the unit; and (v) the total amount of housing assistance payments requested by the Owner.

(2) Each of the Owner's monthly requests shall contain a certification by him that to the best of his knowledge and belief (i) the dwelling unit is in Decent, Safe, and Sanitary condition, (ii) all the other facts and data on which the request for funds is based are true and correct, (iii) the amount requested has been calculated in accordance with the provisions of this Contract and is payable under the Contract, and (iv) none of the amount claimed has been previously claimed or paid.

(3) If the Owner has received an excessive payment, the PHA or the Government, in addition to any other rights to recovery, may deduct the amount from any subsequent payment or payments.

(4) The Owner's monthly requests for housing assistance payments shall be made subject to penalty under 18 U.S.C. 1001, which provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

1.8 *Maintenance, operation and inspection.* a. *Maintenance and Operation.* The Owner agrees (1) to maintain and operate the Contract Units and related facilities so as to provide Decent, Safe, and Sanitary housing, and (2) to provide all the services, maintenance and utilities set forth in Exhibit C. If the PHA determines that the Owner is not meeting any of these obligations, the PHA shall have the right, in addition to its other rights and remedies under this Contract, to abate housing assistance payments in whole or in part.

b. *Inspection.* (1) Prior to occupancy of any unit by a Family, the Owner and the Family shall inspect the unit and both shall certify, on the form prescribed by the Government, that they have inspected the unit and have determined it to be Decent, Safe, and Sanitary in accordance with the criteria provided in the prescribed form.

(2) The PHA shall inspect or cause to be inspected each Contract Unit and related facilities at least annually and at such other times (including prior to initial occupancy of any unit) as the PHA may determine to be necessary to assure that the Owner is meeting his obligation to maintain the units in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. The PHA shall take into account complaints by occupants and any other information coming to its attention in scheduling inspections.

c. *Units Not Decent, Safe, and Sanitary.* If the PHA notifies the Owner that he has failed to maintain a dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, the PHA may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments, even if the Family continues to occupy the unit. If, however, the Family wishes to be rehoused in another dwelling unit with Section 8 assistance and the PHA does not have other Section 8 funds for such purposes, the PHA may use the abated housing assistance payments for the purpose of rehousing the Family in another dwelling unit. Where this is done, the Owner shall be notified that he will be entitled to resumption of housing assistance payments for the vacated dwelling unit if (1) the unit is restored to Decent, Safe, and Sanitary condition, (2) the Family is willing to and does move back into the restored unit, and (3) a deduction is made for the expenses incurred by the Family for both moves.

d. *Notification of Abatement.* Any abatement of housing assistance payments shall be effective as provided in written notification to the Owner. The PHA shall promptly notify the Family of any such abatement.

e. *Overcrowded and Underoccupied Units.* If the PHA determines that a Contract Unit is not Decent, Safe, and Sanitary by reason of overcrowding, or that a Contract unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to such unit will not be abated, unless the Owner fails to offer the Family a suitable unit as soon as one becomes vacant and ready for occupancy. In the case of an overcrowded unit, if the Owner does not have any suitable units or if no vacancy of a suitable unit occurs within a reasonable time, the PHA will assist the Family in finding a suitable dwelling unit and require the Family to move to such a unit as soon as possible. The Owner may receive housing assistance payments for the vacated unit if he complies with the requirements of Section 1.7c(1).

1.9 *Rent adjustments.* a. *Funding of Adjustments.* Housing assistance payments will be made in increased amounts commensurate with Contract Rent adjustments under this Section up to the maximum total annual housing assistance payments committed under Section 1.6a of this Contract. The provisions of the ACC which are referred to in Section 1.6b of this Contract are designed (by providing for maximum total annual commitments in excess of the amounts required at the time of the initial rental of dwelling units and by setting aside such excess amounts in a project reserve) to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family incomes. The ACC further provides that the Government will take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

b. *Automatic Annual Adjustments.* (1) Automatic Annual Adjustment Factors will be determined by the Government at least annually; interim revisions may be made as market conditions warrant. Such Factors and the basis for their determination will be published in the FEDERAL REGISTER. These published Factors will be reduced appropriately by the Government where utilities are paid directly by the Families.

(2) On each anniversary date of the Contract, the Contract Rents shall be adjusted by applying the applicable Automatic Annual Adjustment Factor most recently published by the Government. Contract Rents may be adjusted upward or downward, as may be appropriate; however, in no case shall the adjusted Contract Rents be less than the Contract Rents on the effective date of the Contract.

c. *Special Additional Adjustments.* Special additional adjustments may be granted, when approved by the Government, to reflect increases in the actual and necessary expenses of owning and maintaining the Contract Units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the Owner clearly demonstrates that such general increases have caused increases in the Owner's operating costs which are not adequately compensated for by automatic annual adjustments. The Owner shall submit to the Government financial statements which clearly support the increase.

d. *Overall Limitation.* Notwithstanding any other provisions of this Contract, adjustments as provided in this Section shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by the Government.

e. *Incorporation of Rent Adjustment.* Any adjustment in Contract Rents shall be incorporated into Exhibit A by a dated addendum to the exhibit.

1.10. *Marketing and leasing of units.* a. *Compliance with Equal Opportunity.* Marketing of units and selection of Families by the Owner shall be in accordance with the Owner's Government-approved Affirmative Fair Housing Marketing Plan, shown as Exhibit D, and with all regulations relating to fair housing advertising.

b. *Security and Utility Deposits.* (1) The Owner may require Families to pay a security deposit in an amount equal to one month's Gross Family Contribution. If a Family vacates the unit, the Owner may utilize the deposit as reimbursement for any unpaid rent or damage caused by the Family. If the Family has provided a security deposit, and it is insufficient for such reimbursement, the Owner may claim reimbursement from HUD or the PHA, as appropriate, not to exceed an amount equal to the remainder of one month's Contract Rent. If a Family vacates the unit owing no rent and causing no damage to the unit or if the amount of unpaid rent and/or damage is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.

(2) In those jurisdictions where interest is payable by the Owner on security deposits, the refunded amount shall include such interest. All security deposit funds shall be deposited by the Owner in a segregated bank account, and the balance of this account, at all times, shall be equal to the total amount collected from tenants then

in occupancy, plus any accrued interest. The Owner must comply with all State and local laws regarding interest payments on security deposits.

(3) Families shall be expected to obtain the funds to pay security and utility deposits, if required, from their own resources and/or other private or public sources.

c. *Eligibility, Selection and Admission of Families.* (1) The Owner shall be responsible for determination of eligibility of applicants, selection of families from among those determined to be eligible, and computation of the amount of housing assistance payments on behalf of each selected Family in accordance with schedules and criteria established by the Government. In the initial renting of the Contract Units, the Owner shall lease at least 30 percent to Very Low-Income Families (determine in accordance with the Government-established schedules and criteria) and shall thereafter exercise his best efforts to maintain at least 30 percent occupancy of the Contract Units by Very Low-Income Families as determined in accordance with such schedules and criteria.

(2) The Lease entered into between the Owner and each selected Family shall be on the form of Lease approved by the Government.

(3) The Owner shall make a reexamination of Family income, composition, and the extent of medical or other unusual expenses incurred by the Family, at least annually (except that such reviews may be made at intervals of no longer than two years in the case of elderly Families), and appropriate redeterminations shall be made by the Owner of the amount of Family contribution and the amount of housing assistance payment, all in accordance with schedules and criteria established by the Government. In connection with the reexamination, the Owner shall determine what percentage of Families in occupancy are Very Low-Income Families. If there are fewer than 30 percent Very Low-Income Families in occupancy, the Owner shall report the fact to the Government and shall adopt changes in his admission policies to achieve, as soon as possible, at least 30 percent occupancy by such Families.

d. *Rent Redetermination after Adjustment in Allowance for Utilities and Other Services.* In the event that the Owner is notified of a Government determination making an adjustment in the Allowance for Utilities and Other Services applicable to any of the Contract Units, the Owner shall promptly make a corresponding adjustment in the amount of rent to be paid by the affected Families and the amount of housing assistance payments.

e. *Processing of Applications and Complaints.* The Owner shall process applications for admission, notifications to applicants, and complaints by applicants in accordance with applicable Government requirements and shall maintain records and furnish such copies or other information as may be required by the Government.

f. *Review; Incorrect Payments.* In making housing assistance payments to Owners, the PHA or the Government will review the Owner's determinations under this Section. If as a result of this review, or other reviews, audits or information received by the PHA or the Government at any time, it is determined that the Owner has received improper or excessive housing assistance payments, the PHA or the Government shall have the right to deduct the amount of such overpayments from any amounts otherwise due the Owner, or otherwise effect recovery thereof.

1.11 *Termination of tenancy.* The Owner shall be responsible for termination of tenancies, including evictions. However, conditions for payment of housing assistance payments for any resulting vacancies shall be as set forth in Section 1.7c.

1.12 *Reduction of number of contract units for failure to lease to eligible families.* a. *Twelve Months after Effective Date of Contract.* If at any time, beginning six months after the effective date of this Contract, the Owner fails for a continuous period of six months to have at least 80 percent of the Contract Units leased or available for leasing by Families, the PHA, with Government approval, may on 30 days notice reduce the number of Contract Units to not less than the number of units under lease or available for leasing by Families, plus 10 percent of such number, if that number is 10 or more, rounded to the next highest number.

b. *At End of Initial and Each Renewal Term.* At the end of the initial term of the Contract and of each renewal term, the PHA, with Government approval, may, by notice to the Owner, reduce the number of Contract Units to not less than (1) the number of units under lease or available for leasing by Families at that time or (2) the average number of units so leased or available for leasing during the last year, whichever is the greater number, plus 10 percent of such number, if the number is 10 or more, rounded to the next highest number.

(c) *Restoration of Units.* Any reduction pursuant to paragraphs a or b of this Section shall not preclude subsequent restoration of Contract units if contract authority is available and if the Government determines that the restoration is justified as a result of changes in demand and in the light of the Owner's record of compliance with his obligations under the Contract.

1.13. *Responsibility for administration of Contract.* The PHA is primarily responsible for administration of the Contract. However, if the PHA is the lender, the following shall apply:

(a) The Government shall have the right to make independent audits, reviews, and determinations as to compliance by the Owner with any or all of his obligations under the Contract.

(b) In the event the Government determines that the Owner is in default with respect to any or all of his obligations, the Government shall have the right to take direct action (as if the Government were the party to the Contract primarily responsible for its administration) to enforce any or all available remedies, including, but not limited to, abatement of housing assistance payments, collection of payments previously made in violation of the contract, and termination of the Contract in whole or in part.

(c) The Owner hereby expressly agrees to recognize the rights of the Government in the event it takes any action under this Section in the same manner and to the same extent as if the action were taken by the PHA.

(c) The Owner hereby expressly agrees to recognize the rights of the Government in the event it takes any action under this Section in the same manner and to the same extent as if the action were taken by the PHA.

WARNING: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

APPROVED:
United States of America
Secretary of Housing and Urban Development
By _____
_____
(Official Title)
Date _____, 19___

Owner _____
By _____
(Official Title)
Date _____, 19___
PHA _____
By _____
(Official Title)
Date _____, 19___

[If the project is to be completed and accepted in stages, execution of the Contract with respect to the several stages appears on the following pages of this Contract.]

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 1

This Contract is hereby executed with respect to the units described in Exhibit A–1.

Effective date. The effective date of this Contract with respect to the units described in Exhibit A–1 is _____, 19___. [Insert date which shall be no earlier than the date of approval by the Government.]

Approved:
United States of America Secretary of Housing and Urban Development
By _____
_____
(Official title)
Date _____, 19___

Owner _____
By _____
(Official title)
Date _____, 19___
PHA _____
By _____
(Official title)
Date _____, 19___

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 2

This Contract is hereby executed with respect to the units described in Exhibit A–2.

Effective Date. The effective date of this Contract with respect to the units described in Exhibit A–2 is _____, 19___. [Insert date which shall be no earlier than the date of approval by the Government.]

Approved:
United States of America Secretary of Housing and Urban Development
By _____
_____
(Official Title)
Date_____, 19__

Owner _____
By _____
(Official Title)
Date_____, 19__
PHA _____
By _____
(Official Title)
Date_____, 19__

EXECUTION OF CONTRACT WITH RESPECT TO CONTRACT UNITS COMPLETED AND ACCEPTED IN STAGES

STAGE 3

This Contract is hereby executed with respect to the units described in Exhibit A–3.

Effective Date. The effective date of this Contract with respect to the units described in Exhibit A–3 is _____, 19___. [Insert date which shall be no earlier than the date of approval by the Government.]

Approved:
United States of America Secretary of Housing and Urban Development
By _____
_____
(Official Title)
Date _____, 19__

Owner _____, 19__
By _____
(Official Title)
Date _____, 19__
PHA _____
By _____
(Official Title)
Date _____, 19__

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—HOUSING ASSISTANCE PAYMENTS CONTRACT—NEW CONSTRUCTION—PRIVATE-OWNER PHA PROJECT

PART II

2.1 *Nondiscrimination in housing.* a. The Owner shall not in the selection of Families, in the provision of services, or in any other manner, discriminate against any person on the grounds of race, color, creed, religion, sex, or national origin. No person shall be automatically excluded from participation in, or be denied the benefits of the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.

b. The Owner shall comply with all requirements imposed by Title VIII of the Civil Rights Act of 1968, and any rules and regulations pursuant thereto.

c. The Owner shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act, the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the ground of race, color, creed, religion or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program, or be otherwise subjected to discrimination. This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the Owner to comply therewith inures to the benefit of the Government, of the said Department, and the PHA any of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the Owner.

2.2 *Training, employment, and contracting opportunities for businesses and lower-income persons.*[1] a. The project assisted under this Contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

b. Notwithstanding any other provision of this Contract, the Owner shall carry out the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135 (published in 38 Federal Register 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this Contract. The requirements of said regulations include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by section 135.20(b) of the regulations and paragraph d of this Section in all contracts for work in connnection with the project. The Owner certifies and agrees that he is under no contractual or other disability which would prevent him from complying with these requirements.

c. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the Owner, his successors and assigns. Failure to fulfill these requirements shall subject the Owner, his contractors and subcontractors, his successors, and assigns to the sanction specified by this Contract, and to such sanctions as are specified by 24 CFR Section 135.135.

d. The Owner shall incorporate or cause to be incorporated into any contract or subcontract for work pursuant to this Contract in excess of $50,000 cost, the following clause:

"EMPLOYMENT OF PROJECT AREA RESIDENTS AND CONTRACTORS

"A. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

"B. The parties to this Contract will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

"C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

"D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR, Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR, Part 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

"E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Section 135.135."

e. The Owner agrees that he will be bound by the above Employment of Project Area Residents and Contractors clause with respect to his own employment practices when he participates in federally assisted work.

2.3 *Cooperation in equal opportunity compliance reviews.* The PHA and the Owner shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.4 *Flood insurance.* If the project is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

2.5 *Clean Air Act and Federal Water Pollution Control Act.*[2] In compliance with regulations issued by the Environmental Protection Agency ("EPA"), 40 CFR, Part 15, 39 F.R. 11099, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 1857, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Owner agrees that:

a. Any facility to be utilized in the performance of this Contract or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to section 15.20 of said regulations;

b. He will promptly notify the PHA of the receipt of any communication from the EPA indicating that a facility to be utilized for the Contract is under consideration to be listed on the EPA List of Violating Facilities;

c. He will comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder; and

d. He will include or cause to be included the provisions of this Section in every nonexempt subcontract, and that he will take such action as the Government may direct as a means of enforcing such provisions.

2.6 *Reports and access to premises and records.* a. The Owner shall furnish such information and reports pertinent to the Contract as reasonably may be required from time to time by the PHA or the Government.

b. The Owner shall permit the PHA or the Government or any of their duly authorized representatives to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the monthly requests for housing assistance payments.

2.7 *Default by the owner.* a. A default by the Owner under this Contract shall result if:

(1) The Owner has violated or failed to comply with any provision of, or obligation under, this Contract or of any Lease; or

(2) The Owner has asserted or demonstrated an intention not to perform some or

[1] Strike this Section if the Contract Rents on the effective date of this Contract, over the maximum term of this Contract, are $500,000 or less.

[2] Strike this Section if the Contract Rents on the effective date of this Contract, over the maximum total term of this Contract, are $100,000 or less.

all of his obligations under this Contract or under any Lease.

b. Upon a determination by the PHA that a default has occurred, the PHA, with approval of the Government, shall notify the Owner of the nature of the default of the actions required to be taken on account of the default (including the curing of the default by the Owner, the abatement of housing assistance payments in whole or in part, where appropriate, or any combination of actions), and of the time within which the Owner shall respond with a showing that he has taken all the actions required of him. If the Owner fails to respond or take action to the satisfaction of the PHA and the Government, the PHA shall take appropriate actions as directed or approved by the Government, to achieve compliance or to terminate the Contract in whole or in part.

2.8 *Default by the PHA.* The ACC states that the ACC provisions quoted in this Section are made with, and for the benefit of, the Owner or his assignees who will have been specifically approved by the Government prior to such assignment, and that to enforce the performance of these provisions, the Owner and such assignees shall have the right to proceed against the Government by suit at law or in equity. Upon the determination by the Government that a default by the PHA has occurred, the following provisions of the ACC (which is hereby made a part of this Contract), shall be applicable:

"(b) *Failure or Inability of PHA to Comply with Contract.* In the event of failure of the PHA to comply with the Contract with the Owner, or if such Contract is held to be void, voidable or ultra vires, or if the power or right of the PHA to enter into such Contract is drawn into question in any legal proceeding, or if the PHA asserts or claims that such Contract is not binding upon the PHA for any such reason, the Government may, after reasonable notice to the PHA, determine that the occurrence of any such event, if the Owner is not in default, constitutes a Substantial Default hereunder. In such case, the Government will assume the PHA's rights and obligations under such Contract, and the Government shall, for the duration of such Contract, continue to pay Annual Contributions for the purpose of making housing assistance payments with respect to dwelling units under such Contract, shall perform the obligations and enforce the rights of the PHA, and shall exercise such other powers as the Government may have to cure the Default.

* * * * *

"(d) *Return of Rights and Obligations to PHA.* All rights and obligations of the PHA assumed by the Government pursuant to this Section 2.17 will be returned as constituted at the time of such return (1) when the Government is satisfied that all defaults have been cured and that the Project will thereafter be administered in accordance with all applicable requirements or (2) when the Housing Assistance Payments Contract is at an end, whichever occurs sooner."

2.9 *Remedies not exclusive and non-waiver of remedies.* The availability of any remedy under this Contract shall not preclude the exercise of any other remedy under this Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

2.10 *Disputes.* a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement of the PHA and the Owner may be submitted by either party to the Department of Housing and Urban Development field office director who shall make a decision and shall mail or otherwise furnish a written copy thereof to the Owner and the PHA.

b. The decision of the field office director shall be final and conclusive unless, within 30 days from the date of receipt of such copy, either party mails or otherwise furnishes to the Government a written appeal addressed to the Secretary of Housing and Urban Development. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this Section, the appellant shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, both parties shall proceed diligently with the performance of the Contract and in accordance with the decision of the field office director.

c. This Section does not preclude consideration of questions of law in connection with the decisions rendered under paragraphs a and b of this Section; *Provided, however,* That nothing herein shall be construed as making final the decision of any administrative official, representative, or board, on a question of law.

2.11 *Interest of members, officers, or employees of PHA, members of local governing body or other public officials.* No member, officer, or employee of the PHA, no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or in any proceeds or benefits arising therefrom.

2.12 *Interest of member of or delegate to Congress.* No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise therefrom.

2.13 *Nonassignability.* a. The Owner agrees that he has not made and will not make any sale, assignment, or conveyance or transfer in any other form, of this Contract or the project or any part thereof or any of his interest therein, without the prior consent of the PHA and the Government; *Provided, however,* That in the case of an assignment as security for the purpose of obtaining financing of the project, the PHA and the Government shall consent in writing if the terms of the financing have been approved by the Government. An assignment by the Owner to a limited partnership of which the Owner is the sole general partner shall not be considered an assignment herein.

b. The Owner agrees to notify the PHA and the Government promptly of any proposed action covered by paragraph a of this Section. The Owner further agrees to request the written consent of the PHA and the Government in regard thereto, except in the case of an assignment as security as provided in paragraph a of this Section.

c. For the purpose of this Section, a transfer of stock in the Owner in whole or in part, by a party holding ten percent or more of the stock of said Owner, or a transfer by more than one stockholder or the Owner of ten percent or more of the stock of said Owner, or any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to the parties in control of the Owner or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of new or additional stock or classification of stock or otherwise, shall be deemed an assignment, conveyance, or transfer with respect to this Contract on the project. With respect to this provision, the Owner and the party signing this Contract on behalf of said Owner, represent that they have the authority of all of the existing stockholders of the Owner to agree to this provision on behalf of said stockholders and to bind them with respect thereto.

DAVID M. DEWILDE,
Acting Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner.

[FR Doc.74-30357 Filed 12-27-74;8:45 am]

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 331—PLANT PEST REGULATIONS GOVERNING INTERSTATE MOVEMENT OF CERTAIN PRODUCTS AND ARTICLES

Oriental Fruit Fly; Extension of Regulated Area in California

This document amends the regulation under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.) restricting the interstate movement because of the oriental fruit fly of certain products and articles from regulated portions of San Diego County, California.

The Plant Protection and Quarantine Programs of the Animal and Plant Health Inspection Service began an intensive eradication program following the discovery of an infestation of the oriental fruit fly in September 1974 in San Diego County. The present oriental fruit fly regulated area was established October 10, 1974, in order to prevent the artificial spread of the pest through interstate movement of host material from the infested area into noninfested areas. In addition to the eradication and regulatory measures, an extensive peripheral trapping program has been maintained. Several oriental fruit flies have been trapped outside the present regulated area in San Diego County. Therefore, it now becomes necessary to extend the regulated area to additional portions of San Diego County.

Therefore, pursuant to the provisions of section 106 of the Federal Plant Pest Act (7 U.S.C. 150ee), paragraph (a) of § 331.4, the notice of existence of hazardous situation and regulations related thereto with respect to the oriental fruit fly (7 CFR 331.4(a), 39 FR 36465, 36466) is hereby amended to extend the regulated area in San Diego County, California, to read as follows:

§ 331.4 Notice of existence of emergency and regulations related thereto.

(a) Infestations of the oriental fruit fly, *Dacus dorsalis* H., a dangerous plant pest not widely prevalent or distributed within and throughout the United States, have been found in a portion of San Diego County, California, and it has been determined that it is necessary to adopt, as an emergency measure, a rule imposing restrictions, as provided for in this section, upon the interstate movement of certain products and articles, from the regulated portion of said county as hereinafter described, in order to prevent the interstate dissemination of said plant pest. Accordingly, the products and articles listed in paragraph (b) of this section shall not be moved interstate from that portion of San Diego County, California, bounded by a line beginning at a point where an imaginary line extended due west from the western end of Torrey Pines Scenic Drive intersects the Pacific Ocean; thence easterly along said imaginary line to where it joins and becomes Torrey Pines Scenic Drive; thence easterly along said drive to its junction with North Torrey Pines Road; thence northerly along said road to its junction with Genessee Avenue; thence southeasterly along said avenue to its intersection with Miramar Road; thence easterly along said road to its intersection with Interstate 805; thence southerly along said highway to where its property line joins the southern boundary line of the Miramar Naval Air Station property; thence easterly along the Miramar Naval Air Station property line to its junction with State Highway 163; thence southwesterly along said highway to its intersection with Clairmont Mesa Boulevard; thence easterly along said boulevard to its junction with Interstate 15; thence southerly on said interstate to its intersection with Friars Road; thence easterly along said road to where it joins and becomes Mission Gorge Road; thence northeasterly along Mission Gorge Road to its junction with Woodside Avenue; thence northeasterly along said avenue to its intersection with State Highway 67; thence northeasterly along said highway to its junction with Maine Avenue; thence southerly along Maine Avenue to its junction with Los Coches Road; thence southerly along said road to its junction with Interstate 8; thence easterly along Interstate 8 to its intersection with the range line between Range 1 E and Range 2 E; thence south on said line to its intersection with State Highway 94; thence northwesterly on said highway to its intersection with Otay Lakes Road; thence westerly along said road to its junction with Bonita Road; thence westerly along said road to its junction with E Street, Chula Vista; thence westerly along said street to its junction with Interstate 5; thence north along Interstate 5 to its intersection with 19th Street, National City; thence westerly along said street to its end; thence westerly along an imaginary line projected from the end of 19th Street to the Point Loma Lighthouse, including all of the peninsula of Coronado north of this imaginary line; thence northerly from Point Loma Lighthouse along the California coastline to the point of beginning; unless;

(1) Such products and articles have been treated to destroy oriental fruit fly infestations in accordance with procedures prescribed by the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture,[1] under the direction of an inspector authorized by the Deputy Administrator, and the products and articles are accompanied by a certificate issued by such an inspector signifying that they are eligible for interstate movement; or

(2) Such products and articles originate in an area in the said regulated portion of San Diego County, which has been inspected by such an inspector, and he has found that the interstate movement of the products and articles from such area will not involve a risk of disseminating said infestations, and the products and articles are accompanied by a certificate issued by such an inspector signifying that they are eligible for interstate movement; or

(3) Such products and articles are moved under permit issued by such an inspector to an approved destination for consumption, processing, or other handling in accordance with procedures prescribed by said inspector, when upon evaluation of the circumstances involved in each specific case he determines that such movement will not result in the spread of the oriental fruit fly and requirements of other applicable Federal domestic plant quarantines have been met.

* * * * *

(Sec. 105, 71 Stat. 32, sec. 106, 71 Stat. 33, sec. 107, 71 Stat. 34 (7 U.S.C. 150dd, 150ee, 150ff); 37 FR 28464, 28477, as amended; 38 FR 19140)

Under this regulation, specific products and articles may be moved interstate from the described portion of San Diego County, California, only if they have been treated or originate in certain areas of said county, or are moved to an approved destination for consumption, processing or other approved handling. Such measures are necessary because an emergency exists as a result of recently discovered infestations of the oriental fruit fly, a dangerous plant pest which is not widely prevalent in the United States.

Inasmuch as such infestation must be controlled immediately to prevent the spread of the oriental fruit fly, it is found

[1] Instructions are available upon request from the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782, or from an inspector.

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upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure regarding this regulation are impracticable, and unnecessary, and contrary to the public interest, and good cause is found for making said regulation effective less than 30 days after publication in the FEDERAL REGISTER.

The foregoing regulation shall become effective on December 31, 1974.

Done at Washington, D.C., this 26th day of December 1974.

LEO G. K. IVERSON,
Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.74-30456 Filed 12-30-74;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 331, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation increases the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period December 20-26, 1974. The quantity that may be shipped is increased due to improved market conditions for Navel oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Navel Orange Regulation 331 (39 FR 43811). The marketing picture now indicates that there is a greater demand for Navel oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Navel oranges to fill the current market demand thereby making a greater quantity of Navel oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i) and (iii) of § 907.631 (Navel Orange Regulation 331 (39 FR 43811) are hereby amended to read as follows:

§ 907.631 Navel Orange Regulation 331.

* * * * *

(b) * * *

(1) * * *

(i) District 1: 720,000 cartons;

(iii) District 3: 80,000 cartons.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 24, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-30455 Filed 12-30-74;8:45 am]

PART 959—ONIONS GROWN IN SOUTH TEXAS

Handling Regulation

This regulation, designed to promote orderly marketing of South Texas onions, imposes minimum grade and size standards and requires inspection of fresh shipments to keep undesirable onions from being shipped to consumers.

Notice of rule making with respect to a proposed handling regulation, to be effective under Marketing Agreement No. 143 and Marketing Order No. 959, both as amended (7 CFR Part 959), regulating the handling of onions grown in the production area, was published in the November 27, and December 10, 1974, FEDERAL REGISTER (39 FR 41380; 43090). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons through December 16, 1974, to file written data, views or arguments pertaining to that proposal.

One exception was received from the New York Branch of the United Fresh Fruit and Vegetable Association, regarding the increased tolerance for size proposed for "repacker" and "medium" size onions. They stated that the 10 percent tolerance in effect during the previous marketing season is the maximum acceptable to them when purchasing onions. The South Texas Onion Committee submitted a comment supporting the oversize tolerance. During grading, flattened onions such as the Granex variety tend to pass through the sizing holes sideways rather than flat, resulting in oversized onions in the various size categories. Without the proposed 20 percent tolerance, these onions would have to be rerun, resulting in a less efficient packing operation and higher costs. Therefore, the tolerance set forth in the aforementioned notice is in the best interests of the industry.

Findings. After consideration of all relevant matters, including the proposal set forth in the aforesaid notice which was recommended by the South Texas Onion Committee, established pursuant to said marketing agreement and order, it is hereby found and determined that the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

The recommendations of the committee reflect its appraisal of the expected volume and composition of the 1975 early spring crop of South Texas onions and of the marketing prospects for the shipping season which is expected to begin on or about March 10.

The grade and size requirements are similar to last season's and are designed to prevent onions of poor quality or undesirable sizes from being distributed in fresh market channels.

The container requirement is designed to prevent the use of off-size or deceptive containers which could adversely affect the reputation and returns of South Texas onions. However, it does not preclude the use of containers customarily packed for the retail trade. The prohibition on packaging and loading onions on Sunday is designed to provide more orderly marketing by tailoring shipments from the production area more closely to the ability of receiving markets to accept marketings.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Up to 100 pounds of onions may be handled, other than for resale, per day without regard to requirements of this section in order to avoid placing an unreasonable burden on persons handling noncommercial quantities of onions.

The regulation with respect to special purpose shipments are designed to allow the shipment of onions for experimental purposes or the use of containers which have been the subject of test shipments during past seasons, and should encourage exports by allowing the use of containers required for such purposes. Shipments for relief or charity are exempt from inspection and assessment requirements since no useful purpose would be served by regulating such shipments.

The regulation is as follows:

§ 959.315 Handling regulation.

During the period March 10–May 11, 1975, no handler may package or load onions on any Sunday, or handle any lot of onions grown in the production area, except red onions, unless such onions meet the requirements of paragraphs (a), (b), (c) and (d) of this section, or unless such onions are handled in accordance with the provisions of paragraph (e) or (f) of this section.

(a) *Grade requirements.* Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Application of tolerances in U.S. onion standards shall apply to in-grade lots.

(b) *Size requirements.* (1) "Small"—1 to 2¼ inches in diameter, and limited to white onions only;

(2) "Repacker"—1¾ to 3 inches in diameter, with 60 percent or more 2 inches in diameter or larger;

(3) "Medium"—2 to 3½ inches in diameter; or

(4) "Jumbo"—3 inches or larger in diameter.

(5) Application of tolerances in the U.S. onion standards shall apply to in-grade lots except that not more than 20 percent by weight of onions in any lot may be larger than the maximum diameter for "repacker" and "medium" sizes.

(c) *Container requirements.* (1) 25-pound bags, with an average net weight in any lot of not more than 27½ pounds per bag, and with outside dimensions not larger than 29 inches by 31 inches; or

(2) 50-pound bags, with an average net weight in any lot of not more than 55 pounds per bag, and with outside dimensions not larger than 38 inches by 38½ inches.

(3) These container requirements shall not be applicable to onions sold to Federal agencies.

(d) *Inspection.* (1) No handler may handle any onions regulated hereunder, except pursuant to paragraph (e) or (f) (3) of this section, unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of onions for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable and a copy of such inspection certificate or committee document, upon request, is surrendered to authorities designated by the committee.

(3) For purposes of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(e) *Minimum quantity exemption.* Any handler may handle, other than for resale, up to, but not to exceed 100 pounds of onions per day without regard to the requirements of this section, but this exemption shall not apply to any shipment or any portion thereof of over 100 pounds of onions.

(f) *Special purpose shipments and culls.* (1) Onions may be handled in containers customarily packed for the retail trade and in other designated special purpose containers as follows:

(i) Each handler desiring to make such shipments shall first apply to the committee for and obtain a Certificate of Privilege to make such shipments.

(ii) After obtaining an approved Certificate of Privilege, each handler may handle onions packed in 2, 3 or 5-pound containers customarily packed for the retail trade, 20-kilogram bags, or 50-pound cartons, if they meet the grade, size, and inspection requirements of paragraphs (a), (b) and (d) of this section and if they are handled in accordance with the reporting requirements established in subparagraph (2) of this paragraph on such shipments: *Provided,* That shipments of 2, 3 and 5-pound containers shall not exceed 10 percent of a handler's total weekly onion shipments, and provided further that shipments of 50-pound cartons shall not exceed 10 percent of a handler's total weekly onion shipments of all onions allowed to be marketed under this section.

(iii) The average gross weight per lot of onions packed in master containers shall not exceed 115 percent of the designed net contents.

(iv) The average net weight per lot of 50-pound cartons shall not exceed 55 pounds.

(v) The average net weight per lot of 20-kilogram bags shall not exceed 22 kilograms, and with outside dimensions of such bags not greater than 32 inches by 36 inches.

(vi) 20-kilogram bags shall be conspicuously labeled with the words "FOR EXPORT ONLY" and shipments shall be only to points outside of the 48 contiguous States of the United States, the District of Columbia, Canada, or Mexico.

(2) Reporting requirements for shipments of onions in special purpose containers. Each handler who handles shipments of onions in containers customarily packed for the retail trade and in other designated special purpose containers, shall report thereon to the committee, the inspection certificate numbers, the grade and size of onions packed, and the size of the containers in which such onions were handled. Such reports, in accordance with § 959.80, shall be furnished to the committee in such manner, on such forms and at such times as it may prescribe. Also, each handler of such shipments of onions shall maintain records of such marketings, pursuant to § 959.80(c). Such records shall be subject to review and audit by the committee to verify reports thereon.

(3) Experimental shipments. Upon approval of the committee onions may be shipped for experimental purposes exempt from regulations issued pursuant to §§ 959.42, 959.52 and 959.60 provided they are handled in accordance with safeguard provisions of § 959.54.

(4) Onions failing to meet requirements. Onions failing to meet the grade, size, and container requirements of this section, and not exempted under paragraph (e) of this section, may be handled only pursuant to § 959.126. Culls may be handled pursuant to § 959.126(a)(1). Shipments for relief or charity may be handled without regard to inspection and assessment requirements.

(g) *Definitions.* "U.S. onion standards" mean the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (§§ 51.3195–3209 of this title), or the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano-and Creole Types) (§§ 51.2830–51.2854 of this title), whichever is applicable to the particular variety, or variations thereof specified in this section. The term "U.S. No. 1" shall have the same meaning as set forth in these standards.

All other terms used in this section shall have the same meaning as whe. used in Marketing Agreement No. 143, as amended, and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 24, 1974, to become effective March 10, 1975.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74-30415 Filed 12-30-74;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regulations—1974 Crop Tung Oil Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1974 Crop Tung Oil Warehouse-Stored Loan Program

On page 33376 of the FEDERAL REGISTER of September 17, 1974, there was published a notice of proposed rulemaking relating to the support program for 1974 crop of tung nuts. Interested persons were given 30 days in which to submit data, views, or recommendations pertaining to the proposed determinations. No response was received pursuant to the notice of proposed rulemaking. It has been determined that under present circumstances, a support level at 65 percent of parity is appropriate.

The General Regulations Governing Price Support for the 1970 and Subsequent Crops (35 FR 7363) and any amendments thereto and the 1970 and Subsequent Crops Tung Oil Warehouse-Stored Loan Program Regulations (35 FR 19499) and any amendments to

such regulations are further supplemented for the 1974 crop of tung nuts as follows. The material previously appearing in these §§ 1421.450 through 1421.453 shall remain in full force and effect as to the crops to which it is applicable.

Sections 1421.450 through 1421.453 are revised as set forth below:

Sec.
1421.450 Availability.
1421.451 Service fees and delivery charges.
1421.452 Support rate.
1421.453 Maturity of loans.

AUTHORITY: Sec. 4, 62 Stat. 1070, as amended; 14 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 201, 401, 63 Stat. 1052, as amended, 1054; 15 U.S.C. 714c; (7 U.S.C. 1446, 1421).

§ 1421.450 Availability.

(a) *Area.* The program will be available in the States of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas.

(b) *Period.* Loans will be available from November 1, 1974, through September 30, 1975.

§ 1421.451 Service fees and delivery charges.

Producers shall pay a loan service fee as provided in § 1421.11(a) of the general regulations and instead of the delivery charges specified in § 1421.11(b) of the general regulations, a delivery charge of 6 cents per hundredweight for the quantity of tung oil tendered to CCC for loan which is not redeemed by October 31, 1975. Such fee and charge will be deducted from loan proceeds, but the charge applicable to the quantity of oil redeemed will be credited to the producer's account.

§ 1421.452 Support rate.

Loans on eligible tung oil produced from 1974 crop tung nuts shall be made at the rate of 29.5 cents per pound.

§ 1421.453 Maturity of loans.

Loans will mature on demand but not later than October 31, 1975.

Effective date: December 31, 1974.

Signed at Washington, D.C., on December 19, 1974.

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.74-30623 Filed 12-30-74;8:45 am]

CHAPTER XVII—RURAL ELECTRIFICATION ADMINISTRATION

PART 1701—PUBLIC INFORMATION

Appendix A—REA Bulletins

Part 1701, Title 7, is hereby amended to include revisions to the Appendix A listing and summary descriptions of REA Bulletins providing the program policies and requirements of the Rural Electrification Administration. The revisions reflect both new and revised REA Bulletins issued after publication in the FEDERAL REGISTER under proposed rule making procedures to secure public comment and participation.

Comments were received on three of the bulletins as proposed. Two suggested changes were received on the proposed revision of Bulletin 20–19: 320–19, Non-Discrimination Among Beneficiaries of REA Programs. They suggested the elimination from the bulletin when issued in final form of (1) the prohibition of employment practices which tend to cause discrimination in services provided and (2) the requirement to maintain racial and ethnic data on the consumers and subscribers served by REA-financed systems. After careful consideration, it was determined that the Bulletin as issued in final form should contain these provisions since they are considered essential to compliance with §§ 15.3 and 15.5 of Title 7, Part 15, of the rules and regulations of the Department of Agriculture entitled Non-Discrimination in Federally Assisted Programs of the Department of Agriculture.

On the proposed revision to Bulletin 81–9, Preparation of Plans and Specifications for Distribution and Transmission Facilities, it was suggested that REA include a requirement that REA borrowers go underground on the same basis as investor owned utilities where the state public service commission regulations apply only to investor owned utilities. REA did not incorporate this suggested change because it was not considered consistent with the general subject matter coverage of this particular bulletin.

There were four comments concerning proposed Bulletin 345–70, REA Specification for Filled Buried Wire. One suggested that the moisture penetration test sample be increased from three to 10 feet. In response to this suggestion, the bulletin, as issued, was modified to an initial three foot sample, but allow tests on two adjacent 10 foot samples if the three foot sample fails. The second comment proposed that a maximum bond be permitted between the aluminum shield and the jacket. This suggestion was not accepted since with the introduction on the market of shield bonding connectors, the original wording of the Bulletin will permit a maximum bond. The third comment recommended changing the capacitance unbalance requirement for the 3-pair size for pair-to-pair shield. The suggestion was not adopted because it would lower transmission standards for the telephone service provided by REA financing. The fourth comment suggested that the procedure for the water immersion test permit the use of a sample before the application of jackets and shield to eliminate possible damage to the core from removal of sections of the jacket and shield. The proposal was not adopted since the suggested procedure could influence adversely the electrical characteristics of the wire.

The following listings of revised REA Bulletins and the summary descriptions of bulletins are replacements or additions, as specified, of listings in Appendix A to Part 1701 (36 FR 19075).

APPENDIX A—REA BULLETINS

JOINT RURAL ELECTRIFICATION AND TELEPHONE PROGRAM BULLETINS

REA bulletin number and date of last issuance	*Description of Content*
20–19:320–19; June 1974 (replacing July 1973)	The policy and procedure of REA to assure nondiscrimination among beneficiaries of REA programs.
44–5:345–2; July 1974 (replacing Nov. 1970)	Inspection agencies authorized by REA for inspection of timber products and of their preservative treatment concerned with installation in REA borrowers' electric or telephone systems.

RURAL ELECTRIFICATION PROGRAM BULLETINS

43–5; July 1974 (replacing July 1973)	List of materials acceptable to REA for use in the construction of borrowers' electric systems.
81–9; July 1974 (replacing October 1965)	Guidelines for the preparation of plans and specifications for distribution and transmission facilities through the use of REA contract forms 764, 830, or 831.
108–1; October 1974 (replacing Oct. 1972)	The requirements of REA on the preparation and submission by electric distribution borrowers of financial and statistical reports on their operations.

RURAL TELEPHONE PROGRAM BULLETINS

345–26; September 1974 (replacing April 1972)	Specifications of REA for buried plant housings on telephone borrowers' systems.
345–70; August 1974 (new)	Specification of REA for filled buried wire on telephone borrowers' systems.
345–71; August 1974 (new)	Specification of REA for 3-electrode gas tube protectors on telephone borrowers' systems.

Dated: December 23, 1974.

DAVID H. ASKEGAARD,
Acting Administrator.

[FR Doc.74-30487 Filed 12-30-74;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Revision I]

PART 114—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

Revision of Part

This is Revision I of Part 114 of Chapter I of Title 13 of the Code of Federal Regulations. Revision I of Part 113 rescinds the original version of said Regulations.

The purpose of these Regulations is to set up an administrative apparatus for the administrative review of tort claims involving the Small Business Administration. The purpose of this revision of the aforesaid regulations is to incorporate into the regulations certain changes in the administrative process for the handling of tort claims against the Small Business Administration, and to change the delegation of authority with respect to administrative handling of said claims from the Central Office to the various field offices.

The most significant changes with respect to the administrative apparatus and delegation of authority are as follows:

1. Section 114.100(b) changes the Area Board of Survey to the Regional Board of Survey, consisting of three members, the Regional Counsel sitting as chairman, the Assistant Regional Director for Finance and Investment, and the Assistant Regional Director for Administration.

2. Section 114.100(d) changes the Regional Board of Survey to the District Board of Survey, consisting of three members, the District Counsel serving as chairman, the Assistant District Director for Finance and Investment or the Chief Financing Officer, and the Assistant District Director for Management Assistance or Chief Management Assistance Officer.

3. Sections 114.106 (a) and (b) are substantially the same but have changes in terminology to conform to the new administrative apparatus.

4. Section 114.106–1 is an entirely new section. Its basic purpose is to delegate the complete handling of claims of $5,000 or less to the various regions.

5. Section 114.106–1(e) has been added to spell out the procedures to be followed in the handling of claims, which require consultation with the Department of Justice.

These Regulations involve internal administrative procedures and therefore notice and public participation are not required.

Chapter I of Title 13 of the Code of Federal Regulations is hereby amended by adding a new Part 114 as hereinafter set out.

Sec.

114.100 Definitions.
114.101 Scope of regulations.
114.102 Administrative claim; when presented; appropriate Administration Office.
114.103 Administrative claim; who may file.
114.104 Investigations.
114.105 Administrative claim; evidence and information to be submitted.
114.106 Authority to adjust; determine, compromise, and settle.
114.107 Limitations on authority.
114.108 Referral to Department of Justice.
114.109 Examination.
114.110 Final denial of claim.
114.111 Action on approved claim.

AUTHORITY: The provisions of this Part 114 issued under 28 U.S.C. 2672; 28 C.F.R. 14.11 (31 F.R. 16616).

§ 114.100 Definitions.

As used throughout this Part 114:

(a) "Administration" means the Small Business Administration;

(b) "Regional Board of Survey" means a three-member board composed of the Regional Counsel and the Assistant Regional Director for Finance and Investment; and the Assistant Regional Director for Administration. The Regional Counsel shall be chairman.

(c) "Employee" means an officer or employee of the Administration;

(d) "District Board of Survey" means a three-member board composed of District Council and Assistant District Director for Finance and Investment or Chief Financial Officer and the Assistant District Director for Management Assistant or Chief Management Assistance Officer. The District Counsel shall be chairman.

(e) "Survey Officer" means the officer who reviews the findings and recommendations of the appropriate Board of Survey and approves or disapproves such findings and recommendations;

(f) "Washington Board of Survey" means a board composed of three voting members, namely: A representative of the Security and Investigations Division, Office of Audits and Investigations; a representative of the Accounting Operations Division, Office of Budget and Finance, and a representative of the Office Services Division, Office of Administrative Services Division, Office of Administrative Services; together with one non-voting member representing the Office of General Counsel.

§ 114.101 Scope of regulations.

This part applies only to claims asserted under the Federal Tort Claims Act, as amended, 28 U.S.C. 2671–2680, accruing on or after January 18, 1967, for money damages against the United States for injury to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of an employee of the Administration while acting in the scope of his office or employment.

§ 114.102 Administrative claim; when presented; appropriate Administration office.

For purposes of this Part 114, a claim is deemed to have been presented when the Administration receives, at the district office nearest to the place where the incident occurred, an executed "Claim for Damage or Injury," Standard Form 95, in triplicate, or other written notice of an incident together with a claim for money damages in a sum certain for injury to or loss of property or injury or death alleged to have occurred as a result of the incident. When any such written notice is given, it shall be incumbent upon the district office concerned to furnish to the claimant the requisite copies of Standard Form 95 with instructions for completing it.

§ 114.103 Administrative claim; who may file.

(a) A claim for injury to or loss of property may be presented by the owner of the property, his duly authorized agent, or legal representative.

(b) A claim for personal injury may be presented by the injured person, his duly authorized agent, or legal representative.

(c) A claim based on death may be presented by the executor or administrator of the decedent's estate, or by any other person legally entitled to assert such a claim in accordance with applicable state law.

(d) A claim for loss wholly compensated by an insurer with the rights of a subrogee may be presented by the parties individually as their respective interests appear, or jointly.

(e) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of his authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative.

§ 114.104 Investigation.

The Administration may investigate, or may request any other Federal agency to investigate, a claim filed under this part.

§ 114.105 Administrative claims; evidence and information to be submitted.

(a) *Death.* In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent.

(2) Decedent's employment or occupation at time of death, including his monthly or yearly salary or earnings (if any), and the duration of his last employment or occupation.

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support upon the decedent at the time of his death.

(4) Degree of support afforded by the decedent to each survivor dependent upon him for support at the time of his death.

(5) Decedent's general physical and mental condition before death.

(6) Itemized bills for medical and burial expenses incurred by reason of the incident causing death or itemized receipts of payment for such expenses.

(7) If damages for pain and suffering prior to death are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition in the interval between injury and death.

(8) Any other evidence or information which may have a bearing on either the responsibility of the United States for the death or the damages claimed.

(b) *Personal injury.* In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by his attending physician or dentist setting forth the nature and extent of the injury, nature and treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed by the Administration or another Federal agency. A copy of the report of the examining physician shall be made available to the claimant upon the claimant's written request: Provided, that he has, upon request, furnished the report referred to in the first sentence of this subparagraph and has made or agrees to make available to the Administration any other physician's reports previously or thereafter made of the physical or mental condition which is the subject matter of his claim.

(2) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payment for such expenses.

(3) If the prognosis reveals the necessity for future treatment, a written statement of expected expenses for such treatment.

(4) If a claim is made for loss of time from his employment, a statement from his employer showing actual time lost from employment, whether he is a full or part-time employee, and wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost.

(6) Any other evidence or information which may have a bearing on either the responsibility of the United States for the personal injury or the damages claimed.

(c) *Property damage.* In support of a claim for damage to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

(1) Proof of ownership.

(2) A detailed statement of the amount claimed with respect to each item of property.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price and salvage value, where repair is not economical.

(5) Any other evidence or information which may have a bearing on either the responsibility of the United States for the damage to or loss of property or the damages claimed.

§ 114.106 Authority to adjust, determine, compromise, and settle claims in excess of $5,000.

(a) Upon presentation of a claim and appropriate investigation thereof, the Board of Survey of the District or Branch office to which the claim was presented shall consider all of the evidence and enter the Board's findings of fact, conclusions, and recommendations. There shall be appended to the Board's findings of fact, conclusions, and recommendations, a legal opinion of the District or Branch Counsel regarding the liability of the United States under the applicable state law governing negligence and other related matters. The District or Branch Board of Survey shall establish a case file containing all documents related to the claim and the incident out of which it arose. The file shall also contain the Board's findings of fact, conclusions, and recommendations, and the legal opinion of the counsel. The file shall be forwarded to the Chairman of the Washington Board of Survey after the District Board of Survey has performed its function.

(b) The Washington Board of Survey shall review the case and submit its recommendations in a report to the Central Office Survey Officer. A representative of the Office of General Counsel, shall review the submitted legal opinion regarding the liability of the United States under applicable state law governing negligence and related matters and, in the event of disagreement, shall render a separate legal opinion to the Washington Board of Survey. The report and legal opinion, if any, shall be prepared in an original and five copies and shall be attached to the case file.

(c) If the Survey Officer approves the recommendation of the Washington Board of Survey to pay the claim, the Chairman of the Washington Board of Survey shall complete an orginal copy of Standard Form 1145 and two memorandum copies of Standard Form 1145A, "Voucher for Payment Under Federal Tort Claims Act." The Chairman shall forward said copies to the claimant for his signature and acceptance.

(d) Upon recciving the Standard Form 1145 and 1145A from the Claimant, the Chairman of the Washington Board of Survey shall attach the forms to the case file and forward the file to the Administrator or his designee for final approval.

(e) If the Survey Officer disapproves the recommendations of the Washington Board of Survey that the claim be paid, the case file shall be forwarded immediately to the Administrator or his designee for final action. If the Administrator or his designee concurs with the Survey Officer, this shall constitute a final agency denial of the claim and appropriate notice shall be given the claimant as provided in § 114.110 of this part. If the Administrator or his designee disagrees with the Survey Officer, Standard Form 1145 and 1145A shall be prepared and forwarded to the claimant as provided for in paragraph (c) of this section. After the claimant has signed and returned them, the Administrator or his designee shall sign them.

(f) If the Washington Board of Survey recommends that the claim not be paid, the claim shall nevertheless be processed to final action by the Administrator or his designee through all the appropirate stages outlined in the preceding paragraphs of this section.

§ 114.106–1 Authority of field offices to adjust, determine, compromise, and settle claims of $5,000 or less.

(a) Upon presentation of a claim in the amount of $5,000 or less and appropriate investigation thereof, the Board of Survey of the District or Branch office to which the claim was presented shall consider all of evidence and enter the Board's findings of fact, conclusions, and recommendations. There shall be appended to the Board's findings of fact, conclusions, and recommendations, a legal opinion of the District or Branch Counsel regarding the liability of the United States under the applicable state law governing negligence and other related matters. The legal opinion shall also frame the issues in such a way as to provide guidance to the Board of Survey in performing its functions. Such opinion shall be submitted to the Board of Survey after investigation of the claim in question but before the Board of Survey has considered the claim. The District or Branch Board of Survey shall establish a case file containing all documents related to the claim and the incident out of which it arose. The file shall also contain the Board's findings of fact, conclusions, and recommendations, and the legal opinion of the District or Branch Counsel. The file shall be forwarded to the Regional Board of Survey, after the District or Branch Board of Survey has performed its function.

(b) The Regional Board of Survey shall review the case and issue its decision thereon. This decision will then be reviewed by the Regional Survey Officer who will then make a recommendation to the Regional Director, who will make the formal decision. The Regional Director shall complete an original copy of Standard Form 1145 and two memorandum copies of Standard Form 1145A, "Voucher for Payment Under Federal Tort Claim Act." The Regional Director shall forward said copies to the claimant and his legal representative if he is so represented, for his signature and acceptance. Upon receiving the Standard Forms 1145 and 1145A from the claimant, the Regional Director shall attach the forms to the case file and direct that payment be made.

(c) If the Regional Director denies the claim, this shall constitute a final agency denial of the claim and appropriate

notice shall be given claimant as provided in § 114.110.

(d) Notwithstanding the foregoing, a claim for $5,000 or less shall be processed in accordance with § 114.106 when the District Board of Survey or Regional Board of Survey have reason to believe that a related claim may be filed in connection with the same incident and the aggregate amount of such claims will probably exceed $5,000. The reason for such belief shall be included in the case file along with the findings, conclusions, and recommendations.

(e) When an administrative claim may be adjusted, determined, compromised, or settled under the Federal Tort Claims Act only after consultation with the Department of Justice as provided in § 114.107(b)(1), (2), (3), and (c), the Regional Board of Survey shall forward the case file to the Office of General Counsel, SBA Central Office, prior to decision. The Regional Board of Survey shall be guided in this respect by the legal opinion of District Counsel. After consultation with the Department of Justice, the case file shall be forwarded by the Office of General Counsel to the Washington Board of Survey for final processing in accordance with § 114.106.

§ 114.107 Limitations on authority.

(a) An award, compromise, or settlement of a claim in excess of $25,000 filed under this part shall not be effected without prior written approval of the U.S. Attorney General or his designee. For purposes of this paragraph, a principal claim and any derivative or subrogated claim shall be treated as a single claim.

(b) An administrative claim may be adjusted, determined, compromised, or settled under the Federal Tort Claims Act only after consultation with the Department of Justice when, in the opinion of the Chairman of the Washington Board of Survey and with the concurrence of the General Counsel:

(1) A new precedent or a new point of law is involved; or

(2) A question of policy is or may be involved; or

(3) The United States is or may be entitled to indemnity or contribution from a third party and the Administration is unable to adjust the third party claim; or

(4) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed $25,000.

(c) An administrative claim may be adjusted, determined, compromised, or settled by the Administration under the Federal Tort Claims Act only after consultation with the Department of Justice when the Administration is informed or is otherwise aware that the United States or an employee, agent, or cost-plus contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

§ 114.108 Referral to Department of Justice.

When Department of Justice approval or consultation is required under § 114.107, or the advice of the Department of Justice is otherwise to be requested, the referral or request shall be sent to the Assistant Attorney General, Civil Division, Department of Justice, in writing and shall contain (a) a short and concise statement of the facts and of the reasons for the referral or request, (b) copies of relevant portions of the Administration's claim file, and (c) a statement of the recommendations or views of the Administration. Such referral may be made any time after the presentment of a claim to the Administration, and shall be transmitted by the General Counsel or his designee.

§ 114.109 Examination.

The Administration may request any other Federal agency to conduct a physical examination of a claimant and provide a report of the physical examination. Where reimbursement for such services is authorized or required by statute or regulation, the Administration may reimburse any Federal agency which conditions its compliance with the Administration's request upon such reimbursement.

§ 114.110 Final denial of claim.

Final denial of an administrative claim shall be in writing and sent to the claimant, his attorney, or legal representative by certified or registered mail. The notification of final denial may include a statement that, if the claimant is dissatisfied with the agency action, he may file a suit in an appropriate U.S. District Court not later than 6 months after the date of mailing of the notification.

§ 114.111 Action on approved claim.

(a) Payment of a claim approved under this part is contingent upon the claimant's or his duly authorized agent's or legal representative, of any award, compromise, or settlement made pursuant to the Federal Tort Claims Act shall be final and conclusive on the claimant, his agent or legal representative and any other person on whose behalf or for whose benefit the claim has been presented, and shall constitute a complete release of any claim against the United States and against any employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

Effective date: December 31, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-30390 Filed 12-30-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 74-EA-79]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Control Zone

The Federal Aviation Administration is amending section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Johnstown, Pa., Control Zone (39 FR 394; 34513).

The hours of operation of the Johnstown Flight Service Station will be changed from 0700 to 2400 hours, local time, to 0630 to 2330 hours, local time. This in turn will require a change in the hours of duration of the control zone to conform to those of the station.

Since this is a minor revision in that the total duration of the control is not being changed, notice and public procedure hereon are unnecessary.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. February 27, 1975, as follows:

Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting in the description of the Johnstown, Pa. Control Zone, "This control zone is effective from 0700 to 2400 hours, local time, daily." and by substituting the following in lieu thereof; "This control zone is effective from 0630 to 2330 hours, local time, daily."

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on December 16, 1974.

JAMES BISPO,
Acting Director,
Eastern Region.

[FR Doc.74-30371 Filed 12-30-74;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 921—ESTUARINE SANCTUARY GUIDELINES

Amendment to Grant Regulations

Section 312 of the Coastal Zone Management Act (Pub. L. 92-583, 86 Stat. 1280) authorizes the Secretary of Commerce to make available to coastal states grants of up to 50 percent of the cost of acquisition, development and operation of natural areas for use as estuarine sanctuaries in order that scientists and students may be provided the opportunity to examine over a period of time ecological relationships within the area.

Final guidelines for implementation of the Estuarine Sanctuary Program were published on June 4, 1974 (15 CFR Part 921, FR 39 (108): 19922-19927). The guidelines indicate that the intent of the estuarine sanctuary program is to preserve representative estuarine areas so that they may provide long-term scientific and educational use. These sanctuaries are to be selected on a rational basis which would reflect regional differentiation and a variety of estuarine ecosystems. In order to ensure that the sanctuary program adequately represents regional and ecological differences, the guidelines establish a biogeographic classification scheme which reflects geographic, hydrographic and biologic characteristics (§ 921.4). Eleven different biogeographic categories are established and defined in the guidelines; sub-categories of this basic system will be utilized

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as appropriate. While the exact number of sanctuaries that will eventually be established under this program is uncertain, after preliminary consideration of potential subcategories, it is apparent that about eighteen sanctuaries will be necessary for minimal representation of the broad variety of natural systems found in the estuaries of the United States. This number may change with more sophisticated knowledge and understanding of coastal ecosystems, and if circumstances permit, might be expanded to include a greater level of refinement and distinction among major types. It is clear, however, that the program was not intended to be a new, large-scale, Federally assisted land acquisition program.

Under the minimum program, as now proposed, the number of coastal states and territories eligible for such grants exceeds the limited number of estuarine sanctuaries that will be established; to a certain extent, there will be competition for sanctuary grants among states, especially among these states within the same biogeographic category.

The Office of Coastal Zone Management (OCZM) has determined that it is necessary to establish certain procedures for processing state estuarine sanctuary applications. In addition to the requirements established in the guidelines, the OCZM feels it is necessary to increase coordination among states in order to (1) provide for fair consideration of other potential sites within the same biogeographic region; (2) ensure that the sanctuary fulfills regional and national needs by being a part of a representative national sanctuary program, and (3) provide for effective use of the sanctuary by all qualified agencies or persons if the sanctuary were established. In addition, time constraints, such as those imposed by the National Environmental Policy Act, impart minimum requirements necessary to process and approve sanctuary applications, and it is necessary to establish deadlines for submission of sanctuary proposals in order to provide sufficient time for an adequate review and processing of the application. The Office of Coastal Zone Management is establishing the following procedures in order to ensure a rational and orderly basis for the review and selection of state estuarine sanctuary applications so that the most desirable candidates will be selected, and so that a representative series of estuarine sanctuaries will ultimately be established. A new section has been created under Subpart B—Application for Grants and shall be designated as § 921.14.

This section shall read as follows:

§ 921.14 Application time schedule and procedure.

(a) Effective January 1, 1975, the review and selection of estuarine sanctuary applications will be conducted on a twice yearly basis. All applications received between January 1 and June 30 of any year will be considered together beginning July 1 of that year; applications received between July 1 and December 31 will be considered together beginning January 1 of the following year.

(b) All applications received during any application period will be subject to simultaneous review and consideration. At the end of each application period, a suitable number of applications, based on the level of funding available, will be selected for further review and processing. Unless sufficiently distinguished as major sub-categories, no more than one application from each biogeographic category will be selected for final processing during each review period. Normally, the applications selected will be processed and the grants awarded within 6 months from the end of the application period, that is before the next review period begins. Applications which are not selected for processing may be resubmitted for consideration during the next review period.

(c) At least ninety (90) days prior to submission of an application under this section, an applicant state must notify in writing the OCZM, appropriate state and regional A–95 clearinghouses, and other states within the same biogeographic category (see Table 1) of its intention to file an application for an estuarine sanctuary grant. Such notification should include at least the identification of the state agency applying for the grant; the geographic location of the proposed sanctuary and its boundaries; proposed objectives of the sanctuary, including intended research uses; estimated cost of sanctuary; and estimated date for submission of application. Copies of the A–95 notifications to the state and regional clearinghouse would be considered sufficient and desirable notification to OCZM and to the other states.

TABLE 1—LIST OF STATES BY BIOGEOGRAPHIC CLASSIFICATION

1. Acadian—Maine, New Hampshire, Massachusetts.
2. Virginian—Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina.
3. Carolinian—North Carolina, South Carolina, Georgia, Florida.
4. West Indian—Florida, Puerto Rico, Virgin Islands.
5. Louisianian—Florida, Mississippi, Alabama.
6. Californian—California.
7. Columbian—California, Oregon, Washington.
8. Fiord—Alaska.
9. Sub-Arctic—Alaska.
10. Insular—Hawaii, Guam, American Samoa.
11. Great Lakes—Minnesota, Wisconsin, Michigan, Illinois, Indiana, Ohio, Pennsylvania, New York.

(d) The Director of OCZM may, upon the finding of extenuating circumstances relating to applications for assistance, waive appropriate administrative requirements contained herein.

Insofar as these regulations address internal processes to be used by the Office of Coastal Zone Management in processing Estuarine Sanctuary applications, they will become effective December 31, 1974.

R. L. CARNAHAN,
Acting Assistant Administrator for Administration.

[FR Doc.74-30417 Filed 12-30-74;8:45 am]

Title 20—Employees' Benefits

CHAPTER V—MANPOWER ADMINISTRATION

PART 616—INTERSTATE ARRANGEMENT FOR COMBINING EMPLOYMENT AND WAGES

Paying State, Revised Definition

Pursuant to section 3304(a)(9)(A) and (B) of the Federal Unemployment Tax Act (26 U.S.C. 3304(a)(9)(A) and (B)), as amended by section 121 of the Employment Security Amendments of 1970, Public Law 91-373, 84 Stat. 702, and pursuant to 20 CFR 616.11, title 20, chapter V, part 616, of the Code of Federal Regulations is hereby amended by revising paragraph (e) of section 616.6, which defines the term "Paying State" for the purposes of the Interstate Arrangement for Combining Employment and Wages (Arrangement).

The Arrangement is effective in all States participating in the Federal-State Unemployment Compensation Program. An individual who has worked and earned wages in two or more States may, in accordance with the Arrangement, combine all credits in a single claim for unemployment benefits. Under the Arrangement the unemployment compensation law of the "Paying State" governs in determining the benefit rights of claimants who file combined-wage claims.

The revision of the definition of "Paying State" in 20 CFR 616.6(e) was first proposed by the Interstate Conference of Employment Security Agencies (ICESA), as authorized by 20 CFR 616.11. A study was conducted jointly by the Manpower Administration and the ICESA of the effects of the amendment proposed by the ICESA, to determine whether unemployment benefits payable on combined-wage claims and the processing of the claims would be improved by changing the definition of "Paying State" as proposed. The results of the study indicate that most claimants who file combined-wage claims would receive the same or higher amounts of unemployment benefits under the definition of "Paying State" as as revised below and that the revised definition will be easier to apply, will lead to improved promptness in the payment of benefits to claimants and improved personnel productivity in the processing of new claims, and will result in cost savings because of these efficiencies.

Paragraph (e) of 20 CFR 616.6 is further revised to correct an oversight in the present Arrangement. Prior to this revision, the Arrangement did not expressly provide for the filing of combined-wage claims in Canada or in

the Virgin Islands, although both jurisdictions participate as agent States under the Interstate Benefit Payment Plan. While neither of these jurisdictions could serve as a "Paying State", because they are not included in the Federal-State Unemployment Compensation Program, both can serve as claim filing "States" under the Arrangement as they now serve as agent "States" under the Interstate Benefit Payment Plan. In addition, recognition of the limited participation of Canada and the Virgin Islands in the Arrangement is necessary to assure conformity with the requirement of section 3304(a)(9)(A) of the Federal Unemployment Tax Act (26 U.S.C. 3304(a)(9)(A), which provides that unemployment benefits may not be denied to a claimant "because he files a claim in another State (or a contiguous country with which the United States has an agreement with respect to unemployment compensation [that is, Canada]) or because he resides in another State (or such a continguous country) at the time he files a claim for unemployment compensation." This further revision also is accomplished by a change in the wording of the definition of the term "Paying State" and will carry out the purpose of the law.

The revisions below have been developed in consultation with the duly designated representatives of the ICESA, which, pursuant to 20 CFR 616.2, are recognized by the Secretary of Labor as agents of the State unemployment compensation agencies for the purposes of the consultation required by section 3304(a)(9)(B) of the Federal Unemployment Tax Act.

The revisions to paragraph (e) of 20 CFR 616.6 set out below will be effective and apply to all new combined-wage claims establishing a benefit year which are filed after December 31, 1974.

The relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. As these revisions relate to public benefits they are excepted from the application of the notice and comments provisions of the Administrative Procedure Act (5 U.S.C. 553(a)(2)). The policy of the Secretary of Labor, as stated in 29 CFR 2.7, is not to use this exception as a basis for not giving notice and opportunity for comment. In this instance, in order to effectuate as promptly as possible the new definition of "Paying State" and the resulting same or higher benefits for most combined-wage claimants, improved promptness in the payment of benefits to claimants, improved personnel productivity in processing new claims, and cost savings, I, as Secretary of Labor, find that it is contrary to the public interest to delay the issuance of these revisions to the extent necessary for the preparation, receipt, and evaluation of comments. Accordingly, they are not issued for comments prior to publication in final form. For the same reasons, these revisions are not published for the 30-day period specified in the Administrative Procedure Act (5 U.S.C. 553(d)) and shall become effective as set forth above.

Nevertheless, although these revisions are being published in final form and are made effective as stated above, it is the policy of the Department of Labor to solicit and consider comments on its regulations. Therefore, comments will be received just as though these revisions were proposals until January 31, 1975, after which the comments received will be evaluated and, if warranted, the revisions will be appropriately revised. Meanwhile, in the interest of making the new definition effective as soon as possible, these revisions shall remain in force until further revised.

Interested persons are invited to submit written data, views, or arguments as to the revisions contained herein to the U.S. Department of Labor, Manpower Administration, Room 7000, Patrick Henry Building, 601 "D" Street, N.W., Washington, D.C. 20213, on or before January 31, 1975. All material received in response to this invitation will be available for public inspection during normal business hours at that address.

In 20 CFR Part 616, § 616.6(e) is revised to read as follows:

§ 616.6 Definitions.

* * * * *

(e) *Paying State.* (1) The State in which a Combined-Wage Claimant files a Combined-Wage Claim, if the claimant qualifies for unemployment benefits in that State on the basis of combined employment and wages.

(2) If the State in which a Combined-Wage Claimant files a Combined-Wage Claim is not the Paying State under the criterion set forth in subparagraph (1) of this paragraph, or if the Combined-Wage Claim is filed in Canada or the Virgin Islands, then the Paying State shall be that State where the Combined-Wage Claimant was last employed in covered employment among the States in which the claimant qualifies for unemployment benefits on the basis of combined employment and wages.

* * * * *

(Sec. 121, Pub. Law 91-373, 84 Stat. 702 (26 U.S.C. 3304(a)(9)(A) and (B)))

Effective date. These revisions shall apply to all new combined-wage claims establishing a benefit year which are filed after December 31, 1974.

Signed at Washington, D.C., this 26th day of December, 1974.

PETER J. BRENNAN,
Secretary of Labor.

[FR Doc.74-30430 Filed 12-30-74;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PUBLIC INFORMATION

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 314—NEW DRUG APPLICATIONS

Correction

In FR Doc. 74-28688 appearing at page 44602 in the issue for Tuesday, December 24, 1974 make the following changes:

1. In § 314.14 (d), change the word approval, which appears in the third line to approvable.

2. Insert an effective date of January 23, 1975.

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 655—TRAFFIC OPERATIONS

Subpart A—Urban Traffic Operations Program To Increase Capacity and Safety (Topics)

Correction

The document adding Part 655 to Chapter I of Title 23 of the Code of Federal Regulations, published in the FEDERAL REGISTER on July 19, 1974, at 39 FR 26414, is corrected as follows: the fourth word in the title of Subpart A is changed to read "Program"; the number of the section immediately following § 655.101 is changed to read "§ 655.102"; the numbers of the two sections immediately following § 655.103 are changed to read "§ 655.104" and "§ 655.105" respectively; the fifth word in § 655.104(b) is changed to read "implemented"; the subdivisions of § 655.105(b)(9) are changed to read "(i)", "(ii)" and "(iii)" respectively; and the last complete word in the eighth line of § 655.105(b)(9) is changed to read "prime".

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.74-30452 Filed 12-30-74;8:45 am]

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 710—RIGHT-OF-WAY—GENERAL

Correction

The document adding Part 710 to Chapter I of Title 23 of the Code of Federal Regulations, published in the FEDERAL REGISTER on July 19, 1974, at 39 FR 26416, is corrected by making the following changes:

In Subpart A, the second word in the title of paragraph (g) of § 710.104 should be "Remnant".

In Subpart C, section 710.304, the reference in paragraph (c) should be to "paragraphs (b)(4) and (d)(1)"; the reference in paragraph (d)(2) should be to "paragraph (m)(1)"; the reference in paragraph (d)(3) should be to "paragraph (m)(2)"; the second word in the eleventh line of paragraph (j)(5) should be "been"; the reference in paragraph (j)(5) should be to "paragraph (j)(4)"; the word in paragraph (m) immediately preceding subdivision (1) should be "remnants"; the last complete word in the seventh line of paragraph (m)(2)(ii) should be "improvements"; the reference in paragraph (m)(2)(iii) should be to "paragraph (m)(2)(ii) of this section"; and the references in paragraph (m)(2)(v) should be to "paragraph (m)(2)(iii) of this section"

and "paragraph (m)(2)(ii) of this section" respectively.

In Subpart C, § 710.305(a), the subdivision of paragraph (a)(1)(ii) should be "(A)", "(B)", "(C)", "(D)", "(E)" and "(F)"; the term referred to in paragraph (a)(1)(ii)(F) should be "right-of-way"; the reference in paragraph (a)(2) should be to "paragraph (a)(1)(i) of this section"; and the reference in paragraph (a)(3) should be to "paragraph (a)(1)(ii) of this section".

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.74-30406 Filed 12-30-74;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas; Correction

On August 31, 1972, in 37 FR 17704, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the City of Winston-Salem, North Carolina, as an eligible community and included Map No. H 37 067 5120 12 which indicates that Lot No. 46 of Club Haven subdivision, Section 2, of Winston-Salem, North Carolina, as recorded in Volume 23, at Page 100 in the Office of the Register of Deeds of Forsyth County, North Carolina, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in view of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective March 24, 1971, Map No. H 37 067 5120 12 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (secs. 408-410, Public Law 91-152, December 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: December 11, 1974.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.74-30405 Filed 12-30-74;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas; Correction

On October 13, 1971, in 36 FR 19909, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the Township of Springfield, New Jersey, as an eligible community and included Map No. H 34 039 3207 04 which indicates that 3 Leslie Court, Springfield, New Jersey, as recorded on Map No. 501-C in the records of the Register's Office of Union County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in view of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective August 12, 1970, Map No. H 34 039 3207 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (secs. 408-410, Public Law 91-152, December 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: December 11, 1974.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.74-30406 Filed 12-30-74;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas; Correction

On January 8, 1972, in 37 FR 281, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included Fairfax County, Virginia, as an eligible community and included map No. H 51 059 0000 13 which indicates that Covington subdivision, Section I as recorded in Deed Book 3784, page 459 of the land records of Fairfax County, Virginia, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, effective June 17, 1970, map No. H 51 059 0000 13 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (secs. 408-410, Public Law 91-152, December 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.

Issued: December 11, 1974.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

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Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 7333]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Rates and Earnings Base of Certain Self-Employment Tax

Correction

In FR Doc. 74-29748, appearing at page 44444 in the issue for Tuesday, December 24, 1974, make the following changes:

1. In the last sentence of the fourth paragraph of the preamble, the date "February 18, 1975" should be changed to read "February 28, 1975".

2. In § 1.1402(e)-2A, in the last sentence of paragraph (b) on page 44449 the date now reading "February 18, 1975" should be changed to read "February 28, 1975".

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

[T.D. ATF-12; Reference Notice No. 259]

PART 4—LABELING AND ADVERTISING OF WINE

Metric Standards of Fill

Background. The Wine Institute, a trade association representing a number of wine producers in California, has petitioned the Bureau of Alcohol, Tobacco and Firearms for amendment of 27 CFR Part 4, Labeling and Advertising of Wine, to require use of metric standards of fill for wine, and to impose standard wine bottle regulations, including design, headspace and standard of fill requirements, on wine imported in bottles, as well as on wine domestically produced.

A Notice of Hearing concerning metric standards of fill was published in the FEDERAL REGISTER on May 10, 1974. This Notice, containing proposed amendatory language for 27 CFR Part 4, invited comment on the proposed regulations and scheduled a public hearing on June 11, 1974, to more fully discuss the issues. Several speakers representing industry members, trade associations, and foreign governments testified during the hearing. Subsequent to the hearing, the Director, Bureau of Alcohol, Tobacco and Firearms extended the comment period by 60 days to permit the filing of relevant briefs and comments; more than 40 such briefs were filed.

THE METRIC PROPOSALS

The Notice of Hearing contained five specific proposals to establish metric standards of fill for wine and to impose

standard wine bottle requirements on all wine imported as well as domestic. These five proposals were as follows:

Proposal 1. Metric standards of fill. This proposal would strike the regulations setting forth standards of fill for wine contained in 27 CFR 4.72(a) and substitute in their place the following sizes based on the metric system:

3 liters	3 liters.
1.5 liters	1½ liters.
1 liter	1 liter.
0.75 liter	¾ liter.
0.375 liter	⅜ liter.
0.187 liter	187 ml.

Proposal 2. Container units per shipping case. This proposal would add a subsection to 27 CFR 4.72 to specify the number of container (bottle) units that must be packed in a shipping case or shipping container. It is proposed that the following container units per shipping case be adopted on a mandatory basis.

Container size:	Units per case
3 liters	4
1.5 liters	6
1 liter	12
0.75 liter	12
0.375 liter	24
0.187 liter	48

Proposal 3. Standards of Fill for Imported Wines. This proposal would extend the standard wine bottle regulations set forth in 27 CFR 4.71, including design, headspace and standard of fill requirements, to all wines imported into the United States. This proposal would eliminate the standard wine bottle exemption at 27 CFR 4.70(b) now applying to wines in original containers imported into customs custody.

Proposal 4. Applicability of Current Standards of Fill. This proposal would permit wine to be bottled or packed in the metric sizes set forth in proposal 1 as well as the standards of fill presently contained in 27 CFR 4.72(a) for a period of two years after the adoption of the proposed regulations. Bottling in the metric sizes would become mandatory after the expiration of the two-year period.

Proposal 5. Exemption for Previously Bottled Wine. This would permit wine bottled under the present standards of fill, and all imported wines, bottled prior to the expiration of the two-year period, to be sold and shipped at any time after that date. It was further proposed that after the two-year period, wine imported in original containers which do not conform to the new metric standards of fill, be accompanied by a certificate signed by the bottler or packer stating that such wine was bottled prior to the expiration of the two-year period.

Summary of Public Hearing

All persons testifying during the public hearing in June either openly endorsed metrication in the United States wine industry, or did not oppose the imposition of metric standards of fill. Most speakers testified either for or against specific proposals except representatives of the Wine Institute who supported all proposals.

No testimony was offered on either proposal 2, container units per case, or proposal 5, exemption for previously bottled wine.

Nearly all speakers testified on proposal 3, standards of fill for imported wines, by requesting additional sizes be added to the propsed metric standards in order to accommodate the wine of various nations. Two speakers testifying on behalf of the Government of Mexico, and PepsiCo through its subisidiary, Monsieur added to the proposed metric standards Henri Wines, Ltd., opposed removal of the exemption from standards of fill for imported wines, if their requests for additional bottle sizes were not approved.

The Mexican representative requested the addition of a 720 ml bottle to the metric standards of fill to accommodate the size bottle in widespread use throughout Mexico. The speaker for PepsiCo requested that the bottle used for sparkling wine in the Soviet Union, which has a capacity of 800 ml, be accepted as a 750 ml bottle for importation into the United States.

Two speakers asked for the inclusion of a 700 ml bottle in the standards of fill. A representative of the United Kingdom Food and Drink Industrial Council, a British trade organization, and a representative of the German wine industry requested this size to permit importation into the United States of wine bottled in those countries in 700 ml bottles.

A miniature bottle size, not included in the proposed metric standards of fill, was requested by two speakers. The representative of the United Kingdom Food and Drink Industrial Council requested a miniature size while a representative of Showerings Vine Products and Whiteways, Ltd., Somerset, England, requested a 100 ml size to accommodate the sparkling perry which that company exports to the United States in 100 ml bottles.

The representatives of PepsiCo and the German wine industry both requested that the proposed phase-in period of two years be extended by three additional years to enable foreign wine producers to comply with the metric standards of fill.

A representative testifying on behalf of the American National Metric Council requested that, to avoid confusion, the Bureau should adopt the milliliter as the only measurement for liquid quantities of less than one liter.

The Wine Institute, initiators of the original metric proposals, presented four alternative proposals during the hearing for consideration. These four proposals were: (1) That the Bureau require the net contents statement on wine to reflect the minimum net content rather than the average content; (2) That the certificate of bottling date to be signed by the foreign bottler or packer also be signed by the importer to "guarantee" the bottler's statement; (3) That, once a proprietor begins to bottle in a metric standard of fill, he would be prohibited from again bottling the corresponding non-metric size which was replaced (The Wine and Spirits Wholesalers of America also testified in favor of this proposal); and (4) That the equivalent volume to be stated in U.S. measure be stated in ounces only rather than in gallons, quarts, pints and ounces.

Summary of Written Comments

More than 40 briefs were received both before the hearing and in the 60-day period provided for the filing of additional comments relative to the proposed regulations and the hearing. A general summary of the positions taken follows.

Metric standards of fill. Thirteen briefs actively supported or encouraged the proposal to adopt metric standards of fill for wine. Briefs filed by two industry members, a trade association, and one private citizen opposed wine metrication. Industry members cited the high costs involved in producing new bottle molds as well as the physical difficulties encountered in obtaining molds, bottles and cartons, as the reason they opposed the proposal. They also stressed that the small proprietor might experience disproportionately higher costs than large proprietors with little apparent benefit to be gained.

Nearly all other briefs did not deal with the general issue of wine metrication but commented on specific proposals. The Bureau must, therefore, conclude that the majority of those commenting are not opposed to metrication in the wine industry.

Container units per case. Only two briefs dealt with this proposal in general terms. The U.S. Customs Service strongly supported this proposal since, together with imposition of metric standards of fill on imported wines, it would greatly reduce the number of different size wine cases with which Customs must deal.

The Italian Federation of Wine Producers opposed this proposal in their brief and requested that the bottler determine the number of bottles per case. As an alternative, they proposed that a provision be made for half cases for sale at retail.

Several briefs suggested that their proposed 700 ml or 720 ml bottles be packed 12 per case but did not comment on this proposal in more general terms.

Standards of fill for imported wines. (A) *General discussion.* Six briefs specifically supported proposal 3 to impose the metric standards of fill on wine imported in bottles. The National Association of Alcoholic Beverage Importers (NAABI) stated "adoption of international standards of fill for wine, from a long range point of view, will affirmatively serve the best interests of all concerned nations, their vintners, producers and consumers". NAABI also supported the specific proposed metric standards of fill assuming that these sizes would gain worldwide use in wine trade. Others favoring this proposal, in general, were the U.S. Customs Service, Italian Federation of Wine

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Producers, Inflight Food Services Association, Wine Institute and the U.S. Department of State.

Three importers and one foreign wine producer flatly rejected this proposal. Most cited testimony raised during a previous public hearing that the ATF Division of the Internal Revenue Service held in October 1971. Extreme opposition was raised at that time to imposing standards of fill on imports. Three main reasons were cited: (1) Each wine producing nation bottles wine in a size traditional to that country; (2) most nations use the metric system of measurement to which the United States does not conform; and (3) bottling according to United States standards of fill would force foreign producers to bottle exclusively for the United States market which would either raise their wine prices or force their withdrawal from the U.S. market. However, comments filed by the Wine Institute, International Federation of Wines, Spirits, Brandies and Liquors Industries and Wholeselling, and NAABI countered these objections by pointing out that adoption by major wine producing nations of international standards of fill will standardize bottle sizes worldwide.

The majority of written comments neither supported nor opposed imposition of standards of fill on imported wines. Instead, most comments on this proposal dealt with addition of specific sizes to the proposed metric sizes; a discussion of requested sizes follows.

(B) *The 700 ml bottle.* Seventeen briefs and written comments from importers, wine producing firms and various foreign nations sought the inclusion of a 700 milliliter size in the standards of fill or sought the continued acceptance by the United States of imported wine in this bottle. Among foreign governments making such a request were Germany, Bulgaria, Chile, Yugoslavia, Switzerland, Austria, Greece Denmark, Mexico and the European Economic Commission (EEC). Most of these briefs pointed out that wine is traditionally bottled in 700 ml bottles in many nations and that use of a 750 ml bottle would be impractical due to cost or availability. Although the European Economic Community is moving to standardize bottle sizes to be used for wine trade throughout European member nations, they requested use of both 700 ml and 750 ml bottles at least until 1980 since the EEC currently permits use of either size bottle. By 1980, however, the EEC expects to phase out one or the other size. Some nations currently using the 700 ml bottle stated 750 ml bottles are not available or that their exclusive use for the United States market would make such wine much more costly. Germany stated that their 700 ml wine bottles were returnables and their phase-out would be costly and require at least five years. German law requires production of table wine in 700 ml bottles so that a statutory change, which would probably take two years, would be necessary before their wine industry could possibly conform.

(C) *The miniature wine bottle.* The proposed metric sizes did not include a size comparable to the present wine miniatures of 2, 3, or 4 ounces. Eleven briefs requested adoption of various miniature wine sizes including 50, 75, 93 and 100 ml. Foreign wine producers, importers and airlines requested this size bottle to permit importation of many sherries which are commonly sold in 2 oz. or one-person servings. Airlines pointed out that miniatures are essential for wine and liquor service on aircraft due to their compactness, speed and ease of service, and accountability. One other brief mentioned that service of wine from miniature containers protects the consumer since the bottle cannot be refilled or the glass shortfilled.

(D) *Additional sizes.* Several briefs requested inclusion of various other sizes to the metric standards of fill including sizes of 180 ml, 350 ml, 360 ml, 470 ml, 500 ml, 550 ml, 720 ml, 800 ml, 1.8 liters, 2.0 liters, 3.75 liters, 5.0 liters, 10.0 liters, and 20.0 liters. Foreign wine firms and some foreign governments requested sizes including 180 ml, 350 ml, 360 ml, 500 ml, 550 ml, 720 ml, 800 ml, 1.8 and 2.0 liters to accommodate bottles used in those nations. The National Association of Wine Producers and Bottlers requested inclusion of 470 ml and 3.75 liter sizes to more closely replace pint and gallon sizes, and a private citizen sought inclusion of 5, 10 and 20 liter sizes to provide large economy sizes and to lower unit cost of wine.

Applicability of current standards of fill. The Wine Institute's proposal made during the hearing, to prohibit a proprietor from reverting back to a current standard of fill after he began bottling in the corresponding metric size, was supported in the brief filed by the National Association of Alcoholic Beverages Importers. NAABI stated that a needless multiplicity of problems relating to conversion could be thus avoided. No other briefs were received on this proposal.

Length of conversion period. The proposed transition period was two years after which metric bottling would be mandatory. Twelve briefs including those filed by the glass industry, the Departments of State and Agriculture, foreign governments, the EEC, wine bottlers, importers and various trade associations favored extension of this period by as much as four years. Several briefs sought a longer transition period as an alternative to adoption of the 700 ml bottle.

It was pointed out that, although most nations of the world use the metric system, few actually utilize the proposed metric sizes; therefore, compliance will require as much time in many nations as is needed domestically. Many nations, in fact, may require more time to convert than the United States since their 700 ml bottle molds cannot be easily retooled to produce the larger 750 ml bottles; in the United States, the "fifth" bottle containing 757 ml may be more easily converted to the 750 ml size. The German government requested at least five years for compliance due to their exclusive use of 700 ml bottles, many of which are recyclable.

In their brief, the Glass Containers Manufacturers Institute, which represents most companies producing wine bottles (and other glassware), stated that conversion was not possible in two years without disrupting the glass industry, causing high conversion costs, and fostering excessive waste of obsolete bottle molds and bottles. They requested a minimum three-year conversion period, or four years if metrication in the distilled spirits industry were contemplated.

Exemption for previously bottled wine. Comments pertaining to the proposal were directed toward the issue of who should be required to certify the bottling date of wine imported in nonstandard containers. The Wine Institute proposed during the hearing that, in addition to the bottler's certification, the importer of the wine should "guarantee" this statement. The U.S. Customs Service also recommended that an additional party execute the certificate since the bottler of the wine might no longer be in business or have any economic interest in the wine to be imported.

The National Association of Alcoholic Beverage Importers favored execution of this certification by the bottler. They contended that the importer enters into a contractual agreement with his foreign supplier, and since the importer is not present during bottling, he cannot "guarantee" the exact bottling date of such wine.

The U.S. Customs Service recommended that proposed section 4.46 be amended to permit withdrawal of wine in nonstandard containers from customs bonded warehouses at any time if the wine entered the warehouse prior to the mandatory effective date, since the wine would have been bottled before metric bottling became mandatory. Customs requested also that the certification of bottling date be made part of the customs invoice rather than a separate document.

Other issues. As indicated previously, the Wine Institute proposed during the public hearing that the Bureau require the net contents statement on wine labels represent the minimum content of the bottle rather than the average fill. This proposal was opposed by the Glass Containers Manufacturers Institute which stated it would be impossible for the glass container industry to lower the existing capacity tolerances of wine containers.

The U.S. Customs Service suggested that the requirement to state the equivalent volume in U.S. fluid ounces to the nearest one-hundreth of an ounce (e.g., 25.36 oz.) was misleading since wine cannot be measured this accurately during bottling. Customs recommended the equivalent volume be stated to the nearest one-tenth ounce instead.

CHANGES SUBSEQUENT TO NOTICE

After full consideration and evaluation of the information presented at the Public Hearing and in written comment and briefs filed prior to the hearing and

during the 60-day period following the hearing, the Bureau has changed its regulations in the following respects.

The Miniature wine bottle. The regulations prescribe a "miniature" bottle containing 100 milliliters. This size will replace current sizes of 2, 3 and 4 ounces while providing consumers a single-serving portion of wine which is now available.

The miniature affords consumers protection not available in larger bottles since the bottle itself cannot easily be refilled nor is a customer likely to receive a shortfilled glass.

Miniatures play a vital role in aircraft wine and liquor service. Space limitations and the necessity for fast, convenient service almost prohibit use of larger bottles on aircraft and the abolition of the miniature might cause discontinuation of some or all wine or liquor service. Miniatures have also met with unqualified acceptance with the traveling public.

The 100 ml miniature does not present any deception to the consumer since it is very distinct from the closest size of 187 ml. Since the European Economic Commission has proposed the 100 ml size for use in trade among EEC nations, it is likely to gain worldwide acceptance as the miniature wine size. The Bureau, therefore, adopts 100 ml as one of the metric standards of fill.

Section 4.73 is further amended to include a standard of fill of 100 milliliters. Section 4.74 is further amended to provide for the packing of 100 ml bottles in cases each containing 120 bottles.

Extension of the conversion period. The regulations provide that the phase-in period for metric bottling shall last a total of four years for all wines both domestic and imported rather than two years as proposed.

Several reasons dictate extension of the conversion period. The glass manufacturing industry has stated its inability to effect total conversion within two years without disrupting the industry and causing unnecessary waste and expense. The industry has also cited the possible metric conversion of distilled spirits containers as yet another problem with a two or three-year conversion period.

Two additional years for conversion will promote a more orderly metric transition. Current bottle molds may be phased-out as they wear out and may be then replaced by metric molds without prematurely discarding obsolete but serviceable molds. Individual companies will also have two additional years over which to spread the costs of conversion; hopefully, the gradual introduction of metric bottle sizes and the length of time permitted will actually lower somewhat the actual costs of conversion.

A second major reason to extend the conversion period is to ease the burden on foreign wine producers who previously have been exempted from the standard of fill requirements. On the basis of all evidence presented, it seems improbable that most foreign bottlers could convert their production to the proposed sizes within the two-year period. Several European nations have indicated that their conversion to the metric standards of fill might require five years or more; however, the Bureau believes that the vast majority of nations, including those which utilize the 700 ml bottle, will be able to comply with the metric bottle sizes in four years.

Consumers will benefit from the lengthened transition period since it will provide more time to become acquainted with the metric system and the specific bottle sizes. The additional time will also allow the consumer a better choice of imported wines since, under the original two-year proposal, many imported wines might have been denied access to the U.S. market, because bottlers could not have complied with the standards of fill in two years.

An additional consideration in extending the conversion period is to accommodate those nations of the world which use the 700 milliliter bottle for their "standard" wine bottle. The Bureau feels that the replacement of this bottle by the 750 ml bottle is a problem of major proportions which could not be accomplished in two years. By extending the conversion period, the Bureau feels all foreign bottlers will have ample time to convert to the 750 ml bottle. This four-year period also more closely parallels the transition period prescribed by the European Economic Community for adherence to standard bottle sizes for free trade among EEC members. The Bureau expects that the EEC will, at the end of their six-year transition period, phase-out the 700 ml bottle as a vehicle of international wine trade in favor of the 750 ml size.

In order to accommodate domestic vintners, importers, the glass industry, foreign governments and foreign wine producers, the mandatory effective date for metric bottling is delayed by slightly more than two years, from November 1, 1976, until January 1, 1979. The regulations in sections 4.37, 4.46, 4.70, 4.72, 4.73 and 4.74 are further amended to reflect this change.

Applicability of current standards of fill. The proposal to permit proprietors to utilize either current or metric standards of fill during the conversion period has been changed by requiring that conversion to a given metric standard of fill be irrevocable for any particular bottler with respect to each type or style of wine bottle. For example, once a bottler begins to use a one liter champagne bottle, he may no longer bottle quart champagne bottles. However, he will not be prohibited from bottling in other current U.S. sizes not yet replaced, or in quarts of other bottle types or styles (e.g. quart claret bottles) not replaced.

This requirement will reduce the time that dual sizes, metric and non-metric, are on a retailer's shelves. For example, it should largely prevent the side-by-side sale of wine in 750 ml and ⅘ quart bottles of a particular type or style, for wines bottled by the same bottler. It should also alleviate confusion for retailers and wholesalers by reducing somewhat the variety of packages they must handle at one time. At the same time, it will allow the bottler a considerable degree of flexibility (in terms of using up existing bottle stocks, etc.) in phasing in the new metric bottle sizes.

Section 4.73 is further amended to adopt the irrevocability of conversion requirement.

Exemption for previously bottled wines. The regulations in § 4.46, concerning a certificate of nonstandard fill, are being revised to require that a duly appointed official of the appropriate foreign country certify the bottling date of wine in nonstandard containers rather than requiring the bottler of the wine to make the certification as proposed.

The U.S. Customs Service pointed out that in some instances the foreign bottler could not verify this statement. Also, the importer of the wine is seldom in a position to "guarantee" its exact bottling date since the importer must rely on the bottler or owner of the wine for this information.

This requirement, therefore, is changed to require that an appropriate foreign official certify the bottling date. The Bureau expects that the foreign official will require reasonable assurances from the bottler or owner of the wine as to the validity of any bottling statements made.

Section 4.46 is also being revised to allow for the free withdrawal from a customs bonded warehouse, of imported wine in nonstandard containers after the mandatory effective date of the regulations, if such wine was entered into the warehouse prior to that date. A certificate of nonstandard fill is not required since all such wine must have been bottled prior to the date for mandatory metric bottling.

Labeling requirements. Several clarifying changes are being adopted to simplify labeling requirements for metric bottles of both standard and nonstandard net contents.

Sections 4.37 and 4.73 are being further amended to require metric net contents be expressed in liters and decimal portions thereof for quantities larger than one liter, and in milliliters for quantities of less than one liter. Statement of net content in liters or milliliters will standardize the manner by which metric net contents are to be stated while also reflecting the degree of accuracy necessary to measure the content of wine bottles.

Section 4.37 is being further amended to require a statement of equivalent net contents in U.S. measure for bottles having a nonstandard content but labeled in metric measure. Although the proposed regulations required an equivalent content statement for the metric standards of fill, they inadvertantly omitted this requirement for bottles of nonstandard content. The equivalent volume in U.S. measure is further required to be stated in fluid ounces only and be accurate to the nearest one-tenth ounce. As proposed, this equivalent volume statement would have been in terms of gallons, quarts, pints and ounces. However, sole use of ounces will permit simpler comparisons with milliliters and

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should encourage and facilitate unit pricing and volume comparison. The requirement that the fluid ounce equivalent be accurate to the nearest one-tenth ounce reflects the maximum degree of accuracy deemed necessary or possible for measuring net content of wine bottles. As proposed, the fluid ounce equivalent would have been accurate to the nearest one-hundredth ounce.

An exception to the statement of equivalent volume in fluid ounces is being provided in the case of wine labels or bottles which show metric measure and which are in use on or before December 31, 1974. The regulations in section 4.37(c) provide that when the U.S. net content is shown on these bottles in terms of gallons, quarts, pints, and ounces (e.g. one pint, eight fluid ounces), or is not shown at all in the case of bottles having a stated content of ½ liter, 1 liter, or 1½ liters, existing stocks of such labels and bottles may be utilized. Once existing stocks are exhausted, the U.S. net contents or U.S. equivalent content statement must be shown, and stated in terms of fluid ounces only. This exception is intended to allow time to implement the new requirement and prevent the waste of resources that would occur if existing stocks of labels and bottles were declared obsolete immediately.

Other changes. The definition of a liter is being further changed in § 4.10(o) to define it in terms of one of the basic metric units, the meter, and to reflect the common spelling throughout much of the world of "litre". Therefore, the definition of a liter is changed to 1000 cubic centimeters and the equivalent volume in U.S. measure is stated. Due to utilization of a more accurate conversion factor, the equivalent measure is now specified as 33.814 U.S. fluid ounces rather than 33.82 ounces.

Sections 4.37 (b) and (c) are further amended to substitute "United States" or "U.S." for "English" when referring to a fluid measurement system. Although both systems utilize the terms gallon, quart, pint, and fluid ounce, the actual volumes of similar units do not correspond, because the United States and English ounces represent dissimilar quantities. Therefore, this section is changed to avoid any possible confusion regarding the stated content.

Substantive Proposals Not Adopted

Additional sizes. The Bureau received numerous written requests for the inclusion of additional sizes to the metric standards of fill. One of these, the 100 ml miniature, is being adopted as a standard size. No other sizes are being added to the metric standards of fill.

The seven sizes being adopted by these regulations are entirely adequate for domestic production and they afford the consumer a wide selection of sizes. Addition of other sizes would yield marginal benefits since most do not provide a uniquely different size from the adopted ones. Some of the proposed sizes would promote consumer deception since sizes of 700 ml, 720 ml and 750 ml are virtually the same and would be easily confused. Also, most adopted sizes are multiples of the basic 750 ml bottle and are thus subject to simple size and price comparison while the suggested additional sizes cannot be so compared. Finally, the volume of international trade in nearly all of the suggested sizes, except for the 700 ml size, does not appear great enough to warrant inclusion of these sizes in the metric standards of fill. Therefore, the Bureau is not adopting any other metric standards of fill for wine.

Minimum fill. The Bureau is not adopting the Wine Institute's proposal to require that the net contents statement reflect the minimum content of the bottle. Adoption of this proposal would constitute a Bureau policy change not contemplated by the Notice of Hearing and would cause some loss of tax revenue.

Regulatory Changes

On the basis of the foregoing comments, briefs, and testimony, the regulations relating to the labeling and advertising of wine (27 CFR Part 4) are amended as follows:

Paragraph 1. Amend § 4.10 by (1) amending the definition of "Gallon", paragraph (j), to make it clear that units of liquid measure need not be of the United States system of measure; and (2) redesignating present paragraph (o) as paragraph (p) and inserting a new paragraph (o) which provides the definition of a "Liter". As amended, § 4.10 reads as follows:

§ 4.10 Meaning of terms.

• • • • •

(j) *Gallon.* Means a United States gallon of 231 cubic inches of alcoholic beverage at 60° F.

• • • • •

(o) *Liter or litre.* Means a metric unit of capacity equal to 1000 cubic centimeters at 4° C., and equivalent to 33.814 U.S. fluid ounces. For purposes of this part, a liter is subdivided into 1000 equal milliliters (ml).

(p) *Use of other terms.* Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

Par. 2. Amend § 4.37 by (1) amending paragraph (a) to specify the manner by which net content must be stated for bottles filled according to the metric standards of fill as well as for bottles filled to nonstandard volumes; (2) deleting paragraph (b) and adding a new paragraph (b) requiring that whenever bottles are filled and labeled according to metric measure prior to January 1, 1979, the equivalent volume in U.S. measure must also be shown in fluid ounces; and (3) deleting existing paragraph (c) and adding a new paragraph (c) which permits temporary use of bottles or labels showing the U.S. net content in terminology superseded by this regulation. As amended, § 4.37 reads as follows:

§ 4.37 Net contents.

(a) The net contents of wine for which a standard of fill is prescribed in § 4.72 shall be stated in the same manner and form in which such standard of fill is set forth therein. If bottles are filled according to the metric standards of fill prescribed in § 4.73, net contents shall be stated in the same manner and form in which such standard of fill is set forth in § 4.73. The net content of wine for which no standard of fill is prescribed in §§ 4.72–4.73 shall be stated in the metric system of measure as follows:

(1) If more than one liter, net contents shall be stated in liters and in decimal portions of a liter accurate to the nearest one-hundredth of a liter.

(2) If less than one liter, net contents shall be stated in milliliters (ml).

Provided, That the net contents of wine for which no standard of fill is prescribed in §§ 4.72–4.73 may be stated in United States fluid measure if such wine is bottled on or before December 31, 1978.

(b) Except as provided in paragraph (c) of this section, when net contents of wine are stated in metric measure, the equivalent volume in United States measure shall also be shown on all wine bottled prior to January 1, 1979, as follows:

(1) For the metric standards of fill:

	Fluid ounces
3 liters	101
1.5 liters	50.7
1 liter	33.8
750 milliliters	25.4
375 milliliters	12.7
187 milliliters	6.3
100 milliliters	3.4

(2) For all other volumes, equivalent volume shall be stated in fluid ounces only, accurate to the nearest one-tenth of a fluid ounce such as: 700 ml (23.7 fl. oz.).

(c) When metric measure is shown on wine labels or on bottles permanently marked as provided in paragraph (d) in use on or before December 31, 1974, and the U.S. net content is shown in terms of gallons, quarts, pints and fluid ounces (*e.g.* 1 pint, 8 fluid ounces), or labeled ½ liter, 1 liter, or 1½ liters, existing stocks of such labels or bottles may be used. When existing stocks of such labels or bottles are exhausted, the U.S. net content or the U.S. equivalent volume shall in all instances (including ½ liter, 1 liter, and 1½ liter bottles) be stated in terms of fluid ounces only.

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Par. 3. Add a new section to provide that a certificate executed by a duly authorized official of the appropriate foreign country, be furnished to U.S. Customs stating that such wine was bottled or packed prior to January 1, 1979, if such wine is to be released from customs custody on or after those dates in containers not conforming to the metric standards of fill and standard case requirements prescribed by §§ 4.73–4.74. As added, § 4.46 reads as follows:

§ 4.46 Certificate of nonstandard fill.

Wine imported in original containers not conforming to the metric standards of fill and standard case requirements

prescribed by §§ 4.73–4.74 shall not be released from customs custody after December 31, 1978, unless (1) such wine is accompanied by a statement signed by a duly authorized official of the appropriate foreign country, stating that the wine was bottled or packed prior to January 1, 1979; or (2) unless the wine is being withdrawn from a customs bonded warehouse into which it was entered on or before December 31, 1978.

Par. 4. Amend § 4.70 to remove the exemption from the standard wine container requirements currently granted to imported wine, and to grant certain exemptions from the metric standards of fill to wines bottled before the effective date of the amendments to the regulations. As amended, § 4.70 reads as follows:

§ 4.70 Application.

* * * * *

(b) Sections 4.70–4.74 shall not apply (1) to sake; (2) to wine packed in containers of five gallons or more; (3) to imported wine in the original containers in which entered in customs custody if such wine was bottled or packed on or before December 31, 1978; or (4) to wine domestically bottled or packed, either in or out of customs custody, prior to October 24, 1943, if the container, or the label on the container, bears a conspicuous statement of the net contents thereof, and if the actual capacity of the container is not substantially less than the apparent capacity upon visual examination under ordinary conditions of purchase or use.

(c) Sections 4.73–4.74 shall not apply to wine domestically bottled or packed, either in or out of customs custody, prior to January 1, 1979, if such wine was bottled or packed according to the standards of fill prescribed in § 4.72.

Par. 5. Amend § 4.71 to update the reference in paragraph (2) to the standards of fill, and in paragraph (3) to the headspace requirements. As amended, § 4.71 reads as follows:

§ 4.71 Standard wine containers.

* * * * *

(2) *Fill.* It shall be so filled as to contain the quantity of wine specified in one of the standards of fill prescribed in § 4.72 or 4.73; and

(3) *Headspace.* It shall be made and filled as to have a headspace not in excess of 6 percent of its total capacity after closure if the net content of the container is 187 milliliters or more, and a headspace not in excess of 10 percent of such capacity in the case of all other containers.

Par. 6. Amend § 4.72 by adding a new paragraph (c) which states that the present standards of fill will no longer be applicable on or after January 1, 1979. As amended, § 4.72 reads as follows:

§ 4.72 Standards of fill.

* * * * *

(c) This section shall not apply on or after January 1, 1979. The metric standards of fill prescribed in § 4.73 may be substituted for the standards of fill in this section on or after January 1, 1975, but must be applied on or after January 1, 1979.

Par. 7. A new section, § 4.73, is added to (1) prescribe metric standards of fill for the bottling of wine, (2) to provide for irrevocability of conversion from a given metric standard of fill after its use has begun, and (3) to provide that the metric standards of fill may be used optionally on and after January 1, 1975, but must be used on and after January 1, 1979. As added, § 4.73 reads as follows:

§ 4.73 Metric standards of fill.

(a) The standards of fill for wine shall be the following, subject to the tolerances hereinafter allowed:

3 liters
1.5 liters
1 liter
750 milliliters
375 milliliters
187 milliliters
100 milliliters

(b) The tolerances in fill shall be the same as are allowed by § 4.37 in respect to statement of net contents upon labels.

(c) Once a bottler has discontinued bottling in a given type or style of bottle (e.g. burgundy bottle or champagne bottle) corresponding to a standard of fill prescribed by § 4.72, and has begun bottling in a replacement standard of fill prescribed by this section, he may not revert back for that particular type or style of bottle, to the standards of fill prescribed by § 4.72.

(d) The effective date of paragraphs (a) and (b) of this section shall be January 1, 1979, except that, the standards of fill prescribed in this section may be applied in lieu of those listed at § 4.72 on or after January 1, 1975. When the metric standards of fill are applied prior to January 1, 1979, the equivalent volume in U.S. measure shall also be stated as specified in § 4.37(b).

Par. 8. Add a new section prescribing the number of bottles which shall be packed per shipping case or shipping container when metric standards of fill are applicable. As added, § 4.74 reads as follows:

§ 4.74 Bottles per shipping case.

Wines bottled subject to the standards of fill prescribed by § 4.73 shall be packed with the following number of bottles per shipping case or shipping container:

Bottle sizes:	*Bottles per case*
3 liters	4
1.5 liters	6
1 liter	12
750 milliliters	12
375 milliliters	24
187 milliliters	48
100 milliliters	120

Because the substantive requirements of this Treasury decision will not become mandatory until January 1, 1979, it is found that it is unnecessary to issue this Treasury decision subject to the effective date limitation of 5 U.S.C. 553(d). Accordingly, this Treasury decision shall become effective on January 1, 1975.

This Treasury decision is issued under the authority contained in 49 Stat. 981, as amended; 27 U.S.C. 205.

Dated: December 26, 1974.

WILLIAM R. THOMPSON,
Deputy Director, Bureau of Alcohol, Tobacco and Firearms.

Dated: December 26, 1974.

Approved:
PETER O. SUCHMAN,
Acting Assistant Secretary, Enforcement, Operations and Tariff Affairs.

§ 4.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this part.

(a) *Act.* "Act" means the Federal Alcohol Administration Act.

(b) *Assistant Regional Commissioner.* "Assistant Regional Commissioner" shall mean the Assistant Regional Commissioner, Alcohol and Tobacco Tax, who is responsible to, and functions under the direction and supervision of the Regional Commissioner.

(c) *Director.* "Director" shall mean the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C.

(d) *Permittee.* "Permittee" means any person holding a basic permit under the Federal Alcohol Administration Act.

(e) *Wine.* "Wine" means: (1) wine as defined in section 610 and section 617 of the Revenue Act of 1918 (26 U.S.C. 3036, 3044, 3045) and (2) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry, and sake; in each instance only if containing not less than 7 percent, and not more than 24 percent of alcohol by volume, and if for nonindustrial use.

(f) *Pure condensed must.* "Pure condensed must" means the dehydrated juice or must of sound, ripe grapes, or other fruit or agricultural products, concentrated to not more than 80° (Balling), the composition thereof remaining unaltered except for removal of water; the term "restored pure condensed must" means pure condensed must to which has been added an amount of water not exceeding the amount removed in the dehydration process; and the term "sugar" means pure cane, beet, or dextrose sugar in dry form containing, respectively, not less than 95 percent of actual sugar calculated on a dry basis.

(g) *Added brandy or alcohol.* As used in the phrase "added brandy or alcohol" the term "brandy" means brandy or wine spirits for use in the fortification of wine as permitted by internal revenue law. The term "alcohol" means ethyl alcohol distilled at or above 190° proof.

(h) *Vintage wine.* "Vintage wine" means a wine made in accordance with the standards prescribed in Classes 1, 2, and 3 of § 4.21, deriving not less than 95

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percent of its volume from grapes gathered in the same calendar year, grown in the same viticultural area, and fermented in the State in which this viticultural area is located.

(i) *Container.* "Container" means any bottle, barrel, cask or other closed receptacle irrespective of size or of the material from which made for use for the sale of wine at retail. The term "bottler" means any person who places wine in containers of a capacity of 1 gallon or less; and the term "packer" means any person who places wine in containers of a capacity in excess of 1 gallon.

(j) *Gallon.* Means a United States gallon of 231 cubic inches of alcoholic beverage at 60° F.

(k) *Brand label.* "Brand label" means the label carrying, in the usual distinctive design, the brand name of the wine.

(l) *United States.* "United States" means the several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means Puerto Rico.

(m) *Interstate commerce.* "Interstate or foreign commerce" means commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(n) *Person.* "Person" means any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent, and including an officer or employee of any agency of a State or political subdivision thereof; and the term "trade buyer" means any person who is a wholesaler or retailer.

(o) *Liter or litre.* Means a metric unit of capacity equal to 1000 cubic centimeters at 4° C., and equivalent to 33.814 U.S. fluid ounces. For purposes of this part, a liter is subdivided into 1000 equal milliliters (ml).

(p) *Use of other terms.* Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

§ 4.37 Net contents.

(a) The net contents of wine for which a standard of fill is prescribed in § 4.72 shall be stated in the same manner and form in which such standard of fill is set forth therein. If bottles are filled according to the metric standards of fill prescribed in § 4.73, net contents shall be stated in the same manner and form in which such standard of fill is set forth in § 4.73. The net content of wine for which no standard of fill is prescribed in §§ 4.72–4.73 shall be stated in the metric system of measure as follows:

(1) If more than one liter, net contents shall be stated in liters and in decimal portions of a liter accurate to the nearest one-hundredth of a liter.

(2) If less than one liter, net contents shall be stated in milliliters (ml). *Provided,* That the net contents of wine for which no standard of fill is prescribed in §§ 4.72–4.73 may be stated in United States fluid measure if such wine is bottled on or before December 31, 1978.

(b) Except as provided in paragraph (c) of this section, when net contents of wine are stated in metric measure, the equivalent volume in United States measure shall also be shown on all wine bottled prior to January 1, 1979, as follows:

(1) For the metric standards of fill:

	Fluid ounces
3 liters	101
1.5 liters	50.7
1 liter	33.8
750 milliliters	25.4
375 milliliters	12.7
187 milliliters	6.3
100 milliliters	3.4

(2) For all other volumes, equivalent volume shall be stated in fluid ounces only, accurate to the nearest one-tenth of a fluid ounce such as: 700 ml (23.7 fl. oz.).

(c) When metric measure is shown on wine labels or on bottles permanently marked as provided in paragraph (d) in use on or before December 31, 1974, and the U.S. net content is shown in terms of gallons, quarts, pints and fluid ounces (e.g., 1 pint, 8 fluid ounces), or is not shown at all in the case of bottles labeled ½ liter, 1 liter, or 1½ liters, existing stocks of such labels or bottles may be used. When existing stocks of such labels or bottles are exhausted, the U.S. net content or the U.S. equivalent volume shall in all instances (including ½ liter, 1 liter, and 1½ liter bottles) be stated in terms of fluid ounces only.

(d) The net contents need not be stated on any label if the net contents are displayed by having the same blown, etched, sand-blasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director, in the sides, front, or back of the bottle, in letters and figures in such manner as to be plainly legible under ordinary circumstances, and such statement is not obscured in any manner in whole or in part.

(e) Statement of net contents shall indicate exactly the volume of wine within the container, except that the following tolerances shall be allowed:

(1) Discrepancies due exclusively to errors in measuring which occur in filling conducted in compliance with good commercial practice.

(2) Discrepancies due exclusively to differences in the capacity of containers, resulting solely from unavoidable difficulties in manufacturing such containers so as to be of uniform capacity: *Provided,* That no greater tolerance shall be allowed in case of containers which, because of their design, cannot be made of approximately uniform capacity than is allowed in case of containers which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in measure due to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of alcoholic beverages in containers to evaporation. The reasonableness to discrepancies under this paragraph shall be determined on the facts in each case.

(f) Unreasonable shortages in certain of the containers in any shipment shall not be compensated by overages in other containers in the same shipment.

§ 4.46 Certificate of nonstandard fill.

Wine imported in original containers not conforming to the metric standards of fill and standard case requirements prescribed by §§ 4.73–4.74 shall not be released from customs custody after December 31, 1978 unless (1) such wine is accompanied by a statement signed by a duly authorized official of the appropriate foreign country, stating that the wine was bottled or packed prior to January 1, 1979; or (2) unless the wine is being withdrawn from a customs bonded warehouse into which it was entered on or before December 31, 1978.

Subpart H—Standards of Fill for Wine

§ 4.70 Application.

(a) Except as provided in paragraph (b) of this section, no person engaged in business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein, or remove from customs custody, any wine unless such wine is bottled or packed in the standard wine containers herein prescribed.

(b) Sections 4.70–4.74 shall not apply (1) to sake; (2) to wine packed in containers of 5 gallons or more; (3) to imported wine in the original containers in which entered in customs custody if such wine was bottled or packed on or before December 31, 1978; or (4) to wine domestically bottled or packed, either in or out of customs custody, prior to October 24, 1943, if the container, or the label on the container, bears a conspicuous statement of the net contents thereof, and if the actual capacity of the container is not substantially less than the apparent capacity upon visual examination under ordinary conditions of purchase or use.

(c) Sections 4.73–4.74 shall not apply to wine domestically bottled or packed, either in or out of customs custody, prior to January 1, 1979, if such wine was bottled or packed according to the standards of fill prescribed in § 4.72.

§ 4.71 Standard wine containers.

(a) A standard wine container shall be made, formed and filled to meet the following specifications:

(1) *Design.* It shall be so made and formed as not to mislead the purchaser. Wine containers shall be held (irrespective of the correctness of the net contents specified on the label) to be so made and formed as to mislead the purchaser if the actual capacity is substantially less than the apparent capacity upon visual

examination under ordinary conditions of purchase or use; and

(2) *Fill.* It shall be so filled as to contain the quantity of wine specified in one of the standards of fill prescribed in §§ 4.72 or 4.73; and

(3) *Headspace.* It shall be made and filled as to have a headspace not in excess of 6 percent of its total capacity after closure if the net content of the container is 187 milliliters or more, and a headspace not in excess of 10 percent of such capacity in the case of all other containers.

§ 4.72 Standards of fill.

(a) The standards of fill for wine shall be the following, subject to the tolerances hereinafter allowed:

(1) For all wines:

4.9 gallons.	1 pint.
3 gallons.	⅘ pint.
1 gallon.	½ pint.
⅘ gallon.	⅖ pint.
½ gallon.	4 ounces.
⅖ gallon.	3 ounces.
1 quart.	2 ounces.
⅘ quart.	

(2) In addition, for aperitif wines only: 15/16 quart:

(b) The tolerances in fill shall be the same as are allowed by § 4.37 in respect to statement of net contents upon labels.

(c) This section shall not apply on or after January 1, 1979. The metric standards of fill prescribed in § 4.73 may be substituted for the standards of fill in this section on or after January 1, 1975, but must be applied on or after January 1, 1979.

§ 4.73 Metric standards of fill.

(a) The standards of fill for wine shall be the following subject to the tolerances hereinafter allowed:

3 liters
1.5 liters
1 liter
750 milliliters
375 milliliters
187 milliliters
100 milliliters

(b) The tolerances in fill shall be the same as are allowed by § 4.37 in respect to statement of net content upon labels.

(c) Once a bottler has discontinued bottling in a given type or style of bottle (e.g. burgundy bottle or champagne bottle) corresponding to a standard of fill prescribed by § 4.72, and has begun bottling in a replacement standard of fill prescribed by this section, he may not revert back for that particular type or style of bottle, to the standard of fill prescribed by § 4.72.

(d) The effective date of paragraphs (a) and (b) of this section shall be January 1, 1979, except that, the standards of fill prescribed in this section may be applied in lieu of those listed at § 4.72 on or after January 1, 1975. When the metric standards of fill are applied prior to January 1, 1979, the equivalent volume in U.S. measure shall also be stated as specified in § 4.37(b).

§ 4.74 Bottles per shipping case.

Wines bottled subject to the standards of fill prescribed by § 4.73 shall be packed with the following number of bottles per shipping case or shipping container:

Bottle sizes:	Bottles per case
3 liters	4
1.5 liters	6
1 liter	12
750 milliliters	12
375 milliliters	24
187 milliliters	48
100 milliliters	120

[FR Doc.74-30426 Filed 12-30-74;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

By order of the United States Court of Appeals for the District of Columbia Circuit in *Richard Pickus, et al. v. United States Board of Parole*, D.C. No. Civil 112-73 (October 11, 1974), certain regulations of the United States Board of Parole were held to be invalidly promulgated. Although the Board does not acquiesce in the Court's holding that the Board is an "agency" as defined by 5 U.S.C. 551(1), the Board has decided to reissue its rules as required by that order. In order to provide working rules for the Board's operations until such time as the Board can repromulgate its regulations in accordance with 5 U.S.C. 553(b), the Board adopts the following rules as emergency regulations, effective December 31, 1974. A notice of proposed rulemaking is published at 39 FR _____. The Board finds under 5 U.S.C. 553(b)(3)(B) that notice and public procedure are impracticable for these emergency regulations.

These rules are essentially the same as those published at 39 FR 20028 (June 5, 1974) and codified in the 1974 Code of Federal Regulations. The changes are as follows:

Section 2.6 is amended to conform with 18 U.S.C. 4254 by specifying that a report by the Attorney General or his designated representative is mandatory before the release on parole of a prisoner sentenced under the Narcotic Addict Rehabilitation Act.

The last sentence of the prior version of § 2.11(c) is deleted as unnecessary.

The former § 2.11(a) which provided for record review for cases with short term continuances is replaced by a provision for record review for all cases and the elimination of scheduled review hearings in cases where the record review results in an order to parole. This change is made because institutional review hearings are felt to be an unnecessary expenditure of resources in cases where parole is clearly warranted on the basis of the written record.

Section 2.14(b) is amended to eliminate interim progress reports in cases of short sentences under 18 U.S.C. 4208(a)(2) or section 924 where there would be an insubstantial interval between the initial parole hearing and the interim progress report at the one-third point in the sentence. Section 2.14(b) is further amended to make the time for interim progress reports for juvenile delinquents and youth offenders conform to the time set for such interim progress reports in the cases of adults sentenced under 18 U.S.C. 4208(a)(2). The former § 2.14(c) had set out a different and more complicated method for determining the time for such interim progress reports for juvenile delinquents and youth offenders. The new § 2.14(c) replaces the former § 2.14(d) and rectifies an editorial mistake in the old section, which stated that notification of review decisions would be made in accordance with § 2.13(c), rather than § 2.13(d) as was intended.

Section 2.16(c) is changed by stating that a federal prisoner in a state institution may be transferred to a federal institution for a parole hearing. The former version of this section stated that such a prisoner shall be transferred to a federal institution. This change was made to clarify the Board's option to conduct hearings at state institutions when it is feasible.

An editorial change is made in § 2.24, replacing references to the "National Appellate Board" with references to the "National Directors". The latter terminology is explained in 28 CFR 0.128. The change is made to clarify the fact that a decision under § 2.24 is not considered to be an appellate decision by the National Appellate Board.

Several changes are made in the descriptions of offense behavior in the paroling policy guideline tables in § 2.20. These changes were adopted by the Board following review of the guidelines under § 2.20(f). No changes have been made in the time ranges for any of the three guideline tables.

Section 2.50 is changed to reflect the regionalized operation of the Board by specifying that it is the responsible Regional Director who issues a parole violator warrant for a youth offender, rather than the Youth Corrections Division of the Board as the section previously stated.

In addition to the amendments described above, several editorial changes have been made in these regulations which are designed to improve the language of the rules without changing their content.

Under the authority of 28 CFR, Chapter 1, Part O, Subpart V and 18 U.S.C. 4201-4210 and 5010-5037, 28 CFR, Chapter 1, Part 2 is revised to read as follows:

Dated: December 23, 1974.

MAURICE H. SIGLER,
Chairman, United States Board of Parole.

Sec.
2.1 Definitions.
2.2 Eligibility for parole, regular adult sentences.
2.3 Same; adult indeterminate sentences.
2.4 Same; juvenile delinquents.
2.5 Same; committed youth offenders.
2.6 Same; sentences under the Narcotic Addict Rehabilitation Act.
2.7 Same; sentences under the gun control statute.
2.8 Same; sentences of six months or less followed by probation.
2.9 Study prior to sentencing.
2.10 Date service of sentence commences.
2.11 Application for parole.
2.12 Hearing procedure.

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Sec.
2.13 Initial hearing.
2.14 Review hearings.
2.15 Petition for consideration of parole prior to date set at hearing.
2.16 Parole of prisoner in state or territorial institution.
2.17 Original jurisdiction cases.
2.18 Granting of parole.
2.19 Consideration by the Board.
2.20 Paroling policy guidelines; statement of general policy.
2.21 Reports considered.
2.22 Communication with the Board.
2.23 Delegation to hearing examiners.
2.24 Review of panel decision by the Regional Director and the National Appellate Board.
2.25 Appeal of hearing panel decision.
2.26 Appeal to National Appellate Board.
2.27 Appeal of original jurisdiction cases.
2.28 Reopening of cases.
2.29 Withheld and forfeited good time.
2.30 Release; modification of release date.
2.31 False or withheld information.
2.32 Committed fines.
2.33 Parole to detainer; statement of policy.
2.34 Parole to local or immigration detainer.
2.35 Mental competency proceedings.
2.36 Release plans.
2.37 Release on parole; statement of policy.
2.38 Sponsorship of parolees; statement of policy.
2.39 Mandatory release in the absence of parole.
2.40 Same; youth offenders.
2.41 Reports to police departments of names of parolees; statement of policy.
2.42 Community supervision by United States Probation Officers.
2.43 Duration of period of community supervision.
2.44 Conditions of release.
2.45 Travel by parolees and mandatory releasees.
2.46 Supervision reports, modification and discharge from supervision.
2.47 Modification and discharge from supervision; youth offenders.
2.48 Setting aside conviction.
2.49 Revocation of parole or mandatory release.
2.50 Same; youth offenders.
2.51 Unexpired term of imprisonment.
2.52 Execution of warrant; notice of alleged violations.
2.53 Warrant placed as a detainer and dispositional interview.
2.54 Revocation by the Board, preliminary interview.
2.55 Local revocation hearing.
2.56 Revocation hearing procedure.
2.57 Confidentiality of parole records.

AUTHORITY: 18 U.S.C. 4210-4210, 5001-5037; 28 CFR Part O, Subpart V.

§ 2.1 Definitions.

(a) For the purpose of this part, the term "Board" means the United States Board of Parole; and the terms "Youth Correction Division" and "Division" each mean the Youth Correction Division of the Board.

(b) As used in this part, the term "National Appellate Board" means the Chairman, Vice Chairman, and at least one member of the Board, all of whom also serve as National Appellate Board members in the headquarters office, i.e., Washington, D.C.

(c) All other terms used in this part shall be deemed to have the same meaning as identical or comparable terms have when those terms are used in Chapter 311 of Part IV of Title 18 of the United States Code or Chapter I, Part O, Subpart V of Title 28 of the Code of Federal Regulations.

§ 2.2 Eligibility for parole, regular adult sentences.

Except as set out in the following sections, a federal prisoner wherever confined and serving a definite term or terms of over one hundred and eighty days may, in accordance with the regulations prescribed in this part, be released on parole after serving one-third of such term or terms or after fifteen years of a life sentence or a sentence of over forty-five years (18 U.S.C. 4202).

§ 2.3 Same; adult indeterminate sentences.

A Federal prisoner, other than a juvenile delinquent or a committed youth offender, who has been sentenced to a maximum term of imprisonment in excess of one year may, if the court has designated a minimum term to be served, which term may be less than, but not more than, one-third of the maximum sentence imposed, be released on parole after serving the minimum term. In cases in which a court imposes a maximum sentence of imprisonment upon a prisoner and specifies that the prisoner may become eligible for parole at such times as the Board may determine, the prisoner may be released on parole at any time in the discretion of the Board (18 U.S.C. 4208(a)).

§ 2.4 Same; juvenile delinquents.

A juvenile delinquent who has been committed and who, by his conduct, has given satisfactory evidence that he has reformed, may be released on parole at any time under such terms and conditions as the Board deems proper if it shall appear to the satisfaction of the Board that there is a reasonable probability that the juvenile will remain at liberty without violating the law (18 U.S.C. 5037).

§ 2.5 Same; committed youth offenders.

The Youth Correction Division may at any time, after reasonable notice to the Director of the Bureau of Prisons, release conditionally under supervision a committed youth offender. A youth offender committed under section 5010(b) of title 18 of the United States Code to a maximum six year term shall be released conditionally under supervision on or before the expiration of four years from the date of his conviction. A youth offender committed under section 5010 (c) of title 18 of the United States Code to a maximum term which is more than six years shall be released conditionally under supervision not later than two years before the expiration of the term imposed by the court (18 U.S.C. 5017).

§ 2.6 Same; sentences under the Narcotic Addict Rehabilitation Act.

The Narcotic Addict Rehabilitation Act provides for sentence to a maximum term for treatment as a narcotic addict. Parole may be ordered by the Board after at least six months in treatment, not including any period of time for "study" prior to final judgment of the court. Before parole is ordered by the Board, the Surgeon General or his designated representative must certify that the prisoner has made sufficient progress to warrant his release and the Attorney General or his designated representative must also report to the Board whether the prisoner should be released. Recertification by the Surgeon General prior to reparole consideration is not required (18 U.S.C. 4254).

§ 2.7 Same; sentences under the gun control statute.

A Federal prisoner sentenced under 18 U.S.C. 924 for violation of Federal gun control laws is considered eligible for parole at such time as the Board may determine. Prisoners sentenced under this provision are considered for parole in the same manner as if they had been sentenced under 18 U.S.C. 4208(a)(2).

§ 2.8 Same; sentences of six months or less followed by probation.

A Federal prisoner sentenced under 18 U.S.C. 3651 to serve a period of six months or less in a jail-type or treatment institution, with a period of probation to follow, is not eligible for parole.

§ 2.9 Study prior to sentencing.

(a) When an adult Federal offender has been committed to an institution by the sentencing court for observation and study prior to sentencing under the provisions of 18 U.S.C. 4208(b), the report to the sentencing court is prepared and submitted directly by the United States Bureau of Prisons.

(b) The court may order a youth to be committed to the custody of the Attorney General for observation and study at an appropriate classification center or agency. Within sixty days from the date of the order, or such additional period as the court may grant, the Youth Correction Division shall report its findings to the court (18 U.S.C. 5010(e)).

§ 2.10 Date service of sentence commences.

(a) Service of a sentence of imprisonment commences to run on the date on which the person is received at the penitentiary, reformatory, or jail for service of the sentence: *Provided, however*, That any such person shall be allowed credit toward the service of his sentence for any days spent in custody in connection with the offense or acts for which sentence was imposed.

(b) Service of the sentence of any person who is committed to a jail or other place of detention to await transportation to the place at which his sentence is to be served shall commence to run from the date on which he is received at such jail or other place of detention.

(c) Service of the sentence of a committed youth offender or a person committed under the Narcotic Addict Rehabilitation Act commences to run and continues to run uninterruptedly from the date of conviction, except when such

offender is on bail pending appeal or is in escape status.

§ 2.11 Application for parole.

(a) A prisoner, other than a juvenile delinquent, a committed youth offender, or an offender committed under the Narcotic Addict Rehabilitation Act, desiring to apply for parole shall execute such application forms as may be prescribed by the Board. Such forms shall be available at each Federal institution and shall be provided to prisoners eligible for parole. Such prisoners may waive parole consideration on a form provided for that purpose. If such a prisoner waives parole consideration, he may later apply for parole and may be heard during the next visit of the Board to the institution where he is confined, provided he has applied prior to 45 days from the first scheduled date of this visit. A prisoner who receives an initial hearing may not waive any subsequent review hearing scheduled by the Board except as provided in § 2.16(c). New parole applications are not necessary for such review hearings.

(b) A prisoner who is required to apply before receiving a parole hearing but who fails to submit either an application or a waiver form shall be referred to the Board's representatives by the chief executive officer of the institution. The prisoner shall then receive an explanation of his right to apply for parole at a later date.

(c) Juvenile delinquents, youthful offenders, and those committed under the Narcotic Addict Rehabilitation Act shall not apply for parole. Instead, such prisoners shall be scheduled for initial hearings at the first visit to the institution by representatives of the Board after they have been classified by the institution.

§ 2.12 Hearing procedure.

(a) Prisoners shall be given written notice of the time and place of the hearing described in §§ 2.13 and 2.14. Prisoners may be represented at hearings by a person of their choice. The function of the prisoner's representative shall be to offer a statement at the conclusion of the interview of the prisoner by the examiner panel, and to provide such additional information as the examiner panel shall request. Interested parties who oppose parole may select a representative to appear and offer a statement. The presiding hearing examiner shall limit or exclude any irrelevant or repetitious statement.

(b) No interviews with the Board, or any representative thereof, shall be granted to a prisoner unless his name is docketed for a hearing in accordance with Board procedures. Hearings shall not be open to the public, and the records of all such hearings shall be treated as confidential and shall not be open to inspection by the prisoner concerned, his representative or any other unauthorized person.

§ 2.13 Initial hearing.

(a) An initial hearing shall be conducted by a panel of two hearing examiners designated by the Board. The examiner panel shall inform the prisoner of the decision and, if parole is denied, of the reasons therefor. The decision of the examiner panel, subject to provisions of § 2.23 (b) and (c) shall be final unless action is initiated by the Regional Director pursuant to § 2.24.

(b) In accordance with § 2.18 the reasons for parole denial may include, but are not limited to, the following reasons, with further specification where appropriate:

(1) Release at this time would depreciate the seriousness of the offense committed and would thus be incompatible with the welfare of society.

(2) There does not appear to be a reasonable probability at this time that the prisoner would live and remain at liberty without violating the law.

(3) The prisoner has (a serious) (repeated) disciplinary infraction(s) in the institution.

(4) Additional institutional treatment is required to enhance the prisoner's capacity to lead a law-abiding life.

(c) In lieu of or in combination with the reasons in paragraph (b) (1) and (2) of this section the prisoner after initial hearings shall be furnished a guideline evaluation statement which includes the prisoner's salient factor score and offense severity rating as described in § 2.20, as well as the reasons for a decision to continue the prisoner for a period outside the range indicated by the guidelines.

(d) Written notification of the decision or referral under § 2.17 or § 2.24 shall be mailed or transmitted to the prisoner within fifteen working days of the date of the hearing. If parole is denied, the prisoner shall also receive in writing as a part of the decision, the reasons therefor.

§ 2.14 Review hearings.

All hearings subsequent to the initial hearing shall be considered as review hearings. Review hearings by examiners designated by the Board shall be scheduled for each Federal institution, and prisoners shall appear for such hearings in person, except for the following cases:

(a) During the month preceding a regularly scheduled review hearing, a case may be reviewed on the record by an examiner panel (including a current institutional progress report). If the decision is to grant parole, no hearing shall be conducted.

(b) A prisoner sentenced under the Youth Corrections Act or Federal Juvenile Delinquency Act or a prisoner sentenced to a maximum term of more than 18 months under 18 U.S.C. 4208(a)(2) or 924 who receives a continuance to a date past one-third of his maximum sentence at an initial hearing shall upon completion of one-third of his sentence receive a review by an examiner panel on the record (including a current institutional progress report).

(c) Notification of review decisions shall be given as set forth in § 2.13(d). No prisoner shall be continued for more than three years from the time of last hearing without further review.

§ 2.5 Petition for consideration of parole prior to date set at hearing.

When a prisoner has met the minimum time of imprisonment required by law, the Bureau of Prisons may petition the responsible Regional Director for reopening the case under § 2.28 and consideration of parole prior to the date set by the Board at the initial or review hearing. The petition must show cause why it should be granted, i.e., an emergency, hardship, or the existence of other extraordinary circumstances that would warrant consideration of early parole.

§ 2.16 Parole of prisoner in state or territorial institution.

(a) Any person who has been convicted of any offense against the United States which is punishable by imprisonment but who is confined therefor in a state reformatory or other state or territorial institution, shall be eligible for parole by the Board on the same terms and conditions by the same authority, and subject to recommital for the violation of such parole, as though he were confined in a Federal penitentiary, reformatory, or other correctional institution.

(b) Federal prisoners serving concurrent state and Federal sentences in state, local, or territorial institutions shall be furnished upon request parole application forms. Upon receipt of the application and any supplementary classification material submitted by the institution, the parole decision shall be made by an examiner panel of the appropriate region on the record only.

(c) Prisoners who are serving federal sentences exclusively but who are being boarded in state, local or territorial institutions may be considered for parole on the record only, provided they sign a waiver of their right to a personal hearing. If such a prisoner does not waive a personal hearing, he may be transferred by the Bureau of Prisons to a Federal institution where he will be considered for parole at the next visit by an examiner panel of the Board.

§ 2.17 Original jurisdiction cases.

(a) A Regional Director may designate certain cases to be within the original jurisdiction of the Regional Directors. All original jurisdiction cases shall be heard by a panel of hearing examiners who shall follow the procedures provided in § 2.12. A summary of this hearing and any additional comments that the hearing examiners may deem germane shall be submitted to the five Regional Directors. The Regional Directors shall make the original decision by a majority vote.

(b) The following criteria will be used in designating cases for the original jurisdiction of the Regional Directors:

(1) *National security.* Prisoners who have committed serious crimes against the security of the nation, e.g., espionage or aggravated subversive activity.

(2) *Organized crime.* Persons who the Regional Director has reason to believe may have been professional criminals or may have played a significant role in an organized criminal activity.

(3) *National or unusual interest.* Prisoners who have received national or unusual attention because of the nature of the crime, arrest, trial or prisoner status, or because of the community status of the offender or his victim.

(4) *Long-term sentences.* Prisoners sentenced to a maximum term of forty-five years (or more) or prisoners serving life sentences.

§ 2.18 Granting of parole.

The granting of parole rests in the discretion of the Board of Parole. The Board may parole a prisoner who is otherwise eligible if (a) in the opinion of the Board such release is not incompatible with the welfare of society; (b) he has observed substantially the rules of the institution in which he is confined; and (c) there is a reasonable probability that he will live and remain at liberty without violating the laws (18 U.S.C. 4203(a)).

§ 2.19 Consideration by the Board.

In the exercise of its discretion, the Board generally considers some or all of the following factors and such others as it may deem appropriate:

(a) Sentence data:
(1) Type of sentence;
(2) Length of sentence;
(3) Recommendations of judge, U.S. Attorney, and other responsible officials.
(b) Present offense:
(1) Facts and circumstances of the offense;
(2) Mitigating and aggravating factors;
(3) Activities following arrest and prior to confinement, including adjustment on bond or probation, if any.
(c) Prior criminal record:
(1) Nature and pattern of offenses;
(2) Adjustment to previous probation, parole, and confinement;
(3) Detainers.
(d) Changes in motivation and behavior:
(1) Changes in attitude toward self and others;
(2) Reasons underlying changes;
(3) Personal goals and description of personal strength or resources available to maintain motivation for law abiding behavior.
(e) Personal and social history:
(1) Family and marital history;
(2) Intelligence and education;
(3) Employment and military experience;
(4) Physical and emotional health.
(f) Institutional experience:
(1) Program goals and accomplishments;
(i) Academic;
(ii) Vocational education, training or work assignments;
(iii) Therapy.
(2) General adjustment:
(i) Inter-personal relationships with staff and inmates;
(ii) Behavior, including misconduct.
(g) Community resources, including release plans:
(1) Residence; live alone, with family or others;
(2) Employment, training, or academic education;
(3) Special needs and resources to meet them.
(h) Results of scientific data and tools:
(1) Psychological tests and evaluations;
(2) Statistical parole experience tables (salient factor score).
(i) Paroling policy guidelines as set forth in § 2.20;
(j) Comments by hearing examiners; evaluative comments supporting a decision, including impressions gained from the hearing.

§ 2.20 Paroling policy guidelines; statement of general policy.

(a) To establish a national paroling policy, promote a more consistent exercise of discretion, and enable fairer and more equitable decision-making without removing individual case consideration, the United States Board of Parole has adopted guidelines for parole release consideration.

(b) These guidelines indicate the customary range of time to be served before release for various combinations of offense (severity) and offender (parole prognosis) characteristics. The time ranges specified by the guidelines are established specifically for the cases with good institutional adjustment and program progress.

(c) These time ranges are merely guidelines. Where the circumstances warrant, decisions outside of the guidelines (either above or below) may be rendered. For example, cases with exceptionally good institutional program achievement may be considered for earlier release.

(d) The guidelines contain examples of offense behaviors for each severity level. However, especially mitigating or aggravating circumstances in a particular case may justify a decision or a severity rating different from that listed.

(e) An evaluation sheet containing a "salient factor score" serves as an aid in determining the parole prognosis (potential risk of parole violation). However, where circumstances warrant, clinical evaluation of risk may override this predictive aid.

(f) These guidelines do not apply to parole revocation or reparole considerations. The Board shall review the guidelines periodically and may revise or modify them at any time as deemed appropriate.

ADULT

[Guidelines for decisionmaking, average total time served before release (including jail time)]

Offense characteristic: severity of offense behavior (examples)	Offender characteristic: parole prognosis (salient factor score)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
LOW				
Immigration law violations. Minor theft (includes larceny and simple possession of stolen property less than $1,000). Walkaway.	6 to 10 mo.	8 to 12 mo.	10 to 14 mo.	12 to 16 mo.
LOW MODERATE				
Alcohol law violations. Counterfeit currency (passing/possession less than $1,000). Drugs: marihuana, simple possession (less than $500). Firearms Act, possession/purchase/sale (single weapon—not altered or machinegun). Forgery/fraud (less than $1,000). Income tax evasion (less than $10,000). Selective Service Act violations. Theft from mail (less than $1,000).	8 to 12 mo.	12 to 16 mo.	16 to 20 mo.	20 to 25 mo.
MODERATE				
Bribery of public officials. Counterfeit currency (passing/possession $1,000 to $19,999). Drugs: "Hard drugs", possession by drug user (less than $500). Marihuana, possession with intent to distribute/sale (less than $5,000). "Soft drugs", possession (less than $5,000). "Soft drugs", sale (less than $500). Embezzlement (less than $20,000). Explosives, possession/transportation. Firearms Act, possession/purchase/sale (altered weapon(s), machinegun(s), or multiple weapons). Income tax evasion ($10,000 to $50,000). Interstate transportation of stolen/forged securities (less than $20,000). Mailing threatening communications. Misprision of felony. Receiving stolen property with intent to resell (less than $20,000). Smuggler of aliens. Theft/forgery/fraud ($1,000 to $19,999). Theft of motor vehicle (not multiple theft or for resale).	12 to 16 mo.	16 to 20 mo.	20 to 24 mo.	24 to 30 mo.
HIGH				
Burglary or larceny (other than embezzlement) from bank or post office. Counterfeit currency (passing/possession $20,000 or more). Counterfeiting (manufacturing). Drugs: "Hard drugs" (possession with intent to distribute/sale) by drug user to support own habit only. Marihuana, possession with intent to distribute/sale ($5,000 or more). "Soft drugs", possession ($5,000 or more). "Soft drugs", sale ($500 to $5,000). Embezzlement ($20,000 to $100,000). Interstate transportation of stolen/forged securities ($20,000 to $100,000). Mann Act (no force—commercial purposes). Organized vehicle theft. Receiving stolen property ($20,000 to $100,000). Theft/forgery/fraud ($20,000 to $100,000).	16 to 20 mo.	20 to 26 mo.	26 to 32 mo.	32 to 38 mo.
VERY HIGH				
Robbery (weapon or threat). Drugs: "Hard drugs" (possession with intent to distribute/sale) for profit [no prior conviction for sale of "hard drugs"]. "Soft drugs", sale (more than $5,000). Extortion. Mann Act (force). Sexual act (force).	26 to 36 mo.	36 to 46 mo.	46 to 58 mo.	58 to 78 mo.
GREATEST				
Aggravated felony (e.g. robbery, sexual act, aggravated assault)—weapon fired or personal injury. Aircraft hijacking. Drugs: "Hard drugs" (possession with intent to distribute/sale) for profit [prior conviction(s) for sale of "hard drugs"]. Espionage. Explosives (detonation). Kidnapping. Willful homicide.	(Greater than above—however, specific ranges are not given due to the limited number of cases and the extreme variations in severity possible within the category.)			

NOTES

[1] These guidelines are predicated upon good institutions' conduct and program performance.
[2] If an offense behavior is not listed above, the proper category may be obtained by comparing the severity of the offense behavior with those of similar offense behaviors listed.
[3] If an offense behavior can be classified under more than one category, the most serious applicable category is to be used.
[4] If an offense behavior involved multiple separate offenses, the severity level may be increased.
[5] If a continuance is to be given, allow 30 d (1 mo) for release program provision.
[6] "Hard drugs" include heroin, cocaine, morphine, or opiate derivatives, and synthetic opiate substitutes.

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YOUTH

[Guidelines for decisionmaking, average total time served before release (including jail time)]

Offense characteristics: severity of offense behavior	Offender characteristics: parole prognosis (salient factor score)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
LOW				
Immigration law violations Minor theft (includes larceny and simple possession of stolen property less than $1,000). Walkaway	6 to 10 mo.	8 to 12 mo.	10 to 14 mo.	12 to 16 mo.
LOW MODERATE				
Alcohol law violations Counterfeit currency (passing/possession less than $1,000). Drugs: marihuana, simple possession (less than $500). Firearms Act, possession/purchase/sale (single weapon—not altered or machinegun). Forgery/fraud (less than $1,000) Income tax evasion (less than $10,000) Selective Service Act violations Theft from mail (less than $1,000)	8 to 12 mo.	12 to 16 mo.	16 to 20 mo.	20 to 26 mo.
MODERATE				
Bribery of public officials Counterfeit currency (passing/possession $1,000 to $19,999). Drugs: "Hard drugs", possession by drug user (less than $500). Marihuana, possession with intent to distribute/sale (less than $5,000). "Soft drugs", possession (less than $5,000) "Soft drugs", sale (less than $500) Embezzlement (less than $20,000) Explosives, possession/transportation Firearms Act, possession/purchase/sale (altered weapon(s), machinegun(s), or multiple weapons). Income tax evasion ($10,000 to $50,000) Interstate transportation of stolen/forged securities (less than $20,000). Mailing threatening communications Misprision of felony Receiving stolen property with intent to resell (less than $20,000). Smuggler of aliens Theft/forgery/fraud ($1,000 to $19,999) Theft of motor vehicle (not multiple theft or for resale).	9 to 13 mo.	13 to 17 mo.	17 to 21 mo.	21 to 26 mo.
HIGH				
Burglary or larceny (other than embezzlement) from bank or post office. Counterfeit currency (passing/possession $20,000 or more). Counterfeiting (manufacturing) Drugs: "Hard drugs" (possession with intent to distribute/sale) by drug user to support own habit only. Marihuana, possession with intent to distribute/sale ($5,000 or more). "Soft drugs", possession ($5,000 or more) "Soft drugs", sale ($500 to $5,000) Embezzlement ($20,000 to $100,000) Interstate transportation of stolen/forged securities ($20,000 to $100,000). Mann Act (no force—commercial purposes) Organized vehicle theft Receiving stolen property ($20,000 to $100,000) Theft/forgery/fraud ($20,000 to $100,000)	12 to 16 mo.	16 to 20 mo.	20 to 24 mo.	24 to 28 mo.
VERY HIGH				
Robbery (weapon or threat) Drugs: "Hard drugs" (possession with intent to distribute/sale) for profit (no prior conviction for sale of "hard drugs"). "Soft drugs", sale (more than $5,000) Extortion Mann Act (force) Sexual act (force)	20 to 27 mo.	27 to 33 mo.	33 to 39 mo.	39 to 45 mo.
GREATEST				
Aggravated felony (e.g. robbery, sexual act, aggravated assault)—weapon fired or personal injury. Aircraft hijacking Drugs: "Hard drugs" (possession with intent to distribute/sale) for profit (prior conviction(s) for sale of "hard drugs"). Espionage Explosives (detonation) Kidnaping Willful homicide	(Greater than above—however, specific ranges are not given due to the limited number of cases and the extreme variations in severity possible within the category.)			

NOTES

1 These guidelines are predicated upon good institutional conduct and program performance.
2 If an offense behavior is not listed above, the proper category may be obtained by comparing the severity of the offense behavior with those of similar offense behaviors listed.
3 If an offense behavior can be classified under more than one category, the most serious applicable category is to be used.
4 If an offense behavior involved multiple separate offenses, the severity level may be increased.
5 If a continuance is to be given, allow 30 d (1 mo) for release program provision.
6 "Hard drugs" include heroin, cocaine, morphine, or opiate derivatives, and synthetic opiate substitutes.

NAIA

[Guidelines for decisionmaking, average total time served before release (including jail time)]

Offense characteristics: Severity of offense behavior (examples)	Offender characteristics: Parole prognosis (salient factor score)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
LOW				
Immigration law violations Minor theft (includes larceny and simple possession of stolen property less than $1,000). Walkaway	6 to 12 mos.		10 to 16 mos.	
LOW MODERATE				
Alcohol law violations Counterfeit currency (passing/possession less than $1,000). Drugs: Marijuana, simple possession (less than $500). Firearms Act, possession/purchase/sale (single weapon—not altered or machinegun). Forgery/fraud (less than $1,000) Income tax evasion (less than $10,000) Selective Service Act violations Theft from mail (less than $1,000)	8 to 12 mos.		12 to 18 mos.	
MODERATE				
Bribery of public officials Counterfeit currency (passing/possession $1,000 to $19,999). Drugs: "Hard drugs", possession by drug user (less than $500). Marihuana, possession with intent to distribute/sale (less than $3,000). "Soft drugs", possession (less than $5,000) "Soft drugs", sale (less than $500) Embezzlement (less than $20,000) Explosives, possession/transportation Firearms Act, possession/purchase/sale (altered weapon(s), machinegun(s), or multiple weapons). Income tax evasion ($10,000 to $50,000) Interstate transportation of stolen/forged securities (less than $20,000). Mailing threatening communications Misprision of felony Receiving stolen property with intent to resell (less than $20,000). Smuggler of aliens Theft/forgery/fraud ($1,000 to $19,999) Theft of motor vehicle (not multiple theft or for resale).	12 to 18 mos.		18 to 24 mos.	
HIGH				
Burglary or larceny (other than embezzlement) from bank or post office. Counterfeit currency (passing/possession $20,000 or more). Counterfeiting (manufacturing) Drugs: "Hard drugs" (possession with intent to distribute/sale) by drug user to support own habit only. Marihuana, possession with intent to distribute/sale ($5,000 or more). "Soft drugs", possession ($5,000 or more) "Soft drugs", sale ($500 to $5,000) Embezzlement ($20,000 to $100,000) Interstate transportation of stolen/forged securities ($20,000 to $100,000). Mann Act (no force—commercial purposes) Organized vehicle theft Receiving stolen property ($20,000 to $100,000) Theft/forgery/fraud ($20,000 to $100,000)	12 to 18 mos.		16 to 24 mos.	
VERY HIGH				
Robbery (weapon or threat) Drugs: "Hard drugs" (possession with intent to distribute/sale) for profit (no prior conviction for sale of "hard drugs"). "Soft drugs", sale (more than $5,000) Extortion Mann Act (force) Sexual act (force)	20 to 30 mos.		30 to 40 mos.	
SELECTED				
Aggravated felony (e.g. robbery, sexual act, aggravated assault)—weapon fired or personal injury. Aircraft hijacking Drugs: "Hard drugs" (possession with intent to distribute/sale) for profit (prior conviction(s) for sale of "hard drugs"). Espionage Explosives (detonation) Kidnapping Willful homicide	(Greater than above—however, specific ranges are not given due to the limited number of cases and the extreme variations in severity possible within the category.)			

NOTES

1. These guidelines are predicated upon good institutional conduct and program performance.
2. If an offense behavior is not listed above, the proper category may be obtained by comparing the severity of the offense behavior with those of similar offense behaviors listed.
3. If an offense behavior can be classified under more than one category, the most serious applicable category is to be used.
4. If an offense behavior involved multiple separate offenses, the severity level may be increased.
5. If a continuance is to be given, allow 30 d (1 mo.) for release program provision.
6. "Hard drugs" include heroin, cocaine, morphine, or opiate derivatives, and synthetic opiate substitutes.

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SALIENT FACTOR SCORE

Case name_____ Register No_____

Item A_____ ☐
No prior convictions (adult or juvenile) = 2
One or two prior convictions = 1
Three or more prior convictions = 0

Item B_____ ☐
No prior incarcerations (adult or juvenile) = 2
One or two prior incarcerations = 1
Three or more prior incarcerations = 0

Item C_____ ☐
Age at first commitment (adult or juvenile) 18 years or older = 1
Otherwise = 0

Item D_____ ☐
Commitment offense did not involve auto theft = 1
Otherwise = 0

Item E_____ ☐
Never had parole revoked or been committed for a new offense while on parole = 1
Otherwise = 0

Item F_____ ☐
No history of heroin, cocaine, or barbiturate dependence = 1
Otherwise = 0

Item G_____ ☐
Has completed 12th grade or received GED = 1
Otherwise = 0

Item H_____ ☐
Verified employment (or full-time school attendance) for a total of at least 6 months during the last 2 years in the community = 1
Otherwise = 0

Item I_____ ☐
Release plan to live with spouse and/or children = 1
Otherwise = 0

Total score_____ ☐

§ 2.21 Reports considered.

Decisions as to whether a parole shall be granted or denied shall be determined on the basis of the application, if any, submitted by the prisoner, together with the classification study and all reports assembled by all the services which shall have been active in the development of the case. These reports may include the reports by the prosecution officers, reports by or for the sentencing court, records from the Federal Bureau of Investigation, reports from the officials in each institution in which the applicant shall have been confined, all records of social agency contacts, and all correspondence and such other records as are necessary or appropriate for complete presentation of the case. Before making a decision as to whether a parole should be granted or denied in any particular case, the Board will consider all available relevant and pertinent information concerning the case. The Board encourages the submission of such information by interested persons.

§ 2.22 Communication with the Board.

Attorneys, relatives, or interested parties wishing a personal interview to discuss a specific case with a representative of the Board of Parole must submit a written request to the appropriate regional office setting forth the nature of the information to be discussed. Such personal interview may be conducted by staff personnel in the regional offices. Personal interviews, however, shall not be held by an examiner or member of the Board, except under the Board's appeals procedures.

§ 2.23 Delegation to hearing examiners.

(a) There is hereby delegated to hearing examiners the authority to make decisions relative to the granting or denial of parole, or reparole and revocation or reinstatement of parole or mandatory release and to fix conditions of parole.

(b) Hearing examiners shall function as two-man panels and the concurrence of both examiners shall be required for their decision. In the event of a split decision by the panel, the appropriate regional Administrative Hearing Examiner shall cast the deciding vote.

(c) When a hearing examiner panel proposes to make a decision which falls outside of explicit guidelines for parole decision-making promulgated by the Board, the case shall be reviewed by the appropriate regional Administrative Hearing Examiner. When an Administrative Hearing Examiner does not concur in a decision of an examiner panel to set a parole effective date or continuance outside the Board's guidelines he may with the concurrence of the Regional Director modify the date to the nearest limit of the guidelines.

(d) In the event the Administrative Hearing Examiner is serving as a member of a hearing examiner panel or is otherwise unavailable, cases requiring his action under paragraphs (b) and (c) of this section will be referred to another hearing examiner.

§ 2.24 Review of panel decision by the Regional Director and the National Directors.

A Regional Director may review the decision of any examiner panel and refer this decision, prior to written notification to the prisoner, with his recommendation and vote to the National Directors for reconsideration and any action deemed appropriate. Written notice of this reconsideration action shall be mailed or transmitted to the prisoner within fifteen working days of the date of the hearing. The Regional Director and each National Director shall have one vote and decisions shall be based upon the concurrence of two votes.

§ 2.25 Appeal of hearing panel decision.

(a) A prisoner may file with the responsible Regional Director a written appeal of a decision of a hearing examiner panel or a decision under § 2.24 to grant, deny or revoke parole or to revoke mandatory release. This appeal must be filed on a form provided for that purpose within thirty days from the date of entry of such decision. The appeal shall be considered by the Regional Director who may affirm the decision, order a new institutional hearing, order a regional appellate hearing, reverse the decision, or modify a continuance or the effective date of parole. Reversal of a decision or the modification of such a decision by more than one hundred eighty days, whether based upon the record or following a regional appellate hearing, shall require the concurrence of two out of three Regional Directors. Appellate decisions requiring a second or additional vote shall be referred to other Regional Directors on a rotating basis as established by the Chairman.

(b) Regional appellate hearings shall be held at the regional office before the Regional Director. Attorneys, relatives and other interested parties who wish to appear must submit a written request to the Regional Director stating their relationship to the prisoner and the general nature of the information they wish to present. The Regional Director shall determine if the requested appearances will be permitted. The prisoner shall not appear personally.

(c) If no appeal is filed within thirty days of entry of the original decision, this decision shall stand as the final decision of the Board.

(d) Appeals under this section may be based only upon the following grounds:

(1) The reasons given for a denial or continuance do not support the decision; or

(2) There was significant information in existence but not known at the time of the hearing.

§ 2.26 Appeal to National Appellate Board.

(a) A prisoner may file a written appeal of the Regional Director's decision under § 2.25 to the National Appellate Board on a form provided for that purpose within thirty days after the entry of the Regional Director's written decision. The National Appellate Board may, upon the concurrence of two members, affirm, modify, or reverse the decision, or order a rehearing at the institutional or regional level.

(b) The bases for such appeal shall be the same as for a regional appeal as set forth in § 2.25(d). However, any matter not raised on a regional level appeal may not be raised on appeal to the National Appellate Board.

(c) Decisions of the National Appellate Board shall be final.

§ 2.27 Appeal of original jurisdiction cases.

(a) Cases decided under the procedure specified in § 2.17 may be appealed within thirty days of the entry of the decision to the National Appellate Board. The National Appellate Board, upon the concurrence of two members, may affirm the decision or schedule the case for a review by the entire Board at its next quarterly meeting. A quorum of five members shall be required and all decisions shall be by a majority vote. The Chairman shall vote on the decision only in the absence of a member. This appellate decision shall be final.

(b) If an appellate hearing is scheduled, attorneys, relatives, or other interested parties who wish to speak for or against parole at such hearing must submit a written request to the Chairman of the Board stating their relationship to the prisoner and the general nature of the material they wish to present. The Chairman shall determine if the requested appearances will be permitted.

(c) If no appeal is filed within thirty days of the entry of the Regional Director's decision, this decision shall stand as the final decision of the Board.

(d) The bases for this appeal shall be the same as for a regional appeal as set forth in § 2.25(d).

§ 2.28 Reopening of cases.

Notwithstanding the appeal procedure of § 2.25 and § 2.26, the appropriate Regional Director may on his own motion reopen a case at any time upon the receipt of new information of substantial significance and may then schedule an institutional hearing or take any other action authorized under the provisions of § 2.25. Original jurisdiction cases may be reopened under the procedure of this section on the motion of two out of three Regional Directors and may be scheduled for an institutional hearing or for review by the Regional Directors on the record.

§ 2.29 Withheld and forfeited good time.

(a) Section 4202 of title 18 of the United States Code permits Federal prisoners to be paroled if they have observed the rules of the institution in which they are confined and if they are otherwise eligible for parole. Any forfeiture of statutory good time shall be deemed to indicate that the prisoner has violated the rules of the institution to a serious degree, and a parole will not be granted in any such case in which such a forfeiture remains effective against the prisoner concerned. Any withholding of statutory good time shall be deemed to indicate that the prisoner has engaged in some less serious breach of the rules of the institution. Nevetheless, parole will not usually be granted unless and until such good time has been restored.

(b) Neither a forfeiture of good time nor a withholding of good time shall bar a prisoner from applying for and receiving a parole hearing.

(c) The above restrictions shall not apply, however, to the forfeiture or withholding of *extra good time* which is granted because of meritorious behavior. Parole may be ordered without regard to a prisoner's status insofar as *extra good time* is concerned, although the reasons for any forfeiture or withholding will be included among the other factors used in making the parole decision.

§ 2.30 Release; modification of release date.

(a) When an effective date has been set by the Board, release on that date shall be conditioned upon continued good conduct by the prisoner and the completion of a satisfactory plan for his supervision. The appropriate Regional Director may, on his own motion, reconsider any case prior to release and may reopen and advance or retard a parole date. If such previously granted parole date is retarded for more than sixty days because of institutional misconduct, the prisoner will be given a new hearing in accordance with § 2.12. The purpose of the hearing is to determine if the prisoner's parole grant should be rescinded or a new parole date established. Such hearings will be held on the next hearing docket at a Federal institution. If such a prisoner's misconduct occurred in a Federal Community Treatment Center or a state or local Halfway House, he shall be placed on the first hearing docket after return to a Federal institution.

(b) In any case of a prisoner who has been notified of parole and who has subsequently engaged in conduct in violation of the rules of his custody or confinement sufficient to become a matter of record, the Regional Director shall be advised promptly of such violation. The prisoner shall not be released until the institution has been advised that no change has been made in the Board's order to parole.

§ 2.31 False or withheld information.

All paroles are ordered on the assumption that information from the prisoner has not been fraudulently given or withheld from the Board. If evidence comes to the attention of the Board that a prisoner willfully concealed or misrepresented information deemed significant, the Board, acting under the procedures of § 2.17 may act to rescind or revoke the parole.

§ 2.32 Committed fines.

In any case in which a prisoner shall have had a fine imposed upon him by the committing court for which he is to stand committed until it is paid or until he is otherwise discharged according to law, such prisoner shall not be released on parole or mandatory release until payment of the fine, or until the fine commitment order is discharged according to law as follows:

(a) An indigent prisoner may make application to a U.S. Magistrate in the District wherein he is incarcerated or to the chief executive officer of the institution setting forth, under institutional regulations, his inability to pay such fine; if the magistrate or chief executive officer shall find that the prisoner, having no assets exceeding $20 in value except such as are by law exempt from being taken on execution for debt, is unable to pay the fine, and if the prisoner takes a prescribed oath of indigency, he shall be discharged from the commitment obligation of the committed fine sentence.

(b) If the prisoner is found to possess assets in excess of the exemption in paragraph (a) of this section nevertheless if the Board shall find that retention of all of such assets if reasonably necessary for his support or that of his family, upon taking of the prescribed oath concerning his assets the prisoner shall be discharged from the commitment obligation of the committed fine sentence. If the Board shall find that retention by the prisoner of any part of his assets is reasonably necessary for his support or that of his family, the prisoner upon taking of the prescribed oath concerning his assets, shall be discharged from the commitment obligation of the committed fine sentence upon payment on account on his fine of that portion of his assets in excess of the amount found to be reasonably necessary for his support or that of his family.

(c) Discharge from the commitment obligation of any committed fine sentence does not discharge the prisoner's obligation to pay the fine as a debt due the United States.

§ 2.33 Parole to detainers; statement of policy.

The policy of the Board with regard to parole to detainers is in general accord with the principles recommended by the Association of Administrators of the Interstate Compact for the Supervision of Parolees and Probationers:

(a) The status of detainers held against prisoners in Federal institutions will be investigated, so far as is reasonably possible, prior to parole hearings.

(b) In appropriate cases summary information regarding such prisoner will be provided to state or local authorities. The Board urges institution officials to provide such information.

(c) Where the detainer is not lifted, the Board may grant parole to such detainer if a prisoner is considered in other respects to be a good parole risk. Ordinarily, however, the Board will grant parole to such detainer only if the status of that detainer has been investigated.

(d) The Board will cooperate in working out arrangements for concurrent supervision with other jurisdictions where it is feasible and where release on parole appears to be justified.

(e) The presence of a detainer is not of itself a valid reason for the denial of parole. It is recognized that where the prisoner appears to be a good parole risk, there may be distinct advantage in granting parole despite a detainer.

§ 2.34 Parole to local or immigration detainers.

(a) When a state or local detainer is outstanding against a prisoner whom

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the Board wishes to parole, the Board may order either of the following:

(1) "Parole to the actual physical custody of the detaining authorities only." In this event, release is not to be effected except to the detainer. When such a detainer is withdrawn, the prisoner is not to be released unless and until the Board makes a new order of parole.

(2) "Parole to the actual physical custody of the detaining authorities or an approved plan." In this event, release is to be effected even though the detainer might be withdrawn, providing there is an acceptable plan for community supervision.

(b) When the Board wishes to parole a prisoner subject to a detainer filed by Federal immigration officials, the Board may order one of the following:

(1) "Parole for deportation only." In this event, release is not to be effected unless immigration officials make full arrangements for deportation immediately upon release.

(2) "Parole to the actual physical custody of the immigration authorities only." In this event, release is not to be effected unless immigration officials take the prisoner into custody—regardless of whether or not deportation follows.

(3) "Parole to the actual physical custody of the immigration authorities or an approved plan." In this event, release is to be effected regardless of whether or not immigration officials take the prisoner into custody, providing there is an acceptable plan for community supervision.

(c) As used in this section "parole to a detainer" means release to the "physical custody" of the authorities who have lodged the detainer. Temporary detention in a jail in the county where the institution of confinement is located does not constitute release on parole. If the authorities who lodged the detainer do not take the prisoner into custody for any reason, he shall be returned to the institution to await further order from the Board.

§ 2.35 Mental competency proceedings.

(a) Whenever a prisoner or parolee is scheduled for a hearing in accordance with the provisions of this part and reasonable doubt exists as to his mental competency, i.e., his ability to understand the nature of and participate in scheduled proceedings, a preliminary hearing to determine his mental competency shall be conducted by a panel of hearing examiners or other official(s) (including a U.S. Probation Officer) designated by the Board of Parole.

(b) At the competency hearing, the hearing examiners or designated official(s) shall receive oral or written psychiatric testimony and other evidence that may be available. A preliminary determination of the prisoner's mental competency shall be made upon the testimony, evidence, and personal observations of the prisoner. If the examiner panel or designated official(s) determines that the prisoner is mentally competent, the previously scheduled hearing shall be held. If they determine that the prisoner is not mentally competent, the previously scheduled hearing shall be temporarily postponed.

(c) Whenever the hearing examiners or designated official(s) determine that a person is incompetent and postpone the previously scheduled hearing, they shall forward the record of the preliminary hearing with their findings to the Regional Director for review. If the Regional Director concurs with their findings, he shall order the temporarily postponed hearing to be postponed indefinitely until such time as it is determined that the prisoner or parolee has recovered sufficiently to understand the nature of and participate in the proceedings and, in the case of a parolee, may order such parolee committed to a Bureau of Prison's facility for further examination. In any such case, the Regional Director shall require a progress report at least every six months on the mental health of the prisoner. When the Regional Director determines that the prisoner has recovered sufficiently, he shall reschedule the hearing for the earliest possible date.

(d) If the Regional Director disagrees with the findings of the hearing examiners or designated official(s) as to the mental competency of the prisoner, he shall take such action as he deems appropriate.

§ 2.36 Release plans.

(a) A grant of parole is conditioned upon the approval of release plans by the Regional Director. In general, the following factors should be present before a prisoner is released after parole has been granted:

(1) The probation officer to whom the releasee is assigned may, in his discretion, require that there be available to the releasee an adviser who is a responsible, reputable, and law-abiding citizen living in or near the community in which the releasee will reside. The adviser should act as a source of advice for the releasee relative to community adjustment. The adviser may provide special services such as vocational placement, personal counsel, or referral to community agencies. The adviser is expected to report to the probation officer any law violation or serious misconduct on the part of the releasee. The adviser may be required by the probation officer to countersign the parolee's monthly supervision report to indicate actual contact with the parolee.

(2) There should be satisfactory evidence that the prospective parolee will be legitimately employed following his release; and

(3) There should be satisfactory assurance that necessary aftercare will be available to a parolee who is ill or who has some other problem which requires special care.

(b) Generally, parolees will be released only to the place of their legal residence unless the Board is satisfied that another place of residence will serve the public interest more effectively or will improve the probabilities of the applicant's readjustment.

(c) Insofar as it is practicable, the details of each plan for release shall be verified by a field investigation by the United States Probation Officer of the District into which release will be made.

(d) Any of the requirements described in this section may be waived by the Regional Director whenever circumstances warrant.

§ 2.37 Release on parole; statement of policy.

Parole release dates generally will not be set more than six months from the date of the parole hearing. Exceptions may be made in extraordinary situations or when necessary to permit an adequate period of residence in a Community Treatment Center. Such residence in a Community Treatment Center shall not generally exceed one hundred twenty days. An effective date of parole shall not be set for a Saturday, Sunday or a legal holiday. A parole grant may be retarded by the Regional Director for up to one hundred twenty days without a hearing for development and approval of release plans.

§ 2.38 Sponsorship of parolees; statement of policy.

It is the policy of the Youth Corrections Division to cooperate with groups desiring to serve as sponsors of parolees. In all cases, sponsors shall serve under the direction of and in cooperation with the probation officers to whom the parolees are assigned.

§ 2.39 Mandatory release in the absence of parole.

A prisoner shall be mandatorily released by operation of law at the end of the sentence imposed by the court less such good time deductions and extra good time deductions as he may have earned through his behavior and efforts at the institution of confinement. He shall be released as if on parole, under supervision until the expiration of the maximum term or terms for which he was sentenced less one hundred eighty days. Insofar as possible, release plans shall be completed before the release of any such prisoner.

§ 2.40 Same; youth offenders.

A prisoner committed under the Youth Corrections Act must be initially released conditionally under supervision not later than two years before the expiration of the term imposed by the court.

§ 2.41 Reports to police departments of names of parolees; statement of policy.

Names of parolees under supervision will not routinely be furnished to a police department of a community, except as required by law. All such notifications are to be regarded as confidential.

§ 2.42 Community supervision by United States Probation Officers.

(a) Pursuant to section 3655 of title 18 of the United States Code, United States Probation Officers are required to provide such parole services as the Attorney General may request. The Attorney General has delegated his authority in this

regard to the Board (28 CFR 0.126[b]). In conformity with the foregoing, probation officers function as parole officers and provide supervision to parolees and mandatory releasees under the Board's jurisdiction.

(b) A parolee or mandatory releasee may be transferred to a new district of supervision with the permission of the probation officers of both the transferring and receiving district, provided such transfer is not contrary to instructions from the Board.

§ 2.43 Duration of period of community supervision.

(a) Any prisoner, with the exception of those sentenced prior to June 29, 1932, who is released under the provisions of laws relating to parole, shall continue until the expiration of the maximum term or terms specified in his sentence without deductions of allowance for good time. Prisoners sentenced prior to June 29, 1932, shall receive reductions in their maximum term or terms of imprisonment for such good time allowances as may be authorized by law.

(b) The Regional Director may discharge from supervision prior to the normal expiration date as provided in § 2.46(b), but the sentence is not thus commuted and such a parolee may be reinstated to supervision or retaken on the basis of a violator warrant.

(c) For certain narcotic offenses a prisoner will have a "special parole term" imposed by the court at the time of sentencing. The period of supervision under the basic sentence is served separately and must be completed prior to the beginning of any "special parole term." The "special parole term" will not be aggregated with the basic sentence for any purpose, including computation of time to serve following parole revocation, if any.

§ 2.44 Conditions of release.

The conditions of release are printed on the release certificate and are binding regardless of whether the releasee signs the certificate. The Board, or a member thereof, may add special conditions or modify the conditions of release at any time.

§ 2.45 Travel by parolees and mandatory releasees.

(a) The probation officer may approve travel outside the district without approval of the Regional Director in the following situations:

(1) Vacation trips not to exceed thirty days,

(2) Trips, not to exceed thirty days, to investigate reasonably certain employment possibilities,

(3) Recurring travel across a district boundary, not to exceed fifty miles outside the district, for purposes of employment, shopping, or recreation.

(b) Specific advance approval by the Regional Director is required for other travel, including travel outside the continental limits of the United States, employment more than fifty miles outside the district, and vacations exceeding thirty days. A special condition imposed by the Regional Director prohibiting certain travel shall supersede any general rules relating to travel as set forth above.

§ 2.46 Supervision reports, modification and discharge from supervision.

(a) All parolees and mandatory releasees shall make such reports to the United States Probation Officers to whom they have been assigned as may be required by the Board or Probation Officers. Probation Officers shall submit summary reviews of the progress of parolees and mandatory releasees according to Board policy. On the basis of summary reviews of the progress of parolees, the Regional Director may modify the reporting requirement of parolees or releasees.

(b) After the parolee or mandatory releasee has been under supervision for at least one year, the Regional Director may, in his discretion, permit the parolee to submit a written report to his probation officer on a less frequent basis than once a month. After a period of such reduced reporting the Regional Director may further order that the parolee be discharged from all supervision by the Probation Officer. In the latter instances, a parolee may be reinstated to supervision or a warrant may be issued for him as a violator at any time prior to the expiration of the sentence or sentences imposed by the court. Other modification in the reporting requirements may be made by the Regional Director at any time during the parolee's term.

§ 2.47 Modification and discharge from supervision; youth offenders.

A committed youth offender may remain under supervision until the expiration of his sentence or he may be released from supervision or unconditionally discharged at any time after one year of continuous supervision on parole.

§ 2.48 Setting aside conviction.

When an unconditional discharge has been granted to a youth offender prior to the expiration of his maximum term of sentence, his conviction shall be automatically set aside and the Regional Director shall issue to the youth offender a certificate to that effect.

§ 2.49 Revocation of parole or mandatory release.

(a) If a parolee or mandatory releasee violates any of the conditions of his release, and satisfactory evidence thereof is presented to the Board, or a member thereof, a warrant may be issued and the offender returned to an institution. Warrants shall be issued or withdrawn only by the Board, or a member thereof.

(b) A warrant for the apprehension of any parolee shall be issued only within the maximum term or terms for which the prisoner was sentenced.

(c) A warrant for the apprehension of any mandatory releasee shall be issued only within the maximum term or terms for which the prisoner was sentenced, less one hundred eighty days.

§ 2.50 Same, youth offenders.

In addition to issuance of a warrant on the basis of violation of any of the conditions of release, the responsible Regional Director may, when he is of the opinion that such youth offender would benefit by further treatement direct his return to custody or issue a warrant for his apprehension and return to custody. Upon his return to custody, such youth offender shall be given a revocation hearing under the same provisions as adult offenders as specified in § 2.54 to § 2.56. Following the revocation hearing parole may be reinstated, revoked or the terms and conditions thereof may be modified.

§ 2.51 Unexpired term of imprisonment.

The time a prisoner was on parole or mandatory release is not credited to the service of his sentence if revocation occurs. When a warrant is issued the sentence ceases to run, but begins to run again when the releasee is taken into Federal custody by the execution of the Board's violation warrant. However, the sentences of prisoners committed under the Narcotic Addict Rehabilitation Act or the Youth Corrections Act run uninterruptedly from the date of conviction without regard to any revocation, except as provided in § 2.10(c). In no case may the commitment of a person under the Federal Juvenile Delinquency Act extend past his twenty-first birthday.

§ 2.52 Execution of warrant; notice of alleged violations.

(a) Any officer of any Federal correctional institution, or any Federal officer authorized to serve criminal process within the United States, to whom a warrant shall be delivered shall execute such warrant by taking such prisoner and returning him to the custody of the Attorney General. The warrant shall be considered delivered to a Federal officer when the warrant is signed and placed in the mail at the Board headquarters or regional office before the expiration of the maximum term of sentence.

(b) On arrest of the prisoner the officer executing the warrant shall deliver to him a copy of the Warrant Application listing the alleged violations of parole or mandatory release upon which the warrant was issued.

(c) If execution of the warrant is delayed pending disposition of local charges, for further investigation, or for some other purpose, the parolee or mandatory releasee is to be continued under supervision by the probation officer until the normal expiration of the sentence, or until the warrant is executed, whichever comes first. Monthly supervision reports are to be submitted, and the releasee must continue to abide by all the conditions of release.

§ 2.53 Warrant placed as a detainer and dispositional interview.

(a) In those instances where the prisoner is serving a new sentence in an institution, the warrant may be placed there as a detainer. Such prisoner shall

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be advised that he may communicate with the Board relative to disposition of the warrant, and may request that it be withdrawn or executed so his violator term will run concurrently with the new sentence. Should further information be deemed necessary, the Regional Director may designate a hearing examiner panel to conduct a dispositional interview at the institution where the prisoner is confined. At such dispositional interview the prisoner may be represented by counsel of his own choice and may call witnesses in his own behalf, provided he bears their expenses. He shall be given timely notice of the dispositional interview and its procedure.

(b) Following the dispositional review the Regional Director may:

(1) Let the detainer stand

(2) Withdraw the detainer and close the case if the expiration date has passed;

(3) Withdraw the detainer and reinstate to supervision; thus permitting the federal sentence time to run uninterruptedly from the time of his original release on parole or mandatory release.

(4) Execute warrant, thus permitting the sentence to run from that point in time. If the warrant is executed, a previously conducted dispositional interview may be construed as a revocation hearing.

(c) In all cases, including those where a dispositional interview is not conducted, the Board shall conduct annual reviews relative to the disposition of the warrant. These decisions will be made by the Regional Director. The Board shall request periodic reports from institution officials for its consideration.

§ 2.54 Revocation by the Board, preliminary interview.

(a) A prisoner who is retaken on a warrant issued by a Board Member shall be given a preliminary interview by an official designated by the Regional Director to determine if there is probable cause to hold the prisoner for a revocation hearing and, if so, whether such revocation hearing should be conducted in the locality of the charged violation(s) or in a Federal institution. The official designated to conduct the preliminary interview may be a United States Probation Officer in the district where the prisoner is confined, provided he is not the officer who recommended that the warrant be issued.

(b) At the beginning of the preliminary interview, the hearing officer shall explain the Board's revocation procedure to the prisoner and shall advise the prisoner that he may have the preliminary interview postponed so that he may obtain representation by an attorney or may arrange for the attendance of witnesses. The prisoner shall also be advised that if he cannot afford to retain an attorney he may apply to a United States District Court for appointment of counsel to represent him at the preliminary interview and the revocation hearing. The prisoner may also request the presence of persons who have given information upon which revocation may be based. Such adverse witnesses shall be requested to attend the preliminary interview unless the prisoner admits a violation or has been convicted of a new offense committed while on supervision or unless the hearing officer finds good cause for their non-attendance. At the preliminary interview the hearing officer shall review the violation charges with the prisoner, receive the statements of witnesses and documentary evidence on behalf of the prisoner, and allow cross-examination of those adverse witnesses in attendance.

(c) At the conclusion of the preliminary interview, the hearing officer shall prepare and submit to the Regional Director a summary of the interview, which shall include recommended findings of whether there is probable cause to hold the prisoner for a revocation hearing. Upon receipt of the summary of the preliminary interview, the Regional Director shall either order the prisoner reinstated to supervision, order that a revocation hearing be conducted in the locality of the charged violation(s), or direct that the prisoner be transferred to a Federal institution for a revocation hearing.

(d) The prisoner shall be retained in local custody pending completion of the preliminary interview, submission of the summary of the hearing officer, and notification by the Regional Director relative to further action.

(e) A postponed preliminary interview may be conducted as a local revocation hearing, by an examiner panel or other hearing officer designated by the Regional Director provided that the prisoner has been advised that the postponed preliminary interview will constitute his final revocation hearing.

§ 2.55 Local revocation hearing.

(a) If the prisoner requests a local revocation hearing prior to his return to a Federal institution, he shall be given a revocation hearing reasonably near the place of an alleged violation if the following conditions are met:

(1) The local hearing would facilitate the production of witnesses or the retention of counsel;

(2) The prisoner has not been convicted of a crime committed while under supervision; and

(3) The prisoner denies that he has violated any condition of his release. Otherwise, he shall be given a revocation hearing after he is returned to a Federal institution. However, the Regional Director may, on his own motion, designate a case for a local revocation hearing.

(b) If there are two or more alleged violations, the hearing shall be conducted near the place of the violation chiefly relied upon as a basis for the issuance of the warrant, as determined by the Regional Director.

(c) Following the hearing the prisoner shall be retained in custody until final action is taken relative to revocation or reinstatement, or until other instructions are issued by the Regional Director.

§ 2.56 Revocation hearing procedure.

(a) A revocation hearing shall be conducted by a hearing examiner panel or, in a local revocation hearing only, by another official designated by the Regional Director. In the latter case, the decision relative to revocation shall be made by an examiner panel on the basis of the hearing summary pursuant to the provisions of § 2.23. A revocation decision may be appealed under the provisions of § 2.25, § 2.26, or § 2.27 as applicable.

(b) The purpose of the revocation hearing shall be to determine whether the prisoner has violated the conditions of his release and, if so, whether his parole or mandatory release should be revoked or reinstated.

(c) The alleged violator may present voluntary witnesses and documentary evidence in his behalf. However, the presiding hearing officer or examiner panel may limit or exclude any irrelevant or repetitious statement or documentary evidence.

(d) If the alleged violator has not been convicted of a new criminal offense while under supervision and does not admit violation of any of the conditions of his release, the Board shall, on the request of the alleged violator or on its own motion, request the attendance of persons who have given statements upon which revocations may be based. Those adverse witnesses who are present shall be made available for questioning and cross-examination in the presence of the alleged violator unless the presiding hearing officer or examiner panel finds good cause for their non-attendance.

(e) All evidence upon which the finding of violation may be based shall be disclosed to the alleged violator at the revocation hearing. The hearing officer or examiner panel may disclose documentary evidence by reading or summarizing the appropriate document for the alleged violator.

§ 2.57 Confidentiality of parole records.

To the end that the objectives and procedures of professionalized parole may be advanced and, more specifically so that the channels of information vital to sound parole actions may be kept open and that offenders released on parole may be protected against publicity deleterious to their adjustment, the following principles relating to the confidentiality of parole records shall be followed by the Board:

(a) Dates of sentence and commitment, parole eligibility dates, mandatory release dates, dates of termination of sentence and whether an inmate is being considered for parole, has been granted or denied parole, and if granted parole, the effective date set by the Board will be disclosed in individual cases upon proper inquiry by a party in interest.

(b) Who, if any one, has supported or opposed an application for parole may be revealed at the Board's discretion only in the most exceptional circumstances, with the express approval of such person(s) and after a decision relative to parole has been made.

(c) Other matters contained in parole records, including how a member votes

relative to parole, will be held strictly confidential and will not be disclosed to unauthorized persons.

[FR Doc.74-30096 Filed 12-30-74;8:45 am]

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1601—PROCEDURAL REGULATIONS

Deferral of Employment Discrimination Charges

By virtue of the authority vested in it by section 713(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-12(a), 78 Stat. 265, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) hereby amends Title 29, Chapter XIV, Part 1601 of the Code of Federal Regulations.

The amendments set forth changes necessary to implement section 706 of the Act, which requires the deferral of charges of employment discrimination to appropriate State or local authorities (706(c)) and the according by the Commission of "substantial weight" to final findings and orders made by State and local authorities (706(b)).

Before a State or local authority can be designated a "706 Agency" (as that term is employed in § 1601.12(d)), it must comply with the procedures outlined and meet the criteria established by the Commission as enunciated in § 1601.12 (e) and (f). Those prospective "706 Agencies" which have not as yet been "designated" are categorized by the Commission as "provisional 706 agencies" (§ 1601.12(d)(1)). The Commission defers charges to "provisional 706 agencies" but does not accord "substantial weight" to their findings. In the case of "provisional notice agencies" (§ 1601.12 (d)(2)), the Commission merely notifies said agencies of the receipt of charges filed within their jurisdiction.

These categories, when originally contemplated, were to remain in effect only until July 1, 1973, by which time it was hoped that those State and local agencies desirous of becoming 706 agencies would have met the necessary criteria and been so designated. The original time period and subsequent extensions since July 1, 1973, have not proven sufficient to satisfy the substantive and procedural prerequisites to designation. Therefore, the time period during which State and local agencies may function as "provisional 706 agencies" has been extended until March 1, 1975. The time period, however, during which State and local agencies may function as "provisional notice agencies" has not been extended.

1. Section 1601.12(d)(1) and (d)(2) is amended to read as follows:

§ 1601.12 Referrals to State and local authorities.

* * * * * * *

(d) * * *

(1) *Provisional 706 agencies.* Until March 1, 1975, the Commission will defer charges alleging employment discrimination on the grounds of race, color, religion, sex or national origin against covered public or private employers, unless otherwise indicated by public notice, arising in the jurisdiction of provisional 706 agencies. Agencies may be added as provisional 706 agencies by subsequent public notices issued by the Commission.

(2) *Provisional notice agencies.* Effective December 31, 1974, the jurisdictions of provisional notice agencies will expire.

* * * * * * *

(Sec. 713(a), 78 Stat. 265, (42 U.S.C.); section 2000e-12(a))

This amendment is effective December 27, 1974.

Signed at Washington, D.C., this 27th day of December 1974.

JOHN H. POWELL, JR.,
Chairman.

[FR Doc.74-30526 Filed 12-30-74;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Independent Study Programs; Contracting Out of Training

On page 39058 of the FEDERAL REGISTER of November 5, 1974, there was published a notice of proposed regulatory development to amend §§ 21.201, 21.4233, 21.4270 and 21.4280 to clarify existing rules for approval of benefits for students in independent study programs and for approval of courses wherein all or part of the training is provided by another institution or entity under a contract. In addition minor editorial changes have been made to reflect agency policy of using precise terms denoting gender. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

Approximately 409 comments were received. Some of these were received after the expiration of the 30-day period for comments, but because of the volume of comments no attempt is made to determine which were properly received during the appropriate period.

Three hundred comments were from veterans and other interested persons who sought a delay in the implementation of the regulatory changes as they relate to independent study. The writers state, mostly by TWX or telegram, that their educational effort and future will be impaired by the changes. However, it appears that these comments are from students who have already entered into training agreements which were valid when signed. Under the provisions for implementation of the changes on the date of approval of the changes, agreements such as these which are already in force will not be affected so long as the student remains in training. Therefore these persons who seek a delay do not require it since they should not be adversely affected by the changes.

One comment expresses general concern regarding education benefits, but is not specifically directed at one of the proposed changes.

One comment believes the Veterans Administration is discouraging nontraditional training. It also erroneously discusses the Veterans Representative on Campus program which is unaffected by these changes.

Although no changes are made in § 21.4233(c), one comment states the need for a change as to measurement of courses utilizing televised training. This comment is not appropriate inasmuch as these changes do not deal with that issue, but it will be considered if changes are determined to be needed.

One comment deals with the impact of the changes on associate degree programs. No person presently enrolled in such a course shall be affected except as to courses yet to be enrolled in.

One comment erroneously assumes that the changes will abolish external degree programs. Such is not the intent of the amendments.

Two comments from servicemen assume the external degree program will no longer be available. The training should be available as indicated by the amended regulations.

One letter confuses the changes in independent study with correspondence training. Service personnel may continue to receive training exclusively by correspondence without change. External degree programs or independent study programs while conducted by mail, in part, are not correspondence courses. The measurement and payment of benefits is entirely different.

One comment asks if vocational training via independent study is barred. It is and has always been so that these changes do not alter that situation.

One comment merely requests copies of the regulations being changed. As soon as they have become final copies will be disseminated by the various VA Regional Offices to institutions and other interested persons.

No extension of the comment period is necessary as requested by one comment received.

Twenty-two comments deal with various aspects of a reduction in benefits. These comments are apparently from persons currently enrolled in independent study programs which may be affected by the measurement of courses changes in these amendments. However, the writers apparently did not understand that all students currently enrolled will be allowed to continue under existing regulations so long as they remain enrolled in the independent study program. No reduction in the measurement of courses effected by these changes should affect them.

The balance of the comments received deal with questions of philosophy and policy raised for the most part by institutions affected by the changes. Of these four deal primarily with concern over the requirement that courses of in-

dependent study be offered by schools accredited by one of the six regional accrediting agencies. The writers feel this is unfair to other qualified institutions.

The intent of these changes is not to pass upon the qualifications of schools since that is a function of the respective State approving agencies as a matter of law. The regulations previously in effect required that an independent study program could be approved by the State approving agency if given by an accredited college or university. The amendment is to specifically state the appropriate national accrediting agencies that accredit institutions.

Twenty-eight of these comments also state that the changes will prevent or restrict eligible veterans from enrollment in independent study programs, will restrict the payment of benefits and, in effect, will invade the prerogatives of the institutions in selecting curriculum. Some decry the loss of funding to such programs which will result.

Section 1788, title 38, United States Code prescribes for the measurement of the course. Full-time benefits are authorized only when attendance plus outside preparation requires essentially the full time of the student. The law provides lesser rates when training is not on a full-time basis and in the case of correspondence training the rate of payment is 90 percent of the cost of the course. The law prohibits payment if the course is given by open circuit television unless a major portion of the course requires conventional classroom or laboratory attendance. The law authorizes the Administrator to prescribe the measurement for courses not specifically covered in the law. These changes in Veterans Administration regulations are intended to bring the payment for independent study courses more nearly in line with benefits paid as specifically stated in the law. There were no letters which presented convincing evidence that independent study students attend at greater than half time rates.

Forty-four comments from both students and institutions state that the changes unduly restrict the freedom of the student to choose nontraditional training. However, no such restriction exists. Correspondence training for which the student receives 90 percent of the cost of the course is available as an acceptable alternative. The individual is not barred from independent study programs. He or she may still take them and be paid appropriate benefits. The Veterans Administration does not have the right to control the credit assigned or the charges made by a school for such training. If the school certifies credit and charges acceptable to the State approving agencies payment of benefits is made accordingly.

One comment was received from a serviceman who had been solicited by a state external degree program director to comment adversely on these changes. Instead the serviceman disagrees and states that he believes the particular external degree program is not educationally sound but designed to aid financially depressed schools.

Therefore, the proposed regulations are hereby adopted without change and are set forth below.

Effective date. Sections 21.201 (j) and (k), 21.4233 Introduction and (e), 21.4270 (c) and (d) and 21.4280 are effective December 24, 1974.

Approved: December 24, 1974.

By direction of the Administrator.

[SEAL] ODELL W. VAUGHN,
Deputy Administrator.

1. In § 21.201, paragraphs (i) (4) (ii)[1] and (j) are revised and paragraph (k) is added so that the revised and added material reads as follows:

§ 21.201 Types of courses.

* * * * *

(i) *Institutional on-farm course.* * * *

(4) Where the course is designed to train the veteran to manage a farm as the employee of another, the plan for training developed by the Veterans Administration in collaboration with the instructor will satisfy the following requirements: * * *

(ii) The employer-trainer shall have agreed to employ the veteran as manager of the farm on which he or she is being trained if his or her conduct and progress remain satisfactory, or there shall be definite assurance that the veteran will be employed as manager of a specified comparable farm.

* * * * *

(j) *Independent study course leading to a degree.* A course pursued by independent study under the following conditions:

(1) The course is offered by a college or university which is fully accredited by one of the six regional accrediting agencies.

(2) The course leads to or is fully creditable toward a standard college degree which may include external degree programs given by accredited colleges and universities.

(3) The course consists of a prescribed program of study with provision for interaction either by mail, telephone, personally or by class attendance between student and the regularly employed faculty of the university or college.

(4) The college or university evaluates the course in semester or quarter hours, or the equivalent, and prescribes a period for completion.

(5) Subsistence allowance is payable at the institutional rates prescribed in § 21.133. Measurement of the course will be in accordance with provision of § 21.4270, footnote 7, except that seriously disabled veterans whose disability or circumstances preclude regular attendance at an institution of higher learning and for whom an independent study course is a sound method of restoring employability may be paid for such training even though the major portion of the course is not in a classroom or laboratory, if the Veterans Administration determines that the student is pursuing the course at a rate equivalent to one-half time or greater in accordance with school criteria for determining full- and part-time training. If independent study subjects and subjects requiring class attendance are pursued concurrently and both are measured on a credit hour basis, the allowable rate shall be determined on the basis of the combined training load.

(k) *Contract.* All or part of the program of education of a school may be furnished by another school or entity under a contract. The school or entity actually providing the training must be approved by the Veterans Administration. Measurement of the course and payment of an allowance will be appropriate for the course as offered by the school or entity actually providing the training.

2. In § 21.202, paragraph (b) (1), (2) and (3) (i) and (ii) is revised to read as follows:

§ 21.202 Full-time vocational rehabilitation training.

* * * * *

(b) Full-time training for a disabled veteran who is determined by appropriate medical authority to have less than a normal work tolerance will be that amount which his or her work tolerance will permit. A veteran with a reduced work tolerance will be provided training when:

(1) His or her vocational rehabilitation is medically feasible; and

(2) His or her program can be planned for completion within his or her statutory limits or there is a plan which offers reasonable assurance of the program being completed by some other agency or responsible individual; and

(3) The amount of time which can be devoted to training by a veteran with a permanent reduced work tolerance is as great as his or her disability will permit; or the veteran has a temporary reduced work tolerance and there is reasonable promise that during training his or her work tolerance will increase. In each case of temporary reduced work tolerance the following are for application:

(i) The veteran will not be entered into training until it is determined that he or she is able to devote to his or her training at least 4 hours a day, exclusive of any time required to travel to and from his or her place of training.

(ii) At the end of each 90-day period proper medical authority will determine the maximum amount of time the veteran can devote to his or her training and his or her individual training program will be developed accordingly.

* * * * *

3. In § 21.4230, paragraph (e) is revised to read as follows:

§ 21.4230 Requirements.

* * * * *

(e) *Selection; chapter 35; wife, husband, widow, widower.* A program of educational assistance under chapter 35

[1] NOTE: In a previous revision to 38 CFR 21.201(i) subparagraphs (1)–(4) were inadvertently omitted. These subparagraphs are being reinstated in a correcting document which appears elsewhere in this issue.

selected by an eligible wife, husband, widow or widower will be approved if it meets the requirements of paragraphs (a) or (b) of this section and the individual is not already qualified for the objective for which the program of education is offered.

4. In § 21.4232, paragraph (a) is revised to read as follows:

§ 21.4232 Specialized vocational training; 38 U.S.C. ch. 35.

(a) A program consisting of a specialized course of vocational training may be provided to an eligible person who is not in need of special restorative training and who requires such a program because of a mental or physical handicap. (38 U.S.C. 1736) The Vocational Rehabilitation Board will determine whether such a course is in the best interest of the eligible person. If the determination is in the affirmative the board will assist in developing the program and a suitable educational plan. If it is determined that such a program is not in the best interest of the eligible person the application for the program will be denied. Specialized vocational training may be authorized for an eligible child only if the child has passed his or her 14th birthday.

* * * * *

5. In § 21.4233, the introductory portion preceding paragraph (a), the introductory portion of paragraph (b) preceding subparagraph (1), and paragraph (c)(1) are revised and paragraph (e) is added so that the revised and added material reads as follows:

§ 21.4233 Combination.

An approved program may consist of a combination of courses with instruction offered by a school alternating with instruction in a business or industrial establishment (a cooperative course); courses offered by two schools concurrently; or courses offered through class attendance and by television concurrently. A farm cooperative program may be approved, for chapter 34 purposes only, which consists of a combination of institutional agricultural courses and concurrent agricultural employment (see § 21.4264). A school may contract the actual training to another school or entity, provided the course is approved by the State approving agency having approval jurisdiction of the school or entity which actually provides the training.

* * * * *

(b) *Concurrent enrollment.* Where a veteran or eligible person cannot successfully schedule his or her complete program at one school, a program of concurrent enrollment may be approved. When requesting such a program the veteran or eligible person must show that his or her complete program of education or training is not available at the school in which he or she will pursue the major portion of his or her program (the primary school), or that it cannot be scheduled successfully within the period in which he or she plans to complete his or her program.

* * * * *

(c) *Television.*—(1) *Open circuit telecast.* An undergraduate program may be pursued in part by open circuit telecast when:

(i) The veteran or eligible person is enrolled as a resident student in a program leading to a standard college degree.

(ii) The subjects taken by television are integral parts of his or her degree program.

(iii) A major portion of the credit hours for which the veteran or eligible person is enrolled during any semester or quarter is offered through conventional classroom and/or laboratory sessions. In no instance may a veteran or eligible person include in his or her program during any one semester or quarter more than 6 credit hours of open circuit telecast instruction for the purpose of computing the rate of educational assistance allowance. Under these circumstances, a veteran or eligible person may pursue 8 or more credit hours during any one term through regular classroom and/or laboratory instruction and 6 credit hours by open circuit telecast for a full-time resident training load.

* * * * *

(e) *Contract.* All or part of the program of education of a school may be furnished by another school or entity under contract. Such school or entity actually providing the training must obtain approval of the course from the State approving agency in the State having jurisdiction of that school or entity. Measurement of the course and payment of an allowance will be appropriate for the course as offered by the school or entity actually providing the training.

6. In § 21.4234, the introductory portion preceding paragraph (a) and paragraph (b) are revised to read as follows:

§ 21.4234 Change of program.

A request for a change of program may be made by a veteran or eligible person by any form of communication, however, if sufficient information is not furnished to process the request, the prescribed form for a change of program may be furnished him or her for completion. An eligible child needs the concurrence of his or her parent or guardian and appropriate counseling by the Veterans Administration before a change of program is approved. More than two changes of program may be approved if it is found that such additional changes are necessitated by circumstances beyond the control of the veteran or eligible person. (38 U.S.C. 1791)

* * * * *

(b) *Chapter 34.* The veteran may make one optional change of program if his or her previous course was not interrupted or discontinued due to his or her own misconduct, neglect or lack of application. The veteran may make a second change or an initial change after interruption or discontinuance due to his or her own misconduct, neglect or lack of application if it is found that:

(1) The program of education which the veteran proposes to pursue is suitable to his or her aptitudes, interests, and abilities, and

(2) In any instance where the veteran has interrupted, or failed to progress in, his or her program due to his or her own misconduct, neglect or lack of application, there exists a reasonable likelihood with respect to the program which the veteran proposes to pursue that there will not be a recurrence of such an interruption or failure to progress. (38 U.S.C. 1791)

* * * * *

§ 21.4270 [Amended]

7. In § 21.4270 *Measurement of courses*, a new footnote 7 is added to the table therein. It should read as follows:

[7] Independent study programs will be measured as less than ½ time unless a major portion of the credit hours are by classroom/laboratory attendance. (§ 21.4280.)

References to this footnote are added to paragraphs (c) and (d) following the last word in the entries under the column headed "Kind of course".

8. In § 21.4271, paragraph (c) is revised to read as follows:

§ 21.4271 Trade or technical; high schools.

* * * * *

(c) *High schools.* Courses offered at the secondary school level which lead to a high school diploma or the equivalent will be measured on the basis of clock hours of instruction per week, or on the number of units required per year. Enrollment in courses at a secondary school level leading to a high school diploma or the equivalent will not be approved for eligible children under chapter 35. Eligible wives, husbands, widows and widowers under chapter 35 may pursue such courses under the Special Assistance for the Educationally Disadvantaged program.

9. In § 21.4279, paragraph (a) (2) is revised to read as follows:

§ 21.4279 Combination correspondence-residence program.

(a) A program of education may be pursued partly in residence and partly by correspondence for the attainment of a predetermined and identified objective under the following conditions: * * *

(2) It is the practice of the institution to permit a student to pursue a part of his or her course by correspondence in partial fulfillment of the requirements for the attainment of the specified objective.

* * * * *

10. Section 21.4280 is revised to read as follows:

§ 21.4280 Independent study leading to a standard college degree.

(a) An eligible veteran or person may receive an educational assistance allow-

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ance for pursuit of an independent study course under the following conditions:

(1) The course is offered by a college or university which is fully accredited by one of the six regional accrediting agencies;

(2) The course leads to or is fully creditable toward a standard college degree which may include external degree programs given by accredited colleges and universities;

(3) The course consists of a prescribed program of study with provision for interaction either by mail, telephone, personally or by class attendance between student and the regularly employed faculty of the university or college; and

(4) The course is approved by the State approving agency.

(b) The independent study program shall be measured as follows:

(1) If the college or university evaluates the course in semester or quarter-hours of credit and prescribes a period for completion, the course shall be measured in credit hours under § 21.4270 (c) or (d) with equivalency computed under § 21.4272(d) as appropriate, provided a major portion of the credit-hours for which the veteran or eligible person is enrolled during any term is offered through conventional classroom and/or laboratory sessions; or

(2) If the college or university does not evaluate the independent study program in standard semester or quarter-hours or the equivalent, or if one half or a greater portion of the credit-hours are independent study, the independent study program shall be measured as less than ½-time training.

(c) An eligible veteran or person who is pursuing an independent study program shall be paid an educational assistance allowance at the institutional rate prescribed in § 21.4136(a). If independent study subjects and subjects requiring class attendance are pursued concurrently and both are measured on a credit hour basis, the allowable rate shall be determined on the basis of the combined training load provided a major portion of the hours are by class attendance. When measurement is different (i.e., class attendance on credit hour basis and independent study under paragraph (b)(2) of this section), the appropriate rate for each part shall be determined and the combined rates paid, but not to exceed the full time institutional allowance rate.

[FR Doc.74-30484 Filed 12-30-74;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 221—SERVICES PROGRAMS FOR FAMILIES AND CHILDREN AND FOR AGED, BLIND OR DISABLED INDIVIDUALS; TITLES I, IV (PARTS A AND B), VI, X, XIV, AND XVI OF THE SOCIAL SECURITY ACT

Postponement of Effective Date

Final regulations for the social services programs under the public assistance titles of the Social Security Act were published on October 31, 1973 (38 FR 30072) to be effective November 1, 1973. The effective date of these regulations was postponed until January 1, 1975 by P.L. 93-233, signed by the President on December 31, 1973. The postponement was published in the FEDERAL REGISTER on January 9, 1974 (39 FR 1443). The effective date of these regulations is being further postponed until October 1, 1975.

Accordingly, the regulations in Parts 220, 222, and 226 of this title currently in effect will continue in effect until September 30, 1975.

Dated: December 20, 1974.

JOHN A. SVAHN,
Acting Administrator, Social and Rehabilitation Service.

Approved: December 23, 1974.

CASPAR W. WEINBERGER,
Secretary.

[FR Doc.74-30486 Filed 12-30-74;8:45 am]

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-111; Amdt. Nos. 171-36, 173-90, 174-25, 175-12, 177-32, 178-35]

RADIOACTIVE MATERIALS

Miscellaneous Amendments

On October 25, 1973, the Hazardous Materials Regulations Board ("the Board") published extensive proposals to amend the Department's Hazardous Materials regulations relating to radioactive materials (38 FR 29463). The reasons for the various miscellaneous proposals were explained in detail in the preamble to that notice. Interested persons were invited to participate in this rule-making proceeding and all comments received have been given full consideration by the Board before it decided on the amendments made herein.

As was pointed out in the notice, the Board wishes to reiterate that the substantial matters covered by these amendments are not based on the 1973 revisions by the International Atomic Energy Agency (IAEA) to its Safety Series No. 6, "Regulations for the Safe Transport of Radioactive Materials." The Board intends to propose such changes in the very near future as the subject of a separate rule making action.

Comments were received by the Board on this notice from many organizations including government agencies, members of the Nuclear Industry, and the Air Transport Association of America. The U.S. Atomic Energy Commission submitted several comments. On the basis of the information submitted by these commenters, a number of modifications to the regulations proposed in the notice were made which are reflected in these amendments. These changes are explained as follows:

1. *Section 173.206(a) (10) and (11)* A commenter suggested that the 25-pound material limit that was proposed to be specified in § 173.206(a)(11) was not necessary in view of the technical evaluation which is performed on each individual Type B package. He further questioned the reason for the limited applicability of § 173.206(a)(10) as proposed to combinations of such alkali materials with radioactive materials, in view of the authority included in § 173.206(a)(11) for such materials. The Board agrees with these comments and has modified these two paragraphs accordingly.

2. *Section 173.389(o).* One commenter stated that the proposed "full load" definition was contrary to the present meaning of that term as it is used in transportation practice in the United States. It was suggested that the term "exclusive use" be used for the definition, in place of "full load," since "exclusive use" of a vehicle as it is presently defined in several carrier freight tariffs means in part "A service offered to shippers who require segregation of their freight from the freight of other shippers for protection against scrutiny, pilferage, or any other reason." The Board agrees with this comment and has adopted the term "exclusive use." However, a parenthetical reference has been added to the definition to clarify that "exclusive use" is also referred to as "sole use" and may be identified with the term "full load" as it is used in the IAEA regulations.

Section 173.389 (p). One commenter suggested that a definition of the term "radioactive device" be included in the regulations, since it is one of the proper shipping names listed in § 172.5. The Board agrees with this suggestion and has therefore included a new definition as an editorial addition based on the existing requirements of § 173.391(b).

4. *Section 173.392.* Several comments were received on this paragraph covering low specific activity material. An editorial change has been made to clarify the relationship of the various changes which were proposed in this paragraph, as well as to correct an inadvertency in the notice which would have permitted low specific activity materials in less than exclusive use shipments to be in nonspecification containers.

5. *Section 173.393 (g).* A number of comments were received on the proposal to strengthen the requirements for packaging of radioactive liquids. Several of the commenters suggested that the specific requirements not be applicable to Type B and fissile material packages, in view of the fact that such packages, including their containment systems, are subject to individual governmental review and approval. The Board agrees with this comment and has modified the regulation accordingly, since the original intent of the proposal was that it be applicable only to Type A packages and not to Type B and fissile packages. Several commenters stated that, although they supported the basic proposal to strengthen the liquid packaging requirements, the proposal should be modified to provide another option to the absorbent material provision. They requested

that use of a secondary containment vessel be permitted, enclosing the primary inner liquid-containing vessel so as to provide overall containment of the liquid, assuming the failure of the innermost vessel. The Board also agrees with these suggestions and has added § 173.393 (g) (3) permitting this additional option.

6. *Section 173.393(k)*. Several commenters suggestde certain changes in the wording of the proposed requirement for closure of certain inner containment systems by positive fastening devices independent of the other packaging. In view of the fact that this proposed regulation is contained, with other related provisions, in the 1973 Revised IAEA regulations, the proposal to add this requirement is deleted from this docket. It will be included in another notice of proposed rule making to be published in the near future that will propose revisions specifically based on the 1973 Revised IAEA regulations.

7. *Section 173.393(o)*. One commenter suggested that each shipper, prior to the first use of a package, be required to subject the package to an appropriate thermal test to demonstrate the thermal performance of the package under normal conditions of transport with its design decay heat load. Although this comment has merit, it is only one of several acceptable methods of confirming compliance with the performance criteria specified in the amendment. For this reason the Board believes that the regulations should not specify one method to be used.

8. *Sections 173.394 and 173.395*. The proposals to eliminate the various "hardware oriented" DOT specifications for Type A packages received several comments. Several of the commenters questioned whether a need for such a proposal is justified on the basis of adverse shipping experience. The Board continues to believe that the proposal is justified, particularly on the basis of observations of packaging compliance in field surveillance activities, and the reasons stated in the preamble to the notice. The Board recognizes that the elimination of listed packaging specifications will require that some existing packages be modified and that some be tested against the performance standards. In view of the manpower and effort that may be involved and in order to not cause any unreasonable hardship, a transition period of one year has been provided before compliance with this requirement becomes mandatory. Further, the U.S. Atomic Energy Commission who supported the proposal, has informed this Department that it intends to provide a consolidated testing program in support of AEC contractor operations to develop and certify packaging designs against the DOT 7A Specification. This program is expected to yield data and results which, when appropriate, will be useful to others in establishing their supporting package safety evaluation and certification. It is expected to reduce the duplicative effort that might otherwise be required by persons in the nuclear industry who use the same or similar packaging. Further questions on this program should be directed to the USAEC, Division of Waste Management and Transportation, Washington, D.C. 20545.

The Board emphasizes that this amendment is not intended to preclude the use of certain existing DOT specification packagings as a component of the Specification 7A package.

In response to several comments, the introductory headings of §§ 173.394 (a) and 173.395 (a) have been editorially revised to call the attention of the shipper to the need for proper consideration of the other applicable general packaging requirements.

9. *Section 137.396*. In response to technical recommendations from the USAEC, a number of substantive revisions have been made to this section, as follows:

a. *Section 173.396(b) (6)*. A note has been added to the table specifying that the maximum H/U ratio of 0.088 applies only to 30-inch cylinders and not to the other sizes of cylinders.

b. *Section 173.396(b) (7)*. This paragraph has been changed to specify clearly that the inner package must meet the Type A, Spec. 7A package requirements, including the liquid packaging provisions.

c. *Section 173.396(c) (1)*. Requirements have been added to specify a 5-watt limit on decay energy of contents and also to specify that large quantity radioactive material in normal form in the DOT–6L must be packaged in one or more sealed and leak tight cans or polyethylene bottles within the Spec. 2R containment vessel, a requirement which is consistent with a similar requirement of the DOT–6M (§ 178.104). In addition, the proposal to add fissile Class I authorized loadings in the Spec. 6L has been deleted because the USAEC has not completed its detailed nuclear safety analysis of the proposed loadings. An appropriate proposal will be the subject of future rule making. In the table of authorized contents, a footnote has been added specifying that plutonium solutions are not authorized in the Spec. 6L.

d. *Section 173.396(c) (2)*. The footnote limiting the maximum U–235 enrichment for contents in the Spec. 6M has been retained. The available data indicates that removal of the 93 weight percent limitation would increase the reactivity by about two percent. Persons shipping enriched uranium exceeding 93 weight percent will be required to petition the USAEC for specific approvals of such shipments with lowered material quantities.

e. *Section 173.396(c) (2) (iii)*. An inadvertency has been corrected to specify that each Fissile Class III rather than Class II shipment is subject to § 173.396 (g). Also in the table of authorized contents the column headings "H/X equals 3" have been changed to read "H/X≥3".

f. *Section 173.396(f) (1) and (2)*. The requirements in these two paragraphs have been modified to reflect more appropriately the nuclear safety philosophy and criteria used in limiting Fissile Class II and III shipments. Upon the effective date of these amendments, DOT Special Permit 5908 presently authorizing shipments under similar provisions will be canceled with individual notification of the cancellation to be sent to each permit registrant.

10. *Section 173.397*. Several editorial changes have been made to clarify the requirements of this paragraph. One commenter noted that the allowable contamination levels of § 173.397(a) are significantly higher than those which would be recommended in a forthcoming ANSI standard which is being prepared for contamination on equipment and facilities to be released for uncontrolled use. The Board emphasizes that the allowable contamination levels in § 173.397(a) are not being changed in this rule making, only those applicable to "exclusive use" shipments pursuant to § 173.397(a), which have been raised by a factor of 10. In § 173.397(a) (1), the discussion on methodology for assessment of removable surface contamination has been modified to incorporate one commenter's suggestion that other measurement methods of equal or greater efficiency than the cited "wipe test" method may be utilized.

11. *Section 173.398(a) (4)*. A statement delaying the effective date of this paragraph for one year from the publication of these amendments has been added to Note 1 in the paragraph. This is necessary to permit a reasonable transition period for compliance with the new requirement for the certification and supporting safety analysis to be maintained on file by shippers of special form radioactive material.

12. *Section 173.416*. In § 173.416(d) (1), a change has been made to clarify that when symbols are used on label entries, such symbols must conform to established radiation protection terminology which utilizes a superscript designating the atomic mass on the left side of the chemical symbol for the radionuclide.

In § 173.416(d) (2), a clarification has been added to provide that for fissile radioactive materials, the insertion of the weight in grams or kilograms of the fissile radioisotope in the "number of curies" entry on the label is optional.

13. *Sections 174.586(h) (2), 175.655(j) (2), and 177.842(b)*. In each of these paragraphs a clarification has been added to the effect that when groups of packages are stored in a single location, the required separation of 20 feet between adjacent groups is measured from edge to edge between the groups. One commenter noted that the provisions being added to these paragraphs would have the effect of allowing an increase in radiation dose rate to transport workers, and that such an increase is not justified under the recent concepts of limiting radiation to "as low as practicable" levels. The Board wishes to emphasize that these amendments are not intended to increase radiation levels to transport workers. The required segregation distances of packages from areas occupied by persons are not being changed. The provision for situations where there are more than one group of packages with

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50 transport indexes is intended solely to cover an inadvertent gap in the surface regulations (Highway and Rail) for carriers, which does not exist in either vessel (46 CFR Part 146) regulations or the IAEA standards. The Board also wishes to point out that the broad area of radiation exposure to transport workers as a result of handling radioactive packages is currently under study by this Department, in cooperation with the USAEC and several States. It is possible that changes to the carrier requirements for handling and stowing radioactive packages may be proposed later as a result of the findings in these studies.

14. *Section 178.34.* A change in the required temperature rating of the luting compounds from 250°F. to 300°F. has been made to make this requirement compatible with the limitation on decomposition characteristics of the authorized contents of the Spec. DOT 6L (§ 173.396 (c)(1)), as well as to achieve compatibility with the operational requirements of the DOT–6L (§ 178.103) and DOT–6M (§ 178.104) specifications.

15. *Section 178.103.* In § 178.103–4, a clause has been added to specify that the requirement for increased fire resistance of welded joints applies only to the added spacer rods as prescribed for compliance with § 178.103–3(c)(1). Further, a statement has been added to § 178.103–3(c)(1) providing that compliance with the new requirement for four additional welded spacer rods is not mandatory for existing packagings until one year after the date of publication of these amendments.

16. *Section 178.104.* Section 178.104–3 (a) has been changed to provide for the welding together of different capacity drums. Also, in § 178.104–3(a)(2), provision has been made for the optional utilization of a layer of porous refractory fiber beneath the pressure-relief vent holes. Several comments suggested that such an option be added to the specification. The intended purpose of the refractory layer is to preclude smoldering of the insulation media after exposure to the accidental fire test condition. Since the presence of the refractory fiber layer has not been demonstrated to be necessary for the package to meet the accident damage test sequence, its utilization has been made optional. In § 178.104–3(b), limitations on the material of construction of the Spec. 2R have been added. An editorial reorganization of § 178.104–3(c) has also been made.

17. *Section 178.195.* An illustrative sketch showing typical assembly detail for this specification has been added, as well as several editorial clarifications.

18. *Metric/English Units.* Throughout these amendments, units have been stated in metric units with equivalent English units in parentheses.

In accordance with section 102 of the National Environmental Policy Act (Pub. L. 91–90, (42 U.S.C. 4231 et seq.)) the Board has considered the environmental impact of these amendments. It has determined that the changes made in these amendments would not have a significant impact on the environment. Accordingly, it considers that an Environmental Impact Statement is not necessary and has not issued such a statement with respect to these amendments.

In consideration of the foregoing, 49 CFR Parts 171, 173, 174, 175, 177 and 178, are amended as follows:

PART 171—GENERAL INFORMATION AND REGULATIONS

1. In § 171.7, paragraphs (c)(20), (21), and (22), (d)(5)(iii), (d)(14), (15), and (16) are added; paragraph (d)(4) is revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(c) * * *

(20) AWWA: American Water Works Association, 2 Park Avenue, New York, New York 10016.

(21) AWS: American Welding Society, 345 East 47th Street, New York, New York 10016.

(22) USDC: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22151.

(d) * * *

(4) American National Standards:

(i) American National Standard B9.1, is titled, "Safety Code for Mechanical Refrigeration," 1964 edition.

(ii) American National Standard B16.5 is titled, "Steel Pipe Flanges and Fittings," 1968 edition.

(iij) American National Standard N14.1 is titled, "Packaging of Uranium Hexafluoride for Transport," 1971 edition.

(5) * * *

(iii) ASTM D1056 is titled, "Sponge and Expanded Cellular Rubber Products, Spec. and Tests for," 1968 edition.

* * * * *

(14) American Water Works Association (AWWA) Standard C207–55 is titled, "AWWA Standard for Steel Pipe Flanges," 1955 edition.

(15) American Welding Society (AWS):

(i) AWS Code B–3.0 is titled, "Standard Qualification Procedure," 1972 edition.

(ii) AWS Code D–1.0 is titled, "Code for Welding in Building Construction," 1966 edition.

(16) USDC, CAPE–1062, one of the series of "Civilian Applications Program Engineering Drawings" which is a package of information including drawings and bills of material, describing phenolic-foam insulated, protective overpacks.

(i) USDC, USAEC Material and Equipment Specification No. SP–9, is titled, "Fire Resistant Phenolic Foam."

(ii) USDC, ORO–651 is titled, "Uranium Hexafluoride Handling Procedures and Container Criteria," Revision 3, 1972 edition.

PART 173—SHIPPERS

2. In Part 173 Table of Contents, § 173.393 is revised to read as follows:

Sec.

173.393 General packaging and shipment requirements.

§ 173.23 [Amended]

3. In § 173.23, paragraph (c) is deleted.

4. In § 173.69, Note 1 following paragraph (a) is revised to read as follows:

§ 173.69 Detonating fuzes, class A, with or without radioactive components, detonating fuze parts containing an explosive, boosters, bursters, or supplementary charges.

(a) * * *

NOTE 1: A fuze with any radioactive component is also subject to the applicable provisions of §§ 173.389 through 173.399 for the radioactive material.

* * * * *

5. In § 173.202, paragraph (b) is added to read as follows:

§ 173.202 Sodium and potassium, metallic liquid alloy.

* * * * *

(b) Packaging of metallic liquid alloys of sodium or potassium in combination with fissile or large quantities of radioactive material, is authorized as provided in § 173.206(a)(10) and (11).

6. In § 173.206, paragraph (a)(10) is revised, paragraph (a)(12) is added to read as follows:

§ 173.206 Sodium or potassium, metallic, sodium amide, sodium potassium alloys, sodium aluminum hydride, lithium metal, lithium silicon, lithium ferro silicon, lithium hydride, and lithium aluminum hydride.

(a) * * *

(10) Tubes of stainless steel, or other metals of equipment strength and nonreactivity, having sealed, welded end caps, and containing not more than 50 grams of metal. Authorized only for metallic sodium, metallic lithium, metallic potassium, and sodium potassium alloy. Each tube must be enclosed within a secondary sealed metallic tube and further enclosed within strong tight outer packaging.

* * * * *

(12) Any packaging as prescribed in §§ 173.394(b) or (c), 173.395(b) or (c), or 173.396(b) or (c).

* * * * *

7. In § 173.226, a note is added following the heading and preceding paragraph (a) to read as follows:

§ 173.226 Thorium metal, powdered.

NOTE: Thorium metal, a low specific activity radioactive material, is also subject to the applicable provisions of §§ 173.389 through 173.399.

* * * * *

In § 173.389, paragraphs (o), (p), and (q) are added to read as follows:

§ 173.389 Radioactive materials; definitions.

* * * * *

(o) "Exclusive Use" (also referred to as "sole use" or "Full Load" as used in IAEA regulations) means any shipment:

(1) From a single consignor having the exclusive use of a transport vehicle or of an aircraft, or of a hold or compartment of an inland watercraft, or of a hold, compartment, or defined deck area of a seagoing vessel; and

(2) For which all initial, intermediate, and final loading and unloading is carried out by or under the direction of the consignor, consignee, or his designated agent.

(p) "Radioactive Device" means any manufactured article such as an instrument, clock, electronic tube or apparatus, or similar device having radioactive material (other than liquid) in a nondispersible form as a component part.

(q) "Closed transport vehicle" means a vehicle equipped with a securely attached exterior enclosure, which during normal transport, restricts the access of unauthorized persons to the cargo space containing the radioactive materials. The enclosure may be either temporary or permanent, may be of the "see-through" type, and must limit access from top, sides, and ends.

9. In § 173.391, the introductory text of paragraph (c), paragraphs (b)(3), (c)(2), and (c)(4) are revised to read as follows:

§ 173.391 Small quantities of radioactive materials and radioactive devices.

* * * * *

(b) * * *

(3) The radiation dose rate at any point on the external surface of the outside of the package may not exceed 0.5 millirem per hour. However, for exclusive use shipments only, the radiation at the external surface of the package or the item may exceed 0.5 millirem per hour, but must not exceed 2 millirem per hour.

* * * * *

(c) A manufactured article, other than reactor fuel elements, in which the only radioactive material is metallic natural or depleted uranium or natural thorium or alloys thereof, is exempt from specification packaging, marking, and labeling, and is exempt from the provisions of § 173.393, if the following conditions are met:

* * * * *

(2) There must be no significant radioactive surface contamination on the exterior of the package. To determine whether "significant," the standard in § 173.397 must be used.

* * * * *

(4) The outer surface of the uranium or thorium is enclosed in a non-radioactive, sealed, metallic sheath.

* * * * *

10. In § 173.392, paragraphs (a) and (b) are revised; paragraphs (c)(9) and (d)(7) are added to read as follows:

§ 173.392 Low specific activity radioactive material.

(a) Low specific activity (LSA) radioactive materials, other than materials consigned as exclusive use, are exempt from the provisions of § 173.393(a) through (e) and (g). However, they must be packaged in accordance with the requirements of § 173.395 and must be marked and labeled as required in §§ 173.401 and 173.402.

(b) LSA radioactive materials which are transported in a transport vehicle (except aircraft) and consigned as exclusive use are exempt from specification packaging, marking, and labeling, provided the shipment meets the requirements of paragraph (c) or (d) of this section.

(c) * * *

(9) Specific instructions for maintenance of exclusive use (sole use) shipment controls must be provided by the shipper to the carrier. Such instructions must be included with the shipping paper information.

(d) * * *

(7) Specific instructions for maintenance of exclusive use (sole use) shipment controls must be provided by the shipper to the carrier. Such instructions must be included with the shipping paper information.

11. In § 173.393, the heading and the introductory texts of paragraphs (d), (e), and (j) are revised; paragraphs (g), (j)(3), and (l) are revised; paragraph (o) is added to read as follows:

§ 173.393 General packaging and shipment requirements.

* * * * *

(d) Each radioactive material must be packaged in a packaging which has been designed to maintain shielding efficiency and leak tightness, so that, under conditions normally incident to transportation, there will be no release of radioactive material. If necessary, additional suitable inside packaging must be used. Each package must be capable of meeting the standards in §§ 173.398(b) and 173.24.

* * * * *

(e) The packaging must be designed, constructed, and loaded so that during transport:

* * * * *

(g) Liquid radioactive material in Type A quantities must be packaged in or within a leak-resistant and corrosion-resistant inner containment vessel. In addition:

(1) The packaging must be adequate to prevent loss or dispersal of the radioactive contents from the inner containment vessel if the package were subjected to the 9 meter (30-foot) drop test prescribed in § 173.398(c)(2)(i); and either

(2) Enough absorbent material must be provided to absorb at least twice the volume of radioactive liquid contents. The absorbent material may be located outside the radiation shield only if it can be shown that if the radioactive liquid contents were taken up by the absorbent material the resultant dose rate at the surface of the package would not exceed 1,000 millirem per hour; or

(3) A secondary leak-resistant and corrosion-resistant containment vessel must be provided to retain the radioactive contents under the normal conditions of transport as prescribed in § 173.398(b), assuming the failure of the inner primary containment vessel.

* * * * *

(j) Packages for which the radiation dose rate exceeds the limits specified in paragraph (i) of this section, but does not exceed at any time during transportation any of the limits specified in paragraphs (j)(1) through (4) of this section may be transported in a transport vehicle which has been consigned as exclusive use (except aircraft). Specific instructions for maintenance of the exclusive use (sole use) shipment controls must be provided by the shipper to the carrier. Such instructions must be included with the shipping paper information:

* * * * *

(3) Ten millirem per hour at any point 2 meters (six feet) from the vertical planes projected by the outer lateral surface of the car or vehicle; or if the load is transported in an open transport vehicle, at any point 2 meters (six feet) from the vertical planes projected from the outer edges of the vehicle.

* * * * *

(l) Packages consigned for export are also subject to the regulations of the foreign governments involved in the shipment. See §§ 173.8, 173.9, and 173.393b. (The regulations of the International Atomic Energy Agency (IAEA) are used by most foreign governments.)

* * * * *

(o) No person may offer for transportation a package of radioactive materials until the temperature of the packaging system has reached equilibrium (see also paragraph (e) of this section) unless, for the specific contents, he has ascertained that the maximum applicable surface temperature limits cannot be exceeded.

12. In § 173.394, paragraphs (a), (b)(1), and (b)(2) are revised, paragraphs (b)(5), (b)(6), and (c)(4) are added to read as follows:

§ 173.394 Radioactive material in special form.

(a) In addition to the applicable requirements of §§ 173.24 and 173.393, a Type A quantity of special form radioactive material must be packaged as follows:

(1) Specification 7A (§ 178.350 of this subchapter) Type A general packaging. Each shipper of a Specification 7A packaging must maintain on file for at least one year after the latest shipment, and be prepared to provide the Department, a complete certification and supporting safety analysis demonstrating that the construction methods, packaging design, and materials of construction are in compliance with the specification. This requirement is effective (insert date which is one year after date of publication of these amendments).

(2) Specification 55 (§ 178.250 of this subchapter) metal encased shielded container. Use of existing container authorized; construction not authorized after March 31, 1975.

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(3) Any Type B packaging pursuant to paragraph (b) of this section.

(4) Foreign-made packagings which bear the marking "TYPE A."

(b) • • •

(1) Specification 55 metal encased shielded container. Authorized only for domestic shipments of not more than 300 curies per package. Use of existing container authorized; construction not authorized after March 31, 1975.

(2) Specification 6M (§ 178.104 of this subchapter) metal packaging.

• • • • •

(5) Specification 20WC (§ 178.194 of this subchapter) wooden outer protective jacket, with a single snug-fitting inner Type A packaging which has a metal outer wall and conforms to § 178.350 of this subchapter or Specification 55. Only use of existing specification 55 container authorized; construction not authorized after March 31, 1975.

(6) Specification 21WC (§ 178.196 of this subchapter) wooden-steel protective overpack, with a single inner specification 2R (§ 178.34 of this subchapter) or specification 55, inner packaging. Only use of existing specification 55 container authorized; construction not authorized after March 31, 1975. Contents must be loaded within the inner packaging to preclude loose movement during transportation. The inner packaging must be securely positioned and centered within the overpack by solid cushioning materials so that there would be no significant displacement of the inner packaging if the packaging were subjected to the 9 meter (30-foot) drop test described in § 173.398(c)(1).

(c) • • •

(4) Specifications 20WC (§ 178.194 of this subchapter) wooden outer protective jacket, with a single, snug-fitting specification 55 inner packaging. Only use of existing specification 55 container authorized; construction not authorized after March 31, 1975. Radioactive thermal decay energy must not exceed 100 watts.

13. In § 173.395, the introductory text of paragraph (a) and paragraphs (a) (1) through (4) are revised; paragraphs (a) (5) through (8) are deleted; paragraph (b) (4) is added to read as follows:

§ 173.395 Radioactive material in normal form.

(a) In addition to the applicable requirements of §§ 173.24 and 173.393, a Type A quantity of normal form radioactive material must be packaged as follows:

(1) Specification 7A (§ 178.350 of this subchapter) Type A general packaging. Each shipper of a specification 7A packaging must maintain on file for at least one year after the latest shipment, and be prepared to provide the Department, a complete certification and supporting safety analysis demonstrating that the construction methods, packaging design, and materials of construction are in compliance with the specification. This requirement is effective (insert date which is one year after date of publication of these amendments.)

(2) Specification 55 metal encased shielded container. Use of existing container authorized; construction not authorized after March 31, 1975. For liquid contents the provisions of § 173.393(g) must also be met.

(3) Any Type B packaging pursuant to paragraph (b) of this section.

(4) Foreign-made packagings which bear the marking "TYPE A."

(b) • • •

(4) Specification 20WC (§ 178.194 of this subchapter) wooden outer protective jacket, when used with a single, snug-fitting inner specification 2R (§ 178.34 of this subchapter) or specification 55 inner packaging. Only use of existing specification 55 container authorized; construction not authorized after March 31, 1975. For liquid contents the provisions of § 173.393(g) must also be met, with respect to the inner packaging.

• • • • •

14. In § 173.396, paragraphs (b) (1), (c) (1), and (c) (2) (ii) are revised; paragraphs (b) (6), (b) (7), (b) (8), (c) (5), (f) (1), and (f) (2), are added to read as follows:

§ 173.396 Fissile radioactive material.

• • • • •

(b) • • •

(1) Specification 6L (§ 178.103 of this subchapter) metal packaging. See paragraph (c) (1) of this section for authorized contents.

• • • • •

(6) Specification 20PF–1, 20PF–2, or 20PF–3 (§ 178.120 of this subchapter) or specification 21PF–1 or 2 (§ 178.121 of this subchapter) phenolic-foam insulated protective overpacks, with snug-fitting inner metal cylinders meeting all of the applicable requirements of §§ 173.24, 173.393, and 173.398(b). Handling procedures and packaging criteria must be in accordance with USAEC Report No. ORO–651 or ANSI Standard N–14.1–1971. Quantities of uranium hexafluoride are authorized as follows, with each package to be shipped as fissile Class II, and assigned a minimum transport index as indicated:

Protective overpack specification No.	Maximum inner cylinder diameter		Maximum weight of UF_6 contents		Maximum U^{235} enrichment (w/o)	Fissile class II transport index
	Inches	Centimeters	Pounds	Kilograms		
20PF–1	[illegible]	[illegible]	55	[illegible]	100	0.1
20PF–2	[illegible]	[illegible]	255	116	12.5	.4
20PF–3	12	[illegible]	460	209	5.0	1.1
21PF–1 [1]	[illegible]	[illegible]	4,960	2,247	5.0	5.0
21PF–2 [1]	[illegible]	[illegible]	5,030	2,279	5.0	5.0

[1] For 30-in cylinders, the maximum H/U atomic ratio is 0.000.

(7) A DOT Specification 6J (§ 178.100 of this subchapter) or 17H (§ 178.118 of this subchapter) 55-gallon steel drum, for transport of not more than 350 grams of uranium-235 in any non-pyrophoric form, enriched to any degree in the U–235 isotope. Each drum must have a minimum 18-gauge body and bottom head and 16-gauge removable top head, with one or more corrugations in the cover near the periphery. Closure must conform to § 178.103–5(a) of this subchapter. At least four 1.2 centimeter (0.5 inch) diameter vent holes must be provided, equally spaced on the sides of the drum near the top, each covered with weatherproof tape, or equivalent device. Appropriate primary inner containment of the contents and any necessary packing material must be provided, such as plastic or metal jars or cans or plastic wrapping, such that Spec. 7A (§ 178.350 of this subchapter) provisions are satisfied. Each inner containment vessel must be capable of venting in the event the package was exposed to the thermal test described in (§ 173.398(c)(2)(iii)). Additionally, liquid contents must be packaged in accordance with § 173.393(g). The maximum weight of contents, including internal packing must not exceed 91 kilograms (200 pounds) with fissile material content limited as follows:

Maximum U^{235} per package (grams)	Minimum transport index per package as fissile class II	Maximum packages per transport vehicle as fissile class II
[illegible]	[illegible]	72
[illegible]	1.0	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
150	0.1	[illegible]
100	0.1	[illegible]
50	(1)	(1)

[1] Fissile class I.

(8) Any metal cylinder which meets the performance requirements for a specification 7A Type A packaging (see §§ 173.395(a)(1) and 178.350 of this subchapter) for the transport of residual "heels" of enriched solid uranium hexafluoride without a protective overpack, are authorized as Fissile Class I packages, in accordance with the following:

Maximum cylinder diameter		Cylinder volume		Maximum U^{235} enrichment (weight percent)	Maximum "heel" weight per cylinder (U^{235})		
Inches	Centimeters	Cubic feet	Liters		Pounds UF_6	Kilograms	Kilograms
[illegible]	12.7	[illegible]	[illegible]	[illegible]	0.1	0.045	0.031
8	[illegible]	[illegible]	[illegible]	12.5	.5	.227	.019
12	[illegible]	[illegible]	68	5.0	1.0	.454	.015
[illegible]	76	[illegible]	726	5.0	[illegible]	11.35	.363

(c) • • •

(1) Specification 6L (§ 178.103 of this subchapter) metal packaging. Authorized only for uranium-233, uranium-235, plutonium-239 or 241, as metal, oxide, or compounds which will not decompose at temperatures up to 149°C (300° F.) Radioactive thermal decay energy output shall not exceed 5 watts. Large quantity radioactive materials in normal form must be packaged in one or more sealed and leak tight metal cans or polyethylene bottles within the Spec. 2R containment vessel.

(i) *Fissile Class II and III packages.* The following quantities of fissile radioactive materials are authorized under the Fissile Class II and III conditions listed:

TABLE OF AUTHORIZED CONTENTS [1]

Uranium-235 [1]		Plutonium [1] [4]		Fissile class II transport index	Fissile class III maximum number of packages per transport vehicle
H/X≤1	1<H/X≤20	H/X≤10	10≤H/X≤20		
14	[3] 3.6			1.1	20
		5.5	9.4	1.4	55

[1] Quantity in kilograms.
[2] All sources of hydrogen within the inner containment vessel must be considered in determining the H/X ratio of inner containment vessel.
[3] Volume not to exceed 3.6 l.
[4] Plutonium solutions are not authorized.

(2) • • •

(ii) *Fissile Class II and III packages.* Quantities of fissile radioactive material as shown in the following table are authorized for a Fissile Class II and Fissile Class III package. Where a maximum ratio of hydrogen to fissile material is specified in the table, only the hydrogen interspersed with the fissile material need be considered. For a Fissile Class II package, the minimum transport index to be assigned is shown in the following table. For a Fissile Class III package, the maximum number of similar packages per transport vehicle is shown. Each Fissile Class III shipment is also subject to paragraph (g) of this section. For a uranium-233 shipment, the maximum inside diameter of the inner containment vessel must not exceed 12 centimeters (4.75 inches). Where necessary, a tight fitting steel insert must be used to reduce a larger diameter inner containment vessel specified in § 178.104–3(b) of this subchapter to the 12 centimeters (4.75 inches) limit.

Table of authorized contents [1]

Uranium-233 [1] [7]			Uranium-235 [1]			Plutonium [1] [3] [4]			Fissile class II transport index	Fissile class III maximum number of packages per transport vehicle
Metal or alloy H/X=0	Compounds		Metal or alloy H/X=0	Compounds		Metal or alloy H/X=0	Compounds			
	H/X=0	H/X≤3		H/X=0	H/X≤3		H/X=0	H/X≤3		
3.6	4.4	2.9	7.2	7.6	5.3	3.1	4.1	2.4	0.1	1,250
[5] 4.3	5.2	3.5	8.7	9.6	6.4	3.4	4.5	4.1	.2	625
[5] 5.2	6.3	4.5	11.2	13.9	8.3	4.3		4.5	.5	250
			18.5	16.0	10.1	4.5			1.0	125
				20.0	16.1				5.0	25
				23.0	19.6				10.0	13

[1] Quantity in kilograms.
[2] Minimum percentage of plutonium-240 is 5 weight percent.
[3] 4.5 kg limitation of plutonium due to 10 w decay heat limitation.
[4] For a mixture of uranium-235 and plutonium an equal amount of uranium-235 may be substituted for any portion of plutonium authorized.
[5] Maximum inside diameter not to exceed 12 cm (4.75 in) (see par. (c)(2)(ii) of this section).
[6] Granulated or powdered metal with any particle less than 8 mm (0.25-in) in the smallest dimension is not authorized.
[7] Maximum uranium-235 enrichment is 93 percent.

• • • • •

(5) Specification 20PF–1 through 3 (§ 178.120 of this subchapter) or Specification 21PF–1 or 2 (§ 178.121 of this subchapter) phenolic-foam insulated protective overpacks. (See paragraph (b)(6) of this section for authorized use.)

• • • • •

(f) • • •

(1) Fissile Class II packages may be shipped with a transport index greater than 10, and combined with other packages of the same or different designs in a Fissile Class III shipment, under the conditions prescribed in paragraph (g) of this section, *Provided:*

(i) The transport index which has been assigned in the package approval for nuclear criticality control purposes does not exceed 10 for any single package;

(ii) The total transport index for nuclear criticality control purposes for all packages in the shipment does not exceed 100;

(iii) The shipment satisfies the provisions of § 173.393(j) if any package has radiation dose rates exceeding 10 millirem per hour at 1 meter (three feet) from any accessible external surface of the package; and

(iv) The shipment will not be transported by water.

(2) Fissile Class II packages, which have been assigned a transport index for nuclear criticality control purposes in accordance with Fissile Class II criteria, may be combined with Class II criteria, may be combined with other Fissile Class III packages of the same or different design for which a transport index has been so assigned for nuclear criticality control purposes, and may be combined with Fissile Class II packages, in a Fissile Class III shipment under the conditions prescribed in paragraph (g) of this section, *Provided:*

(i) The transport index which has been assigned in the package approval for nuclear criticality control purposes does not exceed 50 for any single package;

(ii) The total transport index for nuclear criticality control purposes for all packages in the shipment does not exceed 100;

(iii) The shipment satisfies the provisions of § 173.393(j) if any package has radiation dose rates exceeding 10 millirem per hour at 1 meter (three feet) from any accessible external surface of the package; and

(iv) The shipment will not be transported by water.

• • • • •

15. § 173.397 is revised to read as follows:

§ 173.397 Contamination control.

(a) Removable (non-fixed) radioactive contamination is considered significant if the level of contamination, when averaged over any area of 300 square centimeters of any part of the package surface, exceeds any of the following:

Contaminant	Maximum permissible level	
	μCi/Cm²	dis/min/Cm²
Natural or depleted uranium and natural thorium:		
Beta-gamma	10^{-6}	2200
Alpha	10^{-4}	220
All other beta-gamma emitting radionuclides	10^{-4}	220
All other alpha emitting radionuclides	10^{-6}	22

(1) In assessing the surface contamination of a package, a sufficient number of measurements must be taken in the most appropriate locations so as to yield a representative assessment of the contamination situation. The average amount of removable (non-fixed) radioactive contamination may be determined by wiping the external surface of the package with an absorbent material, using moderate pressure, and then measuring the activity on the wiping material. If the measured activity per square centimeter does not exceed 10 percent of the levels prescribed above, it may be assumed that those levels have not been exceeded. Other measurement methods of equal or greater efficiency may also be utilized.

(b) When radioactive materials packages are consigned as exclusive use, as defined in § 173.389(o), removable non-fixed) radioactive contamination may not exceed 10 times that as specified in paragraph (a)(1) of this section.

(c) Each transport vehicle used for transporting radioactive materials as exclusive use, as defined in § 173.389(o),

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must be surveyed with appropriate radiation detection instruments after each use. A vehicle may not be returned to service until the radiation dose rate at any accessible surface is 0.5 millirem per hour or less, and there is no significant removable radioactive surface contamination, as defined in paragraph (a) of this section.

16. In § 173.398, Notes 1 and 2 are added following paragraph (a)(4) to read as follows:

§ 173.398 Special tests.

(a) • • •
(4) • • •

NOTE 1: Each shipper of special form radioactive material shall maintain on file for at least one year after the last shipment, and be prepared to provide the Department, a complete certification and supporting safety analysis (see Note 2) demonstrating that the special form material meets the requirements of paragraph (a) of this section. This requirement is effective (insert date one year after date of publication).

NOTE 2: Prior to the first shipment of a special form radioactive material outside of the United States, each shipper shall obtain a Certificate of Competent Authority for the specific material. Each petition must be submitted in accordance with § 173.393b (b) and (c), and must additionally include the following information:

1. A detailed description of the material, or if a capsule, the contents. Particular reference must be made to both physical and chemical states;

2. A detailed statement of the design of any capsule to be used, including complete engineering drawings and schedules of material, and methods of construction;

3. A statement of the tests which have been done and their results, or evidence based on calculative methods to show that the material is capable of meeting the tests, or other evidence that the special form radioactive material meets the requirements of paragraphs (a)(1) thru (4) of this section.

• • • • •

17. In § 173.399, paragraph (a)(3)(ii) is revised; paragraph (a)(3)(iii) is deleted as follows:

§ 173.399 Labeling of packages of radioactive materials.

(a) • • •
(3) • • •

(ii) Each package containing a large quantity of radioactive material as defined in § 173.389(b).

• • • • •

18. In § 173.401, paragraph (f) is added to read as follows:

§ 173.401 Hazardous materials.

• • • • •

(f) Additional markings on packages containing radioactive materials are required as follows:

(1) Each package of radioactive materials in excess of 50 kilograms (110 pounds) must have its gross weight plainly and durably marked on the outside of the package.

(2) Each package of radioactive materials which conforms to the requirements for Type A or Type B packaging (§§ 173.389 (j) and (k) and 173.398 (b) and (c)) must be plainly and durably marked on the outside of the package in letters at least 13 millimeters (½-inch) high, with the words "TYPE A" or "TYPE B" as appropriate. A packaging which is not in compliance with these requirements must not be so marked. Each package of hazardous materials destined for export shipment must also be marked "USA" in conjunction with the specification marking, special permit, or other package certificate identification. (See §§ 173.393a and 173.393b.)

19. In § 173.404, paragraph (a) is revised to read as follows:

§ 173.404 Labels.

(a) A person who offers for transportation a package containing hazardous material shall conspicuously label it in compliance with the requirements of this Part. The applicable information as required in any blank spaces on the label must be inserted by legible printing, using a durable, waterproof means of marking. Labels should be applied to that part of the package bearing the consignee's name and address.

• • • • •

20. In § 173.416, paragraph (d) is added to read as follows:

§ 173.416 Radioactive materials labels.

• • • • •

(d) The following requirements apply to completion of the items of information in the blank spaces of the labels specified in this section:

(1) "Contents". The name of the radionuclide, as taken from the listing of radionuclides in § 173.390 (symbols which conform to established radiation protection terminology are authorized, i.e., ^{99}Mo, ^{60}Co, etc.). For mixtures of radionuclides, the most restrictive radionuclides on the basis of radiotoxicity must be listed as space on the label allows.

(2) "Number of curies". Units shall be expressed in appropriate curie units, i.e., curies (Ci), millicuries (mCi) or microcuries (μCi) (abbreviations are authorized). For a fissile material, the weight in grams or kilograms of the fissile radioisotope may also be inserted.

(3) "Transport index". (See § 173.389 (i).)

PART 174—CARRIERS BY RAIL FREIGHT

21. In § 174.584, paragraph (i) is added to read as follows:

§ 174.584 Waybills, switching orders, or other billing.

• • • • •

(i) For shipments of radioactive materials, the waybill, manifest, or other billing, as prepared from the shipper's papers, must additionally contain all the information provided pursuant to § 173.427(a)(5) of this subchapter.

22. In § 174.586, paragraph (h)(1) is revised; Note 2 is added following paragraph (h)(2) Note 1 to read as follows:

§ 174.586 Handling hazardous materials.

• • • • •

(h) • • •

(1) The number of packages of radioactive materials authorized in any rail car or storage location must be limited so that the total transport index number, as defined in § 173.389(i) of this subchapter and determined by adding together the transport index numbers on the labels of the individual packages, does not exceed 50. This provision does not apply to exclusive use shipments described in § 173.393(j), 173.396(f), or 173.392 of this subchapter.

(2) • • •

NOTE 2: Where more than one group of packages is present in any storage location, a single group may not have a total transport index greater than 50. Each group of packages must be handled and stowed not closer than 6 meters (20 feet) (measured edge to edge) to any other group.

• • • • •

PART 175—CARRIERS BY RAIL EXPRESS

23. In § 175.652a, paragraph (c) is revised to read as follows:

§ 175.652a Shipping papers.

• • • • •

(c) Waybills or delivery sheets used as waybills, or other billing issued in place thereof, prepared from the shipping papers, and the transfer sheet or interchange record used for transferring such shipments to a connecting carrier, must contain the information required in paragraphs (a) and (b) of this section. Additionally, in the case of radioactive materials, each such waybill, delivery sheet, or other billing and such transfer sheet or interchange record must also contain all the information provided pursuant to § 173.427(a)(5) of this subchapter.

24. In § 175.655, paragraph (j)(1) is revised; Note 2 is added following paragraph (j)(2) Note 1 to read as follows:

§ 175.655 Protection of packages.

• • • • •

(j) • • •

(1) The number of packages of radioactive materials in any rail car or storage location must be limited so that the total transport index number, as defined in § 173.389(i) of this subchapter and determined by adding together the transport index numbers on the labels of the individual packages, does not exceed 50. This provision does not apply to exclusive use shipments described in § 173.393 (j), 173.396(f), or 173.392 of this subchapter.

(2) • • •

NOTE 2: Where more than one group of packages is present in any storage location, a single group may not have a total transport index greater than 50. Each group of packages must be handled and stowed not closer than 6 meters (20 feet) (measured edge to edge) to any other group.

• • • • •

PART 177—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

25. In § 177.817, the introductory text of paragraph (a) is revised to read as follows:

§ 177.817 Shipping papers.

(a) A carrier may not accept for transportation nor transport any hazardous material subject to the regulations in this subchapter unless that material is described on the shipping paper by the shipping name prescribed in § 172.5 of this subchapter and by the classification prescribed in § 172.4 of this subchapter. A further description consistent therewith may be included. Abbreviations may not be used. The total quantity by weight, volume, or as otherwise appropriate, must be shown. Additionally, in the case of a radioactive material shipment, each shipping paper must include all the information provided pursuant to § 173.427(a)(5) of this subchapter.

• • • • •

26. In § 177.834, paragraph (a) is amended to read as follows:

§ 177.834 General requirements.

(a) *Packages secured in a vehicle.* Any tank, barrel, drum, cylinder, or other packaging, not permanently attached to a motor vehicle, which contains any flammable liquid, compressed gas, corrosive material, poisonous material, or radioactive material must be secured against movement within the vehicle on which it is being transported, under conditions normally incident to transportation.

• • • • •

27. In § 177.842, paragraphs (a) and (b) are revised to read as follows:

§ 177.842 Radioactive material.

(a) The number of packages of radioactive materials in any motor vehicle, trailer, or storage location must be limited so that the total transport index number, as defined in § 173.389(i) of this subchapter and determined by adding together the transport index numbers on the labels of the individual packages, does not exceed 50. This provision does not apply to exclusive use shipments described in § 173.393(j), 173.396(f), or 173.392 of this subchapter.

(b) Packages of radioactive material bearing "radioactive yellow-II" or "radioactive yellow-III" labels must not be placed in a motor vehicle or in any other place closer than the distances shown in the following table to any area which may be continuously occupied by passengers, employees, or shipments of animals, nor closer than the distances shown in the table below to any package containing undeveloped film (if so marked). If more than one of these packages is present, the distance shall be computed from the following table on the basis of the total transport index number (determined by adding together the transport index numbers on the labels of the individual packages) or packages in the vehicle or storeroom. Where more than one group of packages is present in any single storage location, a single group may not have a total transport index greater than 50. Each group of packages must be handled and stowed not closer than 6 meters (20 feet) (measured edge to edge) to any other group.

• • • • •

PART 178—SHIPPING CONTAINER SPECIFICATIONS

28. In Part 178 Table of Contents, § 178.250 is deleted; § 178.34 is revised; §§ 178.120, 178.121, 178.194, and 178.195 are added to read as follows:

Sec.
178.34 Specification 2R; inside containment vessel.

• • • • •

178.120 Specification 20PF phenolic-foam insulated, metal overpack.
178.121 Specification 21PF fire and shock resistant, phenolic-foam insulated, metal overpack.
178.194 Specification 20WC wooden protective jacket.
178.195 Specification 21WC wooden-steel protective overpack.

29. § 178.34 is amended to read as follows:

§ 178.34 Specification 2R; inside containment vessel.

§ 178.34–1 General requirements.

(a) Each vessel must be made of stainless steel, malleable iron, or brass, or other material having equivalent physical strength and fire resistance.

(b) Each vessel must meet all of the applicable requirements of § 173.24 (c) and (d) of this subchapter. Letters and numerals at least 6 millimeters (¼-inch) in height are authorized for the marking of a vessel not exceeding 5 centimeters (2 inches) inside diameter.

§ 178.34–2 Manufacture.

The ends of the vessel must be fitted with screw-type closures or flanges (see § 178.34–4), except that one or both ends of the vessel may be permanently closed by a welded or brazed plate. Welded or brazed side seams are authorized.

§ 178.34–3 Dimensions.

(a) The inside diameter of the vessel may not exceed 30 centimeters (12 inches) exclusive of flanges for handling or fastening devices and must have wall thickness and length in accordance with the following:

Inside diameter maximum		Wall thickness minimum			Length maximum	
		Threaded closure		Flanged closure		
Inches	Centimeters	Inches	Millimeters		Inches	Centimeters
2	5	¼	2.5	Not less than that prescribed for schedule 40 pipe.	16	41
6	15	⅛	3.2		72	183
12	30	¼	6.5		72	183

§ 178.34–4 Closure devices.

(a) Each closure device must be as follows:

(1) Screw-type cap or plug; number of threads per inch must not be less than United States standard pipe threads and must have sufficient length of thread to engage at least 5 threads when securely tightened. Pipe threads must be luted with an appropriate non-hardening compound which must be capable of withstanding up to 149°C. (300°F.) without loss of efficiency. Tightening torque must be adequate to maintain leak tightness with the specific luting compound.

(2) An opening may be closed by a securely bolted flange and leak-tight gasket. Each flange must be welded or brazed to the body of the 2R vessel per (ANSI) Standard B16.5 or (AWWA) Standard C207–55, section 10. A torque wrench must be used in securing the flange with a corresponding torque of no more than twice the force necessary to seal the selected gasket. Gasket material must be capable of withstanding up to 149°C (300°F) without loss of efficiency. The flange, whether of ferrous or nonferrous metal, must be constructed from the same metal as the vessel and must meet the dimensional and fabrication specifications for welded construction as follows:

(i) Pipe flanges described in Tables 13, 14, 16, 17, 19, 20, 22, 23, 25, and 26 of ANSI B16.5.

(ii) For nominal pipe sizes 6, 8, 10, and 12 inches, AWWA Standard C207–55 Table 1, class B, may be used in place of the tables prescribed by paragraph (a)(2)(i) of this section.

(iii) Sizes under 6 inches, nominal pipe size, the following table with the same configuration as illustrated in AWWA C207–55, Table 1, class B, may be used in place of paragraph (a)(2)(i) of this section.

Nominal pipe size		Flange O.D.		Number of bolts	Bolt circle diameter		Diameter of bolts		Flange thickness	
Inches	Centimeters	bolts	Inches		Inches	Centimeters	Inches	Centimeters	Inches	Centimeters
1	5	4	4⅞	4	4¼	11.8	⅝	1.2	⅝	1.6
2½	6.7	7	17.5	4	5½	13.9	⅝	----------	⅝	----------
3	7.5	7¼	18.8	4	5⅞	15	⅝	----------	⅝	----------
5½	8.4	8½	21.3	8	7	17.5	⅝	----------	⅝	----------
4	10	9	22.6	8	7½	18.8	⅝	----------	⅝	----------
5	12.6	10	25.4	8	8½	21.3	¾	----------	⅝	----------

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(iv) Cast iron flanges prohibited.

30. In § 178.103, §§ 178.103–1, and 178.103–3 are amended; paragraph (a) in §§ 178.103–4, and 178.103–5 is revised; in § 178.103–2 paragraph (b) is added to read as follows:

§ 178.103 Specification 6L; metal packaging.

§ 178.103–1 General requirements.

Each packaging must meet the applicable requirements of § 173.24 of this subchapter.

§ 178.103–2 Rated capacity.

* * * * *

(b) The authorized maximum gross weight of the package is 160 kilograms (350 pounds) for sizes not over 210L (55 gallons) or 220 kilograms (480 pounds) for sizes over 210L (55 gallons) but not over 420L (110 gallons).

§ 178.103–3 General construction requirements.

(a) The outer shell must be of straight sided steel, with welded body seams and at least 18-gauge body and bottom head sheets, and 14-gauge removable head sheets (unless there are one or more corrugations in the cover near the periphery, in which case 16-gauge is authorized). The shell may be either a single sheet of steel or may be fabricated by welding together two appropriate lengths of 210L (55-gallon) drums, such as a DOT Specification 6J or 17H, with rolled or swedged in hoops as prescribed for either of those specifications. The head must be convex (crowned), not extending beyond the level of the chime, with a minimum convexity of 1 centimeter (⅜-inch). The inside diameter of the shell must be at least 57 centimeters (22.5 inches).

(b) Inner containment vessel must conform to specification 2R (except that cast iron is not authorized), with a maximum usable inside dimension of 13.3 centimeters (5.25 inches) maximum height of 127 centimeters (50 inches) (with caps in place) and minimum wall thickness of 6 millimeters (0.25 inch).

(c) Inner containment vessel must be fixed within the outer shell by one of the following types of centering devices:

(1) At least 8 steel rod spacers, of at least 6 millimeters (0.25-inch) diameter (for packages of 210 liters (55-gallon) capacity) or 1 centimeter (0.375-inch) diameter (for packages with greater than 210 liters (55-gallon) capacity) cold rolled steel, welded to the vessel at each end by minimum 5 centimeter (2-inch) continuous weld. Each rod must be welded to the vessel at radial positions not exceeding 45 degrees as not to interfere with closure of the inner vessel. Each spacer rod must extend at least 5.6 centimeters (2.25 inches) beyond the inner vessel at each end, then radially to the wall of the outer drum (to provide a springlike snug fit) and along the entire length of the wall of the outer drum. For a packaging of more than 210 liters (55-gallon) capacity, each spacer rod must be braced by welding a 6 millimeter (0.25-inch) by 5 centimeter (2-inch) steel plate to the spacer rod and the pipe with a continuous weld at each joint, the joints being located approximately half way along the length of the drum. For containers manufactured prior to March 31, 1975, this requirement is effective (insert date one year after publication).

(2) * * *

(i) 2.5 centimeters (1 inch) by 2.5 centimeters (1 inch) by 6 millimeters (¼-inch) steel angle iron.

(ii) 3 centimeters (1¼) inches by 3 centimeters (1¼ inches) by 5 millimeters (⅜-inch) steel angle iron.

(iii) 2.5 centimeters (1 inch) schedule 40 steel pipe.

* * * * *

(3) There must not be less than 2 spacer mechanisms for a packaging of 210 liters (55-gallon) capacity nor less than 3 spacer mechanisms for a packaging greater than 210 liters (55-gallon) capacity. Each spacer mechanism must consist of not less than 6 steel angles, pipe, or rod radial supports of at least 27 square centimeters (0.42 square inch) cross-section. Each radial support must be welded at one end to the containment vessel by a continuous weld or to an inner steel band of at least 6 millimeters (¼-inch) by 2.5 centimeters (1 inch) by a continuous weld at radial positions not exceeding 60 degrees from the center of the package. The inner band, when used, must be welded to the inner containment vessel by at least 6 equally spaced 5 centimeter (2-inch) welds on each edge of the band. The opposite end of the radial support must be welded by a continuous weld to an outer steel band of at least 6 millimeters (¼-inch) by 2.5 centimeters (1 inch). The outer steel band must be welded to the outer shell by at least 6 equally spaced welds on each edge of the top band, such that the inner vessel is fixed at least 5.7 centimeters (2.25 inches) from the top and bottom of the drum. The spacer mechanism must be welded as specified near each end of the containment vessel so as not to interfere with the vessel closure. For a packaging greater than 210L (55-gallon) capacity, the additional spacer mechanism must be located at approximately midpoint along the length of the inner vessel.

(d) The void between the inner containment vessel and the outer shell must be completely filled with bagged or tamped vermiculite (expanded mica), with a density of at least 0.072 g/cc (4.5 pounds per cubic foot). Loose, untamped vermiculite is not authorized.

§ 178.103–4 Welding.

Welding must be of material having a melting point in excess of 800° C (1475° F.) (except that for packages constructed prior to March 31, 1975, this temperature may be 540° C. (1000° F)), with a joint efficiency of at least 0.85. This requirement applies to welding used in adding spacer rods to comply with 178.103(3)(c)(1).

§ 178.103–5 Closure.

(a) The outer drum closure must be at least a 12-gauge bolted ring with drop forged lugs, one of which is threaded, and having at least a 1.6 centimeter (⅝-inch) diameter steel bolt and a lock nut, or equivalent device.

* * * * *

31. In § 178.104–3, paragraphs (a), (b), and (c) are revised; paragraph (e) would be added to read as follows:

§ 178.104–3 General construction requirements.

(a) The outer shell must be of straight-sided steel, with welded body seams, and may be either a single sheet of steel, or may be fabricated by welding together two appropriate lengths of drums, such as a DOT Specification 6C or 17C, with each length to contain 3 swedged or rolled rolling hoops as prescribed for either of these specifications. A removable head for a packaging of 210 liters (55 gallons) or larger volume must have one or more corrugations in the cover near the periphery. For a packaging exceeding 51 liters (15 gallons) volume, the head must be crowned (convexed), not extending beyond the level of the chime, with a minimum convexity of 1 centimeter (⅜-inch).

(1) The maximum authorized gross weight, metal thickness, and minimum end insulation thickness for the marked volume is as follows:

Marked capacity		Maximum authorized gross weight		Minimum thickness of uncoated sheets and heads (gage)	Minimum thickness of end insulation	
Gallons not over	Liters	Pounds	Kilograms		Inches	Centimeters
15	57	160	73	20	1.65	4.7
30	114	480	219	18	3.75	9.5
55	210	640	292	16	3.75	9.5
110	420	640	292	16	3.75	9.5

(2) Each drum must have at least four 1.2 centimeter (0.5-inch) diameter vent holes, located on the sides of the drum, near the top, each covered with a weatherproof tape, fusible plug, or equivalent device. A layer of porous refractory fiber may be placed behind the pressure-relief vent holes.

(b) Inner containment vessel must conform to specification 2R or equivalent (except that only carbon steel or stainless steel is authorized), with maximum usable inside diameter of 13.3 centimeters (5.25 inches), minimum usable inside diameter of 10 centimeters (4 inches), and minimum height of 15 centimeters (6 inches).

(c) Inner containment vessel must be fixed within the outer shell by one of the following types of solid centering media,

with the sides of the inner vessel protected by at least 9.5 centimeters (3.75 inches) of insulation media, and the ends with at least the thickness as prescribed in § 178.104–3(a)(1).

(1) Machined discs and rings made of solid industrial cane fiberboard having a density of at least 00.24 g/c¢ (15 pounds per cubic foot) fitted such that the radial clearances between the fiberboard, inner vessel, and shell do not exceed 6 millimeters (¼-inch); or

(2) Hardwood or plywood at least 1.2 centimeter (½-inch) thick, having a density of at least 0.45 g/c¢ (28 pounds per cubic foot). There must be no gap or direct heat path from the shell to the inner vessel.

* * * * *

(e) For a packaging having an authorized gross weight in excess of 219kg (480 pounds), a steel bearing plate, at least 6 millimeters (0.25-inch) thick or a plywood disc, at least 2.5 centimeters (1 inch) thick, and at least 25 centimeters (10 inches) in diameter must be provided at both ends and adjacent to the specification 2R inner containment vessel, to provide additional load-bearing surface against the insulation-centering medium.

32. § 178.120 is added to read as follows:

§ 178.120 Specification 20PF phenolic-foam insulated, metal overpack.

§ 178.120–1 General requirements.

(a) Each overpack must meet all of the applicable requirements of § 173.24 of this subchapter.

(b) The maximum gross weight of the package, including the inner cylinder and its contents, must not exceed the following:

(1) Specification 20PF–1—138 kilograms (300 pounds).

(2) Specification 20PF–2—320 kilograms (700 pounds).

(3) Specification 20PF–3—455 kilograms (1000 pounds).

(c) The general configuration of the overpack must be a right cylinder, consisting of an insulated base section, a steel liner lid, and an insulated top section. The inner liner and outer shell must be at least 16-gauge and 18-gauge steel, respectively, with the intervening cavity filled with a molded-in-place, fire-resistant, phenolic-foam insulation interspersed with wooden members for bracing and support. Wood pieces must be securely attached to both the liner and shell. No hole is permitted in the liner. Each joint between sections must be stepped a minimum of 5 centimeters (2 inches) and gaps between mating surfaces must not exceed 5 millimeters (0.2-inch). Gaps between foam surface of top section and liner lid must not exceed 1 centimeter (0.4-inch) or 5 centimeters (2 inches) where taper is required for mold stripping. For the specification 20PF–1, the top section may consist of a plug of foam insulation and a steel cover. The liner and shell closures must each be gasketed against moisture penetration. The liner must have a bolted flange closure. Shell closure must conform to § 178.118–8(b).

(d) Drawings in CAPE–1662, which include bills of material are a part of this specification.

§ 178.120–2 Materials of construction and other requirements.

(a) Phenolic foam—Insulation must be fire-resistant, phenolic foam which has been fabricated in accordance with USAEC Material and Equipment Specification SP–9, which is a part of this specification. A 13.7 centimeter (5-inch) minimum thickness of foam must be provided over the entire liner except:

(1) Where wood spacers replace the foam; or

(2) At protrusions of liner or shell, such as flanges, baffles, etc., where minimum insulation thickness is 9 centimeters (3.5 inches); or

(3) Where alternate top section (specification 20PF–1) is used. Foam must not interfere with proper seating of screws in inner liner flange assembly. Average density of insulation must be 0.13 g/cc (8 pounds per cubic foot (pcf)) minimum for bottom section and 0.16 g/cc (10 pcf) minimum for top section, except 0.1 g/cc (6.5 pcf) for the specification 20PF–1 top section.

(b) Gaskets must be as follows:

(1) Inner liner flange—Neoprene rubber of 30 to 60 type A durometer hardness or other equivalent gasket material which is compatible with the specific contents.

(2) Outer shell—Synthetic rubber conforming to MIL–R–6855 (available from the Naval Publications Forms Center, 5801 Tabor Avenue, Philadelphia, Pennsylvania 19120) class 2, grade 60.

(3) Support and pressure pads for inner liner top and bottom must be sponge rubber or equivalent.

(c) Alternate top section (specification 20PF–1 only). Average insulation density must be 0.16 g/cc (10 pcf minimum). Thickness of plug must be 11 centimeters (4.3 inches) minimum, except thickness may be reduced to 10 centimeters (4 inches) to clear bolt heads. A flush mounted top lifting device must be securely fastened to a wood block encapsulated by the foam.

(d) Vent holes 5 millimeters (0.2-inch) diameter must be drilled in the outer shell to provide pressure relief during the insulation foaming and in the event of a fire. These holes, which must be drilled in all areas of the shell which mate with the foam insulation, must be spaced in accordance with CAPE–1662.

(e) Welding must be by a fusion welding process in accordance with American Welding Society Codes B–3.0 and D–1.0. Body seams and joints for the liner or shell must be continuous welds.

(f) *Waterproofing*—Each screw hole in the outer shell must be sealed with appropriate resin-type or equivalent sealing material during installation of the screw. All exposed foam surfaces, including any vent hole, must be sealed with water-proofing material as prescribed in USAEC Specification SP–9, Rev. 1, or equivalent.

§ 178.120–3 Tests.

(a) Leakage test—Each inner liner assembly must be tested for leakage prior to installation. Seam welds of the liner must be covered for a distance of at least 15 centimeters (6 inches) on either side of the seam with soapsuds, heavy oil, or equivalent material, and interior air pressure applied to at least 776mm Hg (15 p.s.i.g.) above atmospheric pressure must be held for at least 30 seconds. Liners failing to pass this test may not be used until repairs are made, and retests successfully passed.

§ 178.120–4 Required markings.

(a) Marking must be as prescribed in § 173.24 of this subchapter.

(b) Marking on the outside of each overpack must be as follows:

(1) "USA–DOT–20PF–1" or "–2," as appropriate, and if the entire liner is made of stainless steel, additional marking such as "3041–SS" to indicate the type of stainless steel used.

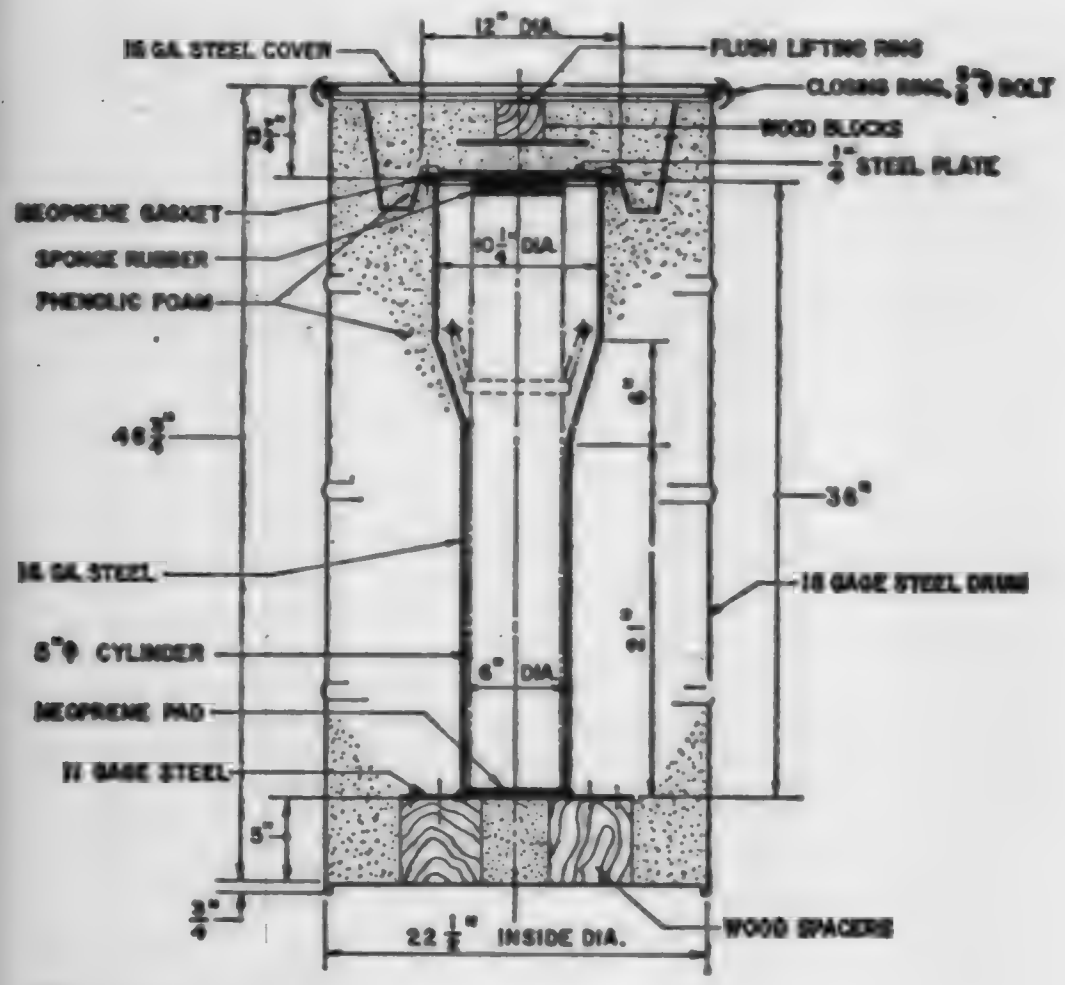
(2) "TARE WT: xxx lbs." where xxx is the tare weight of the assembled overpack without the inner container.

(3) Year of manufacture.

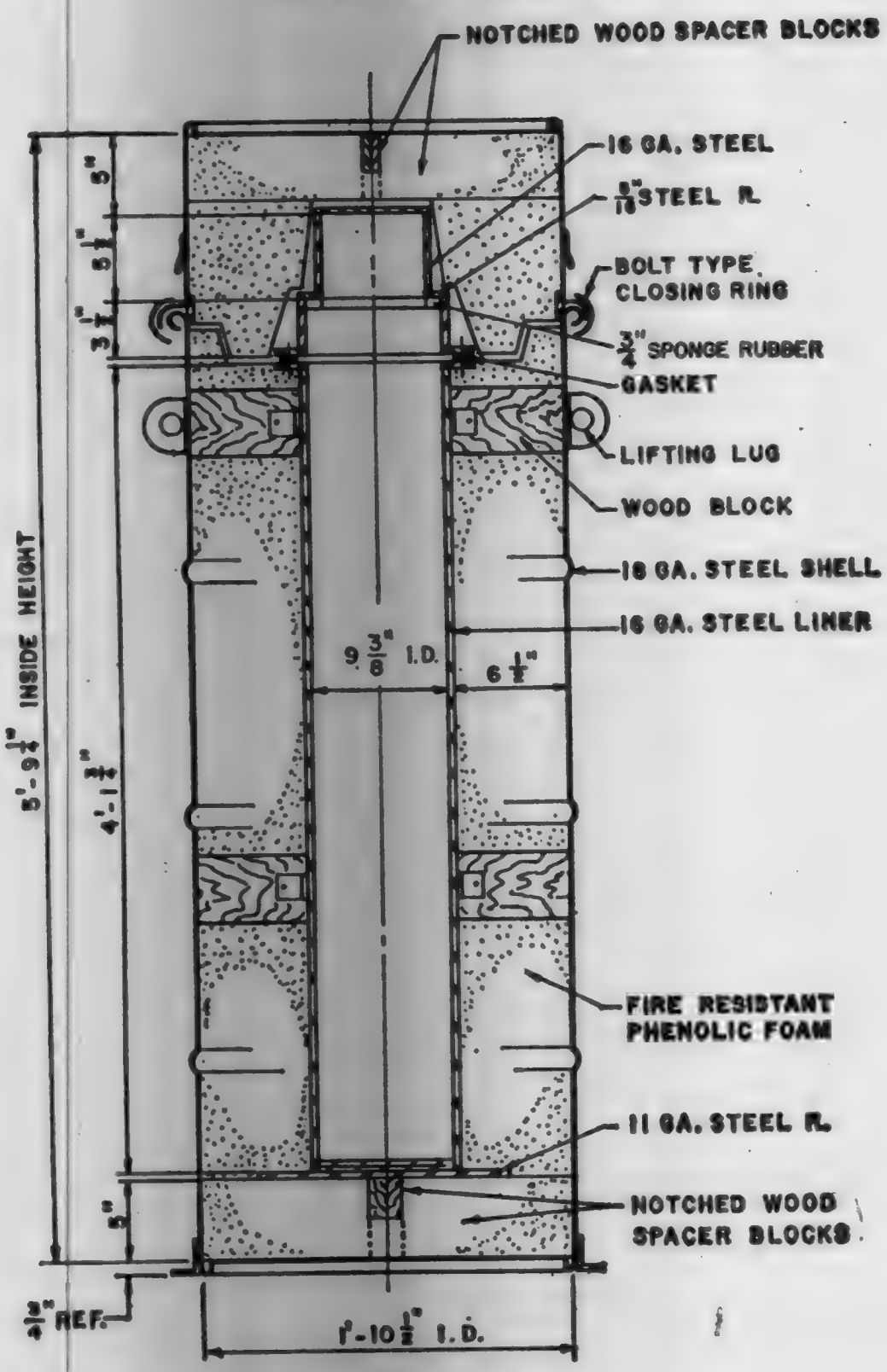
§ 178.120–5 Typical assembly detail.

(a) Specification 20PF–1.

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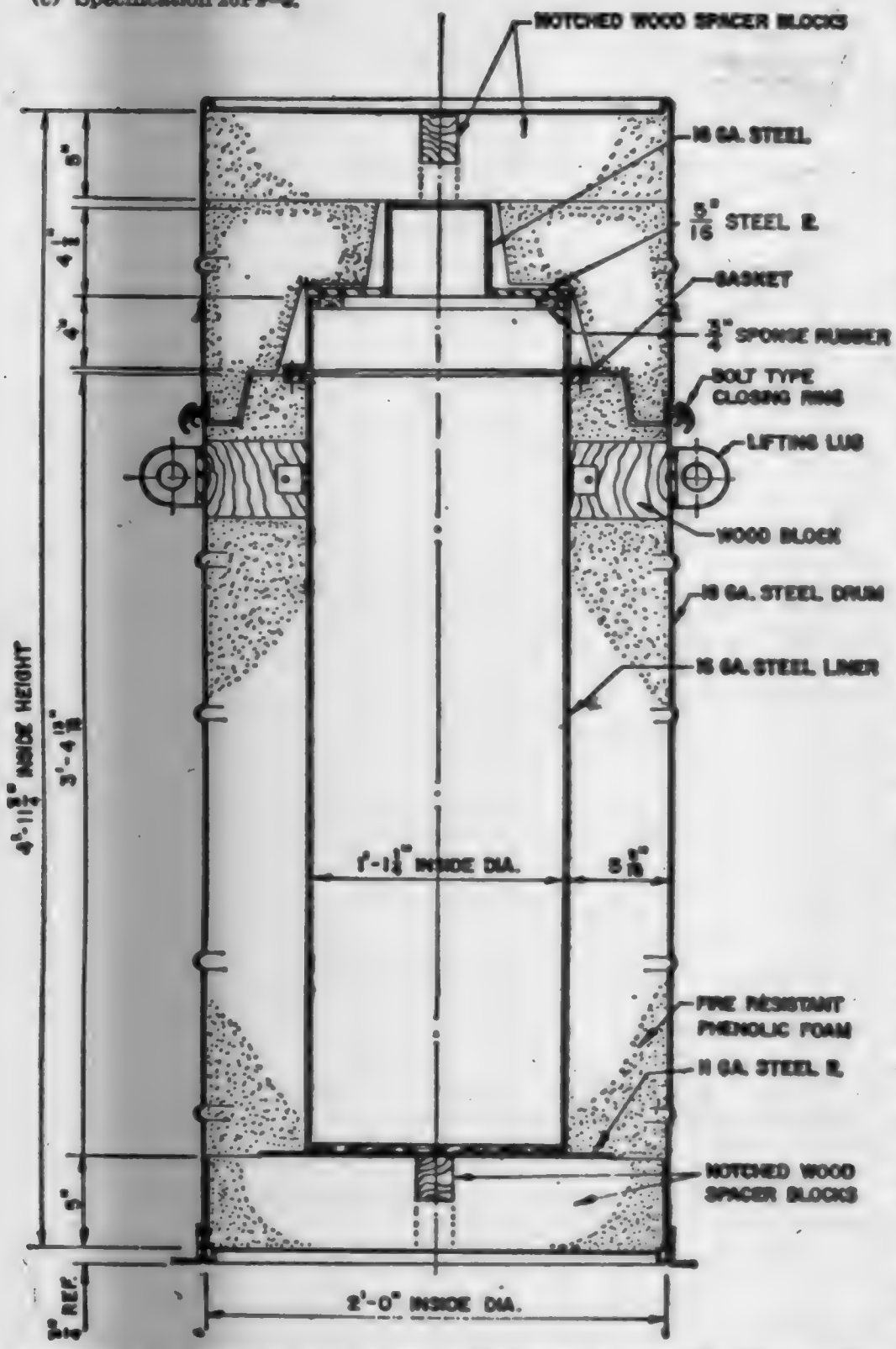


(b) Specification 20PP-2.



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(c) Specification 20PF–2.



33. § 178.121 is added to read as follows:

§ 178.121 Specification 21PF fire and shock resistant, phenolic-foam insulated, metal overpack.

§ 178.121–1 General requirements.

(a) Each overpack must meet all of the applicable requirements of § 173.24 of this subchapter.

(b) Each overpack is authorized for use in applications where the maximum gross weight of the package, including the inner container and contents does not exceed 3725 kilograms (8200 pounds) (horizontally-loaded specification 21PF–1 unit), or 3900 kilograms (8600 pounds) (end-loaded specification 21PF–2 unit).

(c) The general configuration of the overpack must be a right cylinder, consisting of a steel inner liner (at least 16-gauge) and steel outer shell (at least 14-gauge) with the intervening cavity filled with a molded-in-place, fire-resistant, phenolic foam insulation and interspersed wooden members for bracing and support. Two specific configurations are authorized; a horizontal loading unit (specification 21PF–1) consisting of insulated base and top sections jointed in a longitudinal peripheral closure joint; or an end-loading unit (specification 21PF–2), consisting of an insulated main section, a steel plate liner lid, and an insulated end cap. For either type each joint between sections must be stepped at least 1.8 centimeters (0.75-inch) and gaps between mating surfaces may not exceed 5 millimeters (0.1-inch). Bolted closures, which must each be gasketed against moisture penetration, must be in accordance with CAPE–1662. Each bolt must be equipped with a locking device to prevent loosening from vibration. Outer steel bracing and support framework must be attached to the shell to facilitate normal handling.

(d) Drawings in CAPE-1662, which include bills of materials, are a part of this specification.

§ 178.121–2 Materials of construction and other requirements.

(a) *Phenolic foam.* Insulation must be fire resistant, phenolic foam which has been fabricated in accordance with USAEC material specification SP–9, Rev. 1, which is a part of this specification. A 14 centimeters (5.5-inch) minimum thickness of foam must be provided over the entire liner, except where:

(1) Wood spacers replace the foam material; or

(2) At protrusions of liner or shell, such as flanges, baffles, etc., where the minimum thickness of foam, wood, or a combination of these is 10 centimeters (4 inches).

(3) Solid wood or laminated wood solidly glued may be used to replace the foam between liner and shell (i.e., in ends of overpack). In this case, minimum wood thickness is 10 centimeters (4 inches). Average density of insulation must be 0.1g/cc (6.75 pounds per cubic foot (pcf)) minimum, except that 0.13 g/cc (8 pcf) is required in the removable end cap of the specification 21PF–2, which must have a minimum foam thickness of 12.7 centimeters (5 inches).

(b) Gaskets for inner liner, outer shell, or where otherwise specified in CAPE–1662, must be of vinyl foam tape, single coated, or 6 millimeters (¼-inch) thick expanded rubber, per ASTM D1056, type R or S, grades 41 to 43, with adhesive backing, or equivalent.

(c) Support and pressure pads for the inner liner must be of neoprene, sponge rubber, or equivalent.

(d) Fire retardant (intumescent) paint must be applied to any wood blocking which is located at any joint in the shell.

(e) Vent holes 5 millimeters (0.2-inch) diameter must be drilled in the outer shell to provide pressure relief during the insulation foaming and in the event of a fire. These holes, which must be drilled in all areas of the shell which mate with the foam insulation, must be spaced in accordance with CAPE–1662.

(f) Welding must be by a fusion process in accordance with the American Welding Society Code. Body seams and joints for the liner and shell must be continuous welds.

(g) Waterproofing. Each screw hole in the outer shell must be sealed with appropriate resin-type or equivalent sealing material during installation of the screw. All exposed foam surfaces including any vent hole, must be sealed with waterproofing material as prescribed in USAEC Material and Equipment Specification SP-9, or equivalent.

§ 178.121-3 Required markings.

(a) Markings must be as prescribed in § 173.24 of this subchapter.

(b) Marking on the outside of each overpack must be as follows:

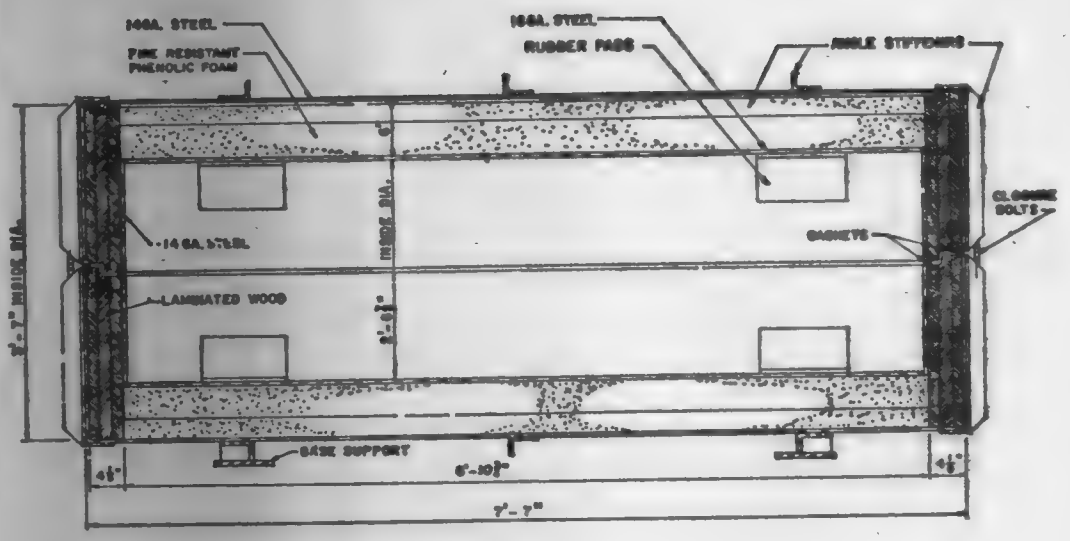
(1) "USA-DOT-21PF-1" or "2", as appropriate, and, if the inner shell is of stainless steel, additional marking such as "304L-SS" to indicate the type of stainless steel used.

(2) "TARE WT: xxx lbs. (or kg.)" where xxx is the tare weight of the assembled overpack without the inner container.

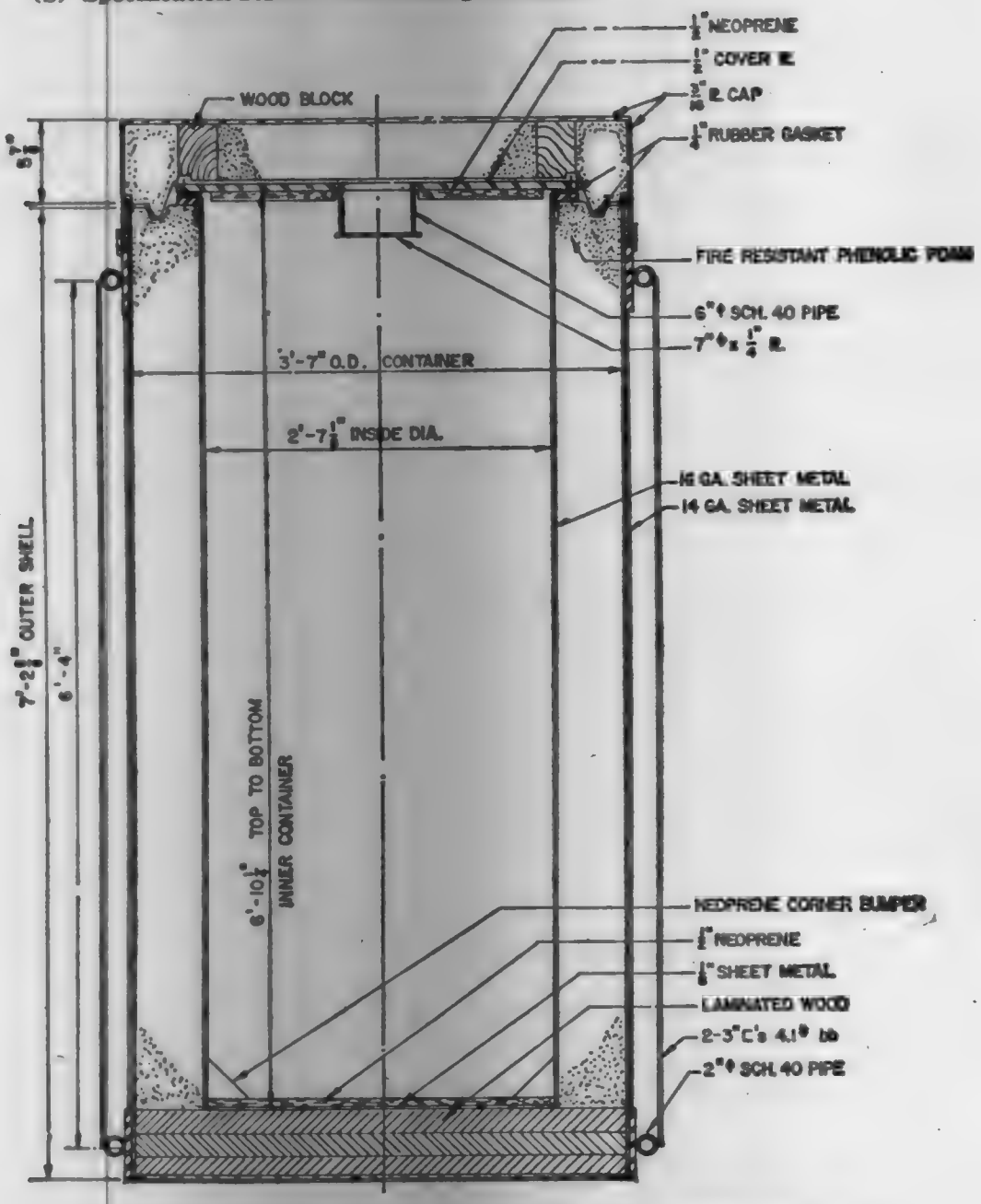
(3) Year of manufacture.

§ 178.121-4 Typical assembly detail.

(a) Specification 21PF-1 (horizontal loading overpack).



(b) Specification 21PF-2 (end loading overpack).



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34. § 178.194 is added to read as follows:

§ 178.194 Specification 20WC wooden protective jacket.

§ 178.194–1 General requirements.

(a) Each jacket must meet the applicable requirements of § 173.24 of this subchapter.

(b) Maximum gross weight of the jacket plus the contents may not exceed the following:

(1) Specification 20WC–1: 225 kilograms (500 pounds).

(2) Specification 20WC–2: 225 kilograms (500 pounds).

(3) Specification 20WC–3: 455 kilograms (1000 pounds).

(4) Specification 20WC–4: 910 kilograms (2000 pounds).

(5) Specification 20WC–5: 1820 kilograms (4000 pounds).

(6) Specification 20WC–6: 2230 kilograms (6000 pounds).

§ 178.194–2 Materials of construction.

(a) The general configuration of the wooden protective jacket must be a hollow cylindrical shell constructed of one-piece discs and rings of plywood or solid hardwood reinforced with steel rods.

(1) The specification 20WC–2 must be additionally completely encased, snugly fit, within an 18-gauge steel shell. The steel shell must be provided with at least four 6 millimeter (0.25-inch) diameter vent holes. Each hole must be covered with durable weatherproof tape, or equivalent device.

(2) The specification 20WC–6 jacket must be additionally completely encased, snugly-fit, within a 12-gauge steel shell. The steel shell must be provided with at least twelve 1.2 centimeters (0.5-inch) diameter vent holes, located in 3 rows of 4 holes each, spaced at 90 degree intervals near the top, middle, and bottom of the drum. Each hole must be covered with durable weatherproof tape, or equivalent device.

(b) Plywood must be exterior-grade, void-free, Douglas fir (or equivalent) not more than 2.5 centimeters (1 inch) thick. Solid hardwood is authorized for specification 20WC–2 only.

(c) Discs and rings must be glued together with a strong, shock-resistant adhesive, such as either of the following:

(1) A resorcinol-formaldehyde adhesive, which has been bonded under both heat and pressure; or

(2) A polyvinyl-acetate emulsion, which has been reinforced with cement-coated nails. The nails must be randomly spaced and must be at least 2.5 times as long as the minimum thickness of the plywood discs or rings.

(d) Full-length steel rods are required for reinforcement and lid closure.

(1) The minimum number of rods and the minimum rod diameter are as shown in the following table:

Specification	Minimum number of rods	Minimum rod diameter	
		Inches	Millimeters
20WC–1	6	0.25	6.0
20WC–2	6	.25	6.0
20WC–3	12	.375	9.5
20WC–4	16	.375	9.5
20WC–5	16	.50	12.0
20WC–6	16	.50	12.0

(2) For specifications 20WC–1 and 20WC–2, steel rods must be equally spaced around the circumference to the rings and discs, midway between the O.D. and I.D. of the rings. For specifications 20WC–3 and 20WC–4, bolts may be staggered alternately in two rows, at ±1.2 centimeters (0.5-inch) from the line midway between the O.D. and I.D. of the rings. For specifications 20WC–5 and 20WC–6, bolts may be staggered alternately in two rows at ±2.5 centimeters (1 inch) from the line midway between the O.D. and I.D. of the rings.

(3) Rod ends must be threaded and secured with lock nuts and steel washers, or equivalent device, to provide at least a 2.5 centimeters (1 inch) diameter bearing surface on each end. Ends of the rods must terminate 1.4 centimeters (0.75-inch) below the surface of the plywood for specifications 20WC–1 and 20WC–2. For specifications 20WC–3, 20WC–4, 20WC–5 and 20WC–6, the ends of the rods must terminate 3.7 centimeters (1.5 inches) below the surface of the plywood, and that portion of each end disc which extends beyond the rod ends must be further held in place with lag screws at least 10 centimeters (4 inches) long.

(e) Thickness of wooden shell:

(1) Specification 20WC–1: At least 10 centimeters (4 inches) thick.

(2) Specification 20WC–2: At least 7.5 centimeters (3 inches) thick.

(3) Specification 20WC–3: At least 13 centimeters (5 inches) thick for the jacket wall, and at least 15 centimeters (6 inches) thick for the end discs. In addition, at least 3 plywood chines, 5 centimeters (2 inches) wide and protruding 5 centimeters (2 inches) beyond the outer surfaces, must be located at each end and midway along the length of the jacket.

(4) Specification 20WC–4: At least 15 centimeters (6 inches) thick for the jacket wall, and at least 15 centimeters (6 inches) thick for the end discs. In addition, at least 3 plywood chines, 5 centimeters (2 inches) wide and protruding 5 centimeters (2 inches) beyond the outer surfaces, must be located at each end and midway along the length of the jacket.

(5) Specifications 20WC–5 and 20WC–6: At least 15 centimeters (6 inches) thick for the jacket wall, and at least 20 centimeters (8 inches) thick for the end discs. In addition, at least 5 plywood chines, 5 centimeters (2 inches) wide and protruding 5 centimeters (2 inches) beyond the outer surfaces, must be located at each end and equally spaced along the length of the jacket.

§ 178.194–3 Closure.

(a) Closure for the wooden protective jacket is provided by the steel reinforcing rods. The end cap (lid) must fit tightly to the body of the jacket to prevent a heat path to the inside of the jacket. The lid joint for specifications 20WC–3, 20WC–4, 20WC–5, and 20WC–6, may not be coplanar with the end of the inner containment vessel.

(b) Specifications 20WC–2 and 20WC–6. Locking ring closure, if used, must conform to § 178.104–4. Flanged closure, if used, must have at least 8 steel bolts (at least 6 millimeters (0.25-inch) diameter for 20WC–2 or 1.2 centimeters (0.50-inch) diameter for 20WC–6) and lock nuts (or equivalent device), spaced not more than 13 centimeters (5 inches) between centers.

§ 178.194–4 Tests.

Prior to each use, each jacket must be visually inspected for defects such as improper bonding, cracking, corrosion of steel rods, and improperly fitting closure lid, or other manufacturing defects. Particular attention must be given to any separation of the plywood discs and rings which would provide a heat path to the inside of the jacket.

§ 178.194–5 Painting.

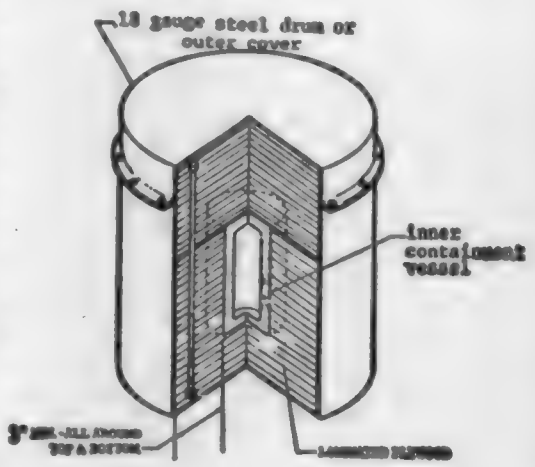
Each jacket (other than 20WC–2 and 20WC–6) must be completely painted with a high quality exterior weather resistant paint.

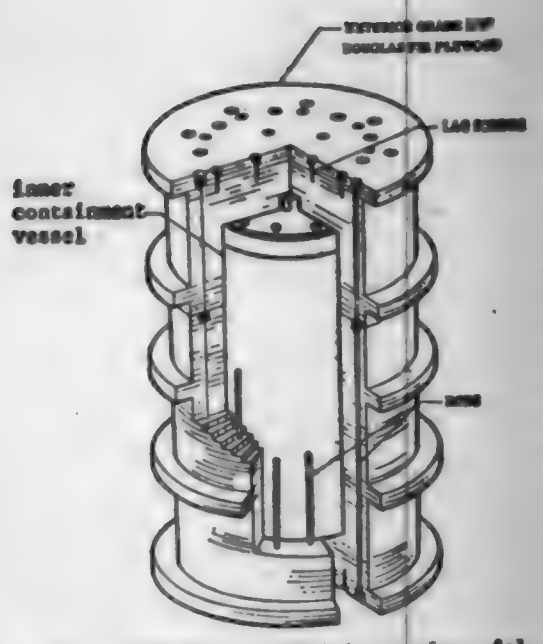
§ 178.194–6 Marking.

Each jacket must be marked on the external surface as follows: "USA–DOT 20WC–( ) TYPE B." The appropriate numeral must be inserted in the marking to indicate the appropriate specification 20WC category: e.g., "20WC–2."

§ 178.194–7 Typical assembly sketches.

(a) Spec. 20WC–2.





35. § 178.195 is added to read as follows:

§ 178.195 Specification 21WC wooden-steel protective overpack.

§ 178.195–1 General requirements.

(a) Each jacket must meet all the applicable requirements of § 173.24 of this subchapter.

(b) The maximum authorized gross weight of the overpack, including its inner container and contents may not exceed 1360 kilograms (3000 pounds).

§ 178.195–2 Materials of construction and other requirements.

(a) The general configuration of the protective overpack must be a combination of two nested plywood boxes, each 2.5 centimeters (1 inch) thick, nested within a third wooden box of nominal 5 centimeters (2-inch) thickness solid hardwood. The three nested boxes must be enclosed within a welded framework constructed of mild steel strap, nominally 1 centimeter (⅜-inch) thick by 8–10 centimeters (3–4 inches) wide. All outer surfaces of each box must be coated with intumescent paint.

(b) Plywood must be exterior-grade, void-free, Douglas fir, or equivalent, at least 2.5 centimeters (1-inch) thick. Solid hardwood must be maple, or equivalent.

(c) All box joints and interior surfaces must be glued with a strong, shock-resistant adhesive such as polyvinyl-acetate emulsion, or equivalent.

(d) All hardwood joints must be mitered, or equivalent, reinforced with No. 10 cement-coated nails spaced on nominal 15 centimeters (6-inch) centers.

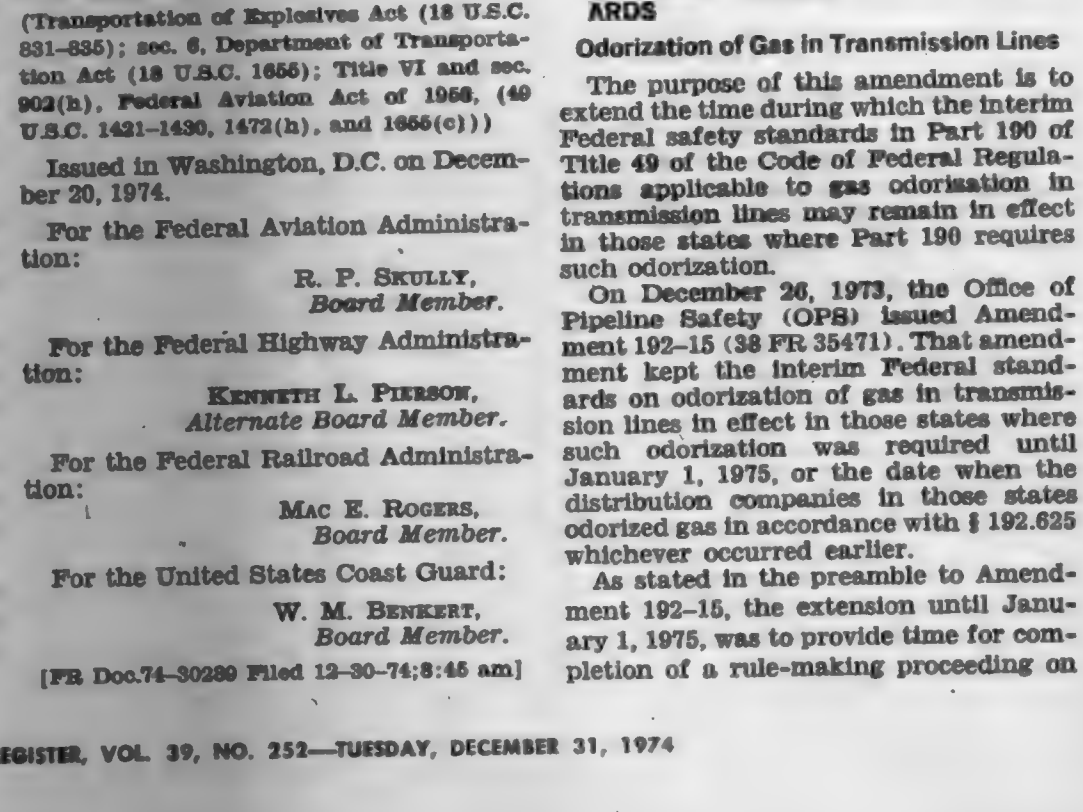
(e) All plywood joints must be butt-type, or equivalent, reinforced with No. 10 cement-coated nails spaced on nominal 15 centimeters (6-inch) centers.

(f) The angles and strapping of the metal frame must be spaced such that separation distances do not exceed 15 centimeters (6 inches).

(g) The lid must be of the same material as the box and fabricated in such a manner that closure forms a mitered joint with the hardwood box and 2 stepped-joints with the plywood boxes.

§ 178.195–3 Closure.

Closure for the protective overpack must be provided by at least 4 mild steel hinges formed from minimum 2.5-centimeter (1-inch) x 5-millimeter (3/16-inch) bar stock. Hinge pins must be minimum 6-millimeter (1/4-inch) diameter by 1 5.3 centimeters (5-1/4 inches) long mild steel rod drilled at both ends for cotter pins.



RADIOISOTOPE SHIPPING CASK FIRE AND IMPACT SHIELD.

§ 178.195–4 Tests.

Prior to each use, each overpack must be visually inspected for defects such as wood checking or splintering, weld cracking, corrosion of steel parts, improper joint bonding, or improperly fitting closure lid.

§ 178.195–5 Required marking.

(a) Marking must be as prescribed in § 173.24 of this subchapter.

(b) Marking on the outside of each overpack must include the following:

(1) "USA–DOT 21WC" and "TYPE B" as appropriate. **§ 178.195–6 Typical assembly detail.**

36. § 178.250 is deleted.

This amendment is effective March 31, 1975. However, immediate compliance with the regulations, as amended herein, is authorized.

(Transportation of Explosives Act (18 U.S.C. 831–835); sec. 6, Department of Transportation Act (18 U.S.C. 1655); Title VI and sec. 902(h), Federal Aviation Act of 1958, (49 U.S.C. 1421–1430, 1472(h), and 1655(c)))

Issued in Washington, D.C. on December 20, 1974.

For the Federal Aviation Administration:

R. P. SKULLY,
Board Member.

For the Federal Highway Administration:

KENNETH L. PIERSON,
Alternate Board Member.

For the Federal Railroad Administration:

MAC E. ROGERS,
Board Member.

For the United States Coast Guard:

W. M. BENKERT,
Board Member.

[FR Doc.74–30289 Filed 12–30–74;8:45 am]

SUBCHAPTER B—OFFICE OF PIPELINE SAFETY

[Amdt. 192–16; Docket No. OPS–3E]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Odorization of Gas in Transmission Lines

The purpose of this amendment is to extend the time during which the interim Federal safety standards in Part 190 of Title 49 of the Code of Federal Regulations applicable to gas odorization in transmission lines may remain in effect in those states where Part 190 requires such odorization.

On December 26, 1973, the Office of Pipeline Safety (OPS) issued Amendment 192–15 (38 FR 35471). That amendment kept the interim Federal standards on odorization of gas in transmission lines in effect in those states where such odorization was required until January 1, 1975, or the date when the distribution companies in those states odorized gas in accordance with § 192.625 whichever occurred earlier.

As stated in the preamble to Amendment 192–15, the extension until January 1, 1975, was to provide time for completion of a rule-making proceeding on

V 39 N 252 DEC 31 1974 XUM

odorization of gas in transmission lines. This proceeding began on August 15, 1973, when OPS published a notice of proposed rule making in the Federal Register (Notice No. 73–2, Docket No. OPS–24, 38 FR 22044). The comments received as a result of that notice have been evaluated, and upon publication of a final rule pending the report of the Technical Pipeline Safety Standards Committee, the interim standards will be allowed to lapse. Meanwhile, the interim standards are again being extended as set forth below. The cutoff date of January 1, 1977, is established to coincide with the anticipated effective date of the proposed new odorization requirements.

Since the regulatory provisions that are affected by this amendment are presently in effect, and since this amendment will impose no additional burden on any person, I find that notice and public procedure thereon are impractical and unnecessary and that good cause exists for making it effective on less than 30 days notice.

In consideration of the foregoing, § 192.625(g)(1) of Title 49 of the Code of Federal Regulations is amended effective January 1, 1975, to read as follows:

§ 192.625 Odorization of gas.

* * * * *

(g) * * *

(1) January 1, 1977; or

* * * * *

This amendment is issued under the authority of section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1672) § 1.58(d) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the redelegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A of Part 1 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 1).

Issued in Washington, D.C., on December 24, 1974.

JOSEPH C. CALDWELL,
Director, Office of Pipeline Safety.

[FR Doc.74–30397 Filed 12–30–74;8:45 am]

Title 32A—National Defense, Appendix

CHAPTER X—OFFICE OF OIL AND GAS, DEPARTMENT OF THE INTERIOR

OI REG. 1—OIL IMPORT REGULATION

Transfer of Regulations

CROSS REFERENCE: For a document transferring these regulations to Title 10, Chapter II, see FR Doc. 74–30529, *infra*.

OI REG. 2—RULES FOR PROCEEDINGS FOR THE SUSPENSION OR REVOCATION OF ALLOCATIONS AND LICENSES

Transfer of Regulations

CROSS REFERENCE: For a document transferring these regulations to Title 10, Chapter II, see FR Doc. 74–30529, *supra*.

CHAPTER XI—OIL IMPORT APPEALS BOARD

OIAB—RULES AND PROCEDURES

Transfer of Regulations

CROSS REFERENCE: For a document transferring these regulations to Title 10, Chapter II, see FR Doc. 30529, *infra*.

CHAPTER XIII—OIL POLICY COMMITTEES

OPC REG. I—OIL IMPORT APPEALS BOARD GUIDELINES

Transfer of Regulations

CROSS REFERENCE: For a document transferring these regulations to Title 10, Chapter II, see FR Doc. 30529, *infra*.

CHAPTER XIII—ENERGY POLICY OFFICE

EPO REG. 1—MANDATORY ALLOCATION PROGRAM FOR MIDDLE DISTILLATE FUELS

EPO REG. 2—PRIORITIES FOR USE OF CERTAIN LOW SULFUR PETROLEUM PRODUCTS

Revocation of Regulations

CROSS REFERENCE: For a document revoking these regulations, see FR Doc. 74–30529, *infra*.

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

[Reg. D]

PART 250—MISCELLANEOUS INTERPRETATIONS

Repeal of Ban on Ownership of Gold

§ 250.260 Miscellaneous interpretations; gold coin and bullion.

The Board has received numerous inquiries from member banks relating to the repeal of the ban on ownership of gold by United States citizens. Listed below are questions and answers which affect member banks and relate to the responsibilities of the Federal Reserve System.

(a) May gold in the form of coins or bullion be counted as vault cash in order to satisfy reserve requirements? No. Section 19(c) of the Federal Reserve Act requires that reserve balances be satisfied either by a balance maintained at the Federal Reserve Bank or by vault cash, consisting of United States currency and coin. Gold in bullion form is not United States currency. Since the bullion value of United States gold coins far exceeds their face value, member banks would not in practice distribute them over the counter at face value to satisfy customer demands.

(b) Will the Federal Reserve Banks perform services for member banks with respect to gold, such as safekeeping or assaying? No.

(c) Will a Federal Reserve Bank accept gold as collateral for an advance to a member bank under § 10(b) of the Federal Reserve Act? No.

By Order of the Board of Governors, effective December 17, 1974.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74–30381 Filed 12–30–74;8:45 am]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

[No. 74–1294]

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

Amendments Relating to Security for Public Deposits

DECEMBER 11, 1974.

The following summary of the amendments adopted by this resolution is provided for the reader's convenience and is subject to the full provisions of this resolution, including the provisions in the preamble thereof and in the amended regulations set forth below.

I. *Existing regulations.* There are no existing regulations authorizing Federal savings and loans associations to give security for public deposits.

II. *Amended regulations.* Federal savings and loan associations will be authorized to give security or bond for public deposits and to be surety for such deposits.

III. *Reason for amending the regulations.* To increase the ability of Federal savings and loan associations to attract deposits.

The Federal Home Loan Bank Board considers it desirable to amend Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545) by adding new §§ 545.24–2 and 545.24–3 for the purpose of authorizing Federal savings and loan associations to provide bond or security for public deposits and to be surety for or with respect to one or more other public deposits or investments. By a companion

resolution (Resolution No. 74–1295; dated December 11, 1974), the Board also amended Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563) by adding a new paragraph (b) to § 563.31 in order to provide that action which is in conformity with new § 545.24–2 (or would be if the institution were a deposit Federal association) shall not be deemed to violate the provision of said § 563.31 that an insured institution shall not acquire insurance or guaranty of its accounts other than insurance provided by title IV of the National Housing Act.

Statutory authority of Federal savings and loan associations to be surety is supplied by subsection (e) of section 101 of Pub. L. 93–495, approved October 28, 1974. That subsection, the effective date of which was November 27, 1974, amended paragraph (2) of subsection (b) of section 5 of the Home Owners' Loan Act of 1933 to provide that "To such extent as the Board may authorize by regulation or advice in writing, an association * * * may be surety as defined by the Board * * *."

New § 545.24–2 provides in paragraph (b) that a Federal association which is a deposit association may give bond or security where the giving of such is, by statute of a State (defined to include the District of Columbia, Puerto Rico, and the territories and possessions, including any trust territory), an alternative or other requirement or condition of deposit or investment in such association of public moneys or by a governmental unit. Paragraph (c) of new § 545.24–2 provides that if, in the case of any such deposit or investment, there is a requirement or condition that the association or its bond or security, or both, be surety for or with respect to one or more other deposits or investments of that association or any other institution then insured by the Federal Savings and Loan Insurance Corporation, the association shall, to the extent that the requirement or condition is self-executing, be such surety, and may, to the extent the same is not self-executing, become such surety.

Although the authority to give bond or security under the new § 545.24–2 will be limited to situations where the giving of bond or security is such a requirement or condition, the amount of the bond or security will not be so limited.

New § 545.24–3 defines the term "surety" and provides that a Federal association may be surety (1) to the same extent that it would have authority to be surety if the amendment which was made by Public Law 93–495 had not been enacted, (2) to such extent as is in conformity with the new § 545.24–2, or (3) to such extent as is otherwise authorized by the Board by advice in writing or by regulation.

Section 545.24–3(b)(1) makes clear that the authority of Federal associations to be surety in such situations as endorsement or guaranty on the sale of securities, salvage operations, and other situations in which the association would have had authority to be surety if Pub. L. 93–495 had not been enacted remain in effect after the effective date of the amendment made by that public law.

Accordingly, the Federal Home Loan Bank Board hereby amends said Part 545 by adding new §§ 545.24–2 and 545.24–3 thereto to read as set forth below, effective December 31, 1974.

Since the above amendments relieve restrictions, the Board hereby finds that notice and public procedure with respect to said amendments are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b), and since publication of said amendments for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendments would, in the opinion of the Board, likewise be unnecessary for the same reason, the Board hereby provides that said amendments shall become effective as hereinbefore set forth.

§ 545.24–2 Public deposits or investments.

(a) *Definitions.* As used in this section, (1) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, including any trust territory; (2) "statute of a State" and "statute of the State" include action by a governmental body which has a charter adopted under the constitution of the State and having provisions respecting the deposit of public moneys of such body; (3) "surety" means surety under suretyship which is personal suretyship or real suretyship or both, and includes guarantor; and (4) terms used in paragraphs (b)(1) and (b)(2) of this section, and "public moneys" as used in this paragraph (a), have the meanings which they respectively have where occurring in pertinent context in statutes of the State. The word "moneys" as used in this paragraph (a) and in paragraph (b) of this section includes the word "monies".

(b) *General.* A Federal association which is a deposit association within the meaning of that term as used in § 545.1–2 may, without being limited to the amount of bond or security which is such a requirement or condition, give bond or security where the giving of such bond or security is, by statute of a State, an alternative or other requirement or condition of deposit or investment in such association by or of any of the following:

(1) A governmental unit;

(2) Public moneys.

(c) *Suretyship.* If, in the case of any such deposit or investment, it is by statute of the State a requirement or condition of the deposit or investment that the association or its bond or security, or any combination of any or all thereof, be surety for or with respect to one or more other deposits or investments, whether of that depositor or investor or of any other or others, and whether in that association or in any other institution or institutions having, at the time of the making of such investments or deposits, insurance by the Federal Savings and Loan Insurance Corporation, the same shall, to the extent that the statutory requirement or condition is self-executing, be such surety, and may, to the extent that such requirement or condition is not self-executing, become such surety.

(d) *Ancillary provisions.* (1) Any bond or security may be given and any substitution or increase thereof may be made under this section before, at, or after the making of deposits or investments, or when no deposit or investment is outstanding.

(2) The provisions of this section shall be applicable notwithstanding and without regard to the prohibition on security in the last sentence of § 545.24 and the extension of that prohibition in § 545.1–2(c) and in § 545.1–5(1)(1).

§ 545.24–3 Suretyship.

(a) *Definitions.* As used in this section "surety" means surety under suretyship which is personal suretyship or real suretyship, or both, and includes guarantor.

(b) *General.* A Federal association may be surety (1) to the same extent that it would have authority to be surety if the amendment to section 5(b) of the Home Owners' Loan Act of 1933 which was made by section 101(e) of Pub. L. 93–495 had not been enacted, (2) to such extent as is in conformity with § 545.24–2, or (3) to such extent as is otherwise authorized by the Board by advice in writing or by regulation.

(Sec. 5, 48 Stat. 132, as amended; (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp, p. 1071)

By the Federal Home Loan Bank Board.

GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[FR Doc.74–30436 Filed 12–30–74;8:45 am]

[No. 74–1295]

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

Amendment Relating to Insurance for Public Deposits

DECEMBER 11, 1974.

The following summary of the amendment adopted by this resolution is provided for the reader's convenience and is

subject to the full provisions of this resolution, including the provisions in the preamble thereof and in the amended regulation set forth below.

I. *Existing regulations.* Insured institutions are not authorized to acquire any insurance or guaranty of its accounts in addition to the insurance provided by title IV of the National Housing Act.

II. *Amended regulations.* The amended regulations make it clear that in cases of deposit or investment of public moneys or by a governmental unit, where there is a requirement or condition that the association or its bond or security, or both, be surety for or with respect to one or more other deposits or investments, the association may become such surety and not violate the prohibition against acquisition of insurance other than under title IV of the National Housing Act.

III. *Reason for amending the regulations.* To clarify the Board's position.

The Federal Home Loan Bank Board considers it desirable to amend Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563) by adding a new paragraph (b) to § 563.31 to make it clear that in cases of deposit or investment of public moneys or by a governmental unit, where there is a requirement or condition that the association or its bond or security, or both, be surety for or with respect to one or more other deposits or investments, the association may become such surety and not violate the prohibition against acquisition of insurance other than under title IV of the National Housing Act. By a companion resolution (Resolution No. 74-1294; dated December 11, 1974), the Board also amended Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545) by adding new §§ 545.24-2 and 545.24-3 for the purpose of authorizing Federal savings and loan associations to provide bond or security for public deposits and to act as surety for or with respect to one or more other public deposits or investments.

Statutory authority of Federal savings and loan associations to be surety is supplied by subsection (e) of section 101 of Pub. L. 93-495, approved October 26, 1974. That subsection, the effective date of which was November 27, 1974, amended paragraph (2) of subsection (b) of section 5 of the Home Owners' Loan Act of 1933 to provide that "To such extent as the Board may authorize by regulation or advice in writing, an association • • • may be surety as defined by the Board • • •."

Existing § 563.31 provides that an insured institution shall not acquire any insurance or guaranty of its accounts in addition to the insurance provided by title IV of the National Housing Act. Section 563.31 is revised by the addition of a new paragraph (b) which provides that the foregoing provisions of the section shall not be deemed to be violated by any action by a Federal savings and loan association under the new § 545.24-2 or similar action by insured institutions which are not Federal savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby amends said Part 563 by revising § 563.31 thereof, to read as set forth below, effective December 31, 1974.

Since the above amendment relieves restriction, the Board hereby finds that notice and public procedure with respect to said amendment are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b), and since publication of said amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment would, in the opinion of the Board, likewise be unnecessary for the same reason, the Board hereby provides that said amendment shall become effective as hereinbefore set forth.

§ 563.31 Other insurance or guaranty.

(a) An insured institution shall not acquire any insurance or guaranty of all or any part of the accounts of such insured institution in addition to the insurance provided by Title IV of the National Housing Act. As used in this section the term "accounts" shall have the same meaning as the term "withdrawable or repurchasable shares, investment certificates, or deposits" where used in subsection (a) of section 405 of the National Housing Act.

(b) The foregoing provisions of this section shall not be deemed to be violated by any action by a Federal savings and loan association that is in conformity with § 545.24-2 of this chapter or by any action by an insured institution which is not a Federal savings and loan association that would be in conformity with said § 545.24-2 if such institution were a Federal savings and loan association which was a "deposit association" within the meaning of that term as used in § 545.1-2 of this chapter.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; (12 U.S.C. 1725, 1726). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[FR Doc.74-30487 Filed 12-30-74;8:45 am]

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 700—DEFINITIONS

Risk Asset Category, Exclusion of Share-Secured Loans

On page 36352 of the October 9, 1974, edition of the FEDERAL REGISTER there was published a proposed amendment to Part 700 (12 CFR 700) which would add § 700.1(j)(13) to the rules and regulations of the National Credit Union Administration.

The stated purpose of the amendment in the proposal is to exclude share-secured loans from the risk asset category. As a result of comments received, the word "borrower" is omitted from the amendment adopted as set forth below.

Effective date: December 31, 1974.

HERMAN NICKERSON, Jr.,
Administrator.

DECEMBER 23, 1974.

Section 700.1(j) is amended by adding paragraph (13) as follows:

§ 700.1 Definitions.

• • • • • •

(j) • • •

(13) Loans fully secured by a pledge of shares in the lending Federal credit union, equal to and maintained to at least the amount of the loan outstanding.

• • • • • •

[FR Doc.74-30468 Filed 12-30-74;8:45 am]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER A—GENERAL

[No. 74-1296]

PART 500—ORGANIZATION AND CHANNELLING OF FUNCTIONS

PART 501—OPERATIONS

Amendments Relating to Board Organization and Operation

DECEMBER 19, 1974.

The following summary of the amendments adopted by this resolution is provided for the readers convenience and is subject to the full explanation in the following preamble and to the specific provisions of the regulations.

I. *Present regulations.* A. Part 500 of the general regulations describes the organization of the Board and the channelling of functions.

B. Part 501 of the general regulations describes the operations of the Board.

II. *Final regulations.* A. Part 500 is updated to reflect changes in Board organization and channelling of functions made during the past year.

B. Part 501 is amended in conformity with the changes to Part 500.

III. *Reason for amendments.* A. The Board is required to update these regulations periodically (5 U.S.C. § 552(a)).

The Federal Home Loan Bank Board considers it advisable to amend §§ 500.2, 500.10, 500.11, 500.13, 500.16, 500.17, 500.18, 500.19, 500.21, 500.22, 500.31 and 500.32 of Part 500 (12 CFR Part 500) and §§ 501.1, 501.10 and 501.11 of Part 501 (12 CFR Part 501) of the general regulations so as to reflect the present organization, channelling of functions and operation of the Board. The Board is required to periodically publish a description of the general course and method by which its functions are channelled and determined in the FEDERAL REGISTER and to keep this description current (see 5 U.S.C. 552(a)).

Section 500.2, which describes the Federal Home Loan Bank System, is amended to make clear that the Federal Home Loan Banks may use consolidated notes which are the joint and several obligations of each Federal Home Loan

Bank in addition to consolidated bonds and debentures.

Section 500.10, which describes the Board, is amended to state that the Board is assisted by a staff which includes ten—rather than eleven—offices. The Office of Audits has been eliminated and its functions transferred to other Board Offices, as discussed below.

Section 500.11, which describes the office of the Secretary, is amended to officially designate the Secretary to the Board as the custodian of the records of the Board and of the Federal Savings and Loan Insurance Corporation, as well as making clear that the Secretary is responsible for certifications.

Section 500.13, which describes the office of Management Systems and Administration (OMSA), is amended by changing the name of the Comptroller's Division within OMSA to the Financial Management Division and by adding a description of the fifth Division of that office. The new Management Systems Division is responsible for financial, operational and management audits, and for other organizational and management development systems as directed by the Chairman. This Division is also responsible for the continuing audit of the operations of the Federal Home Loan Bank System and the Fedral Savings and Loan Insurance Corporation; both of these functions were the responsibility of the former Office of Audits.

Section 500.13 is also amended to make clear that the Personnel Management Division of OMSA is responsible for health insurance, life insurance and retirement benefits.

Section 500.15, which described the Office of Audits, is revoked. This Office was responsible for the continuing audit of the operations of the Board and of the Federal Savings and Loan Insurance Corporation and for an annual examination of each Federal Home Loan Bank. As mentioned above, the continuing audit functions have been transferred to the Management Systems Division of OMSA. Annual examinations of each Federal Home Loan Bank are now conducted by the Director of the Office of Federal Home Loan Banks.

Section 500.16, which describes the Office of Communications, is amended to transfer responsibility for the Management Information Center to this Office.

Section 500.17, which describes the responsibilities of the Board's General Counsel, is amended by adding a description of the organization of the Office of General Counsel.

Section 500.18, which describges the Office of Examinations and Supervision, is amended by adding the Currency and Foreign Transactions Reporting Act (31 U.S.C. 1051 et seq.) to the list of statutes enforced by this Office.

Section 500.19, which describes the Office of Industry Development, is amended by adding remote service unit applications to the list of applications for which this Office is responsible.

Section 500.21, which describes the responsibilities of the Office of Federal Home Loan Banks, is amended by transferring responsibility for annual examinations of each Federal Home Loan Bank from the former Office of Audits to the Office of Federal Home Loan Banks.

Section 500.22, which describes the Office of Housing and Urban Affairs, is amended to state that this Office is responsible for the oversight of the Urban Reinvestment Task Force—an interagency task force established by the Board in conjunction with the Department of Housing and Urban Development for the purpose of preserving and restoring urban residential neighborhoods.

Section 500.31, which lists the forms currently in use, is amended by adding five new forms: (1) No. 999 concerning information with respect to specific types of investment, borrowing and commitments, (2) No. PA: Application for Preliminary Approval for Conversion from Mutual to Stock Form, (3) No. PS: Proxy Statement in connection with Conversion from Mutual to Stock Form, (4) No. OC: Offering Circular in connection with Conversion from Mutual to Stock Form, and (5) No. H–(c)1 concerning notice filings pursuant to § 584.2–1 of the holding company regulations (12 CFR 584.2–1).

Section 500.32, which lists the Board's Offices and describes the manner in which submittals should be made to the Board, is amended to correct the addresses of three of the Federal Home Loan Banks. Section 500.32 is also amended by changing the title of the Chief Examiner in charge of field examiners and other personnel in each of the Federal Home Loan Bank districts to "District Director-Examinations" and by adding the addresses of these District Directors.

The Board also adopted conforming amendments to §§ 501.1, 501.10 and 501.11 of Part 501 in conjunction with the above-described amendments to Part 500.

Accordingly, the Federal Home Loan Bank Board hereby amends §§ 500.2, 500.10, 500.11, 500.13, 500.16, 500.17, 500.18, 500.19, 500.21, 500.22, 500.31 and 500.32 of Part 500 and §§ 501.1, 501.10 and 501.11 of Part 501 of the general regulations to read as set forth below, effective January 2, 1975.

Since the above-described amendments relate to rules of Board organization, procedure or practice, the Board hereby finds that notice and public procedure with respect to said amendments are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendments for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendments would in the opinion of the Board be unnecessary for the same reason, the Board hereby provides that said amendments shall become effective as hereinbefore set forth.

1. Section 500.2 is revised as follows:

§ 500.2 The Federal Home Loan Bank System.

The Board supervises the Federal Home Loan Banks created by the Federal Home Loan Bank Act and issues regulations and orders for carrying out the purposes of the provisions of that Act. Savings and loan associations and other institutions specified in section 4 of the Federal Home Loan Bank Act that make long-term home mortgage loans are eligible to become members of a Federal Home Loan Bank. The functions of the Board with respect to the Banks and their members include, but are not limited to, the following: prescribing the conditions upon which a Federal Home Loan Bank is authorized to make advances to its members and to nonmembers borrowers; prescribing rules governing the payment and advertisement of interest or dividends on deposits, shares, or withdrawable accounts that may be paid by Bank members, other than those members the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act; prescribing rules and conditions upon which a Federal Home Loan Bank shall be authorized to borrow, to pay interest upon its borrowings, and to issue obligations; issuing upon such conditions as the Board may prescribe consolidated Federal Home Loan Bank bonds, notes, or debentures which are the joint and several obligations of all Federal Home Loan Bank; requiring examination of each Federal Home Loan Bank at least annually; appointing four directors to the board of directors of each Bank and conducting the election of the remaining directors by the members; approving dividends paid by each Federal Home Loan Bank; and acting on applications for Bank membership.

2. Section 500.10 is revised as follows:

§ 500.10 The Board.

The Board is composed of three members, not more than two of whom are members of the same political party. The members are appointed by the President with the advice and consent of the Senate for four year terms. The Chairman is designated by the President and is the chief executive officer of the Board. Executive and administrative functions of the Board were transferred to the Chairman by Reorganization Plan No. 6 of 1963. The Board is assisted by a staff that includes ten Offices.

§ 500.11 Secretary to the Board.

The Secretary to the Board is responsible for the secretarial functions of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation and has custody of the records of the Board of the Corporation. The Secretary to the Board is responsible for the preparation and maintenance of the Minute Record of all official actions of the Board, for the authentication of documents and for certifications. The Office of the Secretary provides general record services for the Board through the Files and Docket Section, which is under the direction and supervision of the Secretary to the Board. The Secretary to the Board is liaison Officer to the Federal Register. The same person may be the Secretary to the Board and

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the Director of an Office at the same time.

4. In § 500.13, the introductory paragraph and paragraphs (a), (b), and (c) are revised and paragraph (e) is added as follows:

§ 500.13 Director of the Office of Management Systems and Administration.

The Director of the Office of Management Systems and Administration is the Executive Assistant to the Chairman. The Director is responsible for the supervision and administration of the Office, which is divided into five divisions: The Financial Management Division, the Administration and Methods Division, the Personnel Management Division, the Information Systems Division, and the Management Systems Division.

(a) The Financial Management Division is responsible for the administration and management of the internal financial operations of the Board and the Federal Savings and Loan Insurance Corporation, including budgeting, accounting, the receipt and disbursement of funds, the control, processing, and payment of expenses, and the maintenance of pay and leave records. This Division is also responsible for the preparation of the Board's annual budget submissions to the Office of Management and Budget and to the Congress.

(b) The Administration and Methods Division is responsible for internal management reports and studies, records and forms control, and the maintenance of a manual of procedures. The Board's emergency planning program for the continuity of operations and relocation of the agency in the event of an emergency is also a function of this Division. The Division is responsible for conducting purchase and supply operations, sorting, receiving, and distributing mail, maintenance, transportation, acquiring and allocating space, contract administration and other housekeeping functions for the Board. A printing and reproduction plant is operated by this Division, as authorized by the Congressional Joint Committee on Printing.

(c) The Personnel Management Division is responsible for the development and execution of the personnel management program of the Board. The program includes recruitment, placement and staffing; position classification and wage administration; employee development and training; employee-management relations; health insurance, life insurance, and retirement benefits; and incentive awards. The Director of the Personnel Management Division is also responsible for carrying out the purposes of Executive Order No. 10450, as amended, as Personnel Security Officer of the Board.

* * * * *

(e) The Management Systems Division is responsible for financial, operational and management audits, and for other organizational and management development systems as directed by the Chairman. This Division includes the former Office of Audits which was responsible, inter alia, for the continuing audit of the operations of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation.

§ 500.15 [Revoked]

5. Section 500.15 is revoked effective January 2, 1975.

6. Sections 500.16–500.19 are revised as follows:

§ 500.16 Director of the Office of Communications.

The Director of the Office of Communications is responsible for the communication of Board actions and policy to the public and news media and for the preparation of responses to inquiries of a general nature respecting such actions and policy. The Management Information Center is maintained as a part of this Office.

§ 500.17 The General Counsel.

The General Counsel is the chief legal officer of the Board and has, among other functions, those set forth below. He is responsible for the representation of the Board and the Federal Savings and Loan Insurance Corporation in judicial proceedings in which the Board or the Corporation is involved as a party or as amicus curiae and in administrative proceedings under the Federal Home Loan Bank Act, the Home Owners' Loan Act of 1933, and Title IV of the National Housing Act. He is responsible for advising the Board with respect to interpretations involving questions of law, for the preparation of legislation submitted by the Board to Congress, for the preparation of Board comments to Congress upon pending legislation, and for the preparation of regulations. He is also responsible for dealing with general problems arising under the Administrative Procedure Act and for dealing with legal problems arising under applications to the Board and the Federal Savings and Loan Insurance Corporation. The Office of the General Counsel has two Deputy General Counsels and seven Divisions, as follows: The Compliance Division, the General Division, the Legislation Division, the Litigation Division, the Opinions Division, the Regulations Division and the Securities Division.

§ 500.18 Director of the Office of Examinations and Supervision.

The Director of the Office of Examinations and Supervision is responsible for the performance of the responsibilities of the Board and the Federal Savings and Loan Insurance Corporation with respect to the examination and supervision of Federal savings and loan associations under the Home Owners' Loan Act of 1933 and of State-chartered insured institutions, savings and loan holding companies, and subsidiaries of savings and loan holding companies under Title IV of the National Housing Act. The Director is also responsible for advising the Board with respect to matters of policy decision, legislation, and regulation to which his functions of supervision and examination are related. The Director is responsible for the management of the examination process and the development and improvement of examination techniques and for the direction of supervisory and enforcement activities of the staff and agents of the Board and the Federal Savings and Loan Insurance Corporation. This Office supervises the security programs of insured institutions required by the Bank Protection Act of 1968 and the enforcement of the Truth in Lending Act, the Fair Credit Reporting Act and the Currency and Foreign Transactions Reporting Act.

§ 500.19 Director of the Office of Industry Development.

The Director of the Office of Industry Development is responsible for the processing, review, and evaluation of certain applications to the Board and the Federal Savings and Loan Insurance Corporation, except for those instances in which such applications are approved by an agent or officer of the Board pursuant to delegated authority. Applications for which the Director is responsible concern the following matters: permission to organize a Federal savings and loan association; a branch office, limited facility branch office, satellite office, or mobile facility of an existing Federal savings and loan association; insurance of accounts; conversion from Federal to State or from State to Federal charter; membership in the Federal Home Loan Bank System; a merger involving a Federal savings and loan association; voluntary dissolution of a Federal savings and loan association; an increase in accounts of an insurable type through merger, consolidation, or purchase of bulk assets; investment in a service corporation by a Federal savings and loan association; a change in office location; investment in an office building; waiver or modification of a condition for insurance of accounts or issuance of a Federal charter; release of pledged savings accounts or escrowed stock; extension of a lending area; approval of designation of a reserve account as part of the Federal insurance reserve; approval of amendments to charter, bylaws, or security forms; permission to issue subordinated debt securities; remote service unit applications; and other applications for which the Director of this Office may be assigned responsibility. The Director of this Office is also responsible for planning and coordinating new programs to stimulate the development of the savings and loan industry by encouraging financially sound restructuring.

7. Sections 500.21 and 500.22 are revised as follows.

§ 500.21 Director of the Office of the Federal Home Loan Banks.

The Director of the Office of the Federal Home Loan Banks is responsible for reviewing the activities of the Banks and for directing and co-ordinating their operating procedures to ensure conformity with the goals and objectives of the Board. The Director is responsible for establishing standards of accounting, reporting, and financial analysis for the Banks and for providing advice and assistance to the Banks in their operations.

including but not limited to, data processing, planning, and community activity. He is also responsible for advising the Board with respect to policy decisions respecting the Banks and making recommendations concerning such matters as budgets, the elections of officers and counsel, salaries, dividends, and by-law amendments. The Director is also responsible for annual examinations of each Federal Home Loan Bank.

§ 500.22 Director of the Office of Housing and Urban Affairs.

The Director of the Office of Housing and Urban Affairs is responsible for advising the Board on the subject of housing, urban problems, and minority affairs and for recommending policies pertaining thereto. The Office develops and implements programs in low- and moderate-income housing, inner-city housing investment and rehabilitation, preventing discrimination in lending and employment by the savings and loan industry, and assisting minority groups who apply for Federal charters or insurance of accounts. The Office is also responsible for administrative oversight of the Urban Reinvestment Task Force, an interagency task force established by the Board in conjunction with the Department of Housing and Urban Development.

8. In § 500.31, paragraphs (a)(1) and (2) are amended as follows:

§ 500.31 Forms.

(a) The following forms, which are available at the offices of agents of the Board and the Federal Savings and Loan Insurance Corporation at the Federal Home Loan Banks, shall be used for the purposes indicated.

(1) Forms with permanent numbers, excepting Savings and Loan Holding Company forms in the H and HC series:

* * * * *

Form	
999	Call report relative to information concerning specific types of investment, borrowing and commitments.
* * * * *	
PA	Application for preliminary approval for conversion from mutual to stock form (insured institution).
PS	Proxy statement in connection with conversion from mutual to stock form (insured institution).
OC	Offering circular in connection with conversion from mutual to stock form (insured institutions).

(2) Savings and Loan Holding Company forms (described more fully in § 584.10 of this chapter):

Form	
* * * * *	
H-(c)1	Notice filing (pursuant to § 584.2-1).
* * * * *	

9. In § 500.32, paragraphs (a) and (c) are revised and paragraph (b) is amended as follows:

§ 500.32 Offices of the Board; information and submittals.

(a) The headquarters of the Federal Home Loan Bank Board is located at 320 First Street, NW., Washington, D.C. 20552. General information concerning the Federal Home Loan Bank Board, the Federal Home Loan Bank system, the Federal savings and loan system, or the Federal Savings and Loan Insurance Corporation may be obtained in person at that location or by written request addressed to the Secretary to the Federal Home Loan Bank Board, 320 First Street, NW., Washington, D.C. 20552.

(b) Sections 501.10 and 501.11 of the general regulations of the Federal Home Loan Bank Board set forth the purposes for which the President of a Federal Home Loan Bank or officer or employee of a Federal Home Loan Bank when designated by the Board may be agents of the Board and the Federal Savings and Loan Insurance Corporation. General information concerning the Board, the Federal Home Loan Bank System, the Federal savings and loan system, or the Federal Savings and Loan Insurance Corporation may be obtained from agents of the Board and the Federal Savings and Loan Insurance Corporation at the offices of the Federal Home Loan Banks. Submittals to the Board or the Federal Savings and Loan Insurance Corporation should be made to the President of the Federal Home Loan Bank of the district in which the submitting person or institution resides or is located. The Federal Home Loan Banks and their districts are as follows:

* * * * *

(2) Federal Home Loan Bank of New York, 1 World Trade Center, Floor 103, New York, New York 10048. District 2: New Jersey, New York, Puerto Rico, Virgin Islands.

* * * * *

(9) Federal Home Loan Bank of Little Rock, 1350 Tower Building, Little Rock, Arkansas 72201. District 9: Arkansas, Louisiana, Mississippi, New Mexico, Texas.

* * * * *

(11) Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, California 94120. Los Angeles Branch Office, 615 South Flower Street, Los Angeles, California 90017. District 11: Arizona, California, Nevada.

* * * * *

(c) A District Director—Examinations in charge of a staff of field examiners and office personnel is stationed in each of the Federal Home Loan Bank districts. Under the direction of the Director of the Office of Examinations and Supervision, each District Director-Examinations is responsible for examinations conducted in his district. The addresses of the District Directors-Examinations are as follows:

DISTRICT 1

One Union Street
Boston, Massachusetts 02108

DISTRICT 2

One World Trade Center, Floor 103
New York, New York 10048

DISTRICT 3

11 Stanwix Street, Room 809
Gateway Center
Pittsburgh, Pennsylvania 15222
Area office. Three Parkway, Philadelphia, Pennsylvania 19103.

DISTRICT 4

260 Peachtree Street, NW., 10th Floor
Atlanta, Georgia 30303
Area offices. 1525 South Andrews Avenue, Room 223, Fort Lauderdale, Florida 33316; 8701 Georgia Avenue, Room 400 Silver Spring, Maryland 20910; 4915 Albemarle Road, Charlotte, North Carolina 28205.

DISTRICT 5

2400 Dubois Tower
511 Walnut Street
Cincinnati, Ohio 45202
Area offices. 229 Wells Avenue, NW., Canton, Ohio 44703; 2209 Crestmoor Road, C-2 East Nashville, Tennessee 37215.

DISTRICT 6

2950 Indiana Tower
One Indiana Square
Indianapolis, Indiana 46204

DISTRICT 7

111 East Wacker Drive, Room 700
Chicago, Illinois 60601
Area offices. 527 East Capitol Avenue, Room 410, Springfield, Illinois 62701; 4914 West North Avenue, Room 234, Milwaukee, Wisconsin 53208.

DISTRICT 8

714 Second Avenue, Room 300
Des Moines, Iowa 50309
Area office. 320 Brooks Drive, Suite 240, Hazelwood, Missouri 63042.

DISTRICT 9

1350 Tower Building
Little Rock, Arkansas 72201
Area offices. 1100 Commerce Street, Room 8-B-21, Dallas, Texas 75202; 201 Fannin Street, Room 321, Houston, Texas 77002.

DISTRICT 10

634 Harrison Street
P.O. Box 629
Topeka, Kansas 66601
Area office. Post Office Building, Room 379, 18th and Stout Streets, Denver, Colorado 80202.

DISTRICT 11

600 California Street, Room 310
San Francisco, California 94108
Area office. 615 South Flower Street, Room 700, Los Angeles, California 90017.

DISTRICT 12

600 Stewart Street, Suite 610
Seattle, Washington 98101

* * * * *

10. In § 501.1, paragraphs (d) (1) and (4) are revised as follows:

§ 501.1 Claims of the Board and the Federal Savings and Loan Insurance Corporation.

* * * * *

(d) *Delegation of authority; referred to Board.* (1) The Director of the Financial Management Division is delegated the authority to collect all claims of the Board, and claims of the Federal Savings and Loan Insurance Corporation for insurance premiums and for the cost of examinations and audits, and as to the uncollected balance of any such

claim not in excess of $5,000, exclusive of interest, said Director is delegated the authority to compromise, suspend or terminate collection action, or refer the claim to the General Accounting Office, except that:

(i) The advice of the General Counsel shall be obtained before any action, other than collection action, is taken by the Director under this section, and

(ii) The concurrence of the Director or Deputy Director of the Office of Examinations and Supervision shall be obtained before any action, other than collection action, is taken by the Director under this section concerning claims for the cost of examinations and audits.

* * * * *

(4) Claims of the Board and the Federal Savings and Loan Insurance Corporation, other than claims arising out of, pursuant to or in connection with action taken by said Corporation under section 406(f) of the National Housing Act, as amended (12 U.S.C. 1729(f)), which exceed $5,000, exclusive of interest, and which are determined by the Director, Office of the Federal Savings and Loan Insurance Corporation, the Director of the Financial Management Division, or the General Counsel to be uncollectible in full, shall be referred to the Board with a recommendation as to whether the claim should be compromised, collection action suspended or terminated, or other action taken thereon.

11. Sections 501.10 and 501.11 are revised as follows:

§ 501.10 Officers as agents.

For the following purposes, officers and employees of a Federal Home Loan Bank, when designated by the Board, shall be the agents of the Board and the Federal Savings and Loan Insurance Corporation and the counsel of the Bank shall render to said agents such legal services as may be necessary to enable them properly to carry out such duties:

(a) It shall be the specific duty of said agents to give consideration to applications pertaining to organization of Federal savings and loan associations, conversions and insurance of accounts by the Federal Savings and Loan Insurance Corporation, and holding companies together with such supplemental information as may be available to them, and promptly to make comments and recommendations upon such applications. Said agents shall transmit such applications to the Board, together with their comments and recommendations thereon. Such comments and recommendations shall be signed by the agents favoring same, and any agent disagreeing therewith shall make a separate report which shall be forwarded at the same time. An agent shall forward to applicants advises of actions taken by the Board and the Federal Savings and Loan Insurance Corporation upon applications, and instructions and other communications from the Board and the Federal Savings and Loan Insurance Corporation.

§ 501.11 President as agent.

For the following purposes, the President of each Federal Home Loan Bank shall be the agent of the Board and the Federal Savings and Loan Insurance Corporation and the counsel of the Bank shall render to said agent such legal services as may be necessary to enable him properly to carry out such duties: *Provided, however,* That when designated by the Board, some officer or employee of the Bank other than, or in addition to, the President, may act as agent of the Board and the Federal Savings and Loan Insurance Corporation. Said agent shall represent the Board and the Federal Savings and Loan Insurance Corporation in supervising Federal savings and loan associations and other institutions in the Bank's district which are insured by the Federal Savings and Loan Insurance Corporation. When, in his opinion, such action should be taken, he shall advise and endeavor to assist Federal savings and loan associations and other insured institutions in his Bank district to conduct their operations in conformity with the statutes and the rules and regulations governing them. He shall confer and negotiate, pursuant to instructions from the Board and the Federal Savings and Loan Insurance Corporation, with applicants and with officers, directors, members or creditors of applicant institutions, individually or in group meetings, and otherwise as the Board and the Federal Savings and Loan Insurance Corporation may request in writing. He shall see that all Federal savings and loan associations and other insured institutions in his Bank district submit to him for his consideration such matters as applications for Board approval of amendments to charters or bylaws, petitions for Board permission to establish branch offices, applications for Board approval of the purchase of assets or of consolidations, dissolutions, or mergers, and such other similar matters as are required to be approved by the Board or the Federal Savings and Loan Insurance Corporation under the statutes and rules and regulations. When these matters come to the attention of said agent he shall, after giving them due consideration, submit them, together with such supplemental information as may be available to him, to the Board with his recommendations thereon. After the issuance by the Board of a charter for a Federal savings and loan association, said agent shall follow up the corporate actions taken by the association in the completion of its organization, and shall require the association to comply with the laws, the rules and regulations made thereunder, and such other requirements as may be applicable thereto. Upon receiving from the District Director—Examinations two copies of a report of a supervisory examination of a Federal savings and loan association or other insured institution, together with the District Director's analysis thereof, said agent shall make a careful study of such report and analysis, and shall transmit to the institution examined its copy of the report of the examination, and, if necessary, a supervisory letter on stationery provided by the Board and the Federal Savings and Loan Insurance Corporation for such purposes. Said agent shall forward promptly to the Board copies of all transmittal and other supervisory letters, and reports of supervisory conferences or meetings with officers or directors of Federal savings and loan associations and other insured institutions. The Board will consider the documents so forwarded and will advise the said agent concerning such matters as may appear to be appropriate. Any instructions or recommendations from the Board to the said agent with respect to his duties as agent of the Board and the Federal Savings and Loan Insurance Corporation shall be acted upon promptly.

(Sec. 17, 47 Stat. 736, as amended; (12 U.S.C. 1437); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

GRENVILLE L. MILLARD, JR.,
Assistant Secretary.

[FR Doc.74-30515 Filed 12-30-74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19907 RM-2193]

PART 73—RADIO BROADCAST SERVICES

Airdrome Control Stations; Correction

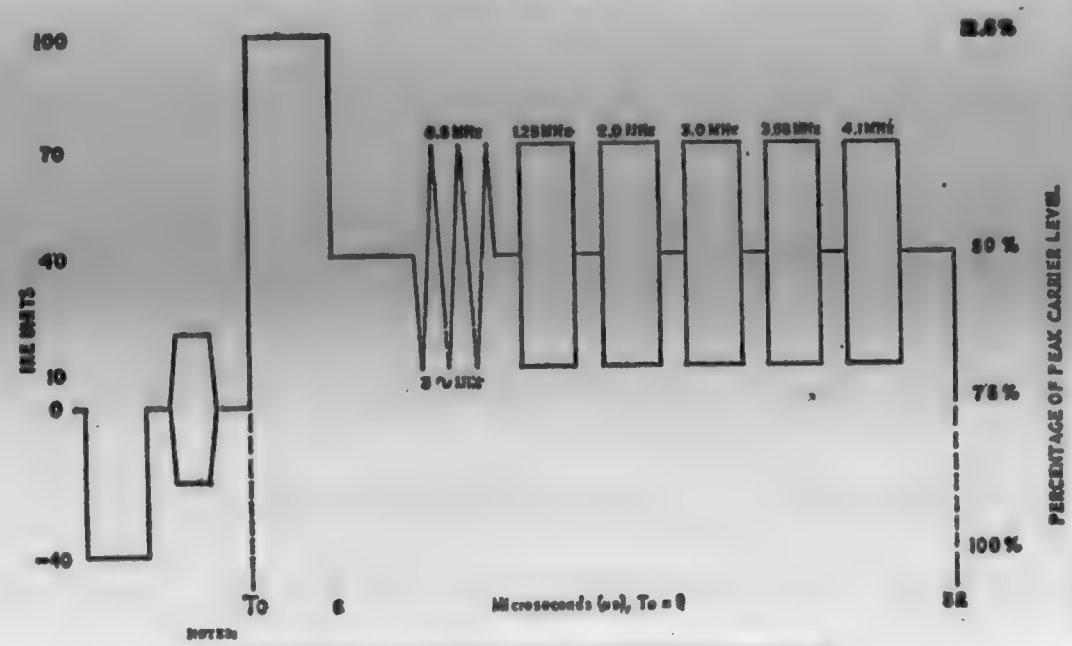
In the Matter of amendment of §§ 73.682(a)(21), 73.676(f)(1) and 73.699 of Part 73 of the Commission's Rules and regulations regarding special signals within the vertical blanking interval of the video television broadcast signal.

In the Appendix to the above-entitled Report and Order, FCC 74-1234, released November 12, 1974, and published at 39 FR 40954, Figures 13, 14, and 15 to § 73.699 *Engineering Charts* were inadvertently omitted and are herewith set forth as follows:

Released: December 18, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

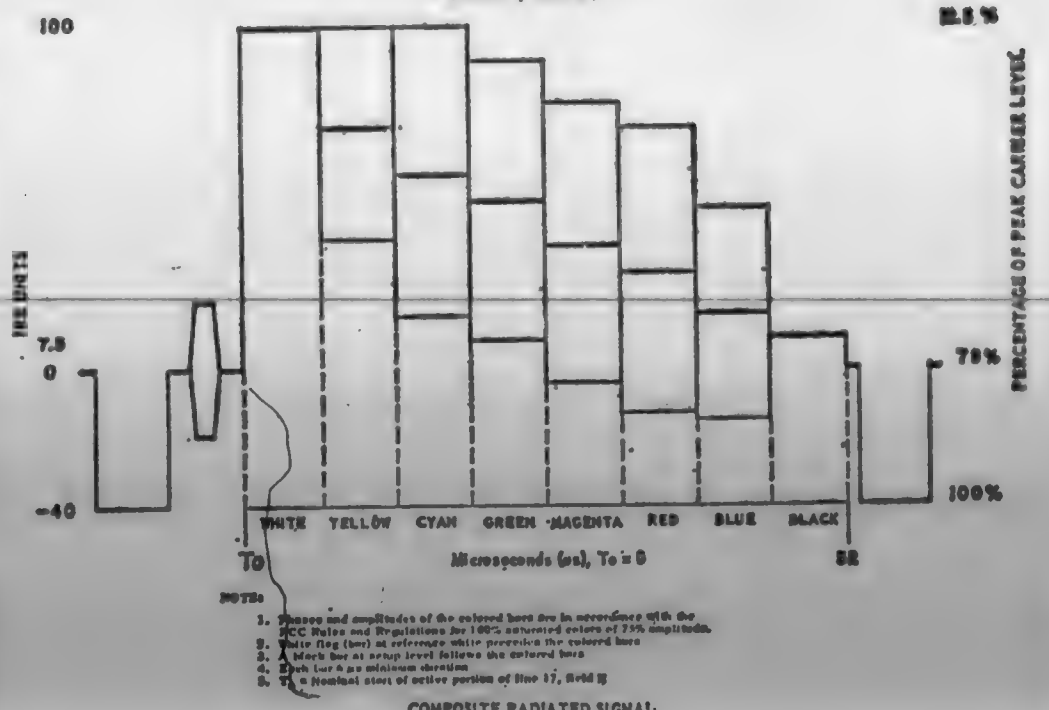
MULTIBURST TEST SIGNAL
(FIELD 1, LINE 17)



NOTES:
1. A breezeway, as shown between bursts, is recommended. Each burst = 50 IRE units, peak to peak
2. To = Nominal start of active portion of line 17, field 1
3. Rise and fall of white bar shall have duration of not less than 0.2 μs

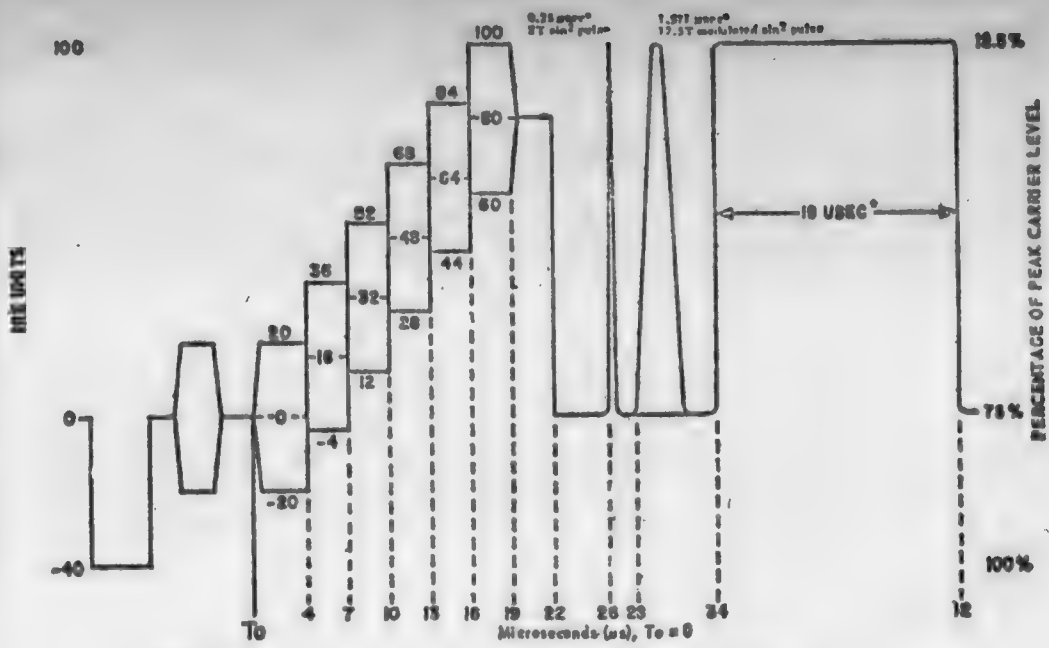
Section 73.699 Figure 13

COLOR BAR TEST SIGNAL
(FIELD 2, LINE 17)



NOTES:
1. Phases and amplitudes of the colored bars are in accordance with the FCC Rules and Regulations for 100% saturated colors of 75% amplitude.
2. White flag (bar) at reference white precedes the colored bars
3. A black bar at setup level follows the colored bars
4. Each bar is for a minimum duration
5. To = Nominal start of active portion of line 17, field 2

COMPOSITE RADIATED SIGNAL
(FIELD 1, LINE 18)



NOTES:
1. Sub-carrier of staircase in phase with burst
2. Rise and decay of all luminance signals not less than 0.2 usec. Rise and decay of envelope of sub-carrier component of staircase signal shall be approx. sin² shaped and duration .375 μsec.
3. To = Nominal start of active portion of line 18

*half amplitude duration

[FR Doc.74-30317 Filed 12-30-74;8:45 am]

Section 73.699 Figure 15

[Docket No. 19997; FCC 74-1402]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations, Table of Assignments

1. The Commission here considers the Notice of Proposed Rule Making in this proceeding, adopted March 28, 1974 (FCC 74-310; 39 F.R. 13007) concerning the assignment and use of noncommercial educational FM channels in portions of Arizona, California, New Mexico, Texas, and adjacent areas. Comments were filed by the New Mexico Governor's Advisory Committee on Educational Broadcasting (New Mexico); the Intercollegiate Broadcasting System (Intercollegiate) on behalf of approximately 450 radio stations; Association of Public Radio Stations (APRS) representing 107 educational radio stations; and Corporation for Public Broadcasting (CPB).[1]

2. In order to eliminate harmful interference between the FM broadcasting stations of the respective countries, the United Mexican States and the United States entered into the United States-Mexico FM Broadcasting Agreement, effective August 9, 1973, concerning the allotment and use of FM broadcast channels along the common border (Agreement). The Agreement provides a scheme of mileage separations as between classes of channels.[2] Inasmuch as Mexico makes full use of the FM spectrum (88 to 108 MHz) for commercial use, it was necessary to include within the Allotment Plan (Annex II of the Agreement) channels which in the United States are reserved for noncommercial educational use (Channels 201-220).

3. We instituted this rule making in order to assure that educational channels in the 199-mile (320 kilometers) border area covered by the Agreement would be fully protected and there would be the same flexibility of use as permitted for commercial FM channels. Except for Channels 218, 219, and 220 which are variously adjacent to commercial Channels 221, 222, and 223, interference for educational channels is determined on a contour basis under § 1.573 of our rules and regulations. To accomplish our objectives, we proposed further amendment of § 73.507[3] and, when this was accomplished, to also make appropriate editorial changes in §§ 1.573, 73.207, and 73.504.

4. The comments of APRS, CPB, and Intercollegiate are primarily directed at the proposed paragraph (c) of § 73.507. Preliminarily, we wish to make it clear this proceeding was and is not intended as taking up the general question of mileage separations for educational FM which was raised by the notice of inquiry in Docket No. 14185 (5 F.C.C. 2d 587 (1966)) or the issues posed by CPB's petition (RM-1974). Insofar as we indicated a concern about mileage separations outside the border area, our purpose here was limited solely to conforming to the agreement.

5. We now turn to the comments. CPB recognizes that under the agreement mileage separation within the border area is required. However, because it feels that interference criteria is superior there should be a clarification of the extent to which the mileage separation would apply "outside the border area". Thus, it asks for a clearer definition of the extent to which the mileage separations are to apply outside the border area. The remainder of the CPB's comments to a large extent reviews its petition for rule making (RM-1974).

6. Intercollegiate would rewrite paragraph (c) of § 73.507. Firstly, it would delete the reference to mileage separation outside the border area. Additionally, as concerns the dismissal of any application which does not conform to the mileage separations it would add a proviso so that an application short-spaced to a Mexican allocation might be accepted if there is an engineering showing that on a contour basis interference to a Mexican allocation would be no greater than under the mileage separation. It additionally proposes editorial changes in that paragraph and some rewording in paragraph (b).

7. APRS says that the agreement is a welcome and positive step and has the potential of being helpful to noncommercial educational stations in the entire country. As concerns paragraph (c) of § 73.507, APRS feels that it is highly desirable to deal on a mileage separation basis both with respect to educational FM radio stations within and without the border area. Thus, APRS strongly supports the Commission's effort to grant mileage separation to all noncommercial stations throughout the country.[4] New Mexico's is merely a resolution by the Governor's Advisory Committee approving the rules proposed by our notice which it feels would provide flexibility to maximize the number of educational FM assignments in the State of New Mexico.

8. Intercollegiate also requests that § 73.507 include reference to the Mexican Table of Allocations to ease an applicant's task and to prevent an unnecessary burden on the Commission staff in the form of defective applications. We see no point to this suggestion. With the changes to the Rules and Regulations made here and earlier as concerns the Agreement, there are sufficient references to put a prospective applicant for an educational noncommercial station in the border area on notice of the applicability of the Agreement. To the extent that additional data is necessary a simple inquiry by an interested party to the Commission will elicit the desired information as to allotments and allocations in Mexico so that one may fully determine whether a prospective application is in conflict with the agreement. This accords with the general practice followed by the Commission as to international agreements.

9. As CPB surmises, there is no intention in this proceeding to use the agreement as a means to impose fixed mileage separations for noncommercial FM broadcast stations in the entire United States. What we contemplated was that the mileage separations would equally apply to stations located in the United States adjacent to the border area with respect to protection for channel assignments and stations within the border area. The objections to this appear to proceed on the assumption that contour interference limitation allows greater spacing between stations than mileage separation. As concerns spacing between D to D stations, the spacing under the mileage separation method is less for co-channel, first adjacent, and second adjacent interference. As compared to mileage separation under the Agreement, the estimated mileages on an interference contour basis (at full heights and powers) for D to D is as follows:

	Contour	Mileage
Cochannel	11.5	11
1st adjacent	9.5	6
2d adjacent	4	3
3d adjacent	2.4	3

Similarly, for second and third adjacent channel separations the mileage separation is lesser than a contour interference separation as concerns A to A, A to C, B to C, and C to C stations. Also as concerns B to B separations, the mileage separation for second adjacent channel is lesser. There is little variance—less than five percent—in many other instances.[5] However, it would be simpler to rely on the fixed mileage separation method rather than be subject to the vagaries of the contour interference method. Consequently, for the area adjacent to the border area, we are adopting the mileage separations of the Agreement to protect channel assignments and stations in the border area.

10. Intercollegiate's suggested proviso must be rejected as in conflict with the general terms of the agreement. In other respects, we have no objection to the language change recommendations suggested by Intercollegiate and, in fact, are amending Paragraphs (b) and (c) of § 73.507 to conform to that party's

[1] CPB is a private non-profit corporation established in 1968 to implement the objective of the Public Broadcasting Act of 1967 (47 U.S.C. 396 et seq.).

[2] To the extent that the same classes are involved, the mileage separations are identical with those set forth in Part 78, Subpart B, of our Rules and Regulations as concerns the assignment and use of commercial channels (221-300) in the United States. As to Class D to D separations, see para. 9 of the text.

[3] This section had been added to our rules to list the Class A, B, and C noncommercial channels in the border area under the Agreement.

[4] Somewhat inconsistently APRS says: "Mileage separation will not, of course, make the most efficient use of the spectrum and we would urge that the Commission immediately consider the use of interference criteria with protection as it develops a noncommercial table of assignments."

[5] Co-channel—A to A, A to B, A to C, and C to C; first adjacent channel—A to B, A to C, and C to C; second adjacent—A to B and C to D; and third adjacent—C to D.

views. The parenthetical clause in paragraph (c) is modelled on language in § 73.504(e).

11. Accordingly, under the authority found in §§ 4(i), and 303(g) and (r) of the Communications Act of 1934, as amended, §§ 1.573, 73.207(a), 73.504(g), and 73.507, the Commission's Rules and Regulations are amended as set forth below effective January 31, 1975.* It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1068, 1082; (47 U.S.C. 154, 303))

Adopted: December 17, 1974.

Released: December 23, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

1. In § 1.573, Note 1 is amended to read as follows:

§ 1.573 Processing of FM and noncommercial educational FM broadcast applications.

• • • • • •

NOTE 1: *Noncommercial educational stations.* Except where § 73.507(c) of this chapter is applicable, and pending further consideration of issues in Docket No. 14185 (dealing with the revision of the FM Broadcast Rules and Regulations), an application for a noncommercial educational FM broadcast authorization will be subject to the following, notwithstanding any other provision of the FM Broadcast Rules or this section:

• • • • •

3. • • •

(c) *Additional requirements for noncommercial educational stations under the United States-Mexico FM Broadcasting Agreement.* For the area within 199 miles of the common border between the United Mexican States and the United States, one may only apply for Class A, B, and C channels listed in and subject to the conditions set out in § 73.507 of this chapter or a Class D channel. Additionally, an application for a noncommercial educational channel will not be accepted if there is a failure to meet the minimum mileage separations to Mexican assignments or authorizations set forth in the Notes to §§ 73.207(a) and 73.504(g) of this chapter.

2. In § 73.207(a), the following is added at the end of the Note:

§ 73.207 Minimum mileage separations between co-channel and adjacent channel stations on commercial channels.

(a) • • •

NOTE: • • •

These mileage separations also apply to noncommercial educational authorizations in the border area and in the United States adjacent to the border area in order to afford protection to allotments and authorizations in the border area.

3. In § 73.504(g), the Note is amended by adding the following at the end.

§ 73.504 Zones, classes of stations, use of channels, facilities, and minimum mileage separations between stations.

• • • • • •

(g) • • •

NOTE: • • •

This Note applies to noncommercial educational assignments and authorizations in the border area and for stations in the United States adjacent to assignments and stations in the border area.

4. Amend § 73.507 by adding (b), (c), and (d) to read as follows:

§ 73.507 Noncommercial educational channel assignments under the United States-Mexico FM Broadcasting Agreement.

• • • • • •

(b) Anyone applying for other than a Class D noncommercial educational FM station in the border area of Arizona, California, New Mexico, or Texas must apply for a channel set forth in the table in Paragraph (a) for use either at the listed community or an unlisted community under the same conditions set forth in § 73.203(b) of this chapter.

(c) The minimum mileage separations set forth in § 73.207 of this chapter and the Note thereto shall apply to (i) a petition for rule making to amend the table set forth in Paragraph (a) and (ii) an application for any class of noncommercial educational FM channel (new station, or change in channel or transmitter site or increase in facilities of an existing station) within the border area referred to in Paragraph (a). Any petition to amend which so conflicts will be dismissed. Any application which does not so conform will not be accepted for filing. No authorization for a noncommercial educational station will be granted for a station in the United States in the area adjacent to the border area which does not meet the minimum mileage separations set forth in § 73.207 to any noncommercial educational allotment or authorization in the border area.

(d) § 73.208 of this chapter will be complied with as to the determination of reference points and distance computations in considering petitions to amend the table set forth in Paragraph (a) and for applications for new or changed facilities. However, if it is necessary to consider a Mexican channel assignment or authorization, the computation of distance will be determined as follows: if a transmitter site has been established, on the basis of the coordinates of the site; if a transmitter site has not been established, on the basis of the reference coordinates of the community, town, or city.

[FR Doc.74-30419 Filed 12-30-74;8:45 am]

[Docket No. 20121 FCC 74-1401]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations, Table of Assignments

In the Matter of Amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Fairfield, La.; Mayville, N.D.; Eldon, Mo.; Crete, Nebr.; Hurricane, W. Va.; Patterson, N.Y.; Sauk Centre, Minn.; Appomattox, Va.; Warren, Ark.; Gatesville, Tex.; Batesville, Ind.; and Otsego, Michigan). RM-2252, RM-2339, RM-2301, RM-2352, RM-2309, RM-2355, RM-2310, RM-2366, RM-2311, RM-2367, RM-2321, RM-2373, RM-2445.

1. The Commission has before it the Notice of Proposed Rule Making adopted July 24, 1974 (39 FR 28444), inviting comments on a number of changes in the FM Table of Assignments (§ 73.202(b) of the Rules). The communities, channel assignments, and petitioning parties are as follows:

RM-2252. Channel 240A to Fairfield, Iowa (Carousel Broadcasting Corporation).
RM-2301. Channel 269A to Mayville, North Dakota (KMAV, Inc.).
RM-2309. Channel 224A to Eldon, Missouri (Dalton C. Wright).
RM-2310. Channel 280A to Crete, Nebraska (Airwaves Broadcast Service, Inc.).
RM-2311. Channel 292A to Hurricane, West Virginia (Putnam Broadcasting Company, Inc.).
RM-2321. Channel 288A to Patterson, New York (Carmel Broadcasting, Inc.).
RM-2339. Channel 232A to Sauk Centre, Minnesota (Dairyland Broadcasters, Inc.).
RM-2352. Channel 296A to Appomattox, Virginia (Theodore J. Gray, Jr.).
RM-2355. Channel 288A to Warren, Arkansas (Pines Broadcasting Company).
RM-2366. Channel 252A to Gatesville, Texas[1] (George W. McClarin).
RM-2367. Channel 276A to Batesville, Indiana (Batesville Broadcasting Company).
RM-2373. Channel 265A to Otsego, Michigan[1] (Robert V. and Dorothy K. Doll).

2. In each of the above cases, the petitioner seeks the assignment of a first Class A FM channel without requiring any changes in the FM Table of Assignments. The petitioning party for each of the proposed assignments filed supporting statements or comments and reiterated its intent to apply for the channel, if assigned, and to build a station if authorized. All populations are taken from the 1970 U.S. Census. All proposals were unopposed except that concerning Batesville, Indiana (RM-2367) to which a counterproposal was filed by Mid-America Radio (Mid-America), licensee of FM broadcast station WXTZ, Indianapolis, Indiana (RM-2455), and that concerning Patterson, New York (RM-2321) to which comments were filed which appear to be in opposition to the proposed assignment to Patterson, New York. In view of the problems raised by the counterproposal, the Batesville proposal will be considered in another document to be issued at a later date. The Patterson proposal is discussed below.

*To the extent that the amendment to §§ 1.573, 73.207, and 73.504, concern procedure or are editorial in nature, there was no need to give notice of such changes under the Administrative Procedure Act (5 U.S.C. 553(b)(A) and (B)); the Notice, in any event, indicated that such changes were contemplated.

[1] In order to meet the minimum spacing requirements of our rules, a site at least 4 miles southeast of Gatesville, Texas, would be required; and a site at least 5 miles northwest of Otsego, Michigan, would be required.

3. Patterson (population 4,124) is situated in Putnam County (population 56,896) in the southeastern part of New York State. It has no local broadcast facilities. The only radio service originating in Putnam County is that of a daytime-only AM station (WPUT), licensed to the village of Brewster, eight miles to the south of Patterson. The petitioner, Carmel Broadcasting, Inc., supports the proposed assignment of Channel 288A to Patterson, New York. The channel could be assigned there in conformance with the Commission's minimum mileage separation rule.

4. Supporting comments were also filed by Putnam Broadcasting Corporation, licensee of daytime-only Station WPUT, Brewster, New York, who states that it will apply for the channel if assigned to Patterson. In its comments, WBEC, Incorporated (WBEC), licensee of FM Station WQRB, operating on Channel 288A at Pittsfield, Massachusetts, states that, by letter dated May 21, 1974, the Commission was advised of its intention to file an application to improve the facilities of its FM station. The improvement would involve a move to a new transmitter site and operation with maximum allowable facilities. This would result in a slight short-spacing problem with the Patterson assignment. In our Notice we stated that, although WBEC indicated its intention to improve its service coverage, we did not believe it would be in the public interest to withhold action pending receipt of an application. The WBEC application (BPH-9163) was filed on September 9, 1974.

5. It appears that WBEC's new transmitter site would be located some two miles south of its present site. Although the distance separation from Station WQRB is one of the limiting factors in the proposed assignment to Patterson, the proposed change in the WBEC site would not eliminate the area in which the station would have to be located. There is an area located approximately one mile south of Patterson where it could be utilized, complying with the technical requirements of the rules. Thus, there is no reason to withhold the proposed channel assignment to Patterson, New York.

6. In arriving at our decision herein, we have given consideration to all comments, supporting statements, and other pleadings. In the Notice we set out economic and other information pertaining to the need for a first FM assignment in each of the communities. That information is accepted as being substantially correct except for Hurricane, West Virginia (RM-2311). In our Notice we stated that Hurricane is not located in or near any large urbanized area and is located directly between the Charleston and the Huntington-Ashland Standard Metropolitan Statistical Areas. Although not in opposition, Steere Broadcasting Corporation, licensee of AM Station WXIT, Charleston, West Virginia, in its comments, claims that in 1973 the U.S. Office of Management and Budget changed the Charleston SMSA to add Putnam County in which Hurricane is located. It asserts that, as a result of this, both Arbitron and Pulse now define the Charleston SMSA to include all of Putnam County, and it is currently incorrect to state that Hurricane is not located in or near any large urbanized community or that it is located beyond the Charleston SMSA. All of these communities range in size from 1,400 population for Appomattox, Virginia, to 8,715, Fairfield, Iowa (1970 Census), that daytime-only stations operate at Fairfield, Iowa; Mayville, North Dakota; Hurricane, West Virginia; Appomattox, Virginia; Warren, Arkansas; and Otsego, Michigan; and that there are no local broadcast facilities at Eldon, Missouri; Crete, Nebraska; Patterson, New York; Sauk Centre, Minnesota; and Gatesville, Texas. Each of the communities appears to warrant the proposed assignment. We are of the view that adoption of each proposal would serve the public interest.

7. The Canadian Government has given its concurrence to the assignment of Channel 269A to Mayville, North Dakota; Channel 288A to Patterson, New York; Channel 265A to Otsego, Michigan; Channel 292A to Hurricane, West Virginia; and Channel 232A to Sauk Centre, Minnesota.

8. Authority for the adoption of the amendment contained herein appears in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

9. In view of the foregoing, *it is ordered*, That effective January 31, 1975, § 73.202(b) of the Commission's Rules and Regulations, the FM Table of Assignments is amended to read as follows:

City and State:	Channel No.
Warren, Ark	288A
Fairfield, Iowa	240A
Otsego, Mich	265A
Sauk Centre, Minn	232A
Eldon, Mo	224A
Crete, Nebr	280A
Patterson, N.Y	288A
Mayville, N. Dak	269A
Gatesville, Tex	252A
Appomattox, Va	296A
Hurricane, W. Va	292A

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: December 17, 1974.

Released: December 23, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-30420 Filed 12-30-74;8:45 am]

[Docket No. 19523; RM-487; FCC 74-1368]

PART 89—PUBLIC SAFETY RADIO SERVICES

Relaxation of Frequency Assignments

In the matter of Amendment of §§ 89.525(f) (15) and (16) of the Commission's rules to relax frequency assignment limitations applicable to certain 45 and 155 MHz frequencies in the special emergency radio service.

1. On June 16, 1972, the Commission released a notice of proposed rule making for relaxation or modification of geographic separation and inter-service coordination requirements on certain frequencies assignable in the Special Emergency Radio Service (SERS). The notice was published in the FEDERAL REGISTER on June 23, 1972, (37 FR 12408).

2. Comments were filed by Mountain Rescue Association; Colorado Search and Rescue Board; National Ski Patrol; California State Communications Division; Associated Public Safety Communication Officers, Inc., (APCO); Northern California Chapter of Associated Public Safety Communications Officers, Inc., (NCAPCO), Contra Costa County Police Chiefs Associates; International Municipal Signal Association (IMSA); State of Utah; State of California; Governors Advisory Committee for Emergency Medical Care; and Motorola. Reply comments were filed by APCO.

3. Each of the comments has been carefully considered. However, a number concern issues which are beyond the scope of this proceeding. These include requests for designation of exclusive frequencies for rescue operations, a proposal that the SERS be divided into separate emergency and public service divisions, and proposals that paging operations be removed from voice channels. Most of these issues were addressed in other rule making proceedings.[1]

4. Changes proposed in this proceeding include amendment of § 89.525(f)(15)[2] which provides that the assignments of certain SERS frequencies in the 45 and 155 MHz bands[3] must be coordinated with licensees within 75 miles of the proposed operations who are authorized to use frequencies removed by 30 kHz or less from the frequencies requested. Presently applicants for these frequencies are required to obtain concurrence from all affected licensees, other than SERS licensees, or obtain an engineering report which shows that harmful interference

[1] The report and order in Docket 19680 adopted July 3, 1974 (39 FR 137) deals with such issues as frequency allocations for emergency medical operations, the removal of paging operations from voice channels and the establishment of a medical service category in the Special Emergency Radio Service.

[2] This is commonly referred to as "Limitation 15."

[3] These frequencies are 45.92, 45.96, 46.00, 46.04, 155.160, 155.220, 155.280, 155.940, and 155.400 MHz.

to the existing stations will not result. We proposed in the Notice that these coordination requirements be deleted.[4]

5. The proposal to eliminate Limitation 15 was generally accepted by those commenting. We feel the protection provided by this limitation is no longer justified in view of the fact that conversion to narrow band equipment, which allows simultaneous operations within a close geographical area on frequencies separated by 20 or 30 kHz, has long been accomplished. Therefore, Limitation 15 will be deleted as proposed.

6. The other changes proposed in this proceeding are modifications of § 89.525 (f) (16)[5], which now provides that eight SERS frequencies in the 155 MHz band[6] are available on a developmental basis only and must be coordinated with licensees in the public safety services within 75 miles of the proposed operation who are authorized to use frequencies removed by 15 kHz from the frequencies requested. Presently, applicants for these frequencies must obtain concurrence from all affected licensees, other than SERS licensees, or obtain an engineering report which shows that harmful interference to the existing stations will not result. In any event, these eight frequencies cannot at present be assigned within 40 miles of a police base station operating on a frequency 15 kHz removed. We proposed in the Notice to delete the developmental restriction, to reduce the area within which coordination is required from 75 to 35 miles, and to lower the minimum distance between the SERS station and a police base station from 40 to 10 miles. Additionally, we proposed that coordination be accomplished through licensee notification and an engineering report based on a field study of probable interference. Concurrence from affected licensees would no longer be required.

7. Our proposal to reduce the area in which coordination is required was opposed by a number of parties on the basis that there would be little or no protection from adjacent channel interference. However, these proposed mileage limits have been applied in the other radio services for some time and we see no reason why they cannot be applied in this instance. Other objections focused on the proposed methods of coordination, i.e., licensee notification and a field study. Several parties requested coordination by committee. In the Notice, however, we considered the problems of coordinating committees in this service and denied requests of this nature. While we recognize the possible expense and inconvenience to applicants involved in field studies and licensee notification, in our view there are no feasible alternatives to these requirements until such time as the Commission has the resources to perform frequency assignment tasks.

8. Accordingly, SERS applicants for the specified frequencies will be required to submit a report based on a field study indicating the degree of probable interference to licensees in Police and Local Government Radio Services operating on frequencies 15 kHz removed and located from 10 to 35 miles from the proposed SERS base station. Also, the applicant must certify that he has notified all such affected licensees of the filing of his application. Under the new rule it will not be necessary for the applicant to obtain concurrence from the affected licensees. Objections will be considered for a reasonable time during the processing of the application—in any event, for at least 30 days. If necessary, the Commission may require the applicant to submit additional data before determining whether a license should be granted.

9. Applicants may obtain the names and addresses of licensees required to be notified from our frequency assignment lists maintained in the Field Offices of the Commission and in the Commission's main office in Washington, D.C., or from the local police coordinating committee (APCO).

10. In view of the foregoing it appears that the public interest will be served by adopting the rule amendments set forth in the Appendix. Accordingly, *It is ordered*, That, pursuant to authority contained in Sections 4(i) and 303(r) and (f) of the Communications Act of 1934, as amended, Part 89 of the Commission's Rules and Regulations is amended effective January 31, 1975. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).

Adopted: December 17, 1974.

Released: December 23, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

1. In § 89.525, paragraph (e), the table is amended; paragraph (f) (15) is reserved, and paragraph (f) (16) is amended to read as follows:

§ 89.525 Frequencies available to the Special Emergency Radio Services.

* * * * * * *

(e) * * *

Frequency or band (megahertz)	Class of station(s)	Limitations
45.02	Base and mobile	
45.06	do	
45.00	do	
45.04	do	
* * *	* * *	*
155.100	Base and mobile	16
155.175	do	16
155.205	do	16
155.220	do	
155.235	do	16
155.265	do	16
155.280	do	
155.295	do	16
155.325	do	16, 17
155.340	do	16
155.355	do	16, 17
155.385	do	16, 17
155.400	do	16, 17
* * *	* * *	*

(f) * * *

* * * * * * *

(15) [Reserved]

(16) Any application for use of this frequency shall be accompanied by a signed statement that all licensees in other radio services who operate on a frequency 15 kHz removed and are located 10 to 35 miles from the proposed base station have been notified of the applicant's intent to file, together with an acceptable engineering report indicating that harmful interference to the operation of existing stations will not be caused. In no instance will an application be granted where the distance between the proposed station and existing base stations is less than 10 miles.

* * * * * * *

[FR Doc.74-30422 Filed 12-30-74;8:45 am]

[FCC 74-1407; Docket 19853; RM-2217]

PART 91—INDUSTRIAL RADIO SERVICES

Microwave Common Carrier Eligibility

In the matter of amendment of § 91.751 of the Commission's rules to make microwave common carriers eligible in the telephone maintenance radio service.

1. On October 29, 1973, the Commission released a notice of proposed rule making for modification of eligibility requirements in the Telephone Maintenance Radio Service (TMRS) in response to a petition for rule making filed by Data Transmission Company (Datran). The notice was published in the FEDERAL REGISTER on November 2, 1973. (38 FR 30282).

2. Comments were filed by N-Triple-C, Inc.; American Telephone and Telegraph Company (AT&T); Microwave Communications, Inc., and MCI Telecommunications Corporation (MCI); National Association of Radio-telephone Systems (NARS); Western Tele-Communications, Inc. (WTCI); Eastern Microwave, Inc.; Tel-Illinois; Michigan Telephone Industry Radio Frequency Coordinating

[4] Since SERS frequencies 155.160 and 155.400 MHz are only 15 kHz removed from police and local government channels and therefore interference protection is still necessary, the Notice proposed that they be subject to the coordination requirements in Rule Section 89.525(f) (16).

[5] This is commonly referred to as "Limitation 16."

[6] These frequencies are 155.175, 155.205, 155.235, 155.265, 155.295, 155.325, 155.355 and 155.385.

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Committee; United Video, Inc.; Oklahoma Telephone Association; Data Transmission Company (Datran); U.S. Independent Telephone Association (USITA); and GTE Service Corporation (GTE). Reply comments were filed by the National Association of Business and Educational Radio, Inc. (NABER); NARS; Datran; and AT&T.

3. This proceeding concerns the proposed broadening of eligibility for licensing in the Telephone Maintenance Radio Service (TMRS). Under § 91.751, eligibility in the TMRS presently is limited to:

> Communications Common Carriers primarily engaged in rendering a wire-line or wire-line and radio communications service to the public for hire.

This eligibility provision excludes, among others, radiocommunications common carriers authorized in the Point-to-Point Microwave Radio Service under Part 21 of this Chapter (hereinafter "microwave common carriers"). In the Notice it was proposed that microwave common carriers be permitted to use the Telephone Maintenance channels.

4. Comments as to the proposed amendment filed by Datran, MCI, WTCI, Eastern Microwave, Inc., United Video, and NABER urged full eligibility for the microwave communications common carriers. AT&T, GTE, the Oklahoma Telephone Association, and Michigan Telephone Industry Radio Frequency Coordinating Committee, on the other hand, totally opposed permitting the specialized carriers to use TMRS frequencies. The United States Independent Telephone Association suggested a number of alternatives to outright broadening of TMRS eligibility—granting waivers to the microwave carriers on a case-by-case basis, permitting use of the frequencies by the specialized carriers on a secondary basis, or permitting the microwave common carriers to use TMRS frequencies only in connection with their microwave operations. NARS and Tel-Illinois supported expanded eligibility in the TMRS and urged that it be extended to include radiocommunications common carriers authorized in the Domestic Public Land Mobile Radio Service under Part 21 of this Chapter (hereinafter land mobile radio common carriers".

5. However, in this latter respect, as we stated in the Notice, the purpose of this action is to "explore possible amendment of the rules to include the specialized common carriers," and eligibility of land mobile radio common carriers to use TMRS frequencies is beyond the scope of the proceeding. Moreover, land mobile radio common carriers systems by their nature do not have the same maintenance requirements of point-to-point microwave carriers whose systems are much more extensive. Also, land mobile radio common carriers employing two-way radio can use their own systems for maintenance purposes. See § 21.511 of the Commission's rules. In any event, we are dealing with a very limited number of frequencies in the TMRS and their usefulness in maintenance operations of common carrier facilities would be greatly diminished were too many additional users to gain access to the service. Therefore, we believe that a choice has to be made and we have concluded that the addition of any users other than the microwave carriers would be detrimental to the overall usefulness of the service. Accordingly, we are denying the request of the land mobile radio common carriers that they be made eligible in TMRS.

6. There seems little question that the microwave communications common carriers need radio frequencies with which to conduct their maintenance operations. Datran's contention is that to provide for effective maintenance and repair of its microwave radio facilities, use of two-way radio is essential but can no longer be satisfied on Business Radio Service frequencies because of congestion. Even some parties opposed to expanded eligibility in the TMRS recognized that there is a need for additional base-mobile/mobile frequencies for reliable maintenance of microwave communications facilities. Essentially, however, those opposed to use of TMRS frequencies maintain that the needs of the existing wire-line carrier users cannot continue to be met if eligibility is broadened in the service, particularly if the eligibility is extended to the frequencies that are exclusively allocated for base-mobile telephone maintenance communications activities.[1]

7. The argument that undue congestion would occur on the exclusive TMRS frequencies should eligibility be broadened has been examined. The Commission's files disclose that these frequencies are indeed heavily used, especially around major metropolitan areas. Further, the past pattern of growth in demand for these frequencies indicates that the present users would have an expanding need for these frequencies. Use of the other TMRS frequencies, on the other hand, is relatively light.

8. In view of the extensive utilization of the exclusive TMRS frequencies, it does not appear feasible to add an eligibility category that likely would promote additional congestion. We do, however, recognize the need of the microwave communications common carriers for high-reliability land-mobile communications services. Therefore, we have determined that revision of the eligibility provisions of the Telephone Maintenance Radio Service to permit microwave communications common carriers to use the non-exclusive TMRS frequencies is appro-

[1] TMRS has numerous frequencies; however, only a pair of frequencies in the 30–50, one in the 150–160 MHz, and six pairs in the 450 MHz band are reserved exclusively for base and mobile operations in this service. These exclusive frequencies are 35.16, 43.16, 151.985, 153.34, 451.300, 451.325, 451.350, 451.400, 451.450, 451.500, 456.300, 456.325, 456.350, 456.400, 456.450, 456.500, MHz. Other frequencies are subject to such limitations as sharing with other users, coordination with users in other services, developmental restrictions, limitation to operational-fixed use, etc.

priate.[1] We realize that the microwave carriers requested access to all the TMRS frequencies. Based on its hopes for access to exclusive TMRS frequencies, Datran, in its comments, envisioned utilizing a "universal frequency" for its maintenance operations. Such a "universal frequency" is not now available and would not be even were the microwave carriers allowed access to the exclusive TMRS frequencies because present usage precludes it. However, even taking into consideration the limitations on the availability and use of a number of the frequencies for which the microwave common carriers will be eligible, we feel that these frequencies should be adequate to serve their immediate requirements.

9. In consideration of the foregoing, amendments proposed in the Notice are adopted, as shown in the attached appendix, to expand microwave in the TMRS to include the microwave communications common carriers, but limiting that eligibility to all non-exclusive frequencies. Modification of the assignment provisions on available frequencies are included to reflect this new eligibility and applicable limitations.

10. Accordingly, *It is ordered*, that pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 91 of the Commission's rules and regulations is amended effective January 31, 1975. *It is further ordered*, That this proceeding is hereby terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: December 18, 1974.

Released: December 23, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Part 91 of the Commission's rules is amended as follows:

1. Paragraph (a) of § 19.751 is amended as follows:

§ 91.751 Eligibility.

* * * * *

(a) Communications common carriers primarily engaged in rendering a wire-line, wire-line and radiocommunications service, to the public for hire, and radiocommunications common carriers authorized in the Point-to-Point Microwave Radio Service under Part 21 of this Chapter.

* * * * * *

2. In § 91.754, the table in paragraph (a) and (b)(11) is amended, and (b)(19) is added to read as follows:

§ 91.754 Frequencies available.

(a) * * *

35.16	Base or mobile	19
43.16	Mobile	4, 19
151.985	Base or mobile	19
152.24	Mobile	4, 19
451.300	do	13, 19
451.325	do	13, 19
451.350	do	13, 19
451.400	do	13, 19
451.450	do	13, 19
451.500	do	13, 19
456.300	do	4, 14, 15, 19
456.325	do	4, 14, 15, 19
456.350	do	4, 14, 15, 19
456.400	do	4, 14, 15, 19
456.450	do	4, 14, 15, 19
456.500	do	4, 14, 15, 19

* * * * * *

(b) * * *

(11) This frequency is available on a shared basis in the Power, Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. Except for assignments made to non-wire-line radiocommunications common carriers authorized in the Point-to-Point Microwave Radio Service under Part 21, it may be assigned only when all of the base and mobile frequencies in the 450-470 MHz band for which the applicant is primarily eligible are assigned within 35 miles of the proposed base station. Applications for this frequency must be coordinated with all five services.

* * * * * *

(19) This frequency may be assigned only to a communications common carrier primarily engaged in rendering a wire-line or wire-line and radio communications service to the public for hire.

[FR Doc.74-30423 Filed 12-30-74;8:45 am]

[1] Non-exclusive TMRS frequencies, i.e., those shared with other land-mobile radio services, for land mobile use are in the 27 MHz, 451/456 MHz, and 460/465 MHz, and 470/512 MHz bands.

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

ESTABLISHMENT OF NEW PARTS AFFECTING OIL IMPORTS

The Federal Energy Administration (FEA) hereby revises and redesignates its regulations affecting oil imports in order to conform to certain changes in the delegation of the President's authority under the Mandatory Oil Import Program.

Under the authority of the Federal Energy Administration Act of 1974, Pub. L. 93–275, and Executive Order 11790, 39 FR 23185, the functions of the Secretary of the Interior, with respect to the Oil Import Regulations promulgated pursuant to Proclamation No. 3279, as amended, were transferred to the Administrator of the Federal Energy Administration. Accordingly, Oil Import Regulations 1 (Rev. 5) and 2, and the Oil Import Appeals Board Rules and Procedures authorized by the Secretary, are hereby revised to eliminate references to the Secretary and the Department of the Interior, and to substitute therefor references reflecting the transfer of functions. In addition, in order to consolidate the regulations in the same title with others administered by FEA, the Oil Import Regulations and the Oil Import Appeals Board Rules and Procedures as respectively from Chapters X and XI of Title 32A of the Code of Federal Regulations, are hereby redesignated as Chapter II of Title 10. Chapters X and XI are hereby revoked.

This revision and redesignation includes all amendments made to Oil Import Regulation 1 (Rev. 5) through Amendment 60.

A new Part 213, "Oil Import Regulations," is hereby established for the purpose of transferring the revised former Oil Import Regulation 1. In addition, a new Part 206, "Administrative Procedures for Oil Imports," is hereby established and the revised Oil Import Regulation 2 and Oil Import Appeals Board Rules and Procedures are hereby redesignated as subparts A and B, respectively. However, FEA intends to extend its existing procedures in Part 205 to cover all matters before it, and in the near future will publish a proposed rule integrating the procedures of subpart A of Part 206 into the procedures of Part 205. In addition, FEA is considering changes in subpart B of Part 206 that would have the same effect.

Executive Order 11790 abolished the Oil Policy Committee and transferred the functions of its Chairman to the Administrator of FEA. The Oil Import Appeals Board, pursuant to Proclamation No. 3279, as amended, was subject to the "general direction" of the Chairman. Accordingly, the Oil Import Appeals Board Guidelines promulgated by the Chairman, are hereby revised and redesignated as an Appendix to Part 206. Chapter XII is hereby revoked.

EPO Regulation 1, 32A CFR Ch. XIII, except for sections 2 and 5, was revoked in 39 FR 2605. In view of the expiration of the Economic Stabilization Act, these two remaining sections are now revoked.

Finally § 205.1 of Chapter II of Title 10 is amended to clarify the relationship of Parts 205 and 206 with respect to FEA administrative procedures.

The following table shows the designations of these regulations prior to this revision, and their redesignations reflected in Title 10.

Old chapter number in title 32A	*New parts in title 10*
Ch. X, O. I. Reg. 1 (Rev. 5)	Part 213.
Ch. X, O. I. Reg. 2	Subpart A of Pt. 206.
Ch. XI	Subpart B of Pt. 206.
Ch. XII	Appendix, Pt. 206.
Ch. XIII	Revoked.

Since this revision and redesignation does not make any substantive change in the existing regulations apart from implementing changes in delegation, it is not necessary to provide notice of proposed rulemaking, opportunity for public participation, or any delay in effective date under either section 7(1) of the Federal Energy Administration Act of 1974 or 5 U.S.C. 553. In any event, because there are no changes other than those required by Congressional and Presidential action, good cause exists for making this revision and redesignation effective immediately.

[Federal Energy Administration Act of 1974, Pub. L. 93–275; E.O. 11790, 39 FR 23185; Trade Expansion Act of 1962, Pub. L. 87–794; Proc. No. 3279, 24 FR 1781, as amended, 38 FR 9645, 38 FR 16196, 39 FR 35103; Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159]

In consideration of the foregoing, Part 205 of Chapter II of Title 10 of the Code of Federal Regulations is amended; Parts 206 and 213 of Chapter II of Title 10 of the Code of Federal Regulations are hereby established; and Chapters X–XIII of Title 32A of the Code of Federal Regulations is revoked, as set forth below, effective immediately.

Issued in Washington, D.C., December 30, 1974.

ROBERT E. MONTGOMERY, Jr.,
General Counsel,
Federal Energy Administration.

1. Chapters X, XI, XII, and XIII of Title 32A are revoked.

2. Section 205.1 is amended in paragraph (a) to read as follows:

§ 205.1 Purpose and scope.

(a) This part establishes the procedures to be utilized and identifies the sanctions that are available in proceedings before the Federal Energy Administration and State Offices, in accordance with Parts 210, 211, 212, and 215 of this chapter. Proceedings in accordance with Part 213 are excluded.

* * * * *

3. Part 206 is established to read as follows:

PART 206—ADMINISTRATIVE PROCEDURES FOR OIL IMPORTS

Subpart A—Procedures for the Suspension or Revocation of Any Import Allocation or License

Sec.
206.1 Purpose.

PROCEEDINGS PRIOR TO HEARING

206.2 Notice of hearing or opportunity for hearing.
206.3 Answer to notice.
206.4 Request for hearing.
206.5 Failure to request a hearing; failure both to request a hearing and to answer.

PRESIDING OFFICER

206.6 Who presides.
206.7 Authority of presiding officer.
206.8 Testimony and cross-examination.
206.9 Exhibits.
206.10 Affidavits.
206.11 Depositions.
206.12 Admissions as to facts and documents.
206.13 Evidence.
206.14 Offer of proof.
206.15 Briefs; proposed findings and conclusions.

THE RECORD

206.16 Official transcript.
206.17 Record for decision; record to be public.

DECISIONS

206.18 Decisions by the Director.
206.19 Decisions by the hearing examiner.

GENERAL PROVISIONS

206.20 Service—how made.
206.21 Date of service.
206.22 Certificate of service.
206.23 Service on all parties.
206.24 Extension of time or postponements.
206.25 Computation of time.
206.26 Parties.
206.27 Suspension of rules.

Subpart B—Oil Import Appeals Board Rules and Procedures

206.31 Purpose.
206.32 Establishment of Board.
206.33 Authority of the Board.
206.34 Representation before the Board.
206.35 Types of petitions; time and place to file.
206.36 Content of petition.
206.37 Data required by the Board to accompany petitions.
206.38 Hearings on petitions.
206.39 Notice of hearing.
206.40 Unexcused absence of a petitioner.
206.41 Conduct of hearing.
206.42 Consolidation.
206.43 Briefs, memoranda of law, documentary evidence, and other information.
206.44 Statements by interested persons other than petitioners.
206.45 Private communications prohibited.
206.46 Participation by the Office of Oil Imports.
206.47 In camera orders.
206.48 Decisions of the Board.
206.49 Reconsideration of decisions.
206.50 Reopening of proceedings.
206.51 Clerical mistakes.
206.52 Duty to inform the Board.
206.53 Record open to the public.

Appendix—Oil Import Appeals Board Guidelines

AUTHORITY: Federal Energy Administration Act of 1974, Pub. L. 93–275; E. O. 11790, 39 FR 23185; Trade Expansion Act of 1962, Pub. L. 87–794; Proc. No. 3279, 24 FR 1781, 10133, 38 FR 16195; O. I. Reg. 1 (Rev. 5), 38 FR [illegible].

Subpart A—Administrative Procedures for Oil Imports

§ 206.1 Purpose.

Section 213.25 of this Part 213 provides for a formal proceeding looking to the suspension or revocation of any allocation or license to import crude oil, unfinished oils, or finished products issued under that regulation on grounds relating to the national security, or for violation of the terms of Proclamation 3279, Part 213, or allocations and licenses issued pursuant thereto. This Part 206 comprises rules of procedure for such proceedings. The definitions set forth in § 213.27 of Part 213 apply also to this Part 206.

PROCEEDINGS PRIOR TO HEARING

§ 206.2 Notice of hearing or opportunity for hearing.

A proceeding is initiated by mailing to an allocation holder a notice of hearing fixing a date therefor or a notice of an opportunity for a hearing. Such a notice advises him of the action proposed to be taken, the specific provision of Part 213 under which the proposed action is to be taken, and the matters of fact or law asserted as the basis of the action.

§ 206.3 Answer to notice

The allocation holder may file an answer to the notice within 20 days after service thereof. The answer shall admit or deny specifically and in detail each allegation of the notice, unless the allocation holder is without knowledge, in which case his answer should so state, and the statement will be deemed a denial. Allegations of fact in the notice not denied or controverted by answer shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. Failure of the allocation holder to file an answer within the 20-day period following service of the notice may be deemed a confession of all matters of fact recited in the notice.

§ 206.4 Request for hearing.

Within 20 days after service of a notice of opportunity for hearing which does not fix a date for hearing, the respondent, either in his answer or in a separate document, may request a hearing.

§ 206.5 Failure to request a hearing; failure both to request a hearing and to answer.

The failure of the allocation holder to request a hearing shall be deemed a waiver of hearing and consent to submission of the case to the presiding officer for decision on the written record. The failure of an allocation holder to file an answer and to request a hearing shall be deemed a waiver of all right to participate in the proceeding and to constitute his consent to the making of a decision on the basis of such information as is available.

PRESIDING OFFICER

§ 206.6 Who presides.

Either a hearing examiner or the Director will be the presiding officer in each proceeding.

§ 206.7 Authority of presiding officer.

The presiding officer may:

(a) Arrange and issue notice of the date, time, and place of hearings, or, upon due notice to the parties, change the date, time, or place of hearings previously set;

(b) Hold conferences to settle, simplify, or fix the issues in a proceeding or to consider other matters that may aid in the expeditious disposition of the proceeding;

(c) Require parties to state their position with respect to the various issues in the proceeding;

(d) Administer oaths and affirmations;

(e) Rule on motions, including motions to intervene, and other procedural matters;

(f) Regulate the course of the hearing and the conduct of persons therein;

(g) Examine witnesses and direct witnesses to testify;

(h) Receive, rule on, exclude or limit evidence;

(i) Fix the time for filing motions, briefs, or other matters; and

(j) Take any action authorized by this regulation.

HEARING PROCEDURES

§ 206.8 Testimony and cross-examination.

Testimony at a hearing shall be given under oath or affirmation. The presiding officer may require or permit that the direct testimony of any witness be prepared in writing and be submitted in advance of the hearing. Such testimony may be adopted by the witness at the hearing and filed as part of the record thereof. Unless authorized by the presiding officer, a witness will not be permitted to read prepared testimony into the record. A witness may be cross-examined on any matter material to the proceeding without regard to the scope of his direct examination.

§ 206.9 Exhibits.

Each exhibit should have a brief title endorsed upon it or attached to it stating what it purports to show. Exhibits comprising statistical compilations and calculations should show the sources of the information used and the statistical methods employed.

§ 206.10 Affidavits.

An affidavit is not inadmissable as such. Unless the presiding officer fixes another time, affidavits shall be filed not later than 15 days prior to the hearing.

§ 206.11 Depositions.

The presiding officer may authorize the testimony of any witness to be taken by deposition.

§ 206.12 Admissions as to facts and documents.

Not later than 15 days prior to the scheduled date of the hearing, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters in respect of which an admission is requested shall be deemed admitted, unless, within a period designated in the request (not less than 10 days after service thereof) or within such further time as the presiding officer may allow upon motion and notice, the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters in respect of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny such matters. Copies of requests for admission and answers thereto shall be served on all parties. Any admission made by a party to such request is only for the purposes of the pending proceeding or any proceeding or action instituted for the enforcement of any order entered in the pending proceeding and shall not constitute an admission by him for any other purpose or be used against him in any other proceeding or action.

§ 206.13 Evidence.

Technical rules of evidence shall not apply to a hearing, but the presiding officer shall seek to obtain the production of the most credible evidence available and may exclude irrelevant, immaterial, or repetitious evidence. Objections to evidence shall be timely and briefly state the ground relied upon.

§ 206.14 Offer of proof.

If the presiding officer sustains an objection to the admission of evidence, the party affected may submit for the record as an offer of proof a summary written statement of the substance of the excluded evidence, and the objecting party may make an offer of proof in rebuttal.

§ 206.15 Briefs; proposed findings and conclusions.

At the conclusion of a hearing, the presiding officer shall fix the time for filing briefs, which may contain proposed findings of fact and conclusions of law, and if reply briefs are permitted, he shall fix the time for filing such briefs.

THE RECORD

§ 206.16 Official transcript.

A transcript shall be made of the oral evidence given in a hearing. Transcripts of testimony in hearings will be supplied by the official reporter to the parties and to the public at rates not to exceed the maximum rates fixed by contract between the Federal Energy Administration and the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance.

§ 206.17 Record for decision; record to be public.

The transcript of testimony, exhibits, and all papers and requests filed in the proceedings, shall constitute the exclusive record for decision and may be inspected and copied.

DECISIONS

§ 206.18 Decisions by the Director.

(a) The Director, having afforded the parties a reasonable time to submit briefs or other written statements of their contentions, shall make a decision in each proceeding in which he is the presiding officer or in which a recommended decision is made by a hearing examiner.

(b) In an instance in which a hearing examiner has made an initial decision, the Director may, within 30 days after the issuance of the initial decision, require that the record be certified to him for review. Upon such review, the Director, having afforded the parties a reasonable time to submit briefs or other written statements of their contentions, may affirm, modify, or set aside the decision of the hearing examiner.

(c) A decision of the Director may be appealed to the Oil Import Appeals Board in accordance with the rules and procedures of that Board (subpart B of this Part).

§ 206.19 Decisions by hearing examiner.

In an instance in which a hearing examiner is the presiding officer, the examiner, having afforded the parties a reasonable time to submit briefs or other written statements of their contentions, shall make either an initial decision or a recommended decision, as directed by the Director. Unless the Director requires that the record be certified to him for review pursuant to paragraph (b) of section 206.17, an initial decision of the hearing examiner shall constitute the final decision of the Director and may be appealed to the Oil Import Appeals Board.

GENERAL PROVISIONS

§ 206.20 Service—how made.

Service shall be made by personal delivery of one copy to each person to be served or by mailing by first-class mail, properly addressed with postage prepaid. When a party has appeared by attorney or other representative, service upon such attorney or representative will be deemed service upon the party.

§ 206.21 Date of service.

The date of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person.

§ 206.22 Certificate of service.

The original of every document filed and required to be served upon parties to a proceeding shall be endorsed with a certificate of service signed by the party making service or by his attorney or representatives, stating that such service has been made, the date of service, and the manner of service, whether by mail or personal delivery.

§ 206.23 Service on all parties.

A hearing examiner and the Director shall file and serve on all parties copies of any notices that he may issue and copies of any correspondence that he may have with a party. Each party shall serve on all other parties copies of all documents (such as pleadings, motions, briefs) which the party files with the hearing examiner or the Director.

§ 206.24 Extension of time or postponement.

A request for extension of time should be made to a hearing examiner or the Director with respect to matters pending before him. Such a request shall be served on all parties and set forth the reasons for the request. Extensions may be granted upon a showing of good cause by the applicant. From the designation of a hearing examiner as presiding officer until the issuance of his decision, such requests should be addressed to him.

§ 206.25 Computation of time.

In computing any period of time under the rules in this part, the period begins with the day following the act or event and includes the last day of the period unless it is a Saturday, Sunday, or Federal legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or Federal legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computation.

§ 206.26 Parties.

An allocation holder to whom a notice of hearing or a notice of an opportunity for hearing has been mailed shall be a party to the proceeding, as shall the Director, Oil Imports. A party may appear in person or by counsel in any proceeding. Individuals may appear in a representative capacity as provided in the regulations on Administrative Procedures and Sanctions of the Federal Energy Administration in 10 CFR Part 205.

§ 206.27 Suspension of rules.

Upon notice to all parties, the Director or a hearing examiner may, with respect to matters pending before him, modify or waive any provision of this regulation if he determines that no party will be unduly prejudiced and the ends of justice will thereby be served.

Subpart B—Oil Import Appeals Board Rules and Procedures

§ 206.31 Purpose.

These rules govern the procedures on petitions to the Oil Import Appeals Board, hereinafter referred to as the "Board." They shall be construed to secure the just, speedy, and inexpensive determination of every proceeding.

§ 206.32 Establishment of Board.

Pursuant to section 4 of Presidential Proclamation 3279, dated March 10, 1959 (24 FR 1781), as amended, hereinafter referred to as the "Proclamation," the Board was established by section 21 of former Oil Import Regulation 1 (24 FR 1907), as revised and amended, now § 213.26 of this Chapter. Oil Import Regulation 1 is hereinafter referred to as the "Regulation." The Board is comprised of a representative each from the Federal Energy Administration, and the Departments of Justice and Commerce, designated respectively by the heads of such agencies. The Federal Energy Administration member serves as chairman.

§ 206.33 Authority of the Board.

(a) The Board, subject to the general direction of the Administrator of the Federal Energy Administration, shall consider petitions by persons affected by Part 213 that fall within the limits of the jurisdiction specified in this paragraph and without regard to the limits of the maximum levels of imports established in section 2 of Proclamation 3279, as amended, may:

(1) Reverse or modify on grounds of error actions taken by the Director, Oil Imports, on applications for allocations of imports under Part 213 of this Chapter;

(2) Modify, on the grounds of exceptional hardship, any allocation made to any person under Part 213 of this Chapter;

(3) Grant allocations of imports of crude oil and unfinished oils in special circumstances to persons with importing histories who do not qualify for allocations under Part 213 of this Chapter;

(4) Grant allocations of imports of finished products on grounds of exceptional hardship;

(5) Grant allocations of imports of crude oil, unfinished oils and finished products to independent refiners or established independent marketers who are experiencing exceptional hardship, or in emergencies in order to assure, insofar as practicable, that adequate supplies are available;

(6) Review the revocation or suspension of any allocation or license;

(7) Review the denial by the Director, Oil Imports, of refunds of license fees, whether in whole or in part, theretofore paid by a person; and

(8) Grant refunds, in whole or in part, of license fees paid by persons to whom licenses were issued for imports which they subsequently became entitled to make under allocations made by the Board.

(b) Only petitions relating to matters covered by paragraph (a) of this section may be considered by the Board. Petitions requesting a change or disregard of the proclamation or Part 213 of this Chapter may not be considered.

(c) Except with respect to its function to review applications for allocations of imports to which license fees are applicable, licenses issued pursuant to Board allocations shall be fee exempt.

(d) The Board may adopt, promulgate, and publish such rules and procedures as it deems appropriate for the conduct of its business.

(e) The Board may take such actions on petitions as it deems appropriate and its decisions shall constitute final action.

§ 206.34 Representation before the Board.

Subject to the provisions contained in Part 205 of Title 10, Code of Federal

Regulations, a petitioner may appear in person, by counsel or other qualified representative, and participate fully in any proceeding before the Board held pursuant to these rules.

Petitioner's representative must file his full name, address, and telephone number with the Board. Should petitioner change his representative, it is petitioner's duty to so inform the Board.

§ 206.35 Types of petitions; time and place to file.

(a) Several types of petitions may be filed with the Board requesting it to take action within its jurisdiction as set out in § 206.33 or other related provision of these regulations or in Part 213 of this Chapter.

(b) Petitions and related documents shall be addressed to the Oil Import Appeals Board and filed with the Board (address: Oil Import Appeals Board, Federal Energy Administration, 4015 Wilson Boulevard, Arlington, Va. 22203 (telephone number 703 557-9220)).

(c) A petition requesting review of any action taken by the Director, Oil Imports, must be filed with the Board not later than 30 calendar days after the action has taken place. The Board, at its discretion, may extend the time limit in which to file upon a showing of good cause.

§ 206.36 Content of petition.

(a) A petition must be in writing, signed by the petitioner or his duly authorized representative or attorney, clearly marked as "petition," and filed in six copies. Each petition shall be organized under six headings, as follows:

(1) The relief sought by the petitioner, expressed in barrels per day (b/d) and in total barrels (bbls.) during the applicable allocation period;

(2) The pertinent provisions of Part 213 of this chapter under which the Board has authority to grant such relief;

(3) The decision of the Director, Office of Oil Imports involved in the petition, if any;

(4) The relevant facts in support of the petition;

(5) The arguments in support of the petition;

(6) Responses to the guidelines published by the Administrator of the Federal Energy Administration as an Appendix to this Part for the Board's use in evaluating petitions. The responses must be under the heading of each of the published guidelines and provide sufficient information to enable the Board to evaluate the petition under each.

(b) Each petition shall be accompanied by the pertinent data—finished product or crude and unfinished oils—with the information sought set out under the headings of the pertinent format as set forth in either § 206.37(a) or § 206.37(b).

§ 206.37 Data required by the Board to accompany petitions.

(a) In order to process petitions for finished product import allocations the Board requires the data and information as set forth below. Submit six completed copies of this material, identifying each item by the number and precise heading appearing herein. Make attachments, if necessary. Quantity figures should be stated in terms of gallons and in terms of barrels, unless questions herein are specified otherwise.

(1) Full name of petitioner, address of principal office and name and telephone number of company official responsible for the petition.

(2) Company ownership. If petitioner is not a sole proprietorship, list all companies, individuals or stockholders possessing 10 percent or more of company ownership or stock.

(3) The relief requested (expressed in barrels per day and total barrels), the particular commodity requested, and the specific period for which relief is requested.

(4) All domestic subsidiaries and affiliates, if any, in which petitioner holds an interest of 15 percent or more.

(5) Market area, specifying Districts, in which petitioner, its subsidiaries or affiliates operate.

(6) All brand names which petitioner, its subsidiaries or affiliates use in marketing products.

(7) State whether petitioner, its subsidiaries or affiliates sell products to (a) motorists, (b) home owners, (c) industrial and other commercial accounts, (d) governmental agencies, (e) farmers, and (f) to independent marketers for resale without brand names or under brand names different from the brand name(s) used by petitioner, its subsidiaries or affiliates.

(8) State for each of the last 3 years petitioner's gross sales separately by product for the particular product(s) which are the subject of the petition, and, where such sales are made, specify figures for: (a) gasoline, (b) No. 2 fuel oil, (c) residual fuel oil, (d) other products or services (Estimate where appropriate). Also state your gross sales to date and estimates for the balance of the current allocation period.

Calendar year	Quantity			Dollars
	Gallons	Barrels	Barrels per day (average)	

With respect to (a) gasoline and (b) No. 2 fuel oil, state the approximate percentages of those gross sales which were made to the various types of customers described in item 7 above.

(9) List your actual and/or prospective suppliers for the current allocation period of the product(s) for which you seek an import allocation. Indicate the quantities already obtained as well as offered or expected during the allocation period and the delivered price:

Supplier	Quantity			Delivered price per gallon
	Gallons	Barrels	Barrels per day (average)	

State which of the above supplies are subject to (a) long-term contracts (6 months or longer), (b) short-term or ever-green contracts, and (c) spot purchases.

(10) List your past suppliers of the product(s) for which you seek import allocations in each of the last 3 years, the quantity supplied, and delivered price:

Calendar year	Supplier	Quantity supplied			Delivered price per gallon
		Gallons	Barrels	Barrels per day	

State which of the above supplies were subject to (a) long-term contracts (6 months or longer), (b) short-term or ever-green contracts, and (c) spot purchases. If past suppliers terminated any supply contracts or allocated deliveries for the current year, state the name(s) of such supplier(s), the circumstances of contract termination, and the actual amount by which deliveries were or will be reduced.

(11) State, showing docket number, all previous filings by the petitioner with the Board in the present and 3 preceding years, all Board awards received as a result of these filings, and the amounts imported, exchanged, or otherwise obtained by the authority of such awards. Unused awards should be explained.

(12) List all suppliers contacted for the product(s) for which you seek import allocations for the current allocation period who did not offer any product or offered it at noncompetitive prices:

Supplier	Quantity offered		Delivered price per gallon
	Gallons	Barrels	

Provide the Board with any adequate responses from your suppliers which are or may be in violation of any government sponsored allocation program.

(13) State your average selling price for the product(s) for which you seek import allocations, in each of the last 3 years and in the current year:

Calendar year	Product(s)	Average price per gallon

(14) State your operating costs (per gallon) for the product(s) for which you seek import allocations, in each of the last 3 years, and an estimate of such costs for the current year. Give a detailed breakdown of such costs:

Calendar year	Product(s)	Operating costs

(15) State your inventory of the product(s) for which you seek import allo-

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cations, on the last day of December of each of the last 3 years:

Calendar year	Product(s)	Inventory	
		Gallons	Barrels

(16) List and describe storage facilities, transportation equipment, and any other equipment or installations relevant to the petroleum industry owned or controlled by your company, its subsidiaries or affiliates. State whether products are supplied to you by tanker, barge, pipeline, railroad, or motorized equipment.

(17) If your company, its subsidiaries or affiliates supply retail outlets or service stations which they own or lease, or which sell products under a trade name owned or controlled by your company, its subsidiaries or affiliates, state the average number of such retail outlets and service stations supplied during each of the last 3 years and in the current year.

(18) State, in dollars, for each of the last 3 years, the after-tax profit or loss record of your company, its subsidiaries and affiliates, and an estimate of such profit or loss for the current year. Indicate whether these figures cover calendar of business years. Separate, if possible, profits or losses on product(s) for which you seek import allocations and profits or losses on other products and services. (Estimate, if necessary). With respect to total profits or losses, state what percentages of total sales and service revenues they represent:

Year	Profit or loss on product(s) for which you seek import allocations	Profit or loss on other products and services	Total profit or loss	Percent of total revenues from sales and services

(19) State for each of the last 3 years on the basis of the respective balance sheets or profit-and-loss statements of your company, its subsidiaries and affiliates:

(i) Net worth or stockholders equity;

(ii) The amount of retained earnings;

(iii) Ratio of current assets to current liabilities;

(iv) Long-term debts;

(v) State the cost of petitioner's investment, if any, during the current and last allocation periods, in new or substantially improved petroleum related facilities, together with a brief description of such facilities;

(vi) If petitioner is a corporation, the amounts paid out in dividends.

(20) Name the principal competitors of your company, its subsidiaries and affiliates, in the business of marketing petroleum products. (Depending on size of petitioner's operations, not more than five to ten competitors should be named.)

(21) The undersigned certifies that the above data and information are true and complete to the best of his knowledge and belief _____ (signature).

(b) In order to process petitions for *crude and unfinished oils* import allocations the Board requires the data and information as set forth below. Submit six completed copies of this material, identifying each item by number and precise heading appearing herein. Make attachments if necessary. Quantity figures should be stated in terms of barrels per day and in terms of total barrels per year, unless questions herein are specified otherwise.

(1) Full name of petitioner, address of principal office and name and telephone number of company official responsible for petition.

(2) Company ownership. If petitioner is not a sole proprietorship, list all companies, individuals or stockholders possessing 10 percent or more of company ownership or stock.

(3) The relief requested (expressed in barrels per day and total barrels), and whether the request is for offshore or Canadian crude oil, or for unfinished oils, or both, and the specific period for which relief is requested.

(4) All domestic subsidiaries and affiliates, if any, in which petitioner holds an interest of 15 percent or more.

(5) Location and rated capacity of each domestic refinery owned or controlled by petitioner.

(6) Average daily inputs of each refinery listed in item 5 above: (a) of crude oil and (b) of other raw materials, in each month of the last 3 calendar years, and in each elapsed month of the current allocation period.

(7) From data given in response to item 6 above, calculate and set out the combined daily average inputs of all refineries listed (a) of crude oil and (b) of other raw materials, during each of the last 3 calendar years.

(8) The volumes of (a) crude oil import allocations and (b) finished products import allocations received by the petitioner in the current year and in each of the 3 preceding years from the Office of Oil and Gas, the Oil Import Administration, or the Director, Oil Imports, as the case may be, and the amounts imported, exchanged or otherwise obtained by the authority of such awards. Unused awards should be explained.

(9) State, showing docket number, all previous filings by petitioner with the Board in the present and 3 preceding years, all Board awards received as a result of these filings, and the amounts imported, exchanged or otherwise obtained by the authority of such awards. Unused awards should be explained.

(10) The approximate product yields (as percentage of total production) at each refinery listed in item 5 above during the current allocation period and the two preceding years.

(11) The number of retail outlets which distributed products under a trade name owned or controlled by your company and the total quantity of gasoline you supplied to them during each elapsed quarter of (a) the current allocation period and (b) last year.

(12) The percentages of your total production of (a) gasoline, (b) No. 2 fuel oil, and (c) residual fuel oil which you sold to independent marketers during each quarter of the last calendar year. With respect to each of said product categories indicate what portions of such sales involved exchanges for finished product import licenses that had been issued to independent marketers.

(13) The quantities of (a) gasoline, (b) No. 2 fuel oil, (c) residual fuel oil, and (d) other products which you sold to, or exchanged for crude oil with, any other petroleum refining company during the last calendar year.

(14) Specify the domestic and foreign sources (indicating company names) of crude oil supplies and other refinery feedstocks obtained by the petitioner and the quantities received from each, in each of the last 3 years, separated into quantities received pursuant to: (a) Long-term contracts (6 months or longer); (b) Short-term or evergreen contracts; or (c) Spot purchases. Indicate which of these quantities involved the utilization of import licenses issued to the petitioner.

Year	Source of supply	Quantity		Type of [illegible]
		Barrels	Barrels per calendar day	

(15) For each quarter of the last calendar year, list the average effective cost per barrel of petitioner's crude oil or other raw material supplies delivered to the refinery.

(16) List your actual and/or prospective suppliers for the current allocation period of crude oil and other refinery feedstocks. Indicate the quantities already obtained as well as offered or expected during the current allocation period:

Supplier	Quantity		Delivered price per barrel
	Barrels	Barrels per calendar day	

State which of the above supplies are subject to (a) Long-term contracts (6 months or longer); (b) Short-term or evergreen contracts (c) Spot purchases. To the extent that purchases already have been consummated or contract prices have been fixed, indicate the average effective cost per barrel of such crude oil supplies delivered to the refinery. Indicate also which of the supplies listed in response to this question involve the utilization of import licenses issued to petitioner.

(17) State whether petitioner is a participant in the government royalty oil program and what quantities have been or are expected to be received during the current allocation period.

(18) List all suppliers contacted for the product(s) for which you seek import allocations for the current allocation period who did not offer any product or offered it at noncompetitive prices.

Supplier	Quantity		Offered delivered price per barrel
	Barrels	Barrels per calendar day	

Provide the Board with any inadequate responses from your suppliers which are or may be in violation of any government sponsored allocation program.

(19) A brief description of ownership participation of petitioner in crude pipelines (including gathering systems), in finished product pipelines, and in inland water transportation equipment.

(20) Type and capacity of crude oil storage facilities at each refinery listed in item 5 above at the time of filing of the petition, and a brief description of mode of crude oil delivery to such facilities (pipeline, tanker, barge, railroad, etc.).

(21) Crude oil inventory at each refinery listed in item 5 above at the time of filing of the petition.

(22) Submit the following financial information. State whether the data cover calendar or business years, and whether figures are calculated before or after Federal Income Tax. Publicly held corporations should submit copies of the latest annual stockholders' report.

(i) What proportion, in terms of dollars, of petitioner's total income is derived from its petroleum business, specifying the amount of income from:

(a) Refining crude oil.

(b) Production of crude oil.

(c) Domestic distribution of finished product, i.e., gasoline, fuel oil, etc.

(ii) State petitioner's total net profits or losses as well as its net profits or losses from its petroleum business for each of the last 3 years.

(iii) State the percentage which such total profits represent:

(a) Measured on net worth.

(b) Measured on sales.

(iv) State the amount of petitioner's retained earnings.

(v) State petitioner's ratio of current assets to current liabilities.

(vi) State the cost of petitioner's investment, if any, during the current and last allocation periods, in new or substantially improved petroleum related facilities, together with a brief description of such facilities.

(23) The undersigned certifies that the above data and information are true and complete to the best of his knowledge and belief _____ (signature).

§ 206.38 Hearings on petitions.

A petitioner may request a hearing before the Board on his petition by submitting an unqualified request therefor, in writing, with the filing of his petition. The Board in its discretion may grant a hearing. Where a hearing has not been requested by the petitioner, the Board may, in its discretion, schedule a hearing on the petition. Hearings will be scheduled in the discretion of the Board with due consideration to the regular order of filing of petitions and other pertinent factors. On request and for good cause shown, the Board may in its discretion advance or postpone a hearing. A party failing to request a hearing as provided in this section may be deemed to have submitted his case upon the Board record.

§ 206.39 Notice of hearing.

The petitioner shall be given at least 14 calendar days' notice of the time and place set for hearings, unless otherwise agreed. Such notice will apprise the petitioner of the requirements of § 206.13 for submission of briefs, memoranda of law, documentary evidence or other necessary information. In scheduling hearings the Board will give due regard to the desires of the petitioners and to the requirement for just and prompt disposition of petitions. Public notice of the scheduling of a hearing will also be posted in the office of the Board.

§ 206.40 Unexcused absence of a petitioner.

The unexcused absence of a petitioner at the time and place set for hearing will not be occasion for delay. In the event of such absence the hearing will proceed and the case will be regarded as submitted by the absent petitioner on the record before the Board. The Board shall advise the absent petitioner of the content of the proceedings and that he has 5 days from the receipt of such notice within which to show cause why the petition should not be decided on the record made.

§ 206.41 Conduct of hearing.

(a) Any member of the Board may conduct a hearing.

(b) Hearings shall be as informal as may be reasonable and appropriate in the circumstances and shall be public. Petitioner may offer at a hearing such relevant evidence as he deems appropriate, subject to the sound discretion of the presiding member in supervising the extent and manner of presentation of such evidence and subject to the requirements of § 206.43(b) of this regulation. In general, admissibility will hinge on relevancy and materiality. Arguments bearing on the policy embodied in the proclamation or in the regulation shall not be received. Letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the generally accepted rules of evidence, may be admitted in the discretion of the presiding member. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by a petitioner and the Director, Oil Imports, or his representative, may be regarded and used as evidence at the hearing. The petitioner and the Director may stipulate the testimony that would be given by a witness if the witness were present. The Board may in any case require evidence in addition to that offered by a petitioner.

(c) Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated, or the Board shall otherwise order. If the testimony of a witness is not given under oath, the Board shall call to the attention of the witness the provisions of Title 18, United States Code, sections 287 and 1001, prescribing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof. The Board may, in its discretion, permit Government officials participating in the hearing to examine any witness.

(d) Hearings will be recorded verbatim and transcripts thereof shall be made, costs of transcripts to be borne by the requesting parties.

§ 206.42 Consolidation.

Upon good cause shown, or upon its own initiative, the Board may at the same time hear or decide two or more petitions, if it determines that such action is appropriate.

§ 206.43 Briefs, memoranda of law, documentary evidence, and other information.

(a) The Board may on its own initiative require the filing, either before or after hearing, of briefs, memoranda of law, documentary evidence, or any other information it considers necessary for the disposition of a petition.

(b) Any briefs, memoranda, documents, statistics, and other data and statements, but not including witnesses' testimony, to be presented or used at a hearing, shall be filed in six copies with the Board not later than 6 days, exclusive of Saturdays, Sundays, Federal legal holidays and other nonbusiness days, prior to the date of hearing.

§ 206.44 Statements by interested persons other than petitioner.

(a) Persons interested in opposing or supporting a petition, other than petitioner, may file in six copies with the Board written statements on issues raised by the petition at any time prior to 7 calendar days before the scheduled date of the hearing on the petition. At the same time such statement is filed with the Board, a copy shall be sent to the petitioner or his representative by the interested person. The petitioner may file in six copies with the Board a written reply within 7 calendar days after receiving such statements.

(b) Persons interested in opposing or supporting a petition other than petitioner, may file in six copies with the Board written statements on issues raised by the hearing within 7 calendar days following said hearing, unless extension is granted by the Board for good cause. At the same time such a statement is filed with the Board, a copy shall be

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sent to the petitioner or his representative by the interested person. The petitioner may file in six copies with the Board a written reply within 7 calendar days after receiving such statements, unless extension is granted by the Board for good cause.

(c) The Board will not consider statements made pursuant to paragraph (a) or (b) of this section or § 206.16 unless copies have been furnished to petitioners or their representatives in a timely fashion by the interested persons.

§ 206.45 Private communications prohibited.

Oral or written communications by petitioners, interested private parties, or their agents, concerning the facts or law of a petition, or policy of the Board, will not be considered by individual members of the Board, unless such communications are made part of the record before the Board.

§ 206.46 Participation by the Office of Oil and Gas.

A copy of each petition filed with the Board and a copy of each written statement on issues raised by a petition filed pursuant to § 206.44 will be forwarded promptly to the Director, Oil Imports, for purposes of information and for any comment which the Director may deem appropriate and wish to submit to the Board. Any comment submitted to the Board by the Director must be filed with the Board and sent to the petitioner or his representative. The Board, when possible, will advise the Director, at least 1 week in advance, of the time and place of any hearing which may be scheduled upon a petition and will request that the Director or his representative appear at the hearing and present information and arguments on behalf of the Director, Oil Imports.

§ 206.47 In camera orders.

(a) Upon request by the petitioner the Board may order that oral testimony or written evidence which discloses trade secrets or privileged commercial or financial information be placed in camera. However, in camera treatment will be granted on a limited basis for specific portions of petitioner's presentation. Granting of in camera treatment requires a clear showing by petitioner that publication of the material in question would have an adverse competitive or other detrimental effect upon petitioner's business. The order shall include: (1) A description of the specific data assembled from the petition and questionnaire or other specific document or testimony for in camera treatment, and (2) a concise statement of the reasons for granting in camera treatment.

(b) Documents and transcripts of testimony subject to in camera orders shall be segregated from the public record and filed separately under the in camera order. Subject to the provisions of paragraph (c) of this section, documents and transcripts subject to an in camera order will be made accessible only to the petitioner, his counsel, authorized Board personnel, members of the Board, and court personnel concerned with judicial review. The right of the Board and of reviewing courts to disclose in camera data to the extent necessary for the proper disposition of the proceeding is specifically reserved.

(c) Documents and transcripts of testimony subject to an in camera order shall be released to third parties only if required by law.

§ 206.48 Decisions of the Board.

(a) In its evaluation of a petitioner's request the Board will consider the guidelines published by the Administrator of the Federal Energy Administration as an Appendix to this Part and the responses to those guidelines filed with the Board by said petitioner.

(b) Concurrence of any two Board members shall be sufficient to constitute a decision of the Board. Decisions of the Board shall be in writing and are final and not subject to administrative review.

(c) Each decision upon a petition to the Board will contain a concise statement of the reasons for the Board's action.

(d) A copy of the decision shall be furnished promptly to the petitioner or his representative. All decisions of the Board shall be available for inspection by the public.

§ 206.49 Reconsideration of decisions.

Not later than 30 calendar days after issuance of a decision of the Board, a petitioner may file with the Board a petition for reconsideration of such decision, setting forth the relief desired and the grounds which justify reconsideration. Such petitions must be clearly labeled as "petition for reconsideration." The Board, within its discretion, may decide the matter on the petition, or it may schedule a public hearing thereon in accordance with § 206.38 of this regulation. The Board may specify any issues on which it desires to hear arguments. The Board, within its discretion and upon showing of good cause, may extend the time limit in which to file a petition for reconsideration.

§ 206.50 Reopening of proceedings.

(a) *Reopening prior to decision.* At any time prior to its decision, on its own motion or at the request of an interested party, the Board may reopen the proceeding for the reception of further evidence.

(b) *Reopening after decision.* Whenever, during the applicable allocation period, a petitioner subject to a decision of the Board is of the opinion that material changes of fact or of law, which occurred after issuance of the decision, warrant that such decision be altered, modified, or set aside, such petitioner may file with the Board a petition requesting a reopening of the proceeding for that purpose. Such petition shall state the relief desired, the specific changes of fact or of law warranting a reopening of the proceeding, and shall include such evidence and arguments as will provide the basis for a Board decision on the petition. The Board, in its discretion, may decide the matter on the petition, or it may serve upon the petitioner a notice for a public hearing thereon. Said notice shall indicate the time and place of hearing, and it may specify any issues on which the Board desires to receive further evidence or hear arguments.

§ 206.51 Clerical mistakes.

The Board may at any time, without advance notice to the petitioner and without hearing, make such changes in a Board decision as are required to correct clerical or other errors arising from oversight or omission which have no adverse effect on petitioner.

§ 206.52 Duty to inform the Board.

The petitioner shall promptly notify the Board of any change in circumstances subsequent to the filing of the petition which would affect petitioner's merit to receive or retain a Board allocation.

§ 206.53 Record open to the public.

The petition, transcript of hearing, exhibits, written statements filed by interested parties, all papers filed with the Board, and matters of official notice or record, shall constitute the record for decision and shall be open to the public, subject to the provisions of § 206.47.

Appendix—Oil Import Appeals Board Guidelines

Sec. 1 General policy.

The Oil Import Appeals Board has a major responsibility for appropriate alleviation of the supply problem of the established independent elements of the petroleum industry, including refiners, marketers, and jobbers, under the General direction of the Administrator of the Federal Energy Administration.

Sec. 2 Implementation.

(a) Persons affected by Part 213 of Chapter II of Title 10 of the Code of Federal Regulations may petition the Oil Import Appeals Board for such relief as is within its jurisdiction as set out in § 213.26. In its evaluation of petitioners' requests the Board will consider the following guidelines as may be appropriate. A petitioner:

(1) Must be established and in operation;

(2) Must demonstrate that its total oil operations are not producing a reasonable profit but did so in the past;

(3) Must be unable to obtain sufficient supply at economic prices to meet its normal requirements;

(4) Must demonstrate that it has made diligent efforts to obtain needed supplies;

(5) Must demonstrate that payment of the license fee will cause it an exceptional hardship;

(6) If possessing an import capability, must demonstrate to the satisfaction of the Board that it is not feasible for it to alleviate its hardship by means of exchange agreements involving the use of

licenses already granted to others who do not have an import capability;

(7) Must demonstrate to the satisfaction of the Board its ability to utilize import allocations to obtain supplies through license exchange or direct import;

(8) If in control or possession of domestic crude oil production, must agree to make supplies of crude oil available in reasonable quantities and at economic prices, to established independent customers;

(9) If in the business of wholesaling products to resellers, must agree to make supplies of products available in reasonable quantities and at economic prices, to established independent customers;

(10) Must demonstrate that it is taking, or planning to take, effective action to establish an economically feasible supply to maintain its operations.

(b) In making determinations on exceptional hardships, the Board will consider, among other things, the situation of the petitioner's customers and of the community concerned as well as the public interest in preserving the independent segment of the petroleum industry.

4. Part 213 is established to read as follows:

PART 213—OIL IMPORT REGULATIONS

Sec.
213.1 Purpose.
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213.3 Allocation periods.
213.4 Eligibility for allocations not subject to license fees.
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213.18 Emergency finished products allocations.
213.19 Maximum levels of imports—Puerto Rico.
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213.22 Use of imported crude oil and unfinished oils.
213.23 Reports.
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213.25 Revocation or suspension of allocations or licenses.
213.26 Oil Import Appeals Board.
213.27 Definitions.
213.28 Canadian imports—Districts I–IV.
213.29 Allocations of crude oil, unfinished oils and finished products—Districts I–IV, District V, Puerto Rico, the Virgin Islands, Guam, American Samoa, and Foreign Trade Zones—new, expanded or reactivated refinery capacity based upon estimated and actual inputs.
213.30 Allocations of crude oil and unfinished oils—District I–IV, District V, and Puerto Rico—new, expanded or reactivated "petrochemical capacity" based upon estimated and actual inputs.
213.31 Allocations of unfinished oils—Districts I–IV based on production of low sulphur residual fuel oil in Districts I–IV.
213.32 Allocations of low sulphur residual fuel oil—District V.
213.33 Canadian imports—Districts I–IV.
213.34 Allocations of No. 2 fuel oil—District I.
213.35 Allocations and fee-paid licenses for imports of crude oil, unfinished oils and finished products—Districts I–IV, District V, and Puerto Rico.
213.36 Canadian imports, District V.
213.37 Mexican imports, Districts I–IV and District V.
213.38 Imports of Canadian natural gas products—Districts I–IV.

AUTHORITY: Federal Energy Administration Act of 1974, Pub. L. 93–275; Trade Expansion Act of 1962, Pub. L. 87–794; E. O. 11790, 39 FR 23185; Proclamation No. 3279, as amended, 38 FR 9645, 38 FR 16195, 39 FR [illegible].

§ 213.1 Purpose.

These regulations implement Presidential Proclamation 3279, "Adjusting Imports of Petroleum and Petroleum Products into the United States," dated March 10, 1959, as amended, by providing for the discharge of the responsibilities imposed upon the Administrator of the Federal Energy Administration (FEA).

§ 213.2 Administration of program.

The Director, Oil Imports, has been empowered to exercise the authority conferred upon the Administrator by Proclamation No. 3279, as amended.

§ 213.3 Allocation periods.

(a) Except for allocations made pursuant to § 213.10 all allocation periods beginning on or after January 1, 1973, but before December 31, 1973 shall be extended to expire April 30, 1974.

(b) Supplemental allocations not subject to license fees will be made by the Director for the extended portion of the allocation period for which an allocation has not been made. Such supplemental allocations shall be computed so as to provide allocations for the extended portion of the allocation period at the same daily average as the base allocations.

(c) Effective May 1, 1974, the allocation periods for all allocations except allocations issued pursuant to § 213.10 will be made for periods of twelve months beginning May 1 of each year.

(d) Allocation periods for allocations made pursuant to § 213.10 will be as provided for in that section.

(e) Notwithstanding the provisions of paragraph (1) of § 213.11 the initial allocation period pursuant to § 213.11 will be for a period of twelve months beginning May 1, 1974. Subsequent allocations will be made for periods of twelve months beginning May 1 of each year.

(f) Notwithstanding the provisions of paragraphs (a) and (c) of this section entries for consumption of Canadian imports by pipeline may be made until midnight of May 15 following expiration of the allocation period in which a license authorizing such imports from Canada was issued.

§ 213.4 Eligibility for allocations not subject to license fees.

(a) To be eligible for an allocation not subject to license fees of imports into Districts I–IV, into District V, Puerto Rico, Guam, American Samoa, the Virgin Islands, or a foreign trade zone of crude oil and unfinished oils, a person must (1) have either refinery capacity or a petrochemical plant in the respective districts, Puerto Rico, territories or foreign trade zone and (2) have had refinery inputs or petrochemical plant inputs in the respective districts, Puerto Rico, territories, or foreign trade zone for the year ending three months prior to the beginning of the allocation period for which the allocation is requested.

(b) To be eligible for an allocation not subject to license fees of imports into Puerto Rico of crude oil and unfinished oils pursuant to section 213.20 a person must have had refinery capacity in Puerto Rico during calendar year 1964.

(c) To be eligible for an allocation not subject to license fees of imports into Puerto Rico of finished products, other than residual fuel oil to be used as fuel, a person must have imported such products into Puerto Rico during the last half of the calendar year 1958.

(d) To be eligible for an allocation not subject to license fees of imports into Puerto Rico of residual fuel oil to be used as fuel, a person must have imported residual fuel oil used as fuel into Puerto Rico during the last half of the calendar year 1958.

(e) A person is not eligible individually for an allocation not subject to license fees of imports of crude oil and unfinished oils or finished products if the person is a subsidiary or affiliate owned or controlled, by reason of stock ownership or otherwise, by any other individual, corporation, firm, or other business organization or legal entity. The controlling person and the subsidiary or affiliate owned or controlled will be regarded as one. Allocations will be made to the controlling person on behalf of itself and its subsidiary or affiliate but, upon request, licenses will be issued to the subsidiary or affiliate.

§ 213.5 Applications for allocations and licenses.

(a) Applications for all allocations not subject to license fee of imports of crude oil, unfinished oils, or finished products for the allocation period May 1, 1974 through April 30, 1975, except for applications made pursuant to section 9A must be filed with the Director in such form

as he may prescribe, not later than March 31, 1974.

(b) Applications for allocation pursuant to § 213.10 must be filed as provided for in paragraph (c) of § 213.10.

§ 213.6 Records and inspections.

All persons receiving allocations pursuant to these regulations shall maintain complete records of imports, refinery inputs, petrochemical plant inputs and the outputs of such plants. These records shall be maintained on a current basis so that they will be available for inspection by a representative of FEA. All records required to be maintained pursuant to this section shall be retained for a period of three (3) years. In order to assure full compliance with these regulations and Proclamation 3279, as amended, FEA representatives shall be permitted to enter a person's office, property, plants and facilities to examine such records, and, if deemed necessary in order to verify such records, to inspect the refinery, petrochemical plant, or terminal and all operations being performed within the facilities which include, but are not necessarily limited to refining, receiving, shipping, testing and storage. If requested by the FEA representatives, the person shall be required to assign an employee to accompany the representatives of FEA in all inspections, record evaluations, and verification operations. The FEA representatives shall not be required to sign any releases prior to entering upon a person's property or installation.

§ 213.7 Licenses.

(a) When an allocation has been made to a person under this regulation, the Director shall issue a license or licenses based on the allocation; specifying the amount of crude oil and unfinished oils or finished products which may be imported, the period of time such license shall be in effect, and the districts (District I, Districts I–IV, Districts II–IV, District V or Puerto Rico) into which the importation may be made. The director may amend such licenses.

(b) No license issued pursuant to this section may be sold, assigned, or otherwise transferred.

§ 213.8 Small quantities.

(a) District Directors of Customs are authorized to permit without a license an entry for consumption of not to exceed 550 U.S. gallons of crude oil, unfinished oils, or finished products which are certified as samples for testing or analysis or which are included in shipments of machinery or equipment and are certified as intended for use in connection therewith, and baggage entries. Unless notified by the Director to the contrary, District Directors of Customs are authorized to permit without a license the entry for consumption of bonded fuel aboard an aircraft diverted from an international flight.

(b) A person desiring to import small quantities of crude oil, unfinished oils, or finished products in circumstances not covered by paragraph (a) of this section shall file with the Director a written request for authorization for entry without a license for each shipment, describing the oil and the quantity thereof proposed to be imported and the circumstances which would justify an entry without a license, the date when the shipment is scheduled to arrive or upon which it has arrived, and the port of entry. If the Director determines that the entry without a license is consonant with the purposes of Proclamation 3279, as amended, he may authorize such an entry.

§ 213.9 Allocations; petrochemical plants; District I–IV and District V.

(a) For the allocation period May 1, 1974, through April 30, 1975, each eligible person with a petrochemical plant in Districts I–IV shall receive an allocation not subject to license fee of imports of crude oil and unfinished oils equal to the average barrels per day of petrochemical plant inputs to his petrochemical plants in these districts during the calendar year 1973 or the year ending September 30, 1972, whichever is greater, multiplied by 11.2 percent × .90.

(b) For the allocation period May 1, 1974, through April 30, 1975, each eligible person with a petrochemical plant in District V shall receive an allocation not subject to license fee of imports of crude oil and unfinished oils equal to the average barrels per day of petrochemical plant inputs to his petrochemical plants in this district during the calendar year 1973 or the year ending September 30, 1972, whichever is greater, multiplied by 11.9 percent × .90.

(c) No allocation for Districts I–IV made pursuant to this section shall entitle a person to a license which will allow the importation of unfinished oils in excess of 15 percent of the allocation, and no allocation for District V made pursuant to this section shall entitle a person to a license which will allow the importation of unfinished oils in excess of 25 percent of the allocation. However, a person obtaining an allocation of imports of crude oil and unfinished oils pursuant to this section may petition the Director to adjust the percentage of imports of unfinished oils upward to 100 percent of such person's allocation if the petitioner certifies that the additional imported unfinished oils will not be exchanged, that the additional unfinished oils will be processed entirely in the petitioner's own petrochemical plant, and that more than 50 percent of the yields (by weight) from the unfinished oils will be petrochemicals or that more than 75 percent (by weight) of recovered product output will consist of petrochemicals.

(d) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

(e) Applications for allocations pursuant to this section must be filed in accordance with provisions of § 213.5.

(f) Pursuant to section 3A of Presidential Proclamation 3279, as amended by Proclamation 4175, interim allocations were made for the allocation period January 1, 1973 through December 31, 1973 to all persons who had received an allocation under former section 9 of Oil Import Regulation 1 (now § 213.9) for the allocation period January 1, 1972 through December 31, 1972. To the extent that such interim allocations were not charged against and deducted from the regular allocation made to a person pursuant to former section 9 for the allocation period starting January 1, 1973 and extending through April 30, 1974, such interim allocation will be charged against and deducted from the allocation made under this section for the period May 1, 1974 through April 30, 1975.

§ 213.10 Allocations based on exports.

(a) For the purposes of this section:

(1) "Eligible petrochemicals" means the following materials produced in the person's facilities in Districts I–IV or District V and falling into the following Trade Classification of Schedule B of the current Department of Commerce Statistical Classifications of Domestic and Foreign Commodities Exported from the United States.

Trade Classification Schedule B Number	Description
231.2	Synthetic rubber and rubber substitutes except compounded, semiprocessed, and manufactures; e.g., SBR type rubber, butyl rubber.
266.2–266.3	Manmade fibers suitable for spinning except glasses, e.g., nylon staple, polyester staple.
	CHEMICAL ELEMENTS AND COMPOUNDS
512	Organic chemicals; e.g., ethylene glycol, acetic acid.
513.27	Carbon black.
521.4024	Ortho-Xylene.
521.4025	Para-Xylene.
521.4027	Mixed Xylenes.
554.2022–554.2026	Detergents, synthetic organic bulk; e.g., alkyl aryl sulfonate, sodium toluene sulfonated.
554.2032–554.2036	Surface-active agents, except detergents, acid type cleaners, and textile and leather-finishing agents.
581.1005–581.1055 581.2002–581.2058	Plastic materials and artificial resins; e.g., polyamide, phenolic, polyethylene.
581.3230	Cellulose ester molding and extrusion compositions; e.g., cellulose acetate.
581.3242	Cellulose esters (except molding and extrusion compositions) in unfinished forms; e.g., granules, powder.
581.3260	Chemical derivatives of cellulose unplasticized e.g., cellulose acetate-butyrate (flake, powder, waste or scrap).
599.7100	Artificial waxes e.g., solidified polyethylene glycol, glyceryl tri-(12 Hydroxy stearate).
599.7505–599.7507	Antiknock mixtures.
599.7515–599.7530	Additives for lubricating oils, fuel oils, liquid gum inhibitors.
599.9960	Reagents for ore recovery.
621.0105	Carbon black masterbatch.
629.1010–629.1050	Rubber tires for vehicles and aircraft.
651.6–651.7	Yarn (including monofil and strip), thread, tire cord, and tire cord fabric of noncellulosic and cellulosic manmade fibers.

(2) "Broker" and "Export Agent" mean a person whose occupation includes the transaction of business relating to the exportation of goods.

(3) Each six months of a calendar year (e.g. January to June) shall constitute a base period.

(b) Subject to provisions of this section a person who holds an allocation of imports into Districts I–IV or into District V under § 213.9 or § 213.30 during all or part of the base period to which the application for an allocation under this § 213.10 relates shall also be entitled to receive under this § 213.10 an allocation of imports of crude oil into Districts I–IV or into District V (as the case may be) based on his exports during the base period of eligible petrochemicals produced by him.

(c) An application for an allocation under this section must be filed with the Director no later than 60 days after the last day of the base period to which the application relates. Amendments to applications resulting in upward adjustments of allocations under this section must be filed with the Director no later than the last day of the base period following the base period to which the allocation applies. An application shall be in such form as the Director may prescribe.

(d) Licenses issued under an allocation made pursuant to this section shall expire 12 months after the respective base period ends.

(e)(1) The Director shall determine the weight (in pounds) of eligible petrochemicals (i) which were produced in the person's facilities in Districts I–IV or in District V, and (ii) which were exported from the Customs territory of the United States during the base period whether by the person, another person, a broker or an export agent or a domestic or a foreign purchaser thereof in the form produced by and without value added and without further processing. The producer shall furnish such evidence as the Director may require to establish that the export was, in fact, made including a letter from the exporter that his records may be inspected by the Director or his agents for the purpose of verifying that the export was made.

(2) The Director shall ascertain the hydrogen and carbon content (in pounds) of that part of the weight of the eligible petrochemicals determined pursuant to paragraph (e)(1) of this section, which was (i) produced by chemical reaction in the person's facilities and (ii) derived from crude oil or unfinished oils produced or manufactured in Districts I–IV or in District V or imported into Districts I–IV or District V pursuant to an allocation. The weight thus ascertained shall be divided by 200; and the applicant shall receive an allocation of barrels of imports of crude and unfinished oils equal to the resulting quotient. Where a person produced an eligible petrochemical from a combination of inputs which qualify under clause (ii) of this subparagraph (2) and inputs which do not so qualify, and a portion of such eligible petrochemical was exported, the hydrogen and carbon content of the exported portion shall be deemed to have been derived entirely from the qualified inputs to the full extent of such qualified inputs except that such hydrogen and carbon shall not be deemed to have been derived from a qualified input from which the hydrogen and carbon could not actually have been derived.

(f) A shipment of eligible petrochemicals from Districts I–IV or from District V to a foreign country or to the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands constitutes an export for the purposes of this section. A shipment of eligible petrochemicals from Districts I–IV or from District V to Puerto Rico or to a foreign trade zone shall not constitute an export for the purposes of this section. If eligible petrochemicals are returned after having been exported, the total weight of such eligible petrochemicals so returned, whatever the form of the import, shall either be excluded or deducted as appropriate from the applicant's base in computing an allocation under paragraph (e) of this section.

(g) An allocation made pursuant to this section shall entitle a person to a license or licenses which will allow the importation of unfinished oils in an amount not exceeding, in the aggregate, 15 percent of the person's allocation. However, the Director shall permit a person holding such an allocation to import unfinished oils in an amount up to 100 percent of such person's allocation upon certification by him to the Director that such imported unfinished oils will not be exchanged, that such unfinished oils will be processed entirely in the person's petrochemical plant, and that more than 50 percent by weight of the yields from such unfinished oils will be converted into petrochemicals of which petrochemicals methane is not more than 50 percent by weight or that more than 75 percent by weight of recovered product output will consist of petrochemicals but of which output not more than 50 percent by weight is methane.

(h) A person who imports crude oil or unfinished oils under an allocation made under this section may, except as provided in paragraph (g) of this section, exchange his imported crude oil either for domestic crude oil or for domestic unfinished oils or exchange his imported unfinished oils for domestic unfinished oils or for domestic crude oil. All such exchanges shall be governed by the provisions of paragraph (b) (2), (3), (5), and (6) of § 213.22 of this regulation.

(i) No allocation made pursuant to this section may be sold, assigned or otherwise transferred.

§ 213.11 Allocations of imports of crude oil and unfinished oils for conversion of heavy liquid feedstocks to petrochemicals—Districts I–IV and District V.

(a) For the purpose of this section:

(1) The term "heavy liquid feedstock" means (i) a stream of crude oil or (ii) a stream of hydrocarbons which was derived from crude oil or natural gas products, 90 percent (by weight) of which

consisted of hydrocarbon compounds having a carbon content of C_5 or greater, and in which the weight of paraffins (including cycloparaffins) exceeded that of the olefins and that of the aromatics, respectively.

(2) The term "petrochemicals" means any of those items listed in column 1 of the schedule set forth in paragraph (k) of this § 213.11 insofar as they conform to the notations contained in columns 2 and 3 of such schedule.

(3) The term "hydrocarbon intermediates" means any or all of the following items which were produced from feedstocks to a heavy liquid plant or from heavy liquid feedstocks: Methane, ethane, propane, butanes, olefins C_2–C_{12}, diolefins C_4–C_{12} (and C_3–C_5 in the event their purity falls below 90 percent by weight), acetylenes C_2–C_{12} (or C_2–C_5 in the event their purity falls below 90 percent by weight), benzene, toluene, and xylene, or combinations thereof, and heavy aromatic gas oil with a correlation index (CI) greater than 100 computed on the basis of the following formula:

$$100\left(\frac{876}{460+\text{MBP}}+\frac{670}{131.5+\text{API Gravity}}-4.568\right)$$

and extender oil as described in ASTM Designation D 2226–70.

(4) The term "heavy liquid plant" means a facility or plant complex (including associated downstream product recovery and processing units except petrochemical units and petrochemical plants) which is located in Districts I–IV or District V, which is not comprised within or a part of a person's refinery capacity as that term is defined in § 213.27 to which at least one heavy liquid feedstock stream was charged during the base period, and in which more than 30 percent by weight of each of its hydrocarbon feedstock streams during the base period were converted by chemical reaction (i) directly into petrochemicals, or (ii) indirectly into petrochemicals by the chemical conversion of hydrocarbon intermediates or by the chemical conversion of heavy liquid feedstocks which were subsequently fed to a heavy liquid plant and converted to petrochemicals or to hydrocarbon intermediates which were subsequently converted to petrochemicals, or, (iii) into petrochemical plant inputs as defined in § 213.27.

(5) The term "petrochemical unit" refers to equipment located in Districts I–IV or District V, in which 30 percent by weight of hydrocarbon intermediates in each separate feedstock stream are processed into petrochemicals.

(6) The term "base period" means the period of 12 months ending on December 31 preceding the allocation period for which an application for an allocation under this § 213.11 is filed.

(b) Except as provided in paragraph (1) allocations under this section shall be made for periods of twelve months beginning May 1.

(c) (1) Applications for allocations under paragraphs (e), (f), and (g) of this section must be filed within the time prescribed by § 213.5.

(2) An application shall be in such form as the Director may prescribe, and an applicant shall furnish such additional information as the Director shall require. All information supplied by an applicant shall be subject to such verification as the Director may deem appropriate, including inspection of the applicant's heavy liquid plant or plants, the applicant's petrochemical unit or units, and the petrochemical unit or units of persons to whom hydrocarbon intermediates have been sold or transferred by the applicant. In the case of an application for an allocation based, in whole or in part, upon the sale or transfer by the applicant of hydrocarbon intermediates to be processed into petrochemicals, the application shall be accompanied by certificates from the buyers or transferees as to the weight of such hydrocarbon intermediates and as to such buyers' or transferees' disposition thereof. Such verification may include examination of the records of all plants participating in the production of petrochemicals which are claimed by an applicant as a basis for an allocation.

(3) Except as provided in this subparagraph, information furnished by an applicant on or in connection with an application under § 213.11 shall be available for public inspection. Material balances respecting a plant or unit and detailed technical information descriptive of a particular process fall within the category of trade secrets and privileged commercial information and shall not be available for public inspection.

(d) A person who receives an allocation under this section § 213.11 may not receive an allocation pursuant to § 213.9 based on any feedstock stream processed in the person's heavy liquid plant or plants. The hydrocarbon content of materials upon which an allocation under 213.9 § 213.10, or § 213.30 is based will not qualify as a basis for an allocation under this § 213.11. Hydrocarbon materials upon which an allocation under this § 213.11 is based will not qualify as a basis for an allocation under § 213.9, § 213.10, or § 213.30. No hydrocarbon material upon which an allocation under this § 213.11 is based may serve as a basis for another allocation under this § 213.11.

(e) To be eligible under this paragraph for an allocation of imports of crude oil and unfinished oils into Districts I–IV or into District V, a person must have operated a heavy liquid plant in the respective districts during the base period. For a particular allocation period, each such eligible applicant shall be entitled to receive an allocation of imports of crude oil and unfinished oils into Districts I–IV or into District V, as appropriate, computed as follows:

(1) The Director shall determine the weight of hydrocarbon intermediates which were produced by each of the applicant's heavy liquid plants and which were processed in a petrochemical unit or units by the applicant during the base period. The Director shall deduct from the weight so determined the weight of the hydrocarbon content of any organic compounds that were not petrochemicals and that were produced by processing from the hydrocarbon intermediates and recovered for commercial disposition or use, including use as fuel.

(2) The Director shall determine the weight of hydrocarbon intermediates (i) which were produced by each of the applicant's heavy liquid plants, and (ii) which the applicant certifies were sold or transferred by him to a second person, or by such second person to a third person to be processed into petrochemicals, and (iii) respecting which the applicant has furnished certificates from the buyers or transferees as to the weight and disposition of the hydrocarbon intermediates purchased or transferred and processed in a petrochemical unit during the base period. The Director shall deduct from the weight so determined the weight of the hydrocarbon content of any organic compounds that were not petrochemicals and that were produced by the buyers or transferees from the hydrocarbon intermediates and recovered for commercial disposition or use, including use as fuel.

(3) (i) The Director shall determine the total weight of hydrocarbon feedstocks charged to each of the applicant's heavy liquid plants during the base period. The Director shall deduct from the weight so determined the weight of all hydrocarbon intermediates produced from such feedstocks and the hydrocarbon content of any other organic compounds that were not petrochemicals and that were produced by the applicant from total feedstocks and recovered for commercial disposition or use, including use as fuel. In connection with a determination under this subdivision, an applicant must satisfactorily identify the cause or causes of the difference between the weight of hydrocarbon feedstocks charged and the weight of hydrocarbon intermediates and organic compounds produced, and the Director shall make no determination under this subdivision if such difference is attributable principally to inaccuracy of meters.

(ii) In lieu of the net weight determined under subdivision (i) of this subparagraph, an applicant may elect to have the Director determine the weight of the hydrocarbon content of petrochemicals and hydrogen produced at the applicant's heavy liquid plant during the base period plus one percent (1 percent) of the weight of total hydrocarbon feedstocks charged.

(4) The Director shall divide the net weight of hydrocarbon materials determined for each of the applicant's heavy liquid plants pursuant to subparagraphs (1) through (3) of this paragraph, by the weight of the total hydrocarbon feedstocks charged to each such plant during the base period and multiply the quotient thus obtained by the quantity (expressed in barrels per day) of heavy liquid feedstocks charged to each such plant. The applicant shall, with respect to each such plant, receive an allocation of imports of crude oil and unfinished oils in a quantity equal to the product of such multiplication.

(f) (1) Subject to the provisions of paragraph (d) of this section, a person who produces hydrocarbon intermediates from heavy liquid feedstocks in a plant in Districts I–IV or in District V, other than a heavy liquid plant and who manufactures petrochemicals by processing such hydrocarbon intermediates during a base period shall be entitled, with respect to such plant, to an allocation of imports of crude oil and unfinished oils into Districts I–IV or into District V, as appropriate, computed as follows: The Director shall determine the weight (in pounds) of such hydrocarbon intermediates and shall deduct therefrom the weight of the hydrocarbon content of any organic compounds that were not petrochemicals and that were recovered for commercial disposition or use, including use as fuel. The net weight (in pounds) so determined shall be divided by 300, and the person shall receive an allocation of imports of crude oil and unfinished oils equal to the resulting quotient.

(2) Subject to the provisions of paragraph (d) of this section, a person who produces hydrocarbon intermediates from heavy liquid feedstocks in a plant other than a heavy liquid plant and sells or transfers such hydrocarbon intermediates to another who manufacturers petrochemicals therefrom by processing during a base period shall, with respect to such plant, be entitled to an allocation of imports of crude oil and unfinished oils into Districts I–IV or into District V, as appropriate, computed as follows: The Director shall determine the weight (in pounds) of the hydrocarbon intermediates (i) which were so produced, (ii) which the applicant certifies were sold or transferred by him to a second person, or by such second person to a third person, to be processed into petrochemicals, and (iii) respecting which the applicant has furnished certificates from the buyers or transferees as to the weight and disposition of the hydrocarbon intermediates purchased or transferred and processed during the base period. The Director shall deduct from the weight so determined the weight of the hydrocarbon content of any organic compounds that were not petrochemicals and that were recovered by the buyers or transferees for commercial disposition or use, including use as fuel. The net weight (in pounds) so determined shall be divided by 300, and the person shall receive an allocation of imports of crude oil and unfinished oils equal to the resulting quotient.

(g) (1) With respect to a heavy liquid plant which is scheduled to come on stream during a particular allocation period, an applicant who has filed an application within the time prescribed in section 213.5 shall be entitled to an allocation for that plant for that allocation period. The allocation shall be computed as provided in paragraph (e) of this section, except that estimated data on the operations of that plant by the applicant during the allocation period shall be substituted for data on actual operations during the base period.

(2) With respect to a heavy liquid plant which has come on stream during the allocation period immediately preceding a particular allocation period, an applicant who has filed an application within the time prescribed in § 213.5 shall be entitled to an allocation for that plant for the particular allocation period. The allocation shall be computed as provided in paragraph (e) of this section, except that actual and estimated data on the operations of that plant by the applicant during a period of 12 months shall be substituted for data on actual operations during the base period. The period of 12 months shall run from the day on which the plant began operations.

(3) If an allocation based in whole or in part on estimated data on operations is made under this section, allocations made to the applicant under this section in succeeding allocation periods will be adjusted upward or downward to compensate for the difference between the allocation based in whole or in part on estimates and the allocation which the applicant would have received if the allocation had been based on actual data.

(4) If an allocation based in whole or in part on estimates exceeds by more than 10 percent the allocation which the applicant would have received if the allocation had been based on actual data, the reduction of the applicant's allocations in succeeding allocation periods required by subparagraph (3) of this paragraph shall be doubled. However, to the extent that an applicant demonstrates to the satisfaction of the Director that all or a part of the excess of estimated inputs over actual inputs was attributable to acts of God, fires or explosions, the Director may reduce the number of barrels of excess for which the penalty will be imposed.

(5) The Director shall make an allocation pursuant to this paragraph (g) only if he is satisfied that the applicant's heavy liquid plant constitutes a bona fide business venture. The Director shall not issue a license under an allocation made pursuant to this paragraph until the heavy liquid plant has been on stream for not less than 60 days and until an on-the-spot evaluation of the plant has been conducted by authorized representatives of FEA and a determination has been made that the facility has the actual operational capacity which the applicant has certified in his application. Licenses issued under allocations made pursuant to this paragraph shall expire on the last day of the allocation period.

(h) An allocation made pursuant to this section shall entitle a person to a license or licenses which will allow the importation of unfinished oils in an amount not exceeding, in the aggregate, 15 percent of the person's allocation. However, the Director shall permit a person holding such an allocation to import unfinished oils in an amount up to 100 percent of the allocation upon certification by him to the Director that such imported unfinished oils will not be exchanged, that such unfinished oils will be processed entirely in the petitioner's heavy liquid plants, that the person will not charge to any of his plants a quantity of such unfinished oils in excess of the allocation made with respect to each such plant, and that more than 30 percent by weight of the yields from such unfinished oils will be converted directly or indirectly into petrochemicals or petrochemical plant inputs. The Director may, in special circumstances, permit a person holding such an allocation to import up to 100 percent of his allocation in the form of unfinished oils and to exchange such imports for like domestic material to be run entirely in the petitioner's heavy liquid plants in amount not in excess of the allocation made with respect to each such plant.

(i) A person who imports crude oil or unfinished oils under an allocation made under this section may, except as provided in paragraph (h) of this section, exchange his imported crude oil either for domestic crude oil or for domestic unfinished oils or exchange his imported unfinished oils for domestic unfinished oil or for domestic crude oil. All such exchanges shall be governed by the provisions of subparagraphs (2), (3), (5), and (6) of paragraph (b) of § 213.22.

(j) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

(k) Each item listed in column 1 of the following schedule is a petrochemical if, and only if, it conforms to any notation opposite the item in column 2 and to the condition specified opposite the item in column 3. The conditions specified are as follows:

A—petrochemical must be recovered in a state of 90 percent purity by weight on an anhydrous basis.

B—petrochemical must be recovered in a state of 96 percent purity by weight on an anhydrous basis.

C—carbon atoms per average molecule must be greater than 30.

Petrochemical	Limitations	Condition
Acetaldehyde		A
Acetic acid		A
Acetone		A
Acetonitrile		A
Acetylene		A
Acrolein		A
Acrylic acid		A
Acrylonitrile		A
Alcohols	Those with carbon No. C_3 and greater.	A
Aldehydes and/or ketones.	do	A
Alkyl acrylates		A
Alkyl anilines		A
Alkyl benzenes	Alkyl group must be greater than C_3.	A
Alkyl naphthalenes		A
Alkyl phenols		A
Alkyl toluenes		B
Allyl alcohol		A
Allyl chloride		A
Alpha olefins (linear)	Those with carbon No. C_6 and greater.	A
Benzyl chloride		A
Benzyl dichloride		A
Benzene hexachloride		A
Benzene sulfonic acid		A
Benzotrichloride		A
Benzoyl chloride		A
Butadiene		A
Butyl alcohol		A
Butyl ether		A
Butylene glycol		A
Butylene oxide		A
Butyl rubber	Only the content derived from butylene.	C
Butyraldehyde		A
Butyric acid		A
Carbon black	Does not include petroleum coke.	B
Carbon disulfide		A

Petrochemical	Limitations	Classification
Carboxylic acids	Those with carbon No. C_5 or greater.	A
Chlorobenzene		A
Chloroform		A
Chlorotoluene		A
Cumene		B
Cyclohexane		B
Cyclopentadiene		A
Dichlorobenzene		A
Dichloropropene		A
Diethyl Ketone		A
Diisopropylbenzene		A
Dimethylterephthalate		A
Diphenyl		A
Dipropylene glycol		A
Ethanol		A
Ethyl benzene		B
Ethyl bromide		A
Ethyl chloride		A
Ethyl ether		A
Ethylene chlorohydrin		A
Ethylene dibromide		A
Ethylene dichloride		A
Ethyleneimine		A
Ethylene oxide		A
Ethylene-propylene copolymer (EPM).		C
Ethylene-propylene terpolymer (EPDM).	Only the content derived from ethylene and propylene.	C
Ethylene-vinyl acetate copolymer.	Only the content derived from ethylene.	B
Formaldehyde		B
Fumaric acid		A
Hydrogen cyanide		A
Isoprene		A
Maleic anhydride		A
Methylacetylene and/or propadiene.		A
Methyl alcohol		B
Methyl chloride		A
Methylene chloride		A
Methyl cyclohexane		B
Methylcyclopentadiene		A
Methylethyl ketone		A
Naphthalene		A
Nitrobenzene		A
Mono		
Di		
Tri		
Nitroethane		A
Nitromethane		A
Nitropropane		A
Nitroxylenes		A
Para-Xylene sulfonic acid.		A
Perchloroethylene		A
Phthalic Anhydride		A
Piperylene		A
Polybutylene	Only the content derived from butylene.	C
Polyethylene	Only the content derived from ethylene.	C
Polyisobutylene	Only the content derived from isobutylene.	C
Polypropylene	Only the content derived from propylene.	C
Propionic acid		A
Propionaldehyde		A
Propyl alcohol		A
Propyl ether		A
Propylene chlorohydrin.		A
Propylene dichloride		A
Propylene oxide		A
Tert-butyl paracresol		A
Oil extended S.B.R. and emulsion rubber.	Only the content derived from extender oil by chemical reaction.	
Tetrachlorobenzene		A
Thermal catalytic diene resins.	Only content derived from C_5-C_{10} monomers.	C
Thermal catalytic olefin resins.	Only the content derived from C_5-C_{10} olefins.	C
Toluene diisocyanate		A
Toluene sulfonic acid		A
Toluene sulfonyl chloride.		A
Trichloroethane		A
Trichloroethylene		A
Trimethyl benzene		B
Urea		A
Valeraldehyde		A
Vinyl acetate		A
Vinyl chloride		A
Vinyl fluoride		A
Vinyl toluene		B

(l) (1) The Director shall determine, in writing, whether or not as of June 1, 1973, substantial construction work has been done, and construction work is being diligently prosecuted, on a new heavy liquid plant of reasonable commercial size, the construction of which was begun on or after August 12, 1971. The Director shall send to the FEDERAL REGISTER, in sufficient time to insure publication before July 1, 1973, a document describing the determination which he has made.

(2) If the Director determines that the situation described in the first sentence of subparagraph (1) of this paragraph exists, allocations shall be made under this section 213.11, both in Districts I–IV and in District V, for the period July 1 through December 31, 1974.

(3) If the Director determines that the situation described in the first sentence of subparagraph (1) of this paragraph does not exist, allocations shall not be made under this section unless the Director subsequently determines, in writing, that substantial construction work has been done, and construction work is being diligently prosecuted, on a new heavy liquid plant, the construction of which was begun on or after August 12, 1971. Allocations under this section shall be made for the calendar year or the period July 1 through December 31 (as the case may be) which follows the expiration of a period of a year from the date of publication in the FEDERAL REGISTER of a document describing the Director's determination.

§ 213.12 Allocations; refiners; Districts I–IV.

(a) For the allocation period May 1, 1974 through April 30, 1975, the Director shall make allocations not subject to license fee as provided in paragraph (b) of this section and within the quantities available under applicable levels established in Proclamation 3279, as amended, of imports into Districts I–IV among eligible persons having refinery capacity in these districts or the Virgin Islands. With respect to the Virgin Islands qualified refinery inputs shall be limited to crude oil charged to the refinery.

(b) Each eligible applicant shall receive an allocation not subject to license fee of imports of crude oil based on refinery inputs for the calendar year ending December 31, 1973, or the 12 month period ending September 30, 1972, whichever is greater. The allocation shall be computed according to the following schedule:

Average barrels per day input	Percent of inputs		Number of days
0 to 10,000	21.7	×	365
10 to 30,000	13.0		
30 to 100,000	7.6		
100,000 plus	2.8		

In addition, any imports of crude oil available for allocation pursuant to this section but not allocated pursuant to the above schedule shall be allocated to each eligible applicant in the same proportion that each eligible applicant's allocation as determined pursuant to the above schedule bears to the total of imports of crude oil allocated pursuant to the above schedule; however, no person shall receive an allocation in excess of 100 percent of such person's refinery inputs.

(c) Except as provided for allocations based on inputs to refineries located in the Virgin Islands, under an allocation made pursuant to paragraph (b) of this section, unfinished oil may be imported, but imports of such oils shall not exceed 15 percent of the allocation. Within such 15 percent, a maximum quantity of imports not exceeding one percent of the total allocation may be imported in the form of finished products, provided that prior written notification is given to the Director of each entry proposed to be made. Finished products imported pursuant to this paragraph may not be exchanged.

(d) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred, and except as this Part may provide otherwise no license issued under such an allocation shall permit the importation of Canadian imports as defined in section 15(j) of Proclamation 3279, as amended.

(e) Pursuant to section 3A of Presidential Proclamation 3279, as amended by Proclamation 4175, interim allocations were made for the allocation period January 1, 1973 through December 31, 1973 to all persons who had received an allocation under section 213.12 for the allocation period January 1, 1972 through December 31, 1972. To the extent that such interim allocations were not charged against and deducted from the regular allocation made to a person pursuant to section 213.12 for the allocation period starting January 1, 1973 and extending through April 30, 1974, such interim allocation will be charged against and deducted from the allocation made under this section for the period May 1, 1974 through April 30, 1975.

(f) (1) For the purpose of allocating imports of unfinished oils and unfinished products produced by refineries in the Virgin Islands, allocations claimed on account of such refineries shall be computed in accordance with the sliding scale set out in paragraph (b) of this section but inputs to such refineries shall be treated as the last increment of the aggregate of inputs at the highest applicable level in the sliding scale.

(2) Allocations made pursuant to this section to persons for refinery capacity located in the Virgin Islands shall be for import into Districts I–IV or Puerto Rico of unfinished oils or finished products manufactured in the facility earning the allocation. Unfinished oils imported from the Virgin Islands pursuant to an allocation granted under this section cannot be counted as qualified refinery inputs in Districts I–IV or District V.

(g) Applications for allocations pursuant to this section must be filed in accordance with provisions of section 213.5.

§ 213.13 Allocations; refiners; District V.

(a) For the allocation period May 1, 1974, through April 30, 1975, the Director shall allocate, as provided in paragraph (b) of this section and within the quantities available under applicable levels established in Proclamation 3279, as amended, imports into District V among eligible persons having refinery capacity in that district, Guam or American Samoa. With respect to Guam or American Samoa qualified refinery inputs shall be limited to crude oil charged to the refinery.

(b) Each eligible applicant shall receive an allocation not subject to license fee of imports of crude oil based on refinery inputs for the calendar year ending December 31, 1973, or the 12 month period ending September 30, 1972, whichever is greater. The allocation shall be computed according to the following schedule:

Average barrels per day input		Percent of input		Number of days
0 to 10,000 10 to 30,000 30,000 plus	×	67.5 18.9 5.6	×	▬

In addition, any imports of crude oil available for allocation pursuant to this section but not allocated pursuant to the above schedule shall be allocated to each eligible applicant in the same proportion that each eligible applicant's allocation as determined pursuant to the above schedule bears to the total of imports of crude oil allocated pursuant to the above schedule; however, no person shall receive an allocation in excess of 100 percent of such person's refinery inputs.

(c) Except as provided for, allocations based on inputs to refiners located in Guam or American Samoa, under an allocation made pursuant to paragraph (b) of this section, unfinished oils may be imported, but imports of such oils shall not exceed 25 percent of the allocation. Within such 25 percent, a maximum quantity of imports not exceeding one percent of the total allocation may be imported in the form of finished product, provided that prior written notification is given to the Director of each entry proposed to be made. Finished products imported pursuant to this paragraph may not be exchanged.

(d) No allocations made pursuant to this section may be sold, assigned, or otherwise transferred.

(e) Pursuant to section 3A of Presidential Proclamation 3279, as amended by Proclamation 4175 interim allocations were made for the allocation period January 1, 1973 through December 31, 1973 to all persons who had received an allocation under section 213.13 for the allocation period January 1, 1972 through December 31, 1972. To the extent that such interim allocations were not charged against and deducted from the regular allocation made to a person pursuant to section 213.13 for the allocation period starting January 1, 1973 and extending through April 30, 1974, such interim allocation will be charged against and deducted from the allocation made under this section for the period May 1, 1974 through April 30, 1975.

(f) (1) For the purpose of allocating imports of unfinished oils and finished products produced by refineries in Guam or American Samoa, allocations claimed on account of such refineries shall be computed in accordance with sliding scale set out in paragraph (b) of this section, but inputs to such refineries shall be treated as the last increment of the aggregate of inputs at the highest applicable level in the sliding scale.

(2) Allocations made pursuant to this section 213.13 to persons for refinery capacity located in Guam or American Samoa shall be for import into District V of unfinished oils or finished products manufactured in the facility earning the allocation. Unfinished oils imported from Guam or American Samoa pursuant to an allocation granted under section 213.13 cannot be counted as qualified inputs in Districts I–IV or District V.

(g) Applications for an allocation pursuant to this section must be filed in accordance with the provisions of 213.5.

§ 213.14 Allocations of crude oil—District V—based upon production of low sulphur residual fuel oil to be used as fuel in District V.

(a) This section provides for the making of allocations of imports into District V of crude oil based upon the production of low sulphur residual fuel oil. To the extent that the provisions of this section are inconsistent with the provisions of other sections of this regulation, the provisions of this section shall be controlling.

(b) In addition to the allocations of imports of crude oil made under section 213.13 of this regulation, each eligible applicant with refinery capacity in District V who produces in District V low sulphur residual fuel oil to be used as fuel which contains not more than five-tenths of one percent (0.5%) sulphur by weight and which is delivered to consumers for use as fuel, in order to comply with governmental requirements respecting air pollution shall receive an allocation of imports of crude oil equal to the amount in barrels of such low sulphur residual fuel oil to which the applicant certifies both as to production and delivery.

(c) For the purpose of computing import allocations under section 213.13, crude oil imported pursuant to an allocation under this section 213.14 or domestic oil received in exchange pursuant to the provisions of section 213.22 and processed will not qualify as refinery inputs. However, the person receiving the foreign crude oil under an exchange agreement pursuant to section 213.22 may count such oil as a refinery input.

(d) An application for an allocation of imports of crude oil under this section must be filed with the Director no later than 20 days after the last day of the calendar month during which the low sulphur residual fuel oil upon which the application is based was delivered to consumers. An application must be in such form as the Director may prescribe.

(e) No license issued under an allocation made pursuant to this section shall be valid for a period longer than 6 months following the day on which the license is issued.

(f) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

(g) The provisions of section 213.14 as amended by Amendment 18 (35 F.R. 13) of former Oil Import Regulation 1 (now this Part 213) will be applicable with respect to allocations made on the basis of low sulphur residual fuel oil to be used as fuel which is produced and delivered before April 1, 1971, and with respect to licenses issued under such allocations.

§ 213.15 Allocations of residual fuel oil—District I.

(a) This section provides for the making of import allocations not subject to license fee for the allocation period beginning May 1, of each year, of imports into District I of residual fuel oil to be used as fuel in District I.

(b) To be eligible for an import allocation not subject to license fee of residual fuel oil pursuant to this section a person must:

(1) Be in the business in District I of selling residual fuel oil to be used as fuel and have under his management and operational control a deepwater terminal located in District I into which there has been delivered residual fuel oil to be used as fuel which he owned at the time of delivery, or

(2) Be in the business in District I of selling residual fuel oil to be used as fuel and have a throughput agreement (warehouse agreement) with a deepwater terminal operator under which agreement the person has delivered to the terminal residual fuel oil to be used as fuel which he owned when it was so delivered. For the purpose of this section, "throughput agreement" means an agreement which provides for the delivery to a deepwater terminal by a person of residual fuel oil which he owns and for a right in such person to withdraw on call an identical quantity of such oil from the terminal. A bona fide throughput agreement will be deemed to exist only if the person operating under the agreement owns the oil at the time it is delivered to the terminal.

(c) A person seeking an import allocation not subject to license fee pursuant to this section must file an application with the Director on such form as he may prescribe. The application shall disclose such information as the Director may

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deem necessary in such detail as he may require: Applications must be filed in accordance with the provisions of § 213.5.

(d) For the allocation period May 1, 1974, through April 30, 1975, each eligible applicant under this section shall receive an allocation not subject to license fee to import residual fuel oil into District I to be used as fuel in District I computed according to the following formula:

Applicant's average B/D allocation made pursuant to section 213.15 for the allocation period April 1, 1973 through April 30, 1974.
÷ Average B/D allocations made pursuant to section 213.15 to all applicants for the allocation period April 1, 1973 through April 30, 1974. × 2,610,000 B/D

(e) No allocation made pursuant to this section may be sold, assigned or otherwise transferred. Licenses issued under allocations made pursuant to this section shall permit the importation only of residual fuel oil into District I for use as fuel oil in District I.

§ 213.16 Finished products.

(a) For the allocation period May 1, 1974 through April 30, 1975 there is allocated to the Department of Defense 18,000 average barrels per day of imports of finished products not subject to license fee into Districts I–IV and 6,750 average barrels per day of imports of finished products not subject to license fee into District V. For the same allocation period there is allocated 15,000 average barrels per day of imports of finished products not subject to license fee into Districts I–IV pursuant to paragraph (b) of section 12 of Presidential Proclamation 3279, as amended.

(b) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

§ 213.17 Emergency finished products allocation (Virgin Islands).

(a) For the purpose of this section, (1) the term "No. 2 fuel oil" means a finished product which has the physical and chemical characteristics as set forth in subparagraph (1), paragraph (a) of section 213.34. (2) The term "eligible applicant" means any person in the business of selling No. 2 fuel oil in Districts I–IV.

(b) (1) For the period January 1, 1973 through April 30, 1973, hereafter referred to as the "period" within the allocation period which begins January 1, 1973, No. 2 fuel oil which has been or is to be manufactured in the Virgin Islands may be imported by eligible applicants who comply with the provisions of this section.

(2) For the "period," the Director shall make an allocation of imports of No. 2 fuel oil into Districts I–IV to any eligible applicant who certifies that such imports are required to meet obligations under contracts with, or purchase orders from, customers in Districts I–IV, and that such eligible applicant, through contract of purchase or otherwise, has the right to take delivery of such No. 2 fuel oil in the Virgin Islands or elsewhere.

(3) An application for allocations under this section may be filed in letter or telegraphic form during the "period."

(c) (1) The Director shall process applications in the sequence in which they are received and make allocations in the quantity which the applicant has certified in accordance with paragraph (b) (2) of this section. Any person making application based upon the certification in this section is cautioned against making false statements in, or in connection with application filed with the Director or in connection with any stated contractual commitment with his buyers, and is guilty of a crime, and upon conviction may be punished by fine or imprisonment or both.

(2) When an allocation has been made to a person under this section, the Director shall issue a license or licenses based on the allocation specifying the amount of No. 2 fuel oil which may be imported from the Virgin Islands into Districts I–IV. All licenses issued under allocations made pursuant to this section shall be valid only during the period January 1, 1973 through May 15, 1973. No licenses issued pursuant to this section may be sold, assigned, or otherwise transferred. No. 2 fuel oil imported pursuant to an allocation and license issued under this section must not be further processed in any manner, including blending or mixing with other petroleum products, by mechanical means. It is intended that No. 2 burner fuel oil which is imported pursuant to an allocation and license under this section be for use in fuel oil burning equipment for the generation of heat in furnaces for heating buildings or the generation of steam. Importers are urged to verify its ultimate use to the best of their ability.

(d) Shipments of No. 2 fuel oil made pursuant to this section 213.17 will not be credited as shipments of product to meet any other written or exising contractual or allocation agreements made with the Federal Energy Administration.

§ 213.18 Emergency finished products allocation.

(a) For the purpose of this section, (1) the term "No. 2 fuel oil" means a finished product which has the physical and chemical characteristics as set forth in subparagraph (1), paragraph (a) of section 213.34; and (2) the term "eligible applicant" means any person in the business of selling No. 2 fuel oil in Districts I–IV.

(b) (1) For the period January 1, 1973, through April 30, 1973, hereafter referred to as the "period" within the allocation period which begins January 1, 1973, No. 2 fuel oil may be imported by eligible applicants who comply with the provisions of this section.

(2) For the "period," the Director shall make available a license for imports of No. 2 fuel oil into Districts I–IV to any eligible applicant who certifies that such imports are required to meet obligations under contracts with, or purchase orders from, customers in Districts I–IV.

(3) An application for a license under this section may be filed in letter or telegraphic form at any time during the "period."

(c) (1) The Director shall process applications in the sequence in which they are received and make available licenses in the quantity which the applicant has certified in accordance with paragraph (b) (2) of this section.

(2) The Director shall issue a license or licenses to eligible applicants specifying the amount of No. 2 fuel oil which may be imported into Districts I–IV. All licenses issued pursuant to this section shall be valid only during the period January 1, 1973, through April 30, 1973. No licenses issued pursuant to this section may be sold, assigned, or otherwise transferred. No. 2 fuel oil imported pursuant to a license issued under this section must not be further processed in any manner, including blending or mixing with other petroleum products, by mechanical means.

§ 213.19 Maximum levels of imports—Puerto Rico.

The levels are those established in Proclamation 3279, as amended.

§ 213.20 Allocations of crude oil and unfinished oils—Puerto Rico.

(a) (1) This paragraph provides for the making of import allocations not subject to license fees other than those described as "long-term allocations" in paragraphs (k) (1), (2), (3), and (4) of Section 15 of Proclamation 3279, as amended, for the allocation period beginning May 1, of each year, of imports into Puerto Rico of crude oil and unfinished oils.

(2) For the allocation period May 1, 1974, through April 30, 1975, each eligible applicant under this paragraph shall receive an allocation not subject to license fees to import crude and unfinished oils into Puerto Rico computed according to the following formula:

Applicant's Allocation pursuant to Section 213.20(a) Not Subject To License Fees of Imports of Crude and Unfinished Oils Into Puerto Rico for the Allocation Period April 1, 1973, to April 30, 1974, Expressed in B/D
÷ Total Allocations pursuant to Section 213.20(a) Not Subject to License Fees of Imports of Crude and Unfinished Oils into Puerto Rico for the Allocation Period April 1, 1973, to April 30, 1974, Expressed in B/D × 294,489 B/D

(b) No allocation made pursuant to this section may be sold, assigned or otherwise transferred.

§ 213.21 Allocations of finished products—Puerto Rico.

(a)(1) This paragraph provides for the making of import allocation not subject to license fees for the allocation period beginning May 1, of each year, of imports into Puerto Rico of finished products (other than residual fuel oil to be used as fuel in Puerto Rico).

(2) For the allocation period May 1, 1974, through April 30, 1975, each eligible applicant under this paragraph shall receive an allocation not subject to license fees to import finished products, other than residual fuel oil to be used as fuel in Puerto Rico, into Puerto Rico, computed according to the following formula:

Applicant's Allocation pursuant to Section 213.21(a) Not Subject To License Fees of Imports Into Puerto Rico of Finished Products (Other Than Residual Fuel Oil To Be Used As Fuel in Puerto Rico) During the Calendar Year 1973, Expressed in B/D

× 1,293 B/D

Total Allocations pursuant to Section 213.21(a) Not Subject To License Fees of Imports Into Puerto Rico of Finished Products (Other Than Residual Fuel Oil To Be Used As Fuel in Puerto Rico) During the Calendar Year 1973, Expressed in B/D

(b)(1) This paragraph provides for the making of import allocations not subject to license fees for the allocation period beginning May 1, of each year, into Puerto Rico of residual fuel oil to be used as fuel in Puerto Rico.

(2) For the allocation period May 1, 1974, through April 30, 1975, each eligible applicant under this paragraph shall receive an allocation not subject to license fees to import residual fuel oil to be used as fuel in Puerto Rico, into Puerto Rico, computed according to the following formula:

Applicant's Allocation pursuant to Section 213.21(b) Not Subject to License Fees of Imports Into Puerto Rico of Residual Fuel Oil to be Used as Fuel in Puerto Rico During the Calendar Year 1973, Expressed in B/D

× 1,484 B/D

Total Allocations pursuant to Section 213.21(b) Not Subject to License Fees of Imports Into Puerto Rico of Residual Fuel Oil to be Used As Fuel in Puerto Rico During the Calendar Year 1973, Expressed in B/D.

(c) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

§ 213.22 Use of imported crude oil and unfinished oils.

(a) Except as provided in paragraphs (b) and (c) of this section, each person who imports crude oil or unfinished oils under a license issued pursuant to an allocation made under section 213.9, 213.12, 213.13, 213.20, 213.29, or 213.30 must process the oils so imported in his own refinery, petrochemical plant, or petrochemical capacity.

(b)(1) Subject to the provisions of this paragraph (b), a person who imports crude oil or unfinished oils under an allocation made under section 213.9, 213.12, 213.13, 213.29, 213.30, or paragraph (a) of section 213.20, may exchange his imported crude oil either for domestic crude oil for domestic unfinished oils or exchange his imported unfinished oils either for domestic unfinished oils or for domestic crude oil. However, a person receiving an allocation under section 213.9 or 213.30 may be restricted in the exchange of imported unfinished oils, as provided in paragraph (c) of section 213.9 and paragraph (j) of section 213.30.

(2) A proposed agreement for each such exchange must be reported to the Director before any action involved in the exchange is taken.

(3) Each such exchange must be effected on a ratio of not less than 1 barrel of domestic oil for each barrel of imported oil unless a different exchange ratio is approved by the Director.

(4) In any such exchange, the person who is exchanging oil imported pursuant to an allocation under section 213.9, 213.12, 213.13, 213.20, 213.29, or 213.30 for domestic oil must take delivery of the domestic oil and process it in his own refinery or petrochemical plant, located in the same district for which the allocation is granted, not later than 150 days after the end of the allocation period in which the exchange is made. If requested the Director may extend this period if it is shown that the person receiving the domestic oil cannot process the oil in the allotted time.

(5) Each such exchange must be on an oil-for-oil basis; however, settlements, credits, monetary, or accounting adjustments reflecting the relative values of the oils involved in the exchange are permissible.

(6) Any such exchange must not be otherwise unlawful.

(c) Imported crude oil or unfinished oils which are sold to meet the requirements of other Regulations published by the Federal Energy Office shall not be subject to the provisions of paragraph (a) of this section.

§ 213.23 Reports.

(a) Each person who imports crude oil, unfinished oils, or finished products under a license issued under this regulation shall report to the Director the quantities in barrels corrected to 60° Fahrenheit of crude oil, unfinished oils, and finished products so imported. Each report shall state through which port of entry the importation was made and shall specify the kinds of unfinished oils and finished products imported. Each report shall be filed with the Director within fifteen (15) days of the end of a particular month.

(b) Each person who exchanges oil pursuant to section 213.22 of this regulation shall report the exchange to the Director on such forms as he shall prescribe. In addition, any changes occurring during an allocation period in the types of oils or the exchange ratio shall be reported.

(c) Effective January 7, 1974, each importer, or his agent, must submit to the customs officer at the time any crude oil, unfinished oil or finished product is entered for consumption or withdrawn from warehouse for consumption a completed form in three copies giving the indicated information and in the following format:

FEDERAL ENERGY ADMINISTRATION

Report of Imports

Company name _____

Name and registry of vessel _____

Port of entry _____ Date unlading began _____

Product imported		Estimated quantity barrels	Import license number used	Country of origin	To be further processed? Yes, No
Crude	☐				
Mogas	☐				
Avgas	☐				
Distillate	☐				
Residual	☐				
Kerosi	☐				
Nap ha	☐				
LPG	☐				
Other	☐				

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This form and any valid oil import license as required pursuant to Presidential Proclamation 3279, as amended, and Part 213 of Chapter II of Title 10 of the Code of Federal Regulations, as revised and amended, must be presented to the customs officer before any petroleum product subject to the provisions of Presidential Proclamation 3279, as amended, may be entered or withdrawn from warehouse for consumption. It is the complete responsibility of the importer to prepare and provide the reporting form with original and two copies and to have obtained any necessary oil import license from FEA prior to the time the imported materials are to be entered or withdrawn from warehouse for consumption. Failure to do so will result in delay in the release of the imported merchandise from customs custody.

The customs officer will sign the tripartite form to acknowledge receipt returning one copy to the importer, immediately mailing a copy to the Director, and retaining one copy.

(d) In those cases where crude oil, unfinished oil, or finished product is entered for consumption or withdrawn from warehouse for consumption pursuant to a fee paid license issued against a bond the importer must upon payment of the license fee against a bond submit a copy of the entry form reflecting the actual amount of crude, unfinished oil or finished product entered as determined by the customs officer.

§ 213.24 False statements.

Persons concealing material facts or making false statements in or in connection with any applications or reports filed with the Director or in connection with any license presented to or statements made to a Collector of Customs with respect to imports of crude oil, unfinished oils, or finished products, are guilty of a crime and upon conviction may be punished by fine or imprisonment or both.

§ 213.25 Revocation or suspension of allocations or licenses.

The Director may, after a hearing, revoke or suspend any allocation or license issued under this regulation, on grounds relating to the national security, or the violation of the terms of Proclamation 3279, this Part, or licenses issued pursuant thereto.

§ 213.26 Oil Import Appeals Board.

(a) There is in the Federal Energy Administration, an Oil Import Appeals Board comprised of a representative each from the Federal Energy Administration and the Departments of Justice and Commerce to be designated by the heads of such departments. The representative of the Federal Energy Administration shall be the Board's Chairman.

(b) The Board, subject to the general direction of the Administrator of the Federal Energy Administration, shall consider petitions by persons affected by this Part 213 that fall within the limits of the jurisdiction specified in this paragraph and without regard to the limits of the maximum levels of imports established in section 2 of Proclamation 3279, as amended, may:

(1) Reverse or modify on grounds of error actions taken by the Director on applications for allocations of imports under this Part;

(2) Modify, on the grounds of exceptional hardship, any allocation made to any person under this Part;

(3) Grant allocations of imports of crude oil and unfinished oils in special circumstances to persons with importing histories who do not qualify for allocations under this Part;

(4) Grant allocations of imports of finished products on grounds of exceptional hardship;

(5) Grant allocations of imports of crude oil, unfinished oils, and finished products to independent refiners or established independent marketers who are experiencing exceptional hardship, or in emergencies in order to assure, insofar as practicable, that adequate supplies are available;

(6) Review the revocation or suspension of any allocation or license;

(7) Review the denial by the Director of refunds of license fees, whether in whole or in part, theretofore paid by a person; and

(8) Grant refunds, in whole or in part, of license fees paid by persons to whom licenses were issued for imports which they subsequently became entitled to make under allocations made by the Board.

(c) Except with respect to its function to review applications for allocations of imports to which license fees are applicable, licenses issued pursuant to the Board allocations shall be fee exempt.

(d) The Board may take such actions on petitions as it deems appropriate and its decisions shall constitute final action.

(e) The Board may adopt, promulgate, and publish such rules and procedures as it deems appropriate for the conduct of its business.

§ 213.27 Definitions.

As used in Parts 206 and 213:

(a) "Person" includes an individual, a corporation, firm, or other business organization or legal entity, and an agency of a State, territorial, or local government, but does not include a department, establishment, or agency of the United States.

(b) "District I" means the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, and the District of Columbia.

(c) "Districts II–IV" means all of the States of the United States except those States within district I and district V.

(d) "Districts I–IV" means the District of Columbia and all of the States of the United States except those States within district V.

(e) "District V" means the States of Arizona, Nevada, California, Oregon, Washington, Alaska, and Hawaii.

(f) "Crude oil" means a mixture of hydrocarbons that existed in natural underground reservoirs and which is liquid at atmospheric pressure after passing through surface separating processes and does not include natural gas products. It includes the initial liquid hydrocarbons produced from tar sands, gilsonite, and oil shale.

(g) "Finished products" means any one or more of the following petroleum oils, or a mixture or combination of such oils, or any component or components of such oils which are to be used without further processing by any one or more of the processes described in subparagraphs (1) through (3) of paragraph (h) of this section, and which, as of January 1, 1973, under the "Tariff Schedules of the United States," were not subject to a duty of more than $0.01 per pound of the hydrocarbons therein contained:

(1) The term "liquefied gases" means the following liquefied or liquefiable gases, namely, ethane, propane, butanes, ethylene, propylene, and butylenes which are derived by refining or other processing of natural gas, crude oil, or unfinished oils.

(2) 'Gasoline' means a refined petroleum distillate, including naphtha, jet fuel or other petroleum oils (but not benzene which meets the ASTM distillation standards for nitration grade or cumene, ethylbenzene, isoprene, meta-xylene, ortho-xylene, or para-xylene having a purity of 95 percent or more by weight) derived by refining or processing crude oil or unfinished oils, in whatever type of plant such refining or processing may occur, and having a boiling range at atmospheric pressure which falls completely or in part between 80° and 400° F.

(3) "Kerosene" means any jet fuel, diesel fuel, fuel oil, or other petroleum oils derived by refining or processing crude oil or unfinished oils, in whatever type of plant such refining or processing may occur, which has a boiling range at atmospheric pressure which falls completely or in part between 400° and 550° F.

(4) 'Distillate fuel oil' means any fuel oil, gas oil, topped crude oil, or other petroleum oils (except refined petroleum wax) derived by refining or processing crude oil or unfinished oils, in whatever type of plant such refining or processing may occur, which has a boiling range at atmospheric pressure which falls completely or in part between 550° and 1200° F.

(5) "Residual fuel oil" means a petroleum oil, which is (i) any topped crude or viscous residuum of crude or unfinished oils or one or more of the petroleum oils defined in subparagraphs (2) through (4) of this paragraph (g), which has a viscosity of not less than 45 seconds Saybolt Universal at 100° F. to be used as fuel without further processing other than by mechanical blending or (ii) crude oil to be used as fuel without further processing other than by blending by mechanical means.

(6) "Asphalt" means a solid or semi-solid cementitious crude oil or derivative

of crude oil, 50 percent or more of the constituents of which are bitumins, which is not to be used as fuel and which is to be used without further processing except air blowing or blending by mechanical means.

(7) "Lubricating oils" means any lubricant containing more than 50 percent by volume of refined petroleum distillates or specially treated petroleum residuum.

(8) "Natural gas products" means liquids (under atmospheric conditions), including natural gasoline, which are recovered by process of absorption, adsorption, compression, refrigeration, cycling, or a combination of such processes, from mixtures of hydrocarbons that existed in a reservoir and which, when recovered and without processing in a refinery or other plant, fall within any of the definitions of products contained in subparagraphs (2) through (4) of this paragraph (g).

(9) "Motor gasoline" means:

(i) Automotive gasoline with the following characteristics:

	Gasoline All Grades
Gravity, °API, ASTM D287	56.3–67.7
Distillation, ASTM D–86	
°F at 10% D+L	103–135
°F at 50%	185–238
°F at 90%	301–358
Reid Vapor Pressure, psi ASTM D–23.	7.5–13.5
Octane (Research) ASTM D–908.	93.1–103.3
Octane (Motor) ASTM D–357.	79.5–99.6
Appearance	Clear and Bright

(ii) Aviation gasoline with the following characteristics:

	Gasoline All Grades
Gravity, °API, ASTM D–287	64.0–76.2
Distillation, ASTM D–86	
°F at 10% D+L	138–165
°F at 50%	174–220
°F at 90%	213–260
Reid Vapor Pressure, psi ASTM D–323.	5.8–7.0
Octane (Research) ASTM D–908.	81–105
Octane (Motor) ASTM D–357.	81–105
Appearance	Clear and Bright; dyed

(iii) Fuel (but not diesel fuel) shown to be derived primarily from petroleum, shale or gilsonite and chiefly used as fuel in piston type internal combustion engines.

(h) "Unfinished oils" means one or more of the petroleum oils listed in subparagraphs (1) through (4) and subparagraph (8) of paragraph (g) of this section or a mixture or combination of such oils, or any component or components of such oils, which are to be further processed in one or more of the following ways:

(1) By distillation with a resulting yield of at least two distinct finished products or unfinished oils, two of which must be equal to not less than 10 percent of the total charge of such unfinished oils to a distillation unit. Different grades or specifications of finished products or unfinished oils will not constitute district finished products or unfinished oils for purposes of this subparagraph. Distillation of petroleum oils which have been reconstituted by blending of two or more finished products or unfinished oils does not constitute processing for the purposes of this subparagraph.

(2) By catalytic or thermal conversion in process units such as alkylation, coking, cracking, hydrofining, hydrodesulfurization, polymerization, isomerization, dehydrogenation, or reforming.

(3) By physical separation established by means of solvent dewaxing, solvent deasphalting, solvent extraction, or extractive distillation.

(i) As used in paragraphs (g) and (h) of this section, the term "petroleum oil" includes only hydrocarbons derived from crude oil or natural gas.

(j) The words "importation", "importing", "import", "imports", and "imported" include both entry for consumption and withdrawal from warehouse for consumption; but do not include crude oil, unfinished oils, or finished products which were produced in the United States and are tranported by a pipeline carrying foreign oil in bond within the United States or which are transported by pipeline through a foreign country into the Customs territory of the United States or in the event of commingling with foreign oils of like kind and qualities incidental to such transportation of quantities equivalent to the quantities produced in and withdrawn from foreign oil moving in bond within the United States and shipped from such customs territory.

(k) "Director" means Director, Oil Imports, Federal Energy Administration, or his duly authorized representative.

(l) (1) Except as provided in subparagraph (2) of this paragraph, "refinery inputs" means feedstocks charged to refinery capacity and include only:

(i) Crude oil,

(ii) Unfinished natural gas products, and

(iii) Unfinished oils imported pursuant to

an allocation if, and only if, (*a*) such imported unfinished oils are processed in a distillation unit with a resulting yield of at least two distinct finished products or unfinished oils, two of which must be equal to not less than 10 percent of the total charge of such imported unfinished oils to the distillation unit, or (*b*) such imported unfinished oils are subjected in catalytic or thermal conversion units to such processes as alkylation, coking, cracking, hydrofining, hydrodesulfurization, polymerization, isomerization, reforming, or (*c*) such imported unfinished oils are processed by solvent dewaxing or solvent deasphalting or extractive distillation. Different grades or specifications of finished products or unfinished oils will not constitute distinct finished products or unfinished oils for the purposes of subdivision (iii) (*a*) of this subparagraph.

(2) "Refinery inputs" do not include inputs of unfinished oils imported pursuant to paragraph (b) of section 2 of Proclamation 3279, as amended.

(m) "Refinery capacity" means a plant which:

(1) Includes equipment for separating or converting hydrocarbons to finished products or unfinished oils;

(2) Uses crude oil as the predominant feedstock; and

(3) Converts for plant use in heating or generating power or for sale, not less than 70 percent by weight of total refinery inputs into at least two separate and distinct finished products other than liquefied gases, each of which falls in a different one of the categories specified in subparagraphs (2) through (8) of paragraph (g) of this section—that is, gasoline, jet fuel, naphtha, fuel oil, lubricating oil, residual fuel oil or asphalt—and each of which must be equal to not less than 4 percent by weight of total refinery inputs. Different grades or specifications of a finished product will not constitute separate and distinct finished products for the purpose of this definition.

(n) "Deepwater terminal" means a permanent land installation which:

(1) Consists of bulk storage tanks having not less than 100,000 barrels of operational capacity, pumps, and pipelines used for storage, transfer, and handling of residual fuel oil;

(2) Is adjacent to waterways that permit the safe passage to the installation of a tanker rated 15,000 cargo deadweight tons; and

(3) Has a berth that will permit the delivery of residual fuel oil to be used as fuel into the installation by direct connection from a tanker rated at 15,000 cargo deadweight tons, drawing not less than 25 feet of water, and moored in the berth. Cargo deadweight tons represents the carrying capacity of a tanker, in tons of 2,240 pounds, less the weight of fuel, water, stores, and other items necessary for use on a voyage.

(o) "Petrochemical plant" means a facility or plant complex:

(1) Which includes equipment for converting hydrocarbons to petrochemicals by chemical reaction;

(2) Which manufactures for plant use or sale one or more separate and distinct petrochemicals by chemical conversion of each separate petrochemical plant input feedstock stream which is claimed by an applicant as a basis for obtaining an allocation; and

(3) In which more than 50 percent by weight of each separate feedstock stream is converted by chemical reaction into petrochemicals of which petrochemicals methane is not more than 50 percent by weight, or in which over 75 percent by weight of recovered product output of each separate feedstock stream consists of petrochemicals which were converted by chemical reaction from such inputs but of which output not more than 50 percent by weight is methane.

(p) "Petrochemical plant inputs" means feedstocks charged to a petrochemical plant,

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(1) And include only:

(i) Crude oil,

(ii) Unfinished oils (except those unfinished oils specifically excluded in subparagraph (2) of this paragraph) produced in districts I–IV and district V, and unfinished oils imported pursuant to an allocation;

(2) But do not include:

(i) Unfinished oils which are produced in a petrochemical plant in the manufacture of petrochemicals and subsequently charged to a unit which is a part of the same petrochemical plant in which they were produced or to any other petrochemical plant which is owned or controlled by the same person who claims the initial petrochemical plant inputs from which the unfinished oils are derived.

(ii) Unfinished oils which are obtained by transactions such as sales, purchases, or exchanges which are designed to avoid the exclusion specified in subdivision (i) of this subparagraph (2), and

(iii) Benzene which met the ASTM distillation standards for nitration grade or cumene, ethylbenzene, isoprene, metaxylene, ortho-xylene or para-xylene which had a purity of 95 percent or more by weight but which subsequently has been recycled and mixed with other hydrocarbons, commingled, or purposely debased.

(q) "Petrochemicals" means carbon or organic compounds (other than finished products or unfinished oils) which are produced from petrochemical plant inputs by chemical reaction in a petrochemical plant.

(r) As used in paragraph (g) and paragraph (h) of this section, the term "petroleum oils" includes liquid hydrocarbons derived from crude oil.

§ 213.28 Canadian Imports—Districts I–IV.

(a) As used in this section, the term "Canadian imports" means imports from Canada of crude oil which has been produced in Canada and unfinished oils which have been derived from crude oil or natural gas produced in Canada and which have been transported into the United States by overland means or over waterways other than ocean waterways.

(b) To be eligible for an allocation of imports under this section, a person must have in Districts I–IV a facility capable of processing Canadian imports.

(c) The Director shall, in accordance with the terms of paragraph (d) of this section, make allocations for the allocation period January 1, 1973, through December 31, 1973, of not to exceed 650,000 average barrels daily of Canadian imports into Districts I–IV.

(d) The Director shall make allocations of Canadian imports to eligible applicants who received allocations of such imports for the period January 1, 1972, through December 31, 1972, either under paragraphs (d) or (e) of section 213.28 or from the Oil Import Appeals Board under section 213.25, or from both. Each such applicant shall be entitled to an allocation of Canadian imports calculated in accordance with the following formula:

$$\text{Sum of each eligible applicant's allocations under section 213.25 and section 213.26} \times 1.1187$$

(e) An allocation made under this section shall supersede any interim or partial allocations made to that person pursuant to section 3A of Presidential Proclamation 3279, as amended, and Amendment 46 (37 FR 184) of former Oil Import Regulation 1 (now this Part). Licenses issued to a person under such an interim or partial allocation shall be charged against the allocation made to that person under this section.

(f) A person receiving an allocation under paragraph (d) of this section must process in his facilities a quantity of Canadian imports equal to at least 50 percent of that allocation. For the purposes of this paragraph, blending by mechanical means does not constitute processing.

(g) If a person who receives an allocation of Canadian imports under this section fails to import the total quantity of imports specified in the allocation, or if he fails to process all such imports (and domestic oil received in exchange for such imports) in his facilities before March 1, 1974, or if he fails to meet the requirement of paragraph (f) of this section, then any allocation of Canadian imports, or any allocation for Districts I–IV to which such person may otherwise be entitled under section 213.9, 213.12, or 213.29, for the first allocation period beginning after Decembe. 31, 1973, shall be reduced by the Director by the amount of Canadian imports which such person has failed to import, or by the amount of Canadian imports and exchanged oil which such person has failed to process in his facilities before March 1, 1974, or by the amount of Canadian imports by which he failed to meet the requirements of paragraph (f), except that the Director need not make such a reduction to the extent that (1) such person demonstrates to the satisfaction of the Director that such failures were without such person's fault and were beyond his control, or (2) such person on or before May 1, 1973, in writing, relinquishes all or part of an allocation made under this section and returns to the Director licenses issued thereunder.

(h) A person to whom an allocation is made by the Director under this section shall report and certify in writing to the Director, Oil Imports, P.O. Box 7414, Washington, D.C. 20044, not later than March 15, 1973, (1) the total quantity of Canadian imports which that person imported during the period January 1, 1972, through December 31, 1972, pursuant to an allocation made under section 29 of former Oil Import Regulation 1 (now § 213.33), and (2) the quantity of such imports that were processed in his facilities before March 1, 1973. The amount so reported and certified shall be subject to verification by the Director. If a person to whom an allocation is made under this section fails to file by March 15, 1973, the written report and certification required by this paragraph, the Director shall suspend all licenses issued under an allocation made under this section until the written report and certification are received.

(i) An allocation made pursuant to this section shall not be sold, assigned or otherwise transferred. Each person who imports Canadian imports under an allocation made pursuant to this section shall process such imports (or oil received in an exchange) only in the facilities set forth in his application.

(j) A person who imports Canadian imports under an allocation made pursuant to this section may exchange not to exceed 50 percent of such imports for domestic crude oil or domestic unfinished oils. A proposed agreement for each such exchange must be reported to the Director before any action involved in the exchange is taken. Each such exchange must be effected on a ratio of not less than one barrel of domestic oil for each barrel of Canadian imports.

(k) If a person holds an allocation of imports under §§ 213.9, 213.12, or 213.29 for the allocation period January 1, 1973, through December 31, 1973, he may obtain from the Director a license which will permit him to import Canadian imports in a quantity not exceeding the total amount of his allocation made under these sections. Such a license shall be charged against, and imports under such a license shall be deemed to have been made pursuant to, the allocation made under §§ 213.9, 213.12, or 213.29.

(l) Under the provisions of section 1A of Proclamation 3279, as amended, entries for consumption of crude oil or unfinished oils transported by pipeline may be made until midnight January 15, 1974, under any license authorizing such imports from Canada into Districts I–IV for the period January 1, 1973, through December 31, 1973.

(m) An application for an allocation under this section shall be made by letter or telegram to the Director, Oil Imports, P.O. Box 7414, Washington, D.C. 20044. Applications must be received by the Director on or before February 19, 1973. An application must contain the following information, which shall be certified by an officer of the applicant:

(1) The nature of each of the applicant's facilities in which Canadian imports will be processed.

(2) The location of each such facility.

(3) The total barrels of qualified inputs (as defined in paragraph (d)(1) of this section) for each such facility during the year ending September 30, 1972.

An officer of an applicant shall also certify in his application that, if an allocation of Canadian imports is made to the applicant under this section, the applicant will process all such imports (and all oil exchanged for such imports) in such facilities before March 1, 1974.

(n) Licenses issued pursuant to this section shall permit the entry or with-

drawal from warehouse for consumption of Canadian imports only.

§ 213.29 Allocations of crude oil, unfinished oils and finished products—Districts I–IV, District V, Puerto Rico, the Virgin Islands, Guam, American Samoa, and Foreign Trade Zones—new, expanded or reactivated refinery capacity based upon estimated and actual inputs.

(a) (1) The Director may make allocations not subject to license fees of imports of crude oil, unfinished oils, and finished products with respect to new, expanded or reactivated refinery capacity as provided in this section.

The plant additions and modifications which have resulted in the new, expanded, or reactivated refinery capacity need not when taken independently meet the definition of refinery capacity as defined in § 213.27: *Provided*, That such additions and modifications are an integral part of a facility that does qualify as refinery capacity.

(2) A person seeking such an allocation must file an application in the form prescribed by the Director. The application shall disclose in detail such information as the Director may require, including—

(i) The nature of the facility,

(ii) The location of the facility,

(iii) The products and the quantity of each product to be produced,

(iv) The capital outlay involved,

(v) The expected average barrels per day of qualified feedstocks inputs of such facility,

(vi) The identification of the feedstocks, and the source thereof,

(vii) The date that the facility went on-stream, or is scheduled to go on-stream,

(viii) Whether the application is for a new facility, an expansion or reactivation,

(ix) Whether this facility will replace an existing facility which is to be or has been shut down,

(x) In the case of an expansion, the certified inputs for the last three years to the particular refinery or identifiable crude processing facility for which the expansion is claimed.

(b) (1) Each increment of new, expanded or reactivated refinery capacity will be treated as a separate entity under this paragraph (b) for a total of sixty months.

(2) If the new, expanded or reactivated refinery capacity is scheduled to come on-stream during the allocation period for which the allocation is requested, the allocation shall be computed on the basis of inputs (divided by 365), which it is estimated will be made to such capacity during that allocation period. In the event the new, expanded or reactivated refinery capacity comes on-stream after January 31 of the allocation period for which the allocation is requested, the Director may, if requested by the applicant, extend the expiration date of the license or licenses to 120 days after the start-up date. An applicant who receives an allocation for a particular allocation period pursuant to this subparagraph (2) may be eligible for an allocation pursuant to paragraph (b) (3), (4), or (5) of this section for the succeeding allocation periods.

(3) If the new, expanded or reactivated refinery capacity has come on-stream during the allocation period immediately preceding the allocation period for which the allocation is requested, the allocation shall be computed on the basis of the sum (divided by 365) of (i) the refinery inputs actually made to the new, expanded or reactivated refinery capacity during the first eight months of the allocation period immediately preceding the allocation period for which the allocation is requested and (ii) the inputs which it is estimated will be made to such capacity during the next number of months which, when combined with the months in clause (i), will constitute a period of twelve months.

(4) If the new, expanded or reactivated refinery capacity has been on-stream for at least one year as of December 31, of the allocation period immediately preceding the allocation period for which the allocation is requested, the allocation shall be based on actual inputs (divided by 365) to the facility during the preceding twelve months ending December 31: *Provided*, That the facility will not have been on-stream in excess of sixty months during the allocation period for which the allocation is requested.

(5) If the new, expanded or reactivated refinery capacity has not been on-stream for a period of sixty months after earning an allocation under paragraph (b) (4) of this section, an allocation will be made for the next allocation year based on actual inputs (divided by 365) for the year ending December 31 of the previous allocation year. In computing the allocation, the Director will determine the number of days which, when added to the actual operating period in the previous allocation years, will constitute a period of sixty months. The facility will, for this number of days, earn an allocation under this § 213.29.

(c) Allocation with respect to new, expanded or reactivated refinery capacity shall be computed at seventy-five percent of estimated or actual qualified inputs to such facility as determined in paragraph (b) (2), (3), (4), or (5) of this § 213.29.

(d) With regard to the Virgin Islands, Guam, American Samoa, and foreign trade zones "qualified inputs" shall be limited to crude oil charged to the refinery.

(e) (1) If an allocation based in whole or in part on estimated inputs is made to an applicant pursuant to this section, the actual inputs submitted by the applicant as a basis for allocations in the next succeeding allocation period or periods for which the applicant applies for an allocation or allocations under this regulation shall be adjusted upward or downward to compensate for the difference between the estimated inputs and the actual inputs made during the period for which inputs were estimated.

(2) If the estimated inputs upon which an allocation is based exceed the actual inputs made by more than five percent of the estimated inputs, then, in addition to the adjustment downward provided by paragraph (e) (1) of this secton, the applicant shall be penalized for the overestimate as provided in this subparagraph (2). As a penalty, the actual inputs submitted by the applicant as a basis for allocation for the next succeeding period or periods for which the applicant applies for an allocation or allocations under this regulation shall be further reduced by the number of barrels by which the estimated inputs exceed the actual inputs by more than five percent. However, to the extent that an applicant demonstrates to the satisfaction of the Director that the excess of estimated inputs over actual inputs was attributable to acts of God, fire, government action, explosion, labor disputes, or other similar circumstances beyond the applicant's control, the Director may waive the penalty or reduce the number of barrels of excess for which the penalty will be imposed. Persons applying for and receiving allocations under this section whose new, expanded or reactivated refinery fails to come on-stream within the allocation period may be denied any allocation for the next succeeding period. The Director may elect not to apply this penalty in those cases where the applicant demonstrates to the satisfaction of the Director that a substantial effort was made to complete and to start-up such a facility and that the person's failure was attributable to acts of God, fire, government action, explosion, labor disputes, or other similar circumstances beyond the applicant's control.

(3) (i) Any person who has been granted an allocation for a new, expanded or reactivated refinery in Districts I–IV may avoid the penalty prescribed in paragraph (e) (2) of this section by returning on or before January 31 of the period for which the allocation was granted such a license or licenses, for a downward adjustment, or, in lieu of returning such license or licenses, returning for downward adjustment a license issued to the person under § 213.12.

(ii) Any person who has been granted an allocation for a new, expanded, or reactivated refinery in District V may avoid the penalty prescribed in paragraph (e) (2) of this section by returning on or before January 31 of the allocation period for which the allocation and license were granted such a license for a downward adjustment, or, in lieu of returning such license, returning for downward adjustment a license issued in District V to the person under section 213.13.

(iii) Any person who has been granted an allocation for a new, expanded, or reactivated refinery in Puerto Rico, the Virgin Islands, Guam, American Samoa or a foreign trade zone may avoid the penalty prescribed in subparagraph (2) by returning on or before January 31 of the allocation period for which the allocation and license were granted such a license for a downward adjustment.

(iv) A request by an applicant who has received an allocation and license under

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this section for a downward adjustment shall be made in writing to the Director on or before January 31 of the allocation period for which the allocation and license were granted.

(4) The Director shall not issue a license under an allocation made pursuant to this section until (i) an on-the-spot evaluation of the new, expanded or reactivated refinery capacity has been conducted by the compliance representatives of FEA and (ii) a written determination has been made by the Director that the facility is a bona fide refinery capacity as certified in the application, and that construction or reactivation has so far progressed that, in the Director's judgment, the plant will within the calendar quarter following the date of such determination be ready for start-up and trials.

(f) No license issued for allocations made under this section may be sold, assigned, or otherwise transferred.

(g)(1) As used in this section, "expanded refinery capacity" includes expansion of existing facilities by the addition of equipment, such as, but not limited to, stills, towers, pumps, and conversion units, or such additions to or modification of an existing refinery or identifiable crude processing capacity within an existing refinery as have resulted in an increased processing capability of not less than fifteen percent above the base capacity established for the particular refinery capacity under consideration. This base capacity will be the average certified inputs to the particular refinery or identifiable crude processing facility being expanded for the highest two of the last three input years.

(2) As used in this § 213.29, "reactivated refinery capacity" means restoration to operation of refinery capacity which had been shut down for not less than twelve months immediately preceding its reactivation.

(h) An applicant to whom an allocation is made under this section shall not receive an allocation for the same refinery capacity under §§ 213.12 or 213.13.

(i)(1) Except as provided in subparagraph (2) of this paragraph, an allocation made pursuant to this § 213.29 will be for crude oil only.

(2) Allocations made pursuant to this § 213.29 to persons for new, expanded or reactivated refinery capacity located in American Samoa, Guam, the Virgin Islands or foreign trade zones shall be for import into Districts I–V or Puerto Rico of unfinished oils or finished products. Such unfinished oils or finished products must have been manufactured in the facility earning the allocation. Unfinished oils imported pursuant to an allocation covered by this subparagraph cannot be counted as qualified refinery inputs in Districts I–IV, District V, or Puerto Rico.

(j) An applicant may not receive an allocation under this § 213.29 for new, expanded, or reactivated refinery capacity for which inputs were included in applications filed pursuant to §§ 213.12 or 213.13 for allocation periods beginning on or before January 1, 1973.

(k) An applicant may not receive an allocation under this § 213.29 for new, expanded or reactivated refinery capacity if the same refinery capacity is subject to a long term allocation as defined in Presidential Proclamation 3279, as amended.

(l) Persons wishing to qualify for an allocation under this § 213.29 must file an application in accordance with the provisions of § 213.5.

§ 213.30 Allocations of crude oil and unfinished oils—Districts I–IV, District V, and Puerto Rico—new, expanded or reactivated "petrochemical capacity" based upon estimated and actual inputs.

(a)(1) The Director may make allocations not subject to license fees of imports of crude oil and unfinished oils with respect to new, expanded or reactivated "petrochemical capacity" as provided in this section. The plant additions and modifications which have resulted in the new, expanded, or reactivated "petrochemical capacity" need not when taken independently meet the definition of "petrochemical capacity" as defined in paragraph (b) of this section: *Provided*, That such additions and modifications are an integral part of the facility that does qualify as "petrochemical capacity."

(2) A person seeking such an allocation must file an application in the form prescribed by the Director. The application shall disclose in detail such information as the Director may require, including—

(i) The nature of the facility.

(ii) The location of the facility.

(iii) The petrochemicals and the pounds of each petrochemical produced or to be produced.

(iv) The pounds of carbon and hydrogen in the petrochemicals produced from qualified "petrochemical capacity" inputs.

(v) The capital outlay involved.

(vi) The identification of each feedstock and the source thereof.

(vii) The date that the facility went onstream or is scheduled to go onstream.

(viii) Whether the application is for a new facility, an expansion, or reactivation.

(ix) Whether this facility will replace an existing facility which is to be or has been shut down.

(x) In the case of an expansion, the certified pounds of each petrochemical produced for the last three years in the particular "petrochemical capacity" for which the expansion is claimed.

(3) Applications for allocations under paragraph (a) of this section must be filed in accordance with the provisions of § 213.5.

(b) For purposes of this section "petrochemical capacity" means a facility or plant complex:

(1) Which includes equipment for converting hydrocarbons to petrochemicals.

(2) Which manufactures for plant use or sale one or more separate and distinct petrochemicals by conversion of each separate "petrochemical capacity input" feedstock stream which is claimed by an applicant as a basis for obtaining an allocation.

(c) For purposes of this section "petrochemical capacity inputs" means feedstocks charged to a "petrochemical capacity."

(1) And include only:

(i) Crude oil,

(ii) Unfinished oils (except those unfinished oils specifically excluded in paragraph (e)(2) of this section) produced in Districts I–IV and District V and Puerto Rico and unfinished oils imported pursuant to an allocation.

(2) But do not include:

(i) Unfinished oils which are produced in a "petrochemical capacity" or petrochemical plant in the manufacture of petrochemicals and subsequently charged to a unit which is part of the same "petrochemical capacity" or petrochemical plant in which they were produced or to any other "petrochemical capacity" or petrochemical plant which is owned or controlled by the same person who claims the initial "petrochemical capacity inputs" or petrochemical plant inputs from which the unfinished oils are derived.

(ii) Unfinished oils which are obtained by transactions such as sales, purchases, or exchanges which are designed to avoid the exclusion specified in paragraph (c)(2)(i) of this section, and

(iii) Benzene which met the ASTM standards for nitration grade or cumene, ethylbenzene, isoprene, meta-xylene, ortho-xylene or para-xylene which had a purity of 95 percent or more by weight but which subsequently has been recycled and mixed with other hydrocarbons, commingled, or purposely debased.

(d) For purposes of this section each item on the schedule in paragraph (k) of § 213.11 with the exception of changes in the "condition" of several items listed and additions made, as noted below, is a petrochemical if and only if, it conforms to any notation opposite the item in colume 2 and to the condition specified opposite the item in column 3. The "conditions" amended and additions made to the schedule in paragraph (k) of § 213.11 are as follows:

D—ASTM nitration grade.
E—Petrochemical must be recovered in a state of 95 percent purity or more.

Petrochemical	Limitations	Conditions
Benzene		D
Cumene		E
Ethylbenzene		E
Isoprene		E
Meta-xylene		E
Ortho-xylene		E
Para-xylene		E

(e)(1) Each increment of new, expanded or reactivated "petrochemical capacity" which has come onstream on or after January 1, 1972, will be treated as a separate entity under this paragraph (e) for a total of sixty months.

(2) If the new, expanded or reactivated "petrochemical capacity" is sched-

uled to come onstream during the allocation period for which the allocation is requested, the allocation shall be computed on the basis of inputs (divided by 365), calculated as in paragraph (f)(1) of this section, which it is estimated will be made to such capacity during the allocation period. In the event the new, expanded or reactivated "petrochemical capacity" comes onstream after January 31, of the allocation period for which the allocation is requested, the Director may, if requested by the applicant, extend the expiration date of the license or licenses to 120 days after the start-up date. An applicant who receives an allocation for a particular allocation period pursuant to this subparagraph (2) may be eligible for an allocation pursuant to paragraph (e)(3), (4), or (5) of this section for the succeeding allocation periods.

(3) If the new, expanded or reactivated "petrochemical capacity" has come onstream during the allocation period immediately preceding the allocation period for which the allocation is requested, the allocation shall be computed on the basis of the sum (divided by 365) of (i) the "petrochemical capacity inputs" calculated as in paragraph (f)(1) of this section, actually made to the new, expanded or reactivated "petrochemical capacity" during the first eight months of the allocation period immediately preceding the allocation period for which the allocation is requested and (ii) the inputs, calculated as in paragraph (f)(1) of this section which it is estimated will be made to such capacity during the next number of months which, when combined with the months in paragraph (e)(3)(i) of this section, will constitute a period of twelve months.

(4) If the new, expanded or reactivated "petrochemical capacity" has been onstream for at least one year as of December 31, of the allocation period immediately preceding the allocation period for which the allocation is requested, the allocation shall be based on actual inputs to the facility (divided by 365), calculated as in paragraph (f)(1) of this section, to the facility during the preceding twelve months ending December 31: *Provided*, That the facility will not have been onstream in excess of sixty months during the allocation period for which the allocation is requested.

(5) If the new, expanded or reactivated "petrochemical capacity" has not been onstream for a period of sixty months after earning an allocation under subparagraph (4) of this paragraph (e), an allocation will be made for the next allocation year based on actual inputs (divided by 365), calculated as in paragraph (f)(1) of this section, for the year ending December 31 of the previous allocation year. In computing the allocation, the Director will determine the number of days which, when added to the actual operating period in the previous allocation years, will constitute a period of sixty months. The facility will for this number of days, earn an allocation under this § 213.30.

(f)(1) The Director shall issue allocations with respect to new, expanded or reactivated "petrochemical capacity" based on inputs which will be calculated in the following manner:

$$\frac{\text{Total weight in pounds of actual and estimated carbon and hydrogen from qualified "petrochemical capacity inputs" contained in petrochemicals produced during any applicable allocation period}}{200} = \text{Qualified inputs for the allocation period in barrels}$$

(2) The allocation shall be equal to the qualified inputs, calculated as in paragraph (f)(1) of this section, to such facilities as determined in paragraph (e)(2), (3), (4) or (5) of this § 213.30, whichever is applicable.

(3) For purposes of this section, where a person produced a petrochemical from a combination of inputs which qualify, under paragraph (c) of this section and inputs which do not so qualify, the hydrogen and carbon content of the produced petrochemical shall be deemed to have been derived entirely from the qualified inputs to the full extent of such qualified inputs except that such hydrogen and carbon shall not be deemed to have been derived from a qualified input from which the carbon and hydrogen could not actually have been derived.

(g)(1) If an allocation based in whole or in part on estimated inputs, calculated as in paragraph (f)(1) of this section, is made to an applicant pursuant to this section, the actual inputs calculated as a basis for allocations in the next succeeding allocation period or periods for which the applicant applies for an allocation or allocations under this regulation shall be adjusted upward or downward to compensate for the difference between the calculated estimated inputs and actual inputs made during the period for which inputs were estimated.

(2) If the calculated estimated inputs upon which an allocation is based exceed the calculated actual inputs made by more than ten percent of the calculated estimated inputs, then, in addition to the adjustment downward provided by paragraph (g)(1) of this section, the applicant shall be penalized for the overestimate as provided in this subparagraph (2). As a penalty, the calculated actual inputs submitted by the applicant as a basis for allocation for the next succeeding period or periods for which the applicant applies for an allocation or allocations under this regulation shall be further reduced by the number of barrels by which the calculated estimated inputs exceeded the calculated inputs by more than ten percent. However, to the extent that an applicant demonstrates to the satisfaction of the Director that the excess of calculated estimated inputs over calculated actual inputs was attributable to acts of God, fire, government action, explosion, labor disputes, or other similar circumstance beyond the applicant's control, the Director may waive the penalty or reduce the number of barrels of excess for which the penalty will be imposed. Persons applying for and receiving allocations under this section whose new, expanded or reactivated "petrochemical capacity" fails to come on stream within the allocation period may be denied any allocation for the next succeeding period. The Director may elect not to apply this penalty in those cases where the applicant demonstrates to the satisfaction of the Director that a substantial effort was made to complete and to start up such facility and that the person's failure was attributable to acts of God, fire, government action, explosion, labor disputes or other similar circumstance beyond the applicant's control.

(3)(i) Any person who has been granted an allocation for a new expanded or reactivated "petrochemical capacity" in Districts I–IV, District V or Puerto Rico may avoid the penalty prescribed in paragraph (g)(2) of this section by returning on or before January 31 of the period for which the allocation was granted such a license or licenses for a downward adjustment, or, in lieu of returning such license or licenses, returning for downward adjustment a license issued to the person under section 213.9.

(ii) A request by an applicant who has received an allocation and license under this section for a downward adjustment shall be made in writing to the Director on or before January 31 of the allocation period for which the allocation and license were granted.

(4) The Director shall not issue a license under an allocation made pursuant to this section until (i) an on-the-spot evaluation of the new, expanded or reactivated "petrochemical capacity" has been conducted by compliance representatives of FEA and (ii) a written determination has been made by the Director that the facility is a bona fide "petrochemical capacity" as certified in the application, and that construction or reactivation has so far progressed that, in the Director's judgment, the plant will within the calendar quarter following the date of such determination be ready for start-up and trials.

(h) No license issued for allocation made under this section may be sold, assigned, or otherwise transferred.

(i)(1) As used in this § 213.30 "expanded petrochemical capacity" includes expansion of existing facilities by the addition of equipment, such as, but not limited to, stills, towers, pumps, and conversion units, or such additions to or modification of existing "petrochemical capacity" or petrochemical plant or identifiable "petrochemical capacity" or petrochemical plant capacity within an existing "petrochemical capacity" or petrochemical plant as have resulted in an increased petrochemical production capability of not less than fifteen percent

above the base capacity established for the particular "petrochemical capacity" or petrochemical plant under consideration. The base capacity will be the average of the sums of the certified production of each petrochemical produced in the particular "petrochemical capacity" or petrochemical plant or identifiable "petrochemical capacity" or petrochemical plant capacity being expanded for the highest two of the last three input years.

(2) As used in this § 213.30, "reactivated petrochemical capacity" means restoration to operation of "petrochemical capacity" which had been shut down for not less than twelve months immediately preceding its reactivation.

(j) An allocation made pursuant to this section shall entitle a person to a license or licenses which will allow the importation of unfinished oils in an amount not exceeding, in the aggregate, 15% of the person's allocation. However, the Director shall permit a person holding such an allocation to import unfinished oils in an amount up to 100% of the allocation upon certification by him to the Director that such imported unfinished oils will not be exchanged, that such unfinished oils will be processed entirely in the petitioner's "petrochemical facilities," that the person will not charge to anyone of his plants a quantity of such unfinished oils in excess of the allocation made with respect to each such plant. The Director may, in special circumstances, permit a person holding such an allocation to import up to 100% of his allocation in the form of unfinished oils and to exchange such imports for like domestic material to be run entirely in the petitioner's "petrochemical facilities" in an amount not in excess of the allocation made with respect to each such plant. Annually beginning May 1, 1974, the maximum amount of the person's allocation which may be imported under this section as unfinished oil will be reduced by the following percentage.

For Year Commencing	*Percent Reduction of Person's Allocation of Unfinished Oils Imported Under This Section*
May 1, 1974	10
May 1, 1975	20
May 1, 1976	35
May 1, 1977	50
May 1, 1978	65
May 1, 1979	80
May 1, 1980	100

(k) A person who imports crude oil or unfinished oils under an allocation made under this section, except as provided in paragraph (j) of this section, may exchange his imported crude oil either for domestic crude oil or for domestic unfinished oils or exchange his imported unfinished oils either for domestic unfinished oils or for domestic crude oil. All such exchanges shall be governed by the provisions of § 213.22.

(l) The hydrocarbon content of materials upon which an allocation under § 213.9 or § 213.11 of this regulation is based will not qualify as a basis for an allocation under this section.

(m) An applicant may not receive an allocation under this § 213.30 for new, expanded or reactivated "petrochemical capacity" for which inputs have been included in applications filed pursuant to § 213.9.

§ 213.31 Allocations of unfinished oils—Districts I–IV based on production of low sulphur residual fuel oil in Districts I–IV.

(a) As used in this section:

(1) "Low sulphur residual fuel oil" means residual fuel oil:

(i) Which is manufactured in Districts I–IV, and

(ii) Which contains not more than 1 percent of sulphur by weight, and

(iii) Which is delivered (either directly by the manufacturer or by others following its sale by him) to customers in Districts I–IV who must burn such fuel in order to comply with Federal, State, or local requirements;

(2) "Western Hemisphere" means North America, Central America, South America, and the West Indies;

(3) "Desulphurization facility" means a facility which includes equipment for removing sulphur or sulphur compounds from residual fuel oil and which produces low sulphur residual fuel oil.

(b) This section provides for the making of allocations of imports into Districts I–IV of residual fuel oil or fuel oil based upon the production or estimated production of low sulphur residual fuel oil. Allocations made by the Director under this § 213.31 shall be in addition to allocations made under other sections of this Part, and the Director shall make allocations under this section without respect to the quantity of imports available for allocation in Districts I–IV for a particular allocation period under other sections of this Part. To the extent that the provisions of this section are inconsistent with the provisions of other sections of this Part, the provisions of this section shall be controlling.

(c) (1) A person who manufactures low sulphur residual fuel oil in a desulphurization facility by desulphurization of residual fuel oil containing at least 2 percent sulphur by weight which was derived from crude oil produced in the Western Hemisphere shall receive an allocation of imports of residual fuel oil equal to the amount in barrels of low sulphur residual fuel oil so manufactured. Residual fuel oil imported under such an allocation must be derived from crude oil produced in the Western Hemisphere and must be processed other than by blending by mechanical means either by the person to whom the allocation is made or by the person receiving the residual fuel oil under an exchange agreement.

(2) Upon a showing satisfactory to the Director that the construction of a desulphurization facility has been or is about to be completed, the person owning the facility shall be entitled to an initial specific allocation of imports of residual fuel oil on the basis of the quantity of low sulphur fuel oil which he estimates will be produced by the facility during a period of 90 days following the day the facility goes on stream. No license shall be issued under such an allocation earlier than 45 days prior to the date that the newly constructed desulphurization facility is scheduled to go on stream, except in such amounts as may be required for starting and testing the new desulphurization facility, and in no event shall a license be issued under such an allocation until an on-the-spot inspection of the new facility has been conducted by authorized representatives of FEA and a determination has been made that the newly constructed facility will have the operational potential which the applicant has certified to in his application, and that it appears that construction will be completed. The Director may make further specific allocations based on the production estimated for succeeding periods of 90 days each. Residual fuel oil imported under such an allocation must be derived from crude oil produced in the Western Hemisphere and must be processed other than by blending by mechanical means either by the person to whom the allocation is made or by the person receiving the residual fuel oil under an exchange agreement.

(3) In order to encourage the construction of new desulphurization facilities in Districts I–IV the Administrator of the Federal Energy Administration may make a general allocation to an applicant if the Administrator is satisfied that an applicant's proposal to construct a desulphurization facility in Districts I–IV constitutes a bona fide business venture and that the construction of such facility will be carried to completion within a reasonable time. Such a general allocation may provide that the applicant shall be entitled, for such a period of time as the Administrator may determine, to specific allocations of imports of residual fuel oil as provided in subparagraph (1) of this paragraph and to initial allocations as provided in subparagraph (2) of this paragraph and to specific allocations as provided in paragraph (d) of this section.

(d) A person who produces low sulphur residual fuel oil by mechanically blending residual fuel oil to be used as fuel which has a viscosity not greater than 275 Saybolt Furol seconds at 122° F., which contains over 1.5 percent sulphur by weight, and which is derived from crude oil produced in the Western Hemisphere with distillate fuel oil which has a viscosity in the range of 22–40 Saybolt Universal seconds at 100° F. and which is manufactured in his refinery capacity or desulphurization facility in Districts I–IV shall receive an allocation of imports of fuel oil equal to the amount in barrels of the fuel oil which had a viscosity in the range of 22–40 Saybolt Universal seconds at 100° F. which was manufactured in his refinery capacity or desulphurization unit, and which was mechanically blended to produce low sulphur residual fuel oil. Fuel oil imported under such an allocation must have a viscosity within 2.0 Saybolt Universal seconds at 100° F., plus or minus,

of the viscosity of the distillate fuel oil used for blending, must be derived from crude oil produced in the Western Hemisphere, and must be processed other than by blending by mechanical means either by the person to whom the allocation is made or by the person receiving the residual fuel oil or fuel oil under an exchange agreement.

(e) For the purpose of computing import allocations under sections 213.9, 213.12, and 213.29, neither residual fuel oil or fuel oil imported pursuant to an allocation made under this § 213.31 nor domestic oil received in exchange pursuant to the provisions of § 213.22 will qualify as either refinery inputs or petrochemical plant inputs. However, the person receiving the imported residual fuel oil or fuel oil under an exchange agreement pursuant to § 213.22 may count such oils as such inputs.

(f) The Director shall make an allocation under subparagraph (1) of paragraph (c) or paragraph (d) of this section only upon receipt from an applicant of a certification satisfactory to the Director with respect to the following matters pertaining to the production and delivery of the low sulphur residual fuel oil forming the basis of the application:

(1) Location of plant in which produced,

(2) Amount and sulphur content,

(3) Source of crude oil from which unfinished oils were produced,

(4) Source and disposition of unfinished oils,

(5) Delivery, either directly by applicant or by others following sale by applicant, to customers in Districts I–IV who are required to burn such fuel oil in order to comply with Federal, State or local requirements.

A similar certification as to prospective operations shall be made by an applicant for an allocation under subparagraphs (2) and (3) of paragraph (c). The Director may prescribe the form of certifications. An application for an allocation may be filed at any time. To apply for an allocation of imports under this section, an application must be filed with the Director in such form as he may prescribe. The Director may fix a period of time (not less than 180 days) for the expiration of licenses issued pursuant to specific allocations made under this section.

(g) No allocation made under this section shall be sold, assigned, or otherwise transferred.

[Note: Indefinitely suspended. 38 FR 7535]

§ 213.32 Allocations of low sulphur residual fuel oil—District V.

(a) This section provides for the making of allocations of imports, not subject to license fee, into District V of low sulphur residual fuel oil to be used as fuel in District V. As used in this § 213.32, "low sulphur residual fuel oil" means (1) residual fuel oil to be used as fuel which is manfactured or produced in a foreign area and which contains not more than five-tenths of one percent (0.5%) sulphur by weight, or (2) residual fuel oil to be used as fuel which is manufactured by facilities in a foreign trade zone located in District V and which has a sulphur content not exceeding the percent by weight required by local government requirements.

(b) To be eligible for an allocation not subject to license fee of low sulphur residual fuel oil under this section a person must:

(1) Be in the business in District V of selling residual fuel oil to be used as fuel and have under his management and operational control a deepwater terminal located in District V into which there has been delivered low sulphur residual fuel oil to be used as fuel which he owned at the time of delivery, such delivery being the first delivery of that oil into a deepwater terminal in District V; or

(2) Be in the business in District V of selling residual fuel oil to be used as fuel and have a throughput agreement (warehouse agreement) with a deepwater terminal operator under which agreement the person has delivered to the terminal low sulphur residual fuel oil to be used as fuel which he owned when it was so delivered, such delivery being the first delivery of that oil into a deepwater terminal in District V. For the purposes of this section, "throughput agreement" means an agreement which provides for the delivery to a deepwater terminal by a person of residual fuel oil which he owns and for a right in such person to withdraw on call an identical quantity of such oil from the terminal. A bona fide throughput agreement will be deemed to exist only if the person operating under the agreement owns the oil at the time it is delivered to the terminal and only if that delivery is the first delivery of that oil into a deepwater terminal in District V.

(c) A person seeking an import allocation not subject to license fee pursuant to this section must file an application with the Director on such form as he may prescribe. The application shall disclose such information as the Director may deem necessary in such detail as he may require. Applications must be filed in accordance with the provisions of section 213.5.

(d) For the allocation period May 1, 1974, through April 30, 1975, each eligible applicant under this section shall receive an allocation not subject to license fee to import low sulphur residual fuel oil into District V to be used as fuel in District V computed according to the following formula:

$$\frac{\text{Applicant's average B/D allocation made pursuant to § 213.32 for the allocation period January 1, 1973 through April 30, 1974}}{\text{Average B/D allocations made pursuant to § 213.32 to all applicants for the allocation period January 1, 1973 through April 30, 1974}} \times 68{,}040 \text{ B/D}$$

(e) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred. Licenses issued under allocations made pursuant to this section shall permit the importation only of residual fuel oil into District V for use as fuel oil in District V.

§ 213.33 Canadian Imports—Districts I–IV.

(a) As used in this section, the term "Canadian imports" means imports from Canada of crude oil which has been produced in Canada and unfinished oils which have been derived from crude oil or natural gas produced in Canada and which have been transported into the United States by overland means or over waterways other than ocean waterways.

(b) To be eligible for an allocation of imports under this section, a person must have in Districts I–IV a facility capable of processing Canadian imports.

(c) The Director shall, in accordance with the terms of paragraph (d)(1) of this section, make allocations for the allocation period May 1, 1974 through April 30, 1975 of not to exceed 762,000 average barrels daily of Canadian imports into Districts I–IV.

(d)(1) The Director shall make allocations not subject to license fees of Canadian imports to eligible applicants who received allocations of such imports for the period January 1, 1973 through December 31, 1973, pursuant to § 213.28 or from the Oil Import Appeals Board under § 213.26, or from both. Each such applicant shall be entitled to an allocation of Canadian imports calculated in accordance with the following formula:

$$\frac{\text{Sum of each eligible applicant's allocation of Canadian imports in 1973 pursuant to §§ 213.28 and 213.26 expressed in barrels per day}}{\text{Sum of all allocations of Canadian imports in 1973 pursuant to §§ 213.28 and 213.26 expressed in barrels per day}} \times 762{,}000 \text{ barrels/day}$$

(2) The Director shall issue before May 1, 1974 to each eligible applicant a license equal to one half of the allocation calculated pursuant to subparagraph (1) of this paragraph. Such licenses shall expire on October 31, 1974 unless extended by the Director. The Director shall issue before November 1, 1974 a second license to each eligible applicant equal to the remainder of the allocation calculated pursuant to subparagraph (1) of this paragraph. Such licenses shall expire on April 30, 1975.

(e)(1) Except as provided for in subparagraph (2) of this paragraph a person who imports Canadian imports must process all such imports in his own facility. For the purpose of this paragraph,

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blending by mechanical means does not constitute processing.

(2) (i) Canadian imports may be exchanged on a barrel for barrel basis for other Canadian imports but each person receiving crude oil or unfinished oils in the exchange must process the crude oil or unfinished oil received in his own facilities. Settlements, credits, monetary, or accounting adjustments reflecting the relative values of the oils involved in the exchange are permissible .

(ii) Canadian imports which are sold to meet the requirements of regulations published by the Federal Energy Administration shall not be subject to the provisions of paragraph (e) of this section.

(f) If a person who receives an allocation of Canadian imports under this section fails to import the total quantity of imports specified in the allocation, or if he fails to process all such imports (or Canadian imports received in exchange for such imports) in his facilities before July 1, 1975, or if he fails to meet the requirement of paragraph (e) of this section, then any allocation of Canadian imports for Districts I–IV to which such person may otherwise be entitled for the first allocation period beginning after April 30, 1975 shall be reduced by the Director by the amount of Canadian imports which such person has failed to import, or by the amount of Canadian imports and exchanged oil which such person has failed to process in his facilities before July 1, 1975 or by the amount of Canadian imports by which he failed to meet the requirements of paragraph (e) of this section, except that the Director need not make such a reduction to the extent that (1) such person demonstrates to the satisfaction of the Director that such failures were without such person's fault and were beyond his control, or (2) such person on or before September 1, 1974, in writing, relinquishes all or part of an allocation made under this section and returns to the Director licenses issued thereunder.

(g) Any allocation relinquished by a person pursuant to paragraph (f) of this section shall be reallocated to all eligible applicants in the same proportion that each received an allocation under paragraph (d)(1) of this section.

(h) A person to whom an allocation is made by the Director under this section shall report and certify in writing to the Director, not later than July 15, 1974, (1) the total quantity of Canadian imports which that person imported during the period January 1, 1973 through April 30, 1974, pursuant to an allocation made under § 213.28, and (2) the quantity of such imports that were processed in his facilities before July 1, 1974. The amount so reported and certified shall be subject to verification by the Director. If a person to whom an allocation is made under this section fails to file by July 15, 1974 the written report and certification required by this paragraph, the Director shall suspend all licenses issued under an allocation made under this section until the written report and certification are received.

(i) An allocation made pursuant to this section shall not be sold, assigned or otherwise transferred.

(j) An application for an allocation under this section shall be made by letter or telegram to the Director, Oil Imports, P.O. Box 7414, Washington, D.C. 20044, unless an application has been previously filed. Applications must have been received by April 15, 1974. An application must contain the following information, which shall be certified by an officer of the applicant:

(1) The nature of each of the applicant's facilities in which Canadian imports will be processed.

(2) The location of each such facility.

(3) The total barrels of Canadian imports and other qualified inputs processed in each such facility during the calendar year ending December 31, 1973.

§ 213.34 Allocations of No. 2 fuel oil—District I.

(a) For the purposes of this section:

(1) The term "No. 2 fuel oil" means a finished product which has the following physical and chemical characteristics:

Closed cup flashpoint, degrees Fahrenheit.	Minimum 100.
Pour point, degrees Fahrenheit.	Maximum 20.
Water and sediment, percent.	Maximum 0.10.
Carbon residue on 10 percent residuum percent.	Maximum 0.35.
Distillation temperature degrees Fahrenheit, 90 percent point.	Maximum 675, Minimum 540.
Viscosity, Saybolt Universal seconds at 100° F.	Maximum 40.0, Minimum 33.0.
Gravity API	Minimum 30.0.

(2) The term "Western Hemisphere" means North America, Central America, South America, and the West Indies.

(3) The term "deepwater terminal" means a permanent land installation which:

(i) Consists of bulk storage tanks having not less than 100,000 barrels of operational capacity, pumps and pipelines used for storage, transfer and handling of No. 2 fuel oil;

(ii) Is on waterways that permit the safe passage to the installation of a tanker rated 15,000 cargo deadweight tons, drawing not less than 25 feet of water; and

(iii) Has a berth that will permit the delivery of No. 2 fuel oil into the installation by direct connection from a tanker rated at 15,000 cargo deadweight tons, drawing not less than 25 feet of water, and moored in berth. Cargo deadweight tons represent the carrying capacity of a tanker, in tons of 2,240 pounds, less the weight of fuel, water, stores and other items necessary for use on a voyage.

(4) The term "throughput agreement" means a written agreement which provides for the delivery to a deepwater terminal by a person of No. 2 fuel oil which he owns at the time of delivery to the terminal and for a right in such person to withdraw on call an identical quantity of such oil from the terminal. Any transaction between persons involving sales, purchases, or exchanges of No. 2 fuel oil which were designed to gain allocation benefits for a person who would not otherwise be eligible shall not be deemed to constitute a throughput agreement.

(b) For the allocation period May 1, 1974, through April 30, 1975, 45,000 barrels per day of imports of No. 2 fuel oil, which is manufactured in the Western Hemisphere from crude oil produced in the Western Hemisphere,[1] will be available for allocations in District I to eligible persons having qualified terminal inputs of No. 2 fuel oil in this district.

(c) (1) Except as provided in paragraph (c)(2) of this section, a person shall be eligible for an allocation of imports into District I of No. 2 fuel oil under paragraph (e) of this section:

(i) If he is in the business in District I of selling No. 2 fuel oil, has under his management and operational control a deepwater terminal which is located in District I and in which No. 2 fuel oil is handled, does not have a crude oil import allocation into Districts I–V or Puerto Rico under §§ 213.9, 213.12, 213.13, 213.20, 213.29 or 213.30 and who, in the allocation period beginning prior to January 1, 1973, had received from the Secretary of the Interior an allocation of imports into District I of No. 2 fuel oil.

(ii) If he is in the business in District I of selling No. 2 fuel oil and has a throughput agreement with a deepwater terminal operator in District I who does not have a crude oil import allocation into Districts I–V or Puerto Rico under §§ 213.9, 213.12, 213.13, 213.20, 213.29 or 213.30 and who in the allocation period beginning prior to January 1, 1973, had received from the Secretary of the Interior an allocation of imports into District I of No. 2 fuel oil.

(2) No person who has an allocation of imports into Districts I–V or Puerto Rico of crude oil under §§ 213.9, 213.12, 213.13, 213.20, 213.29, or 213.30 shall be

[1] The Chairman of the Oil Policy Committee (now the Administrator of the Federal Energy Administration) has advised that, because of supply, price, and other considerations, he finds that the requirement, contained in section 2(a)(1) of Proclamation 3279, as amended, that No. 2 fuel oil be manufactured in the Western Hemisphere from crude oil produced in the Western Hemisphere, is unduly restricting the availability of such oil for importation into District I and is not required for the national security. Accordingly, such requirement is hereby suspended. On September 1 of each year that this suspension continues, the Deputy Secretary of the Treasury, in accordance with his surveillance responsibilities, shall examine the imports by deepwater terminal operators to determine whether Western Hemisphere imports have equalled 16,425,000 total barrels or exceeded the equivalent of 45,000 barrels per day on an annual basis, and, if not, whether supply, price, and other considerations warrant reimposition of the Western Hemisphere preference requirements. He shall so advise the Administrator who shall then take such steps as are necessary to insure that, to the extent available, license fee-exempt imports of No. 2 fuel oil from Western Hemisphere sources shall equal the annual equivalent of this amount.

eligible for an allocation under paragraph (e) of this section.

(d) Persons seeking an allocation under this section must file an application with the Director on such form as he may prescribe. Applications must be filed in accordance with the provision of § 213.5.

(e) For the allocation period May 1, 1974 through April 30, 1975, each eligible applicant under this section shall receive an allocation of imports into District I of No. 2 fuel oil equal to 90 percent of the quantity allocated to him during the allocation period beginning January 1, 1973. Any volume of No. 2 fuel oil available for allocation but not allocated pursuant to the first sentence of this subparagraph shall be allocated among eligible applicants in the proportion each eligible applicant's allocation bears to the total allocated pursuant to the first sentence of this subparagraph.

(f) (1) An eligible applicant may count as qualified terminal inputs quantities of No. 2 fuel oil:

(i) Which were delivered during the period into a deepwater terminal in District I which was under his management and operational control or into a deepwater terminal with which the eligible applicant had a throughput agreement before the oil was delivered if he owned the oil when it was placed in the terminal and if the delivery constituted the first delivery of that oil to a deepwater terminal in District I, or;

(ii) Which the applicant owned, sold to a Federal agency or to an agency of a State or a political subdivision of a State, and delivered during the base period to a deepwater terminal in District I for the account of such agency, providing such delivery constituted the first delivery of that oil to a deepwater terminal in District I; or

(iii) Which was delivered to applicant's deepwater terminal in District I as a first delivery into a deepwater terminal in District I under a written agreement to purchase such oil and to which, pursuant to such agreement, the applicant took title, during the base period upon its withdrawal by him from the terminal.

(2) For the purpose of this paragraph (f), storage of No. 2 fuel oil at a refinery in which the oil was produced or delivery of No. 2 fuel oil into a deepwater terminal under the management and operational control of a person who has an allocation of imports of crude oil into Districts I–IV, District V or Puerto Rico under §§ 213.9, 213.12, 213.13, 213.20, 213.29, or 213.30 shall not be deemed to be a first delivery to a deepwater terminal in District I.

(g) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred. Except as provided in paragraph (h) of this section, licenses issued under allocations made pursuant to this section shall permit the importation only of No. 2 fuel oil. No. 2 fuel oil imported under an allocation made pursuant to this section shall be sold for use as fuel in District I.

(h) A person holding an allocation under this section may obtain from the Director a license which will permit him to import crude oil into Districts I–IV in quantity not exceeding the amount of such allocation, upon a certification to the Director, in such form as he may prescribe, that the allocation holder has entered into an agreement with a refiner in Districts I–IV under which the allocation holder will receive No. 2 fuel oil (in a ratio of not less than 1 barrel of No. 2 fuel oil for each barrel of crude oil) in exchange for such crude oil so that an amount of No. 2 fuel oil at least equal to that covered by the license will be used in District I. Any license so issued shall be charged against the allocation made under this section. No such crude oil license may be sold, assigned, or otherwise transferred. However, settlements, credits, and accounting adjustments reflecting the relative values of No. 2 fuel oil and the crude oil involved in the exchange are permissible.

§ 213.35 Allocations and fee-paid licenses for imports of crude oil, unfinished oils and finished products—Districts I–IV, District V, and Puerto Rico.

(a) Effective May 1, 1973, any person wishing to import crude oil, unfinished oils, or finished products into Districts I–IV, District V, or Puerto Rico may do so by filing an application with the Director in such form as the Director may prescribe.

(b) Allocations and licenses under this section will, to the fullest practicable extent, be made and issued by the Director within (10) days after his receipt of applications therefor. In no event will allocations be made and licenses issued by the Director within less than five (5) days after his receipt of applications therefor.

(c) (1) Except as provided in paragraph (c) (2) of this section applications for allocations and licenses under this section, to be issued at the rates prescribed in this section for a particular period and postmarked not later than midnight of the date in which such period expires, will qualify for issuance at the rate for the period in effect at the time the application was mailed. Any application for an allocation under this section postmarked later than midnight of the date upon which such period expires may at the option of the applicant be subject to the license fee applicable during the following license fee period or withdrawn. If the date upon which the period expires is a Saturday, Sunday, or holiday, the application will nevertheless qualify if it is postmarked not later than midnight of the next succeeding business day.

(2) With respect to imports from Canada of finished products made from Canadian crude or natural gas produced in Canada no import license is required and no license will be issued for the period prior to May 1, 1974. Persons wishing to import such finished products from Canada in the period beginning May 1, 1974 may file applications with the Director at any time beginning April 1, 1974. The effective date of licenses issued pursuant to such applications filed in April shall be May 1, 1974 or the actual date of issue, whichever is later, and the applicable license fees will be as shown in paragraph (i) (1) (ii) of this section for the period beginning May 1, 1974.

(d) Applications for allocations under this section shall be accompanied by the applicant's certified check, or a cashier's check, payable to the order of the Treasurer of the United States in the amount chargeable pursuant to paragraph (i) of this section or by a bond with a surety on the list of acceptable sureties on Federal bonds maintained by the Bureau of Accounts, Department of the Treasury, in the sum not less than the amount chargeable pursuant to paragraph (i) of this section, conditioned upon payment to the order of the Treasurer of the United States, within thirty (30) calendar days from the date of entry or withdrawal from warehouse for consumption of the commodities for the importation of which a license or licenses have issued, in the amount chargeable pursuant to paragraph (i) of this section. In the event that such bond is terminated or the face value of the bond is reduced below the outstanding liability of licenses issued pursuant to the bond, the Director shall immediately revoke all licenses issued pursuant to the bond. Applications not accompanied by a certified check, cashier's check, or bond in the amount required shall not be considered. Applications by or for the account of a department, establishment, or agency of the United States need not be accompanied by a certified check or cashier's check or a bond as required by this paragraph.

(e) Separate licenses will be issued for crude oil, motor gasoline, and for all other finished products and unfinished oils.

(f) Allocations and licenses for imports of crude oil, unfinished oils and finished products made under this section shall be valid for six (6) months following the date of their issuance.

(g) Refund of license fees paid for the importation of crude, unfinished oils or finished products shall be made by the Director, wholly or in part:

(1) where the licensee has failed to use, wholly or in part, the license issued to him. Applications for such refunds must be filed in such form as the Director may prescribe not later than ninety (90) days after expiration of said license for which the refund is requested.

(2) where refund of license fees, in whole or in part, is ordered by the Oil Import Appeals Board.

(3) to the extent that such crude oils or unfinished oils have been incorporated into petrochemicals as defined in § 213.10 which are subsequently exported, or finished products subsequently exported or that asphalt as defined in § 213.27 was produced from the imported feedstocks. Applications for refunds must be filed in such form as the Director may prescribe

not later than ninety (90) days after exportation of the petrochemical or finished product or manufacture of the asphalt to which such application pertains; and shall be accompanied by all information necessary in the judgment of the Director to enable him to determine the sum, if any, which should be refunded.

(4) to the extent that they reflect volume adjustments made subsequent to entries made against the license at the time of importation, such as corrections made by Customs of contained basic sediment and water, corrections of mistakes made in calculating tank volumes, or corrections of mistakes made in calculating volumes to standard temperature. Applications for such refunds must be filed in such form as the Director may prescribe, not later than ninety (90) days after the date of the last entry of imports made against the license.

(5) in the event it is determined after entry that a particular shipment of crude oil, unfinished oils, or finished products imported pursuant to a license for which a license fee has been paid should in fact have been assessed a license fee at a lower rate. In such cases the Director will make refunds for the overpayment of license fees as soon as practicable after notification by the District Director of Customs that a lower license fee is applicable.

(h)(1) In the event the volume of a particular shipment of crude oil, unfinished oils, or finished products being imported pursuant to a license to which a license fee is applicable exceeds the volume stated on the license against which the material is being imported by five (5) percent or less the District Director of Customs may permit the entry of the excess without license. The importer, however, must within ten (10) days of such entry remit payment to the Director by certified check or a cashier's check payable to the order of the Treasurer of the United States for the fee on the excess entered without license at the same rate such fee was paid for the license.

(2) In the event it is determined after entry that a particular shipment of crude oil, unfinished oils, or finished products imported pursuant to a license for which a license fee has been paid should in fact have been assessed a higher license fee the importer must within thirty (30) days after notification by the District Director of Customs that a higher license fee is applicable remit payment to the Director by certified chreck or a cashier's check payable to the Treasurer of the United States for the sum of the additional license fee due.

(3) In the event an importer fails to comply with the terms set forth in paragraph (h) (1) and (2) of this section, a penalty shall be assessed equal to the additional license fee due. The Director shall collect both the additional license fee due and the penalty due before entertaining any further applications from said importer for additional fee paid licenses.

(i) (1) Fees payable for licenses issued under allocations of imports of unfinished oils and finished products shall be in accordance with the following schedule:

(i) with respect to imports, other than imports from Canada of motor gasoline and finished products, such fees shall be:

FEE SCHEDULE

[Cents Per Barrel]

	May 1, 1973	Nov. 1, 1973	May 1, 1974	Nov. 1, 1974	May 1, 1975	Nov. 1, 1975
Crude	10.5	11.0	11.5	12.0	13.5	14.0
Natural gas products	10.5	13.0	15.5	18.0	22.0	21.0
Motor Gasoline	82.0	84.5	87.0	89.5	96.0	96.0
All other finished products and unfinished oils (except ethane, propane, butanes, and asphalt)	15.0	20.0	25.0	30.0	35.0	40.0

(ii) With respect to imports from Canada of motor gasoline and finished products, such fees shall be:

FEE SCHEDULE

[Cents Per Barrel]

	May 1, 1973	Nov. 1, 1973	May 1, 1974	Nov. 1, 1974	May 1, 1975	Nov. 1, 1975	May 1, 1976	Nov. 1, 1976
Motor Gasoline	0	0	5.7	6.0	12.6	12.6	22.1	22.1
Other finished products (but not including ethane, propane, butanes or asphalt)	0	0	3.0	4.2	10.4	12.6	22.1	22.1

	May 1, 1977	Nov. 1, 1977	May 1, 1978	Nov. 1, 1978	May 1, 1979	Nov. 1, 1979	May 1, 1980	Nov. 1, 1980
Motor Gasoline	31.5	31.5	41.0	41.0	80.4	80.4	96.0	96.0
Other finished products (but not including ethane, propane, butanes, or asphalt)	31.5	31.5	41.0	41.0	80.4	80.4	96.0	96.0

(2) License fees payable for imports of motor gasoline or other finished products or unfinished oils, manufactured in American Samoa, Guam, or the Virgin Islands or in a foreign trade zone and transported to the Customs territory of the United States by overland means or by vessel or vessels under United States registry, shall be at the rate applicable to the feedstock from which such motor gasoline or other finished product or unfinished oil was manufactured: *Provided*, That, such rate shall apply also in cases where the holder of the license establishes to the satisfaction of the Director that he made a good faith attempt to arrange shipment by vessel under United States registry and that no such vessel was available for the purpose at the time this shipment was made."

(j) Persons seeking to import natural gas products under a duly issued natural gas products license shall certify the country of origin to the appropriate Customs Office at the port of entry. Such natural gas products may be commingled with crude oil or other unfinished oils for purposes of transportation and may be reseparated prior to importation or imported as a mixture: *Provided*, That the importer certifies as to the volume of natural gas products contained.

§ 213.36 Canadian imports, District V.

(a) For the allocation period May 1, 1974, through April 30, 1975, the Director shall allocate, as provided in paragraph (c) of this section, approximately 252,000 average barrels daily of Canadian imports into District V among eligible persons having refinery capacity in this district.

(b) As used in this section, the term "Canadian imports" means imports from Canada of crude oil which has been produced in Canada and unfinished oils except ethane, propane, and butanes which have been derived from crude oil or natural gas liquids produced in Canada and which have been transported into the United States by overland means or over waterways other than ocean waterways.

(c)(1) The Director shall make allocations not subject to license fee to each eligible applicant for the allocation period beginning May 1 of each year on the basis of the pro rata share of the allocation of Canadian imports into District V made to each applicant for the calendar year 1973, relative to the total of all allocations of Canadian imports made to all applicants for the calendar year 1973.

(2) The Director shall issue before May 1, 1974 to each eligible applicant a license equal to one half of the allocation calculated pursuant to subparagraph (1) of this paragraph. Such licenses shall expire on October 31, 1974 unless extended by the Director. The Director shall issue before November 1, 1974 a second license to each eligible applicant equal to the remainder of the allocation calculated pursuant to subparagraph (1) of this paragraph. Such licenses shall expire on April 30, 1975.

(d) Each eligible applicant desiring an allocation under this section shall make application by letter to the Director, by April 15, 1974.

Such applications shall include the location of the facility in which the Canadian imports will be processed and shall be signed by an officer of the company.

(e) No allocation made pursuant to this section shall be sold, assigned, or otherwise transferred.

(f) Licenses issued pursuant to this section shall permit the entry or withdrawal from warehouse for consumption of Canadian imports only into District V. Except for licenses issued pursuant to §§ 213.36, 213.35, and 213.26 when Canadian imports into District V are specifically granted by the Oil Import Appeals Board no other licenses pursuant to this regulation shall permit the importation of Canadian imports into District V.

§ 213.37 Mexican imports, Districts I–IV and District V.

(a) For the allocation period May 1, 1974 through April 30, 1975, the Director shall allocate, as provided in paragraph (c) of this section, approximately 29,250 average barrels daily of Mexican imports into Districts I–IV and District V.

(b) As used in this section, the term "Mexican imports" means imports from Mexico of crude oil which has been produced in Mexico and unfinished oils except ethane, propane, and butanes which have been derived from crude oil or natural gas liquids produced in Mexico.

(c) The Director shall make allocations to each eligible applicant for the allocation period May 1, 1974 through April 30, 1975 and subsequent allocation periods on the basis of the pro rata share of Mexican imports made by each applicant during the calendar year 1972, relative to the total of all Mexican imports made by all applicants during the calendar year 1972.

(d) Each eligible applicant shall make applications for an allocation under this section by letter only signed by an officer of the company. Applications will be in accordance with the provisions of § 213.5

(e) No allocation made pursuant to this section shall be sold, assigned, or otherwise transferred.

§ 213.38 Imports of Canadian natural gas products—Districts I–IV.

(a) For each twelve month allocation period beginning May 1, of each year the Director shall in accordance with paragraph (c) of this section make allocations for the importation into Districts I–IV of natural gas products derived from Canadian natural gas.

(b) To be eligible for an allocation of imports under paragraph (c) of this section, a person must have imported Canadian natural gas products into Districts I–IV during the calendar year 1973.

(c) For the allocation period May 1, 1974, through April 30, 1975, the Director shall make allocations not subject to license fees to eligible applicants in accordance with the following formula:

$$\frac{\text{Eligible applicant's imports of Canadian natural gas products imported in 1973}}{\text{Total of Canadian natural gas products imported by all eligible applicants in 1973}} \times 101{,}700 \text{ B/D}$$

(d) Applications for an allocation under this section must be filed in accordance with § 213.5.

[FR Doc.74-30529 Filed 12-30-74;8:45 am]

XUM V 39 N 252 DEC 31 1974 XUM V

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Board of Parole

[28 CFR Part 2]

PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS AND JUVENILE DELINQUENTS

Proposed Rulemaking

Pursuant to the authority of 28 CFR, Chapter 1, Part O, Subpart V and 18 U.S.C. 4201–4210 and 5010–5037, notice is hereby given that the Board of Parole intends to adopt regulations governing parole, release, supervision and recommitment of prisoners, youth offenders and juvenile delinquents.

The Board does not acquiesce in the decision of the United States Court of Appeals for the District of Columbia Circuit in *Richard Pickus et al* v. *U.S. Board of Parole*. No. 73–1987 (October 12, 1974), holding that the Board is an "agency" within the meaning of 5 U.S.C. 551(1).

All interested persons who wish to make comments or suggestions in connection with the following proposed rules should send written statements to the United States Board of Parole, Federal Home Loan Bank Board Building, 320 First Street NW., Washington, D.C. 20537, Attention: Rulemaking Committee. All comments and suggestions should be submitted by March 3, 1975.

Dated: December 20, 1974.

MAURICE H. SIGLER,
Chairman,
United States Board of Parole.

EDITORIAL NOTE.—The text of the proposed regulation corresponds exactly to the text of the emergency regulations adopted by the Parole Board and published in the Rules and Regulations section of this issue. For the text and a detailed explanation of the changes see FR Doc. 74–30096 on p. 45223.

[FR Doc.74–30097 Filed 12–30–74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 724]

TOBACCO

Determinations on Marketing Quotas for the 1975–76, 1976–77, and 1977–78 Marketing Years

Pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq., hereinafter referred to as the "Act"), the Secretary is preparing to proclaim national marketing quotas for cigar-binder (types 51 & 52) and cigar-filler and binder (types 42–44, 53–55) tobacco for the 1975–76, 1976–77, and 1977–78 marketing years. Within 30 days after the proclamation separate referendums will be conducted of farmers engaged in the 1974 production of cigar-binder (types 51 & 52), and cigar-filler and binder (types 42–44, 53–55) tobacco to determine whether they favor or oppose marketing quotas for such years. For fire-cured (type 21), fire cured (types 22–24), dark air-cured, Virginia sun-cured, cigar-binder (type 51 & 52), and cigar-filler and binder (types 42–44, 53–55) tobacco, each national marketing quota, each national acreage allotment, each national factor for apportioning the national allotment (less reserves) to old farms, and the amount of each national reserve and parts thereof available for (a) new farms and (b) making corrections and adjusting inequities in old farm allotments will be determined and announced for the 1975–76 marketing year.

The Act (7 U.S.C. 1312(a)) requires marketing quotas to be proclaimed not later than February 1, 1975, for cigar-binder (type 51 & 52) and cigar-filler and binder (types 42–44, and 53–55) tobacco for the three marketing years beginning October 1, 1975, because the 1974–75 marketing year is the last year of the three consecutive years for which marketing quotas previously proclaimed will be in effect.

Quotas were previously proclaimed and referenda conducted for the various kinds of tobacco with results as follows: fire-cured for the 1973–74, 1974–75, and 1975–76 marketing years, approved by growers (38 FR 9219); dark air-cured for the 1973–74, 1974–75, and 1975–76 marketing years, approved by growers (38 FR 9219); Virginia sun-cured for the 1974–75, 1975–76, and 1976–77 marketing years, approved by growers (39 FR 23985); cigar binder (types 51 & 52) for the 1972–73, 1973–74, and 1974–75 marketing years, approved by growers (37 FR 3422); and cigar-filler and binder (type 42–44, 53–55) for the 1972–73, 1973–74 and 1974–75 marketing years, approved by growers (37 FR 3422).

Section 301(b)(15) of the Act (7 U.S.C. 1301(b)(15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Numbered 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13 & 14.
Fire-cured tobacco, comprising type 21.
Fire-cured tobacco, comprising types 22, 23, & 24.
Dark air-cured tobacco, comprising types 35 & 36.
Virginia sun-cured tobacco, comprising type 37.
Burley tobacco, comprising type 31.
Maryland tobacco, comprising type 32.
Cigar-filler and cigar binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, & 55; and cigar filler tobacco, comprising type 41.

Section 301(b)(15) also provides that any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of the Act if the Secretary finds that there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand. Pursuant to this authority, the Secretary has determined (15 FR 8214) that type 46 tobacco shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports. Pursuant to such authority, the Secretary has also determined (22 FR 367) that cigar-binder (types 51 and 52) tobacco, beginning with the 1957–58 marketing year, shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports. Type 45 tobacco is no longer grown. No further action under this section is contemplated at this time.

Section 312(b) of the Act (7 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later than the first day of February 1975 with respect to kinds other than flue-cured tobacco, the amount of the national marketing quota which will be in effect for the 1975–76 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) provides further that the amount of the 1975–76 national marketing quota (determined pursuant to such section) may, not later than March 1, 1975, be increased by not more than 20 per centum if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

The Act (7 U.S.C. 1301(b)) defines the "total supply" of tobacco for any marketing year as the carry-over at the beginning of the marketing year (on January 1 of such marketing year in the case of Maryland tobacco) plus the estimated production in the United States during the calendar year in which such marketing year begins. "Reserve supply level" is defined as the normal supply plus 5 per centum thereof. "Normal supply" is

defined as a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports. A "normal year's domestic consumption" is defined as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The Act (7 U.S.C. 1312(c)) requires that within 30 days after national marketing quotas are proclaimed under section 312(a) of the Act for a kind of tobacco, a referendum shall be conducted of farmers engaged in the production of the crop of such kind of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to quotas for the next three succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose the quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect but such results shall in no way affect or limit the subsequent submission to a referendum, as otherwise provided in § 312 of the Act (7 U.S.C. 1312), of national marketing quotas.

The Act (7 U.S.C. 1313(g)) authorizes the national marketing quota to be converted into a national acreage allotment on the basis of the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed, and the national acreage allotment (less a reserve of not to exceed 1 per centum thereof for new farms and for making corrections and adjusting inequities in old farm allotments) to be apportioned among old farms.

The subjects and issues involved in making the determinations described in this notice are:

(1) The amount of the reserve supply level for fire-cured (type 21), fire-cured (types 22–24), dark air-cured, sun-cured, cigar binder (types 51 & 52) and cigar filler and binder (types 42–44, 53–55) tobacco.

(2) The amount of the national marketing quota for each of these kinds of tobacco for the 1975–76 marketing year.

(3) The national factor for apportioning national acreage allotments to old farms.

(4) The amounts of the national acreage allotments to be reserved for new farms, and for making corrections and adjusting inequities in old farm allotments.

(5) The date or period of the referendum on quotas for the 1975–76, 1976–77, and 1977–78 marketing years for cigar filler (types 51 & 52) and cigar filler and binder (types 42–44, 53–55), and whether the referendum should be conducted at polling places rather than by mail ballot.

Consideration will be given to data, views and recommendations pertaining to the proposed determinations covered by this notice which are submitted in writing to the Director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington D.C. 20250. All written submissions made pursuant to the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 6741-South Building, 14th and Independence Avenue, SW., Washington, D.C. All submissions must, in order to be sure of consideration, be postmarked not later than January 14, 1975.

Signed at Washington, D.C. on: December 27, 1974.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.74-30468 Filed 12-27-74;10:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Parts 100a, 184]

ETHNIC HERITAGE STUDIES PROGRAM

Notice of Proposed Rule Making

Pursuant to the authority contained in title IX of the Elementary and Secondary Education Act of 1965, as added by section 504 of the Education Amendments of 1972, Pub. L. 92-318 (20 U.S.C. 900a to 900a-5), and section 111 of the Education Amendments of 1974 (P. L. 93-380), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to add a new Part 184 to Title 45 of the Code of Federal Regulations setting forth regulations for the Ethnic Heritage Studies Program, and by amending § 100a.10 of Title 45 of the Code of Federal Regulations to include this program in the coverage of the Office of Education General Provisions Regulations (45 CFR 100a).

The Ethnic Heritage Studies Program is a discretionary grant program which will provide Federal financial assistance to eligible applicants for the development of curriculum materials, or for dissemination of curriculum materials or for training. Cooperation between grantees and persons and organizations which have a special interest in the ethnic group or groups with which the program is concerned is required. The advisory council provisions are designed to achieve effective participation of the ethnic and community group or groups. Cooperation with such groups is considered in the evaluation of applications.

The following proposed regulations are similar to the standards and funding criteria published at 39 FR 13297 on April 12, 1974 with revisions resulting from the changes in title IX of the ESEA made by section 111 of the Education Amendments of 1974 as well as changes made as a consequence of experience gained from the administration of the program in the preceeding year.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulations to the Ethnic Heritage Studies Program, U.S. Office of Education, Seventh and D Streets SW., Room 3907, ROB-3, Washington, D.C. 20202. Comments received in response to this Notice will be available for public inspection at the above office on Mondays through Fridays between 8:30 a.m. and 4 p.m.

All relevant material must be received not later than January 30, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.549, Ethnic Heritage Studies)

Dated: December 2, 1974.

T. H. BELL,
Commissioner of Education.

Approved: December 24, 1974.

FRANK CARLUCCI,
Acting Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended as follows:

PART 100a—DIRECT PROJECT GRANT AND CONTRACT PROGRAMS

1. § 100a.10 is amended by adding a new paragraph (a)(33) to read as follows:

§ 100a.10 Scope.

(a) * * *

(33) Financial assistance for carrying out Ethnic Heritage Studies Programs under Title IX of the Elementary and Secondary Education Act.

(20 U.S.C. 900)

2. A new Part 184 is added, to read as follows:

PART 184—ETHNIC HERITAGE STUDIES PROGRAM

Subpart A—Purpose; Scope; Definition; General Provisions

Sec.
184.1 Purpose.
184.2 Definition.
184.3 Applicability and general provisions.

Subpart B—Authorized Activities and Program Advisory Councils

184.11 Authorized activities.
184.12 Advisory councils.

Subpart C—Eligibility and Applications for Assistance

184.21 Eligibility for financial assistance.
184.22 Application for assistance.
184.23 Costs.
184.24 Coordination of efforts.

Subpart D—Criteria

184.31 Criteria for assistance.

AUTHORITY: Title IX of ESEA as added by sections 901-902 of P.L. 92-318 (1972) (20 U.S.C. 900a-900a-5) and as amended by Section 111 of P.L. 93-380 (1974).

Subpart A—Purpose, Scope; Definition; General Provisions

§ 184.1 Purpose.

The purpose of the Act is to provide assistance designed to afford students opportunities to learn about the nature of their own cultural heritage and to study the contributions of the cultural heritages of the other ethnic groups of the Nation.

(20 U.S.C. 900)

§ 184.2 Definition.

As used in this notice, "Act" means title IX of the Elementary and Secondary Education Act of 1965, as added by section 504 of the Education Amendments of 1972 (P.L. 92-318), and amended by section 111 of the Education Amendments of 1974 (P.L. 93-380).

(20 U.S.C. 900 to 900a-5)

§ 184.3 Applicability and general provisions.

The regulations in this part apply to assistance provided under the Act. Such assistance is also subject to the provisions of Part 100a of the Office of Education General Provisions Regulations. (45 CFR Part 100a).

(20 U.S.C. 900)

Subpart B—Authorized Activities and Program Advisory Councils

§ 184.11 Authorized activities.

(a) Any ethnic heritage studies program assisted under the Act, in accordance with section 903 of the Act (1)

(i) Shall develop curriculum materials for use in elementary or secondary schools or institutions of higher education, relating to the culture of the ethnic group or groups with which the program is concerned, and the contributions of that group or groups to the American heritage in such areas as history, geography, society, economy, literature, arts, music, drama, language or general culture; or

(ii) Shall disseminate such curriculum materials to permit their use in elementary or secondary schools or institutions of higher education throughout the Nation; or

(iii) Shall provide training for persons using, or preparing to use, ethnic heritage curriculum materials developed under the Act whether or not such material were developed by the applicant; and

(2) Shall cooperate with persons and organizations which have a special interest in the ethnic group or groups with which the program is concerned to assist them in promoting, encouraging, developing, or producing programs or other activities which relate to the history, culture, or traditions of that group or groups.

(b) An application which does not make adequate provision for the carrying out by the applicant of one or more of the activities in paragraph (a)(1) of this section and the activities described in paragraph (a)(2) of this section will not be approved.

(20 U.S.C. 900a-1; 900a-2(a)(2))

§ 184.12 Advisory councils.

(a) The Act requires that an ethnic heritage studies program assisted under the Act must be planned and carried out in consultation with an advisory council which is representative of the ethnic group or groups with which the program is concerned.

(20 U.S.C. 900a-2)

(b) The appointment of council members shall be made with the participation of appropriate ethnic and community groups and shall meet the following requirements:

(1) Each of the ethnic groups with which the program is concerned is represented on the council;

(2) More than one-half of the membership of the council consists of community representatives of the ethnic group or groups with which the program is concerned;

(3) The council is broadly representative of educational and professional backgrounds relevant to the program, and at least one member of the council is affiliated with an educational organization or institution and has expertise and experience in curriculum development, training of personnel, and/or dissemination of curriculum materials.

(4) The members of the council are not employed by, or otherwise associated with, the applicant.

(c)(1) An applicant for assistance under the Act shall consult with an advisory council (as described above) regarding the planning of the program for which assistance is requested and the preparation and submission of the application.

(2) In carrying out a program assisted under the Act, a recipient shall:

(i) Consult periodically (and in no event less frequently than once a month) with such council regarding such program;

(ii) Provide such council in a timely fashion with advance copies of all reports required by the Commissioner with respect to the program and all materials prepared or distributed pursuant to it;

(iii) Request semi-annual assessment of the program and its effect by the council; and

(iv) Otherwise involve the council in its advisory capacity in the planning, implementation, and evaluation of the program.

(20 U.S.C. 900a-2(a)(3))

Subpart C—Eligibility and Applications for Assistance

§ 184.21 Eligibility for financial assistance.

The Commissioner will make grants to public and private nonprofit educational agencies, institutions, and organizations to assist them in developing and implementing ethnic heritage studies programs pursuant to the Act and this part. Eligible organizations include ethnic, community, and professional associations and local educational agencies, State educational agencies, and institutions of higher education as defined in section 801 of the Elementary and Secondary Education Act of 1965.

(20 U.S.C. 881; 20 U.S.C. 900a)

§ 184.22 Application for assistance.

(a) An applicant other than a local educational agency, State educational agency, or institution of higher education shall furnish a copy of its charter or other documentary evidence (such as notarized articles of incorporation, bylaws, or other appropriate organic documents) which demonstrates that it is a nonprofit organization and that it has an educational purpose. (See 45 CFR § 100.1 for definition of nonprofit organization.)

(20 U.S.C. 900a; 900a-2(a))

(b) An application for assistance under the Act shall contain information indicating the manner in which the requirements of § 184.12 have been and will be implemented.

(20 U.S.C. 900a-2(a)(3))

§ 184.23 Costs.

(a) Funds will be made available to cover all or part of the cost of establishing and implementing ethnic heritage studies programs, including such items as the cost of research materials and resources, ethnic group and academic consultants, and related training of educational and community resource personnel.

(b) Funds are not available under the Act for construction or remodeling of facilities.

(c) Funds requested under this Act for nonexpendable items such as printing equipment, copying machines, typewriters and audiovisual machines will be allowable only in exceptional circumstances.

(20 U.S.C. 900a; 900a-3)

(d) The Commissioner is prohibited from making any payment under the Act for religious worship or instruction. (20 U.S.C. 885)

§ 184.24 Coordination of efforts.

In approving applications under the Act, the Commissioner will require that adequate provision is made for cooperation and coordination of efforts among the programs assisted under the Act, including exchange of materials and information. An applicant for assistance under this part will provide an affirmative assurance that it will cooperate and coordinate efforts with other programs assisted under the Act.

(20 U.S.C. 900a-2(b))

Subpart D—Criteria

§ 184.31 Criteria for assistance.

(a) *General criteria.* Applications for assistance under the Act which qualify for consideration will be evaluated in accordance with the following general criteria:

(1) General criteria set forth in § 100a.26(b) of Part 100a of the Office of Education General Provisions Regulations (45 CFR 100a.26(b); and

(2) The overall quality of the program, with respect to the activities described in section 903 of the Act, and § 184.11 in helping students learn about their own cultural heritage and about the cultural heritages of other ethnic groups.

(b) *Specific criteria.* Applications for assistance under the Act will also be evaluated on the extent to which:

(1) There is evidence of commitment by the applicant and other interested groups to the program and to its continuation upon the expiration of Federal assistance;

(2) There is a clear demonstration of a specific contribution which the proposed program will make toward meeting the purpose of the Act;

(3) Approval of the application would promote an appropriate distribution of ethnic heritage studies programs throughout the Nation;

(4) The impact of the program is multi-ethnic;

(5) The program materials are designed for widespread use in schools or institutions of higher education and not exclusively for the applicants or the ethnic group(s) with which the program is concerned; and

(6) Provision is made for cooperation:

(i) With persons and organization having a special interest in the program, as provided in section 903(4) of the Act;

(ii) With other programs assisted under this Act, including such joint activities as exchange of materials, personnel development models and cooperative dissemination efforts; and

(iii) Between ethnic or community groups and educational institutions or other agencies in order to implement the goals of the program.

(c) *Additional criteria.* (1) Programs described in § 184.11(a)(1)(i) (relating to development of curriculum materials) shall also be evaluated on the extent to which provision is made for:

(i) Obtaining data from resources within the community;

(ii) Field-testing curriculum materials to determine their effectiveness prior to use; and

(iii) Incorporating tested materials within the regular curriculum of schools or colleges;

(2) Programs described in § 184.11(a)(1)(ii) (relating to dissemination) shall also be evaluated on the extent to which provision is made for:

(i) Analysis of the materials to be disseminated;

(ii) Dissemination of materials on a nationwide basis; and

(iii) Facilitating exchange of materials among programs assisted under the Act.

(3) Programs described in § 184.11(a)(1)(iii) (relating to training) shall also be evaluated on the extent to which provision is made for:

(i) Maximum involvement of such leadership personnel as community leaders, teachers, teacher trainers, educational administrators, and/or curriculum development specialists and supervisors; and

(ii) Evaluation of the training program.

(20 U.S.C. 906-906a-5)

[FR Doc.74-30485 Filed 12-30-74;8:45 am]

Food and Drug Administration

[21 CFR 122]

POISONOUS OR DELETERIOUS SUBSTANCES IN FOOD

Notice of Proposed Rule Making

Correction

FR Doc. 74-28407 appearing in the issue of Friday, December 6, 1974 (39 FR 42743) is corrected as follows:

1. On page 42743, 3rd column, 7th line, the date in the citation is corrected to read, "*United States* v. *Lexington Mill & Elevator Co.*, 232 U.S. 399 (1914)."

2. On page 42750, 1st column, 4th paragraph, the 1st sentence should read, "There were indications that the processing of peanuts could result in a reduction of aflatoxin level to a trace or nondetectable level."

3. On page 42751, the 2nd column, the 1st word in entry no. 1 should be set in quotes as follows: "Aflatoxin".

4. On page 42751, the 3rd column, the last line, the word "composition" should be corrected to read "composite".

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 14231]

BRITISH AIRCRAFT CORPORATION VISCOUNT MODEL 744, 745D, AND 810 SERIES AIRPLANES

Proposed Airworthiness Directives

Amendment 39-129 (30 FR 11169), AD-65-20-4, in pertinent part, requires a modification to the rear pressure bulkhead of British Aircraft Corporation Model Viscount 700 Series airplanes, together with a 6-month periodic inspection of the pressure panel for cracks or corrosion introduced by the modification, and repair as necessary. After issuing Amendment 39-129, there were reported cases of cracks developing in the bend radius of the rear pressure bulkhead boundary members of several British Aircraft Corporation Viscount Model 700 Series Airplanes. Amendments 39-1286 and 39-1297 (AD's 71-19-4 and 71-20-8, 36 FR 17848 and 36 FR 18785) required a one time inspection and repair as necessary of the rear pressure bulkhead boundary members. Subsequently, BAC amended the PTL's cited in Amendment 39-129 to provide for repetitive inspections and repair of the boundary members in both Series 700 and Series 800 airplanes. The FAA is, therefore, considering amending Amendment 39-129 to additionally require a repetitive 2500 flight inspection of the rear pressure bulkhead boundary members for cracks, and repair as necessary, of British Aircraft Corporation Viscount Models 744, 745D, and 810 Series airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, 800 Independence Avenue S.W., Washington, D.C. 20591. All communications received on or before January 30, 1975, will be considered by the Administrator before taking action upon the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-129 (30 FR 11169), AD 65-20-4, by revising paragraph (b)(2) to read as follows:

§ 39.13 Airworthiness directives.

* * * * *

(b) Pressure Bulkheads—Section 3.

* * * * *

(2) Rear Pressure Bulkhead—Stn. 761 (Models 744 and 745D airplanes) and Stn. 871.71 (Model 810 airplanes). Compliance required as indicated in BAC PTL 221 Issue 6 or BAC PTL 94 Issue 6, as applicable, or an FAA approved equivalent, except that with respect to circumferential boundary members compliance is required before the accumulation of 2500 flights since the inspection required by AD 71-19-4 and AD 71-20-8, as applicable, or within the next 10 flights after the effective date of this amendment, whichever occurs later, and thereafter at intervals not to exceed 2500 flights since the last inspection.

Issued in Washington, D.C. on December 23, 1974.

C.R. MELUGIN, JR.,
Acting Director,
Flight Standards Service.

[FR Doc.74-30370 Filed 12-30-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 15]

[Docket No. 20309 RM-2286, FCC 74-1405]

AUDITORY TRAINING SYSTEMS

Equipment Authorization

In the matter of amendment of the Commission's Rules and Regulations to provide for the equipment authorization of Auditory Training Systems.

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V 39 N 252 DEC 31 1974 XUM

1. Notice is hereby given of proposed rulemaking in the above entitled matter.

2. The Commission has before it a petition for rulemaking submitted by HC Electronics, Inc. (HC)[1] requesting that Part 15 of the rules and regulations be amended "to provide that no auditory training transmitter may be type approved unless a corresponding receiver is available for use with that transmitter, and no auditory training receiver may be certificated unless a corresponding transmitter is available for use with that receiver."

3. HC is a manufacturer of auditory training systems and has filed complaints against its competitors alleging that they have offered for sale auditory training transmitters for which no corresponding certificated receivers are available. HC notes that under §§ 2.803, 15.335(a), 15.345, and 15.347(a) of the Commission's Rules and Regulations auditory training transmitters must be type approved and auditory training receivers must be certificated, prior to offering for sale, marketing and use. HC states that offers for sale of an approved transmitter or receiver without having the necessary equipment authorization of the corresponding transmitter or receiver is unfair to the public and requests, that the Commission insure that if an equipment authorization is presented to the public, the entire transmitter-receiver system should first be authorized for use.

4. Having reviewed HC's petition and the Commission's Report and Order[2] which provided additional channels in the bands 72–73 MHz and 75.4–76 MHz for the operation of this equipment, the Commission is convinced of the need for equipment authorization of auditory training systems operating in these bands.

5. Accordingly, we are herewith issuing a Notice of Proposed Rule Making which would require a systems approval of devices used in auditory training systems.

6. Authority for the adoption of rules herein proposed is contained in sections 4(i), 302, 303(g) and 303(r) of the Communications Act of 1934, as amended.

7. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's rules, interested persons may file comments on or before February 11, 1975 and reply comments on or before February 21, 1975. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision on the rules which are proposed herein, the Commission also may take into account other relevant information before it, in addition to specific comments invited by this Notice.

8. In accordance with the provisions of Section 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments shall be furnished to the Commission. Responses will be available, for public inspection during regular business hours in the Commission's Docket Reference Room at its Headquarters in Washington, D.C.

Adopted: December 18, 1974.

Released: December 23, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS;
Secretary.

1. Section 15.333 is amended to read as follows:

§ 15.333 Operation in the band 72–76 MHz.

An auditory training system may be operated on the frequencies listed in § 15.351 provided the transmitter meets the technical specifications in §§ 15.353–15.359 inclusive and is type approved pursuant to § 15.347 and the receiver meets the technical specifications in §§ 15.361–15.367 inclusive and is certificated pursuant to § 15.345.

2. Section 15.345 is amended to read as follows:

§ 15.345 Certification of receiver.

A receiver operating in the range 30–890 MHz as part of an auditory training system shall be certificated pursuant to Subpart B of this part to show compliance with the technical specifications of this subpart. The grant of certification of an auditory training receiver will not be made unless the receiver is compatible with an auditory training transmitter type approved pursuant to Subpart B of this part.

3. Section 15.347 and headnote are amended to read as follows:

§ 15.347 Equipment authorization for transmitter.

(a) A transmitter operating the band 72–76 MHz or the 88–108 MHz as part of an auditory training system shall be type approved pursuant to Subpart B of this part. The grant of type approval of an auditory training transmitter will not be made unless the transmitter is compatible with an auditory training receiver certificated pursuant to Subpart B of this part.

* * * * *

[FR Doc.74-30418 Filed 12-30-74;8:45 am]

[1] HC submitted this petition on November 27, 1973, and it has been considered with the other pleadings concerning auditory training systems which the Commission has resolved this date.

[2] 35 FCC 2d 677, 37 FR 13984 (1972).

[47 CFR Part 76]

[Docket No. 19417, FCC 74-1416]

CABLE TELEVISION SYSTEMS

Carriage of Sports Programs

In the matter of amendment of Part 76 of the Commission's Rules and Regulations relative to cable television systems and the carriage of sports programs on Cable television systems.

1. Notice is hereby given of further proposed rule making in the above-entitled matter.

2. On February 3, 1972, the Commission released its Notice of Proposed Rule Making in Docket 19417, FCC 72-109, 36 FCC 2d 641 1972). By this notice, interested parties were invited to file comments on a proposed new rule which would prohibit cable television systems, under certain circumstances, from carrying live professional sports events on a distant television signal. The rule as proposed reads as follows:

> When a professional baseball, basketball, football, or hockey team is playing at home, no cable television system located within the predicted Grade B contour of a station located within the home city of the team shall, without the consent of the home team and its league, carry the television broadcast of a professional game of the same sport if such event is not available on a television station that:
>
> (a) Is located within 35 miles of the reference point of the community of the system or
>
> (b) Has an audience in the county or community of the system meeting the significant viewing test set forth in Section 76.54 of the Commission's Rules and Regulations.

Our concern in this area was prompted by comments received in connection with the rule making proceedings in Dockets 18397, FCC 68-1176, 15 FCC 2d 417 (1968) and 18397-A, FCC 70-676, 24 FCC 2d 580 (1970) which suggested that cable carriage of broadcast sports events should be treated differently from other programming presented on commercial television. In our August 5, 1971, letter to Congress,[1] the Commission expressed its intention to follow the spirit and letter of Public Law 87-331, as amended, 15 USC §§ 1291-5, since it represented the only Congressional policy in this area. The proposed rule was drafted in accordance with that intent.

3. The deadline for filing comments in this proceeding was in March, 1972; the deadline for reply comments was in April, 1972. In response, 49 parties filed comments. These pleadings reflect widely divergent views, ranging from those which would have the Commission ban the cable carriage of professional sports events not broadcast by local market stations to those which would permit carriage of whatever sports events appear on stations that cable systems are permitted to carry under our rules. In order to define the issues raised in the Notice and in the comments, the Commission heard oral argument in July, 1972. Appearances were made by 45 representatives of sports, broadcast, and cable television interests, members of Congress, and officials of local governments, and almost 400 pages of transcript were taken during this phase.

4. Notwithstanding the vast amount of information which has already been presented to the Commission, we are of the opinion that additional comments

[1] Cable Television Proposals, FCC 71-787, 31 FCC 2d 115 (1971).

are required to update the data previously filed and to provide interested parties with an opportunity to respond to specific issues which we feel deserve further attention. Our decision is predicated on the fact that significant developments have occurred since the record was last open for comments. Among the developments are the investigation by Congress of the entire sports-blackout question culminating in September 1973, with the passage of Public Law 93–107 which amended the Communications Act to prohibit league blackouts of home games sold out three days in advance. In addition, during this period, the United States Senate moved forward with the Copyright Revision Bill (S. 1361) which made reference to the sports carriage question in various draft forms.[1]

5. In view of the foregoing, the Commission invites all interested parties to submit comments on or related to the following questions:

(1) Does Public Law 93–107 necessitate any modifications to the rule proposed in the original Notice in this proceeding?

(2) What effect does Public Law 93–107 have on the necessity for a sports blackout rule?

(3) What effect does the Senate deletion of Section 111(c)(2)(C) [sports carriage provision] of the Copyright Revision Bill have on the instant proceeding?

In addition, the Commission requests further comments on the following questions:

(4) Should the proposed rule be modified to include sports other than those contemplated in Section 1 of Public Law 87–331?

(5) Should any rule adopted include protection for minor league sports?

(6) Should the Grade B area of protection as contained in the proposed rule be modified?

(7) Should the proposed prohibition against the importation of games of the same sport be modified to prohibit:

(a) The importation of games of the same league, or

(b) The importation of only the same game?

(8) What impact, if any, will adoption of a sports blackout rule have on cable television systems when taken in connection with the Commission's other carriage and program exclusivity regulations?

Comments should be concise and contain empirical data where available.

6. Authority for the rule making proposed herein is contained in section 4(i), 303 and 403 of the Communications Act of 1934, as amended. All interested parties are invited to file written comments on or before January 31, 1975, and reply comments on or before February 10, 1975. In reaching a decision on this matter, the Commission may take into account any other relevant information before it, in addition to the comments invited by this Notice.

7. In accordance with the provisions of Section 1.419 of the Commission's Rules and Regulations, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission Public Reference Room at its Headquarters in Washington, D.C.

Adopted: December 18, 1974.

Released: December 23, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-30421 Filed 12-30-74;8:45 am]

[1] The Senate passed the Bill on September 9, 1974, without reference to the cable carriage of sports events.

FEDERAL RESERVE SYSTEM

[12 CFR 217]

[Reg. Q]

INTEREST ON DEPOSITS

Reconsideration of NOW Accounts for Governmental Units

The Board of Governors has determined to reconsider whether member banks in the States of Massachusetts and New Hampshire should continue to be permitted to offer to governmental units interest-bearing accounts subject to transfers of funds by negotiable order of withdrawal (NOW's). In conjunction with Pub. L. 93–495, which provides Federal deposit insurance up to $100,000 for time and savings deposits by governmental units, the Board, effective November 27, 1974, amended Regulation Q (12 CFR 217) to include deposits of governmental units in the definition of savings deposit (39 FR 43056). Because NOW accounts are permitted to be offered on an experimental basis only in Massachusetts and New Hampshire (Pub. L. 93–100) and are included in the definition of savings deposits in Regulation Q, the Board's amendment of November 27, 1974, also had the effect of authorizing governmental unit NOW accounts in those two States.

The Board has received several requests that it review its action amending Regulation Q to authorize member banks to accept governmental unit NOW accounts. The Board's decision to review this action and to solicit written data, views, or arguments from interested persons is taken as a result of these requests which assert, in part, that potentially disruptive shifts of funds may occur in the NOW experiment area as a result of this action. If it determines to rescind the authorization to member banks to maintain governmental unit NOW accounts, the Board expects to amend § 217.1(e)(3) of Regulation Q to modify the definition of savings deposit to bar member banks from maintaining NOW accounts for governmental units as set forth below. That action would be taken pursuant to the Board's authority under § 19 of the Federal Reserve Act (12 U.S.C. 461) to define the terms used in that section. No comments or requests have been received and no consideration is being given with respect to modifying or rescinding that part of the Board's November 27, 1974, action which authorized member banks to maintain "nontransfer order" savings deposits for governmental units.

Since the possibility exists that the Board will decide to prohibit member banks from maintaining NOW accounts for governmental units, it is recommended that member banks refrain from offering NOW accounts to governmental units pending a determination of this matter by the Board.

Interested persons are invited to submit written data, views, or arguments with respect to whether member banks should continue to be permitted to maintain NOW accounts for governmental units in Massachusetts and New Hampshire. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 20, 1975. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information. This notice is published pursuant to § 553(b) of Title 5, United States Code, and § 262.2 of the Board's Rules of Procedure, 12 CFR § 262.2.

§ 217.1 Definitions.

* * * * *

(e) *Savings Deposits*

* * * * *

(3) * * *

Member banks are not permitted to accept deposits subject to negotiable orders of withdrawal from governmental units.

By order of the Board of Governors, effective December 23, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-30460 Filed 12-30-74;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[CM-5/3]

STUDY GROUP 6 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 6 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on January 23, 1975 at 9:30 a.m. to 12:00 noon at the ComSat Laboratories, Clarksburg, Maryland.

Study Group 6 deals with matters relating to the propagation of radio waves by and through the ionosphere. The agenda for the meeting on January 23 is:

1. Review of status.
2. Discussion of documentation required for the forthcoming interim meeting.
3. Organization of work.

Members of the general public who desire to attend the meeting on January 23, 1975 will be admitted up to the limits of the capacity of the meeting room, but are requested to notify the Chairman, Dr. Ernest K. Smith, Institute for Telecommunication Sciences, Office of Telecommunications, Boulder, Colorado 80302 (Area Code 303 499-1000, extension 3177) prior to January 22, 1975.

Dated: December 20, 1974.

GORDON L. HUFFCUTT,
Chairman,
U.S. National Committee.

[FR Doc.74-30451 Filed 12-30-74;8:45 am]

DEPARTMENT OF THE TREASURY

[T.D. Order No. 233, Rev. No. 1]

ASSISTANT SECRETARY FOR ADMINISTRATION

Delegation of Authority

The orderly termination of the Economic Stabilization Program has been substantially completed by the Office of Economic Stabilization, which was established by Treasury Department Order No. 233, June 28, 1974 (39 FR 24522), and, pursuant to that order, ceases to exist on December 31, 1974. Nevertheless, it is necessary to provide for a number of continuing activities, including the appropriate disposition of certain reports and records of the Economic Stabilization Program; the servicing of requests from the public for access to documents filed under the Economic Stabilization Program; and the continuation of compliance and enforcement efforts, pursuant to section 218 of the Economic Stabilization Act of 1970, as amended, with respect to action or pending proceedings, civil or criminal, not finally determined on April 30, 1974, or any action or proceeding based upon any act committed prior to May 1, 1974.

Therefore, by virtue of the authority vested in me as Secretary of the Treasury, including that in Reorganization Plan No. 26 of 1950, and that delegated to me by Executive Order 11788, June 18, 1974 (39 FR 22113), it is hereby ordered as follows:

1. All powers and duties delegated to the Secretary by Executive Order 11788, June 18, 1974 (39 FR 22113), are delegated to the Assistant Secretary for Administration except for (a) the authority contained in subsections 5(a) (2) and (3) of that order, and (b) the authority contained in subsection 5(b)(1) of that order.

2. All regulations, rules, instructions and forms issued or adopted by the Office of Economic Stabilization for the administration of the Economic Stabilization Program pursuant to the Economic Stabilization Act of 1970, as amended, are hereby continued in effect as regulations, rules, instructions and forms of the Department of the Treasury, until superseded or revised. All references in Chapters I through VI of Title 6 of the Code of Federal Regulations to the Office of Economic Stabilization or its Director, the Cost of Living Council or the Director or Chairman of the Council, the Construction Industry Stabilization Committee, or any other official or agency which exercised authority delegated by the Council shall for procedural purposes be deemed to refer to the Assistant Secretary for Administration.

3. The authorities delegated by this order may be further redelegated by the Assistant Secretary for Administration.

4. Any delegations of authority heretofore made by the Assistant Secretary for Administration pursuant to Treasury Department Order No. 233 are hereby ratified and continued.

5. This order supersedes Treasury Department Order No. 233 issued June 28, 1974.

6. This order is effective January 1, 1975.

Dated: December 26, 1974.

WILLIAM E. SIMON,
Secretary of the Treasury.

[FR Doc.74-30481 Filed 12-30-74;8:45 am]

Customs Service

[T.D. 75-14]

FOREIGN CURRENCIES

Certification of Rates

DECEMBER 18, 1974.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 74-264 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Austria schilling:	
Dec. 9, 1974	$0.0569
Dec. 10, 1974	.0565
Dec. 11, 1974	.0567
Dec. 12, 1974	.0571
Dec. 13, 1974	.0571
Belgium franc:	
Dec. 9, 1974	$0.02695
Dec. 10, 1974	.02695
Dec. 11, 1974	.02702
Dec. 12, 1974	.02717
Dec. 13, 1974	.02702
Denmark krone:	
Dec. 9, 1974	$0.1733
Dec. 10, 1974	.1730
Dec. 11, 1974	.1730
Dec. 12, 1974	.1735
Dec. 13, 1974	.1722
Finland markka:	
Dec. 12, 1974	$0.2749
Germany deutsche mark:	
Dec. 9, 1974	$0.4049
Dec. 10, 1974	.4045
Dec. 11, 1974	.4064
Dec. 12, 1974	.4070
Dec. 13, 1974	.4068
Netherlands guilder:	
Dec. 9, 1974	$0.3911
Dec. 10, 1974	.3909
Dec. 11, 1974	.3918
Dec. 12, 1974	.3949
Dec. 13, 1974	.3939
Sweden krona:	
Dec. 10, 1974	$0.2372
Dec. 11, 1974	.2371
Dec. 12, 1974	.2375
Dec. 13, 1974	.2376
Switzerland franc:	
Dec. 9, 1974	$0.3786
Dec. 10, 1974	.3800
Dec. 11, 1974	.3806
Dec. 12, 1974	.3849
Dec. 13, 1974	.3828

[SEAL] JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

[FR Doc.74-30453 Filed 12-30-74;8:46 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(NM 24191, 24192, 24194, 24195, 24199, 24197, 24198)

NEW MEXICO

Pipeline Applications

DECEMBER 20, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gas Company has applied for seven 4-inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 6 W.,
Sec. 21, S½SE¼, NW¼SE¼;
Sec. 22, SW¼SW¼.
T. 27 N., R. 6 W.,
Sec. 33, SW¼NW¼, NW¼SW¼;
Sec. 35, NW¼NE¼, NE¼NW¼.
T. 26 N., R. 7 W.,
Sec. 13, SE¼SE¼;
Sec. 23, E½SE¼, S½SW¼;
Sec. 24, SE¼NE¼, E½SW¼, SW¼SW¼ and N½SE¼.

These pipelines will convey natural gas across 3.190 miles of national resource lands in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-30440 Filed 12-30-74;8:45 am]

Office of Hearings and Appeals

[Docket No. M 75-73]

ALABAMA BY-PRODUCTS CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Alabama By-Products Corporation has filed a petition to modify the application of 30 CFR 75.514 to the following mines located in Jefferson and Walker Counties in Alabama: Chetopa Mine, Maxine Mine, Mary Lee #1 Mine, Gorgas # 7 Mine, Mary Lee #2 Mine, and SEGCO #1 Mine.

30 CFR 75.514 provides:

All electrical connections or splices in conductors shall be mechanically and electrically efficient, and suitable connectors shall be used. All electrical connections or splices in insulated wire shall be reinsulated at least to the same degree of protection as the remainder of the wire.

In support of its petition, Petitioner states:

(1) For a number of years, Petitioner has been using rubber tape, plastic tape and friction tape on temporary splices in trailing cables. Recently MESA has required the use of only one tape—Plytuff—in making splices in trailing cables.

(2) 30 CFR 75.514 provides in part:

All electrical connections or splices in insulated wire shall be reinsulated at least to the same degree of protection as the remainder of the wire.

(3) It is Petitioner's understanding that MESA interprets this part of the above section to mean that where you have a temporary splice in a trailing cable you must use a "fireproof" tape to perfect the splice and provide the "same degree of protection." In the opinion of Petitioner, 30 CFR 75.514 does not apply to temporary splices at all. It is our position that 30 CFR 75.603 applies specifically to temporary splices in trailing cables. 30 CFR 75.603 requires that temporary splices in trailing cables be made in a workmanlike manner and be mechanically strong and well insulated. There is no requirement in that section requiring the use of a fireproof tape.

(4) Only recently has any tape acquired the approval of MESA and this was Plytuff. However, this tape was not approved individually, but was approved as a part of a kit used for making permanent splices. Petitioner finds that the Plytuff tape is not sufficient for effecting temporary splices that are "mechanically strong and well insulated." This tape simply will not stand the abuse given trailing cables even under subnormal conditions. Petitioner's experience with this Plytuff tape is that within an eight hour period after being applied, it will scuff off and admit moisture into the conductors. Plytuff tape simply does not provide the protection needed to produce a temporary splice made in a "workmanlike manner."

(5) Alternate method. Petitioner requests that in lieu of the mandatory standard required by MESA interpretation of 30 CFR 75.514, Petitioner be allowed to continue using the tapes it now uses (rubber tape, plastic tape, and friction tape) to perfect temporary splices in trailing cables which splices are made in a workmanlike manner and are mechanically strong and well insulated.

(6) In Petitioner's opinion this alternate method will at all times guarantee no less than the same measure of protection afforded the miners at the affected mines by the application of the mandatory standard. In fact, Petitioner emphatically stresses that the application of the mandatory standard (requiring the use of Plytuff tape) will result in diminution of safety to miners in the affected mines. If the Plytuff tape is continued to be required to be used in making temporary splices, it will continue to scuff off and someone is going to be seriously injured or killed in handling a trailing cable where the tape has come off a temporary splice exposing naked conductors.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 30, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

DECEMBER 20, 1974.

[FR Doc.74-30386 Filed 12-30-74;8:45 am]

[Docket No. M 75-72]

CF&I STEEL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), CF&I Steel Corporation has filed a petition to modify the application of 30 CFR 75.1101-1(b) to its Allen Mine, Pueblo, Colorado.

30 CFR 75.1101-1(b) provides:

Nozzles attached to the branch lines shall be full cone, corrosion resistant and provided with blow-off dust covers. The spray application rate shall not be less that 0.25 gallon per minute per square foot of the top surface of the top belt and the discharge shall be directed to both the upper and bottom surfaces of the top belt and to the upper surface of the bottom belt.

1. On November 30, 1971, an Order was entered in Docket No. M-71-28, in which Petitioner sought a modification of Section 75.1101-10 of the Regulations. A copy of said Order is attached hereto and marked as Exhibit "A".[1]

2. Pursuant to paragraph D(3) of said Order, CF&I must perform and does perform tests of the water sprays at each belt conveyor drive unit on all main and secondary belt drives in the Allen Mine at the start of each shift.

3. The blow-off dust covers, required by § 75.1101-1(b) of the regulations, have become a safety hazard in that a man has to reach in between the belts and in between the drive pulleys to replace the dust covers after each test at the start of each shift.

4. Because the tests are being made prior to the starting of the belts at the beginning of each shift pursuant to said Order, there is no possibility of an accumulation of dust around the sprays that could harden and cause the sprays to become inoperative.

5. Petitioner requests that § 75.1101-1 (b) of the regulations be modified as it applies to the Allen Mine so that dust covers not be required on the deluge type water sprays installed along all main and secondary belt drives in the Allen Mine.

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[1] Exhibit A will be available for inspection at the address noted in the last paragraph of the notice.

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Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 30, 1975. Such requests or comments must be filed with the Departmental Hearings Branch-OHA, U.S. Department of the Interior, 6432 Federal Building, Salt Lake City, Utah 84138. Copies of the petition are available for inspection at that address.

DECEMBER 18, 1974.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.74-30387 Filed 12-30-74;8:45 am]

[Docket No. M 75-73]

PEABODY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Peabody Coal Company has filed a petition to modify the application of 30 CFR 77.803 to its Alston Centertown Preparation Plant.

30 CFR 77.803 provides:

On and after September 30, 1971, all high-voltage, resistance grounded systems shall include a fail safe ground check circuit or other no less effective device approved by the Secretary to monitor continuously the grounding circuit to assure continuity. The fail safe ground check circuit shall cause the circuit breaker to open when either the ground or ground check wire is broken.

Petitioner asks that a modification be applied to its Alston Centertown Preparation Plan on the following grounds:

(1) Standard 30 CFR 77.803 is presently being applied by the Mining Enforcement and Safety Administration erroneously and without factual or legal basis to high voltage circuits supplying stationary equipment when it was intended and should apply only to high voltage circuits supplying portable or mobile equipment.

(2) The alternative proposal hereinafter cited by Petitioner provides at least equal protection to the miners and in fact more protection.

(3) The application of 30 CFR 77.803 to high voltage equipment supplying stationary equipment at Petitioner's mine in fact diminishes the safety of the miners as compared to Petitioner's proposed alternative.

(4) 30 CFR 77.800 should apply to high voltage circuits that supply power to stationary equipment. 30 CFR 77.800 provides:

High-voltage circuits supplying power to portable or mobile equipment shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained and equipped with devices to provide protection against under voltage, grounded phase, short circuit and overcurrent. High-voltage circuits supplying power to stationary equipment shall be protected against overloads by either a circuit breaker or fuses of the correct type and capacity.

PETITIONER'S ALTERNATIVE

Petitioner proposes to meet the safety standards of 30 CFR 77.800 applicable to stationary equipment by including protection by circuit breaker or fuses of the correct type and capacity. In addition, Petitioner will:

(1) use grounding resistor of proper rating to limit the voltage drop in the grounding circuit external to the resistor to less than 100 volts under fault conditions.

(2) use instantaneous tripping to protect against short circuits.

(3) use grounded phase relaying to cause the circuit breaker to trip on ground faults of less than 15 amperes.

(4) apply potential transformer connected across the grounding resistor to open circuit breaker if ground resistor fails.

Petitioner contends that by using the above components in the high voltage distribution system, it will guarantee the miners no less than the same protection and in fact more protection than the use of a ground check circuit. Petitioner further asserts that the application of 30 CFR 77.303 diminishes the degree of safety afforded the miners when applied to stationary equipment.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 30, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DECEMBER 18, 1974.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc. 74-30388 Filed 12-30-74;8:45 am]

[Docket No. M 75-63]

REPUBLIC STEEL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Republic Steel Corporation has filed a petition to modify the application of 30 CFR 77.803 to its North River No. 1 Mine, Berry, Alabama.

30 CFR 77.803 provides:

On and after September 30, 1971, all high-voltage, resistance grounded systems shall include a fail safe ground check circuit or other no less effective device approved by the Secretary to monitor continuously the grounding circuit to assure continuity. The fail safe ground check circuit shall cause the circuit breaker to open when either the ground or ground check wire is broken.

In support of its petition, Petitioner states:

(1) The Alabama Power Company furnishes electric power at 161,000 volts which is stepped down to 12,470 volts, grounded wire in the power company's 10,000 KVA O.A. 14,000 KMFOA and supplied on one metered circuit to the adjoining North River breaker station. At the station, five outgoing circuits are metered.

(2) The neutral is grounded through an outdoor 15 K.V.B.I.L. 288 ohm resistor with a 15 K.V. 500 MCM insulated copper cable extending fifty-five feet to an eight-inch diameter, fifty feet deep bore hole treated with carbon dust.

(3) Five outgoing neutrals are connected to the ground side of the resistor.

(4) The circuits may be described as follows:

(a) The preparation circuit, which is approximately 3,000 feet in length, contains three 4/0 AAAC conductors with one 2/0 AAAC neutral which is connected to each of five 1,000 KVA transformer tanks.

(b) The hoist circuit runs from the substation to the mine hoist and transfer building, a total of 2,900 feet. It contains three 2/0 AAAC conductors and one 1/0 AAAC neutral while energizing one 500 KVA 12,470 primary 480 secondary wye. The neutral is connected to the tank of the transformer. This circuit furnishes energy for construction from the substation and remains available for an emergency source of power.

(c) There are two underground circuits with 1,200 ampere 15 KV 500 MVA interrupting capacity. One circuit furnishes power to the north side of the mine; the other circuit serves the south side. Each circuit contains three single conductors with 500 MCM 15 AVCU insulated cables. A tie breaker is situated between the two power bore holes. One 250 MCM-15 SVCU insulated neutral, or ground wire the size of the neutral, is kept to one-half the size of the conductors and is monitored throughout the system.

(5) Lightning arrestors with surge capacitors are mounted on each of the steel cable supports, and in each underground circuit breaker and transformer power center.

(6) The main circuit breaker is equipped with the following relays: 3-1AC for 3-phase overload protection, 1-AV relay for over voltage connected to a 7,200 volt potential transformer connected across the ground resistor, 1-1AV relay for over amperage from the 50/5 ratio current transformer connected in series with the transformers neutral and the ground resistor. If a ground fault should occur on any circuit and the GTR failed to operate, the 1 AV or the 1 AC, after a time delay, will open the main breaker clearing all outgoing circuits.

All breaker settings were checked by the local Bureau of Mines personnel.

Petitioner feels that by having the above-described backup ground protection on all circuits, the permanent surface neutrals, unlike the underground circuits which are constantly changing, will be protected without having the

monitoring system. The petition is supported by schematic diagrams detailing the alternate method.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 30, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DECEMBER 18, 1974.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.74-30389 Filed 12-30-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

RUBY MOUNTAINS-EAST HUMBOLDT PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Ruby Mountains-East Humboldt Planning Unit, Humboldt National Forest, Nevada. The Forest Service report number is USDA-FS-DES (Adm) R4-75-9.

The environmental statement identifies and evaluates the probable effects of the land use plan for the Ruby Mountains-East Humboldt Planning Unit on the Humboldt National Forest, Nevada. The purpose of the plan is to allocate National Forest lands within the unit to specific resource uses and activities; establish management objectives; document management direction, management decisions, and necessary coordination between resource uses and activities; and provide for the protection, use, and development of the various resources within the planning unit. The plan provides for minimization of adverse effects and maximization of desirable effects. The mix of uses provided for includes moderate levels of consumptive resource uses. Significant areas will remain undeveloped with options for future management remaining open.

This draft environmental statement was transmitted to CEQ on December 20, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. and Independence Ave. SW.
Washington, D.C. 20250

Regional Planning Office
USDA, Forest Service
Federal Building, Room 4403
324-25th Street
Ogden, Utah 84401

Forest Supervisor
Humboldt National Forest
976 Mountain City Highway
Elko, Nevada 89801

District Forest Ranger
Lamoille Ranger District
P.O. Box 651
Lamoille, Nevada 89828

District Forest Ranger
Wells Ranger District
P.O. Box 248
Wells, Nevada 89835

A limited number of single copies are available upon request to Forest Supervisor Vern L. Thompson, Humboldt National Forest, 976 Mountain City Highway, Elko, Nevada 89801.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Vern L. Thompson, Humboldt National Forest, 976 Mountain City Highway, Elko, Nevada 89801. Comments must be received by February 18, 1975, in order to be considered in the preparation of the final environmental statement.

Dated: December 20, 1974.

JEFF M. SIRMON,
Acting Regional Forester.

[FR Doc.74-30433 Filed 12-30-74;8:45 am]

WARREN PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Warren Planning Unit, Payette National Forest, Idaho. The Forest Service report number is USDA-FS-DES (Adm) R4-75-10.

The environmental statement identifies and evaluates the probable effects of the land use plan for the Warren Planning Unit on the Payette National Forest in south-central Idaho. The purpose of the plan is to allocate National Forest lands within the unit to specific resource uses and activities; resolve the future status of several inventoried roadless areas; resolve conflicts between competing uses, provide protection for sensitive enviromental factors, and to maintain desirable social-economic relationships by providing for use of the resources within the planning unit. The plan provides for minimization of adverse effects. Minor adverse effects from some development activities will be temporary stream sedimentation, displacement of wildlife populations, and short periods of air pollution. All resource activities will be monitored so that tolerable levels of sedimentation will not be exceeded in the South Fork Salmon River.

Recreation opportunities will be slightly increased. A total of 35,500 acres has been designated as new wilderness study areas and an additional 126,000 acres will remain unroaded. About 132,000 acres presently undeveloped may be developed. The plan provides for a low to high level of consumption resource uses with significant areas remaining undeveloped with options for future management remaining open.

This draft environmental statement was transmitted to CEQ on December 23, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. and Independence Ave., S.W.
Washington, D.C. 20250

Regional Planning Office
USDA, Forest Service
Federal Building, Room 4403
Ogden, Utah 84401

Forest Supervisor
Payette National Forest
Forest Service Building
P.O. Box 1026
McCall, Idaho 83638

A limited number of single copies are available upon request to Forest Supervisor William B. Sendt, Payette National Forest, Forest Service Building, P.O. Box 1026, McCall, Idaho 83638.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor William B. Sendt, Payette National Forest, Forest Service Building, P.O. Box 1026, McCall, Idaho 83638. Comments must be received by February 21, 1975, in order to be considered in the preparation of the final environmental statement.

Dated: December 23, 1974.

CHARLES P. TEAGUE,
Acting Regional Forester.

[FR Doc.74-30434 Filed 12-30-74;8:45 am]

WHITE MOUNTAIN NATIONAL FOREST ADVISORY COMMITTEE

Meeting

The White Mountain National Forest Advisory Committee will meet January 23 and 24, 1975, at the Ramada Inn, Laconia, New Hampshire.

The purpose of this meeting is to discuss planning and management proposals for the White Mountain National Forest.

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The meeting will be open to the public. Persons who wish to attend should notify Ned Therrien, U.S. Forest Service, Laconia, New Hampshire 03246. Telephone number 603–524–8450.

PAUL D. WEINGART,
Forest Supervisor.

DECEMBER 20, 1974.

[FR Doc.74–30435 Filed 12–30–74;8:45 am]

Soil Conservation Service

LOWER WAKARUSA WATERSHED PROJECT, KANSAS

Notice of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and § 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental statement is not being prepared for the Lower Wakarusa Watershed Project, Douglas County, Kansas.

The environmental assessment of this Federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Robert K. Griffin, State Conservationist, Soil Conservation Service, USDA, 760 S. Broadway, Salina, Kansas 67401, has determined that the preparation and review of an environmental statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement remaining to be built include conservation land treatment supplemented by four floodwater retarding structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, 760 S. Broadway, Salina, Kansas 67401.

No administrative action on implementation of the proposal will be taken until 15 days after the date of this notice.

(Catalog of Federal Domestic Assistance Program 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

DECEMBER 26, 1974.

[FR Doc.74–30378 Filed 12–30–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Notice of Renewals

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), the Alcohol, Drug Abuse, and Mental Health Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, on December 20, 1974, with the concurrence of the Office of Management and Budget Committee Management Secretariat of the following advisory committees:

Designation. Alcohol Research Review Committee (formerly, Alcoholism and Alcohol-Problems Review Committee).

Authority for this committee will expire October 31, 1976, unless the Secretary formally determines that continuance is in the public interest.

Designation. Drug Abuse Research Review Committee (formerly, Narcotic Addiction and Drug Abuse Review Committee).

Authority for this committee will expire October 31, 1976, unless the Secretary formally determines that continuance is in the public interest.

Designation. Mental Health Services Research Review Committee.

Authority for this committee will expire June 30, 1976, unless the Secretary formally determines that continuance is in the public interest.

Dated: December 26, 1974.

JAMES D. ISBISTER,
Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.74–30480 Filed 12–30–74;8:45 am]

Office of Education

ETHNIC HERITAGE STUDIES PROGRAM

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Title IX of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 900a to 900a–5), applications are being accepted from public and private nonprofit educational agencies, institutions, and organizations for grants under the Ethnic Heritage Studies Program. Processing of these applications will be subject to the availability of funds.

Applications must be received by the U.S. Office of Education, Applications Control Center, on or before March 21, 1975.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.549. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education).

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Ethnic Heritage Studies Branch, Division of International Education, Bureau of Postsecondary Education, Office of Education, Room 3907, 7th and D Streets, SW, Washington, D.C. 20202.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) published in the FEDERAL REGISTER on November 6, 1973 at 38 FR 30654 and the notice of proposed rulemaking for the Ethnic Heritage Studies Program published in this issue of the FEDERAL REGISTER (20 U.S.C. 900a to 900a–5).

(Catalog of Federal Domestic Assistance Number 13.549; Ethnic Heritage Studies Program)

Dated: December 23, 1974.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.74–30484 Filed 12–30–74;8:45 am]

SPECIAL EDUCATION PROGRAMS AND PROJECTS FOR INDIANS

Closing Date for Receipt of Applications

A. The Commissioner of Education hereby gives notice that applications for assistance are being accepted under the following two programs:

(1) Assistance to State and local educational agencies, federally supported elementary and secondary schools for Indian children, Indian tribes, organizations, and institutions, institutions of higher education, and public agencies and institutions for programs specially designed to improve educational opportunities for Indian children, pursuant to section 810 of the Elementary and Secondary Education Act (20 U.S.C. 887c), as added by Title IV, Part B, of P.L. 92–318, Title VI, Part C, section 632(a) of P.L. 93–380; and

(2) Assistance to State and local educational agencies, Indian tribes, institutions, and organizations, and public agencies and institutions for planning, pilot and demonstration projects designed to plan for, test, and demonstrate

the effectiveness of programs for providing adult education for Indians pursuant to section 314 of the Adult Education Act (20 U.S.C. 1211a), as added by Title IV, Part C, of P.L. 92–318. Awards under these programs will be subject to the provisions of the governing acts as well as to the regulations published in 45 CFR Parts 187 and 188, respectively. Assistance under these programs is subject to applicable provisions of Subchapter A of Chapter 1 of Title 45 Code of Federal Regulations (45 CFR Part 100a, published at 38 FR 30661–30665, November 6, 1973).

Criteria for the selection of applications under these programs are contained in 45 CFR section 100a. 26(b), 38 FR 30664, November 6, 1973, and in 45 CFR sections 187.21–187.25, and 45 CFR sections 188.15 and 188.16, respectively.

B. Applicants are being informed that the Office of Indian Education is particularly interested in receiving proposals in the following categories. However, proposals in these categories will be evaluated on the same basis and under the same criteria as other proposals and no priority or special consideration will be given to proposals in these categories.

(1) *Part B, Special programs and projects to improve educational opportunities for Indian children.* (a) Early childhood education projects which train and involve parents in the education process. The following models are of particular interest:

(i) Home-based preschool models,

(ii) School-based preschool model,

(iii) Preschool through first grade model, and

(iv) Kindergarten through third grade model.

(b) Models for improving the delivery of educational services, particularly covering grades four through eight.

(c) Transfer models.

(i) Model projects which demonstrate how to transfer into the everyday activities of a regular school program a successful education program which has been operated as an appendage within the school or operated outside of the school.

(ii) A transfer model as stated in (c) (i) above based upon a analysis and transfer of Part B projects funded in 1973 and 1974.

(2) *Part C, special programs relating to adult education for Indians.* (a) Adult Basic Education (ABE) projects aimed at providing or improving reading, writing, computation, and oral communication skills of illiterate and/or undereducated adult Indians. The following models are of particular interest:

(i) System Reform Model. This should be a revision and improvement of the current local ABE activities;

(ii) Consumer Education Model for ABE; and

(iii) Cultural Education Model for ABE.

(b) General Education Development (GED) projects aimed at improving the reading, writing, computation, and other skills of adult Indians who do not have a high school diploma or equivalent education so that they are prepared to pass the GED test. The following models are of particular interest:

(i) System Reform Model. This should be a revision of the current local GED activities;

(ii) Consumer Education Model for GED; and

(iii) Cultural Education Model for GED.

Applicants may, if they wish, submit applications for projects which will require more than one year for completion. Consideration will be given to providing support for such projects for more than one year on a case by case basis. Where assistance is provided for multiple year projects, grant awards will be made for grant periods of a single year's duration with continuation awards subject to satisfactory performance and the availability of funds in future fiscal years and application of other relevant criteria.

C. Grant applicants are notified that section 810 of the Elementary and Secondary Education Act (as added by Part B, the Indian Education Act) has been amended by section 632 of P.L. 93–380 to include the following statutory provisions:

> The Commissioner shall not approve an application for a grant under subsection (b), (c), or (d) (of section 810) unless he is satisfied that such an application, to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet, makes provisions for the participation of such children on an equitable basis.

This provision requires recipients of grants under section 810 (Part B of the Act) to provide for the participation of eligible Indian children who are enrolled in private, nonprofit schools in project activities and services.

The Office of Education is presently developing regulations under this statutory provision. Applicants are advised, however, that the receipt of funds under section 810 is currently governed by the new amendment. Applications under section 810 should contain a statement describing what provisions have been made for the participation of eligible school children attending private nonprofit schools in the project services and activities.

D. Interested parties may obtain information and application forms regarding each of the programs from the Office of Indian Education, U.S. Office of Education, Room 3514, Regional Office Building Three, 7th & D Streets SW., Washington, D.C. 20202.

E. Applications must be received by the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th & D Streets SW., Washington, D.C. 20202 (mailing address: U.S. Office of Education Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202), on or before January 31, 1975.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.)

F. Hand delivered applications. An application to be hand delivered must be taken to the U.S. Office of Education Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(20 U.S.C. 887c; 1211a)

Dated: December 23, 1974.

T. H. BELL,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance Nos. 13.535 and 13.536; Indian Education Act Parts B and C)

[FR Doc.74–30482 Filed 12–30–74;8:45 am]

STRENGTHENING DEVELOPING INSTITUTIONS PROGRAM

Extended Closing Date for Receipt of Applications

Notice is hereby given that, pursuant to the authority contained in section 304 of Title III of the Higher Education Act of 1965, as amended (20 U.S.C. 1054), applications are being accepted from institutions of higher education for grants under both the Basic and Advanced Institutional Development Programs (Title III, HEA, 20 U.S.C. 1051 et seq.). In order to be assured of consideration for funding from appropriations for Fiscal Year 1975, applications must be received by the U.S. Office of Education Application Control Center by January 15, 1975.

Background. On June 17, 1974 a Notice of Closing Date was published in the FEDERAL REGISTER stating that, in order to receive consideration for this program, applications must be received by the U.S. Office of Education Application Control Center on or before October 31, 1974. Because of certain changes in application procedures this year which were

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not uniformly understood by the prospective applicants, a number of applications failed to reach the Application Control Center on or before the closing date. During this year of transition to new procedures, it is believed to be in the best interests of prospective applicants to afford additional time for the submission of proposals. Therefore the Closing Date for Receipt of Applications has been extended from October 31 to January 15, 1975.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW, Washington, D.C. 20202. Attention: 13.454. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Developing Institutions Program, U.S. Office of Education, Room 4060, 7th and D Streets SW., Washington, D.C. 20202.

(20 U.S.C. 1054)

Dated: December 23, 1974.

T. H. BELL,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance Number 13.454; Strengthening Developing Institutions)

[FR Doc.74-30483 Filed 12-30-74;8:45 am]

ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

Notice of Public Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the Advisory Committee on Accreditation and Institutional Eligibility will be held from 9 a.m. to 5:30 p.m., local time, January 22, 1975, and from 9 a.m. to 9 p.m., local time, January 23, 1975, in the auditorium of the HEW-North Building, 330 Independence Avenue, SW., Washington, D.C., and from 11 a.m. to 2 p.m., January 24, 1975, in Room 3000, Federal Office Building 6, 400 Maryland Avenue SW., Washington, D.C.

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code). The Committee is established to advise the Commissioner of Education in fulfilling his statutory obligations to publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authorities concerning the quality of training offered by educational institutions and programs. It also serves to advise the Commissioner in fulfilling his statutory obligation to publish a list of State agencies which he has determined to be reliable authorities concerning the quality of public postsecondary vocational education in their respective State, pursuant to section 438(b) of the Higher Education Act of 1965, as amended by Pub. L. 92-318.

The meeting shall be open to the public from 9-10 a.m. and from 3-5:30 p.m. on January 22, from 9 a.m. to 5 p.m. on January 23, and from 11-11:30 a.m. on January 24, for presentations by representatives of nationally recognized and State agencies which have petitions for recognition pending before the Committee, and for review of a variety of policy items.

Under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and clauses (4) and (6) of subsection (b) of section 552 of Title 5 of the United States Code, the meeting will be closed to the public from 10 a.m. to 3 p.m. on January 22, from 7 to 9 p.m. on January 23 and from 11:30 a.m. to 2 p.m. on January 24. Closure of the meeting is to allow a free and frank discussion of the pending petitions for recognition, for renewal of recognition, and for a determination of satisfactory assurance that institutions will meet accrediting standards within a reasonable time. These petitions typically contain financial information about institutions that has been given in confidence and the Committee, in order to evaluate the performance of the petitioning agencies, may wish to discuss such information. In addition, the petitions may occasionally contain information about the activities of individuals which the Committee believes should be discussed, as they relate to the performance of petitioning agencies, and which, in the judgment of the Committee and the Commissioner, would, if publicly disclosed, result in a clearly unwarranted invasion of the personal privacy of such individuals. These portions of the petitions are exempt from disclosure under 5 U.S.C. 552(b) (4) and (6). A discussion of the petitioner and the working papers necessarily ranges back and forth from exempt and nonexempt materials, and the exempt portion cannot be separated out during the Committee's deliberation. Records shall be kept of all Committee proceedings, and these will be available in the offices of the Accreditation and Institutional Eligibility Staff, Rooms 4068 and 4069, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

Signed at Washington, D.C. on December 17, 1974.

JOHN R. PROFFITT,
Director, Accreditation and Institutional Eligibility Staff, Office of Education.

[FR Doc.74-30498 Filed 12-30-74;8:45 am]

Food and Drug Administration

[FAP MF 3591V]

CELANESE CHEMICAL CO.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP MF 3591V) has been filed by the Celanese Chemical Co., a Division of Celanese Corp., New York, NY 10036, proposing that the food additive regulations (21 CFR Part 121) be amended to provide for the safe use of 1,3-butanediol (1,3-butylene glycol) in intermediate moisture pet food.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: December 23, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-30404 Filed 12-30-74;8:45 am]

PANEL ON REVIEW OF BACTERIAL VACCINES AND BACTERIAL ANTIGENS

Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the Food and Drug Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, of the Panel on Review of Bacterial Vaccines and Bacterial Antigens for an additional period of 2 years beyond December 22, 1974.

Authority for this committee will expire December 22, 1976, unless the Secretary formally determines that continuance is in the public interest.

Dated: December 23, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-30402 Filed 12-30-74;8:45 am]

PANEL ON REVIEW OF INTERNAL ANALGESIC INCLUDING ANTIRHEUMATIC DRUGS

Notice of Rescheduling

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of December 17, 1974 (39 FR 43649), public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is given that the meeting of the Panel on Review of Internal Analgesic Including Antirheumatic Drugs scheduled for January 31, February 1, and February 2, 1974 is rescheduled for February 5, 6, and 7, 1974. The open session will be on February 5, 9 a.m. to 10 a.m., in conference room I.

Dated: December 23, 1974.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.74-30403 Filed 12-30-74;8:45 am]

Office of the Secretary

HOSPITAL INSURANCE MONTHLY PREMIUM

Premium Rate for the Uninsured Aged

Pursuant to authority contained in section 1818(d) (2) of the Social Security Act (42 U.S.C. 1395i-2(d) (2)), I hereby determine and promulgate that the hospital insurance premium, applicable for the 12-month period commencing July 1, 1975, is $40.

Section 1818 of the Social Security Act, added by section 202 of the Social Security Amendments of 1972 (Public Law 92-603), provides for voluntary enrollment in the hospital insurance program (Part A of Medicare) by certain uninsured persons 65 and older who are otherwise ineligible. Section 1818(d) (2) of the Act requires the Secretary to determine and promulgate, during the final quarter of 1974, the dollar amount which will be the monthly Part A premium for voluntary enrollment, for months occurring in the 12-month period beginning July 1, 1975. As required by statute, this amount must be $33 times the ratio of (1) the 1975 inpatient hospital deductible to (2) the 1973 inpatient hospital deductible, rounded to the nearest multiple of $1, or if midway between multiples of $1, to the next higher multiple of $1.

Under section 1813(b) (2) of the Act, the 1975 inpatient hospital deductible was determined to be $92. The 1973 deductible was actuarially determined to be $76, but to comply with a ruling by the Cost of Living Council, it was promulgated at $72. Thus, the change in the 1973 inpatient hospital deductible required by the Cost of Living Council ruling has caused an ambiguity in the use of the formula for calculating the hospital insurance premium. Using the $72 figure in the calculation of the hospital insurance premium would result in the following computation: $33×(92/72)=$42.17 which must be rounded to $42. If, however, the actuarially determined amount of the 1973 deductible, $76, is used, the computation becomes $33×(92/76)=$39.95 which is rounded to $40. The following table provides a comparison of the premium calculations to date on the two bases:

Monthly hospital insurance premium, as calculated

Fiscal year	With 1973 deductible=$72	With 1973 deductible=$76
1974	$33	$33
1975	39	36
1976	42	40

The purpose of the premium formula is to adjust the original $33 premium for changes in the cost of providing hospital care. The ratio of the inpatient hospital deductibles does this approximately, since the deductible as calculated under section 1813(b) (2), is based on the average daily cost of providing hospital care under the hospital insurance program. To use an amount for the deductible which is not at all related to the experience of the program, as in the case of the $72 deductible for 1973, is therefore inappropriate in a formula of this type. More importantly, it was the intent of the provision that the costs of providing Part A coverage to the uninsured enrollees be covered by the enrollees themselves. As explained by the Senate Finance Committee.

> The intent is that the cost of such coverage would be fully financed through payment of a monthly premium by those who elect to enroll for this protection.
>
> (S. Rep. No. 92-1230, 92 Cong., 2nd Sess. 179 (1972)).

Assuming that the average incurred per premium paying enrollee is the same as the average incurred cost per insured aged enrollee, the following comparison can be made:

Comparison of promulgated premium rate with the actuarially adjusted rate

Fiscal year (1)	Promulgated premium rate (2)	Estimated cost per enrollee in in the year (3)	Premium less cost (4)	Accumulated value of col. (4) for prior years [1] (5)	Actuarially adjusted rate cols. (3) to (5) (6)
1974	$33.00	$30.90	$+2.10		$30.9
1975	36.00	36.10	−.10	$+2.20	33.9
1976	40.00	41.80	−1.80	+2.20	39.4

[1] For a given year, this value is the sum of the differences shown in col. (4) for all preceding years, accumulated with interest and changes in size of enrollment.

Thus, the premium of $40, derived by using $76 for the 1973 inpatient hospital deductible, is adequate to cover the projected costs of the uninsured enrollees. The actuarially determined $76 amount for the 1973 inpatient hospital deductible was used in determining the hospital insurance premium rate for the 12-month period commencing July 1, 1974.

In view of the foregoing, it is appropriate that the Part A premium be calculated using the amount that was actuarially determined for the 1973 inpatient hospital deductible. It is the use of this amount which was originally foreseen by the Congress in enacting section 1818; the results of its use are more consistent with the remedial purposes of the Social Security Act; and, perhaps most importantly, it is consistent with the legislative intent that the program of hospital insurance under section 1818 be self-supporting. Accordingly, the hospital insurance monthly premium for fiscal year 1976 is $40.

Dated: December 23, 1974.

CASPAR W. WEINBERGER,
Secretary.

[FR Doc.74-30350 Filed 12-30-74;8:45 am]

Social and Rehabilitation Service

WORK INCENTIVE PROGRAM

Social and Supportive Services

On December 2, 1974, this Department published in the FEDERAL REGISTER (39 FR 41757) a proposed formula for distribution of funds under section 403(d) of the Social Security Act for States' program costs for the Work Incentive (WIN) program under section 402(a) (19) (G) of the Act during Fiscal Year 1975 and a proposed formula for FY 1976. This action was necessary to assure that States operate their programs within the amount available under this Department's appropriation. The proposed formula for FY 1975 was published with a shortened comment period to allow publication of the final formula prior to January 1 in order to permit its use in calculating the third quarter grant awards. The formula for FY 1976 will be published following the normal comment period.

Seven comments, all from State agencies, were received during the comment period prescribed for the proposed FY 1975 allocation formula. Although most

of the comments failed to distinguish between the proposed formula for FY 1975 and the proposal for FY 1976, all the comments have been considered since they were received during the prescribed time period. Essentially all of the comments were based upon the fact that the States will receive less funds in FY 1975 than they believe is necessary. Furthermore, the comments proposed conflicting alternatives depending on the conditions in a particular State. For example, one State with an active job search program recommends basing the distribution entirely on the Department of Labor formula. However, another State objects to the Labor aspect of the proposed formula because it feels that its high unemployment rate will place the State at a disadvantage in achieving job placements.

Given the fact that there are less funds available than the States would prefer, there is no allocation formula that will satisfy every State. The Department feels the proposal is the most equitable than can be developed under the circumstances in that the majority of the funds will be based on past State expenditures. Furthermore, by basing 25 percent of the allocation on performance, the States will have an incentive to improve their programs. Therefore, after considering all the comments, no changes are being made in the proposed FY 1975 allocation formula. Annual limits of entitlement for Fiscal Year 1975 for State expenditures for support services under the Work Incentive (WIN) program under sections 402(a)(19)(G) and 403(d) of the Social Security Act will be calculated on the basis of the following formula:

1. 75 percent of the total limit of entitlement for all the States will be distributed on the basis of the ratio of each State's total program costs under section 402(a)(19)(G) for Fiscal Year 1974 to the total of such program costs for all States during Fiscal Year 1974. (Such program costs shall be based on information available at the time of promulgation of the limits.)

2. 25 percent of the total limit of entitlement for all the States will be distributed on the basis of the ratio of the amount of funds allocated by the Secretary of Labor in support of the WIN manpower agency for each State in Fiscal Year 1975 to the total amount of funds allocated by the Secretary of Labor in support of the WIN manpower agencies for all States for Fiscal Year 1975. (Such allocations of the Secretary of Labor shall be those available at the time of promulgation of the limits.)

This formula will be applied to the Department's appropriation for Fiscal Year 1975 in order to determine annual limits of entitlement for each State. When these annual limits are promulgated, requests for Federal financial participation in expenditures incurred pursuant to section 402(a)(19)(G) during Fiscal Year 1975 will not be honored to the extent they exceed promulgated limits.

On May 1, 1975, the Department will reallocate on the basis of the same formula established for Fiscal Year 1975 any funds which a survey of all States indicates will not be expended during Fiscal Year 1975. Such funds will be reallocated to those States which indicate a necessity for additional funds to operate their program under 402(a)(19)(G) for the remainder of Fiscal Year 1975.

Dated: December 20, 1974.

JOHN A. SVAHN,
Acting Administrator,
Social and Rehabilitation Service.

Approved: December 24, 1974.

CASPAR W. WEINBERGER,
Secretary.

[FR Doc.74-30413 Filed 12-30-74;8:45 am]

WORK INCENTIVE PROGRAM

Social and Supportive Services

Notice is hereby given of annual limits of entitlement for States for Federal financial participation in expenditures under the Work Incentive (WIN) Program pursuant to sections 402(a)(19)(G) and 403(d) of the Social Security Act, 42 U.S.C. § 602(a)(19)(G) and 603(d), for the period from July 1, 1974 to June 30, 1975. These annual limits replace and supersede the semiannual limits of entitlement published in the FEDERAL REGISTER on September 24, 1974 (39 FR 34319). Requests for Federal financial participation in expenditures incurred pursuant to section 402(a)(19)(G) of the Act during Fiscal Year 1975 will not be honored to the extent they exceed the limits of entitlement promulgated herein.

The limits of entitlement have been calculated on the basis of the allocation formula published in the FEDERAL REGISTER on December 31, 1974 (39 FR).

The limits of entitlement for each State for child care, other supportive services and administration under section 402(a)(19)(G) of the Social Security Act, 42 U.S.C. § 602(a)(19)(G), for the period from July 1, 1974 to June 30, 1975, are as follows:

July 1, 1974, to June 30, 1975

State:	*Limit of entitlement*
Alabama	$1,215,332
Alaska	431,096
Arizona	1,039,171
Arkansas	676,151
California	6,479,045
Colorado	1,202,995
Connecticut	1,238,065
Delaware	364,966
District of Columbia	1,617,689
Florida	2,307,565
Georgia	2,793,831
Hawaii	337,097
Idaho	401,300
Illinois	2,528,415
Indiana	783,957
Iowa	945,416
Kansas	765,125
Kentucky	1,184,646
Louisiana	975,428
Maine	682,614
Maryland	2,237,571
Massachusetts	1,719,431
Michigan	10,521,908
Minnesota	1,589,968
Mississippi	589,305
Missouri	1,791,944
Montana	474,895
Nebraska	456,198
Nevada	102,953
New Hampshire	155,639
New Jersey	6,284,690
New Mexico	376,962
New York	13,053,504
North Carolina	1,354,505
North Dakota	223,553
Ohio	2,265,392
Oklahoma	804,834
Oregon	2,561,328
Pennsylvania	3,611,836
Rhode Island	689,559
South Carolina	960,850
South Dakota	292,487
Tennessee	1,229,633
Texas	3,920,541
Utah	1,183,835
Vermont	557,908
Virginia	1,330,208
Washington	1,763,536
West Virginia	1,470,007
Wisconsin	3,174,084
Wyoming	133,430
Guam	52,697
Puerto Rico	1,250,230
Virgin Islands	48,666

Dated: December 27, 1974.

JAMES S. DWIGHT,
Administrator,
Social and Rehabilitation Service.

[FR Doc.74-30465 Filed 12-30-74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA-3005-DR; Docket No. NFD-243]

NEW JERSEY

Notice of Emergency Declaration and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on December 24, 1974, the President declared an emergency as follows:

I have determined that the impact of severe storms, high winds, and abnormally high tides on the State of New Jersey, beginning about December 1, 1974, is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of New Jersey.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas R. Casey, HUD Region II, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following area in the State of New Jersey to have been adversely affected by this declared emergency:

The County of:
Cape May

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

Dated: December 24, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.74-30431 Filed 12-30-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of Pipeline Safety

[OPS Docket No. Pet. 74-12]

TRANS-ALASKA PIPELINE VALVING PLAN

Approval of Valving Plan

The Office of Pipeline Safety (OPS) hereby gives notice of its approval of the revised valving plan proposed by the Alyeska Pipeline Service Company (Alyeska) for the 48-inch diameter Trans-Alaska crude oil pipeline. The pipeline will be constructed between Prudhoe Bay and Valdez for a distance of approximately 800 miles. The valving plan proposed by Alyeska will be used to comply with 49 CFR 195.260 governing the location of valves. In approving the safety of the valving plan for the entire pipeline, OPS has found, in accordance with section 195.260(e), that the plan provides for an adequate level of safety and the requirement for the installation of valves at certain water crossings is not justified in particular cases. Under that section, valves must be placed in a pipeline on each side of a water crossing that is more than 100 feet wide from high-water mark to high-water mark unless the Secretary of Transportation finds in a particular case that the requirement for valves is not justified. The authority to make these findings has been delegated to the Director, Office of Pipeline Safety.

By letter dated October 30, 1972, Alyeska requested that OPS approve their proposed valving plan. The placement of valves in this plan is based on the criterion of limiting the static spillage from a pipeline failure to 50,000 barrels of crude oil. This spillage limit was established in the environmental impact statement for the pipeline issued by the Department of the Interior on March 20, 1972. Static spillage is the amount of commodity which drains from a failed pipeline section after the system is shut down and all valves are closed. In its October 30, 1972, letter, Alyeska provided a spillage profile indicating the amount of static spillage at all points along the pipeline. This profile shows that less than one-half of 1 percent of the length of the pipeline would be exposed to a potential static spill of 50,000 barrels, and over 50 percent of the length would be exposed to a potential static spill of 15,000 barrels or less.

On October 12, 1973, after an initial review of the valving plan, OPS asked Alyeska for additional information, including an environmental assessment of each water crossing subject to section 195.260(e) and data to show the total amount of potential spillage from a failure at the crossing. In addition to static spillage, total spillage includes the amount of spillage from a pipeline between the time of a failure to the time the pipeline is shut down and all valves are closed.

Alyeska responded to this request by letters dated November 5, 1973, December 21, 1973, and May 4, 1974, and by issuing Revision A to Appendix A-3.1087 of the pipeline design titled "Summary Report, Valve Location Design for the Trans-Alaska Pipeline System." The Summary Report included a study of the fish, wildlife, recreational, cultural, geological, and aesthetic resources along the pipeline. In this study, a numerical value was assigned to each resource in order to quantify the total resources at all points along the pipeline right-of-way.

The Summary Report also included a risk assessment for the pipeline. Eighteen failure categories, including slope stability, flood, avalanche, pressure surge, weld defect, fire, corrosion, and lightning, were assigned numerical values. These numbers were distributed along the pipeline and the total of all categories was shown for each mile. The study by Alyeska provided a comparative risk of failure from one mile to another, not the absolute risk for any one mile.

The Summary Report also contained data indicating at all locations along the pipeline the total potential spillage from a failure. These figures indicated that total spillage would not exceed 64,000 barrels at any point along the pipeline. (Less than one-tenth of 1 percent of the pipeline length would be exposed to 64,000 barrels and over 50 percent of the line length would be exposed to 25,000 barrels or less.)

Based on a thorough review of the proposed valving plan, OPS has concluded that, under section 195.260(e), installation of valves on both sides of water crossings more than 100 feet wide would not be necessary for the Trans-Alaska pipeline in some instances. The pipeline alignment follows the floodplain of a number of rivers for substantial distances. Because of the meandering nature of these rivers, a large number of valves would have to be installed to meet the requirement in section 195.260(e) for valves at certain crossings. The installation of numerous valves for this reason could add risk and be of little benefit. Also, the valves would be installed in floodplain areas, an undesirable location for the placement of valves. Instead, in floodplain areas the proposed valving plan provides for bracketing of the crossings with valves placed on each side of the floodplain area. Similarly, in areas where the pipeline crosses a number of water courses within relatively short distances, the safety standard is alleged to be inappropriate, and the proposed valving plan provides for bracketing these crossings with valves.

The installation of valves as required by section 195.260(e) is also alleged to be inappropriate at water crossings where, in case of a failure of the pipeline in the water, drainage from the pipeline would backflow away from the stream crossing due to the slope of the pipeline right-of-way.

Protection by valves against spillage is the most appropriate course of action at certain other water crossings, however, and Alyeska's valving plan recognizes this by locating valves on each side of the streams involved either at each bank or a short distance away.

After extensive review, the OPS finds that Alyeska's proposed valving plan, as revised, will provide an adequate level of safety to the public. In the course of this review, OPS considered the risk of damage to adjacent resources, relative risk of a failure, and the amount of potential spillage along the pipeline. Since Alyeska requested approval of the valving plan for the entire pipeline, the review was not confined to water crossings subject to section 195.260(e).

One ground for approving the proposed valving plan is that all valves will be either the check valve type, which automatically prevents backflow in case of shut down, or remotely controlled block valves. The safety regulations in 49 CFR Part 195 do not require that block valves be remotely controlled. The installation of such block valves increases safety considerably since a remotely controlled valve can be closed in minutes after a pipeline failure rather than a much longer period of time where a pipeline company's employee must travel to a valve to manually close it.

Numerical values were assigned to three variable factors present in the safety assessment of the pipeline, viz., the adjacent resources, the relative risk of a failure, and the amount of the potential spillage. OPS analyzed these three variables for each mile of the 800-mile pipeline, including each water crossing subject to section 195.260(e). Based on this numerical analysis, valving was found adequate if there were few adjacent natural resources and the risk of failure was low, although the amount of the potential spillage was large. At other locations, the valving was considered adequate if the amount of potential spillage was small but there were numerous natural resources adjacent to the pipeline.

There were six areas along the pipeline where OPS requested Alyeska to revise its valving plan to provide additional protection because of the existence of a high potential for spillage and the presence of numerous resources adjacent to the pipeline. Alyeska agreed to revise their proposed valving plan to provide this protection by the addition of eight valves, the relocation of four others, and the changing of one valve from a remotely operated one to a check valve.

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With the addition of the eight valves, the total number of main line valves between pumping stations proposed in Alyeska's valving plan for safety and environmental protection is 142, significantly more than normally would be used on an 800-mile crude oil pipeline. In addition, the valving system designed for this pipeline is one of the most advanced for a major pipeline to date. The large number of valves and the provision for remote control of block valves provide a high degree of control of potential spillage, both at water crossings and elsewhere along the pipeline.

The final environmental statement issued by the Department of the Interior on March 20, 1972, for the Trans-Alaska Pipeline covers the action embodied in this notice. In accordance with section 203(d) of the Trans-Alaska Pipeline Authorization Act (Pub. L. 93-153), this action may be taken without further regard for section 1092(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)).

This notice is issued under the authority of sections 831-835 of Title 18, United States Code, section 6(e)(4) of the Department of Transportation Act (49 U.S.C. 1655(e)(4)), § 1.58(d) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the redelegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 1).

Issued in Washington, D.C., on December 24, 1974.

JOSEPH C. CALDWELL,
Director, Office of Pipeline Safety.

[FR Doc.74-30398 Filed 12-30-74;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS ENVIRONMENTAL SUBCOMMITTEE

Notice of Meeting

DECEMBER 24, 1974.

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Environmental Subcommittee will hold a meeting on January 17, 1975 in Room 1046, 1717 H Street NW., Washington, D.C.

The subcommittee and its consultants will meet in Executive Session to discuss and to formulate appropriate recommendations to the full ACRS regarding a variety of subjects and programs pertaining to protection of the environment.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the meeting will consist of an exchange of opinions, as part of the process of formulating recommendations to the full committee, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). Any non-exempt material that may be discussed during this meeting will be inextricably intertwined with discussion of exempt material and no separation is practical. It is essential to close this meeting to protect the free interchange of internal views and to avoid undue interference with committee operation.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-30372 Filed 12-30-74;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS GENERAL ELECTRIC COMPANY SUBCOMMITTEE

Notice of Meeting

DECEMBER 24, 1974.

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' General Electric Company Subcommittee will hold a meeting on January 18, 1975 in Room 1046, 1717 H Street NW., Washington, D.C.

The purpose of the meeting will be to discuss General Electric's Standard Safety Analysis Report (GESSAR). This is the fourth meeting on this subject.

The following constitutes that portion of the subcommittee's agenda for the above meeting which will be open to the public:

Saturday, January 18, 1975, 9 a.m.-5 p.m. Discussions with the General Electric Company and the AEC Regulatory Staff.

Representatives of the General Electric Co. will make presentations on General Electric's Standard Safety Analysis Report (GESSAR).

In connection with the above agenda, the Subcommittee will hold executive sessions prior to; and at the close of, the day's public session, which will involve a discussion of its preliminary views, and an exchange of opinions of the subcommittee members and internal deliberations and formulation of recommendations to the ACRS. In addition, the subcommittee may hold a closed session with the regulatory staff and representatives of the General Electric Co. to discuss privileged information relating to the proposed standard design features.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the executive sessions at the beginning and end of the day will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that a closed session may be held, if necessary, to discuss certain documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). Further, any nonexempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect such privileged information and protect the free interchange of internal views and to avoid undue interference with agency or committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The chairman of the subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than January 10, 1975, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C., 20545. Such comments shall be based upon documents which are on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the chairman of the subcommittee, between the hours of 1:30 p.m. and 3:30 p.m. on January 18, 1975.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on January 16, 1975 to the Advisory Committee on Reactor Safeguards (telephone 202-634-1371) between 8:30 a.m. and 5:15 p.m., Eastern Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information is to be discussed may do so by

providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street NW., Washington, D.C. 20545, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portions of the meeting will be available for inspection on or after January 21, 1975 at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street NE., Washington, D.C. 20002 (telephone 202–547–6222) upon payment of appropriate charges.

(j) On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545 after April 18, 1975. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74–30373 Filed 12–30–74;8:45 am]

[Docket Nos. STN–50–528, STN–50–529, STN–50–530]

ARIZONA PUBLIC SERVICE CO., ET AL. (PALO VERDE NUCLEAR GENERATING STATION, UNITS 1, 2, AND 3)

Notice and Order Resetting Special Prehearing Conference

The special prehearing conference in the above-captioned proceeding which is scheduled for Thursday, January 9, 1975, in Phoenix, Arizona, must be continued because of a conflict in the Atomic Safety and Licensing Board schedule.

Please take notice that the Special Prehearing Conference in the above-captioned case is hereby continued from January 9, 1975 until January 23, 1975 at 10 a.m., local time, in the Old Courthouse, 3rd Floor Courtroom, 125 West Washington Street, Phoenix, Arizona 85003.

Issued at Bethesda, Maryland, this 24th day of December 1974.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.74–30374 Filed 12–30–74;8:45 am]

[Docket No. 50–317]

BALTIMORE GAS AND ELECTRIC CO.

Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. DPR–53 issued to Baltimore Gas and Electric Company which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Unit 1, located in Calvert County, Maryland. The amendment is effective as of its date of issuance.

The amendment modifies the Specifications to delete the requirement that the continuous main vent monitor be capable of measuring release rates of noble gases and particulates of 10 μCi/sec and 10^{-5} μCi/sec respectively.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment dated December 21, 1974, (2) Amendment No. 7 to License No. DPR–53, with any attachments, and (3) the related safety evaluation contained in the Commission's letter to Baltimore Gas and Electric Company. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland 20678.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 23d day of December 1974.

For the Atomic Energy Commission.

OLAN D. PARR,
Chief, Light Water Reactors, Project Branch 1–3, Directorate of Licensing.

[FR Doc.74–30375 Filed 12–30–74;8:45 am]

[Docket No. 50–315]

INDIANA AND MICHIGAN ELECTRIC CO. AND INDIANA AND MICHIGAN POWER CO. (DONALD C. COOK NUCLEAR PLANT, UNIT 1)

Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. DPR–58 issued to Indiana and Michigan Electric Company and Indiana and Michigan Power Company. The amendment is effective as of its date of issuance.

The amendment permits operation of the facility at steady state reactor core power levels not to exceed 2632.5 megawatts (81 percent of the rated thermal power) in accordance with the provisions of the license and the Technical Specifications. The Commission had determined, as discussed in the staff's Safety Evaluation dated September 10, 1973, that reactor operation at power levels exceeding 81 percent should not be undertaken until operating experience demonstrates to the staff's satisfaction that the maximum linear power density will not exceed that for which the accident analyses had been made.

The amendment also revises the Technical Specifications contained in Appendix B to the license to permit operation of the facility before certain alarms are installed on the instrumentation that monitors condenser cooling water temperatures. The alarms, not presently available, are to be installed not later than November 1, 1975.

The amendment also revises the Technical Specifications contained in Appendix A to the license to permit only subcritical operation of the reactor until installation of certain piping restraints and impingement barriers is complete.

For further details with respect to this action, see Amendment No. 1 to License DPR–58. Amendment No. 1 is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the St. Joseph Public Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of Amendment No. 1 may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545. Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 20th day of December 1974.

For the Atomic Energy Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch 2–2, Directorate of Licensing.

[FR Doc.74–30376 Filed 12–30–74;8:45 am]

[Docket Nos. 50–438 and 50–439]

TENNESSEE VALLEY AUTHORITY, (BELLEFONTE NUCLEAR PLANT, UNITS 1 AND 2)

Notice of Issuance of Construction Permits

Notice is hereby given that, pursuant to the Initial Decision of the Atomic Safety and Licensing Board, dated December 23, 1974, the Atomic Energy Commission (the Commission) has issued Construction Permits Nos. CPPR–122 and CPPR–123 to the Tennessee Valley Authority for construction of two pressurized water nuclear reactors at the applicant's site in Jackson County, Alabama. The proposed reactors, known as the Bellefonte Nuclear Plant, Units 1 and 2, are each designed for a rated power of 3600 megawatts thermal with a gross electrical output of approximately 1329 megawatts.

The initial decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the initial decision may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the construction permits. The application for the construction permits complies with the standards and requirements of the Act and the Commission's rules and regulations.

The construction permits are effective as of their date of issuance. The earliest date for the completion of Unit 1 is June 1, 1979, and the latest date for completion is December 1, 1979. The earliest date for the completion of Unit 2 is March 1, 1980, and the latest date for completion is September 1, 1980. Each permit shall expire on the latest date for completion of the facility.

A copy of (1) the initial decision, dated December 23, 1974; (2) construction permits nos. CPPR–122 and CPPR–123; (3) the report of the Advisory Committee on Reactor Safeguards, dated July 16, 1974; (4) the Directorate of Licensing's safety evaluation, dated May 24, 1974 and the supplement thereto; (5) the preliminary safety analysis report and amendments thereto; (6) the applicant's draft environmental statement, dated March 6, 1973 and supplements thereto; (7) the applicant's final environmental statement, dated May 24, 1974; (8) the AEC's draft environmental statement, dated February 1974; and (9) the AEC's final environmental statement, dated June 1974, are available for public inspection at the Commission's public document room at 1717 H Street NW., Washington, D.C. and the Scottsboro Public Library, 1002 South Broad Street, Scottsboro, Alabama 35768. Copies of the construction permits and the Safety Evaluation may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545. Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 24th day of December 1974.

For the Atomic Energy Commission.

A. SCHWENCER,
Chief, Light Water Reactors Branch 2–3, Directorate of Licensing.

[FR Doc.74–30377 Filed 12–30–74;8:45 am]

[Docket No. 50–367]

NORTHERN INDIANA PUBLIC SERVICE CO.

Notice and Order Setting Location of Evidentiary Hearing

In the matter of the Bailly Generating Station, Nuclear–1.

By Order issued December 10, 1974 the Atomic Safety and Licensing Board (the Board) set a further Evidentiary Hearing in the above-captioned case to begin on Friday, January 3, 1975 in the vicinity of Chicago, Illinois, or in the vicinity of the Bailly site. The location of the hearing was not established in that Order. The purpose of this Order is to establish the location of that further hearing, which will involve the issue of the environmental impact, if any, of slurry wall construction.

Please take notice that the further evidentiary proceedings will commence at 10 a.m. on Friday, January 3, 1975 at the Pavilion Room, Portage Holiday Inn, 6200 Melton Road, Portage, Indiana 46368.

Members of the public are invited to attend this further Evidentiary Hearing.

Issued at Bethesda, Maryland, this 24th day of December 1974.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.74–30409 Filed 12–30–74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 26545]

CAPITOL INTERNATIONAL AIRWAYS, INC.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on January 28, 1975, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Burton S. Kolko.

Dated at Washington, D.C., December 24, 1974.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.74–30438 Filed 12–30–74;8:45 am]

[Docket 27237]

FORT MYERS-ATLANTA CASE

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on February 11, 1975, at 10 a.m. (local time), in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C. before Administrative Law Judge E. Robert Seaver.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before January 21, 1975, and the other parties on or before January 31, 1975. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., December 24, 1974.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.74–30439 Filed 12–30–74;8:45 am]

[Order 74–12–98; Docket 26280; Agreement C.A.B. 24597 R–4 and R–5]

PAN AMERICAN WORLD AIRWAYS, INC., ET AL.

Order

Agreements adopted by the Traffic Conferences of the International Air Transport Association relating to increased fuel costs.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of December, 1974.

By Order 74–10–88 of October 17, 1974 the Board, inter alia, disapproved proposed five percent fuel-related increases for North and Mid-Atlantic cargo rates on the grounds that carrier justification did not support an increase of this magnitude based on cost increases actually experienced from September 1973 to the date of the then most recent available data (August 1974). In reaching its conclusion, the Board adjusted the various carrier submissions to exclude any increases in fuel cost price before September 1973 since this was the last full month before the October 1973 fuel crisis.

Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA) and Seaboard World Airlines, Inc. (Seaboard) have filed petitions urging the Board to reconsider its disapproval. In general, all three carriers regard as unjustified the Board's use of single-month September 1973 fuel prices as a benchmark against which to measure the impact of subsequent fuel-related cost increases and maintain that such use ignores sharp increases in the price of fuel to the carriers occurring throughout the third quarter of 1973 and therefore precludes carrier recovery of increased fuel costs occurring prior to September 1973. Instead, the carriers urge the Board to review IATA fuel pass-through agreements in the context of a representative historical base average such as the year ended September 1973.

TWA and Seaboard maintain that the general rate increases incorporated in the 1974 North Atlantic cargo rates package negotiated by IATA in August 1973 and approved by the Board in April 1974 did not provide for any fuel cost increases after June 30, 1973.[1] Additionally, both maintain that the regulatory lag between experience of increased costs and implementation of rate increases results in non-recoverable costs running into millions of dollars to the carriers.

Seaboard further contends that the Board's adjustment of carrier data to the month of September 1973 is inconsistent with treatment in the first two Board orders on this subject which allowed average fuel costs based on the

[1] TWA states the package did not take into account post-March 1973 fuel price increases.

year ended September 30, 1973 for the IATA carriers and year ended June 30, 1973 for Seaboard;[2] and that the first instance of Board use of single-month September 1973 costs as a base was in a May 1974 order which was unchallenged since the increases were approved. The carrier now maintains that the Board should review the disapproved agreement in the context of September 1974 unit costs for fuel, rather than those for August 1974, as these are now the latest figures available, and in that light, its revenue need is $536,605 greater than shown in August 1974. Finally, Seaboard contends that the revenue impact of fuel-related increases is overstated as the carriers do not take into account the increased commissions expense resulting from any rate increase.[3]

Pan American asserts that Board disallowance of all projected future cost increases, especially during an inflationary era, results in a situation where the regulated carriers' tariffs will never cover current costs and thus must always be in a shortfall position, and that in Pan American's case forecast fuel prices were based on current contracts containing escalation clauses. Moreover, the carrier maintains that the Board was in error in refusing to consider non-fuel cost increases inasmuch as the subject rate agreement was intended to cover non-fuel as well as fuel cost increases, all of which were itemized in Pan American's justification. Finally the carrier contends that disapproval disrupted carrier attempts to realign the rate structure between Detroit and Windsor, Ontario to conform with the Board's established principles in its decision in Agreements Adopted by IATA Relating to North Atlantic Rates.

No answers to the carriers' petitions have been received. After due and careful review and consideration of the pleadings before us, the Board does not find error in its disapproval in Order 74–10–88 and the petitions for reconsideration will be denied.

The crux of each petitioner's argument is that use of single-month September 1973 fuel prices as a benchmark against which to judge the impact of price increases in fuel and consequent fuel-related increases in fares and rates on carrier costs and revenues is inappropriate.[4]

The fuel-related increase agreements were reached by the carriers as a response to a crisis situation marked by unexpected and rapid increases in fuel prices brought about by the October 1973 oil embargo. To illustrate, while composite prices paid by North Atlantic carriers only increased at an average rate of 1.8 percent a month during the third quarter of 1973, this rate of increase suddenly soared to an average 6.8 percent per month during the fourth quarter of 1973. Moreover, the rate of increase during the first quarter of 1974 slowed only slightly to 7.3 percent. Even more noteworthy, while September 1973 fuel prices averaged only 3.7 percent higher than those in August, October 1973 fuel prices averaged 8.3 percent higher than September 1973 prices. Thus, after September 1973, the carriers were faced with a crisis situation brought about by abrupt and staggering fuel price increases.[5]

In view of this crisis the Board departed from its established policy of considering rate increases in the light of all elements or factors of the carriers' cost/revenue relationship[6] and took notice of a single factor—the precipitous fuel price escalation—in order to act as expeditiously as possible and thus avoid the adverse financial losses which might otherwise result. Under no circumstances would the Board have considered the fuel cost trend prior to the October 1973 events as a basis for approving increases to be passed on to the general public in the form of specific fuel-related surcharges.

It is true that when the first of the many IATA fuel-related increase agreements was filed in November 1973, the Board looked to the earlier fuel costs experienced by the carriers for the 12-month period ending September 30, 1973 as a base. These data, however, were the latest available to the Board in the Form 41 reports to serve as a base and were accepted in order to permit Board action within a short time frame. This did not mean that general Form 41 data as reported for year ended September 1973 was to become the benchmark against which all future fuel-related increases were to be measured. Later, in April 1974, in response to the Board's specific requests, fuel cost data on a monthly basis for the carriers' international operations were available and utilized by the Board in reviewing each fuel-related rate increase. In these circumstances the Board will not depart from its use of the single-month September 1973 fuel costs as a base for evaluating the carriers' proposed fuel cost increase.[7]

Finally, we would note that Order 74–10–88 did not reach the question of whether further adjustments in Atlantic cargo rate levels were or were not warranted; instead, it merely concluded that the proposed five percent general increases should not be approved. We note that agreements establishing fares and rates in major IATA conference areas (including the North Atlantic) are shortly due to expire and in the carriers' negotiations to reestablish international fares and rates, all cost/revenue factors should be considered.

Accordingly, *it is ordered*, That: The petitions for reconsideration of Order 74–10–88 filed by Pan American World Airways, Inc., Trans World Airlines, Inc., and Seaboard World Airlines, Inc. in Docket 25280 be and hereby are denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-30440 Filed 12-30-74;8:45 am]

[2] Seaboard cites Orders 73–12–77, December 19, 1973 and 74–2–126, February 28, 1974. The December order approved six percent fuel-related increases in worldwide passenger fares and cargo rates. Insofar as air transportation is concerned, the February order approved seven percent fuel-related increases in Mid-Atlantic passenger fares and Western Hemisphere and transatlantic cargo rates.

[3] We note that only Pan American adjusted its revenue estimates downwards for increased commissions expense. The other two carriers did not make any explicit adjustments for such costs. The Board accepted Pan American's adjusted revenue figures in its analysis of data set forth in Order 74–10–88.

[4] We cannot accept TWA's contention that justification which was submitted in November 1973 for an agreement concluded in August 1973 projects costs for calendar 1974 operations at March 1973 levels.

[5] On October 12, 1973, the Energy Policy Office adopted regulations pursuant to the Economic Stabilization Act of 1970 as amended by P.L. 93–28, April 20, 1973, establishing a mandatory fuel allocation program that imposes controls on "middle distillate fuels," including airline turbine fuel. (EPO Reg. 1, 38 FR 28660). On the same day, the Board issued Order 73–10–50, which authorized discussions among domestic carriers to consider adjustment of schedules to the extent necessary to deal with the developing fuel emergency.

[6] *E.g.*, as late as September 1973, in an order suspending proposed fare increases of domestic carriers, the Board stated: "Equally important, most submissions are deficient in that they reflect cost increases without regard to productivity. Typically, the carriers' cost presentations have merely adjusted operating expenses to account for actual cost increases on a this year-last year basis. Increases in raw costs alone, however, are not a valid basis for fare increases. A cost inflation factor net of productivity must be derived and the carriers' failure to do this, with appropriate supporting data, is a serious weakness in their justification." Domestic passenger-fare increases proposed by various carriers. Order 73–9–108, dated September 28, 1973, pg. 5 mimeo.

[7] This is consistent with the Board's approach in considering numerous other fuel-related rate increases. See Orders 74–4–97, April 18, 1974; 74–5–146, May 31, 1974; 74–6–131, June 28, 1974; and 74–7–14, July 2, 1974. Additionally, certain IATA documents available to the Board tend to support this approach. IATA Agreement C.A.B. 24086, proposing the first of these fuel-related increases, states that the proposed action will only cover, in part, known fuel increases for the period October 1973 through March 1974.

COMMISSION ON CIVIL RIGHTS

STATE ADVISORY COMMITTEES

Notice of Determination To Continue and Recharter

Pursuant to the provisions and requirements of the Federal Advisory Committee Act (Public Law 92–463), the United States Commission on Civil Rights and the Office of Management and Budget have determined that the 51 state advisory committees listed below will be continued upon expiration of their current charters, January 5, 1975, and will be rechartered for another two-year period commencing January 5, 1975:

DEC 31 1974 V 39 N 252 XUM

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
New Hampshire
New Jersey
New Mexico
New York
Nevada
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Washington
Wisconsin
West Virginia
Wyoming

ISAIAH T. CRESWELL, Jr.,
Committee Management Officer,
Commission on Civil Rights.

DECEMBER 20, 1974.

[FR Doc.74-30428 Filed 12-30-74;8:45 am]

DEFENSE MANPOWER COMMISSION

NOTICE OF MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that the Commissioners of the Defense Manpower Commission will meet on January 17, 1975 at 1 p.m. in the New Executive Office Building, Room 2008, 726 Jackson Place NW., Washington, D.C. 20036.

The purpose of the meeting will be to review staff progress on program items and such other business as may be presented by the members.

The meeting will be open to the public. Since meeting space is limited, interested persons wishing to attend should telephone (202) 254-7803 before close of business January 10, 1975.

Dated: December 20, 1974.

BRUCE PALMER, Jr.,
General, USA (Ret),
Executive Director.

[FR Doc.74-30380 Filed 12-30-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-32000/163; FRL 310-5]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before March 3, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after March 3, 1975.

APPLICATIONS RECEIVED

EPA File Symbol 9419-RI. The Andersons, PO Box 119, Maumee OH 43537. THE ANDERSONS TRIPLE THREAT PRE-EMERGENCE CRABGRASS KILLER PLUS 10-6-4 FERTILIZER WITH G-E-N-T-L-E "N" AND LAWN INSECTICIDE. Active Ingredients: N-butyl-N-ethyl-a,a,a-trifluoro-2,6-dinitro-p-toluidine 0.46%; Technical Chlordane (Equivalent to Octachloro-4,7-methanotetrahydroindane) 0.72%; Related Compounds 0.46%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6626-GI. Atlantic Research Laboratories Corp., 29-06 40th Rd., Long Island City NY 11101. FARM AND INDUSTRY INSECTICIDE CONCENTRATE. Active Ingredients: Pyrethrins 1.0%; Piperonyl Butoxide, Technical 10.0%; Petroleum Distillate 79.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11558-G. Celanese Chemical Co., 1211 Ave. of the Americas, New York NY 10017. CHEMSTOR VF-44. Active Ingredients: Acetaldehyde 99.5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34224-I. Chemrite Corp., 12600 S. Daphne Ave., Hawthorne CA 90250. CHEMRITE CR-350 BIO-THANARITE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34224-O. Chemrite Corp., 12600 S. Daphne Ave., Hawthorne CA 90250. CHEMRITE CR-351 BIO-ACIDRITE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5.0%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5.0%; Phosphoric Acid 30.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 100-523. Ciba-Geigy Corp., PO Box 11422, Greensboro NC 27409. TOLBAN 4E HERBICIDE. Active Ingredients: Profluralin 43.6%; Related compounds 1.9%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 677-GEO. Diamond Shamrock Corp., Agricultural Chemicals Div., 1100 Superior Ave., Cleveland OH 44114. DIAMOND SHAMROCK ROWTATE 65W (65% WETTABLE POWDER). Active Ingredients: Cleanilide (cis-2,5-dimethyl-N-phenyl-1-pyrrolidine-carboximide) 65.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 35380-R. Elston Co., Inc., 315 E. 79th St., Minneapolis MN 55420. ELSTON GOPHER GETTER BAIT. Active Ingredients: Strychnine Alkaloid 0.35%. Application proceeds under 2(c) of interim policy.

EPA File Symbol 904-EEO. B. G. Pratt Div., Gabriel Chemicals, Ltd., 204 21st Ave., Paterson NJ 07509. PRATT TURF FUNGICIDE 50% WETTABLE POWDER. Active Ingredients: 4,6-Dichloro-N - (2 - chlorophenyl) -2,5-triazine-2-amine 50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 407-GIL. Imperial Inc., PO Box 423, Shenandoah IA 51601. IMPERIAL PYRENONE SUPER-SPRAY EMULSIFIABLE CONCENTRATE. Active Ingredients: Technical Piperonyl Butoxide 60.0%; Pyrethrins 6.0%; Petroleum Distillate 14.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 14955-G. Jefco Laboratories, Inc., 618 W. Jackson Blvd., Chicago IL 60606. JEFCIDE C-520. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 8901-RL. Kocide Chemical Corp., PO Box 45539, Houston TX 77045. KNEW AGRICULTURAL FUNGICIDE EMULSIFIABLE LIQUID. Active Ingredients: Copper 4.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 19400-L. Leonard Brush Co., Inc., 900 E. Main St., Louisville KY 40206. LEONARD'S LEMON ODOR 15 DISINFECTANT. Active Ingredients: Alkyl (C14 58%, C 16 28%, C 12 14%) dimethyl benzyl ammonium chloride 4.0%; Isopropanol 2.0%; Essential oils 0.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 19400-A. Leonard Brush Co., Inc., 900 E. Main St., Louisville KY 40206. LEONARD'S LEMON ODOR 7 DISINFECTANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.00%; Isopropanol 1.00%; Essential oils 0.25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 35135–E. Markay Laboratories, 250 Riverview Rd., Montebello CA 90640. MARKAY #31. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene (dimethyliminio) ethylene - dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 10123–I. National Chemical, 840 Selig Dr., SW, Atlanta GA 30336. NP–45–M. Active Ingredients: Disodium cyanodithioimidocarbonate 4.2%; Potassium N-methyldithiocarbamate 5.8%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1020–RR. Oakrite Products, Inc., 50 Valley Rd., Berkeley Heights NJ 07922. BIOCIDE 400. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 35273–E. Rafael Faria, 125 & 164 Guadalupe St., Ponce PR 00731. CREOLINA-OKAY. Active Ingredients: Coal Tar Oil 11%; Wood Rosin and Caustic Soda (Soap) 4%; Coal Tar Oil's Cresylic Acid 7%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 35273–R. Rafael Faria, 125 & 164 Guadalupe St., Ponce PR 00731. INSECTICIDA EL DIABLO. Active Ingredients: 0,0-dimethyldithiophosphate of diethyimercaptosuccinate 0.5%; Beta butoxythiocyano diethyl ether 1.0%; Petroleum distillates 98.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 572–EOA. Rockland Chemical Co., Inc., PO Box 204, Passaic Ave., West Caldwell NJ 07006. ROCKLAND HOUSE PLANT SPRAY. Active Ingredients: Tetramethrin 0.250%; related compounds 0.034%; (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.106%; related compounds 0.014%; Petroleum Distillate 9.000%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33355–L. Southeastern Laboratories, Inc., 117 West Ave., PO Box 186, Ayden NC 28513. H–5 ALGAECIDE. Active Ingredients: Disodium cyanodithioimidocarbonate 4.90%; Potassium N-methyldithiocarbamate 6.76%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 3742–GUE. Southern Agricultural Chemicals, Inc., PO Drawer 527, Kingstree SC 29556. ROYAL BRAND METHOXYCHLOR 50 WP. Active Ingredients: Methoxychlor, Technical 50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5741–RR. Spartan Chemical Co., Inc., 110 N. Westwood Ave., Toledo OH 43607. SPARTAN'S GERMICIDAL BOWL CLENSE II. Active Ingredients: Hydrogen chloride 23.00%; n-alkyl (C14 50%, C12 40%; C16 10%) dimethyl benzyl ammonium chlorides 0.05%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 13604–U. The State Manufacturing Co., Inc., 3545 E. 76th St., Cleveland OH 44105. METLA-COTA 950A. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 148–RENR. Thompson-Hayward Chemical Co., 5200 Speaker Rd., Kansas City KS 66106. GUTHRIN. Active Ingredients: 0,0-dimethyl S-[4-oxo-1,2,3,-benzotriazin-3(4H)-ylmethyl] phosphorodithioate 11.1%; Endrin (Hexachloroepoxyoctahydro-endo dimethanonaphthalene) 17.8%; Aromatic Petroleum Solvent 27.2%; Xylene 28.2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10485–RE. United Chemical Corp., 601 N. Leech, PO Box 1499, Hobbs NM 88240. ALPHA 510. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 10485–RR. United Chemical Corp., 601 N. Leech, PO Box 1499, Hobbs NM 88240. ALPHA 511. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 5135–EG. Water Services Div., Universal Oil Products Co., 700 S. Flower St. Burbank CA 91502. M–50A. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 4238–RR. U.S. Diamond Chemical Div., Hook Rd., Bayonne NJ 07002. DIACIDE. Active Ingredients: N-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium Carbonate 4.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 11659–A. Walling Chemical Co., 2008 Westport Ave., Sioux Falls SD 47107. WALLING A–233 X. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 11659–I. Walling Chemical Co. WALLING A–232 X. Active Ingredients: Disodium cyanodithioimidocarbonate 4.90%; Potassium N-methyldithiocarbamate 6.76%. Method of Support. Application proceeds under 2(b) of interim policy.

EPA File Symbol 11659–T. Walling Chemical Co. WALLING A–231 X. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 7547–EN. Western Chemical Co., 1345 Taney, N. Kansas City MO 64116. ALGAE & SLIME CONTROL NR–M. Active Ingredients: Disodium cyanodithioimidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 7547–ER. Western Chemical Co., 1345 Taney, N. Kansas City MO 64116. ALGAE & SLIME CONTROL NC–M. Active Ingredients: Disodium cyanodithioimidocarbonate 7.35%; Potassium N-methyldithiocarbamate 10.15%. Method of Support: Application proceeds under 2(b) of interim policy.

Dated: December 17, 1974.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.74–29679 Filed 12–30–74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 74–1370, F–C–8490; Docket No. 20288; F–C–8734]

AMERICAN TELEPHONE AND TELEGRAPH CO.

Microwave Radio Channels, Hearing & Investigation

In the matter of the application of American Telephone and Telegraph Company (AT&T) for authority under section 214(a) of the Communications Act of 1934, as amended, to supplement existing facilities between Boston, Mass.; Chicago, Ill.; New York, N.Y.; Philadelphia, Pa.; and the District of Columbia by establishing digital channel groups between the above cities on the Existing Microwave Radio Channels. In the matter of American Telephone and Telegraph Company (AT&T) proposed tariff F.C.C. No. 267, offering a dataphone digital service between Five Cities. In the matter of the application of American Telephone and Telegraph Company (AT&T) for authority under section 214(a) to supplement existing facilities by establishing digital channel groups between various cities.

1. On July 2, 1973, the Commission released a Memorandum Opinion and Order, 41 F.C.C. 2d 586, granting AT&T authority to construct the above-captioned five city facilities (No. P–C–8490). The Order specifically withheld operating authority pending submission by AT&T of "definitive data showing the existing or proposed services for which the facilities are to be used, the specific rate and tariff provisions to be applicable to such services, including all regulations regarding shared use and re-sale of such services and interconnection with such services. In addition the showing should include all cost and supporting data."[1] We now have before us a petition from AT&T to commence commercial operation of its digital facilities, a proposed AT&T Tariff F.C.C. No. 267 offering Dataphone Digital Service (DDS), scheduled to become effective December 15, 1974, data supporting this tariff filed pursuant to § 61.38 of the Commission's Rules, and the above-captioned application to expand construction and operating authority to an additional nineteen cities (Appl. No. P–C–8734).[2] Numerous petitions have been filed by carriers whose services would have to compete with the proposed new service, alleging technical and economic deficiencies in the AT&T filing, and in particular that the rates are set at an unjustifiably

[1] 41 F.C.C. 2d at 587.

[2] Atlanta, Ga.; Baltimore, Md.; Cleveland, Ohio; Dallas, Texas; Denver, Colorado; Detroit, Mich.; Hartford, Conn.; Houston, Texas; Kansas City, Mo.; Los Angeles, Calif.; Miami, Fla.; Milwaukee, Wisc.; Minneapolis, Minn.; New Haven, Conn.; Newark, N.J.; Pittsburgh, Pa.; Portland, Ore.; St. Louis, Mo.; and San Francisco, Calif.

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low point. AT&T now urges grant of operating authority, alleging that the service is technically sound and economically fully justified. The Department of Defense (DOD) and a number of potential corporate users have urged that we grant the authorizations and allow the tariff to become effective. The Office of Telecommunications Policy (OTP) asks us to authorize only the requested five-city operation and hold a hearing on the tariff filing herein. The parties filing pleadings herein are listed in the Appendix.

2. Dataphone Digital Service is AT&T's term for what it characterizes as a new private line service for interstate digital data communications within and between major metropolitan areas within the continental United States. The offering provides for full duplex operation, either on a two station or a multi-station basis. DDS provides two way transmission of digital signals at synchronous speeds of 2.4, 4.8, 9.6 or 56 Kilobits per second (Kb/s). AT&T intends also to make available, although not immediately upon initiation of DDS, off-net extension to stations located in territories where DDS is not available. Stations located in such territories will be connected to DDS at a principal telephone company central office, via standard analog private line facilities. In its tariff filing, AT&T claims that DDS offers high reliability and rapid trouble isolation. It has designed the digital transmission system with centralized testing capability so that a service can be tested from end-to-end by a single technician, usually without a visit to the customer's premises.

3. AT&T proposes to offer digital services using a new technique called data under voice (DUV). By this technique, a digital bitstream is transmitted in an otherwise unused portion of the microwave baseband on 4 and 6 GHz radio channels. The DUV facilities will be functionally discrete from but physically integrated with, existing AT&T facilities. The company claims that this technique will provide improved and more reliable data transmission than existing techniques, and sizeable savings to the customer over comparable private line analog data services (which are presently offered in AT&T Tariff F.C.C. No. 260).

4. DUV as a technique has proved itself in operation by AT&T[3] to be technically feasible and efficient. The technique provides for a typical mix of 169 data channels (2.4, 4.8, 9.6, and 56 Kb/s) or 460 2.4 Kb/s channels, whereas placing voice services in this spectrum would yield only 120 voice channels. Since the bulk of users require 2.4 Kb/s channels, each of which would occupy one voice channel, the increased efficiency of data under voice usage of the microwave baseband is significant. Further, AT&T claims considerably improved error rate over that of the analog telephone network (a minimum of 99.5 percent error free seconds using DUV). At the present state of the art, reliability of digital solid state facilities is generally higher and provides more uniform standards of service than the equipment used for analog transmission. Finally, detection of service problems is eased, the need for special telephone engineering is reduced, and the cost of terminal devices is reduced for all-digital transmission. For this reason, the cost to the telephone company of DUV is said to be substantially less than for existing analog data transmission.

5. AT&T has expressed to the Commission[4] its intention to ultimately install and operate a nationwide end-to-end digital data system serving ninety-six cities. Construction and initiation of this system will, it is contemplated, proceed in several stages, applications for the first two of which are presently before us. When the system is completed, AT&T will be able to provide end-to-end digital data service to most of the major cities of the country and, through analog extensions, offer service to almost any point within the continental United States.

6. The Commission has received comments from a large number of companies, trade organizations, and congressmen regarding both the Section 214 applications and the proposed tariff. Of these, the strongest opposition to our grant of operating authority has come from other common carriers, particularly Data Transmission Company (Datran), the MCI Carriers (MCI),[5] and Western Union Telegraph Company (Western Union), as well as the Independent Data Communications Manufacturers Association (IDCMA), an association of equipment manufacturers which produce, among other items, modems used in the analog transmission of data. These modems would not be required in DDS. MCI operates, or has applied to operate, microwave data and voice facilities in many of the cities to be served by DDS. Western Union offers nationwide private line analog data services.

7. It is Datran, however, which has filed the strongest opposition comments to AT&T's proposed service. Datran provides, and is presently expanding, a digital point-to-point data network with comparable technical parameters to those proposed by AT&T and which Datran anticipates will ultimately be a nationwide service.[6] Datran was organized in July, 1968 as a subsidiary of Wyly Corporation. On November 25, 1969, it applied to the Commission for authority to construct and operate the first part of a Data Transmission Network. Action upon this application was deferred until we resolved basic policies in the specialized common carrier field, through our investigation in Docket No. 18920. Following our decision in that proceeding (29 F.C.C. 2d 870), released June 3, 1971, we granted in 1972 and early 1973 construction permits and operating authority between several points. Presently, Datran has constructed and is operating private line digital facilities serving Dallas and Houston, Texas; Oklahoma City and Tulsa, Oklahoma and Kansas City and St. Louis, Missouri (Datran offers the service pursuant to its Tariff F.C.C. No. 1).[7] The company is presently constructing facilities to serve Chicago, Illinois, and has recently been authorized to serve San Francisco and Los Angeles, California via channels leased from Southern Pacific Communications Company (SPCC).[8]

8. The principal support for grant of operating authority for this system has come from potential users of the system. They see DUV as a system which will provide more reliable data communications services[9] between cities at a lower cost than existing AT&T data services. The Department of Defense (DOD) and the Office of Telecommunications Policy (OTP) have also favored our grant of at least the five-city operating authority but requested an investigation into the rates and conditions of the AT&T tariff offering this service. DOD believes that the rates as filed may be excessive but feels we should not delay initiation of DDS pending the requested investigation. OTP, in its initial letter in this matter, dated May 18, 1973, raised questions regarding cross-subsidization of DDS by other services, the effect of pricing of this service upon competition and technical innovation within the industry and interconnection and resale. Subsequently, in a letter dated June 12, 1974, the Office commented that AT&T's materials appeared to satisfy its principal concerns. The letter suggested that we grant the five-city application for operating authority. Finally in a letter to the IDCMA,[10] OTP clarified its position that approval should be limited to five cities pending conclusion of our inquiry into shared used and resale of communications services (Docket No. 20097).

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[3] AT&T has thus far operated DUV facilities only between New York and Chicago, pursuant to Commission authorization (File P–C–8449).

[4] Application, File No. P–C–8490.

[5] MCI New York West, MCI New England, Inc., and Interdata Communications, Inc.

[6] Datran presently offers a private line digital data service and shortly intends to offer a switched-network service as well. AT&T's current offering is confined to private line service.

[7] We take no position regarding the appropriateness of the rates which Datran has established in its tariff (F.C.C. No. 1).

[8] On August 9, 1974, Datran and SPCC, a subsidiary of Southern Pacific Company, announced an agreement in principle to share joint communications facilities. Pursuant to this agreement, SPCC would purchase and lease back certain assets of Datran. The two companies would also co-locate and jointly build microwave networks linking St. Louis, Chicago and East Coast points on facilities owned by SPCC and leased to Datran. We approved this agreement on December 11, 1974 (FCC 74–1369).

[9] For example, Telenet Communications Corporation and the Ad Hoc Telecommunications Committee (representing several large American Corporations) note that end-to-end digital transmission avoids much of the degradation inherent in digital-analog-digital conversions.

[10] IDCMA filed this letter with us, accompanied by a request to supplement its reply pleading, since the filing was untimely. We are granting this request herein.

9. In opposing our grant of the section 214 applications, Datran raises a number of technical issues. In particular, it suggests that a more efficient use of the baseband frequencies in question (60–564 KHz) would be to provide voice channels rather than digital data channels, in part because of the large costs necessary to convert AT&T's multiplexing from L–600 to U–600.[11] AT&T points out that it had begun this conversion some time ago and that 70 percent of its multiplex facilities have now been converted from L–600 to U–600. In a related suggestion, which it includes in its technical comments, Datran states that we should deny operating authority because AT&T would derive greater revenues and earnings from devoting these frequencies to message telephone (voice) services than by using them for data. It supports this by submitting an extensive opportunity cost analysis showing the potential contribution to monopoly services of several alternative data and voice uses of the 60–564 KHz spectrum. AT&T, in a lengthy refutation; concludes generally that the use of DUV will in fact provide a greater contribution than the placing of voice channels on the microwave baseband. It also contends that much of the data employed by Datran in its study is conjectural.

10. A final technical issue, which was raised both by the American Satellite Corporation and by IDCMA, relates to the need for four-wire local loops, rather than existing two-wire plant, for local distribution of digital data. They point out that at least one AT&T operating company has stated it will not install any new four-wire loops in the future, and that this could seriously limit AT&T's ability to provide Dataphone Digital Service in the future. AT&T does not respond to this claim.

11. Several of the parties raise legal issues, to wit: whether we should reject the tariff filing as unauthorized, since we have not yet granted operating authority for the five-city network; whether the rates are predatory and anticompetitive; and whether AT&T's offering satisfies the requirement of our Specialized Common Carrier Services ruling, that all carriers "shall have an opportunity to compete fairly and fully in the sale of specialized services." 29 F.C.C. 2d 870, 915 (1971). Datran, in contending that AT&T's pricing is predatory, quotes AT&T's language in its cost justification (material filed pursuant to Section 61.38 of the Commission's Rules, hereinafter referred to as "61.38 material") that its objective is to "price competitive services to yield as large a contribution as practicable, taking into account market conditions and other ratemaking factors." The company believes that AT&T has priced its services 26 percent below the level necessary to meet this objective, and that this is evidence of a predatory pricing policy.[12] AT&T answers that it studied a number of possible rates for DDS and selected that which yielded the largest contribution, thus benefitting users of other AT&T services, particularly message telephone [illegible].

12. There are certain non-cost tariff issues which have been raised, particularly by the IDCMA. It believes the AT&T tariff unreasonably restricts the use of customer provided equipment for this service. One example cited is the provision by AT&T as part of its service of a connecting arrangement called a Channel Service Unit. The Association believes that this device should be separately tariffed, in order that the customer may provide the device himself. AT&T states it has not tariffed the unit because it is an integral part of the provision of the service to the customer, and that it believes it should supply the facilities necessary to bring the service into the customer's premises. A second example is IDCMA's interpretation of a provision in AT&T's existing private line tariff, F.C.C. No. 260, which prohibits the mixing of AT&T-provided and customer-provided data sets on the same line. IDCMA suggests that, since the telephone company uses its own data sets in its central offices, local extensions onto the customer's premises are covered by this "no-mix" rule, and the customer therefore cannot use his own equipment. AT&T refutes this interpretation of the tariff provision, stating that the installation of AT&T data sets on telephone company premises does not preclude the customer from providing his own equipment on his own premises.

13. IDCMA also challenges the tariff provision whereby extensions within the same state of DDS lines are tariffed at intrastate rates if the customer provides his own terminal equipment (data sets) and at interstate rates (which are generally lower than intrastate rates) if AT&T provides the terminal equipment. AT&T does not respond to this allegation. The Association also joins Western Union, Datran and American Satellite Corporation in contending that AT&T unlawfully fails to tariff local digital distribution facilities provided to other common carriers. AT&T answers that it intends to provide these services but that filing the necessary tariffs was not a condition precedent to Commission authorization of service.

14. The question of shared use and resale of DDS services is raised in pleadings by Telenet Communications Company, Western Union, and others. The proposed tariff permits a customer, except a communications common carrier, to share DDS services, and it generally prohibits resale of such digital services by another common carrier. The tariff specifically permits, however, the resale of services by a customer offering "composite data services", as defined therein.[13] The question raised is whether this unlawfully discriminates against other common carriers, particularly those not offering composite data services.

15. The remaining issues deal with the 61.38 material and the rates as listed in the subject tariff. This material, submitted by AT&T, consists of approximately 2300 pages of cost justification of the proposed Dataphone Digital Service. Briefly, AT&T employed long run incremental cost (LRIC) and burden analysis procedures to determine the net effect on the company of providing DDS. In addition, AT&T conducted a study to determine the fully distributed costs (FDC) for providing the service. These studies concluded that:

(1) On the basis of the LRIC approach and burden analysis study, the service would contribute $18.0 million to the company at the midpoint of the five year test period (based upon a ninety-six city operation);

(2) On a fully distributed cost basis determined in accordance with either method 1 or method 7 of the alternative cost approaches considered in pending Docket No. 18128, DDS will have an earnings ratio (return) of about 21.4 percent.

16. Of the remaining economic issues which Datran and others have raised, the following appear to be the key contentions:

(1) AT&T, Datran believes, has made erroneous assumptions regarding the rates of the specialized common carriers, the geographical penetration of the carriers, and the behavioral functions of the market. They cite figures showing that AT&T, in its market study, understates Datran's rates by a wide margin (for example, AT&T cites Datran's rate per airline mile for a 2.4 Kb/s channel at $.35, while Datran states its rate to be $.75. This is the widest deviation noted). If this is so, Datran believes it may render erroneous much of AT&T's market analysis, especially the cross-elasticity of demand, taking into account the impact of competitive carriers, and the determination of which rate will yield the greatest contribution to the company's overall revenue. The same is true, Datran believes, with regard to AT&T's alleged misstatement of the other carriers' geographic penetration and market behavior. AT&T responds that it based its 61.38 material upon the best information available at the time, and that the new data will not appreciably alter its analysis;

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[11] Both the L–600 and U–600 multiplex have approximately the same amount of unused baseband spectrum. In the older L–600 system, this spectrum is non-contiguous but rather is scattered in various portions of the microwave band, while in the newer U–600 system, developed in connection with higher capacity cable systems, this unused portion is a continguous 60–564 KHz band below the voice channels. This is the band proposed to be used for DUV.

[12] Datran believes this underpricing is due in part to AT&T's understatement of Datran rates. See infra, par. 16.

[13] "The term 'Composite Data Service' denotes an offering which combines the use of computers and terminal equipment with the use of communication services of the Telephone Company to provide a single integrated data service for data processing and data message switching, or for data message switching only." Proposed Tariff F.C.C. No. 267, Regulation 2.1.

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(2) Datran further contends that repricing DDS at a higher level will result in a substantially increased contribution with no attendant loss in market share, and that the rate structure as filed will capture 100 percent of the market. This, it claims, is anticompetitive and predatory, as discussed above. AT&T states it has priced its service to obtain the maximum contribution, consistent with good business practices;

(3) The cost presentations, Datran states, are deficient in that both the LRIC and FDC analyses understate investment and are otherwise deficient, and the burden test is deficient in several respects. This, it feels, renders meaningless the AT&T determinations of contribution and return referred to in paragraph 15 above. AT&T believes, however, that these presentations are consistent with the approaches which the Commission has approved, and that no changes should be made until a resolution of Docket No. 18128 is released.

Discussion

17. In Specialized Common Carrier Services, 29 F.C.C. 2d 870 (1971), we examined the entire question of competition between existing carriers and new entrants in providing point-to-point services over microwave facilities. At that time, we stressed "our objective to promote and maintain an environment within which existing and any new carriers shall have an opportunity to compete fairly and fully in the sale of specialized services." We further endorsed the views of our staff "that there should not be any 'protective umbrella' for new entrants or 'any artificial bolstering of operations that cannot succeed on their own merits.'" 29 F.C.C. 2d at 915. The interpretation of this language is the principal issue squarely presented to us here. We have previously considered rate adjustments instituted by existing carriers as a response to new competition, but we have before us here institution of an allegedly new service inaugurated by an established carrier, at rates far below its existing private line data services, which affects the competitive environment referred to above. As discussed above, Datran believes this will lead to AT&T's monopolization of the interstate digital data market.

18. In authorizing the construction of the five-city network (41 FCC 2d 587) we briefly noted the technical objections raised by Datran. However, we concluded that the DUV technology was sound and warranted that initial construction, but that we would further review the matter upon its completion. In view of this and the expanded nature of the network now under consideration, we believe it is appropriate to discuss these and other questions which have subsequently been raised. We note that AT&T has already successfully operated DUV facilities for over a year in conjunction with 50 Kb/s wideband data channels, pursuant to Commission authorization (File No. P-C-8449), and that Western Union currently utilizes a hybrid (analog-digital) technique somewhat similar to DUV in certain of its radio routes. In both of these instances the feasibility and advantages of this transmission method have been demonstrated.

19. A key technical allegation raised is the comparison of DUV with Datran's proposed Voice under Voice system (VUV) with regard to efficiency in the utilization of baseband spectrum. Paragraph 4 herein discusses the use of VUV for 120 voice channels versus the use of DUV for up to 460 2.4 Kb/s data channels. While it is possible to conjecture about the possibilities of using each VUV voice channel for up to 9.6 Kb/s of multiplexed or nonmultiplexed data, it is our view that such use would require costly modems which cannot be made to operate at nearly as low error rates as indicated for the proposed end to end digital system. (AT&T reports error performance of 90 percent error free seconds for 9.6 Kb/s data transmitted on its analog private line facilities versus 99.5 percent error free seconds with the same bit rate on the end to end digital system.) Datran also questions the feasibility and cost of converting the L-600 to U-600 multiplex format. AT&T points out that this conversion began some time ago, that 70 percent of its multiplex facilities have now been converted, and that the remaining conversions required have been included in the system cost figures submitted with the application. We believe AT&T has adequately addressed allegations regarding the technical effect of DUV on other voice services and the vulnerability of the DUV baseband spectrum to noise.[*] While AT&T has not responded to the question concerning local loops, we are of the opinion that the availability or lack thereof of four-wire facilities should not constitute any significant technical problem. However, the lack of such facilities may create a need for special equipment. Such questions essentially concern cost rather than technical feasibility and can be adequately dealt with in connection with the investigation concerning the tariff discussed below.

20. Based upon our analysis of the technical aspects of DUV prior to issuing our 1973 Order, and upon our reexamination as outlined above, we conclude that the public will benefit from the new DUV method of transmission and that we should reaffirm our approval thereof. The new technology is more efficient in that it will enable the transfer and consolidation of existing digital services on analog channels to functionally discrete digital facilities. This will result in lower error rates at considerable advantage to customers. The analog channels vacated by this transfer would be free for the provision of other services. DUV will also significantly increase the capacity of each radio channel at 4 and 6 GHz, thereby yielding improved spectrum utilization in two very congested radio bands. We therefore reiterate our view that "the basic DUV technology is sound and should be introduced into the plant and operations of the AT&T network." 41 F.C.C. 2d 586, 588 (1973).

21. As to the broader issues, we have examined all of the pleadings and have devoted particular attention to the cost and market studies supplied by AT&T in support of its proposed Tariff 267. We cannot conclude that these data are adequate to satisfy the many concerns which have been expressed. There are substantial questions raised about the propriety of the rate base developed for the FDC study, e.g., whether the allocation of common costs to DUV is too low. The market study submitted as part of the 61.38 material is also of questionable validity, in view of AT&T's apparent understatement of Datran's rates and geographical penetration and the lack of comprehensive material backing up the simulation model and its assumed market distribution of data speeds. Indeed, numerous unsupported assumptions underlie the market study on which the proposed rates are predicated. We also have questions as to whether the rate base principles established in Docket 16258 (9 F.C.C. 2d 30 (1967), 9 F.C.C. 2d 960 (1967)) should apply to private line services under the present factual situation. We take no position at this time regarding the validity of FDC or LRIC in developing rate levels for discrete classes of service. Rather, we believe that question and related issues should be resolved in other proceedings such as pending Dockets 18128 and 19919. Until a decision is rendered therein, however, we shall require all studies submitted in this proceeding to use the FDC approach as employed by AT&T as an alternative pricing method in its 61.38 material. We are also unclear whether AT&T's costing procedures are entirely proper but believe this should be explored in the hearing instituted herein. Finally, we are concerned that the sharing and resale provisions filed in the subject tariff may be discriminatory.

22. At the same time, we cannot conclude, on the basis of the materials now before us, that the DDS tariff proposals are predatory, anti-competitive or otherwise unlawful because of their competitive impact. Rather, we conclude that a substantial question exists as to the appropriateness of the proposed rates, and as to their potential anti-competitive impact. While we have no intention of creating a protective umbrella over the newly emerging competitive carriers,

[*] In the Bell Labs Record of May 1974, an article entitled "1A Radio Digital Terminals Put 'Data Under Voice'" by Richard R. Grady and Joseph Knapp explains that a scrambler is used before encoding the bit stream into a 7 level signal for insertion onto the baseband of DUV. This scrambling eliminates strong discrete tones in the output spectrum which could cause interference with other channels associated in the same radio baseband. In addition, preemphasis of the radio baseband is used before insertion onto the FM modulator to evenly distribute the effects of noise and interference over the entire baseband, as the higher baseband frequencies are generally more affected by noise. Addition of the data under voice load in the baseband, while using the same FM deviation, results in only slightly higher signal to noise ratio in the voice bands of less than 0.3 dB which is minimized using preemphasis.

neither can we ignore the enormous market power and influence of AT&T. Particularly because of its unique position in the provision of communications services, we have a responsibility to assure ourselves that its competitve efforts are legitimate ones, free of predatory or anti-competitive aspects. When, as here, we have presented to us substantial allegations of anti-competitive pricing and are unable to conclude, on the basis of the 61.38 data proffered by AT&T, that those allegations are lacking in merit, we believe it the better policy for us to permit AT&T to operate DUV facilities among only five cities at the rates filed, for an interim trial period, and among the additional nineteen cities at existing private line rates, as provided in paragraph 26 below, while we conduct an immediate hearing into the lawfulness of the filed DDS rates.

23. As a general principle, a carrier cannot engage in price discrimination for like communications services unless certain special circumstances exist, Telpak, 37 F.C.C. 1111 (1964), 48 KHz 29 F.C.C. 2d 493 (1971). The special circumstances considered in these two cases, pricing to meet competition in the Telpak case, differential in cost in 48 KHz, are issues presented by the material before us. Another legitimate ground for price discrimination is that the service offerings as to which a price differential exists are not like communications services. See section 201(b) of the Act. This issue is also presented by the material before us. Specifically, the title page of the proffered tariff 267 states, "DATAPHONE Digital Service is furnished by means of wire, radio or any combination thereof." Nothing in the proposed tariff tells the customer that he will receive digital data service which uses DUV facilities in whole or in part or assures any error rate or quality of service different from that offered under present tariffs or, in general, indicates that the service will be functionally different from that presently available under AT&T's existing private line tariff, F.C.C. No. 260, which offers digital data service without specifying whether or to what extent digital, analog or any other type of intercity facilities are used to provide the presently tariffed service.

24. Since we are not satisfied at this stage that AT&T has demonstrated that DDS as proposed is a just and reasonable separate class of service, warranting different charges, or that the proposed rate levels and rate structures are otherwise justified, we believe AT&T should not be permitted to operate among more than five cities at the rates filed, and then only on an interim basis, pending hearing. At the same time, we do not wish to deny to the public any improvements in service quality which may accrue from the introduction of an end-to-end digital transmission system.

25. If AT&T proposed to and were capable of offering DDS at the proposed rates on existing facilities for which section 214 authorization were not required, we would be limited to suspending the tariff for a maximum of three months and designating it for hearing. However, section 214 authorization is required prior to putting the present DDS proposal into effect, and the Commission clearly has authority to condition grants of authorization under section 214. The statute itself contains language empowering the Commission to "attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require." See *Capital Telephone Co.* v. *FCC*, 498 F2d 734 (D.C. Cir., 1974). *Cf. United Gas Improvement Co.* v. *Callery*, 382 U.S. 223 (1965); *Federal Power Commission* v. *Hunt*, 376 U.S. 515 (1964). Indeed, the Supreme Court has indicated that regulatory agencies may have a duty to determine whether rate proposals are in the public interest before granting certificates of public convenience and necessity. *Atlantic Refining Co.* v. *Public Service Commission of New York*, 360 U.S. 378 (1959).[15] In deciding whether the public interest requires certification, moreover, the Commission should consider the effects of its actions on competition. *General Telephone Co. of the Southwest* v. *U.S. and FCC*, 449 F. 2d 846 (5th Cir. 1971); *Carter Mountain Transmission Corp.* v. *FCC*, 116 U.S. App. D.C. 93 321 F. 2d 359 (1963), *cert. denied*, 375 U.S. 951 (1963). *Cf. McLean Trucking Co.* v. *U.S.*, 321 U.S. 62 (1944). Thus, it is well within our authority to condition the grants to AT&T as provided herein pending hearings to determine whether the proposed rates are predatory, anticompetitive or otherwise unlawful.

26. Pending the outcome of the hearings we are designating in this Order, we consider it imperative and in the public interest that effective competition for data communication services not be eliminated through the institution by AT&T of rates and conditions which may be predatory, anticompetitive or otherwise unlawful. According to the filings of both AT&T and DATRAN, as well as our own staff analysis, this would be the likely result if AT&T were allowed to offer its allegedly new Dataphone Digital Service over an extensive network at the rates specified in its proposed Tariff F.C.C. No. 267. Therefore, we will not authorize AT&T to offer the DDS classification at proposed Tariff 267 rates over the full 24 city DUV network for which 214 applications have been filed. However, we do wish to learn more of the market demand for the DDS class of service at the proposed Tariff 267 rates, and to make available to as many users as possible as promptly as possible the improved service quality expected from end-to-end digital transmission technology. Accordingly, without in any way prejudging whether AT&T's DDS proposal is just, reasonable, and in the public interest, or whether the offering is in fact a new and discrete class of service, we shall authorize operation of the initial five-city DUV network at the rates filed, for an interim trial period, pending the outcome of a hearing or further Commission order. We shall further authorize AT&T to construct and operate DUV facilities among the additional 19 cities currently applied for in order that users in those cities may realize the improved service quality which such facilities may offer. However, for a period of twelve months from the release of this Order or pending the results of the hearing herein instituted, whichever occurs first, we shall require a condition of their authorization that services utilizing the DUV facilities established among the nineteen additional cities be offered at overall rates no lower than those under which AT&T's existing private line data services are offered pursuant to its Tariff F.C.C. No. 260 (with the exception of Series 5000 channels). These facilities may be used in connection with existing private line services, or for end-to-end digital data services, or both, at the option of AT&T. In the event they are used for end-to-end digital data services, appropriate amendments to Tariff 260 will be required, and the terms and conditions set forth in paragraph 28 below for the 5-city DDS network, with the exception of rate levels, shall apply. Rate calculations for data services between points for which facilities are authorized pursuant to the five-city grant (File No. P–C–8490) and points for which facilities are authorized pursuant to the nineteen-city grant (File No. P–C–8734) shall be at the rate specified for services among the nineteen cities. A customer must have a continuing requirement for origination or termination of communications at each city for which he orders service.

27. We shall further require AT&T to file tariffs providing interconnection of DDS with other carriers' systems, so that all competitors will have the prerogative of constructing their own facilities, or if less costly, leasing Bell facilities on any given link either now or at any time during the interim period. We believe this action will (1) convey to the using public the maximum benefits of any inherent economies of scale in the AT&T network as well as the benefits of innovations developed either by the Bell Laboratories or by a competitor in that specialized carriers may construct separate facilities incorporating either technical or service innovations if they feel it is advantageous, (2) mitigate the adverse effects of possible anti-competitive action by enabling the emerging competitors rapidly to extend their service nationwide with a minimum capital investment by using leased rather than purchased facilities, and (3) provide

[15] The Court ordered a remand to the FCC in Atlantic Refining Co., where the Commission had granted an unconditional certificate to a producer even though the Commission had been unable to find that the proposed rates were in the public interest. The clear implication of the Court's holding was that the grant should have been conditioned on the producer's agreeing to maintain certain rates pending hearing. 360 U.S. at 391. In Callery, the Court upheld the FPC's grant of certificates to gas producers conditioned on the producers maintaining a rate ceiling pending a hearing to determine appropriate rates.

valuable inputs to our further deliberations on shared use and resale of communications services in Docket 20097. Accordingly, we find that it is in the public interest to require AT&T to furnish both intercity and local distribution facilities to other carriers for interconnection and use during the interim period. We, also, feel that the economic and technical aspects of more widespread resale and shared use for direct digital data services should be made a matter of investigation during the hearing into the rates and tariffs which will be effective after the interim period.

28. We shall therefore condition the grant of 214 authority for five cities (P-C-8490) upon AT&T's amending its Tariff 267, which shall be effective for an interim trial period, pending the outcome of the hearing designated herein, within thirty days of the adoption of this order, effective upon not less than one day's notice, to:

(1) Specify that Dataphone Digital Service shall be an all digital service employing only direct digital transmission facilities such as the Data Under Voice facilities as authorized under our order herein;

(2) Specify the minimum error rate performance and other quality of service standards that the customer is entitled to receive under the tariff; *

(3) Make intercity Dataphone Digital Service channels and digital local distribution facilities available to other common carriers and composite data service customers for interconnection and use with the other carriers' data systems. (These tariffs shall be filed on not less than thirty days notice).

We shall further condition the grant of the additional nineteen city construction and operating authority (P-C-8734) upon the facilities being used to offer data services at rates no lower than those under which existing private line data services are offered in AT&T Tariff F.C.C. No. 260 (with the exception of Series 5000 channels), and upon such services being incorporated within that tariff, as provided in paragraph 26 above. All such filings shall be upon not less than thirty days notice, and shall remain in effect for a period of twelve months from the date of the release of this Order, or until a final Commission decision is issued in the hearing ordered herein, whichever occurs first. If such a decision has not been issued, AT&T may file a new tariff offering services using the nineteen city facilities upon not less than thirty days notice, to be effective upon expiration of the twelve month period referred to above.

29. We anticipate that this hearing will commence promptly and will be conducted on an expedited basis. We believe the "paper" procedures recently employed in other rate investigations will be appropriate here too. *See* AT&T (Hi-Lo), 44 FCC 2d 88, 90–91 (1974); AT&T (WATS), 46 FCC 2d 81, 87–8 (1974). An appropriate schedule and list of procedures is included herein. Although our rules allow the carrier to supplement material filed pursuant to § 61.38 of our rules within 45 days, in view of the nature of this filing we find that the public interest requires that we allow AT&T 20 days to supplement such material and to complete its filing of evidence upon which it intends to rely. Also, we are providing for the submission of interrogatories and requests for information, which process merges cross-examination and the informal gathering of information traditionally undertaken during the prehearing and hearing stages of rulemaking proceedings. We shall further allow the Judge to provide for oral evidentiary hearings, as specified below. Should it develop that the procedures which we are establishing prove inadequate or result in substantial unfairness to any party, appropriate modifications will be considered.

30. Several requests for relief remain before us. Petitions to deny the five and nineteen-city applications for construction and operating authority were filed by Datran, MCI, Western Union, and CML Satellite Corporation. For the reasons expressed herein, we are granting the 214 authorizations conditioned upon AT&T amending its DDS tariff as provided herein. For that reason, we are denying these petitions. Datran and IDCMA seeks a declaratory ruling that we shall consider the proposed DDS tariff when determining whether or not to grant the 214 applications. These petitions followed a May 1974 meeting at the Commission wherein AT&T limited itself, in its presentations regarding DDS/DUV, to technical aspects of the proposed system. In view of the fact that our 1973 Order required AT&T to file such data and since the tariff is before us, we are considering it and the 214 applications together. Further, all interested parties have had an opportunity to comment on the tariff, pursuant to our rules. Therefore, the requested declaratory ruling is unnecessary and is dismissed herein as moot.

31. We also have requests by Datran and MCI to reject AT&T's DDS tariff on the ground that we have not yet granted operating authority for the DUV facilities which AT&T intends to use. In support they cite *Press Wireless, Inc.*, v. *F.C.C.*, 264 F. 2d 372 (D.C. Cir., 1959) and *Associated Press* v. *F.C.C.*, 448 F. 2d 1095 (D.C. Cir., 1971) as recognizing the Commission's authority, and in some cases its duty, to reject a tariff which requires the use of unauthorized facilities. As we have decided to grant herein the operating authority requested, conditioned upon the tariff filings described above, these requests are rendered moot. DOD also addressed itself to the tariff, believing the rates to be too high. Its pleading, however, requests us to allow the tariff to go into effect while instituting an inquiry into its lawfulness. As discussed above, we are instituting the requested proceeding and allowing the tariff to become effective as amended.

32. Datran has further asked us to reconsider our 1973 Order on the grounds (1) we did not have the tariff data before us at the time of the Order, and (2) important technical issues remain unresolved which should lead to denial of section 214 authorization. We believe that there is no merit in these suggestions. As we stated in the above Order, we believe the public interest would best be served by conditionally granting the construction and operating authorizations requested. None of the technical material now before us would warrant reconsideration of our original grant. See paragraphs 18–20 supra.

33. Finally, AT&T has expressed its intention to make digital local distribution facilities available to other common carriers for use with the other carriers' digital data systems. It has not, however, filed tariffs with us offering such facilities to others. As a condition to the grants of authority herein, we require AT&T to file such tariffs upon not less than thirty days' notice.

34. *Accordingly, it is ordered*, pursuant to the provisions of Sections 4(i), 4(j), 201, 202, 203, 204, 205, and 403 of the Communications Act of 1934, as amended, an investigation and hearing is instituted into the lawfulness of AT&T Transmittal No. 11990, Tariff F.C.C. No. 267, at the offices of the Commission in Washington, D.C., subject to the schedules and procedures specified herein.

35. *It is further ordered*, without in any way limiting the scope of the investigation, it shall include consideration of the following:

(1) Whether the charges, classifications, practices, and regulations published in the aforesaid tariffs are or will be unjust and unreasonable within the meaning of section 201(b) of the Act;

(2) Whether such charges, classifications, practices, and regulations will, or could be applied to, subject any person or class of persons to unjust or unreasonable discrimination or give any undue or unreasonable preference or prejudice to any person, class of persons, or locality, within the meaning of Section 202(a) of the Act;

(3) Whether the tariff schedules conform to the requirements of section 203 of the Act and Part 61 (47 CFR Part 61) of our rules implementing that section;

(4) If any of such charges, classifications, practices, or regulations are found to be unlawful, whether the Commission, pursuant to section 205 of the Act, should prescribe charges, classifications, practices and regulations for the service governed by the tariffs, and if so, what should be prescribed;

(5) Whether Dataphone Digital Service, as reflected in the tariff filing described herein, involves rates or practices which may be anti-competitive or otherwise unlawful.

* During the interim trial period we anticipate action in the pending quality and reliability of service issue in Docket No. 18920 (see Issue D, 29 FCC 2d 870), which will generally specify standards in this regard.

(4) Whether Dataphone Digital Service, as reflected in the tariff filing described herein, represents a just and reasonable discrete classification of service within the meaning of section 201(b) of the Act.

(7) Whether the rate making principles, including allocations of costs, used by AT&T in deriving its proposed rates for Dataphone Digital Service, are appropriate to the types of competitive services proposed in the tariff filing described herein, and whether the costs derived therefrom justify the charges for the proposed service.

(8) Whether the terms and conditions for resale and shared use, as reflected in the tariff filing described herein, are just and reasonable.

36. *It is further ordered*, That the following procedures will apply in this proceeding: [1]

(a) The record for decision will consist of all matters submitted for the record by respondents, interested persons and the Common Carrier Bureau trial staff. Interrogatories and information requests and responses thereto shall be part of the record. Such submittals together with supporting documentation and workpapers will be available for public inspection as they are received.

(b) All matters submitted for the record, including answers to interrogatories and responses to information requests, must be identified as to sponsoring party, numbered consecutively and identified with the name of a person by whom or under whose supervision the submittal was prepared.

(c) The source of all data must be clearly and specifically noted. Supporting documents which are not readily available and working papers must be presented with the submittals to which they apply. Statistical studies will be submitted and supported in the form prescribed in § 1.363 of the Commission's rules.

(d) Original and five copies of all matters submitted for the record as well as of supporting documentation and workpapers must be filed with the Commission. Part 1 of our Rules governs as to the number of copies for other submissions, such as briefs, pleadings and proposed findings. Matters submitted for the record shall be served on all interested persons filing a notice of intent to participate ("participants") and upon the presiding Administrative Law Judge.

(e) Interrogatories and requests for information must be filed with the Commission and served on the participants to this proceeding. Objections to interrogatories and information requests should be resolved, if possible, by immediate informal conferences between the persons involved and the Trial Staff. If such persons are unable to resolve their differences, the Administrative Law Judge should be notified, and on notification should convene an immediate oral conference of the persons involved. After oral presentations by such persons and the Trial Staff the Judge shall forthwith issue a ruling. Appeals from such rulings shall be governed by 47 CFR §1.301 except that the Judge shall set an expedited procedure.

(f) At any time after having received answers to interrogatories, upon a showing that such answers did not provide the information requested, the presiding Administrative Law Judge may order, upon motion of any party or upon his own motion, such evidentiary-type oral proceedings as may be necessary to elicit on the record such relevant, material and competent information as required for resolution of the issues herein.

37. *It is further ordered*, That the following schedule will be adhered to:

(a) Within 20 days of the release of this order AT&T may supplement the materials submitted pursuant to § 61.38 of our rules. Any such supplementation, together with the material originally filed will form the evidence upon which it intends to rely. At the same time AT&T should place materials already filed into proper form as described in paragraph 36 at "b" above.

(b) Participants may file responsive material within 70 days following the filing of the material filed pursuant to subparagraph (a) above. This period will not be tolled pending resolution of conflicts with regard to answers which are not forthcoming but contested, or pending any oral proceedings ordered pursuant to paragraph 36 above.

(c) AT&T may file material in reply to that submitted by other participants within 70 days following the filing of material submitted pursuant to subparagraph (b) above. This period will not be tolled pending resolution of conflicts with regard to answers which are not forthcoming but contested, or pending any oral proceedings ordered pursuant to paragraph 36 above.

(d) Any participant may serve interrogatories and requests for information on other participants filing material in this proceeding at any time prior to 40 days before the date set for filing of proposed findings and conclusions, specified in subparagraph (e) below. Answers to such interrogatories and requests for information shall be filed within 20 days of the filing thereof.

(e) Proposed findings of fact and conclusions of law may be filed by any participant within 50 days of the filing of material submitted pursuant to subparagraph (c) above.

(f) Replies to the proposed findings of fact and conclusions of law may be filed by any participant within 15 days of the filing of such findings and conclusions.

(g) The presiding Administrative Law Judge shall issue an initial decision within 45 days of the filing of replies to the proposed findings of fact and conclusions of law.

(h) Exceptions to the initial decision may be filed by any participant within 30 days of the issuance of the initial decision, as provided in § 1.276(a) of the Rules, 47 CFR, § 1.276(a).

(i) Replies to the exceptions may be filed within 15 days of the filing of such exceptions.

38. It is further ordered, That the Commission will rule on requests for oral argument following the submission of replies to the proposed findings of fact and conclusions of law. All other procedural requests should be addressed to the Administrative Law Judge who shall rule thereon unless a significant modification of the procedures herein established is required, in which case the request should be certified to the Commission.

39. *It is further ordered*, That all computations of time herein shall be made in accordance with § 1.4 of our rules.

40. *It is further ordered*, That all participants who file direct or reply cases in accordance with paragraphs 37(b) and 37(c) above shall submit concurrently therewith all underlying and supportive studies and workpapers.

41. *It is further ordered*, pursuant to the provisions of sections 214(a) and 214(c) of the Act, that the Applications of AT&T (File Nos. P-C-8490 and P-C-8734) are granted, subject to the conditions in paragraphs 26 and 28 above, and the following additional conditions:

(1) AT&T, or its operating companies, shall file, within thirty days of the release of this Order, upon not less than thirty days notice, a tariff or tariffs offering intercity digital data channels and local distribution facilities furnished to other common carriers at reasonable rates and conditions for the initial five cities to be served pursuant to this Order, and shall file similar tariffs for the additional cities at the time of filing of tariffs offering service therein;

(2) None of the facilities authorized herein shall be operated until the amendments to Tariff 267 referred to in paragraph 28, paragraphs 1 and 2 above have been filed with this Commission and have become effective;

(3) AT&T shall provide the Commission at regular intervals mutually agreed-to reports regarding costs, revenues and operating experience associated with the provision of Dataphone Digital Service.

42. *It is further ordered*, That AT&T is made a party respondent to this proceeding and that all other interested persons wishing to participate may do so by filing a notice of intent to participate within ten days of the release of this Order.

43. *It is further ordered*, That, for purposes of offering services utilizing the facilities authorized herein the provisions of § 61.38 of our rules, 47 CFR, § 61.38 and such other sections of Part 61 of our rules, 47 CFR, Part 61, as may be necessary to carry out the provisions of this Order, are waived.

44. *It is further ordered*, That the Petition of the Secretary of Defense for Investigation filed April 15, 1974 is granted in part and denied in part as provided herein.

45. *It is further ordered*, That the Request to Supplement Pleading filed July 17, 1974 by IDCMA is granted.

[1] We are continuing to experiment with procedures under which to conduct a "paper" proceeding. Therefore, those listed here will vary somewhat from those under which we have conducted earlier "paper" hearings.

46. *It is further ordered*, That the Petition to Deny or Dismiss filed December 26, 1972, and Petition to Deny Application filed June 12, 1974 by MCI; the Petition for Reconsideration filed August 1, 1973, Petition to Deny Application and for Moratorium filed October 18, 1973, and Petition to Deny Operating Authority filed June 12, 1974 by Datran; Petition to Deny or Set for Hearing filed June 12, 1974 by Western Union; and Petition to Deny filed June 12, 1974 by CML Satellite Corporation are denied.

47. *It is further ordered*, That the Petition for Declaratory Ruling filed May 29, 1974 and the Petition for Rejection of Tariffs filed June 12, 1974 by Datran; the Petition to Reject Tariff filed June 12, 1974 by MCI; and the Petition for Declaratory Ruling filed June 4, 1974 by the IDCMA are dismissed.

48. *It is further ordered*, That pursuant to § 1.1209(d) of the Commission's rules, a separated trial staff will participate in this proceeding. As provided therein, the Chief, Hearing and Legal Division and his staff will be separated from the Commission, the presiding Administrative Law Judge, the Office of the General Counsel, and the Chief, Deputy Chief and all Division Chiefs of the Common Carrier Bureau, but are unrestricted in their access to all other commission personnel.

Adpoted: December 11, 1974.

Released: December 16, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] VINCENT J. MULLINS, *Secretary.*

APPENDIX

Pleadings and comments were received from the following parties:

Ad Hoc Telecommunications Committee
Aeronautical Radio, Inc.
American Satellite Corporation
American Telephone and Telegraph Company
CML Satellite Corporation
Computer and Business Equipment Manufacturers Association
Data Transmission Company
Department of Defense
Eastern Microwave, Inc.
Independent Data Communications Manufacturers Association
International Business Machines Corporation
McDonnell Douglas Corporation
McGraw-Hill, Inc.
MCI Carriers (MCI New York West, MCI New England, Inc., Interdata Communications, Inc.)
National Retail Merchants Association
Office of Telecommunications Policy
Packet Communications, Inc.
The Singer Company
Southern Pacific Communications Company
Telenet Communications Corporation
Utilities Telecommunications Council
Western Tele-Communications, Inc.
Western Union Telegraph Company

Letters were also received from the following companies:

Affiliated Computer Systems
Affiliated Fund, Inc.
American Business Shared, Inc.
Brandt International
Consolidated Foods Corporation
Dallas Independent School District
Data Communications Corporation
Frito-Lay, Inc.
Gamble-Skogmo, Inc.
General Electric Company
The Hecht Company
INA Corporation
Lee Way Motor Freight, Inc.
Lord Abbett Developing Growth Fund, Inc.
Paccar Inc.
Philco Ford Corporation
Rockwell International
Scientific Time Sharing Corporation
Supervised Investors Services, Inc.
Uniguard Insurance Group

In addition letters and telegrams were received from a number of members of Congress.

[FR Doc.74-30424 Filed 12-30-74;8:45 am]

[1] Commissioner Reid's Concurring Statement to be released at a later date.

FEDERAL POWER COMMISSION

[Docket No. RP74-60 and RP73-107]

CONSOLIDATED GAS SUPPLY CORP.

Extension of Procedural Dates

DECEMBER 20, 1974.

On December 9, 1974, Staff Counsel filed a motion to extend the procedural dates fixed by order issued September 16, 1974, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of staff's testimony, February 28, 1975.
Service of intervenor's testimony, March 14, 1975.
Service of company rebuttal, March 28, 1975.
Hearing, April 15, 1975 (10 a.m. EDT).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-30441 Filed 12-30-74;8:45 am]

[Docket Nos. CP75-40, CP75-84]

LOWELL GAS CO. AND TENNESSEE GAS PIPELINE CO.

Order Consolidating Proceedings, Permitting Interventions, Scheduling Formal Hearing, and Establishing Procedures

DECEMBER 20, 1974.

On August 13, 1974, Lowell Gas Company (Lowell) filed an application in Docket No. CP75-40 pursuant to section 3 of the Natural Gas Act requesting authorization to export to Canada up to 1,500,000 Mcf of natural gas, during the summer months for a fourteen year period, and to import the same quantities of gas during the winter months. The imported volumes would then be utilized in Lowell's system in Massachusetts during the peak winter months.

Under the terms of an agreement Lowell has entered into with Union Gas Ltd (Union) of Chatham, Ontario, Canada, Union will receive and store up to 1,500,000 Mcf of gas per year in its storage facilities in Oakville, Ontario, Canada, and redeliver equivalent volumes for Lowell's account. Lowell will pay charges equal to a unit charge of 38.5 cents per Mcf based on full utilization of the service. Lowell will deliver up to the contract demand quantity of 12,500 Mcf per day for storage purposes between April 1, and September 16, and 80 percent of this amount between September 16 and October 31 of each contract year. Return deliveries will be made between November and March of each year. The Lowell-Union agreements contemplates a fourteen year period from April 1, 1975 to April 1, 1989, but is terminable after the fifth or any succeeding year if Union determines the storage space is required to assure Canadian gas supply requirements.

The gas would be transported 75 miles to Union's facilities from a point of interconnection on the International Boundary near Niagara Falls, New York by TransCanada Pipelines LTD (TransCanada) pursuant to a July 5, 1974 agreement between Lowell and TransCanada. TransCanada would take delivery of the gas tendered by Lowell for storage at a point of interconnection between its facilities and those of Tennessee Gas Pipeline Company a Division of Tenneco, Inc. (Tennessee) between April 1 and November 1 of each year, and redeliver the volumes between November 1 and April 1. It is estimated that Lowell will pay a unit charge of approximately 14.3 cents per Mcf for the transportation service provided by TransCanada.

In addition, Lowell will furnish Union fuel volumes of natural gas amounting to 2.7 percent of the quantities tendered for storage, and will furnish TransCanada 1.3 percent of the same quantity.

Control and dominion over all natural gas delivered by Tennessee will be exercised by Canadian Lowell Gas LTD (CLG), an affiliate of Lowell's, until redelivery by Tennessee, for a charge of $500 plus actual costs and expenses.

The gas which Lowell proposes to deliver to TransCanada for storage by Union is gas which Lowell will purchase from Tennessee at Tewksbury, Massachusetts under Tennessee's CD-6 Rate Schedule as authorized in Docket No. CP70-185 and CP74-303.

Tennessee, in its application filed September 17, 1974 in Docket No. CP75-84, requests certification pursuant to Section 7 of the Natural Gas Act to construct and operate two sections of natural gas pipeline looping facilities, and to transport for Lowell up to 12,500 Mcf per day of natural gas from Tewksbury to Niagra Falls for delivery to TransCanada during the summer period and to transport like volumes from Niagra Falls to Tewksbury during each winter period. The pipeline facilities would consist of one section of 3.9 miles of 30-inch pipe in Massachusetts and one section of 6.3 miles in central New York. The estimated construction cost of the facilities, which are said to be necessary to implement the proposed transportation service for Lowell, is $5,199,000. For the transportation, Tennessee would charge Lowell a unit rate equivalent of approximately 85.9 cents per Mcf.

The Commission notes that there exists an interrelationship between the two above-described filings and concludes that their ultimate disposition would best be accomplished in a consolidated proceeding. We therefore shall

consolidate Docket No. CP75–40 and Docket No. CP75–84 for hearing, which we shall scheduled below, and disposition.

Petitions to intervene have been filed in Docket No. CP75–40 by TransCanada and Tennessee, and in Docket No. CP75–84 by TransCanada. Having reviewed the petitions to intervene, we are convinced that the petitioners have all sufficient interest in these proceedings to warrant intervention. We also believe that the significant and novel questions presented by these application require a public hearing at which time all issues bearing upon the public interest can be fully developed on the evidentiary record.

We shall therefore grant intervention to those who have so filed, and schedule a formal hearing to be convened in those consolidated proceedings. Among the issues proper for resolution at such hearing are the necessity for the proposed service, the propriety of the rates to be charged for the various services, the need for and possible environmental impact of the facilities proposed by Tennessee, the allocation and use of the gas which Lowell proposes to store and withdraw during the winter, the reliability of the storage service, and any other issues which may bear upon the public interest. As part of their direct case, Applicants shall be directed to comply with all outstanding Staff requests for data and information which may be necessary to Staff's analysis of the proposals.

The Commission finds. (1) It is necessary and appropriate that the proceedings in the above-named applications be consolidated for hearing and decision.

(2) It is desirable and in the public interest to allow the above-named petitioners to intervene in these consolidated proceedings in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(3) It is necessary and appropriate that the consolidated proceedings involving the above-named applications be set for hearing.

The Commission orders. (A) Docket No. CP75–40 and Docket No. CP75–84 are consolidated for purpose of hearing and disposition.

(B) The above-named petitioners are permitted to intervene in this consolidated proceeding subject to the rules and regulations of the Commission: *Provided,* however, That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *Provided,* further, That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) The direct case of the Applicants and all intervenors in support thereof shall be filed and served on all parties on or before January 20, 1975. As part of their direct case, Applicants shall respond fully to all outstanding requests for information. At the conclusion of cross-examination of the direct case, the Presiding officer shall set dates for the filing of answering testimony.

(D) A formal hearing shall be convened in these proceedings in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 on February 11, 1975 at 10 a.m. The Chief Administrative Law Judge shall designate an appropriate officer of the Commission to preside at the formal hearing of these matters, pursuant to the Commission's rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74–30442 Filed 12–30–74;8:45 am]

[Docket No. RP74–41]

TEXAS EASTERN TRANSMISSION CORP.

Further Extension of Procedural Dates

DECEMBER 19, 1974.

On December 12, 1974, Rhode Island Consumers' Council and the Division of Public Utilities and Carriers of the State of Rhode Island filed a motion to extend the procedural dates fixed by order issued January 14, 1974, as most recently modified by notice issued November 13, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of intervenor's testimony, January 20, 1975.
Service of company rebuttal, February 28, 1975.
Prehearing conference, March 11, 1975 (10 a.m. EDT).
Hearing, following completion of prehearing conference.

By Direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–30443 Filed 12–30–74;8:45 am]

[Docket No. RP74–25]

TEXAS GAS TRANSMISSION CORP.

Order Approving Settlement Agreement

DECEMBER 20, 1974.

On October 1, 1973, Texas Gas Transmission Corporation (Texas Gas) tendered for filing in the above-captioned docket proposed tariff sheets which would increase the charges for service under all of the rate schedules in Texas Gas' FPC Gas Tariff Third Revised Volume No. 1 and would increase the charges for transportation service to Texaco, Inc. and Gulf Oil Corporation under Rate Schedule Nos. X–32 and X–29, respectively, which are contained in Texas Gas' Tariff, Original Volume No. 2. The proposed increase in jurisdictional revenues would amount to $30,976,052 annually based upon the adjusted volumes for the twelve months ended June 30, 1973. By order of October 31, 1973, the Commission suspended the proposed increase for the full statutory period until April 1, 1974. A number of petitioners have been permitted intervention. A prehearing conference was held before the presiding administrative law judge on July 23, 1974, at which time the Applicants' case-in-chief and the Commission staff's testimony and exhibits were copied and identified into the record.

On September 17, 1974, after a series of discussions in which Commission Staff was a participant, Texas Gas filed a motion for approval of settlement agreement. The September 17, 1974, motion states that the proposed stipulation and agreement resolves all issues in the proceeding except two:

(1) The issue of book depreciation which involves a proposed increase in the composite depreciation rate applicable to all of Texas Gas' depreciable gas plant, other than general plant, to a composite rate of 5.25 percent.

(2) The issue of the propriety of the inclusion in Texas Gas' cost of service amounts associated with the acquisition and retention by Texas Gas of coal supplies to be used for gasification purposes. The motion states that all parties to the proceeding have agreed to reserve these two issues for hearing.[1] The September 17, 1974, motion was noticed on October 7, 1974, with comments and protests due on or before October 17, 1974. No comments or protests have been received by this Commission.

With regard to the issues resolved by the settlement, the agreed upon rates would effect a reduction in the proposed rate increase of approximately $8.1 million. The settlement cost of service, $334,700,707 (See Appendix A), provides for the inclusion of $1,182,386 associated with the acquisition of coal reserves for gasification purposes and an approximate $4.8 million excess over Staff's evidence as to current depreciation expense. Details of the settlement agreement may be summarized as follows:

Article I sets forth the settlement rates which will be used for calculation of refunds and provides that the settlement rates will become effective the first day of the month following the month in which the Commission order approving the settlement becomes final and nonappealable. Article I further provides that all refunded amounts will include interest computed at 7 percent per annum.

Article II states that all settlement tariff sheets, both for refunds and prospective rates are based upon a cost of service reflecting Applicant's claimed depreciation rate. Furthermore, the article provides that repayment of any disallowed excess depreciation pursuant to final and nonappealable Commission decision and order will be made through the

[1] The hearing is presently scheduled for February 10, 1974.

commodity component of the jurisdictional rates at a 7 percent per annum interest rate.

Article III provides for the inclusion of $1,182,396 in the settlement cost of service relative to the acquisition of coal reserves for gasification purposes. The article contains provisions for refunds in the event the Commission does not approve such inclusion after a hearing and decision.

Article IV provides for the filing of increased or decreased rates to track net changes in Texas Gas' rate base for outstanding advance payments consistent with Commission Order No. 499.

Article V provides for adjustments to effective rates to track changes in the cost of service resulting from any alteration in the Federal income tax rate of 48 percent or surcharge thereon.

Article VI provides for tracking changes in cost of transportation of gas by others from offshore production areas to Texas Gas' transmission system.

Article VII provides additional details for filing tracking rate changes in Articles IV, V, and VI above. The article provides that revised tariff sheets reflecting these trackers are to be filed effective February 1, and August 1, concurrently with Texas Gas' PGA filing and that only the prospective rates relating to the settlement Appendices A–4 and D will be affected. Furthermore, no rate change will be made unless the aggregate change in the cost of service for all the trackers is $350,000 or more annually and rate changes will affect only commodity rates except for adjustments related to any "as billed" demand charges.

Article VIII provides that Texas Gas' obligations under its prior settlement in Docket No. RP72–45 are unchanged for the period prior to April 1, 1974.

Article IX provides that the settlement and its provisions will be ineffective unless (1) the Commission issues a final and nonappealable order approving the settlement and (2) the final Commission order waives its general rules and regulations so that rate increases or reductions made pursuant to the settlement may become effective as to the dates specified without suspension or condition except as specifically provided therein.

Article X provides that the settlement becomes effective on April 1, 1974, and shall terminate on the effective date of any rates resulting from a section 4 application by Texas Gas or resulting from a rate proceeding instituted by the Commission.

Article XI provides that the settlement, if approved, represents a dollar settlement and no party shall be deemed to have approved, accepted, agreed, or consented to any ratemaking principle method of cost of service determination, or cost allocation and rate design methods.

Based upon review of the record in this proceeding, including the filing by Texas Gas and the proposed settlement, we find that the proposed settlement is reasonable and in the public interest and accordingly should be approved subject to the terms and conditions of this order. However, to the extent that the provisions of paragraph (2) of Article IX are intended to prevent our placing into effect, subject to refund, those filings made pursuant to the tracking provisions of Article IV, we do not believe this provision to be in the public interest and will not accept it as part of the agreement.

In our review of the settlement cost of service, we note that it is based upon an over-all return of 9.11 percent which reflects a 11.60 percent return on common equity. Texas Gas' capitalization as of June 30, 1974, was utilized as a basis for this calculation (see Appendix C). We believe that the settlement resolves this issue in a manner consistent with the public interest.

Further review of the settlement reveals that the interim rates for the period April 1, 1974, until the effective date of the final settlement rates is based upon unmodified Seaboard classification, Texas Gas' zone gate allocation and the settlement cost of service. Beginning with the effective date of final settlement rates, costs ate to allocated on a respective two-to-one weighting of Texas Gas' historical zone gate method and Staff's Mcf-mile allocation method with a subsequent tilt within each of Texas Gas' four rate zones to reflect fixed costs as 37½ percent demand and 62½ percent commodity. We also note that in Texas Gas' most recent section 4 filing,[2] the Company purported to utilize the Mcf-mile cost allocation method and a rate design which reflected 75 percent of fixed costs as commodity. By order issued October 30, 1974, in that docket, we set the issues of cost classification, allocation and rate design for hearing so that we may have the opportunity to determine what method of cost classification, allocation, and rate design, when applied to the Texas Gas system would best implement the Commission's objectives of establishing rates for resale or industrial use more in line with the costs of available competitive fuels. We believe that the settlement resolution of the cost classification, allocation and rate design issues in the instant docket is in the public interest and should be approved.

The Commission finds. The settlement of this proceeding on the basis of the settlement as presented in Texas Gas' motion of September 17, 1974, is reasonable and proper and in the public interest in carrying out the provisions of the National Gas Act, and such settlement should be approved as hereinafter ordered.

The Commission orders. (A) The settlement as presented to this Commission in Texas Gas' motion of September 17, 1974, is incorporated herein by reference, approved and made effective as of April 1, 1974, subject to the terms of this order.

(B) The tracking provisions of Article IV of the proposed settlement are accepted with the condition that this Commission reserves the right to establish hearing procedures regarding filings pursuant to these provisions and to order refunds after such hearings.

(C) Within 10 days from the date of this order, Texas Gas shall file with the Commission revised tariff sheets in conformity with the terms of the settlement as herein approved.

(D) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, Texas Gas, or any other party or person affected by this order in any proceedings now pending or hereafter instituted by or against Texas Gas or any other person or party.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.[3]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[2] Docket No. RP75–10, filed September 30, 1974.

[3] Dissenting statement of Commissioner Brooke filed as part of the original document.

APPENDIX A—SETTLEMENT COST OF SERVICE

Description	*Settlement basis final agreement*
Operating and maintenance expenses; production expenses:	
Cost of gas sold	$201,830,960
Other	3,471,061
Total production expenses	205,302,021
Underground storage expenses	1,787,729
Transmission expenses	27,365,600
Customer accounts expenses	130,316
Sales expenses	343,152
Administrative and general expenses [1]	11,380,338
Total operating and maintenance, expenses	246,309,156
Depreciation, depletion, and amortization	31,341,021
Taxes other than income	6,306,361
Federal income tax	17,106,182
State income taxes	1,524,160
Return (C. exhibit—9.35%; staff exhibit—8.95%; settlement—9.11%) [2]	33,811,405
Subtotal	336,990,785
Revenues deducted:	
Nonjurisdictional sales	274,308
Other operating revenue	2,006,710
Total revenues deducted	2,281,078
Total cost of service	334,709,707

[1] Each amount includes donations, civic and political expenditures of $138,846.
[2] Rate base amounts, $371,146,045.

APPENDIX B—Settlement rates

Zone; rate schedule		Settlement rate (prospective) dollars per thousand cubic feet
SALES		
Zone 1:		
CD, G	Demand	1.35
	Commodity	[illegible]
SG	Baseload	
	Excess	
	Straight line	[illegible]
I	do	[illegible]
Zone 2:		
G	Demand	1.[illegible]
	Commodity	[illegible]
SG	Baseload	
	Excess	
	Straight line	[illegible]
Zone 3:		
CD, G	Demand	1.77
	Commodity	[illegible]
SG	Baseload	
	Excess	
	Straight line	[illegible]
Zone 4:		
CDL, CD, G	Demand	2.14
SG	Commodity	[illegible]
	Baseload	
	Excess	
	Straight line	[illegible]
Transportation:		
X-29	North Louisiana	[illegible]
	South Louisiana	[illegible]
X-32	Demand	2.27
	Commodity	[illegible]

APPENDIX C—Capitalization and rate of return (June 30, 1974)

	Amount	Ratios (percent)	Cost (percent)	Weighted components (percent)
Long-term debt	$290,762,243	[illegible]	7.77	[illegible]
Preferred stock	[illegible]	[illegible]	[illegible]	[illegible]
Common equity	[illegible]	[illegible]	11.60	[illegible]
Deferred taxes	[illegible]	[illegible]	0	0
Total	477,950,139	100.00		9.11

[FR Doc.74-30444 Filed 12-30-74;8:45 am]

[Docket Nos. RP75-20 and RP70-13, et al.]

UNITED GAS PIPE LINE CO.

Proposed Rate Increase; Order for Filing and Suspending, Establishing Procedures, Interventions and Severing Issue

DECEMBER 19, 1974.

On November 4, 1974, United Gas Pipe Line Company (United) tendered for filing proposed tariff sheets[1] designed to effect an annual increase in jurisdictional revenues of $102,366,402 based on the twelve months ending August 31, 1974, as adjusted to May 31, 1975. United states that of this amount, $14 million represents non-gas costs, while $88 million reflects gas costs which, absent its filing, would be recovered through United's purchased gas cost adjustment provision. The $102 million increase represents the difference in annual revenue resulting from the rates proposed by this filing and the rates in Docket No. RP74-83 which became effective subject to refund on November 1, 1974. United indicates that this increase is primarily based upon: (1) An increase in rate of return to an overall level of 11 percent, such being necessary to maintain the company's financial stability and continuing ability to finance its pipeline operations; (2) an increase in interest expense for advance payments; (3) an increase in transportation charges and costs; (4) increases in various operating costs; (5) increases in royalty payments; and (6) a decrease in annual sales volumes. United proposes an effective date of December 20, 1974, for its tariff changes.

United further indicates that the demand and commodity components of the rates proposed in its filing have been designed to recover directly the costs allocated to each component. In this regard, United states that fixed transmission costs have been classified 75 percent as commodity cost and 25 percent as demand cost, underground storage costs have been allocated on heating season volumes, and the cost of transportation of gas by others directly applicable to industrial customers has been assigned to non-jurisdictional sales in accordance with Opinion Nos. 671 and 671-A. According to United, all variable costs have been allocated on an annual volume basis.

While United has indicated its compliance with the rate design principles approved in Opinion No. 671, we nevertheless shall continue our review and evaluation of commodity rate levels to determine that level most appropriate in light of present day supply and market conditions. In Opinion No. 671 we expressed our concern over the worsening gas supply situation, and in view thereof we found, inter alia, that low priority usage should be discouraged and the price gap between natural gas and alternative fuels in the interruptible industrial market should, at the minimum, be narrowed. As we indicated in Opinion No. 671, in continuing our review and analysis of pipeline cost allocation and rate design structures we shall, where necessary, establish pipeline rates for resale or industrial use which are more in line with the costs of available competitive fuels. Accordingly, in the preparation of evidence all parties to this proceeding should direct their attention toward cost classification, allocation and rate design alternatives which would best implement our stated objectives of establishing rates for resale and industrial use which more closely approximate the costs of available competitive fuels.

United's filing was noticed on November 8, 1974, with protests, notices of intervention and petitions to intervene due on or before November 25, 1974. In response to this notice, twenty timely interventions and four untimely interventions were filed.[2]

Our review of United's filing indicates that it raises certain issues which may require development in an evidentiary hearing. In addition, the proposed increases in rates and charges have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We shall therefore suspend the proposed rate increase for the full statutory period and direct that a hearing be held on the justness and reasonableness of the rates proposed therein.

We note that in Opinion No. 682 (issued January 11, 1974, in Docket No. RP70-13, et al., we determined that gas received by United from leases acquired by Pennzoil Producing Company prior to October 7, 1960, should be priced on a cost—rather than on an area rate—basis for the purpose of calculating United's cost of service. Thus, we remanded that proceeding for the purpose of determining the cost of such gas.[3] Subsequently, by order issued May 16, 1974, we severed the issue of the cost of gas delivered by Pennzoil to United from the rate proceeding pending in Docket Nos. RP74-20 and RP74-33 and consolidated the issue

[1] Nineteenth Revised Sheet No. 4 to First Revised Volume No. 1, and Third Revised Sheet Nos. 187 and 269-A to Original Volume No. 2.

[2] See Appendix.

[3] As this identical cost issue arose in Docket Nos. RP71-41 and RP72-75, Opinion No. 682 consolidated the issue in those proceedings with the remanded proceeding in Docket No. RP70-13.

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for hearing and disposition with the similar issues pending in Docket No. RP70–13, et al. In view of the fact that this identical cost issue arises in the instant proceeding (RP75–30) and in the interest of avoiding relitigation of the issue, we shall sever this issue from the instant proceeding and consolidate it with Docket No. RP70–13, et al. for hearing and disposition.

As previously noted, United's request for increased rates is based in part upon the fact that its deliverability of gas from connected sources is declining. The present gas shortage in this country, to which this Commission has often called attention, is a problem which is shared by most if not all major interstate transmission pipelines in varying degrees of magnitude. The effect upon the risk of capital invested in gas pipeline operations resulting from inadequate and declining gas supplies as well as the uncertainties and contingencies inherent in possible supplemental sources of supply are of direct and primary concern to us. Accordingly, we request that the evidence in this proceeding, including that to be filed by our Staff, give full and careful consideration to these factors in the development of recommendations on the issue of rate of return so as to enable this Commission to formulate sound regulatory policies in this area.

The Commission finds. (1) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges proposed in this docket by United, and that United's proposed tariff sheets should be accepted for filing, suspended and the use thereof deferred as hereinafter ordered.

(2) Good cause exists to permit the timely and untimely interventions of the parties listed in the attached Appendix.

(3) Good cause exists to sever the issue of the cost of gas delivered to United by Pennzoil during the test year from the proceedings in Docket No. RP75–30 and to consolidate that issue with Docket No. RP70–13, et al. for hearing and disposition.

The Commission orders. (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held on May 13, 1975, in a hearing room of the Federal Power Commission, Washington, D.C. 20426, concerning the justness and reasonableness of the rates proposed in this proceeding by United.

(B) Pending such hearing and a decision thereon, United's proposed tariff sheets to First Revised Volume No. 1 and Original Volume No. 2 of United's FPC Gas Tariff are accepted for filing, and permitted to become effective thereafter on May 20, 1975, in the manner prescribed by the Natural Gas Act and subject to refund.

(C) On or before March 31, 1975, the Commission Staff shall serve its prepared testimony and exhibits. Any prepared testimony and exhibits of intervenors shall be served on or before April 18, 1975. Company rebuttal shall be served on or before May 2, 1975.

(D) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose (See delegation of authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding, shall prescribe necessary procedures not provided for by this order, and shall otherwise conduct the hearing in accordance with the terms of this order and the Commission's rules and regulations.

(E) The parties listed in the attached Appendix are hereby permitted to intervene in this proceeding, subject to the Commission's rules and regulations; *Provided,* however, That the admission of such intervenor shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any order or orders issued in this proceeding, and *Provided,* further, That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions to intervene.

(F) The issue of the cost of gas received by United from Pennzoil Producing Company is hereby severed from the rate proceeding in Docket No. RP75–30 and consolidated with Docket No. RP70–13, et al. for hearing and disposition.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX

Timely interventions were filed by: Public Service Electric and Gas Company, Southern Natural Gas Company, Mississippi River Transmission Corporation, Arkansas Louisiana Gas Company, Columbia Gas Transmission Corporation, Memphis Light, Gas and Water Division, City of Memphis, Tennessee, Philadelphia Gas Works, Texas Eastern Transmission Corporation, Natural Gas Pipeline Company of America, The State of Louisiana, Bay State Gas Company, *et al.*, Laclede Gas Company, Entex, Inc., Philadelphia Electric Company, Texas Gas Transmission Corporation, Florida Gas Transmission Company, New Orleans Public Service, Inc., Consolidated Gas Supply Corporation, Algonquin Gas Transmission Company, Mississippi Valley Gas Company and Mobile Gas Service Corporation (joint petition).

Untimely Interventions were filed by: Willmut Gas and Oil Company, The Public Service Commission of the State of New York, Illinois Power Company, and Alabama Gas Corporation.

[FR Doc.74–30445 Filed 12–30–74;8:45 am]

[Docket No. E–8006]

FLORIDA POWER AND LIGHT CO.

Extension of Time

DECEMBER 20, 1974.

On December 18, 1974, Florida Power and Light Company filed a motion for extension of time in which to file briefs on exceptions to the initial decision of the presiding Administrative Law Judge issued November 26, 1974, in the above-designated matter. The Motion states that Staff Counsel and the Cooperative intervenors and New Smyrna Beach have been notified and have no objection.

Upon consideration, notice is hereby given that the date for filing briefs on exceptions is extended to and including January 24, 1975, and the date for filing briefs opposing exceptions is extended to and including February 13, 1975.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–30470 Filed 12–30–74;8:45 am]

[Docket No. E–8005]

INTERSTATE POWER CO.

Changes in Rate Schedule

DECEMBER 23, 1974.

Take notice that Interstate Power Company (Interstate) on November 15, 1974, tendered for filing an amendment, dated November 5, 1974, to its Electric Service Agreement with the Municipal Electric Utility of the City of Independence, Iowa, (Independence), dated August 16, 1973, designated as Interstate's FPC Rate Schedule No. 110. The purpose of the filing is to both establish the effective date of the Agreement, as of October 25, 1974, and to notify the Commission that service under Agreement designated as FPC Rate Schedule No. 109 is cancelled and superseded.

Interstate also states that the amendment to the agreement also establishes the transformer capacity, pursuant to Section 3.2 of the Agreement, as 12/16/20 MVA. Pending delivery of the transformer scheduled for January 1975, and completion of the 69 KV interconnection facilities, the 12.5 KV connection will be used for limited emergency service.

Any person desiring to be heard or to protest said application, not already an intervenor herein, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 6, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–30471 Filed 12–30–74;8:45 am]

[Docket No. E-9068]

KANSAS CITY POWER & LIGHT CO.

Cancellation of Rate Schedule

DECEMBER 23, 1974.

Take notice that Kansas City Power & Light Company (KCP&L), on October 29, 1974, tendered for filing a notice of cancellation of its Rate Schedule FPC No. 28 to be effective on December 31, 1974. The rate schedule is applicable to KCP&L's service to St. Joseph Light & Power Company (St. Joseph).

KCP&L states that the 161 kv interconnection with St. Joseph, covered by Rate Schedule No. 28, is no longer adequate for interconnection operations and has been displaced by the 345 kv transmission line between KCP&L and St. Joseph. KCP&L also states that interconnection operations between the two companies will continue under the Twin Cities-Iowa-Omaha-Kansas City 345 kv Interconnection Coordinating Agreement (KCP&L Rate Schedule FPC No. 67) to which St. Joseph is a party.

KCP&L states that a copy of the notice of cancellation was served upon St. Joseph.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 6, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30472 Filed 12-30-74;8:45 am]

[Docket No. E-8878]

POTOMAC EDISON CO.

Extension of Time

DECEMBER 24, 1974.

On December 17, 1974, Counsel for Front Royal, Virginia filed a motion to extend the date for filing testimony fixed by order issued August 26, 1974 in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Intervenor's Testimony, December 31, 1974.

All other dates remain unchanged.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30473 Filed 12-30-74;8:45 am]

[Docket No. CP74-604]

CITIES SERVICE GAS CO.

Extension of Time

DECEMBER 20, 1974.

Secretary of the Army Applicant vs Cities Service Gas Co. Respondent.

On December 17, 1974, Cities Service Gas Company filed a motion to extend the date for service of testimony fixed by order issued September 4, 1974, as most recently modified by notice issued December 9, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the date for service of testimony is extended to and including December 27, 1974. The hearing will remain as scheduled, January 20, 1975, at 10:00 a.m. (EST).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30474 Filed 12-30-74;8:45 am]

[Docket Nos. RP74-63, and RP74-64]

TRUNKLINE GAS CO.

Changes in Rates and Charges

DECEMBER 23, 1974.

Trunkline Gas Company (Trunkline) on November 7, 1974, tendered for filing Fifth Revised Sheet No. 37 and Fifth Revised Sheet No. 104 to its FPC Gas Tariff, Original Volume No. 2. Trunkline states that these revised tariff sheets, respectively, are submitted pursuant to the provisions of the Commission's acceptance of its Sixth Revised Sheet No. 37 and Sixth Revised Sheet No. 104, in the above captioned dockets.

Trunkline states that these revised tariff sheets reflect a redetermination of the price to be paid under its Rate Schedule F-2 and Rate Schedule 104, respectively, solely to reflect the appropriate reimbursement of the increase in the Louisiana severance tax effective January 1, 1974.

Trunkline states that a copy of each of the respective filings was being furnished to Tennessee Gas Transmission Company and United Fuel Gas Company. (No copy of the form of notice for publication in the Federal Register was included in the filing, as required by Section 154.28 of the Commission's Regulations Under the Natural Gas Act).

Any person desiring to be heard or to protest said application or who has not already been permitted to intervene herein should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 6, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-30475 Filed 12-30-74;8:45 am]

FEDERAL RESERVE SYSTEM

C. Y. TUNG FINANCE (HOLDINGS) INC.

Formation of Bank Holding Company

C.Y. Tung Finance (Holdings) Inc., Hong Kong, B.C.C., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company through acquisition of 70 percent or more of the voting shares of American Asian Bank, San Francisco, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than January 21, 1975.

Board of Governors of the Federal Reserve System, December 20, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-30382 Filed 12-30-74;8:45 am]

FIRST STATE BANKING CORP.

Acquisition of Bank

First State Banking Corporation, Miami, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of North Miami First State Bank, North Miami, Florida, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 21, 1975.

Board of Governors of the Federal Reserve System, December 20, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-30383 Filed 12-30-74;8:45 am]

INDUSTRIAL BANCSHARES, INC.

Formation of Bank Holding Company

Industrial Bancshares, Inc., Kansas City, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Industrial State Bank, Kansas City, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Industrial Bancshares, Inc., Kansas City, Kansas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y, for permission to retain its insurance agency business presently being conducted at the offices of Industrial State Bank, Kansas City, Kansas. Notice of the application was published on October 22, 1974 in The Kansas City Star, a newspaper circulated in Kansas City, Missouri.

Applicant states that it would continue to engage in the activity of acting as an insurance agent for the sale of credit-related insurance issued in connection with extensions of credit by Industrial State Bank. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 21, 1975.

Board of Governors of the Federal Reserve System, December 20, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-30385 Filed 12-30-74;8:45 am]

VALLEY VIEW BANCSHARES, INC.

Acquisition of Bank

Valley View Bancshares, Inc., Overland Park, Kansas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 24.99 percent of the voting shares of Industrial Bancshares, Inc., a proposed bank holding company, and to acquire indirectly voting shares of Industrial State Bank, both of Kansas City, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 21, 1975.

Board of Governors of the Federal Reserve System, December 20, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-30386 Filed 12-30-74;8:45 am]

GREENE BANCORPORATION

Formation of Bank Holding Company

Greene Bancorporation, Greene, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 86 per cent or more of the voting shares of First State Bank, Greene, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than January 21, 1975.

Board of Governors of the Federal Reserve System, December 20, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-30446 Filed 12-30-74;8:45 am]

HOMEWOOD BANCORPORATION, INC.

Formation of Bank Holding Company

Homewood Bancorporation, Inc., Homewood, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 95.16 percent of the voting shares of The Bank of Homewood, Homewood, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than January 21, 1975.

Board of Governors of the Federal Reserve System, December 20, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-30447 Filed 12-30-74;8:45 am]

I&B, INC.

Order Approving Acquisition of Bank

I&B, Inc., Cherryvale, Kansas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire an additional 33 percent of the voting shares of The Peoples State Bank, Cherryvale, Kansas ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a one-bank holding company, presently owns directly 48 percent of the shares of Bank, while Applicant's principal shareholder and members of his family own the majority of the remaining outstanding voting shares in their individual capacities. This proposal represents a reorganization of the family's interests in Bank by means of a transfer to corporate ownership of a portion of this individual ownership of shares. Thus, Applicant's acquisition of the additional shares of Bank would not affect the concentration of banking resources in the State. Applicant also conducts an insurance agency business, which was commenced by Applicant in 1964.

Bank ($9.7 million of deposits[1]), the only bank in the town of Cherryvale, is the fifth largest of eight banks in the relevant banking market, which is approximated by Montgomery County, and controls 8.5 per cent of the total deposits in commercial banks in the market. Due to the nature of the proposed transaction, involving a reorganization of family interests in Bank, Applicant's acquisition of the additional shares of Bank

[1] All banking data are as of December 31, 1973.

will not involve a change in the control of Bank nor would it have any effect on existing or potential competition. Thus, competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and Bank are regarded as satisfactory and consistent with approval of the application. It appears that Applicant can satisfactorily service the acquisition debt connected with this proposal without unduly burdening the financial resources of either Applicant or Bank. Applicant proposes no immediate changes in banking services or facilities, but consummation of the proposal would permit a greater retention of Bank's capital and would permit Bank to maintain its rate of growth. Considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that the proposed transaction would be consistent with the public interest, and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarised above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] effective December 23, 1974.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.74-30448 Filed 12-30-74;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 23, 1974. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FPC form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments must be received on or before January 17, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street, NW., Washington, D.C. 20548.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202-376-5425, Federal Power Commission.

Request for review and clearance of a revision to FPC Form No. 16, entitled Report of Supply and Requirements. The proposed revision is to add new Schedule 1A which will provide information on deliveries, curtailments, and requirements, customer-by-customer, by states, of natural gas pipeline companies engaged in interstate commerce of natural gas for resale. 80 natural gas pipeline companies will file Schedule 1A along with Form No. 16 twice annually. The burden for Schedule 1A is estimated to range from 4 to 24 man-hours per report depending on the size of the company.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.74-30409 Filed 12-30-74;8:45 am]

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 20, 1974. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202-376-5425, Federal Communications Commission.

Request for review and clearance of an extension without change of FCC Form 129, entitled Notice of Frequency to be Received by Radio Astronomy Station. Receiving radio astronomy stations must file this form so as to report, via FCC, to the International Telecommunication Union in Geneva. Twenty-five radio astronomy stations are required to submit the form annually. Estimated respondent burden is one-half hour per respondent per response.

Request for review and clearance of an extension without change of FCC Form 316, entitled Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Radio B/C Station CP or License. Radio station (B/C) licensees must file this application when applying for authority. An average of 375 applications are filed annually. The estimated average burden per respondent is 1.5 man-hours per response.

Request for clearance of an extension without change to FCC Form 321, entitled Application for Construction Permit to Replace Expired Permit; frequency is on occasion; potential respondents are 120 radio station licensees; average respondent burden is estimated at 1 hour per respondent per response.

Request for clearance of an extension without change of FCC Form 323—Ownership Report. Frequency of this reporting requirement is annual; potential respondents are B/C licensees; estimated average annual respondent burden is 8 hours per respondent.

Request for review and clearance of an extension without change of FCC Form 330-L, entitled Application for Instructional TV Fixed Station License. The purpose for the instant Form 330-L is to provide a means for construction permit holders to make an application for license as is required for all broadcast auxiliary applications by section 308 (a) of the Act and §§ 1.511(a) and 74.11 of the Commission's rules. Frequency is on occasion; potential respondents are applicants for an Instructional TV Fixed Station License; average respondent burden is estimated at 4 man-hours for each respondent per response.

Request for review and clearance of an extension without change of FCC Form 336, entitled Report of Overseas Telecommunications Traffic. Common carriers engaged in furnishing telecommunications service between the U.S. and overseas points must file this form twice annually. There are 11 respondents; burden is estimated to be 120 man-hours per respondent per response.

Request for review and clearance of an extension without change of FCC Form 701, entitled Application for Additional Time to Construct Radio Station. This form is to be filed by holders of construction permits when applying for additional time to construct a station to be operated under the following parts of the Commission's rules:

Broadcast—Parts 73 and 74.
Common Carrier—Parts 21, 23, and 25.
Experimental—Part 5.

The frequency of filing is on occasion. An average of 600 applications are filed annually. The estimated respondent burden is one-half man-hour per application.

Request for review and clearance of an extension without change of the recordkeeping requirement under Part 73 of FCC Rules, entitled Standard Broadcast and FM Station Program Logging Rules. 6,196 AM and FM licensees must maintain program logs. The man-hour burden for maintaining the log cannot be estimated by the Commission since each licensee devised his own form and since the information is used for other purposes in addition to complying with the FCC.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.74-30624 Filed 12-30-74;8:45 am]

[1] Voting for this action: Chairman Burns and Governors Sheehan, Bucher, Holland, and Wallich. Absent and not voting Governors Mitchell and Coldwell.

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REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 20, 1974. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202–376–5425, Federal Communications Commission.

Request for review and clearance of a new application/report entitled Common Carrier Radio Licensee Qualification Report, FCC Form 430. Form 430 will be filed at least annually or when there is a significant change in the carrier's position or when applying for modification. The form will be submitted by microwave applicants and supercedes Form 401. Approximately 1,100 respondents will be required to file at least annually with an estimated burden of 2 man-hours per response.

Request for review and clearance of a new annual report to be filed by applicants for microwave stations. FCC Form 435, entitled Application for New or Modified Common Carrier Microwave Radio Station Construction Permit Under Part 21, will be filed by approximately 5,000 respondents. Estimated burden per response is 25 man-hours.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.74–30525 Filed 12–30–74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 12/26/74 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (X) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service: Food and Nutrition Information Center Inquiry, FNS–1048, single—time, school food service personnel, Human Resources Division, 395–[illegible].

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse and Mental Health Administration: Final report guideline, ADM–442, on occasion, researchers, Lowry, R. L., 395–3772.

Center for Disease Control: The Study of Fertility in Schizophrenia, CDC 4.453, 4.453A, 4.453B, 4.453S, 4.453D, 4.453E, single—time, women seen at the Emergency Psychiatric Clinic, Reese, E. F., 395–5690.

Office of the Secretary: Project Developmental Continuity Planning Year, evaluation (Pre-school/Headstart), OS–50–74, other (see SF–83), Project and school personnel, Human Resources Division, 395–[illegible].

Public Health Service: utilization of mid-level health care professionals, Region 61016, single-time, doctors, Collins, L., 395–[illegible].

Health Resources Administration: Long-term care reimbursement experiments—evaluation, of experiments in homemaker and day care services, BHSR 1217, quarterly, participants, Human Resources Division, 395–[illegible].

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration: Prospectus for study of cost effectiveness of small highway sign supports, single-time, State and local highway departments, Caywood, D. P., 395–3443.

ENVIRONMENTAL PROTECTION AGENCY

Revision of Federal Preptreatment Guidelines—Mail and Telephone Interview: single-time, Pollution Control agencies, Lowry, R. L., 395–3772.

REVISIONS

FEDERAL RESERVE SYSTEM

Monthly Survey of Loan Commitments: FR–913, monthly, banks, Hulett, D. T., 395–4730.

ENVIRONMENTAL PROTECTION AGENCY

Inter-Laboratory Test Data Card: on occasion, Air Quality laboratories, Caywood, D. P., 395–3443.

FEDERAL RESERVE SYSTEM

Report of Condition: FR 314, Semi-annually, Large banks, Hulett, D. T., 395–4730.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service: sweet potato disposition and acreage, SRSCES–82, annually, growers, Lowry, R. L., 395–3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration Report of Expenditures for Training Grant: NIH–1969, annually, health professional schools and training centers, Lowry, R. L., 395–3772.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–30503 Filed 12–30–74;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

FEDERAL-STATE PARTNERSHIP ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that a closed meeting of the Federal-State Partnership Advisory Panel to the National Council on the Arts will be held on January 16 and 17, 1975 from 9:00 a.m. to 5:30 p.m. at Big Sky, Montana.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4), (5)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6110.

EDWARD M. WOLFE,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.74–30416 Filed 12–30–74;8:45 am]

RAILROAD RETIREMENT BOARD

ACTUARIAL ADVISORY COMMITTEE

Public Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that the Actuarial Advisory Committee will hold a meeting on January 29, 1975, at the offices of the Director of Research of the U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, on the conduct of the 13th Actuarial Valuation of the Railroad Retirement Account. The agenda for this meeting will include the proposed methodology and the assumptions to be used for the 13th Valuation ar well as a brief review of the 1974 Railroad Retirement Act Amendments.

The meeting will be open to the public. Persons wishing to submit written statements or make oral presentations should address their communications or notices to the RRB Actuarial Advisory Committee, c/o Director of Research, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

Dated: December 24, 1974.

[SEAL] R. F. BUTLER,
Secretary of the Board.

[FR Doc.74–30450 Filed 12–30–74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

AMERICAN STOCK EXCHANGE, INC. AND CHICAGO BOARD OPTIONS EXCHANGE, INC.

Non-disapproval of Options Clearing Corp.

Notice is hereby given that on December 18, 1974 the Commission considered and did not disapprove the proposed charter, by-laws and rules of the Options Clearing Corporation (OCC) filed by the American Stock Exchange, Inc. (Amex) and the Chicago Board Options Exchange, Inc. (CBOE) pursuant to Rule 9b–1 under the Securities Exchange Act of 1934 (17 CFR 240.9b–1). The proposed charter, by-laws and rules of the OCC were originally published at 39 FR 39615 on November 8, 1974.

The amendments comprise amendments to OCC's certificate of incorporation, by-laws and rules and a draft stockholders agreement and a draft participant exchange agreement among the OCC, the CBOE, the Amex and such other options exchanges as may become parties to either thereof. The Commission has concluded that the establishment and operation of OCC as a common clearing entity is necessary and appropriate for the clearing and settlement of exchange-traded options and for the protection of investors involved in the trading of such options.

All interested persons are invited to submit their views and comments on the OCC charter, by-laws and rules. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 10–54. All amendments that have been made to the Amex's plans have been placed in their respective option files under file number S7–505. The rules are, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW., Washington, D.C.

By the Commission.

DECEMBER 20, 1974.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–30396 Filed 12–30–74;8:45 am]

[File No. 500–1]

CANADIAN JAVELIN, LTD.

Suspension of Trading

DECEMBER 23, 1974.

The common stock of Canadian Javelin, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from December 24, 1974 through January 2, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–30391 Filed 12–30–74;8:45 am]

[File No. 500–1]

CONTINENTAL VENDING MACHINE CORP.

Suspension of Trading

DECEMBER 20, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 21, 1974 through December 30, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–30392 Filed 12–30–74;8:45 am]

[Rel No. 18729; 70–5593]

MIDDLE SOUTH UTILITIES, INC.

Proposed Issue and Sale of Common Stock by Holding Company

DECEMBER 23, 1974.

Notice is hereby given that Middle South Utilities, Inc. (280 Park Avenue, New York, New York 10017) ("Middle South"), a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Middle South proposes to issue and sell additional authorized but unissued shares of its common stock, $5 par value, through a direct negotiated sale to a group of underwriters, managed by Kidder, Peabody & Co. Incorporated, Merrill Lynch, Pierce, Fenner & Smith Incorporated, and Goldman, Sachs & Co., who will agree to make a prompt public offering thereof. The number of shares of common stock to be sold will be determined in the light of market conditions at the time of the sale and set forth in an amendment, to be filed prior to entry of the Commission's order. Middle South is planning to raise approximately $75,000,000 in net proceeds from said sale of common stock. On December 18, 1974, the closing price of Middle South's common stock on the New York Stock Exchange was $12.50 per share. The competitive bidding requirements of Rule 50 are not applicable because of the temporary suspension thereof by the Commission with respect to common stock issues of registered holding companies (HCAR No. 18646 (November 7, 1974)).

The net proceeds to be derived from the sale of the common stock will be applied to a reduction in the amount of bank loans made to Middle South and outstanding at that time, presently estimated to be $143,700,000.

The fees and expenses incurred or to be incurred in connection with the proposed transaction are estimated at $285,000, including legal fees of $45,000 and auditors' fees of $20,000. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than January 20, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–30414 Filed 12–30–74;8:45 am]

[File No. 500-1]

ROYAL PROPERTIES INCORP.

Suspension of Trading

DECEMBER 23, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Royal Properties Incorporated being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 24, 1974 through January 2, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30393 Filed 12-30-74;8:45 am]

[File No. 500-1]

WINNER INDUSTRIES, INC.

Suspension of Trading

DECEMBER 23, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Winner Industries, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 24, 1974 through January 2, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-30394 Filed 12-30-74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Notice of Meeting

Notice is hereby given of a meeting of the National Advisory Committee on Occupational Safety and Health, established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

The meeting will be held in the Ocotillo Room of the Holiday Inn, 2247 East Van Buren Street, Phoenix, Arizona 85036. The meeting will begin at 9:00 a.m. on January 24 and 25, 1975, and will be open to the public.

The agenda will include presentations and discussions on the role of the states in the standards development process, a review of the activities of both the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health, a discussion of voluntary compliance programs, a presentation on statistics, and a report by NIOSH on its recently completed summary of training facilities.

Any written data or views concerning the subjects to be considered which are received by the Committee's Executive Secretary by January 12, 1975, together with 25 duplicate copies, will be presented to the Committee and included in the official record of the meeting. Those persons desiring to make presentations at the meeting must also notify the Executive Secretary by January 12, 1975 of their desire to appear, stating the amount of time requested and the capacity in which they will appear as well as a brief outline of the content of their presentation. Oral presentations will be scheduled at the discretion of the Committee Chairman depending on the extent to which time permits.

Communications to the Executive Secretary should be addressed as follows:

Ms. J. Goodell, Executive Secretary
National Advisory Committee on Occupational Safety and Health
U.S. Department of Labor
1726 M Street, N.W., Room 200
Washington, D.C. 20210

Signed at Washington, D.C. this 19th day of December, 1974.

J. GOODELL, *Executive Secretary.*

[FR Doc.74-30429 Filed 12-30-74;8:45 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

REFRIGERATORS, REFRIGERATOR-FREEZERS AND FREEZERS

Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation

Notice is hereby given that the Department of Commerce proposes to issue separate Voluntary Energy Conservation Specifications for refrigerators, combination refrigerator-freezers, and freezers in accordance with section 9.4 of the Procedures for a Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation, 15 CFR Part 9. The proposed specifications describe procedures for testing and labeling these products in compliance with the above mentioned procedures, and contain instructions for participation by manufacturers in the voluntary labeling program with regard to these products.

For each of the following three specifications it is intended that Appendix A to that specification shall contain values for the ranges of energy consumption and cost of operation for all models of the subject appliance now on the market. Such information is being obtained but is not yet available. Therefore, the energy consumption and cost of operation range values contained in the Appendices of these proposed specifications are hypothetical and are used for the purpose of example only. The final versions of these specifications will not be issued until actual energy consumption and cost of operation range values have been obtained and published for public comment.

Interested persons are invited to participate in development of final specifications covering refrigerators, combination refrigerator-freezers, and freezers by submitting written comments or suggestions in four copies to the Assistant Secretary for Science and Technology, U.S. Department of Commerce, Room 3862, Washington, D.C. 20230, on or before February 14, 1975. Interested persons desiring to express their views in an informal hearing may do so if, on or before January 15, 1975, they submit a request to the Assistant Secretary for Science and Technology that such a hearing be held.

A public docket of correspondence and transcripts of hearings will be available for examination by interested persons at the Central Reference and Records Inspection Facility of the Department of Commerce, Room 7043, Main Commerce Building, 14th Street between E Street and Constitution Avenue NW., Washington, D.C. 20230.

DECEMBER 24, 1973.

BETSY ANCKER-JOHNSON, *Assistant Secretary for Science and Technology.*

The following are the proposed specifications under consideration for refrigerators, combination refrigerator-freezers, and freezers.

VOLUNTARY ENERGY CONSERVATION SPECIFICATION NO. 2-75, FOR REFRIGERATORS

Sec.

1.0 Purpose.
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1.0 Purpose. The purpose of this Voluntary Energy Conservation Specification, hereinafter referred to as "Specification," is to establish procedures for testing and labeling refrigerators in compliance with the Procedures for a Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation (15 CFR Part 9) and to define requirements for participation by manufacturers in the Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation with regard to that product class.

2.0 Scope. 2.1. This Specification shall apply to the product class consisting of all refrigerators as defined in 3.4.

2.2. Refrigerators covered by this Specification shall be rated with respect to the following characteristics:

2.2.1 Total refrigerated volume as described in 4.3.1.

2.2.2 Energy consumption as described in 4.3.2.

2.2.3 Cost of operation as described in 4.3.3.

2.3. Values for energy consumption and cost of operation ranges for all refrigerators for which data are available are contained in Appendix A to this Specification. This appendix shall be updated and published in the Federal Register on an annual basis starting in February 1976. Copies of this appendix or updated versions thereof shall be provided by the Secretary to any interested party upon request.

3.0 Definitions. 3.1. The term "Secretary" means the Secretary of Commerce.

3.2. The term "manufacturer" means any person engaged in the manufacturing or assembling of refrigerators in the United States, or in the importing of such products for sale or resale, or any person whose brand or trademark appears on such products who owns such brand or trademark and has authorized its use on such product, if the brand or trademark of the person actually manufacturing or assembling the product does not appear on the product.

3.3. The term "Procedures" means Procedures for a Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation (15 CFR Part 9).

3.4. The term "refrigerator" means a cabinet designed for the refrigerated storage of food at temperatures above 32°F, and having a source of refrigeration driven by an electric motor. It may include a compartment for the freezing and storage of ice and for short term storage of food at temperatures below 32°F, but does not provide a separate low temperature compartment designed for the freezing of and the long term storage of food at temperatures below 8°F. It has only one exterior door, but it may have interior doors on compartments.

3.5. The term "basic model group" means all refrigerators actually manufactured or assembled by one manufacturer having the same rated total refrigerated volume and rated energy consumption. A basic model group may contain one or more members. Members of a basic model group may differ in details that do not affect total refrigerated volume or energy consumption as determined by the methods described in 4.1. Acceptable differences include, but are not limited to, variations in trim, color, sales model number, or brand name.

3.6. The term "defrost system" means the components and/or procedures by which frost is removed from refrigerated surfaces.

3.7. The term "manual defrost" means a defrost system in which the defrosting action for all refrigerated surfaces is initiated manually.

3.8. The term "total refrigerated volume" means the total volume of all refrigerated compartments as measured and calculated in accordance with 4.1.1 and referred to in the standard referenced in 4.1.1 as "net refrigerated volume."

3.9. The term "cost of operation" means the approximate cost of the electric energy used in a month and is as determined in 4.3.3. It does not include such costs as repairs and depreciation.

3.10. The term "retail sales catalog" means a catalog that contains a description of one or more models of refrigerators, states the price of the model or models described, and from which consumers may make purchases by placing orders.

4.0. Product testing and rating. 4.1. Samples of refrigerators shall be tested by manufacturers or their agents in accordance with the following standards:

4.1.1. American National Standard B38.1–1970, Section 3.2, for computation of total refrigerated volume.

4.1.2. Association of Home Appliance Manufacturers Standard HRF–2–ECFT–1974 for measurement of energy consumption.

4.2. Samples of refrigerators shall be tested by manufacturers or their agents in accordance with the following requirements:

4.2.1. Unless otherwise required by the Secretary under 4.2.4, test results obtained in the testing of one member of a basic model group may be accepted as applicable to all members of that basic model group.

4.2.2. Sufficient units from each basic model group, that are representative of units to be produced, shall be tested according to the methods and procedures specified in 4.1 to provide a valid basis for determining ratings. Results of tests and calculations shall be retained as required under 7.4.

4.2.3. Manufacturers shall maintain such quality control programs, to include testing, as are necessary to insure that the performance of manufactured units is within the tolerances specified in 4.5. The use of national certification programs that are open to all manufacturers and that pertain to the performance characteristics listed on the label as a means for verifying the performance level is acceptable. Results of tests and calculations shall be retained as required under 7.4.

4.2.4. In addition to the testing required under 4.2.2 and 4.2.3, the Secretary may upon acquisition of adequate evidence of possible mislabeling request that one or more units of any specified model selected at random from among recent production units, be tested by the manufacturer or his agent according to the methods and conditions specified in 4.1. Such testing shall be performed at the manufacturer's expense and the resulting test data and calculations shall be provided to the Secretary within 60 days of receipt by the manufacturer of such a request. This requirement does not preclude the Department of Commerce from testing or having tested at its own expense any refrigerator.

4.3. Ratings of refrigerators shall be as follows:

4.3.1. Total refrigerated volume shall be expressed in cubic feet and shall be based on the result of the measurement and computation called for in 4.1.1.

4.3.2. Energy consumption shall be expressed in Kilowatt-hours per month and shall be based on the result of the energy consumption test called for in 4.1.2, which provides a rating expressed in Kilowatt-hours per 24 hours, multiplied by 30 days per month and rounded to the nearest Kilowatt-hour per month.

4.3.3. Cost of operation shall be expressed in dollars per month and shall equal the rated energy consumption in Kilowatt-hours per month multiplied by electric rates of 1, 3, 4, 5, 7, and 9 cents per Kilowatt-hour, these costs each rounded to the nearest one-tenth dollar per month.

4.4. Ranges of total refrigerated volume, energy consumption, and cost of operation for use on labels shall be as follows:

4.4.1. Ranges shall be taken from the version of Appendix A in effect at the time the labels are applied, except that labels applied within a 90-day period following a revision of Appendix A need not be replaced with labels showing the new ranges.

4.4.2. The total refrigerated volume range shown on a label shall be taken from the appropriate line of Appendix A as determined by the rated total refrigerated volume of the model to be labeled. For example, if the model to be labeled has a rated total refrigerated volume of 12 cubic feet, the total refrigerated volume range used on the label for that model shall be 10 to 13 cubic feet.

4.4.3. The energy consumption and cost of operation ranges shown on a label shall be taken from the appropriate line of Appendix A as determined by the total refrigerated volume of the model to be labeled.

4.5. All members of a basic model group shall be held to be improperly rated and labeled if two units of that group are tested under 4.2.3 or 4.2.4 and the results of such tests on both units fall outside the following limits:

4.5.1. The value for total refrigerated volume shall not be less than 98.5 percent of the value shown on the label.

4.5.2. The value for energy consumption shall not be greater than 110 percent of the value shown on the label.

4.5.3. The values for cost of operation shall be accurate to the nearest one-tenth dollar per month.

5.0. Product labeling. 5.1. The design of labels shall be as follows:

5.1.1. The design of labels shall be as shown in Figures 1 and 2 at the end of this Specification. Except as provided in 5.1.2 and 5.1.3, no marks or information other than that indicated in Figures 1

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and 2 shall be placed within the border of the label and the size of labels and sizes of type shall be as shown in Figures 1 and 2 or a proportional enlargement of the sizes indicated.

5.1.2. Minor variations in the appearance of labels, that may be required for computerized printing techniques, may be requested by application to the Assistant Secretary for Science and Technology, U.S. Department of Commerce, Room 3862, Washington, D.C. 20230. Such variations shall be limited to changes in the type style or type size used to indicate values of ratings or ranges, model numbers, or other label elements that change from model to model. Applications for change shall include an example of the proposed change.

5.1.3. When two or more models having the same brand name have identical ratings, more than one model number may be shown on the label. The size of the label may be increased to accommodate such additional model number listings.

5.1.4. Labels shall be printed on both sides of white stock. The areas so indicated in Figures 1 and 2 shall be printed in *Pantone Super Warm Red*. The seal or logotype of the certifying agency shall be printed in any legible color or colors. All other printing shall be in black.

5.1.5. Camera-ready art suitable for printing the labels, but not including numercial ratings, model numbers, or the seal, logo, or other designation of the certifying agency, shall be provided by the Secretary to any manufacturer upon request. Actual labels shall be accurate reproductions of this art.

5.2. Refrigerators shall be labeled as follows:

5.2.1. Labels shall be folded as indicated in Figure 1 and hung as a tag on the front of a shelf in the refrigerator compartment or from the inside of the refrigerator compartment door at a height from the floor of four feet or as close to four feet as is practicable.

5.2.2. Labels shall appear clearly distinct from any other information supplied or displayed by the manufacturer so that the Department of Commerce Energy Conservation Mark on the label cannot reasonably be associated with such other information.

5.2.3. If any model of a given brand of refrigerator is labeled, then every model of that brand shall be labeled. However, these requirements shall not apply to units intended for export or units manufactured prior to the manufacturer's entry into the program.

5.2.4. For individual units manufactured and packaged prior to a manufacturer's entry into this program, manufacturers are encouraged to hang appropriate labels, distribute appropriate labels to retailers to be attached to floor display models or other models, or provide point-of-purchase displays as described in 6.4. The manufacturer need not assume responsibility for assuring individual label attachment or use of point-of-purchase displays at retail outlets under the provisions of this subsection.

6.0 Use of program information by manufacturers in retail sales catalogs or in advertising. 6.1. For each labeled model listed in a retail sales catalog, the listing shall be in the form of a reproduction of the label shown in Figure 1 or in any other format or arrangement that shall present all of the information shown in that Figure. The required information for one or more models may be presented in a table or tables.

6.2. For each labeled model listed in a retail sales catalog, the total refrigerated volume, energy consumption, and cost of operation ranges shown in the catalog shall be determined as follows:

6.2.1. The ranges shall be taken from the version of Appendix A in effect 90 days before the press date of the catalog or from a later version of Appendix A if it can be utilized before the press date of such catalog.

6.2.2. The ranges shall be taken from the appropriate version of Appendix A using the procedures described in 4.4.2 and 4.4.3.

6.3. When labeled models are listed in retail sales catalogs, the catalog section in which the models are listed shall contain an explanation of how cost of operation can be calculated and a reproduction of the Department of Commerce Energy Conservation Mark.

6.4. Legible reproductions of that portion of the label shown in Figure 1, in any size, may be used on the product, on packaging, in point-of-purchase displays, or in other advertising applications, but such use shall not be a substitute for required labeling.

6.5. For a given model, when the energy consumption rating as determined in 4.3.2 and cost of operation rating at 4¢ per Kilowatt-hour as determined in 4.3.3 are less than the lower limit of the appropriate energy consumption and cost of operation ranges as determined in 4.4.3 for labels or 6.2 for use in retail sales catalogs, manufacturers are encouraged to utilize this fact in their advertising of that model. This condition could result from introduction of a new or improved model, and in such case would persist until new energy consumption and cost of operation ranges had been issued.

7.0 Participation in Program. 7.1. Manufacturers wishing to participate in the Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation with regard to refrigerators shall notify the Department of Commerce of intended participation. Such notification should be addressed to the Assistant Secretary for Science and Technology, U.S. Department of Commerce, Room 3862, Washington, D.C. 20230. Approval for participation by any manufacturer is automatically granted upon this notification to the Department, provided that the conditions for participation as set forth in the Procedures and in this Specification are observed. Receipt of such notification will be acknowledged.

7.2. A manufacturer's notice of participation shall include the following information:

7.2.1. A statement that the tests and calculations called for under 4.0 will be completed as required and that the manufacturer certifies the accuracy, within the tolerances prescribed under 4.5, of ratings as shown on labels.

7.2.2. A listing of all models to be labeled including an indication of the grouping of sales models into basic model groups. All appropriate models as defined in 5.2.3 shall be included.

7.2.3. A statement that the manufacturer will desist from using the labels and the Department of Commerce Energy Conservation Mark if the manufacturer's participation in the program is terminated by the Department of Commerce under the provisions of 8.2.

7.2.4. The effective date of the manufacturer's entry into the program.

7.2.5. A statement that a listing of total refrigerated volume, energy consumption, and cost of operation at 4¢ per Kilowatt-hour ratings for all models to be labeled will be provided to the Secretary within 90 days after the date of the manufacturer's notice of participation. Such listing may be made in whole or in part by reference to readily available listings of certified refrigerators.

7.3. When a manufacturer's listing of refrigerator models to be labeled as required under 7.2.2 or his listing of total refrigerated volume, energy consumption, or cost of operation ratings as required under 7.2.5 is changed by the addition or deletion of models or changes in model designations or ratings, or if the manufacturer terminates his participation in the program with respect to refrigerators of a given brand name, the manufacturer or his agent shall notify the Secretary within 30 days.

7.4. Manufacturers or their agents shall maintain files of test results and calculations on which ratings are based and files of test results and calculations used to verify that the performance of manufactured units is within the tolerances specified in 4.5. Data relating to a given model shall be preserved for a period of two years after production of that model has been terminated, and if requested shall be provided to the Secretary within 30 days of such request.

7.5. Manufacturers or their agents shall transmit required information to the Secretary in concise and readily understandable form. For this purpose copies of appropriate lists and reports used for other purposes, as for example, reports submitted by a manufacturer to the sponsor of a nationally recognized certification program, or reports submitted by an independent testing laboratory to such a sponsor or a manufacturer, shall be acceptable.

7.6. Should any labeled refrigerator be tested and found to be improperly rated and labeled as described in 4.5, the manufacturer shall within 30 days give notice of non-compliance and a statement of revised ratings in writing to the Secretary and to all distributors or others in

the line of distribution who are responsible for sales to dealers or other retail outlets. He shall also arrange to have corrected labels available for substitution on models currently on display at retail outlets and for those placed on display at a later date, and shall see that such outlets are notified through his normal channels of distribution.

8.0 Termination of participation. 8.1. A manufacturer may at any time terminate his participation and responsibilities under the program with respect to refrigerators of a given brand name by giving written notice to the Secretary that he will discontinue or has discontinued use of the labels on all refrigerators of that brand name. Such notice shall state the effective date of the manufacturer's termination of participation.

8.2. The Department of Commerce upon finding that a manufacturer is not complying with the conditions for participation set forth in this Specification and in the Procedures may terminate upon 30 days notice the manufacturer's participation in the program: *Provided*, That the manufacturer shall first be given an opportunity to show cause why the participation should not be terminated.

8.3. Upon receipt of a notice of termination a manufacturer may within 30 days request a hearing under the provisions of 5 U.S.C. 558.

9.0 Use of program information by other than manufacturers. 9.1. Retail sales organizations that are not manufacturers as defined in 3.2, that sell refrigerators labeled under this program, and have received appropriate and accurate program information from manufacturers or the Secretary, are specifically encouraged to utilize program information in their sales efforts in the manner prescribed in 9.2.

9.2. Appropriate activities for nonmanufacturers include the following:

9.2.1. Use of total refrigerated volume ratings and ranges, energy consumption ratings and ranges, cost of operation at 4¢ per Kilowatt-hour ratings and ranges, explanations of how cost of operation can be calculated, and reproduction of the Department of Commerce Energy Conservation Mark, under the guidelines described in 6.1, 6.2, and 6.3, in retail sales catalogs.

9.2.2. Affixing of labels or appropriate use of point-of-purchase displays, provided by manufacturers under 5.2.4, in sales areas.

9.2.3. Use of reproductions of labels, in the manner described in 6.4, in advertising.

9.2.4. Advertising of instances where the energy consumption and cost of operation ratings of a given model are less than the lower limit of the appropriate energy consumption and cost of operation ranges, as described under 6.5.

9.2.5. Distribution of program information provided by the Department of Commerce. Program information may be obtained from the National Bureau of Standards, 411.00, Washington, D.C. 20234.

10.0 Amendment. This Specification is subject to amendment as provided in Section 9.8 of the Procedures, except that Appendix A of this Specification may be updated and published in the FEDERAL REGISTER annually as described in 2.3 of this Specification without first publishing notice of the proposed change in the FEDERAL REGISTER.

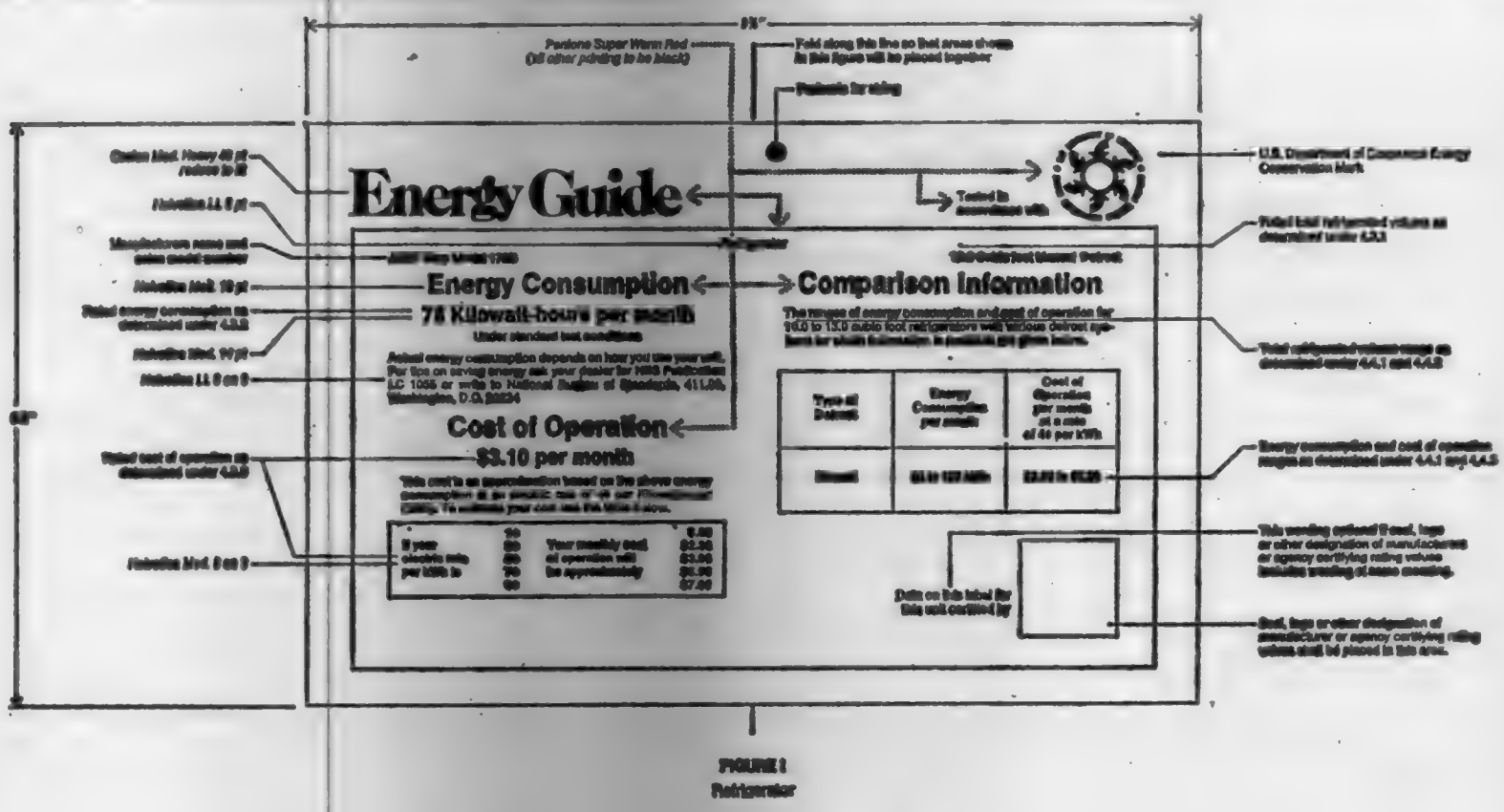


FIGURE 1
Refrigerator

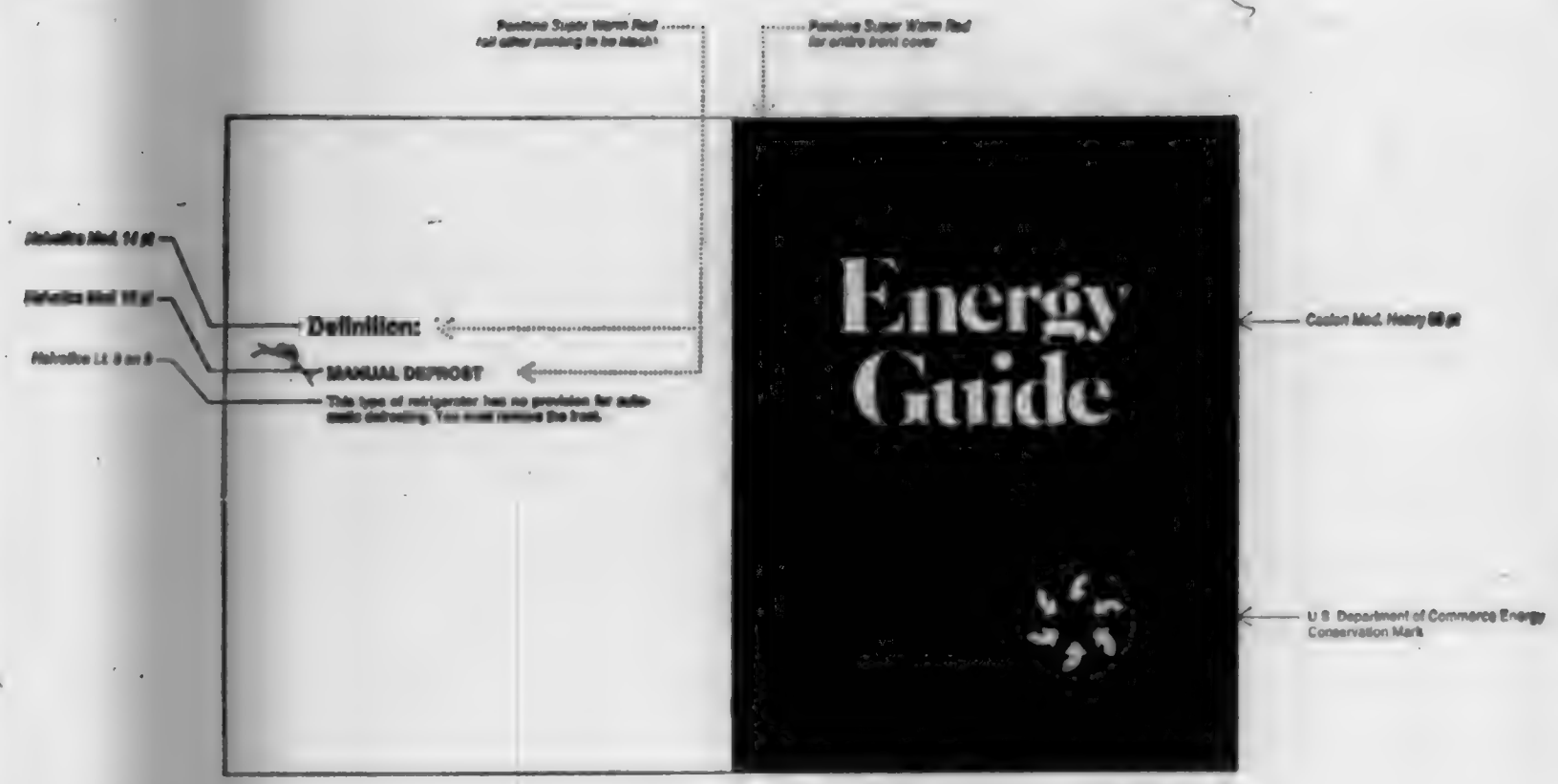


FIGURE 2
Refrigerator

VOLUNTARY ENERGY CONSERVATION SPECIFICATION 2-75, FOR REFRIGERATORS

APPENDIX A: TOTAL REFRIGERATED VOLUME, ENERGY CONSUMPTION, AND COST OF OPERATION RANGES

RATED TOTAL REFRIGERATED VOLUME IN CUBIC FEET	RANGES OF TOTAL REFRIGERATED VOLUME IN CUBIC FEET	RANGES OF ENERGY CONSUMPTION IN KILOWATT-HOURS PER MONTH FOR MODELS WITH MANUAL DEFROST	RANGES OF COST OF OPERATION IN DOLLARS PER MONTH AT A RATE OF 4¢ PER KILOWATT-HOUR FOR MODELS WITH MANUAL DEFROST
Less than 8.5	Less than 9.0	(To be determined)	(To be determined)
8.5 to less than 10.5	8.0 to 11.0		
10.5 to less than 12.5	10.0 to 13.0	62† to 135†	2.50† to 5.40†
12.5 to less than 14.5	12.0 to 15.0		
14.5 to less than 16.5	14.0 to 17.0		
16.5 and above	16.0 and above		

†These values are hypothetical and are used for the purpose of example only.

VOLUNTARY ENERGY CONSERVATION SPECIFICATION No. 3–75, FOR COMBINATION REFRIGERATOR-FREEZERS

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7.0 Participation in program.
8.0 Termination of participation.
9.0 Use of program information by other than manufacturers.
10.0 Amendment.

Figures 1 and 2—Combination Refrigerator-Freezer Label.

Appendix A—Total refrigerated volume, energy consumption, and cost of operation ranges.

1.0 *Purpose.* The purpose of this Voluntary Energy Conservation Specification, hereinafter referred to as "Specification," is to establish procedures for testing and labeling combination refrigerator-freezers in compliance with the Procedures for a Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation (15 CFR Part 9) and to define requirements for participation by manufacturers in the Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation with regard to that product class.

2.0 *Scope. 2.1.* This Specification shall apply to the product class consisting of all combination refrigerator-freezers as defined in 3.4.

2.2. Combination refrigerator-freezers covered by this Specification shall be rated with respect to the following characteristics:

2.2.1 Total refrigerated volume as described in 4.3.1.

2.2.2 Energy consumption as described in 4.3.2.

2.2.3 Cost of operation as described in 4.3.3.

2.3. Values for energy consumption and cost of operation ranges for all combination refrigerator-freezers for which data are available are contained in Appendix A to this Specification. This appendix shall be updated and published in the FEDERAL REGISTER on an annual basis starting in February 1976. Copies of this appendix or updated versions thereof shall be provided by the Secretary to any interested party upon request.

3.0 *Definitions. 3.1.* The term "Secretary" means the Secretary of Commerce.

3.2. The term "manufacturer" means any person engaged in the manufacturing or assembling of combination refrigerator-freezers in the United States, or in the importing of such products for sale or resale, or any person whose brand or trademark appears on such products who owns such brand or trademark and has authorized its use on such product, if the brand or trademark of the person actually manufacturing or assembling the product does not appear on the product.

3.3. The term "Procedures" means Procedures for a Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation (15 CFR Part 9).

3.4. The term "combination refrigerator-freezer" means a cabinet which consists of two or more compartments, with at least one of the compartments designed for the refrigerated storage of foods at temperatures above 32°F and with at least one of the compartments designed for the freezing of and the storage of frozen foods at temperatures of 8°F or below. The source of refrigeration is driven by an electric motor.

3.5. The term "basic model group" means all combination refrigerator-freezers actually manufactured or assembled by one manufacturer and having the same rated total refrigerated volume and rated energy consumption. A basic model group may contain one or more members. Members of a basic model group may differ in details that do not affect total refrigerated volume or energy consumption as determined by the methods described in 4.1. Acceptable differences include, but are not limited to, variations in trim, color, sales model number, or brand name, or the presence of some special features such as ice makers and dispensers.

3.6. The term "defrost system" means the components and/or procedures by which frost is removed from refrigerated surfaces.

3.6.1. The term "partial automatic defrost" means a defrost system in which the defrosting action for the refrigerated surfaces in the refrigerator compartment is initiated and terminated automatically and the defrosting action for the refrigerated surfaces in the freezer compartment is initiated manually.

3.6.2. The term "automatic defrost" means a defrost system in which the defrosting action for all refrigerated surfaces is initiated and terminated automatically.

3.7. The term "anti-sweat heaters" means devices incorporated into the design of a combination refrigerator-freezer to prevent the accumulation of moisture on exterior surfaces of the cabinet under conditions of high ambient humidity.

3.8. The term "total refrigerated volume" means the total volume of all refrigerated compartments as measured and calculated in accordance with 4.1.1 and referred to in the standard referenced in 4.1.1. as "net refrigerated volume."

3.9. The term "cost of operation" means the approximate cost of the electric energy used in a month and is as determined in 4.3.3. It does not include such costs as repairs and depreciation.

3.10. The term "retail sales catalog" means a catalog that contains a description of one or more models of combination refrigerator-freezers, states the price of the model or models described, and from which consumers may make purchases by placing orders.

4.0 Product testing and rating. 4.1. Samples of combination refrigerator-freezers shall be tested by manufacturers or their agents in accordance with the following standards:

4.1.1. American National Standard B38.1–1970, Section 3.2, for computation of total refrigerated volume.

4.1.2. Association of Home Appliance Manufacturers Standard HRF–ECFT–1974 for measurement of energy consumption.

4.2. Samples of combination refrigerator-freezers shall be tested by manufacturers or their agents in accordance with the following requirements:

4.2.1. Unless otherwise required by the Secretary under 4.2.4, test results obtained in the testing of one member of a basic model group may be accepted as applicable to all members of that basic model group.

4.2.2. Sufficient units from each basic model group, that are representative of units to be produced, shall be tested according to the methods and procedures specified in 4.1 to provide a valid basis for determining ratings. Results of tests and calculations shall be retained as required under 7.4.

4.2.3. Manufacturers shall maintain such quality control programs, to include testing, as are necessary to insure that the performance of manufactured units is within the tolerances specified in 4.5. The use of national certification programs that are open to all manufacturers and that pertain to the performance characteristics listed on the label as a means of verifying the performance level is acceptable. Results of tests and calculations shall be retained as required under 7.4.

4.2.4. In addition to the testing required under 4.2.2 and 4.2.3, the Secretary may upon acquisition of adequate evidence of possible mislabeling request that one or more units of any specified model, selected at random from among recent production units, be tested by the manufacturer or his agent according to the methods and conditions specified in 4.1. Such testing shall be performed at the manufacturer's expense and the resulting test data and calculations shall be provided to the Secretary within 60 days of receipt by the manufacturer of such a request. This requirement does not preclude the Department of Commerce from testing or having tested at its own expense any combination refrigerator-freezer.

4.3. Ratings of combination refrigerator-freezers shall be as follows:

4.3.1. Total refrigerated volume shall be expressed in cubic feet and shall be based on the result of the measurement and computation called for in 4.1.1.

4.3.2. Energy consumption shall be expressed in Kilowatt-hours per month and shall be based on the result of energy consumption test or tests called for in 4.1.2, which provides a rating expressed in Kilowatt-hours per 24 hours, multiplied by 30 days per month and rounded to the nearest Kilowatt-hour per month.

4.3.3. Cost of operation shall be expressed in dollars per month and shall equal the rated energy consumption in

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Kilowatt-hours per month multiplied by electric rates of 1, 3, 4, 5, 7, and 9 cents per Kilowatt-hour, these costs each rounded to the nearest one-tenth dollar per month.

4.4. Ranges of total refrigerated volume, energy consumption, and cost of operation for use on labels shall be as follows:

4.4.1. Ranges shall be taken from the version of Appendix A in effect at the time the labels are applied, except that labels applied within a 90 day period following a revision of Appendix A need not be replaced with labels showing the new ranges.

4.4.2. The total refrigerated volume range shown on a label shall be taken from the appropriate line of Appendix A as determined by the rated total refrigerated volume of the model to be labeled. For example, if the model to be labeled has a rated total refrigerated volume of 16.0 cubic feet, the total refrigerated volume range used on the label for that model shall be 14.0 to 17.0 cubic feet.

4.4.3. The energy consumption and cost of operation ranges shown on a label shall be taken from the appropriate line of Appendix A as determined by the total refrigerated volume of the model to be labeled. The energy consumption and cost of operation ranges for combination refrigerator-freezers with all defrost systems available in this volume range shall be shown on each label.

4.5. All members of a basic model group shall be held to be improperly rated and labeled if two units of that group are tested under 4.2.3 or 4.2.4 and the results of such tests on both units fall outside the following limits:

4.5.1. The value for total refrigerated volume shall not be less than 98.5 percent of the value shown on the label.

4.5.2. The value for energy consumption shall not be greater than 110 percent of the value shown on the label.

4.5.3. The values for cost of operation shall be accurate to the nearest one-tenth dollar per month.

5.0 Product labeling. 5.1. The design of labels shall be as shown in Figures 1 and 2 at the end of this Specification. Except as provided in 5.1.2 through 5.1.7, no marks or information other than that indicated in Figures 1 and 2 shall be placed within the border of the label and the size of labels and sizes of type shall be as shown in Figures 1 and 2 or a proportional enlargement of the sizes indicated.

5.1.2. For models having a switch allowing user control of the anti-sweat heaters, energy consumption and cost of operation ratings for both the "anti-sweat heaters off" and "anti-sweat heaters on" conditions shall be shown. Values for the "anti-sweat heaters off" condition shall be positioned first and shall be marked with an asterisk as follows: 123* to 138 Kilowatt-hours per month, $5.00* to $5.50 per month. Two columns of cost of operation values for electric rates of 1, 3, 5, 7, and 9 cents per kWh shall also be shown, with the values for the "anti-sweat heaters off" condition positioned first and marked with an asterisk. The following note shall be placed as indicated in Figure 1: *Values of energy consumption and cost of operation when anti-sweat heaters are switched off are identified by an asterisk, other values are with anti-sweat heaters switched on.

5.1.3. When the labeled refrigerator-freezer is equipped with an anti-sweat heater switch, the following should be added to the definitions shown in Figure 2 in the same style of lettering:

ANTI-SWEAT HEATERS

These are heaters built into the cabinet to prevent accumulation of moisture on the outer surface under humid conditions.

5.1.4. The type of defrost system, energy consumption range, and cost of operation range as determined under 4.4.1 and 4.4.3 and as specified in Appendix A for refrigerator-freezers in the volume range relating to the labeled unit shall be shown as indicated in Figure 1.

5.1.5. The definition of each type of defrost system as specified in 5.1.4. shall be given on the label as indicated in Figure 2 and shall be as stated below:

AUTOMATIC DEFROST

This is a system that automatically removes all frost as it forms. You never have to defrost. Some manufacturers use other names for this system.

PARTIAL AUTOMATIC DEFROST

With refrigerator-freezers of this type you must manually defrost your freezer but your refrigerator is automatically defrosted. Some manufacturers use other names for this system.

5.1.6. Minor variations in the appearance of labels, that may be required for computerized printing techniques, may be requested by application to the Assistant Secretary for Science and Technology, U.S. Department of Commerce, Room 3862, Washington, D.C. 20230. Such variations shall be limited to changes in the type style or type size used to indicate values of ratings or ranges, model numbers, or other label elements that change from model to model. Applications for change shall include an example of the proposed change.

5.1.7. When two or more models having the same brand name have identical ratings, more than one model number may be shown on the label. The size of the label may be increased to accommodate such additional model number listings.

5.1.8. Labels shall be printed on both sides of white stock. The areas so indicated in Figures 1 and 2 shall be printed in *Pantone Super Warm Red*. The seal or logotype of the certifying agency shall be printed in any legible color or colors. All other printing shall be in black.

5.1.9. Camera-ready art suitable for printing the labels, but not including numerical ratings, model numbers, or the seal, logo, or other designation of the certifying agency, shall be provided by the Secretary to any manufacturer upon request. Actual labels shall be accurate reproductions of this art.

5.2. Combination refrigerator-freezers shall be labeled as follows:

5.2.1. Labels shall be folded as indicated in Figure 1 and hung as a tag on the front of a shelf in the refrigerator compartment or from the inside of the refrigerator compartment door at a height from the floor of four feet or as close to four feet as is practicable.

5.2.2. Labels shall appear clearly distinct from any other information supplied or displayed by the manufacturer so that the Department of Commerce Energy Conservation Mark on the label cannot reasonably be associated with such other information.

5.2.3. If any model of a given brand of combination refrigerator-freezer is labeled, then every model of that brand shall be labeled. However, these requirements shall not apply to units intended for export or units manufactured prior to the manufacturer's entry into the program.

5.2.4. For individual units manufactured and packaged prior to a manufacturer's entry into this program, manufacturers are encouraged to hang appropriate labels, distribute appropriate labels to retailers to be attached to floor display models or other models, or provide point-of-purchase displays as described in 6.4. The manufacturer need not assume responsibility for assuring individual label attachment or use of point-of-purchase displays at retail outlets under the provisions of this subsection.

6.0 Use of program information by manufacturers in retail sales catalogs or in advertising. 6.1. For each labeled model listed in a retail sales catalog, the listing shall be in the form of a reproduction of the label shown in Figure 1 or in any other format or arrangement that shall present all of the information shown in that Figure. The required information for one or more models may be presented in a table or tables.

6.2. For each labeled model listed in a retail sales catalog, the total refrigerated volume, energy consumption, and cost of operation ranges shown in the catalog shall be determined as follows:

6.2.1. The ranges shall be taken from the version of Appendix A in effect 90 days before the press date of the catalog or from a later version of Appendix A if it can be utilized before the press date of such catalog.

6.2.2. The ranges shall be taken from the appropriate version of Appendix A using the procedures described in 4.4.2 and 4.4.3.

6.3. When labeled models are listed in retail sales catalogs, the catalog section in which the models are listed shall contain an explanation of how cost of operation can be calculated and a reproduction of the Department of Commerce Energy Conservation Mark.

6.4. Legible reproductions of that portion of the label shown in Figure 1, in any size, may be used on the product, on packaging, in point-of-purchase displays, or in other advertising applications, but such use shall not be a substitute for required labeling.

6.5. For a given model, when the energy consumption rating as determined in 4.3.2 and the cost of operation rating at 4 cents per Kilowatt-hour as determined in 4.3.3 are less than the lower limit of the appropriate energy consumption and cost of operation ranges as determined in 4.4.3 for labels or 6.2 for use in retail sales catalogs, manufacturers are encouraged to utilize this fact in their advertising of that model. This condition could result from introduction of a new or improved model, and in such case would persist until new energy consumption and cost of operation ranges had been issued.

7.0 Participation in program. *7.1.* Manufacturers wishing to participate in the Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation with regard to combination refrigerator-freezers shall notify the Department of Commerce of intended participation. Such notification should be addressed to the Assistant Secretary for Science and Technology, U.S. Department of Commerce, Room 3862, Washington, D.C. 20230. Approval for participation by any manufacturer is automatically granted upon this notification to the Department, provided that the conditions for participation as set forth in the Procedures and in this Specification are observed. Receipt of such notification will be acknowledged.

7.2. A manufacturer's notice of participation shall include the following information:

7.2.1. A statement that the tests and calculations called for under 4.0 will be completed as required and that the manufacturer certifies the accuracy, within the tolerances prescribed under 4.5, of ratings as shown on labels.

7.2.2. A listing of all models to be labeled including an indication of the grouping of sales models into basic model groups. All appropriate models as defined in 5.2.3 shall be included.

7.2.3. A statement that the manufacturer will desist from using the labels and the Department of Commerce Energy Conservation Mark if the manufacturer's participation in the program is terminated by the Department of Commerce under the provisions of 8.2.

7.2.4. The effective date of the manufacturer's entry into the program.

7.2.5. A statement that a listing of total refrigerated volume, energy consumption, and cost of operation at 4¢ per Kilowatt-hour ratings for all models to be labeled will be provided to the Secretary within 90 days after the date of the manufacturer's notice of participation. Such listing may be made in whole or in part by reference to readily available listings of certified combination refrigerator-freezers.

7.3. When a manufacturer's listing of combination refrigerator-freezer models to be labeled as required under 7.2.2 or his listing of total refrigerated volume, energy consumption, or cost of operation ratings as required under 7.2.5 is changed by the addition or deletion of models or changes in model designations or ratings, or if the manufacturer terminates his participation in the program with respect to combination refrigerator-freezers of a given brand name, the manufacturer or his agent shall notify the Secretary within 30 days.

7.4. Manufacturers or their agents shall maintain files of test results and calculations on which ratings are based and files of test results and calculations used to verify that the performance of manufactured units is within the tolerances specified in 4.5. Data relating to a given model shall be preserved for a period of two years after production of that model has been terminated, and if requested shall be provided to the Secretary within 30 days of such request.

7.5. Manufacturers or their agents shall transmit required information to the Secretary in concise and readily understandable form. For this purpose copies of appropriate lists and reports used for other purposes, as for example, reports submitted by a manufacturer to the sponsor of a nationally recognized certification program, or reports submitted by an independent testing laboratory to such a sponsor or a manufacturer, shall be acceptable.

7.6. Should any labeled combination refrigerator-freezer be tested and found to be improperly rated and labeled as described in 4.5, the manufacturer shall within 30 days give notice of non-compliance and a statement of revised ratings in writing to the Secretary and to all distributors or others in the line of distribution who are responsible for sales to dealers or other retail outlets. He shall also arrange to have corrected labels available for substitution on models currently on display at retail outlets and for those placed on display at a later date, and shall see that such outlets are notified through his normal channels of distribution.

8.0 Termination of participation. *8.1.* A manufacturer may at any time terminate his participation and responsibilities under the program with respect to combination refrigerator-freezers of a given brand name by giving written notice to the Secretary that he will discontinue or has discontinued use of the labels on all combination refrigerator-freezers of that brand name. Such notice shall state the effective date of the manufacturer's termination of participation.

8.2. The Department of Commerce upon finding that a manufacturer is not complying with the conditions for participation set forth in this Specification and in the Procedures may terminate upon 30 days notice the manufacturer's participation in the program: *Provided,* That the manufacturer shall first be given an opportunity to show cause why the participation should not be terminated.

8.3. Upon receipt of a notice of termination a manufacturer may within 30 days request a hearing under the provisions of 5 U.S.C. 558.

9.0 Use of program information by other than manufacturers. *9.1.* Retail sales organizations that are not manufacturers as defined in 3.2, that sell combination refrigerator-freezers labeled under this program, and have received appropriate and accurate program information from manufacturers or the Secretary, are specifically encouraged to utilize program information in their sales efforts in the manner prescribed in 9.2.

9.2. Appropriate activities for non-manufacturers include the following:

9.2.1. Use of total refrigerated volume ratings and ranges, energy consumption ratings and ranges, cost of operation at 4¢ per kilowatt-hour ratings and ranges, explanations of how cost of operation can be calculated, and reproduction of the Department of Commerce Energy Conservation Mark, under the guidelines described in 6.1, 6.2, and 6.3, in retail sales catalogs.

9.2.2. Affixing of labels or appropriate use of point-of-purchase displays, provided by manufacturers under 5.2.4, in sales areas.

9.2.3. Use of reproductions of labels, in the manner described in 6.4, in advertising.

9.2.4. Advertising of instances where the energy consumption and cost of operation ratings of a given model are less than the lower limit of the appropriate energy consumption and cost of operation ranges, as described under 6.5.

9.2.5. Distribution of program information provided by the Department of Commerce. Program information may be obtained from the National Bureau of Standards, 411.00, Washington, D.C. 20234.

10.0 Amendment. This specification is subject to amendment as provided in section 9.8 of the Procedures, except that Appendix A of this Specification may be updated and published in the FEDERAL REGISTER annually as described in 2.3 of this Specification without first publishing notice of the proposed change in the FEDERAL REGISTER.

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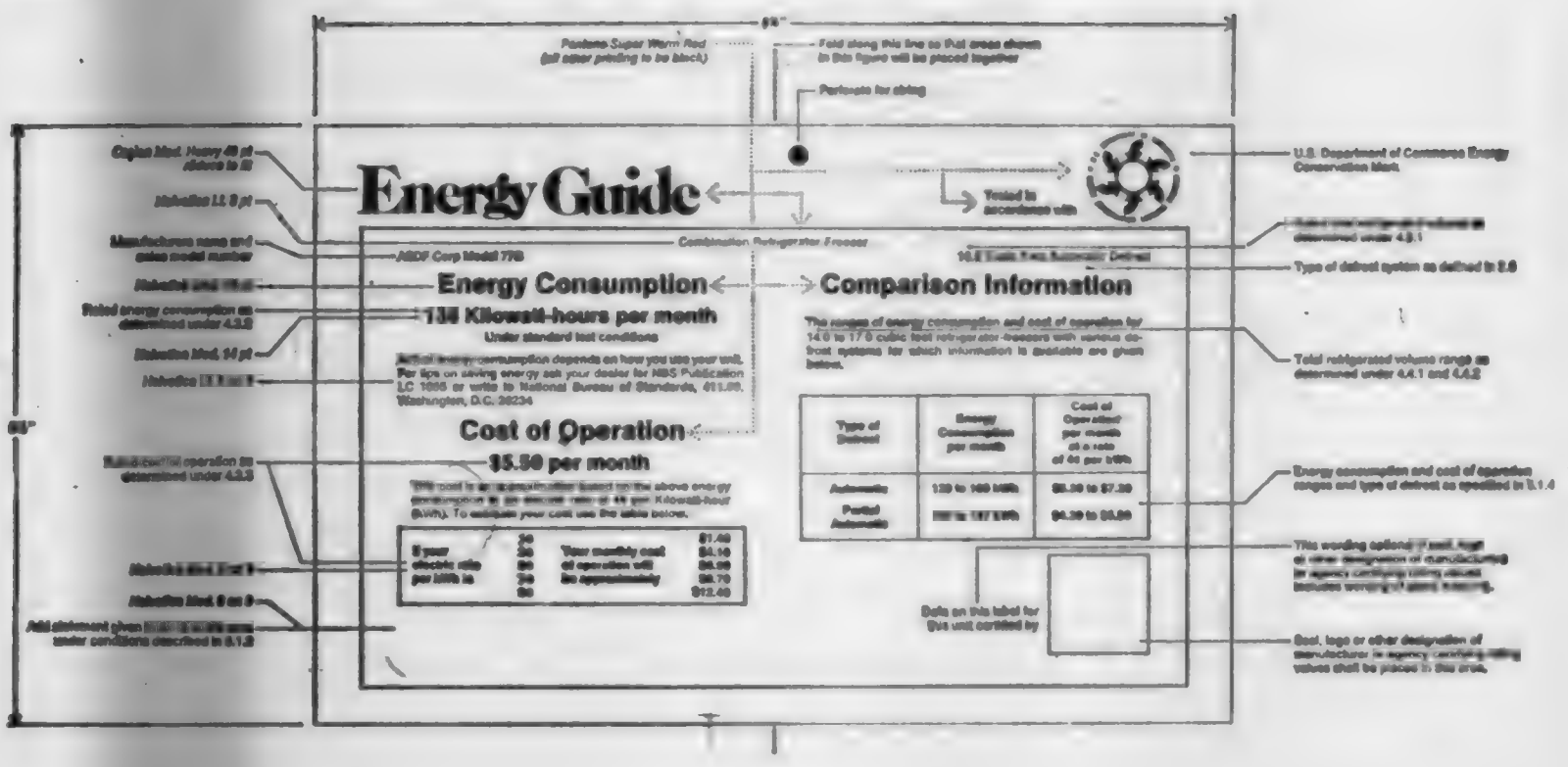


FIGURE 1
Combination Refrigerator-Freezer

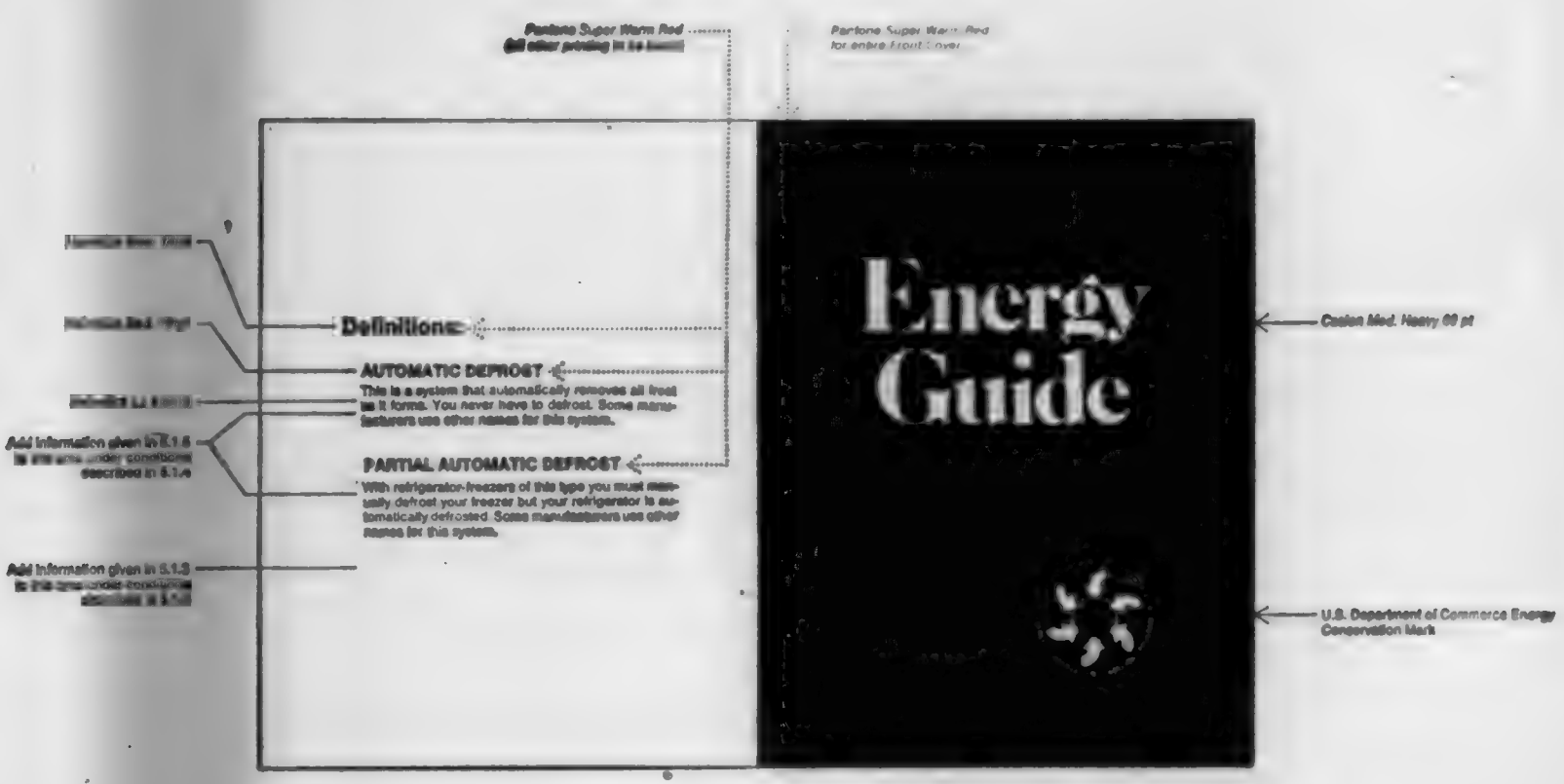


FIGURE 2
Combination Refrigerator-Freezer

VOLUNTARY ENERGY CONSERVATION SPECIFICATION 5-75, FOR COMBINATION REFRIGERATOR-FREEZERS

APPENDIX A: TOTAL REFRIGERATED VOLUME, ENERGY CONSUMPTION, AND COST OF OPERATION RANGES

RATED TOTAL REFRIGERATED VOLUME IN CUBIC FEET	RANGES OF TOTAL REFRIGERATED VOLUME IN CUBIC FEET	RANGES OF ENERGY CONSUMPTION IN KILOWATT-HOURS PER MONTH FOR MODELS WITH		RANGES OF COST OF OPERATIONS IN DOLLARS PER MONTH AT A RATE OF 4¢ PER KILOWATT-HOUR FOR MODELS WITH	
		PARTIAL AUTOMATIC DEFROST	AUTOMATIC DEFROST	PARTIAL AUTOMATIC DEFROST	AUTOMATIC DEFROST
Less than 10.5	Less than 11.0				
10.5 to less than 12.5	10.0 to 13.0	(To be determined)	(To be determined)	(To be determined)	(To be determined)
12.5 to less than 14.5	12.0 to 15.0				
14.5 to less than 16.5	14.0 to 17.0	103† to 147†	129† to 180†	4.20† to 5.90†	5.20† to 7.20†
16.5 to less than 18.5	16.0 to 19.0				
18.5 to less than 20.5	18.0 to 21.0				
20.5 to less than 22.5	20.0 to 23.0				
22.5 to less than 24.5	22.0 to 25.0				
24.5 and above	24.0 and above				

Values of energy consumption and cost of operation are determined with anti-sweat heaters fully energized.

†These values are hypothetical and are used for the purpose of example only.

VOLUNTARY ENERGY CONSERVATION SPECIFICATION No. 4-75, FOR FREEZERS

Sec.
1.0 Purpose.
2.0 Scope.
3.0 Definitions.
4.0 Product testing and rating.
5.0 Product labeling.
6.0 Use of program information by manufacturers in retail sales catalogs or in advertising.
7.0 Participation in program.
8.0 Termination of participation.
9.0 Use of program information by other than manufacturers.
10.0 Amendment.

Figures 1 and 2—Freezer label.
Appendix A—Total refrigerated volume, energy consumption, and cost of operation ranges.

1.0 Purpose. The purpose of this Voluntary Energy Conservation Specification, hereinafter referred to as "Specification," is to establish procedures for testing and labeling freezers in compliance with the Procedures for a Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation (15 CFR Part 9) and to define requirements for participation by manufacturers in the Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation with regard to that product class.

2.0 Scope. 2.1. This Specification shall apply to the product class consisting of all freezers as defined in 3.4.

2.2. Freezers covered by this Specification shall be rated with respect to the following characteristics:

2.2.1 Total refrigerated volume as described in 4.3.1.

2.2.2 Energy consumption as described in 4.3.2.

2.2.3 Cost of operation as described in 4.3.3.

2.3. Values for energy consumption and cost of operation ranges for all freezers for which data are available are contained in Appendix A to this Specification. This appendix shall be updated and published in the FEDERAL REGISTER on an annual basis starting in February 1976. Copies of this appendix or updated versions thereof shall be provided by the Secretary to any interested party upon request.

3.0 Definitions. 3.1. The term "Secretary" means the Secretary of Commerce.

3.2. The term "manufacturer" means any person engaged in the manufacturing or assembling of freezers in the United States, or in the importing of such products for sale or resale, or any person whose brand or trademark appears on such products who owns such brand or trademark and has authorized its use on such product, if the brand or trademark of the person actually manufacturing or assembling the product does not appear on the product.

3.3. The term "Procedures" means Procedures for a Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation (15 CFR Part 9).

3.4. The term "freezer" means a cabinet designed as a unit for the storage of food at temperatures of about 0° F, having the ability to freeze food, and having a source of refrigeration driven by an electric motor.

3.5. The term "basic model group" means all freezers actually manufactured or assembled by one manufacturer and having the same rated total refrigerated volume and rated energy consumption. A basic model group may contain one or more members. Members of a basic model group may differ in details that do not affect total refrigerated volume or energy consumption as determined by the methods described in 4.1. Acceptable differences include, but are not limited to, variations in trim, color, sales model number, or brand name, or the presence of some special features such as ice makers and dispensers.

3.6. The term "defrost system" means the components and/or procedures by which frost is removed from refrigerated surfaces.

3.6.1. The term "manual defrost" means a defrost system in which the defrosting action for all refrigerated surfaces is initiated manually.

3.6.2. The term "automatic defrost" means a defrost system in which the defrosting action for all refrigerated surfaces is initiated and terminated automatically.

3.7. The term "anti-sweat heaters" means devices incorporated into the design of a freezer to prevent the accumulation of moisture on exterior surfaces of the cabinet under conditions of high ambient humidity.

3.8. The term "total refrigerated volume" means the total volume of all refrigerated compartments as measured

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and calculated in accordance with 4.1.1 and referred to in the standard referenced in 4.1.1 as "net refrigerated volume."

3.9. The term "cost of operation" means the approximate cost of the electric energy used in a month and is as determined in 4.3.3. It does not include such costs as repairs and depreciation.

3.10. The term "retail sales catalog" means a catalog that contains a description of one or more models of freezers, states the price of the model or models described, and from which consumers may make purchases by placing orders.

4.0 Product testing and rating. 4.1. Samples of freezers shall be tested by manufacturers or their agents in accordance with the following standards:

4.1.1. American National Standard B38.1–1970, Section 4.2, for computation of total refrigerated volume.

4.1.2. Association of Home Appliance Manufacturers Standard HRF-2-ECFT-1974 for measurement of energy consumption.

4.2. Samples of freezers shall be tested by manufacturers or their agents in accordance with the following requirements:

4.2.1. Unless otherwise required by the Secretary under 4.2.4, test results obtained in the testing of one member of a basic model group, may be accepted as applicable to all members of that basic model group.

4.2.2. Sufficient units from each basic model group, that are representative of units to be produced, shall be tested according to the methods and procedures specified in 4.1 to provide a valid basis for determining ratings. Results of tests and calculations shall be retained as required under 7.4.

4.2.3. Manufacturers shall maintain such quality control programs, to include testing, as are necessary to insure that the performance of manufactured units is within the tolerances specified in 4.5. The use of national certification programs that are open to all manufacturers and that pertain to the performance characteristics listed on the label as a means for verifying the performance level is acceptable. Results of tests and calculations shall be retained as required under 7.4.

4.2.4. In addition to the testing required under 4.2.2 and 4.2.3, the Secretary may upon acquisition of adequate evidence of possible mislabeling request that one or more units of any specified model, selected at random from among recent production units, be tested by the manufacturer or his agent according to the methods and conditions specified in 4.1. Such testing shall be performed at the manufacturer's expense and the resulting test data and calculations shall be provided to the Secretary within 60 days of receipt by the manufacturer of such a request. This requirement does not preclude the Department of Commerce from testing or having tested at its own expense any freezer.

4.3. Ratings of freezers shall be as follows:

4.3.1. Total refrigerated volume shall be expressed in cubic feet and shall be based on the result of the measurement and computation called for in 4.1.1.

4.3.2. Energy consumption shall be expressed in Kilowatt-hours per month and shall be based on the result of the energy consumption test called for in 4.1.2, multiplied by 0.9, which provides a rating expressed in Kilowatt-hours per 24 hours, multiplied by 30 days per month and rounded to the nearest Kilowatt-hour per month.

4.3.3. Cost of operation shall be expressed in dollars per month and shall equal the rated energy consumption in Kilowatt-hours per month multiplied by electric rates of 1, 3, 4, 5, 7, and 9 cents per Kilowatt-hour, these costs each rounded to the nearest one-tenth dollar per month.

4.4. Ranges of total refrigerated volume, energy consumption, and cost of operation for use on labels shall be as follows:

4.4.1. Ranges shall be taken from the version of Appendix A in effect at the time the labels are applied, except that labels applied within a 90 day period following a revision of Appendix A need not be replaced with labels showing the new ranges.

4.4.2. The total refrigerated volume range shown on a label shall be taken from the appropriate line of Appendix A as determined by the rated total refrigerated volume of the model to be labeled. For example, if the model to be labeled has a rated total refrigerated volume of 15.3 cubic feet, the total refrigerated volume range used on the label for that model shall be 13.0 to 18.0 cubic feet.

4.4.3 The energy consumption and cost of operation ranges shown on a label shall be taken from the appropriate line of Appendix A as determined by the total refrigerated volume of the model to be labeled. The energy consumption and cost of operation ranges for freezers with all defrost systems available in this volume range shall be shown on each label.

4.5. All members of a basic model group shall be held to be improperly rated and labeled if two units of that group are tested under 4.2.3 or 4.2.4 and the results of such tests on both units fall outside the following limits:

4.5.1. The value for total refrigerated volume shall not be less than 98.5 percent of the value shown on the label.

4.5.2. The value for energy consumption shall not be greater than 110 percent of the value shown on the label.

4.5.3. The values for cost of operation shall be accurate to the nearest one-tenth dollar per month.

5.0 Product labeling 5.1. The design of labels shall be as follows:

5.1.1. The design of labels shall be as shown in Figures 1 and 2 at the end of this Specification. Except as provided in 5.1.2 through 5.1.7, and in 5.2.1, no marks or information other than that indicated in Figures 1 and 2 shall be placed within the border of the label and the size of labels and sizes of type shall be as shown in Figures 1 and 2 or a proportional enlargement of the sizes indicated.

5.1.2. For models having a switch allowing user control of the anti-sweat heaters, energy consumption and cost of operation ratings for both the "anti-sweat heaters off" and "anti-sweat heaters on" conditions shall be shown. Values for the "anti-sweat heaters off" condition shall be positioned first and shall be marked with an asterisk as follows: 157* to 177 Kilowatt-hours per month, $6.30* to $7.10 per month. Two columns of cost of operation values for electric rates of 1, 3, 5, 7, and 9 cents per kWh shall also be shown, with the values for the "anti-sweat heaters off" condition positioned first and marked with an asterisk. The following note shall be placed as indicated in Figure 1: * Values of energy consumption and cost of operation when anti-sweat heaters are switched off are identified by an asterisk, other values are with anti-sweat heaters switched on.

5.1.3. When the labeled freezer is equipped with an anti-sweat heater switch, the following should be added to the definitions shown in Figure 2 in the same style of lettering:

ANTI-SWEAT HEATERS

These are heaters built into the cabinet to prevent accumulation of moisture on the outer surface under humid conditions.

5.1.4. The type of defrost system, energy consumption range, and cost of operation range as determined under 4.4.1 and 4.4.3 and as specified in Appendix A for freezers in the volume range relating to the labeled unit shall be shown as indicated in Figure 1.

5.1.5. The definition of each type of defrost system as specified in 5.1.4 shall be given on the label as indicated in Figure 2 and shall be as stated below:

AUTOMATIC DEFROST

This is a system that automatically removes all frost as it forms. You never have to defrost. Some manufacturers use other names for this system.

MANUAL DEFROST

This type of freezer has no provision for automatic defrosting. You must remove the frost.

5.1.6. Minor variations in the appearance of labels, that may be required for computerized printing techniques, may be requested by application to the Assistant Secretary for Science and Technology, U.S. Department of Commerce, Room 3862, Washington, D.C. 20230. Such variations shall be limited to changes in the type style or type size used to indicate values of ratings or ranges, model numbers, or other label elements that change from model to model. Applications for change shall include an example of the proposed change.

5.1.7. When two or more models having the same brand name have identical ratings, more than one model number may be shown on the label. The size of the label may be increased to accommodate such additional model number listings.

5.1.8. Labels shall be printed on both sides of white stock. The areas so indicated on Figures 1 and 2 shall be printed

in *Pantone Super Warm Red*. The seal or logotype of the certifying agency shall be printed in any legible color or colors. All other printing shall be in black.

5.1.9. Camera-ready art suitable for printing the labels, but not including numerical ratings, model numbers, or the seal, logo, or other designation of the certifying agency, shall be provided by the Secretary to any manufacturer upon request. Actual labels shall be accurate reproductions of this art.

5.2 Freezers shall be labeled as follows:

5.2.1. Labels for upright freezers shall be folded as indicated in Figure 1 and hung as a tag on the front of a shelf in the freezer compartment or from the inside of the freezer compartment door at a height from the floor of four feet or as close to four feet as is practicable. Labels for chest type freezers shall be folded as indicated in Figure 1 and hung as a tag to the inside of the lid in such a manner as to be easily read without detaching. For chest type freezers on which the door opens 75° or more, the label may consist only of that portion shown in Figure 1 and may be attached to the inside of the lid with adhesive.

5.2.2. Labels shall appear clearly distinct from any other information supplied or displayed by the manufacturer so that the Department of Commerce Energy Conservation Mark on the label cannot reasonably be associated with such other information.

5.2.3. If any model of a given brand of freezer is labeled, then every model of that brand shall be labeled. However, these requirements shall not apply to units intended for export or units manufactured prior to the manufacturer's entry into the program.

5.2.4. For individual units manufactured and packaged prior to a manufacturer's entry into this program, manufacturers are encouraged to hang appropriate labels, distribute appropriate labels to retailers to be attached to floor display models or other models, or provide point-of-purchase displays as described in 6.4. The manufacturer need not assume responsibility for assuring individual label attachment or use of point-of-purchase displays at retail outlets under the provisions of this subsection.

6.0 Use of program information by by manufacturers in retail sales catalogs or in advertising. 6.1. For each labeled model listed in a retail sales catalog, the listing shall be in the form of a reproduction of the label shown in Figure 1 or in any other format or arrangement that shall present all of the information shown in that figure. The required information for one or more models may be presented in a table or tables.

6.2. For each labeled model listed in a retail sales catalog, the total refrigerated volume, energy consumption, and cost of operation ranges shown in the catalog shall be determined as follows:

6.2.1. The ranges shall be taken from the version of Appendix A in effect 90 days before the press date of the catalog or from a later version of Appendix A if it can be utilized before the press date of such catalog.

6.2.2. The ranges shall be taken from the appropriate version of Appendix A using the procedures described in 4.4.2 and 4.4.3.

6.3. When labeled models are listed in retail sales catalogs, the catalog section in which the models are listed shall contain an explanation of how cost of operation can be calculated and a reproduction of the Department of Commerce Energy Conservation Mark.

6.4. Legible reproductions of that portion of the label shown in Figure 1, in any size, may be used on the product, on packaging, in point-of-purchase displays, or in other advertising applications, but such use shall not be a substitute for required labeling.

6.5. For a given model, when the energy consumption rating as determined in 4.3.2 and the cost of operation rating at 4¢ per Kilowatt-hour as determined in 4.3.3 are less than the lower limit of the appropriate energy consumption and cost of operation ranges as determined in 4.4.3 for labels or 6.2 for use in retail sales catalogs, manufacturers are encouraged to utilize this fact in their advertising of that model. This condition could result from introduction of a new or improved model, and in such case would persist until new energy consumption and cost of operation ranges had been issued.

7.0 Participation in program. 7.1. Manufacturers wishing to participate in the Voluntary Labeling Program for Household Appliances and Equipment to Effect Energy Conservation with regard to freezers shall notify the Department of Commerce of intended participation. Such notification should be addressed to the Assistant Secretary for Science and Technology, U.S. Department of Commerce, Room 3862, Washington, D.C. 20230. Approval for participation by any manufacturer is automatically granted upon this notification of the Department, provided that the conditions for participation as set forth in the Procedures and in this Specification are observed. Receipt of such notification will be acknowledged.

7.2. A manufacturer's notice of participation shall include the following information:

7.2.1. A statement that the tests and calculations called for under 4.0 will be completed as required and that the manufacturer certifies the accuracy, within the tolerances prescribed under 4.5, of ratings as shown on labels.

7.2.2. A listing of all models to be labeled including an indication of the grouping of sales models into basic model groups. All appropriate models as defined in 5.2.3 shall be included.

7.2.3. A statement that the manufacturer will desist from using the labels and the Department of Commerce Energy Conservation Mark if the manufacturer's participation in the program is terminated by the Department of Commerce under the provisions of 8.2.

7.2.4. The effective date of the manufacturer's entry into the program.

7.2.5. A statement that a listing of total refrigerated volume, energy consumption, and cost of operation at 4¢ per Kilowatt-hour ratings for all models to be labeled will be provided to the Secretary within 90 days after the date of the manufacturer's notice of participation. Such listing may be made in whole or in part by reference to readily available listings of certified freezers.

7.3. When a manufacturer's listing of freezer models to be labeled as required under 7.2.2 or his listing of total refrigerated volume, energy consumption, or cost of operation ratings as required under 7.2.5 is changed by the addition or deletion of models or changes in model designations or ratings, or if the manufacturer terminates his participation in the program with respect to freezers of a given brand name, the manufacturer or his agent shall notify the Secretary within 30 days.

7.4. Manufacturers or their agents shall maintain files of test results and calculations on which ratings are based and files of test results and calculations used to verify that the performance of manufactured units is within the tolerances specified in 4.5. Data relating to a given model shall be preserved for a period of two years after production of that model has been terminated, and if requested shall be provided to the Secretary within 30 days of such request.

7.5. Manufacturers or their agents shall transmit required information to the Secretary in concise and readily understandable form. For this purpose copies of appropriate lists and reports used for other purposes, as for example, reports submitted by a manufacturer to the sponsor of a nationally recognized certification program, or reports submitted by an independent testing laboratory to such a sponsor or a manufacturer, shall be acceptable.

7.6. Should any labeled freezer be tested and found to be improperly rated and labeled as described in 4.5, the manufacturer shall within 30 days give notice of non-compliance and a statement of revised ratings in writing to the Secretary and to all distributors or others in the line of distribution who are responsible for sales to dealers or other retail outlets. He shall also arrange to have corrected labels available for substitution on models currently on display at retail outlets and for those placed on display at a later date, and shall see that such outlets are notified through his normal channels of distribution.

8.0 Termination of participation. 8.1. A manufacturer may at any time terminate his participation and responsibilities under the program with respect to freezers of a given brand name by giving written notice to the Secretary that he will discontinue or has discontinued use of the labels on all freezers of that brand name. Such notice shall state the effective date of the manufacturer's termination of participation.

8.2. The Department of Commerce upon finding that a manufacturer is not complying with the conditions for participation set forth in this Specification

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and in the Procedures may terminate upon 30 days notice the manufacturer's participation in the program: *Provided*, that the manufacturer shall first be given an opportunity to show cause why the participation should not be terminated.

8.3. Upon receipt of a notice of termination a manufacturer may within 30 days request a hearing under the provisions of 5 U.S.C. 558.

9.0 Use of program information by other than manufacturers. 9.1. Retail sales organizations that are not manufacturers as defined in 3.2, that sell freezers labeled under this program, and have received appropriate and accurate program information from manufacturers or the Secretary, are specifically encouraged to utilize program information in their sales efforts in the manner prescribed in 9.2.

9.2. Appropriate activities for non-manufacturers include the following:

9.2.1. Use of total refrigerated volume ratings and ranges, energy consumption ratings and ranges, cost of operation at 4¢ per Kilowatt-hour ratings and ranges, explanations of how cost of operation can be calculated, and reproduction of the Department of Commerce Energy Conservation Mark, under the guidelines described in 6.1, 6.2, and 6.3, in retail sales catalogs.

9.2.2. Affixing of labels or appropriate use of point-of-purchase displays, provided by manufacturers under 5.2.4, in sales areas.

9.2.3. Use of reproductions of labels, in the manner described in 6.4, in advertising.

9.2.4. Advertising of instances where the energy consumption and cost of operation ratings of a given model are less than the lower limit of the appropriate energy consumption and cost of operation ranges, as described under 6.5.

9.2.5. Distribution of program information provided by the Department of Commerce. Program information may be obtained from the National Bureau of Standards, 411.00, Washington, D.C. 20234.

10.0 Amendment. This Specification is subject to amendment as provided in Section 9.8 of the Procedures, except that Appendix A of this Specification may be updated and published in the FEDERAL REGISTER annually as described in 2.3 of this Specification without first publishing notice of the proposed change in the FEDERAL REGISTER.

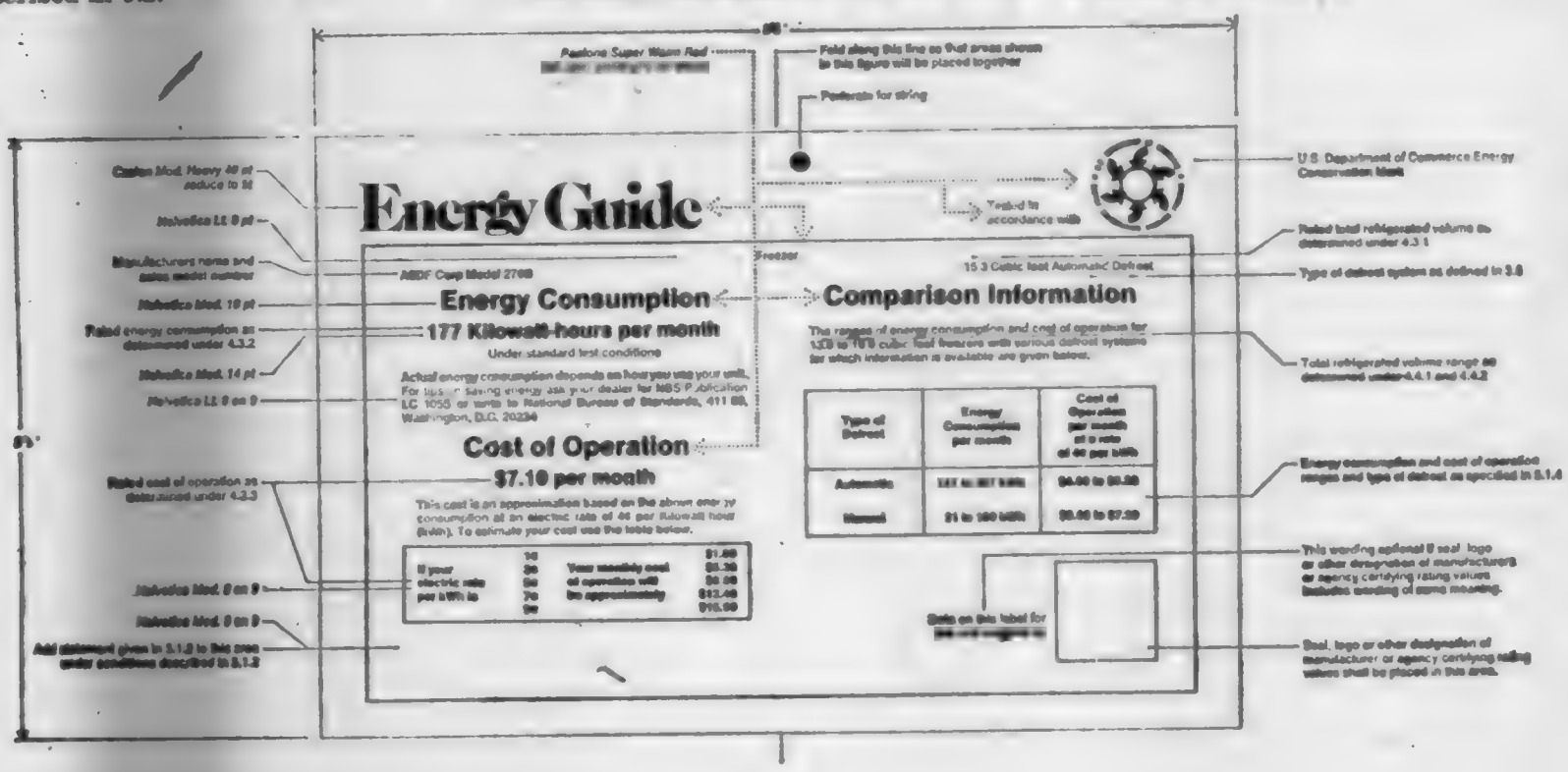


FIGURE 1
Freezer

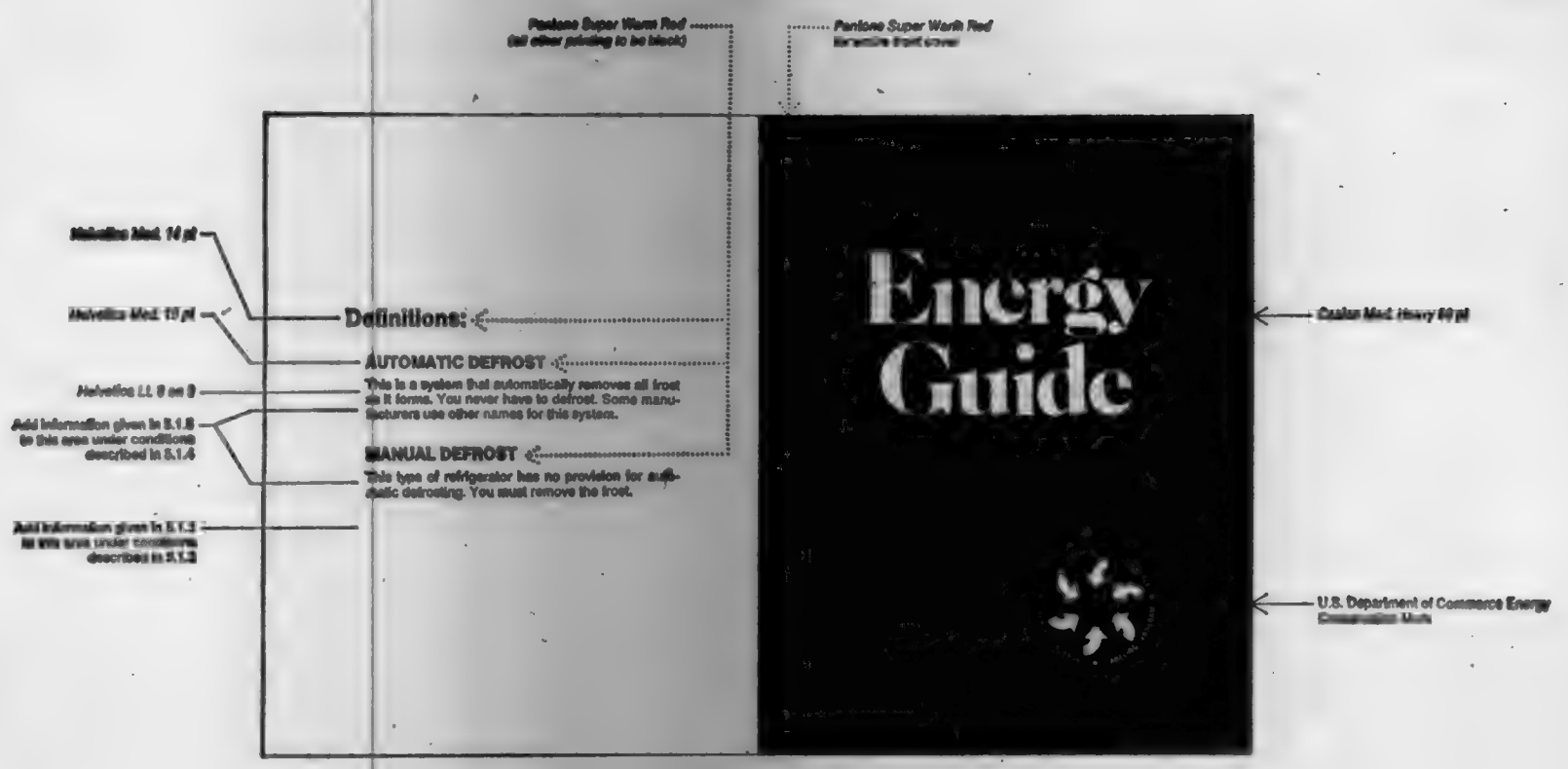


FIGURE 2
Freezer

VOLUNTARY ENERGY CONSERVATION SPECIFICATION 4-75, FOR FREEZERS

APPENDIX A: TOTAL REFRIGERATED VOLUME, ENERGY CONSUMPTION, AND COST OF OPERATION RANGES

RATED TOTAL REFRIGERATED VOLUME IN CUBIC FEET	RANGES OF TOTAL REFRIGERATED VOLUME IN CUBIC FEET	RANGES OF ENERGY CONSUMPTION IN KILOWATT-HOURS PER MONTH FOR MODELS WITH		RANGES OF COST OF OPERATION IN DOLLARS PER MONTH AT A RATE OF 4¢ PER KILOWATT-HOUR FOR MODELS WITH	
		MANUAL DEFROST	AUTOMATIC DEFROST	MANUAL DEFROST	AUTOMATIC DEFROST
Less than 5.5	Less than 6.0	(To be determined)	(To be determined)	(To be determined)	(To be determined)
5.5 to less than 9.5	5.0 to 10.0				
9.5 to less than 13.5	9.0 to 14.0				
13.5 to less than 17.5	13.0 to 18.0	91† to 180†	121† to 207†	3.60† to 7.20†	4.80† to 8.30†
17.5 to less than 21.5	17.0 to 22.0				
21.5 to less than 25.5	21.0 to 26.0				
25.5 and above	25.0 and above				

Values of energy consumption and cost of operation are determined with anti-sweat heaters fully energized.

†These values are hypothetical and are used for the purpose of example only.

[FR Doc.74-30400 Filed 12-26-74;12:06 pm]

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Domestic and International Business Administration

NATIONAL INDUSTRIAL ENERGY

Public Meeting

CONSERVATION COUNCIL

A meeting of the National Industrial Energy Conservation Council will be held on Wednesday, January 29, 1975, from 10 a.m. to 12 noon in Room 4830, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

The Council will advise the Secretary of Commerce on programs and problems within the industrial and commercial sectors relating to energy conservation.

The public will be permitted to attend and a limited number of seats will be available fo rthat purpose. To the extent that time permits, members of the public may present oral statements to the Council. Interested persons are also invited to file written statements with the Council before or after the meeting.

Questions should be directed to Ed Blecksmith at the Office of Energy Programs, Room 2204, U.S. Department of Commerce. 14th and Constitution Ave., NW., Washington, D.C. 20230. (202) 967–2757.

HERBERT K. SCHMITZ,
Executive Director,
National Energy Conservation Council.

HERBERT K. SCHMITZ,
Executive Director, National Energy Conservation Council.

[FR Doc.74–30528 Filed 12–30–74;10:12 am]

National Oceanic and Atmospheric Administration

GROUNDFISH FISHERIES

Closure of Season

Notice is hereby given pursuant to § 240.23a, Title 50 CFR as follows:

On December 23, 1974, the Director, National Marine Fisheries Service, determined that United States vessels operating in regulatory area—Subarea 5, West of 69°00 W longitude, defined in § 240.1(b)(5) and referred to in § 240.21(b)(3) will soon reach the annual catch limit for yellowtail flounder of 9,000 metric tons for the period January 1, 1974, through December 31, 1974, as described in § 240.21(b)(3), published in the FEDERAL REGISTER (39 FR 2022).

I hereby announce that the season for taking yellowtail flounder without restriction as to quantity by persons and vessels subject to the jurisdiction of the United States will terminate in the area affected at 2400 hours local time, December 31, 1974. The restriction will remain in effect until 0001 hours local time, January 1, 1975.

Issued at Washington, D.C., and dated December 27, 1974.

JACK W. GEHRINGER,
Acting Director.

[FR Doc.74–30379 Filed 12–30–74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 663]

ASSIGNMENT OF HEARINGS

DECEMBER 26, 1974.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 105045 Sub 48, B. L. Jeffries Trucking Co., Inc., application dismissed.

No. 35967, Household Goods, Increased Rates Nationwide, continued to January 6, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 35788, Feed Grains to New England, now being assigned for continued hearing on May 6, 1975, in Room 501, 150 Causeway St., Boston, Mass.

MC 125996 Sub 49, Road Runner Trucking Inc., application dismissed.

No. MC 135007 Sub 41, American Transport, Inc., continued to January 28, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 134908 Sub 1, Kentucky Motor Freight, Inc., now assigned January 27, 1975, at Frankfort, Ky., is transferred to January 27, 1975, at the Holiday Inn West, 925 Newton Pike, Lexington, Ky.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–30411 Filed 12–30–74;8:45 am]

HOUSEHOLD GOODS

Modification of Receipt on Estimate Form, Correction [1]

DECEMBER 26, 1974.

Notice to all regulated interstate motor common carriers of household goods.

It has come to the Commission's attention that the form for acknowledgment of receipt of the BOp 103 booklet on the estimating form does not include space for acknowledgement of receipt of Public Advisory No. 4 and the carrier's performance report, the latter being required on and after February 14, 1975. Without a modification, this might require the carrier to also tear out and use the receipt set forth in the BOp 103 booklet where the shipper received the booklets from a prior carrier, thereby wasting each BOp 103 booklet so utilized. Accordingly, effective immediately, all regulated interstate motor common carriers of household goods are permitted to modify the receipt block of the estimating form, set forth in the upper right hand corner, to read as follows:

I hereby acknowledge that I have received from (check one):
- ☐ the carrier supplying this estimate
- ☐ a carrier supplying another estimate
- ☐ other source

Summary of Information for Shippers of Household Goods, Form BOp 103; and I.C.C. Public Advisory No. 4

ALSO (check):
- ☐ The performance report of the carrier supplying this estimate (effective February 14, 1975).

Signature of Shipper or his Representative

For carrier convenience a similar modification may be made on the Order for Service form.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–30410 Filed 12–30–74;8:45 am]

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TUESDAY, DECEMBER 31, 1974

federal register

TUESDAY, DECEMBER 31, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 252

PART II

ENVIRONMENTAL PROTECTION AGENCY

■

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLE ENGINES

Proposed Selective Enforcement Auditing Procedures

XUM V39 N252 DEC 31 1974 XUM

ENVIRONMENTAL PROTECTION AGENCY

[FRL 314-1]

[40 CFR Part 85]

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Proposed Selective Enforcement Auditing Procedures

Notice is hereby given that Part 85 of Title 40 of the Code of Federal Regulations is proposed to be revised by the addition of a new subpart and amendments to existing subparts as set forth below.

I. *Explanatory statement.* The major purpose intended to be served by the proposed subpart and amendments is to verify on a selective basis that new gasoline-fueled and diesel light duty vehicles and new gasoline-fueled and diesel light duty trucks conform at the assembly line with the regulations with respect to which the certificate of conformity was issued.

Certification is the principal tool used for enforcement of standards for emission of air pollutants from new motor vehicles that EPA has employed since the passage of the Clean Air Act and is based on the emission performance of a limited number of prototype vehicles. The purpose of certification is to require manufacturers to demonstrate that they possess the capability of designing vehicles which meet the applicable emission standards for 50,000 miles. However, the fact that a prototype vehicle meets the standards does not guarantee that the manufacturers' production vehicles will also meet the standards. Evidence which indicates that a significant portion of production vehicles are not meeting the standards is available from the results of the California Air Resources Board (CARB) assembly line test program and the U.S. E.P.A.'s in-use testing programs. One of the CARB procedures requires quality audit testing of at least two percent of each manufacturer's quarterly production of vehicles sold in California for that year using the official Federal Test Procedure less the evaporative emission portion. In some cases over fifty percent of the vehicles of certain engine families have failed the CARB quality audit test.

A logical means of ensuring the compliance of production vehicles at the time of manufacture is to test them on the assembly line at the completion of assembly. Section 206(b) of the Clean Air Act authorizes the Administrator to test vehicles in order to determine whether new motor vehicles being manufactured by a manufacturer do in fact conform with the regulations with respect to which the certificate of conformity was issued.

The regulations proposed herein will prevent future nonconformity, however, EPA does not believe it is possible to quantify the air quality benefits for a program designed to enforce compliance with emission standards without first finding (1) that there are, in fact, vehicles being produced which exceed the standards and (2) that the program will stop that production. These findings can be made only for those vehicles which are produced, do not conform, and are detected. On the other hand, the program envisioned in these regulations is intended to provide a deterrent to the production of noncomplying vehicles. That is, it is a program to prevent pollution above established standards rather than a program to cure excessive pollution after it occurs. Thus, proposed herein is a Federal program to test production vehicles in order to establish a deterrent to the production of concomplying vehicles.

II. *General description of regulations.*[1] Selective Enforcement Auditing (SEA) is the term used in this regulation to describe the testing pursuant to an Administrative Order, in accordance with the Federal Test Procedure, of a random sample of production vehicles from a particular specified vehicle configuration selected from a particular assembly plant in order to: (1) determine whether the production vehicles conform with the regulations with respect to which the certificate of conformity was issued, and (2) provide the basis for certificate suspension or revocation in the case of nonconformity.

Testing is initiated by a test order which will be issued by the Assistant Administrator for Enforcement and General Counsel or his designee to the manufacturer. This test order will require the manufacturer to test vehicles from a specified configuration produced at a specified plant.

Initial testing on any selected manufacturer's vehicles may be limited to one specific vehicle configuration, but other vehicle configurations may be selected for testing pursuant to subsequent test orders. The term configuration includes vehicles of the same make and model possessing the same type engine, emission control system, transmission, and belonging to the same inertia weight class. Upon receipt of the test order, the manufacturer will randomly select one or two batch samples, depending on the specified size of the batches, from consecutive batches of vehicles of the specified configuration. A batch is a collection of vehicles designated in the test order from which a sample is to be drawn to determine conformance with the acceptability criteria.

The SEA strategy incorporates a multiple sampling plan by attributes in the style of Military Standard 105D. Military Standard 105D is a collection of sampling plans designed to be used in determining the acceptability of a batch of items for which one or more inspection criteria have been established. As applied to motor vehicle emissions, the items being inspected are vehicles and the inspection criteria are the emission standards. In order to minimize or preclude the potential effects of "green engine" on emission test results, a manufacturer will be allowed to accumulate whatever mileage he deems necessary, up to 4000 miles, prior to vehicle testing.

The emission measurements on an assembly line vehicle obtained by use of the Federal Test Procedure represent the emission levels of that vehicle at the time of the test and do not necessarily represent the emissions from that vehicle while in use. The Clean Air Act requires that vehicles meet the applicable emission standards throughout their useful life. When these proposed regulations and amendments become effective, both noncatalyst and catalyst equipped vehicles will be produced, although it is anticipated that the majority of new light duty vehicles will be equipped with catalysts. Present data on the change in emissions with increasing mileage for catalyst equipped vehicles generally indicates a trend of a more rapid increase in emissions during early mileage accumulation and then a less rapid increase in emissions with higher mileage. In order to account for the first period of emission deterioration (or amelioration),[2] manufacturers may apply a 0–4000 mile deterioration factor calculated from the test results of their certification fleets, develop their own deterioration (or amelioration) factor at a mileage between 0–4000 from production vehicles, or accumulate 4000 miles on the vehicles prior to emission testing. The second period of deterioration will be accounted for by application of the usual 4000–50,000 mile deterioration factor calculated from certification fleet test results. Manufacturers will be required to apply these factors (where applicable) by comparing the measured emissions of a production vehicle with a low-mileage emissions target calculated by dividing the certification standards by the appropriate factors to determine conformity.

Although emissions from vehicles not equipped with catalysts generally deteriorate less rapidly than catalyst equipped vehicles, some deterioration is generally noticed. Accordingly, both the customary 4000 to 50,000 mile deterioration factor, calculated using the test results of their certification fleet, in addition to a 0 to 4000 deterioration (or amelioration) factor will be used in calculating the low-mileage emissions target which will then be compared to the measured emissions of the assembly line vehicles to determine compliance. As in the case with catalyst equipped vehicles, in order to account for the first period of degradation (or amelioration), manufacturers may use a 0–4000 mile deterioration (or amelioration) factor calculated from the test results of their certification fleets, develop their own deterioration (or amelioration) factor at

[1] A more detailed description follows at section IV.

[2] Generally, the change in vehicle emission after a certain period of use is characterized by deterioration (i.e., emission increase). However, there may be circumstances where emissions actually get better (i.e., emission decrease) with use. If this is the case as demonstrated by available data, then an amelioration factor will be permitted.

a mileage between 0–4000 from production vehicles, or accumulate 4000 miles on vehicles prior to emission testing.

The sampling plans in the proposed regulation are arranged according to the size of the batch from which a batch sample is to be drawn. Each plan specifies the batch sample size and acceptance and rejection numbers for each sample. As applied to vehicle emissions, the AQL is the maximum percentage of failing vehicles for an individual pollutant, that for purposes of sampling inspection, can be considered satisfactory as a process average, where a vehicle is considered a failure if it exceeds the emission standards after application of appropriate factors for the particular pollutant under inspection. The number of failing vehicles in the sample is compared to the acceptance and rejection numbers for the appropriate sampling plan. If the number of failures is less than or equal to the acceptance number, then there is a high probability that the percentage of noncomplying vehicles in the batch is less than the AQL. On the other hand, if the number of failing vehicles in the batch sample is greater than or equal to the rejection number, then there is a high probability that the percentage of noncomplying vehicles in the batch is greater than the AQL. In the first case, the batch is labeled accepted; while in the second case it is labeled rejected.

If the first batch or first two batches, depending on the number required, inspected in response to a test order are accepted, the manufacturer will not be required, at that time, to do any further sampling and testing of vehicles of that configuration pursuant to the test order. Rejection of the batch if only one is required to be inspected, or rejection of either the first or second batch if two are required to be inspected, would result in a number of subsequent actions. First, the certificate is suspended with respect to the vehicles in the rejected batch which are still in the manufacturer's hands until he is able to make the necessary repairs and/or adjustments to bring them into compliance. Second, the manufacturer must begin to inspect consecutive batches of the affected configuration to determine whether each batch can be accepted. If a sufficient number of consecutive batches are accepted, then the manufacturer can discontinue testing pursuant to the test order. However, if batches continue to be rejected, the certificate of conformity may be suspended or revoked in whole or in part with respect to vehicles of that configuration produced at that plant. The certificate of conformity is suspended with respect to any vehicle failing the audit test and any failing vehicles must be fixed and pass a retest before they can be offered for sale regardless of whether the batch was labeled accepted or rejected. If any particular configuration is found not to conform, the Administrator may issue additional test orders for testing of vehicles of that configuration produced at other plants and also for other configurations of that same engine family produced by the manufacturer at that plant or other plants.

Once a certificate is suspended or revoked for a configuration, it will remain suspended until a manufacturer has taken corrective action to bring the vehicles into compliance. He must demonstrate that the vehicles are meeting the standards by reinstating batch inspection in accordance with the second sequence test requirements of a test order and the regulations. If batches continue to be rejected despite the corrective action taken by the manufacturer on a configuration, for which the certificate has been suspended, the Administrator may consider revoking the certificate for that configuration. Once revocation has occurred and the manufacturer wishes to continue sales of the tested configuration, he will be required to notify the Administrator and request approval for the proposed remedy on that configuration in addition to reinstituting batch inspection in accordance with the second sequence test requirements of a test order and the regulations when the proposed remedy is approved.

The decision whether to suspend or revoke a certificate of conformity in whole or in part will be made by the Administrator based on whether the proposed remedy for the nonconformity is one requiring notification and approval under the appropriate addition of vehicles or change provisions of the regulations (40 CFR 85 et seq.). If the remedy does require notification and approval, the certificate may be revoked; otherwise the certificate will be suspended.

III. *SEA benefits.* SEA will complement both the present certification program and the evolving recall surveillance program. Because certification involves testing of prototype vehicles and SEA involves testing of certified production vehicles, SEA will bridge the gap between the emission performance of certification prototype vehicles and production vehicles. The in-use testing program is used to determine whether vehicles in use, which have been properly maintained and used, do, in fact, conform to applicable standards throughout their useful lives. In the event substantial numbers of such vehicles do not conform, the class may be recalled. SEA will be used to determine whether production vehicles, although covered by valid certificates of conformity, do, in fact, conform to the standards prior to introduction into commerce.

Selective enforcement auditing will also serve as an important source of data for the in-use testing program which can result in recall of vehicles already in commerce by identifying classes which contain a substantial number of noncomplying vehicles at the time of manufacture.

SEA differs from the traditional concept of assembly line testing (ALT) in that while ALT contemplates testing all or some representative sample of vehicles coming off the production line in a continuous fashion, SEA would be limited to testing representative samples of particular vehicle configurations on a selective basis. Testing of new production vehicles on a limited basis allows the use of the Federal Test Procedure (FTP) and thus avoids the problem of short test correlation with the FTP.

The traditional concept of ALT imposes a full time continuous testing burden on the manufacturer which does not depend on the degree of compliance of the production vehicles with applicable emission standards. SEA, however, would impose a testing burden which is related to the percentage of vehicles found to be in noncompliance. If, based on test results, a manufacturer's vehicles are found to be substantially in compliance, he will be required to perform a minimal amount of testing. But if a manufacturer's production vehicles are found to be in noncompliance, then the amount of required testing will increase depending upon the extent of such noncompliance.

The very fact that certification vehicles are prototypes means that special techniques, which are not used in the manufacture of production vehicles, were used in their construction. The mass production techniques may result in the vehicles having emission characteristics different from the prototypes even though the designs are identical. SEA will verify that any prototype-to-production slippage has not caused production vehicles to fail to comply at the time of manufacture.

SEA is desirable from the standpoint of assuring that a manufacturer will improve or maintain high standards of quality control to preclude production vehicles from failing SEA testing because of poor construction techniques or an assembly process which adversely affects emission performance.

IV. *Detailed description of regulations.* A. *Test order.* Test orders are confined to a single vehicle configuration so that noncompliance can be associated with a particular vehicle type, and initial testing may be kept to a minimum. An alternative configuration may be designated in the test order in the event vehicles of the first configuration are not available. If problems are found with a particular configuration, this may serve as an indication of potential problems with other similar configurations and may trigger the issuance of additional test orders.

B. *Selection of vehicles for testing.* The production vehicles identified in the test order will be of the subclassification of an engine family known as a configuration. Samples of production vehicles of the configuration selected for testing will be randomly drawn from batches of vehicles. A batch is the collection of vehicles designated in the test order from which a sample is to be drawn to determine conformance with the acceptability criteria. The purpose of the random selection is to ensure that a representative sample is drawn. As a guideline, the Administrator will normally select as a batch the collection of successively produced vehicles of a configuration produced during a shift.

A batch defined in this manner will allow the Administrator to select batch

sizes small enough to keep the number of vehicles to be tested at a reasonable number and yet be large enough to enable EPA to draw statistically valid conclusions about the emission performance of all vehicles of that configuration manufactured by the manufacturer at that plant at that time.

One important factor which will influence the decision of the Administrator to issue a test order to a manufacturer is whether the manufacturer is conducting emission testing of production vehicles on his own cognizance using a sampling scheme which is more powerful, similar to, or identical to the one proposed in these regulations. If a manufacturer can provide evidence that his vehicles are meeting standards based on tests and sampling methods acceptable to EPA, issuance of a test order may not be necessary.

C. *Test procedures and compliance with standards.* The prescribed test is the official Federal Test Procedure, less the evaporative emission portion, with the manufacturer allowed to accumulate sufficient mileage to stabilize exhaust emissions. Amendments to those portions of the regulations which prescribe the test procedures for certification have been made to separate evaporative emissions testing from exhaust emissions testing. The evaporative portion of the test will not normally be required by SEA because of the added test burden and the fact that most evaporative control systems are extremely reliable, and the mere presence of the system offers substantial assurance that the vehicle will conform to the evaporative emission standards. Nevertheless, if there exists good cause to suspect the adequacy of a specific evaporative control system, the test order may require appropriate testing.

D. *Mileage accumulation.* Some manufacturers may be concerned that vehicle emissions at zero or very low mileage on some vehicle configurations might be unstable or erratic and not representative of true emission performance. This may be attributed to the newness of the engine-system combination and may be overcome at some point when the engine has "worn-in" (i.e., the pistons have sealed, excess lubricant has been burned out of the combustion chambers and exhaust system, etc.). Because of this concern, these regulations provide that prior to testing production vehicles, manufacturers may accumulate whatever mileage they deem necessary, up to 4000 miles, to minimize this effect on both catalyst and noncatalyst vehicles.

E. *Deterioration.* Testing of production vehicles under section 206 of the Clean Air Act is conducted in order to determine whether such vehicles do, in fact, conform to the regulations with respect to which the certificate of conformity was issued. Because the certification regulations include the requirement that prototype vehicles demonstrate compliance with the section 202 standards for 50,000 miles, it is not sufficient to simply test vehicles at low mileage in order to effectively demonstrate probable compliance at higher mileage because of the phenomenon known as deterioration. As vehicles accumulate miles and parts wear, the emission performance generally deteriorates (i.e., the emissions increase). Although this deterioration (or amelioration, in the event emissions actually improve with mileage) phenomenon exists on both noncatalyst equipped and catalyst equipped vehicles, the deterioration phenomenon is especially critical with catalyst equipped vehicles. A fresh catalyst may demonstrate very efficient emission control; however, as miles are accumulated, the conversion efficiency decreases and emissions increase. Data on catalyst equipped vehicles indicates that emissions from such vehicles deteriorate more rapidly from zero to 4000 miles than from 4000 to 50,000 miles (or 25,000 miles, whichever is the useful life of the catalyst). Generally, early rapid catalyst deterioration takes place somewhere in the accumulation of the first few thousand miles; that is, virgin catalyst efficiency deteriorates only very gradually throughout the remaining life of the catalyst. Testing of production line cars with virgin catalysts at zero miles could therefore lead to false conclusions about in-use vehicle emission performance if only the 4000–50,000 mile deterioration factor were used to determine conformity. Therefore, a factor may be derived which relates low mileage (i.e., that mileage at which production vehicles are tested) to 4000 miles.

The inverse of deterioration, or amelioration, is also possible with certain emission control systems.

Thus, known emission deterioration or amelioration must be accounted for in making the determinations of compliance of new production vehicles. One method of accounting for deterioration or amelioration requires that appropriate factors be applied to the new vehicle emission values on both noncatalyst and catalyst equipped vehicles. (The actual technique, using a low mileage target, will be discussed later.) These factors may be those derived as described below.

1. *4000–50,000 Mile Deterioration factor.* The applicable 4000–50,000 mile deterioration factor derived for each engine family during certification and for each pollutant will be used to determine compliance with applicable emission standards.

2. *0–4000 mile deterioration factors.* The regulations provide optional methods of developing the low mileage (0–4000 mile) deterioration (amelioration) factor. The first requires use of factors for each pollutant derived by using the measured emissions at zero and 4000 miles for the certification emission data vehicles for each engine family. This method requires that each production vehicle to be tested be driven to the average number of miles accumulated during certification prior to the "zero" mile test on the emission data cars from that family.

All applicable test results for emission data vehicles for each engine family will be plotted as a function of mileage on the system and the best fit straight line drawn through the data points. The 0–4000 mile factor will be calculated by dividing interpolated 4000 mile emissions by interpolated average "zero mile" emissions.

The second method permits the manufacturer to derive his own low mileage factors and associated mileage accumulation requirements up to 4000 miles, on the basis of production vehicle test data rather than the certification data. In order to use this alternative the manufacturer must submit a request for approval to the Administrator accompanied by supporting data, and the request must be approved by the Administrator. This alternative allows the manufacturer, where he is concerned with the stability of emissions from his production vehicles, to accumulate mileage, up to 4000 miles, before applying the low mileage factors. Where the manufacturer does elect to accumulate 4000 miles, no 0–4000 mileage factor is applicable to the test results, only a 4000–50,000 mile factor.

EPA requests that manufacturers provide constructive comments on these alternatives for accounting for 0–4000 mile deterioration (or amelioration) and submit viable variations or other alternatives, supported by appropriate data and rationale. Comments are also requested on other alternatives for accounting for the 4000–50,000 mile deterioration.

3. *Low mileage target.* The determination of conformity of an assembly line vehicle with the applicable emission standard for purposes of the sampling audit will be made by comparing the measured emissions of the assembly line vehicle with a low mileage target. The low mileage target is derived for a configuration by dividing the applicable section 202 standard for that pollutant by the product of the applicable engine family deterioration factors for 0–4000 miles and for 4000–50,000 miles.

F. *Sampling plans and decision criteria.* The sampling plans in the proposed regulations are similar to those in Military Standard 105D, Sampling Procedures and Tables for Inspection by Attributes. Sampling inspection programs have been widely and successfully used in government and industry for many years. One of the most widely used and best developed guides to sampling plans and procedures for inspection by attributes is Military Standard 105D, developed by the Department of Defense. The SEA strategy includes the use of a multiple sampling plan by attributes in the style of Mil–Std–105D. Under inspection by attributes, items are inspected or tested to determine whether they meet the prescribed specification (the prescribed specification is the attribute). The basic decision criterion is the number of products whose parameters of interest meet specification.

The particular type of inspection plan which has been adopted for SEA is known as multiple sampling. Multiple sampling differs from single sampling in that small consecutive test samples are concurrently drawn from a batch sample and tested rather than one large sample

being drawn and tested. In most cases acceptance or rejection of a batch can take place after one or a few test samples have been tested. As a result significantly fewer vehicles than the entire large batch sample will need to be tested. Multiple sampling offers the advantage of keeping the number of vehicles requiring testing to a minimum when an acceptable majority of vehicles are meeting the standards.

The regulations proposed here contain an Acceptable Quality Level (AQL) of 10 percent applicable to measured vehicle emissions when compared to the "low-mileage targets" calculated by dividing the applicable standards under Section 202 by the associated deterioration factors derived from certification testing. The regulations, thus, would require virtually every vehicle to meet applicable standards after adjustment for deterioration, with only 10 percent of the vehicles allowed to exceed the low-mileage target to provide for test variability and isolated instances of nonconformity. That is the goal of the SEA program.

However, given that the program proposed here is new, it may be desirable to initiate the program with a higher AQL, to be reduced to the goal of 10 percent in future years after some experience with the program is gained. It may also be desirable to repeat the process of moving from a higher to a lower AQL whenever standards are made more stringent to provide time for learning to control vehicle quality at the new standards levels. Comment is specifically solicited on the level of the initial AQL and the schedule for meeting the ultimate goal of 10 percent. It is contemplated that while a higher AQL is in effect and applicable to the "low mileage targets", an AQL of 10 percent may be made applicable to measured vehicle emissions when compared to the section 202 standards, so that virtually every vehicle will still meet the section 202 standards before adjustment for deterioration.

G. *Inspection criteria and number of batches required to be inspected.* Associated with any sampling plan is the producer's risk and the consumer's risk. Producer's risk is commonly understood to be the probability that a batch will be rejected when the true percentage defective is less than or equal to the AQL. Consumer's risk is the probability that a batch will be accepted when the true percentage defective is greater than the AQL. The only type of sampling plan which has no producer's or consumer's risk is one in which every item in the batch is inspected. If the sample size is smaller than the batch size, then the sampling plan is characterized by what is called the operating characteristic curve, which is the variation of the probability of acceptance of a batch with the true percentage defective.

The proposed regulations require that a sequence of batches be inspected. This is necessary to ensure that a sufficient number of vehicles is inspected so that EPA's decision to suspend or revoke a certificate of conformity or to take no further enforcement action has statistical validity. The proposed regulations establish a separate sampling plan and sequence for inspection of batches for various ranges of batch size. This was done so that the overall operating characteristic (OC) curve for different batch sizes could be matched as closely as possible. In determining the sampling plans that will be used, the number of batches that will be inspected and the number of batches that must be accepted in order to preclude suspension or revocation of certificates of conformity, overall operating characteristic curves were developed for various combinations of the above. The overall operating characteristic curve is the variation of the probability of not suspending a certificate with the true percentage defective. Only those combinations which had a producer's risk of five percent or smaller were considered.

The inspection sequence for each batch size consists of a first sequence and a second sequence. The purpose of this two phase inspection sequence is to minimize the amount of testing in those cases where manufacturers are producing complying vehicles. In the majority of cases, manufacturers who are producing complying vehicles will only have to complete the first sequence, while manufacturers who are producing noncomplying vehicles will have to complete both sequences. For some batch sizes, the initial inspection criteria are normal and switch to tightened when the second inspection sequence begins; for other batch sizes, the initial inspection criteria are tightened and no switch occurs. These differences in inspection criteria are necessary in order to make the overall OC curves for different batch sizes as nearly the same as possible while minimizing the expected number of vehicles to be tested.

The acceptable quality level is applicable to each pollutant. Therefore, the sampling plans will be applied for each individual pollutant. Once the required number of batches for a particular pollutant has been accepted, no further testing with regard to that test order for that particular pollutant is necessary. However, as long as continued sampling is required for any pollutant, testing must continue pursuant to that test order until the required number of batches is accepted (or the point of certificate suspension is reached) for that particular pollutant.

H. *Time limitations.* Since the number of vehicles tested in response to a test order may vary considerably, a fixed time limit cannot be placed on completing all testing. The proposed approach is to establish the time limit on a per vehicle basis, taking mileage accumulation and transportation requirements, if any into consideration. If the manufacturer elects to use the average mileage accumulation on the certification emission data vehicles at the time of the zero mile test, then it is expected he would complete mileage accumulation and testing on four vehicles per day per test cell. If the manufacturer elects to use a different mileage accumulation, then he would be allowed an additional day per vehicle for each 500 miles of accumulation. The manufacturer would also be allowed a reasonable amount of time for transport of vehicles to a test facility if one were not available at the assembly plant. He is still required to test a minimum of four vehicles per day per test cell.

I. *Suspension and revocation of a certificate of conformity.* 1. *Noncompliance with a test order.* The regulations provide that when a manufacturer refuses upon request to test vehicles in compliance with a test order in a timely manner or refuses to provide the Administrator with vehicles to test, the Administrator may suspend the certificate with regard to that configuration. In contrast, when a manufacturer is merely unable to comply with the test order due to conditions and circumstances beyond his control, no suspension will occur. In any case in which a suspension does result because of such refusal to test, the manufacturer will be provided a hearing to establish that he refused due to an inability.

2. *Noncomplying vehicles.* If the production vehicle testing program contemplated in these regulations is to effectively implement section 206(b) of the Clean Air Act, the program must provide for the suspension or revocation of a manufacturer's certificate of conformity by the Administrator if vehicles fail to comply with the regulations with respect to which the certificates were issued. For any particular batch of vehicles, a certificate would be suspended with regard to the vehicles still in the hands of the manufacturer when the number of failing vehicles for any pollutant exceeds the maximum number of failures provided for by the established acceptable quality level; i.e., the batch is labeled rejected. The certificate is suspended only with regard to those tested vehicles whose measured emission(s) exceed the low mileage targets. Once a manufacturer begins testing vehicles from consecutive batches of the same configuration and he is unable to demonstrate compliance after inspecting the appropriate number of consecutive batches, the Administrator may suspend or revoke the certificate of conformity for vehicles of that configuration produced at that plant.

The decision whether to suspend or revoke a certificate of conformity depends on whether the remedy for the nonconformity proposed by the manufacturer is one requiring notification and approval under the applicable addition of vehicle or change provisions of the regulation (40 CFR 85 et seq.). Certificates will be suspended, except that where notification and approval of a remedy are required, under the addition of vehicle or change provisions of 40 CFR 85, et seq., the certificate will be revoked. When a certificate has been suspended with regard to a particular configuration, the suspension is lifted with regard to those vehicles actually

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tested and determined to conform to the regulations. Vehicles of a suspended configuration which fail the emissions test may have their certificate reinstated if their nonconformity is remedied and they pass a retest, provided the remedy is not one requiring notification and approval under the applicable addition of vehicle or change provisions of the regulation (40 CFR 85 et seq.).

When a certificate has been revoked with respect to a nonconforming configuration, the certificate will not be reinstated either for individual vehicles or the configuration as a whole until the necessary notification is made and approvals are obtained pursuant to the applicable addition of vehicle or change provision of 40 CFR 85, et seq., and additional testing is reinstituted in accordance with the conditions of the test order and regulations. It is important to note that the certificate would be suspended or revoked only for vehicle configurations which fail to comply.

Once a certificate of conformity has been suspended, the manufacturer is required to report to EPA the corrective action he will take and demonstrate compliance by appropriate testing in order to have certificate coverage reinstated. If further SEA testing revealed that the suspended configuration was still in noncompliance, this may be grounds for revocation of the certificate since the remedy can be considered to have been ineffective and a different or more extensive remedy is required. The revocation is required to prevent the distribution of any vehicles until a suitable remedy is available, implemented and continued testing demonstrates vehicle conformity.

J. *Example.* A manufacturer receives a test order to select and test samples of vehicles from a particular configuration manufactured at a particular plant on a particular day. The configuration is specified in terms of a particular make of car, model, engine, and transmission. The batch size is specified in the test order as 200 vehicles and approximates the number of vehicles of that configuration produced on the average per shift at that plant.

From Appendix VIII, Table I, the manufacturer determines that the code letter corresponding to the number of vehicles in the batch is G. From Appendix VIII, Table II, he determines that the testing sequence is one batch on normal inspection criteria, followed by four on tightened, if the first batch is rejected. He then enters Appendix VIII, Table III, at code letter G and notes that the maximum cumulative sample size is 56. Since the batch sample must be ten percent larger than the maximum cumulative sample size, he must randomly select 62 vehicles from each batch of 200 vehicles. (The requirement to select the 10 percent additional vehicles is to assure that replacement vehicles are available in the event a selected vehicle is damaged or otherwise unsuitable for testing.)

Table III indicates that test samples of eight cars will be randomly selected and tested from the batch sample of 62 vehicles until the batch can be labeled accepted or rejected. The first test sample of eight vehicles is selected and the vehicles are tested. The acceptance and rejection numbers listed under inspection criteria in Table III and Table IV are used to determine whether the batch is accepted or rejected for each individual pollutant. Suppose that three vehicles fail the test for CO but none fail for HC or NO_x. Since the number of failures for CO is less than the rejection number of four, and no acceptance for CO or NO_x is allowed at this level, he must select and test a second test sample of eight vehicles. Suppose this time that one vehicle fails for CO, one for HC and none for NO_x. The total number of failures is now four for CO, one for HC, and zero for NO_x. Since the batch can now be accepted for HC and NO_x, they no longer need to be considered. The number of failures for CO is still between the acceptance and rejection number of one and five respectively for the second test sample so a third test sample must be selected. In the third test sample, two vehicles fail for CO so that the total number of failures is six for CO. This is equal to the rejection number of six for CO for the third test sample. The batch must then be rejected for CO. Since the batch was qualified earlier with respect to HC and NO_x, it is no longer necessary to be concerned with the one HC failure, other than for the requirement that this nonconformity must be remedied before the vehicle can be introduced into commerce. Any replacement vehicles (for test vehicles which malfunction or are damaged) will be selected randomly from the remaining untested vehicles in the batch sample.

Assuming the manufacturer has shipped the vehicles remaining in the batch of 200 to the dealers, he now has 62 vehicles from the batch in his hands. The certificate of conformity is suspended for the batch with respect to all vehicles in his hands except those that have been tested and found to conform. Of these 62, 24 have been tested, 17 passing and 7 failing. He may ship the 17 passing vehicles, but the 7 failing vehicles must each pass a retest after having necessary adjustments and/or repairs made which are reported to EPA, before they can be shipped. The thirty-eight vehicles from the batch which have not been tested may not be shipped until the manufacturer has identified the reason for the high failure rate, is able to take corrective action on the 38 vehicles, makes the necessary repair and/or adjustments on the 38 vehicles, and files a report with EPA which includes test data on a percentage of these vehicles which would depend on the nature of the non-conformity and the nature of the remanufacturer.

Since the first batch was rejected for CO, the manufacturer must immediately begin inspection of consecutive batches of the same configuration for CO. Although data will be available on HC and NO_x it will not be used to determine acceptance or rejection of a batch. However, any vehicles whose measured emissions exceed the applicable low mileage target must have their nonconformity remedied before they can be introduced into commerce. Had the first batch been accepted no further testing would be required. Even when a batch is accepted, the certificate of conformity is suspended with respect to all tested vehicles whose measured emissions exceed the applicable low mileage targets. Such vehicles must be brought into conformity with such target and retested prior to being shipped. Where the first batch is rejected, the manufacturer will follow the specified inspection procedure for each subsequent batch, testing enough vehicles from the batch sample until it can be accepted or rejected. The manufacturer continues to inspect batches until two consecutive batches are accepted at which time conformity is confirmed and testing discontinued. If acceptance of two consecutive batches does not occur before he has inspected a total of four batches, or where the testing of additional batches could not result in the acceptance of two consecutive batches out of a total of four inspected batches once the second inspection sequence has been instituted, testing of the configuration is discontinued. At this point the Administrator may suspend or revoke the certificate of conformity with respect to that configuration depending on the nature of the nonconformity and the required remedy. Generally, the certificate will be revoked if the remedy of the nonconformity involves a design change and suspended if the remedy involves a change in the manufacturing or assembly process or quality control measures. The certificate is reinstated only after the remedy is identified and approved and appropriate testing in accordance with the test order and regulations demonstrate compliance.

K. *Hearing procedure.* The hearing procedure proposed reflects the statutory requirement that a manufacturer must be afforded the opportunity for a formal administrative hearing if the Administrator determines, based on testing of production vehicles, that a certificate of conformity should be suspended or revoked. The proposed procedure conforms to the requirements of the Administrative Procedures Act. In addition, these regulations propose that this same hearing procedure be used in all instances where the certification regulations provide for an administrative determination that a suspension or revocation is warranted. This will result in the consistent handling of cases where the ultimate issue is the same, i.e., the suspension or revocation of a certificate of conformity.

The hearing procedure provided by § 85.316 of these regulations has embodied in it the well established principle that before a party will be granted a hearing to challenge the actions of a government agency, he must be able to initially establish at least a prima facia showing that there exists a genuine and substantial question of fact which must be resolved in his favor in order for such

a challenge to succeed. Recent court decisions have made it clear that this principle applies even in circumstances where the statutory language expressly grants the right to such a hearing. The principle is implemented by § 85.316(d), which gives the Administrator the power to deny a request for a hearing if the application does not contain any data or information which tends to show that there does exist a genuine and substantial question of fact.

In addition, this hearing procedure includes special provisions which apply only when a certificate of conformity has been suspended or revoked as a result of SEA testing. These provisions serve to expedite the hearing process and are desirable in view of the special circumstances under which SEA-triggered hearings will be held. Section 206(b)(2)(B)(i) of the Clean Air Act requires that any "suspension or revocation [based on tests or production vehicles] shall not be stayed by reason of such hearing." In contrast, in all other instances where this hearing procedure will apply, the proposed suspension or revocation will not occur until after the hearing is held. Thus, in the case of an SEA-based suspension or revocation, it is possible that a manufacturer might suffer economic hardship unless he has an opportunity to avail himself of an expedited hearing procedure.

These special provisions include a reduction in the period of public notice from thirty (30) days to fifteen (15) days, and the addition of an expedited appeal procedure for use only when an SEA-initiated hearing is involved. In addition § 85.613(m) provides that a manufacturer may request a hearing any time after the first vehicle failure occurs during testing carried out in compliance with a test order. Since the testing scheme requires a substantial amount of testing to be carried out subsequent to such an initial vehicle failure before the decision to suspend or revoke the certificate for the entire configuration can be made, this provision allows the manufacturer an additional time period in which to set in motion the hearing procedure. These provisions serve to minimize the potential for economic hardships to the manufacturer while ensuring that the hearing procedures comply with the formal requirements of the Administrative Procedures Act. Thus, the interests of both the industry and the public are served by these provisions, for the public as well as the manufacturers have an interest in assuring that all possible measures are taken to avoid unnecessary economic burdens.

The Agency also believes that the fifteen day notice period and expedited procedure are in the public interest in view of the limited subject matter of the hearings. Section 206(b)(2)(B)(i) of the Clean Air Act restricts the issues of an SEA hearing to "whether the tests have been properly conducted or any sampling methods have been properly applied." These limited issues present no general policy questions of the type normally associated with hearings in which members of the public choose to actively participate in the process. The Agency believes that fifteen days provides sufficient notice to allow any member of the public who feels he has an interest in the resolution of these two issues to prepare his intervenor petition. These narrow factual issues also lend themselves to a relatively straightforward presentation of evidence, and thus allow the actual hearing and prehearing procedures to be somewhat streamlined.

L. *Right of entry and recordkeeping.* The portion of these regulations detailing the right of entry and inspection and recordkeeping requirements are in large part an adaptation of the amendments to the Motor Vehicle Certification regulations at 40 CFR 85 promulgated on February 27, 1974 (30 FR 7545). Many of the comments made by the Administrator in the preamble regarding those regulations are applicable here. Although those regulations are equally applicable to SEA, they have been restated here for convenience.

The proposed regulations spell out exactly what records and other documents concerning testing of production vehicles must be retained and for how long. The regulations also spell out the facilities subject to the right of inspection and the time during which the right may be exercised.

Many of the vehicles to which these regulations apply will be manufactured and tested in facilities located outside the United States. These regulations make clear that all testing and production facilities, wherever located, are subject to the same recordkeeping and inspection requirements. Since these requirements are necessary to ensure the integrity of the testing process and the conformity of production vehicles to the regulations, tests which are not subject to them cannot be considered reliable, nor can there be assurance that production facilities not subject to them are producing vehicles that conform to the regulations. In addition, to fail to apply these requirements to facilities located overseas would discriminate unjustly against domestic manufacturers in favor of their foreign competition.

These regulations will apply even to facilities located in jurisdictions where local foreign law forbids the kind of summary inspections they allow. Though it is well established that American courts will not order a person to disclose documents or other information located in a foreign jurisdiction that forbids such disclosure, the reason behind that rule is to avoid a conflict of laws, and is not applicable here. EPA will not attempt to make any inspections which it has been informed that local law forbids. It is the responsibility of the manufacturer to locate his testing and production facilities in jurisdictions where this situation will not arise.

V. *Cost of implementation.* A continuous testing program involving 2 percent of production would require testing of approximately 240,000 vehicles a year. SEA contemplates the testing of a small fraction of the vehicles that would be required using such a continuous percentage testing scheme. The total number of vehicles required to be tested will be nominal when few failures are encountered. It is contemplated that testing samples of vehicles from a few configurations will establish an effective deterrent.

The cost to the manufacturer will be the costs associated with performing the standard FTP, less the evaporative emission portion. Mileage accumulation costs and transportation costs will vary from manufacturer to manufacturer depending upon where his plants and test facilities are located.

In many instances, the cost of the program to a manufacturer will be nominal if he has in-house quality control testing programs which use procedures and equipment similar to or identical to those proposed in these regulations.

VI. *Environmental impact.* This program is designed to have a beneficial impact on the environment by providing a deterrent to the introduction into commerce of nonconforming vehicles. Current programs for achieving air quality goals are based on the assumption that conforming products are being manufactured. This program will help assure the achievement of these goals and possibly negate the need for ancillary plans and strategies.

No adverse environmental impacts are anticipated by these regulations. The number of vehicles which will be required to be tested by the Administrator is a small fraction of the total number of vehicles used by manufacturers in their nonemission related test programs. Every year manufacturers conduct extensive performance testing on thousands of vehicles. The additional fuel consumed as a result of mileage accumulation on test vehicles and transport to test site will be minimal when compared to consumption by manufacturers' in their own testing programs. Further, manufacturers may wish to use the vehicles selected for SEA testing to satisfy their testing requirements normally conducted using production vehicles, which will result in no net increase in their production test fleet.

VII. *Comments.* Interested persons may participate in this rulemaking proceeding by submitting written comments (ten copies) to: Director, Mobile Source Enforcement Division (EG–340), Room 3220 (WSM), Environmental Protection Agency, 401 "M" Street, SW, Washington, D.C. 20460.

All comments received on or before March 3, 1975 be considered. All comments will be available for public inspection during normal working hours at the Freedom of Information Office, Room 232 (WSMW), 401 "M" Street, SW, Washington, D.C. 20460.

Final regulations, modified as the Administrator deems appropriate after consideration of comments, will be promulgated as soon as practicable after such consideration and will be appli-

cable to model year 1976 vehicles and later.

This notice of rulemaking is issued under authority of the following sections of the Clean Air Act, as amended: 206 [sec. 206, 70 Stat. 994, as amended by section 3(a), 84 Stat. 1694, 42 U.S.C. 1857f–5]; 208 [sec. 208, 79 Stat. 994, 42 U.S.C. 1857f–6]; and 301(a) [sec. 301(a), 81 Stat. 504, as amended by sec. 15(c), 84 Stat. 1713, 42 U.S.C. 1857g(a)]. The proposed regulations would implement section 206(b) and 208 of the Clean Air Act of 1970.

Dated: December 24, 1974.

RUSSELL E. TRAIN,
Administrator.

1. Paragraph (c)(3)(i) of § 85.006 is revised as follows:

§ 85.006 Maintenance of records; submittal of information; right of entry.

* * * * *

(c) * * *

(3) * * *

(i) Any facility where any document, design, or procedure relating to the translation of the design of engines and emission related components described in the application for certification or used for certification testing into production vehicles is located or carried on; and

* * * * *

2. In § 85.076–30 paragraph (a)(2) is amended by changing the last sentence to read as follows, paragraph (c)(5)(i) is amended by adding the following, and paragraph (d) is added as follows:

§ 85.076–30 Certification.

(a)(1) * * *

(2) * * * It is also a term of this certificate that this certificate may be revoked or suspended for the other reasons stated in paragraph (c) or (d) of this section.

* * * * *

(c) * * *

(5) * * *

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 85.614.

* * * * *

(d)(1) Notwithstanding the fact that any vehicle configuration or engine family may be covered by valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 85.604; or

(ii) The manufacturer refuses to comply with any of the requirements of § 85.604; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirement of § 85.610; or

(iv) The manufacturer renders inaccurate or invalid any test data which he submits pursuant to § 85.610 or otherwise circumvents the intent of the Act or this subpart with respect to such vehicle configuration or engine family; or

(v) Any EPA Enforcement Officer is denied access on the terms specified in § 85.607 to any facility or portion thereof which contains any of the following:

(A) Any vehicle of the vehicle configuration or engine family which will undergo or is undergoing testing pursuant to § 85.604,

(B) Equipment used to perform any of the tests required by this part,

(C) Any vehicle which is or will be considered by the manufacturer to be covered by the certificate of conformity,

(D) Any step in the manufacture or assembly of a vehicle described in (C) of this subdivision, or

(E) Any records, documents, reports or histories required by this part to be kept concerning any of the above, or

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 85.607 to:

(A) Monitor vehicle selection pursuant to § 85.608,

(B) Select vehicles for testing pursuant to § 85.608, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 85.607) in examining any of the items listed in paragraph (d)(1)(iv) or (d)(1)(v) of this section.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1)(i) and (ii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with the provisions of a test order or any other requirements of § 85.604. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1)(iii), (iv) (v), (vi), (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts, and such acts contribute substantially to the Administrator's decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 85.607 in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to a degree that would warrant suspension of certification under either paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 85.614 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles previously covered by the certification which are still in the hands of the manufacturer.

3. In § 85.176–30 paragraph (a)(2) is amended by changing the last sentence to read as follows: paragraph (c)(5)(i) is amended by adding the following, and paragraph (d) is added as follows:

§ 85.176–30 Certification.

(a)(1) * * *

(2) * * * It is also a term of this certificate that this certificate may be revoked or suspended for the other reasons stated in paragraphs (c) or (d) of this section.

* * * * *

(c) * * *

(5) * * *

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 85.614.

* * * * *

(d)(1) Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 85.604; or

(ii) The manufacturer refuses to comply with any of the requirements of § 85.604; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirement of § 85.610; or

(iv) The manufacturer renders inaccurate or invalid any test data which he submits pursuant to § 85.610 or otherwise circumvents the intent of the Act or this subpart with respect to such vehicle configuration or engine family; or

(v) Any EPA Enforcement Officer is denied access on the terms specified in § 85.607 to any facility or portion thereof which contains any of the following:

(A) Any vehicle of the vehicle configuration or engine family which will undergo or is undergoing testing pursuant to § 85.604,

(B) Equipment used to perform any of the tests required by this part,

(C) Any vehicle which is or will be considered by the manufacturer to be covered by the certificate of conformity,

(D) Any step in the manufacture or assembly of a vehicle described in (C) of this subdivision, or

(E) Any records, documents, reports or histories required by this part to be kept concerning any of the above, or

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 85.607 to:

(A) Monitor vehicle selection pursuant to § 85.608,

(B) Select vehicles for testing pursuant to § 85.608, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 85.607) in examining any of the items listed in paragraph (d) (1) (iv) or (d) (1) (v) of this section.

(2) The sanction of suspending of a certificate may not be imposed for the reasons in paragraphs (d) (1) (i) and (ii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with the provisions of a test order or any other requirements of § 85.604. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d) (1) (iii), (iv), (v), (vi), (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts, and such acts contribute substantially to the Administrator's decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d) (1) (v), (d) (1) (vi), or (d) (1) (vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 85.607 in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to a degree that would warrant suspension of certification under either paragraph (d) (1) (v), (d) (1) (vi), or (d) (1) (vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d) (1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 85.614 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles previously covered by the certification which are still in the hands of the manufacturer.

In § 85.276–30 paragraph (a) (2) is amended by changing the last sentence to read as follows; paragraph (c) (5) (i) is amended by adding the following, and paragraph (d) is added as follows:

§ 85.276–30 Certification.

(a) (1) * * *

(2) * * * It is also a term of this certificate that this certificate may be revoked or suspended for the other reasons stated in paragraphs (c) or (d) of this section.

* * * * *

(c) * * *

(5) * * *

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 85.614.

* * * * *

(d) (1) Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 85.604; or

(ii) The manufacturer refuses to comply with any of the requirements of § 85.604; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirement of § 85.610; or

(iv) The manufacturer renders inaccurate or invalid any test data which he submits pursuant to § 85.610 or otherwise circumvents the intent of the Act or this subpart with respect to such vehicle configuration or engine family; or

(v) Any EPA Enforcement Officer is denied access on the terms specified in § 85.607 to any facility or portion thereof which contains any of the following:

(A) Any vehicle of the vehicle configuration or engine family which will undergo or is undergoing testing pursuant to § 85.604,

(B) Equipment used to perform any of the tests required by this part,

(C) Any vehicle which is or will be considered by the manufacturer to be covered by the certificate of conformity,

(D) Any step in the manufacture or assembly of a vehicle described in (C) of this subdivision, or

(E) Any records, documents, reports or histories required by this part to be kept concerning any of the above; or

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 85.607 to:

(A) Monitor vehicle selection pursuant to § 85.608,

(B) Select vehicles for testing pursuant to § 85.608, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 85.607) in examining any of the items listed in paragraph (d) (1) (iv) or (d) (1) (v) of this section.

(2) The sanction of suspending of a certificate may not be imposed for the reasons in paragraphs (d) (1) (i) and (ii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with the provisions of a test order or any other requirements of § 85.604. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d) (1) (iii), (iv), (v), (vi), (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts, and such acts contribute substantially to the Administrator's decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d) (1) (v), (d) (1) (vi), or (d) (1) (vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 85.607 in fact occurred, the manufacturer, if he

wishes to contend that, even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to a degree that would warrant suspension of certification under either paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 85.614 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles previously covered by the certification which are still in the hands of the manufacturer.

5. In § 85.376–30 paragraph (a)(2) is amended by changing the last sentence to read as follows; paragraph (c)(5)(i) is amended by adding the following, and paragraph (d) is added as follows:

§ 85.376–30 Certification.

(a)(1) * * *

(2) * * * It is also a term of this certificate that this certificate may be revoked or suspended for the other reasons stated in paragraphs (c) or (d) of this section.

* * * * *

(c) * * *

(5) * * *

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 85.614.

* * * * *

(d)(1) Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 85.604; or

(ii) The manufacturer refuses to comply with any of the requirements of § 85.604; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirement of § 85.610; or

(iv) The manufacturer renders inaccurate or invalid any test data which he submits pursuant to § 85.610 or otherwise circumvents the intent of the Act or this subpart with respect to such vehicle configuration or engine family; or

(v) Any EPA Enforcement Officer is denied access on the terms specified in § 85.607 to any facility or portion thereof which contains any of the following:

(A) Any vehicle of the vehicle configuration or engine family which will undergo or is undergoing testing pursuant to § 85.604,

(B) Equipment used to perform any of the tests required by this part,

(C) Any vehicle which is or will be considered by the manufacturer to be covered by the certificate of conformity,

(D) Any step in the manufacture or assembly of a vehicle described in (C) of this subdivision, or

(E) Any records, documents, reports or histories required by this part to be kept concerning any of the above; or

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 85.607 to:

(A) Monitor vehicle selection pursuant to § 85.608,

(B) Select vehicles for testing pursuant to § 85.608.

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 85.607) in examining any of the items listed in paragraph (d)(1)(iv) or (d)(1)(v) of this section.

(2) The sanction of suspending of a certificate may not be imposed for the reasons in paragraphs (d)(1)(i) and (ii) where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with the provisions of a test order or any other requirements of § 85.604. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraph (d)(1)(iii), (iv), (v), (vi), (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts, and such acts contribute substantially to the Administrator's decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 85.607 in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to a degree that would warrant suspension of certification under either paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 85.614 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles previously covered by the certification which are still in the hands of the manufacturer.

6. Subpart G is added as set forth below:

Subpart G—Selective Enforcement Auditing of New Gasoline—Fueled and Diesel Light Duty Vehicles and New Gasoline—Fueled and Diesel Light Duty Trucks

Sec.

85.601 Applicability.
85.602 Use of number and gender.
85.603 Definitions.
85.604 Test orders.
85.605 Testing by the Administrator.
85.606 Maintenance of records; submittal of information.
85.607 Entry and access.
85.608 Sample selection.
85.609 Test procedures.
85.610 Calculation and reporting of test results and low-mileage emissions targets.
85.611 Acceptance and rejection of batches.
85.612 Additional testing.
85.613 Suspension and revocation of certificates of conformity.
85.614 Hearings on suspension and revocation of certificates on conformity.

AUTHORITY: Sec. 206, 208, 301(a) of the Clean Air Act, as amended (42 USC 1857(f)–5, 1857(f)–6, and 1857(g)).

Subpart G—Selective Enforcement Auditing of New Gasoline-Fueled and Diesel Light Duty Vehicles and New Gasoline-Fueled and Diesel Light Duty Trucks

§ 85.601 Applicability.

For 1976 and later model years, the provisions of this subpart are applicable to new gasoline-fueled light duty motor vehicles, new diesel light duty vehicles, new gasoline-fueled light duty trucks, and new diesel light duty trucks.

§ 85.602 Use of number and gender.

As used in these rules of practice, words in the singular shall be deemed to import the plural and words in the masculine gender shall be deemed to import the feminine and vice versa, as the case may require.

§ 85.603 Definitions.

(a) As used in this subpart, all terms not defined herein or in Subpart A, B, C and D of this Part shall have the meaning given them in the Act:

(1) "Act" means Part A of Title II of the Clean Air Act, 42 USC 1857(f)–1 through (f)–7, as amended by Public Law 91–604 and 93–319.

(2) "Vehicle Configuration" means a subclassification of an engine-system combination on the basis of inertia weight class, transmission type and gear ratios, rear axle ratio and other parameters which may be designated by the Administrator.

(3) "Acceptable Quality Level" (AQL) means the maximum percentage of failing vehicles that, for purposes of sampling inspection, can be considered satisfactory as a process average.

(4) "Batch" means the collection of vehicles of the same configuration, as designated by the Administrator in a test order, from which a batch sample is to be randomly drawn and inspected to determine conformance with the acceptability criteria.

(5) "Batch Size" means the number, as designated by the Administrator in the test order, of vehicles of the same configuration in a batch.

(6) "Batch Sample" means the collection of vehicles of the same configuration which are randomly drawn from a batch from which test samples are randomly drawn.

(7) "Batch Sample Size" means the number of vehicles of the same configuration in a batch sample.

(8) "Test Sample" means the collection of vehicles from the same configuration which are randomly drawn from the batch sample and which will receive exhaust emissions tests.

(9) "Test Sample Size" means the number of vehicles of the same configuration in a test sample.

(10) "Inspection Criteria" means the acceptance and rejection numbers associated with a particular sampling plan.

(11) "Normal Inspection" means using normal inspection criteria (Appendix VIII Table III).

(12) "Tightened Inspection" means using tightened inspection criteria (Appendix VIII, Table IV).

(13) "Acceptance of a Batch" means that the number of noncomplying vehicles in the batch sample is less than or equal to the acceptance number as determined by the appropriate sampling plan.

(14) "Rejection of a Batch" means that the number of noncomplying vehicles in the batch sample is greater than or equal to the rejection number as determined by the appropriate sampling plan.

(15) "Shift" means the regular production work period for one group of workers.

(16) "Vehicle" means any new production light duty motor vehicle as defined in subpart A and B, or any new production light duty truck as defined in Subpart C and D of this Part.

(17) "Test Vehicle" means a vehicle in a test sample.

(18) "Low-Mileage Emissions Target" means the maximum value of emissions that a vehicle can have as measured at the assembly line in order to provide reasonable assurance that it will still comply with the emission standards at 50,000 miles.

§ 85.604 Test orders.

(a) The Administrator will request any testing under this subpart by means of a test order addressed to the manufacturer.

(b) The test order will be signed by the Assistant Administrator for Enforcement and General Counsel or his designee. The test order will be delivered by an EPA Enforcement Officer or sent by registered mail, return receipt requested, to the plant manager or other responsible official at the vehicle assembly plant from which vehicles will be selected and tested, and a copy of the test order may be delivered to or sent by regular mail to the authorized company representative of the manufacturer who signs the Application for Certification submitted by the manufacturer pursuant to the requirements of the applicable sections of Subparts A, B, C, and D of this Part.

(c) The test order will specify the vehicle configuration selected for testing, the manufacturer's plant or storage facility from which the vehicles must be selected, the time at which vehicles must be selected and the batch size. The test order may include an alternative configuration selected for testing in the event that vehicles of the first specified configuration are not available for testing because such vehicles are not being manufactured at the specified plant, not being manufactured during the specified time or not being stored at the specified plant or storage facility.

(d) A manufacturer shall upon receipt of a test order select and test batch samples of vehicle from consecutively produced batches of the vehicle configuration specified in the test order in accordance with these regulations and the conditions specified in the test order, except as otherwise provided in these regulations.

§ 85.605 Testing by the Administrator.

(a) The Administrator may require by test order that vehicles of a specified configuration be selected in a manner designated by him and submitted to him at such place as he may designate for the purpose of conducting emission tests in accordance with § 85.609 of these regulations to determine whether vehicles manufactured by the manufacturer conform with the regulations with respect to which the certificate of conformity was issued.

(b)(1) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall comprise the official data for that vehicle.

(2) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data: Provided, That if the Administrator makes a determination based on testing under paragraph (a) of this section that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data from that test facility will be accepted for purposes of determining conformity with the regulations with respect to which the certificate of conformity was issued and the Administrator may suspend, in whole or in part, a certificate of conformity with respect to the vehicle configuration in question until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer.

(c) In the event that testing conducted under paragraph (a) demonstrates a lack of correlation under (b)(2), the Administrator may pursue, but is not limited to, the following courses of action:

(1) He will notify the manufacturer in writing of his determination that test facility is inappropriate for conducting the tests required by this part and the reasons therefor.

(2) He may test or require that the manufacturer test such numbers of vehicles of the same configuration or such other configuration as he may direct pursuant to this subpart for the purpose of determining correlation.

(3) He may reinstate any manufacturer's data upon a showing by the manufacturer that the data acquired under paragraph (a) of this section was erroneous and the manufacturer's data was correct.

(d) The manufacturer may request in writing that the Administrator reconsider his determination in (b)(2) of this section based on data or information which indicates that changes have been made to the test facility and such changes have resolved the reasons for disqualification.

(e) The Administrator will notify the manufacturer of his determination with regard to the requalification of the test facility within 10 days of the request pursuant to paragraph (d) of this section.

(f) Any suspension of certification under paragraph (b)(2) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 85.614 hereof on the issues of (A) whether there exists an actual lack of correlation between the data acquired with the manufacturer's test equipment and that acquired with the test equipment used by the Administrator, and (B) whether the data acquired by the Administrator under paragraph (a) of this section was erroneous and the manufacturer's data was correct.

(ii) Extend no further than to forbid the introduction into commerce of vehicles previously covered by the certification which are still in the hands of the manufacturer.

§ 85.606 Maintenance of records; submittal of information.

(a) The manufacturer of any new motor vehicle subject to any of the standards or procedures prescribed in this part shall establish, maintain and retain the

following adequately organized and indexed records:

(1) General records. (i) (A) Identification and description of all vehicles for which testing is required under this part. (B) A description of all emission control systems which are installed on or incorporated in each test vehicle. (C) A description of all procedures used to test each of such vehicles.

(ii) A properly filed application for certification, following the format prescribed by the EPA for the appropriate model year, fulfills each of the requirements of paragraph (a) (1) (i) of this section.

(2) Individual records. (i) A complete record of all emission tests performed pursuant to this subpart (except tests performed by EPA directly), including all individual worksheets and/or other documentation relating to each such test, or exact certified copies thereof; the date, time, purpose, and location of each test; the number of miles accumulated on the vehicle when the test began and ended; and the names of supervisory personnel responsible for the conduct of the test.

(ii) The date and time of each mileage accumulation run, listing both the mileage accumulated and the name of each driver or each operator of the automatic mileage accumulation device.

(iii) If used, the record of any devices employed to record the speed and/or mileage in relationship to time of the test vehicle.

(iv) A record and description of any repairs performed prior to and/or subsequent to approval by the Administrator, giving the date and time of the repair, the reason for it, the person authorizing it, and the name of supervisory personnel responsible for the conduct of the repair.

(v) The dates and times that the vehicle was idle in storage, transit, or transport.

(vi) A brief description of any significant events affecting the vehicle during any time in the period covered by the history but not described by an entry under one of the previous headings, including such extraordinary events as vehicle accident or driver speeding citation or warning.

(b) All records required to be maintained under this subpart shall be retained by the manufacturer for a period of three (3) years after completion of all testing in response to a test order. Records may be retained as hard copy or reduced to microfilm, punch cards, etc., depending upon the record retention procedures of the manufacturer: *Provided*, That in every case all the information contained in the hard copy shall be retained.

(c) The manufacturer shall, pursuant to a request made by the Administrator, submit to the Administrator the following information with regard to vehicle production:

(1) number of vehicles, by configuration, scheduled for production for the time period designated in the request.

(2) number of vehicles, by configuration, produced during the time period designated in the request which are complete for introduction into commerce.

(d) Nothing in this section shall limit the Administrator's discretion to require the manufacturer to retain records or submit information not specifically required by this section.

(e) All reports, submissions and requests for approvals made under this part shall be addressed to:

Director
Mobile Source Enforcement Division
Environmental Protection Agency
401 M Street SW
Washington, D.C. 20460

Except, That, any notification pursuant to § 85.076–32, 33, 34; § 85.176–32, 33, 34; § 85.276–32, 33, 34; § 85.376, 32, 34, 44 should be made to:

MSAPC
Division of Certification and Surveillance
Mobile Source Air Pollution Control
Environmental Protection Agency
2565 Plymouth Road
Ann Arbor, Michigan 48105

and a duplicate copy forwarded at the same time to the Director, Mobile Source Enforcement Division, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

§ 85.607 Entry and access.

(a) In order to allow the Administrator to determine whether a manufacturer is complying with the provisions of a test order and the provisions of this subpart, a manufacturer shall admit any EPA Enforcement Officer during operating hours upon demand and upon presentation of credentials to any of the following:

(1) Any facility where any vehicle to be introduced into commerce is manufactured, assembled, or stored;

(2) Any facility where any tests conducted pursuant to a test order or any procedures or activities connected with such tests are or were performed;

(3) Any facility where any vehicle which is being, was, or is to be tested is present; and

(4) Any facility where any record or other document relating to any of the above is located.

(b) Upon admission to any facility referred to in paragraph (a) of this section, any EPA Enforcement Officer shall be allowed:

(1) To inspect and monitor any part or aspect of such procedures, activities, manufacturing, assembly, storage and testing facilities, including, but not limited to, monitoring vehicle selection preparation, preconditioning, mileage accumulation, emission tests, maintenance, and vehicle soak and storage procedures; and to verify correlation or calibration of test equipment;

(2) To inspect and monitor any aspects of vehicle manufacture, assembly or storage and other procedures;

(3) To inspect and make copies of any records or documents related to the selection and testing of a vehicle in compliance with a test order;

(4) To inspect and photograph any part or aspect of any such vehicle and any component used in the assembly thereof that is reasonably related to the purpose of his entry.

(c) Any EPA Enforcement Officer shall be furnished by those in charge of a facility being inspected with such reasonable assistance as he may request to help him discharge any function listed in this subpart. A recipient of a test order is required to cause those in charge of a facility operated for his benefit to furnish such reasonable assistance without charge to EPA whether or not the recipient controls the facility.

(d) The duty to admit or cause to be admitted any EPA Enforcement Officer applies whether or not the recipient owns or controls the facility in question and applies both to domestic and to foreign manufacturers and facilities. EPA will not attempt to make any inspections which it has been informed that local foreign law forbids. However, if local foreign law makes it impossible to do what is necessary to ensure the accuracy of data generated at a facility, no informed judgment can be made that the new motor vehicles being manufactured by the manufacturer do, in fact, conform to the regulations with respect to which the certificate of conformity was issued. It is the responsibility of the manufacturer to locate its testing and manufacturing facilities in jurisdictions where this situation will not arise.

(e) For purposes of this section:

(1) "Presentation of Credentials" shall mean display of the document designating a person as an EPA Enforcement Officer.

(2) Where vehicle storage areas or facilities are concerned, "operating hours" shall mean all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(3) Where facilities or areas other than those covered by paragraph (e) (2) of this section are concerned, "operating hours" shall mean all times during which an assembly line is in operation, or vehicle assembly is taking place, or all times during which testing, repair, mileage accumulation, production or compilation of records, or any other procedure or activity related to testing, or to vehicle manufacture or assembly is being carried out in a facility.

(4) "Reasonable assistance" includes, but is not limited to, clerical, copying, interpreting and translating services, the making available on request of personnel of the facility being inspected during their working hours to inform the EPA Enforcement Officer of how the facility operates and to answer his questions, and the performing upon request of emission tests on any vehicle which is being, has been, or will be used for testing under this regulation. Such tests shall be nondestructive but may require appropriate mileage accumulation. A manufacturer may be compelled to cause the personal appearance of any employee at such a facility before an EPA Enforcement Officer by written request for his appearance, signed by the Assist-

ant Administrator for Enforcement and General Counsel, served on the manufacturer. Any such employee who has been instructed by the manufacturer to appear will be entitled to be accompanied, represented, and advised by counsel. No counsel who accompanies, represents, or advises an employee compelled to appear may accompany, represent, or advise any other person in the investigation.

(5) Any entry without 24 hour prior written or oral notification to the affected manufacturer shall be authorized in writing by the Assistant Administrator for Enforcement and General Counsel.

§ 85.608 Sample selection.

(a) Vehicles comprising a batch sample which are required to be tested, pursuant to a test order in accordance with this subpart, will be randomly selected from a batch of vehicles of the configuration specified in the test order. The random sampling will be obtained by sequentially numbering all of the vehicles in the batch and then using a table of random numbers to select the number of vehicles as specified in paragraph (c) of this section based on the batch size designated by the Administrator in the test order. An alternative random sampling plan may be employed: *Provided*, That the manufacturer requests approval of such a plan in advance of receipt by a manufacturer of a test order and if the Administrator approves such a plan. A random sampling plan will be used regardless of whether the vehicles of the configuration selected for testing are scheduled for production, undergoing production or completed and stored in a manufacturer's storage facility.

(b) For 1976 and later model years the designated Acceptable Quality Level is 10 percent. The appropriate sequence for inspecting batches associated with the designated AQL are contained in Appendix VIII, Table II. The appropriate sampling plans associated with the designated AQL are contained in Appendix VIII, Table III for normal inspection and Appendix VIII, Table IV for tightened inspection.

(c) The appropriate batch sample size will be determined by reference to Appendix VIII, Tables I and III or IV. A batch code letter is obtained from Appendix VIII, Table I based on the batch size designated by the Administrator in a test order. Batches will be inspected using normal or tightened inspection in accordance with paragraph (e) of this section. The batch sample size will be obtained from Appendix VIII, Table III when normal inspection is in effect and from Appendix VIII, Table IV when tightened inspection is in effect. The batch sample size will be equal to the maximum cumulative sample size obtained from Appendix VIII, Table III or Table IV, as appropriate, for the proper sampling plan for the appropriate code letter obtained from Appendix VIII, Table I, plus an additional ten percent, rounded off to the next highest number.

(d) Individual vehicles comprising the test sample will be randomly selected from the batch sample using the same random sampling plan as in paragraph (a) of this section. Test sample size will be determined by entering Appendix VIII, Table III or Table IV, depending on whether normal or tightened inspection is in effect, at the appropriate code letter.

(e) The number of batches required to be inspected and whether normal or tightened inspection is an effect and the number of consecutive batches required to be accepted shall be determined by reference to Appendix VIII, Table II, Sequence for Inspection of Batches. The manufacturer will inspect the number of batches indicated in the first sequence using the designated inspection criteria for the appropriate batch code letter as determined in paragraph (c) of this section.

(f) The test vehicles of the configuration selected for testing shall have been assembled by the manufacturer for distribution in commerce using his normal mass production processes.

(g) No quality control, testing, assembly or selection procedures shall be used on the completed vehicle or any portion thereof, including parts and subassemblies, that will not be used during the production and assembly of all other vehicles of that configuration which will be distributed in commerce.

(h) Unless otherwise indicated in the test order, the manufacturer will select the batch sample from the production batch, next scheduled after receipt of the test order, of the configuration specified in the test order.

(i) Unless otherwise indicated in the test order, the manufacturer shall select the vehicles designated in the test order for testing.

(j) At their discretion, EPA Enforcement Officers, rather than the manufacturer, may select the vehicles designated in the test order for testing according to the method described in paragraph (a) of this section.

(k) The manufacturer will keep on hand all vehicles in the batch sample until such time as the batch is accepted or rejected in accordance with § 85.611.

§ 85.609 Test procedures.

(a) The prescribed test procedure is the Federal Test Procedure less the evaporative emission portion (§ 85.076–11,12,13 and § 85.276–11, 12–13), as described in subpart A, § 85.076–8 through § 85.076–25, subpart B, § 85.176–8 through § 85.176–22, subpart C, § 85.276–8 through § 85.276–25 and Subpart D, § 85.376–8 through § 85.376–22 of this part.

(b) The manufacturer shall not adjust, repair, prepare or modify the vehicles selected for testing and will not perform any emission tests on vehicles selected for testing pursuant to the test order unless such adjustment, repair, preparation, modification and/or tests are part of the manufacturer's prescribed end-of-line inspection procedures and are documented in the manufacturer's vehicle assembly and inspection procedures or unless such adjustments and/or tests are required or permitted under this subpart or are approved in advance by the Administrator. The manufacturer may perform adjustment, repair, preparation, modification and/or tests normally performed by his dealer to prepare the vehicle for delivery to a customer or the adjustment, repair, preparation, modification and/or tests normally performed at the port-of-entry by the manufacturer to prepare the vehicle for delivery to a dealer or customer: *Provided*, That such adjustment, repair, preparation, modification and/or tests are documented and approved by the Administrator in advance of their performance.

(c) (1) On a non-catalyst or catalyst equipped vehicle, the manufacturer shall (i) accumulate on each selected vehicle prior to performing exhaust emission testing, a mileage equal to the average of the mileage accumulation on the certification emission data vehicles belonging to the same engine family as the selected configuration at the time of the performance of the "zero-mile" test performed pursuant to § 85.076–4, § 85.176–4, § 85.276–4, or § 85.376–4 or (ii) accumulate on each selected vehicle prior to performing exhaust emission testing an alternative mileage up to 4,000 miles; *Provided*, That such alternative mileage accumulation is requested of and approved by the Administrator prior to the time of the receipt of the test order. The manufacturer shall not perform emission testing on a selected vehicle unless the established mileage accumulation has been completed on that vehicle within a range of ±10 miles.

(2) The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix IV to Part 85: Except, That a modified procedure may be used if approved in advance by the Administrator.

(d) No maintenance or emission testing will be performed on test vehicles after a batch sample is selected for testing nor will any test vehicle substitution or replacement be allowed, unless requested of the Administrator by the manufacturer and approved by the Administrator in advance of the performance of any maintenance, emission testing or vehicle substitution.

(e) In the event a vehicle is incapable of completing the mileage accumulation or completing the emission tests because of a substantial vehicle malfunction or problem, the manufacturer may request that the Administrator authorize him to repair the vehicle or the manufacturer may request that the Administrator authorize him to replace the vehicle when the malfunction or problem is not readily repairable within a reasonable period of time, or the Administrator may order the manufacturer to repair or replace the vehicle. Any replacement vehicles will be randomly selected from the batch sample.

(f) (1) The manufacturer will be allowed 24 hours to accumulate 500 miles of mileage accumulation on each vehicle

in a test sample, unless otherwise provided by the Administrator.

(2) The manufacturer shall complete emission testing on a minimum of four vehicles per day for each test cell at his testing facility: Except, That the Administrator may approve a longer period based upon a request by the manufacturer accompanied by satisfactory justification.

(3) The manufacturer will be allowed 24 hours to ship vehicles from a batch sample from their assembly plant, or storage facility to the test facility if the test facility is not located at the plant or storage facility or in close proximity to the plant or storage facility; Except, That the Administrator may approve more time based upon a request by the manufacturer accompanied by a satisfactory justification.

§ 85.610 Calculation and reporting of test results and low-mileage emissions target.

(a) Test results will be calculated and reported following the method prescribed in § 85.076–26, § 85.176–23, § 85.276, or § 85.376–23 as applicable.

(b) Before any final test result is compared to the applicable low-mileage emissions target as calculated in accordance with § 85.611, it shall be rounded, in accordance with ASTME 29–67, to two significant figures.

(c) For vehicles on which the manufacturer elected to accumulate the average "zero mileage" in accordance with § 85.609(c)(1)(i), a low-mileage emissions target for each pollutant shall be computed by applying a zero to 4000 mile exhaust emission deterioration and a 4000 to 50,000 mile exhaust emission deterioration factor to the applicable exhaust emission standard for each pollutant.

(1) Separate zero to 4000 mile exhaust emission deterioration factors shall be determined from the emission results of the certification emission data vehicles for each engine family. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NO_x.

(i) The data to be used in determining the zero to 4000 mile deterioration factors for each engine family shall be all valid emission data from the tests required under § 85.076–7(a), § 85.176–7(a), § 85.276–7(a) and § 85.376–7(a) as applicable. This shall include the official test results, as determined in § 85.076–28, § 85.176–28, § 85.276–28, and § 85.376–28 for all tests conducted on all emission data vehicles of the family selected under § 85.076–5(b), § 85.176–5(b), § 85.276–5(b), and § 85.376–5(b) (including all vehicles selected by the Administrator under § 85.076–5(b)(3), § 85.176(b)(3), § 85.276(b)(3), and § 85.376(b)(3)).

(ii) All applicable results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points.

(iii) A zero to 4000 mile exhaust emission deterioration factor shall be calculated for each engine family as follows:

$$\text{factor} = \frac{\text{Exhaust emissions interpolated to 4000 miles}}{\text{Exhaust emissions interpolated to average "0 mile" miles}}$$

These interpolated values shall be carried out to a minimum of four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTME 29–67.

(2) The 4000 to 50,000 mile deterioration factor shall be derived in accordance with § 85.076–28, § 85.176–28, § 85.276–28, or § 85.376–28, as applicable.

(3) The low-mileage emissions target for each pollutant shall be computed by dividing the appropriate emission standard by the product of the appropriate zero to 4000 mile and 4000 to 50,000 mile deterioration factors. The result shall be rounded, in accordance with ASTM E29–67, to one significant figure.

(d)(1) The manufacturer may apply alternative zero to 4000 mile emission deterioration factors in calculating the low-mileage emissions targets: *Provided*, That such factors and mileage accumulation are supported by appropriate data and that use of such factors are requested and approved prior to the time of receipt of the test order for that configuration. The manufacturer shall indicate the mileage accumulation that will be applicable to all test vehicles of that configuration at the time of the request to apply such an alternative zero to 4000 mile exhaust emission deterioration factor. The manufacturer shall also submit a justification for the use of such factors where they are applicable to the average zero mileage (±10 miles) that would have been required had the manufacturer tested the vehicles in accordance with § 85.609(c)(1)(i). The Administrator will approve or disapprove the manufacturer's request to apply alternative zero to 4000 mile exhaust emission deterioration factors prior to issuance of a test order to test vehicles of a configuration in an engine family to which the manufacturer request applies.

(2) Where the manufacturer elects to accumulate 4000 miles on the test vehicle as provided for in § 85.609(c)(1)(ii), low-mileage emission targets shall be calculated in accordance with paragraph (a) of this section without the application of any 0–4000 mile deterioration factor.

(e) The manufacturer shall report by telephone the final test results by vehicle identification number of all testing performed in any twenty-four hour period at the opening of the first normal working day following this test period: Except, That any manufacturer whose testing facility is not located in the continental United States need only send the report required in paragraph (b) of this section.

(f) In addition the manufacturer shall send a copy of the test report by registered airmail for such period at the conclusion of any testing done during each twenty-four hour period. The report shall contain the final test results by vehicle identification number for all vehicles tested in any twenty-four hour period. The first test report for each batch sample will contain a listing of all VIN's in that batch.

(g) In the case where an EPA Enforcement Officer is present during testing required by this subpart, the written reports requested in paragraph (f) of this section may be given directly to the Enforcement Officer in lieu of an airmail and telephone report.

(h) Within five days after completion of testing of all vehicles in a batch sample, the manufacturer shall submit to the Administrator a final report which will include the information required by the test order in the format stipulated in the test order in addition to the following:

(1) The location and description of the manufacturer's exhaust emission test facilities which meet the specifications of Subpart A, B, C, or D as applicable, and were utilized to conduct testing reported pursuant to this section.

(2) A description of the random vehicle selection method used, referencing any tables of random numbers that were used, name of the person in charge of the random number selection.

(3) For each test conducted,

(i) Test vehicle description including:

(A) Configuration and engine family identification.

(B) Year, make, build date, and model of vehicle.

(C) Vehicle Identification Number.

(D) Miles accumulated on vehicle.

(ii) Location where mileage accumulation was conducted and description of accommodation schedule.

(iii) Test number and measured emissions, deterioration (amelioration) factors and low-mileage emissions targets of all exhaust emission tests for each valid test, and for each invalid test, and the reason for invalidation and the date of such tests.

(iv) A complete description of any modification, repair, preparation, maintenance and/or testing which was performed on the test vehicle and (A) has not been reported pursuant to any other paragraph of this subpart and (B) will not be performed on all other production vehicles.

(v) Where a replacement vehicle was authorized by the Administrator, the reason for the replacement and, if any, the final test results for replaced vehicle.

(vi) Any other information the Administrator may request relevant to the determination as to whether the new motor vehicles being manufactured by the manufacturer do in fact conform with the regulations with respect to which the certificate of conformity was issued.

(vii) The following statement and endorsement:

This report is submitted pursuant to section 206 and section 208 of the Clean Air Act. All testing for which data is reported herein was conducted in strict conformance with applicable regulations under 40 CFR

85 et seq. All the data reported herein is a true and accurate representation of such testing. All other information reported herein is, to the best of _____ (company name) knowledge, true and accurate. I am aware of the penalties associated with violations of the Clean Air Act Amendments of 1970 and the regulations thereunder.

_____
(Vice President Company Signature)

§ 85.611 Acceptance and rejection of batches.

(a) A failed vehicle is one whose final test results, for one or more of the three exhaust pollutants, when compared to the applicable low-mileage emissions target for that pollutant, exceeds that target.

(b) The batch from which a batch sample is selected will be accepted or rejected for each pollutant based upon the number of test vehicles in the batch sample with measured emissions exceeding the applicable low-mileage emissions targets as calculated in § 85.610. A sufficient number of test samples will be drawn from the batch sample and the test vehicles tested until the cumulative number of vehicles exceeding the low-mileage emissions target for each pollutant is less than or equal to the acceptance number or greater than or equal to the rejection number appropriate for the cumulative number of vehicles tested. The acceptance and rejection numbers at the appropriate code letter will be used in determining whether the acceptance or rejection of a batch has occurred. Once a batch is accepted or rejected for a particular pollutant, the number of vehicles exceeding the low-mileage emissions target for that pollutant shall not be considered any further.

(C) Test samples from the batch sample shall continue to be drawn until a decision of acceptance or rejection can be made with regard to each pollutant.

(d) If the number of consecutive batches required to be accepted during the first sequence for inspection of batches as determined from Appendix VIII, Table II, are accepted for all three pollutants, the manufacturer shall not be required to perform any additional testing on vehicles from subsequent batches pursuant to the initiating test order.

§ 85.612 Additional testing.

(a) If the number of consecutive batches accepted for one or more pollutants during the first sequence for inspection of batches is less than the number of consecutive batches required to be accepted as determined from Appendix VIII, Table II, then the manufacturer shall continue to inspect consecutive batches of the configuration specified in the test order.

(b) The number of consecutive batches the manufacturer shall continue to inspect if so required according to paragraph (a) of this section shall be determined from Appendix VIII, Table II. The number of consecutive batches and inspection criteria are listed under the heading Second Sequence, and the table is entered at the appropriate batch code letter. If the first sequence of inspection requires that one batch be inspected and that batch is rejected for one or more pollutants, then the manufacturer will begin the second sequence of inspection starting with the first batch produced after rejection of the batch in the first sequence. If the first sequence of inspection requires that two batches be inspected, then the manufacturer will begin the second sequence of inspection starting with the first batch produced after rejection of the first batch or after rejection of the second batch where the first batch has been accepted.

(c) The manufacturer shall continue to inspect consecutive batches during the second sequence for inspection until such time as the required number of consecutive batches have been accepted or until the manufacturer has inspected the required number of consecutive batches and been unable to accept the required number of batches or until the testing of further consecutive batches could not result in the acceptance of the required number of batches.

(d) The Administrator may (i) terminate testing earlier than required in paragraph (b) based on his judgment that further testing will not influence his judgment that the manufacturer's vehicles are being manufactured in compliance with the regulations under which the certificates of conformity were issued, (ii) terminate testing earlier than required in paragraph (b) based on a request by the manufacturer accompanied by voluntary cessation of production of vehicles from the configuration in question at all plants; *Provided*, That once production is reinitiated the manufacturer must take the actions described in § 85.613(k) with regard to vehicles of the vehicle configuration in question prior to introduction into commerce of any vehicles produced by the manufacturer from any plant of the vehicle configuration in question.

§ 85.613 Suspension and revocation of certificates of conformity.

(a) The certificate of conformity is suspended with respect to any failing vehicle pursuant to § 85.611(a), effective from the time the testing is completed. The suspension remains in effect until such time as any necessary adjustments or repairs are made so that the vehicle does in fact conform to the applicable low-mileage emissions target, and the vehicle passes a retest.

(b) The certificate of conformity is suspended with respect to those vehicles which belong to a rejected batch and are still in the hands of the manufacturer except for those vehicles that have been tested and do in fact conform with the applicable low-mileage emissions target. The suspension will remain in effect until such time as the manufacturer has made any necessary adjustments or repairs and has demonstrated to the satisfaction of the Administrator that the vehicles belonging to the batch sample do in fact conform to the applicable low mileage emission target.

(c) If a manufacturer is unable to accept the required number of batches as indicated in Appendix VIII, Table II during the second sequence for inspection of batches after inspecting the required number of batches or some other number as may be allowed pursuant to § 85.612, batch sample selection and testing will no longer be required and the Administrator will suspend or revoke the certificate of conformity with respect to that vehicle configuration for those vehicles produced at that plant.

(d) If the results of vehicle testing pursuant to these regulations indicate that vehicles of a particular configuration do not conform to the regulations, the Administrator may require testing pursuant to a test order for vehicles of that configuration at other plants or other configurations in the same engine family manufactured by the manufacturer in the plant specified in the initial test order or any other plants.

(e) If the results of vehicle testing pursuant to these regulations indicate that vehicles of a particular configuration produced at more than one plant do not conform to the regulations with respect to which the certificate of conformity was issued, the Administrator may suspend or revoke the certificate of conformity with respect to that configuration for vehicles manufactured by the manufacturer in other plants of the manufacturer.

(f) If the Administrator determines that vehicles in two or more vehicle configurations belonging to the same engine family, based on tests performed pursuant to these regulations, do not conform to the regulations with respect to which the certificate of conformity was issued, the Administrator may suspend or revoke the certificate of conformity with respect to that engine family produced at one or more plants if the facts indicate that there is a substantial likelihood that other vehicle configurations of that engine family do not conform with the regulations with respect to which the certificate of conformity was issued.

(g) The Administrator will notify the manufacturer in writing of any suspension or revocation of a certificate of conformity in whole or in part: Except, That the certificate of conformity is immediately suspended with respect to any failing vehicle pursuant to § 85.611(a) and as provided for in paragraph (a) of this section and with respect to those vehicles which are part of a rejected batch and are still in the hands of the manufacturer, as provided for in paragraph (b) of this section.

(h) The decision whether to suspend or revoke a certificate of conformity, in whole or in part, will be made by the Administrator based on whether the proposed remedy for the nonconformity is one requiring notification pursuant to § 85.076–32, 33, 34; § 85.176–32, 33, 34; § 85.276–32, 33, 34; § 85.376–32, 33, 34, prior to implementation; Except, That the Administrator's decision to suspend provided for in § 85.076–30, § 85.176–30,

or § 85.276–30 or § 85.376–30 need not be based on such criteria.

(i) Once a certificate has been suspended for a failed vehicle in an accepted batch as provided for in paragraph (a) of this section, the manufacturer must take the following actions before the certificate is reinstated for that failed vehicle:

(1) Remedy the nonconformity, and

(2) Demonstrate that the vehicle conforms to the applicable low-mileage emissions target by retesting the vehicle in accordance with the applicable test procedures, and

(3) Submit a written report to the Administrator which contains a description of the remedy and test results, for each vehicle, in addition to other information that may be required by this regulation; Except, That the suspended certificate is reinstated for a vehicle upon the completion of (1) and (2) above. The written report required shall be in lieu of any notification required pursuant to § 85.076–32, 33, 34; § 5.176–32, 33, 34; § 85.276–32, 33, 34, § 85.376–32, 33, 34.

(j) Once a certificate has been suspended for failed vehicles and all untested vehicles in the manufacturers hands belonging to a rejected batch as provided for in paragraph (b) of this section, the manufacturer must take the following action before the certificate is reinstated for those vehicles:

(1) Remedy the nonconformity and demonstrate that all failed vehicles which have had their certificate suspended conform to the applicable low-mileage emission target by retesting the vehicle in accordance with applicable regulation, and

(2) Implement necessary remedies on untested vehicles in the batch and demonstrate by testing an appropriate number of such vehicles that the remedy does in fact result in vehicles conforming to the low-mileage emissions target, and

(3) Submit a written report to the Administrator which contains the description of the remedy and any test results for each vehicle in addition to other information required by these regulations; Except, that the suspended certificate is reinstated for any vehicle determined to conform through testing upon the completion of (1) above and the suspended certificate is reinstated for untested vehicles upon the completion of (2) and (3) above. The written report required shall be in lieu of any notification required pursuant to § 85.076–32, 33, 34; § 85.176–32, 33, 34; § 85.276–32, 33, 34; § 85.376–32, 33, 34.

(k) Once a certificate has been suspended in whole or in part, pursuant to paragraph (c), (e), and (f) of this section, the manufacturer must take the following actions before the Administrator will consider reinstating such certificate:

(1) Submit a written report to the Administrator which identifies the reason for the noncompliance of the vehicles, describes the proposed remedy, including a description of the proposed quality control and/or quality assurance measures to be taken by the manufacturers to correct the future occurrence of the problem, and states that the remedies are being or have been implemented, and

(2) Demonstrates that the vehicle configuration for which the certificate of conformity has been suspended does in fact comply with the regulations with respect to which the certificate of conformity was issued by testing vehicles from consecutively produced batches of that vehicle configuration in accordance with § 85.612 and the conditions specified in the initial test order: Except, That if the manufacturer elects to continue testing individual vehicles after suspension of a certificate, the certificate is reinstated for any vehicle actually determined to be in conformance with the applicable low-mileage emissions target through testing in accordance with the applicable test procedures: *Provided*, That any remedy implemented to § 85.076–32, 33, 34; § 85.176–32, 33, 34; § 85.276–32, 33, 34; § 85.376–32, 33, 34.

(l) Once a certificate has been revoked for a configuration and the manufacturer desires to continue introduction into commerce of such configuration, the manufacturer must take the following action before the Administrator will consider re-issuing such certificate:

(1) Proceed in accordance with the applicable notification provisions of § 85.076–32, 33, 34; § 85.176–32, 33, 34; § 85.276–32, 33, 34; § 85.376–32, 33, 34, and

(2) Demonstrate that the vehicle configuration for which the certificate of conformity was revoked does in fact comply with the regulations with respect to which the certificate of conformity was issued by testing vehicles from consecutively produced batches of that vehicle configuration in accordance with § 85.612 and the conditions specified in the initial test order.

(m) A manufacturer may at any time subsequent to an initial suspension of a certificate of conformity with respect to a test vehicle pursuant to paragraph (a) of this section, but not later than thirty (30) days or such other period as may be allowed by the Administrator after notification of the Administrator's decision to suspend or revoke a certificate of conformity in whole or in part pursuant to paragraph (g) of this section, request that the Administrator grant such manufacturer a hearing as to whether the tests have been properly conducted or any sampling methods have been properly applied and make a determination in the record with respect to any suspension or revocation. Hearings conducted under this paragraph shall be held in accordance with § 85.614.

§ 85.614 Hearings on suspensions and revocations of certificates of conformity.

(a) *Applicability.* The procedures prescribed by this section shall apply whenever a manufacturer requests a hearing pursuant to any of the following sections: § 85.076–30(c)(5)(i), § 85.176–30(c)(5)(i), § 85.276–30(c)(5)(i), § 85.376–30(c)(5)(i); § 85.076(d)(6)(i), § 85–176–30(d)(6)(i), § 85.276–30(d)(6)(i), § 85.376–30(d)(6)(i); § 85.613(m); or § 85.605(f)(1).

(b) *Definitions.* The following definitions shall be applicable to this section:

(1) "Hearing Clerk" shall mean the Hearing Clerk of the Environmental Protection Agency.

(2) "Intervener" shall mean a person who files a petition to be made an Intervener pursuant to paragraph (i) of this section whose petition is approved.

(3) "Manufacturer" refers to a manufacturer contesting a suspension or revocation order directed at that manufacturer.

(4) "Party" shall include the Agency, the manufacturer, and any interveners.

(5) "Presiding Officer" shall mean an Administrative Law Judge appointed pursuant 5 U.S.C. 3105 (See also 5 CFR 930 as amended);

(6) "Judicial Officer" shall mean an officer or employee of the Agency appointed as a Judicial Officer by the Administrator pursuant to this section who shall meet the qualifications and perform functions as follows:

(i) Officer—there may be designated for the purposes of this section one or more Judicial Officers. As work requires, there may be a Judicial Officer designated to act for the purposes of a particular case.

(ii) Qualifications—a Judicial Officer may be a permanent or temporary employee of the Agency who performs other duties for the Agency. Such Judicial Officer shall not be employed by the Office of Enforcement and General Counsel or the Mobile Source Enforcement Division or have any connection with the preparation or presentation of evidence for a hearing held pursuant to this Subpart.

(iii) Functions—the Administrator may consult with a Judicial Officer or delegate all or part of his authority to act in a given case under this Section to a Judicial Officer: *Provided*, That this delegation shall not preclude the Judicial Officer from referring any motion or case to the Administrator when the Judicial Officer determines such referral to be appropriate.

(c) *Request for public hearing.* (1) If the manufacturer disagrees with the Administrator's decision to suspend or revoke a certificate, he may request a public hearing as described in this section. Requests for such a hearing shall be filed with the Administrator not later than 45 days after the Administrator's notification of decision to suspend or revoke unless otherwise specified by the Administrator. Two copies of such request shall simultaneously be served upon the Director of the Mobile Source Enforcement Division and two copies filed with the Hearing Clerk. Failure of the Manufacturer to request a hearing within the time provided shall constitute a waiver of his right to such a hearing. Subsequent to the expiration of the period for request-

ing a hearing as of right, the Administrator may, in his discretion and for good cause shown, grant the manufacturer a hearing to contest the suspension or revocation.

(2) The request for a public hearing shall contain:

(i) A statement as to which vehicle configurations or engine families are to be the subject of the hearing;

(ii) A concise statement of the issues to be raised by the manufacturer at the hearing for each vehicle configuration or engine family or vehicle for which the manufacturer has requested the hearing, *Provided, however*, That in the case of a hearing requested under § 85.613(m), the hearing shall be restricted to the following issues:

(A) Whether tests were properly conducted, and

(B) Whether sampling methods have been properly applied;

(iii) A statement as to reasons the manufacturer believes he will prevail on the merits on each of the issues so raised.

(IV) A summary of the evidence which supports the manufacturer's position on each of the issues so raised.

(3) A copy of all requests for public hearings shall be kept on file in the Office of the Hearing Clerk and shall be made available to the public during Agency business hours.

(d) *Summary decision.* (1) In the case of a hearing requested under § 85.613(m), when it clearly appears from the data and other information contained in the request for a hearing that there is no genuine and substantial question of fact with respect to the issues of (i) whether tests were properly conducted and (ii) whether sampling methods have been properly applied, the Administrator will enter an order on this data and information denying the request for a hearing, and reaffirming the original decision to suspend or revoke a certificate of conformity, if such decision has been made pursuant to § 85.613(g) at any time prior to the decision to deny the request for a hearing.

(2) In the case of a hearing requested under § 85.076–30(d)(6)(i), § 85.176–30(d)(6)(i), § 85.276–30(d)(6)(i), § 85.376–30(d)(6)(i) to challenge a proposed suspension of a certificate of conformity under § 85.076–30(d)(1)(i), § 85.176–30(d)(1)(i), § 85.276–30(d)(1)(i), § 85.376(d)(1)(i), or under § 85.076(d)(1)(ii), § 85.176–30(d)(1)(ii), § 85.276–30(d)(1)(ii), § 85.376–30(d)(1)(ii), when it clearly appears from the data and other information contained in the request for a hearing that there is no genuine and substantial question of fact with respect to the issue of whether the refusal to comply with the provisions of a test order or any other requirement of § 85.604 was caused by conditions and circumstances outside the control of the manufacturer, the Administrator will enter an order on this data and information denying the request for a hearing, and suspending the certificate of conformity.

(3) In the case of a hearing requested under § 85.605(f)(1), when it clearly appears from the data and other information contained in the request for a hearing that there is no genuine and substantial question of fact with respect to the issues of (i) whether there exists an actual lack of correlation between the data acquired with the manufacturer's test equipment used by the Administrator, and (ii) whether the data acquired by the Administrator under § 85.605(a) was erroneous and the manufacturer's data was correct, the Administrator will enter an order on this data and information denying the request for a hearing, and suspending the certificate of conformity.

(4) Any order issued under paragraphs (d)(1), (2), and (3) of this section shall have the force and effect of a final decision of the Administrator, as issued pursuant to paragraph (Z)(4) of this section.

(5) If the Administrator determines that a genuine and substantial question of fact does exist with respect to any of the issues referred to in paragraphs (d)(1), (2), and (3) of this section, he shall grant the request for a hearing and instruct the Hearing Clerk to publish a notice of public hearing in accordance with paragraph (h) of this section.

(e) *Filing and service.* (1) An original and two copies of all documents or papers required or permitted to be filed pursuant to this section shall be filed with the Hearing Clerk. Filing shall be deemed timely if mailed, as determined by the postmark, to the Hearing Clerk within the time allowed by this section. If filing is to be accomplished by mailing, the documents shall be sent to the address set forth in the notice of public hearing as described in paragraph (h) of this section.

(2) Except for requests to commence a hearing, at the same time a party files with the Hearing Clerk any additional issues for consideration at the hearing or any written testimony, documents, papers, exhibits, or materials, proposed to be introduced into evidence or papers filed in connection with any appeal, it shall serve upon all other parties copies thereof. A certificate of service shall be provided on or accompany each document or paper filed with the Hearing Clerk. Documents to be served upon the Director of the Mobile Source Enforcement Division shall be mailed to: Director, Mobile Source Enforcement Division, U.S. Environmental Protection Agency (EG–340), 401 M Street SW., WSM, Washington, D.C. 20460. Service by mail is complete upon mailing.

(f) *Time.* (1) In computing any period of time prescribed or allowed by this section, except as otherwise provided, the day of the act or event from which the designated period of time begins to run shall not be included. Saturdays, Sundays, and Federal legal holidays shall be included in computing any such period allowed for the filing of any document or paper, except that when such period expires on a Saturday, Sunday, or Federal legal holiday, such period shall be extended to include the next following business day.

(2) A prescribed period of time within which a party is required or permitted to do an act shall be computed from the time of service, except that when service is accomplished by mail, three days shall be added to the prescribed period.

(g) *Consolidation.* The Administrator or the Presiding Officer in his discretion may consolidate two or more proceedings to be held under this section for the purpose of resolving one or more issues whenever it appears that such consolidation will expedite or simplify consideration of such issues. Consolidation shall not affect the right of any party to raise issues that could have been raised if consolidation had not occurred.

(h) *Notice of public hearings.* (1) Notice of a public hearing under this section shall be given by publication in the Federal Register. Notice will be given at least 30 days prior to the commencement of such hearings; Except, that when a public hearing is requested under § 85.613(m), notice will be given at least 15 days prior to the commencement of such hearing.

(2) The notice of a public hearing shall include the following information:

(i) The purpose of the hearing and the legal authority under which the hearing is to be held.

(ii) A brief summary of the Administrator's determination of conconformity;

(iii) A brief summary of the manufacturer's basis for contesting the Administrator's determination of nonconformity;

(iv) Information regarding the time and location of the hearing and the address to which all documents required or permitted to be filed should be sent;

(v) The address of the Hearing Clerk to whom all inquiries should be directed and with whom documents are required to be filed;

(vi) A statement that all petitions to be made an intervener must be filed with the Hearing Clerk within 25 days from the date of the notice of public hearing (or within 10 days in the case of a hearing requested under § 85.613(m)) and must conform to the requirements of paragraph (i) of this section.

(3) The notice of public hearing shall be issued by the Assistant Administrator for Enforcement and General Counsel.

(i) *Interveners.* (1) Any person desiring to intervene in a hearing to be held under section 206 of the Act shall file a petition setting forth the facts and reasons why he thinks he should be permitted to intervene.

(2) In passing upon a petition to intervene, the following factors, among other things, shall be considered by the presiding officer:

(i) The nature of the petitioner's interest including the nature and the extent of the property, financial, environmental protection, or other interest of the petitioner;

(ii) The effect of the order which may be entered in the proceeding on petitioner's interest;

(iii) The extent to which the petitioner's interest will be represented by

existing parties or may be protected by other means;

(iv) The extent to which petitioner's participation may reasonably be expected to assist materially in the development of a complete record;

(v) The effect of the intervention on the Agency's statutory mandate.

(3) A petition to intervene must be filed within 25 days (or within 10 days in the case of a hearing requested under § 85.613(m)) following the notice of public hearing under section 206 of the Act and shall be served on all parties. Any opposition to such petition must be filed within five days of such service.

(4) All petitions to be made an intervener shall be reviewed by the presiding officer using the criteria set forth in paragraph (i)(2) of this section and considering any oppositions to such petition. Where the petition demonstrates that the petitioner's interest is limited to particular issues, the presiding officer may, in granting such petition, limit petitioner's participation to those particular issues only.

(5) If the Presiding Officer grants the petition with respect to any or all issues, he shall so notify, or direct the Hearing Clerk to notify, the petitioner and all parties. If the Presiding Officer denies the petition he shall so notify, or direct the Hearing Clerk to notify, the petitioner and all parties and shall briefly state the reasons why the petition was denied.

(6) All petitions to be made an intervener shall include an agreement by the petitioner, and any person represented by the petitioner, to be subject to examination and cross-examination and to make any supporting and relevant records available at its own expense upon the request of the Presiding Officer, on his own motion or the motion of any party or other intervener. If the intervener fails to comply with any such request, the Presiding Officer may in his discretion, terminate his status as an intervener.

(j) *Intervention by motion.* Following the expiration of the time prescribed in paragraph (i) of this section for the submission of petitions to intervene in a hearing, any person may file a motion with the Presiding Officer to intervene in a hearing. Such a motion must contain the information and commitments required by paragraphs (i)(2) and (6) of this section, and, in addition, must show that there is good cause for granting the motion and must contain a statement that the intervener shall be bound by agreements, arrangements, and other determinations which may have been made in the proceeding.

(k) *Amicus curiae.* Persons not parties to the proceedings wishing to file briefs may do so by leave of the Presiding Officer granted on motion. A motion for leave shall identify the interest of the applicant and shall state the reasons why the proposed amicus brief is desirable.

(l) *Presiding officer.* The presiding officer shall have the duty to conduct a fair and impartial hearing in accordance with 5 U.S.C. sections 554, 556, and 557, to take all necessary action to avoid delay in the disposition of the proceedings and to maintain order. He shall have all power consistent with Agency rule and with the Administrative Procedure Act necessary to this end, including the following:

(1) To administer oaths and affirmations;

(2) To rule upon offers of proof and receive relevant evidence.

(3) To regulate the course of the hearings and the conduct of the parties and their counsel therein;

(4) To hold conferences for simplification of the issues or any other proper purpose;

(5) To consider and rule upon all procedural and other motions appropriate in such proceedings;

(6) To require the submission of direct testimony in written form with or without affidavit whenever, in the opinion of the Presiding Officer, oral testimony is not necessary for full and true disclosure of the facts. Testimony concerning the conduct and results of tests and inspections may be submitted in written form.

(7) To enforce agreements and orders requiring access as authorized by law;

(8) To require the filing of briefs on any matter on which he is required to rule;

(9) To require any party or any witness, during the course of the hearing, to state his position on any issue;

(10) To take or cause depositions to be taken whenever the ends of justice would be served thereby;

(11) To make decisions or recommend decisions to resolve the disputed issues on the record of the hearing.

(12) To issue, upon good cause shown, protective orders as described in paragraph (p) of this section.

(m) *Conferences.* (1) At the discretion of the Presiding Officer, conferences may be held prior to or during any hearing. The Presiding Officer shall direct the Hearing Clerk to notify all parties and interveners of the time and location of any such conference. At the discretion of the Presiding Officer, persons other than parties may attend. At a conference the Presiding Officer may:

(i) Obtain stipulations and admissions, receive requests and order depositions to be taken, identify disputed issues of fact and law, and require or allow the submission of written testimony from any witness or party;

(ii) Set a hearing schedule for as many of the following as are deemed necessary by the presiding officer;

(A) Oral and written statements;

(B) Submission of written direct testimony as required or authorized by the presiding officer;

(C) Oral direct and cross-examination of a witness where necessary as prescribed in paragraph (r) of this section;

(D) Oral argument, if appropriate.

(iii) Identify matters of which official notice may be taken;

(iv) Consider limitation of the number of expert and other witnesses;

(v) Consider the procedure to be followed at the hearing; and

(vi) Consider any other matter that may expedite the hearing or aid in the disposition of the issue.

(2) The results of any conference including all stipulations shall, if not transcribed, be summarized in writing by the presiding officer and made part of the record.

(n) *Primary discovery (exchange of witness lists and documents).* (1) At a prehearing conference or within some reasonable time set by the presiding officer prior to the hearing, each party shall make available to the other parties the names of the expert and other witnesses the party expects to call, together with a brief summary of their expected testimony and a list of all documents and exhibits which the party expects to introduce into evidence. Thereafter, witnesses, documents, or exhibits may be added and summaries of expected testimony amended upon motion by a party.

(2) The presiding officer, may, upon motion by a party or other person, and for good cause shown, by order (i) restrict or defer disclosure by a party of the name of a witness or a narrative summary of the expected testimony of a witness, and (ii) prescribe other appropriate measures to protect a witness. Any party affected by any such action shall have an adequate opportunity, once he learns the name of a witness and obtains the narrative summary of his expected testimony, to prepare for the presentation of his case.

(o) *Other discovery.* (1) Except as so provided by paragraph (1) of this section, further discovery, under this paragraph, shall be permitted only upon determination by the Presiding Officer:

(i) That such discovery will not in any way unreasonably delay the proceeding;

(ii) That the information to be obtained is not obtainable voluntarily; and

(iii) That such information has significant probative value. The presiding officer shall be guided by the procedures set forth in the Federal Rules of Civil Procedure, where practicable, and the precedents thereunder, except that no discovery shall be undertaken except upon order of the Presiding Officer or upon agreement of the parties.

(2) The presiding officer shall order depositions upon oral questions only upon a showing of good cause and upon a finding that:

(i) The information sought cannot be obtained by alternative methods; or

(ii) There is a substantial reason to believe that relevant and probative evidence may otherwise not be preserved for presentation by a witness at the hearing.

(3) Any party to the proceeding desiring an order of discovery shall make a motion or motions therefor. Such a motion shall set forth:

(i) The circumstances warranting the taking of the discovery;

(ii) The nature of the information expected to be discovered; and

(iii) The proposed time and place where it will be taken. If the Presiding Officer determines the motion should be granted, he shall issue an order for the

taking of such discovery together with the conditions and terms thereof.

(4) Failure to comply with an order issued pursuant to this paragraph may lead to the inference that the information to be discovered would be adverse to the person or party from whom the information was sought.

(p) *Protective orders, in camera proceedings.* (1) Upon motion by a party or by the person from whom discovery is sought, and upon a showing by the movant that the disclosure of the information to be discovered, or a particular part thereof, (other than emission data) would result in methods or processes entitled to protection as trade secrets of such person being divulged, the Presiding Officer may enter a protective order with respect to such material. Any protective order shall contain such terms governing the treatment of the information as may be appropriate under the circumstances to prevent disclosure outside the hearing: *Provided*, That the order shall state that the material shall be filed separately from other evidence and exhibits in the hearing. Disclosure shall be limited to parties to the hearing, their counsel and relevant technical consultants, and authorized representatives of the United States concerned with carrying out the Act. Except in the case of the government, disclosure may be limited to counsel to parties who shall not disclose such information to the parties themselves. Except in the case of the government, disclosure to a party or his counsel shall be conditioned on execution of a sworn statement that no disclosure of the information will be made to persons not entitled to receive it under the terms of the protective order. (No such provision is necessary where government employees are concerned because disclosure by them is subject to the terms of 18 U.S.C. 1905.)

(2) (i) A party or person seeking a protective order may be permitted to make all or part of the required showing in camera. A record shall be made of such in camera proceedings. If the presiding officer enters a protective order following a showing in camera, the record of such showing shall be sealed and preserved and made available to the agency or court in the event of appeal. (ii) Attendance at any in camera proceeding may be limited to the presiding officer, the agency, and the person or party seeking the protective order.

(3) Any party, subject to the terms and conditions of any protective order issued pursuant to subparagraph (1) of this paragraph, desiring for the presentation of his case to make use of any in camera documents or testimony shall make application to the presiding officer by motion setting forth the justification therefor. The presiding officer, in granting any such motion, shall enter an order protecting the rights of the affected persons and parties and preventing unnecessary disclosure of such information, including the presentation of such information and oral testimony and cross-examination concerning it in executive session, as in his discretion is necessary and practicable.

(4) In the submittal of proposed findings, briefs, or other papers, counsel for all parties shall make a good faith attempt to refrain from disclosing the specific details of in camera documents and testimony. This shall not preclude references in such proposed findings, briefs, or other papers to such documents or testimony including generalized statements based on their contents. To the extent that counsel consider it necessary to include specific details in their presentations, such data shall be incorporated in separate proposed findings, briefs, or other papers marked "confidential", which shall become part of the in camera record.

(8) *Motions.* (1) All motions, except those made orally during the course of the hearing, shall be in writing and shall state with particularity the grounds therefor, shall set forth the relief or order sought, and shall be filed with the Hearing Clerk and served upon all parties.

(2) Within ten days after service of any motion filed pursuant to this section, or within such other time as may be fixed by the Administrator, the judicial officer, or the presiding officer, as appropriate, any party may serve and file an answer to the motion. The movant shall, if requested by the Administrator, the judicial officer, or the presiding officer, as appropriate, serve and file reply papers within the time set by the request.

(3) The presiding officer shall rule upon all motions filed or made prior to the filing of his decision or accelerated decision, as appropriate. The Administrator or the judicial officer, as appropriate, shall rule upon all motions filed prior to the appointment of a presiding officer and all motions filed after the filing of the decision of the Presiding Officer or accelerated decision. Oral argument of motions will be permitted only if the Presiding Officer, the Administrator, or the judicial officer, as appropriate, deems it necessary.

(r) *Evidence.* (1) The official transcripts and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record. Immaterial or irrelevant parts of an admissible document shall be segregated and excuded so far as practicable. Documents or parts thereof subject to a protective order under paragraph (p) of this section shall be segregated. Evidence may be received at the hearing even though inadmissible under the rules of evidence applicable to judicial proceedings. The weight to be given evidence shall be determined by its reliability and probative value.

(2) The presiding officer shall allow the parties to examine and to cross-examine a witness to the extent that such examination and cross-examination is necessary for a full and true disclosure of the facts.

(3) Rulings of the presiding officer on the admissibility of evidence, the propriety of examination and cross-examination and other procedural matters shall appear in the record.

(4) Parties shall automatically be presumed to have taken exception to an adverse ruling.

(s) *Interlocutory appeal.* (1) An interlocutory appeal may be taken to the Administrator either (i) with the consent of the presiding officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense or prejudice to any party or substantial detriment to the public interest, or (ii) absent the consent of the presiding officer, by permission of the Administrator.

(2) Applications for interlocutory appeal of any ruling or order of the presiding officer may be filed with the presiding officer within 5 days of the issuance of the ruling or order being appealed. Answers thereto by other parties may be filed within 5 days of the service of such applications.

(3) The presiding officer shall rule on such applications within 5 days of the filing of such application or answers thereto.

(4) Applications to file such appeals absent consent of the presiding officer shall be filed with the Administrator within 5 days of the denial of any appeal by the presiding officer.

(5) The Administrator will consider the merits of the appeal on the application and any answers thereto. No oral argument will be heard nor other briefs filed unless the Administrator directs otherwise.

(6) Except under extraordinary circumstances as determined by the presiding officer, the taking of an interlocutory appeal will not stay the hearing.

(t) *Record.* (1) Hearings shall be stenographically reported and transcribed, and the original transcript shall be part of the record and the sole official transcript. Copies of the record shall be filed with the Hearing Clerk and made available during Agency business hours for public inspection. Any person desiring a copy of the record of the hearing or any part thereof shall be entitled to the same upon payment of the cost thereof.

(2) The official transcripts and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record.

(u) *Proposed findings, conclusions.* (1) Within 20 days of the close of the reception of evidence, or within such longer time as may be fixed by the presiding officer, any party may submit for the consideration of the presiding officer proposed findings of fact, conclusions of law, and a proposed rule or order, together with reasons therefor and briefs in support thereof. Such proposals shall be in writing, shall be served upon all parties, and shall contain adequate references to the record and authorities relied on.

(2) The record shall show the presiding officer's ruling on the proposed findings and conclusions except when his order disposing of the proceeding otherwise informs the parties of the action taken by him thereon.

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(v) *Decision of the presiding officer.* (1) Unless extended by the Administrator, the Presiding Officer shall issue and file with the Hearing Clerk his decision within 30 days (or within 10 days in the case of a hearing requested under § 85.-613(m)) after the period for filing proposed findings as provided for in paragraph (u) of this section has expired.

(2) The presiding officer's decision shall become the decision of the Administrator (i), when no notice of intention to appeal as described in paragraphs (w) and (x) of this section is filed, 30 days after the issuance thereof (or 10 days in the case of a hearing requested under § 85.316(m)), unless in the interim the Administrator shall have taken action to review or stay the effective date of the decision; or (ii), when a notice of intention to appeal is filed but the appeal is not perfected as required by paragraph (w) of this section, 5 days after the period allowed for perfection of an appeal has expired unless within that 5 day period, the Administrator shall have taken action to review or stay the effective date of the decision.

(3) The presiding officer's decision shall include a statement of findings and conclusions, as well as the reasons or basis therefore, upon all the material issues of fact of law presented on the record and an appropriate rule or order. Such decision shall be supported by substantial evidence and based upon a consideration of the whole record.

(4) At any time prior to the issuance of his decision, the Presiding Officer may reopen the proceeding for the reception of further evidence. Except for the correction of clerical errors, the jurisdiction of the presiding officer is terminated upon the issuance of his decision.

(w) *Appeal from the decision of the presiding officer.* (1) Any party to a proceeding may appeal the Presiding Officer's decision to the Administrator; *provided*, That within 10 days after issuance of the Presiding Officer's decision such party files a notice of intention to appeal and an appeal brief within 30 days of such decision.

(2) When an appeal is taken from the decision of the Presiding Officer, any party may file a brief with respect to such appeal. The brief shall be filed within 20 days of the date of the filing of the appellant's brief.

(3) Any brief filed pursuant to this paragraph shall contain in the order indicated, the following:

(i) A subject index of the matter in the brief, with page references, and a table of cases (alphabetically arranged) textbooks, statutes, and other material cited, with page references thereto;

(ii) A specification of the issues intended to be urged; *provided, however*, That in the case of a hearing requested under § 85.613(m), the brief shall be restricted to the following issues;

(A) Whether tests were properly conducted, and

(B) Whether sampling methods have been properly applied.

(iii) The argument presenting clearly the points of fact and law relied upon in support of the position taken on each issue, with specific page references to the record and the legal or other material relied upon; and

(iv) A proposed form of rule or order for the Administrator's consideration if different from the rule or order contained in the presiding officer's decision.

(4) No brief in excess of 40 pages shall be filed without leave of the Administrator.

(5) Oral argument will be allowed in the discretion of the Administrator.

(x) *Summary appeal.* (1) In the case of a hearing requested under § 85.613 (m), the Administrator shall require that any appeal taken from the decision of the Presiding Officer be conducted under this paragraph.

(2) Any party to the proceeding may appeal the Presiding Officer's decision to the Administrator by filing a notice of appeal within 10 days.

(3) The notice of appeal shall be in the form of a brief, and shall conform to the requirements of paragraph (w)(3) of the section.

(4) Within 10 days after a notice of appeal from the decision of the Presiding Officer is filed under this paragraph, any party may file a brief with respect to such appeal.

(5) No brief in excess of 15 pages shall be filed without leave of the Administrator.

(6) Oral argument will not be allowed.

(y) *Review of the presiding officer's decision in absence of appeal.* (1) If, after the expiration of the period for taking an appeal as provided for by paragraphs (w) or (x) of this section, no notice of intention to appeal the decision of the presiding officer has been filed, or if filed, not perfected, the Hearing Clerk shall so notify the Administrator.

(2) The Administrator, upon receipt of notice from the Hearing Clerk that no notice of intention to appeal has been filed, or if filed, not perfected pursuant to paragraphs (w) or (x) of this section, may, on his own motion, within the time limits specified in paragraph (v)(2) of this section, review the decision of the Presiding Officer. Notice of the intention of the Administrator to review the decision of the Presiding Officer shall be given to all parties and shall set forth the scope of such review and the issues which shall be considered and shall make provision for filing of briefs.

(z) *Decision on appeal or review.* (1) Upon appeal from or review of the Presiding Officer's decision, the Administrator shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and in addition shall, to the extent necessary or desirable, exercise all the powers which he could have exercised if he had presided at the hearing.

(2) In rendering his decision, the Administrator shall adopt, modify or set aside the findings, conclusions, and rule or order contained in the decision of the Presiding Officer and shall set forth in his decision a statement of the reasons or bases for his action.

(3) In those cases where the Administrator believes that he should have further information or additional views of the parties as to the form and content of the rule or order to be issued, the Administrator, in his discretion, may withhold final action pending the receipt of such additional information or views, or may remand the case to the Presiding Officer.

(4) Any decision rendered under this paragraph which completes disposition of a case shall be a final decision of the Administrator.

(aa) *Reconsideration.* Within twenty (20) days after issuance of the Administrator's decision, any party may file with the Administrator a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had not opportunity to argue before the Presiding Officer or the Administrator. *Provided, however*, That in the case of a hearing requested under § 85.613(m), such new questions shall be limited to the issues of (1) whether tests were properly conducted, and (2) whether sampling methods have been properly applied.

Any party desiring to oppose such a petition shall file and answer thereto within ten (10) days after the filing of the petition. The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Administrator.

(bb) *Accelerated decision; dismissal.* (1) The Presiding Officer, upon motion of any party or sua sponte, may at any time render an accelerated decision in favor of the Agency or the manufacturer as to all or any part of the proceeding, without further hearing or upon such limited additional evidence such as affidavits as he may require, or dismiss any party with prejudice, under any of the following conditions:

(i) Failure to state a claim upon which relief can be granted, or direct or collateral estoppel;

(ii) There is no genuine issue of material fact and a party is entitled to judgment as a matter of law; or

(iii) Such other and further reasons as are just, including specifically failure to obey a procedural order of the presiding officer.

(2) If under this paragraph an accelerated decision is issued as to all the issues and claims joined in the proceeding, the decision shall be treated for the purposes of these procedures as the decision of the presiding officer as provided in paragraph (p) of this section.

(3) If under this paragraph, judgment is rendered on less than all issues or claims in the proceeding, the presiding officer shall determine what material facts exist without substantial controversy and what material facts are actually and in good faith controverted.

He shall thereupon issue an order specifying the facts which appear without substantial controversy, and the issues and claims upon which the hearing will proceed.

(cc) *Conclusion of hearing.* (1) If, after the expiration of the period for taking an appeal as provided for by paragraphs (w) and (x) of this section, no appeal has been taken from the presiding officer's decision, and after the expiration of the period for review by the Administrator on his own motion as provided for by paragraph (y) of this section, the Administrator does not move to review such decision, the hearing will be deemed to have ended at the expiration of all periods allowed for such appeal and review.

(2) If an appeal of presiding officer's decision is taken pursuant to paragraph (w), and (x) of this section, or if, in the absence of such appeal the Administrator moves to review the decision of the presiding officer pursuant to paragraph (y) of this section, the hearing will be deemed to have ended upon the rendering of a final decision by Administrator.

(dd) *Judicial review.* (1) The Administrator hereby designates the Deputy General Counsel, Environmental Protection Agency as the officer upon whom copy of any petition for judicial review shall be served. Such officer shall be responsible for filing in the court the record on which the order of the Administrator is based.

(2) Before forwarding the record to the court, the Agency shall advise the petitioner of costs of preparing it and as soon as payment to cover fees is made, shall forward the record to the court.

APPENDIX VIII

TABLE I—BATCH CODE LETTERS

Batch size:	*Code letter*
2 to 8	A
9 to 15	B
16 to 25	C
26 to 50	D
51 to 90	E
91 to 150	F
151 to 280	G

TABLE II.—*Sequence for inspection of batches*

Batch code letter	1st sequence			2d sequence		
	Number consecutive batches required to be inspected	Inspection criteria	Number consecutive batches required to be accepted	Number consecutive batches required to be inspected	Inspection criteria	Number consecutive batches required to be accepted
A, B	1	Tightened	1	4	Tightened	2
C, D	2	do	2	4	do	3
E	2	Normal	2	6	do	3
F	1	do	1	4	do	3
G	1	do	1	4	do	3

TABLE III.—*Sampling plans for normal inspection*

Batch code letter		Test sample	Test sample size	Cumulative test sample size	Inspection criteria	
					Acceptance No.	Rejection No.
A		1st	2	2	0	1
B		1st	3	3	0	1
C		1st	2	2	(1)	2
		2d	2	4	(1)	2
		3d	2	6	0	2
		4th	2	8	0	3
		5th	2	10	1	3
		6th	2	12	1	3
		7th	2	14	2	3
D		1st	2	2	(1)	2
		2d	2	4	(1)	2
		3d	2	6	0	2
		4th	2	8	0	3
		5th	2	10	1	3
		6th	2	12	1	3
		7th	2	14	2	3
E		1st	3	3	(1)	2
		2d	3	6	0	3
		3d	3	9	0	3
		4th	3	12	1	4
		5th	3	15	2	4
		6th	3	18	3	5
		7th	3	21	4	5
F		1st	5	5	(1)	3
		2d	5	10	0	3
		3d	5	15	1	4
		4th	5	20	2	5
		5th	5	25	3	6
		6th	5	30	4	6
		7th	5	35	6	7
G		1st	8	8	(1)	4
		2d	8	16	1	5
		3d	8	24	2	6
		4th	8	32	3	7
		5th	8	40	5	8
		6th	8	48	7	9
		7th	8	56	9	10

[1] Acceptance not permitted at this sample size.

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Batch code letter	Test sample	Test sample size	Cumulative test sample size	Inspection criteria: Acceptance No.	Inspection criteria: Rejection No.
A	1st	3	3	0	1
B	1st	3	3	0	1
C	1st	3	3	(1)	2
	2d	3	6	(1)	2
	3d	3	9	0	2
	4th	3	12	0	3
	5th	3	15	1	3
	6th	3	18	1	3
	7th	3	21	2	3
D	1st	3	3	(1)	2
	2d	3	6	(1)	2
	3d	3	9	0	2
	4th	3	12	0	3
	5th	3	15	1	3
	6th	3	18	1	3
	7th	3	21	2	3
E	1st	3	3	(1)	2
	2d	3	6	(1)	2
	3d	3	9	0	2
	4th	3	12	0	3
	5th	3	15	1	3
	6th	3	18	1	3
	7th	3	21	2	3
F	1st	5	5	(1)	2
	2d	5	10	0	2
	3d	5	15	0	2
	4th	5	20	1	3
	5th	5	25	2	4
	6th	5	30	3	5
	7th	5	35	4	5
G	1st	8	8	(1)	2
	2d	8	16	0	3
	3d	8	24	1	4
	4th	8	32	2	5
	5th	8	40	3	6
	6th	8	48	4	6
	7th	8	56	5	7

[1] Acceptance not permitted at this sample size.

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PART III

SECURITIES AND EXCHANGE COMMISSION

■

BROKER-DEALERS AND ASSOCIATED PERSONS

Proposal to Adopt Uniform Forms

V 39 I 252 DEC 31 74 XUM

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-11135; File No. S7-541]

UNIFORM FORMS FOR BROKER-DEALERS AND ASSOCIATED PERSONS

Notice of Proposed Rulemaking

The Securities and Exchange Commission has under consideration a proposal under the Securities Exchange Act of 1934 (the "Act") to adopt Form U-3, a uniform application for registration as a broker-dealer under section 15(b) [17 CFR 240.15b] of the Act and for the amendment of such registration. Form U-3 would replace present Form BD.[1] The Commission also has under consideration a proposal to adopt Form U-4, a uniform application for registration of associated persons. Form U-4 would replace Form SECO-2.[2] In addition, Rule 15b3-1 [17 CFR 240.15b3-1] would be amended to provide that each registered broker or dealer would be required to file new Form U-3 furnishing all information required therein at such time as the broker's or dealer's registration presently on file required amendment. In any case a new Form U-3 would have to be filed within 120 days of the effective date of the amendments. Paragraph (a)(3) of Rule 15b8-1 [17 CFR 240.15b8-1] would be amended to provide that each nonmember broker or dealer would be required to file a Form U-4 when the information contained in any Form SECO-2 filed on behalf of any associated person became inaccurate for any reason. Form U-4 would not have to be filed for all associated persons within a specific time frame. Finally, in view of the proposal to adopt Form U-3, the Commission has withdrawn the proposal to amend Form BD announced in Securities Exchange Act Release No. 10262 (Securities Investor Protection Act Release No. 4) July 3, 1973 [38 FR 20106].

INTRODUCTION

The securities industry has recognized the need for uniform forms for a number of years. Efforts to develop a uniform application for registration as a broker-dealer began as early as 1967 when, in Securities Exchange Act Release No. 8125 (July 18, 1967), the Commission announced major revisions of Form BD.[3]

The current impetus for development of uniform forms came in September 1972 when the Commission appointed three advisory committees to undertake a comprehensive review of the reports and other paperwork requirements incident to rules of the Commission and those of the self-regulatory bodies in the securities industry. One of these committees, the SEC Advisory Committee on Broker-Dealer Reports and Registration Requirements, was asked to direct its attention to the reporting requirements of registered brokers and dealers.

In December 1973 the Committee presented its Study to the Commission ("Advisory Committee Study"). The Advisory Committee Study concluded that,

> The present regulatory reports submitted by broker-dealers require duplication of efforts by firms and regulators. This is wasteful without necessarily serving the public interest.

More specifically, the Study recommended,

> the adoption of uniform laws, rules, and forms to be used by the Commission, the registered national securities exchanges, the registered national securities association and the various states, etc., in the registration of broker-dealers and their agents.

In 1972, after the Advisory Committee Study was presented, a Committee of the North American Securities Administrators ("NASA," the organization of state securities administrators) renewed active development of Form U-3 and invited Commission and industry participation.

Form U-4 developed from a concurrent effort directed principally by the New York Stock Exchange, the National Association of Securities Dealers, Inc., and other self-regulatory organizations. A number of organizations, including the NASA and the Commission, also contributed to the development of the Form.

In addition to contributing the time of its staff, the Commission has publicly expressed its support for the development of such uniform forms. In January 1974 the Commission announced a program of implementation regarding the Advisory Committee Study. The release setting forth the program stated,

> The Commission wishes to take note of efforts currently underway to prepare a uniform state, Federal, and industry form for the registration of broker-dealers and a uniform form for the registration of principals and agents * * *. The Commission believes that the development and implementation of such uniform forms on a wide scale would be significant in enhancing the flow within the securities industry of information needed for regulatory purposes while at the same time alleviating a substantial and particularly duplicative paperwork burden imposed on broker-dealers registered with more than one organization or state.

As development of Form U-3 by the NASA Committee progressed, Chairman Garrett again noted the Commission's deep interest in a letter to Ms. Thyra Thompson, then President of the NASA. Chairman Garrett stated:

> The Commission reiterates its support of the principle of uniform registration of broker-dealers and, upon reviewing the proposed Form U-3 and the recommendation of the Report Coordinating Group[4] and the Commission's staff, has determined to endorse in principle the use of the proposed Form U-3 by all regulating authorities. Upon receipt of a recommendation from the North American Securities Administrators and other interested groups, the Commission expects to release the proposed form for public comment promptly.

The NASA advised the Commission that on September 26, 1974 the membership of the NASA considered Form U-3 and that 33 states expressed approval of the Form. Since then, a number of additional states have expressed approval.

Subsequently, on October 9, 1974, the Report Coordinating Group met. After reviewing a report presented by its Registration Forms Subcommittee, the Group adopted the following resolution:

> Resolved that the SEC Report Coordinating Group recommends that the Securities and Exchange Commission publish for comment as proposed forms the Form U-3 to replace the Form BD and the Form U-4 to replace the SECO-2 Form, and that the Commission urge the states and self-regulatory organizations to adopt said Form U-3 and Form U-4.

Accordingly, the Commission now seeks public comment on Forms U-3 and U-4.

FORM U-3

Proposed Form U-3 is the product of a significant joint effort over the past 18 months on the part of the NASA, representatives of the securities industry and the self-regulatory organizations, and members of the Commission's staff. The general structure of Form U-3 is patterned after Form BD. The scope of the questions has been expanded. While the Commission believes that the Form will provide a more comprehensive picture of the applicant or registrant, the Form is not significantly longer than Form BD.

Form U-3 is divided into two parts. The first part consists of 16 multi-part questions requesting general information about the applicant, including a list of all organizations or states with which the applicant is registered or has applications pending. The second part of Form U-3 consists of six schedules designed to elicit supplementary information in certain specified areas. One of these, Schedule F, seeks information required by the individual states. It is anticipated that, by using Schedule F to obtain any unique information required by a state's laws or regulations which is not otherwise included in Form U-3, the states will be able to adopt the body of Form U-3 without modification. Each state will prepare a separate instruction sheet for Schedule F. It is also possible that the self-regulatory organizations may

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[1] It should be noted that the designation "U-3" is used here for convenience. It is probable that the designation "Form BD" would be retained if the new Form is adopted.

[2] Similarly, the designation "U-4" is used for convenience, and the designation "Form SECO-2" would probably be retained.

[3] It was hoped that revised form BD would be adopted by the states and the self-regulatory organizations as well as the Commission but, unfortunately, Form BD did not achieve wide acceptance. Since that time, despite periodic efforts, uniformity has not been achieved. Forms U-3 and U-4, however, have been reviewed by a substantial number of organizations and states. To this time the comment has been very favorable.

[4] This is the SEC Report Coordinating Group (Advisory) established under the Federal Advisory Committee Act as a part of the Commission's program of implementation of the Advisory Committee Study. One of the purposes for which this Group is chartered is to review forms and reports and to provide expert advice to the Commission on such matters as uniformity, streamlining of the reporting system, and elimination of unnecessary or duplicative reports.

require a brief schedule to obtain certain specific information.

FORM U–4

Form U–4, as noted, would replace Form SECO–2. Form SECO–2 was adopted in September 1965 pursuant to Rule 15b8–1. (Securities Exchange Act Release No. 34–7697).

Like Form SECO–2, Form U–4 is in two parts. The first is to be completed by the broker-dealer with which the applicant will be associated. It contains general information regarding the organizations and states with which the associated person is to be registered and the identity of the prospective employer. It also contains a certification that the prospective employer has made a due and diligent inquiry into the background of the applicant.

The second part, to be completed by the applicant, contains information concerning the person's educational background and business associations; a series of questions concerning any disciplinary proceedings or court actions brought against him; and certain information about criminal convictions. Form U–4 also requests information as to whether the applicant has taken and passed qualifying examinations.

While the Commission proposes to adopt Form U–4 for the registration of persons associated with SECO broker-dealers, it is apparent that the Form will be most heavily employed by the self-regulatory organizations. There are only 20,000 persons registered as associated persons of SECO broker-dealers, whereas approximately 200,000 persons are registered with the self-regulatory organizations. Accordingly, the Commission would afford substantial weight to the comments of the self-regulators and their members.

While Form U–4 is somewhat longer than Form SECO–2, the Commission believes the additional information is both necessary and appropriate to assure that persons who have not displayed the high standards of conduct required of persons in a fiduciary position are excluded from the industry.

STATUTORY AUTHORITY

Form U–3 would be adopted pursuant to Sections 15(b), 17(a), and 23(a) of the Act. The Commission invites public comment from all interested persons. The Commission, however, particularly urges brokers and dealers to comment on Form U–3, drawing upon their own experience and expertise.

Form U–4 would be adopted pursuant to Sections 15(b), 17(a), and 23(a) of the Act.

It should be noted that the Forms are presented here solely for review of the substantive text. It is anticipated that after a final text is developed the Forms will undergo some design changes in order to present them in the most effective format. Any suggestions regarding format will, of course, be welcomed.

WITHDRAWAL OF PROPOSED AMENDMENTS TO FORM BD

On July 3, 1973, the Commission, in Securities Exchange Act Release No. 10262 (Securities Investor Protection Act Release No. 4), proposed certain amendments to Form BD. Because the substance of those amendments has been incorporated into Form U–3, the Commission has withdrawn the proposal to amend Form BD.

The comments of interested persons submitted in regard to the proposal to amend Form BD will be considered in connection with the proposed adoption of Form U–3.

PROPOSED AMENDMENT OF RULE 15b3–1

The principal reason for amending Rule 15b3–1 is to require every broker or dealer whose registration is effective, or who has an application for registration pending on the date on which the amendments to Rule 15b3–1 become effective, to file a complete new Form U–3 the first time an amendment otherwise is required, but in no event later than 120 days after the effective date. This procedure was followed in 1967 during the last major revision of Form BD. The amendment to Rule 15b3–1 would be adopted pursuant to sections 15(b), 17(a), and 23(a) of the Act.

It is proposed to revise § 240.15b3–1 to read as follows:

§ 240.15b3–1 Amendments to applications.

(a) Every broker or dealer whose registration is effective, or whose application for registration is pending, on (the effective date) shall file as an amendment to the application a complete Form U–3 as adopted. This shall be filed the first time an amendment is required to be filed under paragraph (b) of this rule, but in no event later than 120 days after (the effective date).

(b) If the information contained in any application for registration as a broker or dealer, or in any amendment thereto, becomes inaccurate for any reason, the broker or dealer shall promptly file an amendment on Form U–3 correcting such information.

(c) Every amendment filed pursuant to this rule shall constitute a "report" within the meaning of sections 15(b), 17(a), and 32(a) of the Act.

PROPOSED AMENDMENT OF PARAGRAPH (a)(3) OF RULE 15b8–1

Paragraph (a)(3) of Rule 15b8–1 would be revised in a manner comparable to Rule 15b3–1 to provide that when any information in a Form SECO–2 becomes inaccurate for any reason, the nonmember broker or dealer would be required to file a complete Form U–4 to replace the Form SECO–2. Form U–4 would not have to be refiled for all associated persons within a specific time period, however. The amendment to Rule 15b8–1 would be adopted pursuant to Sections 15(b), 17(a), and 23(a) of the Act.

It is proposed to revise § 240.15b8–1 (a)(3) as follows:

§ 240.15b8–1 Qualifications and fees relating to brokers or dealers who are not members of a national securities association.

(a) • • •

(3) Such nonmember broker or dealer shall file promptly a complete Form U–4 on behalf of any associated person if the information contained in Form SECO–2, filed on behalf of such associated person, is or becomes inaccurate or incomplete for any reason.

• • • • • •

CONCLUSION

Interested persons may submit their comments on proposed Form U–3 and Form U–4 and on the related amendments to Rules 15b3–1 and 15b8–1 in writing within 45 days of the date hereof to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549. All such communications should bear File No. S7–541 and will be available for public inspection.

(Secs. 15(b), 17(a), 23(a), 48 Stat. 895, 897, 901; secs. 3, 4, 8, 49 Stat. 1377, 1379; sec. 5, 52 Stat. 1076, Sec. 6, 78 Stat. 570–574, (15 U.S.C. 78o(b), 78q(a), 78w))

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 13, 1974.

FORM U–3

UNIFORM APPLICATION FOR REGISTRATION, MEMBERSHIP OR LICENSE AS A BROKER-DEALER OR TO AMEND SUCH APPLICATION UNDER THE SECURITIES EXCHANGE ACT OF 1934, OR UNDER THE LAWS OF CERTAIN JURISDICTIONS (NOTED ON PAGE __ OF PART 1) OR UNDER THE CONSTITUTIONS OR RULES OF THE SELF-REGULATORY ORGANIZATIONS (NOTED ON PAGE __ OF PART 1)

(NOTED ON PAGE __ OF PART 1)

I. GENERAL INSTRUCTIONS FOR PREPARING AND FILING FORM U–3

1. This Form is to be used to apply for registration, license or membership with a number of agencies, jurisdictions, or organizations. A list of these agencies, jurisdictions, or organizations with the respective addresses for filing is included on page __ of these instructions. Special Instruction Sheets for each agency, jurisdiction, or organization are also required. They may be obtained from the agency, jurisdiction, or organization to which you are applying and must be read in conjunction with these instructions for each agency, jurisdiction, or organization to which you are applying.

2. All pages requiring signatures must be executed with a manual signature of the appropriate duly authorized individual as described in these instructions. All information required by Form U–3 and any Schedule thereunder must be submitted on the prescribed form, or mechanical reproductions thereof. A separate page must be manually signed for each agency, jurisdiction, or organization. All other pages containing correct information may be mechanically reproduced by any method producing clear, legible copies of identical type size. Retain one exact copy for your records.

Additional copies of Form U–3 are available at each of the agencies, jurisdictions, or organizations listed on page ... of these instructions.

3. If Form U–3 is filed by a sole proprietor, it shall be signed by the proprietor; if it is filed by a partnership, it shall be signed in the name of the partnership by a general partner; if filed by an unincorporated organization or association, it shall be signed by the managing agent—i.e., a duly authorized person who directs or manages or who participates in directing or managing its affairs; if it is filed by a corporation, it shall be signed in the name of the corporation by a principal officer duly authorized.

4. If the space provided for any answer on the Form is insufficient, the complete answer shall be prepared on a separate Schedule E, which shall be attached to the Form. If the space provided for any answer on the Schedules is insufficient, attach a separate sheet in duplicate.

5. Individuals' names, except for executing signatures, shall be given in full wherever required (last name, first name, middle name).

6. A Form U–3 which is not prepared and executed in compliance with applicable requirements may be returned as not acceptable for filing. However, acceptance of this Form shall not constitute any finding that it has been filed as required or that the information submitted is true, current, or complete.

7. Definitions:

a. Unless the context or the Special Instruction Sheets for the individual agencies, jurisdictions, or organizations clearly indicate otherwise, all terms used in the Form have the same meaning as in the Securities Exchange Act of 1934 and in the General Rules and Regulations of the Securities and Exchange Commission thereunder.

b. Jurisdiction—Unless the context otherwise requires, "jurisdiction" means a state, a territory, the District of Columbia, the Commonwealth of Puerto Rico, or a province of the Dominion of Canada.

c. Applicant—Unless the context otherwise requires, "applicant" means the person filing the Form U–3 whether as an initial application or amendment to a previously filed Form U–3 for registration, membership, or license. "Person" in this context is the broker-dealer or person which will be the broker-dealer and not the individual completing the Form unless they are identical.

d. Self-Regulatory Organization—Unless the context otherwise requires, "self-regulatory organization" means any national securities exchange or national securities association registered under the Securities Exchange Act of 1934.

8. The information contained in Form U–3 is of a continuing nature and must be updated or amended periodically upon the happening of certain events. Consult the Special Instruction Sheets for the agencies, jurisdictions, or organizations with which it is to be filed.

9. Although the purpose of Form U–3 is to bring as much uniformity and resultant simplicity to the registration of broker-dealers as possible, some jurisdictions or organizations require information in addition to that required in Part I of U–3 and may have supplementary requirements for the completion of Part I. Therefore, consult the Special Instruction Sheets for each agency, jurisdiction, or organization with which this Form is to be filed.

II. SPECIAL INSTRUCTIONS FOR FILING FORM U–3 AS AN APPLICATION

10. If Form U–3 is being filed as an application for registration, all applicable items must be answered in full and all supplemental information for each agency, jurisdiction, or organization with which the Form is to be filed must be supplied for that agency, jurisdiction, or organization. If any item is not applicable, indicate by "none" or "N/A" as appropriate.

III. SPECIAL INSTRUCTIONS FOR AMENDING FORM U–3

11. If the information contained in Form U–3 after it is filed as an application, or in any supplement or amendment thereto, is or becomes inaccurate for any reason, an amendment must be promptly filed at specified times for each agency, jurisdiction, or organization with which the Form has been filed. Consult the Special Instruction Sheets for those agencies, jurisdictions, or organizations.

12. Where an item is being amended only the pages being amended need be filed, except that a completed page, manually signed, must be filed with each amendment. When any item on a page is amended, it is necessary to answer all other items on the page being amended.

IV. INSTRUCTIONS AS TO SPECIFIC ITEMS ON FORM U–3

13. Item 1—If this Form is filed as an amendment, only items 1, 2, 3, 4, and 5 and those items which are being amended or which have changed since the previous filing need to be answered. Remember to complete all items on the page being amended.

14. Item 2(a)—Check all agencies, jurisdictions, or organizations with which you are going to file the Form. If you are registering with more than one agency, jurisdiction, or organization, or are already registered with any of the agencies, jurisdictions, or organizations, or have an application pending, indicate each agency, jurisdiction, or organization with the appropriate code number in the space provided. CODE NUMBERS: If currently applying, insert number 1; If already registered, insert number 2; If application is pending, insert number 3. NOTE.—This item is to be periodically updated only when page is otherwise filed. Do not update this item alone.

15. Item 2(b)—Include a street address; post office box numbers alone are not acceptable.

16. Item 2(d)—State your current legal address. If you expect to move within three months from the date on which the application or amendment is submitted and know the new address, give the new address on a separate Schedule E. If you do not know the new address, notify the agencies, jurisdictions, or organizations with which the application has been filed immediately after the new address is known.

17. Item 5—Item 5 must include a manual signature.

18. Item 6—If this Form is filed as an application by a predecessor broker-dealer on behalf of a successor not yet formed or organized, the information furnished shall relate to the successor to be formed. The Form shall be executed by the predecessor. Section 15(b) of the Securities Exchange Act of 1934 and Rule 15b2–1 provide that registration shall terminate on the forty-fifth day after the effective date unless prior thereto the successor shall adopt the application as its own. This procedure cannot be used where the successor is a sole proprietor.

19. Item 7—If a registered partnership is dissolved and a new one is created to continue the business of the old one, the new partnership must file a new or successor application as a broker-dealer.

20. Item 10—Check your answers to items 2(b), 6, 7, 8, 9, and the related Schedules for the names of all persons who are covered by any of the subsection of item 10. Likewise list any persons who directly or indirectly control or are controlled by the applicant. List each of these persons on a Schedule D and give full details of any of these incidents, including, for example, the parties involved, time and place, subject matter, and the outcome of the proceedings.

21. Item 11—Refer to Schedule D and Instruction 23.

22. Schedule C is to be completed only by organizations or associations which are not sole proprietors, corporations, or partnerships.

23. Schedule D—Schedule D is to be filed for two classes of persons described in Note (a) and Note (b) at the top of Schedule D. "Person" in Note (a) of Schedule D includes only natural persons. "Person" in Note (b) of Schedule D includes corporations, partnerships, and other organizations. Schedule D is to be completed for each natural person named in Items 2(b), 6, 7, 8, and 9 or any Schedules thereunder and for all other persons listed in Schedule A or subject to any action reported under item 10. If the "person" listed on Schedule A or subject to any action reported under item 10 is other than a natural person, complete only Parts I, II, and VII of Schedule D.

24. Schedule E may be used (1) where the space provided for any answer on Form U–3 is insufficient; or (2) in response to all items in the Form which require the submission of a Schedule E.

25. Schedule F is to be completed only if and to the extent required by the Special Instruction Sheet of the jurisdiction(s) to which you are applying. The Special Instruction Sheets will indicate what items are to be completed for each jurisdiction.

26. Key to State Abbreviations and List of Mailing Addresses

AL—Alabama.	MT—Montana.
AK—Alaska.	NE—Nebraska.
AZ—Arizona.	NV—Nevada.
AR—Arkansas.	NH—New Hampshire
CA—California.	NJ—New Jersey.
CO—Colorado.	NM—New Mexico.
CT—Connecticut.	NY—New York.
DE—Delaware.	NC—North Carolina.
DC—District of Columbia.	ND—North Dakota.
	OH—Ohio.
FL—Florida.	OK—Oklahoma.
GA—Georgia.	OR—Oregon.
HI—Hawaii.	PA—Pennsylvania.
ID—Idaho.	RI—Rhode Island.
IL—Illinois.	SC—South Carolina.
IN—Indiana.	SD—South Dakota.
IA—Iowa.	TN—Tennessee.
KS—Kansas.	TX—Texas.
KY—Kentucky.	UT—Utah.
LA—Louisiana.	VT—Vermont.
ME—Maine	VA—Virginia.
MD—Maryland.	WA—Washington.
MA—Massachusetts.	WV—West Virginia.
MI—Michigan.	WI—Wisconsin.
MN—Minnesota.	WY—Wyoming.
MS—Mississippi.	PR—Puerto Rico.
MO—Missouri.	

There would be inserted at this point a list of each of the agencies, jurisdictions, and organizations with which this Form may be filed and the correct mailing address for each.

END OF INSTRUCTIONS

FORM U-3

UNIFORM APPLICATION FOR REGISTRATION, MEMBERSHIP, OR LICENSE AS A BROKER-DEALER OR TO AMEND SUCH AN APPLICATION UNDER THE SECURITIES EXCHANGE ACT OF 1934, OR UNDER THE LAWS OF THE JURISDICTIONS LISTED BELOW OR UNDER THE CONSTITUTIONS AND RULES OF THE SELF-REGULATORY ORGANIZATIONS LISTED BELOW.

General: Read the instruction sheet before preparing the Form. Read the Special Instruction Sheets for each agency, jurisdiction, or self-regulatory organization with which this Form is to be filed. Please print or type all responses.

If this application is filed as an amendment, only items 1, 2, 3, 4, and 5 and those items which are being amended or which have changed since the previous filing need to be answered.

---

1. This application is filed as an:

INITIAL___ AMENDMENT___

2. (a) The undersigned hereby files, or amends, or has filed its application for registration, membership, or license as a broker-dealer with the following:

(Place a code number after each applicable agency, self-regulatory organization, or jurisdiction in accordance with instruction 14.)

XUM V 39 252 DEC 31 74 XUM V

AL__	DE__	IN__	MA__	NV__	OH__	TN__	WI__
AK__	DC__	IA__	MI__	NH__	OK__	TX__	WY__
AZ__	FL__	KS__	MN__	NJ__	OR__	UT__	PR__
AR__	GA__	KY__	MS__	NM__	PA__	VT__	
CA__	HI__	LA__	MO__	NY__	RI__	VA__	
CO__	ID__	ME__	MT__	NC__	SC__	WA__	
CT__	IL__	MD__	NE__	ND__	SD__	WV__	

SEC__
NASD__ SECO__
AMER. STK. EXCH.__
BOST. STK. EXCH.__
CHI. BOARD OF TRADE__
CHI. BOARD OPTIONS EXCH.__
CINCINNATI STK. EXCH.__
DETROIT STK. EXCH.__
INTERMOUNTAIN STK. EXCH.__
MIDWEST STK. EXCH.__
NATIONAL STK. EXCH.__
NEW YORK STK. EXCH.__
PACIFIC STK. EXCH.__
PBW STK. EXCH.__
SPOKANE STK. EXCH.__

In compliance with the applicable securities laws or membership requirements, the undersigned hereby submits the following information:

(b) Exact name, principal business address, P.O. Box, if any, and telephone number of applicant (if sole proprietor, state last, first, and middle name):

Name

IRS Empl. Ident. No.

Number and Street

(Area Code) Tele. No.

P.O. Box (If any)

WATS Line (If any)

City State Zip Code

(c) Applicant is a:

Corporation__ Partnership__ Sole Proprietor__

Other__ _____
(Specify)

(d) If applicant is a sole proprietor, state full residence address and social security number.

_____
Number and Street City State Zip Code

_____
Social Security Number

(e) If applicant is a corporation:

1. Date and place of incorporation: _____
Month Day

_____
Year

_____
Place

2. List below each class of equity security:

	Voting	Non-Voting
_____	( )	( )
_____	( )	( )
_____	( )	( )

3. Name under which business is conducted, if different from 2(b):

_____

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4. (a) Is applicant a successor to a registered broker-dealer and taking over all or substantially all of the assets and liabilities and continuing the business of a registered broker-dealer?

Yes___ No___

If "yes" state:

(1) Date of Succession: _____

(2) Full name and IRS Empl. Ident. No. of predecessor:

_____ _____
Full Name IRS Empl. Ident. No.

_____
SEC Registration Number
(If any)

(b) Has applicant or registrant merged with or acquired another registered broker-dealer? If "yes", describe briefly on Schedule E.

Yes___ No___

5. (a) Person to contact for further information concerning this application:

_____ _____
Name Title

_____
Address

_____
(Area Code) Telephone No.

(b) Person authorized to receive compliance and information communications, and who is responsible for disseminating the same within the applicant's organization:

_____ _____
Name Title

_____
Address

EXECUTION

(Area Code) Telephone No.

(c) DATE_____, 19__

Name of Applicant

By_____
Signature and Title

Attest_____
Signature and Title

STATE OF_____)
)SS
COUNTY OF_____)

EXECUTION

The undersigned, being first duly sworn, deposes and says that he has executed the foregoing application on behalf of, and with the authority of, said applicant, and that the information and statements contained therein, including exhibits attached thereto and other information filed therewith, all of which is made a part thereof, are correct, true, and complete. The undersigned further represents that to the extent that any information previously submitted is not amended, such information is currently accurate and complete.

Signature

Subscribed and sworn to before me this ____ day of _____, 19__

(NOTARIAL SEAL) _____ _____
Notary Public My commission expires

XUM V 39 2193 DEC 252 31 74 XUM V

Address

Form U-3

As part of this application complete the following questions and attach the applicable schedules:

6. If applicant is a corporation, complete Schedule A.

7. If applicant is a partnership, complete Schedule B.

8. If applicant is other than a sole propreitor, partnership, or corporation, complete Schedule C.

9. (a) Does any person not named in items 2(b), 6, 7, 8, or any Schedule thereunder, directly or indirectly, through agreement or otherwise, exercise or have the power to exercise a controlling influence over the management or policies of applicant?

Yes___ No___

If "yes", state on Schedule E the exact name (if individual, state last, first, and middle names of each person) and describe the agreement or other basis through which such person exercises a controlling influence.

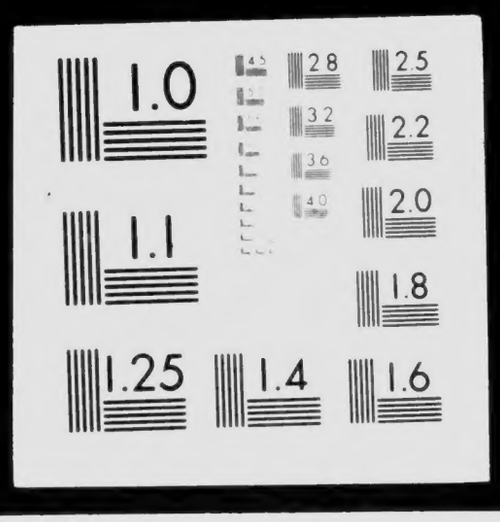
(b) Is the business of applicant wholly or partially financed, directly or indirectly, by any person not named in items 2(b), 6, 7, 8, or any Schedule thereunder in any manner other than by: (1) a public offering of securities made pursuant to the Securities Act of 1933; (2) credit extended in the ordinary course of business by suppliers, banks and others; or (3) a satisfactory subordination agreement, as defined in Rule 15c3-1 under the Securities Exchange Act of 1934?

Yes___ No___

If "yes", state on Schedule E the exact name (last, first, middle) of each person and describe the agreement or arrangement through which such financing is made available including amount thereof.

If any item on this page is amended, you must answer in full all other items on this page and file with a completed and signed page one. No Schedule required by any item on this page need be filed with an amended item unless the Schedule itself is amended.

RESOLUTION CHART



100 MILLIMETERS

INSTRUCTIONS Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "T-shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and $100/20 = 5$.

Examine "T-shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and $7.9 \times 5 = 39.5$ lines per millimeter recorded satisfactorily. $10.0 \times 5 = 50$ lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.

THE END